



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

Application Number: 3007884/3008027
Applicant Name: Julie LeDoux
Address of Proposal: 7321 - 35th Avenue Northeast

SUMMARY OF PROPOSED ACTION

Land Use Application to subdivide one parcel into six parcels of land in an environmentally critical area. Proposed parcel sizes range from 896.3 sq. ft. to 1,348.8 sq. ft. Existing structures to be demolished. (Project 3007884) SEPA review under #3008027. Land Use Application to allow four residential and two live/work structures (6 buildings total) in an environmentally critical area. Surface parking for four vehicles to be provided. Existing single family residence to be demolished. (Project 3008027) Environmental review of short plat #3007884 is included.

The following approvals are required:

Short Subdivision – to subdivide one (1) existing parcel of land into six (6) parcels of land. (Seattle Municipal Code Chapter 23.24)

SEPA – Environmental Determination – Review of development proposal in areas mapped as Environmentally Critical Areas. (Seattle Municipal Code Chapter 25.09)

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

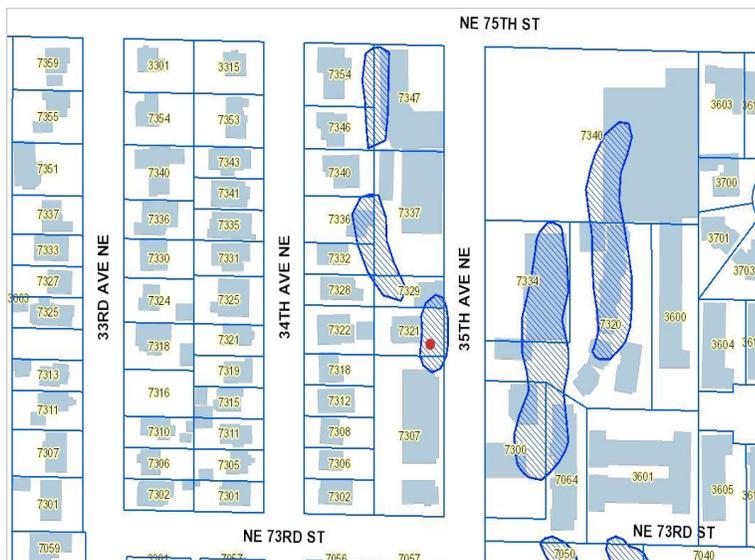
BACKGROUND DATA

Zoning: NC2/30.
Uses on Site: Single family residence.



Substantive Site Characteristics:

According to the survey of the site provided by the applicant, the 6,379.1 square foot parcel comprising one existing platted lot (Lot 53, High-Hurst-On-The-Hill, Unrecorded) is located on 35th Avenue Northeast in the Wedgewood neighborhood of northeast Seattle. The site measures approximately 102.97 feet in depth with 61.95 feet of frontage along the west side of 35th Avenue Northeast. The site slopes steeply uphill to the west from the sidewalk adjacent to 35th Avenue NE (about 12 feet) and then slopes more gently uphill over about three quarters of its length to the west or rear lot line. Elevations on the site range from about 202 feet above sea level near the southeast corner of existing Lot 53 to a high point of about 216 or 217 feet above sea level at the rear lot line. Existing Lot 53 is developed with a single family residence constructed in 1919 and an accessory shed structure in the northwest corner.¹



The site is zoned NC2/30: Neighborhood Commercial 2, with a structure height limit of 30 feet. The NC2/30 zone extends north, south, and east of the site, across 35th Avenue NE, while the zoning to the west is SF-5000: Single Family residential with a minimum lot area requirement of 5,000 square feet. Surrounding development reflects the zoning insofar as most properties in the vicinity within the NC2 zone are developed with commercial structures (retail and office) of varying age and architectural style. A private school, an institutional use, is also located in the structure across the street to the east of the site. Property to the west of the site is developed primarily with single family residences.

The easterly third of the site is identified as lying within a steep slope environmentally critical area (ECA) pursuant to Seattle Municipal Code Chapter 25.09, Regulations for Environmentally Critical Areas. Several areas of steep slope are found on nearby properties to the northwest and across the street to the east. An exemption from steep slope development standards was granted by DPD on August 24, 2007, based on submitted documents from PanGeo, Inc, a geotechnical engineering firm, that the slope appeared to be less than 20 feet in height and created by previous grading and/or construction activities. Based on the steep slope exemption analysis and a geotechnical report prepared by PanGeo Inc. dated October 11, 2007, the exemption will not result in adverse impacts on the site or on adjacent sites. The exemption also noted that ECA review was still required for the project. Thus, the project requires the limited scope SEPA analysis due to the presence of landslide-prone ECA's.

