

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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**

APPLICANT’S CLOSING ARGUMENT

I. INTRODUCTION

This is an appeal of a development standard departure granted for Seattle Public Schools’ (“District”) proposed Alki Elementary School Addition and Renovation Project (“Project”). Appellant FRIENDS FOR A SAFE ALKI COMMUNITY (“Appellant”) is a community group challenging the revised decision (“Decision,” SDCI Exhibit 1) by the Seattle Department of Construction and Inspections (“SDCI” or “Department”) to grant a parking departure (“Departure”) under Seattle Municipal Code (“SMC” or “Code”) 23.79.010.A. During a three-day open-record hearing, Appellant failed to meet its burden to show clear error by the Department in approving the departure and thus failed to overcome the substantial weight owed

1 to the Decision. *See* SMC 23.79.012.D.

2 The District established that the Departure is warranted under the criteria in SMC
3 23.79.008.C. Expert and lay testimony by District witnesses support SDCI's findings that the (1)
4 educational need for this departure is met; (2) the departure will not significantly exacerbate
5 traffic, noise, circulation, parking or impact housing or open space in the area; and (3) the
6 impacts of the proposal could be adequately mitigated by the conditions in the Decision.
7 Appellant provided no answer to the parking counts in August, September, December, and
8 February, which all showed consistently available parking during typical school hours. Instead,
9 Appellant's presentation focused on the District's capacity decisions and generalized traffic
10 impacts during pick-up and drop-off. Appellant failed to meet its burden to show clear error
11 because its arguments were (1) irrelevant to the specific departure at issue, (2) based on
12 unreliable and contradictory testimony, and (3) wrong on the merits. The Appeal should be
13 denied.
14
15

16 II. STATEMENT OF FACTS

17 The facts in this matter were established at hearing. The background facts are provided in
18 this section and the relevant facts are discussed in relation to each claim.
19

20 A. Prior School Building and Project Site

21 Alki Elementary School ("School") is located at 3010 59th Avenue Southwest ("Project
22 Site" or "Site") in Seattle's Alki neighborhood. SDCI Ex. 1 at 1.¹ The Site is bounded by 59th
23 Avenue Southwest ("59th") to the west, Alki Playground and Whale Tail Park (collectively
24 "Park") to the north, Alki Community Center and private homes to the east, and private homes to
25
26
27
28

1 the south. *Id.* at 8. The previous school building (“Old Building”), now demolished, occupied
2 most of the Project Site, had a 379-student capacity, and included a small paved area primarily
3 used for staff parking. *Id.* at 11. The School currently occupies the Schmitz Park interim site.
4 Over the past ten years, the School’s enrollment has fluctuated from a high of 413 in 2015 to a
5 low of 271 in 2024. Asencio 3.3, 58:24.²
6

7 **B. Modernization and Expansion Project**

8 **1. The Project**

9 District-wide educational specifications and community input guided the Project design.
10 Rebecca Hutchinson 2.1, 17:00-17:32. The Project will modernize and add to the School's
11 previous facilities, enabling expanded education program offerings and improved access for
12 people with disabilities. Dist. Ex 4 at 12; Hutchinson 2.1, 11:29-12:03. The new building can
13 serve up to 500 elementary students and 42 early-learning students. The Project will include 15
14 on-site parking stalls, including one ADA van stall and another to be converted if needed. SDCI
15 Ex. 9 at 4; Dist. Ex. 4 at 12-13.
16

17 **2. Improvements to Classrooms and Education Facilities**

18 The Project adds classrooms at each grade level to allow teacher collaboration at the
19 cohort level. Dist. Ex. 4 at 12-13. The Project has dedicated spaces for group, individualized, and
20 special education learning needs that were not considered priorities when the Old Building was
21 built. *Id.*; Hutchinson 2.1, 14:57-15:49. The Project also includes classrooms that meet state
22 requirements to accommodate developmental preschool if needed. Hutchinson 2.1, 31:16-32:03;
23
24

25 ¹ Unless otherwise noted, all page numbers refer to PDF page numbers in electronic documents, which may differ
26 from in-document pagination.

27 ² Cites to testimony refer to the witness, the recording segment as posted on the Hearing Examiner website (for
28 example, “2.5” means “Recording Day 2, Part 5”), and the approximate time.

1 Dist. Ex. 4 at 12-13.

2 The Project will also improve student arrivals and departures through a transportation
3 management program, such as the draft program in District Exhibit 5 (“TMP”). Keys aspects of
4 the TMP include (1) separating bus loading from family loading areas, (2) encouraging active
5 transportation, (2) directing vehicle traffic to flow east on Stevens and then north on 59th, (3)
6 cones, signage, and school communications to communicate such vehicle flows, (4) encouraging
7 dispersed school parking through a concept known as “park-your-grade,” and (5) future
8 monitoring to ensure the TMP’s success. Dist. Ex. 5 at 5-11.

