

Description

Minutes for MUP-18-020 & S-18-011 Day 1
Save Madison Valley
2925 E Madison St
Monday, December 10, 2018

Time: 9:00 a.m.
Examiner: Barbara Dykes Ehrlichman
Assistant: Alayna Johnson

Party Representatives:

Bryan Telegin, Counsel for Appellant
1424 Fourth Ave, Suite 500
Seattle, WA 98101

Claudia Newman, Counsel for Appellant
1424 Fourth Ave, Suite 500
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Magda Hogness, for Department
SDCI
700 Fifth Ave
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William Mills, for Department
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700 Fifth Ave
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Patrick Mullaney, Counsel for Applicant
1111 Third Ave, Suite 3000
Seattle, WA 98101

Michelle Rusk, Counsel for Applicant
1111 Third Ave, Suite 3000
Seattle, WA 98101

Date

12/10/2018 **Location** Large Hearing Room

<u>Time</u>	<u>Speake</u>	<u>Note</u>
9:00:47 AM		Hearing Examiner opens hearing and begins opening statement.
9:01:30 AM		Parties are introduced. Bryan Telegin and Claudia Newman, Counsel for Appellant, are present. Magda Hogness and William Mills are present for the Department, SDCI. Patrick Mullaney and Michelle Rusk, Counsel for Applicant, are present.
9:06:59 AM		Newman asks procedural question.
9:07:19 AM		Mills mentions potential issue regarding witness availability.
9:08:45 AM		Newman begins opening statement for Appellant.
9:13:37 AM		Newman concludes.
9:13:41 AM		Mills begins opening statement for the Department.
9:17:58 AM		Mills concludes.
9:18:02 AM		Mullaney begins opening statement for Applicant.
9:33:27 AM		Mullaney concludes.
9:33:50 AM		Newman offers Declaration of Shawn Ketchum Johnson and it is marked and admitted as Exhibit 1.
9:34:30 AM		Newman offers 3D model of the site and it is marked and admitted as Exhibit 2.
9:35:31 AM		Newman begins direct examination of Ketchum Johnson.
9:35:55 AM		Newman requests that the Declaration be read into the record. Ketchum Johnson is sworn in.
9:37:18 AM		Ketchum Johnson reads Declaration.
9:40:39 AM		Ketchum Johnson concludes. Newman concludes direct examination.
9:40:49 AM		Mullaney asks procedural question regarding numbering exhibits. Hearing Examiner and Legal Assistant respond.
9:42:49 AM		Mullaney begins cross examination of Ketchum Johnson.
9:58:23 AM		Mullaney concludes.
9:58:27 AM		Newman begins redirect examination of Ketchum Johnson.
10:00:58 AM		Newman concludes.
10:01:02 AM		Mullaney begins re-cross examination of Ketchum Johnson.
10:01:19 AM		Newman objects.
10:01:30 AM		Mullaney responds.
10:01:46 AM		Newman replies.
10:01:50 AM		Overruled.
10:03:32 AM		Mullaney concludes.
10:04:18 AM		Telegin calls Kevin Murphy as a witness and he is sworn in.
10:04:57 AM		Telegin offers photograph of overhead view of the site and it is marked and admitted as Exhibit 3.
10:05:48 AM		Telegin begins direct examination of Murphy.
10:11:48 AM		Telegin offers flash drive with video to be entered into the record.
10:15:33 AM		Telegin plays video made by Murphy.
10:23:42 AM		Telegin concludes.
10:23:46 AM		Break. Back at 10:40.
10:40:16 AM		Back on the record.

