



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: 3023633
Applicant Name: Samuel Parish
Address of Proposal: 5604 23rd Ave SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a two unit rowhouse structure in an environmentally critical area. Parking for two vehicles within the structure. Environmental review includes future unit lot subdivision.

The following approval is required:

ECA Variances – To allow disturbance within a steep slope area and steep slope buffer.
(SMC 25.09.180.E)

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

BACKGROUND DATA

Site and Vicinity

The site located at 5604 23rd Ave. SW is 10,932 sq. ft. and slopes up approximately 78 feet from the street to the rear of the lot. The subject property is located at the south end of a cluster of LR1 zoning on the east side of 23rd Ave SW. There is single-family zoning directly to the east, west, and south. More LR1 is located to the



north. The parcels to the south and north are vacant. The lot to the east is occupied by a single-family residence. The topography is similar on other parcels on the east side of 23rd Ave SW.

Description of Proposal

The applicant requests approval to build a 5,735 sq. ft. two unit rowhome residence within the steep slope Buffer and steep slope Environmentally Critical Areas (ECA). The applicant proposes to disturb 11.7% of the steep slope where a variance allows up to 30%. The property is zoned for multi-family development where a rowhome is an allowed use.

Public Comment

The public comment period ended on April 17, 2016 and no comments were received. A comment was received on July 15, 2016. It concerns have to do with the impacts on a wetland located across the 23rd Street. In response, staff added a wetland reviewer who stated, *“I did not find indicators of wetland hydrology or hydric (wetland) soils. The soils in the vicinity of the mapped wetland between about 10 inches to 24 inches below ground ranged from yellowish brown (10YR/5/4 on the Munsell color chart) to dark brown (10YR/3/3), which are not indicative of a hydric soil per the Army Corps wetland delineation method. I also did not observe any primary or secondary indicators of wetland hydrology. I did not fully evaluate vegetation but presume the vegetation community could meet the criteria to be considered hydrophytic (tolerant of saturated soils). All three indicators, wetland soils, hydrology and plants, must be present to be a regulated wetland. Thus, this area does not appear to meet the criteria to be a regulated wetland.”*

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. Trees and vegetation standards are found at SMC 25.09.320.

ANALYSIS - 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.

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 application includes a copy of the property’s short plat from 1986 showing the lot in its current configuration.

- c. allow an intrusion into not more than thirty percent (30%) of the steep slope area.*

The area of steep slope disturbance on the site plan of approximately 11.7% is less than 30% and allows for the applicant to have a regular and functional building site.

- 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.***

Grading is minimized by the home's proposed orientation and depth. The applicant is not proposing excessive retaining walls that would create artificial flat expanses for recreation areas. The proposed residence is designed to be minimally intrusive into the ECA and buffer, with a total steep slope ECA disturbance of 11.7%. Disturbed areas will be required to be re-vegetated with native vegetation as an ECA code requirement. The landscape plan included with the MUP shows revegetation of disturbed areas with native vegetation and a final review of the planting will occur with the building permit. A non-disturbance area covenant is required by the ECA code and will be required for all areas not included in the 11.7% disturbance area.

Conditions requiring a landscape plan for revegetation and a non-disturbance covenant insure site integrity after the home has been constructed. Grading and drainage will be reviewed with the associated building permit, 6516363. No additional mitigation or conditions are warranted.

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 application includes a copy of the property's short plat from 1986 showing the lot in its current configuration.

- 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 main setback limiting the applicant is the front setback of seven feet. Reducing this to zero feet would still leave some of the proposed building in the Steep Slope Area. While setback relief would result in less intrusion into the Steep Slope Critical Area, a reduced front setback would be out of character with homes on the east side of 23rd Ave SW. Garage doors require a 15 foot setback ineligible for relief through the ECA code.

- 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 as there is no riparian management area or required 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 is not pursuing a setback variance. Due to the bulk of the proposed two-unit row house, a reduced front setback may be out character with the neighborhood. The requested relief from Steep Slope buffers and 11.7% of the steep slope area will not be injurious to safety or property improvements in the zone or vicinity. This section of 23rd Ave SW contains slopes over 40% on the east side of the road. The project, like others containing Steep Slope ECA, requires a Geotechnical Review where the project is reviewed for slope stability.

Since no front setback variance has been requested there are no inherent conflicts with the proposed vehicular access and the normal operation of the street.

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 yard or setback reductions are requested. The application to occupy the Steep Slope buffer and build into 11.7% of the Steep Slope area will not be detrimental to the character of the area. The project occupies a zoning envelope that complies with the standards of the LR1 zone. Existing homes on the east side of 23rd Street are setback approximately 15-20 feet from the front property line. The applicant is proposing a 10.5 foot building setback. There are currently three other ECA Steep Slope variance applications near the subject property. A decision has been issued for a single-family home at 5608 23rd Ave SW, zoned SF 5000, with an 11.5 foot front setback. Projects at 5462 and 5456, zoned LR1, each contain two single family homes and have a front setback of 7 feet. The project is consistent with the height and setback standards of the LR1 zone. The SF 5000 zone and LR1 zone each have a height limit of 30 feet. This means that a large house could be built on a similarly sized lot as the subject property in the SF 5000 zone and have the same visual impacts as the applicant's proposal. The project should not be out of character with the general neighborhood when considering both existing homes and other project's under review.

6. ***The requested variance would be consistent with the spirit and purpose of the environmentally critical policies and regulations.***

The intent of the ordinance is to promote the health, safety, and welfare of the general public through protecting critical ecologic features. The proposal is for a two-unit rowhouse residence on a site with minimal code conforming area for development. A Geotechnical Review was done as a part of the requested steep slope variance. A building permit will be required in which structural engineering and site drainage will be reviewed to insure safety and ecological integrity are preserved.

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 March 25, 2016. The 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.

As indicated in the checklist, this action may result in adverse impacts to the environment. However, due to their temporary nature and limited effects, the impacts are not expected to be significant

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 and long-term adverse impacts are anticipated from the proposal.

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).

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. The study has been reviewed and approved by SDCI's geotechnical experts, who will set requirements for the proposed work to proceed without undue risk to the property or to adjacent properties.

No additional conditioning is warranted pursuant to SEPA policies.

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.

No additional conditioning is warranted pursuant to SEPA policies.

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.

ECA CONDITIONS:

1. The owner and/or responsible party shall provide a signed and notarized ECA Covenant prior to issuance of the MUP, to the Land Use Planner for recording. Addendum A of the covenant shall include a site plan with hatching to indicate the area identified as the non-disturbance area by the survey and install the permanent visible ECA markers established at the edge of the non-disturbance area ECA (in accordance with instructions contained in Director's Rule 4-2007).
2. A tree and revegetation landscape plan prepared by a landscape professional to include mitigation for proposed vegetation removal, consistent with SMC 25.09180.D and 25.09.320.B must be reviewed and approved prior to issuance of the Building Permit. This revegetation landscape plan will be integrated into building permit 6516363.

SEPA CONDITIONS:

None.

DECISION – STEEPSLOPE VARIANCE:

GRANTED with Conditions.

Josh Johnson, Land Use Planner
Seattle Department of Construction and Inspections

Date: September 22, 2016

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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.