

1                   **BEFORE THE WASHINGTON STATE BOUNDARY REVIEW BOARD**  
2                   **FOR SNOHOMISH COUNTY**

3  
4           In re: CITY OF LAKE STEVENS RHODORA  
5           ANNEXATION, BRB File No. 04-2018

**No. 04-2018**

**SUPPLEMENTAL BRIEFING OF  
6           CITY OF LAKE STEVENS**

7  
8           The City of Lake Stevens hereby submits this Supplemental Brief pursuant to the request  
9           of the Snohomish County Boundary Review Board.

10  
11                                   **I.       INTRODUCTION**

12           During the public hearing held on October 1, 2018, the Board requested supplemental  
13           briefing on two issues. (1) What is the legal effect of discrepancies between the legal description  
14           set forth in the original Notice of Intent to annex and the legal description attached to the certified  
15           petitions both attached to Resolution 2018-018. (2) Whether Elizabeth Fenner's property is subject  
16           to the CC&R annexation covenant.

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18  
19                                   **II.       AUTHORITY AND ARGUMENT**

20           **A.   The State Supreme Court has held that minor discrepancies in annexation legal**  
21           **descriptions do not invalidate the annexation petition.**

22           In *Long v. City of Olympia*, 72 Wn.2d 85 (1967), a petition was presented to the city commission  
23           that proposed the annexation to the city of a part of another city. A majority of the voters approved  
24           the annexation to the city of the part of the other city. The contesting voters filed an action to  
25           

26           Pre-Hearing Statement of City of Lake  
27           Stevens- 1

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1 restrain the annexing city and its officials from certifying the results of the annexation election, in  
2 part, due to an incorrect legal description of the area to be annexed. On appeal, the court found  
3 the legal description of the proposed annexed territory was adequate, and the proposed area was  
4 contiguous to the annexing city. The court held that the “adequacy of a legal description of  
5 territory proposed for annexation is judged by whether a competent surveyor, either with or  
6 without the aid of extrinsic evidence, could ascertain the property in question.” See Also  
7 *McAlmond v. City of Bremerton*, 60 Wn.2d 383 (1962) (holding the competent surveyor standard  
8 is used to ascertain the adequacy of the legal description).

9  
10 The Rhodora Annexation legal descriptions are sufficiently adequate for a competent  
11 surveyor to ascertain the property in question. The changes in the legal description were a result  
12 of a request of the County to remove references to tax parcel numbers, which can change overtime,  
13 and to include the “shorelands” of those properties existing along the lake. These revisions provide  
14 more detailed description of the metes and bounds but did not change the area in any substantial  
15 way.  
16  
17

18 Therefore, pursuant to *Long v. City of Olympia*, the Board should not invalidate the  
19 annexation petition due to changes in the legal description.

20 **B. Whether Elizabeth Fenner’s property is subject to the CC&R’s annexation covenant.**

21 Elizabeth Fenner’s property is lot 44 of the Fenner Plat, Tax Parcel No. 01120600004400.  
22 The residence on this property was the existing residence on the original parcel, which was then  
23 divided into 44 lots as part of the Fenner Subdivision. While Elizabeth Fenner’s house was not  
24 constructed by the developer, the recorded CC&R’s cover all lots within the Fenner Plat with no  
25

26 Pre-Hearing Statement of City of Lake  
27 Stevens- 2

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1 exception for lot 44, therefore Elizabeth Fenner's property is subject to the declaration (CC&Rs)  
2 page 3. See Exhibit A. The property owner's supplemental brief discusses this issue in more detail  
3 and the City concurs with the analysis contained therein.  
4

### 5 **III. Conclusion**

6 The City of Lake Stevens has complied with all the procedural requirements of  
7 RCW 35A.14.120-.150. The annexation also furthers the goals and objective required for  
8 annexations to be approved and the use of the annexation covenants in support of the ownership  
9 sufficiency and assessed value requirements is lawful and does not invalidate the petition. The  
10 discrepancies in the legal descriptions do not invalidate the petition for annexation.  
11

