



City of Seattle
Edward B. Murray, Mayor

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: 3016747
Applicant Name: Amy Hemleck of Playhouse Design for Isola Real Estate
Address of Proposal: 7121 38th Ave SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow 3-story, 2,426 sq. ft. single family residence in an environmentally critical area. Parking provided within the structure.

The following approvals are required:

ECA Variance – to allow disturbance within a steep slope area and steep slope buffer, and a reduced front yard. 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 undeveloped 8,015 sq. ft. site is located on 38th Ave SW, two blocks west of the highest point in West Seattle. The subject property is located in a Single Family 7200 (SF 7200) zone as are the properties to the west, east and south. Two parcels to the north the zone changes to Single Family 5000. The property is relatively flat abutting the street with the western three quarters of the site sloping steeply to the southwest.

Thirty-eight Ave SW dead ends two parcels to the south due to the steep slopes of a ravine. Part of the ravine is a small City park intersected by the unimproved right-of-way, known as “Orchard Street Ravine”. The geotechnical report for the project, written by Earth Solutions, indicates that the site is located on a part of the ravine that was filled during the 1920’s and 1930’s due to grading activities associated with public road projects.

Three large Douglas Fir trees are located on the middle of the site and one large Douglas Fir tree is partially located on site near the western corner of the south property line. None of these trees are classified as Exceptional. One Exceptional Douglas Fir tree is located on the property to the south and has part of its drip line and critical root zone on the subject property. None of these trees are to be removed.

Description of Proposal

The applicant proposes to construct a three-story 1,860 sq. ft. (heated space) single family residence with an attached two car garage, a deck off the second story and a roof deck. The residence will be mostly located in the portions of the site that are outside of the Environmentally Critical Area (ECA), with a portion of the structure located in the steep slope buffer. Work areas to construct the house and required stabilization piles will be located within the steep slope area. The project includes re-vegetation of the steep slope and buffer area with native plant species.

Disturbance of the site to construct the single family residence is thus proposed within the steep slope and steep slope buffer ECAs. Disturbance of steep slope ECAs, ECA buffers and a front yard reduction all require variance approval.

Public Comment

Notice of the proposal was issued on January 23, 2014. Multiple comment letters 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 variances from two requirements of the environmentally critical areas ordinance: ECA Variance to disturb a steep slope buffer, and ECA Variance to disturb a steep slope. As well the project will require an ECA Variance for a reduced front yard.

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 subject property is a historically platted lot as shown on the City's quarter section maps. This criterion is met.

- 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.***

As shown by the topographic survey and site plan, the western three quarters of the site are designated as a steep slope ECA or steep slope buffer. Approximately 1,649 square feet located at the high portion of the site adjacent to 38th Ave SW is non ECA area. The steep slope buffer areas are located in two different site locations. One small area is located at the low point of the site at the southwest corner. The second larger buffer area is located mostly north and east of the steep slope area.

The Strict application of the steep slope standards would require avoidance of both the steep slope area and the steep slope buffer, preventing development of the site except on the non ECA area near the street. The front yard has been reduced from the required 20 feet to between 10 and 15 feet. Even with the reduction of the front yard, given the configuration of the boundary line of the steep slope buffer, there is an insufficient area for a building footprint outside of the steep slope buffer. Thus reduction of the front yard does not fully mitigate the hardship created by the strict application of the steep slope standards, nor does it maintain the full steep slope buffer.

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

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

The Director may authorize a twenty-five percent (25%) reduction, up to a maximum of five feet (5'), in yard or setback requirements for front or rear yards on a lot in existence as a legal building site prior to October 31, 1992, in order to maintain the full width of the riparian management area and of wetland or steep-slope area buffers.

