

TO: CITY OF SEATTLE HEARING EXAMINER
RE: DETERMINATION OF NONSIGNIFICANCE
FOR NORTH BEACON HILL NEIGHBORHOOD PLAN UPDATE
FROM: FREDERICA MERRELL, 2817 14TH AVE S, SEATTLE, WA 98144
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APPEAL OF DNS FOR NORTH BEACON HILL NEIGHBORHOOD PLAN UPDATE

I. OF APPELLANTS AND MATTER BEING APPEALED

Frederica Merrell, a North Beacon Hill resident in the North Beacon Hill Residential Urban Village, on behalf of neighbors, businesses, students and school families, customers, visitors, commuters, recreation users and herself, hereby appeals the Determination of Non-Significance ("DNS") issued by the Seattle Department of Land Use and Development for the North Beacon Hill Neighborhood Plan Update. A copy of the DNS is attached hereto.

The area covered by the DNS supported plan update is the entire North Beacon Hill Residential Urban Village. See attached map.

II. APPELLANTS ARE SIGNIFICANTLY AFFECTED BY AND ARE INTERESTED IN THE DNS

Frederica Merrell lives in the North Beacon Hill Residential Urban Village boundaries. She and her family, neighbors, businesses, students and school families, customers, commuters, visitors, recreation users, both inside and outside of the boundaries will be directly and significantly impacted by:

- Changes to the City land use map (FLUM)
- Changes to neighborhood plan goals, policies and strategies
- Changes to the City Comprehensive Plan
- Zoning changes
- Building height changes
- Changes of density
- Related City legislation
- Related permit applications
- Related City permit applications and approvals
- Additional actions by the City Council related to the update
- Lack of notification of these actions required by City law
- Combined and synchronistic impacts, not regulated under individual projects review
- Changes to protected views
- Access to solar rights and potential use of solar energy by adjacent properties
- Increased traffic (truck and car)
- Changes to pedestrian access
- Changes to bike access
- Changes to automotive access
- Changes to parking and loss of parking
- Changes to roads, streets, driveways
- Changes to vehicle trips per day
- Noise both in duration and in level

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- Increased air pollution from automotive and truck traffic and other sources
- Groundwater pollution and surface water runoff from point and non-point storm water run-off
- Increased earth impacts including soil movement, contamination and garbage
- Impacts to plants and vegetation and animals both domestic and wild, including migratory birds
- Impacts to environmental health including air quality and already high asthma rates for children and other residents of North Beacon Hill
- Impacts to historic sites, objects, buildings and views of historic sites, objects, and buildings.
- Impacts to environmentally sensitive areas
- Displacement of businesses
- Overcrowding in local schools in our assignment area
- Loss of usable open space
- Loss of breathable open space
- Aesthetic impacts
- Increased light and glare
- Loss of recreational uses
- Increased need for all public services and all utilities
- Long-term and short-term production, storage or release of toxic or hazardous substances
- Conflict with local, state and federal laws and policies, including:
 - City of Seattle enabling legislation: Resolution Number 31085, Resolution 30238, Council Bill number 116319, Ordinance Number 122799 and Attachment A, RCW Chapter 36.70A. including sections .020, .035, .040, .045, .070, .100, .110, .140, .320.

III. BRIEF STATEMENT OF ISSUES ON APPEAL

1. The Director of the Department of Planning and Development ("Director") erred in making a determination of nonsignificance as there is a reasonable probability that there will be more than a moderate effect on the quality of the environment.
2. The Department of Planning and Development ("DPD") failed to conduct a comprehensive analysis, address cumulative impacts, or possible alternatives and mitigation measures.
3. The DPD failed to gather information sufficient to evaluate the probable impact of the nonproject action.
4. The DPD failed to meaningfully consider the probable impacts of the future development that would be allowed by the proposed changes to the Comprehensive Plan and zoning.
5. The DPD failed to consider the cumulative impact of other Comprehensive Plan amendments being proposed, especially those for adjoining Station Areas.
6. The DPD did not use notice procedures that were reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, and organizations of the proposed amendments to comprehensive plans.

7. The DNS was not based on a record sufficient to demonstrate that actual consideration was given to the environmental impacts. The DNS is full of conclusory assertions, lacks sufficient information, and leaves unanswered a number of questions, and because of that is insufficient to meet the City's obligations under SEPA.
8. The DNS was procured by misrepresentation or lack of material disclosure.
9. The Director's decision was not based on substantial evidence.
10. The Director's decision was arbitrary and capricious.
11. For all of the above reasons, the Director's decision is an abuse of discretion.

