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December 20, 2018

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AMENDMENTS NEEDED TO IMPROVE THE MANDATORY HOUSING AFFORDABILITY LEGISLATION

To Councilmembers Johnson, Mosqueda, and O'Brien, and staff member Aly Pennucci:

The Eastlake Community Council asks your help in analyzing and, we hope, adopting the following proposed amendments that we suggest are needed to realize the goals of the proposed Mandatory Housing Affordability program. MHA's goals are to produce affordable housing and to enhance the livability of the areas proposed for possible upzones, by building affordable units in newly permitted projects separately through in-lieu fees. We look forward to working with you urgently in the coming days and weeks to develop specific ordinance language to better achieve these goals, and to ensure that the amending language is fully understood and analyzed by the City Council.

Eastlake in recent years has been ground zero for the residential and business construction boom, at a severe cost to our neighborhood's historic affordability and livability. It would be sadly ironic if the proposed MHA legislation were to accelerate these negative trends rather than counteract them, but we expect this result unless improvements such as the following are adopted.

1. Restore on-site parking requirements for new residential buildings that are currently waived by City ordinance except for those buildings which have at least 15 percent of units that are affordable to those with incomes below the citywide median income. If that change is regarded as too far-reaching, restore on-site parking requirements for new

buildings only in neighborhoods like Eastlake where SDOT sells more Restricted Parking Zone (RPZ) permits than the number of on-street parking spaces, indicating that on-street and on-site parking supply is already extremely tight.

Explanation: Revised Code of Washington section 26.70A.540 which gives Seattle the authority to act under MHA specifically mentions "parking reductions" as one of the items of value municipalities can convey to developers in order to be allowed to impose on developers an inclusionary zoning requirement or an in-lieu fee. Indeed, the parking reductions and exemptions first made in Seattle's Land Use Code many years ago were for non-profit housing projects, specifically to provide an incentive to produce affordable housing units.

However, in recent years the City has in many neighborhoods unselectively reduced or eliminated on-site parking requirements for all development. In doing so, the City gave away this benefit without getting any affordability in return such as RCW 26.70A.540 would allow the City to do. What the City gave away it can also take back, and then convey in a more selective way that creates value under RCW 26.70A.540 as an incentive for affordable housing.

Without the proposed restoration of on-site parking requirements, the MHA upzone will further degrade the availability of on-street and on-site parking without using the carrot of reduced or eliminated on-site parking requirements to produce more affordable housing. The ordinance change proposed here would restore parking reductions as an incentive for affordable housing that the City can use under RCW 26.70A.540 to impose inclusionary zoning for on-site affordable housing or to impose in-lieu payments to produce affordable housing elsewhere. Doing so would make it possible for the City to impose inclusionary zoning and in-lieu fees without need for upzones both in the areas now proposed for upzones, and in multi-family zoned areas that are not proposed for upzones and therefore are not currently proposed for MHA requirements.

If the City Council is unwilling to restore on-site parking requirements in all multi-family zoned areas or even just in those multi-family zoned areas that are proposed for MHA upzones, it could adopt a narrower change that restores on-site parking requirements in neighborhoods like Eastlake where SDOT's own Restricted Parking Zone program proves that parking is scarce because SDOT is issuing more RPZ permits than the number of available on-street parking spaces. In either case (this amendment or the broader one of restoring on-site parking requirements in most or all of multi-family zoned areas), the City would be reclaiming "parking reductions" as an incentive to encourage genuine and sustainable affordable housing, while at the same time avoiding the worsening of parking scarcity and therefore of livability that MHA will otherwise cause.

2. Restore setback requirements (yards) for new construction in multi-family zoned areas to a size that will allow large trees.

Explanation: When considering the proposed MHA ordinance, it is easy to forget that the "L" in HALA stands for livability, reflecting a promise that MHA was to pursue affordability in a way that protects and enhances livability. Indeed, science and everyday experience tell us that trees, landscaping, urban wildlife and open space and sunlight promote psychological and physical health. The very choice of the term "urban village" and how the urban village designation was and is presented to the neighborhoods that were induced to welcome it, embody a promise that growth will occur only with livability.

Unfortunately, past City Councils have amended the Land Use Code to successively reduce required setbacks in multi-family zoned areas down to a size that can no longer be dignified with the name "yard", and certainly to a size too small to accommodate large trees. The result is to deny to multi-family zoned areas the beauty, shade, noise reduction, air cleaning, and songbirds that trees provide in single family zoned areas.

The virtual elimination of setbacks (yards) and therefore of large trees and their many benefits is just one of the many ways that the livability of multi-family zoned areas is being degraded at the very time when the City wishes to move to these areas more people, including families and children. Restoring required setbacks would bring back to multi-family zoned areas the balancing protections for village-like livability that they were promised in the 1994 Comprehensive Plan and in the neighborhood planning process under which the urban villages were established and confirmed.

MHA's inclusionary zoning requirement and the in-lieu fee to buy out of it would apply whether or not a new building maxes out the allowable space. Thus unless required setbacks and yards are restored, developers will (more so than without MHA) have every incentive to use up every square inch of the upzone's new development capacity, causing the destruction of existing large trees and leaving no room for their replacement by other large trees.

