



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

D.M. Sugimura, Director

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

Application Number: 3003359
Applicant Name: Steve Speidel
Address of Proposal: 4820 Puget Boulevard SW

SUMMARY OF PROPOSED ACTIONS

Land Use Application to recover development credit for proposed clustered housing in an environmentally critical area and establish use as eight single-family residences with parking for 12 (formerly 14) vehicles within the structures and six outside.

The following approvals are required:

Environmentally Critical Areas Administrative Conditional Use - to allow recovery of development credit to build more than one structure on a lot in an environmentally critical area and Single-Family zone. SMC 25.09.260

SEPA - Environmental Determination - SMC Chapter 25.05.

SEPA DETERMINATION: [] Exempt [X] DNS [] MDNS [] EIS
[] DNS with conditions
[] DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity Description

The subject site is a 42,396 square foot somewhat triangular shaped lot is on the east side of developed Puget Boulevard SW, where this street is aligned with 23rd Avenue SW, and south of the undeveloped portion of Puget Boulevard SW where this street curves to the northeast from its previous alignment with 23rd Avenue SW. The site is substantially comprised of the vacated eastern 80 feet of the Puget Boulevard SW right of way (ROW), which was originally platted at 160 feet in width. The property's portion of the ROW was vacated by City Vacation Ordinance VO 84663. The subject site and surrounding neighborhood is zoned Single-Family 5000 (SF 5000).

The subject site and abutting Puget Boulevard SW ROW contain *ECA steep slopes* and associated *buffer* (hereafter jointly referred to as “*steep slopes*”) along its western roughly north to south boundary. Along the site’s western boundary and to the east of the approximately 14 to 16 foot paved roadway of Puget Boulevard SW, the ROW is comprised of steep slopes ranging in width from approximately 14 to 36 feet. The eastern two-thirds of the parcel, which is the proposed area of development, do not contain *steep slopes* or *buffers*.

The surrounding neighborhood is largely comprised of approximately 5,000 square foot lots to the west and north of Puget Boulevard and 23rd Avenue SW. The subject lot and its surrounding lots to the east along 21st Avenue SW and to the south are larger, with the subject lot and the approximately 60,000 square foot lot to the south as the largest. Most lots contain mostly older single family residences.

Proposal

The proposal is to utilize the Land Use Code Administrative Conditional Use process to recover development credit on single-family lots containing *Environmentally Critical Areas* and construct eight (8) “clustered” single-family structures on the single existing lot. This ACU process allows up to the number of dwelling units that would be allowed by subdividing a property of a similar area and allows flexibility in certain development standards to minimize intrusion by the development in any *ECA* areas. The underlying zoning would allow eight (8) lots to be created. The proposed structures would be two to three-stories: two stories on their eastern facades and three stories on their western facades.

To minimize the intrusion and impact on the *steep slope* and *buffer* area along Puget Boulevard SW the eight structures and common access driveway are proposed on the eastern portion of the parcel. Puget Boulevard SW, where it turns eastward from its junction with 23rd Avenue SW would be improved no further east than the site’s eastern property boundary and to current street standards to allow site vehicular access.

Unit Lot Subdivision or *Short Subdivision* (short platting) through SMC 23.24.045 is planned under a separate MUP application to allow the fee-simple sale of each single-family structure after construction.

Public Comment

Five comment letters and associated telephone calls were received during the public comment period that ended October 19, 2005. One letter voiced strong support for the proposed development. Another expressed concern with the proposed vehicle access through Puget Boulevard SW bringing vehicles into “their backyard”, the possibility of proposed street improvements being in an *Environmentally Critical Area-Steep Slope*, and listing water drainage problems and ground slippage. A letter expressed that eight single-family structures are “too much” for the area because of increased traffic, services, noise and population. A property owner across the to-be-improved Puget Boulevard SW ROW requested that the improvements be located on the southern half of the ROW to avoid removal of trees planted along his property boundary.

ANALYSIS - ECA ADMINISTRATIVE CONDITIONAL USE (ACU) TO RECOVER DEVELOPMENT CREDIT AND PERMIT CLUSTERED DEVELOPMENT

Environmentally Critical Areas Regulations

Seattle Municipal Code (SMC) Sections 25.09.015 and 25.09.060 establish applicability and standards that for development within designated *Environmentally Critical Areas*. SMC Section 25.09.180 provides specific standards for all development on *steep slopes* and *steep slope buffers* on existing lots, including the general requirement that development shall be avoided in *steep slope* areas. The General requirements and standards described in Section 25.09.335 include the recording of ***Conditions of Approval*** and of the identified ECA areas in a permanent covenant with the property, as well as specific construction methods and procedures.

