

BEFORE THE HEARING EXAMINER  
CITY OF MONROE, WASHINGTON

Respondent: City of Monroe,

Applicant/Proponent: East Monroe  
Economic Development Group, L.L.C., and  
Heritage Baptist Fellowship,

Appellants: Lowell Anderson and Jeffrey W.  
Rogers

File No(s): 13-APHE-0001  
SEPA<sup>1</sup> Appeal of the Final  
Environmental Impact Statement (FEIS)  
for the East Monroe Comprehensive  
Plan Amendment and Rezone

ORDER DENYING MOTION  
REQUESTING RECONSIDERATION

## I. INTRODUCTION

As Hearing Examiner for the City of Monroe, I issued an order posted December 9, 2013 denying Appellants' appeal of the Final Environmental Impact Statement (FEIS) for a proposed East Monroe Comprehensive Plan Amendment and Rezone. On December 16, 2013, Appellants requested reconsideration of the decision asserting that: 1. The zoning change ignores the City's Code, including the stated purpose of Limited Open Space and asserts certain statements in the FEIS were false; 2. Substantial weight appropriately given to the City "may have been extended inappropriately to" the Applicant and its agent, particularly referencing testimony and evidence concerning the use of LIDAR technology and related data and calculations, and flooding of the subject property; and 3. Disputes the conclusion concerning acceptance of the traffic impact analysis within the FEIS.

## II. DISCUSSION AND CONCLUSION

I reviewed the order and the record in the hearing, particularly the specific errors of law, fact, and procedure asserted by Appellants. I note that the City has authority to make zoning changes in accordance with its procedures. I note that the Order discusses evidence concerning flooding of the Property, and that I found the evidence presented by Appellants persuasive. The FEIS has photographs and discussion describing less flooding than described by witnesses and photographs provided by Appellants. The issue is the availability of compensatory flood storage. I note that I described testimony by Applicant's agent concerning compensatory flood storage available on the Property "compelling." I do not find that this statement extends inappropriate weight to Applicant's agent, or that the Order extends inappropriate weight to testimony and evidence present by Applicant's agent. Rather, Applicant's agent had substantial experience and presented credible evidence and testimony, corroborated on certain important points by the City's SEPA Responsible Official, who also has substantial experience. In other words, I based my findings on a preponderance of the evidence standard. I likewise found the traffic impact analysis within the FEIS to meet the preponderance of the evidence standard, as detailed in the discussion within the Order. I find that the Order does not contain any obvious legal error, nor has a material

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<sup>1</sup> "SEPA" refers to the Washington State Environmental Policy Act, Chapter 43.21 RCW. SEPA requires preparation of the Environmental Impact Statement that is the basis of the appeal brought in this matter.

fact that would change the decision overlooked; therefore, the Order is correctly decided and I respectfully decline to reconsider the matter.

### III. ORDER

Appellants' motion to reconsider is hereby denied.

Respectfully Submitted,

Dated: 12/26/2013

A handwritten signature in blue ink that reads "Carl D. Cox". The signature is written in a cursive style with a large, stylized "C" and "X".

Carl D. Cox  
Hearing Officer  
PO Box 158  
Bellevue, WA 98009  
Tel: (425) 242-1504  
Fax: (425) 615-7202