

## Meyers, Aundrea

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**From:** Legg, Louisa on behalf of Hearing Examiner  
**Sent:** Friday, November 6, 2020 1:15 PM  
**To:** jwdotson71@yahoo.com; erik@luxurypnw.com; cjscheu51@gmail.com; cdnokelby@aim.com  
**Cc:** Rodriguez, Ralph; Garrison, Michael; San Soucie, Michael; Wheeler, Liz  
**Subject:** FW: LID 3970 Proposed Formation - HEX Report  
**Attachments:** SIGNED\_Proposed\_Formation\_LID3970\_11.06.20.pdf

**Importance:** High

Dear Parties,

The same as below. I just obtained your email addresses.

Sincerely,

**Louisa Legg**  
Office Administrator  
Tacoma Hearing Examiner Office  
Ph: 253-591-5195 | Fax: 253.591.2003  
[Hearing.examiner@cityoftacoma.org](mailto:Hearing.examiner@cityoftacoma.org)

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**From:** Legg, Louisa **On Behalf Of** Hearing Examiner  
**Sent:** Friday, November 6, 2020 12:37 PM  
**To:** rmdaubert@comcast.net  
**Cc:** Meyers, Aundrea <AMeyers@cityoftacoma.org>  
**Subject:** FW: LID 3970 Proposed Formation - HEX Report  
**Importance:** High

To the Dauberts: Because Mr. Jared Smith appeared on your behalf at the hearing held on October 26, 2020, a copy of the Examiner's recommendation was sent to him. I recently discovered an email address for you, so I am sharing the same.

Sincerely,

**Louisa Legg**  
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**From:** Legg, Louisa **On Behalf Of** Hearing Examiner  
**Sent:** Friday, November 6, 2020 10:35 AM  
**To:** Rodriguez, Ralph <[RRODRIG1@cityoftacoma.org](mailto:RRODRIG1@cityoftacoma.org)>; Garrison, Michael <[mgarrison@cityoftacoma.org](mailto:mgarrison@cityoftacoma.org)>; Jenkins, Jessica <[jjenkins1@cityoftacoma.org](mailto:jjenkins1@cityoftacoma.org)>; Wheeler, Liz <[LWheeler@cityoftacoma.org](mailto:LWheeler@cityoftacoma.org)>; San Soucie, Michael <[msansoucie@cityoftacoma.org](mailto:msansoucie@cityoftacoma.org)>; [ghatans@wamail.net](mailto:ghatans@wamail.net); [jaredasmith@msn.com](mailto:jaredasmith@msn.com); [jackied\\_98125@yahoo.com](mailto:jackied_98125@yahoo.com)  
**Subject:** LID 3970 Proposed Formation - HEX Report  
**Importance:** High

To All:

In regard to the above referenced matter, please find attached the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation, to the Tacoma City Council, entered on November 6, 2020

Sincerely,

**Louisa Legg**

Office Administrator

Tacoma Hearing Examiner Office

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**OFFICE OF THE HEARING EXAMINER  
CITY OF TACOMA**

**In the Matter of:**

**PROPOSED LOCAL  
IMPROVEMENT DISTRICT  
NO. 3970**

**HEX2020-031**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION**

A **PUBLIC HEARING** on the above-captioned matter was held on October 26, 2020, before JEFF H. CAPELL, the Hearing Examiner for the City of Tacoma.<sup>1</sup> The Hearing Examiner having considered the testimony and evidence presented, having reviewed the file, and being otherwise fully advised, makes the following:

**FINDINGS OF FACT**

1. The Tacoma City Council adopted Resolution No. 40659 on October 6, 2020 (the “Hearing Resolution”), acknowledging receipt of Advisory Survey No. 8572-A, which requested that the Tacoma City Council schedule a hearing to consider the formation of Local Improvement District No. 3970 (“the LID” or “LID 3970”).<sup>2</sup> *Ex. C-4 (inclusive of Exs. C-4.1~C-4.3)*. In the

<sup>1</sup> Due to National, State of Washington and City of Tacoma Proclamations of Emergency caused by the COVID-19 virus, the City of Tacoma closed the Tacoma Municipal Building to the public until further notice on or around March 17, 2020. As a result, the public hearing in this matter was conducted virtually using Zoom teleconferencing with both internet visual and audio access, as well as separate telephonic (only) access via call in number on Zoom. The hearing record was left open until November 4, 2020, to take receipt of relevant information that became Exhibit 11 (from the Ghatans) and Exhibit 12 (from the City).

