



**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3009162
Applicant Name: Matt McCleary of KPFF Engineers for Mikes Chili
Address of Proposal: 1447 NW Ballard Way

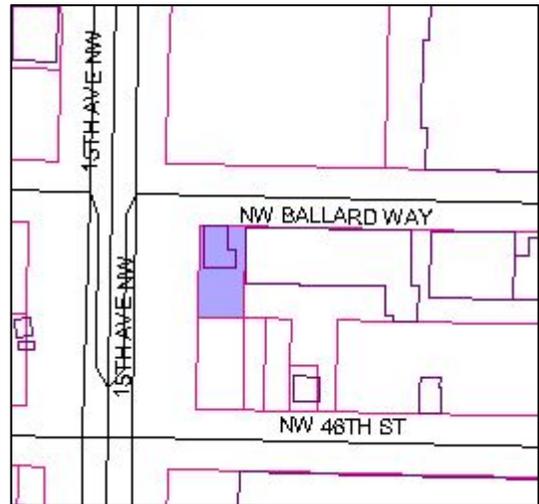
SUMMARY OF PROPOSED ACTION

Land Use Application to allow a curb cut and gravel driveway for access to rear of a site in an environmentally critical area (steep slope). Project includes import of 135 cubic yards of structural fill and import/ backfill of 30 cubic yards of gravel for new pavement and utilities.

The following approval is required:

SEPA – Environmental Determination (Seattle Municipal Code Chapter 25.05)

Variance – to allow for less than required curb cut and driveway width (22’ driveway and minimum 15’ curb cut required per SMC 23.54.030 D2 and 23.54.030F3 - 12’ requested).



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

BACKGROUND DATA

Site and Area Description

Mike’s Chili is located on the corner of NW Ballard Way and 15th Ave NW but currently has no vehicular access to the site. The 5000 sq. ft. lot has 50 feet of street frontage on NW Ballard Way. The building and deck occupy the majority of the street frontage, precluding access to the rear of the site from NW Ballard Way. The 100’ lot depth borders a portion of 15th Ave NW that provides

local access to the block. Just west of the local access portion of the street is a retaining wall for the section of 15th Ave NW that bridges the ship canal (the Ballard Bridge). The site sits approximately 10 feet below the local access portion of 15th Ave NW. The grade change constitutes a steep slope. Since the grade change was created through previous grading for 15th Ave NW, an exemption from the steep slope development standards has been granted by the City's geotechnical engineer. While an exemption has been granted, the project must still be evaluated for potential impacts within the steep slope area.

The area surrounding Mike's Chili on the east and south has recently been developed. The street frontage for 15th Ave NW is being developed with curb, gutter, sidewalk and angled parking as part of the adjacent development project.

Proposal Description

The applicant proposes to create a 12' curbcut and driveway, providing vehicular access to the rear of the Mike's Chili lot from 15th Avenue NW. The driveway will be stabilized on either side with a mechanically stabilized earth (MSE) wall. The slope will be just less than the 20% maximum slope allowed under the code. A Variance is required for the 12' curbcut and driveway width; the land use code requires a minimum driveway width of 22' for 2-way access to a non-residential site per SMC 13.54.030D2a; a minimum curb cut width of 15'/maximum width of 30' is required in industrial zones per SMC 23.54.030F3b(1). Practically speaking, the curbcut would normally be designed to match the driveway width.

Public Comments

Initially just the SEPA component was applied for. The initial comment period ended on October 23, 2008. No comment letters were received. After initial review of the project, it was determined that a variance is needed to complete the project as proposed. Per applicant request, the project was re-noticed with the variance component, and the subsequent public comment period ended January 21, 2008. One written request was received to be notified of the decision.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist prepared on July 29, 2008 and supplemental information in the project file submitted by the applicant, including a geotechnical report dated July 17, 2008 by Earth Solutions NW, LLC. The information in the checklist and the supplemental information form the basis for this analysis and decision. Pursuant to SMC Section 25.05.908 B, review is limited to issues pertinent to ECA impacts and mitigation.

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. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

Anticipated construction-related impacts are limited to soil erosion. Soil erosion is not considered significant because it is temporary and will be minimized by City codes and/or ordinances including: 1) Building Code (construction measures in general) and 2) Stormwater, Drainage and Grading Code. Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and it is not necessary to impose specific additional conditions for this impact. However, since the proposal site is located in an environmentally critical area, additional discussion of earth impacts is warranted.

