

Bellevue, WA
October 29, 2008

Honorable Mark McClain, Chairman - District #3
Honorable Alan Crankovich, Vice Chairman - District #2
Linda K. Johnson Huber, Commissioner - District #1
Kittitas County
Board of Commissioners
205 W 5th AVE Suite 108
Ellensburg WA 98926

Delivered Via Email and by hand for the public record

RE: Comments relating to the Snoqualmie Pass Area and compliance issues on the Eastern Washington Growth Management Hearings Board for (EWGMHB) decision Case 07-1-0004c **recommending that you declare the existing Snoqualmie Pass UGN a Type I LAMIRD.**

Dear Chairman McClain and Commissioners Crankovich and Huber:

I am the owner of property, which bounds both sides of Gold Creek on Snoqualmie Pass. On December 21, 2007 preliminary plat approval was granted for the 76.8-acre subdivision comprised of 232 dwelling units and 260,000 sq. ft of commercial area on the property. The Community Development Services Department (CDSD) is processing the project. The property was made a part of the Snoqualmie Pass Public Utility District (SPUD) sewer district in 1977 and the Pass Wide Water District in 1987. The fully paid water assessment comprises approximately 10% of total water hookups on Snoqualmie Pass. The first preliminary plat approval was granted in 1977. A Planned Unit Development Ordinance was approved on the property in 1989 and the adopted Comprehensive Plan approved land use is Commercial-Lodging.

My project has faced challenges since I purchased the property in mid-2003. Preliminary plat approval settled the majority of the challenges and allowed the project to begin to proceed. The proposal to downzone the Pass to rural status and reduce land use activities is inappropriate and damaging to recreational and economic demand. It harms both the user and Kittitas County. No impact analysis exists of a professional planning or economic analysis nature. No professional work product exists to support or justify that recommendation. Snoqualmie Pass is one of the largest, if not the largest, recreational area in Washington State. My project does not stand alone on the Pass. The recreational user base requires a substantial mix of interrelated land use and businesses activities that are underpinned by well-funded and healthy public utilities; utilities which are interactively reliant on revenues from those land use

activities and owners that paid for the utilities, for whom they were designed and built to serve.

I submitted, for the record, a written request to Mr. Darryl Piercy on May 7, 2008. This letter remains on the County web site hearing record. I asked him to provide me with the page number in the GMA finding to back up his statement to Commissioner McClain as per this excerpt:

*"Please clarify your testimony provided to Commissioner McLain on the official record. **To the best of my recollection, you told Mr. McLain that the GMA hearing board made a finding regarding Gold Creek and "several PUD's in that area that required land use changes be made."** Your precise words will be on tape and hopefully in the written record."*

I knew then and I know now, that no such finding was made by the GMA decision. Mr. Piercy never responded to that letter. After careful and repeated reviews of that document, you may rest assured that no such statement, or anything like that statement is a finding in the GMA record. There was specific mention of the Master Planned Resort Zone covering the Gordon Gray development that is not a part of the Adopted Snoqualmie Pass UGN. It is not included within the SPUD water and sewer district. Mr. Piercy comments, now on the record were then and are now incorrect.

It has been nearly five months since I last submitted testimony related to Snoqualmie Pass UGN on pending land use decisions before you. I submitted two documents for the public record on May 6th, 2008 and on May 9th 2008. The descriptive information and facts in those documents remain correct and are my testimony. However, in those documents, I offered my support for the concept of a Rural Town designation in place of the existing Snoqualmie Pass UGN.

I did so because Mr. Piercy informed me, that the Rural Town Designation was the **ONLY** alternative to the proposed rural designation for the entirety of Snoqualmie Pass. Mr. Piercy also promulgated this point of view in October of 2007 and gave this professional opinion during the Snoqualmie Sub-Area Plan Update meeting process during his presentation, which I recorded and of which I have the original recording.

Attendees of the Subarea Meetings were informed, on more than one occasion, that the Snoqualmie UGN **would not qualify under the GMA definition of a LAMIRD.** Mr. Piercy, when questioned by Commissioner McClain on May 6th for his opinion regarding the SPUD letter, responded by stating, "*He really did not understand LAMIRD definitions or LAMIRDS very well*" or something very nearly to that effect. SPUD's letter documents that the GMA statute RCW

36.70A.070(5)(d) authorizes the designation of LAMIRDs in Rural Areas; including the fact GMA legislation sets forth three types of LAMIRDs for this purpose. After checking with SPUD personnel, this legal information was prepared on SPUD's behalf by a lawyer who specializes in GMA legal matters and who is well recognized in this area of state land use law and litigation.

