

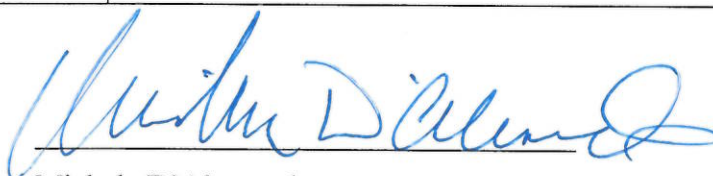
**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached **Findings and Decision** to each person listed below, or on the attached mailing list, in the matter of **Julian Weber**, Hearing Examiner File **MUP-17-034(SD)** in the manner indicated.

Party	Method of Service
DEPARTMENT Name: Carly Guillory Business: SDCI Email: carly.guillory@seattle.gov Phone: Fax:	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger
APPLICANT Name: Julian Weber Email: dpd@jwaseattle.com Phone: Address:	<input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger

Dated: December 12, 2017



Michele D'Alessandro
Executive Assistant

**FINDINGS AND DECISION
OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE**

In the Matter of the Application of

JULIAN WEBER

for approval of a preliminary unit
lot subdivision

Hearing Examiner File:
MUP-17-034 (SD)

Department Reference:
3020999

Introduction

The Applicant seeks preliminary approval of a 21-unit lot subdivision of property. The Director of the Department of Construction and Inspections (“Director”) recommended approval of the subdivision with one condition. There were no requests for further consideration of the Director’s recommendation pursuant to SMC 23.76.024.D.

A public hearing on the subdivision application was held before the Hearing Examiner on November 29, 2017. The Applicant was represented by Lauren Powers of JW Architects, *pro se*, and the Director was represented by Carly Guillory, Land Use Planner, Senior Land Use Planner. The record closed following the Examiner’s site visit on December 9, 2017.

For purposes of this decision, all section numbers refer to the Seattle Municipal Code (“SMC” or “Code”) unless otherwise indicated. After considering the evidence in the record and reviewing the site, the Examiner enters the following findings of fact, conclusions, and decision on the application.

Findings of Fact

Site and Vicinity

1. The proposal site is addressed as 8559 Mary Avenue and located at the intersection of Mary Avenue NW and NW 87th Street, in the Crown Hill neighborhood. It is rectangular in shape and 35,800 square feet in size, with access from NW 87th Street.
2. The site is zoned NC3P-40 (Neighborhood Commercial 3 with a pedestrian overlay and 40-foot height limit), as is property to the south and west. There is C1-40 zoning to the north, and LR2 zoning to the east. Surrounding development includes big-box retail and multifamily development.

Proposal

3. On August 4, 2016, the Director issued a SEPA Determination of Non-significance (“DNS”) without conditions for construction of 21 four-story townhouse units with below ground parking for 21 vehicles. The DNS was not appealed.

4. The Director has determined that no dedications are required for the subdivision. New sidewalks will be required along both NW 87th Street and Mary Avenue NW. **Transit stops** are available on 15th Avenue NW to the west, and 8th Avenue NW to the east of the property.
5. The plat shows vehicular access from NW 87th Street through a permanent garage easement, and pedestrian access from both NW 87th Street and Mary Avenue NW via a pedestrian easement.
6. The Applicant now seeks to subdivide the property into the anticipated 21 unit lots.
7. Private usable open space will be provided for each unit on the same lot that it serves, and will be directly accessible to the unit. Exhibit 4.
8. The preliminary plat includes a notation that the unit lots are not separate buildable lots and additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot. Exhibit 4.
9. All required easements are shown on the plat, as are the easement maintenance, common wall, joint use and maintenance, amenity area, and utility easement agreements.

Director's Review of Unit Lot Subdivision

10. The Director received one public comment on the subdivision, which expressed concern about the amount of off-street parking being provided for the project. Exhibit 6. However, this issue was addressed in the SEPA DNS, issued at the time of the MUP application to allow the proposed development. The DNS, which was not appealed, found that no additional mitigation for parking impacts was warranted pursuant to the City's SEPA policy on parking.
11. The Director circulated a request for comment to agencies and City departments. The Seattle Director of Housing, Superintendent of Parks and Recreation, Fire Chief, Department of Transportation, DCI Drainage Review, and DCI Ordinance Review all recommended approval of the preliminary subdivision with no conditions. The Director of Public Health, King County Metro, King County Wastewater, and Sound Transit had no comment on the proposal.
12. The area is served with domestic water, and Seattle Public Utilities issued a Water Availability Certificate for the proposal on June 24, 2017. The Certificate is valid for 18 months from the date of issuance and will expire on December 24, 2017. The Applicant will need to submit a current Water Availability Certificate with the final plat.
13. Seattle City Light recommended approval of the subdivision subject to a blanket easement for electrical facilities to provide power to the proposed unit lots, and the required easement language has been added to the face of the plat. Exhibit 4.

