



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 2406614
Applicant Name: Jack Topper
Address of Proposal: 509 NW 43rd Street

SUMMARY OF PROPOSED ACTION

Master Use Permit to subdivide one parcel containing three existing single family residences into three parcels of land with one single family residence on each lot. Proposed parcel sizes are: A) 1,857 sq. ft., B) 1,985 sq. ft., and C) 2,163 sq. ft.

The following approval is required:

Short Subdivision - To subdivide one existing parcel into three parcels of land.
(Chapter 23.24, (23.24.046) 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 & Vicinity Description

The 6,000 square foot project site is located on the south west corner of NW 43rd Street and 5th Avenue NW. The subject site is zoned Single Family residential with the minimum lot size of 5000 square feet (SF-5000). The lot is flat with little topographical change. The site has approximately 100 foot frontage on NW 43rd Street with approximately 60 foot lot depth NW 43rd Street and 5th Avenue NW are developed with concrete curbs, gutters and sidewalks on both sides of the streets. There is no alley. Direct vehicular and pedestrian access is available to each single family residence from NW 43rd Street. There are three existing single family homes located on the site. The single family home addressed as 503 NW 43rd Street was permitted by the City of Seattle in December 9, 1910. The other two single family homes addressed as 505 and 509 NW 43rd Street were permitted on the same day; February 18, 1910.

Surrounding properties and blocks to the east, north and south are also zoned SF 5000. Abutting the single family zone to the west is the Lowrise 1 (L-1) zone. Development in the vicinity consists of a variety of one and two-story single-family houses of varying age and architectural style on a variety of lot sizes, consistent with the zoning designations.

Proposal

Pursuant to SMC 23.24.046, multiple single-family dwelling units on a single-family lot may be subdivided when the provisions of the chapter are met. The proposal is to subdivide a 6,000-square foot lot into three (3) parcels of land with the following areas proposed: Parcel A) 1,857 sq. ft., Parcel B) 1,985 sq. ft. and Parcel C) 2,163 sq. ft. Proposed parcels B and C will have direct vehicular access through two existing concrete driveways on the lot. Parcel A is proposed without vehicle access as there is currently no parking or access to the structure located on proposed parcel A. All three lots have direct pedestrian access to the street. All existing single family dwellings are to remain. Vehicle access as proposed will remain and be unchanged.

The subject of this analysis and decision is only the proposed division of land.

Public Comment

Notice of the proposed project was published on September 15, 2005. The public comment period ended on September 28, 2005. One comment letter was received. The respondent expressed concern about the drainage and sewer connections to the three single family dwellings.

ANALYSIS - SHORT 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.*
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.*

1. Conformance to the applicable Land Use Code provisions;

The subject property is zoned for single-family residential with a minimum lot size of 5,000 square feet, multiple single-family dwelling units on a single-family lot meeting the provisions of SMC 23.24.046 notwithstanding. The allowed use in a single family zone is one dwelling unit per lot. Maximum lot coverage is 35% or 1,750 sq ft whichever is greater or as modified by SMC 23.24.046. Front yard setbacks are an average of the neighboring adjacent lots, or twenty (20) feet, whichever is less. In this case, the front yard setbacks for the structures located on proposed parcel A, B, and C are existing nonconforming front yards. The minimum side yard setbacks are five (5) feet, except as modified by 23.24.046-B.5. 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, or as modified by 23.24.046-B.5. The principal structures associated with this subdivision will have some degree of non-conformity to single family zone development standards and as a result will be subject to SMC 23.42.112 – Nonconformity to development standards. Table 1 below outlines the extent of the non-conformities to each proposed parcels A, B and C of this subdivision.

TABLE 1. Analysis of Required Yards				
	Front Yard	Side Yard (East)	Side Yard (West)	Rear Yard
Parcel A, 509 NW 43 rd St.	Non-Conforming at 14.3’	Conforming at 5.6’	Non-Conforming at 1.2’	Conforming at 13.8’
Parcel B 505 NW 43 rd St.	Non-Conforming at 14.3’	Non-Conforming at 3.2’	Conforming at 5.6’	Conforming at 13.8’
Parcel C 503 NW 43 rd St.	Non-Conforming at 14.3’	Non-Conforming at 8.7’ side of reversed corner lot	Non-Conforming at 3.2’	Non-Conforming at 7.2’ *

* Rear yard is less than requirement of 20% of 60.03’ or 12.0’

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

DPD has circulated this proposed short subdivision to all city agencies with jurisdiction for review of utilities, access, and fire protection. All utilities have been extended to Parcel A, B and C and any changes in services would require approval of the respective utility.

Proposed Parcels A, B and C have street frontage and utility access on NW 43rd Street. Proposed Parcel A has no vehicle access or parking existing on the lot. Proposed Parcels B and C each have existing access to one parking space underneath the structure located on each lot. Since the three existing structures on this subdivision were legally established by permit prior to the effective date of the first Seattle Zoning Code in 1923 and prior to 1957 when parking requirements were established for the City of Seattle, parking was never required for the structure located on proposed Parcel A. The Seattle Fire Department would provide emergency vehicle access to the site, and after review of the application, the Fire Department has approved the proposed short plat for emergency vehicle access. No street improvements are required.

