

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

In Re: Appeal of the City of Seattle's
Department of Planning and
Development's SEPA Mitigated
Determination of Non-Significance for
Proposal #3014675, to be located at
2414-2424 55th Avenue Southwest

No.

ALKI NEIGHBORHOODS FOR
SENSIBLE GROWTH'S
SEPA APPEAL STATEMENT

ALKI NEIGHBORHOODS FOR
SENSIBLE GROWTH, a Washington
Unincorporated Association,

Appellants,

v.

CITY OF SEATTLE, a Washington
Municipal Corporation;

Respondent,

and

ALLOY DESIGN GROUP, LLC, a
Washington Limited Liability Company;

Applicant,

and

PLUMA HOMES, LLC, a Washington
Limited Liability Company;

Property Owner.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

I. INTRODUCTION

Alki Neighborhoods for Sensible Growth (“ANSG” or the “Association”) seeks review under the State Environmental Policy Act (“SEPA”), Ch. 43.21C RCW, of the Mitigated Determination of Non-Significance (“MDNS”) that the City of Seattle’s (“City’s”) Department of Planning and Development issued for Proposal #3014675 (the “Proposal”). The MDNS approves replacing three small single family homes at 2414-2424 55th Avenue SW, with an 11-unit multi-family complex that is dramatically oversized for the surrounding neighborhood and its public services. This erroneous Decision threatens the character and environmental quality of ANSG’s community.

The MDNS reflects that the City has not yet taken a hard look at all of this Proposal’s environmental impacts. Until the City discloses, evaluates and adequately mitigates or documents all of the Proposal’s probable significant adverse environmental impacts, a proper SEPA determination cannot be made and no element of this proposal should move forward.

16
17
18
19
20
21
22
23
24
25

II. PARTIES

The Appellant in this appeal is the Alki Neighborhoods for Sensible Growth, (“ANSG” or the “Association”):

Alki Neighborhoods for Sensible Growth
c/o Martin E. McQuaid, Manager
2430 55th Avenue, SW
Seattle, WA 98116

The Appellant is represented by, and can be contacted through, its counsel, the Law Offices of Cynthia Anne Kennedy, PLLC, as follows:

Law Offices of Cynthia Anne Kennedy
P.O. Box 1477
Gig Harbor, WA. 98335
Phone: (253) 853-3907
Fax: (253) 858-8938
Email: cynthiakennedy@kennedylegalsolutions.com

1 The Respondent SEPA Lead Agency is the City of Seattle's Department of
2 Planning and Development:

3 City of Seattle
4 Mayor's Office
5 600 Fourth Avenue, 7th Floor
6 Seattle, WA. 98124-4726

7 Other Respondents include the applicant for this proposal, Alloy Design Group,
8 LLC, represented by Mark Hazlip; and the property owner, Pluma Homes, LLC,
9 represented by Roger Penner.

10 **III. DECISION**

11 The SEPA Decision at issue in this appeal is Mitigated Determination of Non-
12 Significance #3014675, dated October 10, 2013, for the property located at 2414-2424
13 55th Avenue SW, Seattle, WA. 98116, which was issued by the City of Seattle's
14 Department of Planning and Development ("DPD") on October 10, 2013 ("the MDNS" or
15 "the Decision"), along with any underlying land use actions or approvals for the Proposal.
16 A copy of the Decision is attached hereto as Attachment A.

17 **IV. EVIDENCE**

18 This SEPA Appeal Statement is supported by the Declaration of Martin McQuaid,
19 which is filed herewith, and incorporated herein by this reference. See Attachment B.

20 **V. STANDING**

21 As detailed in the attached Declaration of Martin McQuaid, members of ANSG
22 live in the residential community adjacent to and surrounding the property at 2414-2424
23 55th Avenue SW, and would be directly affected and aggrieved by Proposal #3014675. If
24 the MDNS is allowed to stand, individual members of the Association will be injured by
25 significant adverse environmental impacts, will suffer a drastic change in the character of
their neighborhood, and will incur associated negative impacts to their property values.

1 The Association's interests are among those that the City was required to consider when it
2 made its SEPA decision. A ruling in favor of ANSG could substantially eliminate or
3 redress the harm caused by the inadequate MDNS. ANSG members also participated in
4 the City's SEPA process by attending a SEPA Meeting hosted by DPD and submitting
5 oral and written comments. Accordingly, the Association has standing to bring this SEPA
6 appeal.

