

August 18, 2022

## MEMORANDUM

**To:** Seattle City Council  
**From:** Lish Whitson, Analyst  
**Subject:** Council Bill 120406 and Clerk File 314468: 357 Degrees Subdivision

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On Tuesday, September 6, the City Council (Council) will consider [Council Bill \(CB\) 120406](#) and Clerk File (CF) 314468. Passage of the CB and filing of the CF would grant final approval of the 357 Degrees plat, which is located at 13333 Greenwood Avenue N in the Broadview/Bitter Lake neighborhood in Council District 5. The plat will facilitate the division of a development site into 33 unit lots to facilitate the sale of individual townhouse units. The project includes 33 townhouses in eight structures.

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 plat ordinances, like the 357 Degrees plat, at a City Council meeting without consideration at committee. The bill is necessary to allow the 357 Degree's townhouses, 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 120406 and also a vote to "place on file" CF 314468.)

The following is an overview of the plat 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 transmit final plans and legislation to Council; 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 are referred directly to Council because of the short deadline for approval under the RCW.

When reviewing final plats, Seattle Municipal Code (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 SMC that were in effect at the time of preliminary plat approval.

### **Description of the 357 Degrees Plat**

The 357 Degrees plat is located at 13333 Greenwood Avenue N in the Broadview/Bitter Lake neighborhoods. The project is located on the west side of Greenwood Avenue N, north of N 132nd Street. The project is located due west of Bitter Lake and across the street from N 134th Street.

The approximately 50,723 square foot site is currently composed of one parcel.<sup>1</sup> The site is zoned Lowrise 3 and an (M) Mandatory Housing Affordability designation (LR3 (M)). Abutting properties to the north, south and east are also zoned LR3 (M). The LR3 (M) district extends to the north and south along both sides of Greenwood Avenue N between N 125th Street and N 143rd Street. Properties to the west of the site are currently zoned Neighborhood Residential 2.<sup>2</sup>

The plat would divide one parcel into 33 unit lots containing townhouses. The unit lots would range in size from 952 to 2,516 square feet. Development of the site was permitted under permit 6722050-CN. This plat is only for the purpose of allowing sale or lease of the units.

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<sup>1</sup> Three parcels, addressed as 13327, 13329, and 13331 Greenwood Avenue N, Residential 2, were previously removed from the parcel addressed as 13333 Greenwood Avenue N as part of a separate short subdivision ([3034269-LU](#)).

<sup>2</sup> These areas were zoned Single Family 7200 at the time of the application.

Each unit has its own parking space, accessed off a common driveway easement that runs through the middle of the site and also serves three single-family houses to the west of the property. Pedestrian access to the units would be provided by this same easement, as well as common amenity easement areas located on the north, south and west sides of the site and through the center of the site. Other easements would provide for: utility and emergency access; electrical, telephone, and cable TV access; an address easement; the location of an address sign; and a separate Seattle City Light access easement. The plans also include: easement maintenance agreements; acknowledgement of a homeowners' association; a joint use/maintenance agreement; and a common wall agreement.

The SDCI Director recommended approval of the preliminary plat with one condition on November 8, 2021. On December 15, 2021, the Seattle Hearing Examiner recommended approval of the plat with the following condition:

Prior to Final Plat Approval:

1. The approved Declaration of Covenants, Conditions, Restrictions, and Easements (currently noted as 'Declaration of Covenants, Conditions and Restrictions for 357 Degrees' and 'Declaration of Covenant for Uses, Aesthetics and Easement Maintenance') shall be recorded at King County and the recording number provided on the final plat documents.

