SEATTLE HEARING EXAMINER

In the Matter of the Appeal of

THE BALLARD COALITION

Of the adequacy of the Final Environmental Impact Statement, prepared by the Seattle Department of Transportation for the Burke-Gilman Trail Missing Link Project.

No. W-17-004

SECOND DECLARATION OF PATRICK J. SCHNEIDER

I, Patrick J. Schneider, hereby declare and affirm:

I am one of the attorneys for the Ballard Coalition; I am competent to testify, and I have personal knowledge of the following facts.

1. Attached to this Declaration as Exhibit A is a true and correct copy of pages 14-4 and 14-5 from Richard L. Settle, The Washington State Environmental Policy Act: a Legal and Policy Analysis, Ch. 14 § 14.01 (Mathew Bender).

2. Attached to this Declaration as Exhibit B is a true and correct copy, without exhibits, of the "City's Reply in Support of Motion to Dismiss," King County Superior Court No. 09-2-26586-1SEA.

3. Attached to this Declaration as Exhibit C is a true and correct copy of page FS-III of the FEIS for the "Burke-Gilman Trail Missing Link Project."

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4. Attached to this Declaration as Exhibit D is a true and correct copy of page 1-13 of the FEIS for the "Burke-Gilman Trail Missing Link Project."

5. Attached to this Declaration as Exhibit E is a true and correct copy of page 1-17 of the FEIS for the "Burke-Gilman Trail Missing Link Project."

6. Attached to this Declaration as Exhibit F is a true and correct copy of page 1-19 of the FEIS for the "Burke-Gilman Trail Missing Link Project."

7. Attached to this Declaration as Exhibit G is a true and correct copy of page 4-19 of the FEIS for the "Burke-Gilman Trail Missing Link Project."

8. Attached to this Declaration as Exhibit H is a true and correct copy of page 7-32 of the FEIS for the "Burke-Gilman Trail Missing Link Project."

9. Attached to this Declaration as Exhibit I is a true and correct copy of pages 7-62 to 7-63 of the FEIS for the "Burke-Gilman Trail Missing Link Project."

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED at Seattle, Washington this 10th day of August, 2017.

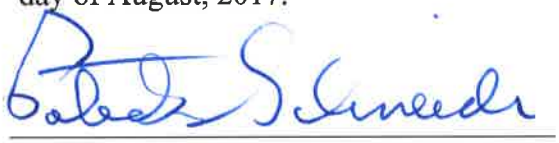

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EXHIBIT A

makers with "sufficient information to make a reasoned decision."[13b] Obviously, SEPA's procedural and substantive mandates are intimately interrelated. Without sufficient environmental information the consistency of government actions with SEPA's substantive policies would be a matter of chance; and SEPA's policies ultimately define the scope of relevant information. Acceptance of the proposition that environmentally protective government decisions depend not only upon appropriate policies but also sufficient information necessitates a determination of how much information is enough. SEPA's conceptual answer is that the requisite amount of environmental information is directly proportional to an action's potential adverse environmental consequences. Routine and inevitable agency actions, not commonly associated with noticeable environmental effect, call for only the most superficial and impressionistic environmental analysis.[14] Conversely, proposals which virtually shout out high probability of environmental catastrophe may not proceed without nearly perfect environmental information.[15]

SEPA's fundamental principles suggest that the appropriate level of environmental analysis varies along a continuum with a proposal's potential adverse environmental effects. However, for the sake of predictability and administrative efficiency, SEPA, as implemented by the SEPA Rules,[16] recognizes three general categories of proposals and appropriate levels of environmental analysis. Proposals falling within categorical exemptions[17] call for only the most superficial environmental analysis, devoid of process requirements, to determine that none of the conditions that disqualify a nominally exempt proposal are present.[18] Proposals which, although not exempt, are environmentally insignificant, must undergo the modest scrutiny and process requirements of threshold environmental review.[19] Proposals that are environmentally significant are subject to the intense environmental scrutiny and elaborate process requirements of the environmental impact

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[13b] *Citizens Alliance To Protect Our Wetlands v. City of Auburn*, 126 Wn.2d 356, 362, 894 P.2d 1300 (1995).

[14] § 12.01, *above.*

[15] *See, e.g., Sierra Club v. Sigler*, 18 Env't Rep. Cas. (BNA) 1649 (5th Cir. 1983); *Oregon Environmental Council v. Kunzman*, 22 Env't Rep. Cas. (BNA) 1739 (D.C. Or. 1985).

[16] State Environmental Policy Act Rules, Ch. 197-11, WASHINGTON ADMINISTRATIVE CODE.

[17] *See generally* §§ 12.01–12.01[3][e], *above.*

[18] § 12.01[3][c]–[d].

