City of Seattle
Gregory J. Nickels, Mayor

Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS, DECISION, AND RECOMMENDATION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 3007557

Applicant Name: Thomas Woldendorp

Address of Proposal: 728 Boylston Avenue East

SUMMARY OF PROPOSED ACTIONS

Council Action to subdivide one parcel into ten unit lots (Full Unit Lot Subdivision) environmental review conducted under MUP #3005677. The construction of townhouses was reviewed under Project #6110004. 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 approvals are required:

Full Subdivision – Chapter 23.22 Seattle Municipal Code.

RELATED PROJECTS

The MUP-SEPA #3005677, approved October 10, 2007, conditionally granted the Design Review component and the Determination of Non-Significance for SEPA for the development and subsequent subdivision of this site. The land use application allows a three story, ten unit townhouse structure with parking for 16 vehicles located in below grade garage in an environmentally critical area. Two existing four unit structures (eight units) were demolished. The development is currently under construction.

PROJECT DESCRIPTION

The applicant proposes to subdivide one existing development site into ten (10) unit lots. The existing site (tax parcel 983120-0175 and 983120-0180) are two platted lots (7 and 8). The development site, now called the Parent lot, consists of the combined area of Lots 7 and 8 together.

Site and Vicinity

The project site is located in the Capital Hill neighborhood at 728 and 732 Boylston Avenue East in the Yesler's 1st Addition to the City of Seattle. This section of Boylston is bound to the north by East Aloha Street, to the east by Harvard Avenue East, to the south by East Roy Street and to the west by Belmont Place East.

The site is zoned Multifamily: Lowrise Three (L3) with a height limit of 30 feet. The immediate area of the site is also zoned L3. To the north of East Aloha is SF5000 and as expected to the east along Broadway is the more commercial zone of NC3-P-40.

The parcel is rectangular and according to the Assessor's records each lot is 5,750 square feet or 11,500 for the parent parcel. Frontage on Boylston Avenue East is 100 feet and there is no alley. A small western portion of the site is designated as an Environmentally Critical Area for steep slope. A limited exemption to slope standards was previously approved in conjunction with permitting for the approved construction. Furthermore, limitations on subdivision in environmental critical areas do no apply to Unit Lot Subdivisions per SMC 25.09.240A.

All surrounding streets are fully improved with curb, gutter and sidewalk.

Public Comment

The public comment period ended May 8th, 2008. Concern for the maintenance of the landscaping in the right of way was expressed in letters from owners of the adjacent condominium property.

PROCEDURES FOR PRELIMINARY PLAT APPROVAL

Hearing Examiner Findings and Conclusions. The Land Use Code Section 23.76.024 requires that the Hearing Examiner conduct a public hearing on the unit subdivision application. At the same hearing, the Hearing Examiner would hear any appeals of the Director's environmental decision (SMC 23.76.052 A). The Hearing Examiner can approve the proposal if it is determined that the proposed plat makes appropriate provision for the public health; safety and general welfare; open spaces; drainage ways; streets, alleys, other public ways; water supplies; sanitary waste disposal; fire protection; parks; playgrounds; sites for schools and school grounds; and that the public use and interest will be served by the platting of the subdivision. If the Hearing Examiner determines that the proposed plat does not provide the appropriate elements or that the public use and interest will not be served, the proposed plat may be denied. (SMC 23.22.054). After the hearing, the Hearing Examiner will make a decision that is final on the preliminary subdivision.

Council Action. The Council review process changed in March, 1996, in response to regulatory reform legislation, and made the approval of preliminary plats or subdivisions a Hearing Examiner decision. A formal action to approve the final plat is still the responsibility of the City Council as provided by RCW 58.17. However, the Council does not hold a public hearing for the purpose of accepting testimony. After the Hearing Examiner approves the preliminary plat, the Council reviews it for final plat approval.

Analysis and Recommendation of the Director. The Land Use Code (Section 23.76.023) requires the Director of DPD to prepare a written report for a proposed preliminary plat. The Code calls for the Director's report to include the following:

1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;

2. Responses to written comments submitted by interested citizens;

3. An evaluation of the proposal based on the standards and criteria for subdivisions contained in SMC Chapter 23.22;

4. All environmental documentation, including any checklist, EIS or DNS; and

5. The Director's recommendation to approve, with conditions, or deny the application.

The Director's report is submitted to the Hearing Examiner and made available for public review at least thirty (30) days prior to the Hearing Examiner's public hearing.

ANALYSIS – SUBDIVISION

1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;

The following represent a summary of the comments received from each City Agency indicated (SMC 23.22.024). Information and documentation from each review agency is available in the DPD project file.

- Public Health**: Director of Public Health- 7-09-07**

The Environmental Health Division of Public Health – Seattle & King County has reviewed the preliminary subdivision for the DPD MUP No. 2501917 against two checklists and has no problem with this preliminary subdivision. The checklists are the National Association of County & City Health Officials' "Public Health in Land Use Planning & Community Design" and Washington State Department of Ecology's "Sustainable Washington."

No corrections or recommended conditions.

