

BEFORE THE HEARING EXAMINER
CITY OF MONROE, WASHINGTON

In the Matter of the Application of
David Shoemaker,
Conditional Use Permit for
Property Located at 214 North Lewis St.

File No(s): 13-CUP-0001
Family Entertainment Center
Conditional Use Permit

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION

I. INTRODUCTION

Applicant David Shoemaker is seeking a conditional use permit to operate an amusement facility (the "Family Entertainment Center") on certain property located within the Historic Main Neighborhood of the Downtown Commercial zoning district located within the City of Monroe. Amusement facilities are conditional uses in the Downtown Neighborhood land use matrix for the Historic Main Area, requiring a public hearing before the City's Hearing Examiner pursuant to Monroe Municipal Code §§ 21.50.120 and 18.96.120.

As Hearing Examiner for the City of Monroe, I held a public hearing on February 13, 2004 at approximately 10:00 a.m. at the City of Monroe's offices located at 806 W. Main St. in Monroe and approved the application for a Conditional Use Permit for the Family Entertainment Center, subject to conditions.

Melissa Sartorius, Senior Planner for the City of Monroe, appeared and provided witness testimony, together with the City's Staff Report and Recommendation, and related exhibits (Exhibits M1-M9). David Shoemaker, Applicant/Proponent, also appeared and provided witness testimony. Several other individuals were present at the public hearing but did not offer testimony.

The witnesses declared by oath or affirmation the truthfulness of their testimony. I did not receive any written or oral ex parte communication on a fact in issue during the pendency of the proceedings, and made a statement to that effect on the record. The City made a recording of the hearing. The evidence offered was received and all relevant evidence was admitted into the record. I reviewed and considered the written materials and witness testimony presented as evidence at the hearing, a record of which I incorporate in the decision in this matter. The record is on file with the City.

Exhibits: The following exhibits were admitted at the open record hearing:

Respondent/City:

- Exhibit 1: Staff Report
- Exhibit 2: Aerial Photo of Site
- Exhibit 3: City of Monroe Official Downtown Planning Area Map

- Exhibit 4: Conditional Use Application dated 12/5/2013
- Exhibit 5: Public Comments
- Exhibit 6: Pre-Development Review Letter dated 11/26/2013
- Exhibit 7: Public Noticing Documents
- Exhibit 8: Email from David Shoemaker to Melissa Sartorius dated November 21, 2013
- Exhibit 9: Selected Recorded Documents on Property

II. FINDINGS OF FACT

1. The subject property is located at 214 North Lewis St. in Monroe (Exhibit 2), is zoned Downtown Commercial, and is located within the Historic Main Neighborhood. The purpose and intent statement of the Historic Main area reads as follows: "The Historic Main area encompasses the blocks along Main Street between Madison Street and the railroad tracks and along Lewis Street between Fremont Street and the railroad tracks. The Historic Main area will be the core area for specialty commercial uses that serve the entire community and even the region. The goal for this area is to continue to have a high concentration of retail, dining, and entertainment functions, while accommodating professional services and some residential housing. Cultural and recreational facilities should also be a part of the area's mix of uses" (MMC 18.12.150). (Exhibit 3)
2. The Downtown Neighborhood Zoning Matrix (MMC 18.12.170) lists an amusement facility as requiring a conditional use permit in the Historic Main Area. As stated above, an arcade is listed as an amusement facility per the definition of such a facility in MMC 18.02.010. Amusement facilities are permitted outright in the Mixed Use Commercial, General Commercial, Light Industrial, and General Industrial zoning districts and are a conditional use in the Service Commercial zoning district.
3. On December 5, 2013, Mr. David Shoemaker submitted a Conditional Use Permit application to operate a coin arcade, a small snack bar and kitchen (seating < 50 persons), an electronic repair center, and a retail game store on the property (Exhibit 4). The uses aside from the arcade (restaurant, retail, and service establishment) are uses permitted in the Historic Main Neighborhood. The prior business in the building was Eddie's Trackside Bar and Grill, which was a tavern that served drinks and food. The City held a Pre-Development Review meeting with the applicant on November 20, 2013. The site plan provided by the Applicant indicates the proposed uses within the floor space of the existing 3,100 square foot building footprint. The Applicant is also proposing to host birthday parties approximately twice a week and private or corporate parties twice a month during normal operation hours. (Exhibits 1, 6).
4. The Staff Report describes Applicant's proposed use as comparable to that of other restaurants or taverns that include gaming features such as billiards and are allowed in the downtown district. The Staff Report notes

no anticipated violations of applicable performance standards as set forth in MMC 18.10.270. The Applicant is not proposing any exterior changes to the building or site. The building is fronted by sidewalk for pedestrian access; City code does not require off-street parking for commercial uses in the zoning district as parking is provided on the street. The Applicant's proposal does not indicate substantial loading needs. In recommending approval of the proposal, staff noted that an arcade is an entertainment venue for citizens compatible with the intent and purpose of the zoning district, and the goals and policies of the Downtown Master Plan and Comprehensive Plan. The Staff Report does not identify any anticipated adverse impacts with the proposed use (Exhibit 1)

