

Wonn Road Summary

For those few who have not followed the Wonn Road controversy, Wonn Road is located on the east side of Whidbey Island near the Greenbank Farm. It was originally called Greenbank Road and connected a wharf to the Farm. Wonn Road and Greenbank Road are synonymous, and some legal documents still refer to Greenbank Road. Since the 1970's there has been an on-going struggle with the owners of the lot on the south side of Wonn Road regarding the status of the end of the road as a public right of way.



Before talking about the specifics of Wonn Road, there are a few details regarding land and land ownership along the shoreline that need to be clarified. Land along the shoreline is divided into uplands and tidelands.

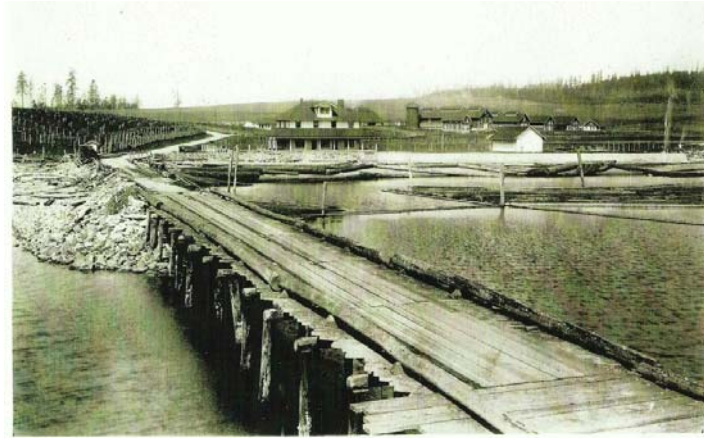
Tidelands are defined under Washington State law as being lands between the Mean High Tide line and the Low Low Tide line. As such, their limits can change and move over time if the location of the tide lines move.

Uplands are lands above the Mean High Tide line. The Mean High Tide line is often called the **Shoreline**. Since the location of the Mean High Tide line may move over time, the exact location of the dividing line between uplands and tidelands can change over time. The change is primarily because material is deposited on the beach or eroded from the beach.

Uplands are divided into parcels that are either publicly or privately owned. The parcels are typically described by boundary lines with direction and length. Along the shore, this can be complicated by the fact that the shoreline can move. Washington law has accepted that parcels along the shore actually extend to the shoreline (the Mean High Tide line), regardless of the exact language in the legal description. Many parcels are described using a line or lines that approximate the shoreline; this line is often called a **Meander Line**. When a meander line is used to describe a parcel there will probably be land between the meander line and the shoreline. As stated above, this land is considered part of the upland parcel.

With this background, we can address the Wonn Road situation. All the land along Greenbank Beach was originally part of the Greenbank Farm and owned by the Greenbank Company. About 1910, a wharf and

connecting road were built. For many years this was the primary access to the farm and the Greenbank community.



In 1944 the land along Greenbank Beach was sold to James Pratt who then subdivided it into 29 lots. A copy of the Plat is shown as Figure 1. The Plat also includes a dedication of all streets to the public forever. Greenbank Road, now called Wonn Road, is shown on the Plat between Lots 16 and 17. Although all the lots about the shoreline, they are described using meander lines which are inland from the actual shoreline. These continue to be the legal descriptions of the various lots even though surveyors and the lot owners have agreed that the land between the meander line and the shoreline is part of the lot (see Figure 2, a survey of Lot 19). This same logic would apply to the end of Greenbank or Wonn Road; the land between the meander line and the shoreline is part of Wonn Road.

In 1971, Lot 17 was sold to the Kirkpatricks, who, in 1972, short platted it into 3 lots, 17A, 17B, and 17C. Lot 17C was the closest to the shore and was legally described using the meander line, although the short plat map (Figure 3) showed it extending to the actual shoreline. The legal description of Lot 17C also included the tidelands in front of Lot 17, but made no mention of the road nor of the tidelands in front of the road. The Kirkpatricks owned Lot 17C until 2006 when they sold it to Bruce and Joanne Montgomery.