[19] *See generally* § 13.01.

whether its environmental significance precludes exempt status; and the more likely that a nonexempt proposal is environmentally significant, the more checklist and extrachecklist environmental analysis is required to support a determination of nonsignificance; and the more significant a proposal's environmental consequences, the more detailed an impact statement's analysis must be.

The nature and extent of the environmental analysis to be included in an EIS must not be determined ritualistically or mechanistically. Rather, the EIS must be tailored to fit both the specific proposal and SEPA's ultimate purposes.

EIS content, format, and processes are determined almost entirely by the SEPA Rules.[20] The original statutory language merely prescribed that proposals for environmentally significant legislation and other major actions be accompanied by a detailed statement including five specified components of environmental analysis and that prior to preparing the statement the agency consult with other agencies with jurisdiction over the proposal or with relevant expertise.[21] Several amendments have added additional general EIS parameters to the statute.[22] Otherwise, the legislature has directed the Department of Ecology (DOE) to make rules elaborating upon the terse statutory language.[23] Ultimately, the meaning of the EIS requirement has been determined by judicial interpretation, first of the statutory language,[24] and, as they have evolved, the SEPA Guidelines[25] and Rules. While the SEPA Rules, which devote nearly 12 pages to the EIS requirement,[26] are the primary source of authoritative guidance, their directives should not be blindly followed. Their validity depends upon fidelity to the statute, and the courts have not hesitated to strike down administrative rules that stray from SEPA.[27]

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[20] RCW 43.21C.030(2)(d), 43.21C.031; WAC 197-11-400 *et seq.*, 197-11-500 *et seq.*, 197-11-600 *et seq.*

[21] RCW 43.21C.030(2)(c)–(d).

[22] RCW 43.21C.031.

[23] RCW 43.21C.110.

[24] *E.g., Leschi Improvement Council v. Washington State Highway Comm'n*, 84 Wn. 2d 271, 280–87, 525 P.2d 774 (1974).

[25] *E.g., Barrie v. Kitsap County*, 93 Wn. 2d 843, 854–57, 613 P.2d 1148 (1980).

[26] *Above* note 8.

[27] *Barrie v. Kitsap County*, 93 Wn. 2d 843, 858–59, 613 P.2d 1148 (1980). *See Noel v. Cole*, 98 Wn. 2d 375, 380–81 n.2, 655 P.2d 245 (1982); *Downtown Traffic Planning Committee v. Royer*, 26 Wn. App. 156, 164–65, 612 P.2d 430 (1980).

EXHIBIT B

The Honorable Suzanne Parisien

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

SALMON BAY SAND & GRAVEL, INC., BALLARD CHAMBER OF COMMERCE, SEATTLE MARINE BUSINESS COALITION, BALLARD OIL COMPANY, NORTH SEATTLE INDUSTRIAL ASSOCIATION, and the BALLARD INTERBAY NORTHEND MANUFACTURING & INDUSTRIAL CENTER,

Plaintiffs/Petitioners,

vs.

THE CITY OF SEATTLE, THE SEATTLE DEPARTMENT OF TRANSPORTATION, THE SEATTLE HEARING EXAMINER, and

THE CASCADE BICYCLE CLUB,

Defendants/Respondents.

No. 09-2-26586-1SEA

CITY'S REPLY IN SUPPORT OF MOTION TO DISMISS

I. RELIEF REQUESTED

The City respectfully asks this Court to dismiss the matters consolidated under Cause No. 09-2-26586-1SEA, because they are moot and unripe.

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II. STATEMENT OF RELEVANT FACTS & AUTHORITY

The Petitioners' first and second appeals challenge Determinations of Nonsignificance (DNSs) that have been invalidated and the third appeal challenges the adequacy of an Environmental Impact Statement (EIS) that has not yet been issued. The standard for reviewing a DNS differs completely from the standard for reviewing the adequacy of an EIS.[1] In reviewing a DNS, the question for the court is whether the agency properly determined that the proposal would not have a "probable significant, adverse environmental impact."[2] In reviewing the adequacy of an EIS, the question for the court is whether the EIS presents decisionmakers with a "reasonably thorough discussion of the significant aspects of the probable environmental consequences" of the agency's decision.[3] Esentially, the question shifts from whether the agency had to do more environmental review, to whether they did it well enough. There is simply no relationship between the review of an invalidated DNS and the potential review of a later EIS.

