



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 Numbers:** 3004785  
**Applicant Name:** Randall Spaan  
**Address of Proposal:** 1533 M L King Jr Way

**SUMMARY OF PROPOSED ACTIONS**

Land Use Application to subdivide one parcel into two parcels of land in an environmentally critical area (Steep Slope). Proposed parcel sizes are: A) 4,797.2 sq. ft. and B) 4,797.2 sq. ft. The existing single family residence is to be demolished.

The following approvals are required:

**Short Subdivision** - To create two parcels of land. (Seattle Municipal Code Chapter 23.24).

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

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

**BACKGROUND DATA**

Site Description

The site is approximately 9,595 square foot in total lot area and is located in a single-family residential zone in the Capital Hill neighborhood of Seattle. The Single-family zone has a required minimum lot size of 5,000 sq. ft. (SF5000). The subject site is on the southwest corner of E. Pine Street and M L King Jr Way. The site is rectangular in shape and has street frontage on both E. Pine St. and M L King Jr Way that is 80-feet wide on M L King Jr Way and approximately 120-feet wide on E. Pine St. The site is currently developed with an existing single-family residence. Access to the site is from a 16-foot concrete alley. The majority of the property is essentially flat, with narrow portions containing slopes steeper than 40% adjacent to the north right-of-way of E. Pine St., as well as the east right-of-way of M L King Jr Way.

These slopes have been stabilized by segments of “Alpine Style” rockeries. Vegetation on-site includes grass, weeds, scattered shrubs and trees. The proposal site is considered environmentally sensitive because of Steep Slope. M L King Jr Way is a 30-foot wide improved right of way with sidewalks, curbs and gutters on either side of the street and E. Pine St. is a 40-foot wide improved right of way with sidewalks, curbs and gutters on either side of the street.

The subject site is in a heavily developed residential area. The site is situated on the upper portion of a moderate to very steep, easterly declining slope. A geotechnical (Evaluation) report by Dennis M. Bruce, P.E. and dated March 6<sup>th</sup>, 2006 was submitted to DPD. Based on submitted document the slope on the east right of way of M L King Jr Way and the north right of way of E. Pine St. is a 40 percent slope. The existing structure to be removed is located on the upper flat part of the site. This proposal shall meet development standards for ECA Submittal, General and Landslide Hazard. This proposal requires SEPA.

#### Area Development

Zoning and development in the vicinity of the proposal site is predominately Single-Family Residential with a minimum lot size of 5,000 sq. ft. (SF5000). The project site and surrounding area to the west, east and south is zoned Single-family 5,000 (SF5000). Lowrise One (L1) zoning is located to the northwest of the site and also further south of the site, beyond the Single-family zoning.

#### Proposal Description

The applicant proposes to subdivide one parcel into two parcels of land in an environmentally critical area (Steep Slope). Both parcels are proposed to be less than the minimum lot area requirement of 5,000 square feet. Each parcel is proposed to have a site area of 4,797.2 square feet. The residential structure is to be removed. Vehicle access will be from the 16-foot concrete alley.

#### Public Comments

No comment letters were received during the comment period that ended May 31<sup>st</sup>, 2006.

### **ANALYSIS -SHORT SUBDIVISION**

Pursuant to SMC 23.24.040, no short subdivision shall be approved unless all of the following facts and conditions are found to exist. The findings which follow are based upon information provided by the applicant; review of access, drainage and zoning within the Department of Planning and Development (DPD); review from Seattle Public Utilities, Seattle Fire Department and Seattle City Light; and, review by the Land Use Planner.

#### *1. Conformance to the applicable Land Use Code provisions;*

The subject property is zoned for single-family residential with a minimum lot size of 5,000 square feet. The allowed use in a single-family zone is one dwelling unit per lot, with accessory dwelling units meeting the provisions of SMC 23.44.041 and multiple single-family dwelling units on a single-family lot meeting the provisions of SMC 23.24.046. Maximum lot coverage is 35% or 1,750 sq ft whichever is greater or as

modified by SMC 23.24.046. Front yard setbacks are an average of the neighboring adjacent lots, or twenty (20) feet, whichever is less. The minimum side yard setbacks are five (5) feet, except as modified by 23.24.046-B5. Minimum rear yard setbacks are twenty-five (25) feet or if lot depth is less than one-hundred-twenty five feet (125'), 20% of lot depth, or as modified by 23.24.046-B5.

This short subdivision was submitted on the basis of application of the 75% - 80% rule pursuant to SMC 23.44.010.B.1.b. By subdivision, lots in a single family zone may be created which are “[at] least seventy-five (75) percent of the minimum required lot area and [are] at least eighty (80) percent of the mean lot area of the lots on the same block face within which the lot will be located and within the same zone”. Seventy-five (75) percent of the minimum lot size of the SF 5000 zone is 3,750 square feet. Eighty percent of the mean lot size of the lots on the west side of the subject block face of M L King Jr Way, is 3,840 square feet, according to information submitted in the application. The proposed lot areas of Lots A and B are each 4,797.2 square feet. Both proposed lots are greater than eighty percent of the mean lot area of the lot on the same block face (3,840 sq. ft.) and greater than seventy-five (75) percent of the minimum required lot area (3,750 sq. ft.). Thus, the proposed lot configuration meets the exception to the minimum lot area as contained in SMC 23.44.010.B.1.b.

The lots created by this proposed division of land will conform to all applicable development standards of the SF 5000 zoning designation. Each of the proposed parcels provide adequate buildable lot area to meet applicable setbacks, yards, lot coverage requirements, parking and other Land Use Code development standards.

The parcels created by this proposed subdivision of land would conform to all development standards of the SF 5000 zone. Each lot will have adequate buildable lot area to meet applicable parking, yards and lot coverage requirements.

