



May 16, 2014

Chris Jackins  
Seattle Committee to Save Schools  
P.O. Box 84063  
Seattle, WA 98124

Additional Appellants listed on Exhibit A (attached)

Re: Arbor Heights Project  
Appeal of SEPA DNS

Dear Mr. Jackins and Additional Appellants:

On May 15, 2014, I received the Hearing Examiner's Findings, Conclusions and Decision Recommended to the Superintendent of the Seattle School District ("Recommendation"). I have carefully reviewed the Recommendation and find it to be sound. As a result, I hereby adopt the Hearing Examiner's Recommendation as my decision. Appellants' evidence has not shown the responsible official's SEPA determination to be clearly erroneous. The SEPA DNS is therefore hereby affirmed.

Sincerely,

Jose Banda  
Superintendent

Enc.

cc: Ronald English  
Pegi McEvoy  
Lucy Morello  
Steve Moore  
Rich Hill  
Margaret Klockars

FINDINGS, CONCLUSIONS, AND DECISION  
RECOMMENDED  
TO THE SUPERINTENDENT OF THE  
SEATTLE SCHOOL DISTRICT

RECEIVED

MAY 15 2014

SEATTLE SCHOOL DISTRICT  
GENERAL COUNSEL'S OFFICE

In the Matter of the Appeal by

Seattle Committee to Save Schools, et al.

Of a Determination of Nonsignificance for  
The Arbor Heights Elementary School Project

### Introduction

Seattle Committee to Save Schools and thirty-one individuals filed an appeal of the Determination of Nonsignificance for the Seattle School District's Arbor Heights Elementary School Project. A hearing was held May 8, 2014. Chris Jackins, Coordinator, represented Seattle Committee to Save Schools and the individual appellants, and G. Richard Hill, McCullough Hill Leary PS, represented the Seattle School District.

The record consists of the testimony at hearing and the exhibits listed at the end of this recommendation.

Having considered the testimony, documentary evidence, and argument of the parties, and having visited the site, the following are the recommended findings and conclusions.

### Findings

1. The Seattle School District (hereafter "District") prepared a draft SEPA environmental checklist (checklist) regarding its proposal to construct a new replacement school at Arbor Heights Elementary School and demolish the existing school. The checklist was issued for comment in December, 2013, and after minor revisions to the checklist, the SEPA Responsible Official issued a Determination of Non-Significance (DNS) on March 26, 2014. Appellants, Seattle Committee to Save Schools, et al., filed a timely appeal.

#### PROPOSAL

2. The District proposes to demolish the existing 47,639 sq. ft. Arbor Heights Elementary School building and construct a new 90,763 sq. ft. school building on the site located at 3701 SW 204th Street. The site is bounded by SW 104th Street on the north and 105th St. on the south.

3. The proposed building would be located in approximately the same location, the

eastern half of the site, as the existing school building and have 26 classrooms in two wings of two and three levels with a maximum height of 47 feet. Administration, cafeteria, library, student commons, etc. would be located in the two-story northern wing with classrooms in the three-story southern wing. New play surfaces and areas would be provided along with frontage improvements, additional parking on-site, landscaping and stormwater improvements.

4. The current school enrollment is about 384 students served by 34 staff. The new school would have approximately 660 students and 75 staff. There is an option to initially construct a building to accommodate 490 students and construct upper level additions later when needed to accommodate the full 660.

5. The main entrance to the building would be at the north end of the building in the approximately northerly quarter of the site. Vehicular access for staff and visitors would be via driveways at the northeast and southeast corners. A lane for pick-up and drop off adjacent to the main entrance and 55 stalls for parking would be provided at this location. Bus parking is proposed along SW 104th at its current location. During non-bus periods, this would provide six on-street parking spaces. Primary pedestrian access to the school entrance would be down three feet from the sidewalk on the north side and two feet up to the new sidewalk on 105th SW. Access for service vehicles and a fire lane would be located approximately mid-site from 104th.

6. The site currently has a difference of 35-40 ft. in elevation from the northwest to the southeast corner. There is a 23 ft. drop from the street level to site level at the northwest corner. Along the southern perimeter the street is 12-13 feet below the site. The middle of the site had been leveled for construction when the school was constructed. Part of the slope on the western perimeter is classified as a steep slope under City codes and will be undisturbed. There will be some grading to build up the level at the southwest corner. Asphalt currently covers the western end of the site and that will be removed. The grade at the southern border will be lowered to be near street level as required to install the frontage improvements and for site security.

7. Frontage work on the north side would extend curb and sidewalks along the full length of that frontage. On the south side, there would be a new curb, gutter and sidewalk as required by the City. New storm drains will collect surface runoff on that side.