The Petitioners' brief illustrates why it is imperative these appeals be dismissed before any new appeal: the Petitioners conflate the standards for reviewing the two different SEPA issues, rely on irrelevant and outdated "facts" to support their arguments,[4] claim injury that has not occurred and cannot occur prior to compliance with SEPA, and provide no legal basis warranting the preservation of their existing appeals. Whether framed as moot or unripe, all three

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[1] See Richard L. Settle, Washington State Environmental Policy Act: A Legal and Policy Analysis, Ch. 14, §14.01[1][b], providing that "Correctness of threshold determinations and adequacy of impact statements are subject to different standards of judicial review."

[2] The "clearly erroneous" standard applies to review of a DNS. *Norway Hill Preservation and Protection Association v. King County Council*, 87 Wn.2d 267, 271-72, 552 P.2d 674 (1976).

[3] *Cheney v. City of Mountlake Terrace*, 87 Wash.2d 338, 344–45, 552 P.2d 184 (1976). The Court applies the "rule of reason" and gives substantial weight to the agency's determination (RCW 43.21C.090; *Klickitat County Citizens Against Imported Waste v. Klickitat County*, 122 Wn.2d 619, 633, 860 P.2d 390, 866 P.2d 1256 (1993)).

[4] The City disputes the Petitioners' characterization of the facts and procedural history, but since the mischaracterizations are predominantly irrelevant, the City did not correct each misstatement.

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appeals should be dismissed and any issues that are not moot may be raised in a timely appeal of the Final EIS (FEIS), set to be issued on May 25, 2017.[5]

III. ARGUMENT

As a preliminary matter, the City has not stipulated to stay any of the appeals; it stipulated to revise the case schedules.[6] Nothing about the current stipulation, or any prior stipulations, bars the City from filing its Motion to Dismiss.[7] This is one of many "facts" the Petitioners grossly mischaracterize in their Response brief.[8]

Also, the City's Motion is properly brought under CR 12(b)(6), which is a defense that may be raised at any point in the proceedings.[9] And even under RAP 18.9,[10] the rule Petitioners argue applies,[11] the result is the same: the Petitioners' appeals should be dismissed.

A. The existing record in the pending appeals is not relevant to any future appeal of an EIS.

The City requests that the Court dismiss these appeals because they are moot, unripe, and irrelevant to any live dispute. Contrary to Petitioners' erroneous assertions why the City wants the appeals dismissed,[12] the record is simply not relevant, because it was created in challenging

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[5] See the attached Declaration of Erin Ferguson, at no. 3.
[6] See the Declaration of Erin Ferguson and Exhibits A-E, none of which "stay" the proceedings as Petitioners falsely allege.
[7] *Id.*
[8] For example, at Response p. 6, line 15, Petitioners represent that "… the parties entered into a binding stay entered by this Court on September 30, 2013," even though the Order entered by the Court on that date, titled "Order Setting Case Schedule" did not include language indicating the case had been stayed. Note that Petitioners incorrectly cite to "Exhibit D to Brower Declaration," which is the Court issued case schedule.
[9] See CR 12(h)(2).
[10] The RAPs do not apply to Superior Court even if it is sitting in an appellate capacity. *Department of Labor & Industries v. City of Kennewick*, 99 Wash.2d 225, 661 P.2d 133 (Sup. Ct. 1983). RAP 1.1, Scope of Rules ("These rules govern proceedings in the Supreme Court and the Court of Appeals…").
[11] Note that in arguing RAP 18.9 applies here, Petitioners rely on citations to the Land Use Petition Act (LUPA) and appeals filed under LUPA, but the present case is not subject to LUPA because it is not related to a final land use decision, as implied at Response 8, line 4. And see RCW 36.70C.030. Petitioners also cite to a case dealing with an appeal that was subject to the Administrative Procedures Act, which only applies to state, not local, agencies, so is not applicable here either.
[12] Response at p. 7, line 17.

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DNSs for a project that have since been modified and further evaluated through preparation of an EIS.[13] The record from the prior appeals would serve only to complicate and confuse any future, appeal of an entirely new issue and Petitioners present no basis for preserving the irrelevant record.

B. The Petitioners do not identify any issues that are not moot or could not be raised in a timely appeal of the FEIS.

Besides the Petitioners' request for the preparation of an EIS, all ancillary issues are also moot. For example, any request for injunctive relief is unnecessary because SEPA precludes taking action prior to compliance with SEPA[14] and Petitioner's may request injunctive relief if they appeal the FEIS. Similarly, Petitioners express a desire to preserve their challenge of the Hearing Examiner's decision to preclude the use of the word "safety" to describe potential impacts in appealing the prior DNSs, but because the DNSs have already been invalidated and the City is not relying on those DNSs, that issue is also moot. Likewise, the remainder of the "myriad of other issues" Petitioners ambiguously say they must preserve are all rooted in now invalid DNSs and an un-ripe FEIS that may be appealed when issued.[15]

C. Any appeal of the FEIS would be independent from any prior appeals and Petitioners argument to the contrary is based on a mischaracterization of the *Klickitat* decision.

