

July 16, 2021

## MEMORANDUM

**To:** Seattle City Council  
**From:** Lish Whitson, Analyst  
**Subject:** The Pines at Northgate Subdivision

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On Monday, July 26, 2021, the City Council (Council) will consider [Council Bill \(CB\) 120127](#) and [Clerk File \(CF\) 314456](#). Passage of the CB and filing of the CF would grant final approval of the “The Pines at Northgate, A Plat Community” subdivision, which is located at 1014 NE 112th Street in the Northgate Urban Center in Council District 5. The plat will facilitate the division of one development site into eight parcels, one of those parcels would be further subdivided 13 unit lots to facilitate the sale of individual townhouse units. The project includes seven live-work units and thirteen townhouses.

Final approval of a plat is a legislative act unless the Council has delegated that review to another body. Council’s review of a final plat is limited to certifying that the plat has met conditions that have previously been placed on the plat by the Seattle Hearing Examiner. Under Washington State Law, Council is required to act within 30 days of filing of the final plat. Because Council’s purview is constrained both in time and substance, Council routinely considers final subdivision ordinances, like the Pines at Northgate plat, at a City Council meeting without consideration at committee. The bill is necessary to allow the Pines at Northgate’s townhouses and live-work units, which have been built, to be sold as individual units.

The Seattle Department of Transportation (SDOT), the Seattle Department of Construction and Inspections (SDCI) and Council Central Staff have confirmed that the plat would meet all applicable conditions and recommends that the Council grant final approval (this requires a “do pass” vote on CB 120127 and also a vote to “place on file” CF 314456.)

The following is an overview of the subdivision process and a description of the plat. The Hearing Examiner’s “Findings and Decision” documents for the preliminary plat approval are attached, and a map is provided for informational purposes.

### Overview of Process

The Revised Code of Washington (RCW) § 58.17.140 requires that Council grant final plat approval for subdivisions within 30 days of filing of the final plat by the owner. Generally, the Council grants such approval after completion of the following steps:

1. SDCI issuance of a Master Use Permit and other project approvals;
2. Hearing Examiner approval of the preliminary plat approval, usually subject to conditions (the Hearing Examiner holds a public hearing prior to issuing a decision);

3. Developer's construction of site infrastructure (this includes construction of roadways and installation of utilities);
4. SDOT and SDCI review of the final plat to confirm that all the applicable requirements have been met; and
5. Council determination that applicable requirements have been met or can be met if a bond is posted.

Final plat approval requires votes on both a Council Bill and a Clerk File. Both were referred directly to Council because of the short deadline for approval under the RCW.

When reviewing final plats, SMC 23.22.074.A. requires the Council to determine that:

1. The final plat is in substantial conformance with the approved preliminary plat;
2. The requirements imposed when the preliminary plat was approved have been met;
3. The bond, if required by the City, is sufficient in its terms to assure that the improvements will be completed; and
4. The applicant has satisfied the requirements of Washington State Law and the Seattle Municipal Code that were in effect at the time of preliminary plat approval.

The Directors of SDOT and SDCI have confirmed that the plat meets all the requirements of the preliminary plat approval, as well as the requirements of Washington State platting law and the Seattle Municipal Code. SDOT prepared the Council Bill for Council review and action. Central Staff has reviewed the final plat and legislation and recommends that the Council grant final plat approval.

### **Description of the Pines at Northgate Subdivision**

The Pines at Northgate subdivision is located at 1014 NE 112th St. two blocks north of Northgate Way. The project is located on the northeast corner of Roosevelt Way NE/Pinehurst Way NE and NE 112th St. At this corner, north of NE 112th St, Roosevelt Way NE splits into Roosevelt Way NE, which heads north, and Pinehurst Way NE, which heads northeast.

