

GENERAL APPEAL FORM

It is not required that this form be used to file an appeal. However, whether you use the form or not, please make sure that your appeal includes all the information/responses requested in this form. An appeal, along with any required filing fee, must be received by the Office of Hearing Examiner, not later than 5:00 p.m. on the last day of the appeal period or it cannot be considered. Delivery of appeals filed by any form of USPS mail service may be delayed by several days. Allow extra time if mailing an appeal.

APPELLANT INFORMATION (Person or group making appeal)

1. Appellant:

If several individuals are appealing together, list the additional names, addresses, and numbers on a separate sheet and identify a representative in #2 below. If an organization is appealing, indicate the group's name, addresses, and numbers here and identify a representative in #2 below.

Name AQUARIAN FOUNDATION, INC
Address 315 15TH AVENUE EAST SEATTLE WA 98112
Phone: Work: 206-324-6046 Home: SAME
Fax: 206-328-2365 Email Address: info@aquarianfoundation.com

In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: ☒ U.S. Mail ☐ Fax ☐ Email Attachment

2. Authorized Representative:

Name of representative if different from the appellant indicated above. Groups and organizations must designate one person as their representative/contact person.

Name Rev. Jann Werner
Address 315 15TH AVENUE EAST SEATTLE WA 98112
Phone: Work: 206-324-6046 Home: SAME
Fax: 206-328-2365 Email Address: info@aquarianfoundation.com

In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: ☐ U.S. Mail ☐ Fax ☒ Email Attachment

DECISION BEING APPEALED

1. Decision appealed (Departmental File or Reference #.): 3038146-LU

2. Address (if any) connected to decision being appealed:
1410 E John Street Seattle WA 98112

3. Type of issue/decision being appealed if known (ask for assistance if unknown):

LAND USE MASTER USE PERMIT 3038146 LU AND Specific components to acquire land use permits

APPEAL INFORMATION

Answer each question as completely and specifically as you can. Attach separate sheets if needed and refer to questions by number.

1. What is your interest in this appeal? (State how you are involved or affected by it)

AQUARIAN FOUNDATION IS THE OWNER OF THE ADJOINING PROPERTY TO THE PROJECT
AT 1410 E JOHN ST. AQUARIAN FOUNDATION PROPERTY RIGHTS WILL BE NEGATIVELY
AFFECTED BY THIS PROJECT See ATTACHED SHEETS

2. What are your objections to the issue being appealed? (List and describe what you believe to be the errors, omissions, or other problems and issues involved.)

SEE ATTACHED SHEETS

3. What relief do you want? (Specify what you want the Examiner to do: reverse the decision, modify conditions, etc.)

SEE ATTACHED SHEETS

On behalf of Aquarian Foundation Inc, by its President,

Signature

Jennifer A Werner
Jennifer A Werner

Date Sept 29, 2023

Deliver or mail appeal and appeal fee to:

MAILING City of Seattle
ADDRESS: Office of Hearing Examiner
P.O. Box 94729
Seattle WA 98124-4729

PHYSICAL ADDRESS:	SEATTLE MUNICIPAL TOWER 700 5 th Avenue, Suite 4000 40 th Floor Seattle, WA 98104
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Note: Appeal fees may also be paid by credit or debit card over the phone (Visa or MasterCard only).

Phone: (206) 684-0521

Fax: (206) 684-0536

www.seattle.gov/examiner

Decision made by: City of Seattle Department of Construction and Inspection
Date: September 18, 2023 Appeal: re Master Use Permit 3038146LU
Appeal submitted by Rev. Jann Werner on behalf of Aquarian Foundation
315 15th Ave E Seattle WA 98112 - Parcel Number: 9421400090.
Receipt for fee to appeal : Receipt No 4118 dated 9/26/2023 in the amount of 85.00 see attachment

QUESTION 1

INTEREST IN APPEAL

Note: Aquarian Foundation has not and will not grant easements or agreements for Master Use Permit No: 3038146 LU for the project commonly known as the 1410 E John project.

