

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeals of)	Hearing Examiner File:
SAVE MADISON VALLEY,)	MUP-18-020 (DR, W) &
)	S-18-011
from approval of a land use application and a)	
land use interpretation by the Director,)	Department References:
)	3020338, 3028345
Department of Construction and Inspections)	2925 E Madison Street
)	
)	SDCI's Motion for Reconsideration

Pursuant to Hearing Examiner Rule (HER) 3.20, the Seattle Department of Construction and Inspections (SDCI) respectfully requests that the Hearing Examiner (Examiner) reconsider the portion of her Findings and Decision in the subject appeal addressing shadow impacts under SEPA. Specifically, the relevant findings of fact are numbers 94 – 96 and the conclusions are numbers 39 – 42. Under HER 3.20(a) (2) and (4), SDCI is providing new information that could not have been produced at hearing and believes that this information should be considered to address a clear mistake of material fact. SDCI respectfully requests that the Examiner consider the following points.

Argument

1. A Memorandum of Agreement between Seattle Department of Transportation (SDOT) and Department of Neighborhoods (DON) demonstrates that P-Patch Community Gardens are not permanently dedicated park or open space uses.

The “Memorandum of Agreement Regarding P-Patch Community Gardens on SDOT Right-of-Way Between the Seattle Department of Transportation and the Department of Neighborhoods,” signed and dated in September 2017 (the MOA), is provided as Attachment A to this request. The MOA effectively is a blanket street use permit for P-Patches in the right-of-way, including the “Mad-P” P-Patch discussed in the subject Hearing Examiner decision and at the hearing on MUP-18-020. See Appendix B of the MOA on page 8, where Mad-P is listed as one of the P-Patch gardens on SDOT right-of-way managed by DON. Under Part III of the MOA, Agreement Scope, item 1 says that the agreement governs all DON P-Patch community gardens existing wholly or partially in right-of-way. It is undisputed that Mad-P is entirely in the right-of-way. See Attachment B to this request, which is a Geocortex map of the vicinity showing the location of Mad-P within the East Mercer Street right-of-way. Further, item 2 of Part III, pages 1 and 2 of the MOA, says in part:

“DON shall adhere to this Agreement and the right-of-way best management practices in Appendix A. DON shall also adhere to Title 15 of the Seattle

Municipal Code ('SMC'), including SMC 15,04,070 that provides all allowed and permitted activities under this Agreement are wholly of a temporary nature and confer no permanent right."

Item 3 of part III further provides a process for SDOT to remove a P-Patch from the right-of-way.

The terms of the MOA limit a P-Patch in the right-of-way to a use that is temporary and confers no permanent right. Thus, these types of community gardens, including Mad-P, do not meet the Land Use Code definition of "Parks and open space" use that is quoted in Conclusion 40. That definition says, in part, that "'Parks and open space' means a use in which an area is permanently dedicated to recreational, aesthetic, educational or cultural use . . ." There is no permanent dedication of Mad-P to a parks and open space use. Instead, it is permitted in the right-of-way by a form of permit, which SDOT can terminate according to the process provided in the MOA.

2. SMC Section 25.05.675.Q.2.a.i provides a policy requiring protection from shadow impacts on "publicly owned parks," but the Mad-P P-Patch is not a publicly owned park, nor are all P-Patches even on public property.

Mad-P is located entirely in SDOT street right-of-way. Based on the MOA, Part II item 1 on page 1, P-Patches ". . . are located on private and public property . . ." under various jurisdictions. DON, not the Parks Department, manages the P-Patches in the right-of-way, according to Appendix B of the MOA, page 8. Since at least some P-Patches are on private property, they are not all publicly owned. It is not reasonable to read 25.05.675.Q.2.a to apply to protect some P-Patches that happen to be on public property but not to protect others on private property.

3. Since the Mad-P P-Patch is neither permanently dedicated for a park or open space use and is not protected by Section 25.05.675.Q, it was appropriate that the SDCI Planner who drafted the MUP decision in Project 3020338 did not consider shadow impacts on the P-Patch.

As noted in Finding of Fact No. 96 of the Hearing Examiner decision, SDCI planner Magda Hogness did not believe she had authority to condition for shadow impacts on the P-Patch because she did not consider the P-Patch to be the type of property granted protection under the SEPA policy for shadow impacts. Based on the MOA, it is most reasonable to determine that Ms. Hogness reached the correct conclusion.

4. The MOA should be considered as new information that could not have been produced at hearing and to correct a mistake of material fact.

