

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

LAKESIDE SCHOOL

FILE NO. MUP-86-030(W,CU)
APPLICATION NO. 8506682

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

Introduction

Appellant challenged a DCLU requirement that curbs and sidewalks be added as a condition of approval for expanding an institution located in a single family zone. The subject property is addressed as 14050 1st Avenue Northeast.

The appellant exercised the right to appeal pursuant to Chapters 23.76 and 25.05, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on June 19, 1986.

Parties to the proceedings were: appellant by G. Richard Hill, Foster, Pepper and Riviera, and the Department of Construction and Land Use Director by Ed Somers.

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. Lakeside School proposes to construct a two-story math-science building on the site of an existing 15-space campus parking lot. The proposed building site is near the southwest corner of the campus between N.E. 140th and N.E. 145th Streets and is east of 1st Avenue N.E. The new building will house consolidated science and math facilities and will be oriented north and east, to the campus.

2. As part of the same plan, Lakeside also proposes to convert a tennis court located in the northwest corner of the campus to a surfaced parking lot for 75 cars. There is an extensive footpath system between the area of the proposed parking lot and the remaining areas of campus. The proposed parking lot is separated from the vicinity residential properties and would be landscaped and bermed from the street.

3. The subject site is zoned Single Family (SF) 7200. It has approximately 575 ft. of frontage along N.E. 145th and approximately 1,200 ft. of frontage along 1st Avenue N.E. Surrounding development includes the I-5 Freeway to the east, and single family residences south and west. The north City limits and King County single family development are north of the 145th demarcation.

4. At present, students casually park at 90 degree and various other angles to 1st Avenue N.E., an arterial, and walk directly east to the campus. On the day of his site visit the DCLU analyst counted 19 cars so parked. At least one vicinity resident expressed a written concern that traffic and safety hazards were presented by the student parking pattern. It was undisputed that City policy prohibits backing onto an arterial.

5. The Seattle Engineering Department (SED) has proposed curbs and sidewalks along 1st Avenue N.E. The bid for the job has been

accepted and construction is scheduled to begin in July-August, 1986. Lakeside decided to pursue their present proposal in partial response to the SED project proposal.

6. Lakeside provided a Transportation Plan, Exhibit 3, as part of its application for necessary DCLU approvals. It shows that there are 75 staff and faculty members and 417 students "associated with the site on a regular basis". The plan states that there is no excessive congestion during the morning or afternoon peak periods, and that the majority of the student population uses organized car pools and school buses for transportation. As noted in the plan, there is a bus stop at the site's northwest corner.

7. The annotated Environmental Checklist, Exhibit 2, notes that 15 staff and 382 students would "reside or work in the completed project." The Checklist reveals no adverse impacts from the Lakeside proposal. A DCLU annotation comments that the undesirable parking situation along 1st Avenue N.E. could be remedied by requiring curbing, sidewalks and parallel parking along 1st Avenue N.E.

8. No increase in staff, students or operating hours is expected to result from the proposal. Contrary to DCLU apprehensions, the Hearing Examiner does not find that the proposal will cause an increase in pedestrian activity or traffic either along 1st Avenue N.E. or along N.E. 145th Street. There will be increased traffic activity at the 1st N.E. - N.E. 145th Street intersection.

9. DCLU issued a project declaration of non-significance conditioned on landscaping, availability of the new parking lot before occupancy of the new building, and on the condition that

3. The applicants shall provide street improvements along 1st Avenue N.E. and N.E. 145th Street, including curbs, sidewalk and parallel parking, per Seattle Engineering Department requirements prior to occupancy of the building.

The administrative conditional use required to expand an existing school in a single family zone was also granted on the same conditions. Lakeside appealed the imposition of Condition No. 3.

Conclusions

1. The Hearing Examiner has jurisdiction of this matter pursuant to Chapter 23.76, Seattle Municipal Code. While the Hearing Examiner is to give no deference to the DCLU determination on the administrative conditional use, the DCLU Director's environmental determination is to be accorded substantial weight. Seattle Municipal Code Section 23.76.022 (C)(7).

