

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

FREMONT COMMUNITY COUNCIL

FILE NO. W-78-021

from an environmental determination  
of the Superintendent of Buildings

The appeal is DENIED and the determination by the  
Superintendent of Buildings is AFFIRMED.

Introduction

The appellant, the Fremont Community Council, filed an appeal from a declaration of nonsignificance (DNS) prepared by the Superintendent of Buildings with regard to the proposed action by Louie Mossano to demolish a single family residence and construct a five-unit apartment at 4259 Woodland Park Avenue North.

The appellants exercised their right to appeal pursuant to Section 20, Ordinance 105735.

Parties to the proceeding were: Ann Jorgenson and Ron Baum for the appellant; Ross Radley, attorney, representing the Superintendent of Buildings; Louis Mossano in person and by his attorney, Thomas M. Treece, Jr.

This matter was heard before the Hearing Examiner on December 7, 1978.

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 property owner, Louis Mossano, proposes to demolish a single family house at 4259 Woodland Park Avenue North and to construct a five-unit apartment building on the site. The existing residence is vacant and has been for as long as Mr. Mossano has owned it, some four months. It is in poor condition.

2. The Superintendent of Buildings, hereinafter Superintendent, prepared a DNS and filed it with the SEPA Public Information Center October 23, 1978. The determination of the Superintendent was that the proposal would not have a significant adverse impact upon the environment so no EIS would be required.

3. A notice of appeal was filed November 7, 1978, by Roberta Goodnow-Campbell, Chairperson of the Land Use Committee of the Fremont Community Council, for the residents of 4200 block of Woodland Park North. The Fremont Community Council has been treated as the appellant.

4. The Superintendent moved to dismiss the appeal at the prehearing conference, November 22, 1978, on the basis that the pleadings showed the appeal to be without merit. The appellant was permitted to supplement the notice of appeal in writing. The appeal as to the elements on the checklist of air emissions, noise, light and glare, population, vehicular movement, and aesthetics was dismissed. The hearing was convened on December 7, 1978 to consider the appeal of the determination as to the cumulative effects of the proposed action on land use, housing and parking.

5. The site of the proposed action is within a Multiple Residence Low Density (RM 800) zone. The block front in which it is situated contains, in this order, two single family residences, the subject site, another single family residence, a seven-unit apartment building and a commercial building. Across from the site is a 25-unit apartment building and a series of single family residences. The lots in the area are developed predominately with single family residences.

6. While the area is zoned RM 800, because of the predominance of single family uses it may eventually be downzoned under policies expected to be adopted by the Council. If the rezone were to take place the proposed apartment building would be a nonconforming use. The Superintendent indicated on the checklist that the proposal would result in the alteration of the present or planned land use in that the intensity of the residential use would be increased.

7. The appellant contends that there is a trend in the Fremont area involving the loss of low cost housing which the proposed action would further. No evidence was offered as to the most recent rental of the existing residence. The rental of the proposed apartments would start at \$245. The Superintendent indicated that the proposal would affect existing housing by adding 5 units to the housing stock. This is an error for with the demolition of one unit only four units would be added.

8. The appellant also cited as error the Superintendent's consideration of the cumulative effect of the proposal on the existence of and demand for parking. The Superintendent indicated that there may be an effect since some tenants may have more than one car and provision is made for off-street parking for only one car per unit. The analysis was that this would have only a slight impact on the availability of on-street parking.

9. The appellant's witnesses testified that there is a parking problem in the area resulting in cars blocking others and residents having to park away from their homes. They further pointed out that two on-street spaces would be eliminated by the proposal. The average car ownership in the Seattle area is approaching two per dwelling unit. The proposed apartment building would have 3-two bedroom units and two bachelor units. Five off-street parking spaces would be provided.

#### Conclusions

1. WAC 197-10-340 directs the lead agency, in this case the Department of Buildings, to prepare a DNS if it determines that a proposal will not have a significant adverse impact on the quality of the environment. The courts have decided that "significant adverse impact" is present when there is a reasonable probability that an action will have more than a moderate effect on the quality of the environment. Norway Hill v. King County Council, 87 Wn. 2d. 267 (1976).

2. The appellant has failed to show the Superintendent's determination to be incorrect. Use of the land would change as indicated by the Superintendent in that it would be a more intense residential use. One can only speculate as to the future zoning at this point but a nonconforming 5-unit building would not have a significant adverse impact in itself. In terms of the cumulative effect, this apartment, added to those now existing, does not appear to tip the scales to multiple use, according to appellant's figures. In any event the proposal would not have a significant adverse impact on land use.

3. The appellant's challenge of the Superintendent's findings on the proposal's effect on housing must fail as well. The Superintendent is correct that the proposal would add to the housing stock. With the new SEPA policies an indication on the checklist as to whether the housing is occupied and if so, whether it meets the low cost criteria would be helpful. Since the existing residence is unoccupied further exploration of housing in an EIS would provide no useful information to the decision maker since the only mitigating measure provided is relocation of occupants. Even were this not the case, the substitution of one unit by five others does not have a substantial adverse impact on housing.

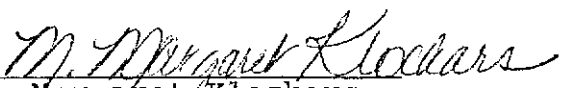
4. Finally, the effect on the demand for or availability of parking caused by 5 units with 5 parking spaces would not be significant. As presented by the appellant, the average car ownership would have been computed based upon all types of dwelling units. That average must be used cautiously in this case since it is unlikely that the bachelor units' tenants would have two cars. The proximity to the University and downtown could also attract residents using other means of transportation. The photographs admitted as exhibits do not depict a serious parking problem, at this time, as curb space appears to be available. The Superintendent's answer acknowledged that a slight increase in demand could be anticipated. This increase would not have a significantly adverse effect.

5. The appellant has not shown that the effect of the proposed action on any single element or on the environment as a whole would be significantly adverse, therefore the Superintendent's determination should be affirmed.

#### Decision

The appeal is DENIED and the Superintendent's determination is AFFIRMED.

Entered this 17th day of November 1978.

  
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 and any further appeal must be made to the courts.