3. Reduce the proposed MHA rezones and upzones to the heights and acreage needed to ensure the production of the number of affordable housing units that City plans call for in the neighborhoods affected by the MHA ordinance. Do not rezone or upzone beyond what is needed to reach this affordable housing target.

Explanation: As currently proposed, the MHA rezones and upzones are well beyond what is needed to produce the proposed number of affordable units. In a neighborhood like Eastlake, the zoning changes will have severe negative consequences for livability, affordability, and displacement, and should not be more than is needed to produce the affordable housing proposed.

4. Any amendments in the MHA rezoning and upzoning legislation shall not result in a change in its proportion of the development potential proposed for multi-family or commercially zoned properties versus the single family zoned properties that are also directly affected by the MHA proposals.

Explanation: An inherent inequity in the MHA proposals is to focus residential growth on multi-family and commercially zoned properties and far less on single-family zoned properties. An important principle for any further revision in these proposals in the coming weeks is not to worsen this inequity by further shifting growth to multi-family and commercially zoned properties in greater proportion to single-family zoned properties than has already been proposed.

5. Include in the MHA ordinance a requirement for replacement of affordable and low income housing units within each neighborhood on at least a one-for-one basis.

Explanation: This proposed amendment speaks for itself. Without it, the "affordability" in MHA will be a hollow promise. Otherwise, in neighborhoods like Eastlake, MHA is likely to cause a net reduction in affordable housing, not an increase.

6. Quadruple (from the level proposed in the MHA ordinance) the level of "in lieu" fees charged to developers to avoid the inclusionary zoning requirement of including affordable housing in their project.

Explanation: MHA's current proposed level of in-lieu fees is far lower than with similar programs in other cities. A substantial increase such as quadrupling the in lieu fees is needed in order to raise sufficient funds for subsidized housing projects and to create a greater incentive for developers to build affordable units into their projects. The current level of in-lieu fees is so low as to encourage developers to buy out of on-site affordability requirements, making it likely that neighborhoods like Eastlake with high property values will lose their existing affordable housing without it being replaced in the new construction that destroyed the previously affordable units.

A possible alternative to a uniform in-lieu fee that does not vary across neighborhoods with varying property values, is for the in-lieu fee to be on a sliding scale that is closely based on a property's value. Thus, neighborhoods like Eastlake that have high property values would have much higher in-lieu fees than those neighborhoods whose property values are relatively lower. This approach would prevent unnecessary displacement of affordable rentals and make it more likely that new construction has real affordability built in.

7. Require that the affordable and low income housing funded by "in lieu" fees be located in the neighborhood where the in-lieu fees were raised, or within a quarter mile of that neighborhood's boundary unless the payer is willing to pay a higher in-lieu fee. As is done in Los Angeles, increase the in-lieu fee as the replacement subsidized housing is built farther from the very neighborhood where the development occurred.

Explanation. As outlined in #6 above, the MHA ordinance as currently proposed does not provide sufficient incentive for affordable housing to be built in to new construction. As in-

lieu fees would be the preference of developers especially in neighborhoods like Eastlake with high property values, the likelihood is that such neighborhoods will become cash cows to generate funds that nonprofit housing developers will use to build subsidized housing in areas with more affordable land cost, as has been their practice for decades. It is a practice reinforced by per-unit cost ceilings which are enforced by local, state, and federal sources of funding for subsidized housing.

8. Re-institute authentic neighborhood planning and restore its name (the Comprehensive Plan recently changed the name to "community engagement"). Bring back the option for City government to contract with community organizations to conduct planning and outreach according to enforceable performance measures.

Explanation. Mayors Rice and Schell and the City Councils of the 1990s and early 2000s created a nationally influential model of government collaboration with non-profit and volunteer groups to produce detailed neighborhood plans of high quality at low cost. An excellent case study of the Seattle neighborhood planning experience is in a chapter on "Neighborhood Empowerment and Planning: Seattle, Washington" in the book Investing in Democracy: Engaging Citizens in Collaborative Governance (2009, Brookings Institution Press), by sociologist Carmen Sirianni of Brandeis University.

9. In every commercial area, include a Neighborhood Commercial Overlay (NCO) zone and other measures to encourage locally owned microbusinesses.

Explanation. Without protections for locally owned microbusinesses in commercial areas, the MHA in-lieu fees are likely to cause wholesale abandonment of currently affordable business spaces upon which these essential businesses depend.

10. In mapping of the zoning for properties affected by MHA, reject upzones for properties that were not discussed in the public workshops that the City Council held in the neighborhoods affected by MHA. As an example, reject the proposed rezone from LR-2 to LR-3 that is on the west side of Yale Avenue East.

Explanation. MHA has suffered from a serious lack of information to property owners about possible upzones affecting them. A particularly serious instance of this omission was that the preferred alternative upzones for some areas were not presented in the City Council workshops that covered those areas.

Conclusion**.** The Eastlake Community Council offers to the City Council the above amendments which we suggest are needed for the Mandatory Housing Affordability program to actually achieve its claims for affordability and livability. Please recognize that MHA as currently proposed will in significant ways undermine affordability and livability, and that this problem needs to be fixed before MHA is adopted. We welcome your thoughts, and look

forward to working with you on more detailed ordinance language to ensure that MHA is all that it can and should be.

Sincerely,

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