



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

**Application Number(s):** 2403714 and 2402617  
**Applicant Name:** Jennifer Grant for Lexington Fine Homes  
**Address of Proposal:** 3901 West Dravus Street  
**Clerk File Number:** 306749

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish use for future construction of a Clustered Housing Planned Development to create 39 lots. The project includes a full subdivision to subdivide one existing parcels into 39 parcels. Project includes dedication of right of way and approximately 2,400 cubic yards of associated grading for access areas and some individual lots.

The following approvals are required:

- **Administrative Conditional Use (ACU)**  
*Clustered Housing Planned Development (CHPD) – SMC 23.44.024*
- **Subdivision** – SMC(s) 23.22 & 23.76.023
- **SEPA** – SMC 25.05

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

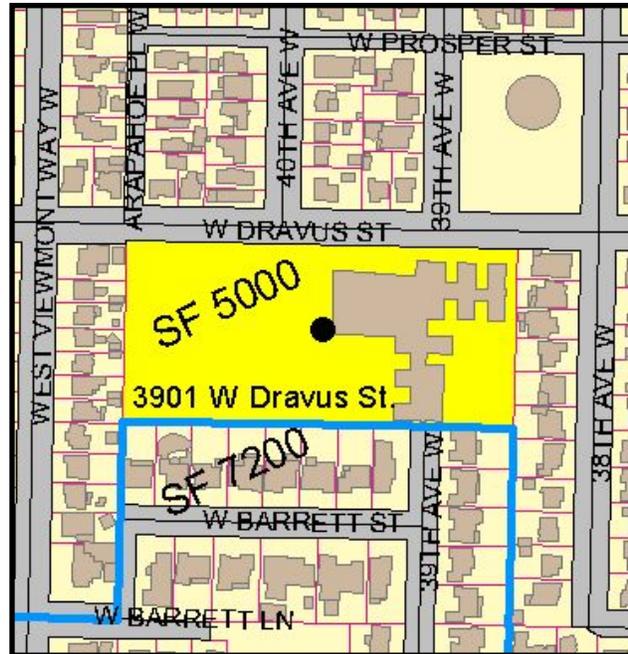
**BACKGROUND INFORMATION**

The 4.58 acre site located in the Magnolia Neighborhood was formerly owned by Seattle School District and was home to Briarcliff Elementary School. The school has not been in use for approximately sixteen years and was recently sold by Seattle School District. The property is zoned Single Family 5000 (SF 5000). The site abuts two rights of way; W Dravus St to the north and 39<sup>th</sup> Ave W to the south. There are two zones in the vicinity; SF 5000 and Single Family

7200 (SF 7200) (immediately south of the site). There are no Environmentally Critical Areas mapped or otherwise observed on the site.

The applicant proposes a Clustered Housing Planned Development and Subdivision consisting of thirty-nine single family lots. Vehicle access to the site is proposed solely from W. Dravus St. of which there are four (4) access points proposed; two (2) alleys, one (1) vehicle access easement and one (1) dedicated right-of-way (39<sup>th</sup> Ave W).

Thirty-one (31) of the proposed thirty-nine (39) lots will be provided vehicle access from one of the three (3) proposed alleys to be dedicated. The remaining eight (8) lots (7-14) will be provided vehicle access from the proposed vehicle access easement shown as Briarcliff Lane. Lots 7-14 will be provided vehicle access via four (4) shared curbcuts. A total of four (4) internal driveway curbcuts are proposed for the entire site, all from Briarcliff Lane.



The proposal will provide street lighting, curbs, gutters, pocket planting strips and sidewalks on both sides of the proposed easement (Briarcliff Lane). The other vehicle access, 39<sup>th</sup> Ave W, is proposed to be a dedicated right-of-way and will have full planting strips in addition to the other street improvement elements listed.

### Procedural Information

This DPD Decision and Recommendation includes three distinct components of review to evaluate the proposal. One component is the SEPA threshold determination and mitigation of adverse environmental impacts (SMC 25.05). The second component is the Administrative Conditional Use (ACU) for the Clustered Housing Planned Development (CHPD). Lastly is the Subdivision component, which requires a written report and recommendation by the Director to the Hearing Examiner. The Hearing Examiner will make a decision on the subdivision (preliminary plat) and the City Council will then render a determination on the final plat pursuant to SMC 23.22.074.

Future development of the subject site will undergo further permitting requirements, including construction-level approvals such as grading and building permits.

### Public Comment

Notice of application was provided in the manner prescribed in SMC 23.76, including posted notice on the site, publication in the Land Use Information Service and mailing. The Land Use Planner and management staff for the project attended a public SEPA meeting at Blaine School on July 29, 2004, to take public comments related to SEPA impacts. Approximately one hundred people attended the meeting.

At the meeting the applicant presented the proposal with supplemental graphic materials including an overall site plan showing the number of lots, vehicle access points and concept street elevations. DPD received numerous written comments and verbal comments during the meeting and from the notice of application comment letters. Verbal comments at the SEPA meeting and in telephone communications primarily focused on density, traffic, pedestrian connections, neighborhood character and open space.

### **DIRECTOR'S ANALYSIS – ADMINISTRATIVE CONDITIONAL USE (ACU)**

#### SMC 23.44.024 Clustered housing planned developments.

*Clustered housing planned developments (CHPDs) may be permitted as an administrative conditional use in single-family zones. A CHPD is intended to enhance and preserve natural features, encourage the construction of affordable housing, allow for development and design flexibility, and protect and prevent harm in environmentally critical areas. CHPDs shall be subject to the following provisions:*

A. *Site Requirements.*

1. *The minimum size of a CHPD shall be two (2) acres. Land which is designated environmentally critical due to the presence of a riparian corridor, wetland or steep slope according to SMC Chapter 25.09, Regulations for Environmentally Critical Areas, and submerged land shall not be used to meet minimum size requirements.*

The site is 4.58 acres in size. There are no environmentally critical areas (ECA's) mapped by the City of Seattle or otherwise observed on the site. Therefore this requirement is satisfied.

2. *Where portions of a site are designated environmentally critical due to the presence of a riparian corridor, wetland or steep slope according to SMC Chapter 25.09, Regulations for Environmentally Critical Areas, the conditional use clustered development provisions under Section 25.09.260 shall apply, superseding the standards of this section.*

This criterion is not applicable as there are no environmentally critical areas mapped by the City of Seattle or otherwise observed on the site.

3. *The Director may exclude land from a CHPD if it is separated from the site by topographical conditions, if it has a poor functional relationship with the site, or if inclusion of the land would negatively impact adjacent single-family zoned lots.*

The site is relatively flat with no ECA's on site. No topographical conditions exist which would warrant exclusion of any land from the CHPD. No portion of the property has a poor functional relationship with the site as a whole. No portion of the site need be excluded from the CHPD due to negative impacts on adjacent single-family zoned lots.

B. *Type of Dwelling Units Permitted. Only single-family dwelling units shall be permitted in a CHPD.*

39 single family homes are proposed.

C. *Number of Dwelling Units Permitted.*  
(response to public comment)

1. *The number of dwelling units permitted in a CHPD shall be calculated by dividing the CHPD land area by the minimum lot size permitted by subsection A of Section 23.44.010 in the single-family zone in which the CHPD is located. Land which is designated environmentally critical due to the presence of a riparian corridor, wetland or steep slope and submerged land shall be excluded from the land used to calculate density in a CHPD. For CHPDs which include more than one (1) zone, the number of dwelling units shall be calculated based on the proportion of land area in each zone.*

The overall square footage of the site and CHPD land area is 199,425 sq. ft. as indicated on the survey. The minimum lot size permitted by SMC 23.44.010-A for the subject single family zone (SF 5000) is 5,000 sq. ft. As a result,  $199,425/5000 = 39.85$ ; thirty-nine (39) units are allowed and thirty-nine (39) dwelling units are proposed. As a result, the proposed number of units proposed to be permitted in the CHPD is consistent with this requirement.

2. *Where portions of a site are designated environmentally critical due to the presence of a riparian corridor, wetland or steep slope according to SMC Chapter 25.09, Regulations for Environmentally Critical Areas, the conditional use provisions for regaining development credit and clustering under Section 25.09.260 shall apply.*

Not applicable.

3. *One (1) additional detached single-family structure may be permitted if the development includes recreational, meeting and/or day care facilities open to the surrounding community.*

There are no additional units proposed beyond what is permitted per subsection C1 above.

D. *Subdivision. A CHPD may be subdivided into lots of less than the minimum size required by subsection A of Section 23.44.010.*

The applicant proposes a subdivision into 39 single family lots. Lot sizes vary from 3,360 sq. ft. – 6,778 sq. ft. Table 1 summarizes the proposed lot sizes. Of the lots proposed, there are eleven (11) lots that are  $\geq 5,000$  sq. ft. and there are twenty-eight (28) lots proposed that are  $\leq 5,000$  sq. ft.

