

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeals by)	Hearing Examiner Files:
)	MUP-19-019, MUP-19-020
)	
Neighbors to Mirra Homes Developments)	SDCI 3032834-LU / 3032833-LU
from Short Plat Decisions Issued by the)	
the Director of the Seattle Department of)	APPELLANT’S REVISED REQUEST FOR
Construction and Inspections)	SUBPEONAS
)	

Subpoena of Mentioned Parties

Pursuant to Hearing Examiner Rules HER 3.12 Subpoenas, the Neighbors to Mirra Homes Developments, hereafter the Appellants, respectfully requests to subpoena identified herein to provide testimony relative to exhibits provided and their involvement in these Type II discretionary decisions. This replaces the partial and incomplete request presented at the May 29, 2019 pre-hearing by the Appellant to the Hearing Examiners with copies to the parties of the appeal. This motion for a subpoena includes the person's name and address, shows the relevance of that person's testimony, and demonstrates the reasonableness of the scope of the subpoena sought. This request also includes with some of those listed a subpoena for listed documents specifying the materials to be produced and the relevance of the materials subpoenaed to the issues on appeal and the reasonableness thereof.

1 It is assumed, unless objected to and sustained by the Deputy Hearing Examiner for thus
2 case, the Brooke Friedlander of Mirra Homes and Andy McAndrews of Terrane remain
3 as parties to the appeal as they will be asked to testify without the need for a subpoena.
4 Similarly, it is assumed that by his June 10, 2019 declaration (case record) and pre-
5 hearing appearance that Colt Boehme of Mirra Homes is also a party to the appeal and
6 may be asked to testify without subpoena.
7

8 The Appellants reserve the right to withdrawn one or more subpoenas if the Applicant or
9 Department also intends on using any of these parties or entity representatives within
10 their testimony. We ask that the Office of the Hearing Examiner request for each person
11 that is called to establish in a timely manner before the hearing any schedule of fees
12 associated with their participation and - where under the authority of the Deputy Hearing
13 Examiner – request that fees be waived for City Staff associated with the properties of
14 this appeal.
15

16 The Appellants respectfully ask for the Office of Hearing Examiner to prepare several
17 subpoenas relative to evidence in the case. In a few cases, the relative City staff may be
18 subject to change pending the results of several Public Records requests to Seattle
19 departments which was issued per RCW42.56 on April 30, 2019. As of June 26th, for
20 example, the Seattle Fire Department request #C041447-043019 is still under review of
21 the Fire Department.
22

23 Henceforth, the Appellant's Representative is requesting the subpoenas to testify and, in
24 some cases, deliver documents, for the following:
25

- 26 1. Harold Scoggins, Fire Chief (or responsible Emergency Access and Supression
27 Reviewer(s)), Seattle Fire Department, 220 3rd Avenue South, 2nd floor, Seattle,
28

1 WA 98104, 206-386-1333, sfd_fmo_compliance@seattle.gov. Testify: Chief
2 Scoggins shall be asked about the Fire Departments review of this project relative
3 to the Short Plat criteria for Emergency Access. This is a reasonable request
4 because the Applicant has provided proof of a review checklist including 'Fire'
5 being completed. Documents: Chief Scoggins shall also produce a timely digital
6 copy of all documents that the Fire Department had in their possession at the time
7 the review was completed in late 2018, or any supporting documents that the
8 Departments may have shared subsequent to the Director rendering a decision on
9 the Short Plat. This is reasonable as the decision requires the Director to check
10 with all relative parties, including that relating to emergency access.
11

- 12
- 13 2. Nathan Torgelson, Director, Seattle Department of Construction and Inspections,
14 Seattle Municipal Tower at 700 Fifth Ave, 19th Floor, Seattle WA, (206) 233-
15 7883, nathan.torgelson@seattle.gov , Testify: Director Torgelson will be asked to
16 clarify his July 2018 written response to Seattle resident Henry McGuire about the
17 Department policy of issuing Short Plats for developments seeking to avoid
18 conflicts with SMC 23.84A.032(R). This is a reasonable request because the first
19 criteria for the Director's short plat decision is conformance to the applicable
20 Land Use Code provisions (i.e., Title 23). Documents: To validate the above
21 testimony, Director Torgelson shall also produce timely digital copies of all
22 interpretations previously-issued (since 2006) by the Department regarding
23 departures, exceptions or variances from the Short Plat Subdivision requirements
24 of Chapters 23.09, 23.24, 23.53, and 23.84. A new interpretation is not requested
25 with this subpoena.
26
27
28

