

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeal of

DENNIS SAXMAN, et al.,

W-13-008

From a SEPA determination by the Director,
Department of Planning and Development

ORDER

On December 26, 2013, the Appellants filed a "request for interpretation of Rule 3.20; Request for Reconsideration" of the Hearing Examiner's December 11, 2013 Order on Motion for Partial Dismissal, and also that day filed a document entitled "Addition and Naming of Exhibits" which identified two exhibits that the Appellants had not previously disclosed, one showing RPZ data for microprojects, and another showing "density impact on Lowrise zones." On December 30, 2013, DPD filed a Response to the request and an objection to two of the new exhibits identified by Appellants.

On January 2, 2014, the Appellants filed a document adding two witnesses to their witness list, for a total of 4.5 hours of additional testimony.

Hearing Examiner Rule 3.20 provides for reconsideration as follows:

(a) The Hearing Examiner may grant a party's motion for reconsideration of a Hearing Examiner decision if one or more of the following is shown:

(1) Irregularity in the proceedings by which the moving party was prevented from having a fair hearing;

(2) Newly discovered evidence of a material nature which could not, with reasonable diligence, have been produced at hearing;

(3) Error in the computation of the amount of damages or other monetary element of the decision;

(4) Clear mistake as to a material fact.

(b) Motions for reconsideration must be filed no later than 10 days after the date of the Hearing Examiner's decision. Unless otherwise provided by applicable law, the filing of a motion for reconsideration does not stop or alter the running of the period provided to appeal the Hearing Examiner's decision.

The Appellants request that the Rule be applied to allow reconsideration of the December 11, 2013 Order. Under this Rule, the Appellants' request is untimely, as it was electronically filed at 6:05 pm on December 23, 2013. Filings after the close of business, 5:00 p.m., are deemed filed on the next business day under HER 2.05. Thus, the Appellants' request was filed on December 26, 2013, more than ten days after the December 11 Order. But even if the request had been timely, it fails to make the necessary

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showings for a grant of reconsideration under HER 3.20, but instead expresses disagreement with the Order. The request for reconsideration is denied.

The Appellants identified additional witnesses and exhibits that were not disclosed in their witness and exhibit lists of December 16, 2013. Their filings do not show why the additional witnesses and exhibits could not reasonably have been disclosed on December 16, 2013. The request to supplement the December 16, 2013 witness and exhibit lists with additional witnesses and exhibits is denied.

Entered this 3rd day of January, 2014.



Anne Watanabe
Deputy Hearing Examiner
P.O. Box 94729
Seattle, Washington 98124-4729
(206) 684-0521 FAX: (206) 684-0536