North Beacon Hill Neighborhood has had a neighborhood plan in place since 1990. The 1990 plan was updated in 2000 and approved by City Council. The scope of the 2000 (Existing) North Beacon Hill Neighborhood Plan is well balanced, with land use and zoning changes balanced with transportation, open space, cultural, and public safety improvements as well as other investments. The Existing plan has clear and detailed proposals for infrastructure investment in a matrix which lists project descriptions, budgets, timelines and responsible City departments and other parties. The goal of the Existing plan is to gradually increase density and concurrently provide improved infrastructure, services and utilities. The Existing plan density is designed to meet the growth targets for our neighborhood, created by the City and the Puget Sound Regional Council under the State Growth Management Act. The existing zoning on Beacon Hill is sufficient to meet the current growth targets and there has been no disagreement on that fact during this process.

The update submitted by DPD proposes significant land use, zoning and building height changes to increase density far beyond current capacity. There have been no concurrent changes to the growth targets for our community and the Puget Sound Regional Council has not yet released new growth targets for Seattle. When those new growth targets are released, the City then divides those targets among the areas of the City where they want to see growth occur, including residential urban villages like North Beacon Hill. The current City guidelines support 7% of total future growth occurring in residential urban villages around the City and much higher portions of the growth are to be absorbed in other areas.

The State Growth Management Act and local city policy call for concurrent investment in city infrastructure, services, and supports where increased density is being planned. Concurrency means that planning and implementation of new infrastructure, services and support happens at the same time as increasing density activities. Concurrent investments mitigate some of the impacts of increased density.

The enabling City legislation for the Neighborhood Plan Update calls for specific steps to notify the community of the proposed recommendations and validate those recommendations.

Under the Proposed Update:

1. No matrix of project descriptions that clearly delineate infrastructure improvements to support the proposed increase in density are provided.
2. No new growth targets are proposed to support the level of increased density called for.
3. No information is provided on estimated housing units added under this new zoning.
4. No information is provided estimating the increased impact on roads, open space, utilities, and other services based on housing units to be created.
5. No information is provided on the anticipated impact to school enrollment within our new local assignment plan based on the increase in housing units.
6. No information is provided on the impact to retail space square footage or estimated operating cost of new retail space for businesses.
7. No information is provided on parking impacts or other transportation impacts from increased density.

During the process of update, DPD failed to notify the community of the public meetings in accordance with Council instructions. There was no mailing to our community prior to September meetings at the SE Asian Counseling and Referral Center where the recommendations were shared. That was the only public meeting where recommendations were shared with the community. The final recommendations with Comprehensive Plan amendments and Land use changes were never shared with the community. The community was never provided with an opportunity to validate the final recommendations as directed by City Council legislation.

The impacts of the update are complex, numerous and interdependent. There is no process for assessing the combined impact of all the zoning, land use, and other proposed related City actions and projects which will follow under these new laws except to evaluate the estimated impact of the update itself. The individual impacts of isolated projects do not fully describe the impact to our community of the update.

IV RELIEF REQUESTED

1. Vacate DPD's DNS for the North Beacon Hill Plan Update.
2. Direct DPD to complete the notification, community review and validation process required by City legislation for the North Beacon Hill Plan Update before making a SEPA determination for that action.
3. Direct DPD to complete analysis of the relationship between proposed density changes, estimated increase in housing units and growth targets before making a SEPA determination for that action.
4. Direct DPD to conduct a SEPA impact analysis based on estimated increase in housing units.
5. Direct DPD to evaluate the projected impacts from the increased height proposals, assuming full-build out as allowed by law, on solar rights and solar energy access for adjacent properties and all other impacts deemed potentially significant.

6. Direct DPD to document proposed concurrent infrastructure investment in a matrix which describes projects, estimated budgets, and responsible parties, including City departments as in the Existing plan.
7. Direct DPD to bring all aspects of the application and update into compliance with City and State laws, including listed legislation related to concurrency, validation, and notification of the community affected.

Signature

Date

Appellant or Authorized Representative

Frederic M. Murrell

01/29/10

Deliver or mail appeal and appeal fee to:

City of Seattle

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*I would like to have a
prehearing meeting.*

*E-MAIL IS THE BEST WAY TO
CONTACT ME.*

THANK YOU!

Frederic M. Murrell
01/29/10