



## MEMORANDUM

Date: December 17, 2018

To: Olympia Hearing Examiner

From: Tim Smith, Principal Planner  
Cari Hornbein, SEPA Official  
Paula Smith, Associate Planner

SUBJECT: **WELLINGTON HEIGHTS  
RESPONSE TO HEARING EXAMINER ORDER**

This memorandum serves as the City's formal response to the Hearing Examiner's December 13, 2018 Order on the Motion to Continue. The Order provides the opportunity for the applicant and the City to provide any further legal argument they may wish to make as to why the requested change to the State Environmental Policy Act (SEPA) Mitigated Determination of Nonsignificance (MDNS) should be undertaken by the Examiner rather than returning the MDNS for modification.

No further legal argument will be provided by the City. The request by staff to remove the mitigation measures as outlined in the December 10<sup>th</sup> memorandum was based on OMC 14.04.155, which gives the Examiner the authority to modify mitigation measures when deemed necessary by the Examiner to ensure consistency with any decision rendered by the Examiner on the underlying application. However, such modification does not necessarily mean removal, or any other change that would be considered substantive in nature. Minor clarifications to mitigation measures may warrant the application of the above code provision, but in this case where staff proposed to remove two mitigation measures, the MDNS should be re-issued.

The City therefore requests that the Examiner return the SEPA MDNS to staff for modification and issuance. The revised MDNS will be subject to the comment and appeal periods as required by Olympia Municipal Code. The Community Planning & Development Department will follow its standard procedure of combining the notice of the SEPA MDNS Threshold Determination with the notice for the date of the continued hearing.