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BEFORE THE HEARING EXAMINER  
OF THE CITY OF SEATTLE

In the Matter of the Appeal of  
  
PROTECT VOLUNTEER PARK.,  
  
of a Determination of Non-Significance  
Certificate of Approval issued by the  
Department of Construction and  
Inspections for Construction in Volunteer  
Park

Hearing Examiner File: MUP 17-015

Department Reference: 3024753

APPELLANT’S MOTION FOR  
SUMMARY JUDGMENT

I. INTRODUCTION

Appellant Protect Volunteer Park seeks summary judgment on the dispositive issue in this case. The City’s SEPA Responsible Official determined that the project will have probable significant adverse impacts. That would ordinarily warrant preparation of an Environmental Impact Statement. But the Responsible Official determined that he could count on the Landmark Preservation Board to impose mitigation that would reduce the adverse impacts to below the threshold of “significance.” On that basis, the Responsible Official decided an EIS was not necessary and issued an MDNS.

The foregoing facts are not in dispute.

1 The Responsible Official's decision presents a clear issue of law. Does the City Code impose  
2 on the Landmark Preservation Board a duty to impose mitigation that will assuredly reduce impacts  
3 to below the SEPA significance threshold?

4 In this motion, we demonstrate that the City Code does not impose that mandate on the Board.  
5 In the absence of such a mandate, the Responsible Official erred in assuming that the Board would  
6 impose mitigation that would reduce impacts to below the significance threshold.  
7

8 The Responsible Official's assumption that the Board would act to avoid significant impacts  
9 was the only basis the Responsible Official offered for issuing the MDNS despite his finding that the  
10 project had significant adverse environmental impacts. With that one basis for the MDNS removed,  
11 the Examiner should determine that the MDNS was issued in error and remand this matter to the  
12 Department for preparation of an EIS.  
13

## 14 II. STATEMENT OF UNDISPUTED FACTS

15 1. On March 16, 2017, the Department of Construction and Inspections issued its  
16 threshold determination in this case. A copy of the threshold determination decision is attached hereto  
17 as Exhibit A.<sup>1</sup>

18 2. The underlying action is an application to allow a three-story addition to the Seattle  
19 Asian Art Museum (SAAM) in Volunteer Park. A summary description of that proposal is included  
20 in the Department's threshold determination at pages 1 through 3.  
21

22 3. The threshold determination acknowledged that the "site and building proposed for  
23 modification, Volunteer Park and the Asian Art Museum respectively, are designated City of Seattle  
24 and National Historic Landmarks." *Id.* at 7.  
25

26 \_\_\_\_\_  
<sup>1</sup> The undersigned hereby declares under penalty of perjury under the laws of the State of Washington that the attached Exhibit A is a true and correct copy of the Department's threshold determination.

1           4. The threshold determination analyzed the project’s potential impacts to the historic  
2 preservation qualities of Volunteer Park and the Asian Art Museum. *Id.* at 7-8.

3           5. The threshold determination concluded: “After review of the draft Certificate of  
4 Approval application, public comments, and consultation with Department of Neighborhoods,  
5 **potential significant adverse impacts have been identified with regard to the proposed**  
6 **alterations to the designated features of the landmark.”** *Id.* at 8 (emphasis supplied).  
7

8           6. The threshold determination then continued: “These impacts will be considered by the  
9 Landmark Board when it acts upon SAAM’s application for a Certificate of Approval, and the Board  
10 **may impose** conditions to avoid or mitigate impacts if it decides to approve a Certificate of Approval.  
11 The Board’s action on the Certificate of Approval constitutes compliance with SEPA for historic  
12 preservation purposes.” *Id.* (emphasis supplied).  
13

14           7. Based on the foregoing, the Responsible Official concluded: “This proposal has been  
15 determined to not have a significant adverse impact upon the environment. An EIS is not required  
16 . . .” *Id.* at 12.

17   III. ISSUES PRESENTED

18           1. Does the Landmark Preservation Board operate under a mandate to impose conditions  
19 to assure that there will be no significant adverse impacts to historic landmarks?  
20

21           2. Did the Responsible Official err in assuming that the Landmarks Preservation Board  
22 is mandated to impose mitigation to avoid all significant adverse impacts to the historic landmarks  
23 and, on that basis, err in issuing an MDNS?  
24

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1 IV. ARGUMENT

2 A motion for summary judgment should be granted where the material facts are not in dispute  
3 and the issue can be resolved as a matter of law. *See, e.g.*, CR 56. That is the situation here. A time  
4 consuming, evidentiary hearing is unnecessary to resolve the central issue in this case.

5  
6 Proposals for government action which are determined to have probable significant adverse  
7 environmental impacts require preparation of an EIS. RCW 43.21C.030 (1)(c); -.031. However, if  
8 the lead agency specifies mitigation measures that would reduce the impacts to below the threshold of  
9 significance, a so-called Mitigated DNS may be issued. WAC 197-11-350(3).

10 Here, the Responsible Official determined that the Landmark Preservation Board’s review  
11 process and decision on a Certificate of Approval would necessarily reduce impacts to below the  
12 significance threshold. A review of the Board’s procedures and mandates is necessary to assess the  
13 validity of that conclusion.

14  
15 The Landmark Preservation Ordinance is codified at Chapter 25.12 SMC. Under the  
16 Ordinance, a Certificate of Approval must be issued before there is any alteration or significant change  
17 to a landmark or landmark site:

18 “Certificate of Approval” is written authorization which must be issued  
19 by the Board before any alteration or **significant change** may be made  
20 to the controlled features of a landmark or landmark site . . .

21 SMC 25.12.080 (emphasis supplied).

22 This definition of a Certificate of Approval immediately signals that the Board’s process will  
23 not necessarily preclude significant impacts to the landmark or landmark site. “Significant change” is  
24 expressly authorized.<sup>2</sup>

25  
26 <sup>2</sup> The word “significant” in this definition is not necessarily synonymous with the concept of significant  
in the SEPA threshold determination process. The City Code defines “significant change” as “any change in appearance

1           The Landmark Preservation Ordinance creates a Landmark Preservation Board. SMC  
2 25.12.270. The Landmark Preservation Ordinance mandates that a property owner obtain a Certificate  
3 of Approval before making alterations or significant changes to the features or characteristics of the  
4 site or building that were the basis for the landmark designation. SMC 25.12.670. The Ordinance  
5 specifies the required contents of an application for a certificate of approval. SMC 25.12.680. The  
6 ordinance provides that within 30 days after an application for a Certificate of Approval is determined  
7 to be complete, the Board shall hold a meeting thereon. SMC 25.12.720. The Ordinance then simply  
8 provides that the Board shall make a written decision on the application. No standards are provided  
9 to the Board in the Ordinance. In particular, the Ordinance does not mandate the Board to approve  
10 the application only if conditions are imposed that eliminate all significant impacts. The Ordinance is  
11 completely silent as to such a standard:  
12

13  
14           The Board shall issue a written decision granting, granting with  
15 conditions, or denying a certificate of approval, and shall provide a  
16 copy of its decision to the owner, the applicant, and the Director of the  
17 Seattle Department of Construction and Inspections, not later than 45  
18 days after an application for a certificate of approval is determined to  
19 be complete. Notice of the Board's decision shall be provided to any  
20 person who, prior to the rendering of the decision, made a written  
21 request to receive notice of the decision or submitted written  
22 substantive comments on the application. The decision shall contain an  
23 explanation of the reasons for the Board's decision and specific  
24 findings with respect to the factors enumerated in Section 25.12.750.

