City of Seattle

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: 3009757

Applicant Name: John Gregory

Address of Proposal: 1643 Edgewood Avenue SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a 3,179 square foot single family residence in an environmentally critical area.

The following approval is required:

Environmentally Critical Area Variance – to allow development into not more than 30% of the steep slope and buffer area (SMC 25.09.180E).

SEPA DETERMINATION: [X] Exempt [ ] DNS [ ] MDNS [ ] EIS

[ ] DNS with conditions

[ ] DNS involving non-exempt grading, or demolition, or involving another agency with jurisdiction.

BACKGROUND DATA

Site Description

The site is a 5,100 square foot vacant lot. The lot is rectangular in shape and zoned Single-family 5000 (SF 5000). The subject property contains 4,906 square feet of 40% or greater steep slope, and potential slide Environmentally Critical Areas (ECA). There are trees, shrubs, and groundcover on the site.

Zoning for the site and all surrounding parcels is Single Family Residential 5,000 square foot minimum lot size (SF 5000). The parcel is currently vacant of any structures. Surrounding development consists of one to two story single family structures with garages.

Description of Proposal

The applicant proposes to construct a multi level 3,179 square foot single family residence and garage. The proposed structure would be located both in the steep slope area and buffer. The project proposes to disturb up to 30% of the steep slope areas. SMC 25.09.180

The applicant has proposed to remove some of the existing vegetation in order to develop part of the steep slope (area of development greater than 750 square feet). New native plants will be planted where the slope has been cleared.

Trees and Vegetation (SMC 25.09.320)

This code section is often referenced in other Environmentally Critical Area code sections, including those discussed above. The applicant has provided plans in accordance with the requirements of this section.

Public Comment

One comment letter was received during the official public comment period which ended on January 9, 2009.

Environmentally Critical Areas Regulations

SMC Section 25.09.180 provides specific standards for all development on steep slopes and steep slope buffers on existing lots, including the general requirement that development shall be avoided in these areas whenever possible.

SMC Section 25.09.180.E authorizes variances to ECA development standards. Development may occur in up to 30% of the steep slope area with this variance, subject to specific criteria. Relevant criteria are discussed below. ECA Variance decisions are Type II decisions, subject to the provisions of SMC 23.76 and are appealable to the City Hearing Examiner.

General Requirements and standards are described in Section 25.09.060 of the ECA ordinance and include the recording of conditions of approval, the recording of the identified ECA areas in a permanent covenant with the property as well as specific construction methods, planting schedules and procedures. The proposal must also comply with the specific requirements for development in areas with landslide potential areas (Section 25.09.080), steep slopes (Section 25.09.180), and trees and vegetation (Section 25.09.320). All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

ANALYSIS – STEEP SLOPE AREA VARIANCE

Pursuant to SMC 25.09.180.E the Director may reduce the steep slope area buffer and authorize limited development in the steep slope area and buffer only when *all* of the facts and conditions stated in the numbered paragraphs below are found to exist:

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 applicant has provided a Statutory Warranty Deed indicating transfer of ownership in 1970. Therefore, the Deed indicates that the lot was legally in existence prior to October 31, 1992.

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.

On this site reducing the front and/or rear yard or setbacks will not both mitigate the hardship and maintain the full steep slope area buffer.

Criteria and responses for granting a variance found in SMC 25.09.280.B is listed below:

SMC 25.09.280.B. Yard and setback reduction and variance to preserve ECA buffers and riparian corridor management areas.

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 applicant has provided a Statutory Warranty Deed indicating transfer of ownership in 1970. Therefore, the Deed indicates that the lot was legally in existence prior to October 31, 1992.

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

Response is the same as that found in discussion for SMC 25.09.180.E.1.b; on this site reducing the front and/or rear yard or setbacks will not both mitigate the hardship and maintain the full steep slope area buffer.

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

Given the constraints of the site, the proposal does not go beyond the minimum to afford relief.

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

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 ("Geotechnical Engineering Report," dated September 19, 2008 by PanGeo, Inc.). The report has been reviewed by DPD geotechnical staff. In addition, a planting restoration plan for the disturbed steep slope areas has been reviewed and approved by DPD staff. The proposed development includes a single family house with a garage. Granting the variance to minimally intrude into the steep slope areas will not be injurious to safety, property, or improvements in the zone or vicinity, subject to conditions of approval and appropriate reviews of associated construction permits.

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 setbacks, combined with the proposed height, bulk and scale of the development will not result in materially detrimental effects on the character, design, and streetscape of the surrounding neighborhood.

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

The environmentally critical policies and regulations were created to preserve existing environmentally critical areas while allowing reasonable use of existing parcels. The applicant proposes to build a single family house on a single family zoned existing property with minimal intrusion into environmentally critical areas and buffers, as well as proposing to remove invasive non-native vegetation on site and replace with additional native trees and vegetation. The proposal would be consistent with the spirit and purpose of the environmentally critical policies and regulations, subject to the Conditions section 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.

Reducing the required yards does help but does not provide full relief. The steep slopes occupy a majority of the site. The applicant has proposed to place the building footprint in the optimum site location. The overall proposal is designed to minimize intrusion into the actual steep slopes.

The proposed development follows the sequence of priority and does not create an intrusion of more than 30% of the steep slope area. The proposal therefore meets this criterion.

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 decision below includes conditions.

Conditions imposed as a means of compliance with the ECA ordinance are non-appealable. General Requirements and standards are described in Section 25.09.060 of the ECA ordinance and include the recording of conditions of approval, the recording of the identified ECA areas in a permanent covenant with the property as well as specific construction methods and procedures. The proposal must also comply with the specific requirements for development in areas with landslide potential areas (Section 25.09.080), steep slopes (Section 25.09.180), riparian corridors (Section 25.09.200.A), and trees and vegetation (Section 25.09.320). All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

DECISION – STEEP SLOPE AREAS VARIANCE

ECA Variance to allow development of up to 30% of the areas measured over 40% steep slope and to place development in the steep slope buffer is **CONDITIONALLY GRANTED.** This approval is based solely on the proposed building footprint. The future building permit submittal must meet all land use code development standards, including height. All development proposed for the right of way including driveway, future grade determinations and any structures in the right of way must receive SDOT approval.

CONDITIONS OF APPROVAL

Prior to Issuance of Any Construction Permits

1. Permanent visible markers shall be placed along the edge of the non-disturbance area as approved on the site plan. The markers shall be either reinforcing steel or metal pipe driven securely into the ground with a brass cap affixed to the top similar to survey monuments. The brass cap shall be visible at the ground surface and indicate the purpose of the marker. Markers shall be placed at all points along the edge of the non-disturbance line where the line changes direction. Markers must be in place before issuance of this Master Use permit. Markers should be detailed in accordance with description contained in Director's Rule 3-94.

The owner and/or responsible party shall:

2. Show on site plans the location of permanent ECA markers.

3. Show on building plans the location of a temporary, durable, highly visible construction fence at the boundary between the construction activity area and areas of steep slope and steep slope buffer which are to be left undisturbed. Disturbance area is not to exceed 30% of the steep slopes. (25.09.060)

Prior to Start of Construction

4. Install non-disturbance fence per the construction permit drawings.

Signature: (signature on file) Date: January 7, 2010
Holly J. Godard, Land Use Planner
Department of Planning and Development

HJG:bg

H:\projects..godardh\eca review\3009757 1643 Edgewood AVenue SW.doc