Contrary to Petitioners contention, the City's Motion is supported by law. It is supported by the exact case Petitioners erroneously claim supports their opposition: *Klickitat*.[16] Although Petitioners repeatedly argue that SDOT's preparation of an EIS does not moot their prior appeals

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[13] Mazzola Declaration, at no. 6.
[14] WAC 197-11-070 (Limitations on actions during SEPA process).
[15] This includes questions related to the application of the Shoreline Management Act, whether the EIS evaluates enough appropriate alternatives, including design and location, etc. identified in Petitioners' Response.
[16] *Klickitat County Citizens Against Imported Waste v. Klickitat County,* 122 Wn.2d 619, 860 P.2d 390 (1993), as amended on denial of reconsideration (January 28, 1994). Petitioners erroneously modify a quote from *Klickitat* to refer to the "prior remanded action" where the decision actually refers to the prior plan, so their reliance on that case is entirely misplaced. See Petitioners' Response at p. 9, line 19 compared to *Klickitat* at p. 631.

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because there is no guarantee the FEIS will be issued, the procedural history in *Klickitat* shows that the preparation – as opposed to issuance – of an EIS was the basis for dismissing an appeal of a decision invalidating a DNS as moot.[17] Exactly the situation here.

The dispute in *Klickitat* was whether the appeal of a "...Plan and its accompanying **Environmental Impact Statement (EIS)**"[18] was moot because the County had subsequently adopted an updated plan **and supplemental EIS**. The dispute was <u>not</u> whether the appeal of the initial DNS for the plan was moot because an EIS was being prepared; the Court had previously dismissed the appeal involving that dispute, exactly as this Court should do here. Any new appeal will be independent of the prior appeals of the invalidated DNSs, particularly the third appeal challenging the Hearing Examiner's decision requiring an EIS.

D. There is no question of continuing and substantial public interest.

Allowing an appeal of a threshold determination that has been invalidated or an appeal challenging an EIS that has not yet been issued would be a waste of judicial time and resources and should be dismissed. If Petitioners interest, as alleged, is keeping the City accountable, then it may appeal the FEIS when issued. Preservation of the now moot and un-ripe appeals is unnecessary and inappropriate.

E. Petitioners' third appeal will only become ripe upon issuance of the FEIS.

Petitioners make the City's case for them at p. 7, line 8-10, stating the decision whether the FEIS is adequate "cannot be made until the [Petitioners] review the final EIS...." If it is too

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[17] *Klickitat*, at p. 626 ("The appeal [of the decision finding the DNS clearly erroneous] was dismissed as moot, however, because the County was already in the process of preparing the 1990 Plan Update and related EIS.") Note that the quoted language was specifically added to the published opinion when the Court amended its original decision following denial of a motion for reconsideration.

[18] *Klickitat*, p. 622 (emphasis added)

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soon for the Petitioners to evaluate whether the EIS is adequate, it is too soon for this Court to make that evaluation. Besides being moot, the third appeal is unripe and must be dismissed.

F. Petitioners will not be harmed by the dismissal of irrelevant, moot, and unripe appeals.

Although there are many reasons the City disagrees with the Petitioners "equitable estoppel" argument and other arguments why they must preserve their appeals, the primary qualm is that the doctrine of equitable estoppel only applies if the party suffers an injury. SEPA prohibits an agency from taking "action" prior to compliance with SEPA,[19] so SDOT cannot proceed with construction of the Project until they have complied with SEPA.[20] Petitioners may appeal the FEIS and suffer no harm in waiting until that appropriate opportunity to appeal arises.

IV. CONCLUSION

SDOT respectfully requests the Court grant its motion to dismiss the three consolidated appeals.

DATED this 15th day of May, 2017.

By: *s/Erin E. Ferguson*
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[19] WAC 197-11-070.
[20] Even if the Project was categorically exempt or proceeded without any SEPA review, the Petitioners could still challenge that in Court.

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CERTIFICATE OF SERVICE

I certify that on the 15th day of May, 2017, I caused a true and correct copy of this document to be served on the following in the manner indicated below at the last known address:

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DATED this 15th day of May, 2017

Alicia Reise

Alicia Reise, Legal Assistant

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EXHIBIT C

Permits, Licenses, and Approvals Likely Required for Proposal

- State Environmental Policy Act (SEPA)
- Seattle Shoreline Master Program Review
- National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit

Authors and Contributors

A list of authors and contributors is provided in Chapter 13 of the FEIS.

Location of Background Materials

Background materials used in the preparation of this FEIS are listed in Chapter 12, References. Several documents are available online at the project website: http://www.seattle.gov/transportation/BGT_Ballard.htm.

