

October 5, 2022

MEMORANDUM

To: Seattle City Council
From: Lish Whitson, Analyst
Subject: Council Bill 120427 and Clerk File 314439: Howell Townhouses Plat

On Tuesday, October 18, the City Council (Council) will consider Council Bill (CB) 120427 and Clerk File (CF) 314439. Passage of the CB and filing of the CF would grant final approval of the Howell Townhomes plat, which is located at 1417 E Howell Street in the Capitol Hill Neighborhood in Council District 3. The plat will facilitate the division of two parcels into 15 unit lots to facilitate the sale of individual townhouse units. The project includes 15 townhouses in three 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 Howell Townhouses, at a City Council meeting without consideration at committee. The bill is necessary to allow the Howell Townhouses, which have been built, to be sold as 15 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 meets all applicable conditions and recommends that the Council grant final approval (this requires a "do pass" vote on CB 120427 and a vote to "place on file" CF 314439.)

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 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, 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 Howell Townhouses plat

The Howell Townhouses plat is located at 1417 E Howell Street in the Capitol Hill neighborhood. The project is located on the south side of E Howell Street, midblock between 14th and 15th avenue, a block west of Seven Hills Park.

The approximately 10,342 square foot site is currently composed of two parcels. The site is zoned Lowrise 3 with a an (M) Mandatory Housing Affordability designation (LR3 (M)). Surrounding properties within a couple of blocks have the same zoning. Commercial zoning applies to properties abutting E Pine Street, E John Street, 12th Avenue, and 15th Avenue north of E Denny Way, most of which are more than two blocks from the site.

The plat would divide two parcels into 15 unit lots containing 15 townhomes. The unit lots would range in size from 553 to 927 square feet. Development of the site was permitted under permits 6692756-CN, 6723437-CN, and 6723446-CN. This plat is only for the purpose of allowing sale or lease of the units.

A pedestrian access easement to serve the development is provided from E Howell Street. No parking is provided. Other agreements included on the plans include homeowners' association, signage, utility, private amenity area, common amenity areas, joint use/ maintenance, and an emergency access easement.

The SDCI Director recommended approval of the preliminary plat with one condition on December 7, 2020. On January 19, 2021, the Seattle Hearing Examiner recommended approval of the plat with the following condition:

Prior to Recording:

1. The approved Declaration of Covenants, Conditions, Restrictions and Easements 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.

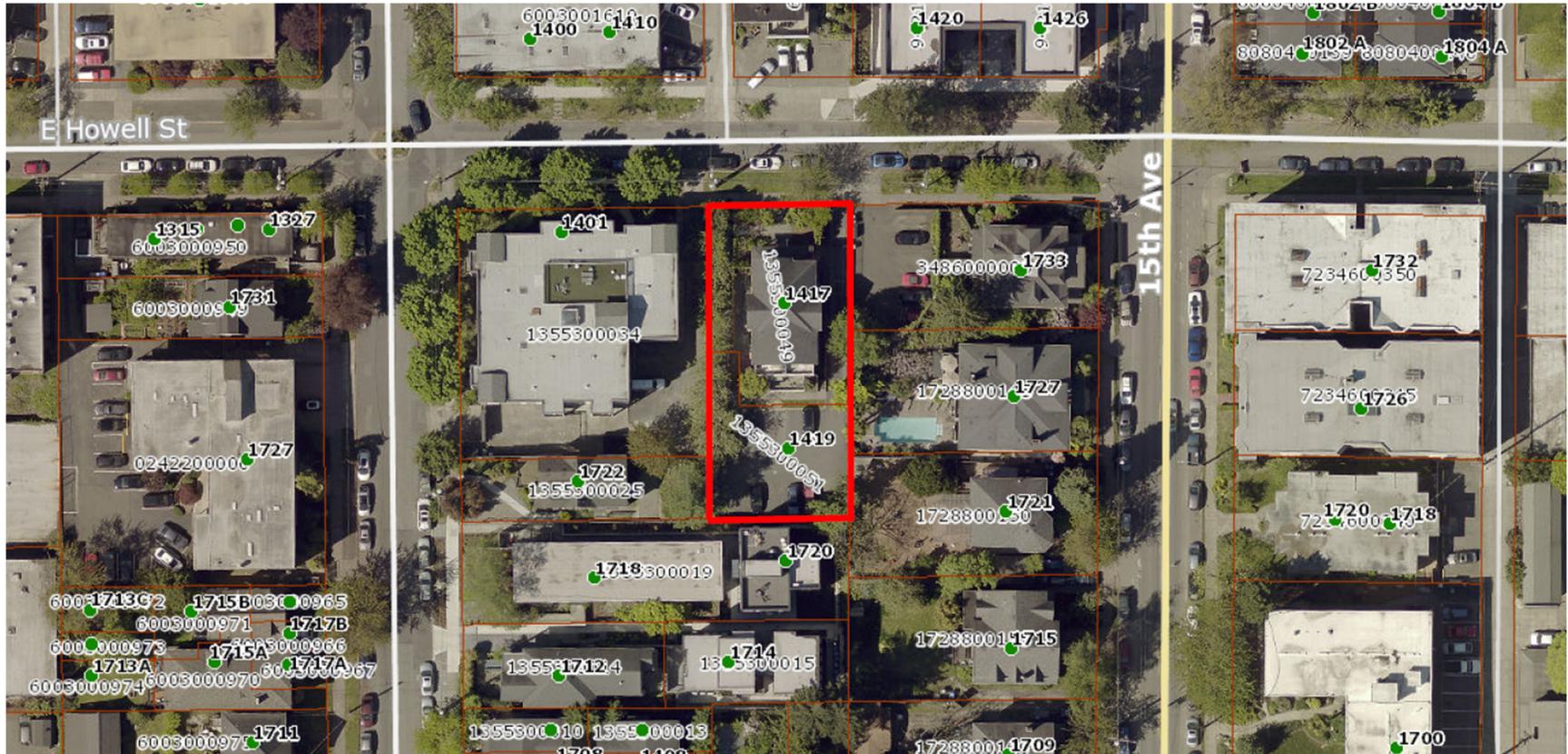
Attachments:

1. Vicinity Map
2. Findings and Decision of the Seattle Hearing Examiner

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

Vicinity Map

1417 E Howell St.



**CITY OF SEATTLE
HEARING EXAMINER**

In the Matter of

**Application of Izabella Henry, Chadwick &
Winters, for a Preliminary Unit Lot
Subdivision at
1417 East Howell Street**

Hearing Examiner File:
MUP-20-027

Department Reference
3034305-LU

FINDINGS AND DECISION

SECTION I. FINDINGS OF FACT

1. Project Overview. The Applicant seeks preliminary approval to divide two parcels into 15 unit lots. Development standards will be applied to the development site as a whole and not to the individual lots.¹ Project improvements were approved by master use permit and building permit, and construction has commenced. The Director of the Department of Construction and Inspections recommended approval with one condition. There were no SMC 23.76.024(D) requests for further Hearing Examiner consideration of the recommendation.

2. Hearing. The hearing was held remotely on January 13, 2021, with the Applicant, Department, and members of the public provided a call-in number and internet link for participating. Ms. Weber represented the Department, and Ms. Henry appeared 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, the record was kept open through January 15. Nothing additional was received.

3. Exhibits. The Department submitted Exhibits 1-21, along with the public hearing notice, Exhibit 22. All were admitted without objection.

4. Project Location. 1417 East Howell Street, Seattle, WA.

5. Site and Proposal Description. 10,342 square foot site comprised of two parcels with frontage on East Howell Street to the north. The project creates 15 townhomes in three structures, was subject to Administrative Design Review, and was approved through a Master Use Permit and Building Permits.²

6. State Environmental Policy Act, Ch. 43.21C RCW. The Department Director issued a SEPA Determination of Non-Significance.³ It was not appealed.

7. Zoning. The site is zoned Lowrise 3 with a “M” Mandatory Affordability suffix (LR3 M), but the project vested to LR3 without the MHA suffix. The adjacent properties have the same zoning.

¹ Exhibit 1 (Director’s Recommendation), p. 1.

² Design Guidance #3032846-EG; Master Use Permit #3033076-LU, and Building Permit #'s 6692756-CN, 6723437-CN, and 6723446-CN.

³ Exhibit 1 (Director’s Recommendation), pp. 12-13.

8. Public Comment. The Department received written public comment. Public comment focused on parking. The comments state that current parking is inadequate, and with no parking accompanying the project, this situation will be exacerbated.⁴

9. 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. Approval provided.
- Seattle Dept. of Health. Sewer provided, so review not pertinent.
- Seattle City Light. Approval provided. Plat Sheet 12 describes the easement.
- Seattle Housing. Approval provided.
- Seattle Parks and Recreation. Approval provided.
- Seattle Public Utilities. Water availability certificate issued, valid through April 2021.
- Fire Department. Approval provided.
- Department (Structural/Ordinance Review). Approval provided.
- Department (Drainage). Approval provided.
- King County Metro Transit Division. No comment.
- Sound Transit. No comment.
- King County Wastewater Treatment Division. No comment.

