



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:** 3008331  
**Applicant Name:** Steve Nielsen  
**Address of Proposal:** 8534 30<sup>th</sup> Ave NW

**SUMMARY OF PROPOSED ACTION**

Land Use Application to subdivide one parcel into two parcels of land in an environmentally critical area. Proposed parcel sizes are: Parcel A) 8,209 sq. ft. and B) 8,065 sq. ft. Existing single family residence and garage to be demolished.

The following approval is required:

**Short Subdivision** - to subdivide one existing parcel into two parcels.  
(Seattle Municipal Code Chapter 23.24)

**SEPA - Environmental Determination** (Seattle Municipal Code Chapter 25.05)

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

**BACKGROUND DATA**

Zoning: SF 7200.

Date of Site Visit: May 5, 2008.

Uses on Site: One existing single family residence and one detached garage.

**Site and Area Description**

The 16,274 square-foot site is located in a Single Family (SF 7200) zone with a 7,200 square foot minimum lot size. The mid-block site is located on 30<sup>th</sup> Ave NW between NW 85<sup>th</sup> St and NW 88<sup>th</sup> St. The site slopes from the west property line to the east property line with approximately 33 feet of difference in grade. The site is located in an Environmentally Critical Area (ECA) due to the presence of Fish and Wildlife environmentally critical area in the eastern portion of the parcel. The site is also part of a Heron Habitat area.

The site includes slopes greater than 40%, but the proposal has received an exemption from the steep slope development standards under this MUP number. Under this exemption, the ECA Steep Slope Development Standards (SMC 25.09) are waived for future development associated with short plat Application #3008331. A complete soils report will be required at construction permit intake appointment, since the site is still subject to the development standards for Landslide prone ECA. The steep slope exemption does not exempt the proposal from environmental review under SEPA (SMC 25.05).

The site is also mapped as being in a riparian corridor and including a wetland, however, this was clarified as a mapping error through a report submitted by the applicant and reviewed by DPD (Wakerobin report January 24, 2008).

Properties surrounding the site are all zoned SF 7200 and all include single family residential development. The site is currently occupied by one detached single family residence and detached garage which will be demolished. There is no alley adjacent to the site. The street frontage doesn't include curbs, gutters, sidewalks, or planting strips.

Public Comment:

Notice of the proposal was issued on April 3<sup>rd</sup>, 2008. Sixteen (16) public comments were offered.

**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's zone (SF 7200) is intended for single family residential development. The lots created by this proposed division of land would conform to this requirement and all applicable development standards of the SF 7200 zoning district. The proposed lots meet the requirement for at least 7,200 square feet in size. The proposed parcels (8,209 and 8,065 square feet) would provide adequate buildable area to meet applicable Land Use Code development standards.

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

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. Seattle City Light does not require an easement in order to provide service.

*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 # 20080408 was issued on 3/28/2008.

Seattle Public Utilities noted that the existing house discharges sanitary waste to the existing public sanitary-only sewer (PSS) in 30<sup>th</sup> Ave NW, and new construction may continue to use this sidesewer. The applicant may contact DPD Sidesewer and Drainage Counter for sidesewer permit requirements.

The DPD drainage reviewer noted there are no tight-lined public storm water conveyance systems available to the site. The required point of discharge for collected stormwater runoff from new construction shall be on-site. A permanent stormwater control plan shall be required. Stormwater control consists of infiltration, surface dispersal, flow-control, or "Green" development techniques, or a combination of two or more of these methods.

A permanent stormwater control plan for all proposed impervious surfacing has been submitted and approved by DPD.

The proposal meets this criterion, subject to the conditions listed below.

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

An objective of the short subdivision process is to increase opportunities for new housing development to ensure adequate capacity for future housing needs. The proposed short subdivision would meet applicable Land Use Code provisions: the proposal has adequate access for vehicles, utilities and fire protection, and has adequate drainage, water supply and sanitary sewage disposal.

The public use and interest would be served by this proposal because additional opportunities for single family residences would be provided within the City limits as a result of this subdivision. Furthermore, upon completion of the conditions in this decision, the proposal would meet all applicable criteria for approval of a short plat.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

The site is not located in a riparian corridor, shoreline habitat, shoreline habitat buffer, wetland, wetland buffer, as demonstrated through surveys and reports. The proposal is not subject to steep slope development standards of SMC 25.09.180 because the small 'steep slope' areas appear to be less than 20 feet in height and limited in length. The site is located within a Fish and Wildlife habitat conservation area, however this is not one of the ECAs that trigger ECA short subdivision requirements (SMC 25.09.240.A). With respect to the 'steep slope; the proposal is compliant with 25.09.240 by virtue of the waiver of the standards of 25.09.180 (see 25.09.240 B.2, D and E.2), applicable to the short plat application.