25 SMC 25.12.730.

26           The above-quoted code section does reference factors to be considered that are set forth in  
SMC 25.12.750. The enumerated factors in SMC 25.12.750 are to be “take[n] into account.” They

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not requiring a permit from the Director of the Seattle Department of Construction and Inspections, but for which a certificate of approval is expressly required by a Board approval of nomination, a Board report on designation, or a designating ordinance.” SMC 25.12.240.

1 are not mandates and, in any event, they do not mandate the Board to impose conditions that avoid all  
2 significant adverse impacts:

3 In considering any application for a certificate of approval the Board,  
4 and the Hearing Examiner upon any appeal, shall take into account  
5 the following factors:

6 A. The extent to which the proposed alteration or significant  
7 change would adversely affect the specific features or characteristics  
8 specified in the latest of: the Board approval of nomination, the  
9 Board report on approval of designation, the stipulated agreement on  
10 controls, the Hearing Examiner's decision on controls, or the  
11 designating ordinance;

12 B. The reasonableness or lack thereof of the proposed alteration  
13 or significant change in light of other alternatives available to  
14 achieve the objectives of the owner and the applicant;

15 C. The extent to which the proposed alteration or significant  
16 change may be necessary to meet the requirements of any other law,  
17 statute, regulation, code or ordinance;

18 D. Where the Hearing Examiner has made a decision on controls  
19 and economic incentives, the extent to which the proposed alteration  
20 or significant change is necessary or appropriate to achieving for the  
21 owner or applicant a reasonable return on the site, improvement or  
22 object, taking into consideration the factors specified in Sections  
23 25.12.570 through 25.12.600 and the economic consequences of  
24 denial; provided that, in considering the factors specified in Section  
25 25.12.590 for purpose of this subsection, references to times before  
26 or after the imposition of controls shall be deemed to apply to times  
before or after the grant or denial of a certificate of approval; and

E. For Seattle School District property that is in use as a public  
school facility, educational specifications.

SMC 25.12.750.

None of the foregoing creates a mandate that the Board deny a Certificate of Approval if the  
project will cause significant adverse effects to the landmark. The factors to be considered are just

1 that – factors for consideration, not mandates. And even if they were mandates, none provide that all  
2 significant impacts must be avoided.<sup>3</sup>

3 In sum, the Board’s review process is no guarantee that significant impacts will not result. The  
4 Responsible Official committed an error of law in concluding otherwise.

5  
6 V. CONCLUSION

7 The Responsible Official correctly determined that the project would have significant adverse  
8 impacts on the landmark park and building, but then committed an error of law in concluding that the  
9 Landmark Preservation Board would act to avoid those significant impacts.

10 Three city entities have important decisions to make regarding this project: The City Council  
11 has been requested to approve a rezone; the Parks Department has been asked to make a proprietary  
12 decision as landlord and approve the project; and the Landmarks Preservation Board has been asked  
13 to issue a Certificate of Approval. Each of these bodies would benefit from the information provided  
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21 <sup>3</sup> The landmarks are also subject to certain regulatory “controls” adopted in the ordinance designating the  
22 landmarks. A copy of that ordinance (Ord. 125215) is attached hereto. The Responsible Official did not cite those as the  
23 basis for concluding that significant impacts necessarily will be avoided – and for good reason. None of those controls  
24 preclude significant impacts to the landmarks either. The first control simply provides that a certificate of approval must be  
obtained prior to any “significant changes” to the landmark. Ord. 125215, §2.A.1. Rather than preclude significant impacts,  
this control allows significant impacts, as long as a certificate of approval is obtained. (Further undermining the notion that  
the controls will avoid all significant adverse impacts, the requirement to obtain a certificate of approval is subject to a long  
list of exceptions, not all of which would necessarily have a minor impact. *Id.*, §2.A.2.)

25 The second control in the ordinance provides for certain actions to be reviewed by city’s Historic Preservation  
26 Officer. But like the certificate of approval process, this review process allows for and contemplates significant impacts,  
as long as they are reviewed as called for by that section. *Id.*, §2.B.1.b. Moreover, if the Historic Preservation Officer were  
to deny a proposed significant change, that decision can be overturned through the certificate of approval process. *Id.*,  
§2.B.2. And if the officer merely neglects to respond to a request within fourteen days, the request for a significant change  
is deemed approved without any review. *Id.*

1 by an EIS before they make their respective decisions. SEPA demands no less. The motion should  
2 be granted.

3 Dated this 1<sup>st</sup> day of May, 2017 at Tucson, Arizona.

4 Respectfully submitted,

5  
6 BRICKLIN & NEWMAN, LLP

7  
8 By: 

9 David A. Bricklin, WSBA No. 7583  
10 Attorney for Protect Volunteer Park  
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**City of Seattle**  
Edward B. Murray, Mayor

**Department of Construction and Inspections**  
Nathan Torgelson, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

**Applicant Number:** 3024753

**Applicant Name:** Jeremy Schoenfeld representing the Seattle Art Museum (SAM)

**Address of Proposal:** 1400 E Prospect St

**SUMMARY OF PROPOSAL**

Land Use Application to allow a 3-story, 13,885 sq. ft. addition to the Seattle Asian Art Museum located in Volunteer Park. The project includes interior and exterior alterations to the existing structure. This decision includes the environmental review of the code amendment required for this proposal.

The following approval is required:

**SEPA - Environmental Determination - (Seattle Municipal Code Chapter 25.05)**

**SEPA DETERMINATION:**

Mitigated Determination of Non-Significance

- No mitigating conditions of approval are imposed.
- Pursuant to SEPA substantive authority provided in SMC 25.06.660, the proposal has been conditioned to mitigate environmental impacts

**BACKGROUND**

The proposal contains the following elements.

1. The expansion of the Asian Art Museum is comprised of approximately 13,885 sq. ft., within two additions on the North and East facades. The North Addition is located in a notch in the north façade in the same space as the existing loading dock. Parts of the north addition infill under a third story gallery addition from 1954. The intent is to provide a larger receiving area at Level 2, and additional storage at



Level 1. A new freight elevator, located externally on the north façade, serving all three levels would also be included with the north addition.

The East Addition would be built onto the southeast corner of the existing museum footprint extending the building further to the east. It would attach to the location of a previous addition from 1955 and includes administrative offices at Level 1, a meeting space at Level 2, and a gallery at Level 3. A glass-enclosed lobby would wrap around the corner of the addition at Level 3, providing access to a new stair that connects the three levels. The area of the additions would be as follows:

	North Addition (sq. ft.)	East Addition (sq. ft.)
Level 1	958	3,470
Level 2	977	3,591
Level 3	106	4,782
Total	2,042	11,843

Renovations are also for the interior of the museum. The entryway and interior courtyard would include the following work: reinforce and restore scagliola clad columns, remove non-historic casework, upgrade handrails to ADA standards, openings and windows would be modified for the addition; replace track lighting, upgrade mechanical systems, restore the original fountain, remove film from windows and provide alternate shading, and replace the automatic door. Gallery work includes: reinforcement of clay tile walls to historical design, replace non-historic lighting, remove carpet and restore original Masonite, replace windows, and upgrade of mechanical systems.

The expansion also includes the removal of some existing asphalt paths shown on sheet C100 of the plan set and new trails to be added on the northwest and east sides of the museum as shown on sheet L102 of the certificate of approval plan set. The proposed expansion and the trail work require a Certificate of Approval from the Seattle Landmark Board.

