

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

In the Matter of the Appeal of

EASTLAKE COMMUNITY COUNCIL

FILE NO. W-77-023

from an environmental determination  
by the Department of Community  
Development

The appeal is DENIED.

Introduction

The appellant organization, the Eastlake Community Council, filed an appeal from a declaration of non-significance prepared by the Department of Community Development, hereinafter Department, with regard to a proposed action to demolish three existing residential structures and construct a 15-unit apartment building at 2722-2734 Fairview Avenue North.

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

This matter was heard before the Hearing Examiner on November 23, 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 subject property consists of three lots located at the southeast corner of Fairview Avenue E. and E. Hamlin. Developed on the property are 3 residential structures, two of which are structurally sound. The third is not habitable.

2. The genesis of the declaration of non-significance is the application for a council conditional use permit (X-77-289) for a 15-unit (800-1100 square foot/unit) apartment building which would have a view of Lake Union. The structure would have the required on-site parking and be within the 35 foot maximum building height requirement of the Seattle Shorelines Master Program.

3. The subject site is within the Allison-Fairview neighborhood of the Eastlake area. The Eastlake area is bordered by Fuhrman E. on the north, I-5 on the east, E. Blaine on the south and Lake Union on the west. According to the Eastlake Community Club, that area contains some 154 apartment buildings and 250 single-family homes. The Allison-Fairview neighborhood, bounded by Fuhrman, I-5, Roanoke, and Lake Union, contains approximately 116 single-family residences. The Office of Neighborhood Planning has defined as the Eastlake neighborhood the area from E. Galer to the water on the north and from I-5 to the water on the west.

4. The area contains a mix of residential uses, single-family, duplex, apartment, houseboats, commercial uses, and manufacturing uses. The single-family residences generally house low to moderate income persons.

5. The subject property fronts on Fairview Avenue E. Immediately to its south is an apartment building owned by

applicant. Behind it, to the east, are single-family residences. Across E. Hamlin are single-family residences and across Fairview to the west and northwest is moorage and a packing company. The area is zoned General Commercial (CG) and close by are Manufacturing (M) and Multiple Residence (RM) zones.

6. The Department, which is the lead agency, prepared a declaration of non-significance with regard to the proposed project. It was filed with the SEPA Public Information Center September 22, 1977.

7. On October 7, 1977, the Eastlake Community Council filed a timely appeal. The appellant organization has challenged the correctness of several of the answers or adequacy of the Department's analysis of items on the environmental checklist, which will be considered in the following paragraphs.

#### Background - Location

8. Paragraph 1.7 of the checklist describes the location as being "predominantly apartment and some marine related facilities". The appellants allege that this statement is in error in that single-family residences predominate (116-5). The evidence shows that the description given on the checklist is inaccurate.

#### Earth

9. The appellants allege that the answers are incorrect in that a steep slope is involved and that the developer indicates that there will be below street parking which would require grading. The record is not clear on this point but the Department is satisfied that actual grading will be minimal.

#### Air

10. The appellants allege that the answer to 2a as to deterioration of air quality would correctly be at least a "maybe" because of the increased traffic. The Department adequately considered the increase in traffic and concluded that because the area is one block from a very heavily traveled arterial (Eastlake) the increase would be comparatively small.

#### Water

11. Question 3e regards discharge into surface waters. The appellants allege that the answer is incorrect in that increased runoff could affect Lake Union. They further allege that 3f, regarding direction of flow of ground waters, should be answered "maybe". The Department recognized that some minimal change of flow within the site would occur but not sufficient to require a "yes" response.

#### Fauna

12. Conceding it to be a minor point, the appellants point out that the family of raccoons living on the site were ignored by the applicant and the Department.

#### Noise

13. The checklist indicates that there will be no increase in existing noise levels. The appellants dispute this answer.

#### Light and Glare

14. The checklist question regarding light and glare is answered "no". The appellants point out that the Department

has no information on which to base the answer.

#### Land Use & Population, Housing

15. The appellants contend that Number 8 should be answered that the proposal will alter the present use of the area and that Number 11 should be answered at least "maybe" the population will be affected. The change is from the present use in the neighborhood of predominately single-family residences to multiple residential and from with 3 single-family structures on it to apartment buildings. As to planned use they contend that the proposal is in conflict with Eastlake Community's Goals and Policy statement which has been submitted to the City Council for approval. The appellants further contend that this change in type of housing will cause further erosion of this low cost single-family residence area by higher priced multiple unit dwellings and that this land use change and the acceleration of the erosion above is sufficient to require an environmental impact statement.

#### Transportation

15. Question 13a and b are answered "maybe" as to additional vehicular movement and parking. The appellants allege that the existing congestion demands "yes" answers to those and further that there is no indication as to whether the applicant intends to charge for the parking area he does provide (as he had done at his building to the south). The Department concedes that the area is congested.

#### Utilities

16. Question 16(d) as to sewers requires a "yes" answer as a neighbor's sewer line goes through the subject property. The Department was not aware of this sewer line so did not consider this potential impact.

#### Aesthetics

17. The appellants allege that question #18 should be answered "yes" since the views of the water from two homes will be entirely blocked and the view from every other single-family residence in the neighborhood will be partially blocked. The Department agrees that the two views will be blocked but indicates that others will not be affected as set out in the explanation.

18. In analyzing the impact of the proposal the Department considered the total Eastlake area. The appellants argue that only the surrounding neighborhood should be considered in determining the degree of impact. Some of the differences as to correct answers can be attributed to this difference in analysis.

19. There are economic and other possible impacts raised by the appellant which are beyond the scope of the checklist. WAC 197-10-360 directs that the questions contained in the checklist are exclusive and that factors not listed therein shall not be considered in the threshold determination. Those impacts therefore cannot be considered in this review.

#### 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 which would have a significant adverse impact on the environment. The court, in establishing

a guideline as to what is "significant", has held that "the procedural requirements of SEPA...should be involved whenever more than a moderate effect on the quality of the environment is a reasonable probability". Norway Hill Preservation and Protection Association v. King County Council, 87 Wn.2d 267, 522 P.2d 674 (1976).

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

3. The record has been reviewed using the guideline established in Norway Hill. The appellants have established that some answers given on the environmental checklist (i.e. I-7, I-13) required minor corrections and clarification. In assessing the degree of impact we do recognize that the increase in traffic and parking congestion will directly affect people in the immediate area (E. Edgar, E. Hamlin and Fairview) and the views from at least two of the homes will be obstructed to some degree. The effect beyond the immediate area will be less intense and cannot be considered more than moderate.

4. The purpose of SEPA is to provide full disclosure of environmental impacts so that government bodies will have adequate environmental information to consider in making decisions. A detailed environmental analysis is not required in every case, however. In Norway Hill v. King County, supra, the proposal involved the establishment of 198 lots for construction of single-family residences on 52.3 acres of heavily wooded land. An impact statement was required. In Swift v. Island County, 87 Wn2d 348, 552 P2d 197 (1976) an impact statement was required for a proposed residential development because of conflict with nearby wildlife, historic and recreational uses. While the fact that a proposal is not large does not mean that an impact statement is not required these cases do illustrate the type of situations and the scope of the effect where impact statements have been required. The adverse effects of the proposal in this case are so limited in scope geographically, albeit not in degree, that they cannot be considered "significant" as defined by case law. No environmental impact statement is required.

#### Decision

The appeal is DENIED.

Entered this 28<sup>th</sup> day of November, 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.