

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

SKY KAHLI, ET AL.

FILE NO. W-78-015

S-78-022 ✓

from an environmental determination
and use permit ruling of the
Superintendent of Buildings

The appeals are DENIED and determinations
of the Superintendent are AFFIRMED.

Introduction

The appellants, Sky Kahli, et al., filed an appeal from the final action (issuance of a use permit) of the Superintendent of Buildings (Superintendent) with respect to the State Environmental Policy Act (SEPA) and Ordinance 105735 with regard to a proposal to construct a six level garage accessory to the Seattle Trade Center (STC) located at 2600-22 Elliott Avenue.

An appeal was also filed by Sky Kahli, et al. from the issuance of a use permit for the same project. Both appeals were consolidated by the Hearing Examiner and heard at the same time. The environmental appeal was filed pursuant to Ordinance 105735 and the use permit appeal pursuant to Ordinance 86300, as amended.

Parties to the proceeding were: the appellants, Sky Kahli appearing individually and also represented by Janet Quimby; the permittee, represented by Eben Carlson; and the Superintendent, represented by Ross Radley.

The matter was heard before the Hearing Examiner on September 14, 1978.

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. A five-level parking garage accessory to the Seattle Trade Center was originally proposed for property at 2600-22 Elliott Avenue. A Declaration of Non-significance (DNS) was filed on April 3, 1978. A notice of intention to issue a use permit was published on April 6, 1978.

2. Subsequently, the STC proposed the modification of its plans to add an additional level of parking. The Superintendent informed the STC that a variance would be required and a hearing was scheduled for August 18, 1978. The STC appealed the ruling of the Superintendent and the Hearing Examiner on July 20, 1978 held that no variance was required for the addition of one level of parking.

3. A new DNS was issued on June 27, 1978 disclosing the modification of the plans to provide for six levels of parking instead of five levels.

4. A use permit was issued on July 27, 1978. The SEPA Ordinance (105735) provides for a fifteen day appeal period. An Environmental appeal challenging the final action by Sky Kahli et al. was filed on August 11, 1978.

5. A use permit appeal was filed by S. Kahli, et al. on August 10, 1978. Section 25.43, Ordinance 86300, as amended, requires use permit appeals to be filed within fourteen days of publication.

6. On August 21, 1978 a hearing on motions to dismiss the appeals filed by the Superintendent and the STC, was held before the Hearing Examiner. In an order entered on August 23, 1978 the Examiner ruled that the SEPA appeal of the final action (issuance of use permit) was valid since it was filed in a timely manner. However, the appeal would be limited to consideration of issues relating to whether or not mitigating conditions should have been imposed on the use permit and if so, what conditions. All other issues were dismissed.

7. The appeal of the use permit was also held to be valid. Between the issuance of the notice of intention to issue a use permit on April 6th and the issuance on July 27th, the project had been altered in a significant manner by the addition of one level of parking. Section 25.2(c) of Ordinance 86300, as amended, requires that a use permit application show, among other items, the size and height of the building. The April 6th publication did not provide reasonable notice of the nature and scope of the proposal due to the addition of one level of parking and therefore a republication was required. The use permit appeal is valid.

8. The parking garage will be constructed of precast concrete and have a height of 65 feet above Elliott Avenue and 45 feet above the alley to the rear. The structure will not be as high as the STC. Landscaping will be provided on the southern and northern ends of the structure. Five thousand and seventy-five square feet of commercial space will be provided on the ground floor.

9. The present plans show that ingress and egress to the parking facility would be from Elliott Avenue. The STC is considering modifying the plans and providing additional access onto Cedar and Vine. The STC is located within about one block of the western boundary of the Denny Regrade. Cedar is designated as a pedestrian corridor in the Denny Regrade plan.

10. The parking garage has a capacity of 526 vehicles. It is estimated that from 250 to 280 spaces will be utilized by employees of the STC. A pedestrian overpass will connect the garage to the STC. The parking garage will be mainly rented out on a month-to-month basis and will be in operation until 10:00 p.m.

11. The appellants allege that the parking garage should be subject to conditional use approval. Section 23.31, Ordinance 86300, as amended, provides that off-street parking spaces may be established within the "downtown area", which includes the subject property, only in accordance with provisions of this section. New accessory parking can be established after October 1, 1976 only as accessory to a rehabilitated building or as an accessory conditional use in Area B. The property is located in Area B. The appellants contend that this provision requires a conditional use hearing. The Superintendent contends that Section 23.31 (g) permits the location of new off-street parking facilities if the parking spaces are in fact accessory to a rehabilitated building and the rehabilitation is evidenced by the expenditure in any twelve month period of at least \$20.00 per square foot of gross floor area being rehabilitated. The Department of Community Development (DCD) made a determination that the parking garage met the requirements of Section 23.3(g). See permittee's Exhibit 4.

12. In the alternative the appellants allege that not all of the parking spaces provided by the garage should be considered accessory to the STC. The appellants claim that the spaces over 470 should not be considered accessory. The garage has a capacity of 526 spaces.

13. Appellant's Exhibit B shows that the required parking for the STC is 681 spaces. The Department of Community Development has granted a waiver so that the STC only has to provide 470 spaces but 681 may be required. The latest survey conducted by the Department of Community Development indicated a need for 600 spaces.

14. The appellants also contend that under SEPA the Superintendent was required to impose certain mitigating conditions. The following conditions were proposed: to limit the amount of available parking, to eliminate the parking lot now used by STC and designated as the Johnson lot, to reduce the bulk of the building by at least one level, to add additional landscaping, to prohibit additional access by way of Cedar or Vine.

Conclusions

1. The required number of parking spaces accessory to the STC may be as high as 681 spaces or some lesser number. The parking garage has a capacity of 526 spaces. At this time, no conditional use can be required for the accessory parking since it is reasonable to conclude that all of the spaces will be needed for STC accessory parking. However, it is also evident that the Department of Community Development should make a final determination on the number of required parking spaces so that this issue can be finalized.

2. The appellants have failed to show that the impacts disclosed in the DNS would require the imposition of mitigating conditions. The parking garage is of a lesser height than the STC and near the base of a hill. No showing was made as to how a reduction in building bulk would reduce any potential impact. The appellants have not shown why there is a need to limit the proposed number of parking spaces or how such a limitation would be beneficial. It is possible that access to Cedar or Vine could have adverse impacts on the Denny Regrade but no formal proposal has been made to provide such access so the issue is not ripe for review.

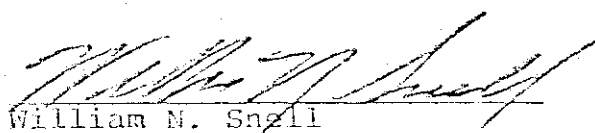
3. It is apparent that the appellants are concerned with the overall development along the waterfront near Pier 69, the STC and its relationship to the Denny Regrade. However, many of the issues raised in this appeal are of a policy nature and could more effectively be addressed to the Department of Community Development and the City Council which determines the overall policy direction for the area.

Decision

The appeal of the use permit is DENIED and the determination of the Superintendent to issue the permit is AFFIRMED.

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

Entered this 29th day of September 1978.


William N. Snell
Hearing Examiner