

Ordinance No. 121163

Council Bill No. 114541

The City of Seattle
Council Bill/Ordinance

AN ORDINANCE relating to land use and zoning; amending Section 23.24.040 and adding a new Section 23.24.046 to the Seattle Municipal Code to allow short subdivision of lots in single-family zones containing more than one existing single-family dwelling unit under specified conditions.

5/20/03 - Pass

CF No.

Date Introduced:	APR 21 2003	
Date 1st Referred:	To: (committee)	Land Use Committee
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
5-27-03	9-0	
Date Presented to Mayor:	Date Approved:	
5-28-03	6/4/03	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input checked="" type="checkbox"/>
6/4/03	4 pp	
Date Vetoes by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

5-27-03 Passed

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: John A. NICASTRO
Councilmember

Committee Action:

(2)

5/20/03 - Pass as amended - 3-0 (UN, MP, PS)

5-27-03 Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: _____

(initial/date)

Law Department

Law Dept. Review

OMP
Review

(15)
City Clerk
Review

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ORDINANCE 121163

AN ORDINANCE relating to land use and zoning; amending Section 23.24.040 and adding a new Section 23.24.046 to the Seattle Municipal Code to allow short subdivision of lots in single-family zones containing more than one existing single-family dwelling unit under specified conditions.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 23.24.040 of the Seattle Municipal Code, which Section was last amended by Ordinance 119791, is amended as follows:

23.24.040 Criteria for approval.

A. 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 Policies and Land Use Code provisions, as modified by this chapter;
2. Adequacy of access for vehicles, utilities and fire protection as provided in Section 23.53.005, Access to lots;
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 ((SMC)) Section 25.09.240, Short subdivisions and subdivisions, in environmentally critical areas;
6. 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 townhouses, cottage housing, clustered housing, or single-family housing; and
8. Conformance to the provisions of Section 23.24.046, Multiple single-



1 family dwelling units on a single-family lot, when the short subdivision is for the purpose of
2 creating two or more lots from one lot with more than one existing single-family dwelling unit.

3
4 * * *

5
6 Section 2. A new Section, 23.24.046, is hereby added to the Seattle Municipal Code to
7 read as follows:

8 **23.24.046 Multiple single-family dwelling units on a single-family lot.**

9 A. The provisions of this section apply exclusively to the short subdivision of a lot in
10 a single-family zone containing more than one existing single-family dwelling unit.

11 B. A lot in a single-family zone containing more than one existing single-family
12 dwelling unit may be divided in accordance with this Chapter as long as each of the following
13 conditions is satisfied:

14 1. Each existing single-family dwelling unit was legally established by permit
15 or is eligible to be established as a nonconforming development in accordance with Section
16 23.42.102, Establishing nonconforming status;

17 2. Each existing single-family dwelling unit was constructed prior to
18 February 20, 1982;

19 3. Each resulting lot has one, but no more than one, existing single-family
20 dwelling unit;

21 4. Parking is provided in accordance with Section 23.44.016, Parking
22 location and access, unless the Director determines that at least one (1) of the following
23 conditions is present:

24 a. Providing parking accessory to an existing single-family dwelling
25 unit is undesirable or impractical because of the location of an environmentally critical area,
26 existing drainage patterns, natural features such as significant trees, or access to a resulting or
27



1 adjacent lot; or

2 b. The short subdivision cannot be configured to provide parking in
3 compliance with Section 23.44.016;

4 If the Director determines that at least one of the foregoing conditions is present, the Director
5 may waive or modify the parking requirements of Section 23.44.016 as long as the short
6 subdivision does not reduce the number of off-street parking spaces existing prior to the short
7 subdivision. In connection with such waiver or modification, the Director may require access
8 and parking easements as conditions of approval of the short subdivision; and

9 5. Each resulting lot conforms to all other development standards of the zone
10 unless the Director determines that the short subdivision cannot be approved if such standards are
11 strictly applied and modification or waiver of some or all of such standards would further the
12 public interest. If the Director makes such determination, then the Director may waive or modify
13 development standards, provided that:

14 a. each existing single-family dwelling unit shall be set back at least
15 three (3) feet from each common lot line in the short subdivision; and

16 b. no resulting lot shall be smaller than one thousand eight hundred
17 (1,800) square feet.

