

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

PABST

FILE NO. MUP-84-094(W)
APPLICATION NO. 8403823 RECEIVED

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

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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 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 DCLU Director by Amy Luersen, 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. Seattle Disposal Company, applicant, proposes to relocate and enclose a portion of the building presently on site, add a second story addition and change the former freight terminal use to that of a repair garage/warehouse. Prior to present occupancy by applicant the site was for sale and unoccupied. Appellant challenged the DNS issued for the proposal, addressed as 54 and 55 South Dawson Street.

2. The site for the proposal consists of two parcels. The larger, more northerly parcel is bordered on the west by Colorado Avenue South; on the east by a Utah Avenue/railline; on the north by South Hudson Street; and on the south by South Dawson Street. This parcel, addressed as 54 South Dawson Street, was used as a freight terminal and had a smaller maintenance garage located at the northwest corner of Utah and South Dawson Streets. The site is covered with asphaltic concrete paving, and is developed with a building providing office space; a truck freight loading dock with open sides and roof; and the building that was formerly a garage.

3. The more southerly site, 55 South Dawson, consists of a fenced storage yard that applicant proposes for storage of containers, vehicles, dumpsters and miscellaneous equipment. Included in the stored containers will be tanks. These will be typically cleaned out before their storage. The 55 South Dawson site will be accessed from Dawson Street.

4. Both parcels are within the General Industrial (IG) zone. Surrounding land uses are principally industrial, manufacturing and to a lesser but growing degree lighter industrial wholesale use.

5. Applicant proposes to redevelop the 54 South Dawson site into a vehicle maintenance base and office facility for the Seattle Disposal Company. The existing, principal structure would be relocated 40 ft. west to within 10 ft. of the west property line and enclosed to provide a maintenance shop facility. The dock roof would be raised to accommodate a second floor addition. The site's former garage structure will not be relocated but used to house painting of Seattle Disposal Company waste containers and vehicles. DCLU has required by DNS condition that all spray painting occur within an enclosed structure. No garbage incinerator or sorting is planned for the subject site.

6. Parking will be provided on site for 30 garbage trucks and 50 private vehicles. From 6-8 trucks will be located in the principal building while undergoing maintenance.

7. Up to 45 office personnel, 6 mechanics and 25 truck drivers are expected to be on site during the day shift. Applicant estimates an initial office personnel count of 30. Six truck drivers and 12 mechanics are expected on the second shift and 8 truck drivers for the graveyard shift. Applicant estimates as a maximum number on site at one time as approximately 40.

8. There are approximately 25 day truck routes (beginning at approximately 7:00 a.m.), 6 swing routes (6:00 p.m. - 11:00 p.m.) and 8 graveyard (11:00 p.m. - 2:00 a.m.) routes. Office hours will generally be 7:00 a.m. - 5:00 p.m. Although no more than 25 collection trucks will be out on a given shift, trucks in excess of that number are stored for emergencies and because a pool is maintained for Seattle Disposal, United Sphere Global and two other operating companies. The companies are expected to draw on the resources of this "pool" approximately once per month.

9. The typical schedule calls for a truck to leave the site, collect the garbage per assigned routes, take the garbage to a transfer station, dump the materials and return to the site. Many of the trucks will use a proposed 80 South Hudson Street transfer/recycling center. DCLU reviewed the two proposals separately but considered traffic and other cumulative impacts as not having a significant adverse impact on the area. For the most part the Seattle Disposal trucks will pick up neither residential garbage nor hazardous wastes. Seattle Disposal pickups will emphasize recyclables e.g., paper from the downtown business districts. Some residential, hospital and other wet garbage will be picked up by Seattle Disposal, however; and it is estimated that United Sphere Global's pick-ups are 50% residential.

10. Containers would be steam cleaned and pressure washed on site. Waste water will be stored in a site catchbasin, pretreated and sent through an oil/water separator prior to discharge into the sewer. A defined recycling company will pick up the oil. DCLU has required in the subject DNS that site drainage control be provided "as required by City ordinance" and that water waste be treated as required by Metro. Some odor is expected to be emitted even though the transport vehicles are emptied. Applicant does have deodorizing pellets for use, however. Appellant was also concerned that liquids from the trucks would find a way into the soil and/or into the sewer system/Elliott Bay, Duwamish outflow.

11. Access to the proposed site area is via East Marginal Way South, west parallel to and one block west of Colorado; and by First Avenue South, generally one block east of the site. Colorado and First Avenue South are both main arterials. As testified by the Seattle Engineering Department Director of

Operations, First Avenue South and East Marginal Way South are in good, passable condition.

12. Principal access to the subject site's main yard is located off South Dawson Street. Secondary access will be from Colorado Avenue South and South Hudson Street. Between First Avenue South and East Marginal Way, South Dawson Street is a gravel and dirt road. The Director of Seattle Engineering Department Operations testified that the edges and shoulders of portions of South Dawson could be expected to break off as a result of traffic generated by the 80 South Hudson and 54/55 South Dawson proposals. Applicant has expressed a willingness to participate in improving this segment of South Dawson Street.

