

BEFORE THE HEARING EXAMINER

CITY OF SEATTLE

In the Matter of the Appeal of

PABST

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

FILE NOS. MUP-84-093
(DCLU NO. 8401911)
MUP-84-094
(DCLU NO. 8403823)

On March 18, 1985, the undersigned remanded Application 8401911, regarding 80 South Hudson Street, to DCLU for an assessment on the proposal's effect upon the maintenance of the street system and other public facilities.

Also on March 18, 1985, the undersigned remanded Application No. 8403283, regarding 54 and 55 South Dawson Street, for a DCLU evaluation of that proposal's impact on vicinity streets.

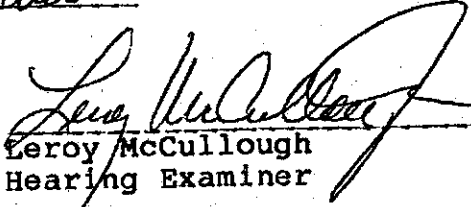
By order dated October 8, 1985 the undersigned stated that DCLU review of the Dawson Street proposal could be done singly "only if the application for South Hudson Street is withdrawn."

By letter dated October 16, 1985, proponent advised that "effective immediately Hudson Street Associates is withdrawing its application for a Master Use Permit at 80 South Hudson Street."

IS THEREFORE ORDERED:

- 1) Application 8401911 and Hearing Examiner appeal MUP 84-093 are DISMISSED.
- 2) Otherwise, Application 8403823 shall be evaluated by DCLU in accord with Hearing Examiner directions of March 18, 1985, and October 8, 1985.

Entered this 4th day of November 1985.


Leroy McCullough
Hearing Examiner

FINDINGS AND DECISION

RECEIVED

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE MAR 18 1985

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In the Matter of the Appeal of

PABST

FILE NO. MUP-84-093
APPLICATION NO. 8401911

from a decision by the Director of
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Introduction

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 February 20, 28, and March 1, 1985. The record was closed on March 4, 1985.

Representatives to the proceedings were as follows: appellant by Samuel M. Jacobs, attorney at law; applicant, Hudson Street Association by Linda R. Larson, attorney at law; the Department of Construction and Land Use Director by Amy Luerson, 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. Appellant challenges a DCLU declaration of non-significance (DNS) for a project addressed as 80 South Hudson Street. The subject property is located between First Avenue S. to the east; Colorado Avenue S. to the west; S. Alaska Street to the north; and S. Hudson Street to the south. The site is zoned General Industrial (IG).

2. The surrounding land uses are principally industrial, manufacturing and commercial. They include such uses as La Hacienda Motel; Mesher supply, a wholesale distributor of plumbing fixtures and supplies; Milwaukee Motor Transport; and Kriken Machine Manufacturing Company. Kriken is one of several heavy manufacturing industrial uses in the immediate vicinity. There is some indication that lighter commercial uses are on the rise in the vicinity. General business (delivery) peak hours are from roughly 10:00 a.m. to 3:00 p.m. weekdays; commute worker peak hours the typical 7:30-8:30 a.m. and 4:30-5:30 p.m. daily. Heavy and congested truck traffic is common to the vicinity.

3. The subject site is currently developed with an approximately 158,669 sq. ft. building used for structural steel warehousing and fabrication. Hudson Street Associates, project applicant, proposes to subdivide the building to maintain roughly 107,387 sq. ft. of steel warehousing and fabrication while also providing an approximate 11,384 sq. ft. area for a paper recycling center and a 39,448 sq. ft. area for a solid waste recycling center and transfer station. No new construction beyond the existing building footprint is proposed. Other uses currently on site include a 6,440 sq. ft. office building, accessory buildings and exterior craneways. The recycling use would essentially be a relocation of an existing use at 9 S. Massachusetts Street.

4. The new development would be housed in a T-shaped configuration, with the top of the "T" roughly 114 ft. from the site's north (Alaska Street) property line. The area between the top of the "T" and the north lot line is a gravelled and grass section, part of which is used to site an overhead craneway. The applicant's witness testified that this north area will be paved and have a drainage facility. The proposal site will be fenced and have additional landscaping. DNS condition 4 requires that landscaping be provided "per approved plan prior to occupancy".

5. The proposed development will be open at the north and south ends. The east and west sides will be walled in and closed. Few transfer stations are totally enclosed. Testimony of R. Owings, SED; Professor J. Ongerth, University of Washington.

6. A vacated portion of S. Utah Street runs north and south through the subject site. A railroad line runs along this right-of-way through the subject property. The proponent has no plans to block the railline, sometimes used by other area businesses, but intends to use it. A condition to the DCLU DNS is that recycling activities be designed "to not interfere with the operation of the railines on the Utah Avenue S. vacated right-of-way". Because of the layout of the site in relation to the railline, some trucks will go over the tracks.

