

Robert L Bilow
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Sequim, WA 98382
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January 13, 2020

NOTICE OF, AND APPEAL TO, THE SEQUIM CITY COUNCIL

City Council Members, City of Sequim:

By this Document and Notice, I wish to file this Appeal of the Decision by the Director of the Department of Community Development (Director) with respect to “classification” of the Project Permit Application (Attachment A) filed January 10, 2020 on behalf of the Jamestown S’Klallam Tribe as Application Number CR20-00 for a Medical Outpatient Clinic. The Director determined that the Application be “classified” under Sequim Municipal Code (SMC) 20.01.040 as a “Type A-2 Process” (**Limited Public Interest**). This Decision, and the Findings of Fact required are erroneous. The Director should have directed that the “Type C-2 Process” (**Broad Public Interest**) be applied.

I PRELIMINARY MATTERS

After months of anticipation, the Jamestown S’Klallam Tribe filed its Project Permit Application with the City of Sequim on January 10, 2020 for a Medical Outpatient Clinic. Pursuant to Sequim Municipal Code 20.01.040 (B) the Director is obliged to assign the proper process classification to the Application, choosing among the ascending categories A-1, A-2, B, C-1, C-2, and C-3. If there exists a question as to the appropriate procedure, the Director must resolve the issue in favor of the “higher procedure type letter”, and C-2 is “higher” than A-1. SMC 20.01.040 (B).

A “Type A-2 Process” is a process which requires the exercise of limited discretion and about which there may be a **limited public interest**. SMC 20.01.020 (U).

A “Type C-2 Process” is a process which requires the exercise of substantial discretion and about which there is a **broad public interest**. SMC 20.01.020 (W).

After months of debate, meetings, and controversy within Sequim, the Director has classified this Project Permit Application as a Type A-2 (Limited Public Interest) Process. This Appeal is taken against the Director’s classification, pursuant to SMC 20.01.240. I request a quasi-judicial review by the Sequim City Council for this Appeal, rather than a hearing before a “hearing examiner” otherwise specified in SMC 20.01.240.

II REASONING AND BASIS FOR RELIEF

This classification by the Director is legally equivalent to a **Finding of Fact** by the Director that the Application does **NOT** involve a matter about which there is a **broad public interest**. **That Finding of Fact is clearly incorrect and should be changed.** Upon recognizing that this Application is a matter about which **there is broad public interest**, the review should proceed as a C-2 process.

This Application by the Jamestown S’Klallam Tribe has been highly anticipated in the Sequim public arena, and has been discussed at many meetings of the Sequim City Council. This “MAT Clinic” and its State funding were first revealed in the local newspapers in May of 2019. For some reason, it appears that Sequim City officials immediately assumed a favorable position on the MAT clinic proposal, rather than neutral. For example, in the May 31, 2019 Peninsula Daily News, City Manager Charlie Bush was quoted as stating: “The property is zoned for the MAT, and the use does not require public hearings.” (Attachment B). This comment from the City Manager misled many Sequim citizens by suggesting that the proposed MAT clinic was a “done deal”.

Similarly, on October 11, 2019 the Director received a letter from the large law firm representing the Jamestown S’Klallam Tribe, Miller Nash Graham & Dunn, (Attachment C) which urged the Director to treat the expected application as “...subject [only] to an administrative review. SMC 18.33.031.” The letter then noted that a group known as SOS had urged a “more onerous review” and closed:

“The code requires the City to process this application through an administrative review, and not any other kind. SMC 18.33.030.A.1. There is no basis to subject this application to any kind of conditional or special use review that SOS apparently seeks.

We trust the City will apply its code as written and treat this project and applicant fairly. We look forward to working with you and your department as it processes this application through the appropriate administrative review.”

Director Berezowsky apparently did not share this letter with City Council Members or others, since no mention is made of the communication in any Minutes of subsequent City Council meetings. Yet the Director is now following precisely the administrative review process suggested by the Miller Nash Graham & Dunn lawyer without any public hearing or involvement by the Sequim City Council, and precisely identical to the manner described by City Manager Bush in his May 2019 statement.

