

**AN ORDINANCE AMENDING ORDINANCE 407-2008
AND KITSAP COUNTY CODE § 17.301.080.E.12**

WHEREAS, on March 13, 2008, the Kitsap County Board of County Commissioners adopted Ordinance No. 407-2008, amending in part Kitsap County Code Section 17.301.080.E.12, the "Rural Wooded Incentive Program" (RWIP); and

WHEREAS, this action was taken in response to the Central Puget Sound Growth Management Hearings Board decision rendered on August 15, 2007 in *Suquamish II v. Kitsap County*, CPSGMHB Case No. 047-3-0019c, Final Decision and Order (August 15, 2007); and

WHEREAS, the Growth Management Hearings Board's Order indicated that the County's Rural Wooded Incentive Program "blurred the lines" between rural and resource lands and suggested that the County could cure this problem by removing a disclosure statement required under the program; and

WHEREAS, during deliberation on Ordinance 407-2008, the Board of County Commissioners indicated they would prefer to retain a notice to title on Rural Wooded Incentive Program properties, which would provide notice to residents regarding possible activities on the open space, but not necessarily provide protection to the forestry industry; and

WHEREAS, the final Ordinance 407-2008 included a clerical error that does not reflect the Board of Commissioners' intent regarding such notice and which needs to be corrected and presented to the Central Puget Sound Growth Management Hearings Board as soon as possible.

**NOW THEREFORE THE KITSAP COUNTY BOARD OF COMMISSIONERS DO
ORDAIN AS FOLLOWS:**

Section 1. Kitsap County Code Chapter 17.301.080, last amended by Ordinance 407-2008, is amended as follows:

17.301.080 Rural Wooded Incentive Program.

- A. Purpose. The purpose of this section is to provide a clustering program for land designated Rural Wooded, which provides incentives to landowners, promotes coordinated open space, and preserves rural character. This chapter encourages development to occur on the most buildable and least environmentally sensitive

portions of sites while retaining a substantial portion of each site in restricted open space tracts or easements. Specifically, this chapter is designed:

1. To produce a development pattern in rural areas that is consistent with rural character and to produce a rural development pattern which encourages variety in design, placement of buildings, more efficient use of the most buildable portion of sites, and retention of the environmentally sensitive and scenic portions of sites as permanent open space;
 2. To encourage the development of cluster housing, which provides greater compatibility with surrounding development and land uses in rural areas by providing larger buffer areas;
 3. To encourage the retention of permanent open space with its natural vegetative cover, which protects continued groundwater recharge and reduces potential water pollution, flooding, erosion and other drainage-related problems often associated with rural development;
 4. To minimize adverse impacts on the county's environmentally sensitive streams, shorelines, wetlands, fish and wildlife habitat areas and corridors, areas of unique vegetation or wildlife species, steep slopes, and other critical areas;
 5. To minimize impervious surfaces and the cost of installing essential public and private capital facilities necessary for a rural infrastructure; and
 6. To protect rural natural features and landscape by minimizing tree, vegetation, and soil removal.
- B. Applicability. This program applies to all properties within the Rural Wooded zone 20 acres or greater in size. Individual projects using this program may not exceed more than 500 contiguous acres.
1. Phase Description. Land available to use this program will be designated in the Comprehensive Plan in an incremental phased approach consisting of 10 phases. The phased process of this program is described below:
 - a. Initial phase shall be limited to a total of five-thousand (5,000) acres of Rural Wooded (RW) land.
 - b. All parcel acreage utilized in Rural Wooded Incentive Program developments, including any Permanent Open Space, fresh water bodies, critical areas, and residential acreage, shall be included for calculations toward the remaining available Phase acreage.
 - c. Subsequent phases may be released based upon the provisions identified in subsection 17.301.080.B with each limited to a total of five-thousand (5,000) additional acres of Rural Wooded (RW) land.
 2. Monitoring.
 - a. Monitoring shall be conducted every two years to evaluate the effectiveness of the Rural Wooded Incentive Program. The monitoring shall include:
 - (1) Evaluation of the county-wide split between rural and urban dwelling unit development and lot creation. The methodology shall be consistent with that approved in the most recent Buildable Lands Analysis;
 - (2) Evaluation of the total acreage within the Rural Wooded Incentive Program that has submitted a complete application, that has received preliminary approval, and that has received final approval as well as

