

BEFORE THE HEARING EXAMINER

CITY OF SEATTLE

In the Matter of the Appeal of

THE MADRONA 2000 COMMITTEE

FILE NO. MUP-87-081(W)
APPLICATION NO. 8701803

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

ORDER AND DECISION

Procedural Synopsis

1. This matter concerning property addressed as 1430 - 34th Avenue was heard before the Hearing Examiner on February 9 and 25, 1988. The record remained open to March 10, 1988 for post-hearing submittals.

2. By Decision entered March 25, 1988, the Hearing Examiner affirmed the determination of nonsignificance but remanded the application to DCLU for further consideration of specifically the west facade. By said Hearing Examiner decision, appellant was given seven business days within which to specify written objections to the DCLU supplemental decision. It was further indicated that the Hearing Examiner reserved the decision on whether any further public proceeding would be required.

3. On June 17, 1988 the Office of Hearing Examiner received DCLU's supplemental Memorandum of recommended revisions, with plans, pursuant to the March 25, 1988 decision. Official notice of the memorandum was not issued to appellant.

4. On July 13, 1988, DCLU submitted to the Office of Hearing Examiner revised plans "in response to, and (which) conformed with" the June 17, 1988 Memorandum.

5. By order entered July 14, 1988, the Hearing Examiner allowed appellants to July 22, 1988 to object to the DCLU June 17, 1988 memo.

6. On July 22, 1988 the Office of Hearing Examiner received appellant's comments.

Findings of Fact

1. Except as modified hereby the Hearing Examiner Findings of March 25, 1988 are here restated and incorporated herein by reference.

Conclusions

1. Except as modified hereby the conclusions of March 25, 1988 are here restated and are incorporated herein by reference.

2. In accord with the revised plans dated July 11, 1988, the following modifications to the west facade will serve to promote the pedestrian, distinctive character of the existing commercial area and are imposed as conditions of approval of the project pursuant to Chapter 25.05, Seattle Municipal Code.

(a) The first floor west facade level should be glass, including framed openings, with the exception of structural columns and with the exception of any abbreviated solid area from the sidewalk to the bottom of the glass frame

(b) The panels above the doors and windows, and above the additional glass, should have fenestrations with vertical mullions, spaced at 4-8 inches to reflect the transoms or relites on existing commercial buildings.

(c) The door at the south end of the building's west facade should be solid.

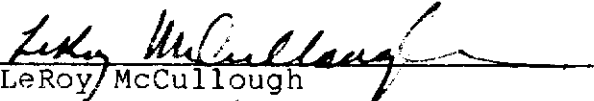
(doors and adjacent windows) should be recessed 3 ft. from the building's west facade.

(e) The awning should wrap around the building's northwest corner and extend, at a minimum, over the commercial spaces.

Decision

As modified by the foregoing, the DCLU decision is AFFIRMED.

Entered this 5th day of August, 1988.


LeRoy McCullough
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 the City Council appeal.

If no appeal is taken to the City Council, 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 request for judicial review of the decision on the underlying governmental action must be filed in King County Superior Court within fifteen days of the date of this Hearing Examiner decision. Seattle Municipal Code Section 23.76.22(C)(12)(c). Judicial review under SEPA shall without exception be of the decision on the underlying governmental action together with its accompanying environmental determinations. RCW 43.21C.075(6)(c). SEPA issues may be added to the request for review within 30 days after the date of this decision if a notice of intent to seek judicial review of SEPA issues is filed with the Director of the Department of Construction and Land Use, 400 Seattle Municipal Building, Seattle, Washington 98104, within fifteen days of the date of this decision. See Chapter 43.21C. RCW and Chapter 25.05, Seattle Municipal Code.

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 written transcript of the hearing but will be reimbursed if successful in court. Instructions for preparation of the transcript are available for the Office of Hearing Examiner, 400 Yesler Building, 5th Floor, Seattle, Washington 98104. As an alternative to the written transcript, RCW 43.21C.075(6)(b) provides that a tape may be used for court review. If a taped transcript is to be reviewed by the court the record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review.

