

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

EASTLAKE COMMUNITY COUNCIL &
FLOATING HOMES ASSOCIATION

FILE NO. W-77-013

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 appellants, Eastlake Community Council and Floating Homes Associates, filed an appeal from a declaration of non-significance prepared by the Department of Community Development with regard to a proposed action to develop 46 open moorage slips on Lake Union at 2601 Fairview Avenue E.

The appellants exercised their right to appeal pursuant to Section 20, Ordinance 105735.

This matter was heard before the Hearing Examiner on June 13, 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 proponent, Roanoke Reef Associates, filed an application for a substantial development permit (No.# 76-51) to establish 46 open moorage slips on property located at 2601 Fairview Avenue E. The proposed action includes the establishment of the open moorage slips over state leased submerged land that is situated directly west of an existing concrete platform that is developed on the subject property. At the present, the existing concrete platform covers the entire subject property and will be utilized for access to the dock area that will be attached to the platform. A pump out facility and lavatories will be also situated on the platform. The proposed action includes the development of a 29 car off-street parking area on an existing parking lot situated on the southeast corner of the intersection of Fairview Avenue E. and E. Roanoke Street. The parking area will serve the patrons of the proposed moorage slips.

2. The subject property is situated to the west of the Lake Union shoreline and includes approximately 40,000 square feet of submerged land. The site is developed with a concrete platform to which 10 boats are moored at the present time without the required permit. The substantial development permit in question was required by the City of Seattle to remedy this situation. The subject property further includes the site located to the southeast in a diagonal direction from the subject property where an undeveloped lot is utilized for informal off-street parking. In 1967, at the time that the proponents purchased the subject property, the subject property

was utilized as a boat marina and included 60 covered boat moorages in addition to boat sales and repair shop uses.

3. The subject property is situated on the east shoreline of Lake Union in an area which is generally referred to as the Eastlake community. This area is characterized by the presence of many houseboats and a substantial number of uncovered boat moorages. The establishment of uncovered moorage on Lake Union is not contrary to the provisions of the goals for the Eastlake community.

4. The existing concrete platform on the subject property was constructed for the purpose of supporting a substantial condominium structure proposed several years ago for the site. The condominium was enjoined from further construction due to the issuance of an invalid building permit and the project has subsequently not been permitted to be completed. The platform was therefore not constructed with the proposed uncovered boat moorages in mind, but was rather constructed solely for the intended development of a condominium structure.

5. At the present time the proponent has no specific future plans for further development of the subject property beyond the proposed action in question. Although further development can be reasonably expected at some time in the future, the nature of such development and its timing is clearly speculative at this time. There is no evidence that any future proposal for the site would be dependent upon the approval of the requested substantial development permit for the proposed uncovered moorage and off-street parking area.

6. The proponent has not included in the proposed action any plans to include outdoor lighting for the moorage and off-street parking area. There being no further allegation that the proposal will increase the light and glare in the vicinity of the subject property, it is evident that the Department of Community Development (hereinafter the Department) has properly responded to Item 7 of the Declaration of Non-Significance (hereinafter DNS) prepared concerning the proposed action.

7. The development of uncovered moorage on the subject property, in addition to the off-street parking area, is consistent with existing land uses in this area and Lake Union in general. Moorage is a common use of the land on Lake Union and the number of existing slips is sufficiently great that the addition of the proposed 46 slips would be insignificant and there would be consequently no significant impact on the land use of this area. Furthermore, the proposal is consistent with the Seattle Shoreline Master Program and land use planning for Lake Union. Consequently, the Department properly responded to Item 8 of the DNS.

8. The establishment of 46 uncovered moorage slips on the subject property will foreseeably result in an increase in the number of boats generated to the site and will consequently cause an alteration to waterborne traffic in this area. This alteration, however, will be slight and the impact insignificant. The Department failed to properly respond to Item 13e of the DNS, inasmuch as the negative response is inaccurate.

9. The appellant raised many additional issues concerning alleged deficiencies of the DNS in the appeal letter which instituted this appeal. The appellant, however, failed to present any supporting evidence concerning these claims and these issues remain uncorroborated.

Conclusions

1. The Department has accurately defined the scope of the proposal in accordance with the SEPA Guidelines, WAC 197-10-060, by limiting the proposed action to the uncovered moorage

and off-street parking area. The construction of the existing concrete platform cannot reasonably be included in the proposed action since that construction was unrelated to the present proposal. The establishment of the uncovered moorage and parking area is not part of an ongoing project and does not amount to a continuation or extension of the original construction of the platform. The use of the platform as part of the proposed action in question is not an integral part thereof and is incidental to the proposed primary use. The proponent has alternative means of access to the proposed location for the moorage and alternative locations for the lavatories, so that the platform is not essential to the proposed action. Consequently, the use of the platform in this instance will not legitimize its presence nor will it realistically enhance its viability.

2. The DNS prepared regarding the proposed action properly limits its scope to the specific proposed action and avoids speculation concerning future development of the subject property. The proponent at the present time has no plans for functionally related future activity which is sufficiently specific at this time to evaluate the potential impacts. Consequently, speculation concerning future plans by the proponent are properly excluded from the DNS and need not be addressed due to the absence of specificity. Future activity that is too remote or speculative need not be presently evaluated and its environmental considerations can be evaluated at the time a future project is brought before the city. Cheney v. Mountlake Terrace, 87 Wn.2d 338 (1976). Furthermore, since any future development of the subject property would be substantially independent of the current project, discussion of future plans for the property is not required at this time. Trout Unlimited v. Morton, 509 F.2d 1276 (9th Cir. 1974). Finally, consideration of the present proposal does not amount to an irreversible commitment to any future project so that the current threshold determination may properly be restricted to the proposed action as defined in the DNS. Section 5, Ordinance 105735, as amended.

3. The DNS prepared by the Department with regard to the proposed action adequately discloses the impacts that may result from the proposal and has properly concluded that there will be no significant adverse impacts on the quality of the environment and that an environmental impact statement is not required for this project. The appellant has not established that there will be any significant impact on light and glare in the vicinity of the subject property as a result of the proposed action, nor will there be any significant impact on surrounding land use. Each of these factors has been adequately dealt with in the environmental checklist and the appellant has not established the contrary. Although Item 13e was inaccurately responded to on the checklist, there has been no evidence presented by the appellant that there will be a significant impact on waterborne traffic as a result of the proposal. Furthermore, the inaccurate response is not so significant that a remand of this case to the Department for an amendment to the DNS regarding this item alone is required.

4. With regard to the itemization of issues in the appeal letter filed by the appellant, the appellant has failed to meet the burden of proof of presenting supporting evidence concerning the allegations included therein. Consequently, in light of the absence of corroborating evidence these issues are summarily dismissed as not having any foundation.

Decision

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

Entered this 13th day of July, 1977.

John S. Hendrickson
John S. 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.