

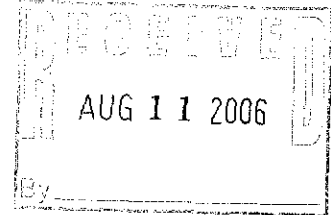


200702140164
Skagit County Auditor

2/14/2007 Page 1 of 15 1:50PM

Filed for record at the request of:

Law Office of Skinner & Saar, P.S.
740 SE Pioneer Way
Oak Harbor, WA 98277



DEVELOPMENT AND ACCESS AGREEMENT

Reference No.:
Party: Island Construction, Inc.
Party: Nookachamp Hills, LLC
Party: Daniel Mitzel
Party: Paul Rutter
Abbrev. Legal:
Assessor's Tax Parcel Nos.: P30517, P30512, P104162, P30514, P30542, P30543, and P30544; P30525 and P30526; P30462 and P30457; P114179.

This AGREEMENT is being made, effective as of the 11 day of August, 2006, by and between ISLAND CONSTRUCTION, INC. a Washington corporation with its principal office at 231 Barrington Drive, Suite 102, Oak Harbor, Washington, referred to herein as "Island;" and NOOKACHAMP HILLS, LLC, a Washington limited liability company, P.O. Box 188, Mt. Vernon, Washington, hereinafter referred to as "Nookachamp;" DANIEL MITZEL, an individual, whose address is 1642 Gunderson Rd., Mt. Vernon, Washington, referred to herein as "Mitzel;" and PAUL RUTTER, an individual, whose address is P.O. BOX 1325, MT. VERNON, WA. referred to herein as "Rutter."

RECITALS

1. Island is the owner of 252 acres of real property located in Skagit County, Washington. This property is commonly referred to as the "Walking M Ranch" property.
2. Island plans to apply for a land division permit in connection with a Conservation and Reserve Development related to its development of this 252 acre parcel.
3. Nookachamp is developing real property that it owns in Skagit County, Washington. The property affected by this agreement is commonly referred to as "Nookachamp Estates," which consists of "Phases III and IV" (92 lots) of the Nookachamp Hills development.
4. Nookachamp's development is contiguous to Island's Walking M Ranch property.

5. Mitzel owns a parcel of property that is approximately 23 acres in size and which is contiguous to Island's property. Mitzel is also the managing member of Nookachamp Hills, LLC.

6. Rutter owns a parcel of property that is approximately 11.5 acres in size and which is contiguous to Island's property.

7. In 1995, Skagit County's office of Planning and Community Development gave preliminary approval to a planned unit residential development application submitted by Nookachamp in connection with Phases III and IV of this development. A request for final approval of the PURD related to Phases III and IV has not been submitted.

8. The parties have reached an agreement regarding the joint development of their respective properties and access to Island's property from and through Nookachamp's property. The terms of that agreement are set forth below.

AGREEMENT

In consideration of the mutual promises and benefits described in this instrument, the parties agree as follows:

SECTION ONE DESCRIPTION OF AFFECTED PROPERTIES

- 1.1 The 252 acre parcel owned by Island Construction, Inc. is described in the attached exhibit A.
- 1.2 The property which comprises Phases III and IV of the Nookachamp Hills development and owned by Nookachamp Hills LLC is described in the attached exhibit B.
- 1.3 Mitzel's 23 acre parcel is described in the attached exhibit C.
- 1.4 Rutter's 11.5 acre parcel is described in the attached exhibit D.

SECTION TWO ISLAND'S PERMIT APPLICATION

- 2.1 Island will submit an application for a land division permit under section 14.18.300 of Skagit County's Uniform Development Code.
- 2.2 The application will pertain to Island's property described in Exhibit A; and will also include Mitzel's 23 acre parcel described in exhibit C and Rutter's 11.5 acre parcel described in exhibit D.
- 2.3 The parties expect that the lot yield from this combined application, if approved, will be twenty-nine lots.



