

**From:** [Spencer Parr](#)  
**To:** [Kelly Bacon \(CD\)](#)  
**Cc:** [jmitchell6686@hotmail.com](mailto:jmitchell6686@hotmail.com)  
**Subject:** Responses to CUP Comments - Project Name CU-20-00006 (Swiftwater Storage)  
**Date:** Sunday, March 21, 2021 11:05:28 AM  
**Attachments:** [image003.png](#)  
[General Responses with Summary.pdf](#)  
[Specific Wetlands and Riparian Setbacks Response.pdf](#)  
[Specific 100-Year Floodplain Response.pdf](#)  
[Specific Consideration for Neighbors Response.pdf](#)  
[Specific Primitive Camping Area Response.pdf](#)

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Ms. Kelly Bacon:

Please see hereto attached our general responses and summary to the comments so-far received with respect to our proposed Swiftwater Storage project. We have also elected to provide more specific responses on the subjects of Wetlands and Riparian Setbacks; the 100-Year Flood Plain; Neighborly Considerations; and Primitive Camping. Some of the comments we received appeared to incorrectly understand that we were proposing RV repair activities, but we are not. That was part of the approved CUP of our neighbor, Jeff Bainter, on his adjacent property. Indeed if one looks at the Integrated Site Map we have supplied at the top of page 2 of our General Responses with Summary document, I would respectfully suggest that our project (in green) comes approximately no closer to the F Type stream at the Northern boundary of our parcel than some of Mr. Bainter's approved buildings do on his, and meanwhile we also have a pre-existing built-up gravel road between our proposed buildings and that stream, which Mr. Bainter's project did not. We are hopeful that because all of the relevant stakeholders recently approved (or maintained no objections to) Mr. Bainter's project on the parcel adjacent to ours, they will also treat our proposal similarly. In any case, we will work diligently with everyone involved in this process to assist them in conducting their careful and deliberate scrutiny of our independent project.

Another misconception that we have tried to clear up is that we were proposing to build our ministorage buildings within 100-130' of the F-Type stream's boundaries. We have clarified in several of our responses that we believe our closest building (per our engineers' data and corroborating physical measurements using a 300' tape) will have its closest wall located at well beyond 200' from that sensitive habitat. We believe it will be erected at a 220' distance.

Josh and I would also like to ask you to please let us know when you think the County will deem our SEPA Checklist to result in a finding of non-significant impact because we have a Forest Practices Act (FPA) Application/Notification ready to submit to DNR in response to its forester's comments. However, we need to ensure that the County has made its own determination on our SEPA Checklist first so that we can coordinate the timing of these two processes correctly and efficiently with DNR.

Sincerely,

**Spencer D. Parr** ([Video Intro](#))

**COVID-19 UPDATE:** Please be advised that our Washington law Center Attorneys and staff continue to work on your Personal Injury and Labor & Industries matters. We are taking emails (preferred) and phone calls from clients as they come. However, all of our WLC office locations

are presently [closed to foot traffic](#) (including to current clients) in an effort to follow guidelines from the CDC and other healthcare authorities regionally. This social distancing effort may likely seem excessive to some, but because we do work for many people in vulnerable demographics, we have instituted this policy for their protection. If you have any questions or concerns about this policy, or any other issue, please feel free to contact Attorney Spencer Parr on his cell phone: (585) 621-8000. Texts (including your full name) are preferred. Please be well.

SUPERVISING ATTORNEY & PARTNER



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**See also:**

[Why Washington Law Center](#),  
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[The Benefits of Having an L&I Attorney](#).

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WLC Property Holdings, LLC  
651 Strander Blvd., Ste. 215  
Tukwila, WA 98188

Kittitas County Community Development Services  
411 N. Ruby , Suite 2  
Ellensburg, Washington 98926

March 20, 2021

Project Name File Number CU-20-00006  
Notice of Application Dated: March 2, 2021  
Kittitas Parcel No. 15445 ("subject property")

### **GENERAL RESPONSE TO PUBLIC COMMENTS:**

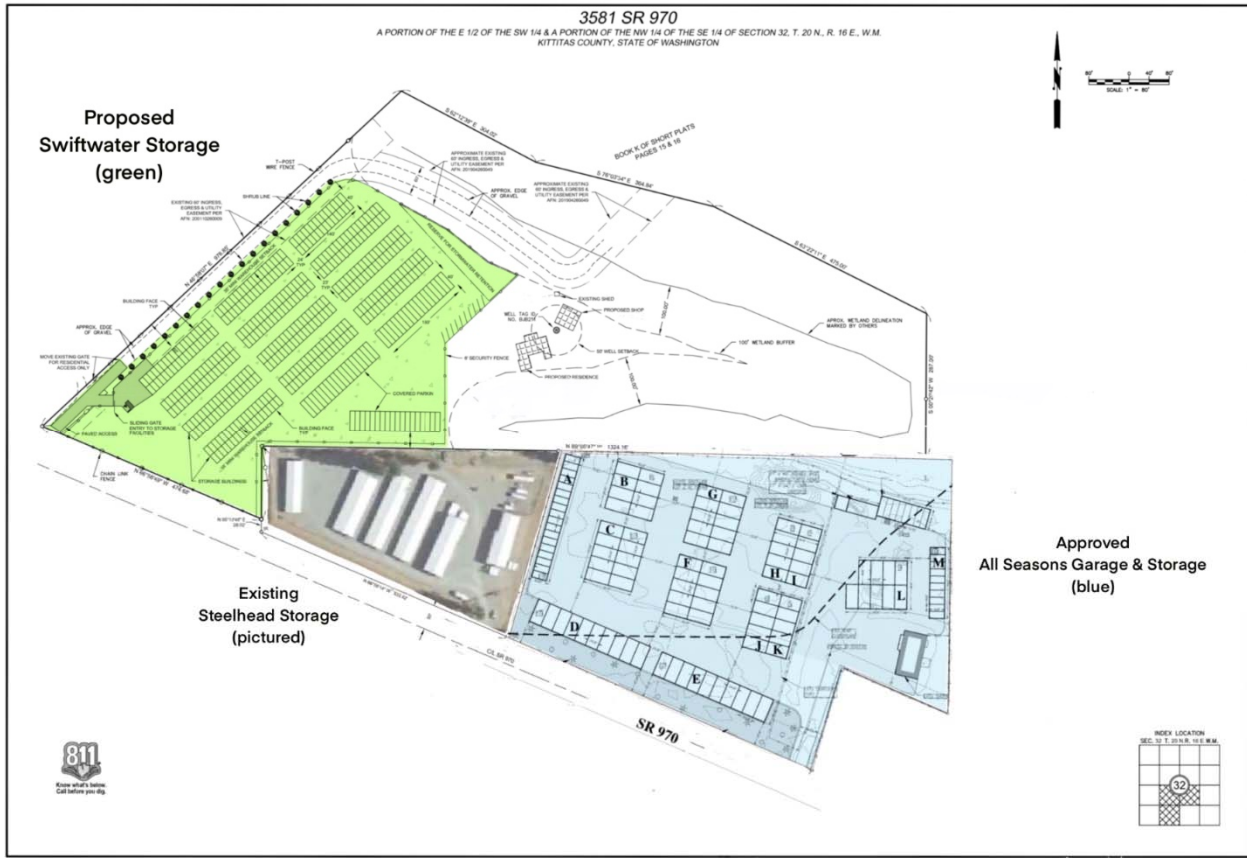
WLC Property Holdings, LLC is a company owned and controlled in equal interests by Joshua Mitchell and Spencer Parr. Joshua has lived in Cle Elum for years, and in Kittitas County for longer than that. Both Joshua and Spencer enjoy spending time on the subject property and have worked together to develop that property in a responsible and respectful way. We both also presently intend to hold our interests in this subject property for the long term, measured in decades not years. We respond to the public comments that have been made as follows:

