

FINDINGS AND DECISION

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OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

MAY 29 1985

In the Matter of the Appeal of  
DELDRIDGE COMMUNITY ASSOCIATION

S.E.P.A.  
PUBLIC INFORMATION CENTER  
FILE NO. MUP-85-0211  
APPLICATION NO. 8402451

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

Introduction

Delridge Community Association appeals the decision of the Director, Department of Construction and Land Use, regarding property at 4500 Delridge Way S.W.

The appellant exercised the 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 May 15, 1985.

Parties to the proceedings were: appellant, Delridge Community Association, represented by Vivian McLean; the Director represented by Hermia Ip, land use specialist; and the applicant, Magdi M. Fahim, pro se and by Donald E. Goe.

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. The applicant proposes a 6-unit apartment building for a lot at the southeast corner of the intersection of Delridge Way S.W. and S.W. Oregon Street, 4500 Delridge Way S.W. The lot is zoned Lowrise 3 and is vacant.

2. The Director issued a determination of non-significance (DNS) and imposed certain conditions to mitigate impacts of the proposed project.

3. Across Oregon Street from the subject lot to the north is the Frank Cooper Elementary School. To the west, across Delridge Way, is the Delridge Playfield and Community Center.

4. Delridge Way is a major arterial with a 35 m.p.h. speed limit. Oregon is a minor arterial which becomes 23rd Avenue S.W. at a bend approximately 90 ft. east of Delridge. A bus route turns on Oregon to 23rd with a stop in front of the subject site on Oregon.

5. There is considerable vacant property east of 23rd Avenue S.W. including 44 acres belonging to the University of Washington which soon may be put on the market. Single family houses are located along the east side of Delridge in the subject block.

6. The Delridge Way-Oregon Street intersection is hazardous for both vehicles and pedestrians. Entering Delridge way from Oregon is difficult because of the speed of the traffic and the difficulty of seeing traffic approaching from the south due to the curvature of the road and cars parked along the curb. The

community has requested traffic control lights but its request has been denied to date. A new study has been recommended by DCLU and is underway.

7. The elementary school enrollment is 390 students. Of those, approximately 70 come by bus, 20 by car and the remainder walk. The peak hours for traffic generated by the school are 8:45 to 9:15 a.m. and 3:20 to 3:35 p.m. Because no parking is provided at the school for automobile loading and the east side of Delridge is reserved for school bus loading, parents park illegally along the north side of Oregon and sometimes block the gravel extension of 23rd. Children walking to and from the south must cross Oregon where drivers are turning onto Oregon from and through fast moving traffic. A pedestrian overpass to the west side of Delridge is available and a loading area for parents' cars is located on the west side.

8. The Engineering Department required the applicant to locate his access on Oregon rather than Delridge, which the applicant had proposed. The Engineering Department advised DCLU that access on Oregon is preferred because of the higher volume and speed of traffic on Delridge. The curb cut for the driveway would begin about 40 ft. east of the intersection and would conflict with the existing bus stop.

9. South Seattle Community College is located approximately 1/2 mile from the subject site. The college advised DCLU that traffic generated by the college is approximately 2,000 vehicles per day. Of those, approximately one third uses the Oregon Street-23rd Avenue route. The community college peak hours are spread between 6:30 a.m. and 9:00 a.m. and between 1:00 p.m. and 2:30 p.m.

10. The average weekday traffic for 7 days in April, 1985, on Oregon Street east of Delridge Way was 1,987 vehicles. During the morning peak hour occurring between 7:00 and 8:15 a.m., the street carries an average of volume of 137 vehicles and during the evening peak hour between approximately 3:00 and 5:30 p.m., depending on the day, the street carries an average of 148 vehicles. These figures are compared to 91 and 93 vehicles in 1982.

11. The average weekday traffic on Delridge measured north and south of S.W. Oregon in April, 1985, was 15,347 vehicles. In 1982, it was 11,671.

12. The residents of the new units would probably join the usual rush hour traffic leaving between 7:00 and 8:30 a.m. and returning between 5:00 and 6:30 p.m.

13. The Engineering Department shows 7 reported accidents at Delridge and Oregon and 6 near Oregon and 23rd in the past 3 years. Neighbors report that the actual number of accidents is much greater.

14. The environmental checklist utilized by the Director shows there will be generation of additional vehicular movement and demand for new parking from the proposed 6-unit development. There may be impact on existing transportation systems, alterations to circulation patterns and increase in traffic hazards. These impacts were deemed to be minor by the Director.

15. The sidewalk on the south side of Oregon next to the subject site is located immediately adjacent to the traffic lanes. On the north side of Oregon there is a metal barrier set back several feet from the roadway. Cars park on this graveled and grassy strip between the roadway and barrier.

16. The principal of the elementary school and the safety officer from South Seattle Community College both testified that moving the sidewalk back from the lanes of travel would make

Oregon Street safer for children.

17. The proposed structure would be set back from the property line on Delridge Way an average of 13.29 ft.

18. The water main in Delridge Way is adequate and the sanitary sewer line can handle additional flow without overload.

19. The applicant's landscape plan shows crushed red brick in the street right-of-way between the sidewalk and the property line. Appellant's witnesses consider that plan unappealing aesthetically and inviting trouble from passing school children.

