

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

FIRST HILL COMMUNITY COUNCIL

FILE NO. W-80-012

from an environmental determination  
of the Building Department

#### Introduction

Appellant, First Hill Community Council, appeals from a declaration of non-significance for a proposed change of use from nursing home to boarding house/dormitory for property at 1421 Minor Avenue issued by the Building Department (now Department of Construction and Land Use).

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 by John Comstock and Tom Korbuszewski, Building Department, represented by Ross Radley, Assistant City Attorney, and Washington Center, Inc., applicant, represented by Walter E. Webster, Jr., attorney at law.

This matter was heard before the Hearing Examiner on July 16, 1980.

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. Washington Center, Inc., applied for a use permit to change the legal use of the building at 1421 Minor Avenue from nursing home to boarding house/dormitory. The application was made in response to notice of violation by the Building Department.

2. The six-story structure on the subject property was built in 1969 as a nursing home and was used for that purpose for a number of years. After the building was vacated, because of various state requirements for access and safety, and was unoccupied for two years, it was illegally occupied by a work release center.

3. Presently, the building houses the work release center, some 41 boarding house/dormitory tenants, a physician's office, a beauty salon/barber shop and Bell Lab, an equipment testing laboratory.

4. The proposed use would provide board and room for up to 250 tenants, in addition to the physician's office, beauty salon/barber shop and laboratory. The tenant population could be a mixture of college students, foreign students, non-students, and elderly persons. The applicant's management presently favors attempting to serve a high proportion of foreign students.

5. Appellant alleges that the Building Department failed to consider the difference in impacts on the neighborhood between a nursing home use and boarding house/dormitory use and that the impacts of the changed use from noise and on circulation and parking, land use and housing would be significantly adverse.

6. The subject structure is located 21 ft. away and directly across an alley from the Oxford Crest Apartments. Residents testified as to noise emanating from the Washington Center Building and from delivery trucks during night hours, to windows broken by Washington Center residents throwing bottles, to invasions of their privacy in their apartments by shouts and whistles from Washington Center residents, to accumulation of garbage in the alley, to blocked alleys and double-parked cars.

7. The applicant has no authority over or ability to control the management of the work release program except through its power to evict the program. Most complaints of the witnesses stem from the management of that program and the program's participants.

8. A boarding house/dormitory use is different from a nursing home use and would have different traffic circulation, parking and noise characteristics.

9. The Washington Center property has parking for 87-90 vehicles, partially under the building.

10. A total of 16 employees are expected to be necessary for 250 residents. Approximately 125-135 employees were necessary for 250 residents of the nursing home. The incidence of car ownership is likely to be higher among a student population than among the patients of the nursing home. Fewer employee cars will need be accommodated.

11. Appellant questioned whether 87-90 parking spaces would accommodate residents, staff and guests.

12. The environmental analyst was aware of new development in the area and took specifically into account several projects. He was aware that a new school, located nearby, was to open but not of the specific number of students. The traffic generated by new development and the opening of the school would affect arterials, chiefly, however some vehicles from those uses would use Minor Avenue.

13. Some 550 person trips per day could be generated by the proposed facility. The provision of van service, as proposed by Washington Center, would affect the mode split. The traffic expert estimated that approximately 30 percent of the trips would be by vehicle as opposed to pedestrian, public transit, the Center's van or bicycle. He foresaw no difficulty from this increase in vehicular traffic movement in the area.

#### Conclusions

1. The determination appealed from is to be accorded substantial weight on appeal. Section 20(4), Ordinance 105735, as amended. Only if the decision is shown to be clearly erroneous may it be reversed.

2. The response to question II-8 in the checklist is in error as to the subject site and should be changed to reflect that the proposed use is a different land use from the nursing home use, but is correct as to the area.

3. Appellant did not prove by a preponderance of the evidence that the parking spaces to be provided would not accommodate the demand to be generated by the proposed use nor that traffic circulation would be materially altered or increased.

4. The Department's consideration of cumulative effects was adequate.

5. Noise from a dormitory can be recognized to be likely greater than that from a nursing home, however, the impact of that change is not necessarily significant. While the evidence showed the impact from noise of the present use to be significant, at least to residents of the Oxford Crest Apartments, noise complained of was from the work-release unit and not from the boarders. While the impacts of a use under a particular management may be shown to be more severe than under other management, in this case that could not be proven because Washington Center lacked control over the work-release program. Opinions as to its management of the total facility could only be speculative and therefore not competent evidence.

#### Decision

The appeal is DENIED and the Determination by the Building Department is AFFIRMED as modified, herein.

Entered this 31st day of July . 1980.

M. Margaret Klockars  
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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).