- 1 3. Hiro Ikeda, P.E., Structural Plans Engineer, Seattle Department of Construction
2 and Inspections, P: 206.727.8513| hiro.ikeda@seattle. Testify: Hiro Ikeda Mr.
3 Pawling shall be asked about the January 2019 reviews that led to the conditional
4 approval of the Short Plat and the frequency of such requests without a completed
5 SEPA approval. This is a reasonable request because the appeal questions the
6 decision to approve the Short Plat based on incomplete assumptions of the SEPA
7 review. Documents: Hiro Ikeda shall also produce a declaration about the above
8 and, with the assistance of the Department, timely digital copies of previously-
9 issued recommendations by the Department (since 2006) regarding engineering
10 conditions applied to Short Plat Subdivisions.
11
12
13 4. Katie Luedeman (or Architect in charge), [Julian Weber] JW Architects LTD,
14 1257 S King St, Seattle, WA 98144, (206) 953-1305. Testify: Ms. Luedeman
15 shall be asked relative questions about the design of the project to demonstrate
16 compliance with multiple criteria of the Short Plat including Title 23 code,
17 existing tree and easement locations relative to the building design, and the
18 pending SEPA checklist. This is a reasonable request because the Director has
19 based criteria of the Short Plat on documents prepared with the assistance of JW
20 Architects. Documents: Ms. Luedeman shall also produce a timely digital copy of
21 all alternative layouts considered for the maximum retention of existing trees and
22 compliance with vehicular and pedestrian access requirements.
23
24
25 5. H. Michael Xue, P.E. (or, if qualified, John A. Manke), PanGEO, 3213 Eastlake
26 Avenue East, Ste B, Seattle, Washington 98102. Testify: Mr. Manke or Mr. Xue
27 shall be asked to explain the geotechnical reports submitted for this functionally-
28

1 related development of three adjacent lot. This is a reasonable request because of
2 the Short Plat conditional approval that limits the development of the uphill
3 portion of the subdivisions on the stabilization work of the downhill portion of the
4 proposed subdivisions. Documents: Mr. Manke or Mr. Xue need not produce any
5 additional documents.
6

- 7 6. Tony Shoffner, Arborist; 21529 4th Ave. W #C31 Bothell, WA 98021; 206-755-
8 2871. Testify: Mr. Shoffner shall be asked to explain the arborist report that he
9 prepared that the Department was to use to evaluate the Short Plat criteria
10 regarding trees. The report is part of SDCI public record and therefore the request
11 is reasonable. Documents: Mr. Shoffner shall also produce a timely digital copy
12 of all photographs and field notes used for the creation of the arborist report, as
13 well as a copy of the signed agreement of services between Mr. Shoffner and the
14 entity engaging his services. The purpose of these documents is to validate the
15 locations, species, size and conditions of the trees located on and around the
16 Subject Property including the Right-Of-Ways. The agreement indicates to what
17 extent the arborist was hired to perform the services needed for the Director to
18 base their decision to this criteria.
19
20
21

22 Recognizing this combined appeal is separate from a subsequent appeal MUP-19-021 (which
23 includes the applications for addresses 3420 and 3422 23rd Avenue W, the Hearing Examiner
24 may notice that this subpoena request includes the functionally-related addresses and
25 corresponding appeals (Figure 1) of MUP-19-020 which includes the applications for
26 addresses 3410 (with SDCI's conditional approval of #6690478-CN) and 3412 (with
27
28

#6689288-CN), as well as the parent case MUP-19-019 includes the applications for addresses 3416 (with #6689291-CN) and 3418 (with #6684561-CN).

