

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF REDMOND**

In the Matter of the Appeal of
Barry Schnell
Of an Administrative Decision

NO. HEA-2018-03
NO. LAND-2013-01720

PRE-HEARING STATEMENT OF CITY
OF REDMOND

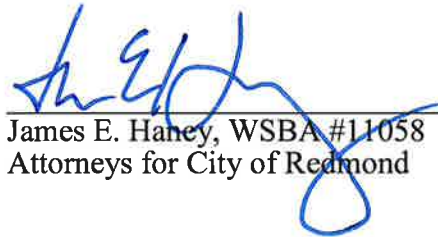
On March 20, 2018, the Hearing Examiner Pro Tempore issued his decision in the matter entitled, “In the Matter of the Appeal of Greg Wilson, on behalf of Wilmoor Development Corporation, of an Administrative Decision,” File Nos. HEA-2018-01 and LAND-2013-01720. As the Hearing Examiner Pro Tempore knows, the City did not prevail in that appeal. The Hearing Examiner Pro Tempore held that the City was barred from reconsidering or revoking the Technical Committee’s September 20, 2017 approval of Wilmoor’s extension request under *Chelan County v. Nykreim*, 146 Wn.2d 904 (2002). The Hearing Examiner Pro Tempore also held that the City’s failure to appeal the Technical Committee’s September 20, 2017 approval within the time frame provided in the City’s Code made the approval binding on the City under *Habitat Watch v. Skagit County*, 155 Wn.2d 397 (2005).

The City did not appeal the March 20, 2018 decision of the Hearing Examiner Pro Tempore and therefore considers itself to be bound by that decision based on the finality principles announced in *Nykreim* and *Habitat Watch* regardless of whether the City believes that the decision

1 was in error. The City does not, therefore, intend to file a brief or to call witnesses or present
2 exhibits in the hearing on this matter. City representatives will attend the hearing if needed, but
3 the City will not be presenting a formal response to the appeal. The City will abide by whatever
4 decision the Hearing Examiner Pro Tempore makes.

5 RESPECTFULLY SUBMITTED this 23rd day of May, 2018.

6 OGDEN MURPHY WALLACE, P.L.L.C.

7
8 
9 _____
James E. Haney, WSBA #11058
Attorneys for City of Redmond

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DECLARATION OF SERVICE

I, Charolette Mace, an employee of Ogden Murphy Wallace, PLLC, certify that on the date below, I emailed this document, had two hard copies delivered by Benjamin Sticka to, and mailed the original and one copy to:

Cheryl D. Xanthos
Clerk to the Hearing Examiner
City of Redmond, Hearing Examiner's Office
15670 NE 85th Street
Redmond, WA 98052
Email: cdxanthos@redmond.gov

and emailed this document only to:

Bryan Telegin
BRICKLIN & NEWMAN LLP
1424 Fourth Ave., Suite 500
Seattle, WA 98101-2258
Email: telegin@bnd-law.com

Vicki Orrico
JOHNS MONROE MITSUNAGA KOLOUSKOVA
11201 SE 8th Street #120
Bellevue, WA 98004
Email: Orrico@jmmlaw.com

Benita Lamp
JOHNS MONROE MITSUNAGA KOLOUSKOVA
11201 SE 8th Street #120
Bellevue, WA 98004
Email: lamp@jmmlaw.com

Two hard copies are being hand-delivered

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Executed at Seattle, Washington this 23rd day of May, 2018.



Charollette Mace
Legal Assistant