

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

In the Matter of the Application of

DEPARTMENT OF ADMINISTRATIVE SERVICES

FILE NO. CC-81-019
C.F. NO. 291062

for a council conditional use and
incidental variance pursuant to
the provisions of Title 24, Seattle
Municipal Code, (Zoning Ordinance
86300, as amended)

Introduction

The Department of Administrative Services (DAS), applicant, requests Council Conditional Use authorization to establish the East Central Police Precinct Station at 115-131 23rd Avenue South. A front yard variance is requested to allow a bus shelter to encroach in the required front yard.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code, Title 24, as amended, (Ordinance 86300, as amended) unless otherwise indicated.

The Director's report, submitted by the Department of Construction and Land Use (DCLU), recommended that the application be conditionally granted.

This matter was heard before the Hearing Examiner on January 20, 1982. The record remained open until January 21, 1982 for additional evidence on the question of availability of bond issue funds for the precinct station.

After due consideration of the evidence presented by the applicant, the information provided by the Director's report, all evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

Findings of Fact

1. A general obligation bond issue was passed by the voters in 1977 to be used for construction of new or renovation of old buildings for three police precinct facilities, one for the East Central Police Precinct.

2. The City Council established the criteria and process for site selection by Resolution 25776. A Citizens' Advisory Task Force on Site Selection, appointed by the Mayor, recommended two sites for consideration in an environmental impact statement. One additional site, 125-23rd Avenue South, was added on the suggestion of the Department of Community Development and with the concurrence of the Task Force.

3. An environmental impact statement (EIS) was prepared for the three sites. The EIS was supplemented with an additional analysis of transportation and circulation impacts after an appeal by the Coalition Against the Proposed East Central Police Precinct and Isaiah Edwards.

4. The Mayor, in August, 1980, recommended to the Council that the 23rd and Yesler site be selected. The instant application was made by DAS to construct a station at that site.

5. The 23rd and Yesler site consists of 50,042 sq. ft. fronting on the west side of 23rd Avenue South, abutting upon 22nd Avenue South in the rear, south of Fire Station No. 6 property, and north of properties which have frontage on S. Main Street.

6. The site is within a Multiple Residence Low Density (RM 800) zone. The classification under the zoning proposed in the Multi-Family Policies is Low Rise 3. A Community Business (BC) zone begins at S. Main and 23rd and extends to the southeast. A General Commercial (CG) zone begins at S. Main and 23rd and extends to the southwest. The beginning of a Multiple Residence High Density Variable Height (RMV 200) zone is across 22nd to the west.

7. The subject site is immediately surrounded by a mixture of residential and institutional uses. To the northeast, across the intersection of Yesler and 23rd is the Douglass-Truth branch of the Seattle Public Library. To the east is the Randolph Carter Industrial Workshop and in the next block east, a church. To the south is a single family residence and four-plex and across S. Main are apartments and more residences. To the southeast is the Seattle Opportunities Industrialization Center. To the west are two apartment buildings and the Odessa Brown Children's Clinic of Children's Orthopedic Hospital. Two structures, a duplex and five-plex are located west of the fire station and to the north and northwest, across Yesler, are several apartment buildings and other residential uses.

8. Three blocks north, on 23rd, is Garfield High School; one block southwest is Pacific Vocational School; three blocks southeast is Edison Technical School; and 2-3 blocks southwest are Gai's and Continental bakeries.

9. An exception to the residential and institutional make-up of the area is the Promenade 23 development to the southeast across 23rd and Main.

10. The site, itself, is developed with a four-plex which is currently occupied. It was one of the parcels acquired under the urban renewal effort. The structure has been used by the Department of Community Development (DCD) as temporary housing.

11. DCD proposes to have the four-unit building on the site relocated to another central area site. A draft request for proposal has been prepared and a call for bids has been issued. The sale will have conditions imposed requiring that the housing be committed to low-income housing use and that it be managed by someone with a experience in the management of low income housing.

12. Under the RM 800 zoning the site could accommodate as many as 60 dwelling units.

13. The area has experienced a high rate of demolition or conversion of housing units.

14. The East-Central Precinct includes an area bounded generally by I-5, Interstate 90, the ship canal and Lake Washington.

15. Police Department personnel assigned to the East Central Precinct are now housed in the Public Safety Building, approximately two blocks to the west of the precinct boundary.

