



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: 3012763
Applicant Name: John Nuler
Address of Proposal: 4133 A 21st Ave SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a 2,612 sq. ft. single family dwelling unit with attached garage in an environmentally critical area.

The following approvals are required:

ECA Variance – to allow disturbance within a steep slope area and steep slope buffer.
Section 25.09.180.E

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 the blocked bounded by 21st and 22nd Avenues SW (on the east and west) and SW Dakota and SW Genesee (on the north and south) in the Pigeon Point neighborhood of West Seattle. The subject property has a lot area of 5,027 sq. ft. and is zoned Single Family (SF 5000) as are surrounding properties. The property slopes down from the east to the west and contains the following environmentally critical areas: potential slide and steep slope.

Description of Proposal

The applicant proposes to construct a two-story, 2,612 sq. ft. single family residence with attached garage located near the center of the property. Access will be via easement from 21st Ave SW. The project includes re-vegetation of the steep slope area with native plant species.

The proposed single family residence is located within the steep slope and steep slope buffers and landslide prone environmentally critical areas (ECAs). Disturbance of steep slope ECAs, ECA buffers requires variance approval.

Public Comment

Notice of the proposal was issued on January 4th 2012. The Department received four comments from people who provided mailing addresses. Additional comments were also provided by email from two neighbors who did not provide mailing addresses.

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. Trees and vegetation standards are found at SMC 25.09.320.

ANALYSIS – STEEP SLOPE AREA VARIANCE

The applicant has requested a variance from the steep slope development standards found in the Environmentally Critical Areas (ECA) ordinance. Pursuant to SMC 25.09.180.E the Director may allow disturbance of 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 property was a historically platted lot that was modified by lot boundary adjustment in 2010. 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, almost half of the property is designated as a steep slope ECA, or steep slope buffer. Strict application of the steep slope standards would require avoidance of both the steep slope area and the steep slope buffer, preventing development of much of the site. The applicant is not requesting reduced yards. However, reduction of the yards would not result in access and a building footprint outside of the steep slope and steep slope buffers, so it would not fully mitigate the hardship created by the strict application of the steep slope standards, nor would it maintain the full steep slope buffer.

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 ("PanGEO, dated May 2, 2007, and a supplemental letter from PanGEO dated November 23, 2011) which was reviewed and approved by DPD's geotechnical engineer.

Drainage from the new development will be directed to an existing stormwater detention system installed by previous permit.

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***

The applicant is not requesting a variance for reduced yards.

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 land in a manner that causes injury to persons, property, public resources or the environment.

The applicant proposes to construct a single family residence on a site consisting of steep slopes and steep slope buffers. Disturbed areas will be re-vegetated with native vegetation, per the landscape plan submitted April 5, 2012. 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.***

Please see discussion under SMC 25.09.180.E.3, 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.***

As discussed above, the applicant is not requesting reduced yards. Given the extent and location of the steep slope and steep slope buffers on site, yard reduction or buffer reduction would not be sufficient to keep the development entirely out of the steep slope and steep slope buffer. Further, it is not possible to develop the site with a single family residence without disturbing the ECA. The intrusion into the steep slope, including all site disturbances (construction impact area,

access and utilities) totals 29.9% 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 and buffer, with a total steep slope ECA disturbance of 29.9%. Disturbed areas will be required to be re-vegetated with native vegetation, as shown on an 11" x 14" sheet submitted April 5, 2012, as an ECA code requirement.

With this code requirement (landscaping plan incorporated into the building plan set) no additional mitigation or conditions are warranted.

ECA CODE REQUIREMENTS:

- The landscape plan submitted on an 11" x 14" sheet on April 5, 2012, must be incorporated into the building permit set of plans.

DECISION – STEEP SLOPE AREAS VARIANCE:

GRANTED.

CONDITIONS OF VARIANCE APPROVAL:

None.

Signature: _____ (signature on file) Date: April 26, 2012

Molly Hurley, Senior Land Use Planner
Department of Planning and Development

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