Table 1: Proposed Lots sq. ft. (range)

Number of Lots	Square Footage (range)	Referenced Lot Numbers
19	3,360 – 3,804	16, 22-39
9	4,038 – 4,767	1-5, 17-20
9	5,102 – 5,989	8-15, 21
2	6,699 – 6,778	6, 7

The square footages of lots 7-14 and 17-21 include area of the proposed easement labeled Briarcliff Lane on the proposed plat. The following is the amount of vehicle easement (Briarcliff Lane) area included in the overall lot square footages (see Table 5): **7:** 2228.1, **8 - 12:** 1617.0 each, **13:** 1621.0, **14:** 788.1, **17:** 657.2, **18:** 1323.9, **19:** 1320.0, **20:** 1320.0

and 21: 1485.0. Also, lots 16, 22 and 31-39 have five (5) foot pedestrian sidewalk easements that are included in the each of the lots sq. ft (see Table 5). The area of 39<sup>th</sup> Ave W (proposed to be dedicated to the City of Seattle) is not included in the lot sq. ft. calculations.

E. *Yards. Yards shall be required for structures within a CHPD.*

1. *Structures shall be set back a minimum distance of twenty (20) feet from the street property line of a CHPD.*

Currently, there are two street property lines that abut the site, W. Dravus St. and 39<sup>th</sup> Ave W. From W Dravus St, the applicant proposes setbacks less than 20'. For lots 1 and 21, ten (10) foot setbacks to the W Dravus St. are proposed. For lots 22-30, fifteen (15) foot setbacks are proposed to W. Dravus St. No structure is proposed within 20' from 39<sup>th</sup> Ave W.

A review of the site context is appropriate to analyze and maintain a compatible scale and design with the surrounding community, pursuant to language in criterion E-7 below. On the north side of W Dravus St from 42<sup>nd</sup> Ave W easterly to 37<sup>th</sup> Ave W, a mix of side and front setbacks are found. The setback patterns are not consistent for properties that abut the north side of W Dravus St. Some lots are oriented to face east/west to the corresponding Avenue, with side lot lines abutting W Dravus St. Other lots are oriented to face south towards W. Dravus St, with front lot lines abutting W. Dravus St. As shown in Table 3 below, lots north of and abutting W Dravus St from 42<sup>nd</sup> Ave W to 37<sup>th</sup> Ave W have varying setbacks from approximately thirteen (13) to twenty-four (24) feet<sup>\*</sup>, with an average of approximately 19.4' (see table 3 below and figure 1 at the end of this document).

On the south side of W Dravus St. from 42<sup>nd</sup> Ave W easterly to 37<sup>th</sup> Ave W, all the lots that have street frontage have side lot lines that abut W. Dravus St, no front lot lines. The side lot line pattern facing W Dravus St is consistent along the south side of W Dravus St between 42<sup>nd</sup> Ave W and 37<sup>th</sup> Ave W. As shown below in Table 2, the setbacks south of W Dravus St for lots vary from approximately zero (0) to fourteen (14) feet<sup>\*</sup>, with an average of approximately 8.4' (see table 2 below and figure 1 at the end of this document).

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\* These setbacks were measured using the cities Geographic Information System (GIS). The approximate measurements of the setbacks are not surveyed but provide a reasonable amount of accuracy for setback patterns in the surrounding community. Measurements were made to the outer area of the "building outline" GIS theme. Since this GIS theme includes roofs and eaves in the building outline data it is reasonable to add 18" to measurement to the average to account for the eaves.

Table 2: Side Setback (S side of W Dravus St)

Address	Measurement of Side Yard Setback to W Dravus St (GIS*)
1. 4121 W Dravus St	5'
2. 3055 Viewmont Way W	0'
3. 3054 Viewmont Way W	2'
4. 3803 W Dravus St	6'
5. 3715 W Dravus St	12'
6. 3703 W Dravus St	9'
7. 3056 W Dravus St	14'
<b>Average</b>	6.9'
<b>Adjusted Average</b> (with 18" eave added)	8.4'

The applicant has proposed to orient lots 1 and 21 to face east/west with side lot lines abutting W. Dravus St. With side lot lines being proposed for these two (2) lots abutting W Dravus St and the fact that the lots are oriented facing east/west, to require twenty (20) foot setbacks would break the established pattern along the south side of W Dravus St between 47<sup>th</sup> Ave W east to 37<sup>th</sup> Ave W. Further, setbacks along the north side of W Dravus St vary because some lots are oriented to have front yards facing W Dravus St. In order to preserve the pattern of established side setbacks on the south side of W Dravus St, the proposed ten (10) foot setbacks for lots 1 and 21 are hereby approved by the Director. Requiring this alternate spacing and placement of structures for lots 1 and 21 will maintain a compatible scale and design with the surrounding community as analyzed above.

For lots 22 – 30, the applicant proposes a fifteen (15) foot setback. Lots are proposed to be oriented with front yards facing W Dravus St. As stated above, the established pattern along the south side of W Dravus St is dominated by side setbacks (yards). Since the subject lots (22-30) are proposed to provide their front yards facing W. Dravus St where the predominant pattern is side setbacks, further analysis is appropriate. Table 3 below summarizes the approximate front setbacks\* for structures that provide their front yards on the north side of W. Dravus St from 42<sup>nd</sup> Ave W easterly to 37<sup>th</sup> Ave W.

Table 3: Setback Reference (N side of W Dravus St)

Address	Measurement of Front Yard Setback to W Dravus St (GIS*)
1. 4106 W Dravus St	24'
2. 3205 Viewmont Way W	22'
3. 4032 W Dravus St	24'
4. 4026 W Dravus St	15'
5. 4016 W Dravus St	14'
6. 4012 W Dravus St	13'
7. 3908 W Dravus St	14'
8. 3902 W Dravus St	15'
9. 3718 W Dravus St	20'
10. 3712 W Dravus St	18'
<b>Average</b>	17.9'
<b>Adjusted Average</b> (with 18" eave added)	19.4'

\* These setbacks were measured using the cities Geographic Information System (GIS). The approximate measurements of the setbacks are not surveyed but provide a reasonable amount of accuracy for setback patterns in the surrounding community. Measurements were made to the outer area of the “building outline” GIS theme. Since this GIS theme includes roofs and eaves in the building outline data it is reasonable to add 18” to measurement to the average to account for the eaves

In concert with the above information, the appropriate setback to provide a compatible scale and design with the surrounding community must take into consideration, along with the north structure setbacks, the predominance of side setbacks provided along the south side of W. Dravus St. As stated above, the setbacks for the structures on the south side of W Dravus St are between zero (0) and fourteen (14) feet with an average of 8.4'. If the prescribed 20' were required along W Dravus St it would create a pattern of setbacks not consistent with the surrounding community.

Also, allowing structures closer to W Dravus St keeps eyes of residents on W Dravus St, which will both maintain a compatible setback pattern while simultaneously providing community surveillance of the street. In order to preserve the well established setbacks along the south side of W Dravus St and to provide front yards that will maintain a compatible scale and design with the surrounding community, the Director approves fifteen (15) foot setbacks along W Dravus St for proposed lots 22-30. Requiring this alternate spacing and placement of structures for lots 22-30 will maintain the established setback scale and design with the lots along the south side of W Dravus St, while providing community surveillance and usable yards for the proposed single family lots.

All structures will be set back a minimum of twenty (20) feet from 39<sup>th</sup> Ave street property line of the CHPD.

- 2. No dwelling unit in a CHPD shall be closer than five (5) feet to a side lot line of an abutting single-family zoned lot.*

Only one side lot line of an abutting single family zoned lot (3008 39<sup>th</sup> Ave W) abuts the subject property. No structure is proposed within five (5) feet of this side lot line. As a result this requirement is met.

- 3. No dwelling unit in a CHPD shall be closer than twenty-five (25) feet to a rear lot line of an abutting single-family zoned lot.*

There are two lots proposed which do not meet this requirement, lots six (6) and fifteen (15). The proposed building envelope on lot six (6) is fifteen (15) feet away from two (2) rear lot lines of abutting single family zoned lots (3033 and 3037 38<sup>th</sup> Ave W). The proposed building envelope on lot fifteen (15) is proposed to be five (5) feet away from the rear lot lines of two (2) abutting single family zoned lots (W 3942 and 3938 Barrett Streets). In this case, the proposed five (5) foot south setback for lot fifteen (15) is not appropriate to preserve or enhance topographical conditions, adjacent uses, and the layout of the project or to maintain a compatible scale and design with the surrounding community. The Director finds no code authority for requiring a reduced south setback for proposed lot fifteen (15).

Analysis of lot six (6) and the context is appropriate. A Copper Beach "Heritage" tree is located on the property adjacent (8297 39<sup>th</sup> Ave W) to proposed lot six (6), and the inner root zone and tree canopy project onto the proposed lot. The tree measures thirty-five (35) inches in diameter, sixty (60) foot tall and fifty (50) foot wide as stated in the arborist's report dated 8.23.04. This tree received Heritage Tree status in 1999 by City of

Seattle and Plant Amnesty. The tree is stated by the arborist to be a “stunning healthy specimen.” The arborist gives several recommendations in order to retain the tree during construction. The applicant shows the arborist’s recommended twenty-five (25) foot tree protection zone setback from the trunk in order to protect the tree issued by the arborist (Favero Greenforest, M. S. of Greenforest Inc.). This setback is shown on sheet C9 of the plan set. In light of the applicant making preparations to save the Heritage Tree not located on the subject property, topographical conditions exist to warrant alternate placement (see subsection 7 below for analysis) of structures.

