

**FINDING AND DECISION
OF THE HEARING FOR THE CITY OF SEATTLE**

In the Matter of the Appeal of

NORTHWEST WALLINGFORD ASSOCIATION and MUP-90-087(W) and
CHARLES COOLIDGE MUP-90-088(W)-

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

MAR 13 1991

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INTRODUCTION

The appellant exercised the right to appeal pursuant to the Master Use Permit Ordinance (MUP) Chapter 23.76 Seattle Municipal Code .

This matter was heard before the undersigned Deputy Hearing Examiner on December 8, 1991 and continued to February 21, 1991. The record was left open for the parties to submit post hearing memorandum and for the site inspection. The record was closed on February 26, 1991.

Parties to the proceeding were: appellant, Keith Veith, *pro se*; appellant, Charles Coolidge, *pro se*; and Malli Anderson, Land Use Specialist, for the Director of Construction and Land Use (DCLU).

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

After due consideration of the evidence elicited during the public hearing, and the site inspection of the subject property and the surrounding area by the Deputy Examiner, the following findings of fact and conclusions shall constitute the decision of the Examiner on this appeal.

FINDINGS OF FACT

1. The appeals of applicant Coolidge and The Northwest Wallingford Association (NWA) were initially filed in response to a DCLU Determination of Non-Significance (DNS) with conditions. The proposal reviewed by DCLU was for a four-story mixed use building with 27 residential units and seven hotel suites. Forty-five parking spaces would be provided; 38 in a partially below grade garage and seven partially uncovered. The project would measure 160 feet in width and 51.6 feet in depth.

2. DCLU's decision of September 27, 1990 incorporated many of the design suggestions made by the appellants NWA and other community participants. By

imposing conditions which reduced the overall height, bulk and scale of the project, DCLU attempted to minimize the impact of the project on the surrounding primarily single and multi-family development. The conditions imposed by DCLU resulted in a reduction of two units (the developer had already reduced the number of units in response to design changes recommended by the community). The mitigation required an 18' by 23' notch on the two top floors of the building to simulate the appearance of two smaller rather than one large building. DCLU concluded based on parking studies by the applicant and TDA (not identified in the decision) that the parking requirement for the project was 52 cars, that proposed project provided 45 parking spaces, but that parking mitigation was not warranted because parking utilization would not increase above the 85% capacity figure defined by Seattle Engineering Department (SED) and adopted by DCLU.

3. The applicant initially appealed the requirements of the 18' by 23' "notch" taken from the upper two floors on the eastern facade, and the requirement that he provide in excess of 40 on-site parking spaces with the overflow parking to be absorbed by on-street parking.

4. The appellants NWA appealed the DNS with conditions because the mitigation measures with respect to height, bulk and scale were not sufficient to reduce the impact of the development on the adjacent properties. The appellants requested that the matter be remanded to DCLU for an EIS or that the DCLU decision be reversed and additional conditions imposed.

5. At the hearing applicant Coolidge presented a set of revised building plans which incorporated additional design changes recommended by the neighbors. Though the applicant submitted the plans, he had not made a commitment to the use of the revised plans over the plans upon which the DCLU decision and the NWA appeal was based. Neither DCLU nor the appellants had an opportunity to review the revised plans before they were submitted at the hearing. The matter was continued to allow for additional review and for the appellant to decide if he wanted to proceed with the revised project plans or continue his appeal of the issues raised under the old plan. The applicant indicated his preference for the revised plans. DCLU prepared an addendum decision to reflect its analysis of the impact of the revised plans on the neighborhood. Hereafter, all analysis is based on the revised project plans.

6. The proposed project still proposes 27 residential units and seven hotel suites. The proposed project will have 39 below grade spaces and will reduce the number of partially covered spaces from five to two spaces for a total of 41 spaces. The revised project will have approximately 29,056' of gross floor area and 8,897.5 square feet of underground garage.

7. To accommodate concerns regarding the height, bulk and scale impact on the surrounding properties, the applicant redesigned the building. The length of the building was broken by separating it into two portions rather than one large portion.

The modulation was extended from the first floor to the roofline and the building was modulated on all four sides instead of just one side. Many of the feasible design recommendations of NWA were incorporated. The gabled roof was changed to a hip roof and the third and fourth floors were set back with decks. The materials and colors chosen for the exterior were selected to increase the perception of less bulk. All of the revised design changes were to reduce the perceived bulk of the building.

8. DCLU maintained its position that the mitigations imposed with the prior decision were sufficient, but that the revised mitigations offered the "preferred alternative." DCLU would not require the applicant to install a pitched roof with dormers, because it was DCLU's judgement that it would result in an unwarranted loss of units.

9. Appellants NWA were not satisfied with the revised plans, arguing that there was still a problem of the building being grossly disproportionate to other buildings in the area. The appellants were also still concerned that the reduction of two parking spaces under the revised plan would increase the impact of the mixed use building on the surrounding neighborhood.

10. The subject property is located in a Commercial 1 zone with 40 foot height limits. The property is located on the southeast corner of Aurora Ave. N. and N. 50th St. Aurora Ave. is a major traffic corridor. The property is south of Woodland Park. The subject property slopes down from west to east. The north half of the site abuts a Low-rise 2 zone. The south half of the site abuts a single family residence which is in the CL/40 zone. The house is several feet below the grade of the subject property. There is a retaining wall between the subject property and the house. The Single Family 5000 (SF5000) begins immediately to the east of the house. Development in the SF zone is primarily single family and multi-family dwellings.

11. The proposed project is substantially larger than the single and multi-family development to the east. Because the property is at a higher elevation than the surrounding one and two story single family residences it appears to "loom" over the surrounding development. The proposed project is also larger than commercial development in the area.

