

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

ANDREW J. TRACEY, ET AL.

FILE NO. W-79-018

from an environmental determination  
of the Superintendent of Buildings

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

#### Introduction

The appellants, Andrew J. and Mary Ann Tracey, Jerry and Stella Norman, Hilda McLean, Venus Placer-Barber, Merrill W. Anderson, Richard Lloyd, Lloyd and Pearl Stokes, Donald and G. Doreen Mallett, Eugene and Agnes Sumner, filed an appeal challenging a declaration of nonsignificance (DNS) prepared by the Superintendent of Buildings in connection with a proposed construction of an 8-unit, 4-story condominium at 9521 - 35th Avenue N.E.

The appellants exercised their right to appeal pursuant to Section 20 of the SEPA Ordinance (105735, as amended).

Parties to the proceeding were: the appellants, Andrew J. Tracey, et al; the project developer, Jerome Sandvig represented by Charles Mullavey; and the Superintendent of Buildings, represented by Ross Radley, Assistant City Attorney.

The matter was heard before the Hearing Examiner on June 25, 1979.

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 proposed development site at 9521 - 35th N.E. consists of a corner located on 35th Avenue N.E. and N.E. 96th Street, which is 104.12 feet along 35th N.E. and 111.12 feet along N.E. 96th Street.

2. The zone is BN for Neighborhood Business, but the applicant has utilized the 25 foot zone boundary extension provision of the code to extend into the RS 7200 zone the maximum 25 feet both in a northerly and easterly direction.

3. The developer, J. Sandvig, proposed construction of an 8-unit, 20-bedroom, condominium with parking for 10 cars provided in the basement level of the building.

4. Access to the underground parking is from 35th Avenue N.E., which is an arterial.

5. The Superintendent of Buildings issued a final DNS with regard to the proposal on May 7, 1979.

6. The appellants contend that the Superintendent of Buildings failed to adequately consider the impact of this development in relation to traffic, parking, air, land use, and aesthetics.

### Traffic and Parking

7. Most of the appellants live along N.E. 96th Street, which is a dead-end narrow residential street. They testified to current problems of traffic on the street created by people turning by mistake and having to use their private driveways to turn around, since the dead-end street has no cul de sac or other turnaround area. There is also a parking problem along this narrow street partially because 35th Avenue N.E. has no parking along it. They expressed reasonable concerns that the added density brought to this corner by construction of the 8-unit, 20-bedroom proposal would exacerbate both the traffic and parking problems of their single family residential street.

8. The City land use expert testified that he had considered both the parking and traffic problems. He found that since the proposal provides a parking ratio of 1.25 spaces per unit, the highest ratio required by the City outside the University District, his finding of nonsignificance stood. Since the entry to the parking is on 35th Avenue N.E., he testified the traffic impact to be nonsignificant, except during the construction.

### Aesthetics

9. The appellants testified the 4-story structure would obscure views and generally negatively impact the aesthetics, since the adjacent business is a one-story veterinary and the homes are generally one-story. The City pointed out relative to checklist item #18 that the statute protects public views only, and no impact is made by this project on any scenic vista or view open to the public.

### Air

10. The impacts on air quality were considered by the environmental expert relative to checklist item #2 with a finding that temporary deterioration is expected during construction. The appellants contend the burning odors from the veterinary would be blocked, increasing an unpleasant periodic odor flowing around their houses.

### Land Use

11. Consideration was given to the impact of the development on the land use which changes the use from a vacant lot to a developed condominium, which is consistent with the zoning.

### Conclusions

1. An environmental impact statement (EIS) is required by the State Environmental Policy Act (SEPA, RCW 43.21c) only when there is a major action significantly affecting the quality of the environment. The Supreme Court's general guideline for interpretation of "significantly" is "whenever more than a moderate effect on the quality of the environment is a reasonable probability." Norway Hill v. King County 87 Wn.2d 267, 278, 522 P. 2d 674 (1976).

2. The record in this case shows that due consideration was given to traffic, parking, land use, air and aesthetics impacts and although there are some impacts, they did not rise to the level requiring an EIS.

3. Impact of any development of this site upon the residents of N.E. 96th Street would exist and the existing problems of a narrow dead-end street upon traffic and parking


are appreciated. Nevertheless, it is important that an environmental impact statement only be triggered when the evidence shows the proposal would have more than a moderate effect on the quality of the environment. Since the proposal provides 1.25 parking spaces per unit in underground parking, which is reached from the arterial 35th Avenue N.E., it incorporates a high ratio of parking space which should minimize the parking and traffic impacts on this residential street.

4. No development of this site could avoid some adverse impacts but those foreseen here do not have more than a moderate effect on the quality of the environment. The declaration of nonsignificance was based on investigation of the concerns expressed by the appellants.

#### Decision

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

Entered this 11<sup>th</sup> day of July, 1979.

  
Joan B. Allison  
Hearing Examiner Pro Tempore

#### Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977).