

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

In the Matter of the Appeal of

E. E. DUNGAN, et al.

FILE NO. W-77-020

from an environmental determination
of the Superintendent of Buildings

The appeal is DENIED and the determination
of the Superintendent is AFFIRMED.

Introduction

The appellants, E. E. Dungan, et al., 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 24-story office building at the southwest corner of Fourth Avenue and Blanchard Street.

The appellants exercised their right to appeal pursuant to Section 20, Ordinance 105735.

Parties to the proceeding were: the appellants; Ross Radley, representing the Superintendent and Robert Ratcliffe, representing Martin Selig, the project developer.

This matter was heard before the Hearing Examiner on October 11, 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. Martin Selig, the project developer, proposes to construct at the southwest corner of Fourth Avenue and Blanchard Street an office building (Fourth and Blanchard Building) containing 24 floors and attaining a height of about 350 feet. The building would consist of two separate towers. A parking garage containing about 280 spaces will be located under the building.
2. The exterior of the building will be covered with bronzed glass with a non-mirror finish (varitran 4-114).
3. The site of the proposed project is a half-block between Blanchard and Lenora Streets along the west side of Fourth Avenue. The proposed building will cover about 21,000 square feet, or 54 per cent of the site, with the remaining area being open space. A large landscaped plaza containing about 12,000 square feet will be located at the south end of the site.
4. Located on the site is an auto repair shop, which would be demolished, and two surface parking lots.

5. Approximately the northern two-thirds of the site was rezoned two years ago from Metropolitan Commercial-Temporary (CMT) to Multiple Residence Mixed Density (RM-MD). The purpose of the RM-MD zone is to encourage in the Denny Regrade area the construction of residential buildings and retail businesses and services related to the resident population. Commercial businesses and services related to the downtown area are permitted. In rezoning the area to RM-MD a two year grace period was granted to permit the construction of buildings permitted under the previous zoning. In this case the developer is proposing to develop the project under the CMT zone restrictions. The remainder of the site is zoned Metropolitan Commercial (CM).

6. Located on the northeast corner of Third Avenue and Lenora Street, adjacent to the project site, is the Royal Crest Condominium a modern 26-story residential structure.

7. A declaration of non-significance prepared by the Superintendent was filed with the SEPA Public Information Center on August 18, 1977. The Superintendent found that the subject proposal would not have a significant adverse impact on the environment and that an environmental impact statement was not required.

8. On August 24, 1977 E. E. Dungan, a developer of the Royal Crest Condominium, filed a timely appeal. On August 29, 1977 John R. Huffman, along with other residents of the Royal Crest Condominium, filed a timely appeal. The appellants have challenged several items in the environmental checklist which will be considered in the following paragraphs.

Location

9. The checklist contains a description of the location of the proposal on page 1. The appellants allege that the close proximity of the building and its impact on the Royal Crest are not satisfactorily addressed. At its closest point the proposed building would be 24 feet from the Royal Crest base structure.

Air

10. The checklist (Item 2) states that there may be an alteration of air movement or temperature. The appellants allege that additional studies should be conducted with regard to a possible wind tunnel effect and potential temperature increases.

Noise

11. Under noise (Item 6) it is stated that the proposal will increase the existing noise level. Appellants allege that no consideration is given to amplification or reflection of street noises into the Royal Crest.

Light and Glare

12. Under light and glare (Item 7) it is acknowledged that the proposal may produce new light or glare. Exterior glass will be of a non-mirror type with a minimum reflectivity associated with normal glass. Appellants allege that the issue of light and glare was not adequately considered or addressed quantitatively.

Land Use

13. Under land use (Item 8) it is stated that the proposal will result in the alteration of the present or planned land use of the area and that the proposed office building will most likely be the last large exclusively commercial building in the Denny Regrade area. The appellants allege that approval of the proposed building would undermine the Denny Regrade development goals of creating a residential in-city living area.

Transportation and Circulation

14. It is disclosed in Item 13 that additional traffic will be generated by the proposal and an analysis of the anticipated traffic impact is included. The appellants allege that a more complete analysis of traffic and parking problems is necessary with specific reference to congestion at the entrance to the proposed parking garage on Lenora Street and the lack of parking lot facilities for employees and street traffic capacity.

Aesthetics

15. Under Item 18, aesthetics, the checklist states that the proposal will not result in the obstruction of any scenic vista or view open to the public or result in the creation of an aesthetically offensive site open to public view. It is noted that the proposed building will impact views from nearby properties. The appellants allege that the scenic views from the Royal Crest will be greatly reduced.

Population

16. Under population (Item 11) it states that there will be no direct impact on population but that a significant new employment source will be created. The appellants allege that such a large office building will reduce the future attractiveness of the area for residential development.

Conclusions

1. The determination of the Superintendent, pursuant to Ordinance 105735, in issuing a declaration of non-significance is regarded as prima facie correct. The appellants have failed to meet their burden and establish the incorrectness or inadequacy of the Superintendent's determination.

2. One of the primary purposes of the State Environmental Policy Act (SEPA) is to require the City to consider environmental factors when taking "major actions significantly affecting the quality of the environment". RCW 43.21C.030(2)(c). In stating a general guideline as to when an environmental impact statement is required the Washington Supreme Court in Norway Hill vs. King County Council, 87 Wn. 2d 267, 552 P.2d 674 (1976) stated:

Generally, the procedural requirements of SEPA, which are merely designed to provide full environmental information, should be invoked whenever more than a moderate effect on the quality of the environment is a reasonable probability (citing case).

3. After reviewing the evidence, it is concluded that the effect of the office building will not be negligible but that the impacts are certainly less than moderate. Although the project is large in size, it will not constitute a complete change in use such as occurred in Norway Hill vs. King County Council, *supra*, where a heavily wooded and unpopulated area was proposed to be transformed into a residential suburban neighborhood. In this case the proposed development will be located in an urbanized area developed with commercial and residential uses and adjacent to the Central Business District, which is characterized by large buildings and intense commercial and retail business activity. Approval of the project will result in negative impacts such as an increase in traffic and the blockage of views, with specific reference to the Royal Crest, but the impacts as identified in the environmental checklist are not of the magnitude or intensity that would require a detailed environmental analysis in the form of an impact statement.

4. The Supreme Court has held that the record of a negative threshold determination by a governmental agency must show that environmental matters were considered in a manner sufficient to result in prima facie compliance with the procedural requirements of SEPA. Sisley vs. San Juan County, 89 Wn.2d 78 (1977). The record demonstrates that the Superintendent conducted an independent review of the environmental checklist and complied with the procedural aspects of SEPA.

Decision

The appeal is DENIED.

Entered this 27th day of October, 1977.

William N. Sells

William N. Snell
Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.