SMC Section 25.09.260 provides a process for DPD to authorize the recovery of development credit in a single-family zone through an Administrative Conditional Use review. This process allows flexibility in certain development standards (such as clustering of structures) to allow up to the same number of units on the lot as would be allowed if there were no *ECA* areas and seeks to minimize impacts on and intrusions into the *ECA* areas. The Director may approve, condition, or deny an application based upon a determination of whether the proposed recovery of development credit on the site meets the applicable criteria. The Director may approve, deny, or approve with conditions smaller than required lot sizes and yards (if future platting is anticipated) and / or more than one dwelling unit per lot if the proposal meets the applicable ACU criteria. But in no case can the Director allow more than the zone allowed number of lots or number of dwelling units than permitted by the underlying zoning. An ECA Administrative Conditional Use decision is a Type II decision, subject to the provisions of SMC 23.76, and is appealable to the City Hearing Examiner.

SMC 25.09.260.A. *When the applicant demonstrates it is not practicable to comply with the requirements of Section 25.09.240.B considering the parcel as a whole, the applicant may apply for an administrative conditional use permit, authorized under Section 23.42.042, under this section to allow the Director to count environmentally critical areas and their buffers that would otherwise be excluded in calculating the maximum number of lots and units allowed on the parcel under Section 25.09.240.E.*

The subject site contains *steep slope* areas along its west property boundary with the 23rd Avenue SW ROW. The east side of the ROW along the property boundary, which is undeveloped and not a part of the paved road surface, is comprised of continuous line of *steep slope* from north to south. The inclusion of the site's *steep slope* areas in the allowed unit calculation permits the otherwise allowed number of units in this Single-Family 5000 zone for this size parcel. The proposed location of the single-family structures on the east side of the subject parcel also avoids intrusion into the site's and majority of the adjacent ROW's *steep slope* areas.

B. Standards. *The Director may approve an administrative conditional use for smaller than required lot sizes and yards, and/or more than one (1) dwelling unit per lot if the applicant demonstrates that the proposal meets the following standards:*

1. Environmental Impacts on Critical Areas.

c. No development is on a steep slope area or its buffer unless the property being divided is predominantly characterized by steep slope areas, or unless approved by the Director under Section 25.09.180.B.2.a, b or c.

No development is proposed on the site's steep slope area. Additionally, by locating the single-family structures on the site's east side, intrusion into the majority of the *steep slope* in the 23rd Avenue SW ROW is avoided and removal of trees on the site's western boundary and in the ROW is avoided. Intrusion through the narrowest portion of the 23rd Avenue SW ROW's *steep slope* will occur for the Puget Boulevard SW street improvements. No improvements are proposed in possible *steep slope* area further east in the now undeveloped Puget Boulevard SW ROW.

(1) The preference is to cluster units away from steep slope areas and buffers.

The proposed single-family structures will be located entirely outside of the *steep slope* areas and *buffers*.

2. General Environmental Impacts and Site Characteristics.

a. The proposal keeps potential negative effects of the development on the undeveloped portion of the site to a minimum and preserves topographic features.

The proposed eight single-family structures would be located on the eastern two-thirds of the site. This area is gently sloping east to west in contrast to the western one-third of the site along the 23rd Avenue SW ROW. The proposed structure locations avoid the steeper sloped area. The grade elevations of the proposed structures, the individual driveways and the common access road have been set close to the existing grades (after providing the required safe roadway slopes) to minimize excavation, ground disturbance, and be consistent with the site's existing topography.

b. The proposal retains and protects vegetation on designated non-disturbance areas, protects stands of mature trees, keeps tree removal to a minimum, removes noxious weeds and protects the visual continuity of vegetated areas and tree canopy.

The development is proposed for the site's gently sloping eastern two-thirds. The majority of the site's mature trees are located along its southern property boundary and north to south through its central and western thirds. Because the optimal location for siting the proposed structures is one where the minimum amount of excavation would be required and on the least sloping portion of the parcel, removal of some trees will be required.

The original site plan proposed the removal of 60 of the parcel's 86 trees. To determine the health and importance of the trees proposed for removal, and the plans for protecting the trees that will remain during construction, DPD requested a tree inspection from the Seattle Department of Transportation (SDOT) arborist (City arborist). The SDOT arborist is DPD's usual resource for site tree inspections and review of applicant submitted tree removal proposals. The submitted site plan was prepared by the developer's applicant (Steve Speidel of RW Thorpe Associates) who is a Washington State licensed landscape architect.

