

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeal of

DENNIS SAXMAN, et al.,

W-13-008

From a SEPA determination by the Director,
Department of Planning and Development

ORDER ON REQUEST TO INTERVENE

On December 16, 2013, the Wallingford Community Council (WCC) filed a request to intervene in this matter. WCC identifies itself as a “substantially interested organization that wishes to preserve appeal rights should a decision be adverse to the current litigants.” On December 18, 2013, the Department of Planning and Development (DPD) filed a response opposing intervention. DPD argues that the WCC is barred from intervening under WAC 197-11-545 because it failed to comment on the Determination of Nonsignificance (DNS) during the public comment period. DPD also argues that granting WCC’s request would constitute a substitute means of appealing the decision, so intervention is therefore prohibited under HER 3.09(a).

HER 3.09(a) provides that “intervention is not a substitute means of appealing a decision for those who could have appealed but failed to do so.” Under HER 3.09(b), an intervention request must state how the person or entity making the request is affected by interested in the matter appealed, and “must demonstrate a substantial interest that is not otherwise adequately represented.”

WCC’s request appears to be a substitute means of appealing the SEPA decision. Also, the request does not demonstrate that WCC’s interests would not be otherwise adequately represented by the Appellants, who are residents of neighborhoods throughout the City, including Wallingford. Because the request to intervene is not consistent with HER 3.09(a), and fails to demonstrate the requisite showing under HER 3.09(b), the request is hereby denied. It is not necessary to consider DPD’s argument that WAC 197-11-545 (SMC 25.05.545) should be interpreted so as to bar intervention by WCC.

Entered this 27th day of December, 2013.



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