SECTION THREE
ALLOCATION OF LOT OWNERSHIP

Upon Skagit County's approval of Island's application, the resulting 29 lots will be allocated in the following manner:

- 3.1 Island Construction will be allocated 25 of the 29 lots.
- 3.2 Daniel Mitzel will be allocated 3 of the 29 lots.
- 3.3 Paul Rutter will be allocated 1 of the 29 lots.
- 3.4 The specific lots to be allocated to each party shall be determined through an alternating selection method. Specifically, Mitzel and Rutter will flip a coin to determine which of them is entitled to choose the first of the 29 lots. After the first selection is made, Island shall be entitled to choose the second of the 29 lots. The person who did not make the first pick (either Mitzel or Rutter) shall be entitled to select the third lot. Island will select the fourth lot. Mitzel will select the fifth lot, Island will select the sixth lot, Mitzel will select the seventh lot, and the remaining lots will be allocated to Island.

SECTION FOUR
ALLOCATION OF DEVELOPMENT COSTS

- 4.1 The actual costs for the development of the 29 lots shall be prorated amongst Island, Rutter and Mitzel in proportion to the respective number of lots each owns relative to the total. For the purposes of this formula, the term "actual costs for development" shall include, but is not limited to the costs of off site utility work performed specifically for the benefit of or required as a result of this 29 lot project. Except as provided in paragraph 4.2, below, the total burden for actual development costs allocated to Mitzel and Rutter shall not exceed the sum of \$25,000 per lot. This "per lot," development cost maximum figure shall be referred to in this contract as the "development cost ceiling."
- 4.2 The \$25,000 development cost ceiling described in paragraph 4.1, above, is premised upon the parties' expectation that the subject lots will utilize on site sewage disposal systems that will be installed by the end user/purchaser and not the developer.
 - 4.2.1 In the event that any of the aforementioned 29 lots are annexed into a sewer district, the \$25,000 development cost ceiling shall be adjusted to take into account the change in anticipated costs.
 - 4.2.2 The formula for such an adjustment, if necessary, shall be based on a comparison of the percentage difference in development costs that will occur if the lots are developed with a sewage disposal system such as the type provided by the sewer district, (including any hook up fees charged by the sewer district) instead of an on-site septic system



UNNO...
4.2.3 purchased and installed by the end user.
For example, and by way of example only, if the cost of developing the 29 lots increases by 10% as a result of the fact that the development is annexed into a sewer district, then, in that example, the development costs ceiling of \$25,000 would be increased by 10% or \$2,500 so that the new ceiling is \$27,500.00.)

4.3 The development costs allocated to the Mitzel and Rutter lots shall be paid to Island, from escrow, at the time the lots are actually transferred to Rutter and Mitzel. Payment of these costs shall be a condition precedent to Island's obligation to make any lot transfers to either Mitzel or Rutter.

4.4 Upon request, Island shall provide an accounting of all development costs for which it is seeking payment from Mitzel and Rutter or which form the basis of any contribution formula as described in this document.

SECTION FIVE

INGRESS/EGRESS/ACCESS TO ISLAND'S PROPERTY AND THE 29 LOTS

5.1 Nookachamp Hills, LLC will provide access routes (including ingress, egress and utility easements) to the aforementioned 29 lot development in the manner described on the attached conceptual plan, which is incorporated in this agreement as exhibit E.

5.2 In furtherance of its agreement to provide such access, Daniel Mitzel and Nookachamp shall execute any additional permit applications, agreements, licenses or easements that may be necessary to provide satisfactory access, ingress, egress and utilities to the 29 lot development through the Nookachamp Hills, Phase III and IV, property/development.

5.3 No changes or deviations from the accesses described in the attached exhibit E shall take place without the express, written permission of Island.

SECTION SIX

WATER LINE EASEMENT

6.1 In the event that it becomes necessary for Island to connect a water main to the water line that is currently located in Walking M Lane or Gunderson Road, Mitzel agrees to provide Island with a utility easement across the Mitzel property sufficient to allow Island to connect to the water main.

