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March 28, 2013

Whatcom County Planning Commission
5280 Northwest Dr.
Bellingham, WA 98226

*Re: Smith & Guide Meridian Type I LAMIRD
Whatcom County Assessor's Parcel No. 390225 470286 0000*

Dear Planning Commission:

This letter is intended to shed light on the Growth Management Hearings Board's ("Board") Compliance Order ("Order") issued on January 4, 2013 and Whatcom County's anticipated compliance action. By way of background, the Order addressed Whatcom County Ordinance 2012-032 ("Ordinance") that was enacted in the summer of 2012.

We represent Doug Pullar, who is the owner of the above-referenced property (herein the "Property"). The Property is a 13.5 acre parcel located at 5541 Guide Meridian – at the north end of the Smith & Guide LAMIRD. Since the early 1990s, the easterly 6.5 acres of the Property has been zoned General Commercial. As a result of the 2011 and 2012 Ordinance, this section of the Property was included in the Smith & Guide Meridian LAMIRD. The Property has previously been used to sell gravel beginning in the late 1980s. For the last several summers, fruit is sold at a fruit stand on the Property. Please find attached a letter from Mr. Pullar explaining the Property and its historic uses.

In the Order, the Board determined that the logical outer boundary of the Smith & Guide Meridian LAMIRD violated the GMA. The Board specifically took issue with the north end of the Smith & Guide Meridian LAMIRD. In adopting the Smith & Guide Meridian LAMIRD boundary in 2011 and 2012, the County recognized the commercial uses on the one acre parcel at the far north end of the Smith & Guide Meridian LAMIRD and this Property. Unfortunately, the Board disagreed with the County. It reasoned that this "dog-leg" extending the LAMIRD boundary north to include the one acre parcel does not create a logical outer boundary that is "clearly identified and contained." The Board also found a violation of GMA Goal 2 which is to reduce the "inappropriate conversion of undeveloped land into sprawling, low-density sprawl."

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March 28, 2013
Whatcom County Planning Commission
Page 2

Now, the County proposes to redraw the boundaries to exclude the Property as well as the one acre parcel to the north. This would change the designation of those parcels from "Rural Community" to "Rural" with R5A zoning.

Unfortunately, the Board did not recognize or understand the definition of a "Rural Community" as articulated by Goal 2HH-1. This goal deals directly with the criteria for Type I LAMIRD designations and requires the "existing (1990) residential built environment was more intensively developed than surrounding areas." Here, the one acre parcel¹ has been continuously used for commercial purposes for decades. It had been a Culligan Water retailer, a veterinarian office, and a paintball business. Presently, a church is located on it. Similarly, the Property has been used to sell gravel beginning in the late 1980s.

Additionally, if for some reason this is not enough of a "built environment," the Rural Community designation under "additional location criteria" requires consideration of existing zoning prior to designation as a Rural Community." Areas that were not intensively developed can be included if inclusion would help "preserve the character of an existing (built) natural neighborhood...and including the area does not create a new pattern of low-density sprawl." See Whatcom County Comprehensive Plan Policy 2HH-1.C.2.e. dated July 24, 2012. The Property was originally zoned as "General Protection" then was changed in 1990 to "General Commercial." As mentioned above, the zoning then was changed to "Rural General Commercial" in 2011.

Finally, the Board seems very concerned about the "seven undeveloped acres" between the one acre parcel and the rest of the Smith & Guide Meridian LAMIRD. For perspective, these seven acres are the east half of the Property and are a mere 472 lineal feet of Guide Meridian frontage.²

The logical outer boundary as proposed by the County in 2012 is "clearly identified and contained." The one acre parcel and the Property contain meet the criteria contained in Goal 2HH-1 such that each warrant inclusion in the Smith & Guide Meridian LAMIRD. Moreover, the uses on both the Property and the one acre parcel do not constitute an "inappropriate conversion of undeveloped land into sprawling, low-density sprawl" because of the decades of commercial type use. Changing the zoning from some type of commercial zoning to some type of rural zoning flies in the face of logic and the entire purpose of the GMA.

¹ The Board attempts to minimize it by calling it the "property with the small building".

² The Smith & Guide Meridian LAMIRD has almost one mile of frontage on both sides of the Guide Meridian.

March 28, 2013
Whatcom County Planning Commission
Page 3

We respectfully request that the Planning Commission ignore the staff's recommendation and retain the Rural Community Comprehensive Plan designation and associated RGC zoning currently in place on the Property.

If the Planning Commission agrees with this assessment, the staff's Proposed Conclusions would need to be modified. Specifically, Conclusion I. d. found on page 21 of the March 11, 2013 Rural Element Update Staff report would need to be deleted.

Thank you for your consideration.