20. Appellant's chief concern is the access on Oregon Street. It asks that the access be changed to Delridge Way but that if it is not changed a stop light be installed at the intersection and a flashing light be installed on Oregon before the intersection.

21. The Director imposed three conditions on the decision: 1) that the applicant work with METRO on relocating the bus stop; 2) that construction related to traffic be required to avoid peak school traffic; and 3) that landscaping per the plan be provided and maintained.

22. Appellant seeks additional conditions:

1. A stormwater control drainage plan should be submitted with building plans and this should be approved by DCLU.
2. Landscaping should at least be up to code or better.
3. A steel barricade on the north side of Oregon Street at the Cooper School play-court be moved out to the street and landscaping should be done between the barricade and the school fence.
4. There should be a planted parking strip on the south side between Oregon Street and the sidewalk. The sidewalk there now is asphalt and should be replaced with a cement sidewalk.

#### Conclusions

1. Section 25.05.660 grants the Director authority to impose reasonable conditions to mitigate the environmental impacts disclosed in the environmental documents. Those mitigating measures must be based on policies or plans designated in Section 25.05.902 as bases for those conditions.

2. The DNS and checklist acknowledge an existing hazardous condition and recognize that the traffic from the proposal will constitute a minor addition to the situation. The evidence in the record does not show that the Director made a mistake in not requiring the access be changed to Delridge Way given that the Engineering Department advised that Oregon would be better, the school traffic peak period is not likely to coincide with the times working residents leave and arrive and that only six units are proposed. The examiner is convinced by the evidence that a serious situation exists which could be improved by a traffic control device. It is urged that the Engineering Department carefully consider the magnitude of the existing problem and the effect of potential development to the east on the situation.

3. Section 25.05.902(4)(B)(iv) allows the Director to require of pedestrian amenities. Even though a sidewalk exists along the subject site on Oregon and 23rd, the hazardous condition of the proximity to a difficult intersection and the

volume of school children requires that every reasonable precaution be taken. The applicant should be required to relocate the sidewalk to provide a planting strip to intervene between the roadway and the sidewalk where the street right-of-way provides sufficient width for that to be done.

4. The relationship of the proposed development to the need for moving the metal barrier on the opposite side of the street is too attenuated to make requiring that action a reasonable condition. The school should work with the Engineering Department on accomplishing this change if it appears desirable.

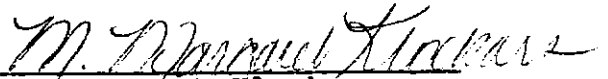
5. The Director's representative indicated that additional conditions regarding landscaping would be acceptable. The applicant agreed to work with the community on appropriate landscaping. The applicant should be required to change to plan to provide for living ground cover instead of crushed brick, however.

#### Decision

The decision of the Director is modified by adding the following conditions:

4. The sidewalk along S.W. Oregon Street and 23rd Avenue S.W. shall be relocated, where the street right-of-way permits, to provide a separation between the lanes for travel and the sidewalk.
5. Living ground cover (preferably grass) shall be used in the planting strip and be substituted for crushed brick in the landscape plan.

Entered this 29th day of May, 1985.

  
M. Margaret Klockars  
Deputy Hearing Examiner

#### CONCERNING FURTHER REVIEW

Pursuant to Section 25.05.680(2), Seattle Municipal Code, a party to the hearing before the Hearing Examiner may file an appeal with the City Council no later than the fourteenth day after the date of the decision appealed from is filed with the SEPA Public Information Center. The City Council's review on appeal shall be limited to the exercise of the City's substantive authority to condition or deny the proposal under SEPA as authorized by Section 25.05.660. The appeal statement must be filed with the City Clerk on the first floor of the Municipal Building. The City Council should be consulted regarding their appeal procedure.

If an appeal is taken pursuant to Section 25.05.680(2), the time for filing a request for judicial review of the underlying governmental action and/or other SEPA issues is stayed until the City Council renders a final decision on this Section 25.05.680(2) appeal.

If no appeal is taken pursuant to Section 25.05.680(2), the decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any request for judicial review of the decision on the underlying governmental action must be filed in King County Superior Court within fourteen days of the date of this Hearing Examiner decision. Seattle Municipal Code Section 23.76.36.(B)(11). Judicial review under SEPA shall without exception be of the decision on the underlying governmental action together with its

accompanying environmental determinations. RCW 43.21C.075(6)(c). SEPA issues may be added to the request for review within 30 days after the date of this decision if a notice of intent to seek judicial review of SEPA issues is filed with the Director of the Department of Construction and Land Use, 400 Seattle Municipal Building, Seattle, Washington 98104, within fourteen days of the date of this decision. Section 25.05.680(3)(d).

If the Superior Court orders a review of the decision, the person seeking review must arrange for and bear the cost of preparing a verbatim written transcript of the hearing but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, 5th Floor, Seattle, Washington 98104. As an alternative to the written transcript, RCW 43.21C.075(6)(b) provides that a tape may be used for court review. If a taped transcript is to be reviewed by the court the record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review.