6.2 The aforementioned easement will be provided, upon request and at no cost to Island.

SECTION SEVEN



MARKETING AGREEMENT

- 7.1 Island agrees that it will advertise and market its 25 lots of the aforementioned 29 lots, as part of the "Nookachamp Estates" portion of the entire "Nookachamp Hills" development project previously commenced by Nookachamp Hills, LLC. No other name or general reference will be used to identify or characterize Island's lots for marketing and sales purposes.
- 7.2 Nookachamp Hills, LLC agrees that Island may utilize the trade name "Nookachamp Estates" for the sole purpose of marketing its 25 lots as an extension of the Nookachamp Hills PUD.
- 7.3 Provided, however, that the obligations set forth in paragraphs 7.1 and 7.2 above are contingent upon Skagit County's approval of the 29 lot development under circumstances that do not trigger any major amendments to the Nookachamp Hills PURD.

SECTION EIGHT RESTRICTIVE COVENANTS

Island agrees that it will collaborate with Mitzel, Rutter and representatives of Nookachamp Hills, LLC in the development of restrictive covenants affecting Island's 25 lots.

SECTION NINE ENTIRE AGREEMENT


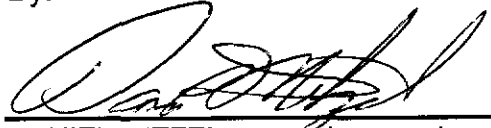
This Agreement constitutes the entire Agreement between the parties on this subject. The above recitals of this Agreement are incorporated into this instrument by this reference.

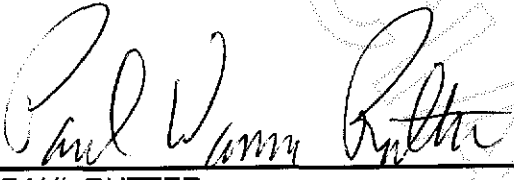

SECTION TEN GOVERNING LAW/VENUE

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Washington. Any legal claims, suits or causes of action that may be commenced by either party against the other shall be filed exclusively in the Skagit County Superior Court.

In witness whereof, the parties to this Agreement have caused it to be executed in the place and on the date indicated below.



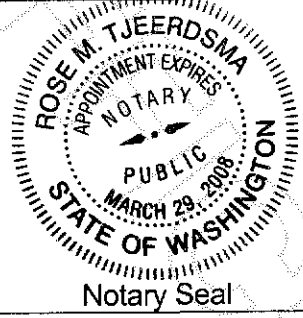
ISLAND CONSTRUCTION: By:  JOHN WILLIAMS, vice-president	NOOKACHAMP HILLS, LLC By:  DANIEL MITZEL, managing member
Dated this <u>11</u> day of <u>Aug.</u> , 2006.	Dated this <u>15th</u> day of <u>August</u> , 2006.

 PAUL RUTTER	 DANIEL MITZEL, individually
Dated this <u>15th</u> day of <u>AUGUST</u> , 2006.	Dated this <u>14th</u> day of _____, 2006.



STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Paul Rutter is the person who signed this instrument and that he acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.



Rose M Tjeerdsma
Printed Name: Rose M Tjeerdsma
NOTARY PUBLIC in and for the state of
WA, residing in Burlington
My Commission Expires: 3/29/08

STATE OF WASHINGTON)
) ss.
COUNTY OF SKAGIT)

I certify that I know or have satisfactory evidence that Daniel Mitzel is the managing member of Nookachamp Hills, LLC and that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.



Rose M Tjeerdsma
Printed Name: Rose M Tjeerdsma
NOTARY PUBLIC in and for the state of
WA, residing in Burlington
My Commission Expires: 3/29/08

EXHIBIT A
ISLAND CONSTRUCTION'S PROPERTY

Skagit County, Washington tax parcel numbers P30517, P30512, P104162, P30514, P30542, P30543, and P30544.



EXHIBIT B
DESCRIPTION OF PHASES III AND IV OF THE NOOKACHAMP HILLS
DEVELOPMENT

Skagit County, Washington tax parcel numbers P30525 and P30526.



200702140164

Skagit County Auditor

EXHIBIT C
DAN MITZEL'S 23 ACRE (approximate) PARCEL

Skagit County, Washington tax parcel numbers P30462 and P30457.



