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RECEIVED

SEP 17 2009

**LONG RANGE
PLANNING DIVISION**

September 17, 2009

Via Delivery

Whatcom County Council
311 Grand Avenue, Suite 105
Bellingham, WA 98225

Whatcom County Planning Commission
c/o 5280 Northwest Drive
Bellingham, WA 98225

Re: City of Nooksack Proposed UGA

Whatcom County Council Members and Whatcom County Planning Commission Members:

This letter is written on behalf of Concrete Nor'West ("CNW") with regard to the proposed modification of the City of Nooksack Urban Growth Area ("UGA").

CNW owns property immediately to the north of the portion of the UGA the Whatcom County Executive recommends be retained. In addition, they own a strip of property within the UGA area. The property to the north of the UGA area is zoned by Whatcom County as Mineral Resource Land ("MRL") and is actually used by CNW for this purpose. The strip of CNW's property located within the UGA area is the sole access road for the mineral extraction property. A map depicting the CNW property and its relationship to the proposed UGA is attached hereto.

In principle, CNW is not opposed to the City of Nooksack maintaining a sufficiently sized UGA. CNW is cognizant of the fact their business is largely supported by development activity. However, CNW is also keenly aware that once lots are developed and sold not every lot owner may accept the fact that an adjacent property is used for mineral extraction and these owners can quickly lose sight of the fact this use was occurring prior to their location into the neighborhood. CNW seeks to be a good neighbor. However, the potential for conflicting land uses is something good planning seeks to avoid. As a result, CNW requests that Whatcom County work actively with the City of Nooksack to minimize the potential for conflict between the MRL and the UGA. With the reduction of the current UGA under the Executive's proposal, the timing of the

development of the UGA next to the MRL will be accelerated and may overlap with the actual mining activity within the MRL.

Whatcom County has designated an area approximately 158 acres in size northeast of Nooksack as a mineral resource area with long term commercial significance under the Washington State Growth Management Act. The extraction of this material is necessary to supply the future needs of our County. While the City of Nooksack does not have any designated mineral resource area within the City limits, RCW 36.70A.060 provides requirements for development activity occurring near a designated MRL.

RCW 36.70A.060 states in part:

“...regulations shall assure that the use of lands adjacent to agriculture lands, forest or mineral lands shall not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands for the production of food, agricultural products, or timber, or for the extraction of minerals.”

The statute goes on to state:

“Counties and cities shall require that all plats, short plats, development permits and building permits issued for development activities on, or within three hundred feet of, lands designated as agricultural lands, forest lands, or mineral resource lands contain a notice that the subject property is within or near designated agricultural lands, forestry lands or mineral resource lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration.”

As their first option, CNW requests Whatcom County consider swapping the northern portion of the Executive's recommended UGA with a portion of the southern area that the Executive's Proposal excluded from the UGA. The northern portion is actively farmed and this farming area would be protected in addition to the mineral extraction area.

If the County continues forward with the Executive's Proposal and the northern area of the UGA remains the only area for City of Nooksack growth, then CNW requests that the ordinance recognize that buffers or other measures of protection will be required for any housing development adjacent to the MRL. In addition, regulations should be adopted by the City of Nooksack to address the State's concerns as codified under RCW 36.70A.

As annexation and build out occurs, CNW is left in a precarious position of having their sole access road surrounded on both sides by zoning that could allow residential development at urban densities. As the road is the only access to CNW's designated reserves, CNW must ensure that action by the City of Nooksack, or by adjacent property owners, does not create a conflict for the current use of the road.

In 2000, the City of Nooksack entered into an interlocal agreement with Whatcom County under which the City of Nooksack agreed that annexations would be based on

several policies of the Whatcom County Comprehensive Plan specifically Policy 2M-5 which states:

“Increase densities within existing city boundaries before expanding into county resource lands and **protect resource lands by controlling or buffering adjacent uses.**” (emphasis added)

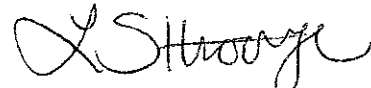
The City of Nooksack has an affirmative duty to adopt measures of protection for the adjacent resource lands. To be consistent with the annexation requirements of the interlocal agreement these measures should be clarified now; prior to, or simultaneous with, the re-adoption of the UGA adjacent to the MRL.

CNW remains committed to working with the City of Nooksack to minimize areas of conflict. However, at the same time the City of Nooksack must proactively seek to establish land uses and regulations that will prevent conflicting land uses prior to their occurrence.

