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6 BEFORE THE HEARING EXAMINER
7 CITY OF SEATTLE

8 In the Matter of the Appeal of:

9 DAVID M. MOEHRING,

10 from a decision issued by the Director,
11 Department of Construction and Inspections.

Hearing Examiner File:
MUP-18-001

Department Reference: 3028431
3641 22nd Avenue West

12 APPLICANT'S MOTION TO
13 DISMISS LAND USE APPEAL

14 COMES NOW the applicant, Loren Landerholm of Sound Equities Incorporated
15 ("Sound Equities"), by and through its undersigned attorney, Brandon S. Gribben of Helsell
16 Fetterman LLP, and moves the Hearing Examiner to dismiss this land use appeal with
17 prejudice.

18 **I. INTRODUCTION AND RELIEF REQUESTED**

19 This matter concerns an appeal of Seattle Department of Construction and
20 Inspections ("SDCI") Director's Decision (the "Decision"¹) that approved the proposed
21 short subdivision under permit #3028431² (the "Permit" or "Site") for the property located at
22 3641 22nd Avenue West (the "Property"). The Permit sought to subdivide the Property into
23
24

25 ¹ The Decision is attached as Exhibit A.

² The approved Short Subdivision is attached as Exhibit B.

APPLICANT'S MOTION TO DISMISS
LAND USE APPEAL - 1

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1 two parcels of 3,024 square feet and 2,975 square feet. SDCI approved the Permit on
2 December 18, 2017.

3 David M. Moehring ("Moehring"), who has extensive experience appealing SDCI
4 land use decisions,³ filed an appeal of the Decision (the "Appeal"⁴) on January 2, 2018; he
5 amended the appeal six days later on January 8, 2018.⁵ The issues raised by Moehring on
6 Appeal are without merit on their face, brought merely to secure delay, and are woefully
7 insufficient to refute the Decision. For these reasons, the Amended Appeal must be
8 dismissed in its entirety. In addition to these substantive deficiencies, Moehring has
9 requested relief that the Hearing Examiner does not have jurisdiction to award, which also
10 mandates dismissal of the Amended Appeal with prejudice.

11 II. STATEMENT OF FACTS

12 The Property is zoned Multifamily Lowrise 1 (LR1). The Site is a rectangular lot
13 containing approximately 6,000 square feet. Access to the Site is from 22nd Avenue West to
14 the east. There is an improved alleyway to the west and existing developments to the north
15 and south.

16 On July 31, 2017, Sound Equities submitted the Permit to SDCI to subdivide one
17 parcel of land into two separate lots. Several days later, SDCI posted the Notice of
18 Application. The Permit then went through a period of public comments that ended on
19 August 16, 2017. After the public comment period and review by SDCI and other city
20 departments, the SDCI Director issued the Decision on December 18, 2017. On January 2,
21 2018, Moehring filed the Appeal; on January 8, 2018, Moehring filed the Amended Appeal.

22 The Amended Appeal raises five objections to the Decision; to wit, (a) the Decision
23 is based on an erroneous application of the short plat approval criteria, SMC 23.24.040.A,

24 ³ The Appellant has also appealed permit numbers 30207730, 3026716, 3027558 and 3026908.

25 ⁴ The Appeal is attached as Exhibit C.

⁵ The Amended Appeal is attached as Exhibit D.

1 (b) the Decision does not contain any findings of fact and provides conclusory analysis, (c)
2 the short plat conflicts with the purpose, intent and requirements for rowhouse development,
3 (d) the Decision fails to identify or require conditions to ensure subsequent development will
4 not result in noncompliance with the Seattle Municipal Code (the "Code"), and (e) the
5 Decision circumvents zoning density prohibited by King County. Each of Moehring's five
6 objections to the Decision are without merit on their face, thus, mandating dismissal of the
7 Amended Appeal.

8 **III. STATEMENT OF ISSUES**

9 1. Should the Amended Appeal be dismissed where it is meritless on its face?
10 Yes.

11 2. Should the Amended Appeal be dismissed where Moehring has requested
12 relief that the Hearing Examiner does not have jurisdiction to grant? Yes.

13 3. Should the amended Appeal be dismissed where it was brought merely to
14 secure delay? Yes.

15 **IV. EVIDENCE RELIED UPON**

16 This motion is based upon the Decision, the Appeal, the Amended Appeal, the file in
17 this matter and the exhibits attached hereto.

18 **V. AUTHORITY**

19 Under Hearing Examiner Rules of Practice and Procedure ("HER") 3.02(a), the
20 Hearing Examiner has authority to dismiss the Appeal "if the Hearing Examiner
21 determinates that it...is without merit on its face..." The five objections raised by
22 Moehring, which will be discussed in turn below, are without merit on their face and should
23 be dismissed.

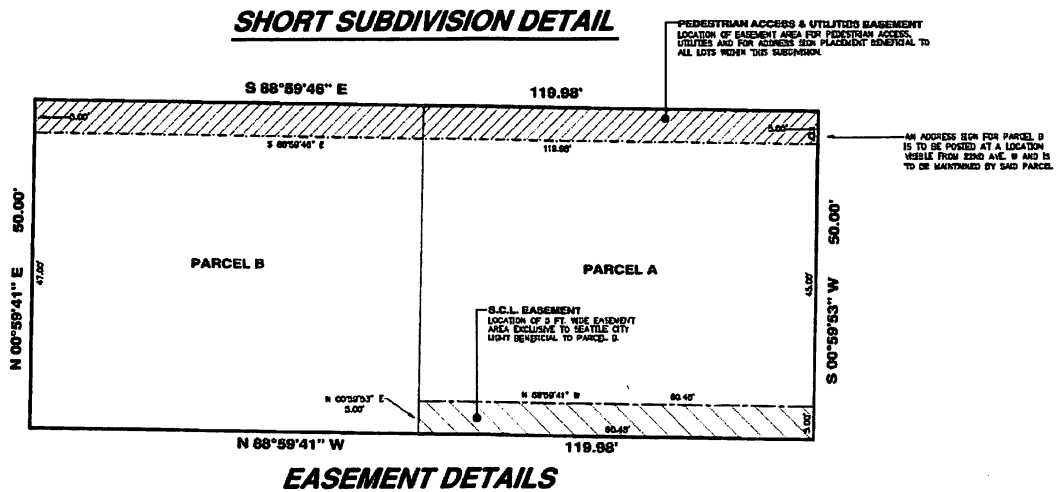
1 A. **The Decision correctly concludes that the short plat meets the approval**
2 **criteria under SMC 23.24.040.A.**

3 SMC 23.24.040.A sets forth the approval criteria when approving short plats.

4 Moehring alleges that the Decision does not conform to the following land use requirements
5 under the Code:

- 6 • Failure to provide adequate access and adequate area to meet amenity area
7 requirements and failure to conform to rowhouse development requirements.
- 8 • Failure to provide adequate vehicle access.
- 9 • Failure to serve the public use and interest by failing to conform to other land
10 use code provisions.

11 As an initial matter, this is an appeal of a short plat to subdivide one parcel of land
12 into two separate lots. The Permit is a land use permit, not a construction permit. It does
13 not allow development of the land. While SMC 23.24.040.A.2 does require that the short
14 plat provide adequate access, Moehring does not identify how or why the short plat fails to
15 comply with this requirement. He also ignores the fact that the short plat *does* provide for
16 pedestrian access.⁶



23 ⁶ See Ex. B, page 4.

1 The pedestrian access easement, located along the northern portion of the Site, meets the
2 requirements of SMC 23.24.040.A.2 and 23.53.006.

3 Moehring also alleges that the short plat does not meet the amenity area
4 requirements. Amenity area requirements are not part of the short plat approval
5 requirements and are not a valid objection to the Decision. The amenity area requirements
6 are based upon what is ultimately developed on the property; it is not dictated by the land
7 use permit. And Moehring has failed to identify what the amenity area requirements are, or
8 how they are purportedly inadequate.

9 Next, Moehring argues that the short plat does not provide adequate vehicle access
10 because the short plat fails to provide exclusive access for each of the two lots. Moehring
11 cites to SMC 23.84A.024, presumably referring to the definition of "Lot," which provides
12 that:

13 "Lot" means, except for the purposes of a TDR sending lot for Landmark TDR
14 or housing TDR, a sending lot for South Downtown Historic TDR or South
15 Downtown Historic TDP, and a sending lot for open space TDR, a parcel of
16 land that qualifies for separate development or has been separately developed.
17 A lot is the unit that the development standards of each zone are typically
18 applied to. A lot shall abut upon and be accessible from a private or public
19 street sufficiently improved for vehicle travel or abut upon and be accessible
20 from an exclusive, unobstructed permanent access easement. A lot may not be
21 divided by a street or alley (Exhibit A for 23.84A.024).

22 The definitions section of the Code is intended to provide clarity; it is not a requirement for
23 short plat approval, a valid objection to the Decision, or basis for appeal.

24 SMC 23.24.040.A.2, which sets forth the approval criteria for short plats, requires
25 adequate access for vehicles as provided under SMC 23.53.005. SMC 23.54.005 (Access to
lots), subsection A.1 (Street or private easement abutment required) states that: "For
residential uses, at least 10 feet of a lot line shall abut a street or a private permanent vehicle
access easement meeting the standards of Section 23.53.025, or the provisions of subsection
23.53.025.F for pedestrian access easements shall be met." The short plat meets this

1 requirement. Parcel A has well over ten feet of frontage on 22nd Avenue West; Parcel B has
2 well over ten feet of frontage on the alleyway over which it has a private permanent vehicle
3 access easement.

4 Finally, Moehring argues that the short plat does not conform to other land use
5 requirements. Moehring does not address any specific code requirements in this section and
6 presumably addresses them later in the Amended Appeal.

7 **B. The Code does not mandate that the Decision contain findings of fact or**
8 **any particular level of analysis. Regardless, the Decision thoroughly**
9 **analyzes the short plat approval criteria, and correctly concludes that**
10 **the short plat satisfies that criteria.**

11 There is no authority, and Moehring does not offer any, that requires the Decision to
12 contain findings of fact. Further to that point, the Code does not require any particular level
13 of analysis. SMC 23.76.020 – Director's decisions on Type I and Type II Master Use
14 Permits – governs Type II decisions, which includes approval of short plats. It states, in
15 part, as follows:

16 Master Use Permit Review Criteria. The Director shall grant, deny, or
17 conditionally grant approval of a Type II decision based on the applicant's
18 compliance with the applicable SEPA policies pursuant to Section 25.05.660,
19 and with the applicable substantive requirements of the Seattle Municipal Code
20 pursuant to 23.76.026...

21 The Code is clear: findings of fact and a particular level of analysis are not required. That
22 being said, the Decision sufficiently analyzes the short plat and provides sound reasoning for
23 its approval.

24 **C. The Decision does not authorize any development of the short plat.**

25 Moehring argues, incorrectly, that the short plat “conflicts with [the] purpose, intent,
and requirements for rowhouse development.”⁷ Again, the Decision merely approves the

⁷ See Amended Appeal, Section III.2.c.

