

**FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE**

In the Matter of the Appeal of

**JACQUELINE SZIKSZOY;
SHAUNA CAUSEY; MARYANNE
WOOD; and, KATHLEEN OSS**

from a decision by the Director,
Seattle Department of Construction
and Inspections.

Hearing Examiner Files:
**SDD-23-003; SDD-23-004;
SDD-23-006; SDD-23-008**

Department Reference:
3039297-SD

FINDINGS OF FACT

1. Background. Seattle Public School District (“School District”) is rebuilding Alki Elementary, 3010 59th Avenue SW. Following environmental review, Seattle’s Department of Neighborhoods reviewed the proposal, accepted comment, and issued a recommendation. Seattle’s Department of Construction and Inspections (“Department”) then approved nine code departures, one of which (Departure #5 for curb cut width) was withdrawn at hearing. The contested departures allow:

- **Departure 2:** Less than required vehicle parking, SMC 23.54.015;
- **Departure 3:** Off-site bus load and unload, SMC 23.51B.002(I)(4);
- **Departure 4:** Curb cut to a service area without parking, SMC 23.54.030(F)(2)(b)(3);
- **Departure 6:** Larger curb cut flare, SMC 23.54.030(F)(5);
- **Departure 7:** Less than required long-term bicycle parking, SMC 23.54.015, Table D;
- **Departure 8:** Less than required weather protected bicycle parking, SMC 23.54.015(K)(2); and,
- **Departure 9:** Changing image electronic sign, SMC 23.55.020(B).¹

Jacqueline Szikszoy, Shauna Casey, Maryanne Wood, and Kathleen Oss (jointly, “Appellants”) appealed.² The Appellants support school reconstruction but raised concerns on specific impacts. The four appeals focused on the removal of existing on-site parking and the site’s unique nature due to its small size, the tight surrounding street grid, and its proximity to Alki Beach.

2. Hearing. The hearing was held July 25, 2023. The four Appellants each appeared. Ms. Goddard represented the Department. Ms. Kendall and Mr. Patterson, of McCullough Hill PLLC, represented the School District.

¹ Exhibit 1 (Decision).

² Two other appeals were dismissed.

3. Witnesses. The Appellants testified, along with Gary Norris (a transportation engineer), Terri Saxlund, and Ben Lormis. The School District called Rebecca Hutchinson, the project manager and architect with Mahlum, and Tod McBryan, a transportation engineer with Heffron Transportation.

4. Exhibits. All exhibits were admitted without objection: Department Exhibits 1-6; School Exhibits 1-8; Ms. Szikszoy's two exhibits; Ms. Wood's Exhibit 1; and, Ms. Oss's Exhibits 1 and 2.

5. Site Visit. The Examiner visited the site late in the morning on August 2, 2023, which closed the record. The visit provides context, not evidence.

6. Review Process. Due to COVID-19 public gathering restrictions, the Department of Neighborhoods, in lieu of public meetings, accepted written public comment before issuing a recommendation to the Department. Appellants identified concerns over the adequacy of neighborhood representation in the review process, but this was not an appeal issue.

7. Zoning. The site is within Lowrise 1 (M) or LR1(M) zone. To the north is Neighborhood Residential 3 (NR2), to the south is LR1(M), to the east is NR3, and to the west is LR1(M). Alki Beach is two blocks north.

8. Project. At 1.4 acres, Alki Elementary has the smallest site of the District's elementary schools.³ Originally built in 1913 as a ten-room brick building, the school was expanded in 1954. A 1965 earthquake damaged the structure's older portions and the school was repaired in 1967, with the older areas replaced.⁴ Reconstruction would provide increased capacity.

