



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: 3007928
Applicant Name: Kurt Anderson
Address of Proposal: 807 Hillside Drive East

SUMMARY OF PROPOSED ACTION

Land Use Application to allow construction of a retaining wall in an environmentally critical area. The proposal also includes the replacing of existing paving to create a new entry walk.

The following approvals are required:

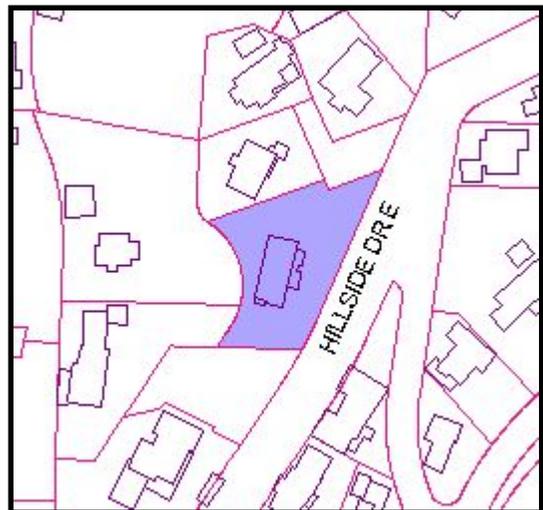
Environmentally Critical Areas Variance – to allow the development of up to 30% of the steep slope and buffer are (0% allowed without variance, 12.5% proposed) SMC 25.09.180.E.

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

BACKGROUND DATA

Site Description

The subject property is an irregular shaped lot with approximately 147 feet of frontage along Hillside Drive East to the east, which is not developed with curbs, gutters, and sidewalks at this location. A significant portion of the site contains steep slopes in excess of 40 percent. These identified areas are subject to the regulations for Environmentally Critical Areas (ECAs). These steep slopes prevent direct vehicular access from Hillside Drive East to the subject property. Site access is achieved from a driveway shared with the property to the north. Zoning overlaying the lot is single-family residential with a minimum lot size of 7,200 square feet (SF 7200). Properties to the north, south, east, and west are also zoned SF 7200. The site has a lot area of approximately 14,307 square feet.



City of Seattle data identifies that portions of the site to the east and west of the existing structure as mapped Steep Slope area. This identified area is subject to the regulations for Environmentally Critical Areas (ECAs).

Location of the Existing Structure

The subject property is developed with an existing single-family residence (SFR) with sufficient off-street parking, which is accessed from a joint use driveway shared with the property to the north.

The exterior walls of this existing residential structure are located approximately 27 feet (27') from the east property line at the closest point, 12 feet (12') from the west property line at the closest point, 30 feet (30') from the north property line at the closest point, and 36 feet (36') from the south property line at the closest point.

Description of Proposal

The proposed project includes the re-alignment and replacement of the existing paver walkway and low rockery in the backyard, with no modifications to the existing landscaping area to the northwest of the house. The new concrete walkway and associated low wall will generally follow the existing grade, with a maximum wall height of approximately 2 feet. Excavations up to about 3.5 feet deep will be needed to construct the wall footing that will be embedded 18 inches below grade. The western portion of the south half of the proposed walkway and stair alignment will be located within a steep slope area with grades of between 40 and 45 percent.

Pursuant to SMC 25.09.080 and 25.09.320, the proposal is required to comply with ECA requirements for landslide potential areas and trees and vegetation.

Landslide-prone critical areas (SMC 25.09.080)

The applicant has provided a geotechnical soils report, which has been reviewed by DPD geotechnical engineers. Vegetation removal, replacement, and monitoring plan activities have been proposed by the applicant and are included as conditions of approval, per SMC 25.09.320. The applicant has followed the sequence of priority for development in a critical area.

Trees and Vegetation (SMC 25.09.320)

This code section is often referenced in other ECA code sections, including SMC 25.09.080. Prior to issuance of any related construction permits, the applicant shall provide vegetation/re-vegetation plans in accordance with the requirements of this section. The decision has been additionally conditioned to ensure compliance with this and other ECA code sections.

