

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

In the Matter of the Appeal of

CASCADE COMMUNITY COUNCIL

FILE NO. W-80-013

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

Introduction

Appellant, Cascade Community Council, appealed a declaration of non-significance issued by the Department of Construction and Land Use for two proposals by the Seattle Times to demolish a total of 7 dwelling units in 3 buildings and establish surface parking lots for some 99 vehicles at 401 Minor Avenue North and 1167 Republican Street.

Parties to the proceeding were: Appellant, represented by Prescott; the Department of Construction and Land Use, represented by James Fearn, Assistant City Attorney; the Seattle Times, represented by Duncan Bayne, Davis, Wright, Todd, Riese, Jones, attorney at law.

This matter was heard before the Hearing Examiner on August 6, 1980.

After due consideration of the file herein, including notice of appeal and attachments, declarations of nonsignificance, environmental checklists and attachments, appellant's response to Motion to Dismiss and oral argument, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The Seattle Times, applicant, proposes to demolish a 5-unit apartment structure at 401 Minor Avenue North and establish a 52 stall surface parking lot for its employees. At 1167 Republican Street, the applicant proposes to demolish two single family residences and establish a 47 stall surface parking lot.

2. Environmental checklists for both proposals were prepared and a final declaration of nonsignificance (DNS) covering both proposals was issued by the City of Seattle. The DNS identifies adverse impacts from the loss of housing, increased noise levels, decreased air quality and increased vehicular movement.

3. Appellant filed an appeal of the DNS. Appellant contends that those adverse impacts identified by the City would have a significant adverse environmental impact because of the Cascade community's special situation and conditions and therefore a declaration of significance and environmental impact statement is required.

4. The area of the Cascade community is presently zoned Manufacturing (M). Approximately 700 dwelling units presently exist in Cascade which reflects a continuing decrease over the past several years due to demolition or conversion.

5. Air quality in Cascade is lowered by the heavy traffic volumes on the Mercer Street I-5 ramps, Fairview Avenue North and Eastlake Avenue East.

6. The parking lots accommodating up to 99 vehicles would generate 200-300 vehicle trips per day. Some of the vehicles may now be present and using other parking in the area.

7. Noise levels in the vicinity of the subject sites are above recommended levels for residential neighborhoods. The new parking lots would subject residents of nearby dwelling units to increased noise from running motors, start-ups, car doors, voices, etc.

8. Appellant also expressed its concern about the possible conflict with City goals of applicant's policy of purchasing land to establish more employee parking and the City's failure to adopt a policy to protect the remaining residential community from continued conversion to non-residential uses.

Conclusions

1. An environmental impact statement is required by the State Environmental Policy Act (SEPA) only when there is an action which would have a significant adverse impact on the environment. The Court, in establishing a guideline as to what is deemed significant, has held that an EIS is to be prepared "whenever more than a moderate effect on the quality of the environment is a reasonable probability." Norway Hill Preservation and Protection Association v. King County Council, 87 Wn.2d 267 (1976).

2. Section 20(4), Ordinance 105735, as amended requires that the Hearing Examiner accord substantial weight to the declaration of nonsignificance.

3. The nature of the existing environment is to be considered in determining the degree of each impact identified. WAC 197-10-360(2). The documents in the record show that the staff analyst knew of and considered all the special characteristics of the neighborhood.

4. Since that determination is to be given substantial weight, only a showing of clear error would allow the determination to be set aside. Despite the acknowledged adverse impacts of the proposals--a slight decrease in air quality, an increase in noise on the sites reaching close-by residences, a loss of two residential sites to parking, some additional vehicular movement and a loss of 1% of the housing stock in the neighborhood--those impacts taken together and in the context of the Cascade situation, it cannot be definitely concluded that the determination made is clearly erroneous.

5. Only the answers to the questions in the environmental checklist may be used to make a threshold determination. WAC 197-10-360. Therefore, those issues raised as to the applicant's policies and the City's land use planning process may not be considered an appeal under Section 20.

Decision

The appeal is DENIED and the Determination by the Building Department is AFFIRMED.

Entered this 15th day of August, 1980.

M. Margaret Klockars
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Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any appeal to the Superior Court should be filed within 20 days of the date of this decision. Vance v. Seattle, 18 Wn. App. 418 (1977).

No final authorization of any permit shall be granted until the fifth day from the date of this decision. If, on or before the fifth day following termination of an appeal, a party of record files with the Department of Construction and Land Use a written notice of intent to seek judicial review of the City's action, no direct modification of the physical environment shall begin or be authorized until the 21st day following termination of the appeal or until a court has disposed of any requests for preliminary injunctive relief, whichever occurs first.