Given this new information, I questioned why we, as property owners and members of a combined water and sewer district, a fire district and an integral part of one of the largest recreational destinations and its supportive retail services in the state of Washington, were repeatedly informed by Mr. Piercy that the Snoqualmie Pass Area could not be designated as a Type I LAMIRD under the GMA. I have, among other things, spent the last five months becoming better informed on this matter. I have developed an understanding of the GMA definitions for a LAMIRD. I concur completely with the position of the SPUD as set forth and articulated in their letter of May 5, 2008 to this commission. That letter is attached as Exhibit A to this letter. Adoption of the LAMIRD conforms to the GMA and avoids trying to force a legal construct on the GMA statute or to pretend that this very heavily developed and used activity node is rural in nature.

Given the facts, it appears that the burden of proof rests with the CDS to explain, in detailed professional supportive work product and documentation, including social and economic data and studies as to why, suddenly, the Snoqualmie Pass Sub-Area should not be designated a LAMIRD. Development of work product and documentation of this nature should be done with as much care, depth of effort and professional investigation as was invested in the formulation of the existing plan for the area and all of its urban elements as manifested in the adopted land use and zoning plans of Kittitas County. Disregarding and "throwing out", all of this in-depth professional planning work, existing policy, procedure and long term historical precedent without a shred of substantive work product or explanation and converting it into very low density rural land use status can only be described as an unprecedented and arbitrary act, at best.

It is important to document that a number of federal and state agencies together with public and private organizations, have developed new concepts and plans that are predated by the adopted comprehensive land use plan, zoning and special districts plans. It appears that one possible reason for proposing the downgrading of the on Snoqualmie Pass 1989 zoning plans and land use to the status of low density rural are the new plans for animal trails and the land acquisition plans of *The Mountains to Sound Greenway project*. Obviously, it would be much less expensive to down zone the land to rural to avoid compensating private landowners for the value of their fully serviced, assessed and zoned residential and commercial lands. I, and others have put our

development projects on hold and have met with these agencies to understand their objectives and to seek a means to resolve any issues, which may have a means of resolution. A neighboring property owner and I have agreed to allow one of these agencies to conduct two separate MAI appraisals of our properties.

This is a process that started in October of 2007 and is still underway with the expectation that the latest appraisal will be complete within 60 days. This has been a costly decision to use given the economic storm that has developed in the interim. We are both interested in continuing with our developments, but have agreed that we would be willing to sell our property at its market value as determined by a professional appraiser. We have also asked, as a part of this process, that if these agencies decide not to purchase our property that they support our development indicating that we, as property owners, have done everything possible to facilitate their acquisition of our property. If they make a decision not to acquire our property that we be allowed to proceed with our rights as private property owners to develop our property with no further interference.

We hope that we these selfsame agencies and organizations do not appear here before you requesting and testifying that all of our properties be down zoned and converted to rural lands as has been the previous case in this process.

In addition to the many social and economic reasons that I set forth in my written testimony of May 5th and 9th (Exhibits B and C) the Snoqualmie Pass area has the following policy and planning attributes which are unique in the entirety of Kittitas County all of which are emblematic of an urban and not a rural area. These attributes are:

1. **SnoPac Comprehensive Land Use Plan undertaken in 1990.** A complete comprehensive plan and planning document with detailed narrative and maps was developed over a period of eight years at a cost of over \$250,000 not including the very substantial amount of donated and in-kind planning services. Members of SnoPac devoted over 4,000 hours of work toward this plan. The plan was formally adopted by Kittitas County and the Regional Planning Agency under the name "Snoqualmie Pass Subarea Plan" on July 1, 1996. However, the plan has been not only been provided the land use element in SPUD infrastructure planning, it has been the guiding investment and development plan on the pass for over 18 years.
2. **Snoqualmie Public Utility District,** the pass wide water and sewer district, which has been planning, constructing, operating and functioning since 1967. SPUD is managed under the direction of locally elected officials who perform the function of its policy body. SPUD operates under special district legislation of the State of Washington. All property owners within its jurisdiction have been assessed for water and sewer connections, which

- have been fully paid or the assessed property foreclosed. SPUD prepares and promulgates a five-year comprehensive plan and capital improvement program, which has been adopted by Kittitas County as required by statute.
3. **Snoqualmie Pass Fire & Rescue (SPFR)**, a junior taxing district located in King and Kittitas Counties provides first service on the Pass.
 4. **The Largest Ski and Winter Sports Center** in the State of Washington attracts tens of thousands of daily visitors during the winter ski months. Testimony was provided, in the previous hearing that as many as 20,000 visitors are on the pass in a single day. Infrastructure for housing to allow and encourage overnight stays needs to be developed.
 5. **Entryway To Many Hiking Trails** and summer recreational activities opportunities in the area. However, contrary to state policy, sufficient infrastructure is not available to permit all visitors to the Pass to overnight and avoid the increased miles of travel to their home after completion of the day's activities.
 6. **GMA Policies Concentrate Population Growth Into Existing Centers** in the Puget Sound Basin, which is within one hour or less travel time to Snoqualmie Pass. Essentially, one half of the State's existing population lives within that area and projected population growth will increase that percentage. These new condo and multi-family dwellers require outdoor recreation space not available in their high-density living areas.
 7. **Retail and Property Tax Proceeds For Kittitas County** on Snoqualmie Pass. This area is the Kittitas County retail activity closest to major population centers in Washington State. New property taxes are an important component of economic growth and jobs potential in Kittitas County.
 8. **Long standing (over 20 years) of adopted land use and zoning** for commercial and medium high-density development.

