



City of Seattle

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: 3001719
Applicant Name: Neal Thompson
Address of Proposal: 14244 Westwood Place NE

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a clustered housing development comprised of three single family dwelling units. Project proposes to subdivide one parcel into four unit lots in an environmentally critical area. Proposed unit lot sizes are: A) 10,257-sq. ft., B) 10,438 sq. ft., C) 10,768 sq. ft., and D) 11,670 sq. ft. This subdivision of property is only for the purpose of allowing sale or lease of the unit lots. Development standards will be applied to the original parcel and not to each of the new unit lots. Parcel A is to remain undeveloped.

The following approvals are required:

Environmentally Critical Areas Conditional Use: – To allow smaller than required lot sizes and yards and more than one dwelling unit per lot in a critical area in a single family zone. Clustering of three houses is proposed such that the three houses would occupy one parent lot in the single family zone (the standard provided by the Land Use Code is one house per lot). SMC Chapter 25.09.260

SEPA – Environmental Determination – SMC Chapter 25.05

Short Subdivision: – To create four unit lots, SMC Chapter 23.24.045.

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

*Early Notice DNS published June 22, 2006.

BACKGROUND DATA

Administrative Consideration

The original application was to short plat one parcel into four unit lots in an environmentally critical area. The proposal includes application for conditional use permit for smaller than required lot sizes and yards and, or more than one dwelling unit per lot in steep slope, wetland, and known landslide hazard areas as designated by the City of Seattle Critical Area Map. Subsequently, the application was revised to include a unit lot subdivision and to permit clustering of the proposed development on the least sensitive areas of the site.

Site and Vicinity

The subject site is an irregular shaped 43,134 square feet lot zoned Single Family 9600: Single Family Residential with a minimum lot size of 9600 square feet. The site is located on the eastern side of the intersection of 38th Avenue N.E and the unimproved Westwood Place N.E. The property is described as Lots 8, 9, and the south half of Lot 7, Block 8 Westwood Park Addition in the Cedar Park neighborhood near the northeast city limits by the western edge of Lake Washington.



According to the Geotechnical Engineering Study dated June 15, 2009, by Dennis M. Bruce, P.E. the topography of the site is characterized by a wide, relatively flat bench surrounded on the north, east, and southeast sides by steep slopes inclined downwards at about 50 to 70%. Some portions of the eastern slopes are locally steeper, with inclinations in the order of 90 to 100 percent and occasionally near vertical sections. The site is also located within a mapped known landslide hazard area as designated by the City of Seattle Critical Area Map.

In addition to steep slopes and potential slide areas on the site, two wetland areas are identified on DPD's Wetland Environmentally Critical Area Map. According to the wetland report submitted for the applicant by Wetland Resources, Inc., dated August 25, 2008, the wetlands are classified under the Washington State Wetland Rating System as required by the City of Seattle as Category IV wetlands. Category IV wetlands require designated 50-foot protective buffers from their delineated boundaries. The wetlands are located on the northwest portion of the site in the area of proposed Parcel A. Development on proposed Parcel A is impacted by the presence of the wetlands, wetland buffers and steep slopes. Thus development of the site would be clustered on the less sensitive portions on the lot located on proposed Parcel B, C and D. Parcel A would remain undeveloped.

According to information submitted by the applicant about 57% of the property is designated as environmentally critical. The site is also characterized with vegetation of tall blackberry bushes and a stand of several alder trees sprouted near the top of the slope on the northern portion of the flat bench. The site abuts an unimproved 60-foot-wide Westwood Place NE to the west and undeveloped 40th Avenue NE down the steep slope to the east of the site. Vehicular access for ingress and egress would be provided through an existing easement via 38th Avenue NE across the existing undeveloped Westwood Place NE to the proposed Parcels B, C, and D. The neighborhood is predominately single family residential, comprised of lots of varying sizes developed with one and two-story single family residences.

Proposal

The proposal site contains a total of 43,102 square feet in lot area, which would generally provide adequate area for four lots and the construction of up to four single family homes in the SF-9600 zone. However, development is limited in environmentally critical areas per Seattle's Environmentally Critical Area Ordinance – so the applicant has applied for an administrative conditional use permit to cluster the new homes in the least sensitive portion of the site, where disturbance of the steep slope and wetlands can largely be avoided. The City's ECA Ordinance provides certain development standards (SMC 25.09.240) for short plat proposals on land with steep slopes and wetlands in addition to the standards set forth in the Land Use Code (SMC 23.24), and provides further criteria for a critical areas conditional use under SMC 25.09.260.