8. The checklist identified a small wetland on-site on the east-facing slope at the west end of the site. It is a Category IV wetland under the City's environmentally critical areas regulations so no buffer is required. The wetland will not be disturbed by the redevelopment of the site. A seasonal stream north of the site with a short open channel section northwest of the 104th St. SW and 37th Place SW intersection is connected to a storm drainage system beneath the site.

#### DRAINAGE

9. The proposed development would result in about one third to one half the site

being covered with impervious surface, down from the existing approximately 85-90 percent.

10. New stormwater facilities would be installed. The existing culvert will be moved but still carry the existing stream through the site. Currently, water falling onto the slope on the south edge of the site flows into the right of way. There is a small ditch along the south side of the street that does not adequately handle the stormwater so water stands in the street and neighbors have experienced flooding. The greater area of permeable surface and a new rain gardens or bio-infiltration swales will result in greater infiltration and new detention and water quality facilities and new stormwater drains in 105th, all designed to meet the requirements of the City's Stormwater manual, will provide better collection and control of the volume of runoff from the site.

#### VEGETATION

11. The checklist indicates that approximately 50 native and non-native trees would be removed including almost all trees and shrubs along the southern perimeter because of the extensive grading required. The checklist did not provide a count of the significant trees on-site or to be removed. It did identify one tree, a Pacific madrone that has been determined to qualify as "Exceptional tree" according to City of Seattle standards. That tree is in poor health and shows signs of decline. Exhibit 27. A later review by the District's consulting arborist identified a second Exceptional tree, a paper birch also on the southern perimeter. The trees between the school and residences to the east are not on school property so will remain. Trees on the western edge of the site will not be disturbed. The checklist states that nine trees will be transplanted but the arborist explained that the two 24 inch Douglas firs are not candidates for transplanting. The landscape plan includes planting of 83 trees. In the medium to long term that will more than replace the lost tree canopy according to the consulting arborist. (Testimony of Scott Baker)

#### CULTURAL PRESERVATION

12. Under "Historic and Cultural Preservation" the checklist notes that the site includes areas classified as both Moderate Risk and Moderately Low Risk by the Washington State Department of Archaeology and Historic Preservation for encountering pre-contact cultural resources. The checklist discloses that there is evidence of early Native American presence within one mile of the site along the shoreline and on a bluff. In the District's archeological expert's opinion, the risk of finding artifacts is low because the fill on the site overlays Pleistocene soils which predate human occupation and this location does not have the features that made the locations of early activity useful to the early inhabitants of the area. Testimony of Paula Johnson. Grading and fill would have occurred around 1948. Even though the risk is low, the expert has prepared an Archaeological Resources Inadvertent Discovery Plan (Exhibit 29) for the District that establishes procedures that the District and project personnel will follow should buried archaeological resources or human remains be found.

#### TRAFFIC AND PARKING

13. The surrounding streets are narrow and, with some minor exceptions, do not have

curbs, gutters or sidewalks. The two east-west streets abutting the site are residential access streets. Thirty-fifth SW is classified as a Minor Arterial and SW 106th Street is a Collector Arterial.

14. Heffron Transportation, Inc., the District's transportation consultants, prepared a transportation impact analysis (TIA) for the proposal, Appendix B to the checklist. The TIA projects future trip generation and future parking demand from the larger school and assesses the impacts of those on the intersections expected to be used and on local parking availability. For trip generation, they studied the existing usage for morning arrival times and afternoon dismissal times. Turning movement traffic counts were performed at the identified intersections. Published trip generation rates for schools were considered but because the actual trip generation rate was higher than the published data, the actual numbers were used. The counts for traffic generation and parking were done on two days, one when the school was open and one when there were no classes, to determine the portion of the traffic generated and parking utilized by the school use. The net increase in the morning arrival period is projected to be 172 trips (104 in and 68 out). The afternoon period volume would be lower, though because of the tendency to come early to park and wait, could be more disruptive. The TIA projects the effect on the intersections, during the peak 20 minutes, would not change the levels of service (LOS) overall from LOS B.

15. After the issuance of the DNS and appeal, the consultants became aware that a private school is being relocated to a former church about 800 feet east of the subject site at 10400 34th Avenue SW. The Westside School plans to increase its enrollment to 390 and will have 57 staff. If the start and dismissal times remain as they are now at Arbor Heights and the new school continues its staggered start and dismissal times, there could be a 20-minute overlap of 50-60 percent of the Westside School's traffic with Arbor Heights'. The effect of the overlap, assuming all traffic from Westside would use the 104th intersection with 35th instead of diverting to 34th, could add delay and degrade operations at 104th and 35th SW for turns from eastbound onto 35th to LOS E or F in the morning for about 10 to 15 minutes but should stay at LOS D during the afternoon overlap.