16. That operation would be moved to the new facility. Captain Joe Tolliver, commander of the precinct, described the operation as having approximately 130 sworn personnel including three lieutenants as watch commanders and eleven sergeants as supervisors. The personnel are divided into three shifts with

25-27 people assigned to the first watch, 52-53 people assigned to the second watch and 52-53 assigned to the third watch. At least 25 percent of the officers assigned to a watch would be on some type of furlough at all times.

17. Approximately 30 police vehicles would be assigned to the precinct with at least 15 on the street at all times.

18. The shifts are set up so that each change is spread over a one hour period with half of the cars on each watch starting at 3:30 a.m., 11:30 a.m. and 7:30 p.m. and the other half at 4:30 a.m., 12:30 p.m. and 8:30 p.m.

19. The proposed facility would consist of one structure with one story facing 23rd and a parking enclosure below the grade of 23rd but above grade facing 22nd because of the slope of the lot down to the west. The average height from finished grade would be 28 ft.

20. The parking enclosure would hold 45 patrol vehicles. Two other parking areas would be provided: one for 10 visitor vehicles in front of the building with stalls perpendicular to 23rd and one for 32 vehicles of police personnel along the south and west sides of the site.

21. Primary access to the site for police personnel would be from Yesler along an existing driveway across fire station property. Visitor access and secondary police access would be from 23rd near the south end of the site.

22. The building would be set back 58 ft. from the east property line. In that setback area would be two plazas, one primarily for users of the station oriented toward the visitor entry and parking area with seating and landscaping. The other would provide a high point for viewing the City and fire station activity, a bus shelter and a recessed seating area. A grassy mound would be provided that would separate the two plazas.

23. A 4 ft. high masonry wall would enclose the parking areas on the west and south. Evergreens would be used along the west side to further block views of the parking but with spacing to allow views outward from the station's lunchroom. Landscaping around the visitor parking area and the sides of the site would be extensive.

24. Traffic counts used for the draft EIS issued in January, 1979, showed average weekday traffic (AWDT) volumes of 11,036 on 23rd Avenue at the site and 6,015 on Yesler Way. The precinct station is projected to generate 806 person trips per day with 685 autos or 4 percent over the existing vehicular traffic. Other development has occurred in the area since the counts used and some is still likely to occur. Assuming a 1 percent annual growth rate the EIS (DEIS, p.2-7) projects traffic volumes in 1986 on 23rd of 21,334 AWDT near the site and 8,861 on Yesler near the site.

25. The EIS reports pedestrian counts taken at the intersection and mid-block. Children now represent the largest category of pedestrians in the area. The 12 hour count showed as many as 157 children crossing Yesler at the intersection and another 21 crossing mid-block on Yesler. At the time of the EIS the Odessa Brown Clinic was still listed as "planned" so no activity associated with it would have been included in the pedestrian counts. (DEIS, p. 2-11) The EIS predicts an increase in pedestrian volume from the station and other planned developments of some 690 persons, not including those walking to and from transit, estimated to be 1,380 in 1986. If the station had been built in 1981, the projection included 40 pedestrians associated with the station.

26. The sidewalks in the area have the capacity to carry the likely increase in pedestrian volume.

27. The new driveway on 23rd and the increased use of the one on Yesler will result in increased pedestrian-vehicle conflict. The EIS proposes a mitigating measure of providing adequate site distance to assure clear visibility for both drivers and pedestrians.

28. From 130-170 visitors are expected in a 24 hour period, based on the experience at the north and south precinct stations. The bulk come during the noon hour, from 5-6 p.m. and from 8-11 p.m.

29. The on-street parking supply in the area of the proposed station is fairly good. There are currently areas of parking congestion such as around SOIC, which is open from 8:00 a.m. to 11:00 p.m. A resident at the south end of the subject block described problems she or her family frequently has in parking near their home.

30. Adding the potential police demands for on-street parking and assuming all parking for Promenade 23, the Odessa Brown Clinic and 125 new condominium units would be accommodated on their respective sites, and that 30 street spaces would be removed because of activity connected with Promenade 23, data collected show that parking congestion within two blocks of the station could be expected between 11:30-12:30 p.m. and 5:00-6:00 p.m. Near congestion conditions are projected for 7:30-8:30 p.m. Congestion may occur from the entire time from 11:30 to 6:00 p.m., but since data were not collected for that period the EIS does not draw that conclusion.

31. Twenty-nine vehicular and one pedestrian accident occurred during the five years from 1974-1978. An increase in vehicular accidents may be predicted based on the increase in traffic volume assuming that the accident rate varies directly with the volume of traffic. The EIS suggests that about .2 accidents per year could be associated with the police precinct station. Any increased hazard to children and handicapped pedestrians is unacceptable to members of the community.

