



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3004850  
**Applicant Name:** Mark Johnson  
**Address of Proposal:** 4010 SW Findlay Street

**SUMMARY OF PROPOSED ACTION**

Land Use Application to subdivide two parcels into three parcels of land. Proposed parcel sizes are: A) 3,751 sq. ft.; B) 4,001 sq. ft. and C) 4,251 sq. ft. Existing structure on proposed Parcel A to remain; existing structure on proposed Parcel B to be removed. Project includes a variance to allow the existing nonconforming structure on Proposed parcel A to remain.

The following approvals are required:

**Short Subdivision** - to subdivide two existing parcels into three parcels.  
(Seattle Municipal Code 23.24)

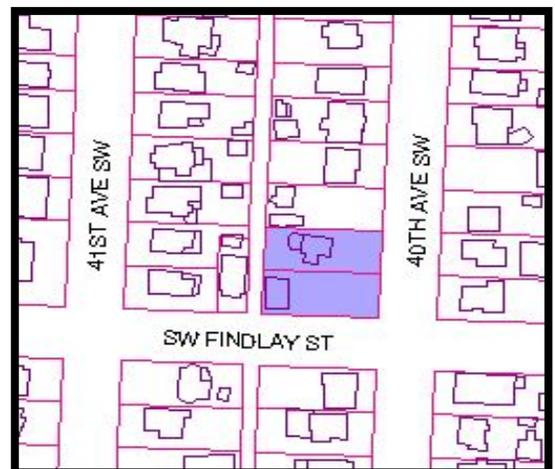
**Variance** – to allow a portion of the existing nonconforming structure to extend into the required front yard. (Seattle Municipal Code 23.44.014A)

**SEPA DETERMINATION:**  Exempt  DNS  MDNS  EIS  
 DNS with conditions  
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

**BACKGROUND DATA**

**Site & Area Description**

The two subject parcels totaling 12,004 square feet are located in a single family residential zone with a minimum lot size of 5,000 square feet (SF 5000), in the West Seattle area of the City of Seattle. The parcels are bounded by SW Findlay Street on the south and 40<sup>th</sup> Avenue SW on the east. There is an existing single family residence occupying each parcel. The subject site slopes



approximately 22 feet from west to east. Both SW Findlay Street and 40<sup>th</sup> Avenue SW are paved roadways with gutters, curbs and sidewalks and are classified as Non-arterial Streets, pursuant to SMC Chapter 23.53. The subject site is not located within any identified or designated Environmentally Critical Area. There are two Exceptional trees (as determined by the City's Arborist) located on the site along with several mature Western Red Cedar. Surrounding properties are also zoned SF 5000. One block to the east the zoning changes to Lowrise 1 (L1) which fronts on Fautleroy Way SW. Development in the neighborhood consists of a variety one and two-story single-family houses on lots of mainly 6,000 and 6,250 square foot lot sizes, consistent with the zoning designations.

### Proposal

The proposal is to subdivide two parcels of land which have an east-west orientation into three lots with a north-south orientation. Proposed lot areas are indicated in the summary above. Proposed Parcel A will have direct access to SW Findlay Street and to the abutting alley. Proposed Parcel B will have direct access to SW Findlay Street. Proposed Parcel C will have direct access to both SW Findlay Street and 40<sup>th</sup> Avenue SW. The existing single family residence on Proposed Parcel B will be removed. The existing single family residence on Proposed Parcel A is to remain. As a result of the platting action, the front yard for the structure on Proposed Parcel A will move from the eastern boundary at 40<sup>th</sup> Avenue SW to the southern boundary at SW Findlay Street. The structure lies approximately seven feet from the new front property line and therefore becomes nonconforming as to front yard. A variance is required to allow the structure to remain.

There are no other permits associated with the current proposal. The subject of this analysis and decision is restricted to the proposed division of land and the variance.

### Public Comment

The public comment period for this project ended October 19, 2006. DPD received ten (10) written comments regarding this proposal addressing issues of density, traffic, parking and tree preservation. Notice was given on November 30, 2006 when the variance component was added to the application. One comment letter was received during this comment period regarding neighborhood character.

