

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

<p>1 2 3 4 5 6 7 8 9 10 11 12</p>	<p>In the Matter of the Appeal by Neighbors to Mirra Homes Developments from Decisions Issued by the Director of the Seattle Department of Construction and Inspections</p>	<p>) Hearing Examiner Files:) MUP-19-019, MUP-020 and MUP-19-021)) SDCI Reference 3032834-LU / 3032833-LU/) 3032857-LU and related actions)) APPELLANT PRELIMINARY LIST) OF WITNESSES AND EXHIBITS</p>
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I. INTRODUCTION

In response to the forthcoming Order consolidating three hearings for the proposed three similar adjacent short plat subdivisions at parent lots 3410, 3416, and 3422 23rd Avenue West, and based upon the June 9, 2019 conference call establishing new due dates¹, the appellant Neighbors to Mirra Homes Developments have included herein our preliminary list of witnesses and exhibits. As discussed, the list is also based on the Hearing Examiner’s acceptance to the updated subpoena witness and document requests submitted for the cases on June 27, 2019.

II. CLARIFICATION REQUESTED

In the request for the subpoena, the Appellant would like for the Hearing Examiner’s pending order to clarify the date of the final exhibit and witness list will be due. The original and amended orders both indicate the due date as July 22, which would be insufficient time for the subpoenas to be prepared, picked up by the Appellants, served to those listed in the

¹ The June 9th conference call with the Deputy Hearing Examiner, the Appellants’ representative, the Applicants’ legal representative, and the two Department representatives will likely result in a new Prehearing Order to replace the most recent amended order issued on June 20, 2019 for MUP-19-019 & MUP-19-020.

1 subpoena, and deliver the requested documents within seven days. A date in early August
2 was suggested by the Appellant.

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4 **III. SUBPEONAED WITNESSES and DOCUMENTS**

5 Pursuant to the Prehearing Order of today, dated July 15, 2019, the appellants Neighbors to
6 Mirra Homes Developments bor to 3641, the Appellant's Final Witness and Exhibit List
7 was issued on March 29, 2018 Those requested by the subpoenaed to testify and, in some
8 cases, deliver documents before the final submissions are due include the following:

9 1. Harold Scoggins, Fire Chief (or responsible Emergency Access and Suppression
10 Reviewer(s)), Seattle Fire Department, 220 3rd Avenue South, 2nd floor, Seattle, WA
11 98104.

- 12 a. Testify: Chief Scoggins shall be asked about the Fire Departments review of this
13 and other similar projects relative to the Short Plat criteria for Emergency Access.
14 Duration of testimony is expected to be 30 minutes plus cross-examination.
- 15 b. Documents: Chief Scoggins is expected to produce all documents that the Fire
16 Department had in their possession at the time the review was completed in late
17 2018, or any supporting documents that the Departments may have shared
18 subsequent to the Director rendering a decision on the Short Plat relating to
19 emergency access criteria.

20 2. Katie Luedeman (or Architect in charge), JW Architects LTD, 1257 S King St, Seattle,
21 WA 98144.

- 22 a. Testify: Ms. Luedeman shall be asked relative questions about the design of the
23 project to demonstrate compliance with multiple criteria of the Short Plat
24 including Title 23 code, existing tree and easement locations relative to the
25 building design, and the pending SEPA checklist relative to the Short Plat
26 conditioned approval. Duration of testimony is expected to be 45 minutes plus
27 cross-examination.
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- b. Documents: Ms. Luedeman is expected to produce a timely digital copy of all alternative layouts considered for the maximum retention of existing trees; and layouts considered for the compliance with vehicular and pedestrian access requirements.
3. H. Michael Xue, P.E. (or, if qualified, John A. Manke), PanGEO, 3213 Eastlake Avenue East, Ste B, Seattle, Washington 98102.
- a. Testify: Mr. Manke or Mr. Xue shall be asked to explain the geotechnical reports submitted for this functionally-related development of three adjacent lot Short Plat conditional approval that limits the development of the uphill portion of the subdivisions on the stabilization work of the downhill portion of the proposed subdivisions. Duration of testimony is expected to be 30 minutes plus cross-examination.
 - b. Documents: Mr. Manke or Mr. Xue need not produce any additional documents already within the list of exhibits herein.
4. Tony Shoffner, Arborist; 21529 4th Ave. W #C31 Bothell, WA 98021; 206-755-2871.
- a. Testify: Mr. Shoffner shall be asked to explain the arborist report that he prepared that the Department was to use to evaluate the Short Plat criteria regarding trees. Duration of testimony is expected to be 30 minutes plus cross-examination.
 - b. Documents: Mr. Shoffner is expected to produce a copy of all photographs and field notes used for the creation of the arborist report, as well as a copy of the signed agreement of services between Mr. Shoffner and the entity engaging his services.