12. DCLU relies upon the traffic generation rates by the Institute of Transportation Engineers (ITE) for traffic estimates. ITE estimates that the 27 apartment units will generate approximately 164.7 trips per day (27 X 6.1 vehicle trips per unit per day). To reduce the impact of the increased traffic on the residential neighborhood to the east, the entrance to the underground parking has been located on N. 50th across from Woodland Park. The entrance to the ground level parking for the hotel will be from Aurora N. to separate the commercial use from the residential area. The increased traffic generated by the project will have some adverse impact on the surrounding development, but the increase is not significant and there has been, through the relocation of the entrances to the parking facilities, mitigation on the impact of traffic.

13. The applicant conducted a parking utilization study in compliance with the Seattle Engineering Department's (SED) procedures. The study area was 600-800 walking feet from the project area and was conducted on two days at 9:00 p.m. The total parking capacity is 105 cars. The parking utilization average during the two day period was 54%.

14. DCLU, using a TDA parking study for multi-family use prepared for the city, estimates the projected parking demand for the multi-family use averages 1.5 cars per unit. The 27 multi-family residential units parking demand will be 40.5 or 41 spaces. The ITE ratio for parking demand is 0.7 spaces per suite. The estimated parking demand for the seven hotel suites will be 4.9 or 5 spaces (7 X 7 suites). The total parking demand for residential and hotel would be 46 spaces. In its decision, DCLU concluded that the parking requirement for the project would be 52 cars. Since the project was only providing 42 spaces there was a 10 car overflow. The undersigned was unable to determine the basis for the 52 parking space estimate. There appears to be a total demand of 45 spaces and a provision of 41 spaces. Rather than a ten car overflow, it appears there will be an 4 car overflow.

15. Based on the parking utilization study, DCLU concluded that the reduction in the on-site parking of two parking spaces and the overflow parking would not substantially impact on street parking in the area.

16. The Seattle Engineering Department (SED) has published Guidelines for Typical Residential Parking Utilization outlining specific procedures for obtaining an accurate parking utilization rate. The appellants NWA have not complied with the procedures and therefore, their study cannot be given as much weight as the appellant Coolridge's study.

17. DCLU also proposed additional conditions to mitigate the short term environmental impacts from construction activities. Some of the construction related impact were mitigated by existing codes such as the Grading and Drainage Control Ordinance, The Street Use Ordinance, and the SEPA Noise Policy. Under the authority of the SEPA Noise Policy, DCLU restricted the hours to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m. DCLU imposed conditions on activities that were not addressed in the existing codes such as procedures for construction worker parking. These conditions were not contested on appeal.

CONCLUSIONS

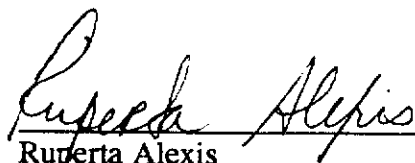
1. The Examiner has jurisdiction of this appeal pursuant to Chapter 23.76, Seattle Municipal Code.

2. The Director's decision on SEPA determinations must be given substantial weight. The burden is on the appellant to prove the Director's decision is in error. SMC 23.76.022(c)(7).
3. An environmental impact statement (EIS) is required when the proposed action will have a significant affect on the quality of the environment. SMC 23.05.330.
4. The Director of DCLU has the authority to require height, bulk and scale mitigation of the adverse impacts of a proposed development pursuant to SMC 25.05.675. Mitigation is appropriate in this matter because the size of the proposed building combined with the unusual topography of the site will result in a building that is larger than the primarily single and multi-family development in the surrounding area. DCLU has imposed substantial mitigating measures on the proposed building through the adoption of the recommendations of the community participants. The applicant has made additional design changes to further impact the adverse impact of the building on the surrounding neighborhood. It is important to note that the amount of mitigation DCLU can impose is limited by the SEPA overview policies which provide that the policies are to protect the environment, and provide for reasonable property development and predicability of land use regulation. SMC 25.05.665. The revised project, and the mitigating measures imposed by DCLU substantially reduce the adverse impacts of the proposed project.
5. Before a discussion of the parking related issues, it must be brought to the attention of the parties that based on appellant NWA's inquiry, DCLU has confirmed that SMC 23.54.015 was not adopted by the Council and was erroneously published as an adopted ordinance in the Land Use Code. The result of deleting that provision of the ordinance is that DCLU is authorized to mitigate adverse parking impacts under SEPA. The applicable SEPA provisions for parking mitigation for multi-family development provides that mitigation may be required only where on- street parking is at capacity as defined by the SED or where the proposed development will cause on-street parking to reach capacity as defined. SMC 25.05.675. The SED has traditionally used an 85% capacity figure when determining on street parking utilization. The existing parking utilization is approximately 54% and the proposed project's parking overflow of four cars would not cause utilization to exceed 85%.

DECISION

The DCLU determination of non-significance with the conditions imposed in the original decision and the conditions imposed in the revised plans is AFFIRMED.

Entered this 13th of March, 1991.


Ruperta Alexis
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW

Pursuant to Seattle Municipal Code Section 23.76.024, a party to the hearing before the Hearing Examiner may file an appeal with the City Council no later than the fifteenth day after the date of the decision appealed from is filed with the SEPA Public Information Center, 5th Floor Municipal Building, 684-8322. The appeal statement must be filed with the City Clerk on the first floor of the Municipal Building. The City Council's review on appeal shall be limited to the issue of compliance with Section 25.05.660. The City Council Land Use Committee should be consulted regarding further appeal specifics.

If an appeal is taken pursuant to Section 23.76.024, the time for filing a request for judicial review of the underlying governmental action and/or other SEPA issues is stayed until the City Council renders a final decision on this City Council appeal.