

In Re the Matter of the Appeal of:

DAVID M. MOEHRING, in the interest of  
Neighbors to 1532 NW 60<sup>th</sup> Street

From a Short Subdivision Decision Issued by  
the Director, Department of Construction and  
Inspections.

Hearing Examiner File No. MUP-17-023 (P)

SDCI Project No. 3026908

1532 NW 60<sup>th</sup> Street

**LAND USE DECISION APPEAL**  
**Response to**  
**Applicant's Motion to Dismiss the Appeal**

Appellant: David Moehring in the Interest of 1532 NW 60th Street

3444 23<sup>rd</sup> Ave West, #B

Seattle, Washington 98199

**30 June, 2017**

Applicant: Dave Biddle Blueprint Capital 4147 California Ave SW Seattle, WA 98116 Email: dave@blueprintcap.com Phone: (206) 829-3128	Applicant Representative: Brandon S. Gribben Helsell Fetterman LLP 1001 4th Ave, Suite 4200 Seattle, Washington 98154 E-mail: <a href="mailto:BGribben@helsell.com">BGribben@helsell.com</a> CC: <a href="mailto:sjacobs@helsell.com">sjacobs@helsell.com</a> CC: <a href="mailto:kgonzalez@helsell.com">kgonzalez@helsell.com</a>
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Hearing Examiner: Sue A. Tanner c/o Tiffany Ku Office of Hearing Examiner P.O. Box 94729 Seattle, Washington 98124-4729 E-mail: <a href="mailto:Tiffany.Ku@seattle.gov">Tiffany.Ku@seattle.gov</a>	Department Planner: Alice Whitworth Seattle Dept. of Construction & Inspections PO Box 34019 Seattle, Washington 98124 E-mail: <a href="mailto:Alice.Whitworth@seattle.gov">Alice.Whitworth@seattle.gov</a>
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This response is on behalf of the Appellant, David M. Moehring in the interest of the Neighbors to 1532 NW 60th Street. The appeal issued on June 8, 2017 seeks relief from a land-use decision made by the SDCI Director as to be determined by the Hearing Examiner in accordance with Seattle Municipal Code (SMC) 23.76.022 and the Hearing Examiner Rules (HER). The relief sought, as indicated in the appeal, is relative to application of criteria to the decision for the subdivision of the Subject Property as follows:

1. Reverse the decision to approve the land use short plat subdivision given its noncompliance with the zoning code for allowable dwelling units and configuration of dwellings within a rowhouse development.
2. Request that development documents be submitted in their entirety for the proposed short subdivision.
3. Request conditional approval that enforces compliance to rowhouse development requirement within the parent lot.
4. Explicitly, if indeed rowhouses are intended within the Subject Property, no other dwellings (with the exception of attached accessory dwelling units) may be included within the comprehensive development.
5. Explicitly, if townhouses are intended in lieu of rowhouses within the Subject Property, the number of allowable dwellings is limited by the density limits established in the Seattle Municipal Code.

To clarify any suggestion from a Motion to Dismiss, the appeal has *not* requested relief in terms of building permits, but only relief in the subdivision to be granted without applying the conditions of the development to comply with land-use code criteria.

The proposed motion of dismissal by the Applicant's Representative appears to suggest that I have no standing as the Appellant. The Applicant's motion also suggests on page 7 section C that I have acted alone on behalf of neighbors the appeal to 3447 22<sup>nd</sup> Ave W when public record shows in fact that seven (7) households signed along their concurrence with the appeal.<sup>1</sup> In this case at 1532-1534 NW 60<sup>th</sup> Street, the neighbors have vouched for my standing. (Refer to Exhibits I, II, III, and IV)<sup>2</sup>. This appeal has been made in the interest of those who will be

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<sup>1</sup> Reference appeal by the Neighbors of 3447-9 22<sup>nd</sup> Ave West, SDCI #3020730, record titled "Other: Appeal Statement Moehring" dated 08/04/2016, pages 8 to 9 of 26, or this link:  
<http://web6.seattle.gov/dpd/eplan/GetDocument.aspx?id=642243&src=WorkingDocs&n=Other%3A%20Appeal%20Statement%20Moehring>

<sup>2</sup> **List of Exhibits:**

Exhibit I – letter from Daniel Scott of 1538 NW 60<sup>th</sup> St, dated June 27, 2017

Exhibit II – letter from Sally Pendas of 1542 NW 60<sup>th</sup> St, dated June 16, 2017

significantly affected, as they have so expressed<sup>3</sup>; as well as my interests in a conditional subdivision to the property that reflects the SDCI's published criteria.