In addition to the ECA ACU to allow the new homes to be built on the least sensitive area of the site, the proposal includes a unit lot subdivision (SMC23.24.045) to construct three new houses on one "parent" lot. The unit lot subdivision would establish three unit lots that are comparable in size to the minimum lot size in the SF-9600 zone. However, as a unit lot subdivision, the proposal meets the required yards and minimum lot size for the "parent lot". A fourth unit lot, Parcel A, includes wetlands and steep slopes and will remain undeveloped.

The parent lot will have a 20-foot front yard along the unimproved Westwood Avenue NE. The lot will also have 5 foot side yards along the North, south and east property lines, with a shared vehicular access easement to 38th Avenue NE. A 25-foot rear yard is provided in the NE corner of the lot. The structures will range from 1,876 sq. ft. to 2,344 sq. ft. with attached garages. Total proposed lot coverage is 14.1% of the entire site for all structures.

Several trees are located on the site, with most of the canopy located on the north and east property lines. Additional trees and shrubs are located in the steep slopes and wetland areas. Three Big leaf maple trees 11 to 6 inch in size and one Cherry tree 6.6 inches in size will be removed from the site, according to Tree Solutions, Inc. consulting Arborist Report, dated March 31st, 2008. Applicant has proposed to replant one 6 – 7 inches Coast Douglas fir tree, one 6 -7 inches Western Red Cedar tree, and two Weeping Alaskan Cedar trees 6 -7 inches in diameter on different location on the site. None of the trees proposed for removal are located in the steep slope or wetland ECA areas.

Public Comments

The notice for the proposed project was republished on June 22, 2006. The proposal was revised to include another component, ECA Wetlands areas on the site. The comment period ended on July 5, 2006. Two comment letters were received. Respondent expressed concerns regarding increased use by trucks and cars especially along the proposed access easement and that the easement should be used as a turnaround for vehicles. A second respondent is not in favor the proposed cluster housing development on the site and expressed concerns about lack of sidewalks and public transportation in the immediate area.

Environmentally Critical Area Regulations:

SMC Section 25.09.180 provides specific standards for development on steep slopes and steep slopes buffers on existing lots, including the general requirement that development shall be avoided in steep slopes whenever possible.

General Requirements and standards are described in Section 25.09.060 of the ECA ordinance and include the recording of conditions of approval, the recording of the identified ECA areas in a permanent covenant with the property as well as specific construction methods and procedures. The proposal must also comply with the specific requirements for development in landslide prone areas (Section 25.09.060), wetlands (Section 25.09.160), steep slopes (Section 25.09.180), and trees and vegetation (Section 25.09.320). All decisions subject to these standards are non-appealable Type 1 decisions made by the Director of DPD.

SMC Section 25.09.260 provides a process to allow smaller than required lot sizes and yards. And more than one dwelling unit per lot in a single-family zone through an administrative conditional use permits (ECA ACU). The Director may approve, condition, or deny an application based upon a determination of whether the proposal meets applicable criteria. The development must be located outside of the ECA areas, protect and improve existing habitat, and be compatible with the existing neighborhood. Relevant criteria are discussed below. ECA ACU decisions, Unit lot Subdivision decisions, and SEPA determinations are Type II decisions, which are subject to the provisions of SMC 23.76 and are appealable to the Hearing Examiner.

ANALYSIS:

ENVIRONMENTALLY CRITICAL AREAS ADMINISTRATIVE CONDITIONAL USE

Section 23.42.042 of the Seattle Municipal Code authorizes review of conditional use permits according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decision. Section 25.09.260 of the ECA ordinance set forth the review of criteria for Administrative Conditional use Permits (ACU) to create development with smaller than required lot sizes and yards, and/or more than one dwelling unit per lot. Applicable review criteria and supporting analysis follows:

SMC 25.09.260: Environmentally Critical Areas Administrative Conditional Use

B. Standards: The Director may approve an administrative conditional use for smaller than required lot sizes and yards, and/or more than one dwelling unit per lot if the applicant demonstrates that the proposal meets the following standards:

1. Environmental Impacts on Critical Areas.

a) No development is in a riparian corridor, shoreline habitat, shoreline habitat buffer, wetlands or wetland buffer.

