

**BEFORE THE HEARING EXAMINER  
FOR SEATTLE PUBLIC SCHOOLS**

In the Matter of Consolidated Appeals )  
filed by )

**CHRIS JACKINS, ET AL,** )  
Appellants, )

and )

**BRYAN REEVES, ET AL,** )  
Appellants, )

of a SEPA Mitigated Determination of Non- )  
Significance (MDNS) issued on October 31, )  
2022, regarding the Montlake Elementary )  
School Modernization and Addition Project, )  
issued by the )

**SEATTLE PUBLIC SCHOOLS' SEPA** )  
**RESPONSIBLE OFFICIAL,** )

Respondent )

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
RECOMMENDATION**

**I. SUMMARY OF RECOMMENDATION.**

Based on the entire record taken as a whole, the appeal should be denied. The appellants failed to offer sufficient evidence to establish that any probable, significant, adverse environmental impact will result from the project, even after requiring the project to meet existing laws, regulations, and measures noted in the environmental information included in the record. The Examiner is not left with a definite and firm conviction that a mistake has been committed. The challenged MDNS should be affirmed.

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## II. APPLICABLE LAW.

### *Jurisdiction.*

The appellants challenge a SEPA Mitigated Determination of Non-Significance (MDNS) issued by the Seattle Public Schools SEPA Responsible Official for the Montlake Elementary School Modernization and Addition Project. Through the course of the appeal hearing process, the school district representatives did not question the timeliness or assert other potential procedural defects that might prevent this appeal from going forward.

The Hearing Examiner has jurisdiction to review and issue recommendations to the Superintendent regarding appeals of SEPA threshold determinations, like the challenged MDNS, under Board Policy No. 6890, at Sec. 8(c).

### *Standing; Appeals Heard in Consolidated Hearing Process.*

There is no dispute that the appellants have standing. Consistent with principals of judicial and administrative economy, the two appeals of the same SEPA threshold determination were consolidated into a single appeal hearing process. The party representatives were each given full discretion to introduce evidence, call their own witnesses, and cross-examine witnesses called by any other parties.

### *Burden of Proof on Appellants, Standard of Review.*

To satisfy this burden challenging the MDNS, an appellant must present actual evidence of probable significant adverse impacts of the Project. *Boehm v. City of Vancouver*, 111 Wn.App. 711, 718-719, 47 P.3d 137 (2002).

A "clearly erroneous" standard applies when reviewing SEPA threshold determinations made by local and state governmental entities, such as the MDNS challenged in this matter. *King Cty. v. Washington State Boundary Review Bd. for King Cty.*, 122 Wn.2d 648, 661, 860 P.2d 1024 (1993). A challenged DNS may be reversed if, although there is evidence to support it, the reviewing authority is left with the definite and firm conviction that a mistake has been committed. *See Norway Hill Pres. & Prot. Ass 'n v. King County Council*, 87 Wn.2d 267, 274, 552 P.2d 674 (1976). In reviewing a SEPA threshold determination, the Hearing Examiner must first determine whether "environmental factors were considered in a manner sufficient to amount to prima facie compliance with the procedural requirements of SEPA." *Sisley v. San Juan County*, 89 Wn.2d 78, 84, 569 P.2d 712 (1977) (quoting *Juanita Bay Valley Com. v. Kirkland*, 9 Wn. App. 59, 73, 510 P.2d 1140 (1973)). Again, the appellants bear the burden of proof in their respective SEPA appeals.

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1 ***Challenged MDNS is entitled to substantial weight.***

2 Procedural determinations by the school district’s SEPA responsible official shall be  
3 entitled to substantial weight in the administrative appeal and any subsequent proceedings.  
4 *Board Policy No. 6890, at Sec. 8(f); H.Ex. Rule 2.24.* Such deference is further mandated by  
5 Washington caselaw, including *Anderson v. Pierce County*, 86 Wn. App. 290 (1997) (holding  
6 that substantial weight is accorded to agency threshold determinations), and is consistent with  
7 *WAC 197-11-680(3)(a)(viii)* (“Agencies shall provide that procedural determinations made  
8 by the responsible official shall be entitled to substantial weight.”). However, substantial  
9 weight, like judicial deference to agency decisions, is neither unlimited nor does it  
10 approximate a rubber stamp. See *Swinomish Indian Tribal Cmty. v. W. Wash. Growth Mgmt.*  
11 *Hearings Bd.*, 161 Wn.2d 415, 435 n.8, 166 P.3d 1198 (2007); and *Concerned Friends of*  
12 *Ferry County v. Ferry County*, 191 Wn. App. 803, 365 P.3d 207 (Div. II, 2015). If an  
13 environmental impact statement is required by the weight of evidence and if a government  
14 agency’s SEPA official does not require an environmental impact statement (as it did not  
15 here), then the decision is clearly erroneous. *King County*, 122 Wn.2d at 667; *Norway Hill*,  
16 87 Wn.2d at 274.

17 **III. RECORD.**

18 The Record for the matter includes all exhibits marked and numbered during the  
19 course of the appeal hearing. Copies of all materials in the record and a digital recording of  
20 the appeal hearing are maintained by the District. The challenged MDNS and SEPA  
21 Checklist issued for the Montlake Elementary School Modernization and Addition Project,  
22 as issued on or about October 31, 2022, and the two written appeals, both filed in a timely  
23 manner in late November of 2022, are all part of the Record. Lists of additional exhibits  
24 admitted into the record during the appeal hearing for both appellants and the District are  
25 attached to this Recommendation, as stipulated by the party representatives. In this  
26 Recommendation, exhibits from the Reeves’ Appellants are referenced as “Reeves Exhibit  
\_\_\_”; exhibits from Appellants Chris Jackins, et. al., are referenced as “Jackins Exhibit \_\_\_”;  
and exhibits from the Seattle School District are referenced as “District Exhibit \_\_\_.”

During the appeal hearing, the appellants appeared pro se, on their own behalf, with  
Mr. Reeves representing the group of appellants named in his appeal statement; and Mr.  
Jackins’ serving as the designated representative for the group of appellants named in his  
appeal statement. The District was represented by counsel, David Carpman, from the  
McCullough Hill law firm. The appellants’ hearing representatives and the District’s attorney  
were given wide latitude to call witnesses, submit exhibits, and cross-examine witnesses  
called by the other side, all as they saw fit, to focus attention on topics or issues they deemed  
relevant to their respective positions in this appeal. Washington courts hold pro se litigants,  
including appellants, to the same standard as attorneys. *State v. Irby*, 3 Wn.App. 2d 247 (Div.  
I, 2018), citing *State v. Bebb*, 108 Wn.2d 515, 524 (1987); *Audit & Adjustment Co. v. Earl*,

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1 165 Wn. App. 497 (Div. II, 2011), citing *Westberg v. All-Purpose Structures, Inc.*, 86 Wn.  
2 App. 405, 411, 936 P.2d 1175 (1997). Understanding that hearings can be a challenge for  
3 some pro-se party representatives, the Examiner commends Mr. Reeves and Mr. Jackins for  
4 their well-organized and thoughtful presentations. All representatives, attorneys, and  
5 witnesses were respectful and civil towards one another throughout the lengthy hearing.

