

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

In the Matter of the Appeal of

YOSHIO AKADA, et al

FILE NO. W-79-038

from an environmental determination  
of Building Department

The appeal is GRANTED and the determination of  
the Building Department is REVERSED.

Introduction

The appellants, Yoshio Akada, Dan W. Wong, Kirby Chin and Howard Eng, filed an appeal from a declaration of non-significance issued by the Building Department for a proposed 62-unit condominium at 1706-10 12th Avenue South.

The appellants exercised their right to appeal pursuant to Section 20 of the SEPA Ordinance (105735, as amended).

Parties to the proceeding were: Appellants, represented by Janet E. Quimby, attorney at law, Evans, Quimby, Hall and Holman, Inc., P.S.; Building Department, represented by Ross Radley, Assistant City Attorney; and the proponent, Park 12-01 Corporation, represented by Steven W. Hale, attorney at law.

This matter was heard before the Hearing Examiner on December 11, 1979.

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. Park 12-01 Corporation proposes to demolish a single family residence and a duplex and construct a 62-unit condominium structure with a 3-story base and 17 floors above at 1706-10 12th Avenue South. Sixty-eight underground parking spaces and 11 surface spaces would be provided.

2. The Building Department issued a declaration of non-significance for the proposed action and filed it October 1, 1979.

3. Appellants filed an appeal of that threshold determination October 16, 1979, citing view blockage, shadows or glare, traffic and parking, noise, air quality, land use and housing impacts. Evidence on issues of views and shadows, noise, air quality, transportation/circulation and land use was presented at hearing.

4. A designated scenic route passes the site. The subject site fronts on the south side of Massachusetts Street, an east-west street which is part of a scenic route. Scenic routes and the Beacon Hill Playground, which is one block south and one block east, are identified in Appendix B of the SEPA Policies Ordinance, 107678, as public places from which views are to be protected. The proposed structure would not have an effect on views from the playground. The views from Massachusetts is westerly to the water and beyond and is already delimited by structures on each side. The

proposed structure was not shown to be likely to have any affect on the water view from the street and sidewalks and would eliminate, at most, only a section of the horizon view which does not appear to have any distinguishing characteristics from that vantage.

5. The environmental analyst who reviewed the checklist did not refer to shadow in her checklist comments and testified to the effect that no shadow would be cast in the direction of the apartments to the east at any time of day, would be unlikely to affect those to the northeast, and that because of the open area on the site there would be no significant degree of light blockage. The tower structure is approximately 128 ft. wide, without balconies according to plate 6, Exhibit 3. Her opinion that a 17 story 128 ft. wide tower would not have an effect on residences in the area from shadow or light blockage appears, on its face, to be unreliable.

6. To determine the traffic impacts that may result from the project, the analyst relied on the methodology used in the environmental impact statement for the 740 Bellevue Condominium, a 36-unit structure proposed for Capitol Hill. Using the trip generation rate per unit and mode split from that analysis she predicts that 366 daily auto trips can be expected. She felt the same mode split was appropriate because transit availability to the two locations is similar.

7. The level of service on both 12th Avenue South and South Massachusetts Streets is B, indicating a free flow condition. Access points to the underground parking area are on 12th Avenue South and South Massachusetts. The analyst concluded, after consultation with the Engineering Department, that this volume would not change the existing level of service. She did not obtain information about 14th Avenue South or other streets in the area.

8. The access to the eleven surface spaces would be through the alley. The alley is unpaved and 2-3 ft. narrower than a standard alley, according to the analyst. The 20-unit apartment building immediately east across the alley from the subject site has parking along the alley. Tenants have difficulty using it because of the alley's narrowness.

9. The analyst considered what transit routes serve the area, their destination and frequency and the absence of shelters. She did not investigate ridership volume other than to view the buses because of her assumption that additional coaches would be added when needed and available. A rider testified that the buses are overcrowded at this time.

10. Using figures from the Somerset survey on Capitol Hill, the analyst estimated that 87 parking spaces could be needed during peak periods. She concluded, on the basis of several weekday visits to the site between the hours of 8:30 a.m. and 4:30 p.m., visits to the Sato site a block north and west, one of which was in the evening, site visits to the hospital to the north and one evening drive through the area to a social function south of the area, that the area could accommodate the projected peak overflow on-street.