My experience in the matters of appeals has been described as 'extensive' by the Applicant's Representative (Page 2, line 11). Although I am honored by that suggestion of being experienced in these legal matters, I am not. Being an architect with a fair understanding of zoning and building codes, I volunteer to help others while stipulating that I do not practices or necessarily understand legal proceedings. My recommendation to anyone I assist deciding to appeal their situation is for them to engage in legal services if they have the financial resources. I have effectively only appealed two matters, with the first case being subsequent appeals to 3447 22<sup>nd</sup> Ave West; and the second set of appeals -- including this one -- which are two very similar cases with different parties affected by a SDCI decision to subdivide a LR1 lot for the purposes of indirectly up-zoning to a LR2 / LR3 density.

Instead of attempting to address the merits of the case, the Applicant's representative appears to be diluting this important matter by misrepresenting my interests in the Appeal. Therefore, beyond reiterating the important land-use decision criteria as stated in the appeal directly relative to this property, this letter of response will focus on each of the diversions suggested in the Applicant's Motion for Dismissal.

**I. Responses to Applicant's Motion's Introduction and Relief Requested:**

- a. The motion indicates (page 1, line 22) that the "*SDCI approved the Permit on May 25, 2017.*" This is not the case. The Director's decision has been published on that date. But the "approved for issuance" will not be initiated until the conclusion of the appeal period as so indicated in the Director's Decision letter dated May 25, 2017. As such, this appeal is not asking to repeal the issuance of a permit already issued. This appeal is requesting the decision to be reversed so that proper and rightful conditions may be applied.
- b. The motion indicates (page 2, line 1 and elsewhere) that "*the Appellant does not have standing to bring this Appeal and failed to comply with the pleading requirements.*" As explained in Section II below, the Appellant has both legal

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Exhibit III – letter from Frances O'Brien of 1522 NW 60th St, dated June 12, 2017

Exhibit IV- letter from Stan Miner of 1522 NW 60th St, dated June 12, 2017

Exhibit V- email regarding 3041 21<sup>st</sup> Ave W, dated April 18, 2017

<sup>3</sup> As included in the Exhibits to this response: D. Scott letter in support of the appeal; affected by over-development next door, privacy, outdoor space, and daylight.

A. Whitworth letter in support of the appeal; affected by over-development, privacy, outdoor space, parking, traffic, and daylight.

F. Brien and S. Miner letters in support of the appeal; affected by over-development, privacy, outdoor space and loss of daylight.

standing to represent interests in this case and has complied with the identified pleading requirements.

## **II. Responses to Motion's Statement of Facts:**

- a. The motion suggests in several locations (pages 2 and 7) that the appellant must provide an address per HER 3.01(d)(5). To the contrary, the address was submitted with the online application and was recorded with a screen copy at the time of submission on June 8. Refer to '*Figure 1*' on the following page for the address information provided. The attachments to the digital appeal were not intended to supersede the online application. Both the online appeal information and its attachments are understood to be inclusive to each other, so nothing required has been omitted in the appeal. As such, the request to dismiss for this reason should be retracted.
- b. The motion suggests that '*the Appellant has failed to allege that he is either (a) significantly affected by or (b) interested in the Permit*' (page 4). The appellant's interests are clearly delineated in Section [A] of the appeal as referred to in the digital on-line form as well as reiterated on page 3 line 4 of the appeal attachment. As such, the request to dismiss for this reason should be retracted.
- c. As in this appeal, all Type II decisions listed in subsection 23.76.006.C are subject to an administrative open record appeal as described in SMC Section 23.76.022. Therefore, the Hearing Examiner does have the right to review.
- d. Per SMC 23.76.023(A)(3), the Report and Recommendation of the Director is to be "*based on the standards and criteria for subdivisions contained in SMC Chapter 23.22*". The appeal identifies that all criteria have not been applied.
- e. Per SMC 23.76.022(C)(2) definition of 'Standing': "*Appeals may be initiated by any person significantly affected by or interested in the permit.*"
- f. By HER 2.02(o), an "*Interested person*" is defined as any person... *significantly affected by, or interested in proceedings before the Hearing Examiner, including any party.*" The definitions of 'Standing' and 'Interested person' need not encompass both 'significant affect' and 'interest', but one *or* the other. As an experienced architect who also lives within a LR1-zone near this property, I am very interested in the Director's decision for the Subject Property. In addition, the adjacent neighbors have communicated that they will be significantly affected by this decision and allowed me to represent this interest in protecting the scale of development in the neighborhood by supporting the appeal (Exhibits I to IV). Given this is the neighbors' first acquaintance in the appeal process, they have tried any means possible to communicate their message, even though that intent to

