

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

R/L ASSOCIATES, INC.

FILE NO. MUP-83-070

APPLICATION NO. 83-457

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

Introduction

Appellant seeks approval of a proposal to subdivide land at 11310 - 3rd Avenue N.W. in order to establish three lots of less than the zone's minimum lot size.

The appellant exercised its 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 November 15, 1983.

Parties to the proceedings were: appellant Robert L. Hale, president; the Department of Construction and Land Use Director (Director) by Cliff Portman.

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. Project applicant proposes to divide a relatively level parcel of 20,657 sq. ft. into three lots 6879, 6789 and 6881 sq. ft. and construct a single family dwelling on each of said lots. The subject address is 11310 3rd Avenue N.W. The Director denied the required variance: relief and conditioned the short subdivision on the creation of two parcels "each meeting minimum lot area." Applicant submitted this appeal.

2. The site, zoned single family 7200, is located at the western edge of a large SF 7200 zone. Across west abutting 3rd Avenue West begins a single family 9600 zone. North of the site beyond another parcel, is east-west oriented N.W. 115th Street.

3. Applicant's theory, supported by a topographical map of record, is that the adjacent SF 9600 zoned area is topographically extreme, marked by a ravine, which necessitated a (SF 9600) restriction on the amount of its development. Further, there is little development between applicant's property and N.W. 112th Street, the next through street parallel to N.W. 115th Street. The topographical map shows that intervening section as similar to the west SF 9600 property, with most of the limited residential development at the more level southern and western edges of that section.

4. According to applicant, were it not for the topography and the consequential limited development, a variance would not be required to create the proposed three lots of less than 7200 sq. ft., since the following provision would apply:

A lot below the minimum lot area may be created by short subdivision... when the lot to be created will be at least seventy-five percent of the minimum required lot area and be at least eighty percent of the mean lot area of the lots on the same block face within which the lot will be located and within the same zone.

(emphasis supplied) Section 23.44.10.B.3.

Applicant asserts that the proscribed development on comparative properties is a property condition which supports his request for variance relief.

5. The great majority of lots in the immediate area and SF 7200 zone are 7200 sq. ft. or greater. Some lots are roughly 15 and 16,000 sq. ft. in area. Irregular substandard lots do exist, however. These were created prior to the implementation of the present Land Use Code. There is no record of subdivision nor lot variances resulting in parcels of less than the minimum required lot area.

6. Applicant would point out, however, that at the time of the subdivision of certain property south of applicant's property only four lots could be created by the short subdivision process (the present maximum is nine) and that Section 23.44.10 B was not in effect. Further, some neighbors opposed to the project have lots that are less than 7200 sq. ft.

7. The systems for drainage, water supply and sanitary sewage disposal are adequate to accommodate applicant's proposal. For vehicle access, applicant proposes that the one interior lot and the two remaining parcels with frontage on 3rd Avenue N.W. be served by a "T-shaped" 20 ft. wide easement and turnaround.

8. The traffic expected to result from approval of the project was not shown to be excessive nor to have a critical impact on the existing neighborhood traffic pattern.

9. The proposed subdivision and construction would have no significant adverse impact on the property values of adjacent properties.

10. With regard to the State Environmental Policy Act of 1971 (SEPA) and Chapter 25.04, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

1. The criteria for variance approval are found at Section 23.40.20 C. of the Land Use Code. All must be met in order for variance relief to issue.

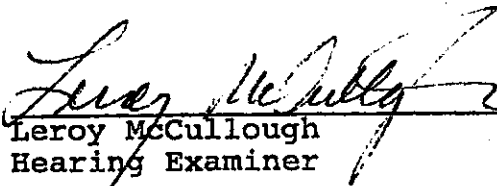
2. It is clear that approval of this variance would establish a precedent for establishment of other substandard lots by variance, even though the deficiency in this case is comparatively small. It is also clear that the precedent would be negative. The existing substandard lots constitute the exceptions to the pattern of lots generally well in excess of 7200 sq. ft. in area. Since there is no record of subdivisions or lot area variances resulting in lots of less than 7200 sq. ft. in area, this variance approval would be an inconsistent grant of special privilege to applicant. The other properties in applicant's block face also confront the extreme topography - limited development pointed out by applicant. Said topography is not an unusual condition applicable to the subject property such that variance relief should issue. The variance denial is affirmed.

3. The Hearing Examiner must accord substantial weight to the Director's decision on the short plat component of the decision at issue. Section 23.76.36.B.7. Without variance relief, the short plat would not conform to the Land Use Code. With variance relief the public interest would not be served. Chapter 23.54. The Director's decision limiting the division to two parcels is affirmed.

Decision

The Director's decision denying the variance and conditionally granting the subdivision is Affirmed.

Entered this 17th day of November, 1983.


Leroy McCullough
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.