

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

In the Matter of the Appeal of

MARLIN L. VORTMAN

FILE NO. MUP-84-012(P)
APPLICATION NO. 83-573

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

Introduction

Appellant, Marlin L. Vortman, appeals the decision of the Director, Department of Construction and Land Use, to conditionally grant a short subdivision of property at 4554 West Cramer Street.

The appellant exercised his 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 March 12, 1984. The record remained open for a recommended condition.

Parties to the proceedings were: the appellant, Marlin Vortman, the Director by Ed Somers, land use specialist, and the applicant, Mary Hartnagel by Robin Hartnagel.

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. The applicant filed an application for a master use permit to subdivide property at 4554 West Cramer Street into two lots. The Director approved the subdivision subject to certain conditions. Appellant appealed this decision.

2. The proposal is to divide the lot into Parcel B with frontage on West Cramer Street and Parcel A with access to Cramer via an easement over the east edge of Parcel B.

3. Three developed lots to the north of the subject property gain street access via a roadway on a 20 ft. wide strip made up of 10 ft. of the property to the east of the subject site, a 5 ft. wide leg of the property to the north and 5 ft. of the subject property. At least a 16 ft. width of the easement is hard-surfaced.

4. The roadway to serve the new Parcel A would be made by adding 10 ft. to the west side of the existing roadway.

5. A joint maintenance agreement for the existing roadway was rejected by the owner of the subject site.

6. Appellant predicts that absent express conditions, actual access to Parcel A will be gained by the use of the existing roadway without assuming any responsibility for maintenance of that roadway.

7. A fire hydrant is located in the Cramer Street right-of-way approximately 16 ft. west of the easterly property line. Because the hydrant is not adequate by Fire Department standards, the Director imposed, as a condition of approval, the requirement that a fire hydrant meeting Fire Department standards be installed. The location of the new hydrant will have to be approved by the Fire Department.

8. All parties agreed to the addition of a condition that prior to the issuance of construction permits for Parcel A, either the additional 10 ft. width be improved or a joint use and maintenance agreement for the existing easement be entered into by the owner of Parcel A and other owners.

Conclusions

1. Section 23.24.40 requires that the Director consider whether the access is adequate and the public use and interests would be served by the proposed division. Appellant has not shown the proposed access to be inadequate but that the proposed access may lead to future disharmony and lawsuits or an unusually wide roadway to serve four properties.

2. The requested condition is reasonable, would avoid the predicted problems and the modification to add a condition of its general nature has been agreed to by the parties. The decision should, therefore, be modified.

Decision

The decision of the Director to conditionally approve the master use permit is modified as follows:

Add to Conditions of Approval Prior to Issuance of a Building Permit and record the following condition:

3. Access must be developed to Parcel A by either of the following methods:

(a) Prior to issuance of a Building Permit on Parcel A, the owners of Parcel A must enter into a joint maintenance and use agreement with the owners of the easement on the adjacent property to the east such that a 20 ft. wide easement with a 16 ft. developed width is provided to Parcel A; or

(b) The 10 ft. wide easement across Parcel B serving Parcel A and connecting to West Cramer Street shall be graded, compacted and covered to a width of 10 ft. with six inches of crushed rock prior to issuance of a Building Permit on Parcel A. Prior to a framing cover inspection, the easement shall be improved to a minimum width of 10 ft. with asphalt or concrete pavement so as to be capable of supporting 30,000 lbs of fire vehicles and/or equipment.

Entered this 27th day of March, 1984.

M. Margaret Klockars
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Deputy Hearing Examiner

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any request for court review must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within 14 days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11). Should such request 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.