Two Category IV wetlands each estimated as 1,457 and 1,639 square feet respectively were identified in the northwestern portion of the site within proposed Unit lot A. The wetlands were evaluated by the applicant and analyzed by DPD. Under SMC 25.09.160, Category IV wetlands less than 1,000 square feet do not require buffers. But Category IV wetlands 1,000 square feet or more in total size or of any size that is part of a larger wetland system or abuts any Type 1 to 5 waters require a wetland buffer measured horizontally from the edge of the wetland. The two Category IV wetlands discovered on the proposal site will require a 50-foot buffer, and development (including but not limited to grading, filling, or draining) is not allowed. No development is proposed in a riparian corridor, shoreline habitat, shoreline buffer, wetlands or wetland buffer. The proposal meets the criteria.

b) No riparian management area, shoreline habitat buffer, or wetland buffer is reduced.

The applicant has delineated the two 1,457 sq. ft. and 1,639 sq. ft. Category IV wetlands and 50-foot wetland buffer areas on proposed Unit lot A with 10,257 square feet of lot area. Per information shown on the site plan no wetland buffer area is reduced. Parcel A will remain undeveloped as a condition of approved ACU.

c) No development is on the steep slope area or its buffer unless the property being divided is predominantly characterized by steep slope areas, or unless approved by the Director under Section 25.09.180.a.b or c.

1) The preference is to cluster units away from steep slope areas and buffers.

All development on the site is occurring or will occur within the least sensitive area of the site, where disturbance of the steep slope can be largely avoided. The applicant has proposed securing the area with a soldier pile retaining wall in order to prevent any on site disturbance activity from the ECA areas. The impervious surfaces will be equipped with drainage infrastructure tight-lined to the storm drain catch basin on 40th Avenue NE, which will significantly reduce runoff to the steep slope and therefore reduce the risk of erosion and superficial landslide. Limitation of land disturbing activity will be a conditioned of approval of the proposed development, as will the designation of the remainder of the site as a non-disturbance area by ECA covenant. As mentioned above, because the site is predominantly 57% ECA and buffer areas, justifies the location of the development footprint on each unit lot which will disturb approximately 12% of the ECA areas of the lots.

The least sensitive area of the site is currently covered with vegetation, including trees that contribute to the soil stability. All vegetation that will be removed from the site would be done on the least sensitive area only, and no further vegetation removal is needed. Accordingly, the proposal, three 1 inch to 6 inches Big leaf Maple trees and one 6.6 inches Cherry tree will also be removed from the site. Applicant has proposed to replant three 6 -7 inches Big leaf Maple trees and one 6 – 7 inches Weeping Alaskan Cedar tree. Accordingly, the proposal as conditioned, will meet the first criterion for conditional use approval.

2) *The Director shall require clear and convincing evidence that the provisions of this subsection B are met when clustering units on steep slope areas and steep slope area buffers with these characteristics:*

- a) A wetland over 1,500 square feet in size or a watercourse designated part of a riparian corridor;***
- b) An undeveloped area over 5 acres characterized by steep slope; or***
- c) Areas designated by the Washington Department of Fish and Wildlife as urban natural open space habitat areas with significant tree cover providing valuable wildlife habitat.***

Approximately 12% of the development is within the steep slope and steep slope buffer areas. Furthermore, the proposed development does not include development on steep slopes that also include a wetland over 1,500 square feet in size, a water course, an undeveloped area of 5 acres in size characterized by steep slopes, or an area designated by WDFW as urban natural open space habitat. This criterion is met.

d) The proposal protects Washington State Department of Fish and Wildlife priority species and maintains wildlife habitat.

No priority species have been determined to be at this site. The proposal includes clustering of the proposed structures and development on the least sensitive area located on the south central portion of the site bounded to the north east and south by steep slope areas. Both the north western and eastern portions of the site are characterized by steep slopes and thick vegetation, a mixture of trees and overgrown bushes. The steep slope areas will remain undisturbed during construction and will not include any tree removal within the steep slope areas. The proposal meets this criterion, subject to the conditions listed below.

e) The open water area of a shoreline habitat, wetland or riparian corridor shall not be counted in determining the permitted number of lots.

Neither the wetland nor the wetland buffer is counted to determine the permitted number of lots. The site does not contain any shoreline habitat or riparian corridor areas. The proposal meets this criterion.

f) The proposal does not result in unmitigated negative environmental impacts, including drainage and water quality, erosion, and slope stability on the identified environmentally critical area and its buffer.

