

THE HEARING EXAMINER OF THE CITY OF SEATTLE

In the Matter of the Appeals of	)	Hearing Examiner Files:
	)	MUP 21-016 (CU) and MUP 21-017 (ECA)
MAGNOLIA COMMUNITY COUNCIL	)	
AND OTHERS and FRIENDS OF THE	)	Department Reference: 3028072-LU
LAST 6,000	)	
	)	EX PARTE MOTION FOR ISSUANCE OF
from decisions issued by the Director,	)	SUBPOENAS DUCES TECUM (THIRD
Seattle Department of Construction and	)	REVISION)
Inspections	)	
	)	
	)	

Pursuant to Hearing Examiner Rules of Practice and Procedure ("HER") 3.12(g) and the Examiner's Order on Applicant's Motion to Quash, dated July 19, 2021 ("Order"), Edward R. Coulson, Authorized Representative for the Magnolia Community Council and Others ("MCC"), moves the Hearing Examiner for issuance of the attached Subpoenas Duces Tecum directed to individuals and entities with possession, custody or control of documents specified in the Subpoenas that are relevant to key issues in this appeal. These issues are identified in the Hearing Examiner's June 28, 2021 Order on Applicant's Motion to Dismiss and the Order and include:

- (1) the existence and effect of recorded property restrictions as they provide context for the exercise of discretion under SMC 23.42.042(B);
- (2) tree height restrictions necessary to mitigate the adverse public view impact of the Project;
- (3) regrading to mitigate the adverse public view impact of the Project;
- (4) factors to determine the reasonableness of removal of the north side exterior stair access of the Project;
- (5) the existence and effect of the Memorandum of Agreement, dated October 21,

2011, as it provides context for the exercise of discretion under SMC 23.42.042(B); and

(6) the Project's proposed construction practices and changes to the Admiral's House and its landmark boundary and necessity of review by the Landmarks Preservation Board and others as part of the exercise of discretion under SMC 23.42.042(B) or (C).

The documents responsive to the Subpoenas are necessary to conduct depositions of Oceanstar representatives, affiliates, and architects, yet to be scheduled. The responsive documents will also be used to supplement MCC's previously submitted witness and exhibit lists, if necessary.

MCC and outside and in-house counsel for Oceanstar, LLC and Global Seas, LLC have met and conferred and agree to the form of Exhibit A and the production dates contained in the requested Subpoenas Duces Tecum.

The requested Subpoenas Duces Tecum are attached to this Motion.

Dated this 6th day of August, 2021.

/s/ _____
Edward R. Coulson
Authorized Representative for Appellants
MAGNOLIA COMMUNITY COUNCIL AND
OTHERS
1522 Thorndyke Avenue W.
Seattle, WA 98199
(206) 953-2579
coule@schweetlaw.com

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LAST 6,000	)	
	)	SUBPOENA DUCES TECUM TO
from decisions issued by the Director,	)	OCEANSTAR, LLC
Seattle Department of Construction and	)	
Inspections	)	
_____	)	

TO: OCEANSTAR, LLC
20308 Dayton Avenue N., Shoreline, WA 98133

GREETINGS:

Pursuant to Hearing Examiner Rules of Practice and Procedure Section 3.12, **YOU ARE COMMANDED** to produce and permit inspection and copying of the documents or tangible things listed on **Exhibit A**, attached hereto, on August 16, 2021 at 9:00 a.m. at the Law Offices of Schweet Linde & Coulson, PLLC, 575 S. Michigan St., Seattle, WA 98108.

The documents sought by this subpoena are relevant to the issues on appeal in this matter and are within the reasonable scope of this subpoena.

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HEREIN FAIL NOT AT YOUR PERIL

Dated this ____ day of August, 2021.

HEARING EXAMINER
City of Seattle, Office of Hearing Examiner

EXHIBIT A

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LAST 6,000	)	
	)	SUBPOENA DUCES TECUM TO
from decisions issued by the Director,	)	GLOBAL SEAS, LLC
Seattle Department of Construction and	)	
Inspections	)	

TO: GLOBAL SEAS, LLC
20308 Dayton Avenue N., Shoreline, WA 98133

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LAST 6,000	)	
	)	SUBPOENA DUCES TECUM TO
from decisions issued by the Director,	)	NINA FISHERIES, INC.
Seattle Department of Construction and	)	
Inspections	)	
_____	)	

