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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF ARLINGTON

In the Matter of the Application of:	)	NO. PLN#633; PLN#634
Paul Woodmansee, on behalf of	)	STIPULATION AND ORDER RE
Arlington 51 <sup>st</sup> Street, LLC ("Applicant")	)	MODIFYING THE DECISION AND
	)	ENTERING SUPPLEMENTAL
For approval of a Binding Site Plan, Unit	)	FINDINGS AND A SUPPLEMENTAL
Lot Subdivision, and Conditional Use	)	CONDITION
Permit	)	

**COME NOW THE PARTIES HERETO WHO STIPULATE AS FOLLOWS,**

The Hearing Examiner's 51<sup>st</sup> Avenue Urban Village Decision dated May 28, 2020 (Nos. PLN #633 and PLN #634) (the "Decision") was appealed under the Land Use Petition Act by the City of Marysville under Snohomish County Superior Court Cause Number 20-2-03695-31 (the LUPA Appeal"). The parties to the LUPA Appeal were the Applicant, the City of Arlington, and the City of Marysville (the "Parties"). The Parties entered a Stipulated Order of Remand in the LUPA Appeal for the limited purposes of adding to the record a 51 page traffic analysis dated March 4, 2020 and prepared by Gibson Traffic Consultants, Inc. that was inadvertently omitted from the record before the Hearing Examiner and hear any arguments from the Parties related thereto, if any. The Parties stipulate that the Decision

STIPULATION AND ORDER RE: SUPPLEMENTAL  
FINDING AND CONDITION - 1

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1 shall be modified as set forth in Section 1, below.

2 **NOW THEREFORE, THE CITY OF ARLINGTON HEARING EXAMINER DOES MODIFY**  
3 **THE DECISION**, defined below, as provided in Section 1, below:

4 1) The Hearing Examiner's Decision shall be modified as follows:

5  
6 a. The Following Supplemental Exhibits shall be added to the existing Exhibit  
7 List in the Decision:

8 53. The 51-page traffic impact analysis dated March 4, 2020 and  
9 prepared by Gibson Traffic Consultants, Inc. See Exhibit A, attached  
10 hereto.

11 54. The Stipulation and Order to Remand in the LUPA Appeal dated  
12 September 3, 2020. See Exhibit B, attached hereto.

13 55. This Stipulation and Order re: Modifying the Decision and  
14 Entering Supplemental Findings and Condition dated  
15 *November 2*, 2020.

16 b. The Following Supplemental Finding of Fact shall be added to the Decision:

17 34. The Parties have agreed that as a condition of final plat  
18 approval, the applicant shall pay a voluntary traffic  
19 mitigation fee in the amount of \$75,743.00 to the City of  
20 Marysville. The City of Arlington may accept a receipt of  
21 payment issued by the City or Marysville as evidence of  
22 payment. No other mitigation in any form shall be due to  
23 the City of Marysville in relation to the Project.

24 c. The Following Supplemental Conclusion of Law shall be added to the  
25 Decision:

26 4. With the submission of Exhibit 53 on remand, the City of  
Marysville has submitted evidence raising a question as to  
whether an affected intersection would continue to operate  
at acceptable levels of service with the proposed  
Development. With this Stipulation and based on the  
mitigation set forth in Supplemental Finding No. 34, the  
affected intersection would continue to operate at  
acceptable levels of service with the proposed  
Development.

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d. The Following Supplemental Condition shall be added to the Decision:

8. Prior to final plat approval, the Applicant shall pay a voluntary traffic mitigation fee in the amount of \$75,743.00 to the City of Marysville ("Marysville Mitigation Fee"). The City of Arlington shall accept a receipt of payment issued by the City of Marysville as evidence of payment. No other mitigation in any form shall be due to the City of Marysville in relation to the Project. Conditions 1.f and 1.g requires the Applicant to (a) construct frontage improvements and (b) pay a traffic mitigation fee to the City of Arlington ("Arlington Traffic Mitigation"). Other than the Marysville Mitigation Fee and the Arlington Mitigation, no other traffic mitigation fees or other traffic impact mitigation shall be required of the Applicant in relation to the Project. Further, Marysville shall not be entitled to any other mitigation fee payment or other direct mitigation from the Applicant of any kind with regards to the Project.

**FURTHER, THE PARTIES DO STIPULATE AND AGREE AS FOLLOWS:**

1. Marysville and the Applicant agree that the Marysville Mitigation Fee shall be subject to the provisions of RCW 82.02.020 (1-3), specifically:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest to be calculated from the original date the deposit was received by the county and at the same rate applied to tax refunds pursuant to RCW 84.69.100; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

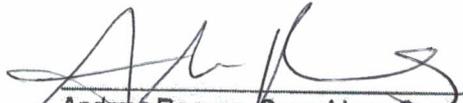
2. The City of Marysville releases and waives any other potential procedural or substantive error related to the Decision or the SEPA threshold determination issued for the Project. The City of Marysville shall not further appeal the Proposal in any respect. Upon execution of this Stipulation and Order, the Parties shall file a stipulation to dismiss the LUPA Appeal as soon as reasonably possible, without cost to any Party.

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3. This stipulation is also a binding contract between the City of Marysville and the Applicant that may be enforced by a separate action filed in Snohomish County Superior Court.

4. It is understood and agreed that this stipulation is the compromise of a disputed claim, and that the payment made is not to be construed as an admission of liability on the part of the City of Arlington or the Applicant, but is intended to avoid further litigation between the parties.

SO ORDERED, DECIDED, AFFIRMED AND ENTERED THIS <sup>2<sup>nd</sup></sup> DAY OF ~~OCTOBER~~ <sup>NOVEMBER</sup> Ar 2020.

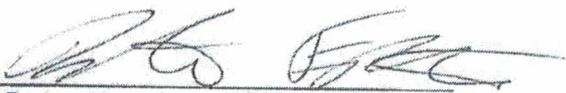
  
Andrew Reeves, Sound Law Center  
City of Arlington hearing examiner

**STIPULATED AND SUBMITTED FOR ENTRY**

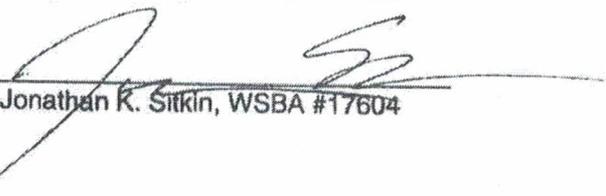
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STIPULATION AND ORDER RE: SUPPLEMENTAL  
FINDING AND CONDITION - 4

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