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BEFORE THE CITY OF SEATTLE  
OFFICE OF HEARING EXAMINER

NEIGHBORS ENCOURAGING REASONABLE  
DEVELOPMENT,

Appellant,

v.

DIRECTOR, SEATTLE DEPARTMENT OF  
PLANNING AND DEVELOPMENT, and

RADIM BLAZEJ,

Respondents.

Hearing Examiner File No. MUP-14-006  
(DR,W)  
S-14-001

(DPD Application No. 3013303)

**APPELLANT NEIGHBORS  
ENCOURAGING REASONABLE  
DEVELOPMENT'S WITNESS AND  
REVISED EXHIBIT LIST PURSUANT  
TO ORDER DATED SEPTEMBER 23,  
2014**

PURSUANT to the Corrected Order Amending Case Schedule and Continuing Hearing dated July 24, 2014 in this appeal, Appellant Neighbors Encouraging Reasonable Development ("NERD") submits the following lists of witnesses and exhibits.

**I. WITNESSES THAT MAY BE CALLED BY APPELLANT**

1. Paul Haury  
4115 32nd Avenue SW  
Seattle, WA 98126  
(206) 714-6113

Paul Haury resides at 4115 32nd Avenue SW, Seattle Washington, in the single family neighborhood adjacent to the subject project and is an officer in the

APPELLANT NEIGHBORS ENCOURAGING REASONABLE  
DEVELOPMENT'S WITNESS AND REVISED EXHIBIT LIST  
PURSUANT TO ORDER DATED SEPTEMBER 23, 2014 - 1



1000 SECOND AVENUE, SUITE 3130  
SEATTLE, WASHINGTON 98104  
PHONE (206) 441-1089  
FACSIMILE (206) 441-1089

1 appellant. He is expected to testify concerning the project, priority public concerns,  
2 and the Design Review and MUP processes.

3 2. Charles H. Burkhalter, Jr.  
4 4031 32<sup>nd</sup> Avenue SW  
5 Seattle, WA 98126  
6 (206) 295-0881

7 Charles Burkhalter is a resident of the single family neighborhood adjacent to  
8 the subject project and a certified public accountant. He is expected to testify  
9 concerning priority public concerns raised throughout the Design Review and MUP  
10 process including parking utilization and transit numbers he has collected. Mr.  
11 Burkhalter's CV is attached and will be made an exhibit.

12 3. Thomas Eanes  
13 2600 2nd Avenue #516  
14 Seattle, WA 98121  
15 (206) 715-3915

16 Mr. Eanes is an architect, testifying pro bono. He is expected to address the  
17 origin of the current Code method of height measurement and its implications for  
18 projects at an abrupt zoning (edge) change, alternatives responsive to the Design  
19 Guidelines, treatment of design changes as major or minor, and the FAR error in the  
20 applicant's architectural drawings. Mr. Eanes' CV is attached and will be made an  
21 exhibit.

22 5. Vlad Oustimovitch  
23 VoKa Incorporated  
24 4109 SW Orchard Street  
25 Seattle, WA 98136-1940  
26 (206) 948-8815

Mr. Oustimovitch, an architect and urban planner, has been a member of the  
City's Southwest Design Review Board, and served as a substitute Board member at  
the November 21, 2013 Initial Recommendation meeting for this project. He is  
expected to testify respecting the Design Review process, Design Guidelines  
addressing project "height bulk and scale" impacts, and issues related to this project's  
location at an abrupt zoning edge. Mr. Oustimovitch's CV is attached and will be  
made an exhibit.

6. William Mills  
Department of Planning and Development  
700 Fifth Ave., Suite 2000  
Seattle, WA 98104  
(206) 684-8738

- 1 7. Garry Papers  
2 Department of Planning and Development  
3 700 Fifth Ave., Suite 2000  
4 Seattle, WA 98104  
5 (206) 684-0916
- 6 8. Roberta Baker  
7 Department of Planning and Development  
8 700 Fifth Ave., Suite 2000  
9 Seattle, WA 98104  
10 (206) 684-8195
- 11 9. Lisa Rutzick  
12 Department of Planning and Development  
13 700 Fifth Ave., Suite 2000  
14 Seattle, WA 98104  
15 (206) 386-9049
- 16 10. James W. Thorpe  
17 Northlake Group LLC and/or Thorpe Group LLC  
18 215 1st Ave West suite 200  
19 Seattle, WA 98119  
20 (206) 547-1370
- 21 11. Sandra E. Mason  
22 [address not currently known]
- 23 12. Witnesses listed by either DPD or the Applicant.
- 24 13. Rebuttal witnesses.