When traffic data was collected in 2021, enrollment was 308 students, below the reported 369 student capacity, and below a peak of 413 students in 2015.⁵ Much of the new enrollment will be for pre-school students. Current staff is 38; the new staff figure is 75.⁶

The school would be designed to accommodate 502 students plus up to 40 children in early learning (pre-school) programs, which would represent a net increase of about 173 students compared to current school capacity and an increase of 234 students compared to the enrollment at the time of data collection for this analysis. SPS estimates that total staffing at the school would be 65 to 75 employees – an increase of 27 to 37 compared to current conditions.⁷

³ School Exhibit 8 (Power Point), p. 15.

⁴ School Exhibit 8 (Power Point), p. 16.

⁵ School Exhibit 3 (SEPA Checklist), Att. G (Traffic Analysis), p. 2.

⁶ School Exhibit 3 (SEPA Checklist), Att. G (Traffic Analysis), p. 26; Testimony, Ms. Causey.

⁷ School Exhibit 3 (SEPA Checklist), Att. G (Traffic Analysis), p. 4.

9. Street Layout. The school is set within a single-family neighborhood. Alki Playground and Whale Tail Park are adjacent to the north. With Alki Beach two blocks north, the school is also within an area which is a regional recreational draw.

The site has limited street access, with just one right-of-way, 59th Avenue SW, fronting the school to the west. 59th Ave SW is signed for on-street bus loading and unloading in front of the school and for parent drop-off north of SW Stevens Street. Both loading zones are signed for 15 min parking from 7-10 AM and 1-4 PM, with parking not otherwise allowed. Due to its narrow width, during drop off and pick up times, 59th effectively becomes a one-way street.⁸ Secondary access points at the northeast and southwest corners will continue to be used with the new building for pre-school and child-care access.⁹

10. Parking Reduction. The code requires 48 parking spaces. With the removal of all on-site parking, the School is proposing no parking. Current on-site parking allows for over 20 parking spaces and the lot is “always completely full”¹⁰ with the parking space “well used.”¹¹ As the striping is old, there is not an exact parking space number. This parking is coupled with a space to the north (but owned by the City) which can accommodate about 27 vehicles and is used for school events.

A paved surface with room to park about 20 vehicles is located on the south side of the school buildings and is accessed from a driveway at the south edge of the site on 59th Avenue SW. Much of the parking lot striping has faded, but historical aerial images indicate the area has been used for parking 20 or more vehicles. This area is also used for trash and recycling container storage and pick up.¹²

The hard-surface area north of the building is City of Seattle Property ... but is also used for school-event parking. Historical aerials indicate the surface can accommodate about 27 parked vehicles.¹³

Public school parking requirements are based on new assembly space (commons and gymnasium) rather than daily school day demand, so do not necessarily account for day-to-day needs. For Alki, the calculation is based on the 3,800 square feet of dining commons and excludes the 6,000 gym square foot gym as total gym space is not being increased.¹⁴ If included, 123 spaces would be required. For private schools without assembly space, one space per each staff member would be required (75 spaces).¹⁵

⁸ Testimony, Appellants’ witnesses and Mr. McBryan.

⁹ School Exhibit 8 (Power Point), p. 29.

¹⁰ Testimony, Ms. Causey.

¹¹ Testimony, Ms. Causey.

¹² School District Ex. 3 (SEPA Checklist), App. G (Transportation Analysis), p. 1; School Exhibit 8 (Power Point), p. 56.

¹³ School District Ex. 3 (SEPA Checklist), App. G (Transportation Analysis), p. 2.

¹⁴ School District Ex. 8 (Power Point), p. 57.

¹⁵ SMC 23.54.015, Table C.

The School District's position is that if all code required parking were provided, a parking lot sized at half the buildable area would be required. Accommodating this parking area would reduce the available area for the educational program and outdoor play area.¹⁶ An alternative approach would be buying residential properties to the south to accommodate the 48 parking stalls.¹⁷ The School District did not identify underground parking as an option and while it prefers not to acquire local residences for the school, it did not detail why land acquisition is otherwise infeasible.