14. The Director has determined that the subdivision as a whole will meet all minimum development standards for the zone, and recommends approval of the subdivision with one condition. Exhibit 8.

Applicable Code Provisions

15. SMC 23.22.054.A, entitled "Public use and interest," lists some of the factors the Hearing Examiner must consider in determining whether to approve a subdivision:

The Hearing Examiner shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. The Hearing Examiner shall consider all relevant facts to determine whether the public interest will be served by the subdivision and dedication, and if it finds that the proposed plat makes appropriate provision for the public health, safety and general welfare and for open spaces, drainage ways, streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, fire protection facilities, parks, playgrounds, sites for school and schoolgrounds, sidewalks and other planning features that assure safe walking conditions for students who walk to and from school, is designed to maximize the retention of existing trees, and that the public use and interest will be served by the platting of the subdivision, then it shall be approved. If the Hearing Examiner finds that the proposed plat does not provide the appropriate elements, or that the public use and interest will not be served, then the Hearing Examiner may disapprove the proposed plat.

16. SMC 23.22.052 provides that:

A. Every subdivision shall include adequate provision for dedication of drainage ways, streets, alleys, pedestrian access and circulation, easements, slope rights, parks and other public open spaces for general purposes as may be required to protect the public health, safety and welfare.

B. Protective improvements and easements to maintain the improvements shall be dedicated at the discretion of the City.

C. Sidewalks shall be provided on dedicated streets, and must be convenient for pedestrians and contiguous to each other and to any private sidewalks within the subdivision and to existing sidewalks contiguous to the subdivision.

D. Vehicular access to every lot shall be from a dedicated street unless the Director ... permits access by a permanent private easement [that meets the requirements of SMC 23.22.052.D].

17. SMC 23.22.062 provides for unit lot subdivision of townhouse development as follows:

....

B. [L]ots lots developed or proposed to be developed ... may be subdivided into individual unit lots. The development as a whole shall meet development standards applicable at the time the permit application is vested. As a result of the subdivision, development on individual unit lots may be nonconforming as to some or all of the development standards based on analysis of the individual unit lot, except that any private usable open space or private amenity area for each dwelling unit shall be provided on the same unit lot as the dwelling unit it serves.

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

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

E. Within the parent lot, required parking for a dwelling unit may be provided on a different unit lot than the lot with the dwelling unit, as long as the right to use that parking is formalized by an easement on the plat, as recorded with the King County Recorder.

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

Conclusions

1. The Hearing Examiner has jurisdiction over this matter pursuant to Chapters 23.76 and 23.22 SMC.
2. The subdivision meets the requirements of SMC 23.22.052. Sidewalks have been provided, no dedications are required, and the subdivision will provide vehicular access that the Director has determined is consistent with SMC 23.33.052.D.
3. The proposal also meets the requirements of SMC 23.22.062 for unit lot subdivisions. The development as a whole will meet the development standards applicable to the parent lot; as noted above, the required parking, easements and private, usable open space are provided; and the required disclosures and joint use and maintenance agreement are provided on the face of the plat.
4. The record shows that the subdivision makes appropriate provision for open spaces, drainage ways, streets, transit stops, potable water, sanitary wastes, fire protection facilities, parks and playgrounds, and sidewalks that assure safe walking conditions for students who walk to and from school. The subdivision makes appropriate provision for the public health, safety and general welfare.

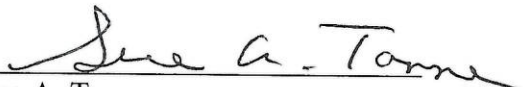
5. The proposal will promote individual ownership of the 21 residential units, which will be constructed in a configuration that is compatible with the surrounding neighborhood. As conditioned, the subdivision will serve the public use and interest.

Decision

The application of Julian Weber for the unit lot subdivision is **APPROVED** subject to the following condition:

Prior to final plat approval the approved CCRs shall be recorded with King County and the recording number provided on the final plat documents.

Entered this 12th day of December, 2017.


Sue A. Tanner
Hearing Examiner

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner decision to consult Code sections and other appropriate sources, to determine applicable rights and responsibilities.

The decision of the Hearing Examiner in this case is the final decision for the City of Seattle. In accordance with RCW 36.70C.040, a request for judicial review of the decision must be commenced within twenty-one (21) days of the date the decision is issued unless a motion for reconsideration is filed, in which case a request for judicial review of the decision must be commenced within twenty-one (21) days of the date the order on the motion for reconsideration is issued.

The person seeking review must arrange for and initially bear the cost of preparing a verbatim transcript of the hearing. Instructions for preparation of the transcript are available from the Office of Hearing Examiner. Please direct all mail to: PO Box 94729, Seattle, Washington 98124-4729. Office address: 700 Fifth Avenue, Suite 4000. Telephone: (206) 684-0521.

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