



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: 3012111
Applicant Name: Ahmad Farrokhi
Address of Proposal: 2310 Perkins Lane W

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a 4-story 3,900 sq. ft. single family residence in an environmentally critical area.

The following approvals are required:

ECA Variance – to allow disturbance within a steep slope area.
Sections SMC 25.09.180.E and 23.09.280.B

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 Description

The site is located on Perkins Lane W., on a hillside above Puget Sound in the Magnolia neighborhood of Seattle. It is bounded by Perkins Lane West on the west, single family property lines on the north and south, and undeveloped property owned by the Seattle Parks Department on the east. The subject property is rectangular, with 150 feet of frontage along Perkins Lane W., a depth of between 30 and 34 feet, and a lot area of 4,687 sq. ft. It is zoned Single Family

(SF 7200) as is the surrounding property. It is also located within the Urban Residential (UR) shoreline environment. The property slopes steeply down from the east to the west, and contains the following environmentally critical areas: potential slide, steep slope and wetland. The site is currently undeveloped and is covered with brush and several mature trees.

Description of Proposal

The applicant proposes to construct a four-story, 3,900 sq. ft. single family residence. The residence will be located on the south half of the property abutting the Perkins Lane right-of-way. A driveway, walkways and retaining walls are proposed to be located in the Perkins Lane W. right-of-way. All work in the street right-of-way requires approval and a street use permit by Seattle Department of Transportation. SDOT has provided conceptual approval of the work in the right-of-way.

The entire site is designated as environmentally critical due to the presence of steep slopes and slide-prone soils. A small wetland was also discovered during project review. The wetland was evaluated by the applicant's consultant and DPD staff with expertise in wetland review, and was determined to be a Category IV wetland of 560 square feet, 180 square feet of which is located on the subject site. A green roof is proposed as mitigation for the wetland disturbance. The proposed single family residence is located within the steep slope landslide prone environmentally critical areas (ECAs). Disturbance of steep slope ECAs requires variance approval.

Although a portion of the property is located within 200 feet of the shoreline, the project was exempted from the requirement for a shoreline permit because the residence will be owner-occupied. The exemption was provided under DPD project No. 6267159. Therefore, a Shoreline Substantial Development Permit is not required.

Public Comment

Notice of the proposal was provided on April 28, 2011, and was extended to May 16, 2011, by public request. Numerous public comments were received.

Environmentally Critical Areas Regulations

General Requirements and standards are described in Section 25.09.060 of the ECA ordinance (SMC Chapter 25.09). 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. Tree and vegetation standards are found at SMC 25.09.320.

ANALYSIS – STEEP SLOPE AREA VARIANCE

The applicant has requested an ECA Variance to disturb a steep slope. Pursuant to SMC 25.09.180.E the Director may authorize limited development in the steep slope area 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 submitted copies of tax records for the property dating back to 1983. In addition, the subject property consists of two historically platted lots. This criterion is met.

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

As shown by the topographic survey and site plan, the entire property is designated as a steep slope environmentally critical area (ECA). Since the entire site is designated as a steep slope ECA, there is no on-site steep slope buffer. Strict application of the steep slope standards would require avoidance of the steep slope area, preventing development of the site.

The applicant has reduced the front yard (required = 20 feet or the average of the front yards on either side, whichever is less, proposed = 0 feet), by utilizing a provision of the underlying single family zone. SMC 23.44.014.A.2 states:

“On any lot where the natural gradient or slope, as measured from the front line of the lot for a distance of sixty (60) feet or the full depth of the lot, whichever is less, is in excess of thirty-five (35) percent, the required front yard shall be either twenty (20) feet less one (1) foot for each one (1) percent of gradient or slope in excess of thirty-five (35) percent or the average of the front yards on either side, whichever is less.”

However, reduction of the front does not result in access and a building footprint outside of the steep slope and steep slope buffers, so it does not fully mitigate the hardship created by the strict application of the steep slope standards.

Criteria and responses for granting a variance found in SMC 25.09.280.B are discussed below:

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

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.***

See response to SMC 25.09.180.E.1.a, above.

- 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***

See response to SMC 25.09.180.E.1.b, above.

- 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***

This criterion is not applicable since there is no riparian management area or required (riparian) buffer on-site.

- 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 applicant has provided a geotechnical report ("Terra Associates, Inc., dated February 28, 2011 and Revised March 23, 2011) which was reviewed by DPD's geotechnical engineer and approved on May 17, 2011. The report includes recommendations regarding excavation and shoring, foundations, drainage, utilities, and erosion control during construction. The DPD geotechnical engineer approved the geotechnical report with no additional recommendations or conditions.

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.

- 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***

As noted above, the applicant is proposing to reduce the front yard to zero feet, utilizing a provision found in the underlying single family code at SMC 23.44.014.A. This is a zoning determination and is not subject to discretionary review. Because the applicant is reducing the front yard under the underlying single family zone, and not the ECA code, this criterion does not apply.

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 protect ecological functions, prevent erosion and protect the public health, safety and welfare in landslide-prone (including steep slope) areas, and to permit landowners reasonable development and avoid development that causes injury to persons, property, public resources or the environment.

The applicant proposes to construct a single family residence on a site consisting entirely of steep slopes. The lot area is 4,687 sq. ft. and the entire site is characterized by steep slopes. Variance relief is necessary to allow reasonable development of the property. The proposal would be consistent with the spirit and purpose of the environmentally critical policies and regulations.

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.

The ECA Code requires a non-disturbance covenant. Additional conditions are not warranted or required.

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.***

As discussed above, the applicant is proposing a reduced front yard based on the applicable section in the Land Use Code; however, the reduction is not sufficient to keep the development entirely out of the steep slope and steep slope buffer since the entire site is designated as steep slope and there is no on-site buffer. Therefore, a buffer reduction alone would not obviate the need to disturb the steep slope area. Further, it is not possible to develop the site with a single family residence without disturbing the ECA. The total lot area is 4,687 sq. ft., all of which is designated as steep slope. The proposed residence will have a footprint of 1,350 sq. ft., including shoring. The intrusion into the steep slope totals 1,370 sq. ft., including all site disturbance (construction impact area, access and utilities) totals 29.3% of the total steep slope area, according to the plans. 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 proposed residence is designed to be minimally intrusive into the ECA, with a total steep slope ECA disturbance of 29.3%. The rest of the site will remain undisturbed. A non-disturbance area covenant is required by the ECA code and will be required for all areas not included in the 29.3% disturbance area. No additional mitigation or conditions are warranted.

ECA CODE REQUIREMENTS:

- The owner and/or responsible party shall provide a signed and notarized ECA Covenant to the Land Use Planner for recording. Addendum A of the covenant shall include a site plan with hatching to indicate the area identified as the non-disturbance area by the survey and install the permanent visible ECA markers established at the edge of the non-disturbance area ECA (in accordance with instructions contained in Director's Rule 4-2007).

DECISION – STEEP SLOPE AREAS VARIANCE:

GRANTED

CONDITIONS OF VARIANCE APPROVAL:

None

Signature: _____ (signature on file) Date: May 10, 2012
Molly Hurley, Senior Land Use Planner
Department of Planning and Development

MH:bg

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