32. The Engineering Department looked at other areas in the city where facilities for the handicapped were located and volumes were similar and found no significant problem with regard to handicapped person-traffic conflict.

33. The Engineering Department analyzed the 23rd and Yesler intersection and determined that the level of service would not change from "C", assuming operation of the station in 1981, but would drop to "D" in 1986 chiefly because of a future phase of Promenade 23.

34. While the streets are below capacity during non-peak hours, cars waiting to turn left into the two access points may cause temporary obstruction of the lane of traffic. A car turning left into the site from Yesler can be seen by a westbound driver in time to stop as long as the approaching car is not exceeding 35.8 mph.

35. Site selection criteria were set out in Resolution 25776 to guide the identification and evaluation of possible sites. The characteristics of the subject site are consonant with 1-10, 12, 13 and 14. The RM 800 zoning of the site conflicts with No. 11, which attempts to avoid the use of residentially zoned land in residential use, and with No. 15, since that criterion prefers a site where the station would be an outright permitted use.

36. Policy 17: Small Institution and Public Facilities, Multi-Family Land Use Policies, is to be considered because of the RM 800 zoning of the site. That policy would permit the establishment of a public facility in a residential area because of a recognition of a positive contribution to the area through respect of community needs and provision of necessary services. Development standards for public facilities beyond those required for housing are to be established regarding light and glare, noise and parking and transportation.

37. Implementation Guideline 5 under the Policy 17, provides that "(i)nstitutions and public facilities shall not be concentrated if that concentration creates or further aggravates parking shortages, traffic congestion, and noise in or near residential areas."

38. Goals for Seattle, The Report of the Seattle 2000 Commission, has a number of goal statements which may have some application to the establishment of a precinct station.

Community, Goal A. Diversity and Freedom of Choice:

Subgoal 5. The City of Seattle shall encourage the location of residences, institutions and business with care for the integrity of those neighborhoods.

Subgoal 6. The City of Seattle shall exercise tolerance and understanding, and include all special communities and subgroups in future planning and that affects their interests.

Community, Goal D. Local determination and expression.

Subgoal 8. The City shall give preference to local determination of the kind and nature of community schools, libraries, utilities, streets and social services.

Law and Justice, Goal E, Objective No. 9.

We support the decentralization of decision-making to smaller geographic areas within the city and support strengthening the community councils. This should include decentralization of police operations and coordination with local governing bodies.

39. As suggested by the EIS, Policy No. 6; Institutions, Seattle's Growth Policies, Resolution No. 25533, may provide some guidance.

Seattle shall permit major institutions to expand as long as they are not creating redundant facilities, their expansion generates additional employment for City residents, and their impacts on surrounding neighborhoods are minimized by meeting the following conditions....

The conditions include a public review process, a traffic plan and relocation or replacement of low-income housing.

40. The Housing Assistance Plan for 1978 includes Housing Supply Policy 5: "The City shall encourage the use of government or utility-owned surplus vacant property for low and moderate-income housing where appropriate."

41. The 1981 Housing Assistance Plan includes the general Housing Policy 1: "Increase the supply of Low-Cost Housing."

42. The subject site is in an area, in the 1981 plan, where certain types of subsidized housing are not permitted. Ellen Hansen, DCD explained that while the City has a goal to produce low-income housing on sites owned by the City, the feasibility is being reassessed given the economy and lack of federal funds. Even with land at no cost DCD has found that a typical townhouse unit would cost \$60,000 to develop so housing would not be low-cost without subsidy.

43. The Atlantic Neighborhood Improvement Plan which includes the subject site recommends a change in the designation of the area from High Rise, High-Density Multifamily to Low-Density Multifamily. A zoning change to RM 800 implemented that recommendation.

44. The benefit to the Police Department of the new precinct station would be relief of conditions described as "over-crowded" by Captain Tolliver. The operational nature of the precinct would be the same at either the Public Safety Building or the new location.

45. Patrol cars are dispatched by personnel in the Public Safety Building from the cars' locations in the precinct. The Police Department, therefore, predicts no noticeable reduction in response time.

46. There would be holding cells in the precinct station. The zoning code limits detention to 24 hours. Police Department policy limits detention to 4 hours. Experience indicates that persons are not detained at the precinct station more than 30 minutes in that they are either cited and released or transferred to jail.

