



CO00005039

SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

EMERGENCY ORDINANCE NO. 01-047

RATIFYING, READOPTING AND REPEALING CERTAIN PORTIONS OF  
EMERGENCY ORDINANCE NO. 00-050, RELATING TO THE INCLUSION OF  
THE ARLINGTON SCHOOL DISTRICT NEW HIGH SCHOOL SITE WITHIN  
THE CITY OF ARLINGTON URBAN GROWTH AREA

WHEREAS, RCW 36.70A.110(1) directs counties planning under the Growth Management Act ("GMA"), Chapter 36.70A RCW, to designate urban growth areas ("UGAs") within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature, and that each city located in such counties shall be included within a UGA; and

WHEREAS, the Arlington School District purchased an option for a 53.3-acre parcel of land outside the City of Arlington UGA, adjacent to an area already characterized by urban growth, for development as a new high school for the public purpose of addressing the strong demand for expanded secondary school facilities in its rapidly growing service area; and

WHEREAS, the Arlington School District formally requested the Snohomish County Council to take emergency action to expand the Arlington UGA to include the new high school site for which it purchased an option; and

WHEREAS, on July 26, 2000, the Snohomish County Council adopted Emergency Ordinance No. 00-050 to 1) amend Ordinance No. 98-114, thereby revising the Arlington UGA to include the Arlington School District new high school site, and to (2) amend Ordinance No. 94-125, thereby revising the Snohomish County Growth Management Act Comprehensive Plan ("GMACP") - General Policy Plan ("GPP") Future Land Use Map to redesignate the 53.3 acres from Rural Residential and Rural/Urban Transition to Urban Low Density Residential (4-6 du/ac); and

WHEREAS, on July 26, 2000, pursuant to RCW 36.70A.040(4)(d), the Snohomish County Council adopted Emergency Ordinance No. 00-051, a county-initiated rezone of the Arlington School District new high school site concurrent with its inclusion into the Arlington UGA and designation to Urban Low Density Residential 4-6 dwelling units per acre under Emergency Ordinance 00-050; and

WHEREAS, an appeal was filed with the Central Puget Sound Growth Management Hearings Board ("the Board") alleging that Emergency Ordinances 00-050 and 00-051 did not comply with the public participation and UGA requirements of the GMA (*Jody L. McVittie v. Snohomish County*, Case No. 00-3-0016 ("McVittie V")); and

WHEREAS, the Board issued a Final Decision and Order in *McVittie V*, on April 12, 2001, concluding that the county's adoption of Emergency Ordinances No. 00-050 and 00-051 was clearly erroneous because it did not comply with the public participation goal and public participation requirements of RCW 36.70A.020(11), .035, .130(2)(b) and .140, as set forth and interpreted in the final decision and order, and further determined that the adoption of Emergency Ordinances No. 00-050 and 00-051 was invalid because citizen participation was discouraged and preempted, thereby substantially interfering with the fulfillment of Goal 11 of the RCW; and

WHEREAS, the Board remanded Emergency Ordinances No. 00-050 and 00-051 to the county and directed the county, by no later than 4:00 p.m. Monday, August 6, 2001, to take appropriate legislative action to repeal, modify or readopt the plan amendment (including designation and UGA boundary line change) in Emergency Ordinance No. 00-050 and the rezone in Emergency Ordinance No. 00-051 in compliance with the public participation requirements of the GMA and to provide effective notice, set a public hearing date and provide the opportunity for public participation; and

WHEREAS, the Snohomish County Council desires to comply with the Board's order to provide the opportunity for public review and public hearing on the designation and UGA boundary line change in Emergency Ordinance No. 00-050; and

WHEREAS, on July 23, 2001, following public notice as provided in Chapter 32.05 SCC and the Snohomish County Charter, and upon consideration of the legislative record before the Council upon adoption of Emergency Ordinances 00-050 and 00-051, the County Council held a public hearing to consider taking legislative action as directed by the Board; and

NOW, THEREFORE, BE IT ORDAINED:

Section 1: The Snohomish County Council adopts and incorporates the foregoing recitals as if fully set forth herein.