#### **Bill Rhode and Joint Comments of Adjacent Landowners**

There is comment correspondence authored and submitted by William (Bill) Rhode which we now wish to address. We will start by stating that we have met in-person with Mr. Rhode and discussed our plans with him on numerous occasions, and we have also incorporated some of his requested changes within our planning. We understand that we were not able to resolve all of Mr. Rhode's concerns about our proposal, but we do remain committed to working with all of our neighbors and community members in a spirit of friendship and cooperation.

We recognize that Mr. Rhode is not in favor of our development. At the same time, we think it very likely that most other developers would review our large-tract, highway fronting, almost entirely-flat parcel and propose far more storage and/or other commercial activity than we have proposed. In support of this contention, we respectfully point to both the adjacent Steelhead Storage (existing self-storage) and the adjacent All Season Garage & Storage (proposed and approved) parcels and note that the developers of both committed to utilize virtually all of their available land area, whereas we have proposed using only about half of our land area for commercial purposes. Review of the following integrated site map is instructive:

## INTEGRATED SITE MAP:



We have split our parcel into two separate portions, approximately half of which is dedicated to single-family residential use and/or habitat and wetlands preservation. We have already concentrated and limited our commercial uses to that portion of our land closest to and most accessible to the fronting state route, Highway 970. The area in green is our proposed storage facility. The area in blue is a commercial project recently permitted by Kittitas County under project name CU-20-00002. County approval of our proposed storage facilities as a compliment to those which already exist and/or are already approved on the adjacent two highway-fronting parcels will not materially change or adversely impact how adjacent landowners utilize and enjoy their lands.

**Adjacent Land Values:**

Mr. Rhode's correspondence indicates that at the time of their respective land purchases, some of the adjacent landowners believed they were paying premium purchase dollars for the purchase of their land. Mr. Rhode's comments argue that the bluff landowners will suffer a diminished value for their own properties if our Swiftwater Storage proposal is approved. Additionally, Mr. Rhode's comments assert that he and others obtained assurances from unnamed Kittitas County planning officials that our land would not be used for the type of proposal we have made and would instead be utilized for additional three to five acre residential lots instead. We respectfully respond to Mr. Rhode's comments as follows:



- 1) Self-storage facilities are already an allowed, conditional use on the subject property according to its present legal zoning. If ever the adjacent property values were negatively impacted, it would only have been at the time Kittitas County changed its zoning permissions in 2019, well before our purchase of the subject property.
- 2) Self-storage facilities are exactly consistent with how the adjacent highway frontage lands are already being utilized. Current landowners must already view adjacent storage facilities and a tall cell phone tower when entering onto, crossing over, or looking down across our property. In addition, our proposal is planned to preserve and enhance wildlife habitat, wetlands and views to the fullest extent possible, as well as to provide aesthetic enhancements and screening of our buildings as our neighbors drive across our land on the residential access easement they utilize thereupon.
- 3) None of the landowners who possess parcels on the overlooking bluff have built residential dwellings anywhere near the bluff, and nor will they ever be permitted to do so as a result of applicable wetlands setbacks. Thus, residential views from adjacent bluff parcels will remain unaffected if our proposal is approved. The utility of the adjacent parcels will remain undiminished, as will the associated land values. Adjacent parcel owners may also still design and site any such future homes as they may build upon their lands in a fashion which suits them best and optimizes their views without denying our parcel permission for zoning-appropriate development.
- 4) No Kittitas County land use planners or other officials of Kittitas County ever gave enforceable promises or assurances to any purchaser of the parcels on the bluff adjacent to our subject property: Todd L. Crooks (parcel 955232, purchased on 9/30/2019 for \$116,000); William Rhode (parcel 955233, purchased on 9/16/2019 for \$105,000); Larry Long (parcel 955234, purchased on 9/18/2019 for \$97,000); or Scott G. & Dawn M. Stump (parcel 955231, purchased on 2/7/2020 for \$114,000).
- 5) No Kittitas County planning official is specifically named in Mr. Rhode's comment correspondence, but no such official was in any event authorized by law to grant the prospective regulatory rights Mr. Rhode's correspondence suggests he should have obtained by having whatever conversation he may have had proximate to his purchase.
- 6) The land values paid at the time our neighbors each purchased their lands were clearly not "premium" values as each purchase price ranges from just \$97,000 to \$114,000, to purchase between three and six acres of usable, generally-flat, residential land. Our project will not diminish our neighbors' land values. No technical or expert analysis has been provided to suggest to the contrary. Meanwhile, one of our project owners was previously a licensed tax assessor for a period of years and respectfully now disagrees with Mr. Rhode's assertion that his or adjacent land values will be diminished.

