

Appeal by

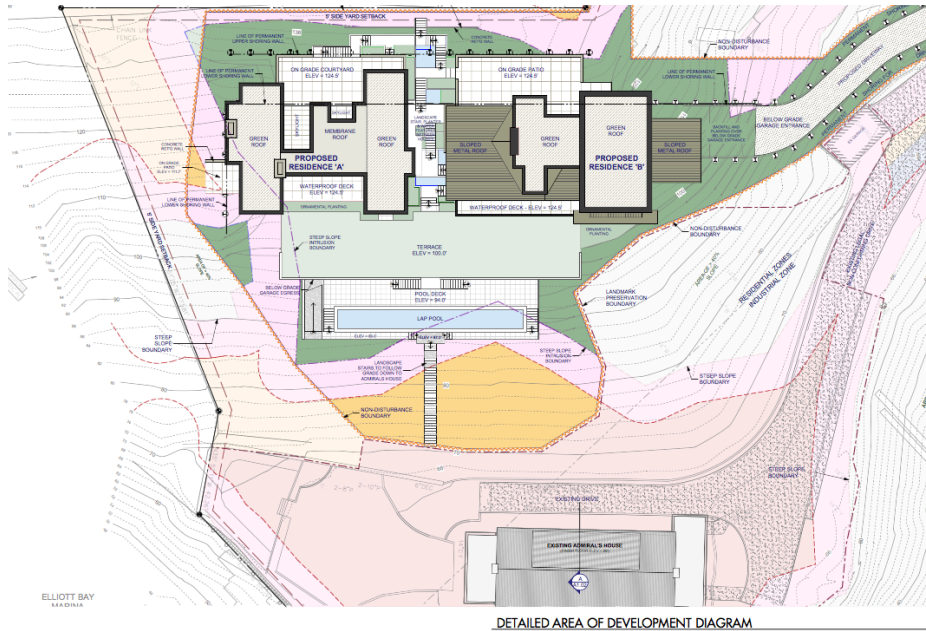
Friends of the Last 6,000  
Represented by Diana Gardiner

of the April 22, 2021 decision by the Director of SDCI to grant Administrative Conditional Use to Global Seas LLC for the development on 2500 W. Marina Pl. of two Single Family homes, parking for 13 cars, and a lap pool on an Environmentally Critical Area (ECA) and Historic Landmark site.

**Project # 3028072-LU**

Vicinity Map/South Magnolia Neighborhood



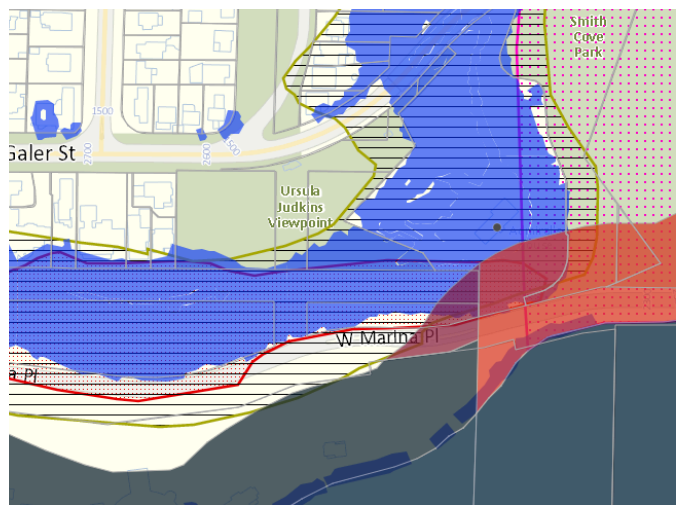


Schematic of New SF development at 2500 W. Marina Pl.