6 Below is a list of individuals called to present testimony under oath at the duly noticed  
7 appeal hearing for this matter, with the Examiner, all party representatives, and most  
8 witnesses appearing in-person in a District conference room, with some witnesses appearing  
9 by phone or using the Zoom online meeting platform coordinated by District staff on January  
10 13, 2023:

- 11 1. Arthur Dorros, one of the appellants included as part of the Reeves' appeal, provided the opening  
12 statement for his group, summarizing issues raised in their written appeal statement. Mr. Dorros  
13 focused on the proposed size of the school, the small footprint, lack of a public meeting, concerns  
14 that postcard (Ex. 9) provided wrong url/email/http (internet) link or address, causing people to  
15 pull up error messages, concerns about He was called again to provide substantive testimony,  
16 addressing Reeves' Exhibits 23-42, expressed serious concerns about traffic in the area  
17 surrounding the school, pedestrian safety, car accidents, concerns that data may downplay  
18 collision rates because of short staffing in police department, and other reasons that cause people  
19 to not report accidents like they may have in prior years. Submitted an additional exhibit, photos  
20 showing bus with little room to maneuver, crowds of people on sidewalks nearby;
- 21 2. Joshua McLane, [spelled different, no relation to the Examiner], one of the Reeves' appellants,  
22 lives on corner of Calhoun and 22<sup>nd</sup>, across from Montlake school to the north. Testimony focused  
23 on photos included as Reeves Ex. 45, photos showing view from his kitchen looking towards the  
24 school, noting concerns that light and glare from taller school building will have negative impact  
25 on his property, that trees are mostly irrelevant as screening during the winter. He believes that  
26 Montlake Elementary is the heartbeat of the neighborhood, which is a close community; expressed  
concerns that the proposed electronic reader board is not in keeping with the school and its  
surroundings, and that it will have an adverse impact. Disagrees with District position that project  
will not have significant impacts on safety, views, light and the like;
3. Sean Whitsett, one of the Reeves' appellants, focused on Reeves Exs. 10-18, focused on impacts  
the taller/larger building might have on solar energy opportunities for adjacent properties that will  
experience more shadowing and shade throughout the day;
4. Victoria Habas, one of the Reeves' appellants, lives southwest of the school, at 20<sup>th</sup> and McGraw.  
Summarized her personal experiences observing dangerous conditions for pedestrians, school  
children related to area traffic, lack of adequate parking, all enhanced by externalities like the  
nearby hospital, Husky Stadium, and other UW events. Expressed concerns about data used to  
study traffic safety, accidents, parking, pedestrian safety and the like. Expressed concerns that  
adverse impacts will result in the area, because the project seeks to put "10 pounds of school in a  
5-pound bag";
5. Bryan Reeves, appellant, served as the designated hearing representative for his group of  
appellants, 6-year Montlake resident, focused on energy consumption concerns, recreation needs  
for students, and precedent for future projects. Expressed concerns that SPS enrollment is

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1 dropping, but the Montlake school would be built to house many more students notes that  
2 District's design materials show the proposed 3<sup>rd</sup> floor of new building would sit mostly unused,  
3 and that the top floor would generate the worst/most of the negative impacts from his point of  
4 view (i.e. shadowing/shading, view impacts and the like associated with a taller, 3-story building);  
5 noted that the size of the 3<sup>rd</sup> floor space could mean up to 600 students could fill the new building,  
6 instead of 500 addressed in the District's SEPA review. Emphasized his belief that school children  
7 need adequate recess/play areas, and that the new school design reduces play areas significantly.  
8 Noted that other schools, like Alki, with less on-site play areas, have adjacent city parks to fill the  
9 need, but such option is not available at Montlake. Submitted new exhibits, numbered 50 and 51,  
10 copies of charts that he prepared showing play area space available at other schools in comparison  
11 to Montlake, and how close some homes will be to the new building, causing what he believes  
12 will be a "5-story" type of impact instead of a 3-story impact on properties to the north, especially  
13 the Northwest corner;

- 14 6. Mimi DeBurle, one of the Jackins' appellants, lives in the NE corner of E. McGraw and 20<sup>th</sup> Ave.  
15 E, to the SW of the Montlake school. Believes there will be probable adverse impacts, associated  
16 with lack of parking for teachers, trees that won't survive, lack of space for children to play or use  
17 for fire drills and the like. She is alright with portables going away, but believes that tripling  
18 enrollment at the new building will adversely impact her neighborhood;
- 19 7. Chris Jackins, one of the named appellants, served as the designated hearing representative for the  
20 appeal he filed on his own behalf and several other individuals and as a witness called by  
21 appellants to address several issues raised in their appeal. Mr. Jackins prepared detailed written  
22 notes, which he distributed throughout the hearing at various points during his presentation,  
23 including an opening statement, testimony about specific issues raised in his written appeal, and a  
24 closing statement, comprised on 20-pages, included in the record as Jackins' Ex. 16. Much of Mr.  
25 Jackins testimony covered the same issues raised by the Reeves' appellants and witnesses,  
26 including lack of play space, enlarging the building on such a small site, traffic impacts, lack of  
adequate parking in the area, shading and shadowing caused by the larger and taller building,  
lighting concerns, and general impacts on the character of the neighborhood. He expressly asked  
that his appeal include testimony and evidence submitted by the Reeves' appellants as support for  
his appeal. Mr. Jackins' focused much of his substantive remarks on respect for the Duwamish  
tribe, concerns about historic and cultural resource preservation, the number of "departures"  
required from the City in order to achieve the proposed building design, "earth transport" of  
materials from Montlake (soils) to the John Rogers school project site and the possible need to  
study impacts associated with such proposal together instead of separately for each project, a lack  
of public meetings with the community before the SEPA checklist was issued and other concerns  
with how notices were handled by the District in its outreach to surrounding residents.
8. Scott Pinkham, former member of the Seattle School Board, served 2015-19, called by Mr.  
Jackins. Opposes "mega-schools", where outdoor playground space is covered by new building  
space, suggests there need to be standards for outdoor space for students and the neighborhood  
where schools are located, mentioning Loyal Heights school as a place where problems have  
occurred. Expressed opinion that project will result in adverse impacts associated with traffic,  
extra enrollment and staff at the site, lack of parking, and other general concerns.
9. Cecile Hansen, called by Mr. Jackins, called by Mr. Jackins to offer narrative testimony, requested  
respect for the history of the Duwamish Tribe in the region. Elected Chair of the Duwamish Tribe  
in 1975. Shares concerns expressed in materials submitted by Mr. Buerge, local historian.

