

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

In the Matter of the Appeal of

**BRUCE PLOTKIN, ET AL.**

FILE NO. MUP-89-059(P)  
APPLICATION NO. 8901637

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

**Introduction**

The applicant sought approval to subdivide two parcels into three parcels. The proposal address is 9701 First Avenue N.W. The Department of Construction and Land Use (DCLU) granted the application upon conditions.

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 November 27, 1989.

Bruce Plotkin and Norman Carlstrom, the appellants, appeared personally. Faith Lumsden represented the Department of Construction and Land Use. Larry Dixon, the applicant, appeared personally.

In this document all section numbers refer to the Seattle Municipal Code.

After due consideration of the evidence elicited during the public hearing, and the personal visit of the undersigned to the proposal site and its surrounding neighborhood, the following shall constitute the findings of fact, conclusions, and decision of the Hearing Examiner on this appeal.

**Findings of Fact**

1. Applicant proposes to reconfigure two lots on which one house stands on a combined square footage of 15,245.08, into three lots with square footages of 5,207.00, 5,105.54 and 5,018.56 for future construction of two additional houses.

2. The proposal site is at the northwest corner of N.W. 97th Street and First Avenue N.W., within an area zoned Single Family 5000. On the west there is a paved alley sixteen ft. wide.

3. The applicant proposes to divide the two lots into Parcels A, B and C. Parcel A, the northern most lot, will measure 41.00 by 127.00 ft. Parcel B will measure 127.00 ft. by 44.54 ft. on its eastern edge, 26.24 ft. on its western edge, having 26.15 ft. "dogleg" on its southern border, commencing 84.00 ft. from the eastern boundary, running North 42 degree 45 ft. 2 inches west, and thence north 88 degrees 33 ft. 1 inches west for 25.00 ft. Parcel C adjoins Parcel B on its northern boundary, the alley on its western edge for 53.54 ft. and First Avenue N.W. for 34.50 ft. Its southern boundary fronts on N.W 97th Street for the full 127.00 ft.

4. This area is a fully-developed residential neighborhood zoned "Single Family 5000" (SF 5000).

5. The Master Use Permit appealed in this case was revised to alter the configuration of the lots; the revised permit is the subject of this appeal. The short plat subdivision was conditionally granted, requiring the removal of a shed, the

provision of one on-site parking space on Parcel B, and some procedural steps by the applicant which are not germane here.

6. The appeal contained the following issues:

- a) the proposal allows lots of substantially smaller size than those in the surrounding neighborhood; the shape of two of the lots is irregular.
- b) the proposal increases building density over that existing in the surrounding neighborhood;
- c) the increase in density allowed by the proposal occurs on a street (N.W. and N. 97th Street) and at an uncontrolled intersection (First Avenue N.W.) already subject to increasing traffic from other development in the area;
- d) the high water table in the area now results in soggy ground surface conditions, and the area's poor drainage will be exacerbated by the addition of two more residences;
- e) the proposal site will be out of character with the lots and houses in the surrounding neighborhood in terms of density and size, and the public interest will be negatively effected thereby.

7. The Department of Construction and Land Use submitted its Analysis and Decision, which contended the addition of two more houses would not substantially affect the area of the proposal site as to density, traffic and parking in that the abutting streets would adequately absorb the added use. As to drainage, it contended that "...at the time of construction adequate measures could be taken by providing detention which must be discharged to the 15 inch storm sewer in N.W. 97th Street or the 12 inch storm sewer in First Avenue N.W. per approval by the Seattle Engineering Department." DCLU contended also that the public interest would be best served by the addition of two more homes in this area.

8. Although adding two more homes on the proposal site will increase off-site parking and traffic in the surrounding area, it will not do so to a significant degree, and the existing streets will adequately carry the added use.

9. The reconfigured lots would be substantially smaller than those now in the surrounding area, excepting two "skinny" lots allowed under a code provision no longer in force. Of those closest in size to the proposal site, 19 (21 percent) of the lots in the surrounding area (as designated by the appellants), have 5,400 square ft.; 38 (42 percent) have 6,350 square ft.; and 9 percent have from 8,100 to 12,000 square ft.

10. Public comment on the proposal was voluminous and uniformly negative. The comments were directed at the size and shape of the reconfigured lots.

11. The area of the proposal site is subject to a high water table from an underground watercourse. Drainage in the area is poor, and the erection of two more houses without remedial measures for drainage would cause the current system to be even less effective. The DCLU proposes that providing a detention system discharging to the 15 inch storm sewer in N.W. 97th Street or the 12 inch storm sewer in First Avenue N.W. will supply adequate drainage from the proposal site.

12. Water supply and disposal at the proposal site will be adequately supplied by existing systems. There was no evidence that access for vehicles, fire protection, and utilities could not be adequately supplied by the existing streets and alley surrounding the proposal site.

Conclusions

1. The Hearing Examiner has jurisdiction over these parties and the subject matter pursuant to Section 23.76.022.

2. The Hearing Examiner is to give the decision of the Director substantial weight and may reverse the decision only if appellant proves the decision to be clearly erroneous. Evidence brought forward by the appellants here fails to convince the Hearing Examiner that the decision of the Director was not properly rendered.

3. All the criteria set out in Section 23.24.040 for a short plat have been met, including Section 23.24.040A.4. The interests of the public and public use are best served by the addition of two homes in this area. The size of the lots and the size of the homes to be built thereon (as determined by measuring the allowable building size from the required off-set from the boundaries) are small when compared to other houses and lots in the surrounding neighborhoods. However, the lots which will result from this subdivision will all be in excess of 5,000 square ft. and thus will be consistent with the SF 5000 zoning in which the subject parcels set. As such, the size of the lots to be created does not allow a determination that the proposal site would negatively affect the public interest by creating an "irregular building site that would be inconsistent with the character and orderly pattern of existing development...." Carlson v. Beaux Arts Village, 41 Wn. App 402, 704 P.2d 663 (1985).

4. The density of housing of the area surrounding the proposal site will not be significantly increased by the addition of two single-family homes.

5. The addition of two more single-family in this area will no significantly increase the traffic and on-street parking there.

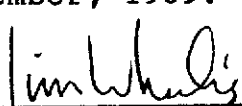
6. Providing a detention sytem discharging to the 15 inch storm sewer in the N.W. 97th Street, or the 12 inch storm sewer in First Avenue N.W. will supply adequate drainage from the proposal site.

7. Based on the foregoing, the examiner concludes the appellants have not carried their burden of proof and the decision of the Director must be affirmed.

Decision

The decision of the Director is AFFIRMED.

Entered this 13th day of December, 1989.

  
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Jim Wheelis  
Hearing Examiner Pro Tempore

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 party's request for judicial review of the decision must be by application to King County Superior Court for a writ of review within fifteen calendar days of the date of this decision. Seattle Municipal Code Section 23.76.22(C)(12)(c).

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, Room 1320 Alaska Building, 618 Second Avenue, Seattle, Washington 98104, (206) 684-0521.