## Introduction

### 1. What is your interest in this Decision?

The Appellant, Friends of The Last 6,000 (hereafter “Appellant”), an organization dedicated to the promotion and preservation of Seattle’s remaining urban forest, along with adjacent neighbor Mark Olsen of 2516 W. Galer Street, is appealing this decision because of the numerous impacts this project will have on the trees, plants and the birds and animals that depend on them on this Environmentally Critical Area (ECA) comprised of steep slopes, historical and potential slide areas if it is constructed as it is shown (25-0 w marina 2021-01-18 - ACUP REV-4 drawings.pdf).



Map of property showing steep slopes (blue), potential slide area (green cross hatch), shoreline environment (red)

## **2. What are your objections to the issue being appealed?**

### **Summary of Objections to the Issues Being Appealed**

The Appellant's objections to the Department of Inspection and Constriction and Inspection's decision include the following:

1. Exemption from SEPA (State Environmental Policy Act). We feel there are numerous environmental impacts/issues that require environmental review. The checklist submitted by the developer was not supported by data or studies of the extent and value of the Urban Forest on this Environmentally Critical Area (ECA).
2. Unclear interpretation of the rule allowing building on this environmentally sensitive site because it was a legal building site prior to October 31, 1992. If upheld this will nullify many of the regulations the city adopted to protect trees and ECAs.
3. Large three story structures located on the site of a designated landmark (the Admiral House) and adjacent to public park on two sides.
4. Ignores the the fact that the 3.89 acre site is part of a continuous Urban Forest stretching over 10 acres and is part of a wildlife corridor connected to Elliot Bay and Puget Sound. This decision sets a precedent for continued incursion into the city's remaining ECA's for the benefit of a few.
5. Removes section of urban forest that currently contributes to Seattle's climate resilience. (Preparing for Climate Change, City of Seattle Office of Sustainability & Environment, 2017).
6. An SDCI supervisor explaining to the developer how to circumvent environmental rules that apply to the site. We believe this shows that the permission to develop the site and the fate of the existing forest was pre-determined before the beginning of the submittal for the Master Use Permit. This involvement by the city official in charge of reviewing and approving the conditional use was not revealed to the public.

### **A - SEPA Exemption**

#### **1. Earth**

##### **Landslide Zone**

*Seattle Post Intelligencer, Saturday, February 10, 1951: "Rear Admiral Daniel F. Barbey, 13th Naval District Commandant, and his wife, missed death by five minutes Friday night when an earthslide crashed into their home."*

The site map provided by the developer shows the development site is in the midst of a landslide hazard zone with a documented history of landslides.

This development is in an active landslide zone area and does not adequately document the impacts to trees and slopes caused during construction. Removing trees intentionally or by oversight may loosen soil within the property, especially when located on an at-risk slope greater than 40 degrees. Severe storms can cause the loose soil to saturate, and subsequently slide away. Since the site is part of a contiguous urban forest, there is no indication of possible effects to that forest.

Since landslides are not specific to property lines, we believe there should be independent studies as to the impact to the contiguous forest to the west of a landslide based on the new topography proposed.

## **2. Water**

### **Stormwater Runoff**

“As climate change continues to seriously impact our weather systems, human health and environment, heavy rainfall and storm events will continue to happen.”

“We really have to reevaluate our current sewer system, which obviously would likely require a significant amount of investment and a lot of collaboration.”

Comments from King County Councilmember Jeanne Kohl-Welles after the latest sewage spill into Puget Sound at West Point.

Proposed stormwater runoff from site after construction was inadequately described and addressed. The developer’s response to the SEPA checklist was to indicate that the stormwater runoff resulting from the loss of 25% of the trees on the site and the clearing of 28,000 square feet of vegetation, would be collected and discharged to the existing storm sewer. This despite the new site consisting of 20% impervious surfaces after construction. There is no quantitative estimate of the increased stormwater runoff due to the loss of trees and soil and the subsequent impact on the existing storm sewer.

