

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

EAST SIDE CONSERVATIONISTS

FILE NO. W-79-037

from an environmental determination
of the Superintendent of Buildings

The appeal is DENIED and the determination of
the Superintendent of Buildings is AFFIRMED.

Introduction

The East Side Conservationists filed an appeal challenging the adequacy of the Supplemental Environmental Impact Statement (EIS) prepared for a proposed 36-unit condominium development at the southeast corner of Newton Street and Taylor Avenue North.

For purposes of this decision, the portion of the EIS identified as the Draft EIS and issued on April 21, 1978 shall be referred to as volume 1; the portion identified as the Final EIS and issued on August 21, 1978 shall be referred to as volume 2; the portion identified as the Draft Supplemental EIS and issued on July 17, 1979 shall be referred to as volume 3; and the portion identified as the Final Supplemental EIS and issued on September 28, 1979 shall be referred to as volume 4.

The parties to the proceeding were the appellant, represented by William Baron, the project developer by Richard Wilson and the Superintendent by Ross Radley.

This matter was heard before the Hearing Examiner on November 14 and 20, 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. Pacific Townhouse Builders propose to construct a condominium development (Queen Anne Palisades) on a .81 acre site located on the southeast corner of Newton Street and Taylor Avenue North. The development would contain two buildings with a total of 36 units. Fifty parking spaces would be provided.

2. The project site is located on a steep hillside. A maximum of 45 percent slope is located on the east and west sides and a 10 percent slope through the center of the site. Two wood frame houses are located on the site and would be removed.

3. The project site is located generally on the east slope of Queen Anne Hill and has available spectacular views of Lake Union, the downtown area and the Cascade Mountains.

4. The property is located in a Multiple Residence Low Density (RM 800) zone. Directly to the north of Newton Street is a Single Family Residence High Density (RS 5000) zone.

5. On the Comprehensive Plan map the area is designated as best suited for multi-family development.

6. A Final EIS for the proposal was issued on August 21, 1978. A timely appeal was filed by East Side Conservationists alleging inadequacies in the EIS. In a decision issued by the Hearing Examiner on February 20, 1979, the EIS was found to be inadequate in the following areas:

- (a) the street use permit and proposed vacation of the south half of Newton Street;
- (b) accident data on nearby streets;
- (c) cumulative impacts;
- (d) possible view blockage from a public place;
- (e) correction of view blockage photographs; and
- (f) rent level information.

7. A Supplemental EIS was prepared in response to the remand decision of the Hearing Examiner. The Final Supplemental EIS was issued on September 28, 1979. A timely appeal was filed by East Side Conservationists on October 15, 1979.

8. The appeal statement listed 23 specific inadequacies in the Supplemental EIS. Motions to dismiss several of the issues were filed by the Superintendent and the project developer. After a hearing and arguments on the motions, an order was entered dismissing all of the issues except for the following: 1, 2, 5, 13, 17, 18, 20 and 21.

9. Issue 18 was dismissed at the hearing. Issue 18 involved an allegation that there was a lack of information supporting assertions on the economic feasibility of Alternative F. The economics of the project was discussed in volume 3 at pages 30 and 31. Volume 4 modified volume 3 by removing the economic information in volume 3 at page 31 which has the effect of removing the economics' allegation of the appellant as an issue. The information requested is also limited by Section 15(1)(a) of Ordinance 105735, as amended, which provides that the City cannot require the disclosure of financial information relating to a private applicant's proposal.

10. A supplemental traffic analysis is included in volume 3 at appendix A. Volume 3, appendix A, at page 16 states that traffic from the project when combined with the project to the south would almost double the volume. The appellant alleges that this reference is confusing and that the traffic increase would be much greater along Taylor Avenue North. The traffic consultant testified that the reference to traffic doubling refers to Howe Street but that the critical consideration is level of service, which would be C or better at the Howe Street and 5th Avenue North intersection.

11. In volume 3, appendix A, at page 20, the boundary area for the project area is defined as Taylor Avenue North to Aurora Avenue North and from Blaine Street to Boston Street. The appellant alleges that is confusing and it appears that the greenbelt is included in the boundary area. It is also alleged that it is not clear as to whether Aurora Avenue North accident figures are included in the total. The traffic consultant testified that Taylor Avenue North bordering the site is not the boundary but rather Taylor Avenue North to the south which is marked with a 3.0 for average number of annual accidents. The traffic consultant

also stated that there are no accident statistics provided in the EIS for Aurora Avenue North. Both of the foregoing issues relate to volume 3, appendix A, page 8.

12. In volume 3, appendix A at page 18, is the following analysis: "As discussed in the existing conditions section of this report there are several features of the street system (e.g., narrow roadways, restricted sight distance, steep grades) that often precipitates accidents. The accident statistics do not, however, seem to give any evidence that these features are consistently the cause of accidents in the neighborhood." The appellant alleges that the traffic analysis failed to establish a relationship between the accident rate and the narrow streets and parking on both sides.

13. The appellant alleged that the spot method of traffic analysis discussed in volume 4 at page 29 should have been used.

14. It is disclosed in volume 3 at page 21 that the sewer would be relocated from the south to the north half of Newton Street pursuant to a recommendation of the Engineering Department. The appellant alleges that there was no discussion of the impacts on vegetation from such a relocation. Trees are located in the north half of Newton Street. Mr. Hunt, the consultant on the EIS, testified that with proper design very few trees would have to be removed.

15. In volume 3 at page 26 is a proposed Alternative F that would involve development of the site without a street vacation. Analysis of such an alternative was required in the remand order of the Hearing Examiner. The appellant alleges that the alternative is inadequate in that it does not significantly reduce view blockage and that other alternatives should have been addressed.

Conclusions

1. An EIS must be reviewed to determine whether there is a disclosure and analysis of the probable environmental consequences of a proposed action. The "rule of reason" is to be used in judging the adequacy of an EIS and remote or speculative consequences of a proposed action need not be considered. Cheney v. Mountlake Terrace, 87 Wn.2d 338 (1976).

2. A review of the complete text of the traffic analysis makes it clear as to the boundaries of the project area and what accident statistics are included in the total. The reference to traffic volumes doubling (volume 3, appendix A, page 16) is somewhat confusing. However, traffic volumes must be related to level of service and in this case that level is fully disclosed. The methodology used by the traffic consultant to analyze accident data was reasonable and he is not required to use another method, especially when it is shown not to be applicable. The appellant failed to show that the conclusion of the traffic analyst on the relationship between the accident rate and the narrow street system was in error. The record does not show that the relocation of the sewer from the south to the north half of Newton Street would have sufficient impacts on vegetation to require any detailed analysis.

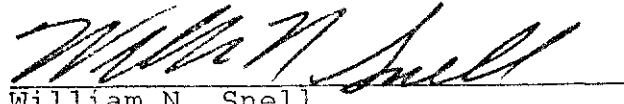
3. The issues raised by the appellant are without merit. Several issues did point out where clarifications or corrections would have been helpful (See Findings of Fact Numbers 10, 11 and 14). In summary the alleged inadequacies were inconsequential in nature and not sufficient to render the EIS inadequate. Mentor v. Kitsap County, 22 Wn.App. 285 (1978).

4. The appellant has failed to show that the discussion of Alternative F was not adequate. WAC 197-10-440(12)(e) provides that alternatives for a private project shall be limited to "no-action" plus other reasonable alternative means of achieving the objective of the proposal. Under this WAC provision no discussion of alternatives other than provided in the EIS is required.

Decision

The appeal is DENIED and the determination of the Superintendent of Buildings is AFFIRMED.

Entered this 5th day of December 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).