

## FINDINGS AND DECISION

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

In the Matter of the Appeal of

ALFRED J. LUNDE

FILE NO. MUP-81-035(V)  
APPLICATION NO. 81138-0047

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

#### Introduction

Alfred J. Lund, appellant, filed a master use permit application for a variance for property at 8022-10th Avenue N.W. The variance was denied and appellant appealed.

This matter was heard before the Hearing Examiner on September 9, 1981.

For purposes of this decision, all section numbers, unless otherwise indicated, refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended).

After due consideration of the evidence elicited during the public hearing, the following findings of fact and conclusions shall constitute the decision of the Hearing Examiner on this appeal.

#### Findings of Fact

1. The subject property is located at 8022-10th Avenue N.W. and measures 37.5 by 100 ft.
2. The subject property has been under joint ownership with the adjacent lot at 8026-10th N.W. until the purchase by appellant. It received a separate tax number in 1963 under ownership prior to Sackett's, who sold the lot to appellant.
3. The site is in a Single Family Residence High Density (RS 5000) zone. Section 24.20.080 requires a minimum lot size of 5000 sq.ft. in this zone. Appellant applied for variance from this requirement.
4. The area and zone has a mix of lot sizes developed with single family houses - many below 5000 sq.ft. Evidence of 146 lots smaller than 5000 sq.ft. in a 3 block radius of the subject site was offered and is accepted as accurate. Some developed lots are as small as 2257 sq.ft. and 3750 sq.ft. is a quite common occurrence. A number of these lots have been developed since 1957, some with variances for lot size. A variance was granted for a lot of approximately 3622 sq.ft. at 902 N.W. 77th in 1972, for 4125 sq.ft. at 8315 and 8311-8th N.W. in 1978, for a 3750 sq.ft. lot at 7345-13th Avenue N.W. in 1976, for a 4332 sq.ft. lot at 8017-8th Avenue N.W. in 1971 and additional variances at 8023 and 8027-8th N.W.
5. All bulk restrictions would be met by the proposed development except for lot size.
6. The area does not have a distinct character as modern and large houses are mixed in among small and older houses.

7. On-street parking is readily available on the block of the subject site.

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 19710170.

#### Conclusions

1. The record shows that, because of the size of the lot, the strict application of the lot size requirement would deny the property development rights commonly enjoyed in the area. Since variances have been granted for similar circumstances variance in this case would not confer special privilege.

2. The variance requested is the minimum necessary for relief.


3. The Director's concerns regarding precedent and an open space characteristic of the neighborhood are not supported by the record. Many small lots now exist and the area was shown not to be characterized by open space. No other material detriment was shown to be likely.

4. The variance would not conflict with the Single Family Residential Areas Policies.

#### Decision

The decision of the Director of the Department of Construction and Land Use is reversed and the variance is GRANTED.

Entered this 23rd day of September, 1981.

  
M. Margaret Klockars  
Deputy 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).