While the MOA was signed in 2017 and available at the time of the hearing in this matter, there was nothing in the testimony or exhibits that would have caused SDCI to research its existence prior to receipt of the Hearing Examiner decision. Thus, there is a sound basis for the Examiner to determine that it should be considered, particularly in

light of the additional information it provides showing that the P-Patch is not permanently dedicated as a parks and open space use, which directly addresses the material fact of how the P-Patch should be classified for Land Use Code and SEPA regulatory purposes.

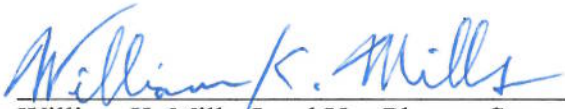
5. The Geocortex land use map does not show that the westerly portion of the P-Patch is mapped as part of the P-Patch.

It is further worth noting that the “panhandle” portion of the P-Patch is not mapped as part of the established P-Patch. Referring to the Geocortex map, Attachment B, only the portion east of the intersection of 30th Avenue E and E Mercer street is mapped as under DON jurisdiction. The additional planting beds to the west, nearest to the proposed project, are not mapped. This calls into question whether shadow impacts are even at issue, given that the westerly part of the P-Patch does not appear to be formally part of the existing community garden.

Conclusion

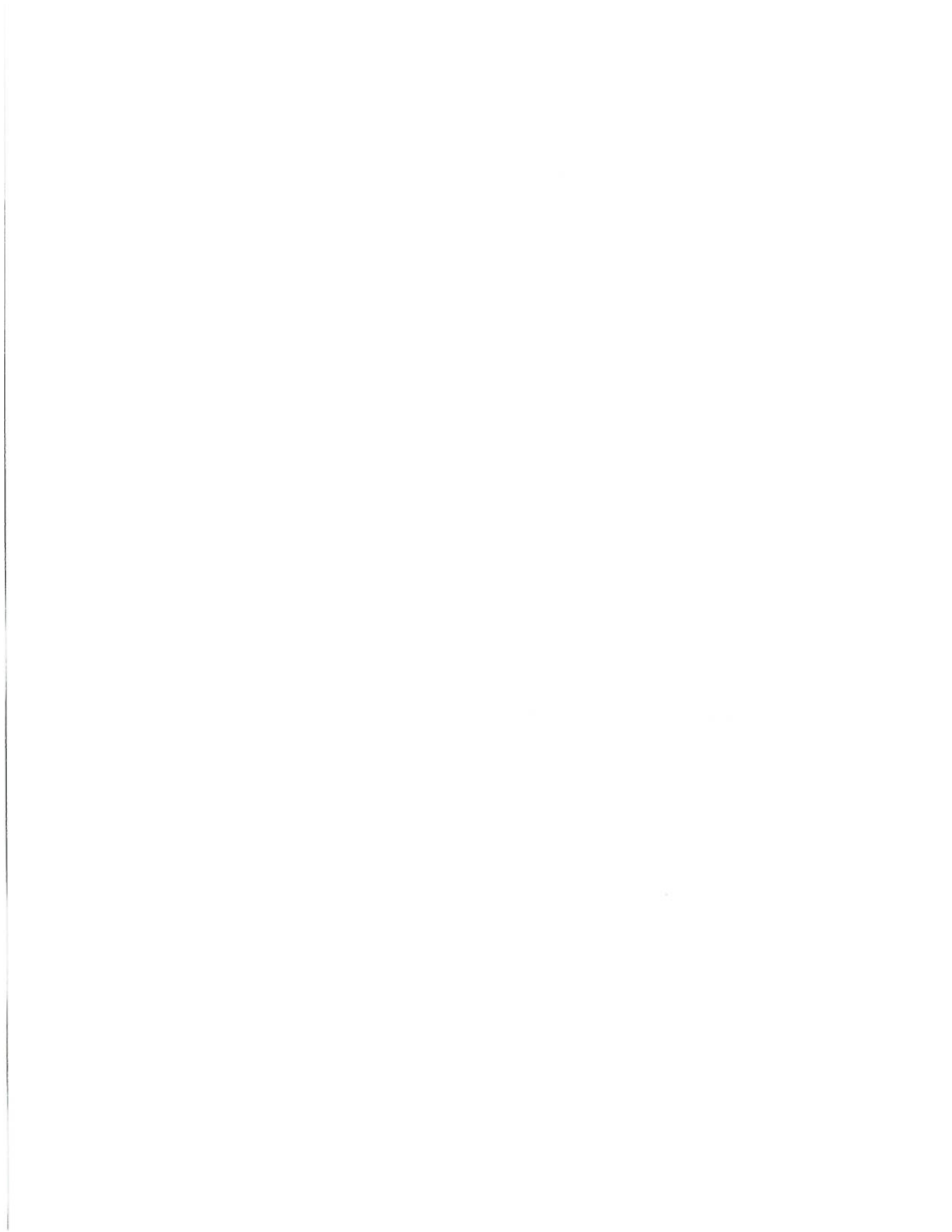
The issues raised by this motion for reconsideration provide a sound basis in fact and law for the Examiner to consider affirming SDCI’s analysis with respect to shadow impacts under SEPA. SDCI respectfully requests that the Examiner reconsider this portion of the decision.

