



City of Seattle

Department of Planning and Development

Diane M. Sugimura, Director

November 7, 2013

Anne Watanabe
Deputy Hearing Examiner, City of Seattle
700 – 5th Avenue, Suite 4000
P.O. Box 94729
Seattle, WA 98124-4729

**RE: Matter of Appeal of Dennis Saxman, et al
(Hearing Examiner File W-13-008)**

Dear Hearing Examiner Watanabe:

The Department of Planning and Development (DPD) has received a request for discovery from the appellants in the above-captioned matter. A copy of the appellants' discovery request is attached to this letter for your reference. The Department has reviewed this request and has already provided the appellants with a list of documents and indicated that those documents will be provided to the appellants. In addition, DPD will furnish other documents as they are determined to be relevant and responsive to discovery that is within the scope of the subject SEPA appeal.

However, DPD believes that some of the appellants' requests for discovery and questions are not relevant to this appeal or within the scope of what is appealable under SEPA, and DPD objects to these requests and questions. We hope that the issues can be appropriately narrowed through discussion at the prehearing conference, which is scheduled for November 13, 2013, and therefore a formal motion to limit discovery or to strike certain elements of the appeal will be unnecessary, but DPD is prepared to file such a motion if agreement cannot be reached in the prehearing conference.

To assist in the discussion at the prehearing conference, the Department states its objections to certain of the appellants' requests and questions below. The references are to each page of the appellants' letter and then to the respective paragraphs on each page. For example, page 1, paragraph 1; page 2, paragraph 1, and so forth. Our letter should therefore be read together with the appellants' discovery request.

DPD objects to the following items:

- Documents that show consideration and analysis of impacts to life-safety. Page 2, paragraph 3. Life safety issues are outside the scope of SEPA review.

- Documents recognizing and discussing that micro-housing has been and is being proposed in a variety of configurations, and considering how that variation determines environmental impacts and affects the analysis of environmental impacts, and which show that variation was actually considered in the environmental impact analysis. Page 2, paragraph 4. This request needs to be clarified. Current proposals for micro-housing are being determined under existing Code and it is not clear what relationship they have to the proposed amendments.
- Documents that reflect consideration and evaluation of the potential environmental impact of prohibiting construction of micro-housing in the Lowrise 1, Lowrise 2, and Neighborhood Commercial 1 zones. Page 2, paragraph 5, part (2). This issue requires clarification. It appears that the appellants are asking DPD to speculate about possible alternative policy choices, and it is not clear how this is relevant to a SEPA appeal of the proposed legislation.
- Documents which show consideration of and evaluation of fire hazards, and other safety concerns. Page 2, paragraph 8. This issue is outside the scope of SEPA review.
- Any documents that explain why the DPD did not consider the environmental impacts of a number of completed and leased projects and a large number of projects under construction. Page 3, paragraph 2. This request required clarification, since completed projects and projects under construction are approved under existing regulations. DPD has not conducted project-level SEPA review at this stage and has not conducted SEPA analysis for many existing micro-units.
- Documents which consider the interaction of regulation and the growth of micro-housing development and how it would affect environmental impacts. Page 3, paragraph 6. This request is very general and unclear and should either be clarified or excluded.
- Documents which discuss the environmental impact of administrative discretion on the growth of micro-housing development. Page 3, paragraph 7. This request is very general and unclear and should either be clarified or excluded.
- Documents which consider the environmental impacts of rezones, upzones and other land use changes that might allow for the spread of micro-housing and congregate residences to zones other than where it is currently located or proposed to be located. Page 3, paragraph 8. This issue is beyond the scope of this legislation and is remote and speculative, and therefore inappropriate for SEPA analysis.
- DPD also objects to the specific questions raised at page 3, paragraphs 12-14 (last three paragraphs) and page 4, paragraph 1. These items are not requests for discovery of documents and are therefore beyond the scope of a discovery request.

Anne Watanabe
November 7, 2013
Page 3

Thank you for your attention to this letter.

Sincerely,

A handwritten signature in dark ink, reading "William K. Mills". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

William K. Mills
Senior Land Use Planner, DPD

cc. Dennis Saxman, appellants' representative

October 31, 2013

Mr. Bill Mills, Senior Land Use Planner
Seattle Department of Planning and Development
PO Box 34019
Seattle, WA 98124-4019

Case W-13-008: Appellants' Discovery Request

Dear Mr. Mills:

In a nutshell, I am asking for all documents used to prepare the SEPA Analysis for the Determination of Nonsignificance (DNS) and the SEPA Checklist. I have two goals in requesting the following documents: one is to obtain copies of any documents that show you generally considered the environmental impacts of factors discussed in the DNS and enumerated on the SEPA Checklist; the second is to obtain information re the evaluation of environmental impacts on specific issues. I also list four questions at the end of this document.

When I use the word "environmental", it should be understood as referring to both the natural and built environment.

"Document" means all written, recorded, or graphic material that is in your possession, custody, or control, regardless of the form of the media in which it is preserved or by whom it was prepared. It includes, but is not limited to, electronic correspondence (e-mails) and drafts of documents, copies of documents that are not identical duplicates of the originals, and copies of documents the originals of which are not in your possession, custody, or control.

