



CO00003160

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

AMENDED ORDINANCE NO. 03-063

REVISING THE EXISTING URBAN GROWTH AREA
FOR THE CITY OF ARLINGTON; ADOPTING MAP AMENDMENTS
TO THE GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN;
AND ADOPTING COUNTY-INITIATED AREA-WIDE REZONES
PURSUANT TO CHAPTER 30.74 SCC; AND AMENDING AMENDED
ORDINANCE 94-125; ORDINANCE 94-120, AND
EMERGENCY ORDINANCE 01-047

WHEREAS, the Growth Management Act, chapter 36.70A RCW (GMA) requires Snohomish County to designate an urban growth area (UGA) within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature (RCW 36.70A.110(1)); and

WHEREAS, the county council designated a Final UGA for Arlington (Amended Ordinance 94-120) on June 28, 1995, after holding public hearings from April 19, 1994, through January 18, 1995, in conformance with the requirements of the GMA; and

WHEREAS, on June 28, 1995, the county council approved Amended Ordinance 94-125 which adopted a GMA Comprehensive Plan including a General Policy Plan (GPP) and Future Land Use (FLU) map; and

WHEREAS, the county council amended the Final UGA for Arlington on July 23, 2001 (Emergency Ordinance 01-047) in conformance with the requirements of the GMA; and

WHEREAS, RCW 36.70A.130 and 36.70A.470 direct counties planning under the GMA to adopt procedures for interested persons to propose amendments and revisions to the comprehensive plan or development regulations; and

WHEREAS, the county council adopted chapter 30.74 SCC to comply with the requirements of RCW 36.70A.130 and .470 to allow interested persons to propose amendments to the GMA comprehensive plan and/or development regulations; and

WHEREAS, Snohomish County Department of Planning and Development Services (PDS) staff, pursuant to the SCC 30.74.030, reviewed all proposals on the docket and determined that twenty-one of the proposals could be reviewed and analysis could be

completed within the time frame of the 2003 final docket review cycle, including the proposal by Dwayne Lane to amend the Arlington UGA boundary; and

WHEREAS, the 2003 final docket – Phase 1 includes proposals to amend the GPP FLU map submitted by Jerry Booker, City of Everett, Frank Heath, NORETEP, Snohomish County Department of Public Works, Dwayne Lane, Eddie Bauer, and Wellington Morris; and

WHEREAS, pursuant to Chapter 30.74 SCC, PDS completed final review and evaluation of the 2003 final docket – Phase 1, including rezones to implement proposals to amend the GPP FLU map, and forwarded a recommendation to the Snohomish County Planning Commission; and

WHEREAS, the planning commission held hearings on the Dwayne Lane proposal including the proposal to amend UGA boundaries, on February 25 and March 4, 2003, and forwarded a recommendation to the county council; and

WHEREAS, the county council held a public hearing on July 9, 2003, continued to July 30, August 13, and September 10, 2003, to consider the entire record and hear public testimony on Ordinance 03-063, adopting revisions to the Arlington UGA.

NOW, THEREFORE, BE IT ORDAINED:

Section 1: The county council makes the following findings of fact and conclusions:

- A. The county council hereby adopts and incorporates by reference the findings and conclusions adopted and the legislative records developed in adopting Amended Ordinance 94-120, Amended Ordinance 94-125, Ordinance 97-076, and Emergency Ordinance 01-047.
- B. The proposal by Dwayne Lane to amend the FLU map of the GPP to expand the Arlington UGA to include 110.5 acres to be redesignated from Riverway Commercial Farmland and Rural Freeway Service to Urban Commercial and rezone 110.5 acres from Rural Freeway Service and Agriculture-10 Acres to General Commercial more closely meets the policies of the GPP than the existing plan designation based on the planning commission's following findings of fact and conclusions:
 1. When Dwayne Lane purchased the subject property, the General Policy Plan designation was Urban Commercial.
 2. Water and sanitary sewer lines running along the west side of Smokey Point Boulevard are available adjacent to the subject property. This

system is owned by the City of Arlington which has invested in utilities in the area because it believes the area is "destined for more intense urban development."

3. The Island Crossing freeway interchange currently supports commercial uses.
4. The subject property is adjacent to Interstate-5, SR 530, and Smokey Point Boulevard.
5. The permit process for commercial projects requires higher development standards for critical areas than is the case for development on agricultural lands. The 150 foot buffer requirements associated with new commercial development will better preserve Portage Creek.
6. Ragnar soils are the best soils for production of commercial crops and there are no Ragnar soils at Island Crossing. The Island Crossing area consists primarily of Puget soils that are adequate for hay, green chop and pasture, but are not suitable for more valuable crops like berries and corn. The Puget soils are considered "prime" only when artificially drained, which the land at the site is not, and even when drained the Puget series is considered of low productivity.
7. Farming is no longer financially viable at Island Crossing. Busy highways, high assessed value, small parcel size and safety issues eliminate the viability of the Island Crossing Interchange site as agricultural land.
8. Snohomish County is growing rapidly and it is inevitable that sites like Island Crossing will be converted from agricultural uses to commercial uses.
9. The Commission has concerns about the history of floods in this area and the associated impacts. However, the Commission believes that the impacts can be mitigated as is clearly shown in the DSEIS.
10. The Commission also has concerns about traffic impacts at Island Crossing as a result of future urban development. The Commission believes that the impacts can be mitigated. The DSEIS shows that traffic impacts can be fully mitigated.

C. The proposed expansion to the Arlington UGA is consistent with GPP Policies LU 1.A.3 and LU 2.C.3, which require that new development within UGAs are provided with adequate infrastructure and services, including sanitary sewers.

D. The proposed area-wide rezone (Exhibit C, Map 7a) is consistent with the following initial criteria for rezone requests in SCC 30.74.040:

1. Where applicable, the proposed rezones are necessary because an amendment to the future land use map of the GPP has also been proposed that meets the initial evaluation criteria listed in SCC 30.74.030.
 2. Public facilities and services necessary for development are available or programmed to be provided to the sites of the proposed rezones, consistent with the GMA comprehensive plan or development regulations as determined by applicable service providers.
 3. The proposed rezones do not require a concurrent site plan approval because there is an absence of special site conditions and applicable GPP or subarea policies.
- E. The proposed area-wide rezone (Exhibit C, Map 7a) is consistent with the GMA comprehensive plan and consistent with the provisions of the GMA.
- F. The county council concludes that the proposed area-wide rezone (Exhibit C, Map 7a) implements the county's GMA comprehensive plan.
- G. The county council concludes that the proposed area-wide rezone (Exhibit C, Map 7a) bears a substantial relationship to the public health, safety and welfare.
- H. The proposed UGA amendment is consistent with the following final review and evaluation criteria of SCC 30.74.060:
1. The proposed amendment maintains consistency with other elements of the GMA comprehensive plan;
 2. All applicable elements of the GMA comprehensive plan support the proposed amendment;
 3. The proposed amendment meets the goals, objectives, and policies of the GMA comprehensive plan as discussed in the specific findings; and
 4. The proposed UGA amendment is consistent with the countywide planning policies.
- I. The amendment to the GMA comprehensive plan satisfies the procedural and substantive provisions of and is consistent with the GMA.
- J. The amendment maintains the GMA comprehensive plan's consistency with the multi-county policies adopted by the Puget Sound Regional Council and with the countywide planning policies for Snohomish County.
- K. Cities have been notified and consulted with regarding proposed amendments that affect UGAs or GPP FLU map designations within UGAs.

