

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

In the Matter of the Application of

CITY OF SEATTLE,
DEPARTMENT OF ENGINEERING

FILE NO. CC-82-002
C.F. NO. 291309

for a council conditional use and
incidental variances pursuant to
the provisions of Title 24, Seattle
Municipal Code (Zoning Ordinance
86300, as amended)

Recommendation: The application should be CONDITIONALLY GRANTED.

Introduction

Applicant proposes to construct a sewer detention tank
and maintenance building at 2201 S.W. Henderson Street.

No correspondence or testimony in opposition was entered
into the record.

For purposes of this recommendation, all section numbers
refer to the Seattle Municipal Code, Title 24, as amended
(Ordinance 86300, as amended) unless otherwise indicated.

The Director's report, submitted by the Department of
Construction and Land Use (DCLU), recommended that the
application be conditionally granted.

This matter was heard before the Hearing Examiner on
April 13, 1982.

After due consideration of the evidence presented by the
applicant, the information provided by the Director's report,
and all evidence elicited during the public hearing, the
following shall constitute the findings of fact, conclusions
and recommendation of the Hearing Examiner on this application.

Findings of Fact

1. The subject vacant property is located on the west
side of 22nd Avenue S.W. between S.W. Henderson Street to the
north and S.W. Barton Place to the south and east. West
adjacent is an unimproved alley. The irregularly shaped 17,500
sq. ft. area parcel consists of portions of four platted lots,
partly in response to angling S.W. Barton Place. The legal
description follows:

All of Lot 2 and portions of Lots 3 and 6
lying northwesterly of S.W. Barton Place as
condemned under authority of Ordinance 56480,
all in Block 35, Little City Farms Division
No. 5, as recorded in Volume 26 of Plats,
Page 26, Records of King County, Washington;
Also that portion of 22nd Avenue S.W. lying
between S.W. Barton Place and the centerline
of S.W. Henderson Street.

Topographically, the lot slopes moderately down to the west.
The property is steep along the southeast (rear) lot line,
dropping 15 ft. over a horizontal distance of 40 ft. It is
zoned Single Family Residence Medium Density (RS 7200).

2. A small vacant lot owned by the City of Seattle is located to the east across (unimproved) 22nd Avenue S.W. A single family residence is located to the north. Beyond the west adjacent alley are single family residences and a vacant lot.

3. The applicant proposes the construction of a sewer detention tank and maintenance building on the subject site. Proposed is a 1.6 million gallon structure 100 ft. in diameter and 30 ft. in height designed to control the 22nd Avenue S.W. and S.W. Barton Street existing combined sewer overflow. As described by witnesses, who are residents of the area and are in favor of the application, efforts have been made since 1977 to correct the flooding and overflow that affects vicinity yards and basements year round.

4. The detention tank would present as at or near ground level on the eastern one-third of the structure; the westerly two-thirds would maximize at approximately 10 ft. above grade. The views of the exposed portions of the tank would be blocked by spaced, concrete aggregate panels. Because the structure would be located lower than the (easterly) overflow elevation, the tank's location would take advantage of filling and draining by gravity. The tank would retain waste water, diluted and oxygenated by storm drainage, and would be emptied and flushed following each storm at a controlled rate. The Department of Engineering estimates that the project would reduce the overflow volume by more than 95 percent and the incidence of overflow to approximately once every ten years.

5. New sewer and storm drain pipes will be constructed in 22nd Avenue S.W. and S.W. Henderson Street. An underground hydraulic control chamber will be located adjacent to the sewer lines. As described by the Department of Engineering, the proposed maintenance building will house control equipment. This equipment must be adjacent to the control chamber and accordingly is required to be placed in the designated front (north) yard of the subject site. The proposed maintenance building will measure 10 ft. in height; 16 ft. in width and 30 ft. in length. It would extend .73 ft. into the 22nd Avenue S.W. street right-of-way and provide a 3.10 ft. north (front) setback from S.W. Henderson Street. Two parking spaces are proposed east of the maintenance building in the 22nd Avenue S.W. Street right-of-way.

6. Present plans call for an 11 ft. distance from the west edge of the tank to the west property line. A more westerly location of the detention tank would require additional excavation that would affect the alley and property to the west. Shifting the detention tank south would bring the eastern portion of the tank closer to the irregular property line than is desired and would also entail greater excavation. A more northerly location would abbreviate needed space between the maintenance building-hydraulic chamber and the detention center.

