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Kittitas County CDS

**Easton School District No. 28**

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Kittitas County CDS

July 22, 2019

To: Kittitas County Community Development Services

Re: Project File Number DV-19-00001, Marian Meadows Development Agreement

Attn: Dusty Pilkington

Dear Kittitas County Community Development Services,

On behalf of Easton School District No. 28 (the "District") I am providing written comments on the above referenced application (the "Application"), submitted by Martens Enterprises, LLC (the "Developer"). Exhibit B of the Application indicates that: "[m]itigation for the foregoing shall be met by a mitigation fee of \$500 per unit for a total of 89 units..." The District strongly protests the inclusion of a mitigation fee of \$500 per unit in the Application. As described below, that proposed fee is both insufficient to meet capital expenses caused by the Developer's Project (defined below) and violates Kittitas County Ordinance No. 2018-006 and the Settlement Agreement between Developer, Kittitas County (the "County"), and the District.

Background

As you may know, the Developer intends to develop approximately 445 acres of rural land in Kittitas County, within the District's boundaries, and to plat 89 lots (the "Project"). The Project will result in an increase in enrollment in Easton public schools that is beyond the District's current capacity. In addition to being unable to adequately support the increase in students, negative impacts of the Project on the District also include the potential loss of small school funding (requiring a significant increase in school levies and bonds), the need to expand school facilities, and the need to secure additional busses, bus drivers, and bus facilities. On December 22, 2016, the Developer filed an application with Kittitas County for a planned unit development (PD-17-00001), a conditional use permit (CU-17-00001), and a long plat (LP-17-00001), all in furtherance of the Project. On May 1, 2018, the Kittitas Board of County Commissioners passed Ordinance 2018-006 (the "Ordinance"), approving these permits with conditions -- including a condition of approval to include adequate mitigation measures in a subsequent development agreement to address the negative impacts on the District.

The District had grave concerns over the adequacy of mitigation proposed by the Developer and the meaning of the Ordinance's condition of approval. The District filed a petition for review of the Ordinance under the Land Use Petition Act in Kittitas County Superior Court, Cause No. 18-2-00177-6. The petition claimed error and sought additional assurances regarding the District's

role in determining the proportionate share of mitigation that the Developer would provide to mitigate the impacts to the District. This matter was ultimately resolved through a Settlement Agreement, entered into by the District and the Developer on November 20, 2019 (the "Settlement Agreement") (see attached). Through the Settlement Agreement the parties agreed to engage in negotiations to determine acceptable and proportionate mitigation measures related to any impacts of the Project on the District. The Settlement Agreement also required the parties to negotiate in good faith using best efforts to share and obtain relevant information on the impacts of the Project to the District.

#### Conditions from Ordinance 2018-006

The Ordinance included a condition that the Developer must enter into a development agreement with the County that would include a requirement for the Developer to provide proportionate mitigation for impacts of the Project on the District, requiring that the impacts be mitigated to the satisfaction of the County. This condition is specifically required by Conclusions of Law No. 1 and No. 30.3, and is echoed in Conclusion of Law No. 2: "The final PUD development plan shall not be approved until a development agreement has been approved in accordance with Condition #1."

In addition, Conclusion of Law No. 30.3 requires that the Developer shall contact the District to develop the mitigation measures. Similarly, Finding of Fact No 11.4.4 reads: "The applicant [Developer] shall contact the School District [District] to enter into discussions to develop acceptable mitigation measures to accommodate the increased student population. Mitigation measures shall be included in the Development Agreement."

#### Steps Necessary for School Mitigation

The District strongly protests the proposed \$500 per unit mitigation as inadequate to address the negative impacts of the Project. Based on the District's calculations (using census data and standard generation factor calculations) substantially more mitigation is required for each additional unit created by the Project to address direct impacts of the Project. Simply put, the Developer's proposed mitigation would compromise the District's ability to educate the students of Easton.

The Developer has not contacted the District regarding the proposed mitigation for the Project, and there has been no attempt by the Developer to enter into good faith negotiations on adequate mitigation as required by both the Ordinance and the Settlement Agreement. Multiple attempts by the District to begin negotiations subsequent to the Settlement Agreement were unsuccessful. In order for the Project to provide acceptable and proportionate mitigation to the School District as required, the Developer must, as a starting point, meet with the District to negotiate the matter. The inclusion of a \$500 per unit mitigation fee without the District's input as a public agency directly impacted by the Project is a violation of the Ordinance and the Settlement Agreement.

For the foregoing reasons, the District formally requests that the Application, as written, be denied.

Please contact me at (509) 656-2317 with any questions on the above matter. Additionally, the District has not yet had an opportunity to provide comments at a public hearing on the matter as provided for in the Notice of Application received in relation to the Application, and has received no information on when this hearing will occur.

Sincerely,

A handwritten signature in cursive script that reads "Patrick Dehuff".

Patrick Dehuff, Ed.D.

Easton School District Superintendent