

FINDINGS AND RECOMMENDATION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Recommendation of
the Landmarks Preservation Board for

QUEEN ANNE BOULEVARD

FILE NO. LP-81-003

Introduction

The Landmarks Preservation Board filed its Recommendation on Controls and Incentives with the Hearing Examiner pursuant to Chapter 25.12, Seattle Municipal Code, for Queen Anne Boulevard.

The hearing was held on August 25, 1981. Parties to the proceedings were the Seattle Landmarks Preservation Board represented by Roberta Deering, Coordinator; the Parks and Recreation Department, property owner, represented by Rae Tufts, Associate Planner; the Engineering Department, property owner, represented by Maurice Hillyard and Tom Rasmussen, Chairperson, Boulevard Committee, Queen Anne Community Council.

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 recommendation.

Findings of Fact

1. On April 14, 1979, the Seattle Landmarks Preservation Board (Board) designated Queen Anne Boulevard as an historic landmark. The Board specified the following features for preservation:

- a. the continuity of the boulevard street system;
- b. existing street trees;
- c. existing granite curbs and brick gutters;
- d. major structural elements (street lights, bridges, walls);
- e. triangles.

The Board found the designation satisfied criteria 3 and 6 of Ordinance 106348, Section 3.01.

Criterion No. 3: It is associated in a significant way with a significant aspect of the cultural, political or economic heritage of the community, city, state or nation;

Criterion No. 6: Because of its prominence of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the city and contributes to the distinctive quality or identity of such neighborhood or the city.

2. The Queen Anne Boulevard is made up of the public rights-of-way of streets making up the boulevard.

3. The Parks and Recreation Department owns the rights-of-way and maintains the vegetation in those rights-of-way in most of the Boulevard. The Engineering Department owns the rights-of-way of Highland Drive and other nearby streets. Abutting property owners provide the maintenance on Engineering Department property.

4. Controls were approved by the Board for recommendation to the City Council on June 3, 1981. To preserve the continuity and identity of the Boulevard system the Board recommends:

A. Continuity and Identity

A Certificate of Approval, issued by the Landmarks Preservation Board, pursuant to City of Seattle Ordinance 106348, must be obtained or the time for denying a Certificate of Approval application must have expired, before any changes may be made that would involve major alterations or that would affect a significant change in those publicly-owned properties or public rights-of-way comprising the Queen Anne Boulevard, including proposals for permanent street closures, street vacations, traffic diverters, curb cuts, proposals for major changes to existing street improvements, including planting strips, proposals for new improvements, and proposals for construction or alteration of any structures;

5. To maintain and enhance street trees the Board recommends:

B. Street Trees

A Certificate of Approval, issued by the Landmarks Preservation Board pursuant to City of Seattle Ordinance 106348, must be obtained or the time for denying a Certificate of Approval application must have expired;

- a) before any changes may be made involving new street tree plantings or replacements which are not in conformance with the attached map; or,
- b) before any existing street tree may be removed, except where such tree does not conform with the attached map; (sic) or,
- c) before any pruning may be conducted which is not in conformance with Queen Anne Boulevard pruning guidelines to be adopted by the Landmarks Preservation Board, in consultation with the Engineering Department's City Arborist and the Department of Parks and Recreation's Chief Horticulturalist, within six months of the adoption of the Queen Anne Boulevard Landmark Ordinance; and, excluding from the Certificate of Approval requirements any pruning or tree removal where such is required on an emergency basis due to storm damage or other unforeseen events which may destroy all or part of a tree;

6. To preserve the major structural elements and triangles the Board recommends:

D. Major Structural Elements and Triangles

A Certificate of Approval, issued by the Landmarks Preservation board pursuant to City of Seattle Ordinance 106348, must be obtained or the time for denying a Certificate of Approval application must have expired, before any significant changes or major alterations may be made which would affect the exteriors or the visual appearance of the major structural features or the street triangles within the Boulevard system, including street lights, the walls, and the McGraw Street Bridge. Pursuant to City Ordinance 109218, existing incandescent and mercury-vapor street lighting shall not be replaced in kind.

7. The Board recommends a proviso as follows:

- a) Any in-kind maintenance or repairs of the above-noted elements are excluded from the Certificate of Approval requirements, but provided that the owner file a Statement of Intent with the City Historic Preservation Officer prior to instigation of such work; and,
- b) after one year from the adoption of the Queen Anne Boulevard Landmark Ordinance, the Landmarks Board shall review the effectiveness of the adopted controls and guidelines in the preservation of the significant features of the Boulevard.

8. The Parks and Recreation Department (Parks) filed objections to certain of the recommended controls. Parks maintains a general position that the maintenance of the Boulevard, as a park facility, is the responsibility of the Department and that certificates of approval should not be required for basic maintenance of the trees and replacement of curbs and gutters. Parks desires to have replacement map/plan for trees which have died or need replacing for other reasons substituted for the Board's and the provision for development of written pruning guidelines be deleted or the amendment of Parks's policy and procedure for pruning be substituted for that requirement.

9. The replacement planting map used by the Board was prepared with the assistance and advice of the Queen Anne Community Council and reflects an attempt to replace with trees which are most representative of those originally intended in order to be historically accurate, to unify the species by eliminating more recent additions as the need arises, and to maintain the canopy in certain areas.

