

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

WESTWOOD BY THE SOUND COMMUNITY GROUP

FILE NO. W-80-011

from an environmental determination of
the Department of Community Development

Introduction

The appellant, Westwood by the Sound Community Group, appeals the declaration of non-significance issued by the Department of Community Development for the proposal to divide property at 10262-10268 - 47th Avenue S.W. into three lots.

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

Parties to the proceeding were: Appellant, represented chiefly by Edith R. Marble; the Department of Community Development, represented by Darcy Goodman, Assistant City Attorney; the applicant, Lawrence M. Shaw personally and by his attorney, David A. Alskog.

This matter was heard before the Hearing Examiner on July 1, 1980 and September 30, 1980.

Findings of Fact

1. The proposed action is to divide a two-acre parcel into three lots at 10262 - 47th S.W. for single family development.
2. The Department of Community Development (DCD) conducted an environmental evaluation of the proposed action because the property is classified as environmentally-sensitive under Ordinance 105735, as amended. On May 9, 1980, DCD filed a final declaration of non-significance for the proposal.
3. Appellant filed an appeal of the DNS and short plat decision May 23, 1980. The appellant group contends that impacts on traffic, safety, slope stability, drainage and fire protection would be great enough to require a declaration of significance and environmental impact statement.
4. Access to two of the lots would be by a roadway in an easement which enters 47th S.W. where the street turns almost 90°. The view of the entrance to the roadway from vehicles on 47th approaching the corner would be limited. Because of the limited sight distance some drivers honk before entering the curve.
5. 47th S.W. is narrow and has no shoulders, planting strips or sidewalk. Pedestrians must walk in the roadway. Included in the proposed action is conformance with the Engineering Department's design for the entrance/exit.
6. The subject property is part of a steep hillside sloping down to Puget Sound. The property slopes down from the northeast to the southwest with a slope of up to 100% at the northeast corner and 50% on the southwest portion.
7. The environmental analyst for DCD considered the City's slide reports for the area, the Dames and Moore report evaluating slope conditions along 47th S.W. for the City and letters from Neil H. Twelker and Associates, Inc., reporting on the slope conditions of the subject property.
8. As part of the action, the applicants propose that all development on site will be under the guidance and supervision of a Washington State-licensed civil engineer with experience in the geotechnical field; that there be a "no-construction" area noted on the face of the plat map for Parcels B and C., and that the first two provisions be noted in the final recording of the short plat and deeds.

9. The Dames and Moore report cited "considerable evidence of rather large-scale, shallow depth earth movements." Area residents reported instances of sloughing, shifted foundations, slide activity requiring change in the roadway, cracked windows, etc.

10. The environmental analyst found the Dames and Moore and Twelker reports to be consistent and providing adequate information to determine that, with the conditions of the proposal, "no significant slides are expected."

11. While many springs have been observed in the hillside, none were identified as occurring on the subject property. A pipe collecting water on the subject property drains onto an adjoining property at 10408 - 47th Avenue Southwest.

12. A change in absorption rate, drainage patterns or amount of run-off would occur from the removal of vegetation and the addition of a roadway and three houses.

13. Appellant offered no evidence on slope stability contradicting any evidence considered by the analyst nor did they supply any expert opinion disagreeing with the conclusions of Twelker that with reasonable care the site is suitable for residential development.

14. According to the DNS, due to an inadequate water supply, fire protection is below standard in the area. In addition, the nearest standpipe is some 1300 feet away from the property. No evidence was offered to show that the fire-fighting capability of the Fire Department would be significantly reduced for other properties by the addition of three new houses.

Conclusions

1. An environmental impact statement (EIS) is required by the State Environmental Policy Act (SEPA) when there is a major action which would have a significant adverse impact on the environment. The Court has established a guideline for determining what is "significant" which is "whenever more than a moderate effect on the quality of the environment is a reasonable probability." Norway Hill Preservation and Protection Association v. King County Council, 87 Wn.2d 267 (1976).

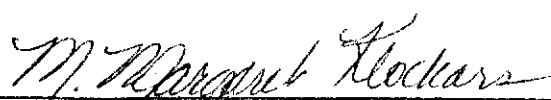
2. Section 20(4), Ordinance 195735, as amended, requires the Hearing Examiner to accord substantial weight to the Department's declaration of non-significance. Only a showing of clear error would allow that determination to be set aside.

3. The facts presented by the appellant and those used by the environmental analyst in considering the impacts of the proposed action were generally consonant. The real division was in the conclusion as to the degree of impact. Appellant did not show that the determination was clearly wrong.

Decision

The determination of the Department of Community Development is AFFIRMED.

Entered this 15th day of October, 1980.


M. Margaret Klockars
Deputy Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 20 days of the date of this decision. Vance v. Seattle, 18 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).