We believe that planned removal of 51 of the 206 trees that are 6 inches and greater in trunk diameter and unknown number of trees with trunk diameter less than 6 inches will have stormwater impact of the all in an active landslide zone and needs to be studied further. (25 trees will be destroyed by the construction process and an additional 31 trees are listed by the developer paid arborist as in “poor, dying, or dead” condition). Using the National Tree Benefit Calculator, these 51 trees are currently intercepting **67,467** gallons of stormwater annually. There is no evidence the current storm sewer system can manage this increased runoff, as well as the additional runoff resulting from the extensive coverage of the site of new impervious surfaces.

## **3. Plants**

SEPA checklist dramatically underestimates the removal of trees and other vegetation of the Urban Forest.

## **4. Animals**

### **Presence of Birds**

The developer’s response to the SEPA checklist was inadequate and failed to list many of the birds and other wildlife in this urban forest. For example, eagles with nests nearby have been photographed in the contiguous forest that includes the development site.

According to the local Audubon Society, there are more than 100 bird species, both resident and migratory, that use Seattle's trees. Some species are "forest dependent" like the brown creeper, pileated woodpecker, or varied thrush.

The contiguous forest provides local habitat connectivity. Magnolia is nearly completely encircled by a ring of trees and vegetation that connects to Discovery Park, like the forest currently under threat, and offers some of the best bird habitat in Seattle. Bald eagles are known to roost in the tallest trees on the project site and their current nest is less than 1/4 mile away.

### **Impact to Wildlife During Construction**

The City recognizes the impact of construction on nesting as confirmed by Directors Rule 13-2018 regarding Great Blue Heron Management. That rule states that: "Great blue herons (*Ardea herodias*) can be vulnerable because of their tendency to aggregate during their breeding season. These colonial breeders nest in a variety of deciduous and evergreen tree species. Nests are usually constructed in the tallest trees available, presumably to reduce the risk of predation by mammals. The availability of suitable great blue heron breeding habitat is declining as human population increases. Great blue herons and their nests are protected under the federal Migratory Bird Treaty Act, RCW 77.15.130 (Protected fish or wildlife -- Unlawful taking), as a Priority Species by Washington Department of Fish and Wildlife (WDFW), and as a Species of Local Importance by Seattle's Regulations for Environmentally Critical Areas (SMC 25.09). Additional WDFW management recommendations include a seasonal buffer of 200 meters (656 feet) for loud noises, such as outdoor construction and 400 meters (1,320 feet) for extremely loud noises, such as the use of jack hammers and blasting (Azerrad 2012)."

### **Impact on Trees and Slopes**

This development in an active landslide zone area does not consider the impacts to trees and slopes caused during construction. Removing trees intentionally or by oversight may loosen soil within the property, especially when located on an at-risk slope greater than 40 degrees. Severe storms can cause the loose soil to saturate, and subsequently slide away. Since the site is part of a contiguous urban forest, there is no consideration of possible effects to the adjacent forest.

### **Land and Shoreline Use**

Portions of the site appear to be in the Shoreline Zone. New development of this scale and size could impact marine wildlife. SDCI relies on Applicant's reports and experts for issuing decision. This needs more scrutiny.

## **B. Legal Building Site Status Exemption from ECA Regulations**

We object to the interpretation of this building site status. We also question the interpretation that the Applicant could actually build even more residences on this site. By the Seattle Department of Construction and Inspections (SDCI) own words, the 2500 W. Marina PI is "an extremely challenging site on which to pursue additional development." (July 8, 2017 memo/email from Jerry Suder to Eric Drivdahl) Fortunately for the Applicant, Mr. Suder offered numerous strategies to the Applicant on circumventing these challenges. (July 8, 2017 memo/email Suder/Drivdahl).

None of these challenges were adequately represented in the Decision. The Analysis sections primarily relied on text from the Applicant's own studies, experts and consultants. The Applicant's inadequate SEPA checklist (exempted by Mr. Suder's department), also referred to the SDCI's review for compliance. The SDCI relied solely on the Applicant's reports.