5. The Monroe Fire District noted that the existing fire hood and fire system within the building are past due for an inspection and that an inspection would be required before the building can be occupied. (Exhibit 1)
6. Staff recommend approval of the conditional use permit with the following conditions: (Exhibit 1)
 - a. This permit shall be granted to the subject property and be subject to the language as set forth in the conditional use title of the Monroe Municipal Code (18.96) at the time of conditional use permit approval.
 - b. A full inspection of the fire system and fire hood shall occur prior to issuance of a certificate of occupancy.
 - c. The City of Monroe shall review and approve future tenant improvements to the site. Exterior additions, as they affect the proposed conditional use, will require further CUP review.
7. Mr. David Shoemaker agrees with the staff recommendation and conditions.

III. CONCLUSIONS

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in this matter. Any finding of fact deemed to be a conclusion of law is adopted as such.

The decision criteria for approval of an application for a Conditional Use Permit are specified in Section 18.96.060 of the Monroe Municipal Code, stating:

When considering an application for a conditional use permit, the hearing examiner shall consider the applicable standards, criteria and policies established by this title as they pertain to the proposed use and may impose specific conditions precedent to establishing this use.

A. Before any conditional use may be granted, it shall be shown that:

1. The proposed use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed use or in the district in which the subject property is located;
2. The proposed use shall meet or exceed the performance standards that are required in the zoning district the proposed use will occupy;

3. The proposed development shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design;
4. The proposed use shall be in keeping with the goals and policies of the comprehensive land use policy plan;
5. All measures have been taken to minimize the possible adverse impacts, which the proposed use may have on the area in which it is located.

Applicant's proposal is analyzed and considered in detail within the City's Staff Report. The subject property is zoned Downtown Commercial and is within the City's Historic Main Neighborhood. Applicant's proposal is to use an existing building, formerly used as a restaurant that served drinks and food, and use it to provide several existing permitted uses (restaurant, retail and repair service establishment) and the conditional use of an arcade or amusement facility. The proposed conditional use of an arcade is comparable to that of other uses allowed in the downtown district, is in keeping with the goals and policies of the City's comprehensive land use policy plan, and compatible with other uses in the downtown area. The conditions proposed by staff are reasonably designed to ensure that Applicant's use of the subject property will not be materially detrimental to the public welfare, or injurious to the vicinity, thus minimizing the only related possible adverse impact identified.

IV. DECISION

The Hearing Examiner concludes that the proposal, as conditioned in the staff report, satisfies the ordinance criteria for a conditional use and therefore is approved, subject to the stated conditions.

Respectfully Submitted,

Dated: 02/14/2014



Carl D. Cox
Hearing Examiner
PO Box 158
Bellevue, WA 98009
Tel: (425) 242-1504
Fax: (425) 615-7202

NOTICES

Appeal process for Conditional Use Permit-related appeal issues: This decision of the Hearing Examiner is a final decision. Appeal of the Hearing Examiner decision shall be made to the City of Monroe city council in accordance with MMC 21.60.020. Note that MMC 21.60.020 requires that appeals to the city council include certain specific information, and must be filed with the City's director of community development within fifteen working days after the date of the recommendation or decision of the matter being appealed.

Judicial Appeals (MMC 21.60.030)

Appeals from the final decision of the city council, planning commission, or hearing examiner, or other city board or body involving MMC Titles 15 through 20, and for which all other appeals specifically authorized have been timely exhausted, shall be made to Snohomish County superior court within twenty-one days of the date the decision or action became final, unless another time period is established by state law or local ordinance.

Notice of the appeal and any other pleadings to be filed with the court shall be served on the city as required by law.

The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The appellant shall post with the city clerk prior to the preparation of any records an advance fee deposit in the amount specified by the city clerk. Any overage will be promptly returned to the appellant.

Reconsiderations (MMC 21.50.080)

MMC 21.50.080 allows a party of record to a public hearing or closed record appeal, to seek reconsideration of a recommendation or a decision by the Hearing Examiner or hearing body, by filing a written request for reconsideration with the Community Development Department within ten calendar days, following issuance of the written final decision.

All motions for reconsideration requests shall state the specific errors of law, fact, or procedure. Reconsideration will be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision. If a request for reconsideration is accepted, a decision or recommendation is not final until after a decision on the reconsideration request has been issued.

Appeals of shoreline permit decisions and decisions on shoreline permit revisions, letters of exemption and other approvals required by the Master Program shall be heard in accordance with Chapter 21.60 MMC and RCW 90.58.180.