## 25 II. LIST OF EXHIBITS

- 26 1. Documents from DPD project files for MUP # 3013303 (documents available  
at <http://web6.seattle.gov/dpd/edms/>) including but not limited to public  
comment letters, correction notices, DRB packages, DRB Reports and  
Recommendations, consultant documents, notices, application and plans.
2. Notice of Appeal and attachments
3. July 11, 2014 Land Use Interpretation No. 14-005

- 1 4. July 17, 2014 Land Use Interpretation No. 14-005 Supplemental
- 2 5. August 1, 2014 Land Use Interpretation No. 14-005 Supplemental Addendum
- 3 6. Drawings, overlays or other graphic representations depicting the proposed
- 4 project, impacts and/or reasonable alternatives. [NOTE: a request is pending
- 5 with the applicant for production of the materials needed for preparation of
- 6 these items.]
- 7 7. Curriculum Vitae for Expert Witnesses
- 8 8. Filings in King County Superior Court Cause No. 14-2-012169-5, *The*
- 9 *Northlake Group, LLC v. Mason, et al.*, King County Superior Court No. 14-2-
- 10 12169-5, docket available at:
- 11 [http://dw.courts.wa.gov/index.cfm?fa=home.casesummary&crt\\_itl\\_nu=S17&casenumber=14-2-12169-5&searchtype=sName&token=6EC00CD9C7C5FC73B3D7EFC3F31B2BAC&dt=69CACAD04D0DEC8ACCF9C03C1F8FEBC&courtClassCode=S&casekey=168126104&courtname=KING%20CO%20SUPERIOR%20CT](http://dw.courts.wa.gov/index.cfm?fa=home.casesummary&crt_itl_nu=S17&casenumber=14-2-12169-5&searchtype=sName&token=6EC00CD9C7C5FC73B3D7EFC3F31B2BAC&dt=69CACAD04D0DEC8ACCF9C03C1F8FEBC&courtClassCode=S&casekey=168126104&courtname=KING%20CO%20SUPERIOR%20CT)

12 Specifically, the Answer, Affirmative Defenses and Counterclaims filed on

13 June 18, 2014.

- 14 9. Declaration of Sandra E. Mason dated May 5, 2014
- 15 10. July 30, 2014 Letter from Peter J. Eglick to Diane Sugimura
- 16 11. August 15, 2014 letter from Diane Sugimura to Peter Eglick
- 17 12. May 16, 2014 Email and enclosure from Diane Davis to Molly Hurley
- 18 13. November 26, 2013 letter from Joseph Finley to Jim Thorpe
- 19 14. April 2, 2014 letter from Joseph Finley to Daniel Bugbee
- 20 15. August 7, 2014 letter from G. Richard Hill to Diane Sugimura
- 21 16. Amended August 7, 2014 Letter from G. Richard Hill to Diane Sugimura
- 22 17. April 30 - May 9, 2014 e mail exchange between Radim Blazej and Garry
- 23 Papers re parking, with attachments
- 24 18. Email exchange between Scott Jeffries and Garry Papers dated December 20,
- 25 2013
- 26

1 19. April 30, 2014 – May 9, 2014 Email exchange among Radim Blazej, David  
2 Partridge and Mike Mahoney

3 20. Documents related to other recent or pending residential development projects  
4 in proximity to 3078 SW Avalon Way, including:

5 Project 6294013, located at 3266 SW Avalon Way, documents available at  
6 <http://web6.seattle.gov/dpd/edms/>;

7 Project 6404485, located at 3268 SW Avalon Way, documents available at  
8 <http://web6.seattle.gov/dpd/edms/>;

9 Project 3014342 located at 3050 SW Avalon Way, documents available at  
10 <http://web6.seattle.gov/dpd/edms/>; and

11 Project 3012306 located at 3261 SW Avalon Way, documents available at  
12 <http://web6.seattle.gov/dpd/edms/>.

13 Documents from the above project files that identify project street address,  
14 size, type and status of DPD project review/approval (including those attached  
15 and listed below).

