

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF SHORELINE**

In the Matter of the Application of)	No. PLN19-0133
)	
Michelle Branley, on behalf of)	Blue Fern Townhomes
Blue Fern Development, LLC)	
)	
For Approval of a Preliminary)	FINDINGS, CONCLUSIONS,
<u>Formal Subdivision</u>)	AND RECOMMENDATION

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends that the application for a preliminary formal subdivision to subdivide three residential parcels into 19 unit lots for development of 19 townhome units, and associated improvements, at the corner of 12th Avenue NE and NE 180th Street, be **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed development.

SUMMARY OF RECORD

Hearing:

The Hearing Examiner held an open record hearing on the request on July 29, 2020, using remote technology in light of the ongoing COVID-19 pandemic. The record was left open until July 31, 2020, to allow the City to submit additional information and to assure that all members of the public wishing to participate in the hearing were able to timely provide comments on the proposal.

Testimony:

The following individuals testified at the open record hearing:¹

Alex Clohesey, Applicant Architect
Ben Iddins, Applicant Engineer
Cate Lee, City Associate Planner

Attorney Dean Williams represented the Applicant at the hearing.

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated July 21, 2020
2. Boundary/Topographic Survey, dated June December 5, 2018
3. Vicinity Map, dated July 11, 2019

¹ Applicant Representative Michelle Branley attended the virtual hearing but did not provide testimony on the proposal.

4. Planned Action Determination of Consistency Review Checklist, received July 26, 2019
5. Neighborhood Meeting Notice, dated July 2, 2019
6. Neighborhood Meeting Report (Cover Letter), dated August 14, 2019; Neighborhood Meeting Report, dated August 14, 2019
7. Notice of Preliminary Formal Subdivision Application, dated August 19, 2019
8. Notice of Public Hearing, undated, with Site Plan and Vicinity Map
9. Site Plan, revised February 28, 2020
10. Site Grading and Storm Drain Plan, revised February 28, 2020
11. Project Reviews, printed July 7, 2020
12. Hardscape Detail, dated July 15, 2019
13. Frontage Improvement Plan (Sheet C02), revised May 6, 2020; Grading Plan – 12th Ave NE (Sheet C03), revised May 6, 2020; Grading Plan – NE 180th Street (Sheet C04), revised May 6, 2020
14. Water Availability Certificate, dated July 22, 2019; Updated Water Availability Certificate, dated July 31, 2020; Updated Fire Flow Letter, dated July 31, 2020
15. Applicant’s Report to Hearing Examiner, undated, with Attachments.
 - 15.1 Vicinity Map
 - 15.2 Neighborhood Meeting Notice, dated July 2, 2019
 - 15.3 Neighborhood Meeting Report, dated August 14, 2019
 - 15.4 Site Plan, revised February 28, 2020
 - 15.5 Hardscape Calculation Worksheet
 - 15.6 Traffic Control Plan (Sheet C05), dated May 6, 2020
 - 15.7 Revised Site Plans, dated May 6, 2020
 - 15.8 Permit Application and Critical Areas Worksheet, dated July 9, 2020; Legal Description of Property
 - 15.9 SEPA Checklist, revised December 11, 2019
 - 15.10 Tree Retention Calculation Worksheet, undated
 - 15.11 Tree Retention Plan (Sheet C03), revised February 28, 2020
 - 15.12 Arborist Report, Greenforest Incorporated, dated May 29, 2019
 - 15.13 On-Site Grading Plan (Sheet C06), revised February 28, 2020
 - 15.14 Geotechnical Report (Nelson Report), Nelson Geotechnical Associates, Inc., dated November 20, 2019
 - 15.15 Geotechnical Report (Terra Report), Terra Associates, Inc., dated May 21, 2019
 - 15.16 Drainage Plan (Sheet C05), revised February 28, 2020
16. Applicant PowerPoint Presentation, dated July 29, 2020
17. City PowerPoint Presentation, dated July 29, 2020
18. Public Comments:
 - a. Comment from Yasha Bamberg, dated August 28, 2019
 - b. Comment from Peter Zachara, dated August 30, 2019
 - c. Comment from Cory Malon, dated September 4, 2019

The Hearing Examiner enters the following findings and conclusions based upon the testimony at the open record hearing and the admitted exhibits:

Findings, Conclusions, and Recommendation
City of Shoreline Hearing Examiner
Blue Fern Townhomes Preliminary Formal Subdivision, No. PLN19-0133