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

The survey indicates that there are several mature trees, many of which are located on the sloped areas in the eastern portion of proposed Parcel A and Parcel B. There are a few other existing trees near the proposed property lines of Parcel A and Parcel B. The survey indicates that three of these are to be removed and two are to remain. The applicant has

noted the intent to preserve the eastern areas of proposed Parcel A and Parcel B as “non-disturbance areas.” The non-disturbance area will coincide with the Blue Heron nesting areas, as delineated by Washington State Department of Fish and Wildlife, also shown on the proposed plat drawings. The proposed plat has been designed to maximize the retention of trees, both in the Blue Heron nesting area and in the non-nesting areas. The proposal meets this short plat criterion, subject to the conditions listed below.

### Summary - Short Subdivision

Based on information provided by the applicant, referral comments from DPD, Water (SWD), Fire Department (SFD), and Seattle City Light, and review by the Land Use Planners, the above-cited criteria have been met subject to the conditions imposed at the end of this decision. The lots to be created by this short subdivision will meet all minimum standards 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. The proposal is compliant with SMC 25.09.240. The proposed plat maximizes the retention of existing trees. 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 **CONDITIONALLY GRANTED**.

### **ANALYSIS - SEPA**

Due to the presence of fish and wildlife habitat and steep slope environmentally 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 January 30, 2008. The information in the checklist, supplemental information provided by the applicant (soils 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 to the environmentally critical area are expected: 1) temporary soil erosion, 2) increased vibration from construction operations and equipment; 3) Noise/construction impacts on Great Blue Heron nesting season. Impacts 1 and 2 are temporary and/or minor in scope (SMC 25.05.794). Impact 3, regarding the Blue Heron nesting season, is considered an adverse impact and warrants further discussion.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The ECA ordinance and DR 33-2006 and 3-2007 regulate development and construction techniques in designated ECA areas with identified geologic hazards. The Steep Slope Exemption (granted under 3008331) noted that a complete soils report will be required at the building permit intake appointment for either of the proposed parcels. 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.

### Earth/Soils

The ECA Ordinance and Directors Rule (DR) 33-2006 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 Letter, 8534 30<sup>th</sup> Ave W, Seattle Washington, NGA File No. 784408" a report by Nelson Geotechnical Associates, Inc. for Steve Nielsen, dated March 14, 2008. The construction plans, including shoring of excavations as needed and erosion control techniques will receive 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, and 3-2007) 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.

### Plants and Animals

Washington State Department of Fish and Wildlife has reviewed the proposal (Chris Anderson, Wildlife Biologist, WDFW Region4). WDFW's final management plan recommends no alterations within the area east of the "Westerly limits of Blue Heron Nesting Area as delineated by WDFW," any building should be set back at least 15' and vegetated in a manner that screens

activities on the parcel from the heron nesting area. If any construction is proposed between February 1st and July 31st, the proposed activities should be submitted to WDFW for review and management recommendations regarding local nesting of the great blue herons. Additional conditioning described below is warranted by SEPA policies to implement this management plan reducing construction-related impacts to Heron habitat.

#### 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, 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, the Stormwater, Grading and Drainage Control Code which requires provisions for controlled tightline release to an approved outlet. 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.

- 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 - SHORT SUBDIVISION**

##### Conditions of Approval Prior to Recording

The owner(s) and/or responsible party(s) shall:

1. Have final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel, or tract created by the short subdivision shall be surveyed in accordance with appropriate State statutes. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown. Lot areas shall be shown on the plat. All existing structures, principal and accessory, shall be shown on the face of the plat, and their distances to the proposed property lines dimensioned. Add the conditions of approval to the face of the plat.

2. Submit the final recording forms for approval and remit any applicable fees.
3. Add all conditions of approval to the face of the plat.
4. Permanent visible markers shall be placed along the edge of the Blue Heron nesting area and non-disturbance area, as delineated by Washington State Department of Fish and Wildlife and shown on the survey and proposed plat drawings. 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 delineation where the line changes direction. Markers must be in place before issuance of this Master Use permit. Provide proof of placement to Land Use Planner via photograph, survey, or other acceptable means (Shelley Bolser, shelley.bolser@seattle.gov or (206) 733-9067).
5. Submit a recorded copy of the non-disturbance ECA Covenant (form to be provided by DPD) to the Land Use Planner (Shelley Bolser, shelley.bolser@seattle.gov or (206) 733-9067). The ECA Covenant shall include a legal description of the Blue Heron nesting area and non-disturbance area, including the location of the permanent visible markers.

**Prior to Issuance of any Building Permit**

6. Attach a copy of the recorded short subdivision to any sets of building permit application plans, if applicable.
7. Attach a copy of the approved drainage control plan.
8. Show on the site plan the location of the permanent ECA markers.
9. Show on building plans the location of a temporary, durable, highly visible construction fence at the boundary between the construction activity area and the Blue Heron nesting area and non-disturbance area, which are to be left undisturbed.

**CONDITIONS - SEPA**

**Prior to Intake of a Building Permit**

10. The following conditions must be added to the plans prior to intake:  
“Site is located within the Great Blue Heron Management Area and Colony Nesting Area:
  - Any clearing, grading or outside construction shall be done outside of the nesting Season (February 1st through July 31st). If any construction activities are proposed between February 1st and July 31st, the proposed activities should be submitted to WDFW for review and management recommendations regarding local nesting of the great blue herons.