We expect that the Commissioners will strive to maintain not only an appearance of fairness but actual fairness in making citizen advisory committee appointments to committees which will advise the Commission on land use for Snoqualmie Pass. Impartiality is essential. No one who is or who has been involved, in any manner, with any agency and/or organization, which does not want Snoqualmie Pass property developed as it has been planned in the adopted land use and zoning plans and who is or has been affiliated with any agency and/or organization that wishes to purchase any of these properties should be appointed to any advisory committee. Fairness in decision-making and advice to the Commission is essential.

No one should be given any opportunity to participate through membership in these advisory committees to effect property values, either to increase or to

decrease them as a result of their recommendations to the Community Development Department or to the Commission.

Thank you for the opportunity to provide you with these comments.

Best Regards,
Michael L. Darland

Cc. Mr. Jim Platt
Mr. Doug Nicholson
Ms. Catherine Clerf
Mr. Scott Turnbull – to file and Clerk for Hearing Record



Snoqualmie Pass Utility District

May 5, 2008

Kittitas County Board of Commissioners
Kittitas County Courthouse
205 West Fifth, Suite 108
Ellensburg, Washington 98926

Re: Snoqualmie Pass Utility District's Comments for May 6, 2008, Public Hearing on Comprehensive Plan Compliance

Dear Chairman McCain:

On behalf of the Snoqualmie Pass Utility District (District), I submit these comments regarding Kittitas County's proposed re-designation of the Snoqualmie Pass area from "Urban Node" to "Rural". The District urges the County to take the time necessary to review and designate the Snoqualmie Pass area as a Limited Area of More Intensive Rural Development (LAMIRD).

The District understands that the Eastern Growth Management Hearings Board (GMHB) has determined that the County is not in compliance with the Growth Management Act (GMA) with its designation of Snoqualmie Pass area as an "Urban Growth Node". *Kittitas Conservation v. Kittitas County*, EWGMHB Case No. 07-1-0004c (FDO, Aug. 20, 2007). However, designating the Snoqualmie Pass area as a LAMIRD would be more appropriate under the GMA, than a rural designation.

The GMA authorizes the LAMIRD designation under RCW 36.70A.070(5)(d). That statute authorizes the designation of LAMIRDs in the rural areas, including public facilities and public services to serve the limited area as follows:

- (i) Rural development consisting of the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, whether characterized as shoreline development, villages, hamlets, rural activity centers, or crossroads developments.

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

(iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl;

The GMHB has interpreted RCW 36.70A.070(5)(d)(i)-(iii) to provide for three separate LAMIRD categories: (1) a Type I LAMIRD, which must consist of certain "existing areas" defined by the statute; (2) a Type II LAMIRD, which allows small-scale recreation or small-scale tourist LAMIRDs; and (3) a Type III LAMIRD, which authorizes intensification or creation of "isolated cottage industries and isolated small-scale businesses." *Whitaker v. Grant County EWGMHB* Case No. 99-1-0019 (2nd Order on Compliance, Nov. 1, 2004).

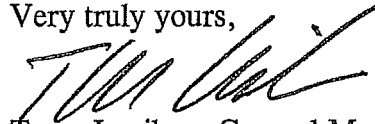
The District has adopted a Comprehensive Water System Plan Update and a Sewer Comprehensive Plan, which identify the District's water and sewer planning and service areas. Pursuant to RCW 57.16.010(6), the District's comprehensive plans have previously been "deemed approved" by the County by way of statute.¹ Thus, the District is concerned how the County's proposed designation of "rural" for the Snoqualmie Pass area may impact the District's approved planning and service areas.

¹ The County's Capital Facilities Element does not reference the District's comprehensive plans, or the services provided by and facilities owned by the District.

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To avoid potential impacts, the District requests the County take the necessary time to review the existing areas and land uses at Snoqualmie Pass, consider the District's approved comprehensive plans, and designate the Snoqualmie Pass area as an appropriate Type I LAMIRD. Further, the District requests that the water and sewer utility services that it provides to the area be reflected in the County's Capital Facilities Element per RCW 36.70A.070(3).

Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Lenihan", written over a horizontal line.

Terry Lenihan, General Manager
Snoqualmie Pass Utility District