



City of Seattle

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: 3007251
Applicant Name: Paul Pierce
Address of Proposal: 7758 Delridge Way SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow two, 4-unit townhouse structures in an environmentally critical area. Parking for eight vehicles to be provided at grade. Project includes 200 yards of grading under a separate permit.

The following approvals are required:

ECA Variance – to allow disturbance within a steep slope ECA.
Sections SMC 25.09.180.E and 23.09.280.B

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

BACKGROUND INFORMATION

Site Description

The site is located on Delridge Way SW on three abutting platted lots. The lots are undeveloped and vegetated predominantly with small deciduous trees and non-native blackberry. The lot slopes up from Delridge Way to the east. In the eastern third of the site the slope steepens to a grade that exceeds 40 percent. Therefore, it is regulated as a steep slope environmentally critical

area (ECA) under the City of Seattle's Regulations for Environmentally Critical Areas. The site is bounded by SW Kenyon St to the south, developed single-family properties to north, and an unopened alley right-of-way and developed single-family properties to the east. The site is rectangular, with 123 feet of frontage along Delridge Way SW., a depth of 128 to 129 feet, and a total combined lot area of 15,768 sq. ft. The site is zoned Lowrise 1 (LR1), as are the lots to the south, west, and north. Lots to the east are zoned Single-Family 5000 (SF5000).

Description of Proposal

The applicant is proposing construction of two four-unit townhome dwelling units (eight units total) with surface parking for eight vehicles. Since an existing unopened alley along the eastern side of the site is designated as undevelopable because it is a steep slope ECA, proposed access will be from Delridge Way SW. The proposed townhouse development is three stories in height and contains a total of 8,000 square feet of living space. The steep slope variance application is requesting allowance of a 10-foot temporary encroachment into the steep slope ECA for excavation and access during construction. Less than 27 percent of the steep slope on the development sight would be temporarily disturbed during construction. The proposed townhouses would be outside of the steep slope ECA but inside the typically required 15-foot steep slope buffer.

Public Comment

Notice of the proposal was provided on June 21st, 2012 and ended July 4th, 2012. No public comments were received.

Environmentally Critical Areas Regulations

General Requirements and standards are described in Section 25.09.060 of the ECA ordinance (SMC Chapter 25.09). 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. Tree and vegetation standards are found at SMC 25.09.320.

ANALYSIS – STEEP SLOPE ECA VARIANCE

The applicant has requested an Environmentally Critical Areas Variance to temporarily disturb a steep slope ECA and allow building construction in a steep slope ECA buffer. Pursuant to SMC 25.09.180.E the Director may authorize limited development in the steep slope ECA only when *all* of the facts and conditions stated in the numbered paragraphs below are found to exist:

SMC 25.09.180.E. Steep slope ECA Variance.

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

- a. the lot where the steep slope or steep slope buffer is located was in existence before October 31, 1992; and*

The three lots composing the project site were created as part of the Dumar Div. No 2 plat approved by the City of Seattle in 1919.

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

As shown by the topographic survey and site plan provided with the application, the eastern one-third of the site is designated as a steep slope ECA and steep slope buffer. Strict application of the steep slope ECA development standards in the City of Seattle's Environmentally Critical Areas regulations would prohibit any land disturbing activity in the steep slope ECA, thus preventing building construction in a significant portion of the site. Under the current proposal, only eight dwelling units are proposed, when the underlying zoning would allow 10 units. Building coverage is only proposed to be 3,000 square feet between the two townhouse structures, while the zoning for the site would allow up 7,884 square foot of lot coverage. Staying completely out of the steep slope ECA and buffer would eliminate at three or four additional townhouse units, depending on the altered design and construction methods used.

Extending the development into the front yard setback would only gain an additional 15 feet of developable area, which would not allow the project to stay out of the steep slope and buffer. Due to the site topography in the front yard setback, nearly all of this setback area is needed for construction of a shared driveway access off Delridge Way SW. Allowing development to extend into the required rear year setback area would increase the amount of development in the steep slope ECA, rather than eliminate or reduce it. In summary, reduction of the front yard or rear yards would not allow the building footprints to be constructed outside of the steep slope and steep slope buffers. Therefore, front and/or rear yard reductions would not fully mitigate the hardship created by the strict application of the steep slope standards.

Criteria and responses for granting a variance found in SMC 25.09.280.B is discussed below:

SMC 25.09.280.B. Yard and setback reduction and variance to preserve ECA buffers and riparian corridor management areas.

The Director may approve a yard or setback reduction greater than five feet (5') in order to maintain the full width of the riparian management area, wetland buffer or steep-slope area buffer through an environmentally critical areas yard or setback reduction variance when the following facts and conditions exist:

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

See response to SMC 25.09.180.E.1.a, above.

2. ***Because of the location of the subject property in or abutting an environmentally critical area or areas and the size and extent of any required environmentally critical areas buffer, the strict application of the applicable yard or setback requirements of Title 23 would cause unnecessary hardship; and***

See response to SMC 25.09.180.E.1.b, above.

3. ***The requested variance does not go beyond the minimum to stay out of the full width of the riparian management area or required buffer and to afford relief; and***

This criterion is not applicable since there is no riparian management area or required (riparian) buffer on-site.

