

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

In the Matter of the Appeal of

SQUIRE PARK COMMUNITY COUNCIL

FILE NO. MUP-82-058(W)
APPLICATION NO. 82-0276

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

Introduction

The Director of the Department of Construction and Land Use (DCLU) issued a declaration of non-significance (DNS) concerning proposed construction of a six unit apartment building at 1603 E. Jefferson Street. Appellant filed this appeal from the Director's action.

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

Parties to the proceedings were: appellant by Irene Jewdechemko, pro se; project applicant by George Mattson, architect; and the Director of DCLU by Kermit Robinson.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 23 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on September 23, 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. On June 9, 1982, "after three to four months" of preparation, architect George Mattson completed a Master Use and Construction Application and Permit form for a proposed six unit apartment.

2. The site of the proposed construction is on the southeast corner of 16th Avenue E. and E. Jefferson Street. The project address chosen is 1603 E. Jefferson Street. At the time of the application the property was zoned for Multiple Residency (RM 800). Single family designation for the subject area, however, was effective June 11, 1982.

3. The applicant's lot is 48 ft. wide, the extent of frontage on E. Jefferson Street, and 100 ft. deep, along west adjacent 16th Avenue. The lot rests approximately 8-9 ft. above the surrounding sidewalk and has a retaining wall around the north and west sides. While approximately six large developed trees are located along the adjacent parking strip the lot itself only has vegetation of scrub brush, grass, and weeds.

4. Project applicant proposes to construct on site a three story with basement apartment, with 2 two bedroom units per floor. Applicant is proposing six on site parking spaces to be provided under the building. Access will be via a 25 ft. wide driveway from 16th Avenue. Proposed structure exterior is stucco and wood siding. The roof, flat, will be an average of 32.5 ft. above grade. The proposed bulk will be greater than many of the nearby structures.

5.. The applicant's plot plan notes an occupancy load of 27, nine persons per three living floors. This figure is based on the capacity of the gross living area. Actual projections for the number of residents in the apartments is less. Per the DCLU analyst, data unrefuted, the 1980 Census data showed an average of 2.1 persons per unit. For the specific census tract of the subject property, the data showed 2.4 people per unit. Therefore, between 12-15 persons are projected for residency in the proposed apartment.

6. Applicant proposes to retain the six trees that exist along the parking strip area although some consideration is being given to removal of the smallest of those trees. On site development is proposed which would control water run-off in accord with the Drainage Ordinance provisions.

7. The site is in Block 13 of the Squire Park Addition, which block is bounded on the north by E. Jefferson Street, on the south by E. Alder Street, on the west by 16th Avenue E. and on the east by 17th Avenue E. A bus stop is located near the Jefferson Street frontage of the subject site. The Providence Hospital complex is directly across (north of) E. Jefferson Street from Blocks 13 and 14 of the Squire Park Addition.

8. The north end of Block 13, adjacent to E. Jefferson Street, is developed completely with non-single family uses. However, on 16th Avenue between Jefferson and Alder Streets and in Blocks 12, 13 and 14 the predominant use is single family. Development along the 16th Avenue front includes 10 detached units, developed as one project, located on one 16th Avenue site. Per the DCLU calculation if these units are counted as single family structures, single family development constitutes 79 percent of the development along the east and west sides of 16th Avenue. If the 10 units are considered as multifamily development then single family development would constitute 74 percent of that stretch's development. The DCLU analysis continued that with adding the proposed project, single family development will constitute between 70-75 percent of that development, depending on classification of those 10 units.

9. The Squire Park Community Council appealed the Director's DNS, alleging undue impact on the present single family zoning, the visual effects on existing residences, the impact on the limited on-street parking and adverse effects of additional residents and cars on the parking and general environment. Appellant generally asserted that the proposed structure would be out of character with existing neighborhood structures and that the project stood in direct opposition to community zoning and neighborhood restoration efforts.

10. Appellant describes a severe parking shortage on 16th Avenue between Jefferson and Alder Streets. Parking in the vicinity is at a premium. Per their exhibit only four of the developments facing 16th Avenue have garages; the remainder are without off-street parking. Appellant's Exhibit 1. Additionally, there is a fire hydrant on 16th Avenue, further restricting on-street parking availability. The subject vicinity does have a restricted parking program such that on 15th, 16th and 17th Avenues East, resident's cars, noted by sticker, may park on street without restriction. This restricted parking effort has been in effect for approximately one year. On-street parking is allowed on both sides of 16th Avenue between Jefferson and Alder Streets. Added to the 5 ft. on each side of the apartment's proposed driveway, a distance of approximately 35 ft., potential on-street parking, would be lost.