<sup>2</sup> Local improvement districts may be referred to herein generally as “LIDs” as well.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 1**

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1 Hearing Resolution, a hearing date of October 26, 2020, was formally set to consider the formation  
2 of LID 3970. The proposed improvements in LID 3970 are described in the hearing Resolution as  
3 follows:

4 To extend the wastewater main with tees and/or risers for wastewater  
5 laterals, utility access maintenance points in North 48th St from Lexington  
6 Street east 150 feet, thence south in Lexington Street, approximately 680  
7 feet (the "Improvements").

8 The Improvements would include all other work necessary to complete the same in accordance with  
9 plans and specifications to be prepared by the Tacoma City Engineer. The Hearing Resolution is  
10 incorporated herein by reference as though fully set forth. The proposed boundary of the LID is  
11 described in the Hearing Resolution as follows:

12 Unplatted Property:

13 The South 310 feet of the North 510 feet of the following described property;  
14 Commencing at the Southwest corner of the Five Views Addition to Tacoma,  
15 Washington, according to Plat recorded in Volume 12, at page 28, records of the  
16 Pierce County Auditor, said corner being 819.5 feet North of the Southwest corner  
17 of the Northwest Quarter of the Southwest Quarter of Section 23, Township 21  
18 North, Range 02 East, W.M.; Thence East 165 feet to the True Point of Beginning;  
19 Thence South 03°50'17" East 551.84 feet; Thence East 120 feet; Thence North  
20 03°50'17" West 551.84 feet; Thence West 120 feet to the Point of Beginning.

21 Together with the South 100 feet of the North 200 feet (measured at right angles  
to North 48th Street) of the following described property;

All of that part of the Northwest Quarter of the Southwest Quarter of said Section  
23, lying South of North 48th Street and East of Lexington Street as said streets  
were conveyed to the City of Tacoma by Deeds recorded under Pierce County  
Auditor No.'s 1267285 and 1658301 and West of a line beginning at a point 130  
feet East of the intersection of the South line of North 48th Street and the East line  
of Lexington Street; Thence Southerly in a straight line to the City monument

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 2**

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1 located at the intersection of North 46th Street and Lexington Street, as shown on  
2 the Plat of Wiborg's Narrows View Addition to Tacoma, Washington, according  
to Plat recorded in Volume 12, at page 47, records of Pierce County Auditor;

3 All situate in the City of Tacoma, County of Pierce, State of Washington;  
4 and,

5 Short Platted Property:

6 Lots 1 & 2, City of Tacoma Short Plat No. 76-661, recorded in Book 13, at page  
31, records of the Pierce County Auditor, Washington.

7 All situate in the City of Tacoma, County of Pierce, State of Washington;

8 *Rodriguez Testimony; Ex. C-1, C-5, Ex. C-6.*

9 2. For purposes of statutory application and process,<sup>3</sup> proposed LID 3970 is a City of  
10 Tacoma ("City") resolution initiated LID. Initial contacts with property owners in the proposed LID  
11 were commenced by a noticed meeting when the City's Department of Public Works ("DPW") first  
12 began planning to pave sections of North Lexington Street in the Spring of 2018. The meeting was  
13 specifically noticed as addressing owner interest in forming an LID for "paving options" (curb,  
14 gutter and sidewalk) attendant to the street paving project, but when held, discussion at the meeting  
15 evolved to include the possibility of forming an LID for the wastewater Improvements. *Rodriguez*  
16 *Testimony; Ex. C-1~ Ex. C-4.*

17 3. The street fronting the residential properties in the LID (North Lexington Street) was  
18 slated for paving using 2019 Street Initiative Package money. It is City policy to construct  
19 wastewater mains in streets where they do not currently exist prior to (or as part of) such paving

