

OFFICE OF HEARING EXAMINER
CITY OF SEATTLE

In the Matter of the Appeal of

FILE NO. MUP-86-082(V)

Stouffer-Madison Hotel and
Meyer Sign Company

Order and Decision on
Reconsideration

for a Master Use Permit

A motion for reconsideration of the Hearing Examiner's December 19, 1986, decision in this matter was filed by the Director, Department of Construction and Land Use, December 22, 1986. Appellants, Stouffer-Madison Hotel and Meyer Sign Company, by G. Richard Hill, Foster, Pepper & Riviera, filed a response opposing reconsideration.

The basis for the motion is that the Hearing Examiner's failure to consider Policy 21 of the Land Use and Transportation Plan for Downtown Seattle was a mistake in a vital matter. Appellant contends that the policy was considered in that it was used to guide the drafting of the text of the land use regulations as required by Section 23.12.020, Seattle Municipal Code, and the regulations which embody the policies, were considered.

Section 23.40.020.C, Seattle Municipal Code, provides that variances may be authorized "only when all the following facts and conditions are found to exist: ... 5. The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use Policies or Comprehensive Plan component, as applicable." The conjunction "and" directs the examiner to consider the spirit and purpose of both the code and the policies. Not considering a relevant land use policy was a mistake regarding a vital matter warranting reconsideration.

The following conclusions are substituted for Conclusions Nos. 5, 6, 7, and 8 of the decision entered December 19, 1986.

5. The final requirement is that the variance be consistent with the spirit and purpose of the Land Use Code and the policies which apply to the property. Section 23.40.020(C)(5).

6. Policy 21 of the Land Use and Transportation Plan for Downtown Seattle states:

Signs shall be regulated to: 1) allow adequate identification of businesses; 2) add interest to the street level environment; 3) reduce visual clutter; and 4) enhance the appearance and safety of the downtown area. All signs shall be oriented to pedestrians and persons in vehicles at street level. Signs on the upper floors of buildings intended primarily to be seen by motorists and others from a distance shall be prohibited.

Since the proposed sign is intended to identify the hotel to motorists from a distance, the variance to allow the signs on the upper part of the building would not be consistent with the policy or its spirit and purpose.

7. The intent of the Land Use Code with regard to signs is stated in Section 23.55.001(A):

A. To encourage the design of signs that attract and invite rather than demand the public's attention, and to curb the proliferation of signs;

B. To encourage the use of signs that enhance the visual environment of the city;

FINDING AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

STOUFFER-MADISON HOTEL AND
MEYER SIGN COMPANY

FILE NO. MUP-86-082(V)
APPLICATION NO. 8604810

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

Introduction

Stouffer-Madison Hotel and Meyer Sign Co. appeal the decision of the Director, Department of Construction and Land Use, to deny a variance from the height restriction for signs at 515 Madison Street.

The appellant exercised the 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 December 4, 1986.

Parties to the proceedings were: appellants by G. Richard Hill, Foster, Pepper and Riviera, and the Director by Jay Laughlin, 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. Appellants applied for a master use permit to add three logo signs to the existing hotel structure at 515 Madison Street. The Director determined that a variance from Section 23.55.034-(C)(5) restricting height to 65 ft. would be necessary. The Director denied the variance and this appeal followed.

2. The signs are proposed for the blank walls of the mechanical penthouse near the top of the building. The maximum height above grade would be 308 ft.

3. The proposed signs would conform to all standards for the Downtown Office Core 1 (DOC 1) zone in which the building is located except for the height standard.

4. The Stouffer-Madison Hotel (the hotel) is located on the half block bounded by Madison Street on the north, 6th Avenue on the east, Marion Street on the south and an alley. The I-5 freeway is immediately east of 6th Avenue but is considerably lower.

5. The hotel's architectural design and finish closely resembles that of an office building.

6. The current owners purchased the hotel after it was completed and had not been involved in the hotel's location, design or construction.

7. A small sign identifying the hotel is located at the southeast corner at approximately the third level. This sign is visible only to those passing on 6th Avenue, going west on Madison and, perhaps, on 7th Avenue across the freeway.

8. From the freeway the view of the hotel from the south is blocked by the Sea-First Fifth Avenue Plaza Building until approximately the off-ramp for Seneca Street. The hotel can be seen by viewers going southbound on I-5 from the Ship Canal bridge but as one approaches Olive Way it is obscured by the convention center.

