

**SECOND SUPPLEMENTAL ORDER ON
MOTION FOR RECONSIDERATION**

**THE HEARING EXAMINER OF THE
CITY OF OLYMPIA**

CASE NO: 07-0222 (Preliminary Subdivision Approval for North Cascades Village)

APPLICANT: North Cascades Villages, L.L.C.

SUMMARY OF ORDER:

The motion for reconsideration is granted.

HEARING AND RECORD:

The decision of January 16, 2009, the Supplemental Decision of February 17, 2009, and the Supplemental Order on Motion for Reconsideration of February 20, 2009 list the exhibits admitted up to February 20, 2009. The following additional exhibits are admitted:

Exhibit 27. E-mail sent February 19, 2009 from Kroydan Chalem to Thomas Bjorgen.

Exhibit 28. E-mail sent February 26, 2009 from Kroydan Chalem to the parties, e-mail sent February 23, 2009 from Kroydan Chalem to the parties, and e-mail sent February 16, 2009 from Thomas Bjorgen to Kroydan Chalem.

Exhibit 29. E-mail sent February 27, 2009 from Scott Bergford to Kraig Chalem.

Exhibit 30. E-mail sent March 9, 2009 from Kroydan Chalem to Thomas Bjorgen.

After consideration of the evidence and prior decisions, the Hearing Examiner makes the following order.

ORDER

On January 16, 2009, a decision on preliminary subdivision approval for the above proposal was issued by the Hearing Examiner. This decision requested supplemental evidence on two matters, which was duly submitted. On January 26, 2009, before the

decision was issued on the supplemental issues, the Community Planning and Development Department filed a timely motion for reconsideration of the January 16 decision on the issue of whether residential fire sprinklers should be required.

On February 17, 2009 the Hearing Examiner issued a Supplemental Decision with two parts: first, a decision resolving the two issues on which supplemental evidence had been requested and, second, a preliminary decision on the motion for reconsideration. This latter decision concluded that the Department's motion for reconsideration provided a basis for granting the motion, but recognized uncertainty as to whether the motion for reconsideration had been properly provided to the other parties. For this reason, the decision of February 17 asked for confirmation that the Department had served its motion on other parties, as required by Olympia Municipal Code (OMC) 18.75.060 A.

On February 19, 2009, the Department responded through Exhibit 25 that it had not served the motion on any other parties.

On February 20, 2009 the Hearing Examiner issued a Supplemental Order on Motion for Reconsideration, giving the parties an extension to March 2, 2009 to respond to the motion for reconsideration. This Supplemental Order also directed the Department to notify all parties of this extended deadline and of the motion for reconsideration by February 23, 2009.

The Department did not send the correct order with the notification directed by the February 20 order. Therefore, the Hearing Examiner verbally directed the Department to send proper notice and to give the parties an extension to March 6, 2009 to respond to the motion for reconsideration. The Department did so at Ex. 28.

The Applicant responded to the motion for reconsideration through Ex. 29, stating that it does not contest the requirement of fire sprinklers. No other parties responded to the motion for reconsideration.

The motion for reconsideration argues that OMC 16.04.040 and OMC 16.32.140 require that a fully automatic residential fire sprinkler system be installed in all residences in this subdivision. As noted, the Applicant does not contest this requirement. For the reasons set out in Conclusions of Law 11 through 19 of the Supplemental Decision of February 17, 2009, the Department is correct that the OMC requires that a fully automatic residential fire sprinkler system be installed in all residences in this subdivision.

Therefore, it is ordered that:

The Department's motion for reconsideration is granted, and the Decision on Preliminary Subdivision Approval of January 16, 2009 is modified to require that a fully automatic residential fire sprinkler system meeting all applicable standards

be installed in all residences in this subdivision. The decision of January 16, 2009 is also modified to begin Condition B. iii with the clause "If the Fire Chief deems necessary in addition to any required sprinklers," since this Order requires fully automatic residential fire sprinkler systems in all residences.


Summarizing the various decisions in this case, preliminary subdivision approval is subject to the following conditions:

Conditions B i, ii, iii (as modified above), iv, v, vi and vii from the Decision on Preliminary Subdivision Approval of January 16, 2009;

Conditions A 1, 2 and 3 from the Supplemental Decision of February 17, 2009; and

this Second Supplemental Order on Reconsideration, requiring that a fully automatic residential fire sprinkler system meeting all applicable standards be installed in all residences in this subdivision.

Dated this 10th day of March, 2009.


Thomas R. Bjorgen
Hearing Examiner

Mailed 3-12-09

N.L.