2. The proposal comports with the specific and general conditional use criteria of Seattle Municipal Code Title 23. The proposal's re-siting of parking to the northwest campus in proximity to an extensive footpath through the campus will be neither detrimental nor injurious to the public welfare or vicinity properties. The facts suggest that the proposal will be of material benefit to the environs. The record shows no increase in campus population nor in hours of operation resulting from the proposal. Nor does the record reflect any increase in pedestrian activity along 1st Avenue N.E. or along N.E. 145th. There would, by way of illustration, be no reason for students to park at 145th and walk south along 1st Avenue in order to access the campus. To the degree that increased numbers of the population will appear at the 1st N.E.-145th intersection there is no indication that the impact will be of "material" detriment. No adverse connection was established between the proposal and the unfavorable parking pattern existing along 1st Avenue N.E. The DCLU condition is therefore improper and is hereby deleted.

3. Regarding State Environmental Policy Act (SEPA) considerations, Seattle Municipal Code Section 25.05.660(A)(2) requires that measures to mitigate a proposal "be related to specific, adverse

environmental impacts clearly identified in an environmental document on the proposal..." DCLU has identified no "specific, adverse environmental impacts" related to the Lakeside proposal. The Environmental Checklist, the Analysis and Decision, Transportation Plan and other items of record state no increase in student or staff population or in the hours of operation. The record fails to support any conclusion or finding that the proposal will exacerbate the parking or pedestrian activity along 1st Avenue N.E. although some increase at the 1st N.E.-145th intersection is expected.

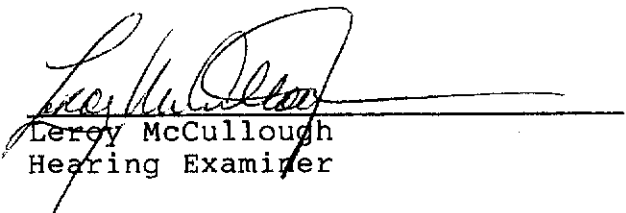
4. Further, Seattle Municipal Code Section 25.05.660(A)(4) allows implementation of mitigation measures "only to the extent attributable to the identified adverse impacts" of the subject proposal. The proposed mitigation measure is "attributable" to no identified adverse impact.

5. Finally, in light of the record, the challenged mitigation measure is not "reasonable", Seattle Municipal Code Section 25.05.660(A)(3).

Decision

The Administrative Conditional Use and DNS Condition No. 3 are deleted.

Entered this 3rd day of July, 1986.


Leroy McCullough
Hearing Examiner

Concerning Further Review

Pursuant to Seattle Municipal Code Section 25.05.680(C), a party to the hearing before the Hearing Examiner may file an appeal with the City Council no later than the fifteenth day after the date of the decision appealed from is filed with the SEPA Public Information Center. The appeal statement must be filed with the City Clerk on the first floor of the Municipal Building. The City Council's review on appeal shall be limited to the issue of compliance with Section 25.05.660. The City Council Land Use Committee should be consulted regarding further appeal specifics.

If an appeal is taken pursuant to Section 25.05.680(C), the time for filing a request for judicial review of the underlying governmental action and/or other SEPA issues is stayed until the City Council renders a final decision on this Section 25.05.680(C) appeal.

If no appeal is taken pursuant to Section 25.05.680(C), 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 on the underlying governmental action must be filed in King County Superior Court within fifteen days of the date of this Hearing Examiner decision. Seattle Municipal Code Section 23.76.22(C)(12)(c). Judicial review under SEPA shall without exception be of the decision on the underlying governmental action together with its accompanying environmental determinations. RCW 43.21C.075(6)(c). SEPA issues may be added to the request for review within 30 days after the date of this decision if a notice of intent to seek judicial review of SEPA issues is filed with the Director of the Department of Construction and Land Use, 400 Seattle Municipal Building, Seattle, Washington 98104, within fifteen days of the date of this decision. Section 25.05.680(D)(4).

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 written transcript of the hearing but will be reimbursed if successful in court. Instructions for preparation of

the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, 5th Floor, Seattle, Washington 98104. As an alternative to the written transcript, RCW 43.21C.075(6)(b) provides that a tape may be used for court review. If a taped transcript is to be reviewed by the court the record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review.