

Hearing Examiner Ryan Vancil

BEFORE THE HEARING EXAMINER  
FOR THE CITY OF SEATTLE

In the Matter of the Appeals of	)	Hearing Examiner File:
	)	<b>MUP-18-022</b>
DAVID MOEHRING, NEIGHBOR	)	
TO 2300 W EMERSON ST	)	
	)	APPELLANT'S FINAL
Of the Determination of Non-	)	WITNESS AND EXHIBIT LIST
Significance to the Land Use	)	
Application for 2300 W Emerson St.	)	
	)	

Pursuant to the revised Prehearing Order dated December 17, 2018, Appellant David Moehring, Neighbor to 2300 W Emerson Street, submits the Appellant's Final Witness and Exhibit List. Digital files of the Exhibit Entries 1 to 48 are issued to the SDCI and the Applicant's legal representative the same day.

Although not completely listed herein, the exhibits shall inherently include the original appeal and all documents that were previously submitted to the Office of the Hearing Examiner and recorded on the website for MUP-18-022. Also not included with the list herein, but will be referenced in the appeal hearing, are all relative sections of the Seattle Municipal Code (hereafter "SMC") Land Use Title 23 or other applicable codes. Also not included with the list herein, but will be referenced in the appeal hearing, are all relative documents available specifically for this project on the Seattle Department of Construction and Inspections (hereafter the "SDCI" or the

Department). City records dated subsequent to the date of this appeal should not be referenced as part of the Appellant's or Applicant's arguments.

## APPELLANT EXHIBIT LIST

### **Exhibit Entry # : Description**

*[\* Documents already available on the SDCI digital record for the project.]*

Appellant Entry 1: SDCI Public Files Index for 2300 W Emerson St (as of Nov. 1, 2018)

\* Appellant Entry 2: Analysis and Decision of the Director of the SDCI (Sept. 13, 2018)

\* Appellant Entry 3: Notice of Decision - SDCI (Sept. 13, 2018)

\* Appellant Entry 4: Notice of Appeal (Sept 23, 2018)

\* Appellant Entry 5: Existing Site Plan

\* Appellant Entry 6A Site Plan (Proposed)

Appellant Entry 6B\_Site Plan ROW contours

Appellant Entry 7A Annotated Site Plan

Appellant Entry 7B Annotated Alternative Site Plan

\* Appellant Entry 8 Complete Plan Set

Appellant Entry 9: GIS Area Map

\* Appellant Entry 10 Arborist Report (Tony Shoffner)

\* Appellant Entry 11A Site Photos (posted by SDCI)

Appellant Entry 11B Tree Protection Diagram and Added ROW Tree Photos

Appellant Entry 12A Landslide Prone Areas

Appellant Entry 12B Close-up Landslide Prone Areas

Appellant Entry 12C ECA Close-up Area

\* Appellant Entry 13 Geotechnical Summary (Geotech Consultants Inc.)

Appellant Entry 14: Sample Updated Arborist Report and Inventory (February 11, 2014)

\* Appellant Entry 15A: SEPA Checklist (annotated by SDCI)

