

file

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JEFF MARTIN

FILE NO. MUP-83-063 (P,W)
APPLICATION NO. 83-346

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

Introduction

Jeff Martin, appellant, appeals the decision of the Director, Department of Construction and Land Use, to issue a declaration of non-significance and conditionally approve a short plat for property at 2710 East Helen Street.

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 23.76, Seattle Municipal Code.

This matter was heard before the Hearing Examiner on October 19, 1983.

Parties to the proceedings were: appellant; David Fletcher, applicant, represented by Chris Hansen, agent; and the Director represented by Jim Barnes.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code unless otherwise indicated.

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 applicant applied for a master use permit to subdivide property at 2710 East Helen. The Director issued a declaration of non-significance (DNS) and conditionally approved the short plat. Appellant filed a timely appeal of both decisions, however the DNS appeal was dismissed by the Hearing Examiner prior to hearing.
2. The applicant owns the subject property which comprises four lots and another three lot parcel directly across the 27th Avenue East right-of-way. Both parcels were purchased at the same time from another party who purchased the property from the City of Seattle. While the applicant now has applied for a street vacation and variances and intends to develop the property as a whole, only the subject site required a short plat.
3. The Department of Construction and Land Use considered the subject property alone when making the threshold determination required under SEPA. At the time of the threshold determination the only application before the department was for that property although the department was or should have been aware of the appellant's plans for the adjacent property.
4. Appellant expressed concern about erosion and drainage problems but presented no evidence directly related to the merits of the short plat decision. The issue he raises in his appeal is the City's procedure in this case which fails to take into account the total proposal for which the short plat, variances

and a street vacation will be required. The piecemeal approach has resulted in a impact evaluation for only part of the proposal, assignment of different departmental reviewers to the two parcels, a flurry of public notices, public confusion and, in appellant's opinion, the possibility of underserved variances.

Conclusions


1. Section 23.76.36(7) requires the Hearing Examiner to give substantial weight to the decision of the Director. The burden is on the appellant to produce evidence of error to overcome that weight. Since no evidence was adduced on the issue of the approval of the short plat the determination must stand. Because the DNS appeal was dismissed, the Hearing Examiner may not consider any procedural issues in relationship to SEPA compliance and the procedural issues do not relate to any error in the short plat decision.

2. Appellant's concern with the lack of coordination in the process where a unified development is proposed is valid. It is hoped that the Director will recognize the totality of the proposal in future actions on this property and will consider means in the future to avoid the confusion created by lack of coordination.

Decision

The decision of the Director is Affirmed.

Entered this 2nd day of November, 1983.



M. Margaret Klockars
Deputy Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should such request 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.