At the end of Greenbank Road, now called Wonn Road, the previous and current owners of Lot 17 have asserted ownership of the land between the meander line at the end of the road and the Mean High Tide line. Nothing in the record justifies this claim. When asked about the land and why it should be part of Lot 17, discussion immediately turns to the tidelands and who owns them. As stated above, tidelands are defined by Washington State Law as being below the Mean High Tide line, so they do not enter into a discussion of the uplands and who owns a portion of the uplands.

In 2008 Bruce Montgomery constructed a wall across the Wonn Road right-of-way, along the approximate meander line. Mr. Montgomery claims that the land between the wall and the shoreline is his because he purchased the tidelands in front of the road. However, that land is actually part of Wonn Road because it is part of the uplands upon which Wonn Road is located.

The County asked Mr. Montgomery to remove the wall. In 2013 the County sued Montgomery to compel removal of the wall where it encroaches across Wonn Road and to “quiet title” in the road end. IBA joined the lawsuit to make sure the public was adequately represented and added a claim to the tidelands in front of Wonn Road. That lawsuit is on-going at this time.

Additional Comments on common questions:

The Assessor's Map that can be viewed on the Island County website shows Lot 17C as including the land at the end of Wonn Road. Doesn't that mean that Montgomery owns that land?

Answer: No. The County Website clearly states that the on-line property maps are not legal documents and

have disclaimers as to the accuracy of both the maps and the data. Further, according to staff members in the Assessor's Office, they usually show parcels only to the meander lines. They do not know why these parcels are shown as they are. They have no records indicating that Lot 17C extends in front of the end of Wonn Road.

Montgomery has stated that he pays taxes on the land in front of Wonn Road.

Answer: According to the Island County Property Data website, the land value of Lot 17C is based on 64 feet of waterfront and 115.3 feet of tideland. The 64 feet is approximately the width of Lot 17C without the road end. The 115.3 feet of tideland is approximately the width of Lot 17C and the end of Wonn Road. The assessed value of tidelands is set at \$10 per linear foot, so the total assessed value of the tidelands is \$1,153, and the assessed value of the tidelands in front of Wonn Road is \$513. The assessed value of the upland portion of Lot 17C is \$395,520. Improvements on Lot 17C are assessed at \$196,137. The total assessed value of Lot 17C for tax purposes is \$592,810, and the 2014 taxes are \$5,619.82.

Thus, it appears that Mr. Montgomery is paying taxes on the value of the tidelands in front of Wonn Road. Using the ratio of the assessed value of the tidelands in front of Wonn Road to the total assessed value of Lot 17C and multiplying that ratio by the total tax on the property, the extra tax for the tidelands in front of Wonn Road is approximately \$5.

People say that the County allowed the owners of Lot 17C to use the road end for their septic system and other purposes.

Answer: There is **no** record of the County approving work on Lot 17C that would extend into the road end. In 1973 the County asked Mr. Kirkpatrick whether the mobile home he moved to Lot 17C was partially on the road end, and Mr. Kirkpatrick assured the County that it was only on Lot 17C. Applications for septic systems by both Mr. Kirkpatrick and Mr. Montgomery show the systems to be within Lot 17C and not extending into the road end.

In conclusion, this discussion has focused on the uplands at the end of Wonn Road because the wall is located on the uplands, and not the tidelands nor at the boundary between the tidelands and the uplands. In 2006 Mr. Montgomery was sold Lot 17C together with the tidelands in front of Lot 17C and the tidelands in front of Wonn Road; the recorded deed does not mention the uplands at the end of Wonn Road.

As stated previously, the 1972 subdivision of Lot 17 clearly shows Lot 17C extending past the meander line to the shoreline, and includes the tidelands in front of Lot 17C in the legal description. There is no mention of the tidelands in front of Wonn (or Greenbank) Road, and the uplands at the end of the road are not included. There remains some question as to whether the Kirkpatricks owned the tidelands in front of Wonn Road when they sold them to Montgomery, but that is not part of this discussion because the wall is not on or next to the tidelands. The ownership issues regarding the tidelands can be presented at another time in a separate document.

Finally, why is this important?

