

Notice
4-13-06



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND RECOMMENDATION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 9603347
Council File No. 301342

Applicant Name: Dewey Munro, for Greenwater Construction

Address of Proposal: 9736 Lindsay Place South

SUMMARY OF PROPOSED ACTION

Preliminary Plat Application to divide nine parcels of land into 24 parcels of land. Total square feet of parcels to be subdivided is ~~147,407~~ square feet. New parcel sizes range from 2,567 square feet to 4,174 square feet. Parcel 23 (Tract "A") will be established as 25,372 square feet of "Common Open Space." Parcel 24 (Tract "B") will be established as a 29,799 square foot "Wetlands Preserve."

The following approvals are required:

Full Subdivision - To subdivide nine parcels of land into 24 parcels - Chapter 23.22 SMC.

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code (SMC).

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

NOTE: The original application proposed to establish 29 detached single family dwellings and parking for 58 vehicles.

BACKGROUND INFORMATION

Proposal Description

122,155.9

The applicant proposes to subdivide 9 parcels of land into 24 parcels of land. The total size of parcels to be subdivided is ~~147,407~~ square feet. The recovery of development credit and an allowance for clustered development onsite in environmentally critical areas in single-family zones (SMC 25.09.260) have been approved through Master Use Permit 9106680. By the provisions of the Code, the Director has authorized smaller than required lot sizes for the proposed development. New parcel sizes range from 2,567 square feet to 4,174 square feet. Parcel 23 (Tract "A") will be established as 25,372 square feet of "Common Open Space." Parcel 24 (Tract "B") will be established as a 29,799 square foot "Wetland Preserve."

The parcels intended for the development of single-family structures would extend in a roughly doughnut-shaped pattern, keeping as far as possible to the bench areas of the site, and maintaining a separation from the wetland portion of the site and its twenty-five-foot buffer. The wetland portion of the site at the north east corner will remain undeveloped but will be re-vegetated and enhanced in portions as a result of the conditions imposed on MUP 9106680. Parking will be located within the proposed structures and in surface parking spaces. Vehicular access to the individual lots will be provided by means of a permanent appurtenant easement. Pedestrian access from Lindsay Place S. to 56th Avenue S. will be provided via permanent pedestrian access easement and paved sidewalk and improved path along the western margin of the wetland.

Site and Vicinity

The subject site is located in a single-family (SF 5000) zone. The areas immediately surrounding the site is also zoned SF 5000. Immediately to the south and west of the site, across Renton Avenue South, is the Kubota Japanese Garden, a City-owned public park. There are developed single family houses bordering on all sides of the site. Although much of the vegetation within the development area will be removed, areas within the wetlands and the abutting buffer will be re-vegetated after removal of invasive exotic species, as detailed in the updated Wetland Mitigation Plan. Some trees outside the development area will be retained.

As indicated, access to the site will be taken off Renton Avenue South and the remnant of Lindsay Place South, which will be provided with a turn-around. The plan of the turn-around has the conceptual approval of Seattle Department of Transportation and will be so designed as to accommodate future access, if needed, via the unvacated portion of Lindsay Place S., north of the turn-around, to the lots extending between Lindsay Place South and 54th Avenue S. A permit from Seattle Department of Transportation will be required for the improvements required to Lindsay Place S.

The subject property is a 122,155.9 sq. ft. (2.8 acre) site located within an irregularly shaped block bounded on the north by S. Pilgrim Street, on the east by 57th Avenue S., and lying

between these contiguous boundaries and S. Norfolk Street on the south and 54th Avenue South to the west.

The site is accessed off Renton Avenue S., via a remnant of Lindsay Place S. The site is irregular in shape, roughly in the form of a high-topped boot or reversed "L." The property consists of most of the westerly approximately 2/3 of tract 26, the westerly half of tract 27, most of the westerly half of tract 28, all of tract 33, and the eastern and southern portions of tract 34 of the First Addition to Rainier Beach (see plans).

The central portion of the site, a substantial portion of tract 26 and the subject portion of tract 27 are designated environmentally critical due to the presence of wetlands. The wetlands on site have been delineated at approximately 17,101 sq. ft.

Project History

The Master Use Permit application for Project No. 9106680 was made on January 2, 1992. It included the following Land Use components: SEPA; Administrative Conditional Use to Cluster Housing in a Single-family Zone (SMC 23.44.024); demolition, to remove a dilapidated and abandoned house on site; and, establish use for future construction of 29 single family residences as a clustered housing planned development. A Determination of Significance was issued by DPD (then DCLU) on May 18, 1992.

Application for construction permits for three single-family residences on part of what is now the subject site (application numbers 92005577, 9205578, and 9205580, addressed as 9700, 9710, and 9714 56th Avenue S.) were submitted to the Department on October 28, 1992.

In July, 1996, the applicant submitted a proposal which would consolidate the site of the proposed Cluster Housing Planned Development with the sites for the "three houses." This so-called Consolidated/Mitigation Alternative would require the cancellation of the construction permit applications for the "three houses," which applications, vested under the interim Environmental Critical Areas legislation would have resulted in a significant diminution of the wetland and wetland buffer areas.

Based upon the general re-configuration of the development site of the Consolidated Alternative, the applicant then applied for a Unit Lot Subdivision, under the provision of SMC 23.24.045. Notice of that application (Project No. 9603347) was published on August 15, 1996, and referenced Project 9106680. Concurrent with notice of the application for a unit lot subdivision, the applicant was required to modify Project 9106680, substituting "Administrative Conditional Use to recover development credit and permit clustered development on site in single-family zones" for a "Clustered Housing Planned Development" (SMC 25.09.260 superseding SMC 23.44.024. To this was added, as a part of the application, a request for an "Environmentally Critical Area Exception" (SMC 25.09.300). The Environmentally Critical Area Exception portion of the application originally requested exceptions both from the developmental limitations for steep slopes on a portion of the site (SMC 25.09.180) and from the developmental limitations on lots encumbered by wetlands and their required buffers (SMC 25.09.160).