BEFORE THE HEARING EXAMINER
CITY OF SEATTLE

RECEIVED

JUL 14 1988

In the Matter of the Appeal of

THE MADRONA 2000 COMMITTEE

FILE NO. MUP-87-081 (PUBLIC)
APPLICATION NO. 8701803
SEPA INFORMATION CENTER

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

ORDER

1. This matter concerning property addressed as 1430 - 34th Avenue was heard before the Hearing Examiner on February 9 and 25, 1988. The record remained open to March 10, 1988 for post-hearing submittals.

2. By Decision entered March 25, 1988, the Hearing Examiner affirmed the determination of nonsignificance but remanded the application to DCLU for further consideration. By said Hearing Examiner decision, appellant was given seven business days within which to specify written objections. It was further indicated that the Hearing Examiner reserved the decision on whether any further public proceeding would be required.

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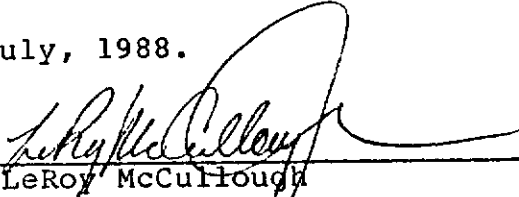
4. On July 13, 1988, DCLU submitted to the Office of Hearing Examiner revised plans "in response to, and (which) conformed with" the June 17, 1988 Memorandum.

Pursuant to the foregoing, the Hearing Examiner enters the following order:

Any objection from appellant to DCLU's June 17, 1988 memo (as confirmed by DCLU's July 13, 1988 submittal) must be in writing and received in the Office of Hearing Examiner by Friday July 22, 1988. All other procedural conditions related to supplemental Hearing Examiner review shall remain as indicated in the Hearing Examiner decision of March 25, 1988.

Copies of the June 17 and July 13 DCLU memoranda are attached. The plans are available for review at the Office of Hearing Examiner.

Entered this 14th day of July, 1988.


LeRoy McCullough
Hearing Examiner
400 Yesler Building, 5th Floor
Seattle, Washington 98104
Telephone: (206) 684-0521

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

MADRONA 2000 COMMITTEE

FILE NO. MUP-87-081(W)

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

APPLICATION NO. 8701803

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 February 9, 25, 1988. The record remained open to March 10, 1988 for post hearing submittals.

Parties to the proceedings were: appellant by Roger Leed, applicant by Michael A. Utt, and the Director of the Department of Construction and Land Use by Cheryl Waldman, land use specialist. This appeal was heard concurrently with the appeal of S-87-014.

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. Applicant proposes to demolish an existing service station structure and to establish on-site a building with residential units and ground level retail space. This Hearing Examiner decision concerns the request by appellants that an environmental impact statement be required or that further conditions be imposed.

2. The subject property is located at the southeast corner of 34th Avenue and East Pike Street in the Madrona neighborhood. It has 100 ft. of frontage on north adjacent East Pike Street and 100 ft. of frontage on west adjacent 34th Avenue.

3. The subject site is part of a block face which extends from East Pike Street south to East Union Street. The block face is zoned Neighborhood Commercial 1/30 ft. height limit as is the block face directly across 34th Avenue, west. Directly north of the site, across East Pike Street, is property developed as a park. East adjacent to the site is a 10 ft. wide alley of crushed gravel that separates the subject block front from a SF 5000 block front that faces east to 35th Avenue. This 35th Avenue block front is developed with single family residences all but one of which faces 35th. The one exception is a single-story house that fronts on East Pike Street.

4. Vicinity development includes the Al Larkins Park which is directly north, across East Pike Street from the subject site. The park extends from 34th to 35th Avenue. Although visited year round by neighbors and others, the Park's most frequent use is in the summer.

