



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning & Development

D. M. Sugimura, Director

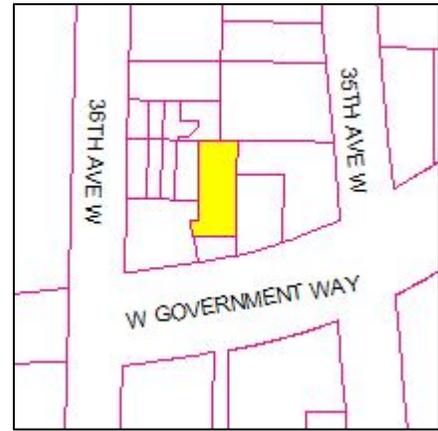
**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Number:** 3009472  
**Applicant Name:** Kelly Byrne  
**Address of Proposal:** 4304 36<sup>th</sup> Ave W

**SUMMARY OF PROPOSED ACTION**

Land Use Application to subdivide one parcel into four unit lots. The construction of townhouses has been approved under Project #6177782. 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 issued construction permit authorizes demolition of the existing house and construction of four townhouses. Under the subject application for unit lot subdivision, separate “unit lots” will be created for each townhouse. The proposed square footages of the lots are as follows: A) 1,338 sq. ft.; B) 1,206 sq. ft.; C) 1,087 sq. ft. and D) 983 sq. ft. The site is located within a Heron Habitat Environmentally Critical Area buffer, so the subdivision of the lot into unit lots requires analysis per the State Environmental Policy Act (SEPA). The construction of the townhouses was the subject of administrative design review and SEPA, MUP Project #3008939.



The following approval is required:

**Unit Lot Subdivision** - to divide one existing parcel into four unit lots.  
(Chapter 23.24 Seattle Municipal Code)

**SEPA - Environmental Determination** (Chapter 25.05, Seattle Municipal Code)

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

## **BACKGROUND DATA**

- Zoning: Lowrise Three Residential Commercial (L3 RC).
- Uses on Site: Under construction (Project #6177782): Four townhouses (two duplexes). The existing house on the site was recently demolished.
- Site Description: The site is about 4,600 s.f. and is fairly level. The site is located within a Heron habitat environmentally critical area buffer.
- Surrounding Area: Certain areas on both sides of West Government Way, are zoned Lowrise 3 Residential Commercial (L3 RC), the same as the subject site, while properties further north are zoned single family 5000 (SF 5000) and properties further to the south are zoned Lowrise 3 (L3). The area is developed with a mixture of single family and multi-family housing.
- 36<sup>th</sup> Avenue West is improved with an asphalt shoulder and concrete walkway. The subject property does not front on 36<sup>th</sup> Avenue West and will be accessed via an easement across the properties to the west.
- Proposal Description: Per the issued construction permits, the site will contain two duplexes. The units will share a curbcut and access easement. Garages will be located within each unit. The subject of this analysis and decision is limited to the subdivision of land.
- Public Comment: The comment period for this proposal ended on October 22, 2008. One written comment was received.

## **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 pedestrians, vehicles, utilities and fire protection, as provided in Sections 23.53.005 and 23.53.006;*
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.*
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 (2) or more lots from one (1) lot with more than one (1) existing single-family dwelling unit.*

Summary - Short Subdivision

Based on information provided by the applicant, referral comments or review approvals from Zoning (DPD), Ordinance and Structural (DPD), Drainage (DPD), Water (SWD), City Light (SCL), Fire Department (SFD) 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. The lots to be created by this short subdivision will meet all minimum standards or applicable exceptions of the set forth in the Land Use Code, and are consistent with applicable development standards. As conditioned, this short subdivision will 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 is a unit lot subdivision; therefore SMC 25.09.240 is not applicable. Tree and other landscaping requirements were considered under the building permit review. Section 23.24.046 regarding multiple single-family dwellings on one lot does not apply since all structures on the site have been demolished and new structures will be constructed. The public use and interest are served by the proposal since all applicable criteria are met and the proposal creates the potential for additional owner-occupied housing opportunities in the City. Detailed discussion of Criterion #7 follows below.

**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. *A joint use and maintenance agreement has been included on the short plat documents and should also be included on the final documents for recording.*

- F. *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.*
- G. *The fact 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 associated construction contains four residential units. The structures, as reviewed under the separate building permits, will conform to the development standards in place at the time the permit application was submitted. 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 unit lots created by unit subdivision are not separate buildable lots. Additional development on any individual unit 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 is provided on the plat.

### DECISION – UNIT LOT SUBDIVISION

The proposed Unit Lot Subdivision is **CONDITIONALLY GRANTED**.

### ANALYSIS - SEPA

The proposed live-work unit and four townhouse units are located in an environmentally critical area (Fish and Wildlife Habitat Conservation Area; Great Blue Heron Management Area), thus the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City’s Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated September 30<sup>th</sup>, 2008. The information in the checklist, pertinent public comment, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

As indicated in the checklist, this action will not result in adverse impacts to the environment. SEPA review and Administrative Design Review of the proposed four townhouse units was conducted under Project #3008939. This review is limited to any SEPA impacts of the unit lot subdivision due to the location in a Heron Habitat buffer environmentally critical area (ECA). The unit lot subdivision does not change the construction impacts evaluated under Project 3008939. The unit lot subdivision enables separate ownership of each of the four townhouse units. While no additional impacts are anticipated from the unit lot subdivision, new owners should be aware of the location within an ECA including associated restrictions during the nesting season (February 1 – July 31). Per condition of the unit lot subdivision, a note will be added to the face of the plat regarding the Heron Habitat area.

### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

[X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 (2) (C).

[ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 (2) (C).

### **CONDITIONS - SEPA**

Add the following note to the face of the plat:

The project is located within a Fish and Wildlife Conservation Area (Great Blue Heron Management area). There are restrictions on grading, tree removal, and outdoor construction during the nesting season (February 1<sup>st</sup> – July 31<sup>st</sup>) per Seattle Municipal Code section 25.09.

### **CONDITIONS – UNIT LOT SUBDIVISION**

#### *Conditions of Approval Prior to Recording*

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

1. Add the conditions of approval, “For the Life of the Permit” 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 for the life of the permit see page \_\_\_ of \_\_\_.”