Specifically, the exception application asked for relief by reduction in size of the delineated wetland and a reduction in the width of the required buffer from fifty (50) feet to twenty five (25) feet.

A modification of steep slope requirements was not accepted by DPD as part of the ECA exception request. Subsequently, the land area containing 40% slope was removed from the development site by the applicant. This was affected through a lot boundary adjustment application, Project No.9804401, issued by DPD and recorded as King County Recording No. 990426-9013. The Environmentally Critical Area Exception to allow a diminished restoration of the existing less-than-exceptional wetland and for a buffer reduction to twenty five (25) feet remained a component of MUP 9106680.

Since SMC 25.09.260 allows, among other provisions, for the creation of smaller lot sizes that otherwise might be required in the single family zone where clustering is to occur, a notice of a revised application for MUP 9603347, the current application, was published on March 1, 2001, with a comment period running through March 28, 2001. Rather than a unit lot subdivision, the application now seeks a subdivision of 9 parcels of land into 24 parcels of land.

The Analysis and Decision of the Director approving the clustered housing development, and granting the ECA Exception (MUP 9106680), was published on June 27, 2002. It was appealed to the Hearing Examiner who upheld the Director's decision on September 3, 2002. The appellants then filed a Land Use Petition in King County Superior Court on September 24, 2002, which was dismissed on March 17, 2003. MUP 9106680 was issued by DPD on November 19, 2004.

At an earlier date, on September 22, 1993, title to the eastern half of the Lindsay Place S. right-of-way abutting the Greenwater Partnership property to the east was quieted in fee simple to Greenwater Partnership, pursuant to the laws of the State of Washington, Ch.190-Road laws, Laws of 1889-90, 332 (p.603), as amended and codified in RCW 36.87.090 as part of the Stipulation and Judgment of the Superior Court of Washington for King County. That Stipulation and Judgment granted to the City of Seattle, for the benefit of the public, a utility easement along the vacated portion of Lindsay Place S. The Stipulation and Judgment further granted to the City of Seattle a ten-foot wide easement across the Greenwater Partnership property abutting the vacated right-of-way which was the subject of the quiet title action. This easement was to connect the public portion of Lindsay Place S. at the south with either the non-vacated portion of Lindsay Place S. to the north or, alternately, to the public right-of-way identified as 56th Avenue S. The easement was to provide for a developed, 5-foot wide pedestrian/bicycle trail. The Stipulation and Judgment enjoined DPD not to issue a permit for development on the property east of the abutting vacated street until and unless the development plan provided for the pedestrian/bicycle trail.

Conversations subsequent to the issuance of the Stipulation and Judgment Quieting Title of September 21, 1993, took place between Greenwater Partnership and Seattle Department of Transportation regarding the delineation of the easement and issues involving impracticable accommodations for bicycles on the proposed pathway. Seattle Department of Transportation,

DPD and the applicant then agreed to the pedestrian-only trail which was shown on the development plan for MUP 9106680. While the Stipulation called for a trail constructed of "concrete" or "asphalt," as part of the decision for MUP 9106680, DPD required a low-impact, platform walkway along that portion of the trail that extends along the west margin of the wetland, within the wetland buffer area, in the northeast corner of the site.

After the dismissal of the LUPA appeal of MUP 9106680 and at the Court's prompting, DPD and the applicant negotiated a revised easement and obtained a revision to the stipulated court order of September 21, 1993, to provide for the easement and public pedestrian/bicycle trail as shown on the preliminary plat.

Public Involvement and Comment

The initial Notice of Application for MUP 9603347 was published on August 15, 1996, with an extended comment period ending on September 11, 1996. A Notice of Revised Application was published on March 1, 2001, with an extended comment period ending on March 28, 2001.

A revised notice of application, for Master Use Permit 9106680, to establish use for future construction of 24 single-family structures was published on December 12, 1996. Yet another notice of application, indicating the intention to construct 22 single-family residences was published on March 1, 2001, with a public comment period extended through March 28, 2001. Comments received on Project 916680, the Master Use Permit for Clustered Housing development and the Environmentally Critical Area Exception, and on MUP 9603347, the proposed subdivision, did not always clearly distinguish between the land use actions proposed in each application. At the request of the Rainier Beach Community Club, the applicant and Land Use Planner for DPD discussed the development proposal of MUP 9106680 and the proposed subdivision of MUP 9603347 and answered questions regarding the proposals before approximately twenty people gathered for the regular meeting of that body in June, 2001.

Comments at the public meetings and in writing during the several comment periods raised general concerns regarding the impact the project might have on surrounding properties. These included issues of drainage, soil erosion and runoff from clearing the site of trees and vegetation, and impacts on the wetlands and wildlife habitat on site. Several neighbors were concerned about additional noise in what was characterized as a "very quiet" neighborhood; addition expressed concerns were over increased density and a project characterized as "out of harmony" with the neighborhood, and deflation of property values. One particular concern of "harmony" was the height of the individual structures, said to be out of scale with the majority of existing single-family structures in the area.

One area of repeated and focused concern was the potential increase in vehicular traffic generated by the proposal and the interface of that traffic with existing conditions along Renton Avenue S. The issue was both one of safety for those entering and exiting Lindsay Place S., since the prevailing pattern along this section of Renton Avenue S. was characterized as vehicles moving at excessive speeds and generally disregarding posted speed limits, and for pedestrians crossing Renton Avenue S., in particular school children traveling to and from St. Paul's and Emerson School and seniors traveling to and from Kubota Gardens.