Section 2: The County Council makes the following additional findings of fact and conclusions regarding revision of (1) the Arlington UGA boundary and (2) the redesignation of the 53.3-acre parcel on the GMACP Future Land Use Map:

- A. The County Council adopts and incorporates by reference the findings and conclusions as set out in Sections 1 and 2 of Emergency Ordinance No. 00-050 expanding the City of Arlington UGA and redesignating the Arlington School District new high school site.
- B. Snohomish County is required, pursuant to RCW 36.70A.110(1) of the GMA, to designate UGAs within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature, and to include each of its cities within a UGA.
- C. The County Council adopted Emergency Ordinances 00-050 and 00-051 on July 26, 2000 expanding the City of Arlington UGA to encompass the Arlington School District new high school site as shown in Exhibit A to Emergency Ordinance 00-050 and as Exhibit A to this ordinance and the Arlington School District purchased the 53.3 acre parcel on September 7, 2000.
- D. The City of Arlington annexed the 53.3-acre parcel on January 16, 2001.
- E. Because of the City of Arlington's January 16, 2001 annexation of the 53.3-acre parcel, jurisdiction over the parcel now belongs to the City of Arlington. As a result, the County Council concludes that it has the jurisdiction to amend Arlington's UGA boundary, but does not have jurisdiction to apply a land use designation to the 53.3-acre parcel. Therefore, the land use designation adopted in Emergency Ordinance 00-050 should be repealed.
- F. RCW 36.70A.130(2)(b) provides an emergency exception for a county to consider comprehensive plan amendments and also for actions in response to an order by the Board at times other than during its annual docket process. Section 2.120 of the Snohomish County Charter allows the council to enact an emergency ordinance if it is concluded that the action is necessary for the immediate preservation of public peace, health or safety or for the support of county government and its existing public institutions.

- G. The council concludes that ratifying, readopting, and repealing certain portions of Emergency Ordinance No. 00-050 is necessary for the immediate preservation of the public peace, health and safety and for the support of county government and its existing public institutions. Emergency action is necessary to meet the Board's compliance deadline of August 6, 2001 and to bring the County into compliance with RCW 36.70A.110. Delays incurred by using the non-emergency regular docketing process would risk further non-compliance with the Board's order and expose the county to non-compliance with the GMA.
- H. In enacting legislation in response to the Board's determination of invalidity, the County is required, pursuant to RCW 36.70A.140, to provide for public participation that is appropriate and effective under the circumstances presented by the Board's final decision and order.
- I. The Board's final decision and order requires an opportunity for public participation at a public hearing before adoption or amendment of a comprehensive plan under RCW 36.70A.130(2) or RCW 36.70A.140.
- J. Pursuant to SCC 32.05.023(3) of the Snohomish County Public Participation Program, which was amended in Ordinance No. 01-002 in accordance with the Board's order in *McVittie V*, the council may adopt or amend the county's GMA comprehensive plan or development regulations, not including a moratorium, interim zoning map, interim zoning ordinance or interim official control, by emergency action only after holding at least one public hearing noticed in compliance with SCC 32.05.023(4). SCC 32.05.023(4) requires the county to provide notice of the time, date, place, and general purpose of the hearing on any emergency action in one publication in the official county newspaper at least 10 days before the hearing.
- K. Effective notice was provided for this ordinance and for Emergency Ordinance No. 01-048. The county provided notice of the time, date, place, and general purpose of the hearing by publication in the Snohomish County Herald on July 3, 2001, at least 10 days before public hearing on July 23, 2001, thereby complying with SCC 32.05.023(4).

- L. A hearing on this ordinance and Emergency Ordinance No. 01-048 was held on July 23, 2001, providing an opportunity for public participation on the ratification, readoption and repeal of certain portions of Ordinance 00-050.
- M. The notice and hearing provided for this ordinance and Emergency Ordinance No. 01-048, encouraged public participation regarding the location of the Arlington UGA boundary and redesignation of the subject property in Emergency Ordinance No. 00-050, in compliance with Goal 11 of the GMA.
- N. The notice and hearing for this ordinance and for Emergency Ordinance No. 01-048 and the ratification, readoption, and repeal of certain portions of Emergency Ordinance No. 00-050, comply with the Board's final decision and order in the *McVittie V* case.
- O. This action is enacted as an emergency pursuant to the provisions of RCW 36.70A.130(2)(b) and it is therefore appropriate to ratify, readopt, and repeal certain portions of Emergency Ordinance No. 00-050 affecting the county's GMACP and the Arlington UGA outside of the regular docket process and the 5 year review of UGAs.

