



City of Seattle

Gregory J. Nickels, 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: 2400975
Applicant Name: Mitch Yockey for Gale Koreski
Address of Project: 4200 28th Avenue S.W.

SUMMARY OF PROPOSED ACTION

Master Use Permit to change use of existing structure from duplex to triplex and establish use for future addition of the third unit in an environmentally critical area. (Ground Related Structure)

The following approvals are required:

Variance – To allow increase in lot coverage beyond 35 %. SMC 23.45.010A2.
(Existing lot coverage is 39 %)

Variance – To allow open space above ground level (decks). SMC 23.45.016B1A

SEPA- Environmental Determination (SMC 25.05)

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction

BACKGROUND DATA

Site and Vicinity Description

The subject site is located on the corner of 28th Avenue S.W. and S.W. Adams St. in the West Seattle Neighborhood and is zoned Lowrise-Duplex-Triplex (LDT). The site is rectangular in shape and is 50-foot wide and 102-foot deep. The subject site is an Environmentally Critical Area because of Steep Slope and Wetland designation. The site is adjacent to Longfellow Creek and within the 50-foot Wetland Buffer for Longfellow Creek. The subject property is currently developed with a two story duplex structure with two existing decks, one deck is in the front setback and one deck is in the rear setback, adjacent to the parking. The site slopes downward to the east in the south portion of the property, which is to the rear of the structure and also slopes east in the south west portion which is the front setback. The site adjoins Park property on two sides (The east 102-feet and the south 50 feet of the subject property). Surface parking for two vehicles is in the southwest portion of the site, which is relatively flat, and is has access from 28th Avenue S.W. The site contains several small to medium sized trees (approx. 24 trees) as noted on the site plan. The trees include Alder, Cherry, Maple, Cedar, Pine and Apple. The site vegetation consists of grass and shrubs.

The neighborhood is predominately residential use, consisting of single-family and multiple family structures. 28th Avenue S.W. is a two lane paved street with sidewalks, curbs and gutter on both sides. S.W. Adams Street adjacent to the north property line of the subject site is not developed.

Additional Information

At the time of submittal the applicant also applied for a variance to allow existing decks to project into the required front yard and the required rear yard. The variance was noticed but DPD determined that this variance was not required, as the existing decks were approved by a previously issued Building Permit No. 737970. Therefore, no further permitting action is required for the legally existing decks.

Proposal Description

The applicant proposes to add a third unit within the existing two story residential duplex structure. The applicant also proposes through this variance, above ground open space and to exceed the allowed lot coverage for the zone.

Public Comment

No comment letters were received during the comment period, which ended October 13, 2004.

Additional Information – Environmentally Critical Area

The ECA Ordinance and Directors Rule (DR) 3-93 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in these areas. A Geotechnical Report dated April 2nd, 2003 was submitted with this project. A Wetland Evaluation Report dated June 17th, 2004 was also submitted with this project. The DPD Geotechnical Engineer has reviewed

both reports and concluded that these reports met the requirements of Director's Rule 3-93. However, additional geotechnical information will be required, by the Building Plans Examiner, during the building permit application.

ANALYSIS – VARIANCE

Variances from the provisions or requirements of this Land Use Code shall be authorized only when all the following facts and conditions are found to exist:

1. *Because of unusual conditions applicable to the subject property, including size, shape topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity; and*

The location of the wetland buffer on the property is an unusual condition which prevents the applicants from providing the required ground level open space directly accessible to each unit.

2. *The request variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located, and*

The requested variance would not go beyond the minimum necessary to afford relief and would not constitute a grant of special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which the subject property is located. The current lot coverage of 39% met code requirements for the existing townhouse structure. However, the lot coverage no longer complies with code because of the change from duplex-townhouse to a 3-unit apartment structure. It would create practical difficulties to require the applicant to convert to 3-townhouse units. The 3-unit apartment structure will create no net increase in lot coverage. The applicant is asking for just the minimum necessary relief to provide the code required open space to allow the additional unit while minimizing the disturbance of the wetland buffer.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located; and*

The existing lot coverage is currently 39% and there will be no net increase in lot coverage. The open space will be provided on existing decks, so the adjoining property owners would not perceive an increase in lot coverage, new structures, or expanded out door activity as a result of variance approval. Therefore, granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity because the adjoining property owners will not experience any change in current conditions.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code or would cause undue hardship or practical difficulties; and*

The current lot coverage of 39% met code requirements for the existing townhouse structure. However, the lot coverage no longer complies with code because of the change from duplex-townhouse to a 3-unit apartment structure. It would create practical difficulties to require the applicant to convert to 3-townhouse units. The 3-unit apartment structure will create no net increase in lot coverage.

