

## Adam Zack

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**From:** Karl Eberhard <eberhard@silcom.com>  
**Sent:** Tuesday, July 20, 2021 2:53 PM  
**To:** Adam Zack; comapplancomments@sanjuanco.com  
**Cc:** Eberhard, Martin; Eberhard, Carolyn (Martin); keberhard7192@msn.com  
**Subject:** Proposed MRLO on TPNs 450113005000 and 450111003000  
**Attachments:** BSA Survey.pdf

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Adam,

Representing Martin and Carolyn Eberhard and Karl and Karin Eberhard, owners of Elma Ranch (TPNs 450111002000, 450111005000, 450111006000, and 450111007000), please consider the following:

Unfortunately, we received the notice of the proposed MRLO on TPNs 450113005000 and 450111003000 so late (last Friday) that we could not provide comments for the July 16, 2021 Planning Commission hearing (last Friday). The application has fatal flaws that must be corrected before any further processing of the applicant's request.

The applicant's request is fundamentally based on historic use of the land as a mining operation. This is errant in two ways:

First, the applicant has re-arranged the shape of their holdings (through lot line adjustments dated 2017) such that the "historic use" claimed is now wrapping around our parcel along the east property line when historically it was solely over the south property line. The parcels to the east of us were never used for commercial mining. Please see the attached survey from 2000 which shows an earlier configuration that is not 25 years old. Re-arranging lot lines does not make newly configured but unused areas now part of "an historic use".

Second, lot line adjustments aside, the parcels to the east of us were not owned by the applicant for the required amount of

time. The most recent title transfer is dated 2017. This may be between Carlson's various legal entities, but clearly in 2002, the property was purchased from Whittier Trust. That was only four years, or, twenty-one years ago depending on how you want to look at it. The requirement is, "The parcels proposed for designation under the MRLO have active mining operations that have operated for at least 25 years." The Carlson's have explained to us that this transaction re-purchased property the family sold years ago, but that is not a continuous non-conforming use. Clearly a residential use was proffered to the County in 2000.

The Staff Report statements , "sic ... the proposed change is unlikely to increase these impacts because the mining uses are already legally existing and the MRLO does not allow a greater range of mining land uses outside what is already allowed on the subject properties. ", and "sic ... unlikely the proposed change will increase these impacts given that the lands proposed for designation already have existing mining operations and the MRLO does not significantly change the regulations that apply to mining operations." are thus not true. Granting this change definitely negatively impacts us every day and when we sell the property.

Procedurally, without this historic use claim, the application must include "potential extractable resource in commercial quantities verified by submittal of a geologic and economic report prepared by a qualified professional" which has not been provided. The application cannot move ahead.

The lot line adjustments of 2000 (See attached map), clearly identifies buffers and buildable areas. What becomes of those buffers? Can the designation, should it occur, preserve these?

The applicant is currently enjoying a "forest" designation on the newly acquired lands for tax purposes. Isn't this a significant conflict with a mining designation? Aren't additional taxes due - just the same as if I give up my "farm" designation?

For us, the change is dramatic, allowing a use once solely over our southern property line to wrap most of our property along the eastern property line. The increased impact is significant -

in daily annoyance and a distinct and measurable loss of property value.

We have spoken to the Carlson's about the nuisance posed by their land-use which includes explosions (yep, on weekends too), grinding operations, sifting, use of air brakes, back-up beepers, and truck and tractor noises, not to mention weekend shooting and stray motorcycles. Admittedly, they have worked to cure the back-up beepers (which we appreciate), but that's only a fraction of the nuisance. But, they have not been willing to address the other issues.

At the same time, we appreciate the importance of local mining and the contracts Carlson has with the town and the County for road work. This local mining operation is probably a large cost savings for both. But, should we (Martin, Carolyn, Karin and I) absorb the accompanying nuisance and loss of property value without compensation?

This application could be described as based on fiction, but at the very least it is incomplete. And, this effort appears to be being rushed forward. We would appreciate a pause so that the issues can be resolved in an equitable way.

If a pause is not in order on your authority, please advise as to deadlines for appeals and other hearings and processes in which we can participate.