10:40:38 AM	Mullaney begins cross examination of Murphy.
10:43:10 AM	Telegin objects; outside scope. Withdrawn.
10:44:16 AM	Mullaney concludes.
10:44:27 AM	Telegin calls Tony Hacker as a witness.
10:46:02 AM	Hacker is sworn in.
10:46:29 AM	Telegin begins direct examination of Hacker.
10:49:43 AM	Telegin offers packet of photographs and they are marked as Exhibit 5.
10:58:18 AM	Exhibit 5 is admitted.
11:17:15 AM	Telegin offers two exhibits and they are marked and admitted as Exhibit 6 and Exhibit 7.
11:19:36 AM	Telegin offers SEPA environmental checklist, annotated by Tony Hacker, and it is marked and admitted as Exhibit 8.
11:23:23 AM	Mullaney objects; mischaracterization of testimony.
11:23:39 AM	Sustained.
11:53:21 AM	Telegin offers packet of flood damage photographs and they are marked and admitted as Exhibit 9.
12:05:02 PM	Telegin offers second video and it is marked and admitted as Exhibit 10.
12:15:02 PM	Mullaney objects; leading.
12:15:10 PM	Sustained.
12:21:44 PM	Mullaney objects; characterization of "springs" on site. Hearing Examiner asks witness to clarify what they mean by springs.
12:23:16 PM	Break for lunch. Back at 1:40.
1:40:56 PM	Back on the record.
1:41:07 PM	Telegin continues direct examination of Hacker.
1:44:37 PM	Telegin offers e-mail from Shirlee Tan to Melinda Herbaugh and it is marked and admitted as Exhibit 11.
1:45:31 PM	Mullaney objects; leading. Sustained.
1:51:50 PM	Telegin offers cycle 6 MUP plan set and it is marked and admitted as Exhibit 12.
1:58:33 PM	Telegin concludes.
1:59:03 PM	Mullaney begins cross examination of Hacker.
2:31:27 PM	Mullaney concludes.
2:31:30 PM	Telegin begins redirect examination of Hacker.
2:34:08 PM	Mullaney objects; leading. Sustained.
2:37:30 PM	Telegin concludes.
2:37:34 PM	Mullaney begins re-cross examination of Hacker.
2:39:32 PM	Mullaney concludes.
2:40:00 PM	Newman calls Peter Steinbrueck as a witness and he is sworn in.
2:41:07 PM	Newman begins direct examination of Steinbrueck.
2:42:47 PM	Newman offers curriculum vitae of Peter Steinbrueck and it is marked and admitted as Exhibit 13.
2:45:42 PM	Mullaney makes standing objection to testimony of Steinbrueck on design review guidelines.
2:47:02 PM	Newman responds.

2:47:21 PM	Hearing Examiner will allow testimony.
2:53:40 PM	Newman offers the Director's decision and it is marked and admitted as Exhibit 14.
2:57:36 PM	Mullaney asks question about potential exhibit.
2:58:22 PM	Mullaney objects; relevance.
2:59:09 PM	Hearing Examiner requests more foundation from Newman.
3:00:14 PM	Hearing Examiner will allow the exhibit. It is marked and admitted as Exhibit 15.
3:10:56 PM	Mullaney objects; leading. Sustained.
3:15:41 PM	Mullaney objects; leading.
3:15:50 PM	Sustained.
3:37:16 PM	Break. Back. at 3:55.
3:55:28 PM	Back on the record.
4:02:44 PM	Mullaney objects; leading. Sustained.
4:09:48 PM	Newman offers SDCI Zoning Coaching document and it is marked as Exhibit 16.
4:15:04 PM	Mullaney objects; issue has been dismissed.
4:15:57 PM	Overruled pertaining to SEPA only.
4:26:28 PM	Newman concludes.
4:26:31 PM	Mills begins cross examination of Steinbrueck.
4:27:57 PM	Mills concludes.
4:28:14 PM	Mullaney begins cross examination of Steinbrueck.
4:28:17 PM	Newman objects; asked and answered. Overruled.
4:48:54 PM	Newman objects; ambiguous. Mullaney rephrases.
4:49:29 PM	Newman objects; compound. Withdrawn.
4:50:19 PM	Mullaney offers e-mail from Peter Steinbrueck to PRC and it is marked and admitted as Exhibit 17.
4:53:41 PM	Mullaney concludes for today. Cross examination will continue on Wednesday when Steinbrueck returns.
4:54:09 PM	Hearing Examiner closes Day 1 of the hearing.