



City of Seattle
Edward B. Murray, Mayor

Department of Construction and Inspections
Nathan Torgelson, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

Application Number: 3019434
Applicant Name: Julian Weber
Address of Proposal: 1515 Lakeview Boulevard East

SUMMARY OF PROPOSAL

Land Use Application to allow a nine (9) unit rowhouse structure in an environmentally critical area. Parking for nine (9) vehicles to be provided: four (4) surface and five (5) within garages. Review includes future unit lot subdivision.

The following approvals are required:

Steep Slope Area Variance – to allow intrusion into a steep slope area and steep slope buffer. SMC 25.09.180.E

ECA Variance – to allow a reduction of the front and side setbacks. SMC 25.09.280.B.

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

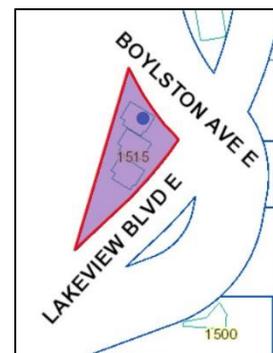
SEPA DETERMINATION:

Determination of Non-Significance

- No mitigating conditions of approval are imposed.
- Pursuant to SEPA substantive authority provided in SMC 25.06.660, the proposal has been conditioned to mitigate environmental impacts

BACKGROUND

The site is located west of the intersection of Lakeview Boulevard East and Boylston Ave E just east of Interstate 5 in the Capitol Hill neighborhood. The triangular lot has an area of 11,086 sq. ft. and is zoned Lowrise (LR-1). The adjacent surrounding property has a zoning



designation of Lowrise (LR-2), single family (SF 5000), and I-5. The majority of the site is located within a steep slope ECA and within a potential slide ECA. The site generally slopes downward from the east to the west.

SITE AND VICINITY

Site Zone: Lowrise- 1 (LR1)

Nearby Zones: North: LR2
South: LR2 and SF 5000
West: LR2
East: SF 5000

ECAs: Steep Slope ECA, Potential Slide ECA, and Known Slide ECA

Site Size: 11,086 square feet

PUBLIC COMMENT:

The public comment period ended on January 27, 2016. One comment was received, in support of the proposal.

I. ANALYSIS – SEPA

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 (SMC) Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated 12/15/2015. The Seattle Department of Construction and Inspections (Seattle DCI) has annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the project file submitted by the applicant or agents; and any pertinent comments which may have been received regarding this proposed action have been considered. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) 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 an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation*" subject to some limitations.

Under such limitations/circumstances, mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short Term Impacts

Construction activities could result in the following adverse impacts: construction dust and storm water runoff, erosion, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, a small increase in traffic and parking impacts due to construction related vehicles, and increases in greenhouse gas emissions. Several construction-related impacts are mitigated by existing City codes and ordinances applicable to the project such as: 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 the Noise Control Ordinance (SMC 25.08). Puget Sound Clean Air Agency regulations require control of fugitive dust to protect air quality. The following analyzes air quality, greenhouse gas, construction noise, plants and animals, and traffic impacts, as well as mitigation.

Greenhouse Gas Emissions

Construction activities including construction worker commutes, truck trips, the operation of construction equipment and machinery, and the manufacture of the construction materials themselves result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant. Therefore no further mitigation is warranted pursuant to SMC 25.05.675.F.

Construction Impacts - Noise

The project is expected to generate loud noise during demolition, grading and construction. The Seattle Noise Ordinance (SMC 25.08.425) permits increases in permissible sound levels associated with private development construction and equipment between the hours of 7:00 AM and 7:00 PM on weekdays and 9:00 AM and 7:00 PM on weekends and legal holidays in Lowrise, Midrise, Highrise, Residential-Commercial and Neighborhood Commercial zones.

If extended construction hours are desired, the applicant may seek approval from Seattle DCI through a Noise Variance request. The applicant's environmental checklist does not indicate that extended hours are anticipated. Therefore no further mitigation is required pursuant to SMC 25.05.675.L.

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 (Geotechnical Report by Earth Solutions NW dated May 21, 2015, as well as two addendums dated February 19, 2016 and March 11, 2016). The study has been reviewed and approved by Seattle DCI'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. The existing Grading and Stormwater Codes will sufficiently mitigate adverse impacts to the ECAs. No additional conditioning is warranted pursuant to SEPA policies (SMC 25.05.675.D).

Long Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal including: greenhouse gas emissions; parking; possible increased traffic in the area. Compliance with applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by SEPA policies. However, greenhouse gas, plants and animals, parking, transportation, warrant further analysis.

