



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 Numbers: 3008955
Applicant Name: Timon Sinclair
Address of Proposal: 843 S. Trenton Street

SUMMARY OF PROPOSED ACTIONS

Land Use Application to allow a two story, 1,695 sq. ft. single family residence in an environmentally critical area. Parking for one vehicle will be located within the structure.

The following approval is required:

ECA Variance – to allow development in the steep slope buffer area in an environmentally critical area Section 25.09.180C2.

25.09.280

Variance - to allow relief from less than the minimum lot area requirements.

23.44.010

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

* Sepa was applied for at submittal, DPD determined it was exempt.

BACKGROUND DATA

Site and Vicinity Description

The property is located in the South Park neighborhood of Seattle at 843 S. Trenton Street between 8th Avenue S. and 10th Avenue S. The south property line of the subject site is adjacent to a ten foot wide undeveloped alley. The property is approximately 3,000 sq. ft. in area and is rectangular in

shape. The site has 25-feet of street frontage on S. Trenton St. and 25-feet of alley frontage. The site is approximately 119.98-feet deep along the west property line and 119.97-feet deep along the east property line. The surrounding neighborhood is comprised primarily of single-family residences. The site is mapped Environmental Critical Area because of Steep Slope.

The site measures approximately 3,000 square feet and is currently vacant. The elevation change across the site is approximately five feet from the northwest corner to the southeast corner of the parcel. The site itself is relatively flat. The parcel to the east of the subject site slopes up to the west. The average slope of the neighboring hillside is approximately 50 percent. The property is zoned Single Family residential with a minimum lot area of 5000 square feet (SF 5000). All surrounding properties are similarly zoned.

The slope is heavily vegetated with deciduous trees, shrubberies, and planted flowers.

Proposal

The project proposal is to build an approximately 1,695 sq. ft., two story single-family residence with parking within the structure.

This project requires two variances: An **ECA Variance** and a **regular Variance**.

The two story single-family residence requires a **variance**, specifically relief from the minimum lot area requirements **23.44.010**

The two-story, 1,695 sq. ft. Single-family residence requires an **ECA variance**, specifically relief from **25.09.280C2** requirement, to “allow a development in the steep slope buffer area.

Public Comment

DPD published public notice of the proposed development on July 3rd, 2008, and the public comment period ended on July 16th, 2008. DPD received no written comments.

ANALYSIS - VARIANCE

Variations from the provisions or requirements of the Land Use Code shall be authorized only when all of the following facts and conditions are found to exist:

- 1. Because of unusual conditions applicable to the subject property including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The current lot was created as a legal building site in 1890. The subject property is rectangular in shape and approximately 3,000 sq. ft. in an area zoned Single family with a minimum lot area of five thousand square feet (SF5000). Based on the fact that the lot has less than the required minimum lot area this creates the need for a regular variance along with the ECA Variance. The site is only 25-feet wide and approximately 120-feet deep. There is a 10-foot wide undeveloped alley adjacent to the south property line. Based on the site review and the Geotechnical report the

steep slope is stable and will not be affected by the proposed structure. Except for a tiny portion of the site it is not a steep slope but is mostly covered by buffer. The owner of the adjacent commonly owned lot, with the subject site, at 841 S. Trenton St. was issued a building permit prior to October 31st, 1992, and assumed at that time that they would be able to build a house on the adjacent lot at 843 S. Trenton St., however, the Environmental Critical Area Ordinance came into effect stopping their efforts. Therefore, the subject site has been in existence prior to October 31st, 1992, which is the Land Use Code requirement for legal building sites. However, because the subject site at 843 S. Trenton St. is an undersized lot that was held in common ownership with a contiguous lot at the time of the ECA Ordinance and contains a Steep Slope Buffer, it requires a Variance to be developed.

Because the subject site is so narrow in width and the structure is only proposed to be 21-feet at its highest point, the new residence would not result in a structure with an increased bulk and scale. Also, because homes of similar size are already present along S. Trenton St. and S. Concord St. it is not out of place with current character. Along S. Trenton St. and S. Concord St. there are approximately a dozen and a half sites that share a similar lot size, or are, at the very least less than the required minimum lot size of five-thousand square feet (SF5000). Proper drainage control measures will reduce or eliminate the potential for erosion in this area and improve slope stability. To deny the proposal would deprive the applicant of property rights enjoyed by their neighbors.