10 **C. Project Review**

11 As part of its State Environmental Policy Act ("SEPA") review, the District engaged
12 multiple technical experts to assess the Project's potential environmental impacts and provide
13 information to complete a SEPA checklist ("Checklist"). SDCI Ex. 4. The District issued a
14 Mitigated Determination of Nonsignificance ("MDNS") for the Project. SDCI Ex.4 at 1-4. The
15 MDNS was appealed to the Seattle Public Schools Hearing Examiner on several bases including
16 traffic and parking impacts. The appeal was denied, and the MDNS was upheld. SDCI Ex. 1.

19 **1. First Departures Hearing**

20 The Project required design departures. SDCI Ex. 5 at 3. On May 8, 2023, after earlier
21 approval by the City’s Department of Neighborhoods, SDCI published its decision approving all
22 nine requested departures (“SDCI Decision”). SDCI Ex. 1 at 2. Multiple parties appealed the
23 SDCI Decision, focusing on the Project's lack of on-site parking and the Site’s size, surrounding
24 street grid, and proximity to Alki Beach. SDCI Ex. 6 at 1. The Examiner consolidated the
25 appeals and held a hearing on July 25, 2023. SDCI Ex.1 at 2. The Examiner's August 10, 2023

1 decision, SDD-23-003, 004, 006, and 008 ("Examiner Decision"), affirmed the SDCI Decision
2 on all departures except for the parking departure. SDCI Ex.1 at 2. The Examiner remanded the
3 SDCI Decision, specifically directing that the issue of on-site parking "be revisited, with further
4 thought given to how to improve the balance between school needs against the parking and
5 circulation challenges the area faces." SDCI Ex. 6 at 9.

7 **2. Revised SDCI Decision**

8 Following the Examiner Decision, SDCI issued a correction notice ("Correction Notice")
9 directing the District to respond to the issues raised by the Examiner. SDCI Ex.8 at 1. The
10 District submitted a written response to the Correction Notice. SDCI Ex. 9 at 1. In response to
11 the Examiner Decision, the Project was redesigned to include 15 on-site parking stalls, including
12 one ADA van stall. SDCI Ex. 9 at 4. This redesign removed some highly desirable but non-
13 essential elements, such as a loading platform and a dedicated preschool entrance. Dist. Ex. 4 at
14 22; Hutchinson 2.1, 26:34-29:30. A. Because 15 stalls is still fewer than the Code-required 48
15 stalls, a departure is still needed. Dist. Ex. 17 at 4; Hutchinson 1.1, 09:24. Upon review of the
16 Correction Response and the public comments, SDCI issued its Revised Decision on February
17 22, 2024. SDCI Ex. 1 at 21. Appellant appealed.

20 **III. ARGUMENT**

21 **A. Standard of Review and Burden of Proof**

22 SMC 23.79.012.D provides: "Appeals [of development standard departures] shall be
23 considered de novo. . . . The decision of the Director shall be given substantial weight, and the
24 burden of establishing the contrary shall be upon the Appellant." The phrase "substantial weight"
25 indicates that the standard of review in this Appeal is "clearly erroneous." *See Clallam Cnty.*

1 *Citizens for Safe Drinking Water v. City of Port Angeles*, 137 Wn. App. 214, 224, 151 P.3d 1079,
2 1084 (2007). Thus, Hearing Examiners have applied a "clearly erroneous" in prior appeals.
3 Appeal of Seattle Committee to Save Schools ("Northgate"), HE File No. MUP-21-011, Findings
4 and Decision at 6 (June 17, 2021); Appeal of Parents for Playgrounds and Proper Planning
5 ("Laurelhurst"), HE File No. MUP-15-021, Findings and Decision at 5 (December 16, 2015).

7 In light of this language, the first sentence of SMC 23.79.012.D, stating that appeals
8 "shall be considered de novo," refers to the scope, not the standard, of review. See *Port of Seattle*
9 *v. Pollution Control Hrgs. Bd.*, 151 Wn.2d 568, 595-95, 599 n.9, 90 P.3d 659, 675 (2004)
10 (distinguishing "de novo scope of review," which "speaks only to the scope of evidence that the
11 PCHB must review on appeal," from the "clearly erroneous" standard of review). Here, the de
12 novo scope of review allowed the Examiner to consider new evidence during an open-record
13 hearing but requires that the Revised Decision be reviewed under a clear error standard.