18 C. Structures on lots for which the Director has waived or modified development
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1 standards according to subsection B of this section will be treated as nonconforming and be
2 subject to Section 23.42.112.

3 D. Expansions, Extensions or Replacements.

4 1. The base permitted height for expansions, extensions or replacements of a
5 single-family dwelling unit on lots thirty (30) feet or less in width shall not exceed twenty-five
6 (25) feet.

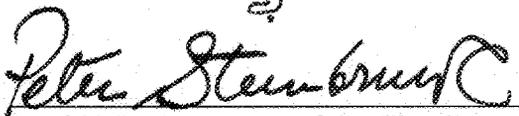
7 2. The averaging provisions of Section 23.44.012 A.2.b. do not apply.

8 * * *

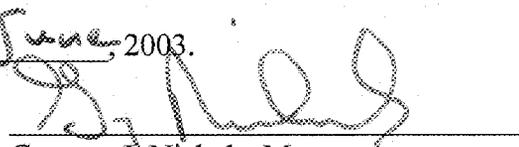
9 Section 3. The provisions of this ordinance are declared to be separate and
10 severable. The invalidity of any particular provision shall not affect the validity of any other
11 provision.

12 Section 4. This ordinance shall take effect and be in force thirty (30) days from
13 and after its approval by the Mayor, but if not approved and returned by the Mayor within ten
14 (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

15 Passed by the City Council the 27th day of May, 2003, and signed by me in open
16 session in authentication of its passage this 27th day of May, 2003.

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21 
22 President _____ of the City Council

23 Approved by me this 4 day of June, 2003.

24 
25 Gregory J. Nickels, Mayor

26 Filed by me this 4th day of June, 2003.

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Justin E. Pappier
City Clerk

(Seal)

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Director's Report and Recommendation

LAND USE CODE AMENDMENTS TO ALLOW SHORT SUBDIVISION OF SINGLE-FAMILY LOTS CONTAINING MORE THAN ONE EXISTING SINGLE-FAMILY DWELLING

June 28, 2002

I. Introduction

The Department of Design, Construction and Land Use (DCLU) proposes legislation that would create exceptions to allow short subdivision of single-family lots containing more than one *existing* single-family dwelling unit under specified conditions. This proposal would not change the amount of new development. Rather, the purpose of this proposal is to encourage opportunities for fee simple ownership of residential properties that are already in existence. This proposal would apply only in single-family zones, and only to existing single-family dwelling units.

II. Summary

The proposed amendments to the Land Use Code would:

- Give the Director discretion to allow a lot size exception, to a minimum lot area of 1875 square feet, for lots resulting from the short subdivision of single-family lots containing more than one existing single-family dwelling;
- Be limited to single-family dwelling units that are eligible to become legally established for the record under SMC 23.42.102;
- Give the Director discretion to allow a yard requirement exception so long as the existing structures are set back at least three feet from the common lot line;
- Limit each resulting lot to one single-family dwelling unit per lot;
- Give the Director discretion to waive or modify the amount of required parking based on site-specific environmental conditions and lot configuration; and
- Leave resulting lots subject to existing nonconformity regulations concerning additions and rebuilding.

These amendments would *not* apply to:

- Existing single-family lots that currently meet the requirement for one dwelling unit per lot;



- Single-family lots containing uses that do not meet the criteria to become legally established for the record;
- Future development in single-family zones; and
- Lots not located in a single-family zone.