FINDINGS

Application and Public Notice

1. Michelle Branley, on behalf of Blue Fern Development, LLC (Applicant), requests approval of a preliminary formal subdivision² to subdivide three existing residential parcels into 19 unit lots for development of 19 townhome units in three buildings, with associated improvements. Three existing single-family residences, with accessory structures, would be removed from the property to facilitate development of the proposal. The development would be located at the corner of 12th Avenue NE and NE 180th Street, on properties currently identified as 18002, 18008, and 18016 12th Avenue NE.³ *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibit 4; Exhibit 7; Exhibit 9; Exhibit 15; Exhibit 16; Exhibit 17.*

2. A pre-application neighborhood meeting was held on July 2, 2019, related to the proposal, as required by the municipal code. At the pre-application meeting, the Applicant's design team responded to community questions and concerns regarding:
 - The proposed height of the structures and how building height is calculated under the municipal code.
 - Whether the proposed townhome units would have garages or other off-street parking available; and concerns with current lack of available on-street parking.
 - Construction impacts from development.
 - Whether fencing would be provided around the property and the potential height of fencing.
 - Whether the existing homes on the property would remain vacant prior to construction.
 - Current traffic volumes and traffic impacts from the development.
 - How garbage trucks would access and serve the site.*Exhibit 1, Staff Report, page 2; Exhibit 5; Exhibit 6.*

3. The Applicant prepared a summary of responses to the issues raised at the neighborhood meeting, specifically noting:
 - The Applicant believes that the market still desires 2 parking spaces per residence and the proposal has been designed to accommodate this.
 - The municipal code requires that building height be calculated from the average existing grade plan to the highest point of the roof. The Applicant has followed this method and the height of the proposed buildings would meet all requirements of the municipal code. The Applicant also would design the structures to step the

² A formal subdivision is a subdivision of 10 or more lots. *Shoreline Municipal Code (SMC) 20.30.380.B.*

³ The property is identified by Tax Assessor Parcels No. 6163-900-410, -411, and -420. *Exhibit 1, Staff Report, page 1.* A legal description of the property is included on the boundary/topographic survey. *Exhibit 2.*

massing of the buildings with the natural slope on the property to minimize the appearance of the height and bulk of the structures.

- The Applicant would install fencing, as required by the municipal code, and this would likely include a 4- to 6-foot tall cedar fence being installed along shared property lines.
- The homes on-site are anticipated to be occupied until a few months prior to actual demolition.
- Truck and vehicle parking, for construction, would be handled on-site to the greatest extent possible. The Applicant would also provide a traffic control plan, related to construction, to minimize neighborhood traffic impacts during construction.
- Trash bins would be staged at a common collection area, internal to the site, not along the right-of-way.

Exhibit 6.

4. Following further project design and review, the Applicant submitted the project application on July 26, 2019. The City of Shoreline (City) determined that the application was complete on August 14, 2019. The same day, the City issued a Notice of Application for the subdivision, with the comment period ending on September 3, 2019, as required by the municipal code. On July 13, 2020, the City issued a Notice of Public Hearing for the open record hearing associated with the proposal, as required by the municipal code. *Exhibit 1, Staff Report, page 3; Exhibit 7; Exhibit 8; Exhibit 17.*
5. The City received no comments on the proposal from reviewing government agencies and departments. The City, however, received three public comments in response to its notice materials that generally expressed opposition to further development in the North City neighborhood. Specifically:
 - Yasha Bamberg wrote the City expressing concerns about the impacts several current developments, under construction, have already had on the neighborhood. In addition, Ms. Bamberg expressed concerns about traffic, safety, and available area parking. She expressed strong opposition to further area development.
 - Peter Zachara wrote the City with similar concerns to Ms. Bamberg, stressing concerns over density, traffic, parking, and construction impacts.
 - Cory Malon wrote expressing opposition to single-family dwelling units being replaced with high-density development, especially in light of associated construction and traffic impacts.

Exhibit 18.

6. City staff determined that the subdivision application would be reviewed concurrently with the building site development and the right-of-way permits under the Consolidated Subdivision process in SMC 20.30.410.A.3. Accordingly, applicable City departments and agencies have already reviewed the project for consistency with fire, safety, building,

and other municipal code requirements related to the proposal. *Exhibit 1, Staff Report, pages 1 through 5.*