communicate may not strictly follow standard protocol. Per HER 1.03(c), the Hearing Examiner shall determine the practice or procedure most appropriate and consistent with providing fair treatment and due process.

- g. There is merit to the appeal and thereby it may not be dismissed. By HER 3.02(a), *“an appeal may be dismissed without a hearing if the Hearing Examiner determines that it fails to state a claim for which the Hearing Examiner has justification to grant relief or is without merit on its face, frivolous, or brought merely to secure delay.”* The appeal objections and requested relief are well defined and not frivolous; and the Appellant is not interested in delaying the project. As such, the basis of dismissal has not been established and the Hearing Examiner is justified to conduct an appeal hearing and consider relief on this Type II decision of a short subdivision that was granted without any conditions to comply with zoning requirements including the appropriate number of dwellings on the overall development of the Subject Property.

**Summary of Land Use Appeal: 3026908**  
Submitted on 6/8/2017 5:00:33 PM

**Decision appealed:**  
3026908

**Property address:**  
1532 NW 60th Street

**Elements of decision being appealed:**  
• Subdivision  
• Short Plat

**What is your interest in this decision?**  
See attached Land Use Decision Appeal document, especially Section 'A' of Appeal Information

**What are your objections to the decision?**  
See attached Land Use Decision Appeal document, especially Section 'B' of Appeal Information

**What relief do you want?**  
See attached Land Use Decision Appeal document, especially Section 'C' of Appeal Information

**Appellant:**  
David Moehring  
3444 23rd Ave W  
Apt/Suite: #8  
Seattle, WA 98199

**Email:** [dmoehring@consultant.com](mailto:dmoehring@consultant.com)  
**Phone:** (312) 965-0634  
**Fax:**

**Authorized Representative:**  
Same as Appellant

**Documents:**  
• Exh1\_thru\_7\_1532\_NW\_60th.pdf  
• Land\_Use\_Decision\_Appeal\_-\_Moehring.pdf

**Contact Method:**  
Email Attachment

Figure 1- (above) Appellant's record of the appeal prior to acceptance that clearly shows the address. Refer to item 'a' above on prior page.

- h. Carefully consider the implications of the proposed motion to dismiss relative to the appellant's 'standing'. 'Standing' has not been defined by the immediate proximity, but rather 'Standing' represents the ability of a party to demonstrate to the Examiner sufficient connection to and harm from the action challenged supporting that party's participation in the case. Standing exists in this case given the following:
- Direct harm will be experienced (with this unconditional land-use decision) by neighbors including those who have expressed their written concern and support to the appeal.
  - The request of the Applicant for dismissal due to a lack of standing might be deemed as for asking the appeal to be struck down in violation of the First Amendment. The motion to dismiss based on a subjectively defined lack of standing is an act prohibiting the right of the people to peaceably to assemble and to petition the Government for a redress of grievances. While I the Appellant, David Moehring, may not be directly or immediately affected, the decision being appealed adversely affects others

who were not made fully aware by the SDCI about the differentiators of LR1 zoning rules that must be followed in the analysis of the proposed subdivision. This lack of public awareness is evident in the letters from the neighbors who were distraught by the Applicant's motive to subdivide the property as some form of exception to construct additional dwellings beyond the limitations defined in the land-use code.