III. Existing Conditions

According to the City's Geographic Information System (GIS) data, there are approximately 846 single-family lots within the city limits containing more than one existing single-family dwelling, representing about 0.6 percent of Seattle's single-family lots. The majority of these lots contain only two residences, with only a very small number of lots containing three or more. These situations are dispersed throughout Seattle. Most lots were developed prior to 1923, when the "one dwelling per lot" limit was introduced. Some were added during the 1941-1945 period under emergency World War II provisions to allow for more housing. In addition, there are a considerable number located north of N. 85th Street in areas not annexed by Seattle until 1954.

The majority of these single-family lots are zoned SF 5000, within which the minimum lot size is generally 5,000 square feet. Some lots are smaller than 5,000 square feet because they were established under previous codes or were more recently established in areas where the prevailing lot size is smaller. However, approximately 75 percent exceed 5,000 square feet with very few smaller than 3,750 square feet. This proposal would actually affect fewer than 846 lots, since not all of the uses on these lots meet the requirements to become legally established.

IV. Analysis of the Proposal

The presence of more than one dwelling on a single-family lot poses problems related to street or alley access, delivery of water and electrical service, and clear addressing and points of entry so that police and fire department personnel can quickly locate the right residence in an emergency. With regard to the Land Use Code, these lots are often nonconforming as to lot coverage, required yards and setbacks, and parking, in addition to having too many dwellings on one lot. Allowing short subdivision of these lots would add to the stock of older, detached single-family dwellings available for sale in Seattle, and solve some of the problems associated with their principal nonconformity. Some of the problems described in the following discussion could remain after short subdivision, but it's important to note that these dwellings and lot configurations have already been in existence for years. And some lots with more than one dwelling unit will not be eligible for short subdivision due to life safety concerns and inability to establish the residential use for the record according to SMC 23.42.102, Establishing nonconforming status, which generally means documenting the continued existence of the residential use from a time when it would have been permitted.

Housing Affordability

Because so many of these lots are already small and feature housing built for workers during periods when the region experienced severe housing shortages, many of the resulting properties



will be more affordable to first-time homebuyers than newly constructed single-family detached units. Allowing these short subdivisions could slightly increase the number of affordable housing units available for purchase, and create new opportunities for affordable housing, which is consistent with the Washington State Growth Management Act (GMA) and Seattle's Comprehensive Plan. Currently, prospective homebuyers have to purchase what are essentially two properties, without the option of selling one, which is beyond the means of the average homebuyer.

Overall, the proposed amendments are consistent with the City's housing goals (see appendix). Specifically, the proposal would:

- Increase, to a limited extent, opportunities to purchase affordable housing, particularly for first-time homebuyers, while preserving the character of single-family neighborhoods;
- Offer some long-time residents, particularly the elderly and other households living on fixed incomes, a choice to remain in their neighborhoods as housing-related costs (taxes, utilities, etc.) increase, by allowing them to sell off part of their land; and
- Encourage separation of utilities to reduce financial risk and liabilities associated with multiple households sharing the same utility accounts.

Utility Services

Single-family houses resulting from the proposed amendments would be required to provide separate water connections and meters, paid by the owner. This requirement would help to resolve current problems associated with households sharing the same water account. Generally, no more than one account and meter is provided on any single-family lot, regardless of the number of dwelling units. Submeters can be provided to second households living in duplexes, at the owner's expense, but it is not a requirement. Many owners choose not to provide submeters due to the initial expense involved.

The most significant problem for households sharing the same account is that only one invoice is submitted to the owner of each single-family lot, even when multiple households occupy the lot in separate structures. As a result, these households must determine how much water each household consumed and make the corresponding payments. Staff at Seattle Public Utilities (SPU) are often called upon to resolve disputes over payment when, due to nonpayment or other causes, water service is shut off to all households sharing the same meter.

Another concern relates to resulting lots without street frontage. Generally, when short subdivision results in one or more lots without street frontage, SPU requires an access easement to supply water from the main. Typically, a hydrant may be required at the end of the easement road, which may be a significant cost burden (approximately \$6,500) to the owner. A further concern is that access easements for the water main must be a minimum of 20 feet in width for the entire length of the easement. Occasionally, space is not available on the premises to accommodate an easement of this width, and alternatives to providing an easement can be costly (i.e., greater than \$6,500).