- L. There has been early and continuous public participation in the review of the proposed amendments.
- M. A Draft Supplemental Environmental Impact Statement (DSEIS) was issued on February 19, 2003, for the Dwayne Lane proposal. A Final SEIS, including response to comments on the DSEIS, was prepared following the 30-day comment period and was issued on July 1, 2003. The purpose of the SEIS was to analyze potential significant adverse environmental impacts of the proposals and any alternatives that were not previously identified in the two EIS documents and a series of addenda prepared for the Snohomish County GMA Comprehensive Plan – General Policy Plan and Transportation Element between 1994 and 2003.
- N. The recommended amendments are within the scope of analysis contained in the SEIS and associated adopted environmental documents and result in no new significant adverse environmental impacts. The SEIS performs the function of keeping the public apprised of the refinement of the original GMA comprehensive plan proposal by adding new information, but does not substantially change the analysis of significant impacts and alternatives analyzed in the existing adopted environmental documents.
- O. The SEPA requirements with respect to this proposed action have been satisfied by these documents.
- P. The county council held a public hearing on July 9, 2003, continued to July 30, August 13, and September 10, 2003, to consider the planning commission's recommendations.
- Q. The public was notified of the public hearings held by the planning commission and the county council by means of published legal notices in The (Everett) Herald and local newspapers.
- R. The proposal has been broadly disseminated and opportunities have been provided for written comments and public hearing after effective notice.
- S. Approval of the Island Crossing Interchange Docket Proposal is not precedent for redesignation of Agricultural land in the Stillaguamish Valley. This proposal is approved entirely on its own merits. These include:
 - (1) This proposal is supported by the Snohomish County Planning Commission.
 - (2) Bringing this land into the Arlington Urban Growth Area is fully supported by the City of Arlington.
 - (3) This proposal is supported by the Stillaguamish Tribe.

- (4) This land is located at an I-5 interchange between an interstate highway and a state highway, and is uniquely located for commercial needs of the area.
- (5) This land has unique access to utilities. Redesignation of adjacent properties to the east will not occur because utilities are unavailable to the east.

T. The land contained within the Island Crossing Interchange Docket Proposal is not agricultural land of long term commercial significance. Although some of the soils may be of a type appropriate for agricultural use, soil type is only one factor among many others in the legal test for agricultural land of long term commercial significance. The County Council has addressed the question as to whether the land is:

"primarily devoted to the commercial production of agricultural products and has long term commercial significance for agricultural production"

and has found that it is not.

At the public hearing, the testimony of Mrs. Roberta Winter (Exh. 111) was very persuasive on this point. Since the mid-1950's, she and her husband had a dairy farm in the very location of the Island Crossing Interchange Docket Proposal site. Locating and then expanding I-5 put them out of the dairy business. They soon discovered that crops generated less revenue than the property taxes. The Winters sold the land because the land could not be profitably farmed.

Council finds that this land cannot be profitably farmed, and is not agricultural land of long term commercial significance.

U. The Island Crossing Interchange Docket Proposal site has episodically flooded in the past and will continue to episodically flood in the future, whether or not the proposal is approved, and whether or not the site is developed. The relevant question is not whether the proposal site experiences floods, but rather does the site experience significant adverse flood impacts which cannot be reasonably mitigated.

The Draft Supplemental Environmental Impact Statement (Exh. 22) clearly states, at p. 2-24:

Assuming effective implementation of applicable regulations and recommended mitigation measures, no significant unavoidable adverse surface water quantity or quality impacts would be anticipated associated with the future development of the site.

V. In Exh. 135, applicant of the Island Crossing Interchange Docket Proposal states various development techniques and plans which will be voluntarily used to minimize the prospect of flood impacts. These techniques include the following:

- Excavation to create additional storage.
- Building pads and access roads will only be filled to the 100-year floodplain level.
- Minimize the amount of fill brought on-site.
- Most fill will be excavated onsite.
- Water passage to South Slough and Portage Creek will remain unimpeded.
- Parking lots will be built below Base Flood Elevation.
- Parking lots may be built of permeable surface.
- Impermeable surface will be minimized.

Section 2. The county council bases its findings of facts and conclusions on the entire record of testimony and exhibits, including all written and oral testimony before the planning commission and county council.

Section 3. The county council hereby amends Amended Ordinance 94-120 as adopted on June 28, 1995, last amended by Emergency Ordinance 01-047 as adopted on July 23, 2001, to modify Exhibits A and C which were therein incorporated. The county council hereby adopts two new exhibits for Amended Emergency Ordinance 01-047: (1) Exhibit A, Map 7 ("Proposed Comprehensive Plan Amendment, Dwayne Lane") which is a map that depicts the modified UGA boundary for the Arlington UGA; and (2) Exhibit C which is a county assessor's map that accurately depicts the revised UGA boundary for the Arlington UGA. Exhibits A and C are attached hereto and incorporated herein by this reference. After the effective date of Ord. 03-063, development in the Island Crossing Interchange Docket Proposal area added to the Arlington UGA by Ord. 03-063 should be conditioned upon use of the flood protection measures outlined above in finding V of Section 1, provided such flood protection measures are technically feasible and do not defeat the purpose of the development.

Section 4. Based on the foregoing findings and conclusions, the Snohomish County GMA Comprehensive Plan Future Land Use Map adopted as Map 4 of Exhibit A in Section 4 of Amended Ordinance No. 94-125 on June 28, 1995, and last amended by Ordinance No. 03-001 on January 27, 2003, is amended as depicted in Exhibit A, Map 7 which is attached hereto and incorporated by reference into this ordinance as if set forth in full.