The proposed storm drainage system would collect water runoff from the impervious roadway, driveways, roof and footing drains and divert them through tight lined pipes to a detention tank at the bottom of the hill. This drainage system will reduce the total water runoff onto the steep slope areas of the site from the area where the clustered housing is proposed. Trees and ground cover on the steep slope area will be maintained. Approximately, 13% of ECA area and 83% of the steep slope buffer areas would be disturbed due to construction and will be restored with seeding and ground cover. This proposal meets this criterion, subject to the conditions listed below.

- g) The proposal promotes expansion, restoration or enhancement of the identified environmentally critical area and buffer.***

The soldier pile retaining wall will minimize erosion onto the steep slope during construction. Permanent critical area non-disturbance markers will be located and recorded with the ECA covenant to prohibit development of the steep slope and wetland areas and their buffer areas after the proposed houses have been built.

2. *General Environmental Impacts and Site Characteristics.*

- a) The proposal keeps potential negative effects of the development on the undeveloped portion of the site to a minimum and preserves topographic features.***

The proposal does not include any development in the ECA areas. However, development is limited in environmentally critical areas per Seattle's Environmentally Critical Areas Ordinance. So, the applicant has applied for an administrative conditional use permit to cluster the new homes in the least sensitive portion of the site, where disturbance of the steep slope and wetlands can largely be avoided. These areas will be designated non-disturbance areas, as conditioned below.

There are several mature trees existing on the site. Most of the trees are located on the north and east steep slopes areas of the site. The applicant proposes to retain most of the existing tree caliper presently on the site. Three 11 – 6 inch Big leaf Maple and one 6.6 inch Cherry tree proposed for removal are not located in the ECA steep slope areas.

The vegetation on the site is comprised of young red alder, with an understory of Red Osier dogwood, creeping buttercup and dewberry. The existing wetlands are dominated by young red alder trees which provide some forage and cover opportunities for birds and small mammals. In addition to tree retention described above, the proposal replant one 6-7 inches Douglas Fir, one 6-7 inch Western Red Cedar and two 6-7 Weeping Alaskan Cedar tree trees, includes planting of seeding and ground cover on critical areas disturbed by construction activities. ECA areas will be designated as non-disturbance areas on the final plans. The proposal meets this criterion, subject to the conditions listed below.

3. *Neighborhood Compatibility.*

- a) The total number of lots permitted on-site shall not be increased beyond that permitted by the underlying single family zone.***

The subject property is 43,134 square feet in size and the zoning of SF-9600 requires minimum lot sizes of 9,600 square feet. The lot sizes in the neighborhood range from 8,000 square feet to 14,000 square feet. The proposed lot sizes are, Parcel A: 10,257 sq. ft. Parcel B: 10,438 sq. ft. Parcel C: 10,768 sq. ft. and Parcel D: 11,670 sq. ft. In general the neighborhood west of 38th Avenue NE is zoned SF-7200. Property between 38th Avenue NE and Edgewater Lane where the proposal site is located, is zoned SF-9600. The underlying single family zone permits four lots but three lots only proposed for development and unit lot subdivision under this review. The proposal meets this criterion. Parcel A will remain undeveloped as a condition of approval of the short plat.

- b) Where dwelling units are proposed to be attached, they do not exceed the height, bulk and other applicable development standards of the Lowrise 1 (L-1) zone.*

There are no proposed attached dwelling units with this application. The criterion does not apply.

- c) The development is reasonably compatible with and keeps the negative impact on the surrounding neighborhood to a minimum. This includes, but not limited to, concerns such as neighborhood character, land use, design, height, bulk, scale, yards, pedestrian environment and preservation of the tree canopy and other vegetation.*

Neighborhood Character:

Existing: The neighborhood character of the surrounding area includes a range of sizes and styles of single family development with garages and mature trees and shrubs. Many houses on the west side of 38th Avenue NE are located on lots within the higher elevations of the SF-7200 and SF-9600 zones. These lots are developed to take advantage of views to the east. Residences have been built over time and include a large variety of sizes, heights and architectural styles. Roads are paved but few are developed with curbs, gutters and sidewalks.

