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Seattle Dept. of Construction and Inspections
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VIA PRC@seattle.gov

Comments on MUP and Shoreline Variance application 3031100, 3138 Fairview Ave. E

To SDCI:

Following are comments by the Eastlake Community Council (ECC) on MUP and Shoreline Variance application 3031100, 3138 Fairview Avenue East. Founded in 1971, ECC is one of Seattle's most active neighborhood associations and helped pass the Washington state Shoreline Management Act. One of ECC's official purposes is to protect and enhance public access to and enjoyment of the Lake Union shoreline.

Out of scale and context. This proposed project is out of scale and context among the existing residential and business buildings on this portion of Fairview Avenue East, particularly because of its proximity to Lake Union. Fairview Avenue East attracts large numbers of pedestrians and bicyclists who value the street's current scale and how private development enhances their enjoyment of being near the lake.

The current MUP and shoreline variance applications describe Fairview Avenue East as a possible future neighborhood greenway but do not mention that the Seattle Department of Transportation has long designated this portion of Fairview Avenue East as a Neighborhood Green Street. The application also fails to note that the City Council adopted the Eastlake Neighborhood Plan which led to this Green Street designation and specifically calls for preservation of the "country road" look and feel of this portion of Fairview Avenue East.

Design Guideline DC2-C-3, "Fit With Neighboring Buildings," calls for "a successful fit between a building and its neighbors." The existing residential and business buildings on this and adjacent blocks of Fairview Avenue East and nearby Fuhrman Avenue East are in almost all cases one or two story structures on one or a few lots and have yards and trees in between that enhance the lakeside experience. In contrast, the current application is for a single 250-foot long structure (the longest residential building on Fairview Avenue East) that would be stories taller than most of its neighbors.

Destruction of trees without sufficient replacement. The project site currently supports many trees, six of which are at least six inches in diameter at breast height (dbh), including some that meet the City's standard as exceptional trees. The current application would destroy all trees on the site, and would also endanger numerous other trees that are on adjacent properties and whose root zones would be damaged and reduced in size by the development.

Urban trees are fundamental to public health, wildlife populations, and reducing global climate change. The current application proposes no trees at all on the property, with the only new trees being proposed for SDOT's right of way. The result is entirely removing the current ecological processes of tree growth, soil building, stormwater management and groundwater recharge on the property, replacing them with hardscape and an increase in the piping of rainfall into wastewater pipes and into Lake Union.

Abandonment of the exceptional 26-inch magnolia that is in the 200 foot shoreline zone is particularly unfortunate. Page 6 of the Shoreline Variance request letter implies that this tree is in bad shape, but the applicant's own tree consultant in a July 5, 2018, report found the tree to be "in good health." Despite urging from the Design Review Board, the applicant never produced a design that would save and spotlight this magnificent tree. Instead of integrating this 70-year old tree into the development, the applicant would cut it down and plant on SDOT's right of way another magnolia that will likely take at least 50 years to become as biologically significant—or as beautiful.

The loss of trees from this project without adequate replacement exemplifies why the Shoreline Variance application should not claim (in Attachment 3A and elsewhere) that with or without the Variance, the project will cause no net loss of biological functions. It will cause a net loss of biological functions—a big loss. Rather than claim no net loss of biological functions, the applicant should have requested a variance to allow the net loss of biological functions that its project involves.

Traffic and Parking Problems ignored and worsened.

The project's traffic and parking impacts will be unsustainable. The applicant's January 28, 2019, Transportation and Parking Analysis (and apparently the SDOT staff who reviewed and approved it) missed one crucial fact: SDOT's RapidRide express bus project will soon prohibit all northbound turns from Eastlake Avenue left (westward) onto Fuhrman Avenue East—the very turn that the applicant assumed most of the project's incoming motor vehicle trips will take.

The traffic study should be redone. Once redone, it would likely find that the only motor vehicle routes to reach the project will be Allison and Hamlin streets, which both exceed ten percent grade and upon which the project traffic may pose serious safety and congestion issues.

The parking analysis also underestimates the project's negative impacts. By the applicant's own analysis, the 35 spaces provided on site will not be enough to meet demand. While the analysis suggests that the overflow demand could be met with an automated system, such systems are expensive and pose serious liability issues, and the applicant is not committing to one.

