

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

NORTH DELRIDGE NEIGHBORHOOD COUNCIL

FILE NO. MUP-83-089(W)  
APPLICATION NO. 83-546

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

#### Introduction

Appellant, North Delridge Neighborhood Council, appeals the decision of the Director, Department of Construction and Land Use, on a master use permit for a proposal for property at 2851 S.W. Dakota Street.

The appellant exercised its 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 January 26, 1984.

Parties to the proceedings were: Appellant, represented by Linda Mitchell; the Director, represented by Ed Somers; and Applicant, Seattle Housing Authority, represented by Pat Williams.

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 Seattle Housing Authority applied for a master use permit to construct six apartment units for low income housing at 2851 S.W. Dakota Street. The Director issued a declaration of non-significance (DNS) and conditioned the proposal. Appellant filed this appeal.
2. The errors alleged by the appellant are that the Director failed to consider, and impose conditions to mitigate, the concentration of low income and subsidized housing, parking congestion, over-crowded elementary school and air pollution.
3. The site of the proposed construction is a vacant lot with 100 ft. of frontage on S.W. Dakota Street and 102.04 ft. of frontage on 30th Avenue S.W. It is zoned Lowrise 1.
4. Of 32 units on S.W. Dakota eight are owner-occupied. Tenant turn-over in the rental units is very high. The High Point housing project is not far away and many Section 8 units and other low income housing is in the area. Of 70 new units built within the last 5 years in a four block area, only one is single family.
5. Demand for on-street parking is high in the area. In the block, seven lots provide no off-street parking putting 19 cars on the street. A large complex on 30th Avenue S.W. with 92 units has only 48 off-street parking spaces. Another across from the subject site with eight units provides no off-street parking. A day care facility on 30th S.W. also generates demand for parking on that street.

6. The topography is such that it is difficult to see oncoming traffic at the intersection of Dakota and 30th. Cars parked to the corner would exacerbate the problem.

7. Cooper Elementary School has an enrollment of 514 students and capacity of 420. A part of the enrollment is from special programs which the principal has recommended be located elsewhere to diversify the student population and relieve the space problem.

8. The subject site is two blocks from the Bethlehem Steel Plant and suffers from polluted air which settles in a kind of "pocket."

9. The proposed units are to be two bedroom. Because of the criteria to be applied for placement of people in the units, there can be no more than 12 children living at the site and it is more likely that there would be 6-8 children.

10. While there are other low income units nearby, the location criteria of the Housing Assistance Program for scattered site units are not violated by the use of the subject site.

11. The environmental checklist and DNS disclose an increase in the demand for parking as well as in population, in air emissions and in demand for public services. None of these increases is expected to cause a significant impact.

12. The development would be required to provide six off-street parking spaces for six units.

13. Ed Somers, the environmental specialist assigned by the Director to prepare the environmental checklist and threshold determination, visited the site in the morning and found available parking.

14. The land costs spread over four units would be much higher than the average land cost for scattered site housing.

#### Conclusions

1. Both decisions made by the Director are to be accorded substantial weight. Section 23.76.36(B)(7). Appellant must prove the decision is clearly erroneous to overcome that weight. Brown v. Tacoma, 30 Wn.App. 762, 637 P.2d 1005 (1981).

2. An environmental impact statement (EIS) must be prepared if the proposal will cause "significant" adverse impacts or if more than a moderate effect on the quality of the environment is a reasonable probability. Norway Hill v. King County Council, 87 Wn. 2d 267, 552 P.2d 674 (1976).

3. While the Director agrees with appellant that there will be adverse impacts on the environment from the increased demand for parking, public services and an increase in air emissions, he has concluded that those impacts would not be significant. Appellant's evidence does not prove that the Director's conclusion is clearly erroneous given the small increases in demand for parking, traffic to be generated, number of children and emissions into the air.

4. Appellant's greatest concern, that of creating an even greater proportion of non-owner-occupied dwellings and the effect on the character of its neighborhood, is not one which the Director has any authority to address. As viewed by appellant's representatives, the resident property owners in the area alone have the commitment to planning for their area and with the current zoning their numbers are not likely to increase and will proportionately decrease. The Director's considerations for the threshold determination, however, are limited to those items in the environmental checklist, which do not include ownership. WAC 197-10-365. Further,

the Director has no authority to consider the advisability of a particular site for a scattered site housing project in deciding a master use permit application.


5. Appellant requests, as an alternative to requiring an EIS, that the permit be further conditioned to mitigate the acknowledged impacts by restricting the number of units. The Director has authority under Section 25.04.190 to impose reasonable conditions to mitigate identified environmental impacts based on adopted SEPA policies. The Director's failure to impose such a condition was not shown to be clearly erroneous in that appellant has not cited a specific policy which would permit such conditioning and the impacts, which are recognized in the DNS, are not of the severity to make the number of unit restriction "reasonable."

6. The determinations, therefore, must be affirmed.

Decision

The Director's determinations are affirmed.

Entered this 6<sup>th</sup> day of February, 1984.

  
M. Margaret Klockars  
Deputy Hearing Examiner

Concerning Further Review of the DNS

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Section 23.76.36(B)(11).

Notice of Right to Appeal  
Failure to Condition the permit

Pursuant to Section 25.04.210, Seattle Municipal Code, a party to the hearing before the Hearing Examiner may file an appeal with the City Council no later than the 14th day after the date the decision appealed from is filed with the SEPA Public Information Center. The appeal must be filed with the City Clerk on the 1st floor of the Municipal Building. The City Council should be consulted regarding their appeal procedure.