- the total acreage of Permanent Open Space in these approved developments;
- (3) A transportation analysis of the roadways adjacent to and serving Rural Wooded Incentive Program developments;
 - (4) Evaluation of the Rural Wooded (RW) designated lands for the maintenance of qualities of "Rural Character" as defined in this section; and
 - (5) Evaluation of development in the Rural Wooded zone in regards to critical area buffers, on-site and adjacent parcel well levels, on-site stream flow levels and increases in project-based impervious surfaces.
- b. Releases of the subsequent phases of acreage available for the Rural Wooded Incentive Program shall be determined based upon all the following decision criteria.
- (1) Satisfactory progress toward achieving the Rural/Urban split identified in the County-Wide Planning Policies.
 - (2) Final approval for Rural Wooded Incentive Program developments comprising more than 30 percent or 1,500 acres, whichever is greater, of the total Phase acreage.
 - (3) Determination of no level of service failures on roadways serving existing Rural Wooded Incentive Program developments.
 - (4) Satisfactory maintenance of rural character as defined in subsection 17.301.080.C for Rural Wooded Incentive Program developments.
- c. Prior to the release of each subsequent phase, the Department of Community Development shall prepare a "Rural Wooded Incentive Program: Phase Assessment Report." This report shall assess the program's consistency with the purposes outlined in subsection 17.301.080.A and the monitoring requirements of 17.301.080.B. The report shall be submitted to the Board of County Commissioners.
3. Authority.
- a. The Board of County Commissioners shall have the authority to recommend, recommend with conditions, or disapprove release of each subsequent phase of acreage available to Rural Wooded Incentive Program developments, subject to the provisions of this section.
 - b. The Board of County Commissioner's decision on a subsequent Rural Wooded Incentive Program phase may be appealed as set forth in Title 21 of this code.
4. Phase Process.
- a. Should an application for a Rural Wooded Incentive Program development be submitted that would exceed the 5,000 acres available for that phase, that application will be rejected, however that applicant will be permitted to amend the application to reduce the number of proposed acres for which development is sought to remain under the 5,000-acre phase limit.
 - b. Once 5,000 acres of Rural Wooded Incentive Program developments have received preliminary approval, no future applications will be accepted that exceed the 5,000 acres available for that phase until the subsequent phase is recommended for release subject to the provisions of this Section.

- c. An application may include a request for a subsequent phase to be released concurrent with the Rural Wooded Incentive Program development application; however, that application will not be deemed complete until the subsequent phase is recommended for release subject to the provisions of this section.
- C. Approval procedure. Rural Wooded Incentive Program developments shall be approved through a Type III subdivision approval process.
 - D. Submittal requirements. In addition to the subdivision submittal requirements, each application for a Rural Wooded Incentive Program development shall include the following information to be considered a complete application:
 1. The approximate location and general dimensions for all lots, tracts, easements, roadways, and other improvements;
 2. The proposed location and acreage of the Permanent Open Space;
 3. The approximate location of all existing or proposed pedestrian walkways, landscaped areas and areas to permanently remain in a natural condition;
 4. The location of existing and proposed on-site water sources and generalized designation of sewage disposal drainfields and reserve areas;
 5. The location and width of proposed roadways and driveway areas for turning and maneuvering of vehicles, and the relationship of circulation to adjacent properties;
 6. A general description of any major physiographic or other natural features, such as drainage ways, wetlands, fish and wildlife habitats, geologic hazard areas, steep slopes, shorelines and all other critical areas, as well as a topographic map with contour lines as 5-foot contours;
 7. The location and approximate acreage, either on or adjacent to the property(s), designated as natural resource lands and the approximate size (in square feet or acres);
 8. The approximate area proposed to be included in paved or other impervious surfaces, Permanent Open Space, and the total area of the site;
 9. A description of, and proposed schedule for, any proposed phasing of the project;
 10. A general landscape, clearing and buffering plan, drawn to scale and showing: community areas, pathways or other recreation areas, significant landscape features and vegetation on the site, natural vegetation and mature trees to be retained, and the location and conceptual design of landscaped areas and buffers. Detailed site analysis and design information shall not be required for those portions of the site proposed for retention in Permanent Open Space tracts, except for portions of Permanent Open Space tracts which contain proposed recreation facilities;
 11. A vicinity sketch to identify the effect of proposed development on surrounding properties and uses, including the approximate location of all existing or proposed community areas, pathways or other recreation areas and landscaped areas;
 12. A conceptual storm drainage plan, prepared by a qualified engineer, showing that the project will comply with the Kitsap County storm water standards in effect at the time of the application; and