After on-site inspection of the trees proposed for removal and their locations DPD determined that 9 additional trees could be preserved (for a total of 35 trees preserved) through alterations in the proposed landscape plan around some structures, reducing the extent of the proposed driveway along the south property boundary, and a more rigorous tree protection approach during construction. The site plan has been changed accordingly. Many of the trees to be removed are small or considered “weedy”, e.g. apple or cottonwood. To protect the trees to be preserved during construction, the project is *Conditioned* to install and maintain tree protection fences around the trees to be retained beginning at site excavation and grading and lasting for the life of the construction project (until final approval of construction).

The final proposed landscape plan will replace the current extensive areas of general weedy and invasive plant species on the eastern one-half of the parcel with a variety of native and drought tolerant species. A multi-layered and dense landscape area will be planted along the east property boundary to screen the project and maintain the vegetated visual continuity of this area. To assure successful establishment of the screening plants following their installation and sale of the individual structures (unit lot subdivision is anticipated) the MUP is *Conditioned* to include a landscape maintenance covenant that requires the irrigation and maintenance of the landscape screening on the parent lot or portions thereof on future individual lots, or if the area with the subject screening landscaping is in a collectively owned tract (or similar ownership arrangement of the landscaped area) the irrigation and maintenance of this landscaping will be the collective responsibility of all tract owners.

The areas where trees will be retained on site and off-site (in the ROW) by avoiding multiple curb-cuts for multiple lots (vehicle access across the wooded 23rd Avenue SW ROW) will preserve the existing visual continuity of the treed areas as seen from the street as well as adjoining properties. The new landscaping around the proposed structures and along the eastern property boundary will support the long-term visual continuity of the areas predominant vegetated character.

3. Neighborhood Compatibility.

a. The total number of lots permitted on-site shall not be increased beyond that permitted by the underlying single-family zone.

The underlying SF 5000 zoning would allow 8 lots to be created from the 42, 396 square foot site, and hence 8 single-family structures. This proposal is for 8 single-family structures.

c. The development is reasonably compatible with and keeps the negative impact on the surrounding neighborhood to a minimum. This includes, but is not limited to, concerns such as neighborhood character, land use, design, height, bulk, scale, yards, pedestrian environment, and preservation of the tree canopy and other vegetation.

The development proposes 8 single-family structures of a size and design typical for this style of building in similar single-family zones. Each two and one-half to three story structure would conform to the height restrictions of the SF 5000 zone. One and two-car garages are provided. Front, side and rear yards for resident outside activity and separation between structures is also provided. Pedestrian access will be provided on the proposed access driveway.

The proposed site plan preserves the “green belt” character of the site’s 23rd Avenue SW frontage by extending the access driveway south from the to be improved Puget Boulevard SW ROW. The common access driveway will therefore require only one curb-cut on a street, and not eight curb cuts, as would be likely with eight conventionally platted lots. This is particularly important because of neighborhood comments about occasional high traffic volumes and conflicts on 23rd Avenue SW.

The Land Use Code requires street improvements to 23rd Avenue SW. The current road surface adjacent to the project parcel is approximately 14 feet in width. Pursuant to SMC 23.53.015, Improvement Requirements for Existing Streets in Residential and Commercial Zones, the road surface must be widened to 20 feet along the length of the site and 100 feet beyond.

In addition to the landscape screening buffer discussed above and shown on the plans, a 6-foot high vertical cedar plank fence is included along the site’s east property boundary and on the neighboring property to the southeast (by easement) to provide visual screening between the proposed structures, their driveways, the common north to south access road and the properties and their structures to the east. A **Condition** of project approval is the submission of the fence and landscape easement to the project planner for review and then recording prior to permit issuance.

The fence and landscape screening will be located in an existing sanitary sewer easement extending north to south from Puget Boulevard SW. Installation and construction of these improvements is approved by Seattle Public Utilities (SPU) provided they are installed per SPU specifications assuring the protection of the sewer line and that all future owners are responsible for the removal and replacement of these items if excavation and/ or maintenance, repair, or replacement work must be performed to the line in the easement. The project is therefore **Conditioned** to record this requirement with the King County Assessor’s Office. This requirement shall run with the land and any future subdivision.

As sited and designed, the structures will be compatible with the eclectic variety of existing single-family structures in the surrounding neighborhood. No negative impacts on neighborhood character are anticipated from this proposal.

