

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

SEATTLE SHORELINES COALITION
AND A.I. JANOFSKY

FILE NO. W-79-025

from an environmental determination
of Department of Community Development.

The appeals are DENIED and the EIS is found to be
adequate.

Introduction

The appellants, Seattle Shorelines Coalition and A.I. Janofsky, filed appeals challenging the adequacy of the environmental impact statement (EIS) prepared by the Department of Community Development (Department) with regard to a proposed action to construct three five-story, fifteen unit condominium buildings and six townhouse condominiums of three stories in the 2101 block of Westlake Avenue North. The name of the project is Westlake Condominiums.

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

Parties to the proceeding were: Seattle Shorelines Coalition (SSC), represented by Benella Caminiti; A.I. Janofsky, represented by Janet Quimby; Westlake Condominiums, represented by Steven W. Hale; and the Department, represented by Charles Brown.

This matter was heard before the Hearing Examiner on September 11, 12, and 25, 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. Gary W. Tripp proposes to construct three, five-story fifteen unit condominium buildings, and six townhouse-style condominiums of three stories. The buildings would contain a total of 51 dwelling units. Off-street parking for 79 vehicles would be provided with 19 spaces designated for guest use.

2. The project site is located in the 2101 block of Westlake Avenue North. McGraw Street is to the north, Crockett Street to the south and Lake Union to the east across Westlake Avenue North. The legal description is: Lots 1 through 20, Block 1, Westlake Boulevard Addition. The site is zoned General Commercial (CG).

3. The project site has a 600 foot frontage on the west side of Westlake Avenue North. The property rises about 50 feet from Westlake Avenue North to Ninth Avenue. The northern portion of the site slopes about 65 feet between the east and west sides of the property. The site is heavily wooded and the only development is two billboards.

4. SSC filed a timely appeal on July 30, 1979 alleging numerous inadequacies in the EIS. A.I. Janofsky filed a timely appeal on July 31, 1979 alleging inadequacies with regard to the parking and traffic analysis. Several other

letters of appeal were received but dismissed for failure to comply with Section 20, Ordinance 105735, and Rule 1.2 of the Hearing Examiner Appeal Rules.

Parking and Traffic Congestion

5. A traffic analysis for the Westlake Condominiums was prepared by consulting traffic engineers, The Transpo Group. The traffic report is included in the Draft EIS in Appendix C. Data was collected in August and September, 1978. An update of the traffic analysis is included in Appendix D of the Final EIS.

6. The appellant Janofsky alleges that the traffic analysis was inadequate in that it was based on outdated data and that it failed to take into consideration parking demand generated by new businesses that have opened at 2040 Westlake Avenue North. It is also alleged that the EIS failed to consider the cumulative effects of potential development along Lake Union that is addressed in the Westlake Avenue Parking Study (WAPS) (Appellant's Exhibit 2).

7. Mr. Markley, who prepared the traffic analysis, testified that he considered other potential developments in the area (Final EIS, page D-3) and that an average annual growth rate of 1 to 3 percent was assigned to take into consideration future growth.

8. It is also alleged by Janofsky that the number of vehicle trips and consequent parking demand generated by the proposal is much higher than outlined in the EIS. Mr. Markley maintained that his analysis of vehicle trips and parking demand was accurate and that if any parking overspill occurred from the Westlake Condominiums, it would happen during the evening hours which is the low parking demand period for offices and commercial uses.

9. Appellant Janofsky alleges that the method by which the WAPS was addressed in the EIS is inadequate and that its conclusions with regard to the availability and demand for parking are in conflict with the conclusions in the EIS.

10. The EIS does not specifically state whether WAPS was incorporated by reference into the EIS. WAPS involved a parking study for several property owners along Westlake Avenue North from Valley Street north to the Fremont Bridge and was prepared by David Markley, the same person who did the traffic study for the subject EIS. The data for the study was gathered in January, 1979. John Crull, the Department representative, considered the WAPS to be incorporated by reference into the EIS.

Density and Lot Coverage

11. SSC alleged that the project was too dense for property within a shoreline district and that it was not possible to compute the density or lot coverage from the drawings in the EIS. The Draft EIS discusses these issues at pages 29 through 32 and 44.

Soils Stability

12. SSC expressed concerns about slope stability and that information about the retaining wall was not clearly explained. SSC objected to the use of the technical term "soldier piles with anchor tie backs" to explain the method of retaining the hillside during construction at page 6, Final EIS.

Standing

13. Both the City and the developer maintain that SSC has no standing in the appeal. SSC presented testimony with regard to the purpose of the organization and stated that Gary Brownlee, a member of the organization, owns property across the street from the project site.

Conclusions

1. The adequacy of an EIS is to be judged by the "rule of reason". Cheney v. Mountlake Terrace, 87 Wn.2d 338 (1976). The EIS for the Westlake Condominiums provides a reasonably thorough discussion of the probable environmental consequences of the proposed action.

Parking and Traffic Congestion

2. The traffic analysis in the EIS provides a full disclosure of the probable environmental effects. Traffic analysis is not an exact science and there can be differences of opinion between experts as to specific figures relating to parking demand or trip generation. The record shows that the traffic analysis was based on an accepted methodology used by traffic engineers. The appellant failed to show with any specificity that the parking demand and trip generation figures were in error.

3. With regard to WAPS, it is important for purposes of full disclosure that if a document is to be incorporated by reference it should be clearly stated so that the reader and ultimately the decision-maker does not have to guess. It is clear in the EIS that there was an awareness of WAPS since the traffic engineer for the project specifically references the document in his traffic update to the Final EIS in Appendix D. However, absent specific language relating to incorporation by reference it is the conclusion of the Examiner that WAPS is not a part of the EIS.

4. Since it is concluded that WAPS was not incorporated by reference into the EIS, is the failure to do so an error. The information on traffic analysis in the EIS is sufficient by itself and there is no need to rely on the information contained in WAPS. However, it certainly would have been helpful to the decision-maker to have had the document specifically incorporated by reference since it contains useful information on cumulative impacts and more recent parking data.

Density and Lot Coverage

5. The record shows that there was full disclosure of the number of units and land area involved. Detailed plans were available for review at the office of the Department. The application of the Shoreline Management Act was disclosed. The appellant has failed to substantiate the alleged inadequacies.

Soils Stability

6. WAC 197-10-145 provides that an EIS is to provide information to interested citizens as well as public officials and that unnecessarily detailed information is to be avoided. The use of a technical term such as "soldier piles with anchor tie backs" without explanation can be confusing. This appears to be an isolated use of technical jargon and is not of sufficient magnitude to warrant a remand. However, the Department should be aware of the need to explain technical terms where necessary. The explanation of slope stability was unnecessarily technical but not misleading or confusing.

Other Issues

7. Since SSC failed to substantiate alleged inadequacies in the discussion of economics, greenbelt and traffic safety, the allegations must be dismissed.

Standing

8. SSC has shown that it has at least one member who is a property owner in the vicinity of the proposed project. This is a direct enough interest to provide standing when coupled with the broad language contained in Sections 3 and 20, Ordinance 105735. SAVE v. Bothell, 89 Wn.2d 862, 866 (1978).

Decision

The appeals are DENIED and the EIS is found to be adequate.

Entered this 22nd day of October 1979.


William N. Snell
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).