

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JOHN WATTS

FILE NO. MUP-81-093(SE)
APPLICATION NO. 81272-0363

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

Introduction

Project applicant sought approval to permit a building located at 3119 S. Day Street, designated as a landmark, to be used for professional office space, providing less than the minimum required parking for a building designated as a landmark. Appellant appealed the Department of Construction and Land Use' favorable decision on the application.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: John Watts, Esq.; Gary LaTurner, project applicant; the Director of the Department of Construction and Land Use (DCLU) by Melody McCutcheon, environmental specialist.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on January 13, 1982.

After due consideration of the evidence elicited during the public hearing and as a result of the personal inspection of the subject property and surrounding area by the Hearing Examiner, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The subject property is located in the Single Family Residence High Density (RS 5000) zone at 3119 E. Day Street. The 100 by 75 ft. lot is developed with a three story plus basement residential structure which has been accorded landmark status pursuant to the Seattle Landmarks Preservation Ordinance. The structure has 13 rooms and has approximately 6,000 sq. ft. of area. Its central stairway is also designated as a landmark.

2. Applicant presently resides in the subject structure. He relates that the structure was used as a sanitarium from 1921 to 1941 and as a rooming house from 1941 to 1976. In 1978, applicant opened a day care on the premises to financially assist in maintaining the house. According to applicant, there were two years when the house was not used for business purposes.

3. The subject property is located at the corner of 32nd Avenue S. and S. Day Street. The principal entry to the structure is to S. Day Street although there is some building exposure on 32nd Avenue S. as well. There is potential space for two cars to be parked on site.

4. Single family houses are located along 32nd Avenue S., to the property's east. West adjacent to the subject property is a building with some frontage on S. Day Street and on 31st Avenue S. The building is used as a music hall and is part of a Neighborhood Business (BN) zone that proceeds south on 31st Avenue. North of S. Day Street with frontage on 31st Avenue S. is a condominium, which is located in an RD 5000 zone. This condominium is northwest of the subject property. Directly across S. Day Street from the subject property is a vacant lot.

5. At an earlier point the subject property was under consideration as office space by a particular professional group. Applicant accordingly applied to establish professional office space in the structure to accommodate seven full time psychiatric counselors. The initial group has since withdrawn its offer, but the application is retained.

6. DCLU approved the application to permit the building to be used for a use not otherwise allowed in the zone and conditionally for the building to provide less than the minimum required parking. Section 24.74.020(E)(F). Appellant contested the DCLU decision on several bases, including: that the original offer was withdrawn; that the single family area would be adversely impacted by the increased parking demand; and that the proposed introduction of this business into the residential neighborhood would be improper. Another witness in opposition added that introducing this use would add to the erosion of the neighborhood's single family character. The witness also echoed a concern that there would be overflow parking to 32nd Avenue S.

7. There are five parking spaces adjacent to the music hall at 31st and S. Day. Additional on-street parking is available on S. Day Street and on 31st Avenue. Concerning parking, DCLU assessed that if 7 counselors were present at the same time, the maximum required number of spaces would be 15. With the two on-site parking spaces to be provided, the needed 13 off-site parking spaces could be assumed along 31st Avenue and along S. Day Street without impacting 32nd Avenue, the area of single family residences. Efforts would be made to limit parking on 32nd Avenue South to counselors.

8. The neighbor directly across the street on 32nd Avenue testified in support of the application as compatible with the neighborhood.

Conclusions

1. Landmarks are accorded particular status in the Zoning Code. The Hearing Examiner may authorize a use not otherwise permitted in a zone within a building designated as a landmark subject to the requirements of the Ordinance. Section 24.74.020(F).

2. Such a use

...shall be compatible with the existing design and/or construction of the building without significant alteration; and 2. Such use shall be allowed only when it is demonstrated that uses permitted by the zone are impractical because of building design and/or that no such permitted use can provide adequate financial support necessary to sustain the landmark in a reasonably good physical condition; and 3. Such use shall not be detrimental to other properties in the zone or vicinity or to the public interest.

3. The proposed use is compatible with the existing design and construction of the building without significant alterations. As noted by DCLU, the bedrooms and living areas could easily be converted to office use.

4. The criterion of Section 24.74.020(F)(2) is also met. This 13 room, three story, plus basement structure has a central stairway that is also accorded historical status. It is of relevance that the structure has been used as a sanitarium, rooming house and then as a single family dwelling which was later supplemented by day care use. The building design is not practical for single family use.

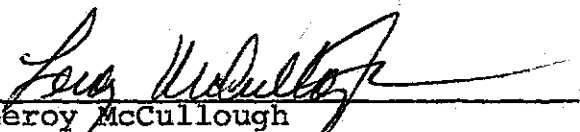
5. The structure is primarily oriented to S. Day Street. West adjacent to the subject property is a music hall in a 31st Avenue BN zone segment. Parking is available at the music hall as well as along S. Day and 31st Avenues; two on-site parking spaces will be provided. It is suggested that efforts will be made to restrict parking on 32nd Avenue S. to counselors. Under the circumstances we conclude that the use, although different from the residential uses surrounding and perhaps different from the initial application will not be detrimental to other properties in the zone or vicinity or to the public interest, as conditioned herein.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED subject to the following additional condition:

Efforts shall be made as monitored by DCLU to prohibit patient parking on 32nd Avenue South.

Entered this 27th day of January, 1982.


Leroy McCullough
Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should an appeal be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.