

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

JOHN E. AND LAUREL N. COLE et al.

FILE NO. MUP-85-030(P)  
APPLICATION NO. 8501317

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

#### Introduction

Appellants challenged the Department of Construction and Land Use (DCLU) approval of a short subdivision proposed for 4021 N.E. 113th.

The appellants exercised the 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 July 11, 1985. Considered for the record at that time was a stipulation from the principal parties.

Parties to the proceedings were: appellants by John Cole, pro se; applicants by Ron Babcock and William Knapp, pro se; and the DCLU Director by Patrick Doherty, land use specialist.

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 subject site is zoned Single Family 7200 and is addressed as 4021 N.E. 113th Street. It has an area of 17,920 sq. ft. and is developed with a single family dwelling.

2. Located on the south side of N.E. 113th, its access street, the site also abuts to its east an unopened, unimproved alley right-of-way that connects north to N.E. 113th Street and south to N.E. 110th.

3. Applicant proposes to subdivide the single parcel into the more northerly Parcel B, offering 9,996 sq. ft. and having 102 ft. of frontage on N.E. 113th Street. The more southerly Parcel A, at 7,924 sq. ft., will connect to N.E. 113th Street by a 10 ft. wide, 98 ft. long leg previously proposed for a utility corridor.

4. Neighbors to the proposal appealed the DCLU approval of the short plat. The appeal letter cited concerns with traffic, congestion, and the proposed use of the alley as access to proposed Parcel A. According to appellants development of the alley would mean removal of the trees and a significant loss of buffering.

5. One of the five DCLU conditions of approval was included in the:

#### CONDITIONS AFTER RECORDING BUT PRIOR TO ISSUANCE OF BUILDING PERMITS

2. Improve the abutting alley for access to Parcel A with 6 inches of crushed rock for a 12 foot minimum width including a standard turnaround per Seattle Engineering Department specifications.

6. According to the DCLU witness, one Seattle Engineering Department reason for recommending this alley access was that the Engineering Department considered that the alley would eventually be developed, and that with the 10 ft. wide Parcel A leg as access, there would be two adjacent access ways.

7. In fact, there is only a remote possibility that the alley, marked with extensive tree growth, will be improved.

8. Subsequent to the appeal, DCLU, applicant and appellants "agreed and stipulated" that removal of the alley improvement condition and improvement of the 10 ft. driveway in its stead "alleviate(s) the primary concerns" upon which the appeal was based, and that the signatories wished "to pursue no other issue pertaining to this appeal." The 10 ft. driveway referred to is the 10 ft. wide leg from Parcel A to N.E. 113th.

9. After submission of the appeal the Engineering Department agreed with DCLU that the 10 ft. wide access was probably best since the alley probably would not be improved. Essential to the concurrence was reliance on the sight triangle exception of Seattle Municipal Code Section 23.54.30(F)(3).

10. The proposed configuration of the lots is not unlike others in the vicinity and zone.

11. The site is served by a standard 8 in. watermain in N.E. 113th Street and a standard 6 in. fire hydrant in Alton Avenue N.E. An 8 in. sanitary sewer is available for connection in N.E. 113th. A drainage control plan, to include detention, will be required.

12. With regard to the State Environmental Policy Act of 1971 (SEPA) and Chapter 25.05, Seattle Municipal Code, the action proposed in this subject application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC Chapter 197-11.

#### Conclusions

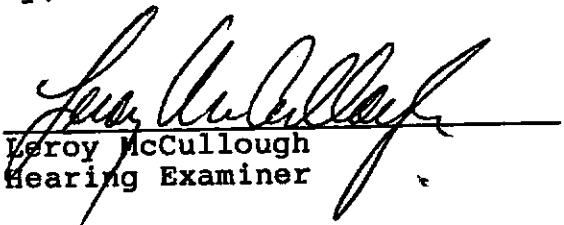
1. Although the Hearing Examiner proceeding is de novo, the Master Use Permit Ordinance dictates that the DCLU Director's decision on short subdivisions be accorded substantial weight.

2. As no challenge remains to the short plat approval, per the stipulation of record; and since the criteria for short subdivisions, Section 23.24.40, are met, the Director's decision to approve the short plat should be affirmed, as modified herein. The lots, at 7,924 and 9,996 sq. ft., will more than exceed the 7,200 sq. ft. minimum for the zone. The proposed configuration is similar to others in the same zone and vicinity. Adequate utility and vehicular access is proposed, as are water, sewer and other connections. The addition of the one dwelling site was shown to have no traffic or other negative affect on the public interest. However, the condition requiring improvement to the abutting alley is deleted. In its stead, the 10 ft. driveway shall be improved to Seattle Engineering Department standards for access to Parcel A.

Decision

The DCLU Director's decision to approve the short subdivision is affirmed as modified by Conclusion 2 above.

Entered this 16th day of July, 1985.

  
Leroy McCullough  
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).

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.