

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

In the Matter of the Appeal of

MARY and D.T. POWELL, JR.

FILE NO. MUP-82-020(P)  
APPLICATION NO.81336-0469

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

Introduction

Project applicant proposes to subdivide two existing lots such that three parcels will result. Appellants filed an appeal from the conditional approval of the project by the Director of the Department of Construction and Land Use (DCLU).

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: appellants, pro se; the project applicant by William H. Fraser, pro se; the Director of DCLU by Kermit Robinson.

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 April 22, 1982.

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 in a Single Family Residence Low Density (RS 9600) zone. The particular block is bounded on the north by N.W. 120th Street, on the west by 9th Avenue N.W., on the south by N.W. 118th Street and on the east by 8th Avenue N.W.

2. Project applicant proposes to subdivide two existing lots containing 34,586.5 sq. ft. into three lots, existing project addresses 11815 and 11825 8th Avenue N.W. The legal description is noted in the application, as corrected, and is incorporated herein by reference.

3. The more northerly of the existing platted parcels is 180 ft. deep and 97.5 ft. wide. It is developed with a single family structure oriented to 8th Avenue N.W., and will be referred to as Parcel A.

4. The more southerly Parcel B, is 190 ft. deep and 89.33 ft. wide. It is also developed with an existing single family residence oriented to 8th Avenue N.W. This lot is further developed with a carport.

5. Project applicant proposes to subdivide the existing parcels to create a third parcel, C, which would be an interior parcel located to the rear of the existing lots. Lot A would provide an area of 12,675 sq. ft.; Lot B, 11,636.5; and Lot C, 10,275 sq. ft. At its widest point the proposed Lot C would measure 60 ft.; from north to south the new lot would measure approximately 187 ft. The access easement proposed will be approximately 20-21 ft. wide and 130 ft. in length, located along the south side of proposed Lot B. Lots in the subject zone range from less than 9,000 sq. ft. in area to more than 30,000 sq. ft. Some are irregular in shape.

6. Proposed Lot C is the rear yard of existing parcels A and B. Due to the design of the residences to the west of the proposed Parcel C, they have living room views of the Parcel C area. Thus, according to a letter from the appellants, expressive of the majority of sentiment opposed to the application, the proposed development would

replace the current lawn and garden scene with a land-locked house - certainly out of keeping with the nature of this block. If carried out this short subdivision and building would degrade the quality of the neighborhood and certainly reduce the value of the surrounding homes...

Some hedging and other growth marks Parcel C's western border.

7. Proposed Parcel C would be the only interior parcel in the subject block and differs in configuration from existing block lots. However, similar interior development has occurred in the block immediately east of 8th Avenue N.W.; in the block northwest of the subject block, between N.W. 120th and N.W. 122nd Street; and in the block between N.W. 122nd and N.W. 125th. See Director's Exhibit Number 4.

8. As testified by the appellant the subject block was originally divided into eight blocks. Excluding applicants' lots, four remain at the original platting, close to 20,000 sq. ft. in area. The lots at the northeast and southeast corners of this block have been subdivided.

9. Lots A and B drain to the west and south. Appellant, who lives to the west of the proposed Parcel C, questioned the ability of the soil and subsoil structure, which includes a layer of "hard pan", to absorb the increased storm runoff which would result from paving and related development proposed for Parcel C and its access easement. The DCLU representative responded that the subject lot, the only block-parcel subject to the drainage control ordinance, would be required to have on-site retention and minimum run-off in order for a permit to be issued. Under Section 22.802.040, the peak storm water runoff discharge rate is not to exceed 0.2 cubic feet per second per acre under design storm conditions

except for a property discharging directly to a major receiving water or directly to a public storm drain....

10. A south adjacent property owner related concerns that the easement-driveway might impact the root system of trees currently lining the common border. The property owner to the southeast of the proposed Parcel C has a corner lot that is separated from existing Parcel B by a 6 ft. high bank. This witness was concerned that unless the driveway were shifted farther north from his property the rockery might shift or other accidents might occur, affecting the safety of his property and family.

11. The project applicant considered locating the proposed easement between the applicants' two existing houses on Lots A and B, but concluded that due to the required setbacks and proximity of the houses, the easement should be located as proposed along the south property line of proposed Parcel B.