7. Generally, truck access to the proposed use will be via west adjacent Colorado Avenue S. through an area where the existing craneway portion will be demolished. DNS condition 5 requires that

Signs shall be posted at the exit of the transfer station (Colorado Ave. S.) which direct departing vehicles to use East Marginal Way S. The signs shall be posted prior to occupancy.

Fifty-five parking spaces will be located near the south end of the site and will be principally accessed from south adjacent S. Hudson Street. Also provided will be parking accommodations for 20 transfer trucks. The amount of proposed parking is in accord with zoning code requirements. Some of the disposal trucks using the proposed facility will be maintained at a 54 S. Dawson proposed facility. The DNS on the 54 (and 55) S. Dawson facility was also challenged by the appellant MUP-84-094, Application No. 8403823 and was adjudicated as a separate decision.

8. The proposed use will employ 15 on-site workers and 16 truck drivers during the day shift. There would be two shifts for recycling and three shifts for the transfer function; 8:00 a.m. to 4:00 p.m.; 4:00 p.m. to midnight; midnight to 8:00 a.m. Hours would be from 10:00 p.m. Sunday to 4:00 p.m. Saturday.

9. Operationally, commercial carriers would enter the site from Colorado Avenue, proceed to the top center of the "T" and dump the materials for sorting and packing on a concrete floor. Applicant is giving some consideration to enclosing the area or using a sub-surface pit. The non-recyclable waste would be moved to the most easterly transfer area 3; from there the materials would be bulldozed to transfer vehicles and taken to a landfill site. Wet or contaminated paper which would otherwise have been recyclable would also be sent to the transfer pit since as a practical matter the paper would be of no commercial use or interest to a potential buyer. Expected average tonnage of materials to the site is from 700-900 per day.

10. Applicant proposes to use different truck routes for restaurants to minimize wet garbage contamination of otherwise recyclable materials. The downtown garbage, estimated 80-90 percent paper, would be collected separately, sorted by hand, baled and sold. The evidence is undisputed that this will be a unique operation for Seattle.

11. The 11,384 sq. ft. proposed paper recycling area will be located at the west end, top of the "T". This is the area where baling and storage of the recyclable paper will occur.

12. Immediately east of the paper recycling area is a proposed recycling area for glass and aluminum cans.

13. Some hospital detachable container, packages and cafeteria food wastes are also expected to find its way to the site, as will occasional wastes from private homes. The occasions and amounts, however, will be very rare.

14. Applicant proposes no spraying for the sorting area, but only in the transfer building. Therefore, the only section expected to experience waste water is the northeast section of the transfer area.

15. According to proponent, the recycling station will be cleaned by a wash down, with the waste water routed through a separator. A DCLU condition to the DNS requires that the site be washed daily to reduce dust. A small wash area for the trucks is also proposed. A sewer line does run through the project via Hudson Street and terminates at the south end of the "T". Applicant proposes a connection to this line. Testimony of F. Hofmeister. Before release to the sewer, the oil would be separated from the water. Collected oil will be removed from the site by a designated individual. Catchbasins do exist on the site, Exhibit 47, but it is not established whether they have oil-water separators.

16. A DCLU related condition to the appealed from DNS provides that all wastewater be treated "as required by METRO" and that "(d)rainage control...be provided as required by City Ordinances".

17. Use and maintenance of the vicinity street system is somewhat spotty. First Avenue S. is a major arterial. Another nearby major arterial is E. Marginal Way S., roughly two blocks from and west parallel to First Avenue S. The intervening north-south avenue is Colorado Avenue. The Director of Operations, Seattle Engineering Department, surmised that First Avenue S. and Marginal Way were both paved in the 1920's with concrete; and are in good passable condition. South Colorado from Hudson to Alaska was also paved in approximately 1920.

18. The condition of the east-west streets is not positive. South Dawson St. is one block south of S. Hudson. Between First Avenue S. and E. Marginal Way S., Dawson is a gravel/dirt road that one witness plainly described as a maintenance hazard. Although S. Hudson Street, the subject site's south adjacent street, was overlaid in approximately 1964, this segment is uniformly described as a narrow, pitted and rutted segment with poor to non-existent drainage and unreinforced shoulders. Hudson is heavily used for east-west traffic to and through First Avenue S. to E. Marginal Way S. Consideration of the proposed, Hudson Street's 1964 overlay and other factors led the Seattle Engineering Department Director of Operations to conclude that S. Hudson Street is on the borderline of "eminent failure" if forced to bear "a lot of" additional traffic, and that edges and shoulders of a S. Dawson Street segment would probably break-off from additional cross-traffic. Testimony of Joe Rolph. Rolph acknowledged that approved routing for the proposal would be conditioned to mitigate adverse impacts on the existing street system. The Examiner finds it accord with the testimony of the witness. Hudson traffic is heavier than the Dawson Street traffic.