4. *No dwelling unit in a CHPD shall be closer than five (5) feet to any lot line of an abutting non-single-family zoned lot.*

Not applicable, all abutting lots are zoned Single Family.

5. *There shall be a minimum distance of ten (10) feet between principal structures which are within one hundred (100) feet of the property line of a CHPD.*

All proposed building envelopes are separated by no less than ten (10) feet. As a result, this requirement is satisfied.

6. *To provide a sense of privacy, and to mitigate the effects of shadows between structures which are more than one hundred (100) feet from the property line of CHPD, required yards between structures in the CHPD shall vary depending on the design of the facing facades as follows:*

- a. *Walls shall be not less than ten (10) feet apart at any point.*

All proposed building envelopes are separated by no less than ten (10) feet. As a result, this requirement is satisfied.

- b. *A principal entrance to a structure shall be at least fifteen (15) feet from the nearest interior facade which contains no principal entrance.*

The actual layout of each single family home will be determined during the building permit phase of the project, as no floor plans have been submitted for the proposed lots. The manner in which the lots are proposed, this requirement is feasible, depending on the proposed floor plans of each individual single family home. Conditioning authority of the Conditional Use is appropriate to ensure that this standard is met for all proposed lots and structures.

- c. *A principal entrance to a structure shall be at least twenty (20) feet from the nearest interior facade which contains a principal entrance.*

The actual layout of each single family home will be determined during the building permit phase of the project, as no floor plans have been submitted for the proposed lots. The manner in which the lots are proposed, this requirement is feasible depending on the proposed floor plans of each individual single family home. Conditioning authority of the Conditional Use is appropriate to ensure that this standard is met for all proposed lots and structures.

7. *The Director may increase the minimum required yards or require alternate spacing or placement of structures in order to preserve or enhance topographical conditions, adjacent uses and the layout of the project and to maintain a compatible scale and design with the surrounding community.*

See discussion above for analysis on alternate spacing of lots regarding external yards of the CHPD property.

An analysis of the internal required yards between structures within the CHPD is appropriate. Table 4 below is a summary of the proposed internal yards (not CHPD boundary yards) for all lots from both the proposed easement and dedicated right of way.

Table 4 Proposed Internal Setbacks

Lot Number(s)	Proposed Setback From Briarcliff Lane (proposed easement)	Proposed Setback From 39 <sup>th</sup> Ave W (proposed dedicated street)
1-6	Does not abut	5'
7	10'	5'
8-14	10'	Does not abut
15, 16	Does not abut	Does not abut
17-21	10'	Does not abut
22	10' (5' from sidewalk)	Does not abut
30	Does not abut	5'
31	10' (5' from sidewalk)	5'
32-39	10' (5' from sidewalk)	Does not abut

The layout and front setback proposal for the proposed CHPD is a mix of between five (5) and ten (10) foot setbacks when measured from the adjacent sidewalks of the proposed easement (Briarcliff Lane) and 39<sup>th</sup> Ave W (street to be dedicated). The developer has made several design choices and amenities such as alley vehicle access for 31 of the 39 lots proposed. Also, driveway access curbcuts have been minimized with only four (4) cuts throughout the entire CHPD (see figure 3 at the end of this document). The four driveway curbcuts serving eight lots (lots 7-14) are proposed as shared driveways, one drive for each for two lots. The proposal's dominant alley access, reduction of driveway curbcuts and use of shared driveways are design amenities that will produce great benefit for the development as a whole.

The applicant is proposing New Urbanism as a design concept for the CHPD, which is a concept that promotes human interaction among other principles. Some general principles of New Urbanism include: bringing structures closer to the street, reducing the effect of the automobile by reducing garages facing the street and keeping eyes of the residents on the street to promote community surveillance.

Table 5 (Proposed Lot sq. ft. Analysis)

The applicant has proposed both five (5) and ten (10) foot internal CHPD setbacks (internal yards) from proposed building envelopes to the proposed sidewalks. With vehicles absent between the sidewalk and the structures as a result of the applicant’s design choices, more light and architectural interest will be visible from the easement and the dedicated right of way (39<sup>th</sup> Ave W). Specifically, since no structure in the CHPD will have a garage facing an easement or street, the front facades of the single family structures will have more space for porches and windows facing the street, further putting “eyes on the street.”

The proposed reduction of setbacks from single family zoning standards will enhance the layout of the project and be in line with the design principles proposed by the applicant. The appropriate setbacks are found by looking at one or more of three (3) issues: 1) compatible in scale and design with surrounding community, 2) enhancing the layout of the project, and 3) to enhance topographical conditions. Since no topographical conditions exist on the site, this issue will not be analyzed.

Looking at the scale of the proposed lots (see Table 5) in comparison with the surrounding community, lots proposed are smaller in scale than surrounding lots (see Table 6). Taking a look at the averages between the five (5) selected areas of surrounding (Table 6) lots chosen for comparison and proposed lot sizes, it is clear that, on average, proposed lots are smaller in scale; approximately one-half the size of surrounding lots.

In light of the smaller scale of proposed lot sizes when compared to existing lot sizes in the area, it is reasonable that reduced setbacks would be compatible with the surrounding community, as discussed below. For some lots (1-6 and 31-39) the applicant proposes five (5) foot “front” setbacks from the adjacent sidewalk.

Square Footage of proposed lot	Number of Lots	Proposed Lot Number
3,360	14	23-29, 32-38
3,409	1	16
3,656	1	31
3,708	1	39
3,780	1	30
3,804	1	22
4,038	1	4
4,129	1	17*
4,180	1	3
4,188	1	2
4,259	1	5
4,623	1	1
4,760	2	19, 20*
4,767	1	18*
5,102	1	15
5,399	1	21*
5,417	1	14*
5,970	1	8*
5,972	1	9*
5,975	1	10*
5,977	1	11*
5,980	1	12*
5,989	1	13*
6,699	1	6
6,778	1	7*
Total = 121,919 Average Lot Size = <b>3,126*</b>	39	

\* For lots 7-14 and 17 -21, lot sizes include the proposed easement, Briarcliff Lane

Considering that the proposed lots are approximately half the size of the average of the five areas of lots sampled that surround the site, coupled with the proposal's positive design choices, dominant alley access, reduction of driveway curbcuts and use of shared driveways; it would be compatible with the surrounding community and enhance the layout of the project to require ten (10) foot front setbacks from the innermost edge of sidewalk. Five (5) foot setbacks from side lot lines to sidewalks, as proposed by the applicant for lots 7, 22, 30, 31, and 39, is compatible with the surrounding community and single family zones in general.

The applicant has proposed lots 7-14 and 17-21 with ten (10) foot front setbacks, which concurs with the analysis above. In contrast, for lots 1-6 and 31-39 the applicant shows five (5) foot front setbacks (from the sidewalk), which would not be compatible with surrounding community. Since lots proposed are approximately half the size of surrounding lots on average (see Table 5 and 6), as shown in the above analysis, allowing a five (5) foot front setback to the sidewalk would be out of scale with the surrounding community scale and single family zoning. Allowing the five foot setbacks from structure to property line would result in structures which appear overly bulky and out of character. In general, the Land Use Code does not allow five (5) foot front setbacks in Single Family or Lowrise residential zones, averaging and variances notwithstanding. As a result, proper conditioning is appropriate to ensure a compatible scale with the surrounding neighborhood.

It should be noted that a standard single family front yard requirement is 20' per SMC 23.44.014-A. Lots are not proposed to be 25% of the scale of the surrounding community but are on average 46% the size (3,126 sq. ft.) of the sampled surrounding lots (6,757 sq. ft.) (see Tables 5, 6 and Figure 3). As a result, lots 1-6 and 31-39 should provide ten (10) foot front yard setbacks to the property line.

Lot six (6), as stated earlier, has a topographical issue with regard to no grading in order to preserve the Heritage Copper Beach Tree located just south of lot six (6). Approximately 724.8 sq. ft. of lot six (6) cannot be developed because of the recommended tree setback in concert with the proposed five (5) foot setback from 39<sup>th</sup> Ave W. As the Director has required a ten (10) foot setback from 39<sup>th</sup> Ave W, the actual non-developable area that is lost because of the retention of the tree is less than 724.8 sq. ft. With a ten (10) foot front yard, the buildable area would only be reduced by approximately 500 sq. ft. As a result, the applicant should be able to add 500 sq. ft of buildable area to the rear yard of proposed lot 6 to account for the tree protection area. This would result in a rear yard of about fifteen (15) feet. Lot width of lot 6 is approximately fifty (50) feet, so adding ten (10) feet of buildable area to the rear yard would recover the proposed square footage lost as a result of the tree protection. Considering the analysis above, the proposed fifteen (15) foot rear yard for proposed lot 6 is hereby approved by the Director.

