TIERNEY & BLAKNEY, P.C.

2955 - 80<sup>th</sup> Avenue SE Suite 102 Mercer Island, WA 98040-2975

Robert Zeinemann\* Attorney at Law

E-mail: zeinemann@tierneylaw.com

Phone: (206) 232-3074 Facsimile: (206) 232-3076 \*ALSO ADMITTED IN WISCONSIN

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City of Redmond Planning Commission Franz Wiechers-Gregory, Chair 15670 NE 85th Street PO Box 97010 Redmond, WA 98073-9710

RE: Rose Hill Heights South Sewer Plan Amendment L120162; L120405 SEPA

Dear Planning Commission Members:

This letter is submitted on behalf of Emerald Commercial II, LLC, which through Yuval Sofer has applied for the above referenced Sewer Plan Amendment. This contains preliminary information to correct factual errors and omissions in the Technical Committee Report dated October 31, 2012. We will be submitting additional information to the Planning Commission during the November 28, 2012, public hearing regarding this Sewer Plan Amendment. This letter provides immediate corrections to inaccuracies and factual gaps in the Technical Committee Report.

Factual errors and omissions in the Technical Committee Report are numerous. As a former urban planner and current member of the American Institute of Certified Planners (AICP), I have been surprised by the unnecessary barriers Redmond staff have put before Mr. Sofer's project, and the entire South Rose Hill area that put forth a remarkable effort to annex into Redmond in hopes of improving their sewer situation.

In substance, the Technical Committee Report often makes false assertions that could have been avoided with simple review of public records, such as-built drawings, City codes and standards. The Report makes no mention of technical documents submitted to the City by Mr. Sofer's engineer, Nick Bossoff Engineering, which demonstrate connection to the Kirkland Sewer Main is indeed feasible. Those engineering documents were reviewed by Technical Committee on April 1, 2009, and that month the Technical Committee conceptually approved use of the Kirkland sewer main to serve Mr. Sofer's project. In style, the Technical Committee Report seems to be written to advocate a position rather than fully inform policy-makers. In doing so, it selectively uses facts and does not acknowledge the flexibility present in Redmond's Design Requirements for Water and Wastewater System Extensions (Appendix 20D-4 of the Redmond Community Development Guide).

It is important to recall that the scope of the proposal is simply to enable a neglected section of the South Rose Hill area a <u>connection to an existing and immediately available Kirkland sewer line</u> on the same street, thus enabling timely abandonment of old and failing septic systems, and providing the area with a much needed development opportunity that benefits the residents and city. Where, as here, city, county, and state codes, and long-term planning goals support such a connection, and where Redmond admittedly has no feasible plans in the coming 20 years to actively support this area, it would be unreasonable to reject this proposal.

# 1. Technical Committee's claim that the proposal would "put drinking water lines at risk" is pure hyperbole and based on an incorrect depth of the 24" water main.

The City of Kirkland Public Work Department is supportive of the use of its sewer main as proposed. The water main supposedly "at risk" is, after all, Kirkland's water main. The City of Kirkland has specifically stated, in writing, that it will allow the use of its sewer main. Kirkland has expressed no concern with contamination or breakage of the water main. If there was risk of contamination or breakage, wouldn't the City of Kirkland raise that concern and refuse the use of its sewer main? Kirkland's support of the use of its sewer main calls into question the Technical Committee's alarmist claims.

The 24" water main shown on the diagram in the Technical Committee Report is misplaced. The diagram titled "Utility Profile for 132nd Avenue NE" on page 6 of the Report shows the 24" water main at a depth of 4 feet. The actual depth of that water main—as shown on Kirkland's official as-built drawings—ranges from 7.2 feet to 8 feet deep. That fact is crucial because it sweeps away the Technical Committee's incorrect claim that side-sewers cannot reach the Kirkland sewer main without interfering with the 24" water main.