In rare situations where the resulting lots contain more than one single-family dwelling unit, households occupying them would continue to share the same water meter. This situation represents no change in existing conditions, nor is it expected to be a common outcome. In general, this proposal would help reduce the number of households sharing the same water hookup. Most of the existing lots affected by this proposal have only two single-family dwelling units, in which case no more than one individual lot without street frontage would result.

The problems associated with households sharing water utilities also apply to sharing electrical utilities, although owners are currently permitted, but not required, to install submeters for each single-family dwelling unit at their expense.

To support the City's responsibility to provide water and electric services to its residential customers, existing provisions of Chapter 23.24, Short Plats, require adequate access for "vehicles, utilities, and fire protection." (SMC 23.24.040 A.) These requirements would apply to lots created under the proposal.

Emergency Services

A primary concern of emergency service providers is their ability to quickly locate addresses. In response to this need, Section 502 of the Seattle Building Code prescribes methods for identifying premises under various scenarios. As previously noted, this proposal could result in the creation of lots without street frontage or lots with access from the street via easement. Consequently, emergency access may be easily available to the resulting lot with street frontage, but not necessarily to a lot or lots without street frontage.

Arguably, this circumstance creates confusion and could potentially delay emergency service response. Again, however, the proposal represents *no change* compared to existing conditions. Moreover, concerns about emergency service access to lots without street frontage are less significant as they relate to this proposal because typically the resulting lots would be very small (around 2,500 square feet to 3,500 feet in size) and the residences easily visible from the street. Some of these single-family dwellings are already inaccessible from the street due to steep slope conditions and are accessible only from an alley.

Section 502 of the Seattle Building Code regulates identification of premises, including identification of lots without street frontage, and the Fire Code contains additional requirements for identification of access location. For this reason, there is no need to propose new provisions in the Land Use Code related to identification of premises. Existing provision of Chapter 23.24, Short Plats, already require adequate access for "vehicles, utilities, and fire protection." (SMC 23.24.040 A.)

Land Use Code Issues

Nonconformity

The proposed amendments only affect lots with existing single-family dwelling units. Furthermore, the character and density of the single-family neighborhoods where these lots are



located would be largely unaffected. However, though no expansion or rebuilding would be allowed that creates additional nonconformity, there may be opportunities for owners of the resulting lots to expand or rebuild larger so long as it does not increase their nonconformity. In other words, structures with greater height, bulk and scale than exist today could be built on the resulting lots so long as the new or expanded structures are within what's allowed under current development standards. On the other hand, there may be substantial limitations on the future development potential of the newly created lots due to nonconformity issues. For example, if a 500 square foot cottage is existing on a small resulting lot, no enlargement of the structure's footprint will be allowed if it would result in any increase in the structure's nonconformity.

Another issue is the perceived erosion of the minimum lot size provisions in the single-family zone. The allowance of a narrow exception in this case may encourage other single-family property owners to ask for the right to subdivide their parcels into undersized lots. This proposal, however, is only intended to address *existing* single-family dwelling units.

Parking and Access

The proposal is not expected to result in significant spillover on-street parking because no new single-family dwelling units would result, and most of the existing single-family dwelling units are already occupied.

The proposal allows the Director to waive or modify the parking requirement for a resulting lot in order to protect important environmental features or if parking cannot be created that meets the standards for single-family zones in SMC 23.44.016, Parking location and access. If one of the newly created lots is to provide parking for another lot, the Director may require that an easement be created as a condition of approval of the subdivision.

Density

Owners of single-family lots in Seattle have the right to create accessory dwelling units (ADUs) pursuant to SMC 23.44.041, Accessory dwelling units. Lots without street or alley access, however, do not meet the criteria for establishing an ADU found in SMC 23.44.041.

