

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

BALLARD COMMUNITY HOSPITAL

FILE NO. MUP-86-018(V)

APPLICATION NO. 8506808

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

Introduction

Ballard Community Hospital appeals the decision of the Director, Department of Construction and Land Use (DCLU), to deny the variance to allow a sign 272 sq. ft. in area.

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 May 7, 1986.

Parties to the proceedings were: appellant represented by Patrick R. Mahoney; and the DCLU Director by Leslie Lloyd, 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. The hospital located at 5300 Tallman Avenue N.W. is on a diagonal street, two blocks long, bounded by N.W. Market Street and 17th Avenue N.W. and is zoned I4-MR (Institutional-Midrise).

2. Properties to the northeast are zoned BC; properties to the east are zoned L-3 and CG and IG properties are to the southwest. The Ballard Avenue landmark district is southwest of the site.

3. There is a range of residential, commercial, industrial and manufacturing uses from low to medium density in the surrounding zones. Appellant's witness through credible testimony indicated that in the immediate area around the hospital, the residential use was but an island that is surrounded by non-residential usage. However, credible testimony of another witness indicated that 180,000 residents live within a three mile radius of the hospital.

4. Appellant proposes to mount at the southeast wall of the five story hospital building, at the building's roofline, a neon-illuminated 272 sq. ft. sign. The sign would be visible from the Ballard Bridge.

5. In weighing the testimony regarding the level of light from the proposed sign, the Hearing Examiner finds that there will be an increase in the level of light onto the residential area.

6. Appellant's witness through credible testimony indicated that other businesses in the area have signs that are greater in area than appellant's proposed sign; and that the hospital is not easily identifiable or located because of other five story buildings in the area.

7. Through credible testimony of the Director's representative, the Hearing Examiner finds that Ballard Community Hospital is classified as a major institution as defined by the Land Use Code; and with its recently completed \$20+ million dollar expansion project, the hospital has been developed to the height of a five story building pursuant to relevant major institutions policies among other similar five story buildings in the immediate vicinity.

8. Appellant's representative through credible testimony stated that the area's street configuration, short length, and surrounding development causes service users to become confused as to the hospital's location and that trauma and acute care patients have had a difficult time locating the hospital. Appellant's representative stated that loss of prospective patients would be a great economic hardship to appellant.

9. The Hearing Examiner is not persuaded and therefore does not find that the comparison between appellant's location on a short diagonal street and other hospital locations on Capitol Hill on major arterials distinguishes appellant's location as being unusual. In both locations the hospitals are situated among other tall buildings.

10. Appellant's witness stated that the Ballard Chamber of Commerce has not received nor is aware of any negative reactions to appellant's proposed sign. The Hearing Examiner's record, however, contains several letters in opposition from area residents.

11. Despite testimony that the sign of Northgate Hospital exceeds the major institution policy regarding size of signs, appellant has made no record in regards to a grant of a variance or any other authorization.

12. Appellant's representative did not state that the 272 sq. ft. sign was the only possible type of sign that would provide the hospital with the desired result.

13. The Hearing Examiner finds that no witness for appellant testified that a large sign on the hospital building would attract new patients for the hospital.

Conclusions

1. To qualify for a variance, the appellant must show that all the facts and conditions set forth in Seattle Municipal Code Section 23.40.020.C exist.

2. The initial requirement is the existence of unusual conditions applicable to the property, not created by the owner, which causes the strict application of the Land Use Code to deprive appellant, the property owner, of rights and privileges enjoyed by other property owners in the same zone or vicinity. Seattle Municipal Code Section 23.40.20.C.1. The Director did not find the siting of the hospital among other five story buildings to be an unusual condition and the Hearing Examiner so concludes because it is a common cocurrence to find a cluster of tall buildings in the same vicinity. Tallman Avenue and Barnes Avenue are only several blocks in length and are situated diagonally to the arterials, 15th N.W. and N.W. Market Street. However, this is not concluded by the Hearing Examiner to be an unusual property condition.

3. A variance may not go beyond the minimum necessary for relief and may not constitute a grant of special privilege. Seattle Municipal Code Section 23.40.20.C.2. The Code permits a main entrance sign to be 35 sq. ft. in area when facing a residential zone but only a 20 sq. ft. area sign if it is not a main entrance sign. Seattle Municipal Code Section 23.48.16.A.3.

4. The proposed 272 sq. ft. sign is not a main entrance sign and will be mounted at the roofline of the southeast wall of the hospital facing the L-3 zoned area. The Hearing Examiner concludes that granting of the requested variance for the sign as proposed will be a grant of special privilege and go beyond the minimum relief necessary. Although testimony has indicated the sign of Northgate Hospital is an exception to institutions's policy, appellant has not referenced a grant of variance or some other authorization for appellant's use of such a sign. Appellant did not establish that the proposed 272 sq. ft. sign was the minimum size of sign for the hospital's needs.

5. The third requirement is that the variance cause no material detriment to the public welfare or injury to other vicinity properties. Seattle Municipal Code Section 23.40.20.C.3. The Hearing Examiner concludes that the granting of the requested variance would set an unwarranted precedent in regards to signage for major institutions in the City of Seattle.

6. Appellant must show that the literal interpretation and strict application of the Land Use Code would cause undue and unnecessary hardship if the variance were not granted. Seattle Municipal Code Section 23.40.20.C.4. Appellant's argument that the \$20+ million dollar development aimed at upgrading facilities and services for the community as basis for establishing the need for appellant's proposed sign and of possible economic loss if new patients are not attracted is concluded by the Hearing Examiner to not be the proper showing of hardship required by the Land Use Code in that the record does not establish that the proposed sign would, in fact, result in new patients for the hospital.

7. The granting of variances must be consistent with the spirit and purpose of the Land Use Code and major institutions policies. Seattle Municipal Code Section 23.40.20.C.5. Reasonable growth of major institutions should be encouraged. The institution should be encouraged to promote benefits to residents. However, when institutions are located in residential areas, the purpose of the major institutions policy is to balance the need for institutional growth and the need to protect the livability of neighborhoods adjacent to institutions. Seattle Municipal Code Section 23.16.010.

8. The Hearing Examiner concludes that granting of the variance would be inconsistent with the spirit and purpose of the Land Use Code.

9. As all the facts and conditions required for variance relief are not present, the variance request must be denied.

Decision

The variance for a 272 sq. ft. sign is denied.

Entered this 20th day of May, 1986.

Roger Shimizu
Roger Shimizu
Hearing Examiner Pro Tempore

Concerning Further Review of
Hearing Examiner Final Decisions on Master Use Permits

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 party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22(C)(12)(c).

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, Seattle, Washington 98104, (206) 625-4197.