



City of Seattle

**Department of Planning and Development**

D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT PLANNING AND DEVELOPMENT**

**Application Number:** 3004985  
**Applicant Name:** Lara Branigan of Stock & Associates, for ARE Seattle No.12 LLC.  
**Address of Proposal:** 1165 Eastlake Avenue East

**SUMMARY OF PROPOSED ACTION**

Shoreline Substantial Development Permit to allow an addition to an existing 26,000 square foot building consisting of 70,000 square feet of research lab and 3,500 square feet of retail space. Parking for 81 vehicles is proposed to be provided below grade. Project includes 11,000 cubic yards of grading.

The following approvals are required:

**Shoreline Substantial Development** - To allow development in an Urban Stable (US) and Urban Maritime (UM) Environment. - (SMC 23.60.600; 23.60.720)

**Shoreline Variance** – to allow additional height in an Urban Stable (US) environment - (SMC 23.60.036)

**Design Review** – Board Review - (SMC 23.41).

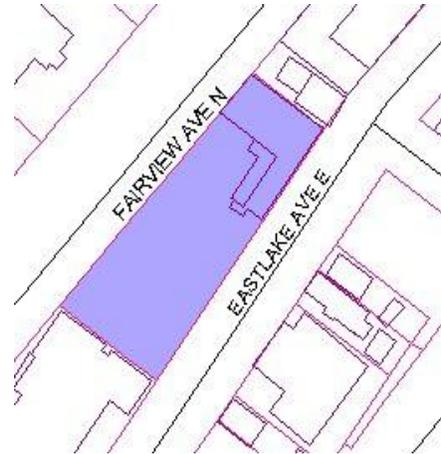
**SEPA** - Environmental Determination - (SMC 25.05)

**SEPA DETERMINATION:**       Exempt    DNS    MDNS    EIS  
  
 DNS with conditions  
  
 DNS involving non-exempt grading or demolition, or involving another agency with jurisdiction.

## **BACKGROUND DATA**

### **Site Description**

The project is located in the Fairview sub-area of the South Lake Union Urban Village between Fairview Avenue East and Eastlake Avenue East. The site has about 15 feet of grade change from Fairview up to Eastlake. Frontage on Fairview primarily abuts a bridge structure; Lake Union extends under this bridge and under a portion of the existing Gunn Building. An areaway extends under the sidewalk along half the frontage along Eastlake Avenue. There is an existing stairway along the south end of the site on the neighboring property. The stairs are open to the public to use as access between Fairview and Eastlake. The parking entry is currently located on Fairview Avenue.



The majority of the subject property is zoned Commercial 2 (C2-65) with a maximum height limit of 65 feet. The property is located within 200 feet of Lake Union and is mostly within an Urban Stable (US) shoreline environment. The site is considered an upland US shoreline environment site. The Shoreline environment imposes a height limit of 30 feet. The most northerly portion of the site, approximately 7 feet deep, is mapped Industrial Commercial (IC) and is within the Urban Maritime (UM) shoreline environment. The northerly end of the Gunn Building sits on this end of the site.

### **Vicinity Description**

Development in the immediate area is biotech research and development, hotel, office and waterfront uses such as boat moorage, restaurants and retail. The Hydro House and Zymogenetics Steam Plant offices are to the north. Both Eastlake and Fairview are busy arterials.

### **Proposal Description**

It proposed to renovate the approximately 26,000 square foot Gunn Building and add approximately 115,974 square feet of new construction to create a biotech facility. The proposal includes research and development lab and associated office space. In addition, portions of the new construction are configured for possible use as a restaurant and retail space. Two levels of below grade parking, providing 81 parking stalls, are proposed. A shoreline variance is proposed to allow the building to exceed the 30 foot height restriction in the shoreline environment. The height would be an additional 27 feet along Fairview and an additional 12 feet along Eastlake. A 65 foot wide public pass-through and plaza is proposed at the south end of the site. Vehicle access is proposed off of Fairview.

### Public Comment

Two comment letters were received during the official public comment period which ended on April 30, 2010 for the revised MUP submittal. The commenter suggested that there be public access available for pedestrians to be able to travel to and from Eastlake and Fairview at this location.

### **ANALYSIS - SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT**

The project site is classified as an upland lot and is located within an Urban Stable shoreline environment. In order to obtain a Shoreline Substantial Development Permit, the applicant must show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, meets the criteria for substantial development permits established in SMC 23.60.030, and meets the procedural criteria established in SMC 23.60.064. Thus, the Director must determine that the proposed use is consistent with the applicable policies of the Shoreline Master Program and the general policies established in Chapter 90.58 RCW and that it is an allowed shoreline use that meets the development standards for the underlying zone as well as the general development standards for all shoreline environments established in SMC 23.60.150. The proposal is also subject to the specific development standards established in the Urban Stable shoreline environment (SMC 23.60.600 through 23.60.642).

#### SMC 23.60.004 - Shoreline Policies

The Shoreline Implementation Guidelines, together with Shoreline Goals and Policies, constitute the shoreline element of the Land Use Policies, and are referred to in Seattle's Comprehensive Plan. The proposed project is consistent with the shoreline policies. The structure would be located in an area zoned for development on an upland lot separated from the shore by public right-of-way (Fairview Avenue North). The proposal would provide views of Lake Union at the open plaza. The proposal is also consistent with adopted policies, which generally state that new development should be compatible with the neighborhood character and increase opportunities for new development.

#### Shoreline Development Permit Required

Section 23.60.030 of the Seattle Municipal Code provides criteria for review of a shoreline substantial development permit and reads: "A substantial development permit shall be issued only when the development proposed is consistent with:"

- A. The policies and procedures of Chapter 90.58 RCW;
- B. The regulations of this Chapter; and
- C. The provisions of Chapter 173-27 WAC.

Conditions may be attached to the approval of a permit, as necessary, to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

A. The Policies and Procedures of Chapter 90.58 RCW

Chapter 90.58 RCW is known as the Shoreline Management Act of 1971. It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting public rights of navigation and corollary incidental rights. Permitted uses in the shorelines shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

The Shoreline Management Act provides definitions and concepts, and gives primary responsibility for initiating and administering the regulatory program of the Act to local governments. The Department of Ecology is to primarily act in a supportive and review capacity, with primary emphasis on insuring compliance with the policy and provisions of the Act. As a result of this Act, the City of Seattle and other jurisdictions with shorelines, adopted a local shoreline master program, codified in the Seattle Municipal Code at Chapter 23.60, that also incorporates the provisions of Chapter 173.27 WAC. Development on the shorelines of the State is not to be undertaken unless it is consistent with the policies and provisions of the Act, and with the local master program. The Act sets out procedures, such as public notice and appeal requirements, and penalties for violating its provisions. As the following analysis will demonstrate, the subject proposal is consistent with the procedures outlined in RCW 90.58.

Construction would be consistent with the procedures of Chapter 90.58 RCW and the provisions of Chapter 173-14 WAC in terms of encouraging a use allowed and anticipated for the Urban Stable shoreline environment and minimizing the entry of pollutants into the water. The construction itself would not adversely affect the shoreline environment and the siting of the structure would not be in a sensitive area of the site thereby protecting migratory fish routes.

Chapter 23.60 of the Seattle Municipal Code is known as the "Seattle Shoreline Master Program" and is also a part of the City's Land Use Code. In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must also show that the proposal is consistent with the shoreline policies established in SMC 23.60.004, which are found in the Seattle Comprehensive Plan and the purpose and locational criteria for each shoreline environment. The proposal must also meet: the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; general development standards; and the development standards for specific uses.

The subject property is classified as an upland lot and is located mostly within an Urban Stable (US) shoreline environment. The proposed structure is a permitted use in the US shoreline environment. A portion of the existing Gunn Building, proposed to remain, is within the Urban Maritime (UM) shoreline environment. The proposed structure would comply with the development standards as described below.

B. The Regulations of Chapter 23.60

Chapter 23.60 of the Seattle Municipal Code is known as the “Seattle Shoreline Master Program”. In evaluating requests for substantial development permits, the Director must determine that a proposed use meets the approval criteria set forth in SMC 23.60.030 (cited above). Development standards of the shoreline environment and underlying zone must be considered, and a determination made as to any special requirements (shoreline conditional use, shoreline variance, or shoreline special use permit) or conditioning that is necessary to protect and enhance the shorelines area (SMC 23.60.064). In order to obtain a shoreline substantial development permit, the applicant must show that the proposal is, consistent with the shoreline policies established in SMC 23.60.004, and meets the development standards for all shoreline environments established in SMC 23.60.150, as well as the criteria and development standards for the shoreline environment in which the site is located; any applicable special approval criteria; and the development standards for specific uses.

1) Development Standards

General development standards for all environments (SSMP 23.60.152) and for the US and UM Environment

The proposed uses are research and development laboratory and retail, which are allowed outright on upland lots in the US environment. The proposal must conform to the general standards for all environments (SSMP 23.60.152) and the physical development standards for uses in the US environment (SSMP 23.60.600) and UM environment (SSMP 23.60.710).

General development standards (Section 23.60.152 SSMP) state that Best Management Practices shall be followed for any development in the shoreline environment. These measures are required to prevent contamination of land or water. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize adverse impacts and protect fish and wildlife habitat conservation areas; 2) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely affected; 3) be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and 4) be located, constructed, and operated so as not to be a hazard to public health and safety. Because of the extent of the proposed work associated with construction, the potential exists for impacts to Lake Union during construction. City regulations require application of construction best management practices (BMPs) outlined in Director’s Rule 6-93, which will provide adequate protection of the shoreline.

The proposal, as conditioned, would not adversely affect the quality and quantity of surface and ground water on and adjacent to the site on a long-term basis; no planned discharge of solid

wastes would occur (debris waste will be trucked away); spillage of petroleum products must be avoided and contained should it occur; no intentional release of oil, chemicals, or other hazardous materials shall occur; surface runoff would not be adversely affected; permeable surfaces would not be affected; erosion would not result from the development; fish and wildlife resources would not be altered; natural shoreline processes would not be adversely affected; no long-term adverse impacts to surrounding land and water uses would occur; no hazard to public safety or health is posed by this development. Navigation channels would be kept free of hazardous or obstructing development or uses; and no submerged public right-of-way or view corridors would be significantly affected. All debris and other waste shall be disposed-of in such a way as to prevent entry into Lake Union.