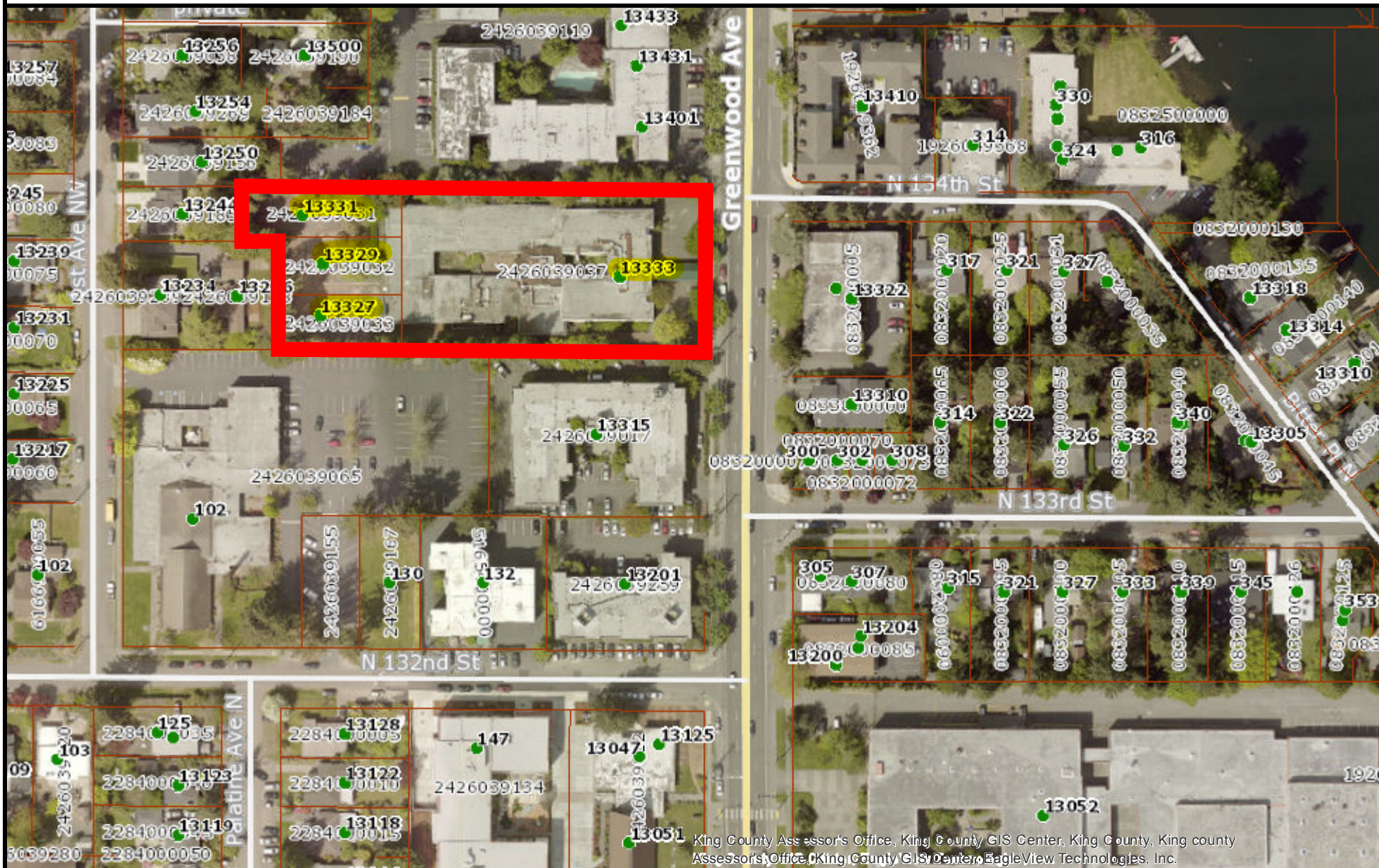
The Directors of SDOT and SDCI have confirmed that the plat meets all the requirements of the preliminary plat approval, as well as the requirements of Washington State platting law and the SMC. Consequently, SDOT prepared the CB for Council review and action. Central Staff has reviewed the final plat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

**Attachments:**

1. Vicinity Map - 357 Degrees Plat
2. Findings and Decision of the Seattle Hearing Examiner

cc: Esther Handy, Director  
Aly Pennucci, Deputy Director  
Yolanda Ho, Lead Analyst

# Attachment 1 - Vicinity Map - 357 Degrees Plat



The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice. King County makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information. This document is not intended for use as a survey product. King County shall not be liable for any general, special, indirect, incidental, or consequential damages including, but not limited to, lost revenues or lost profits resulting from the use or misuse of the information contained on this map. Any sale of this map or information on this map is prohibited except by written permission of King County.

