



City of Seattle

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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:** 3007739  
**Applicant Name:** Tom McFarland  
**Address of Proposal:** 4815 15<sup>th</sup> Avenue SW

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow 2,400 cubic yards of grading in an environmentally critical area. The project will replace contaminated soil previously removed with an equal amount of clean fill.

The following approval is required:

**SEPA - Environmental Determination** – Chapter 25.05, SMC

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

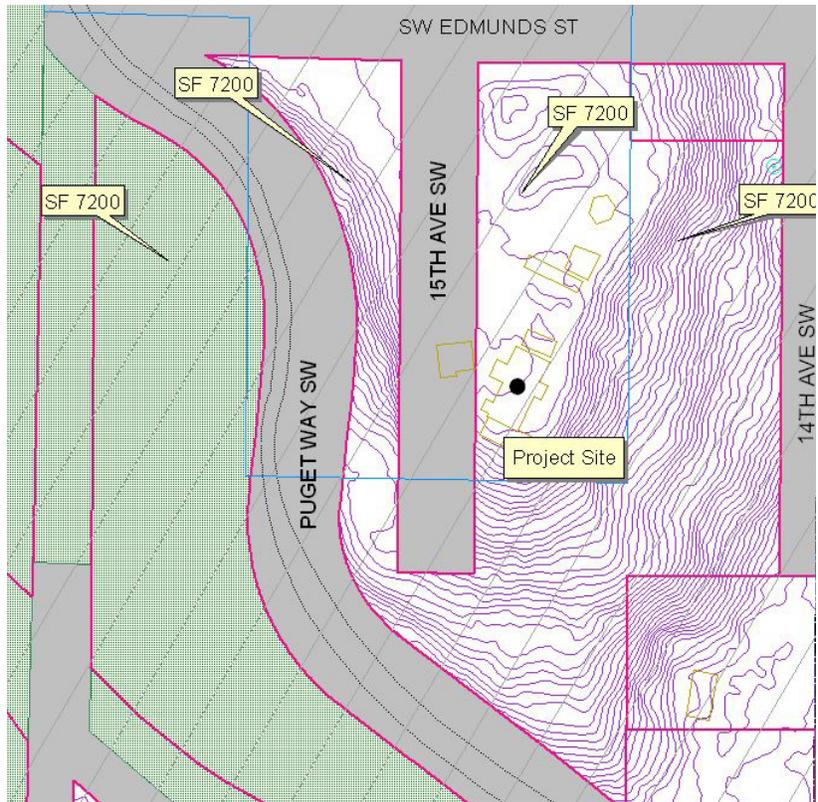
**BACKGROUND DATA**

Site and area description

The 92,293 square-foot subject property is located in a Single Family 7,200 (SF7200) zone within an Airport Height Overlay on SW Edmunds Street between Puget Way SW and 14<sup>th</sup> Avenue SW. The site falls from the northwest to the southeast and 14<sup>th</sup> Avenue SW with a grade difference in excess of 80 feet. The site is a mapped Environmentally Critical Area (ECA) due to the presence of steep slopes and potential slide areas on the east side of the property, wildlife habitat across the northwest half of the property, and a riparian corridor along the southern tip of the property.

Properties to the north, south, and west are also zoned SF7200 and are located in identified ECAs for steep slopes, wildlife habitat, and liquefaction soils depending on the exact property location. Properties to the east are zoned General Industrial 2 with an 85-foot height limit (IG2 U/85). All properties in the vicinity, in each direction, are also located within the Airport Height Overlay.

There is a stream that drains this local watershed that flows through Puget Park. The stream corridor buffer does touch a portion of the site along its southern property line adjacent with Puget Way SW. The entire parcel is also designated as Wildlife Corridor ECA and contains substantial Steep Slope ECAs.



The proposed grading activities do take place outside of the Steep Slope ECA area but does have an impact to the Wildlife Corridor ECA.

The site is currently occupied by one detached single family residence which will remain on site following the proposed activities.

### Proposal Description

Between January 27 and February 2, 2006 approximately 2,767 tons of soils contaminated with crushed battery casings and cement kiln dust were removed and disposed at the Columbia Ridge, Oregon, landfill. An additional 198 tons of contaminated soils were removed between April 10 and April 13, 2006 and disposed of at the Chemical Waste Management of the Northwest Inc. disposal facility in Arlington, Oregon. Confirmation soil samples were then collected from the perimeter and base of the excavation to demonstrate that the excavation was effective and that contaminant levels in the remaining soils on the subject property are minimal (below MTCA Method A non-industrial, or unrestricted-land-use, cleanup levels).