13. South Hudson is one block north of and parallel to South Dawson. This segment of South Hudson is uniformly described as narrow, pitted and rutted with poor to non-existent drainage, and non-reinforced shoulders. South Hudson was overlayed in 1964. An overlay adds roughly 20 years of service life to a roadway. The conditions of South Hudson and South Dawson Street are somewhat representative of the condition of vicinity cross-streets. This segment of South Hudson Street, with stoplights at First Avenue South and at East Marginal Way South, generally bears more traffic than Dawson.

14. Day truck drivers are expected to leave the site by 7:00 - 7:30 a.m., the onset of the peak commute period; and trucks returned to the site by 4:00 p.m. Typical evening commute hours are generally 4:30 p.m. - 5:30 p.m.

15. Proponent's traffic expert's calculations, unrefuted, show an estimated 250 vehicle trip ends per average weekday (24 hour period) from the site; with approximately 47 passenger car equivalents (PCE) blending with the afternoon peak hour and 39 for the morning peak hour. No change in local intersection level of service conditions was shown attributable to the proposal singly or in concert with the 80 South Hudson Street proposal; nor any exacerbation of on-street vicinity parking.

16. The Health Department does not plan to monitor the subject site, but does intend to monitor and periodically inspect the 80 South Hudson Street site. Noise levels will increase in proportion to the increased traffic and short term construction.

Conclusion

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. In threshold determinations, the checklist questions are exclusive. WAC 197-10-360(1). As to the environmental checklist items of earth, flora, fauna, light, glare and aesthetics, no

significant adverse impacts are expected to result from the proposal. As to air, some odor is expected to accompany stored vehicles, but it was not shown that the degree in conjunction with the standing environment would be significantly adverse. All spray painting is required to be within an enclosed area.

5. Appellant also questioned whether the proposal would impact water quality. The DNS condition requires that drainage control be provided and that waste water be treated. Oil water separation is part of that treatment. There was general speculation about the potential of some unrefined dripping from the garbage trucks. No degree or frequency was shown such that DCLU's assessment should be declared clearly erroneous.

6. There is some limited potential for tanks to be stored on site. However, it was not shown that hazardous or toxic wastes would be stored on site. Collected oils will be removed from the site. Therefore no risk of upset resulting from the proposal was proved, nor is any significant adverse impact on natural resources, energy or utilities reflected in the record. The Examiner is not persuaded that the proposal will "result in the alteration of the present or planned use" of the area. Although lighter uses are increasing, the present use of the area is principally industrial. And, the site is zoned for general industrial uses. The record reflects no evidence of any defined plan to alter the existing zoning classification or use.

7. New traffic will be generated by the proposal. On the day shift, the most populated, some 45 office personnel, 6 mechanics and 25 truck drivers can be expected to approach the site. However, the 25 day shift truckers will leave the site before the typical vicinity commute period and return before the p.m. commute period. On-site parking includes 50 employee stalls and 30 for trucks. Assuming that all day shift employees used a single occupancy vehicle to arrive to the site, there could be 76 transporting vehicles. Appellant has not shown that any overflow could not be accommodated by on-street parking.

8. Some 250 vehicle trip ends are expected to result from the proposal. The principal access to the main site will be from South Dawson Street. South Dawson Street is a gravel and dirt road that is in poor condition. Secondary access to the site will be via South Hudson Street and Colorado Avenue South. While Colorado Avenue is in good passable condition, the relevant segment of South Hudson is narrow, rutted and with non-reinforced shoulders. This portion of South Hudson was overlaid in 1964. The 20-year service life would expire even without the additional vehicular traffic proposed. An increased number of trucks and other vehicles will be using the local street systems. The proposal should therefore be further studied for its impact upon the "maintenance of public facilities, including roads" (Environmental Checklist item N (5)). Specific consideration should be given to the expected tonnage of the vehicles and weight loads of the vicinity street system. This supplemental study should be made as part of the cumulative impact assessment of the 80 South Hudson Street project. Seattle Municipal Code Section 25.04.510(B)(1).

9. Chapter 197-10 WAC does not require an EIS simply because some impacts are in doubt. WAC 197-10-360(2) provides in relevant part that:

For some proposals, it may be impossible to forecast the environmental impacts with precision...If, after the lead agency has utilized the additional information gathering mechanisms... the impacts of the proposal are still

in doubt, and there exists a reasonable belief by the lead agency that the proposal could have a significant adverse impact, an EIS is required (emphasis supplied).

Decision

This application is therefore remanded for DCLU consideration of the proposal's impact on the vicinity streets. DCLU shall also assess whether any such impacts in conjunction with the previously recognized impacts require further environmental review.

Entered this 18th day of March, 1985.



Leroy McCullough
Hearing Examiner