13. A report from a certified septic system installer, showing that there is a drainfield and a replacement drainfield available for each dwelling unit within each proposed cluster, or if a community or group drainfield is to be used, that there is a site and a replacement site for such community or group drainfield, that will meet the standards of the Washington Department of Health or the Kitsap County Health Department, whichever is more stringent.
- E. Development Standards. A Rural Wooded Incentive Program development shall meet the following development standards:
1. Through the use of the Program, the number of dwelling units permitted in the Rural Wooded zone may be increased to 1 dwelling unit per 5 acres with the designation of a minimum of 75% of the property(s) gross acreage in Permanent Open Space.
 2. The maximum number of acres for any single Rural Wooded Incentive Program development application shall be limited to a total of 500 gross acres, including all Permanent Open Space and development acreage.
 3. The minimum number of acres for any Rural Wooded Incentive Program development application shall be limited to a minimum of twenty (20) acres, including all Permanent Open Space and development acreage.
 4. Development shall be clustered.
 - a. Lot Requirements.
 - (1) Front Yard. Minimum front yard setback shall be twenty (20) feet.
 - (2) Side and Rear Yard. Minimum side and rear yard setbacks shall be five (5) feet and fifty (50) feet for accessory structures used for agricultural purposes.
 - (1) Minimum Lot Size: None
 5. Each cluster shall be limited to 25 units or fewer. Clusters within a development should be sited to achieve the following objectives and criteria. The Director may allow exceptions based upon site-specific conditions or when conflicts occur between the criteria.
 - a. Optimize protection of critical areas, including wetlands and stream corridors, by keeping clusters and other development away from critical areas to the extent possible;
 - b. Optimize preservation and interconnectivity of open space as a permanent preservation of open space;
 - c. Avoid development on ridgelines, in the center of open field, or located on other prominent topographical features or scenic elements, visible to adjacent and vicinity properties when other locations are available; and
 - d. Minimize topographic alteration.
 6. Clusters developed under this program shall provide a 100-foot vegetated buffer from existing public roadways and adjoining properties and a 150-foot buffer between clusters in order to preserve rural character and the aesthetic values of Rural Wooded lands.
 - a. Where two Rural Wooded Incentive Program developments abut each other, they are encouraged, where practical, to coordinate Permanent Open Space to provide interconnectivity;

- b. Buffers are encouraged to incorporate natural features to maximize retention of views and rural character;
 - c. Where native vegetation is available to create a sight-obscuring buffer, that vegetation should be preserved to the extent consistent with public safety. Hazard trees may be removed with approval of the Director;
 - d. Preservation of trees greater than 10 inches diameter breast height (dbh) is encouraged;
 - e. Except where an exception is needed to preserve or create scenic views from county or state roads, internal roads and building locations within a Rural Wooded development should be designed to maximize the extent to which the external buffer obscures the planned development from existing county or state roads; and
 - f. Where native vegetation is not available to create a sight-obscuring buffer between the planned development and existing county or state roads, fast-growing native vegetation that will grow to obscure the planned development should be planted within the buffer area.
8. Water provision from new wells drilled within the Rural Wooded designated lands are encouraged to minimize impacts to surface and groundwater resources. For projects proposing new wells, submission of well log records and a report by a Washington State certified hydrogeologist demonstrating utilization of deep aquifers and the lack of continuity with surface water features is encouraged during project review and may be included as a condition of approval.
9. Development shall fully comply with Kitsap County Code Title 19 (Critical Areas). All environmentally sensitive areas such as streams, shorelines, wetlands, fish and wildlife habitat areas and corridors, steep slopes, and other critical areas regulated by Title 19 and/or other applicable county ordinances or policies are encouraged to be located within the Permanent Open Space areas of the development, except to the extent development in those areas is permitted by Title 19.
10. Roads should be designed to comply with adopted Kitsap County Road Standards for rural roads.
- a. Rural Wooded Incentive Program developments shall meet applicable rural concurrency standards;
 - b. Roads should have shoulders and grass-lined ditches, rather than curbs, gutters and adjacent sidewalks;
 - c. Pedestrian and/or bike paths through a development are encouraged but may be separate from roads and should be narrow and designed to adapt to the natural contours and features of the land; and
 - d. To the extent consistent with adopted Kitsap County Road Standards, roads should follow topography, and other natural features, such as major trees or other elements that contribute to rural character.
11. In designating the areas for Permanent Open Space tracts, the following is encouraged:
- a. Preserve areas along saltwater shoreline;
 - b. Include open water bodies, creeks, rivers and other natural water features;
 - c. Protect scenic views and significant natural features;