- Other than the proposed increased density that is being deceptively pursued with the lot subdivision, none of the neighbors have been openly informed of the zoning parameters of townhouse development verses rowhouse development. Except for some coached developers, most area residents are not aware that the LR1 zoning code revisions in August 2015<sup>4</sup> effectively reduced the number of allowable dwellings of the Subject Property lot size from four (4) dwellings to at most three (3) dwellings.
  - As such, David Moehring has volunteered to reach out to these residents – without compensation – in order to empower their legitimate natural and legal rights to be exercised by challenging the threat of an undocumented up-zone of a LR1 property to a higher density than allowed. The Hearing Examiner's review is the only known path for residents to exercise their rights without fear they will be become subject to the legal intimidation.
- i. Although it should not be necessary to justify my interest in protecting my own and others' interests with a land-use appeal, unfortunately the motion for dismissal seems to be largely based on the Applicant's claim that the Appellant lacks standing relative to a fabricated physical boundary or distance from the Subject Property. If deemed relevant by the Hearing Examiner, I have supplemented the above with my personal interests to this appeal:
- I am a member of Ballard HUB's '*Baker Street Community Group*' whose mission is to preserve the social, cultural and physical heritage of the area while accommodating growth. <https://sites.google.com/view/bakerstreet/>
  - I frequently ride the 44 bus or drive through Ballard several times a week between my home and my employment at University of Washington. On Sundays, I frequently ride the D bus through Ballard to place of worship at Bethany Community Church at N 80<sup>th</sup> Street and Stone Ave N (Ballard).
  - I frequent Ballard several times a week often including the Seattle Public Library, Post Office, Bauhaus Ballard, Miro tea, and multiple local area restaurants.

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<sup>4</sup> Reference the Appeal page 7 which refers to the zoning code SMC 23.45.512 with Figure 3 on page 8 of the Appeal.

- I am quite interested in the effects of over-development with the Subject Property. My civic, professional and personal interests are not to be bound by a nominal distance or body of water as suggested in the dismissal.
- As we all are party to this appeal, the Applicant, the Applicant's Representative, and the City's planner are interested in this decision, and have not had the merit of their standing diminished by their physical distance of their residence from the Subject Property. It would be prejudicial to discredit the Appellant's standing for such reason.
- I am an architect and planner for 28 years with a great appreciation for what this city has to offer nationally and internationally. I value Seattle Planners' understanding of the significance of diverse densities that have been rightfully established in our city through deliberate balanced zoning.
- My residence is also within an LR1 zone where similar dwellings have been pursued behind rowhouse developments contrary to the code (including 3041 21<sup>st</sup> Ave W and 3228 W Government Way within Magnolia – the prior referenced in Exhibit V.) This concern has generated my decision to assist the neighbors in this appeal.

**III. Responses to assuring neighborhood density is regulated and limited to the intent of the Code.**

- a. Section 'A' of the Applicant's Motion to Dismiss suggests that "raising issues with neighborhood density and the intent of the Code is not a valid basis for establishing standing." The appeal specifically states on page 2 lines 7-17 which criteria have not been applied for this Type II land-use decision. Again, the Appellant's interests and in the interests of the neighbors to the Subject Property warrant a valid standing in this appeal.
- b. The Applicant refers to '*logical inference*' on page 5 line 11 of the Motion to Dismiss, and attempts to apply some meaning to the term "significantly" outside the definitions of HER 2.02. I ask that the Hearing Examiner request further clarification as to what is being implied as the statement is not discernible to the Appellant.
- c. Of the thirty-three 33 prior land-use appeals filed since January 2016, the Applicant has not offered a case-history basis for dismissal by physical proximity. Applied rather arbitrarily in this motion to dismiss, to isolate this appeal to be dismissed relative to distances on a map from my place of residence would impose unfair bias and prejudice to this case's Appellant. As such, the request to dismiss for the reasons of perceived lack of proximity should be retracted.

