

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

THE SOUTHLAND CORPORATION (7-Eleven)

FILE NO. MUP-81-075 (CU)

APPLICATION NO. 81191-0193

from a decision of the Director of the Department of Construction and Land Use on a master use permit application

Introduction

Appellant appeals the denial of a requested administrative conditional use to develop an automobile service station and gas pumps at 7314 Aurora Avenue North.

The appellant exercised its right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: the appellant by Laurie Taggart; the Department of Construction and Land Use (DCLU) by Hermia Ip.

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

This matter was heard before the Hearing Examiner on December 11, 1981.

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

Findings of Fact

1. The subject property is located in a General Commercial (CG) zone at 7314 Aurora Avenue N. The site has approximately 133 ft. of frontage on Aurora Avenue N., a major arterial; approximately 74 ft. of frontage on Winona Avenue N., to the properties north; and approximately 82 ft. of frontage on Keen Way N., to the property's south.

2. The subject site is developed with a 7-Eleven store which operates 24 hours per day as well as a Photomat business on the northern portion of the site. Vicinity development along Aurora Avenue N. is a mixture of commercial uses. Approximately one block south also on the east side of Aurora Avenue is a Texaco gas station. Businesses on the west side of Aurora include a cycle and lawn shop, cafes and a realty company.

3. East adjacent to the subject site is an area zoned and developed single family (RS 5000). Single family residences are also located southeast of the subject site across Keen Way.

4. The applicant proposes to add the convenience of 24-hour per day gasoline service to the currently operating 7-Eleven store. Proposed are three gas pumps with fuel tanks. A petition was submitted signed by customers in support of the proposal for the self-service convenience. DCLU denied the application and the applicant appealed.

5. With regard to the action proposed in this application, a declaration of non-significance (DNS) has been prepared by the responsible official pursuant to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, and is part of the record.

6. Driveway access is planned for Winona Avenue N., Aurora Avenue N. and Keen Way N.

7. Opponents of the proposal submitted letters, a petition and testimony. The general concern was that the proposal would negatively impact the well established adjacent single family areas in several ways, including increased traffic flow through the residential areas, exposure to automobile lighting, irregular hours, gasoline fumes and noise.

8. The applicant's representative testified that a vapor recovery system would be utilized in the delivery of the gas; and in view of the applicant's existing use as well as that of a gas station immediately south challenged the assertion that traffic or other matters would be increased as without foundation.

Conclusions

1. Automobile service stations are permitted as a conditional use in the subject zone pursuant to the provisions of Seattle Municipal Code Section 24.50.070, reference 24.48.060 (E), reference 24.40.040 (B). The criteria for approval of conditional uses appear in Section 24.74.010. The authorization of the conditional use should not be materially detrimental to the public welfare nor injurious to property in the subject zone or vicinity. Additionally, the conditional use should be consistent with the spirit and purpose of the zoning code.

2. The Director's decision is affirmed. Immediately east adjacent properties are zoned and developed single family. Driveway access is proposed to Keen Way N. and to Winona Avenue N., both single family residentially developed. The adjacent single family area would thus be subject to the traffic, which we conclude, will be increased resulting from the added convenience of self-service gasoline. With the driveway as proposed, particularly on Keen Way N., the single family properties would be subjected to night-time headlight glare which could not be mitigated by the proposed screening and landscaping. There was also reasonable conjecture that southbound Aurora Avenue traffic would use Keen Way and Winona Avenue in order to access the subject facility because of the traffic divider at that particular location. Further, a service station is located approximately one block south. Authorizing the requested proposal would, of necessity, increase the frequency of truck and other such delivery extant in this immediate vicinity.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 28th day of December, 1981.


Leroy McCullough
Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should an appeal 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.