2. A Land Use Code amendment to allow the expansion of the museum, a non-conforming structure. The proposed amendment would allow the expansion if it meets the following requirements:
  - a. New building square footage must be an expansion, not a freestanding structure and no taller than the highest point of the existing building.
  - b. The amendment allows the Seattle DCI Director to waive parking and loading requirements, subject to the results of a traffic, parking, and loading study.
  - c. Street and sidewalk improvements are not required.
  - d. Any lighting must be shielded and directed away from adjacent residences.
  - e. Building surfaces shall be non-reflective to reduce glare.
3. An amended lease between the Seattle Department of Parks and Recreation and SAM.
4. A development agreement between Seattle Parks and Recreation and SAM.

The Asian Art Museum is located within Volunteer Park and both the building and park grounds are designated landmarks. A Certificate of Approval from the Department of Neighborhoods

Landmarks Preservation Board is required for the project proposal and must be obtained prior to issuance of this permit.

**SITE AND VICINITY**

Site Zone: Single Family (SF 5000)

Nearby Zones: North: SF 5000  
South: Low Rise 3 (LR3) and SF 5000  
West: SF 5000  
East: SF 5000 and LR3

ECAs: Areas of Steep Slope are present at the west edge of the park. Since proposed work will be located substantially away from the steep slope, the site was granted relief from Steep Slope development standards by the Seattle DCI Geotechnical Engineer on August 5, 2016.

Site Size: 45 acres

**PUBLIC COMMENT:**

The public comment period ended on November 30, 2016 and a public meeting was held on December 15, 2016. Comments were received and carefully considered, to the extent that they raised issues within the scope of this review. These areas of public comment related to concern about loss of open space, excessive shading of the park by the expansion, impacts to wildlife, the design of the expansion is not compatible with the park, the expansion should be underground, Asian Art Museum functions should be moved out of the park, concern about impacts to existing exceptional trees, vegetation impacts during construction, light, glare and privacy impacts from the proposed glass façade, and increased traffic from the expansion. Several public comments stated the project should be required to produce an Environmental Impact Statement (EIS) due to both the building and park's status as landmarks. There were also several members of the public who support the expansion of the museum that wrote comments and spoke at the public meeting. Comments were also received that are beyond the scope of this review and analysis per SMC 25.05.

**I. ANALYSIS – SEPA**

Environmental review resulting in a Threshold Determination is required pursuant to State Environmental Policy Act (SEPA) rules, WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code (SMC) Chapter 25.05).

The initial disclosure of the potential impacts from this proposal was made in the environmental checklist submitted by the applicant dated October 3, 2016 and the revised checklists dated January 13, 2017, and February 1, 2017. The Seattle Department of Construction and Inspections (SDCI) has annotated the environmental checklist submitted by the project applicant; reviewed the project plans; consulted with the Department of Neighborhoods, reviewed public comment addressed to the Department of Neighborhoods Landmarks Preservation Board; and

assessed any additional information in the project file submitted by the applicant or agents; and other comments that have been received. Additional studies considered include<sup>1</sup>:

1. Geotechnical Engineering Study, January 31, 2017, Hayre McElroy and Associates, llc.
2. Tree Survey, July 30, 2015, Tree Solutions Inc.
3. Greenhouse Gas Emission Worksheet
4. Asbestos, Lead and Hazardous Materials Survey, July 22, 2016, Eco Compliance Corporation
5. Visibility Study
6. Lighting Impact Analysis Study
7. Transportation and Parking Assessment, Fehr and Peers, February 23, 2017
8. Draft Certificate of Approval Application

The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority. The Overview Policy states in part: "*where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations.

Under such limitations/circumstances, mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

### Short Term Impacts

Construction activities could result in the following adverse impacts: construction dust and storm water runoff, erosion, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, an increase in traffic and parking impacts due to construction related vehicles, and increases in greenhouse gas emissions. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15), the Seattle Building Code, and the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The following analyzes construction-related noise, air quality, environmental health, greenhouse gas, earth/construction vibration, construction traffic and parking impacts, as well as mitigation.

### Greenhouse Gas Emissions

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these

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<sup>1</sup> Studies were prepared by the applicant and accompanied the SEPA checklist unless otherwise noted.

impacts are adverse, they are not considered significant and no further mitigation is warranted pursuant to SMC 25.05.675.A.

### Construction Impacts - Parking and Traffic

Increased trip generation is expected during the proposed demolition, grading, and construction activity. The applicant states 650 cubic yards of dirt would be excavated from the site and 125 cubic yards would be added to the site. This equates to approximately 78 trips in a 10-yard dump truck and 39 trips in a 20-yard dump truck. These impacts are not considered significant and do not warrant further mitigation.

The area includes parking associated with Volunteer Park, 15<sup>th</sup> Street, and E. Prospect Street. Additional parking demand from construction vehicles will impact the supply of the park's parking, but construction parking impacts are not expected to be significant. The following is a summary of expected construction parking from the applicant's Land Use Correction Response dated February 1, 2017:

Mobilization/Pre-Demo Work/Early Site Work	2 months	20-40 spaces
Abatement/Demo/Structural Work	3 months	50-70 spaces
Building Enclosure/Rough-in/Site Work	5 months	70-80 spaces
Rough-in/Finishes/Startup	3 months	60-70 spaces
Punch List/Commissioning	3 months	20-50 space

Per the Transportation and Parking Assessment, Fehr and Peers, January 30, 2017, there are 306 total parking spaces available in Volunteer Park, 15<sup>th</sup> Ave E. and E. Prospect St. Current peak attendance, during the weekday when construction would take place, is at 179 spaces. While there are a surplus of parking spaces the location and circulation of construction vehicles should be mitigated through a Construction Management Plan to avoid conflicts with park users.

It is the City's policy to minimize temporary adverse impacts associated with construction activities. Pursuant to SMC 25.05.675.B (Construction Impacts Policy), additional mitigation is warranted and a Construction Management Plan is required prior to any demolition or site work, which will be reviewed by Seattle Department of Transportation (SDOT). The requirements for a Construction Management Plan include a Haul Route and a Construction Parking Plan. The submittal information and review process for Construction Management Plans are described on the SDOT website at: <http://www.seattle.gov/transportation/cmp.htm>.

### Construction Impacts - Noise

The SEPA policy (SMC 25.05.675.L) Noise seeks to minimize or prevent adverse impacts associated with new development. The project is expected to generate loud noise during demolition, grading and construction. The additional noise will affect users in the park as the quiet enjoyment of the park near the museum would be affected. There are residences across 15<sup>th</sup> Ave E. where noise from the construction may be heard.

The Seattle Noise Ordinance (SMC 25.08.425) permits increases in permissible sound levels associated with private development construction and equipment between the hours of 7:00 AM and 10:00 PM on weekdays and 9:00 AM and 10:00 PM on weekends and legal holidays.

Due to the project's location within the park and its proximity to a residential neighborhood further mitigation is warranted. The SEPA checklist from the applicant restricts construction beyond those hours listed in the noise ordinance. The applicant is committing to 7 AM to 6 PM on weekdays and 9 AM to 7 PM on weekends and legal holidays. These more restrictive hours documented in the Construction Management Plan.