These existing conditions ensure that the project conforms to the goals and regulations of the Seattle Shoreline Master Program. The public interest suffers no substantial detrimental effect from the proposal. The long-term environmental effect of the project is expected to be beneficial. (The proposal is subject to the standards established in the Stormwater, Grading, and Drainage Control Code, which include provisions for erosion and sedimentation control both during construction and after occupancy of the building, thereby minimizing any adverse impact to water quality.)

#### Development Standards for the US environment - Section 23.60.600 - 23.60.642 SSMP

Development Standards for the US environment are discussed below and all shoreline development standards are met.

#### SSMP 23.60.600 Uses Permitted Outright on Waterfront Lots in the US Environment

The property has been determined to be an upland lot as per the Department of Planning and Development interpretation.

#### SSMP 23.60.608 Permitted uses on upland lots in the US Environment.

The proposal is for a research and development laboratory, ground level offices, and general retail.

#### SSMP 23.60.630 Development Standards for the US Environment

Development Standards for the Urban Stable (US) environment and development standards applicable to all environments are met, except for height within the US environment. This application includes a request for Shoreline Variance for height.

#### SSMP 23.60.632 Height in the US Environment.

The proposed structure would exceed the height limit of 30 feet in the US environment and the applicant is proposing a shoreline height variance. An analysis of the variance request follows this section.

SSMP 23.60.633 maximum size use

The proposed structure meets requirements as it is not regulated as a waterfront lot.

SSMP 23.60.634 Lot Coverage

The proposed structure meets lot coverage requirements.

SSMP 23.60.636 View Corridors in the US Environment

View corridor is not required for this lot.

SSMP 23.60.638 Regulated Public Access in the US Environment

Sections 23.60.160 and 23.60.200E SSMP describes the general development standards for public access. However, public access is not required because the project site is an upland lot.

SSMP 23.60.640 Location of Uses

These criteria does not apply.

SSMP 23.60.642 Development

These criteria does not apply.

Development Standards for the UM environment - Section 23.60.720 - 23.60.760 SSMP

Development Standards for the Urban Maritime (UM) environment are discussed below and all shoreline development standards are met.

SSMP 23.60.720 Uses Permitted Outright on Waterfront Lots in the UM Environment

The property has been determined to be an upland lot as per the Department of Planning and Development interpretation.

SSMP 23.60.730 Permitted uses on upland lots in the UM Environment.

The proposal is for a research and development laboratory to be located in that portion of the existing Gunn Building which is within the UM environment.

SSMP 23.76.750 Development Standards for the UM environment

Development Standards for the Urban Maritime (UM) environment and development standards applicable to all environments are met.

SSMP 23.60.752 Height in the UM Environment.

No exterior changes are proposed to the portion of the existing structure which is located in the UM environment.

SSMP 23.60.754 Lot Coverage in the UM Environment

No change to existing lot coverage is proposed on the portion of the site in the UM environment.

SSMP 23.60.756 View Corridors in the UM Environment

View corridor is not required for this lot.

SSMP 23.60.758 Regulated Public Access in the UM Environment

Sections 23.60.160 and 23.60.200E SSMP describes the general development standards for public access. However, public access is not required because the project site is an upland lot.

SSMP 23.60.760 Development Between the Pierhead Line and Construction Limit Line

No new development is proposed between the Pierhead line and Construction Limit Line in the UM environment.

SMC 23.60.004 - Shoreline Policies

The Shoreline Goals and Policies which are part of the Seattle Comprehensive Plan's Land Use Element and the purpose and locational criteria for each shoreline environment designation contained in SMC 23.60.220 must be considered in making all discretionary decisions in the shoreline district. The policies support and encourage the establishment of research and development structures in the US shoreline environment.

The proposed research and development structure is located on an upland lot (SMC 23.60.924) and is a permitted use in the Urban Stable (US) environment (SMC 23.60.600). The proposal is also subject to the specific development standards established in the Urban Stable (US) shoreline environment (SMC 23.60.600-642). The proposed use of the existing Gunn Building as research and development is also permitted outright in the Urban Stable (US) and Urban Maritime (UM) environments.

SMC 23.60.064 - Procedures for Obtaining Shoreline Substantial Development Permits

The proposed project is a permitted use on an upland lot in the US and UM environments and the underlying Commercial Two (C2) and Industrial Commercial (IC-45) zoning district. As designed, the proposal conforms to the general development standards and the requirements of the underlying zone.

SMC 23.60.152 - Development Standards for all Environments

These general standards apply to all uses in the shoreline environments. They require that design and construction of all uses be conducted in an environmentally sound manner, consistent with the Shoreline Management Program and with best management practices for the specific use or activity. All shoreline development and uses must: 1) minimize and control any increases in surface water runoff so that receiving water quality and shore properties are not adversely

affected; 2) be located, designed, constructed, and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area; and 3) be located, constructed, and operated so as not to be a hazard to public health and safety.

The proposed use is consistent with these general standards for development within the shoreline area. The proposal is subject to the standards established in the Stormwater, Grading, and Drainage Control Code which include provisions for erosion and sedimentation control both during construction and after occupancy of the building, thereby minimizing any adverse impact to water quality.

### C. The Provisions of Chapter 173-27 WAC

WAC 173-27 establishes basic rules for the permit system to be adopted by local governments, pursuant to the language of RCW 90.58. It provides the framework for permits to be administered by local governments, including time requirements of permits, revisions to permits, notice of application, formats for permits, and provisions for review by the State's Department of Ecology (DOE). Since the Seattle Shoreline Master Program has been approved by DOE, consistency with the criteria and procedures of SMC Chapter 23.60 is also consistent with WAC 173-14 and RCW 90.58. As discussed in the foregoing, the proposal is consistent with the criteria for a shoreline substantial development permit and may be approved.

### **DECISION - SHORELINE SUBSTANTIAL DEVELOPMENT**

The Shoreline Substantial Development permit is **GRANTED**.

### **ANALYSIS – SHORELINE VARIANCE**

Overview: The criteria for shoreline variances are found in the shoreline district chapter of the Seattle Municipal Code. SMC 23.60.036 states that in specific cases the Director, with approval of DOE, may authorize variance from certain requirements of the chapter if the request complies with WAC 173-27-170, as now constituted or hereafter amended. The following is an overview of the analysis and a full analysis.

The 1165 Eastlake Avenue E. Shoreline variance criteria (SMC 23.60.036) adopts WAC 173-27-170(2) for development landward of OHWM)

WAC 173-27-170(2) states that the request should be granted where denial would thwart the policy of the Shoreline Management Act (SMA).

Policy of SMA is “planning for and fostering all reasonable and appropriate uses,” consistent with environmental goals and public rights of navigation

Site cannot meet navigation, water-dependent use or environmental goals of SMA

- City code and policy makes biotech R&D an allowable use in this location
- Without the variance, biotech R&D is not feasible and will not happen

Strict application of dimensional standards “significantly interferes with reasonable use.”

- Unique mechanical needs of biotech R&D makes a two-story building not feasible and requires additional rooftop mechanical space

Hardship is related to unique aspects of the property.

- Unique “upland” site with water abutting it and under the existing Gunn Building
- Compounded by other site constraints, including limited access as a result of Fairview trestle, steep slope.

Design is compatible with uses planned under the comprehensive plan and shoreline master program; will not cause adverse impacts to shoreline environment.

- Shoreline Master Program permits all proposed uses on upland lots
- South Lake Union has been identified as the city's biotechnology center
- Comprehensive Plan seeks to concentrate development in South Lake Union
- GMA seeks efficient use of scarce urban land
- Will eliminate current contamination due to lack of stormwater management from an existing surface parking lot

Variance does not grant special privilege not enjoyed by other properties in the area

- Proposed building will still be somewhat shorter than other buildings east of Fairview or along Eastlake Ave. E.

Variance is the minimum necessary to afford relief

- City policy makes biotech R&D a desired use of the property

- A “reasonable use” could be considered the same square feet of biotech as would be permitted without a variance for general office/commercial development
- Massing allowing a plaza on the south avoids adverse view impacts to Eastlake, Silver Cloud Hotel and properties east of Eastlake and provides greater public benefit.
- Economics is a consideration of minimum necessary to provide relief

No adverse impact on the public interest

- Eliminates current adverse uses
- Provides preferred use at scale in keeping with surrounding uses.

Cumulative effects

- No other similarly situated property

### **Analysis of Shoreline Variance Criteria**

**Proposed Shoreline Variance:** Modify the height restriction of SMC 23.60.632(a) to allow up to a 58-foot tall building (from the average grade of the lot; 43.5-foot tall along Eastlake) within the shoreline environment, in order to make a 4-story biotech research and development (R&D) use of the property feasible.

Modify the rooftop features provision of SMC 23.60.632(D) to allow up to 40% of the rooftop of the upper portion of the new building and the Gunn Building to be covered with screened mechanical equipment and stair and elevator penthouse.

**Background:** The property at 1165 Eastlake Avenue East is a 32,348-square foot<sup>1</sup> parcel in the Fairview subarea of the South Lake Union neighborhood. The City’s South Lake Union Neighborhood Plan describes the Fairview subarea as “a center for biological research.” The city is providing significant investment in the South Lake Union area to further expand Seattle’s biotechnology presence and create a biotechnology hub. Seattle’s South Lake Union has been identified as the city’s biotechnology center<sup>2</sup> and the City’s economic development plan for South Lake Union<sup>3</sup> has focus on South Lake Union becoming home to thousands of good-paying jobs in biotechnology and life sciences. The City’s 2004 Comprehensive Plan designated South Lake Union as an urban center, and the City has invested significant resources in attracting biomedical research to the South Lake Union area.

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<sup>1</sup> According to the survey. The King County tax assessor shows it as a 33,000 square foot parcel.

