

BEFORE THE HEARING EXAMINER

CITY OF SEATTLE

In the Matter of the Appeals of

JEAN R. ELMER

FILE NO. MUP-83-077

and

JAMES H. RECKERS, SR.
JAMES H. RECKERS, JR.

FILE NO. MUP-84-005 ✓
APPLICATION NO. 83-400

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

ORDER

Findings

Cause MUP-83-077 came on for hearing before the Hearing Examiner on December 13, 1983.

By Order entered December 15, 1983, the Hearing Examiner remanded the matter to the DCLU Director for "compliance with Seattle Municipal Code Section 25.04.520", the State Environmental Policy Act (SEPA) based policy relating to new development parking and traffic impacts and the mitigation of those impacts. The Hearing Examiner decision advised the parties that the remand would be based on the record of the December 13, 1983, proceeding; on the Director's new decision; and on any request for review submitted by appellant or applicant within 14 days from the mailing of the Director's amended decision.

The Director's decision pursuant to the remand and the Notice thereof were dated January 10, 1984. The amended decision added two conditions to development approval: that five bicycle spaces be provided; and that applicant provide each tenant a metro bus pass and schedules for the first three months of occupancy. The Notice of Decision provided that appeals of the decision could be submitted through January 24, 1984.

On January 24, 1984, James H. Reckers, Sr., and James H. Reckers, Jr. submitted an appeal, Hearing Examiner file number MUP-84-005.

Also on January 24, 1984, appellant Elmer submitted to the Office of Hearing Examiner a designated "letter of comment regarding parking space allocations for the proposed ten unit condominium..." The brief letter advised that the writer was seeking clarification on the larger issue from Councilmember Kraabel; and reiterated Elmer's "primary concern" with the lack of adequate parking.

On January 31, 1984, the Office of Hearing Examiner received written notice from appellants Reckers withdrawing their appeal.

Conclusions

1. The Hearing Examiner has jurisdiction of this matter pursuant to Chapter 23.76, Seattle Municipal Code. Sections 23.76.36(B)(7) and 25.04.200(C) provide that in appeals to the Hearing Examiner the Director's decision on environmental matters shall be given substantial weight.

2. As appellants Reckers', MUP-84-005, have requested that their appeal be withdrawn, no issue on that appeal remains and an order of dismissal with prejudice is hereby entered.

3. As to the appeal of Elmer, MUP-83-077, the Findings and Conclusions of December 13, 1983, are incorporated herein by reference.

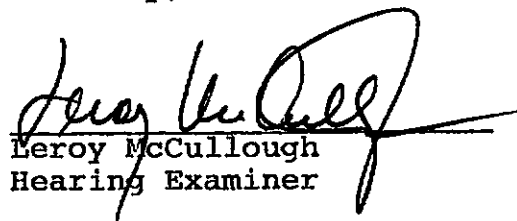
4. In the December, 1983, hearing, Elmer suggested that the development provide a minimum of two parking spaces per unit. Elmer did not dispute applicant's hearing testimony that such a ratio would require roughly one third of the subject site. The Hearing Examiner notes in this connection that the Director has the authority only to "reasonably" condition a project pursuant to Chapter 25.04, Seattle Municipal Code.

5. Further, the Director's amended decision makes more of an effort to comply with the letter and spirit of Seattle Municipal Code Section 25.04.520. That decision requires project applicant to introduce tenants to at least one alternative to the automobile. Considering the weight which must be accorded the Director's decision (which decision noted the scale of the project), balanced against the evidence of record challenging the (supplemented) decision, the Director's decision is affirmed.

Decision

The Director's decision is AFFIRMED.

Entered this 2nd day of February, 1984.


Leroy McCullough
Hearing Examiner

Notice of Right to Appeal Regarding Failure to Condition or Deny

Pursuant to Section 25.04.210, 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.