10. David Buerge, called by Mr. Jackins, local historian who has worked with Ms. Hansen over the years to research historic records for the Duwamish Tribe. Mr. Buerge focused on Duwamish tribe and cultural resource issues raised in the Jackins' appeal, focusing on Jackins' Exs. 9-13. Raised questions about the District's cultural resource study and report.
11. Emily Peterson, Ph.D., Anthropology, B.A., Archaeology, professional archaeologist and Cultural Resources Discipline Lead, Pertect, Inc., called by the District, resume included as District Ex. 5, prepared the cultural resources assessment for this project, based on literature review, maps, historic records, DAHP "WISAARD" database, and the like, confirmed that she her report, included as District Ex. 15, served as her basis for concluding that the project would not result in significant adverse impacts on cultural resources, as explained in the SEPA determination. Her professional/expert opinion that there is a low likelihood of impacts on cultural resources is based on three main reasons: 1) the project site is a side slope of a glacial upland area which is not a good spot for preserving/discovering artifacts and the like; the type of soils on site are not of the sort that are known to preserve artifacts, in contrast with sites in a flood plain, where sediments are generally friendlier/more likely to preserve materials; 2) the site has been disturbed before, when the current building was constructed, meaning there's little likelihood that new work would turn up cultural resources; and 3) she reviewed the bore-hole (soil) logs prepared by the geotech consultant, none of which included signs of any cultural resources beneath the surface. She acknowledged Mr. Buerge's testimony and maps, noting that she doesn't necessarily disagree that hunting may have happened on the site long ago, but given the site location and glacial type soils, it is highly unlikely any artifacts have been preserved on the property. She explained how the rocks and anomalies that are mixed in glacial soils make Mr. Buerge's suggestion to use an electro-type survey of the site no feasible, as the glacial materials would create "noise" and not identify small artifacts. She directed attention to mapping that shows the area of special concern to Mr. Buerge is on a different 'landform' away from the Montlake school. She confirmed her findings, and her report, noting that nothing from Mr. Buerge's materials or testimony caused her to change her opinions provided in her cultural resources report, District Ex. 15. Though challenged by Mr. Buerge's testimony, and questioned by appellant representatives, she stood by her professional opinion that it is unlikely any cultural resources will be disturbed by the project. She noted that an Inadvertent Discovery Plan is included as part of her report, so any ground disturbing work would stop to address items that might be uncovered during ground disturbance work;
12. Jeff Ding, Planner/Manager with EA, the District's primary environmental consultant firm, managed and coordinated preparation of SEPA checklist, responses, and expert reports generated for purposes of reaching a SEPA threshold determination, with resume in the file as District Ex. 3. Mr. Ding offered specific, credible, evidence, responding to several issues raised in appellants' testimony, directing attention to studies and reports generated to support the SEPA determination, establishing that while there will be impacts associated with the project, none will be significant, especially given mitigation measures, city codes like noise standards with which project will comply, energy conservation measures, lighting cut-offs, trees, and other design features for the new building and school grounds;
13. Lisa Johnson, architect, lead designer for the Montlake school project, resume in the record as District Ex. 3. Ms. Johnson offered the most detailed, credible, and thoroughly supported evidence and professional information of all witnesses at the hearing. Her testimony on the type of shadowing/shading that will result from the project are illustrated in Ex. 9, showing shadows to the north in different seasons, none of which will occur all day, even in the worst time of year (winter shadows). She directed attention to the current school's poor accessibility for those with special needs, cramped conditions indoors, and directed attention to exhibits showing improved

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1 accessibility, higher quality play/recreation opportunities (Ex. 9, p. 53, Ex. 18, p. 1). She described  
2 the lighting system design, with full cut off for exterior lighting, among other things. Appellant's  
3 failed to produce evidence of the professional expertise demonstrated by Ms. Johnson, who despite  
4 appellant's questions and concerns, confirmed that the new school has been designed to ensure  
5 there will be no probable, significant, adverse, environmental impacts;

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14. Tod McBryan, P.E., with Heffron Engineering, resume included in the Record as *Dist. Ex. 4*, called by the District to summarize his work as the traffic engineer reviewing traffic, parking, and car accident issues raised by the appellants regarding the project. Mr. McBryan's transportation and parking report was not rebutted by appellants. He prepared District Ex. 14, as an additional review following public comments, a summary of his expanded collision safety review. In the end, he confirmed his professional opinion that the project will not generate significant traffic, parking, or general traffic safety impacts.

As noted during the hearing, the Examiner explained that he would be visiting the project site and areas discussed during hearing testimony. In the weeks following the hearing, the Examiner visited the school site and surrounding area on three occasions, at different times of day and days of the week. This matter raised issues regarding soils that might be transported from the Montlake school site to the John Rogers school project. The Examiner takes notice of testimony addressing the soils issue presented during the John Rogers SEPA appeal hearing that did not conclude until last week, which involved one of the same appellants (Mr. Jackins). With that additional information, the record for this Montlake SEPA appeal is closed, and this Recommendation is now in order. Upon consideration of all the evidence, testimony, codes, policies, regulations, and other information contained in the record, and site visit observations, the undersigned Examiner issues the following Findings, Conclusions, and Recommendation.

#### IV. FINDINGS OF FACT.

1. Any statements of fact found in any other section of this Recommendation that are deemed to be findings of fact are hereby adopted as Findings of Fact by the undersigned Examiner and incorporated into this section by this reference. The use of captions is for convenience of the reader and should not be construed to limit or modify the application of a particular fact to some other topic or issue addressed elsewhere in this or any other portion of this Recommendation.

##### ***Background Information; Project Description.***

2. Montlake Elementary School is located in the Montlake neighborhood of Seattle, comprised of one city block bordered by 22<sup>nd</sup> Avenue E. on the east, with E. Calhoun Street on the north, 20<sup>th</sup> Avenue E. on the west, and E. McGraw Street on the south, addressed as 2409 22<sup>nd</sup> Ave. E. One of the appellant witnesses expressed their opinion that the Montlake School is the heartbeat of the Montlake neighborhood.

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2 3. Seattle Public Schools (SPS or the District) is proposing to expand the current school  
3 building with a 3-story, approximately 65,000 sq.ft. addition to the west of the current  
4 building, and renovations and modernization of the existing main building as part of the  
5 project.

6 4. The current building has just 21,400 sq.ft. of building space, with a separate, small  
7 1,400 sq.ft. cafeteria building to the west of the main building, a smaller greenhouse, and six  
8 portable classroom buildings with varying designs and levels of upkeep located in the  
9 northwest portion of the site. (*SEPA Checklist, pages 5, 6; Site visits*). A small hard surface  
10 play area and play equipment are located to the south of the existing portable buildings, and  
11 a backstop is placed at the southeast corner for playing baseball/softball. (*id.*)

12 5. Current Montlake elementary school capacity is approximately 251 students, though  
13 the current enrollment is only about 187 students. The modernized and expanded school  
14 would have capacity for up to approximately 500 students in grades Pre-K through 5th grade.  
15 The child care classroom also would provide space for 30 students in before- and after-school  
16 care by a program such as Launch (currently operates at the school). Although not anticipated  
17 at this time, the child care classroom could be utilized to accommodate preschool students in  
18 the future for a potential future capacity of approximately 530 students in grades Pre-K  
19 through 5th grade. During the construction process, students and staff would be temporarily  
20 housed at the John Marshall site. (*SEPA MDNS, District Ex. 1, .pdf page 4*).

