

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

In the Matter of the Appeal of

KAPPA ALPHA THETA CORPORATION

FILE NO. MUP-89-003(V)  
APPLICATION NO. 8802506

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

Introduction

The appellant exercised the 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 April 17, 1989.

Parties to the proceedings were: appellant by Frank Karreman, pro se, and the DCLU Director by Jay Laughlin, 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. Frank Karreman for the Kappa Alpha Theta Corporation applied for a master use permit to expand the structure located at 4521 17th Avenue N.E. DCLU denied the variances required for the project and applicant submitted this appeal.

2. The subject property is located approximately 160 ft. north of N.E. 45th Street within the University of Washington's "Greek Row." The principal campus is south of N.E. 45th Street.

3. The proposal site is within the Lowrise 3 (L-3) zone. Interim Ordinance 113858 limits the height of properties within the L-3 zone to 30 ft.

4. The proposal site is a relatively level parcel. The lot has 80 ft. of frontage to 17th Avenue N.E. and is 108 ft. deep. The lot area is 8,640 sq. ft.

5. To the rear (west) of the lot is a north-south alley that connects N.E. 47th and N.E. 45th Streets. The alley is paved and is 14 ft. wide. A church accessory parking lot is directly west of the alley.

6. The site is currently developed with a three-story sorority structure that has a footprint of approximately 5,300 sq. ft. As were the majority of other Greek Row structures, the subject construction pre-dated the adoption of the present Land Use Code.

7. The present structure exceeds current code height, rear setback and side setback limits and is therefore nonconforming.

8. Prior to January 1987, the sorority owned two residential properties. Because of the distance between the units and the desire to consolidate meals and other functions, the sorority sold their 19th Avenue N.E. property and now seek to utilize the single building on 17th N.E., the subject

property, for the sorority.

9. Accordingly, applicant proposes a fourth floor addition that would house approximately 20 students. The addition would be set back approximately 17 ft. from the eastern facade. The 3,000 sq. ft. of floor area would be primarily located over the west (rear) portion of the existing structure such that existing setbacks would be maintained. Included within the new area would be ten new bedrooms, a lounge, a storage area and a washroom.

10. In applicant's opinion, the new addition will be perceived by passersby as an attic. The addition's height would not exceed that of the present main roof ridge. However, the new roof's highest point, 43 ft. 9 in. above grade, would exceed the L-3 height limit and would be 9 in. higher than the top plate of the existing third floor.

11. Vicinity development is mixed. In addition to sorority and fraternity houses, several boarding houses, single and multifamily structures and student organization facilities are nearby. Churches and accessory lots are also located within the immediate area. Included among those is the University Congregational Church at 4515 - 16th N.E.

12. The University Congregational Church objected to the proposal for several reasons. One major concern is the present over-capacity parking that currently exists in the area. The church owns the parking lot across the alley from the subject property. In response to unauthorized uses of the lot, the church installed a fence along their parking lot's east and north sides. Although the number of unauthorized parked vehicles has since decreased, vehicles still park in the church lot and the drivers have been observed to exit the vehicles and traverse the alley to the east. The evidence supports no finding that all or the majority of the parking violators are residents of or visitors to the subject property.

13. The church also objected that approval would lead to an unwarranted precedent for other expansions.

14. In addition to seeking variance relief for height, side and rear setback provisions, applicant proposes three instead of the required six spaces for the project.

15. As noted above, parking is regularly at or above capacity in this vicinity. A Residential Parking Zone was recently established for the area between 15th and 22nd Avenues N.E. along N.E. 50th Street. The RPZ limits nonresident parking to two hours.

16. Applicant provided several examples of projects that are similar in scope and design to that proposed. Among those are three and four-story structures at 17th N.E. and N.E. 45th; 16th N.E. and N.E. 45th; and the northwest corner of N.E. 47th and 17th N.E. However, none was indicated to have been completed after variance relief and subsequent to interim zoning controls.

17. In comparison with other sorority, fraternity or other housing developments in the vicinity, the subject property is markedly nondistinguishable. Many of the properties have alley frontage and have some sloping frontage.

18. The design for the proposed addition is considered as a sensitive one.

#### Conclusions

1. The Hearing Examiner has jurisdiction of this appeal pursuant to Chapter 23.76, Seattle Municipal Code. Pursuant to Seattle Municipal Code Section 23.76.022C.7, no deference is accorded the DCLU Director's decision on a variance application.

2. All variance criteria must be met in order for relief to

be granted. Seattle Municipal Code Section 23.40.020C. Because the criteria are not met, the variance is properly denied.

3. The subject property is adjacent to an alley and sloping topography. It is within an L-3 zone that has a 30 ft. height limit imposed pursuant to interim controls. The existing footprint, established prior to present Land Use Code implementation, presents nonconforming rear and side yard setbacks. These characteristics are not "unusual conditions applicable to the subject property..." Rather, these conditions are shared by several similar vicinity developments. Seattle Municipal Code Section 23.40.020C.1.

4. Approval of the variance would constitute a grant of inconsistent special privilege to the applicant since no other similarly situated property has been afforded variance relief, per the record, prior or subsequent to the present interim height or other controls. Seattle Municipal Code 23.40.020C.2.

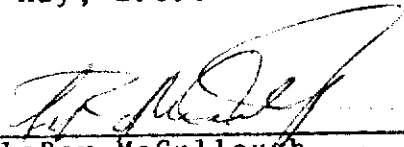
5. Variance approval would be of precedential, material detriment to the public welfare, and would be violative of the spirit and purpose of the Land Use Code and Policies, particularly as embodied in the interim L-3 controls. Waiver of any parking in this over-capacity congested parking scenario also would be materially detrimental. This is because it is reasonable to expect that the increased residency and square footage from the addition will increase the visitor, residency or other demand for vicinity parking. Section 23.40.020C.3, C.4.

6. No undue hardship would be presented by this variance denial. Seattle Municipal Code Section 23.40.020C.4.

#### Decision

The request for variance relief is denied.

Entered this 2nd day of May, 1989.

  
LeRoy McCullough  
Hearing Examiner

#### CONCERNING FURTHER REVIEW OF HEARING EXAMINER FINAL DECISIONS ON MASTER USE PERMITS

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22(C)(12)(c).

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, Seattle, Washington 98104, (206) 684-0521.