1. AQUARIAN FOUNDATION IS APPEALING: THE Land use under Master Use Permit No: 3038146 LU, and specific components to acquire land use permits for the project at 1410 E John. Land use permits most critical to the project at 1410 E John regarding its proposed land use to demolish and remove third party walls on the adjoining property lines at 315 15th Ave E, under the guise of demolishing the existing Safeway building only. The three (3) party walls on the property lines of 315 15th Ave E have been in place for over 25 years, and therefore have created property rights in the use thereof. Appealing other planned demolition, excavation, crane use, and soil and nailing, directly affecting 315 15th Ave E.
2. The decisions to move forward with the conditional Land use in its present design does nothing to protect and preserve the artistic and historic integrity of Capitol Hill and the 15th Ave East Corridor. None of the conditional Land use preserves or protects the mature conifer tree canopy on E. Thomas St and abutting 315 15th Ave East property line. The Seattle Department of Construction and Inspections requirements for landscaping and screening plans regarding placement of landscaping and screening to help mitigate noise control requirements and parking requirements for the neighborhood are not being followed or considered.
3. The decision affects 315 15th Ave E's property rights and the right of quiet enjoyment of its property and its right to have peaceful and uninterrupted Worship services. The decision ignores the fact that there are 3 (three) party walls the adjoining property at 315 15th Avenue East. The design has not been modified with consideration to protect the adjoining property at 315 15th Ave E. The decision fails to take into consideration the lack of screening and buffers in the design to help blend the old with the new.
4. There are no suggestions to implement buffers or screening to harmonize the giant monolithic structure with the style and flavor of the historic Capitol Hill. Tips provided by SDCI for the purpose of helping address and resolve issues such as: the loss of parking for the Church, the other small businesses and the residents of the neighborhood have not been addressed. The Board's decisions allowing variations in the Master Use Permit in the transparency of the façade on E Thomas St, the lack of screening on E Thomas St. to the adjoining property and the removal of a mature tree canopy on E Thomas St. draws the eye to the lack of harmonizing set backs on the adjoining properties and the lack of consideration for the communities look and feel.
5. The board approves the plan to alter curbs in front of 15th Ave E and E Thomas St., but does not consider that this high level of construction to accommodate one property will in fact immediately and directly negatively affect the Church, the Church congregation, and will negatively affect, limit or deny the Church access to its own driveway and car garage on E Thomas St. In addition, every resident and business that uses E Thomas St to access business and residence will be severely impacted for several years. For years to come these decisions that have been made by the Board to approve the designs under the Master Use Permit will also be the driving force to accomplish what the Safeway Redevelopment Advisory Department threatened Aquarian Foundation with in writing, namely: Aquarian Foundation Church Board members should acquiesce to intimidation tactics such as "the property was up-zoned in April 2019 under the new mandatory housing affordability to 55 ft in height from its current 40 ft in height, and the new structure will dwarf the current Church property as well as result in loss of privacy and sunlight..." "...the Church can certainly stay where it is, but the drawback will be higher taxes, when the new building is built since it has the same zoning as the Church property, and the Church is also an aging structure and is more expensive to maintain and would be sub-optimal if a new development goes in next door not to mention the loss of sunlight and privacy as well as increased traffic and pedestrian activity on the block.

Decision made by: City of Seattle Department of Construction and Inspection

Date: September 18, 2023 Appeal: re Master Use Permit 3038146LU

Appeal submitted by Rev. Jann Werner on behalf of Aquarian Foundation

315 15th Ave E Seattle WA 98112 - Parcel Number: 9421400090.

Receipt for fee to appeal : Receipt No 4118 dated 9/28/2023 in the amount of 85.00 see attachment

QUESTION 2

OBJECTIONS:

