



City of Seattle  
Gregory J. Nickels, Mayor

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**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:** 3008734  
**Applicant Name:** Kevin Cleary for Geraldo Giraldo  
**Address of Proposal:** 2647 12<sup>th</sup> Avenue West

**SUMMARY OF PROPOSED ACTION**

Land Use Application to subdivide one parcel into two parcels of land in an environmentally critical area (Steep Slope). Proposed parcel sizes are: A) 3,880 sq. ft. and B) 3,937 sq. ft. Existing single family residence to remain. Existing garage to be moved or demolished.

The following approval is required:

**Short Subdivision** - To create two parcels of land.  
(Chapter 23.24, Seattle Municipal Code).

**SEPA – Environmental Determination** – Chapter 25.05, Seattle Municipal Code.

**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 Description

This 7,817 sq. ft. site, zoned Single Family 5000 (SF 5000), is generally flat on the eastern portion of the lot. The western half of the lot slopes gradually (approximately 10% – 20%) down toward the west property line. The site is mapped as steep slopes, for the portion of the western property line where the crest of the hill crosses onto the subject site and an ECA Exemption was granted by DPD during the geotechnical review of the proposed plat. Under this exemption, the ECA Steep Slope Development Standards (SMC 25.09) are waived for future development associated with short plat Application #3008734. 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 property is mapped as a "Known Landslide Area" due to the three (3) known slides within ¼ mile of the subject site between 1920 and 1970 ( Associated Earth Science, report dated July 20, 2008). No slide incidents are recorded on the subject site. The lot is currently developed with a single family house and a detached garage. The street is improved with a curb, sidewalk, and planting strip.

### Area Development

Development in the vicinity consists primarily of single family residences on lots of various shapes and sizes bounded by long curving streets platted in a more "suburban" pattern than the surrounding grid pattern found west of 14<sup>th</sup> Ave W. and east of 11<sup>th</sup> Ave W. The single family zoning continues to the north, east and south. Moving west from the subject site the zoning transitions to multifamily (L-1 and L-3) and then to neighborhood commercial (NC3-40) within five (5) blocks of the subject site. The Interbay Field is ¼ mile due west.

### Proposal

The proposal is to short subdivide one platted lot into two lots using the code provisions for undersized lot referred to as the "75/80 rule" (SMC 23.44.010.B.3). In order to qualify each lot must at least 75% of the minimum lot area for the zone (3,750 sq ft in the SF5000 zone) and 80% of the average lot area of the other lots on the same block face. Due to the irregular block face, created by a meandering roadway, a determination was by the Department of Planning and Development that for this plat the block face would extend from W. Newell Pl south to the end of 12<sup>th</sup> Ave W. (noted by the address changes to W Bothell). Calculations were provided by the applicant showing that the "75/80 rule" was met and the proposed area for Parcel A is 3,880 sq. ft. and for Parcel B is 3,937 sq. ft.

Vehicular access to the parcels would be directly off of 12<sup>th</sup> Ave W. via a joint ingress and egress easement straddling the new property line separating the two parcels.

The proposal is to subdivide one lot into two parcels. This review looks generally at the application of development standards in single family zones and applies the relevant environmentally critical area regulations to the proposed platting action. Future construction is possible. No application for construction has been made to date.

### Public Comment

Four (4) comment letters were received during the comment period which ended August 20<sup>th</sup>, 2008. Comments included concerns about the shape of the proposed lot, the type of potential future development, potential for speculative development as a result of the platting action, possible impacts to property values, lack of maintenance of the existing structure, past code violations at the site, problems with tenants, basis for the proposed lot sizes and compatibility of future development with the character of the neighborhood.

### **ANALYSIS - SHORT SUBDIVISION**

Pursuant to SMC 23.24.040, no short plat shall be approved unless all of the following facts and conditions are found to exist:

1. *Conformance to the applicable Land Use Code provisions;*
2. *Adequacy of access for pedestrians, vehicles, utilities and fire protection as provided in Section 23.53.005, Access to lots, and Section 23.53.006, Pedestrian access and circulation;*
3. *Adequacy of drainage, water supply, and sanitary sewage disposal;*
4. *Whether 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;*
6. *Is designed to maximize the retention of existing trees;*
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; and*
8. *Conformance to the provisions of Section 23.24.046, Multiple single-family dwelling units on a single-family lot, when the short subdivision is for the purpose of creating two (2) or more lots from one (1) lot with more than one (1) existing single-family dwelling unit.*

Based on information provided by the applicant, referral comments from the Access and Drainage Section, Water, and Fire Departments, Seattle City Light, and review by the Land Use Planner, the following findings are made with respect to the above-cited criteria:

1. Using the code provisions found in SMC 23.44.010.B1.b (see 75/80 rule discussed under 'Proposal' above), the survey provided shows the proposed area for Parcel A is 3,880 sq. ft. and for Parcel B is 3,937 sq. ft. The proposed parcels would meet the minimum required 75% of the lot area of the underlying SF5000 zone (3,750 sq ft). The Applicant's calculations show an average lot size on the applicable block face of 3834.25 sq ft and the proposed lot sizes are greater than the required 80% of that average (i.e. greater than 3,067 sq ft).