<sup>2</sup> [http://www.seattle.gov/economicdevelopment/industry\\_biotech.htm](http://www.seattle.gov/economicdevelopment/industry_biotech.htm)

<sup>3</sup> [http://www.seattle.gov/economicdevelopment/pdf\\_files/2005-12-12-SLU.pdf](http://www.seattle.gov/economicdevelopment/pdf_files/2005-12-12-SLU.pdf)  
[http://www.seattle.gov/economicdevelopment/files/south\\_lake\\_union\\_brochure\\_final.pdf](http://www.seattle.gov/economicdevelopment/files/south_lake_union_brochure_final.pdf)

The City has recognized that the unique mechanical equipment needs of biotech research buildings requires both greater floor-to-floor heights and additional area, and has provided for additional height and floor area in the South Lake Union neighborhood when the additional height and area is needed in order to accommodate mechanical equipment associated with R&D facilities, as well as permitting greater rooftop coverage with screened mechanical equipment. *See, e.g.* SMC 23.48.010(B), 23.48.016(A)(5), 23.47A.012(A), 23.47A.012(D)(5), and 23.47A.013(D)(4)

1165 Eastlake Avenue East is in a C2-65 zone (Commercial-2, subject to a 65-foot height limit, increased to 85-feet on not more than 6 floors to accommodate R&D mechanical equipment under SMC 23.48.010(B) and 23.47A.012(A)). With the 15% FAR bonus for R&D mechanical equipment provided for in SMC 23.47A.013, it is entitled to an FAR of 4.8875 if developed for biotech R&D use. Under SMC 23.47A.014 and 23.60.634(B), 100% lot coverage is permitted. The City's shoreline maps show about  $\frac{3}{4}$  of the property as being within the Shoreline Overlay District. The portion within the Shoreline District is predominantly within the US (Urban Stable) shoreline environment. A strip of the property approximately 7 feet wide along the northeast property line is in the UM (Urban Maritime) shoreline environment and an IC-45 (Industrial/Commercial) zone. The current ordinary high water mark extends further to the south under the Fairview Avenue trestle than the shoreline as shown on the City's shoreline maps. Arguably, the current ordinary high water mark is the boundary of the shoreline, therefore almost the entire site is within the Shoreline District.

Although the waters of Lake Union extend to the property itself where it abuts the Fairview Avenue trestle, and even under the existing Gunn Building, which is built on pilings, the property has been determined to be an upland lot under DPD Interpretation No. 05-001. Because of the Fairview Avenue trestle, there is no possibility of water-dependent use of the lake from the property, or indeed of any amenity public access to the lake itself. There is no shoreline vegetation on the property, and no riparian habitat of any value. The property is currently 100% covered with impermeable surfaces. Its surface parking lot drains directly into Lake Union. The property currently provides access for transient individuals use the property to access under the City's Fairview Avenue trestle. DPD Interpretation No. 05-001 determined that "...due to the intervening elevated roadway, the property in question is not suited for the uses favored for waterfront lots in the US shoreline environment on Lake Union. Rather, its relationship to the lake is functionally the same as any other upland lot, physically separated from the lake by a right of way."

Alexandria Real Estate Equities, Inc. is a major provider of real estate to the life sciences industry in the United States. It purchased 1165 Eastlake in 2005 to develop it for biotech R&D. Prior to its purchase it conducted an extensive feasibility study of the property to satisfy itself that the property could be developed for biotech R&D at a cost the market would support. Alexandria recognized that the majority of the site was within the 200-foot shoreline, and was subject to a 30-foot height limit. The four-story Gunn Building currently occupies the northeast portion of the site. At the time, City code would have permitted demolition of the Gunn Building and construction of a straightforward, two-story building with 100% lot coverage. Although a conventional office/commercial building on the site could have 3 stories with 100% lot coverage, a biotech R&D building would be limited to two stories by the 30-foot height limit

because of the additional height needed for R&D mechanical equipment. The simple construction of Alexandria's original concept, however, resulted in an estimated cost of \$348/square foot, which was well within the range the market for life science buildings can bear.

In 2006, the City amended its Critical Areas Ordinance to provide that a 100-foot setback would be required from the edge of water extending under the Gunn Building if it were removed. The new setback resulted in shrinking of the development envelope for the site that made any development that demolished the Gunn economically infeasible. (As the buildable area of a biotech R&D building shrinks, the circulation space and mechanical equipment needs on each floor do not shrink proportionately, raising the costs per rentable square foot. In addition, other constraints on the site, including a limited access point for loading docks and a high water table, began to make providing adequate parking on the shrunken site more difficult and significantly more expensive.)

In an effort to preserve the intended use for biotech R&D, Alexandria proposed to keep the Gunn Building and proposed a six-story tower in the southern portion of the site, which City records showed to be outside of the shoreline restriction. This would allow additional rentable square feet to spread the costs of mechanical equipment and circulation space against. That proposal had the unfortunate impact of blocking the view of Lake Union from some of the rooms in the Silver Cloud Hotel, as well as from the 1144 Eastlake property on the east side of Eastlake Avenue. Furthermore, the ordinary high water mark ("OHWM") of Lake Union extends substantially further to the south under the Fairview Avenue trestle than is shown on the City's zoning map. Therefore, approx. the southwest ¼ of the property, more or less, is actually not outside of the Shoreline District as the mapping suggests, and the tower Alexandria had proposed could not be built because it would be limited to the 30-foot shoreline height limit.

The Shorelines Management Act defines the Act's jurisdiction as extending from the OHWM "as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government [or DOE]." RCW 90.58.030(2)(b) and (f). Alexandria's historical research suggests that the OHWM was as located by the City's zoning map in June of 1971, and that it may have migrated south under Fairview Avenue since that time, possibly as a result of erosion caused by storm water from the Fairview Avenue trestle and the City's storm water discharge pipe between the Gunn Building and the Hydro House to the north. No conclusive evidence has been provided to support this assertion. Regardless, these points of storm water discharge would seem to not be considered natural causes of the migration of the OHWM.

The result is that without a variance for height and rooftop coverage, the property cannot reasonably be developed for biotech R&D, because without the rentable square feet of the tower, the costs per rentable square foot of building appear to be excessive.<sup>4</sup>

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<sup>4</sup> Alexandria's 2005 feasibility study estimated that the straightforward two-story biotech building then permitted on the site would cost approximately \$348/square foot. That is consistent with a project Alexandria recently completed at 199 Blaine, for \$387/square foot. The costs of the original MUP proposal, which reused the Gunn and included a six-story tower in the area that City maps show as outside the shoreline, shot up to \$471/square foot, which is on the outer edge of what would potentially be supportable, and would require a truly unique tenant. Removing the tower from the current MUP proposal would drive the cost to \$519/square foot, which is simply not sustainable in the marketplace. The building efficiencies in the revised massing will reduce the cost of the biotech R&D building to be on par with the cost to construct similar buildings in this market and make the project a viable investment in a difficult investment climate.

Without the requested variances, the property may remain in its current condition for the foreseeable future. Eventually, when the market has recovered and more convenient sites have been built, someone may redevelop the portion of the site adjacent to the Gunn Building for a office/commercial development that can be built within the 30-foot height limit and the 25% rooftop coverage limit. That ultimate use can be expected to be at the maximum permitted lot coverage. (SMC 23.60.634(B) (1) provides that structures on upland lots in the US environment are permitted to occupy one hundred percent of an upland lot, with exceptions not applicable here. No view corridor is required on this site. The Design Review Board sought a setback from the Silver Cloud to enhance the public walkway along the north side of the Silver Cloud, but agreed that in light of the constraints on the site, no more than a ten-foot corridor was warranted.)

A 3-story general office/commercial building, including the reused Gunn, could be built on the property with 100,298 gross square feet above the average grade without a variance. The proposed variance would make a four-story biotech R&D building with 100,298 gross square feet feasible. The proposed variance would allow the mass of the building to be pulled back along the south to create a 67 to 74-foot view corridor from Eastlake Avenue, with a publicly available plaza that will allow members of the public access to a landscaped roof deck, a generous landscaped staircase down to Fairview and the views of Lake Union from the height of Eastlake but the vantage of Fairview. The proposed building is more successful in advancing the goals of the South Lake Union Design Guidelines of creating an attractive pedestrian environment and creating neighborhood linkages that promote transit use, as well as providing visual access to Lake Union for the public at large.

### **Shoreline Variance (WAC 173-27-170)**

*The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW [90.58.020](#).*

#### *Shoreline Variance Criteria:*

- (1) "Variance permits should be granted in circumstances where denial of the permit would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances the applicant must demonstrate that extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.*

The policy enumerated in RCW 90.58.020 is:

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable

waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The City's Shorelines Master Program ("Master Program") further defines where and how the City intends to carry out that policy. In the Urban Stable Environment, the Master Program focuses the SMA's priority for water-dependent and water-related uses entirely on waterfront lots. *See*, SMC 23.60.600, limiting uses permitted outright on waterfront lots in the US Environment and imposing restrictions on non-water-dependent uses; SMC 23.60.602, providing for special uses on waterfront lots in the US Environment; SMC 23.60.604, limiting conditional uses on waterfront lots in the US Environment; and SMC 23.60.606, prohibiting a broad range of uses typically allowed in commercial zones on waterfront lots. *Compare* with SMC 23.60.608, permitting a significantly wider range of uses outright on upland lots in the US Environment, including research and development laboratories, ground floor offices in the South Lake Union area, and principal use parking, each of which are prohibited on waterfront lots by SMC 23.60.606. Similarly the US Environment development standards focus physical and visual public access to the water on waterfront lots, not upland lots in the US Environment. *See* SMC 23.60.632, exempting most upland lots from the 30-foot height limitation where the underlying zoning provides for greater height; SMC 23.60.634, limiting lot coverage on waterfront lots but not upland lots; SMC 23.60.636, requiring view corridors on waterfront lots but not most upland lots; and SMC 23.60.638, requiring public access on waterfront lots, but not upland lots.

The proposed variances advance the policy of RCW 90.58.020 to "foster all reasonable and appropriate uses" by enabling the removal of the current use of the property and its replacement by the biotech R&D use that City plans and investment seek to promote in South Lake Union. The current use is contrary to the policy of RCW 90.58.020 to protect against adverse effects to the public health and the waters of the state. The parking lot currently drains directly into Lake Union. Until the property is redeveloped there will be access for transient people accessing the area under the City's Fairview Avenue trestle. More importantly, the proposed use is consistent with the City's effort to concentrate biotech R&D job creation in South Lake Union. It makes efficient use of scarce urban land, thus promoting the goals of the Growth Management Act. It creates an enhanced streetscape, and far greater public access to the views of Lake Union than will be possible if the property were redeveloped without a variance.