200702140164

Skagit County Auditor

EXHIBIT D
PAUL RUTTER'S 11.5 ACRE (approximate) PARCEL

Skagit County, Washington tax parcel number P114179.



200702140164

Skagit County Auditor

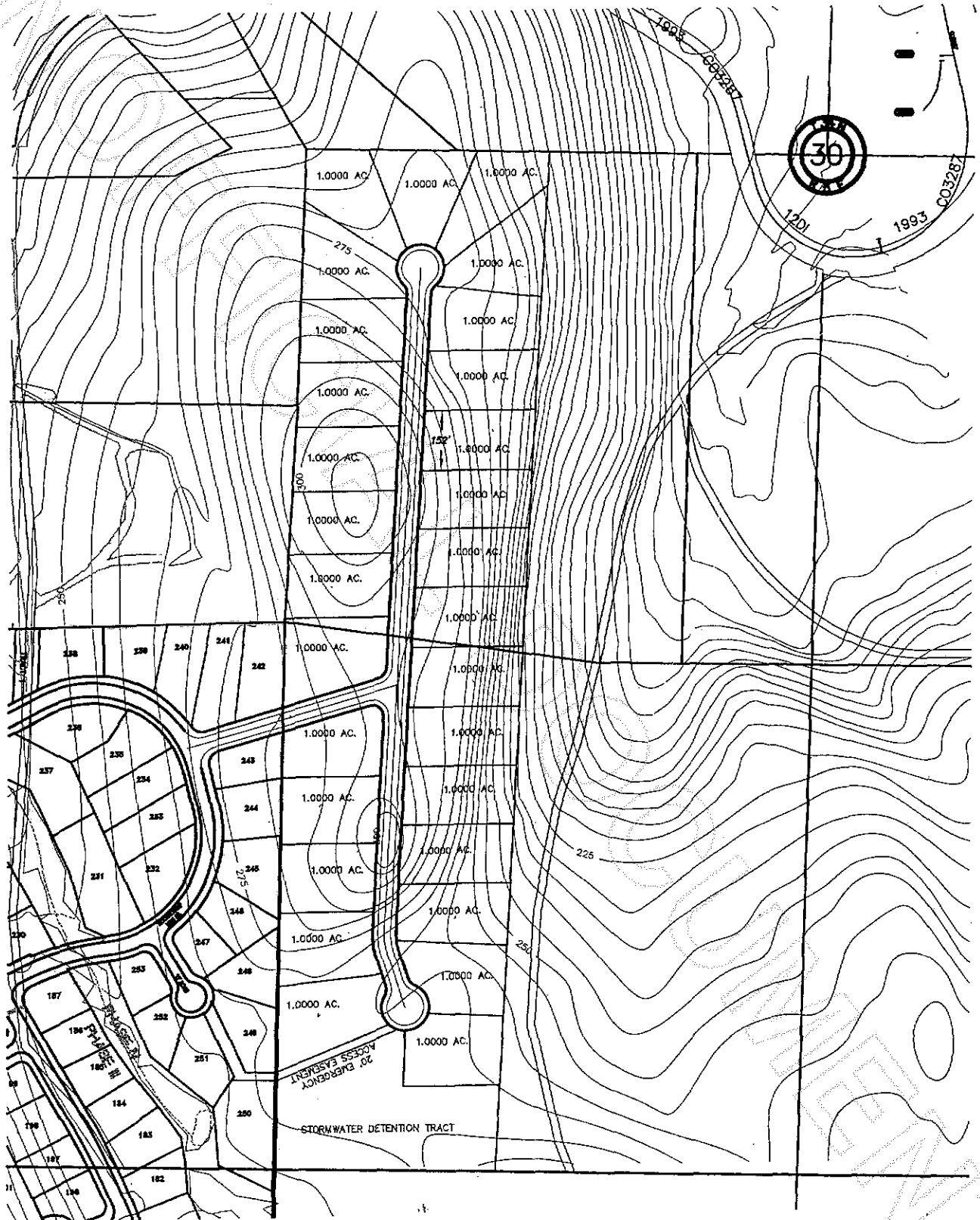
