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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

MOTION SEEKING RESTORATION  
OF AUDIO RECORDING

Pursuant to HER 2.16, Appellant Save Madison Valley seeks repair and restoration of corrupted portions of the electronic audio recording of the Hearing Examiner proceedings in this appeal.

Critical portions of the electronic recording of the proceedings in this matter have been corrupted with static white noise that overrides the testimony of Appellant’s witnesses. At the very least, we have discerned that significant portions of the testimony of Tom Spandenberg (Hearing Day 2); Ross Tilghman (Hearing Day 2); and Tina Cohen (Hearing Day 3) are corrupted and impossible to hear because of static that was presumably caused by the microphone that they were using.

The loss of this testimony causes significant prejudice to Appellant as the content of the missing testimony was critical to support Appellant’s arguments on the issues on appeal, threatening Appellant’s due process rights. If there is a judicial appeal of the Examiner’s decision, the loss of this


1 testimony is likely to be even more prejudicial and irreparable. Any such appeal would be brought  
2 pursuant to Washington’s Land Use Petition Act (“LUPA”), under which the record may be  
3 supplemented only in circumstances that do not apply here. *See* RCW 36.70C.120(2)(a–c).

4 Under SMC 3.02.090.G, “[o]ral testimony shall be electronically recorded”). And under SMC  
5 3.02.290.F, “the record . . . shall include . . . [e]vidence received or considered.” Unless the audio  
6 recordings are restored, the record will fail to include testimony provided by Appellant’s witnesses, in  
7 violation of these rule.

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9 Appellant Save Madison Valley requests that the Hearing Examiner’s office take necessary  
10 steps to repair and restore all portions of the electronic audio recording of the Hearing Examiner  
11 proceedings that have been corrupted with static.

12 Dated this 20th day of February, 2019.

13  
14 Respectfully submitted,  
15 BRICKLIN & NEWMAN, LLP

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17 By:   
18 Claudia M. Newman, WSBA No. 24928  
19 Bryan Telegin, WSBA No. 46686  
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