

FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

DAVID E. MCDONALD

FILE NO. S-76-023

from a ruling of the Superintendent
of Buildings

The appeal is DENIED and the Findings and Decision
of the Superintendent of Buildings are affirmed.

Introduction

The appellant, David E. McDonald, filed an appeal from a written interpretation of the Superintendent of Buildings, hereinafter Superintendent.

The appellant exercised his right to appeal pursuant to Section 25.40, Ordinance 86300, as amended by Ordinance 104795.

This matter was heard before the Hearing Examiner on September 8, 1976.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. In a written interpretation, dated August 2, 1976, and published on August 5, 1976, the Superintendent set forth an interpretation of Section 26.22.010 (c) (9), Seattle Code, which provides in part:

In townhouse dwelling developments consisting of five (5) or more townhouse dwellings the required lot area may be reduced up to fifteen (15) percent by providing an equivalent amount of continuous common open space, not including required parking area.

The Superintendent held that "lot area" refers to dwelling unit and not to the total area for the development. The Superintendent concluded that the basic lot area requirement of 1,600 feet per dwelling unit may be met by providing it on each dwelling unit lot or in a reduced lot area per dwelling unit with common open space increased by an equal amount.

2. Section 26.22.010(c)(2), Seattle Code, provides that for a townhouse dwelling the minimum lot area shall be at least 1,600 square feet.

3. "Lot area" is defined in Section 26.06.130, Seattle Code, as the total horizontal area within the lot lines of a lot.

4. The appellant proposes to develop a 5-dwelling unit townhouse on one and one-half platted lots measuring 75 by 95 feet. The property is zoned Duplex Residence High Density (RD 5000). In an appeal filed on August 16, 1976, the appellant disagrees with the Superintendent's interpretation of Section 26.22.010(c)(9), Seattle Code. The appellant

claims that the term "lot area" refers to the total lot area and not to the lot area per dwelling unit. Under the appellant's interpretation, a 5 dwelling unit townhouse could be built on a lot containing less than 8,000 square feet.

Conclusions

1. The ordinance provisions relating to townhouse structures in Section 26.22.010, Seattle Code, are a special exception to the general provisions of the RD 5000 zone. Although townhouse development in many cases will permit a higher density than is normally allowed in this zone, such development is closely controlled and requires design approval prior to the issuance of a building permit.

2. Each townhouse dwelling unit is required to have a lot area of 1,600 square feet. A dwelling unit for a townhouse dwelling by definition must be located on lot lines pursuant to Section 26.06.050, Seattle Code. Therefore, a 5 dwelling unit townhouse would require a minimum lot area of 8,000 square feet. Nowhere in Section 26.22.010, Seattle Code, is there an expressed intent to provide a means for going below this total minimum lot area.

3. A townhouse dwelling must provide 1,600 square feet per dwelling unit although the individual lot area, as provided in subsection 9 of Section 26.22.010, Seattle Code, may be reduced by 15% if an equivalent amount of open space is provided. This section does not provide a means of reducing the total lot area but it does provide a means of reducing by 15% the individual dwelling unit lot area. Such an interpretation is understandable when viewing the purpose of townhouse development which is to encourage clustering and provide for common open space. Under the appellant's interpretation, the total lot area would be reduced but no equivalent open space provided which is contrary to the general purpose of the townhouse section.


4. The appellant has failed to sustain his burden of showing that the Superintendent's interpretation is incorrect. The decision of the Superintendent is affirmed.

5. Pursuant to the procedural requirements of the State Environmental Policy Act of 1971 (SEPA) (RCW 43.21C), the action proposed in this appeal is not considered a major action having significant environmental impact.

Decision

The appeal is DENIED and the Findings and Decision of the Superintendent of Buildings are affirmed.

Entered this 14th day of September, 1976.


William N. Snell
Hearing Examiner