Date: 3/2/2022



**King County**

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

In the Matter of Application of

**KELSEY ELLIOTT**

for a Full Subdivision of Property at  
13333 Greenwood Avenue North.

**Hearing Examiner File:  
MUP-21-023 (SD)**

Department Reference:  
3036792-LU

**I. FINDINGS OF FACT**

**1. Project Overview.** The Applicant seeks preliminary approval to subdivide a single parcel into 33 unit lots (“Plat”). The development includes 33 townhouse units in eight structures. For the unit lot subdivision, development standards will apply to the development site as a whole and not to the individual lots. The Plat allows for individual unit sale or lease. The Department of Construction and Inspections (“Department”) recommended conditioned approval. There were no SMC 23.76.024(D) requests for further Hearing Examiner consideration of the recommendation.

**2. Hearing.** The hearing was held remotely December 8, 2021, with the Applicant, Department, and members of the public provided a call-in number and internet link for participating. The Department appeared through Sr. Planner Ms. Neylon. The Applicant appeared through Ms. Elliott and its counsel, Mr. Olsen of Cairncross & Hempelmann PS.<sup>1</sup> No member of the public indicated a wish to comment. There were no reported difficulties with calling in to comment, but in case anyone did have difficulty, the record was kept open through December 9, 2021. No further comment was received.

**3. Notice.** The Department’s documented hearing notice met code.<sup>2</sup>

**4. Exhibits.** The Department and Applicant submitted Exhibits 1-32, which included the Department Recommendation, Department Master Use Permit Decision (including Administrative Design Review and State Environmental Policy Act, Ch. 43.21C RCW review), comments, proposed covenants/easements, and Plat. The Examiner admitted all exhibits.

**5. Project Location and Site Description.** The site is on Greenwood Avenue North’s west side between North 132<sup>nd</sup> Street and North 136<sup>th</sup> Street. The 50,723 square foot lot is relatively flat with no alley access. It was developed with a senior long and short-term care facility, which included several paved surface parking areas. The facility has been demolished. Ornamental trees are along the site perimeter, with three exceptional and 11 mature trees designated for

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<sup>1</sup> The Applicant noted it was working on resolving a heat pump easement question. Resolution is anticipated and the parties indicated the record did not need to be kept open to further address the question.

<sup>2</sup> SMC 23.76.024(C); Exhibits 2 and 3; Testimony, Ms. Neylon.

retention. The site has no known topographical or subsurface hazard conditions and no known critical areas.<sup>3</sup>

**6. Zoning.** The site is zoned Multi-Family Low Rise 3 with an “M” Mandatory Housing Affordability suffix (LR3 (M)). The same zone surrounds the site on three sides, with Single Family 7200 square foot lot zoning to the west.

**7. Other Permitting.** The development project (“Project”) was subject to Administrative Design Review and building permits have been issued. Permit file numbers were detailed in the Department’s testimony and in its Recommendation.<sup>4</sup>

**8. Public Comment.** The Department received public comments (Exhibits 8-12 and 31). Concerns addressed parking (particularly for guests), the need for a community center, construction noise, and the need for a crosswalk/blinking light (or other safety precautions) for safe bus stop access. The earlier Master Use Permit decision, which included both the Administrative Design Review and SEPA decisions, largely addressed these questions.

The SEPA analysis found peak parking demand is for 32 vehicles. As this stall number is provided, the SEPA determination did not require additional parking.<sup>5</sup> Parking policy is an ongoing issue for many projects, but for the Project, SEPA and the code are the authoritative sources for additional parking. As for the community center comment, the Project site is privately held property so the code does not provide authority to change the planned use from housing to community center, though there may be other feasible sites within the area. Construction noise was evaluated through SEPA and the City’s Noise Ordinance (SMC 25.08.425) provides mitigation.<sup>6</sup> A crosswalk/blinking light improvement was not required through SEPA review, and frontage improvements including sidewalks are being installed. However, such a safety feature may benefit both Project and larger area residents and be appropriate at the noted location. If so, this pedestrian/transportation planning improvement could be broached with the Seattle Department of Transportation.

