

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

In the Matter of the Appeal of

SUMMIT NEIGHBORHOOD IMPROVEMENT  
ASSOCIATION, et al.

FILE NO. S-77-020

from a ruling of the Superintendent  
of Buildings

The appeal is DENIED and the decision of the  
Superintendent is AFFIRMED.

Introduction

The appellants, the Summit Neighborhood Improvement Association and the Capitol Hill Community Council, filed an appeal from the issuance of a use permit for property at 501-511 E. Roy Street.

The appellants exercised their right to appeal pursuant to Section 25.40, Ordinance 86300, as amended by Ordinance 104795.

Parties to the proceeding were: Gary Linden for the project developer, Larry Moss, for the appellants, and Joyce Kling representing the Superintendent.

This matter was heard before the Hearing Examiner on November 28, 1977.

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 project developer proposes to construct a multiple-residential dwelling (Arcadian Court) containing 60 units at 501-511 E. Roy Street. The project is located in both a Neighborhood Business (BN) and Multiple Residence High Density (RMH 350) zone.

2. The Superintendent in publishing his notice of intention to issue the use permit approved the plans submitted by the project developer. In a timely appeal filed on November 8, 1977, the appellants challenged the approval of the plan with regard to the number of units permitted in the BN zone.

3. The appellants contend that the density with regard to the number of units permitted should be calculated separately for that portion of the building located in each zone and that only the number of units permitted separately for each zone should be allowed.

4. If the number of units are calculated separately for each of the two zones then 13.6 units would be permitted in the BN zone and 55.4 units would be permitted in the RMH 350 zone for a total of 69 units. The plans show 16 full units and 4 partial units to be located in the BN zone portion of the building. The applicant proposes to establish a total of 60 units in the building.

5. Section 5.1 of Ordinance 86300, as amended, provides: "Bulk regulations of one zone shall not be applied to another zone unless such application is specifically provided for in the bulk regulations of the latter zone".

6. Bulk is defined in Section 3.03 of Ordinance 86300, as amended, as follows: "The size and location of buildings and structures in relation to the lot. Bulk regulations include maximum height of buildings, minimum lot area, minimum front, side, and rear yards of maximum lot coverage." The general purpose and scope of the zoning code is set forth in Section 2.1, Ordinance 86300, as amended.

### Conclusions

1. Bulk regulations determine the relation of building dimensions to lot dimensions. The purpose of such regulations is to control the physical impact of the building on the site and the neighborhood.

2. Density regulations are related to bulk regulations in that a minimum lot area is required for each dwelling unit. However, density regulations are not synonymous with bulk regulations.

3. In this case the physical dimensions of the building in relation to the lot area are determined by the bulk regulations. The only purpose that will be obtained by requiring the calculation of density separately in each zone is the rearrangement of apartments within in the building so as to maintain the proper ratio on each side of a zone line that passes through the structure but in no way alters the physical size of the structure.

4. In considering the appropriate method of interpreting the zoning code provisions the Supreme Court stated:

"It is the general rule, recognized and adopted by this court, that zoning ordinances should be liberally construed to accomplish their plain purpose and intent. At the same time the court bears in mind that they are in derogation of the common-law right to use property so as to realize its highest utility and should not be extended by implication to cases not clearly within the scope of the purpose and intent manifest in their language. (Citing case) State ex rel. Standard Mining & Development Corp. v. City of Auburn, 82 Wn.2d 321, 510 P. 2d 647 (1973).

5. The density requirements need not be calculated separately for that portion of the building located in the two distinct zones. Such an interpretation conforms to the general rule established in Standard Mining & Development Corp., supra. To require the project developer to arrange the apartment units within the building along the zone boundary would not reduce the bulk of the proposed building. The rearrangement of units within a building whose size has already been determined, (based on separate calculations for each zone), would not accomplish the purpose and intent of the zoning code.

### Decision

The appeal is DENIED and the decision of the Superintendent is AFFIRMED.

Entered this 7th day of December, 1977.

  
\_\_\_\_\_  
William N. Snell  
Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.