21 6. Portions of the existing main school building will be demolished to allow for  
22 connections to the new proposed addition, as well as demolition of five existing portable  
23 buildings, the existing cafeteria building, and the existing greenhouse structure. One existing  
24 portable building also would be relocated to a new off-site location. (*id.*)

25 7. Due to the City Landmark status of the existing building, the proposed project would  
26 be required to obtain a Certificate of Approval from the City of Seattle Landmarks  
Preservation Board as part of the permit process. When complete, the addition and  
modernized building would include building space with approximately 26 classrooms  
(including two special education classrooms), a child care classroom, learning commons  
areas, a music room, an art room, a library and media center, a kitchen and dining area, a  
gymnasium, office/administrative uses, and other support spaces. Development of the project  
would displace a portion of the existing hard surface play area (25,600 square feet) to  
accommodate the proposed addition. The retained hard surface play area space would be  
updated and enhanced, recently installed play equipment would be reused, and additional  
recreation features would be added to create more usable and modernized recreation space  
for students with approximately 12,500 square feet of recreation space. (*id.*)

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1 8. A rooftop play area above the proposed gymnasium – met with some skepticism by  
2 appellant witnesses – is also currently included as a bid-alternate for the proposed project,  
3 which could provide approximately 6,700 square feet of additional outdoor recreation space  
4 for the school and would bring the total amount of outdoor recreation space with the project  
5 to approximately 19,200 square feet. (*id.*)

6 9. The two existing unstriped parking spaces to the northwest of the existing building  
7 would be eliminated with the project and no onsite parking would be provided. The two  
8 existing access curb cuts (E McGraw Street and E Calhoun Street) also would be eliminated,  
9 and delivery/service access would be provided for the proposed addition from a new mid-  
10 block driveway on 20th Avenue E. (*id.*)

11 ***SEPA Threshold Determination issued for the project – an MDNS; Appeals.***

12 10. At issue in this appeal is the SEPA Mitigated Determination of Non-Significance  
13 (MDNS) issued for the Montlake Elementary School Modernization & Addition Project,  
14 issued on or about November 7, 2022. Two separate written appeals of the MDNS were  
15 submitted in a timely manner, one filed by Bryan Reeves and several of his neighbors in the  
16 Montlake neighborhood, and the other filed by Chris Jackins and several other individuals.  
17 There is no dispute that the Reeves and Jackins appeals were timely, and the District did not  
18 contest them going forward to hearing. None of the appellants expressed any objection to  
19 consolidating the hearing process for the two appeals, and representatives for each appellant  
20 asked that their appeals incorporate evidence presented by the other appellant to support their  
21 own. Even with combined and consolidated records, both appeals should be denied, because  
22 they were not supported by a preponderance of credible evidence of the same expertise and  
23 weight as that presented by the District’s qualified consultants’ exhibits and hearing  
24 testimony.

25 11. The District prepared and issued a Draft SEPA Environmental Checklist for the  
26 Montlake Elementary School Project on or about July 5, 2022, inviting public comments in  
the following weeks. (*See MDNS on appeal, Mr. Podesta’s October 31, 2022 cover email  
explaining SEPA comment process*).

12. The District considered all written comment letters, emails, or post-cards received  
from about 18 individuals during the SEPA comment period and included them with specific  
responses from the District as Appendix H to the final SEPA Checklist. (*See MDNS, SEPA  
Checklist, Appendix H, labeled “Draft SEPA Checklist Comment Responses”*).

13. Based on the Final SEPA Checklist, public comments, and the environmental reports  
and information provided in the professional consultant reports and analyses prepared for  
various aspects of the Project (*See MDNS, Final SEPA Checklist, Appendices A through H*),

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1 the District’s designated SEPA Environmental Official formally issued a Mitigated  
2 Determination of Non-Significance (MDNS) for the Montlake Elementary School project on  
or about November 7, 2022.

3 14. As noted above, there is no dispute that the pending appeal process was commenced  
4 upon the District’s receipt of two timely written notices of appeal in the last quarter of 2022.

5 15. The District received a written appeal with 8-pages, dated November 21, 2022, from  
6 Chris Jackins, listing multiple others as fellow appellants, identifying Mr. Jackins as the party  
7 representative, and providing an email address for contacting the Jackins’ appellants. A copy  
of the Jackins appeal is on file with the District.

8 16. The District also received a second written appeal, with 5-pages, dated November 22,  
9 2022, from Bryan Reeves listing multiple others as fellow appellants, identifying Mr. Reeves  
as one of the party representatives, and providing email addresses to contact the Reeves’  
appellants. A copy of the Reeves appeal is on file with the District.

10 17. Following proper notices issued to all parties of record, a prehearing motion process  
11 resulting in a Prehearing Scheduling Order by the Examiner addressing witness and exhibit  
12 disclosures to provide a fair and efficient process for all participants, the appeal hearing for  
13 this matter too place in person in a District conference room, taking most all of the workday  
on January 13, 2023.

14 18. Consistent with the District’s Hearing Examiner Rule of Practice and Procedure  
15 (“HEX Rule”) 2.14, captioned “CONSOLIDATION”, which reads: “[a]ll cases under the  
16 jurisdiction of the Hearing Examiner relating to the same matter should be consolidated for  
17 hearing. The Hearing Examiner may order consolidation on the Hearing Examiner's own  
initiative or at the request a party,” the Examiner consolidated the two pending appeals of  
the Montlake project into a single hearing process. (*Prehearing Scheduling Order, issued on  
or about December 30, 2022*).

18 19. As the appellants were both advised, the specific “errors” and/or aspects of the  
19 challenged SEPA threshold determination that are at issue for each appeal are as set forth –  
20 and are limited to those raised – in each appellants’ written appeal statement.

21 20. As provided in HEX Rule 2.24, (a) The Hearing Examiner accords deference or other  
22 presumption to the decision being appealed as directed by applicable law; (b) Where the  
23 applicable law provides that the appellant has the burden of proof – as is the case for appeals  
24 of SEPA threshold determinations – the appellant must show by the applicable standard of  
proof that the Responsible Official's decision or action does not comply with the law  
authorizing the decision or action; and (c) Unless otherwise provided by applicable law, the  
standard of proof is a preponderance of the evidence.

