



## PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

210 Lottie Street, Bellingham, WA 98225  
Telephone: (360) 778-8300 Fax: (360) 778-8302 TTY: (360) 778-8382

October 29, 2010

Langabeer & Tull, P.S.  
Attn: Robert Tull  
709 Dupont Street  
P.O. Box 1678  
Bellingham, WA 98225

RE: Resumption of EIS Process Proposal

Dear Mr. Tull:

The City of Bellingham has received and reviewed your October 28, 2010 proposal to resume the Environmental Impact Statement (EIS) process for the Fairhaven Highlands development. It is understood the proposal to resume this EIS process, from your client's perspective, is the next substantial step forward in connection with the land use permit applications at issue.

As we discussed, any proposal to resume this EIS process would need to be detailed in writing, as you have now done, followed by a written response from the City. Anything short of this written exchange does not constitute a mutual understanding on how to proceed.

After careful review, the City hereby agrees to resume this EIS process on the following terms:

1. A check from your clients in the amount of \$9,221.38 shall be received by the City on or before November 5, 2010 at 5.00 PM. This amount, when added to the remaining balance of \$425.69 on deposit with the City, equals the \$9,647.07 owing to ESA Adolfson, Inc. for work completed to date on this EIS process. This check can be submitted in person at the Permit Center, 210 Lottie Street, Bellingham WA.
2. The City shall compile and convey to you all time and billing records for work completed on this EIS process to date on or before November 30, 2010 at 5.00 PM. The City shall also request the same of ESA Adolfson, Inc.
3. The City shall propose to you any necessary revisions to the December 30, 2009 request to amend the *Agreement between the City of Bellingham and Greenbriar Northwest Associates, LLC for Reimbursement of Costs and Fees (Agreement)* including a detailed scope of work for the additional \$107,802.00 on or before November 30, 2010 at 5.00 PM.
4. After receiving the information in items (2) and (3) above, it is understood that your clients will commence good faith negotiations in a timely manner to amend the *Agreement*. Failure to do

so will result in all land use permit applications associated with the Fairhaven Highlands development expiring and becoming null and void.

As you are aware, Bellingham Municipal Code (BMC) 21.10.190 states that land use permit applications for which no substantial steps have been taken to respond to the City's request for revisions, corrections or additional information within 120 days will expire and become null and void. This provision addresses not only the concern you cite regarding "staleness" of information being used in a land use permit application, but also concern regarding the use of outdated development regulations.

Subject to the terms set forth above, the City considers your proposal to resume the EIS process a substantial step forward in connection with the land use permit applications at issue.

Please note that the City does not agree to any "suspension" of this EIS process, due to the potential sale of one or more of the properties associated with the Fairhaven Highlands development. This EIS process will end by (a) completing the Final EIS (b) the permit applications being voluntarily withdrawn, or (c) the permit applications expiring and becoming null and void.

Should you have any questions, I can be contacted at (360) 778-8300 or [jthomas@cob.org](mailto:jthomas@cob.org).

Best regards,



Jeff Thomas  
Interim Director  
Planning and Community Development

Copy: Mayor Dan Pike  
City Council Members  
Office of the City Attorney  
ESA Adolfson, Inc.