

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

HOWARD SILVERMAN

FILE NO. MUP-81-018

APPLICATION NO. X-81-25

from a determination by the Department
of Construction and Land Use on a
Master Use Permit application

Introduction

Appellant, Howard Silverman, appeals from a declaration of non-significance under a master use application for the expansion of a Safeway store at 1410 East John.

Parties to the proceedings were: Appellant; the Director of the Department of Construction and Land Use represented by Cliff Portman, environmental specialist; and the applicant, Safeway Stores, Inc., represented by Derrill Bastian, Breskin, Robbins, Bastian and Cohen, attorneys at law, and J.J. Carroll III, property manager for applicant.

This matter was heard before the Hearing Examiner on July 28, 1981.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The applicant applied for a master use permit to allow the construction of a 6,400 sq. ft. addition to an existing supermarket at 1410 East John. The Department of Construction and Land Use (DCLU) made a threshold determination pursuant to SEPA and Chapter 25.04, Seattle Municipal Code, and issued a declaration of non-significance for the proposal. Appellant filed his appeal of this decision.

2. Appellant contends that the addition, along with a decrease in the number of on-site parking spaces, will result in additional vehicles, parking demand, deliveries, traffic hazards and noise, thereby creating a significant adverse impact.

3. Approximately one-half of the 6,400 sq. ft. to be added will be used for storage, receiving and loading dock. The remainder will be additional display space allowing the applicant to add to its food and dry goods lines. The number of deliveries to the store is expected to decrease because of the greater storage capacity. Deliveries generally are now made, and will continue to be made, between 8-10 p.m. and 7-10 a.m. The evening deliveries are during non-peak traffic hours and both are at non-peak store hours.

4. The parking situation is "critical" area-wide according to the environmental specialist. Property along 15th Avenue is part of a pedestrian-oriented business district where provision of parking is not required.

Safeway's parking lot is filled occasionally during peak hours. Some 19 spaces to be lost to the expansion are sometimes fully utilized but on the occasions specifically observed by appellant, 30-60 percent full. Even when the lot is not full some customers park in the streets to be closer to the store.

5. A study has shown that 30-40 percent of the customers at this Safeway store do not drive to the store.

6. Most delivery trucks currently use an entrance on 14th Avenue just off John Street. John Street rises to a crest at the intersection of 14th and John. Trucks must make an S manuever as they turn left from John and right into the lot. That entrance would be gone under the proposal and delivery trucks would enter the lot mid-block between 14th and 15th.

7. John Street is an arterial. There are two lanes for travel east-bound from 4-6 p.m. and one lane for travel and one for parking the remainder of the day. When a vehicle is waiting to make a left hand turn during most of the day traffic must wait behind since the other lane is utilized by parked cars. If the turning or waiting vehicle is not readily visible because of the hill crest, a hazardous situation may result.

8. Except for appellant's business at 14th and John, which has an apartment on the seocnd floor, the use of property across both John and 14th from the store is residential.

9. Noise from trucks accelerating to pull up the grade of John and making deliveries is disturbing to residents across John. If more deliveries are made, the disturbance would be greater.

10. The proposal moves the loading area closer to the street than is now the case and provides for a wall or screen along the edge of the property with landscaping. Trash compacting, which is now done in the open and is noisy, would be enclosed. Dock seals are to be used to wrap around an unloading truck and further reduce noise.

11. The environmental specialist considered a 5 percent increase in customers at the store in analyzing the potential impacts of the proposal. He agreed with appellant that the proposal will affect traffic, parking, and noise. The impacts would not be significant, in his opinion. With specific reference to the noise impact from the loading area, he opined that the wall and landscaping would deflect and reduce the level of noise which otherwise might more substantially impact adjacent residences.

Conclusions

1. Appellant did not show any potential adverse impact of the proposal not considered by the environmental specialist. Appellant and the environmental specialist differed in their opinions only about the degree of those impacts. Section 24.84.170 requires the Hearing Examiner to give "substantial weight" to the Director's decision. Only a showing of clear error of factual basis for the decision or misapplication of the legal standard of significance would overcome that weight. That showing not having been made the Director's determination must be affirmed.

Decision

The determination of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 16th day of August, 1981.

M. Margaret Klockars
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Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981).