Section 3. The County Council bases its findings of fact and conclusions on the legislative record of this ordinance and Emergency Ordinance No. 00-050, including relevant testimony and exhibits considered by the County Council.

Section 4. In compliance with the Board's order in *McVittie V* to provide a public notice and hearing for Emergency Ordinance No. 00-050 adopted on July 26, 2000, the County Council hereby ratifies and readopts Section 3 of Emergency Ordinance No. 00-050 which revises the UGA for the City of Arlington to include the Arlington School District new high school site.

As directed by Emergency Ordinance 00-050, Ordinance No. 98-114 is hereby amended as adopted on December 16, 1998 to repeal Exhibits A and C which were therein incorporated and to replace and incorporate herein a new Exhibit A, a map which depicts the modified UGA boundary for the city of Arlington, and a new Exhibit C, which is county assessor's maps that accurately depict the new UGA boundary for the city of Arlington. Exhibits A and C are attached hereto and incorporated herein by this reference.

Section 5. In further compliance with the Board's order in *McVittie V* to provide a public notice and hearing for Emergency Ordinance No. 00-050 adopted on July 26, 2000, the County Council hereby repeals that portion of Emergency Ordinance 00-050 which amends the GMA Comprehensive Plan Future Land Use Map to designate the property ULDR 4-6.

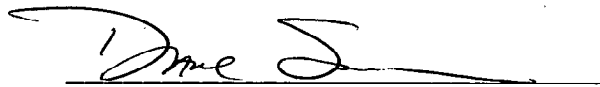
Section 6. Based upon the foregoing findings and conclusions and pursuant to Section 2.120 of the Snohomish County Charter and SCC 32.05.023, the Council finds as a fact that this ordinance is necessary for the immediate preservation of public peace, health and safety and for the support of county government and its existing public institutions.

Section 7. This ordinance shall become effective immediately upon passage by the County Council.

Section 8. Severability and savings. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board, or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

PASSED this 23 day of July, 2001.

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

  
Chairperson

ATTEST:

