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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 118052

AN ORDINANCE related to land use and zoning; repealing Section 23.24.046 and amending Sections 23.22.062, 23.24.045, 23.34.086, 23.44.010, 23.44.012, 23.44.022, 23.84A.004, 23.84A.024, 23.84A.046, and 23.86.010 of the Seattle Municipal Code to adopt permanent development regulations to promote compatible buildings on undersized single-family-zoned lots.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 23.22.062 of the Seattle Municipal Code, which Section was last amended by Council Bill 117952, is amended as follows:

23.22.062 Unit lot subdivisions

A. The provisions of this Section 23.22.062 apply exclusively to the unit subdivision of land for single-family dwelling units, townhouse, rowhouse, cottage housing developments (~~in all zones in which these uses are permitted~~), and existing apartment structures built prior to January 1, 2013, but not individual (~~apartments~~)apartment units, (~~and for single family dwelling units in LR zones,~~) in all zones in which these uses are permitted, or any combination of the above types of residential development(~~(s)~~) as permitted in the applicable zones.

* * *

Section 2. Subsection A of Section 23.24.045 of the Seattle Municipal Code, which Section was last amended by Council Bill 117952, is amended as follows:

23.24.045 Unit lot subdivisions

A. The provisions of this Section 23.24.045 apply exclusively to the unit subdivision of land for single-family dwelling units, townhouse, rowhouse, cottage housing developments (~~in all zones in which these uses are permitted~~), and existing apartment structures built prior to January 1, 2013, but (~~not~~)no individual apartment units, (~~and for single family dwelling units~~

Director's Report: Proposed Amendments to Single Family Minimum Lot Area Exceptions, Standards for Small Lots in Single Family Zones, and Related Provisions

BACKGROUND

The Department of Planning and Development (DPD) is proposing Land Use Code amendments for small-lot development in single-family zones. The proposed amendments respond to concerns raised by residents in single-family neighborhoods where small lots, previously believed to be unbuildable, were proposed to be developed. The development often resulted in houses that were out of scale with existing neighborhoods and out of proportion to the size of the building site. In September 2012, the City Council adopted Ordinance 123978 as interim regulations for small-lot development in single-family zones. The interim regulations:

- eliminated one lot-area exemption that allowed lots to be established through historic County property tax records;
- established a minimum lot size of at least 50% of the minimum requirement of the zone; and
- imposed new height restrictions on houses proposed on lots of less than 3,750 square feet (s.f.).

The ordinance was adopted on an emergency basis and the effective time period was extended with the expectation that new standards are to be adopted by March 2014.

DPD solicited comments from the public, and sponsored a public panel discussion on November 14, 2012 that included neighborhood and developer representatives and a Seattle Planning Commissioner. A DPD representative attended a meeting of the Seattle Community Council Federation on November 27, 2012, and met with neighborhood and development representatives at their request. DPD also set up a web page with information about the issues under consideration and a mechanism to allow comments to be submitted.

On March 14, DPD staff presented their preliminary recommendations for code revisions to the City Council's Planning, Land Use and Sustainability Committee. Comments reflecting the views of neighbors, developers, planners, and parties interested in buying properties, received from over 100 individuals, were considered as this proposed legislation was developed.

The proposed amendments are consistent with the Comprehensive Plan goals and policies; therefore no amendments are needed to Seattle's Comprehensive Plan (see the Appendix to this report).

RECOMMENDATION SUMMARY

These recommendations are comprehensive, addressing issues described below. The proposals generally fall into three categories.

