

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

EASTLAKE COMMUNITY COUNCIL

FILE NO. W-85-001

from an environmental determination
of the Director, Department of
Construction and Land Use

Introduction

Appellant, Eastlake Community Council, appeals the decision of the Director, Department of Construction and Land Use, to issue a declaration of non-significance for a proposal to rezone property at 1700 Franklin Avenue East to Manufacturing.

The appellant exercised its right to appeal pursuant to Section 25.04.200, Seattle Municipal Code.

Parties to the proceedings were: Eastlake Community Council represented by Brian Ramey; the Director represented by Leslie Lloyd; and the proponent, William Schallert, Jr., represented by John W. Hempelmann, Diamond and Sylvester.

This matter was heard before the Hearing Examiner on April 8, 1985.

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. The proponent has filed a petition to reclassify property which is in the I-5 right-of-way under an elevated portion of the freeway, south of East Newton Street, north of East Galer Street, east of Franklin Avenue East, and west of Lakeview Boulevard East to Manufacturing. The 5.836 acre parcel currently has four different zone classifications, RD 5000, L-2, L-3 and M because the zoning of part of the site is not established on the land use map and therefore the boundary lines of the abutting zones are extended to the middle of the freeway. Contract conditions are proposed to limit the use of the site to a self service mini-warehouse or less intensive uses.

2. The threshold determination pursuant to SEPA by the Director was a determination of non-significance (DNS) with a series of conditions. Eastlake Community Council appeals this decision.

3. The proponent proposes to construct a three story warehouse around the structural columns of the freeway which would be under 65 ft. in height but within 12 ft. of the deck of the freeway. The structure would have caretaker quarters and, as proposed for the SEPA analysis, 194,000 sq. ft. of gross floor area. The structure would be approximately 380 ft. long. There would be three points of access to the building, the main entry at East Blaine Street with 24 parking stalls and loading area, an entryway at East Howe Street with 24 parking stalls and loading area and an entry near East Garfield Street with 13 stalls and a loading area.

4. There is an existing earthen berm along the length of the property on its western side with evergreen trees on the berm

which nearly reach the freeway. This earthen berm and line of trees would remain.

5. The subject site now has grass, berry vines and other brush on it. Footpaths cross the area which lead under the freeway to Lakeview Boulevard.

6. The site is sloping down toward the west. The area in general slopes down to Lake Union. A slide area has been identified near the center of the site. A geotechnical consultant prepared a soils report addressing measures that will be necessary to assure stability of the slope. Some excavation will be required for the construction of the facility.

7. The environmental checklist indicates that there will be disruption, displacement, compaction or overcovering of the soil, a change in topography and an increase in wind or water erosion of the soil. The site has no unique geologic or physical features.

8. The environmental checklist answers the question "will the proposal result in the alteration other present of land use of an area?" with "yes". The land use specialist has rejected the proponent's statement that development could encourage residential development in the area.

9. The area west of the site to Lake Union is mostly zoned Manufacturing but, except for the waterfront and lake, is in commercial and office use. There are auto repair uses across from the subject site on Franklin at Garfield and south of the subject site in the freeway right-of-way. There is another auto repair use on Fairview across from the lake and a propeller factory at Fairview and Garfield. The L-2 and L-3 zoned area, adjacent to the northern portion of the subject site, is developed in single family residences.

10. The environmental checklist indicates there will be generation of additional vehicular movement. That finding was based upon information provided by the proponent obtained from his consultant, Mooney-Francis and Associates, predicting that the use would generate 524 trip ends per day and that all parking demand would be accommodated on site.

11. CH2M Hill provided the proponent with analysis of the traffic and transportation impacts of the proposed project. Traffic counts on Franklin Avenue East were taken and a parking survey in the area was done. Average weekday traffic volume on Franklin is 450 to 480 vehicles per day. According to the analysis projected trip generation for the size of the facility now proposed would be 427 trip ends on weekdays. Peak period for trip generation and parking demand would be Saturday afternoons. The peak number of trips during one hour would be 60 trip ends. The worst case parking demand would be for 48 to 54 spaces. The estimation of trip distribution for traffic generated by the project would be 25 percent on Franklin Avenue East for a 22-24% increase and the remaining 75 percent on Eastlake and East Blaine. The parking survey showed that 68 to 86 percent of the on-street parking is utilized on weekdays and 20 to 33 percent on evenings or weekends.

12. The transportation engineer for CH2M Hill found adequate sight distance at the intersections of Eastlake Avenue East with East Howe, East Blaine and East Garfield.

13. Eastlake Avenue East provides four lanes for traffic. It carries some 14,000 vehicles in the area on an average weekday.

14. North of East Blaine, Franklin Avenue East is a residential street but some drivers utilize it as a north-south route.

15. The DNS cited short term impacts of disruption of soils, erosion during excavation, air quality decreased during construction, alteration of surface drainage and increase in traffic and parking. These were all found to be minor or could be mitigated by the conditions imposed or existing legislation. Long term impacts cited were alteration of surface and ground water flows, change of land use to warehouse, increase in traffic and in demand for parking, changes in utility lines and aesthetic change from an open area to a building. These impacts were determined by the Director not to be significant because they are minor in the case of traffic increase, parking demand will be handled on site, utilities will be relocated, the area has a mix of uses currently, the Grading and Drainage Ordinance will handle the surface and ground water impacts and the existing trees will mask the effect of the bulk of a large building.

16. Appellant introduced many facts on other potential impacts, however the appeal raised only the issues of soils stability, traffic and parking and land use impacts.

Conclusions

1. An environmental impact statement (EIS) is required if the responsible official determines that a proposal may have a probable significant adverse impact. Section 25.05.360. If the responsible official determines that there will be no probable adverse impact then the DNS is to be issued. Section 25.05.340. A significant impact is present "whenever more than a moderate effect on the quality of the environment is a reasonable probability." Norway Hill v. King County Council, 87 Wn.2d 267, 278, 552 P.2d 674 (1976).

2. The Director has found probable impacts but determined that none would be significant. The Hearing Examiner on review must give that determination substantial weight. Section 23.76.36B7. The standard of review then is "clearly erroneous" which means that to overturn the Director's determination the examiner must have a definite and firm conviction that a mistake has been made. Hayden v. Port Townsend, 93 Wn.2d 870, 613 P.2d 1164 (1980).

3. In this case the appellant's witness disagrees with the conclusion of the Director that these impacts would not be significant but has not shown that the facts relied upon by the Director in reaching that conclusion are in error. A difference of opinion is not a sufficient basis for the examiner to reverse the Director's determination in light of the applicable standard of review.

Decision

The determination of the Director is affirmed.

Entered this 22nd day of April, 1985.


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 rezone, Council conditional use or other Council action within 30 days after the date of the underlying Council decision if a notice of intent to seek judicial review of SEPA issues is filed with the Director of the Department of Construction and Land use, 408 Municipal Building, Seattle, Washington 98104, within fourteen days of the date of this decision. Seattle Municipal Code Section 25.05.680(3).