



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:** 3008901  
**Applicant Name:** Moira Haughian for Howland Homes  
**Address of Proposal:** 3807 Martin Luther King Jr Way S

**SUMMARY OF PROPOSED ACTION**

Land Use Application to allow two, 4-unit townhouse structures in an Environmentally Critical Area. Parking for eight vehicles to be provided within the structures. Project related to 3008870 and Boundary Line Adjustment 3007156.

The following approval is required:

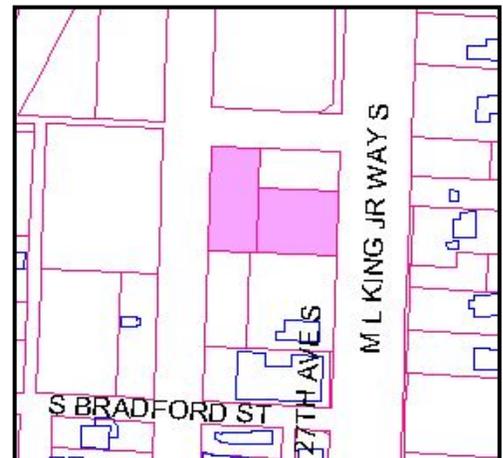
**SEPA - Environmental Determination** - Chapter 25.05, Seattle Municipal Code.

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

**BACKGROUND DATA**

**Site & Area Description**

The subject property is located on Martin Luther King Jr Way South, one parcel to the south of South Charlestown Street and five blocks south of the junction with Rainier Avenue South. Martin Luther King Way Jr Way S has been improved with curbs, gutters, sidewalks and street trees as a result of the Sound Transit Light Rail construction project. The site is fairly level and is within a mapped Environmentally Critical Area –Wetland which lies to the west of the site but whose required buffer is on the site. There is heavy vegetative cover consisting of alder, cottonwood, maple, hawthorn and blackberry.



The subject property is located in a multi-family Lowrise 3 zone (L-3), as are the lots immediately abutting the site, north and south. Abutting the site to the north is the companion project proposing eight townhome units. To the north of the two sites across South Charlestown St. is the Asian Counseling & Referral Services Center which is currently under construction. South Charlestown Street has been fully improved as part of this project. Directly across Martin Luther King Jr. Way S to the east is an area of Single Family zoning (SF5000).

### Proposal

The applicant proposes to construct two, 4-unit townhouse structures with parking for eight vehicles to be provided on site in garages within the proposed structures. Proposed access is via South Charlestown Street which will provide access also for the related project to the north (3008870). There is a regulated Category III wetland just to the west of the site whose buffer lies with the property boundaries. The applicant is proposing wetland buffer averaging in order to build partly within the required buffer area. The property will be the subject of a future unit lot subdivision application, under separate permit.

### Public Comments

The public comment period for this project ended on May 21, 2008. No comments were received.

### ANALYSIS – SEPA

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 dated January 6, 2008. The information in the checklist submitted by the applicant and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision. A Wetland Reconnaissance Evaluation and Verification Report, dated February 4, 2008, prepared by HartCrowser was submitted that details the site conditions with regard to the wetland and wetland buffer. A Wetland Buffer Averaging Plan, dated March 7, 2008 prepared by HartCrowser proposes buffer averaging, enhancement and long-term protection plan.

The SEPA Overview Policy (SMC 25.05.665) 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 such limitations/circumstances (SMC25.05.665) 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 are expected: minor decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; increased noise, and consumption of renewable and non-renewable resources.

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 riparian corridors and wetlands. 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.

#### Critical Area - Wetland

The area of disturbance during construction will be limited to that area shown on the Temporary Erosion Control Plan where construction fencing is proposed to be installed. The proposed split rail fence along the final buffer shall be installed prior to issuance of any building permits in order to ensure that the buffer is adequately protected. A recorded covenant protecting the wetland and wetland buffer will be required.

#### Noise

Excavation will be required to prepare the building sites and foundations for the new buildings. Additionally, as development proceeds, noise associated with construction of the buildings could adversely affect the surrounding residential uses. Due to the proximity of neighboring residential uses, the limitations of the Noise Ordinance are found to be inadequate to mitigate the potential noise impacts. Pursuant to the SEPA Overview Policy (SMC.25.05.665) and the SEPA Construction Impacts Policy (SMC 25.05.675 B), mitigation is warranted. The hours of construction activity not conducted entirely within an enclosed structure (e.g. excavation, foundation installation, framing and roofing activity) shall be limited to non-holiday weekdays between the hours of 7:00 a.m. and 6:00 p.m., Saturdays from 9:00 A.M. to 6:00 P.M. This condition may be modified by DPD to allow work of an emergency nature. This condition may also be modified to permit low-noise exterior work (e.g., installation of landscaping) after approval from DPD (3 days advance notice required).

#### Greenhouse Gas Emissions

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

#### Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased surface water runoff due to greater site coverage by impervious surfaces; increased bulk and scale on the site; increased traffic in the area; increased demand for parking; and increased demand for public services and utilities.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code which requires on site collection of stormwater with provisions for controlled tight line release to an approved outlet and may

require additional design elements to prevent isolated flooding; the City Energy Code which will require insulation for outside walls and energy efficient windows; and the Land Use Code which controls site coverage, setbacks, building height and use and contains other development and use regulations to assure compatible development. 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.

#### Wetland Buffer

A recorded covenant protecting the wetland buffer will required before issuing of the land use permit. As stated above the proposed split-rail fencing shall be installed prior to issuance of any building permits. The landscape plans shall also be updated to reflect the plantings proposed in the Buffer Averaging Plan dated March 7, 2008.

Operational activities, primarily vehicular trips associated with the project and the projects' energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant.

#### Summary

The Department of Planning and Development has reviewed the environmental checklist submitted by the project applicant; and reviewed the project plans and any additional information in the file. As indicated in the checklist, this action will result in adverse impacts to the environment. However, the proposed mitigation strategies and further conditioning will provide reasonable protection to the Environmentally Critical Area and its buffer.

#### **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 – SEPA**

*Prior to Master Use Permit Issuance*

1. In accordance with SMC 25.09.335, a permanent covenant and survey shall be recorded in the King County Office of Records and Elections that describes and delineates all required non-disturbance areas (wetland and wetland buffer), that prohibits development on and any disturbance of them, and that prohibits considering them for development credit in future plans or development.
2. The landscape plans in the plan sets shall be updated to reflect proposed landscape plan contained in the Buffer Averaging Plan, dated March 7, 2008.

*Prior to Building Permit Issuance*

3. A split-rail fence shall be constructed along the edge of the on-site buffer and permanent signs installed along the fence indicating that the buffer is a non-disturbance area.

*During Construction*

4. The construction fencing proposed in the submitted Temporary Erosion Control Plan shall be maintained in good condition throughout the entire construction period.
5. The use of grading, concrete delivery and concrete pumping equipment in the project area shall be limited to the hours of 7:00 a.m. to 6:00 p.m. on non-holiday weekdays and Saturdays 9:00 a.m. to 6:00 p.m..

Signature:                     (signature on file)                     Date: September 4, 2008  
Marti Stave, Land Use Planner  
Department of Planning and Development

MS:bg