



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: 3009134
Applicant Name: Brittani Ard for Team AMALFI, LLC
Address of Proposal: 2114 NE 89th Street

SUMMARY OF PROPOSED ACTION

Land Use Application to allow three duplex townhouse structures and two triplex townhouse structures (for a total of 12 units), on a lot with an environmentally critical area (steep slope). Surface parking for eight vehicles will be provided in addition to four parking spaces within four townhouse units. Construction of the project includes 1,200 cubic yards of grading. A 12 unit lot, full-subdivision, is anticipated as part of this project.

The following approval is required:

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 INFORMATION

Site and Vicinity Description

Located one block east of Lake City Way NE, on the north side of NE 89th Street, the 15,140 square foot lot is zoned multi-family Lowrise 2 (L-2). The site, which was previously graded, has “gentle or moderate” (i.e. less than 40 percent) slopes at the east, west and north property lines (per geotechnical report prepared by Lui & Associates, dated November 5, 2007). The parcel has 270 lineal feet of frontage on dedicated right-of-way, half of which is along 23rd Ave.

NE, abutting the east property line. This portion of 23rd Ave NE abutting the subject property is an unopened right-of-way and is heavily vegetated with trees and undergrowth. Access to the site is from NE 89th Street, which has approximately 20 feet of paving within the 50 foot right-of-way. There are no other improvements in the right-of-way (such as sidewalks).

The site is mapped as an Environmentally Critical Area (ECA) for Steep Slopes. However, only the (15 foot) steep slope buffer falls on the subject site. The steep slope is located on the adjoining site to the northwest. The site is also mapped as an area with soil conditions that may lead to liquefaction in an earthquake. Contaminated soils were found in two of the test bore holes in the north and west portion of the lot. The contamination is believed to be a plume from the neighboring site to the northwest and the subject property is on the Washington State Department of Ecology's contaminated sites list. A majority of the site has been covered with crushed concrete.

The commercially zoned (C1-65) property that borders the west property line is developed with a multi-story storage facility. Several multi-family buildings are located in the immediate area surrounding the subject site including condominiums to the east of the unopened right-of-way 23rd Av NE and a series of triplexes to the south of NE 89th Street where the zoning transitions to L-1. One block east of the site, across Ravenna Ave NE the zoning changes to single family (SF5000). The multi-family zoned property to the north of the site is undeveloped.

Proposal

The applicant proposes to construct five multifamily buildings totaling 12 units on a lot mapped with environmentally critical areas (Steep Slope buffer and Liquefaction) with parking for four vehicles located within attached garages and eight surface parking spaces. All of the units will be held to the center and eastern portion of the site and the required open space for the project will be located in the northwest portion of the site in order to keep all development out of the steep slope buffer.

An ECA Exemption (from the need for an ECA Variance) was granted by the Department on February 1, 2009. In addition, an Exception was granted by DPD (February 12, 2008) from the requirement to open the right-of-way 23rd Ave NE however, full improvements (i.e. curb gutter, sidewalks and planting strips) will be required along NE 89th Street. An ECA covenant, for liquefaction was recorded October 31, 2008.

Public Comments

The public comment period that began on November 27, 2008 was extended twice by request and the notice board was moved for greater visibility. During the renote for this Master Use Permit the scope was expanded to include notice for the related unit lot subdivision application (3009815) that had come in during the first comment period. The comment period ended on February 11, 2009. All comments received during the entire comment periods are summarized here.

DPD received two comment letters regarding this proposal. Concern was raised about loss of trees, the potential impacts to the peat and the intermittent stream (Willow Creek) on a nearby

site (Ravenna Woods Condominiums at 2300 NE 89th Street) from collecting stormwater on the subject site (instead of allowing on site infiltration). Concern was also raised about increased demand for on street parking and possible impacts to nearby properties due to the proposed placement of windows and/or position of building footprints.

Some of the comments were design related suggestions that go beyond the applicable code requirements of a SEPA review (such as the placement of windows) and were referred directly to the builder for consideration. The purpose of this review is to assess and mitigate if required, the impacts of the proposed development to the various elements of the environment (as established in the SEPA regulations, Chapter 25.05) that are found on the site.

With regards to parking impacts for the permitted residential development; the project as proposed provides for the required one parking space per unit and four bicycle parking spaces. Guests who drive to the site may end up utilizing on-street parking as might guest for other properties in the area.

As noted above, the subject site was previously cleared and graded. Three trees on the site, near the northeast corner of the lot, will be removed as part of this development. The proposed project will provide for 15 new trees on the site. The unopened right-of-way abutting the east property line is heavily vegetated and there are no plans as part of this proposal to remove any trees in the unopened right-of-way 23rd Ave NE. To the extent that the applicable codes regarding drainage and vegetation relate to the review of the proposed project on the subject site, the public comment about these subjects will also be addressed below.