- d. Conserve areas of significant terrestrial wildlife, salmonid habitat, and groundwater supply; and
- e. Coordinate with Washington State Department of Fish & Wildlife, Washington State Department of Natural Resources, non-profit agencies, and local Tribes to identify priority conservation areas.

12. A notice shall be placed on the final plat for all Rural Wooded Incentive Program developments stating that:

"This plat was established using the Kitsap County Rural Wooded Incentive Program and is subject to the conditions of that program at the time of approval (Kitsap County Code Chapter 17.301). It is required to include an open space area, in which certain forestry activities may occur, subject to the provisions of KCC 17.301. A variety of forestry activities may occur in the open space that are not compatible with residential development for limited periods. Residents may be subject to inconvenience or discomforts arising from forestry activities, including but not limited to noise, odors, fumes, dust, smoke, the operations of machinery of any kind, timber harvest, brush control, the application by spraying or otherwise of chemical or organic fertilizers, soil amendments, herbicides and pesticides, hours of operation, and other forestry activities. ~~So long as such forestry operations are in compliance with the Washington Forest Practices Act, RCW Ch. 76.09, they shall not constitute a nuisance.~~ Urban levels of service will not be provided by Kitsap County or the developer of this property."

F. Uses permitted within the Permanent Open Space.

1. Permanent Open Space tract. A Permanent Open Space tract created under this section may be used for the following resource and passive recreational and roadway uses:
 - a. Forestry, existing agricultural or other resource uses;
 - b. Trails/pedestrian walkways, beaches, docks, swimming areas or any non-motorized passive recreational facilities;
 - c. Logging and access roads; and
 - d. Open space uses along a shoreline shall allow for visual and physical access to the shoreline and may include view corridors, community beaches, docks, swimming areas, picnic areas, trails/pedestrian walkways, or any non-motorized passive recreational facilities.
2. Vegetation removal in a Permanent Open Space tract shall be in accordance with an approved open space management plan. Permanent vegetation removal within the Permanent Open Space tract shall not be permitted, except that the following activities shall be allowed where vegetation removal is the minimum necessary to conduct the activity:
 - a. Construction of pedestrian or equestrian trails;
 - b. Maintenance of existing pastures;
 - c. Forestry, existing agricultural or other resource activities;
 - d. Removal of dead, diseased or hazardous vegetation, consistent with best management practices;
 - e. Fire breaks provided in accordance with fire district requirements; and
 - f. A management plan which details the required maintenance and management tasks and responsibilities may be required by the department

for all Permanent Open Space areas. These plans shall include monitoring to assess compliance with the approved plan(s).

G. Ownership of the Permanent Open Space.

1. Upon recording of a final plat for a Rural Wooded Incentive Program development, Permanent Open Space tracts may be held by the original owner, conveyed to a homeowners association or to the owner or owners of a lot or lots within the subdivision as tenants in common or to a shall be dedicated to a public entity, land trust or other non-profit steward, subject to the restrictions on the future use of the Permanent Open Space described in 17.301.080.F.

H. Decision Criteria. An application for a Rural Wooded Incentive Program development may be approved or approved with modification if the Examiner finds that all of the following requirements, as established by this section, are met:

1. The site plan complies with the Development Standards of 17.301.080.E and the other requirements of this chapter.
2. The proposed development will not require the extension or provision of sanitary sewer service or other urban services to the development.
3. The proposed development complies with all applicable County Codes.
4. The development demonstrates preservation of rural character by incorporating the following:
 - a. Clustering of development, as applicable;
 - b. Preservation of critical areas, resource areas, groundwater recharge, and natural features;
 - c. Provision for a coordinated, comprehensive, interconnected, and integrated system of Permanent Open Space areas; and
 - d. Placement of structures, circulation systems and utilities that minimize impervious surfaces and the alteration of the land and also responds to physical characteristics of the property.
5. The development is consistent with the goals and policies of the Kitsap County comprehensive plan.
6. The development complies with all other applicable codes and policies of the county.
7. If Rural Wooded Incentive Program development will be phased, each phase of a proposed development must contain adequate infrastructure, open space dedication and all other conditions of the development to stand-alone if no other subsequent phases are developed.
8. If no reasonable conditions or modifications can be imposed to ensure the application meets the criteria set forth above, then the application shall be denied.

