

## Skagit Land Trust Statement on Proposed Bike Park in ACFL

The proposed bike park in the Anacortes Community Forest Lands (ACFL) at the old dump site is an issue about which the Skagit Land Trust (the Trust) has received numerous inquiries. We appreciate that there are varying opinions in the community about the appropriate recreational usages in the ACFL. The Trust's formal role in protecting the ACFL is limited to our oversight of the ACFL's Conservation Easement Program, which was started in 1999, and has grown steadily over the year, to protect more than 1680 acres of the forest lands. The City of Anacortes owns the land itself and creates the management plan for the ACFL. Skagit Land Trust holds, monitors and enforces only the Conservation Easement (CE).

**The Trust is thrilled to have worked closely with the City of Anacortes and the many, many donors who have contributed to protecting forever the forest lands.** The ACFL conservation easement ensures that the forest lands will never be sold off for commercial harvest or mining and that they must remain in a natural state, while allowing for traditional recreational activities and enjoyment by people.

Not all lands in the ACFL have been enrolled in the Conservation Easement program, and that includes the old dump site that is location for the proposed bike park. **Therefore the specific provisions of the CE do not apply to the bike park location itself.** Any ecological harm caused by earth moving, or other, activities at the dump site that could then affect the surrounding protected land would be of concern, however.

### What is a Conservation Easement?

Conservation Easements (CE) are formal legal documents that attempt to clearly articulate a purpose for the protection offered by the agreement and enumerate a specific set of allowed and prohibited activities. The Trust can only enforce the terms of the CE as written and we must stay within the language of the legal document. Therefore, with the proposed bike park, the Trust must look to the specific language in the CE to determine whether it is an allowed or prohibited use. Given that the proposed bike park is not located on land protected by the CE, the Trust would only look at any impacts from the bike park to the surrounding protected land.

As with most legal documents, however, there is plenty of grey area and the Trust must use its best discretion to enforce the CE in a way that is consistent over time and true to the core intent of the agreement.

### How do we determine if an action is allowed or prohibited?

As long as an action is not clearly violating the terms and purpose of the conservation easement, the Trust has a history of deferring to the Parks Department, the City Council and the Mayor to work with the citizenry to determine the appropriate level of publicly-owned and managed recreational uses and facilities in the forest lands. **The ACFL management plan, and the administrative, legislative and electoral processes are the appropriate venues for determining ACFL management issues outside of the scope of the conservation easement.** This is especially true given the proposed bike park location is not covered by the CE.

### What is protected by the ACFL Conservation Easement?

The ACFL CEs define the conservation values to be protected as the following:

*Natural, scenic and recreational values, in particular natural forest lands. . .*

By granting a CE to Skagit Land Trust, the City of Anacortes states that it's goal is:

*. . .that the conservation values of the Property be preserved and maintained by the continuation of land use patterns that do not significantly impair or interfere with the above "conservation values."*

More specifically the purpose of the CE is defined as:

*It is the purpose of this Easement to assure that the Property will be retained forever predominantly in its natural, scenic, forested condition and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property. Grantor [The City of Anacortes] intends that this Easement will confine the use of the Property to such activities, (including, without limitation, those involving public recreation) as are consistent with the purpose of this Easement.*

### The specific prohibited uses of the CE are:

- *Conversion or use of the property for timber harvesting, mining, or any commercial venture shall be prohibited.*
- *Sale, lease or other transfer of the protected property.*

### The specific allowed uses of the CE are:

- *Use of portions of the property for public utilities, such as water reservoirs, or service roads to those public utilities. In those areas where the City has previously operated pump stations, water storage facilities, and pipelines, those activities may continue and such facilities may be maintained as long as necessary for public utility purposes.*
- *Parcels of the ACFL to which this conservation easement is applied may include any of these recreational or utility facilities, and their maintenance and improvement shall not be hindered by such application. In addition, any paved street or road in use at the date of this program's adoption shall be exempt from any restrictions and adjacent property may be altered as necessary to maintain the safe operation of vehicles on such streets.*
- *Facilities which allow and support such recreational and educational uses, such as service roads, parking lots, trailheads, trails, bridges, signs, interpretive displays, interpretive buildings, viewing platforms, boardwalks, sanitary facilities and picnic sites may be developed, maintained and improved as needed.*

- All uses as prescribed for by the ACFL Management Plan of 1991. The City Council, as elected representative of the people who are owners of the property, with recommendation from the ACFL Forest Board, will continue to manage the Anacortes Community Forest Lands in accord with its then current, adopted ACFL Management Plan. Special care will be taken to manage areas where easements are sold in accord with recorded Conservation Easements.
- To undertake other activities necessary to protect public health or safety on the Protected Property or adjacent property, or which are actively required by and subject to compulsion of any governmental agency with authority to require such activity, provided that any such activity shall be conducted in a manner that protects the Conservation Values of the Protected Property to the greatest practicable extent, taking into account all the surrounding circumstances.

