

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

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In the Matter of the Appeal of

HILLMAN CITY NEIGHBORHOOD ASSOCIATION

FILE NO. MUP-83-087(W)
APPLICATION NO. 83-582

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

Introduction

Appellant, Hillman City Neighborhood Association, appealed the decision of the Director, Department of Construction and Land Use, to approve a master use permit for a billboard advertising sign at 5800 Rainier Avenue South.

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

This matter was heard before the Hearing Examiner on January 19, 1984, and continued to February 21, 1984, at the request of appellant to attempt voluntary settlement of the matter.

Parties to the proceedings were: Hillman City Neighborhood Association, represented by its president, Clark Stewart, and the Director by Art Ward, land use specialist. The applicant, Ackerly Communications, did not appear.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code unless otherwise indicated.

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. The applicant filed a master use permit application to construct a billboard advertising sign at 5800 Rainier Avenue South. The Director issued a declaration of non-significance (DNS) and approved the permit without conditions. Appellant filed a timely appeal of these actions.
2. The billboard is proposed to be located on the east side of Rainier Avenue South at the intersection of Rainier and South Mead in a Community Business (BC) zone. The surroundings include a new, one story Social Security building on the block and a small church on the same lot as the proposed sign which formerly housed a tavern. There are other small scale shops and services in the area.
3. The billboard is to measure 25 ft. by 12 ft. and extend 24-26 ft. into the air. It would extend to the property line which is 1-2 ft. from the sidewalk according to Art Ward.
4. There are no other billboards within 100 ft. and fewer than four within 600 ft.

5. The Hillman City Neighborhood Association has been working hard to improve the appearance of the neighborhood. It obtained a Block Grant in 1982 to repair sidewalks in the business district and put in planters. The YMCA agreed to plant and maintain the planters.

6. An environmental checklist was reviewed and corrected by Art Ward for the proposal.

7. The appellant disagrees with the response to the environmental checklist item II (8), Land Use, that the billboard would not alter present or planned land use of an area feeling that if the billboard tends to downgrade the appearance of the neighborhood, the perception that Hillman City is being resurrected as the quaint neighborhood it once was could be harmed.

8. Also appellant urges that the answer "no" to question II (12), Housing, is incorrect in that the Rainier Valley already has a bad reputation because of crime and a disproportionate share of low income housing and anything which would downgrade the appearance of the area would contribute to that reputation and the perceived undesirability of the area for housing.

9. The answer to environmental checklist question II(18) Aesthetics, indicates that "some people may find the structure aesthetically unpleasant."

10. Appellant finds that the billboard, at the proposed size, would be out of scale with the surrounding development and would downgrade the appearance of the neighborhood.

11. The DNS acknowledged that the billboard will have a visual impact which may be aesthetically offensive but stated that it is considered minimal.

Conclusions

1. The decision of the Director on a master use permit application is to be accorded substantial weight. Section 23.76.36(B)(7). To overcome that weight appellant must show the decision to be clearly erroneous. Brown v. Tacoma, 30 Wn.App. 762, 637 P.2d 1005 (1981).

2. The error alleged by appellant in the DNS is its failure to acknowledge possible impact on land use and housing. Appellant would have to show a probable impact to prove clear error. This has not been done.

3. Appellant desires denial of the permit or imposition of conditions based upon the aesthetic or visual impact acknowledged in the DNS. The Director has no authority to deny a permit unless an environmental impact statement (EIS) prepared for the proposal shows significant adverse impacts which cannot be mitigated. Section 25.04.190.C. No EIS is required for the proposal because no significant impacts were disclosed.

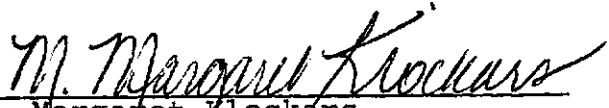
4. There are conditions which would mitigate the aesthetic impact such as requiring a setback from the property line, lowering the sign or reducing its size. Section 25.04.190 D requires that any conditioning be based on policies adopted pursuant to SEPA. None supporting these conditions have been identified.

5. The Director's decision must be affirmed.

Decision

The decision of the Director on this master use permit application is Affirmed.

Entered this 6th day of March, 1984.


M. Margaret Klockars
Deputy Hearing Examiner

Concerning Further Review of the DNS

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Section 23.76.36(B) (11).

Notice of Right to Appeal Decision Not to Condition
or Deny Permit

Pursuant to Section 25.44.210, Seattle Municipal Code, a party to the hearing before the Hearing Examiner may file an appeal with the City Council no later than the 14th day after the date the decision appealed from is filed with the SEPA Public Information Center. The appeal must be filed with the City Clerk on the 1st floor of the Municipal Building. The City Council should be consulted regarding their appeal procedure.