Public Comment

During the extended public comment period which ended October 31, 2007, the City received no comment responses regarding this proposal.

Environmentally Critical Areas Regulations

SMC 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 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 described below. ECA variance decisions are Type II decisions, subject to the provisions of SMC 23.76 and are appealable to the City Hearing Examiner.

General requirements and standards for development on parcels containing ECA's and their associated buffers are described in SMC 25.09.060 of the ECA ordinance. This section includes details regarding the recordation of approval conditions, recordation of the identified ECA areas in a permanent covenant with the property, as well as specific construction methods and procedures. This proposal must also comply with the specific requirements for development in areas with landslide potential (SMC 25.09.080), steep slopes (SMC 25.09.180), 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.

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 area found to exist:

SMC 25.09.180

E. Steep Slope Area Variance

- 1. The Director may reduce the steep slope 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:***
 - a. the lot where the steep slope or steep slope buffer is located was in existence before October 31, 1992; and***

Property records, including a Statutory Warranty Deed, indicate that the subject property was platted to create a legal subject property and subdivision controls were implemented prior to October 31, 1992.

- 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 area buffer.***

The subject property is constrained by approximately 7,570 square feet of steep slopes which occupy significant portions of the site along the east (front) and west (rear) property lines. Additionally, a setback and maintenance access easement pursuant to SMC 23.44.014.D.2 exists along a portion of the north property line, as does a shared asphalt driveway which serves both the subject property and the property to the north. An accessible and functional rear yard is substantially limited by the constraints described above.

SMC 23.44.014.D.4 and SMC 23.44.014.D.10.a provide that the proposed rockery and replaced entry walkway are allowed to project into any required yard, provided that they are developed within the restrictions provided in

these sections. Accordingly, reducing the setbacks will not be necessary for this proposal.

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

The steep slope areas and buffers occupy a substantial portion of the site, the entire rear yard, and the majority of the side yards. Achieving the proposed construction improvements would be impossible if the applicant is restricted to the remaining developable portion of the site. As such, the applicant has proposed to construct the rockery entirely within the steep slope area to the west of the existing residence. This intrusion into the steep slope area would impact approximately 12.5% of the total on-site steep slope area. The overall proposal is designed to protect the significant trees which existing in the rear yard of the subject property.

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.

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 area or buffer.***

The subject property currently contains several large mature trees, shrubs, and groundcover. Some of this vegetation will be removed during the development process. The applicant shall provide appropriate vegetation/re-vegetation plans prior to the issuance of a construction permit for the proposed work. The survey of existing conditions provided as part of the applicant's submittal provides the caliper diameter of several mature trees on-site, but does not identify the species of tree. Please note the species of these trees in the vegetation report and document that these trees will not be removed as part of the proposed work.

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 steep slopes, pursuant to section 25.09.180 of the ECA ordinance. All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

DECISION – STEEP SLOPE AREAS VARIANCE

ECA Variance to allow development of up to 12.5% of the areas measured over 40% steep slope and to place locate development in the steep slope buffer is **CONDITIONALLY GRANTED.**

NON-APPEALABLE CONDITIONS OF APPROVAL

Prior to Issuance of Any Construction Permit

1. Permanent visible markers shall be placed along the edge of the nondisturbance area and 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. 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 any construction permits and shall be detailed in accordance with description contained in Director's Rule 4-07.
2. Show on the Site Plan the location of permanent ECA markers.
3. Provide a vegetation/re-vegetation plan for DPD review prior to the issuance of any construction permit.
4. Show on construction 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 associated steep slope buffer, which are to be left undisturbed (section 25.09.060 ECA ordinance).

Signature: _____ (signature on file) Date: February 28, 2008

Mike Reid, Land Use Planner
Department of Planning and Development