

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

ANN PYTKOWICZ STREISSGUTH

FILE NO. W-79-024

from an environmental determination
of Department of Buildings.

The appeal is DENIED and the determination of
the Department of Buildings is affirmed.

Introduction

The appellant, Ann P. Streissguth, filed an appeal challenging the adequacy of an environmental impact statement (EIS) prepared by the Department of Buildings for a proposed action to construct three triplex buildings and underground garage (1600 Broadway East) on Broadway East about 100 ft. south of East Blaine Street.

The appellant exercised her right to appeal pursuant to Section 25.40 of the Zoning Ordinance (86300, as amended).

Parties to the proceeding were: Ann P. Streissguth, appellant, the Department of Buildings represented by Ross Radley, assistant city attorney, and 1600 Broadway East Associates, applicant, represented by Derrill T. Bastian, attorney at law.

This matter was heard before the Hearing Examiner on September 17, 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 proposed action is to construct three, three-story triplex buildings on top of a concrete underground garage with somewhere between 19 and 25 parking spaces. The garage roof is to be used for walkways and courtyard areas. Each of the nine units will have three bedrooms and will be sold as condominiums.

2. The site of the proposed action is composed of three vacant lots covered with vegetation. The property fronts on the east side of Broadway East and rises steeply to the east.

3. Broadway East dead-ends in front of the subject site. The improved roadway portion of the 60 ft. wide street right-of-way is approximately 18 ft. wide. The sidewalk on the east side is elevated 6-8 ft. above the street on an embankment. The sidewalk on the west side is at the roadway grade but the land falls off to the west of the sidewalk.

4. No means of access by vehicle to Broadway via side streets is available from the east between Newton, three blocks to the north, and the subject site. From the west the closest vehicular access to Broadway is four blocks away.

5. Appellant contends that the EIS is inadequate in its analysis of this fragile environment. She faults the parking analysis for its inadequate data base, inadequate conclusions and inaccurate, conflicting and ambiguous solutions. As to traffic flow and access she finds the data base and conclusions to be inadequate, the solutions to be unrealistic and feasible alternatives not to have been

considered. She maintains the analysis of erosion is based on inadequate data and has inadequate conclusions.

6. The EIS contains considerable discussion of the parking requirements of the project. The draft EIS uses the Capitol Hill survey as a "rough indication" of parking demand. On that basis it shows a need for 18.36 parking stalls for residents and 2.6 for visitors compared to the 19 proposed. At p. 91 it states that over a dozen on-street spaces are available within walking distance. The appendix can be read to state that along Broadway the on-street occupancy rate averages 55-60 percent (50-60 percent available - 15 percent).

7. After comments from the Engineering Department on the relationship of the Capitol Hill study, University District study and the Highway Research Board Special Report No. 125 to the proposed project, a mitigating measure increasing the total spaces to 25 was added. The Engineering Department recommended 18 resident spaces and at least 3 guest spaces and a desire for 2 or 3 more. Engineering Department comments recognized that not a lot of excess on-street parking was available and the remoteness of that parking from the subject site.

8. The conclusion that vehicular traffic would be increased 16 percent by 70-75 trips was corrected in the final EIS to 30-40 percent for the immediate area. Appellant contends that a figure of 75 percent would be more accurate. The 16 percent figure is only correct for the street three blocks north of the site. Closer to the proposed development the percentage would be higher, as pointed out in the EIS, because the current volume is lower closer to the dead-end. Neither the appellant nor the EIS used actual traffic counts as the basis of their projections. Appellant's figure may have a more accurate data base.

9. A response to the comment from the Fire Department that prevention of delays in emergency response would necessitate keeping a 16 ft. fire lane open "which could possibly be accommodated by obtaining parking rights there" and perhaps the reference to existence of "ample vacant land parallel to the east side of the street" at p. 22 for widening, seem to be the basis for appellant's allegation that the EIS proposes unrealistic solutions. Development on the east side above high retaining walls and below grade on the west side do make those solutions appear impractical. Street widening was not actually included as a measure to mitigate obstruction of access, however. The EIS lists other steps that could be taken and testimony showed that emergency vehicles could gain access through a lane narrower than 16 ft.

10. Appellant contends that greater consideration should have been given the alternative of access from 10th Avenue East via an easement. Little consideration was given that possibility because separately owned property intervenes between the street and the subject site as stated at p. 39 in response to a comment, and because of the steepness of the slope.

11. Approximately 120 trees exist on the subject site itself and another 20 between the site and the improved street. The final EIS states at p. 19 that only 1/6 of these will be removed. Evidence indicates that 5/6 is a more accurate prediction.

12. The comment at p. 19 states that the discussions in the draft EIS of landslide potential, watershed and aesthetics are predicated on the removal of 1/6 of the trees.

13. The discussion of landslide potential (Earth) at pp. 49-51 does not indicate any reliance on vegetation for stability. No evidence was adduced to show that the loss of a greater number of trees would affect stability.

14. The comment's reference to the discussion of watershed at pp. 53-57 should have also included Erosion at pp. 52-53. The existence of extensive vegetation has prevented any significant erosion. The EIS states that the removal of vegetation and excavation will increase erosion potential over the short term requiring control methods. Mitigating measures are set out.

15. Appellant asserts that the denuded slope could cause the sloughing off of large amounts of silt which would be dumped into drains and onto the road and yards below. Therefore, she maintains, the error in the EIS as to the number of trees to be removed is significant. The EIS and evidence at hearing shows that the trees would be removed just prior to excavation and catch basins would be provided as soon as excavation is completed. In addition, use of plastic sheeting to cover the exposed slope was added to the mitigating measures, in response to a comment by METRO.

Conclusions

1. The EIS for 1600 Broadway East presents a reasonably thorough disclosure and analysis of the potential impacts of the proposed action as required by Cheney v. Mountlake Terrace, 87 Wn.2d 338 (1976).

2. The location of the site does present some special problems which are recognized throughout the documents including the need to provide more off-street parking than required by the Zoning Ordinance and to take special precautions to prevent the obstruction of traffic. The error as to the number of trees to be removed, while numerically large, on careful analysis proves to make little difference as to the impacts and their disclosure.

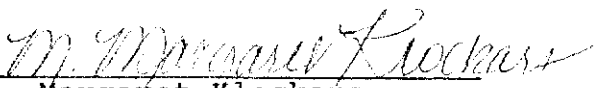
3. Given the developmental difficulties of providing access from 10th Avenue, no fuller consideration of that alternative can legally be required, although the project developers may choose to explore it further.

4. This EIS is, on the whole, one of the better documents to come under this examiner's scrutiny and any deficiencies are of such a minor nature that the appeal must fail.

Decision

The appeal is DENIED and the determination of the Department of Buildings is affirmed.

Entered this 3rd day of October 1979.


M. Margaret Klockars
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, 18 Wn. App. 418 (1977).