

## FINDINGS AND DECISION

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

In the Matter of the Appeal of the

INTERNATIONAL DISTRICT ECONOMIC ASSOCIATION

FILE NO. W-86-003

from a decision of the Director of  
the Department of Community Development

#### Introduction

On March 7, 1986, the Department of Community Development (DCD) Director issued an environmental declaration of nonsignificance (DNS) for planned demolition of an existing structure and the redevelopment of the site located on 12th Avenue South between South Weller and South Lane Streets.

IDEA appealed pursuant to Chapter 25.05, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on April 23, 1986, subsequent to prehearing conference of April 16, 1986.

Parties to the proceedings were appellant by attorney Rodney Wong; proponent, Seattle Indian Services Commission, by John Hempelmann of Diamond and Sylvester; and the DCD Director by assistant city attorney James E. Fearn, Jr. At the prehearing Messrs. Fearn and Hempelmann waived cross-examination of Tomio Moriguchi, an appellant witness who was unavailable for the hearing. Mr. Moriguchi's participation in the hearing was via written submittal marked and entered as Exhibit 1.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, unless otherwise indicated.

After due consideration of the evidence of record, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

#### Findings of Fact

1. The subject site is located on the west side of 12th Avenue S. between S. Weller on the north and S. Lane Street on the south. The legal description appears in the record and is incorporated herein by reference.

2. The site is located within the International Special Review District. The District extends east to 12th Avenue, south to Dearborn Street, west to Fourth Avenue and north to Yesler Way. From Yesler the District boundary then proceeds south in tandem with the Interstate 5 Freeway which cuts through (above) the District. The boundary then extends east along Jackson to 12th. Exhibit 6.

3. The proposal site is currently developed with the Bailey Gatzert Elementary School Building, accessory structures and playground. In June of 1984, the Seattle School District closed the two-story building, an unreinforced masonry structure, because of concerns that the building was seismically unstable.

4. Current tenants of the Bailey Gatzert structure are the Asian Counseling and Referral Service and the Denise Louie Childcare Program. A three story apartment building is west adjacent to the Bailey Gatzert site. The District's "retail core-Asian character district" lies west of the freeway swath and generally between Main Street to the north and S. Weller to the south. Between Dearborn to the south and Jackson to the north, east of the freeway are various shops, businesses and parking areas. The Gatzert site is located within this east portion of the International District. The site is not within the former, present or proposed District retail core.

5. The Seattle Indian Services Commission proposes to demolish the Bailey Gatzert building and develop the site with three facilities. The Seattle Indian Center will be a two story structure of approximately 11,000 sq. ft. area. It will have education, job training, family and other services. The Seattle Indian Health Board Clinic will occupy a two story, roughly 22,000 sq. ft. area building. It will offer dental, optometric and mental health services. Coordination of effort is expected with the nearby Pacific Medical Center and with other agencies of similar foci.

6. The third structure proposed is a three-story, 35-unit apartment building for the elderly that will be constructed under the auspices of the Seattle Housing Authority. The proposed rental units will range in area from 580 to 800 sq. ft. and rent from \$100 to \$416 per month.

7. The Hearing Examiner finds that the 118-120 parking spaces proposed for the development will be principally used by the on-site residents and visitors. Testimony of P. Fujii.

8. The proposal site is currently zoned Manufacturing but has been reclassified as C-1 under the recently adopted 1986 Neighborhood Commercial Areas designation. The C-1 category will be effective approximately June, 1986.

9. As lead agency, the Seattle Department of Community Development reviewed the proposal for environmental impacts. DCD then issued a determination of nonsignificance (DNS) and appellant submitted this appeal. Appellant's presenters took specific issue with the Environmental Checklist statements and conclusions addressing land use and historic and cultural preservation. The other challenges, to issues of transportation, aesthetics, public services, housing and recreation, were either dismissed by the Hearing Examiner or subsumed within one of the remaining categories.

10. The existing school building is a brick base structure with some terra cotta ornamentation. It is one of several school buildings designed by architect F.A. Naramore.

11. Recently, the Seattle School District authorities reviewed their inventory of school buildings. Some structures were consequently nominated for and received landmark status. The Bailey Gatzert site was not among those so nominated and designated. As pointed out by one appellant witness, however, the structure boasts several artistic elements such as its curved entry door and owl gargoyles that are worthy of note.

12. The aforementioned witness also opined that the Checklist gave inadequate attention to the potential re-use of the entire existing school building, its facade or other portions of the building. Appellant submitted no specific contest to the Checklist's estimate of \$480-500,000 to bring the building "shell into compliance with remedial structural and other code compliances". Cf. Exhibit 1, Part III, p. 2.