### **C. Historic and Cultural Preservation**

Building so close to the historic Admiral's House was not fully explored by the SEPA report and relied upon by the Decision. The Admiral's House is privately owned, but has Landmark status. The placement of these residences mars the setting of the Admiral's House. (Their photo/drawing here!) The Admiral House is nestled underneath the steep slope. It is completely surrounded by the urban forest. Siting two two large structures above the Admiral's House degrades the aesthetic beauty of its landmark status.



Conceptual rendering (by architect) showing structures protruding above Admiral House

### **D. Urban Forest**

We object to the tenor and specifics of the Arborist's Report. For instance, the arborist classifies English Hawthorn trees as "invasive." Hawthorn berries are both medicinal for humans, and food for birds. (English Hawthorn is classified as a Non-Regulated noxious weed by King County depending on its location. Under current use on this private property, it wouldn't be considered a weed.) If the arborist viewed this plot of land as a second or third growth Urban Forest, instead of a future building site for two luxury homes, the Hawthorns would be part of a forest.

The arborist reports on the many Big Leaf Maples living on the plot, and reports three of the trees are Exceptional. Some of these Big Leaf Maples live in groves. Groves are another protected category of trees from the City's Tree Code. The arborist believes an Exceptional Big Leaf Maple is a "worthy sacrifice" for a driveway. This view is contrary to what is widely known in tree circles the mysterious dying of the State's Big Leaf Maples. ("Some of Washington's biggest trees are dying and scientists don't know why" the

News Tribune, September 16, 2018) Healthy Big Leaf Maples should be especially valued, not removed for a driveway.

The Arborist reported several large trees were unhealthy due to ivy encroachment. The ivy encroachment is due to neglect from the property owners and could be reversed.

The Applicant's view of the trees was apparent when the first arborist report was released *just days* before the end of the public comment period (6/3/2019). That report identified just 67 of the 206 trees, identified no groves, and had no arborist name. Another arborist report was presented in September only after criticism by the city arborist and so was not available during the public review period (Deborah McGarry memo July 3, 2019)

### **E. Preparing for Climate Change, City of Seattle Office of Sustainability & Environment**

In 2017 The City of Seattle published a comprehensive document outlining the challenges of Climate Change with sections on effects, planning, strategy. This document put forward goals for Seattle city departments and Seattle's diverse communities when it comes to facing climate change today, and the near future. Specific guidelines include sections on landslides, structures, drainage, and trees and vegetation. Action items are included as well. Guidelines pertain to both City departments and to citizens in our neighborhoods.

The Decision does not take into consideration the looming crisis of climate change and makes a mockery of Seattle's stated goal of climate 'resilience'. Trees and vegetation are repeatedly referred to as a key strategy for turning around the negative effects of climate change. Much is devoted to planting and caring for trees. Why would so many mature trees be cut down to support just two single family residences supporting six people? Why would a new residence be allowed a joint 13 car garage when cars are a major contributor to carbon emissions?

### **3. What relief do you want?**

#### **III. RELIEF REQUESTED**

The address 2500 W Marina Pl sits just below Ursula Judkins Viewpoint, Magnolia Bridge to the north, stretches above the Admiral's House, and is part of a 10 acre Urban Forest. The actual land is a Potential Slide Area, Known Slide Area, Steep Slopes, and Liquefaction Prone Area. The land is surrounded by Public Parks. Although the site may have been zoned for residences at one time, we find this Decision incongruent with the use and look of the area.

1. We request the vacation of the Analysis and Decision.
2. Given the unusual circumstances of this site (steep slope, wildlife corridor, landslide threat, proximity to shoreline) we request the exemption from SEPA be reconsidered or that site be subject to a similar environmental analysis.

3. We request an independant arborist report and review that analyzes the true value of the Urban Forest on an ECA and climate change factors.
4. Appellant requests any and all relief that is necessary to address and alleviate errors and incomplete analysis.
5. Should any of its issues be dismissed prior to the hearing, the Appellants would reserve their right to make an offer of proof on those issues.

Filed on behalf of the Appellant this 6th day of May, 2021.

For: Friends of the Last 6000

By:

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