A Construction Management Plan will be required prior to any demolition or site work, including contact information in the event of complaints about construction noise, and measures to reduce or prevent noise impacts. The submittal information and review process for Construction Management Plans are described on the SDOT website at:

<http://www.seattle.gov/transportation/cmp.htm>. The limitations stipulated in the Noise Ordinance and the CMP are sufficient to mitigate noise impacts; therefore no additional SEPA conditioning is necessary to mitigate noise impacts per SMC 25.05.675.B. Compliance with these requirements is a condition of approval of this Mitigated Determination of Non-Significance.

### Environmental Health

Should asbestos be identified on the site, it must be removed in accordance with the Puget Sound Clean Air Agency (PSCAA) and City requirements. PSCAA regulations require control of fugitive dust to protect air quality and require permits for removal of asbestos during demolition. The City acknowledges PSCAA's jurisdiction and requirements for remediation will mitigate impacts associated with any contamination. No further mitigation under SEPA Policies 25.05.675.F is warranted for asbestos impacts.

Should lead be identified on the site, there is a potential for impacts to environmental health. Lead is a pollutant regulated by laws administered by the U. S. Environmental Protection Agency (EPA), including the [Toxic Substances Control Act \(TSCA\)](#), [Residential Lead-Based Paint Hazard Reduction Act of 1992 \(Title X\)](#), [Clean Air Act \(CAA\)](#), [Clean Water Act \(CWA\)](#), [Safe Drinking Water Act \(SDWA\)](#), [Resource Conservation and Recovery Act \(RCRA\)](#), and [Comprehensive Environmental Response, Compensation, and Liability Act \(CERCLA\)](#) among others. The EPA further authorized the Washington State Department of Commerce to administer two regulatory programs in Washington State: the Renovation, Repair and Painting Program (RRP) and the Lead-Based Paint Activities Program (Abatement). These regulations protect the public from hazards of improperly conducted lead-based paint activities and renovations. No further mitigation under SEPA Policies 25.05.675.F is warranted for lead impacts.

### Long Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: greenhouse gas emissions; parking; potential blockage of designated natural and man-made features, and landmark structures; and possible increased traffic in the area. Compliance with applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies. However, greenhouse gas, historic preservation, height bulk and scale, plants and animals, light and glare, shadows on public space, parking, land use, public services and facilities, public views, and traffic warrant further analysis.

Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the increase in museum visitors and the project's energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not considered to be significant and no further mitigation is warranted pursuant to SMC 25.05.675.A.

Historic Preservation

The site and building proposed for modification, Volunteer Park and the Asian Art Museum respectively, are designated City of Seattle and National Historic Landmarks. Modification of these landmarks requires a Certificate of Approval from the Landmarks Preservation Board, prior to MUP issuance. The applicant has applied for this Certificate and is proceeding through the Landmarks Board review and process, per the requirements of the Landmarks Preservation Ordinance.

Volunteer Park is a designated landmark park designed between 1904 and 1909 by the Olmsted Brothers. The original park plan contained an amphitheater where the museum is located. The Asian Art Museum is a landmark structure constructed in 1933 and was designed in the Art Moderne style by Carl Gould. The museum's original landscape plan was done by Noble Hoggson. The SEPA Checklist includes an exhibit, Appendix H, the draft Certificate of Approval Application, documenting the history of building additions from 1947 to 2007. The first addition in 1947 was office space located on the northeast corner of the building at the ground floor. Third story gallery space was added to the north façade in 1954. Then in 1955 additional gallery space and a board room were added to the structure's southeast corner and were three stories in height. 1969 saw the addition of an elevator tower to the east façade. In 2007 the museum's skylights were replaced.

The addition includes 13,885 square feet of new museum space planned at the north and east sides of the museum. Façade materials of the addition are glass, precast concrete with reveals, and metal louvers. The North Addition includes space underneath the 1954 third floor gallery remodel and partial infill of the loading dock. It contains a larger receiving area at Level 2, and new storage space at Level 1. The north addition also includes a new freight elevator serving all three floors that would alter the building's symmetry. This addition furthers the existing non-historic alterations on the north façade and does not intrude further into the park.

The new east addition is comprised of administrative offices on the first floor, new meeting space on the second floor, and new gallery space on the third floor. The third floor also includes a glass lobby wrapping around the northeast corner of the addition that provides access to a new stairwell connecting to all three levels. As noted above, the east addition will attach to a part of the building added in 1955. While this further reduces the building's symmetry, this trend began over 50 years ago. The east addition also occupies 3,500 sq. ft. of Volunteer Park. The following is a detailed breakdown of the both additions:

	North Addition (sq. ft.)	East Addition (sq. ft.)
Level 1	958	3,470
Level 2	977	3,591
Level 3	106	4,782
Total	2042	11,843

The expansion also includes the removal of some existing asphalt paths shown on sheet C100 of the plan set and new trails to be added on the northwest and east sides of the museum as shown on sheet L102 of the certificate of approval plan set. A majority of paths located north and east of the museum were not constructed according to the original Olmsted design. The application includes changes to the path north of the museum to make it more accessible. Paths are also proposed in front of the museum to increase symmetry providing additional access to the main entrance and sides of the museum.

The Geotechnical Report includes a provision for a vibration monitoring plan. This will ensure the new construction does not cause damage to the existing building. The applicant will be required to produce a vibration monitoring plan for use during construction. Seattle DCI's Geotechnical engineer will review the plan once the building permit is submitted.

After review of the draft Certificate of Approval application, public comments, and consultation with Department of Neighborhoods, potential significant adverse impacts have been identified with regard to the proposed alterations to the designated features of the landmark. These impacts will be considered by the Landmark Board when it acts upon SAAM's application for a Certificate of Approval, and the Board may impose conditions to avoid or mitigate impacts if it decides to approve a Certificate of Approval. The Board's action on the Certificate of Approval constitutes compliance with SEPA for historic preservation purposes.

### Height, Bulk, and Scale

Section 25.05.675.G describes SEPA policies for height, bulk, and scale. The proposal was not subject to the City's design review process. The height, bulk, and scale are compatible with the park and the nearby neighborhood. The east museum expansion matches the height of the existing building and occupies a 3,500 sq. ft. footprint of the park. The north addition also matches the height of the existing building and fills in an area currently occupied by the loading dock. The site and project are not located near a less intensive zone. There are two pockets of Low Rise 3 zoned property east of the park and at the southwest corner. The footprint of the addition is over 250' from the 15<sup>th</sup> Ave. edge of the park where there is a buffer of trees. The nearest homes are over 350' from the east side of the museum.

Impacts related to the proposed buildings shading of the park and lighting impacts are discussed later in the report.

Per the Overview policies in SMC 25.05.665.D, the existing City Codes and regulations to mitigate impacts to height bulk and scale are presumed to be sufficient, impacts are not expected to be significant, and additional mitigation is not warranted under SMC 25.05.675.G.

### Parking

The proposed development includes renovation and expansion of the Asian Art Museum as described earlier in the report. No additional off-street vehicular parking spaces are planned with



construction. The traffic and parking analysis Fehr & Peers, Asian Art Museum Renovation, and Expansion- Transportation and Parking Assessment, February 23, 2017, indicates an existing peak demand for approximately 204 vehicles during weekend days with free admittance<sup>2</sup> out of 306 spaces in Volunteer Park, 15<sup>th</sup> Ave E., and E. Prospect Street. With the project, parking demand on weekend days with free admittance is forecast to increase to 237 vehicles. All of those vehicles could be accommodated by available public supplies within the park.

