

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

CONTINENTAL VAN LINES, INC. AND
THE NORTH DELRIDGE NEIGHBORHOOD COUNCIL

FILE NO. W-79-029

from an environmental determination
of Department of Community Development

Introduction

Continental Van Lines, Inc. (Continental) and the North Delridge Neighborhood Council (North Delridge) filed appeals challenging the adequacy of the environmental impact statement (EIS) for a 101-unit apartment project in the vicinity of 16th Avenue S.W. and S.W. Alaska Street. The name of the project is Pigeon Point Residential Community.

The appellants exercised their right to appeal pursuant to Section 20 of the SEPA Ordinance (105735, as amended).

Parties to the proceeding were: Continental, represented by Arthur H. McKean; North Delridge; the Department of Community Development (Department), represented by James Fearn and Mayer Built Homes, the developer, represented by Warren J. Daheim.

This matter was heard before the Hearing Examiner on October 2, 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. Kurtis R. Mayer of Mayer Built Homes of Tacoma proposes to construct a total of 101 apartment units in a cluster of wood frame buildings. The buildings would contain from one to three stories. Fifty percent of the units would be federally-subsidized for moderately low-income residents.

2. The Pigeon Point site is located on an undeveloped 10 acre tract in the vicinity of 16th Avenue S.W. and S.W. Alaska Street in West Seattle. The site is zoned RS 7200 and a rezone to RD 7200 is proposed.

3. An EIS was prepared for the proposal. The Final EIS was filed with the SEPA Information Center on August 17, 1979.

4. Continental filed a timely appeal on August 30, 1979 alleging an inadequate discussion of the landslide potential. Continental owns property developed with a warehouse at 4501 West Marginal Way on the eastern border of the proposed development.

5. North Delridge filed a timely appeal on September 4, 1979 alleging several inadequacies in the EIS. North Delridge is a community organization, several of whose members own property and reside in the vicinity of the project.

Transportation/Circulation

6. Transportation and Circulation is discussed in the Draft EIS at pages 63 through 70. The only access to the site is by a narrow roadway that connects West Marginal Way to 16th Avenue S.W. The Draft EIS at page 69 states that one mitigating measure would be to widen the street to at least 20 feet with 28 feet being the optimal width. Another mitigating measure suggested at page 70 is for consent to be obtained from the University of Washington to permit access by emergency vehicles across its property to the west.

7. North Delridge claims that the information regarding the University of Washington property is misleading since no development is planned in that area for at least 10 years and no contact was made with the University. It is also alleged that the discussion of the access roadway does not disclose impacts on nearby residents who would be adversely affected if the roadway were widened.

Schools

8. Schools are discussed at page 76 in the Draft EIS and page 76, comment 17b in the Final EIS. The EIS concluded that overall the additional students generated by the proposal would not represent a significant problem for Cooper Elementary School. North Delridge alleges that the impact on Cooper is understated and does not take into consideration the additional dwelling units in the area (estimated at 54 units) which will result in additional students.

Parking

9. Parking is discussed in the Draft EIS at page 70 and the Final EIS at page 35. Originally 102 parking spaces were proposed but this was increased to 117 in the Final EIS. Additional spaces up to a total of 130 may be provided, if necessary. Draft EIS, page 70. North Delridge alleges that the data used to support the parking ratio does not take into consideration housing where access to public transportation is distant and difficult.

Public Transportation

10. Access to transit is discussed at 71 of the Draft EIS where it is disclosed that there is most likely little transit usage in the area due to the distance (1,800 feet) from the bus route and the relatively steep climb involved. North Delridge claims that difficulty of access to transit along a steep trail is not adequately described.

Greenbelt

11. The Draft EIS at page 77 states that there will be a set-aside of approximately 5 acres by the project developer as an addition to the West Duwamish Greenbelt. North Delridge claims that the EIS does not clearly show what portion of the proposed project would be located in the greenbelt. Permittee's Exhibit C depicts the very minor incursion of the project into the greenbelt. For the Department Ms. Martin testified that the project would extend about 20 feet into the greenbelt.

Utility Services

12. The Final EIS at page 75 states that the costs of electrical, water and sewage utility installation will be borne by the developer. North Delridge claims that due to the steep terrain and location of sewer mains that current residents could face considerable additional costs if required to hook-up to the new utilities.

Soils

13. The soils problems associated with the proposal are discussed in Appendix A of the Draft EIS. It is disclosed that no determination on the slide potential can be made without a detailed investigation including borings and laboratory analysis. The preliminary soils analysis shows that the northern portion of the site is unsuitable for development. The Draft EIS at page 38 suggests as one mitigating measure that a complete soils survey be required prior to the issuance of a building permit. It is estimated that the cost of a soils survey for this proposal would be in the \$25,000 range.

14. Continental alleges that the analysis of soils conditions is inadequate since it contains no descriptions, factual data or reliable conclusions with regard to known landslide problems. It is further alleged that without this information the decision-makers will not have sufficient information to analyze the impacts or impose mitigating conditions.

Conclusions

1. The EIS provides a reasonably full disclosure of the probable environmental impacts of the proposal and is therefore found to be adequate. Cheney v. Mountlake Terrace, 87 Wn.2d 338 (1976).

2. The discussion of transportation and circulation fully discloses the limited access to the area and the problems involved with street widening. Access through the University of Washington property is not stated in such a manner as to mislead the reader.

3. The discussion of schools, greenbelt and utility services is sufficient. The appellant has failed to substantiate any of its allegations of inadequacy.

4. With regard to parking, the developer would have been well advised to be able to explain the parking ratio with more certainty, especially in regard to the poor access to public transportation that is available. However, the appellant failed to show that the analysis was in error or that poor access to public transportation would make any significant difference in the parking demand.

5. The difficulty of access to public transportation to the site is disclosed but not as clearly as it should have been. The need to use a steep trail through a heavily wooded area certainly limits the ready access to public transportation.

6. The issue of how detailed environmental information must be prior to action on a rezone has been raised in other cases. The case of Ullock v. Bremerton, 17 Wn.App. 573 (1977) involved a nonproject rezone for which an EIS was prepared and for which another EIS would be required prior to the approval of a specific project. The Court said at page 584:

We conclude and hold that a nonproject zoning action by a municipality does not violate SEPA as a matter of law solely because the municipality determines to delay full implementation of the environmental policies of SEPA until the development permit stage, so long as the municipality has the authority to implement those policies at the permit stage and so long as the environmental consequences of any development of the property are disclosed and considered at the time the zoning action is taken (citing case).

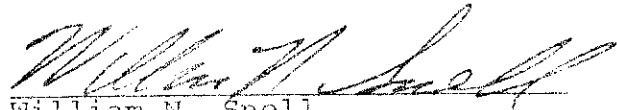
The facts in this case differ somewhat from Ullock in that a project is proposed. However, the project that is proposed is conceptional in nature and no specific siting of buildings can be made until a detailed soils analysis is prepared.

7. The information in the EIS is sufficiently detailed with regard to soils to provide the decision-maker at the rezone stage with adequate information. The information on soils is clearly not sufficient, as acknowledged in the EIS, to provide adequate information at the time a decision is made on the building/use permit. Segmentation of the proposal is permitted by WAC 197-10-060(4). Therefore, a supplemental EIS must be prepared with regard to soils prior to any decision being made on a building/use permit for the proposal.

Decision

The appeals are DENIED and the environmental impact statement is found to be adequate. A supplemental EIS on soils must be prepared prior to the issuance of any building/use permit for the proposal.

Entered this 25th day of October 1979.


William N. Snell
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).