

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

DAVID L. ENTRIKIN

FILE NO. MUP-84-081(V)  
APPLICATION NO. 8404581

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

#### Introduction

Appellant, David L. Entrikin, appeals the decision of the Director, Department of Construction and Land Use, to grant a lot area variance for property at 1012 Belmont Avenue East.

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 December 10, 1984.

Parties to the proceedings were: appellant, David Entrikin, pro se; the Director represented by Leslie Lloyd, land use specialist; and Edward Weinstein for Marjorie Siegel, applicant.

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 of this appeal.

#### Findings of Fact

1. Marjorie Siegel applied for a master use permit to establish the use for a single family residence at 1012 Belmont Avenue East. A variance for lot area was required and was granted by the Director. This appeal was filed from that decision.

2. The subject site is a lot with frontages on both Belmont and Summit Avenues East. A zone boundary divides the lot with SF 5000 zoning on the easterly 3,862 sq. ft. and L-3 zoning on the westerly 3,842 sq. ft. The lot is developed with a three unit condominium building on the L-3 portion. Accessory parking consisting of a two car garage and paved area for 2 to 4 cars and the trash receptacles and access to the condominium are located on the single family zoned part.

3. The subject site is on the outside of the boundary of the Harvard-Belmont Landmark District. Properties to the north and east are within that special district.

4. Both the L-3 and SF 5000 zones have a mix of residential uses.

5. The applicant desires to add one unit to the property for a nurse or guests. Since an addition could not be made to the existing structure because it would cross into the SF 5000 zone, a freestanding unit on the SF 5000 part is proposed.

6. The proposed structure would be one story high and cover

323 sq. ft. of area with a bedroom, bathroom and kitchen. The structure would not be visible from either street but would be from the two adjacent properties. Some landscaped yard area would be maintained.

7. Because the SF 5000 zoned portion of the lot is smaller than the minimum 5,000 sq. ft. required by Section 23.44.10.A, a lot area variance is required.

8. At least six other lots zoned SF 5000 in the 1000 block of Summit Avenue East are smaller than 5,000 sq. ft. Four are smaller than the SF 5000 portion of the subject lot.

9. The lots at 1021 Summit East, immediately north of the subject property, and 1023 Summit East are developed with triplexes. One is smaller than 3,000 sq. ft. The other is approximately 4,327 sq. ft.

10. A triangular property in the middle of Summit Avenue is maintained as a park by the neighborhood but is privately owned. It is smaller than 5,000 sq. ft. and is within the SF 5000 zone and Harvard-Belmont Landmark District.

11. Title 24, Seattle Municipal Code, would have permitted 11 units on the subject lot. Title 23 does not specifically state the maximum number permitted.

12. The proposed unit would be required to have one parking space.

13. Parking is at a premium in this Capitol Hill neighborhood.

#### Conclusions

1. The applicant is entitled to a variance if all the factors listed in Section 23.40.20 are present. The first factor is an unusual property condition which causes the Land Use Code provisions to deprive the property of rights and privileges enjoyed by the other properties in the zone and vicinity. The issue here is not whether the property is deprived of any use but whether it is denied comparable use. The bisecting of a lot by a zone boundary is unusual and has prevented the addition of a unit. The density or degree of development of the total lot is therefore restricted beyond that of other L-3 properties in the area. The SF 5000 portion is used in a way which would not now be permitted but is not used to the extent that there is not still available lot coverage for the proposed structure. Other substandard SF 5000 zoned lots in the area have greater use. Since the property is one lot the overall development should be considered and when that is done it must be concluded that the zone line does deny the property privileges enjoyed by other properties in both zones.

2. The variance requested is for the minimum necessary. Because of the other small developed lots in the area the variance would not confer special privilege on this property.

3. No material detriment to the public welfare or injury to other property is reasonably foreseen. The unit would be visible only from the two adjoining properties and too low to affect the flow of air or view. Parking demand can be accommodated. Witnesses expressed concern about potential precedent for the development of the triangular street island. Since there are already developed, substandard lots in the area, this variance should not provide any new basis for development of that property, if it is possible for it to meet other development standards.


4. There is unnecessary hardship present where the placement of a zone boundary denies development on a lot which would otherwise be permitted.

5. The streetscape in the single family area would not be affected by development resulting from the variance. Thus the physical character would not be changed and the variance would be consistent with the Single Family Residential Areas Policies.

Decision

The Director's decision to grant the variance is affirmed.

Entered this 20<sup>th</sup> day of December, 1984.

  
M. Margaret Klockars  
Deputy Hearing Examiner

CONCERNING FURTHER REVIEW OF  
HEARING EXAMINER FINAL DECISIONS ON MASTER USE PERMITS

The decision of the Hearing Examiner in this case is final and is not subject to reconsideration except to correct errors on the ground of fraud, mistake, or irregularity in vital matters. Any request for judicial review of the decision must be filed in King County Superior Court within fourteen days of the date of this decision. Seattle Municipal Code Section 23.76.36(B)(11); Akada v. Park 12-01 Corporation, 37 Wn. App. 221 (1984); JCR 73.

If the Superior Court orders a review of the decision the person seeking review must arrange for and bear the cost of preparing a verbatim transcript of the hearing, but will be reimbursed if successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, Seattle, Washington 98104.