

Hearing Examiner- Land Use Appeal

- Identify all the specific Master Use Permit component(s) you are appealing
- Specify your exceptions or objections to our decision, and the relief sought
- Comply with the Hearing Examiner's rules for appeals

LAND USE/SEPA DECISION APPEAL FORM

It is not required that this form be used to file an appeal. However, whether you use the form or not, please make sure that your appeal includes all the information/responses requested in this form. An appeal, along with any required filing fee, must be received by the Office of Hearing Examiner, not later than 5:00 p.m. on the last day of the appeal period or it cannot be considered. Delivery of appeals filed by any form of USPS mail service may be delayed by several days. Allow extra time if mailing an appeal.

1. Appellant: If several individuals are appealing together, list the additional names and addresses on a separate sheet and identify a representative in #2 below.. If an organization is appealing, indicate group's name and mailing address here and identify a representative in #2 below.

Name Naomi E. Ruden

Address 1321 E. Union Street Unit 104 Seattle, WA 98122

Phone: Work: _____ - _____ Home: 206-612-5710

Fax: _____ - _____ Email Address: daytripping@hotmail.com

In what format do you wish to receive documents from the Office of Hearing Examiner? Check One:
 x U.S. Mail Fax x Email Attachment

2. Authorized Representative: Name of representative if different from the appellant indicated above. Groups and organizations must designate one person as their representative/contact person.

Name _____

Address _____

Phone: Work: _____ Home: _____

Fax: _____ Email Address: _____

In what format do you wish to receive documents from the Office of Hearing Examiner? Check One:
☐ U.S. Mail ☐ Fax ☐ Email Attachment

DECISION BEING APPEALED

1. Decision appealed (Indicate MUP #, Interpretation #, etc.): 3035728 LU

2. Property address of decision being appealed: 1323, 1321, and 1319 E Union St. Seattle, WA 98122

3. Elements of decision being appealed. Check one or more as appropriate:

☒ Adequacy of conditions ☐ Variance ☒ Design Review and Departure
☒ Adequacy of EIS ☒ Conditional Use ☐ Interpretation (See SMC 23.88.020)
☒ EIS not required ☐ Short Plat ☐ Major Institution Master Plan
☒ Rezone ☒ Other (specify: Impacts to National Register of Historic Places Property, Disabled Parking Access, LIHTCP and LIHC Contracts.)

APPEAL INFORMATION

Answer each question as completely and specifically as you can. Attach separate sheets if needed and refer to questions by number.

1. What is your interest in this decision? (State how you are affected by it)

1. I am a disabled tenant of the Helen V Apartments. This decision directly impacts my access as well as access for all residents of the Helen V to handicapped accessible parking, which is currently on the property. I am deeply concerned about the lack of consideration for the existing tenants, and for the failure of Community Roots Housing and the City of Seattle to identify and properly evaluate the impacts of this potential construction project affecting a National Register of Historic Places Property.

2. What are your objections to the decision? (List and describe what you believe to be the errors, omissions, or other problems with this decision.)

2. 1. Noncompliance with the requirements of the National Historic Preservation Act of 1966 and National Environmental Protection Act of 1970. 36 CFR § Part 800, and 40 CFR § Parts 1500-1508. The Helen V Property is listed on the National Register of Historic Places. Community Roots Housing, the owner, also receives Federal Subsidy for this Property (HUD Project Based Section 8). Before any permits are issued, and before any adjustments to lot boundaries are made, this project must undergo Section 106 and NEPA Reviews. Both Community Roots Housing and the City of Seattle have failed to identify, evaluate and assess the historic impacts to this property, and have failed to initiate the required Federal Review processes.

2. 2. Lot Boundary Adjustments must comply with 36 CFR § 60.14 - Changes and revisions to properties listed in the National Register. Lot Boundary Adjustments to this Property cannot be made until proper review of this Property has been conducted.

2. 3. The Determination of Non Significance, Conditioned, (even with the minor mitigation listed) is severely flawed because of the MHA: Chapter 23.58C - MANDATORY HOUSING AFFORDABILITY FOR RESIDENTIAL DEVELOPMENT- and is inadequate in protecting local historic resources. It is based on an inadequate checklist. Substantial review beyond a simple SEPA checklist should be done to determine the impacts to the Helen V Property. RCW 43.21C.030. Time should also be given to complete the Landmark Nomination and Designation processes.

2. 4. Removal of Existing Handicapped Accessible Parking from HUD Properties in the MHA zones is discriminatory and is in conflict with Washington State Law Requiring Parking in facilities for the aged and disabled. Chapter 70.92 RCW PROVISIONS IN BUILDINGS FOR AGED AND HANDICAPPED PERSONS. Over 80% of the tenants in the Helen V are disabled and require this access. The MHA fails to protect the disabled from discriminatory actions, and fails to preserve existing designated very low-income housing (30% AMI) intended for this population. Failure to meet Seattle Comprehensive Plan Goals: LU 2.7 Review future legislative rezones to determine if they pose a risk of increasing the displacement of residents, especially marginalized populations, and the businesses and institutions that serve them. LU 2.8 Evaluate new land use regulations to determine if there are potential adverse outcomes that may affect marginalized populations or other groups or individuals unfairly, and seek to avoid or mitigate such potential outcomes.