Submitted this 7th day of March 2019.

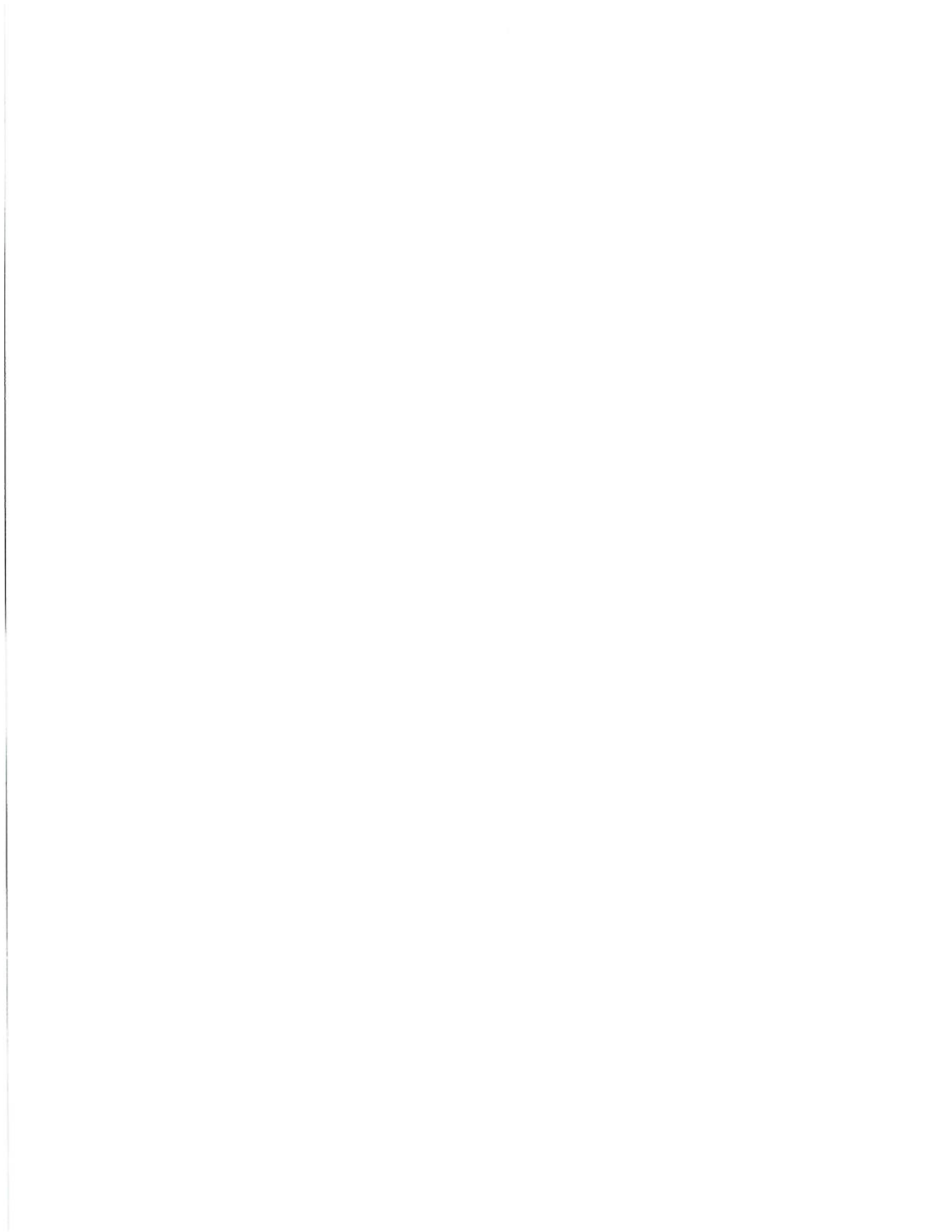


William K. Mills, Land Use Planner Supervisor
Department of Construction and Inspections