1 short plat, which subdivides one parcel of land into two separate lots. The Permit is a land
2 use permit and does not authorize or allow any particular development on the Site. Thus, it
3 cannot conflict with the requirements for rowhouse developments because it does not
4 authorize *any* type of development on the Site, including rowhouses.

5 **D. There is no authority for conditioning approval of the short plat on what**
6 **might be developed in the future.**

7 Moehring goes on to argue that the Decision fails to condition the short plat to ensure
8 that future development will comply with the following requirements:

- 9 • SMC 23.84A.024 – “L” for easement access requirements;
- 10 • SMC 23.84A.032 – “R” (20) for rowhouse development rules;
- 11 • SMC 23.45.512 for density limits in lowrise zones; and
- 12 • Tree protection rules – preservation of existing trees.

13 None of these issues are valid objections to the Decision.

14 As previously discussed above, SMC Chapter 23.84A is the definitions section of the
15 Code and does not govern approval of short plats.

16 Similarly, SMC 23.45.512 provides for density limits in low rise zones, which is
17 immaterial to the short plat approval process. The construction permit determines and
18 authorizes what may be developed on the two lots, and how dense that development may be.
19 The land use permit that is the subject of this appeal is only concerned with dividing one
20 parcel of land into two separate lots; nothing more.

21 Finally, the tree protection rules will be applied to the future development. As set
22 forth in the Decision: “Future construction will be subject to the provisions of SMC
23 23.44.008, 25.11.050 and 25.11.060 which sets forth tree planting and exceptional tree
24 protection requirements.” These code provisions, like the other code provisions identified
25 by Moehring, do not govern approval of short plats.

1 **E. The King County Code does not govern approval of short plats in the**
2 **City of Seattle.**

3 Finally, Moehring argues, in essence, that the Decision does not comply with King
4 County Code (“KCC”) 19A.08.180. The KCC does not apply to this Site or the short plat
5 approval process. That process is governed by the SMC. While the KCC governs the
6 development of property in unincorporated King County, it does not govern property located
7 in the City of Seattle. Property located within the boundaries of the City of Seattle are
8 governed by the SMC. This is not a valid objection to the Decision.

9 **F. The Hearing Examiner does not have authority under SMC 23.76.022 to**
10 **award numerous forms of relief that Moehring requests.**

11 In the Amended Appeal, Moehring seeks six separate, or alternative, forms of relief.
12 They are:

- 13 a. Vacation of the Analysis and Decision.
- 14 b. Correct the SDCI Director’s failure to include conditions assuring
15 compliance with the Land Use Code requirements.
- 16 c. Require a certified arborist evaluation to be submitted so that the Director
17 may apply the required criteria of whether the proposed division of land is
18 designed to maximize the retention of existing trees. This report must also
19 consider all smaller trees that are within environmentally critical areas.
- 20 d. Require a completed site plan with the existing trees shown that have the
21 potential to be retained, including alternative approaches to the lot
22 subdivision so that the Director may apply the required criteria of whether the
23 proposed division of land is designed to maximize the retention of existing
24 trees.
- 25 e. Require a completed site plan showing the adequate width of easements for
 access required for pedestrians, vehicle, utilities and fire protection as

1 provided in Section 23.53.005, Access to lots, and Section 23.56.006.

2 Pedestrian access and circulation.

- 3 f. Require a decision which is granted on a condition that subsequent
4 development does not exceed the allowed dwelling density of the parent lot.

5 The Hearing Examiner does not have authority to grant the vast majority of the relief
6 requested by Moehring.

7 SMC 23.76.022 - Administrative reviews and appeals for Type I and Type II Master
8 Use Permits – subsection C.10, provides that:

9 C. Hearing Examiner Appeal Procedures

10 10. Hearing Examiner's Decision. The Hearing Examiner shall issue a written
11 decision, including written findings and conclusions supporting the decision,
12 within 15 days after closing the record. *The Hearing Examiner may affirm,*
13 *reverse, remand, or modify the Director's decision.* The Director and all parties
of record shall be bound by the terms and conditions of the Hearing Examiner's
decision. (emphasis added)

14 It is axiomatic that the Hearing Examiner does not have any greater authority than SDCI to
15 condition or modify a project. For this reason, the Hearing Examiner does not have
16 authority to grant the relief sought in subsection (b) through (f).

17 The first request for relief sought by Moehring is to vacate the Decision. While the
18 Hearing Examiner does have this authority under SMC 23.76.022.C.10, for the reasons
19 discussed above, the Amended Appeal should be dismissed because it is without merit on its
20 face and the Decision should be affirmed.

21 Next, Moehring requests that the Decision be modified to include conditions
22 ensuring that the short plat complies with the Code. The Amended Appeal fails to identify
23 any Code provision applicable to short plat approvals that is being violated. Thus, Moehring
24 has failed to identify any basis for conditioning the short plat.

1 Moehring then request, under subsections (c) and (d), that the Hearing Examiner
2 award certain relief to demonstrate that the short plat is designed to maximize the retention
3 of trees. While one of the short plat approval criteria (SMC 23.24.040.A.6) concerns
4 whether “the proposed division of land is designed to maximize the retention of existing
5 trees,” Moehring fails to allege in the Amended Appeal that the short plat fails to meet this
6 requirement. Because Moehring has failed to raise this issue in his Amended Appeal, the
7 Hearing Examiner does not have authority to award this relief. Regardless, the short plat is
8 designed to maximize the retention of trees, and Moehring fails to allege, much less identify,
9 how the short plat fails not meet this requirement.

10 Moehring goes on to argue that the Hearing Examiner should require a site plan that
11 shows the various easements for access, utilities, etc. The site plan⁸ clearly demonstrates the
12 various easements across the Site, which satisfies the applicable code criteria.

13 Finally, Moehring argues that the Decision should condition subsequent
14 development on the lot. As discussed at length above, the Decision only approves the short
15 plat, which divides one parcel of land into two lots. It does not authorize any construction
16 on the Site. Thus, there is no authority to modify the Decision to condition future
17 development of the short plat.

18 **G. The Amended Appeal should be dismissed because it was brought**
19 **merely to secure delay.**

20 Under HER 3.02(a), the Hearing Examiner may dismiss an appeal prior to the
21 hearing if the appeal is brought merely to secure delay. Moehring has filed numerous land
22 use appeals in the short time since he moved to Seattle. Many of those appeals concerned
23 property that was located miles away from his townhome in Magnolia. As far as the
24 applicant is aware, each of those land use appeals concerned many of the same issues that

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⁸ See Ex. B.

1 were raised in this appeal. And each of those appeals were dismissed prior to a hearing.
2 Moehring is well aware that the issues raised in his Amended Appeal have no merit, because
3 he has raised them many times before. Because it is readily apparent that Moehring brought
4 this appeal merely to secure delay, the Amended Appeal should be dismissed on that basis
5 as well.

6 VI. CONCLUSION

7 For Moehring to survive this motion to dismiss, the Hearing Examiner must
8 conclude that (a) Moehring has raised a valid issue on appeal, and (b) he has requested relief
9 that (i) the Hearing Examiner has jurisdiction to grant, and (ii) directly relates to that valid
10 issue raised on appeal. In other words, even if Moehring raises a valid issue on appeal, but
11 has not requested relief directly related to that issue that the Hearing Examiner has authority
12 to award, or vice versa, then the motion to dismiss must be granted, and the Amended
13 Appeal dismissed.

14 HER 3.02(a) allows the Hearing Examiner to dismiss an appeal prior to the hearing if
15 the appeal fails to state a claim for which the Hearing Examiner has jurisdiction to grant
16 relief, is without merit on its face, is frivolous or is brought merely to secure delay. The
17 Amended Appeal fails to raise a valid objection to the Director's Decision, is without merit
18 on its face, and requests relief that the Hearing Examiner lacks jurisdiction to award.
19 Accordingly, it is respectfully requested that the Hearing Examiner dismiss the entire
20 Amended Appeal with prejudice.

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Respectfully submitted this 29th day of January, 2018.

HELSELL FETTERMAN LLP

By: s/ Brandon S. Gribben
Brandon S. Gribben, WSBA No. 47638
Attorneys for Applicant Loren Landerholm and
Sound Equities Incorporated

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 29, 2018, the foregoing document was sent for delivery on the following party in the manner indicated:

Appellant Contact:

David Moehring

- ☐ Via first class U. S. Mail
☐ Via Legal Messenger
☐ Via Facsimile
☐ Via Email to
dmoehring@consultant.com

Hearing Examiner

Office of Hearing Examiner
700 Fifth Avenue, Suite 4000
Seattle, WA 98104

- ☐ Via first class U. S. Mail
☐ Via Legal Messenger
☐ Via Facsimile
☐ Via Email to
Alayna.johnson@seattle.gov

Department Contact:

Joseph Hurley
SDCI
PO Box 34019
Seattle, WA 98124

- ☐ Via first class U. S. Mail
☐ Via Legal Messenger
☐ Via Facsimile
☐ Via Email to
joseph.hurley@seattle.gov

s/ Kyna Gonzalez
Kyna Gonzalez, Legal Assistant

EXHIBIT A



**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

Application Number: 3028431
Applicant Name: Loren Landerholm
Address of Proposal: 3641 22nd Avenue West

SUMMARY OF PROPOSED ACTION

Land Use Application to subdivide one parcel into two parcels of land. Proposed Parcel sizes are: A) 3,024 sq. ft. and B) 2,975 sq. ft. Existing structures to be demolished.

The following approval is required:

Short Subdivision - to create two parcels of land.
(Chapter 23.24, Seattle Municipal Code)

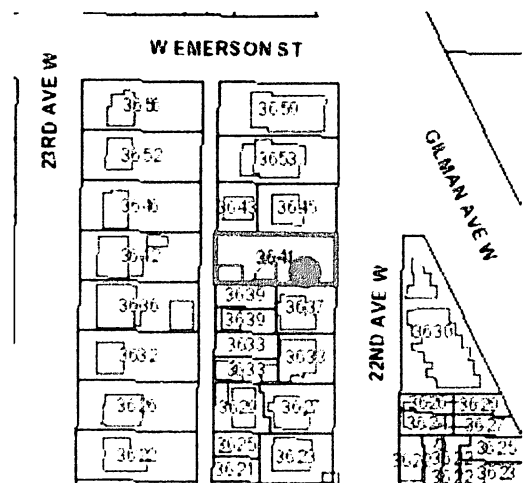
SITE AND VICINITY

Site Zone: LR1 (Lowrise 1)

Site Description: The site is in an LR1 zone, just off Gilman Avenue W., approximately 1000 feet southwest of Fisherman's Terminal.

BACKGROUND

The site was granted relief from Steep Slope development standards by the SDCI Geotechnical Engineer on June 29, 2017: "Based on a review of the submitted information and the City GIS system, SDCI concludes that the ECA Steep Slope Area in the eastern region of the property was created by previous legal grading associated with right-of-way improvements. Consequently, that area qualifies for Relief From Prohibition On Steep Slope Development, as described in SMC 25.09.090B2a. Neither an ECA Steep Slope Area Variance, or an Exception, are required for this application. Except as described herein, the remaining Environmentally Critical Areas requirements apply."



