

BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

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In the Matter of the Appeal of

**PHINNEY RIDGE COMMUNITY  
COUNCIL, et. al.**

from an interpretation and a decision  
issued by the Director, Department  
of Planning and Development

**Hearing Examiner Files:**  
MUP-07-022(W)/W-07-0003

Department Reference  
3005547 & 3007657  
Interpretation No. 07-009

**ORDER ON MOTION  
FOR SUMMARY  
JUDGMENT**

The Director of the Department of Planning and Development issued a decision approving the proposed construction of a parking garage at Woodland Park Zoo and an interpretation on the garage's compliance with several sections of the Land Use Code. The Appellants, Phinney Ridge Community Council, et al., timely appealed the Director's decision and interpretation and filed a motion for summary judgment on their challenge to the Director's interpretation. The matter was briefed by the parties, and the Hearing Examiner heard oral argument on the motion on October 15, 2007. The Appellants were represented by Michael W. Gendler, attorney-at-law; the Applicant, Woodland Park Zoological Society (Society), was represented by Brian K. Knox, attorney-at-law; and the Director was represented by Robert D. Tobin and Brent D. Lloyd, Assistant City Attorneys.

Background

The Woodland Park Zoo is approximately 91 acres in size and is located within Woodland Park, in the Phinney Ridge neighborhood. The Zoo property is located between Phinney and Aurora Avenues North, and between North 50th and 59th Streets, and is zoned Single-Family 5000 (SF 5000). Other property in the area is zoned Lowrise 3 and SF 5000.

The Zoo is owned by the City and operated and managed by the Society under contract. The Zoo has grown to include approximately 200 buildings, including buildings devoted to animal housing and display; interpretative facilities; support functions, such as office facilities and greenhouses; and visitor services, including a food pavilion, store, picnic shelter, and parking areas.

In 2002, the Zoo issued a draft "Woodland Park Zoo Long-Range Physical Development Plan (2002 LRP)," which outlined the Zoo's capital development plan for the next 20 years. The 2002 LRP discusses parking structures, including a West Parking Garage to be located in the Northwest corner of the Zoo, adjacent to Phinney Avenue and

south of 57th Street. The Final Environmental Impact Statement issued for the 2002 LRP pursuant to the State Environmental Policy Act, Chapter 43.21C RCW (SEPA), (Chapter 25.05 SMC), was determined by the Hearing Examiner to be inadequate with respect to analysis of, and alternatives analyzed for traffic and parking impacts. (Hearing Examiner Files W-02-001/W-02-002). That decision noted in factual findings that parking was an established accessory *use* in the park, and that the buildings and activities proposed by the LRP (including the parking structure) would be permitted to the extent that they were determined to be "park use *per se* or customary with park use," but that the Director would need to resolve that issue through an interpretation. Decision in Hearing Examiner Files W-02-001/W-02-002 at 12. In December of 2003, a Final Revised Environmental Impact Statement (FREIS) was issued for the 2002 LRP. A limited appeal of the FREIS was dismissed by the Examiner.

In June of 2004, the City Department of Parks and Recreation requested a land use interpretation from the Director concerning whether certain buildings proposed in the 2002 LRP, were "customary buildings and activities" for a park and thus, permitted outright under the Code. 2004 Parks Interpretation Request, (Exhibit 2 to Appellants' Reply Brief in Support of Motion for Summary Judgment). The request included documentation and argument demonstrating that each of the proposed buildings was "customary" in parks and specifically, in zoological parks within the United States.

In responding to the 2004 Parks Interpretation Request, the Director found from the factual information supplied that carousels and similar rides were "common in parks in Seattle and this part of the country," and that on-site administrative office buildings were "not uncommon" in larger city parks and in zoos throughout the country. The Director reviewed both the proposed buildings and the uses, and determined that the carousel and building to house it, and the office building, were accessory to the established park use at the Zoo. Director's Code Interpretation 04-004, (2004 Interpretation) at 2 and 5.

The Director's 2004 interpretation was appealed to the Hearing Examiner. Hearing Examiner File S-04-002 (2004 Examiner Decision). The Examiner reviewed the interpretation under the accessory use standard utilized by the Director, "customarily incidental". She concluded that this standard required that the buildings and uses be a "common feature" in zoos, and upheld the Director's interpretation that both the carousel and the office building were "customarily incidental" to the principal use of the site as a zoo.

In October of 2004, the City Council adopted the 2002 LRP. Resolution 30701. As amended by the Resolution, the 2002 LRP became the 2004 LRP. One of the amendments provides for construction of the West Parking Garage to accommodate approximately 700 vehicles, at a height of approximately 30 feet, with stairwells and elevator penthouses extending up to an additional 15 feet. "Screen-walls on the top deck would be up to 4 feet tall. Design features include: vegetative screening; parking stall sizes and elevators geared to the zoo's audience; covered bicycle parking and lockers; and ease of use." Resolution 30701, Attachment 2 at 5-6.

