



City of Seattle

---

**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:** 3009525  
**Applicant Name:** Susan Jones, for Michael Kudriavtseff  
**Address of Proposal:** 11011 Goodwin Way NE

**SUMMARY OF PROPOSED ACTION**

Land Use Application to subdivide one parcel into two parcels of land in a single family zone (SF7200).

The following approvals are required:

**Variance** - To allow a short plat creating an undersized lot in a single family zone (SF7200) that does not meet the minimum lot area exception of SMC 23.44.010B.1.b.

*Requirement: The lots shall be at least 5,408 square feet in extent - Proposed lot B is approximately 5,254 square feet in extent.*

**Short Subdivision**-To subdivide one parcel into two parcels of land (SMC 23.24.040)

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



### ANALYSIS - VARIANCE

Variations from the provisions or requirements of the 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 existing subject site is located as an irregular shape, approaching that of a triangle, dictated by the diagonal northwest to southeast path of the Goodwin Way NE right-of-way. A protuberance of the right-of-way north and northwest of the existing curb, contiguous with the subject site creates an impression of a parcel that exceeds its actual size. According to the provisions of SMC 23.44.010 B 1a, "Exceptions to Minimum Lot Areas," an undersized lot may be developed or redeveloped as a separate building site if, prior to July 24, 1957, it was established as a separate building site in the public records of the County or City, "and has an area of at least seventy-five (75) percent of the minimum required lot area and at least eighty (80) percent of the mean lot area of the lots on the same block face and within the same zone in which the lot will be located..." This so called "75/80 rule" allows development of undersized parcels that are compatible with surrounding lots.

In a Single Family 7200 zone, lots must have a land area of at least 5,400 square feet to meet the first part of the overall requirement. The subject site fails by 148 square feet of meeting the requirement. Proposed Lot A, at 5,408 square feet, would comply with the 75 percent requirement. Lot B, at 5,254 square feet falls 156 square feet short of the requirement. In addition to meeting the 75 percent requirement, the areas of both Lots A and B must equal 80 percent of the block face on which they are located. Proposed Lot A, situated to the north of Proposed Lot B, must equal or exceed the average sizes of the lots addressed as 10017 (5,076 s.f.), 11031 (6,488 s.f.), 11037 (6,341 s.f.), and 11043 (8,414 s.f.). The 80 percent average along that block face is 5,263.8 square feet. Proposed Lot A, at 5,408 square feet, conforms to both requirements of the 75/80 rule.

Conformity of proposed Lot B, because it would become the corner lot, must be assessed along the block fronts of Goodwin Way NE as well as along NE Northgate Way. Lot B would not meet the 80 percent requirement along Goodwin Way NE. It would meet the 80 percent rule along NE Northgate Way where the 80% average would be 4,916 square feet.

The existing 10,654 square foot lot size of the subject site is a condition not created by the owner or applicant, but it is difficult to conclude that the strict application of the Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone and vicinity since all the legally established parcels on the two block fronts (including the subject lot) may (and have) constructed one single family residence meeting applicable standards of the Land Use Code. The one unusual circumstance of the subject property lies in the fact that it is sandwiched between two undersized lots, one at 11017 Goodwin Way NE (5,076 s.f.) and the other at 1718 NE Northgate Way (5,016 s.f.).

These two properties not only establish what might be considered a favorable urban fabric and precedent-setting context, since the lots are long established and smaller than the proposed Parcel B, but more importantly reveal a circumstance were the owner and applicant of the subject site cannot seek relief through purchase and minimal boundary adjustments with either or both of the adjoining property owners since any diminishing of either neighboring lot would increase their existing nonconformities in lot size. The request for a variance would appear to be the only relief available to the property owner.

A combination of locational circumstances not created by the owner and a strict application of the “75/80 rule” in this instance could be said to deprive the property of rights and privileges enjoyed by other properties in the same zone and vicinity.

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*

No specific development has been proposed for the entire site or for either of the two intended parcels. Proposed Parcel A is currently developed with single family residential structure. Any proposed structure or additions on either of the proposed parcels will need to meet all zoning requirements of the SF 7200 zone, including front, rear and side yards, height limits, and lot coverage. Actual development would not be perceived to overwhelm the new parcel. New development on either parcel shall be required to ensure maximum retention of exiting trees. With these mitigating conditions the requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege.

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*

The proposed development will otherwise comply with all development standards for single-family residential structure in the SF 7200 zone. The site lies within a broad area of Single Family 7200 zoning where a substantial number of lots have been were platted with areas under 7,200 square feet. On the subject block, seven of the nine currently platted lots are “undersized” for the zone. There is no reason to believe that the granting of the variance will 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.