PUBLIC COMMENT:

The public comment period ended on August 16, 2017. Comments were received and carefully considered, to the extent that they raised issues within the scope of this review. These areas of public comment related to the review process. Comments were also received that are beyond the scope of this review and analysis per SMC 23.24. (Related to code compliance, density, architectural context and character, construction impacts.)

I. ANALYSIS – SUBDIVISION

General short subdivision standards: Pursuant to SMC 23.24.040, the Director shall, after conferring with appropriate officials, use the following criteria to determine whether to grant, condition, or deny a short plat:

1. *Conformance to the applicable Land Use Code provisions, as modified by Chapter 23.24;*
2. *Adequacy of access for pedestrians, vehicles, utilities and fire protection as provided in Section 23.53.005, Access to lots, and Section 23.53.006, Pedestrian access and circulation;*
3. *Adequacy of drainage, water supply and sanitary sewage disposal;*
4. *Whether the public use and interests are served by permitting the proposed division of land;*
5. *Conformance to the applicable provisions of Section 25.09.240, Short subdivisions and subdivisions, in environmentally critical areas;*
6. *Whether the proposed division of land is designed to maximize the retention of existing trees;*
7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of single-family dwelling units, townhouse, rowhouse, cottage housing developments, and existing apartment structures built prior to January 1, 2013, but not individual apartment units, or any combination of the above types of residential development, as permitted in the applicable zones; and;*
8. *Every lot except unit lots and lots proposed to be platted for individual live-work units in zones where live-work units are permitted, shall conform to the following standards for lot configuration, unless a special exception is authorized under subsection 23.24.040.B:*
 - a. *If a lot is proposed with street frontage, then one lot line shall abut the street for at least 10 feet; and*
 - b. *No lot shall be less than 10 feet wide for a distance of more than 10 feet as measured at any point; and*
 - c. *No proposed lot shall have more than six separate lot lines. The lot lines shall be straight lines, unless the irregularly shaped lot line is caused by an existing right-of-way or an existing lot line; and*
 - d. *If the property proposed for subdivision is adjacent to an alley, and the adjacent alley is either improved or required to be improved according to the standards of Section 23.53.030, then no new lot shall be proposed that does not provide alley access, except that access from a street to an existing use or structure is not required to be changed to alley access. Proposed new lots shall either have sufficient frontage on the alley to meet*

access standards for the zone in which the property is located or provide an access easement from the proposed new lot or lots to the alley that meets access standards for the zone in which the property is located.

Conclusion:

Based on information provided by the applicant, referral comments from SDCI and other City Departments, and review and analysis by the Land Use Planner, the above criteria have been met.

The short subdivision meets all minimum standards or applicable exceptions set forth in the Land Use Code. This short subdivision will provide pedestrian and vehicular access (including emergency vehicles), and public and private utilities.

Adequate provisions for drainage control, water supply and sanitary sewage disposal will be provided for each lot and service is assured, subject to standard conditions governing utility extensions.

The short plat application has been reviewed by Seattle Public Utilities and a Water Availability Certificate (WAC) was issued on August 7, 2017. The site is not subject to the provisions of Section 25.09.240 since it is not located in a riparian corridor, wetland, wetland buffer, or steep slope area. There does not appear to be any reasonable alternative configuration of this plat that would better maximize the retention of trees than the proposed plat.

Future construction will be subject to the provisions of SMC 23.44.008, 25.11.050 and 25.11.060 which sets forth tree planting and exceptional tree protection requirements.

The public use and interest are served by the proposal since all applicable criteria are met and the proposal creates the potential for additional housing opportunities in the City.

DECISION –SHORT SUBDIVISION

The proposed Short Subdivision is **GRANTED**.

CONDITIONS – SHORT SUBDIVISION

None.

Signature: Joseph Hurley, Land Use Planner Date: December 18, 2017
Seattle Department of Construction and Inspections

JH:bg

Hurley/3028431.docx

IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by SDCI within that three years or it will expire and be cancelled. (SMC 23-76-028) (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at prc@seattle.gov or to our message line at 206-684-8467.

EXHIBIT B

SHORT SUBDIVISION NO. 3028431

GRANTOR: SOUND EQUITIES, INC.

3641 22ND AVE. W.
SEATTLE, WA 98199

CONTACT PERSON:

IZABELLA PHILLIPS
206.297.0996
IZABELLAP@CHADWICKWINTERS.COM

GRANTEE: CITY OF SEATTLE

KING CO., WA.

ABBREVIATED LEGAL:

LOT 21, BLOCK 12, GILMAN'S
ADDITION TO THE CITY OF SEATTLE
VOL. 5 OF PLATS, PG. 93

PROPERTY ADDRESS:

3641 22ND AVE. W.

ASSESSOR'S PARCEL #: 2770601655

REFERENCE NO.'S FOR RELATED PROJECTS:**APPROVAL:**

CITY OF SEATTLE
SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS
NATHAN TORGELSON, DIRECTOR

EXAMINED AND APPROVED THIS _____ DAY OF _____ 2017

BY: _____ DIRECTOR

NOTE:

APPROVAL OF THIS SHORT SUBDIVISION BY THE DIRECTOR OF THE SEATTLE
DEPARTMENT OF CONSTRUCTION AND INSPECTIONS UNDER CHAPTER 23.24 OF THE
SEATTLE MUNICIPAL CODE, AS AMENDED, IS NOT TO BE CONSTRUED AS SATISFACTION
OF ANY OTHER APPLICABLE LEGISLATION OR REGULATIONS.

KING COUNTY DEPT. OF ASSESSMENTS

EXAMINED AND APPROVED THIS _____ DAY OF _____ 2017

ASSESSOR: _____

DEPUTY ASSESSOR: _____



DATE: _____

EXISTING LEGAL DESCRIPTION

(5,999 SQ.FT.)

LOT 21, BLOCK 12, GILMAN'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF
RECORDED IN VOLUME 5 OF PLATS, PAGE 93, RECORDS OF KING COUNTY, WA.

NOTES:

1. THIS SURVEY WAS PERFORMED BY FIELD TRAVERSE USING A 10 SECOND "TOTAL STATION" THEODOLITE SUPPLEMENTED
WITH A 100 FT. STEEL TAPE. THIS SURVEY MEETS OR EXCEEDS THE STANDARDS FOR LAND BOUNDARY SURVEYS AS
SET FORTH IN WAC CHAPTER 332-130-090.
2. BASIS OF BEARINGS = N 00°59'41" E BETWEEN THE TWO FOUND MONUMENTS IN THE CENTERLINE OF 23RD AVE. W.
AS SHOWN HEREON.
3. ALL EXISTING STRUCTURES AS SHOWN ON SHEET 3 ARE TO BE LEGALLY REMOVED UNDER SEPARATE PERMIT.
4. NO CURBCUTS OR VEHICULAR ACCESS FROM 22ND AVENUE W. WILL BE GRANTED FOR ANY FUTURE DEVELOPMENT
PERMITS ASSOCIATED WITH PROPOSED PARCEL A.

DECLARATION:

WE THE UNDERSIGNED, OWNER(S) IN FEE SIMPLE [AND CONTRACT PURCHASER(S)]
OF THE LAND HEREIN DESCRIBED DO HEREBY MAKE A SHORT SUBDIVISION THEREOF
PURSUANT TO RCW 58.17.060 AND DECLARE THIS SHORT PLAT TO BE THE GRAPHIC
REPRESENTATION OF SAME, AND THAT SAID SHORT SUBDIVISION IS MADE WITH THE
FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE OWNER(S).
IN WITNESS WHEREOF WE HAVE SET OUR HANDS AND SEALS.

NAME: _____

NAME: _____

STATE OF WASHINGTON) SS

COUNTY OF KING)

ON THIS _____ DAY OF _____ 2017 BEFORE ME, THE UNDERSIGNED, A
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, DULY COMMISSIONED
AND SWORN, PERSONALLY APPEARED LOREN LANDERHOLM, MEMBER OF SOUND
EQUITIES, INC., TO ME KNOWN TO BE THE INDIVIDUAL DESCRIBED IN AND WHO
EXECUTED THE FOREGOING INSTRUMENT FOR THEMSELVES, AND ACKNOWLEDGED TO
ME THAT THEY SIGNED AND SEALED THE SAME AS THEIR VOLUNTARY ACT FOR
THE USES AND PURPOSES THEREIN MENTIONED.

WITNESS MY HAND AND OFFICIAL SEAL HERETO AFFIXED THE DAY AND YEAR IN
THIS CERTIFICATE ABOVE WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

RESIDING AT _____

RECORDING CERTIFICATE

FILED FOR RECORD THIS _____ DAY OF _____ 2017
AT _____ M. IN VOLUME _____ OF SURVEYS,
PAGE _____ AT THE REQUEST OF CHADWICK & WINTERS.

DEPARTMENT OF RECORDS & ELECTIONS

MANAGER _____ SUPT. OF RECORDS _____

SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE
BY ME OR UNDER MY DIRECTION IN CONFORMANCE
WITH THE REQUIREMENTS OF THE SURVEY RECORDING
ACT AT THE REQUEST OF LOREN LANDERHOLM

IN _____, 2017.

R.H. WINTERS, L.S. 18104

**CHADWICK
WINTERS**
LAND SURVEYING AND MAPPING
1422 N.W. 85TH ST., SEATTLE, WA 98117
PHONE: 206.297.0996
FAX: 206.297.0997
WEB: WWW.CHADWICKWINTERS.COM

SURVEY IN:

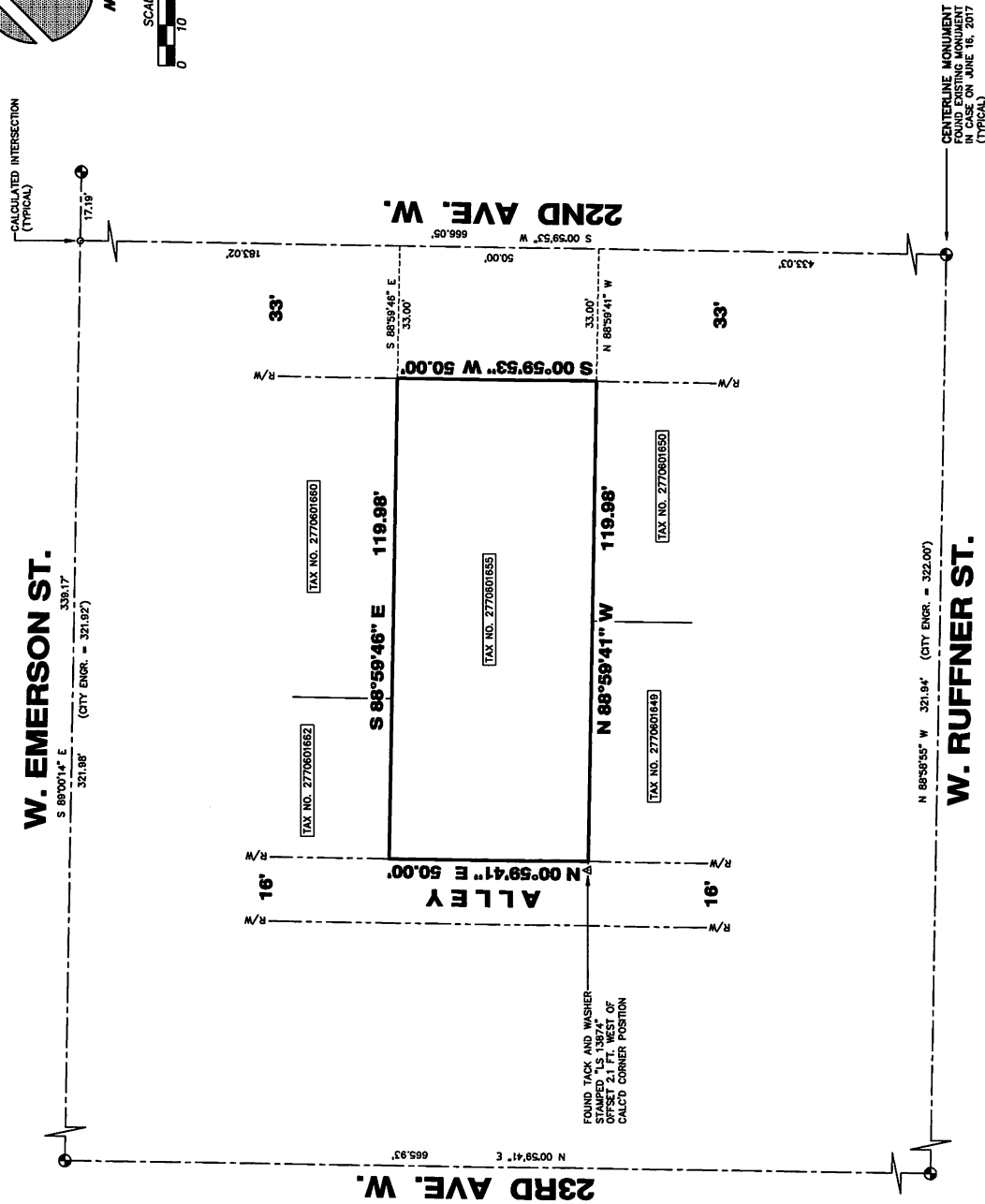
**NW 1/4, SE 1/4, SEC. 14, T. 25 N., R. 3 E., W.M.
KING COUNTY, WASHINGTON**

17-5841X.DWG

DRAWN BY: ACH	DATE: 06-28-17	PROJECT #: 17-5841
CHK. BY: RHW	SCALE: N/A	SHEET: 1 OF 5



SCALE: 1" = 20'



W. RUFFNER ST.

BLOCK & BOUNDARY DETAIL

CHADWICK
WINTERS &

LAND SURVEYING AND MAPPING
1422 N.W. 85TH ST., SEATTLE, WA 98117

PHONE: 208.297.0996

FAX: 206.297.0997

WEB: WWW.CHADWICKWINTERS.COM

SURVEY IN:

**NW 1/4, SE 1/4, SEC. 14, T. 25 N., R. 3 E., W.M.
KING COUNTY, WASHINGTON**

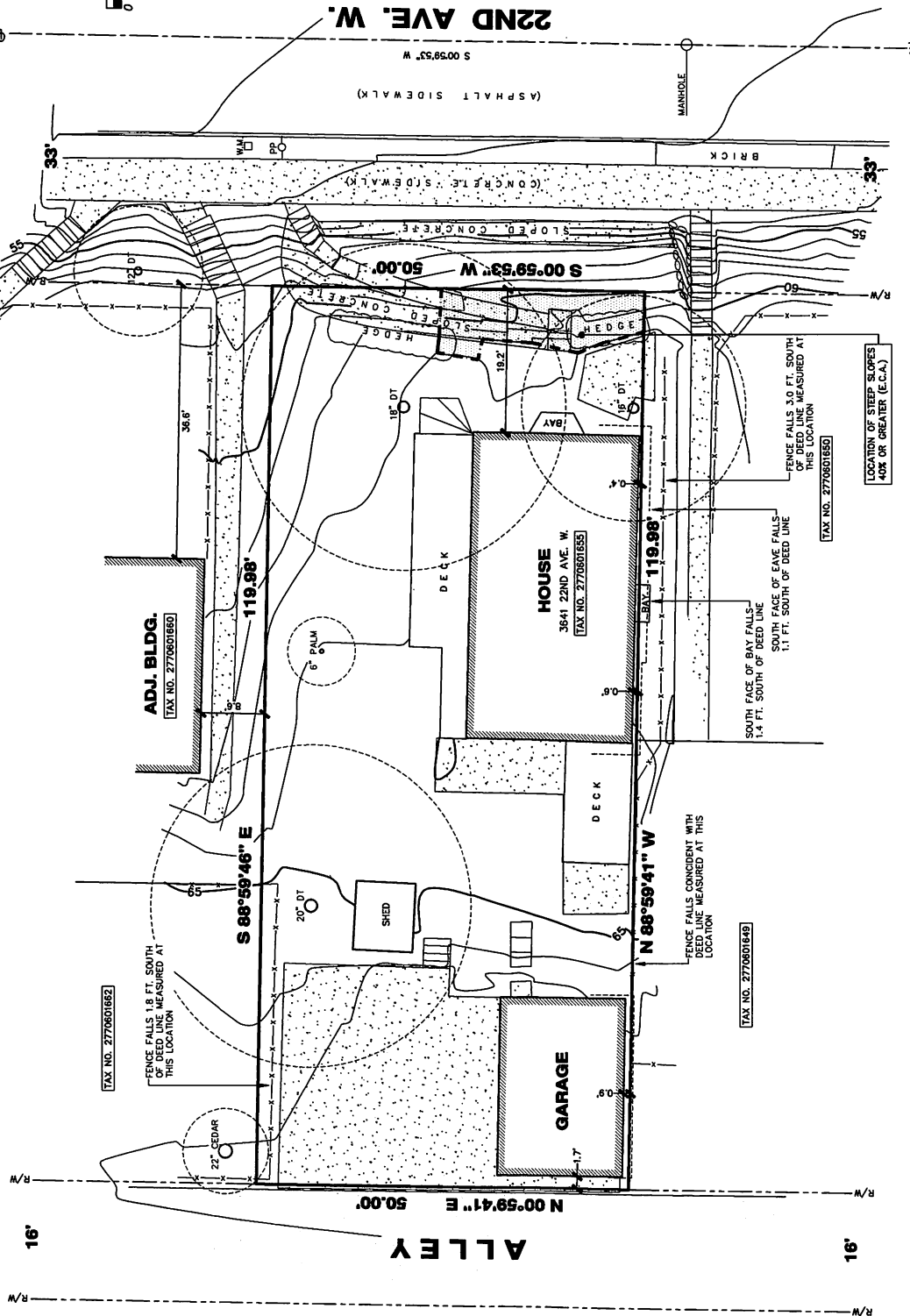
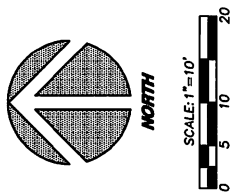
17-5341X.DWG

PROJECT #: 17-5841

SHEET 2 OF 5

SHEET: 2 OF 5

SHORT SUBDIVISION NO. 3028431



**EXISTING SITE
CONDITIONS DETAIL**

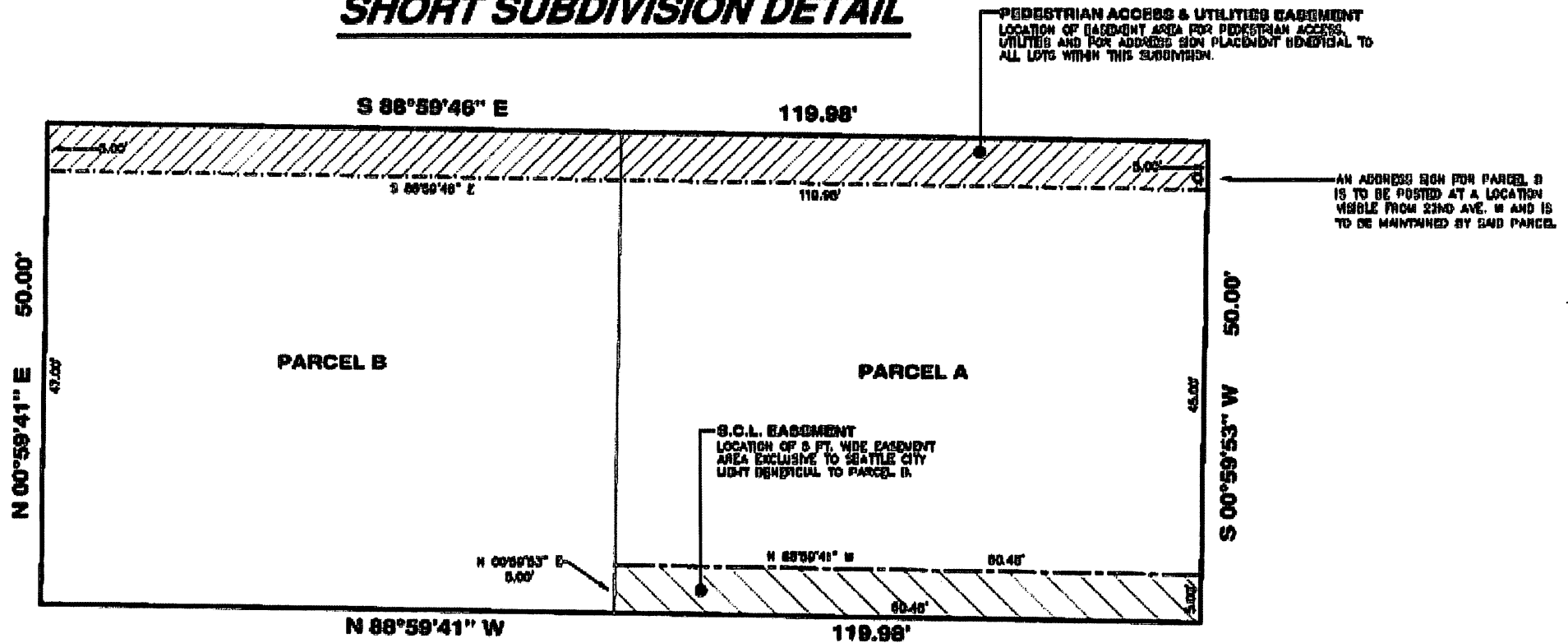
**CHADWICK
WINTERS &
LAND SURVEYING AND MAPPING**
1422 N.W. 86TH ST., SEATTLE, WA 98117
PHONE: 206.297.0998
FAX: 206.297.0997
WEB: WWW.CHADWICKWINTERS.COM