2. 5. As a recipient of Project Based HUD funding, Community Roots Housing must abide by HUD Basic Laws, and consult with HUD before any alteration and new construction may occur on the Helen V Property. Section 504 of the Rehabilitation Act of 1973 provides rights to persons with disabilities in HUD-funded programs and activities. Elimination of the parking facilities of the Helen V Property is effectively a denial of established parking privileges and is discrimination under Section 504. Other

Federal laws that provide nondiscrimination on the basis of disability include the Fair Housing Act, the Americans with Disabilities Act, and the Architectural Barriers Act.

2. 6. The Helen V Property is also subject to a Low Income Housing Tax Credit Program Extended Regulatory Agreement # 20021217000384 and a Low Income Housing Covenant Agreement #2001100300526, which specify terms and conditions applicable for the housing and land located at Lots 8-10, ptn. Lot 5, Block 16, Supplementary Plat of Edes and Knights Addition to Seattle, Vol. 2, pg.194. Community Roots Housing agreed to the terms and conditions set forth in these Agreements that specify that this Property is to be owned and operated in accordance with IRC §42 and shall consist of Low-Income Housing Dwelling Units, together with Facilities Functionally Related to and Subordinate to such Dwelling Units, including parking and common areas for tenant use. The LIHTCP Extended Regulatory Use Agreement also designates a minimum low income housing set-aside of "40/60". The LIHCA specifies that the residential units will be rented to households who at the time of initial occupancy have gross annual household incomes at or below fifty percent 50% median income for Seattle, Bellevue, Everett. This proposal does not comply with these existing agreements and covenants.

2. 7. As for the Design Review, Conditioned, the conditions to not go far enough to resolve many outstanding issues.

Nonconformity

23.28.010 - Purpose.

The purpose of this chapter is to provide a method for summary approval of lot boundary adjustments which do not create any additional lot, tract, parcel, site or division, while insuring that such lot boundary adjustment satisfies public concerns of health, safety, and welfare.

- The new lot boundaries create an additional parcel:
The binding covenant agreement #20201028002233 which if approved alters the Helen V Property Lots 8-10, ptn. Lot 5, Block 16, Supplementary Plat of Edes and Knights Addition to Seattle, Vol. 2, pg.194. It establishes new lot boundaries and creates a separate parcel. However, both parcels are to be considered as one development site. It renders the Helen V Building itself as Nonconforming, and does absolutely nothing to address the Nonconformity created.
- The new lot boundaries remove all outdoor amenity areas directly associated with the Helen V. Elimination of amenity areas also requires review by HUD.
- The Helen V lot does not comply with exit egress requirements of the Seattle Fire Code. See 2.8.
- The new building will block all public views of the Helen V entrance from E. Union St. and 14th Ave . This creates substantial safety issues for the Helen V residents, as well as will block significant historical features of the Helen V Building once determined as a Landmark.
- The new layout will force small community of Helen V tenants to have to pass hundreds of new tenants in order to leave the premises or to do our laundry- does not adhere to social distancing requirements due to Covid 19.

- Substantial height nonconformity is created because of the MHA. Restrict building heights to more appropriate heights of surrounding buildings. Most of existing buildings directly surrounding this project are 1-3 stories in height. Allowing an 8 story building on this site destroys the character of the neighborhood. Does not adhere to Seattle Comprehensive Plan Land Use Goals. LU 1.4 Provide a gradual transition in building height and scale inside urban centers and urban villages where they border lower scale residential areas.

The new lot boundaries do not satisfy public concerns of health, safety and welfare as detailed in Seattle's Land Use Code.

2. 8. The current proposal does not comply with Seattle Fire Code as the courtyard exit egress to the Helen V must be located on the same lot as the Helen V.

1082.5 Access to a public way.

The exit discharge shall provide a direct and unobstructed access to a public way.

Exception: Where access to a public way cannot be provided, a safe dispersal area shall be provided where all of the following are met:

1. The area shall be of a size to accommodate at least 5 square feet (0.46 m²) for each person.
2. The area shall be located on the same lot at least 50 feet (15 240 mm) away from the building requiring egress.
3. The area shall be permanently maintained and identified as a safe dispersal area.
4. The area shall be provided with a safe and unobstructed path of travel from the building.

No safe dispersal area is located on the same lot.