- d. On Page 5, the motion referenced the case of *London v. City of Seattle*, 93 Wn.2d 657 (1980) concerns the vacation of portions of certain streets in Seattle to permit Providence Medical Center (PMC) to build needed new medical facilities over 30 years ago. Furthermore, there is nothing in the SMC or HER identified by the Applicant that substantiates “*distance alone is determinative of the ultimate issue that the Appellant is not significantly affected by or interested in the Permit.*”<sup>5</sup> As such, this case example and reason for dismissal does not apply to this appeal.
- e. The Motion to Dismiss page 6 line 7-8 suggests that “*the Appellant may disagree with how the Code has been interpreted*”. Yet, the basis of the appeal is not a code interpretation nor does the Appellant need to request one. The Hearing Examiner review of SMC 23.76.026(B) as identified on page 11 section C of the Appeal will examine the decision for subdivision has fully applied the criteria.
- The Appeal page 2 line 4 references the SDCI “*basis to grant the subdivision which requires applying all of the criteria as listed in the ‘City of Seattle Analysis and Decision of the Director of the Seattle Department of Construction and Inspections.’*”
  - Appeal page 4 line 1 delineates the concern of “*approve a Short Subdivision without fully applying the criteria to make such a decision.*”
- f. There is no indication within the appeal that the code has been violated with the decision for the lot subdivision. However, the appeal does request in multiple locations that the conditions of the lot subdivision must be delineated with the approval of the lot subdivision.
- For example, one of the Director’s criteria is the “*Conformance to the applicable Land Use Code provisions, as modified by this chapter.*” Yet, the provisions to comply with SMC 23.84A.032(R)(20) regarding “Rowhouse development” is not a condition to the subdivision of the Subject Property.
  - In fact, the City already has all of the development plans for this original lot as visible on the SDCI public website. As such, the SDCI is knowingly issuing the subdivision for a single development where criteria SMC 23.84A.032(R) (20) is not a condition and thereby will not be followed.
  - This Appeal will allow the Hearing Examiner to determine if this single development Type II decision reflects an unchallenged means of de facto up-zoning to this LR1 lot or if the increased density by subdivision within a single development is de jure practice with specific exception(s) identified in the code.

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<sup>5</sup> Applicant’s Motion to Dismiss, page 5, lines 19-20



#### **IV. Conclusion.**

The depth of revelation included in the appeal and reinforced by letters of concern from neighbors warrants the applicability and compliance of this appeal as established by HER 3.01. Insufficient evidence has been proposed by the Applicant to warrant a dismissal per HER 3.02 (a). A short subdivision cannot be accepted until the submitted application is in full compliance with all of the items noted in the Director's Decision and Recommendation. After presentation of the evidence, the Hearing Examiner may determine if it is acceptable to allow an unconditional approval of a short subdivision when the known purpose is to implement a submitted development plan to simultaneously develop row houses and detached dwelling(s) within one parent site. The Unconditional Subdivision is not compliant with the criteria of land-use code. Thus, the Appellant representing the interest of the neighbors to 1532 NW 60th Street should be allowed a hearing on this land-use decision, and the Appellant's Motion to Dismiss should be denied.

Respectfully responding this thirtieth day of June, 2017,

By   
Appellant, David M. Moehring

EXH I

**From:** dan scott  
**To:** Whitworth, Allison; PRC  
**Subject:** RE: 1532 NW 60th Street land use decision [SDCI Project No. 3026908]  
**Date:** Tuesday, June 27, 2017 4:37:38 PM

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June 27, 2017

RE: 1532 NW 60th Street land use decision [SDCI Project No. 3026908]

Allison Whitworth, Planner and the Seattle SDCI PRC  
Seattle Dept. of Construction and Inspections  
P.O. Box 34019  
Seattle, WA 98124-4019  
Email: Allison.Whitworth@seattle.gov; and Email: PRC@seattle.gov

Dear Seattle Department of Construction and Inspections,

I am a resident and property owner at 1538 NW 60th St., and I live next door to the proposed zoned lowrise-1 (LR1) development at 1532 NW 60th Street (in the Ballard community). Although I am an advocate of revitalizing Seattle's residential neighborhoods that need it, I am concerned about the apparent over-development of the Subject Property. Most developments within this LR1 zone have been limited to three (3) homes as limited by the Seattle land use code since it was modified in 2015. The SDCI, however, has recently issued a Land Use lot subdivision decision for this property that could allow four or more dwellings on the original lot of 4,750 square feet.

