

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

MAVIS ROSELL, ET AL.

FILE NO. W-79-017

from an environmental determination
of the Department of Buildings

Introduction

The appellants, Mavis Rosell, et al., filed appeals from the Declaration of Non-significance by the Department of Buildings for a proposal to demolish a triplex and construct a 14 unit apartment building at 302 North 39th Street.

Parties to the proceeding were: Mavis Rosell representing appellants; James Fearn, Assistant City Attorney, representing the Department of Buildings; Roger N. Newell, A.I.A., representing the proponent.

This matter was heard before the Hearing Examiner on June 26, 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 proponent proposes to demolish a two story, wood frame triplex at 302 North 39th Street and construct a three story, 14 unit apartment building. Fourteen off-street parking spaces would be provided with ingress and egress from and to Greenwood Avenue North.

2. The site is a 120 by 80 foot parcel at the northeast corner of the intersection of North 39th Street and Greenwood Avenue North within a Multiple Residence Low Density (RM 800) zone.

3. On April 16, 1979, the Department of Buildings issued and filed its Declaration of Non-significance (DNS) for the project May 9, 1979. Mavis Rosell and Mrs. Carolyn C. Woodley filed notices of appeal May 18, 1979. John and Roberta Bruno filed notice of appeal May 21, 1979.

4. The appellants contend that an environmental impact statement is required because of potential significant effects on the environment from increased traffic and noise, potential view blockage, increased parking demand, potential earth movement, air quality deterioration and loss of lower cost housing.

5. The Building Department's environmental analyst reviewed the environmental checklist submitted by the proponent and visited the site and surrounding area four times prior to the threshold determination. The checklist and/or DNS identified impacts associated with deterioration of ambient air quality, change in drainage patterns and amount of surface water runoff, change in flora, increase in existing noise levels, alteration of land use, increase in population density, addition of dwelling units and loss of existing units, and generation of additional vehicular movement.

6. Greenwood Avenue North in the 3900 block is a width that allows for only one lane of traffic if a car is parked on one side and drops down rapidly from the north to North 39th. Parking is permitted between North Bowdoin Place and North 39th only on the west side of Greenwood. No parking is

allowed in this block north of that. Four lots on the east side of Greenwood in the block between North 40th and North 39th have no offstreet parking. The west side can accommodate only five cars because of curb cuts.

7. Parking is permitted on only the south side of North 39th to the west of the subject site. The record is not entirely clear but suggests no parking is permitted on North 39th east of Greenwood.

8. Based on two cars per unit and .33 guest or service vehicles per unit the new building could require 32 or 33 parking spaces to accommodate the demand. The corner lot bonus provision of the zoning code would be used to achieve the density of 14 units proposed. The two abutting streets do not provide the space for on-street parking normally associated with a corner location.

9. Greenwood Avenue North carried an average of 529 vehicles per day in October, 1978. The proposed building is expected to generate up to 98 trips per day which would be an 18 percent increase in traffic on Greenwood.

10. Additional human activity and traffic will increase noise levels. Construction and demolition noise will be present during those phases.

11. There are no public parks or scenic view points in the area so the proposed structure would not block any scenic view or vista open to the public.

12. The emission from the anticipated additional vehicles and from 14 fireplaces would not decrease air quality perceptibly.

13. Ordinance 106350 and 40 FR 78-16891 (National Emission Standards for Hazardous Air Pollutants) require special precautions to prevent emission of asbestos material to the outside air during demolition.

14. Concern was expressed regarding potential earth movement and its effect on the driveway of the neighboring lot if not properly retained. The checklist indicates that since grading of over 500 cubic yards will be required, a grading permit may be necessary.

15. A large number of affordable housing units have been lost in the Fremont area to demolition or conversion to condominiums within the past year causing displacement of the residents. The proposed project has caused the displacement of residents of three units.

Conclusions

1. A DNS is to be prepared if the lead agency determines that a proposal will not have a significant adverse impact on the quality of the environment, according to WAC 197-10-340. The State Supreme Court has defined "significant adverse impact" as a reasonable probability that an action will have more than a moderate effect on the quality of the environment. Norway Hill v. King County Council, 87 Wn.2d 267(1976).

2. Section 20(4), Ordinance 105735, as amended, directs the Hearing Examiner to accord substantial weight to the determination appealed from and to place the burden of proving the contrary upon appellants.

3. With the exception of the impact on demand for new parking and upon existing parking, the appellants have not satisfied their burden to show inaccuracies in the assessment of the impacts of the proposed project on the elements of the environment in the checklist. The checklist does show

that there will be impacts in the areas set forth in Finding of Fact No. 5.

4. The appellants did show and the Findings reflect that the Department's answer to (13)(b), Effects on existing parking facilities, or demand for new parking, is incorrect in that it is highly probable that the demand for parking will be increased and the supply in the area is limited.

5. The Department's conclusion that the impacts identified, even with the correction cited above, would not be legally significant must be affirmed. With respect to all elements identified as being impacted, except for additional vehicular movement and parking demand, the impacts were not shown to be any greater than minor. As to an 18 percent increase in vehicular traffic on Greenwood Avenue North, the Department showed that the special conditions associated with the street in that area raised by appellants, were considered and the examiner is not permitted to substitute her judgment without sufficient evidence to the contrary.

6. As to the increased demand for on-street parking which is not available nearby, the degree of impact can be gauged by the size of the area affected, a comparison with the impacts of other projects which have been determined to be non-significant, and the need for an EIS to fully understand the impact and possible alternatives and mitigating measures. That analysis results in conclusions that the area is very small in that the demand can be satisfied in an area within a radius of 800 feet of the site, the impact is less than that of projects for which a DNS has been upheld and the demand generated by the project has been assessed and available mitigating measures would be readily available to the decision-maker and their effectiveness easily assessed without further analysis by the decision-maker. For those reasons, the impact on that element of the environment by itself or in combination with the others identified would not be legally significant.

Decision

The determination of the Department of Buildings is modified to reflect that the proposal will result in potential demand for 19 parking spaces beyond those proposed and affirmed as modified.

Entered this 12th day of July, 1979.

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 by the City. Any appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 13 Wn.App. 418 (1977).

If a use permit is required for this proposal, it is subject to a separate administrative appeal pursuant to Section 25.40 of the Zoning Ordinance (86300, as amended).