



# City of Seattle

## Department of Planning and Development

Diane M. Sugimura, Director

August 30, 2013

Dear Benchview Neighbors:

In an effort to keep you informed, I want to let you know that today, the Department of Planning and Development (DPD) will be issuing its approval of the revised Lot Boundary Adjustment (LBA) for the three lots at the corner of 55<sup>th</sup> Ave. SW and SW Manning St. As noted in my August 27<sup>th</sup> letter, the applicant submitted a revised application based on Judge Spearman's specific direction in her July 24<sup>th</sup> decision. We have reviewed the revised LBA very carefully to make sure the calculations are correct, and we have determined the revised LBA is consistent with her direction.

### The Court's Decisions to Reverse and Remand LBA for Modification

Judge Spearman determined that parcel A, one of the three lots adjusted by the LBA, was 131 square-feet too small in her initial decision and **reversed** DPD's decision on that point. Judge Spearman could have granted the LUPA petition and that would have been the end of the case at the trial-court level. That, however, did not happen. On reconsideration, Judge Spearman **remanded** the LBA to DPD for "**modification or further proceedings** in conformance with the Court's Memorandum Decision." Accordingly, DPD has reviewed a revised LBA that adds 131 square feet to parcel A so the lot's area is over 4,527 square feet. This is consistent with Judge Spearman's Memorandum Decision stating that parcel A must have at least 4,527 square feet to qualify for the 75/80 Rule lot-area exception.

### Revoking a Permit

In my last letter, I tried to explain why we would be reviewing the revised LBA, and that it would be reviewed based on the Land Use Code and the court rulings. Apparently I was not as clear as I had hoped in terms of explaining why DPD must proceed with this review. Here is further explanation.

The Land Use Code, in Section 23.76.034, establishes five circumstances when DPD may revoke a Master Use Permit:

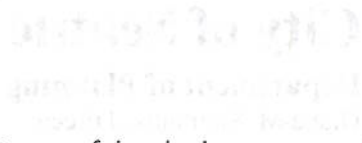
1. The permittee has developed the site in a manner not authorized by the permit;
2. The permittee has not complied with the conditions of the permit;
3. The permittee has secured the permit with false or misleading information;
4. The permit was issued in error; or
5. The permittee has failed to pay past-due fees.

None of these circumstances apply in this particular situation, including the fourth factor that some have questioned. Section 23.76.034 does not apply in the context of DPD responding to a Court order **remanding** the Benchview LBA to DPD for **modification** in a manner consistent with the Court's order. Instead, 23.76.034 applies when the Department is not responding to a Court order and one of the five circumstances in the code provision triggers permit revocation.



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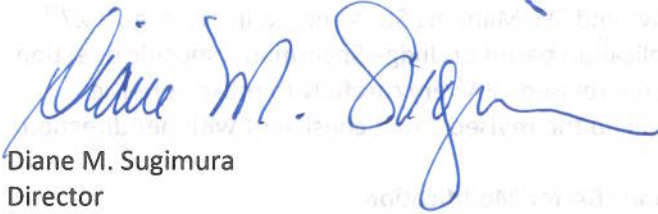
**Small Lot Legislation**

I want to once again remind you of the work we have been doing in terms of developing permanent regulations related to small lots, to replace the interims that were approved last year. Here is the link: <http://www.seattle.gov/dpd/codesrules/changestocode/smalllots/whatwhy/default.htm>

This proposal is informed by comments we have received from the public, as well as actual situations in our neighborhoods that staff have become aware of. We anticipate publishing another draft for public review within the next week or two. This too will be posted on the site.

Thank you very much.

Sincerely,



Diane M. Sugimura  
Director

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