In considering this Appeal, the City Council should also recognize that the applicant, Jamestown S’Klallam Tribe, is an entity possessing “**sovereign immunity**”, which means that it is **not subject to jurisdiction** in either Washington State Courts or

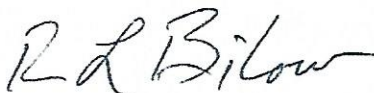
In considering this Appeal, the City Council should also recognize that the applicant, Jamestown S’Klallam Tribe, is an entity possessing “**sovereign immunity**”, which means that it is **not subject to jurisdiction** in either Washington State Courts or Federal Courts without its own consent or pursuant to Congressional action. *Upper Skagit Indian Tribe v. Lundgren*, 138 S.Ct. 1649 (2018), *Foxworthy v. Puyallup Tribe*, 141 Wn.App. 221 (2007). The Jamestown S’Klallam Tribe is well aware of this sovereign immunity and that immunity is repeatedly mentioned in the Jamestown Tribal Code. (Attachment D). Accordingly, the process by which this Tribal Application is processed must be carefully evaluated.

III MANNER OF RELIEF REQUESTED

I respectfully ask that the Sequim City Council conduct a quasi-judicial review of the appropriate “Process” to be followed regarding Application CDR20-001, and conclude that the C-2 Process be followed. I suggest that the Sequim City Council has authority to initiate this review process “sua sponte” (on its own motion). If any City Council Member submits a Motion for this purpose, receives a “second” to the Motion, and the matter is approved by majority vote of the Council, a review of the Director’s decision (A-1) can proceed. I submit that a C-2 Process should be followed. The City Council may also conduct a public hearing to receive any appropriate testimony or evidence necessary to determine whether or not Application CDR20-001 involves a matter of **broad public interest**. In this manner, the “process determination” will be conducted openly and with transparency, rather than proceeding in a closed administrative fashion. I have attached a suggested format for the sua sponte approach. (Attachment E).

The Director’s classification of the Project is a “type A-1 action” and this is an appeal of that decision. SMC 20.01.040. I am filing this Appeal on Monday, January 13, 2020, the first business day following the filing of Application CDR20-001 and the day of the first meeting of the Sequim City Council. I fear that any delay of this filing, with the next City Council meeting two weeks in the future, will result in Director Berezowsky initiating a SEPA or other process and then claim in some manner that it is “too late” to consider this Appeal.

Respectfully submitted,



Robert L. Bilow

Jamestown S'Klallam Tribe Design Review Application Status Summary

1. **Application Submittal:** January 10, 2020.
2. **Determination of Completeness** due within 28 days (No later than February 7, 2020).
Determination of Completeness issued: _____ . Process must be complete within 120 days of this date.
3. **Public Notice of Application** due within 14 days of Determination of Completeness (Date listed in #2 above).
Public Notice of Application issued: _____ .
4. **Comment Period** begins with issuance of Public Notice of Application (#3 above).
5. **Comment Period ends** 20 days after Public Notice of Application (20 days from the issuance date listed in #3 above) which is _____ .
6. **SEPA Threshold Determination** Issued following the comment period end. SEPA Threshold Determination issued: _____ .
7. **SEPA comment period ends** 14 days after issuance of Threshold Determination (#6 above).
SEPA comment period ends: _____ .
8. **Decision with Notice of Decision** may be issued following the close of the SEPA comment period, but no later than 120 days from the Determination of Completeness.
Notice of Decision issued: _____ .
9. **Request for Reconsideration** may be submitted by a party of record within 5 days of the decision.
10. **Appeals** of Type A-2 decisions may be submitted by applicants or parties of record to the Hearing Examiner within 21 days after the date of the decision of the matter being appealed became final (listed in #8 above). Appeals due: _____ .

