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8 BEFORE THE HEARING EXAMINER  
9 FOR THE CITY OF SEATTLE

10 In the Matter of the Appeal of:

11 EPIC, et al.,

12 From a Department of Construction and  
13 Inspections decision.

No. MUP-17-001

DCI Reference:  
3020845

MOTION FOR CLARIFICATION OF  
ISSUES

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17 In anticipation of the prehearing conference in this matter, and pursuant to Hearing  
18 Examiner Rules of Practice and Procedure Rule 3.04, the Applicant Patrick Donnelly  
19 (“Applicant”) moves for clarification of the issues presented in this appeal. Rule 3.04 provides  
20 that:

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22 On the motion of a party, or at the Hearing Examiner’s own initiative, the Hearing  
23 Examiner may require that the appellant provide clarification, additional  
24 information, or other submittal that the Hearing Examiner deems necessary to  
demonstrate the basis for the Hearing Examiner’s jurisdiction,<sup>1</sup> or to make the  
appeal complete and understandable.

25 Specifically, the Applicant requests clarification of the following issues in the (Amended)  
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27 Objections to Land Use Decision (“Appeal”) submitted by Appellants EPIC *et al.*

28 <sup>1</sup> The Applicant reserves the right to bring dispositive motions on jurisdictional or other grounds.

1 (“Appellants”):

- 2 • “New public notice should have been provided when the project changed during  
3 public review and the City obtained new information.” Appeal, p. 1. The Applicant  
4 requests clarification regarding what changes and new information are alleged.  
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- 6 • “The decision was arbitrary and capricious and not supported by substantial evidence.”  
7 Appeal, p. 1. The Applicant requests clarification regarding what aspects of the  
8 decision are alleged to be arbitrary and capricious and not supported by substantial  
9 evidence and what Seattle Municipal Code (“SMC”) provisions, if any, form the basis  
10 for this claim.
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- 12 • “A new SEPA analysis should have been required due to the changes that have  
13 occurred since the original mitigated determination of non-significance was issued,  
14 including . . . (5) changes to the project; (6) failure of the project to conform to the  
15 mitigation required in the MDNS; and (7) failure to comply with substantive criteria  
16 of the land use code.” Appeal, p. 1. The Applicant requests clarification regarding  
17 (1) what changes to the project are alleged; (2) which MDNS conditions Appellants  
18 are referring to; and (3) which Land Use Code criteria the Appellants rely on.
- 19
- 20 • “The mitigation imposed under SEPA was inadequate to mitigate . . . (4) violations of  
21 law and public policy; (5) failure to conform to mitigation required by the MDNS;  
22 and (6) failure to conform to the land use code.” Appeal, p. 1. The Applicant  
23 requests clarification regarding: (1) what provisions of law and public policy  
24 Appellants claim were violated; (2) which MDNS conditions Appellants are referring  
25 to; and (3) which Land Use Code criteria the Appellants rely on.  
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- 1 • “The City and County improperly piecemealed the project in violation of SEPA.”  
2 Appeal, p. 1. The Applicant requests clarification regarding what aspects of the  
3 project Appellants believe were piecemealed.  
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5 • “The City failed to acknowledge that the residential development is an integral part of  
6 the project . . .” Appeal, p. 1. The Applicant requests clarification identifying the  
7 residential development proposal to which Appellants refer.  
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9 • “The City failed to require compliance with conditions of the MDNS, which  
10 constituted substantive criteria for the project.” Appeal, p. 1. The Applicant requests  
11 clarification regarding which MDNS conditions Appellants are referring to.  
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13 • “Due to undisclosed changes to the project . . . the public was not provided a  
14 reasonable opportunity to participate . . .” Appeal, p. 2. The Applicant requests  
15 clarification regarding what changes to the project are alleged.  
16  
17 • “The plans and documents submitted by King County were inaccurate and  
18 inconsistent and do not contain sufficient detail . . .” Appeal, p. 2. The Applicant  
19 requests clarification regarding what inaccuracies, inconsistencies and omissions are  
20 alleged.

21 DATED this 25<sup>th</sup> day of January, 2017.

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