E-mails by Rob Jammerman, Kirkland's Development Engineering Manager, prove that Kirkland is ready, willing and able to service the properties along the Kirkland sewer main in 132nd. In e-mails from 2009, Rob Jammerman states: "I spoke with Bob [Franklin] at Redmond this morning and told him that Kirkland could serve your project." In another e-mail Rob Jammerman wrote: "I'm double checking with our utility engineers to make sure we have no capacity issues in this sewer basin; I've never heard of any." Mr. Jammerman logically thought Kirkland would serve those properties, telling Bob Franklin, "I assume that Kirkland and Redmond will handle this with an Interlocal Agreement." Rob Jammerman believed it was appropriate to use Kirkland's sewers as proposed, and he obviously does not share the Technical Committee's overhyped concern that the use of the Kirkland sewer main would "put drinking water at risk."

# 2. Technical Committee Report gives false impression of Redmond's utility design requirements.

The Technical Committee Report leaves readers with the impression that Redmond's Design Requirements require seven feet of cover over sewer mains (see Utility Profile for 132nd Avenue NE on page 6 of Report). However, seven feet of cover is not the minimum requirement

in Redmond. The Design Requirements are more nuanced than suggested by the Technical Committee Report. With iron ductile pipe, only three feet of cover is required. Here are the minimums in Redmond's codified Design Requirements:

The minimum cover over ductile iron sewer mains shall be <u>three feet</u> in both paved and unpaved areas; minimum cover over other sewer mains shall be five feet in both paved and unpaved areas.

Further, the Redmond Design Requirements reference the Department of Ecology's Criteria for Sewage Works Design as a minimum requirement. The Department of Ecology Criteria requires only three feet of cover over sewer mains, regardless of whether ductile iron is used:

Generally, sewers should not be less than <u>3 feet deep</u>, be sufficiently deep to prevent freezing and physical damage, and should receive sewage from existing dwellings by gravity.

Seven feet of cover is not a "standard" as claimed by the Technical Committee—it is merely a preference in Redmond. The Redmond Design Requirement specifically refers to seven feet as "preferred cover." It is misleading for the Technical Committee to call seven feet anything but a preference. Seven feet of cover is not required and is not reasonable for infill development that can and should use an existing sewer main. There is nothing "typical" about seven feet of cover over sewer mains, contrary to the Report (see page 6). Seven feet is not the standard established by the Department of Ecology, not the standard in Kirkland, and not the standard in Redmond, despite the Technical Committee's attempt to make it appear so.

#### 3. Use of the Kirkland sewer main as proposed is feasible.

It is irrefutable that the Kirkland sewer can be accessed from the east side of 132<sup>nd</sup> Street—it has already been done. Two lots on the east side of 132<sup>nd</sup> Street are connected to the Kirkland sewer main, additionally four storm lines cross the street and the water line in similar fashion. Connection to Kirkland's sewer main is clearly feasible for the properties in the proposal, as explained by engineer Nick Bossoff in 2009 (Nick's analysis was actually extended to cover the entire street section between NE 70<sup>th</sup> and 73<sup>rd</sup> at the direction of Public Works' Bob Franklin at the time). It is feasible for the side-sewers to pass over the water mains to reach the Kirkland sewer main, which is the route of several existing side-sewers running from houses in Redmond. Though the Redmond Design Requirements generally call for sewer lines to pass under water mains, it is not an absolute requirement. The Design Requirements specifically allow sewer lines to pass over water mains where the usual specifications cannot be met, such as here.

#### 4. Technical Committee had conceptually approved use of the Kirkland sewer main.

In April 2009, the Technical Committee concluded that use of the Kirkland sewer main was feasible. Bob Franklin presented options to the Technical Committee on April 1, 2009,

regarding South Rose Hill sewer. Based on documents received from a public records request, it appears that the Technical Committee's conclusion was that engineer Nick Bossoff's option #3 CoK/CoR service combination is the best alternative, is feasible and is consistent with policies (like UT-29). On April 22, 2009, the Technical Committee met to consider whether Mr. Sofer's project could use the Kirkland sewer.

Public records regarding the Technical Committee meeting on April 22, 2009, show that Dave Almond, Bob Franklin, Jason Lynch, B. Sanders, Judd Black, Ron Grant, Rob Odle, Bill Campbell, Bob Lovett and Jim Robert were present at that meeting. Documentation from that meeting states the following regarding Mr. Sofer's project: "Can be served by Kirkland sewer. – need interlocal with Kirkland." The next step (before interlocal agreement) was potholing to confirm the as-builds. In March 2012, Mr. Sofer wrote to Mr. Campbell and again offered to do the potholing and continue from there.

