

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

CHRISTOPHER V. BROWN

FILE NO. MUP-81-073(P)

APPLICATION NO. 81239-0291

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

#### Introduction

C.V. Brown, applicant, appealed the imposition of certain conditions relating to a short subdivision application approved by the Department of Construction and Land Use for property located at 6152-72 South Keppler Street.

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

Parties to the proceedings were: appellant, pro se; the Director of the Department of Construction and Land Use (DCLU) by Arthur Ward, environmental specialist.

No correspondence or testimony was received in opposition to the application.

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 December 9, 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. The subject property is located in the Single Family Residence High Density (RS 5000) Zone at 6152-72 S. Keppler Street. Currently platted lots are narrow and oriented east-west with the southernmost lot measuring roughly 40 by 178 ft.

2. Rainier Avenue S. is downslope to the east of the property and intersects with south abutting S. Keppler Street. Visibility is somewhat impaired at this intersection due in part to large overhanging vegetation and to a bend in Rainier Avenue just north of the intersection. Access to the subject property as well as to the north adjacent property is via S. Keppler Street.

3. Appellant-applicant proposed to subdivide the parcel to attain deeper lots with more advantageous views. The more westerly Parcel A would contain approximately 6,000 sq. ft. and easterly Parcel B approximately 6,200 sq. ft.

4. The decision here appealed conditions the approval of the short subdivision in several stages. Prior to recording, DCLU required that the

Final preparation of (the) application including survey, is to be by or under the supervision of a Washington licensed surveyor who shall submit the final recording papers in satisfactory form to (the) Department...Include in the legal description an easement for the existing pedestrian access for the adjacent lot to the north. Show the lot areas on the plat.

5. Applicant challenged the item of the condition pertaining to the pedestrian access. The DCLU representative learned in the public hearing that the north adjacent property owner and appellant-applicant were arranging by separate agreement to dispose of the issue of pedestrian access.

6. The conditions of approval after recording but prior to the issuance of a building permit were as follows:

1. A letter from the Seattle Water Department indicating that provisions have been made to extend the water main and appurtenances from Rainier Avenue South to Parcel A.
2. Grade S. Keppler Street and the subject site and construct driveways not over 20 percent grade from S. Keppler Street to the home sites on Parcel A and B.
3. The above work in the street right-of-way will be done based upon a street use permit and a bond for the improvements will not be accepted in lieu of performing the work.
4. All structural improvements and grading on site will be under the design, guidance and supervision of a Washington-State-licensed professional engineer with experience in soil mechanics.
5. The stamp and seal of the above engineer will be on the building plans prior to the issuance of said permit with a statement that the proposed development or any modifications thereof are in or will be in accord with the engineer's recommendations.

7. Both proposed parcels have access to sanitary sewers and hydrants. Easterly Parcel B has access to water from Rainier Avenue S. The west adjacent property to proposed Parcel A is served by a small 2 inch water main from the intervening alley. Applicant urged that the provisions requiring a water main extension be modified to simply state that water would be provided to Parcel A. Some water pressure problems in the vicinity were acknowledged.

8. The conditions of approval after recording included items relating to storm water control, Rainier-Keppler visibility, and that

the existing pedestrian access on Parcels A and B or equivalent access is to be provided for the present and future owners of the adjacent property to the north

9. The existing pathway which meanders north from S. Keppler through the subject property to the north adjacent property is described as a level and beautiful access. The alley adjacent to proposed Parcel A is considered as alternate access to that north adjacent property. The alley access is a steeper access that would require some cosmetic and other improvements. Applicant requested that the condition be modified to simply state

that an "appropriate" access be provided as an alternative to the existing pedestrian access should that be deemed necessary. The north adjacent property owner testified to the efforts beyond the scope of the short subdivision process engaged in by applicant and witness concerning pedestrian access.

### Conclusions

1. The proposed lots at 6,200 and 6,000 sq. ft. conform to the zoning code provisions of the City of Seattle for this RS 5000 zone. Section 24.98.080(A). The reorientation of the lots will facilitate more reasonable and practical use of the property. Conditions have been imposed pertaining to the driveway grade, soil mechanic expertise, storm water control, site visibility and other items affecting the public welfare. Accordingly, the public use and interest will be served by permitting the division as proposed and as conditioned herein. Section 24.98.080(A).

2. Also as conditioned herein, the proposed lots will be served with adequate means of access for vehicles, utilities, fire protection, water supply, and means of sanitary sewerage disposal as per the ordinance. Section 24.98.080(A)(2).

3. The decision of the Director is accordingly affirmed subject to the following:

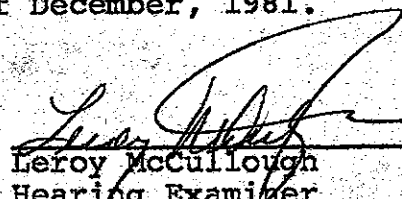
- a. the condition requiring an easement or alternative pedestrian access to the north adjacent property (including the requirement that there be a legal description thereof) is deleted.
- b. the condition relating to the extension of the Rainier Avenue water main is modified to state that after recording and prior to issuance of the building permit, the Seattle Water Department shall provide a written statement that provisions have been made to adequately provide water to Parcel A.

4. The remaining conditions imposed by DCLU are adopted and incorporated herein by reference.

### Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED subject to the modifications in Conclusions 3 and 4 above.

Entered this 23rd day of December, 1981.

  
Leroy McCullough  
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.