Sheila McCallister  
Ass't. Clerk of the Council

- ( ) APPROVED
- () EMERGENCY
- ( ) VETO

DATE: July 30, 2001

[Signature]  
Snohomish County Executive

STEPHEN L. HOLT  
Executive Director

ATTEST: Conie Merrin

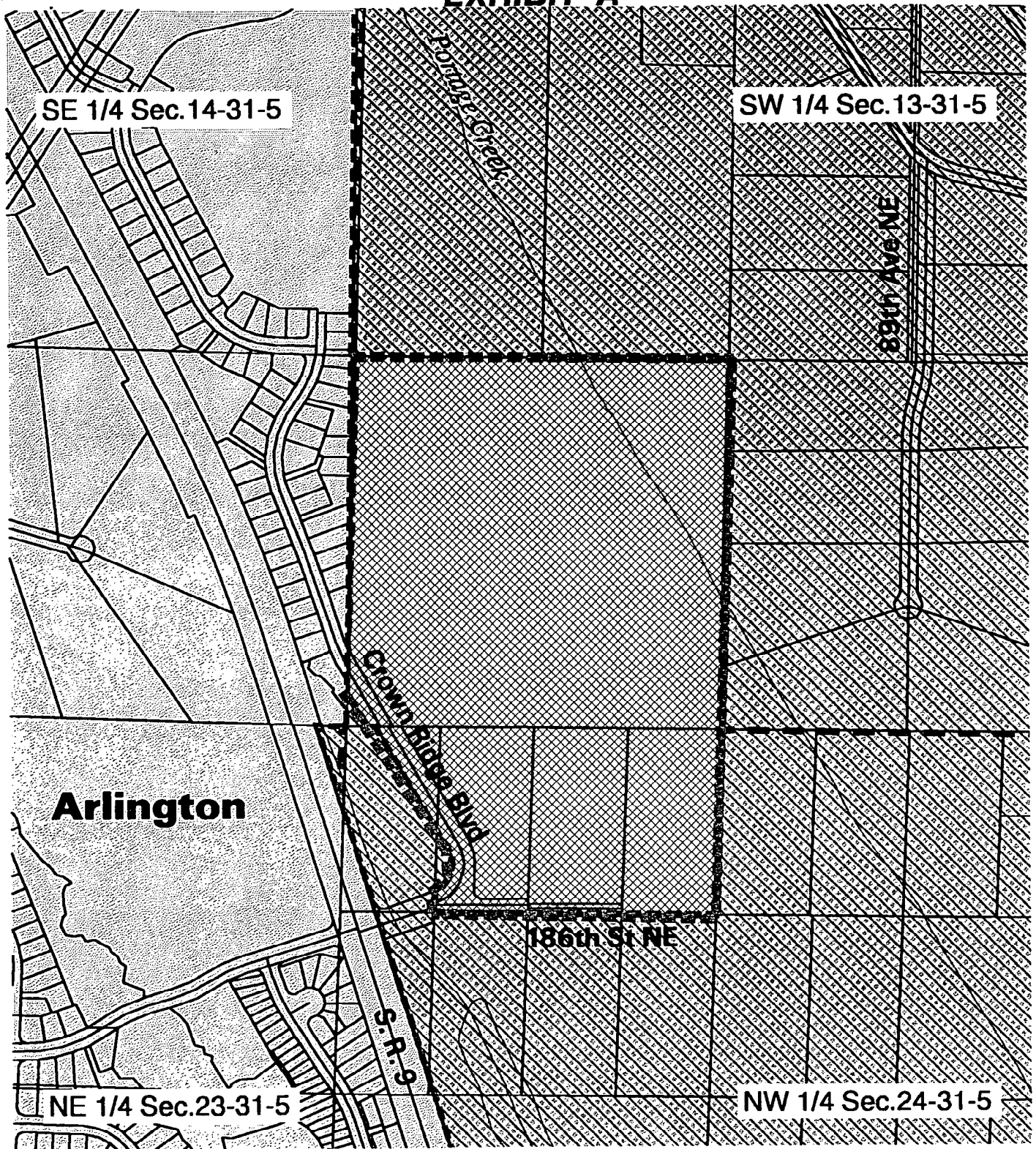
Approved as to form only:

[Signature]  
Deputy Prosecuting Attorney

Karen Jorgensen-Peters

D. 1

# EXHIBIT A







## Proposed Comprehensive Plan Amendment Arlington UGA Addition & Redesignation



June 23, 2000

LEGEND

- Existing County Plan Designations**
-  Rural Residential (1 DU/5 Acres)
  -  Rural / Urban Transition Area

- Proposed Plan Amendment**
-  Arlington UGA: Redesignate Rural Residential (1 DU/5 Acre) to Urban Low Density Residential (4-6 DU/Acre), with concomitant agreement for Public School use.
  -  Expand Arlington UGA.