# 5. Technical Committee Report egregiously misstates facts regarding slopes on the properties: Elevation rises to the east.

Under a subheading "Technical Feasibility of Proposal," the Technical Committee Report falsely states that it is not possible to use gravity flow into the Kirkland sewer main because the elevations of the lots "fall-off to the east, making this task difficult." (TC Report at 5). The truth is the opposite. The lots rise to the east, making it easier to use gravity flow. The proposed sewer service area amendment includes a map with land elevations that clearly shows a 5 to 10 feet rise in elevation from west to east for all properties south of 73<sup>rd</sup> Street. The Technical Committee's inability to correctly state that fact, which is basic and easily determined, is indicative of the onslaught of factual inaccuracies the Technical Committee Report contains.

### 6. Proposed amendment is positive for the entire unserved subarea, and does not delay access to sewer service

The proposed Sewer Plan amendment would have a positive impact on the entire Subarea that is now unserved by municipal sewer. The proposed amendment would provide immediate access to municipal sewers to over half of the unserved Subarea, spurring those properties to redevelop and discard their aging septic systems. The Kirkland sewer main has functioned perfectly since it was installed, it already serves a number of properties in the Subarea, and Kirkland will allow use of its sewer main, which meets all sewer health and safety standards.

The proposed sewer service amendment does not affect the northern portion of the Subarea. It would remain in the Redmond sewer service area. That makes sense because those properties are closer to the existing Redmond sewer line under NE 75<sup>th</sup> Street. As those properties redevelop, they will undoubtedly connect to Redmond's sewer line. To gain sewer service from Redmond, the properties in the northern portion of the Subarea have a short distance to extend the sewer. Thus, the per-unit cost of running the line to those properties will be relatively low and will pencil out for redevelopment. As the Technical Committee Report acknowledges, these unserved properties are on large lots (a half-acre is typical) that can and will

be subdivided. In short, the northern and southern portions of the Subarea are situated differently, and thus they should be in separate sewer service areas. Technical Committee ignores the consequential fact that the southern portion of the Subarea is adjacent to an existing Kirkland sewer main and the northern portion is relatively close to Redmond sewers.

The Technical Committee's claim that the amendment would increase the timeline for service to part of Subarea is speculation. No specifics are given. The referenced "timeline" is imaginary. The Technical Committee speaks as if it knows when developers will extend sewers to properties in the Subarea. Unless Redmond decided to pay to extend the sewer line, the timeline for service sewer is in the hands of the property-owners. The assumption underlying the entire Technical Committee Report is that Mr. Sofer's project is the golden goose that must be leveraged to run sewer to the entire Subarea. Not only is it senseless and unnecessary for Redmond to service the entire Subarea as already explained above, but Mr. Sofer has repeatedly told the Public Works Department that the \$500,000 cost to run new sewers from Redmond is prohibitive for his sustainably designed subdivision. Furthermore, using existing infrastructure is a recognized part of green building design. For example, LEED standards developed by the Green Building Council provide points for the use of existing infrastructure. It would be wasteful and against basic principles of sustainable design to run new sewer pipe when it is already there for over half the Subarea.

### 7. A ten-year reimbursement agreement is risky: Not likely to result in full reimbursement.

Though state law allows a 15-year time horizon for reimbursement agreements, Redmond allows only a ten-year reimbursement agreement. The agreement requires the developer to front all the money for infrastructure, and then hope that properties along the new line will connect within 10 years, and actually pay their share. A reimbursement agreement with a longer term would help, but the risk still remains that latecomer's will not pay. The Technical Committee Report's history of Redmond's Neighborhood Sewer Replacement Program strongly confirms Mr. Sofer's concerns regarding reimbursement agreements: Benefited property owners often do not pay.