7 ANSG members live in the neighborhood adjacent to and surrounding the
8 Proposal, and are deeply concerned about the impacts of the proposed multi-family
9 housing complex on the character and environmental quality of their long-established and
10 close-knit residential neighborhood (the "Alki Neighborhood"). ANSG members cherish
11 the existing physical and visual connections to Alki Beach that give the Alki
12 Neighborhood its special character and sense of community. Most of the homes in the
13 Alki Neighborhood are constructed with low profiles, and are set on spacious lots with
14 generous setbacks that preserve ample vegetation, light, air, privacy and view corridors to
15 Alki Beach, and leave open spaces for community gardens and community gatherings that
16 draw residents together. These special environmental qualities will be lost if the Proposal
17 is allowed to proceed without adequate mitigation and appropriate limitations. The
18 proposed 39-foot structures, with expansive facades and skimpy 7-foot setbacks, would
19 tower over other residences and uses, casting them in shadow and effectively walling
20 them off from the rest of the neighborhood and Alki Beach.

21 ANSG members are also troubled that the proposed multi-family housing complex
22 will overwhelm public services that are already stressed in the Alki Neighborhood by the
23 constraints of its topography and popularity. Because the Alki Neighborhood is situated
24 on a low narrow shelf between Alki Beach and the steep bluffs of West Seattle, drainage
25 systems do not keep pace with stormwater, resulting in flooding damage and sewage

1 overflows from the combined system into Puget Sound. Neighborhood streets are
2 similarly overwhelmed by the large crowds that are drawn to Alki Beach by its iconic
3 views and recreational opportunities, often resulting in severe traffic congestion,
4 dangerous vehicular and pedestrian movements, and inadequate street parking. These
5 public services will be further stressed if the Proposal is allowed to proceed without
6 adequate mitigation and appropriate limitations. And, the surrounding neighborhood will
7 suffer the significant adverse impacts.

8 Rather than taking a hard look at these likely significant adverse environmental
9 impacts of the Proposal, and mitigating them, as SEPA requires, the City issued an MDNS
10 without meaningful analysis, and without a single condition for mitigating long-term
11 impacts. The City also charged ahead and approved a key project element – Lot
12 Boundary Adjustment (“LBA”) #3014442 – before the SEPA analysis was completed, and
13 did so without notice to ANSG members who requested it during the SEPA process.

14 **VI. STATEMENT OF ERRORS**

15 The MDNS fails to meet the substantive and procedural requirements of SEPA.
16 The City’s Decision violates SEPA’s substantive provisions by failing to adequately
17 disclose, analyze and mitigate for likely significant adverse impacts, including, but not
18 limited to: height, bulk and scale impacts; light, shading, air circulation, open space,
19 privacy and aesthetic impacts; impacts to view corridors and physical and visual shoreline
20 access; transportation, traffic, traffic safety and parking impacts; drainage and water
21 quality impacts; loss of vegetation and habitat impacts; and geotechnical and construction
22 noise impacts. The City’s decision also violates SEPA’s procedural requirements by
23 failing to provide appropriate public notice of land use decisions on project elements, and
24 piece-mealing its decision. The City omitted interrelated project elements from the SEPA
25 analysis, allowing some project elements like the LBA to proceed prior to the completion

1 of the SEPA review, and leaving other project elements like an anticipated Unit Lot
2 Subdivision for later review.

3 Under SEPA, an MDNS can only be issued when there is sufficient information to
4 evaluate the proposal's environmental impacts and to craft sufficient mitigation to address
5 all of the proposal's probable significant adverse environmental impacts. WAC 197-11-
6 330. Thus, it is the City's responsibility to evaluate and mitigate the environmental
7 impacts of this 11-unit multi-family housing complex before allowing it to proceed.
8 WAC 197-11-080(1). Here, key information regarding the significant adverse
9 environmental impacts of this proposal has not been fully disclosed or evaluated. Rather
10 than showing DPD's work, the MDNS simply provided conclusory statements declaring
11 compliance.

12 The MDNS provides no meaningful analysis of the height, bulk, and scale of the
13 Proposal, or its light, shading, air circulation and aesthetic impacts on surrounding homes
14 and uses. There is no analysis at all of shoreline requirements, including view corridors
15 that are impacted by the Proposal, even though the project area extends partially into the
16 Shoreline Environment. There is no analysis of how this Proposal qualifies as rowhouse
17 development, when it includes two rows of units, one directly behind the other. There is
18 insufficient analysis of drainage and associated water quality impacts, to counter the
19 testimony of Neighborhood residents who have witnessed flooding episodes. There is
20 also insufficient analysis of traffic impacts, in light of the testimony of Neighborhood
21 residents who routinely encounter difficulty making turn movements between 55th Avenue
22 SW and Alki Avenue SW. There is insufficient analysis of parking impacts in light of the
23 daily experience of neighborhood residents who routinely cannot find street parking. The
24 MDNS even fails to disclose the size, location or configuration of the parking stalls for the
25 Proposal. The MDNS provides no analysis at all of vehicular and pedestrian conflicts and

1 traffic safety impacts. The City simply has not analyzed enough information to support its
2 SEPA Decision. There are too many unanswered questions here to conclude that this
3 Proposal will have no significant adverse environmental impacts.