Table 6 (Surrounding Lot Analysis, also see figure 2 at the end of this document)

Address Range (location)	Square Footage (number of lots)	Average sq. ft. of Lot
1. 3803 W Dravus St – 3001 38 <sup>th</sup> Ave W  (lots directly east of the site along 38 <sup>th</sup> Ave W)	5,228 (3) 5,913 (1) 5,922 (4) 6,759 (1) 6,824 (1) 8,161 (1)	<b>6,093</b>
2. 3005 39 <sup>th</sup> Ave W – 3942 W Barrett St  (lots directly south of the site along W Barrett St)	All lots between 8,548 – 8,560 (8)	Approximately <b>8,554</b>
3. 3004 – 3054 Viewmont Way W  (lots directly west of the site along Viewmont Way W)	11,600 (1) 5,800 (4) 4,756 (1) 4,640 (4) 4,717 (1) 6,767 (1)	<b>5,800</b>
4. 2866 – 3088 39 <sup>th</sup> Ave W  (lots just south of the site along 39 <sup>th</sup> Ave W)	8,297 (5)	<b>8,297</b>
5. 4032 – 3712 W Dravus St  (lots just north of the site across and along 39 <sup>th</sup> Ave W)	5800 (2) 5175 (1) 4050 (1) 3075 (1) 7175 (1) 4802 (1) 5346 (1) 4545 (1) 4680 (1)	<b>5,045</b>
	<i>Five area lot sq. ft. Average</i>	<b>6,757</b>

F. *Landscaping. The Director may require landscaping along some or all exterior lot lines of a CHPD to minimize the effect of the CHPD on adjacent uses. The Director may require the retention of existing mature landscaping. In addition, landscaping may be required to reduce the potential for erosion or excessive stormwater runoff, reduce the site coverage by impervious surfaces, and screen the parking from the view of adjacent residentially zoned lots and the street.*

*Plant species shall be compatible with surrounding flora. Maintenance of the landscaping shall be the continuing responsibility of the owner.*

The proposed platting pattern attempts to maintain compatibility by providing rear yards abutting (off-site) rear yards of surrounding lots, proposed lot 15 notwithstanding. Also,

the applicant proposes side yards facing abutting side yards of surrounding lots. There is some healthy landscaping along the south, east and west property lines of the development site that should be retained to minimize the effect of the CHPD on the surrounding single family uses. The alleys, a positive design feature of the proposal, may require landscaping to be removed. Specifically, landscaping can be used to minimize the effect of the CHPD on the adjacent uses especially for proposed lot 15. Due to the lot placement and proposed five (5) foot side yard abutting an adjacent rear yard, the existing trees located upon proposed lot 5 should be retained, depending on the outcome of the project. A tree report from a certified arborist shall be required to recommend a set back appropriate to retain the trees. Please see above analysis for proposed lot 15 as the Director finds no reason to require alternate placement to enhance the layout of the project (SMC 23.44.024-E3). Also, mature landscaping exists along the south property and southern portions of the east and west property lines for abutting properties; these trees should also be maintained to the greatest extent possible. Since this portion of the site is predominantly rear yards (lots 7-14), no reason exists to not retain these trees, there is sufficient setback proposed. The construction of 39<sup>th</sup> Ave W may require landscaping be removed, but should be avoided to the greatest extent possible. A landscape retention plan addressing the concerns above should be provided to the Land Use Planner for review prior to the issuance of the Master Use Permit.

The second submittal of the plans by the applicant provides a landscape plan which shows replaced street trees along W Dravus St, street trees and planting strips along 39<sup>th</sup> Ave W (to be dedicated), 3 curb bulbs with planting strips in the proposed easement (Briarcliff Lane), two landscape / buffer tracts (A and B) on either side of alleys A and C, and lastly a no build zone on proposed lot 6 to protect the Heritage Copper Beach Tree as recommended by the arborist.

The proposed landscape buffer Tracts A and B are not required or needed to buffer the development from adjacent lots, considering the proposed alleys. The proposed buffers are proposed to be privately owned and not dedicated to the city. This fact would preclude lots on either side of the landscape buffers from taking vehicle access from the alleys A and B. In this case, proper conditioning is appropriate to ensure that proposed alleys A and B are available for access from lots on the west side of proposed alley A and on the east side of proposed alley B (see subdivision recommendations at the end of this document).

#### SMC 23.44.018 - General Provisions

- A. *Only those conditional uses identified in this subchapter may be authorized as conditional uses in single-family zones. The Master Use Permit Process set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions shall be used to authorize conditional uses.*

Per SMC 23.44.024, CHPDs are identified within the subchapter of Administrative Conditional Uses and the site is located within a single family zone.

- B. *Unless otherwise specified in this subchapter, conditional uses shall meet the development standards for uses permitted outright in Sections 23.44.008 through 23.44.016.*

See above (SMC 23.44.024), for development standard analysis.

- C. *A conditional use may be approved, conditioned or denied based on a determination of whether the proposed use meets the criteria for establishing a specific conditional use and whether the use will be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.*

See Administrative Conditional Use analysis above for the proposal's requirements and criteria information. The proposal is to allow thirty-nine (39) single family dwelling units on a 4.58 acre piece of property. The proposal makes provisions for dedication of rights of way (39<sup>th</sup> Ave W and alleys A, B, and C). Sidewalks are proposed throughout the development. One vehicle easement is proposed with curbs, gutters and sidewalks. The property in the zone or vicinity of the subject site is comprised of the same zoning designation and use as is proposed by the applicant. The subject site is zoned Single Family 5000 (SF 5000) and is surrounded by single family zoning on all sides of the site. Only Single Family use is found abutting and in the immediate vicinity of the site. After appropriate analysis and conditioning, the proposed conditional use will not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

- D. *In authorizing a conditional use, the Director or Council may mitigate adverse negative impacts by imposing requirements or conditions deemed necessary for the protection of other properties in the zone or vicinity in which the property is located.*

- E. *Any use which was previously authorized by a conditional use permit but which has been discontinued shall not be reestablished or recommenced except pursuant to a new conditional use permit, provided that such permit is required for the use at the time re-establishment or recommencement is proposed. The following shall constitute conclusive evidence that the conditional use has been discontinued:*

1. *A permit to change the use of the property has been issued and the new use has been established; or*
2. *The property has not been devoted to the authorized conditional use for more than twenty-four (24) consecutive months*

*Property which is vacant, except for dead storage of materials or equipment of the conditional use, shall not be considered as being devoted to the authorized conditional use. The expiration of licenses necessary for the conditional use shall be evidence that the property is not being devoted to the conditional use. A conditional use in a multifamily structure or a multitenant commercial structure shall not be considered as discontinued unless all units are either vacant or devoted to another use.*

Not applicable.

*F. Minor structural work which does not increase usable floor area or seating capacity and does not exceed the development standards applicable to the use shall not be considered an expansion, unless the work would exceed the height limit of the zone for uses permitted outright. Such work includes but is not limited to roof repair or replacement and construction of uncovered decks and porches, bay windows, dormers, and eaves.*

Not applicable.

## **DIRECTOR'S ANALYSIS – SUBDIVISION**

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 recommendations to approve, approve with conditions, or deny the application.*

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

### **1. Recommendations and Comments by Affected City Departments and Other Government Agencies Having an Interest in the Application**

The following represents a summary of the comments received from the agencies indicated. Information and documentation from each review agency is available in the DPD project file. This review is required per SMC 23.22.024, with plans and supporting information distributed to each department.

#### **A. Director Seattle Department of Transportation (SDOT)**

SDOT recommends to DPD and the Hearing examiner DENIAL of this PLAT; it is missing the rights-of-way dedications for streets and the standard street improvements for those streets.

The Plan dated March 2005 has:

1. 39<sup>th</sup> Ave West Rights-of-way is shown 50 foot wide, but has too sharp of an "s" curve for the rights-of-way line and does not show the roadway extending from West Barrett Street to West Dravus Street as concrete paved, the plan proposes a play area and play court as part of this plat; and

2. Briarcliff Lane is proposed as private easements 33 foot Access / Utility plus a 5 foot sidewalk, yet it is shown as a public street, it has public utilities and is intended to be used by the public for access to the properties and utilities including garbage collection; and
3. 40<sup>th</sup> Ave West and West Etruria Street are not shown as Public Rights-of-way and are labeled as a private easement named Briarcliff Lane; and
4. Alleys: A, B and C.
  - a. Alley A connects to West Dravus Street and dead ends into the private easement called Briarcliff Lane, but has a Tract A landscape buffer separating it from properties to the West; and
  - b. Alley B connects to 39<sup>th</sup> Ave West and dead ends into the private easement called Briarcliff Lane; and
  - c. Alley C connects from West Dravus Street to 39<sup>th</sup> Ave West, but has a tract B landscape buffer separating it from properties to the east.

Recommendations Summary

SDOT recommends to the Hearing Examiner that the roadways shown on this application be revised to and shown as dedicated streets as stated in September comments to DPD attached.

SDOT recommends that 39<sup>th</sup> Ave West be designed and constructed as a through concrete street between West Dravus Street and West Barrett Street. SDOT recommends that the rights-of-way for 39<sup>th</sup> Ave West be platted with a larger horizontal radius' in the 'S' curve between straight sections of 39<sup>th</sup> Ave West to accommodate design speed.

SDOT recommends that no play area or play court located in 39<sup>th</sup> Ave West rights-of-way be shown on the plat or subdivision. Separate permits for this temporary use may be granted by SDOT for short terms and should not be part of this plat or subdivision process.