These site activities were performed under the Washington State Department of Ecology's (DOE) Voluntary Cleanup Program (VCP) and under the supervision of Sesco, Inc. An Environmental Cleanup Report, containing detailed documentation of soil samples, excavation records, disposal receipts, and correspondence with DOE, prepared by Sesco, Inc. and was submitted for reference. The report is commensurate with the level of detail required by DOE for VCP documentation. In a telephone conversation with Dale Myers, DOE VCP Administrator, DOE does not have to issue a letter of No Further Action (NFA) for the applicant to finish the grading and filling portion of the clean-up. The applicant will have to provide an ECORISK letter demonstrating compliance with Table 749-3 (DOE MTCA Manual) to DOE prior to obtaining their NFA letter. This is independent

from the applicant obtaining a grading and filling permit from the city. A condition of approval is not required in this instance.

A valid grading permit for the prior grading/excavation was not first obtained from the City of Seattle Department of Planning and Development (DPD). A Notice of Violation was issued by DPD to the property owner prior to completion of the proposed backfilling work intended to restore the site to the pre-excavation conditions.

The property owner has since applied for a grading permit to include the previous excavation activities and the proposed backfilling work intended to return the surface elevations in the excavation area approximately to their previous conditions.

The proposed grading area is roughly circular in plan, with approximate dimensions of 80 feet north to south and 120 feet west to east, comprising a total area of 6,400 square feet. The proposed grading area extends approximately 10-feet northward off the subject property into the adjacent unimproved right-of-way (ROW) of SW Edmunds Street and approximately eight feet westward into the adjacent unimproved ROW for 15<sup>th</sup> Avenue SW. The thickness of the proposed backfill to be placed will range from zero feet to approximately ten feet, and the estimated in-place quantity of backfill to be placed is approximately 1,000 cubic yards. A 15-foot wide area, comprising the buffer area for the adjacent steep slope ECA will not be backfilled, pursuant to the direction of DPD as stated in the denial response to an ECA Exemption, provided by William Bou, DPD Geotechnical Engineer, dated September 18, 2007. The response also provided that the re-vegetation of disturbed areas within the eastern steep slope area buffer is allowed and will be conditioned as part of the restoration plan. This has been incorporated into the conditions of approval that are listed at the end of this report and decision.

The applicant has provided a Geotechnical Engineering Evaluation prepared by Geo Group Northwest, Inc. and dated February 28, 2007, which details the grading and backfill work proposed at the subject property.

A Fish and Wildlife Site Assessment & Habitat Management Plan, prepared by Keith Fabing, Inc, and dated October 16, 2007, was also submitted as part of this application. This plan provides a description of the existing study area, wildlife habitat and a mitigation report which, in part, discusses proposed restoration goals, objectives, and habitat design elements.

#### Public Comments

The public notice period began on February 26, 2008 and ended on March 12, 2008. There were no comment letters.

#### ANALYSIS - SEPA

Due to the presence of the aforementioned critical areas, the application is subject to SEPA review. SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review included identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

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 July 19, 2007. The information in the checklist, supplemental information provided by the applicant (geotechnical evaluation, fish and wildlife site assessment, and environmental cleanup report), 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 on the identified critical area are expected: decreased air quality due to suspended particulates from grading and clearing and hydrocarbon emissions from construction vehicles and equipment; temporary soil erosion; increased dust caused by drying mud tracked onto streets during construction activities; increased traffic and demand for parking from construction equipment and personnel; increased noise; increases in carbon dioxide and other greenhouse gas emissions and consumption of renewable and non-renewable resources; temporary soil erosion and increased noise from grading and backfilling operations and equipment. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794).

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulate site excavation and require that soil erosion control techniques be initiated for the duration of construction. The ECA ordinance and DR 33-2006, 3-2007 and 4-2007 regulate development and construction techniques in designated ECA areas with identified geologic hazards. The Building code provides for construction measures and life safety issues. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment and no further conditioning pursuant to SEPA policies is warranted.

#### Air

Greenhouse gas emissions associated with development come from multiple sources; the extraction, processing, transportation, construction and disposal of materials and landscape disturbance (Embodied Emissions); energy demands created by the development after it is completed (Energy Emissions); and transportation demands created by the development after it is completed (Transportation Emissions). Short term impacts generated from the embodied emissions results in increases in carbon dioxide and other green house gases thereby impacting air quality and contributing 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 specific project. The other types of emissions are considered under the use-related impacts discussed later in this document. No SEPA conditioning is necessary to mitigate air quality impacts pursuant to SEPA policy SMC 25.05.675A.

### Earth/Soils

The ECA Ordinance and Directors Rule (DR) 33-2006 requires submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with landslide potential and/or a history of unstable soil conditions. The applicant has submitted "Geotechnical Engineering Evaluation of Proposed Grading", prepared by Geo Group Northwest, Inc. and dated February 28, 2007. The applicant has also provided a "Fish and Wildlife Site Assessment & Habitat Management Plan"; prepared by Keith Fabing, Inc. and dated October 16, 2007. Commensurate with the guidelines of the DOE's Voluntary Clean-up Program (VCP), the applicant has provided a copy of the Excavation Completion Report, which documents and details the source removal of the contaminated soils removed from the site and disposed of in the first half of 2006. This report also details the history, location, and results of the confirmatory soil samples taken after the remediation activities to confirm that the on-site source pollutants have been removed.