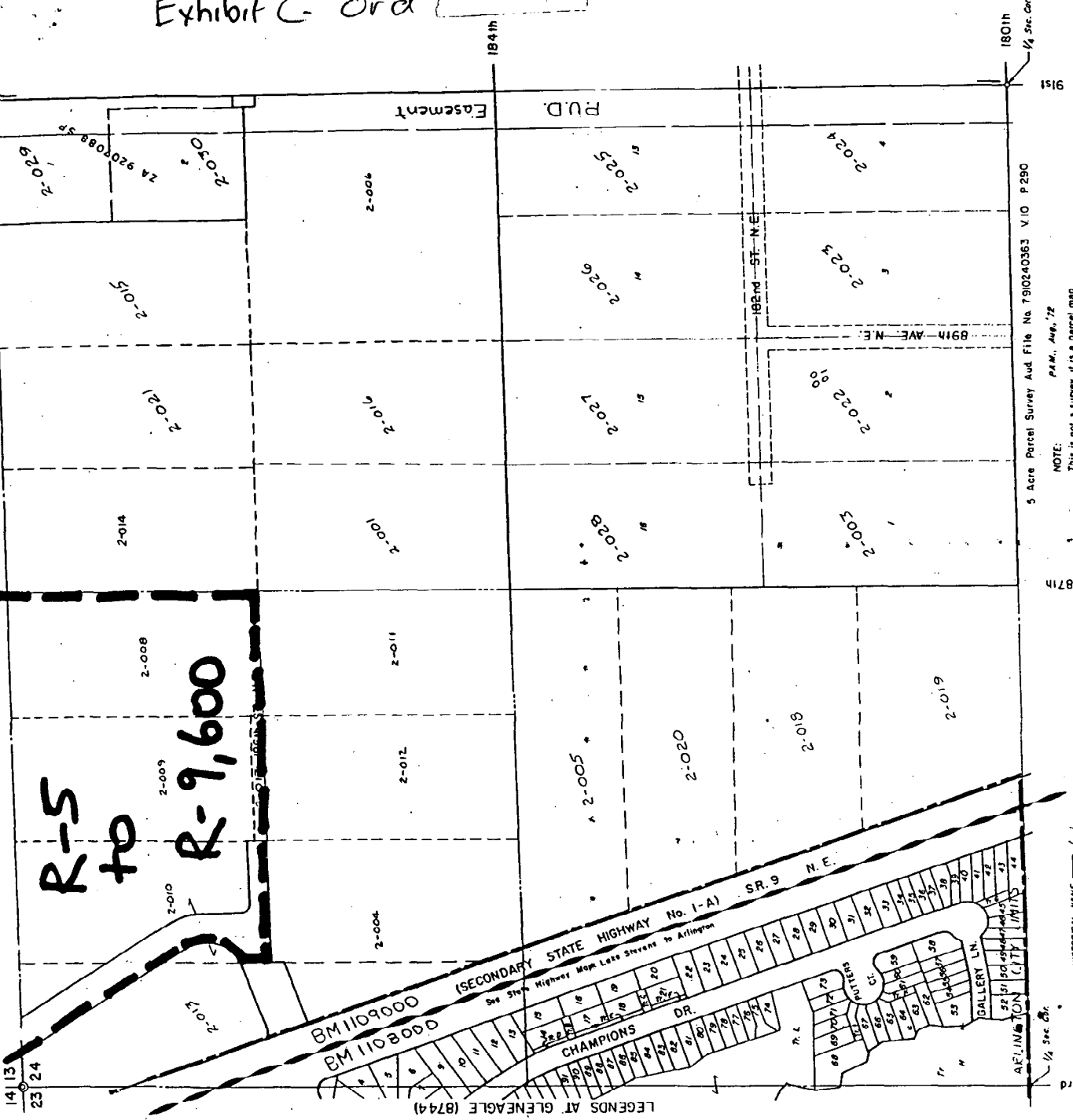
 Incorporated Cities  
 Existing Urban Growth Area Bdy.  
 This map is a graphic representation derived from the Snohomish County Geographic Information System. It does not represent survey accuracy. Property lines are for illustrative purposes and depict only generalized parcels.  
 Produced by Snohomish County Planning Division, Cartography Section; cbl; e:Atlock/ar/hs.am  
 Scale in Feet  
 0 250 500 750



Exhibit C - Ord [ ]

N.W. 1/4, SEC. 24, T.31N., R.5E.  
1" = 200'

R-5  
to  
R-9,600



5 Acre Parcel Survey Add. File No. T910240363 V.10 P.290

NOTE:  
This is not a survey, it is a parcel map  
used for location of property only

HISTORICAL NAME  
ROAD DESIGN LIMITS

ARLINGTON CITY limits  
1/4 Sec. 24

LEGENDS AT GLENAGLE (874)