Earth / Soils

The ECA Ordinance and Director's Rule (DR) 33-2006 requires submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with steep slopes, liquefaction zones, and/or a history of unstable soil conditions. Pursuant to this requirement, the applicant submitted a geotechnical engineering study prepared by Earth Solutions NW, LLC, dated July 17, 2006. The study was reviewed by DPD's geotechnical experts, and an assessment made that any specific comments or conditions can be addressed during the building permit review. During the building permit review, DPD's geotechnical expert will condition the construction, if necessary, to meet safety and other soils-related standards in the Building and Stormwater, Grading and Drainage Control Codes. No additional conditioning is warranted pursuant to SEPA policies.

Long-term Impacts

Potential long-term impacts that may occur as a result of this project include increased surface water runoff from greater site coverage by impervious surfaces. This long-term impact is not considered significant because the impacts are minor in scope.

The long-term impacts are typical of new development and will be mitigated by the City's adopted codes and/or ordinances, including but not necessarily limited to: (1) the Stormwater, Grading and Drainage Control Code (which regulates storm water runoff from additional site coverage by impervious surface); and (2) the Environmentally Critical Areas Regulations (which, among other things, requires stabilization of all disturbed areas in landslide-prone critical areas, including steep slopes.) The project will be reviewed for compliance with these codes during the building permit application phase of the project.

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 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 43.21C.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).

ANALYSIS - VARIANCE

Variances may be authorized only when all of the variance criteria set forth at SMC Section [23.40.020](#) and quoted below are met.

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;*

Mike's Chili Parlor is an existing restaurant that is located in an old Ballard residence. There is a 10 foot grade difference between 15th Avenue NW and the adjacent portion of Mike's Chili property. The grade difference was created through previous legal grading for the Ballard Bridge/15th Avenue NW. The grade difference, along with recent construction on the adjacent property and associated street improvements, prevents at-grade access to the Mike's Chili site. The owner desires a driveway for vehicular access. Due to the small site and grade difference between the street and the property, the strict application of the code in requiring a 22' driveway and corresponding curb cut for 2-way non-residential traffic, per SMC 23.54.030 D2, would not be feasible for the site and would deprive the property owner of vehicular access.

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 engineer has shown a mock-up of the site with a 22' driveway. The walls and slope of the driveway would consume the entire back of the lot and hinder accessibility. Since a van accessible space is required as the first parking space on a commercial site, requiring a 22' driveway would preclude the van accessible space, and thus vehicular access to the site. The proposed 12' driveway provides adequate access for one van accessible parking site, and maneuvering area for a vehicle to turn around and exit the site. Since only one vehicle will be using the driveway, the 12' width for one-way access is sufficient.

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 12' curb cut and driveway is not materially detrimental to surrounding properties. The smaller curb cut is a benefit in allowing for greater on-street parking capacity. However, given the driveway design, access would need to be clearly restricted to one vehicle for safety. The driveway is designed as the only maneuvering area for turning around. The use of the driveway by a second vehicle would require the vehicle to back up the steep driveway to exit the site. The code prevents backing out onto 15th Avenue NW because it is an arterial. To ensure that vehicles not authorized to park in the designated space do not inadvertently enter the site, a means of access control would be necessary as a condition of the variance. Required access control could be a gated entry, or clearly visible signage.

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; and*

Strict application of the curb cut and driveway width for a commercial zone would prevent the owner from having vehicular access to his site. Additionally, a 22' wide driveway for two-way access to the site is not necessary given the limited capacity of the site for parking.

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

The purpose of the City's driveway standards is to provide for safe access to lots. Generally a commercial zone has multiple customers, potentially unfamiliar with the site, accessing the site via a public driveway. In this case, the driveway would be a private commercial driveway, with only the owner using it. The proposed 12' driveway meets the code for one-way access. Along with appropriate signage or other access control, this is sufficient to provide safe vehicular access for the owner to the site and should be allowed.

DECISION – VARIANCE (Based on plans in the file)

DPD **CONDITIONALLY GRANTS** the requested variance to allow a 12 foot curbcut and driveway.

CONDITIONS – SEPA

None

CONDITIONS – VARIANCE

For the Life of the Project

1. The owner(s) and/or responsible party(s) shall install and maintain appropriate signage or an access control gate to prevent unintended use of the driveway. The design of the signage or access control shall be submitted for review and approval by the Department of Planning and Development prior to issuance of the Master Use Permit.

Signature: _____ (signature on file) Date: February 05, 2009
Holly E. Anderson, Land Use Planner
Department of Planning and Development

HEA:lc

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