- 7) Complete due diligence performed by the adjacent landowners made prior to their purchases would have revealed that under **Kittitas County Project CP-19-00002**, Jeff Bainter and Thomas Durant had already proposed amending the Forest and Range zoning classification to allow ministorage warehouses, as well as RV maintenance and repair activities. Public records show that on **June 26, 2019** Jeff Bainter submitted a text amendment application and associated SEPA for the 2019 docket advocating for that specific zoning district change (<https://www.co.kittitas.wa.us/uploads/cds/land-use/Comp%20Plan%20Amendment%20Applications/CP-19-00002%20Bainter/CP-19-00002%20Bainter%20SEPA%20DNS%20Signed.pdf>). In addition, even before any of the bluff landowners purchased their properties, Kittitas County had already issued preliminary findings generally indicating that it would determine no significant detrimental impact would result from adopting Mr. Bainter's zoning change proposal (see <https://www.co.kittitas.wa.us/uploads/cds/comp-plan/2019/docket-items/Docket%20Item%20No.%2019.11.pdf> (August 2019, *Draft*). Because the principle of **caveat emptor** pertains, adjacent parcel owners cannot claim a legally-cognizable damage should Kittitas County now permit our proposed development.
- 8) The adjacent bluff landowners all purchased their properties from the exact same seller as sold the subject property, parcel 15445, to WLC Property Holdings, LLC. That common seller was in the open and notorious process of listing parcel after parcel and selling off his adjacent lands in an orderly progression. All bluff property owners purchased their properties before we purchased ours, but yet also within the same calendar year. Thus, had any of our neighbors wished to prevent zoning-permitted developments on our subject parcel, even after Kittitas County changed its zoning potentials in 2019, our neighbors could have simply bought our land before we did (in September of 2020). Otherwise, they could have also purchased additional restrictive covenants that would have then prevented our development. They could have controlled their outcomes without any need to ask Kittitas County to diminish ours.
- 9) We seek only to bring our land up to its highest and best economic use, especially given its highway frontage and Washington's stated public policy of allowing owners to utilize their own land in a reasonable (including "conditioned") fashion, such as is expressly permitted under the zoning regulations now applicable to our land. Allowing us to utilize our land to the extent we have proposed does not materially harm any of our neighbors. To the contrary, the additional utility of close-by amenities allowed on our land may easily be viewed by many market participants as a positive development that generally enhances nearby land values, including those of our neighbors. For example, bluff landowners need not build their own under-cover RV and boat storage at substantial cost if they instead have affordable access to same in our facility approximately an eighth of a mile up their shared access road. We note that Mr. Rhode has already built a substantial shop building, keeps an RV parked on his three acres of land and is installing a septic system, potentially to support his RV use presently and a home later. Other market participants may wish to choose differently if they desire the minimalist development on the adjacent bluff which Mr. Rhode claims is optimal (despite his own activities).

- 10) Respectfully, our project is designed to service a known and intensive demand which exists in and around Cle Elum as there are currently waiting lists at every existing self-storage facility we have surveyed within regional proximity to our proposed development. The reason we are proposing this project; Jeff Bainter worked to get the zoning change previously for the benefit of his adjacent site; and Kittitas County planners previously adopted a more permissive zoning that covers our parcel is because there is a substantial and well-recognized need for our proposed development. Moreover, concentrating such development within well-planned and efficient facilities such as we have proposed will then avoid the inevitable alternative wherein too many individual landowners pockmark the region with overdevelopments which amount to spread out and inefficient, lamentable sprawl. Kittitas County planners will best control land and road overburdening by permitting efficient and highway-fronting proposals such as ours. Finally, it must be noted that there has been substantial new permitting developments for approximately 1800 new residential parcels in the vicinity of Cle Elum just within the past year. Many of the new residents to our area will have storage needs which we now respectfully ask Kittitas County planners to consider when reviewing our proposal.
- 11) Joshua Mitchell and his child will be living in the single-family dwelling we now propose to construct on the subject land. Because our ownership will literally be living on the same land as we are requesting to develop, Kittitas County therefore has the greatest assurance possible that our land will be developed with due care and consideration. We intend to protect to the greatest extent possible against any damages to either the subject land or associated land values. To hurt those around us would only hurt ourselves.

### **Safety and Security Concerns**

Mr. Rhode indicates that the “current easement for Ingress and egress off of Highway 970 is for the residents.” It should be noted that the existing access cut-in from the highway and the residential access easement of which Mr. Rhode speaks is fully permitted; burdens our subject parcel only and not those of any of our neighbors; and it is sufficiently wide to safely allow two-way traffic. The easement is 60 feet wide. The road itself is 30 feet wide. Use of only the end of our road by our patrons as they safely exit the Highway on the previously approved cut-in will not impair Mr. Rhode’s rights of ingress or egress, so his easement rights are in no way implicated. The same is true of the other parcel owners who also share those same ingress and egress rights over the subject parcel which is our land.

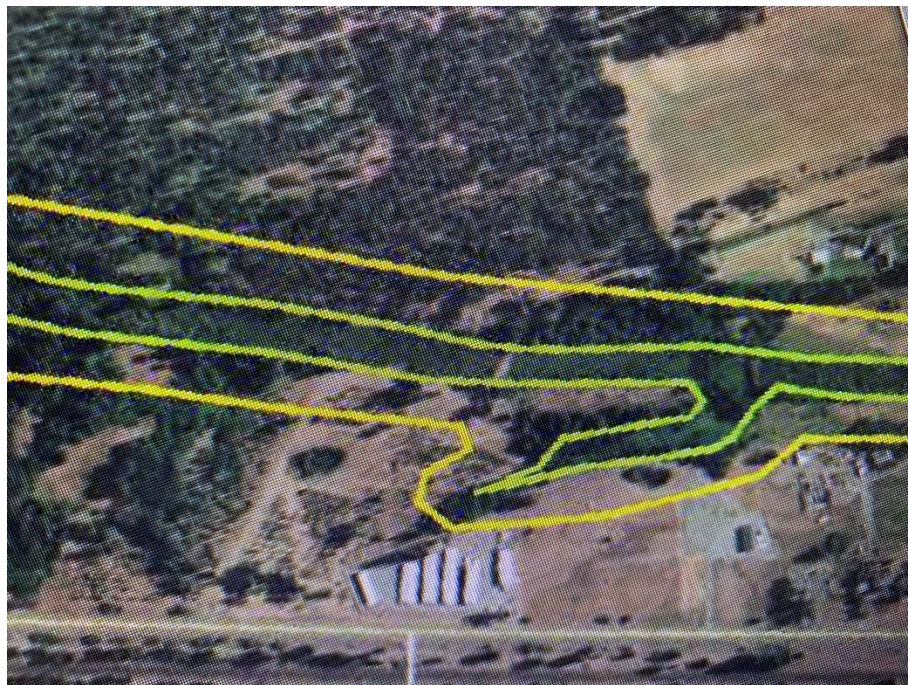
Mr. Rhode states that the existence of a recently permitted project nearby, CU-20-0002 All Season Garage & Storage; together with a long-existing self-storage operation on the adjacent parcel, Steelhead Storage; when combined with our project will lead to excess traffic along the highway frontage route, HWY 970. Our response is that traffic on a highway is to be expected and is typically better located there than elsewhere. This is because scientifically the elements of road safety come down to three primary considerations: safe roadway design (here there exists a straight roadway with a large apron which therefore allows far-distant lines of sight for those entering or leaving our parcel), expectancies of drivers (here drivers already know they are

entering or exiting a highway) and use of safe speeds, which the Washington State Department of Transportation (WSDOT) has already reviewed. WSDOT's finding that our ingress and egress roadway is adequate but will simply need an additional permit seems especially reasonable to us given the marginal additional traffic that will be created by our proposal.