1. Modifying and clarifying exceptions to minimum lot area requirements

- **Minimum Lot Size:** Establish a standard absolute minimum of 2,500 s.f. for lots established under most lot area exceptions, and require a special exception review process for development of lots under 3,200 square feet in area. (Item 4 below)
- **75/80 Rule:** Maintain the 75/80 rule and revise/clarify the lot calculation. (Items 5 and 6)
- **100 Percent Rule:** Provide a limited new lot area exception for lots with areas equal to or greater than the mean area of the lots within the same block front. (Item 7)
- **Historic Lots, Deeds or Contracts:** Continue not to allow use of old tax records; discontinue use of historic mortgages and contracts of sale; and clarify use of deeds for establishing historic lot exceptions. (Items 8 and 9)
- **Developing Abutting Lots in Common Ownership:** Require historic lots that average less than 3,200 s.f. to be developed as a single lot. (Item 10)
- **Lot Line Adjustments:** Clarify use of lot boundary adjustments for creating lot area exceptions. (Item 12)

2. Development Standards for Single Family Homes on Undersized Lots

- **Structure Depth:** Limit structure depth to twice the lot width on historic lots less than 3,200 s.f. (Item 11)
- **Structure Height:** For lots under 3,200 sf, establish maximum height of 18 feet plus 5 feet for a pitched roof, or 22 feet plus 5 feet for a pitched roof for structures with no more than two floors and 10 foot floor-to-floor height on the ground floor. Extend these height limits to additions to existing houses as well as new structures. (Item 15)

3. Minor Code Adjustments and Clarifications

- **Multiple Houses, One Lot Clarifications:** Clarify that separate ownership for existing houses may be achieved through unit lot subdivision, and eliminate special subdivision provisions for multiple houses on a lot. (Items 1 and 2)
- **Revise Code Language:** Simplify lot area exceptions in subsection 23.44.010.B.1, and clarify that parcels that don't qualify for separate development must be included as a part of the building site when abutting property is developed. (Item 3)
- **Minimum Dimensions Clarified:** Clarify measurement for lot coverage purposes — at least 10 feet in all directions, rather than 10 feet in any direction. (Item 13)
- **Eliminate Exhibits for 23.44.010:** Delete graphics that are no longer relevant. (Item 14)

- Amend Definitions: Clarify "lot," "front lot line," "front yard," and "rear yard." (Items 16, 17 and 18)

RECOMMENDED CODE CHANGES

- 1. Modify Sections 23.22.062 and 23.24.045 to clarify that where two houses already exist on a single lot in a Single Family zone, the unit lot subdivision process may be applied to allow them to be separately owned.**

This would allow such a property to be divided solely for the purpose of separate ownership of the existing units, even if the unit lots are under 2,500 s.f., but would require development on the properties to be based on the development standards of the zone as applied to the combined property as if it were a single lot.

- 2. Delete Section 23.24.046, containing standards for approval of short plats for single lots with two existing houses.**

This provision was adopted based on an assumption that the unit lot subdivision process was not available to separate the ownership of two houses on a single lot (see Item 1). The proposed amendments would make clear that the unit lot subdivision process is available. Application of Section 23.24.046, which was originally intended to address issues related to existing structures, has had unintended consequences, as applicants have subdivided properties, demolished houses, then redeveloped the resulting lots with larger homes. The lots have sometimes been divided in creative ways to maximize potential structure size when the properties are redeveloped. If the properties are divided with a unit lot subdivision, any additions or redevelopment would be required to follow the yard and other standards applied based on the combined "parent" lot, so that permissible structure massing would be consistent with what is allowed for neighboring lots developed with a single home.

If Section 23.24.046 is retained, the Department would recommend that standards be adopted to limit redevelopment of the lots in a manner that is at odds with what is allowed on neighboring properties. In particular, the lots resulting from a Section 23.24.046 short plat should be made subject to platting standards adopted last year that generally limit new lots to no more than six sides and require all areas within the lots be at least ten feet wide. Section 23.24.046 short plats historically have been exempt from these standards. If the section is retained, modifying the development standards should be allowed only to the extent strictly necessary based on the configurations of the existing houses.

- 3. Rewrite the lot-area exceptions in Section 23.44.010.B.1 to make the wording simpler and more easily understood. Clarify that if a parcel does not qualify for separate development, it must be included as a part of the identified building site when abutting property under common ownership is developed.**

This makes explicit what has been the Department's general practice. It is intended to create parcels that do not qualify for separate development.