The proposed development is consistent with what the City's South Lake Union Neighborhood Plan and South Lake Union Design Guidelines have sought to encourage. It is a significantly lower scale building than would be permitted outside of the Shoreline Environment. The City has recognized that biotech R&D development often requires more mechanical equipment than other forms of development. In the South Lake Union Urban Center, up to 65 percent of the roof area can now be covered when needed for screened mechanical equipment to accommodate R&D labs. The rooftop coverage of the proposed development will be less than the maximum that could be permitted to accommodate mechanical equipment accessory to R&D laboratories on other sites outside of the Shoreline Environment. The proposal will incorporate state-of-the-art storm water management, including substantial areas of landscaping on the plaza, and new

trees both along the street and on the pedestrian plaza, as well as tight-lined catch basins to take storm water to the City's sewer system.

*(2) Variance permits for development and/or uses that will be located landward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030 (2)(b), and/or landward of any wetland as defined in RCW 90.58.030 (2)(h), may be authorized provided the applicant can demonstrate all of the following:*

*(a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes, or significantly interferes with, reasonable use of the property;*

A variance landward of the ordinary high water mark may be authorized not only if the master program precludes reasonable use of the property, but also if it significantly interferes with reasonable use of the property. (Variances waterward of the ordinary high water mark may be granted only if strict application of the master program precludes all reasonable use of the property.” WAC 173-27-170(3)(a). See, *Buechel v. Department of Ecology*, 125 Wn.2d 196 (1994), relying on the distinction.)

As an experienced developer of life science buildings, Alexandria convincingly asserts that the site cannot be developed for biotech R&D use without a height variance and rooftop coverage variance, in light of the full range of legal and physical restrictions on the property. If biotech R&D is a “reasonable use of the property,” the 30-foot height restriction and the 25% rooftop coverage restriction significantly interfere with it. Biotech R&D only happens if it can be built within the range of costs that the market will support. Neither Alexandria nor any subsequent purchaser of the property will spend the money to build a biotech R&D building if it cannot be leased at a profit. To achieve that financial feasibility with the added costs associated with mechanical systems for R&D facilities, Alexandria asserts that the building must have the gross square feet that the proposed 4-story building can achieve.

The City's plans have called for fostering biotech R&D development in the South Lake Union neighborhood. The 30-foot height limit of the master program permits only two stories of biotech R&D on the property, rather than 3 stories that could be achieved with general office or retail use<sup>5</sup>. The unique costs associated with biotech R&D facilities require that the building be sized appropriately in order to be financially feasible. With the amendment to the City's critical areas ordinance, the site can no longer provide adequate size floors to make a two-story building work.

Thus the master program certainly “significantly interferes with reasonable use of the property.” It is possible that eventually some use other than biotech R&D will be made of the property, however because the test is not whether some use can be made, but rather whether the

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<sup>5</sup> The two-story biotech R&D building Alexandria's due diligence study assumed would need less mechanical equipment, and would have a larger roof area, as it was assumed to involve 100% lot coverage. Alexandria's proposed building will involve 100% lot coverage at the Fairview level, but a smaller roof area if the building roof is defined by the portion of the structure above Eastlake Avenue.

restrictions significantly interfere with a reasonable use, the fact that someday someone may develop the property for general commercial use is not relevant.

*(b) That the hardship described in (a) of this subsection is specifically related to the property, and is the result of unique conditions such as irregular lot shape, size or natural features and the application of the master program, and not, for example, from deed restrictions or the applicant's own actions.*

The property is unique in the fact that although it is functionally and legally an upland lot, it abuts the OHWM, and indeed has the waters of Lake Union flowing under an existing building. The historic steam plant to its north, now the Zymogenetics building, may be the only other property that is similarly an "upland" property although it abuts the water and thus is fully within the shoreline. Because of its vested status, the steam plant was able to be redeveloped with six stories, although in a zone limited to 45 feet. As discussed below, the property is also unique in being the only upland lot in the US Environment that is not permitted to utilize its full zoning capacity except where restrictions in the scale of development on the lot are needed to protect views from uphill residential development. The hardship was exacerbated by the change to the City's critical areas ordinance after Alexandria purchased the property, which made it no longer financially feasible to build a biotech R&D building within the 30-foot height limit.

*(c) That the design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program and will not cause adverse impacts to the shoreline environment.*

Biotech R&D is a use of the area consistent with the City's South Lake Union Neighborhood Plan, and is a permitted use under the Master Program. The building will be at least 28 feet shorter than would be permitted under the zoning if the site were not within the shoreline area.<sup>6</sup> The scale is lower than but compatible with existing buildings along Eastlake and west of Fairview. It will provide a 67 to 74-foot view corridor from Eastlake towards Lake Union, and a significant publicly available plaza, making superior views of Lake Union available to the public. It will provide a generous and inviting stairway for pedestrians traveling between Eastlake and Fairview, and will improve access from Eastlake to both the Lake Union streetcar stop at Fairview and Ward and to the Metro bus stop in front of the property on Fairview, as well as providing potential connection to the public access trail along the water immediately across Fairview. It is consistent with the South Lake Union Design Guidelines' focus on creating an inviting pedestrian environment.

The proposal will improve the condition of the shoreline environment. The existing surface parking lot and other impervious surfaces on the site, which now drain directly into the waters of Lake Union, would be replaced with substantial areas of green roof and new trees and other vegetation. Storm water would be captured in catch basins connected by tight line into the City's sewers.

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<sup>6</sup> In addition, if the property were outside the shoreline it would be able to step up or slope the roof to reflect the sloped site.

*(d) That the variance will not constitute a grant of special privilege not enjoyed by the other properties in the area.*

The subject is the only upland lot in the US Environment that is similarly situated. All properties to the south between Eastlake and Fairview are either fully developed or would be entitled to be developed with the same uses but with greater height and FAR than the proposed development. The old Steam Plant property (now Zymogenetics) is also fully built with biotech R&D facilities, at a greater height than Alexandria is proposing.

*(e) That the variance requested is the minimum necessary to afford relief.*

While numerous land uses are allowed in the South Lake Union area, the City's Comprehensive Plan reflects adopted policy that the City supports the growth of innovative industries such as biotechnology, information technology, environmental sciences and technology, and sustainable building (Policy SLU-P9). The proposed use of the property is for biotech R&D which is consistent with that policy. Biotech R & D is a use generally provided by the private market. In the private commercial market, regulations that make a use financially infeasible effectively preclude the use as if the regulations prohibited the use.<sup>7</sup> Alexandria has made a persuasive argument that the 30-foot height limitations, combined with the unique site conditions and the amendment to the critical areas ordinance make R&D development on the site financially infeasible.

The City has recognized that the mechanical equipment required for biotech research buildings needs additional floor-to-floor heights, SMC 23.48.010(B)(raising the height permitted under the zoning code by 20 feet to accommodate research and development mechanical equipment), and that the added floor area taken up by the mechanical equipment requires greater floor area, SMC 23.47A.013(D)(4)(granting a 15% floor area bonus in South Lake Union for research and development mechanical equipment). The 30-foot height limit precludes the property from taking advantage of either of those bonuses. Given the City's goal of attracting biotech development to South Lake Union, a similar square footage of the preferred biotech research use to the 100,298 square feet of general office/commercial development that would be permitted outright under the Master Program with the Gunn Building being reused should be considered "reasonable development."

A 15-foot height variance is in theory all that would be needed to achieve a biotech development with the 100,298 square feet that would be permitted outright in a 3-story office/commercial development on the site. That minimum height variance would require the development to utilize the 100% lot coverage permitted by the Master Program, and would offer no public benefit beyond supplying the preferred R&D use and improving storm water management. It

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<sup>7</sup> To the uninitiated in the market, the simple answer might seem to be to just let the 1165 Eastlake property sit in its current condition until all other land in South Lake Union has been built on, and then the market will have to cover the added costs because there will be no competition. That is not a solution. The Seattle area biotech hub has two nodes -- one at South Lake Union and one in Bothell. It also competes with other biotech hubs around the country. If all space at Lake Union were taken, that would not drive up rents sufficiently to justify \$519/square foot costs (in current dollars). Tenants would go to Bothell, where there is ample land to keep costs in line. Companies will not rent space outside the range of that larger market. When biotech R&D space can only be built in Seattle at above-market prices, the City of Seattle will lose the biotech businesses, and their high-wage labor force, to Bothell, or to other regions of the country.

would have adverse impact on the views from the Silver Cloud Hotel and from properties east of Eastlake Avenue, and would provide minimal street-level amenities. The proposed variance seeks a 28-foot height variance from the average grade (approximately the same elevation as Fairview) because the proposal redistributes the mass of the building by adding two additional floors to the building but creating a 60-foot view corridor from Eastlake Avenue, a 9,065 square foot publicly available plaza, and a greatly enhanced walkway between Eastlake and Fairview, with the potential for enhanced neighborhood connection to public waterfront pathways.

The proposed massing offers far more public benefit than would be achieved by either a 100,338-square foot three-story general office/commercial building built within the 30-foot shoreline height limit of the Master Program, or a similar sized biotech research building built with only a 15-foot height variance but 100% lot coverage. It does a much better job of achieving the goals and policies of the Master Program, as well as the design goals that the City has established in South Lake Union. It therefore is far more in the public interest than either the general office/retail use building that would be permitted without a variance, or a comparable-sized biotech research building with the minimum possible height variance. One can conclude that because the additional stories are necessary to provide the view corridor, plaza and enhanced walkway, while permitting a reasonable size development with the preferred use, the height is the minimum necessary to afford relief.

The City has also recognized that biotech R&D must have more mechanical equipment on the rooftop than other building types. The proposed rooftop coverage variance will still result in significantly less rooftop coverage than the City recognizes as necessary elsewhere in South Lake Union (40% here versus 65% elsewhere).