The proposed Parcel A meets the required yard standards, lot coverage limits, and other applicable Land Use Code development standards and the proposed Parcel B will provide adequate buildable lot area to meet the same applicable standards.

2. A recorded joint use easement for Parcel A and Parcel B will provide access via a 10 foot wide driveway off of 12<sup>th</sup> Ave W. The street in front of the site is improved with curb, gutter, sidewalk and paving to the standards of the SF 5000 zone.
3. Drainage, water supply and sanitary sewage disposal are available as follows: Seattle Public Utilities reviewed the short plat application, and Water Availability Certificate #20081005 was issued on August 29, 2008.

4. The purpose of the Single Family 5000 zoning is to preserve and maintain the physical character of the single family residential areas and provides housing opportunities throughout the City for all residents. The proposed short subdivision will meet all minimum Land Use Code provisions and will have adequate access for pedestrians, vehicles, utilities and fire protection, as well as adequate drainage, water supply and sanitary sewage disposal. Therefore, the public use and interests are served by permitting the proposed subdivision of land while also maintaining the character of the neighborhood.
5. The proposed subdivision is mapped as an environmentally critical area, Steep Slope, Potential and Known Landslide. The ECA will be delineated and an ECA non-disturbance area will be established with the recording of an ECA covenant, as a condition of the approval of this Plat.
6. The proposed plat configuration retains the fruit tree located in the steep slope buffer in the rear yard of the new parcel. The short plat has been designed to maximize the retention of trees and all trees over 6" in diameter have been noted on the Plat.
7. A unit lot subdivision is not proposed so the criterion relating to unit lot subdivisions is not applicable to this short plat.
8. A subdivision for the separation of multiple residential units on the same lot is not proposed so this criterion is not applicable to this short plat.

#### **DECISION - SHORT SUBDIVISION**

The proposed short plat is **CONDITIONALLY GRANTED**.

#### **ANALYSIS - SEPA**

Due to the presence of 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 and 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 (July 23, 2008). The information in the checklist, supplemental information provided by the applicant (a Geotechnical Report prepared by Associated Earth Sciences dated July 21, 2008), 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 noise and vibration from construction operations and equipment. Impacts 1 and 2 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 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 this review) 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 Report prepared by Associated Earth Sciences dated July 21, 2008. Any subsequent 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.

The following recommendations were identified in the geo-technical report by Associated Earth Sciences, (7/21/08) as development standards and best management practices (BMP's) that should apply to the site:

1. The development must be set back 15 feet from the top of the slope with deep foundations such as piles; or
2. The development must be set back 30 feet from the top of the slope for conventional spread footings; and

3. No fill and no structure footings shall be placed above existing grade in the setback zone; and
4. There shall be no construction disturbance in the Steep Slope Area; and
5. Stormwater runoff from proposed hardscape surfaces must be collected and discharged away from the slope.

### 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.

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.

All of the above recommendations are consistent with the Codes and development regulations applicable to this proposed project. The application of items one (1) and two (2), that provide for site and design specific criteria will be reviewed under the building permit. Together, the applicable development standards, best management practices and regulations provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

### 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 – SEPA

None.

### CONDITIONS - SHORT SUBDIVISION

#### Conditions of Approval Prior to Recording

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

1. Submit the recording fee and final recording forms for approval.
2. Add the conditions of approval after recording on the face of the plat or on a separate page. If the conditions are on a separate page, insert on the plat "For conditions of approval after recording see page \_\_\_ of \_\_\_." If necessary, renumber the pages.

3. 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.
4. Provide an easement for electrical facilities to the satisfaction of Seattle City Light. Added to the plat shall be the following statement: "An easement is granted to Seattle City Light as shown on page \_\_ of \_\_".
5. If a joint side sewer is proposed, Joint Use and Maintenance Agreement language for a 10 inch side sewer connection should be added to the face of the Plat. If a joint service drain and detention system is proposed, Joint Use and Maintenance Agreement language should also be added to the face of the plat.
6. Add "and subject to" to the Joint Use Driveway Easement language included in the legal description on the face of the plat and provide a signed and notarized ingress and egress easement for recording.
7. Revise note nine (9) to say; "Existing garage to be legally moved or demolished prior to sale or transfer of ownership."
8. Add a note to the plans that states "Fruit Tree (Malus Domestica) to be retained.
9. Establish permanent markers, per Director's Rule 4-2007, along the 15ft steep slope buffer to delineate the ECA, revise the shading on the survey to reflect the ECA and its buffer per Dean Griswold's correction and revise exhibit A of the ECA covenant to reflect the placement of the markers and the shading of the ECA steep slope and it's buffer. Provide a revised, signed and notarized ECA Covenant for recording.

Conditions of Approval upon Application for Construction Permits

10. The owner(s) and/or responsible party(s) shall attach a copy of the recorded short plat to the construction permit plans.
11. A permit shall be secured from Seattle Department of Transportation for a new curbcut and restoration of curb as required aligning with the location of the recorded access easement.

Signature: \_\_\_\_\_ (signature on file) \_\_\_\_\_ Date: February 26, 2009

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