

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

F. M. BUSBY, et al.

FILE NO. W-78-008

from an environmental determination
of the Superintendent of Buildings

The decision of the Superintendent is
affirmed and the appeal is denied.

Introduction

The appellants, F. M. Busby and 26 others, filed an appeal from the second declaration of non-significance with regard to a proposed action to demolish a single-family residence and construct a seven-unit apartment building at 2846 14th Avenue West.

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

Representing the parties at hearing were: Nancy A. Miller, attorney for appellants, Elizabeth M. Osenbaugh, attorney for the applicant, James Osnes, and Ross Radley, city attorney.

This matter was heard before the Hearing Examiner on May 11, 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 first declaration of non-significance (DNS) was appealed by Bernard J. Storey, et al., and resulted in its being remanded to the Superintendent to have their traffic experts consider the impact that the proposed development along with other pending development would have on traffic and parking. A new DNS was issued and filed with the SEPA Information Center on April 7, 1978. Notice of appeal was filed by appellants April 24, 1978.

2. Motions to limit the scope of appeal were granted. At hearing testimony was to be taken only on the reassessment of the cumulative effect on traffic and parking and the Superintendent's consideration of a petition to downzone the area.

3. The cumulative effect to be considered was to include the following units for which permits had been issued in addition to the subject property: 17 units at 3017 14th Avenue West, 22 units at 2626 14th Avenue West and 5 units at 2631 14th Avenue West, in addition to existing development.

4. The city's traffic engineer, conceded by all parties to be an expert, testified that he, after briefings by his staff, the Building Department's representative, the city attorney and applicant's attorney, review of the curb cut study prepared by a resident of the area, and 4 site

visits at varying hours, concluded that the hourly volume on 14th Avenue W. was from 50 to 100 vehicles and the street has a capacity of many times that; that all parking is not currently accommodated on site but that even with the "worst case" of two plus automobiles per additional unit there would be adequate on street parking space for overflow; and that no hazard would be created on the split street by the additional units.

5. Other experts, called by the applicant, who had also studied the area, concurred in general with the city traffic engineer. A private traffic engineer projected a need for 57 spaces resulting from the addition of 51 units. With 51 on site spaces provided the surplus of 6 would have to be accommodated on the street. Data had been developed by a professional planner, who also testified, showing a minimum on-street parking supply surplus of 93 spaces in the area from Dravus to Gilman.

6. Based on the city traffic engineer's conclusions, the information she already had and further site inspection, the Superintendent's representative concluded that the proposal would not have a significant adverse impact on the environment and prepared the second DNS.

7. The appellants maintained that the 1.2 cars per unit, used by the traffic engineer, is an unreasonably low estimate; three parking spaces will be lost when the subject site is developed with an apartment building; the split street is unsafe and will become worse; and construction vehicles have created and will continue to create congestion.

Conclusions

1. The Superintendent adequately considered the cumulative effect of the proposed 7-unit structure on traffic congestion and hazard and on parking in light of existing development and the 44 additional units for which building permits had been issued. The burden is on the appellants to show that the Superintendent's determination that there would be no significant impact on the environment was incorrect. They did not succeed in doing that.

2. As to the issue of the Superintendent's consideration of the rezone petition, the appellants conceded that Parkridge v. Seattle, 89 Wn.2d 454 (1978), is the controlling case. Accordingly, because the applicant had filed his application for a building permit with plans conforming to the existing code, his right to use the land in accordance with the zoning regulations at that time is vested and further consideration of the petition would have had no value.

Decision

The decision of the Superintendent is affirmed and the appeal is denied.

Entered this 25th day of May, 1978.

M. Margaret Klockars
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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.