

HEARING EXAMINER FOR THE CITY OF OLYMPIA

In the Matter of a Conditional Use)
 Permit Issued to Thurston County)
 To Establish and Operate a Homeless)
 Encampment, called Quixote Village.)
)
INDUSTRIAL ZONING)
PRESERVATION ASSOCIATION,)
)
 Appellant,)
)
 v.)
)
CITY OF OLYMPIA, THURSTON)
COUNTY, PANZA,)
)
 Respondents.)
)
 _____)

FILE NO: 11-0139

ORDER DENYING MOTION FOR RECONSIDERATION AND MOTION TO SUPPLEMENT RECORD

The Olympia Hearing Examiner Pro Tempore issued a decision on April 30, 2012, granting the Conditional Use Permit sought and denying a SEPA appeal on the Determination of Non-Significance.

Effective May 14, 2012, the Industrial Preservation Association (IZPA) filed both a Motion to Supplement the Record and a Motion for Reconsideration. On May 21, 2012, the City of Olympia, Thurston County and Panza responded in opposition to the motions.

The Motion to Supplement is the result of a decision of the Growth Management Hearings Board issued on May 4, 2012, which determined that the authorizing ordinance upon which the Conditional Use Permit was based is inconsistent with two policies of Olympia's comprehensive plan and thus violates the Growth Management Act.

The GMHB decision did not invalidate the ordinance. It simply required the City to bring its comprehensive plan and zoning ordinances into harmony and provided a time frame to accomplish this. Had invalidity been ordered, the effect would have been prospective only. The Examiner's decision was thus based on an ordinance which was valid at the time of hearing. He has no authority to look behind that validity.

It is entirely possible for the City to make legislative changes that cure the GMA inconsistency problem while preserving the legal authority to establish a homeless encampment in the Mottman Industrial Park. But, even if the enabling ordinance were repealed, the application vested while it was in effect and the applicant here (Thurston County) would be entitled to have it applied to the subject application.

The Examiner takes notice of the GMHB decision, but concludes that it does not provide a sufficient basis for changing the project-specific decision in this case. Accordingly, the record need not be supplemented to include it. Given this result, the City's counter-motion to supplement the record is considered withdrawn.

The other bases for reconsideration advanced by IZPA are essentially a reiteration of arguments decided against it at the hearing. The Examiner is not persuaded that factual or legal errors were made in these particulars.

Now therefore, IZPA's Motion to Supplement the Record and Motion for Reconsideration are hereby **DENIED**.

DONE, this 25th day of May, 2012.

(Wick Dufford)
Wick Dufford, Hearing Examiner Pro Tempore

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