



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: 3003070
Applicant Name: Tyler Goodmanson for Soleil, LLC
Address of Proposal: 3028 26th Avenue West

SUMMARY OF PROPOSED ACTION

Land Use Permit to subdivide one parcel into two unit lots (unit lot subdivision) in an environmentally critical area. This subdivision of property is only for the purpose of allowing sale or lease of the unit lots. Development standards will be applied to the original parcel and not to each of the new unit lots.

The following approvals are required:

Short Subdivision - To subdivide one existing parcel into two unit lots.
(Chapter 23.24, Seattle Municipal Code).

SEPA – Environmental Determination (Seattle Municipal Code Chapter 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 DATA

Site & Area Description

This 5,113.4 square foot subject site (the “parent lot”) is a rectangular lot zoned Single Family 5000 (SF 5000) located on the east side of 26th Avenue West. An existing duplex with two (2) basement garages is situated on the subject property. 26th Avenue West is classified as non-

arterial street, improved with sidewalks, curbs and gutters on both sides of the street. This site is located in a mapped critical area due to steep slope. The site slopes steeply from the midpoint towards the subject site's east property line.

The subject property and the surrounding properties to the north, south, east and west are all zoned SF 5000. Development in the immediate area primarily consists of single family residences and duplex structures of varying age and architectural style on a variety of lot sizes, consistent with the zoning designations.

Proposal Description

The applicant proposes to subdivide one 5,113.4 square foot parcel (the "parent lot") into two (2) unit lots with the following lot areas: Unit Lot A) 2,417.7 square feet and Unit Lot B) 2,695.7 square feet in an SF 5000 zone. The subject site fronts on 26th Avenue West. Vehicular access to both units would be provided via an existing ingress/egress easement. The existing non-conforming duplex will remain.

No development or construction activities are associated with the current proposal. This structure is non-conforming with respect to current land use code development standards. DPD has historical documentation (DPD Permit #287738) that establishes the existing duplex with two (2) one-car basement garages. The subject of this analysis and decision is limited to the subdivision of land.

Public Comments

The comment period for this proposal originally ended September 14, 2005 and was later renoticed which resulted in an additional public comment period ending January 25, 2006. DPD received six written comment letters related to this project. The neighbors voiced concerns related to future parking and traffic impacts, demolition of the existing duplex to create two "skinny house", decrease of affordable housing in the neighborhood and negative impacts to property values.

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;*

The existing development on the subject parent lot does not conform to all development standards of the SF 5000 zone, but is recognized as an existing legal nonconformity. The unit lots proposed by this subdivision conform to the standards for unit lot subdivisions (SMC 23.24.045) and other code provisions applicable to unit lot subdivisions. Any future new development must conform to code requirements for the parent lot at the time of application.

The proposed unit lot subdivision would allow separate ownership of the land associated with each of the two townhouse units. This purpose is consistent with the provisions of SMC 23.24.045, Unit lot subdivisions.

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

The two (2) proposed unit lots would have vehicular access via an existing ingress/egress easement. The Seattle Fire Department has reviewed and conditionally approved the proposed unit lot subdivision for adequate emergency vehicle access.

All private utilities are available in this area. Seattle City Light would provide electrical service to the proposed short plat. City Light reviewed the proposal and has requested an easement to provide electrical facilities and service to the proposed lots. The requested easement should be added to the face of the short plat prior to recording.

Therefore, this short plat provides for adequate access for vehicles, utilities, and fire protection.

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

This area is served with domestic water, sanitary sewer, and storm drain facilities by the City of Seattle. Availability of utility 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 August 25th, 2005 (WAC ID No. 2005-1289). All conditions on the certificate must be met prior to receiving water service.

The DPD Site Development staff confirmed that no changes to existing public or private sanitary and storm systems are required.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed development would have adequate access for vehicles, utilities, and fire protection and has adequate drainage, water supply, and sanitary sewage disposal.

Therefore, the public use and interests are served by permitting the proposed subdivision of land while also maintaining the character of the neighborhood. The proposal will meet all applicable criteria for approval of a short plat upon completion of the conditions in this analysis and decision.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

The proposed subdivision is located in an environmentally critical area so the unit lot subdivision is subject to the provisions of the Environmentally Critical Areas Ordinance. A topographic survey with an environmentally critical areas delineation and buffer has been submitted with this application along with the geotechnical report which was reviewed by a DPD geotechnical reviewer. However, no construction is proposed under this unit lot subdivision and no environmentally critical areas will be disturbed under this

application. Therefore, no additional environmentally critical areas review is required for this unit lot subdivision.

6. *Is designed to maximize the retention of existing trees.*

No trees are expected to be removed as a result of this unit lot subdivision.

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.*

The provisions of SMC Section 23.24.045 are as follows:

- 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 subject proposal would establish separate lots for two (2) townhouses in an SF 5000 zone, thus falling within the provisions of SMC 23.24.045.