The School District completed a parking study in 2021. It was done in December, which was described at the hearing as a low volume period. The traffic engineer testified that his analysis, at Table 2, showed parking capacity at about 50-58% utilization, with 54-74% utilization at build-out.¹⁸ He stated that the December counts would not reflect beach related demand at other times of the year, though school demand largely does not overlap.

[T]he expanded school could generate an additional parking demand of 26 to 45 vehicles; With the elimination of the on-site parking lot, the project could increase demand for on-street parking on school days by 45 to 64 vehicles. ... on-street parking within the site vicinity averages between 50% and 56% occupied on school days with between 157 and 180 unused spaces Therefore, the increase in school-generated demand could be accommodated by unused supply and typical utilization is estimated to remain between 64% and 73%.¹⁹

With the expanded school at its planned capacity, the largest event – Curriculum Night – is likely to cause on-street parking within the study area to be full or to have demand that extends beyond the 800-foot study area. In addition, Curriculum Night typically occurs in late September or early October when seasonal use of Alki Beach front is higher and background on-street parking occupancy can be much higher.²⁰

In addition to the study occurring during a low volume time of year, it occurred during a period with lingering COVID²¹ impacts and Alki bridge closure. The consultant testified that these issues were addressed and confirmed with Google images of parking availability. However, the analysis does not detail the degree to which the unique time-

¹⁶ School Exhibit 8 (Power Point), p. 59.

¹⁷ School Exhibit 8 (Power Point), p. 60.

¹⁸ Department policy is to look to mitigation at 85% capacity. This trigger is not within school departures code requirements.

¹⁹ School District Ex. 3 (SEPA Checklist), App. G (Transportation Analysis), p. 26.

²⁰ School District Ex. 3 (SEPA Checklist), App. G (Transportation Analysis), p. 27.

²¹ Testimony noted individuals were still working at home, so presumably using more parking spaces, but not the degree to which students and staff were doing the same.

period affected it. The School District did not supplement its parking analysis with actual counts based on current conditions.²²

Recommended mitigation for large events included splitting Curriculum Night to occur over two nights and developing a neighborhood communication plan to inform neighbors of large events, meaning those expected to draw 400 or more, “the level estimated to cause on-street parking to exceed 85%.”²³

Ample hearing testimony from project neighbors detailed a cramped situation with difficult vehicle circulation patterns, particularly during peak periods, features which will be made worse with the near doubling of students, many of whom will be of pre-school age and will neither walk nor bus. Under these challenging circumstances, virtually all 75 staff members would have to secure off-site parking, in contrast to the current situation, where there is at least some on-site parking for staff.

The School District’s traffic engineer detailed the mitigation measures which would be in place to provide for more orderly traffic flow. However, the engineer did not refute the neighbors’ depiction of on-site traffic circulation during peak periods and their personal experience with the difficulties in locating parking. He stated he had observed congestion and undesirable vehicle movements. He expected that with a traffic management plan, parents would likely be directed to essentially treat 59th as a one-way street, though its legal designation was unlikely to reflect that de facto operating condition during the drop-off and pick-up periods.

Testimony from neighbors emphasized that the approach taken here may be safe in another, less constrained neighborhood which is not two blocks from a regional park destination but is impossible here.²⁴

The code recognizes the unique and constrained circumstances through the Alki Area Parking Overlay, which imposes a higher minimum parking requirement of 1.5 spots per multi-family unit.²⁵ Though not addressed in the School District’s parking analysis, according to one citizen’s testimony this figure is higher than elsewhere except the U-District.²⁶ Certainly, the overlay’s presence is unique. One of the Appellants testified about her experience in spending a considerable sum of money to add a parking spot.²⁷ It was unclear to the Appellants why an elementary school with 542 students and 75 staff members is providing no parking.

²² See e.g., School District Ex. 3 (SEPA Checklist), App. G (Transportation Analysis), p. 17 (“It is acknowledged that parking demand in the vicinity is also influenced by the seasonable activities at the Alki Beach front, which are not reflected in the counts from December 2021.”).