The traffic and parking analysis noted that the peak parking demand for this development during weekdays with free admittance is 160 vehicles. The number of proposed parking spaces accommodates all the anticipated parking demand, parking impacts are not considered to be significant, and no additional mitigation is warranted per SMC 25.05.675.M.

### Plants and Animals

Mature vegetation is located on the site. The applicant submitted an arborist report by Tree Solutions, Inc., July 30, 2015. It analyzed trees within 100' of the Asian Art Museum. Of the 36 trees documented 18 are exceptional. The proposal includes retention of all Exceptional Trees. Three trees #26 (Nordman Fir), #210 (Flowering Cherry), and #221 (Flowering Cherry) are planned for removal while trees #209 (Korean Fir) and #211 (Katsura) will be relocated to another location in the park. Seattle DCI's Arborist has reviewed the arborist report.

In order to mitigate construction impacts to the Exceptional Tree(s) under SMC 25.05.675.N, a condition for a tree preservation plan is warranted.

The Construction Plan, shown as Figure 4, in the SEPA Checklist submitted on February 1, 2017 shows how tree preservation will be handled during construction. The Construction Plan will be required on any site work, demolition, excavation, shoring, and construction permit plans. No significant adverse impacts to plants and animals are expected if compliance with the tree preservation and construction plans occurs.

### Public Views

SMC 25.05.675.P provides policies to minimize impacts to designated public views of natural features such as views to Mount Rainer, the Olympic and Cascade Mountains, the downtown skyline, and major bodies of water including Puget Sound, Lake Washington, Lake Union, and the Ship Canal from the park and SEPA Scenic Routes (15<sup>th</sup> Ave. E., E. Prospect Street, 1th Ave E., and Volunteer Park Way). There are views to the Olympic Mountains, Puget Sound, and parts of downtown from the west side of the museum near facing west. None of the proposed museum additions would interfere with these views as they are located to the east relative to the viewpoint.

Views to the remainder of these natural features are currently not available from anywhere inside the park or the SEPA scenic routes due to a combination of topography, foliage, and buildings. The only viewpoint to these natural features is from the Water tower observatory which is taller than the museum so no views to these natural features would be blocked.

The ordinance also protects public views of designated landmarks. Landmarks in the immediate vicinity are Volunteer Park, the Volunteer Park Reservoir, the Volunteer Park Conservatory, the

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<sup>2</sup> Monthly Free Days: First Thursdays (free to all), First Fridays (free to seniors 62+), First Saturdays (free to families), and Second Thursdays (free from 5 – 9 PM). Account for approximately 48 days of annual operation.

Volunteer Park Water Tower and the Asian Art Museum. Some filtered views to the Conservatory and the Water Tower will be blocked from viewpoints inside the park directly in line with the southeast expansion of the museum. For a majority of the park, views to these landmarks would not change with the proposed building addition. The Reservoir is not blocked any further by the proposed additions as it is located west of the museum and is already not visible from vantage points east of the museum. Views of certain parts of Volunteer Park would be blocked by the southeast addition in a semi-circular fashion from north to south and south to north. This interruption would only be for a brief interval while patrons are walking through the park and is restored once the new footprint is circumvented. Visibility studies provided by the applicant show views to the Conservatory from 15<sup>th</sup> Ave E. are interrupted by dense foliage. The same is true of views to the Water Tower from 15<sup>th</sup> Ave E. as the height of trees prevent a direct line of sight. Views to the Water Tower from E. Prospect are not changed as the expansion is north of the street. The Conservatory is not visible from E. Prospect either due to foliage and topography.

SMC 25.05.675.P.2.c provides policies to minimize impacts to the designated public views of the Space Needle from the Volunteer Park. The Space Needle is located to the southwest from the park. Areas to the northeast of the museum's current configuration already have no direct view to the Space Needle. Vegetation within the park already blocks views to the Space Needle from the pedestrian perspective and proposed museum additions do not significantly decrease sight lines.

Although the proposal will change some views as described above, the changes to views are not considered to be significant, and additional mitigation is not warranted under SMC 25.05.675.P.

### Transportation

The Traffic Impact Analysis Fehr & Peers, Asian Art Museum Renovation and Expansion-Transportation and Parking Assessment, February 23, 2017 indicated that the project is expected to result in a total of 612 daily vehicle trips to the Asian Art Museum on a regular day and 1,344 on a free day, with 220 PM Peak Hour trips. Compared to existing conditions the project would add 198 daily trips and 30 PM peak hour trips on a typical day, and 454 daily trips and 68 PM peak hours trips on a free day. Due to the opening time of the museum, 10am, there are no impacts to AM peak vehicle trips.

The additional trips will distribute on roadways around Volunteer Park, including 15<sup>th</sup> Ave. E., 10<sup>th</sup> Ave E, Federal Ave. E., and Prospect St. and are expected to have minimal impact on levels of service at nearby intersections and on the overall transportation system. Somewhat greater trip volume increases are expected on free days, but these will occur infrequently. Concurrency analysis was conducted for nearby identified areas. That analysis showed that the project is expected to be well within the adopted standards for the identified areas. The Seattle DCI Transportation Planner reviewed the information and determined that while these impacts are adverse, they are not expected to be significant and no further mitigation is warranted per SMC 25.05.675.R.

### Land Use

SMC 25.05.675.J is intended to ensure proposed uses in development projects are reasonably compatible with surrounding uses and consistent with adopted City land use regulations, the

goals and policies set forth in Section B of the land use element of the Seattle Comprehensive Plan regarding Land Use Categories, and the shoreline goals and policies set forth in section D-4 of the land use element of the Seattle Comprehensive Plan for the area in which the project is located.

A land use code amendment is accompanying the application and sets forth criteria for the museum expansion. The amendment limits the height of any museum additions to the highest point of the existing structure. The amendment has provisions to reduce lighting and glare impacts and gives the Seattle DCI Director discretion to reduce parking and loading requirements with the verification of a traffic and parking study. These proposed code amendment criteria are meant to help ensure compatibility between the physical expansion itself and the park. The museum use is compatible as it is itself a park use located within a park.

The Comprehensive Plan has several policies about Historic Landmarks. One of the most relevant is Policy LU207, *“Allow development standards and design review processes to be adopted specifically for a designated landmark or special review district, including guidelines that may specify design-related features allowed, encouraged, limited, or excluded from the district. Allow adopted guidelines to modify, exempt, or supersede the standards of the underlying zone, although for elements not included in the district guidelines, the standards of the existing designation shall continue to apply.”* The proposed code amendment is addressing a specific deficiency in the existing code related to expansion of a museum in the SF-5000 zone. The amendment will enable the expansion and continued use of a landmark structure. The proposed code amendment is not expected to result in significant adverse environmental impacts.

### Light and Glare

SMC 25.05.675.K describes SEPA policies meant to reduce impacts related to lighting and reflective surface materials and their impact on motorists, pedestrians, and the surrounding area. The museum addition contains a transparent walkway that will reflect light during the day and increase light spillage at night and other low light times. The low-iron glass shown on the project’s elevations would reflect 13% of visible light per the applicant. Low-iron glass is used for its clarity rather than its reflectivity.

To measure lighting impacts the applicant prepared a study titled, Volunteer Park Lighting Analysis, FMS, dated January 6, 2017. Three Exhibits A, B, C show existing light levels, future light levels with interior and exterior lighting, and future light levels just with exterior lighting. The proposed building addition with interior illumination creates the most light impacts on the park. At a distance of 100’ from the existing rear façade there would be light spillage less than what is normally experienced at a residential sidewalk. The proposed code amendment requires lighting be shielded and directed away from nearby residences.