2. *The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located; and*

The requested variance, to allow less than the minimum lot area, does not go beyond the necessary to afford relief as the applicant will build one single family residence on this single family zoned parcel. The new single family residence will meet all development standard requirements for single family zones.

The variance will not be a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located as there are other parcels in the close vicinity that also enjoy single family residences on parcels not meeting the minimum lot size. King County Assessor's records for the parcel located on S. Trenton St. and S. Concord St. show lot sizes of 3,000 sq. ft. or less.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

The proposed new residence will not be materially detrimental to the public or injurious to the property or improvements in the zone or vicinity as it will meet all development standards for lots in the zone. The size and bulk of the structure will not exceed the height limit of 25 feet for the zone as it will measure only 21 feet at its highest point and will be only 25 feet wide.

Therefore, granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located.

4. The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue hardship or practical difficulties;

The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would not allow for less than the minimum lot area or for the new residence to be built on a lot that doesn't meet the zone standards and to create a structure that would be out of character with the existing single family structures in the neighborhood. The new residence will not be out of character with the rest of the neighborhood. The applicants built a house on the adjacent lot with the understanding that the subject site could also have a house built on it. The code changed after the first house was permitted but prior to application for the second house creating the hardship. Lots of similar size and shape are already located along S. Trenton St. and S. Concord St. Many of these under sized lots are already built on or vacant. This would not cause undue hardship or practical difficulties and the proposal would not create much additional appearance of bulk as homes of similar size are already present along S. Trenton Street. It is not out of place with current character in the neighborhood.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The spirit and purpose of the Land Use Code identifies flexibility as an important directive to allow the residents of single-family residential areas maximum use and enjoyment of their homes. As proposed this application has attributes that are within the spirit and purpose of the Land Use Code.

DECISION – VARIANCE

DPD **APPROVES** the requested variance to allow relief from less than the minimum lot area requirements. **23.44.010**

ANALYSIS – ECA VARIANCE

Variances may be authorized only when all of the variance criteria set forth at SMC Section 25.09.280 and quoted below are met.

- B. The Director may approve a yard or setback reduction greater than five feet (5') in order to maintain the full width of the riparian management area, wetland buffer or steep-slope area buffer through an environmentally critical areas yard or setback reduction variance when the following facts and conditions exist:

1. The lot has been in existence as a legal building site prior to October 31, 1992.

The owner of the adjacent commonly owned lot, with the subject site, at 841 S. Trenton St. was issued a building permit prior to October 31st, 1992, with the understanding that they would be able to build a house on the adjacent lot at 843 S. Trenton St., however, the Environmental Critical Area Ordinance came into effect stopping their efforts. Therefore, the subject site has been in existence

prior to October 31st, 1992, which is the Land Use Code requirement for legal building sites. However, because the subject site at 843 S. Trenton St. is an undersized lot that was held in common ownership with a contiguous lot at the time of the ECA Ordinance and contains a Steep Slope Buffer it requires an ECA Variance to be developed.

- 2. Because of the location of the subject property in or abutting an environmentally critical area or areas and the size and extent of any required environmentally critical areas buffer, the strict application of the applicable yard or setback requirements of Title 23 would cause unnecessary hardship; and**

The elevation change across the site is approximately five feet from the northwest corner to the southeast corner of the parcel. The parcel to the east of the subject parcel slopes to the west or toward the subject parcel. The 20 foot contour that runs along the east property line of the subject site is the defined Toe of the steep slope. The elevation change of the slope on the adjacent site is approximately 30 feet. The steepest portion of the slope is a cut into the slope that is in excess of 100 percent. The average slope of the neighboring hillside is approximately 50 percent. The site generally slopes toward the south central portion of the site. An abrupt coastal bluff borders the property along the southern, southeastern, and eastern shorelines. At the proposed building locations, the slopes are approximately 10 percent. The site is classified as an environmentally critical area because the steep slope buffer covers the easterly one third of the site. This is an unusual condition applicable to the subject property, which was not created by the owner or applicant. The presence of ECA steep slope buffer on the site limits the expansion available to the applicant. In order to develop in the ECA steep slope buffer the applicant is requesting a ECA Variance to maintain the irregularity already present on the site.

