

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

In the Matter of the Appeal of

LIVING TRUST OF ANN FRIEDLANDER  
Joyce Cohen Henesey & Joan Cohen  
Hilhert, Trustees

FILE NO. W-78-010

from an environmental determination  
of the Department of Community Development

The appeal is DENIED and the determination of the  
Department of Community Development is affirmed.

Introduction

The appellant, the Living Trust of Ann Friedlander, by its attorney, Phil Mahoney, filed an appeal from a Declaration of Non-Significance prepared by the Department of Community Development for a proposed nine-unit apartment building at 2318 Alki Avenue S.W.

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

Parties were represented as follows: the appellants by Phil Mahoney, the Department of Community Development by Ellen Peterson; the property owner by Seth Fulcher, architect.

This matter was heard before the Hearing Examiner on May 30, 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. Theodore Dimitrious, the project developer, has applied for a Substantial Development Permit for the construction of a 3-story, 9-unit apartment building at 2318 Alki Avenue S.W. within the Shoreline District. It has been determined that a shoreline variance for lot coverage would be needed as well. The Department of Community Development, the lead agency, issued a Declaration of Non-Significance (DNS) for the proposal which was filed with the SEPA Public Information Center April 18, 1978. This appeal was filed May 3, 1978.

2. Prior to issuing the DNS the Department's representative reviewed the forms, checklist and plot plans filed, consulted the map, made two view trips, consulted the architect and other Department staff members and made corrections on the checklist. The checklist responses take into account the lot coverage which, as proposed, exceeds the maximum permitted.

3. The subject property has frontage of about 79 feet on Alki Avenue S.W. has a depth of about 86 and 90 feet on the west and east sides respectively to Bonair Place S.W. Another 15 feet of Bonair Place is a part of the property subject to easement. Bonair Place S.W. is a private 30 foot wide street belonging to the properties abutting each side.

4. The site currently contains a 2-story single family residence. That structure would be demolished and a

34 foot 6 inch high apartment building constructed. The new structure would have an 8 foot east side yard and 10 foot west side yard. The site is surrounded by apartment buildings all in a Multiple Residence High Density (RM 800) zone.

5. The appellant contends that the proposed development would have an adverse effect on aesthetics, traffic, parking, noise, light and glare which individually or cumulatively amount to a significant impact upon the environment.

6. The DNS disclosed that views from the apartment building to the south of the subject property, the Four Seasons at 2324 Bonair Place S.W., would be blocked and others impaired. The Department maintains that 6 of the 22 units now have a good view and 3 have partial views of the water. One unit of the duplex at 2312 Bonair Place would also suffer view blockage. The appellant contends that 20 of the 22 units have water views, 15 of which would be impaired by the proposed project.

7. Alki Avenue S.W. and its sidewalks is on the north or water-side of the proposed development so those public views from Alki would be unimpeded. The view from Bonair Place S.W. is now partially obstructed by existing development and obstruction would be increased.

8. As another impact on aesthetics the appellant contends that the proposed lot coverage would set a precedent for excessive lot coverage which would detract aesthetically from the neighborhood.

9. The appellant alleges that the lot coverage would increase the problem with noise in the area. The checklist indicated that noise levels may be increased.

10. The Department acknowledged on the checklist and at hearing that there will be an increase in traffic and demand for parking as a result of the proposal. Alki Avenue S.W. is classified as a major arterial and has a 15,000 car capacity. Bonair Place S.W. is a paved private street with the traffic lane varying from 20 to 28 feet in width. The Department regards the street as having a capacity of 1000 cars per hour. The street dead ends just to the southwest of the property so a volume of that level would cause a great deal of congestion. Seventy units are now served by the street. The proposed building would increase that to 78. Traffic generated by that number would be within the street's capacity, even if the capacity is less than 1000.

11. Although the required number of off-street spaces would be provided some increase in parking demand is contemplated. Angle parking is allowed on Alki and would accomodate the expected increase.

12. It is reasonably foreseeable that artificial light at night, some reflection from windows and sliding doors and shadow would result from the proposed structure. The checklist indicated that those may be the results of the proposal.

### Conclusions

1. In making the threshold determination the lead agency is to evaluate the environmental checklist to ascertain whether the proposed action will result in a significant adverse impact on the environment. An impact is significant when "more than a moderate effect on the environment is a reasonable probability." Norway Hill v. King County Council, 87 Wn.2d 267, 278 (1976). The Department conducted an independent evaluation and concluded that no significant impact would result. The SEPA Ordinance places the burden

on the appellant to prove the determination incorrect. Appellant herein did not sustain that burden.

2. Appellant did show a high probability of view impairment from a number of units in the Four Seasons building which was partially acknowledged by the Department in the checklist. The Department was correct however, in not basing their determination on that impact or including it in their consideration of the cumulative impact. The City has adopted, by ordinance, WAC 197-10-360 which states, under subsection 1 that "(t)he questions contained in the environmental checklist are exclusive, and factors not listed in the checklist shall not be considered in the threshold determination" and WAC-10-365, the checklist itself, which, under II.(18) refers to view "open to the public." Appellant contends that occupants of those units are members of the public and therefore the view from their dwelling units should be considered. The checklist language, however, would not include the view from a private dwelling unit.

3. No other impact or the cumulation of impacts cited by the appellant rise to the level of more than a moderate effect on the environment.

#### Decision

The appeal is DENIED and the determination of the Department of Community Development is affirmed.

Entered this 14th day of June, 1978.

M. Margaret Klockars

#### 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.