- cc. Claudia M. Newman and Bryan Telegin, for Appellant Save Madison Valley
Patrick Mullaney, for Applicant TVC Madison Co. LLC



Attachment A



**MEMORANDUM OF AGREEMENT
REGARDING P-PATCH COMMUNITY GARDENS ON SDOT RIGHT-OF-WAY
BETWEEN
THE SEATTLE DEPARTMENT OF TRANSPORTATION AND
THE DEPARTMENT OF NEIGHBORHOODS**

I. Purpose

This Memorandum of Agreement (“Agreement”) is entered into between the Seattle Department of Transportation (“SDOT”) and the Department of Neighborhoods (“DON”) to: support and promote DON’s ongoing management of existing and future P-Patch Community Garden Program (“P-Patch”) community gardens in the public right-of-way (“right-of-way”); establish responsibility and management of these sites; and document the SDOT permitting process.

II. Background

1. DON operates the P-Patch program as a cooperative endeavor with community members and organizations. P-Patch staff provide property management services, register gardeners, and oversee P-Patch program management; while community members and organizations steward and maintain P-Patch community gardens. P-Patch community gardens are located on private and public property, including property under DON, Finance and Administrative Services (“FAS”), Seattle City Light (“SCL”), Seattle Parks and Recreation (“Parks”), and Seattle Public Utilities (“SPU”) jurisdiction, and on right-of-way.
2. SDOT acknowledges that allowing P-Patch community gardens in the right-of-way is a benefit to the City. Many communities desire to develop P-Patch community gardens on unimproved right-of-way to create more gardening space and to actively steward neighborhood open space. This need aligns with SDOT’s Public Space Management Program’s mission to promote and regulate a vibrant, safe, accessible, and attractive shared right-of-way.
3. SDOT has jurisdiction over right-of-way, excluding Parks boulevards that are under Parks’ jurisdiction. SDOT requires a Public Space Management permit for all long-term structural and hardscape elements located in right-of-way that is not owned and maintained by SDOT. SDOT’s Street Use division issues permits to use right-of-way, including for the construction of new P-Patch sites.

III. Agreement Scope

1. This Agreement shall govern all DON P-Patch community gardens existing wholly or partially in right-of-way.
2. DON shall adhere to this Agreement and the right-of-way best management practices in Appendix A. DON shall also adhere to Title 15 of the Seattle Municipal Code (“SMC”),

including SMC 15.04.070 that provides all allowed and permitted activities under this Agreement are wholly of a temporary nature and confer no permanent right. Gardening activities are excluded from Title 15 permit requirements under SMC 15.02.048.B.

3. If a P-Patch community garden must be removed from the right-of-way, SDOT shall endeavor to provide DON with at least 90 days' notice, although a shorter notice period may be given by SDOT in its discretion as provided for in SMC 15.04.070. DON shall be responsible for restoring the site to its original or better condition after receiving a notice. Restoration shall include, but is not limited to, removing any composting or other toilets, irrigation systems, and structures whether they are separately permitted or addressed by this Agreement.
4. DON shall be the City department responsible for indemnity, insurance, and all areas of risk management for P-Patch sites subject to this Agreement.
5. This Agreement establishes DON maintenance, recordkeeping, and general requirements for P-Patch community gardens in the right-of-way, and provides a process for amending this Agreement annually to include new P-Patch sites.

IV. P-Patch Permitting

A. Existing P-Patch Community Gardens

P-Patch community gardens subject to this Agreement are listed in Appendix B.

B. New or Modified P-Patch Community Gardens

1. DON shall submit SDOT permit applications for new P-Patch community gardens or modifications to existing P-Patch community gardens proposed within the right-of-way. SDOT will review plans and issue a construction use permit or Street Improvement Permit ("SIP") based on the scope of proposed work.
2. SDOT shall assess and collect construction use permit fees, including review and inspection charges, from DON according to the most current Street Use Permit Fee Schedule. The permit fee shall be determined based on the scope of the work in the right-of-way required for the installation.
3. Significant site changes where coordinated review with City departments is needed may require review consistent with a SIP. See SDOT Client Assistance Memo 2200 for more information about SIP review. Major improvements include, but are not limited to: ground disturbance of 750 square feet or more; plans that are subject to Seattle Stormwater Code requirements; a drainage plan, nonstandard hardscape, or structures that require engineered plans; sidewalk and curb installations; and impacts to utility infrastructure. Work not meeting the threshold of a SIP requires Street Use Construction or Utility permits, which DON shall apply for and obtain before performing the work.