5. Directly south of the subject site is the Carolyn Downs Medical Clinic site. The clinic had been providing up to eight parking spaces to the clinic's north, i.e. on the subject pro-

erty. The proposal to develop the site would require and has required the relocation of the clinic parking onto surrounding streets. This has created some hardship for the clinic and has compounded the parking circumstance of the immediate area. The Top Spot Cafe owner testified that after barricades were erected on the subject property, customers were unable to find local parking in order to patronize her cafe.

6. West of the site, across 34th Avenue, is an auto repair business.

7. The Madrona Business District includes a health food store, pharmacy, a video rental shop, a dry cleaner, a popular cafe and other uses. Also within the vicinity is the Madrona School (33rd and East Union), the Ephiphany School and Saint Terese School. A local library is located at the southeast corner of 33rd and East Union.

8. The businesses along 34th are generally one and two story facilities, some with large windows and principal openings to 34th Avenue.

9. East Pike Street is a 25 ft. wide roadway and is one of the few local streets that provides access to the neighborhoods that are east and downslope of 34th Avenue. Parallel parking on both sides of East Pike Street make it more challenging to negotiate, particularly proceeding up the hill to the west.

10. The primary vehicular access to the site and through the vicinity is 34th Avenue, "a two-lane collector arterial" which also allows parallel parking on both sides of the street. South of the East Pike Street, commercial uses are found along both sides of 34th Avenue. Some people park along 34th and take the bus to downtown Seattle. The Hearing Examiner finds that this state of affairs was enhanced by a local business effort to successfully remove 2-hour parking limitations along this section of 34th Avenue.

11. Transit service is available on 34th Avenue. One stop is located adjacent to the subject site at 34th and East Pike.

12. Applicant proposes to erect on site a building with ground-level commercial space and accessory parking and a three-story high residential portion. The second floor would have a partial third floor with lofts for below units. Proposed are 19 one-bedroom units, five one-bedroom units with lofts, one two-bedroom unit, and one two-bedroom unit with a loft.

13. The west and south building facades would be at the respective lot lines. The north facade would be set back 5 ft. at grade but would project to with 1.5 ft. from the north lot line at the upper levels. A 6 ft. high fence is proposed for the east property line.

14. The proposed building will extend to 35 ft. maximum height, in structural center. It will be of greater bulk than the south adjacent Carolyn Downs Clinic which is generally two-stories. Presently the south wall of the proposed structure will be a blank wall.

15. Another adjacent structure, facing Pike Street, is approximately 24 ft. in height, generally consistent with the proposed height of the proposed structure's adjacent extremity.

16. The plans considered for the master use permit SEPA review show roughly 2300 sq. ft. of open space, some of which would be on the second floor and some on the roof. The plans also show some 1900 sq. ft. of street front commercial space proposed for the ground floor oriented to 34th Avenue.

17. Also at ground floor level would be on-grade parking for 27 vehicles that would access the site via a 22 ft. wide curb cut to East Pike Street.

18. In general, the bitter community reaction to the original proposal (29 residential units, 700 sq. ft. of commercial space) is the same as to the revised proposal (26 units, 1900 sq. ft. of commercial space). One resident complained that a (29) unit structure is too large to insert into this neighborhood and would inevitably attract transients. A related concern was that the transients would jeopardize the strong neighborhood feeling. Others added that the traffic expected to be generated from the volume of commercial and residential use would be dangerous to children and other pedestrians, particularly those who are en route to or from the north adjacent Al Larkins Park.

19. Still others complained that the amount of commercial proposed area was insignificant and that proposed that the limited fenestrations and door openings proposed along 34th are at extreme variance with the "charm" and congeniality of the existing commercial uses fronting on 34th Avenue. The Hearing Examiner finds the proposed frontage to be consistent with the general pattern and with that of typical commercial uses. Related to this is the community view that this proposal could set a precedent for other more apartment house development, particularly in the commercial area, and that this apartment development could come in under the guise of commercial-residential development.

20. The president of the Madrona Community Council indicated concern with project scale, design, bulk, density, and with the anticipated impact on traffic and parking. The MCC is not opposed to development per se of the site.