A



Department of Community Development

152 W Cedar Street
Sequim, WA 98382
Phone: (360) 683-4908
Fax: (360) 681-0552
www.sequimwa.gov

DESIGN REVIEW APPLICATION

For Department Use Only:	Application Number: <u>CDR20-001</u>
Application Fee _____	Associated Applications: _____
Receipt Number: _____	_____
Date: _____	_____
Clerk: _____	

APPLICANT INFORMATION

Owner's Name: D. Brent Simcosky

Owner's E-mail Address: bsimcosky@jamestowntribe.org

Owner's Mailing Address: 808 North 5th Ave, Sequim, WA 98382

Owner's Telephone: (360) 582-4870 Business Telephone: (360) 683-1109

Representative's Name: Suzanne Pontecorvo

Representative's E-mail Address: SPontecorvo@rfmarch.com

Representative's Mailing Address: 275 Fifth Street, Suite 100, Bremerton, WA 98337

Representative's Telephone: (360)362-1433

Are there any critical areas; such as wetlands, critical wildlife habitat, steep slopes (greater than 15%), frequently flooded areas, irrigation ditches, streams and stream corridors? No Yes

If yes, attach the appropriate environmental analysis.

This project includes? Residential Development (2 or more dwelling units) Commercial Mixed Use

Please provide the existing Address, Legal Description and/or Parcel Number(s)?

Use and attach additional pages if necessary.

Parcel#: 033019330000 Address: 526 S. Ninth Avenue, Sequim, WA 98382 Legal Description: N2SWSW SURV V64 P78

Design Review Application Submittal Requirements Checklist

*****It is the responsibility of the applicant to ensure that all submittal requirements listed below are turned in as part of this application. Incomplete applications will not be accepted by the City of Sequim Department of Community Development. *****

- A Pre-Application meeting shall take place prior to formal submittal of the Design Review application).
- A completed project permit application form, including SEPA checklist for non-exempt projects submitted pursuant to Chapter 16.04 SMC as amended [SMC 20.01.120(B)(1)].
- A Site Plan/Layout drawn to scale no smaller than one-inch equals 30 feet, showing location and size of all structures, critical areas, required buffer areas, landscape areas, open spaces, common areas or plazas, walkways, preliminary stormwater retention/detention facilities, parking lot layout and vehicle circulation. The site plan should also identify all easements or other encumbrances restricting the use of the property [SMC 18.24.032(C)(1) & SMC 20.01.120(B)(5)].
- A verified statement by the applicant that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has submitted the application with the written consent of all owners of the affected property. A photocopy of the property deeds shall be provided [SMC 20.01.120(B)(2)].
- A property and/or legal description of the site, as required by the applicable development regulations [SMC 20.01.120(B)(3)].
- Assessor's map and a list of tax parcels and their owners for all properties within 300 feet of the property and properties to which public notice must be sent as provided in SMC 20.01.190 [SMC 20.01.120(B)(6)].
- Preliminary Landscape Plan showing the species, size and location of all existing indigenous and native trees eight inches in diameter or larger, and other significant shrubs, groundcovers, and ornamental grasses within the property subject to the application. This plan must also include all proposed new landscaping, and whether it is associated with stormwater management [SMC 18.24.032(C)(2)].
- Stormwater Site Plan showing all proposed best management practices to be used in the site design. The plan, defined in Chapter 13.104 SMC, shall identify and describe the type of stormwater management technique(s) being used and applicable calculations (e.g., size, capacity, etc.) [SMC 18.24.032(C)(3)].
- Preliminary Grading Plan providing an accurate topographic map of the property, delineating contours, existing and proposed, at no greater than five-foot intervals. The plan shall indicate all proposed cuts, fills and retaining wall heights and include areas of disturbance necessary to construct all retaining walls, structures and impervious surfaces [SMC 18.24.032(C)(5)].
- Preliminary Utilities Plan showing the location and type of any proposed utilities [SMC 18.24.032(C)(6)].
- Colored Elevation Drawings of all buildings showing dimensions and proposed materials including roofing, siding, windows and trim. Drawings shall include conceptual trim and cornice design and roof pitch. If landscaping is proposed to soften or mitigate architectural modulation or details, additional elevation drawings showing proposed landscaping shall be provided [SMC 18.24.032(C)(7)].

