

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

DELDRIDGE WAY LAND USE TASK FORCE

FILE NO. MUP-83-044(P)  
APPLICATION NO. 83-310

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

#### Introduction

Appellant, Delridge Way Land Use Task Force, appeals the master use permit decision of the Director, Department of Construction and Land Use, to conditionally approve a short subdivision of property at 5939 - 16th Avenue S.W.

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 September 7, 1983. The record remained open for proposed conditions.

Parties to the proceedings were: appellant, represented by Vivian McLean, and the Director, represented by Art Ward. The applicant, Kevin Weare, agent, did not appear at the hearing.

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. An application was filed by Kevin Weare for George Schutz, agent for J. and B. Development Company or Jack Lamoreaux for a master use permit to allow the subdivision of a lot at 5939 - 16th Avenue S.W. into four parcels. The Director approved the short subdivision subject to several conditions.
2. Appellant group filed an appeal because of drainage concerns.
3. The subject property is a vacant track in the Delridge area containing 20,960 sq. ft. of area. The property has a steep bank next to 16th Avenue S.W. and falls off the west at a rate of approximately 25%.
4. The area is served by a storm sewer. An easement over an intervening property would be required to allow connection to that system for the subject property.
5. Variances were obtained by Jack Lamoreaux or the J. and B. Development Company to gain access to the subject property and other property north and south via ramps from 16th Avenue S.W. A condition of the granting of those variances is to maintain a 25 ft. wide vegetation buffer strip along the rear of the property.
6. J. and B. Development or Jack Lamoreaux, Lamoreaux Construction Company, obtained approval of a short plat and has developed a number of lots to the north of the subject property.

Some conditions of short plat and permits have not been fulfilled such as trying the driveway drains to the infiltration pit on several lots and installation of a drainage system on one. Debris has been left in the street right-of-way and in the 25 ft. buffer strip, despite notice from the Engineering Department.

7. Properties below the lots recently developed by J. and B. Development or Jack Lamoreaux, Lamoreaux Construction, have suffered from problems which they did not have prior to that new development. Basements are leaking for the first time, back yards are filled with water, concrete patios are cracking. Owners of those properties are attempting to deal with the inflow of water to avoid further drainage by installing new drainage systems on their properties.

8. The problems appear to be directly related to the unfilled conditions on the properties above them. The make-up of the soil on the slope is such that it has very low permeability. This accelerates the runoff and, combined with the steep slope, this makes special drainage measures necessary. Because of the slope, all improvements are elevated above grade. Runoff from elevated surfaces hits the ground with extra force reducing the chance of its absorption.

9. The conditions imposed by the Director in his decision were not tailored to the special conditions of this property. The Director's representative proposed substitute conditions which are necessary to control changed drainage from the site to avoid harm to properties below.

10. Appellant asks, alternatively, that the short plat be denied until all conditions of the short plat on the adjoining property are met or that conditions be imposed to prevent drainage from the site from harming other properties.

11. The Engineering Department has notified Jack Lamoreaux that no further permits will be issued until the list of work required to be completed under the permits for the earlier short platted property is completed and the S.W. Juneau right-of-way is cleared of debris.

12. The Director had determined that this subdivision "would not be contrary to the public use and interest because all improvements would have to be built in accord with the Building Code which considers the public use/interest including such things as fire and life safety."

#### Conclusions

1. The issues raised by appellants are whether there is adequate provision for drainage and whether the public use and interests are served by permitting the proposed division of land.

2. As issued, the Director's decision did not have conditions sufficient to adequately provide for drainage control on this unusual property. If the division were to be permitted, the decision should be modified to substitute the new conditions proposed by the Director's representative.

3. The record shows, however, that the public interest would not be served by the division of property by this applicant, where, because of special topographical and drainage conditions, there is potential for substantial injury to other properties if special precautions are not observed and there is reason to believe, based upon demonstrated recent experience with the applicant and the applicant's failure to the date of the hearing, to comply that those special precautions would not be followed by the applicant. Therefore, the decision should be reversed and the application denied.

Decision

The decision of the Director is reversed.

Entered this 6th day of October, 1983.  
~~September~~

M. Margaret Klockars  
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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.