

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

In the Matter of the Appeal of

JAPANESE PRESBYTERIAN CHURCH

FILE NO. MUP-85-013(V)  
APPLICATION NO. 8405706

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

Introduction

Japanese Presbyterian Church appeals the decision of the Director, Department of Construction and Land Use, to deny a variance for property at 1800 24th 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 April 26, 1985.

Parties to the proceedings were: appellant represented by Dick Nishioka, pastor; 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. The Japanese Presbyterian Church applied for a permit to change the use of a building at 1800 24th Avenue South to an educational room accessory to its main facility across the street at 1801 24th Avenue South. The Director determined that a variance would be required from Section 24.08.220(6) to allow the accessory use on a lot other than the lot of the principal use. The Director denied the variance and the applicant appeals.

2. The subject site is a corner lot with frontages on 24th Avenue South and on South Grand Street. It abuts an alley on its east side. The lot measures approximately 60 by 120 ft. and is developed with a single family house which is located near the northeastern corner of the lot on the alley.

3. The site is part of a Duplex Residence (RD 5000) zone developed with a mixture of single family residences, duplexes and apartments.

4. The applicant is constructing additions to its existing facility, however, even with the additions, cannot provide space for all of the activities associated with the church. At the present time, some church education meetings are held at the Keiro Nursing Home some 800 ft. away. This has not been a satisfactory arrangement because of the distance, and the incidences of robbery of church members on their way between the two facilities. The subject site avoids these problems because of its location directly across the street and within view of the main church facility.

5. The Japanese Presbyterian Church building houses three congregations: the English speaking congregation; the Japanese speaking congregation; and the Mien Christian Church. The applicant has played host to the Mien congregation since 1980. All three

congregations have Sunday worship services and church school classes. The applicant also makes the church facility available to the Mien community for community meetings, for tutoring sessions and in other ways to meet the needs of that community. An adult daycare also operates out of the building.

6. The site remained zoned RD 5000 when the city-wide Multi-family Code rezone was implemented. It is surrounded by L-2 zones on the north and commercial zones on the east and west. The proposal for the neighborhood commercial areas zoning would change the subject site to L-2 and the more southerly portion of the RD 5000 zone to a neighborhood commercial zone classification. Because the site is still RD 5000, it falls under Title 24 which restricts accessory uses to the lot of the principal use.

7. If the proposed zoning were in place the application would require an administrative conditional use because the facility would not meet the dispersion criterion in that there are other institutional uses within a 600 ft. radius. The other uses include a portion of a church property at 26th and Holgate and a small portion of the Coleman Elementary School grounds and the Coleman Playground just north of the church. The Director's analysis and decision is in error where it states that there are six institutional uses within a 600 ft. radius.

8. The subject site is separated from residences on the north by Grand Street; from the residences on the south by the expanse of the lot since the house on the subject site is located at the far northeastern corner and the adjacent residence is located on the western portion of its lot; and from the house to the east by the 16 ft. wide alley. To the northwest is the Coleman Playground which would not be affected by the use.

9. The applicant represents that only Sunday educational classes would be held in the structure on the subject site. No parking is required nor is any proposed for the site with the intention that the participants would walk across the street from the church.

10. No letters opposing the variance were received by the Department of Construction and Land Use or Office of the Hearing Examiner.

11. There appears to be no unusual demand for on-street parking in this area.

#### Conclusions

1. A variance from the provisions of the Land Use Code may be granted if the facts and conditions listed in Section 23.40.20.C are shown to be present. The first condition required is an unusual property condition, not created by the applicant, which causes the strict application of the provision to deprive the property of rights and privileges enjoyed by other properties in the zone or the vicinity. The property condition in this case is that, unlike most of its surroundings, the subject site did not receive a new zone classification at the time of the rezoning of the blocks on three sides. This effectively denied the property the right to have the use of the site considered under conditional use criteria which are, mainly, judgments about whether the use would be harmful. The residual zoning prohibits the use because the accessory building would be located on a separate lot. Other institutional uses in the City which have received zone designations under Title 23 may expand to a separate lot either as a matter of right or with conditional use approval.

2. A variance to allow use of the separate lot would not go beyond the minimum necessary to afford relief so long as it would have been approved as a conditional use under Title 23. Conditional use would have been required because the proposal does not meet the development standard that there not be other institutions within a 600 ft. radius. Section 23.45.122.B provides that even if the institution does not meet the dispersion criterion, it may be permitted if it would not create or further aggravate parking shortages, traffic congestion and noise. In this case, congregation members already at the principal site would merely walk to the subject site for classes so traffic would not be impacted in any way. The variance would not restrict the lot's use to classroom use, however. It could be put to a use which would draw additional traffic. The area provides considerable space for parking because of the open space playground and absence of other high volume destinations and the streets are adequate to carry any additional traffic. Therefore, the administrative conditional use could be granted. Since other institutional uses could expand in this way under Title 23, the variance does not go beyond the minimum necessary to afford relief nor does it constitute special privilege.

3. The variance to allow the use of the separate lot would not be materially detrimental to the public welfare nor would it injure other property in the area.

4. Because the use of the site would be permitted under Title 23, the strict application of the Title 24 provision would cause undue and unnecessary hardship to the church which needs to expand, which has no room on its principal lot for expansion and which owns property, the subject lot, to which it could expand.

5. The variance to allow the use of the subject site would be consistent with the spirit and purpose of Title 23 of the Land Use Code and the adopted Multi-family Residential Land Use Policies.

#### Decision

The variance is granted.

Entered this 10<sup>th</sup> day of May, 1985.

*M. Margaret Klockars*  
M. Margaret Klockars  
Deputy Hearing Examiner

#### Concerning Further Review of Hearing Examiner Final Decision 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).

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instruction for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, 5th Floor, Seattle, Washington 98104.