TO: NINA FISHERIES, INC.
20308 Dayton Avenue N., Shoreline, WA 98133

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LAST 6,000	)	
	)	SUBPOENA DUCES TECUM TO
from decisions issued by the Director,	)	ROBERT DESAUTEL
Seattle Department of Construction and	)	
Inspections	)	
_____	)	

TO: ROBERT DESAUTEL
20308 Dayton Avenue N., Shoreline, WA 98133

GREETINGS:

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LAST 6,000	)	
	)	SUBPOENA DUCES TECUM TO
from decisions issued by the Director,	)	WALTER KUHR, JR.
Seattle Department of Construction and	)	
Inspections	)	
_____	)	

TO: WALTER KUHR, JR.
20308 Dayton Avenue N., Shoreline, WA 98133

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Seattle Department of Construction and	)	
Inspections	)	

TO: LIL KUHR
20308 Dayton Avenue N., Shoreline, WA 98133

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Seattle Department of Construction and	)	
Inspections	)	
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TO: KATHY SHEPARD
20308 Dayton Avenue N., Shoreline, WA 98133

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Seattle Department of Construction and	)	
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TO: GELOTTE HOMMAS DRIVDAHL
2340 130th Avenue NE, Suite 100, Bellevue, WA 98005

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Failure by any person without adequate excuse to obey a subpoena served upon him or her may be deemed in contempt of the City of Seattle Office of the Hearing Examiner from which the subpoena has issued.

HEREIN FAIL NOT AT YOUR PERIL

Dated this ____ day of August, 2021.

HEARING EXAMINER
City of Seattle, Office of Hearing Examiner

EXHIBIT A

For the purpose of this Subpoena Duces Tecum, "Document" is used in the broadest sense permissible under Hearing Examiner Rules Section 3.12 and is meant to include any medium upon which intelligence of information can be recorded or retrieved. "Project" refers to the proposed project in the application for a conditional use permit contained in Seattle Department of Construction and Inspections file for Project No. 3028072-LU. "Buildings" refers to the two new structures proposed to be constructed in the Project. "Property" refers to the property at 2500 W. Marina Place involved in the Project. The "Admiral's House" refers to the existing building on the Property.

1. All Documents, including without limitation, communications or agreements among representatives of Oceanstar, LLC, Global Seas, LLC, Nina Fisheries, Inc., Robert Desautel, Walter Kuhr, Jr., Lil Kuhr and Kathy Shepard, regarding the use of the Buildings that relate to the Project's potential impact on the use of the north exterior stairs or the UJV view from April 3, 2017 to the present.
2. All Documents that refer to or discuss the Project's relationship to the View Corridor and Landscape Maintenance Covenant, dated December 13, 2012, last recorded under King County Recorder No. 20130613001828 from April 3, 2017 to the present.
3. All Documents that refer to or discuss the Project's relationship to the Historic Preservation Easement and Covenants, dated June 7, 2013, and recorded under King County Recorder No. 20130611002100 from April 3, 2017 to the present.
4. All Documents that refer to or discuss the Project's relationship to a 2011 Memorandum of Agreement or any other agreement among the Federal Highway Administration, State Historic Preservation Office, Washington Department of Transportation, City of Seattle, and Pacific Northwest Communities, LLC from April 3, 2017 to the present.
5. All Documents, including any written communications with the Landmarks Preservation Board ("Board") or others, that discuss or refer to the Project's possible impact on the Admiral's House status as a designated landmark or the impact of Oceanstar's construction practices, construction means, or construction means and methods to construct the Buildings on the Admiral's House and its designated landmark area on the Property from April 3, 2017 to the present.

DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that on this date, I sent true and correct copies of the EX PARTE MOTION FOR ISSUANCE OF SUBPOENAS DUCES TECUM (THIRD REVISION) and attached SUBPOENAS DUCES TECUM to each person listed below, in the manner indicated.

Margaret M. Boyle
Email: margaret@boylemartin.com
Authorized Representative of Friends of the Last 6,000
Method of Service: E-mail

Michael Houston
Email: michaelt.houston@seattle.gov
Authorized Representative of SDCI
Method of Service: E-mail

Erika Ikstrums
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Tom Brown
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tomb@ghdarch.com
Method of Service: E-mail

SIGNED this 6th day of August, 2021, in Seattle, Washington.

/s/

Edward R. Coulson

Authorized Representative for Appellants

MAGNOLIA COMMUNITY COUNCIL

AND OTHERS

1522 Thorndyke Ave. W., Seattle, WA

206-953-2579, coule@schweetlaw.com