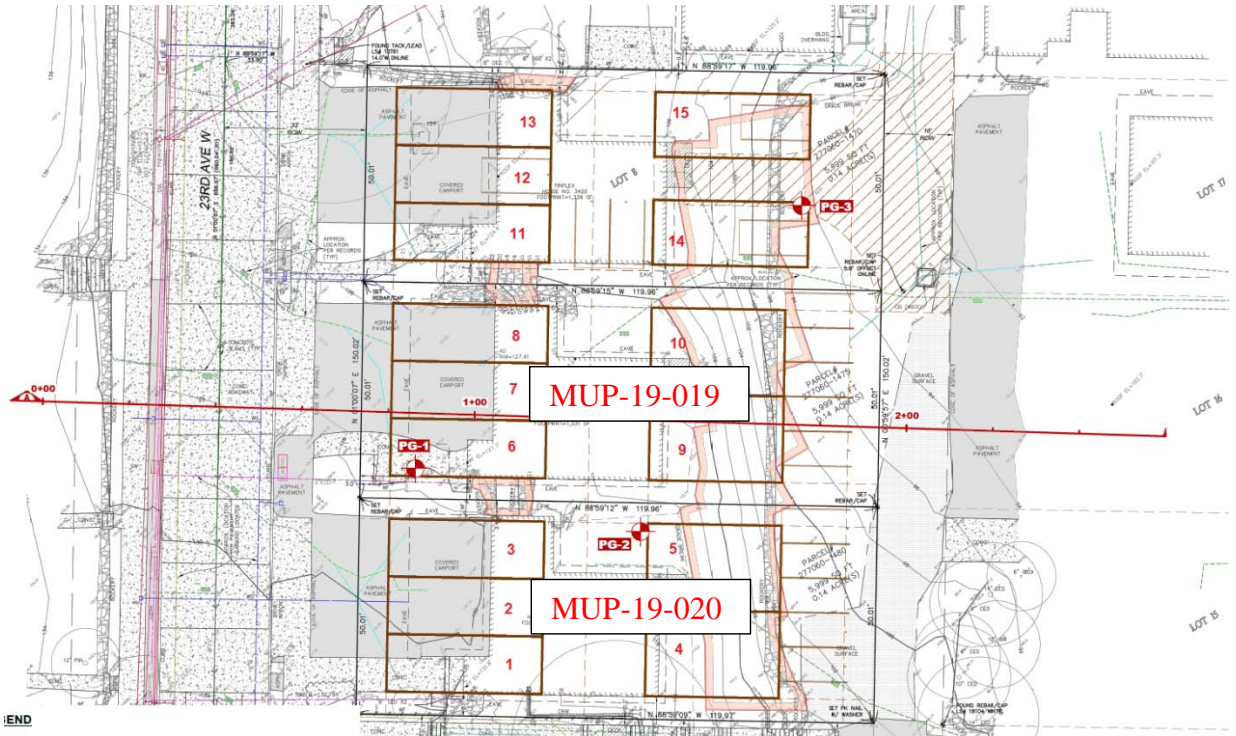


Figure 1- Hearing Examiner Case files MUP-19-019 to -020 for the functionally-related development of 4 townhouses and 6 row houses at 3410 to 3418 23rd Ave West, Seattle. A third lot to the north was notified by the Department several weeks later and, therefore, is a separate appeal. All three lots are owned by Mirra Homes with the same surveying, design, engineering and consulting team. (Source of base drawing is the geotechnical report).

Dated this 27th day of June 2019.

Respectfully submitted,

David Moehring,

Neighbors to Mirra Homes Developments
3444B 23rd Avenue West
Seattle, Washington 98199

Certificate of Service

I, David Moehring, 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 the Neighbors to Mirra Homes Developments **Appellant's Revised Request for Subpoenas** to every person listed below, in the matter of the **Short Plat Subdivision decisions issued for 3410 to 3418 23rd Ave West**, Hearing Examiner File No.s MUP-19-019 and MUP-19-020.

Department:

David Landry
Seattle Department of Construction & Inspections
Phone: (206) 684-5318
Email: david.landry@seattle.gov

Owner Applicant:

Brooke Friedlander
Mirra Homes
11624 SE 5th St Suite 210
Bellevue, WA 98005
Email: brooke.friedlander@mirrahomes.com

Applicant Legal Counsel:

Brandon Gribben
Hellsell Fetterman LLP
1001 Fourth Avenue, Ste 4200
Seattle, WA 98154
Phone: (206) 292-1144
Email: bgribben@hellsell.com

Office of the Hearing Examiner:

City of Seattle
Seattle, WA 98124
hearing.examiner@Seattle.gov

Dated June 27, 2019



David Moehring
Appellants' representative, Neighbors to Mirra Homes Developments
3444 23rd Ave West
Seattle WA 98199