Additional mitigation is not warranted under SMC 25.05.675.K. Subject to these conditions, potential light and glare impacts are not expected to be significant. Therefore, no further mitigation is needed.

### Public Services and Facilities

SMC 25.05.675.O contains policies related to the use of public facilities such as a park. The museum expansion will occupy 3,200 sq. ft. of Volunteer Park’s 48.3 acres. While there is concern about repeated expansions, the code amendment limits the lifetime expansion of the

museum to a gross square footage of 15,000 and the current proposal is at 13,885, so there is little capacity for further additions. The museum expansion is not an adverse impact on the capacity of the park and no mitigation is warranted. Impacts such as traffic and parking have been analyzed in separate sections of the report and been found to not warrant additional mitigation. Potential impacts to public services and facilities are not expected to be significant.

### Shadows on Open Spaces

SMC 25.05.675.Q describes SEPA policies meant to preserve access to sunlight on public open spaces. To access these impacts of the proposed museum addition the applicant prepared shadow studies. The additional shadows cast on the park directly correspond to the location of the addition and occur around noon to the north of the addition and in the late afternoon/early evening to the east during the autumnal equinox and winter solstice. This is a time of frequent use by park visitors as it is when a majority are off work during the week day. The additional shadows occur on areas of passive recreation with no paths or seating. The proposed code amendment limits the height of the addition to the existing structure resulting in near zero additional shadows from the museum expansion to the south and west. The level of increased shading does not constitute a significant adverse impact. Therefore, no further mitigation is warranted.

For purposes of SEPA, analysis of the proposed code amendment, lease and development agreement are subsumed within the analysis described above.

### **DECISION – SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this determination is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).
- Mitigated Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21.030(2) (c).

The lead agency for this proposal has determined that requiring mitigation measures as a condition of approving the project will reduce likely significant adverse impacts to nonsignificant levels. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist, consultation with the Historic Preservation Office and other information on file with the lead agency.

This information is available to the public on request.

This MDNS is issued after using the optional DNS process in WAC 197-11-355 and Early review DNS process in SMC 25.05.355. There is no further comment period on the MDNS.

## **CONDITIONS – SEPA**

### *Prior to Issuance of the MUP*

1. The project shall obtain a Certificate of Approval from the Department of Neighborhood's Landmark Preservation Board.

### *Prior to Issuance of Demolition, Excavation/Shoring, or Construction Permit*

2. Provide a Construction Management Plan that has been approved by SDOT. The submittal information and review process for Construction Management Plans are described on the SDOT website at: <http://www.seattle.gov/transportation/cmp.htm>.
3. Demolition, excavation, shoring and construction permit plans shall show the tree preservation plan, consistent with the Construction Plan, Figure 4 in the SEPA Checklist dated February 1, 2017 with Seattle DCI.
4. The Construction Plan, shown as Figure 4, in the SEPA Checklist submitted on February 1, 2017 shows how tree preservation will be handled during construction. It will be required on any demolition, excavation, shoring, and construction permit plans.
5. Submit for review and approval a Vibration Monitoring Plan. Include notes on the plans indicating the vibration threshold(s) for protection of the building and/or art collections in inches per second. Vibration monitoring will be included in the geotechnical special inspections for the building permit.

### *During Construction*

6. Hours of Construction are restricted to 7 AM to 6 PM on weekdays and 9 AM to 7 PM on weekends and legal holidays.
7. If the applicant intends to work outside of the limits of the hours of construction described in condition #5, a Construction Noise Management Plan shall be required, subject to review and approval by Seattle DCI Noise Abatement staff. The construction noise management plan may be modified as needed through SDOT and Seattle DCI review. The construction noise management plan shall be incorporated into the Construction Management Plan.

Joshua Johnson, AICP, Land Use Planner  
Seattle Department of Construction and Inspections

Date: March 16, 2017

JJ:drm

**IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT**

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by Seattle DCI within that three years or it will expire and be cancelled. (SMC 23-76-028) (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at [prc@seattle.gov](mailto:prc@seattle.gov) or to our message line at 206-684-8467.



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 118860

Record No.: CB 118860

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125215

In Control: City Clerk

File Created: 08/17/2016

Final Action: 12/08/2016

**Title:** AN ORDINANCE relating to historic preservation; imposing controls upon Volunteer Park, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Burgess

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: erin.doherty@seattle.gov

Filing Requirements/Dept Action:

### History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	09/19/2016	Mayor's leg transmitted to Council	City Clerk			
	<b>Action Text:</b>		The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk				
	<b>Notes:</b>						
1	City Clerk	09/20/2016	sent for review	Council President's Office			
	<b>Action Text:</b>		The Council Bill (CB) was sent for review. to the Council President's Office				
	<b>Notes:</b>						
1	Council President's Office	09/26/2016	sent for review	Affordable Housing, Neighborhoods, and Finance Committee			
	<b>Action Text:</b>		The Council Bill (CB) was sent for review. to the Affordable Housing, Neighborhoods, and Finance Committee				
	<b>Notes:</b>						

- |   |  |  |                                    |  |      |
|---|--|--|------------------------------------|--|------|
| 1 | Full Council   | 11/14/2016   | referred                           | Affordable<br>Housing,<br>Neighborhoods,<br>and Finance<br>Committee   |      |
| 1 | Affordable Housing,<br>Neighborhoods, and<br>Finance Committee | 11/22/2016   | pass                               |  | Pass |
|   | <b>Action Text:</b>  | The Committee recommends that Full Council pass the Council Bill (CB).                     |                                    |  |      |
|   | <b>Notes:</b>  |  |                                    |  |      |
|   |  | In Favor:  | 2                                  | Chair Burgess, Vice Chair Herbold  |      |
|   |  | Opposed:   | 0                                  |  |      |
|   |  | Absent(NV):  | 1                                  | Member Johnson   |      |
| 1 | Full Council   | 11/28/2016   | passed                             |  | Pass |
|   | <b>Action Text:</b>  | The Council Bill (CB) was passed by the following vote, and the President signed the Bill: |                                    |  |      |
|   | <b>Notes:</b>  |  |                                    |  |      |
|   |  | In Favor:  | 5                                  | Councilmember Bagshaw, Councilmember Burgess, Council President Harrell, Councilmember Johnson, Councilmember Juarez |      |
|   |  | Opposed:   | 0                                  |  |      |
| 1 | City Clerk   | 11/29/2016   | submitted for<br>Mayor's signature | Mayor  |      |
| 1 | Mayor  | 12/08/2016   | Signed                             |  |      |
| 1 | Mayor  | 12/08/2016   | returned                           | City Clerk   |      |
| 1 | City Clerk   | 12/08/2016   | attested by City<br>Clerk          |  |      |
|   | <b>Action Text:</b>  | The Ordinance (Ord) was attested by City Clerk.  |                                    |  |      |
|   | <b>Notes:</b>  |  |                                    |  |      |
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CITY OF SEATTLE

ORDINANCE 125215

COUNCIL BILL 118860

AN ORDINANCE relating to historic preservation; imposing controls upon Volunteer Park, a landmark designated by the Landmarks Preservation Board under Chapter 25.12 of the Seattle Municipal Code, and adding it to the Table of Historical Landmarks contained in Chapter 25.32 of the Seattle Municipal Code.

