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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In Re: Appeal by

SAVE MADISON VALLEY

of Decisions Re Land Use Application,
Design Review, and Code Interpretation
for 2925 East Madison Street, Project
3020338-LU and 3028345

HEARING EXAMINER FILE:
MUP 18-020 (DR, W) & S-18-011

APPELLANT’S PRELIMINARY
WITNESS AND EXHIBIT LIST

Pursuant to the Hearing Examiner’s Second Amended Prehearing Order (Sept. 26, 2018),
Appellant Save Madison Valley submits the following preliminary lits of witnesses and exhibits:

I. WITNESSES

Appellant may call the following witnesses to testify at the appeal hearing. The general
subject matter of their expected testimony is noted below.

1. Tony Hacker. Mr. Hacker is a resident in the Madison Valley Neighborhood who lives
adjacent to the proposed project site. If called, Mr. Hacker is expected to testify primarily about the
existing environment on and near the project site that will be affected by the East Madison Street
Proposal, including discussion about past flooding events that have caused injury to the neighborhood.
He may also testify about the probable significant adverse impacts of the Proposal and the inadequacy
of the disclosure and analysis of those impacts by SDCI. The impacts that he may discuss include,

1 but are not limited to, height, bulk and scale impacts, aesthetic impacts, impacts on traffic and
2 transportation, construction-related impacts, storm- and wastewater impacts, and impacts associated
3 with the loss of trees and wildlife habitat.

4 Mr. Hacker will also testify about how the Director erred in failing to collect information about
5 potential significant impacts that will be caused by the Proposal. He will also demonstrate that the
6 information provided by the applicant in the environmental checklist and the supplemental
7 information relied upon by the responsible official to issue a DNS was inadequate, misleading,
8 incomplete, and incorrect.

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10 Mr. Hacker may also testify about facts that are relevant to provide context or background for
11 expert and legal discussion about the Proposal's inconsistencies with the Design Guidelines. He may
12 also testify about facts that are relevant to the legal arguments concerned the Design Review, SEPA
13 review, and land use review processes, how they were handled, how they violated SEPA requirements,
14 and how they did not allow for meaningful public participation.

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16 2. Kevin Murphy. Mr. Murphy is a resident in the Madison Valley Neighborhood who
17 lives near the proposed project site. If called, Mr. Murphy is expected to describe the existing
18 environment on and near the project site that will be affected by the East Madison Street Proposal. He
19 may also testify to some degree about the probable significant adverse impacts of the Proposal and the
20 inadequacy of the disclosure and analysis of those impacts by SDCI. The impacts that he may discuss
21 include, but are not limited to, height, bulk and scale impacts, aesthetic impacts, impacts on traffic and
22 transportation, construction-related impacts, noise impacts, storm- and wastewater impacts, and
23 impacts associated with the loss of trees and wildlife habitat. He will also testify about how the
24 Director erred in failing to collect information about the potential impacts that will be caused by the
25 Proposal.
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1 3. Wallis Bolz. Ms. Bolz is a resident of Madison Valley Neighborhood who lives near
2 the proposed project site. If called, Ms. Bolz is expected to testify about the existing environment on
3 and near the project site that will be affected by the East Madison Street Proposal, specifically with
4 respect to the existing the Mad P-Patch garden. She will also testify about how the Proposal will
5 significantly and adversely impact the Mad P-Patch community and describe the extent that the
6 Director failed to collect the necessary and adequate information upon which to make a determination
7 on whether the proposal would have significant adverse impacts to the Mad P-Patch garden.
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9 4. Jay McCleery. Mr. McCleery is a resident of Madison Valley Neighborhood who lives
10 near the proposed project site. If called, Mr. McCleery is expected to testify about applicant's solar
11 study and describe, as a lay person, what that study reveals and what it doesn't reveal with respect to
12 impacts caused by the buiding's shadows and blocking daylight.
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14 5. Andrew Kirsh. Mr. Kirsh is a resident of Madison Valley who is a hobby birder. He
15 will testify as either an expert or lay witness (as deemed appropriate) about the species of birds that
16 are present on the site.

17 6. Peter Steinbrueck. Steinbrueck Urban Strategies. Mr. Steinbrueck will testify as an
18 expert witness about Design Review, SEPA review, and code interpretations to the extent that they
19 relate to land use and aesthetic (including height bulk and scale) issues. He is expected to describe the
20 existing environment, specify the probable significant adverse impacts that will be caused by the
21 Proposal, and discuss reasonable mitigation that should have been considered related to land use and
22 aesthetics (including height, bulk, and scale). He is expected to testify that SDCI did not require or
23 collect the necessary and adequate information upon which to make a determination on whether the
24 East Madison Street Proposal would have significant adverse impacts related to land use and aesthetics
25 (including height, bulk, and scale). He is expected to testify that the significant adverse environmental
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1 impacts related to land use and aesthetics were not adequately disclosed, analyzed, or mitigated by
2 SDCI and the City's regulations do not adequately address or mitigate the environmental impacts of
3 this Proposal. He is expected to explain how the Proposal is inconsistent with the spirit and intent of
4 the height limit provision in the code.