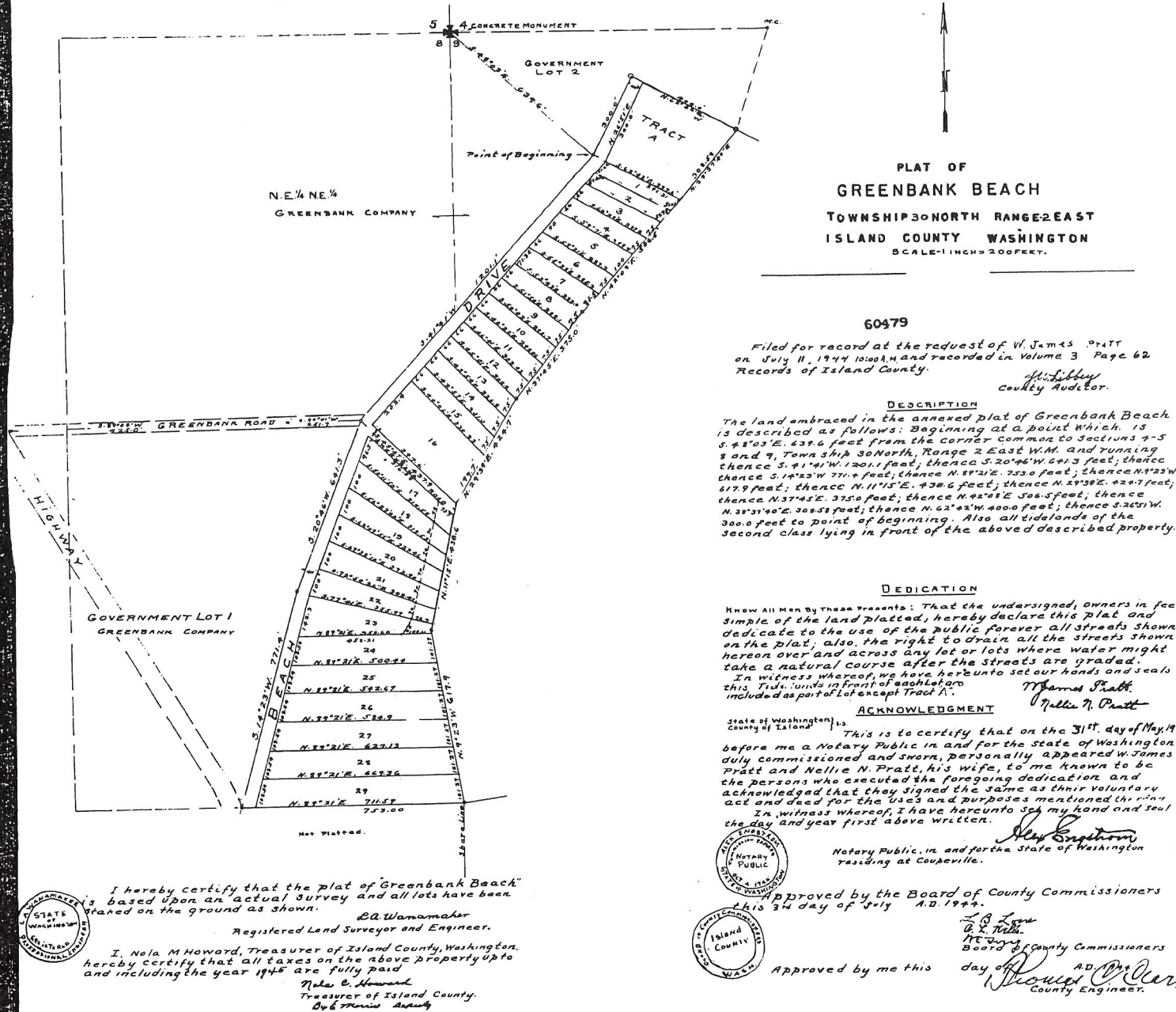
Wonn Road is only one of many road ends and beach accesses in Island County upon which adjacent and nearby landowners have encroached or upon which signs have been placed indicating that the land is private and that there is no public beach access. The wall across Wonn Road is perhaps the most prominent case of blocking a public right of way. By taking this case to court, the County is establishing that public rights of way and public access to the beach are important. If Mr. Montgomery can be made to remove the wall, other landowners who have put up signs or have encroached on public lands will be on notice that the County is serious and has the right to have signs and encroachments removed.

