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

In the Matter of the Appeals by:

John Dixon
Michele Leonard
Tom Leonard
Kenneth W. Meyer
Michael Oxman
Charles Prestrud
Save the Trees
Seattle Committee to Save Schools
Paul and Amy Wong

Of a Determination of Nonsignificance

Introduction

The above-named appellants filed appeals of the Determination of Nonsignificance for the Seattle School District's Ingraham High School Renovation, Demolition, and New Construction Project. An open record hearing was held over three days, June 25, 27 and 30, 2008, before the undersigned hearing examiner. Written closing arguments were later submitted by some of the appellants.

The Seattle School District's Motion to Dismiss Appeal of Chris Jackins and Seattle Committee to Save Schools based on failure to show evidence of standing was withdrawn upon the required showing. The Seattle School District's Motion to Dismiss Appellants' Claims Regarding Alternatives was granted and evidence regarding alternatives to the proposal ruled irrelevant to the threshold determination and any such evidence in the record was not considered. Appellant Seattle Committee to Save School's motions to restart the appeal process, disqualify the District's counsel and reduce the weight to be accorded the threshold determination, and appellant Charles Prestrud's motion for a continuance were denied.

Though not all of the appellants cited the same factual errors or the same legal issues, this recommendation does not distinguish among the appellants and refers to the generic term "appellants" throughout.

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

Findings

1. The Seattle School District (hereafter "District") proposes to do the following at the Ingraham High School site at 1819 North 135th Street: demolish seven portables and one modular building, construct approximately 20,000 square feet of classroom at the west end of the existing building, reconfigure the parking lot at the auditorium, expand the southwest lot, add parking south of the tennis courts, install drainage systems for the new impervious surfaces, remove approximately half of the stand of trees at the northwest corner of the site, add new trees or other vegetation in the parking lots, at the new addition, the area south of the new addition and at the front entry, and make half frontage improvements along North 135th Street and Ashworth Avenue North. The new classroom addition is to be two stories, however the topography is such that the lower floor of the new addition would be at grade with the Auto Shop to the south. The west entrance is to be on the lower floor. This would require excavation 4-6 ft. below existing grade. A 30-inch rockery retaining wall on the west side of the excavation would be used to lessen the amount of grading necessary and protect more of the trees. The grade would slope down from the base of the rockery toward the new floor level. This approximately 15 ft. wide area would allow for utilities and for construction vehicles access.

2. An environmental checklist was prepared and issued by Ronald English, the District's SEPA responsible official, with a determination of nonsignificance (DNS) for public comment on January 31, 2008. Twelve comment letters and an appeal were received. That DNS was withdrawn. Revisions were made to the proposal and environmental checklist and a Preliminary Draft Environmental Checklist was issued April 17, 2008, followed by a public comment meeting on April 24, 2008. On May 7, 2008, the Revised Environmental Checklist and a Determination of Nonsignificance was issued. Nine appeals were then filed.

3. The Ingraham High School proposal is a project funded by the Building Excellence III capital levy. No new capital levies are proposed at this time.

4. A one page schematic "Master Plan" was used as a tool to assess whether the current proposed changes would have to be modified if additions to the building were necessary in the future for expanded student enrollment. The Master Plan has not been adopted by the District School Board and there is no current plan to expand enrollment. Neither the concepts nor the environmental impacts of the Master Plan have been formally evaluated.

5. The School Design Team, comprised of teachers, parents, two community members, the principal and students, has been meeting from 2005 or 2006. The District's School Design Process applies to this group. Notes from some of these meeting were posted on the District's website. Though not advertised, these meetings were open to the public.

6. The existing Ingraham school facility can accommodate an enrollment of 1400 students. After the addition and alterations, the capacity will remain at 1400. Current enrollment is 1200 students so the facility is not currently used to capacity.

7. The school site has two stands of trees, the northwest stand, "northwest grove", dominated by Douglas firs plus Western red cedars and Pacific madrones, approximately 1.2 acres in size and located at the northwest corner of the school site, and the "east forest." The northwest grove contained approximately 133 trees (trunks), 86 Douglas fir, 19 western red cedar, and 28 Pacific madrone, before four trees were removed. There is very little understory in the northwest grove other than a few salal bushes at the base of several trees, some non-native rhododendrons and grass. The District's practice of regular mowing assured that understory growth would not occur. Unregulated parking of vehicles under the trees also discouraged growth.