The Technical Committee Report notes that <u>Redmond's Neighborhood Sewer Replacement Program was suspended because "insufficient numbers of property owner paid the required hook-up fees in order to replenish the funds that were used to extend the sewer main." (TC Report at 7). In other words, Redmond extended sewers, and so many property owners failed to reimburse the City that the program was stopped. Does Redmond have reason to believe Mr. Sofer would fare any better than the City has in obtaining reimbursement from property owners if he paid to extend Redmond's sewer line? The Technical Committee Report only confirms Mr. Sofer's belief that use of a reimbursement agreement would not result in full reimbursement.</u>

# 8. The Technical Committee Report's suggestion that the proposal "could increase the cost of extending sewer" is a red herring.

The Technical Committee expresses concern that the proposal amendment "could" increase the cost to run sewer to the properties in the northern portion of the Subarea. Those properties, however, are already near existing Redmond sewer lines in NE 75<sup>th</sup> Street. Developers bear the costs of installing the sewers. It is curious—to say the least—that the Technical Committee expresses concern that the proposed amendment "could" result in small per unit cost increase—likely amounting to merely a few thousand dollars per development—to install Redmond sewer lines to the northern portion of the Subarea, (TC Report at 4-5), while at the same time the Technical Committee is comfortable with having Mr. Sofer's project pay hundreds of thousands of dollars to run a duplicative sewer main parallel to the Kirkand's sewer in the southern portion of the Subarea. It is hard to understand the Technical Committee's thinking here, but it seems to believe that Mr. Sofer's project will pencil out if is required to incur a cost of \$500,000 to run a sewer line 900 feet, but that somehow properties with the same size lots and same zoning as Mr. Sofer's might not redevelop because of an infinitesimal increase in the per unit cost to run a sewer line about 200 feet. The Technical Committee's reasoning is inconsistent and unsound.

The Technical Committee uses an economics of scale argument: It cost less on a per unit basis (though by a *de minimis* amount) to run a sewer main 900 feet rather than 200 feet. The Technical Committee offers nothing more than speculation that such costs "could" exist and does not estimate those costs. No specifics are given because those incremental costs are so small as to be irrelevant. The relevant question is this: Could those speculative per unit costs be large enough to stop redevelopment of the northern portion of the Subarea. Given the short distance from those northern Subarea properties to the existing Redmond sewer line in NE 75<sup>th</sup> Street, redevelopment of those properties would pencil out whether the proposed sewer service amendment is approved or not.

#### 9. Kensington and Northstar differ from South Rose Hill infill development.

The fact that the Technical Committee believes that the Kensington and Northstar developments are relevant precedent for Mr. Sofer project speaks volumes. Mr. Sofer's project is 6 units—1/19<sup>th</sup> the size of either Northstar or Kensington—is being undertaking in post-2007 housing market conditions, and includes smaller, sustainably designed homes. The Northstar development has 115 lots. The Kensington development has 121 lots. Thus, to obtain sewer service the developer of Northstar ran 27.8 feet of sewer main for each lot, and the developer of Kensington ran 33.8 feet of sewer for each lot. Here, connection to Redmond sewers would require Mr. Sofer to run 150 feet of sewer main per lot—five times more sewer per unit than Northstar or Kensington, which means five times the sunk cost per house. Moreover, Kensington's and Northstar's sewers were installed before the housing market meltdown. What made economic sense then does not today.

Mr. Sofer has told the Public Works Department that it is unproductive to continue telling him to run a new sewer line from Redmond. The \$500,000 cost to run new sewers from Redmond is prohibitive for a small 6-lot subdivision. This is infill development of smaller sustainable homes that are surrounded by existing infrastructure. Infill development can and should use existing infrastructure. Mr. Sofer's Redmond project has been stalled for five years, while his projects in Bellevue, Issaquah and Seattle have moved forward, because of Redmond Public Work's insistence that he run sewer line from Redmond rather than use the existing Kirkland main.

We will provide more analysis with detailed documentation during the November 28, 2012, public hearing. We look forward to discussing with the Planning Commission this proposed sewer service amendment and the wider policy questions it raises. Thank you for your consideration.

Sincerely,

Robert Zeinemann, AICP

Attorney for Emerald Commercial II, LLC