20 \_\_\_\_\_  
21 <sup>3</sup> See Revised Code of Washington ("RCW") 35.43.120~.150.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 3**

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1 projects. This policy led DPW to including discussion with the LID property owners regarding the  
2 possibility of forming an LID to finance the needed wastewater facilities. *Id.*

3 4. After circulating it with the LID property owners, DPW received a neighborhood  
4 advisory survey (No. 8572-A) regarding the proposed Improvements, dated May 7, 2018, with five  
5 property owners signing. An “amended” advisory survey, dated April 24, 2018,<sup>4</sup> added another  
6 property owner to the signatories. Ultimately, the aggregated survey was signed by two new owners  
7 of property within the proposed LID boundaries after sales. Prior to the hearing, DPW determined  
8 that the surveys were favorably signed by the owners of 70.3% of properties within the proposed  
9 LID. The combined surveys contain the following property owner signatures:

- 10 - Kevin and Melina Ryan, Parcel No. 02-21-23-3-044,
- 11 - Kirk D. Gipe, Parcel No. 02-21-23-3-024,
- 12 - Bijan Ghatan, Parcel No. 02-21-23-3-030,
- 13 - Margaret Daubert, Parcel No. 02-21-23-7-002,
- 14 - Jason W. Dotson (for Pacific Alaska Assets LLC), Parcel No. 02-21-23-3-029, and
- 15 - Jaqueline Doman (in substitution for Gipe above as new owner). *Rodriguez Testimony.*

16 *Exs. C-4.1~C-4.3.*

17 5. On October 6, 2020, the Tacoma City Council adopted the Hearing Resolution setting  
18 aside October 26, 2020, at 5:00 pm, as the date and time for the Hearing Examiner to conduct a  
19 public hearing considering the construction of the Improvements through formation of LID 3970 in  
20 order to provide long-term financing for the Improvements. Notices of Public Hearing for LID 3970  
21 were mailed on October 9, 2020, to all owners of record within the proposed LID, as listed on the

<sup>4</sup> It is unclear from the record why the “amended” survey is dated prior to what appears to be the survey being amended.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 4**

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1 Pierce County real property tax rolls. The Hearing Resolution was published on October 8 and 9,  
2 2020, in the Tacoma Daily Index. An Affidavit of Publication has been filed with the City Clerk,  
3 together with plans and estimates required by applicable laws. *RCW 35.43.150; Rodriguez*  
4 *Testimony; Ex. C-1, Ex. C-7 (inclusive of Ex. C-7.1 and Ex. C-7.2), Ex. C-8 (inclusive of Ex. C-*  
5 *8.1~Ex. C-8.3).*

6 6. Pursuant to applicable laws, and the direction of the Tacoma City Council, the Hearing  
7 Examiner conducted a public hearing on October 26, 2020, to consider formation of LID 3970.  
8 *RCW 35.43.150, Ex. C-1.*

9 7. DPWs' LID Section (the "LID Section") prepared a staff report which was entered  
10 into the record as Exhibit C-1. DPW's report indicates that the estimated project cost is \$342,650.52  
11 with an estimated \$97,026.25 being assessed to property owners within the LID and an estimated  
12 \$245,624.27 being contributed by the City of Tacoma. The LID is proposed to have a 20-year  
13 Assessment Roll/repayment period, and the estimated cost per Assessable Unit of Frontage (AUF)  
14 is \$167.00. *Rodriguez Testimony; Ex. C-1.*

15 8. The testimony of Ralph Rodriguez, Management Analyst III, LID Section  
16 Representative for DPW, established the following:

- 17 A. The LID is situated atop a bluff or hill.
- 18 B. The Improvements will likely be constructed at a depth of 17 feet to  
facilitate gravity feed from the properties into the line.
- 19 C. The LID is proposed to include seven residential properties that all front  
on North Lexington Street.
- 20 D. Prior to the hearing held on October 26, 2020, the City had received no  
objections to the proposed LID formation.