**9. Agency Comment.** The Plat proposal was circulated for agency review. If code requirements and conditions are met, approval was not objected to.

- Seattle/King County Public Health. Land use comment on solar exposure and ventilation.
- Seattle City Light. The City Light Easement is shown on the Preliminary Plat, sheet 16. No additional easements are now required.
- Seattle Office of Housing. No comment.
- Seattle Parks and Recreation. No comment.

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<sup>3</sup> See SMC 23.22.050; Exhibit 1 (Department Recommendation), p. 5.

<sup>4</sup> Exhibit 1 (Department Recommendation), pp. 1-2; Testimony, Ms. Neylon.

<sup>5</sup> Exhibit 27 (Master Use Permit), p. 22.

<sup>6</sup> Exhibit 27 (Master Use Permit), p. 20.

- Seattle Public Utilities. Approval provided with Water Availability Certificate #20192059.
- Seattle Fire Department. Approval contingent on fire apparatus access road being designed and installed as shown on the plan and consistent with the Seattle Fire Code, including but not limited to surface material, load capabilities, width, etc. The road shall be marked with fire lane signs as the SFC requires.
- Sound Transit. No impact on Sound Transit plans.
- King County Metro Transit Division. No impacts to the existing bus stop and associated facilities was confirmed.
- King County Wastewater Treatment Division. No comment.
- Seattle Department of Transportation. Approval provided.
- Department Structural/Ordinance Review. Approval provided.
- Department Drainage Review. Approval provided.

**10. Dedications.** Street right of way abutting the site is adequate for supporting public infrastructure. Excepting City Light which required an easement, other on-site utility extensions and connections are private facilities with easements or covenants to ensure maintenance. Further dedications are not needed.

**11. Street Improvements and Access.** Street improvements include new sidewalks, street trees, curb ramps, pavement restoration, and water and sewer connections. Improvements are within the existing right-of-way along the Greenwood Avenue North frontage and are being reviewed under Street Improvement Permit #415782. One ADA curb ramp will be near the northern edge of the frontage, as an access to the 'T' intersection of North 134<sup>th</sup> Street with Greenwood Avenue North. A receiving ADA ramp will be on Greenwood Avenue North's east side.

Vehicle access is via one shared driveway located midway on the east property line. Two driveway easements (Easements 'Y' and 'Z') and an existing easement at the site's southwest provide access to the individual garage parking stalls on each unit lot. Long-term bicycle parking is provided with the garages. The central existing access easement also provides vehicle access to the three single-family lots to the west. Pedestrian access to the seven rowhouses facing Greenwood Avenue North is from the public sidewalk. All other townhouse units can be accessed by way of two existing Access Easements or via two Amenity Easements.

**12. Concurrency/Ch. 23.52 SMC.** The unit lot subdivision allows the sale or lease

of individual unit lots with previously permitted townhomes that are under construction. The land division does not alter transportation levels of service or allow increased development that would change levels-of-service.

**13. Parking.** Each townhouse unit has a single parking stall.

**14. School Walking Conditions.** The Applicant documented safe walking conditions along anticipated paths to public grade schools (K-12) within the vicinity and considered the Seattle School District's safe route standards.<sup>7</sup>

**15. Open Space.** Directly accessible, private usable open space is provided for each unit on the same lot it serves, with common amenity areas demarcated on the Plat.

**16. Critical Areas.** The site is not within a flood-prone area and no critical areas are on site.<sup>8</sup>

**17. State Environmental Policy Act, Ch. 43.21C RCW.** The Department's Determination of Non-Significance was not appealed.