The approximately 16,137 square foot site is currently composed of three parcels. The site is zoned Neighborhood Commercial 3 with a 55 foot height limit and an (M) Mandatory Housing Affordability designation (NC3-55 (M)). Abutting properties are also zoned NC3-55 (M). The NC3P-55 (M) commercial district extends north along both Roosevelt and Pinehurst to NE 114th Street and south along Roosevelt Way to NE 108th Street. Mid-block, to the east of the site, is a Single Family 7200 zone.

The subdivision would divide one parcel into seven parcels containing live-work units and 13 unit lots containing townhouses. The parcels would range in size from 669 to 827 square feet.

The unit lots would range in size from 592 to 1,506 square feet. Development of the site was permitted under permit 6508131. This subdivision is only for the purpose of allowing sale or lease of the units.

A below-grade garage, located at the east side of the site provides a parking space for each of the units. The garage has access from an alley that runs along the north side of the site. Pedestrian access is provided through easements as shown on the plans.

The SDCI Director recommended approval of the preliminary subdivision with conditions on July 30, 2020. On September 21, 2020, the Seattle Hearing Examiner recommended approval of the plat with the following conditions:

Prior to Recording:

1. Remove Unit Lot Subdivision Note on sheet one since the concept is more fully described in Note #10 on Sheet #2.
2. Remove the reference “of Parent Parcel” on sheet 2 so it only reads: Legal Description.
3. Note #7 should be removed, SEPA is being conducted with this permit.
4. Label Parcels A-G as “live-work” on all of the survey sheets.

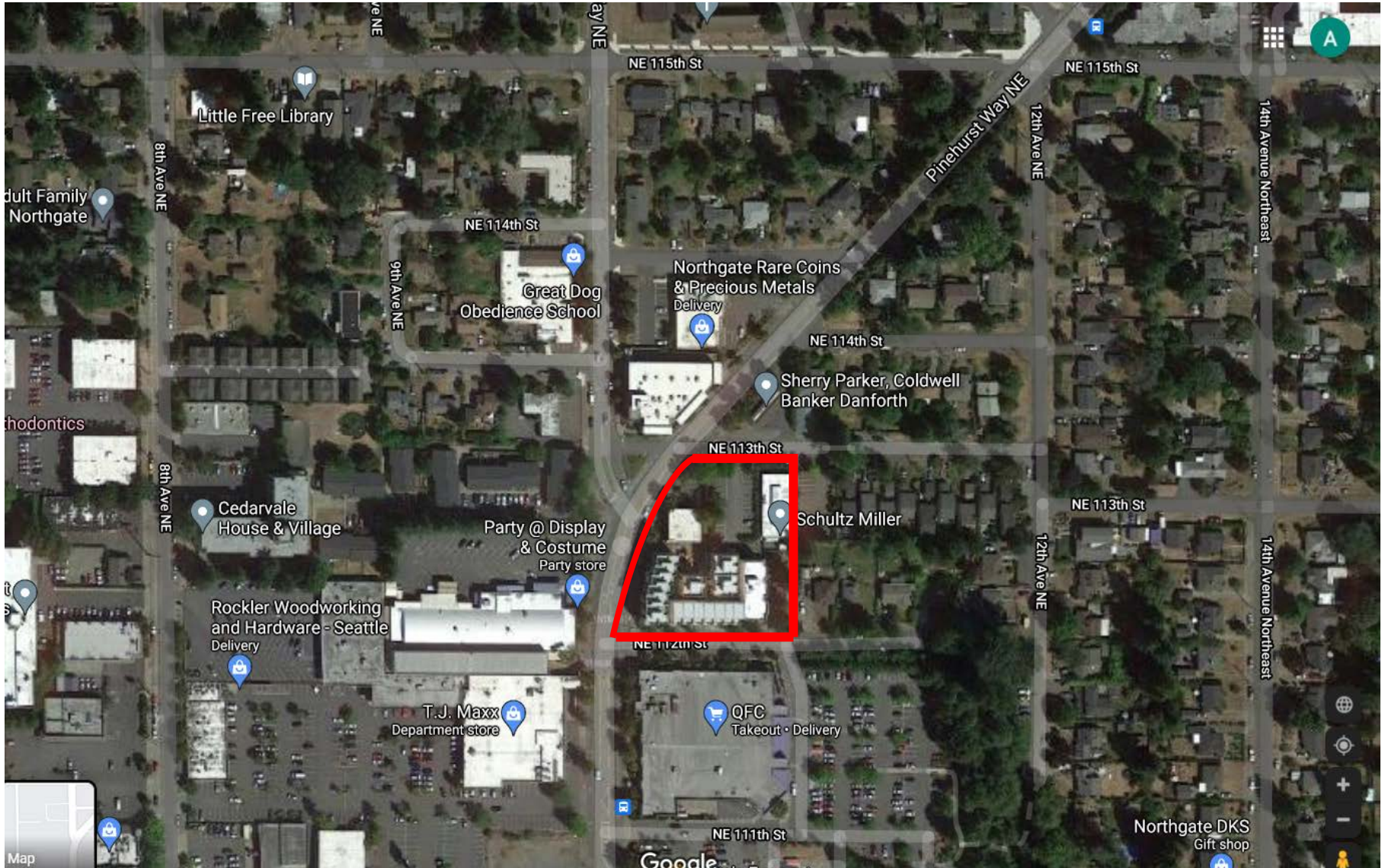
SDCI, SDOT and Council Central Staff have reviewed the final plat and have found that the requirements and conditions are substantively met.