I. Vesting.

1. Approval of a Rural Wooded Incentive Program development shall be effective for five years from the date of final approval.
2. Property owners with an approved Rural Wooded Incentive Program development may receive one five-year extension from the hearing examiner in accordance with the criteria below:
 - a. An extension request must be filed in writing with the director at least sixty days prior to the expiration of the approval period;

- b. The applicant must demonstrate to the hearing examiner tangible progress toward completion of the approved Rural Wooded Incentive Program development; and
 - c. The applicant must demonstrate to the hearing examiner that there are no significant changes in conditions that would render approval of the extension contrary to the public health, safety or general welfare.
3. The hearing examiner may take any of the following actions upon receipt of a timely extension request:
- a. Approve the extension if no significant issues are presented under the criteria set forth in this section.
 - b. Conditionally approve the extension if any significant issues presented are substantially mitigated by minor revisions to the original Rural Wooded Incentive Program development.
 - c. Deny the extension if any significant issues presented cannot be substantially mitigated by minor revisions to the Rural Wooded Incentive Program development.
- J. Taxation Status. Under the Current Use Assessment Program, all property located within the Permanent Open Space or developed portion of the project shall be removed from the Program and all compensating tax paid prior to final approval of the subdivision.
- K Third Party Review. The county may require third party review in cases where additional professional or technical expertise is required.

Section 2. This ordinance is in response to an order filed with the Central Puget Sound Growth Management Hearings Board and is enacted as an exception to the schedule set forth in RCW 36.70A.130 and Kitsap County Code Chapter 21.08.

Section 3. This ordinance solely corrects the provision in KCC 17.301.080.G.12. No other changes are made to KCC 17.301.080 or the amendments adopted pursuant to Kitsap County Ordinance 407-2008. Nor does this Ordinance affect in any manner the moratorium established under Ordinance 408-2008, that Ordinance also remains unchanged and in effect.

Section 4. Should any amendment to Comprehensive Plan and Zoning Code that was passed by the Board during its deliberations on February 13, 2008 be inadvertently left out upon publication or codification, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

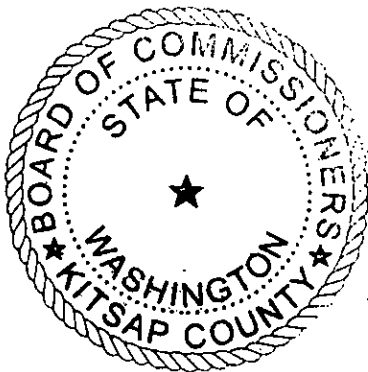
Effective Date: This Ordinance shall take effect immediately.

Severability: If any sentence, section, provision, or clause of this ordinance or its application to any person, entity or circumstance is for any reason held invalid or unconstitutional, the remainder of the ordinance, or the application of the provision to other persons, entities, or circumstances is not affected.

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DATED this 14th day of April, 2008.

KITSAP COUNTY BOARD OF
COMMISSIONERS



Steve Bauer
Steve Bauer, Chair

Jan Angel
Jan Angel, Commissioner

Josh Brown
Josh Brown, Commissioner

ATTEST:

Opal Robertson
Opal Robertson
Clerk of the Board

Approved as to Form:

Deputy Prosecuting Attorney

ORDINANCE 372.2007

Setting the speed limit on a portion of McCormick Woods Drive SW

WHEREAS, RCW 46.61.415 provides that the Local Authority may determine and declare reasonable and safe maximum speeds and,

WHEREAS, on the basis of the engineering design of a new section of McCormick Woods Drive SW,

NOW, THEREFORE, BE IT ORDAINED by the Board of Kitsap County Commissioners, in regular session assembled, that it is the intention of said Board, in the interest of public safety, to have certain regulatory signs erected as follows:

McCormick Woods Drive SW, beginning at the intersection of SW Dunraven Lane and continuing east for a distance of 5930 ft., located in Sections 9, 10, and 15, Range 1 East, Township 23 North, W. M., the speed limit shall be 30 mph.