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 submitted by the applicant (dated June 26, 2008). This information was supplemented with a geotechnical report prepared by Lui & Associates, Inc. (dated November 5th 2007) and a subsurface investigation report by Sound Environmental Strategies (dated December 3, 2008). The information in the checklist, the geotechnical report, the subsurface investigation and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The site of the proposed action is mapped as an environmental critical area ((ECA), steep slopes and liquefaction. With regard to liquefaction (as previously noted) the applicant has recorded the required Covenant (per SMC 25.09.100) and the structures will be engineering to address the soil conditions. With regards to the Steep Slopes designation, Code (SMC 25.09.180) requires a default 15 foot buffer for slopes over forty (40) percent. In this case, the slope is on an adjoining site, to the north and west however, the (required 15 foot) buffer extends across the shared property line and onto the subject site. A geotechnical review was done by the Department of Planning and Development and an ECA Exemption (from the requirement for an ECA Variance) was approved January 28, 2009 because the development proposed is outside of the ECA buffer (per SMC 25.09.045.D). In addition, code (SMC 25.09.060.D) will require delineating the buffer with permanent markers and SMC 25.09.060.E requires revegetation in the ECA.

The applicant's geotechnical study (prepared by Lui & Associates, Inc.) has made specific recommendation for earth work on the site. Per the proposed excavation plan (sheet A1.4, dated January 7th, 2008) there will be no grading in the ECA, steep slope buffer, on the northwest corner of the lot. In addition, the applicant provided a subsurface investigation report prepared by Sound Environmental Strategies ((SES), dated December 3, 2008). The subsurface investigation found a "petroleum plume" on the site. While the report clarifies that the source of the plume is located off-site, two of the nine boring sites (the most north and westerly bore holes) contained petroleum hydrocarbons between fifteen and twenty feet below grade. If subsequent soil remediation work is taken a separate grading permit will be required and any impact to the steep slope will be assessed at that time. Per the applicants reports (the geotechnical report prepared by Lui & Associates, dated November 5, 2007 and the subsurface investigation report prepared by Sound Environmental Strategies, dated December 3, 2008) and the Department's geotechnical review the proposed excavation is not expected to reach the level of the contaminated soils. Remediation work will only be triggered if work related to the proposed project encounters contaminated soil.

As mentioned in the project description (above) the five building footprints will be kept to the eastern two-thirds of the lot to avoid development in the steep slope buffer. In addition shallow footings and slab on grade construction are proposed for the structures to keep grading to a minimum, which is expected to avoid disturbance of the contaminated soils. If contaminated soils are found in the material being excavated clean-up standards administered by the State Department of Ecology will be triggered.

There are existing codes and ordinances applicable to the project as referenced above. In addition, both the Stormwater Grading and Drainage Control Code (SMC 22.802.015.D), and the Seattle Building Code have prescriptive provisions and conditioning authority (such as bonding and insurance if needed) for grading, excavation, erosion and stormwater control. The Building code provides for construction measures and life safety issues. The Noise Ordinance will regulate work practices' and equipment operation that generate sounds that migrate off site. The State Department of Ecology, Model Toxic Control Act (MTCA), Level A clean-up standards (RCW 64.44) and Puget Sound Air Control Act standards will govern soil remediation if triggered by the site work related to the proposed project.

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, and 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 or circumstances (SMC 25.05.665 D) mitigation can be considered. Further discussion is warranted to identify any additional mitigation that may be required.

Short-term Impacts

Expected short term impacts include: erosion related to construction activity; increased noise levels due to construction activity and increased on-street parking demand related to construction company employees and grading work; possible earth movement (if the slope buffer is disturbed)

and possible disturbance of contaminated soil during grading. A short term increase in carbon dioxide and other greenhouse gas emissions which adversely impact air quality are also expected as a result of construction activity.

Earth/Soils

Prescriptive grading and erosion control measures (as discussed above) are expected to be adequate to control potential erosion associated with the 1,200 cubic yards of excavation required as part of the proposed project. If contaminated soils are encountered a higher standard of erosion control may be required as conditioned (below) as part of this Decision.

Best management practices (BMP's) for erosion control such as: 1) site watering as need to keep dust down; 2) keeping truck loads below the rim of the bed of the transport trucks; 3) covered loads; and 4) "direct loading" to trucks from the construction entrance by excavation equipment will prevent transport truck from tracking soil off site. As prescribed by code and conditioned by this Decision potential erosion will be mitigated.