State Environmental Policy Act

7. The project site is within a “Planned Action Area” of the city: the 185th Street Station Subarea. Under provisions of the Growth Management Act, Chapter 36.70A Revised Code of Washington (RCW); the State Environmental Policy Act (SEPA), Chapter 43.21C RCW; WAC 197-11-164; and Shoreline Municipal Code (SMC) 20.30.357, the City Council established the Planned Action Area in 2015 under Ordinance No. 707. The City prepared a draft and final Environmental Impact Statement (EIS) for the 185th Street Station Subarea, which determined that the EIS mitigation measures and the City’s existing development regulations would adequately mitigate significant impacts from future development within the Planned Action Area. *Exhibit 1, Staff Report, page 2; Exhibit 3; Exhibit 4.*
8. City staff reviewed an environmental checklist submitted by the Applicant, revised on December 11, 2019, and prepared a Planned Action Determination of Consistency Review Checklist” on July 26, 2019. The City reviewed the submitted checklist and determined that the proposed subdivision qualifies as a Planned Action on February 25, 2020, and that additional review under SEPA would not be required.⁴ The project would account for 16 new residential units from the 1,933 remaining residential units allocated under the Planned Action and would account for approximately 8 additional PM peak-hour weekday trips from the remaining trips allocated under the Planned Action. *Exhibit 1, Staff Report, page 2; Exhibit 4; Exhibit 15.9.*

Comprehensive Plan, Zoning, and Surrounding Property

9. The City Comprehensive Plan designates the site as “Station Area 3.” The purpose of this designation is to encourage transit-oriented development in the area surrounding future light rail stations, including development of higher density residential development along arterials in the subarea. *City Comprehensive Plan, page 32.* Ordinance No. 707 designated the 185th Street Subarea Planned Action as consistent with the goals and policies of the City Comprehensive Plan. *Ordinance No. 707 (Section I.D).* Accordingly, City staff determined that the proposal would be consistent with the City Comprehensive Plan and the applicable subarea plan. In addition, City staff identified several Comprehensive Plan goals related to the proposal, including encouraging the creation of transit-oriented development to serve the location of future light rail stations, higher-density housing compatible with the Planned Action Area, supporting managed

⁴ SMC 20.30.565 provides:

Development approvals in planned action districts identified on the City zoning map are designated planned action approvals pursuant to WAC 197-11-164. The environmental impacts of development in these districts consistent with the applicable code provisions have been addressed in a planned action EIS and do not require additional SEPA review.

growth, and improving streets and pedestrian walkways. *Exhibit 1, Staff Report, page 1; Exhibit 4.*

10. The property is zoned Mixed-Use Residential 35' (MUR-35'). The purpose of the MUR-35' zone is to provide for a mix of predominantly multifamily development in appropriate locations with other nonresidential uses that are compatible and complementary. Unit lot dwellings (i.e., townhomes) are a permitted use in this zone. *SMC 20.40.120; Exhibit 1, Staff Report, page 1.*
11. Parcels abutting the site to the north, east, and west are also within the MUR-35' zone. Property to the south is, across NE 180th Street, are designated as "Community Business" under the zoning code. The abutting parcels are generally developed with single-family residential units compatible with the City's previous low-density R-6 residential zone. The property is within the "North City" neighborhood, which was a low-density residential neighborhood developed in the 1950s and 1960s, with a small commercial corridor along 15th Avenue NE, bisecting the area. Historically, residential structures were mostly one or two-stories with smaller building footprints. In recent years, however, the North City neighborhood has experienced significant redevelopment, with multi-family developments up to six stories in height, as well as higher density townhome development since rezoning of the area (to MUR-35') occurred in 2016, in preparation for regional expansion of the light rail system. *Exhibit 1, Staff Report, page 2.*

Existing Site and Proposed Development

12. The site encompasses approximately 23,515 square feet (0.54 acres) and is currently developed with three single-family residences and accessory structures, as noted above. The existing residential structures would be removed during development. The site is mostly flat, although there are non-hazardous slopes on the west and east side of the property. There is approximately 20 feet of elevation change between the east and west sides of the property (with the property sloping down from east to west). The site also currently contains six deciduous trees, five of which would be removed during development. *Exhibit 1, Staff Report, pages 1 and 8; Exhibit 2; Exhibit 10; Exhibit 15.*
13. As noted above, the Applicant would subdivide three existing residential properties into 19 unit lots with a shared access and utilities tract for development of 19 individual townhome units in three buildings. The lots would be platted in a linear manner: 6 lots oriented east to west with frontage on 180th Street, and the remaining 13 lots oriented north to south, of which, 6 lots would have frontage on 12th Avenue NE, and the remaining 7 lots would be located behind these, immediately to the east. Each lot would be rectangular and have access to the shared access drive serving the plat. Although 6 lots have frontage on NE 180th Street, a single vehicle access point from 12th Avenue NE, a local secondary street, would provide access to the property. Parking would be limited to within each townhouse unit, which would contain garages. *Exhibit 1, Staff Report, pages 4, 6, and 7; Exhibit 9; Exhibit 19.*

