

RECEIVED

AUG 02 2012

BEFORE THE CITY COUNCIL
CITY OF SEATTLE

SEATTLE CITY COUNCIL

In the Matter of
Seattle University
Major Institution Master Plan

CF 309092

REPLY OF APPELLANTS TO
TO APPLICANT'S RESPONSE TO
NOTICE OF APPEAL

The Appellants, William Zosel and Ellen Sollod submit the following in reply to the Response of Applicants to the Notice of Appeal.

1. Failure of the Decision to comply with SMC 23.69.002

In its Responsive document, Seattle University fails to respond to the argument of Appellants that the proposed Major Institution Master Plan does not comply with SMC 23.69.002. The Major Institution Master Plan sections of the Seattle Municipal Code allow institutions to develop and expand with development standards and uses not allowed to others in residential and commercial zones. However, in return for this privilege the City Council, in SMC 23.69.002 has promised that such development will be concentrated so as to minimize the impact on the ability of neighborhoods adjacent to institutions to grow and thrive.

Seattle University has shown no reason whatsoever for expanding its boundaries to include the blocks between 12th and 13th Avenue centered on E. Marion Street (the Photographic Center site and the residential lots to the south of E. Marion Street and north of E. Columbia Street.) In a Master Plan that describes planned and potential future development projects for the next twenty years, there is no suggestion that any part of these blocks will be developed by for the University. The only purpose expressed is to achieve the ability to prevent development by others.

On the other hand, the Central Area Plan for the 12th Avenue Urban Center Village and the Mayor's 12th avenue Development Plan make it clear that a thriving "urban village" with opportunities for growth and vitality for all members of the community requires that properties such as these in the heart of the hoped-for "main street" of the urban village not be set aside for some future possible institutional use. The City has expended significant resources to return similar properties on and near 12th Avenue to non-institutional control and to support non-institutional development.

The record upon which the Director of the Department of Planning and Development and the Hearing Examiner made their decisions disregards the loss of development capacity that the University's land banking proposal represents. The Environmental Impact Statement in this matter barely noted the impact on the urban village's vitality presented by institutional land banking and did not seriously examine the ability of the University to grow and thrive without expanding on and east of 12th Avenue.

At the Hearing the University's expert did state her opinion that the institution really couldn't take advantage of existing on-campus locations. That opinion should appropriately have been presented to

the Director of DPD before the Director's decision so it could be considered and analyzed. The Director failed to inquire into and weigh the most important issues involved in the proposed MIMP.

It is the job of the Director of the Department of Planning and Development to examine the University's arguments before making a decision. This should have been the job of DPD's Environmental Impact Statement. That investigation did not take place. It is now the job of the City Council to ask whether or not the City's interest in a growing vital urban village and the University's needs can be served without the proposed boundary expansion east of 12th Avenue.

If the clearly stated purpose of SMC 23.69.002 that commercial and residential neighborhoods should be guaranteed adequate land to grow and thrive is not held to bar institutional boundary expansion here where there is no stated purpose other than the prevention of other development, then it is difficult to know what meaning that Code provision has. The Appellants are asking that the City Council to affirm the intent expressed in the legislation enacted by its predecessors.

The Appellants ask the City Council not to approve a MIMP which is based on a record which contains next to no discussion or consideration of the needs of the urban village for future growth.

The Applicant, at the hearing, advanced its argument that it would be burdensome to be required to expand within the footprint and height limits already granted to it west of 12th Avenue. The Appellants believe that it is the City Council's responsibility to stand up for the needs of the rest of the stakeholders in the urban village and for the City's interest in a thriving and growing urban village. The University's arguments related to the alleged burdens of growing within sites west of 12th Avenue should be fully examined.

2. Replacement of Lost Housing Potential

In the proposed boundary expansion area east of 12th Avenue that is zoned for residential development, the Appellants are asking the following: If the University chooses to build anything other than housing, or to build housing for students and not staff or faculty, it be required to provide replacement housing somewhere else in the 12th Avenue Urban Village.

This is not unduly burdensome on the University. In its proposed MIMP the University makes no claim that it has a need to develop student housing in the proposed boundary expansion areas east of 12th Avenue. Rather, it claims that the hundreds of units of student housing it may require can, in fact, be provided elsewhere.

On the other hand, is is an important City policy to encourage development of housing for the rest of us in the heart of the 12th Avenue urban village, within the area that is zoned for more intense development.

The balance of interests is this: On one hand, there is no alleged need by the University to satisfy its student housing requirements within the proposed expansion area. On the other hand, there is the policy of the Comprehensive Plan and the Central Area Plan for additional housing in this area. It is within the power of the City Council to put in place a provision in the MIMP that encourages Seattle University to develop student housing where it says it intends to do so, and discourages the displacement of housing opportunities for others.

In its response the University continues to argue, as it did at the hearing, that student housing "provides myriad benefits to the community and actually increases the housing stock of the City." Well yes, but this misses the point. The City at large and the neighboring community are best served if there is both new student housing and new housing for others. It is the position of the University, apparently that there cannot be both student housing and more non-student housing in the 12th Avenue urban village.

The University in its Response characterizes the Appellants' position as one of requiring the University to expand, rather than preserve, the City's housing stock. That is a mischaracterization. Rather, it is the

University's position that the City should be required to decrease its capacity to develop --- for no stated reason.

The example the University cites in its Response relates to that part of the Photographic Center Northwest property immediately to the east of the building and which is currently a parking lot. The parking lot use at this time is a non-conforming use within the LR3 zone. If the University were to acquire and develop the property it would constitute the loss of dozens of potential housing units, not the loss of a parking lot as the University argues.

Urban centers are intended to have a mix of commercial activity and employment along with a range of housing types suitable for diverse populations. There is no justification in the University's proposal to expand its boundaries east of 12th Avenue that would support a loss of these key sites to future non-institutional development.

3. Failure of the Decision of the Director to Comply with Rezone Criteria

The Applicant Seattle University's Response to Appeal, Appendix A outlines the specific allegations of the Appellants regarding the failure of the decision of the Director of DPD to observe and follow the Land Use Codes' several rezone criteria. The attempts by the Applicant to refute those allegations fail on their face.

Plainly, the Applicant has asked for the extraordinary privilege of rezones allowing additional height on discrete portions of two blocks. If the Applicant's request were granted it would be allowed a height increase while those properties immediately adjacent --- with no separation of street, alley, or elevation change --- would be limited to a lower height. In fact, the University would be able to develop to a height that is more than 60% greater than the property immediately adjacent to the lot line. This is not insignificant. The Applicant's requested zone boundaries would, as it states, follow platted lot lines. However, while following platted lot lines is necessary, it is not sufficient to meet the requirements of the Code. The argument that all of the considerations other than platted lot lines should be ignored must not be true.

DATED August 1, 2012

Handwritten signature of William Zosel in black ink, with the initials 'TZC' written below the name.

by William Zosel

for Appellants William Zosel and
Ellen Sollod

CERTIFICATE OF MAILING

I certify that on the 2 day of August, 2012, I sent copies of the foregoing document (including this Certificate of Service) by first class mail, by depositing the copies in the U.S. mail with proper postage affixed, or electronically at the addresses listed below.

Lisa Rutzick
Department of Planning and Development
Suite 2000
700 Fifth Avenue
P.O. Box 34019
Seattle, WA 98124-4019
Lisa. Rutzick@seattle.gov

Thomas Walsh
Foster Pepper PLLC
Suite 3400
1111 Third Avenue
Seattle, WA 98101
WalsT@foster.com

I certify under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 2 day of August, 2012, at Seattle, Washington



Name