

TO: CITY OF SEATTLE HEARING EXAMINER  
RE: DETERMINATION OF NON-SIGNIFICANCE  
FOR NORTH RAINIER VALLEY NEIGHBORHOOD PLAN UPDATE  
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**APPEAL OF DNS FOR NORTH RAINIER VALLEY NEIGHBORHOOD PLAN UPDATE**

**I. APPELLANTS AND MATTER BEING APPEALED**

Pat Murakami, a North Rainier Valley resident in the North Rainier Valley Neighborhood Planning Area and a business owner on the boundary of the North Rainier Valley Town Center, and Barbara Marino, a resident in the North Rainier Urban Village, on behalf of neighbors, property owners, businesses, students and school families, customers, visitors, commuters, recreation users and themselves, hereby appeal the Determination of Non-Significance ("DNS") issued by the Seattle Department of Land Use and Development for the North Rainier Valley Neighborhood Plan Update. A copy of the DNS is attached.

The area covered by the DNS supported plan update is the entire North Rainier Valley Urban Village.

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

Pat Murakami lives one block outside the North Rainier Valley Urban Village boundaries and owns a business inside the boundaries of the North Rainier Valley Urban Village. Barbara Marino lives in the Urban Village boundary. They and their families, neighbors, property owners, fellow business owners, 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

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- 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
- 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 Rainier Valley
- 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
- Increased need for adequate infrastructure and maintenance and repair of existing infrastructure
- Inadequate fresh water supply for the proposed increase in population
- Long-term and short-term production, storage or release of toxic or hazardous substances
- Conflict with local, state and federal laws and policies, in particular concurrency

### III. BRIEF STATEMENT OF ISSUES ON APPEAL

1. The Director of the Department of Planning and Development ("Director") erred in making a Determination of Non-Significance 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 is full of conclusory assertions, lacks sufficient information, and leaves a number of questions unanswered, and because of that is insufficient to meet the City's obligations under SEPA.

a. The DPD and the Director have not demonstrated that they considered relevant environmental information before reaching their decision.

b. The DNS was procured by misrepresentation or lack of material disclosure.

c. The DNS was not based upon information reasonably sufficient to determine the environmental impact of the proposed neighborhood plan update.

d. The DPD did not demonstrate that environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA

e. The DNS was not based on a record sufficient to demonstrate that actual consideration was given to the environmental impacts.

13. The Director's decision was not based on substantial evidence.

14. The Director's decision was arbitrary and capricious.

15. For all of the above reasons, the Director's decision is an abuse of discretion.

North Rainier Valley has had a neighborhood plan in place since 1999. The 1999 plan was approved by City Council. The scope of the 1999 North Rainier Valley 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 1999 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 in the North Rainier Valley 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 Rainier Valley. 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. Further, when the 2010 census results are released it may be determined that Seattle has exceeded capacity requirements for years or decades to come, rendering further growth plans unnecessary.

The State Growth Management Act and local city policy call for concurrent investment in city infrastructure, services, and support 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 anticipated impact to our increased public safety requirements (police and fire stations and staffing) based on the increase in housing units.
7. No information is provided on the impact to retail space square footage or estimated operating cost of new retail space for businesses.
8. 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 opportunity where the 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 Rainier Valley Plan Update.
2. Direct DPD to complete the notification, community review and validation process required by City legislation for the North Rainier Valley 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, commercial development and other growth factors based on zoning recommendation scenarios.
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 such as glare, shadows and views.
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 1999 North Rainier Valley plan.
7. Direct DPD to bring all aspects of the application and update into compliance with City and State laws, including assessing and mitigating impacts described in item II above.

Appellant Pat Murakami

Signature

*Pat Murakami* AND FOR APPELLANT

Date

1/29/10

BARBARA MARINO

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