B31D

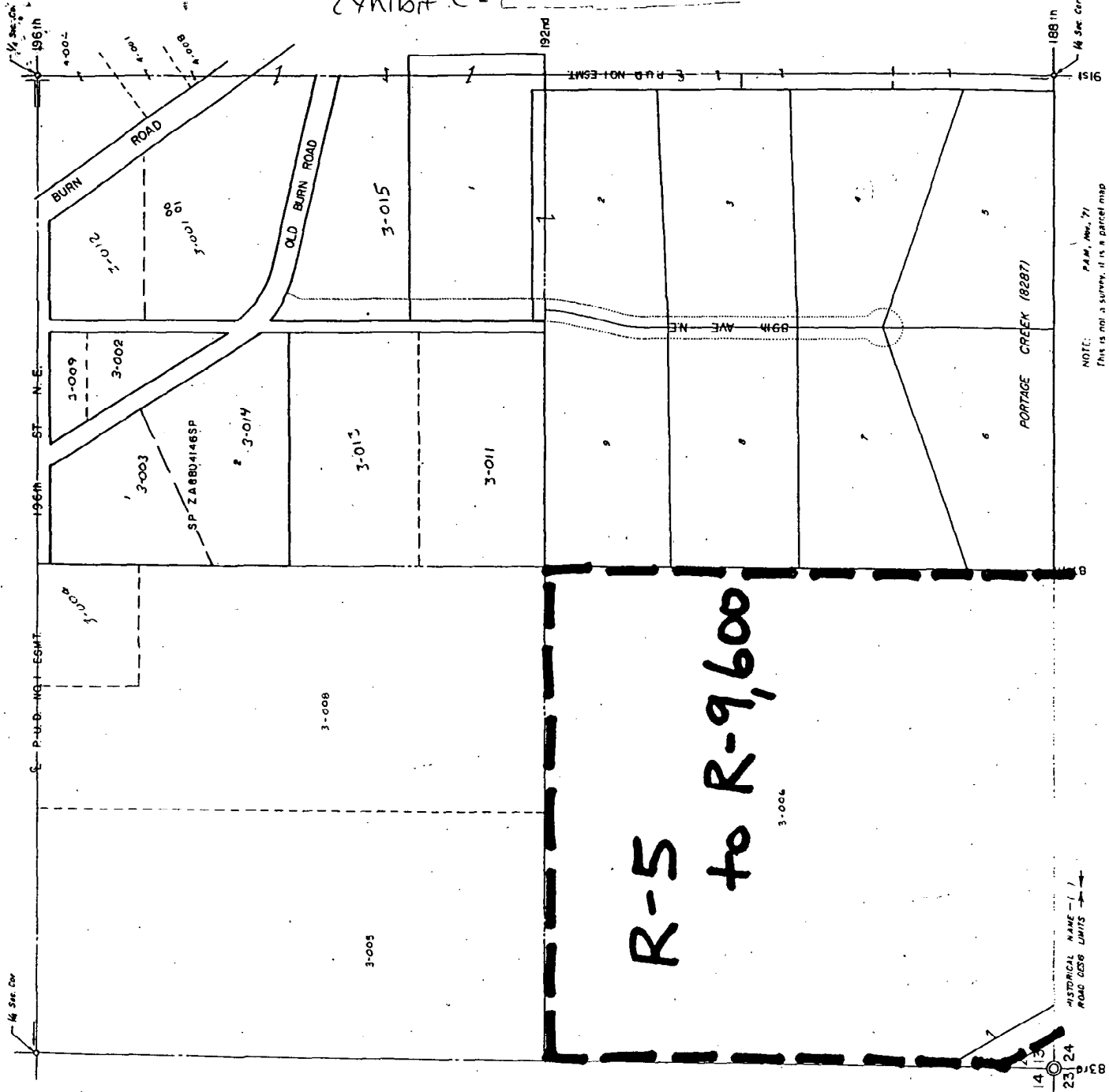
Exhibit C - 09A 00-050

S.W. 1/4, SEC. 13, T.31N., R.5E.

BM 1109000

1" = 200'

Exhibit C - [ ]



NOTE:  
This is not a survey, it is a parcel map  
used for location of property only

HISTORICAL NAME - ( )  
ROAD 6576 UNITS

14 13  
23 24  
188 in  
1/4 Sec Cor