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July 17, 2020

Mr. Nate Nehring, Council Chair
Members of the Snohomish County Council
Robert J. Drewel Building
8th Floor
3000 Rockefeller, M/S 609
Everett, WA 98201

Re: MOTION 20-116 SETTING THE FINAL DOCKET (XX) OF NON-COUNTY-INITIATED AMENDMENTS TO THE SNOHOMISH COUNTY COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS FOR COUNTY COUNCIL CONSIDERATION IN 2021

**OLYMPIC VIEW WATER & SEWER DISTRICT COMPREHENSIVE SEWER PLAN
AMENDMENT NO. 2**

Dear Chair Nehring and Members of the County Council:

We represent Olympic View Water & Sewer District (“Olympic View”). Olympic View respectfully requests the Council approve the inclusion of its Comprehensive Plan Amendment #2 in the County’s Comprehensive Plan 2021 docket.¹

Every affected government in Snohomish County supports approval of this Amendment: Olympic View, the Town of Woodway, and the City of Edmonds. After careful review, approval is recommended by the County’s PDS staff and the County Executive’s approval is anticipated. Approval has also been given by the Department of Ecology.

I. AMENDMENT #2 IS SUBSTANTIALLY THE SAME AS WAS APPROVED BY THE COUNTY COUNCIL AND IS BEING RECONSIDERED TO HAVE FORMAL PUBLIC PARTICIPATION.

As Council is aware, it previously approved Amendment #2. Following that approval, Shoreline/Ronald Wastewater District (“Ronald”) and King County appealed the approval to the Growth Management Hearings Board (“GMHB”). Ultimately the GMHB held the approval to be invalid by finding for the first time that any amendment to a special purpose district plan incorporated into a county’s comprehensive plan was subject to the procedural requirements of the

¹ For simplicity and ease of County This Letter only requests the inclusion of Amendment #2 into the 2021 docket; it does not provide a detailed discussion of the legal authority and basis for approval of the amendment. Olympic View reserves the right to provide a more detailed legal analysis at a later date.

Growth Management Act (“GMA”), including the public participation provisions of GMA. However, it is noteworthy that every entity concerned about the issue participated in the initial comprehensive plan amendment proceedings by Council. In addition, the GMHB found a conflict between the Olympic View and Ronald comprehensive plan as it relates to the area covered by Olympic View Amendment #2. As a result, Council rescinded its approval of Amendment #2.

However, it is important to note that no deficiency in the substance of Amendment #2, which is essentially the same one before Council now, was ever found. The GMA procedural concerns raised before have been addressed by Olympic View that submits this plan pursuant to the requirements of Title 57 relating to water/sewer district comprehensive plan amendments, but also as part of the County docket process so that the GMA requirements are followed obviating any concerns about plan approval.

Therefore, inclusion in the 2021 docket is both necessary and appropriate under title 57 RCW and the Growth Management Act.

II. INCLUSION OF OLYMPIC VIEW AMENDMENT #2 IS NECESSARY TO PRESERVE THE COUNTY’S OPTIONS IN RESPONDING TO PENDING LITIGATION.

Inclusion of Olympic View’s Amendment #2 would allow the county to respond flexibly at the end of the pending litigation before the Supreme Court. The pending Supreme Court litigation is to determine whether Ronald actually annexed territory in Snohomish County allowing it to provide sewer service for the area addressed by the Olympic View plan. The Court of Appeals has ruled Ronald has no territory in Snohomish County and no right to provide service. Since that decision was not stayed, it is currently the law of the case. However, the Washington Supreme Court accepted review of the decision of the Court of Appeals. The case has been briefed, argued, and is now under submission. We anticipate a decision before the County ultimately decides on the merits of this docket application but cannot be certain. If the decision of the Court of Appeals is affirmed on the same basis as was decided by the Court of Appeals, Ronald will have no right to provide sewer service in the area and it will be necessary for the County to approve this amendment to provide for necessary sewer capital facilities for the area. If the Supreme Court reverses the Court of Appeals, the County may still wish to adopt Olympic View’s plan amendment which is its right in determining what is the best sewer provider for the area. This decision should be made in conjunction with the fact that Olympic View is the exclusive provider of sewer services within the Town of Woodway, much of Point Wells has already been annexed into Woodway, the unincorporated area is within Woodway’s MUGA, and for the foreseeable future Shoreline has agreed to support Woodway’s annexation of the entire area covered by the Olympic View Amendment. Allowing this Amendment to move forward at this time preserves the County’s options to have viable sewer facilities in the area in the future and in a legally defensive way supporting the County’s Comprehensive Planning. Recognizing this, County PDS recommends this action with which Olympic View concurs.

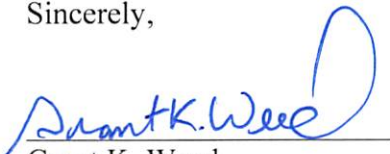
III. CONCLUSION

Inclusion of Amendment #2 in the County’s 2021 Comprehensive Plan docket is both necessary and appropriate. Amendment #2 is substantially the same as what was previously

approved by the County Council and therefore is in furtherance of that initial approval's goals, objectives, and policies. Additionally, even though all relevant and necessary parties were involved through the previous process, inclusion of Amendment #2 will allow a more formal Growth Management Act public participation process to be followed thus resolving the primary concern of the GMHB's' decision.

The relevant statutory criteria for comprehensive plan amendments relating to water/sewer districts under RCW 57.02.040 are met here. The statute mandates approval. Approval of Olympic View Amendment #2 results in Snohomish County determining its own future. The Council should approve Amendment #2 as it has previously done and rescind approval of the Ronald Plan pursuant to docket processing.

Sincerely,



Grant K. Weed
Attorney for Olympic View



Brett C. Vinson
Attorney for Olympic View

cc: Olympic View Water Sewer District
Snohomish County Council Clerk
Snohomish County Prosecuting Attorney's Office
Planning & Development Services (attn Steve Skorney)