1 Appellant Entry 15B: SEPA Checklist (annotated by SDCI Benson)  
2 \* Appellant Entry 16: SDCI ECA Correction Notice #2 (August 23, 2018)  
3 Appellant Entry 17: "Landslide Lessons Learned" (QA & Magnolia News)  
4 Appellant Entry 18 When Environmental Review Is Required in Seattle (CAM 208)  
5 Appellant Entry 19 SDOT Street Tree Manual (pages 1, 3-5, 7-11, 17-22, 25-30 of original 60  
6 page document)  
7 Appellant Entry 20: Urban Bird Treaty letter (adopted June 7, 2017)  
8 Appellant Entry 21: Urban Forestry Stewardship Plan 2013 (pages 1, 8-25, 29-33, 37-40, 53, 60-  
9 63, and 73 of original 79 page document)  
10 Appellant Entry 22: Diagram of Fact – Area Trees cut down and proposed to be removed (JD)  
11 Appellant Entry 23: Correspondence Roberts; SDCI arborist Correction Notice #1 (April 10, '18)  
12 Appellant Entry 24 Correspondence Moehring - Roberts – Bernard (November 9, 2018)  
13 Appellant Entry 25 Zeb Haney arborist profile  
14 Appellant Entry 26 David Moehring, Architect profile  
15 Appellant Entry 27 Public Comment – Moehring – September 28, 2017  
16 Appellant Entry 28: Sample Magnolia development property with impacts  
17 Appellant Entry 29: Toppled tree SEPA affects (BB)  
18 Appellant Entry 30: (Movie clip) Storm in alley  
19 Appellant Entry 31: Neighboring development  
20 Appellant Entry 32: McDonald agreement with Developer  
21 Appellant Entry 33: 3827 W 23<sup>rd</sup> Ave Site Plan  
22 Appellant Entry 34: 3827 W 23<sup>rd</sup> Ave Plan Set  
23 Appellant Entry 35: 3827 DNS Notice from SDCI  
24 Appellant Entry 36: 3827 W 23<sup>rd</sup> Ave SEPA (SDCI)  
25 Appellant Entry 37 3827 and 3829 W 23<sup>rd</sup> Ave Analysis (SDCI)  
Appellant Entry 38 Public Comment on 3827 W 23<sup>rd</sup> Ave (BM)  
Appellant Entry 39 Correspondence SDCI King – Benson (April 12, 2018)  
Appellant Entry 40 Testimony of Nolan Rundquist, SDOT City Arborist  
Appellant Entry 41: Correction Item Clarification North from Dean Griswold (Oct 5, 2018)  
APPELLANT'S EXHIBIT & WITNESS LIST - 3

1 Appellant Entry 42: Correspondence ROW Emerson Huck (May 21, 2018)

2 Appellant Entry 43: Public Records Request 15 Oct 2018

3 Appellant Entry 44 MUP-17-035 Notice of Appeal to 1933 5th Avenue

4 Appellant Entry 45 MUP-17-035 Amended Findings and Decision

5 Appellant Entry 46: Director's Rule 7-2018 (pages 1-6)

6 Appellant Entry 47: Director's Rule 6-2001

7 Appellant Entry 48: Art Pederson trees on neighboring lot (October 23, 2018)

## 8 APPELLANT WITNESS LIST

### 9 Subpoenaed Witness and Parties to the Appeal to Testify List:

10 1. Tony Shoffner, arborist of applicant. (45 minutes)

11 2. James Strange, Jr., Geotech Consultants, engineer of applicant, 2401 10<sup>th</sup> Ave E. (45 minutes)

12 3. Ben Roberts, Seattle Landscape Architect, Seattle Department of Transportation (SDOT). (1.5  
13 hours)

14 4. Julian Weber, Applicant, JW Architects, 1257 S King Street, Seattle, WA 98144. (1 hour)

15 5. Lindsay King, Seattle Department of Construction and Inspections (SDCI). (1 hour)

### 16 Expert Witness List:

17  
18 1. David Moehring, Registered Architect IL #001012961 and Certified with the National Council  
19 of Architectural Registration Boards. Mr. Moehring is a Senior Capital Planner at the University  
20 of Washington Bothell and active outside of the University is an advocate for the urban  
21 environment. In addition to being the appellant representative, he will review the SEPA and  
22 Seattle Code requirements that apply to the Determination of Non-Significance. He will review  
23 the applicant's drawings which define the scope of the Application. (1-1/2 to 2 hours)

24 2. Zeb Haney, ISA Board Certified Master Arborist PN-5840BT. Zeb Haney is the president and  
25 founder of Tree Resource. Mr. Haney started working as an arborist in 2000, and has been a