As a resident next door from this development, my household will be adversely affected by the city's decision if it does not conditionally limit row houses being built in front of another dwelling on the same property. The city's planning principles of sufficient daylight, useable exterior space, and privacy would be sacrificed with the over-development of this LR1 property.

I understand that an appeal has been filed with the Seattle Office of the Hearing Examiner on June 8th by David Moehring, in the interest of the neighbors to 1532 NW 60th Street. Our household supports the appeal and the requested relief as identified within the appeal:

1. Reversing the decision to approve the land use subdivision;
2. Requiring that the SDCI enforce compliance of row-house developments as a condition to the subdivision;
3. Requiring that the developer / architect submit their full intent with the proposed lot subdivision – including full disclosure to those in proximity to the development.

Sincerely,

Daniel J. Scott  
HOME OWNER

**From:** Whitworth, Allison  
**To:** PRC  
**Subject:** FW: 1532 NW 60th St land use decision (SD I Project No 3026908)  
**Date:** Monday, June 19, 2017 8:26:26 AM

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Allison Whitworth  
Land Use Planner  
City of Seattle Department of Construction and Inspections  
P: 206.684.0363 | Allison.Whitworth@Seattle.gov

-----Original Message-----

From: sally.pendras@comcast.net [<mailto:sally.pendras@comcast.net>]  
Sent: Friday, June 16, 2017 4:29 PM  
To: Whitworth, Allison <Allison.Whitworth@seattle.gov>  
Subject: 1532 NW 60th St land use decision (SD I Project No 3026908)

Dear Seattle Department of Construction and Inspection,

I am a resident and owner for over 30 years at 1542 NW 60th St, just several doors down from current development site. I am very concerned about the apparent over-development of the above listed property. We have seen seemingly endless growth and destruction of our neighborhood. As I realize change happens and we are a major growing city I believe allowing this project to be larger and more crowded then the current zoning calls for is taxing to our neighborhood beyond what it has already indured. Our household will be further adversely affected if this over development takes place. We already endure loss of privacy, loss of light, loss of street parking, speeding traffic, and too much traffic on the substandard alley behind these houses. With continued building and crowding in Ballard and soon to be pay parking zoning South of us several blocks I feel our neighborhood does not need to justify more housing then code currently allows. I understand that an appeal has been filed with the Seattle Office is the Hearing Examiner on June 8th by David Moehring in the interest of the neighbors. Our household supports the appeal and request relief as identified within the appeal :

1. Reversing the decision to approve the land use subdivision ; 2. Requiring that SDCI enforce compliance of row-house developments as a condition to the subdivision ; 3. Requiring that the developer /architect submit their full intent with the proposed lot subdivision -including full disclosure to those in proximity to the development.

Sincerely,  
Sally T Pendras  
Home owner

Sent from my iPhone

EXH III

Frances O'Brien  
1522 NW 60<sup>th</sup> St  
Tel 206 782 4395  
frances.obrien@comcast.net

JUNE 12, 2017

RE: 1532 NW 60th Street land use decision [SDCI Project No. 3026908]

Allison Whitworth, Planner and the Seattle SDCI PRC  
Seattle Dept. of Construction and Inspections  
P.O. Box 34019  
Seattle, WA 98124-4019  
Email: [Allison.Whitworth@seattle.gov](mailto:Allison.Whitworth@seattle.gov); and Email: [PRC@seattle.gov](mailto:PRC@seattle.gov)

Dear Seattle Department of Construction and Inspections,

I am a resident at 1522 NW 60<sup>th</sup> St, Seattle, and I live near the proposed zoned lowrise-1 (LR1) development at 1532 NW 60<sup>th</sup> Street (in the Ballard community). Although I am an advocate of revitalizing Seattle's residential neighborhoods that need it, I am concerned about the apparent over-development of the Subject Property. Most developments within this LR1 zone have been limited to three (3) homes as limited by the Seattle land use code since it was modified in 2015. The SDCI, however, has recently issued a Land Use lot subdivision decision for this property that could allow four or more dwellings on the original lot of 4,750 square feet.

As a resident near this development, my household will be affected by the city's decision if it does not conditionally limit row houses being built in front of another dwelling on the same property. The city's planning principles of sufficient daylight, useable exterior space, and privacy would be sacrificed with the over-development of this LR1 property.

