

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

UNITED SOUTH SLOPE RESIDENTS, et al.

FILE NO. W-78-002

from an environmental determination
of the Superintendent of Buildings

The appeal is DENIED and the decision of the
Superintendent is AFFIRMED.

Introduction

The United South Slope Residents, Allied Arts, and Victor Steinbrueck filed appeals from a declaration of non-significance prepared by the Superintendent of Buildings, hereinafter Superintendent, with regard to a proposal by the Pentagon Corporation to construct a dining, lounge and meeting facility at the 100 foot level of the Space Needle, which is located in the Seattle Center.

The appellants exercised their right to appeal pursuant to Section 20, Ordinance 105735.

Parties to the proceeding were: Arthur Skolnik for United South Slope Residents and Allied Arts; Victor Steinbrueck appeared individually and for Allied Arts; Ellen Peterson, attorney, for the Superintendent; and Judith Runstad, attorney, for the Pentagon Corporation.

This matter was heard before the Hearing Examiner on February 28th and March 1st, 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. The Pentagon Corporation, the project developer, proposes to construct an approximately 6,000 square foot dining, lounge, and meeting facility at an existing platform located at the 100 foot level of the Space Needle. It would have a seating capacity from 175 to 200 persons. The proposed structure will extend about 14 feet beyond the 3 sides of the platform. An eave at the top extends an additional 8 feet 4 inches beyond the glass wall so that the total structure extends about 22 feet 4 inches beyond the existing legs. The addition is designed to extend beyond the existing legs but not to surround or cover the legs. The structure will appear as a relatively flat disc about 20 feet thick at the center and 12 feet at the edge.

2. The Space Needle was originally constructed in 1962 as one of the focal points of the World's Fair and is located in the Seattle Center, an urban park owned by the City. The Space Needle is located on private property within the park and is privately owned.

3. A declaration of non-significance (DNS) was prepared by the Superintendent and filed with the SEPA Public Information Center on January 16, 1977. The Superintendent found that the subject proposal would not have a significant adverse impact on the environment and that an environmental impact statement was not required. Timely appeals were filed challenging the issuance of the DNS by Allied Arts, Victor Steinbrueck, and the United South Slope Residents. The appeals raised two basic issues. First, whether the DNS adequately evaluated the aesthetic impact of the project and second, whether it would result in the alteration of a significant historical site or structure.

4. In the environmental checklist, which was prepared by the project developer and reviewed by the Superintendent, the two issues under consideration were evaluated. Under Item 18, aesthetics, the checklist contains the following question: "Will the proposal result in the obstruction of any scenic vista or view open to the public or will the proposal result in an aesthetically offensive site open to public view?" The checked answer is "no". An explanation of the answer is contained in an attachment to the checklist.

5. Under Item 20, archaeological/historical, the checklist contains the following question: "Will the proposal result in an alteration of a significant archaeological or historical site, structure, object or building?" The checked answer is no.

6. The appellants argue and allege that the design of the Space Needle will be significantly altered by the proposed addition. The main contention of the appellants is that this particular design requires further review and the exploration of alternatives. One of the chief criticisms of the appellants is that the proposed addition will extend beyond the paired legs which results in a negative aesthetic configuration and interferes with the sweep, soaring quality and clean lines of the legs. One of the appellants, Victor Steinbrueck, was part of a design team responsible for the original design of the Space Needle and he is attributed with having the idea for the sweeping paired legs. Mr. Steinbrueck contended that the proposed design would have a negative impact on the aesthetics of the Space Needle. Melvin Rader, a professor emeritus at the University of Washington and learned student of aesthetics, also testified that the proposed design would be aesthetically objectionable. Representatives from the Pentagram Corporation stated that the design was reviewed by persons involved in the original design of the Space Needle and that in their opinion it would add a counterbalancing mass to the structure and would be aesthetically compatible with the existing top house.

7. The original design for the Space Needle in 1962 showed the existence of two observation towers, one at the 100 foot level and one at the 300 foot level. These structures would have been open in design but would have permitted elevator stops for people to observe the surrounding grounds and city. However, it was decided not to construct the observation towers although the platforms still exist.

8. The record is clear that the Space Needle is an important symbol of the city and has some historical connection with Seattle in relation to the World's Fair which is one of the landmark events in the city's history. The city's Landmarks Ordinance (106348) provides that an object must be at least 25 years old before it can be considered for designation as an historic site. The Superintendent's representative stated that it is their standard policy not to consider a site as historic unless it has been officially designated as such under local, state, or national laws.

9. The guidelines, which are regulations that assist in implementing SEPA, provide that the questions contained in the checklist are exclusive, and factors not listed shall not be considered in the threshold determination. See WAC 197-10-360.

Conclusions

1. An environmental impact statement 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 v. King County, 87 Wn.2d 267, 522 P.2d 674 (1976).

2. Under Section 20(7) of Ordinance 105735 the determination of the Superintendent is to be regarded as prima facie correct and the burden is upon the appellant to establish the contrary. RCW 43.21C.090 provides that the decision of the governmental agency relative to the requirement or absence of the requirement of an EIS shall be accorded substantial weight.

3. The environmental checklist which forms the exclusive basis for evaluation of this proposal poses a very narrow question relating to whether or not the design would result in the creation of an aesthetically offensive site open to public view. No substantial allegations were made that the proposal would obstruct views. The dictionary definition of "offensive" is obnoxious. Webster's New Collegiate Dictionary, 1973. While the record shows that there is a difference of opinion among persons trained in architecture and aesthetics as to the aesthetic impact of the addition to the Space Needle there is no substantial evidence to show that the proposal would be "aesthetically offensive", which is the standard of evaluation contained in the checklist. In addition, the record shows that an open viewing platform was originally proposed for the 100 foot level so that this project differs in degree but is not a total departure from the original design. Given the scope of the proposed addition and the nature of the existing structure, the environmental impacts relating to aesthetics are not of such intensity or magnitude as to require a detailed environmental analysis in the form of an impact statement.

4. The appellants have failed to substantiate any of the allegations concerning the historical nature of the Space Needle. The site is not eligible for designation as an historic site under the procedures established in the Landmarks Ordinance. Although the Space Needle is an important symbol of Seattle, it is still of such recent vintage as to be not yet historic, although it will no doubt achieve that status with the passage of time.


5. The purpose of SEPA is to require a detailed environmental review when a proposal will have significant impacts but there is no indication that it can serve the purpose of design review ordinances, such as exist in historic districts, and which are intended to control the design of projects. No standards are contained in SEPA that would permit evaluation of the merits or demerits of a specific design other than the limited review as to whether or not it is aesthetically offensive.

6. The appellants have raised important issues concerning the alteration of probably the most well known, man-made symbol of Seattle. Although the appellants have not shown that these issues require an EIS they do point up the possible need for debate and consideration of a design review ordinance for privately owned sites within the Seattle Center grounds.

Decision

The appeal is DENIED and the decision of the Superintendent is AFFIRMED.

Entered this 13th day of March, 1978.



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.