

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

SUSAN JACOBS

FILE NO. MUP-83-069

APPLICATION NO. 83-251

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

#### Introduction

Appellant challenges the adequacy of the conditions imposed by the DCLU Director concerning plans to expand an existing neighboring church facility at 2728 N.E. 100th Street.

The appellant exercised her right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on November 10, and November 14, 1983.

Parties to the proceedings were: appellant by Andrew D. Shafer, attorney-at-law; project applicant Korean Presbyterian Church by Ronald G. Brown, attorney-at-law; the DCLU Director (Director) by Hermia Ip, land use specialist.

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 findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

#### Findings of Fact

1. The basic facts of this case are not in dispute. The Korean Presbyterian Church is owner of the subject site, located in the Lake City area of Seattle at 2728 N.E. 100th Street. The approximately 500 ft. by 270 ft. parcel is found on the north side of N.E. 100th Street.

2. The subject site is presently developed with an older building that measures roughly 43 ft. x 120 ft. The building's upper level is in use as a sanctuary and the lower level for Sunday school classrooms. For accessory parking parishioners use the area, unpaved, north and west of the existing building. The parking areas are below street grade and for the most part are surrounded by landscaping and natural vegetation.

3. Topographically, the subject site slopes downhill from east to west.

4. The subject property is zoned single family (SF) 7200. Development surrounding the site is single family residential. However, the church owns the vacant parcel fronting on N.E. 100th that is immediately east adjacent to the subject site.

5. The project applicant proposes to construct a two-story addition, west of the existing structure, that will house the new sanctuary. It will offer a 35 ft. north setback. The new building will approximate the existing building in size and will be within yard setback, height, modulation and other code bulk requirements.

The existing building will be used as a fellowship hall. The two buildings will be in alternating use.

6. The new sanctuary will offer a maximum seating capacity of 300. The current average church attendance for the two Sunday worship services is approximately 240.

7. In addition to worship service and Sunday school use, the church offers a 4:00 p.m. Sunday Bible Study and Saturday language classes.

8. In approximately June 1981, a contractor set up a paved basketball court near the west end of the lot. The court can accommodate 20-30 cars. The court itself is surrounded on all but its east side by a chain link fence.

9. Based on the 3750 sq. ft. of main seating area, the Code would require a minimum of roughly 47 parking spaces. Applicant proposes 74 parking stalls, 40 to the south of the buildings and 34 west and northwest of the new building. Rather than having a u-shaped access around the buildings, the church wishes to use the area of the north 35 ft. setback to accommodate emergency and other vehicle maneuverability. This would leave undisturbed the lawn-open space found to the east of the existing building. DCLU approved the transportation plan submitted by applicant.

10. Although some church attendees park along N.E. 100th Street, described as only wide enough for two cars to pass, the pastor testified that worshippers are apprised that sufficient on-site parking is available.

11. Proponent has designed no specific landscaping or drainage system to date. No paving of the parking area is currently proposed.

12. In response to DCLU's requests for comments, Metro projected that they expected no adverse impacts to water quality or to its wastewater treatment facilities. Neither the Seattle Engineering Department nor the Seattle King County Department of Public Health stated objections. Special emphasis was to be given to the drainage issue.

13. DCLU imposed five conditions on the proposal declaration of non-significance (DNS) and the required administrative conditional use, Section 23.44.22, as follows:

1. The applicant shall maintain the existing fence and provide new landscaping (minimum 5 ft. wide) along the north property line. A landscape plan shall be approved by the Department prior to construction.
2. The use of the outdoor basketball court shall be limited to 9:30 a.m. to sunset only.
3. All exterior lighting shall be directed away from the surrounding residences.
4. The applicant shall provide an adequate water retention system acceptable to the Seattle Engineering Department.
5. Loud construction equipment, including but not limited to, pavement breakers, pile drivers, jack hammers, sandblasting tools, crawlers, tractors, compactors, drills, graders, compressors and other similar equipment is strictly limited to normal working hours (8:00 a.m. to 5:00 p.m.).