4. DON shall be responsible for verifying that all appropriate Street Use and other permits have been obtained before performing the work. These include, but are not limited to, permits issued by SPU, Seattle Department of Construction and Inspections, SCL or Seattle-King County Public Health.
5. Consistent with the Street Use permit application process, new P-Patch community gardens added to this Agreement by amendment shall be required to submit a detailed site plan as part of the SDOT permit review process. All P-Patch construction use applications shall be routed by SDOT for landscape and plan reviews, Public Space Management review, and traffic control plan review, if required.
6. Only the encroachments listed in Appendix C may be included in a P-Patch community garden. Additional elements may be added to Appendix C by amending this Agreement. Submitted plans shall clearly define where these elements will be located, indicating setbacks from existing site features. As an alternative to amending this Agreement, elements not included in Appendix C may be considered separately by applying through the Public Space Management permit process. Elements in a P-Patch community garden approved through the Public Space Management permit process shall be considered an amendment to this Agreement. Any new structures shall be of a temporary nature and may only be considered if there is no feasible option located off the right-of-way.
7. Commissioned or artist-created public art or sculpture designed for permanent installation in a P-Patch community garden shall be reviewed by the Office of Arts and Culture ("OAC"). OAC will determine and coordinate additional review by the Public Arts Advisory Committee if necessary. See SDOT Director's Rule 1-07 for more information about the review process.
8. Approved new P-Patch community garden installations or modifications shall be added to this Agreement by amendment.

V. Recordkeeping

1. As of this Agreement's execution date, Appendix B is the complete list of existing and permitted P-Patch community gardens on right-of-way.
2. DON shall provide SDOT with an Excel file containing the information in Appendix B, which shall be used by SDOT to create a GIS database and layer. DON shall maintain and update the Excel file and provide the file to SDOT on at least a quarterly basis or as requested by SDOT.
3. If Street Use develops a new Public Space Management permit for public amenities, the P-Patch community gardens listed in Appendix B shall be converted to this permit type and all new P-Patch sites on right-of-way shall be subject to this permit type. This permit type shall have issuance fees for new installations, but no annual renewal fees. With this permit type, the permit serves as the record and the GIS requirement in paragraph 2

above shall no longer be required when all P-Patch community gardens on right-of-way have been converted to this permit type.

4. SDOT shall designate a P-Patch contact in the Public Space Management Program. SDOT and DON shall meet twice a year to review the Agreement and outstanding issues related to the sites identified in Appendix B.
5. On a quarterly or on an as-needed basis, DON shall:
 - Propose amendments to this Agreement that would establish new P-Patch community gardens on right-of-way; and
 - Update Appendix B table if amendments to this Agreement are made.

VI. General Terms

1. DON shall be responsible for maintaining all P-Patch community gardens subject to this Agreement. Maintenance shall include, at a minimum, ensuring that an unsafe or nuisance condition does not exist at a P-Patch site. Further, DON shall:
 - Establish and maintain in good condition pathways for public access across the right-of-way;
 - Keep the entire P-Patch site free of tripping hazards or other unsafe conditions; and
 - Promptly repair or replace any damage to plumbing or structures and abate any nuisance condition.

SDOT and DON agree to collaborate and discuss alternative maintenance arrangements that reflect individual P-Patch community garden and right-of-way conditions. Alternative maintenance agreements shall be considered an amendment to this Agreement.

2. All installations shall comply with applicable City ordinances in addition to applicable state and federal statutes, and other rules and requirements. These include, but are not limited to: SMC Title 15 Street and Sidewalk Use; SMC Title 22 Building and Construction Codes; SMC Title 23 Land Use Code; federal Americans with Disabilities Act regulations; and SDOT's Right-of-Way Improvement Manual.
3. Any amendment to this Agreement shall be in writing and approved by the Parties.
4. This Agreement shall start on the last date signed by one of the parties, and shall remain in effect until terminated for any reason by either party, which shall occur 30 days after a written notice of termination is given to the other party.
5. When a SIP, Street Use, or Utility Permit has been issued for a P-Patch site improvement, the terms of the permit supersede any conflicting terms of this Agreement. Conditions imposed by a SIP, Street Use, or Utility Permit that do not conflict with this Agreement are in addition to terms imposed under this Agreement.

