

# LANGABEER & TULL, P.S.

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City of Bellingham  
Planning

October 12, 2010

Jeff Thomas, Interim Director  
City of Bellingham  
Planning and Community Development  
210 Lottie Street  
Bellingham, WA 98225

Re: PDC2005-00006                      SUB2005-00024  
    VAR2005-00008                      SEP2005-00029  
    WET2005-00026

Dear Mr. Thomas:

Thank you for chatting briefly with me last week.

As I mentioned, my client Greenbriar Northwest Associates, LLC is still hard at work on resolving crucial issues which do not involve the City of Bellingham, but which do prevent my clients from moving forward as rapidly as we all would like to determine whether or not the Fairhaven Highlands property can be sold to the City.

I have explained to my clients that the primary motivation for any "pushback" from your Department, under normal circumstances not involving City purchase negotiations, would be making sure that important information about the site and issues presented by development do not become stale or otherwise useless. In other words, it normally is well within the best interests of an applicant/owner to proceed as rapidly as possible. In this situation, as you know, one of the owners has been acquired by a different institution, and the direction of Greenbriar Northwest Associates, LLC is under review.

My clients are, therefore, aware that ongoing delay, upon resumption of project review (if that is the eventual outcome), may produce the need for some additional expenditures to verify the ongoing validity of "older" information. They are willing to proceed on that basis, and thus we do again request that the resumption of funding and the contract amendment in connection with the environmental impact statement be extended for several more months. My clients do wish to move this entire matter forward (in one direction or another) and are working hard, I assure you, to determine the specific direction.

Jeff Thomas  
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In my several decades of experience as a land use attorney representing applicants in projects large and small, it has been extremely rare to encounter any agency resistance to requests by applicants to "go on hold." And in fact, a recent City ordinance explicitly recognizes an applicant's right to request a project extension in the event of economic hardship, which is certainly the case here.

As you are likely aware, the zoning for this property has not changed and is not currently being discussed in terms of comprehensive plan or zoning amendment. Therefore, the only aspect of this project that has any time sensitivity is the informational "staleness" to which I previously referred. Since we are aware of that and waive any objections as to dealing with that issue in the future, I believe the circumstances fully justify additional extension of time before resumption of environmental review. The City's ordinance 2010-05-026 reflects a clear City awareness of certain economic issues facing the development community. Therefore, it would seem strange that permits subject to explicit deadlines can be summarily extended, but that a project not subject to any deadline must proceed.

I am aware that some project opponents have urged the notion that discontinuation of the current applications would have a beneficial effect on the City's cost of acquisition. Those making that suggestion may not be aware of the clear prohibitions under both State and Federal law against governmental bodies using their police power jurisdiction to reduce the value and thus the costs of acquisition of lands sought for public purposes.

Very truly yours,

LANGABEER & TULL, P.S.



Robert M. Tull  
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RMT/DCT:ccs  
cc: Client  
Mayor Pike  
City Attorney, Joan Hoisington