- 4. Establish a uniform absolute minimum area standard of 2,500 square feet for lots qualifying under most lot area exceptions, and require a special exception for development of lots under 3,200 square feet in area.**

Currently, under Section 23.44.010.B.1.b and 23.44.010.B.1.c, lots must have an area at least 50 percent of the general minimum requirement for the zone in order to qualify for lot area exceptions when lots have been reduced as a result of adverse possession or street condemnation. Prior to the interim ordinance, there were no absolute minimums for lots qualifying under the historic lot exception. The interim ordinance established a minimum of 50 percent of the general standard for the zone, i.e., 2,500 square feet in an SF 5000 zone. The proposal would establish a uniform minimum area of 2,500 square feet for these exceptions, for all single-family zones. This absolute minimum would not apply in the limited case of the 100 Percent Rule, see Item 7 below. An estimated 78 percent of lots in single-family zones are in SF 5000 zones. While this modification might allow a few additional lots to qualify for development in SF 7200 or SF 9600 zones, additional restrictions would apply for development on lots less than 3,200 square feet in area.

Developing lots under 3,200 s.f. would require a special exception review, a Type II approval requiring public notice and providing an opportunity for an appeal to the Hearing Examiner. Additional structure height and depth restrictions also would apply to lots under 3,200 s.f. See Items 11 and 15 below.

- 5. In calculating the mean area of lots on a block front for purposes of the 75/80 Rule, allow large lots developed with uses other than single-family houses to be excluded.**

The 75/80 Rule allows undersized lots to qualify for separate development if they have an area at least 75 percent of the general minimum lot area for the zone, and at least 80 percent of the mean area of the lots on the same block face and within the same zone. Currently, undeveloped lots that are comparable in area to neighboring properties, lots that would otherwise qualify under the exception, sometimes do not qualify for the exception because there is a large lot on the block front that is developed with a church, school, or park. Under this proposed amendment, lots developed with uses other than single-family residences may be excluded from the calculation.

Preparation of a Director's Rule is proposed to provide finer details about how the 75/80 Rule is to be applied, for example in the case of lots with multiple street frontages, irregular block configurations or split-zoned lots.

- 6. Add specific standards to clarify how the 75/80 Rule is applied under particular circumstances, such as in the case of lots with frontage on more than one street.**

Proposed new language resolves ambiguities and reflects how the code is currently being applied by DPD. Among other things the new language provides that a property may be counted as a separate lot for purposes of the 80 percent calculation only if it is currently developed separately or currently qualifies for separate development. Proposed language clarifies that the subject property may be excluded from the calculation of the mean area of lots on the block front in cases where property is being divided in a way that increases the number of building sites. This is consistent with DPD's long-standing practice with short plats, in order to avoid penalizing the owner of an existing large lot seeking to subdivide into smaller lots that are comparable in area to the other lots on the block front.

- 7. Adopt as a new lot area exception, the "100 Percent Rule," allowing separate development of a lot if its area is equal to or greater than the mean area of the lots on the same block front that are already separately developed, or qualify for separate development.**

This would allow infill development consistent with that on neighboring properties on blocks where the prevailing pattern already consists of small lots. No absolute minimum lot area is proposed for this exception but the number of new lots on a block front that can qualify under this exception cannot exceed the number of existing lots on which the calculation is based. In contrast to the 75/80 Rule, a limitation is placed on the number of lots that can qualify as a result of demolition of existing structures. These limitations are intended to ensure that the application of the rule will be limited to infill development on blocks that already largely consist of small lots, rather than redevelopment of blocks currently predominantly held or developed as larger properties.

- 8. For purposes of the Historic Lot Exception, Section 23.44.010.B.1.d, continue not to allow consideration of old tax records and also discontinue consideration of historic mortgages and sale contracts.**

The Historic Lot Exception applies to certain lots established as separate building sites in City or County records prior to 1957. Ever since 1957, when minimum lot area requirements were codified, Seattle's codes have provided an exception from lot area requirements for some lots of record. The original intent was to preserve investment-backed expectations that predated the minimum lot-area requirement. Neighbors have complained that this exception is applied based on arcane records that are difficult to interpret and as a result they have no way of knowing which undersized parcels in their neighborhoods might qualify. Further, in some cases the records relied on do not necessarily reflect an historic expectation that a property could be separately developed.