**Attachments:**

1. Vicinity Map - Northline Townhomes Plat
2. Findings and Decision of the Seattle Hearing Examiner

cc: Dan Eder, Interim Director  
Aly Pennucci, Policy and Budget Manager

# Vicinity Map - 1014 NE 112th St



**CITY OF SEATTLE  
HEARING EXAMINER**

In the Matter of

**Application of Izabella Henry, Chadwick &  
Winters, for a Preliminary Plat and  
Preliminary Unit Lot Subdivision**

Hearing Examiner File:  
**MUP-20-017**

Department Reference  
3032523-LU

**FINDINGS AND DECISION**

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**SECTION I. FINDINGS OF FACT**

**1. Project Overview.** The Applicant seeks preliminary approval to divide three parcels into eight, with a unit lot subdivision of one parcel (Parcel H) into 13 unit lots. Development standards will be applied to the development site as a whole and not to the individual lots.<sup>1</sup> The actual site development was approved through earlier permits, with the plat allowing individual unit sale or lease. The Director of the Department of Construction and Inspections recommended approval with conditions. There were no SMC 23.76.024(D) requests for further Hearing Examiner consideration of the recommendation .

The project includes 20 living units. Seven are live-work units on the project's west-side, with the work portion on the ground floor. The remaining 13 are part of the unit-lot subdivision. Four units are above a parking garage, which provides 18 parking spaces. The alley to the north includes a 2.5-foot dedication,<sup>2</sup> and will be improved. A limited public access-way runs through the site, per Northgate District Overlay requirements. Sidewalks are on existing right of way surrounding the site. There will be a pedestrian overhang along Pinehurst, with landscaping installed consistent with the Site Plans.<sup>3</sup> The site has no critical areas. Project improvements were approved by master use permit<sup>4</sup> and building permit,<sup>5</sup> and construction has commenced.

**2. Hearing.** The hearing was held remotely on September 2, 2020, with the Applicant, Department, and members of the public provided a call-in number and internet link for participating. Ms. Godard represented the Department, and Mr. Jacobs represented the Applicant. Mr. Locke also presented for the Applicant. No person from the public indicated a desire to comment at the hearing. There were no reported difficulties with calling in or providing comment, but in case anyone did have difficulty, and also to address Examiner questions, the record was kept open through September 4. The Department and Applicant submitted additional exhibits, which were admitted. Nothing additional was received from the public.

