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BEFORE THE HEARING EXAMINER
OF THE CITY OF SEATTLE

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

Hearing Examiner File:

Department Reference: 3024753

NOTICE OF APPEAL

I. IDENTITY OF APPELLANTS

The appellant is:

Protect Volunteer Park
c/o Jonathan Mark
PO Box 23238
Seattle, WA 98102

II. IDENTIFICATION OF THE MATTER BEING APPEALED

The appellants seek review of the Determination of Non-Significance ("the decision") issued on March 16, 2017 by the Department of Construction and Inspections (DCI) for an addition to the Seattle Asian Art Museum building located in Volunteer Park. The decision identifies the applicant as "Jeremy Schoenfeld representing the Seattle Art Museum (SAM)."

1 III. STATEMENT OF HOW THE APPELLANTS ARE SIGNIFICANTLY
2 AFFECTED OR INTERESTED IN THE MATTER

3 The appellant represents a broad range of business owners, property owners, and residents in
4 the vicinity of Volunteer Park and users of the park from throughout the city. The decision
5 significantly and adversely affects the appellant and its members' interests in maintaining the
6 landmark character of Volunteer Park.

7 IV. BRIEF STATEMENT OF THE APPELLANTS' ISSUES ON APPEAL

8 1. The Parks Department and the City Council are contemplating taking action to allow
9 an expansion of the Seattle Asian Art Museum building in Volunteer Park. Both Volunteer Park and
10 the building are designated by the federal government as National Historic Landmarks. Both
11 Volunteer Park and the building are designated by the City of Seattle as municipal landmarks.

12 2. The outstanding, unique and irreplaceable landmark resources of Volunteer Park and
13 the project's threatened impacts to those resources are outlined in the attached letter from the
14 National Association for Olmsted Parks. We adopt the letter's characterizations of the park's value
15 and the threatened impacts by reference.

16 3. The project would also have significant adverse effects to the landmark designated
17 building. The proposal adversely affects the building's historic integrity in terms of function and
18 design. The impacts include altering fabric, function and feel of the Garden Court (which is
19 specifically protected in landmark listing); blocking original fenestration of the central east-facing
20 façade; the effects of the fifteen foot cantilevered park lobby that will both hide windows and put the
21 historic library's windows in permanent, deep shade; elimination of externally accessed public
22 restrooms (to replace restrooms lost when the museum was built and which provide a very important
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1 function for park users); and design elements which do not complement and are not subordinate to
2 the historic architecture and symmetry.

3 4. The DCI decision recognizes that the project will have a significant adverse impact
4 on the historic, cultural and landmark resources in Volunteer Park and the Seattle Art Museum
5 building. “[P]otential significant adverse impacts have been identified with regard to the proposed
6 alterations to the designed features of the landmark.” Decision at 8. But the decision then wrongly
7 assumes that substantive mitigation that may be imposed by the city’s Landmark Preservation Board
8 (“the Board”) will be imposed. That is, DCI assumes that the Board will use its authority to impose
9 mitigation that will reduce impacts below the threshold of “significant.” That assumption is
10 speculative and is not a legitimate basis for deciding that the project’s significant impacts will be
11 mitigated to insignificance. It also serves to deprive the Board of the information that would be in an
12 EIS when the Board decides whether to approve the project and, if so, with what conditions.
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15 5. The decision offers no other basis for not requiring an EIS to study the project’s
16 significant impacts to landmark resources other than its reliance on the assumption that the Board
17 will eliminate all significant adverse impacts. Stripped of that improper assumption, the DCI
18 decision reflects a determination that the project has significant impacts and that an EIS should be
19 prepared.
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21 6. This project requires review and approval or disapproval by at least three city
22 entities: the Board, the Parks Department, and the City Council. An EIS needs to be prepared to
23 allow each of those entities to make an informed decision. The purpose of the State Environmental
24 Policy Act is to assure that government decisions are made based on a thorough study of the
25 project’s potential significant adverse impacts. That study is called an environmental impact
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1 statement. Preparation of an EIS is mandated by state law (SEPA) before the Board, Parks and the
2 City Council make their decisions so that each of those entities can make a fully informed decision.

3 7. The proposal also will cause significant adverse impacts in terms of traffic and
4 parking; the height, bulk and scale of the construction; light and glare on public spaces; lose of
5 plants and animal habitat; and public views. A project's impacts are considered as a whole, not by
6 piecemealing the assessment of its disparate impacts. See WAC 197-11-330(3)(c) ("[s]everal
7 marginal impacts when considered together may result in a significant adverse impact").
8

9 8. We adopt by reference all issues identified by any other appellant.

10 V. RELIEF REQUESTED

11 Appellant requests rescission of the Mitigated Determination of Non-Significance for the
12 reasons stated herein and as proven in these proceedings and requests an order directing preparation
13 of an EIS before a decision is made on any aspect of this project by any city entity.
14

15 Dated this 29th day of March, 2017.

16 Respectfully submitted,

17 BRICKLIN & NEWMAN, LLP

18
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