Reliance on historic tax records was discontinued under the interim ordinance, and DPD recommends that this change be maintained on a permanent basis. Some historic tax parcels were of shapes and sizes that are not suitable for separate development. The proposed

ordinance also eliminates reliance on historic mortgages, as a mortgage for a portion of a lot, alone, may not provide sufficient evidence that the lot was held with the expectation that it would be separately developed. Finally, sales contracts would not be a basis for a lot-area exception as a contract alone does not determine that a property was historically a separately developable parcel.

- 9. Add standards stating that a property is considered to have been established as a separate building site by a deed only if, as a result of the transaction, the parcel was or would have been held under separate ownership from all abutting properties.**

This language would make explicit a long-standing practice.

- 10. Add a new limitation on the historic lot exception, so that it cannot be applied to allow separate development of multiple, abutting undeveloped lots with an average area under 3,200 square feet.**

If a property includes multiple, abutting platted lots, this amendment would require that they be consolidated for development rather than separately developed under the historic lot exception if the lots are on average below 3,200 sf. This is comparable to a limitation that was included when a lot area exception for historic lots was first included in the code in 1957.

- 11. For lots qualifying under the Historic Lot Exception, establish a structure depth limit for development on lots under 3,200 square feet in area.**

Under the proposed legislation structure depth is limited to twice the lot width. This restores a provision that previously applied to lots under 2,500 square feet in area. In most cases, this standard would not be adding another requirement, as structure depth is already controlled by front and rear yard requirements and possibly lot coverage limits. In some cases, however, where the lot is narrow but deep, the requirement would prevent a very long shotgun-style house from being constructed.

- 12. Clarify that the lot lines of undersized lots may be modified through lot boundary adjustments, and that the resulting lots still qualify for a lot area exception so long as no additional lots are created, and either: (1) no undersized lots are made smaller; or (2) the boundaries between multiple undersized lots are being adjusted in a way that makes them more nearly equal in area. This would replace Director's Rule 13-97.**

The allowance for lot boundary adjustments involving lots that qualify for lot area exceptions is in Director's Rule 13-97. Currently, a lot qualifying under a lot area exception may not be reduced in size. Under the current standards, if a 4,000 s.f. parcel and a 2,000 s.f. parcel each qualify for separate development based on historic records, they may be reconfigured through a lot boundary adjustment resulting in a different 4,000 and 2,000 s.f. lots, and these lots will continue to qualify for separate development. The recommendation is also to allow a lot

boundary adjustment that would make the parcels more nearly equal in size. The intent behind this is that two houses on 3,000-square-foot lots, or one on 3,500 square feet and one on 2,500 square feet, would fit more gracefully into a neighborhood than a 4,000 and 2,000 s.f. lot.

Some people have suggested that lots qualifying for a lot area exception based on their historic status should no longer qualify for a lot area exception if they are modified through a lot boundary adjustment. The lot boundary adjustment process is, however, often applied to create lots that are better suited for development compatible with surrounding homes than the original qualifying lots would have been.

13. Clarify minimum-dimensional requirement for lot-coverage measurement.

The platting standards adopted in 2011 discouraged creating lots that included narrow panhandles or tendrils by allowing only portions of lots that are more than ten feet wide to count towards lot area for the purposes of determining allowable lot coverage. The adopted language required that those portions measure at least ten feet in any direction. The language would be clarified to require that those portions measure at least ten feet in all directions, which reflects the intent of the provision.

14. Eliminate Exhibits for 23.44.010.

Existing exhibits are out of date and not useful.

15. Establish a structure height of 18 feet with an allowance of up to 5 feet for a pitched roof on all lots or unit lots under 3,200 square feet. Allow an additional four feet for structures with a floor-to-floor height of at least ten feet at the ground floor, and habitable space on no more than two floors. This height would also apply on non-rectangular lots where the area of the largest rectangle or other quadrilateral that can be drawn within the lot lines is less than 3,200 square feet.

