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ORDINANCE NO. 597

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON ADOPTING FINDINGS, CONCLUSIONS AND DECISION REGARDING CRITERIA FOR ALTERNATIVES AND PROCEDURAL MATTERS AND APPROVING FINDINGS AND DECISION OF LANDMARKS COMMISSION TO APPROVE A CERTIFICATE OF APPROPRIATENESS TO CONSTRUCT A NEW SCHOOL BUILDING AND RESTORE ELEMENTS OF RONALD SCHOOL, LOCATED AT 749 N. 175TH STREET AND DENYING THE APPEAL OF THE SHORELINE PRESERVATION SOCIETY

WHEREAS, on November 17, 2010, the City of Shoreline Landmarks Commission held an open record hearing to consider an application for a Certificate of Appropriateness (“COA”) 1021 to construct a new school building and restore elements of Ronald School, located at 749 N. 175th Street in Shoreline, Washington; and

WHEREAS, on December 3, 2010, the Landmarks Commission issued its Findings and Decision approving COA 1021; and

WHEREAS, on January 7, 2011, the Shoreline Preservation Society filed an appeal of the COA 1021 with the City of Shoreline; and

WHEREAS, the City Council held a closed record hearing on February 28, 2011, continued to March 7, 2011;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Procedural Findings, Conclusions and Decision. The Findings of Fact, Conclusions and Decision Regarding Criteria for Alternatives and Procedural Matters, attached hereto as Exhibit 1, are hereby ADOPTED.

Section 2. Certificate of Appropriateness Findings and Decision. The City of Shoreline Landmarks Commission’s Findings of Fact and Decision to approve a certificate of appropriateness to construct a new school building and restore elements of Ronald School, located at 749 N. 175th Street, attached hereto as Exhibit 2, are hereby ADOPTED.

Section 3. Appeal Denied. The appeal filed by the Shoreline Preservation Society is hereby DENIED.

Section 4. Publication, Effective Date. This ordinance shall go into effect five days after passage and publication of the title as a summary of this ordinance.

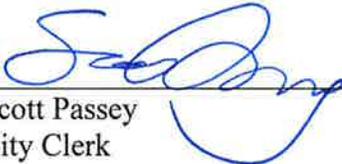
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PASSED BY THE CITY COUNCIL ON MARCH 7, 2011.



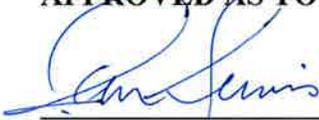
Keith A. McGlashan, Mayor

ATTEST:



Scott Passey
City Clerk

APPROVED AS TO FORM:



Ian Sievers
City Attorney

Date of Publication: March 10, 2011
Effective Date: March 15, 2011

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EXHIBIT 1

FINDINGS, CONCLUSIONS AND DECISION REGARDING CRITERIA FOR ALTERNATIVES AND PROCEDURAL MATTERS

A. FINDINGS OF FACT

1. Consideration of Alternatives

- a. Part VI.6.B of the Rules and Procedures of the City of Shoreline Landmarks Commission (hereafter “Rules”) requires the Landmarks Commission to consider “the reasonableness or lack thereof of the proposed alteration of significant changes in light of other alternatives available to achieve the objectives of the owner and the applicant.”
- b. During the November 17, 2010 open record hearing, the School District’s architect, Bassetti Architects, presented alternatives that the School District had explored and why these alternatives were unreasonable. *Exhibit 92, page 2*. These alternatives were the same ones explored at the Landmarks Commission’s Design Review Committee on September 9, 2010. *Exhibit 92, page 6; Exhibit 95, page 35-36*.
- c. During the open record hearing, the following alternatives proposed by architect Kate Krafft in a written comment were read and admitted into the record and considered by the Commission: (1) connecting the modern school facility at the west side of the current south elevation; (2) rehabilitating and preserving the exposed original south elevation of the original 1912 schoolhouse; and (3) locating the modern school facility further to the east and southeast of Ronald School.
- d. The Landmarks Commission considered these alternatives as well as specifically considering: (1) siting the proposed new building at an alternative location on-site; (2) demolishing the Landmarks; and (3) relocating the Landmarks to another parcel. *See Finding 5 and Finding 6 of the Landmarks Commission Findings of Fact and Decision*.

2. Notice

- a. The November 17, 2010 meeting was a special meeting of the Landmarks Commission.
- b. Part III.5.A of the Rules requires that notice of cancellation or rescheduling of a meeting shall be published not less than six days before the scheduled meeting and not less than six days before the changed meeting date. This rule does not apply to special meetings of the Landmarks Commission.

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3. Appearance of Fairness, Conflict of Interest and Ex-Parte Contact

- a. Part I.2.C of the Rules states: “No Commissioner shall communicate with or attempt to influence any other Commissioner concerning any matter before the Commission, or which may reasonably be expected to come before the Commission, in which such Commissioner has a conflict of interest or a perceived conflict of interest.
- b. Nothing in the record reflects that Commissioner Day or Commissioner McCroskey have a conflict of interest or perceived conflict of interest in this matter.
- c. Part I.3 of the Rules states: Commissioners must decide any quasi-judicial matters brought before the Commission only based on the public record and such things that they may properly take judicial notice. Commissioners should avoid all *ex parte* communications concerning any quasi-judicial proceeding.
- d. The prohibition on *ex parte* contacts during the pendency of quasi-judicial proceedings applies to contacts between a member of a decision-making body and opponents or proponents of the proposal subject to the proceeding. RCW 42.36.060 (Appearance of Fairness).
- e. Commissioner Day disclosed on the record that he and Commissioner McCroskey had a brief discussion prior to the hearing about comments received by the Landmarks Commission questioning whether any alternatives to the applicant’s proposed design had been presented to the design review committee.