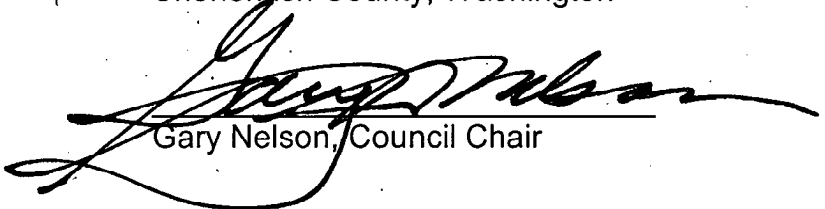
Section 5. Based on the foregoing findings and conclusions, the county council hereby adopts the area-wide rezone as mapped in the following documents which are attached hereto and incorporated by reference into this ordinance as if set forth in full:

- A. Assessor map showing the rezone incorporated herein as Exhibit C; and
- B. Map 7a and incorporated herein as Exhibit B.

Section 6. Severability. If any provision of this ordinance is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remainder of this ordinance. Provided, however, that if any provision of this ordinance is held invalid or unconstitutional, then the provision in effect prior to the effective date of this ordinance shall be in full force and effect for that individual provision as if this ordinance had never been adopted.

PASSED this 10th day of September, 2003.

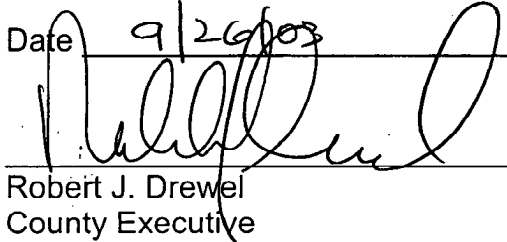
SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Gary Nelson, Council Chair

ATTEST:


Clerk of the County Council, *asst.*

- Approved
- Emergency
- Vetoed

Date 9/26/03

Robert J. Drewel
County Executive

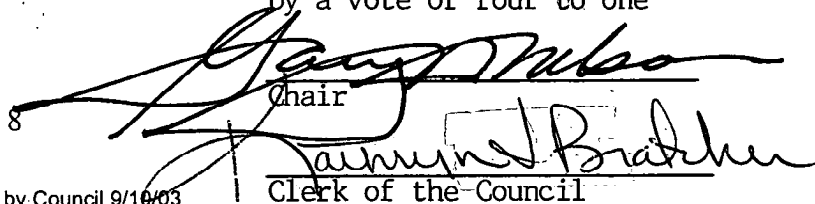

APPROVAL AS TO FORM ONLY

ATTEST:

Deputy Prosecuting Attorney

 Date 9/26/03

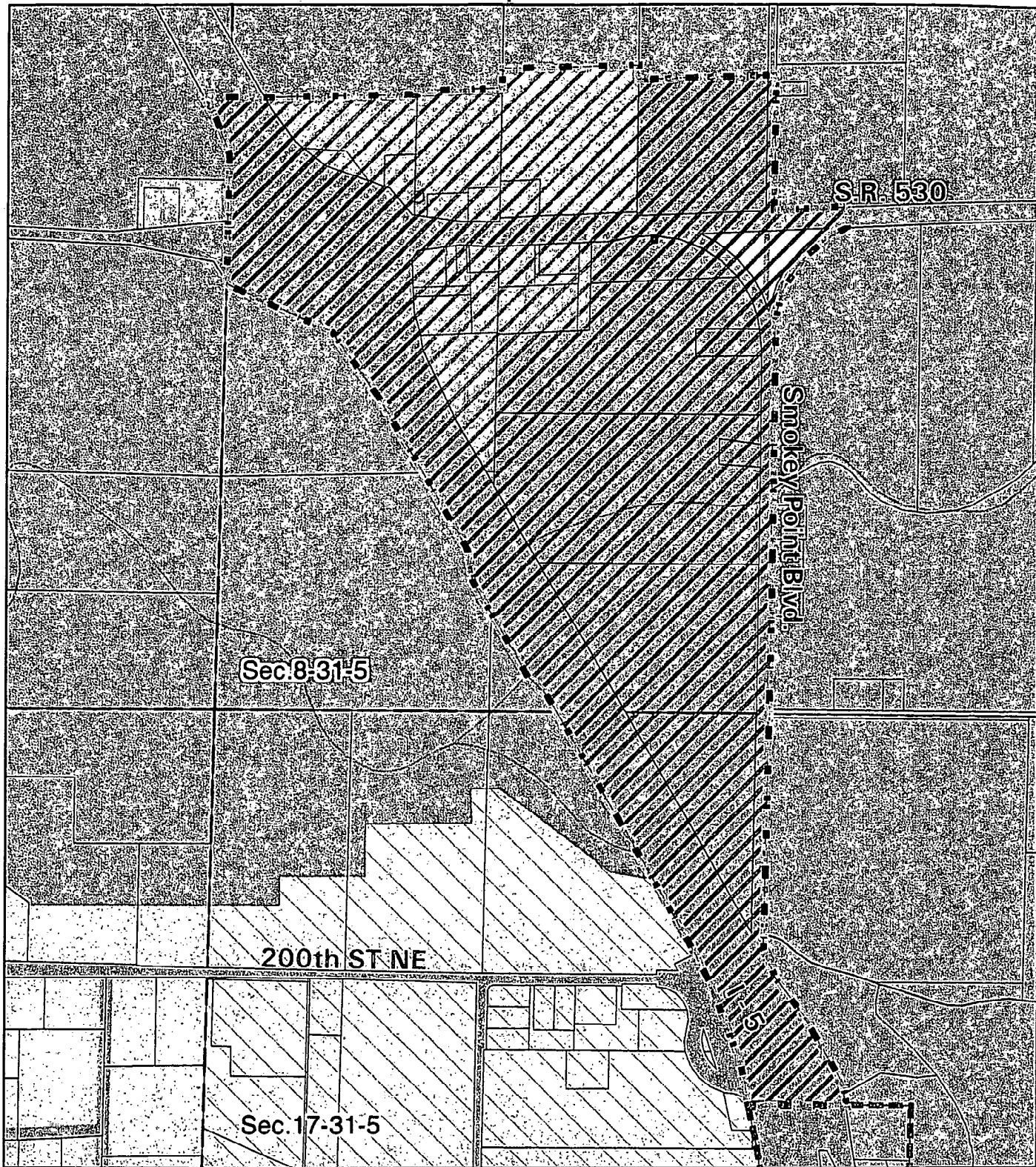
Veto Overridden on Oct. 22, 2003
by a vote of four to one


Chair

Clerk of the Council

AMENDED ORDINANCE NO. 03-063 as amended and adopted by Council 9/10/03
MODIFYING THE ARLINGTON UGA