### **ANALYSIS - SHORT SUBDIVISION**

Pursuant to SMC 23.24.040, the Director shall, after conferring with appropriate officials, use the following criteria to determine whether to grant, condition or deny a short plat:

1. *Conformance to the applicable Land Use Code provisions;*
2. *Adequacy of access for vehicles, utilities, and fire protection, as provided in Section 23.53.005;*
3. *Adequacy of drainage, water supply, and sanitary sewage disposal;*
4. *Whether the public use and interests are served by permitting the proposed division of land;*
5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions, in environmentally critical areas;*
6. *Is designed to maximize the retention of existing trees;*

Based on information provided by the applicant, referral comments from the Building Plans Examiner, the Drainage Section, the Fire Department, Seattle Public Utilities (City Light and the Water Department), and review by the Land Use Planner, the following findings are made with respect to the above-cited criteria:

1. *Conformance to the applicable Land Use Code provisions;*

The subject property is zoned for single-family residential uses with a minimum lot size of 5,000 square feet. The allowed use in a single family zone is one dwelling unit per lot, with accessory dwelling units meeting the provisions of SMC 23.44.041 notwithstanding. Maximum lot coverage is 35%. Front setbacks are an average of the neighboring adjacent lots, or twenty (20) feet, whichever is less. The minimum side yard setbacks are five feet. Minimum rear yard setbacks are twenty-five (25) feet or if lot depth is less than one-hundred twenty five feet (125'), 20% of lot depth.

This short subdivision was submitted on the basis of application of the 75% - 80% rule pursuant to SMC 23.44.010B1b. By subdivision, lots in a single family zone may be created which are “[a]t least seventy-five (75) percent of the minimum required lot area and [are] at least eighty (80) percent of the mean lot area of the lots on the same block face within which the lot will be located and within the same zone”. Seventy-five (75) percent of the minimum lot size of the SF 5000 zone is 3,750 square feet. Eighty percent of the mean lot size of the lot on the subject block face between 40<sup>th</sup> and 41<sup>st</sup> Avenues Northwest, exclusive of the subject lot, is 2,938 square feet, according to information submitted in the application. The proposed lot areas of Proposed Parcels A, B and C: 3,751, 4,001, and 4,251 square feet respectively, are greater than eighty percent of the mean lot area of the lots on the same block face (2,923 sq. ft.) and greater than seventy-five (75) percent of the minimum required lot area (3,750 sq. ft.). Thus, the proposed lot configuration meets the exception to the minimum lot area as contained in SMC 23.44.010.B.1.b.

The lots created by this proposed division of land will conform to all applicable development standards of the SF 5000 zoning designation. The proposed parcels provide adequate buildable area to meet applicable setbacks, lot coverage requirements, and other Land Use Code development standards.

2. *Adequacy of access for vehicles, utilities, and fire protection, as provided in Section 23.53.005;*

Parcel A will have vehicular access from the alley off SW Findlay Street; Parcel B will have direct vehicular access to SW Findlay Street; and Parcel C will have direct vehicular access from both SW Findlay and 40<sup>th</sup> Avenue SW. The Seattle Fire Department has no objection to the proposed short plat. All private utilities are available in this area. Seattle City Light provides electrical service to the proposed short plat. City Light has reviewed the proposal and does not require an easement to provide for electrical facilities and service to the proposed lots. This short plat provides for adequate access for vehicles, utilities and fire protection.

3. *Adequacy of drainage, water supply, and sanitary sewage disposal;*

This area is served with domestic water, sanitary sewer, and storm drain facilities by the City of Seattle. Availability of service is assured subject to standard conditions of utility extension. The short plat application has been reviewed by Seattle Public Utilities and a Water Availability Certificate was issued on September 28, 2006 (WAC ID No. 20061862).

Fifteen (15)-inch public sanitary sewers are located in 40th Avenue Southwest. The existing single family residences currently discharge its sanitary sewage to this sewer as will any new construction on Proposed Parcel A, Proposed Parcel B and Proposed Parcel C. Seattle Public Utilities does not require an easement for sanitary sewer discharge.

This area has been “separated” (sanitary sewer is now separate from public storm drain) with the construction of a 12-inch public storm drain (PSD) on the far side of Southwest Findlay Street. A standard drainage control plan for connection to the PSD will be required prior to issuance of any related building permits.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed short subdivision will meet all the applicable Land Use Code provisions. The proposed development has adequate access for vehicles, utilities and fire protection, and has adequate drainage, water supply and sanitary sewage disposal. The public use and interest will be served with this proposal because additional opportunities for housing would be provided within the City limits as a result of this subdivision. The proposal will meet all applicable criteria for approval of a short plat upon completion of the conditions in this analysis and decision.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions, in environmentally critical areas;*

This site is not located in any environmentally critical area as defined in SMC 25.09.240. There are no environmentally critical areas mapped or otherwise observed on the site.

6. *Is designed to maximize the retention of existing trees;*

There are several large, well-established trees located on the site. Two of these trees, a 20 inch (diameter) native dogwood (*Cornus nutallii*) and a 38 inch Siberian Elm (*Ulmus pumila*) have been identified by the City’s Arborist as Exceptional trees. The dogwood is classified as Exceptional in accordance with criteria established in DR 6-2001 for native trees (greater than 6 inches in diameter). The Siberian Elm is classified as Exceptional in accordance with criteria established in DR 6-2001 for non-native trees. In this case the total American Forestry Association points attributed to this tree are 221 which are 81% of the 273 points for the state Champion Tree. This exceeds the 75% (or 205 points) requirement to be classified as Exceptional. There are also some rather large (31 inches and 35 inches) Western Red Cedar (*Thuja plicata*) at the southern and eastern property

lines respectively. These trees can be preserved, depending upon the location of any future construction, the extent of the root systems and the overall health of the trees. Trees that are identified as Exceptional trees and others that are determined to be saved will need to have a consulting arborist develop a tree protection program which shall be reviewed by the City's Arborist. Future construction will be subject to the provisions of SMC 23.44.008, 25.11.050 and 25.11.060 which sets forth tree planting and exceptional tree protection requirements on single family lots.