SURVEY IN:
NW 1/4, SE 1/4, SEC. 14, T. 25 N., R. 3 E., W.M.
KING COUNTY, WASHINGTON

DRAWN BY: ACV	DATE: 06-28-17	PROJECT #: 17-5841
CHECK BY: RHW	SCALE: 1" = 10'	SHEET: 3 OF 5

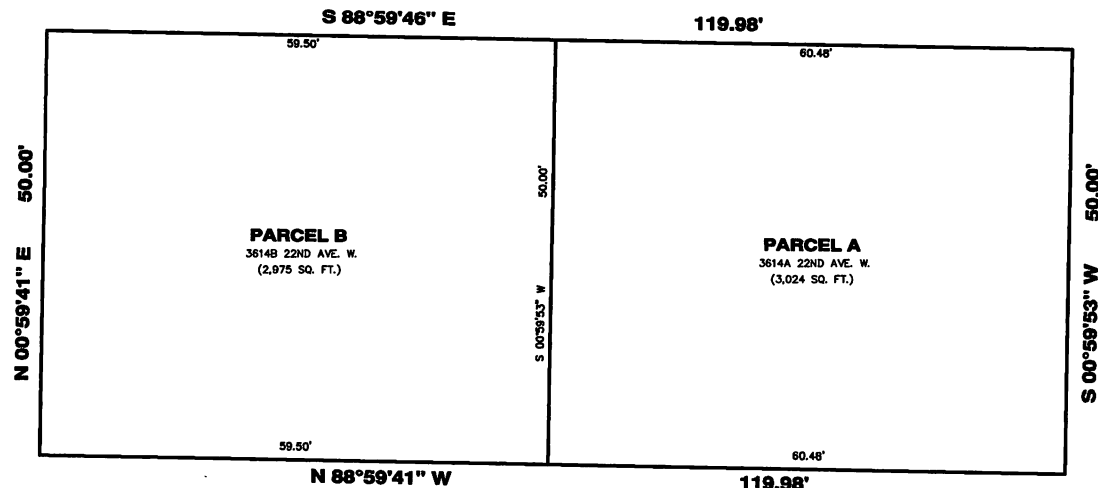
DATE:

SHORT SUBDIVISION DETAIL



EASEMENT DETAILS

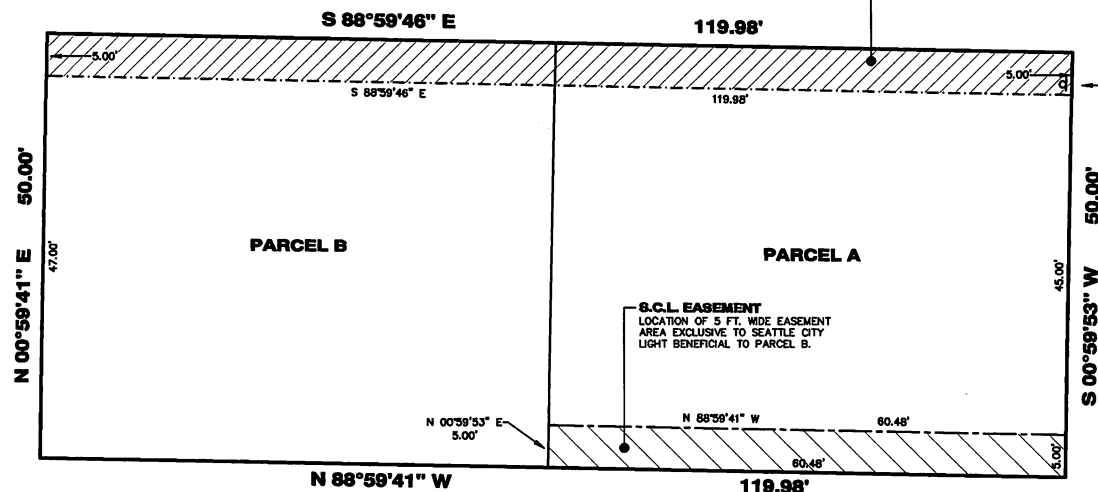
SHORT SUBDIVISION NO. 3028431



SCALE: 1"=10'

0 5 10 20

SHORT SUBDIVISION DETAIL



PEDESTRIAN ACCESS & UTILITIES EASEMENT
LOCATION OF EASEMENT AREA FOR PEDESTRIAN ACCESS, UTILITIES AND FOR ADDRESS SIGN PLACEMENT BENEFICIAL TO ALL LOTS WITHIN THIS SUBDIVISION.

AN ADDRESS SIGN FOR PARCEL B IS TO BE POSTED AT A LOCATION VISIBLE FROM 22ND AVE. W AND IS TO BE MAINTAINED BY SAID PARCEL

S.C.L. EASEMENT
LOCATION OF 5 FT. WIDE EASEMENT AREA EXCLUSIVE TO SEATTLE CITY LIGHT BENEFICIAL TO PARCEL B.

EASEMENT DETAILS



DATE: _____

CHADWICK WINTERS
LAND SURVEYING AND MAPPING
1422 N.W. 85TH ST., SEATTLE, WA 98117
PHONE: 206.297.0898
FAX: 206.297.0897
WEB: WWW.CHADWICKWINTERS.COM

SURVEY IN:
NW 1/4, SE 1/4, SEC. 14, T. 25 N., R. 3 E., W.M.
KING COUNTY, WASHINGTON

17-5841X.DWG

DRAWN BY: ACH	DATE: 06-28-17	PROJECT #: 17-5841
CHEK. BY: RHW	SCALE: 1" = 10'	SHEET: 4 OF 5

SHORT SUBDIVISION NO. 3028431

PROPOSED PARCEL DESCRIPTIONS:

PARCEL A (3,024 SQ. FT.)

THAT PORTION OF LOT 21, BLOCK 12, GILMAN'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 93, RECORDS OF KING COUNTY, WA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE N.E. CORNER OF SAID LOT 21; THENCE S 00°59'53" W, ALONG THE EAST LINE OF SAID LOT FOR A DISTANCE OF 50.00 FT.; THENCE N 88°59'41" W, 60.48 FT.; THENCE N 00°59'53" E, 50.00 FT.; THENCE S 88°59'46" E, 60.48 FT. TO THE POINT OF BEGINNING.

SUBJECT TO AND TOGETHER WITH AN EASEMENT FOR PEDESTRIAN ACCESS, UTILITIES AND ADDRESS SIGN PLACEMENT AS SHOWN AND DESCRIBED AS "PEDESTRIAN ACCESS & UTILITIES EASEMENT" ON THIS CITY OF SEATTLE SHORT SUBDIVISION.

AND SUBJECT TO AND TOGETHER WITH ALL AGREEMENTS AS SHOWN AND DESCRIBED UPON THIS CITY OF SEATTLE SHORT SUBDIVISION.

PARCEL B (2,975 SQ. FT.)

THAT PORTION OF LOT 21, BLOCK 12, GILMAN'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 93, RECORDS OF KING COUNTY, WA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE S.W. CORNER OF SAID LOT 21; THENCE N 00°59'41" E, ALONG THE WEST LINE OF SAID LOT FOR A DISTANCE OF 50.00 FT.; THENCE S 88°59'46" E, 59.50 FT.; THENCE S 00°59'53" W, 50.00 FT.; THENCE N 88°59'41" W, 59.50 FT. TO THE POINT OF BEGINNING.

SUBJECT TO AND TOGETHER WITH AN EASEMENT FOR PEDESTRIAN ACCESS, UTILITIES AND ADDRESS SIGN PLACEMENT AS SHOWN AND DESCRIBED AS "PEDESTRIAN ACCESS & UTILITIES EASEMENT" ON THIS CITY OF SEATTLE SHORT SUBDIVISION.

AND SUBJECT TO AND TOGETHER WITH ALL AGREEMENTS AS SHOWN AND DESCRIBED UPON THIS CITY OF SEATTLE SHORT SUBDIVISION.

PEDESTRIAN ACCESS & UTILITIES EASEMENT

AN EASEMENT FOR PEDESTRIAN ACCESS, UTILITIES AND ADDRESS SIGN PLACEMENT BENEFICIAL TO ALL LOTS WITHIN THIS SHORT SUBDIVISION

THAT PORTION OF LOT 21, BLOCK 12, GILMAN'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 93, RECORDS OF KING COUNTY, WA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING N.W. CORNER OF SAID LOT 21; THENCE S 88°59'46" E ALONG THE NORTH LINE OF SAID LOT FOR A DISTANCE OF, 119.98 FT.; THENCE S 00°59'53" W, 5.00 FT.; THENCE N 88°59'46" W, 119.98 FT.; THENCE N 00°59'41" E, 5.00 FT. TO THE POINT OF BEGINNING.

EASEMENT MAINTENANCE AGREEMENT

SAID EASEMENTS OF THIS SHORT PLAT TO BE EQUALLY MAINTAINED, REPAIRED, AND/OR REBUILT BY THE OWNERS OF THE PARCELS HAVING LEGAL ACCESS AND UTILITY SERVICE THEREFROM AND THEIR HEIRS, ASSIGNS AND SUCCESSORS.

INDIVIDUAL UTILITY SERVICE LINES, INCLUDING STORM AND SANITARY SIDE SEWER LINES, ARE THE SOLE RESPONSIBILITY OF THE OWNERS OF THE UNIT OR PARCEL THE INDIVIDUAL SERVICE LINE SERVES. UTILITY SERVICE LINES WHICH SERVICE MORE THAN ONE UNIT OR PARCEL SHALL BE EQUALLY MAINTAINED, REPAIRED, AND/OR REBUILT BY THE OWNERS OF THE UNITS OR PARCELS SERVICED.

THIS MAINTENANCE AGREEMENT COVERS NORMAL USAGE, WEAR AND TEAR, AND LIFE EXPECTANCY OF MATERIALS. ANY DAMAGE INCURRED BY AN INDIVIDUAL OWNER SHALL BE REPAIRED AND/OR RESTORED TO PRE DAMAGED CONDITION WITHIN 30 DAYS. THE OWNER WHICH INCURRED THE DAMAGE SHALL BE SOLELY RESPONSIBLE FOR THE COST OF REPAIR OR REPLACEMENT OF THE MATERIALS. IN NO EVENT SHALL ACCESS OR UTILITY SERVICE BE DENIED OTHER PROPERTY OWNERS OF SAID EASEMENTS FOR MORE THAN 24 HOURS

ADDRESS SIGN MAINTENANCE AGREEMENT

ANY PARCEL BENEFITING FROM THE POSTING OF THE ADDRESS SIGN AS SHOWN HEREON IS RESPONSIBLE FOR THE MAINTENANCE, SHARING EQUALLY IN THE COST OF REPAIR AND/OR MAINTENANCE TO SAID ADDRESS SIGN.

