

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

EASTLAKE COMMUNITY COUNCIL

FILE NO. S-79-037

from a determination of the
Superintendent of Buildings

Introduction

The appellant, Eastlake Community Council, filed an appeal from the Superintendent of Buildings decision to issue demolition and use permits for property at 216-20 East Lynn Street.

The appltant exercised its right to appeal pursuant to Section 25.40 of the Zoning Ordinance (86300, as amended).

Parties to the proceeding were: Appellant, represented by Janet E. Quimby, Evans & Quimby, Inc. P.S.; the Building Department represented by Elizabeth A. Huneke, Assistant City Attorney; and William S. Tsao and Company, proponents, represented by Michael E. Jacobsen, Clinton, Fleck, Glein and Brown, attorneys at law.

This matter was heard before the Hearing Examiner on January 22 and 24, 1980, and continued for submission of written legal argument.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The Superintendent of Buildings issued a demolition permit for the demolition of a building at 216-20 East Lynn Street and an use permit for the construction of a seven-unit apartment building at the same site.

2. The appellant appeals those permits on the basis that they should have been conditioned or denied pursuant to Section 19, Ordinance 105735, as amended, and that the parking layout for the proposed building does not meet zoning ordinance requirements.

3. A declaration of non-significance (DNS) was issued by the Building Department pursuant to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended. Appellants appealed that determination and that appeal was consolidated with the instant appeal for hearing. The DNS has been affirmed with corrections, by a decision issued contemporaneously with this decision.

4. The DNS and checklist, as corrected, identify a number of adverse environmental impacts from the proposed action including those on water (drainage), land use, housing and transportation and parking which appellants contend require denying or conditioning the permits.

5. No significant adverse environmental impact was identified.

6. The development will be required to provide an on-site drainage detention system.

7. The proposed action includes provision of 7 off-street parking spaces for seven units. Evidence adduced at the hearing showed that on-street parking is at capacity, according to Engineering Department standards. Many cars are parked illegally because of the lack of close-by, available parking. The high utilization of on-street parking is the result of overflow from businesses on Eastlake for employees and customers, people who park in the neighborhood and bus to their destination and many residential buildings which do not provide adequate on-site parking.

8. The area has good transit access.

9. The record shows that it is reasonable to project an average of at least one car owned per unit. Guest demand for condominium units on Capital Hill was shown to be .25-.33.

10. The environmental analyst required the owners of the property to make a good faith effort to locate housing acceptable to the current tenants. The owners have called other apartment owners in the area and asked to be given notice of any vacancies and priority consideration of the tenants of the subject property. They have also agreed to permit the tenants to have their final month in the building rent-free.

11. Appellants offered no evidence of non-compliance with the ordinance requirements for parking layout.

12. Resolution 26072 requires City Departments to document the relationship of the proposed action to the Goals and Policies of the Eastlake Neighborhood whenever making decisions affecting the Eastlake Neighborhood. The Building Department did not prepare documentation.

Conclusions

1. Permits may not be denied when no significant adverse impacts have been identified. Section 19(3), Ordinance 105735, as amended. Since no significant impacts were found, the Superintendent could not deny the permits on environmental grounds alone.

2. The Superintendent properly required the owner to make a good faith effort to locate housing for the present tenants in mitigation of the loss of low-cost housing from demolition. The actions taken constitute a good faith effort.

3. The adverse impact on circulation is too minor to reasonably require conditioning in mitigation.

4. The Superintendent has required stormwater detention in mitigation of the water/drainage impact.

5. The Superintendent should have conditioned the use permit on the provision of 9 off-street parking spaces (1.25-1.33/unit) for 7 units to reasonably mitigate the adverse impact on on-street parking in the area.

6. The Superintendent should have documented the relationship between the proposed action and Eastlake's goals. Since Eastlake Goals and Policies are not included in Appendix A, Ordinance 107678, the Superintendent would

not have been permitted to condition or deny the permits solely on the basis of identified conflicts with the goals, therefore the omission could not affect the decision to issue permits.

Decision

The decision of the Superintendent of Buildings to issue a demolition permit is AFFIRMED, and his decision to issue an use permit is reversed and remanded for modification of parking consistent with this decision.

Entered this 11th day of February, 1980.

M. Margaret Klockars
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Deputy Hearing Examiner

Notice of Right to Appeal

Pursuant to Section 20A of the SEPA Ordinance (105735, as amended) a party to the hearing before the Hearing Examiner may file an appeal with the City Council no later than the fifteenth (15th) day after the date the decision appealed from is filed with the SEPA Public Information Center. The appeal must be filed with the City Clerk. Rules have been adopted by the City Council governing the appeal procedure and should be reviewed prior to filing an appeal.

The City Council will only review issues relating to compliance with Section 19, Ordinance 105735, as amended. Section 19 relates to substantive authority to condition or deny a proposal on environmental grounds.