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1 ***Summary of main issues raised in the appeals.***

2 21. Each of the two written appeals speak for themselves, and several items are repetitive  
3 or simply provide public policy arguments beyond the scope of either SEPA appeal, not  
4 actual bases upon which to grant either appeal. This is especially true with respect to  
5 arguments and questions about the project, generally asking that the District should not  
6 expand schools while enrollment is decreasing. The topics are addressed in the following  
7 findings.

8 22. For reasons explained in this Recommendation, both appeals should be denied,  
9 because the appellants failed to meet their burden of proof, and the District presented far  
10 more than a preponderance of credible, subject-matter-expert evidence to support the MDNS.  
11 The captions provided below are restatements of the primary appeal issues presented during  
12 the two appeal presentations, including sworn testimony from Mr. Reeves and Mr. Jackins,  
13 and that of other witnesses called to support various aspects of their appeals. Whether  
14 specifically discussed in this recommendation, the full language and substance of each issue  
15 mentioned in each written appeal statement has been fully considered and evaluated before  
16 issuing this Recommendation.

17 ***Shading, view concerns, especially for residents north of the Montlake school.***

18 23. Multiple witnesses called by the appellants raised concerns that available sunshine  
19 will be blocked by the new building, especially for houses located north of the site; that views  
20 from windows in their existing homes would look out to a wall or windows included in the  
21 new structure. Some called it shading, some called it shadowing. In any event, the project  
22 architect, Ms. Johnson, relied upon her “high-performance design team” to analyze perceived  
23 view impact and shading concerns raised in comments and during the appeal hearing. She  
24 directed attention to shadow study illustrations included in the record as part of her Ex. 9,  
25 beginning on page 28. The illustrations do not show full shadowing of homes, but parts of  
26 yards on various times of day, and some parts of houses at different times. Many homes are  
located uphill for the most part from the sidewalk, so they stand taller than the ground where  
shadows are depicted. None of the appellants offered a preponderance of credible evidence  
to rebut Ms. Johnson’s qualified professional opinion that the new building design will not  
result in probable significant adverse environmental impacts associated with shadowing or  
daylight.

27 24. During the Examiner’s site visits, especially along sidewalks running north of the  
28 school site, homes almost all include mature trees and other landscaping materials in the front  
29 lawns between the school and front porches, windows, or doors. Each property owner already  
30 has a choice, as to the type of landscaping they place in their yard, how large or tall they  
31 allow it to grow (some plants almost covered views into/from some homes). Not all homes

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1 will have the same or any view impacts. In fact, some views will be improved – as one  
2 witness acknowledged how they were supportive of removing the portable classrooms. The  
3 site visit verified photos of the existing exterior site conditions, where views into the small,  
4 covered outdoor recreation space may appear to some as unkempt, dreary, or simply not up  
5 to the same quality of development demonstrated elsewhere on the site, or in the surrounding  
6 neighborhood. The Montlake School Modernization and Addition Project is a high quality  
7 design, that will enhance vistas from many surrounding properties and sidewalk venues. Yes,  
8 some homeowners will see something different than they do today, but there is nothing in the  
9 record to support any appeal based on perceived impacts on views or project design  
10 aesthetics.

11 25. Some comments raised concerns about the potential for view impacts, or changes to  
12 the neighborhood aesthetic presented by the proposed larger and taller new building. Several  
13 individuals believed that using a smaller enrollment figure should eliminate the need for a  
14 larger, taller building addition. District witnesses provided credible evidence, including photo  
15 illustrations, showing how the alleged view impacts, while a change from the status quo, will  
16 not result in significant adverse impacts – from surrounding properties.

17 26. Seattle building codes do not protect views, per se. The District proposal and request  
18 for a ‘Departure’ to build a taller building than city codes might otherwise allow, will not  
19 result in any probable, significant, adverse impact, on views or otherwise. There is  
20 insufficient evidence in this record to support such position. To the contrary, the testimony  
21 and slides provided by Ms. Johnson provided credible and substantial evidence to establish  
22 that, while some views will change as a result of this project, there will be no significant  
23 impacts on views or aesthetic considerations. (*Testimony of Ms. Johnson*).

24 27. Personal opinions and a preferred aesthetic for the building to retain a lower profile  
25 do not serve as a basis to reject the challenged MDNS issued for this project.

26 28. The Jackins appeal also raised general aesthetic and view loss issues, similar to those  
27 raised by his fellow appellants, without sufficient evidence. All issues on the topic were not  
28 sufficiently supported and should be rejected for both appeals.

29 ***Surplus Soils from Montlake school site, possible use at John Rogers school site.***

30 29. Mr. Jackins’s written appeal and arguments presented during the appeal hearing  
31 generally asserted that, because “surplus soils” from the Montlake school site during the  
32 construction process might be transported to the John Rogers school site, the environmental  
33 review for the two projects must be combined in the same document, citing WAC 197-11-  
34 060(3)(b), which reads in relevant part: “*Proposals or parts of proposals that are related to  
35 each other closely enough to be, in effect, a single course of action shall be evaluated in the  
36 same environmental document. [...]*” While the Examiner does not believe that evidence is

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1 sufficient to find the stand-alone soil transport issue legally requires that the Montlake and  
2 John Rogers projects should have been evaluated in the same environmental document, in  
3 this case, the appellants have the added level of reassurance in knowing the answer to their  
4 main question – that only safe soils will be brought onto the John Rogers school site,  
5 satisfying applicable health and safety codes. This information was verified during the John  
6 Rogers appeal hearing, held last week.

7 30. During this hearing for the Montlake School project, Mr. Jackins directed attention to  
8 recent school board actions regarding the John Rogers project. Specifically, he raised an  
9 October 12, 2022 School Board Action Report (SBAR) on a budget issue, explaining that  
10 “John Rogers is benefiting from the construction activities at night like elementary school  
11 and will be receiving surplus soils of approximately 28,000 cubic yards, saving in excess of  
12 \$2 million.” (Ex. 16, Mr. Jackins’ Hearing Notes, on page 12; Jackins Ex. 7, SBAR from  
13 Oct. 12, 2022).

14 31. The Examiner takes official notice of testimony provided by District witnesses at the  
15 John Rogers Elementary School project SEPA appeal hearing, which occurred last week on  
16 February 28, 2023, where Mr. Jackins was a named appellant and witness, participating with  
17 full discretion to cross-examine District witnesses on the soil-transport topic, among other  
18 issues. The key piece of evidence from the John Rogers school SEPA appeal hearing was  
19 the fact that all soils that might be brought to the John Rogers school site for use as part of  
20 that project will first have to be tested and evaluated to ensure that they meet applicable  
21 environmental health standards that apply to soils that might be brought onto an elementary  
22 school site. (*Testimony of Mr. Ding, at the John Rogers appeal hearing*).

23 32. Further, the Examiner finds and concludes that the proper test for determining  
24 whether two projects should be evaluated in the same document rests largely on the question  
25 of whether each project can stand on its own without the other. Here, both the Montlake  
26 project and the John Rogers projects can move forward one without the other – Montlake  
contractors can move dirt offsite to a number of possible locations, and John Rogers  
contractors do not have to rely on Montlake surplus soils to complete their project. Again,  
any concern about the safety of surplus soils from Montlake can and will be appropriately  
addressed through soil testing that is required before new soils can be imported onto an  
elementary school site, i.e. to the John Rogers school site.