21. The Downs Clinic has 20 staff members. Some 20-40 patients come to the clinic per day by bus or car. The building approximates 20-25 ft. in height and some 80 percent lot coverage.

22. Along 34th Avenue from East Pike Street south two blocks to East Spring Street are some 10 properties that could be considered as underdeveloped. These include the Downs Clinic, one duplex, the project (subject) site and five houses. Each of these properties generally has a frontage of 50 ft. to the NCl district (34th Avenue).

23. There is insufficient evidence from which to find that the subject project will cause the referenced "underdeveloped sites" to be developed in a manner or to a tenant:commercial ratio as is proposed by the subject project. There is, however, at least one multifamily developer who has an offer on 1421 - 34th Avenue and who would construct a first floor commercial, second and third story commercial structure with first floor parking.

24. The worst shadow on the north adjacent park will occur on December 22 around 3:00 p.m. There would be little shadow impact in the spring and summer.

25. There is a strong demand for increased Madrona area rental properties.

26. Seattle Engineering Department guidelines give an 800 ft. radius for residential parking studies. The generally accepted ratio for the number of auto trips per residential unit is per day 6.6; for commercial "worst case", retail use, up to 80 trips per day.

27. For the 800 ft. (28 block) study area, the parking space counts range from a high of 480 (consultant's report) to a low of 381 (community report). The SED figure was 430.

28. The DCLU modified study area covered 11 blocks, principally 33rd, 34th and 35th Avenues between East Union Street (southernmost) to the southern edge of East Pine Street which is one block north of the subject site. The revised study area extended farther south to Spring Street along 34th. Exhibit 15.

For this area there is a range of 190 (community) to 228 (consultant) on-street parking spaces.

29. The Hearing Examiner finds that the average daytime weekend utilization for the segment of 34th Avenue between East Pike and East Union Streets approximates 91 percent and the average weekend utilization 49 percent. The average daytime weekend utilization for other blocks within the modified study area range from 18-68 percent, the latter on 33rd Avenue between East Pike and East Union Street.

30. Some of the data provided in applicant's consultant report fails to represent the common state of affairs, however. For example, the data shows no parking on East Pike Street by Larkins Park on April 22, 11:30 p.m.; April 23, 11:30 p.m.; May 5, 10:00 p.m., April 25, 10:30 a.m.; May 2, noon; or May 3, 10:00 a.m.

31. The Hearing Examiner finds from the great weight of the photographic evidence and testimony that parking generally occurs along East Pike Street between 33rd and 34th Avenues. For this reason, the average parking utilization for that block is slightly more than indicated by applicant's consultant. Parking along this segment may be impacted by the proposal although it is noted that a curb cut exists presently from the subject site to East Pike Street and to 34th Avenue.

32. The Hearing Examiner finds that within the modified study area parking utilization during midweek evenings after 10:00 p.m. varies from 46-49.5 percent; and for Saturday mornings, from 57-58 percent.

33. The proposed 26 units would generate a parking demand of 39 spaces, at 1.5 vehicles per unit. With 27 spaces provided on-site, the overflow would be 12 vehicles. The Hearing Examiner finds that the overflow could be accommodated within the modified study area. This finding accords with an SED finding that there "appears to be adequate on-street parking available to accommodate spillover demand from this project." The commercial space could lead to a parking demand for on-street parking for 10 additional spaces, assuming inability of commercial drivers to park on site. Such a spillover could be accommodated within the modified study area although 34th Avenue daytime weekend average utilization is extreme between East Pike and East Union Streets.

34. The expected 170 trips over the course of a day from expected residential use would not substantially impact the East Pike average daily traffic count. Some extra caution would be required because of the vehicular exit's proximity to the park and to other pedestrian routes.

35. The Level of Service for 34th and East Pike Street, "A," would not be impacted by the proposal.

36. The Hearing Examiner finds in accord with the Seattle Engineering Department conclusion that "the additional projected volumes will not effect (sic) the operation of existing streets and traffic controls in the area to any significant degree."

