

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

J & B DEVELOPMENT CO.

FILE NO. MUP-81-061(P)
APPLICATION NO. 81168-0119

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

Introduction

J & B Development Co., appellant, by Jack Lamoreaux, President, appeals the decision of the Director of the Department of Construction and Land Use (Director) to deny the short subdivision component of a master use permit for property at 6331 South Eddy Court.

The appellant exercised its right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on October 23, 1981.

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. Appellant applied for a master use permit to subdivide a lot at 6331 South Eddy Court into two parcels.
2. The Director denied the application because of the irregular configuration proposed and the increase in the undesirable effects of the proposed easement access.
3. The existing parcel contains 10,048 sq.ft., is landlocked with access via an easement over Lot 1, Caver's Addition (Lot 1) to the north and is developed with a single family house.
4. The property is zoned Single Family Residence High Density (RS 5000) so the minimum lot size is 5000 sq.ft.
5. Parcels A and B would each be 5024 sq.ft. and utilize the easement over Lot 1. The easement is 20 ft. wide and is developed with a concrete roadway 18-20 ft. wide. The easement crosses the northern 6 ft. of Lot 1 and then makes a 90 degree turn and crosses the east side of the lot. The easement is also over the southern 14 ft. of Lot 2, Caver's Addition.
6. The easement now serves the one house on the subject lot. Traffic associated with that house must pass the side of the house on Lot 1 since Lot 1 also fronts on the street. The easement comes within 5 ft. of the rear of that house and within 3 ft. of the north side of the house.
7. Dividing the subject lot would be reasonably expected to double the number of vehicle trips past that house.

8. The configuration proposed for Parcels A and B are irregular and include a 10 ft. wide, paved rear yard (the roadway, for A) and 10 ft. wide front or rear yard for B, both largely unusable for normal open space purposes.

9. Original platting of the area created lots 300 to 500 ft. deep which has resulted in common use of easements for access.

10. Lots to the west and south of the subject property are generally just over 10,000 sq.ft. in area. Lots on South Eddy Ct. to the north and northwest are 5610 sq.ft. to 6633 sq.ft. in size.

11. Appellant was permitted to divide a lot of 10,350 sq.ft. on South Fontanelle St. into two parcels with irregular configurations. The resulting parcels, while irregular, featured greater usable open space.

12. The Director considered Sections 24.06.020 and 24.08.160, Seattle Municipal Code, setting forth the general purpose of the zoning code and the definition of "private usable open space" in determining the public interest.

13. In addition to increasing the traffic passing by the house on Lot 1 with the attendant safety hazards and noise, the proposed division would not meet the intent of the code's open space requirements since practical use of the yards would be limited by their shape.

14. Other configurations for the resulting parcels are possible. No other means of access is possible unless easement is obtained from another property.

15. Appellant is in the business of constructing houses and holding them for rent. Permitting the short plat would create one more lot for the construction of an affordable, rental house.

Conclusions

1. Section 24.84.170, Seattle Municipal Code, requires the hearing examiner to accord substantial weight to the appealed decision. The appellant bears the burden of overcoming that weight by showing clear error in that decision.


2. Appellant has failed to persuade the hearing examiner that the increased undesirable impacts foreseen by the Director will not occur. Also, the Director's evaluation of the configuration with regard to the intent of usable open space provisions is not erroneous.

3. Appellant urges that the public interest would be served by the addition of a rental unit. The Director, however, placed more weight on the purpose to be served by zoning requirements to protect the existing housing stock as well as additions to that stock in determining the public interest. Unless this is shown by appellant to be error that determination is not to be overturned. Error was not shown, only a difference of opinion as to the weight to be given each consideration.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 6th day of November, 1981.


M. Margaret Klockars
Deputy Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should an appeal 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.