15 **B. Legal Basis for Examiner Decision**

16 SMC 23.79.012.D provides that the "decision on the evidence before the Hearing
17 Examiner shall be made upon the same basis as was required of the Director" – in other words,
18 based on the factors listed at SMC 23.79.008.C. See SMC 23.79.010.A. Considering these
19 factors, a departure decision must weigh the educational need for a departure against the impacts
20 on the surrounding area. Educational need for a departure is based on whether the facilities it
21 provides are an inherent or essential part of the educational process and designed to provide an
22 educational benefit – which is clearly the case here.

25 **C. The Examiner Should Affirm the Revised Decision**

26 Three days of testimony have shown that this Appeal is not really about the Departure or
27

1 the size of the staff parking lot. Instead of comparing the marginal difference between the
2 parking impacts of a 542-student school with 48 parking stalls versus one with 15 parking stalls,
3 Appellant focuses on capacity decisions from the 2019 BEX V Levy. The only question before
4 the Examiner is whether SDCI erred in granting the parking departure after it determined that (1)
5 “the parking impacts will not be significantly exacerbated with the parking departure,” (2) there
6 is an educational need for the departure, and (3) the Project’s impacts can be adequately
7 mitigated. SDCI Ex.1 at 13,16. Appellants provided no evidence to refute the District’s expert
8 witnesses’ findings that parking is consistently available during school operating hours and that
9 there is sufficient street parking to accommodate School staff and pickup and dropoff. Instead,
10 Appellant offered (1) an expert witness who conducted no studies and made incorrect statements
11 on multiple occasions, and (2) anecdotal evidence from opponents of the Project. Appellant has
12 not met its burden and the Revised Decision should be upheld.

13
14
15 **1. The educational need for the Departure is indisputable**

16 a. Student educational needs drive the Project's design, particularly on the ground level.

17 Educational specifications created by education experts (“Educational Specifications”)
18 drive school designs. Asencio 3.3, 1:09:59. The Educational Specifications require schools to be
19 designed to serve at least 500 students in order to offer full-time nursing, PE, art, music, library,
20 and learning support. Asencio 3.3, 1:02:28-1:04:38. Schools of this size have multiple classes per
21 grade, allowing teachers in the same cohort to collaborate and support one another—a desired
22 and effective educational tool. Asencio 3.3, 1:03:15-1:03:58. State law obligates the District to
23 provide developmental preschool opportunities to those children over three years old who require
24 services. Asencio 3.3, 1:08:12. Also, attending preschool in a child’s future elementary school
25
26
27
28

1 improves educational results and encourages students to remain at the school. Because the
2 District builds schools meant to last at least 50 years, schools must be able to accommodate these
3 current and potential future needs. Asencio 3.3, 1:04:39.

4 The Educational Specifications also prioritize specific ground-floor uses to ensure student
5 safety and efficient site operations. Dist. Ex. 4 at 16; Hutchinson 2.1, 18:23. These uses include
6 early learning, kindergarten, communal areas such as commons and lunchrooms, required
7 mechanical equipment, circulation space, and operational uses like kitchens and front offices.
8 Dist. Ex. 4 at 16. Thus, the ground-floor area a school requires is relatively constant regardless of
9 its capacity. Asencio 3.3, 1:13:25. Here, the revised Project has removed every ground-floor
10 design element that is not absolutely necessary to meet educational specifications in order to
11 provide 15 on-site stalls. Hutchinson 2.1, 22:37.

12 **b. Appellant offered no evidence that the District's educational need analysis (as adopted**
13 **by SDCI) was erroneous, and several Appellant witnesses confirmed the educational**
14 **need for the Project.**

15 Appellant's witnesses repeatedly said they want a school at the Alki site. *See generally*
16 *Causey, S. Cuddy, Beal, Hall, Laird testimony.* They agreed that providing special education and
17 breakout space is important. Hall 2.4, 33:31; *see also* Causey, Beal, and S. Cuddy testimony.
18 They agreed that kindergarteners and preschoolers should be located on the ground floor. Causey
19 2.4. One witness said SPS had, in her opinion, cut too much from the ground floor compared to
20 the Project's earlier design. Causey 2.4, 1:02:36-1:02:52. Despite agreeing to the importance of
21 the educational programming, Appellant focuses on the presence of several small preschools
22 near the School. *See* Hall and S. Cuddy Testimony. But Appellant provided no evidence that
23 these small preschools are sufficient for the area or its children with developmental needs.
24
25
26
27
28

