

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

JOHN BAUMAN

FILE NO. MUP-85-054(P)  
APPLICATION NO. 8502917

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

#### Introduction

Appellant, John Bauman, appeals the decision of the Director, Department of Construction and Land Use (DCLU), denying his proposal to subdivide an existing parcel into two parcels. Chapter 23.24, Seattle Municipal Code (SMC).

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 October 2, 1985. The record was closed on October 4, 1985 following the provision by the Director's representative of information about the potential for future short subdivisions along the block front of the subject property. (Memorandum dated October 3, 1985 - Attachment A).

Parties to the proceeding were: appellant, John Bauman, pro se; and the DCLU Director by Cliff Portman, Senior Land Use Specialist. Also present on behalf of the appellant was Jim DiMartini representing Windermere Real Estate.

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. John Bauman proposes to subdivide an existing lot at 2027 N.E. 98th Street in Seattle into two parcels.

2. The subject site is within a Single Family 5000 (SF 5000) zone, is 10,847 sq. ft. and is located on the south side of 98th Street between 20th and 23rd Avenues N.E.

3. The lot is currently developed with a 2,027 sq. ft. single family residence and two accessory buildings (a garage and a workshop). The accessory buildings would be demolished if the proposal is approved.

4. The appellant proposes to divide the subject lot into two parcels. Parcel A, on which the existing residence is situated, would front on 98th Street and measure 5,406 sq. ft. Parcel B would occupy the rear portion of the lot and measure 5,441 sq. ft.

5. Access to the subject parcel is by a driveway that extends from N.E. 98th Street. The driveway would continue to serve Parcel A. Parcel B would be accessible by an easement over Parcel A and would share the common driveway.

6. The two parcels would each exceed the minimum lot area of 5,000 sq. ft. Properties to the west, east and south are also zoned SF 5000 and developed primarily with single family residences. Lake City Way, located two blocks east of 98th N.E., is primarily a

Neighborhood Business (BN) zone in strip commercial development. Property located north of the subject lot is also zoned SF 5000 but consists of single family residences and lots which are vacant because of the Thornton Creek ravine.

7. A study of terrain instability near the intersection of N.E. 98th Street and 20th Avenue N.E. was performed by Converse Consultants for the Seattle Engineering Department in October, 1984. The purpose of the investigation was to determine the slide mechanism and to develop recommendations for remedial measures to re-establish the road surface. The area of concern was the slope below the north side of the intersection of N.E. 98th Street and 20th Avenue N.E. The Engineers observed tilting trees, displaced stairways, water seepage, disturbed slope face, earth slumps, pavement distress, shifts in the location of a pedestrian bridge, and gradual movement and consequent damage of the foundation and waterline to a nearby home, all on the north side of N.E. 98th near 20th Avenue N.E. Converse Consultants opined that if the present road configuration remains unimproved, slumping could progress southward as well as east and west of the existing pavement distress; and that existing utilities on the north side of 98th Street and adjacent houses could be threatened. Converse Consultants recommended stabilization and remedial construction, including structural support of the northern edge of 98th Street.

8. Based on the evidence the of record, the Hearing Examiner finds that subject site is not in a slide or environmentally sensitive area.

9. There is no evidence of soil instability, slumping, structural damage, foundation damage, or damage to the existing pavement or utilities on the south side of N.E. 98th Street.

10. There is no evidence that the City of Seattle plans to abandon the existing twenty foot watermain in front of the subject Parcel. The proposed Parcel B can connect to existing sewer and water stubs on Parcel A without major structural interference with the roadway along N.E. 98th Street in front of Parcel A. There is an 8 in. sewermain in N.E. 98th Street.

11. Land Use Referrals received from the City of Seattle Engineering Department, Fire Department, Water Department and City Light offer no negative comments and do not recommend against the proposed short-plat.

12. Based on the evidence, the City of Seattle does not plan to abandon N.E. 98th Street as a primary thoroughfare in this community. The City of Seattle plans to improve N.E. 98th Street, as recommended by Converse Consultants, as part of its Capital Improvement Program.

