

July 23rd, 2021

Sent by email and delivered (mayor@townoflaconner.org)

Mayor Ramon Hayes
Town of La Conner
204 Douglas Street
PO Box 400
La Conner, WA 98257



Sent by email and delivered (council_1@townoflaconner.org; council_2@townoflaconner.org; council_3@townoflaconner.org; council_4@townoflaconner.org; council_5@townoflaconner.org)

Town of La Conner
Council Members
Jacques Brunisholz; John Leaver; Bill Stokes
MaryLee Chamberlain; Mary Wohleb
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Mr. Scott Thomas
Town Administrator and Town Attorney
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Sent by email and delivered (planner@townoflaconner.org)

Mr. Michael Davolio
Planning Director
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P.O. Box 400,
La Conner, WA 98257

Sent by email (iverseno@msn.com)

Mr. Oliver Iverson
Chair, La Conner Parks Commission

Re: Town of La Conner/Maple Park Easement Release Citizen's Response

Dear Mayor Hayes, Council Members, and Mr. Thomas,

This letter is written with respect to the proposed Maple Ball Field Easement Release, provided in the 7/13/21 Town Council meeting agenda packet, which will be further considered at the 7/27/21 Town Council meeting.

We recognize and appreciate the efforts undertaken by the Town of La Conner to address our concerns with respect to Easement "C". As currently drafted, the Easement Release does address many of our concerns around the implementation and execution of Easement "C", but it falls short in some important respects. We bring these items to your attention in an effort to provide the clearest, strongest resolution to this matter possible, for the clarity and benefit of all parties involved. Upon review, we have identified the following areas of concern:

- To our lay reading, the Easement Release document purports to modify provisions from both the Joint Use Easements and the Addendum/Amendment to Purchase and Sale Agreement (between La Conner and Jeretzky). Having three different documents that must be read together to understand the full legal picture leaves many unspecified details open to interpretation.

We believe that clarifying these terms by instead amending and restating the Joint Use Easements will minimize potential conflict, uncertainty, and risk for the Town of La Conner, the current and future landowners, and the citizens of La Conner.

- The following items are not addressed in the proposed Easement Release, and therefore the other impacted documents grant certain uses that are no longer applicable, including:
 - References to paving Easement "C"
 - Owners of the adjacent property having input to the improvements to be made in Easement "C".
 - Stipulation that any utilities across Easement "C" be buried. We understand from Mr. Thomas' comments at the 7/13/21 council meeting, that most, if not all, utilities are buried in current construction practice. The 7/22/21 Maple Field Short Plat (section D.5.) also clearly states that utilities through the easement to Talbott St. will be buried. This should be a straightforward condition to include.
 - Easement "C" may be used as a construction staging area to the benefit of the developer. Construction staging comes with the possibility of contaminants and other environmental concerns - which the current form of the Joint Use Easements does not address. It does not currently assign responsibility for clean up or environmental remediation in the event of contamination to the park area by the easement beneficiary.

We believe that it is in the Town's best interest to amend and restate a single agreement that is easy to read, interpret and act upon. This will reduce the potential for conflicting interpretations in the future.

In a related matter, we wish to bring the Town’s attention to the language regarding the square footage calculation for the proposed homes and significant differences in the proposed Easement Release and what was provided for in the Addendum to the Purchase and Sale Agreement.

Addendum to the Purchase and Sale Agreement, up to 1,700 sq ft., includes:

Easement Release, more than 1,700 sq. ft., includes:

Utility	
Mechanical	Mechanical room area including walls
Garage Areas	Garage areas
	Exterior wall area
	Interior stair area on each floor
	Any open-to-below areas

This raises for us the following questions for Town Council consideration:

- Does the change in the excluded building elements from the square footage calculation constitute a material difference in the allowable footprint of the proposed houses?
- While we understand the acceptance of the proposed designs by the town constitutes the consideration granted in exchange for extinguishing the relevant easement provisions, it is unclear whether this new calculation applies specifically to the already proposed designs, or to any potential future design options?

While a few extra square feet may not be a true concern, does the Easement Release provide any assurance that a new design with significantly larger houses could not be submitted and automatically approved with respect to the square footage?

Thank you for your continued consideration, we hope you will take these concerns in the spirit of civic investment they are offered and that you will move forward in considering this Easement Release with a clear and transparent understanding of these issues.

Sincerely,

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cc: Maple Field, LLC