

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

DAVID FOSMIRE

FILE NO. MUP-84-037(W)
APPLICATION NO. 8400706

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

Introduction

The appellant exercised his 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 June 13, 1984.

Parties to the proceedings were: James Patten for applicants; Arthur Ward for the Seattle Department of Construction and Land Use and David Fosmire, appellant, pro se.

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 subject property is located at 4111 Whitman Avenue North in the City of Seattle. This site is a half block from Aurora Avenue North.
2. The applicant desires to construct a two-story addition to an existing structure. This will increase the number of apartment units in the structure from six to fourteen. The subject property is located in an L-2 zone. The increase in size of the structure is a permissible use outright in such a zone.
3. Appellant objects to DCLU's determination that an environmental impact statement (EIS) will not be required. A declaration of non-significance (DNS) was prepared and dated April 24, 1984. No other permit action is required by the DCLU with respect to this master use permit application.
4. Appellant claims that the additional parking required by the proposed addition along with the new traffic to be generated amount to significant environmental impacts. Parking after the proposed addition is completed will occur at three stalls located at the front of the structure, a pre-existing use dating back at least to 1963, and then stalls behind the structure adjacent to an alley. Appellant claims that the additional parking and traffic will lead to an unsafe condition.

5. At the present time, tenants of the existing structure park cars on the "parking strip" in front of the subject property, in apparent violation of the traffic code. That practice will stop after construction of the proposed addition and creation of additional parking spaces in the rear of the subject property.

6. The alley behind the subject property is unimproved and it is sixteen ft. wide. DCLU will require grading and surfacing of the alley from the north line of the subject property to north 41st. Grading and a base of crushed rock will be required to north 42nd Street or to a turnaround.

7. The proposed parking area in the rear of the subject property will provide ten spaces on a gravel base. At present, there is space for three cars. The proposed plan provides for four stalls measuring 8 ft. by 16 ft.; are measuring 8.5 ft. by 16 ft.; and five measuring 7.5 by 15 ft. The size of these stalls meets the requirements of the Seattle Municipal Code. The number of stalls to be provided is consistent with the number which is required for a development of less than 20 units in this zone.

8. At the hearing, appellant stated that the parking stalls proposed for the rear of the building be marked or striped to assure use by tenants. At present, there is no requirement imposed by DCLU upon the applicant that marking or striping occur.

9. No specific evidence or testimony was received at the hearing with respect to anticipated increase in traffic flow or probable risk of injury because of the projected increase in traffic flow.

10. Appellant appeared to rely on parking standards which existed in an earlier zoning code of the City of Seattle. The present requirements of the zoning code, found at Seattle Municipal Code Section 23.54, are in conflict with the earlier zoning code and these earlier requirements standards are no longer in effect.

Conclusions

1. The decision of the Director of the Department of Construction and Land Use is entitled to substantial weight in Hearing Examiner review of his action taken under the SEPA Ordinance. See Hearing Examiner Appeal Rules Section 1.26(a); Sections 23.76.36 B.7., 25.04.200, Seattle Municipal Code.

2. The development proposed at the subject property is consistent with the development permitted outright under the zoning ordinance and the amount of parking to be required at the subject property is likewise consistent with the number of spaces required to be provided for such a development.

3. Appellant has not presented any evidence which would lead to the conclusion that the decision of the Director was wrong in light of the requirements of the zoning code requirements regarding offstreet parking for development of the type proposed in this application.

4. The argument of appellant that the applicant be required to mark or stripe the parking stalls in the rear of the subject property is reasonable. Such a requirement is apparently recognized in Seattle Municipal Code Section 23.54.30.B.1.b. It is assumed the Director will require enforcement of that requirement and any other applicable provisions of the Code.

5. Because there is no evidence from which it can be determined that the decision of the Director is wrong, the Director's decision is affirmed subject, however, to the requirement that striping or marking of the parking stalls occur as set forth in the preceding conclusion.

Decision

The Director's decision is affirmed subject, however, to the requirement that striping or marking of the parking stalls occur as set forth in the preceding conclusion.

Entered this 27th day of June, 1984.

Kelby Fletcher by [Signature]
Kelby Fletcher
Hearing Examiner Pro Tempore

Notice of Right to Appeal

Pursuant to Section 25.04.210, Seattle Municipal Code, a party to a Seattle Municipal Code Section 25.04.190 hearing before the Hearing Examiner may file an appeal with the City Council no later than the 14th day after the date the decision appealed from is filed with the SEPA Public Information Center. The appeal must be filed with the City Clerk on the 1st floor of the Municipal Building. The City Council should be consulted regarding their appeal procedure.

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any 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.

This section does not apply to Section 25.04.210 review.