Another issue of particular concern to property owner(s) to the west of the proposal site was the desire for secondary access to properties facing 54th Avenue South via the un-vacated portion of Lindsay Place S.

Procedures for Preliminary Plat Approval

Hearing Examiner Findings and Conclusions.

SMC 23.76.024 requires that the Hearing Examiner conduct a public hearing on the subdivision application. SMC 23.76.052 A stipulates that at the same hearing, the Hearing Examiner would hear any appeals of the Director's environmental decision. The Hearing Examiner can approve the proposal if it is determined that the proposed plat makes appropriate provision for the public health; safety and general welfare; open spaces; drainage ways; streets, alleys, other public ways; water supplies; sanitary waste disposal; fire protection; parks; playgrounds; sites for schools and school grounds; and that the public use and interest will be served by the platting of the subdivision. If the Hearing Examiner determines that the proposed plat does not provide the appropriate elements or that the public use and interest will not be served, the proposed plat may be denied. After the hearing, the Hearing Examiner will make a decision that is final on the preliminary subdivision.

Council Action

The Council review process changed in March, 1996, in response to regulatory reform legislation, and made the approval of preliminary plats or subdivisions a Hearing Examiner decision. A formal action to approve the final plat is still the responsibility of the City Council as provided by RCW 58.17. However, the Council does not hold a public hearing for the purpose of accepting testimony. After the Hearing Examiner approves the preliminary plat, the Council reviews it for final plat approval.

DIRECTOR'S ANALYSIS—SUBDIVISION

SMC 23.76.023 requires the Director of DPD to prepare a written report for a proposed preliminary plat. The Code calls for the Director's report to include the following:

1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;
2. Responses to written comments submitted by interested citizens;
3. An evaluation of the proposal based on the standards and criteria for subdivisions contained in SMC 23.22.
4. All environmental documentation, including any checklist, EIS or DNS; and
5. The Director's recommendation to approve, to approve with conditions, or to deny the application.

The Director's report is submitted to the Hearing Examiner and made available for public review at least thirty (30) days prior to the Hearing Examiner's public hearing. The hearing date has been set for 9:00 am on May 23, 2006.

Analysis – Subdivision

1. The written recommendations or comments of any affected City departments and other governmental agencies having an interest in the application;

The following represent a summary of the comments received from each City Agency indicated (SMC 23.22.024). Information and documentation from each review agency is available in the DPD project file.

- **Seattle Department of Transportation**

RE: Full Subdivision for 9736 Lindsay Place S

SDOT indicates that street improvements shall be required for the public right-of-way of Lindsay Place S between Renton Avenue S. and the private road entering and existing Lindsay Court. A dedication to the City will be made, per plan, for a turn-around at the improved end of Lindsay Place S. In addition, the following conditions are recommended by SDPT for plat approval.

1. Street improvements shall be required for the public right-of-way of Lindsay Place S between Renton Avenue S. and the private road entering and existing Lindsay Court. Lindsay Place S. shall be constructed with a curb on both sides of the street and with a curb-to-curb width of 25 feet
2. A dedication shall be made, as noted on the plat, for a turn-around at the improved end of Lindsay Place S.
3. Wheelchair ramps are required at all curb-return landings.
4. Street lighting shall be required on Lindsay Place S.
5. The plat needs to show the proposed sidewalk on the east side of Lindsay Place S. connecting to the existing sidewalk of Renton Av. S.
6. Any proposed grading outside the right-of-way will require approval of the adjacent property owner.
7. A retaining wall will need to be designed, approved and constructed along the west side of Lindsay Pl. S. The wall shall be designed to City of Seattle specifications. A fence and a guard rail shall be required as components of the wall.
8. The plat needs need to indicate whether the utilities will be public or private.
9. All work in the right-of-way is to be constructed per City of Seattle Standard Plans and Specifications

- **Director of Public Health**

The Environmental Health Division of Public Health – Seattle & King County has reviewed the preliminary subdivision for MUP No. 9603347 and notes in a memorandum dated July 15, 1996

that connection to the City sanitary sewer serving the parcels will be required prior to their final approval of the proposed subdivision.

- **Superintendent of City Light**

City Light has reviewed the proposed plat and attached the easement that is necessary for the electric service to the proposed lots. The easement should be attached to and become part of the plat.

If the plat is revised in any manner, the attached easement may not be appropriate. Any revisions should be submitted to Seattle City Light, South Electric Service, for additional review.

After the final plat has been recorded, a copy should be mailed to City Light, Real Estate Services, and (MS SMT-28-22).

- **Director of Housing**

The Director of The Office of Housing (OH) has reviewed the preliminary plans for the referenced subdivision and noted on May 18, 2005 that OH supports increasing the number of housing units in the city as this proposal does, to provide more ownership opportunities and meet the City's Growth Management Act targets.

- **Superintendent of Parks and Recreation**

The Superintendent of Parks and Recreation has reviewed the preliminary plans for the referenced subdivision and has no objection to the proposed project. This information was conveyed to DPD by Terry Dunning of the Parks Department on June 21, 2005.

- **Director of Seattle Public Utilities**

SPU indicated on June 22, 2005 that the developer (Greenwater Construction) had signed a contract with SPU on May 21, 2004 to extend Seattle Public Utilities water distribution system to serve the 22 units in the clustered housing development.