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<sup>1</sup> Department Exhibit 1 (Staff Report), p. 1; Applicant Exhibit 1 (Binding Site Covenant).

<sup>2</sup> Exhibit 7.

<sup>3</sup> Exhibit 15.

<sup>4</sup> Exhibit 2 (MUP Plan Set). Department Project Nos. are 6508131-CN and 3019728-LU.

<sup>5</sup> Exhibit 6 (Building Permit).



**3. Exhibits.** The Department submitted Department Exhibits 1-11 and the Applicant submitted Applicant Exhibits 1-17. All were admitted without objection. Department Exhibits 10 and 11 were submitted after the hearing to document hearing notice and the notice of application.<sup>6</sup>

**4. Project Location.** 11200 Pinehurst Way NE, Seattle.

**5. Zoning.** The site is zoned Neighborhood Commercial 3 or NC3-55 (M), with a 55-foot height limit (Exhibit Dept. 9).<sup>7</sup> The site is within the Northgate Urban Center and Northgate Overlay District and Northgate Design Review Area.

**6. Public Comment.** The Department received written public comment. Concerns included lack of parking, added traffic, high water table, setbacks, sunlight access, structure design, utility access, and street parking.

**7. Agency Comment.** The proposal was circulated for agency review. As long as code requirements are met, there were no objections to approval.

- Seattle Dept. of Transportation. No additional comments. SDOT will review the final plat per SMC 23.22.070.
- Seattle Dept. of Health. Approval provided.
- Seattle City Light. Approval provided. A covenant is recorded.
- Seattle Housing. Approval provided.
- Seattle Parks and Recreation. Approval provided.
- Seattle Public Utilities. Water availability certificate, valid through November 16, 2020, issued.
- Fire Department. Approval provided.
- Department (Structural/Ordinance Review). Approval provided.
- Department (Drainage). Approval provided.
- Sound Transit. No comment.
- King County Wastewater Treatment Division. No comment.

**8. Access.** Vehicle access to the development is from the alley through a permanent ingress and egress easement. The Department confirmed at the hearing that emergency access to the site is adequate.

**9. Parking.** In response to Examiner questioning on a parking concern a neighbor had raised, the Applicant explained the garage provides 18 parking spaces although the code does not require any. Parking is also addressed in the Site Plans and Staff Report.

**10. School Walking Conditions.** The Applicant documented safe walking conditions to the schools serving the site through Mr. Locke's testimony and several exhibits. These schools are Olympic View Elementary, Jane Addams Middle School, Hazel Wolf K-8, and Nathan Hale High School.<sup>8</sup>

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<sup>6</sup> The Department's Exhibit List was updated to reflect the new exhibits. The Applicant also submitted an Exhibit List.

<sup>7</sup> Department Exhibit 9 (Land Use Report); *see also* SMC 23.58B.040/.050 and 23.58C.040/.050 (Mandatory Housing Affordability Fees, Medium Area).

<sup>8</sup> Applicant Exhibits 8-11 and 14.

**11. Easements.** Easements for common usage and maintenance are provided. The plat is for fee simple ownership purposes. Required street improvements are located within the existing rights of way, with sidewalks on both street frontages. Finding 1 notes the alley dedication, as does the Staff Report and Site Plan.

**12. Open Space.** 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.

**13. State Environmental Policy Act, Ch. 43.21C RCW.** The Department Director issued a SEPA Determination of Non-Significance. It was not appealed.

**14. Staff Report and Conditions.** The Department Director has determined that the subdivision as a whole will meet all development standards for the zone, and recommends approval of the subdivision with conditions. Except as revised, the Department Staff Report is incorporated by reference. The four proposed conditions were not objected to. They should be imposed without substantive revision. They are reasonable and needed to clarify and/or make corrections to ensure plat consistency with the application materials, review process, and code.

## SECTION II. CONCLUSIONS OF LAW

**1.** The Hearing Examiner has jurisdiction over preliminary plat decisions.<sup>9</sup> Criteria used for determining whether an application should be improved includes an assessment of the public use and interest. That assessment is largely based on infrastructure adequacy, including the road system, utilities, and basic services to support the plat.