¹ While the existing residence is more than 25 years old and thus eligible for consideration as a landmark, consultation with the City's Office of Historic Preservation indicates that it does not meet the criteria. Further, since SEPA review in this project is triggered only by the presence of the ECA, the SEPA is of limited scope and does not include review under the Historic Preservation Policy.

Public Comment:

The initial public comment period for this land use application ended November 21, 2007.² During the initial public comment period DPD received four comment letters related to the land use application either in writing or by e-mail. The project was re-noticed on December 15, 2011, and that comment period ended December 28, 2011. The re-notice was done as a result of the project being placed on “econ hold,” which was done by DPD as a service to applicants affected by the recent economic downturn. No additional comments were received as a result of the re-notice. Residents’ concerns pertained to the following:

- Whether the existing house on the property is of historic significance
- Proper containment of hazardous materials (lead, asbestos, etc.) if the existing house is demolished
- Increased traffic and parking

Comment letters, application documents, and associated materials may be found in the Land Use Application file, which is available for review at DPD’s Public Resource Center (PRC), 700 Fifth Ave, Suite 2000 (<http://www.seattle.gov/dpd/PRC/LocationHours/default.asp>).

ANALYSIS - SHORT SUBDIVISION

Pursuant to SMC 23.24.040, the Director shall, after conferring with appropriate officials, use the following criteria to determine whether to grant, condition, or deny a short plat:

1. Conformance to the applicable Land Use Code provisions;

The subject property is zoned for commercial use, including live/work use, and the NC2/30 zoning also allows single purpose residential uses. The proposal has been reviewed for conformance with the applicable Land Use Code provisions; the lots created by this proposed division of land would conform to all applicable development standards of the NC2/30 zone designation. The proposed parcels would provide adequate buildable area to meet applicable setbacks, amenity areas, parking, and other applicable Land Use Code development standards.

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

A 20-foot-wide access and parking easement will be provided from 35th Avenue Northeast. The easement extends approximately 73 feet into the property to reach Parcels C, D, E, and F, which do not have street frontage. The Seattle Fire Department has reviewed and approved the proposed short plat for emergency vehicle access, subject to future development meeting Seattle Fire Code requirements. All private utilities are available in this area. Seattle City Light provides electrical service to the surrounding area and has required an easement for overhead and underground infrastructure. The City Light easement is included in the short plat documents. This short plat provides for adequate access for vehicles, utilities, and fire protection.

² Both project numbers 3007884 and 3008027 were given public notice on the same day, November 8, 2007 and the notice and comment period on both ran simultaneously through November 21, 2007.

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

This area is served with domestic water, sanitary sewer, and storm drain facilities by the City of Seattle. Availability of service is assured subject to standard conditions of utility extension. Seattle Public Utilities reviewed the short plat application, and Water Availability Certificate #20120060 was issued on January 31, 2012.

Seattle DPD has examined the proposal for compliance with drainage and sanitary sewer provisions. The existing property is connected with a side sewer to an 8-inch public sanitary sewer main located in 35th Avenue NE. New construction may use the existing sidesewer for sanitary discharge.

The existing property is also served by a public storm drainage system in 35th Avenue NE. Plan review requirements will be made at the time of building permit application in accordance with any applicable stormwater ordinances in effect at that time. If the proposal includes greater than 5000 square feet of new or replaced impervious surface, a comprehensive drainage control plan, prepared in accordance with SMC 22.802.015.D and 22.802.020, may be required. Drainage, water supply and sanitary sewage disposal is adequate for this short plat.

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

The proposed subdivision is consistent with relevant land use policies for the commercial zones and meets the minimum provisions of the Seattle Land Use Code. The proposal will meet all applicable criteria for approval of a short plat as discussed in this analysis and decision upon completion of the conditions of this 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;

As shown in a submitted topographical survey, on the City's Geocortex mapping application, and as defined in SMC Chapter 25.09, the site contains the following ECA: steep slope. An application for relief from the steep slope development standards of Section 25.09.180 was filed under DPD Project No. 6138582. The application was granted on August 24, 2007, on the basis that the steep slope areas on the site appeared to be less than 20 feet in height and created by previous grading and/or construction activities at the site and at adjacent properties (25.09.180.B.2.b and B.2.c.) Since the steep slope development standards do not apply to the site, the proposed development is allowed to encroach into the steep slope area pursuant to Section 25.09.240.B.3.

