



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: 3012573
Applicant Name: John Deforest of Deforest Architects
Address of Proposal: 4315 West Semple Street

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a 14,502 sq. ft. single family residence with detached garage in an environmentally critical area.

The following approval is required:

SEPA - Environmental Determination (Seattle Municipal Code Chapter 25.05).

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

This approximately 96,961 sq. ft. waterfront site is the consolidation of two tax parcels; Parcel A (APN #102503-9154) and Parcel B (APN #102503-9028) located at the northern tip of Seattle's Magnolia neighborhood. It is an interior lot bounded by residentially zoned properties to the east, west and south; and Puget Sound waters (Shilshole Bay) and Discovery Park Tidelands (owned by King County) to the north. The site is zoned Single Family 9600 (SF 9600) with the northerly portions of the site located within two Shoreline Overlays-Urban Residential (UR) and Conservancy Recreation (CR).

Development on the site consists of one, 2-story with basement single family residence and three accessory structures (game room, garage and guest house) connected to the principal structure by a covered walkway and carport. The residence and accessory structures are positioned approximately 40' above Shilshole Bay, separated by two terraced retaining walls inclusive of yard area on the site's waterside.

Vehicular access to the garage and carport areas is via a series of private road and driveway easements originating from 45th Avenue West. 45th Avenue West is an extension of Discovery Park and owned by the City of Seattle Parks Department. This street is partially improved with a paved roadway, some curbing and gutters but no sidewalks.

The site's topography slopes steeply to the west in approximately the eastern one-third of the property from its highest ground surface elevation of 232', then the remaining two-thirds of the site slopes gently to the west to its lowest ground surface elevation of 194'. Portions of the site have been identified as Environmentally Critical Area (ECA)-Steep Slope and Potential Slide. However, based on findings of a geological report, a DPD geotechnical reviewer determined that, due to the proposal being restricted to areas previously developed, no ECA Steep Slope Variance was required. As a result, the applicant has been granted a limited exemption (6301678) for all work associated with this project but ECA submittal, General and Landslide-Hazard Development Standards are still required for the building applications.

Approximately 75' west of the property's west boundary line is a seasonal stream (Type V) with wetlands (Category III) occurring east and west of the stream. No portion of this stream, any wetlands, or buffer areas extends onto the subject property. Based on technical reports, DPD determined that the proposal will have no impact on the wetlands or buffers. Consequently, DPD approved an ECA exemption request (6301678) pertaining to ECA Wetlands and waived associated submittal requirements.

A mix of lawn, shrubs and mature trees (22) are located throughout the property. Twelve trees have been determined by an arborist (Scott D. Baker, ISA Certified Arborist, Master Arborist, Certified Tree Risk Assessor, Tree Solutions Inc.) as meeting the "Exceptional Tree" designation (Director's Rule (DR) 16-2008).

Surrounding properties north, south and east of the proposal site are also zoned as SF 9600 with portions of the waterfront properties to the north and south situated in the UR and CR shoreline overlays. Existing development in the vicinity of the proposal consists of single family residences to the north, south and east varying in size, age and architectural style. Discovery Park is within immediate vicinity of the project site to the south and to the west.

Proposal Description

The proposed project involves the construction of a 14,502 sq. ft. two-story with basement single family residence connected by a covered unenclosed walkway to a three-car garage with parking court situated entirely on Parcel A. An alteration to the existing upper level retaining wall is proposed to allow for exterior access to the new basement level which will house an underground indoor swimming pool and other common residential areas. Vehicular access to the proposed parking areas will occur via a reconfigured paved driveway commencing on Parcel B.

Removal of concrete walkways, asphalt driveways, invasive plantings, shrubbery and ground covering are planned. Construction of the structures and poor health status determinations necessitate the removal of several mature trees. Conversely, the proposal includes the retention of some significant exceptional trees. Landscaping enhancements inclusive of a green roof, planters, trees, plantings, shrubs, and groundcover are also proposed.