- Safety and General Welfare:

  - **Metro of King County 7-5-07**

Metro Transit reviewed the drawings for Project No. 3007557, 728 Boylston Avenue East.

No corrections or recommended conditions.
No corrections or recommended conditions.

- **Director of Housing- 6-29-07**

The Director of Housing has reviewed the preliminary plans and has no comments.

No corrections or recommended conditions.

- **Structural / Ordinance Review (DPD) 6-25-07**

The Building Plans Examiner has reviewed the preliminary plans and approved them.

No corrections or recommended conditions.

- **Superintendent of City Light 11-29-07 and 7-18-08**

As of November 28th, 2007 City Light reviewed the ULS and attached the easement that is necessary for the electric service to the proposed lots. The easement should be attached to and become part of the ULS (Unit Lot Subdivision).

As of July 18th, 2008 SCL does not require additional property rights for the revised unit lot subdivision. (Existing SCL easement is sufficient from November 28, 2007). SCL approves this revised unit lot sub.

If this ULS is revised in any manner, the attached easement may not be appropriate. Any revisions should be submitted to Seattle City Light, North Electric Service, for additional review.

After the final ULS has been recorded, a copy should be mailed to City Light, Real Estate Services, and (MS SMT-28-22).

No corrections or recommended conditions.

- Open Spaces: The proposal does not require the provision of public open space. Requirement for private open space has been met in the proposal.

- Drainage Ways: **Drainage Review (DPD)- 7-27-07**

There is an eight inch diameter combined sewer main in Boylston Avenue East adjacent to the property.

There are no recommended drainage conditions prior to recording.

A drainage control plan for the new development has been approved. Storm water will be discharged to the combined sewer. Storm water detention is required.

No Corrections or recommended conditions.

- Streets: **Seattle Department of Transportation 9-11-08**

This plan does not propose any changes to the right of way of Boylston Avenue East. The previous MUP #3005677 was approved by SDOT on July 9th, 2007. There were no corrections or recommended conditions.

SDOT will address any remaining issues during the processing of the final plat. An application or deposit for the Unit Lot Subdivision for the review of the street improvements portion of the project will be submitted.

- Alleys: there is no platted alley for the Parent Lot or any required.
- Other Public Ways: There are neither public ways on this site nor any required.
- Water Supplies: **Director of Seattle Public Utilities-11-28-07(Karen Younge)**

SPU issued a Water Availability Certificate (WAC) ID No. 20071149 approving this project with requirements. The WAC indicated that the project site and structures can be served by the standard sized (8") water main located in Boylston Avenue East. The following water service requirements apply to the proposal:

- New Meter Location: Boylston Avenue East
- The maximum allowable size for the fire services is the same size as the main; the largest available fire service is 8 inches. The maximum allowable size for irrigation, domestic, and combinations services is one size smaller than the main; the largest available domestic or irrigation service size is 6 inches; and the largest available combination service is 10 inches.
- One meter will serve the domestic water needs of a single legal parcel. If the legal parcel is short platted prior to approval for occupancy after final inspection of the building permit, then separate meters will be required for each legally described parcel. This may necessitate the installation of a water main by the developer.
- The property owner is responsible for the installation, maintenance and liability of the service line from the City union near the meter to the building served. New water service piping from the City union to the building must be inspected by SPU prior to covering. Call (206) 684-5800 for an inspection.
- For new water services, Property owner must sign SPU's Application and Agreement for Water Service, pay all connection service charges, and other charges which may or may not be listed below, and submit the legal description of the property to be served. Apply for service at 700 5th Avenue, 31st floor. The time between the service order and installation varies depending on workload, service size and type. Wait Times can be 30-90 days**;** call (206) 684-5800 for the current projected wait time.
- Prior to ordering a new water meter that will serve a back lot, a recorded easement with a suggested minimum width of 5' must be provided. If more than one water service line is needed through an easement, the easement is suggested to be a minimum of 2.5' per service line.
- Underground piping through an easement, from the City union to the property line, must be either type K or L copper, or Ipex Kitec (PE-AL-PE) and fittings.
- Pump on private property is recommended.

No corrections or recommended conditions.

- Sanitary Waste Disposal: This site is currently served by City of Seattle. (Refer to Drainage Ways review).

- Fire Protection: **Fire Department- 7-02-07 (Captain Chris Green)**

The Fire Chief has approved the proposed subdivision with no conditions.

No corrections or recommended conditions.

- Parks: **Superintendent of Parks and Recreation-6-20-08 (Terry Dunning)**

The Superintendent of Parks and Recreation has reviewed the preliminary plans and has no objection to the proposed project.

No corrections or recommended conditions.

- Playgrounds: This proposal does not require the provision of a playground.

- Sites for Schools and School Grounds: This proposal is not adjacent to a school or school grounds and the area is currently served by the Seattle School District.

2. Responses to written comments submitted by interested citizens.

Comments were received requesting clarification of unit lot subdivision compared to townhouse development and requesting attention to the installation and maintenance of the landscape plan especially that of the right-of-way.