D-18

Map 7



Snohomish County 2003 Docket
Proposed Comprehensive Plan Amendment
Dwayne Lane



January 2003



LEGEND

Existing County Plan Designations

- Riverway Commercial Farmland
- Rural Residential (1 DU/5 Acres Basic)
- Urban Low Density Residential (4 - 6 DU/Acre)
- Rural Freeway Service
- Tribal Trust Lands
- Rural/Urban Transition Area

Proposed Plan Amendment

- Dwayne Lane: Redesignate Riverway Commercial Farmland, and Rural Freeway Service to Urban Commercial

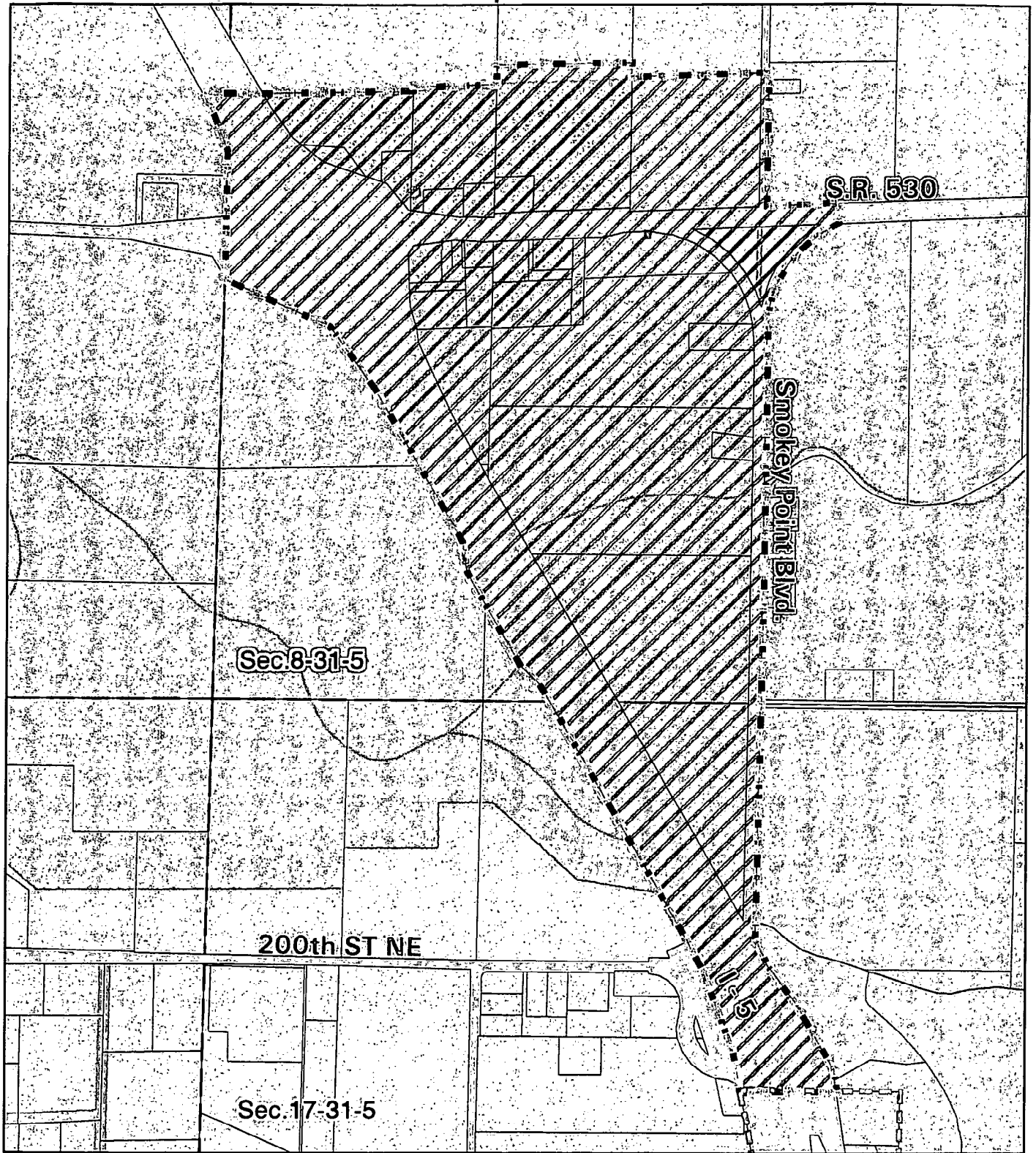
Expand Arlington UGA.

- 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 Div., GIS Team; cbl; c:/dock/dock03/lane-flu_map7-050503.aml

Scale in Feet
 0 350 700 1050

Map 7a



Snohomish County 2003 Docket
 Implementing Rezone
Dwayne Lane



LEGEND

Existing Zoning

- Agriculture-10 Acre
- Rural-5 Acre
- Rural Freeway Service
- Tribal Trust Lands

Proposed Rezone

- Dwayne Lane:
Rezone from
Rural Freeway Service and
Agriculture-10 Acre to
General Commercial

Expand Arlington UGA.