- 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.*

In 1931, DPD issued and finalized a building permit (DPD Permit #287738) that allowed the construction of a duplex with two (2) one-car garages in the basement. Per SMC 23.42.102, the existing structure is recognized as a nonconforming use or development. Any future development proposal must continue to meet applicable development standards as a whole.

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

In order to assure proper control of future platting actions, additions or modifications to structure(s) on the subject site, a condition should be placed on the face of the plat as outlined under Criterion 'F' below.

- D. *Access easements and joint use and maintenance agreements shall be executed for use of common garage or parking areas, common open space (such as common courtyard space for cottage housing), and other similar features, as recorded with the Director of the King County Department of Records and Elections.*

A joint use and maintenance agreement for the proposed ingress, egress, and utility easement has been included on the short plat documents and should also be included on the final documents for recording.

- 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 King County Development of Records and Elections.*

Parking would be provided on each unit lot with access to parking spaces via an ingress/egress access easement.

- F. *The facts that the unit lot is not a separate buildable lot, and that additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot shall be noted on the plat, as recorded with the Director of the King County Department of Records and Elections.*

Review of this application shows that the proposed short subdivision would conform to applicable standards of SMC 23.24.045 and to applicable standards for unit lot subdivisions for non-conforming townhouses in an SF 5000 zone. To assure that future owners have constructive notice that additional development may be limited; the applicant should add a note to the face of the plat that reads as follows: *“The lots created by this unit subdivision are not separate buildable lots. Additional development on these unit lots in this unit subdivision may be limited as a result of the application of development standards to their parent lot pursuant to applicable provisions of the Seattle Land Use Code.”*

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 or more lots from one lot with more than one existing single-family dwelling unit.*

The existing development consists of a two-unit townhouse structure in an SF 5000 zone; therefore, this provision is not applicable.

SUMMARY - SHORT SUBDIVISION

The proposed unit lot subdivision would meet all applicable requirements of SMC Chapter 23.24, Short Plats. The underlying development, when considered as a whole, meets all applicable standards set forth in the Land Use Code. The proposed unit subdivision would be provided with adequate pedestrian and vehicular access and with public and private utilities. Adequate provisions for water supply and sanitary sewage disposal have been proposed for each lot, and service is assured, subject to standard conditions governing utility extensions. Adequate provisions for drainage control have also been provided.

DECISION – UNIT LOT SUBDIVISION

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

ANALYSIS – SEPA

The proposal site is located in an environmentally critical area-steep slope, thus the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City’s Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

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

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated November 11, 2005. The information in the checklist, pertinent public comment, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The Department of Planning and Development has analyzed the environmental checklist submitted by the project applicant; and reviewed the project plans and any additional information in the file. As indicated in this analysis, this action will result in adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.665) 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 and environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*” subject to some limitations. Under such limitations/circumstances (SMC 25.05.665) mitigation can be considered. A more detailed discussion of the potential impacts from this short plat follows.

Short-Term and Long-Term Impacts

The two-unit duplex structure exists and no construction is proposed for this unit lot subdivision application. Therefore, no short-term or long-term impacts are anticipated as a result of approval of the unit lot subdivision.

Earth

The site is located in a mapped environmentally critical area due to steep slopes. The unit lot subdivision application would create two lots from the existing lot by creating a new lot line between the lots. No construction is proposed for the unit lot subdivision and there will be no ground disturbance of the site so no impacts to the earth are expected.

Summary

In conclusion, several adverse effects on the environment are anticipated from the proposal. However, specific impacts identified in the foregoing analysis have been mitigated by existing codes and ordinances, per adopted City policies. Therefore, no additional SEPA conditions have been imposed on this short plat.

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 requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determine 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

None required.

CONDITIONS – UNIT LOT SUBDIVISION

Conditions of Approval Prior to Recording

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

1. (A1a)Have final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel, or tract created by the short subdivision shall be surveyed in accordance with appropriate State statutes. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown. Lot areas shall be shown on the plat. All existing structures, principal and accessory, shall be shown on the face of the plat, and their distances to the proposed property lines dimensioned.

2. (A1a) Submit the final recording forms for approval and any necessary fees.
3. (A1a) Add the conditions of approval after recording on the face of the plat or on a separate page. If the conditions are on a separate page, insert on the plat "For conditions of approval after recording see page ___ of ___."
4. (A1a) Add the following note to the face of the plat: "*The lots created by this unit subdivision are not separate buildable lots. Additional development on these unit lots in this unit subdivision may be limited as a result of the application of development standards to their parent lot pursuant to applicable provisions of the Seattle Land Use Code.*"
5. (A1a) Provide a joint maintenance and responsibility agreement for maintenance and use of shared walls on property lines and all ingress, egress, and utility easements.
6. (A1a) Include an easement to provide for electrical facilities and service to the proposed lots as required by Seattle City Light (easement description to be provided by City Light prior to short plat recording) on the final short subdivision.

Prior to Issuance of any Building Permit

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

1. (E1a) Attach a copy of the recorded short subdivision to all permit application plans for any application for a permit to construct, demolish, or change use.

Signature: _____ (signature on file) Date: February 2, 2006
Tamara Garrett, Land Use Planner

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