14. The Applicant would provide frontage improvements, including new sidewalks, along the site frontages on 12th Avenue NE and NE 180th Street. Specifically, along 12th Avenue NE, the Applicant would provide improvements including a 16-foot travel lane (with new asphalt, new curb and gutter, a 5-foot amenity zone, and a 5-foot sidewalk with a curb bulb at the intersection with NE 180th Street, consisting of a 12-foot travel lane from centerline to curb bulb. New infrastructure would be installed along 12th Avenue NE with catch basins placed on the north and south end of the project and tied to the existing municipal stormwater system. Along NE 180th Street, improvements would include a 17.5-foot travel lane, new curb and gutter, a 5-foot amenity zone, and 7-foot sidewalk, along with a new curb ramp on the south side of NE 180th Street. In addition, new utility infrastructure would be installed along NE 180th Street, with catch basins on the east and west end of the project tied into the existing municipal system. In addition, the shared access driveway would provide an internal walkway on both sides that connects from the sidewalk on 12th Avenue NE. *Exhibit 1, Staff Report, pages 6 and 7; Exhibit 15; Exhibit 16; Exhibit 17.*
15. SMC 20.50.020(2) provides site development standards applicable to development in the MUR-35' zone. SMC 20.50.020(2) requires a minimum density of 12 units per acre, or a minimum of 7 units for the proposed site. The Applicant proposes a density of 19 units on the 23,515 square foot (0.54-acre) site, consistent with minimum density requirement. SMC 20.50.020(2) also provides for no minimum front yard setback on arterial streets, 10 feet on nonarterial streets, minimum back yard and side yard setbacks of 5 feet, and a maximum hardscape of 85 percent. SMC 20.50.020 provides an exception allowing zero lot line developments and unit lot developments. The exception applies only to internal lot lines, and the overall site must comply with setbacks, building coverage, and hardscape limitations. The Applicant's proposed overall site setbacks, when considering the proposed shared access and utilities tract, would be consistent with the minimum setback requirements. The Applicant proposes an overall site hardscape of 81 percent, within the 85 percent hardscape requirement under SMC 20.50.020(2). *Exhibit 1, Staff Report, pages 6 to 8; Exhibit 9; Exhibit 12.*
16. SMC 20.30.410(B)(1) requires that grading be minimized, where possible, through use of shared driveways and appropriate lot placement that considers existing site topography. Because of the slopes on-site, significant grading would be unavoidable, and approximately 2,090 cubic yards of soil would be removed during site development. City staff, however, determined that grading work for the future placement of the buildings and necessary infrastructure would be minimized through site design as much as possible given existing site topography. *Exhibit 1, Staff Report, page 4; Exhibit 15; Exhibit 16; Exhibit 17.*

Critical Areas

17. The Growth Management Act, Chapter 36.70A RCW, requires the City to designate environmentally critical areas and adopt regulations to ensure conservation of such areas. The provisions of the City's Critical Areas Code establishes standards for the protection of critical areas, including geologic hazard areas, fish and wildlife habitat conservation areas, wetlands, flood hazard areas, and aquifer recharge areas, while maintaining a property owner's reasonable economic use of property and maintaining the provision of services necessary to support existing and planned development. City staff determined that no critical areas or natural hazardous conditions exist on the site. *SMC 20.20.014; SMC 20.80.010; Exhibit 1, Staff Report, page 3.*

Open Spaces and Parks

18. City staff determined that no dedication of park land is required by the proposed project. Five significant trees would be removed during development of the site, each measuring less than 30 inches in diameter at breast height. The removal of these five trees is exempt from tree retention and replacement requirements of Chapter 20.50 SMC: under SMC 20.50.310.B, three significant trees measuring less than 30 inches in diameter at breast height on lots up to 7,200 square feet, and one additional tree for every additional 7,200 square feet of area, are exempt from the tree retention and replacement requirements of Chapter 20.50 SMC. One existing significant tree, a black pine tree near the eastern property line, would be retained during site development. *Exhibit 1, Staff Report, pages 5 and 8; Exhibit 9; Exhibit 15.11; Exhibit 15.12.*

Stormwater Management

19. SMC 20.60.070 requires that all new development be served by a surface water management system approved by the Public Works Department. Stormwater for the project would be reviewed for consistency with the 2014 Department of Ecology Stormwater Manual, as adopted by the City, and the Public Works Department would review the proposed subdivision and associated development prior to construction to determine whether the stormwater requirements have been satisfied. *Exhibit 1, Staff Report, pages 4 and 8; Exhibit 11.*