General Consideration of Environmental Impacts

Contents of any file maintained regarding the DNS and the SEPA Checklist to the extent they show information reasonably sufficient to evaluate the environmental impact of the proposal.

All documents which Bill Mills and Geoffrey Wentlandt used or considered when the Determination of Nonsignificance and the SEPA Checklist were prepared.

All documents and analyses on which the SEPA Checklist and the Determination of Nonsignificance and their conclusions are based.

All documents and analyses that demonstrate the consideration of whether the same proposal may have a significant adverse impact in one location but not in another location.

All documents and analyses that demonstrate the consideration of the absolute quantitative effects of the proposal, which may result in a significant adverse impact regardless of the nature of the existing environment.

All documents and analyses that demonstrate the consideration of whether several marginal impacts when considered together may result in a significant adverse impact.

Documents considered and the basis for concluding that “The proposed changes would continue to allow and encourage land uses compatible with the existing Comprehensive Plan and neighborhood plans. The proposal is intended to implement Comprehensive Plan land use goals and policies for a broad range of multi-family development in appropriately designated locations.”

Documents that show consideration and analysis of life-safety issues, both as to micro-housing as a particular housing type, and its environmental impact on neighborhood life-safety issues and services.

Documents recognizing and discussing that micro-housing has been and is being proposed in a variety of configurations, and considering how that variation determines environmental impacts and affects the analysis of environmental impacts, and which show that variation was actually considered in the environmental impact analysis.

Consideration of Environmental Impacts on Specific Issues

Documents that reflect consideration and evaluation of the potential environmental impact of :

- (1) Adding development standards to set a minimum square foot size for Micros within Micro-Housing and for sleeping rooms in Congregate Residence, between 185 and 220 square feet.
- (2) Prohibiting construction of micro-housing in the Lowrise 1, Lowrise 2, and Neighborhood Commercial 1 zones.

Documents that reflect consideration and evaluation of the potential environmental impact of existing micro-housing and congregate residence projects, which were examined or considered in arriving at the conclusion that they would be no significant impact.

Documents that are the basis for the DPD’s touting of micro-housing as an affordable housing option, especially any which show a detailed, comparative analysis and consideration of the issue of affordability, including any contribution micro-housing might make to increased rents overall as other landlords increase their rents because of the high square footage rental rates received by developers and owners of micro-housing projects.

Documents which show consideration of and evaluation of fire hazards, and other safety concerns, and their impact on Police and Fire services. I am particularly interested in any documents that consider the environmental impact of a single fire exit in five to six story buildings.

Documents which show consideration of impacts of insufficient parking facilities on the availability of parking for existing neighborhood residents.

Any documents that explain why the DPD did not consider the environmental impacts of a number of completed and leased projects and a large number of projects under construction.

Documents underlying the DPD's statement that the proposal "might not provide for predictability about the allowed density limit, or could lead to a level of density inappropriate for some of the lower density lowrise zones."

Documents which discuss the variety of configurations/designs of existing and proposed micro-housing projects and the effect that might have on environmental impacts.

Documents which reflect consideration of cumulative environmental impacts that are likely to be increased by the concentration of micro-housing in particular neighborhoods.

Documents which consider the interaction of regulation and the growth of micro-housing development and how it would affect environmental impacts.

Documents which discuss the environmental impact of administrative discretion on the growth of micro-housing development.

Documents which consider the environmental impacts of rezones, upzones and other land use changes that might allow for the spread of micro-housing and congregate residences to zones other than where it is currently located or proposed to be located.

Documents explaining the rationale behind counting only some of the separately leasable units in a building for various purposes.

Documents which were used to evaluate the likelihood of micro-housing to increase demands on transportation or public services and utilities?

Any other documents containing information reasonably sufficient to evaluate the environmental impacts of the proposal and which was actually used by the DPD to arrive at the conclusions found in the Determination of Nonsignificance and the SEPA Checklist.

Specific Questions:

What micro-housing projects were visited by the DPD for preparation of the Determination of Nonsignificance and the SEPA Checklist?

Did the City conduct any neighborhood specific analyses of impacts of the proposed action? If so, please describe those analyses, and provide any documents evidencing these analyses.

What percentage of the entire developable land area of Seattle is in all zones that allow multi-family residential uses in City of Seattle?

Would you elaborate on what is meant by the statement that the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision?

How would you like to proceed with this? Would you just like to make copies of the relevant documents or could you just assemble them and then I could come in and examine them to determine which documents I would like a copy of, like in public disclosure procedures. It could be a way of saving time, paper and expense for everyone, and for controlling the size of the record on appeal.

Thank you for your time and attention.

Sincerely yours,



Dennis Saxman

Cc: Geoffrey Wentlandt, Mike Podowski

Certification of Service

Copies of this Discovery Request were provided to Bill Mills, Geoffrey Wentlandt and Mike Podowski via email on November 1, 2013.

Executed this 1st day of November, 2013



Dennis Saxman,
Authorized Representative
1020 E. Denny Way #15
Seattle, WA 98122
(206)328-5326
peregrin@isomedia.com