

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

ADMIRAL AREA ASSOCIATION

FILE NO. MUP-82-041(CU)
APPLICATION NO. 82-0162

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

Introduction

Appellant, Admiral Area Association, appeals the decision of the Director of the Department of Construction and Land Use (Director) to conditionally grant a conditional use for a drive-in window at 4203 S.W. Admiral Way.

The appellant exercised its right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: appellant, represented by Chas B. Chisom, chairman, Admiral Area Association Land Use Committee; the Director by Rosemary Horwood; and the applicant, represented by Joel Haggard, Haggard, Tousley and Brain.

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

This matter was heard before the Hearing Examiner on July 21, 1982.

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. Herfy's Corporation applied for a master use permit to add a drive-in window to their existing restaurant at 4203 S.W. Admiral Way. The Director conditionally granted the conditional use and appellant appealed.

2. The fast food restaurant was established under a conditional use earlier. Authorization for the drive-in window had also been proposed but was denied in 1979.

3. The current proposal is for a window on the east side of the existing building with access to be gained via 42nd S.W. and exit via Admiral Way. The holding area could contain 5-7 cars, depending upon their size. The number of parking spaces on the site would be reduced from 32 to 28.

4. Herfy's anticipates a 20 percent increase in transactions from the addition of the drive-in window or 89 additional transactions per day.

5. Fifty percent of the restaurant's sales transactions occur between 11:30 and 1:30 p.m.

6. Southwest Admiral Way at Herfy's carried an estimated average weekday total of 17,300 vehicles in 1980. The peak hours on this part of Admiral are around 8:00 a.m. and 5:00 p.m.

7. If the estimated 89 additional transactions per day resulted in 89 vehicles arriving at the site, the addition to traffic on Admiral Way would be around .5 percent. All would enter from 42nd S.W. adding a possible 89 cars for the day and 45 during the 11:30 to 1:30 period to that street.

8. A count of pedestrians on a Friday during the school year showed that 183 used the sidewalk west of 42nd S.W. from 11:00 a.m. to 5:00 p.m. and that Herfy's busiest time does not coincide with the time when the greatest number of children pass.

9. The subject site is located on the fringe of a Community Business (BC) zone and is one half block east of the intersection of California Avenue S.W. and S.W. Admiral Way. A pharmacy and bank are to the west and a Safeway store and parking lot is south in the same block. Across 42nd S.W. is a gas station with single family residences to the south. Farther east are Baskin-Robbins and Winchells. Across Admiral Way starting from California and going east are a laundromat, tavern, auto repair shop and gas station.

10. The two blocks east of California on Admiral can be characterized as "auto-oriented".

11. The sidewalk in front of Herfy's is not a high volume pedestrian walkway.

12. Herfy's parking was not fully utilized during any of the four observations by the Director's representative.

13. The number of parking spaces required by the zoning code is 12 for the fast food restaurant.

14. Herfy's will add a ramp for handicapped persons' use.

15. Admiral Way S.W. includes a two way left turn lane at this location.

16. A Metro bus-stop and standing place is located on 42nd south of the curbcuts for Safeway.

17. Pedestrians and vehicles have difficulty crossing Admiral Way at 42nd because of heavy traffic. A pedestrian fatality occurred at that location.

18. The applicant is willing to install or have the City install right turn only signing for the exit onto Admiral Way. The Director considered this signing part of applicant's proposal.

19. Signatures of 167 persons in the area who oppose the drive-in window were submitted.

Conclusions

1. To obtain a conditional use for a drive-in window an applicant must satisfy the specific requirements of Section 24.44.080H and the general criteria for conditional use found in Section 24.74.010. The evidence shows that the site is in an auto-oriented fringe of a business zone as required by Section 24.44.080H(1). Since the sidewalk is not a high volume pedestrian walkway and there are no established retail or service frontages designed to serve pedestrians that the use might interrupt, requirement (2) is met. The record shows that adequate refuse receptacles are provided and that the design of the window will be compatible with other structures in the vicinity satisfying the remaining criteria.


2. Beyond the specific criteria the use must not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the site is located and authorization must be consistent with the spirit and purpose of the zoning code. The applicant has shown that the maximum potential increase in traffic generated by the drive-in window would represent a minute percentage increase in the traffic on Admiral Way. While the testimony that the area experiences congestion now, any increase in that congestion from this proposal would not be of the magnitude to constitute material detriment. No clear reason for limiting the use of 42nd S.W. emerged from the testimony. It does appear, however, that with the two-way left turn lane and heavy traffic, exits onto Admiral Way should be restricted to right turns only as proposed by the applicant.

3. With the satisfaction of the other requirements for conditional use authorization and no other purpose of the code with regard to drive-ins being apparent, it is concluded that authorization with conditions would be consistent with the spirit and purpose of the zoning code.

Decision

The conditional use is GRANTED subject to the condition that the access on S.W. Admiral Way be used for exit only and that a "right turn only" sign be erected. The decision of the Director is affirmed as modified.

Entered this 28th day of July, 1982.


M. Margaret Klockars
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). Should an appeal be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.