Proposed: The proposed development includes three single family houses 1,876 to 2,344 square feet in size with attached garages that are similar to other homes in the neighborhood. All three proposed residences will front on the unimproved Westwood Place NE. Applicant has applied and received approval from exception from required street improvement on Westwood Place NE. Several existing mature trees and shrubs will be retained. Street frontage development will include an improved driveway easement providing vehicular access to 38th Avenue NE to the west.

Land Use

Existing: Existing land use in the immediate area is almost entirely single family detached residences with attached garages.

Proposed: The proposed development consist of three single family detached residences with attached garages.

Design

Existing: Existing development consists of a range of architectural single family styles, representing popular vernacular architecture from the early 20th century to recent styles. Examples of architectural styles in the immediate vicinity include modernism, split-level, craftsman bungalow, colonial revival, American foursquare and Tudor.

Proposed: The three proposed houses represent one primary architectural style. The three structures are close to the steep slope and would exhibit split level residences with a modern vernacular. Attached garages are located in front of these residences.

Height: Height limits (SMC 23.44.012) are maximum 30' plus 5' for a 3:12 minimum sloped roof (35' total height), per Land Use Code requirements.

Existing: Houses in the analyzed area range from one to three stories tall (approximately 15' to 33' tall) and include single story garages for one or more cars.

Proposed: The proposed houses would be similar in height, bulk, and scale to many of the other residences in the immediate neighborhood, and thus be reasonably compatible with neighborhood. Thus the criterion is met.

Bulk and Scale: Bulk and scale is measured using a variety of methods, including lot size, size of structure, footprint, comparisons of structure to lot size and modulation.

"Gross Floor Area" is a comparison of total structure size to lot size (note: not a code requirement).

"Lot Coverage" is a comparison of structure footprint to lot size (note: this is a code requirement).

"Modulation" is the amount of visual and/or physical breaks in a building facade. It is difficult to calculate average/median modulation of existing development in the area, but modulation can help to visually reduce the bulk and scale of proposed new development.

Yards: The Land Use Code includes the following yard requirements in SF-9600 zones (SMC 23.44.014).

- Front: 20' minimum
- Rear: 25' minimum
- Sides: 5' minimum

Existing: Many residences on the east and west side of 38th Avenue NE include large front yards, with houses pushed on higher ground away from the street below. But some houses are pushed to the edge of the steep slope areas to maximize the view to the east. Front yards on upper elevations of the analyzed area may commonly measure 100' or more. Side yards are often at or below minimum 5' requirement. Rear yards at upper elevation are also larger than required due to the presence of the steep slope in the area. Properties near the bottom of the slope appear to have less than required minimum yards.

Proposed: The proposal is being analyzed as a Unit Lot Subdivision, which means that individual units may have smaller than required yards, but the parent lot as a whole must meet yard requirements. The proposed development parent lot includes a 20 feet front yard adjacent to unimproved Westwood Place NE, 5' side yard at the north, south and east property lines, and a 25 feet step rear yard at the northeast portion due to the location of the front lot lines. Although the individual unit lots are not required to meet yard standards, 10 foot separation will be provided between structures.

Pedestrian Environment:

Existing: The existing pedestrian environment is limited, since there are few sidewalks in the area and none adjacent to the subject property. Paved and gravel shoulders are also rare, since drainage is collected in ditches on the sides of the street. Traffic volumes are relatively low and pedestrians share the paved street with vehicles.

Proposed: The proposed development will retain the existing pedestrian environment pattern of drainage ditches and limited sidewalks. No additional sidewalks are proposed.

Preservation of Tree Canopy and Vegetation:

Existing: Existing trees are described in response to SMC 25.09.260.B.2.b.

Proposed: Proposed planting of additional seeding and ground cover is described in the response to SMC25.09.260.B.2.c.

Summary for SMC 25.09.260.B.3.c

The proposed residences meet the required development standards. The proposed parent lot meets lot coverage and yard development standards. While the proposed residences have more floor area than the average house in the area, they have similar sized footprint and building heights as existing nearby residences.

The proposed tree removal has been kept to a minimum and none of the trees removed were in the ECA area of the site. Generally, the site has an abundance of trees. The pedestrian environment would be consistent with existing neighborhood character. The proposal is found to be reasonably compatible with and keeps the negative impact to a minimum regarding neighborhood character, land use, design, height, bulk, scale, yards, pedestrian environment and preservation of tree canopy and vegetation subject to the conditions listed below.