12 Considering the above, the City respectfully requests the BRB determine that the  
13 Rhodora Annexation meets all statutory requirements and authorize the annexation to proceed.  
14

15 Dated this 2<sup>nd</sup> day of October, 2018.

16 

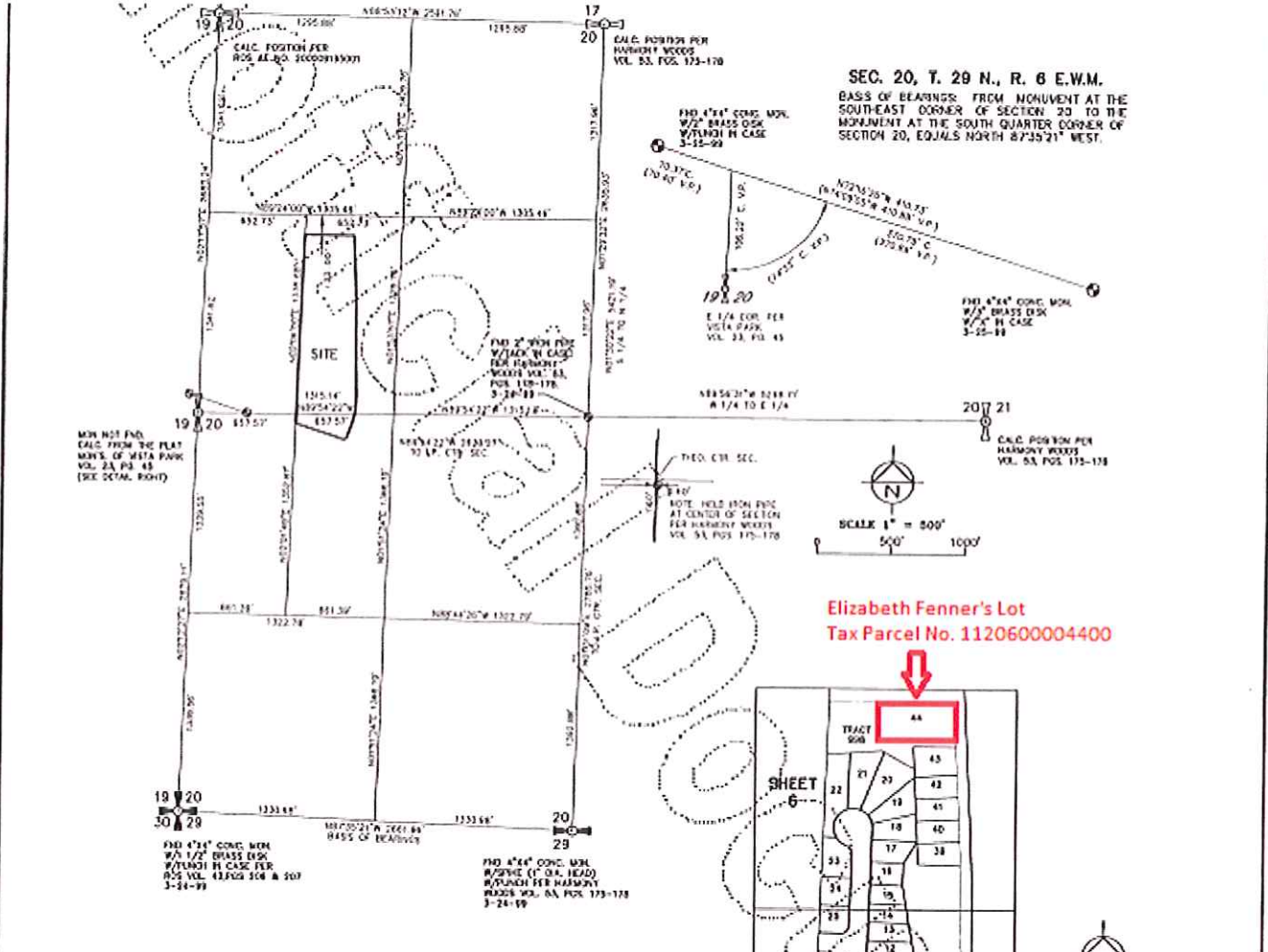
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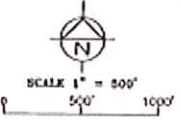
Brett C. Vinson, Attorney for Lake Stevens