13. Appellant was more specific in its challenge to the Environmental Checklist conclusion that the proposal meets with International District and other relevant goals and objectives. In the view of appellant's witnesses the International District already has too many social service agencies and too much low income housing. Witness Eng testified that more retail business is needed. Eng continued that from conversations with his associates, the community envisioned the Bailey Gatzert property as desirable for shopping center use or for use as a school, perhaps for immigrants. Moriguchi's submittal stated that the lack of young wage earner, family units has hampered marketing of the area as a desirable in-town neighborhood. Exhibit 1, Part I, p. 3.

14. Another appellant witness specified low income units rent levels as below \$290 per month. The witness testified and the Hearing Examiner finds that of the approximate 1,698 units in the International District, some 1,636 rent for less than \$290 per month (940 subsidized), and 52 units (3 percent) are at market rate levels. See Moriguchi written testimony, Appendix B (reference DCD report, April, 1986). Adding 35 low income units would therefore have, Moriguchi and the present witness concluded, a severely negative impact on the District. The witness' concerns were buttressed by information that 50 units of low income housing are proposed for the Alki Hotel at 5th and Main in the International District for which a DNS has also been issued. Exhibit 5.

15. The Seattle Housing authority expects the proposed elderly residential project to operate without subsidy. Proponent projects that tenants' annual income will range from \$4,500-18,500, and that the tenancy will consist to a large degree of retired teachers. Proponent thus disagrees with appellant's characterization of the proposed housing as "low income".

16. The Environmental Checklist, p. 13, reflects that from 37-40 persons would "reside or work" in the completed elderly housing project; 90-100 for the Indian Health Board; 40-50 for the Seattle Indian Center and 2 for the Seattle Indian Services Commission. These figures were not disputed by appellant and are adopted as findings of fact.

17. It is probable that the proposal will increase the District's medical and other professional population and add to the consumer activity.

18. The Hearing Examiner finds in accord with the testimony of witness Taoka, experienced in law and land use planning, that persons in the lower economic brackets are generally prone to spend their funds near their residences.

19. The Environmental Checklist, p. 14, listed no proposed measures "to avoid or reduce displacement impacts..." on the present Bailey Gatzert tenants. In fact, relocation is one of eight topics addressed in a November 1984, Memorandum of Agreement between City Mayor Charles Royer and Seattle School District Superintendent Robert Nelson. Exhibit 9. The exhibit states in relevant part that

If the School Board decides to sell the old Gatzert School, DCD will assist...in developing a disposition plan. When a buyer is secured, the City will assist with relocation of the current tenants. These tenants will receive relocation assistance...

at p. 3.

### Conclusions

1. The Hearing Examiner has jurisdiction of these proceedings pursuant to Chapter 25.05, Seattle Municipal Code.

2. Seattle Municipal Code Section 25.05.680(B)(3) states that the Director's environmental determination shall be accorded substantial weight and that the appellant has the burden of establishing the contrary. To meet its burden appellant must show the DCD decision to be "clearly erroneous". Brown v. Tacoma, 30 Wn.App. 762, 637 P.2d 1005 (1981).

3. If a proposal may have probable adverse environmental impacts that are significant, a declaration of significance and an EIS are required. Seattle Municipal Code Section 25.05.360(1). If not, a DNS is appropriate. Seattle Municipal Code Section 25.05.340. The term "significant" has been read to mean "of more than a moderate effect." Norway Hill Preservation and Protection Association v. King County Council, 87 Wn.2d 267, 552 P.2d 674 (1976).

4. Therefore, the question before the Hearing Examiner is not whether a different use should be accepted for the Gatzert site; rather, the question is whether appellant showed that probable significant adverse impacts will result from the proposal. Such a showing was not made. The decision to issue the DNS is therefore affirmed.

5. A review of the evidence fails to show critical error in the Checklist or DNS, and fails to show that the proposal will have probable, adverse impacts that will be "of more than a moderate effect" on the environment. The mere siting of this project within the Special Review District is not sufficient to require preparation of an EIS.

6. Turning first to Checklist particulars, appellant articulated many concerns with the Land and Shoreline Use discussion of the proposed development. In the opinion of at least one of appellant's witnesses, the Checklist discussion was flawed in that it insufficiently addressed the building's adaptive re-use potential. However, no challenge was made to the estimated cost to re-use the facility; nor was any challenge made to the Checklist projections of the anticipated resident or employee population. Appellant correctly pointed out that the Checklist contained no proposed measures to avoid or reduce tenant displacement. On the other hand, the record reflects that such measures are proposed via a Memorandum of Agreement.

