

FINDINGS, DECISION AND ORDER
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

ANDREW AND MARILYN GRISHAM
KITTY HUGHES for KAREN NELSEN

FILE NO. MUP-81-062(P)
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APPLICATION NO. 81187-0168

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

Introduction

Appellants Grisham filed an appeal from a Department of Construction and Land Use (DCLU) decision approving a short subdivision for property located at 8707 Golden Gardens Drive N.W. Appellant Nelsen, hereinafter "applicant", appealed a DCLU imposed condition of the short subdivision (MUP-81-063).

The appellants exercised their right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: appellants, pro se; DCLU by Ed Somers; project applicant by Kitty Hughes.

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

This matter was heard before the Hearing Examiner on November 13, 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 undivided parcel is an 86,139 sq. ft. area lot found in the Single Family Residence Low Density Zone at 8707 Golden Gardens Drive N.W. The legal description appears in the application of record and is incorporated herein by reference.

2. The subject site is a through lot, located between the two portions of a looping Golden Gardens Drive N.W.

3. Topographically, the lot slopes steeply down to the west and east from near the center of the site. West of the site and below its bluff is Golden Gardens Park and Shilshole Bay. The crest of the bluff is roughly 160 ft. from the property's west lot line.

4. On-site development consists of a nearly-centered single family residence with driveway access from the eastern part of the site.

5. Applicant proposes to subdivide the lot. The existing residence would remain on Parcel A. Original plans were for the north lot line to sharply jog roughly 3 ft. north of the residence to provide a minimum 8 ft. side yard distance to approximately 42.5 ft. In satisfaction of a condition imposed in the DCLU approval of the subdivision application, project applicant substituted that north lot line configuration with a lot line that from east to west angles to the points a minimum of 8 ft. from the north side of the existing dwelling.

hearing. Accordingly, the files MUP-81-062(P) and MUP-81-067(P) should be consolidated in this decision, and it is so ordered.

6. Other conditions imposed by DCLU were the following:

- a. access to the proposed lots to be only from the east
- b. all development on the western 160 ft. of the proposed lots to be designed and implemented under the supervision of a licensed civil engineer "with expertise in the geotechnic field"
- c. final recording papers must be submitted and the short subdivision recorded.

7. Proposed Lot A contains approximately 59,639 sq. ft.; the more northerly proposed Lot B 26,500 sq. ft.

8. At its western frontage, Parcel B's lot width is approximately 75 ft. and at its eastern frontage, 70 ft.

9. Appellants Grisham own the property north adjacent to the subject property at 8713 Golden Gardens Drive N.W. Their lot is similar in configuration and size to proposed Lot B. For example, lot width at their east and west lot lines approximates 65 ft. Proposed parcel B is essentially comparable as well to other vicinity lots, including the lot north adjacent to the Grisham's. However, the lot south adjacent to the subject site is larger than proposed Parcel B and has greater widths. Also, there is a slight topographical compensation for the Grisham lot in contrast to proposed Parcel B.

10. Appellants Grisham generally oppose the subdivision-development of the subject property. More specifically, these appellants are concerned with the potential for view obstruction, slides and erosion. Further, existing vicinity residential development is generally along the bluff line and no further west. Accordingly, artificial supports have not been utilized. If development is approved for the subject site, appellants desire conformity with the existing pattern.

11. Both the Grishams' property and the property south adjacent to the subject site have rather extensive bulkhead-retaining systems. The subject site's flora includes approximately 150 year old trees. Appellants Grisham would rather see the slope vegetation and soil undisturbed so that existing artificial retention systems could remain complemented by the trees and other natural development.

12. With regard to the action proposed in this application, a declaration of non-significance (DNS) has been prepared by the responsible official pursuant to the State Environmental Policy Act of 1971 (SEPA) and Ordinance 105735, as amended, Chapter 25.04, Seattle Municipal Code, and is part of the record.

13. No objection was entered to the requested additional condition that development be prohibited within the area 160 ft. of the west property line.

14. The proposed lots are served with adequate means of access (from the east side) for vehicles and utilities; and as well for fire protection, drainage, water supply and means of sanitary sewerage disposal.

Conclusions

1. It was determined subsequent to the public hearing on this cause that public notice of the applicant's appeal was not issued. However, public notice of the appellants Grisham's hearing on the subject application was issued. Applicant and appellants Grisham were present at and participated in the hearing. Accordingly, the files MUP-81-062(P) and MUP-81-067(P) should be consolidated in this decision, and it is so ordered.

2. Minimum lot area in the subject zone is 9,600 sq. ft. Proposed Parcels A and B more than conform to this requirement although lot area includes steeply sloped western property in a fashion similar to other vicinity properties.

3. As conditioned herein, incorporating the DCLU stipulations, the proposed lots are adequately and properly served with adequate means of access for vehicles, utilities, fire protection, drainage, water supply and means of sanitary sewerage disposal. DCLU has required that access to the proposed lots be opposite the bluff, from the east.

4. The smaller of the proposed lots is essentially comparable in area and configuration to several vicinity properties, including the north adjacent lot.

5. Acknowledging the topographical attributes of the site and vicinity, it would appear reasonable to prohibit construction in the area west of the identified "crest". Unlike existing developed properties, new development not so prohibited has the potential of disturbing bluff stability and concomitantly the stability of adjacent properties, some of which currently have rather extensive retention devices. Further, such a construction prohibition would facilitate development more in keeping with the existing line pattern.

6. In the event that construction in accord with this decision may necessitate considerations of the slope, e.g., for western-oriented support, the development condition imposed by DCLU should be retained. Additionally, however, on-site development of Parcel B should be pursuant to consultation with a licensed civil engineer with expertise in the geotechnic field. Project applicant has complied with their appeal from DCLU condition.

7. With these conditions the proposed subdivision would serve the "public use and interest" and would otherwise comply with the requirements of the Ordinance. Section 24.98.080.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED, subject to additional conditions that (a) no development is permitted west of the bluff line, as that point is identified by the Department of Construction and Land Use, (b) on-site development of Parcel B shall be pursuant to consultation with a licensed civil engineer with expertise in the geotechnic field.

Entered this 24th day of November, 1981.

Leroy McCullough
Leroy McCullough
Hearing Examiner
Margaret Lockers

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). Should an appeal be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.