*(f) That the public interest will suffer no substantial detrimental effect.*

The proposed variance will eliminate the current detrimental use of the property and replace it with a development that is consistent with the City's goals, objectives and policies for the area. The building will be 28 feet taller along the upland side of Fairview Avenue and 13.5 feet taller along Eastlake Avenue than would be permitted without a variance. The public will not seem to benefit significantly if the property were developed at a lower height. The view from street level along Eastlake would be just as blocked by a building one story tall along Eastlake as by a building that would be taller. Given the scale of the existing development on both sides of the subject site, the proposed development will seem to fit in with the bulk and scale of the blockface established by the adjacent developments. Due to the limitations on the property, a development without a variance would likely provide little or no setback from the Silver Cloud, and would provide no view corridor or public access to the view from Eastlake Avenue.

*(2) Variance permits for development and/or uses that will be located waterward of the ordinary high water mark (OHWM), as defined in RCW [90.58.030](#) (2)(b), or within any wetland as defined in RCW [90.58.030](#) (2)(h), may be authorized provided the applicant can demonstrate all of the following:*

*(3) (a) That the strict application of the bulk, dimensional or performance standards set forth in the applicable master program precludes all reasonable use of the*

*property;*

*(b) That the proposal is consistent with the criteria established under subsection (b) through (f) of this section; and*

*(c) That the public rights of navigation and use of the shorelines will not be adversely affected.*

The proposed development, with the exception of interior work to the Gunn Building which needs no variance, will neither be located waterward of the ordinary high water mark nor within a wetland. Although the Gunn Building is located waterward of the ordinary high water mark, it will receive only interior renovations in the proposed development.

*(4) In the granting of all variance permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example if variances were granted to other developments and/or uses in the area where similar circumstances exist the total of the variances shall also remain consistent with the policies of RCW 90.58.020 and shall not cause substantial adverse effects to the shoreline environment.*

At the request of DOE staff, Alexandria reviewed all upland lots in the US Environment to determine whether any other properties are similarly precluded by the height limitation of the Master Program from utilizing their full zoning capacity. The result of that analysis is submitted with this application.

Most lots in the US Environment are waterfront lots. The Master Program makes numerous distinctions between waterfront and upland lots in the US Environment, and directs its primary regulation to waterfront lots. In the few areas where the underlying zoning permits greater than 30-foot heights on upland lots, the City has in almost all instances provided an exception to the 30-foot height limit in the US Environment.

1. Westlake Avenue North from the Fremont Bridge to Newton Street. SMC 23.60.632(A)(2)(a) provides that the maximum height shall be 40 feet, which is the same as the height allowed by the zoning code (C1-40).
2. Westlake Avenue North south of Newton Street. SMC 23.60.632(A)(2)(b) provides that the maximum height shall be 65 feet, which is the same height allowed by the zoning code (C1-65). One property on Westlake Avenue North and Broad is zoned for 40-foot height limits.
3. Harbor Avenue Southwest between California Way Southwest and Southwest Bronson Way. SMC 23.60.632(A)(3) provides that the maximum height shall be 65 feet, which is the same as the height allowed by the zoning code (NC2-65 and NC3-65). A large part of the upland US property in this area has been developed with 5 and 6 story condominiums.
4. Seaview Avenue Northwest between Northwest 61st Street and Northwest 62nd Street. SMC 23.60.632(A)(4) provides that the maximum height shall be 40 feet, which is the same as the height allowed by the zoning code (C1-40).
5. Fairview Avenue North south of the University Bridge between I-5 and East Hamlin Street. The height allowed by the zoning code is 40 feet (C1-40 or NC3-40). This neighborhood has been particularly concerned about maintaining view corridors, however, and the Master Program has a fifty-percent lot coverage restriction on upland lots between East Newton Street and University Bridge, which reflects the concern about maintaining low density and view corridors in that area. SMC 23.60.634(B)(2). The upland uses include residential development. One of the stated purposes of the US Environment is to preserve

views of water from upland residential areas. SMC 23.60.220(7)(a)(2). Thus the upland lots along that portion of Fairview are arguably differently situated than the subject property.

6. University District upland from Boat Street between the University Bridge and University Hospital (MIO-65-C1-65, MIO-50-C1-40, and MIO-65-C1-40). This area is subject to the Major Institutions Overlay (MIO), which trumps the zoning code in the case of conflict. SMC 23.69.006. One small upland lot with IC-45 zoning but designated US Environment exists in this area that is not zoned MIO, located at 704 NE Northlake Way between 7th Avenue NE and 8th Avenue NE. It is not clear that the property could be developed with a 45-foot tall building because of its size and configuration, and because the maximum FAR in the IC zone is 2 1/2.
7. Fairview Avenue North between Minor Avenue North and East Nelson Place. The height allowed by the zoning code is 65 feet (C2-65). This is the area where the Property is located.

There are two upland lots in the Fred Hutchinson Cancer Research Center that include a sliver of area designated US Environment, one at 1100 Fairview Avenue North and the other at 1000 Fairview Avenue North (Exhibit B, Map 102). 1100 Fairview Avenue North is occupied by the Robert M. Arnold Building, an approximately 60- to 65-foot building with a front lawn area on the portion of the property designated US Environment. 1000 Fairview Avenue North is occupied by an approximately 20- to 30-foot building with the southwest corner of the building on the area designated US Environment. Although 1000 Fairview Avenue North could conceivably apply for a height variance for the portion of the property designated US Environment, the Fred Hutchinson Master Plan contemplates that building will be developed at a height lower than the surrounding buildings. Additionally, that property is distinguishable from 1165 Eastlake Property because only a corner of the lot is designated US Environment, so a building could reasonably be massed outside the sliver designated US Environment. Therefore, granting the proposed variance to the 1165 Eastlake Property would not create a precedent for either of these properties to apply for a variance on similar grounds.

It would appear that the failure to exempt the 1165 Eastlake property from the 30-foot height limitation may be a mapping error, or it may reflect the fact that at one time there were residential uses east of Eastlake Avenue. Those residential uses are now gone and the City has firmly committed the area to non-residential development.

*(5) Variances from the use regulations of the master program are prohibited.*

This application does not need or seek variance relief from use regulations of the master program.

## **DECISION – SHORELINE VARIANCE**

The Shoreline Variance request appears to meet the requirements of WAC 173-27-170(2), and the Department of Ecology (DOE) has been consulted on this matter; therefore the shoreline variance is **GRANTED**.

## **ANALYSIS – DESIGN REVIEW**

Overview: This project was presented for Early Design Guidance on November 15, 2006. The preferred massing at this time was to retain the existing Gunn Building and infill the balance of the site with two tall stories above Fairview, rising to six stories at the south end, outside the shoreline setback.

The Design Review Board Recommendation meeting was held July 2, 2008. Response was favorable although the proximity to the Silver Cloud and its stair between Eastlake and Fairview was an item of concern.

Following the meeting the Silver Cloud questioned the exact location of the shoreline and thus the shoreline setback. Following an investigation into the shoreline and its history and discussions with DOE, DPD and the Silver Cloud and other neighbors, the Owner decided to pursue an added component to the MUP and request a Shoreline Height Variance which, if approved, would make it possible to create a large publically accessible plaza at the south end of the site and an improved stair between Eastlake and Fairview while moving part of the building mass out of a tower massing design.

An application for the Height Variance and a revised massing was submitted to DPD on February 9, 2010. This revision shows the building as four stories above Fairview and pulled back from the south property line approximately 70 feet to create a plaza and improved stair and retain light, air and views for the Silver Cloud.

## **EARLY DESIGN GUIDANCE**

### **ARCHITECT'S PRESENTATION:**

The architect presented the site, the area and existing buildings and the proposed development. Currently there is the four story Gunn building on the site which the applicant proposes to preserve. The proposed project is a new biotechnology research facility. The project would retain and remodel the Gunn Building and add an additional 142,000 square foot building to the southwest. This addition would include approximately three (3) levels (150 stalls) of underground parking. Access is proposed to be from the existing curb cut on Fairview. The loading dock and trash and recycling are proposed to be served from Eastlake Avenue. Due to the shoreline height limitations the area within the shoreline environment would have a height limit of about 30 feet while outside of the height limit the building could rise to the 65 foot height limit. There are special zoning regulations particular to research facilities which could allow a greater height outside of the shoreline environment. The architect presented building alternatives that focused on varying locations of the building on the site. The preferred scheme is to site the building to the southwest where the greatest height can be realized and views of Lake Union can be captured to the northeast. A large landscaped roof on the lower portion of the building could be made available for building tenants and/or the public during normal business hours.

### **BOARD CLARIFYING COMMENTS:**

The Board clarified several issues regarding the site and the proposal. They asked about parking, landscaping, location of the trash enclosure, office entry locations, and the Lake Union shoreline. They asked about the existing stairway at the southwest property edge. The Board asked about sustainable building practices, the existing bus stop, safety aspects of the bridge and pedestrian activity on both Avenues.

## PUBLIC COMMENTS:

Two (2) members of the public were present at the meeting. There were no public comments offered.

## PRIORITIES:

After visiting the site, considering the analysis of the site and context provided by the proponents, and hearing public comment, the Design Review Board members provided the siting and design guidance described below and identified by letter and number those siting and design guidelines found in the City of Seattle's "*Design Review: Guidelines for Multifamily and Commercial Buildings*" of highest priority to this project. **The project proposal must also contemplate the South Lake Union neighborhood –specific guidelines.**

### A Site Planning

#### A-1 Responding to Site Characteristics

The siting of buildings should respond to specific site conditions and opportunities.

The Board made particular mention of the drop in the site from Eastlake to Fairview and using a pedestrian pass through as an organizing feature or datum of the building design. This pass through could work in concert with the existing outdoor stairway on the southwest property line (for instance creating an indoor complementary stair that could be connected to the existing one, melding the property line. It could be closed during non business hours, and still create a sense of broad stairway, a see-through wall, that did not feel constrained during non business hours.) Or a separate, mid site pass through. The Board looks forward to seeing a design solution for the pass through and some design solution to link to the Sliver Cloud stairs at the next meeting.

#### A-2 Streetscape Compatibility

The siting of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the right-of-way.

The board wants the architect to study opportunities to create interesting entrances, at the two avenues which, along with quality right of way design, would create a high quality streetscape. Show the context with the neighboring uses and forms at the next meeting.

