

## FINDINGS AND DECISION

### OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

JOHN BAUMANN

FILE NO. MUP-81-049(V)  
APPLICATION NO. 81141-0065)

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

#### Introduction

Appellant, John Baumann, appealed the decision of the Director of the Department of Construction and Land Use to deny the variance component of a master use permit application for 523 North 104th Street.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on September 29, 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 a 40 by 96 ft. lot on the south side of North 104th Street in a Duplex Residence High Density (RD 5000) zone. The lot adjoining the subject site on its west is in a Single Family Residence High Density (RS 5000) zone.
2. Appellant applied for a variance from Section 24.26.080, which requires 5,000 sq. ft. minimum lot size to establish a duplex.
3. According to the Kroll map, of the lots in the RD 5000 zone on the blockfronts facing North 104th, one is a triplex on a larger lot, three are triplexes on lots the same as the subject property and nine are single family residences, one on a larger lot. Appellant checked for electric meters on his blockfront and found three with two meters, one with three and one with one meter. On the southern half of the block fronting on North 103rd Street are two single family residences and one triplex on a lot of 11,520 sq. ft. The permit records for the area show 42 single family residences, five duplexes, one of which is on a double lot, and the one triplex on the three platted lots.
4. The duplexes were established prior to 1976 when a code provision allowed duplexes on undersized lots with certain conditions. In 1976 the Code was amended to remove that provision.
5. The Policy Map adopted with the Multi-Family Land Use Policies shows the subject site and most of the RD 5000 zone proposed for single family zoning.

### Conclusions


1. The burden is on appellant to prove that the requested variance meets all criteria of Section 24.74.030. The variance would permit development contrary to the Comprehensive Plan for the City of Seattle, as shown on the Policy Map. Therefore, the variance cannot be authorized.

2. Further, the appellant is not suffering hardship due to a unique condition. Most of the lots in the zone are the same size, the majority of which are single family. To allow variance for the subject property would either confer special privilege or result in future variances since the subject property is indistinguishable from others.

### Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 13th day of October, 1981.

  
M. Margaret Klockars  
Deputy 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). Should an appeal 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.