Seattle Department of Transportation

Department of Neighborhoods

By: 

~~Scott Kubly, Director~~

Carrie Atkins, Acting Director

Date: 9/15/17

By: 

Kathy Nyland, Director

Date: 9.21.2017

Appendix A Right-of-Way Best Management Practices

1. **Prohibited activities.** No commercial, industrial, or manufacturing activities or operations are permitted in the right-of-way. Activities that contribute pollutants to the ground, surface water, or air are prohibited. These activities include but are not limited to: repair, maintenance, processing, mixing, manufacturing, fabricating, building, finishing, painting, coating, and composting.
2. **Allowed materials.** Only non-hazardous materials are permitted to be stored in the right-of-way.
3. **Eliminate illicit connections.** Identify all drains on the property, and dye or smoke test drains to verify proper connections. Fix improperly plumbed drains. Inspect, maintain function, clean, and repair structures, pipe fittings, and containers, and replace as needed. Document corrections. Only rainwater is permitted to discharge to the separated sewage system, which reaches surface waters and Puget Sound without treatment.
4. **Perform routine maintenance.** Annually inspect all conveyance, detention, and treatment systems. Clean and repair according to the Stormwater Manual. Clean catch basins once 60% full of sediment; install and maintain turn down elbow.
5. **Dispose of fluids and wastes properly.** Label and properly store solid, liquid, and waste materials.
6. **Proper storage of solid wastes.** Containers stored in the right-of-way shall be labeled with owner information and contents; suitable containers shall have tight-fitting lids that are kept closed at all time when not in active use. Sweep the site frequently rather than using water to clean surfaces.
7. **Site maintenance.** Locate pollutant-generating activities away from drainage paths. Sweep paved areas to prevent build-up of material from being transported to drainage systems or off-site. Conduct regular inspections and clean as needed to prevent pollutant transport. Do not hose down or otherwise transport pollutants from any area to the ground, drainage system, combined sewer, or receiving water.
8. **Loading and unloading of liquid or solid material.** Inspect, maintain function, clean, and repair structures, pipes, and containers, and replace as needed. Document corrections. Use drip pans under connections and other potential leak areas. Combine with containment and cover. Prevent stormwater from entering loading/unloading areas or contacting materials.
9. **Storage of treated wood.** Treated wood may only be stored after obtaining and complying with an industrial National Pollution Discharge Elimination System permit. Cover and contain all post-processing storage activity. Segregate clean stormwater from process wastewater. Treat and dispose of process wastewater to sanitary system with approval from all applicable governmental agencies. Dedicate equipment for use in treatment area to avoid

vehicle track out and do not permit non-treatment traffic in treatment area. Scrub down lift trucks on drip pad if non-dedicated truck goes into treatment area. Any dripping or leaching wood shall be stored in chemical storage area. Then store treated wood out of reach of stormwater flows, elevate if necessary. Dry wood only with cover in right-of-way.

- 10. Painting for maintenance of existing structures only.** Cover and contain exterior surface preparation, sanding, and painting operations. Use ground cloths or drop cloths under all work. Cover drain or use insert and maintain regularly. Do not conduct operation over water or in windy conditions. Provide secondary containment for all operations and storage. Clean tools contaminated with water based materials in sink that drains to sanitary sewer. Cover and contain materials with secure lids and store inside.
- 11. Storage or transfer of leachable or erodible materials.** Store material inside or cover and contain the material. The cover shall fully prevent wind and weather from coming into contact with the polluting material. The cover shall not allow pollutants into the drainage system. Sweep site daily if material is transferred. Water, whether rain, surface, or potable that meets leachable or erodible materials, in use or stored, shall be collected and treated before being disposed through a sanitary, separated, or natural drainage system. If large stockpiles cannot be covered, all stormwater that meets the material shall be collected, treated, and disposed of properly. Permission to discharge shall be requested from King County in the case of sanitary sewer or Department of Ecology in the case of separated or natural systems. For stockpiles larger than five cubic yards, the storage yard shall be paved, covered and preferably surrounded by a berm to prevent runoff.
- 12. Maintaining public and private utility corridors and facilities.** Water removed from vaults shall be free of pollutants if it discharges to a storm system. Contaminated water shall be collected and taken to a proper disposal facility. Maintain vegetation in area around vault to prevent water or pollutants from entering vault. Remove litter and debris as part of maintenance. Apply appropriate BMPs to materials stored on-site. Prepare maintenance practices to reduce soil erosion. Use vegetation cover to stabilize soils when feasible. Design site to prevent concentrating stormwater runoff. Use pavement, vegetation, or water bars to prevent erosion and flooding of roadway.

