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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR KITTITAS COUNTY

MARJORIE A. BRANDSRUD,

Petitioner,

VS.

KITTITAS COUNTY, a political subdivision of the State of Washington, and LOVE'S TRAVEL STOPS & COUNTRY STORES, INC., a Delaware corporation,

Respondent

No. 20-2-00101-19

STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE AND WITHOUT COSTS

I. STIPULATION

COMES NOW, Petitioner Marjorie A. Brandsrud ("Petitioner" or "Brandsrud"), by and through her attorney of record James C. Carmody of Meyer, Fluegge & Tenney, P.S., and Respondents Kittitas County ("Kittitas County"), by and through its attorney of record, Neil A. Caulkins and Love's Travel Stops & Country Store, Inc., ("Love's Travel Stops") by and through its attorney of record, Heather L. Burgess of Phillips Burgess, PLLC, and hereby stipulate to dismissal of the Land Use Petition with prejudice and without costs pursuant to the following stipulation:

1. Love's Travel Stops filed a SEPA Application with Kittitas County for Map No. 20-13-02030-0009 and Assessor Parcel No. 778834 on October 4, 2019. The proposal was for the construction of a travel facility which included a convenience store, with drive-thru, truck fuel canopy, truck parking area, auto parking area and tire shop. Kittitas County reviewed the

STIPULATED ORDER OF DISMISSAL WITH PREJUDICE AND WITHOUT COSTS - 1

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application and issued a Mitigated Determination of Nonsignificance (MDNS) on January 13, 2020. Brandsrud filed a Notice of Appeal of the SEPA MDNS on January 27, 2020.

- 2. On April 3, 2020, Hearing Examiner issued *Decision on Applicant's Motion to Dismiss* which held that Brandsrud "...lacks standing to bring this SEPA Appeal...". Brandsrud filed a timely Petition for Review under the Land Use Petition Act (LUPA) on April 17, 2020. This proceeding was for the purpose of reviewing the dismissal of the administrative appeal as well as land use authorizations within the Easton Type III LAMIRD.
- 3. On April 22, 2020, Love's Travel Stop advised Kittitas County Community Development Services that it "...would like to formally withdraw its SEPA Application and have the County terminate any reviews currently being completed as a result of the SEPA appeal. Love's will not be pursuing this project any further." With the withdrawal of the land use application, further proceedings are moot.
- 4. The parties agree to a dismissal of the Land Use Petition upon the following stipulations:
 - 1. Hearing Examiner's Decision on Applicant's Motion to Dismiss is vacated;
- 2. Kittitas County's *Mitigated Determination of Nonsignificance* dated January 13, 2020 is vacated.
- 3. Love's Travel Stops SEPA application is withdrawn and shall not be further processed; and
- 4. This LUPA Petition may be dismissed with prejudice and without cost to any party.

Dated this _____ day of May, 2020.

MEYER, FLUEGGE & TENNEY, P.S.

Attorneys for Defendants

JAMES C. CARMODY WSBA #5205

STIPULATED ORDER OF DISMISSAL WITH PREJUDICE AND WITHOUT COSTS - 2

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| 1. | KITTITAS COUNTY PROSECUTING ATTORNEY OFFICE | | |
|------|--|--|--|
| 2 | Attorneys for Kittitas County | | |
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| 4 | 3-283-762 | | |
| 5 | NEIL A. CAULKINS, WSBA # 31759 | | |
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| 8. | PHILLIPS BURGESS, PLLC | | |
| 9 | Attorneys for Respondent Love's Travel Stops & Country Stores, Inc. | | |
| 10 | Ž. | | |
| 11 | Charles San | | |
| 12 | Heather L. Burgess, WSBA #28477 | | |
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| 14 | II. ORDER | | |
| 15 | Based upon the foregoing stipulation of the parties, and after being otherwise fully | | |
| 16 | advised on the premises, it is hereby, | | |
| 17 | ORDERED, ADJUDGED AND DECREED as follows: | | |
| .18 | 1. Hearing Examiner's Decision on Applicant's Motion to Dismiss is hereby vacated; | | |
| 19 | 2. Kittitas County's Mitigated Determination of Nonsignificance (MDNS) is hereby | | |
| 20 | vacated; | | |
| 21 | 3. Love's Travel Stops SEPA application is withdrawn and shall not be further | | |
| 22 | processed; and | | |
| 23 | 4. This LUPA Petition is hereby dismissed with prejudice and without cost to any party. DONE IN OPEN COURT THIS day of May, 2020. | | |
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| 26 | L. CANDACE HOOPER | | |
| 27 | Judge | | |
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STIPULATED ORDER OF DISMISSAL WITH PREJUDICE AND WITHOUT COSTS - 3

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| . 1 | Presented by: | | |
| 2 | MEYER, FLUEGGE & TENNEY, P.S. | | |
| 3 | Attorneys for Defendants | | |
| 4 | | | |
| 5 | She land | | |
| 6 | MAMES C. CARMODY, WSBA #5205 | | |
| 7 | | | |
| 8 | Approved for Entry and Notice of Presentation Waived: | | |
| . <u>9</u> | KITTITAS COUNTY PROSECUTING ATTORNEY OFFICE | | |
| 10 | Attorneys for Kittitas County | | |
| 11 | | | |
| 12 | NEIL A. CAULKIDS, WSBA #31759 | | |
| 13 | | | |
| 14 | Approved for Entry and Notice of Presentation Waived: | | |
| 15 | | | |
| 16 | PHILLIPS BURGESS, PLLC Attorneys for Respondent Love's Travel Stops & Country Stores, Inc | | |
| 17 | Councy Stores, Inc | | |
| 18 | (hart) | | |
| 19 | HALLOGY IN | | |
| 20 | Heather L. Burgess, WSBA #28477 | | |
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STIPULATED ORDER OF DISMISSAL WITH PREJUDICE AND WITHOUT COSTS - 4

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LAW OFFICES OF MEYER, FLUEGGE & TENNEY, P.S. 230 South Second Street · P.O. Box 22680 Yakima, WA 98907-2680 Telephone (509) 575-8500

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON IN AND FOR KITTITAS COUNTY

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| MARJORIE A. BRANDSRUD, | No. 20-2-0010119 |
| Petitioner, | GR 17 DECLARATION |
| vs. | |
| KITTITAS COUNTY, a political subdivision of the State of Washington, and LOVE'S | |
| TRAVEL STOPS & COUNTRY STORES, INC.'S, a Delaware corporation, | |
| Respondent | |

Pursuant to the provisions of GR 17, I declare as follows:

- 1. I am the party who received the foregoing electronic transmission for filing.
- 2. My address is: 230 South Second Street, Yakima, WA 98901.
- 3. My phone number is: (509) 575-8500
- The manner in which I received the document is: girard@mftlaw.com
- 5. I have examined the foregoing document, determined that it consists of 5 pages, Including this Declaration page, and that it is complete and legible.

I certify under penalty of perjury under the laws of the State of Washington that the above is true and correct.

Signed and Dated May 12, 2020 at Yakima, Washington

Deborah Girard, Paralegal Meyer, Fluegge & Tenney, P.S. Attorneys for Plaintiff