- A description of how all mechanical and utility equipment will be screened [SMC 18.24.032(C)(8)].
- The proposed schematic color and material palette for all elements open to exterior view including but not limited to exterior siding, trim, cornice, windows and roofing shall be presented graphically [SMC 18.24.032(C)(9)].
- The location and description of any proposed fencing shall be shown on the landscaping plan [SMC 18.24.032(C)(10)].
- Lighting and Signage. A photometric plan identifying the location and height of proposed parking lot, pedestrian and/or building security light structures and poles. Sign type and location shall be identified. A separate city of Sequim sign application will be required for additional sign information [SMC 18.24.032(C)(11)].
- The location of all outdoor furniture, trash receptacles, recycling areas, bicycle racks and other accessories [SMC 18.24.032(C)(12)].
- Any supplemental information or special studies identified by the DCD Director or project planner [SMC 20.01.120(B)(7)].
- The applicable fee [SMC 20.01.120(B)(4) & SMC 18.24.032(C)(13)].

*****The City of Sequim Department of Community Development may require additional information necessary for decision making purposes.*****

I certify that the above information is true and correct to the best of my knowledge and accept responsibility for all claims and damages which may be occasioned to any other land or persons by actions authorized by the City of Sequim in relation to this designed Site Plan under review.

D. Brent Swadlow
 Owner(s)

[Signature]
 Representative(s)

1-9-2020
 Date

1.9.2020
 Date

* = May not be required to be submitted in conformance with WAC197-11-800 (Categorical Exemptions)



152 W Cedar Street
phone 360-683-4908
fax 360-681-0552
www.sequimwa.gov

PROJECT LOCATION & DETAILS

Address 526 S Ninth Avenue, Sequim, WA 98382 Geographic ID No. (Parcel #) 033019330000
Legal Description N2SWSW SURV V64 P78
Project Description Medical Outpatient Clinic

- | | | | |
|--|---|--|---|
| <input type="checkbox"/> Accessory Dwelling Unit | <input type="checkbox"/> Addition | <input type="checkbox"/> Change of Use | <input type="checkbox"/> Demolition |
| <input type="checkbox"/> Fire Alarm/Sprinkler | <input type="checkbox"/> Fire Suppression | <input checked="" type="checkbox"/> New Construction | <input type="checkbox"/> Relocation |
| <input type="checkbox"/> Remodel/Replace/Repair | <input type="checkbox"/> Reroof | <input type="checkbox"/> Sign Installation | <input type="checkbox"/> Tenant Improvement |

APPLICANT

Applicant Type: Agent Architect Contractor Designer Engineer Owner Tenant Other _____
Name Suzanne Pontecorvo
Address 275 Fifth Street, Suite 100
City Bremerton State WA ZIP 98337
Phone (360)362-1433 Email SPontecorvo@rfmarch.com

PROPERTY OWNER

Name Brent Simcosky
Address 808 North 5th Avenue
City Sequim State WA ZIP 98382
Phone (360)582-4870 Email bsimcosky@jamestowntribe.org

CONTRACTOR

Name (TBD) _____
Address _____
City _____ State _____ ZIP _____
Phone _____ Email _____
State Business License No. _____ Exp. Date _____
City Business License (UBI) No. _____ Exp. Date _____

PROPOSED CONSTRUCTION

Stories 1 Units N/A
Bedrooms N/A Bathrooms _____
1st Floor sq. ft. 16,806 2nd Floor sq. ft. 0
Garage sq. ft. 0 Attached Detached
Carport sq. ft. 0 Attached Detached
Porch/deck sq. ft. 0 Covered Uncovered
Basement sq. ft. 0 Heated Unheated Value for Work & Materials \$ _____

CONSTRUCTION FINANCING LENDER

Name N/A
Address _____
City _____ State _____ ZIP _____
Phone _____ Email _____

Project Address 526 S Ninth Avenue, Sequim, WA 98382
Permit No. _____

Utility Connections

New Water Service

City PUD #1

Private Well Community Well

If private or community well, is property located in Dungeness Water Rule area? Yes No
 (If yes, provide Mitigation Certificate from Washington Water Trust)