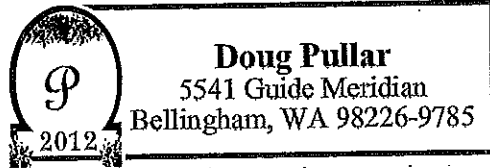
Very truly yours,

BELCHER SWANSON LAW FIRM, PLLC

A handwritten signature in black ink, appearing to read 'BDS', is written over the printed name of Bradley D. Swanson.

BRADLEY D. SWANSON
Attorney at Law

Cc: client



To: Whatcom County Planning Commission and the
Whatcom County Council

The fundamental goal of land management is to designate uses for land that best meets the needs of the citizens and the land.

Residential lands tend to be found in low traffic esthetic areas or low traffic easy access areas. Family residences in high traffic areas create stress in the traffic flow. Residential ingress and egress create added safety issues. Now add school buses into this flux with their often stopping to pick up or drop off children, it really defeats the ease in moving traffic. When the multiple red lights of a school bus go on all traffic both north and south stops, knowing the penalty is brutal driving through a stopped school bus.

The very fact that residences are diminishing in number testifies the fact that the Guide Meridian is not a desirable residential location and rightfully so.

So what is the best use for these properties along the Guide Meridian with its high volume noisy traffic? Businesses; businesses thrive in high volume corridors due to the high visibility they gain. Even when the Guide Meridian was a traffic nightmare prior to its upgrade, businesses with foresight knew success was in exposure and access. Now that the Guide Meridian has been thoughtfully upgraded the higher volume of traffic provides even better exposure and access.

Any entrepreneur contemplating a location to start a business would have to consider the Guide Meridian as a top location. Current businesses that provide services and goods the public needs do very well along the Guide Meridian. The land is desirable for business.

(See attachment A) The zoned properties along the Guide Meridian set forth in the zoning from 1990 Smith Road north have multiple businesses with vacant parcels interspersed. These vacant parcels in the 1990's zoned area will provide future business sites for entrepreneurs in this corridor. County officials gave good thought and consideration as to what this land was best suited. They got it right.

(See attachment B) Now we have some new considerations for what the land is best suited. The myriad of rules, regulations, management acts, etc. have proposed zoning be altered to provide more residential or whatever. If compliance with the Growth Management Act or whatever rule or regulation requires change, then the current county officials must again evaluate the properties and decide what's best for the needs of the people and property.

I don't believe residences, parks, walking paths, schools, bicycle paths, nature trails, or other activities are best suited along the Guide Meridian with its high volume noisy traffic. High volume traffic is most compatible with business, and as our county population grows, more businesses can develop providing jobs, services and a healthy tax base. Now is not the time to strangle useful development of those properties.

Many county citizens find it less stressful doing business close to home than fighting the streets of Bellingham; that's why businesses have left the core of Bellingham to the outskirts or into the county. For consumers doing business along the Guide, it saves time, saves fuel, and saves stress.

As a property owner at 5541 Guide Meridian in this 1990 commercial zone corridor, I realized the needs of future businesses and therefore provided fire hydrants and waste water drainage. When the Guide Meridian was recently upgraded, the water mains were increased to 12" north of Smith Road on the west side of the highway. Having a veterinary clinic to the north, a full car service to the south, and the above mentioned property improvements, my property was ideal for a future business. I have been patient in hoping a business compatible with my liking would eventually be established and eventually will.

The county assessor assessed all parcels whether occupied by business or not at a commercial rate, and rightfully so. I've paid those assessments from 1992 to current the full time I have owned the property. I felt the transfer of property to a business would be much easier if the taxes were correct.

(See attachment C) In conclusion the synopsis suggests the county has violated RCW 36.70A.070(5)(d) by failing to include adequate measures to protect the rural character. Some areas along the Guide Meridian will always have rural character due to their topography or location. The Nooksack flood plain, gullies, streams, lakes, and low volume traffic north of the Badger Road have changed little and will have rural character for a very long time.

If a policy or regulation is set forth to stop business growth and create a more rural atmosphere, then we will have businesses interspersed with residences, and that would be poor planning.

Secondly, most families choosing to live along the Guide Meridian would be tempted to have front yard sales of old cars, trucks, tractors, or whatever as many do at present. They would not plant Gingko trees or ornamentals to create a more rural oasis interspersed between businesses. That would be silly. Healthy tax generating businesses makes more sense.

The county must decide if it is better off having well-planned businesses providing jobs, services, and a tax base, or will it be better off having many residences maximizing their investment in land by selling their or their friends old motor homes, trucks, etc. One way or another, the land dictates the use and the Guide Meridian with its' high traffic flow is ideal for business.

Thank you for your time and consideration.

Sincerely,



Doug Pullar

