

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

In the Matter of the Appeal of

ALISON MOREY BARDEN

FILE NO. MUP-85-019(P,W)
APPLICATION NO. 8500431

from a decision of the Director of the Department of Construction and Land Use on a proposed short subdivision and SEPA environmental determination

Introduction

Appellant, Alison Morey Barden, Esq., appeals the decision of the Director of the Department of Construction and Land Use (herein "Director"), conditionally granting a proposed short subdivision of an existing parcel into three parcels.

The appellant exercised her 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 May 13, 1985.

Parties to the proceedings were: appellant, Alison Morey Barden, Esq.; the Director's representative Arthur Ward; and the applicant, Chris Pickering.

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. Chris Pickering proposes to subdivide an existing lot located at 13730 42nd Avenue Northeast into three parcels.
2. The subject lot is within a SF 9600 zone, is 29,350 sq. ft. and is irregularly shaped. The lot has 73 ft. of frontage on 42nd Avenue N.E. and 82 ft. of frontage on 42nd Place N.E.
3. The lot is currently developed with a single family residence located at the southwest corner of the lot (proposed Parcel A) and a two-car garage/shed located at the northwest corner of the lot (proposed Parcel C).
4. Proposed Parcels B and C which do not currently have residences upon them will be long (190 ft. to 220 ft.) and narrow (35 ft. to 45 ft.) and their westerly halves will be flat, making it easier to construct residences on them which provide optimum views of Lake Washington. Though not required by the Director, as long as residences are constructed on the flat, westerly halves of Parcels B and C, views of Lake Washington from existing residences in the neighborhood will not be obstructed and the Burke Gilman Trail, east of the three parcels, will not be significantly affected by the proposed action.
5. The lot is currently accessible by a driveway that extends to 42nd Place N.E. The proposed action includes widening the existing driveway to provide access to all three lots for all purposes, including emergency vehicles.

6. The three parcels would each exceed the minimum lot area of 9,600 sq. ft. Other properties in the vicinity of the proposed action are also zoned SF 9600 and are developed with single family residences on lots which vary, considerably, in shape and size.

7. Two letters from persons who reside nearby the proposed action were reviewed by the Hearing Examiner. One letter expressed concern about the adequacy of off-street parking to avoid congestion on 42nd Avenue N.E. The other letter expressed opposition to the proposed short plat if a variance is required.

8. Appellant objects to the proposed action on grounds that approval of a short subdivision would: (a) destroy irreplaceable assets and therefore, the character of this northeast Seattle neighborhood (large lots, stands of forest, spectacular views of Lake Washington); (b) not respond to a housing shortage in Seattle, as suggested by the Director; (c) be in violation of due process because inadequate notice of the proposed action was given; and (d) cause adverse environmental impacts to the community which surrounds the site of the proposed action.

9. It is feasible to utilize a drywell system for stormwater control at Parcels B and C of the proposed action if appropriate governmental approvals are given.

10. A drainage control plan, including detention, will not be required for improvements at the subject property if the drainage is piped directly into Lake Washington.

11. Water service and a public fire hydrant are available to adequately serve Parcels A, B and C of the subject property.

12. The proposed action would increase the availability of residential lots in northeast Seattle, without destroying substantial forest, view of Lake Washington, or the character of the existing neighborhood.

13. Not less than four placards giving notice of the proposed action were posted within three hundred (300) feet of the subject property on February 21, 1985.

14. An environmental checklist was completed by the applicant, and reviewed by the Director's representative, so all significant environmental issues were considered by the Director in reaching his decision.

15. Copies of the notice of decision and notice of appeal issued by the Department of Construction and Land Use were sent to each person who expressed interest in or concern about the proposed action. In addition to those notices, a copy of the Director's Analysis and Decision was sent to the appellant.

Conclusions

1. The notice given by the Department of Construction and Land Use complies with the requirements of Sections 23.76.14 and 23.76.32.

2. The proposed lots would be in conformance to applicable land use policies and land use code provisions.

3. There is adequate access for vehicles, utilities and fire protection, as provided in Section 23.54.10.

4. Adequate drainage, water supply and sanitary sewage disposal are available to each of the three proposed parcels at the subject site.

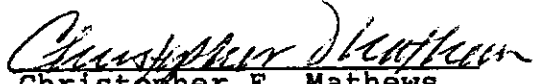
5. The public use and interest are served by permitting the proposed subdivision of land.

6. Since all of the criteria for approval of a short plat will be satisfied if all conditions of approval are met, the Director's decision is given deference and must be upheld.

Decision

The Director's decision is affirmed and the relief requested upon appeal is denied.

Entered this 28th day of May, 1985.


Christopher E. Mathews
Hearing Examiner Pro Tempore

Concerning Further Review

The decision of the Hearing Examiner in this case is the final administrative determination by the City, 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 must be filed with the Superior Court pursuant to Chapter 7.16, RCW, within fourteen days of the date of this decision. 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 appellant is successful in court. Instructions for preparation of the transcript are available from the Office of Hearing Examiner, 400 Yesler Building, 5th Floor, Seattle, Washington 98104.