



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: 3005428
Applicant Name: Kelly Byrne with Delbyrne, LLC
Address of Proposal: 2638 23rd Avenue West

SUMMARY OF PROPOSED ACTION

Land Use Application to subdivide one parcel into four unit lots (unit lot subdivision). The construction of townhouses has been approved under Project #6104626. This subdivision of property is only for the purpose of allowing sale or lease of the unit lots. Development standards will be applied to the original parcel and not to each of the new unit lots.

The following approval is required:

Short Subdivision - to create four unit lots.
(Chapter 23.24, Seattle Municipal Code).

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

Zoning: Lowrise 1 (L-1)
Uses on Site: Two, two-unit townhouse buildings.

Substantive Site Characteristics:

This 6,000 square foot (sq. ft.) subject site (the “parent lot”) is a rectangular lot that fronts on the east side of 23rd Avenue West. Vehicle access to two garage parking spaces within one of the two-unit townhouse buildings will be via two driveways from 23rd Avenue West. Vehicular

access to garage parking spaces within the second townhouse building will be via an existing 16' wide paved alley which abuts the property's east boundary line. 23rd Avenue West is a non-arterial paved dead end street with curbs and gutters on both sides of the street. Construction of two, two-unit townhouse buildings is currently ongoing on the subject property (Permit #6104626). The entire site is identified as Environmentally Critical Area (ECA)-Potential Landslide. The topography slopes moderately down towards the east boundary.

The surrounding zoning north, south and east is also L-1 with development consisting of single-family and multi-family residences. The property west of the subject property is zoned Single Family 5000 (SF 5000). A City Park (Bay View Playground) is across the street, west of the subject site.

Proposal Description

The applicant proposes to subdivide one 6,000 square foot parcel (the "parent lot") into four unit lots with the following lot areas: Unit Lot A) 1,497.9 sq. ft., Unit Lot B) 1,499.9 sq. ft., Unit Lot C) 1,500.6 sq. ft.; and Unit Lot D) 1,501.1 sq. ft. in an L-1 zone. The subject site fronts on 23rd Avenue West. Vehicular access to four parking spaces within each structure would be provided via 23rd Avenue West and an existing alley.

Master Use Permits for the demolition of an existing single family residence (#6104682) and the construction of two, two-unit townhouse structures has been reviewed and approved (#6104626). The proposal site is located in an environmentally critical area; therefore SMC 25.09.080 is applicable. DPD also issued a Master Use Permit (#2404300) that granted three variances involving a request for dual access to the subject property and included a SEPA review. The SEPA review approved under Project #2404300 has considered the environmental impacts of this application; thus it will not be necessary to require another SEPA review. The subject of this analysis and decision is limited to the subdivision of land.

Public Comments

The comment period for this proposal ended on September 6, 2006. DPD received no written comments regarding this proposal.

ANALYSIS – UNIT LOT SUBDIVISION

Pursuant to SMC 23.24.040, the Director shall, after conferring with appropriate officials, use the following (applicable) 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.*

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single family housing, and*
8. *Conformance to the provisions of Section 23.24.046, Multiple single-family dwelling units on a single-family lot, when the short subdivision is for the purpose of creating two or more lots from one lot with more than one existing single-family dwelling unit.*

Summary - Short Subdivision

Based on information provided by the applicant, referral comments from DPD, Water (SWD), Fire Departments (SFD), Seattle City Light, and review by the Land Use Planner, the above cited criteria have been met subject to the conditions imposed at the end of this decision. Detailed discussion of Criterion # 7 follows below.

The lots to be created by this short subdivision will meet all minimum standards or applicable exceptions set forth in the Land Use Code, and are consistent with applicable development standards. As conditioned, this short subdivision can be provided with vehicular access, public and private utilities and access (including emergency vehicles). Adequate provisions for drainage control, water supply and sanitary sewage disposal have been provided for each lot and service is assured, subject to standard conditions governing utility extensions. The proposal site is located in an environmentally critical area; however, the site is potential landslide prone, therefore SMC 25.09.240 is not applicable. The proposed plat maximizes the retention of existing trees. The public use and interest are served by the proposal since all applicable criteria are met and the proposal creates the potential for additional housing opportunities in the City.

ANALYSIS –UNIT LOT SUBDIVISION (CRITERION #7)

Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.

- A. *The unit subdivision provisions of SMC Section 23.24.045 apply exclusively to the unit subdivision of land for townhouses, cottage housing developments, residential cluster developments, and single-family residences in zones where such uses are permitted.*
- B. *Sites developed or proposed to be developed with dwelling units listed in subsection A above, may be subdivided into individual unit lots. The development as a whole shall meet development standards applicable at the time the permit application is vested. As a result of the subdivision, development on individual unit lots may be nonconforming as to some or all of the development standards based on analysis of the individual unit lot, except that any private, usable open space for each dwelling unit shall be provided on the same lot as the dwelling unit it serves.*
- C. *Subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent lot.*
- D. *Access easements and joint use and maintenance agreements shall be executed for use of common garage or parking areas, common open space (such as common courtyard space for cottage housing), and other similar features, as recorded with the Director of the King County Department of Records and Elections.*

- E. *Within the parent lot, required parking for a dwelling unit may be provided on a different unit lot than the lot with the dwelling unit, as long as the right to use that parking is formalized by an easement on the plat, as recorded with the Director of King County Development of Records and Elections.*
- F. *The facts that the unit lot is not a separate buildable lot, and that additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot shall be noted on the plat, as recorded with the Director of the King County Department of Records and Elections.*

Summary - Unit Lot Subdivision

Review of this application shows that the proposed short subdivision would conform to applicable standards of SMC 23.24.045 subject to the conditions imposed at the end of this decision. The proposed development is two, two-unit townhouse structures. The structures, as reviewed under separate building permit, conforms to the development standards of the time the permit application was vested. To assure that future owners have constructive notice that additional development may be limited; the applicant will be required to add a note to the face of the plat that reads as follows: Include the following on the face of the plat: “The lots created by unit subdivision are not separate building lots. Additional development on any individual lot in this unit subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code.” A joint use and maintenance agreement will be required as conditioned at the end of this decision.

DECISION – UNIT LOT SUBDIVISION

The proposed Unit Lot Subdivision is CONDITIONALLY GRANTED.

CONDITIONS – UNIT LOT SUBDIVISION

Conditions of Approval Prior to Recording

The owner(s) and/or responsible party(s) shall:

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. Submit the final recording forms for approval and any necessary fees.
3. Add the conditions of approval after recording on the face of the plat or on a separate page. If the conditions are on a separate page, insert on the plat “For conditions of approval after recording see page ___ of ___.”
4. Add the following note to the face of the plat: *“The lots created by this unit subdivision are not separate buildable lots. Additional development on these unit lots in this unit subdivision may be limited as a result of the application of development standards to their parent lot pursuant to applicable provisions of the Seattle Land Use Code.”*

5. Provide a joint maintenance and responsibility agreement for all pedestrian and utility easements.
6. Include an easement to provide for water service as required by Seattle Public Utilities for the Water Availability Certificate dated August 23, 2006 (WAC ID No. 2006-1595).
7. Include an easement to provide for electrical facilities and service to the proposed lots as required by Seattle City Light (easement description to be provided by City Light prior to short plat recording) on the final short subdivision.

Prior to Issuance of any Building Permit

The owner(s) and/or responsible party(s) shall:

8. Attach a copy of the recorded short subdivision to all permit application plans for any application for a permit to construct, demolish, or change use.

Signature: _____ (signature on file) Date: October 12, 2006

Tamara Garrett, Land Use Planner
Department of Planning and Development