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 subdivision, then it shall be approved. ...<sup>10</sup>

**2.** Similar considerations are at SMC 23.22.052, which provides for “dedication of drainage ways, streets, alleys, pedestrian access and circulation, easements, slope rights, parks and other public open spaces ... as may be required to protect the public health, safety and welfare”<sup>11</sup>. The plat addresses these considerations. There is adequate provision for drainage, streets, pedestrian access and circulation, mostly in the existing right of way, and easements for common usage and maintenance are provided. Sidewalks are along both street frontages. Vehicle access is from the alley through a permanent ingress and egress easement. There is adequate provision for

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<sup>9</sup> Chapters 23.76 and 23.22 SMC

<sup>10</sup> SMC 23.22.054(A).

<sup>11</sup> SMC 23.22.052(A).

pedestrian access and safety, and light, air and usable open space between the structures is provided. Private easements for vehicular ingress and egress, pedestrian access, emergency vehicles, and utilities adequately supports the plat.

**3.** Unit lot subdivisions must also meet specific requirements.

The provisions of this Section 23.22.062 apply exclusively to the unit subdivision of land for residential development ....

... 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.

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

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. For common parking areas and garages, access easements and joint use and maintenance agreements shall include the right to use any required electric vehicle charging infrastructure and the terms of use.

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.

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.<sup>12</sup>

These requirements are met. The development as a whole will meet the development standards applicable to the parent lot; 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 plat 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.

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<sup>12</sup> SMC 23.22.062(A-F).



5. The proposal will promote individual ownership of the 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.

### SECTION III. DECISION

The request for the preliminary subdivision is APPROVED subject to these conditions:

Prior to Recording:

1. Remove Unit Lot Subdivision Note on sheet one since the concept is more fully described in Note #10 on Sheet #2.
2. Remove the reference “of Parent Parcel” on sheet 2 so it only reads: **Legal Description.**
3. Note #7 should be removed, SEPA is being conducted with this permit.
4. Label Parcels A-G as “live-work” on all of the survey sheets.

Unless timely appealed, this Decision is final.<sup>13</sup>

Entered September 21, 2020.

  /s/ Susan Drummond  
Susan Drummond  
Hearing Examiner Pro Tempore

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<sup>13</sup> Ch. 36.70C RCW (providing 21-day appeal period and procedures for appealing to superior court); SMC 23.76.022(C)(12).

**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 decisions 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 P.O. Box 94729, Seattle, WA 98124-4729. Office address: 700 Fifth Avenue, Suite 4000. Telephone: (206) 684-0521.

**Department Director:**

Mr. Torgelson, Director, DCI  
c/o Ms. Godard  
700 Fifth Avenue, Suite 2000  
Seattle, WA 98014

**Applicant:**

Izabella Henry, Chadwick & Winters  
c/o Samuel Jacobs  
Hesell Fetterman  
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Seattle, WA



**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 **Izabella Henry**. Case Number: **MUP-20-017 (SD)** in the manner indicated.

<b>Party</b>	<b>Method of Service</b>
<b>Applicant</b> Izabella Phillips Chadwick Winters Land Surveying 206-294-0996 izabellah@chadwickwinters.com	<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
<b>Applicant Legal Counsel</b> Sam Jacobs Helsell Fetterman, LLP 206-292-114 sjacobs@helsell.com	<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
<b>Property Owner</b> Peter Locke 11202, LLC 206-792-3991 peter.locke@isolahomes.com	<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
<b>Department</b> Holly Godard SDCI 206-684-0532 holly.godard@seattle.gov  Jerry Suder SDCI 206-386-4069 jerry.suder@seattle.gov	<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

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Dated: September 21, 2020

/s/ Galen Edlund-Cho  
Galen Edlund-Cho  
Legal Assistant