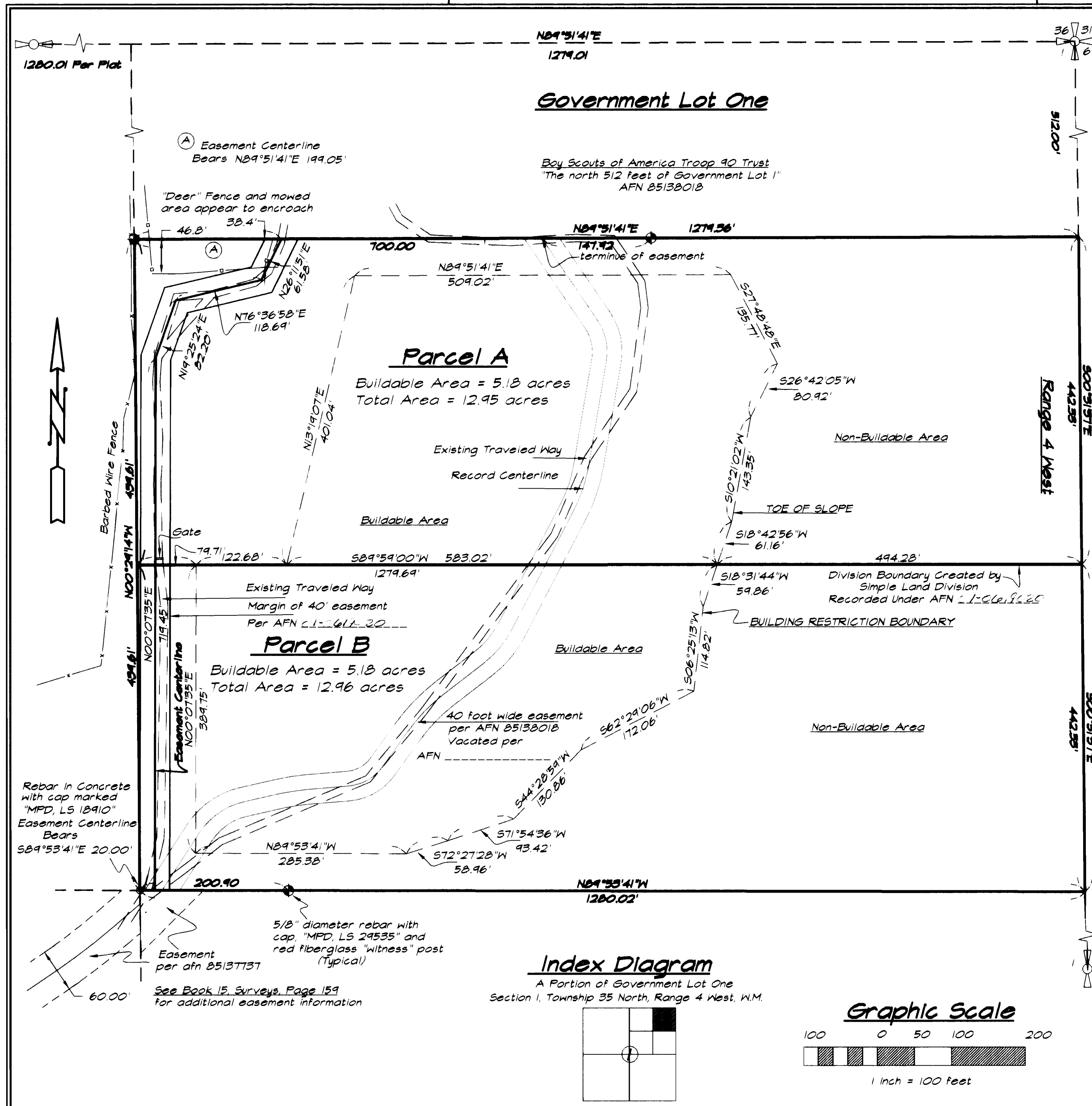
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Best Regards,

Karl Eberhard, Architect

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[www.KarlEberhard.com](http://www.KarlEberhard.com)

(928) 699-7974



**Survey Notes**

Notes Drafted by MPD, Inc.  
 This survey was prepared using a "Topcon 302" total station. Measurements were adjusted by least squares. Resultant error ellipses indicated a 95% probability of positional certainty within 0.20 feet.  
 The basis of bearing for this survey is the "Ridge View Short Plat" as recorded in Volume 5 of Plats, Pages 5 through 5c, records of San Juan County, Washington.  
 The purpose of this survey has been to map the "usable land area" and to retrace, describe and mark portions of the north, south and west boundaries as shown.  
 No physical inspection or land survey measurements were performed along the east boundary or along those portion of the north and south boundaries easterly of the "toe of slope" line shown.

