

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

M. J. ASHFORD BARRETT, et. al.

APPLICATION NO. SP-81-038
H.E. NO. MUP-81-011

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

Introduction

Margaret J. Ashford Barrett and others appealed the decision of the Director of the Department of Construction and Land Use to conditionally grant a short subdivision application for property located at 846 N.E. 100th Street.

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code and Chapter 24.98, Seattle Municipal Code, concerning subdivisions.

The matter was heard before the Hearing Examiner on July 16, 1981.

Appellants were represented pro se. The Director was represented by Annette Mozeika.

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The subject property is located in a Single Family Residence High Density (RS 5000) zone at 846 N.E. 100th Street. The lot has 78 ft. of frontage on N.E. 100th Street and is 145 ft. deep for a total lot size of 11,310 sq. ft.

2. The subject lot is presently developed with an older, single family residence which short subdivision applicant Dwight C. Pickett intends to demolish. At least one neighbor describes the lot as supporting a heavy growth of trees and augmenting the natural beauty of the area.

3. The applicant proposes to subdivide the existing parcel of land into two lots each with 39 ft. frontage on N.E. 100th and each 145 ft. deep for a total lot area of 5,655 sq. ft. per lot. The applicant proposes to construct a new single family house on each lot.

4. The subject zone is predominantly developed with single family homes located on 1, 1½ or 2 lots. One witness house rests on four lots with the surrounding area having been maintained as a greenbelt.

5. In N.E. 100th Street is a 8 in. water main and a 6 in. sewer line; in Roosevelt Way a 12 in. water main and an 8 in. sewer line. At present there is no storm water facility located in the area. The Construction and Land Use analyst concluded that the area had adequate water, power and sanitary sewer systems to accommodate an additional single family dwelling.

6. Although a 40 ft. right of way is provided by N.E. 100th the appellant describes the street as having multi-angled parking on both sides of the street.

7. One witness questioned the Department analyst's assertion of adequate water availability since in that witness' estimation, the existing water pressure is already low.

8. The essence of the opposition to the subdivision plans are summarized as follows:

- (a) Destruction of natural habitat
- (b) exacerbation of the on-street parking
- (c) concern that approval of the subject application would signal approval for increased density, downgrading of the neighborhood, and increased fire hazard and other safety problems
- (d) traffic
- (e) orientation and siting of the proposed dwellings.

9. The City's Fire and Engineering Departments have no objection to the proposal.

10. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, the action proposed in this application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

1. The Director's decision in a short subdivision appeal shall be given substantial weight. Section 24.84.170, Seattle Municipal Code.

2. In making the decision to approve or disapprove a proposed short subdivision, the Director shall determine whether the proposed lots conform to the Comprehensive Plan and Zoning Ordinance provisions; whether the proposed lots are served with adequate means of access for vehicles, utilities, fire protection, drainage, water supply, and means of sanitary sewerage disposal; and whether the public use and interest will be served by permitting the proposed division of land.

3. The City's Fire and Engineering Departments have no objection to the proposal. By conditions in the Director's decision, the future two single family homes will be required to meet building and the zoning code requirements as to yard setbacks, off street parking and other items.

4. We must give substantial weight to the Director's assessment that the proposed lots are adequately served with adequate means of access for vehicles, utilities, fire protection, drainage, water supply and means of sanitary sewerage disposal. One witness' assertion that the water pressure is presently low was the only evidence contra.

5. Although the appellants desire a decreased density, that is not a matter, standing alone, on which the Examiner may deny a short subdivision application. The proposed lots conform to the Comprehensive Plan and the zoning ordinance provisions which require a minimum of 5,000 sq. ft. of area. The public use and interest will be served by permitting the proposed division of land and the consequent provision of two new residences that are required to be in compliance with the City's zoning and building codes. The character of the existing vicinity includes single family homes on 1-3 lots. The proposed development will not significantly alter that character.

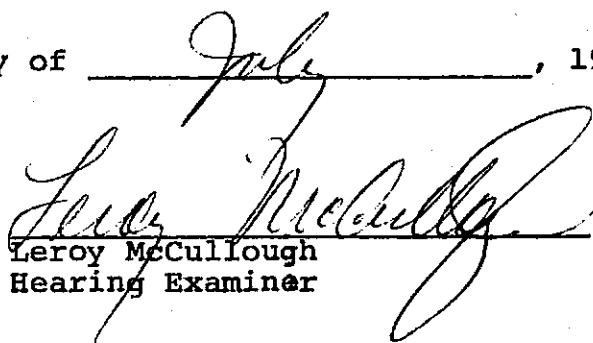
6. The application should be granted as conditioned by the Director:

- (a) The future two single family residences will meet all zoning and building code requirements.
- (b) Preparation of the final recording documents and the survey will be done by a Washington State licensed land surveyer.
- (c) If on-site development must provide a storm water control facility in accord with the drainage ordinance, maintenance of the storm water control facility will be the responsibility of the owner(s) of the property.

Decision

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

Entered this 21st day of July, 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).