1. The Land Use that directly and negatively affects adjoining properties.
2. Soil and Nail under Master Use Permit. (6795634-CN)
3. Demolition and Excavation and Crane proposed use under Master Use Permit. (6795635-DM)
4. Demolition of the existing quarter of a century old (25 years old) boundary and building walls, party walls and wood fence and concrete retaining walls engulfing the property at 315 15th Ave E and the planned open trespass and unauthorized Crane use on the Church's property. (6795635 DM)
5. Height of the monolithic structure that does not meet the Capital Hill Supplemental Guideline of fitting old and new together.
6. Loss of parking on E Thomas St. and 15th Ave E for the Church and other residents. Loss of use and access for the Church to use its driveway and garage on E Thomas St.
7. Loss of use of use of air flow, privacy and sunlight to the Church building and back yard, because of the approval of Land Use for the monolithic building structure and use of facades (balconies etc) without appropriate setbacks on E Thomas St., or sufficient setbacks to create a gradual transition from the old to the new.
8. Granting approval to build directly up against the Church property line without sufficient setbacks for the aforementioned factors. (SMC 23.86.012) 22.170.200 D. Setbacks
9. The attempted encroachment on the Church air space at E Thomas St.
10. The destruction and removal of six (6) twenty-five year old conifers on E Thomas St. abutting the Aquarian Foundation property line.

Errors and Omissions

1. The Board does not address the fact that there are very real and imminent hazards to the adjacent properties from the planned demolition and excavation of the subject Safeway building walls and the parking lot area, most especially to the historic 117 year old Church building on 315 15th Ave E on which the boundary building walls are 2 feet away from the Church building.
2. The Board does not reference or give conditional approval based on receipt and proof of written and agreed to easements from owners of adjoining properties, before any shoring, excavation and demolition permits can be approved. The Board makes no condition or reference regarding code requirements for easements that the Master Use Permit is required to have for demolition/excavation, soil and nail and other permits in order to encroach adjacent properties or demolish party walls, a wood fence and concrete retaining walls.
3. The architectural plans of subject property correctly indicate that neither easements nor agreements exist or have been approved by adjacent owners. The Geologists report for the subject property submitted for the Board to review specifically states that before soil and nail, excavation or demolition can proceed, agreements for easements must be secured from the owners of adjoining properties. Aquarian Foundation Board of Directors will not grant any easement for encroachment on Aquarian Foundation, Inc. property. Aquarian Foundation Board of Directors will not grant easements for below ground encroachments, ground level encroachments or for air space encroachments.

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4. The Master Use Permit and the components thereof, gloss over the fact that there are party walls and boundary walls on the adjacent property at 315 15th Ave E., namely: a.) The massive brick building boundary wall spanning over 100 ft in length and over 20 ft in height along the property line of 315 15th Ave E b.) The massive 8 ft high brick boundary wall, used by Aquarian Foundation, which spans over 30 ft long along the property line of 315 15th Ave East, and is built into and onto a massive concrete retainer wall, which also spans the Aquarian Foundation property lines, and c.) the 7 ft high wood fence spanning over 50 ft in length along the Aquarian Foundation property line is secured to Aquarian Foundation's concrete retaining wall (CRW). These boundary walls and party walls have engulfed the adjacent property at 315 15th Ave E without cessation for the last 25 years. Aquarian Foundation has clearly vested property rights in these boundary walls and party walls and fence that span the property lines.
5. The Board has approved the design of the planned façade on E Thomas St. however, the construction plans show the monolithic structure does not have sufficient setback or in some places no set back at all from Aquarian Foundation's property line. The building façade (consisting of balconies) on E Thomas St. for which the Board has allowed a variance to the façade code invades Aquarian Foundation's privacy and encroaches on Aquarian Foundation's air space, sunlight and air flow. The lack of sunlight and air flow to the Aquarian Foundation property will increase property maintenance and effectively render the Church back yard useless. The board has not considered the Aquarian Foundation's use of its back yard that is used for weddings, funeral/memorial gatherings and Church functions and neither has the board considered the Church' use of its driveway and garage leading to the back yard. The party walls are in use for the last 25 years.
6. The Board did not consider the invasion of privacy and encroachment onto Aquarian Foundation's property line when it made the decision to allow the destruction of and removal of the mature canopy of trees from the design. If the mature trees are allowed to remain in place they would act as a natural buffer to provide some privacy, sunlight and protected air space, and will mitigate the huge negative aesthetics in the difference in heights between the structures on 315 15th Ave E and on 1410 E John. Nevertheless, the Board approved a design, which affords the properties on 14th Ave E and E Thomas St. privacy, sunlight, protected air-space, and air flow. These properties will continue to enjoy tree canopies.
7. PL3-B indicates that a buffer should be used for security and privacy of neighboring buildings, and yet mature trees that would serve as a buffer have been approved for destruction and removal.
8. The guidance under CS3-A emphasizes positive neighborhood attributes - that there should be compatibility between new projects and existing architectural context. The mature 25 year-old trees authorized to be removed and destroyed on E Thomas St. would serve as a natural buffer to 315 15th Ave E. Board members have ignored Capitol Hill's written guidance about preserving a mature and established tree canopy.
9. Cs1-4e Titled: Tree canopy - it is stressed that an existing tree canopy should be maximized and that mature plantings should be integrated into a design. Instead, four Board members approved the removal and destruction of 25 year old conifers - removing the mature conifer trees is contrary to the code that protects the tree canopies in Seattle.
10. The Board has not recommended an acceptable setback between the adjacent properties especially considering the size and height of the proposed design.