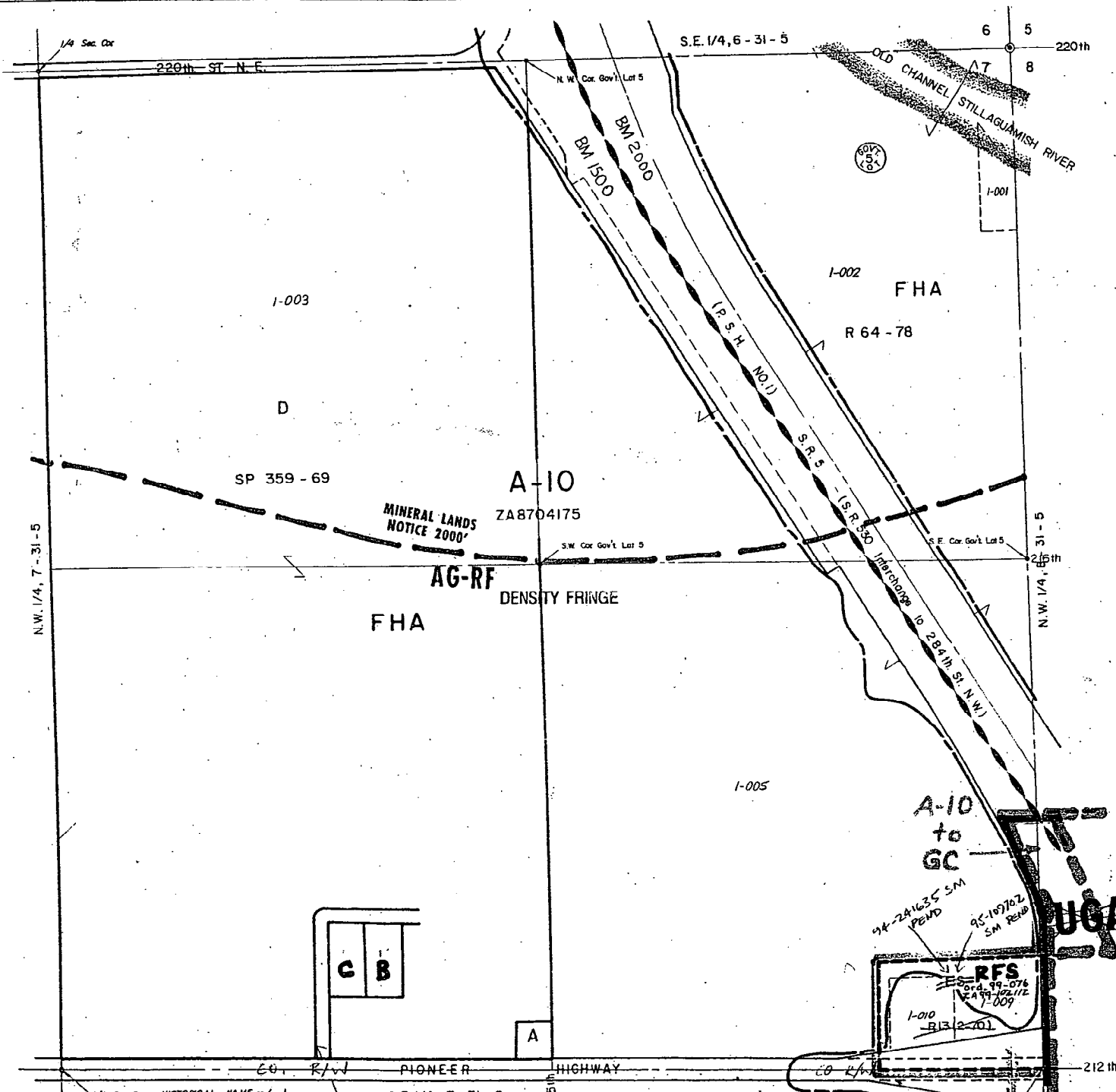
- Incorporated Cities
- Existing Urban Growth Area Bdy.

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Scale in Feet
 0 350 700 1050



January 2003



1/4 Sec. Cor. HISTORICAL NAME - ()
 ROAD DESIG LIMITS
 E FEMA BDRY.
ARLINGTON C.P. NORTHWEST C.P.
AG PRESERVATION
SHORELINE ENVIRONMENT
COMP PLAN SITE SENSITIVE SECTION

S.E. 1/4, 7-31-5
 GENERALIZED FLOOD HAZARD
 AREAS ARE REPRESENTED FOR
 SPECIFIC INFORMATION, SEE
 STUDY:
E-2-10-138 P. 78
 FIRM 0040B

NOTE: D.D.R., Oct. 72
 This is not a survey, it is a parcel map
 used for location of property only.

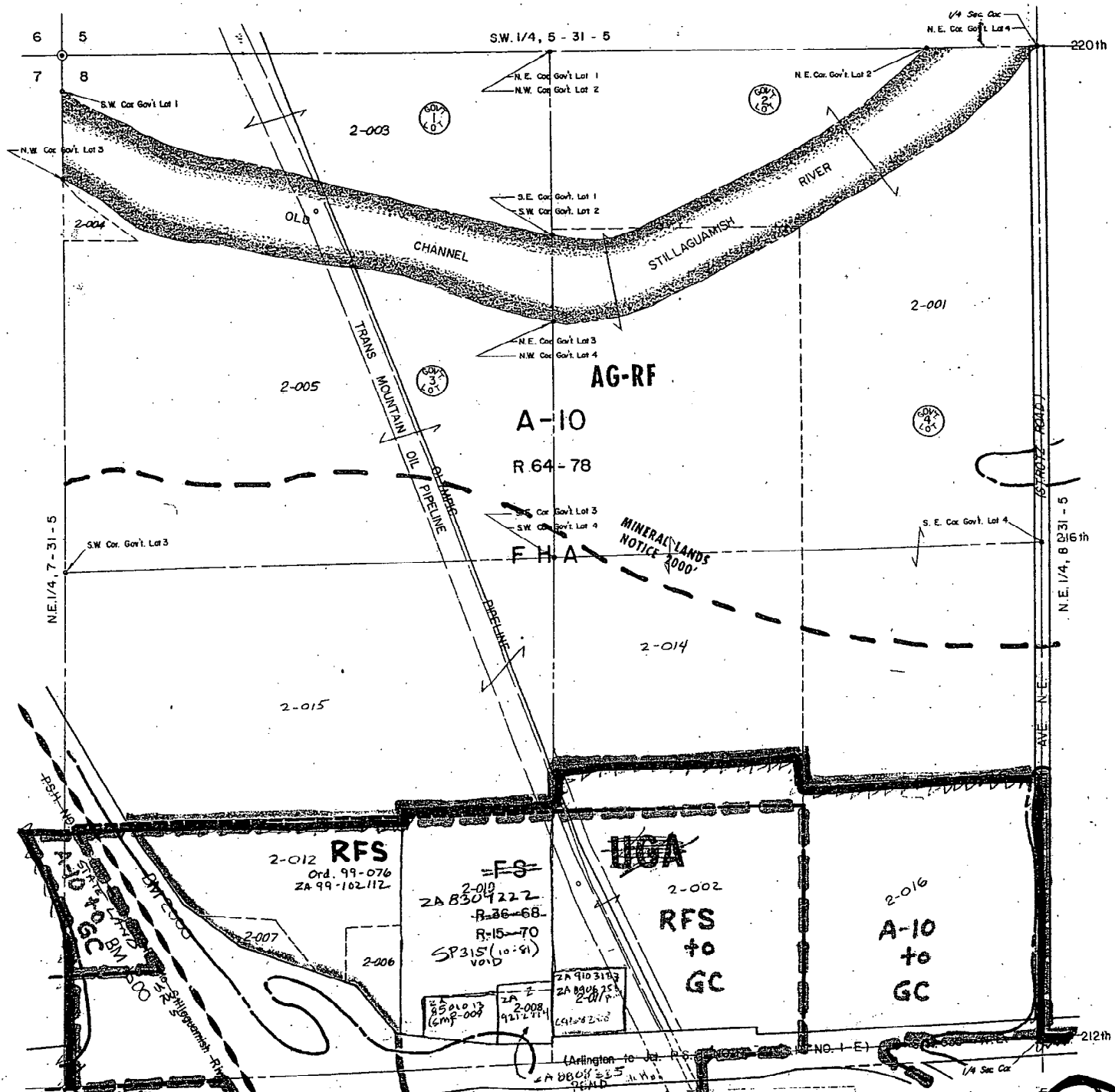
Scale 1" = 200'