9. There is no direct access to the hotel from the freeway. A southbound motorist, with instructions, would take the 7th and Union exit at the Sheraton Hotel, travel west on Union to 5th Avenue, travel south to Marion, turn left up Marion to 6th Avenue and go north on 6th Avenue to Madison. A northbound motorist, with instructions, would take the Seneca Street offramp, at the Holiday Inn, travel on Seneca to 5th Avenue and follow the same route as the southbound motorist from there.

10. First time guests of the hotel regularly comment or complain about the difficulty in locating the hotel and its lack of identification.

11. The Sheraton Hotel, located just off of I-5 at Union, and the Hilton Hotel, located just off I-5 at Seneca, are both identified by signs near the top of the buildings, greatly in excess of 65 ft. above grade. Both signs were erected under a prior code which did not restrict the height to 65 ft.

12. Three other large hotels do not have signs similar to those proposed and the Sheraton's and Hilton's. The Westin is distinctive in its architectural style, the Crown Plaza/Holiday Inn has a sign within the permitted height which is in full view of the Seneca Street off-ramp and the Four Seasons Olympic, though not visible from the off-ramp, is also on Seneca, the freeway access street.

13. Hotel guests are usually less familiar with Seattle locations and street patterns than office building users.

14. The proposed signs would consist of the hotel's logo, "SH", and would be mounted off the wall with the light tubes underneath to outline the logo in a glow.

Conclusions

1. For variance to be warranted, the facts and conditions listed in Section 23.40.020(C) must be present. The first required fact is the existence of an unusual condition of the property, because of which the code height restriction deprives it of rights enjoyed by other properties in the same zone or vicinity. Section 23.40.020(C)(1). The condition may not have been created by the applicant. The hotel building, because of its design, is not easily identifiable as a hotel. Because of the hotel's location, the buildings surrounding it and the street and freeway design, the existing signage is not visible. Since a hotel's need for identification is greater than that of an office building, the ability of other hotels to be identified by the public is the right that should be used for comparison. This combination of conditions is different from the other hotels in the area.

2. The second consideration is whether the relief requested is the minimum necessary and whether special privilege will be conferred. Section 23.40.020(C)(2). The amount of variance appears to be great, however, the architectural and structural design of the building does not permit the mounting of a sign that can provide meaningful identification until the height of the mechanical penthouse area. The amount of variance, then, is the minimum necessary for relief. Because two other hotels have signage at this height and the hotel is differently situated from the other hotels without signs, the variance would not confer special privilege.

3. No detriment to the public welfare from the proposed sign can be foreseen and there would be no injury to other property, conditions necessary under Section 23.40.030(C)(3).

4. The 65 ft. height restriction does cause undue hardship where the hotel lacks identification and there is no feasible means to provide it within the prescribed height. This satisfies Section 23.40.020(C)(4).

5. The final requirement is that the variance be consistent with the spirit and purpose of the Land Use Code and the policies which apply to the property. Section 23.40.020(c)(5). The intent of the code is stated in Section 23.55.001(A):

A. To encourage the design of signs that attract and invite rather than demand the public's attention, and to curb the proliferation of signs;

B. To encourage the use of signs that enhance the visual environment of the city;

C. To promote the enhancement of business and residential properties and neighborhoods by fostering the erection of signs complementary to the buildings and uses to which they relate and which are harmonious with their surroundings;

D. To protect the public interest and safety; and

E. To protect the right of business to identify its premises and advertise its products through the use of signs without undue hindrance or obstruction.

6. Section 23.55.002 states that variances may be permitted from the provisions of the Signs Chapter of the code, with certain exceptions not applicable here.

7. The design of the proposed sign, a back-lit logo, despite the proposed height merely invites the public's attention and patronage. There is nothing demanding about the design. While the variance would allow signs above the height limit it would not cause a proliferation of signs. The proposed signs would enhance the visual environment in that they would provide needed visual identity in a tasteful way. The signs would enhance the business property because the design is complementary to the building and use and harmonious with the surroundings. The public interest and safety would not be affected except to have improved access to a facility providing public accommodation. The signs would enable the business to identify itself. The variance would, then, be consistent with the spirit of the policy and code.

8. Since all the facts and conditions required for the granting of the variance are present, it should be granted.

Decision

The variance is granted from the height limit for the signs as proposed.

Entered this 19th day of December, 1986.

M. Margaret Klockars
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 party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22.(C)(12)(c).

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. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104, (206) 625-4197.