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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In Re: Appeal by

**FRIENDS FOR A SAFE ALKI
COMMUNITY**

From the February 22, 2024 Revised City of
Seattle Analysis and Decision of the Director of
the Seattle Department of Construction and
Inspections

**Hearing Examiner File:
SDD-24-001**

**SDCI Department Reference:
3039297-SD**

**RESPONDENT SEATTLE PUBLIC
SCHOOLS’ MOTION IN LIMINE**

I. INTRODUCTION AND RELIEF REQUESTED

This appeal concerns a parking-related departure approved by the Seattle Department of Construction and Inspections (“SDCI”) for the Alki Elementary School project (“Project”). The May 14, 2024 Rebuttal Witness and Exhibit List (“Rebuttal List”) submitted by Appellant Friends for a Safe Alki Community (“Appellant”) includes two exhibits that relate to a school district policy issue – decisions regarding possible school closures – that is outside the scope of this hearing. Pursuant to Hearing Examiner Rules of Practice and Procedure 3.12(b) and 3.18(b), which limit testimony and evidence to relevant issues, Respondent Seattle Public Schools

1 (“District”) respectfully requests that the Hearing Examiner exclude these exhibits from the
2 record and disallow questions concerning the possible school closure process during the hearing.

3 II. STATEMENT OF FACTS

4 SDCI originally approved several departures for the Project in May 2023, including
5 granting a departure to reduce the required parking on site to zero parking stalls (“Decision”),
6 and a group of appellants appealed the Decision to the Hearing Examiner. After a hearing, the
7 Examiner issued an order (“Order”) remanding the Decision to SDCI for additional consideration
8 regarding only Departure No. 2, which concerned parking. *Appeal of Szikszoy et al.*, HE Nos.
9 SDD-23-003, SDD-23-004, SDD-23-006, SDD-23-008; Findings and Decision at 9 (August 10,
10 2023). Specifically, the Examiner required “further thought given to how to improve the balance
11 between school needs against the parking and circulation challenges the area faces.” *Id.*
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13
14 On remand, the District and SDCI conducted additional analysis of parking and revised
15 the site plan to provide 15 on-site parking stalls. On February 22, 2024, SDCI issued a revised
16 decision (“Revised Decision”) approving Departure No. 2 with a detailed description of the
17 additional consideration conducted in response to the Examiner’s Order.
18

19 Appellant appealed the Revised Decision. On May 14, 2024, after the parties’ initial
20 exchange of witness & exhibit lists, Appellant filed the Rebuttal List. Exhibit 2 on the Rebuttal
21 List is a Seattle Times article entitled “Seattle Schools OKs proposal that could close 20
22 elementary schools.” Exhibit 4 on the Rebuttal List is a Seattle Times article entitled “Four
23 things to know about Seattle’s plan to explore closing schools.”
24

25 III. AUTHORITY

26 **A. Evidence may be excluded when it is irrelevant, unreliable, or immaterial.**

1 The District brings this motion to “enhance hearing efficiency.” HER 3.17(m).
2 “Testimony and argument are limited to matters relevant to the Examiner’s decision.” HER
3 3.12(b). “The Examiner may exclude evidence that is irrelevant, unreliable, immaterial, unduly
4 repetitive, or privileged.” HER 3.18(b).

5
6 **B. District policy concerning school closures is irrelevant to this hearing.**

7 This appeal concerns, and is limited to, a Revised Decision that grants a parking
8 departure to construct 15 on-site parking stalls instead of the 48 stalls required by the City’s
9 Land Use Code. The only question before the Examiner is whether the Revised Decision, in
10 light of the additional analysis and consideration that the District and SDCI conducted, complies
11 with the basis for remand stated in the Order. *See Appeal of LaVassar et al.*, HE No. MUP-22-
12 007, MUP-22-008, Order on Motion to Dismiss at 2 (Sept. 15, 2022) (“The only issues the
13 Examiner can now entertain are those relating to the revisions.”); *see also id.* (“Any other
14 approach would continually open-up a decision to appeal even on issues already litigated before
15 the Examiner”).

16
17 The two rebuttal exhibits listed above do not concern the basis for remand or the
18 additional analysis conducted in response to the Order. Instead, they concern District-wide
19 deliberations and operational decisions that are not part of the Project or the appeal. The
20 Decision approved the Project as initially proposed by the District. As required by the Order, the
21 Revised Decision describes, in detail, SDCI’s additional consideration regarding the impacts of
22 the revised parking departure request on the surrounding neighborhood. This additional
23 consideration and all other aspects of the Revised Decision approving the parking departure for
24 the Project at its proposed capacity of 502 students and up to 40 preschool students are decisions
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1 concerning what the District plans to construct for, and how it plans to operate, one school on
2 one site. Decisions regarding enrollment, capacity, or potential closure of other schools are
3 beyond the scope of the Revised Decision. Because such decisions are irrelevant to the balance
4 of educational need for the Project and its impact on the surrounding neighborhood, they are
5 outside the scope of the hearing. Accordingly, evidence regarding such decisions is irrelevant
6 and should be excluded.
7

8 **IV. CONCLUSION**

9 For the reasons stated above, the District requests that the Examiner exclude Rebuttal
10 Exhibits 2 and 4 and prohibit questions and testimony regarding potential school closures during
11 the hearing. In addition, pursuant to HER 3.17(b), the District requests that the Examiner
12 designate Friday, May 25, 2024, as the deadline for any written response to this Motion from
13 Appellants, with additional argument (if necessary) and a ruling at the beginning of the hearing
14 on Tuesday, May 28, 2024.
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16 DATED this 20th day of May, 2024.

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