

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

In the Matter of the Appeal of

MICHAEL PERKINS

FILE NO. MUP-85-004(CU)  
APPLICATION NO. 8405885

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

Introduction

Appellant, Michael Perkins, appeals the decision of the Director, Department of Construction and Land Use, to deny an administrative conditional use needed to establish a church at 1521 26th Avenue South.

The appellant exercised his 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 March 14, 1985.

Parties to the proceedings were: appellant, represented by Joseph S. Kane, attorney at law, and the Director, represented by Clay Leming, land use specialist.

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. Appellant applied for an administrative conditional use to establish a church at 1521 26th Avenue South, in an L-3 zone. The Director denied the administrative conditional use application and the appellant has appealed.

2. Appellant's church proposes to purchase a three lot parcel, measuring 40 by 120 ft., mid-block on the west side of 26th Avenue South which is occupied by a single family residence. The remainder of that side of the block is developed with single family and duplex residences, generally small in scale. Across the street the block front is vacant and is owned by the General Services Administration and used for storage of materials for the I-90 construction.

3. The block immediately west of the block containing the subject site is zoned RD 5000 and contains the Colman Playfield and the Colman School and its playground. Southwest of the subject site across 25th Avenue South is an L-2 zone developed with a mixture of single family and duplex uses and the Keiro Nursing Home at the southwest corner of 25th Avenue South and South Massachusetts Street. The blocks south of the subject block are also L-2 zoned and residentially developed with another church located in the second block south at the northeast corner of 26th and Grand. Martin Luther King, Jr. Way South, a major arterial, is one block east of 26th Avenue South and provides access to I-90. To the east of Martin Luther King, Jr. Way South, one block from the subject site, is the playground and in the next block is Mt. Virgin Church and school.

4. Appellant proposes to move his church from its current location to the subject site. Twelve parking spaces would be created on the south and west sides of the lot with a gravel driveway going around the building to provide ingress and egress. At this time, activities at the church are planned to be held at 9:30 and 11:00 a.m. Sunday morning, 7:30 p.m. Sunday night and 7:30 p.m. Wednesday. The church plans to offer rental assistance, food, clothing, etc., to meet congregational and community needs. The church would provide seating for approximately 75 persons and the parking proposed would be sufficient under the code for up to 72 persons.

5. Twenty-sixth Avenue South has a sidewalk on the west side of the street but no curb. There are no sidewalks or curbs on the east side. Not all residences provide off-street parking and the street appears to be heavily used for parking.

6. Form letters were signed by various neighbors in support of the church's application. A petition was presented with signatures of neighbors in opposition to the application. Some neighbors signed both the form letters and the petition. The chief concern of neighbors providing testimony or substantive letters are the additional traffic, noise and parking demand and any additional tax burden on the remaining private homes.

7. The appellant indicated that he would be willing to accept a condition restricting the use of amplification in the church and a reasonable limitation on the size of the congregation.

8. Landscaping is proposed to conform to the code requirements and includes existing laurel hedges on the south and north sides of the lot and additions to the existing evergreen trees on the west side of the lot. A lawn area would be located on the northern portion of the lot which appellant indicates could be turned into a parking area if needed.

9. The area of effect of the Mt. Virgin Church, in terms of activity, noise, traffic, does not include the subject site because the busy arterial between them provides separation and also would draw off any traffic. Colman Elementary School and the Colman Playfield to the west are at a higher elevation. Further, any traffic impact from that school on 26th Avenue South at the subject site is likely to be minimal. The other two institutional sites within 600 ft., Keiro Nursing Home and the church at the corner of 26th and Grand, are more closely related but the activity from those sites is not likely to affect the subject block except for possible traffic.

10. Given the amount of vacant land in the area, the proportion of institutional uses to residential uses is fairly high.

11. The midblock location of the subject site and proposed parking and circulation layout assures that the residential uses will experience increased vehicular noise and lights.

#### Conclusions

1. New religious facilities are permitted outright in multi-family zones if they meet the development standards of Sections 23.45.92 through 23.45.102. Section 23.45.90. The proposal does meet the height, width, depth, setback, parking and access standards but fails to meet the dispersion criterion of Section 23.45.102. That criterion is that the lot line of any new institution shall be located 600 ft. or more from any lot line of any other institution in a residential zone. Because there are at least five institutions whose lot lines are within 600 ft., the proposal fails to meet that

criterion. Therefore, it must obtain administrative conditional use. The criteria of Section 23.45.122 are to be used to evaluate the proposal.

2. In making the decision on the administrative conditional use the criteria to be used for evaluation and conditioning of Section 23.45.122 and the general conditional use criteria of Section 23.45.116, whether the use will materially detrimental to the public welfare injurious to their property, are to be considered. In this case no modification of the development standards for modulation, landscaping, open space, width, depth or setbacks is proposed. The dispersion criterion is not met, however, three of the five institutions within 600 ft. are physically separated from the site. The effect of the other two on the area should be considered. Conditions could be imposed to control the noise emanating from the church, however there does not appear to be a way to reduce the noise from traffic, parking cars, etc., which will be brought into the middle of the residential area. As to the transportation criterion the number of vehicles associated with the church at this point is small and therefore the parking impacts should be slight except for the light and noise associated with the cars parking on the lot. If vehicle ownership patterns of the congregation change or if the congregation grows the impacts will increase and if the number of cars exceeds twelve, there will be competition with the neighboring residents for on-street spaces. Again, a condition could be used to limit the congregation but the limit, to be reasonable, would greatly exceed the amount of parking available unless the ownership pattern actually coincided with the code requirement and the noise and activity would affect the quality of the area for residential use. A second driveway crossing the sidewalk would increase potential hazard to children and other pedestrians. Given the noise, lights from vehicles, increased traffic and parking demand from the proposed church at a mid-block location, where the site has single family and duplex uses on three sides, and the number of institutions nearby, establishing a new institutional use, though small, would be materially detrimental to the public welfare in that it would detract from the residential character of the area. As indicated, conditions could be imposed to reduce some of the impacts, however, even when reduced the introduction of the institutional use to an area which has more than intended by the code would adversely affect the residential character. Therefore, the general criterion for approval of administrative conditional uses, that the use not be materially detrimental to the public welfare, is not present.

#### Decision

The Director's decision to deny the administrative conditional use is affirmed.

Entered this 28th day of March, 1985.

  
M. Margaret Klockars  
Deputy Hearing Examiner

#### Concerning Further Review of Hearing Examiner Final Decisions on Master Use Permits

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any request for judicial review of the decision must be filed in King County Superior Court within fourteen days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11).