The following water service requirements apply to the proposal:

- Standard driveway approaches will need to be installed at the entry to the private drive serving the subdivision and at the SPU access road entrance. The access road entrance will need to be gated and locked with SPU having control of the lock.
- The project will need to extend the city maintained storm and sanitary sewer mains from 54th Avenue S. to Lindsay Pl. S. The project will need to provide drainage structures in the Lindsay Pl. S. right-of-way and at the terminus of the SPU access road. A paved access road for SPU will need to be constructed from the end of Lindsay Pl. S. street improvements to the maintenance holes at the northwest corner of the site. Public Utility Easements shall be required for the main extensions and for the access road.
- Underground piping through an easement, from the City union to the property line, must be either type K or L copper, or Ipex Kitec (PE-AL-PE) and fittings.
- A PRV (pressure-reducing valve) on private property is required. The Uniform Plumbing Code requires a PRV when water pressure is 80 psi or greater.

- **Fire Department**

The Fire Chief has reviewed and approved the proposed subdivision. In response to a request by the Fire Department, the turning radii of the twelve-foot wide portion of the access drive were increased. The Fire Department approved the preliminary plat on July 14, 2005 with no further comments or conditions.

- **Seattle Metropolitan Services**

A Senior Environmental Planner for Seattle Metropolitan Services has reviewed the preliminary plans and indicated on July 1, 2005 that they had no comments to make on the proposed development at 9736 Lindsay Place S.

- **Drainage Review (DPD)**

No Corrections or recommended conditions were received and drainage approval of the proposed plat was given on April 20, 2005.

2. Responses to written comments submitted by interested citizens.

The original official comment period for MUP 9603347 was extended an additional 14 days by public request, as was the comment period for the revised notice of the proposal published on March 1, 2001. A meeting to garner additional public input on the project was held by the Rainier Beach Community Club and at their request attended by DPD and the applicant in June of 2001.

3. An evaluation of the proposal based on the standards and criteria for subdivisions contained in SMC23.22.

The preliminary plat process is detailed in SMC 23.22, Subchapter II, providing criteria to evaluate proposed subdivisions. These criteria include evaluation of protective improvements for topographical and surface hazards, dedications, the public use and interest, environmentally critical areas, transportation concurrency level of service and unit lot subdivisions. The following section is a discussion of these criteria.

SMC 23.22.050

Topographical and surface hazards – Protective improvements.

Land having topographical or subsurface conditions hazardous to the health, safety or general welfare of persons or property in or near a proposed subdivision shall not be subdivided unless the construction of protective improvements will eliminate the hazards or unless land subject to the hazard is restricted to uses which will not expose persons or property to the hazard. Protective improvements consistent with the standards established in Subchapter VI shall be constructed, prior to final plat approval unless a performance bond acceptable to the Director of Engineering is filed in lieu of the improvements.

There is no evidence of existing environmental contamination on the site. MUP 9106680 authorized the future demolition of the remains of a single dilapidated structure on site. Actual demolition will require an additional application and review by DPD. Any disclosure of and required remediation of environmentally hazardous materials associated with the structure will be a part of that separate permit application. Accordingly, this criterion is met.

SMC 23.22.052

Dedications required.

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

The project includes the development of the existing platted street right of way of Lindsay Place S., the development of which has already undergone SDOT review and will require SDOT approval and permits. The project also includes the development of a private loop driveway which provides access to each of the proposed development lots by means of a permanent appurtenant easement. In addition, the project includes a dedicated common open space tract and a pedestrian connection between Lindsay Place S. and the south terminus of 56th Avenue S. The grant of easement for pedestrian/bicycle trail purposes has been filed under King County filing number 20041119001858. The project proposes to infiltrate stormwater to ensure that there are no significant adverse impacts through extreme fluctuations of water levels for the wetlands on site.

The street improvements and stormwater system will be designed to City standards. SDOT and SPU have granted conceptual approval of the street improvements and stormwater system subject to the conditions noted above.

The project complies with applicable zoning regulations relating to open space. The project meets or exceeds these requirements.

Accordingly, these criteria are met.

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

A public easement over the private access drive will be required as a condition of final plat approval. A grant of easement is in place for pedestrian/bicycle trail purposes. This criterion is met.

C. Convenient pedestrian and vehicular access to every lot by way of a dedicated street or permanent appurtenant easement shall be provided. Access from a dedicated street shall be required, unless the Director determines that the following conditions exist, and permits access by a permanent private easement:

- 1. Access by easement would not compromise the goals of the Land Use Code to provide for adequate light, air and usable open space between structures; and*
- 2. The dedication and improvement of a street is not necessary or desirable to facilitate adequate water supply for domestic water purposes or for fire protection, or to facilitate adequate storm drainage; and*
- 3. The dedication and improvement of a street is not necessary or desirable in order to provide on-street parking for overflow conditions; and*
- 4. No potential safety hazards would result from multiple access points between existing and future developments onto a roadway without curbs and with limited sight lines; and*
- 5. There is identifiable access for the public and for emergency vehicles; and*
- 6. There is no potential for extending the street system.*

The project includes the development of the existing platted street right of way of Lindsay Place S. from Renton Avenue S. to the private drive that serves the subdivision site. The plat also indicates a portion of the site adjacent the Lindsay Place S. right-of-way which will be dedicated to the City of Seattle to provide a turn-around where Lindsay Place S. dead-ends. Access to all proposed lots will be from a private access drive subject to public easements. In addition, the project includes a pedestrian connection from Lindsay Place S. to 56th Avenue S.

SDOT, SPU and the Fire Department have approved the use of the proposed private access drive. With respect to this site, (1) Access by easement would not compromise the goals of the Land Use Code to provide for adequate light, air and usable open space between structures; (2) a public street is not necessary or desirable for adequate domestic water supply, fire protection or adequate storm drainage; (3) a public street is not necessary or desirable for parking; (4) no potential safety hazards would result; (5) there is identifiable access for the public and emergency vehicles; and (6) there is no potential for extending the street system. Accordingly, these criteria are met.