Figure 1

Back

3997734

62



LEGAL DESCRIPTION

ALL OF LOT 19, PLAT OF GREENBANK BEACH, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 62, RECORDS OF ISLAND COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF ISLAND, STATE OF WASHINGTON.

BASIS OF BEARING

THE BASIS OF BEARING FOR THIS SURVEY IS SHORT PLAT 71-040.

SURVEY REFERENCES

PLAT OF GREENBANK BEACH, RECORDED IN VOLUME 3 OF PLATS, PAGE 62, RECORDS OF ISLAND COUNTY, WASHINGTON.

SHORT PLAT 71-040, RECORDED UNDER AUDITOR'S FILE NO. 249142, RECORDS OF ISLAND COUNTY, WASHINGTON.

RECORD OF SURVEY, RECORDED IN BOOK 12 OF SURVEYS, PAGE 36, RECORDS OF ISLAND COUNTY, WASHINGTON.

EQUIPMENT & PROCEDURES

EQUIPMENT USED: ELECTRONIC TOTAL STATION

METHOD OF SURVEY: FIELD TRAVERSE

NOTES

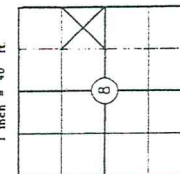
THE SIDELINES OF THE ADJUTING TIDELAND WERE ESTABLISHED BY BISECTING THE EXTERNAL ANGLES OF THE SHORELINE BOUNDARY AS SHOWN ON THE PLAT AND ESTABLISHING PROPORTIONATE BEARINGS AT THE LOT CORNERS BETWEEN ANGLE POINTS ON SAID PLAT SHORELINE. SEE NOTE ON SHORT PLAT 71-040.