1 Appellant also did not meaningfully address the reality that the space and operational needs of
2 ground-floor priority uses essentially fix the size of a school regardless of student capacity.
3 Instead, it suggested replacing the school front office with ground-level cameras, place outdoor
4 learning areas on the rooftop, remove preschool areas, and reduce the school's capacity. *See*
5 *generally* Causey, S. Cuddy, and R. Hutchinson (cross-examination) Testimony. None of these
6 suggestions have merit.
7

8 Cameras cannot replace the safety functions of ground-floor administrative space.
9 Ascencio 3.3, 1:12:26. Putting the School's outdoor learning area on its roof would require
10 fencing that would create bulk and scale issues requiring an additional height departure while
11 exacerbating the emergency safety concerns that motivate keeping kindergarteners and
12 preschoolers at ground level. Hutchinson 2.1, 1:28:49; Gonzales 3.3, 1:47:43. As for removing
13 preschool facilities, Appellant offered no evidence disproving the need for developmental or
14 standard preschool services, especially in light of state requirements. Indeed, Judy Hall, who has
15 expertise in early childhood education, disagreed with Mr. Cuddy's suggestion to remove
16 preschool and testified that this School should include developmental preschool. Hall 2.4, 33:31.
17
18

19 Finally, Appellant's suggestion to reduce school capacity focused on their assumptions
20 regarding the number of children in the Alki area, recent trends in the School's enrollment, and
21 generalized assertions that small schools can meet students' educational needs. Beyond the fact
22 that school capacity has limited relevance to a parking departure, reducing capacity would not
23 reduce the footprint of the building enough to have more space for parking, especially with the
24 efficient, rectangular design of the building. Hutchinson 2.1, 1:04:56-1:06:09; Gonzales 3.3,
25 1:43:04 & 1:49:18. Appellant has shown no way for a school on the Site to meet ground-floor
26
27
28

1 educational needs and provide Code-required parking and none of its testimony on capacity
2 demonstrate that SDCI erred in adopting the District’s educational need analysis, which reflects
3 the need for long-term planning in light of fluctuation in enrollment.

4 c. Alternate school designs could not meet educational needs.

5
6 Ms. Hutchinson explained why three possible strategies to build a school on the Site were
7 not viable. Hutchinson 2.1, 43:51. Simply creating a taller school with a smaller footprint would
8 not work because none of the ground-floor uses could relocate to a higher floor without running
9 afoul of the very reasons that make them ground-floor priorities. Hutchinson 2.1, 22:47-24-53;
10 SDCI Ex. 9 at 3. Moreover, a taller building would require an even more significant height
11 departure while failing to match the neighborhood’s scale (Hutchinson 2.1, 45:39-45:43), so City
12 approval would be far from certain.

13
14 Providing underground parking on the Site would be prohibitive because it poses
15 potential risks to neighboring properties due to dewatering during construction that could
16 destabilize the nearby steep slope critical area. Hutchinson 2.1, 45:46-46:10; SDCI Ex. 9 at 3.
17 Moreover, even if feasible, a garage would require the removal of necessary ground-floor uses
18 while adding \$10 million to the Project’s cost. SDCI Ex. 9 at 3; Hutchinson 2.1, 47:31-48:10.

19
20 Lastly, the District took steps to explore purchasing or condemning two neighboring
21 single-family homes or a 15-unit apartment building but found neither approach was viable.
22 SDCI Ex. 9 at 4. The neighboring properties include steep slopes requiring significant retaining
23 walls, and it is unclear if SDCI could approve such a steep slope incursion. Hutchinson 2.1,
24 48:32-49:54; SDCI Ex. 9 at 4. Even with such effort, the parking that could be provided on either
25 the two eastern properties or the south property would not achieve code-required parking. SDCI
26

1 Ex. 9 at 4. Critically, the purchase or condemnation of these homes would displace up to 16
2 families, which violates the express purpose of the School Departure process to “reduce
3 demolition of residential structures.” SMC 23.79.002.B; SDCI Ex. 9 at 4.

4 **2. The Departure's impacts are not significant and can be mitigated.**

5 **a. Multiple experts agree that the Project will have no significant parking impact.**

6
7 Per the Examiner Decision’s instructions, the District asked Heffron to conduct further
8 analysis of parking supply and utilization to address concerns about the timing of Heffron's
9 earlier parking counts. SDCI Ex. 9 at 2. Conducting additional parking counts in August and
10 September 2024 to reflect both summer and back-to-school conditions, Heffron also added a
11 mid-afternoon count to reflect the pick-up period. Heffron’s September 2023 counts found
12 similar amounts of unused parking to that observed in December 2021, with the former finding
13 159 and 176 spaces (when accounting for the entire supply available after construction parking
14 restrictions are removed) versus the latter’s 162-176 spaces. SDCI Ex. 10, Table 1.

