

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

QUEEN ANNE COMMUNITY COUNCIL

FILE NO. MUP-83-080(W)  
APPLICATION NO. 83-506

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

#### Introduction

Appellant, the Land Use Review Committee of the Queen Anne Community Council, appeals the decision by the Director, Department of Construction and Land Use, to issue a declaration of non-significance and to condition the permit for a proposal by the Seattle Housing Authority to establish a 57 unit apartment building for the elderly at 320 West Roy Street.

The appellant exercised its right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle, Municipal Code.

The matter was heard before the Hearing Examiner on December 8, 1983.

Parties to the proceedings were: appellant, represented by William G.E. Blair, chairman, Land Use Review Committee; the Director by Leslie Durkee; and Seattle Housing Authority by LeAnn Pauley.

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. Seattle Housing Authority (SHA) applied for a master use permit to demolish existing structures and establish the use for future construction of a 57-unit apartment building for the low income elderly. The Director issued his determinations on the application, a declaration of non-significance (DNS) and imposition of a landscaping condition. Appellant filed a timely appeal of the determinations.

2. SHA proposes to demolish two single family residences, one duplex and a four unit apartment building on the site and construct the 57 unit, 4-story building with an underground parking garage for 15 vehicles.

3. The building is to be constructed under the Seattle Senior Housing Program for tenants 62 years old and older or at least 18 years and handicapped. The tenants income cannot be greater than \$18,150 if one person or \$20,750 if a couple. The limit on assets owned is \$50,000 exclusive of cars and furniture. Maximum rents to be charged are to be 27% of income.

4. The Director determined that the usual requirement of one parking space per dwelling unit, Section 23.45.46, could be reduced

to that required by Section 23.54.20A, one space per six units for low income housing for the elderly.

5. The after tax income of a couple 65 or older earning \$20,750 may be about the same as a family of four with income of \$25,937, the median income upon which eligibility is based.

6. Many elderly people see car ownership as a symbol and fact of independence.

7. Two other facilities managed by SHA under a different program have similar income and asset ceilings. One, Bayview Tower with 100 units and five parking spaces, has ten residents in need of parking spaces which are not available. The other, Sunset House with 82 units and five parking spaces on site and two rented, needs another six spaces to provide parking for residents who have cars.

8. SHA would not place anyone in the proposed building who owned a car if an on-site parking space were not available for that tenant. Parking spaces will be assigned in the proposed building.

9. A survey of car ownership and visitor parking in multi-family housing on Queen Anne was done in 1982 sponsored by the Engineering Department. That study showed that residents of rental units owned an average of 1.02 vehicles per unit and condominium dwellers owned 1.43 vehicles per unit. Visitor demand was, for a week day evening, .39 per rental unit and .34 for condominium unit and, for weekends, .83 for rental units and .80 for condominiums.

10. A survey done for the EIS for the Kinnear Park Condominium, which is on the same block as the subject site., in 1978, showed vehicle ownership similar to the Engineering Department survey. Of the respondents 73% were retired.

11. Christopher E. Brown, P.E., a traffic expert, has done traffic studies for retirement homes. He concluded from those studies that the parking demand of individual, apartment style units for the elderly approaches that of a regular apartment where living apartments with a "personal care" element tend to have a lower demand.

12. The evidence showed, and the Director's representative stipulated to the fact, that on-street parking is now at, or greater than, capacity.

13. No studies of parking demand of the elderly or low income elderly were available to the Director. SHA has no information on visitor parking demand for its facilities.

14. The environmental checklist showed an answer of "maybe" to the question "(w)ill the proposal result in: 2. Effects on existing parking facilities, or demand for new parking." The Director's representative testified that where on-street parking is already saturated or exceeds supply any increase in demand will not be a significant impact.

15. The land use specialist who did the evaluation for the Director did not consider demand for parking by visitors or service deliverers.

16. The number of vehicle trips generated by units for the elderly is much lower than for regular apartment units.

17. The proposed building meets the development standards for the Lowrise 3 zones with the application of the parking reduction provision.

18. Other three and four story building are located nearby.

19. No condition to mitigate potential parking impacts was imposed because; 1. the proposal provides more parking than required for low income elderly housing, 2. the land use specialist presumes that the code requirement is based in some way on parking demand and 3. SHA's experience with the other two buildings indicates the residents' need for parking would be satisfied.

20. SHA operates four other buildings for the elderly on the south slope of Queen Anne, all within seven blocks of the proposed building.

21. SHA is attempting to locate new projects where there is the most demand. Queen Anne is one of those locations with 177 persons on the waiting list.

### Conclusions

1. The Office of Hearing Examiner has jurisdiction pursuant to Section 23.76.36 to review certain elements of the master use permit decision. The decisional elements challenged by appellant in this case are the declaration of non-significance and the conditioning of the project to mitigate environmental impacts. The decision made by the Director that the reduced parking requirement applies is not within the elements over which the hearing examiner has jurisdiction in an appeal of the master use permit.

2. The Director's finding that the demand for parking by residents would not cause a significant adverse impact, which was based upon SHA's experience with two similar projects, was not clear error, given that SHA would not be placing more residents with cars at the facility than could be accommodated by on-site parking. The failure to consider the impact of guest parking in an area in which the Director recognizes demand exceeds available space is clear error. Since no study was shown which addressed guest demand for a lower income elderly facility, the Director can reasonably assume that the .39-.83 per unit range for Queen Anne is appropriate unless an other, more closely related study is found. The Director can then determine if the adverse impact from this demand is significant and full environmental review of the parking impacts is required in a limited EIS or if a reasonable condition can be imposed to mitigate this impact.

3. An EIS is required only if the probable adverse impact of a proposal on the environment is significant. WAC 197-10-360. The impact is "significant" if more than a moderate impact on the environment is a reasonable possibility. Norway Hill v. King County Council, 87 Wn.2d 267 (1976).

4. Appellant's evidence showed no other adverse impact of the proposal to be more than moderate.

5. The Director has authority to reasonably condition projects based on policies adopted pursuant to SEPA to reduce adverse impacts disclosed in the DNS and checklist. Section 25.04.190. No adverse impact from the scale of the proposed building was shown for which mitigating conditions could be imposed.

6. The wisdom of SHA's decision to place an additional project in this area or of the Senior Housing Program is not within the Hearing Examiner's jurisdiction to review as the Director is limited to consideration of the factors listed in the environmental checklist in making his threshold determination. WAC 197-10-360.

Decision

The matter is remanded to the Director to make the determination specified in Conclusion number 2, above. The Hearing Examiner retains jurisdiction over the matter to hear any challenge by the parties to the Director's new determination. Any challenge must be filed within seven days of receipt of the new determination. A supplemental hearing will be held on the challenge by the Hearing Examiner if necessary on notice to the parties.

Entered this 30<sup>th</sup> day of December, 1983.

M. Margaret Klockars  
M. Margaret Klockars  
Deputy Hearing Examiner