

RECEIVED BY
2015 AUG 20 AM 11:37
OFFICE OF
HEARING EXAMINER

BEFORE THE CITY OF SEATTLE
OFFICE OF HEARING EXAMINER

NEIGHBORS ENCOURAGING REASONABLE
DEVELOPMENT

Appellant,

v.

DIRECTOR, SEATTLE DEPARTMENT OF
PLANNING AND DEVELOPMENT, and JAY
JANNETTE, APPLICANT

Respondents.

CASE NO.

NOTICE OF APPEAL OF DPD
DECISIONS FOR 3050 AVALON WAY
PROJECT INCLUDING APPEAL OF DPD
LAND USE CODE INTERPRETATION,
SEPA DECISION, AND FAILURE TO
CONDUCT DESIGN REVIEW

(Project Nos. 3014342, 3015697, and
Interpretation DPD No. 13-005)

1. APPELLANT/AUTHORIZED REPRESENTATIVE INFORMATION

Appellant Neighbors Encouraging Reasonable Development (“NERD”) is a Washington nonprofit corporation whose members include West Seattle property owners and residents impacted by the proposed development at issue in this appeal. NERD’s authorized representatives in this appeal are Paul Haury and Chuck Burkhalter with the following contact information:

Paul Haury
4115 32nd Are SW
Seattle, WA 98126
phaury@seattlenerd.org

Chuck Burkhalter
4031 32nd Are SW
Seattle, WA 98126
cburkhalterjr@yahoo.com

Documents and communications from the examiner’s office and other parties should be by e mail and telephone.

II. DECISION BEING APPEALED

NERD appeals the August 6, 2015 “Analysis and Decision of the Director” (“Decision”) concerning Master Use Permit Application No. 3014342, the August 6, 2015 Code Interpretation (DPD Interpretation No. 13-005) concerning Project Nos. 3014342 and 6327295, and all related and subsidiary decisions, including the failure to conduct Design Review and the failure to conduct SEPA Review beyond critical area components.

III. APPELLANT’S INTERESTS

NERD members’ interests will be immediately and directly impacted by the proposed project through its failure to adequately address and mitigate significant, adverse parking, traffic, and height/bulk/scale impacts, as well as by the Director’s failure to lawfully apply the Land Use Code. The proposed project will be incompatible with immediately adjacent areas, including particularly ones zoned single family. It will burden the neighborhood with additional traffic and unmet parking demand. NERD members have submitted comments on and actively participated in DPD review of the proposed project.

IV. APPEAL GROUNDS

4.1.1 The Director’s Interpretation that the application vested under the Land Use Code provisions in effect on May 14, 2013 is in error because the prerequisites for vesting were not met and the applications were neither complete nor accurate.

4.1.2 The Director’s Interpretation of the number of dwelling units as 14 is based on an application of the Code that is not consistent with its intent and which elevates gamesmanship over common sense application of the Code.

4.1.3 The Director's Interpretation errs in relying on the lack of individual kitchens in units and on expedient erasure from plans of sinks or built in counters or cabinetry.

4.1.4 The Director's Interpretation erroneously fails to acknowledge and take into account prior statements by Applicant concerning the use of the project; is not based on DPD actual inquiry into the projects's pro formas and representations to others concerning the use of the project; and relies on pretenses that are not enforceable and for which no conditions have been imposed.

4.1.5 The Director's Interpretation erroneously fails to conclude that each of what it calls "104 bedrooms" are actually individual "housekeeping units".

4.1.6 The Director's Interpretation ignores the City's concurrent treatment of the project's "bedrooms" in other contexts under the Land Use Code as discrete households.

4.1.7 The Director's Interpretation errs in not construing the project as a congregate residence subject to all MR zone development standards.

4.1.8 The Director's Interpretation errs in construing the project as below the 20 unit Design Review Threshold.

4.1.9 The Director's Interpretation errs in its reliance on Director's Rule 7-83, which was adopted to address enforcement questions under an earlier iteration of the Code, and which goes outside the Director's authority in applying the Code.

4.1.10 The Director's Interpretation's application of Director's Rule 7-83 substitutes sophistry for common sense, for example comparing 104 individual units with individual door signaling devices to a single family house that has a front and back door bell and, as a further example, claiming that each of the 104 separate units with bathrooms behind the door of each unit are not "separable portions" of the structure when they are in fact physically separated.

4.1.11 The Director's Interpretation erroneously relies on an inapplicable Interpretation and court decision (referred to by name) in another matter from three decades ago.

4.1.12 The Director's Interpretation Decision erroneously refers to a "more recent" superior court decision that rejected DPD's approach, but erroneously claims it does not apply here while not identifying the decision by name.


4.1.13 The Director's Interpretation errs in concluding that the "suites" symbolic rather than useable common areas and sub-sized kitchens support the conclusion that only the "suites" rather than the individual units constitute separate households.

4.1.14 The Director erred in determining that the project meets bicycle parking and trash storage area requirements.

4.1.5 The Director erroneously relied on the availability of the Code-required level of transit as a basis for allowing the project to provide no parking.

V. RELIEF REQUESTED

As relief, Appellant requests that the Examiner reverse and vacate the Interpretation and Master Use Permit Decisions and remand the applications for re-start of the process including SEPA and Design Review.

A handwritten signature in black ink that reads "Paul D. Haury". The signature is written in a cursive style with a long horizontal stroke at the end.

Paul Haury for NERD

August 20, 2015