Environmental Review

SDOT published the DEIS on June 16, 216. A 45-day comments period was open until August 1, 2016 and included public meetings on July 14, 2016 and July 16, 2016. Based on the analysis in the DEIS, with input from the public comments and meetings with area businesses and interest groups, SDOT developed the Preferred Alternative, which combines components previously analyzed in the Build Alternatives. Volume 2 of the FEIS contains the responses to the comments. Final design and permitting are expected to be completed by early 2018, with construction beginning shortly thereafter. The project is anticipated to be complete by 2019.

EXHIBIT D

If NW Vernon Pl is used as a connector segment, then a signal at NW Vernon Pl and Shilshole Ave NW may also be warranted, depending on whether the trail would continue on the north or south side of Shilshole Ave NW.

1.7 Features Common to All Build Alternatives

1.7.1 Roadway Design and Safety Considerations

Although safety itself is not an element of the environment required to be analyzed under SEPA, a focus of this FEIS is the analysis of potential "traffic hazard" impacts, as well as design treatments and other measures that may be taken to mitigate those potential impacts. Regardless of any relation to SEPA, safety is a key component of this project (and all SDOT projects), and therefore is described throughout the FEIS.

The SDOT design process relies on City standards and guidelines, such as the City of Seattle's Standard Plans for Municipal Construction and Right-of-Way Improvements Manual (SDOT, 2012), which have been developed through research and adaptation of national publications. In addition to City standards, SDOT consistently follows national guidelines developed by the American Association of State Highway and Transportation Officials (AASHTO), National Association of City Transportation Officials (NACTO), and Federal Highway Administration (FHWA). The final construction documents rely on a milestone schedule that allows for a thorough quality control process where the design is vetted through several SDOT divisions and City of Seattle departments, whose expertise is applicable to the project. These reviews occur at multiple checkpoints during design.

Given the City's diverse mobility needs, which include motorized and nonmotorized users, it is common for multiple modes of transportation to interact with each other at roadway intersections, driveway crossings, and along shared roads. Designing to increase predictability between modes of travel is a priority of any project and standard practice. While these interactions may introduce potential conflicts, they are not inherently traffic hazards. In fact, pedestrian and bicycle facilities are typically considered categorically exempt under SEPA (WAC 197-11-800(2)(d)(ix); SMC 25.05.800.B.4.i), meaning that no environmental analysis of potential adverse impacts would be required. However, this EIS is being completed for the reasons explained above in Section 1.1.

Roadway designs would vary for each alternative based on factors such as intersection geometry, vehicle volumes, nonmotorized users, and types of vehicles. This section describes roadway modifications, intersection treatments, driveway design, and parking modifications that could be incorporated during the final design phase of the project to address safety, access, nonmotorized users, and vehicle types. Similar concepts can be found throughout the city and in design documents such as the Urban Bikeway Design Guide (NACTO, 2015) and Guide for Development of Bicycle Facilities (AASHTO, 2012). These features are common to all Build Alternatives, but the location and other specifics would vary by alternative. Chapter 7, Transportation, provides additional detail related to these design considerations.

Potential roadway design and safety modifications are shown on Figures 1-4 to 1-6. These figures show design treatments such as pavement markings, buffers, changes to curb radii, and perpendicular intersections that can be used at an intersection as well as a mixing zone (area where there is heavier nonmotorized traffic). The figures also show roadway design treatments that could be used at driveways, which include pavement markings, buffers, mountable curbing, and alternative pavements.

EXHIBIT E

Roadway Design

Adding a trail to the street system would require roadway modifications for vehicles to co-exist with nonmotorized users under any of the Build Alternatives. These changes could include geometric changes to create perpendicular intersections, changes to roadway lane configurations, alterations of curb radii, and design details that provide sight lines between vehicles and nonmotorized users:

- Perpendicular Intersections–Modification of diagonal streets to create perpendicular intersections would be included in the designs wherever feasible. Several streets along the alternative alignments intersect at diagonals rather than at a preferred perpendicular angle. Adjusting the geometry of the intersections would slow vehicles down as they are turning through the intersection, allow crosswalks to be shorter, and provide more consistent sight distance for all users. Figure 1-7 depicts a perpendicular intersection configuration.

- Lane Configurations–Lane configurations would be modified to create additional space within the roadway for the multi-use trail where necessary. These changes could include the removal of parking or vehicle lanes as well as the removal or addition of intersection or center turn lanes.