Mr. Rhode suggests that the speed limit on Highway 970 should be reduced by 10 miles per hour, which suggestion we certainly do not oppose, although that is not within our specific proposal and it is not necessary per the WSDOT's review, we believe.

Mr. Rhode suggests that a turn lane should be established. The WSDOT review does not indicate that such a condition should be imposed. We believe our site design provides a sufficient ingress and egress as will already be safe for a marginal number of additional visitors, just as our parcel's prior owners were not previously required by the County to build a turn lane in order to provide access using that same easement roadway Mr. Rhode and others now travel to reach their own parcels. We concur with the WSDOT assessment that our access roadway onto and off of the highway is already sufficient.

Mr. Rhode and others suggests that a common access for all three commercial properties along Highway 970 should be established to the East of the existing Steelhead Storage facility (to the right side of the storage buildings depicted in the photo below). Mr. Rhode's suggestion unnecessarily duplicates roadways, inflates costs, would likely require public condemnation of private property rights in the adjacent parcel, and is both impractical and harmful to the extent that it would require interference with the wetlands we instead delineate, buffer and protect.



Mr. Rhode complains that fire may spread rapidly in storage units having insufficient fire suppression and that such fires might then rapidly spread to his and other nearby parcels. We propose industry-standard self-storage construction using metal partitions and non-flammable building materials set upon concrete with gravel roadways in-between and all around our buildings. There is also a large wetland and elevated sandstone bluff separating Mr. Rhode's property from where we propose to build our non-flammable storage buildings, the closest of which will be more than 130' in distance from the intervening wetlands. In addition, there is a separate 30-foot wide, built-up gravel roadway between where we propose construction of our storage buildings and our wetlands, providing yet another effective fire-break. We have also already committed to contractually limiting our storage patrons from keeping hazardous materials on-site, so the risk for uncontained fire that could spread to nearby residential properties is truly miniscule, and therefore adequately considered since there is also a fire department dispatch location nearby.

Mr. Rhode states that we have failed to disclose the number of storage units we have proposed. This is simply inaccurate. The number of proposed self-storage units is 424, with additional under-canopy and yard parking facilities, all of which is quite openly and candidly disclosed in our application materials.

Mr. Rhode states that our proposed storage facilities may attract opportunistic predators such that unidentified security assurances must now be provided. We respectfully respond that one of our owners will be living on the land and his family will be located between our proposed storage buildings and Mr. Rhode's property. We respectfully assure Mr. Rhode that our operations will not permit insecurity for our own families, nor his.

Mr. Rhode's property is also situated on an elevated bluff across a limited access roadway and a wetlands from where our proposed storage units will be constructed, if approved. Just as Mr. Rhode cannot actually see our property from his unless he walks to the unbuildable edge of his acreage, he need not keep his own personal property anywhere within a sight line of our proposed facilities, and if he does, he will be the one creating his own nuisance. That should be no reason to disapprove of our proposal.

In addition, we intend to provide security cameras and fencing in order to enhance the security and comfort of our own patrons, so we believe our proposal appropriately addresses Mr. Rhode's security fears. Access to Mr. Rhode's and neighboring properties will be limited by gate entry and two separate control (choke) points, one at the front of our property and one at the rear. Anyone who cases this circumstance would most likely be dissuaded. Finally, any potential thief or perpetrator would likely risk their own life to try and steal anything of value (or significant weight) and then get it back over the wetlands intervening our proposed storage buildings and where Mr. Rhode's property is located on the bluff to our North, as seen in the image of those wetlands provided below. We believe his security concerns are greatly overstated.





### **Environmental Concerns:**

Mr. Rhode incorrectly suggests that our proposed development will place our self-storage facilities approximately 100' from the bank of a stream that is located on the Northern-most boundary of our property (shown above). Our surveyors have put the actual distance at more than the required minimum setbacks, in fact greater than 130 feet, and in much of our site plan our setbacks reach more than 200 feet. We understand that Mr. Rhode likely misunderstood portions of our SEPA documentation wherein we stated that we will not be building our residential unit within 100' of the existing wetlands. However, we stated that number only as an assurance that we would not be within setbacks customarily observed in present zoning regulations. Our SEPA checklist statements were made to demonstrate that we understood generally-applicable development requirements.

Mr. Rhode correctly notes from our SEPA checklist document that our self-storage facilities will be located within a 100-year flood plain, just as is true for the existing Steelhead Storage and the newly-approved All Seasons Garage & Storage facilities. We believe our proposed facilities create no material increase in flood damage risks when compared to what already exists and is approved on the adjacent parcels. We are certainly prepared to meet whatever necessary conditions as Kittitas County may impose in order for our project to gain

approval. We have also already planned for the foundations of our buildings to be slightly higher than grade, with quick-draining gravels between and around the buildings, as well as a significant drainage and retention facility designed by professional Washington-licensed engineers. We are willing to regrade the land away from the wetlands as well. Again, if additional mitigation conditions are deemed appropriate, we will certainly do our part to protect our environment.

Mr. Rhode complains that there are less animals now on our property, and on his, than he asserts frequented our lands previously. Mr. Rhode's report is anecdotal, especially since he frequents his own land only part-time and has owned only since September 2019. Even if he is correct, however, placement of storage buildings will conceded limit wildlife activities on that portion of our property proposed for that purpose. However, we have already undertaken substantial efforts to also enhance and/or preserve avian and mammal habitat on the remainder of our property, strictly following the advice of a qualified forester consultant.

Respectfully, we gave Mr. Rhode an in-person update of our habitat preservation and enhancement efforts when we all met on our subject property as recently as March 14, 2021 (before he submitted his comments and then made no mention). Our bottom line is that we sincerely seek to balance the limited impacts of our proposed developments with our best efforts at natural habitat preservation and enhancement. Again, this is also our land, and we propose to live on it, work on it, and zealously protect it, resulting in what we believe will be a balance between nature and permissible uses within our zoning district. We believe this approach justifies a determination of no significant impact.