4 Under SEPA, an MDNS can only be issued if sufficient development limitations
5 and mitigations have been applied to reduce the impacts of this proposal below the
6 threshold of significance. WAC 197-11-330. Here, the MDNS includes no conditions to
7 mitigate the long-term impacts of the Proposal to reduce their significance. There is no
8 mitigation to setback or break up the long facades of the structures to preserve vegetation,
9 light, air circulation, aesthetics, privacy and open space for impacted neighbors. There is
10 no mitigation to setback or step back the structures to preserve view corridors and
11 physical and visual access to the shoreline. There is no mitigation to scale back
12 development in order to preserve vegetation and infiltrate or retain stormwater on site, to
13 reduce drainage, water quality and habitat impacts. There is no mitigation to setback
14 structures to provide longer sight lines to reduce safety impacts for vehicles and
15 pedestrians. There is no mitigation to reduce long-term traffic and parking impacts.
16 There is no mitigation for construction noise, which, due to the Project being located in a
17 liquefaction hazard zone, is expected to involve dangerously loud installation of support
18 poles for neighboring residents not equipped with protective headphones. These are likely
19 significant adverse environmental impacts of the Proposal that must be *mitigated*, in order
20 for an MDNS to be issued.

21 Under SEPA, if sufficient mitigation cannot be applied to reduce the probable
22 impacts of a proposal below the threshold of significance, a determination of significance
23 must be issued and an environmental impact statement (“EIS”) must be prepared. WAC
24 197-11-330. Thus, it is also the City’s responsibility to take a hard look at probable
25 significant adverse impacts that cannot be mitigated and to prepare an EIS that fully

1 discloses all of those impacts. WAC 197-11-360. Here, unless the Proposal is scaled
2 back to retain the physical and visual connections within the Neighborhood and between
3 the Neighborhood and Alki Beach, there will be an unavoidable loss of the character of
4 this community.

5 Procedurally, SEPA requires agencies to fully evaluate a proposal's environmental
6 impacts, *before* acting on it. WAC 197-11-055. Here, a key element of the proposal – the
7 related Lot Boundary Adjustment (#3014442) – was approved before the SEPA
8 environmental analysis was completed. The LBA approved a lot line configuration
9 designed solely to support a specious argument that the proposed multi-family housing
10 complex should be classified as rowhouses, and thus qualify for higher densities and
11 greater heights. The LBA also approved an access point for the complex from 55th
12 Avenue SW, which coincides with a busy pedestrian crosswalk. The LBA should not
13 have been approved until the SEPA analysis was completed.

14 SEPA also requires agencies to provide meaningful public notice. WAC 197-11-
15 510. No notice of the LBA Decision was provided to members of ANSG, even though
16 they had requested notice of related land use actions and approvals during the SEPA
17 process.

18 The City's Decision also violates SEPA's procedural requirements by piece-
19 mealing its decision. DPD omitted interrelated project elements from the SEPA analysis,
20 allowing some related project elements like the LBA to proceed prior to the completion of
21 the SEPA review, and leaving other project elements like an anticipated Unit Lot
22 Subdivision for later review.

23 VII. CONCLUSION

24 In sum, the City has not yet taken the hard look that SEPA requires. Without
25 disclosing and evaluating more detailed information, the City cannot credibly make a

1 determination about the significance of the environmental impacts of this Proposal.
2 Without incorporating more mitigation and conditions into the Decision, the City cannot
3 ensure that the Proposal would have a compatible configuration and adequate public
4 services to avoid adverse environmental impacts on the surrounding community. Given
5 the scale of the surrounding homes and the stressed public services in the location of this
6 Proposal, the City should either limit the scale of the proposed development or prepare an
7 EIS to fully disclose its unavoidable impacts before allowing this Proposal to proceed.

8 **VIII. RELIEF REQUESTED**

9 We respectfully request the Hearing Examiner to reverse the City's MDNS and
10 remand this matter for further analysis and *mitigation* of the Proposal's adverse
11 environmental impacts. If the Proposal is likely to cause unavoidable significant adverse
12 environmental impacts to the surrounding community that cannot be adequately mitigated,
13 we further request the Hearing Examiner to require an environmental impact statement
14 before determining whether or not this Proposal may proceed.

15 We also respectfully request the Hearing Examiner to reverse any underlying land
16 use decisions that were improperly approved before the MDNS was issued, and to require
17 that the City's SEPA analysis evaluate all of the foreseeable elements of this Proposal.

18 DATED this 24th day of October, 2013.

19 LAW OFFICES OF CYNTHIA ANNE KENNEDY, PLLC

20
21 By 

22 Cynthia Kennedy, WSBA #28212
23 Attorneys for Appellant,
24 Alki Neighborhoods for Sensible Growth
25