

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

In the Matter of the Appeal of

MARVIN AND JOYCE IRISH, ET AL.

FILE NO. MUP-83-017(W)
APPLICATION NO. 83-061

from a decision of the Director of
the Department of Construction and
Land Use on a master use permit
application

Introduction

Appellants, Marvin and Joyce Irish, et al., appeal the decision of the Director of the Department of Construction and Land Use (Director) to issue a declaration of non-significance with conditions for a proposal to establish a 15 unit apartment building at 13826 Greenwood Avenue North.

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

Parties to the proceedings were: appellants represented by Jack E. Hepfer, attorney at law, the Director by Ed Somers, and the applicant, Su Development Corporation and John Su, represented by Jim Denton, attorney at law.

This matter was heard before the Hearing Examiner on April 25, 1983.

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

Findings of Fact

1. A three and four story, 15 unit apartment building is proposed for a vacant lot at 13826 Greenwood Avenue North.

2. The applicants submitted an environmental checklist. The environmental analyst for the Director visited the site, examined comments and corrected the environmental checklist after which the Director issued the declaration of non-significance subject to the condition that landscaping be provided prior to occupancy. Appellants appealed that decision.

3. The subject site is in a L2 zoned strip along Greenwood Avenue North. The zone contains mostly duplexes and triplexes.

4. A single family zone adjoins the L2 zone on the east and west.

5. An easement over the south side of the subject property provides sole access to two new single family homes to the east of the property.

6. The development would provide 15 parking spaces, 13 under the building and two behind, all accessed by the easement roadway. The stalls would be for compact or subcompact cars.

7. A bus zone is located in front of the subject property.

8. Parking is not specifically provided for on Greenwood in this area. The street has four lanes for traffic. On each side is a wide, paved, then gravelled shoulder area with a drainage ditch, fire hydrants, light standards or utility poles. There appears to be no curb. Parking for most of the dwelling units is provided in front or under the front of the buildings requiring crossing the open shoulder area for access. If parking occurred on the shoulder, access could be cut off.

9. Traffic counts on Greenwood Avenue North in 1981 showed 22,800 vehicles per day.

10. Joyce Irish, an appellant neighbor, counted 969 vehicles in one half hour on the afternoon rush period on April 22, 1983.

11. The proposed development is projected by Mr. Somers to generate less than 100 trips per day. The increase in traffic using Greenwood at this level would be .4 percent.

12. Overloaded storm sewers have caused the severe flooding of Greenwood near 138th several times in the last few years. When that occurs traffic is rerouted onto neighborhood streets.

13. The proposed development will be required to meet the standards of the City's drainage ordinance which include retention of runoff so that the amount after development does not exceed the level prior to development. With that regulation the frequency or degree of flooding should not be affected by the proposed development.

14. Traffic backs up on Greenwood to the subject site from left-turning vehicles at the intersection. No accident figures were provided for the area. The U.S. Postal Service has required properties along Greenwood to move their mailboxes to receive delivery since mail delivery trucks will no longer be permitted to stop on the shoulder due to the hazard involved. Appellants believe that more rear end accidents will occur from the additional vehicles turning onto the easement roadway.

15. Noise in the area will increase due to the addition of vehicles associated with the development.

16. Emergency vehicle access to the single family homes would be impaired if the driveway were obstructed. The Code requires the roadway to be "unobstructed". Due to parking difficulty in the area, roadway parking may occur anyway.

17. Overflow parking from Greenwood now occurs on Palatine North one block west of Greenwood. The first street perpendicular to Greenwood north of the subject site is only wide enough for two cars and has a drainage ditch on the south side and concrete posts on the north side.

18. The environmental checklist and decision of the Director recognized changes in water absorption rates, addition of vehicular movement and demand for parking, possible increase in traffic hazards and an increase in noise levels, among others.

Conclusions

1. The standard to be applied by the Director in making the threshold determination as to whether to issue a declaration of non-significance or significance is whether there is a reasonable probability of more than a moderate effect on the quality of the environment. Norway Hill v. King County Council, 87 Wn.2d 267, 552 P.2d 674 (1976).

2. On review of the Director's decision the hearing examiner is to accord the decision made by the Director substantial weight. Section 23.76.36B(7). The burden is upon appellants to overcome that weight by showing clear error.

3. Appellants have pointed to problems in the area to which the proposed development could contribute. The Director has acknowledged that contribution in the environmental checklist and concluded that it would not cause more than a moderate effect on the quality of the environment.

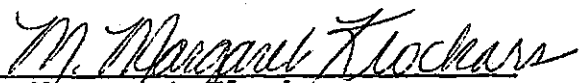
4. With regard to water runoff from the site, the City will require measures to avoid adding to the severe flooding situation.

5. In the case of parking demand to be generated by the 15 units the evidence at hearing showed that the Director's analysis was limited to what the minimum requirement of the code was and the appearance of available street parking on one visit during the day. The record showed an unusual number of special conditions that have a strong likelihood of reducing the availability of on-street parking. Because it appears that the conditions in the immediate area may not have been actually considered the matter should be remanded to determine if further conditions are required or if more than a moderate impact on the environment is reasonably probable.

Decision

The matter is REMANDED for consideration of the effects of the demand for new parking by the proposed project on the immediate area. The Hearing Examiner will retain jurisdiction to review the Director's decision to modify or reaffirm his decision. Notice of the Director's decision after further analysis shall be sent to the parties of record who may file further written comments to the Office of Hearing Examiner within fourteen (14) days after the date of notice. The final decision of the Hearing Examiner will then be issued.

Entered this 6th day of May, 1983.


M. Margaret Klockars
Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App 418 (1977); JCR 73 (1981). Should an appeal be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.