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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeals of)	Hearing Examiner File:
)	W-17-006 through
WALLINGFORD COMMUNITY)	W-17-014
COUNCIL, ET AL.)	FRIENDS OF RAVENNA-COWEN'S (W-17-008)
)	REPLY RE
Of Adequacy of FEIS Issued by the)	MOTION FOR CONTINUANCE TO 5/18/18
Director, Office of Planning and)	IN ORDER TO SUBMIT EVIDENCE
<u>Community Development .</u>)	RE CITY'S MOTION TO DISMISS

REPLY RE FRIENDS OF RAVENNA-COWEN'S MOTION FOR A CONTINUANCE

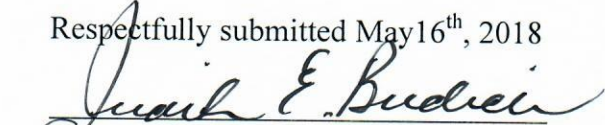
Appellant Friends of Ravenna-Cowen replies to the City's response to the Appellant's motion for a continuance. While the City's Response appears to address the merits of its Motion to Dismiss (with which the Appellant disagrees but does not address in this Reply), the City now agrees that the motion to dismiss with respect to Friends of Ravenna-Cowen is a CR 12(b)(6) motion, but it still equivocates:

At p, 4, lines 1 -2, the Response states, "These issues (*or parts of issues*)(emphasis added) can be decided pursuant to HER 3.02 and, as needed, with reference to the standards governing CR 12(b)(6)." The problem is the language "parts of issues." The City does not state whether there are parts of its motion that rely on CR 56. At p. 4, beginning at line 19, the City states, "Where CR 56 applies (*and it does not here*) (emphasis added)..."

1 In its response to the City's Motion to Dismiss, Appellant pointed out that the City
2 submitted no evidence with respect to Friends of Ravenna-Cowen. Accordingly, the City's
3 motion was thus in effect a motion under CR 12(b)(6). In its Reply re the City's Motion to
4 Dismiss, the City insisted it was a CR 56 motion. Rather than take a risk that the City was
5 correct, and because evidence was newly discovered and obtained in support of Appellant's
6 assertions made in the Notice of Appeal, and in an abundance of caution, the Appellant seeks to
7 supplement the record with evidence material to the issues raised.

8 If the City had simply stated from the get-go that its Motion to Dismiss *vis-à-vis* Friends
9 of Ravenna-Cowen could be decided under CR 12(b)(6), there would have been absolutely no
10 need to file a motion for a continuance. But based on the language cited at p. 4, *supra*, of the
11 City's Response, the City regrettably is still sending mixed messages. If the City will agree
12 unequivocally, that its Motion to Dismiss with respect to Friends of Ravenna-Cowen that it is to
13 be decided under the standards governing CR 12(b)(6), then Appellant will withdraw its motion
14 for a continuance.
15

16 If it does not, then the Hearing Examiner should grant Appellant Friends of Ravenna-
17 Cowen's motion for a continuance to May 18, 2018 so that the appellant can submit evidence in
18 response to the City's motion to dismiss, evidence it did not have until Ms.Sodt's deposition was
19 taken on May 10, 2018.

20 Respectfully submitted May 16th, 2018
21 
22 JUDITH E. BENDICH, WSBA #3754
23 Authorized Representative for
24 Friends of Ravenna-Cowen

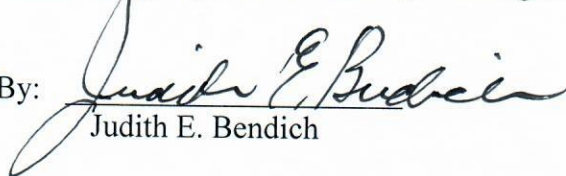
25 CERTIFICATE OF SERVICE

1 The undersigned certifies under penalty of perjury under the laws of the State of
2 Washington that Friends of Ravenna-Cowen's Reply re the Motion For A Continuance to
3 5/18/2018 to Submit Evidence proof in support was served on May 16, 2018 on all the parties'
4 attorneys of record or on their authorized representatives of record at the email addresses listed
5 below:
6 Beacon Hill Council mira.latoszek@gmail.com; Seattle Coalition for Affordability, Livability
7 and Equity (SCALE) newman@bnd-law.com; Dave Bricklin (bricklin@bnd-law.com);
8 cahill@bnd-law.com; telegin@bnd-law.com; Fremont NC toby@louplop.net; Friends of North
9 Rainier masteinhoff@gmail.com; PCD_MHAEIS MHAEIS@seattle.gov; Mitchell, Daniel B
10 Daniel.Mitchell@seattle.gov; Alicia Riese Alicia.Riese@seattle.gov; Weber, Jeff S Jeff.Weber@seattle.gov;
11 Geoffrey Wentlandt Geoffrey.Wentlandt@seattle.gov; Cara E. Tomlinson
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13 "Dale N. Johnson" [<dnj@vnf.com>](mailto:dnj@vnf.com); Clara Park [<cpark@vnf.com>](mailto:cpark@vnf.com); MOCA
14 djb124@earthlink.net; SUN booksgalore22@gmail.com; Wallingford CC lee@lraaen.com; West
15 Seattle Junction rkoehler@cool-studio.net; West Seattle Junction Gen admin@wsjuno.org.

17 This reply was e- filed with the City of Seattle Hearing Examiner on May16, 2018.

18 Dated: May 16, 2018 at Seattle, Washington,

19 By:

20 
21 Judith E. Bendich