### **ANALYSIS – VARIANCE**

Variances from the provisions or requirements of this Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

*1. Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The subject site has a proposed area of 3,751 square feet with approval of the short plat application. The need for a variance arises from the reconfiguration of the lots from two, east-west oriented lots to three, north-south oriented lots in the short plat process resulting in a change in front yards for the existing home. Whereas, the front yard of the existing home was on 40<sup>th</sup> Avenue SW and was adequate prior to short plat, the new front yard, which will front on SW Findlay Street, will be 7 feet 4 inches, or 12 feet 8 inches less than the required 20 foot front yard.

There is also a 20-inch native dogwood (*Cornus nutalli*) located approximately in the center of the Proposed Parcel A (see discussion above). By allowing the existing home to remain and granting the variance for the new front yard, the tree will remain untouched and will suffer no potential construction-related damage.

*2. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

Granting of this variance would not constitute a grant of special privilege since this home has existed since 1911 and has been maintained in good condition. The neighborhood can be characterized as a mixture of older homes, many remodeled and expanded to take advantage of the territorial views and some newer homes built in the last 10 years. These older homes often have non-conforming yards as the standards were more permissive when this neighborhood was originally developed. Allowing the subject structure to remain would not constitute a grant of special privilege with regard to other properties in the vicinity.

*3. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

No material detriment or injury to property or improvements in the zone or vicinity is likely to occur by granting the requested variance for a 12 foot 7 inch reduction in the front yard. On the contrary, the neighbors will be spared potential degraded air quality and noise from demolition and construction on this site.

*4. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties; and*

The Land Use Code regulations are generally intended for single family lots that are 5,000 square feet in area and where new construction is proposed. The existing home has been on this site since 1911 and has been maintained in good condition. The strict application of the provisions of the Land Use Code would require that this home be demolished and a new, conforming structure be built. This would invariably result in damage to, or loss of, the existing native dogwood.

*5. The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations in the area.*

The spirit and purpose of the Land Use Code regulations for the Single Family zone is to encourage single family residences and to preserve the character of single family residential areas. The development standards such as yards are intended to allow maximum flexibility in the use and enjoyment of single family homes while protecting privacy, health, safety and general welfare of its citizens. The granting of this variance will not compromise the health and safety, or compromise the general welfare of neighboring properties or protection of privacy.

#### **DECISION - SHORT SUBDIVISION**

The proposed short plat is **CONDITIONALLY GRANTED**.

#### **DECISION – VARIANCE**

A variance to allow a principal structure to encroach into the front yard but no closer than seven feet is approved. Parking for this structure will be providing on the rear of the Proposed Parcel A in an area where there is no likelihood of damage to the Exceptional tree (native dogwood).

#### **CONDITIONS - SHORT SUBDIVISION**

##### *Prior to Recording*

1. Have final recording documents prepared by or under the supervision of a Washington state licensed land surveyor. Each lot, parcel, or tract created by the short subdivision shall be surveyed in accordance with appropriate State statutes. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown. Lot areas shall be shown on the plat. All existing structures, principal and accessory, shall be shown on the face of the plat, and their distances to the proposed property lines dimensioned.

2. Specify the location and description of all trees at least 6" in diameter measured 4.5' above the ground, with correct species on the face of the plat. Specify Exceptional trees and their protection areas in accordance with the requirements of Seattle Municipal Code 25.11. Specify those trees identified for preservation and their respective protection areas in accordance the requirements of Seattle Municipal Code 23.44.008.
3. Submit the final recording forms for approval and any necessary fees.

Prior to the Individual Transfer or Sale of Lots

4. Legally remove structures on Proposed Parcel B and Proposed Parcel C prior to sale, purchase, or other ownership transfer of any of the parcels.

After Recording and Prior to Issuance of a Building Permit

5. Attach a copy of the recorded subdivision to all future building permit application plans.
6. Submit a Tree Protection Plan prepared by a qualified tree professional to the City's arborist for review and approval.

**CONDITIONS – VARIANCE**

7. Secure a permit to establish parking for two vehicles as shown on plans at the rear of Proposed Parcel A for the nonconforming structure.

Signature: (signature on file)  
Marti Stave, Land Use Planner  
Department of Planning and Development

Date: December 28, 2006