19. The portion of Alaska Street north adjacent to the subject site also is marked by chuckholes and occasioned standing water.

20. A transfer truck's function is to remove materials from the subject site to a more appropriate site, such as a landfill. A transfer truck's capacity is roughly 20 tons. Collector trucks, on the other hand, have between a 10-12 ton capacity.

21. Some trucks will drip either when full or after washing, raising a concern to appellant and others that waste will percolate to the local soil and find its way into the storm sewer and to the Elliott Bay and Duwamish River outflows.

22. Most of the traffic to the proposal site is expected to use E. Marginal Way S. to S. Hudson to Colorado, where principal access is to the site. Less traffic would arrive via First Avenue S. to S. Hudson Street.

23. Approximately one mile south of the subject site is the South transfer site, built in 1966 and operated by the Seattle Engineering Department. It is at roughly 50 percent capacity use. Appellant suggested through at least one witness that an additional recycling center could result in higher costs to rate payers who are saddled with fixed south Transfer operating costs without regard to competition from an additional recycling center.

24. Some limited potential exists for the recycling center's receipt of unapproved substances such as hazardous or toxic wastes. Seattle's South Transfer Station receives hazardous and toxic wastes "a very, very small percentage of time".

25. The proposal site would be routinely inspected by Health Department officials regularly for litter, vector control, restrooms and other items; and to ensure that landfill-bound wastes are not kept on-site for inordinate periods. Total enclosure of the proposed operation would reduce potential dust and vector (rodent, bird carriers) problems.

26. Some business residents have noticed the odor from the South Transfer Station, others have not. Some garbage odor from the trucks is expected, even if closed. However, applicant has deodorizing pellets for customers' dumpsters. Additionally, a DCLU condition provides that an odor control program be "provided and maintained".

27. Proponent's application to the State Department of Ecology for Disposal Site Permit for 80 S. Hudson, Exhibit 21, shows present volume in tons as 700 tons per day, and a ten year projection of 2,000 tons per day. Exhibit 21. Generally, the 10 year projected volumes are double the indicated "present". Applicant states that the doubling was an estimate without any basis in fact. The Exhibit 21 daily customer traffic estimate includes 55 as the "estimated number of transfer vehicles", 200 estimated private collection vehicles; and 200 commercial/industrial special trucks; totalling 655. The Disposal site application indicates preparation by E. Frank Hofmeister, a witness in the proceeding.

28. In their Renewal Application for 1984 Annual Disposal Site Permit, Exhibit 20, for 9 S. Massachusetts Street, the preparer estimated 35 private collection vehicles. In a January 1985 revision the preparer indicated 200 as the number of private collection vehicles. The estimated number of "commercial/industrial/special trucks" was revised from 30, Exhibit 20, to 200. The Renewal Application reflected no transfer vehicle estimate; the revision, however, notes as the number "55 to Landfill". The Daily Customer Traffic count of the revision is the same as that given in the Department of Ecology Application for Disposal Site Permit, Exhibit 21.

29. The maximum truck traffic during the normal eight hour day will be roughly 550 vehicles in and out of the site. Truck peak periods will be between 10:00 a.m. and 3:00 p.m. when commercial and industrial wastes are delivered to the site; and from 6:00 p.m. to midnight when downtown commercial office wastes are delivered.

30. The Hearing Examiner finds that approximately 795 average weekday vehicle trip ends will be generated by the project. The figure includes auto, truck and employee traffic. No decline in the level of service (C) for Hudson Street-First Avenue, Hudson-E. Marginal Way intersections is anticipated as a result of the increase in traffic from the proposal.

31. The amount of available on-street parking between Dawson and Hudson on Colorado varies. One appellant witness estimated 31; applicant witness in excess of 130.

32. The operation of the recycling center will increase noise levels as will the increase in vehicular traffic. No evidence was presented that the new noise level would exceed permissible limits or would contrast to ambient noise levels.

Conclusions

1. On appeal to the Hearing Examiner the DCLU Director's environmental determination is accorded substantial weight. Seattle Municipal Code, Section 23.76.36(B)(7). In this case the DCLU Director's environmental determination was a declaration of non-significance (DNS). In its challenge to the DNS, appellant has the burden of showing the Director's decision to be clearly erroneous.

2. Parties have stipulated to applicability of WAC 197-10 to the proposal due to the application date. WAC 197-10-340 states that when the lead agency "determines a proposal will not have a significant adverse impact on the quality of the environment, it shall prepare" a DNS.