²³ School District Ex. 3 (SEPA Checklist), App. G (Transportation Analysis), p. 27.

²⁴ Testimony, Ms. Causey. See also testimony from the Appellants’ witnesses. Appellants noted that even in less constrained situations, greater parking is provided at other schools. Appellant Oss Ex. 2.

²⁵ SMC 23.54.015, Map B.

²⁶ Testimony, Ms. Causey.

²⁷ Testimony, Ms. Causey.

Ms. Causey testified about her experience in walking the neighborhood on March 20 and 23, 2023. She stated she walked within 30 minutes of both drop off and pick up at the school. Within about eight blocks, she found two spots open and 15 illegally parked cars, resulting in negative parking. The School District's traffic engineer stated he was not surprised at the observed road zone extension or the illegal parking.

The traffic engineer stated that for emergency situations, physical conditions are not all that different from other streets of similar widths, and if problematic the city could designate non-arterial emergency access. It was not disputed that conditions are cramped and emergency access during these peak periods face challenges.

There was also concern about the one off-site ADA parking spot in what is a chaotic area during peak periods and the difficulty a disabled person would have. This testimony came from individuals who have experienced this issue either through family or sports.²⁸

The experiences of neighbors who live and observe street conditions daily was that the street network density and shorter block faces, coupled with the site's unique conditions, and the removal of on-site parking, will make the situation considerably more difficult for parents dropping off their children and for circulation generally.

The Appellants emphasized that when the December 2021 parking analysis was completed, conditions were different. December is always different, but that 2021 period was an anomaly, particularly with the bridge closure.²⁹ Given the unique site constraints and cramped conditions, coupled with the change between normal conditions and when the study occurred, the Appellants urged that a parking plan be developed which accounts for the busier months of April, May, June, September, and October to reflect current neighborhood conditions and that existing parking remain. Greater attention to parking was not demonstrated to be infeasible. The Appellants reiterated the significant use conflicts present at this highly constrained site particularly when no parking is provided for a use with 542 students and 75 employees.

11. Bus Loading and Unloading. The School proposes to maintain the existing on-street bus loading area. The code allows a rebuilt school to maintain existing on-street bus loading if the school site is not being expanded, student capacity is not expanded over 25%, and the bus loading location is unchanged.³⁰ With the student capacity increase, departure approval is required.

Vehicle site access is limited given the single frontage along 59th Ave SW. There is not available area for an on-site bus loading zone without further land acquisition, such as the residential property to the south, which is why retaining the existing loading zone

²⁸ See also Appellant Wood Exhibit 1.

²⁹ The traffic analysis recognized this for overall volume. "[E]astbound volumes have declined by about 32% in the morning peak hour and by about 17% in the afternoon peak hour compared to the pre-pandemic/pre-bridge-closure 2018 and 2019 data; westbound declines were about 9% in the morning and 28% in the afternoon." School District Ex. 3 (SEPA Checklist), App. G (Transportation Analysis), p. 10.

³⁰ SMC 23.51B.002(I)(4).

was proposed. Due to the limited right-of-way, there are impacts. When in operation, the loading zone, coupled with the student loading zone, effectively creates a one-way thoroughfare.³¹ The bus loading zone though would not exacerbate the current situation. Although the student population is increasing, the School District does not foresee an increase in the number of buses utilizing the area. By code, as the loading zone is not moving or being expanded, the departure is needed only due to the student population increase, though that increase is not expected to increase impacts.

12. Curb Cut to Service Area without Vehicle Parking.³² The School District proposes to provide a curb cut on 59th Ave SW to access the onsite service area without vehicular parking spaces. The proposal will replace an existing curb cut. The proposed curb cut is in approximately the same location as the existing one. The code requires one off-street loading berth and on-site solid waste storage. The curb cut is necessary for access. The Appellants were concerned with conflicts with other users (children and bicycles).³³ The School District's traffic engineer testified that these impacts could be managed. Use would be during non-active hours and vehicles will be professionally driven at slow speeds.