37. Although the 34th and East Pike intersection presents as an area for special vehicle caution, there have been few accidents. Within the past 3 years approximately, there was one reported and recorded accident.

38. The DCLU conditions to issuance of the permit pursuant to SEPA were as follows:

CONDITIONS

Prior to Master Use Permit Issuance

The owner(s) and/or responsible party(s)
shall:

1. Submit a detailed landscaping plan to the Land Use Review Section for approval by the Land Use Specialist. The plan shall include, at a minimum, a landscaped berm along the east property line, and a five-foot deep landscape area along the north facade to provide a transition in scale between the commercial and residential zones.

During Construction

The owner(s) and/or responsible party(s) shall:

1. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby properties, limit the hours of construction to non-holiday weekdays only, between 7:30 a.m. and 6:00 p.m.

2. To reduce the traffic impacts of construction, provide construction workers with parking on-site when feasible, as determined by the Department of Construction and Land Use Construction Inspector.

Prior to Occupancy

The owner(s) and/or responsible party(s) shall:

1. Provide landscaping according to the plan approved by the Land Use Specialist, to reduce the impact of bulk and scale. The owner(s) and/or responsible party(s) shall submit to the Construction Inspector an affidavit from a landscape professional that the landscaping is installed per plan.

2. Direct and shield illumination of parking areas and building exteriors so that all lighting is contained on the property and nearby properties or street traffic are not affected by light or glare.

Permanent for the Life of the Project

The owner(s) and/or responsible party(s) shall:

1. Maintain all landscaping per approved plans.

2. Direct any exterior illumination downward, and shield or direct away from street traffic and properties within line of sight.

Conclusions of Law

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

2. At issue is whether the DCLU Director erroneously issued a determination of non-significance as opposed to requiring an environmental impact statement. Also at issue is whether conditions imposed on the permit pursuant to SEPA were adequate.

3. In appeals of this nature, the determination of the DCLU Director is accorded substantial weight and the burden of showing her decision to be clearly erroneous falls to the appellant. Seattle Municipal Code Section 23.76.022(C)(7). Brown v. Tacoma, 30 Wn. App. 762, 637 P.2d 1005 (1981).

4. Initially, the DNS at issue is not a "mitigated DNS" per

Seattle Municipal Code Section 25.05.350. There is evidence of record that applicant met with DCLU to consider minimizing impacts. The record fails to reflect, however, that DCLU, the lead agency, indicated to applicant that a determination of significance and an environmental impact statement would likely be required. Seattle Municipal Code Section 25.05.350(B). Therefore, the procedure is properly framed under Section 25.05.660 and the mitigations permitted by agency SEPA policies are the appropriate ones to review in the question of whether reasonable mitigation measures were imposed. Seattle Municipal Code Section 25.05.350(C).

5. If the responsible official determines that a proposal may have a probable significant adverse environmental impact, a determination of significance is required. Seattle Municipal Code Section 25.05.360. If no probable significant adverse environmental impact is determined, a determination of nonsignificance shall issue. Section 25.05.340. Notwithstanding issuance of a DNS,

Any governmental action on public or private proposals...may be conditioned or denied under SEPA to mitigate the environmental impact

upon specific conditions. Mitigating conditions must be "reasonable and capable of being accomplished." They shall also be based on "policies, plans, rules, or regulations formally designated in Section 25.05.902 as a basis for the exercise of substantive authority..."

Seattle Municipal Code Section 25.05.660(A)(1)(3).

6. Seattle Municipal Code Section 25.05.782 defines a "probable" impact as one that is "likely or reasonably likely to occur" as opposed to one that is "remote or speculative." Section 25.05.794(A) defines "significant" as a reasonable likelihood of more than a moderate adverse impact on the quality of the environment. The subsection continues that

B. Significance involves context and intensity...The context may vary with the physical setting...

7. Generally, the responsible official shall approach the threshold question of whether an EIS is required for a proposal by review of the environmental checklist. Seattle Municipal Code Section 25.05.330.

