

7/15/22 SJC CONSERVATION LAND BANK COMMISSION MEETING GLENWOOD DISCUSSION

INTRODUCTION/STATEMENT FROM CHAIR SANDI FRIEL

The good news is, since our last commission meeting in June, the people of San Juan County have become the owners of a spectacular piece of shoreline property on Orcas Island, the site of the former Glenwood Inn, also known as the McPeake property. We have Lincoln and Land Bank staff, our partners the San Juan Preservation Trust and their generous donors, and the County Council to thank for making it happen. This is news worth celebrating, and we should plan festivities as soon as we are able.

As you can imagine, there were a lot of moving parts in bringing this deal together. And, at our last meeting in June, Angela Anderson of the Preservation Trust made an unexpected statement that prompted me and two other commissioners to examine what had taken place a few days prior at the County Council hearing in regards to this project. It turns out that there were some serious inconsistencies between the Trust's vision for the future conservation easement and the Council's resolution that states their intent for that easement. I've spent the intervening weeks on a factfinding mission to identify those inconsistencies and how they came about. Today's our first opportunity to meet and discuss this as a commission and begin the work needed to ensure that there's a better process of communication for future shared acquisitions.

To be clear, despite these issues that we'll go into in detail, what I said at the top stands: The people of San Juan County are now and forever the proud owners of this amazing piece of our shoreline.

As for the inconsistencies: From what I can see after spending more than 60 hours conducting a forensic review of the paper trail, watching recorded county meetings and speaking to people involved, there was a major communication breakdown about the expectations for the yet-to-be defined easement, namely the extent of the easement and the reservation of building rights.

Keep in mind, this was a complex, time-sensitive transaction completed in the midst of a frenzied real estate market. It's truly amazing that it came together. But now we have some important housekeeping to do. This public discussion today among the Commissioners will be just the beginning. We anticipate meeting with the County Council and the Preservation Trust in the coming weeks.

But first, there's a dynamic here that everyone should be aware of. The Land Bank would not have been able to complete this purchase without our 50% partners, the San Juan Preservation Trust. Both organizations have gone out on a limb, extending themselves financially, borrowing against existing assets to secure this property for the County. The Trust has applied for a grant to help complete their purchase of the Conservation Easement. In addition, they're embarking on a three-year fundraising campaign.

So, what's not helpful, is having folks spread rumors and creating controversy around this project. It could undermine their ability to fundraise. And the Land Bank will have to make up for every dollar they can't contribute. The Preservation Trust is a valuable partner to us. They've contributed at least \$20 million dollars towards acquisitions and stewardship of our properties and we should do all we can do to support them.

Okay, now to get into the weeds with the details discovered since our last meeting. There is indeed a difference between what the Preservation Trust envisioned for the Glenwood conservation easement they'll be purchasing from the Land Bank within the next 3 years, and the language adopted into the deed acceptance Resolution (13-2022) during the County Council meeting on June 14th. In addition, there's a conflict between the Resolution and the Land Bank's Glenwood Inn Project Summary, a Project Summary that was twice approved by both the Land Bank Commission and the Council as part of the Land Bank's budget in public hearings.

So, let's look at the conflicts that bring us here today:

1. The Resolution passed by Council states that the "conservation easement will be limited to protection of the shoreline of the north shore only and is expected to restrict development in that area" whereas the Land Bank's Project Proposal and its Cooperative Agreement signed with the Preservation Trust do not mention restricting the Conservation Easement to the shoreline. The Project Proposal and the Cooperative Agreement use broad sweeping language such as "permanently protect the property's conservation values and open space with a conservation easement" and "perpetual conservation easement over the property." Further, the Trust's grant application clearly states the Conservation Easement will be over the entire property.
2. The Preservation Trust's intent, and their grant application states, that the Conservation Easement would extinguish 10 of the 11 development rights that come with this parcel, whereas the Council's Resolution states that "it is the County's intent to retain at least two development areas on the upland portion of the parcel". In the context of the recorded Council meeting discussion, what they meant by the term "development areas" is more accurately described as "development rights" which means an interest in and the right to use and subdivide land for residential purposes. The Land Bank is indeed interested in retaining one development right in order to potentially convert the existing barn building into temporary conservation worker housing, which would be an allowable use under the Land Bank mandate and ordinance. But the purpose of the second residential development right that the County Council seeks to retain is for the potential future subdivision into a second lot that would or could be used for county employee housing. Not only does the second development right conflict with the Trust's intent and their grant application, holding back a second development right will reduce the appraised value of the Conservation Easement. Consequently, the amount the Preservation Trust pays the Land Bank will likely be reduced, in which case there would be a misuse of Land Bank funds.

According to real estate attorney and former long-time Commissioner Doug Strandberg, if acted upon, this would result in "the Land Bank using its REET funds for unauthorized purchase of land rights for the County, for a use not permitted under our ordinances and totally at odds with the Land Bank mandate."

Before anyone jumps to conclusions, there are two important aspects I discovered while recreating the timeline of discussions about this purchase:

1. The June 14th hearing was not the first time the County Council had expressed to staff their desire for a second building area for potential county employee housing purposes. Note, however that the Land Bank Commission which has been discussing the project in public meetings for nearly a year, was not made aware of these desires.
2. In addition, the County Council was not informed either during or prior to the June 14th meeting of the Preservation Trust's intent of the Conservation Easement to protect the entire property and extinguish 10 building rights. The Council was not reminded that future subdividing and resale of a portion of the property was not part of the initial project description that they had twice approved as part of the Land Bank's budget, and any change to that project description would have needed to be vetted by the Commission and the public in a public process. Because just as the Council doesn't have the authority to do a line item amendment of the Land Bank's budget, they don't have the unilateral ability to modify the intended use, subdivision or resale of a Land Bank property. Further, they were not informed that retaining a second building right for a non-conservation purpose would in all likelihood be a violation of the Land Bank ordinance which restricts the use of REET funds. The Council entered that June 14th meeting believing what they were asking for was feasible and reasonable, and no one advised them otherwise.

Today's meeting is the first attempt to understand how we got here, what we need to do to fix it, and how to prevent this disconnect from happening again. I'd like us to focus on the following discussion questions one at a time, and hopefully we'll have a roadmap of where to go next:

- First, what next steps should the Land Bank take with respect to the Preservation Trust?
- Second, what recommendations should the Land Bank Commission make to the County Council?
- Third, what policies/procedures should the Land Bank put in place to ensure a communication disconnect like this doesn't happen again?

We're going to keep this an orderly, respectful discussion. This isn't a rant-and-rave session, our focus needs to be on moving forward positively and productively. Please raise your hand to talk. Please wait to be called on before speaking, and no Commissioners will speak again until we've heard from everyone. You can ask questions of Lincoln and he'll respond. Our council liaison Christine Minney is here but not able to speak on Council's behalf on this matter as the Council has yet to meet and discuss it, so please don't direct your questions to her. Members of the public will have the opportunity to speak on this issue during the public comment period immediately following the break.