D. Roads not dedicated to the public must be clearly marked on the face of the plat.

The private access drive shall be clearly marked on the face of the final plat.

E. If the Hearing Examiner concludes that the public interest will be served, the Hearing Examiner may, in lieu of requiring the dedication to the public of land in a subdivision for protective improvements, drainage ways, streets, alleys, sidewalks, parks and other open space, allow the land to be conveyed to a homeowner's nonprofit maintenance corporation. In that case the subdivider shall, at or prior to the time of filing a final plat for approval, supply the Director with copies of articles of incorporation and bylaws of the grantee organization and with evidence of the conveyance or of a binding

commitment to convey. The articles of incorporation shall provide that membership in the corporation shall be conditioned upon ownership of land in the subdivision, that the corporation is empowered to assess the land for costs of construction and maintenance of the improvements and property owned by the corporation, and that the assessment shall be a lien upon the land. The City Attorney shall review and approve the articles of incorporation and bylaws as to compliance with this provision. The Hearing Examiner may impose other conditions as he or she deems appropriate to assure that property and improvements owned by the corporation will be adequately constructed and maintained.

Common open space will be owned and maintained by a Homeowner's Association. The Articles of incorporation, bylaws and evidence of conveyance or binding intent to convey common open space shall be provided prior to recording of the final plat.

F. Any dedication, donation or grant as shown on the face of the plat shall be considered, to all intents and purposes, as a quitclaim deed to the donee or donees, grantee or grantees, for his, her or their use for the purpose intended by the donors or grantors.

G. Dedicated streets and alleys shall meet the requirements of Chapter 23.53 and the Street Improvement Manual. Easements shall meet the requirements of Section 23.53.025.

The requirements of this Chapter and Section are met.

SMC 23.22.054

Public use and interest.

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. 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. Dedication of land to any public body may be required as a condition of subdivision approval and shall be clearly shown on the final plat. The Hearing Examiner shall note as a condition to the approval of any plat require a release from damages to be procured from other property owners.

The decision maker must consider all relevant facts to determine whether the public use and interest will be served by the proposed full subdivision. Additionally, the proposed plat must make appropriate provision for the public health, safety and general welfare by providing for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary waste disposal, fire protection, parks, playgrounds, and safe access to and from the site for schools.

The construction of the individual single-family structures will be reviewed individually by DPD as plans are submitted for construction approval. A copy of the approved plat will accompany plans for review. Any proposed construction on the individual parcels site will be subject to the conditions of MUP 9106680 as well. The division of land into individual lots does not alter these requirements and conditions.

Adequate infrastructure (streets and utilities) shall be available or will be provided. The proposal approved under MUP 9106680 included improvements to the remnant of Lindsay Place S., including a paved roadway twenty-five feet in width and a concrete sidewalk on the eastern side of the roadway, six foot in width. In addition, a turn-around is proposed, partially located within the public right-of-way but predominately on the development side. The land occupied by the turn-around and buffer will be dedicated to the City in the platting action proposed under this platting action. On site, access is provided via a 20 foot wide, two-way access road which joins a 12-foot wide, one-way loop road which services 14 of the proposed dwellings. A five-foot concrete walk runs along the entire length of the roadway, joining with the 6-foot sidewalk along Lindsay Place S. and to an elevated walkway along the western margin of the wetland which provides access to the termination of the paved roadway of 56th Avenue S, just to the north of the site. The walkways are designed both to serve residents within the project and to provide a public pedestrian link between Renton Avenue S and portions of the public grid of streets to the north. As part of the review of this project, staff reviewed SMC 23.53.025. Given the number of houses to be served, a 32 foot wide access easement would normally have been required. Due to the projects location in an ECA, however, modification of those standards is permitted (SMC 23.53.025(H)). The access roads and impervious surfaces have been minimized but are condign with the minimal needs of the development and with emergency vehicle access considerations. The proposed internal street system has been determined to be adequate to the internal circulation of the site and has been favorably reviewed by the fire department as to its potential for providing adequate emergency vehicle access to the homes proposed to be built on site.

The development activities will include the hand removal of non-native exotic species within the wetland and required buffer and re-vegetation with species native to the Puget Sound region of this portion of the site according to the provisions of a revised and improved Wetland Mitigation Plan. A required revised Landscape Plan will indicate the retention and/or planting of 244 caliper inches of trees on site, according to the requirements of SMC 23.44.008 I. The access roads and impervious surfaces have been minimized and are condign with the minimal needs of the development and with emergency vehicle access considerations. A pedestrian easement and walkway, including a six-foot concrete sidewalk along the portion of the Lindsay Place South right-of-way, and connecting the six-foot concrete sidewalk along Renton Avenue South with the paved roadway of 56th Avenue South, will be provided as part of the development.

The public use and interests would appear to be served by permitting the proposed division of land.

The proposed plat makes appropriate provision for the public health, safety and general welfare. The project develops an urban infill site with a residential subdivision providing needed housing opportunities. The project includes open space and a trail connection from Renton Avenue S. to 56th Avenue S. The project includes a stormwater system, on-site paved roadway subject to public easements, and off-site transportation improvements designed to City standards and conceptually approved by SDOT and SPU. The project will be served by private water and sewer systems, which will have City approval and be sized to have adequate capacity. The Fire Department has reviewed and given conceptual approval to the subdivision. The easement for pedestrian/bicycle trail purposes includes sidewalks designed to City standards. Adequately dimensioned paved sidewalks connect to the public streets. Safe walking conditions for students who walk to school are provided by a pedestrian connection from Renton Avenue S. to 56th Avenue S. Existing trees are to be retained to the extent practicable. Accordingly, these criteria are met.

SMC 23.22.058

Environmentally critical areas.

