



City of Seattle

Department of Planning and Development

Diane M. Sugimura, Director

August 27, 2013

Dear Benchview Neighbors:

I wanted to let you know where we are with the proposed lot boundary adjustment (LBA) for the site at the corner of 55th Ave. SW and SW Manning St. I understand the concerns expressed by a number of people regarding the proposal – whether or not the site should be limited to two rather than three houses. I have read the correspondence and Judge Spearman's decisions. In addition, Patrick Downs, Law, and I visited the site on August 16, viewed the house currently under construction, and met with Dick Miller, a neighbor, at the site.

Having visited your neighborhood, and experienced the views and the characteristics of the neighborhood, I do understand your response to the proposal. The Department of Planning and Development, however, cannot "choose" to make a decision based on the desires of the neighborhood, as some have suggested, just as we cannot "choose" to make a decision based on the desires of the developer. We are bound by the adopted Land Use Code and, in this case, the court decisions.

On July 24, 2013, Judge Mariane Spearman decided the following three points:

1. The City's decision that the Historic Lot Exception applies is AFFIRMED.
2. The City's decision that lots 10 and 11 meet the 75/80 rule is REVERSED.
3. The City's decision to classify the application as an LBA is AFFIRMED.

In short, she did not determine that the City erred in its conclusion that the property qualified as three lots, or could be reconfigured as three different lots through the lot boundary adjustment process. The only error the judge found related to the lot area of one of the proposed lots. The judge concluded that one of the lots, which had taken advantage of the 75/80 Rule lot area exception, was too small by 132 square feet. As we understood the decision, the lot boundary adjustment was permissible as long as it was modified so that the parcel has at least 132 square feet of additional lot area.

The attorney for the developer subsequently asked for reconsideration of the decision regarding the lot area required under the 75/80 Rule, and clarification. On August 22, 2013, Judge Spearman denied the motion for reconsideration. "Instead, this matter is REMANDED to the City of Seattle Department of Planning and Development *for modification or further proceedings* (emphasis added) in conformance with the Court's Memorandum Decision dated July 24, 2013." As we read this decision, the judge contemplated that the lot boundary adjustment, as originally proposed and approved, could be modified to try to provide the lot area that the judge determined was required.



City of Seattle, Department of Planning and Development
700 Fifth Avenue, Suite 2000
P.O. Box 34019, Seattle, WA 98124-4019

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The applicant has submitted a revised LBA application, based on Judge Spearman's July 24 specific direction related to the 75/80 Rule. The department has the responsibility to review this revised application for consistency with the current Land Use Code regulations and the recent decisions of Judge Spearman. We are in the process of reviewing the revisions at this time. We will review this very carefully to make sure it complies with the code and recent rulings. If, upon review, the department determines that the calculations are consistent with the judge's determination, we will be obligated to approve the revised LBA.

I would also like to make sure you are aware 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> 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. I hope this helps clarify the current situation.

Sincerely,

A handwritten signature in blue ink that reads "Diane M. Sugimura".

Diane M. Sugimura
Director