Allowing short subdivisions of lots with more than one single-family dwelling unit may slightly increase density when one or more of the resulting lots meets the criteria for establishing an ADU. These criteria include, among other requirements, minimum ceiling heights, required parking, owner occupancy, and restricted location of principal entrances. Because the majority of single-family lots eligible for short subdivision are relatively small, it is anticipated that few property owners will seek to establish ADUs on the resulting lots.

V. Recommendation

DCLU recommends adoption of the proposed amendments to the Land Use Code, to allow short subdivision of single-family lots containing more than one existing single-family dwelling unit.



VI. Appendix: Existing Policies and Regulations

Policies

Comprehensive Plan Policies

Policies that support creation of affordable housing opportunities

- G7 Accommodate a variety of housing types that are attractive and affordable to potential homebuyers.
- H8 ...Encourage a range of housing types including, but not limited to: Single-family housing; ground-related housing to provide an affordable alternative to Single-family ownership...
- H10 Provide affordable housing concepts for neighborhood planning to enable neighborhoods to preserve existing single-family character while also contributing to the provision of affordable housing.
- H11 Strive to provide sufficient, affordable ground-related housing in the City that is attractive to households with children to provide alternative choices to suburban housing.

Policies that support adaptive reuse

- H15 Promote methods of more efficiently using or adapting the City's housing stock to enable changing households to remain in the same home or neighborhood for many years. Strategies may include sharing homes, accessory units in single-family zones, housing designs which are easily augmented to accommodate children ("grow houses"), or other methods considered through neighborhood planning.
- H24 Encourage the adaptive reuse of existing buildings for residential use. Recognize the challenges faced in reusing older buildings and consider, when revising technical codes, ways to make adaptive reuse more economically feasible.

Policies that support elderly citizens who wish to live independently

- G6 Allow the elderly the opportunity to remain in their own neighborhood as their housing needs change.
- H13 ...Strive to increase opportunities for the elderly to live in ground-related housing with services nearby.





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

July 25, 2002

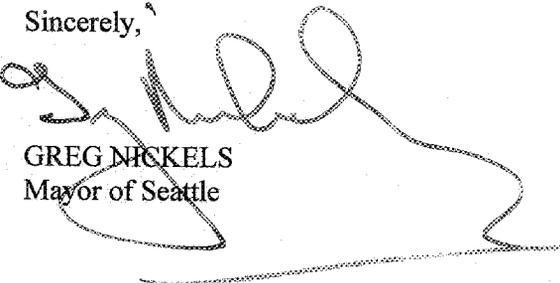
Honorable Peter Steinbrueck
President
Seattle City Council
Municipal Building, 11th Floor

Dear Council President Steinbrueck:

The attached legislation proposes to amend the Land Use Code to allow, under certain conditions, short subdivision of lots containing more than one existing single family dwelling unit in single family zones. This proposal would not change the amount of new development. Rather, the purpose of this proposal is to encourage opportunities for fee simple ownership of residential properties that already exist. The ordinance will affect no more than 846 properties identified in City records.

Thank you for your consideration of this legislation. Should you have questions please contact Mark Troxel at 206-615-1739.

Sincerely,



GREG NICKELS
Mayor of Seattle

cc Honorable Members of the Seattle City Council

600 Fourth Avenue, 12th Floor, Seattle, WA 98104-1873

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: mayors.office@ci.seattle.wa.us

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From: Margaret Klockars
To: Margaret Carter; Theresa Dunbar
Date: 5/22/03 3:39PM
Subject: Fwd: version 3 - 2 houses

Because I'm "off-site" these days, Jill asked me just to send this message to let you know that I have reviewed version #3, on Judy Nevins' behalf. If you can fill in the Law Dept. line based on this I'd appreciate it. If not, please leave the yellow sheet in my mail box and I can sign it when I swing through the Law Dept. on my way to work in the morning, if that's timely. If you need it this afternoon, I'll arrange to come to the Muni Bldg. shortly.



