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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeal of:

Livable Phinney, a Washington non-profit
corporation

From a Department of Construction and
Inspections decision.

No. MUP 17-009 (DR, W)

DCI Reference:
3020114

DECLARATION OF KELSIE D.
CLEMENS AND VERBATIM
TRANSCRIPT OF PROCEEDINGS

I, KELSIE D. CLEMENS, under penalty of perjury under the laws of the State of
Washington, declare as follows:

1. I am a legal assistant with McCullough Hill Leary, PS, attorneys for Johnson and
Carr, Inc., Applicant. I am competent to make this declaration based on my personal knowledge.

2. I listened to the audio-recorded testimony of the pre-hearing conference before the
City of Seattle Hearing Examiner dated February 27, 2017, for the above-referenced appeal,
MUP 17-009.

3. The pre-hearing conference for the appeal can be accessed at the Prehearing
Conference Recording, found at the following web address:

1 <https://web6.seattle.gov/Examiner/case/MUP-17-009> (last visited April 10, 2017).

2 4. The following transcription is an excerpt of the Prehearing Conference Recording,
3 time marker 12:24 – 16:26.

4 5. I certify that the following is a true and correct transcription of portions of the
5 audio recording of the prehearing conference:
6

7 Excerpt Audio Hearing Examiner proceedings 12:24 – 16:26.

8 **Hearing Examiner Vancil:** Any discovery anticipated?

9 **Jeffrey Eustis:** We do have some requests.
10

11 **Hearing Examiner Vancil:** And I guess for scheduling purposes the crux of what I need to
12 know is, is there going to be any need for this office to participate?
13 Generally we leave it to the parties to engage in prehearing
14 discovery make the request of each other and then if there's a need
15 for the hearing examiner to be involved, that can be made by
16 motion. I ask today for that reason and then also because if I know
17 that there's a bunch of discovery going on, then we need time to
18 accommodate that so....
19

20 **Jeffrey Eustis:** Ok since we...these requests are short. If there's a need to issue a
21 subpoena then I will do it by motion. So this is of the Applicant
22 since the Applicant is here. The request is for the CAD drawings
23 of the view compliance diagram, dated October 5, 2016 which I
24 believe is the most up to date view compliance diagram.
25

26 **Jessica Clawson:** OK.
27
28

1 **Jeffrey Eustis:** OK. And then for the traffic update. This is the Gibson Traffic
2 Consultant's report of October 28, 2016. On page 3 there's
3 reference to...let's see...documentation from the department of
4 Trans... King County Department of Transportation...of a
5 passenger boarding report for the fall of 2015. And the data deals
6 with passenger counting system, apparently run by Metro. And it
7 is unclear to us which report Gibson was relying upon because its
8 spreadsheet... in the appendix of page 56 was from the spring of
9 2013 but its report speaks of the 2015 printout. So what we're
10 looking for is the data.
11

12
13 **Jessica Clawson:** Ok.

14 **Jeffrey Eustis:** Ok.

15 **Hearing Examiner Vancil:** So some document exchange it sounds like?

16 **Jeffrey Eustis:** Yes.

17 **Hearing Examiner Vancil:** Alright.

18 **Jessica Clawson:** We see no problem with providing those to the extent that they are
19 available.
20

21 **Hearing Examiner Vancil:** It doesn't sound like it'll impact our schedule at all either.
22

23 **Jessica Clawson:** Do you want to send in a formal request?

24 **Jeffrey Eustis:** Yes.

25 **Jessica Clawson:** Or an email...or...

26 **Jeffrey Eustis:** Yes.
27

1 **Jessica Clawson:** OK.

2 **Jeffrey Eustis:** And I would also point out that Livable Phinney has prepared a
3 Public Records request to the City... dealing with a number of
4 records relating to the Analysis and Decision...and the City has
5 indicated it would not have a response before March 15, 2017. At
6 least...I would almost have to say it has been practically the rule
7 rather than the exception that the city departments have slipped on
8 meeting those deadlines. So, obviously, we need those documents
9

10 **Hearing Examiner Vancil:** OK. What about witnesses? How many witnesses does the
11 appellant anticipate at this time?
12

13 I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 11th day of April, 2017, at Seattle Washington.

15
16
17 By: 
18 Kelsie D. Clemens