



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: 3009637
Applicant Name: Fred Johnson, Sullivan Conard Architects
Address of Proposal: 508 McGilvra Boulevard East

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a 21 foot high, 7,776 square foot single family residence in an *Environmentally Critical Area*. Parking for two vehicles will be located within the structure. Project includes 1,600 cubic yards of grading and demolition of three structures.

The following approval is required:

SEPA - Environmental Determination – for development in an Environmentally Critical Area. (Seattle Municipal Code - Chapter 25.05)

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

BACKGROUND INFORMATION

Site and Vicinity Description

This approximately 26,665 square foot (sq. ft.) site is located in a Single Family 7200 (SF 7200) zone located between McGilvra Boulevard East on its west property boundary and 39th Avenue East along its east property boundary. The site is comprised of what are now two lots (containing one single-family structure on each lot). The entire site is designated *Environmentally Critical Area (ECA) Potential Landslide*, similar to surrounding properties. The area extending westward from 39th Avenue approximately 65 feet along the south property boundary and 82 feet along the north property boundary is designated *Environmentally Critical Area (ECA) Steep Slope*.

The surrounding parcels on both sides McGilvra Boulevard and the west side of 39th Avenue are also zoned SF 7200. Parcels on the east side of 39th Avenue are zoned SF 9600. Varying small portions of the parcels on the west side of 39th Avenue, including an approximately 28 foot deep portion of the subject site, and all parcels on the east side of 39th Avenue have a Shoreline Master Program designation of *Urban Residential*. (Because of the sites small amount of UR designated area and no development proposed for this area, this proposal has been exempted from Shoreline Substantial Development Program review requirements.)

Proposal

The applicant proposes to remove the single-family structure on 516 McGilvra Boulevard and the single-family structure and detached garage on 508 McGilvra Boulevard and construct one single-family structure as described in *Summary of Land Use Action* above. The two existing curb cuts (one for each lot) will be removed and replaced with one curb-cut; all site access will continue to be from McGilvra Boulevard. No new construction is proposed in the currently undisturbed steep slope area.

Public Comments

The two-week public comment period ended January 14, 2009. Three neighbors gave the following comments:

- The replacement of the two existing houses with one “mega-home / mansion” is inappropriate and out of place for this “old” residential street.
- A concern that the amount of grading proposed and related construction truck traffic expected will result in the cracking and subsidence of the sidewalk and street, which occurred near 525 McGilvra Boulevard during recent construction there. Also, expected construction employee parking along McGilvra Boulevard should not block the street and result in unsafe driving conditions or problems with vehicle access to neighboring sites.
- Questioning the location of a portion of the proposed structure’s southeast corner in what the writer considers should be steep slope that is excluded from development.

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 proposal site is designated *Potential Landslide* critical area and partially located in a *Steep Slope* critical area, thus the application is not exempt from SEPA review. However, 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 includes identifying additional mitigation measures needed to protect the *ECA* in order to achieve consistency with SEPA and other applicable environmental laws.

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated December 12, 2008. The information in the checklist, the submitted geotechnical report, and the experience of the lead agency (DPD) with review of similar projects form the basis for this analysis and decision.

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.

Short-term Impacts

Demolition and construction activities could result in the following temporary or construction-related adverse impacts:

- Erosion from excavation and storm water impacts from ground clearing that could adversely affect the adjacent *Steep Slope* and the *Potential Landslide* character of the site,
- Decreased air quality due to suspended particulates (dust) from excavation and construction, hydrocarbon emissions and greenhouse gas emissions from construction vehicles, equipment, and the manufacture of the construction materials.

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts: The Stormwater Grading and Drainage Control Code and the air pollution standards of the Puget Sound Clean Air Agency (PSCAA). The Stormwater, Grading and Drainage Control Code regulates site excavation, requires that soil erosion control techniques be initiated for the duration of construction, and regulates the capture and treatment of on-site ground and storm water. Additionally, the General Development Standards of SMC 25.09.060 and the Trees and Vegetation regulations of SMC 25.09.320 place limitations on grading and storm water management and tree and vegetation removal on parcels containing *Environmentally Critical Areas*, and must be followed during construction. These regulations are adequate to address the *Potential Landslide* character of the site.