#### **DAHP Inadvertent Discovery Plan Request**

Sydney Hanson, Transportation Archaeologist acting on behalf of Allyson Brooks, Ph.D., Director of the Department of Archaeology & Historic Preservation (DAHP), has requested that we prepare an Inadvertent Discovery Plan (IDP), prepare construction crews for the possibility of encountering archaeological materials during ground disturbance activities, and that we work with Tribal cultural committees and staff regarding cultural resource issues. We note that the adjacent nine acre parcel (All Season Garage & Storage) was surveyed by a Tribal representative recently and no archaeological or cultural evidence was found. We also note that our plans do not involve creating any disturbances along the delineated wetlands that exist on our property (i.e., where cultural artifacts are most likely to be found). For those reasons we believe our proposal will create no material risk of archaeological or cultural destruction, but we will absolutely create an IDP, notify construction crews to be aware of our preservation mandates, cease all construction and immediately notify both the DAHP and Tribal representatives if any artifacts are unearthed or otherwise found. We unreservedly join in the mission of the DAHP and Yakama Tribe to preserve and protect any and all cultural and archeological artifacts as may exist on the subject parcel.



### **Well Water Use Comment**

Russell E. Mau, Ph.D., PE of the Department of Health (DOH) Office of Drinking Water (ODW) has commented that if our existing well water would be provided to construction crew members or staff employees working on-site, then a Group A or Group B water system would be needed. We understand these requirements and will reserve and limit our well water use exclusively for the purpose of our proposed single family home. No water will ever be extracted from our well for any purpose other than our own domestic, non-public use.

### **Comment of Jordan Howell**

Mr. Howell has provided photos taken from the edge of his property. He incorrectly states that we intend to cut down a significant number of additional trees beyond those which we have previously removed from a prior tree farm. He states that our project is a nightmare and that he purchased his parcel due to the existence of Designated Forest Land classification and like-minded neighbors. He states that we have failed to give consideration to our neighbors. We respond by noting that we elected to remove our land from Designated Forest Land classification at the time of our purchase, and in so doing we paid more than \$11,000 for past taxes deferred by the prior tree farm owner by utilizing that designation. We also now refer to our attached exhibits showing that we have responsibly employed the services of a professional forester consultant; we have designated significant trees for wildlife habitat preservation; and we have delineated additional farm-planted trees for preservation as well; including the majority of those rows which remain between Mr. Howell's (edge of property) sight lines and our proposed storage buildings. Once our project is completed, if approved, we also intend to resurvey and place as much of our land as we can back into Designated Forest Land classification. We have certainly considered, and we will at all times continue to consider, Mr. Howell's desires. We simply also wish to develop our property consistent with its permissible use.

### **Comment of Mark Olsen**

Mr. Olsen incorrectly complains that his land will be burdened by Swiftwater Storage patron traffic constantly coming and going on the margin of his property. Neither will our patron traffic be constant (even at peak hours) and none of it will physically touch any of Mr. Olsen's property nor impede his own access into his property. Mr. Olsen is presently in the process of building a massive shop building with a second story mezzanine offices for his own quasi-commercial use, and at no time have we complained about those developments on Mr. Olsen's land, although his contractors not-infrequently come and go utilizing the access easement he enjoys on our property. We do not object. Mr. Olsen joins in Mr. Rhode's comment that the present access roadway on our property should be reserved for himself and others who maintain residences in the area, but that demand is not within the scope of his easement rights and neither does he or Mr. Rhode assert that it is. Mr. Olsen again joins in Mr. Rhode's comment that our project should be required to utilize a shared access cut through a separate commercial property, specifically that of Mr. Bainter and All Season Garage and Storage. We respond by incorporating our response to Mr. Rhode's comment and again pointing out the non-feasibility and need to

disturb delineated wetlands inherent in that suggestion (as can plainly be seen in Mr. Olsen's photo on which he has drawn the access point he proposes for our project). Contrary to Mr. Olsen's representation, Mr. Bainter has never offered to provide an easement to our project at the location described by Mr. Olsen (nor at any other location), and neither does such a hypothetical appear consistent with the way Mr. Bainter has laid out the buildings planned for his now-permitted commercial development on the property adjacent to ours. Again, we refer to the Integrated Site Map provided herein at page 2, supra, which demonstrates that Mr. Olsen's proposed condition would require condemnation of Mr. Bainter's building rights for now permitted building "A" and possibly also for building "D." There exists no reason to believe that Mr. Olsen's requests are workable. Mr. Olsen also echoes Mr. Rhode's comment in stating that sooner or later a widening or turn lane may be required on the highway fronting our property, to which we again defer to the DOT's assessment that this is not necessary at this time.

#### **Comment of Kelly Erdman (Public Health)**

We agree with Ms. Erdman that our project proposes no water use for the public and that we are working appropriately to obtain permitting for the proposed septic system which will be used with our proposed single family dwelling.

#### **Department of Public Works Comment**

We agree to conscientiously work with the Department of Public Works (DPW) to obtain the commercial use access permit and grading permits suggested and we will not proceed with our construction until same have been granted according to the timing and terms of DPW's comment. We do have a professionally-engineered stormwater collection system in place on our site plan and we will comply with the Stormwater Management Manual for Eastern Washington (SWMM EW) requirements as indicated by the DPW comment. Similarly we will seek appropriate exemptions and/or otherwise comply fully with KCC 14.08 requirements. We will obtain elevation certificates and conduct the pre-application meeting indicated. We appreciate the convenience of DPW providing its Floodplain Manager's telephone number, (509) 962-7690, and we will certainly now utilize same.

#### **Comment of Tyler Jensen**

Mr. Jensen asks us to consider providing aesthetic improvements to the "eyesore" he believes our proposal will constitute. We have already done so, both by leaving multiple rows of decade-old ponderosa pines in place across our property and also by leaving as many trees as practical along the sight plain that concerns Mr. Jensen. We also have provided within our plans for tree and vegetation screening along the Western-most aspect of our proposal, i.e., along the residential access easement across our property. Same is already depicted in our proposed site plan. Again, we propose no significant additional removal of any trees from what currently exists.

## **Department of Fish and Wildlife (WDFW)/ Jennifer Nelson Comment**

Jennifer Nelson, Area Habitat Biologist has made comments on behalf of WDFW. These refer to the fish bearing stream at the North boundary of our property and agrees with our proposal that “the buffer from the edge of the wetland should be no less than 100 feet to preserve the functions and values of these important habitats.” We respond that our engineering and site plan have already been completed in compliance with this WDFW recommendation. At no point will we be building any structures within 100 feet of the stream. We also welcome the technical assistance offered within the WDFW comment. We would also be very happy to work with WDFW to develop and/or facilitate any habitat enhancement efforts proposed by WDFW at any time moving forward.