Possible disturbance of the ECA, steep slope buffer, is prevented by permanent delineation, temporary fencing (per the TESC Plan (detail E1.30, dated July 1, 2008) and by the end of the project, landscaping in the ECA as prescribed in code and conditioned by this Decision (see also sheet A1.1 of the approved plans, dated January 7, 2008). Together with the recommendations found in the geotechnical engineering study prepared for the project, these measures are adequate to provide protection of the slope buffer.

A plume from prior spills at a gas station that was once located at 8910 Lake City Way NE has migrated on to the subject site leaving some soils contaminated with gasoline-range petroleum hydrocarbons (GRPH) and diesel-range petroleum hydrocarbons (DRPH) and the site is on the State Department of Ecology's contaminated sites list. Site work associated with the project is not expected to reach the depth of the contaminated soils. Applicable state and local ordinances (as mentioned in the analysis above) provide extensive conditioning authority and prescriptive clean-up standards. If clean-up is triggered these standards and the conditions of this Decision will provide mitigation for the impacts associated with the contaminated soils on the site.

Water

Residual chemicals (a plume from spills on an adjoining site, as described above) have been found in the soil on the subject property. The proposed project will not increase the impacts to environmental health on the subject site related to the existing contaminated soils. According to the Sound Environmental Strategies subsurface investigation (dated December 3, 2008) the ground water level at the time the soil samples were taken (October 8, 2007) was below the level of the contaminated soil. Thresholds for water treatment are found in WAC173-201A-210 and A240, Clean Up Levels for Ground Water. If clean-up of contaminated soils is triggered during site work for the proposed project and ground water is encountered it should also be tested for contaminants at that time.

Several adopted State and City codes provide mitigation for the identified impacts to water quality such as: State Department of Ecology Model Toxics Control Act (MTCA) and the Stormwater, Grading and Drainage Control Code which requires provisions for controlled tightline release to an approved outlet on site and may require additional testing, treatment and

detention elements to prevent contaminated ground water from entering the Stormwater system. If triggered by encountering contaminated soils; review and application of these requirements will be taken under a separate grading permit that will be required. This decision will be conditioned to require reporting if clean-up is triggered. Prior to initiating remediation, a letter from DOE will confirm that MTCA Standards will be applied to the clean-up, and prior to finaling the grading permit a statement by a certified professional ensuring that clean-up has been achieved shall be required as a Condition of this Decision.

Compliance with the (previously noted) applicable State and Local regulations and conditions of this Decision are adequate to achieve sufficient mitigation of the expected short term impacts associated with site development.

Construction Impacts

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 due to the relatively minor contribution of greenhouse gas emissions from this project.

Excavation for the project will involve approximately 1,200 cubic yards of grading. The Seattle Municipal Code (SMC 11.74.160) states that material hauled in trucks shall be loaded so no debris falls onto the street during transport. The Seattle Municipal Code (SMC 11.62.060) also requires any trucks or trailers used for hauling to use major arterials when possible and take the most direct route to and from the subject site.

The proposal site is near several major arterials and traffic impacts associated with the hauling of debris will be of short duration and mitigated by enforcement of SMC 11.62.and SMC 11.74, for the removal and disposal of the spoil materials.

Parking by construction workers during construction could adversely impact the availability of on-street parking or traffic flow. The owner and/or responsible party shall assure that construction vehicles and equipment are parked on the subject site, whenever possible, for the term of construction. On site construction parking will be restricted to the southern two thirds of the site, away from the steep slope buffer on the north and western portion of the lot.

In residential areas (considered “sensitive receptors” of noise impacts) mitigation in addition to the City Noise Ordinance, is required. The project, as conditioned by this Decision, will provide for restricted work hours that will be limited to non-holiday week days. These conditions will be posted at the construction site for the duration of construction activity. The authority to impose this condition is found in Section 25.05.675B2g of the Seattle SEPA ordinance.

Long-term Impacts

Long Term impacts expected as a result of the proposed project including the subsequent unit lot subdivision included: increased stormwater run-off and reduced on site infiltration due to increased impervious surfaces and additional vehicle trips to and from the site and increased demand on public services and utilities.

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 due to the relatively minor contribution of greenhouse gas emissions from this project.

The expected long-term impacts are typical of residential development and are expected to be mitigated by the City's adopted codes and/or ordinances. The public use and interest are served by the proposal since when all subdivision criteria are met and the proposal creates the potential for additional housing opportunities in the City. The subdivision will be required to show provisions for vehicular access, public and private utilities and access (including emergency vehicles), drainage control, water supply and sanitary sewage disposal for each lot. Code requirements set the standards to be applied for the required infrastructure for the proposed housing units and the subsequent division of land. The impacts from the proposed development are not expected to be significant and are adequately addressed by existing code.

