

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JUDITH DA SILVA and BILL TAYLOR

FILE NO. R-85-003

from a certificate of approval in
the Pioneer Square Preservation
District

Introduction

Judith DaSilva and Bill Taylor appeal the decision of the Director, Department of Community Development, to issue a certificate of approval for certain changes to the Olympic Block Building plans at 1st and Yesler Way.

A hearing was held in this matter before the Hearing Examiner on June 27, 1985. Parties were represented as follows: appellants by Gabriel Sheridan, attorney at law; the Director by John Chaney; applicants, 100 First Avenue Associates and 101 Yesler Associates, HOWDI Joint Venture, by Judith M. Runstad, Foster, Pepper and Riviera.

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. Applicants applied for approval of a proposed building for the vacant lot at 1st and Yesler. A series of certificates of approval have been issued by the Director, Department of Community Development (Director), upon the recommendation of the Pioneer Square Preservation Board (Board). On May 10, 1985, the Director issued a Certificate of Approval for:

Revised exterior detailing of the residential floors including a horizontal pre-cast element 4" - 6" thick and 18" high replacing metal tubes. The precast will be set flush with the building frame.

Changes to the corner bay including recessing the bay form flush with the building frame, removing the metal tube detail and stepping the pre-cast frame elements similar to the Yesler and First Avenue frame stepping.

Changes to the exterior details on floors 3-6 including all vertical precast elements to be flush with the building frame, the third floor projecting granite sill to be discontinuous, broken by all vertical members.

The addition of granite facing at the Yesler entrance. The addition of a projecting cornice as presented.

2. These changes are reflected in plans submitted by the applicant, Director's Exhibit 5, which are a part of the certificate of approval.

3. Appellants appeal the certificate of approval contending:

...(T)he bay...being pushed back into the facade is not compatible with architecture in the square.

The breaking of the watertable into window sills is incompatible with Romanesque architecture.

The lack of curvilinear elements in either the window sashes or the rounding of a protruding bay make the building incompatible with other Romanesque structures facing the Square.

The height of the building is too great along with its' (sic) bulk to be in proper relation (sic) to other buildings facing the Square.

The detailing of the bay window stresses the vertical too much and does not relate to other buildings facing the Square or to the rest of the proposed design itself.

4. The appeal as to the height of the building was dismissed at hearing on the basis that the height had been approved in an earlier certificate of approval and therefore this appeal would not be timely as to that issue.

5. The Board and Director considered only the changes proposed and did not consider whether curvilinear design elements should be substituted or added.

6. Appellants' expert, Dorri Delgado, opined that recessing the bay improves the building but does not do enough to add weight or mass.

7. The plans for the building have not included a watertable. The window sills, formerly approved, extended from column to column. This approval divides the sills between windows because the columns between the windows have been raised so they are flush with the rest of the frame and therefore cut through the sills.

8. Watertables are common in the District but not all Romanesque Revival buildings in Pioneer Square have watertables.

9. Window sills are common in the District.

10. The Board considered the Code criteria for exterior building design and found the proposed changes to the approved building satisfied those criteria.

11. The membership of the Board includes architects and an architectural historian.

12. The Board and Director considered only the changes proposed by the applicant and did not consider whether curvilinear design elements should be added or substituted. No curvilinear elements were removed by the approved changes.

13. The project architect, Jim Daly, testified that curves in the fenestration would not be compatible with the design concept for the building.

14. Robert Fink, chief, Western Division of Project Review for the Advisory Council on Historic Preservation advised the Department of Community Development that:

In our letter dated April 22, 1985, we stated that "we do not believe that the incorporation of any particular architectural element, such as arches or bay windows, etc., is an absolute necessity for the building to be compatible with Pioneer Square." We still believe this to be true, especially pertaining to the issue of first/second floor sash arches. Rather than be based on such an architectural detail, we believe that the compatibility of this building to Pioneer Square will be founded on a warm color palette, its design simplicity, and refined expression of traditional architecture structure.

Appellants' Exhibit 10.

15. The minutes of the Board meetings of April 24, 1985, and

May 1, 1985, show comments from the public, including appellants, and by the Board in support and opposition to the changes.

Conclusions

1. The criteria to be considered by the Board and Director when determining whether to issue a certificate of approval are found in Section 23.66.180(B) Scale, Seattle Municipal Code, which provides:

Exterior building facades shall be of a scale compatible with surrounding structures. Window proportions, floor, height, cornice line, street elevations and other elements of the building facades shall relate to the scale of the buildings in the immediate area.


2. Appellants are challenging not only the approvals in the certificate of approval but also the failure to require the addition of curvilinear design elements. Since the design the proponents have requested does not include the elements desired by appellants they have been effectively denied opportunity for review of any determination in this regard. Even if the failure to require curvilinear elements were appealable, the Director's decision on a certificate of approval may be reversed or modified only if the Hearing Examiner determines the decision was arbitrary and capricious. Section 23.66.030(E) (1), Seattle Municipal Code. A decision is "arbitrary and capricious" only if there is no support for the decision in the record. Hayes v. Yount, 87 Wn.2d 280 (1976).

3. The record shows differing opinions as to the compatibility of the scale of the building's elements with other structures. The record contains facts which could lead to these contrary opinions. Since there is support in the record for the determinations made, the decision cannot be found to be arbitrary and capricious and must be affirmed. Though the issue is not properly before the Hearing Examiner, there is also support for not requiring the addition or substitution of curvilinear design elements.

Decision

The decision to issue the certificate of approval is affirmed.

Entered this 5th day of July, 1985.


M. Margaret Klockars
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW

The decision of the Hearing Examiner in this case is the final administrative determination by the City, and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any request for judicial review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within fourteen days of the date of this decision. Should such request 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. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104.