Alternate SDOT recommendation if Briarcliff Lane is not dedicated

If the Briarcliff Lane remains an easement Private Roadway, then the alleys "A" and "B" should be connected across the easement platted as public alleys, otherwise these alleys would be platted dead end alleys. If Briarcliff were an "easement for street" granted to Seattle, 40 foot wide, then the alleys "A" and "B" would connect through, the underlying property would still be owned according to the lot lines of the plat and the Public Utilities could have access through the Public Street easement to the Public Utilities.

SDOT does not recommend sidewalks next to the curb; we recommend a landscape buffer between the pedestrians and the vehicles. If the sidewalk is next to the curb on the allowed parking side, then that sidewalk should be 6 foot wide.

SDOT recommends that the alley landscape Tracts "A" and "B" be dedicated to Seattle for future access to adjacent parcels.

*The section below was copied from a previous memo to DPD from SDOT dated September 2004:*

Discussions within SDOT resulted in the conclusion that 39th Avenue West between West Barrett Street and West Dravus Street needs to go through as rights-of-way. SDOT requires that the street be aligned by using the center of each existing right-of-way at the south of this property and the north side of West Dravus Street to provide a bearing for the centerline of this new right-of-way.

The Platting code requires that the Rights-of-way be platted 60 feet wide, SDOT would consider a 50 foot Rights-of-way if the utilities and water quality features could be designed to fit with a road design. The SDOT recommended width of the rights-of-way is in the Seattle Street Improvement Manual, table 7 listed as 50 foot for this SF5000 Land Use Zone, it assumes that standard designs are used, like Exhibit VI.

SDOT also recommends that the proposed internal ingress / egress easement streets be platted as 60 foot wide Public Streets (unless designed to fit in 50 foot width as stated above). The dedication should be done as follows: Dedicating 40<sup>th</sup> Ave West connecting at West Dravus Street and south to a bend then east as West Etruria Street to connect with 39<sup>th</sup> Ave West that extends south from West Dravus street to the northern extension of 39<sup>th</sup> Ave west north of West Barrett Street as Public Streets. All of the Utilities both public and private utilities should be designed and installed in these public streets before paving.

SDOT requires that the streets be constructed according to Exhibit VI of the Seattle Street Improvement Manual. For 39<sup>th</sup> Ave West extend the southern 6 inch thick 25 foot wide concrete paved street north to West Dravus Street. For 40<sup>th</sup> Avenue West and West Etruria Street extend a 6 inch thick 25 foot wide concrete paved street between West Dravus street and 39<sup>th</sup> Ave West. Provide street lighting, street drainage, curb ramps, sidewalks, street trees in landscaped planting strips, and traffic control. Provide utilities in the new street such as: water main, sewer main, storm main, drainage systems with water quality features, gas main, communication, and power, etc.

The Street Improvement Permitting staff at SDOT can assist the developer's design engineering team with early design guidance of the construction plans for the street improvements. Contact staff at 206-684-5044.

SDOT recommends that Public Streets and Public 12-foot alleys be dedicated as part of this plat (some of the alleys may qualify as 16 foot or 24 foot private easements depending upon designs proposed).

**B. Director of Seattle Public Utilities (SPU)**

SPU recommended approval subject to the following comments. Each comment corresponds to a specific page of the proposed preliminary plat:

<b>Sheet No.</b>	<b>Comments</b>
<b>C5</b>	<ul style="list-style-type: none"><li>• City owned mainlines shall be labeled PSD and shall be either concrete or DIP- All tees shall be prefabricated. No cut in tees allowed.</li><li>• Private lines shall be labeled SD</li></ul>

- MHs shall be type 200 with full depth channeling. Do not use 240 catch basins for MHs.
  - Catch basins used along curbs shall be type 242B for collection of the street runoff. Pipes shall be shown teed in perpendicular to the main line. Types 241 are for alley or parking lot only.
- C6**
- Sewer capacity check required at SIPP. May require you to split the flows between Arapahoe Place and 40th Ave W
  - City owned sewers shall be labeled PSS (sanitary only) and shall be either concrete or DIP
  - All proposed side sewers shall be shown as teed in perpendicular to the sewer main. All tees on the main line shall be prefabricated. No cut in tees allowed.
- C7**
- At MH 2 the pipe does not have 6' minimum cover. Suggest trying to eliminate MH2 and pull straighter grade. 2% minimum grade on all pipes slopes.
- C8**
- Need to show PSD shall be 6' minimum cover
  - Minimum PSD size shall be 12" diameter
  - Minimum slope for PSD shall be 1% minimum

**NA**

**General Plan Comments**

- Sewer profiles missing.
- PSS minimum size is 8"
- Minimum velocity is 3 feet per second
- Minimum depth of sewer shall be 12 feet.
- No other utilities shall be parallel over the proposed PSD or PSS within 5 feet.

C. Superintendent of City Light

City Light recommended approval subject to the following conditions:

D. Chief, Fire Department

(response to public comment)

The Fire Department recommended approval subject to ordinance, field inspections and providing the following corrections are met:

1. The scope of this approval is limited to a review of revised emergency vehicle access and fire hydrant proximity for 39 future single family homes, construction details of which have not been provided. The drawings do not depict construction details and as a result compliance with fire code requirements (other than access and hydrant location) are outside the scope of this approval.
2. Provide a fire flow analysis to the Fire Department of the flow available to the new fire hydrants. The minimum required fire flow for single family residences is 1,000 gpm, unless the structure is greater than 3,600 sq. ft, in which case see Appendix B of the Seattle Fire Code to determine required fire flow.

E. Director of Public Health

The Director of Public Health did not comment.

F. Director of Housing

The Director of Housing did not comment.

G. Superintendent of Parks and Recreation

The Superintendent of Parks and Recreation had no comments.

H. Metropolitan Services Department

The Metropolitan Services Department had no comments.

I. Other Governmental Agencies

No comments were made on the proposal by other governmental agencies.

**2. Responses to Written Comments of Interested Citizens**

Countless comments on the proposal were submitted to DPD by email, mail and phone call. The majority of comments were in opposition to the proposed development. The following comments were stated in many letters: too many lots proposed, 39<sup>th</sup> Ave W should be opened to relieve traffic, quantity of on street parking concerns, concerns about property values, traffic generation, character of the neighborhood, emergency access, and that the application does not meet the requirements for CHPD approval. Responses to the above comments and questions are found throughout the decision at the applicable location and are noted as responses to written comments. These locations and areas will be noted by the following (response to public comment).

**3. Evaluation of the Proposal Pursuant to Applicable Codes**

The preliminary plat process is detailed in SMC 23.22, Subchapter II, providing criteria to evaluate proposed subdivisions. These criteria include evaluation of protective improvements for topographical and surface hazards, dedications, the public use and interest, environmentally

critical areas, transportation concurrency level of service and unit lot subdivisions. The following section is a discussion of these criteria.

SMC 23.22.050 - Topographical and surface hazards – Protective improvements.

*Land having topographical or subsurface conditions hazardous to the health, safety or general welfare of persons or property in or near a proposed subdivision shall not be subdivided unless the construction of protective improvements will eliminate the hazards or unless land subject to the hazard is restricted to uses which will not expose persons or property to the hazard. Protective improvements consistent with the standards established in Subchapter VI shall be constructed, prior to final plat approval unless a performance bond acceptable to the Director of Engineering is filed in lieu of the improvements.*

The site is generally flat with slopes less than 2% and contains no mapped or observed environmentally critical areas. No area of the site has topographical or subsurface hazards that would affect the health, safety or general welfare of persons or property in or near a proposal. As a result the entire site is available for subdivision. The applicant has recognized a non-disturbance area for proposed lot 6, in order to preserve the Copper Beach “Heritage Tree” located just south of the site, near proposed lot 6. With regard to topographical and subsurface conditions, no protective covenants are required for the proposal.

SMC 23.22.052 - Dedications required.

- A. *Every subdivision shall include adequate provision for dedication of drainage ways, streets, alleys, easements, slope rights, parks and other public open spaces for general purposes as may be required to protect the public health, safety and welfare.*

The initial proposal made no provisions for dedications of rights of way. After Seattle Department of Transportation (SDOT) and DPD issued initial corrections and comments, the applicant made provisions to dedicate all three (3) alleys (A-B-C), all at twelve (12) feet in width (originally proposed as 20’ wide). Twelve feet is the Land Use Code requirement for new alleys (Chart A – SMC 23.53.030) and is supported by the Director. Twelve feet provides ample room for maneuvering while simultaneously minimizing pavement coverage and in turn surface runoff from the site.

(response to public comment)

Considering the SDOT and DPD corrections, the applicants also made provisions to dedicate 39<sup>th</sup> Ave W as a through street. The dedication of this street will have all required street improvements (curb, gutter, sidewalk, planter strip, and street trees). 39<sup>th</sup> Ave W is proposed as a fifty (50) foot right of way, which meets both the width requirements of the Land Use Code (Chart A – SMC 23.53.010) and the requirements of the Street Improvement Manual (Table 7 page 2-36). The applicants propose bollards to preclude vehicle access through 39<sup>th</sup> Ave W. Considering the analysis of traffic impacts discussed in the SEPA analysis below, the opening of the 39<sup>th</sup> Ave W will not have a SEPA impact that requires opening the street to vehicle traffic. DPD recommends that SDOT provide analysis of whether or when the bollards should be removed. 39<sup>th</sup> Ave W will be fully constructed so that that bollards can be easily removed and allow for vehicle traffic instantly.