Appendix B
List of P-Patch Gardens on SDOT Right-of-Way
All P-Patch Gardens on Right-of-Way Are Managed By DON

Property	Build date	Location / Cross Street	Address	Gardening (square feet or s.f.)	Total area (s.f./acres)	Approximate area in right-of-way (s.f./acres)	Elements encroaching in Right-of-Way
Angel Morgan	2004	42nd Ave S / S Morgan	3956 S Morgan St	4,900	15,279 / .35	13,000 / .30	<ul style="list-style-type: none"> • Signage • Raised beds for accessible gardening • Gate • Seating areas with benches • Patio • Paving materials (non-concrete) • Compost bins • Irrigation systems
Beacon Bluff	2002	S Massachusetts St / 15th Ave S	1701 15th Ave S	1,120	3,204 / .07	3,204 / .07	<ul style="list-style-type: none"> • Signage • Structure: concrete masonry wall less than 4' tall; storage shed • Compost bins • Irrigation systems
Courtland Place	1999	S Spokane St / 36th Ave S	3600 36th Ave S	2,600	6,509 / .15	6,509 / .15	<ul style="list-style-type: none"> • Structure: storage shed less than 120 s.f. • Signage • Raised beds for accessible gardening • Gate • Seating areas with benches • Patio • Compost bins • Irrigation systems
Estelle	1990	Rainier Ave S / S Estelle St	3400 Rainier Ave S	8,050	13,814 / .32	13,814 / .32	<ul style="list-style-type: none"> • Signage • Seating areas with benches • Compost bins • Irrigation systems
Evanston	1974	Evanston Ave N / N 102nd St	604 N 101st St	12,100	13,814 / .32	6,240 / .14	<ul style="list-style-type: none"> • Structure: storage shed less than 120 s.f.; greenhouse less than 120 s.f. • Signage • Raised beds for accessible gardening • Gate • Seating areas with benches • Patio • Compost bins • Irrigation systems
Madison Valley "Mad-P"	2001	30th Ave E / E Mercer St	3000 E Mercer	1,750	2,186 / .05	2,186 / .05	<ul style="list-style-type: none"> • Signage • Compost bins • Irrigation systems

Pelican Tea Garden	2001	E Mercer St / 19th Ave E	1909 E Roy St	1,064	1,417 / .03	1,417 / .03	<ul style="list-style-type: none"> • Structure: storage shed less than 120 s.f. • Compost bins • Irrigation systems
Phinney Ridge	1991	3rd Ave NW / NW 60th St	5926 3 rd Ave NW	2,500	8,133 / .19	8,133 / .19	<ul style="list-style-type: none"> • Signage • Structure: lumber wall less than 4' tall; storage shed less than 120 s.f. • Compost bins • Irrigation systems • Bollards • Parking space
Picardo	1973	25 th Ave NE / NE 82 nd St	8040 25th Ave NE	78,000	128,925 / 2.96	26,559 / .61	<ul style="list-style-type: none"> • Structure: movable 12'x28' storage shed – permit issued 4/17/02, copy on file • Structure: movable 12x12 storage shed – permit issued 4/17/02, copy on file • Signage • Structure: movable composting toilet – annual permit • Structure: storage shed less than 120 s.f. • Irrigation systems
Ravenna	1981	Ravenna Ave NE between NE 52 nd and NE 53rd	5052 22 nd Ave NE	2,200	4,542 / .10	4,542 / .10	<ul style="list-style-type: none"> • Seating areas with benches • Compost bins • Irrigation systems
Delridge*	1974	SW Delridge Wy / Puget Blvd SW	5078 25th Ave SW	9,100	16,673 / .38	16,673 / .38	<ul style="list-style-type: none"> • Structure: storage shed less than 120 s.f. • Signage • Raised beds for accessible gardening • Patio • Compost bins • Irrigation systems
Eastlake*	1981	Fairview Ave E between E Allison St and E Hamlin St	2900 Fairview Ave E	Information not available at time of Agreement execution	7,000 / .16	Information not available at time of Agreement execution	<ul style="list-style-type: none"> • Raised beds for accessible gardening • Irrigation systems • Fence
Queen Pea*	2002	5th Ave N / Blaine St	1800 5th Ave N	3,348	5,121 / .12	1,800 / .04	<ul style="list-style-type: none"> • Structure: storage shed less than 120 s.f. • Raised beds for accessible gardening • Irrigation systems

Trolls Knoll*	2015	Aurora Ave N / N 36 th St	820 N 36 th Street	2,439	3,000 / .07	3,000 / .07	<ul style="list-style-type: none"> • Structure: storage shed less than 120 s.f. • Signage • Raised beds for accessible gardening • Compost bins • Irrigation systems
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*Located on right-of-way under the jurisdiction of Parks. Not subject to this Agreement.