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;*

As noted above, under the discussion of facts and conditions for point #1, strict application of the “75/80 rule” in this instance would require a development site of 10,802 square feet rather than 10,654 square feet. The intent of the “75/80 rule” is to allow development of undersized lots while protecting the character of single-family development in the same immediate vicinity. In this instance limitation of development does not appear to further the intent of the Code provision. Proposed development on the site can be achieved with full conformance to Land Use Code single-family development standards.

There are many instances in the vicinity of previously developed lots under 7,200 square feet in area. The two developed lots on either side of the subject site are 5,076 and 5,016 square feet in extent, smaller than the Code-compliant 5,408 square foot and non-conforming 5,254 square foot lots proposed. Compliance with single-family development standards can be met on the undersized lot. Strict compliance with lot size requirements for proposed Parcel B imposes undue hardship and practical difficulties on development of the property.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code and adopted Land Use Policies or Comprehensive Plan component, as applicable.*

The purpose of the Land Use Code is to protect and promote public health, safety and the general welfare through a set of regulations and procedures for the use of land. It is the responsibility of the City to preserve and protect areas that are currently in predominantly single-family residential use. The spirit and purpose of the Land Use Code also assumes flexibility as an important directive to allow the owners of property in single family areas maximum use and enjoyment of their land.

There are two adopted Comprehensive Plan policies that relate to single-family minimum lot area requirements, LU66 and LU67. The first refers to use of minimum lot size requirements to maintain a low-density residential environment while reflecting differences in development conditions and the densities and scale of housing in various single-family residential areas. The second policy statement refers to permitting “exceptions to minimum lot size requirements to recognize building sites created in the public records under previous codes, to allow the consolidation of very small lots into larger lots, to adjust lot lines to permit more orderly development patterns, and to provide housing opportunity through the creation of additional buildable sites which are compatible with surrounding lots and do not result in the demolition of existing housing.”

Future construction of a single-family residence on the parcel allowed through the variance process is expected to be in character with surrounding development and preserve the existing neighborhood character. No adverse effects on adjacent properties in the area are anticipated and the public interest will not suffer as a result of this variance as long as any development on the undersize parcel maximizes the retention of existing trees on this and adjacent lots. The decision will be conditioned accordingly.

### **DECISION - VARIANCE**

The proposed action is **GRANTED WITH CONDITIONS.**  
(See under Conditions-Variance, below)

### **ANALYSIS – SHORT SUBDIVISION**

Pursuant to the provisions of SMC 23.24.040 in effect when this application for a short subdivision was accepted, no short plat shall be approved unless all of the following applicable facts and conditions are found to exist.

1. *Conformance to the applicable Land Use Code provisions;*
2. *Adequacy of access for pedestrians, 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.*

### Summary

Based on information provided by the applicant, referral comments as appropriate from DPD, Water (SPU), Fire Departments (SFD), Seattle City Light (SCL), 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 proposal site is not located in a mapped environmentally critical area and the provisions of SMC 25.09.240 are not applicable. There are trees of size located on or abutting the subject site and conditions will be imposed ensure that trees are protected to the maximum extent possible. When these conditions are met, the lots to be created will meet all minimum standards or applicable exceptions as set forth in the Land Use Code and other applicable codes, 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 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.

### **DECISION - SHORT SUBDIVISION**

The proposed Short Subdivision is **CONDITIONALLY GRANTED.**

### **CONDITIONS - SHORT SUBDIVISION**

#### Prior to Recording

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

1. Comply with all applicable standard recording requirements and instructions.
2. Include the Seattle City Light Easement on the face of the plat.

3. Provide a notation on the face of the plat that reads:

*Parcel B has been created by benefit of a Land Use Variance (per MUP #3009525) that has granted a relaxation of minimum lot size requirements.*

Prior to Issuance of any Demolition or Building Permit on either lot

4. The owner(s) and/or responsible party(s) shall attach a copy of the recorded short subdivision to all permit application plans for any application for a permit to demolish, construct, or change use.

**CONDITIONS-VARIANCE**

Prior to Issuance of any Building Permit for Parcel A or B

The applicant shall submit plans that:

5. Demonstrate siting of development and a design that maximizes the healthful retention of existing trees on site.

Signature: (signature on file)  
Michael Dorcy, Senior Land Use Planner  
Department of Planning and Development

Date: August 16, 2012