Seattle City Light has reviewed the proposed short plat and determined that City light easement is required; project approval will be so conditioned.

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

This area is served with domestic water, sanitary sewer, and stormdrain 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 December 28, 2005 (WAC ID No. 2005-2023).

Sanitary Sewer

The existing houses located upon proposed Parcels B & C are connected by means of a shared sidesewer to an 8-inch public sewer (PS) located on 5th Avenue NW. The existing house located on proposed Parcel A is connected by means of shared sidesewer connection, also serving the property addressed as 4231 5th Avenue NW, to the PS in 5th Avenue NW. According to the DPD Sewer and Drainage reviewer, these connections were respectively confirmed on 1-8-1964 and on 12-4-63 by means of a dye test. Easements “along the line as-constructed” are required where sidesewers serving one proposed parcel cross beneath another proposed parcel.

Drainage

This area has been separated with the construction of a 12-inch public storm drain (PSD) on the far side of NW 43rd Street. This mainline is the appropriate point of storm water discharge.

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 proposal will meet all applicable criteria for approval of a short plat upon completion of the conditions in this analysis and decision. As a result, the public use and interest are served.

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;*

At the time of this decision, no related building permits have been applied for. The structures as proposed will remain, and no construction is proposed. Future construction will set forth tree planting and exceptional tree protection requirements on a single family lot.

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.*

This Short subdivision is not a unit subdivision. Thus, this section is not applicable to this short plat proposal.

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.*

This application is using this provision to short plat the site which has three single family homes on it.

SMC 23.24.046

Subsection B of the SMC 23.24.046 outlines the requirements for the subdivision of a lot in a single-family zone containing more than one (1) existing single-family dwelling as detailed below.

1. *Each existing single-family dwelling unit was legally established by permit or is eligible to be established as a nonconforming development in accordance with Section 23.42.102, establishing nonconforming status;*

There are existing permits on record with the Department of Planning and Development (DPD) for the three single-family structures. The first building permit #87088 and building permit #87089 were issued in February 18, 1910 to establish use for the record as two single family residences per plan. The third building permit #98083 was issued on December 9, 1910 to establish use for the record for one single family residence per plan. Therefore the requirements of this section are met as the single-family residences were legally established by permit. The permits are located in the project file as well as in the DPD's microfilm records.

2. *Each existing single-family dwelling unit was constructed prior to February 20, 1982;*

There are existing permits on record with DPD for the three single-family structures existing prior to 1982, as noted under criterion #1 above.

3. *Each resulting lot has one (1), but no more than one (1), existing single-family dwelling unit;*

Each resulting lot will have one (1) single family residence located on it as evidenced by the approved plat configuration showing separate structures on each proposed parcel and coupled with the building permits detailed above which specify each structure as residence or dwelling. Therefore the provisions of this section are met.

4. *Parking is provided in accordance with Section 23.44.016, parking location and access, unless the Director determines that at least one (1) of the following conditions is present:*
 - a. *Providing parking accessory to an existing single-family dwelling unit is undesirable or impractical because of the location of an environmentally critical area, existing drainage patterns, natural features such as significant trees, or access to a resulting or adjacent lot; or*
 - b. *The short subdivision cannot be configured to provide parking in compliance with Section 23.44.016;*

If the Director determines that at least one (1) of the foregoing conditions is present, the Director may waive or modify the parking requirements of Section 23.44.016 as long as the short subdivision does not reduce the number of off-street parking spaces existing prior to the short subdivision. In connection with such waiver or modification, the Director may require access and parking easements as conditions of approval of the short subdivision;

The existing western structure located on proposed Parcel A has no existing parking associated with it. Proposed parcel B and C each have one parking space proposed and existing which is located underneath the structure. The location of the single family structure doesn't leave enough room on the east or the west sides to permit a driveway or parking on proposed Parcel A. The short plat cannot be configured to provide parking on proposed Parcel A in compliance with SMC 23.44.016. As a result, the parking for proposed parcel A is waived.

5. *Each resulting lot conforms to all other development standards of the zone unless the Director determines that the short subdivision cannot be approved if such standards are strictly applied and modification or waiver of some or all of such standards would further the public interest. If the Director makes such determination, then the Director may waive or modify development standards, provided that:*
 - a) *Each existing single-family dwelling unit shall be set back at least three (3) feet from each common lot line in the short subdivision; and*
 - b) *No resulting lot shall be smaller than one thousand eight hundred (1,800) square feet.*

The proposed subdivision will be in conformance with the above criteria (23.24.046-B5 (a) (b)). The single-family dwellings will be 3.2' feet at the closest point to the proposed common lot line. The smallest lot size of the proposed parcels is 1,857 square feet (Parcel A). As a result, the proposed lots meet the criteria for a waiver or modification of the development standards. DPD conclude that the three existing single-family dwellings meet the provisions of SMC 23.24.046-B5.

DECISION - SHORT SUBDIVISION

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