Public Comments

The public comment period for this project ended June 13, 2012. DPD received no written comments regarding this proposal.

Additional Information

DPD issued a Demolition Permit (6290550) which reviews included analysis and approved exemptions (ECA and Shoreline) pertaining to the demolition of the aforementioned existing residential structures. As a result, this aspect of the proposal will not be included in the analysis and decision of this SEPA application.

The DPD shoreline expert conditionally granted a Shoreline Substantial Development Permit exemption (6301678) for the demolition of the existing single family residence and the construction of the new single family residence inclusive of site improvements. The DPD shoreline expert has verified that the conditions have been applied and documented with this application and communicated that these conditions must be incorporated with future applicable building permit applications.

The applicant submitted a Lot Boundary Adjustment (LBA) application with DPD (3013320) that was recently recorded with King County prior to the publication of this decision. This LBA proposal includes the adjustment of property lines to create the following property areas: Parcel A: 79,481 sq. ft. and Parcel B: 17,480 sq. ft. The aforementioned proposal to construct a new single family residence will be developed entirely on Parcel A. However, the subject site (Parcel A) is dependent upon easements from Parcel B and neighboring sites to allow for vehicular access and utilities from surrounding streets. This LBA was considered during the review and analysis of this application and the recorded LBA will be incorporated into the applicant's plans prior to the issuance of this application.

DPD expects that Parcel B will be developed independently as a development site in the future; however, no proposal application pertain to this Parcel has been submitted to DPD yet.

SEPA ANALYSIS

The proposal site is located in an environmentally critical area, as noted above. Proposals located in landslide prone areas (i.e. known landslide areas, potential landslide areas, and steep slopes), wetlands, and fish and wildlife habitat conservation areas may require environmental review (SMC 25.05.908), thus this application is not exempt from SEPA review. However, the scope of environmental review of projects within these critical areas is 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.

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 April 26, 2012. The Department of Planning and Development has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file and any pertinent comments which may have been received regarding this proposed action have been considered. As indicated in the checklist, this action may result in adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically these are: the Stormwater Code (SMC 22.800-808), the Grading Code (SMC 22.170), the Street Use Ordinance (SMC Title 15), the Seattle Building Code, and Regulations for Environmentally Critical Areas (SMC 25.09).

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 and 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

The following temporary or construction-related activities on this site could result in the following adverse impacts: construction dust and storm water runoff, soil erosion, emissions from construction machinery and vehicles, increased particulate levels, increased consumption of renewable and non-renewable resources, and increased vibration from construction operations and equipment. These impacts are not considered significant because they are temporary and/or minor in scope. Further discussion of additional short-term construction related impacts follows.

Earth/Soils

The ECA Ordinance and Director’s Rule (DR) 18-2011 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in landslide prone areas. Pursuant to this requirement the applicant submitted a geotechnical engineering study. The study has been reviewed and approved by DPD’s geotechnical experts, who will require what is needed for the proposed work to proceed without undue risk to the property or to adjacent properties.

No additional conditioning is warranted pursuant to SEPA policies.

Long - term Impacts

Long term or use-related impacts on the environmentally critical area are also anticipated as a result of this proposal, including: increased surface water runoff due to greater site coverage by impervious surfaces; loss of plant and animal habitat. Compliance with applicable codes and ordinances will reduce or eliminate most adverse long-term impacts to the environment. However, due to the size and location of this proposal, plants and wildlife impacts warrant further analysis.

Plants and Animals

Per SMC 25.05.675.N, Seattle's SEPA Plants and Animals policy aims to "*minimize or prevent the loss of wildlife habitat and other vegetation which have substantial aesthetic, educational, ecological, and/or economic value. A high priority shall be given to the preservation and protection of special habitat types...A high priority shall also be given to meeting the needs of state and federal threatened, endangered, and sensitive species of both plants and animals.*" Additionally, SEPA policy suggests mitigation or denial of a project if it is found, "*...that a proposed project would reduce or damage rare, uncommon, unique or exceptional plant...or habitat diversity for species (plants or animals)...*" In this instance, several existing mature trees and wildlife have the potential to be affected by the proposed project.