City Water Meter - Domestic 5/8" 1" 1-1/2" 2"

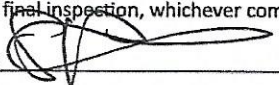
City Water Meter - Irrigation 5/8" 1" 1-1/2" 2"

Ditch Irrigation

New Sewer Service City Private Septic Community Septic

	Quantity		Quantity		
Plumbing	Toilet	11	Kitchen Sink	2	
	Shower	1	Dishwasher	1	
	Bathtub	0	Grease Trap	0	
	Sink	38	Sewer	1	
	Urinal	0	Slop Sink	2	
	Water Heater	3	Clothes Washer	1	
	Water Fountain	2	Lawn Sprinkler System	0	
	Mechanical	Air Condition Unit	0	Wall Heater	0
		Air Handling Unit	0	Unit Heater	1
		Ventilation Fan	8	HVAC	0
Heat Pump		4	Range Hood		
Ductless Heat Pump		45	Clothes Dryer	1	
Fireplace/Stove/Range			<input checked="" type="checkbox"/> Propane <input type="checkbox"/> Wood		
Propane Tank		1	(No. of Gallons)	250	
Type of Heat		Heat pumps			

I hereby certify that the information provided is correct, that I am either the owner or authorized to act on behalf of the owner and that all activities associated with this permit will be in accordance with State laws and the City of Sequim Municipal Code. All sales tax paid to the State Dept. of Revenue on labor and materials used for construction with the Sequim City limits are to be reported under Location Code #0503. By signing below I agree to the applicable utility charges which will begin in 6 months or on the date of final inspection, whichever comes first.

Owner/Agent Signature  Date 1.9.2020

OFFICE USE ONLY

Building Approval: _____ Date _____

Planning Approval: _____ Date _____

Engineering Approval: _____ Date _____

Cross Connection Control Approval: _____ Date _____

FIRST ARTICLE TO APPEAR IN PDN RE MAT CLINIC

Joint Olympic Medical-Jefferson opioid clinic planned in Sequim

by Paul Gottlieb

Friday, May 31, 2019 10:19am

SEQUIM — The Jamestown S’Klallam Tribe is purchasing 19.5 acres southeast of Costco in Sequim for a medically-assisted addiction treatment facility for opioid addicts.

The \$20 million behavioral health center is being planned in collaboration with Olympic Medical Center and Jefferson Healthcare hospital.

Most of the grassy parcel off Ninth Street just west of downtown Sequim was purchased May 21 for \$900,000, with sale of the remaining \$275,000 lot, less than 1 acre, signed for but not finalized, tribal Health Services Director Brent Simcosky said Thursday.

The sellers of the finalized parcels at 526 and 521 S. Ninth Ave., were Norman Dawley and E.L. Frankfurth of Bainbridge Island, according to the county Assessor’s Office.

Simcosky said the tribe’s \$1.2 million purchase is a major first step toward developing Phase 1 of what tribal officials for now are calling a healing campus that eventually will include an inpatient psychiatric facility.

Construction of the \$7.2 million medication-assisted addiction treatment (MAT) facility will begin in spring 2020 and completed by March 2021 he said.

Phase 2 will consist of a 16-bed inpatient psychiatric evaluation and treatment facility that is expected to be built beginning in 2021 with completion anticipated in mid-2022.

MAT clinic funding was approved during the 2019 state legislative session under a joint capital budget application submitted by the tribe, OMC and Jefferson Healthcare.

The MAT facility, built and operated by the tribe, will dispense daily doses of methadone, Suboxone and Vivitrol in a closed, secure setting, initially in a 15,000-square-foot building that Simcosky said would grow to about 25,000 square feet.