13. The proposed Parcel B would be located on the rear half of southeast corner of the site, approximately 100 ft. away from N.E. 98th Street.

14. The existing driveway would be repaved to accommodate increased traffic associated with the addition of one additional single family residence on the subject lot.

15. The addition of one additional single family residence on the subject property will not result in dramatic or substantial impacts on existing services or traffic patterns in the vicinity of the subject lot.

16. There is potential for only one additional lot on the south block face of N.E. 98th Street to request future short plats. Geotechnical problems related to construction of new residences make such future construction on the north block face of N.E. 98th Street economically unfeasible.

17. Two letters from interested persons were reviewed by the Hearing Examiner. The "Thornton Creek Residential Association" expressed concern about soil instability in the vicinity of the proposed short-plat, about the change in the current scale of the neighborhood and increased population density at the proposed site, about potential impacts on existing sewer and water pipes and about the potential elimination of territorial views. A letter from a neighbor expressed concern about removal of an existing tree, infringement on privacy and interference with an existing view.

### Conclusions

1. The proposed short plat conforms to the Land Use Code. Minimum lot area requirements are satisfied and the proposed parcels provide adequate configuration and size to accommodate development of single family residences. The proposed short-plat also conforms with the spirit and intent of Single Family Residential Areas Policies which encourage in-fill development in existing single family zones.

2. Access for vehicles, utilities and fire protection is adequate as provided in Seattle Municipal Code Section 23.54.10. Northeast 98th Street is an improved right of way and provides direct access from the east and west to the subject site. Although the geotechnical report prepared in October, 1984, for the Seattle Engineering Department identifies soil, slope and related pavement distress on the north side of N.E. 98th Street west of the subject site, access to the existing residences along N.E. 98th Street has not been substantially reduced. The subject site is accessible from Lake City Way and N.E. 98th Street east of the parcel. Moreover, improvement of N.E. 98th Street is slated for inclusion in the City's 1986 Capital Improvement Program. One additional single family residence in this neighborhood will not generate additional vehicular traffic, nor place a demand on utilities and other public services, including fire and garbage collection, which would unreasonably burden existing resources. Re-pavement of the existing driveway providing access to the proposed short-plat will improve access to the subject property.

3. The site is served by an existing twenty foot watermain and an existing eight inch sewermain in N.E. 98th Street. Those mains can be accessed by the proposed new Parcel B from stubs on Parcel A without disruption of the environmentally sensitive area north of the subject site and without interference with slope and pavement weakness on N.E. 98th Street. Isolation and relocation of those mains to protect service may be required, by the existing conditions, whether or not the proposed short-plat is approved. On site development must include a drainage control plan in order to reduce the potential for increased run-off in this area of potential soil instability.

4. The public use and interests are furthered by creating new single family building sites in Seattle. Potential risks to the public interest can be minimized by careful planning and timing of the improvements at the subject site.

5. All of the criteria for approval of a short plat will be satisfied if the following conditions of approval are met:

1. A drainage control plan must be approved by the Department of Construction and Land Use prior to final approval of the short-plat; and
2. Prior to commencement of improvements or construction at the subject site, appellant shall either:
  - a. Provide DCLU with a Geotechnical Engineering Report based upon a study of the subject site which:

1. shows that the proposed short plat will not materially affect existing slope and soil instability problems addressed in the report by Converse Consultants; and
  2. confirms that the subject site is not presently affected by existing soil instability conditions and is not in an environmentally sensitive or slide area; or
- b. wait until the City of Seattle completes roadway stabilization, construction and rehabilitation work, as proposed in its 1982 Capital Improvement Plan, before commencing improvement or construction at the subject site.

Decision

The Director's decision is reversed and the relief requested upon appeal is conditionally granted.

Entered this 18th day of October, 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 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 at the Office of Hearing Examiner, 5th Floor, 400 Yesler Building, Seattle, Washington 98104.