The applicant proposes the remaining vehicle access (Briarcliff Lane) as an easement, see subsection below for analysis on allowing vehicle access by easement. Accordingly, these criteria are met.

*B. Protective improvements and easements to maintain the improvements shall be dedicated at the discretion of the City.*

Easements over the private vehicle access drive and sidewalk(s) are required as a condition of final plat approval. This criterion is met. Rights to Briarcliff Lane will be granted to the city for maintenance of the utilities and the easement surface and sidewalks will be maintained by the Home Owner's Association.

*C. Convenient pedestrian and vehicular access to every lot by way of a dedicated street or permanent appurtenant easement shall be provided. Access from a dedicated street shall be required, unless the Director determines that the following conditions exist, and permits access by a permanent private easement:*

The applicant proposes Briarcliff Lane as a thirty-three (33) foot wide vehicle access easement owned by the home owner's association and utilities (water and drainage) maintained by the City of Seattle. The details of the proposed Briarcliff Lane easement include: twenty eight (28) foot wide curb to curb dimension and a five (5) foot sidewalk pedestrian easement (south side of Briarcliff Lane). Also, on the north side of Briarcliff Lane, another five (5) foot pedestrian easement is proposed which abuts proposed lots 31 – 39 and 22. Both pedestrian easements will be constructed as sidewalks. Parking is proposed on only one side of the easement.

*1. Access by easement would not compromise the goals of the Land Use Code to provide for adequate light, air and usable open space between structures; and*

Considering the applicants design choices: alley access for all but eight (8) lots, only four (4) driveway curbcuts (shared) in the entire development, and parking only on one side of the proposed easement, the absence of the automobiles affect on the streetscape is minimized. Also, trees are proposed in the yards abutting the easement for lots 7-13, 17-22, and 31-39 (see sheet C4 of the MUP plan set). As a result, the goals of the Land Use Code to provide adequate light, air and usable open space between structures would not be compromised. This condition is satisfied.

*2. The dedication and improvement of a street is not necessary or desirable to facilitate adequate water supply for domestic water purposes or for fire protection, or to facilitate adequate storm drainage; and*

Water supply and storm drainage facilities can be accommodated in the proposed easement as reviewed and given preliminary approval by Seattle Public Utilities. The Seattle Fire Department has given preliminary approval of the 33' (28' curb to curb width; see Fire Department comments above) easement with parking allowed only on one side of the easement. As a result this condition is satisfied.

*3. The dedication and improvement of a street is not necessary or desirable in order to provide on-street parking for overflow conditions; and*

(response to public comment)

The proposed thirty-nine (39) single family lots will provide two (2) parking spaces per lot for a total of seventy-eight (78) spaces on the lots. Further, thirty-one (31) on street parking spaces will be provided along one side of the proposed easement Briarcliff Lane and along both sides of 39<sup>th</sup> Ave W. The proposed easement is twenty-eight feet wide measured from curb to curb, three (3) feet wider than the city standard for a new platted streets, which is twenty-five (25) feet curb to curb width. As a result of the proposed parking plan, the dedication and improvement of a street is not necessary or desirable in order to provide an on-street parking for overflow. As a result this condition is satisfied.

- 4. No potential safety hazards would result from multiple access points between existing and future developments onto a roadway without curbs and with limited sight lines; and*

As stated the easement will have sidewalks on both sides, curbs, gutters and a paved roadway larger than is required for newly platted streets. The easement will not have limited site lines beyond what would be for a dedicated right of way. As a result this condition is satisfied.

- 5. There is identifiable access for the public and for emergency vehicles; and*

There will be appropriate street signage matching street signage in the area. The easement will read as a platted street and the easement language should be detailed to allow vehicles to travel on Briarcliff Lane. In order to provide clarity for all vehicles, the signage and easement name should be altered to read Briarcliff Lane W (for north/south parallel portion) and W Briarcliff Lane (for east/west portion). As a result this condition is satisfied.

- 6. There is no potential for extending the street system.*

Considering that 40<sup>th</sup> Ave W terminates at 8560 W Barrett St, there is no potential for extending 40<sup>th</sup> Ave W. There is no street to extend from the east or west of the site. As stated, 39<sup>th</sup> Ave W will be dedicated as a fully developed street. As a result this condition is satisfied.

- D. Roads not dedicated to the public must be clearly marked on the face of the plat.*

All proposed dedications and easements will be clearly labeled as recommended by the Director.

- E. If the Hearing Examiner concludes that the public interest will be served, the Hearing Examiner may, in lieu of requiring the dedication to the public of land in a subdivision for protective improvements, drainage ways, streets, alleys, sidewalks, parks and other open space, allow the land to be conveyed to a homeowner's nonprofit maintenance corporation. In that case the subdivider shall, at or prior to the time of filing a final plat for approval, supply the Director with copies of articles of incorporation and bylaws of the grantee organization and with evidence of the conveyance or of a binding commitment to convey. The articles of incorporation shall provide that membership in the corporation shall be conditioned upon ownership of land in the subdivision, that the corporation is empowered to assess the land for costs of construction and maintenance of the improvements and property owned by the corporation, and that the assessment shall be a lien upon the land. The City Attorney shall review and approve the articles of incorporation and bylaws as to compliance with this provision. The Hearing Examiner may impose other conditions as he or she deems appropriate to assure that property and improvements owned by the corporation will be adequately constructed and maintained.*

The roadway and adjacent sidewalks of the proposed easement, Briarcliff Lane, are proposed to be maintained by homeowners. The City of Seattle will maintain the utilities within Briarcliff Lane (water and sewer).

- F. *Any dedication, donation or grant as shown on the face of the plat shall be considered, to all intents and purposes, as a quitclaim deed to the donee or donees, grantee or grantees, for his, her or their use for the purpose intended by the donors or grantors.*
- G. *Dedicated streets and alleys shall meet the requirements of Chapter 23.53 and the Street Improvement Manual. Easements shall meet the requirements of Section 23.53.025.*

The requirements of the applicable Chapters and Sections will be met.

SMC 23.22.054 Public use and interest.

*The Hearing Examiner shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. The Hearing Examiner shall consider all relevant facts to determine whether the public interest will be served by the subdivision and dedication, and if it finds that the proposed plat makes appropriate provision for the public health, safety and general welfare and for open spaces, drainage ways, streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, fire protection facilities, parks, playgrounds, sites for school and schoolgrounds, sidewalks and other planning features that assure safe walking conditions for students who walk to and from school, is designed to maximize the retention of existing trees, and that the public use and interest will be served by the platting of subdivision, then it shall be approved. If the Hearing Examiner finds that the proposed plat does not provide the appropriate elements or that the public use and interest will not be served, then the Hearing Examiner may disapprove the proposed plat. Dedication of land to any public body may be required as a condition of subdivision approval and shall be clearly shown on the final plat. The Hearing Examiner shall not as a condition to the approval of any plat require a release from damages to be procured from other property owners.*

The public interest will be served by the proposed subdivision. The proposed plat makes appropriate provision for the public health, safety and general welfare. The project develops an urban infill site currently unused by the community, providing needed housing opportunities. The project includes two open space proposals: 1.) construct a neighborhood play area at the south end of the dedicated portions of 39<sup>th</sup> Ave W and 2.) off-site improvements to the water tower open space land just north of the site (see figure 3 between 38<sup>th</sup> and 39<sup>th</sup> Avenues W). The Director supports either of the open space improvement proposals, if feasible. The project includes a stormwater system, on-site easements (pedestrian and vehicle), a dedicated street and three dedicated alleys. The project will be served by the public water and sewer systems, which have adequate capacity. The Fire Department has reviewed and given conceptual approval to the subdivision. The public street in the project includes curbs, gutters, sidewalks, planter strips and street trees designed to City standards. Lots not abutting the public street will be provided with adequately dimensioned paved sidewalks connecting to the public streets. Safe walking conditions for students who walk to school or bus stops are provided by pedestrian connections to either W. Dravus St or 39<sup>th</sup> Ave W. Existing trees are retained to the extent practicable and street trees are provided consistent with City standards. Accordingly, these criteria are met.

SMC 23.22.058 Environmentally critical areas.

*No plat shall be approved by the Hearing Examiner covering any land situated in a riparian corridor buffer, wetland and wetland buffer, or steep slope and steep slope buffer unless in compliance with the applicable provisions of SMC Section 25.09.240, Short subdivisions and subdivisions, in environmentally critical areas.*

The project site contains no mapped or other wise observed Environmentally Critical Areas.

SMC 23.22.060 Transportation concurrency level-of-service standards.

*Proposed subdivisions shall meet the transportation concurrency level-of-service standards prescribed in Chapter 23.52.*

The traffic study for the project shows that transportation concurrency requirements are met for both the opening of 39<sup>th</sup> Ave W and the preclusion of vehicle access through 39<sup>th</sup> Ave W. Please see Page 14 of the transportation impact analysis report (page 14, section 4.4, Level of Service) located in the project file.

SMC 23.22.062 Unit lot subdivisions.

*A. The provisions of this section 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.*

The proposal is not a unit lot subdivision, as a result this provisions and the others related to unit lot subdivisions do not apply.