10. Access. The mid-block site has frontage on E. Howell Street's south side. No on-site parking is provided, so vehicular access is not proposed. Pedestrian access is through an Access Easement (Plat Sheets 6 and 10).

11. Parking. Parking constraints are a legitimate concern, as public comment detailed, but the code does not require parking. Also, the site is within the First Hill/Capitol Hill Urban Center, and the Department determined it lacked SEPA authority to mitigate parking impacts in an Urban Center.⁵

12. School Walking Conditions. The Applicant documented safe walking conditions to the schools serving the site, SMC 23.22.054. These schools are Stevens Elementary, Meany Middle School, and Garfield High School.⁶ (“[S]urrounding schools are within the Capitol Hill neighborhood, ... one of the most pedestrian friendly neighborhoods in Seattle. All routes have adequate provisions for safe routes to schools” and “consist of improved sidewalks and safe, well-marked crosswalks.”). There is adequate provision for pedestrian access and safety.

13. Right-of-Way Improvements/Easements. Easements for common usage and maintenance are provided. The plat is for fee simple ownership purposes. The right-of-way improvements required within East Howell Street were reviewed through Street Improvement Plan #394452, and include street trees, sidewalk, curb ramps, pavement restoration, and waste and sewer connections.

⁴ Exhibits 6, 7 and 9.

⁵ Exhibit 1 (Director's Recommendation), p. 4.

⁶ Exhibit 21 (Safe Routes to Schools Narrative).

The existing concrete sidewalk will be restored and is contiguous with the existing sidewalk to the west and east along E. Howell Street. ADA curb ramps will be installed at the north, south and east crossings at the intersection of E. Howell Street and 14th Avenue. The sidewalk and curb ramps were reviewed under Street Improvement Plan #394452. An Access Easement (Plat Sheets 6 and 10) provides pedestrian access from the public rights-of-way to each unit lot.

14. Open Space/Critical Areas. Useable open space is provided through a Private Amenity Area Agreement and a Common Amenity Area Agreement (Plat Sheets 9 and 11). The site lacks critical areas.

15. Utility Easement. A Utility and Emergency Access easement is provided (Plat Sheets 6 and 10).

16. Plat Maintenance. The Applicant has provided a draft Declaration of Covenants, Conditions, Restrictions and Easements; draft Bylaws; and, draft Articles of Incorporation. Condition 1 requires CC&R/E recordation.

17. Dedication. A Dedication and Declaration Statement is provided (Plat Sheet 2).

18. Staff Report and Conditions. The Department Director determined the plat meets all development standards, and recommended approval with one condition, which the Applicant did not object to. The condition is standard and should be imposed without revision. The Department Staff Report is incorporated.

SECTION II. CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over preliminary plat decisions.⁷ 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. ...⁸

⁷ Chapters 23.76 and 23.22 SMC

⁸ SMC 23.22.054(A).

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”⁹. 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 along the street frontage are being improved to current standards. There is adequate provision for pedestrian access and safety, and light, and air; and, usable open space between the structures is provided. Easements for pedestrian 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 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.¹⁰

These requirements are met. The development as a whole will meet the development standards applicable to the parent lot; required easements and private, usable open space are provided; parking is not required; and, the required disclosures and joint use and maintenance agreement are provided on the plat face.

⁹ SMC 23.22.052(A).

¹⁰ SMC 23.22.062(A-F).

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.

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

SECTION III. DECISION

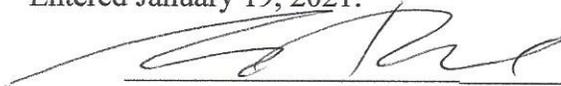
The request for the preliminary subdivision is APPROVED subject to this condition:

Prior to Final Plat Approval:

1. The approved Declaration of Covenants, Conditions, Restrictions and Easements shall be recorded at King County and the recording number provided on the final plat documents.

Unless timely appealed, this Decision is final.¹¹

Entered January 19, 2021.



Susan Drummond
Hearing Examiner Pro Tempore

¹¹ Ch. 36.70C RCW (providing 21-day appeal period and procedures for appealing to superior court); SMC 23.76.022(C)(12).