Appendix C

List of Accepted Encroachments

1. Structural and Hardscape Elements

All structures shall be of a temporary nature and may only be considered in the absence of all feasible options off the right-of-way as determined by SDOT.

- Structures that are exempt from building permits pursuant to Seattle Building Code Section 106.2:
 - Greenhouse, tool, storage shed, or similar structures if the projected roof area is less than 120 square feet and the building foundation is only a slab on the ground;
 - Retaining walls or rockeries that are not over 4 feet in height measured from the bottom of the footing to the top of the wall;
 - Arbors or other open-framed landscape structures that do not exceed 120 square feet in area; and
 - Fences that are less than 8 feet high and have no concrete or masonry elements higher than 6 feet.
- Signage or informational kiosks, consistent with SMC 23.55
- Raised beds for accessible gardening
- Gates
- Seating areas with benches or seat walls
- Patios or concrete slabs on grade
- Paving materials such as bricks, flagstones, unit pavers, and crushed gravel
- Bollards (existing only, no new installations)
- Compost bins
- Irrigation systems installed 6-12 inches below grade, with posts, risers, and hose bibs constructed pursuant to P-Patch standards
- Rain barrels

2. Landscape Elements

- Perennial beds
- Herb beds
- Berry patches
- Fruit trees
- Bee hives
- Garden “art” that is non-structural and not commissioned

3. Additional items

Additional items may be considered for approval by appropriate permits issued by SDOT’s Public Space Management.



Attachment B

Notes



**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeals of SAVE MADISON VALLEY, from approval of a land use application and a land use interpretation by the Director, Department of Construction and Inspections) Hearing Examiner File:) MUP-18-020 (DR, W) &) S-18-011) Department References:) 3020338, 3028345)) 2925 E Madison Street)) Declaration of William K. Mills
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WILLIAM K. MILLS declares as follows:

I am a Land Use Planner Supervisor with the City of Seattle Department of Construction and Inspections (SDCI). I have personal knowledge of the facts in this declaration and am competent to testify to those facts.

I am the SDCI staff person currently assigned to the review of Project 3020338 and represented SDCI in the appeal of this matter. In my capacity as a Land Use Planner Supervisor, I frequently review the Department's Geocortex mapping system. Attachment B of the motion for reconsideration is a true and correct copy of the City's Geocortex map of the Mad-P P-Patch and adjacent area, prepared by me to show the configuration of the P-Patch as mapped. The pink hatched area on the map is the area of the P-Patch as mapped. As shown in the aerial photo overlay from 2017, the portion of the P-Patch above the street intersection of E Mercer Street and 30th Avenue E, and to the west of the intersection, is not included in the pink hatched area.

I further certify that Attachment A to the motion for reconsideration is a true and correct copy of a Memorandum of Agreement for P-Patches in the right-of-way between Seattle Department of Transportation and Seattle Department of Neighborhoods. I obtained the copy of the MOA from DON staff.

Executed at Seattle, Washington this 7th day of March 2019.



William K. Mills
Land Use Planner Supervisor, SDCI

cc. Claudia M. Newman and Bryan Telegin, for Appellant Save Madison Valley
Patrick Mullaney, for Applicant TVC Madison Co. LLC



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)
)
) **Certificate of Service**

The undersigned certifies the following:

1. I am a Land Use Planner Supervisor at Seattle Department of Construction and Inspections (SDCI), representing SDCI in the above-entitled appeal proceeding; I am over the age of majority and am able to testify as to the matters stated herein;
2. On Thursday, March 7, 2019, I delivered SDCI's Motion for Reconsideration and Declaration of William Mills, by e-mail only, to the following named parties:

Claudia Newman and Bryan Telegin,
for appellant Save Madison Valley
1424 Fourth Avenue, Suite 500
Seattle, WA 98101
Ph: (206) 264-8600
E-mail: newman@bnd-law.com
telegin@bnd-law.com

Patrick Mullaney, Foster Pepper PLLC, for
applicant TVC Madison Co. LLC
1111 Third Avenue, Suite 3000
Seattle, WA 98101
Ph: (206) 447-4400
E-mail: patrick.mullaney@foster.com

Both e-mail copy and hand delivered hard copy are provided to the Office of Hearing Examiner.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 7th day of March 2019.



William K. Mills, Land Use Planner Supervisor, SDCI

cc. Claudia M. Newman and Bryan Telegin, for Appellant Save Madison Valley
Patrick Mullaney, for Applicant TVC Madison Co. LLC

