

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

THE SEATTLE TRADE CENTER,
JAMES D. BRAMAN, JR., AGENT

FILE NO. S-78-016

The appeal is GRANTED and the Findings and Decision of the Superintendent of Buildings are reversed.

Introduction

The appellant, the Seattle Trade Center by its agent, James D. Braman, Jr., filed an appeal from a written interpretation of the Superintendent of Buildings, herein after Superintendent, concerning property at 2600-2622 Elliott Avenue.

The appellant exercised its right to appeal pursuant to Section 25.40, Ordinance 86300, as amended by Ordinance 104795.

Eben Carlson, attorney at law, represented the appellant and Joyce C. Kling, Zoning Administrator, represented the Superintendent.

This matter was heard before the Hearing Examiner on July 10, 1978.

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 Superintendent issued a written interpretation dated June 21, 1978, at James D. Braman, Jr.'s request, relative to the proposed construction of a parking garage at 2600-2622 Elliott Avenue. The appeal was filed June 27, 1978.

2. The property is in a Manufacturing (M) zone and covers 28,000 square feet. The parking garage structure to be constructed would have a gross floor area of 145,000 square feet of which 12,500 square feet would be wholesale/showroom space. The remainder is parking space primarily accessory to the Seattle Trade Center which is across the street and will be tied to the parking garage by a skybridge, however a small part would be accessory to the wholesale/showroom space.

3. Section 19.6a, Ordinance 86300, as amended provides as follows:

" The gross floor area of any nonresidential structure not including floor area used for parking, shall not exceed two and one-half times the area of the lot, except as modified in Section 22.2." The Superintendent ruled that the exclusion of "area used for parking" does not include the area of parking which is accessory to a principal use but not on the same lot as the principal use. Therefore, only that parking area required and permitted for the wholesale/showroom part of the building and that completely underground (Interpretation dated 8/29/77) may be excluded. The appellant contends that principal use parking should be excluded as well.

4. Sections 13A.53 and 13B.53 for the Multiple Residence Variable Height (RMV) zones, 13C.51 for the Multiple Residence-Mixed Density (RM-MD) zone, 16.61(a) for the metropolitan Business (BM) zone, 17.61(a) for the Metropolitan Commercial (CM) zone, 17A.61(a) for the Metropolitan Commercial Temporary (CMT) zone, and 18.61 for the General Commercial (CG) zone of the current ordinance use the term "accessory parking" in the language of the exclusion from the calculation of gross floor for bulk regulations.

5. Prior to amendment by Ordinance 94036, Sections 16.61 and 17.61 had the language "not including the floor area used for parking...." Among other changes, the 1965 amendment modified that to read "accessory" parking. Ordinance 98698 in 1970, added "accessory" to the language of the exclusion of floor area for parking for Section 18.61.

6. Sections 20.61 for the General Industrial (IG) zone and 25.51 for the Heavy Industrial (IH) zone have language consistent with 19.61, the subject of the interpretation, in that they exclude "floor area used for parking" with no reference to accessory.

7. The primary purpose of the floor/area ratio is to limit the density of development in terms of load on utilities, streets, etc. Parking in itself does not create any appreciable additional use since it is provided only to accomodate the parking need created by other development. Exclusion of parking from the ratio is therefore consistent with that purpose.

8. A secondary reason for a bulk regulation relating to the floor/lot area ratio limiting development is to assure light and air at street level in areas where it is expected for a high quality of life - in zones where there may be residences and/or considerable pedestrian use.

9. The Superintendent contends that without this interpretation there would be no restriction on the height of a parking structure. The anomaly is that under the Superintendent's interpretation, if the parking were on the same lot as the principal use, therefore "accessory", it would be excluded from the gross floor area and hence no restriction on its height. Further, there are limitations placed on the number of parking spaces permitted by the restrictions of Section 23.31 which effectively limit the bulk of this parking structure. As the appellant correctly notes, height is not necessarily the concern of the floor to lot area ratio limitation since there is no restriction on the height of each floor. The examples cited were grain elevators and airplane manufacturing buildings.

Conclusions

1. The Superintendent's decision that floor area for accessory parking in a building on a lot separate from the principal use (therefore deemed principal use) in an M zone is not to be excluded in computing gross floor area is not supported by the language of the code, the history of amendments of similar provisions, the purpose of the provision or the effects of such an interpretation and therefore must be reversed. The section seems clear on its face that all area devoted to parking is to be excluded. Accepting the appellant's statement of the purpose of the floor to lot area ratio restriction, the reason for excluding only accessory parking in the zones which are intended to be devoted to the enjoyment of life's amenities and excluding floor area for all parking in the zones assigned to manufacturing and industry is logical. Further, the amendments to those zones of less intense use is consistent with that purpose, and the amendments of those zones and not the more intense zones cannot be ignored. The Superintendent did not offer any explanation of the Council's failing to amend the M, IG and IH sections

similar to those amended.

2. Finally, no satisfactory explanation was given to distinguish the floor space for parking on a separate lot from the floor space for parking on a lot with the principal use. With no basis for the distinction between the two, restriction of one is arbitrary.

Decision

For all of the above reasons the appeal is GRANTED and the Findings and Decision of the Superintendent of Buildings are reversed.

Entered this 20th day of July, 1978.

M. Margaret Klockars
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Deputy Hearing Examiner

Notice of Appeal

The decision of the Hearing Examiner in this case is the final administrative determination and any further appeal must be made to the courts.