

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

ARTHUR OLSEN, BRUCE BUNN AND
LYLE HARTJE

FILE NO. W-88-009

from an environmental determination
of the Department of Community
Development

Introduction

Appellants challenge a determination of non-significance issued by the Department of Community Development for Bergen Place, a mixed-use proposal on Ballard Avenue N.W.

Parties to the proceeding were: appellants, by Arthur Olsen; the Department of Community Development, by John Chaney, Ballard Landmark District Board coordinator and the applicant, Artemis Enterprises, Inc., by Tom Downey and Katarina Kleinmann.

This matter was heard before the Hearing Examiner on October 13, 1988.

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 findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. Artemis Enterprises, Inc., proposes to demolish three structures at 5333, 5335 and 5337-39 Ballard Avenue N.W. and replace them with new, mixed-use buildings; to renovate three structures at 5306, 5308, 5310 Ballard Avenue N.W., 5323 Ballard Avenue N.W. and 5325, 5327, 5329 Ballard Avenue N.W.; and construct a new building at 5304 Ballard Avenue N.W. The proposed project is to be called Bergen Place.

2. The Director of the Department of Community Development issued a determination of non-significance (DNS) with conditions for Bergen Place. Appellants filed a timely appeal of this decision concerning parking, construction impacts on surrounding businesses, land use conflicts, and traffic congestion.

3. The site, which is located on both sides of Ballard Avenue N.W. and fronts for a short distance on 22nd Avenue N.W., is zoned Neighborhood Commercial 2 and is within the Ballard Avenue Landmark District. The site abuts an industrial zone extending along Shilshole Avenue N.W. on the westerly side and a commercial zone on the easterly side of the project.

4. To the rear of the project on the westerly side of Ballard Avenue is a parking lot used for trailer parking owned by the Stimson Company in the industrial zone.

5. Some of the existing buildings were residence hotels or contained rooming house or hotel-type units on upper floors and have been mostly vacant since the 1970's. The buildings also contain 19,000 sq. ft. of commercial space.

6. The project will house 79 dwelling units divided equally among studios, one-bedroom and two-bedroom apartments. The average size of the units will be less than 500 sq. ft. One third of the units will meet the criterion for low income housing. The project will provide a total of 81 parking spaces, 19

under the building on the easterly side of the street and 62 spaces in a new parking garage to be located under the building at the northerly end on the westerly side of Ballard Avenue N.W. on the lot with 22nd Avenue N.W. frontage. A total of 16,000 sq. ft. of commercial space is to be included in the project.

7. The analysis attached to the DNS identified adverse impacts from parking demand generated by the proposal but concluded that they would not be significant.

8. The environmental checklist stated that no parking would be eliminated by the proposed project. It is likely that two or three spaces will be eliminated for the access to the parking garage on 22nd Avenue N.W. The department staff was aware of that likelihood when making the decision.

8. A 1985 survey by the Seattle Engineering Department found that utilization of on-street parking in the area averaged about 60 percent with peaks as high as 79 percent. Since the time of the 1985 survey, a number of buildings in the historic district have been rehabilitated including the Portland Hotel, Princess and Lousia. No parking has been added for those buildings.

9. Business people in the area agree that on-street parking is tight. Appellants' witnesses see the streets utilized to capacity, the respondents' say that parking can always be found.

10. A parking enforcement officer who patrolled the area during the day for over three years observed available parking on the street at all times and agreed with the findings of the Engineering Department study. The parking enforcement officer saw no increase in on-street parking utilization with the rehabilitation and occupancy of the Princess and Portland Hotel.

11. Because the existing residential units have been largely vacant and, when they were occupied, were low cost residential hotel, housekeeping or single room occupancy rooms, vehicle ownership by residents in the area can be expected to be greater.

12. The peak period for residential parking demand is in the evening.

13. Parking on Ballard Avenue N.W. is restricted to two hours. There is no restriction on 22nd Avenue N.W. in this area nor on Shilshole Avenue N.W.