*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.*

NA

*C. Subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent lot.*

NA

*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 open spaces for cottage housing), and other similar features, as recorded with the Director of the King County Department of Records and Elections.*

NA

*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 the King County Department of Records and Elections.*

NA

*F. 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 King County Department of Records and Elections.*

NA

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

The applicant prepared an initial Environmental Checklist (SEPA) for the project dated May 17<sup>th</sup> 2004. The applicant has also submitted the following environmental documents located in the project file: transportation analysis, tree report for Copper Beach Tree, ACU application for CHPD, a Hazardous Materials Survey Report (March 2004) and a drainage report. An updated SEPA checklist dated February 2005 was submitted with the correction response by the applicant. In this report, DPD conditions the project based on the impacts disclosed in the environmental documents and issues a Determination of Non-significance with conditions. The SEPA analysis of this project is discussed separately in a subsequent section of this report.

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

As presented in the MUP and plat plan set(s) date stamped March 1, 2005 submitted to DPD, the Director of DPD recommends approval of the Preliminary Plat under SMC 23.22.028. In addition, the Director also **recommends the approval** of the following **conditions** referenced below.

**RECOMMENDED CONDITIONS – SUBDIVISION**

**Recommended conditions of approval prior to recording of the final subdivision plat**

**DPD Recommendations**

1. The curb, gutter, planter strips, and sidewalk should be replaced along W Dravus St (new trees are proposed by applicant).
2. The proposed private road shown as “Briarcliff Lane,” should be changed to Briarcliff Lane West for the north/south portion of the vehicle easement and West Briarcliff Lane for the east/west portion for clarity purposes as a traditional street would be named.
3. Remove both Tracts A and B “Landscape Buffers” from the plat and plans sets, which will permit adjacent lots to take future vehicle access from proposed alleys A and C. This recovered area should be added to the rear yards of the proposed lots abutting alleys A and B.
4. Provide public easements over the private vehicle and pedestrian access easements on the face of the plat or concurrent with recording of the final plat.

5. Vehicle access easement access drives shall be clearly marked easements on the face of the final plat.
6. Articles of incorporation and bylaws for the Homeowners Association, evidence of conveyance or binding intent to convey common open space if any shall be provided prior to recording of final plat.
7. The trees shown on the preliminary plan within proposed lots (7-14, 17-22, and 31-39) abutting Briarcliff Lane must be planted and a covenant or requirement of the Homeowners Association be maintained for the life of the project.
8. The fact that these lots were created by the Clustered Housing Planned Development (CHPD) provision of SMC 23.44.024 shall be noted on the final plat.
9. SPU provide a determination if open space improvements can be made on the water tower to the north of the site. If approved, the applicant shall meet all conditions of SPU in order to improve the water tower. Since no impact will arise from not allowing through vehicle traffic for 39<sup>th</sup> Ave W, DPD supports the neighborhood play area within the 39<sup>th</sup> Ave W.

Recommended conditions to be provided with grading permit applications

10. The applicant must submit an erosion control plan.

Recommended conditions of approval prior to application of building permits

11. Submit a copy of the relevant final subdivision plat with all building permit applications. This plan must include the final approved design for all lots, rights of way (alleys and streets), easements, sidewalks, setbacks, building footprints, street trees, on site required trees and roadway paving. The level of information as shown on sheet C4 of the plans dated March 1<sup>st</sup>, 2005 is sufficient.

Recommended conditions of approval prior to issuance of any building permit

12. Full street improvements shall be required for existing streets and the right-of-way to be dedicated.
13. Full street or approved easement improvements shall be completed leading to any lot for which a construction permit has been issued.
14. If applicable, appropriate agreements relating to the use and maintenance of common open space shall be executed and recorded and be contained within a Homeowners Association Agreement.

**ANALYSIS – SEPA**

The applicant prepared an Environmental Checklist for the project, including a Transportation Impact Analysis, Drainage Report, Hazard Materials Survey Report, Phase I Environmental Site

Assessment, and an Arborist report (Heritage Copper Beach Tree). This information, supplemental information contained in the DPD file for the project, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision. Potential environmental impacts are discussed below only where mitigation under Seattle's SEPA Ordinance may be warranted.

The SEPA Overview Policy (SMC 25.05.665.D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part, "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation subject to the limitations set forth in subparagraphs D1 through D7 below. Unless otherwise specified in the Policies for Specific Elements of the Environment (SMC Section 25.05.675), denial or mitigation of a project based on adverse environmental impacts shall be permitted only under the following circumstances..." The Overview Policy (SMC 25.05.665) D1 through D7 and Specific Elements of the Environment (SMC Section 25.05.675) provide the circumstances in which denial or mitigation of a project can take place.

### Short-Term Impacts

Construction activities could result in the following adverse impacts: noise, air quality (construction dust and emissions from construction machinery and vehicles), storm water runoff, increased noise levels, occasional disruption of adjacent vehicular traffic and a small increase in traffic and parking impacts due to construction workers' vehicles. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: the Noise Ordinance, the Stormwater Grading and Drainage Control Code, the Street Use Ordinance, and the Building Code. The following is an analysis of short-term, construction-related impacts as well as mitigation.

### Noise

Noise associated with construction of the project could adversely affect surrounding uses in the area, which include all single family residential uses. Surrounding uses are likely to be adversely impacted by noise throughout the duration of construction activities. Due to the proximity of the project site to these uses, the limitations of the Noise Ordinance are found to be inadequate to mitigate the potential noise impacts. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), mitigation is warranted. In addition to the Noise Ordinance requirements, to reduce the noise impact of construction on nearby properties, construction activities shall be limited to non-holiday weekdays between 7:00 A.M and 8:00 P.M., Saturdays and holidays between 9:00 A.M. and 6 P.M. After each building is enclosed with exterior walls and windows, interior construction on the individual enclosed buildings can be done at other times in accordance with the Noise Ordinance. Such construction activities will have a minimal impact on adjacent uses. Restricting the ability to conduct these tasks would extend the construction schedule; thus the duration of associated noise impacts. DPD recognizes that there may be occasions when critical construction activities could be performed in the evenings and on weekends, which are of an emergency nature or related to

issues of safety, or which could substantially shorten the total construction timeframe if conducted during these hours. Therefore, the hours may be extended and/or specific types of construction activities may be permitted on a case by case basis by approval of the Land Use Planner (Lucas DeHerrera – 206.615.0724) prior to each occurrence. As conditioned, impacts to nearby uses are considered adequately mitigated.

### *Air Quality*

Construction is expected to temporarily add particulates to the air and will result in a slight increase in auto-generated air contaminants from construction worker vehicles. City Code (SMC 11.74) provides that material hauled in trucks not be spilled during transport. The City requires that a minimum of one foot of "freeboard" (area from level of material to the top of the truck container) be provided in loaded, uncovered trucks, which minimizes the amount of spilled material and dust from the truck bed enroute to or from a site. In addition, watering of the site and uncovered materials in trucks shall be required to reduce construction dust during grading. Federal auto emission controls will adequately mitigate air quality impacts from motor vehicles. See SMC §25.05.675 (Air Quality Policy). Lastly, to mitigate spillover onto the adjacent street systems, the wheels of construction vehicles leaving the construction site shall make provisions to wash vehicle tires, wheels and exteriors in order to prevent spillover of particulates into the adjacent rights of way. No further conditioning of the grading/excavation element of the project is warranted pursuant to SEPA policies.

### *Stormwater Runoff*

The Stormwater, Grading and Drainage Control Code provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used. The project will comply with the requirements of this Code and with any conditioning imposed on the grading permit. Therefore, no additional conditioning is warranted pursuant to SEPA policies.

### *Construction (Traffic)*

(response to public comment)

Construction traffic includes trucks removing earth from the site, other construction vehicles and construction workers' vehicles. The SEPA checklist for the project states that initial estimates of grading quantities are 1,400 cubic yards of cut and 1,000 cubic yards of fill material. The grading and infrastructure phase is estimated to eighty (80) days and would require approximately 134 truck trips. At most, that would generate a total of 5 employee trips per day. Conditioning is warranted to mitigate spillover materials to the adjacent street system during the initial site grading and infrastructure installation. The proposal will not represent a significant impact to the street system when meeting the conditions of City Code (SMC 11.62). SMC 11.62 requires truck activities to use arterial streets to every extent possible. Construction access for the grading and infrastructure will be from W Dravus St, as agreed by the applicant. Other than mitigating spillover materials on to the adjacent street system, No further mitigation is warranted.

Compliance with Seattle's Street Use Ordinance is expected to mitigate any additional adverse impacts to traffic which would be generated during construction of this proposal. Traffic control

would be regulated through the City's street use permit system, and a requirement for the contractor to meet all City regulations pertaining to the same. Temporary sidewalk or lane closures may be required during construction. The timing and duration of these closures would be coordinated with the City of Seattle to ensure minimal disruptions.

The demand for parking by construction workers during construction will temporarily increase the demand for parking in the vicinity. This impact is not anticipated to be significant, however, since parking will be available on the project site and there is no data showing that off-site parking is at capacity.

### Long-Term Impacts

Several adopted City Codes and Ordinances provide mitigation for these impacts. Specifically, these are the Land Use Code which controls land use, density and development standards, the Noise Ordinance and the Stormwater, Grading and Drainage Control Code which contains requirements for drainage.

