

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

In the Matter of the Appeal of

LUTHER LYLE et al

FILE NO. S-79-34

from a determination of the
Superintendent of Buildings

The appeal is DISMISSED.

Introduction

Luther Lyle et al, appellants, filed an appeal from the Superintendent of Buildings' decision to issue an use permit for a triplex for property at 537 - 28th Avenue.

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

Parties to the proceeding were: Luther Lyle and Homer Smith representing appellants; Joyce C. Kling, Zoning Administrator, representing the Superintendent of Buildings; Craig Webster, Fred Bassetti & Co., representing Sherstad and Williams, Inc., owner/applicant.

This matter was heard before the Hearing Examiner on December 3, 1979.

A Motion to Dismiss was filed by the Superintendent of Buildings.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Zoning Ordinance (86300, as amended).

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 published his intention to grant an use permit for a triplex at 537 - 28th Avenue.
2. The subject property is a 4,500 sq. ft. vacant lot zoned Intermediate Business (BI).
3. Sections 14A.6(b) and Section 12.52(a) permit density of up to 5 dwelling units on a lot of this size.
4. The construction of a triplex is categorically exempt under the State Environmental Policy Act (SEPA) and Ordinance 105735, as amended.
5. The proposed development may conflict with the intent and, perhaps, specific provisions of the Leschi Neighborhood Improvement Plan. The intent and provisions which may apply, such as those providing for a design review process for townhouses in other than an RD zone, have not been incorporated into the Zoning Ordinance.

Conclusions

1. The appellants do not contend that the proposed development violates any provision of the Zoning Ordinance, but rather various provisions of the Leschi Neighborhood Improvement Plan.
2. The Superintendent is limited to the consideration of whether the requirements of the Zoning Ordinance are met for an application categorically exempt from the requirements of SEPA. He is not permitted to consider traffic or parking impacts, neighborhood characteristics or/and provisions of a Neighborhood Improvement Plan not incorporated into the Zoning Ordinance, as requested by appellants.
3. The evidence presented by appellants could not have been considered by the Superintendent and therefore his decision must stand and the appeal be dismissed.

Decision

The appeal is DISMISSED.

Entered this 7th day of December 1979.

M. Margaret Klockars
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 appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977).