21  
**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 5**

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- 1 E. LID Section representatives have discussed options, provided written  
2 information on various pertinent topics and answered questions with the  
3 property owners.  
4 F. All properties in the proposed LID boundary are currently served by  
5 septic tanks except for the Ghatans, who are connected to the City's  
6 wastewater system. *Rodriguez Testimony, Ex. C-1~Ex. C-3, Ex. 11~Ex.*  
7 *12.*

8 9. It appears that the LID Section used one, or some combination of, the formulae set  
9 forth in RCW 35.44.030 and .040 to estimate the preliminary assessments for each property within  
10 the proposed LID, although it is not entirely clear from the record. The Hearing Resolution did  
11 make clear that "[t]he actual assessments may vary from assessment estimates, so long as they do  
12 not exceed a figure equal to the increased true and fair value the improvement adds to the property"  
13 as required by RCW 35.43.120. *Ex. C-1, Ex. C-9, Ex. C-10.*

14 10. At the hearing, Bijan and Shahnaz Ghatan confirmed that their property is connected  
15 to the City's wastewater system and has been since they first built their house in 1978. Their  
16 connection is through an approximately 300-foot line to a City main in the intersection of North  
17 46th Street and North Lexington Street. The Ghatans testified that the City required them to connect  
18 in 1978, they obtained permits for the connection, paid a connection fee at the time (although they  
19 did not remember the amount), and have paid City wastewater charges since 1978. Post hearing,  
20 City staff found a copy of the Ghatans' permit and connection fee documentation, which has been  
21 added to the record as Exhibit 12. The Ghatans do not object to the formation of the LID, but rather  
have asked to be excluded from it because they are already lawfully connected to the City's  
wastewater system. Upon questioning from the Examiner, the Ghatans testified they understand that

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 6**

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1 if their existing connection were to fail, they would likely be required to connect through the  
2 Improvements, and likely will have to pay a connection charge at that time if they do not join in the  
3 LID now. *Ghatan Testimony; Ex. 11.* At the hearing, the City testified that it had no record of what  
4 happened with the Ghatan connection in 1978. Because of this lack of records (now rectified with  
5 Exhibit 12), and because the Improvements would allow for a closer connection to the City's  
6 wastewater system for the Ghatans, the City advocated for the Ghatan property to be included in the  
7 LID and be required to change their connection to the Improvements. With the post hearing  
8 discovery of Exhibit 12, the City has now determined to remove the Ghatan property from LID  
9 3970. *Rodriguez Testimony; Exhibit 12.*

10 11. Other property owners in and around the proposed LID boundary have been excluded  
11 from LID 3970 if they are already connected to the City's wastewater system, or have previously  
12 paid a connection charge. *Rodriguez Testimony; Ex. C-3.8.*

13 12. The following property owners (or their representatives) testified at the hearing  
14 primarily for the purpose of asking clarifying questions about the LID to City staff:

- 15 - Margaret Daubert posed questions through her son Jared Smith;
- 16 - Bijan and Shahnaz Ghatan;
- 17 - Jaqueline Doman; and
- 18 - Eric Molzen.

19 13. City staff recommends formation of the LID as proposed, but now excluding the  
20 Ghatan property. The digital audio recording of the hearing in this matter is in the custody of the  
21

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 7**

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1 Hearing Examiner’s office, and the file is in the custody of the City Clerk. Both are available for  
2 review by the City Council and any interested party. *Rodriguez Testimony; Exhibit 12.*

3 14. Any Conclusion of Law more properly deemed or considered a Finding of Fact is  
4 hereby adopted as such.

5 From these Findings of Fact, the Examiner makes the following:

6 **CONCLUSIONS OF LAW**

7 1. The Hearing Examiner has jurisdiction in this matter to conduct a hearing and make a  
8 written recommendation to the City Council under Tacoma Municipal Code (“TMC”) 1.23.050.A.2  
9 and TMC 10.04.026. *See also RCW 35.42.125 and 35.43.150.*

10 2. The State of Washington (“State”) legislature has determined that sanitary sewer  
11 systems (among other facilities) are necessary for the “[i]mprovement of public health and the  
12 implementation of both urban and rural development...,” *RCW 35.91.010*. *RCW 35.43.040* gives  
13 the legislative authority of any city or town the authority to order the whole or any part of any local  
14 improvement including for “sewers, and sewer appurtenances.”