C. Conditions:

1. In authorizing an administrative conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions necessary to protect riparian corridors, wetlands and their buffers, shoreline habitat and their buffers, and steep slope areas and their buffers, and to protect other properties in the zone or vicinity in which the property is located.

Conditions addressing the protection of steep slope and wetland areas and their buffers and other properties in the zone and vicinity are listed below.

2. In addition to any conditions imposed under subsection 1, the following conditions apply to all administrative conditional uses approved under this subsection:

a) Replacement and establishment of native vegetation shall be required where it is not possible to save trees or vegetation.

Applicant has proposed the removal of three 11 – 6 inches Big leaf Maple trees and one 6.6 Cherry tree and has proposed planting one 6-7 inches Douglas Fir, one 6-7 inches Western Red Cedar, and Two 6-7 inches Weeping Alaskan Cedar trees. Most of the rest of the trees are located within the steep slope and wetland area of the lot. The proposal meets this criterion, subject to the conditions listed below.

b) Where new lots are created, the provision of Section 23.22.062, Unit Lot Subdivision, or Section 23.24.045, Unit Lot Subdivisions, apply, regardless of whether the proposal is a unit lot subdivision, so that subsequent development on a single lot does not result in the development standards of this chapter being exceeded for the short subdivision or subdivision as a whole.

The applicant has submitted an application for unit lot subdivision, which has been reviewed by DPD. The review of those criteria is included below. The proposal meets this criterion subject to the unit lot subdivision conditions listed below.

DECISION – ECA Administrative Conditional Use

The proposal is **CONDITIONALLY GRANTED**.

ANALYSIS – SEPA

The initial disclosure of the potential impacts from this project (unit subdivision and future construction of three single family homes) was made in the annotated environmental checklist dated March 28, 2006 and supplemental information in the project files. This information, along with the experience of the lead agency in similar situations, forms the basis for this analysis and decision.

Under SMC Section 25.09.908.B, the scope of environmental review within critical areas is limited to documenting that the proposal is consistent with ECA regulations, SMC Chapter 23.09, and evaluating potentially significant impacts on the environmentally critical areas resources not adequately addressed in the ECA Policies or the requirements of Chapter 25.09. The proposal, as conditioned by the decision, is determined to be consistent with ECA regulations. Potential adverse impacts on the ECAs are further discussed below.

The SEPA Overview Policy (SMC Section 25.05.665.D) states that “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 limitations.

Several adopted City codes and/or ordinances provide mitigation for identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Ordinance (grading, site excavation and soil erosion); Building Codes (construction standards); and ECA Ordinance. Compliance with these codes and ordinances will be adequate to achieve sufficient mitigation of identified impacts. A more detailed discussion of some of the impacts is appropriate.

Short-term Impacts

The following temporary or construction related impacts are expected: soil erosion and sedimentation during general site work; and increased runoff. A discussion of potential impacts and mitigation follows:

Earth (slope stability) and erosion

There is a potential for erosion during excavation of the proposed building footprints. The applicant will follow recommendations from the soils engineer and provide landscape and fence barriers at the top of the steep slope and at the bottom of the steep slope in Parcel D. Pursuant to these proposals, and if the requirements of Director’s Rule 33-2006 and 16-00 (the later for implementation of Best Management Practices) and Environmentally Critical Areas requirements are complied with, no additional mitigation is necessary.

Long-term Impacts

Long –term or use-related impacts on the ECAs are also anticipated from the proposal: 1) increased surface water runoff from greater site coverage by impervious surfaces, and 2) increased demand on public services and utilities. These long-term impacts are not expected to be significant.

The expected long-term impacts are typical of single-family development and will be mitigated by the City’s adopted codes and/or ordinances. Specifically these applicable codes and ordinances are: Building Code requirements and ECA regulations (to ensure that proposed development will be constructed in a safe manner); and Stormwater, Grading, and Drainage Control Code (storm water runoff from additional site coverage by impervious surface); DPD geotechnical engineers have reviewed the proposal and the geotechnical studies provided with this application, and have placed conditions on the project regarding drainage and foundation types, as detailed below.

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 decision 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.303(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.303(2)(C).