Thus, review of the proposal indicates that all of the requirements and restrictions of the ECA regulations for short subdivisions have been met (SMC 25.09.240).

The ECA Regulations (SMC 25.09), the Grading Code (SMC 22.800), and the Seattle Building Code provide adequate regulatory authority for protecting the critical area and allowing development on the non-ECA portion of the site.

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

The survey indicates that the site does not contain trees. Therefore this criterion is not applicable to this short subdivision.

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.

This criterion is not applicable to this short subdivision.

Summary - Short Subdivision

Based on information provided by the applicant, referral comments from DPD, Water (SWD), Fire Department (SFD), Seattle City Light (SCL), and review by the Land Use Planner, the above cited criteria have been met.

The lots to be created by this short subdivision will meet all minimum standards or applicable exceptions set forth in the Land Use Code, and are consistent with applicable development standards. This short subdivision can be provided with vehicular access, public and private utilities and access (including emergency vehicles). Adequate provisions for drainage control, water supply and sanitary sewage disposal have been provided for each lot and service is assured, subject to standard conditions governing utility extensions.

Review of the proposal indicated that the requirements and restrictions of the ECA regulations for short subdivisions have been met (SMC 25.09.240). The public use and interest are served by the proposal since all applicable criteria are met and the proposal creates the potential for additional housing opportunities in the City.

DECISION - SHORT SUBDIVISION

The proposed Short Subdivision is **GRANTED**.

ANALYSIS – SEPA

The proposal site contains the following types of Environmentally Critical Areas: *steep slope*. While relief from steep slope development standards was granted, ECA submittal requirements, general requirements, and landslide-prone requirements and development standards apply for the proposal. Thus 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 23, 2007. The information in the checklist, a Geotechnical Report, public comment, and the experience of the lead agency with review of 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 additional mitigation measures needed to protect the environmentally critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

The SEPA Overview Policy clarifies the relationship between codes, polices, and environmental review (SCM 25.05.665). Specific policies for each element of the environment and 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. Thus, a more detailed discussion of some of the impacts is appropriate. Short and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

The following temporary or construction-related impacts are expected with future construction: temporary soil erosion, decreased air quality due to increased dust and other suspended air particulates during excavation and construction, and consumption of renewable and non-renewable resources. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794). Although not significant, the impacts are adverse and certain mitigation measures are appropriate as specified below.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The ECA ordinance, former DR 33-2006, and current DR 18-2011, 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 short-term impacts to the environmentally critical area and no further conditioning pursuant to SEPA policies is warranted.

Earth/Soils

The ECA Ordinance, former Directors Rule (DR) 33-2006 and current DR 18-2011 require 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 Report, Proposed Residential Development, 7321 – 35th Avenue Northeast, Seattle, Washington,” prepared by PanGeo, Inc., and dated

October 11, 2007. The report evaluates the soil and site conditions and provides geotechnical information related to earthwork and foundation support, as well as slope stability analysis, drainage, and hazard mitigation recommendations. In general, the report recommends that the proposed building foundation be designed so that it does not surcharge the off-site retaining wall to the south. Further specific recommendations are made concerning building foundations, floor slabs, foundation wall and retaining wall design parameters, open cut excavations, structural fill and compaction, material reuse, and surface drainage; subject to conformance with the recommendations in the report, the proposal will not have a probable significant adverse impact on the environmentally critical areas (ECAs).

Any additional information showing conformance with applicable ordinances and codes (ECA Ordinance, the Stormwater Code, DR 33-2006 and DR 18-2011) will be required prior to issuance of building permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are utilized; therefore, no additional conditioning is warranted pursuant to SEPA policies.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of this proposal, including: increased surface water runoff due to greater site coverage by impervious surfaces (related to future improvements on the site), increased demand on public services and utilities, and loss of plant and animal habitat.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the ECA Ordinance and the Stormwater Code, which requires provisions for controlled tightline release to an approved outlet and may require additional design elements to prevent isolated flooding. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies.

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

None required.

CONDITIONS - SHORT SUBDIVISION

None required.

Signature: _____ (signature on file) Date: October 18, 2012
William K. Mills, Senior Land Use Planner
Department of Planning and Development

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