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THE HEARING EXAMINER OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON

IN RE:
AMBLING UNIVERSITY
DEVELOPMENT, Applicant
4413 Consolidation Avenue
PDC2013-00002, VAR 2013-00001,
DRC2013-00008 & CAP2013-00019/
Planned Development for University Ridge

HE-13PL-007

APPLICANT'S REPLY TO CITY OF
BELLINGHAM'S RESPONSE TO
APPLICANT'S MOTION FOR
RECONSIDERATION

DAWN STURWOLD, HEARING EXAMINER

The Applicant, Ambling Development Group, submits the following reply to the City of Bellingham's Response to Applicant's Motion for Reconsideration (the "Response"). Because the City fails to rebut any of the legal or factual arguments put forth in the Applicant's Motion to Reconsider (the "Motion"), the Hearing Examiner should disregard the Response entirely, and grant the Motion.

The City of Bellingham (the "City") does not substantively respond to the Motion. No analysis or justification is provided in support of its position. Instead, the City merely states that it disagrees with the Applicant.

More importantly, the Response is a complete departure from the City's position in its Staff Report, at the hearing, and in its Post-Hearing Comment. The City's Staff Report and the Post-Hearing Comment provided a robust analysis of the benefit and appropriateness of the Boarding and Rooming House use for the Project.¹ Both recommend

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¹ See City's Staff Report, Section V – Code Analysis, pg. 15. See also City's Post-Hearing Comment, Permitted Use/Density, pgs. 2-3.

APPLICANT'S REPLY TO CITY OF
BELLINGHAM'S RESPONSE TO
APPLICANT'S MOTION FOR
RECONSIDERATION – 1


1 approval of the Boarding and Rooming House use for the Project.² To the extent the City
2 now departs from that position, it should be judicially estopped from doing so.

3 The City provides its interpretation of the Hearing Examiner's Decision (the
4 "Decision") ruling on the additional height restriction, based on the Puget Street centerline.
5 This argument by the City actually supports reconsideration, as it demonstrates the need for
6 a clear rule on the additional height restriction. The Decision leaves open too many avenues
7 for interpretation, which lead to uncertainty and delay. The City's opinion is only one of
8 many possible interpretations of the additional height restriction imposed in the Decision.
9 Thus, the Hearing Examiner should reconsider its decision and impose a height restriction as
outlined by the Applicant in its motion.

10 The Applicant respectfully requests that the Hearing Examiner GRANT the
11 Applicant's Motion for Reconsideration.

12 RESPECTFULLY SUBMITTED this 12th day of November 2013.

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14 BELCHER SWANSON LAW FIRM, PLLC

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17 BRADLEY D. SWANSON, WSBA #37157
18 Attorney for Applicant

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26 ² The Response is more like an acceptance of the Hearing Examiner's Decision than opposition to the
Applicant's Motion.

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THE HEARING EXAMINER OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON

IN RE:	HE-13PL-007
AMBLING UNIVERSITY DEVELOPMENT, Applicant 4413 Consolidation Avenue	DECLARATION OF SERVICE
PDC2013-00002, VAR 2013-00001, DRC2013-00008 & CAP2013-00019/ Planned Development for University Ridge	DAWN STURWOLD, HEARING EXAMINER

I, Mylissa Bode, hereby certify as follows:

I am employed in the County of Whatcom, State of Washington. I am over the age of 18 and not a party to the within action. My business and place of employment is Belcher Swanson Law Firm, PLLC, 900 Dupont Street, Bellingham, Washington 98225.

On the date set forth below, I served the following documents on the interested parties in this action in the manner described below and addressed as follows:

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
Dawn Sturwold Hearing Examiner, City of Bellingham 210 Lottie St. Bellingham, WA 98225	<input checked="" type="checkbox"/> By Hand Delivery <input checked="" type="checkbox"/> By Electronic Mail
Jeff Thomas City of Bellingham Planning Director 210 Lottie St. Bellingham, WA 98225	<input checked="" type="checkbox"/> By Hand Delivery <input checked="" type="checkbox"/> By Electronic Mail
Kathy Bell City of Bellingham Planning Department 210 Lottie St. Bellingham, WA 98225	<input checked="" type="checkbox"/> By Hand Delivery <input checked="" type="checkbox"/> By Electronic Mail

DECLARATION OF SERVICE - 1

ORIGINAL

1 Alan Marriner 2 City of Bellingham, City Attorney 3 210 Lottie St. 4 Bellingham, WA 98225	<input checked="" type="checkbox"/> By Hand Delivery <input checked="" type="checkbox"/> By Electronic Mail
5 Irving H and Joan F. Hawley Trust 6 c/o Kevin DeVries 7 Exxel Pacific 8 323 Telegraph Road 9 Bellingham, WA 98226	<input checked="" type="checkbox"/> By Electronic Mail

7 **1. Applicant's Reply to City of Bellingham's Response to Applicant's**
 8 **Motion for Reconsideration**

9 **2. Declaration of Service**

10 I declare under penalty of perjury under the laws of the State of Washington that
 11 the foregoing is true and correct.
 12

13 Dated this 12 day of November 2013 at Bellingham, Washington.

14 
 15 _____
 16 MYLISSA BODE