

July 13, 2016

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
Facsimile (206) 296-0198

hearingexaminer@kingcounty.gov

**PRE-HEARING SCHEDULING ORDER
ORDER DENYING MOTION FOR NON-ROUTINE DISCOVERY
NOTICE OF RECONVENED PRE-HEARING CONFERENCE
NOTICE OF HEARING**

SUBJECT: Department of Permitting and Environmental Review file no. **PLAT150006**
Proposed ordinance no. **2016-0310**

ADDISON PARK

Preliminary Plat Application
SEPA Appeal

Location: 18417 140th Avenue SE east of 140th Avenue SE between SE
184th Street and 186th Avenue SE, Renton

Applicant: Lennar Northwest Inc
represented by **Brent Carson**
Millennium Tower
719 Second Avenue Suite 1150
Seattle, WA 98104-1728
Telephone: (206) 623-9372
Email: brc@vnf.com

Appellant: Frode Langelo and Windham Ridge HOA
represented by **James Klauser**
2400 NW 80th Street Suite 108
Seattle, WA 98117
Telephone: (206) 498-6177
Email: jimklauser@yahoo.com

King County: Department of Permitting and Environmental Review
represented by **Jina Kim**
King County Courthouse
516 Third Avenue Room W400
Seattle, WA 98104
Telephone: (206) 477-1120
Email: jina.kim@kingcounty.gov

A pre-hearing conference having been conducted on July 12, 2016 it is hereby ORDERED:

1. **Motion for Non-Routine Discovery.**

Hearing Examiner Rule of Procedure (HER) VII.D permits discovery by deposition, written interrogatories, production of documents (Non-Routine Discovery) only upon an order of the Hearing Examiner based on a written motion. The Hearing Examiner may grant a request for Non-Routine Discovery:

upon finding that (a) the moving party or person has demonstrated a substantial need for the information requested in the preparation of its case; and (b) the party or interested person to whom the request is directed will not be unreasonably inconvenienced, or incur unreasonable costs, by compliance therewith.

At the pre-hearing conference in this matter, the Examiner drew the parties' attention to HER VII.D and cautioned that any motion for Non-Routine discovery must demonstrate these required findings. On July 12, 2016, the Appellant filed a motion for Non-Routine Discovery. The Motion does not address the required findings. Accordingly, it is **DENIED**.

The Examiner also reminded the parties that HER VII.C allows any party to submit a written request to any County department to produce copies of documents with in its possession which are material to the subject of the hearing. The rule provides that such requests must be made at least 21 days prior to the scheduled hearing. The Appellant may seek discovery of documents in the County's possession under HER VII.C.

2. **Motion to Dismiss SEPA Appeal.**

The Applicant filed a Motion to Dismiss SEPA appeal more than five days prior to the pre-hearing conference as required by HER VI.D. At the pre-hearing conference, the Applicant clarified that its motion is akin to a CR 12(b)(6) motion not requiring the Hearing Examiner to make findings of fact. For the purposes of the motion, the Hearing Examiner will accept as true the statement of facts in Appellant's appeal.

A. By **July 19, 2016** DPER and the Appellant shall submit responses to the Applicant's Motion to Dismiss SEPA Appeal.

B. By **July 26, 2016** the Applicant shall reply to such responses.

3. **Notice of Reconvened Pre-Hearing Conference. On Tuesday, August 2, 2016 at 1:30 p.m.**, via telephone, the pre-hearing conference will be reconvened to clarify any remaining issues.

Please call the Hearing Examiner's Office at **(206) 477-0860** to connect to the conference. Please note that while interested members of the public are invited to attend, only those parties in bold on Page 1 of this order and notice will participate in the discussion. The conference will start promptly at 1:30 p.m. so callers are advised to call in a few minutes prior to the start time. Callers that come in after the start time will not be

connected into the conference out of respect for everyone's time. Conference recordings will be posted on our website, www.kingcounty.gov/independent/hearing-examiner, within 24-hours.