To avoid the normal requirement of paying for the construction of Martin Street to SDOT street standards, the applicant is proposing to build public stairs and some structures to treat toxic runoff from I-5. This is despite the Design Review Board having directed that "the route should be designed as a barrier free route if at all possible." (9/12/18, p.14).

The undeveloped Martin Street right of way is 75 feet wide (as wide as the Eastlake Avenue right of way). This is enough for any stair project to include a switchback pathway to ADA standards that would accommodate people with disabilities, parents with strollers, etc. A wheelchair-accessible route between Eastlake Avenue and the lakeshore is important because Hamlin, Allison, and Fuhrman are very steep. ADA accessibility in the Martin Street improvements would be an important step forward.

The application's lack of ADA accessibility in the public shoreline and other public parts of the project suggests the Shoreline Variance application is not correct in claiming (Attachment 3A) it is "to protect public health and safety." This claim also seems inconsistent with the applicant's proposal to pipe toxic I-5 runoff for treatment in close proximity to pedestrians on the new Martin Street access, parts of which are in the shoreline zone. There also may be serious health issues in directing I-5 runoff along the new Martin Street pedestrian route, which should be safe and pleasant, so WSDOT should consider paying for such runoff treatment itself.

Problems with the Shoreline Variance application

Attachment 2: View Analysis. The applicant has chosen to take most of the view analysis photos from the east side of Eastlake Avenue, a viewpoint that minimizes chances of seeing whether there is a building in the way of views of Lake Union. Had the photos been taken on the west

side of Eastlake Avenue from SDOT and WSDOT's right of way, reviewers would have gotten a much better idea of the lake views which the proposed building will block.

Attachment 3: Compliance with General Development Standards SMC 23.60A.152. For section A, the project may have serious net negative impacts on biological functions. For section G, the project will disturb every square foot of its very large property, destroying many trees and leaving virtually no landscape to replant. For section Q, the applicant notes its very large building will be brightly lit, further evidence that it is out of scale and context for the much smaller and darker buildings in the vicinity.

Attachment 5: Compliance with Standards for Regulated Public Access SMC 23.60A.164. Regarding public access, the applicant highlights the Martin Street pedestrian project but does not mention the trees and natural vegetation destroyed in contravention of D(6)

Attachment 8: Compliance with Shoreline variance Criteria (SMC 23.60A.036 and WAC 173-27-170. The applicant's claims in this attachment deserve scrutiny. As to the Seattle Municipal Code, the requested height addition would increase impacts to the shoreline environment. The variance would not enhance views of the shoreline. The claims seem incorrect that the variance would cause shoreline public access, green stormwater control, or energy efficiency because these features would occur with or without the variance. The project seems inconsistent with Comprehensive Plan policies for Eastlake to "value and preserve its traditional diversity and scale of development," and to ensure that "Residential growth is consistent with Eastlake's character, surrounding size, scale, and infrastructure, and occurs in a location that is surrounded by similar residential and mixed uses." We disagree with the applicant's statement that "There is no reasonable use of the property without the variance" or that the variance is "necessary for the economic feasibility of the project."

As to the Washington Administrative Code, we don't believe that the applicant has shown extraordinary circumstances or that the public interest will not suffer if the variance is granted. Nor has the applicant shown that the Seattle Shoreline Master Program precludes or interferes with reasonable use of the property or that claimed hardship "is the result of unique conditions such as irregular lot shape, size, or natural features and the application of the Master Program and not, for example, from deed restrictions or the applicant's own actions." As further required by the WAC, we don't believe the applicant has demonstrated that the project is "compatible with other authorized uses within the area," "that the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area," and "that the public interest will suffer no substantive detrimental effect."

The applicant makes two key admissions in Attachment 8. First, on page 4, the applicant states that "the high cost of the property" is one reason why the variance is being sought. Other potential purchasers in fact considered the shoreline restrictions and offered less. A shoreline variance should not be a way for a land purchaser to seek relief for their own decision to pay a premium for a parcel.

The second key admission is on page 5: "Shilshole Development is not aware of other variances that have been issued in the area for similar circumstances." The WAC is clear that one variance can lead to many others that effectively revise or reverse a policy. In the 47 year history of the Shoreline Management Act the protection has been strong for Eastlake and for all of Lake Union. We therefore request that this variance request be rejected and the current protections kept strong for future generations.

Thank you for considering our comments.

Sincerely,



Ann E. Prezyna, President
Eastlake Community Council