WHEREAS, the Landmarks Preservation Ordinance, Chapter 25.12 of the Seattle Municipal Code (SMC), establishes a procedure for the designation and preservation of sites, improvements, and objects having historical, cultural, architectural, engineering, or geographic significance; and

WHEREAS, the Landmarks Preservation Board ("Board"), after a public meeting on September 21, 2011, voted to approve the nomination of the improvements located at 1400 East Prospect Street and the site on which the improvements are located (which collectively are referred to as "Volunteer Park" for the purposes of this ordinance) for designation as a landmark under SMC Chapter 25.12; and

WHEREAS, after a public meeting on November 2, 2011, the Board voted to approve the designation of Volunteer Park under SMC Chapter 25.12; and

WHEREAS, on May 18, 2016, the Board and the owner of the designated landmark agreed to controls and incentives; and

WHEREAS, the Board recommends that the City Council enact a designating ordinance approving the controls and incentives; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. DESIGNATION: Pursuant to Seattle Municipal Code (SMC) 25.12.660, the designation by the Landmarks Preservation Board ("Board") of the improvements located at

1 1400 East Prospect Street and the site on which the improvements are located (which collectively  
2 are referred to as "Volunteer Park" for the purposes of this ordinance) is hereby acknowledged.

3 A. Legal Description. Volunteer Park is located on the property legally described as:

4 Legal Description: The northeast quarter of the northeast quarter (NE 1/4 NE 1/4)  
5 of Section Twenty-nine (29) in Township Twenty-five (25) north (N) of Range  
6 Four (4) east (E), Willamette Meridian, also beginning at the northeast (NE)  
7 corner of the northeast quarter (NE 1/4) of Section Twenty-nine (29) in Township  
8 Twenty-five (25) north (N) of Range Four (4) east (E), Willamette Meridian,  
9 thence south one degree thirty-six minutes forty-eight seconds (1°36'48") west a  
10 distance of fourteen hundred thirty-three and fifty-two one-hundredths (1433.52)  
11 feet along the east line of Section 29 in Township 25 north Range 4 east, thence  
12 north (N) eighty-eight degrees eighteen minutes twenty-seven seconds  
13 (88°18'27") west a distance of four hundred eighty-two and ten one-hundredths  
14 (482.10) feet, thence north (N) eighty-eight degrees eighteen minutes thirty-one  
15 seconds (88°18'31") west a distance of two hundred seventy-two and five one-  
16 hundredths (272.05) feet, thence north (N) eighty-eight degrees eighteen minutes  
17 thirty-eight seconds (88°18'38") west a distance of two hundred seventy-two and  
18 four one-hundredths (272.04) feet, thence north (N) eighty-eight degrees eighteen  
19 minutes twenty-nine seconds (88°18'29") west a distance of three hundred eleven  
20 and seven one-hundredths (311.07) feet to a point on the west line of the  
21 northwest (NW) quarter of the northeast (NE) quarter of the northeast (NE)  
22 quarter of Section 29 in Township 25 north Range 4 east, thence north (N) one  
23 degree eighteen minutes twenty seconds (1°18'20") east, more or less, a distance  
24 of fourteen hundred five and sixty-nine one-hundredths (1405.69) feet, more or  
25 less, to a point on the north line of Section 29 in Township 25 north Range 4 east,  
26 thence south (S) eighty-nine degrees thirty minutes and five seconds (89°30'05")  
27 east a distance of one thousand three hundred forty-five (1345) feet, more or less,  
28 along the north line of Section 29 in Township 25 north Range 4 east to the point  
29 of beginning. Also the east one-half (E 1/2) of blocks E and F of Phinney's  
30 Addition to the City of Seattle as recorded in Vol. 1, Page 175 of King County  
31 Plats. Also the portion of Eleventh (11th) Avenue North in the City of Seattle from  
32 the north line of Furth's Addition to the City of Seattle and the north line of  
33 Phinney's Addition to the City of Seattle as vacated by ordinance 26793.

34 B. Specific Features or Characteristics Designated. Pursuant to SMC 25.12.660.A.2,  
35 the Board designated the following specific features or characteristics of Volunteer Park:

- 36 1. The site, excluding the children's play equipment.

1                   2.       The exteriors of the buildings and structures, excluding the following:

2                   a.       The Reservoir guard station, the pump station grating, and the  
3                   following accessory appurtenances within the reservoir bowl: the 42"  
4                   vertical pipe; the chlorine detention chamber; the washout piping; the  
5                   penstock cap; the outlet piping; the standpipe overflow and drain  
6                   discharge; and the overflow weir box and grate.

7                   b.       The 1990 production greenhouse and the following accessory  
8                   structures associated with the Conservatory and maintenance  
9                   functions: the tool shed; the small equipment shed; the cold frames;  
10                  the cold house; the shade house; the small garage west of the cottage;  
11                  the storage building west of the cold frames; the crew quarters  
12                  building; and the soil shed.

13                C.       Basis of Designation. The designation was made because Volunteer Park is more  
14                than 25 years old, has significant character, interest, or value as a part of the development,  
15                heritage, or cultural characteristics of the City, state, or nation, has integrity or the ability to  
16                convey its significance, and satisfies the following from SMC 25.12.350:

17                   1.       It is the location of, or is associated in a significant way with, a historic  
18                event with a significant effect upon the community, City, state, or nation (SMC 25.12.350.A);

19                   2.       It is associated in a significant way with a significant aspect of the  
20                cultural, political, or economic heritage of the community, City, state, or nation (SMC  
21                25.12.350.C);

22                   3.       It embodies the distinctive visible characteristics of an architectural style,  
23                or period, or of a method of construction (SMC 25.12.350.D);

1                   4.       It is an outstanding work of a designer or builder (SMC 25.12.350.E); and

2                   5.       Because of its prominence of spatial location, contrasts of siting, age, or  
3 scale, it is an easily identifiable visual feature of its neighborhood or the City and contributes to  
4 the distinctive quality or identity of such neighborhood or the City (SMC 25.12.350.F).

5               Section 2. CONTROLS: The following controls are hereby imposed on the features or  
6 characteristics of Volunteer Park that were designated by the Board for preservation:

7               A.       Certificate of Approval Process.

8                   1.       Except as provided in subsection 2.A.2 or subsection 2.B of this  
9 ordinance, the owner must obtain a Certificate of Approval issued by the Board pursuant to SMC  
10 Chapter 25.12, or the time for denying a Certificate of Approval must have expired, before the  
11 owner may make alterations or significant changes to the features or characteristics of Volunteer  
12 Park that were designated by the Board for preservation.

13                  2.       No Certificate of Approval is required for the following:

14                   a.       Any in-kind maintenance or repairs of the features or  
15 characteristics of Volunteer Park that were designated by the Board for preservation.

16                   b.       Removal of the following landscape elements: trees less than 8  
17 inches in diameter measured 4 1/2 feet above ground; shrubs; perennials; and annuals.

18                   c.       Installation and removal of the following temporary installations  
19 not attached to buildings, structures or landscape features: special event tents, tables, chairs,  
20 games, and art exhibits.

21                   d.       Pruning of trees and shrubs consistent with maintaining their  
22 health, and removal of tree branches overhanging the reservoir fence.

1 e. Management of tree roots causing structural damage to the  
2 reservoir, if prior to the start of work a Certified Arborist's report is submitted to the City  
3 Historic Preservation Officer documenting that the health of the trees will not be negatively  
4 impacted. If negative impacts are anticipated by the report, Administrative Review is available.

