

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

In the Matter of the Appeal of

VINCENT FERRESE FOR HENRY YUNG

FILE NO. MUP-82-062(CU)  
APPLICATION NO. 81294-0407

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

Introduction

Appellant, Vincent Ferrese, AIA, agent for Henry Yung, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny a conditional use for property at 302-08 14th Avenue East.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

Parties to the proceedings were: appellant Ferrese and the Director represented by Kermit Robinson, environmental specialist.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 23 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on September 29, 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. Appellant's client applied for a master use permit to establish use of the property at 302-08 14th Avenue East for the future construction of an office and apartment building.

2. At the time of the application the property was zoned RMV 200. Bulk limits are different for lots larger than 12,000 sq. ft. and under 12,000 sq. ft. in this zone. The applicant chose to adjust the lot boundary line to reduce the lot size to under 12,000 sq. ft., 11,998 sq. ft., so that the standards for the RMH 350 zone would apply.

3. The Director determined that a variance from the front yard requirement and an administrative conditional use to establish an accessory parking area not located on the lot of principal use would be required. He conditionally granted the variance and denied the conditional use.

4. The applicant proposes to construct a building with professional office space on the first floor and eight apartment units on the two upper floors. There would be two separate parking areas below grade for office and residential parking. Three more spaces for the office use would be located to the rear of the building, across the new lot line on the other property under common ownership.

5. The full parcel, all under common ownership, is "L" shaped with frontages on three streets. The new lot boundary would leave the subject lot with two frontages and the remaining lot with frontage on Malden Avenue East.

6. The site has since been zoned Lowrise 3 which would not permit the proposed office use.

7. Section 24.34.070 permits accessory parking on a lot different from that of the principal use as a conditional use.

8. The property to the south of the rear of the site is developed as single family and to the north is a 15 unit apartment building. The rear of the parcel under the applicant's ownership is developed with duplexes.

9. The Director's reasons for denying the conditional use were: the applicant is attempting to gain unfair benefits by making the lot small enough to enjoy RMH 350 bulk restrictions but gain the lost area through conditional use; the conditional use would be contrary to the Multi-Family Policies; and the use of the adjoining lot would reduce its development potential under the new zoning.

10. The proposed parking area would consume approximately four percent of the adjoining lot which would have a negligible effect on any redevelopment of that lot.

11. The parking would be connected to the lot with the proposed office/apartment structure so it would not appear to be a separate parking lot.

12. Policy 9: Location and Appearance of Required Off-Street Parking, Multi-Family Land Use Policies, prohibits off-site accessory use parking in Lowrise areas.

#### Conclusions

1. A conditional use may be authorized if it is found that the use will not be materially detrimental to the public welfare or injurious to property in the zone or vicinity and that such authorization will be consistent with the spirit and purpose of the Zoning Code.

2. Since the area involved would be small and connected to the site of the principal use it would not materially reduce the development potential of the remaining lot and there would be no appearance of a separate parking area. Therefore, no material detriment or injury would be caused by the conditional use.

3. The conditional use would be consistent with the spirit and purpose of the zoning code in effect at the time of the application. The code permitted the use proposed and the accessory parking has been shown not to have injurious effects. The use would not be consistent with the purpose of the new regulation of the land as described by the Multi-Family Policies. The applicant is entitled, however, to have his application considered in light of the provisions applicable at the time he filed. See Eastlake Community Council v. Roanoke Associates, Inc., 82 Wn.2d 475, 513 P.2d 36 (1973). Since the requirements for conditional use under the "old" code are fulfilled the conditional use should be granted.

#### Decision

The conditional use is GRANTED.

Entered this 13<sup>th</sup> day of October, 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, instruction 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.