### 21 ***Cultural Resource considerations.***

22 33. Assignments of error related to historic preservation and cultural resource concerns  
23 were not supported by evidence sufficient to reject the challenged MDNS.

24 34. During his appeal presentation, Mr. Jackins focused heavily on the testimony of Mr.  
25 Buerge, a local historian who has spent decades working with members of the Duwamish

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1 Tribe to catalogue and protect known historic sites. In this matter, Mr. Buerge’s information  
2 was not of the sort that would rebut the District’s professional archaeologist’s study and  
report, which concludes that the project will have not adverse impact on cultural resources.

3 35. In contrast to general questions and concerns expressed by appellants, while sincere  
4 and understandable given the sensitivity of cultural resource issues, the District’s subject-  
matter consultant, Emily Peterson, is a qualified expert in the field of archaeology. (*See*  
5 *District Ex. 5, resume of Ms. Peterson*).

6 36. Consistent with her education, training, and expertise on the subject, Ms. Peterson  
7 prepared the cultural resources assessment for this project, based on literature review, maps,  
8 historic records, the DAHP “WISAARD” database, and the like. She confirmed that her  
report, included as District Ex. 15, served as her basis for concluding that the project would  
9 not result in significant adverse impacts on cultural resources, as explained in the challenged  
SEPA determination.

10 37. Ms. Peterson’s professional/expert opinion that there is a low likelihood of impacts  
11 on cultural resources is based on three main reasons: 1) the project site is a side slope of a  
glacial upland area which is not a good spot for preserving/discovering artifacts and the like;  
12 the type of soils on site are not of the sort that are known to preserve artifacts, in contrast with  
sites in a flood plain, where sediments are generally friendlier/more likely to preserve  
13 materials; 2) the site has been disturbed before, when the current building was constructed,  
meaning there’s little likelihood that new work would turn up cultural resources; and 3) she  
14 reviewed the bore-hole (soil) logs prepared by the geotech consultant, none of which included  
signs of any cultural resources beneath the surface. (*Testimony of Ms. Peterson*).

15 38. She acknowledged Mr. Buerge’s testimony and maps, noting that she doesn’t  
16 necessarily disagree that hunting may have happened on the Montlake site long ago, but given  
the site location and glacial type soils, it is highly unlikely any artifacts have been preserved  
17 on the property. She explained how the rocks and anomalies that are mixed in glacial soils  
at the Montlake site make Mr. Buerge’s suggestion to use an electro-type survey of the site  
18 not feasible, as the glacial materials would create “noise” and not identify small artifacts. She  
directed attention to mapping that shows the area of special concern to Mr. Buerge is on a  
19 different ‘landform’ away from the Montlake school, that most sensitive spots are located  
down closer to water. She confirmed her findings, and her report, noting that nothing from  
20 Mr. Buerge’s materials or testimony caused her to change her opinions provided in her  
cultural resources report, District Ex. 15. Though challenged by Mr. Buerge’s testimony, and  
21 questioned by appellant representatives, she stood by her professional opinion that it is  
unlikely any cultural resources will be disturbed by the project.  
22  
23

24 39. Finally, Ms. Peterson noted that an Inadvertent Discovery Plan is included as part of  
her report, so any ground disturbing work would stop to address items that might be

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1 uncovered during ground disturbance work.

2 ***Traffic, parking, accidents in the area.***

3 40. Both appeals raised general concerns about possible traffic and parking impacts, and  
4 concerns about car accidents and pedestrian safety in the vicinity. Several witnesses  
5 acknowledged that Montlake is heavily impacted by events at Husky Stadium, hospital  
6 visitors, and other activities. Site visits confirmed what District consultants found, that traffic  
7 around the school site is much lower than it is down the hill on 24<sup>th</sup> Ave. E.

8 41. Local residents provided comments and testimony generally expressing their belief  
9 that traffic, parking, and accidents is/are already bad, and generally described how they  
10 believes the proposed school enlargement might affect the area.

11 42. The District generated a full traffic assessment for the proposed project, included in  
12 the record as an appendix to the challenged MDNS, prepared by a professional engineer, Mr.  
13 McBryan, which concluded that there would be no significant adverse traffic, parking, or  
14 related impacts as a result of the project. None of the appellants offered credible testimony  
15 or professional reports of comparable weight to the unrebutted traffic study (Appendix G)  
16 prepared by Mr. McBryan. There are no outstanding traffic, parking, car accident levels, or  
17 pedestrian safety issues that would serve as a basis to reject the challenged MDNS.

18 ***Playground, recreation space concerns.***

19 43. Both groups of appellants alleged that playground/recreation space loss was not  
20 adequately considered before the MDNS issued for this project. They did not offer any  
21 studies or reports by professional consultants or experts to rebut information considered by  
22 the District before issuing the MDNS for this project. Ms. Johnson offered credible testimony  
23 and evidence that establishes how the school modernization and addition project will greatly  
24 improve the quality of play areas and recreation venues available for students. (*Testimony of  
25 Ms. Johnson; Ex. 9, page 53, see garden and play areas, active and passive play venues,  
26 better quality than exists today; see gym design, with more robust recreational opportunities  
27 than existing conditions*). In the end, the appellants failed to provide a preponderance of  
28 evidence to support their appeal based on recreational or outdoor play space.

29 ***“Mega-School” concerns.***

30 44. Both appeals made general assignments of error challenging the MDNS because they  
31 believe that proposed new school building will be a “Mega-School” or something to this  
32 effect. Their challenges allege that decreases in District enrollment figures do not warrant  
33 any school expansion, and that the taller building will simply present a larger presence in the  
34 neighborhood, contrary to the smaller, low-profile aesthetic (like the existing building) that

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1 they seem to prefer. These challenges were not supported by professional studies or expert  
2 testimony of comparable weight to those relied upon by District officials before issuing the  
3 challenged MDNS. Debates over school capacity rest with the school board. And, while the  
4 appellants generally request an analysis of alternatives, including consideration of a smaller  
5 building, they failed to establish that this project is likely to result in any probable, significant,  
6 adverse environmental impact that could support issuance of a Determination of Significance,  
7 mandating the preparation of an Environmental Impact Statement. Assignments of error  
8 about the school size and capacity are without merit and should be rejected.