As Whatcom County is under a State mandate to protect its mineral resources, the County’s concerted effort to address these issues now is warranted as the “scaled down” UGA places the City of Nooksack’s only option for growth in close proximity to the protected MRL.

Thank you for your consideration.

Sincerely,



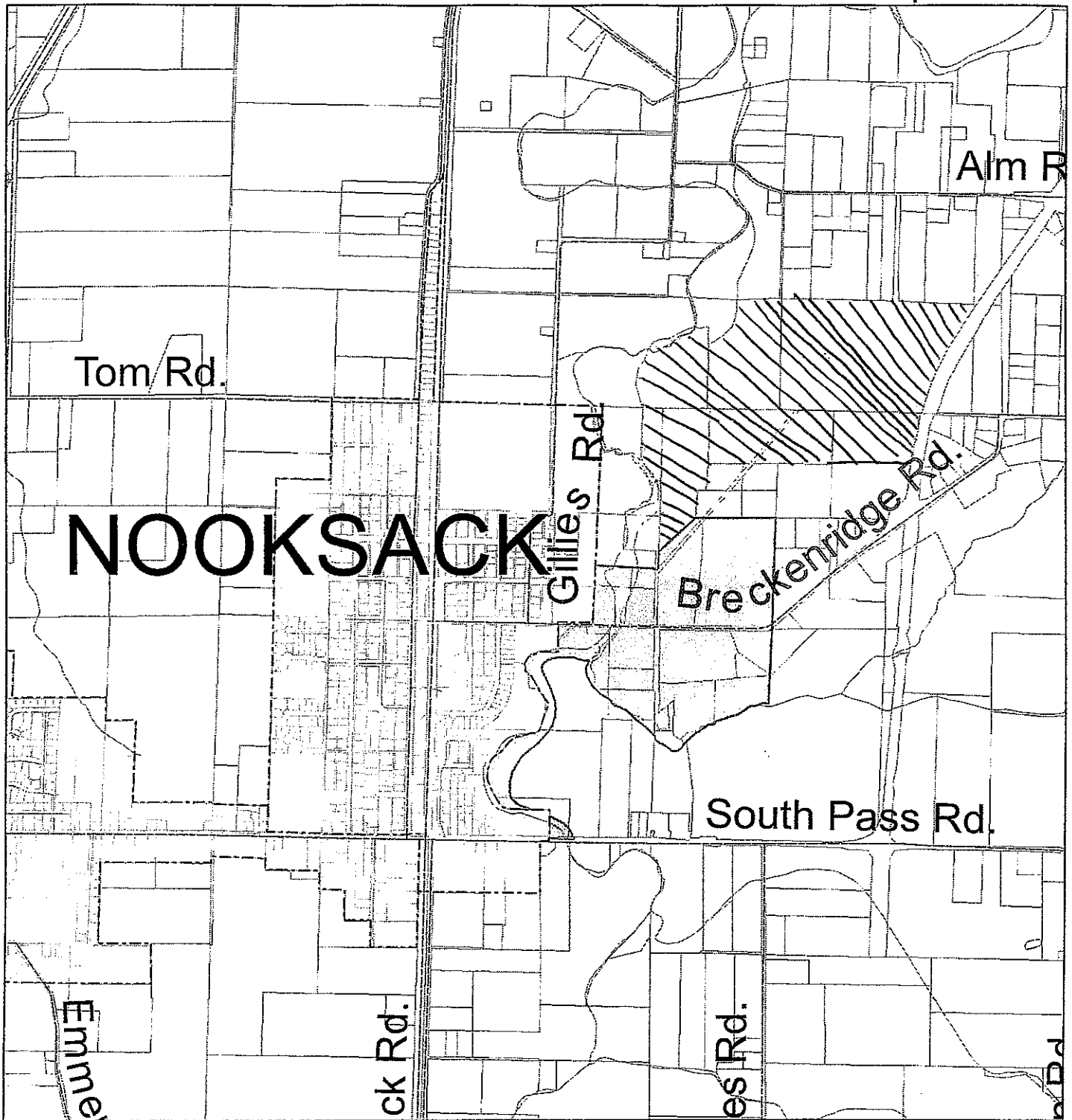
Lesla Starckenburg-Kroontje

enc.

cc: client

City of Nooksack


Whatcom County Planning & Development Services

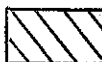


- Nooksack Urban Growth Area

Whatcom County
Comprehensive Plan
- August 2009

 Urban Growth Area

 Miles Sand & Gravel/Concrete NW property

 MRL

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