14. Business owners and employees use the two hour parking spaces close to their businesses and move their cars to avoid being ticketed which reduces the parking available for short-term parkers coming to patronize the businesses.

15. Long-term parking is available at no cost within walking distance of the Ballard Avenue buildings on Shilshole Avenue N.W. and for 25 cents an hour in a commercial lot 1 and 1/2 to two blocks away.

16. Mike Odom, Engineering Department traffic engineer, advised the Director that the supply of parking is adequate in the area to accommodate the long-term spillover from the proposal.

17. The planned upgrading of Shilshole Avenue N.W. will make the unrestricted parking on that street more usable.

18. Public transit service is good with five routes serving the area.

19. Current experience at three rehabilitated, mixed-use buildings in the area is that residents' car ownership averages less than .8 per unit.

20. No parking is proposed to be provided for the 16,000 sq. ft. of commercial floor space. In reviewing the application Mike

Odom assumed a mix of office and retail uses for that space and projected the demand at the rate of three parking spaces for each 1,000 sq. ft. Since retail demand would be much lower than that ratio, the projection would be too high if retail occupies a significant portion of the space.

21. The 19,000 sq. ft. of existing commercial space has been fully occupied so the new or rehabilitated 16,000 sq. ft. may have little effect on parking demand.

22. Mike Odom reviewed the application for the Department and determined that traffic generated by the project would not have a significant impact on traffic operation in the area.

23. Construction during the rehabilitation of the Princess and Portland Hotel caused neighboring businesses only minor inconvenience. The larger project could increase the amount of inconvenience.

24. The land use policies encourage mixed-use development in Neighborhood Commercial zones.

25. Residents of the units in the proposed project may complain of noise from truck and commuter traffic on Shilshole Avenue.

Conclusions

1. The Hearing Examiner has jurisdiction over these parties and this subject matter pursuant to Section 25.05.680.

2. The Director as responsible official is to issue a DNS if he determines there will be no probable significant adverse environmental impacts from the proposal. Section 25.05.340. For the purpose of SEPA, "significant" means "...a reasonable likelihood of more than a moderate adverse impact on environmental quality." Section 25.05.794A.

3. The Hearing Examiner is required to accord substantial weight to the determination of the Director and the burden of establishing clear error is upon the appellants. Section 25.05.680B.3, Brown v. Tacoma, 30 Wn.App. 762, 637 P.2d 1005 (1981).


4. Appellants presented no proof that construction impacts, land use conflicts or traffic congestion due to the project would cause more than a moderate adverse impact on the environment.

5. While the record shows heavy on-street parking utilization, it does not show that the subject proposal would cause more than a moderate adverse impact from increased demand for parking. The evidence shown is that the on-site parking to be provided by the project is likely to meet the residential demand; that there is a good supply of long-term parking within walking distance for owners and employees in the commercial space in the project and for other businesses in the area if business policies are changed; and that some short-term parking is available and more would be available if the restricted, short-term parking were properly used. Appellants have failed to meet their burden of proving that the determination is clearly erroneous.

Decision

The determination of the Director is affirmed.

Entered this 24th day of October, 1988.


M. Margaret Klockars
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW

Judicial review under SEPA shall without exception be of the decision on the underlying governmental action together with its accompanying environmental determinations. RCW 43.21C.075(6)(c). SEPA issues may be added to the request for review of the underlying decision within 30 days after the date of official notice of that decision if a notice of intent to seek judicial review of SEPA issues is filed with the Director, Department of Community Development, 400 Yesler Way, 2nd Floor, with the time limit set for appealing the underlying governmental action. Seattle Municipal Code Section 25.05.680(D)(4).

If the Superior Court orders a review of the decision, the person seeking review must arrange for and bear the cost for preparing a verbatim written transcript of the hearing but will be reimbursed if successful in court. Instructions for preparation of the transcript are available in the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington, 98104. In the alternative, RCW 43.21C.075(6)(b) provides that a tape may be used for the court review. If a taped transcript is to be reviewed by the court the record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence to the disputed finding. Any other party may designate additional portions of taped transcript relating to issues on review.