#### A-4 Human Activity

New development should be sited and designed to encourage human activity on the street

The Board encouraged the architect to continue exploring street level design options that would encourage year-round activity with entrances visible from the street which also allow for human activity depending on the immediate use within. For instance, elements could include continuous overhead weather protection or protected access to the offices, in rain or shine, or awnings, glazed or otherwise, could be used in creative combinations to provide protection and provide visual interest and encourage human activity at the sidewalk.

#### A-5 Respect for Adjacent sites

Buildings should respect adjacent properties by being located on their site to minimize disruption of the privacy and outdoor activities of residents in adjacent buildings

The Board suggested a sensitive site-design treatment next to the Silver Cloud Inn. Privacy for the hotel rooms and for the proposed offices and research areas must be considered and communicated in detail at the next meeting.

## **C** Architectural Elements and Materials

### **C-1** *Architectural Context.*

*New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural pattern and siting pattern of neighboring buildings.*

The Board would like to see studies of neighboring buildings, the Gunn building and an architectural response at the next meeting. There should be a well-defined and desirable building character compatible or complementary to the existing forms.

### **C-2** Architectural Concept and Consistency

Building design elements, details and massing should create a well-proportioned and unified building form and exhibit an overall architectural concept.

*Buildings should exhibit form and features identifying the functions within the building.*

*In general, the roofline or top of the structure should be clearly distinguished from its façade walls.*

The Board requested that the finish materials be high quality to communicate the architectural concept. The Board asked the architect to present a strong concept at the next meeting. The concept should show a consistency of facades and materials.

## **D** Pedestrian Environment

### **D-2** *Blank Walls.*

*The building should avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, they should receive design treatment to increase pedestrian comfort and interest.*

The wall along the southwest property line will need to be designed with public safety in mind. A blank wall at that location will not be an acceptable solution.

### **D-7** Personal Safety and Security

Project design should consider opportunities for enhancing personal safety and security in the environment under review.

The Silver Cloud stair and the area under the bridge will require design solutions for enhancing personal safety and security.

## **E** Landscaping

### **E-3** Landscape Design to Address Special Site Conditions

The landscape design should take advantage of special on-site conditions such as high-bank front yards, steep slopes, view corridors, or existing significant trees and off-site conditions such as greenbelts, ravines, natural areas, and boulevards.

The Board requested interesting landscaping details to improve this site and create a better project overall. Rooftop landscaping for a park-like environment was well-received by the Board and additional design features should be presented at the next meeting.

Departure from Development Standards:

The applicant contemplates several development standard departures at this time. They may include upper level lot coverage and open space standards. The Board will consider development standard departures later in the process as the building takes shape.

MUP Submittal

The applicant applied for a Master Use Permit on May 23, 2007.

**FIRST RECOMMENDATION --meeting on July 2, 2008**

ARCHITECT'S PRESENTATION:

The architect presented the site, the area, existing buildings and the proposed development to acquaint the Board to the site, site issues and the proposal. The proposal is to retain the Gunn building and to match the floor levels of the new construction to the Gunn building. Street improvements are proposed. The applicant is proposing to achieve a LEED silver rating. The proposal is for an addition to an existing 26,000 square foot building consisting of 70,000 square feet of research lab and 3,500 square feet of retail space. Parking for 85 vehicles is proposed to be provided below grade. Project includes 11,000 cubic yards of grading.

BOARD CLARIFYING QUESTIONS::

The Board clarified several issues regarding the site and the proposal.

- Will the building skin of the existing Gunn building be stripped?

Response: The existing skin maybe stripped back to the concrete structure and skim coated or clad. There would be a joint or reveal in the envelope separating existing building from new construction.

- Design continuity: Did you want the existing Gunn building to read separate from the new construction?

Response: There is to be a subtle difference in the existing façade and the new construction, but by continuing the structural pattern of the existing façade to the Fairview elevation, there is an overall continuity to the elevation. The Eastlake elevation on the street level retains a similar structural pattern along the façade but is broken up with the loading dock, retail and the building's recessed entry.

- Loading Dock: Why is the dimension of the driveway so wide?

Response: Stock & Associates, Inc. had several meetings and conversations with DPD and SDOT concerning the loading dock configuration. Given the narrow width of the site, internal truck maneuvering was not possible. DPD therefore granted back in, exit forward maneuvering for the dock, provided a flagger is present and hours are restricted to avoid conflict with the bus layover zone. With this configuration and code minimum of two loading berths required, the proposed loading dock driveway with an intermediate pedestrian refuge area is the least dimension possible to achieve truck maneuvering.

- Landscape: Why doesn't the restaurant façade along Eastlake have the same raised planter beds as the remainder of the façade?

Response: Discontinuing the planter bed at the restaurant allows for sidewalk café seating along Eastlake. The street facades of the restaurant are intended to be glazed panel folding door systems that open up the restaurant interior to the seating area along the Eastlake sidewalk.

- Green roof: Will this be a traditional green roof with the ability to handle storm water retention?

Response: Yes. The main green roof on the third level will be composed of planters with depths up to 18 inches and be designed to handle storm water retention.

- Security: The depth off the street of Fairview entrance is a security concern. Further security measures, such as a gate, are encouraged.

Response: The EDG board requested that Stock & Associates, Inc. look into recessing the building entrances off Fairview and Eastlake. Lighting choices should also be made with security in mind, to keep the space well lit.

- Wall System: What is the wall system at the tower?

Response: Currently, a curtain wall system will be used at the flatter, east and west facades and portion of the north façade. Aluminum storefront will be used at the north façade projections and at the Gunn Building.

- Retail: What is planned for retail use?

Response: At this time, a particular tenant is unknown. The intent is to enrich the street life along Eastlake with a restaurant and retail space. The property owner is pursuing talks with potential tenants.

- Perspective at Stairs: Why is core projection not shown?

Response: The rendering was completed prior to very recent plan changes shifting the core projection east to further open up the view corridor for the Silver Cloud hotel rooms at the hotel's north façade.

- LEED: Where are points being generated within the checklist? Are you using photovoltaic panels?

Response: The green roof, and native plants are one area for points. Photovoltaic panels were value engineered out of the project for budgetary reasons. Many of the points are deriving from energy categories. Others are Re-use of the Gunn Building, job site recycling of waste, low VOC products, local products, etc. Fish habitat under the bridge seems to also be a possible source for points.

- Is there an agreement with the Silver Cloud for maintenance of the existing stairway?

Response: The property owner is in conversation with the Silver Cloud owners on this topic. The plans currently show all landscaping within the property lines for this project and it would therefore be maintained by the property owner and not the Silver Cloud.

- With potential low light levels, are you concerned with the landscape's viability?

Response: The landscape architects for this project have allocated native understory plants that require low light levels at this location. Their experience with these plants at a separate, very similar location has been successful. Although the section is narrow, limited direct sunlight will reach the space in the afternoon hours.

- Security concern for pedestrians.

Response: With security in mind, lighting at the stair level and overhead will be provided all along the path from Eastlake to Fairview to insure the area is well lit. By making use of the option for 25% of the façade to be glazed, windows have been located in areas like the elevator lobby and stairs to allow for "eyes" to be on the travel path to increase safety.

- What is the dimension of stairs and distance from the Silver Cloud north elevation?

Response: Dimensions vary as the stairs get closer to Fairview, as the wall angles north, away from the Silver Cloud. Minimum dimensions at the Eastlake portion of the stair: Stair width approximately 5'-5" and width of landscaping approximately 5'-6". At the Fairview end: landscaping width increases to approximately 7'-8".

- Restroom core projection: What is the purpose of pushing the restrooms out past the face of the rest of the south façade?

Response: Given the shoreline height restrictions on the site, the width of the tower is restricted. The maximum allowable shape dictated by the shoreline and zoning restrictions leaves the floor plate narrow at the Fairview side, wider at Eastlake with structural columns further dividing up the narrow plan. Given the programmed use for the building being research and development labs, a rectilinear floor plate is the most desirable shape. By pushing out core elements like the restrooms, the floor plate is freed up to allow for more functional lab layouts.

- Façade modulation: The façade modulation on the north side of the tower is an interesting portion of the facade. Why does the modulation only occur on this façade?

Response: There was an opportunity at this façade to literally follow the curved shoreline boundary for that north wall or modulate the elevation, creating cube-like projections that push out to meet that boundary line. To increase view opportunities on each floor and take advantage of a given zoning restriction, we chose to modulate the elevation and let this portion of the tower be unique to the adjacent elevations.

- Roof Landscaping: What will be planted on the roof?

Response: The main green roof on level three will be primarily a medicinal herb garden with raised planters and approximately 18 inch soil depths. The higher roofs will be planted with a modular, shallow pan system of lightweight soil and drought tolerant vegetation, such as sedums.

- Lab locations: On which floor of the taller section will the lab space start, in relationship to the restroom projection?

Response: Labs will start on level 03.

#### PUBLIC COMMENTS:

Four (4) members of the public were present at the meeting. Comments included the following:

- Very supportive of biotech development in Eastlake area and it is vital for the community.
- Chief concern is proximity of the new construction to the Silver Cloud.
- The Silver Cloud existing site stairway is the only stairway for public use along Eastlake in the area for access from Eastlake down to Fairview that can remain preserved once the 1165 Eastlake site is covered with new construction.
- The Silver Cloud expects increased pedestrian activity due to new development in the area.
- The Silver Cloud would like to see the new proposal pushed further north away from the Silver Cloud property.
- The Silver Cloud would like to see more modulation on the south façade to avoid the appearance of a monolithic concrete wall next to their building.
- Primary concern is proximity of new construction to the Silver Cloud. A ‘canyon’ is created due to height of the two buildings. He believes the negative impacts of this configuration are increased wind velocities and reduction of direct sunlight. He requests that the restroom projection be pushed north as little as 12 inches to open up the space further.

- The southern façade is attractive, but would like to see more modulation, color, texture and glazing and to bring the scale down to the pedestrian level. The facade should be well-lit to increase security for users.