Rice Fergus Miller Inc. of Bremerton, the Bremerton architectural firm that designed the tribe’s 7 Cedars Casino hotel, which is under construction, has been hired to draw up plans for the MAT facility to accommodate the larger footprint, Simcosky said. The company has designed inpatient medical facilities, he said.

The smaller facility will serve 200 to 300 clients from Clallam and Jefferson counties and the larger facility, which will cost an additional \$8 million, about 400 clients. Simcosky hopes that funding will be appropriated in the 2020 legislative session.

The facility “will follow a daily-dose model of care and wraparound services, including group counseling, child care, transportation and general support,” according to the 2019 capital budget application.

“We know there are about 600 Suboxone patients in Clallam County with opioid disorders from anywhere from pain pills to heroin,” Simcosky said. “A lot of people don’t want to be addicted to heroin but just can’t find a solution to get off of it.”

MAT treatment is covered by Medicaid, which Simcosky expects will cover 75 percent to 80 percent of the clients.

B

The tribe has higher reimbursement rates, which allows the tribe to provide add-on services other centers cannot afford, he said. "It's a long-term solution we're trying to look at," Simcosky said. "If we treat 300 or 400 people, we are probably impacting a few thousand in the community just because of the negative impact they have on the groups they are associated with, such as their family."

Clients will not be allowed to loiter on the premises, and methadone will be stored in a safe, and be measured and accounted for, per federal Drug Enforcement Administration regulations, he said. "In most places, people do not violate the rules because they want to be in the program," he added.

Tribal funds were used for the property purchase, and about \$500,000 in tribal funds also will be spent on vans and buses to transport clients to and from the facility.

Plans include a management agreement with Olympic Medical Center to operate the psychiatric facility and potential agreements to collaborate with Jefferson Healthcare, Forks Community Hospital and Peninsula Behavioral health.

Jefferson Healthcare CEO Mike Glenn lauded the effort Thursday in an email.

"This is a great thing," he said. "The three major players have worked closely to identify necessary services for our region."

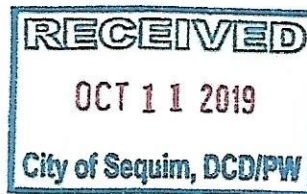
"We will continue to collaborate as the development of Phase II moves forward."

Eric Lewis, Olympic Medical Center CEO, said Thursday the behavioral health center serves two big needs, opioid and heroin addiction treatment and inpatient psychiatric treatment. "Jamestown is leading the way with Phase 1," he said. "Phase 2 will be the inpatient evaluation and psychiatric treatment facility that will include Jefferson Healthcare, which will be part of the team, and Forks Community Hospital and Peninsula Behavioral Health and, of course, OMC and Jamestown. "We are going to come together and add a service that not only Clallam County needs but Jefferson County needs. "For me, it's a transformational project."

The property is zoned for the MAT, and the use does not require public hearings, City Manager Charlie Bush said Thursday.

Senior Staff Writer Paul Gottlieb can be reached at 360-452-2345, ext. 55650, or at pgottlieb@peninsuladailynews.com.

LeAnne M. Bremer, P.C.
leanne.bremer@millernash.com
360.619.7002 direct line



October 3, 2019

Barry Berezowsky
Community Development Director
City of Sequim
152 W. Cedar Street
Sequim, WA 98382

Subject: Request for Pre-Application Conference re Jamestown S'Klallam Healing Campus

Dear Director Berezowsky:

On behalf of the applicant, Miller Nash Graham & Dunn LLP submits this letter to accompany the Request for Pre-Application Conference regarding the Jamestown S'Klallam Tribe's proposed project to build an outpatient clinic at 526 South 9th Avenue, Sequim, Washington 98382. As you can see in the enclosed form, this project is "An outpatient clinic that provides medical services to patients with a medical condition that provides and is licensed through SAMHSA as an (OTP) Opiate Treatment Program." The property for the project is zoned as an Economic Opportunity Area district ("EOA"). Because outpatient clinics¹ are permitted uses outright in the EOA, this application is subject to an administrative review. SMC 18.33.031.

