

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

ARBORETUM PARK COALITION

FILE NO. W-79-019

from an environmental determination
of the Department of Parks and
Recreation

The appeal is DENIED and the determination of the
Department of Parks and Recreation is AFFIRMED.

Introduction

The appellant, the Arboretum Park Coalition, filed an appeal challenging the adequacy of an Environmental Impact Statement (EIS) prepared by the Department of Parks and Recreation (Parks) with regard to the adoption of the Master Plan Update for the University of Washington Arboretum in Washington Park.

This matter was heard before the Hearing Examiner on June 28, 1979.

The EIS consists of 2 volumes and the document entitled "Draft EIS, November, 1978", will be identified as volume 1 and the document entitled "Final EIS, May, 1979", will be identified as volume 2.

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 proposed action is an administrative decision by the City Council of Seattle and the Board of Regents of the University of Washington to adopt a document entitled: "Master Plan Update for the University of Washington Arboretum in Seattle's Washington Park" (Master Plan Update). The document would provide a framework and guide for policy and program decisions, expenditures and improvements in the Arboretum.

2. Washington Park contains about 200 acres and is bounded to the south by E. Madison Street, to the north by Lake Washington, to the east by a residential area (Broadmoor), and to the west by the Montlake and Stevens residential areas.

3. Washington Park is owned by the City. In 1934 the City and University of Washington (University) entered into a formal agreement to establish and maintain an arboretum and botanical garden in the park. The agreement established a joint Arboretum and Botanical Garden Committee (Arboretum Committee). In 1972, the University proposed to lease 120 acres of the park and limit public access. Citizen opposition to the University's proposal emerged and as a result the City Council adopted an Initiative Petition (Ordinance 103667) in 1974 which declares the intent of the City is to retain the park as open space and to prohibit limitations on public access.

4. In 1976, the Arboretum Committee proposed an update of the original 1936 Master Plan as prepared by the Olmsted Brothers. The architectural firm of Jones and Jones was hired to prepare the Master Plan Update.

5. The proposed adoption of the Master Plan Update raises again many of the issues that were the focus of an initiative campaign that led to the adoption of Ordinance 103667. The City has the responsibility to assure that the Arboretum is kept open to its residents. The University looks to the Arboretum as an area for research and scientific study. Many users and nearby residents are concerned about the limitations on uses and the impacts of proposed improvements.

6. Parks prepared an EIS on the Master Plan Update which was filed with the SEPA Public Information Center on May 16, 1979. A timely appeal challenging the adequacy of the EIS was filed by the Arboretum Park Coalition. The appellant organization has raised numerous allegations which will be considered in the subsequent paragraphs.

7. The EIS, vol. 1, at p. 67 states:

Passive recreational use in Washington Park varies from those activities associated with the botanical and horticultural component to bird-watching and sunbathing. Semi-active activities include walking, hiking, jogging, bicycling and casual individual games like catch or frisbee. Active team and group recreation uses are predominately concentrated in the south playfield area while the north and lagoon areas are used for boating, swimming and some volleyball and running games. There are no precise figures detailing either the total number of visitors, or users of Washington Park nor which unscheduled activities are the more prevalent.

The EIS contains scattered references to other users of the Arboretum such as bicyclists and auto commuters but no extensive detail.

The appellant alleges that the analysis of human impacts is inadequate for an urban park since there is insufficient information available to analyze the impacts of adoption of the Master Plan Update on users of the Arboretum. The appellant claimed that a survey of users should have been performed and Parks responded that the cost of such a survey would be excessive in comparison to the value of the information.

8. The appellant alleges that the EIS is confusing with regard to the impact of a failure to develop the Union Bay Arboretum on the development of the Washington Park Arboretum and the resulting alternatives.

9. It is further alleged by the appellant that there is considerable confusion over the scope of the proposal and the manner in which the EIS is organized and impacts analyzed.

Conclusions

1. The test for judging the adequacy of an EIS is the rule of reason. Cheney v. Mountlake Terrace, 87 Wn.2d 338 (1976). As a whole the EIS is reasonably thorough and adequate.

2. The first problem posed by this EIS is the difficulty of dealing with a nonproject action. As noted in WAC 197-10-442, in a nonproject action fewer details are known as well as anticipated environmental impacts, which is especially true with the Master Plan Update. This poses a difficult problem for the writer of the EIS and also for concerned citizens due to the lack of detail when issues of obvious importance and controversy are involved. Most of the issues raised by the appellant concern matters that need not be addressed in detail given the nonproject or programatic nature of the EIS.

3. The objections of the appellant concerning the scope of the proposal and the organization of the data have some merit. Numerous witnesses at the hearing and comments to the Draft EIS support this contention. See letters from University of Washington (vol. 2, p. 8) and Department of Buildings (vol. 2, p. 18). The need for a chart, grid or matrix to compare alternatives clearly would have been advisable. Parks response is that the cost of revision would not be justified (vol. 2, p. 56). An EIS is to be an understandable document that provides for ready comparison of alternatives. Tested by this standard the EIS is only minimally sufficient. Costs are important but if important issues and impacts are not clearly set forth then the resulting confusion to citizens and decision-makers must also be considered.

4. A further example of poor organization is an extensive discussion of traffic revisions. Although the EIS notes that traffic revision is not to be considered a part of the scope of the proposal, the extensive discussion in the text easily misleads readers as is noted in the comment letters. It would have been advisable to include such information, if relevant, to an appendix.

5. One of the major concerns of the appellant is the failure to identify and analyze impacts on the users of the park. Absence of data on this subject does make analysis difficult. However, given the nonproject nature of the EIS that level of detail is not required.


6. The purpose of an EIS is to provide full disclosure of environmental impacts. An EIS is not meant to include all potential ramifications of a proposed action that do not deal with the environment. For example, two very important issues are touched upon in the EIS and critical to a full understanding of the adoption of the Master Plan Update. First is whether the adoption of the Master Plan Update will have any binding effect on further actions in the Arboretum. Second in what specific areas does the Master Plan Update conflict with Ordinance 103667. The foregoing issues are not required to be addressed in detail in the EIS but clearly are issues that will need to be addressed by the City Council when it considers adoption.

7. Approval of the EIS does not mean agreement or disagreement with the merits of the Master Plan Update. The purpose of an EIS is to disclose environmental impacts and alternatives, which has been done in this case, even if in only a minimally sufficient manner.

Decision

The appeal is DENIED and the determination of the Department of Parks and Recreation is AFFIRMED.

Entered this 16th day of July 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 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).