



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: 3007099
Applicant Name: Brittani Ard
Address of Proposal: 4133 - B 21st Ave SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a 2,500 sq. ft. single family residence in an environmentally critical area.

The following approval is required:

Environmentally Critical Area - Variance – to allow development of up to 30% of the steep slope and buffer area.

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

BACKGROUND DATA

Site Description

The site is located between 22nd Ave SW and 21st Ave SW. The site is also north of SW Genesee St and south of Dakota Street. The subject property contains steep slope and is a potential slide area. The western portion of the lot contains the majority of the slope while the eastern easement portion of the development site does not contain designated steep slopes, but the land has a slight slope.

Zoning for the site is Single Family Residential (SF 5000). The development site is currently vacant of any structures. Surrounding development consists of one to two story single family structures with garages.

Description of Proposal

The applicant proposes to construct a new single family residential unit with a two car garage.

The proposed structure would be located within the steep slope and the steep slope area buffer. The proposed development will disturb approximately 30% of the steep slope area.

The proposed structure would be located in the steep slope area and buffer as well as potential slide areas. The proposed development would disturb 30% of the steep slope areas.

Public Comment

Notice of the proposal was issued on August 7, 2008 and ended on August 20, 2008. No comment letters were received.

Environmentally Critical Areas Regulations

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 these areas whenever possible.

SMC Section 25.09.180.E authorizes variances to ECA development standards. Development may occur in up to 30% of the steep slope area with this variance, subject to specific criteria. Relevant criteria are discussed below. ECA Variance decisions are Type II decisions, subject to the provisions of SMC 23.76 and are appeal-able to the City Hearing Examiner.

General Requirements and standards are described in Section 25.09.060 of the ECA ordinance and include the recording of conditions of approval, the recording of the identified ECA areas in a permanent covenant with the property as well as specific construction methods and procedures. The proposal must also comply with the specific requirements for development in areas with landslide potential areas (Section 25.09.080), steep slopes (Section 25.09.180), riparian corridors (Section 25.09.200.A), and trees and vegetation (Section 25.09.320). All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

ANALYSIS – STEEP SLOPE AREA VARIANCE

Pursuant to SMC 25.09.180.E the Director may reduce the steep slope area buffer and authorize limited development in the steep slope area and buffer only when all of the facts and conditions stated in the numbered paragraphs below are found to exist:

Criteria and responses for granting a steep slope area variance found in SMC 25.09.180 E are listed below:

B. The Director may reduce the steep slope area buffer and may authorize limited intrusion into the steep slope area and steep slope buffer to the extent allowed in subsection E2 only when the applicant qualifies for a variance by demonstrating that:

- 1. The lot has been in existence as a legal building site prior to October 31, 1992.***

The subject property was in existence prior to October 31, 1992.

2. ***The proposed development other-wise meets the criteria for granting a variance under Section 25.09.280B, except that reducing the front or rear yard or setbacks will not both mitigate the hardship and maintain the full steep slope area buffer.***

Reducing the setback would not help relieve the proposal from hardship in building a single family dwelling unit on the lot. Further, reducing the setbacks would not decrease the intrusion into the steep slope area. Virtually all of the buildable area of the site is characterized with steep slopes.

3. ***If any buffer reduction or development in the critical area is authorized by a variance under subsection E1, it shall be the minimum to afford relief from the hardship and shall be in the following sequence of priority:***
 - a. ***Reduce the yards and setbacks, to the extent reducing the yards or setbacks is not injurious to safety;***
 - b. ***Reduce the steep slope area buffer;***
 - c. ***Allow an intrusion into not more than thirty percent (30%) of the steep slope area.***

Steep slopes and buffers cover almost the entire site development area, causing unnecessary hardship. Reducing the front, side, or rear yards would not provide adequate relief from disturbing the steep slope area. Reducing the setback would not help relieve the proposal from hardship in building a single family dwelling unit on the lot. Further, reducing the setbacks would not decrease the intrusion into the steep slope area because the site nearly covers the entire site with steep slopes. The steep slope buffer is located in an area where reducing it would not afford relief from disturbing the steep slope or the buffer. The proposed development follows the sequence of priority and does not create an intrusion of more than 30% of the steep slope area. The proposal therefore meets this criterion.

4. ***The Director may impose additional conditions on the location and other features of the proposed development as necessary to carry out the purpose of this chapter and mitigate the reduction or loss of the yard, setback, or steep slope area or buffer.***

The applicant will be required to record the non-disturbance areas with the King County Office of Records and Elections along with the construction permit in a form approved by the Director. At the same time, a covenant protecting non-disturbance areas shall be recorded.

Conditions imposed as a means of compliance with the ECA ordinance are non-appealable. General Requirements and standards are described in Section 25.09.060 of the ECA ordinance and include the recording of conditions of approval, the recording of the identified ECA areas in a permanent covenant with the property as well as specific construction methods and procedures. The proposal must also comply with the specific requirements for development in areas with landslide potential areas (Section 25.09.080), steep slopes (Section 25.09.180), riparian corridors (Section 25.09.200.A), and trees and vegetation (Section 25.09.320).

C. When an environmentally critical areas variance is authorized, the Director may attach conditions regarding the location, character and other features of a proposed development to carry out the spirit and purpose of this chapter.

Applicable conditions are listed in the Conditions section below.

DECISION – STEEP SLOPE AREAS VARIANCE

ECA Variance to allow development of up to 30% of the areas measured over 40% steep slope and to place development in the steep slope buffer is **CONDITIONALLY GRANTED.**

CONDITIONS

Prior to Issuance of a Master Use Permit

1. Permanent visible markers shall be placed along the edge of the non-disturbance area as approved on the site plan. Markers should be consistent with Director's Rule 4-2007. The markers shall be either reinforcing steel or metal pipe driven securely into the ground with a brass cap affixed to the top similar to survey monuments. The brass cap shall be visible at the ground surface and indicate the purpose of the marker. Markers shall be placed at all points along the edge of the non-disturbance line where the line changes direction. Markers must be in place before issuance of this Master Use permit.
2. On the site plan, in the area that is marked "limits of construction activity," please label that area to be the non-disturbance area. Identify the location of all permanent markers along the edge of the non-disturbance area. Include a statement that permanent markers have been installed as shown on site plan.

Prior to Issuance of Any Construction Permits

The owner and/or responsible party shall:

3. Show on the site plan the location of permanent ECA markers on all site plans..
4. Show on building plans the location of a temporary, durable, highly visible construction fence at the boundary between the construction activity area and areas of steep slope and steep slope buffer which are to be left undisturbed. (25.09.060)
5. Submit an ECA Covenant.

Signature: _____ (signature on file) Date: November 10, 2008
Laura Kim, Land Use Planner
Department of Planning and Development

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