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SUPREME COURT
STATE OF WASHINGTON

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BY RONALD R. CARPENTER SUPREME COURT
OF THE STATE OF WASHINGTON

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CLERK
WHATCOM COUNTY FIRE DISTRICT
NO. 21,

NO. 83611-6

Petitioner,

STATEMENT OF
ADDITIONAL
AUTHORITIES

vs.

WHATCOM COUNTY, a municipal
corporation; BIRCH POINT VILLAGE,
LLC, a Washington corporation;
SCHMIDT CONSTRUCTING, INC., a
Washington corporation; and BRIGHT
HAVEN BUILDERS, LLC, a Washington
corporation; MAYFLOWER EQUITIES,
INC.; LISA SCHENK and MIKE
SUMNER,

Respondents.

COMES NOW the petitioner Whatcom County Fire Department
No. 21 ("District") and submits the following additional authorities to the
Court pursuant to RAP 10.8:

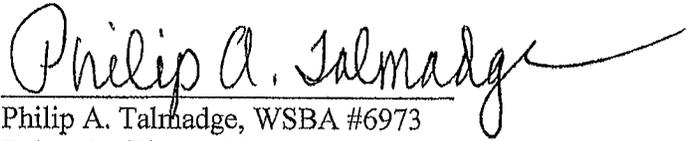
- RCW 19.27.095(1) (a project applicant is vested in the law as it existed as of the time of the applications, and may not take advantage of future changes in the law after the submission of the application);
- RCW 57.17.033(1) ("A proposed division of land, as defined in RCW 58.17.020, shall be considered under the subdivision or short subdivision ordinance, and zoning or other land use control ordinances, in effect on the land at the time a fully completed application for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the appropriate county, city, or town official.");

- RCW 58.17.110(a) (the County decision maker on a proposed plat is required to make a determination at the time of the site specific plat review and approval whether appropriate provisions are made for, and not limited to public health and safety, and whether the public interest is served);
- RCW 58.17.110(2) (a proposed subdivision shall not be approved unless the decision maker makes written finding based on evidence in the record that appropriate provisions are made for, and not limited to public health and safety, and whether the public interest is served);
- RCW 82.02.050 (recognizing that the special purpose district prepares the capital facility plan upon which a County's impact fee ordinance must be based upon, should a county elect to adopt impact fee ordinance);
- WAC 365-196-010 (the regulations in WAC 365-196 were filed on January 19, 2010, and effective February 19, 2010; the respondents' applications in this case predate effective date of WAC 365-196 on concurrency, which was provided to the Court prior to oral argument in this case);
- WAC 365-196-020(1) (to the extent even applicable, regulation indicates that there is no exclusive method for accomplishing the requirements of GMA);
- WAC 365-196-210 (definition of adequate public facilities in concurrency under GMA);
- WAC 365-196-540 (acknowledging that special purpose districts possession statutorily defined powers pertaining to planning, development, regulation, facility management, and taxing);
- WAC 365-196-705(2) (states that GMA does not provide for preemption in the absence of specific preemptive language);
- WAC 365-196-745 (acknowledges that RCW 58.17.110 must be met);

- WAC 365-196-800 (describes the relationship between development regulations and comprehensive plans);
- WAC 365-196-840(5) (concurrency determinations are made on a site-specific basis).

DATED this 20th day of January, 2011.

Respectfully submitted,



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DECLARATION OF SERVICE

11 JAN 20 PM 12:29

BY RONALD R. CARPENTER, Clerk
On said day stated below, I emailed and deposited with the U.S. Postal Service a true and accurate copy of: Statement of Additional Authorities in Supreme Court Cause No. 83611-6 to the following parties:

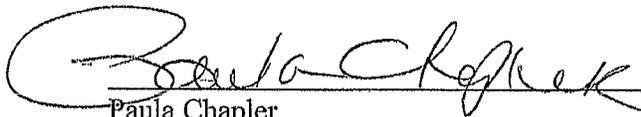
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|---|---|
| Thomas Greenan Zender & Thurston PS PO Box 5226 Bellingham, WA 98227-5226 | Phil J. Buri Buri Funston Mumford, PLLC 1601 F Street Bellingham, WA 98225-3011 |
| Karen Frakes Royce Buckingham Whatcom County Prosecutor's Office 311 Grand Avenue Bellingham, WA 98225-4048 | Jonathan Sitkin Chmelik Sitkin & Davis PS 1500 Railroad Avenue Bellingham, WA 98225-4542 |
| Brian K. Snure Snure Law Office, PSC 612 S. 227th Street Des Moines, WA 98198-6826 | |

Original efiled with:
Washington Supreme Court
Clerk's Office
Olympia, WA 98504

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

DATED: January 20, 2010, at Tukwila, Washington.



Paula Chapler
Talmadge/Fitzpatrick

FILED AS
ATTACHMENT TO EMAIL

ORIGINAL