

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

In the Matter of the Appeal of

TEOFILO RAMOS

FILE NO. MUP-88-003(P)  
APPLICATION NO. 8704749

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

Introduction

Teofilo Ramos appeals the decision of the Director, Department of Construction and Land Use, to deny his master use permit application to short plat property at 10050 Dibble Avenue N.W.

The appellant exercised the 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 March 2, 1988.

Parties to the proceeding were: appellant, Teofilo Ramos, pro se, and the Director, Department of Construction and Land Use, by Meredith Getches, senior land use specialist.

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. Mr. Ramos applied for a master use permit to subdivide a parcel at 10050 Dibble Avenue N.W. into two lots. The Director, Department of Construction and Land Use ("Director"), denied his application. This appeal followed.

2. The subject property is a parcel with 104 ft. of frontage on the street, a depth of 134 ft. and an area of 13,950.6 sq. ft. The property is developed with a single-family house cited north and west of center of the parcel. The Kroll map, Exhibit 3, shows that two platted lots comprise the parcel. The lots have a north-south common lot line.

3. The subject property is in a large SF 7200 zone. Minimum lot size for the zone is established at 7200 sq. ft.

4. Lots and their houses on the two facing block fronts are oriented east-west. Excluding the subject property, lots in the same block front range from just under 8,000 sq. ft. in area to just over 8,500 sq. ft. Lots on the opposing block front are smaller: from just over 5,500 sq. ft. to about 8,400 sq. ft.

5. The lots resulting from the proposed short subdivision would be 6,835.56 sq. ft. and 7,125.88 sq. ft. Both lots are at least 80 percent of the mean lot area on the same block face and at least 75 percent of the minimum required lot area for the zone so meet the exception to the minimum lot area of Section 23.44.010B.1.

6. Parcel A would be rectangular and contain the existing house. Parcel B would be ell-shaped with 20 ft. of street frontage in a "dogleg."

7. The area on which a house could be constructed (the

building envelope) on Parcel B, observing required setbacks, would be located directly behind the existing house and would measure 22 ft. by 93 ft. The length would be in the north-south direction.

8. Appellant provided plans, Exhibit 1, which showed an example of a three bedroom house with attached garage that could be built on the proposed Parcel B.

9. The Director's decision to deny the application was based on the Single Family Residential Areas Policies (SFRAP), Section 23.16.002, which "provide for recognizing and preserving the streetscape character of individual clusters of housing units and the citywide pattern of open spaces between single family residential structures." Exhibit 2 at 3. The Director found that the building area created would be out of character with the neighborhood because the lots would be oriented in a north-south direction and one would be irregularly shaped, and inconsistent with the bulk and siting policy of the SFRAP based on the shape of the lot and the irregularity of the open spaces.

#### Conclusions


1. Section 23.24.040 sets out criteria for the Director to use to determine whether to grant, condition or deny a short plat. When the facts were compared to the first three criteria, the Director found no reason to deny the application. The fourth criterion is "whether the public use and interests are served by permitting the proposed division of land." Section 23.24.040A.4. The Director used the SFRAP to determine whether the public interests would be served and concluded that they would not be for the reasons in Finding 9 above.

2. In Carlson v. Beaux Arts Village, 41 Wn.App 402, 704 P.2d 663 (1985), the Town Council had denied a short plat finding it not to be in the best interests of the residents of the town because the subdivision would create an "irregular building site that would be inconsistent with the character and orderly pattern of existing development...and with the Town's comprehensive planning policies." Carlson at 407. The court observed that no ordinance had been shown to prohibit an irregularly-shaped lot and that comprehensive plans are only general policy guides. The court found that the action denying the short plat based on the best interests of the citizens was arbitrary and capricious. This examiner is unable to distinguish the instant case from Carlson since this decision was also based on the character and pattern of the development and the land use policies. Therefore, the decision to deny the short plat must be reversed.

#### Decision

The decision of the Director is reversed and the short plat application is granted.

Entered this 24th day of March, 1988.

  
M. Margaret Klockars  
Deputy Hearing Examiner

#### CONCERNING FURTHER REVIEW OF HEARING EXAMINER FINAL DECISIONS ON MASTER USE PERMITS

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22(C)(12)(c).

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104, (206) 684-0521.