We recognize the SOS group has actively opposed this important project that will serve Clallam and Jefferson Counties. We believe their opposition to this project is rooted in misinformation and misunderstandings, which we have worked to correct. Nevertheless, the SOS group has made known its preference that the application for this project receive a more onerous review than the administrative review that the Sequim Municipal Code prescribes.

¹ Specifically, "Ambulatory and outpatient care services (physicians, outpatient clinics, dentists)" are permitted uses in the EOA zones. Table 18.33.031 SMC.

Barry Berezowsky
October 3, 2019
Page 2

The code requires the City to process this application through an administrative review, and not any other kind. SMC 18.33.030.A.1. There is no basis to subject this application to any kind of conditional or special use review that SOS apparently seeks.

We trust the City will apply its code as written and treat this project and applicant fairly. We look forward to working with you and your department as it processes this application through the appropriate administrative review.

Very truly yours,



LeAnne M. Bremer, P.C.

JAMESTOWN S'KLALLAM TRIBAL CODE

Section 1.02.04 No Implied Waiver of Immunity; No Grant of Jurisdiction

Nothing in this Code shall be construed or implied to be a waiver of the sovereign immunity of the Tribe, nor any affiliated entity of the Tribe, nor shall anything herein be construed as a grant of jurisdiction to the United States of America, the State of Washington, or any political or governmental subdivision thereof, nor of any other state or any other federally recognized Indian tribe.

Section 22.01.01 Purpose

The Tribe, as an aspect of its sovereignty, is entitled to immunity from suit in all tribal, state and federal courts absent the clear, express and unequivocal consent of the Tribe or the clear, express and unequivocal consent of the United States Congress. The Tribe desires to make clear to all persons having or doing business or otherwise dealing with the Tribe, its subordinate economic and governmental units, its Tribal officials, employees and authorized agents, that the Tribe does not, under any circumstances, intend to voluntarily waive its entitlement to immunity from suit in tribal, state and federal courts under the doctrine of Tribal sovereign immunity absent strict and complete compliance with the procedures set forth in Section 22.01.02 of this Chapter which shall be the exclusive method for effecting a voluntary Tribal waiver of sovereign immunity.

Section 22.01.02 Waiver of Sovereign Immunity

Consent of the Tribe to waive its immunity from suit in any tribal, state or federal court may only be accomplished through the clear, express and unequivocal consent of the Tribe pursuant to a resolution duly enacted by the Tribal Council. Any such resolution purporting to waive sovereign immunity as to the Tribe, or any of its subordinate economic or governmental units or any of its Tribal officials, employees or authorized agents, shall specifically acknowledge that the Tribe is waiving its sovereign immunity on a limited basis and describe the purpose and extent to which such waiver applies. The failure of the Tribal Council resolution to contain such language shall render it ineffective to constitute a waiver of Tribal sovereign immunity. A Tribal Council resolution shall not waive sovereign immunity to allow a court or decision-making body (including an arbitration panel) other than the Jamestown Tribal Court to hear a dispute unless the resolution expressly and unequivocally allows such other body to hear a dispute and specifically names such decision-making body. There shall not be a waiver so as to allow monetary relief unless the resolution expressly and unequivocally so provides. A Tribal official, employee or contractor shall lack all authority, whether actual or apparent, to waive sovereign immunity beyond the express terms in a Tribal Council resolution. Any contract or agreement purporting to grant a limited waiver of sovereign immunity, which is not supported by a Tribal Council Resolution meeting the requirements of this Title, shall be null and void.

D

SUGGESTED FORM OF MOTION

I, (name of City Council Member), MOVE THAT WE, THE SEQUIM CITY COUNCIL, GRANT THE APPEAL FILED BY ROBERT L. BILOW AND PROCEED IN A QUASI-JUDICIAL MANNER TO REVIEW THE DECISION BY THE DIRECTOR OF COMMUNITY DEVELOPMENT AS TO THE APPROPRIATE PROCESS BY WHICH TO REVIEW APPLICATION CDR20-001.

(Motion requires second, and majority vote.)

E