Greenhouse Gas Emissions

Operational activities, primarily vehicular trips associated with the project construction and the project's energy consumption, are expected to result in increases in carbon dioxide and other greenhouse gas emissions which adversely impact air quality and contribute to climate change and global warming. While these impacts are adverse, they are not expected to be significant, therefore, no further mitigation is warranted pursuant to SMC 25.05.675.F

Parking

The proposed development includes 9 residential units with 9 off-street vehicular parking spaces. The number of proposed parking spaces accommodates all of the anticipated parking demand, and no additional mitigation is warranted per SMC 25.05.675.M.

Plants and Animals

Mature vegetation is located on the site and abutting the site, including 10 trees, none of which met the criteria for an exceptional tree. Two trees are located on the subject property; the others are in the public right of way and regulated by Seattle Department of Transportation. The applicant submitted an Arborist Report (by Shoffner Consulting, dated February 24, 2016) and a corresponding tree inventory describing the location of the trees. Seattle DCI's Arborist has reviewed and approved the information. Vegetation and trees will be maintained in the ECA areas outside of the proposed development. Additional trees and vegetation will be provided with the proposed development. No further mitigation is warranted pursuant to SMC 25.05.675.N.

Traffic and Transportation

The Traffic Impact Analysis (*Jake Traffic Engineering, Inc., Trip Generation, Access review, and Parking Discussion, February 15, 2016*) indicated that the project is expected to generate a net total of 9 daily vehicle trips, with 5 net new PM Peak Hour trips and 4 AM Peak hour trips. The additional trips would have minimal impact on levels of service at nearby intersections and on the overall transportation system. Concurrency analysis was conducted for nearby identified areas. That analysis showed that the project is expected to be well within the adopted standards for the identified areas. The Seattle DCI Transportation Planner reviewed the information and determined that while these impacts are adverse, they are not expected to be significant; therefore, no further mitigation is warranted per SMC 25.05.675.R.

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.

- 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 43.21.030(2) (c).

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued after using the optional DNS process in WAC 197-11-355 and Early review DNS process in SMC 25.05.355. There is no further comment period on the DNS.

ANALYSIS – ECA VARIANCES

The applicant has requested variances from three requirements of the environmentally critical areas ordinance: ECA Variance to disturb a steep slope and steep slope buffer; and an ECA Variance for reduced front yard setbacks. Pursuant to the environmentally critical areas ordinance (SMC 25.09) the Director may allow these ECA Variances 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 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 lot was originally platted in 1990. This criterion is met.

- b. the proposed development otherwise meets the criteria for granting a variance under Section 25.09.280B, 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 analysis of the proposal in response to SMC 25.09.280B is provided in that section below. As shown by the topographic survey and site plan, approximately 48% of the property is designated as a steep slope ECA or steep slope buffer. The steep slope buffer area cuts across the triangular lot on an angle from northwest to southeast creating a unique site condition on the

property. The applicant is proposing 90.6% intrusion into the steep slope buffer area and 12.3% disturbance 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.

The applicant is requesting a reduced yard setback along both Boylston Ave E (front setback required 5 feet, proposed 0.5 feet) and Lakeview Blvd E (side setback required 7 foot average and 5 foot minimum, proposed 2-9 feet). Granting a variance from setbacks alone does not result in 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, nor does it maintain the full steep slope buffer. As, such this criterion is met.

- 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 the majority of site is designated as a steep slope or steep slope buffer, the requested setback reduction is not sufficient to keep the development entirely out of the steep slope and steep slope buffer. Approximately 48% of the 11,086 sq. ft. site is designated as an ECA or ECA buffer. As such, it is not possible to develop the site with the proposed rowhomes without disturbing the ECA.

A carefully designed sitting of the new structure has been proposed, locating the proposed rowhomes along the eastern portions of the site, avoiding the steepest areas of the property and reducing the amount of site disturbances. The Applicant has followed the sequence of priority by reducing setbacks, reducing the buffer area, and not exceeding more than a 30% intrusion into the steep slope area.

The combination of the proposed building and paved areas would disturb approximately 1,948 sq. ft. (or 90.6%) of the 2,149 sq. ft. steep slope buffer area. Intrusion into the steep slope area itself would amount to 393 sq. ft. (or 12.3%) of the 3,189 sq. ft. of steep slope area on site, below the maximum intrusion of 30% allowed with a steep slope ECA variance. The proposal therefore meets this criterion.

The report prepared by Earth Solutions NW, LLC dated May 21, 2015 recommends continued geological consultation as the project design develops and further recommends geotechnical review of plans prior to final design completion. The Department of Construction and Inspections will require geotechnical plan review prior to approval of any construction plans and, should any variations in subsurface conditions be encountered during actual construction, appropriate changes may be necessitated which would require additional Seattle DCI geotechnical approval.