**DESIGN BOARD DELIBERATIONS:**

1. By landscaping the stairs and pulling the new construction to the north, away from Silver Cloud, the board feels the proposal is creating a major site amenity on private property.
2. The board finds the mechanical penthouse along Eastlake, on level 03, acceptable and may be built out to the face of the building, therefore recommending to the Director to grant this design departure. The upper penthouse on the Gunn building will need to be pulled back from the face of the building.
3. The treatment at the solid portions of the wall along Eastlake between the loading dock and secondary Gunn entrance were found to be acceptable. Given the level of interest created with horizontal wood rain screen siding and raised planter beds along the building, the board felt this was a good resolution.
4. The restroom core projection at the south façade (at the stairway next to the Silver Cloud, will need to be eliminated on levels 01 and 02, but can remain on levels 03, 04, 05 and 06.
5. The recessed Fairview entrance will require further security. A security gate was suggested. The Eastlake entrance was seen as more active and would not require further security considerations.
6. The corner of the building on the Eastlake façade near the stairway passageway will need to be carved back at the ground level to ease the pedestrian transition to and from the stairwell. The change of form would be from the ground level to the first lab floor.

**Departures**

The applicant proposed one development standard departure as shown in the matrix below.

<i><b>Development Standard</b></i>	<i><b>Required</b></i>	<i><b>Proposed</b></i>	<i><b>Departure amount</b></i>	<i><b>Related guideline</b></i>	<i><b>Board recommendation</b></i>
23.47A.012.D5c	Rooftop features not within 10' of roof edge	Mechanical penthouse at the building edge.	100 lineal feet of Eastlake elevation only	C-2 Building elements,, create well-proportioned building form.	approval

Board Recommendation:

After considering the proposed design and the project context, hearing public comment, and reconsidering the previously stated design priorities, the Design Review Board members felt that all of the guidance they had given in their previous meeting had been addressed by the applicant. In addition, the four (4) member Board supported the Departure request and **recommended approval with conditions** to the design to the Director.

The applicant revised several elements of the Master Use Permit including massing preferences. Some changes were a result of a new survey of the shoreline limits and the subsequent building massing revision to omit the office/lab “tower” and spread the office and lab use over the site. The applicant has added a shoreline height variance component to the Master Use Permit to allow greater height in the shoreline environment. The applicant then brought the revised massing proposal to the Design Review Board for recommendation.

**RECOMMENDATION --meeting on September 1, 2010.**

ARCHITECT’S PRESENTATION:

The architect presented the project history and development to acquaint the Board to the site issues and the proposal. The new proposal is to retain the Gunn building, as before, and to locate the lab and office spaces across the remaining site. A large 70 foot wide plaza is proposed on the south side of the property next to the Silver Cloud Hotel. The plaza will have a stairway to Fairview Avenue. Street improvements are proposed including additional trees along Eastlake where the applicant has decided to close the underground areaway and fill it so that there is a viable location for new trees. The architect explained the location of the 70,000 square feet of research lab and 3,500 square feet of retail space. Parking for 85 vehicles is proposed to be provided below grade. The architect explained the new access and loading access off of Fairview. Two development standard departures are proposed.

BOARD CLARIFYING QUESTIONS:

Board questions helped to clarify the project proposal and included a review of tree locations, trees on Fairview, brick building vocabulary on the façades, integrating the Gunn building concrete framework, the openings at the garage on the Fairview façade, the cantilevered plaza on Fairview, the Eastlake soffit, and questions on the departure requests. The Board also asked for more information regarding the departure for an intervening use at the parking level. The Fairview frontage is primarily bridge deck or parking entry, and the sidewalk and bridge are separated from the property by a gap of approximately 3 feet which slopes down below the sidewalk. The maximum drop from the sidewalk to the soil at the property line is nine feet. The brick façade material has been used to make the building more contextual to the neighborhood. It is used at the ground level to add a human scale to the facade and higher on the facade to tie the new and old construction together. The proposed awning is a solid, continuous plane which runs along the south and east facades. The underside is wood with recessed downlights.

Through the project SEPA analysis the traffic and parking portion of the analysis requires 82 parking stalls to be provided on site. A traffic and parking mitigation plan will require several mitigating efforts on behalf of the building owners to mitigate the increased daily trips to and from the site, one of which is the parking stall requirement. Placing the loading dock at the Fairview level to utilize the existing curb cut restricts the parking ramp to the west face of the building due to the tapering shape of the site. A metal screen is envisioned at the Fairview ground level openings.

The plaza overlook is placed over the parking entry to give it visibility. The stair is indicated primarily by landscaping in this direction.

Design Departure matrix MUP 3004985

#	Development Standard	Required	Proposed	Departure amount	Related guideline	Board Action
1.	SMC 23.47A.032 B1b  (SMC 23.47A.010 D7 - limits the size of office uses unless one NC3 street level standard is met.)	location of parking within a structure. street-level parking shall be separated from street-level, street-facing facades by another permitted use. 23.47A.032 B1b	Parking is located on a ramp inside the Fairview facade; Fairview becomes a bridge in this area which is separated from the property by about 3 feet. Parking ramp slopes down to below the street level.	192 lineal feet of street frontage with parking within a structure.	D-2, A-2, D-7	Recommend approval
2.	SMC 23.53.035A2 Structural building	Projections such as balconies that do not increase the space	A five foot deep by 38 foot wide	Two additional feet of overhang.	A-2, E-3	Recommend approval

	overhang	enclosed by the building may have a maximum horizontal projection of 3 feet at the roof level.	view overlook at the plaza level on the Fairview ROW. This also marks the parking entry.			
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**How this departure helps meet the priority guidelines D-2, A-2, D-7 and A-2, E-3**

Departure 1 The applicant notes that they are able to locate the loading dock inside the structure and to access both parking and loading from a single, existing, curb cut, thus preserving the Eastlake frontage. Eyes on the Fairview Bridge and activity within the building at the street, and lower, level. The facade has openings with decorative screening.

Departure 2 The overlook will provide the public with a wider view of Lake Union and the Space Needle than is possible at the property line due to the Silver Cloud and proposed building facades.

PUBLIC COMMENTS:

Three (3) members of the public were present at the meeting. Comments included the following:

- The plan and the massing is very good. The view corridor and plaza is properly sited and appropriately landscaped. The nearby buildings create a lot of pedestrian traffic and the plaza and stairs will serve them well to travel between Fairview and Eastlake. Using brick is a positive design solution for this area.

DESIGN BOARD DELIBERATIONS:

The Board began deliberations on the project recommendation by briefly stating their reactions to aspects of the proposal. The Board discussed the parking location, lab space, retail space location, the plaza, the pedestrian experience along street fronts, green elements, and façade design. The board discussed opportunities to exhibit the industrial typology in the façade design along the two long street facades, Eastlake and Fairview. They like the interplay of materials which use the Gunn building framework and the new brick material. They discussed the desirability of having more industrial façade openings along Fairview which recall the Gunn building framework or other industrial architectural language in the area. The Board discussed the unitization of the brick as it is proposed at the ground level and at the roof screen level. They

pointed out that the architect should consider a different unit language that could or should include brick or clustering brick or other building units. The Board was favorable to recommending approval of the departure requests.

Board Recommendation at the second meeting:

After considering the proposed design and the project context, hearing public comment, and reconsidering the previously stated design priorities, the Design Review Board members felt that all of the guidance they had given in their previous meeting had been addressed by the applicant. In addition, the five (5) members Board supported the Departure requests and **recommended approval with conditions** to the design to the Director.

1. Building elevations should be revised to exhibit and recall industrial building unitization and framework, including fenestration and use of building materials. Transitions between the existing building and new construction should be carefully detailed.
2. Refine the roofscape/mechanical screening. Consolidate the HVAC units as possible and create a rooftop concept in concert with the building, building materials and surrounding area.
3. Install large trees as per industry standards in the plaza.
4. The building materials presented are appropriate. Refine the relationship of the material to its location on the building façade. Including rooftop materials, base materials, materials at the plaza façade and a continuous material expression across the whole of the plaza.
5. Detailing should be carefully refined to wrap around the building as appropriate. The screening at the parking along Eastlake should be carefully designed to provide visual interest at the pedestrian level.
6. Refine the detailing of the plaza overhang.

**ANALYSIS AND DECISION - DESIGN REVIEW**

The Board gave early design guidance, responded to the architect's response at the recommendation meetings, gave additional direction focused on several salient aspects of the design, and reviewed the final design proposal. The Board carefully weighed the departure requests against the early design guidance given to the applicant to understand how the departures would help the project better meet the intent of the priority guidance given by the board (SMC 23.41.012). The Board recommended approval of the design to the director with some conditions. They also recommended approval of two development departures.

Departure 1 listed in the matrix above meets priority guidelines A-2, D-2, and D-7. The code requirement refers to the location of parking within a structure. Street-level parking shall be separated from street-level, street-facing facades by another permitted use. (SMC 23.47A.032 B1b). The proposal is for parking to be located on a ramp inside the Fairview façade. The parking openings are proposed to be screens to allow air flow yet be artistically rendered for interest. No passers-by will be next to the openings as there is a three foot horizontal gap between the Fairview Bridge and the building façade. At this location there is up to an 8 foot drop as well between the bridge and the building. Design guidance A-2 Streetscape compatibility is met by creating a quality streetscape and meeting neighborhood context. Guidance D-2 is met by addressing screened openings in creative ways. Guidance D-7 Personal safety and security is addressed because there will be activity at the Fairview avenue level with parking and loading and pedestrian activities.

Departure 2 helps the proposal better meet the design guidelines. The departure requests two additional feet of structural building overhang. The overhang meets guidance A-2 by helping to create a quality streetscape and E-3 landscape design to address special site conditions. The public will be able to benefit from the additional overhang to view area site and the applicant will be able to provide fuller landscaping at the plaza level.

While the development standards for structural building overhangs projecting into street right of way are found in the Land Use Code, as is the process to seek modification of those standards through Design Review, a structural building overhang is only allowed on a building which has a revocable street use permit per the Street Use Ordinance. The structural building overhang, unless revoked by SDOT, requires annual payment of fees to SDOT to maintain the encroachment. For this project, the Department of Transportation (SDOT) initially reviewed the proposed structural building overhang as a code-complying 3 foot projection into the street right-of-way. At the time of publication of the Director's decision on this project, SDOT is not willing to allow a structural building overhang to project more than 3 feet into the street right of way on an ongoing basis. Therefore, the departure to allow a structural building overhang to project up to 5 feet into street right of way as shown on the proposed plans is conditionally approved subject to prior approval of SDOT. If SDOT approval for a structural building overhang is not obtained, the project must be revised to show a code-complying design.