- Curb Radii–Curb radii would be modified to accommodate the turning requirements for different vehicles such as large freight trucks. Different intersections may have different types of vehicles that typically use the street, including passenger vehicles, single unit trucks (delivery-style trucks), buses, emergency vehicles, or semi-trucks. Appropriate curb radii would be chosen to accommodate the differing vehicles and roadway geometry at each location. In general, smaller radii are preferred to slow vehicles making turning movements while at the same time accommodating truck movements where needed. Figure 1-8 illustrates a variety of features, including curb radii.

- Sight Lines–Sight lines are important for safety and would be considered throughout the corridor. Trees, vegetation, and other obstructions would be cleared from intersections and from the back of sidewalks to avoid obstructing sight lines. Parking would also be restricted near driveways and intersections to preserve sight lines. Where possible, the trail would be shifted to allow greater sight distances around buildings adjacent to the property lines. However, because of the developed nature of the study area, sight lines may not meet industry standards in all locations, depending on the alternative.

- Driveways–In addition to pavement and painting elements, driveway locations, heights, and widths would also be considered for modifications. Driveways could be narrowed such that the current use is maintained. A narrower width would provide a more defined location for vehicles and would be matched with the turning movement

Refining the Analysis

To supplement the analysis presented in the DEIS and inform the development of the Preferred Alternative, additional ***intersection and driveway data*** were collected in the study area in November and December 2016; the new data were analyzed to provide more information on potential transportation and freight impacts. The traffic volume data included PM peak hour turning movements at driveways, as well as turning movements for the PM peak hour at additional study area intersections. Similarly, an ***AutoTURN analysis*** (a vehicle swept path software that analyzes the ability of large trucks to maneuver driveway and roadway configurations) was completed to determine if the design of the Build Alternatives would affect freight access to businesses in the study area. Results of this new analysis are presented in Appendix A of the FEIS.

EXHIBIT F

- Driveway-Style Entrances–Intersections could be converted to driveway-style entrances, where warranted. This design concept was recently completed on Bell St in downtown Seattle. This design feature would make the trail continuous across an intersection. Curbs and gutters would also be modified to be continuous across the intersection, with the curb lowered to create a driveway-style approach to enter the street. This design creates a condition for a vehicle driver that signifies they are crossing a pedestrian feature where the typical action would be to yield to nonmotorized users prior to crossing and entering the street. Figure 1-11 illustrates a driveway-style intersection.

- Signalized Intersections–Signalized intersections would be used to clearly direct both nonmotorized trail users and vehicles. Existing signalized intersections in the corridor would be maintained and additional signals may be added to congested intersections, as necessary, to address safety concerns and improve traffic flow. All signalized intersections would include pedestrian-activated signals. These signals could include leading-pedestrian walk or all-way walk phases where pedestrians could cross diagonally through intersections. They could also include bicycle signals that would allow bicycle movement through an intersection separate from motor vehicle travel. Signalized intersections in the corridor may include No-Right-On-Red restrictions to eliminate right turn conflicts with nonmotorized users.

- Trail Crossing Warning Devices–Several possible design features could be used to warn both trail users and drivers of upcoming trail crossings. Road or driveway crossings of the trail could include rapid flashing beacons or flashing amber lights at mid-block trail crossings to alert vehicle drivers to trail users crossing the road. In some cases, barrier arms could be employed at crossings. Signage will be placed to alert both drivers and trail users of impending crossings.

- Medians–Medians could be used either to improve the street crossing for pedestrians or to restrict left turns across the trail.

- Barriers, Fences, and Buffers–In some locations, barriers, fences, or buffers would be used to separate nonmotorized trail users from moving vehicular traffic or the railroad. Figures 1-7 through 1-11 illustrate various buffer possibilities, including non-vegetated and vegetated options.

- Alternative Pavement–Alternative pavement types would be used to warn pedestrians and bicyclists of upcoming driveways and intersections. An example of alternative pavement treatments is inserting concrete strips within the asphalt trail. The strips could be colored concrete or could have texture added to increase awareness. It could also include using concrete for crosswalks in addition to pavement striping. This treatment is used to alert trail users in advance of a crossing to raise their awareness of an upcoming conflict area.

EXHIBIT G

among the alternatives, but none of the Build Alternatives would be inconsistent with the Freight Master Plan. See the Transportation Discipline Report for details (Parametrix, 2017a).

All of the Build Alternatives have been designed to provide predictability and would improve overall safety compared to the No Build Alternative. However, there is potential for some new impacts depending on final design, including sight distances at driveways and conflicts between drivers and trail design features such as planter strips. Measures to avoid and minimize these impacts are described in Section 1.7.1, Roadway Design and Safety Considerations, and the Transportation Discipline Report (Parametrix, 2017a).