**18. Easement/Covenants.** Access easements and covenants address joint use and maintenance issues. They address pedestrian access; vehicular access; joint use/maintenance; waste storage; signage; common amenities; and, utility and emergency access. Easements and agreements are provided with the preliminary plat and will be executed with the recording of the final plat documents.

**19. Department Recommendation and Plat Condition.** The Department determined the Plat will meet all development standards for the zone and recommended approval with one condition on covenant/easement recordation. The Applicant did not object to the condition. It should be imposed to ensure necessary restrictions are retained following property transfer. The Department Recommendation is incorporated.

## 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 approved include 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

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<sup>7</sup> Exhibit 1 (Department Analysis and Recommendation), p. 10; Exhibit 24; Testimony, Ms. Neylon.

<sup>8</sup> SMC 23.22.056.

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



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, safe walking conditions, and pedestrian access and circulation (including through the frontage improvements). Easements for common usage and maintenance are provided. Light, air, and usable open space between the structures are provided. Private easements for access and utilities adequately support 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

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

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

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 unit lot subdivision will meet the development standards applicable to the parent lot. Parking is provided. Easements and private, usable open space are provided, and the required disclosures and joint use and maintenance agreement are provided on the plat face.

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 Plat makes appropriate provisions for public health, safety, and general welfare.

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

### SECTION III. DECISION

The preliminary subdivision is **APPROVED** subject to this condition:

Prior to Final Plat Approval:

1. The approved Declaration of Covenants, Conditions, Restrictions, and Easements (currently noted as ‘Declaration of Covenants, Conditions and Restrictions for 357 Degrees’ and ‘Declaration of Covenant for Uses, Aesthetics and Easement Maintenance’) shall be recorded at King County and the recording number provided on the final plat documents.

Entered December 15, 2021.

        /s/ Susan Drummond          
Susan Drummond  
Deputy Hearing Examiner

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

### **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 Hearing Examiner's decision 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 decision issuance date 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 pay for 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.

**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 matters of **KELSEY ELLIOTT**, Hearing Examiner Files: **MUP-21-023 (SD)** in the manner indicated.

<b>Party</b>	<b>Method of Service</b>
<b>Applicant</b> Kelsey Elliott Chadwick & Winters Land Surveying 206-297-0996 kelseye@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>Department</b> Theresa Neylon SDCI 206-615-0179 theresa.neylon@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
<b>Property Owner</b> Jim Sprott Pulte Group 425-216-3493 jim.sprott@pultegroup.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>Mailing</b> Nathan Torgelson nathan.torgelson@seattle.gov  Sam Zimbabwe sam.zimbabwe@seattle.gov  Ketil Freeman	<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

ketil.freemear@seattle.gov

Roger Wynne  
roger.wynne@seattle.gov

Janet Oslund  
janet.oslund@seattle.gov

SDCI LUIB  
SCI\_LUIB@seattle.gov

SDCI Routing Coordinator  
SCI\_Routing\_Coordinator@seattle.gov

Dated: December 15, 2021

/s/ Galen Edlund-Cho

Galen Edlund-Cho  
Legal Assistant

3036792-LU

[kelsey@chadwickwinters.com](mailto:kelsey@chadwickwinters.com)  
[Lance.Adams@PulteGroup.com](mailto:Lance.Adams@PulteGroup.com)  
[Jim.Sprott@PulteGroup.com](mailto:Jim.Sprott@PulteGroup.com)  
[Theresa.Neylon@seattle.gov](mailto:Theresa.Neylon@seattle.gov)  
[countryredneck001@yahoo.com](mailto:countryredneck001@yahoo.com)  
[gmeiner.k@gmail.com](mailto:gmeiner.k@gmail.com)  
[j.leigh.reddy@gmail.com](mailto:j.leigh.reddy@gmail.com)  
[machete.reddy@gmail.com](mailto:machete.reddy@gmail.com)  
[Rose.McCracken@kingcounty.gov](mailto:Rose.McCracken@kingcounty.gov)  
[deloresjensen@comcast.net](mailto:deloresjensen@comcast.net)

**EHRlich LEA K**  
132 N 132ND ST #302  
SEATTLE WA 98133