4. ***The granting of the variance will not be injurious to safety or to the property or improvements in the zone or vicinity in which the property is located; and***

The applicant has provided a geotechnical report with several addendums, which address development on this site:

- “Geotechnical Engineering Study” subject site, Geotech Consultants, January 14th, 2005
- “Geotechnical Engineering Study Addendum,” subject site, Geotech Consultants, May 21, 2009
- “Review of Plans,” subject site, Geotech Consultants, December 15th, 2011
- “Review of Plans,” subject site, Geotech Consultants, August 15th, 2012

These reports include recommendations regarding excavation, foundations, drainage, utilities, and erosion control during construction. The DPD geotechnical engineer approved the geotechnical reports and proposed development configuration with no additional recommendations.

Based on information and conclusions presented in these abovementioned reports, granting the variance to minimally intrude into the steep slope ECAs will not be injurious to safety, property, or improvements in the zone or vicinity.

5. ***The yard or setback reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining; and***

As noted above, the applicant is not proposing to reduce the front yard because this area is needed for the only practicable vehicle access to the site. Reduction of the rear yard setback is not proposed because it would not reduce disturbance to the steep slope and buffer.

6. ***The requested variance would be consistent with the spirit and purpose of the environmentally critical policies and regulations.***

The environmentally critical area policies and regulations were created to protect ecological functions, prevent erosion, and protect the public health, safety and welfare in landslide-prone (including steep slope) areas, while permitting landowners to pursue reasonable development that does not cause injury to persons, property, public resources or the environment. The applicant is proposing to construct two four-unit townhouses on a site on which 34 % of the land is a steep slope ECA. Variance relief will allow temporary disturbance of approximately 27 % of this steep slope ECA to allow reasonable development on the property. The remainder of the steep slope ECA will remain permanently undisturbed in a naturally vegetated state. The temporarily disturbed steep slope ECA will be revegetated with appropriate native vegetation. The proposal would be consistent with the spirit and purpose of the environmentally critical policies and regulations.

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.

Additional conditions are not warranted or required.

SMC 25.09.180.E. Steep slope ECA Variance.

- 2. 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 ECA buffer;***
 - c. allow an intrusion into not more than thirty percent (30%) of the steep slope ECA.***

As discussed above, the applicant is not proposing to reduce the front or rear yards. The steep slope buffer will be permanently reduced to accommodate the footprint of the proposed townhouse structures, three surface parking spaces, and catchment walls recommended by the applicant's geotechnical engineer consultant. Disturbance in the steep slope ECA would be temporary and is necessary for access and excavation of foundations the townhouses and the catchment. The steep slope ECA will be re-contoured and revegetated following construction. The proposed temporary encroachment is 26.6 percent of the steep slope ECA, less than the maximum allowed intrusion of 30 percent that can be allowed with a steep slope variance. The proposed development follows the required sequence of priority and does not exceed the maximum steep slope ECA intrusion.

- 3. 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 ECA or buffer.***

No additional mitigation or conditions are warranted.

ECA CODE REQUIREMENTS:

The owner and/or responsible party shall provide a signed and notarized ECA Covenant to the Seattle Department of Planning and Development for recording with the King County Recorder prior to the issuance of the building permit for this project. The covenant shall reference to an approved site plan identifying the non-disturbance area of the steep slope ECA. The owner and/or responsible party shall also install the permanent visible ECA markers established at the edge of the non-disturbance area ECA. Markers shall be installed in accordance with instructions contained in Director's Rule 4-2007.

DECISION – STEEP SLOPE ECAS VARIANCE:

GRANTED.

CONDITIONS OF VARIANCE APPROVAL:

None.

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 October 9th, 2009, and annotated by the Department. The information in the checklist, supplemental information provided by the applicant, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

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: "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 certain limitations/circumstances (SMC 25.05.665 D 1-7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from building activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater Code regulates stormwater management during and after construction. The Grading Code regulates site excavation and requires that soil erosion control techniques be initiated for the duration of construction and until the site is permanently stabilized. The Environmentally Critical Area Regulations regulate development and construction techniques in and nears designated ECA's. The Street Use Ordinance requires construction best management practices and regulates obstruction of the pedestrian right-of-way. The Puget Sound Air Pollution Control Agency regulations require control of fugitive dust to protect air quality. The Building Code regulates building design. Finally, the Noise Ordinance regulates the time and amount of construction noise that is permitted in the city. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment; therefore no further conditioning pursuant to SEPA policies is warranted.

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

Long-term Impacts

Long-term or use-related impacts are anticipated as a result of approval of this proposal including: increased surface water runoff due to greater site coverage by impervious surfaces; increased demand for public services and utilities; loss of plant and animal habitat; and increased light and glare.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Environmentally Critical Areas Regulations; the Stormwater Code, Grading Code; the City Energy Code; and the Land Use Code, which controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of long term long term impacts and no further conditioning is warranted by SEPA policies.

Operational activities, primarily vehicular trips associated with the project and the projects' energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global

warming. While these impacts are adverse, they are not expected to be significant due to the relatively minor contribution of greenhouse gas emissions from this project.

DECISION

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 43.21.030(2) (c).

CONDITIONS

None required.

Signature: _____ (Signature on file) Date: February 21, 2013
Seth Amrhein, Senior Environmental Analyst
Department of Planning and Development

SA:bg

Amrhein/3007251-final.docx