

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

In the Matter of the Application of

SEATTLE PARKS AND RECREATION
DEPARTMENT

PROJECT NO. 8807281
C.F. NO. 296913

for Council land use approval
pursuant to the provisions of Title
23, Seattle Municipal Code

Introduction

For purposes of this recommendation, all section numbers refer to the Seattle Municipal Code, Title 23, 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 24, 1989.

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 Hearing Examiner enters the following findings of fact, conclusions and recommendation on this application.

Findings of Fact

1. The Seattle Parks and Recreation Department, applicant, seeks Council approval to construct a one-story, 2900 sq. ft. storage building on Parks Department property addressed as 2300 Arboretum Drive East. The site is dubbed as the East Central Grounds Maintenance District Headquarters. Per the application, the site is presently used for storage of Park Department vehicles, equipment, bulk soils, sand and bark.

2. The proposal site is a 1.5 acre parcel located at the west edge of the University of Washington Arboretum. The southwestern boundary of the lot faces a segment of East Ward Street that intersects with 28th Avenue E.

3. Access to the site is by two driveways along East Ward Street. Although the property is generally flat, the east half of the slopes steeply down to Arboretum property and is therefore less available for parking use or other development.

4. The proposal site is surrounded on its north, east and west by the Arboretum. The subject site and the Arboretum are within the Single Family 7200 (SF 7200) zone.

5. South and west of site, across East Ward Street, are Single family 5000 (SF 5000) zoned properties that are principally developed with single and two-story residences. Bill Lewis, a witness at the public hearing, resides on Ward Street directly across from the project site.

6. The proposal site is currently developed with a Parks and Recreation Department office building and storage yard. This use, principally along the eastern portion of the lot, is enclosed with a 6 ft.-high chain link fence.

7. Applicant proposes to add a 121 ft. x 24 ft. concrete masonry building to the site. The new building would provide an enclosed storage area for vehicles and equipment that are pre-

sently stored outside and "exposed to the neighborhood view and the weather."

8. The overall building height would be approximately 16.5 ft. Metal roofing would be used. The general color will be gray with dark red downspouts, all to complement the existing building.

9. The new structure would offer a setback of approximately 70 ft. from the Ward Street property line. The existing parking area would be reallocated to provide a 20 ft. setback from the front property line and will be paved. Demolition of two small shed-like structures will be required to construct the facility as proposed.

10. No change is proposed for the number of employees (approximately 28), and the hours of operation will remain 7:00 a.m. to 5:00 p.m.

11. Because several single family residences face the site, DCLU recommended a condition that landscaping be provided and maintained in the site's front yard area.

Plant materials shall include one tree and three shrubs per 20 feet of lineal street frontage. This number of plant materials will provide desirable screening while also affording adequate growth area for the plants.

"Mature" landscaping is already present in the unimproved right-of-way along East Ward Street. DCLU also recommends curbing to protect the landscaped area from vehicle encroachment. Applicant concurs in the DCLU recommendation.

12. Landscaping is one of two issues of concern to the witness who resides across the street from the project site. In the witness' opinion, the present deciduous buffer is sparse and insignificant. The witness proposed as a condition a more dense, evergreen buffer.

13. The Parks Department responded that certain vegetation buffers could aid the criminal element (theft, vandalism) by screening them from the watchful eye of neighbors and from the views of automobile passersby.

14. The second issue concerns parking. The neighbor testified and the Hearing Examiner finds that on-street parking is heavily utilized in and around the project. Some Parks Department employees currently use off-street parking.

Conclusions

1. The Hearing Examiner assumes jurisdiction of this matter pursuant to Title 23, Seattle Municipal Code.

2. Seattle Municipal Code Section 23.44.036A provides that the expansion of a public utility use or other similar use in single-family zones may be permitted by the Council "according to the procedures for approving public projects and City facilities provided in Chapter 23.76...." The Hearing Examiner is concerned that there is a latent ambiguity in the Title 23 Code references.

3. Seattle Municipal Code Section 23.76.036A specifies several varieties of Type IV land use decisions, including those for:

3. Public projects proposed by applicants other than The City of Seattle that require Council approval...(emphasis supplied)

5. Council conditional uses...

A Type IV decision is a quasi-judicial decision made by the City Council "pursuant to existing legislative standards and based upon the Hearing Examiner's record and recommendation." Seattle Municipal Code Section 23.76.004C.

4. Listed as a Type V Legislative decision is the decision to approve the "siting or expansion of a City facility." Seattle Municipal Code Section 23.76.064. Pursuant to Seattle Municipal Code Section 23.76.062A, "The Council shall itself conduct a public hearing for each Type V decision." If Seattle Municipal Code Section 23.76.064 is applied, the Council is to consider approval of the concept for the city facility and may then approve it with conditions. Following Council approval, final plans are to be submitted to the DCLU Director who may then issue the necessary permits if the Director determines that the project is consistent with prior Council approval.