16. LOS D is the lowest acceptable to the City as applied to the overall intersection but a lower LOS is tolerated for an individual turning movement and low volumes. Testimony of Tod McBryan, PE.

17. A nearby resident has experienced delays when trying to turn north onto 35th SW from SW 104th of what felt like three to five minutes. Exhibit 30.

18. The traffic consultant suggested three measures to minimize the cumulative impact of combined traffic from the two schools. One would be to monitor starting times of both schools and consider shifting the starting time to avoid overlap. Implementing an access management plan that would have vehicles enter the school grounds from 104th and exit on 105th would reduce the northbound turning movements at 104th and 35th. Also, the School Safety Committee could, along with looking at crosswalk locations,

markings, speed limits, crossing guard locations, signage, etc., consider changing the controls at the intersection to an all-way stop, for instance. That change would be expected to improve all approaches to LOS C or better.

19. The collision data from the Washington State Department of Transportation for the intersections and roadways surrounding the project showed no unusual traffic safety conditions that would be affected by the proposal.

20. Parking demand from the new school is expected to be for 92 cars during the day. Fifty-five spaces, representing 60 percent of the demand, would be accommodated on site with the remaining overflowing mostly to 104th and north and some to 105th. The survey of parking availability in the area showed a supply of 463 on-street parking spaces within an 800 ft. walking distance, the City's Department of Transportation guideline. Because of the lack of curbs and uneven widths of shoulder, the study used conservatively low assumptions about the number of existing parking spots. Daytime utilization was found to be approximately 30 percent and 32 percent in the evening. The forty some cars needing off-site parking should easily be accommodated on-street. Capacity for overflow parking from evening and weekend events should also be adequate, according to the TIA, however it is likely to be congested along roadways closest to the school. A neighborhood communication plan is recommended so neighbors will know when to expect the increased demand and plan accordingly.

21. The parking demand from the Westside School will largely be accommodated on-site and on immediately abutting streets. For large events, a leased site a half-mile away with shuttle service could be used.

#### CONSTRUCTION IMPACTS

22. Demolition and site development is expected to last about twelve weeks. According to the TIA, neighbors should expect approximately 28-30 truck trips per day carrying a total of 17,000 cubic yards of excavated material away and bringing fill in or about four trips per hour. The truck trips are not expected to impact traffic operations significantly but will be noticeable to nearby residents. The construction itself is expected to take 18 months with additional traffic from workers and materials transport. A construction management plan that will include travel routes is routinely required by the Department of Planning and Development as a condition of the master use permit.

23. There will be noise impacts to nearby residents during demolition and construction, according to the checklist. The City of Seattle has maximum permissible levels of sound in residential zones but construction is allowed to exceed the maximum 55 dB(A) by 25 dB between 7 am and 10 pm on weekdays and 9 am and 10 pm on weekends. The potential for this level of noise over almost two years is considered a serious impact by nearby neighbors.

#### LIGHT

24. The District has proposed an electronic reader board for the site to better communicate school events to the public. This light source was not identified in the

environmental checklist. Regulations allow schools to have an electric or non-illuminated double-faced identifying sign with 30 square feet of sign area on each street frontage. A design departure is required for the proposed sign because it would have capacity for changing images programmed by computer in the school. Approval has been recommended by the City's School Development Standard Departure Advisory Committee for an east-west facing sign located near 104th SW at the school's main entry walkway canopy. A condition requires that it be screened so that lights would not impact neighbors. Allowed hours of use would only 7 am to 7 pm on days the school is in use.

#### APPEAL

25. Chris Jackins for Seattle Committee to Save Schools and 31 individual appellants filed an appeal of the DNS. Those appellants are listed in Appendix A to this recommendation. The notice of appeal cited potential significant adverse impacts of the proposal on the following: cultural resources, vegetation (trees), parking, traffic, shadowing, views, open space, lighting and glare, drainage, pollution, pest control, noise, steep slopes, stream and wetland and from construction. No evidence was adduced as to shadowing, views, open space, pollution, pest control, and effects on the stream and wetland.

26. Information about the size of schools on educational quality, the need, or lack of need, for a larger school, and the environmental benefits of building reuse over demolition and construction was entered in the record.

#### APPLICABLE LAW

27. A DNS is the appropriate threshold determination if the responsible official determines there will be no probable significant adverse environmental impacts from the proposal. SEPA defines "significant" as a "reasonable likelihood of more than a moderate adverse impact on environmental quality." WAC 197-11-794(1). The lead agency's determination is to be accorded "substantial weight" on review. WAC 197-11-680(3)(a)(viii). A governmental agency's SEPA threshold determination is reviewed under the 'clearly erroneous' standard," *Hayden v. Port Townsend*, 93 Wn.2d 870, 880, 613 P.2d 116 (1980), and a decision is clearly erroneous when the reviewer is, after considering the entire record, is left with a definite and firm conviction that a mistake has been committed." *Norway Hill Preservation and Protection Association v. King County Council*, 87 Wn.2d 267, 274, 552 P.2d 674 (1976).

