

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

MADRONA PLACE LIMITED PARTNERSHIP

FILE NO. S-87-014

from an interpretation of the  
Director, Department of Construction  
and Land Use

#### Introduction

The Madrona Place Limited Partnership appeals the interpretation by the Director, Department of Construction and Land Use, concerning whether a structure proposed for 1430 - 34th Avenue meets the requirements of a mixed use building.

The appellant exercised the right to appeal pursuant to the Seattle Municipal Code, Section 23.88.020, as amended.

Parties to the proceedings were: appellant, represented by Michael Utt; and the Director represented by Guy Fletcher, senior land use specialist. Roger Leed appeared on behalf of the Madrona 2000 Committee (MUP-87-081(W)) which appeal was heard concurrently.

This matter was heard before the Hearing Examiner on February 9, 25, 1988. The record remained open to March 10, 1988 for post hearing submittals.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, unless otherwise indicated.

After due consideration of the evidence elicited during the public hearing, the following shall constitute the decision of the Hearing Examiner on this appeal.

#### Findings of Fact

1. The subject property is located at 1430 - 34th Avenue. The legal description is in the Interpretation of record and is incorporated herein by reference.

2. The subject site is zoned NCl/30'.

3. Applicant (here appellant) proposes to build on site a multifamily structure less than 40 ft. in height that would offer residential uses above ground floor commercial space. The DCLU application No. is 8701803.

4. The proposed building footprint approximates 10,000 sq. ft. with roughly 1938 sq. ft. designated as commercial space. The commercial space is clearly walled in per the plans.

5. Applicant describes his parking as open ground level parking. There is some indication that the walls were removed from planning to address a gross floor area issue.

6. A fence proposed by applicant will be located 1.5. ft. from the building along the Pike Street side and 6 ft. from the building along the alley. It is for landscape screening.

7. Columns supporting the structure will rise along the perimeter of the underbuilding parking area.

8. DCLU determined that the parking area must be included in the gross floor area.

#### Conclusions

1. The Hearing Examiner has jurisdiction of this appeal pursuant to Chapter 23.88, Seattle Municipal Code. The Director's determination is to be given substantial weight.

2. Here, DCLU has concluded that the ground level parking area underneath the proposed structure must be included in the calculation of the building's ground level gross floor area, "whether or not the parking area is open or enclosed." The DCLU determination is not in accord with the plain or ordinary reading of the ordinance and is therefore reversed.

3. The Land Use Code defines gross floor area as  
the number of square feet of total floor area  
bounded by the inside surface of the exterior  
wall of the structure as measured at the floor  
line.

Section 23.84.014"G."

4. An "exterior wall" is  
an upright member of a structure which forms  
the boundary between the interior and exterior  
of that structure.

Section 23.84.044"W."

5. Pillars form no "boundary between the exterior and interior" of the structure, although they may serve as demarcations. There is no Land Use Code definition of the term "fence." Nevertheless it is clear that the subject "fence" is to be distinguished from an exterior wall.


6. The parking area as proposed is without an exterior wall. There is, therefore, no floor area within any wall which would qualify as "gross floor area." Whether or not a wall was once planned or is possible, there is no exterior wall presently proposed and the parking area should be excluded from the gross floor area computation.

7. Since the parking area should not be included in the gross floor area, the gross floor area, "bounded by the inside surface of exterior walls" exceeds 80 percent. Per Seattle Municipal Code Section 23.47.024(B), structures with less than 40 percent of the gross floor area in street level commercial use are to be considered single purpose residential. The subject proposal cannot be considered single purpose residential under this provision.

Decision

The DCLU interpretation is REVERSED.

Entered this 25th day of March, 1988.

  
LeRoy McCullough  
Hearing Examiner

CONCERNING FURTHER REVIEW

The decision of the Hearing Examiner in this case is the final administrative determination by the City, and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any request for judicial review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within fifteen days of the date of this decision. Should such a request be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104.