The Director of DPD has reviewed the recommendations of the Design Review Board and finds that they are consistent with the City of Seattle Design Review *Guidelines for Multifamily & Commercial Buildings* and that the development standard departures present an improved design solution, better meeting the intent of the Design Guidelines, than would be obtained through strict application of the Seattle Land Use Code. The project has also contemplated and been reviewed under the South Lake Union neighborhood-specific guidelines. Therefore, the Director **approves** the proposed design as presented in the official plan sets on file with DPD, and as conditioned below. The design as presented at the design review board meeting and the recommended **development standard departures** 1 and 2 approved as conditioned.

The applicant has addressed the conditions recommended by the design review board in the most recent MUP submittal dated September 30, 2010.

## **ANALYSIS - SEPA**

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

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated May 18, 2007 and revised December 3, 2009 and annotated by the Land Use Planner. The information in the checklist, the supplemental information submitted by the applicant 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) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, 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 (SMC25.05.665) mitigation can be considered. Thus a more detailed discussion of some of the impacts is appropriate.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The overview policies 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 (SMC 25.05.665), mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

### **Short-term Impacts**

The following temporary or construction-related impacts are expected: 1) demolition and construction activities could result in the following adverse impacts; 2) construction dust and storm water runoff, temporary soil erosion, emissions from construction machinery and vehicles, increased particulate levels during excavation and construction, increased noise level, occasional disruption of adjacent vehicular and pedestrian traffic, and a small increase in traffic and parking impacts due to construction workers' vehicles. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794).

City codes and/or ordinances applicable to the project such as: The Noise Ordinance, the Stormwater Grading and Drainage Control Code, the Street Use Ordinance, and the Building Code. The Street Use Ordinance includes regulations which mitigate dust, mud, and circulation.

Temporary closure of sidewalks and/or traffic lane(s) is adequately controlled with a street use permit through the Seattle Department of Transportation (SDOT). Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts.

The other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources, increased greenhouse gas emissions) are not sufficiently adverse to warrant further mitigation or discussion.

#### Construction impacts

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 impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

#### Earth Impacts

The proposal site located in a liquefaction Potential Area and has a small steep slope area on the eastern portion of the site along Eastlake Avenue East. The small steep slope appears to be less than 20 feet in height and/or has been created by previous grading and construction activities at this site. Because of this the ECA Steep Slope development standards (i.e. threshold disturbance level of 30 percent of the steep slope critical areas and requirements for a steep slope area variance) are waived for future development at this site. Thus the steep slope exemption was granted July 12, 2006.

The applicant has submitted a Geotechnical Engineering Study addressing soil foundation support considerations, site preparation, grading erosion control and drainage recommendations. The report indicated that the site is geotechnically suitable for the development of the proposed apartment and that the risk of damage to the development or adjacent properties from soil instability will be minimal. The proposed development would not increase the potential for soil movement.

Review of the submitted report and approval of the resultant plans and construction methods will be subject to the standards of the Stormwater, Grading, and Drainage Control Code, as well as the Environmentally Critical Area Ordinance. No further mitigation for the purposes of SEPA compliance is warranted.

#### Long-term Impacts

Long-term or use-related impacts are also anticipated from the proposal: increased surface water runoff from greater site coverage by impervious surfaces; increased bulk and scale on the site; increased demand on public services and utilities; increased light and glare; loss of vegetation;

and increased energy consumption. These long-term impacts are not considered significant because the impacts are minor in scope.

### Transportation and Parking

The applicant has provided documentation of transportation and parking impacts by Heffron Transportation, Inc., through several reports and updates throughout the review process. The initial report was dated February 12, 2008. Following revisions to the project, including relocation of the proposed loading dock, an updated Traffic and Parking Analysis (dated July 13, 2010) was submitted. This was supplemented with additional information in a memo dated August 2, 2010.

The proposed development is projected to generate approximately 810 new daily vehicle trips, of which 72 would occur in the morning peak hour and 91 in the afternoon peak hour. This additional traffic will impact the surrounding street network. North of the project site, the intersection of Fairview Avenue N/Eastlake Avenue N was analyzed and forecast to operate at an acceptable level of service (LOS B) with project traffic. The project is not expected to adversely affect intersection operations north of the site.

South of the site, the project's transportation impacts are mitigated to a less-than-significant level through the project's participation in the South Lake Union voluntary payment program. Through this program, developers within South Lake Union may make a payment based on project size and use to be applied by the Seattle Department of Transportation to transportation projects that are part of the South Lake Union Transportation Study capital program. Transportation Management Programs (TMPs) that reduce single-occupant vehicle (SOV) trip generation may be used in conjunction with mitigation payments, and may lead to reductions in the payment amount commensurate with SOV reductions.

The project initially proposed to implement a TMP with an SOV goal of 52%. With this TMP goal, the project would be expected to generate a peak parking demand of 104 spaces. The proposed on-site parking supply is 81 spaces, which would result in a parking spillover of about 23 vehicles during peak times (forecast to be around noon). No parking is allowed on this section of Fairview Avenue N. On-street parking on Eastlake Avenue N and other nearby streets is heavily utilized, and little capacity exists for additional on-street parking, particularly for longer than two hours. The August 2 memo notes that peak parking demand likely would not exceed the parking supply if a 42% SOV goal were achieved. This goal would eliminate or substantially reduce off-site parking impacts, and is expected to be attainable with an aggressive TMP. No additional mitigation pursuant to SMC 25.05.675 M is warranted.

With the anticipated reduction in project traffic due to implementation of the TMP, the total mitigation payment for the project is \$97,355, as shown in Table 6 of the July 13, 2010, report. No additional mitigation pursuant to SMC 25.05.675 R is warranted.

### Greenhouse gas emissions

Operational activities, primarily vehicular trips associated with the project and the projects' 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 expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

### Historic Preservation

Due to the age of the Gunn Building on the north end of the subject site and due to the proposed project's adjacency to landmark structures off-site (the Lake Union Steam Plant and Hydro House) a review of the proposal was requested of the Department of Neighborhoods (DON), to consider SEPA policies found in SMC 25.05.675H. DON staff reviewed the historic referral and determined that it is unlikely that the Gunn Building would meet the standards for designation as an individual landmark and that additional mitigation to minimize impacts to the adjacent landmark structures is not warranted. (LPB 435/10 dated October 12, 2010)

### Archaeology

The SEPA Overview Policy (SMC 25.05.665) and the SEPA Historic Preservation Policy (SMC 25.05.675 H) allows the reviewing agency to mitigate impacts associated with a potentially significant archaeological site. Maps on file at DPD indicate that the subject site is within 200 feet of the US Government Meander Line. Since excavation is proposed, pursuant to SEPA and Director's Rule 2-98, conditioning will be required to mitigate adverse impacts to any inadvertently discovered archaeologically significant resource.

Other long-term impacts are typical of development and will be mitigated by the City's adopted codes and/or ordinances. Specifically these are: Stormwater, Grading and Drainage Control Code (stormwater runoff from additional site coverage by impervious surface); Land Use Code (height; setbacks; parking); and the Seattle Energy Code (long-term energy consumption); and the Environmentally Critical Area Regulations.

### **DECISION - SEPA**

The 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 declaration 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.

[X] 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 43.21C.030 (2)(C).

**CONDITIONS – SHORELINES**

None.

**CONDITIONS – Design Review**

*Prior to issuance of building permit:*

1. Provide evidence of approval from SDOT for the Structural Building Overhang for the plaza level overlook to extend up to five feet into Fairview Ave right-of-way as contemplated by Design Review departure or revise the plans to show the overhang to not exceed a maximum 3 foot allowable projection.

*Prior to final approval of building permit:*

2. Install large trees as per industry standards in the plaza.

**CONDITIONS – SEPA**

*Prior to Land Use permit Issuance:*

3. The owner and/or responsible parties shall provide DPD with a statement that the contract documents for their general, excavation, and other subcontractors will include reference to regulations regarding archaeological resources (Chapters 27.34, 26.53, 27.44, 79.01, and 79.90 RCW, and Chapter 25.48 WAC as applicable) and that construction crews will be required to comply with those regulations.

*Prior to Issuance of Building Permit*

4. The applicant shall make the transportation mitigation fee payment of \$97,355. SDOT shall apply the fee to fund transportation capital projects identified in the South Lake Union Transportation Study.
5. A Transportation Management Program shall be prepared and submitted to DPD. It shall be consistent with Director's Rule 19-2008 or any applicable successor Rule. The goal for the TMP will be a maximum of 42% of non-retail employee trips by single-occupant vehicle (SOV). The TMP will include all required elements as identified in the Director's Rule, and additional elements determined by SDOT and DPD staff to be necessary to achieve the TMP goal.

*During building demolition and site work:*

*The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions*

*shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.*

6. If resources of potential archaeological significance are encountered during construction or excavation, the owner and/or responsible parties shall stop work immediately and notify DPD (Jerry Suder via email at [Jerry.Suder@Seattle.gov](mailto:Jerry.Suder@Seattle.gov) or tel. 206-386-4069) and the Washington State Archaeologist at the State Office of Archaeology and Historic Preservation (OAHHP). The procedures outlined in Appendix A of Director's Rule 2-98 for assessment and/or protection of potentially significant archeological resources shall be followed. The developer must abide by all regulations pertaining to discovery and excavation of archaeological resources, including but not limited to Chapters 27.34, 27.53, 27.44, 79.01 and 79.90 RCW and Chapter 25.48 WAC, as applicable, or their successors.

*For the Life of the Project*

7. The Transportation Management Program prepared and submitted to DPD shall apply for the life of the project. The TMP will include all required elements as identified in the Director's Rule 19-2008, and additional elements determined by SDOT and DPD staff to be necessary to achieve the TMP goal.

Signature: \_\_\_\_\_ (Signature on File)  
Jerry Suder, Senior Land Use Planner  
Department of Planning and Development

Date: December 20, 2010