

Description

Minutes for MUP-19-004 - MUP-19-015, Day 4
Grant Protection for Trees, et al.
2813 4th Ave W & 2815 4th Ave W
Friday, July 26, 2019

Time: 9:00 a.m.
Examiner: Ryan Vancil
Assistant: Galen Edlund-Cho

Party Representatives:

Suzanne Grant, Appellant for MUP-19-004 & -005

Reed Lyons, Appellant for MUP-19-006 & -007

Charles Mish, Appellant for MUP-19-008 & -009

Ivy Arai Tabbara, Appellant for MUP-19-012 & -013

Sharon Levine, Appellant for MUP-19-014 & -015

Brandon Gribben, Counsel for Applicant

William Mills and Bruce Rips, for Department
SDCI

Date

7/26/2019

Location

Large Hearing Room

<u>Time</u>	<u>Speak</u>	<u>Note</u>
9:00:28 AM		On the record. Day 4 of MUP-19-004-015 commences.
9:00:57 AM		Levine resumes her direct examination of Bigelow.
9:01:32 AM		Gribben objects; asked and answered. Sustained.
9:01:57 AM		Gribben objects; misstatement of the law. Sustained.
9:03:10 AM		Gribben objects; issues not raised in regards to mitigation. Sustained.
9:03:46 AM		Gribben objects; issues not raised in regards to mitigation. Sustained.
9:06:37 AM		Levine directs Bigelow to Exhibit 52 (City of Seattle Department of Construction and Inspections, Land Use Review Project# 3029801-LU, 5/16/2018).
9:08:02 AM		Gribben objects; code compliance issues. Sustained.
9:08:33 AM		Levine directs Bigelow to unrecorded Exhibit.
9:11:02 AM		Gribben objects; code compliance issues. Sustained.
9:11:36 AM		Levine offers unrecorded Exhibit. Denied.
9:11:52 AM		Gribben objects; to the extent of mitigation. Overruled.
9:13:03 AM		Levine asks the Hearing Examiner about the proposed stairway on the northern property line.
9:13:34 AM		Levine directs Bigelow to Exhibit 54 (2813 Fourth Avenue West, Streamline Design Review, 11/30/2017).
9:15:09 AM		Gribben objects; relevance. Lacking a response; sustained.
9:16:53 AM		Gribben obejcts; vague. Sustained
9:17:10 AM		Gribben objects; asked and answered. Sustained
9:17:27 AM		Levine concludes her direct examination of Bigelow.
9:17:33 AM		Tabbarra begins her direct examination of Bigelow. Tabbara directs Bigelow to Exhibit 54 (2813 Fourth Avenue West, Streamline Design Review, 11/30/2017).
9:19:56 AM		Gribben objects; outside of scope of direct examination. Sustained.
9:20:28 AM		Tabbarra clarifies that she is on cross examination.
9:21:18 AM		Gribben objects; clarification of "Subject Property." Overruled.
9:24:21 AM		Gribben objects; code compliance. Overruled.
9:28:06 AM		Gribben objects; outside of scope of direct examination. Clarification of design; overruled.
9:32:57 AM		Tabbarra offers e-mail (RE: 6634704, 2815 4th AVE W - intake appointment question, 3/22/2018), it is marked as Exhibit 55.
9:37:01 AM		Tabbarra moves to admit Exhibit 55.
9:37:06 AM		Gribben objects; relevance.
9:37:18 AM		Tabbarra responds; raises issue 2A1.
9:37:56 AM		Exhibit 55 is admitted.
9:38:48 AM		Gribben withdraws applicant's redirect examination.
9:39:00 AM		Gribben calls Devin Peterson (Landscape Architect) as witness.
9:39:33 AM		Peterson is sworn in as witness.
9:39:40 AM		Gribben begins his direct examination of Peterson.
9:45:12 AM		Gribben hands Exhibit 10 (Project Plan Set for SDCl Project# 36634704-CN, 2813 Fourth Ave W) to Peterson.