Access and Traffic Impacts

20. The proposed subdivision would include a single vehicular access point from 12th Avenue NE to a shared driveway, with two internal driveway segments, that would serve all 19 units in the subdivision. The east segment of the driveway would serve six lots, while the northern section would serve the remaining 13 lots. The Public Works Department and Shoreline Fire Department reviewed the proposed vehicular access and determined it would meet all municipal requirements. City staff determined that no vehicle turnaround is required for the subdivision under Section 12.9(B) of the Engineering Development Manual. The project provides for garage parking for each townhouse unit consistent with the minimum parking space requirements of SMC

20.50.390.A. City staff determined that existing sidewalks would provide safe walk routes to schools and school bus stops. *Exhibit 1, Staff Report, pages 4 to 6, and 8; Exhibit 4; Exhibit 9; Exhibit 11; Exhibit 14; Exhibit 15.*

Utilities and Services

21. Chapter 20.60 SMC requires that all development proposals requiring City approval be adequately served by public facilities prior to occupancy, plat recording, or other land use approval. Such public facilities include sewer and/or wastewater disposal, water supply, fire protection service, surface and stormwater management, and streets and access. Ronald Wastewater District reviewed the proposed subdivision and determined that sufficient sewer capacity is available. North City Water District reviewed the proposed subdivision and issued a water availability certificate. The Shoreline Fire Department reviewed the proposal for water pressure to the site and proximity to fire hydrants and determined that the proposal is satisfactory. Future development of the site with the townhome units would require the payment of fire impact fees under Chapter 3.75 SMC. The Public Works Department reviewed the proposed subdivision and associated development and determined that surface water standards would be satisfied. The Public Works Department also determined that the proposed shared driveway provides adequate access from 12th Avenue NE. *Exhibit 1, Staff Report, pages 8 to 9; Exhibit 11; Exhibit 14; Exhibit 15; Exhibit 17.*

Testimony

22. Applicant Architect Alex Clohesey testified generally about the application review process and how the proposal would comply with the City Comprehensive Plan, zoning regulations, the requirements of the 185th Street Subarea Planned Action, and all other applicable codes and policies. He stressed that a traffic control plan would be used during construction, to minimize impacts to the surrounding neighborhood. Mr. Clohesey also noted that, although there are slopes on the project site, they are not classified as “steep” slopes, i.e., geologically hazardous slopes, under the municipal code. Mr. Clohesey testified that the Applicant agrees with the City’s proposed conditions of approval. *Testimony of Mr. Clohesey.*
23. Applicant Engineer Ben Iddens explained that stormwater from the two northern buildings would be routed to an infiltration trench, that a second infiltration facility is located below the internal drive aisle, and that permeable pavement would be used, where possible, throughout the development. Mr. Iddens stressed that the stormwater system has been designed to infiltrate 100 percent of all stormwater on-site, which should reduce stormwater flow travelling to the City’s existing stormwater system. *Testimony of Mr. Iddens.*
24. City Associate Planner Cate Lee testified generally about the application review process, explaining that the City reviewed the application for consistency with the requirements of the Shoreline Municipal Code, specifically the preliminary subdivision decision criteria of SMC 20.30.410(B)(1)-(4). Ms. Lee testified that the proposal would meet these

criteria; would make appropriate provisions for public health, safety, and welfare; and would serve the public use and interest. She explained that significant changes to the municipal code were made after the application was deemed complete, especially in relation to unit lot subdivisions and development in the mixed-use residential zoning districts and that the proposal vests to the previous version of the development code. She noted that, although some public comments were received expressing opposition to further development and density in the project vicinity, the comments were not specific as to this particular project. Ms. Lee testified that City staff recommends approval of the preliminary formal subdivision, subject to the City's proposed conditions. *Testimony of Ms. Lee.*

Staff Recommendation

25. Recommending that the Hearing Examiner forward to the City Council a recommendation of approval, City staff determined that, with conditions, the proposal would meet the requirements of the City code and would be consistent with the City Comprehensive Plan. *Exhibit 1, Staff Report, pages 9 to 13; Testimony of Ms. Lee.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and make recommendations to the City Council for preliminary formal subdivisions under Chapter 2.15 SMC and SMC 20.30.060, Table 20.30-060.

Criteria for Review

Under SMC 20.30.410.B, the criteria for preliminary subdivision approval are:

1. Environmental.
 - a. Where environmental resources exist, such as trees, streams, geologic hazards, or wildlife habitats, the proposal shall be designed to fully implement the goals, policies, procedures and standards of the critical areas regulations, Chapter 20.80 SMC, Critical Areas, and the tree conservation, land clearing, and site grading standards sections.
 - b. The proposal shall be designed to minimize grading by using shared driveways and by relating street, house site and lot placement to the existing topography.
 - c. Where conditions exist which could be hazardous to the future residents of the land to be divided, or to nearby residents or property, such as floodplains, landslide hazards, or unstable soil or geologic conditions, a subdivision of the hazardous land shall be denied unless the condition can be permanently corrected, consistent with subsections (B)(1)(a) and (b) of this section, Chapter 20.80 SMC, Critical Areas, and Chapter 13.12 SMC, Floodplain Management.