The WDFW comments also indicate concern with Frequently Flooded Areas and, potentially, the location of our proposed stormwater retention facility. We hereby agree to abide by any such conditions as WDFW may require for the adequate protection of habitat areas on our property, including, if necessary, the relocation of our proposed stormwater retention facility in such manner as meets WDFW’s approval. We agree to obtain WDFW’s approval prior to any commencement of any construction with respect to our proposed self-storage units.

The WDFW comments state that our materials mention an RV repair shop and reference impacts from primitive camping. We respond by noting that the RV repair shop refers instead to the already-approved project on Mr. Bainter’s adjacent parcel (All Seasons Garage & Storage), not our own. We have utilized primitive camping areas on our property to date for our own personal use, especially because we have not yet constructed the single family home we intend, but we at no point have allowed members of the public to camp on our land and at no point is that contemplated within our planning for the future. Primitive camping is not part of our proposal.

We will meet all WDFW recommendations stated Nelson’s comments. Specifically, we agree to provide WDFW final site grading data prior to construction of our proposed self-storage units and to defer all such construction until after WDFW is satisfied that critical areas and their functional values will be protected. We agree to provide stormwater management plans sufficient to meet WDFW’s requirements prior to proceeding with any self-storage construction (including placement of foundations). We will not operate RV repair facilities anywhere on our subject property. We will not allow members of the public to camp anywhere on our property. We will direct all lighting downward to comply with DarkSky best practices. We will use, whenever possible, native vegetation within our landscaping. We would happily receive and incorporate any recommendations made by Jennifer Nelson, Area Habitat Biologist, and we will affirmatively reach out to her using the contact information she has provided.

### **Department of Natural Resources (DNR) Comment**

DNR has requested that we submit a Forest Practices Act (FPA) Application before any further conversion of our property takes place. We have since met with DNR's forester at our subject property location to review with DNR the activities we have planned and the habitat and forestry protection and enhancement activities we have undertaken at the recommendation of our own qualified forester consultant. We will submit the requested FPA presently.

### **Department of Ecology (DOE) Comment**

Gwen Clear, Environmental Review Coordinator at the Department of Ecology (DOE) has submitted a comment primarily concerning shorelands, environmental standards and water quality. Ms. Clear recommends additional mapping and a joint site visit in order to verify the wetland boundary. We will now work to immediately facilitate same.

Ms. Clear comments that we believed we might be able to possibly reduce our wetlands boundaries below 100' with appropriate mitigation plantings, but we wish to now clarify that we are not requesting such mitigation reductions at this time. We believe our prior statements referred to the South side of our property nearest our home site, not the North side of our property nearest the critical area habitat depicted in the photo provided, supra, at page 8 herein. We at all times intend to maintain substantially more than 100' distance between our commercial conversion activities and the wetlands so depicted. We believe a joint site visit, with or without additional mapping, will instantly clarify and resolve this concern.

Ms. Clear notes that our buffer area must be vegetated prior to construction. We have not removed the vegetation in the 100' buffer area required, which a site visit will again confirm and we will immediately coordinate with Ms. Clear for this purpose. Nor do we intend to remove the vegetation within that buffer in order to construct our proposed project. If Ms. Clear or DOE recommends any mitigation, we intend to appropriately sequence those activities as requested by same and without objection. We believe a joint site visit will also alleviate any concerns over unavoidable wetlands impacts as we anticipate no such results from our proposal. We anticipate being able to construct all of our proposed commercial buildings without the necessity of any vehicular traffic in the buffer area. We will simply direct cement trucks and construction crews to avoid entering those areas with their vehicles once our planned construction commences. We do hereby assure the County that we will expressly inform all contractors and subcontractors of this requirement.

Ms. Clear points out that any discharges into waters of this state would require Ecology's review. We agree to abide by this requirement and formally also assert that no such discharges are anticipated or will be permitted by us, including to our contractors and subcontractors. All contractors and workers will be briefed prior to entry onto our project that there are critical environmental areas that must be protected. We will also plan to obtain written acknowledgements of same from each contractor, subcontractor or worker who enters onto the subject property during the proposed construction.

Ms. Clear indicates that we may need to contact the U.S. Army Corps of Engineers to determine if any fill permits are needed. We will do so immediately and we thank her for that advice. She also requests that we contact Lori White, at (509) 575-2616, or at [lori.white@ecy.wa.gov](mailto:lori.white@ecy.wa.gov) if we or others have any questions. We acknowledge that Ms. Clear has also provided us the contact information for Wendy Neet at DOE, (509) 454-7277. We now thank her kindly for this assistance.

Ms. Clear recommends that an NPDES Construction Stormwater General Permit be obtained should we anticipate disturbing ground with the potential for stormwater discharge off-site, which we do not. We note that our subject parcel slopes at less than one foot per hundred feet, and because it is virtually flat and we do also plan to maintain permeable ground cover between and around all buildings, no such discharge is anticipated.

We also hereby formally acknowledge that Ms. Clear has advised us through her comments that allowing an unpermitted Stormwater discharge is a violation of Chapter 90.48 RCW will make our project subject to enforcement actions. Again, we will employ best practices to avoid such a discharge and we do not anticipate that any such discharge will occur.

#### **Department of Transportation (WSDOT) Comment**

Paul Gonseth, P.E., Region Planning Engineer, has submitted comment on behalf of the Washington State Department of Transportation (WSDOT). Mr. Gonseth notes that our current access to our property is adequate for our continuing use but that we must also contact Mark Kaiser at (509) 577-1668 to apply for an updated access connection permit, which we will do.

Mr. Gonseth indicates that any proposed lighting must be directed down towards the site and away from SR 970, which we will ensure happens.

Mr. Gonseth indicates that stormwater and surface runoff must be retained and treated on site, which we will ensure, and that a utility permit for discharge of water onto SR 970 is required. We will not allow or permit discharge of our surface or other waters onto SR 970, but we acknowledge Mr. Gonseth's instruction and agree to comply.

Mr. Gonseth indicates that outdoor signage or advertising for our project will need to comply with state criteria. We will ensure that it does. Mr. Gonseth has provided the contact information for Trevor McCain, (360) 705-7282, to handle any of our inquiries before we utilize any such advertising or signage. We now thank Mr. Gonseth for providing this information, and again, we agree to comply with all state and local regulations.

Mr. Gonseth indicates that WSDOT maintains a right-of-way that extends 75' from the highway centerline. We are aware of same and will not permit any encroachment, including but not limited to grading, fencing, landscaping, signage or other advertising within the WSDOT's right-of-way. We believe our property's current boundary fence is outside of WSDOT's 75' boundary as that fence has been in place since before we purchased our subject parcel and we

believe it has been reviewed by WSDOT previously. We intend to keep all of our activities within this already-established fence line and will contact WSDOT for its prior authority if there ever arises a circumstance where this may need to change.