From: Jill Berkey
To: Margaret Carter
Date: 5/22/03 3:33PM
Subject: Fwd: version 3 - 2 houses

Hi Margaret,

Here is the bill with the amendments approved by the committee for Tuesday. Do you want me to print out a clean one? Margaret Klockars will be sending you an email saying she ok'd this.

Let me know--
Thanks.

>>> Mike Podowski 05/22/03 03:26PM >>>
made changes per margaret. i made this a base document - no more track changes mode. the amendments in this version are: 1,800 square foot lot sizes and the height restrictions reads 'expansions, extensions and replacements'...

CC: Margaret Klockars



ORDINANCE

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4. Whether the public use and interests are served by permitting the proposed division of land;
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6. 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 townhouses, cottage housing, clustered housing, or single-family housing; and
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3
4 * * *

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7
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5 may waive or modify the parking requirements of Section 23.44.016 as long as the short
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6 provision.

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9 and after its approval by the Mayor, but if not approved and returned by the Mayor within ten
10 (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

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13 Passed by the City Council the ____ day of _____, 2003, and signed by me in open
14 session in authentication of its passage this ____ day of _____, 2003.

15
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17 _____
18 President _____ of the City Council

19 Approved by me this ____ day of _____, 2003.

20 _____
21 Gregory J. Nickels, Mayor

22 Filed by me this ____ day of _____, 2003.

23 _____
24 City Clerk

25 (Seal)



STATE OF WASHINGTON – KING COUNTY

--SS.

159655
City of Seattle, Clerk's Office

No. ORDINANCE IN FULL

Affidavit of Publication

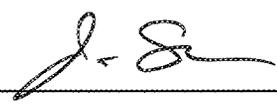
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORDINANCE 121163

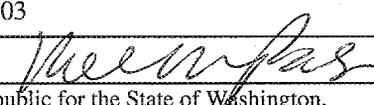
was published on

6/12/2003

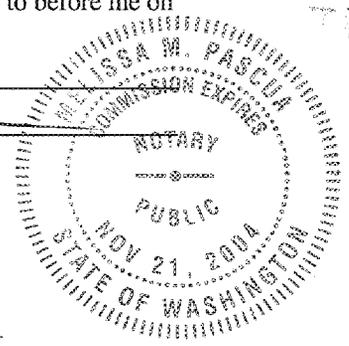


Subscribed and sworn to before me on

6/12/2003



Notary public for the State of Washington,
residing in Seattle



Affidavit of Publication

State of Washington, King County

City of Seattle

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Section 1. Subsection A of Section 23.24.040 of the Seattle Municipal Code, which Section was last amended by Ordinance 119791, is amended as follows:

23.24.040 Criteria for approval.

A. 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 Policies and Land Use Code provisions, as modified by this chapter;
2. Adequacy of access for vehicles, utilities and fire protection as provided in Section 23.53.005, Access to lots;
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 ~~(23.24.040)~~ Section 25.09.240, Short subdivisions and subdivisions, in environmentally critical areas;
6. 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 townhouses, cottage housing, clustered housing, or single-family housing; and
8. Conformance to the provisions of Section 23.24.043, Multiple single-family dwelling units on a single-family lot, when the short subdivision is for the purpose of creating two or more lots from one lot with more than one existing single-family dwelling unit.

Section 2. A new Section, 23.24.046, is hereby added to the Seattle Municipal Code to read as follows:

23.24.046 Multiple single-family dwelling units on a single-family lot.

A. The provisions of this section apply exclusively to the short subdivision of a lot in a single-family zone containing more than one existing single-family dwelling unit.

B. A lot in a single-family zone containing more than one existing single-family dwelling unit may be divided in accordance with this Chapter as long as each of the following conditions is satisfied:

1. Each existing single-family dwelling unit was legally established by permit or is eligible to be established as a nonconforming development in accordance with Section 23.42.102, Establishing nonconforming status;
2. Each existing single-family dwelling unit was constructed prior to February, 20, 1982;
3. Each resulting lot has one, but no more than one, existing single-family dwelling unit;
4. Parking is provided in accordance with Section 23.44.015, Parking location and