

**BEFORE THE LAND USE HEARING EXAMINER
FOR THE CITY OF CAMAS, WASHINGTON**

Regarding an application by Steven McAtee to reconstruct the existing Camas High School tennis courts and cover them with a 59,800-sf dome structure, along with other improvements at 26900 SE 15th Street, in the City of Camas, Washington

**) FINAL ORDER ON
) RECONSIDERATION
) CUP24-1001 (Camas
) HS Tennis Courts)**

A. SUMMARY

1. On April 28, 2025, City of Camas Hearing Examiner Joe Turner (the "examiner") issued a Final Order approving this application subject to conditions (the "Final Order"). Section 18.55.235 of the Camas Municipal Code (the "CMC") provides that any party may request reconsideration of the examiner's decision if they believe that the examiner's decision is "[b]ased on erroneous procedures, errors of law or fact, or the discovery of new evidence which could not be reasonably available at the public hearing..." CMC 18.55.235.

2. On May 8, 2025, Clark and Caryn Vitek ("Petitioners") filed a request for reconsideration of the examiner's Final Order.

3. Based on the findings provided or incorporated herein, the examiner denies Petitioners' reconsideration request.

B. DISCUSSION

1. CMC 18.55.235 provides:

Any party of record believing that a decision of the hearings examiner is based on erroneous procedures, errors of law or fact, or the discovery of new evidence which could not be reasonably available at the public hearing, may make a written request to the examiner, filed with the city clerk, to be accompanied by an appeal fee, for reconsideration by the examiner.

- A. Time Frame. The request for reconsideration shall be filed within fourteen calendar days of the date the decision was rendered.
- B. Content. The request for reconsideration shall contain the following:
 - 1. The case number designated by the city and the name of the applicant;
 - 2. The name and signature of each Petitioner;
 - 3. The specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error. If Petitioner wants to introduce new evidence in support of the appeal, the written appeal must explain why such evidence should be considered.
- C. The hearings examiner may, after review of the materials submitted in conjunction with the reconsideration request, and review of the open record hearing transcript, take further action as he or she deems

proper; including, but not limited to, denying the request, modifying the decision, or affirming the decision.

- D. The hearings examiner shall issue a decision on a request for reconsideration within forty-five (45) days of the filing of the request for reconsideration. When a request for reconsideration has been timely filed, any appeal to Clark County Superior Court under the Land Use Petition Act shall be filed within twenty-one (21) days after a hearings examiner issues its decision on the request for reconsideration.

2. The examiner finds that Petitioners are parties of record; Petitioners participated in review of the original application, submitting oral and written testimony into the record.

3. Petitioners filed the request for reconsideration on May 8, 2025, within the 14 day deadline established by CMC 18.55.235.A. The request for reconsideration includes Petitioners' names, is signed by Petitioners, and specifies which aspects of the decision are being appealed. Therefore the examiner finds that the request complies with the procedural requirements of CMC 18.55.235.

4. Petitioners proposed to submit new evidence with their reconsideration request, specifically "Attachment A, Applicant's business records for rented/leased summer use of the high school courts for the past 3 years" and "Attachment B," an email chain between Petitioners and City staff ending on February 13, 2025.

a. Petitioners assert that they submitted Attachment B to the City, but it was "[e]rroneously omitted from the hearing record." (Petition at 2). The examiner accepts Petitioners' assertion that Attachment B was erroneously omitted from the record and therefore, will allow it into the record on reconsideration.

b. Petitioners failed to make any assertion that Attachment A "[c]ould not be reasonably available at the public hearing..." as required by CMC 18.55.235. Attachment A includes public records that Petitioners received from the Camas School District. Petitioners did not submit their public records request to the School District until April 28, 2025, eleven days after the examiner closed the record in this case.¹ Therefore, the examiner finds that Attachment A must be excluded from the record, as Petitioners failed to demonstrate that Attachment A "[c]ould not be reasonably available at the public hearing..." CMC 18.55.235.

5. In their reconsideration request Petitioners reiterate their argument that the proposed use will increase the volume of p.m. peak hour traffic generated by the existing tennis courts on the site. The examiner addressed that issue in the Final Order and determined that the use will not generate any additional p.m. peak hour traffic. Petitioners reconsideration request fails to demonstrate why that determination was incorrect based on evidence in the record.

¹ "The record in this case closed at 5:00 p.m. on April 17, 2025." Section B.8 of the Final Order.

6. Petitioners further argue that the applicant should be required to pay Traffic Impact Fees (“TIFs”) based on an increase in p.m. peak hour traffic. However, as discussed above, the examiner determined that this use will not increase the amount of p.m. peak hour traffic generated by the existing tennis courts on the site.

a. In addition, the examiner has no authority to determine the TIF amount. Impact fees are “determined at the time of building permit application... CMC 3.88.040.B. The public works director has exclusive authority to determine the amount of the TIF. The director’s TIF calculations may be appealed to the examiner pursuant to CMC 3.88.150. But the Code only allows for appeals by a developer. CMC 3.88.035.

b. The TIF amount is calculated based on the “[a]verage PM peak hour vehicle trip ends for each use, estimated by the current edition of the ITE Trip Generation Manual” CMC 3.88.060. The ITE Manual determines the p.m. peak hour trip generation for tennis courts based on the number of courts. In this case, the number of tennis courts is not changing (although the applicant is eliminating the existing pickle ball courts). Therefore, the “[a]verage PM peak hour vehicle trip ends for each use, estimated by the current edition of the ITE Trip Generation Manual” will not change and, pursuant to CMC 3.88.060, no TIF is due for this use.

i. Petitioners argued that the ITE Manual does not provide a correct estimate of the p.m. peak hour trip generation for this use. However, nothing in the plain language of the Code requires the City to disregard the trip generation estimates in the ITE Manual. CMC 3.88.135 authorizes, but does not require, the director to consider alternative methods for calculating impact fees “If the director believes in good faith that...” the calculated fee amounts for a particular use are incorrect. But the determination of whether to utilize an alternative TIF calculation method is exclusively within the director’s discretion. The examiner has no authority to require the use of such alternative calculation methods.

(A) Contrary to Petitioners assertion, the ITE manual does not state that the trip generation estimates in Category 490 (Tennis Courts) is “unreliable.” The Manual merely says “Caution: Small Sample Size.” (Ex 71 at 24).

7. The issues raised in Petitioners’ Attachment B were raised in the prior proceedings and this email does not change the examiner’s analysis.

D. CONCLUSION

Based on the above findings and discussion, the examiner concludes that Petitioners’ reconsideration request does not comply with the requirements of CMC 18.55.235. Specifically, Petitioners proposed to offer new evidence on reconsideration, but they failed to address the requirement that they demonstrate that the new evidence “[c]ould not be reasonably available at the public hearing...” *Id.* and they failed to allege any sustainable erroneous procedures, or errors of law or fact. Therefore the examiner must deny Petitioners’ motion for reconsideration.

E. DECISION

Based on the findings, discussion, and conclusions provided or incorporated herein and the public record in this case, the examiner hereby denies Petitioners' reconsideration request.

DATED this 19th day of May 2025.

A handwritten signature in black ink, appearing to read "Joe Turner", is written over a horizontal line.

Joe Turner, AICP
City of Camas Land Use Hearing Examiner