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July 21, 2008

Mr. Robert M. Tull  
Mr. Dannon C. Traxler  
Langabeer & Tull P.S.  
P.O. Box 1678  
Bellingham, WA 98227-1678

Re: Fairhaven Highlands

Mr. Tull and Ms. Traxler:

After a thorough review of your July 1, 2008 letter, the City respectfully disagrees with the applicant's conclusion on the split-site alternative. The City believes the split-site design is a reasonable alternative which achieves the project's objectives on the same site. WAC 197-11-440(5)(d). SEPA bestows the lead agency with the responsibility for preparation and the content of the environmental impact statements. WAC 197-11-050(2)(b). The City Planning Director, Tim Stewart, has the sole responsibility to determine the content of the EIS. Based on the information before the City, the split-site alternative will be included in the EIS.

The City believes the split-site is a reasonable alternative. A reasonable alternative is "an action that could feasibly attain or **approximate** a proposal's objectives." WAC 197-11-786 (emphasis added). The word "approximate" allows for alternatives to be studied which do not meet the specific preferences of the applicant, but which still achieve the proposal's stated objective. The City agrees the phrase "reasonable alternative" is meant to limit the amount of alternatives to be studied. However, this does not divest the City of its obligation to study those alternatives which are "reasonable," including some alternatives the applicant may not prefer to study. Again, the City has the sole responsibility of determining the content of the EIS.

The applicant states that the site was never intended to be divided into two areas, and therefore a split-site does not meet the proposal's objective. However, the applicant's objectives have been defined in an expansive manner: "The overall project covers some

85 acres. The 739 allowable residential units will be single detached, common wall, townhouse, triplex, nine-plex, and medium-rise buildings are planned. The objective is to create public roadways. Some may be more appropriate as private." (Pg. 2 of Applicant's SEPA Checklist). The applicant's own description of the proposal contains no language regarding how the development is intended to be laid out.

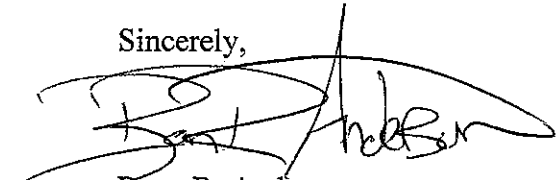
The City must judge "reasonable alternatives" under the applicant's stated objective. The split-site design allows for 739 units on 85 acres. It contains roads and has a similar, if not exact, housing configuration as applicant's proposed "enhanced buffer alternative." Applicant proposed the "enhanced buffer alternative" presumably because it achieved the proposal's objective. As noted above, the applicant's stated objective is to provide mixed-residential housing consisting of 739 units on 85 acres. The split-site design achieves this objective. Therefore, the City believes the split-site is a "reasonable alternative," and the City will include this design for study in the EIS.

In addition, applicant's points regarding "Engineering Issues" are not persuasive. Each of the issues presented in the applicant's letter are not exclusive to the split-site design. These same issues exist in other proposed alternatives. In fact, the issue of 16<sup>th</sup> Street not meeting the prerequisite conditions is an issue in proposals 2F and 4F, the applicant's "preferred alternatives". Overall, these issues exist in all of the proposals in some form. Declining to study the split-site design based on issues that exist in nearly all the alternatives is not proper.

The only arguments against the split-site design are in regard to the placement of community facilities and the cohesiveness within the site. These are important issues, and may very well lead to a decision not to pursue this particular design. However, it is not sufficient grounds to prevent the alternative from being included in the EIS. Again, the applicant's objectives were defined in a broad manner to allow the project flexibility. Given all of the information present before the City, it is clear the split-site is a reasonable alternative which achieves or approximates the proposal's objectives.

Please contact myself at 778-8270 or Kim Spens at 778-8360 if you have any additional questions.

Sincerely,



Ryan R. Anderson

c: Tim Stewert, Planning Director  
~~Kim Spens, Planner~~  
Rory Routhe, Asst. Dir. Engineering