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26 Pre-Hearing Statement of City of Lake  
27 Stevens- 3

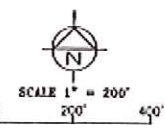
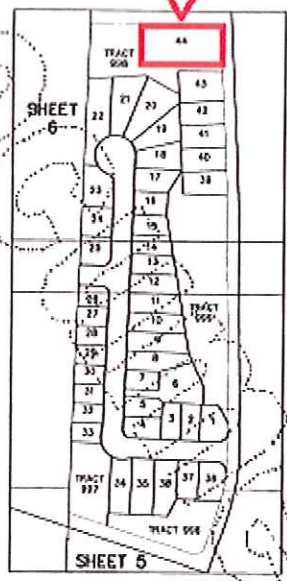
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**SEC. 20, T. 29 N., R. 6 E.W.M.**  
 BASIS OF BEARINGS: FROM MONUMENT AT THE  
 SOUTHEAST CORNER OF SECTION 20 TO THE  
 MONUMENT AT THE SOUTH QUARTER CORNER OF  
 SECTION 20, EQUALS NORTH 87°35'21\"/>



**Elizabeth Fenner's Lot**  
 Tax Parcel No. 1120600004400



**SHEET INDEX**

**CURB PLUG TABLE**

▲ 14.23'	▲ 14.22'	▲ 14.37'
▲ 14.35'	▲ 14.13'	▲ 14.40'
▲ 14.37'	▲ 14.24'	▲ 14.50'
▲ 14.32'	▲ 40.32'	▲ 15.58'
▲ 14.31'	▲ 40.49'	▲ 9.83'
▲ 14.21'	▲ 40.06'	▲ 14.37'
▲ 14.29'	▲ 36.13'	▲ 14.31'
▲ 14.32'	▲ 55.22'	▲ 14.50'
▲ 14.30'	▲ 14.33'	▲ 14.26'
▲ 14.35'	▲ 14.39'	
▲ 14.33'	▲ 14.41'	
▲ 14.31'	▲ 14.42'	
▲ 14.29'	▲ 14.39'	
▲ 14.36'	▲ 14.36'	

**LEGEND**

- M. NO. ALLOTOR'S FILE NUMBER
- CALC. CALCULATED
- CONC. CONCRETE
- EN. DOWN
- FOUN. FOUND
- MON. MONUMENT
- PG. PAGE
- RANGE. RANGE
- REC. RECORD OF SURVEY
- SEC. SECTION
- SEAM. SOUTHEAST, NORTHEAST
- IN. SW. NORTHWEST, SOUTHWEST
- S.A.E.W. SOUTH, NORTH, EAST, WEST
- TWP. TOWNSHIP
- V.P. VISTA PARK VOL. 23, PG. 45
- W.C. WILLAMETTE MERIDIAN
- W. FOUND. SURVEYOR CORNER / FOUND AS NOTED
- W. SUBDIVISION CORNER, NOT FOUND
- W. EXISTING MONUMENT AS NOTED

DISTANCE FROM FRONT LOT  
 CORNER TO CURB PLUS  
 ITACK W/ SHINER, LS 30450),  
 ON LOT LINE EXTENDED.



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 BOTHELL, WASHINGTON 98011  
 (206) 773-4811 • (206) 332-4244 • FAX (206) 482-3619

JOB NO: 04-0054    DATE: 10/26/10    SHEET: 4 OF 6  
 AUDITOR'S FILE NO: 201011116001

EXHIBIT A 1 of CCR

Lots 1 through 44, and Tracts 996, 997, 998 through 999 of Fenner, according to the Plat thereof recorded under Auditor's File No. 201011175001, records of Snohomish County, Washington.

Subject to easements, covenants, conditions, and restrictions of record.

Situate in the County of Snohomish, State of Washington.