The interim standards applied a height limit of 22 feet with an allowance of 5 feet for a pitched roof on lots under 3,750 s.f. The recommendation is to lower the threshold lot area to 3,200 s.f. in light of the fact that lots larger than that have not triggered significant complaints. DPD's initial proposal for permanent measures would have limited the structure height on lots under 3,200 s.f. to 18 feet plus a five-foot allowance for pitched roofs, based on the cottage housing standards that apply in Lowrise Multifamily zones and Residential Small Lot zones. Comments were received, however, from architects pointing out that the 18-foot height limit would require cramped ceiling heights for a two-story house, and would require the first floor to be at grade rather than slightly above grade. With a little additional height, the house would be able to sit a few steps above the ground, providing a more compatible street presence. The proposed language provides flexibility for a comfortable ceiling height, and for second-story additions to existing houses that have tall main floors or main floors built several feet above

grade The intent is to accommodate a two-story house with comfortable ceiling heights. Small footprints with tall ceilings provide a more spacious feeling than lower ceiling heights.

Under the interim ordinance, the lower height limits were applied only to new developments, and only to lots that qualified for separate development under the Historic Lot Exception in subsection 23.44.010.B.1.d. The recommendation is to apply this limit both to new houses and also to additions to existing houses, on all lots with areas under 3,200 square feet in single-family zones, regardless of how they qualified for development. The limit would also apply to structures on unit lots where a single lot with multiple existing houses has been divided through a unit lot subdivision. This is because the potential impacts on neighbors of a substantial addition to an existing house on a small lot would be no different than the impacts of an identical new house built on a vacant lot of the same size, and no different depending on which lot area exception applied. DPD received a few comments from owners of existing houses. Some owners of existing houses indicated that the 18-foot limit originally proposed would make it difficult to add a second story to their existing house due to the existing configuration. By DPD's analysis, the 22-foot base height limit now proposed would provide the flexibility to allow a second story addition in most cases.

Considering the area of the largest rectangle or quadrilateral within the lot lines, rather than the total lot area in the case of non-rectangular lots removes the incentive to create irregular lots in order to gain square footage to qualify for larger structures. In cases where a lot is irregularly-shaped, the apparent area of the lot, based on where the development may occur, is typically smaller, and this provision is intended to hold the development to a scale appropriate for the developable portion of the lot. Allowing quadrilaterals to be used rather than rectangles is reasonable as the corners of many lots are not perfect right angles.

16. Amend the definition of "lot" to allow it to mean "building site" in the proper context.

This would modify the definition so that it is consistent with the way the word is used in the code. Under the current definition, a parcel of land may qualify as a "lot" even though it has been developed in conjunction with adjacent land and does not qualify for separate development on its own. As used in the code, however, the word generally refers to a parcel that is separately developed, or is proposed to be separately developed.

17. Amend definitions of "front lot line," "front yard" and "rear yard" in Chapter 23.84A, and the yard measurement provision in Section 23.86.010, to clarify existing code interpretation practices for lots with no street frontage and lots with frontage on multiple streets, and also to discourage the creation of irregular lot configurations intended to minimize front yard requirements.

This codifies DPD's existing code interpretation practice for determining what orientation should be identified for yard standard purposes for an existing house on a lot capable of multiple orientations because the house and lot has no street frontage or has frontage on

multiple streets. It also is intended to limit the practice of using a panhandle-shaped portion of a property to meet the front yard requirement in order to minimize the area of the portion of the lot set aside as a front yard.

18. Change all references to "block face" throughout Title 23 to "block front," and clarify definition to address irregular block configurations.

The terms "block face" and "block front" are currently identically defined and used interchangeably in the Land Use Code. And the current definition does not provide for irregular block configurations. The amendment would explicitly provide flexibility so that the 75/80 Rule and 100 Percent Rule may be applied based on the context of the street frontage of the subject property on blocks that don't meet the standard configuration reflected by the current language. This would not represent a change in the way that the 75/80 Rule has been applied but would clarify how it is already being applied.