### Conclusions

1. Because no evidence was offered to show any error in the responsible official's determination as to shadows, views, open space, pollution, pest control, and the stream and wetland, the appeal as to those issues is deemed waived.
2. The threshold determination is to be based on evaluation of the proposal's impacts on the elements of the environment set out in the environmental checklist. See WAC 197-11-330. Educational quality, need for the proposal, and alternatives to the proposal are

not among those elements to be considered.

3. The evidence in the record showed that the risk of encountering pre-contact cultural resources on the site is very low. With the implementation of the inadvertent discovery plan, there should be no impact on that element of the environment.
4. The checklist was in error where it disclosed the proposed removal of one Exceptional tree when there are two present and both are to be removed. The determination as to whether they may be removed will be made by the City's Department of Planning and Development pursuant to the provisions of Ch.25.11, Seattle Municipal Code. If approved, their removal and the removal of the other trees proposed, were not shown to be likely to cause a probable significant adverse impact on habitat or other environmental values. The proposed replacement plantings would mitigate in part even the less than significant impact expected.
5. While Appellants showed the checklist did not adequately consider cumulative impacts on traffic and parking resulting from the new school use in the area with that of the proposal or even the existing school, the supplemental transportation report did show that the impacts, while degrading street operations, would not be significantly adverse.
6. The record shows that with the provision of additional on-site parking, the overflow parking both on a daily basis and for special events can be accommodated without exceeding capacity. The evidence showed that cumulative impacts of the two schools on parking would be minimal.
7. Without a showing of special circumstances, construction noise at the level permitted in the regulations cannot be considered to be significant.
8. No adverse impact from lighting associated with the proposed reader-board was shown so the determination was not clearly erroneous as to light impacts.
9. Despite Appellants' showing that the checklist contains errors and omissions, the record shows that the conclusion reached by the SEPA responsible official was not clearly erroneous. The threshold determination should be affirmed.

### **Recommended Decision**

The DNS should be affirmed.

Dated this 15<sup>th</sup> day of May 2014.



Margaret Klockars,  
Hearing Examiner Pro Tem



Exhibits in the Record:

1. Environmental Checklist and DNS
2. Jackins' Hearing Notes No. 1.
3. Arbor Heights Elementary School Design Departure Recommendations
4. Excerpts Final SEPA Checklist
5. Statement of Trena Harmon
6. Excerpt from BEX IV EIS
7. National Trust for Historic Preservation, "The Greenest Building: Quantifying the Environmental Value of Building Reuse
8. Excerpt from "The Greenest Building"
9. Daily Journal of Commerce 1/26/12, "It's Tough to beat a rehab when it comes to green, study says" and Seattle Times 4/20/12, "Buildings don't have to be new to be green"
10. Jackins' hearing notes No. 2
11. Westside School webpage
12. DPD's Permit & Complaint Status, Westside School project
13. Westside School Traffic Impact Analysis
14. DPD Decision for Westside Land Use Application
15. Jackins' Hearing Notes No. 3
16. Jackins' Hearing Notes Nos. 4, 5
17. Notice of DNS
18. Comments on Environmental Checklist
19. Statements regarding proposed Arbor Heights project
20. Ragghianti letter
21. Statement from Femiano
22. Photos of parking on 37th SW
23. Ross Parker, AIA, resume
24. Tod McBryan, PE, resume
25. Heffron Technical Memorandum, 5/4/14
26. Scott Baker, Arborist, resume
27. Tree Solutions report
28. Paula Johnson, archeologist, resume
29. Archaeological Resources Inadvertent Discovery Plan
30. Rose Long statement

## APPENDIX A

Saad Al-Shimany  
Brian Bailey  
Sandra Corliss  
Emilie Cross  
Tim Eannarino  
Robert Femiano  
Brittany Ferrier  
Trena Harmon  
Chris Jackins  
Liselotte Kragh  
Rex Long  
Rose Long  
Rick Moerloos  
Michael Nannie  
Linda Natali  
Darren Pilon  
Diane Pilon  
Stephanie Poole  
Brian Pope  
Angela Raghianti  
Carmen Raghianti  
Mike Raghianti  
Dolores Rains  
Cindy Rose  
Erin Rycraft  
L. Sankalis  
Tammie Sears  
Christie Skoorsmith  
Jesse Tarabochia  
Rachael Thomas  
Viki Zouring