### Hazardous Materials

Prior to the proposal, abatement and demolition of Briarcliff School was reviewed and completed under MUP No. 2307371, Permit No. 742974. All hazardous materials were previously removed from the site during the removal of the school.

### Noise

Long-term noise will be typical of a residential neighborhood. The Noise Ordinance will continue to apply to activities on the project site after development. Impacts are not anticipated to be significant.

### Light and Glare

Long term light and glare will be typical of a residential neighborhood. Impacts are not anticipated to be significant.

### Traffic and Parking

(response to public comment)

The project includes the development of a newly dedicated street right of way, 39<sup>th</sup> Ave W. The project also includes an easement (Briarcliff Lane) connecting W Dravus St and the newly dedicated portion of 39<sup>th</sup> Ave W. Three (3) twelve (12) foot alleys (A-B-C) are proposed to be dedicated.

(response to public comment)

The proposed thirty-nine (39) single family lots will provide two (2) parking spaces per lot for a total of seventy-eight (78) spaces on the private property. Further, thirty-one (31) on street parking spaces will be provided along one side of the proposed easement Briarcliff Lane and along both sides of 39<sup>th</sup> Ave W. As a result of the applicant providing two (2) spaces per lot and the thirty-one (31) on street spaces that will be available to the development, no SEPA conditioning is needed or warranted related to the amount of parking spaces for the project.

Based on the submitted Traffic Impact Analysis (Heffron Transportation Inc.) for the project, the finished development will generate 370 vehicle trips per day, 29 vehicle trips during the AM peak hour, and 39 vehicle trips during the PM peak hour. As stated in the report, these trips would not adversely affect any intersections or roadways in the study area. Heffron Transportation recommends that stop-signs be installed at the intersection of Briarcliff Lane with W Dravus St and 39<sup>th</sup> Ave W with W Dravus St to maintain the safe conditions in the site vicinity.

The report also gives recommendation regarding opening 39<sup>th</sup> Ave W to through vehicle traffic. As stated in Page 2 (Summary) of the submitted Transportation Impact Analysis:

“The report evaluated the potential impacts and benefits of connecting 39<sup>th</sup> Ave W from W Dravus St, through the proposed site, to its current terminus south of the site. This area of Magnolia already has discontinuous grid of streets - W Emerson St is the only east-west street that connects straight through from 34<sup>th</sup> Ave W to Viewmont Way W. Providing a north-south connection along 39<sup>th</sup> Ave W would not solve the limitations of the east west grid. Therefore, a roadway connection through the site is not likely to cause major shifts in traffic. Some project traffic and some cut-through traffic from beyond the neighborhood may shift to 39<sup>th</sup> Ave W. However, this small cut-through traffic from beyond the neighborhood may shift to 39<sup>th</sup> Ave W. However, this small shift would not change the level of service at any project area intersection. If 39<sup>th</sup> Ave W were opened to general vehicular traffic, there would be little to no space available for pedestrian or park like amenities, such as those proposed. As a result, the added benefit of those amenities would be lost. Therefore, because opening of 39<sup>th</sup> Ave W is not necessary from a traffic standpoint and would eliminate amenities, opening of 39<sup>th</sup> Ave W is not recommended. Instead, it is recommended that the right of way south of the loop road be used for pedestrian and emergency access only.”

As a result of the traffic impact recommendation, no adverse impacts are anticipated from not allowing vehicles through 39<sup>th</sup> Ave W. As a result, meeting the recommendations of traffic impact report, traffic concurrency requirements are met.

Accordingly, no significant impacts are anticipated and no mitigation beyond the recommended stop signs is warranted.

### **DECISION – ACU**

#### **Conditionally Approved**

### **CONDITIONS – ACU**

1. Lots 1-6 must provide ten (10) foot front yards (setbacks) from 39<sup>th</sup> Ave W.
2. Lots 31-39 must provide ten (10) foot internal front yards (setback) from the abutting sidewalk.
3. Lot 15 must be shown to meet required CHPD yards.
4. A tree protection plan shall be provided for review and proposal to the Land Use Planner according to the analysis above (see subsection F of the ACU analysis). The plan should retain all existing landscaping to the greatest extent possible.

5. Meet all required arborist's recommendations for the retention of the Copper Beach Tree located on the abutting property of proposed lot 6.
6. The trees shown on the preliminary plan within proposed lots (7-14, 17-22, and 31-39) abutting Briarcliff Lane should be planted maintained and a covenant or requirement of the Homeowners Association should be maintained for the life of the project.

**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**

7. Unless approved by the Land Use Planner for the project on a case-by-case basis, construction activities shall be limited to non-holiday weekdays between 7:30 A.M and 6:00 P.M., Saturdays and holidays between 9:00 A.M. and 6 P.M. After each building is enclosed with exterior walls and windows, interior construction on the individual enclosed buildings can be done at other times in accordance with the Noise Ordinance.
8. During grading activities, watering of the site and uncovered materials in trucks shall be required to reduce construction dust.
9. All construction access must be taken from W Dravus St for all initial site grading and infrastructure installation.
10. Construction vehicles leaving the construction site shall make provisions to wash vehicle tires, wheels and exteriors in order to prevent spillover of particulates into the adjacent rights of way.

Signature: \_\_\_\_\_ (signature on file) \_\_\_\_\_ Date: August 22, 2005  
Lucas DeHerrera  
Land Use Planner

LD:bg

Figure 1 Setback Comparison Along W Dravus St

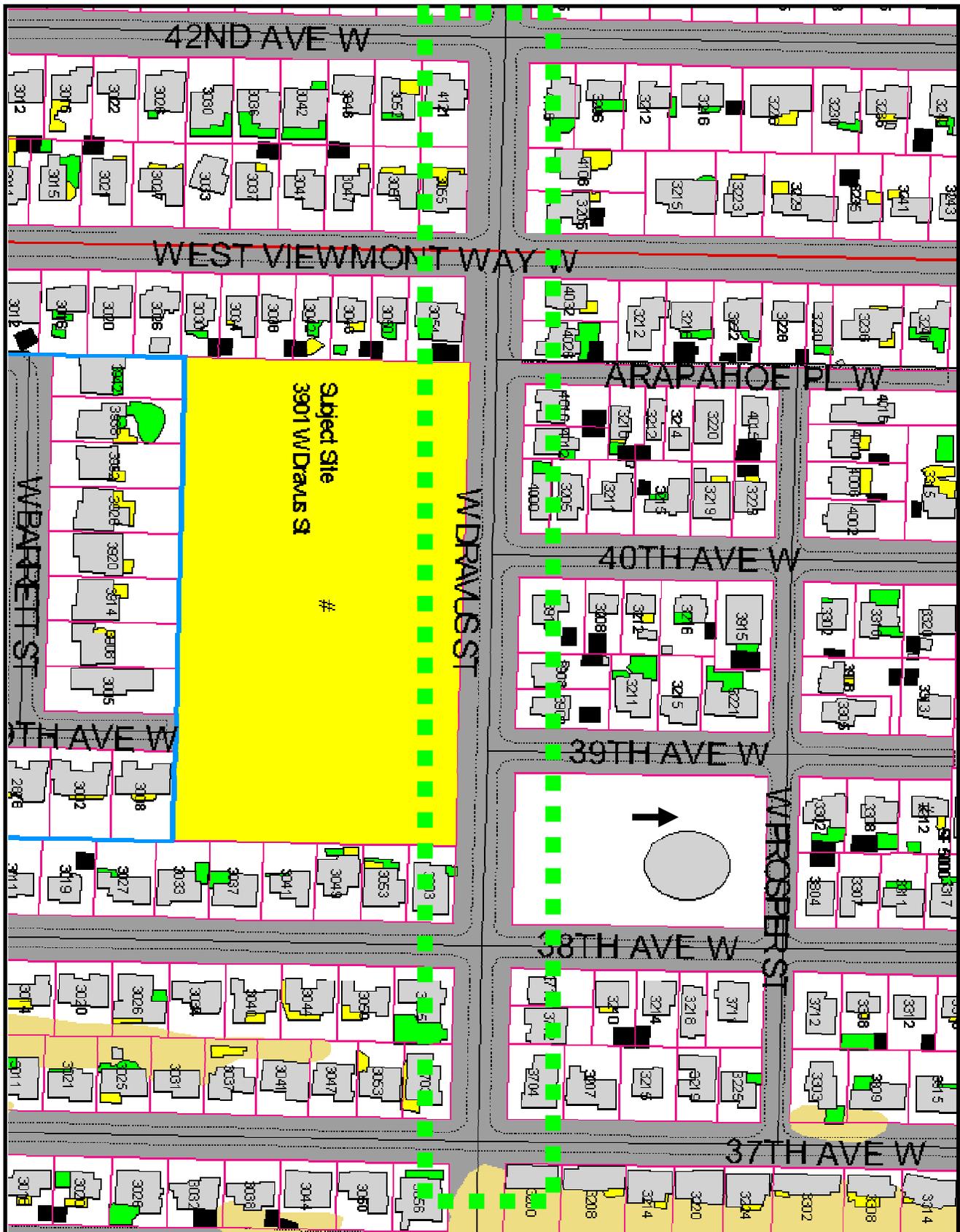


Figure 2 Reference Map Only (see approved MUP plans)