15
16 The District also asked Mike Swenson of Transpo Group to conduct a peer review of
17 Heffron's parking study. Swenson 3.3, 03:22. To provide an “apples to apples” comparison,
18 Transpo studied only the street blocks entirely within the City-required 800-ft study area in the
19 Heffron Reports. District Ex. 5. Transpo conducted its parking counts on February 14, 2024 and
20 found parking occupancy rates similar to those found by Heffron. Between Heffron and
21 Transpo’s efforts, six days of in-person parking counts (two days in December 2021, one day in
22 August 2023, two days in September, and one day in February 2024) and review of aerial images
23 from May 2017, May 2019, and April 2024 all demonstrate that parking is consistently available
24 near in the parking study area. McBryan 2.3, 7:02. Mr. Swenson agreed that the consistency of
25
26
27
28

1 the respective parking counts, which occurred during different times of day and several months
2 apart, increased their confidence in each count's accuracy. Swenson 3.3, 17:03.

3 Mr. McBryan and Mr. Swenson confirmed that the neighborhood's baseline parking
4 supply and utilization are well below the level the City considers parking-constrained. Mr. Norris
5 argued that a parking study is invalid if the study was not conducted while school is in session.
6 This argument is belied by the countless transportation studies conducted prior to the
7 introduction of that use as well as the fact that traffic and parking were studied in December
8 2021 when school was in session. Indeed, Mr. Swenson and Mr. McBryan explained how the
9 absence of school operations actually improved such accuracy calculations' accuracy by
10 eliminating the need to estimate how much baseline utilization was school-related. Swenson 3.2,
11 18:35; McBryan 2.3, 30:50.

12
13
14 Mr. McBryan testified that, based on conservative staffing and mode share estimates, the
15 neighborhood's parking supply could easily absorb any additional demand generated by the
16 revised Project. McBryan 2.3, 8:02. This conservative estimate assumes that all staff and visitors
17 remain at the school the entire day, including 5-15 volunteers (who typically come for an hour),
18 part-time specialists, custodial and lunchroom staff (who are generally on-site for only part of the
19 school day), and Title I teachers, who would only be at the School in the unlikely event it
20 became a Title I school. Skeffington 2.2, 26:13 & 29:36; Dist, Ex. 12. Even assuming all School
21 staff are present at one time, there would still be 125-134 unused stalls available for parking,
22 pick-up, or drop-off. McBryan 2.3, 08:04; SDCI Ex. 10. When staffing realities are taken into
23 account, the impact is even further reduced. Accordingly, the evidence and testimony confirm
24 that the Departure would not create meaningful impacts on traffic or circulation, particularly
25
26
27
28

1 given the mitigation measures and conditions imposed by SDCI.

2 **b. Appellant offered no quantitative data discrediting the three traffic studies.**

3 Instead of offering quantitative evidence to contradict the District’s experts, Appellant
4 relies solely on oral testimony and photographs primarily of pickup and drop-off. Anecdotal
5 lived experience has marginal utility as evidence because observations reflect their immediate
6 surroundings and thus provide an incomplete picture of the study area. McBryan 2.3, 3:52.

7 Anecdotal evidence is also problematic because anecdotes often conflict. For example,
8 Appellant's witnesses offered testimony that conflicted not only with expert data and the
9 District's witnesses but also with each other. Were the observations of all of the Appellant’s
10 witnesses accurate, 59th would be simultaneously (1) riddled with gridlock, (2) an essential
11 emergency vehicle access, and (3) full of speeding vehicles. Similarly, parking would be (1)
12 never available, (2) worst on sunny days, (3) worst on rainy days, (4) available for dog walkers
13 from other neighborhoods, (Causey, Day 3.4, 1:05:57) (5) used by people visiting Alki Beach,
14 and (6) used in the middle of the school day to visit restaurants. In contrast, Mr. Kersman, who
15 lives at 60th and Stevens, and Ms. Clingan, who drives her children to the School, both testified
16 that parking is consistently available on 60th during pick-up, drop-off, and school hours.
17 Kersman 1.4, 10:24; Clingan 3.3, 1:26:39 & 1:1:29:41. Mr. Kersman even noted seeing multiple
18 spots as he testified. Kersman 1.4, 11:51. This aligns with Mr. McBryan’s testimony that the
19 streets closer to the beach are often crowded, but availability opens up closer to the School.
20 McBryan 2.3, 4:02.