- d. Low impact development (LID) techniques shall be applied where feasible to minimize impervious areas, manage stormwater, and preserve on-site natural features, native vegetation, open space and critical areas.
2. Lot and Street Layout.
 - a. Lots shall be designed to contain a usable building area. If the building area would be difficult to develop, the lot shall be redesigned or eliminated, unless special conditions can be imposed that will ensure the lot is developed consistent with the standards of this Code and does not create nonconforming structures, uses or lots.
 - b. Lots shall not front on primary or secondary highways unless there is no other feasible access. Special access provisions, such as shared driveways, turnarounds or frontage streets, may be required to minimize traffic hazards.
 - c. Each lot shall meet the applicable dimensional requirements of the Code.
 - d. Pedestrian walks or bicycle paths shall be provided to serve schools, parks, public facilities, shorelines and streams where street access is not adequate.
 3. Dedications and Improvements.
 - a. The City may require dedication of land in the proposed subdivision for public use.
 - b. Only the City may approve a dedication of park land.
 - c. In addition, the City may require dedication of land and improvements in the proposed subdivision for public use under the standards of Chapter 20.60 SMC, Adequacy of Public Facilities, and Chapter 20.70 SMC, Engineering and Utilities Development Standards, necessary to mitigate project impacts to utilities, rights-of-way, and stormwater systems.
 - i. Required improvements may include, but are not limited to, streets, curbs, pedestrian walks and bicycle paths, critical area enhancements, sidewalks, street landscaping, water lines, sewage systems, drainage systems and underground utilities.
 4. Unit Lot Development.
 - a. The provisions of this subsection apply exclusively to unit lot developments for single-family attached dwelling units or zero lot line developments in all zones in which these uses are permitted.
 - b. Unit lot developments may be subdivided into individual unit lots. The development as a whole shall meet development standards applicable at the time the permit application is vested.
 - c. As a result of the subdivision, development on individual unit lots may modify standards in SMC 20.50.020, Exception 2.

- d. Access easements, joint use and maintenance agreements, and covenants, conditions and restrictions identifying the rights and/or the homeowners' association shall be executed for use and maintenance of common garage, parking and vehicle access areas; on-site recreation; landscaping; underground utilities; common open space; exterior building facades and roofs of individual units; and other similar features, and shall be recorded with the King County Recorder's Office.
- e. Within the parent lot or overall site, 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, to be recorded with King County Records and Licensing Services Division.
- f. 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 and shall be noted on the plat, to be recorded with King County Records and Licensing Services Division.
- g. The applicant shall record a covenant on the plat that states, "These units will be considered individual units and part of one structure that cannot be segregated from one another. A unit lot development is defined as one building or one structure in the International Building Code and International Fire Code and National Electrical Code."

SMC 20.30.410.B.

The state subdivision criteria, codified at Chapter 58.17 RCW, are as follows:

A proposed subdivision and dedication shall not be approved unless the city, town, or county legislature body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication.

RCW 58.17.110(2).

The criteria for review adopted by the City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

*Findings, Conclusions, and Recommendation
City of Shoreline Hearing Examiner
Blue Fern Townhomes Preliminary Formal Subdivision, No. PLN19-0133*

Conclusions Based on Findings

- 1. With conditions, the preliminary formal subdivision would make appropriate provisions for the public health, safety, and general welfare and for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, and schools and school grounds, as required by RCW 58.17.110(2).** The property is designated Station Area 3 under the City Comprehensive Plan and is within the 185th Street Station Planned Action Area. Development of higher density residential units, including single-family attached residential townhomes, is encouraged under this designation. City staff identified several Comprehensive Plan goals related to the proposal, including encouraging the creation of transit-oriented development to serve the location of future light rail stations, higher-density housing compatible with the Planned Action Area, supporting managed growth, and improving streets and pedestrian walkways. The property is zoned Mixed-Use Residential 35' and would be compatible with neighboring land uses. The Growth Management Act promotes higher densities within cities where infrastructure is available to serve the population.

The Public Works Department reviewed the proposal to determine that stormwater requirements would be satisfied. Access to the subdivision would be from a singular access point from 12th Avenue NE leading to a shared driveway serving all 19 units in the subdivision. Each individual townhouse unit would provide for off-street parking in an attached garage. Existing sidewalks would provide safe walking routes to schools and school bus stops. Ronald Wastewater District would provide sewer service to the site. The North City Water District would provide water service. The Shoreline Fire Department reviewed the proposal for water pressure to the site, emergency access, and proximity to fire hydrants and determined that the proposal would comply with municipal requirements. Additionally, future development of the site with the townhome units would require the Applicant to pay fire impact fees.