8. If the review of parking impacts were to be limited to the commercial area, there would be a stronger basis for indicating that the proposal would produce probable significant adverse impacts. The evidence shows that 34th Avenue is already impacted by long term parking, particularly from East Pike to East Union. However, the weekday commercial use would result in a likely overflow of 10 or less vehicles, assuming no on-site parking is provided. Further, the evidence is clear that the side streets within the modified study area have the capacity to absorb commercial or residential overflow weekdays, weekday evenings and on weekdays. The record suggests inconvenience to the residents of those other segments but no significant impact to the street use. Although the increased parking demand will constitute some adverse impact, the impact will not be significant.

9. Nor does the record show that the anticipated traffic will constitute a probable significant impact. The 6.6 trips per day per unit will have no more than a moderate effect on the East Pike Street or 34th Avenue traffic flow. The East Pike - 34th intersection has a low accident record. The 34th - East Union intersection is at level of service A, the highest standard, and will not be particularly decreased by either the anticipated commercial or traffic flow. Also the site is near public transit service.

10. The proposal site is an NCL/30'- zoned site located across one street from other commercial uses; from another street by a park and across an alley from an opposite facing, single family zoned single family dwelling. The proposed perimeter heights are consistent and compatible with the heights of adjacent uses. The proposed building is set back from more northerly single family homes by a park and a public right-of-way. Its height increases toward the building center. Shadow-related height, bulk and scale impacts on the adjacent park are adverse, but are not so lasting, frequent or intense that they qualify as "significant." In this context, the burden of showing these impacts to be significant was not met. Seattle Municipal Code Section 25.05.794(A). The DNS is affirmed.

11. The next issue is whether DCLU imposed sufficient mitigating conditions on the permit pursuant to their SEPA authority, Seattle Municipal Code Section 25.05.660. The record reflects no evidence that the subject proposal will induce, "due to a causal relationship," other developments which ultimately will affect "public facilities and services, natural systems or the surrounding area." The evidence is clear that the street system can absorb the anticipated results of the commercial and residential use. Therefore, no basis is perceived under the cumulative effects policy of Section 25.05.902 to reduce the project such that it would, for example, make less of a demand on the present infrastructure. Cf. In Re Thaden, C.F. 295562 (1987).

12. Considering the Parking and Traffic Policy of Section 25.05.902, the project will have an adverse impact on the parking scenario, particularly for 34th Avenue-fronting businesses. If the eight cars from the Down's Clinic increased the scarcity of nearby parking, an additional 10 commercial autos added to an unknown daytime residential figure will exacerbate that problem. The Hearing Examiner therefore adds as conditions to the proposal the following requirements:

a. Applicant shall submit a plan or covenant to DCLU which would reserve no less than 10 on-site parking spaces for daytime commercial use. Those spaces may be "shared" spaces. Reasonable notice shall be given to anticipated commercial customers of this on-site available parking.

b. Applicant shall provide on-site no less than 5 bicycle racks for tenant use.

c. Applicant shall conspicuously post in the commercial area's lobby or receiving area and in the residential common area public transit information, and shall particularly encourage tenant use of public transit.

d. Applicant shall post at the garage exit prominent signage indicating caution and shall insert overhead reflective mirrors placed so that pedestrian visibility may be enhanced.

14. As to bulk and scale, the City Council has indicated that

...it is clear that, when it (the City Council) enacted the NCA Policies and Code, the Council intended that the 30-foot height be the appropriate transitional height on the edge of a single family zone area where the prevailing heights in the single family zone are less than 30 feet....

In Re Thaden, supra. This proposal complies with the effective code provisions related to height. Secondly, the proposal calls for perimeter building heights to approximate that of the adjoining use. The stepped-back elevation, in conjunction with the

other conditions imposed, will provide mitigation of height, bulk and scale impacts that will be "reasonable and capable and being accomplished." Seattle Municipal Code Section 25.05.660(A)(3). (The NCA policies do not prohibit residential-business combinations in the commercial zones. In fact, such a mix is encouraged. Seattle Municipal Code Section 23.16.020(I)(A)(8).)

