



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: 3020088
Applicant Name: Matthew Hough
Address of Proposal: 2211 16th Avenue East

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a single family residence in an environmentally critical area. Parking for two vehicles will be located within the structure.

The following approval is required:

ECA Variance – to allow intrusion into the steep slope area (SMC 25.09.180).

SEPA DETERMINATION: Exempt DNS EIS
 DNS with conditions
 DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND DATA

Site and Vicinity:
Site Zoning: Single Family 5,000 (SF 5000)
Nearby Zones: SF 5000 (North)
SF 5000 (South)
SF 5000 (East)
SF 5000 (West)



Description of Proposal:

The applicant is proposing a single family residence with an attached garage for two vehicles to be located near the center of the site. Vehicle access is proposed from 16th Ave E. Sixteenth Ave E dead-ends at a cul-de-sac turnaround that currently serves eight occupied single-family residences.

Site Characteristics and Background:

The project site, approximately 10,916 square feet (sq. ft.), is currently vacant. The site is an irregularly shaped parcel located within an established residential neighborhood in the Montlake area. The parcel abuts 16th Ave E to the east and Interlaken Park to the west. The parcel is almost completely encumbered by topography with slopes greater than forty percent. The site's terrain slopes downward generally from its westerly boundary toward the east.

Heavily vegetated, the site and contains a number of mature trees and shrubs. During review of this application, an Arborist Report submitted by the applicant identified 22 trees onsite, four of which were classified as in "poor" condition. According to the preliminary plan, of the 18 healthy trees on site, 12 will be removed for the project due to grading or being in the footprint, and six will be saved. Future construction will be reviewed for compliance with the tree protection ordinance during the Building Permit phase of review and will be subject to the provisions of SMC 23.44, which sets forth development standards for single family zones and tree ordinance regulations of SMC 25.11.

Environmentally Critical Areas (ECA):

The entire site is mapped as an ECA due to steep slopes with the exception of a small portion along the eastern edge of the property, mapped as steep slope buffer. A majority of the site is also mapped as an ECA potential slide area.

Public Comment:

The Notice of Application comment period ended on May 24, 2015. Multiple comments were received. Issues identified include the following: slope stability, erosion, potential landslides, run-off, emergency access to neighboring properties, loss of open space and vegetation, impacts to existing neighborhood character and proximity to Interlaken Park. Other concerns include potential erosion and landslides related to construction activities, excavation, tree removal, risk to neighboring properties, increased impervious surfaces, history of landslides in the area, potential slides and risks to life safety, existing impervious surfaces, concern with the size of the building footprint, and ground water and drainage issues.

ANALYSIS – ECA VARIANCE

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

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 lot existed prior to October 31, 1992 therefore this criterion has been 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.***

As shown by the topographic survey and site plan, almost the entire property is designated as a steep slope ECA, except for the eastern edge of the site. The area not designated as steep slope is located within the 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 the site.

The referenced criteria relate to the reduction of required yards to provide for preservation of ECA buffers. Because the entire site is encumbered by steep slope area and steep slope area buffer, reducing the front or rear yard or setbacks will not mitigate the hardship and maintain the full steep slope area buffer, as discussed in more detail below.

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.***

The subject lot existed prior to October 31, 1992 therefore this criterion has been 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***

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 ("Geotech Consultants, Inc., dated July 9, 2014) which was reviewed by DPD's geotechnical engineer and approved on July 27, 2015.

A drainage plan is required by the ECA Code to minimize disturbance of the steep slope and steep slope buffer and will be reviewed during review of the associated building 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*

No reduction in yards are proposed, therefore this criterion is not applicable.

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 consisting entirely of steep slope and steep slope buffer. Disturbed areas will be re-vegetated with native vegetation. Variance relief is necessary to allow reasonable development of the property.

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.

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.*

A majority of the site is mapped steep slope with grades greater than 40%, with a small portion of the eastern edge mapped as a steep slope buffer at the toe of the steep slope. Construction of a new house is not allowed outright in the steep slope area or the adjacent ECA buffer. No reduction in required yards or setbacks are proposed and no reduction in steep slope area buffers are proposed.

Because the entire site is encumbered by steep slope and steep slope buffer, a reduction in yards and setbacks would not result in any buildable area outside of the Environmentally Critical Area. Similarly, because of the size and location of the steep slope area buffer, a reduction in the steep slope buffer would not result in any reasonably buildable area outside of the Environmentally Critical Area buffer.

The total lot area is 10,916 sq. ft., 10,233 sq. ft. of which is designated as steep slope and the remainder as steep slope buffer with the exception of a small portion of a previously graded driveway at the southeast corner. The proposed residence includes a structure footprint of approximately 2,565 sf. ft. The intrusion into the steep slope, including all site disturbances (construction impact area, access and utilities) is 3,070 sq. ft. or 30% 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 30%. 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 include in the 30% disturbance area.

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

ECA CODE REQUIREMENTS

1. Provide an ECA Covenant recorded with King County Office of Records and Elections meeting the requirements of SMC 23.09.335.B (in accordance with instructions contained in Director's Rule 4-2007).
2. A landscape plan indicating revegetation of the disturbed steep slope area and buffer shall be incorporated into the building permit set of plan as required by SMC 25.09.320.

DECISION – ECA VARIANCE

GRANTED.

CONDITIONS OF VARIANCE APPROVAL

None.

BreAnne McConkie, Land Use Planner
Department of Planning and Development

Date: November 30, 2015

BM:bg

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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.