No plat shall be approved by the Hearing Examiner covering any land situated in a riparian corridor buffer, wetland and wetland buffer, or steep slope and steep slope buffer unless in compliance with the applicable provisions of SMC Section 25.09.240, Short subdivisions and subdivisions, in environmentally critical areas.

Master Use Permit 9106680, which included Administrative Conditional Use, an Environmentally Critical Area Exception, and SEPA analysis and review imposed numerous conditions on the proposal, related to the ECA exception and the approval for clustered housing to recover development credit in an environmentally critical area. Among these were the following:

1. The owner and/or responsible party shall submit a Revised Wetlands Mitigation Plan which will show: a wetland hydrology plan that analyses hydroperiodicity on site and adjusts storm water input with outfall at the outlet orifice structure so as to insure limited fluctuations in inundation.
2. The owner and/or responsible party shall submit a Revised Wetlands Mitigation Plan which will provide a timetable which breaks wetland alteration/restoration activities into stages and links those stages with other developmental activities on site.
3. The owner and/or responsible party shall submit a Revised Wetlands Mitigation Plan which will establish the parameters of an initial baseline report and describe a monitoring program that will cover the growing season for *five* years after initial planting and restoration has begun.
4. The owner and/or responsible party shall record a required ECA covenant.

5. The owner and/or responsible party shall submit a revised landscape plan to show conformance with the tree preservation/planting options of SMC 23.44.008 I.

Since the proposed lots 10 through 16 were within, or abutted on, the existing wetlands and their buffers, MUP 916680 imposed further conditions relating to these specific lots, namely that no construction would be permitted on these lots until:

1. The removal of all human debris and invasive exotic plants from the wetland and wetland buffer areas had been verified by DPD
2. The completion of re-vegetation program within the wetland and its buffer areas had been verified by DPD.
3. The modification or replacement of existing outlet orifice from wetland to City storm-sewer system, and any on-site pre-wetland detention mechanism required by the Revised Wetlands Mitigation Plan, to regulate water levels and periodicity had been verified by DPD.
4. An elevated walkway that runs along the western edge of the wetland, within the wetland buffer, to connect the roadway at 56th Avenue S. to the pedestrian path on site, connecting to the remnant of Lindsay Place S. and Renton Avenue S. had been constructed. The siting, design and proposed construction materials of this elevated walkway must have the prior approval of the Land Use Planner at DPD.

It is the Director's recommendation that the various conditions of MUP 9106680 regarding the wetlands be incorporated, where applicable, into the ECA Covenant required for the subdivision by SMC 25.09.240A

An ECA covenant will be required to be filed prior to issuance of any permit for grading on site. Subsequent to that initial grading, permanent ECA markers will need to be installed on site indicating the wetlands buffer areas. It is recommended that as a requirement of the filing of the final plat the location of these markers should be indicated on the face of the final plat.

It is also recommended that, in addition to the filing of the (revision of) ECA Covenant required for the subdivision by SMC 25.09.240A. the ECA Covenant should be incorporated into the final plat.

The Director also recommends that notes be affixed to the face of the plat indicating the specific conditions for development imposed on lots 10 through 16.

Under MUP 9106680, the clustered housing development proposal was conditioned, for the life of the project, so that the wetlands and public pathway, among other on-site improvements, must be maintained and acceptable provisions guaranteeing the maintenance of these elements must be incorporated into the Articles of Incorporation and By-laws of a Homeowners' Non-profit Maintenance Corporation required for the anticipated subdivision of the site.

With these recommended conditions added, the proposed subdivision would meet the requirements of the Seattle Land Use Code and the determinants of prior land use actions limiting development on the site.

The project site contains no steep slope areas

SMC 23.22.060

Transportation concurrency level-of-service standards.

Proposed subdivisions shall meet the transportation concurrency level-of-service standards prescribed in Chapter 23.52.

Traffic generation for the proposed clustered housing development was estimated in a Traffic Study prepared by Urban Regional Research in June 1993 and shows that the increase in traffic generated by the proposal is not expected to change the existing Level of Service (LOS) on the streets and intersections within the study area affected by the proposal. Transportation concurrency requirements of the proposal are therefore met.

General Land Use Code Requirements

The site is located in a Single Family zone (SF 5000), in which single family structures are permitted use outright. SMC 25.09.260 allows the Director to approve development of single family structures on undersized lots when allowing for the recovery of development credit and clustered development within an environmentally critical area site. The applicable zoning and land use codes were reviewed under MUP 9106680, which included Administrative Conditional Use, Environmentally Critical Area Exception, and SEPA reviews. Zoning for construction permits will be conducted at the time individual construction permits are applied for.

The construction of the individual single-family structures will be reviewed individually by DPD as plans are submitted for construction approval. A copy of the approved plat will accompany plans for review. Any proposed construction on the individual parcels site will be subject to the conditions of MUP 9106680 as well. The division of land into individual lots does not alter these requirements and conditions.

The public use and interests are thereby served by permitting the proposed division of land.

4. All environmental documentation, including any checklist, EIS or DNS

The applicant prepared an Environmental Checklist for the project. In this report, DPD conditions the project based on the impacts disclosed in the environmental documents and issues a Determination of Non-significance with conditions. The SEPA analysis on this project is discussed separately in a subsequent section of this report. All documents will be furnished to the Hearing Examiner, prior to the Public Hearing for the subdivision.

5. The Director's recommendation to approve, approve with conditions, or deny the application.

Recommendation – Subdivision

DPD Recommends approval of the preliminary subdivision

Recommended Conditions of Approval:

See below, after SEPA Analysis

ANALYSIS - SEPA

The disclosure of the potential impacts from this project was made in the environmental checklist dated June 10, 1998, which updated an earlier checklist that had been submitted on January 2, 1992 for MUP 9106680, and other, supplemental information in the project files for 916680 and 963347. This information along with the experience of the lead agency in similar situations, form the basis for this analysis and decision. Short and long-term adverse impacts are anticipated from the proposal.