15 3. The purposes of an initial hearing on formation of an LID are to determine if  
16 formation of the district should proceed and to determine whether the limits of the district are  
17 proper. *Chandler v. City of Puyallup*, 70 Wash. 632, 633, 127 P. 293 (1912). Accordingly, the only  
18 issues properly presented during the formation stage of the LID process are:

- 19 (a) Whether the City has jurisdiction or authority to proceed with creating the  
20 district; and

21 **FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 8**

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1 (b) Whether the proposed boundaries for the district are proper.

2 *Underground Equality v. Seattle*, 6. Wn. App. 338, 342, 492 P. 2d 1071(1972).

3 4. No party in these proceedings has challenged the City's authority to create this LID for  
4 sewer improvements under the provisions of RCW 35.43.

5 5. With the exception of the Ghatans, no party to these proceedings has challenged the  
6 City's determination of the proper boundary for proposed LID No. 3970 under the terms of RCW,  
7 Chapter 35.43. The Ghatans, however, have asked to be excluded because they are already lawfully  
8 connected to the City's wastewater system and paid a connection fee in 1978 when first connecting.

9 6. The City's authority to create an LID initiated by resolution is limited if owners of  
10 property shouldering a sufficient proportion of the project costs protest formation of the district as  
11 per the following:

12 **§ 35.43.180 Restraint by protest.** The jurisdiction of the legislative  
13 authority of a city or town to proceed with any local improvement initiated  
14 by resolution *shall be divested by a protest filed with the city or town*  
15 *council within thirty days from the date of passage of the ordinance*  
16 *ordering the improvement, signed by the owners of the property within the*  
17 *proposed local improvement district or utility local improvement district*  
18 *subject to sixty percent or more of the total cost of the improvement*  
19 including federally-owned or other nonassessable property as shown and  
20 determined by the preliminary estimates and assessment roll of the  
21 proposed improvement district or if all or part of the local improvement  
district or utility local improvement district lies outside of the city or town,  
such jurisdiction shall be divested by a protest filed in the same manner and  
signed by the owners of property which is within the proposed local  
improvement district or utility local improvement district but outside the  
boundaries of the city or town, and which is subject to sixty percent or more  
of that part of the total cost of the improvement allocable to property within  
the proposed local improvement district or utility local improvement district

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 9**

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1 but outside the boundaries of the city or town, including federally-owned or  
2 other non-assessable property:... [Emphasis added]. *RCW 35.43.180*.

3 7. The City of Tacoma, has further limited its authority to proceed with formation of an  
4 LID in the face of protest by adopting Resolution No. 37956 which expresses the Council's policy  
5 to refrain from forming an LID if property owners representing 50 percent or more of the total  
6 assessments file remonstrances to formation of the district. This policy contains an exception  
7 allowing formation if the City Council has previously determined the LID to be in the best interest  
8 of the City.<sup>5</sup>

9 8. There has been no protest to formation of proposed LID 3970. The zero percent (0%)  
10 remonstrance rate is below both the City's 50 percent limitation and the State's 60 percent  
11 limitation. Therefore, the City has the authority, by statute and its own LID policies, to proceed  
12 with formation of LID 3970.

13 9. The foregoing notwithstanding, there has been evidence presented indicating that the  
14 boundaries of proposed LID 3970 were not properly drawn as presented at the hearing. As with  
15 other properties in and around the proposed LID boundaries, the Ghatans are already connected to  
16 the City wastewater system, they paid a connection fee at the time of connection, and they have  
17 paid City wastewater charges since 1978. The Examiner finds their testimony credible. The City's  
18 post hearing discovery of documentation supporting the Ghatans' testimony puts this issue to rest.  
19 While joining the LID and having a closer connection could be seen as an upgrade for the Ghatans

20 \_\_\_\_\_  
21 <sup>5</sup> See Resolution No. 37956.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 10**

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1 in some respects, they should not be required to do so under the circumstances. Given the Ghatans'  
2 desire to opt out of the LID and the City's recognition of the facts from 1978, the LID boundary  
3 should be redrawn to exclude them with a corresponding change to the legal description in Finding  
4 of Fact 1, and a recalculation of the numbers in Finding of Fact 7. The Ghatans do run the risk of  
5 having to pay a connection fee in the future if the property is connected to the Improvements.