5 f. Installation, removal, or alteration of the following site furnishings:  
6 benches, trash receptacles, and bike racks.

7 g. Installation, removal, or alteration of temporary signage, temporary  
8 banners, signage for accessibility compliance, park name signage, and other signage as required  
9 by City code.

10 h. Installation, removal, or alteration (including repair) of  
11 underground irrigation and underground utilities, providing that the site is restored in kind.

12 i. Removal of existing security fencing.

13 j. Alterations to water levels and associated water operations in the  
14 reservoir.

15 k. Removal or conservation of the following public artworks, by and  
16 in the collection managed by Office of Arts & Culture:

17 i. Seward Monument (1909);

18 ii. Burke Monument (1930);

19 iii. Black Sun (1969);

20 iv. Untitled Bird Bath by Lee Kelly (1975); or

21 v. Homage in Green by Richard Spaulding, in the Volunteer Park  
22 Conservatory (1982).

1                           1.       Removal or conservation of the following public artworks, by and  
2 in the collection managed by Seattle Parks and Recreation:

- 3                                   i.    Memorial Tree Plaque – Rotary International (1932);  
4                                   ii.   Volunteer Memorial (1952);  
5                                   iii.  Playform (1962);  
6                                   iv.   Schwagerl Rock;  
7                                   v.    Bacterian Camels (west side of Museum); or  
8                                   vi.   L.B. Youngs Memorial Plaque (1930).

9           B.       City Historic Preservation Officer Approval Process.

10                           1.       The City Historic Preservation Officer (CHPO) may review and approve  
11 alterations or significant changes to the features or characteristics listed in subsection 2.B.3 of  
12 this ordinance according to the following procedure:

13                                   a.       The owner shall submit to the CHPO a written request for the  
14 alterations or significant changes, including applicable drawings or specifications.

15                                   b.       If the CHPO, upon examination of submitted plans and  
16 specifications, determines that the alterations or significant changes are consistent with the  
17 purposes of SMC Chapter 25.12, the CHPO shall approve the alterations or significant changes  
18 without further action by the Board.

19                           2.       If the CHPO does not approve the alterations or significant changes, the  
20 owner may submit revised materials to the CHPO, or apply to the Board for a Certificate of  
21 Approval under SMC Chapter 25.12. The CHPO shall transmit a written decision on the owner's  
22 request to the owner within 14 days of receipt of the request. Failure of the CHPO to timely  
23 transmit a written decision constitutes approval of the request.

1                   3.       CHPO approval of alterations or significant changes to the features or  
2 characteristics of Volunteer Park that were designated by the Board for preservation is available  
3 for the following:

4                   a.       For the specified features and characteristics of the buildings and  
5 structures, the addition or elimination of ducts, conduits, HVAC vents, grilles, fire escapes, pipes,  
6 and other similar wiring or mechanical elements necessary for the normal operation of the  
7 buildings and structures.

8                   b.       Installation, removal, or alterations of exterior light fixtures,  
9 including exterior security lighting, and security system equipment.

10                  c.       Installation of new trees that comply with master plans approved  
11 by the Landmarks Preservation Board.

12                  d.       Installation or alteration of plantings/landscaping that comply with  
13 master plans approved by the Landmarks Preservation Board.

14                  e.       Removal of trees identified as a hazard by an International Society  
15 of Arboriculture (ISA) Certified Arborist.

16                  f.       Removal of trees undermining the structural integrity of the  
17 reservoir, as identified by a Seattle Public Utilities (SPU) Dam Safety Engineer who is a licensed  
18 professional engineer in the State of Washington. This review will be done in consultation with  
19 Seattle Parks and Recreation.

20                  g.       Removal or alterations to the existing decorative metal fencing.

21                  h.       Signage other than signage excluded in subsection 2.A.2.g of this  
22 ordinance.

1                   i.       Emergency repairs or measures to address hazardous conditions  
2 with adverse impacts to the site, utility operations, buildings, and structures related to a seismic  
3 event, or other unforeseen events. In such an emergency Seattle Public Utilities, and Seattle  
4 Parks and Recreation, may take immediate action to secure the area, install a temporary  
5 generator, and employ stabilization methods to protect the public's safety, health, and welfare. In  
6 addition, Seattle Public Utilities' Emergency Response Team, and Seattle Parks and Recreation,  
7 will immediately notify the City Historic Preservation Officer, and document the conditions and  
8 actions taken. If temporary structural supports are necessary, all efforts will be made to prevent  
9 further damage to historic resources. All historic building materials must not leave the site, as  
10 part of the emergency response. A long-term plan to address the damage will include consultation  
11 with the City Historic Preservation Officer and staff to find an appropriate solution.

12                   j.       Installation of new permanent security fencing or alterations to the  
13 existing.

14                   k.       Management of tree roots causing structural damage to the  
15 reservoir, if prior to the start of work a Certified Arborist's report is undertaken and determines  
16 that the health of the trees may be negatively impacted.

17                   l.       Installation of improvements for accessibility compliance.

18           Section 3. INCENTIVES: The following incentives are hereby granted on the features or  
19 characteristics of Volunteer Park that were designated by the Board for preservation:

20           A.       Uses not otherwise permitted in a zone may be authorized in a designated  
21 landmark by means of an administrative conditional use permit issued pursuant to SMC Title 23.

22           B.       Exceptions to certain of the requirements of the Seattle Building Code, SMC  
23 Chapter 22.100, and the Seattle Energy Code, SMC Chapter 22.700, may be authorized pursuant



1 to the applicable provisions thereof.

2 C. Special tax valuation for historic preservation may be available under RCW  
3 Chapter 84.26 upon application and compliance with the requirements of that statute.

4 D. Reduction or waiver, under certain conditions, of minimum accessory off-street  
5 parking requirements for uses permitted in a designated landmark structure may be permitted  
6 pursuant to SMC Title 23.

7 Section 4. Enforcement of this ordinance and penalties for its violation are as provided in  
8 SMC 25.12.910.

9 Section 5. Volunteer Park is hereby added alphabetically to Section IX, Miscellaneous, of  
10 the Table of Historical Landmarks contained in SMC Chapter 25.32.

11 Section 6. The City Clerk is directed to record a certified copy of this ordinance with the  
12 King County Director of Records and Elections, deliver two certified copies to the CHPO, and  
13 deliver one copy to the Director of the Seattle Department of Construction and Inspections. The  
14 CHPO is directed to provide a certified copy of this ordinance to the owner of the landmark.

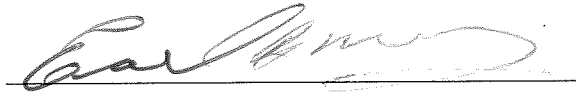
1 Section 7. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 28<sup>th</sup> day of November, 2016,  
5 and signed by me in open session in authentication of its passage this 28<sup>th</sup> day of  
6 November, 2016.

7 

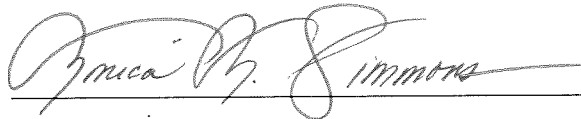
8 President \_\_\_\_\_ of the City Council

9 Approved by me this 8<sup>th</sup> day of December, 2016.

10 

11 Edward B. Murray, Mayor

12 Filed by me this 8<sup>th</sup> day of December, 2016.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)