LEGEND

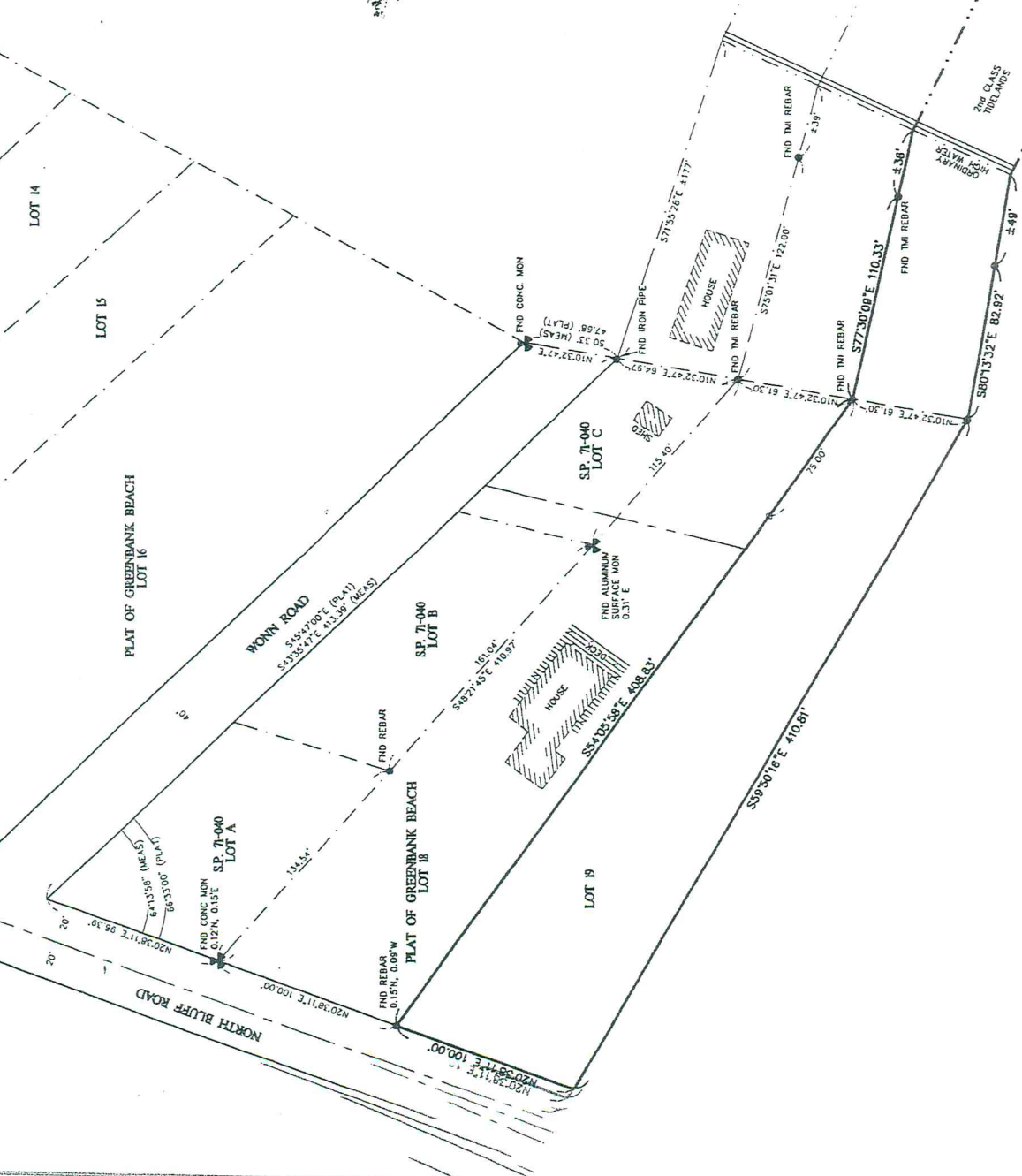
- DENOTES 1/2" x 24" REBAR WITH YELLOW PLASTIC CAP
- INSCRIBED (LS #28414) SET THIS SURVEY.
- DENOTES REBAR OR IRON PIPE FOUND AND HELD AS NOTED.
- DENOTES SURFACE MONUMENT FOUND AND HELD AS NOTED
- DENOTES HUB & TACK FOUND THIS SURVEY



GRAPHIC SCALE
(IN FEET)
1 inch = 40 ft



SEC. 8, TWP. 30 N., RNG. 2 E., W.M.



RECORD OF SURVEY OF LOT 19 OF GREENBANK BEACH, BEING A PORTION OF SEC. 8, TWP. 30 N., RNG. 2 E., W.M.

Island County Washington

Thatcher & Morrison, Inc.

1750 Main Street, Suite 405
Freeland, Washington 98724
509-311-7073 fax 509-311-7074



FOR: MICO SCHMUELBUSCH
SCALE: 1" = 40'
APPROVED BY: LST
DRAWN BY: RLS
F.B. No. 37, pg. 52
FILE No. 184-5970
DATE: 06-23-2003



AUDITOR'S CERTIFICATE

FILED FOR RECORD THIS 30th DAY OF June, 2003 AT 2:08 P.M. IN BOOK 12 OF SURVEYS, AT PAGE 353 AT THE REQUEST OF L. SHAYNE THATCHER, UNDER AUDITOR'S FILE NO. 249142

Angene J. Anderson
COUNTY AUDITOR



STATE OF WASHINGTON
COUNTY OF ISLAND

WE, MICO SCHMUELBUSCH, SURVEYOR, HEREBY CERTIFY THAT THE FOREGOING SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND IN ACCORDANCE WITH THE PROFESSIONAL STANDARDS OF THE SURVEYING INDUSTRY IN THE STATE OF WASHINGTON.

DATE: 06/10/11

Mico Schmuelbusch
SURVEYOR

FILED: 6/10/11

MATCHES LEGAL DESCRIPTION
DATED 1/27/72
LEGAL DESCRIPTION DEFINES LOT C
AS THAT LOT MEASURING 115'x69'x115'x69'

11/25/72

CONNECTED. SFOAT PLAT MAN.