DENSITY FRINGE **N.E. 1/4, 7 - 31 - 5**
 THIS 1/4 "ENVIRONMENTALLY SENSITIVE"

MAY 04 1998

16

1" = 200'



19th
 1/4 Sec. Cor.
 HISTORICAL NAME - L 1
 ROAD DESIG LIMITS
FHA BDRY.
AG PRESERVATION
SHORELINE ENVIRONMENT
COMP PLAN SITE SENSITIVE SECTION

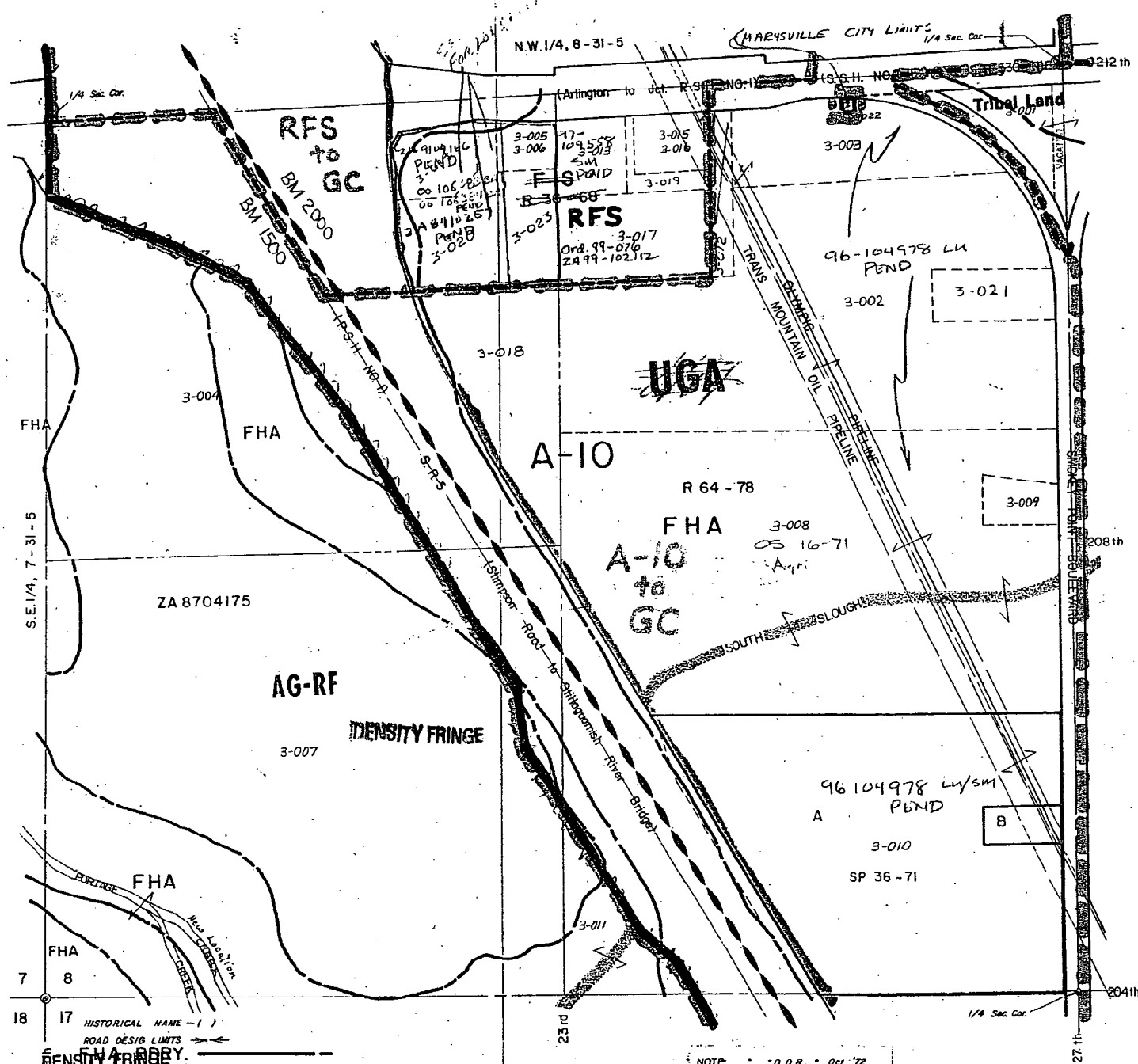
ARLINGTON C.P.
NORTHWEST C.P.

N.W. 1/4, 8 - 31 - 5
 Scale 1" = 200'

S.W. 1/4, 8 - 31 - 5
 General Flood Hazard
 Areas are represented for
 specific information, see
 study:
 533634-040 B

NOTE: D.A.R., Oct. '72
 This is not a survey, it is a parcel map
 used for location of property only