NOW, BE IT FURTHER ORDAINED that this order shall supercede any ordinance to the contrary that may have been passed previously and shall take effect immediately.

ENACTED this 8th day of JAN, 2007

**BOARD OF KITSAP COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON**



Chris Endresen, Chair



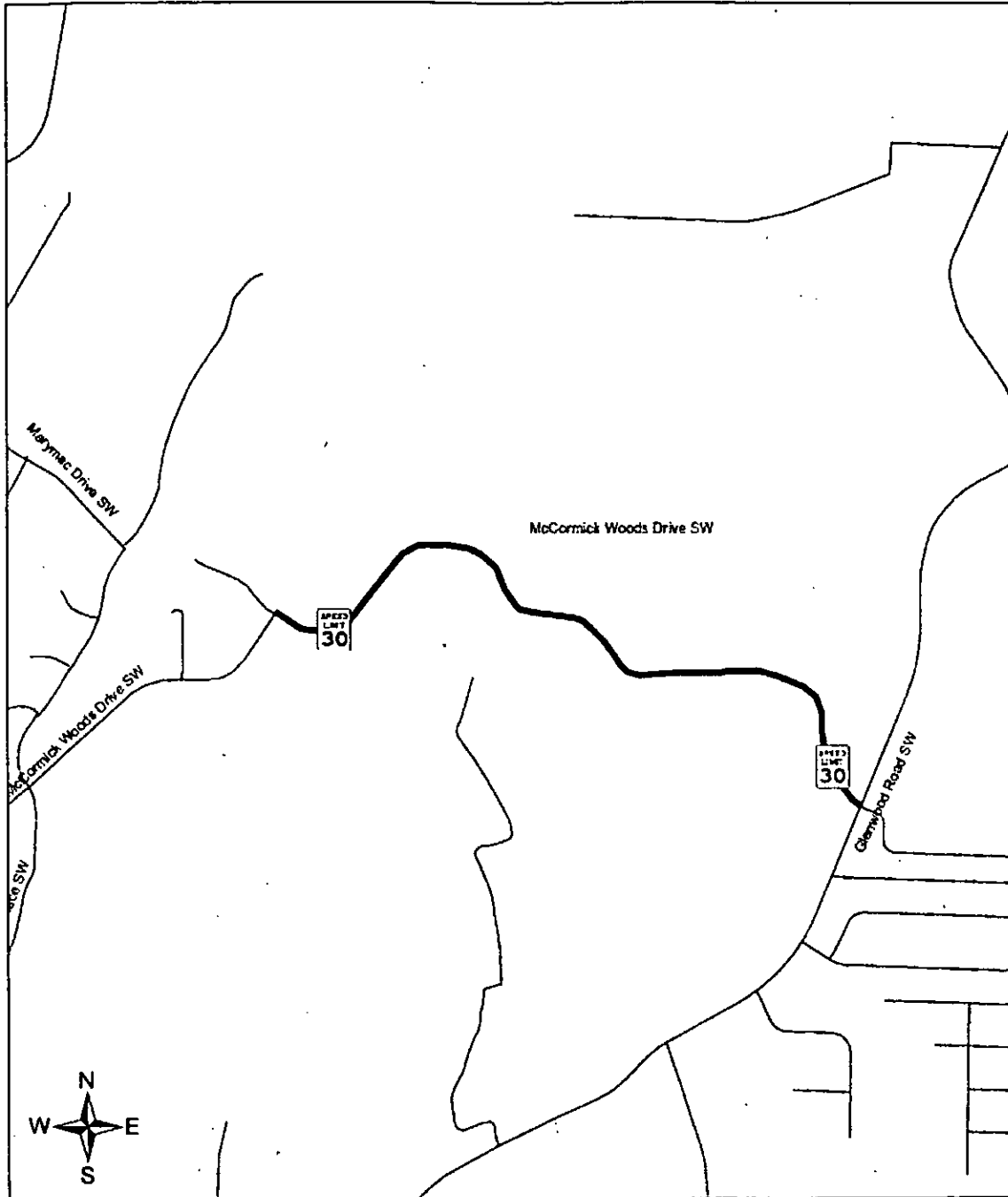

Jan Ange, Commissioner


Josh Brown, Commissioner

ATTEST:


Opal Robertson, Clerk of the Board

Proposed Speed Limit



McCormick Woods Dr. SW

Proposed Speed 30 mph

