

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeal of

LIVABLE PHINNEY

from a decision, interpretation, and SEPA
determination issued by the Director,
Seattle Department of Construction and Inspections

Hearing Examiner Files:
MUP-17-009 (DR, W)
S-17-002

Department Reference:
3020114

**SECOND ORDER CORRECTING
DECISION**

A clerical error was made in the decision issued in this matter. The error on page 11 reads:

The Appellant further argues that the Applicant's shadow study is inadequate. At the hearing, the Applicant introduced a revised shadow analysis (Exhibit 68) that was inconsistent with the Applicant's original shadow analysis (Exhibit 3) that had served as the basis for the Interpretation. Exhibit 3 shows the proposal's clerestory feature casting a shadow in the right-of-way adjacent to, but not on the building to the north at noon on December 21st. In Exhibit 68 the shadow analysis shows the clerestory casting a shadow on the building to the north at noon on December 21st, which would require the clerestory to be set back ten feet from the north property line for compliance with SMC 23.47A.012.C.7. In addition, there appear to be inconsistencies between the Applicant's shadow analysis materials submitted in Exhibits 3 and 64 (the Second EDG Packet Proposal). The Interpretation should be remanded to the Department for additional review and issuance of a revised Interpretation addressing the inconsistencies between Exhibits 3, 64 and 68.

The Applicant argues that even though the clerestory feature may cast a shadow on the building to the north at noon on December 21st, that shadow is subsumed within what would be the shadow caused by the maximum building envelope for a "structure built to the maximum permitted height and FAR," and therefore a ten-foot setback is not required. The Applicant states:

Hearing Examiner Rule 2.25 provides that clerical mistakes in decisions may be corrected by Order.

The decision is corrected to read as follows:

The Appellant further argues that the Applicant's shadow study is inadequate. At the hearing, the Applicant introduced a revised shadow analysis (Exhibit 68) that was inconsistent with the Applicant's original shadow analysis (Exhibit 3) that had served as the basis for the Interpretation. Exhibit 3 shows the proposal's clerestory feature casting a

shadow in the right-of-way adjacent to, but not on the building to the north at noon on January 21st. In Exhibit 68 the shadow analysis shows the clerestory casting a shadow on the building to the north at noon on January 21st, which would require the clerestory to be set back ten feet from the north property line for compliance with SMC 23.47A.012.C.7. In addition, there appear to be inconsistencies between the Applicant's shadow analysis materials submitted in Exhibits 3 and 64 (the Second EDG Packet Proposal). The Interpretation should be remanded to the Department for additional review and issuance of a revised Interpretation addressing the inconsistencies between Exhibits 3, 64 and 68.

The Applicant argues that even though the clerestory feature may cast a shadow on the building to the north at noon on January 21st, that shadow is subsumed within what would be the shadow caused by the maximum building envelope for a "structure built to the maximum permitted height and FAR," and therefore a ten-foot setback is not required. The Applicant states:

This order shall become a part of the decision, effective as of the date of the decision, and shall be attached to that decision.

Entered this 25th day of July, 2017.



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**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached **Second Order Correcting Decision** to each person listed below, or on the attached mailing list, in the matter of **Livable Phinney**. Hearing Examiner File: **MUP-17-009 (DR, W), S-17-002**, in the manner indicated.

Party	Method of Service
Livable Phinney c/o Jeff Eustis Aramburu & Eustis LLP eustis@aramburu-eustis.com	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Applicant c/o Katie Kendall McCullough Hill Leary, P.S. kkendall@mhseattle.com Laura Counley lcounley@mhseattle.com	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Michael Dorcy SDCI Michael.Dorcy@seattle.gov Patrick Downs Assistant City Attorney Patrick.Downs@seattle.gov Alicia Reise Alicia.Reise@seattle.gov	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
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Dated: July 25, 2017

TK

Tiffany Ku
Legal Assistant