8. Measurements by Michael Oxman, a professional tree surgeon and landscaper for 35 years, showed that the District may have underestimated the height of the trees in the stand when the cover letter to the environmental checklist referred to 75 ft. trees. He measured a madrone at 90 ft. high and a Douglas fir at 118 ft. and said that many trees are over 100 ft tall. Based on a core sample of Tree # 88, and historical pictures in the record, many of the trees are around 75 years of age. The pictures from the 1960's show trees above the school building that was built in 1959, but the 75 year figure is reasonable because Douglas firs grow fast when young, the first 30-40 years. The maximum life expectancy for Douglas firs is 1,350 years according to Arthur Lee Jacobson, Trees of Seattle, and typically live over 500 years, if allowed. Urban Douglas fir trees' life expectancy is more likely to be no longer than 100 to 150 years because of human factors, according to Scott Baker, a certified arborist and registered consulting arborist with 34 years of experience.

9. The east forest is approximately 1.2 acres in size, including a portion on Seattle Parks Department land and, because it has trees and understory, can be considered a forest. The east forest shows less use by humans.

10. DCLU Director's Rule 6-2001, a City of Seattle administrative rule to clarify the SEPA Plants and Animals Policy for determining the value of trees on sites that are the subject of environmental review for use of the City's substantive authority to condition permits, calls for the protecting of trees where the proposed development would reduce or damage "rare, uncommon, unique or exceptional plant or wildlife habitat", "wildlife travelways", or "habitat diversity for species (plants or animals) of substantial aesthetic, educational, ecological or economic value." According to the rule, madrona trees are in the category that should sometimes be designated as exceptional. A footnote points out that young trees are more worth saving than old, large ones. Criteria to be used to establish the importance of individual trees include the condition and/or location that is not injurious to the public, and trees that can be expected to be alive and be healthy for a minimum of 20 more years. Placing madronas in the "should *sometimes* be designated as exceptional" category was apparently based on the relative actual abundance of madronas, which is known to be declining, their lifespan which is shorter than the

conifers, reproductive rate, they do seed when disturbed but difficult to replant, judgment as to ornamental value, and post-construction life span. Footnote 1. Here, the madrones are in the declining stage of their life, which Baker estimates to be another ten plus years.

11. None of the madrones in the northwest grove was found to be exceptional, largely because of their age and declining health, however the health of the remaining madrones may actually improve with mulch added to the soil and added understory. The stump of one of those removed is still living and may regenerate. Also, the street improvement construction may disturb them and cause them to reseed. Some trees in the east forest are considered exceptional so would be considered for protection under the Director's Rule if they were to be affected by a proposal.

12. The number of trees in the northwest stand proposed to be removed was reduced from 99 to 73 after comments to the initial checklist and DNS, according to Table1 in the environmental checklist. The trees scheduled for removal, according to the environmental checklist, comprise 50 Douglas fir, 10 western red cedar and 13 Pacific madrones. The cover letter suggests the removal of 67 is proposed and the SEPA official testified that the accurate figure is removal of 55 conifers in the northwest stand and 13 Madrones for a total of 68. The appellants are correct that it is very difficult to determine the exact number and the specific trees to be removed, however it was clear that more than 50 percent of the existing trees in the stand would be removed in any case.

13. The trees to be removed are those within the building footprint and 10-15 ft. beyond to accommodate grading and utilities. Figure 7 in the environmental checklist shows species, diameter at breast height (dbh) and location of those trees, though its reduced size makes it very unclear. It serves as a tree inventory, though with less detail than some inventories. Ms. Kinkead testified that this information would meet the requirement of several municipalities for a tree "inventory." Figure 9 in the environmental checklist shows the proposed plantings for the northwest grove. Twenty-eight new trees would be added to the stand and 20 street trees are to be planted in the sidewalk area nearby, according to the text of the environmental checklist and the cover letter. Table 1, p. 16 of the checklist and the Figure 9 show a lower number, i.e., 18 new conifers. The northwest area would then have around 60 mature trees and 38 or 48 new trees, depending upon which part of the checklist is correct. Some 300 native plants such as salal, huckleberry and vine maple would be planted among the stand. The final count of trees would be no fewer than 98 and could be as many as 114, depending on the number of trees removed and number of new plantings, down from 133 existing. The area is also to be covered with a 3-4" layer of arborist wood chips as mulch which should improve the health of the remaining trees.

14. No trees in the east stand would be removed but the proposal does include removal of invasive species to improve the health of the stand. There are no plans to remove the stand in the future however there is no guarantee that it will exist in perpetuity.

15. The environmental checklist shows that there would be a total of 308 new trees planted on the site, counting the 149 street trees planted as part of the street

improvements. In addition to the 300 shrubs in the northwest corner, some 8,000 shrubs and ground cover plantings would be used on the site.