13. Curb Cut Flare. The School District proposes five-foot flares on each curb cut side for a 2.5-foot flare width departure.³⁴ The School District stated safe access to the required off-street loading berth and on-site solid waste storage area requires a curb cut with 5-foot wide flares on each side. The limited site area requires that the loading berth and solid waste storage be arranged side-by-side, which further restricts on-site truck movements. The extra flare width helps trucks safely navigate on and off the site by giving them more room to maneuver, improving sight lines, and providing more clearance from cars parked across the street. School testimony and exhibits detailed improved safety with the adjustment. Appellants did not substantiate with technical information how the request would decrease or impair safety.

14. Bicycle Parking (Long-Term) Quantity. The code requires 78 long-term bicycle parking spaces.³⁵ The School proposes 40. The Department noted that the site does not now provide long-term bike parking that meets current standards and the School District is coordinating with Seattle Parks & Recreation to provide additional bicycle parking for joint use on the park's property to the north.³⁶ The Appellants did not substantiate insufficiency to address demand or material neighborhood impacts.

15. Bicycle Parking Performance Standards. Weather protection will be provided for 22 of the 40 long-term bicycle parking spaces.³⁷ The Appellants did not present evidence substantiating impairment to the user experience or inadequacy of the proposed level of weather protection.

³¹ Testimony, Ms. Wood.

³² SMC 23.54.030(F)(2)(b)(3).

³³ Testimony, Ms. Wood.

³⁴ SMC 23.54.030(F)(5).

³⁵ SMC 23.54.015 Table D.

³⁶ Department Exhibit 1 (Decision), p. 13.

³⁷ SMC 23.54.015(K)(2).

16. Changing-Image Message Board Sign. The single-faced, changing-image message board sign required a departure.³⁸ The sign will face “Parks Boulevard” and Alki Playground, adjacent to the main entry. This location is visible to vehicles, bicyclists, and pedestrians but avoids impacts to neighbors living on 59th Ave. NW. The sign has a canopy, which addresses dark sky concerns and is strictly conditioned.³⁹

CONCLUSIONS OF LAW

1. Jurisdiction and Review Standard. The Hearing Examiner has jurisdiction.⁴⁰ The appeal is reviewed de novo with the criteria the Department used. “The decision of the Director shall be given substantial weight, and the burden of establishing the contrary shall be upon the appellant.”⁴¹

2. Departures. In Seattle most schools are in residential zones as the zoning code lacks a school zone. Typically, school renovations do not meet all underlying zoning requirements, so the SMC allows public schools to request land use code departures. This process provides an opportunity for the surrounding community to provide feedback on the requested departures. The code sets forth criteria specific to public school code departure requests.⁴² The intent is to grant departures from code requirements to accommodate program educational needs. The criteria balance neighborhood context with necessity. Code intent governs facility compatibility with its surroundings, and the Department is to “consider and balance the interrelationships among” these factors:

Relationship to Surrounding Areas. The advisory committee shall evaluate the acceptable or necessary level of departure according to: (1) Appropriateness in relation to the character and scale of the surrounding area; (2) Presence of edges (significant setbacks, major arterials, topographic breaks, and similar features) which provide a transition in scale; (3) Location and design of structures to reduce the appearance of bulk; (4) Impacts on traffic, noise, circulation and parking in the area; and (5) Impacts on housing and open space. More flexibility in the development standards may be allowed if the impacts on the surrounding community are anticipated to be negligible or are reduced by mitigation; whereas, a minimal amount or no departure from development standards may be allowed if the anticipated impacts are significant and cannot be satisfactorily mitigated.

³⁸ SMC 23.55.020(B).

³⁹ Department Exhibit 1 (Decision), pp. 14 and 16 (use limited to 7 AM – 9 PM, one color with a dark background, and no video, flashing, scrolling, rolling, tumbling or moving images).

