

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

In the Matter of the Appeal of

DAN HIATT

FILE NO. MUP-88-071(P,V)
APPLICATION NO. 8801116

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

Introduction

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 December 7, 1988.

Parties to the proceedings were: appellant-applicant Dan Hiatt by Ross Radley, attorney at law; Department of Construction and Land Use Director by Susan Kunimatsu; and intervenors John E. Sperry and David Star, pro se.

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, and subsequent to a visit to the site and vicinity, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. Applicant proposes to subdivide an approximately 27,800 sq. ft. area parcel, generally as bisected by California Lane S.W., into two parcels. DCLU denied the variance and short plat application and applicant submitted this appeal.

2. The subject property is located in West Seattle in an environmentally sensitive (soils) Single Family 7200 zoned area southeast of the Duwamish Head Greenbelt. The Hamilton Viewpoint across Alki to Puget Sound is north of the subject site. The street address is 1025 California Lane S.W.

3. Most of the residences along California Lane S.W., a private access road, were built between 1930-50.

4. Before 1987, no recorded city or county property records established the width of California Lane S.W. In 1975, a building site determination for demolition and replacement of the 1027 California Lane S.W. structure was apparently based, in part, on Kroll map indicators of a 40 ft. easement. In 1987, applicant and the other abutting property owners recorded California Lane as a 10 ft. - wide easement.

5. Although a private access easement, California Lane S.W. contains city water and sewer lines. There is a makeshift turnaround at its southeast end approximately 45 ft. wide. The "turnaround" is not part of the easement, however. At its northeast end, California Lane abruptly intersects with California Avenue S.W., a collector arterial.

6. California Lane is a paved roadway that varies in width from 12-23 ft. It has no curbs or sidewalks. Shrubbery tends to encroach the roadway in certain areas.

7. Owners of the lots between the subject lot and California Avenue S.W. have declined the applicant's request to release portions of their land to widen the easement.

8. Applicant's proposed lots, 11,600 sq. ft. and 16,170 sq. ft., conform to the 7200 sq. ft. minimum lot size.

9. Utility access to both proposed parcels is available via easement over California Lane S.W. Regarding water, Lane-fronting properties are served by a 2 inch water line. That line is insufficient to properly pressurize a fire hydrant, but is adequate for domestic water supply.

10. The closest fire hydrant is 1085 ft. east of the new lot area that would likely accommodate a house. The closest line of adequate capacity (to provide 1000 gpm of water pressure at 20 psi residual pressure - Seattle Fire Department regulations) is approximately 300 ft. east of the site. The Seattle Water Department did not consider installation of an 8 inch water main in California Lane "based on the potential of slides in the area, the narrow roadway and the costs." Exhibit 17.

11. A 6 inch sanitary sewer is available in California Lane S.W.

12. The subject site slopes steeply from the direction of California Avenue S.W. The lower portion of the site, west of California Lane, is cleared and is developed with a single family residence. The upper portion of the site, west of California Lane, is very steep and is covered with trees, underbrush and other vegetation. The upper portion, proposed Lot A, does have a "level bench" for potential siting of a residence.

13. Most of the lots along California Lane average in excess of 15,000 sq. ft. per lot. This specific subdivision has 14 lots, of which 3 are vacant. Exhibit 24. One, Lot 10, is held in common ownership by Lane residents. With the exception of applicant's lot, no parcel straddles California Lane S.W. Other nearby lots, east to Sunset S.W., appear to approximate 5000 sq. ft. in area.

14. Although 25 ft. is the Seattle Engineering Department standard street width for a single family or Lowrise 1 zoned area, there are some Seattle streets that are presently functional with less than 25 ft. width.

15. Fire Department and other emergency vehicles have been able to access California Lane S.W. as presently configured. However, SFD regulations indicate the following requirement:

An access road capable of supporting 30,000 lb. fire apparatus shall be provided within 200 feet of the most remote corner of the house. Roads to more than two houses shall be 20 feet wide if dead-end.

Exhibit 1.

16. Several nearby property owners opposed the application because of concerns with traffic, access and soil stability.

Conclusions

1. The Hearing Examiner has jurisdiction of this matter pursuant to Chapter 23.76, Seattle Municipal Code.

2. The Hearing Examiner is to give no deference to the DCLU Director's decision on variance applications. The Director's short plat decisions are entitled to substantial weight. Seattle Municipal Code Section 23.76.022(C)(11).

3. The variance should be granted. The existing width of the lane; the difficulty in expanding the easement (lack of property owners' concurrence); and the steepness of the surrounding topography are unusual conditions not created by applicant which justify some relief from the strict, literal application of the code.

4. Other vicinity properties currently enjoy the presently configured access. Therefore, this variance relief would constitute no grant of special privilege to applicant, but would allow comparable access privilege.

5. The variance relief is the minimum necessary for comparable relief. Although variance relief could herald increased development along the Lane, the variance grant will not be of material detriment or injury. This is because each subsequent project can and should be analyzed for its cumulative effect on the environment/public welfare. Specific fire and emergency access issues will be addressed by the following condition to the variance:

Applicant shall provide a public turnaround on the subject lot which shall accord with SED/SFD standards for emergency vehicles; OR shall provide evidence to DCLU that the existing "turnaround" has been made and recorded as a part of the existing easement.

6. Regarding the short plat, the proposed lots at 11,600 and 16,170 sq. ft. conform to Code minimums for lot sizes in this zone. Adequacy of drainage, domestic water supply and sanitary sewage are not in issue. Utility access is available by easement over California Lane S.W.

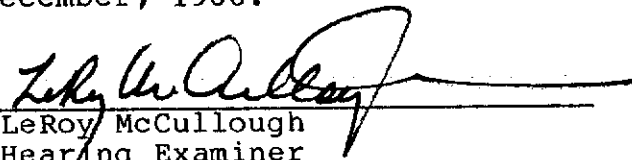
7. The short plat must be denied, however, because of inadequacy of access for fire protection and the attendant impact on public safety, use and interests. The nearest fire hydrant is 1050 ft. from the site while SFD regulations call for a maximum 600 ft. distance. The existing water line in California Lane cannot provide the residual pressure needed for a hydrant. Consideration of a larger water line was rejected because of, inter alia, slide potential and the narrow roadway.

8. As to the roadway, emergency vehicles have negotiated Maple Lane in the past. Nevertheless, SFD safety regulations should be complied with or waived by SFD before any additional development along this roadway is permitted. To suggest otherwise is to suggest that the public use and interest be ignored or violated. Chapter 23.24, Seattle Municipal Code.

Decision

The DCLU decision is MODIFIED in accord with the foregoing.

Entered this 22nd day of December, 1988.


LeRoy McCullough
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.