15. With further regard to the NCA Policies, which are incorporated into SEPA (In Re Thaden, supra), the Hearing Examiner is persuaded that the present building proposal fails to promote the pedestrian character of the neighborhood commercial area, Seattle Municipal Code Section 23.16.020(I)(A)(11), and tends to detract from the "distinctive character" of this neighborhood's business district. Seattle Municipal Code Section 23.16.020(I)(B)(12). For these reasons, the decision is modified to require applicant's submittal to DCLU of a redesigned west (34th Avenue) facade. Particular attention should be given to the fenestrations and commercial entry.

16. As to landscaping, the DCLU condition is modified to require ivy or other decorative vegetation along the building's south wall. The DCLU mitigation as to lighting and other items are adequate.

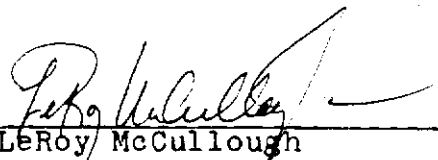
17. If the Hearing Examiner decision is related Interpretation Appeal S-87-014 requires further modification in the design of the proposal, DCLU will resolve the extent of succeeding environmental reevaluation required.

Decision

1. The DNS is AFFIRMED.

2. With regard to conditions, this application is remanded to DCLU for further consideration in accord with Conclusion 15, above. Appellant will have 7 business days from issuance of a supplemental DCLU determination to specify written objections to the Hearing Examiner. If any such objections are received the Hearing Examiner will determine if a further public proceeding is necessary. If none is required, the Hearing Examiner decision will issue within 15 days of the deadline for appellant's objections. The Hearing Examiner will conduct no further review in this context of other, aforesated mitigating conditions.

Entered this 25th day of March, 1988.



LeRoy McCullough
Hearing Examiner

Seattle
Department of Construction and Land Use



Holly Miller, Director
Charles Royer, Mayor

M E M O R A N D U M

RECEIVED

DATE: June 17, 1988

JUN 17 1988

TO: Mr. LeRoy McCullough, Hearing Examiner ~~Office of~~ HEARING EXAMINER

FROM: Cheryl Waldman, DCLU CTW

SUBJECT: SEPA Appeal - MUP #8701803

I have reviewed the proposed revisions to the west facade of the mixed-use apartment/commercial building at 1430 34th Ave., and offer the following comments:

1. I don't see any substantive changes to reflect the "pedestrian character" of the neighborhood commercial area. The awning is a change from the plans reviewed by this Department, however, it was shown in subsequent sketches of the project, including (I believe) those presented at the hearing.

2. Commercial development in the area is characterized by small storefronts, with glass openings and transoms. Entries to the commercial spaces are recessed from the front facade.

3. The door shown at the southern end of the facade is for residential exiting purposes, serving no commercial purpose.

4. In recognition of the existing features of commercial spaces in the neighborhood, I would recommend the following changes be made to the west facade as a condition of approval:

i) The entire facade at the first floor level of the west facade be glass openings, with the exception of structural columns.

ii) The panels shown above the doors and windows, and above the additional glass, should have fenestrations with vertical mullions, spaced at 4-8 inches to reflect the transoms or relites on existing commercial buildings.

iii) The door at the south end of the building's west facade should be solid, so as to avoid confusion with commercial entries.

iv) The entries to the commercial spaces (doors and adjacent windows) should be recessed 3 ft. from the building's west facade.

v) The awning should wrap around the building's northwest corner and extend, at a minimum, over the commercial spaces. (Note: the extended awning was shown in previous sketches.)

It is the Department's opinion that, with the above revisions, the project meets condition #15 in the Hearing Examiner's Findings and Decision, dated March 25, 1988.

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