### **Yakama Nation Comments**

We see that Jessica Lally, Yakama Nation Archaeologist, has requested a Cultural Resources Program (CRP) survey and provided her contact information, (509) 865-5121, x 4766. We thank her and we will immediately initiate contact with her to coordinate the requested CRP survey.

We see that Ryan DeKnikker, Fish Habitat Biologist with the Yakama Nation DNR (YN DNR), (509) 945-5389, has provided comment and submission of detailed correspondence from Phil Rigdon, Superintendent, YN DNR.

Superintendent Rigdon's comments include concerns also expressed by DOE and others, primarily regarding the proximity of our proposed development activities to a Type F, fish bearing stream; its proximity to wetland habitat; its existence within a 100-year floodplain; and the amount of impermeable surfaces that will result. We agree with Superintendent Rigdon that these concerns should be addressed prior to commencement of our proposed construction and not left instead to be addressed afterward. We agree that levee and berm construction to protect our own infrastructure may be unwise and undesired even though it exists on other parcels, including those adjacent to our own and for reasons not limited to water control (noise). We have not requested to build berms or levees and we will defer to Mr. DeKnikker's and Superintendent Rigdon's superior expertise concerning that subject matter. It is our ardent desire to work with YN DNR to identify best development practices to address the stated concerns.

Superintendent Rigdon has joined Jennifer Nelson, Area Habitat Biologist with the WDFW in voicing concern that our application describes an "RV repair shop, septic for the shop, private restrooms with showers, and a public restroom." We believe that narrative is again derived from the information submitted previously by Mr. Bainter regarding the conditional use permit approved very recently on Mr. Bainter's adjacent land to ours. We propose no RV repair shop. We propose no septic for such a shop. We propose no private restrooms with showers, nor a public restroom, other than as appropriate facilities within our proposed residential dwelling unit that we propose to be occupied by one of our owners and his child.

Superintendent Rigdon indicates that the Type F stream located on the Northern boundary of our parcel has been identified as prime habitat to plant juvenile Coho in order to bolster salmon populations in the Yakima Basin. We would be happy to grant any and all access or other assistance at our disposal in order to promote this desirable goal. It would also be a source of pride for us to partner with the YN DNR and others toward achieving that end result, so we take this opportunity to assure YN DNR that our willingness to promote Coho population health will not end with our project's approval (if it is approved). We believe the main

impediments to successful Coho implantation may be downstream blockages and excess cattail growth in that more extensive portion of the stream which includes our parcel and others nearby, but we are encouraged that juvenile Coho re-implantation may be under serious consideration for the near future. Again, we respond by simply saying: please let us know how we can help, including should YN DNR wish to utilize our parcel in order to facilitate habitat repair work on our own and adjacent/nearby parcels.

Superintendent Rigdon states that our site map shows a triangle piece of ground set aside as a reserve for stormwater retention, but that we should provide additional information on how we intend to capture, retain, and infiltrate stormwater runoff coming from our facilities. We will immediately work to satisfy Superintendent Rigdon's concerns. We share YN DNR's desire to ensure that our proposed land use furthers sustainable development while protecting our mutual environment, expressly to include Yakama Nation's Treaty-reserved resources. We are grateful for all comments and input provided by Yakama Nation's members and representatives. We respectfully thank Mr. DeKnikker and also Phil Rigdon, Superintendent, for their comments. We will now immediately coordinate with Mr. DeKnikker to address the concerns voiced by YN DNR, per Superintendent Rigdon's invitation to do so.

#### **SUMMARY:**

- We take seriously the concerns of our neighbors and fellow community members and we will work respectfully with all of same, regardless of whether our proposal ultimately gains the conditional approval we now seek.
- Department of Archaeology & Historic Preservation (DAHP) wants us to adopt an approved Inadvertent Discovery Plan. We will so provide as a condition of approval.
- Department of Public Works (DPW) wants us to obtain indicated access and grading permits. We will do so as a condition for approval.
- Department of Fish and Wildlife (WDFW) wants us to maintain a buffer of at least 100' from the important wetland habitat on our property, utilize native vegetation where possible, as well as to ensure that appropriate grading practices are followed. This is already consistent with our plans and we will comply as a condition of approval. WDFW also requires that we ensure the adequacy and appropriateness of location of our stormwater retention facility given that our proposal exists within a 100-year flood plain. We will comply with DFW's strictures and obtain DFW's sign-off, as well as that of the Yakama Nation DNR, prior to the commencement of any construction on our proposed self-storage facilities as a condition of approval. We agree we will not permit camping by members of the general public on our land, and we will also abide by DarkSky best practices as conditions of approval.



- Department of Natural Resources (DNR) requests that we submit a Forest Practices Act (FPA) application, which we will do, and we will then also meet all FPA requirements set forth by DNR as a condition of approval.
- Department of Ecology (DOE) requests an adequately informed site visit to verify the wetlands boundaries stated in our proposal, to which we agree as a condition of approval. DOE requests there be no removal of vegetation and/or plantings of appropriate buffer area vegetation prior to construction, to which we agree as a condition for approval. DOE requires that we not make any discharges into the waters of this state without DOE's prior review and approval, to which we agree as a condition of approval. DOE requires that we contact the U.S. Army Corps of Engineers to determine if any fill permits are needed, which we will do as a condition for approval. DOE recommends that we obtain an NPDES Construction Stormwater General Permit should we anticipate discharging water off-site, to which we agree as a condition of approval.
- Department of Transportation (WSDOT) requires that we apply for and obtain an updated access connection permit, which we will do as a condition of approval. WSDOT requires that all of our lighting be directed downward and away from SR970, which we will do as a condition of approval. WSDOT requires adequate stormwater retention and treatment on-site, which we will do as a condition of approval. WSDOT requires that we obtain a utility permit for discharge of any water onto SR 970, which we will do as a condition of approval. WSDOT requires any signage or advertising for our project to comply with state and local regulations, which we will do as a condition of approval. WSDOT requires our maintenance of WSDOT's 75-foot right-of-way as measured from the Highway 970 centerline, which we will do as a condition of approval.
- Yakama Nation requires that we coordinate and obtain a Cultural Resources Program survey, which we will do as a condition of approval. We further agree that if any cultural resources are discovered, we will fully comply with all Tribal instructions on stopping work and preserving those resources in such fashion as may be requested by the Yakama Nation, and we unreservedly agree to abide by such instructions as a condition of approval.
- Yakama Nation Department of Natural Resources (YN DNR) requests that we strictly protect the Type F, fish bearing stream and wetlands on the subject property, and we will therefore consult with YN DNR and then meet all YN DNR directives, including either adjusting the placement of our proposed buildings or the scope of our project, to accomplish this shared goal as a condition of approval. YN DNR advises that it has a goal of juvenile Coho implantation within the Type F, fish bearing stream on our property and we will grant YN DNR any such access and utilization of our land to accomplish that purpose as may be helpful to and requested by YN DNR, as a condition of approval. YN DNR requires additional review and pre-approval of our proposed stormwater retention facilities, as does WDFW, prior to the commencement of construction on any of our self-storage facilities, and we agree to obtain YN DNR and WDFW prior-approval of same as a condition of approval.

