

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

DAVID N. CHRISTIE et al.

FILE NO. MUP-83-056(W)
APPLICATION NO. 83-361

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

Introduction

Neighbors of the development proposed for 6547-42nd S.W. appealed the project declaration of non-significance and challenge the adequacy of conditions imposed on the project by the Department of Construction and Land Use Director.

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

This matter was heard before the Hearing Examiner on October 13, 1983.

Parties to the proceedings were: David N. Christie for appellants, pro se; proponent by Mary Nelp, Donn Etherington, pro se; the Director of the Department of Construction and Land Use (Director) by Hermia Ip.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code unless otherwise indicated.

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

Findings of Fact

1. The subject property is located within a Lowrise 3 (L-3) zone at 6547 42nd Avenue S.W. The lot, roughly 60 ft. wide and 125 ft. deep, is developed with a single family residence in declining maintenance.

2. The subject site is bordered on its east by 42nd Avenue S.W. The rear (western) portion of the site abuts an unimproved alley. Accross the alley is a drive-in restaurant, and other businesses with frontage on California Avenue S.W.

3. Project applicant proposes to demolish the single family residence on site and construct thereon a three story condominium building. Each of the 15 studio units would have an average floor area of 450 sq. ft. The proposed building height is 30 ft., similar to that of development across the street.

4. The proposal is consistent with the bulk requirements of the zoning code, including height and modulation. Proposed landscaping is in excess of the minimally required 30%.

5. Regarding access, applicant plans to comply with the Director's condition that the alley be improved from S.W. Holly Street, three lots to the south, to the applicant's north property line, so that vehicular access to the 15 on-site parking spaces will

be to the rear of the property, and not via 42nd Avenue.

6. Applicant is willing to consider further improvements to the alley by cooperating with neighborhood Local Improvement District (LID) efforts.

7. The Director reviewed the project and issued a declaration of non-significance (DNS), having determined that the proposal would not have a significant adverse impact upon the environment. The Director's report acknowledged additional local traffic and parking demand and other impacts on elements of the environment referred to in the environmental checklist. As a second condition, however, the Director "strictly" limited use of loud construction equipment to normal working hours.

8. David C. Christie and other neighbors submitted this appeal from the Director's decision. They expressed concerns with the intensity of the development and its impact on the parking and traffic pattern of the area; with precedent; and with the compatibility of the new structure with existing development. Appellants also consider the proposal to be in direct conflict with City policies on retention of functional residences and maintenance of neighborhood scale.

9. Appellants pointed out that including the applicant's site, there are 29 mixed residential uses on the east and west sides of 42nd S.W. between S.W. Morgan (north) and S.W. Holly (south); and that an additional 15 (nearly 50% increase in) units would result in increased 24 hour/day noise, traffic and parking problems. A resident across the street from the development site warned that she experienced groundwater problems during her on-site construction. There was no evidence of record that the subject site experienced the same problem. However a controlled drainage system will be implemented during construction. Also, applicant has had completed a sub-surface investigation.

10. Some apartments in the area are without adequate parking.

11. The S.W. Morgan Street arterial is serviced by a Metro transit line.

12. Traffic on Morgan, California and 42nd includes that from business, commercial vehicles, and residential uses and contributes to the existing noise level. The traffic and diversers also contribute to the existing congestion and through pattern complained of by appellants.

Conclusions

1. Appellants request that the number of units be reduced from 15 to five; a "more thorough" traffic and parking study; and that an environmental impact statement (EIS) be done for the proposal.

2. By law, the Hearing Examiner is to give "substantial weight" to the environmental determinations of the Director. Section 23.76.36.B.7. Challengers to the Director's decision must show the Director's decision to be clearly erroneous.

3. In this case, the Director has determined that the proposal does not require an EIS, and has conditioned the project. Appellants disagree.

4. The law requires a project EIS when there is a reasonable probability of more than a moderate effect on the quality of the environment. (emphasis supplied). Norway Hill Preservation and Protection Association v. King County Council, 87 Wn.2d 267 (1976).

5. The proposed multi-family use is to be located in a multi-family (L-3) zone that permits the development. The existing

pattern includes multi-family development. L-3 bulk specifications will be complied with. Studio units of 450 sq. ft. are proposed, suggesting a certain population ceiling and auto usage rate. Fifteen on-site parking spaces are proposed, with access via the soon-to-be improved alley. For transit riders, there is direct Metro access along S.W. Morgan Street.

6. Concerning noise, the brunt of auto start up and disembarking sounds will be borne by properties west of the alley. Other project generated noises will not prove as significant additions to the existing noise level attributed to commercial and other vehicular uses of the surrounding arterials and rights-of-way. The Director has imposed reasonable conditions relative to construction noise.

7. There is no evidence of record that water problems exist on site. Further, subsurface investigations have been completed; and an on-site construction drainage system will be maintained.

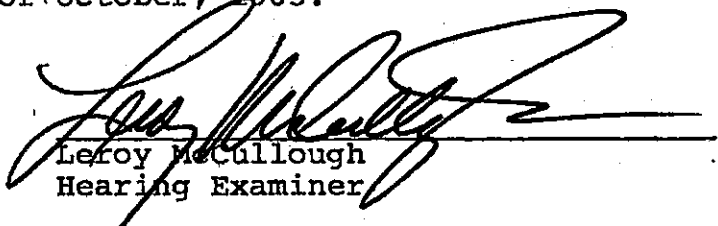
8. In light of the foregoing, and of the record, the appellants have not shown the Director's decision to issue the DNS to be clear error; nor that is reasonable to limit development to five units.

9. It is reasonable that the project be conditioned on project traffic route approval by the Seattle Engineering Department.

Decision

The decision of the Director is Affirmed as modified herein.

Entered this 27th day of October, 1983.


Leroy McCullough
Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should such request 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.

Notice of Right to Appeal

Pursuant to Section 25.04.210, Seattle Municipal Code, a party to the hearing before the Hearing Examiner may file an appeal with the City Council no later than the 14th 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 on the 1st floor of the Municipal Building. The City Council should be consulted regarding their appeal procedure.