

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

In the Matter of the Appeal of

NANCY ISHIMITSU, ET AL.

FILE NO. MUP-83-029(W)  
APPLICATION NO. 83-144

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

Introduction

Appellants, Nancy Ishimitsu, et al., appeal the decision of the Director of the Department of Construction and Land Use (Director) to grant a master use permit for a billboard at 1929 West Dravus Street.

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 June 22, 1983.

Parties to the proceeding were: appellants, represented by Nancy Ishimitsu, Tony Still and Elona Fraley, and the Director represented by Leslie Durkee, environmental specialist. The permit applicant, Ackerly Communications, did not appear.

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. Ackerly Communications (Ackerly) applied for a master use permit to construct a billboard advertising sign at 1929 West Dravus. The Director issued a declaration of non-significance and determined not to condition or deny the permit on environmental grounds. Appellants appealed.

2. The proposed site is at the southeast corner of the intersection of West Dravus Street with 20th Avenue West on a narrow, street level shelf overlooking the Burlington Northern switching yards in the Magnolia-Interbay area. The site is zoned General Industrial (IG).

3. Ackerly proposes to construct a 12 by 25 ft. billboard with one display surface facing east located 28.5 ft. south of the northern property line. The total height would be 20 ft. with an 8 ft. open space between the ground and the bottom of the sign.

4. Another two-sided billboard is located at the northeast corner of the same intersection. That billboard is 100 ft. away from the proposed site for the new billboard.

5. The Dravus Street bridge is one of three approaches to Magnolia. It is the route used by most visitors to Discovery Park.

6. Traffic is heavy at the intersection and many accidents occur including vehicle/pedestrian accidents, partly caused by inattention or disobeying traffic signs, according to appellants.



7. The sign would be outside the critical sight triangle for the intersection and would allow approaching cars to be seen underneath.

8. The environmental checklist shows no impact on transportation and circulation.

9. A Neighborhood Business (BN) zone begins on the west side of 20th West with a single family zone on the hillside west of the BN zone. The area is experiencing considerable redevelopment and rehabilitation.

10. No buildings are located along 20th West on the east side of the street leaving the existing and proposed billboards fully exposed.

11. Appellants find billboards at this location to be aesthetically displeasing, especially at the entrance to their community.

12. The environmental checklist indicates that the proposed billboard may have an aesthetic impact on the area.

13. Markers indicate 20th Avenue West and Gilman Avenue West a scenic route but it is not designated as such by ordinance, according to the environmental specialist.

14. The IG zone classification permits billboard signs. They are restricted by Chapter 29, Building Code to at least 100 ft. separation between signs and no more than four within 660 ft.

15. Appellants see no benefit to the residents of Magnolia from the proposed sign.

#### Conclusions

1. Appellants challenge the Director's decisions on the basis of aesthetic and traffic impacts and lack of benefit. The threshold determination is whether the reasonably probable effects of the proposed action would have more than a moderate effect on the quality of the environment. Norway Hill v. King County Council, 87 Wn.2d 267 (1976). The Director's decision that they would not and to issue a declaration of non-significance must be accorded substantial weight. Section 23.76.36. The burden is on appellants to prove clear error.

2. WAC 197-10-365 limits consideration of impacts to those listed in the environmental checklist. Since benefit analysis is not included it may not be considered in the threshold determination.

3. While appellants have shown serious concern about traffic and pedestrian safety, the evidence before the hearing examiner is not of the quality to allow the conclusion that the Director erred in determining that the impact, if any, would not be more than moderate.

4. The Director and appellants are in partial agreement as to the aesthetics involved: the Director's findings that the billboard may have aesthetic impact and appellants that it will. Appellants have not shown that the Director's decision that the impact would not be more than moderate is clearly wrong.

5. Appellants urge that the permit should be denied based upon the environmental impacts and on the lack of benefit to the Magnolia community. Section 25.04.190 grants authority to deny a proposal where significant adverse impacts have been identified in the environmental documents if those impacts cannot be mitigated or prevented by imposition of conditions based upon adopted policies adopted pursuant to RCW 43.21C.060. The benefits of the proposal are to be weighed against those significant adverse impacts. Since significant impacts have not been identified there is no authority to deny the permit despite apparent lack of benefit.



Decision

The decisions of the Director are AFFIRMED.

Entered this 6<sup>th</sup> day of July, 1983.

*M. Margaret Lockars*  
M. Margaret Lockars  
Deputy Hearing Examiner

Notice of Right to Appeal Threshold Determination

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.

Notice of Right to Appeal Decision Reviewing Compliance With Section 25.04.210 (Substantive Authority to Condition or Deny Proposals)

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 SEPA Public Information Center. The appeal must be filed with the City Clerk on the 1st Floor of the Municipal Building. Rules have been adopted by the City Council governing the appeal procedure and should be reviewed prior to filing an appeal.