SEATTLE CITY LIGHT EASEMENT

CITY OF SEATTLE LAND USE ACTION NO. 3028431
EASEMENT (OVERHEAD AND UNDERGROUND)
KING COUNTY ASSESSOR'S TAX PARCEL NO. 2770601655

THE OWNER OF THE REAL PROPERTY THAT IS THE SUBJECT OF THIS LAND USE ACTION ("GRANTOR") HEREBY GRANTS TO THE CITY OF SEATTLE ("GRANTEE") AND THE RIGHT, PRIVILEGE AND AUTHORITY (AN "EASEMENT") TO INSTALL, CONSTRUCT, ERECT, RECONSTRUCT, ALTER, IMPROVE, REMOVE, REPAIR, REPLACE, ENERGIZE, OPERATE, AND MAINTAIN OVERHEAD AND UNDERGROUND ELECTRIC DISTRIBUTION FACILITIES, WHICH MAY CONSIST OF, BUT ARE NOT LIMITED TO: POLES WITH BRACES, GUY WIRES AND ANCHORS, CROSS ARMS, TRANSFORMERS, DUCTS, VAULTS, MANHOLES, SWITCHES, CABINETS, CONTAINERS, CONDUITS, WIRES AND OTHER CONVENIENT APPURTENANCES NECESSARY TO MAKE SAID OVERHEAD AND UNDERGROUND DISTRIBUTION FACILITIES AN INTEGRATED ELECTRIC SYSTEM ("ELECTRIC SYSTEM"). ALL SUCH ELECTRIC SYSTEM SHALL BE LOCATED ACROSS, OVER, UPON AND UNDER THE REAL PROPERTY DESCRIBED WITHIN THIS LAND USE ACTION ("PROPERTY") SITUATED IN THE COUNTY OF KING, STATE OF WASHINGTON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SEATTLE CITY LIGHT EASEMENT LYING WITHIN PARCEL A OF THIS CITY OF SEATTLE SHORT PLAT NO. 3028431 WHICH SHALL BE OCCUPIED AND CONTROLLED EXCLUSIVELY BY SEATTLE CITY LIGHT, A DEPARTMENT OF THE CITY OF SEATTLE.

THAT PORTION OF LOT 21, BLOCK 12, GILMAN'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 5 OF PLATS, PAGE 93, RECORDS OF KING COUNTY, WA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE S.E. CORNER OF SAID LOT 21; THENCE N 88°59'41" W, ALONG THE SOUTH LINE OF SAID LOT FOR A DISTANCE OF 60.48 FT.; THENCE N 00°59'53" E, 5.00 FT.; THENCE S 88°59'41" S, 60.48 FT.; THENCE S 00°59'53" W, 5.00 FT. TO THE POINT OF BEGINNING.

TOGETHER WITH GRANTEE'S AND ITS ASSIGNS' UNRESTRICTED RIGHT OF ACCESS TO AND FROM THE PROPERTY FOR THE PURPOSES OF EXERCISING ITS RIGHTS GRANTED HEREIN.

TOGETHER WITH GRANTEE'S AND ITS ASSIGNS' RIGHT TO CUT AND TRIM BRUSH, TREES OR OTHER PLANTS STANDING OR GROWING UPON THE PROPERTY WHICH, IN THE OPINION OF THE GRANTEE, INTERFERE WITH THE MAINTENANCE OR OPERATION OF, OR CONSTITUTE A MENACE OR DANGER TO, THE ELECTRIC SYSTEM.

GRANTOR, ITS SUCCESSORS AND ASSIGNS, COVENANTS AND AGREES THAT NO STRUCTURE OR FIRE HAZARDS WILL BE BUILT OR PERMITTED WITHIN THE EASEMENT AREA(S) DESCRIBED ABOVE; THAT NO DIGGING WILL BE DONE OR PERMITTED WITHIN THE PROPERTY WHICH WILL IN ANY MANNER DISTURB GRANTEE'S ELECTRIC SYSTEM OR ITS SOLIDITY OR UNEARTH ANY PORTION THEREOF; AND THAT NO BLASTING OR DISCHARGE OF ANY EXPLOSIVES WILL BE PERMITTED WITHIN FIFTY (50) FEET OF THE ELECTRIC SYSTEM.

THE CITY OF SEATTLE SHALL BE RESPONSIBLE, AS PROVIDED BY LAW, FOR ANY DAMAGE TO THE GRANTOR THROUGH ITS NEGLIGENCE IN THE CONSTRUCTION, MAINTENANCE AND OPERATION OF THE ELECTRIC SYSTEM.

THE RIGHTS, TITLE, PRIVILEGES AND AUTHORITY HEREBY GRANTED SHALL CONTINUE AND BE IN FORCE UNTIL THE GRANTEE PERMANENTLY REMOVES ITS ELECTRIC SYSTEM FROM THE PROPERTY OR PERMANENTLY ABANDONS THE ELECTRIC SYSTEM, AT WHICH TIME ALL SUCH RIGHTS, TITLE, PRIVILEGES AND AUTHORITY HEREBY GRANTED SHALL TERMINATE.



DATE:

**CHADWICK
WINTERS**
LAND SURVEYING AND MAPPING
1422 N.W. 85TH ST., SEATTLE, WA 98117
PHONE: 206.297.0988
FAX: 206.297.0997
WEB: WWW.CHADWICKWINTERS.COM

SURVEY IN:
NW 1/4, SE 1/4, SEC. 14, T. 25 N., R. 3 E., W.M.
KING COUNTY, WASHINGTON

17-5841X.DWG

DRAWN BY: ACH	DATE: 08-28-17	PROJECT #: 17-5841
CHK. BY: RHW	SCALE: N/A	SHEET: 5 OF 5

EXHIBIT C

BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In Re: Appeal by

The Neighbors to 3641 22nd Ave West

to the SDCI decision on SDCI #3028431
Short Subdivision - to create two parcels of
land from 3641 22nd Avenue West lot.

NOTICE OF APPEAL

I. APPELLANT INFORMATION

1. Appellant:

Name: The Neighbors to 3641 22nd Ave West

Address: c/o David Moehring
3444 23rd Ave West, #B
Seattle, WA 98199

Email: dmoehring@consultant.com

In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: ☐ U.S. Mail ☐ Fax ☒ Email Attachment

2. Authorized Representative:

Name David Moehring AIA NCARB
Address 3444 23rd Ave West, #B, Seattle WAS 98199
Phone:: (312) 965-0634
Email: dmoehring@consultant.com

In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: ☐ U.S. Mail ☐ Fax ☒ Email Attachment

1
2 **3. Other Appellants:**

3 *NOTE: Due to the Christmas and New Years' holidays, the Appellants' representative*
4 *requested on December 20, 2017 an additional day to submit the appeal. That request was*
5 *denied. The list of neighbors affected by the decision will not be officially identified until*
6 *after they meet the evening of January 2, 2018. Therefore, the below list will be amended*
7 *according to Hearing Examiner Rules.*

8 Home Owner(s): MARK and STACEY MARRON
9 Address: 3637 22ND AVE W
10 Email:

11 Home-Owner(s): SERGEI SHINKAREV
12 Address: 3643 22ND AVE W
13 Email:

14 Home-Owner(s): HOLLY ASHINHURST
15 Address: 3645 22ND AVE W
16 Email:

17 Home-Owner(s): SCOTT and KATERYNA ADAMS
18 Address: 3626 23RD AVE W
19 Email:

20 Home-Owner(s): JEFF and SHELLEY LINCOLN
21 Address: 3653 22ND AVE W

22 Home-Owner(s): DAVID and KATHERINE STONE
23 Address: 3632 23RD AVE W
24 Email:

25 Home-Owner(s): BETTY GREENE
26 Address 1: 3646 23RD AVE W
Address 2: 3642 23RD AVE W
Email:

Home Owner(s): SIMON PATRICK and JANESSA STYCK
Address: 3636 23RD AVE W
Email:

II. DECISION BEING APPEALED

1. **Decision Appealed:** Analysis & Decision in MUP File Nos. 3028431, dated December 18, 2017 and issued the following day, copy of which is available from the SDCI website at <http://web6.seattle.gov/dpd/eplan/GetDocument.aspx?id=991785&src=WorkingDocs&n=Decision%2FRecommendation>

2. **Property address of decision being appealed:** The King County Assessor Parcel #: 2770601655 including the proposed addresses on the original parcel:

- a. 3641 22ND AVE W
- b. 3641 A 22ND AVE W
- c. 3641 B 22ND AVE W
- d. 3641 D 22ND AVE W

1. **Elements of decision being appealed. Check one or more as appropriate:**

- | | |
|--|---|
| <input checked="" type="checkbox"/> Adequacy of conditions | <input type="checkbox"/> Variance (Departures) |
| <input type="checkbox"/> Design Review and Departure | <input type="checkbox"/> Adequacy of EIS |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Interpretation (See SMC 23.88.020) |
| <input type="checkbox"/> EIS not required | <input checked="" type="checkbox"/> Short Plat |
| <input type="checkbox"/> Major Institution Master Plan | <input type="checkbox"/> Rezone |
| <input type="checkbox"/> Other (specify:) | |

III. APPEAL INFORMATION

1. **What is your interest in this decision? (State how you are affected by it)**

The appellants live within residences adjacent to and near the site of 3641 22nd Avenue West (hereafter the "Subject Property"). The proposed development will adversely affect the appellants by the proposed short plat. Subsequent development is indicated on the SDCI's public records website for this property. Ultimately, there would be adverse impacts upon neighborhood character and aesthetics, the availability to of light and air to surrounding properties, which would impair use and enjoyment of their properties. The short plat granted without conditions to control overdevelopment of a property based on it's LR1 zone is unjust to those who own properties in the surrounding area – burdening on-street parking, bus traffic, and infrastructure capacity.

2. **What are your objections to the decision? (List and describe what you believe to be the errors, omissions, or other problems with this decision.)**

- a. The Analysis and Decision is based upon an erroneous application of the short subdivision approval criteria at SMC 23.24.040.A including:

- i. Failure to conform to other applicable land use code provisions (.040.A.1), including failure to provide adequate access and adequate area to meet

amenity area requirements and failure to allow for conformance to requirements of rowhouse development;

ii. Failure to provide adequacy of access for vehicles (.040.A.2), by failure to provide exclusive access for each of the proposed lots (23.84A.024);

iii. Failure to serve the public use and interests on account of failure to conform to other land use code provisions (.040.A.3);

b. The Analysis and Decision lacks support by adequate reasoning in that the decision contains no findings of fact, the analysis is conclusory and fails to consider all applicable criteria and land use code provisions, and the decision fails to show how the decision criteria have been satisfied. The decision differs in no material respect from other decisions approving short plats in LR 1 zones.

c. SDCI's approval of the challenged short plat and its approval of similar short plats in the LR 1 zone conflicts with purpose, intent, and requirements for rowhouse development.

d. The decision fails to identify or require conditions to be applied in the granting of the subdivision to assure subsequent development resulting from the subdivision does not result in non-compliance with all relative sections. Especially the following:

- i. SMC 23.84A.024 - "L" for easement access requirements;
- ii. SMC 23.84A.032 - "R" (20) for rowhouse development rules;
- iii. SMC 23.45.512 for Density Limits in Lowrise Zones (Figure 2).
- iv. Tree Protection rules (see Figure 1 on last page).

e. The decision intentionally ignores the developer's primary intent of the subdivision, which is to circumvent allowable zoning density by the use of a short plat subdivision. The SDCI does not typically approve of any development for a site of this size where the number of dwellings exceed the permissible calculated density of three dwellings on an LR1 Lot of this size. Reference

[http://www.kingcounty.gov/council/legislation/kc_code/22 Title 19A.](http://www.kingcounty.gov/council/legislation/kc_code/22_Title_19A)

which specifically states:

"19A.08.180 Circumvention of zoning density prohibited. A legal lot, which has been subject to a boundary line adjustment or created through a legally recognized land segregation process and is of sufficient land area to be subdivided at the density applicable to the lot, may be further segregated. However, such further segregation of the lot shall not be permitted if the total number of lots contained within the external boundaries of the lots subject to the original boundary line adjustment or the total number of lots contained within the external boundary of the parcel subject to the original land segregation, exceed the density allowed under current zoning. (Ord. 13694 § 53, 1999)."