I understand that an appeal has been recently issued to the Seattle Office of the Hearing Examiner on June 8<sup>th</sup> by David Moehring, in the interest of the neighbors to 1532 NW 60<sup>th</sup> Street. Our household supports the appeal and the requested relief as identified within the appeal:

1. Reversing the decision to approve the land use subdivision;
2. Requiring that the SDCI enforces compliance of row-house developments as a condition to the subdivision;
3. Requiring the developer / architect submit their full intent with the proposed lot subdivision - including full disclosure to those in proximity to the development.

Sincerely,



Frances O'Brien

HOME OWNER

EXH IV

J. Stanley Miner  
1522 NW 60<sup>th</sup> St.  
Seattle, WA 98107  
Ph 206.890.08555  
Fax 206.782.4395  
stanley.miner@comcast.net

JUNE 12, 2017

**RE: 1532 NW 60th Street land use decision [SDCI Project No. 3026908]**

Allison Whitworth, Planner and the Seattle SDCI PRC  
Seattle Dept. of Construction and Inspections  
P.O. Box 34019  
Seattle, WA 98124-4019  
Email: [Allison.Whitworth@seattle.gov](mailto:Allison.Whitworth@seattle.gov); and Email: [PRC@seattle.gov](mailto:PRC@seattle.gov)

Dear Seattle Department of Construction and Inspections,  
I am a resident and property owner at 1522 NW 60<sup>th</sup> St., and I live very close to the proposed zoned lowrise-1 (LR1) development at 1532 NW 60<sup>th</sup> Street (in the Ballard community). Although I am an advocate of revitalizing Seattle's residential neighborhoods that need it, I am concerned about the apparent over-development of the Subject Property. Most developments within this LR1 zone have been limited to three (3) homes as limited by the Seattle land use code since it was modified in 2015. The SDCI, however, has recently issued a Land Use lot subdivision decision for this property that could allow four or more dwellings on the original lot of 4,750 square feet.

As a resident two doors away from this development, my household will be adversely affected by the city's decision if it does not conditionally limit row houses being built in front of another dwelling on the same property. The city's planning principles of sufficient daylight, useable exterior space, and privacy would be sacrificed with the over-development of this LR1 property.

I understand that an appeal has been filed with the Seattle Office of the Hearing Examiner on June 8<sup>th</sup> by David Moehring, in the interest of the neighbors to 1532 NW 60<sup>th</sup> Street. Our household supports the appeal and the requested relief as identified within the appeal:

1. Reversing the decision to approve the land use subdivision;
2. Requiring that the SDCI enforce compliance of row-house developments as a condition to the subdivision;
3. Requiring that the developer / architect submit their full intent with the proposed lot subdivision – including full disclosure to those in proximity to the development.

Sincerely,

**J. Stanley Miner**

HOME OWNER



EXH V

## Zoning non-compliance in LR1 residential area

**From:** "David Moehring" <dmoehring@consultant.com>  
**To:** "Capestany, Tina" <Tina.Capestany@seattle.gov>  
**Cc:** "Torgelson, Nathan" <Nathan.Torgelson@seattle.gov>  
**Bcc:** LINDAMELVIN@msn.com, mhk@martinhenrykaplan.com, "Troy Meyers" <troy.meyers@squireparkcc.org>, lwall@serv.net  
**Date:** Apr 18, 2017 3:17:00 PM

Tina-

Just to followup from last month on the question to the Director. It was my prior understanding that zoning requirements are defined by the parent lot. Subsequent platting actions may not increase nonconformity to the parent lot.

Your (and/or the Director's) response below states, "A separate MUP and Construction application were created for each newly created parcel. The development standards of the zone were applied separately to each new parcel."

In essence, two new parent lots were created after the subdivision of the original parent lot. This taking place even after the SEPA decision was based on the original parent lot. This seems to conflict with the intent of land use planning in terms of prescribing the appropriate amount of density within a relative residential zone.

Unless I am missing some of the logic behind this, it either appears there is discrepancies in the code or there needs to be an investigation on what case law has established the conflicting means of developing residential units on the same size site. I appreciate your responses. Should I be redirecting these types of questions to City Planning, City Council, other???