9  
10 ***Concerns about notice and community outreach.***

11 45. Both appeals allege problems with the public comment process and a lack of public  
12 meetings regarding the proposal. In the appeal hearing, the appellants failed to offer any  
13 credible testimony or controlling legal authority to support their general allegation that the  
14 public noticing for this project, and lack of any public meetings, was somehow insufficient  
15 to inform the community about the proposal and generate meaningful public comments on  
16 the subject. Quite the opposite occurred with regard to this proposal. First, there is no law  
17 mandating public meetings as part of a SEPA threshold review process – the same for inviting  
18 written public comments on a draft SEPA checklist for a project. Nevertheless, the District  
19 took the extra step of issuing a draft checklist for public review and comment. As noted  
20 elsewhere, these comments were all considered and received responses included as an  
21 attachment to the final SEPA Checklist. The public notice and comment procedures used  
22 leading up to issuance of the challenged MDNS exceeded any state or local requirements.

23 46. Appellants’ personal opinions, about the benefits that could result from public  
24 meetings or broader more extensive public notices that are not required for a SEPA threshold  
25 review, do not serve as a basis to overturn the SEPA threshold determination challenged in  
26 this appeal.

47. District witnesses confirmed that they considered all comments offered during the  
public comment process and that a public meeting is not required by applicable law prior to  
issuing a SEPA threshold determination. The public comment process for this matter did not  
present an unreasonable barrier for the appellants, especially given the fact that they were  
able to submit written comments regarding the draft checklist, and submit the appeals that  
initiated this hearing process. None of the appellants’ allegations regarding a defective public  
process were supported by applicable law or credible evidence.

***Discussion.***

48. While the findings above attempt to address most of the primary arguments and issues  
raised in the appeal documents and hearing testimony, none of the issues raised in either of  
the two appeals, whether specifically discussed in this Recommendation or not, were



1 supported by credible and sufficient evidence sufficient to sustain appellants' burden of  
2 proof, especially given the substantial weight that must be accorded the challenged decision.  
3 Comments raised about most issues appeared to be speculative, somewhat self-serving  
(particularly alleged view impact or shadowing concerns) and were not supported by  
convincing studies or any preponderance of factual evidence on the subject.

4 49. The witness testimony presented during both appeal presentations added little, if any,  
5 substantive evidence that would serve to rebut the expert consultant studies, and on-site  
6 observations of the surrounding area, summarized by District witnesses during the appeal  
7 hearing. Both groups of appellants failed to show the existence of any material errors in the  
Final SEPA Checklist or MDNS issued for this project, failed to show how the MDNS failed  
to assess potential impacts, and they failed to show that the proposal will cause any adverse  
impacts necessitating an EIS.

8 50. Personal preferences for a meeting, additional or more expansive notices, in the  
9 absence of any legal requirement to hold a meeting or provide broader notices, do not serve  
10 as a basis to overturn the challenged MDNS. More significantly, the appeal hearing itself  
11 provided the appellants an open record hearing opportunity to fully explain and present  
12 evidence supporting their assignments of alleged errors in the MDNS. They failed to meet  
13 their burden. Notices were mailed to adjacent property owners. Information was posted on  
14 the District's website, including copies of the studies and reports attached to the SEPA  
Checklist. Simply put, appellants failed to demonstrate how an additional public meeting or  
additional noticing efforts would have established the existence of any potential, significant  
impact that is not already considered, addressed, and/or mitigated in the challenged MDNS.

15 51. The MDNS appendices include detailed findings and analysis that serve as support  
16 for the challenged threshold determination. The opinions and findings summarized in all of  
17 the MDNS appendices and District exhibits was boosted by credible testimony provided at  
the appeal hearing, from Ms. Peterson, Mr. Ding, Ms. Johnson, and Mr. McBryan.

18 52. A party is entitled to present evidence and set forth facts based on personal knowledge  
19 but cannot merely state ultimate facts or make conclusory assertions and have them accepted  
20 at face value. *Jones v. State, Department of Health*, 170 Wash.2d 338, at 365 (2010). The  
21 appellants' evidence and testimony in this appeal was mostly a recitation of personal beliefs,  
22 opinions, and conclusory assertions. While sincere and genuinely concerned about the  
neighborhood and public schools, none of the appellant witnesses presented testimony or  
evidence of the same weight as the professional subject-matter expert reports and testimony  
included in the record.

23 53. Paraphrasing the action words contained in the definition given for the word  
24 "mitigation" in the state SEPA regulations, the term "mitigation" does not mean zero impacts,  
but means "avoiding", "minimizing", "rectifying", "reducing", "compensating", or

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1 “monitoring” an impact. WAC 197-11-768. The Examiner finds and concludes that the  
2 challenged MDNS should be upheld, because substantial evidence in the record establishes  
3 how it includes measures intended to appropriately avoid and/or mitigate potential impacts.

4 **V. CONCLUSIONS OF LAW.**

5 1. “SEPA does not demand a particular substantive result in government decision  
6 making; rather it ensures that environmental values are given appropriate consideration.”  
7 *Glasser v. City of Seattle*, 139 Wn. App. 728, 742 (2007).

8 2. In this appeal, the Examiner is delegated authority to prepare a recommendation to  
9 the Superintendent as to whether the pending appeal should be granted.

10 3. Based on findings provided above, and other evidence in the record for this matter,  
11 the Examiner concludes that Appellants have not shown by a preponderance of the evidence  
12 that the challenged MDNS was not properly issued. They failed to establish that there will  
13 be any significant impact that cannot be addressed through applicable of existing codes,  
14 policies, development regulations, or measures identified in the MDNS materials.

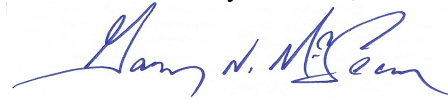
15 4. For reasons set forth in the Findings of Fact, all of the appellants specific issues on  
16 appeal must fail, because the District successfully presented credible testimony and  
17 documentary evidence, including un rebutted expert reports, to prove that the MDNS is  
18 supported by a preponderance of evidence in the Record. This is especially true in this appeal,  
19 where the challenged threshold determination is accorded substantial weight.

20 5. Any finding or other statement contained in this Recommendation that is deemed to  
21 be a Conclusion of Law is hereby adopted as such and incorporated by reference.

22 **VI. RECOMMENDATION.**

23 The above-captioned appeals should be denied. The Mitigated Determination of Non-  
24 Significance (MDNS) for the Montlake Elementary School Modernization and Addition  
25 Project should be affirmed.