IV. OTHER WITNESSES

The appellants' preliminary list of witnesses that may be called to testify without a subpoenaed include the following:

1 5. David Landry, Planner, Seattle Department of Construction and Inspections. If asked, Mr.
2 Landry will be asked about Director Torgelson's July 2018 written responses to Seattle
3 resident Henry McGuire about the Department policy of issuing Short Plats for
4 developments seeking to circumvent SMC 23.45.510 to SMC 23.45.510, SMC
5 23.84A.032(R), and may be asked to review thresholds in lieu of the first criteria for the
6 Director's short plat decision to conform to the applicable Land Use Code provisions. Mr.
7 Landry will be asked about email correspondence relative to the Subject Properties with
8 relevance to satisfying all of the short plat criteria. Mr. Landry will also asked about the
9 January 2019 reviews that led to the conditional approval of the Short Plat and the
10 frequency of such requests without a completed SEPA approval. Duration of testimony is
11 expected to be 90-120 minutes plus cross-examination.

12 6. Andy McAndrews, Terrane. Mr. Andrews is a party to this appeal as an applicant, but is
13 also the party which prepared the application drawings of the short plat subdivision. If
14 called, he will be asked questions relative to the documents containing the information as
15 required within the criteria for short subdivision approval. This may include inquiry about
16 other work done by this firm with short subdivisions and lot boundary adjustments. Duration
17 of testimony is expected to be 30 minutes plus cross-examination.

18 7. Brooke Friedlander or Colt Boehme, Mirra Homes. Ms. Brooks or Colt Boehme are party
19 to this appeal as the applicant for one and the owner of all three adjacent properties. If called,
20 they will be asked question relative to their company's experience in these developments,
21 procurement of the property, the intent of applying for the land use action, and how they
22 intend to meet the conditions on the decision. Duration of testimony is expected to be 30
23 minutes plus cross-examination.

24 8. Jay La Vassar. Mr. La Vassar is a retired civil engineer. If called, Mr. Vassar will testify
25 as an expert witness regarding his prior experience with engineering access for emergency
26 vehicles to development sites. He may also be asked peer review questions to the project's
27 conditional approval to stabilize the soil with the proposed short subdivision. Duration of
28 testimony is expected to be 45 minutes plus cross examination.

1 9. Rebecca Herzfeld (or equitable Seattle staff member), former City of Seattle legislative
2 analyst and urban planner. If called, Ms. Herzfeld (or colleague) will testify on the
3 legislative intent of lowrise development relative to the first criteria of the Short Plat
4 subdivision. Duration of testimony is expected to be 45 minutes.

5 10. Henry (Hank) McGuire. Mr. McGuire is a resident of Queen Anne who has
6 witnessed several similar developments within his community where lot segregation is
7 being used within Seattle to circumvent other landuse requirements. If called, he will be
8 asked to review the written correspondence with the City as an introduction to the testimony
9 of the Department's Director Torgelson. Duration of testimony is expected to be 20 minutes.

10 11. David Moehring, AIA. Mr. Moehring is an architect and planner with the
11 University of Washington Bothell. He will testify as a fact witness regarding the scope of
12 the subdivisions, similar projects processed by the Department, and the applicable Seattle
13 Municipal Codes relative to the criteria of the short plat subdivision. Duration of testimony
14 is expected to be 45 minutes.

15 **PRELIMINARY APPELLANT EXHIBIT LIST**

16 <u>Exhibit #</u>	<u>Description</u>
17	
18 Appellant Exhibit A	SDCI 3410 address short plat decision dated April 29, 2019 and
19	Notice of Short Plat dated January 17, 2019
20 Appellant Exhibit B	SDCI 3416 address short plat decision dated April 29, 2019 and 3418
21	address Notice of Land Use Application Plat dated December 3, 2018
22 Appellant Exhibit C	SDCI online documents initially posted and photos, annotated
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24 Appellant Exhibit D	SDCI Correction comments for 2310-3418 23 rd Ave W
25 Appellant Exhibit E	Terrane-prepared existing plat and site plan drawings
26 Appellant Exhibit F	JW Architects-prepared Lot A Site Plan
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28 Appellant Exhibit G	PanGEO-prepared composite of all three parent lots, annotated