C. Conditions.

- 1. In authorizing an administrative conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions necessary to protect riparian corridors, wetlands and their buffers, shoreline habitats and their buffers, and steep slope areas and their buffers, and to protect other properties in the zone or vicinity in which the property is located.*

The project and accompanying geo-technical report were reviewed by DPD’s geotechnical engineer and, following the submittal of additional information, found to not have adverse impacts on the site’s *steep slopes* and *buffers* or other properties in the surrounding zone or vicinity. Other project **Conditions**, as outlined in this document have been imposed to protect trees and vegetation and assure neighborhood compatibility.

2. In addition to any conditions imposed under subsection 1, the following conditions apply to all administrative conditional uses approved under this subsection:

- a. *Replacement and establishment of native vegetation shall be required where it is not possible to save trees or vegetation.*

The proposed siting of all buildings, access roads, and other site improvements maximizes the retention of trees and vegetation. The proposed site plan does, however, require the removal of 51 trees. None of the trees by size are considered *Exceptional*, as defined in DPD Director's Rule 6-2001. As noted above, many of the trees proposed for removal are either small fruit trees (apple) or "weedy" species, such as cottonwood. Most ground cover vegetation (other than trees) in the area proposed for structures and access roads is invasive weeds, although a minimal amount of native vegetation may be slated for removal by this proposal.

To replace the trees and lower vegetation to be removed by this project, a Landscape Plan was submitted that proposes to plant trees, shrubs, and ground cover plants, the majority of which will be drought tolerant and native. The maintenance of the plantings in the approved Landscape Plan is a **Condition** of ACU approval, as noted above.

- b. *Where new lots are created, the provisions of Section 23.22.062, Unit lot subdivisions, or Section 23.24.045, Unit lot subdivisions, apply, regardless of whether the proposal is a unit lot subdivision, so that subsequent development on a single lot does not result in the development standards of this chapter being exceeded for the short subdivision or subdivision as a whole.*

Unit lot subdivision for the separate sale of the proposed eight buildings is anticipated. SMC 23.24.045, Unit Lot Subdivision, notes that the unit lot subdivision of a lot approved and in conformance with development standards at the time of the (building) permit application (and in conformance with any applicable MUP approvals, such as this ACU application) may become nonconforming based on an analysis of the subsequent individual unit lot, and therefore any subsequent platting actions, additions, or modifications to the structures may not create or increase any nonconformity of the parent lot. Further this section requires a note on the recorded plat stating that the unit lots are not separate buildable lots, and that additional development of the individual unit lots may be limited as a result of the application of the development standards to the parent lot. However, any development of any non-disturbance tract (if created) will be prohibited by the terms of the *ECA* permanent covenant as required by SMC 25.09.335 and noted above.

DECISION – ADMINISTRATIVE CONDITIONAL USE

The proposal to recover development credit is **CONDITIONALLY APPROVED.**

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist dated September 7, 2005. This information, along with the experience of the lead agency in similar situations, forms 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) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising SEPA authority. The Overview Policy 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. Further, under SMC Section 25.05.908 B, the scope of environmental review within critical areas is limited to documenting that the proposal is consistent with ECA regulations, SMC Chapter 25.09, and to evaluating potentially significant impacts on the environmentally critical areas resources not adequately addressed in the ECA Policies or the requirements of Chapter 25.09.

The proposal, as conditioned by this decision, is determined to be consistent with ECA regulations. In addition, several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code (soil erosion); and Building Code (construction standards for retaining walls and foundations in *steep slope* areas). Compliance with these codes and ordinances will be adequate to achieve sufficient mitigation of identified adverse impacts. However, under certain limitations or circumstances mitigation can be considered (SMC 25.05.665.d); therefore, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: slope stability, increased soil erosion during general site work and increased runoff. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC Section 25.05.794).

Earth (slope stability) and Erosion

There is a potential for erosion during grading and excavation for the road improvements, access driveway, and structures. The applicant will follow recommendations from the soils engineer and DPD geo-tech reviewer. Pursuant to these proposals, and by complying with the requirements of Director’s Rule 3-93 and 16-00 (the latter for implementation of Best Management Practices) and Environmentally Critical Areas requirements, no additional mitigation is necessary.

Long-term Impacts

Long-term or use-related impacts are also anticipated from the proposal: increased surface water runoff from greater site coverage by increased impervious surfaces and possible soil instability and increased neighborhood traffic. These long-term impacts are not expected to be significant.

The expected long-term impacts are typical of single family residential development and are expected to be mitigated by the City's adopted codes and/or ordinances. Regarding increased surface water runoff from increased impervious surface and possible soil instability the specific ordinances are: the Stormwater, Grading and Drainage Control Code and Building Code requirements and ECA regulations respectively.

