

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the Matter of the Appeal of	)	
	)	
MAGNOLIA COMMUNITY COUNCIL	)	Hearing Examiner File:
AND OTHERS	)	MUP-21-016 (ECA CUP)
	)	
	)	Department Reference:
from a decision issued by the Director,	)	3028072-LU
Seattle Department of Construction	)	
and Inspections.	)	DECLARATION OF EDWARD R.
	)	COULSON IN SUPPORT OF MCC'S
	)	MOTION FOR RECONSIDERATION/
_____	)	CLARIFICATION

Edward R. Coulson declares:

1. I am the authorized representative for Magnolia Community Council and the other appellants in this case (MCC). I have personal knowledge of the following facts and could competently testify thereto if called as a witness.

2. I have reviewed the Findings and Decision of the Hearing Examiner for the City of Seattle (Decision). The Decision recognizes the key component of MCC's appeal: SDCI's decision failed to consider SMC 23.42.042 and does not protect the view from Ursula Judkins Viewpoint (Viewpoint). MCC understands the Decision to require SDCI to publish a new, revised MUP. The Decision instructs SDCI on remand to exercise its discretion and review the adverse impacts of Oceanstar's planned landscaping and fencing and provide greater specificity to protect the Viewpoint view in "the MUP or landscape plan, or possibly in both documents." Decision, p. 9. A revised MUP is a Type II decision appealable under SMC 25.09.260(D) and 23.76.022 (A)(2), but a revised landscaping plan by itself does not appear to be appealable. Accordingly, if SDCI issued only a revised landscaping plan to correct its errors, MCC would not be able to appeal that decision. To avoid this possibility, MCC would be required to file a LUPA appeal now. MCC does not believe the Examiner intended to allow this result.

3. In accordance with the Decision's instructions to the parties "to coordinate as feasible to resolve" issues, on October 21, 2021, I called Michael Houston, SDCI land use planner to confirm MCC's position and avoid the necessity of a motion for reconsideration. I expressed my concerns to Mr. Houston and asked for SDCI's confirmation that they would publish a new MUP in compliance with the Decision. Mr. Houston said he was still reviewing the Decision but would discuss my concerns with SDCI and get back to me. After several discussions and emails, Mr. Houston stated there might be outcomes where SDCI would not publish a new MUP and therefore SDCI would not commit to do so. Instead, he wrote an email that stated SDCI "will likely publish a new decision" based on the Decision. A copy of our email exchange is attached as Exhibit 1 to this Declaration. MCC believes this statement creates an unacceptable risk that MCC could lose its right to appeal SDCI's decision on remand.

4. Unless the Decision is reconsidered or clarified to require SDCI to publish a new MUP following the Decision's guidelines, MCC will be forced to file a LUPA appeal of the Decision and expend time, effort, and expense to address the possible loss of its future appeal rights.

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

SIGNED this 29th day of October, 2021, at Seattle, Washington.

/s/ \_\_\_\_\_  
Edward R. Coulson



Jeanne Coulson <mjeannecoulson@gmail.com>

---

**RE: MUP 21-016**

1 message

---

**Ted Coulson** <coule@schweetlaw.com>

Tue, Oct 26, 2021 at 2:35 PM

To: "Houston, MichaelT" <MichaelT.Houston@seattle.gov>

Cc: Courtney Kaylor <courtney@mhseattle.com>, Pat Schneider <pat.schneider@foster.com>, Jeanne Coulson <mjeannecoulson@gmail.com>, "Shaw, John" <John.Shaw@seattle.gov>

Thanks very much, Michael. MCC will plan accordingly.

Ted Coulson

206-953-2579

---

**From:** Houston, MichaelT <MichaelT.Houston@seattle.gov>

**Sent:** Tuesday, October 26, 2021 2:29 PM

**To:** Ted Coulson <coule@schweetlaw.com>

**Cc:** Courtney Kaylor <courtney@mhseattle.com>; Pat Schneider <pat.schneider@foster.com>; Jeanne Coulson <mjeannecoulson@gmail.com>; Shaw, John <John.Shaw@seattle.gov>

**Subject:** RE: MUP 21-016

Hi Ted –

Thanks for the follow-up email. At this time, the department will likely publish a new decision based on the Hearing Examiner's ruling. MCC and others can continue sending me comments during this process.

Michael



Michael Houston, AICP

Land Use Planner

Seattle Department of Construction and Inspections

C: 206-561-3440 | O: 206-727-3885 | [MichaelT.Houston@seattle.gov](mailto:MichaelT.Houston@seattle.gov)

Pronouns: he/him/his

SDCI is working with our partners at [Public Health – Seattle & King County](#), [Washington State Department of Health](#), and the [Centers for Disease Control and Prevention](#) to help limit the spread of COVID-19 while doing our best to

Exhibit 1

continue providing services to our customers. Visit the [SDCI website](#) and read our [Building Connections blog](#) for service change updates.

**From:** Ted Coulson <[coule@schweetlaw.com](mailto:coule@schweetlaw.com)>  
**Sent:** Friday, October 22, 2021 12:40 PM  
**To:** Houston, MichaelT <[MichaelT.Houston@seattle.gov](mailto:MichaelT.Houston@seattle.gov)>  
**Cc:** Courtney Kaylor <[courtney@mhseattle.com](mailto:courtney@mhseattle.com)>; Pat Schneider <[pat.schneider@foster.com](mailto:pat.schneider@foster.com)>; Jeanne Coulson <[mjeannecoulson@gmail.com](mailto:mjeannecoulson@gmail.com)>  
**Subject:** MUP 21-016

**CAUTION: External Email**

Hi Mr. Houston:

Thank you for returning my call and discussing the Examiner's ruling. MCC would like to know SDCI's planned next steps in general as a result of the ruling and specifically, whether SDCI intends to issue a new (amended) MUP. You explained that SDCI is reviewing the ruling and considering what it plans to do. MCC is concerned about deadlines for filing an appeal or reconsideration motion. You kindly agreed to let me know by Tuesday how SDCI is going to proceed or if SDCI is still considering its options.

We also discussed the Examiner's request for the parties to coordinate if feasible to resolve issues. We are happy to do so with you and Oceanstar and reach out to SDCI and Oceanstar (by copy of this email to Courtney Kaylor) in that spirit. Please let me know if MCC can do anything else to assist at this point or if you have any questions.

Thank you,

Edward R. (Ted ) Coulson

206-953-2579

---

image001.png  
11K