Respectfully Submitted,

*/s/ Spencer Parr*

*3/20/2020*

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## Specific 100-Year Floodplain Response:



[Photos Date 3/20/2021]

As can be seen in the photographs above, as well as in our topo documents, the land where we propose to site our ministorage buildings is almost entirely flat, losing/gaining less than 1' of elevation per 100' of ground distance (North/South). It would be expensive, yet potentially still feasible, to grade this land either toward the retention pond already professionally engineered and depicted on our previously-submitted site map or, in the alternative (as a condition of approval), toward substitute locations situated along either the Eastern or Southern borders of the proposed building area. Thus, while our current planning makes engineering sense given that the land slopes toward the North ever so slightly, and we have accordingly placed our stormwater retention pond in that location in order to best protect the F-Type stream at the rear (Northern boundary) of our parcel, this design could likely be altered at some bearable expense if same is required.

At the same time, we think the construction that already exists on our adjacent parcel, built by Steelhead Storage, is instructive. There is a bone-dry stormwater catchment ditch along the Northern edge of that parcel even though we have not yet departed the wet season. Note our own excavation for purposes of power installation (for our single family home) also shows stable, non-saturated, rapid draining soils. Our professional engineers have indicated that our proposed design would work the same way as that system designed for Steelhead Storage and is similarly best placed where it is currently depicted, between our proposed storage buildings and the critical habitat at our Northern boundary line.









[All Photos Dated 3/20/2021]

We remain committed to an environmentally-sound design. Our engineers indicate that our proposal is an appropriate design in this 100-year floodplain location. We have doubled the normal setbacks required for wetlands generally, and our soils and design will allow us to catch and treat any and all stormwater or flood water as can presently be anticipated for our location. If alternative designs are suggested, we will duly consider same.

Sincerely,

*/s/ Spencer Parr*

*3/20/2020*

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### Specific Consideration of Neighbors Response:



Our proposal leaves many acres of trees, natural and planted, remaining on the subject property. Once we have completed our construction, if approved, we also intend to place as many acres of trees as possible back into Protected Forest Classification. While we may still remove a small number of additional trees after filing the Forest Practices Act application requested by DNR, it remains our intent to keep the land as beautiful as possible, both for our neighbors and ourselves.







Following our good-neighbors policy, we have already donated landscaping rocks and the use of our own labor and equipment (estimated value \$2,500) to help our neighbor to the West of our parcel, Mr. Mark Olsen, beautify and secure his boundary line, as well as to prepare a gate placement to help privatize his entrance. We remain committed to this type of neighborly conduct and consideration.

Sincerely,

*/s/ Spencer Parr*

*3/20/2020*

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### Specific Primitive Camping Area Response:



Since purchasing the subject parcel, only the owners have camped on this land. As part of our proposal, we will **not** be allowing members of the general public to join us. As seen in the photograph above (see the pink flag tied in the tree in the upper right quadrant), our camping area is also located just outside the wetlands boundary designated by our professional wetlands consultant at the Southern boundary of our property. We have not camped and intend no camping next to the F Type fish stream.

Sincerely,

*/s/ Spencer Parr*

*3/20/2020*

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## Specific Wetlands and Riparian Setbacks Response:

Some confusion was created by the phraseology we used within our SEPA Checklist documents. We attempted to convey that we believed our proposed construction would at no time be placed within 100' of any sensitive areas, although we interpreted certain setback regulations to allow construction of our planned single family home within 50' of a wetland using appropriate mitigation and seeking appropriate permitting. To clarify, **we do not now request to build our home within 100' of any wetland**. We will leave our home site outside the 100' buffer from the wetlands delineated at the South boundary of our property, the wetlands to which they are closest. Those wetlands do contain the F Type stream at the Northern boundary of our subject parcel.



Our proposal actually sites all of our self-storage construction activities well-outside 130 feet from the F Type stream at our Northern boundary. In fact, **the closest any self-storage building will come will be 220 feet**, as plotted by our engineers.

For visual confirmation, on March 20, 2020 we used a 300' tape measure and tied it to a tree growing approximately 10 feet inside the wetland at our Northern boundary. We then pulled a taught measurement line to various straight distances from that location, cut 10' from the measurement, in order to determine all of the following within reasonable accuracy:

First, the built-up residential access gravel roadway that is 30' wide and runs parallel along the F-Type stream and associated wetlands until crossing has its Northern most edge located at

approximately 37 feet from the boundary of the wetland (measured at the bank, not the center).





Cutting 10' (we started the measurement tied to an object inside the wetland consuming that distance of measurement tape), using the picture above one can see that the roadway edge has a typical distance from the wetlands of 37 feet.

Next, we stretched the measuring tape taught across the road. The road is approximately 30' wide at all points, meaning that the roadway edge located farthest from the wetlands is at approximately 67 feet, which we also confirmed visually. When reviewing our proposed site map, one then gets a better understanding of where our proposed activities will take place.



We continued pulling the tape taught in a straight line, and as can be seen by looking at the numbers visible on the dial between Joshua Mitchell's hands in the photo below, we went out to more than 200' in order to demonstrate that our proposed ministorage building construction is located well-outside the sensitive areas identified in many of the public comments we received.





Next, we took a photograph while turned to the West because our self-storage buildings depicted on our site plan are generally proposed to be located to the West of where we pulled our measurement tape. As can be seen in the photograph below, a substantial stand of row-planted Ponderosa Pines remains within the critical areas buffer proposed by us, meaning within the 220' that will exist between the Northern most aspect of any of our proposed storage buildings and the F-Type stream and wetlands boundary. Those trees are intended to remain in place in our proposal. Please keep in mind that there will be a gravel area and perimeter security fence between the buildings and where the first row of depicted Ponderosa Pines exists.





Respectfully, **all of our proposed self-storage buildings will be built greater than 200' from the delineated boundaries of the critical area habitat at the Northern boundary of the subject property.** We hope this clarifies the concerns that have been voiced regarding this aspect of our proposal.

Sincerely,

*/s/ Spencer Parr*

*3/20/2020*

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