16 Project 6294013, 3266 SW Avalon Way:

- 17 • Printout of Permit and Complaint Status from DPD website,
- 18 • Construction Permit,
- 19 • Certificate of Occupancy.

20 Project 6404485, 3268 SW Avalon Way:

- 21 • Printout of Permit and Complaint Status from DPD website;
- 22 • “SEPA Issue Statement”;
- 23 • September 22, 2014 Letter from Diane Sugimura to Randall Spaan.

24 Project 3014342, 3050 SW Avalon Way:

- 25 • Printout of Permit and Complaint Status from DPD website;
- 26 • September 22, 2014 Letter from Diane Sugimura to Jay Janette.

Project 3012306, 3261 SW Avalon Way:

- Printout of Permit and Complaint Status from DPD website;
- Land Use Permit.

21. Metro KC Transit Route Information; service descriptions and definitions.  
<http://metro.kingcounty.gov>

- 1 22. Documents included with July 3, 2014 Letter from DPD, William Mills, to  
2 Peter J. Eglick re document production, with attachments (DPD has already  
3 distributed these documents to the parties)
- 4 23. Documents included with July 7, 2014 Letter from DPD, William Mills, to  
5 Peter J. Eglick re supplemental document production, with attachments (DPD  
6 has already distributed these documents to the parties)
- 7 24. Documents included with July 8, 2014 Email from DPD, William Mills, to  
8 Peter J. Eglick re supplemental document production, with attachments (DPD  
9 has already distributed these documents to the parties)
- 10 25. Documents included with July 22, 2014 Letter from DPD, William Mills, to  
11 Peter J. Eglick re supplemental document production, with attachments (DPD  
12 has already distributed these documents to the parties)
- 13 26. Documents included with August 2, 2014 Letter from DPD, William Mills, to  
14 Peter J. Eglick re supplemental document production, with attachments (DPD  
15 has already distributed these documents to the parties)
- 16 27. Documents included with August 20, 2014 Letter from DPD, William Mills, to  
17 Peter J. Eglick re supplemental document production, with attachments (DPD  
18 has already distributed these documents to the parties)
- 19 28. Exhibits listed by DPD or the applicant.
- 20 29. Items used for purposes of impeachment or rebuttal.

21 Discovery and hearing preparation is ongoing, which may result in changes to these  
22 lists. Appellant reserves the right to utilize Land Use Code excerpts, Zoning Maps, Aerial  
23 Photographs, Design Review Guidelines, DPD Client Assistance Memos, DPD "TIP" sheets,  
24 DPD Director's Rules, dictionary definitions and similar materials typically not exhibits but  
25 utilized at hearings.

26 For the sake of efficiency and in light of the indications by the Examiner in the July  
23, 2014 conference call that this matter will proceed to hearing regardless, Appellant

1 continues to request a remand on procedural grounds, but will present its evidence and  
2 arguments for this at the hearing rather than in a separate motion prehearing motion. All rights  
3 are reserved in this regard.

4 DATED this 24<sup>th</sup> day of September, 2014.

5 EGLICK KIKER WHITED PLLC

6  
7  
8 By \_\_\_\_\_

Peter J. Eglick, WSBA #8809

Attorney for Appellant

Neighbors Encouraging Reasonable Development

CERTIFICATE OF SERVICE

I, Fred Schmidt, an employee of Eglick Kiker Whited PLLC, declare that I am over the age of eighteen, not a party to this lawsuit and am competent to testify as to all matters herein.

On September 24, 2014, I caused to be delivered, a true and correct copy of the foregoing document by legal messenger to the following individuals:

Garry Papers  
Department of Planning and Development  
PO Box 34019  
Seattle, WA 98124-4019  
garry.papers@seattle.gov

G. Richard Hill  
McCullough Hill Leary, P.S.  
701 Fifth Avenue, Suite 6600  
Seattle, WA 98104  
Rich@mhseattle.com

William Mills  
Department of Planning and Development  
PO Box 34019  
Seattle, WA 98124-4019  
William.Mills@seattle.gov

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

DATED: September 24, 2014 at Seattle, Washington.

  
\_\_\_\_\_  
Fred Schmidt