47. The process, with a new station, would involve an extra movement of a person arrested. Now, the arrestee is taken downtown first to the precinct station within the Public Safety Building and then to booking within the same building. With the new station the arrestee would be taken to the station in the precinct and then downtown for booking.

48. The advantage of the new station would be that the facility could be more accessible for most residents for filing accident reports and other business at the station. The station would be closer to some areas, but not necessarily to all, and would provide some visitor parking which the Public Safety Building does not.

49. A meeting room is included in the design which could be used by the public. Many meeting rooms are available in the immediate area, however.

50. The Fire Department expects no adverse effect on its operation from the establishment of the proposed precinct station. The representatives at hearing expressed hope that a benefit of increased security when the trucks are out and the doors are open might be derived. Station No. 6 has two trucks and seven firefighters on duty per 24 hour shift. The shift changes between 7:00 and 7:30 a.m. The station provides 1,400-1,500 emergency responses per year. It controls the traffic lights at the intersection and a warning signal south on 23rd.

51. Petitions bearing some 1,480 signatures and some 250 form letters opposing the precinct station are contained in the record. The reasons for opposition, taken from the oral testimony, include the following: the relationship between the minority community and the Police Department has not been good and there is no evidence that siting the station in the community will improve that relationship; the community's desires regarding a public facility to serve that community should be respected; the site should be developed with low-income or low-cost housing or other use meeting a community need; the site is

not appropriate because of social or environmental impacts; the precinct station would expend monies for development and additional operational costs (maintenance and utilities) without any substantial public benefit.

52. Speakers expressed frustration and anger that, in their view, the project is continuing despite their continued opposition. It is felt that the Atlantic Neighborhood Improvement Plan and other City policies encourage self-determination regarding land use but in this case the speakers' attempts at implementing self-determination are ignored.

53. The police-minority community relationship has not been a positive one and the groups lack of mutual respect. Speakers fear that the station will be a "concrete reminder" of that sad relationship.

54. Speakers against the proposed station expressed concern that it could have the effect of encouraging the trend toward higher land values and rents and cause more low income and minority displacement.

55. Many testified to their feeling that the police station use is not compatible with the other institutional services provided in the area - health, education and religious.

56. Three letters of support were received prior to the closing of the record for public comment. Two voiced hope for a beginning of cooperation in a quest for an improved relationship. A letter from the Judkins-Rejected Task Force in the EIS stated a belief that the station would complement redevelopment activities and the redevelopment plan for the area and would improve the poor relationship between police and community through communication and interaction. A letter from the Madison/Jackson Economic Development Council appears in the EIS supporting the station at this site as complementary to redevelopment activities and goals. The Yesler-Atlantic Project Area Committee also supports a station at this site.

57. The \$5,800,00 bond issue in 1978, with return on investment, will make \$9,460,000 available after the life of the project. The budget for the East Central Precinct is \$2,880,900. South Precinct is budgeted at \$2,583,900, North at \$3,013,900 and \$981,300 is designated for reserves and unallocated expenses. DAS expects that the three precinct stations can be completed without additional funding.

58. Section 24.30.130 requires a 15 ft. front yard setback from 23rd in front of the station. No structure may be located in the required front yard. A bus stop exists in front of the site but without shelter. DAS proposes to construct a shelter which would need to intrude 5 ft. into the required yard because of insufficient street right of way available to accommodate the shelter. To be consistent with the code requirement the shelter would otherwise have to be set 15 ft. back from the street.

Conclusions

1. Conditional use authorization may be given for a proposed use if it will not be materially detrimental to the public welfare or injurious to property in the zone or vicinity and if authorization is consistent with the spirit and purpose of the ordinance. Sections 24.72.160 and 24.74.010.

2. One help in deciding what factors should be considered in the make-up of the public welfare is often the various policies adopted by the City. Unfortunately, those which could be relevant to the question of the precinct station are not in agreement, e.g., decentralization of police operations v. avoiding creation of redundant facilities. In this case the public welfare may have to be analyzed by separating two components, the physical aspects from a more intangible corporate attitude toward the station.

3. The physical impacts of the proposed precinct station, as mitigated by the design and conditions, would not be materially detrimental to the public welfare nor would they injure other nearby properties. The scale is comparable with other institutional structures in the area and the height, alone, with most other structures, institutional and residential. The landscape design should provide a good buffer between the parking area activity and other nearby uses. The quantification of the traffic impacts shows them not to be significant by traffic engineering standards although some effects are likely to be noticed by the residents and regular drivers in the area such as those of increased left turning movements and more competition for on-street parking spaces.