16. The environmental checklist states that in five years after planting there will be a substantial increase in vegetation and tree coverage on-site. Tree canopy coverage would increase from 2.4 acres to 4.03 for coverage of approximately 14.4 percent of the site. Kas Kinkead, a landscape architect, calculated the amount of existing and future tree canopy as shown in Exhibit 40. For the individual trees, she developed the weighted average diameter in feet for the various types of conifers and for the various types of deciduous trees to be planted, and multiplied those times the numbers of trees. The individual tree canopy diameter used in the calculation was on the conservative side in all cases. For the existing canopy of the two stands plus a small clump on the south side of campus near N. 130th, she used the aerial photographs, a standard practice. Both Kinkead and Cohen, with measurements by Dixon, concluded that the removal of trees would result in a 55 percent canopy loss at the northwest grove, before adding new trees.

17. The new trees and other vegetation on the site may not offset the loss of the function of the mature trees for a greater time than the five years suggested by the environmental checklist. According to Cohen, the replacements may not be equivalent even in ten years, though her opinion may have been influenced by her higher tree mortality expectations than the record demonstrates is likely to occur.

18. Appellants were critical of the estimation of canopy because height was not considered, which Ms. Cohen said was an important factor because taller trees provide more benefit. The definition of canopy cover used by the United States Department of Agriculture is "the fixed area covered by crowns and plants delimited by vertical projection of the outermost perimeter of the spread of foliage," a definition that does not seem to include consideration of the amount of foliage from the crown to the ground. John Dixon suggested that the definition of canopy should include the amount and distribution of leaf area that covers the ground.

19. There are estimated to be some 500,000 to more than 700,000 trees in the City of Seattle according to the City of Seattle Urban Forest Assessment. The City of Seattle's Comprehensive Plan has no net loss of urban forest as a goal. The City's Urban Forest Management Plan sets a citywide goal of increasing tree cover to thirty percent in thirty years. The goal for institutional property is somewhat less but the 15 percent stated in the environmental checklist is questioned by the appellants. With the proposed plantings on site, the tree coverage is estimated to increase from the current 8.5 percent to approximately 14.4 percent.

20. Besides trees on private properties in the immediate area, there are other tree stands and forests in the area. In addition to the east forest on the subject site, specifically mentioned were Northacres Park, over 20 acres in size and less than a mile away with hundreds of trees, several about 2/3 mile away to the northeast between Lakeside School and I-5, and the wooded area around Haller Lake, less than 2/3 mile away.

21. Appellants questioned whether the trees remaining in the northwest grove would survive the changes to the grove. Older trees are less able to tolerate construction impacts and environmental changes than younger ones, according to Steve Zemke. Madrones in particular do not respond well to change. A change in the amount of water reaching established conifers, either too much water or soil on the edge of a cut drying out, for instance, could have an adverse effect, though not as pronounced as for madronas. Baker agreed drying on the edge where the excavation takes place would have to be monitored. Exposure of inner trees when edge trees are removed may result in sun scald and new diseases, besides wind stress, depending on their condition. Disturbance of roots may destabilize trees or otherwise affect their health and viability.

22. The irrigation system is planned so that all of the new plantings would be irrigated but the irrigation system would be designed to avoid water reaching the madrones and be zoned and have timing capability so water can be applied according to vegetation need, type of soils, amount of precipitation, etc.

23. Appellants also questioned whether the new trees would survive to maturity. During the first four years, the "establishment" period, the average mortality of trees is 5-7 percent per year (Testimony of Dixon), with half of the overall loss in the first year, according to Exhibit 3. John Dixon, an experienced landscaper, also stated that the care received by new trees in the first year is "make or break." In the post establishment period, usually 4-30 years, the mortality drops to one percent. Small trees, 5-6 ft. tall, are being specified in the proposal because transplanted larger trees are heavily stressed for five years, much longer than smaller trees, and have a lower survival rate.

24. Trees where too much of the root system will be disturbed by construction, thirty percent or more, are among those to be removed. The critical root zone (CRZ) for trees on the edges was considered in determining the trees that would need to be removed. Even roots removed outside the CRZ may affect the health of the tree, according to Cohen but some vigorous trees can wall off damage. Douglas firs are more tolerant of root disturbance than cedars, for instance. Baker examined every inner tree to judge its health and wood strength for ability to withstand exposure at the edges. He found a fairly open stand so that all trees are exposed to wind. He found the root systems on all the trees that would become edge trees well distributed giving those trees stability. He found their height to diameter ratio, a measure of stability, "pretty good." He also observed that prevailing winds are from the south and southwest. The trees that will be on the edge are on the east side of the grove and have the building to shelter them from any easterly winds and trees on the north side of the street to obstruct northerly winds. His conclusion is that the exposed trees would be stable. Potential damage from planting new trees and understory will be avoided by the use of air spades in planting.

25. There was also concern with the species selected, specifically the Leyland cypress and flowering cherry. Leyland cypress trees have a shorter life span and are more susceptible to disease than some species and did not do well on the garage near Husky Stadium at the University of Washington. They were selected here for the area in front of Autotech building and the service area southwest of the auditorium, spots with restricted