21 To resolve such observational conflicts, the City requires specific data collection and
22 analysis to assess a project’s parking impacts. App. Ex. 17 and 18. As the data in the District
23

experts' reports and testimony indicates, the Departure will not significantly impact the neighborhood parking because existing supply is sufficient to meet the demand that would occur with a Code-compliant on-site parking lot and still have sufficient stalls to accommodate pickup and dropoff. SDCI also did not err by not considering the Alki Safe Street project. The project is outside the parking study area, and Appellant provided no data showing how the Safe Street would invalidate the District's parking counts or impact the parking study area. In light of the significant data supporting the decision and no evidence to the contrary, Appellant failed to demonstrate SDCI error in granting the Departure.

c. Mr. Norris' criticism was riddled with inaccuracies.

Although called as a traffic expert, Mr. Norris's testimony revealed a lack of familiarity with the City standards for assessing parking impacts. Mr. Norris also repeatedly conflated trip generation with parking demand despite the valet loading's ability to dramatically reduce parking demand from families arriving by car; as Mr. McBryan noted, only some parents who drive to school will use an on-street parking stall.

Mr. Norris also misunderstood how to apply the two SDCI TIPs to determine the parking study area, arguing that the City standard was a 400-foot radius when it has consistently been 800 feet. Norris 1.3, 1:45:53; Dist. Ex. 15 (clarifying the interplay of the SDCI TIPs). If this was just an isolated incident, it might be possible to overlook such an error. But, as the following table shows, this error was only the first of many.

Incorrect statement	Correct statement
The City considers parking utilization of 75% full. Norris 2.3, 2:09:56	The City considers 85% full use. District Ex. 15
The ITE requires the Project to provide over 300 parking stalls (0.88 per	There is no such ITE standard; the current ITE manual lists only a peak parking demand of 0.14

1 2 3	student), (1.3 at 26:22-27:40)—Mr. Norris confirmed the national study was an ITE rate on cross-examination.	stalls per student. McBryan 1:21:59-1:23:12; Dist. Ex. 14. Mr. Norris provided no evidence on rebuttal that this rate exists. Additionally, at 0.88 stalls per student, it would result in 477 parking stalls. McBryan 2.3, 6:01.
4	School drop-off/pick-up will take “almost six hours” Norris 1.3, 58:50.	Mr. Norris later conceded that pick-up and drop-off would take less than six hours.
5 6 7	Pick-up and drop-off will take two hours if accommodated in the Project’s parent loading area. Norris 1.3, 2:20	Neither Mr. Norris nor any other witness identified a school that requires 2 hours for pick-up or drop-off. Multiple witnesses testified that the arrival and departure periods for the entire School last between 15 and 30 minutes.
8 9 10	The Heffron Report assumed each car in the parent loading area would remain for 15 minutes. Norris 1.3, 2:00:29-2:01:07	Nowhere in the Heffron report does it assume each car will take 15 minutes to unload/load. Mr. Norris confused the signed time limits with actual loading times. Norris 1.3, 2:05:15-2:06:06
11 12	An analysis of pick-up and drop-off was not conducted.	The Dec. 2021 operational analysis was conducted during pick-up and drop-off because that is the busiest time when school traffic occurs. McBryan 2.3, 1:17:52; SDCI Ex. 4.
13 14	5 ADA stalls are required “in accordance with government ADA requirements” Norris 1.3 at 1:18:16.	The City’s Codes govern the Project’s required ADA parking, and the Project meets those requirements.

15
16 Incredibly, Mr. Norris stated outright that only written analysis is valid (Norris 3.4, 43:15-43:53)
17 even though every Appellant witness, including himself, relied solely on oral testimony. Norris
18 2.3, 1:44:20. For example, Mr. Norris stated that parents are less willing to send kids on a bus
19 but also admitted that he had no data to support his opinion. Norris 1.3, 2:21:39-2:25:31. The
20 shifting inconsistencies of Mr. Norris’ testimony prevent it from credibly supporting the
21 Appellant in meeting its burden of proof. When weighed against the consistency and accuracy of
22 Mr. M Bryan and Mr. Swenson, the Examiner should disregard much of his testimony.
23

24 **d. The Revised Project and TMP will significantly improve drop-off and pick-up.**

25 Parking, the subject of the Departure, differs from pick-up and drop-off because the
26 former is extended use while the latter refers to temporary use. As Mr. Norris stated, “The whole
27