The SEPA Overview Policy (SMC 25.05.665.D) states "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation," subject to limitations. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Ordinance (grading, site excavation and soil erosion); Street Use Ordinance (watering streets to suppress dust, obstruction of the pedestrian right-of-way during construction, construction along the street right-of-way, and sidewalk repair); Building Code (construction standards); and Noise Ordinance (construction noise). Compliance with these codes and ordinances will be adequate to achieve sufficient mitigation of identified adverse impacts. Thus, mitigation pursuant to SEPA is not necessary for these impacts. Other short-term impacts not noted here as mitigated by codes, ordinances or conditions (e.g., increased traffic during construction, additional parking demand generated by construction personnel and equipment, increased use of energy and natural resources) are not sufficiently adverse to warrant further mitigation.

Short - Term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to increased dust and other suspended air particulates during construction; potential soil erosion during grading, excavation and general site work; increased runoff; tracking of mud onto adjacent streets by construction vehicles; increased demand on traffic and parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC Section 25.05.794). Although not significant, these impacts are adverse.

Two construction impacts would be adverse enough to warrant mitigation: construction noise and construction worker parking impacts. With respect to the former, the site and construction work associated with 22 dwelling units and access improvements will extend over an exceptional duration relative to normal construction in the zone. The proximity of residential uses is such that the limitations of the Noise Ordinance would be inadequate to mitigate potential noise impacts. Pursuant to SEPA policies in SMC Section 25.05.675.B, the hours of excavation, foundation installation and framing activity were limited by conditions imposed by MUP 9106880 to between 7:30 A.M. and 6:00 P.M. on non-holiday weekdays to mitigate noise impacts. No further mitigation is warranted.

Despite the fact that some parking for construction workers may be available off site, the number of people needed to park during work hours, the location in relation to adjacent residential uses and the need for placement and parking of construction vehicles during the construction period may have caused short term adverse impacts to the street, traffic and nearby uses. Construction worker parking along the right-of-way for the extended duration of construction could prove a nuisance to neighbors. These adverse impacts were deemed to require adequate mitigation. Accordingly, project approval for MUP 9106680 was conditioned upon the proponent's providing and implementing a plan, satisfactory to the DPD Land Use Division, for preventing or adequately mitigating these impacts by providing all construction parking on site within a reasonable period of time. No further mitigation is required.

Long - Term Impacts

Long-term or use-related impacts are also anticipated from the proposal: increased bulk and scale on the site; minor increase in airborne emissions resulting from additional traffic; increases in ambient noise due to increased human activity; increased demand on public services and utilities; increased light and glare; loss of vegetation; and increased energy consumption. No unusual circumstances exist which would warrant additional mitigation of these impacts pursuant to SEPA policies.

The remaining impacts relating to increased traffic and parking demand due to residents and visitors and increased surface water runoff from greater site coverage by increased impervious surfaces warrant further analysis and disclosure of impacts.

Traffic

Traffic generation for this proposal was estimated in a Traffic Study authored by Urban Regional Research in June 1993, and submitted by the applicant to address traffic issues related to the proposal for this site.

Traffic generation was estimated by consulting the ITE Trip General Manual (5th edition) for the category "single family residence." The average trip generation for each single family residence is approximately 9.5 trips per dwelling unit per day. This generation factor, when applied to a total of 22 residences resulted in a total of 209 weekday trips into and out of the proposed project

via Lindsay Place S., with an AM peak hour total of 17 vehicles and a PM peak hour of 23 vehicles.

The increase in traffic generated by the proposal is not expected to change the existing Level of Service (LOS) on the streets and intersections within the study area affected by the proposal. It is predicted that there may be a minor increase in accidents in proportion to increases in traffic generated by this proposal, but, because of the comparatively low percentage of increase in traffic volumes, the overall accident rate would be expected to remain the same. The characterization of existing traffic traveling along Renton Avenue S. at excessive speeds may put traffic entering or exiting Lindsay Place S. at some risk. But there is a 1300-foot sight distance in either direction at the intersection point and the speed of traffic along Renton Avenue S. is not an impact due to the proposal. The additional traffic generated by the project must be acknowledged as generating adverse impacts related to noise, light, air quality and safety, but the impacts identified are anticipated to be levels consistent with typical residential development and none of these impacts rise to the level which would require mitigation pursuant to SEPA policies.

Parking

Parking will be available to each unit in accord with requirements of the land use code. Each unit, in addition, will provide one parking space in excess of code requirements. Ten parking spaces will be provided on the loop road for overflow parking. Additional parking will be available on driveways in front of the garages of individual units for guest parking. With these provisions adequate parking will be available for the new residences and no additional mitigation is warranted pursuant to SEPA policies.

Drainage

Site development will inevitably increase the volumes and rates of storm water runoff. A full two-thirds of the surface runoff will be, according to plans submitted for the project, directed to the reconfigured existing wetland. "Authority provided through the Grading and Drainage Control Ordinance and Environmentally Critical Areas Ordinance is intended to achieve mitigation of drainage impacts in most cases, although these ordinances may not anticipate or eliminate all impacts" (SMC 25.05.675 C).

Specific impacts to the wetlands areas would be mitigated by compliance with conditions set forth in accordance with the ECA Ordinance (conditional use and exception) analyses and conditions imposed through MUP 9106680. Non-typical impacts associated with the clustering configuration have been adequately mitigated pursuant to the ECA conditional use authority in MUP 9106680.

