DECLARATION OF SERVICE

On this day I served a copy of the document on which this declaration appears by email transmission to:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct. Executed at Sequim, WA this 30th day of September, 2020.

Tellina Sandaine

Erika Hamerquist, Secretary/Tellina Sandaine, Paralegal

OFFICE OF THE HEARING EXAMINER
IN AND FOR 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	File No. CDR20-001 CITY OF SEQUIM'S RESPONSE TO APPELLANT SAVE OUR SEQUIM'S MEMORANDUM

I. INTRODUCTION

On September 29, 2020, Appellant Save Our Sequim (S.O.S.) filed a "Memorandum in Response to City of Sequim's 'Emergency' Ordinance" (Memorandum) as supplemental briefing permitted by the Hearing Examiner's order of September 27, 2020.

City Attorney for the City of Sequim
Kristina Nelson-Gross WSBA#42487
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Telephone: 360-681-6611

The City incorporates its arguments and authorities from its Supplemental Briefing provides on this issue as though fully set forth here in addition to the argument set forth below. In essence, nothing provided by Appellant S.O.S. diminishes the City Council's adoption of Ordinance 2020-009, which transferred jurisdiction over all A-1 and A-2 decisions to a Hearing Examiner. This Ordinance rendered the Hearing Examiner's Sept. 26, 2020 decision moot, and the City asks the Hearing Examiner to confirm jurisdiction and continue to hear these appeals.

II. ARGUMENT

Appellant S.O.S's briefing represents strawman arguments that should be disregarded by the Hearing Examiner. Appellant S.O.S. spends a considerable amount of time berating the City for passing an "emergency" ordinance, but it did not pass an emergency ordinance. (Decl. K. Nelson-Gross, Ex. A.) As the Hearing Examiner can plainly see from Appellant S.O.S.'s Exhibit A, attached to its Memorandum, City staff presented alternative motions and associated ordinances to the City Council: one was an emergency ordinance, the other was a standard interim controls ordinance. (Appellant S.O.S.'s Memorandum, Ex. A, p. 1, p. 4.) The City passed the standard ordinance. (*See,* Decl. K. Nelson-Gross, Ex. A.) Appellant S.O.S. misstates the nature of the City's ordinance.

Appellant S.O.S. also misstates the relevance of *Graham Neighborhood Ass'n v. F.G. Assoc.,* 162 Wn. App. 98 (2011). What appears to be lost to Appellant S.O.S. is the court's holding that even though the developer had a vested plat application, Pierce County's subsequent adoption of its vesting ordinance, which cancelled applications not timely acted upon, was applicable to the developer because the regulation was not a "land use regulation". *Id.* at 114-116. Thus, applications do not vest to process, which is the subject of the City's Ordinance 2020-009 that passed five to one on Sept. 26, 2020. (Decl. K. Nelson-Gross, Ex. A.)

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Regarding Appellant S.O.S.'s arguments on the appearance of fairness issues, that matter is not before the Hearing Examiner, and the Examiner has no authority to make those decisions. *See,* SMC 2.10.070; *see also*, *In re King Cty., Hr'g Examiner,* 135 Wn. App. 312, 320-321 (2006). Nonetheless, one example of the near-continuous barrage of communications the City Council has endured over the past 15 months on *anything* related to this matter, an email it received on the interim ordinance, is included for the record and attached here as Exhibit 1. The sheer volume and extended duration of communications in all forms to the City Council individually and collectively are simply too many to count. (*See,* Decl. K. Nelson-Gross, Ex. A, (the City Council is concerned that the numerous contacts it has received about the MAT Clinic from all parties and other interested individuals over a span of 15 months raises significant and potentially irreconcilable appearance of fairness and potential conflict issues that are unlikely to be overcome…).) As such, the City Council properly divested itself of any jurisdiction over these appeals.

Finally, with respect to Appellant S.O.S.'s arguments about standing, the C-2 process, and Essential Public Facilities (EPF), it was the City's understanding that those topics were not the subject of this briefing and as such, will not be responding further to those arguments in this briefing.

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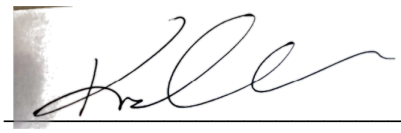
III. CONCLUSION

To conclude, the Hearing Examiner's decision dated Sept. 26, 2020 was rendered moot by the City Council's adoption of Ordinance 2020-009, and the City again asks the Hearing Examiner to reassert jurisdiction over all issues in this matter and issue decisions accordingly.

RESPECTFULLY SUBMITTED this 30th day of September, 2020.



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From: Henry&Patricia Howe
To: William Armacost; DG_All_CityCouncil
Subject: Reject20-079
Date: Friday, September 25, 2020 8:20:09 AM

Mayor You promised to Reject this Clinic.....

The Results of APPROVAL MEAN
More liability
Additional costs
The Tribal concerns WILL NOT Share in the additional EXPENSE and will not add to the TAX Base. Can the City of SEQUIM BE taxed additionally for these expenses?
This Clinic is not needed and Requires the CITY and STATE to pay $455.00 Daily for each addict.
Commercially the state is paying only $20.00.
The DECISION Cannot be clearer.....
Apparently the board does not want to stand the ground.

Thanks FOR Your consideration.

Henry Howe