

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

GEORGE HARVEY

FILE NO. MUP-81-003(P)
APPLICATION NO. SP-80-85

from a decision of the Director of
the Department of Construction and
Land Use on a Master Use Permit
Application

Introduction

The Director of the Department of Construction and Land Use (DCLU) denied the appellants application to subdivide property located between East Terrace and Darwin Court and 35th Avenue (vacated).

The appellant exercised his right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code and pursuant to the Short Subdivision Ordinance, Chapter 24.98, Seattle Municipal Code.

Parties to the proceeding were: Appellants by Harold H. Green and Peter Koehler, MacDonald, Hoague and Bayless. The Department of Construction and Land Use was represented by Ed Somers.

The matter was heard before the Hearing Examiner on July 23, 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 between E. Terrace Street to its north and Darwin Court to its south. Subject lots 16 and 17 are on the east and west side, respectively, of the vacated 35th Avenue. Appellant seeks to divide this vacant tract into four buildable lots. The legal description appears in the application and is incorporated herein by reference.

2. The property is zoned Single Family Residence High Density (RS 5000) and is located in the Leschi neighborhood. The property is heavily vegetated. Topographically, it declines south to Darwin Court as it narrows, resulting in a pie-shaped configuration. A small part of the undivided site, at the north, is at a 50 percent grade; the remainder of the property is generally less steep and is in the 23-24 percent grade range.

3. Lots adjacent to the subject property have a similar pie-shaped configuration and also open south to Darwin Court. Appellant proposes access to Lots C and D from Darwin Court while Lots A and B would be accessed from Terrace Street. Proposed lot dimensions are as follows: Lot A, 5,759 sq. ft., Lot B, 5,659 sq. ft., Lot C, 5,203 sq. ft. and Lot D, 5,157 sq. ft.

4. None of the adjacent nor second adjacent lots fronting on Darwin Court have been subdivided. In their present state they were estimated by the DCLU representative as having areas of approximately 10,000 sq. ft. None of these other lots have Darwin Court as their sole access. However, within a five block area there are lots similar in size and configuration to those proposed. Some are platted differently. Some were approved by short subdivision applications. One such application concerned property one block south. Appellant Exhibit 13.

5. Thirty-Fifth Avenue has a present slope of approximately 23 percent. DCLU concluded that proposed Lots C and D would therefore not be served with an access that meets the 20 percent grade requirement as required by the "City street development standards". Appellant proposes to provide access to Parcels C and D by improving and extending 35th Avenue with a resulting street slope of approximately 25 percent. Appellant is willing to comply with requirements by the Engineering Department.

6. Recognizing that some care would be needed for area construction due to the topography and other conditions, an appellant expert witness testified that the subject property could "easily" support four separate homes; and further that the "soil" units were among the best soil units found in the Seattle area. Concerning mud slides, the witness opined that dangers would be substantially alleviated by development. We find in accord with this witness' testimony.

7. In addition to the matter of slides and soils stability, some neighborhood concern was expressed with regard to increased area parking demands and with respect to apprehensions that short subdivision approval would alter the character of the neighborhood.

8. Several new homes have been built and are being constructed in the steeply sloped and vegetated areas of the Leschi community. The type of development envisioned by appellant is in character with this development. Proposed are homes nestled in the wooded sites whereby obtrusiveness would be minimized. It will be required that construction comply with on-site retention and other features of the Seattle Drainage Ordinance. Appellant plans to provide required off-street parking and no problem is envisioned with respect to maintaining required yard setbacks for development of either of the four lots.

9. Adequate utilities, water, fire protection and sanitary sewer service could be provided to the proposed lots.

10. With regard to the action proposed in this appeal, a declaration of nonsignificance (DNS) has been prepared by the responsible official pursuant to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, and is part of the record.

Conclusions

1. The proposed lots are smaller in area and vary in configuration from the other lots fronting on Darwin Court. However, the proposed lots comply with the zone requirements for lot area. In addition, the proposed lot configurations and dimensions are not dissimilar to those of vicinity lots.

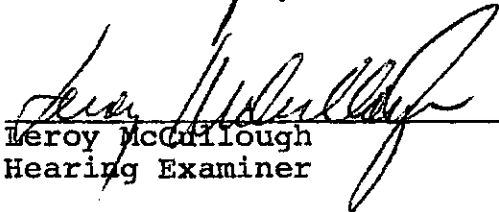
2. Appellant proposes improvements to and extensions of 35th Avenue leading to off-street parking for proposed lots C and D. We conclude therefore that lots A, B, C and D will be served with adequate means of access for vehicles and will provide required off-street parking. However, the extension of 35th Avenue must be in compliance with the requirements of the Department of Engineering.

3. Based on the topographical and natural breaks of the subject property, the proposed subdivision will not impact the character of the vicinity such that the public interest will be harmed. The potential of mud slides will be reduced by the development. The short subdivision application should be granted as conditioned hereby. Section 24.98.080.

Decision

The decision of the Director of the Department of Construction and Land Use is reversed and REMANDED for the addition of Department of Construction and Land Use stipulations pertaining to street improvement, individual parcel access, and site development/construction. All access plans shall be approved by the Seattle Department of Engineering.

Entered this 6th day of August, 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).