The new residence is proposed to be fifteen feet (15) wide by sixty (60) feet deep. The footprint of the residence is especially small because the lot is undersized. The structure meets all the setback requirements and the east side of the structure intrudes into the Steep Slope Buffer. Because the site is less than the required minimum lot area it creates the need for another variance (Regular). Because homes of similar size with irregular yards are already present along S. Trenton St. it is not out of place with current character. To deny the proposal would deprive the applicant of property rights enjoyed by their neighbors.

- 3. The requested variance does not go beyond the minimum to stay out of the full width of the riparian management area or required buffer and to afford relief; and**

The subject lot is not located in a riparian management area; therefore, this section does not apply.

- 4. The granting of the variance will not be injurious to safety or to the property or improvements in the zone or vicinity in which the property is located; and**

No significant impacts to the neighborhood character are anticipated as a result of this proposal. The site and surrounding area are all single-family zoned parcels. The proposed development will be subject to geotechnical and engineering review at the construction permit stage to ensure there is

no damage to adjacent property stability. The applicant has provided a geotechnical report at this stage titled "Soils Geotechnical Report" dated August 22nd, 2008 by Geotechnical Investigations Group, Lacey, Washington for review and approval by DPD. The reports addressed proposed improvements including building site preparation and development with respect to steep slope and buffer areas, landslide areas and potential erosion hazard. It was also concluded in the report that excavations, permanent foundation walls and associated drainage control measures will have a negligible impact on the existing steep slope and buffer areas as long as certain geotechnical recommendations are followed. The report has been reviewed by DPD staff. In addition the proposed new single family house will have the code required parking in an attached garage that is accessible from S. Trenton St. There is a 10 foot wide undeveloped alley adjacent to the south property line. However, access to the site will be from S. Trenton St. Granting these variances will not be materially detrimental to the public welfare or injurious to the property or improvements in zone or vicinity in which the subject property is located and will limit the disturbance to the steep slope and its buffer.

5. The yard or setback reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining; and

The proposed development includes a single family house and a garage within the first level, which is similar to nearby neighborhood character consisting of one to two-story single-family residences with attached garages. As discussed above, the proposed residence would be sited predominately in the buffer area at the toe of the slope, which is approximately the easterly third of the site. The new residence will not be out of character with the rest of the neighborhood. The proposal would not create much additional appearance of bulk as the new residence presents a façade width of only 15 feet. The height is 21 feet which is less than the average height of the homes in the neighborhood. This measurement is to the top of the roof at the highest point. The required rear yard has a setback of approximately 12 feet. The new residence is setback 30 feet from the rear property line. The required front yard is 20 feet. The new residence is setback 30 feet from the front property line. The steep slope along the east end of the property is heavily vegetated with deciduous trees, shrubberies, and planted flowers. The rest of the property is nicely landscaped with grass, trees and shrubs.

As noted in the Site Description, the subject property slopes upwards from west to east. The westernmost portions of the site contain lesser steep slope and buffer areas where development is proposed. Development in the buffer area whether with a setback reduction or not would have a greater adverse impact when taken into consideration.

The east portion of the subject lot affords opportunities to lessen the extent of disturbance on buffer areas. The abutting S. Trenton St. right-of-way will provide the only access to the development site.

In order to minimize development in the buffers, all grading, structures, parking, and impervious areas are proposed in an area where the topographic conditions are less dramatic. This area is also

directly accessible to a paved roadway (S. Trenton St.). Without relief from reduction in required critical area and buffers, development would be very difficult to construct a residence.

The wetland area is located in the center of the lot along the toe of the steep slope near the east lot line. It is estimated that the size of the wetland is approximately 300 to 500 square feet. It appears that this is a very small marginal wetland and the code does allow for developing this area.

6. The requested variance would be consistent with the spirit and purpose of the environmentally critical policies and regulations.

The spirit and purpose of the environmentally critical areas policies and regulations is to strictly regulate development in critical areas to protect the public health, safety, and welfare on development sites and neighboring properties and to limit impacts to environmentally critical areas and buffers by directing activities away from these areas through restrictions on the design and siting of structures and on grading and other land disturbing activity to allow the residents of single-family residential areas maximum use and enjoyment of their homes. Given the development pattern in the neighborhood, the unusual condition and the presence of the environmentally critical area steep slope and it's buffer, granting the requested variance for the proposed new residence, for the ECA variance; relief from the requirements to "allow an intrusion into the steep slope buffer area, is consistent with the Environmental Critical Area Policies.