10. Tree replacements consistent with the plan would not require certificates of approval.

11. The Parks proposal would, for example in Section H (Exhibit 10), replace scarlet oaks which are at least 70 ft. high with Kwanzan cherry which grows to 30 ft.

12. Parks has had problems with certain species whose roots have cracked and heaved sidewalks, streets and gutters and entered sanitary sewers. The Park's replacement plan reflects species less likely to have these effects. The plan is less sensitive, however, to the historical and aesthetic aspects of the Boulevard. It should be noted that Park's intended the plan as a proposal or negotiating instrument.

13. Parks is willing to work with the community to attempt to find species which may satisfy all concerns. The community is not willing to work further on the plan having devoted considerable time to it already and having utilized expert advice from two landscape architects. Because of miscommunication, the Park's staff person did not attend the survey and work session held by the community.

14. Parks indicates that it would like to use granite curbs for replacements when replacements are necessary. The problem would be with obtaining and storing those curbs as they become available elsewhere. Other departments' assistance, through salvage practices, space and budget, would have to be obtained.

15. Parks has a provisions in its Policy and Procedure manual for tree maintenance. (Exhibit No. 6) Section 7.3 refers to trees of an historic or special local significance. Parks proposes to amend that section by adding pruning guidelines tailored specifically to the Boulevard.

16. Pruning guidelines are needed because the particular character of some areas results from the type of pruning employed such as where the trees create an umbrella over the street or where a particular view is valued and the trees are pruned accordingly.

17. The guidelines need to be readily available to all potential pruners - Parks, Engineering, private parties with land abutting Engineering Department owned property, City Light and Metro. Which agency develops the guidelines should not matter so long as the guidelines reflect the needs of the various interested agencies and carry out the intent of the landmark designation.

18. In Parks the Park Horticulturist has the responsibility to administer and coordinate the maintenance of special parks with horticultural emphasis. He directs the crews which are responsible for the maintenance of the trees on Queen Anne Boulevard. The number of personnel for these and similar duties in the other parks in the system is the same as in the 1930's while the amount of land has increased dramatically. The pruning cycle has been lengthened and declining trees are not attended to as soon or as much as would be desirable.

19. The damage to sidewalks and sewers from City trees has resulted in injuries and various honored claims. Most of the damage has come from horse chestnut and oak trees.

Conclusions

1. It appears that Parks' position that the head of the department has Charter authority to manage and control the park and recreation system of the City is well-founded. Article XI, City Charter, Section 1 provides:

There shall be a Superintendent of Parks and Recreation, who shall have responsibility for the management and control of the park and recreation system of the City....

The City Council, by ordinance, may not vest that responsibility in another agency, such as the Board. Imposing controls such as those on methods of maintenance would usurp that authority unless the Superintendent agreed to those controls.

2. Proposed controls A and D are not opposed by Parks and can be imposed. The other proposed controls can be considered only advisory to the Superintendent.

3. If the Council determines that the Charter authority is different from that viewed by the examiner and, therefore, controls may be imposed, the following conclusions and recommendations are made.

The proposed requirement of a certificate of approval before any major alteration or significant change be made in the Boulevard or in its major structural elements (A and D) is necessary to assure the preservation of all the significant features and characteristics identified in the designation.

4. The proposed requirement of a certificate of approval prior to significant change or major alteration involving granite curbs or brick gutters (C) is also appropriate and necessary for the preservation of those features. The control should have the effect of giving notice to City departments of the need to establish a reserve system so that replacement in-kind can be made.

5. As to the proposed control requiring certificates of approval for changes, plantings, removal or pruning of street trees, not in conformance with approved plans or guidelines, such a control is necessary to assure continuity and identity of the Boulevard in terms of its historic significance and its character.

The chief objections have arisen, however, to the plan to be followed for tree replacement and to the source and location of the pruning guidelines. Parks acknowledged that its plan for replacement was intended as a beginning point for negotiations and could be modified to better reflect historic and aesthetic considerations. The Board's proposed plan, however, does not reflect a consideration of potential damage by certain species of trees and costs to the City and hence to taxpayers.

The Certificate of Approval process, however, may be used by Parks to demonstrate the potential problems and costs in adhering to the Board's plan in certain areas and for certain species. Since the Park's plan is not acceptable and the Board and community are unwilling to work further with Parks on the plan the control with the Board's plan should be adopted with the recognition that certain costs will be inherent in the greater utilization of the certificate of approval process.

6. As to the pruning guidelines, they should be adopted by the Board but Parks, having the major responsibility for the maintenance of the Boulevard, should propose appropriate guidelines and the Board seek concurrence of the Engineering Department and Queen Anne Community Council. Parks could then amend its policies and procedures to include the guidelines. Because they must apply to the entire Boulevard and to any agency or person pruning they should be adopted by the Board.

Recommendation

Those controls agreed to by the Superintendent of the Parks and Recreation Department, for A. Continuity and Identity and for D. Major Structural Elements and Triangles, should be adopted.

Entered this 17th day of September, 1981.

M. Margaret Klockars
M. Margaret Klockars
Deputy Hearing Examiner

NOTICE OF RIGHT TO PETITION FOR FURTHER CONSIDERATION

Pursuant to 25.12.620, Seattle Municipal Code, any party of record may file a written notice of appeal with the City Council within 30 days after the date of mailing the recommendation of the Hearing Examiner. Copies must be served on all parties of record.