The long term viability of the existing vegetation and re-vegetated areas within the wetlands and required buffers is critical given the scope and magnitude of the environmentally critical area exception granted to the project. That exception partially reduced the required buffer area by more than 50 percent and reduced the size of the altered wetland some 39 percent, rather than calling for a replacement at a 2 to 1 ratio, as required by SMC 25.09.160. The long term health

of the vegetation within the wetland and its buffers is addressed in conditions linked to the granting of an ECA exception and the approval of a conditional use permit to recover development credit and permit clustered development on-site in single-family zones in MUP 9106680.

Because extreme fluctuations in hydroperiods may adversely impact the vegetation and wildlife habitat within the wetlands area, and because retention water level is a function of controlling both the outfall orifice and the quantity of storm water directed toward the wetlands, on-site, pre-wetland detention of storm water runoff shall be required if the hydrological analysis of a revised Wetland Mitigation Plan cannot demonstrate that the anticipated peak water level in the wetlands area will not exceed an acceptable elevation except nominally and very short term. As conditioned by MUP 916680, the applicant shall be required to supply a revised hydrologic analysis which directly assesses peak hydroperiods and hydroperiod limits and the need or lack of need to provide pre-wetland detention mechanisms to prevent the water level of the wetland from exceeding an elevation deemed harmful to the wetlands habitat. This information and implementation plan, if necessary, shall be included within the Revised Wetland Mitigation Plan required by MUP 916680.

Except as addressed in the ECA critical area exception and ECA conditional use analyses of MUP 9106680, most of the expected long-term impacts are typical of a single family residential development and are expected to be mitigated by the City's adopted codes and/or ordinances (together with fulfillment of other City Department requirements). Specifically these are: the Stormwater, Grading and Drainage Control Ordinance (storm water runoff from additional site coverage by impervious surface); the Land Use Code (height, setbacks, parking); and the Seattle Energy Code (long-term energy consumption). Other impacts not noted here as mitigated by codes or conditions (earth/soils, increased ambient noise, increased traffic, increased demand on public services and utilities, increased airborne emissions, increased light and glare, loss of vegetation) are not sufficiently adverse to warrant further mitigation by condition.

DECISION - SEPA

This decision was made after review by the responsible official, on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA

None.

RECOMMENDED CONDITIONS-SUBDIVISION

The owner(s) and/or responsible party(s) shall:

1. Note on the plat all the conditions listed in this recommendation, as may be modified by the Hearing Examiner.
2. File an ECA covenant prior to issuance of any permit for grading or earth disturbance on site.
3. Incorporate the language of the final ECA Covenant into the final plat.
4. Show the location of the permanent ECA markers and clearly indicate the entire area subject to the covenant on the face of the plat.
5. Note on the face of the plat that *no construction permits for lots 10 through 16 shall be issued, nor shall any development be permitted on lots 10 through 16 until the following conditions of MUP9106680 have been met:*
 - The removal of all human debris and invasive exotic plants from the wetland and wetland buffer areas has been verified by DPD
 - The completion of re-vegetation program within the wetland and its buffer areas has been verified by DPD
 - The modification or replacement of existing outlet orifice from wetland to City storm-sewer system, and any on-site pre-wetland detention mechanism required by the Revised Wetlands Mitigation Plan, to regulate water levels and periodicity has been verified by DPD
 - An elevated walkway running along the western edge of the wetland, within the wetland buffer, to connect the roadway at 56th Avenue S. to the pedestrian path on site, and connecting to the remnant of Lindsay Place S. and Renton Avenue S. has been constructed. The siting, design and proposed construction materials of this elevated walkway must have the prior approval of the Land Use Planner at DPD.
6. The final plat shall contain the approved language of an easement for City Light.
7. Street improvements shall be required for the public right-of-way of Lindsay Place S between Renton Avenue S. and the private road entering and existing Lindsay Court. Lindsay Place S. shall be constructed with a curb on both sides of the street and with a curb-to-curd width of 25 feet.
8. A dedication shall be made, as noted on the plat, for a turn-around at the improved end of Lindsay Place S.

9. Wheelchair ramps shall be required at all curb-return landings.
10. Street lighting shall be required on Lindsay Place S.
11. The plat needs to show the proposed sidewalk on the east side of Lindsay Place S. connecting to the existing sidewalk of Renton Av. S.
12. Any proposed grading outside the right-of-way shall require approval of the adjacent property owner.
13. A retaining wall shall be designed, approved and constructed along the west side of Lindsay Pl. S. The wall shall be designed to City of Seattle specifications. A fence and a guard rail shall be required as components of the wall.
14. The plat shall indicate whether the utilities will be public or private.
15. All work in the right-of-way shall be constructed per City of Seattle Standard Plans and Specifications.
16. A water main will be required.
17. Standard driveway approaches will need to be installed at the entry to the private drive serving the subdivision and at the SPU access road entrance. The access road entrance will need to be gated and locked with SPU having control of the lock.
18. The project shall extend the city maintained storm and sanitary sewer mains from 54th Avenue S. to Lindsay Pl. S.
19. The project shall provide drainage structures in the Lindsay Pl. S. right-of-way and at the terminus of the SPU access road.
20. The project shall provide a paved access road for SPU; it will need to be constructed from the end of Lindsay Pl. S. street improvements to the maintenance holes at the northwest corner of the site.
21. Public Utility Easements shall be required for the main extensions and for the access road; these easements should be incorporated into the final plat.
22. Provide underground piping through an easement, from the City union to the property line; piping shall be either type K or L copper, or Ipex Kitec (PE-AL-PE) and fittings.
23. A PRV (pressure-reducing valve) shall be required on private property (the Uniform Plumbing Code requires a PRV when water pressure is 80 psi or greater).

Signature: _____ (signature on file) Date: April 13, 2006
Michael Dorcy,
Senior Land Use Planner