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DEVELOPMENT SERVICES
COUNTER

Mr. Kernen Lien, Senior Planner
City of Edmonds, Planning Division
122 – 5th Avenue
Edmonds, Washington 98020

Hand Delivered

Re: PLN20130022, 50 Pine Street, Edmonds, Surrebuttal to APL20130005

Dear Mr. Lien:

The following materials are submitted on behalf of Edmonds Pine Street LLC, the property owner and Applicant under the above File No., in reply to the rebuttal argument of David Inadomi (“Appellant”) by letter dated and filed with the City on October 7, 2013.

Appellant Contentions

Appellant re-states his appeal position with respect to FC 4.a.C.14.b in slightly different words. He does not allege view impacts so much as he complains there are no “blueprints, drawings, or schematics” showing his residence in relation to the proposed building. There in fact are a lot of materials in the file showing the view issues and relationship between the buildings, but perhaps not the kind of construction-level detail Appellant seems to want. E.g., Record 0201-206, 0266-267, 0356, and 0494-500.

While Appellant does not specify what he feels is needed, it is not the kind of detail level material or information required at the design review stage. Moreover, it is incumbent on him to provide any particular information and detail about his property and residence. He has had more than ample opportunity to do so in the prolonged review of this project, but has not introduced anything into the record. He seems to expect detailed construction data of the sort not required in the design review stage

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and not typically supplied until the building permit phase of a project review when the design is finalized and known.

Applicant has presented all required information for the City's design review, as the record shows. Of the 500+ page record, there are no less than 81 pages of material from the project architects depicting and explaining the proposed design. Record 0023-75; 0453-480. Only part of this information accompanied the second application on March 26, 2013, which staff determined to be complete under code requirements. Additional information and testimony came in in connection with the public hearing. The height, size, mass, configuration, lot coverage, placement, pedestrian access, landscaping and other outdoor amenities, materials, colors, lighting, building and roof elements and articulation, vehicle access and parking, among other design aspects of the proposal, are shown and described in considerable detail in these materials and elsewhere in the Record. E.g., Record 0007-11, 0228-230, 0236-238, and 0486-512.

In his objection to FC 4.a.C.14.c, Appellant also reasserts his displeasure with the surface parking lot as modified and now approved by the Board. Appellant is correct that Applicant offers no new information and re-states what was disclosed in the record and considered by the Board in rendering its decision. ECDC 20.07005 (A) and (B) precludes the introduction of new or different information at this stage and expressly restricts all participants to the confirmed record. The Board reviewed the extensive evidence presented, assessed it, deliberated on it, and entered findings and conclusions consistent with its decision approving the proposal. Staff recommended, Applicant openly endorsed, and the Board imposed a further condition calling for Applicant to collaborate with Appellant to supplement the landscape screening for Applicant's property. Transcript at 28.

The record confirms that Appellant's issues were vetted during the December ADB hearing and again at the May hearing. Specific landscaping/screening/buffering changes were requested by the Board and incorporated by Applicant in the modified design to help reduce impacts. Record 0238; Transcript at 17. Visual impacts have been identified by Applicant as moderate since the entire site is downslope from Appellant's

existing residence, the view from the upslope property will be over the top of the proposed building. Record 0267. The parking area will be substantially below Appellant's property and all structures on it. The proposal includes two visible, above-grade floors in the east wing facing Appellant's property, and three in the western wing, compared with two visible east-wing floors and two and a half visible west-wing floors in the original concept drawing for a building on this site in 2003, and three visible floors in each wing of the building approved by the City in 2006. Record 0039-40, 0201-205; 0356, 0494-496, and 0499. Just two visible floors facing Appellant's property, as always has been contemplated, beginning in 2002-2003 with Point Edwards review and approval, and prior to Appellant's purchase of his residence in 2004.

Appellant has acknowledged on the record that the Point Edwards project was under development when he bought his property in 2004 and that he always knew a building was intended on the property next to his, including surface parking. It does not appear that he participated in the public processes when Point Edwards density was increased to 350 units in 2005 or when a building larger in footprint and overall mass, and otherwise similar to this building in height and size, was proposed.