26 ISSUED this 7<sup>th</sup> Day of March, 2023



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**APPELLANTS BRYAN REEVES, ET. AL. EXHIBITS:**

<b>Witness and exhibit list for 2023-01-13 Montlake Elementary SEPA appeal hearing for Reeves et al</b>			
<b>Witness(es)</b>	<b>Summary of testimony</b>	<b>Estimated minutes of direct testimony</b>	<b>Related exhibits</b>
Arthur Dorros	Introductory statement		Exhibit 7 - Front Entry Montlake Elem 20220814 Exhibit 8 - Front stairway Montlake Elem 20220814 5 Exhibit 9 - SEPA postcard to Montlake residents
Joshua McLane	Light and glare		15 Exhibit 45 - Montlake School_light slides v2
Sean Whitsitt	Solar energy use by adjacent properties Aesthetics and building height		30 Exhibit 10 - E Calhoun House Facades (East portion) Exhibit 11 - E Calhoun House Facades (West portion) Exhibit 12 - shadow length of 50_ object with proposed setback Exhibit 13 - Shadow length of 60_ from Mechanical setback Exhibit 14 - Shadow length of current elementary 12-21-22 at 12pm Exhibit 15 - Shadow length of object 50_ Existing Site Exhibit 16 - Shadow study 1 - 4pm Exhibit 17 - Shadow study 9am - 12pm Exhibit 18 - Views from East Calhoun (to South) 1-4
Victoria Habas and Arthur Dorros	Traffic collisions		45 Exhibit 23 - Map-Montlake Elem location Exhibit 24 - Map-SRTSGreenway Exhibit 25 - Map of Montlake Elem_close Exhibit 26 - Traffic 22nd Ave E Exhibit 27 - Unsafe-illegal parking 20Ave E-McGraw Exhibit 28 - Montlake traffic-School still3 Exhibit 29 - Montlake traffic-School still2 Exhibit 30 - Montlake-Collisions data Exhibit 31 - SDOT reported collisions near Montlake Elementary School Exhibit 32 - Accidents reported SPD Exhibit 33 - Collisions Montlake_City website Exhibit 34 - Montlake accidents-SPD reported Exhibit 35 - Intersection-22 Ave E-E Miller Exhibit 36 - Montlake traffic-School 20221018 Exhibit 37 - Montlake traffic-School-video opening still Exhibit 38 - ResidentProjections_2021series_flat-10yr Exhibit 39 - 17 a-5 Year Projections 2022 to 2026_before2022actuals_flat - see page 3 Exhibit 40 - ResidentProjections_2021series_flat-10yrMES Exhibit 41 - ResidentProjections_2021series_flat - see page 17-18 Exhibit 42 - Unsafe parking-narrow
Bryan Reeves	Energy consumption Recreation Precedent for future projects		45 Exhibit 1 - Slides Exhibit 2 - 2021_Facilities_Master_Plan_Update Exhibit 3 - C10_20221109_Montlake Value Engineering Report Exhibit 4 - Major Renovations and Replacements of SPS Elementary Schools 2018-2023 Exhibit 5 - P223 Enrollment Reporting December 2022 Montlake Elementary Exhibit 6 - Montlake_Elementary_Final_SEPA_Checklist_Web Exhibit 19 - 3039304-SD_Montlake ES-Departure Slides_07.22.22 Exhibit 20 - 221109_MES_Community_Update_sm Exhibit 21 - 221213_MES_Community_Pres Exhibit 22 - 2016 Elementary School Educational Specifications Exhibit 43 - Montlake Elementary and SPS actual enrollment 2007-2022 Exhibit 44 - Montlake Elementary projected enrollment growth by decade
Bryan Reeves	Closing statement		5
<b>Total</b>			<b>145</b>

50. Mr. Reeves’ chart, presented during his testimony, labeled: “Comparison of current and proposed play areas for schools listed in District Exhibit 18”.

51. Mr. Reeves’ chart, presented during his testimony, labeled “Distances to homes to the north for schools in SF5000 zones listed in District Exhibit 6”. (offered during testimony seeking to rebut District’s Ex. 6, as he expressed his belief that new building height will have impact of 5-story building instead of 3-story, particularly from NW corner, given how close it will be to homes on the north side).

**JACKINS’ EXHIBIT LIST:**

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1. Montlake Elementary School project DNS and Final Checklist
2. Appeal filing by Chris Jackins, et al, of Montlake Elementary School project DNS
3. October 2016 School Board Action Report (SBAR) and School Board Resolution supporting Treaty rights and benefits for the Duwamish Tribe
4. School District Report, July 2022, on requested departures from City code for Montlake project, posted on the website of the City of Seattle Department of Neighborhoods (DON)
5. Montlake Elementary Cultural Resources Assessment Short Report, June 2, 2022, redacted version, submitted by Pertete Seattle Public Schools
6. School Board Action Report (SBAR), October 12, 2022, related to Montlake project, noting earth to be trucked from the Montlake project to the John Rogers project, saving the John Rogers project approximately \$2 million
7. School Board Action Report (SBAR), October 12, 2022, related to John Rogers project, noting earth to be trucked from the Montlake project to the John Rogers project, approximately 28,000 cubic yards
8. Comment letter, June 28, 2022, from Chris Jackins to Seattle School District, on Draft Checklist for Montlake Elementary School project
9. Written statement related to Duwamish history of the Montlake Elementary School area, by David Buerge
10. Written statement on Lake Union John, by David Buerge
11. Description of background and expertise of David Buerge
12. Map #1 related to Duwamish history of the Montlake Elementary School area, produced by David Buerge
13. Map #2 related to Duwamish history of the Montlake Elementary School area, including Foster Island, produced by David Buerge
14. Written statement related to Montlake Elementary School, by Scott Pinkham
15. Description of background and expertise of Scott Pinkham
16. Collection of Detailed Notes prepared and submitted by Mr. Jackins during his appeal hearing presentation, including his opening statement, comments regarding topics raised in his appeal, and a closing statement, totally 20 (twenty) pages, with page numbers at bottom. *(\*Note: during the hearing, sections of this exhibit were initially numbered as additional exhibits 17-22, but have been consolidated into this single exhibit no. 16, because the pages are all numbered and followed one after another during Mr. Jackins' testimony and presentation).*

**SEATTLE SCHOOL DISTRICT'S EXHIBIT LIST.**

1. Final SEPA Checklist and MDNS with Appendices
2. Lisa Johnson Resume
3. Jeff Ding Resume
4. Tod McBryan Resume
5. Emily Peterson Resume

**RECOMMENDATION TO THE SUPERINTENDENT,  
RE: CONSOLIDATED APPEALS OF SEPA MDNS  
ISSUED FOR THE MONTLAKE ELEMENTARY  
SCHOOL MODERNIZATION AND ADDITION  
PROJECT**

**GARY N. MCLEAN  
HEARING EXAMINER FOR SEATTLE PUBLIC SCHOOLS**

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6. SPS Building Survey
7. July 2022 Departures Presentation
8. November 2022 Community Update Meeting Presentation
9. December 2022 Community Design Update Presentation
10. April 2022 Landmarks Preservation Board Presentation
11. June 2022 Landmarks Preservation Board Presentation
12. September 2022 Landmarks Preservation Board Presentation
13. Residential Parking Zone areas map
14. Summary of Expanded Collision Review
15. Redacted Montlake Elementary Cultural Resources Assessment Short Report
16. Additional graphics
17. Map of 1891 topography
18. Play Area Calculations
19. November 2022 BEX Presentation excerpts
20. Section Plan showing elevation
21. Illustration offered during Mr. McBryan’s testimony on traffic safety/accident information studied for the area surrounding the school, showing “SDOT records downloaded for the area shown”.