- 1 Appellant Exhibit H PanGEO-prepared report dated November 30, 2018.
- 2 Appellant Exhibit I “Vehicle Access Easement Standards” issued October 31, 2017.
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- 4 Appellant Exhibit J Tree inventory and architect’s consideration for trees.
- 5 Appeal Exhibit K Building Plans Examiner Supervisor “global site stability”.
- 6 Appeal Exhibit L Planners correspondence reviewing “site stabilization”.
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- 8 Appeal Exhibit M Drawing set for 3410 23rd Ave W.
- 9 Appeal Exhibit N Drawing sets for Subject Properties from 3416 to 3424 23rd Ave W.
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- 11 Appeal Exhibit O Examples of alternative platting for a similar lot.
- 12 Appeal Exhibit P Fire Prevention Division of the Seattle Fire of no documentation.
- 13 Appeal Exhibit Q August 10 2017 Code analysis “Rowhouse Developments on LR1-
- 14 Zoned Lots Code Analysis”
- 15
- 16 Appellant Exhibit AA SDCI Land Use Applications for 3422 and 3420 23rd Ave W dated
- 17 November 26, 2017
- 18 Appellant Exhibit BB SDCI list of project records for 3420, 3422 and 3424 23rd Ave W
- 19 Appellant Exhibit CC (skipped)
- 20
- 21 Appellant Exhibit DD SDCI Correction comments for 2320-3424 23rd Ave W
- 22 Appellant Exhibit EE (skipped)
- 23
- 24 Appellant Exhibit FF SDCI Short Plat Decision for 3422 address issued May 28, 2019
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- 26 Appellant Exhibit GG Correspondence between Henry McGuire and Director and City Staff
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- 28 Appellant Exhibit 1 Project Application Chronology and Status
- Appellant Exhibit 2 SDCI list of project records for remaining addresses of combined case

- 1 Appellant Exhibit 3 Declarations of Residents relative to similar short plat actions
- 2 Appellant Exhibit 4 Declaration(s) of David Moehring and other appellants
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- 4 Appellant Exhibit 5 Arborist Report (repeat to City exhibit in case if withdrawn)
- 5 Appellant Exhibit 6 Street Tree Requirements
- 6 Appellant Exhibit 7 SDCI Tips 213A
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- 8 Appellant Exhibit 8 Excerpts from SMC 23.49 to 23.53
- 9 Appellant Exhibit 9 List of Applicable Code in SMC Title 23 (pre-2019 amendments)
- 10 Appellant Exhibit 10 King County Title 19
- 11
- 12 Appellant Exhibit 11 Maps of Short Plat Examples
- 13 Appellant Exhibit 12 Eight examples of Short Plats
- 14
- 15 Appellant Exhibit 13 Correspondence of Scott Pawling from Public Records request
- 16 Appellant Exhibit 14 Zoning Maps for Area
- 17 Appellant Exhibit 15 Options of Alternative Short Plats to retain existing trees
- 18 Appellant Exhibit 16 SMC Reference LR comparison
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- 20 Appellant Exhibit 17
- 21 http://www.seattle.gov/DPD/Planning/Multifamily_Code_Update/Overview/
- 22 Appellant Exhibit 18 CV Profile of David Moehring AIA NCARB
- 23 Appellant Exhibit 19 CV Profile of Jay La Vasser
- 24 Appellant Exhibit 20 CV Profile of Rebecca Herzfeld
- 25 Appellant Exhibit 21+ Results Documents resulting from Subpoenas
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1 Although it may not specifically listed herein, the exhibits shall inherently include the original
2 appeal and all documents that were previously submitted to the Office of the Hearing Examiner
3 and recorded on the website for these combined appeals. Also not included with the list herein, but
4 will be referenced in the appeal hearing, are all relative sections of the Seattle Municipal Code
5 (hereafter “SMC”) Land Use Title 23. Also not included with the list herein, but will be referenced
6 in the appeal hearing, are all relative documents available specifically for this project on the Seattle
7 Department of Construction and Inspections (hereafter the “SDCI”).

8 Dated this 15th day of July 2019.

9 Respectfully submitted,

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13 David Moehring,

14 Neighbors to Mirra Homes Developments,
15 3444B 23rd Avenue West
16 Seattle, Washington 98199
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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 Neighbors to Mirra Homes Developments **Appellant PRELIMINARY LIST OF WITNESSES AND EXHIBITS** to every person listed below, in the matter of the **Short Plat Subdivisions**, Hearing Examiner combined case files MUP-19-019, MUP-19-020 and MUP-19-021.

Department:

David Landry
Seattle Department of Construction & Inspections
PO Box 34109
Email: david.landry@seattle.gov

Applicant (-020,-021):

Andy McAndrews
Terrane
10801 Main St Suite 102
Bellevue, WA 98004
Email: andym@terrane.net

Applicant: (-019):

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

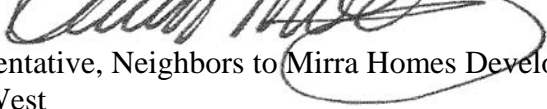
Applicants Legal Counsel:

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Email: bgribben@helsell.com

Office of the Hearing Examiner:

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hearing.examiner@Seattle.gov

Dated July 15, 2019

David Moehring 
Appellant Representative, Neighbors to Mirra Homes Developments
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Seattle WA 98199