Grading of the site for the future placement of buildings and necessary infrastructure is necessary but would be minimized, as much as is practicable, through site design. The site is generally flat, in the middle, with slopes on the east and west sides. These slopes, however, are not considered geologically hazardous. Five significant trees would be removed from the site during development. Under the City code, the removal of these trees is exempt from retention and replacement requirements. The proposed subdivision qualifies under the Planned Action Determination for the 185th Street Station Subarea. The City prepared a draft and final 185th Street Station Subarea Environmental Impact Statement, which determined that the EIS mitigation measures and the City's existing development regulations would adequately mitigate significant impacts from development within the Planned Action area. Accordingly, no additional SEPA review is required.

The application was reviewed concurrently with the building site development and the right-of-way permits under the Consolidated Subdivision process in SMC 20.30.410.A.3.

Conditions are necessary to ensure that the proposal conforms to the preliminary plat plans and that the Applicant submits applicable construction plans and reports for review and approval by the City for stormwater, water, sewer, electrical, and streets; submits a final plat map; complies with the design review requirements; identifies, on the final plat, all existing and proposed restrictions, easements, and tracts, including all utility easements, the proposed shared access tract designated as a fire lane, and restrictions on future development of individual lots in the subdivision; and meets all local, state, or federal code requirements. *Findings 1, 6 – 25.*

2. **With conditions, the proposed preliminary formal subdivision would be consistent with environmental impact, lot and street layout, dedications and improvements, and unit lot development review criteria as required by SMC 20.30.410 regulations, considering land use type, development level, infrastructure, and development characteristics, such as development standards, as required by the municipal code and the State Subdivision Act.** The City provided reasonable notice and opportunity to comment on the proposed preliminary plat. Three public comments were received expressing opposition to further development in the area. The comments were not specific to development of this particular proposal, however, and the proposal would meet density requirements under the City’s zoning ordinances. Environmental impacts of the proposed plat were considered, as required by SEPA. The City prepared an EIS on the 185th Street Station Subarea and a Planned Action Determination that determined that further SEPA review was not required. The preliminary plat would provide development consistent with applicable development regulations. City staff determined that, with conditions, the proposal would be consistent with all applicable City, county, and state requirements, including the applicable Comprehensive Plan, municipal code, and development standards. The public interest would be served by the platting of the subdivision. As detailed above in Conclusion 1, conditions are necessary to ensure that the proposal meets all criteria required for plat approval. *Findings 1 – 25.*

RECOMMENDATION

Based on the preceding findings and conclusions, the Hearing Examiner recommends that the City Council **APPROVE** the application for a preliminary formal subdivision to subdivide three residential parcels into 19 unit lots for development of 19 townhome units, and associated improvements, at 18002, 18008, and 18016 12th Ave NE, with the following conditions:⁵

1. The three existing lots shall be merged. Development permits for the Site, including but not limited to, demolition permits, clearing and grading permits, site development permits, right-of-way permits, and building permits, shall not be issued until the City has approved a Lot Merger for the Site and the same has been recorded with the King County

⁵ Conditions include both legal requirements applicable to all developments and requirements designed to mitigate the specific impacts of this development.

Recorder's Office. Failure to apply for or receive approval of a Lot Merger, or to record an approved Lot Merger, shall render the Preliminary Plat null and void and as such, no Final Plat shall be approved or recorded.

2. The Applicant shall comply with all applicable provisions of the Shoreline Municipal Code, specifically SMC Title 20 Unified Development Code.
3. All existing and proposed restrictions, easements, tracts, and their purpose shall be clearly shown on the face of the Final Plat.
4. All utility easements for water service, sewer service, underground power, and telecommunications shall be noted on the face of the Final Plat.
5. A use and maintenance agreement shall be recorded, filed separately, or noted on the face of the Final Plat for all joint access and utility easements/tracts.
6. The stormwater facilities shall be complete and pass inspection prior to approval of the Final Plat, or the Applicant shall post suitable bond or surety to guarantee the completion of improvements within one year of the date of approval of the Final Plat.
7. A stormwater declaration of covenant in a form acceptable to the City shall be recorded with the King County Recorder's Office prior to approval of the Final Plat and the recording number shall be clearly noted on the face of the Final Plat. If the Applicant has posted a bond or surety, then the declaration of covenant shall be recorded on each lot shown on the final plat prior to release of the bond or surety. Or, in the alternate, covenant language in a form acceptable to the City shall be included on the face of the Final Plat.
8. A joint use and maintenance agreement identifying the rights and responsibilities of the property owners within the Final Plat, or a homeowner's association, shall be executed for the maintenance and operation of the stormwater facilities and recorded with the King County Recorder's Office prior to approval of the Final Plat. Or, in the alternative, joint use maintenance agreement language shall be included on the face of the Final Plat.
9. All conditions for access and life safety, as required by Shoreline Fire Department, shall be met. The proposed access road must be a minimum 20 feet wide and marked as a fire lane with no parking allowed. Both shall be noted on the face of the Final Plat, and the improvements shall be completed prior to Final Plat approval.
10. All conditions of the water availability certificate shall be met, including:
 - a. The fire flow requirement for the applicant's proposed project must be determined to identify if improvements to the District's system are necessary.

