

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

In the Matter of the Application of

WILLIAM R. MATTHEWS

FILE NO. CC-8501587
C.F. NO. 293954

for a council conditional use pursuant
to the provisions of Title 23, Seattle
Municipal Code, (Zoning Ordinance
86300, as amended)

Introduction

William R. Matthews has applied for Council Conditional Use authorization to establish dwelling units in a CG zone at 2328 Fairview Avenue East.

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code, 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 August 23, 1985.

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 findings of fact and conclusions shall constitute the recommendation of the Hearing Examiner on this application.

Findings of Fact

1. The applicant proposes to construct a nine unit condominium at 2328 Fairview Avenue East. The 9,650 sq. ft. lot is located on the east side of Fairview Avenue East, north of East Lynn Street, within a General Commercial (CG) zone and is designated Urban Stable/Lake Union (US/LU) under the Shoreline Master Program. The site is occupied by a single family residence and an access roadway to an apartment building to the east of the property.

2. Property to the north of the subject site is zoned CG and is developed with a three story apartment building. To the south, also within the CG zone, is a new four story condominium. Across the street within the CG zone are houseboats and a large multifamily structure built over the water, and to the east, within an Lowrise 1 (L-1) zone is a single family residence adjacent to the southern part of the subject property and a four unit apartment building adjacent to the northern part of the subject property which is served by the access roadway across the subject property. Despite the CG zoning, the area is largely residential.

3. The proposal involves demolishing the existing single family residence and constructing a nine unit condominium with 13 parking spaces on the site. Three of the units would be approximately 950 sq. ft. and six would be approximately 1,100 sq. ft. The height of the building would be within the 35 ft. limitation of the RM 800 zone and be approximately the same height as the condominium to the south. Because of the gentle slope downward from east to west, the lower story will be pushed into the grade of the hill and give a lower appearance to the building.

4. While the slope helps preserve views over development below, the structure immediately behind the subject site would lose a substantial portion of its view if the proposed building is constructed.

5. The proposed building design includes bay windows and other small parts to reduce the appearance of the scale of the building and continue the texture of the houseboat community below with its variety and complexity.

6. Parking in this area is in great demand and extremely congested. The continuation of the easement would allow the parking at the rear of the abutting property to be maintained. A new driveway would be created, eliminating a parking space on the street, however another driveway would be filled in which would create a new parking space. The loss of parking spaces on the street should be, at most, one.

7. The applicant initially applied for variances including ones to allow for more parking, however, opposition from the houseboat community and others to the variances caused him to change the plans. He is attempting to maximize parking on the site. The 13 stalls proposed exceed the minimum required.

8. A determination of non-significance (DNS) was issued for the proposal. The DNS cites long-term impacts from increased traffic, increased noise and light, increased storm water run-off and loss of views. None of these was determined to be significant. Conditions pursuant to SEPA will be imposed on permits granted including a control on the noise from construction equipment, landscaping and its maintenance and temporary erosion control measures.

9. In addition to Council Conditional Use for dwelling units in the CG zone, a Shoreline Substantial Development and Shoreline Conditional Use will be required to implement the proposal. Those decisions will follow the Council Conditional Use decision. A housing demolition license will be required for removal of the single family residence.

10. Approximately ten letters from residents in the area were received regarding the difficult parking situation in the area. Several letters pointed out that residents of the area are parking on the site at this time and that parking would be lost if the property is developed.

11. The Director's Analysis and Recommendation indicates that there is no established use for parking on the site and there is no right to the continued use of the lot for parking. The Director recommends that the council conditional use be conditionally granted on the conditions that:

1. Loud equipment, including but not limited to pavements breakers, pile drivers, jack hammers, sandblasting tools, crawlers, tractors, compactors, drills, graders, compressors and other similar equipment is strictly limited to normal working hours (7:30 a.m. to 6:00 p.m.) on weekdays.
2. Landscaping shall be provided per approved plan prior to final occupancy of the building. Maintenance of the landscaping shall be the responsibility of the owner(s).

Conclusions

1. Section 24.52.100 permits dwelling units within the CG zone subject to the following conditions:

1. When nearby or associated uses and other conditions in the immediate environs are not of the type to create a nuisance or adversely affect the desirability of the area for living purposes,
2. When residential development will not usurp land which is needed for and better suited to commercial usage by virtue of special attributes such as railroad access and proximity of established commercial development,
3. When structural bulk incident to residential use will not adversely affect surrounding development; provided that in no event may RM 800 zone bulk regulations be exceeded;...

2. The amount of residential development in the area, both older and recent, shows that the area is desirable for living purposes. No commercial or other uses which would create a nuisance appear in the record.

3. The land is not suitable for commercial usage given the amount of residential development and that development's demands on the streets. There is no railroad access nor nearby commercial development.

4. The bulk of the building does not exceed the RM 800 bulk regulations. The proposed size and height would cause view obstruction but less than permissible CG development given the required setbacks and height limitations. Therefore, residential development should not be prohibited in favor of outright commercial development.

5. For council conditional use authorization the development should not cause material detriment to the public welfare or be injurious to any property in the zone or vicinity and should be consistent with the spirit and purpose of the Land Use Code. While the parking situation in the area will not be improved by the proposed development, the public will benefit from additional housing and that housing should be encouraged when it provides more parking for its use than could otherwise be required. Since the proposal meets the specific requirements for dwelling units in a CG zone it should be considered to be consistent with the spirit and purpose of the Land Use Code. Therefore, the council conditional use should be granted subject to the conditions recommended by the Director.

Recommendation


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

The council conditional use should be granted subject to the following conditions:

1. Loud equipment, including but not limited to pavements breakers, pile drivers, jack hammers, sandblasting tools, crawlers, tractors, compactors, drills, graders, compressors and other similar equipment is strictly limited to normal working hours (7:30 a.m. to 6:00 p.m.) on weekdays.

2. Landscaping shall be provided per approved plan prior to final occupancy of the building. Maintenance of the landscaping shall be the responsibility of the owner(s).

Entered this 4th day of September, 1985.


M. Margaret Klockars
Deputy Hearing Examiner

NOTICE OF RIGHT TO PETITION
FOR FURTHER CONSIDERATION

Pursuant to Section 23.80.10.E, Seattle Municipal Code, as amended, any person substantially affected by or interested in this recommendation may submit a petition in writing to the City Council requesting further consideration. The petition must be filed with the Council within fourteen days of the date of this recommendation and should be addressed to the City Council, Land Use Committee, Municipal Building, Seattle, Washington 98104.

The petition should clearly identify specific objections to the recommendation and the relief sought; however, the petitioner should not include any additional evidence or exhibits as the Council's consideration will be based upon the record of the Hearing Examiner's hearing. If the Council determines that a factual error exists in the record or that important information is missing, the Council may have the record supplemented pursuant to Section 23.80.10.E.3 or 23.80.10.E.4. At its public meeting the Council may allow oral or written arguments based on the record.