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THE HEARING EXAMINER OF THE CITY OF SEQUIM

RE: CDR20-001

Consolidated Administrative Appeals of  
January 24, 2020 Notice of Determination of  
Procedure Type: May 15, 2020 Director's  
Report and Staff Decision; and May 11,  
2020 MDNS for Jamestown S'Klallam Tribe  
Outpatient Clinic

PRE-HEARING ORDER

The schedule and procedural rules outlined below apply to the above-captioned appeal. This pre-hearing order may be revised in response to the outcome of prehearing motions.

A. Document Distribution. All documents required by this Order shall be emailed, mailed or delivered to the parties at the addresses below. All documents must be received by the due dates set by this order. All email correspondence involving this appeal and the hearing examiner shall include all email addresses identified below. For mailed documents, documents shall be deemed received three business days after mailing.

City of Sequim/Examiner

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Jamestown S'Klallam

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B. Hearing Date. The appeal hearing is set for September 28-30, 2020, starting at 9:00 am each day. The hearing will be held virtually, made accessible to all parties and will be hosted by the City of Sequim.

C. Exhibit and Witness Lists. The parties are required to exchange witness and exhibit lists per the schedule below. Witness lists should include a summary of the testimony to be provided by each witness along with a general estimate on the length of the testimony. The time estimates are just for scheduling purposes. Witnesses will not be bound to the estimates. The exhibit lists shall list any documents, recordings, videos or photographs that the parties intend on presenting at the appeal hearing. No exhibits

1 or witness testimony beyond those identified in the witness and exhibit lists will be  
2 admitted unless necessary for reasonably unanticipated rebuttal or for other good cause.  
3 **Exhibits must be exchanged contemporaneously with the initial and rebuttal**  
4 **exhibit lists and may be distributed by email.** Documents posted on the City's  
5 website under "Current Projects" at <https://www.sequimwa.gov/471/Current-Projects>  
6 need not be exchanged if they are referenced as posted at the website in the exhibit lists.

6 D. Hearing Format. Order of presentation is as follows:

- 7 1. Permit Review Classification (including essential pub. facility)
  - 8 a. Bilow
  - 9 b. Spence
  - 10 c. McLaughlin
  - 11 d. Public Comment
  - 12 e. Nelson-Gross Response
  - 13 f. Murphy Response
  - 14 g. Bilow Rebuttal
  - 15 h. Spence Rebuttal
  - 16 i. McLaughlin Rebuttal
- 17 2. Use Designation
  - 18 a. Spence
  - 19 b. Public Comment
  - 20 c. Nelson-Gross Response
  - 21 d. Murphy Response
  - 22 e. Spence Rebuttal
- 23 3. MDNS Insufficient
  - 24 a. McLaughlin
  - 25 b. Public Comment
  - 26 c. Nelson-Gross Response
  - 27 d. Murphy Response
  - 28 e. McLaughlin Rebuttal
- 29 4. MDNS Overly Restrictive
  - 30 a. Murphy
  - b. Public Comment
  - c. Nelson-Gross Response
  - d. Murphy Rebuttal

27 E. Cross-Examination. All witnesses who present live testimony will be  
28 subject to cross-examination. Declarations and other documents that would qualify as  
29 testimony are admissible without a right of cross-examination unless a right to cross-  
30 examine is asserted by email to all hearing parties within three calendar days of when

1 the document is disclosed in the witness and exhibit lists. Documents qualify as  
2 testimony if the substantive content was prepared specifically for the appeal.

3 F. Schedule. The following schedule applies with all documents due at 11:59  
4 pm of the specified due dates:

5 9/2/20 Pre-Hearing Motions

6 9/14/20 Motion Responses

7 9/16/20 Motion Replies

8 9/18/21 Witness and Exhibit Lists (along with exhibits)

9 9/23/20 Rebuttal Witness and Exhibit Lists (along with rebuttal exhibits)

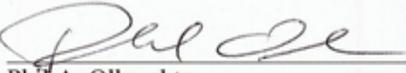
10 9/24/20 Prehearing briefs (optional)

11 9/28-30/20 Appeal hearing, 9:00 am each day

12 G. Admissibility. The hearing generally will not be conducted according to  
13 technical rules relating to evidence and procedure. Any evidence that is relevant,  
14 material, and reliable may be admitted if in the Hearing Examiner's judgment, it  
15 possesses probative value commonly accepted by reasonable and prudent persons in the  
16 conduct of their affairs. Only the issues identified in the written appeals will be  
17 considered at the appeal hearing.

18 H. Procedures. The Washington State Superior Court Civil Rules of  
19 Procedure shall be used as guidelines in resolving procedural issues to the extent they  
20 do not conflict with the Sequim Municipal Code and this pre-hearing order and are  
21 within the authority of the Examiner to require; Provided, that application of such rules  
22 shall also conform to the dictates of the Regulatory Reform Act, Chapter 36.70B RCW,  
23 which require administrative appeals to be resolved in an expeditious manner and that  
24 only one hearing can be held on the appeal.

25 ORDERED this 18th day of August 2020.

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Phil A. Olbrechts

29 Sequim Hearing Examiner