11. Area residents testified that evenings and weekends are times of peak parking in the area and that none is available at times. Cars are parked in the area from the Public Health Hospital which is two blocks to the north. The analyst testified that she observed no hospital parking south of Atlantic Street. Two additional multifamily structures are proposed for the area between the subject site and the hospital which may contribute to the demand for on-street parking - the Sato project at 12th and South Atlantic, with 52 units, and a 20-unit apartment building.

In addition, ballgames are held at the playground to the south during which the area is filled with cars and the tennis courts attract many visitors.

12. Appellants challenge the assumption that 1.03 cars would be owned per unit. Thirty cars are owned by the residents of the 20 units in the building directly east of the subject site. Appellants, therefore, suggest that assumptions applicable to Capitol Hill residents are not necessarily appropriate for Beacon Hill.

13. The analyst did not obtain any readings of the current ambient noise level prior to the DNS. Appellants showed that Beacon Hill is in the flight pattern of the Sea-Tac Airport and is subjected to considerable aircraft and freeway noise.

14. The environmental analyst determined that while there would be a change in land use from one and two family residential to a condominium tower, this would not be significant because she considered it to be consistent with a trend established in the 1960's.

15. Except for the Beacon Hill Tower constructed in the early 70's no other structure exists in the area higher than 3 or 4 stories. Single family and duplex residences demolished are being replaced with multifamily structures generally built to RM 800 bulk standards although some are slightly higher.

16. The site is in an RMV 200 zone covering a three or four block area. The North Beacon Hill Neighborhood Improvement Plan (NIP) recommends that that zoning be retained but that in five years it should be considered for change to RM 800 (Multiple Residence Low Density) if no significant high-rise development has occurred.

17. Appellants contend that a high-rise tower is a departure from the trend and that the proposed building could determine the future zoning of the area under the NIP recommendation. An EIS would cause that possibility to be examined.

### Conclusions

1. An environmental impact statement is required by the State Environmental Policy Act (SEPA) when an action would significantly affect the quality of the environment which according, to the State Supreme Court, means when there is a reasonable probability of more than a moderate effect on the quality of the environment. Norway Hill Preservation and Protection Assn. v. King County Council, 87 Wn.2d 267 (1976).

2. The appellants have not shown a reasonable probability of more than a moderate effect on views from public places, noise levels, or air quality from the proposed structure. As to light and shadows the appellants have raised sufficient question about the analyst's opinion to overcome the substantial weight normally accorded the decision for that element.

3. While the estimated peak overflow of 8-11 vehicles from on-site parking is not significant in itself, the possibility of a difference in ownership and usage pattern, the increase in demand which can be expected from the Sato and other proposed projects, and the current demand from the hospital and playground which affect the area's supply are again sufficient to lessen the weight which can be given the Department's decision.

4. Finally, in the area of land use, the project represents a significant departure from the trend toward low rise apartment development. Given the NIP recommendation of consideration of downzoning only if no significant high rise development occurs, the proposed 20 floor building has a strong possibility of indirectly determining the future zoning and land use of this area.

5. The burden is on the appellants to overcome the substantial weight to be accorded the lead agency's determination. In the areas of shadow or light blockage and land use appellants have sustained that burden. In addition, they have presented evidence calling into question the Department's conclusions regarding parking and circulation (as to alley use). Whether the lead agency's decision to issue the DNS is in error depends, however, on whether more than a moderate impact is a reasonable probability. Whether a change in some of the answers or increased significance of some "yes" answers on the checklist may require a declaration of significance would require a new weighing of all the potential impacts. The SEPA Guidelines (WAC 197-10-360) indicate that the nature of the existing environment is an important factor. At the same time it states that the absolute quantitative impacts are also important. The analyst has relied on the similarities of the existing environment between the area of the subject proposal and that of Capitol Hill for transportation, circulation and parking. Other projects of the same or smaller size have required an environmental impact statement. Although those are, admittedly, imprecise measures, SEPA does not anticipate precision at the threshold determination stage. Based on the size of the proposed project, 62 units in a 20 floor building, the number of positive responses in the checklist and questions raised about the reliability of the Building Department's conclusions, it is concluded that the proposed action would significantly affect the quality of the environment. While the Department's decision as to the declaration of non-significance should be reversed, the Department still has the option of ordering an environmental impact statement limited to the elements which may be significantly affected.

#### Decision

The appeal is GRANTED and the determination of the Building Department is REVERSED.

Entered this 27th day of December 1979.

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).