

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

In the Matter of the Appeal of

OLYMPIC FOUNDRY COMPANY

FILE NO. W-77-026

from an environmental determination
of the Superintendent of Buildings

The appeal is DENIED.

Introduction

The appellant, Olympic Foundry Company, filed an appeal from a final Declaration of Significance, hereinafter DS, prepared by the Superintendent of Buildings, hereinafter Superintendent, with regard to a proposed action to fill a ravine area with approximately 5,000 cubic yards of foundry sand at property generally located south and west of 32nd Avenue South and South Thistle Street.

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

Parties to the proceeding were Olympic Foundry Co., by and through its attorney, Mark A. Rossi of Trethewey and Brink and the City of Seattle, by and through Ross Radley, attorney for Corporation Counsel.

This matter was heard before the Hearing Examiner on December 6, 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. The applicant, Olympic Foundry Co., applied for a grading permit with respect to its proposal to fill part of the ravine area with 5000 cubic yards of used foundry sand over a 5 year period. The Superintendent issued a DS on October 24, 1977.

2. The subject property is an undeveloped area lying to the south and west of the juncture of 32nd Avenue S. and S. Thistle Street. This area runs along the Beacon hillside bounded on the west by I-5 and Boeing Field. A residential area lies to the east and north.

3. A ravine begins close to the juncture above described and runs in a southwesterly direction toward the freeway. It is approximately 70 feet deep and contains an intermittent water course at the bottom which carries runoff and drainage from the surrounding area.

4. The undeveloped area, including the subject property, is sparsely covered with deciduous trees and low ground cover such as ferns. Swaths in the vegetation have been cut recently when the city installed sewer lines in the area. The streets were graded for use as construction roadways for the sewer installation but have not been hard surfaced. Children in the area play in the undeveloped area and the adults walk in the woods.

5. Appellant proposes to haul up to three three and one-half yard dump trucks full of used foundry sand, to total 1000 cubic yards per year for the next five years, to the site which is company owned. The site would be prepared by cutting trees, leaving a screen of trees remaining on freeway and northern sides. The southern and eastern portion of the area would be untouched. The fill may be visible through the trees from the freeway in the winter. Trucks would enter the area from S. Chicago Street and would go south on 32nd to where 32nd meets Thistle. The applicants would, at the Engineering Department's request, put posts with a chain at the entrance to 32nd to prevent public vehicular access. The sand would be dumped over the edge of the ravine, however would not go to the bottom, and would fill to level with the top of the ravine cut to a point where the depth of the fill would be 35 feet with a resulting grade of 2:1.

6. The fill material would consist of used sand and clay molds and a small amount of slag. The soil at the site is made up of a sequence of silts and clays, not dissimilar from the make up of the fill material however the fill material would contain no organics.

7. The Superintendent, in making the threshold determination, did not have access to a report of the examination of the site by a soils engineer. The engineer engaged by appellant reported that the make-up of the site provided adequate foundation for the fill and that with certain precautions, as to surface waters above, the proposed fill is safe. The engineer testifying for the Superintendent did not disagree.

8. The Comprehensive Plan map designates the area as desirable for a greenbelt area. Appellant has not received any offers or proposals for purchase of the land by the city. The fill would not change the character of the area to the extent that it would no longer be suitable for inclusion in the greenbelt. The Superintendent, in making the threshold determination, made an independent review of the Environmental Checklist, various members of the department inspected the site, a building department structural engineer was consulted and further information (soils report) was requested. The Superintendent cited the following elements as listed on the Environmental Checklist as those which "may be adversely impacted:" (1) Earth (a) (b) (c) and (e); (2) Air (a); (3) Water (b) (f) (h); (4) Flora (a); (8) Land Use; (13) Transportation/Circulation (a) (d) and (f); and (18) Aesthetics.

Conclusions

1. An environmental impact statement is required by the State Environmental Policy Act (SEPA), R.C.W. 43.21C) only where there is a major action which would have a significant adverse impact on the environment. Rather than to attempt a "value laden definition of 'significantly'" the Washington Supreme Court, in Norway Hill Preservation and Protection Association v. King County Council, 87 Wn.2d 267, 522 P.2d 674 (1976), set out a general guideline for determining whether a "significant impact" exists. Generally the procedural requirements of SEPA, ... would be invoked whenever more than a moderate effect on the quality of the environment is a reasonable probability."

2. In an administrative appeal of this nature, even though the appeal is to be considered de novo the determination of the lead agency is to be regarded as prima facie correct, Ordinance 105735, Section 20(7). Further the state statute directs that the decision is to be accorded "substantial

weight". R.C.W. 43.21C.090.

3. The Superintendent has successfully demonstrated a prima facie compliance with the procedural requirements of SEPA, as required by Juanita Bay Valley Community Association v. Kirkland, 9 Wn. App. 59, 510 P.2d 1140 (1973). The independent evaluation of the checklist, consultation with other departments and field trips to the site as described in the record were sufficient to satisfy that requirement. Apparently there was a request of the applicant for more detailed data as to the soil and drainage condition of the site. Such data or report of examination had not been made available to the Superintendent prior to the filing of the appeal. It is possible that a review of that report along with other new information obtained at the hearing about the proposal would be sufficient change in the proposal to cause the Superintendent to change its determination and trigger the withdrawal provision, WAC 197-10-370. That will be left to the Superintendent's judgment.

4. The Superintendent has demonstrated compliance with the procedural requirements of SEPA and its determination is supported by substantial evidence in the record.

Decision

The appeal is DENIED.

Entered this 21st day of December, 1977.

Margaret Klockars
Margaret Klockars
Deputy 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.