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6 Mr. Steinbrueck is also expected to testify about how the East Madison Street Proposal is
7 inconsistent with the Citywide Design Guidelines and SDCI and the Design Review Board misapplied
8 and misconstrued these Design Guidelines when it recommended approval of the Proposal. His
9 testimony is expected to provide facts and context for the argument that SDCI erred when it concluded
10 that the decision and recommendation of the Design Review Board was consistent with the Design
11 Guidelines. Mr. Steinbrueck's Curriculum Vitae is included in Appellant's exhibit list.

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13 7. Tina Cohen. Ms. Cohen will testify as an expert witness about SEPA review, Design
14 Review, and code interpretations to the extent that they relate to tree and vegetation issues. She is
15 expected to testify about the existing environment, the probable significant adverse impacts that will
16 be caused by the Proposal, and reasonable mitigation that should have been considered related to trees
17 and vegetation. She is expected to testify about how SDCI did not require or collect the correct,
18 necessary and adequate information upon which to make a determination on whether the East Madison
19 Street Proposal would have significant adverse impacts related to trees and vegetation. She is expected
20 to testify that the significant adverse environmental impacts related to trees and vegetation were not
21 adequately disclosed, analyzed, or mitigated by SDCI, that the City's regulations do not adequately
22 address or mitigate the environmental impacts of this Proposal, and that the mitigation proposed by
23 the Applicant and accepted by SDCI is not adequate.

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1 Ms. Cohen is also expected to provide testimony that is relevant to the East Madison Street
2 Proposal is inconsistent with the Citywide Design Guidelines to the extent that trees or vegetation are
3 addressed by those Guidelines.

4 Ms. Cohen is also expected to provide expert information and opinion with respect to the
5 Appellant's contention that the East Madison Street Proposal is inconsistent with the tree removal
6 restrictions set forth in Ch. 25.11 SMC. She will provide facts and background to demonstrate why
7 the proposed removal of trees does not comply with the requirements set forth in SMC 25.11.040;
8 SMC 25.11.050; SMC 25.11.080; SMC 25.11.090. She will explain that the applicant did not
9 adequately identify the trees that are subject to the code limitations; did not demonstrate that removal
10 of trees is justified; did not meet the canopy replacement requirements in the code; and did not meet
11 the replacement and restoration requirements in the code. Ms. Cohen will testify that the mitigation
12 plan will not meet code requirements.

13 Ms. Cohen's Curriculum Vitae is included in the Appellants exhibit list.

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16 8. Ross Tilghman. Mr. Tilghman is a transportation planner and owner of the Tilghman
17 Group. Mr. Tilghman will testify as an expert witness about Design Review, SEPA review, and code
18 interpretations to the extent that they relate to traffic and transportation issues. He is expected to testify
19 that SDCI did not require or collect the necessary and adequate information upon which to make a
20 determination on whether the East Madison Street Proposal would have significant adverse impacts
21 related to traffic and transportation. He is also expected to testify about the existing environment, the
22 probable significant adverse impacts that will be caused by the Proposal, and reasonable mitigation
23 that should have been considered related to traffic and transportation impacts. He will testify about
24 congestion and safety impacts on residential streets in the single family neighborhood adjacent to and
25 near the proposal and/or other streets at the top of the hill (including Madison and Lake Washington
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1 Blvd.) and about how intersections in the area will be affected by the proposal. He will testify about
2 impacts that will result from the design and use of the commercial entrance on Madison. He will testify
3 about impacts associated with the access to the site to and from Dewey. He is expected to testify that
4 the significant adverse environmental impacts related to traffic and transportation impacts were not
5 adequately disclosed, analyzed, or mitigated by SDCI and the City's regulations do not adequately
6 address or mitigate the environmental impacts of this Proposal. He will also cover topics that were
7 set forth in letters that he prepared and submitted during the review process including issues with the
8 traffic report submitted by the applicant. Mr. Tilghman's Curriculum Vitae is included in the
9 Appellants exhibit list.

11 9. Tom Spangenberg. Mr. Spangenberg is a water resources engineer with 20 years of
12 experience in hydraulic, hydrologic, and drainage engineering involving, *inter alia*, combined systems
13 capacity analysis, urban stormwater infrastructure analysis, FEMA floodplain mapping, floodplain
14 restoration, and fish passage analysis. His technical expertise spans from conceptual design through
15 alternatives analysis, final design, and preparation of construction documents.

17 Mr. Spangenberg is expected to testify as an expert witness about adverse stormwater impacts
18 associated with the project and lack of reasonably sufficient information in support of the city's
19 threshold determination. Mr. Spangenberg's testimony is expected to include issues relating to the risk
20 of future flooding caused by adding more stormwater to the city's combined drainage system, impacts
21 on water quality in Lake Washington from combined sewer overflow events, the deadly storm event
22 and flooding of 2006, which took the life of one neighborhood resident, and groundwater impacts.