14. The north adjacent neighbor submitted this appeal. In appellant's view, the chief complaints, including noise from the use of the basketball court; inadequate drainage protections; parking and automobile use impacts; and inadequate buffering of her property from the use, were not sufficiently addressed by the DCLU Director's decision. Appellant's deck overlooks the basketball court and adjoining parking lot. The present fence separates the two properties. Several neighbors echoed appellant's concerns in letter and in testimony before the Hearing Examiner.

15. One west adjacent neighbor complained that with the proposed two buildings (double roof surface) the existing runoff to his property would be doubled. That witness acknowledged, however, that as his property was the lowest in the area, existing runoff may be from alternate or additional sources. Appellant complained that the church responded to earlier drainage concerns by merely installing an earth berm and logs along the common lot line.

### Conclusions

1. In hearing, appellant stated that this appeal was also against the Director's decision not to require an environmental impact statement. However, no evidence was offered on this issue and the challenge thereto is dismissed.

2. As to the approval of the conditional use, the Director's decision is affirmed. Religious facilities may be permitted as conditional uses in single family zones pursuant to Section 23.44.22. It is undisputed that the criteria regarding institutional dispersion; demolition of residential structures; and reuse of existing structures are met. Section 23.44.22 D., E., F.

3. Section 23.44.22 G. provides that the Director may require measures to mitigate identified noise and odor impacts generated by sports facilities, on-site parking and other specified items. Subsection two states that landscaping shall be required to, inter alia, screen parking, and reduce erosion or water runoff. Light and glare is the subject of subsection I. and bulk and siting the subject of subsection J. A transportation plan is required by subsection M.

4. The Director has limited construction noise to 8:00 a.m. to 5:00 p.m. Monday through Friday, and limited basketball court usage from 9:30 a.m. to sunset. The Examiner is not persuaded that further restrictions are appropriate as a condition of the use. Section 23.44.18.D notes that the Director may impose conditions to mitigate adverse impacts where such conditions are deemed necessary for the public interest and for the protection of other properties in the zone or vicinity. While shorter basketball court hours would be deemed desirable from appellant and some neighbors' standpoint, restricted hours as a condition of the use are not necessary for the protection of the public interest or neighboring properties. It is appropriate for appellant, neighbors and applicant to reach a voluntary agreement on the use of the court facility.

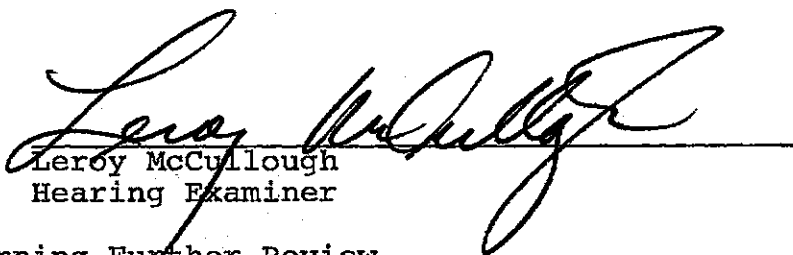
5. The concerns with drainage and water flow have also been sufficiently addressed by the Director. Engineering Department approval is required of the mandatory water retention system. (Applicant should seriously consider the advantages of an asphaltic or gravel surfaced lot, with provisions for Engineering review of drainage ramifications). Similarly, a landscape plan is required, to include new landscaping along the north property line a minimum of 5 ft. in width. The new structure has a planned 35 ft. north setback, which area is to be used for maneuverability of vehicles, and not parking. More than half of the parking spaces will be provided to the south end of the building, away from appellant's property. Again, further conditions may be desired by the appellant but in light of the foregoing have not been shown to be required for protection of the public or private

interest. Nor is it deemed necessary at the "use" stage of this application, that detailed landscaping or drainage plans be required, since the same will be mandatory prior to issuance of the building permit.

Decision

The Director's decision is Affirmed.

Entered this 18th day of November, 1983.

  
Leroy McCullough  
Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case may be the final administrative determination by the City. Reference Chapter 23.76; 25.04, Seattle Municipal Code. The request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should such 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.