9:52:47 AM	Tabbara objects; leading. Sustained.
9:53:06 AM	Gribben directs Peterson to Exhibit 28 (MUP Plan Set for 3030630, 3/12/2017).
9:58:54 AM	Gribben hands Green Factor Plan, Landscape Requirements Summary Plan, 2815 4th Ave W Seattle, WA, prepared by Root of Design to Peterson.
9:59:17 AM	Gribben offers Green Factor Plan, it is marked as Exhibit 56 (Green Factor Plan, Landscape Requirements Summary Plan, 2815 4th Ave W Seattle, WA, prepared by Root of Design) .
10:00:16 AM	Gribben moves to admit Exhibit 56, it is admitted.
10:02:21 AM	Gribben concludes his direct examination of Peterson.
10:02:36 AM	Lyons begins his direct examination of Peterson. Lyons directs Peterson to Exhibit 10 (Project Plan Set for SDCI Project# 36634704-CN, 2813 Fourth Ave W).
10:03:09 AM	Gribben clarifies exhibit numeration for Peterson.
10:04:26 AM	Lyons concludes his direct examination.
10:04:30 AM	Grant begins her direct examination of Peterson. Grant enquires about SDCI's exceptional tree requirements.
10:06:10 AM	Gribben objects; sustained.
10:06:25 AM	Grant concludes her direct examination of Peterson.
10:06:30 AM	Levine begins her direct examination of Peterson.
10:07:02 AM	Levine enquires about Peterson's architectural/design decision, and potential impacts to the Levine property.
10:08:31 AM	Gribben objects; facts not in evidence.
10:08:48 AM	Hearing Examiner instructs Levine to rephrase her question.
10:09:06 AM	Levine withdraws question.
10:09:27 AM	Levine directs Peterson to Exhibit 52 (City of Seattle Department of Construction and Inspection, Land Use Review, Project #3029801-LU, 5/16/2018).
10:09:55 AM	Gribben objects; code compliance issues. Sustained.
10:11:11 AM	Gribben objects; code compliance issues. Sustained.
10:14:29 AM	Gribben objects; testimony. Overruled.
10:15:38 AM	Break for recess. Returning at 10:30 am.
10:31:24 AM	Back on the record.
10:31:35 AM	Levine concludes her direct examination.
10:31:40 AM	Gribben begins his redirect examination of Peterson.
10:32:06 AM	Gribben directs Peterson to Seattle Department of Transportation - Approved Street Tree List, and offers it to be admitted. Marked as Exhibit 57.
10:34:30 AM	Gribben directs Peterson to Exhibit 52 (City of Seattle Department of Construction and Inspections, Land Use Review, Project# 3029801-LU, 5/16/2018).
10:34:55 AM	Gribben hands Exhibit 52 to Peterson.
10:36:36 AM	Gribben concludes his re-direct examination
10:36:49 AM	Gribben calls Xue Hong Bo (Geotechnical Engineer) as witness. Xue is sworn in.
10:38:14 AM	Gribben begins his direct examination of Xue.

