

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

SISTER CLARA MUHAMMAD SCHOOL

FILE NO. MUP-83-023(CU)
APPLICATION NO. 83-070

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

Introduction

Appellant, Sister Clara Muhammad School, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny an administrative conditional use to allow the school at 165-19th Avenue.

The appellant exercised its right to appeal pursuant to the Master Use Permit Ordinance Chapter 23.76, Seattle Municipal Code.

Parties to the proceedings were: appellant, represented by Rashad El'Amin, Director of the school, and Raquib Muied, consultant, and the Director represented by Ed Somers.

No correspondence or testimony was received in opposition to the application.

For purposes of this decision all sections refer to the Seattle Municipal Code, Title 23, unless otherwise indicated.

This matter was heard before the Hearing Examiner on May 11, 1983.

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. Appellant proposes to convert a duplex to a private school use at 165-19th Avenue. An administrative conditional use is required because some development standards for the use are not met. The Director denied approval.
2. The site of the proposed school is a 50 by 128 ft. lot fronting on 19th Avenue in an L-1 zone. A two-story duplex structure and detached garage occupy the site.
3. The property provides a 5 ft. north side yard.
4. The school would have 18 students and three full time, three part time and at least one volunteer staff, according to the Director's Analysis and Decision (Director's Exhibit 1). Mr. El'Amin testified to one teacher and two assistants at any one time.
5. A school is permitted outright in the L-1 zone if it meets the development standards of Sections 23.45.92-.102. It can be permitted as a conditional use subject to the requirements of Section 23.45.122.
6. Development standards not met by the proposed use are the 10 ft. side setback of Section 23.45.96, the five off-street parking spaces required by Section 23.45.98 and the dispersion criterion of Section 23.45.102.

7. Institutions in the area, within 600 ft., are: a boys' club one-half block to the north, a church approximately one-half block to the west, a church with a daycare facility to the south-west, a church to the southeast and a building, formerly Odessa Brown Clinic, now in other institutional use to the east. What is described as a "reading room" across the street will not be included as it shows no activity.

8. Approximately one-third of the students live within walking distance of the school. The school will use two nine passenger station wagons to pick up and deliver students.

9. Parks and playfields nearby will be used for outdoor play. Arrangements are being made with the Boys' Club to use their indoor facilities. There would be no outdoor recreational use of the subject lot.

10. A 3 ft. thick, 6 ft. high hedge will be planned on the north side of the building to separate the school from the neighboring residential lot. The hedge would leave insufficient room for children to play on the north side.

11. The adjacent house is 23 ft. from the subject structure. A driveway runs along the south side of the neighboring property.

12. A Metro bus route is located on Yesler, less than one block away and other routes serve 23rd Avenue.

13. There is plenty of on-street parking available in the area.

14. Appellant can arrange for use of a Boys' Club owned lot for parking, if needed.

15. The appellant plans to insulate the structure which may provide some sound insulation.

16. Appellant's witnesses report that when the children are in the building, as they now are on Sunday, no noise can be heard outside.

Conclusions

1. The proposed school, with limited students, would not necessarily be incompatible with its surroundings. Because of the driveway and setback on the adjoining property there is adequate separation between the two uses. The proposed hedge will provide further visual separation.

2. It does not appear from the evidence presented that noise from the school would create any problems since there would be no outdoor play and only a small number of students.

3. The small amount of traffic likely to be generated by a school of this size which provides for transportation of its students and with some within walking distance should not appreciably increase traffic and would cause no congestion.

4. Again, with provision for transportation of students, the small number of staff, some of whom reside in the immediate area, the proximity of bus routes, and the availability of on-street parking the parking demand created by the school can easily be accommodated.

5. No hazards to safety from the proposal are reasonably foreseeable.

6. Section 23.45.122(B), Dispersion criteria, addresses an additional institution's potential aggravation of parking shortages, traffic congestion and noise in the surrounding residential area.

The section states that an institution may be permitted even if there are institutions within 600 ft. if these situations would not be aggravated. No serious problem of traffic congestion, parking shortage or noise exists in the area and the addition of the school would not create a problem in any of these areas. If no problem exists or would be exacerbated it is not necessary to look for a physical element to provide separation as the two possibilities for approval despite the presence of other institutions are offered in the alternative.

7. The dispersion criterion is intended to insure that a concentration of institutions does not create problems for nearby residential properties. It is not intended by the code that institutions be forced to go to non-residential areas when they are otherwise compatible. This small school appears to be consistent with the spirit and purpose of the code and would cause no material detriment.

8. The retention of housing is not specifically addressed in the applicable sections of the code. The Council has chosen to enact other ordinances to deal with loss of housing through conversion so that consideration will not be a part of this conditional use decision.

Decision

The administrative conditional use is granted subject to the following conditions:

- 1) a landscaping plan providing a physical buffer between the subject property and the lot to the north be approved and implemented;
- 2) if enrollment exceeds 25 students one additional parking space be obtained within 800 feet; and
- 3) no regular use of the yards on the site by students.

Entered this 20th day of May, 1983.

M. Margaret Klockars
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Deputy 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.