Using this code section most of the structure is proposed to be located 15 feet from the front property line, which will create a 15 foot front yard instead of the required 20 foot front yard of SMC 23.44.014. This will place the structure further away from the steep slope area and intrude less into the steep slope buffer. However given the location of the ECA area and buffer on the site the most southern portion of the proposed structure would have intruded into the steep slope area if a continuous 15 foot front yard was maintained. Thus as part of the Land Use review process DPD instructed the applicant to move the southeasterly portion of the structure further towards the street, necessitating a 10' front yard setback.

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 ("Earth Solutions NW, LLC, dated December 6, 2013) which was reviewed by DPD's geotechnical engineer and approved on December 22, 2014.

Based on this report, 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 single-story southern portion of the proposed structure requires a variance for a reduced front yard of 10 feet; 20 feet would be required under front yard requirements per SMC 23.44.014 and 15 feet under SMC 25.09.280.A. The amount of floor area to be built in the reduced front yard within 10 feet of 38th Ave SW, is approximately 64 square feet. Allowing the structure to move closer to the street allows the structure to be placed out of the steep slope area. There is no intrusion into the steep slope itself except for the limited work areas and soil stabilization.

Other properties along this block face of 38th Ave SW have development within the required 20 foot front yard. One residence appears to have a portion of the structure within 5 feet of the front property line. Therefore, the proposed development will not result in materially detrimental effects on the character, design, and streetscape of the surrounding neighborhood.

Pushing the structure closer to the front property line will also help mitigate disturbance to the critical root zones areas of the three existing Douglas Fir trees west of the disturbance area.

The landscape plan shows landscaping with native plants in the disturbance area not covered by the building footprint. The landscape plan is an ECA code requirement and must be incorporated into the associated building permit in order for the project to be approved. (All work in the right-of-way requires SDOT approval.)

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 with steep slope and steep slope buffer area. The lot area is 8,015 sq. ft.; the steep slope area is 4,102 sq. ft. and the steep slope buffer area is 2,264 sq. ft. Disturbed areas within the steep slope and buffer disturbance area will be re-vegetated with native vegetation. 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.

1. *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.*

No conditions have been attached. See response to SMC25.09.180E.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 project will have a reduced front yard; however, the reduction is not sufficient to keep the development entirely out of the steep slope and steep slope buffers. Similarly, 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 with a reasonable floor plate size without disturbing the ECA. The total lot area is 8,015 sq. ft. of which 4,102 sq. ft. is designated as steep slope. The proposed residence includes a ground level floor with 301 sq. ft. of heated area and a 400 sq. ft. garage. Above this level is approximately 770 sq. ft. of heated space and a 160 sq. ft. west facing deck. The third level is has approximately 790 sq. ft. of heated space and access to an exterior stair up to the roof. The roof has an approx. 368 sq. ft. deck accessed by an exterior stair on the south elevation. The deck is set back from west, north and east edges of the roof.

The intrusion into the steep slope, including all site disturbances (construction impact area, and soil stabilization area) totals 497 sq. ft. which is 12% of the total steep slope area according to the plans. The residential structure itself does not intrude into the steep slope. 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 12%. Disturbed areas will be required to be re-vegetated with native vegetation, as shown on the Landscape plan, as an ECA code requirement. A non-disturbance area covenant is required by the ECA code and will be required for all areas not included in the disturbance area. This has been recorded with King County under recording number 20150223001454.

With these code requirements (landscaping plan, and non-disturbance covenant) no additional mitigation or conditions are warranted.

ECA CODE REQUIREMENTS:

- The owner and/or responsible party have provided a King County recorded ECA Covenant to the Land Use Planner under 20150223001454.
- The landscape plan shown on in the MUP set must be incorporated into the building permit set of plans.

DECISION – STEEP SLOPE AREAS VARIANCE:

GRANTED.

CONDITIONS OF VARIANCE APPROVAL:

NONE.

Signature: retagonzales-cummeatubby for _____ Date: March 5, 2015
Beth Hartwick, Senior Land Use Planner
Department of Planning and Development

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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 DPD 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 or to our message line at 206-684-8467.