1
2 **3. Relief Requested.**

3 The Appellant requests that the Hearing Examiner remand the decision with instructions to prepare
4 a complete analysis and recommendation that has applied all of the criteria required to grant a
5 decision. This includes any of the following measures as allowed by the Hearing Examiner:

- 6 a. Vacation of the Analysis and Decision;
- 7 b. Correct the SDCI Director's failure to include conditions assuring compliance with
8 Land Use Code requirements.
- 9 c. Require a certified arborist evaluation to be submitted so that the Director may apply
10 the required criteria of whether the proposed division of land is designed to maximize
11 the retention of existing trees. This report must also consider all smaller trees that are
12 within environmentally critical areas.
- 13 d. Require a completed site plan with the existing trees shown that have the potential to
14 be retained, including alternative approaches to the lot subdivision so that the
15 Director may apply the required criteria of whether the proposed division of land is
16 designed to maximize the retention of existing trees.
- 17 e. Require a completed site plan showing the adequate width of easements for access
18 required for pedestrians, vehicles, utilities and fire protection as provided in Section
19 23.53.005, Access to lots, and Section 23.53.006, Pedestrian access and circulation.
- 20 f. Require a decision which is granted on a condition that subsequent development does
21 not exceed the allowed dwelling density of the parent lot.

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Filed on behalf of the Neighbors to 3641 22nd Ave West this Second day of January, 2018.

By: _____
David Moehring, representing Neighbors to 3641 22nd Ave West

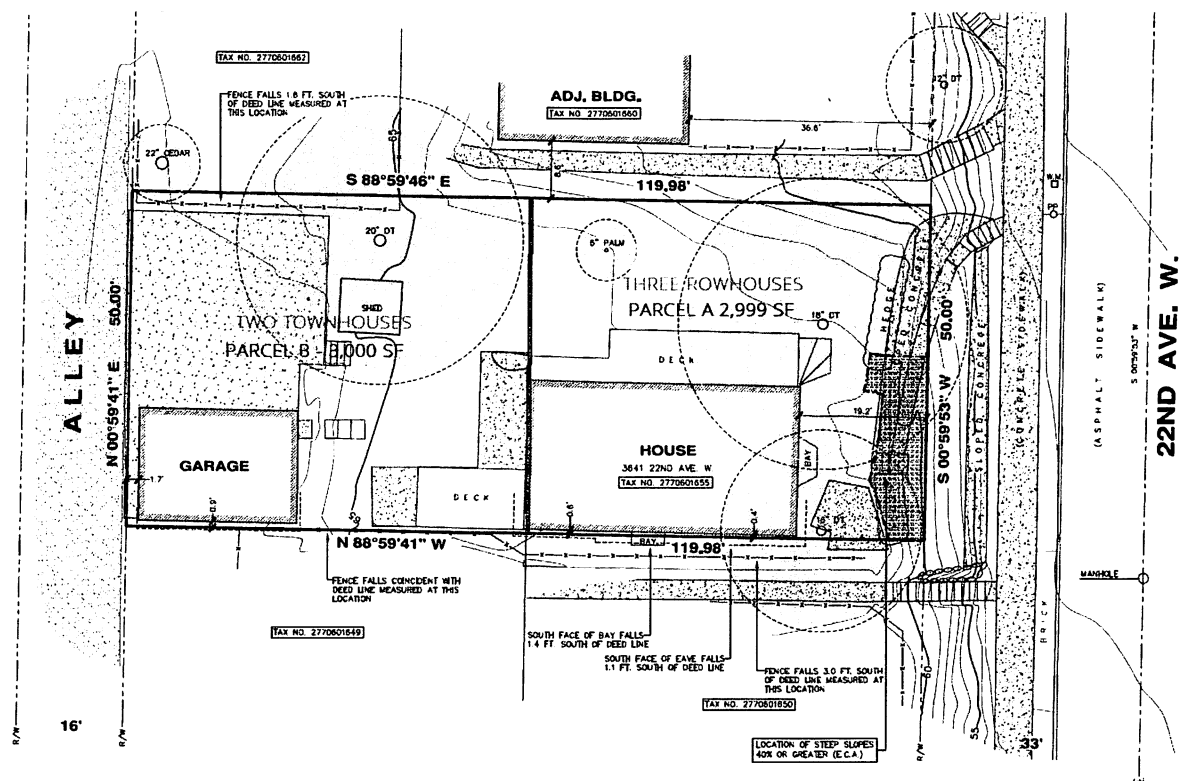


Figure 1- Composite development site showing added emphasis on existing trees relative to existing buildings that are scheduled to be demolished.

Table A for 23.45.512 Density Limits in Lowrise Zones				
Zone	Units allowed per square foot of lot area by category of residential use (1)			
	Cottage Housing Development ⁽⁽¹⁾⁾ (2) and Single-family Dwelling Unit	Rowhouse Development ⁽³⁾	Townhouse Development ⁽⁽²⁾⁾ (4)	Apartment ⁽⁽³⁾⁾ (5)
LR1	1/1,600	1/1,600 or No limit.	1/2,200 or 1/1,600	1/2,000 Duplexes and Triplexes only
LR2	1/1,600	No limit.	1/1,600 or No limit	1/1,200 or No limit
LR3	1/1,600	No limit.	1/1,600 or No limit	1/800 or No limit

Footnotes for Table A for 23.45.512

(1) When density calculations result in a fraction of a unit, any fraction up to and including 0.85 constitutes zero additional units, and any fraction over 0.85 constitutes one additional unit.

((1)) (2) See Section 23.45.531 for specific regulations about cottage housing developments.

(3) The density limit for rowhouse development in LR1 zones shall apply only on lots less than 5,000 square feet in size.

((2)) (4) For townhouse developments that meet the standards of subsection 23.45.510.C, the higher density shown is permitted in LR1 zones, and there is no density limit in LR2 and LR3 zones.

((3)) (5) For apartments that meet the standards of subsection 23.45.510.C, there is no density limit in LR2 and LR3 zones.

Figure 2- SMC 23.45.512 Table A showing allowable dwelling density limits for an LR1 site.

EXHIBIT D

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BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In Re: Appeal by

The Neighbors to 3641 22nd Ave West

to the SDCI decision on SDCI #3028431
Short Subdivision - to create two parcels of
land from 3641 22nd Avenue West lot.

NOTICE OF APPEAL

I. APPELLANT INFORMATION

1. Appellant:

Name: The Neighbors to 3641 22nd Ave West
Address: c/o David Moehring
3444 23rd Ave West, #B
Seattle, WA 98199
Email: dmoehring@consultant.com

In what format do you wish to receive documents from the Office of Hearing Examiner?

Check One: ☐ U.S. Mail ☐ Fax ☒ Email Attachment

2. Authorized Representative:

Name David Moehring AIA NCARB
Address 3444 23rd Ave West, #B, Seattle WA 98199
Phone:: (312) 965-0634
Email: dmoehring@consultant.com

In what format do you wish to receive documents from the Office of Hearing Examiner?

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II. DECISION BEING APPEALED

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2. **Property address of decision being appealed:** The King County Assessor Parcel #: 2770601655 including the proposed addresses on the original parcel:

- a. 3641 22ND AVE W
- b. 3641 A 22ND AVE W
- c. 3641 B 22ND AVE W
- d. 3641 D 22ND AVE W

1. **Elements of decision being appealed. Check one or more as appropriate:**

- | | |
|--|---|
| <input checked="" type="checkbox"/> Adequacy of conditions | <input type="checkbox"/> Variance (Departures) |
| <input type="checkbox"/> Design Review and Departure | <input type="checkbox"/> Adequacy of EIS |
| <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Interpretation (See SMC 23.88.020) |
| <input type="checkbox"/> EIS not required | <input checked="" type="checkbox"/> Short Plat |
| <input type="checkbox"/> Major Institution Master Plan | <input type="checkbox"/> Rezone |
| <input type="checkbox"/> Other (specify:) | |

III. APPEAL INFORMATION

1. **What is your interest in this decision? (State how you are affected by it)**

The appellant lives within a residence (Figure 3) near the site of 3641 22nd Avenue West (hereafter the "Subject Property"). The proposed development will adversely affect the appellant by the proposed short plat. Subsequent development is indicated on the SDCI's public records website for this property. Ultimately, there would be adverse impacts upon neighborhood character and aesthetics, the availability of light and air to surrounding properties, which would impair use and enjoyment of the immediate neighborhood properties. The short plat has been granted without necessary conditions to control future overdevelopment of a property within its LR1 zone. Allowing such over development by granting the subdivision without conditions is unjust to those who own properties in the surrounding area including the appellant. The direct impact includes burdening on-street parking, bus traffic, and infrastructure capacity.

