

1 SEATTLE HEARING EXAMINER

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3 In the Matter of the Appeal by
4 LIVABLE PHINNEY,
a Washington non-profit corporation
5 from a determination of non-significance,
6 design review and interpretation
7

Hearing Examiner File
MUP-17-009 (DR, W)

APPELLANT'S MOTION FOR
EXTENSION OF DEADLINE FOR
IDENTIFICATION AND DISCLOSURE
OF WITNESSES AND EXHIBITS

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9 **I. RELIEF REQUESTED**

10 Pursuant to HER 2.16 and 2.20, Livable Phinney requests a brief, two-day
11 extension of the deadline for identification and disclosure of witnesses and exhibits,
12 from 5 pm on Tuesday, April 25 to 5 pm on Thursday, April 27, 2017.

13 **II. RELEVANT FACTS**

14 On the date of the issuance of the Code Interpretation Livable Phinney submitted
15 a request for public records relating to the code interpretation, a request that could not
16 have been previously submitted since records requests are not continuing in nature and
17 Livable Phinney had no way of knowing in advance the outcome of its code
18 interpretation request. SDCI initially responded that the first installment of the requested
19 documents would be provided on May 3, 2017, a day after the commencement of the
20 hearing. Based upon the date of projected disclosure, Livable Phinney moved for a
21 continuance of the hearing, which the Examiner denied. However, the Examiner
22 ordered SDCI to respond to Appellant's request for documents by 5 pm on Tuesday,
23 April 25, 2017, also the deadline for the identification of witnesses and exhibits and the
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MOTION FOR EXTENSION OF DEADLINE FOR
IDENTIFICATION AND DISCLOSURE OF
WITNESSES AND EXHIBITS - 1

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1 exchange of exhibits. The order compelling SDCI's response provided no time for
2 Livable Phinney to actually review the response prior to designating witnesses and
3 exhibits.

4 In response to Livable Phinney's payment on Friday, April 21st of search and
5 retrieval fees, SDCI has responded that records would be made available within one to
6 two business days of payment. As of this writing, those records have not been made
7 available and Livable Phinney has no idea as to the timing of actual production or the
8 volume of documents to be produced.

10 **III. ARGUMENT**

11 To allow Livable Phinney time to actually review documentation relating to the
12 SDCI's code interpretation and to identify from that documentation witnesses and
13 exhibits for presentation at the hearing, Livable Phinney requests a two day extension
14 of the deadline for the identification of witnesses and exhibits and the exchange of
15 exhibits. Such a modest extension should not prejudice respondents as the hearing
16 date itself had been extended a day without an adjustment to prehearing dates.

18 This request is based upon the assumption that SDCI actually produces all
19 requested documentation by Tuesday, April 25th and is presented without prejudice to a
20 subsequent request should SDCI not meet that deadline.

21 Dated this 24th day of April, 2017.

23 ARAMBURU & EUSTIS, LLP

24 By 

25 Jeffrey M. Eustis, WSBA #9262

MOTION FOR EXTENSION OF DEADLINE FOR
IDENTIFICATION AND DISCLOSURE OF
WITNESSES AND EXHIBITS - 2

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DECLARATION OF SERVICE

I am a partner in the law offices of Aramburu & Eustis, LLP, over eighteen years of age and competent to be a witness herein. On the date below, I served copies of the foregoing document upon parties of record, addressed as follows:

Patrick Downs,
Assistant City Attorney
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 first class postage prepaid,
 email facsimile
 hand delivery / messenger

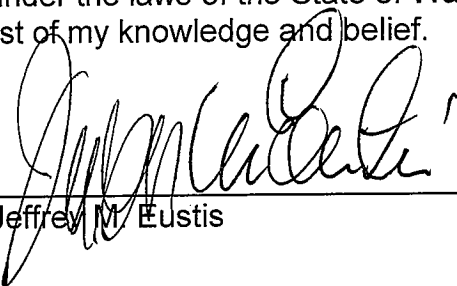
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge and belief.

DATED: April 29, 2017.



Jeffrey M. Eustis