Drainage

Public comment was concerned with the impacts to that portion of Willow Creek that flows through a near-by property (Ravenna Woods Condominiums at 2300 NE 89th Street) because of changes to infiltration on the subject site that will result from the proposed increased impervious surfaces. The Stormwater code requires that stormwater from impervious surfaces be collected and discharge to an approved outlet. In this case the discharge point is a storm drain under the right-of-way NE 89th Street, which in turn discharges to an outfall on the south side of NE 89th Street (and east of the subject site). Due to the natural topography, the creek flows north from this location and the stormwater will return to that portion of the creek that runs through the Ravenna Woods Condominiums.

Summary

Based on the reports and recommendations of Lui & Associates and Sound Environmental Strategies, the review and findings of DPD's geotechnical review and the information in the SEPA checklist, the scale of the impacts that have been identified are not considered significant (as defined in SMC 25.05.794 and described in SMC 25.05.330 and applied to the threshold determination required by RCW 43.21.C).

City codes and State regulations for grading, erosion control, noise, air and water quality, parking and soil remediation as they apply to the project or as conditioned as part of this decision along with the implementation of the recommendations offered in the Lui & Associates Geotechnical Report and the Sound Environmental Strategies Subsurface Investigation Report, are expected to control and mitigate the identified impacts.

The application of adopted Environmentally Critical Area code (specifically 25.09.180) and conditions of this Decision for delineation, revegetation and non-disturbance and the ECA Covenant are adequate to address the protection of the steep slope buffer.

Clean up and disposal of toxic soil and water may apply. Specifically, Washington Administrative Code (WAC) 173-201A and 173-340, the Department of Ecology's MOTCA Model A clean-up standards, as well as additional reporting as conditioned in the Decision and review under a separate permit for grading, will govern any remediation work, if triggered by the disturbance of contaminated soils.

DECISION - SEPA

The responsible official on behalf of the lead agency made this decision after review of a completed environmental checklist and other information on file with the 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, with implementation of the conditions of approval (below), has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] 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(2)(C).

CONDITIONS - SEPA

Non-Appealable Conditions required Prior to Issuance of the Master Use Permit

1. Install markers and revise the survey and site plan to show the markers that delineate the 15 foot steep slope buffer per DR 4-2007.
2. Provide an ECA Covenant for the steep slope buffer to the DPD Land Use Planner (Justina Guyott) for review and recording.

During Grading or Construction Permit

3. Install and maintain highly visible construction fencing (per TESC detail E1.30 on the approved plans) at the edge of the steep slope buffer.
4. A secure construction entrance at least 30 ft. long meeting the surface standards in the Grading code will be constructed on the southern portion of the site and all trucks involved in transport to and from the site will load and unload from the construction entrance.
5. All construction related parking is being provided on the subject site and is limited to the southern portion of the lot.
6. All construction activities are subject to the limitations of the Noise Ordinance. Construction activities (including but not limited to demolition, grading, deliveries, framing, roofing, and painting) shall be limited to non-holiday weekdays from 7 a. m. to 6 p. m. Interior work that

involves mechanical equipment, including compressors and generators, may be allowed on Saturdays between 9 a. m. and 6 p. m. once the shell of the structure is completely enclosed, provided windows and doors remain closed. Non-noisy activities, such as site security, monitoring, weather protection shall not be limited by this condition.

7. If contaminated soils are exposed during excavation for the proposed project; written acceptance of remedial action, by Washington State Department of Ecology, shall be provided to DPD (Justina Guyott, Land Use Planner).
8. If remediation is required the following conditions will apply:
 - a. Best Management Practices (BMPs), as required by the City and State and as identified by Sound Environmental Strategies, to protect air, water and environmental quality shall be employed *during remediation*. Including but not limited to: site watering as needed to control dust and airborne particulates, wheel washing and direct loading to transport trucks.
 - b. If ground water is encountered at the level of soil remediation work, water quality shall be tested, per State Department of Ecology Model Toxics Control Act (MTCA) Method A standards.
 - c. If site dewatering is proposed water quality testing and treatment shall be in place, to ensure that all water discharged from the site to the City storm drain system meets State Water Quality Standards. A separate SPU review and approval will be required prior to the discharge.
 - d. All equipment and vehicles involved in excavation work will deliver to the transport vehicles at the construction entrance (“direct load”) and any equipment working on the northern portion will be cleaned (i.e. wheel washing, ect.) prior to leaving the site.

Prior to Finaling the Grading Permit:

- e. If remediation work to remove contaminated soils is required; the owner(s) and/or responsible party(s) shall provide DPD certification by a competent professional that the contaminated soils have been removed from the site.

Prior to Finaling the Building Permit:

9. Revegetate the steep slope buffer per the landscape plan sheet A1.1 on the approved plans.

Signature: _____ (signature on file) Date: August 3, 2009
Justina Guyott, Land Use Planner
Department of Planning and Development

JG:bg