4. Shoreline Representative, Term Expiration, Attendance at Hearing and Quorum

- a. The Commission has two vacancies and currently consists of seven members.
- b. One of the seven Commissioners is Commissioner Vicki Stiles, appointed as a special member SMC 15.20.020(B). The special member is to “attend all meetings, and participate in and vote on all matters pertaining to the designation and protection of Landmarks, design review, and special valuation applicable to properties within the city.” Rules, Part II.1. During the appeal hearing on February 28, 2010, appellant abandoned the argument that Commissioner Stiles is a necessary part of the quorum.

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- c. The terms of two Commissioners, including the term of Commissioner Stiles, had expired.
- d. SMC 15.20.020(B) states that the term of a special member shall be for three-years and “shall serve until his or her successor is duly appointed and confirmed.”
- e. KCC 20.62.030(B) states: “Appointments of regular members, except as provided in subsection C of this section, shall be made for a three-year term. Each regular member shall serve until his or her successor is duly appointed and confirmed.”
- f. No successor to either expired Commissioner has been appointed and confirmed.
- g. The Landmarks Commission Rules states that “[a] majority of the currently appointed and confirmed members of the Commission shall constitute a quorum for the transaction of business.” Rules, Part III.3.
- h. Contrary to what is stated in the Landmarks Commission Meeting Minutes, Commissioner Stiles was not in attendance at the meeting.
- i. In addition to Commissioner Stiles, two other Commissioners were not in attendance at the hearing.
- j. Prior to the hearing, Commissioner Stiles recused herself.
- k. Commissioner Rich was in attendance during the preliminary remarks of the hearing but subsequently recused himself and left the hearing. Commissioner Rich had no further participation in or attendance at the hearing for the COA.
- l. Appellants did not raise the issue of lack of a quorum as an appeal issue.

5. SEPA

- a. The Landmarks Commission’s consideration of the certificate of appropriateness is limited to the criteria in Chapter 20.62 KCC, Chapter 15.20 SMC, and the Rules and Procedures of the City of Shoreline Landmarks Commission.
- b. Review and validity of a SEPA threshold determination is not part of the criteria for granting a certificate of appropriateness.
- c. The City Council’s appellate review is limited to whether the certificate of appropriateness was properly granted in compliance with Chapter 20.62

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KCC, Chapter 15.20 SMC, and the Rules and Procedures of the City of Shoreline Landmarks Commission.

B. CONCLUSIONS

1. Consideration of Alternatives.

- a. Alternatives were presented to the Landmarks Commission at the September 9, 2010 Design Review Committee and at the November 7, 2010 open record hearing by the School District's architect, Bassetti Architects and by architect Kate Kraff through her written comments. Kraff's alternative, advocated by the appellant, was considered by the Commission.
- b. The Commission considered the proposed alternatives, specifically the alternatives of siting the proposed new building at other locations on site, demolishing the Landmarks, and relocating the Landmarks to another parcel.
- c. The Commission's consideration of alternatives complied with Criteria VI.6.B.

2. Notice

- a. The Commission did not violate Rule III.5.A by cancelling its October 14, 2010 special meeting without six days notice required by the Rule, as the Rule only applies to regular meetings, not special meetings.

3. Appearance of Fairness, Conflict of Interest and *Ex Parte* Contact

- a. Neither Commissioner Day nor Commissioner McCroskey have a conflict of interest in this matter and therefore no violation of Rule I.2.C occurred.
- b. No *ex parte* contacts occurred as the communication between two commissioners, Commissioner Day and Commissioner McCroskey, is not considered a contact between a member of a decision-making body and opponents or proponents of the proposal subject to the proceeding.

4. Shoreline Representative, Term Expiration and Attendance at Hearing

- a. The requirements in Rule II.1 outline the matters the special member is to participate in, and do not require that the special member's attendance as a part of the quorum. Once part of the Shoreline Landmarks Commission, Commissioner Stiles, as the special member, is responsible for compliance with the same rules as other members including the Appearance of Fairness rules regarding recusal for conflicts. Furthermore, appellant

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abandoned the argument that Commissioner Stiles was a necessary part of the quorum.

- b. Although two of the commissioners' terms had expired, both were still serving in their capacity as commissioners since no successor had been appointed and confirmed. *See* Parliamentary Questions and Answers III, National Association of Parliamentarians (1997), page 213-214.
- c. By common law rule, membership may be reduced by the two disqualified members, requiring a quorum of three members. Regardless of the applicability of the rule, since appellants failed to raise the quorum issue as an appeal issue, they have waived the issue and this matter is not properly before the City Council.

5. SEPA

- a. The criteria considered by the Landmarks Commission's for issuance of the certificate of appropriateness does not include review of a SEPA threshold determination.
- b. The City Council's appellate capacity is limited to review of the Landmarks Commission's issuance of a certificate of appropriateness, not review of the School District's SEPA threshold determination.
- c. SEPA appeals are governed by the School District's SEPA rules as lead agency. *See* Addendum E, District's Response Memorandum. The SEPA issues are not property before the City Council.

C. DECISION

As set forth in the findings of fact and conclusions, the Landmarks Commission properly considered alternatives and did not make any procedural errors in issuing its certificate of appropriateness.