5. A "city facility" is defined as "a public facility owned and/or operated for public purposes by the City of Seattle." Seattle Municipal Code Section 23.84.006C. Per Seattle Municipal Code Section 23.84.030

'Public facility' means a public project or city facility.

6. Arguably, therefore, this application could be reviewed as a Type V matter. The issue is further clouded by the scheme of Chapter 23.44, Seattle Municipal Code. Subchapter II, Seattle Municipal Code Section 23.44.018 establishes that only conditional uses identified in the named subchapter may be authorized as conditional uses in single family zones. Basic conditional use criteria are included within Seattle Municipal Code Section 23.44.018C.

7. Subchapter II lists the conditional uses in three specific parts. In Part 1, "administrative conditional uses," are special residences; institutions; clustered housing Planned development; use of landmark structures; structures unsuited to uses permitted outright; park and pool lot; and certain non-conforming uses. Listed in Part II, "Council Conditional Uses," are entries for Planned residential development; and communication utilities (Seattle Municipal Code Section 23.44.035).

8. Part 3 of Subchapter II is entitled "Public Projects and City Facilities." The sole entry is Seattle Municipal Code Section 23.44.036, "Council Approval of public projects and City facilities."

9. To recapitulate, Subchapter II is headed "Principal Conditional Uses." Council conditional uses are specified in Part 2. However, Public projects and city facilities are not included as Part 2 Council conditional uses; rather, public projects and city facilities are set apart in part 3 with reference to Seattle Municipal Code Section 23.44.036. Seattle Municipal Code Section 23.44.036 directs the reader to Chapter 23.76, Seattle Municipal Code, and Seattle Municipal Code Section 23.76.064 seems to suggest that the proposal falls within the scheme of Type V actions.

10. On the other hand, this inclusion of Section 23.44.036 within the Subchapter II grouping could support the analysis of this matter pursuant to conditional use criteria.

11. Assuming that the project is properly reviewed as a Type IV Council conditional use proposal, as presented by the DCLU Recommendation and Analysis, the Hearing Examiner recommends that the proposal be approved with conditions recommended herein.

12. The applicant has shown that the new facility will provide necessary shelter and protection of Parks Department (publicly owned) property. Seattle Municipal Code Section 23.44.036A.

13. Regarding general conditional use criteria, no increase in staffing or hours is proposed. The proposal, as conditioned, will improve the aesthetics of the neighborhood by the physical screening of the site. The new structure will blend in color or scheme with the existing structure.

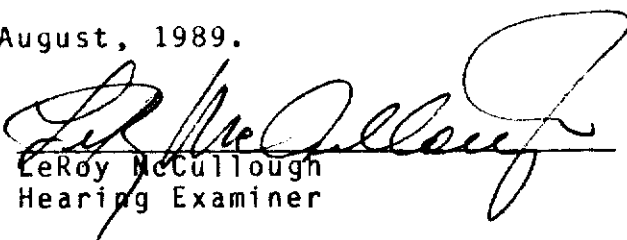
14. As conditioned, the use will not be materially detrimental to the public welfare or injurious to other vicinity properties. Seattle Municipal Code Section 23.44.018C.

15. The project should be approved on the condition recommended by DCLU as modified herein. That is, the trees and shrubs should be off an evergreen variety and shall, upon reasonable maturity, provide a vegetative screening of the proposal site. The Landscaping Plan should be subject to prior review and approval by DCLU. DCLU is encouraged to solicit community input on the plan.

Recommendation

The Hearing Examiner recommends that the City Council approve the application with conditions as stated herein.

Entered this 31st day of August, 1989.


LeRoy McCullough
Hearing Examiner

NOTICE OF RIGHT TO PETITION FOR FURTHER CONSIDERATION

Pursuant to Seattle Municipal Code Section 23.76.054, as amended, any person substantially affected by a recommendation of the Hearing Examiner on a Type IV recommendation may submit a petition in writing to the City Council requesting further consideration. The petition must be submitted within fifteen days after the date of mailing the recommendation of the Hearing Examiner and addressed to: City Council, Urban Redevelopment Committee, Municipal Building, Seattle, Washington 98104. The request for further reconsideration shall clearly identify specific objections to the Hearing Examiner's recommendation, facts missing from the record, and the relief sought.

Pursuant to Seattle Municipal Code Section 23.76.054(D), if there is no request for further consideration Council action shall be based on the record established by the Hearing Examiner.

The City Council Urban Redevelopment Committee should be consulted for further information on the Council review process.