1 member of the International Society of Arboriculture since 2002. The BCMA represents less  
2 than one percent of all arborists. He will address to the adequacy and completeness of the owner-  
3 engaged arborist report as one of the components of the SEPA Checklist used in the  
4 determination, and will provide practical insights on the existing street trees as they may be  
5 impacted by the proposed development. Estimated Time: (1-1/2 hours)

6 3. Steve Zemke. Mr. Zemke resides in the City of Seattle and serves on the City's Urban Forestry  
7 Commission. He will testify on behalf of the Urban Forestry Commission concerning the City's  
8 history of policies and ordinances regarding conservation of trees and tree canopy, particularly  
9 the lack of enforcement. Estimated Time: (1-hour)

10 4. Michael Oxman, ISA Certified Arborist. Mr. Oxman has been an arborist with a Tree Risk  
11 Assessment Qualification since 1985, as well as having experience with Seattle Parks in 2002  
12 and 2003. He will address to the risks to existing trees with root feeder zone and tree dripline  
13 within excavations of the proposed development and utilities and services. Michael will  
14 substitute for Zeb Haney if there are scheduling issues. Estimated Time: (1/2 hours)  
15

16  
17 Fact Lay Witness List

- 18 1. Bonnie McDonald, 3823 23<sup>rd</sup> Ave W, Seattle WA 98199, co-appellant  
19 2. Barbara Bernard, 3010A 31<sup>st</sup> Ave W, Seattle WA 98199, tree and wildlife advocate  
20 3. James Davis, 3816 28<sup>th</sup> Ave W, Seattle WA 98199, tree advocate

21 Additionally, the Appellant reserves the right (a) to call any witness identified by  
22 any party, (b) to use any of the documents identified by any other party, (c) to call substitute  
23 witnesses if any identified witness becomes unavailable, (d) to call rebuttal witnesses, (e) to call  
24 additional witnesses as allowed by Seattle Hearing Examiner Rules, and. (f) to supplement this  
25 preliminary witness and document list as new or more information becomes available.

1        Time period for each witness's testimony per Hearing Examiner's Order. The  
2 approximate time periods for each witness's direct testimony (in parentheses at the end of each  
3 witness summary) does not include time to authenticate documents, arguments about the  
4 admissibility of documents if the Respondent will not stipulate to admission of the document(s),  
5 nor time for cross examination and re-direct testimony.  
6  
7  
8  
9

10 Dated: January 7, 2019

A handwritten signature in dark ink, appearing to read "David Moehring", with a large, stylized loop at the end.

11 By:

12 David Moehring  
13 Authorized Representative for Appellant  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## Certificate of Service

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies, via e-mail, of the attached David Moehring, the Neighbor to 2300 23<sup>rd</sup> Ave West, **Appellant's Final Witness & Exhibit's List** to every person listed below, in the matter of the **LAND USE DECISION APPEAL** to the Short Subdivision to create two parcels of land from 2300 West Emerson Street lot, Hearing Examiner File No. MUP-18-022.

**Department:**

Lindsay King  
Seattle Department of Construction & Inspections  
Email: [lindsay.king@seattle.gov](mailto:lindsay.king@seattle.gov)

**Applicant:**

Julian Weber, JW Architects  
1257 S King Street, Seattle, WA 98144  
Email: [dpd@jwaseattle.com](mailto:dpd@jwaseattle.com)

**Applicant Legal Counsel:**

Brandon Gribben  
Helsell Fetterman LLP  
1001 Fourth Avenue, Ste 4200, Seattle, WA 98154  
Email: [bgribben@helsell.com](mailto:bgribben@helsell.com)

**Office of the Hearing Examiner:**

City of Seattle  
Seattle, WA 98124  
[hearing.examiner@Seattle.gov](mailto:hearing.examiner@Seattle.gov)

Dated January 7, 2019



David Moehring  
Appellant, Neighbor to 2300 West Emerson Street  
3444 23<sup>rd</sup> Ave West  
Seattle WA 98199