ANALYSIS - SHORT SUBDIVISION

Based on information provided by the applicant, referral comments from DPD, Water and Fire Departments, Seattle City Light, and review by the Land Use Planner, the following findings are made with respect to the above-cited criteria:

Pursuant to SMC 23.24.40, no short plat shall be approved unless all of the following facts and conditions are found to exist:

1. ***Conformance to the applicable Land Use Code provisions;***

The proposal has been reviewed for conformance with the applicable Land Use Code provisions. The parent lot and unit lots created by this subdivision will meet all minimum standards or applicable exceptions set forth in the Land Use Code, and are consistent with applicable development standards. The subdivision of this site into four unit lots will not be out of character with the development pattern, lot sizes, or streetscape pattern in the vicinity. The proposal meets this criterion, subject to conditions listed below.

2. ***Adequacy of accesses for vehicles, utilities, and fire protection, as provided in Section 23.53.005;***

The proposal has been reviewed by DPD, Seattle Public Utilities (SPU) and Seattle Fire Department. As conditioned, this subdivision can be provided with vehicular access to 38th Avenue NE via driveway easement to the individual unit lots outside the ECA area, and public and private utilities and access (including emergency vehicles). Adequate provisions for drainage control, water supply, and sanitary sewage disposal have been provided for each lot and service is assured, subject to standard conditions and code requirements governing utility extensions. The proposal meets this criterion.

3 ***Adequacy of drainage, water supply, and sanitary sewage disposal;***

There is a sewer stub extending to the property line at the northeast corner of the proposed unit lot subdivision, running in the unopened ROW of 40th Avenue NE. This is tied into an 8-inch public sanitary sewer (PSS) in 40th Avenue NE. There is a drain terminating at a catch basin down the slope to the east in the unopened 40th Avenue NE right-of-way. This is tied into a ditch and culvert system at the intersection between 40th Avenue NE and 41st Avenue NE.

The Seattle Public Utilities has indicated that water is currently available on the site. All Water Department Conditions of approval must be met, in association with future building permits on the site.

4. *Whether the public use and interests are served by permitting the proposed division of land:*

The public use and interest will be served with this proposal because additional opportunities for owner occupied housing would be provided within the City limits as a result of this subdivision.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, Short Subdivisions and Subdivisions, in Environmentally Critical Areas.*

The proposal site is located in a mapped environmentally critical area due to steep slope, wetland and landslide prone areas. The conditional use permit and unit lot subdivision complies with the applicable requirements of SMC 25.09.

6. *Is designed to maximize the retention of existing trees.*

The development proposed on this site would be confined to the least sensitive area, where the proposed construction activity may result in the removal of three 11 -6 inches Big Leaf Maple trees and one 6.6 Cherry tree and applicant has proposed to plant one 6-7 inches Douglas Fir, one 6-7 inches Western Red Cedar and two 6-7 inches Weeping Alaskan Cedar trees. Tree and other landscaping requirements have been considered through the ECA review. The proposal meets the criterion subject to the conditions listed below.

7. *Conformance to the provisions of Section 23.24.045, for unit lot subdivision, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of Single Family homes.*

The provisions of SMC Section 23.24.045 are as follows:

A. *The unit subdivision provisions of SMC Section 23.24.045 apply exclusively to the unit subdivision of townhouses, cottage housing, clustered housing, or single-family residences in zones where such uses are permitted.*

The proposal is to locate three single family residences in three unit lots on one “parent lot”, through unit lot subdivision. A fourth unit lot will be created but is required to remain undeveloped per the ECA ACU decision above. The SF-9600 zone in which the subject property is located permits single family residential development. The proposal meets this criterion.

- B. *Sites developed or proposed to be developed with dwelling units listed in subsection A above may be subdivided into individual unit lots. The development as a whole shall meet the development standards applicable at the time the permit application is vested. As a result of the subdivision, development on individual units lots may be nonconforming as to some or all of the development standards based on analysis of the individual unit lots, except that any private, usable open space for each dwelling unit shall be provided on the same lot as the dwelling unit it serves.***

Proposed open space conforms to the requirements of the land Use Code. The proposal meets this criterion.

- C. *Subsequent platting actions, additions or modifications to the structure(s) may not create or increase any nonconformity of the parent lot.***

To ensure that future owners have constructive notice that additional development may be limited, the applicant is required to add a note to the face of the plat that reads as follows: Include the following on the face of the plat: “*The lots created by unit subdivision are not separate building lots. Additional development on any individual lot in this unit subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code*”. The proposal meets this criterion subject to the conditions listed below.

