

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

DEANNA STROM AND DANIEL HARDIN

FILE NO. MUP-82-052(W)
APPLICATION NO. 82-0261

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

Introduction

Appellants, Deanna Strom and Daniel Hardin, appeal the decision of the Director of the Department of Construction and Land Use (Director) to issue a declaration of non-significance for a proposal for property at 2940 N.W. 85th.

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: appellants, the Director represented by Ed Somers, and the applicant, Seattle Housing Authority, represented by Joseph Marshall, Director of Development.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on August 27, 1982.

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. Seattle Housing Authority applied for a master use permit to demolish a single family residence and construct an apartment building with five townhouse-type units. The Director issued a declaration of non-significance with a condition. Appellants appealed that determination.

2. The subject site is a lot with frontage on N.W. 85th Street in a Lowrise-2 (L-2) zone. Development on the north side of 85th N.W. is single family except for a duplex next to the site.

3. A ravine, with Edgewest Drive N.W. at the bottom, runs north and south approximately one mile starting just north of N.W. 85th. The ravine defines the character of the neighborhood which consists of, at least, those properties abutting the ravine.

4. The subject property is approximately one lot removed from the ravine but considered part of the Edgewest Drive neighborhood by appellants.

5. On the south side of N.W. 85th, development is more intensive with a 10 unit apartment building, single family residence and 4 unit apartment building.

6. The ravine is wooded and serves as a habitat for species of wildlife not commonly found in an urban setting.

7. Because Edgewest Drive is a public right-of-way it is open to public use. The ravine gives secluded access to the back of the abutting properties and vandalism occurs in the ravine.

8. Greater use of the right-of-way is likely to occur with greater numbers of adjacent residents. Even though greater use could make the ravine a less hospitable habitat for wildlife and also reduce or change the makeup of the vegetation, the additional number of residents contemplated by this proposal was not shown to be great enough to make that impact reasonably probable.

9. The environmental checklist acknowledges change in land use, population and housing.

10. The proposed structure would be different in character from the other single family and duplex structures in the neighborhood. It would not create an aesthetically offensive site nor result in the obstruction of a scenic view or vista open to the public.

11. The checklist acknowledges a potential minor increase in use of public services.

12. Residents of the proposed development and their friends may become aware of the right-of-way in the ravine and find the access point from 85th to the east.

13. The five dwelling units would contain 11 bedrooms and could house up to 22 persons.

14. Appellants are concerned with this proposal's starting a trend toward greater density and with the cumulative impacts of that trend. Two renters have expressed fears about their landlord's redeveloping the properties they rent.

Conclusions

1. The decision appealed from is to be accorded substantial weight. Section 24.84.170.

2. The Director is to prepare an environmental impact statement (EIS) for a proposal when "more than a moderate effect on the quality of the environment is a reasonable probability." Norway Hill v. King County Council, 87 Wn.2d 267, 278, 552 P.2d 274. Appellants do not contend, however, that an EIS is required but that the checklist requires an addendum and that additional conditions are necessary to deal with certain impacts.

3. Those impacts which result from development induced by the proposal may be considered as indirect impacts. The Director is to apply the questions in the checklist to the total proposal including its indirect effects but only the questions in the checklist may be considered even with regard to indirect impacts. WAC 197-10-360. The change in character of the neighborhood, as it is not the subject of a question, may not be considered. Evidence of indirect impacts on land use and population amount to only speculation about this proposal's inducing other conversion so could not have been considered by the Director.

4. The appellants have not shown that the Director's determination was clearly erroneous, thus overcoming the substantial weight accorded it. The decision, then, must be affirmed.

Decision

The determination of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 9th day of September, 1982.

M. Margaret Klockars
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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.