24 Mr. Spangenberg's Curriculum Vitae is included in the Appellants exhibit list.

25 10. Shawn Ketchum Johnson. Mr. Johnson is a scenic designer and visual artist who works
26 for Seattle University. Mr. Johnson designed and built a 3D model of the proposal and he will describe

1 the process for building the model. Mr. Johnson's Curriculum Vitae is included in the Appellants
2 exhibit list.

3 11. Scott Maco, Director of Research and Development at the Davey Institute. Mr. Maco
4 leads development of the i-Tree Tools. If called, Mr. Maco would testify as an expert witness about
5 the benefits and value of the trees currently and how those benefits and values will be impacted by the
6 proposal. Mr. Maco's testimony would include similar information as was provide in comment letters
7 that were submitted by Matthew Patterson during the land use review process that are in the public
8 record for this proposal. Mr. Maco's Curriculum Vitae is included in the Appellants exhibit list
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10 12. Witnesses named by other parties in this matter.

11 Appellant reserves the right to call additional rebuttal witnesses; to supplement this disclosure
12 with witnesses and/or experts as the case is developed; to call records custodians to verify the
13 authenticity of records; to call any witnesses identified by other parties to this appeal and to call
14 rebuttal witnesses; and to call replacement witnesses if any of the witnesses identified above become
15 unavailable.
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17 18 **II. EXHIBITS**

19 Appellant identifies the following exhibits it may use at the hearing in this matter:

20 1. All files and records that have been uploaded and are listed on the Project Portal
21 online for DCI Project No. 3020338-LU; DCI Project No. 3028345-IR; DCI Project No.; 6541076-
22 CN; DCI Project No. 6610469-CN.

23 2. All files and records that are listed in the Preliminary SDCI List of Exhibits and
24 Witnesses (October 15, 2018).
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26 3. Curriculum Vitae of Tom Spangenberg

- 1 4. Curriculum Vitae of Tina Cohen
- 2 5. Curriculum Vitae of Peter Steinbrueck
- 3 6. Curriculum Vitae of Ross Tilghman
- 4 7. Curriculum Vitae of Scott Maco
- 5 8. Curriculum Vitae of Shawn Ketchum Johnson
- 6 9. Navix, Stormwater Drainage Report (Nov. 17, 2017)
- 7 10. CH2M Hill, Madison and Mercer/30th Flooding Investigation Findings Report (April
- 8 2007)
- 9 11. Northwest Hydraulic Consultants, Madison Valley In-Basin Analysis of Long-Term
- 10 Alternatives, Final Report (Oct. 2008)
- 11 12. Photos of 2006 flood event and damage
- 12 13. Videos and photographs of the existing project site and surrounding area.
- 13 14. Graphics/Maps that identify location points for traffic and transportation discussion
- 14 15. Graphic/Map of Madison Frontage
- 15 16. Annotated SEPA checklist
- 16 17. 3D Model of the Proposal
- 17 18. Topographic site plan with tree labels incorporated
- 18 19. Site plan showing tree driplines, groves, and exceptional trees
- 19 20. Landscape Plans with green factor areas highlighted
- 20 21. Email from Wallis Bolz to Magda Hogness (Jan. 24, 2017)
- 21 22. Email from Paddy McDonald to PRC (Jan. 25, 2017)
- 22 23. Email from Maluhia Pacal to PRC (Jan. 25, 2017)
- 23 24. Email from Austin Smith to PRC (Jan. 30, 2017)
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- 1 25. Letter from Paul Crowther to Chris Davidson and Magda Hogness (June 6, 2017)
- 2 26. Email from Save Madison Valley to PRC (June 4, 2017)
- 3 27. Email from Andrew Kirsh to PRC (May 24, 2017)
- 4 28. Email from Save Madison Valley to PRC (May 22, 2017)
- 5 29. Peter Steinbrueck EDG3 Public Comments (Jan. 27, 2017).
- 6 30. Email from Ross Tilghman to Magda Hogness (Jan. 18, 2017)
- 7 31. Memo from Ross Tilghman to Melissa Stoker (Sep. 9, 2016)
- 8 32. Memo from Ross Tilghman to Melissa Stoker (May 1, 2017)
- 9 33. Letter from Claudia Newman to Magda Hogness and PRC re: comments on MUP
- 10 Application (May 23, 2017).
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- 12 34. Request for Code Interpretation from Claudia Newman to SDCI (May 23, 2017)
- 13 35. SDCI Director's Rule 21-2017
- 14 36. Letter from Matthew Patterson to the Seattle Design Review Board (Jul. 12, 2016)
- 15 37. Letter from Matthew Patterson to the Seattle Design Review Board (Oct. 14, 2016)
- 16 38. Appellant may rely on and submit either portions of or the entire City of Seattle
- 17 Comprehensive Plan and Citywide Design Guidelines.
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19 In addition to the exhibits identified above, appellant reserves the right to introduce exhibits

20 identified by any other party, to introduce additional exhibits as allowed by the City of Seattle Hearing

21 Examiner Rules, and to introduce additional exhibits during cross-examination or rebuttal.

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Dated this 19th day of October, 2018.

Respectfully submitted,
BRICKLIN & NEWMAN, LLP

By: 

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