EXHIBIT E
CONCEPTUAL PLAN SKETCHES

UNOFFICIAL DOCUMENT

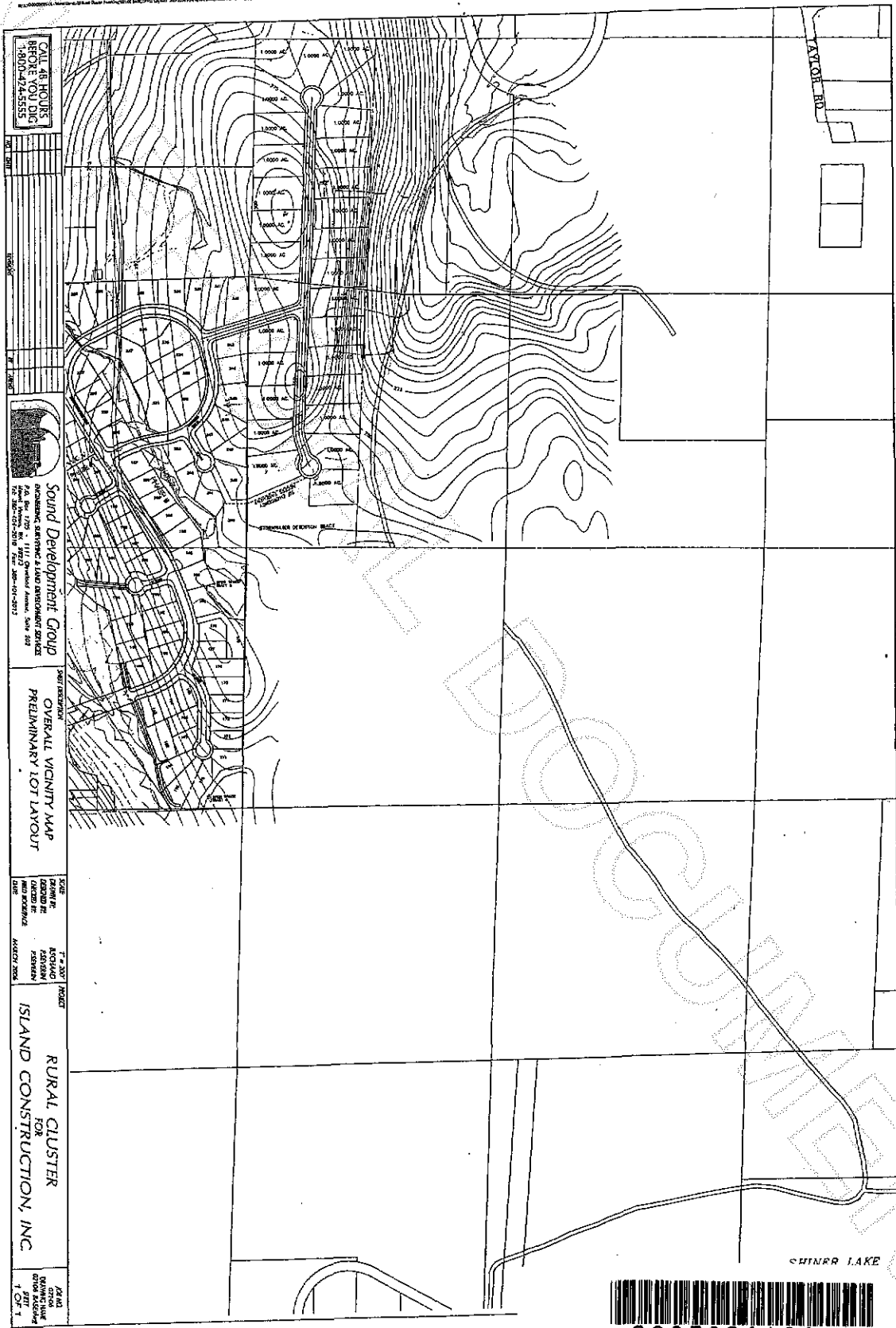


200702140164

Skagit County Auditor



200702140164
 Skagit County Auditor



CHINRR LAKE



200702140164

Skagit County Auditor