10:44:17 AM	Gribben directs Xue to Exhibit 30 (PanGEO Geotechnical Engineering Report, 12/19/2017).
10:59:21 AM	Gribben directs Xue to the Geotechnical Design Recommendations within Exhibit 30.
11:07:11 AM	Gribben asks Xue about his recommendation regarding seasonal construction.
11:08:35 AM	Gribben asks about Xue's history of municipal authorizations.
11:08:48 AM	Gribben directs Xue to page 15 of Exhibit 30 (PanGEO Geotechnical Engineering Report, 12/19/2017).
11:11:39 AM	Gribben asks Xue if he agrees with the recommendations within Exhibit 30.
11:12:23 AM	Gribben concludes his direct examination of Xue.
11:12:31 AM	Mills declines the City's cross examination of Xue.
11:12:37 AM	Lyons begins his cross examination of Xue.
11:13:28 AM	Lyons directs Xue to Exhibit 32 (SDCI GIS Web Map).
11:13:42 AM	Gribben hands Exhibit 32 to Xue.
11:18:02 AM	Hearing Examiner informs Lyons that his line of questioning has been exhausted.
11:18:13 AM	Gribben objects; outside of scope. Sustained.
11:18:59 AM	Gribben objects; outside of scope. Overruled.
11:19:29 AM	Gribben objects; question. Hearing Examiner instructs Lyons to ask a question.
11:19:47 AM	Gribben objects; speculation. Overruled
11:21:18 AM	Lyons concludes cross examination of Xue.
11:21:35 AM	Levine begins her cross examination of Xue.
11:21:49 AM	Levine asks whether, or not, Xue has been retained to monitor construction.
11:24:43 AM	Xue ensures Levine that City regulations require on-site monitors during certain phases of construction.
11:25:19 AM	Levine enquires about monitoring schedule during excavation.
11:27:06 AM	Levine directs Xue to page 7 of Exhibit 30 (PanGEO Geotechnical Engineering Report, 12/19/2017).
11:27:50 AM	Xue directs Levine to page 2 of Exhibit 30.
11:29:46 AM	Levine directs Xue to page 11 of Exhibit 30. Levine enquires about "Temporary Excavation."
11:33:03 AM	Levine directs Xue to the last paragraph of page 11, Exhibit 30.
11:33:50 AM	Hearing Examiner informs the Parties that the verbiage is already in the record. Reiteration of the verbiage is unnecessary.
11:34:21 AM	Levine enquires about potential damages caused by construction induced vibrations.
11:36:12 AM	Xue verifies Levine's assertion, and assuages her concerns.
11:36:35 AM	Levine concludes her cross examination of Xue.
11:36:40 AM	Gribben declines re-direct examination of Xue.
11:36:49 AM	Gribben calls Alex Mason as witness.
11:37:05 AM	Mason is sworn in as witness.
11:37:20 AM	Gribben begins his direct examination of Mason.
11:43:10 AM	Gribben directs Mason to Public Comments.

11:44:25 AM	Gribben requests to offer Public Comments to the record.
11:44:52 AM	Grant objects; parity.
11:46:23 AM	Gribben decides to illicit Mason's testimony about the Public Comments.
11:47:26 AM	Gribben directs Mason to Exhibit 4 (City of Seattle Analysis and Decision of the Director of the Seattle Department of Construction and Inspections, Project#'s 3029801-LU & 3030630-LU, 2/19/2019).
11:49:19 AM	Gribben directs Mason to Tab T of the Applicant's record.
11:50:27 AM	Gribben offers Water Availability Certificate, Land Use, Certificate ID no. 20171250, 10/10/19/2017, it is marked as Exhibit 58.
11:51:29 AM	Gribben moves to admit Exhibit 58, it is admitted.
11:51:50 AM	Gribben directs Mason to Exhibit 30 (PanGEO Geotechnical Engineering Report, 12/19/2017).
11:52:28 AM	Gribben directs Mason to page 11 of Exhibit 30.
11:52:43 AM	Gribben redirects Mason to page 6 of Exhibit 30.
11:53:35 AM	Gribben directs Mason to page 11 of Exhibit 30.
11:54:18 AM	Gribben concludes his direct examination.
11:54:28 AM	Appellants decline examination.
11:54:35 AM	City declines examination.
11:54:58 AM	Gribben requests break to call witness.
11:55:59 AM	Hearing Examiner moves to admit Exhibit 57, it is admitted.
11:56:20 AM	Break for recess. Returning at 12:01 PM.
12:05:01 PM	Back on the record.
12:05:16 PM	Gribben declines to call additional witness.
12:05:45 PM	Hearing Examiner provides closing arguments instructions.
12:06:41 PM	Mills requests three weeks to submit the City's closing arguments.
12:08:03 PM	Opening briefs due date scheduled for August 2, 2019.
12:09:08 PM	Responding briefs due date scheduled for August 19, 2019.
12:09:39 PM	Hearing Examiner provides instructions for the briefs.
12:12:29 PM	Appellants Levine and Grant express/discuss scheduling conflicts.
12:13:28 PM	All parties agree to the established briefing schedule.
12:14:49 PM	Hearing Examiner provides further briefing instructions.
12:15:18 PM	Levine asks additional questions about exhibits and the continued role of her attorney.
12:15:43 PM	Gribben asks a clarifying question about exhibits.
12:16:46 PM	Hearing adjourned.