1 concept of parking supply is not relevant to the issue of pick-up and drop-off demand.” Norris
2 1.3, 1:58:57. Mr. McBryan agreed. McBryan 2.3, 5:07. Despite this, Appellant witnesses focused
3 almost entirely on parking conditions during pick-up and drop-off while barely addressing, let
4 alone establishing, a lack of parking during school hours outside of pick-up and drop-off. Even
5 viewing available parking under the limited lens of pick-up and drop-off, Mr. McBryan testified
6 that is no significant impact to circulation as a result of the Departure. McBryan 2.3, 5:07.
7
8 Students will use the bus, walk, or bike from their homes, use valet drop-off, or park with their
9 parent and walk in. There is sufficient on-street parking, similar to many schools throughout
10 Seattle, to accommodate both staff parking and pick-up and drop-off with the Departure.
11

12 Mr. Swenson also explained how the Project, with the TMP, will improve drop-off and
13 pick-up at the School. Swenson, 3.3, 20:40. Previously, Mr. Skeffington had directed all traffic
14 on 59th, whether north- or south-bound, to head west on Stevens. Skeffington 2.2, 11:48. Loading
15 occurred directly in front of the School’s entrance on 59th rather than the signed loading zone,
16 which was instead used for illegal parking. While well-intentioned, these procedures created
17 numerous points of conflicting traffic.
18

19 In contrast, the TMP will (1) direct traffic east on Stevens and then north on 59th, (2)
20 encourage valet drop-off at the signed loading area, and (3) include cones and signs to encourage
21 one-way traffic flow and alter those outside of the school community of school hours. District
22 Ex. 5 at 8-10. These changes will have several benefits, including reducing traffic flow conflicts,
23 separating car traffic and bus loading, discouraging illegal parking on the east side of 59th, and
24 dispersed school family traffic/parking. Swenson 3.3, 21:10. As a longstanding mitigation
25 practice, SDCI can assess a TMP’s likelihood of success without knowing its exact details.
26
27
28

1 Guillory 3.4, 1:55:40. Mr. McBryan testified to the efficacy of valet loading and noting a study
2 conducted by Heffron found that an average vehicle takes 33 seconds per to load/unload.
3 McBryan 2.3, 1:10:23. At this rate, the Project’s nine loading zone stalls could accommodate 245
4 vehicles in 15 minutes; an expanded zone could accommodate even more. McBryan 2.3, 1:11:01.
5

6 Appellant witnesses have asserted, without evidence, that a TMP cannot succeed because
7 parents will simply ignore it, and those outside the school will not know about it. Laird, 2.2,
8 52:22-53:26. But Mr. Skeffington, Mr. Swenson, and Ms. Clingan all testified that most parents
9 would participate. Skeffington 2.2, 23:21; Swenson 3.3, 23:18-24:46; Clingan 3.3, 1:29:21. Mr.
10 Swenson explained that the TMP’s cones and signage will help other community members
11 quickly adapt to the TMP. TMPs at multiple other schools have successfully incorporated this
12 dispersed parking strategy. McBryan 2.3, 1:28:01-1:29:23. Even Appellant’s own exhibits
13 recommend that schools encourage dispersed parking for families not doing valet pick-up and
14 drop-off. App. Ex. 15 at 5; App. Ex. 13 at 8.
15

16 Expert testimony shows that TMPs have been effective at other schools and will be
17 effective here to mitigate impacts of the School and the Departure.
18

19 **e. Pedestrian Safety concerns support upholding the Departure.**

20 Appellant has failed to show how the Departure threatens pedestrian safety. All three
21 traffic experts and Mr. Skeffington testified that student pick-up and drop-off neither has nor will
22 occur at an on-site lot because staff will occupy all non-ADA stalls well before student drop-off
23 begins. Skeffington 2.2, 8:38. Indeed, Mr. Norris’ report described “the parking issue” as “truly a
24 ‘red herring’ for the critical issue of providing adequate and SAFE access to the school...” App.
25 Ex. 6 at 1. Appellant's own exhibits specifically recommend against locating either vehicle
26
27
28

1 parking or parent drop-off on-site precisely for pedestrian safety reasons. App. Ex. 12 at 4-5;
2 App. Ex. 13 at 9-10.

