

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

In the Matter of the Appeal of

VIRGINIA M. LINDAHL

FILE NO. W-77-005

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, Virginia M. Lindahl, filed an appeal from a declaration of non-significance prepared by the Department of Community Development with regard to a proposed action to construct a four-unit residence at 5501 Seaview Avenue N.W.

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

This matter was heard before the Hearing Examiner on May 2, 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 applicants, Helen O. and Kenneth E. Kack, filed an application for a building permit to construct a four-unit residence at 5501 Seaview Avenue N.W. The proposed structure would include four stories and would not exceed a height of 35 feet from the average lot grade. The structure would extend to a height of 20 feet above the street grade. An existing single-family residence on the subject property will be removed to permit the construction of the proposed development.

2. The Department of Community Development (hereinafter Department) issued a Declaration of Non-Significance on March 8, 1977, with regard to the applicant's proposed action. The appellant filed an appeal concerning this environmental determination with the Hearing Examiner on April 1, 1977.

3. The subject property is zoned General Commercial (CG) which permits the development of a variety of commercial and business uses. The proposed residential use is permitted in the CG zone as a council conditional use and requires this authorization prior to the issuance of a building permit. Due to the location of the subject property in relation to the Salmon Bay Waterway, the site is regulated by the Seattle Shoreline Master Program and lies within an urban-stable designation. This designation permits the establishment of residential uses, but commercial enterprises must be water-related in nature.

4. In completing the environmental checklist form, which is used as a basis for the threshold determination,

the applicant responded to all questions in the negative, thereby avoiding the need to provide any explanations. The Department, however, requested additional information of the applicant and in many instances substituted additional responses to the individual questions on the checklist. The Department thereby provided an independent evaluation that went considerably beyond the applicant's responses.

5. The appellant in filing the instant appeal considered only the responses of the applicant on the environmental checklist and took issue with a substantial number of the individual answers. The appellant did not consider the responses of the Department nor took into consideration the independent evaluation which was the basis for the Department's conclusion that a Declaration of Non-Significance was called for with respect to the proposed action.

6. The proposed structure will not significantly affect the views available to other residents of this area due to the fact that other residential development is substantially removed from this site and is at a significantly higher elevation than the subject property. However, since the proposed structure will be 20 feet above street grade it will likely provide an additional obstruction of the view available to persons passing by the subject property on the adjacent street. This fact is, however, recognized in the explanation provided by the Department in relation to the response to question 18 of the environmental checklist.

7. The introduction of three additional dwelling units beyond what is existing on the site will foreseeably cause an insignificant increase in the level of noise in this area due to the increase in the number of persons and vehicles that will be generated to the site. This fact was properly considered by the Department in the explanation to the response to question number 6 in the environmental checklist.

8. There will be a minimal increase in the number of vehicles associated with the subject property due to the increase in number of dwelling units. There will further be a need for additional off-street parking to accommodate the residents of the proposed structure and any visitors that may be generated to the site. These factors are adequately considered by the Department in explaining the response to question 13 of the environmental checklist. The applicant has obtained a street use permit so that a portion of the street right-of-way may be utilized for access to the off-street parking spaces on the subject property. This, however, does not amount to a significant alteration in the traffic circulation patterns in this area.

9. Additional private and public projects are in the planning stage for future development in this area. It is foreseeable that these projects will be of a sufficiently substantial nature that they will generate a great amount of traffic to the Shilshole area. These factors, however, go beyond the specific questions of the environmental checklist and were properly not considered by the Department in reaching the threshold determination for the applicant's proposed action.

10. The proposed action will not in any way inhibit the marine traffic which constantly uses Salmon Bay waterway.

Conclusions

1. An environmental impact statement is required only when there is a major action that will have a significant

adverse impact on the environment. An adverse impact is significant whenever more than a moderate effect upon the quality of the environment is a reasonable probability.

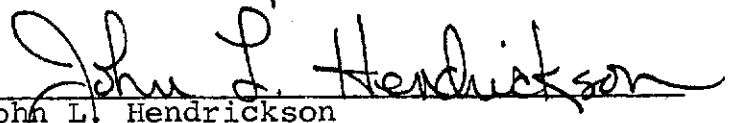
2. The appellant has, in this case, failed to meet the burden of proof and has not demonstrated that the proposed action will have any significant adverse impact on the quality of the environment. The appellant failed to recognize the independent evaluation of the Department and essentially took issue only with the negative responses of the permit applicant on the environmental checklist. The appellant has not alleged that the Department has made any substantial error or omission in evaluating this proposal, nor has it been established that the Department failed to take into consideration any significant fact in reaching the threshold determination. The Department, to the contrary, has taken into consideration all of the factors raised by the appellant and adequately dealt with these in the environmental checklist.

3. It is foreseeable that any development of the site will necessarily result in some minor changes in the natural environment. However, the minor changes foreseen in the applicant's proposed action are not of the type that require the detailed analysis that is involved in an environmental impact statement. This type of analysis is reserved for only those actions which clearly impact the environment in some major and significant manner.

Decision

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

Entered this 17th day of May,
1977.


John L. Hendrickson
Deputy Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination. Any appeal must be made to the courts. Section 12, Ordinance 102228, the Administrative Code, sets forth the procedure for staying enforcement of an administrative order or decision pending judicial review.