The construction plans, including shoring of excavations as needed and erosion control techniques are receiving separate review by DPD. Any additional information showing conformance with applicable ordinances and codes (ECA ordinance, The Stormwater, Grading and Drainage Control Code, DR 33-2006, 3-2007 and 4-2007) will be required prior to issuance of grading/construction permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are utilized. Conditioning, consistent with the applicable regulations has been provided at the end of this report and decision. The conditions of approval are requiring satisfaction of the applicable regulations prior to MUP issuance.

### Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of this proposal including: loss of plant and animal habitat due to the excavation and grading activities. Future greenhouse gas emissions are not anticipated to be a long term impact since uses are not proposed to be intensified after the clean-up has been completed.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the ECA Ordinance, Fish & Wildlife Habitat Corridor. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts. However, SMC 25.09.200 does not require specific mitigation in regard to the disturbance to designated Wildlife Corridors. Further conditioning is warranted by SEPA policies in this instance. The entire parcel has been designated as a Wildlife Corridor ECA. The prior land filling disturbance and the subsequent remediation and grading activities have further reduced the effectiveness of the wildlife habitat corridor. The applicant has provided a Fish and Wildlife Site Assessment and Habitat Management Plan that addresses the prior impacts and a restoration plan that will enhance the fish and wildlife habitat and any impacts to those corridors. Another benefit to restoration activities would be to further limit potential sedimentation of the stream that runs below the property.

The overall objective of the grading area restoration plan is to restore ecologically viable wildlife habitat that will integrate into the surrounding West Duwamish Greenbelt area. The site restoration will provide greater observed functional performance (over time) than that of the existing site condition. The restoration plan anticipates that wildlife habitat functions will improve through providing an increase in the amount of, more diversity and density of native vegetation and habitat structure. The report specifically identifies those wildlife habitat functions that are expected to improve over time. A condition at the end of this report and decision incorporates this restoration plan into the overall strategy for the remediation activities. This restoration plan will further mitigate the adverse environmental impacts from the prior hazardous waste filling and the site remediation/grading activities.

### **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 requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public 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 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**

Conditions imposed as a means of compliance with the ECA ordinance are non-appealable. General Requirements and standards are described in SMC 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 (SMC 25.09.080), steep slopes (SMC 25.09.180), riparian corridors (SMC 25.09.200.A), and trees and vegetation (SMC 25.09.320). All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

#### **Prior to Issuance of a Master Use Permit**

1. Update the Master Use Permit (MUP) plan sets to include the Wildlife Habitat Restoration Planting Plan as proposed within the October 16, 2007 "Fish and Wildlife Site Assessment & Habitat Management Plan"; prepared by Keith Fabing, Inc. This restoration shall include restoration of the previously disturbed 15' ECA buffer.
2. Permanent visible markers shall be placed along the edge of the nondisturbance area as approved on the site plan. 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 nondisturbance line where the line changes direction. Markers must be in place before issuance of this Master Use permit.

Markers should be detailed in accordance with description contained in Director's Rule 4-2007. A signed survey (by a licensed Washington State Professional Land Surveyor) showing the location of the markers shall be attached to the plan sets.

Prior to Issuance of Any Grading/Construction Permits

The owner and/or responsible party shall:

3. Attach a recorded copy of the ECA Covenant to the Construction/Grading Plan Sets.
4. Provide the signed survey identifying the location of the permanent ECA markers.
5. Show on grading 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. (SMC 25.09.060)
6. Obtain a SDOT Street Use Permit for all work to be conducted within city rights-of-way (15<sup>th</sup> Ave SW & SW Edmunds St). A Street Use Permit shall also be obtained from SDOT to permit the gate within the SW Edmunds St right-of-way. If a Street Use Permit has already been granted for the gate, please attach a copy to the Plan Sets.
7. Incorporate the restoration planting plan into the Grading/Construction permit sets.

After Issuance of Grading/Construction Permit

8. The site shall be monitored for the next three (3) years with annual reports to be provided to the DPD. The report shall be submitted to the DPD Fish and Wildlife Biologist through the Public Resource Center. The report shall note the project number and address on the report cover and the transmittal letter. The monitoring program shall be as set forth within the Fish and Wildlife Site Assessment and Habitat Management Plan noted above. It shall be required that any vegetation that does not survive during the three-year monitoring period be replaced prior to the next growing season.

Signature: \_\_\_\_\_ (signature on file) Date: November 20, 2008  
Craig Flamme, Land Use Planner  
Department of Planning and Development

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