2. 9. Maximum Structure Width and Depth. SMC 23.45.528 Current proposal exceeds Building Depths allowed on this site. Exception 23.45.528.B.1, Although this may be waived upon having a courtyard, 23.45.518; the courtyard does not comply- lot width is 180 feet, courtyard is required to be 55 feet wide on 14th avenue. Courtyard requirements are: No setback is required if a courtyard is provided that is at grade and abuts the street (see Exhibit A for 23.45.518), and the courtyard has:

- a minimum width equal to 30 percent of the width of the abutting street frontage or 20 feet, whichever is greater; and
- a minimum depth of 20 feet measured from the abutting street lot line.

2. 10. FAR in use by the Helen V is misrepresented on the application. Actual FAR in use is 24,316 sq. feet. See Property Tax Records. This FAR will also be excluded upon Landmarking.

2. 11. Solid Waste Requirements are not met SOLID WASTE SMC 23.54.040, and Solid Waste Storage Area designed will be blocking the windows of Helen V Apartments.

23.54.040 - Solid waste and recyclable materials storage and access

E. The location of all storage spaces shall meet the following requirements:

3. The storage space shall not block or impede any fire exits, any public rights-of-way, or any pedestrian or vehicular access;

4. The storage space shall be located to minimize noise and odor impacts on building occupants and beyond the lot lines of the lot;

Trash receptacles need to be located away from property.
Adequate amount of containers will need to be provided.

Also there is no mention of how commercial waste storage will be addressed in this proposal, which is required for the retail space. 21.36.044 - Containers required—Nonresidential.

Every owner, tenant, occupant, and other person responsible for the condition of private property that is not used as a residence or dwelling shall have and use solid waste containers of a number and size sufficient to contain all solid waste generated on the site and shall provide for lawful disposal of all such solid waste.

2. 12. Resolve conflicts with Addressing/Location of Entryway of 1323 E. Union St.

It is an undue burden to force all the residents of the 1321 E Union side of the Helen V Apartments to change their 1321 E Union St address just so one retail establishment located at 1323 E Union St. can have a private address. It also does not make sense to have the addresses scattered in a non logical fashion. This imposes a financial burden on the 1321 Helen V residents, and can disrupt emergency service response and utilities, and post office confusion. If the retail space needs a private address, either use the 1323 E. Union St. Address which was approved, or petition to receive a 1325 E. Union St Address. Also it would be more logical for the 1323 E Union St. Proposed Building to have its main entranceway on E. Union St.

1321 E Union St. Residents should keep their address!

2. 13. Preservation of the Dogwood Tree and Preservation of Lawn Space. The base of the Cornus kousa dogwood tree does meet the qualifications to be an exceptional tree. It is easily 1 ft in diameter, and there's no reason it should be removed. Tenants petition for this tree to be saved, as well as entryway lawn.

2. 14. Location of Construction Staging Area will be extremely noisy and disruptive for 1321 E Union Street residents. It should be moved further north on 14th, or to E. Union St. Construction Staging should not be done directly outside the bedroom windows of Helen V tenants.

2. 15. Seek other alternatives in the design review- such as keeping the line of sight open between the Helen V and E. Union St. Not only for safety issues, but to save the views to the Helen V National Register Historic Property. Consider main entranceway to 1323 E Union St to be located on E Union Street. Consider having separate courtyards to maintain privacy of residents.

3. What relief do you want? (Specify what you want the Examiner to do: reverse the decision, modify conditions, etc.)

3. 1. Do not approve MUP until all Federal Reviews have been conducted.

3. 2. Do not approve Lot Boundary Adjustments until all Federal Reviews have been conducted.

3. 3. Initiate and conduct Federal Historic Preservation Reviews- Section 106 and NEPA. Conduct a full SEPA Review. Consult HUD for Environmental Reviews. Local Historic Preservation office review of Landmark Nomination Application, with Controls placed upon this Property.

3. 4. Attach further conditions on MUP- allow for a Reasonable Accommodation in policies to require parking and eliminated handicapped accessible parking to be replaced in new building and that will be accessible to existing Helen V tenants.

3. 5. Attach further conditions on MUP- If new housing is to be built, comply with the provisions of the LIHTCP and LIHC Agreements- and build this housing for the intended 50% AMI population.

3. 6. Treat as a separate development site, address nonconformity and impacts to National Register Property, impacts to low income and disabled residents. Exclude the Helen V from lot calculations.

3. 7. Require separate outdoor amenity areas that respect the privacy of the residents.

3. 8. Alter locations for waste storage and construction staging. Save the Cornus Kousa Dogwood Tree and the Helen V Lawn.

3. 9. Do not allow any changes to Helen V. Addresses 1319, and 1321 E. Union St. tenants will keep their current address. New building can be 1323 E. Union St.

3. 10. Require Community Roots Housing to explore other Design options.

3. 11. Revert the zone back to LR3. Restrict building height to LR3 zone. Or allow for a gradual transition of heights.

3. 12. Rescind Seattle MHA on the basis of disability discrimination, and nonconsidered impacts to low income housing and historic properties. And for nonconformity with the Seattle Comprehensive Plan RCW 36.70A.120.

Naomi E. Ruden

11/30/2020

Signature _____ Date _____