**Land Description**

Parent Tract  
 Government Lot 1, Section 1, Township 35 North, range 4 West of W.M. except the north 512 feet thereof;  
 Subject to and Together with easements as described under Auditor's File Numbers 85137737 and 85138018 records San Juan County, Washington

**Legend**

- AFN - Auditor's File Number
- "Deer Fence" (woven wire)
- ⊕ 5/8" diameter rebar with cap "MPD, LS 29535" and red fiberglass "witness" post

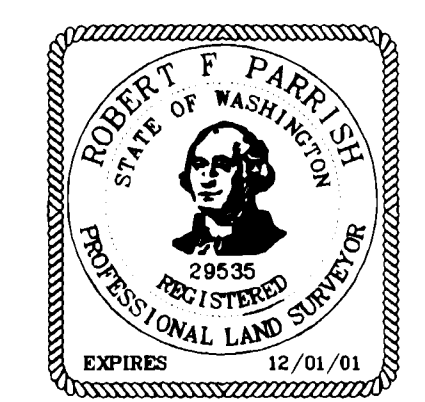
**Area Calculations**

Total Land Area of Parcel Divided = 25.91 Acres  
 Non-Buildable Open Space = 15.55 acres  
 Total Remaining Buildable Area = 10.36 Acres

**Surveyor's Certificate**

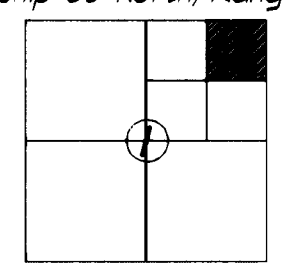
This map correctly represents a survey made by me or under my direction in conformance with the requirements of the survey recording act at the request of the The Whittier Trust Company of Nevada, Inc. as Trustee of the Declaration of Trust dated 2-13-1981 for the benefit of N. Paul Whittier in January and February of 2000.  
 Survey originally prepared by Metke, Parrish & Drahn, Inc.  
 Redrafted and prepared for recording during November of 2000 by Parrish Land Surveying at the request of Whittier Trust Company.  
 certificate no. LS 29535

*Robert F. Parrish*  
 Robert F. Parrish

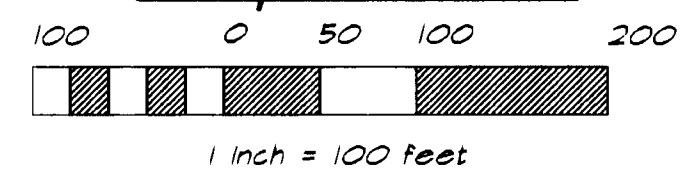


**Index Diagram**

A Portion of Government Lot One  
 Section 1, Township 35 North, Range 4 West, W.M.



**Graphic Scale**



**Auditor's Certificate**

Filed for record this 14<sup>th</sup> day of Aug. 2001 at 8:54 Am in book 17 of surveys at page 66 at the request of Parrish Land Surveying.  
 20010814004  
 Auditor's File Number

By: *Judane Spendijs*  
 San Juan County Auditor

**Parrish Land Surveying**

540 LINDER STREET, FRIDAY HARBOR, WASHINGTON 98250  
 (360) 378-2336 - parrish@rockisland.com - call phone 317-5034

**Record of Survey**  
 prepared at the request of  
**THE WHITTIER TRUST COMPANY OF NEVADA, INC.**

A Portion of Government Lot One  
 Section 1, Township 35 North, Range 4 West, W.M.  
 San Juan Island, San Juan County, Washington

JOB NO.: 01102
CADD BY: rp
CHK BY: .
BK REF: none
SCALE: 1" = 100'
DATE: 11-14-00