4. If the public welfare includes community satisfaction with what a City furnishes a community by way of public facilities, the weight of the evidence reflects detriment since the history of opposition to this site has been long and intense.

5. It is also difficult to make an objective assessment of the consistency of the proposal with the spirit and purpose of the ordinance because of the small guidance found in the terms of the ordinance. Section 24.06.020 offers the general purpose which is "...to protect and promote public health, safety, morals, and general welfare through a well-considered comprehensive plan for the use of land." Included in Section 24.06.030, regarding the purpose of residential zones, is the statement that "(c)ertain essential and compatible public service facilities and institutions are permitted in R zones." Facilities which may be located in a residential zone are listed in Section 24.16.030. From the uses listed it is clear that inclusion in that list is not a predetermination of the uses' compatibility or essentialness.

6. To be consistent with the spirit and purpose of the zoning ordinance the proposal should, then, be "essential and compatible". The record before the hearing examiner does not show that the proposed precinct station is essential, using the common meaning of the word, to the community or the Police Department at this site. It would not shorten response time nor does the record show that it would decrease the crime rate. It would bring certain police services closer to part of the population it serves and provide the additional amenity of parking for those using the service. Neither can be considered essential. The needs of the Police Department for additional space may be an element to be considered in determining how essential a facility is. That information was not before the hearing examiner but may be additional evidence the Council may wish to consider. Based on the existing record the conclusion must be that a police precinct facility at this site is not essential.

7. "Compatible" is defined as "1: capable of existing together in harmony." Webster's New Collegiate Dictionary, 1977. The station, as designed, would be architecturally in harmony with its surroundings. Its physical impacts (traffic, lights, noise) would not be incompatible. The record suggests, however, that a police station at this site, which is considered by many to be at the hub of the Black community, would not exist in harmony with many of the more intangible aspects of the community,

e.g., its feeling of self-determination and respect. At best we could hope that the dissonance would decrease over time. The history of the relationship between the police and minority community is long, therefore any change in the relationship, reflected by attitudes on both sides, may not be swift. If our analysis is based on a correct interpretation, the proposal for this site would, then, not be consistent with the spirit and purpose of the zoning ordinance.

8. The Council must find that there would be no material detriment to the public welfare and that the proposal is consistent with the spirit and purpose of the ordinance. It is clear that the physical well-being of the public would not be harmed by granting the permit. The effect on the psychological well-being does not allow a certain conclusion as to material detriment to the public welfare. While it would be desirable to separate these two aspects of the public welfare and deal with them independently by constructing the station and then working on relationships, that may not be a realistic approach. As to the second part of the required analysis, the record before the examiner shows that the proposed police precinct station at this site would not be consistent with the spirit and purpose of the ordinance. Therefore, the recommendation to the Council must be to deny the conditional use permit.

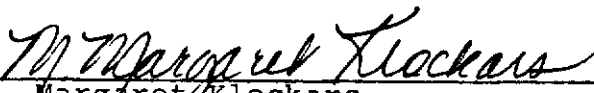
9. If the Council does determine that the conditional use should be authorized, the front yard variance should also be granted. The lack of available street right of way brings the location of the shelter in conflict with the code provision. The variance requested would be the minimum necessary. No detriment to the public welfare from intrusion into the required yard would occur since the shelter has been carefully incorporated into the landscape design.

Recommendation

For each of the above reasons, the recommendation of the Hearing Examiner to the City Council is as follows:

The conditional use permit should be DENIED.

Entered this 5th day of February, 1982.


M. Margaret Klockars
Deputy Hearing Examiner

NOTICE OF RIGHT TO PETITION FOR FURTHER CONSIDERATION

Pursuant to 24.72.090, Seattle Municipal Code, as amended, (Section 27.51 of the Zoning Ordinance 86300, as amended) any party affected by a recommendation of the Hearing Examiner may submit a petition in writing to the City Council requesting further consideration. The petition must be submitted within fourteen days after the date of mailing the recommendation of the Hearing Examiner and addressed to: City Council, Land Use Committee, Municipal Building, Seattle, Washington 98104.

The petition should state clearly and concisely the reason(s) why further consideration is necessary, and should refer specifically to any errors alleged to exist in the Hearing Examiner's Findings and Conclusions. The City Council's consideration of the petition will be based upon the record of the Hearing Examiner's hearing, and new exhibits or other evidence in support of the petition should not be submitted. In its discretion the Council may allow oral or written arguments based on the record when it considers the petition.