Traffic impacts from eight single-family residences will be minimal and are provided for by the current street system and surrounding zoning designation. The ITE Trip Generation Manual (7th edition) predicts that eight single-family structures should generate 77 new daily vehicle trips with 6 of these "AM peak hour" and 8 "PM peak hour" trips.

Street improvements on the currently 14 to 16 foot wide paved section of Puget Boulevard adjacent to the project site and south to South Hudson Street will be required per Code. The existing roadway will be widened to a paved surface width of 20 feet. The currently undeveloped portion of Puget Boulevard SW (east of the intersection of Puget Boulevard SW with 23rd Avenue SW) will be improved with a storm drain system and paved roadway per City of Seattle specifications.

A local generator of vehicle trips is South Seattle Community College. According to DPD's transportation planner, the peak traffic time for the College is between noon and 1 PM (documented in the April 2005 South Seattle Community College Major Institution Master Plan DEIS). At these College peak times, the proposed project likely would generate even less traffic than anticipated at its own peak times, thereby causing no appreciable impacts on the local street system.

The required street improvements will assure the project's minimal increased traffic will be safely accommodated by the surrounding street system and will not result in any significant adverse traffic impacts. Consequently, no SEPA mitigation is warranted.

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.

[X] 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 - ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT
AND PERMIT CLUSTERED DEVELOPMENT:**

Non-appealable Conditions of Approval

1. Record a covenant that restricts development to the area designated on the site plan for disturbance (the area east of the western edge of the landscape area along the western side of the building areas). The covenant shall also delineate the *steep slope* and required 15-foot buffer. The covenant shall run with the land and any future subdivision. The covenant shall be in the form given to the applicant by DPD, reviewed and approved by DPD, and recorded prior to the issuance of the MUP permit.
2. Any proposed changes to the site plan must be submitted to DPD for review and approval by the Land Use Planner (Art Pederson, 733-9074).
3. The project constructed shall comply with all images and text on the MUP drawings. This shall be verified by the DPD planner assigned to this project (Art Pederson, 733-9074), prior to the issuance of the Certificate of Occupancy. An appointment with the assigned Land Use Planner must be made at least three working days in advance of field inspection. The Land Use Planner will determine whether submission of revised plans is required to ensure that compliance has been achieved.
4. Embed all conditions in the cover sheet for the MUP permit and for all subsequent permits including updated MUP plans, and all building permit drawings.

Condition of Approval Prior to Issuance of MUP Permit

5. Submit a draft covenant requiring the current and any future owner(s) of the parcel, future divided parcels, or a separate landscape and/or access easement tract containing the landscape screening and screening fence, to maintain the landscaping (watering and general care) shown on the approved MUP plans to assure the healthy establishment of said landscaping. This covenant shall bind the current and any future owner(s) of the parcel, or future divided parcels containing the landscaping, to maintain the landscaping and fencing in a form that effectuates the intended substantial visual screening.
6. Submit the fence and landscape easement (for the off-site location of the east property boundary screening fence and any off-site landscaping) to the project planner for review and then recording prior to MUP permit issuance.

Condition of Approval Prior to Issuance of Any Construction Permits

7. The site and landscaping plans shown in the building permit plans must be reviewed and approved by the project planner to verify conformance with the approved MUP design.

8. Tree protection fences delineating tree protection areas must be installed around the trees to be retained shown on the site plan and/or discussed in this decision. Each fence shall be placed at the drip line of the trees or a distance of one foot (from the trunk at ground level) for every inch of trunk diameter, at a minimum.
9. Record the required landscape maintenance covenant after approval by the land use planner and submit a copy of the recorded document to the construction permit zoning planner.
10. Record a covenant to notify and require any current and future owners of their responsibility for the removal and replacement of landscape screening and fencing in the sanitary sewer easement if excavation and/ or maintenance, repair, or replacement work must be performed to the line in the easement.

Condition of Approval Prior to Final Construction Inspection

11. On-site verification of conformance with the approved site and landscape designs as shown in the building permit plans and conforming to the approved MUP design, or subsequently revised and approved by the DPD planner assigned to this project (Art Pederson, 733-9074) shall occur before final approval of construction. An appointment with the assigned Land Use Planner must be made at least three working days in advance of field inspection. The Land Use Planner will determine whether submission of revised plans is required to ensure that compliance has been achieved.

CONDITIONS - SEPA

None.

Signature: (signature on file)
Art Pederson, Land Use Planner
Department of Planning and Development

Date: January 15, 2007