2. *Adequacy of access for vehicles, utilities and fire protection as provided in Section 23.53.005;*

Each of the proposed parcels will have adequate access for vehicles, utilities and fire protection from the street. Vehicle access to the site will be from the 16-foot concrete alley. Seattle City Light has reviewed and approved this application and does not require property rights for this short plat. The Seattle Fire Department reviewed and approved this proposal.

3. *Adequacy of drainage, water supply, and sanitary sewage disposal;*

Sanitary Sewer: The existing house located upon proposed Short Plat is connected by means of a single side-sewer to a 8-inch public sanitary sewer (PSS) located in M L King Jr Way. This mainline was originally constructed as a combined sewer, and as such, there are likely to be downspouts and area drains still connected to what is now considered to be, for purposes of redevelopment, a sanitary sewer.

Drainage: As note above, this area ha been separated with construction of a 42-inch public storm drain (PSD) on the far side of M L King Jr Way. This mainline discharge to a Designated Receiving Water

Seattle Public Utilities reviewed the short subdivision application and approved a **Water Availability Certificate ID, No. 20060803 on May 3<sup>rd</sup>, 2006**. All conditions on the certificate must be met prior to receiving water service.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed short plat meets the minimum provisions of the Seattle Land Use Code. The proposal meets all applicable criteria for approval of a short plat as discussed in this analysis and decision. The public use and interests are served by permitting the proposed division of land.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

The site topography is a relatively flat upper area, with a steep downward slope to the east. The majority of the property is essentially flat, with narrow portions containing slopes steeper than 40% adjacent to the north right-of-way of E. Pine St., as well as the east right-of-way of M L King Jr Way. These slopes have been stabilized by segments of “Alpine Style” rockeries.

An Limited ECA Exemption request was granted: “Based on the submitted information, the steep slope areas on this property were created by previous legal grading. Therefore, a Limited ECA exemption is granted and the ECA Steep Slope Development Standards (i.e., the threshold disturbance level of 30 percent of the Steep slope Critical Areas) are waived. All other ECA Submittal, General, Landslide Hazard, and development standards still apply for this property”. March 27<sup>th</sup>, 2006; rmm

The slope to the west part of the site is about 10 feet high and up to approximately 36 percent. The slope on the east side of the site is about 24 feet high and ranges between 34 and 67 percent grade on the north and south parts of the slope. The full height of the eastern slope is located within the site property. The existing structures to be removed are located on the upper flat part of the site.

The site is situated on the upper portion of a moderate to very steep, easterly declining slope. A Geotechnical Report by Geo Group Northwest, Inc. and dated August 8<sup>th</sup>, 2005 was submitted to DPD with this project. Based on submitted document the site has a slope of approximately 34 to 67 percent and then continues to slope down westerly at about 37 percent toward the east boundary of the site. A concrete retaining wall starts from the north side of the existing house to the north-eastern corner of the property. The height of the retaining wall is 4 feet and decreases northeasterly to about one foot. A limited ECA exemption is granted and the ECA Steep Slope Development standards (i.e., the threshold disturbance level of 30 percent of the steep slope Critical Area) are waived. All other ECA Submittal, General, Landslide Hazard, and development standards still apply for this property. This proposal requires SEPA.

The construction plans and erosion control techniques will be reviewed by DPD. Any additional information required to, show conformance with applicable ordinances and codes (ECA ordinance, the SGDCC, DR 3-93, and 3-94) will be required of the applicant prior to issuance of building permits. Construction in compliance with these conclusions and recommendations, as well as applicable provisions of the ECA Ordinance and DR 3-93, will adequately mitigate expected earth impacts; therefore, no further mitigation in this regard pursuant to SEPA is warranted.

6. *Is designed to maximize the retention of existing trees;*

There are 7 trees on the proposed site. There is a Big Leaf Maple tree, two ornamental Cherry trees, Poplar Pine tree, Magnolia, Silver Fir tree and a Western White Pine tree. Two ornamental Cherry trees are expected to be removed as a result of this short subdivision. There is one 7-inch Western White Pine on the property, at the top of the slope, adjacent to E. Pine St. that may possibly be removed. All other trees are to be retained. This proposal allows for minimal removal of trees. There does not appear to be any alternate plat design which would better minimize retention of trees. Therefore, this proposal is designed to maximize the retention of existing trees.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single family housing.*

Section 23.24.045 is not applicable because the proposed short subdivision is not for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses.

## **DECISION - SHORT SUBDIVISION**

The proposed Short Subdivision is **CONDITIONALLY GRANTED**.

## **SEPA DETERMINATION:**

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated May 28<sup>th</sup>, 2004. The information in the checklist, the supplemental information submitted by the applicant, field inspection, public comments and the experience of the lead agency with similar projects form the basis for this analysis and decision. Note that pursuant to SMC 25.05.908.B, the scope of the environmental review of the subject short subdivision is limited to:

1. Documenting whether the proposal is consistent with The City of Seattle Regulations for Environmentally Critical Areas, SMC Chapter 25.09; and

2. Evaluating potentially significant impacts on the environmentally critical area resources not adequately addressed in The City of Seattle Environmentally Critical Areas Policies or the requirements of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, including an additional mitigation measures needed to protect the environmentally critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

The Department of Planning and Development has analyzed the environmental checklist submitted by the applicant; reviewed the project plans and the additional information in the file; and any comments which may have been received regarding this proposed action have been considered. As indicated in the checklist, this action may result in impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

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 substantive SEPA authority.

The Overview Policy states, in part, that "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 some limitations. Under such limitations or circumstances (SMC 25.05.665 D1-7) mitigation can be considered.

### **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 2c.
- 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 2c.

### **CONDITIONS – SEPA**

None.