3. An evaluation of the proposal based on the standards and criteria for subdivisions contained in SMC Chapter 23.22**.**

Land Use Code

The site is located in a L3 zone, in which townhouse structures are an outright permitted use. As stated the applicable zoning and land use codes were reviewed under MUP #3005677 Permit No.6110004, which included Design and SEPA Reviews.

SMC 23.22.062.A provides requirements for unit lot subdivision applicable to townhouse developments.

SMC 23.22.062.B states: "*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 may be nonconforming as to some or all of the development standards applicable at the time the permit applications 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. Consequently additional development of individual units may be limited, due to this final nonconformity.

SMC 23.22.062.B also states *that required private usable open space for each dwelling unit be provided on the same lot as the dwelling unit it serves.* The open space requirements for Lowrise 3 zones requires an average of 300 square feet of private usable open space at ground level and directly accessible to each unit, with no unit having less than 200 square feet of such open space. In this case no departures from open space development were requested.

SMC 23.22.062. D *requires common access easements and joint use and maintenance agreements for the use of common garage or parking areas, common open space and other similar features.* Easements for all utilities are required as necessary for utility access. This proposal provides such easements and joint use and maintenance agreements for vehicular and pedestrian access, and utilities across all individual unit lots that will be recorded with the King County Department of Records and Elections. Additionally, easements are shown allowing all lots within the subdivision to have their addresses displayed from Boylston Avenue East. These easements shall also make provision for US Postal facility mailbox locations.

SMC 23.22.062.E states that *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 the King county Department of Records and Elections.* This easement will be identified on the plat and the necessary language for the easement submitted.

SMC 23.22.062.F To notify future unit lot owners of potential limitation of development this section of code requires the following be noted on the recorded plat, "the unit lots are not separate buildable lots and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot of Parcels 7and 8*.*" This is to be on the face of the plat.

This Unit Lot Subdivision therefore meets the requirements of the Seattle Land Use Code.

Public Use and Interest

Pursuant to SMC 23.22.054, the decision maker must consider all relevant facts to determine whether the public use and interest will be served by the proposed full unit lot subdivision. Additionally, the proposed plat must make appropriate provision for the public health, safety and general welfare by providing for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary waste disposal, fire protection, parks, playgrounds, and safe access to and sites for schools.

Unit Lot Subdivision allows for the subdivision of common wall (attached) ground related townhouse structures. Ground related townhouse structures are allowed outright in the L3 zone. This process therefore makes possible separate ownership of individual units in one structure that otherwise would be owned by one party and might otherwise be available on a rental only basis or as condominium units.

The construction of the units was reviewed under the City's Design Review Process and consequently incorporates numerous features desired by neighbors who commented on this project and recommended by the Design Review Board, as well as the prescriptive requirements of the land use and building codes. (See Master Use Permit No. 3005677 for Design Review requirements and SEPA conditions). The unit lot subdivision does not alter these requirements, recommendations, and/or conditions.

The public use and interests are thereby served by permitting the proposed division of land.

4. All environmental documentation, including any checklist, EIS or DNS; and

All documents will be furnished to the Hearing Examiner, prior to the Public Hearing for the subdivision. Environmental Review was conducted under MUP3005677. A Determination of Non-Significance with Conditions was approved October 29, 2007.

5. The Director's recommendation to approve, with conditions, or deny the application.

RECOMMENDATION – SUBDIVISION

DPD Recommends Approval of the Preliminary Subdivision.

RECOMMENDED CONDITIONS – SUBDIVISION

Conditions of Approval Prior to Recording of the Final Subdivision Plat

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

a. Note on the plat all the conditions listed in this recommendation, as may be modified by the Hearing Examiner.

b. Pursuant to SMC 23.22.062 F the following must be noted on the face of the recorded plat: "the unit lots are not separate buildable lots and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot (all Parcels 7 & 8)."

c. Add note referencing Lots 7& 8 as the Parent Lot.

d. Add note to address identification of any adjacent property within three hundred (300) feet of the proposed subdivision that is owned or controlled by the applicant.

e. Provide the easement language for the provision of parking on a different unit lot, than the lot with the dwelling unit, and located within the Parent Lot.

f. Provide the language for the underground easement for parking to extend from the finished floor to the ceiling of the underground garage.

g. Add Seattle City Light Overhead/Underground Easement as provided by that Department to the final plat.

h. Applicant shall submit a copy of the Homeowner's Association Bylaws for review that the landscaping provision in the HOA to adequately address the installation of mature (in size) plantings for the site and the maintenance of the plantings in the right-of-way including an irrigation system.

i. Easements shall provide for US Postal facility mailbox locations on Boylston Avenue East.

j. Applicant will submit to SDOT an application and/or deposit for the Street Improvements for the Unit Lot Subdivision prior to Final Plat approval.

Signature: (signature on file) Date: December 15, 2008
Carreen N. Rubenkonig, Land Use Planner
Department of Planning and Development

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H:Rubenkonig//Documents//DECISIONS//3007557 Boylston Recommendation Unit Lot Subdivision