21



ARLINGTON C.P.
 NORTHWEST C.P.
 AG PRESERVATION
 SHORELINE ENVIRONMENT
 COMP PLAN SITE SENSITIVE SECTION

GENERALIZED FLOOD HAZARD
 AREAS ARE REPRESENTED. FOR
 SPECIFIC INFORMATION, SEE
 STUDY #
 535934-00406

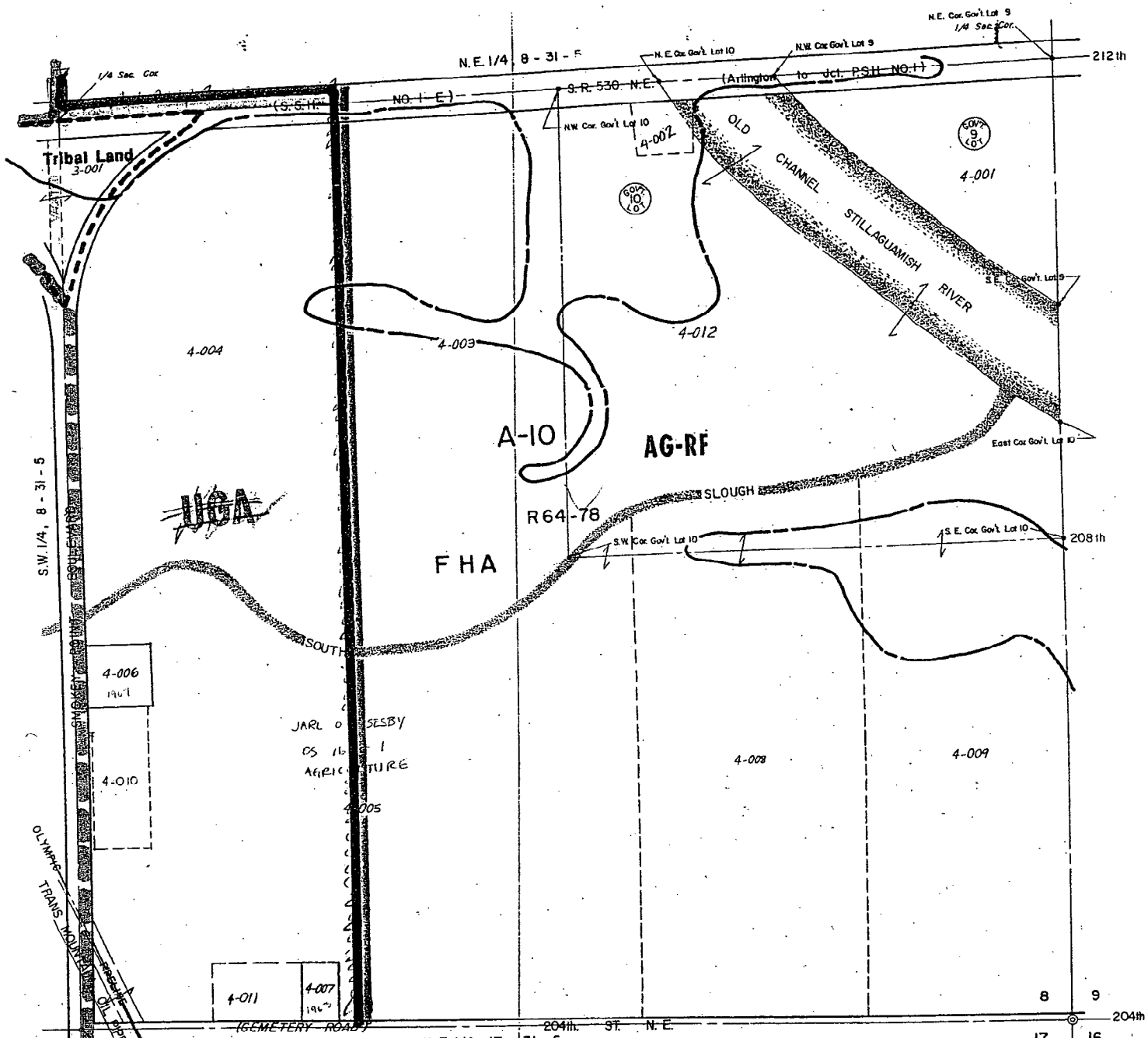
NOTE: "D.R.R.", Oct. '72
 This is not a survey, it is a parcel map
 used for location of property only

Scale 1" = 200'

S.W. 1/4, 8 - 31 - 5

22

MAR 03 1972



1/4 Sec. Cor.
 Tribal Land 3-001
 S.W. 1/4, 8-31-5
 OLYMPIC TRANS. ROAD
 PRELIMINARY
 1/4 Sec. Cor.
 HISTORICAL NAME - ()
 ROAD DESIG. LIMITS
 FHA BDRY.
ARLINGTON C.P.
AG PRESERVATION
SHORELINE ENVIRONMENT

N.E. 1/4, 8-31-5
 S.R. 536 N.E.
 (Arlington to dct. PSH NO. 1)
 N.E. Cor. Gov't Lot 10
 N.W. Cor. Gov't Lot 9
 N.E. Cor. Gov't Lot 9
 1/4 Sec. Cor.
 212th
 NW Cor. Gov't Lot 10
 4-002
 GOV 10 0
 4-001
 4-004
 4-003
 4-012
 A-10
 AG-RF
 R64-78
 SLOUGH
 S.W. Cor. Gov't Lot 10
 S.E. Cor. Gov't Lot 10
 208th
 East Cor. Gov't Lot 10
 4-006
 1961
 4-010
 4-005
 4-011
 4-007
 1962
 (CEMETERY ROAD)
 204th ST. N.E.
 N.E. 1/4, 17-31-5
 204th
 17
 16
 35th

NOTE: D.R., Oct '72
 This is not a survey, it is a parcel map
 used for location of property only

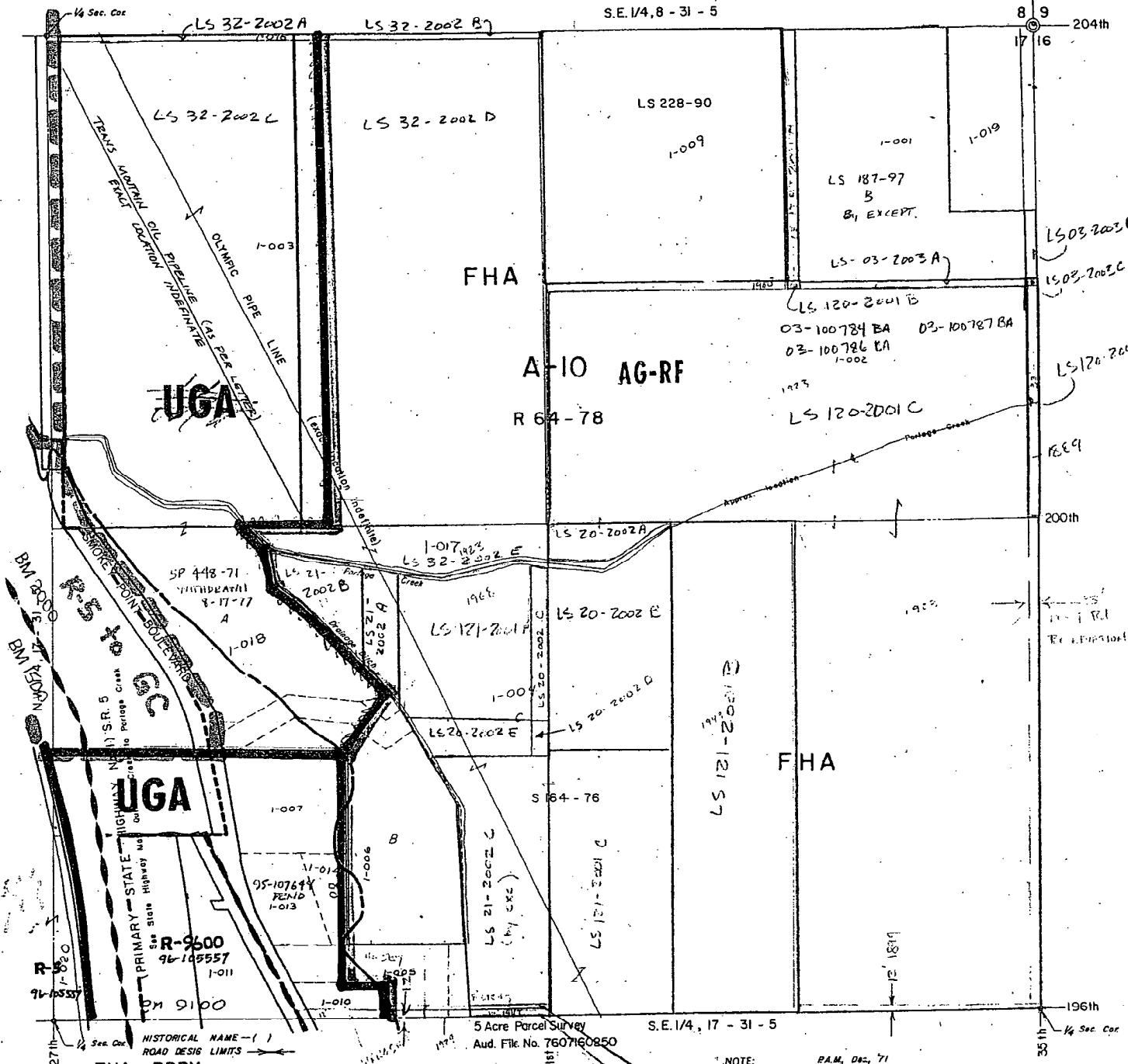
GENERALIZED FLOOD HAZARD
 AREAS ARE REPRESENTED. FOR
 SPECIFIC INFORMATION, SEE
 STUDY;
 FIRM 53534-0040B

