

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

BARBARA GRAHAM, DAISY MARCH,
CLIFFORD WAITE AND ALICE WAITE

FILE NO. MUP-81-015(P)
APPLICATION NO. SP-80-172

from a decision of the Director of
the Department of Construction and
Land Use on a Master Use Permit
application

Introduction

Appellants Barbara Graham, Daisy March, Clifford Waite and Alice Waite appealed the decision of the Director of Construction and Land Use to approve a short subdivision application.

The appellants exercised their right to appeal pursuant to the Master Use Permit ordinance, Chapter 24.84, Seattle Municipal Code and the short subdivision ordinance, Chapter 24.98, Seattle Municipal Code.

Parties to the proceeding were: Appellants by Eban Carlson, Ryan, Swanson, Hendel and Cleveland; the property owner by William Snell, Haggard, Tousley and Brain; and the Department of Construction and Land Use (CLU) by Elizabeth Edmonds, Assistant City Attorney.

The matter was heard before the Hearing Examiner on July 21, 1981.

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 property is an interior parcel located in the Single Family Residence Medium Density (RS 7200) zone. The 37,678 sq. ft. lot is located in a block bounded by N.E. 103rd Street to the south, N.E. 105th Street to the north, 32nd Avenue N.E. to the east and Ravenna Avenue N.E. to the west. The lot is accessed by way of an easement from N.E. 105th Street. The legal description is found in the short subdivision application and is incorporated herein by reference.

2. The applicant-owner (proponent) proposes to divide the parcel into three lots. Proposed lot A, presently developed with a single family house and attached garage, would have an area of 19,440 sq. ft. Southeast and adjacent are proposed Parcels B (9,089 sq. ft.) and C (9,148 sq. ft.). Variances have been conditionally granted to allow the access easement to exceed the 150 ft. ordinance maximum length and to allow the easement to serve more than two principle uses. (See Hearing Examiner decision, X-80-552.)

3. By stipulation of appellants the appeal was principally taken to the issue of access from N.E. 105th Street. The easement is generally 20 ft. wide. To the northwest of proposed Parcel A, the easement angles east at roughly 90 degrees for 30 ft. at its widest point, proceeds south, curves to a turnaround and ends north adjacent to proposed Lots B and C. This access plan has been approved by the City's Department of Engineering. That Department's witness acknowledged that it could be very tight negotiating the easement at the turns but concluded that adequate access was proposed. The appellants were of the view that the easement path, maintained by agreement of abutting property owners, was never intended to serve a subdivision such as proposed.

4. The Seattle Fire Department recommended approval of the subdivision so long as "a 20 ft. wide access road capable of supporting 30,000 pound fire apparatus (was) provided within 200 ft. of the most remote corner of the house that would be built on (easternmost) parcel (C)...." The access plan approved by the Department of Engineering acceded to the Fire Department's suggestion that the easement width be increased by 10 ft., provided at the northwest corner of proposed Lot A. Fire hydrants are located on 103rd and 105th Streets. Also, no additional water or sewer lines will be necessary to service the proposed parcels. N.E. 105th Street has a 16 in. water main and an 8 in. sanitary sewer. N.E. 103rd Street offers an 8 in. water main and an 8 in. sanitary sewer. All comply with City standard dimensions.

5. CLU approved the short plat on the condition that maintenance of any required on-site storm water control facility pursuant to Ordinance 108080 be the responsibility of the owners of said property and on the further stipulation that the conditions in Hearing Examiner decision X-80-552 be met. The X-80-55 provisos were that:

- (a) a solid fence, not exceeding 6 ft. in height, and approximately 40 ft. in length, be installed at the southwestern property line of Parcel A to block the approaching automobile headlights when negotiating the turn;
- (b) the proposed easement be provided per Engineering Department approved design and any changes to that design require Engineering Department approval;
- (c) a minimum width of 16 ft. of the easement be surfaced with cement or asphalt.

6. The witness from the City Engineering Department made a recommendation on the easement surfacing: three inches of asphalt over 6 inches of crushed rock (assuming good soil conditions) throughout the length of the easement. Other than this and the 30,000 pound weight capability recommended by the Seattle Fire Department, no other construction standard for the access was presented.

7. The lots in the subject block range in area from 6,000 to 34,048 sq. ft. Many are similar in size and configuration to proposed Lots A, B and C.

8. With regard to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, the action proposed in this application has been determined by the responsible official to be categorically exempt pursuant to the provisions of WAC 197-10-170.

Conclusions

1. The Director's decision shall be given substantial weight. Section 24.84.170, Seattle Municipal Code.

2. In determining whether to approve a short subdivision application, the Director is to consider the following conjunctive requirements:

- (a) whether the proposed lots conform to the Comprehensive Plan and the zoning ordinance;
- (b) whether the proposed lots are served with adequate means of access for vehicles, utilities, fire protection, drainage, water supply and means of sanitary sewerage disposal and;

- (c) whether the public use and interests will be served by permitting the proposed division of land. Section 24.98.080(A), Seattle Municipal Code.

3. The proposed division of this rather large interior parcel would result in three lots with area and configuration not inconsistent with that of the subject block. Proposed Lots A, B and C comply with the 7,200 sq. ft. minimum requirement for this Single Family Medium Density Zone. With the X-80-552 variance the proposal will conform to the zoning ordinance provisions. Any future development would be subject to the drainage ordinance which in part requires on-site storm water retention. In addition, the Director has specifically conditioned the short subdivision approval by requiring that any required on-site development storm water control facility be maintained by the property owner.

4. Fire hydrants are located on both N.E. 105th Street and on N.E. 103rd Street. The Fire Department has given its conditioned approval to the proposal, including the access element. The Engineering Department has also approved the access plan, acknowledging that negotiating the easement at the turns might be close. An additional 10 ft. in width was added to the easement at the suggestion of the Fire Department for vehicle accommodation.

5. The proposed lots conform to the zoning ordinance and Comprehensive Plan. We also conclude that the proposed lots are served with adequate means of access for residential vehicles, fire protection, drainage, water supply and means of sanitary sewerage disposal. The public use and interests will be served by the potential addition of two single family dwellings erected in compliance with the zoning and drainage ordinances.


6. The issue of access easement maintenance, however, does relate directly to the issue of public interest. Accordingly, the Director's decision is affirmed as conditioned herein.

Decision

The decision of the Director is AFFIRMED subject to the following:

1. The proponent shall assume the responsibility of surfacing the easement;
2. the standard of construction for the easement (specifications) shall be as approved by the Engineering Department. The easement shall at minimum be of the capacity recommended by the Fire Department;
3. the owner(s) of Lots A, B and C shall be responsible for maintaining the easement per this order. This condition shall appear on the face of the plat map and shall be considered as a covenant running with the land.

Entered this 30th day of July, 1981.


Leroy McCullough
Hearing Examiner

Notice of Right to Appeal

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981).