⁴⁰ SMC 23.79.012.

⁴¹ SMC 23.79.012(D).

⁴² SMC 23.79.002.

Need for Departure. The physical requirements of the specific proposal and the project's relationship to educational needs shall be balanced with the level of impacts on the surrounding area. Greater departure may be allowed for special facilities, such as a gymnasium, which are unique and/or an integral and necessary part of the educational process; whereas, a lesser or no departure may be granted for a facility which can be accommodated within the established development standards.⁴³

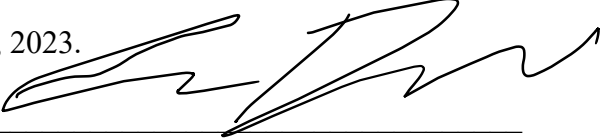
3. Balance of Overall Impacts. The Appellants met their burden to demonstrate that the impacts the neighborhood would bear from no on-site parking has not been sufficiently considered in relation to the site's unique and constrained conditions. Appellants also met their burden to demonstrate that it is not necessary to eliminate all parking to meet educational needs. The approach exacerbates the difficult parking and circulation issues already present in the immediate area even without the expansion. The parking analysis was completed during an extraordinary time-period that does not reflect current or expected conditions. This issue should be revisited, with further thought given to how to improve the balance between school needs against the parking and circulation challenges the area faces.

The Appellants did not meet their burden of proof to demonstrate error for the departures granted for the bus loading zone, curb cuts, bicycle parking, and the sign. These departures would largely not exacerbate impacts over existing conditions. Bus use will not increase, there is room for students and staff to park their bikes, and the curb cut adjustments are not significant departures from current operating conditions. While the Appellants did not meet their proof burden on these issues, more attention to parking impacts within this highly constrained and unique setting is needed.

DECISION

The appeal is **GRANTED** regarding Departure 2 (parking). The Department's decision is otherwise upheld. The decision is returned to the Department for proceedings consistent with the Examiner's decision. Jurisdiction is not retained.

Entered August 10, 2023.



Susan Drummond
Deputy Hearing Examiner

⁴³ SMC 23.79.008(C)(1)(a) and (b).

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner decision to consult code sections and other appropriate sources, to determine applicable rights and responsibilities.

The Hearing Examiner's decision is the final decision for the City of Seattle. Under RCW 36.70C.040, a request for the decision's judicial review must be commenced within twenty-one (21) days of the date the decision is issued unless a motion for reconsideration is filed, in which case the judicial review request must be commenced within twenty-one (21) days of the date the motion for reconsideration order is issued.

The person seeking review must arrange for and initially pay for preparing a verbatim transcript of the hearing. Instructions for preparation of the transcript are available from the Office of Hearing Examiner. Please direct all mail to: PO Box 94729, Seattle, Washington 98124-4729. Office address: 700 Fifth Avenue, Suite 4000. Telephone: (206) 684-0521.

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached **Findings and Decision** to each person below, in **Szikszoj, Casey, Wood, and Oss** Hearing Examiner File: **SDD 23-003, 004, 006, and 008** in the manner indicated.

Party	Method of Service
Appellant of SDD-23-003 Jacqueline Szikszoj jszikszoj@gmail.com	<input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Appellant of SDD-23-004 Shauna Causey shaunacausey@gmail.com	<input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Appellant of SDD-23-006 Maryanne Wood lucilhasa1@yahoo.com	<input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Appellant of SDD-23-008 Kathleen Oss 2707kathyoss@gmail.com	<input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Applicant Legal Counsel McCullough Hill PLLC Katie J. Kendall kkendall@mhseattle.com Isaac A. Patterson ipatterson@mhseattle.com	<input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
Department Holly J. Godard Holly.godard@seattle.gov	<input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger

Dated: August 10, 2023

/s/ Angela Oberhansly
 Angela Oberhansly, Legal Assistant