City of Seattle Codes: Zoning, Shoreline, Critical Areas, and Historic Preservation

The Missing Link project would be allowed in all zoning designations and the shoreline district within the study area. The Build Alternatives would be designed in compliance with critical areas regulations and would be subject to approval by the Ballard Avenue Landmark District Board for compliance with the Ballard Avenue Landmark District requirements, where applicable. The Build Alternatives may make the area more attractive to development; however, any new development would be required to be consistent with uses allowed in each zone.

4.3.3 Preferred Alternative

Construction

In addition to the construction impacts described in Section 4.3.2, Impacts Common to All Build Alternatives, the Preferred Alternative could affect land within 200 feet of the shoreline. Small portions of the Preferred Alternative are within the UI shoreline environment (see Figure 4-3). As described in other chapters of this FEIS, the project would include BMPs to promote consistency with these requirements. The project would comply with applicable critical areas and shoreline regulations.

Operation

Effect on Existing Uses

In the BINMIC, industrial and water-dependent uses are priority uses. Land uses abutting or gaining access along the Preferred Alternative are approximately 44% industrial, 31% commercial, 18% parks and open space (the Ballard Locks and Charles S. English, Jr. Botanical Garden), and 4% vacant, with other uses composing about 3% of the total (see Figures 4-2 and 4-7). The percent of industrial and commercial land uses along the Preferred Alternative is similar to that of the study area (compare Figures 4-4 and 4-7). The parcels along the Preferred Alternative include about 31 acres of land in industrial use.

Of the 46 total parcels abutting or gaining access along the Preferred Alternative, 16 are water-dependent and 11 are water-related (see Table 4-1). Water-dependent and water-related uses combined occupy the highest concentration of land by area (85%) along the Preferred Alternative. These water-dependent and water-related uses within the shoreline district are industrial, commercial, other, or parks and open space. The parks and open space parcels are the 13-acre Ballard Locks and Charles S. English, Jr. Botanical Garden and are included in all Build Alternatives. The Preferred Alternative has fewer water-dependent and water-related uses than the Shilshole South Alternative, but more than the other Build Alternatives for both types of uses. The areas where these uses can be located are limited because their viability depends on their proximity to water.

EXHIBIT H

- Conflicts between vehicles and trail design features, such as planter strips and curbing.

These potential new impacts would be minimized through detailed review during the trail design process, such as conducting detailed sight distance reviews at each driveway intersection during final design. However, these impacts may not be eliminated entirely.

Nonmotorized users on the BGT Missing Link would also be traveling in both directions on one side of the street under any of the Build Alternatives. This would require vehicles crossing the trail to look both directions for nonmotorized users before continuing across the trail. For drivers of large vehicles with reduced visibility, it could be difficult to see in both directions of travel. A number of design solutions will be considered in the final design to delineate and provide adequate sight distance for both nonmotorized users and vehicles at trail crossings.

Trail design features, such as vegetated planting areas and curbs, could be obstacles if nonmotorized users lost control of their bicycle, had to dodge other trail users, or if trail users were distracted. Similarly, vehicles could conflict with trail design features if drivers miscalculated a turning movement or veered away from their path of travel. This impact is expected to occur infrequently, as typical for other nonmotorized trails throughout the area. Trail design features would be consistent with applicable Seattle design standards, including NACTO and AASHTO guidelines.

7.3.3 Preferred Alternative

Construction

Under the Preferred Alternative, there could be traffic and freight delays on Shilshole Ave NW during construction. If construction activities require the closure of one lane of the roadway, a flagger could be required to direct travel to other routes within the construction zone. Construction would also occur on NW Market St, a transit corridor, which could temporarily increase delay for public transportation. These impacts are expected to occur for several hours during the midday but only for short segments of roadway (between three and four street blocks) at a time. Construction activities could also require temporary relocations of bus stops in the study area. Any construction activities that could affect public transportation on NW Market St would be coordinated with King County Metro.

Under the Preferred Alternative, a portion of the BTR rail line between the Hatton Marine driveway (approximately 600 feet west of 17th Ave NW) and just east of the Ballard Bridge would be removed and reconstructed in a different location. Also, pavement would be added in portions of the rail line to decrease gaps between the tracks and the roadway to improve safety at driveways in the study area. These construction activities would be coordinated with BTR operations and would occur during times when BTR trains are not operating; construction equipment would also be cleared from the tracks each day. New track could also be laid prior to removal of the old track to reduce the period of time when the tracks are unusable. As necessary, any construction activities near the BTR rail line would be coordinated with the appropriate agencies.

