

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

In the Matter of the Appeal of

CAPITOL HILL COMMUNITY COUNCIL

FILE NO. W-77-015

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 appellant, Capitol Hill Community Council, filed an appeal from a declaration of non-significance prepared by the Superintendent of Buildings, hereinafter Superintendent, with regard to a proposed action to construct a television tower and studio at 1715 E. Madison Street.

The appellant exercised its right to appeal pursuant to Section 20, Ordinance 105735.

Parties to the proceeding were the appellant represented by Robert Heller, Chairperson of the Land Use and Planning Committee of the Capitol Hill Community Council; Edward Lane, representing Gaylor Broadcasting Company; and the Superintendent, represented by Jan Arntz.

This matter was heard before the Hearing Examiner on June 22, 1977.

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, Gaylor Broadcasting Company, which operates KSTW-TV in Tacoma desires to locate a television tower and studio facility in Seattle. The proposed site for the new facility is located in an irregularly shaped block bordered by E. Madison Street on the north, 18th Avenue on the east, E. Pine Street on the south, and 17th Avenue on the west. This block is presently developed with the studios and tower of KCTS, a public television station operated by the University of Washington, and a vacant tavern and service station. Gaylor Broadcasting Company proposes to remove the existing tavern and service station and construct a studio, 14-space parking area, and a 637 foot television tower on the site. A new service station building would be located in the southwest section of the block.

2. The proposed KSTW tower would be located on the E. Pine Street margin and about 120 feet from the KCTS tower. The KCTS tower is 49 feet lower than the proposed 637 foot KSTW tower.

3. The proposed site is located in a Community Business (BC) zone that extends along both sides of E. Madison Street. Development in the area consists of a gas station, a Bell Telephone building with a microwave tower, a hearing and speech center and apartment buildings.

4. A radio or television studio is permitted outright in the BC zone pursuant to Section 15.21(f), Ordinance 86300, as amended, provided that the following conditions are met: the principal building must be located 100 feet or more from any lot in a residential or "R" zone and any transmitting tower must be located at least 50 feet from a lot line.

5. In an appeal letter filed on May 20, 1977, the appellant raised several issues with regard to noise, air quality and traffic disruption during the construction period but at the hearing those objections were withdrawn. The basic issue raised by the appellant relates to the aesthetic impact of the television tower.

6. A declaration of non-significance relating to the subject proposal was filed with the SEPA Public Information Center on May 6, 1977. Item 18 in the environmental checklist is entitled aesthetics and asks the following question: "Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?" The proponent answered maybe and provided the following explanation: "Placement of a broadcasting tower at this location will not be aesthetically inconsistent due to the proximity of an existing tower. The additional tower will modify the view by adding a parallel vertical element. The new building and landscaping at the site itself will be an aesthetic improvement over the present neglected condition of the site."

7. Gaylor Broadcasting Company had previously sought to locate a much higher transmission tower on Squak Mountain but the application, which required conditional use and variance approval, was rejected by King County since the proposed tower was deemed visibly incompatible with the area, which is relatively undeveloped.

8. WAC 197-10-320 provides that the lead agency is to conduct an initial review of the environmental checklist for the proposal together with any supporting documentation. Initial review is to be made without requiring further additional information from the applicant. After completing the initial review of the checklist, the lead agency is required to apply the criteria of WAC 197-10-060 and -360 to the checklist. WAC 197-10-360(2) provides:

The questions in the environmental checklist are not weighted. It is probable that there will be affirmative answers to several of these questions while the proposal would still not necessarily have a significant adverse impact; however, a single affirmative answer could indicate a significant adverse impact, depending upon the nature of the impact and location of the proposal. The nature of the existing environment is an important factor. The same project may have a significant adverse impact in one location, but not in another location. The absolute quantitative effects of the proposal are also important, and may result in a significant adverse impact regardless of the nature of the existing environment.

Conclusions

1. The appellant has failed to demonstrate by any substantial evidence that the proposed location of the studio and television tower at 1715 E. Madison Street would be a major action significantly affecting the quality of the environment.

2. The basic issue raised in the appeal relates to the aesthetic impact of a 637 foot high television tower. The record discloses that there will be some view blockage and to at least some degree, depending on one's point of view, an aesthetically offensive tower. While it is fully disclosed and recognized that there will be some impact, the critical determination is whether the impact will be significant. The scope of the project is minor in nature since it involves redevelopment of a relatively small area in an intensively zoned and developed block fronting on a heavily traveled arterial. The tower itself will definitely draw attention to the site but will not be significantly higher than the existing KCTS tower. Therefore, after reviewing the record and taking into consideration the scope of the project and the nature of the existing development, it is concluded that the proposed development is not a major action and will not have any significant impacts on the environment.

3. With regard to an analysis of the potential impact of a proposed action, it is important to consider the existing zoning regulations. In this case the proposed use is permitted outright in the BC zone provided that two setback requirements are met. A television tower is exempted from the normal height restrictions in the zone. In summary, the land use policies of the City, as expressed in the zoning code, do not consider the height of a television tower to be a critical element in controlling the compatibility of land uses.

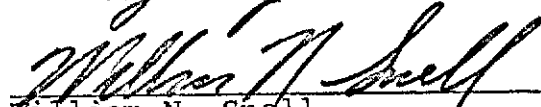
4. The appellant raised several important public issues with regard to the proposed project. The concept of some arrangement for sharing one tower between KCTS and KSTW is attractive but as an alternative cannot be considered in this proceeding due to the limited scope of inquiry in a threshold determination. WAC 197-10-360 provides that the questions contained in the environmental checklist are exclusive and other factors cannot be considered. It should be noted that KSTW had previously made an effort to explore the possibility of a shared use of the tower, which was rejected by KCTS.

5. The basic public issue raised by the appellant with regard to the height of the television tower could most directly be addressed by more effective land use controls. Section 22.22(a), Ordinance 86300, as amended, a copy of which is attached, provides a blanket exception from height restrictions for certain types of structures provided that the use is permitted in the zone. A legislative review of these exceptions would most likely be advisable in light of the increasing attention paid in City policies to improving the environmental character of the city and preventing aesthetically objectionable view blockage.

Decision

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

Entered this 8th day of July, 1977.


William N. Snell
Hearing Examiner