

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

In the Matter of the Appeals of

DR. YVONNE PERIER JONES AND

FILE NO. MUP-88-082(W)

LYNN L. POSER

FILE NO. MUP-89-001(W)

APPLICATION NO. 8708495

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

Introduction

Applicant proposes to construct two mixed use, i.e. commercial and residential buildings on vacant land addressed as 2228 Eastlake Avenue East. DCLU issued a determination of nonsignificance on the project, with conditions, and appellants challenged the adequacy of those conditions.

The respective appellants 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 January 31, 1989. Subsequent thereto, the Hearing Examiner indicated to parties that the decision would issue by February 21, 1989.

Parties to the January 31, 1989 proceedings were: appellants Jones and Poser, pro se; the applicant, Wayne C. Locke, pro se; and the DCLU Director by Patrick Doherty, senior land use specialist.

The Hearing Examiner remanded the decision to DCLU on February 21, 1989 and the DCLU supplement was issued March 10, 1989.

The DCLU supplement provided additional analysis of parking and traffic impacts related to the adjacent alley and environs.

The DCLU supplement added the following condition:

The owner(s) and/or responsible party(s) shall not let any commercial tenant space in the proposed project to any convenience store or fast-food establishment.

Inquiries but no comments were received against the DCLU supplement.

After due consideration of the record of the case, inclusive of the supplement, the Hearing Examiner issues the following findings, conclusions and decision on the subject appeals.

Findings of Fact

1. Except as modified herein, the Findings entered February 21, 1989 are hereby adopted and incorporated by reference as if fully set forth.

2. Adding the projected 51 trips from the subject property, the adjacent alley would have approximately 85 total vehicle trips in the p.m. peak hour, averaging 1.4 trips per minute.

3. The alley is 20 ft. wide, improved and can accommodate two-way traffic.

4. It is undisputed that the 1.4 trips per minute average



are within the alley's capacity and the Hearing Examiner so finds.

5. An adequate sight triangle is required for the proposal site exit to the alley pursuant to Seattle Municipal Code Section 23.54.030(F).

6. The Hearing Examiner finds in accord with DCLU's undisputed report that likely commercial occupants, such as specialty retail or customer service offices, will create a demand for 1.3 - 5.26 parking spaces. Applicant will provide six parking spaces on site. The occasional spillover can be accommodated within the vicinity.

7. The Hearing Examiner finds that residential parking needs above the 19 spaces provided for the proposed 16 residential spaces can be accommodated within the vicinity.

#### Conclusions

1. Except as modified herein, the Hearing Examiner Conclusions entered February 21, 1989 are restated and incorporated herein by reference.

2. The substantial weight accorded the DCLU environmental determinations, Seattle Municipal Code Section 23.76.022(C)(7), Brown v. Tacoma, 30 Wn. App. 762, 637 P.2d 1005 (1981), requires that this DCLU determination be affirmed. The evidence of record shows that no further conditioning is required to address the proposal's impact on alley traffic or vicinity parking. It was undisputed that the p.m. peak (maximum) alley trips are within the alley capacity. The alley can accommodate 2 lanes of traffic and is improved. An adequate sight triangle is required under Section 23.54.030(F).

3. The minimal residential parking overflow can be reasonably accommodated within the vicinity. The probable commercial uses may lead to occasional parking spillovers. The likelihood of such is significantly reduced by the provision of the six on-site parking spaces, the low - intensity nature of the probable uses and by the condition imposed by the DCLU supplement which restricts occupancy by uses traditionally considered as high traffic generators.

#### Decision

The DCLU decision as supplemented is AFFIRMED.

Entered this 30th day of March, 1989.

  
LeRoy McCullough  
Hearing Examiner

#### CONCERNING FURTHER REVIEW

Pursuant to Seattle Municipal Code Section 23.76.024, 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, 5th Floor Municipal Building, 684-8322. 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 23.76.024, 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 City Council appeal.

If no appeal is taken to the City Council, 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. 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. See Chapter 43.21C, RCW and Chapter 25.05, Seattle Municipal Code.

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, 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.