Scale 1" = 200'

S.E. 1/4, 8-31-5

23

1" = 200'



FHA BDY.
 ARLINGTON C.P. NORTHWEST C.P.
 AG PRESERVATION
 COMP PLAN SITE SENSITIVE SECTION

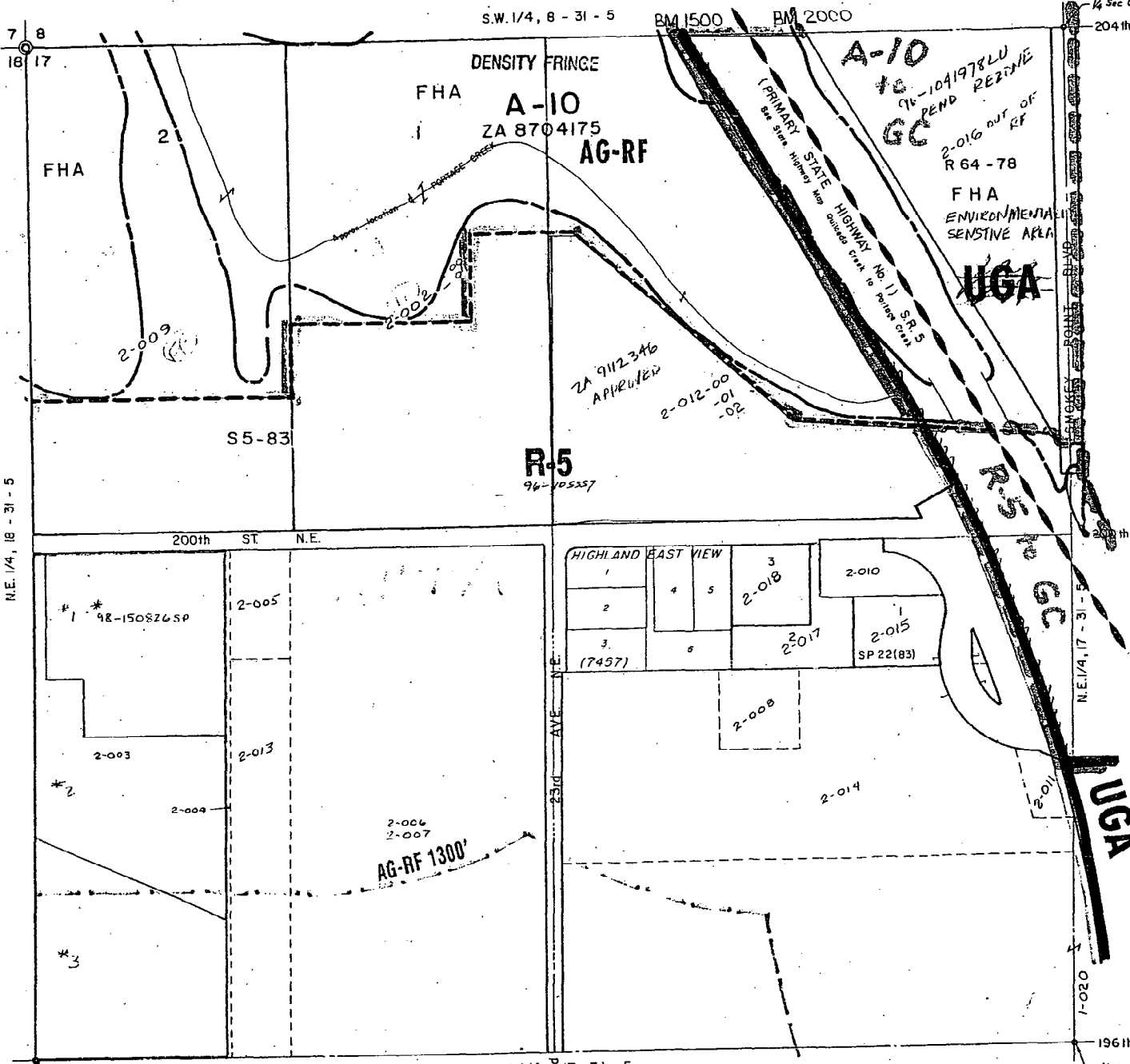
5 Acre Parcel Survey
 Aud. File No. 7607160850
 FRM 53554-00408

NOTE: P.A.M., Dec, 71
 This is not a survey, it is a parcel map
 used for location of property only

Scale 1" = 200'
 N.E. 1/4, 17 - 31 - 5

45

1" = 200'



ARLINGTON C.P. NORTHWEST C.P.
 AG PRESERVATION
 SHORELINE ENVIRONMENT
 COMP PLAN SITE SENSITIVE SECTION

GENERALIZED FLOOD HAZARD
 AREAS ARE REPRESENTED FOR
 SPECIFIC INFORMATION, SEE
 STUDY:
 FIRM 53883A-0040B

NOTE: PRM, Dec. '71
 This is not a survey, it is a parcel map
 used for location of property only

Scale 1" = 200'
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46
 MAY 04 1998