

BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In Re: Appeal by

CEDERSTRAND RENTALS LLC,

from the decision to approve Historic
Preservation Certificate of Approval DONW-
COA-02024 by the Director of the Seattle
Department of Neighborhoods

CASE NO. R-26-003

NOTICE OF MOTIONS TO BE
PRESENTED BY APPELLANT
AT PREHEARING CONFERENCE

I. INTRODUCTION

Pursuant to HER 3.17(a) and (e), and with the intent of satisfying the requirements of HER 3.07(a), appellant Cederstrand Rentals, LLC, acting through the undersigned attorney of record, provides notice of its intent to submit the following motions to the Hearing Examiner at the prehearing conference scheduled for 3:00 p.m. on Tuesday, April 21, 2026.

This matter involves a Department of Neighborhoods Certificate of Approval for the development of public toilets in the right-of-way. This proposal, submitted by Seattle Department of Transportation (“SDOT”), is subject to supplemental Pioneer Square Preservation District land use regulations that are the subject of this appeal.

II. MOTIONS TO BE PRESENTED

A. Completion of the Record and Discovery. Appellant requests that the case schedule provide adequate time for (i) production of a complete record of decision pertaining to the decision (“Decision”) by the Department of Neighborhoods (“Department”) and the deliberations and recommendation of the Pioneer Square Preservation Board (“Board”) on which the Decision is premised; and (ii) subsequent discovery by the parties.

NOTICE OF APPELLANT’S PREHEARING
CONFERENCE MOTIONS – 1

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1 1. The Record. The Decision is reviewed pursuant to the arbitrary and capricious
2 standard. SMC 23.66.030.E.4. A decision is arbitrary and capricious “if it is ‘willful and
3 unreasoning action in disregard of facts and circumstances.’” *Skagit County v. Dep’t of*
4 *Ecology*, 93 Wn.2d 742, 749, 613 P.2d 115 (1980) (*quoting English Bay Enterprises, Ltd. v.*
5 *Island County*, 89 Wn.2d 16, 21, 568 P.2d 783 (1977)). To fully evaluate the Decision and
6 whether it is arbitrary and capricious, then, the record of decision must include facts and
7 circumstances (*i.e.* the information presented to and considered by the Board and the
8 Department) that allow evaluation of the Decision. The current record of decision is deficient
9 in this respect.
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11 The following materials are currently available to appellants: (i) the Decision; (ii) the
12 agenda from the March 11, 2026, Architectural Review Committee (“ARC”) meeting at which
13 the subject matter of the Decision was discussed; and (iii) the agenda, minutes, and staff report
14 from the March 18, 2026, meeting of the Board. In order for the record to be considered
15 complete, the following should also be made available to appellant: (i) minutes and staff
16 report from the March 11, 2026, meeting of the ARC; (ii) all materials submitted to and/or
17 considered by the ARC and/or Board at their meetings on March 11 and March 18, 2026; and
18 (iii) transcripts and/or recordings of the March 11 and 18 meetings. The absence of this
19 information is prejudicial. Appellant therefore requests that the prehearing order include a
20 requirement that the Department provide these materials to appellant to complete the record of
21 decision for this matter.
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23 2. Discovery. HER 5.12 authorizes discovery. Given that the record of decision
24 is incomplete, the scope of necessary discovery, if any, is uncertain. Appellant therefore
25 requests that the prehearing order include a requirement that the parties be able to engage in
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1 discovery for a period of at least sixty (60) days following the Department’s production of the
2 complete record of decision if appellant requires additional information.

3 B. Mediation. Hearing Examiner Rule 5.10.01(c) “encourages the use of mediation and/or
4 settlement to reach voluntarily and mutually acceptable solutions.” Appellant believes this
5 matter can be resolved with a mediator’s assistance. To that end, appellant presented a draft
6 settlement agreement to SDOT for review on March 26, 2026, but has not received a
7 substantive response to date. To facilitate settlement efforts, then, and in accordance with
8 HER 5.10.02, appellant requests that this matter be set for mediation led by the Seattle Hearing
9 Examiner’s Office or another mediator mutually acceptable to the parties. Appellant believes
10 that mediation would be most beneficial following discovery but is none-the-less willing to
11 enter mediation now with the hope of expeditiously resolving this matter.
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13 C. Dispositive Motions. Although the record of decision is incomplete, it appears likely
14 that this matter may ultimately be resolved via dispositive motions without the need for a
15 hearing. Accordingly, and notwithstanding the admonishment of HER 3.17(k), appellant
16 requests that the prehearing order authorize the parties to file motions for summary judgment
17 following conclusion of the discovery and mediation periods requested above.
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19 D. Hearing Scheduling Considerations. If the foregoing efforts are unsuccessful and this
20 matter proceeds to hearing, appellant currently anticipates calling at least four (4) witnesses,
21 two of whom will likely be tendered as experts, and that its case in chief will take
22 approximately six hours to present. Additionally, counsel for appellant will be unavailable
23 between July 8—24, 2026.
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III. CONCLUSION

For the foregoing reasons, at the prehearing conference scheduled for April 21, 2026, appellant will move and respectfully requests that the Hearing Examiner issue a prehearing order: (a) instructing the Department to complete the record of decision as detailed herein; (b) providing for a discovery period or at least sixty (60) days following completion of the record of decision; (c) authorizing mediation by the parties and reserving at least thirty (30) days for that process; and (d) authorizing the parties to file dispositive motions following the discovery and mediation periods and setting a dispositive motion noting deadline that is not less than one week prior to the hearing.

RESPECTFULLY SUBMITTED this 20th day of April 2026.

s/ R. Shawn Griggs
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 20th day
3 of April, 2026 a true and correct copy of
the foregoing was sent via e-mail to:

4 Seattle Department of Transportation
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Seattle, Washington 98104
Attn: Joel Miller
6 Lauren Corn
E: Joel.Miller@seattle.gov
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8
9 Seattle Department of Neighborhoods
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10 Attn: Genna Nashem
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11
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