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11. CS2-D-5 emphasizes the need to respect adjacent properties, and that the design and site planning should minimize disrupting the privacy of the residents in adjacent buildings. However, the architectural concept of the design of the 55 ft high monolithic structure does not reflect Capitol Hill's eclectic style. It intentionally dwarfs the adjacent buildings. The design does not in any way reduce the perceived and very real mass of the planned structures. The design does not reflect Capitol Hill's historic structure or fit in with the neighboring buildings.
12. The Board has not considered that the Land use in the design of the 1410 project regarding modification to the street and the parking on 14th Ave E on E Thomas St and 15th Avenue E presumptively ignores the fact that project 1410 E John does not own the entire Block, and that three adjoining properties have precedence over the use and access to street parking. Whether the design includes onsite parking for the E John project does not alter the fact that the project is not entitled to remove or disrupt the limited street parking for other residents and businesses on 14th Ave E, E Thomas St and 15th Ave E. Under the Master Use Permit, the design does not include or consider the property rights of the adjoining properties. The design does not show that an adjoining property is a Church that must have access to the street parking and its driveway on E John St and 15th Ave E without disruption. No accommodation has been being made for the planned Land use to respect the adjoining properties rights. The Board's decisions to accommodate the Land use for the 1410 E John project is not inclusive of or balanced concerning on the needs and rights of the adjoining properties and neighborhood. The intent of the Land Use and Building codes **is not to subjugate** the rights of one property owner in favor of another property owner(s). The Board's decisions allow the 1410 E John project to control the narrative of how the neighborhood must be changed to accommodate the E John project to the exclusion of the rights of other property owners and their vested interest in keeping the flavor of Capitol Hill Corridor prominent and free of large imposing structures that disrupt the topography and quaint architecture of the neighborhood. The Board's decisions regarding the Land use under the Master Use Permit, in essence have acquiesced to allow and/or entitle, and/or intimidate and/or manipulate the entire block in attempt to force the neighborhood to accept the disruption to everyone's business for one E John 1410 project. While the project accommodates the requests of the Board for the project to include local artists and have artwork on blank walls the very real issues of the negative impact of loss of parking and access to property is not addressed. There is a reason why there is protection in the codes and statute to protect adjoining properties and their rights.
13. The Capitol Hill Corridor has a height restriction of 40 ft for a reason. The City Council voted to allow a 55 ft height variance if the proposed building provided low-income housing for the Capitol Hill Corridor. The rezoning of Block 4 was to accommodate the building low income housing on Capitol Hill and on the 15th Ave E Corridor. In the conditionally approved plan, the Board does not do Capitol Hill any favors by accommodating monolithic 55ft structures to be built on 15th Ave E but failing to secure low-income housing as promised for the

neighborhood. Capitol Hill and the E 15th Ave Corridor does not receive the much needed low-income housing it was promised. The spirit and function of rezoning of the subject property and the adjacent properties by allowing for a height variance is defeated if developers can buy their way out of providing low-income housing for Capitol Hill, and then still be allowed to build a 55 ft monolithic structure that does not preserve Capitol Hill's style and beauty and does not blend the old with the new and does not purpose of the preserving the unique architectural integrity and topography of the neighborhood. The Board is not enforcing the design recommendations

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to which it subscribes. The sheer size and the aesthetics of the monolithic structure does not consider the surrounding topography, adjacent properties and structures, or the look the feel and ambience of Capitol Hill and the 15th Ave E Corridor.