Operation

Roadway Network

The Preferred Alternative would provide a dedicated nonmotorized facility for the entire length of the study area. This facility would be 10- to 12-feet wide with a 1- to 10-foot wide buffer on both sides of the trail between the roadway and adjacent properties. The section of the trail on NW 54th St and NW Market St between the Ballard Locks and 24th Ave NW would have a 6- to 10-foot wide sidewalk between the south side of the trail and adjacent properties. On NW 54th St, the westbound left-turn pocket provided at

EXHIBIT I

driveway design, and parking lot changes will be incorporated during the final design phase of the project to address safety, access, nonmotorized users, and vehicle types. Similar concepts can be found implemented throughout Seattle, consistent with Seattle design standards and presented in design documents such as the NACTO Urban Bikeway Design Guide (NACTO, 2015), and AASHTO Guide for Development of Bicycle Facilities (AASHTO, 2012). Roadway designs would vary for each alternative based on factors such as intersection geometry, vehicle volumes, and types of vehicles. These roadway design considerations would be discussed with business owners, with the understanding that SDOT would make final design decisions.

7.4.2 Measures Specific to Each Alternative

Preferred Alternative

Traffic Operations

The intersection at NW 46th St and Shilshole Ave NW (Intersection J) is anticipated to operate at LOS E or worse under the Preferred Alternative when it would operate at LOS D or better under the No Build Alternative. Mitigation is not required because the City does not have an adopted intersection LOS standard for either signalized or unsignalized intersections. However, further monitoring of traffic volumes and intersection operations at this intersection could be completed in the future to determine if signalization is needed.

Freight

Mitigation for freight would be similar as described for traffic operations.

Two access points to a business along NW 54th St could be combined into one access point to improve safety and operations along the Missing Link. Because access to the parking lot can be accommodated by a single access point, combining access points would not be considered an impact. This would decrease the potential driveway conflicts while not significantly affecting business access.

Nonmotorized Users

Under the Preferred Alternative, nonmotorized facilities and comfort in the study area would be improved compared to the No Build Alternative. Therefore, no mitigation measures would be required.

Public Transportation

The Preferred Alternative is not expected to adversely affect public transportation compared to the No Build Alternative. Therefore, no mitigation measures would be necessary.

Freight Rail

The Preferred Alternative would require relocation of the BTR tracks between the Hatton Marine driveway (approximately 600 feet west of 17th Ave NW) and just east of the Ballard Bridge. All track relocation would be coordinated with BTR so that impacts to rail operations would be minimized. BTR would complete removal and reconstruction of any track segments prior to construction of the BGT Missing Link.

Safety

The Preferred Alternative would improve safety in the study area compared to the No Build Alternative by providing a dedicated facility for nonmotorized users. The final design would also include safety

considerations so that the trail operates safely, such as buffers, pavement markings, raised crosswalks, curb treatments, signage, and lighting.

In locations with sight distance concerns, design elements such as pavement markings, signage, or bubble mirrors could be used to further improve safety. Variations in the use of asphalt and concrete, different paint or thermoplastic striping and symbols, and elevations at driveway entrances could be used to clearly identify where the trail intersects driveways. Driveway notification signage could be used to maintain trail usage at safe speeds and to notify trail users and vehicles that a trail intersection exists. Therefore, no additional mitigation would be required.

SDOT will work with individual property and business owners, as well as with key stakeholders, the bicycle and pedestrian community, and the general public, throughout the design process to determine the best means of reducing potential conflicts along the trail alignment. During the design process, SDOT will evaluate improvements, such as intersection signalization or advanced warning systems with vehicle detection that activates elevated flashing beacons that could be used to improve safety at key intersections or driveways. In coordination with businesses, driveways could also be combined into fewer access points to reduce the number of conflict locations.

Shilshole South Alternative

Traffic Operations

The intersection at NW 46th St and Shilshole Ave NW (Intersection J) is anticipated to operate at LOS E or worse under the Shilshole South Alternative, compared to intersections that operate at LOS D or better under the No Build Alternative. Mitigation measures would be similar to those described for the Preferred Alternative.

Freight

Mitigation measures for freight delay would be similar to those mentioned above for traffic operations.

Up to 10 freight access points to businesses along the unimproved NW 54th St right-of-way, Shilshole Ave NW, and NW 45th St could be reoriented to improve safety and operations along the Missing Link. To mitigate this impact, SDOT would coordinate with affected businesses to reorient their access points to access driveways or possibly to the ends of the blocks. This could result in different access locations, but overall access to properties would be maintained.

Nonmotorized Users

Under the Shilshole South Alternative, nonmotorized facilities and comfort in the study area would be improved compared to the No Build Alternative. Therefore, no mitigation measures would be required.

Public Transportation

The Shilshole South Alternative is not expected to adversely affect public transportation compared to the No Build Alternative. Therefore, no mitigation measures would be necessary.

Freight Rail

Mitigation measures for impacts to freight rail would be similar to those described for the Preferred Alternative.