7. Of four potential sites identified in the June, 1979, Draft Environmental Impact Statement, the State of Washington Department of Ecology with other agencies favored the subject site as least environmentally sensitive and disruptive to existing patterns. The site was recognized as having some drawbacks, such as sandy soil, and further as presenting a danger of substantial drainage problems during excavation.

8. The Design Commission has approved the site and landscape plan for the project.

9. With regard to the action proposed in this application, an environmental impact statement has been prepared pursuant to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, and is part of the record.

Conclusions

1. Principal conditional uses permitted by the City Council in the RS 7200 zone are referenced in Section 24.16.030. Microwave or line-of-site transmissions stations, static transformer and booster stations, "and other public utility services uses when necessary due to operating requirements" are permitted in the residential zone if the use is consistent with the spirit and purpose of the zoning ordinance and will not prove materially detrimental to the public welfare or injurious to vicinity or zone property. Section 24.72.160; Section 24.74.010; 24.74.030.

2. The history of flooding in the vicinity and the community efforts at resolving same show that the detention facility as proposed is a necessary public utility service use. The location of the facility is in some sense dictated by the location of the sewer and storm drain pipes. Additionally, the site is vacant land located near and topographically below the overflow/elevation. Vicinity portions of S.W. Henderson Street and 22nd Avenue S.W. are unopened. The Design Commission has approved the site and landscape plan. The majority of the detention center will be underground; the visual impact of the exposed portion will be softened by the spaced panels and the landscaping. The maintenance structure will be of relative inobtrusive dimensions. In sum, the proposed use will not prove incompatible to the vicinity; and will comport with the spirit and purpose of the zoning ordinance to generally separate incompatible uses; to protect and promote the public health, safety and general welfare; to provide adequate light, air (separation) and access; and to facilitate adequate provisions for "water, sewerage...and other public requirements" Section 24.06.020. Further, the use will not prove materially detrimental or injurious to properties in the vicinity as measures will be taken to minimize disruption. The Hearing Examiner adopts the recommendation of the Department of Construction and Land Use that the condition be imposed limiting construction and grading to 8:00 a.m. to 5:00 p.m. Monday through Friday, and adds a second condition relating to the drainage and foundation.

3. For the maintenance building, applicant is proposing a 3.1 ft. required front yard whereas a minimum 20 ft. front yard is required. Section 24.18.090(A). Applicant is proposing a 0 ft. side yard whereas 5 ft. is the minimum. Section 24.18.090(B). Applicant is also requesting a variance from the one off-street parking space requirement although two spaces are proposed in the 22nd Avenue S.W. Street right-of-way.


4. The topography and irregularly shaped area of the parcel are unique property conditions which justify some relief from the strict requirements of the Code. Section 24.74.030. The maintenance building will contain control equipment which in turn must be adjacent to the underground control chamber. The control chamber should be located near the sewer and storm drainpipes. Some distance is needed between the maintenance building and the detention center. Any alternate location of the detention tank will increase excavation and other costs which would constitute an undue and unnecessary hardship. The required location of the maintenance building-underground hydraulic control chamber; in conjunction with the topography and the location of the detention center, operate to practically prevent on-site parking. Due to the unique circumstances of this case, no special privilege will be presented the applicant by the variances granted. No material detriment to the public welfare is foreseen. Variance approval would not adversely affect the spirit of the Single Family Residential Area Policies.

Recommendation

For each of the above reasons, the recommendation of the Hearing Examiner to the City Council is as follows:

That the application for the council conditional use and variance be GRANTED on the condition that subject construction and grading be limited to Monday through Friday, 8:00 a.m. to 5:00 p.m., and that the applicant submit for the Department of Construction and Land Use approval foundation drawings and excavation drainage plans.

Entered this 16th day of April, 1982.


Leroy McCullough
Hearing Examiner

NOTICE OF RIGHT TO PETITION
FOR FURTHER CONSIDERATION

Pursuant to 24.72.090, Seattle Municipal Code , as amended, (Section 27.51 of the Zoning Ordinance 86300, as amended) any party affected by a recommendation of the Hearing Examiner may submit a petition in writing to the City Council requesting further consideration. The petition must be submitted within fourteen days after the date of mailing the recommendation of the Hearing Examiner and addressed to: City Council, Land Use Committee, Municipal Building, Seattle, Washington 98104.

The petition should state clearly and concisely the reason(s) why further consideration is necessary, and should refer specifically to any errors alleged to exist in the Hearing Examiner's Findings and Conclusions. The City Council's consideration of the petition will be based upon the record of the Hearing Examiner's hearing, and new exhibits or other evidence in support of the petition should not be submitted. In its discretion the Council may allow oral or written arguments based on the record when it considers the petition.