2. **What are your objections to the decision? (List and describe what you believe to be the errors, omissions, or other problems with this decision.)**

- a. The Analysis and Decision is based upon an erroneous application of the short subdivision approval criteria at SMC 23.24.040.A including:

- 1 i. Failure to conform to other applicable land use code provisions (.040.A.1),
2 including failure to provide adequate access and adequate area to meet
3 amenity area requirements and failure to allow for conformance to
4 requirements of rowhouse development;
- 5 ii. Failure to provide adequacy of access for vehicles (.040.A.2), by failure to
6 provide exclusive access for each of the proposed lots (23.84A.024);
- 7 iii. Failure to serve the public use and interests on account of failure to conform
8 to other land use code provisions (.040.A.3);
- 9 b. The Analysis and Decision lacks support by adequate reasoning in that the decision
10 contains no findings of fact, the analysis is conclusory and fails to consider all
11 applicable criteria and land use code provisions, and the decision fails to show how
12 the decision criteria have been satisfied. The decision differs in no material respect
13 from other decisions approving short plats in LR 1 zones.
- 14 c. SDCI's approval of the challenged short plat and its approval of similar short plats in
15 the LR 1 zone conflicts with purpose, intent, and requirements for rowhouse
16 development.
- 17 d. The decision fails to identify or require conditions to be applied in the granting of the
18 subdivision to assure subsequent development resulting from the subdivision does
19 not result in non-compliance with all relative sections. Especially the following:
- 20 i. SMC 23.84A.024 - "L" for easement access requirements;
- 21 ii. SMC 23.84A.032 – "R" (20) for rowhouse development rules;
- 22 iii. SMC 23.45.512 for Density Limits in Lowrise Zones (Figure 1).
- 23 iv. Tree Protection rules – preservation of existing trees (see Figure 2 on page 5).
- 24 e. The decision intentionally ignores the developer's primary intent of the subdivision,
25 which is to circumvent allowable zoning density by the use of a short plat
26 subdivision. The SDCI does not typically approve of any development for a site of
this size where the number of dwellings exceed the permissible calculated density of
three dwellings on an LR1 Lot of this size. Reference
[http://www.kingcounty.gov/council/legislation/kc_code/22 Title 19A](http://www.kingcounty.gov/council/legislation/kc_code/22_Title_19A).
which specifically states:
*"19A.08.180 Circumvention of zoning density prohibited. A legal lot, which has
been subject to a boundary line adjustment or created through a legally recognized
land segregation process and is of sufficient land area to be subdivided at the density
applicable to the lot, may be further segregated. However, such further segregation
of the lot shall not be permitted if the total number of lots contained within the
external boundaries of the lots subject to the original boundary line adjustment or
the total number of lots contained within the external boundary of the parcel subject
to the original land segregation, exceed the density allowed under current zoning.
(Ord. 13694 § 53, 1999)."*

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2 **3. Relief Requested.**

3 The Appellant requests that the Hearing Examiner remand the decision with instructions to prepare
4 a complete analysis and recommendation that has applied all of the criteria required to grant a
5 decision. This includes any of the following measures as allowed by the Hearing Examiner:

- 6 a. Vacation of the Analysis and Decision;
- 7 b. Correct the SDCI Director's failure to include conditions assuring compliance with
8 Land Use Code requirements.
- 9 c. Require a certified arborist evaluation to be submitted so that the Director may apply
10 the required criteria of whether the proposed division of land is designed to maximize
11 the retention of existing trees. This report must also consider all smaller trees that are
12 within environmentally critical areas.
- 13 d. Require a completed site plan with the existing trees shown that have the potential to
14 be retained, including alternative approaches to the lot subdivision so that the
15 Director may apply the required criteria of whether the proposed division of land is
16 designed to maximize the retention of existing trees.
- 17 e. Require a completed site plan showing the adequate width of easements for access
18 required for pedestrians, vehicles, utilities and fire protection as provided in Section
19 23.53.005, Access to lots, and Section 23.53.006, Pedestrian access and circulation.
- 20 f. Require a decision which is granted on a condition that subsequent development does
21 not exceed the allowed dwelling density of the parent lot (Figures 1 and 7).

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27 Filed on behalf of the Neighbors to 3641 22nd Ave West this Second day of January, 2018.

By: 

David Moehring, Neighbor to 3641 22nd Ave West

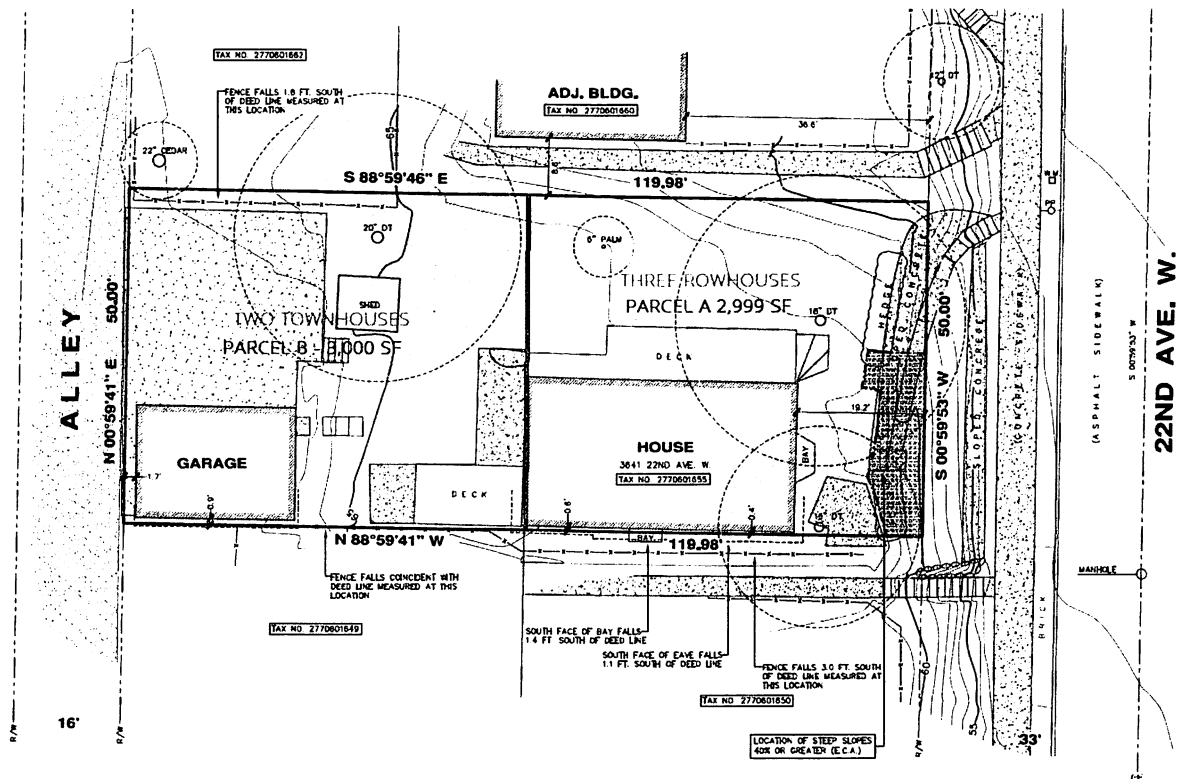


Figure 2- Composite development site showing added emphasis on existing trees relative to existing buildings that are scheduled to be demolished. Reference Figure 4.

Table A for 23.45.512 Density Limits in Lowrise Zones				
Zone	Units allowed per square foot of lot area by category of residential use (1)			
	Cottage Housing Development ⁽⁽¹⁾⁾ (2) and Single-family Dwelling Unit	Rowhouse Development ⁽³⁾	Townhouse Development ⁽⁽²⁾⁾ (4)	Apartment ⁽⁽³⁾⁾ (5)
LR1	1/1,600	1/1,600 or No limit.	1/2,200 or 1/1,600	1/2,000 Duplexes and Triplexes only
LR2	1/1,600	No limit.	1/1,600 or No limit	1/1,200 or No limit
LR3	1/1,600	No limit.	1/1,600 or No limit	1/800 or No limit

Footnotes for Table A for 23.45.512

(1) When density calculations result in a fraction of a unit, any fraction up to and including 0.85 constitutes zero additional units, and any fraction over 0.85 constitutes one additional unit.

((1)) (2) See Section 23.45.531 for specific regulations about cottage housing developments.

(3) The density limit for rowhouse development in LR1 zones shall apply only on lots less than 5,000 square feet in size.

((2)) (4) For townhouse developments that meet the standards of subsection 23.45.510.C, the higher density shown is permitted in LR1 zones, and there is no density limit in LR2 and LR3 zones.

((3)) (5) For apartments that meet the standards of subsection 23.45.510.C, there is no density limit in LR2 and LR3 zones.

Figure 1- SMC 23.45.512 Table A showing allowable dwelling density limits for an LR1 site.

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Figure 3- Context map showing location of proposed subdivision relative to appellant neighbor.



Figure 4- East-facing street facade of the Subject Property ; image taken in January 2018



Figure 5- On-street parking along 22nd Ave West - with stops for Bus Numbers 31 and 33 along both sides across from Subject Property. Photo taken on a Sunday afternoon in January 2018.



Figure 6 - On-street parking along 22nd Ave West - with stops for Bus Numbers 31 and 33 along both sides across from Subject Property.

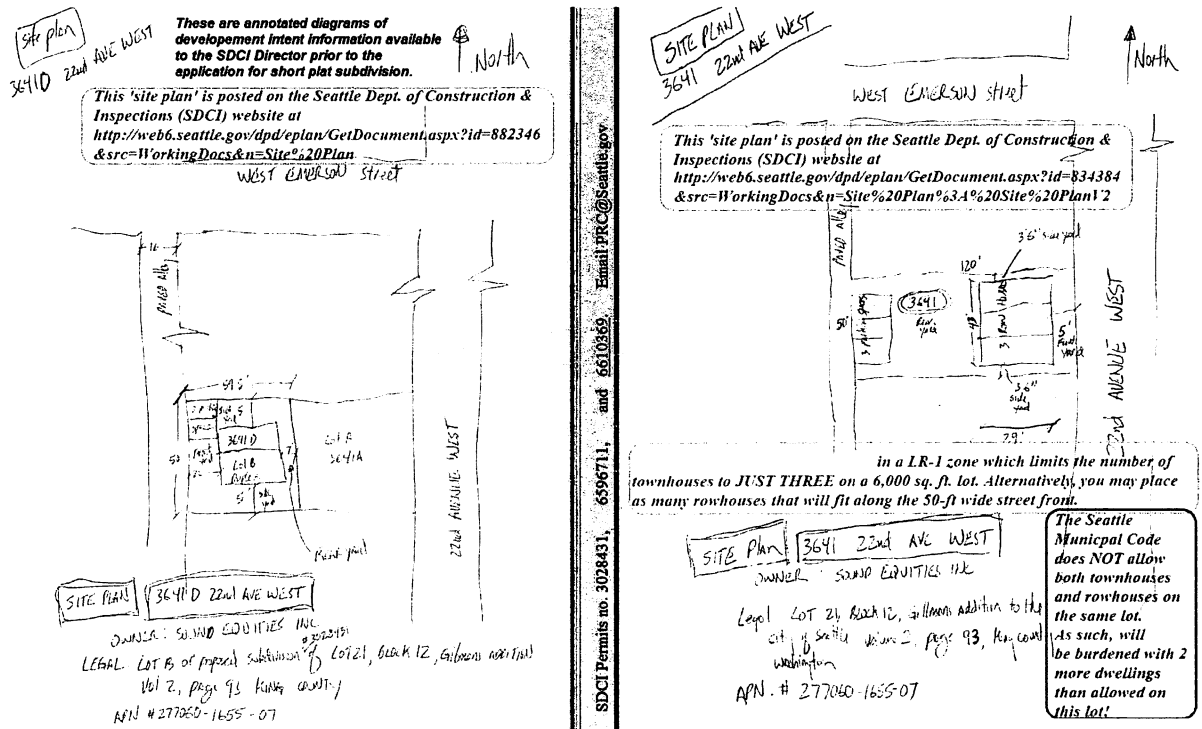


Figure 7- Annotated development intent diagrams available to the SDCI prior to the application for subdivision. Left- west rear portion of site; Right – east front portion + parking on west portion.