



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: 3022579
Applicant Name: Julian Weber
Address of Proposal: 2161 Harbor Ave SW

SUMMARY OF PROPOSAL

Land Use Application to allow a four-story, two unit townhouse in an environmentally critical area. Parking for two vehicles to be provided. Existing structure to be demolished. Environmental review includes future Unit Lot Subdivision.

The following approvals are required:

SEPA Environmental Threshold Determination (SMC Chapter 25.05)

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

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 subject site is located at 2161 Harbor Avenue SW, in the West Seattle Neighborhood. The site is bounded by single family to the north and south, by Harbor Avenue SW to the east, and by undeveloped slope areas to the west. The 0.17 acre site has several environmentally critical areas (ECAs) on site including steep slopes. The steep slopes generally descend from west to east. Mature vegetation is located on site, primarily in the steep slope ECA. Currently, the site is occupied by a one-story single family home with a basement on the eastern portion of the site and access from Harbor Avenue SW.

The applicant submitted a request for relief from prohibition on steep slope development under permit application #6466834. The Seattle DCI Geotechnical Engineer denied the request with the following statement, “ECA review is required for this project. The subject site is correctly mapped as an ECA Sleep Slope Erosion Hazard Area; a Potential Landslide Area due to Geologic Conditions; an area of Known, Documented Landslides; and as an area of Liquefaction Potential. A portion of the property is currently developed with a residential structure and shed. The proposed development includes a two-townhouse structure which extends into previously undeveloped areas of the site. The project does not appear to qualify for criteria in the ECA Regulations to receive Relief from Prohibition on Steep Slope Development or an ECA Exemption (SMC 25.09.180.B and 25.09.045, respectively); therefore, the request for Relief from Prohibition on Steep Slope Development is denied. A Steep Slope Area Variance or ECA Exception will be required to proceed with this project. All ECA Submittal, General, and Landslide-Hazard development standards will apply. Please note that the preceding results do not address the potential liquefaction hazard at this site. October 5, 2015; smp.”

Seattle DCI Geotechnical Engineers further examined the steep slopes on site with MUP application #3022579, and noted on February 2, 2016: “Based on a review of the City GIS and the submitted information, Seattle DCI concludes that the steep slope area between the existing residence and Harbor Avenue Southwest is an area of existing development. Consequently, that area of steep slope qualifies for the Relief From Prohibition On Steep Slope Development, as described in SMC 25.09.180 B2a. An ECA Steep Slope Area Variance, or an Exception, is not required for that steep slope area. The requirement for an ECA Steep Slope Area Variance still applies for the steep slope and steep slope buffer to the west of the existing residence.”

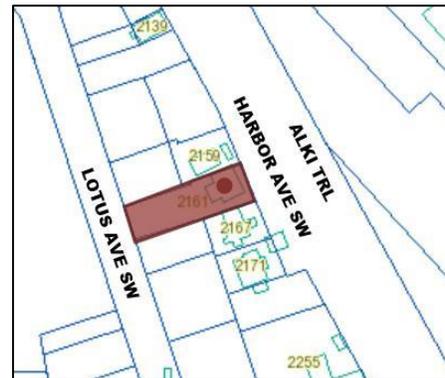
SITE AND VICINITY

Site Location: 2161 Harbor Ave SW

Zoning: Commercial (C1-40) and Single Family (SF 7200)

Parcel Size: 7,450 sq. ft. (0.17 ac)

ECAs: Liquefaction prone soils, Fish and Wildlife Habitat Area, Potential Slide Area, Steep Slope, and Known Slide Area



PROJECT DESCRIPTION:

The Applicant is proposing two four-story townhomes with 2 parking spaces. The project site is located on Harbor Ave in West Seattle. Both pedestrian and vehicular access is proposed from Harbor Avenue SW.

The residence will be located on the eastern portion of the site along Harbor Avenue SW.

A portion of the structure, a retaining wall, and new vegetation will be located in the steep slope buffer ECA. No portions of the proposed development intrude into the 30% steep slope ECA located on the western portion of the lot.

Development in the steep slope ECA buffers and a reduced rear yard setback require variance approval.

PUBLIC COMMENT:

The public comment period ended on January 20, 2016 and one comment letter was received with comments that are outside the scope of this review per SMC 25.05.908 and 25.09.180.