SMC 25.09.180.

E. Steep Slope Area Variance.

1. The Director may reduce the steep slope area 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

The owner of the adjacent commonly owned lot, with the subject site, at 841 S. Trenton St. was issued a building permit prior to October 31st, 1992, with the understanding that they would be able to build a house on the adjacent lot at 843 S. Trenton St., however, the Environmental Critical Area Ordinance came into effect stopping their efforts. Therefore, the subject site has been in existence prior to October 31st, 1992, which is the Land Use Code requirement for legal building sites. However, because the subject site at 843 S. Trenton St. is an undersized lot that was held in common ownership with a contiguous lot at the time of the ECA Ordinance and contains a Steep Slope Buffer it requires an ECA Variance to be developed.

b. the proposed development otherwise meets the criteria for granting a variance under Section 25.09.280B, except that reducing the front or rear yard or setbacks will not both mitigate the hardship and maintain the full steep slope area buffer.

Even if front and rear yard were both reduced to zero, full steep slope buffer would preclude construction of a house. So yard setbacks have no relevance. Criteria and responses for granting an ECA variance found in SMC 25.09.280.B are listed below:

C. When an environmentally critical areas variance is authorized, the Director may attach conditions regarding the location, character and other features of a proposed development to carry out the spirit and purpose of this chapter.

Applicable conditions are listed in the Conditions section below.

SMC 25.09.180.E. Steep Slope Area Variance.

- 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.***

A total yard reduction will not provide enough land area to reasonably developed and provide adequate separation from the steep slope buffer. The steep slope buffer area occupies a large portion of the development site. The applicant has proposed to place the building footprint in the center of the development site with the least amount of disturbance in the steep slope buffer area - the easterly one third of the site. The buffer area proposed for development is located in the principal building area. Due in part to the irregular shaped buffer, approximately half of the buffer area will be developed. Based on a geotechnical study analyzing soil conditions the proposed development can be safely designed and developed under the guidance of a geotechnical engineer. The buffer area at the toe of the slope is the east 5-foot setback which will not be developed. Without the intrusion into the buffer areas no feasible area would allow development of any scale establishing a single family use. The applicant has therefore proposed to develop the majority of the structure in the buffer area. This intrusion into the steep slope buffer area would impact up to one third of the total steep slope buffer area.

- 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 a small very, degraded Type IV Wetland and the dominant vegetation in this area is buttercup and horsetail, both which are tolerant of saturated soil (i.e., wetland) conditions. The Type IV wetland is located in the center of the lot along the toe of the steep slope near the east lot line. The size of the wetland is estimated to be approximately 300 to 500 square feet. Because of its small size and limited function, the wetland is determined to rate as a low-scoring Category 4. Category 4 wetlands less than 1,000 square feet in size can be developed if one of the mitigation measures listed in SMC 25.09.160.C3 is provided. The applicant has chosen to plant a 500 square foot area of native vegetation equal in size to the area of the developed wetland, and remove invasive species in the area to be planted. The applicant will submit a plan, by a licensed professional, demonstrating this proposal and indicating all plant species, size, and location. The applicant has not proposed to disturb other vegetation outside the development area.

DECISION – ECA VARIANCE

DPD **APPROVES** the requested variance to allow a development in the steep slope buffer.
25.09.280

DECISION – VARIANCE

DPD **APPROVES** the requested variance to allow relief from less than the minimum lot area Requirements. **23.44.010**

CONDITIONS OF VARIANCE APPROVAL

Prior to Issuance of a Master Use Permit

1. Revise plans to show a 500 square foot area of Native Vegetation or other mitigation measures listed in SMC 25.09.160C3.

Prior to Issuance of a Construction Permit

2. Show on the plans a 500 square foot area of Native Vegetation or other mitigation measures listed in SMC 25.09.160C3.

Signature: _____ (signature on file) Date: April 20, 2009

Joan S. Carson, Land Use Planner
Department of Planning and Development

JC:lc

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