6 10. With the Ghatans excluded, the LID boundaries appear to embrace, as nearly as  
7 practicable, all real property that will be specially benefitted by the wastewater main project.<sup>6</sup> The  
8 boundary includes only properties that will have access to wastewater disposal through the  
9 Improvements. The benefits of the project are special to those properties and, accordingly, they  
10 have been properly included within the boundary of LID 3970.

11 11. Based upon the foregoing, the Hearing Examiner concludes that proposed LID 3970  
12 meets the requirements of State law and the City's ordinances and policies governing improvement  
13 district formation, thereby qualifying the LID to be formed, and the Examiner recommends the  
14 same, as amended for the Ghatan property.

15 12. Any Finding of Fact stated herein above which may be more properly considered or  
16 deemed to be a Conclusion of Law is hereby adopted as such.

17 //

18 //

19 //

20 \_\_\_\_\_  
21 <sup>6</sup> See RCW 35.43.080.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 11**

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1 Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Examiner  
2 enters the following recommendation:

3 **RECOMMENDATION**

4 Based upon applicable Tacoma City Council ordinances and policies and controlling State  
5 law with respect to formation of local improvement districts for wastewater facilities the Hearing  
6 Examiner recommends the City Council approve the formation of proposed Local Improvement  
7 District No. 3970, as amended to exclude the Ghatan property and with the costs and legal  
8 description correspondingly revised. Once the LID Section has made these revisions, they shall  
9 submit them to the Office of the Hearing Examiner for inclusion in this Recommendation through  
10 an addendum.

11 **DATED** this 6th day of November, 2020

12   
13 **JEFF H. CAPELL, Hearing Examiner**

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16  
17  
18  
19  
20  
21  
**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 12**

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1 **NOTICE**

2 **RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION**

3 **RECONSIDERATION:**

4 Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise  
5 provided by law, may file a motion with the Office of the Hearing Examiner requesting reconsideration of  
6 a decision or recommendation entered by the Hearing Examiner. A motion for reconsideration must be in  
7 writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of  
8 the Hearing Examiner within 14 calendar days of the issuance of the Hearing Examiner's  
9 decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last  
10 day for filing the motion for reconsideration falls on a weekend day or a holiday, the last day for filing  
11 shall be the next working day. The requirements set forth herein regarding the time limits for filing of  
12 motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for  
13 reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the  
14 alleged errors shall be dismissed by the Hearing Examiner. It shall be within the sole discretion of the  
15 Examiner to determine whether an opportunity shall be given to other parties for response to a motion for  
16 reconsideration. The Hearing Examiner, after a review of the matter, shall take such further action as  
17 he/she deems appropriate, which may include the issuance of a revised decision/recommendation.  
18 (*Tacoma Municipal Code 1.23.140*).

19 **APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:**

20 Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved person or  
21 entity having standing under the ordinance governing such application and feeling that the  
22 recommendation of the Hearing Examiner is based on errors of procedure, fact or law may have the right  
23 to appeal the recommendation of the Hearing Examiner by filing written notice of appeal and filing fee  
24 with the City Clerk, stating the reasons the Hearing Examiner's recommendation was in error.

25 **APPEALS SHALL BE REVIEWED AND ACTED UPON BY THE CITY COUNCIL IN  
26 ACCORDANCE WITH TMC 1.70.**

27 **GENERAL PROCEDURES FOR APPEAL:**

28 The Official Code of the City of Tacoma contains certain procedures for appeal, and while not listing all  
29 of these procedures here, you should be aware of the following items which are essential to your appeal.  
30 Any answers to questions on the proper procedure for appeal may be found in the City Code sections  
31 heretofore cited:

1. The written request for review shall also state where the Examiner's findings or conclusions were in error.
2. Any person who desires a copy of the electronic recording must pay the cost of reproducing the verbatim recording. If a person desires a written transcript, he or she shall arrange for transcription and pay the cost thereof.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDATION - 13**

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