The project site is mapped ECA Wildlife Habitat because two nests inhabited by a pair of bald eagles are located approximately 240' at a nearby property (5465 43rd Avenue West). Per the ECA Ordinance regulations (25.09.200.C), any person proposing development on a property containing wildlife conservation areas must consult with a State or Federal governmental agency and comply with the applicable agency's requirements. The applicant included a copy of a Federal Fish and Wildlife Eagle Take Permit (MB62141A-0) issued by the Department of the Interior, United States Fish and Wildlife Service with the application submissions. This document outlines specific compliance and mitigation measures.

Approximately twenty-two significant trees are on the original site-seventeen trees on Parcel A and five trees on Parcel B. The applicant provided three arborist reports prepared by Scott D. Baker, Registered Consulting Arborist/ISA Board Certified Master/Certified Tree Risk Assessor (Tree Solutions Inc.) dated March 7, 2011, June 20, 2012 and July 19, 2012. Per the Arborist's reports and MUP plans, the proposal includes retention/protection measures of seventeen trees (twelve trees on Parcel A and all five trees on Parcel B). Also proposed are the removal of five trees of which two trees (Apple (*Malus spp.*) and Western Red Cedar (*Thuja plicata*)) are considered exceptional tree status per DR 16-2008. The submitted arborist reports, which are located in the project file, contains specific tree protection procedures; tree matrixes for the Parcel A, Parcel B and neighboring property-inclusive of tree identifications, names, conditions and recommended actions; and tomography testing results for the identified exceptional tree (Western Red Cedar (*Thuja plicata*)).

SMC 25.05.675.N.2.b states in part that projects which are proposed within an identified plant and/or wildlife habitat shall be assessed to determine the extent of the adverse impact and need for mitigation. Per the MUP site plans and landscape plans, five trees will be removed. As noted above, two exceptional trees are proposed to be removed per the arborist's written recommendations. DPD has reviewed the identified reports/landscape plans and concur with the Arborist's findings. However, further discussion regarding the ecological value of these trees as it relates to possible adverse impacts to the existing eagle habitat is warranted.

The aforementioned Federal Fish and Wildlife Permit includes construction noise limitations and the following tree mitigation:

4. *The project will maintain established landscape buffers that visibly screen most of construction activity from the nest. There are nine* large evergreen trees and three large Lombardy poplar trees on the property that will be retained. No overstory trees will be removed as part of new construction.*

*During the review of the DPD application, the owner was authorized by the Region 1 Fish and Wildlife Administrator to remove one of the nine large evergreen trees without amending the permit provided that the work is not performed during the nesting season (January 1st - August 15th).

A copy of this Eagle Take Permit is embedded with the MUP drawings. However, the evergreen trees noted in the permit mitigation above aren't clearly distinguished on the MUP landscape drawings. Additionally, the aforementioned three Lombardy poplar trees are situated on Parcel B-not the subject site. It is the US Fish and Wildlife Department responsibility to enforce compliance of this permit's requirements and specific mitigation measures. However, it is DPD's responsibility to verify that these measures are being incorporated during the construction of the proposed new development. Therefore, a condition will be added to require the applicant and/or property owner to adhere to the conditions as required per the current and/or future amended Eagle Take Permit. Also, authorization from the Federal Fish and Wildlife Region 1 Administrator will be required prior to issuance any future construction post-permit revisions that involve permission for additional tree removal.

Summary

In conclusion, several effects on the environment would result from the proposed development. The conditions imposed at the end of this report are intended to mitigate specific impacts identified in the foregoing analysis, to control impacts not adequately regulated by codes or ordinances, per adopted City policies.

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).

