

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

WONDER NATURE SCHOOL

FILE NO. MUP-84-079(CU)
APPLICATION NO. 8403098

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

Introduction

The Wonder Nature School appeals the condition placed on a conditional use limiting the number of students permitted at a school to be established at 4201 Southwest Juneau Street.

The appellant exercised its 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 21, 1984. The record was reopened at appellant's request and closed on December 10, 1984.

Parties to the proceedings were: appellant by Dorothy Jegottka, director, and the Director, Department of Construction and Land Use, 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 applicant, Dorothy Jegottka, applied for an administrative conditional use to establish a private school and day-care facility in a church at 4201 S.W. Juneau Street. The Director granted the application with a condition limiting the number of children in the school and day-care center to 50. Appellant filed this appeal.

2. The church site is at the corner of S.W. Juneau and 42nd Avenue S.W. in an SF 5000 zone. A paved alley separates the site from the properties fronting on California Avenue which are zoned BN and BC. Single family residences surround the site on all sides.

3. The appellant would operate as a school during school hours. Not all of the children in the school are expected to participate in day-care.

4. The applicant has been operating without land use approval. Of the 11 children now enrolled in the school, two are in day-care.

5. Two classrooms totalling approximately 2,426 sq. ft. in area are to be used. Eighteen parking spaces and two loading spaces are proposed.

6. The facility provides four toilets, one urinal and three handwashing sinks. With these fixtures the maximum capacity of the day-care would be 45. (Exhibit No. 6, WAC 388-73-118-1.) The Seattle Building Code standards would allow the 94 children proposed.

7. The application was unclear as to the number of children to be enrolled. The applicant clarified through her appeal that she wanted to be licensed for 94 which she understood her classroom area would allow.

8. Thirteen parking spaces and two loading spaces would be required for a school with this space, according to the Director's representative.

9. There is no other institutional use within 600 ft. of the church site.

10. Sections 23.44.22.J.2 and 23.44.14.A require a 20 ft. front yard setback. The site provides 12.5 ft.

11. Section 23.44.22.J.5 limits the length of the facades of the building to 30 ft. The front and south facades at 86 ft. and 36 ft. exceed that limitation.

12. The Seattle School District uses 38-40 sq. ft. of classroom area per child as a guideline. For kindergarten children the classroom area is usually about 20 percent larger.

Conclusions

1. Day-care centers and schools may be permitted as conditional uses in single family zones. Section 23.44.22. The decision must consider the criteria for the specific conditional use and whether the use would be detrimental to the public welfare or injure other property. Section 23.44.18.

2. As found by the Director, the criteria for day-care centers and schools are either met or a permitted exception is appropriate. Exceptions are necessary from the yard requirement for reuse of an existing structure and from the facade scale criterion.


3. The sole issue then is whether enrollment should be restricted. The public welfare is served by assuring that facilities for the children of Seattle meet at least the minimum health, safety and space standards. Using the school district guidelines for kindergarten age, the school has sufficient classroom area for exactly 50 children. The facility has toilet and lavatory facilities meeting the minimum day-care licensing requirement for 45 children. Therefore, the condition is necessary for the public welfare and the 50 children limit is appropriate only because the number of children in day-care will not be as large as the number of children in the school. Otherwise the condition should be 45.

4. It also should be noted that while the church where the school/day-care center would be operated is close to the California Avenue business strip, it is in a single family zone which has, almost entirely, single family residences. A facility with almost 100 children would bring considerable vehicular and other activity into a residential area daily.

Decision

The Director's decision to grant the administrative conditional use subject to the condition that the maximum number of students be 50, including those using the day-care facility, is affirmed.

Entered this 14th day of December, 1984.


M. Margaret Klockars
Deputy Hearing Examiner

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. Seattle Municipal Code Section 23.76.36(B)(11). 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.