

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

QUEEN ANNE COMMUNITY COUNCIL

FILE NO. W-78-026

from an environmental determination  
of the Department of Community Development

The appeal is DENIED and the determination of the  
Department of Community Development is AFFIRMED.

#### Introduction

The appellant, the Queen Anne Community Council, filed an appeal challenging a declaration of nonsignificance (DNS) with regard to a proposed development located at 100 Nickerson Street.

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

This matter was heard before the Hearing Examiner on January 18, 1979.

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 site of the proposed development is located about 1 block west of the Fremont Bridge and on the south side of the Lake Washington Ship Canal. The site extends about 1,000 feet along West Nickerson Street between West Cremona and West Etruria Streets. Topographically the site slopes down about 10 feet from the southern or West Nickerson Street boundary to the northern boundary near the ship canal.

2. At present the site is occupied by a concrete block manufacturing plant (Graystone Company). Developed on the property is a small office building, production machinery, wood storage sheds and outdoor sand and gravel storage. The site is zoned General Industrial (IG) which permits a wide range of industrial and manufacturing uses.

3. The project developer, O/W Properties, Inc., proposes to develop on the site 5 office buildings. Four of the proposed office buildings would contain 2-stories with a basement and measure 170 feet by 70 feet. The fifth building is similar to the others except it measures 70 feet by 60 feet. The total office floor area for the project is about 150,000 square feet. The buildings would not exceed 35 feet in height from the average lot grade. The proposal requires a building/use permit and a shoreline substantial development permit.

4. The northern boundary of the property abuts the Burlington Northern right-of-way which is used for railroad purposes and is about 35 feet in width. To the north of the railroad right-of-way is the Lake Washington Ship Canal which is U.S. Government property and is managed by the Corps of Engineers. The Corps has developed a long range master plan which calls for the establishment of bike and hiking trails along the land portion of the canal which is about 14 feet in width.

5. The Department of Community Development issued a final DNS on November 30, 1978. The appellant, the Queen Anne Community Council consisting of both the Shorelines Committee and the Land Use Review Committee, filed a timely appeal on December 15, 1978. The North Queen Anne Community Club filed an appeal on December 19, 1978 which was untimely and therefore dismissed.

6. The appellant organization alleges that the very size and magnitude of the proposal is sufficient to require an EIS. In addition the appellant alleges that there has been an inadequate assessment of the impacts on traffic circulation, parking, aesthetics and view blockage. The appellant also alleges that the impact of the proposal on long range community desires for a park in this area and the relationship to the Corps' master plan for the canal was not properly assessed. It also alleges that the Department of Community Development did not adequately comply with certain procedural aspects of the WAC Guidelines regarding consultation with other agencies and that it used the wrong legal standard in making its judgement of no significant impact.

7. Many residents of the Queen Anne area, including the appellant, have proposed a public park along the ship canal from the Fremont Bridge to 3rd West. Page 2 of the attachment to the DNS discloses that implementation of the proposal would preclude the establishment of a large park in this area. No governmental funds have been allocated for the proposed park.

8. The developer proposes to develop a small park near the canal at the street end with access via Warren Avenue. The small park would enable the developer to meet a Shorelines Master Program requirement for public access and view corridors.

9. Item 13 of the Checklist discloses that the proposal will generate additional vehicular movement and effect parking demand in the area. An evaluation of traffic impacts was prepared by a traffic engineer and is attached to the DNS. The evaluation shows that the proposal could generate 1,755 vehicle trips on an average week day. The evaluation concludes that the existing street system should be adequate to accomodate potential traffic increases without any significant detrimental impact. Two hundred forty seven off-street parking spaces would be provided.

10. Item 18 of the Checklist assesses aesthetics and page 3 of the attachment discloses details of the impacts. Some of the existing structures on the site are taller than the proposed office buildings. The developer is required by the Shoreline Master Program to provide 437 lineal feet out of a total of 984 feet for view corridors. The location of the site about 10 feet below West Nickerson, also reduces potential view blockage.

### Conclusions

1. An EIS is required by the State Environmental Policy Act (SEPA, RCW 43.21c) only when there is a major action significantly affecting the quality of the environment. The Supreme Court, in establishing a guideline as to what is "significant", has held that "the procedural requirements of SEPA...should be invoked whenever more than a moderate effect on the quality of the environment is a reasonable probability." Norway Hill vs. King County, 87 Wn.2d 267, 522 P.2d 674 (1976).

2. The purpose of SEPA is to provide full disclosure of environmental impacts so that the decision maker will have adequate environmental information to review when the determination is made to grant, conditionally grant or deny a proposal.

3. After reviewing the evidence and according substantial weight to the determination of the DCD, it is concluded that the proposal will have less than a moderate effect on the quality of the environment. The appellant has failed to show by substantial evidence that the DCD did not make a reasonable determination.

4. It is clear that the main concern of the appellant involves the potential use of the site for a park. The location of a park on the site is an attractive idea but at present the land is privately owned and there has been no commitment of public funds to purchase the land. The DNS contains a full disclosure and assessment of this issue. Although it would have been advisable to provide the Corps of Engineers with a copy of the DNS, instead of relying on a phone call to the permit section, the procedure than was followed complied with the WAC Guidelines (197-10-330(c)) since the Corps of Engineers did not have jurisdiction over the proposal.

5. Detailed information on traffic circulation and parking is contained in the DNS and it is acknowledged that there will be adverse impacts but no substantive evidence has been provided to show that the impacts will be more than moderate.

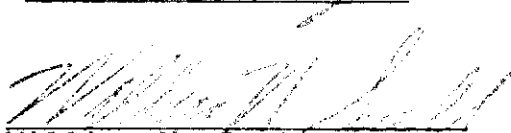
6. With regard to aesthetics and view blockage, the appellant made general allegations with regard to these issues but did not provide any specific details as to the manner in which the proposal would worsen existing view blockage or result in an aesthetically offensive site.

7. The record shows that the DCD had available to it information reasonably sufficient to determine the environmental impacts of the proposal and that other agencies having expertise were consulted. No evidence was produced to show that any balancing test between beneficial and adverse impacts was used by the DCD at the threshold level.

#### Decision

The appeal is DENIED and the determination of the Department of Community Development is AFFIRMED.

Entered this 5<sup>th</sup> day of February 1979.

  
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.