4. **Exhibits and Expert Witnesses and Reports.** To promote efficient hearings and to eliminate surprise, pre-hearing exchange of certain new information is required. Each party shall provide to the other party/parties and to the Hearing Examiner:
 - A. By **August 15, 2016** each party shall provide to the other party and to the Hearing Examiner a list of any expert witness(es) the party plans to call, copies of any expert report(s) the party plans to offer at the hearing in this matter, and a list of exhibits.
 - B. By **August 31, 2016** each party shall provide to the other party and to the Hearing Examiner a list of any rebuttal expert witnesses and copies of any rebuttal expert report(s) the party plans to offer at the hearing in this matter.
 - C. These lists shall include the name, address, and telephone number for each expert witness(es) and shall be limited to persons who have stated their availability or interest in testifying in this matter. If the party does not plan to offer expert reports at the hearing in this matter, these lists shall include a brief summary of substantive area of expertise and planned for each expert witness(es).
5. **Briefing.**
 - A. By **August 16, 2016**, the Appellant shall submit its opening brief to all parties and to the Hearing Examiner.
 - B. By **August 30, 2016**, DPER and the Applicant shall submit responses to Appellant's opening brief.
 - C. By **September 6, 2016**, the Appellant shall submit a reply to such responses.
6. **Notice of Hearing.** The public hearing on this matter shall commence as follows:

10:00 a.m.
Monday, September 12, 2016 and Tuesday, September 13, 2016
Renton Community Center
1715 Maple Valley Hwy, Renton, WA 98057

The hearing will cover the preliminary plat application and any appeal issues delineated by the Hearing Examiner following her determination on the pending motion to dismiss.

DATED July 13, 2016.



Alison Moss
Hearing Examiner pro tem

If the Renton School district announces a district-wide school closure on the date of hearing, the proceeding will be automatically postponed. (Visit www.schoolreport.org or the district website for school closure information.) It will also be postponed if adverse weather conditions or similar area emergency prevent safe access to the hearing location, in which case we will make every reasonable effort to place case postponement notices and updates on the office website (www.kingcounty.gov/independent/hearing-examiner) and voicemail (206) 477-0860).

Once normal business operations resume, parties of record will be notified of the time and date of the rescheduled proceedings. Any other questions regarding postponements can be directed to the Hearing Examiner's Office by phone or email to hearingexaminer@kingcounty.gov.



**Sign language and communication material in alternate formats
can be arranged given sufficient notice to (206) 296-1000**



AM/ED

RULES OF PROCEDURE OF THE KING COUNTY HEARING EXAMINER

XI. CONDUCT OF HEARING

B Presentation of Evidence...

2. Admissibility of Evidence

- a. Except as otherwise provided by these rules, evidence will not be limited by the Washington Rules of Evidence (ER). Any trustworthy oral or documentary evidence may be received, including reliable hearsay. However, the examiner shall exclude testimony or evidence which is unreliable, unduly repetitive, irrelevant, immaterial or privileged, and may use ER as a guide when making evidentiary rulings.
- b. Opinions of lay witnesses on matters normally within the purview of qualified experts ordinarily will not be excluded, but lack of qualification shall be considered when giving weight to such opinions.
- c. The examiner may admit excerpts from public documents or from books, studies or reports when the remainder of such material is either irrelevant or unnecessary for an adequate understanding of the issue.
- d. Copies of documents may be accepted as evidence, provided, that the examiner may exclude copies when there is reasonable doubt as to authenticity.
- e. In proceedings where a penalty, forfeiture or similar divestiture of legally cognizable rights is sought by King County, the examiner may apply the ER to govern the admissibility of evidence, and may require adherence to other rules applied in the Superior Court for King County to assure that due process of law is afforded to the parties.

3. Exhibits

- a. Copies of documents submitted as exhibits must be legible.
- b. A rare or one-of-a-kind exhibit which is held by a King County agency, and which cannot be conveniently reproduced, may be entered in the hearing record by reference. Examples of such exhibits include, but are not limited to, official zoning, land use or community plan maps or aerial photographs. If practical, duplicate reduced copies should be provided as an exhibit when possible to do so without excessive cost
- c. Physical evidence may be excluded by the examiner, even though relevant, on the basis of an unreasonable custodial burden if other relevant evidence having equivalent probative value is available. The examiner also may require the substitution of photographs or reduced size copies for exhibits which are difficult to store, and written or oral descriptions of water, rocks, dirt or other objects, instead of the actual items. Photographs, maps, charts, illustrations or similar materials which are mounted for presentation purposes shall be removable from their mounting and capable of being stored within a legal size filing cabinet drawer, unless reasonable need for submission of an exhibit not susceptible to reduction is demonstrated to the satisfaction of the examiner. (For charts, photo montages and similar materials, a common method to meet the requirements of this rule is to attach the item(s) presented to a plain paper backing prior to mounting on poster-board, so that the evidence can be readily removed from the poster board for storage.)
- d. Exhibits accepted into the record shall not normally be returned to parties, except that the responsible county agency may act as the official custodian of the case file. The examiner may order the return of an exhibit when there is no public or private need for retention by the examiner or responsible county agency.