3 Despite introducing many pictures of children using the sidewalks and offering testimony
4 that such use is common, Appellant witnesses also alleged that the area's sidewalks are unsafe
5 for children. Sidewalk conditions are of no moment and irrelevant to the issue on appeal because
6 pick up and drop-off will not occur in the parking lot, regardless of size. Moreover, there was no
7 evidence presented that indicates, let alone proves, that a smaller parking lot will increase
8 pedestrian safety risks. Mr. Norris suggested that "it's only a matter of time" before a pedestrian
9 is hit at the intersection of 59th and Stevens. Appellant has also offered no data to contradict
10 Heffron's data showing this intersection, with its stop signs and school-day crossing guards, is
11 safer than average. Under the TMP, families using valet loading will have a safe, direct walking
12 path to the School's entrance, and those arriving on foot will have the help of crossing guards.
13 Appellant has offered no evidence of any pedestrian safety incident in the traffic study area
14 within the past ten years, despite higher School enrollment during that time.

15
16
17
18 Appellant witnesses have also claimed that 59th is problematic because it is uniquely
19 narrow, but it is a standard 25-foot-wide neighborhood street. McBryan 2.3, 47:50. Parking on
20 both sides of such streets, including those near schools, is standard and even encouraged by the
21 City as a way to slow drivers and improve safety. McBryan 2.3, 47:50 & 1:16:51. Here again, an
22 Appellant exhibit contradicts Appellant testimony and supports the TMP's ability to reduce a
23 school's primary safety hazard – traffic speed. App. Ex 13 at 5. Appellant's evidence also rejects
24 Mr. Cuddy's suggestion to seek a curb cut for bus loading, stating that "school property should
25 be reserved for educational functions." App. Ex. 12 at 7. Not only has the Examiner already
26
27

1 upheld a bus loading departure, but a bus cutout can encourage cars to speed past and would
2 require even less space for on-site parking—the ostensible reason for this Appeal.

3 The Project also considers students with additional pick-up and drop-off needs by
4 meeting all ADA accessibility requirements. The Project provides one ADA van stall and can
5 accommodate a second stall. Mr. Skeffington and his team would be able to accommodate any
6 other ADA needs that might arise. Skeffington 2.2, 07:54.

8 The Project also provides a separate early learning entrance. Despite testimony that
9 preschoolers can only safely arrive by foot with on-site parking, other testimony disproves this.
10 Ms. Hall testified that Alki Coop Preschool students cross Admiral Way, while the other
11 witnesses testified that young children commonly walk to the Park. As Appellant's own photos
12 show, preschoolers can, indeed do, arrive safely to school without on-site loading. App. Ex. 1.
13 There is no evidence that the Departure creates safety impacts and the Decision must be upheld.

14 **3. Appellant failed to show that neighborhood impacts will outweigh educational need.**

15 The issue in this appeal, and the Appellant's burden to prove, is whether SDCI correctly
16 balanced the educational need for the Departure against the Project's impact on the surrounding
17 area. Despite this, Appellant has offered no evidence to contest Ms. Hutchinson's and Ms.
18 Asencio's specific and detailed testimony regarding educational needs.

21 Appellant similarly failed to offer credible evidence of neighborhood impacts that
22 outweigh such needs. Mr. Norris's testimony was riddled with mathematical mistakes and
23 erroneous assumptions and conceded that the Departure had nothing to do with parking impacts
24 "because the real concern was the safety of students walking."
25

26 Appellant's witnesses offered conflicting testimony regarding parking, traffic speeds,
27

1 need for developmental preschools, and pedestrian safety. Appellant introduced multiple exhibits
2 expressly contradicting its witnesses' testimony, including from the STSC, that expressly
3 supports the Project. Distr. Ex. 8. Indeed, Appellant's only consistent position has been that the
4 Revised Project is just too big, and this despite Mr. Cuddy's concession that school traffic has
5 been "pretty much the same" since 2015 when the enrollment was 413 students and 57% of
6 families drove to school. Asencio 3.3, 58:32; App. Ex. 10 at 2.

8 This is because this Appeal has never really been about the Departure—just the Project's
9 size. This Appeal must fail absent evidence that SDCI clearly erred in making the Revised
10 Decision. Appellant's anecdotes and the error-riddled testimony of its traffic expert fail to meet
11 this burden.

13 IV. CONCLUSION

14 For the reasons stated above and as demonstrated at hearing, Appellant has failed to meet
15 its burden to establish clear error in any aspect of SDCI's grant of development standard
16 departures. The Examiner should deny the Appeal and affirm the Revised Decision.

18 DATED this 27th day of June 2024.

19 s/Katie J. Kendall, WSBA #48164
20 s/Isaac A. Patterson, WSBA #60255
21 McCULLOUGH HILL PLLC
22 701 Fifth Avenue, Suite 6600
23 Seattle, WA 98104
24 Tel: 206-812-3388
25 Email: kkendall@mhseattle.com
26 Email: ipatterson@mhseattle.com
27 *Attorneys for Seattle Public Schools*