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December 11, 2019

Sharon Rice, Hearing Examiner
Thurston County
2000 Lakeridge Drive SE
Olympia, WA 98502

RE: Project 2019100758 Manke Reconsideration

Dear Examiner Rice:

We are writing on behalf of the applicant in response to the County's submittal on our Request for Reconsideration. We had hoped to meet with the County prior to the response, but the staff was concerned about being limited to what is already in the record so that meeting did not occur. Though we do not believe a proposed mitigation measures would be considered outside the record; we understand the staff concern. Our response and proposal described below are intended to address that.

We would propose that the Hearing Examiner reopen the hearing for the limited purpose of considering specific and limited items as follows:

First, we would ask the Hearing Examiner to consider the potential for mitigation offered to address any potential impacts of the improvements. As noted in our request, that was not specifically presented at the hearing because the applicant did not have clear information about the County's position and recommendation to the Examiner. We believe that a proposal to limit which improvements would remain and to incorporate mitigation could present a path that could change the outcome.

Second, we propose to offer evidence as to the impact of removing the improvements not approved by the Hearing Examiner. We believe that there are adverse impacts to removing the existing improvements and believe that evidence should be part of the record. As noted in our Request for Reconsideration, there is already some evidence in the record from County experts substantiating that removal of certain improvements could cause more harm than benefit. That should be fully examined in a hearing context before a final decision is rendered.

Reply to:
Tacoma Office
1201 Pacific Ave., Suite 2100 (253) 620-6500
Tacoma, WA 98402 (253) 620-6565 (fax)

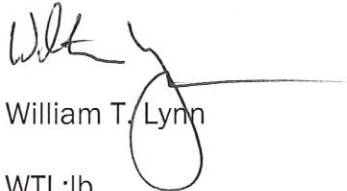
Seattle Office
600 University, Suite 2100 (206) 676-7500
Seattle, WA 98101 (206) 676-7575 (fax)

Third and finally, we believe that the consideration of the items listed above, could change the analysis of the reasonable use standards that the Hearing Examiner must apply. The Staff's recommendation to the Examiner and the December 9, 2019 Memorandum suggest a completely black and white approach that we do not believe can be squared with the whole concept of a reasonable use exemption. For example, the December 9th Memo states, "...as the proposals cannot be granted based on Title 24." (Emphasis added.) With all respect, we believe that is for the Examiner to decide and we believe the information we are prepared to submit could alter the analysis.

We recognize that this is not an ordinary request, or certainly not a common one. But we believe it would be fair. As an alternative to a re-opened hearing, or as a part of the process, the Examiner could also remand to the staff for consideration of revisions and additional information. We are prepared to submit specific information to the Staff prior to the Hearing so that they can make a fully informed recommendation.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "W. Lynn", is written over a horizontal line. The signature is stylized and somewhat cursive.

William T. Lynn

WTL:lb

cc: Scott Manke
Kathy Hargrave
Leah Davis, Associate Planner