### As stated on every Decision for subdivision:

*Unit lot subdivision standards: The unit lot subdivision must conform 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.*

*A. The provisions of this section apply exclusively to the unit subdivision of land for townhouses, rowhouse and cottage housing developments as permitted in Single-Family, Residential Small Lot, and Lowrise zones, and for single-family dwelling units in Lowrise zones, or any combination of the above types of residential development, as permitted in the applicable zones.*

*B. Except for any site for which a permit has been issued pursuant to Section 23.44.041 or 23.45.545 for a detached accessory dwelling unit, sites developed or proposed to be developed with dwelling units listed in subsection 23.24.045 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 or private amenity area for each dwelling unit shall be provided on the same unit lot as the dwelling unit it serves.*

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

Kind regards,

David Moehring  
 3444 23rd Ave W  
 312-965-0634

**Sent:** Monday, March 13, 2017 at 10:52 AM  
**From:** "Capestany, Tina" <Tina.Capestany@seattle.gov>  
**To:** "dmoehring@consultant.com" <dmoehring@consultant.com>  
**Cc:** "Torgelson, Nathan" <Nathan.Torgelson@seattle.gov>  
**Subject:** RE: Zoning non-compliance in LR1 residential area

Hello David,

This email is in response to the email sent to Nathan Torgelson on March 10, 2017.

The property at 3041 21st Ave W was subdivided under project number #3022307 as you have mentioned.

Although the "Analysis and Decision" approved by Magda Hogness under 3022307, 3022501 and 3025502 looked at the original property and both structures when making the SEPA decision, the development standards in SMC 23.45 are applied separately to each parcel created by the short subdivision.

A separate MUP and Construction application were created for each newly created parcel. The development standards of the zone were applied separately to each new parcel.

Parcel A) 3022501 and 6505983 based on lot area of 3038 SF

Parcel B) 3022502 and 6505989 based on a lot area of 2961 SF

The structure on Parcel A was approved as a 3-unit rowhouse. The structure on Parcel B was approved as a 2-unit townhouse.

The unit lot subdivision is for the sale and purchase of the units on each newly created parcel. For this reason, a project number was created for each parcel rather than one.

I hope you find this information helpful.

Regards,



Tina Capestany

Land Use Planner III

City of Seattle Department of Construction and Inspections

P.O. Box 34019, Seattle, WA 98124-4019

P: 206.233.2170 | F: 206.233.7866 | [tina.capestany@seattle.gov](mailto:tina.capestany@seattle.gov)



"As stewards and regulators of land and buildings, we preserve and enhance the equity, livability, safety and health in our communities."

From: David Moehring [<mailto:dmoehring@consultant.com>]

Sent: Friday, March 10, 2017 12:14 PM

To: SCI\_Code\_Compliance <[SCI\\_Code\\_Compliance@seattle.gov](mailto:SCI_Code_Compliance@seattle.gov)>; [christina.capestany@seattle.gov](mailto:christina.capestany@seattle.gov)

Cc: PRC <[PRC@seattle.gov](mailto:PRC@seattle.gov)>; Torgelson, Nathan <[Nathan.Torgelson@seattle.gov](mailto:Nathan.Torgelson@seattle.gov)>; [ashley.millett@gmail.com](mailto:ashley.millett@gmail.com); [lawsonhancock@yahoo.com](mailto:lawsonhancock@yahoo.com)

Subject: Zoning non-compliance in LR1 residential area

RE: 3041 21st Ave W townhouses with row-houses on one 5,999SF zoned LR1 Parent lot (3026143, Bulletin date: 11/10/2016)

Dear City of Seattle-

Please review the attached followup letter relative to the LR1 zoning non-compliance within my Seattle neighborhood of Magnolia. I value growth of residential homes in the city, but only in adherence with the zoning rules designed to protect livable residential areas (from single family to multifamily) within this unique city.

A written response to these discrepancies as identified in November 2016 is requested within 30 calendar days.

Next in line: 3228 West Government Way

Thank you,

David Moehring

Seattle LR1 zone townhouse homeowner

3444 23rd Ave W, #B

Seattle WA 98199  
m 312-965-0634

attachments: 4 documents