There is a wetland on the park adjacent to the property and the subject property is in the wetland buffer which cannot be disturbed. Literal interpretation and strict application of the code would cause undo hardship because the disturbance of the wetland buffer is limited by the ECA Ordinance.

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.*

The requested variance would be consistent with the spirit and purpose of the land use code and policies. In terms of limiting disturbance of the wetland buffer, providing required open space directly accessible to the unit and increasing housing density in the city.

DECISION – VARIANCE

The proposed action is **GRANTED**.

ANALYSIS - SEPA

The proposal site is located in a Wetland and steep slope critical area. Thus, the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be 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 included 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 July 7th, 2004 and annotated by the Department. The information in the checklist, supplemental information provided by the applicant, (soils report), project plans, and the experience of the lead agency with 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, 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 certain limitations/circumstances (SMC 25.05.665 D 1-7) 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 identified 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).

Several adopted codes and/or ordinances provide mitigation for some of the identified impacts. The Stormwater, Grading and Drainage Control Code regulates site excavation for foundation purposes and requires that soil erosion control techniques be initiated for the duration of construction. The ECA ordinance and DR 3-93 and 3-94 regulate development and construction techniques in designated ECA areas with identified geologic hazards. The Building Code provides for construction measures and life safety issues. Compliance with these applicable codes and ordinances will reduce or eliminate most short-term impacts to the environment and no further conditioning pursuant to SEPA policies is warranted.

Earth/Soils

The ECA Ordinance and Directors Rule (DR) 3-93 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with Wetland and Steep Slope. The construction plans, including shoring of excavations as needed and erosion control techniques, will be reviewed by DPD. Any additional information showing conformance with applicable ordinances and codes (ECA Ordinance, The Stormwater, Grading and Drainage Control Code, DR 3-93, and 3-94) will be required prior to issuance of building permits. Applicable codes and ordinances provide extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used. As required by the ECA Ordinance the project is expected to meet the following requirements:

The applicant and/or responsible party shall submit additional geotechnical information as required by DPD Building Plans Examiner for review and approval during Building Permit Application.

- Indicate that grading must be stabilized by October 31st and no excavation to be performed between October 31st and April 1st.

- Show location and boundaries of all proposed site improvements. Include area and percentage calculations for developmental coverage, and impervious surface. Show construction activity areas. Note that developmental coverage includes all impervious surfaces and areas disturbed during construction, including temporary excavations.
- Show on plans existing and final grade contours.
- Delineate the 15 ft. ECA buffer area on the final site plan. If construction activities, such as temporary excavations, are proposed within the 15 foot buffer, provide details of construction methods and activities, and an addendum to the geotechnical report addressing these activities.
- Show on plans drainage control facilities and connections to public systems, if available. Also show location and proposed connections of other utilities.
- Provide erosion control plan. Erosion control plan should be on plans, including methods, locations, temporary drainage, etc.
- Provide construction sequence/schedule through rough grading and permanent erosion control, including estimated start and duration of activities, type of equipment, and other pertinent data. Indicate on plans that pre-construction meeting is required with owners' representatives and DPD. Sequence/Schedule may be on plans or on a separate sheet.
- Provide an ECA covenant for the project site.

Therefore, no additional conditioning is warranted pursuant to SEPA policies.

Long-term Impacts

Long-term or use-related impacts are also anticipated as a result of this proposal including: increased surface water runoff due to greater site coverage by impervious surfaces, and loss of plant and animal habitat.

Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the ECA Ordinance, the Stormwater, Grading and Drainage Control Code which requires provisions for controlled tightline release to an approved outlet and may require additional design elements to prevent isolated flooding. Compliance with these applicable codes and ordinances is adequate to achieve sufficient mitigation of most long-term impacts and no further conditioning is warranted by 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 requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] 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 43.21C.030(2)(c).

- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

CONDITIONS-SEPA

None.

Signature: _____ (signature on file) Date: March 31, 2005

Joan S. Carson, Land Use Planner II
Department of Planning and Development
Land Use Services

JC:bg

Carson/Variance/2400975