7. Appellant took marked exception to the Checklist conclusion that the proposal was compatible with existing land use plans. Seattle Municipal Code Section 23.66.302 states the International Special Review District goals and objectives which are briefly discussed below. The proposal is not at odds with the goal of re-establishing the District as a "stable residential neighborhood with a mixture of housing types." By contrast, transient lodging is not the subject of the proposal. Further, it was not demonstrated how age or income characteristics were factors in the question of residential stability. As will be shown below, the new residences will not necessarily be "more low-income, subsidized" units. And, Seattle Municipal Code Section 23.66.030 specifically permits residential uses in those parts of the District "east of the Interstate 5 Freeway."

8. By preclusion, the proposal would tend to protect the area from the "proliferation of parking lots." On-site parking would come principally from use of the programs. While not encouraging street level retail specialty shops within the District, the subject site is on the eastern edge of the District and beyond the former, present, or proposed (May 1985) District retail core. Exhibit 6. Further, the site is separated by the overhead freeway from the area defined by Chapter 23.66, Seattle Municipal Code, as the Asian design character district. Reference Map B, p. 23-89, Seattle Municipal Code (as amended). The proposal does not support retention of Asian heritage and tends to run counter to the goal of deconcentrating social services.

9. Although the District goals and objectives encourage the rehabilitation of existing structures, the present building is considered seismically unstable and costly to repair or renovate to standard.

10. Regarding the Checklist category of Historic and Cultural Preservation, appellant suggested through its various witnesses that the Gatzert building offered certain ornamentation and portal features worthy of greater consideration than was afforded by the Checklist. However, no testimony contradicted the Checklist text. Although undisputed that the building offers some historical and cultural relevance to alumni and others, the Gatzert building has been accorded no landmark status. It is one of several buildings designed by architect F.A. Naramore.

11. Focusing more generally on the impacts themselves, appellant's witness shared their views that siting of the 35 proposed "low income" units and the other proposed programs within the District would constitute a significant adverse impact on the District. Although the District concentration of below market rate housing is very high, it was not established that adding 35 new residential units would constitute a significant, adverse environmental impact. First, the location of new housing on the eastern edge of the District could be considered as a positive precedent for more housing of various economies. Second, although the proposed monthly rents will range from \$100 to \$450, and one base indicator for low income unit rentals is \$290 per month, the Hearing Examiner is not persuaded that the proposed units will be "low income, subsidized" units. Tenants' incomes are expected to range from \$4,500 to \$18,500 per year. Third, the increased residential and professional employee population will probably enhance District consumer activity. This is so even if the new resident populace is low income since there is less probability that such persons would shop outside of their local community. Finally, the record fails to reflect at what level social service agency or low income population becomes excessive and detrimental. The differences of opinion with the DNS are insufficient to require an EIS.

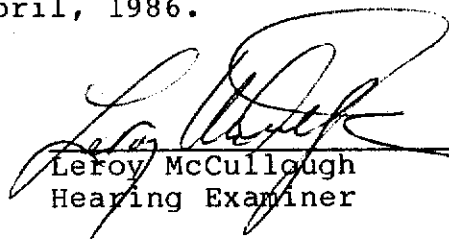
12. The uses proposed are not among those subject to special Board review. Seattle Municipal Code Section 23.66.324.

13. Clear error was not established. The DNS is therefore affirmed.

#### Decision

The DNS is AFFIRMED.

Entered this 29th day of April, 1986.

  
Leroy McCullough  
Hearing Examiner

#### CONCERNING FURTHER REVIEW

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 of the underlying decision within 30 days after the date of official notice of that decision if a notice of intent to seek judicial review of SEPA issues is filed with the Director, Department of Community Development, 400 Yesler Building, 3rd Floor, Seattle, Washington 98104, within the time limit set for appealing the underlying governmental action. Seattle Municipal Code Section 25.05.680(D)(4).

If the Superior Court orders a review of the decision, the person seeking review must arrange for and bear the cost for preparing a verbatim written transcript of the hearing but will be reimbursed if successful in court. Instructions for preparation of the transcript are available in the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington, 98104. In the alternative, RCW 43.21C.075(6)(b) provides that a tape may be used for the 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 designate only those portions of the testimony necessary 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 taped transcript relating to issues on review.