CODE CHANGES SUGGESTED BY STAKEHOLDERS BUT NOT RECOMMENDED BY DPD

DPD analyzed other options proposed by developers, design professionals, and other individuals. Two of these options are presented below for the sake of discussion but are not recommended by DPD.

1. Impose a floor area ratio ("FAR") limit.

In addition to the height and structure depth limits recommended above, other potential development standards have also been discussed for houses on very small lots, including limits on total floor area or adoption of a FAR limit. These options are not recommended based on our conclusion that the existing yard requirements and lot coverage limits, together with proposed structure height and depth limits, will adequately control the bulk of houses on small lots. Further standards would complicate designing and reviewing plans for new houses while adding little size-limiting benefit. A FAR limit would not effectively limit the exterior appearance of bulk of a structure unless ceiling height is limited as well.

One concern that has led design professionals to propose an FAR limit is that absent such a limit, developers will respond to the new height limits by maximizing the volume of the structure within the allowed height, resulting in flat, uninteresting façades, whereas if development were further limited by an FAR limit, they might set buildings back more than required by yard standards, and provide features such as covered porches, adding to the visual interest of the houses. Recognizing that this may be an issue that is not limited to developments on small lots, DPD proposes that modifications to standards such as limitations to features allowed in required yards be deferred and considered in the future if general modifications to single-family standards are considered.

2. Allow additional development opportunity on block-ends.

Design professionals have proposed that the City consider creating an opportunity for additional development by allowing new houses to be built facing side streets, in the areas behind existing corner houses. These areas typically are perceived as street-facing rear yards of corner houses, and in some cases, they have a significant amount of street frontage, so that a house placed in such an area would appear less "squeezed in" than some other infill opportunities that are allowed, and would possibly create less of an imposition on the privacy of neighbors' yards than mid-block backyard houses would.

This may be a comparatively attractive way to allow additional density in single-family areas while maintaining well-ordered streetscapes. Many lots have been created in the past throughout the city that face side streets, and many of these fit in well with their neighborhoods. The impetus for the current effort was to rein in perceived inappropriate development on lots qualifying for lot area exceptions, and this corner lot proposal that would create a new lot area exception, appears to be beyond the scope of that mission, so DPD has not included this in this set of recommendations.

Two of the houses that have been controversial and generated much input towards this proposal have been houses on block ends, facing side streets. In both of those cases, however the height of the structure was a significant issue, and the structures would now be subject to additional height restrictions. An amendment to achieve this corner lot change would likely have to modify rear yard requirements, and possibly lot coverage limits, that apply to corner houses.

Appendix: Relevant Comprehensive Plan Provisions

The Comprehensive Plan identifies the following goals for Single Family zones:

LUG8 Preserve and protect low-density, single-family neighborhoods that provide opportunities for home-ownership, that are attractive to households with children and other residents, that provide residents with privacy and open spaces immediately accessible to residents, and where the amount of impervious surface can be limited.

LUG9 Preserve the character of single-family residential areas and discourage the demolition of single-family residences and displacement of residents, in a way that encourages rehabilitation and provides housing opportunities throughout the city. The character of single-family areas includes use, development, and density characteristics.

LUG10 Provide for different intensities of single-family areas to reflect differences in the existing and desired character of single-family areas across the city. Allow development that is generally consistent with the levels of infrastructure development and environmental conditions in each area. Include opportunities for low-cost subsidized housing in single-family areas.

Two specific policies relating to lot area requirements and exceptions are provided:

LU66 Use minimum lot size requirements to maintain a low-density residential environment while reflecting differences in development conditions and the densities and scale of housing in various single-family residential areas.

LU67 Permit exceptions to minimum lot size requirements to recognize building sites created in the public records under previous codes, to allow the consolidation of very small lots into larger lots, to adjust lot lines to permit more orderly development patterns, and to provide housing opportunity through the creation of additional buildable sites which are compatible with surrounding lots and do not result in the demolition of existing housing.