This proposal received an *ECA Limited Exemption* from the complete avoidance of development in the site’s *Steep Slope* area. This *Limited Exemption*, based on DPD geotechnical review of the submitted site survey and geotechnical report and DPD’s knowledge of the site and vicinity, allows development in a limited *Steep Slope* area that has been previously developed and that will not increase impacts on the *Steep Slope* (SMC 25.09.180.B.2.a). The *Steep Slope* area that may not be disturbed during (or after) construction is that area beginning at and to the east of roughly the 82-foot contour line shown on the submitted MUP plans and geo-technical report. This area must be fenced with a highly visible and durable protective barrier prior to site clearing, excavation and construction and be maintained throughout construction to prevent access (SMC 25.09.060.D).

The Puget Sound Clean Air Agency regulations require control of fugitive dust and construction machinery emissions in order to protect air quality. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment. However, some impacts may not be entirely mitigated by existing codes and ordinances, such as the greenhouse gas affects on air quality and construction noise impacts, and therefore warrants further analysis.

Air Quality

Construction activities themselves will generate minimal direct impacts. However the indirect impact of 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 (GHG) emissions that 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. No potential short term significant adverse impacts to air are anticipated and therefore air quality mitigation is not necessary.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: increased carbon dioxide and other greenhouse gas (GHG) emissions primarily from increased vehicle trips but also the projects energy consumption, and long-term disturbance of the *Steep Slope* area. Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the City Energy Code, which will require insulation for outside walls and energy efficient windows; and the Environmentally Critical Areas Ordinance, which controls development and future disturbance on ECA containing sites.

This proposal has undergone geo-technical review under the *ECA Ordinance* to assure non-disturbance of the area of *Steep Slope* not exempted by the *Limited Exemption*. The related building permit application will also undergo geo-technical review for adequacy of construction methods on the entire site.

The ECA Code requires that a permanent covenant and attached survey describing and delineating the non-disturbance area must be recorded with the King County Office of Records (SMC 25.09.335) to assure that future owners and users of the site have notification of the delineated *Steep Slope* no disturbance area as described above, shown on the MUP plans, and described in the *ECA Limited Exemption*. Additionally, it may require permanent visible markers delineating the non-disturbance area be installed at the top of the slope when construction is complete (SMC 25.09.335). Consequently, as project *Conditions* the required covenant must submitted to the DPD building permit reviewer be recorded with King County after review and approval by the DPD geotechnical reviewer and a copy of the recorded document. *Prior to the Issuance of Any Building Permits*, including demolition, and the permanent visible markers must be installed *Prior to Building Permit Final Approval*. Marker location to be determined by DPD geotechnical reviewer.

Per the SEPA Overview Policy presumption that the existing *Environmentally Critical Areas Ordinance* addresses anticipated environmental impacts, the *Conditional Approval* of this project is adequate to achieve sufficient mitigation. However, further discussion of the anticipated GHG affects is warranted.

Air Quality

The number of vehicular trips and building energy usage associated with a large single-family structure is not expected to substantially differ from the amount currently generated by the site's two residences. These changes, therefore, should not result in substantial increases in carbon dioxide and other greenhouse gas emissions that adversely impact air quality and contribute to climate change and global warming. Since no potential long term significant adverse impacts to air quality are anticipated, no mitigation is necessary.

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 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

Prior to the Issuance of Any Building Permit

1. The required ECA non-disturbance area covenant shall be recorded with King County after review and approval by the DPD geotechnical reviewer.

During Construction

2. The west boundary line of the *Steep Slope*, as described in this document, must be fenced with a highly visible and durable protective barrier prior to the issuance of any building permits, including demolition, and prior to site clearing and be maintained throughout construction.

Prior to the Building Permit Final Approval

3. Install permanent visible markers along the top of the *Steep Slope*. Marker location to be determined by DPD geotechnical reviewer.

Signature: _____ (signature on file) Date: March 19, 2009
Art Pederson, Land Use Planner
Department of Planning and Development