Significantly, Appellant did not participate in or contribute to the environmental process or comment on disclosures made by Applicant about noise, light and glare, or view and other aesthetic concerns during that process. The environmental considerations were revived due to the City's course correction earlier this year that resulted in a new environmental checklist being prepared, and a fresh environmental review of this project.

The new SEPA checklist for the project is set forth in the record. Record 0274 et seq. It accompanied the project's re-application in March 2013 and has been a matter of public record since then. The checklist addresses noise in part 7.b, aesthetics (including view expressly) in Part 10, and light and glare in part 11 thereof. Id. at 0262-263, 0266-268. In response to question 10.b, "What views in the immediate vicinity would be altered or obstructed?", Applicant responded as follows:

“View of the hillside from adjacent buildings, marina area, and downtown Edmonds would be altered; view from single family residence to the south [Inadomi residence] would be altered.”

In response to the following question 10c, “Proposed measures to reduce or control aesthetic impacts, if any:” Applicant gave the following response:

“Modulated façade/roofline. Landscaping will surround all sides of building; vegetation and trellis elements will screen building and surface parking. Materials, modulation, & color to be analogous to those found at existing Pt. Edwards buildings and home to south [Inadomi residence].”

No staff comments were entered after either of these responses or any of Applicant’s responses to checklist Items 10(b)(1), (2), or (3) addressing Noise, or Items 11(a), (b), (c), or (d) addressing light and glare. Record 0262-263, 0267, 268.

With respect to noise, light, and glare, Applicant confirmed compliance with all applicable City standards and noted that any impacts would be typical of urban/suburban neighborhoods. Id.

The City completed its environmental review and issued an unconditional determination of non-significance (“DNS”) on April 12, 2013. Record 0006, 0346-347. A 14-day comment and appeal period followed. The DNS was not appealed and became final on April 26, 2013. Id. Appellant at no time commented on the disclosures and statements in the SEPA checklist relating to view, noise, or light and glare considerations or any other environmental issues addressed in the checklist or relating to the proposal, until the comments in his recent appeal and rebuttal letters.

The matters about which Appellant complains indisputably are addressed in the record, and were considered and addressed by the Board as its decision with conditions and the referenced findings/conclusions confirm. Appellant did not speak out during the environmental review process and let the pertinent determinations therein stand. He introduced no pertinent or timely evidence. He has stated his opinion and expressed his disapproval, and now makes a late appeal for additional information on issues completed and approved in the environmental review process and also evaluated and

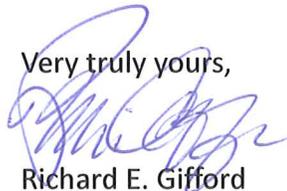
accounted for by the ADB. The controlling record fully supports the ADB's actions and its findings, conclusion, and decision on these points and across the board.

Although Appellant is not fully satisfied, the evidence shows adequate coverage of the relevant issues in a timely manner by Applicant, and confirms consideration and approval by City staff in the environmental process and by the ADB in design review.

The Council looks at the same record that was before the Board, no more and no less. The Board conducted two hearings, heard the testimony, directly reviewed the evidence, and is charged with the responsibility and attendant authority to determine if the proposal conforms to applicable design standards. The Board's determinations, like the staff's conclusions concerning compliance with zoning bulk and use standards, are entitled to appropriate deference on review. If evidence exists to support the Board's decision, it can be overturned or altered only if in considering the record as a whole and the governing Code and planning standards, the Council is left with the definite and firm conviction that the Board made a mistake in conditionally approving the proposal as it did. *Cougar Mountain Assocs. v. King County*, 111 Wn2d. 742, 749-50, 765 P.2d 264 (1988).

We submit the ADB's decision, affirmed in the findings and conclusions adopted at the Council's direction on August 7, 2013, is justified and fully supported by the Record and the design criteria as informed by the Urban Design Guidelines and that no valid basis exists for disturbing it. Appellant has presented no information, evidence, or compelling argument to the contrary.

Very truly yours,



Richard E. Gifford
Attorney for the Applicant,
Edmonds Pine Street LLC

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