ANALYSIS – ECA VARIANCE

The applicant has requested a variance from requirements of the environmentally critical areas ordinance: ECA Variance for development in the steep slope buffer. 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 1890. 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 criteria in 25.09.280B follows the analysis of 25.09.180E in this document. As shown by the topographic survey and site plan, the majority of the property is designated as a steep slope ECA (74.3% of the lot area is covered by steep slope and steep slope buffer). The property descends from west to east with the currently developed portions of the lot located on the eastern portion of the lot along Harbor Avenue SW.

If the proposed development included a 0' front setback, and the full width of the steep slope area and buffer were maintained, the resulting footprint would be 1,919.78 square feet. One

parking space is required for each unit in this zone and location. The subject property location on the busy arterial of Harbor Way SW makes it necessary to provide vehicle maneuvering room on the site, so a 0' front setback is not reasonable, which further reduces the buildable footprint. Therefore, reducing the front setback to 0' is not feasible and would not make it possible to both mitigate the hardship and maintain the full steep slope buffer area.

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.***

The applicant is proposing to demolish the existing home and replace it with two townhomes. Locating the proposed development in the same area of the lot maintains the area of disturbance to the front of the lot along Harbor Avenue SW. The proposed structure has been placed to accommodate vehicular access at the front of the lot while minimizing disturbance of the steep slope buffer.

The applicant has proposed to locate the new development at the most level area of the site. As described in response to the previous criterion, reduction of the setbacks are not sufficient to keep the development entirely out of the steep slope buffer. Approximately 74.3% of the site, or 5,551 sq. ft. of the 7,450 sq. ft. site is designated as an ECA steep slope area and buffer.

The proposed residence includes a four-story structure with a footprint of 1,302 sq. ft. The total site coverage including driveway and walkways is 1,901 sq. ft. or 25.4% site coverage.

The applicant proposes a reduction of the steep slope buffer to 0 feet, and no intrusion into the steep slope area. The reduction in the steep slope buffer would include a portion of the residential structure, a retaining wall, and replanting with native plants. The proposed development follows the sequence of priority and is the minimum necessary to afford relief from the hardship. 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 buffer. 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 variance area.

DECISION – ECA VARIANCE:

Seattle DCI **APPROVES** the requested variance to allow two townhomes, a retaining wall, and vegetation to be developed within a portion of the steep slope buffer.

ANALYSIS – SEPA

The proposal site is located in an environmentally critical area, as noted above. Proposals located in landslide prone areas (i.e. known landslide areas, potential landslide areas, and steep slopes), wetlands, and fish and wildlife habitat conservation areas may require environmental review (SMC 25.05.908), thus this application is not exempt from SEPA review. However, the scope of environmental review of projects within these critical areas is limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

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 Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated December 29, 2015. The Seattle Department of Construction and Inspections has analyzed and annotated the environmental checklist submitted by the project applicant; reviewed the project plans and any additional information in the file 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.

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically these are: 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 Regulations for Environmentally Critical Areas (SMC 25.09).

The SEPA Overview Policy (SMC 25.05.665) 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 and environmental impact, it shall be presumed that such regulations are

adequate to achieve sufficient mitigation” subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction-related impacts on the environmentally critical area are expected: 1) temporary soil erosion; and 2) increased vibration from construction operations and equipment. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794). The following analyzes greenhouse gas and earth/soil 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.

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 (PanGeo Inc., September 4, 2015 and an Addendum dated March 3, 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 on the environmentally critical area are also anticipated as a result of this proposal, including: increased surface water runoff due to greater site coverage by impervious surfaces; loss of plant and animal habitat. Compliance with applicable codes and ordinances will reduce or eliminate most adverse long-term impacts to the environment. However, greenhouse gas and plants and animals 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

Plants and Animals

Mature vegetation is located on the site, including several trees in the steep slope area. The site is located in a Fish and Wildlife Habitat area. The proposal includes retention of all trees, with the exception of two palm trees to be removed in the public right of way near the east property line. The proposed tree retention will retain animal habitat in the fish and wildlife area, and will help to stabilize the steep slope ECA. No mitigation beyond the proposed tree retention and landscaping is warranted under SMC 25.05.675.N.

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.

CONDITIONS – ECA Variance

Prior to Issuance of a Master Use Permit

1. Submit evidence of an ECA Covenant recorded with King County Office of Records and Elections, meeting the requirements of SMC 23.09.335.B.

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

Date: April 25, 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.