



Substantive Site Characteristics:

The 7200 sq. ft. site slopes steeply downhill from 47<sup>rd</sup> Ave S. Most of the site has steep slopes greater than 40% slope. The least amount of slope generally is on the north-easterly corner of the site, abutting 47<sup>th</sup> Ave S. The site and parcels to the immediate north, south and west are zoned SF5000. Parcels adjoining to the rear and in the general area are zoned SF5000.

Proposal Description:

The proposal is to construct one detached single family residence on the easterly portion of the site, near the 47<sup>th</sup> Ave S street margin. The entire site is subject to either Land Use Code setback requirements and/or ECA non-disturbance requirements such that not even a single house can be built without relief from at least some of these requirements through an ECA Variance.

Public Comment:

The comment period on this application ended on July 8, 2015. Several written comments were received from neighbors concerned about issues such as potential landslide hazard, parking congestion, and construction noise.

**ANALYSIS – ECA VARIANCE**

This variance request pertains to proposed disturbance of an identified Environmentally Critical Area (ECA) steep slope buffer. Such variances may be authorized according to the provisions of SMC [25.09.180 E](#), quoted below.

1. *Steep Slope Area Variance. 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*
  - b. *the proposed development otherwise meets the criteria for granting a variance under Section [25.09.280 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.*

The subject lot, Lot 9, Block 61, Maynard's Lake Washington Addition was platted prior to October 31, 1992. The referenced criteria relate to the reduction of required yards to provide for preservation of ECA buffers. The cited criteria are discussed below.

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.*

With the exception of 34 sq. ft. of land in the northeast corner, the site is an environmentally critical area steep slope with a slope grade of 40% or more or is in a required steep slope buffer. Construction of a new house is not allowed outright in the ECA steep slope area or the adjacent buffer which is 15 feet upslope of the steep slope area. There is no area outside of the steep slope, the steep slope buffer or required yards for construction of a new house.

The applicant proposes a modest sized 2.5 story house with built in garage to be located on the easterly portion of the site, closest to the street. In order to have a large enough building area for these houses, variances are warranted to allow intrusion into the steep slope buffer and portions of the steep slope.

While the platted lot size is 7200 sq. ft., the surveyed lot lines describe a lot area closer to 7186 sq. ft. (appx. average lot length of 120.055 ft. x average lot width of 59.855 ft.). 34 sq. ft. is outside the ECA area and 282 sq. ft. is an ECA buffer, resulting in 6870 sq. ft. of the site in steep slope area. The applicant has proposed to develop only areas of the lot that are within the east 40 feet of the lot. Since the east 40 feet has approx. 2078 sq. ft. of steep slope area  $((40 \times 59.855) - (34 + 282))$  yet only 2061 sq. ft. can be allowed to be disturbed by ECA Variance (30% of 6870), the final plans will need to be clarified to show a line of maximum site disturbance that does not disturb more than 30% of the lot's steep slope area. The proposal appears to comply with a maximum 30% disturbance of steep slope area since areas in the easterly 40 ft. of the site including a portion of a tree protection area and some small steep slope area that may be exempt from steep slope calculations have not been factored in. The final plans will be required to more fully document that no more than 30% of the site's steep slope area will be disturbed.

Construction permit review will include geotechnical analysis and review for slope stability of the project. Erosion control methods will be required to be utilized throughout the construction process.

- 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 project will be conditioned to better document how the proposal will not disturb more than 30% of the steep slope area on the site and to provide an ECA covenant. No further conditioning is warranted.

In addition to the provisions discussed above, Seattle DCI may grant an ECA variance only when all of the following criteria are met, as set forth in SMC 25.09.280 B, stated below:

- 1. The lot has been in existence as a legal building site prior to October 31, 1992.*

The subject lot existed as a legal building site 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*

The large size and extent of the environmentally critical area and the required buffer precludes construction of any house on the site.

- 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*

SMC 25.09.180 E modifies this provision to allow for developmental disturbance within the steep slope ECA and/or its buffer. The requested buffer reduction and intrusion into the steep slope is a reasonable minimum to allow for development of one house on this 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 which provides findings and preliminary recommendations for future development on the site. Assuming development is conducted in accordance with recommendations of the geotechnical report and construction plans as approved by Seattle DCI, the granting of the variance should not be injurious to the property or to neighboring properties.

- 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 construction of one residence will not be materially detrimental to 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 requested variance achieves a reasonable protection of existing steep slope areas on this site while allowing reasonable development.

### **DECISION – VARIANCE**

The requested ECA Variance to construct a house in a steep slope area is **CONDITIONALLY GRANTED**.

### **CONDITIONS – ECA VARIANCE**

#### **Prior to Issuance of Construction Permit**

1. Provide an ECA Covenant for the site.
2. Provide detailed analysis and revised line of maximum disturbance on the plans to document no more than 30% disturbance of regulated steep slope areas on the site.

Prior to Commencement of Construction

3. Install temporary construction fencing to delimit the remaining non-disturbance area of the site. Provide evidence to the assigned Land Use Planner that the fencing is in place. Grading and other construction activities are allowed only in the area shown by the noted area of maximum disturbance of the approved plans. Tree and vegetation maintenance using hand tools, management and mitigation as shown on the approved plans are allowed throughout the site. This condition does not limit work approved under SDOT Street Improvement Permits.

Jerry Suder, Land Use Planning Supervisor  
Seattle Department of Construction and Inspections

Date: May 19, 2016

JS:rgc  
K:\Decisions-Signed\3016052.docx

**IMPORTANT INFORMATION FOR ISSUANCE OF YOUR MASTER USE PERMIT**

Master Use Permit Expiration and Issuance

The appealable land use decision on your Master Use Permit (MUP) application has now been published. At the conclusion of the appeal period, your permit will be considered “approved for issuance”. (If your decision is appealed, your permit will be considered “approved for issuance” on the fourth day following the City Hearing Examiner’s decision.) Projects requiring a Council land use action shall be considered “approved for issuance” following the Council’s decision.

The “approved for issuance” date marks the beginning of the **three year life** of the MUP approval, whether or not there are outstanding corrections to be made or pre-issuance conditions to be met. The permit must be issued by Seattle DCI within that three years or it will expire and be cancelled (SMC 23-76-028). (Projects with a shoreline component have a **two year life**. Additional information regarding the effective date of shoreline permits may be found at 23.60.074.)

All outstanding corrections must be made, any pre-issuance conditions met and all outstanding fees paid before the permit is issued. You will be notified when your permit has issued.

Questions regarding the issuance and expiration of your permit may be addressed to the Public Resource Center at [prc@seattle.gov](mailto:prc@seattle.gov) or to our message line at 206-684-8467.