(Effective March 31, 1995)

July 12, 2016

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CERTIFICATE OF SERVICE

SUBJECT: Department of Permitting and Environmental Review file no. **PLAT150006**
Proposed ordinance no. **2016-0310**

ADDISON PARK
Preliminary Plat Application
SEPA Appeal

I, Elizabeth Dang, certify under penalty of perjury under the laws of the State of Washington that
I transmitted the

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to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties of record/interested persons and primary parties with e-mail addresses on record.
- caused to be placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties of record/interested persons to addresses on record.
- caused to be placed via County INTEROFFICE MAIL to County staff to addresses on record.

DATED July 12, 2016.



Elizabeth Dang
Legislative Secretary

All Parties of Record

Albright, Cath	mailed paper copy	Henning, Jennifer City of Renton	mailed paper copy
Andree, Alan Department of Permitting and Environmental Review		Hirota, Ed and Deanna	mailed paper copy
Archuleta, Wally Department of Permitting and Environmental Review		Horton, Dave Forest Estates HOA	mailed paper copy
Awasthi, Vidya	mailed paper copy	Hulse, Phil	mailed paper copy
Barghausen, Thomas Barghausen Consulting Engineers	mailed paper copy	Johnsen, Vincent-Nancy	mailed paper copy
Beitlers, Kham	mailed paper copy	Johnson, June	mailed paper copy
Bottheim, Steve Department of Permitting and Environmental Review		Kim, Jina Prosecuting Attorney's Office	mailed paper copy
Burke, Rebecca	mailed paper copy	Klauser, James	mailed paper copy
Carlson, Joanne Department of Permitting and Environmental Review		Langelo, Frode	mailed paper copy
Carney, Mike	mailed paper copy	Lennar Northwest Inc	mailed paper copy
Carney-Mondale, Theresa	mailed paper copy	Long, Fred Kent School District	mailed paper copy
Carson, Brent Van Ness Feldman	mailed paper copy	Lyon, Herbert-Violet	mailed paper copy
Childress, John-Michelle	mailed paper copy	McManus, Aileen Department of Transportation	
Claussen, Kimberly Department of Permitting and Environmental Review Department of Permitting and Environmental Review		Miller, Bob	mailed paper copy
Clayton, Cheryl	mailed paper copy	Mott, Christine	mailed paper copy
Dunn, Reagan Metropolitan King County Council	mailed paper copy	Noris, Anne Metropolitan King County Council	
Eichelsdoerfer, Robert Department of Transportation		Nye, Brad-Kristen	mailed paper copy
Gibson, Garrett Lennar Northwest Inc	mailed paper copy	Peterson, Jim	mailed paper copy
Gillen, Nick Department of Permitting and Environmental Review		Pickard, Stephen	mailed paper copy
Goll, Shirley Department of Permitting and Environmental Review		Powell, Douglas	mailed paper copy
Gygi, Ann	mailed paper copy	Roberge, Steve Department of Permitting and Environmental Review	
Harshbarger, Warren	mailed paper copy	Sacriste, William Lennar Northwest Inc	mailed paper copy
		Sakamoto, Gregory	mailed paper copy

Sandin, Randy

Department of Permitting and Environmental Review

Schmierer, Theresa-Jerome mailed paper copy

Schorer, W mailed paper copy

Simmons, Pat

Department of Permitting and Environmental Review

Sloan, Robert mailed paper copy

Stevens, Brian mailed paper copy

Stoner, MatthewMelissa mailed paper copy

Thorsness, Ryan-Lori Ann mailed paper copy

Vuong, Ti mailed paper copy

Wick, Susanne mailed paper copy

Carriage Crest Elementary School

Williams, Ed mailed paper copy

Windham Ridge HOA mailed paper copy

mailed paper copy

Wong, Ti mailed paper copy