12. Another specific objection was made concerning off-street parking. According to the appellants, the present occupants of the existing single family houses utilize all off-street parking facilities and as well use the on-street parking. Accordingly, appellants took issue with the condition imposed by DCLU that the Parcel B carport be removed. Project applicant testified that present tenants are in a group-living status and have individual cars. Reestablishment of one off-street parking space will be required for Lot B. As noted by the DCLU analyst, two off-street parking spaces are possible on proposed Lot B, (a) by retention of a portion of the existing carport and (b) additional access under the existing sundeck.

13. More general comments in opposition went to the impact on the natural environment; adequacy of soil support for sewer lines; drainage; character of the neighborhood; and the use and impact of the proposed easement.

14. No objections have been raised or stated after solicited input from the Fire, Water, and Engineering Departments, although the Engineering Department suggested additions and changes to the legal description and to the designations of proposed parcels, originally denoted as Parcels 1, 2 and 3.

15. DCLU imposed conditions of approval as follows:

A. Prior to recording:

1. Final recording forms and fee must be submitted and approved. See suggested changes by Engineering Department. Parcels shall be identified by A, B and C, rather than 1, 2 and 3.
2. A site plan of Parcel B shall be submitted indicating the provision of one off-street parking space, meeting Zoning Code requirements, subsequent to removal of the carport.
3. An easement over the same area as that already granted to Parcel C over Parcel B shall also be granted to City Light...

B. Conditions of approval after recording:

1. If on-site development must provide a storm water control facility in accordance with Ordinance 108080, maintenance of this facility will be the responsibility of the owner(s) of said property
2. Carport on Parcel B shall be removed and required parking re-established before any building permit can be issued for Parcel C.

16. The DCLU analyst concluded that the proposed lots would be served with adequate means of sanitary sewerage disposal although noted that the sewerage would have to be pumped up to the 8th Avenue sewer line.

### Conclusions

1. The criteria for approval of short subdivisions are found in Section 24.98.080:

- A. The proposed lots should conform to the Comprehensive Plan and zoning ordinance.
- B. The proposed lots should be served with adequate means of access for vehicles, utilities, fire protection, drainage, water supply and means of sanitary sewerage disposal.
- C. The public use and interest should be served by permitting the proposed division of land.

2. The decision of the Director is afforded substantial weight and the burden of proving the contrary is on the appellants. Section 24.84.170. The proposed division will result in lot areas of 12,675, 11,636.5 and 10,275 sq. ft. for Lots A, B and C, respectively. The minimum lot area for the subject zone is 9,600 sq. ft. The proposed lot areas will not be inconsistent with that of the subject zone. Off-street parking and setbacks as required by the zoning ordinance will be provided for the subject lots. And the proposal is for single family development, consistent with the public use and interest. The Director's decision is affirmed.

3. Reviews of the proposal have been submitted by the City Engineering, Fire and Water Departments and none of the Departments have recommended against it. DCLU has conditioned approval on provision of an easement to City Light for service to the interior parcel. Adequate means of sanitary sewerage disposal is present although the sewerage will be pumped to the 8th Avenue sewer line. Compliance with the drainage ordinance would be required for proposed Parcel C, making it the only lot in the block with a controlled drainage discharge rate.

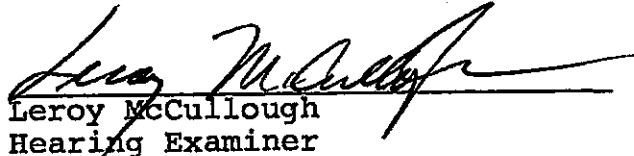
4. The proposed configuration of Parcel C will be different from lots within the block; the lot will also be smaller in size than several of the block lots. However, such development of interior lots is not uncommon in the subject area, nor access to them. Some vegetation screening of proposed Lot C exists, and additional screening is possible.

5. DCLU should, however, reassess whether, in light of concerns raised by the appeal, conditions should be added concerning driveway setback and effect; and on west screening of proposed Parcel C. Any resulting recommendations shall be added to the decision and complied with by the applicants as a condition.

### Decision

Except as modified herein, the Director's decision is AFFIRMED.

Entered this 27th day of April, 1982.

  
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). 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.