- D. *Access easements and joint use and maintenance agreements shall be executed for use of common garage or parking areas, common open space (such as common courtyard space for cottage housing), and similar features, as recorded with the Director of the King County Department of Records and Elections.***

A joint use and maintenance agreement is required prior to recording. An address signage easement for the benefit of the three proposed residences is also required. The proposal meets this criterion subject to the conditions listed below.

- E. *A joint use and maintenance agreement has been included on the short plat document and should also be included on the final documents for recording.***

A joint use and maintenance agreement is required prior to recording. The proposal meets this criterion, subject to the conditions listed below.

- F. *Within the parent lot, required parking for a dwelling unit may be provided on a different unit lot than the lot with the dwelling unit, as long as the right to use that parking is formalized by an easement on the plat, as recorded with the Director of King County Department of Records and Elections.***

All proposed parking would be located within the structures on the same unit lot as the residence. This criterion does not apply to the proposal.

G The fact that the unit lot is not a separate buildable lot, and that additional development of the individual unit lots may be limited as a result of the application of development standards to the parent lot shall be noted on the plat, as recorded with the Director of the King County Department of Records and Elections.

To ensure that future owners have constructive notice that additional development may be limited, the applicant is required to add a note to the face of the plat that reads as follows: Include the following on the face of the plat: *“The lots created by unit subdivision are not separate building lots. Additional development on any individual lot in this unit subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code”*. The proposal meets this criterion subject to the conditions listed below.

DECISION - SHORT SUBDIVISION

The proposed Unit Lot Subdivision is **CONDITIONALLY GRANTED**.

NON- APPEALABLE CONDITIONS – ENVIRONMENTAL CRITICAL AREAS

Prior to Issuance of a Master Use Permit

1. Mark all areas on the plans east of the limited steep slope areas as “non-disturbance areas” per SMC 25.09.060 and 25.09.335.
2. Submit a recorded copy of the ECA Covenant restricting development and disturbance in the non-disturbance areas to the Land Use Planner, per SMC 25.09.060 and 25.09.335.
3. Permanent visible markers along the top of the steep slope buffer to delineate the buffer no build area must be shown and described on the plat prior to recording. The markers shall be either reinforcing steel or metal pipe driven securely into the ground with a brass cap affixed to the top similar to survey monuments. The brass cap shall be visible at the ground surface and indicate the purpose of the marker. Markers shall be placed at all points along the buffer delineation where the buffer changes direction from a straight line, exclusive of the exempted access area. Markers must be in place before issuance of this Master Use Permit, per SMC 25.09.335.D.

Conditions of Approval Prior to Issuance of Any Construction Permits

The owner and/or responsible party shall:

4. Submit for approval by DPD a drainage control plan prepared by a licensed civil engineer meeting the requirements of the City's Stormwater, Grading and Drainage Control Code.
5. Show on the site plan(s) complete calculations for development coverage, impervious surface area, and construction activity areas, noting areas and percentages of site.
6. Show on the site plan(s) location of grading activities, including final grade contours, and drainage control facilities.
7. Show on the site plan(s) location of existing utilities and proposed methods/locations of connection(s) to these services as they relate to the ECA areas.
8. Show on the site plan(s) the location of permanent ECA markers.
9. Provide an erosion and sediment control plan, employing Best Management Practices, to minimize erosion on and off-site. The plan shall be reviewed and approved by DPD.
10. Submit a sanitary sewer plan for approved by DPD's Land Use Review section.
11. Provide a signed notarized copy of the driveway easement to DPD.

CONDITIONS – SHORT SUBDIVISION

Prior to Recording

The owner(s) and responsible party(s) shall:

12. Have final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel, or tract created by the short subdivision shall be surveyed in accordance with appropriate State statutes. The property corners set shall be identified on the plat and encroachments such as fences or structures shall be shown. Lot areas shall be shown on the plat. All existing structures, principal and accessory, shall be shown on the face of the plat and their distances to the proposed property lines dimensioned. The boundaries shall be adjusted if necessary to meet the requirements of the Land Use Code.
13. Applicant shall add a note to the face of the plat stating: "The lots created by this unit subdivision are not separate buildable lots and the dwelling units constructed on all Parcels B through D are non-conforming structures permitted pursuant to SMC 23.45.190. Additional development on these unit lots in this subdivision may be limited as a result of the application of development standards to their parent lot pursuant to applicable provisions of the Seattle Land Use Code".