11. The DCLU analyst reviewed the checklist presented by the project applicant. Concerning impacts, the checklist as annotated by DCLU noted that the proposal might have an effect on the air. The applicant stated that the effects would be temporary; the DCLU annotation was that the additional traffic resulting from the increased number of dwelling units would not substantially add to

area air emissions. The checklist continued that there would be no reduction in the amount of water otherwise available for public water supplies as a result of the project; that addition of the proposed use of the block "could make a rezone request back to multi-family more feasible", DCLU annotation; that the proposal would increase the population in the area; and related to transportation/circulation that the additional dwelling units would generate additional traffic and that there would be an additional demand for on-street parking by guests and second cars. The annotation continues that the area has "parking available on street even though it is close to Providence Hospital because of a resident preference parking program."

12. Eight inch water and 12 inch sewer lines are located in 16th Avenue. The environmental checklist noted that the proposal would result in no need for new systems of water, storm water drainage, solid waste and disposal or sewer or septic tanks.

Conclusions

1. Not all projects require an environmental impact statement (EIS). Some projects are categorically exempt from environmental review as, for example, construction of apartment buildings of up to four units. WAC 197-10-170. For projects that are reviewed, the EIS is required only when the proposed action would have a significant adverse impact on the environment, i.e., "whenever more than a moderate effect on the quality of the environment is a reasonable probability." Norway Hill Preservation and Protection Association v. King County Council, 87 Wn.2d 267 (1976); Brown v. Tacoma, 30 Wn.App. 762 (1981).

2. In the Hearing Examiner review of the Director's decision as to whether or not an EIS is required substantial weight must be given to the Director's decision and it is the appellant's burden to prove the Director's clear error. Section 23.76.36.

3. The record clearly reflects that there is parking difficulty in the vicinity of the project. The facts are also that the proposed three story building will present as incompatible in bulk with some vicinity residential structures. Further, by the driveway on 16th the project could remove 35 ft. of on-street parking. Additional traffic and parking is expected to be generated by the units. Finally, as noted by the DCLU annotation and evidence of record, addition of the proposal to the block could improve the chances of a rezone request from present single family back to multifamily.

4. In Brown v. Tacoma, *supra*, a project applicant proposed a 34 unit condominium to be located within the City of Tacoma. Although nearby areas were zoned single family the construction site's zoning permitted the proposed development. Brown and other owners of property adjacent to the proposed site challenged the ensuing DNS. The court concluded:

We recognize, as did the Department, that construction of the proposed condominium will have some impact upon the surrounding environment. But we cannot conclude this impact entails other than a "moderate effect" upon the surrounding environment in an appropriately zoned and developed urban area such as this one...at p. 768,

citing, *inter alia*, Richland Homeowner's Preservation Association v. King County Council, wherein it was held that a negative threshold determination was not clearly erroneous as to an 83 unit apartment unit within the City of Richland.

5. Similarly, the effects of the project here at issue do not rise to the level of more than a moderate impact upon the quality of the environment of urbanized development. The site was zoned for multiple residence use at the time of application. It is located at the edge of a block that is developed with all non-single family uses. A hospital complex is directly north, across E. Jefferson Street.


6. Proposed occupancy is between 12-15 persons. Six on-site parking stalls, one per unit, the minimum required by code, will be provided. Access to public transportation is immediate. The consequential impact on the transportation/circulation system will not be significantly adverse. Sewer and water lines were not proved to be inadequate to accommodate the project. The Director considered impacts related to air, transportation, land use and other categories.

7. As to land use, the locational criteria for single family zones include the consideration of whether the area proposed for single family designation consists of blocks with at least 70 percent of the existing structures in single family use, and whether an increasing trend toward single family residential use can be demonstrated. Section 23.34.32. While it is not stated with certainty that the 70 percent figure is an absolute guarantee of single family zone retention, the proposal will result in 16th Avenue between Jefferson and Alder single family development of no less than 70 percent. Appellant's burden of proving the Director's clear error on this or the remaining points of the appeal has not been met. Brown v. Tacoma, supra.

Decision

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

Entered this 7th day of October, 1982.


Leroy McCullough
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, instruction 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 of the appellant is successful in court.