3. An EIS is required when more than a moderate effect on the quality of the environment is a reasonable probability. Norway Hill Preservation and Protection Association v. King County Council, 87 Wn. 2d 267, 552 P.2d 674 (1976).

4. The checklist questions are the exclusive ones to be considered in the threshold determination. WAC 197-10-360(1). The proposal was shown to have no more than a moderate impact on the quality of the environment as it relates to earth, since no new construction beyond existing building footprint is proposed. Regarding flora, some new landscaping will be added. No new lighting is proposed.

5. Concerning water, sprinkling of garbage will occur in the high bay area. A DNS imposed condition requires that wastewater be treated; and applicant will use an oil/water separation device. Drainage control is also required by the DNS. Although generally speculated that drippings from garbage trucks would percolate through the soil and find its way to the Puget Sound or Elliott Bay, the record bears insufficient proof of the probability, frequency, magnitude or impact of any such occurrence.

6. The proposed 24-hour recycling activity and generated traffic will both add to the vicinity noise levels. However, the recycling activities will occur within a partially enclosed building. The site and vicinity are zoned for and developed with general industrial uses and related truck and other traffic. The record reflects no planned changes in the land use function of the

vicinity, although there is a growing number of uses that are not of the trucking, heavy machine, manufacturing vein. For these reasons it is concluded that the proposal, offensive as it may be to some vicinity residents, was shown to have no more than a moderate impact on the quality of the land use or noise component of the existing environment.

7. Environmental Checklist Item J inquires whether the proposal involves a risk of an explosion or the release of hazardous substances in the event of an accident or upset. However, the evidence shows only oil as essentially the sole Item J substance that will be on site and that substance will be removed from the site by a specified individual. To the degree that other wastes may be delivered, the evidence shows such to be the rare exception and not sufficiently indicative of more than a moderate impact on the quality of the environment.

8. Applicant expects from 700-900 tons per day of rubbish, bulky wastes and other specified items; and that 795 average weekday vehicle trip ends would be generated by the project, inclusive of employees. The daily customer traffic will include vehicles which are to transfer the nonrecyclable materials to a landfill, private collection vehicles and residential cars. Delivery trucks will enter the site at Colorado, proceed to the center site and dump the materials for sorting. Applicant's 10 year projection of record, Exhibit 21, is for 2,000 tons per day of material to come into the site. The site is substantially open. No wetting of the refuse occurs except in the area for landfill transfer.

9. Applicant proposes to address the expected dust problem by washing the site or a dust collection system and is apparently considering use of a subsurface pit or enclosing the dumping area. While the Examiner is not prepared to agree with appellant's suggestion that the sheer projected volume raises environmental concerns to the level that an EIS should be issued, the facts do show that DCLU should re-evaluate the proposal to assess whether further specific conditions should be imposed related to air quality, e.g., enclosure of the receiving area or a subsurface pit, since no wetdown can occur at the dumping site and since the receiving area will be essentially open.

10. Appellant did not establish that the impacts of proposal traffic and parking would be significantly adverse. Further, on transportation/circulation, DCLU has required that proponent maintain the Utah Avenue railline.

11. As to public services and utilities, the new facility could operate as competition for the South Seattle Transfer Station, which is currently operating at 50 percent capacity. It was not established, however, that the proposal would in fact require new or altered governmental (waste) services, fixed cost notwithstanding.

12. As to the checklist element of human health, the facility will be routinely inspected for vector, litter and other problems by the Health Department.


13. It was sufficiently established that the conditions of Alaska, Dawson and Hudson Streets would be appreciably worsened by the traffic generated by this proposal, singly or in conjunction with the proposal at 54 and 55 S. Dawson Street. One of the cross streets, S. Hudson, was overlayed in 1964, with an expected service life of 20 years. The credible testimony shows that S. Dawson Street edges and shoulders could suffer as a result of anticipated traffic levels. Proponent plans to move from 700-900 tons per day of materials over these streets. A transfer truck's capacity is roughly 20 tons, while collector trucks have a 10-12 ton capacity.

Therefore the lead agency should be given the charge and opportunity to make the specific assessment of impacts on the street system. The application is remanded for DCLU to assess whether the proposal will "have an effect upon...maintenance of public facilities, including roads". Seattle Municipal Code 25.04.510(B)(1). The assessment should be in consonance with the review of the proposal for 54 and 55 S. Dawson Street, and the results should include a resolution as to whether the impacts, in conjunction with the previously identified impacts, will require further environmental review.

Decision

The application is remanded for re-evaluation in accord with this decision.

Entered this 18th day of March, 1985.


Leroy McCullough
Hearing Examiner