QUESTION 3

What can the Hearing Examiner Do?

1. The design should be directed to be altered and adjusted to reflect that the project on 1410 E John is more in alignment with the feel and look of Capitol Hill, more in alignment with the neighborhood and include provisions in the design that do not overwhelm the adjoining properties.

2. Especially deny approval of the destruction the mature tree canopy on E Thomas St. which abuts Aquarian Foundation property, and deny the removal of the tree canopy on E Thomas St and 14th Ave E. These mature tree canopies should not be destroyed or removed. The tree canopies should be incorporated into the design to provide a much-needed buffer for privacy and screening and air flow and sunlight to the backyard for 315 15th Ave E property and for the other adjoining properties. It has taken 25 years for the trees to mature and create an appropriate buffer and screen for the adjoining properties. The trees provide a visual buffer as a transition between the two land uses, and a visual buffer between the modern building and the historical neighboring buildings and structures. Therefore, the tree canopy should remain where it is and be incorporated into the design.

3. Reject the planned modification and alteration to the parking and access to E Thomas St and 15th Ave E as this modification only benefits one of the property owners (the 1410 E John project and does not consider the other adjoining property or other businesses in the immediate area.

Reject the current design that violates Aquarian Foundation's right of access to the Church driveway and car garage on E Thomas St . The disruption to the parking on E Thomas St and 15th Ave E must be mitigated and access to Church's car garage and driveway must not be allowed to be interrupted.

5 a. For the record: **Aquarian Foundation has not granted any easements to allow encroachments onto Aquarian Foundation property.**

b. Specify that permits will not be granted for encroachment of Aquarian Foundation property to avoid any alleged misunderstanding on behalf of the developer, the contractor or any other relevant party to the 1410 E John project. Reject and deny permits for construction, demolition and excavation, nail and soil permits or a crane swing agreement that encroach on Aquarian Foundation property. *Municode 22.170.200 Protection of Adjoining Property Section C*

Notes and references:

1. Title 21A Zoning - King County, Washington

(https://kingcounty.gov/en/legacy/council/legislation/kc_code/24_30_title_21a)

21A.16 DEVELOPMENT STANDARDS - LANDSCAPING AND WATER USE

In relevant part from: 21A.16.010 Purpose. The purpose of this chapter is to preserve the aesthetic character of communities; to improve the aesthetic quality of the built environment; to promote retention and protection of existing vegetation; to promote water efficiency; to promote native wildlife; to reduce the impacts of development on drainage systems and natural habitats; and to increase privacy for rural area and residential zones by:

- A. Providing visual relief from large expanses of parking areas and reduction of perceived building scale;
- B. Providing physical separation between rural area or residential zones and nonresidential zones;
- C. Providing visual screens and barriers as a transition between differing land uses;
- D. Retaining existing vegetation and significant trees by incorporating them into the site design;

In relevant part from: 21A.16.040 Landscaping - screen types and description.

The three types of landscaping screens are described and applied as follows:

C. Type III landscaping screen:

1. Type III landscaping is a "see-through screen" that functions as a partial visual separator to soften the appearance of parking areas and building elevations. This landscaping is typically found along street frontage or between apartment developments;

2. Type III landscaping shall minimally consist of:

- a. A mix of evergreen and deciduous trees generally interspersed throughout the landscape strip and spaced to create a continuous canopy;

2. Taken from page 8 in relevant part from the Geologists report included in the Master Use Permit.

Excavation and Demolition Permit

a North Wall - We recommend that the north shoring wall be completed using soil nail shoring with full depth vertical elements. An easement agreement from the adjacent property owner will be required for ground anchors that will extend below the adjacent properties to the northeast (224 14th Avenue East) and northwest (315 15th Avenue East).

SEA - HEAR EX
700 5TH AVE
SEATTLE, WA 98104

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3038146-LU

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