- 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 development is designed to be minimally intrusive into the ECA and buffer, with a total steep slope ECA disturbance of 12.3%. Disturbed areas will be required to be re-vegetated with native vegetation 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. 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, as stated 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.***

The lot was originally platted in 1990. This criterion is met.

- 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 majority of the site is located within an ECA area or ECA Buffer. As such, the strict application of the yard and setback requirements would push the development further into the steep slope ECA area. In addition, strict application of steep slope standards would require avoidance of both the steep slope area and the steep slope buffer. Strict application of the yard setbacks would prevent development of the site. This criterion is met.

- 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 modifies this provision to allow for developmental disturbance within the steep slope ECA and/or its buffer. The proposal is to reduce the front setback to 0'6" (from the required 5') and reduce the southeast side setback to 4'5 1/2" average, 2'9" minimum (from the required 7' average, 5' minimum). As the majority site is either an ECA or ECA buffer, a variance to the required setbacks is required to develop the site. The variance to reduce the setbacks and intrude into the buffer and steep slope as analyzed in response to SMC 25.09.180E would allow for development of nine townhomes comparable in size and location to neighboring multi-family properties. The proposed variances are the minimum necessary to afford relief.

- 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 prepared by Earth Solutions NW, LLC dated May 21, 2015 which provides findings and preliminary recommendations for future development. The geotechnical study has been reviewed and approved by Seattle DCI's geotechnical engineer. Seattle DCI's geotechnical experts have determined that the impacts to soils can be sufficiently mitigated through the Grading Code and Stormwater Code review by the Geotechnical Engineer during the Building Permit phase of review. The applicant will be required to submit geotechnical studies and any other information to determine compliance with those Codes during Building Permit review.

Development will be required to be conducted in accordance with these recommendations before issuance of any permits allowing for disturbance of the site. A drainage plan is required by the ECA Code to minimize disturbance of the steep slope and steep slope buffer, and will be detailed and reviewed during review of the associated building permit. Further, the applicant is proposing to locate the rowhomes on the most level and most stable portion of the property.

Therefore, granting the variance to allow the minimum intrusion into the steep slope areas necessary will not be injurious to safety, property, or improvements in the zone or vicinity.

5. The yard or setback reduction that will not result in a development 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 requesting a reduced yard setback along both Boylston Ave E (front setback required 5 feet; proposed 0.5 feet) and Lakeview Blvd E (side setback required 7 foot average and 5 foot minimum; proposed 2-9 feet) per SMC 23.5.518 Table A. The applicant has proposed to locate the new buildings closer to the northern and eastern edges of the property in order to preserve a larger portion of the ECA steep slope area. Siting development toward these edges maintains a large portion of vegetated area within the steep slope ECA. An arborist report prepared by Shoffner Consulting dated February 24, 2016 has been submitted and reviewed by Seattle DCI. The Director reviewed the arborist report and concurs with the arborist's tree inventory and site plan showing the location of the trees. The Director determined the proposal is consistent with the applicable provisions of the Tree Protection Ordinance in SMC 25.11.060.

The proposed design includes new trees along both street frontages. In addition, the property line along Boylston Ave E is setback significantly from the side allowing for adequate landscape buffering and street trees compatible with the surrounding area. Further, the proposed building is comparable in height, bulk, and scale to neighboring homes which consist of a mix of two- and three-story homes.

Therefore, the proposed development will not result in materially detrimental effects on the character, design, 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 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 nine rowhouse units on a site consisting of steep slopes and steep slope buffers. The lot area is 11,086 sq. ft.; the steep slope area is 3,189 sq. ft. and the steep slope buffer area is 2,149 sq. ft. The proposed site plan has been design to create minimal intrusion (12.3%) into the steep slope and 90.6% disturbance of the steep slope buffer.

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.

A non-disturbance covenant shall be required as a condition of approval.

In addition, a re-vegetation plan is required to demonstrate how the disturbed areas will be in compliance with 25.09.180, vegetation and replanting. The steep slope re-vegetation plan must be submitted prior to MUP issuance. Removal of tree or vegetation in a steep slope area and its buffer must show replanting with native vegetation. (All work in the right-of-way requires SDOT approval.)

Decision – ECA VARIANCES:

Seattle DCI **CONDITIONALLY APPROVES** the requested variances to allow a single family residence to be developed within the steep slope and steep slope buffer, and reduce the front yard setback to minimize intrusion into the ECA.

CONDITIONS – SEPA

None.

CONDITIONS - VARIANCE

Prior to MUP Issuance

1. An ECA Covenant recorded with King County Office of Records and Elections meeting the requirements of SMC 23.09.335.B shall be provided to the Land Use Planner (crystal.torres@seattle.gov).

Crystal Torres, Land Use Planner
Seattle Department of Construction and Inspections

Date: May 31, 2016

CT:drm

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