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- b. This is not an application for or approval of water service to the proposed site. A proper application must be filed with and accepted by the District before service will be provided. The District has a connection charge (also called general facilities charge) and meter installation charge for each new water service provided. It is recommended that the applicant consult with the District to obtain applicable fees, charges, and procedures which may change during the property development process.
- 11. A side sewer easement is required for all shared side sewers on the City of Shoreline/Ronald Wastewater District approved form. The easement shall be recorded prior to Final Plat approval and it shall be clearly noted on the face of the Final Plat.
- 12. All conditions set forth by Ronald Wastewater District for new sewer connections shall be met, including:
 - a. Sewer service will be provided by a six (6) inch side sewer connection or an eight (8) inch or larger sewer main from the site.
 - b. Prior to connection of any structure to any sanitary sewer system or the making of any repairs, alterations, or additions, an application for a side sewer permit shall be filed with the City of Shoreline.
 - c. All materials and workmanship in connection with the installation of any sewers connected to the public sewer shall be as specified by District Rules & Regulations – Res. 09-26.
 - d. Wastewater easements will be required on City of Shoreline form. Easements shall be recorded prior to wastewater permit issuance.
- 13. All new development shall be served with underground power and separate meters for each dwelling unit.
- 14. Protective fencing shall be installed around the driplines of trees identified by the City in order to ensure their survival during construction.
- 15. The exact square footage of each lot shall be clearly shown on the face of Final Plat.

16. All addresses shall be shown on the recorded Final Plat. Each unit shall be addressed as follows:

- a. Lot 1 – 18008 12th Ave NE Unit F
- b. Lot 2 – 18008 12th Ave NE Unit E
- c. Lot 3 – 18008 12th Ave NE Unit D
- d. Lot 4 – 18008 12th Ave NE Unit C
- e. Lot 5 – 18008 12th Ave NE Unit B
- f. Lot 6 – 18008 12th Ave NE Unit A
- g. Lot 7 – 1202 NE 180th St Unit A
- h. Lot 8 – 1202 NE 180th St Unit B
- i. Lot 9 – 1202 NE 180th St Unit C
- j. Lot 10 – 1202 NE 180th St Unit D
- k. Lot 11 – 1202 NE 180th St Unit E
- l. Lot 12 – 1202 NE 180th St Unit F
- m. Lot 13 – 18016 12th Ave NE Unit A
- n. Lot 14 – 18016 12th Ave NE Unit B
- o. Lot 15 – 18016 12th Ave NE Unit C
- p. Lot 16 – 18016 12th Ave NE Unit D
- q. Lot 17 – 18016 12th Ave NE Unit E
- r. Lot 18 – 18016 12th Ave NE Unit F
- s. Lot 19 – 18016 12th Ave NE Unit G

17. The subdivision shall comply with tree conservation, land clearing, and site grading standards specified in SMC Chapter 20.50, Subchapter 5, specifically by retaining one (1) on-site significant tree.

18. A Covenant shall be recorded either by stating it on the face of the Final Plat or by filing a Declaration of Covenant with King County Recorder's Office prior to Final Plat approval. The recording number of this Declaration shall be noted on the plat. The language of the covenant shall be:

Each unit lot is not a separate buildable lot. Additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot. These units will be considered individual units and part of one structure that cannot be segregated from one another. A unit lot development is defined as one building or one structure in the International Building Code and International Fire Code and National Electrical Code.

19. The following note shall be placed on the face of the Final Plat:

This subdivision is approved based on SMC 20.30.410.D Unit Lot Development standards and Exception (#2) to Table 20.50.020(1) that allows modifications to certain dimensional standards for unit lot developments. Any future development of the individual lots created by this subdivision may be limited as a result of the application of development standards.

RECOMMENDED this 14th day of August 2020.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center