



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:** 3004844 (formerly 9804149)

**Applicant Name:** Randy Spaan

**Address of Proposal:** 3306 – E Ford Place

**SUMMARY OF PROPOSED ACTIONS**

Land Use Application for future construction of a cluster housing development of two single family residences with attached garages on a site in an environmentally critical area, together with a unit lot subdivision to divide one parent parcel into two unit lots in an environmentally critical area. Grading of approximately 600 cubic yards of material (600 cubic yards of cut) in a steep slope critical area is also considered in this review.

The following approvals are required:

**Environmentally Critical Areas Conditional Use** - to allow recovery of development credit in a critical area in a single-family zone. SMC 25.09.260

**Short Subdivision** - to divide one parcel of land into two unit lot parcels.  
(Seattle Municipal Code Chapter 23.24)

**SEPA - Environmental Determination** - SMC Chapter 25.05.

**SEPA DETERMINATION:** [ ] Exempt [X] DNS [ ] MDNS [ ] EIS

[ ] DNS with conditions

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

## **BACKGROUND DATA**

The subject property is a 10,286 square foot parcel zoned SF 5000: Single-Family Residential, with a minimum lot size of 5,000 square feet. The property is described as that portion of Lots 8 and 9, Block 116, Pacific Coast Addition, lying southerly of the North 90 feet thereof (AKA Parcel B of Seattle Short Subdivision No. 78-15). The subject property will hereafter be referred to as Parcel B. The property is located in the Washington Park neighborhood of Seattle, near Lake Washington. The property consists of one existing parcel with a lot area of 10,206 square feet. It is roughly rectangular, with 126 feet of lineal frontage along East Ford Place. The depth of the property on the east property line is approximately 79 feet and the depth of the west property line is approximately 106 feet. The eastern half of the property (proposed unit lot A) is developed with a single family residence that fronts East Ford Place. The remaining west portion of the property (proposed unit lot B) is undeveloped except for a wood deck proposed to be removed. The lot is covered primarily with brush and shrubbery. The north/south trending portion of the property that abuts single family properties to the north is densely covered with native vegetation that includes deciduous trees, shrubs, and grasses. The entire property is designated as an Environmentally Critical Area (ECA), due to the presence of steep slopes of 40% average slope or greater and landslide-prone areas. Single family development surrounds the subject site in the vicinity.

The zoning on all sides of Parcel B is SF 5000. The zoning on the north side of East Mercer Street and northeast of 33<sup>rd</sup> Avenue East, just to the north of platted Block 116, is SF 7200: Single-Family Residential, with a minimum lot size of 7,200 square feet. There is some multifamily zoning (Lowrise-1 and Lowrise-2) to the northwest of Block 116 and adjacent Block 115, across the intersection of Lake Washington Boulevard East, East Mercer Street, and 32<sup>nd</sup> Avenue East, about 500 feet from Parcel B. Development in the vicinity is primarily single-family residences, except for some small apartment houses and townhouse development in the nearby multifamily zones. Lot size in the surrounding blocks varies somewhat, but most lots, including those in the nearby SF 7200 zone, range from about 4,500 square feet in area to about 10,000 square feet in area. Many nearby lots are also at least partly within steep slope and landslide-prone critical areas.

### **Proposal**

The proposal is to establish use for future construction of one new residence in a “cluster” development of two houses, including the existing easterly residence, on the single existing “parent” lot. The houses are clustered only in the sense that there would be two houses on one existing lot. A unit lot subdivision (authorized under Seattle Municipal Code (SMC) Section 23.24.045) is also proposed to establish two new unit lots from the existing parent lot. Under a unit lot subdivision, the property is still regulated as a single parcel for compliance with Seattle Land Use Code and Environmentally Critical Areas development standards. An existing wood deck on proposed unit Lot B will be removed. Unit lots A and B will take access via East Ford Place. The proposed lot sizes are: unit lot A) 5,000 square feet; and unit lot B) 5,286 square feet.

According to the survey provided by the applicant, the total area of original Parcel B is 10,286 square feet. This is enough area for two new lots meeting the lot area standards of the SF 5000 zone. However, about 5,000 square feet of the property is within the steep slope critical area. The remainder of the property is within landslide-prone area and either within the 15-foot steep slope buffer area adjacent to the steep slope areas or comprises the footprint of the existing development. Of the total steep slope area, about 1,000 square feet adjacent to East Ford Place has been exempted from steep slope development standards, including the limits to disturbance of steep slope areas under DPD Project No. 9906131, approved October 7, 1999 by DPD Geotechnical Engineer Dean Griswold.

The steep slope area and its buffer may not, as a matter of right, be counted toward the minimum lot area requirement. The total steep slope area identified as not exempt from critical area development standards is about 3,297 square feet on proposed unit lot B and an additional 782 square feet on proposed unit Lot A just behind the existing residence. If this area is subtracted, the total remaining area outside of the steep slope critical area, or within the exempt area near East Ford Place, is about 6,239 square feet, including the development site of the existing house. With a relatively small area of existing Parcel B located outside the steep slope critical area, only the existing house would be allowed outright on Parcel B. Accordingly, due to the high percentage of area of Parcel B that is within the steep slope critical area and buffer, the applicant has requested administrative conditional use approval to allow the critical area to be counted toward the minimum lot area requirement for a second house on the property in addition to the existing house already permitted. The proposal would entail disturbance of about 56% of the site, including about 24.9% of all non-exempt steep slope on original Parcel B. Clustering of the two houses is requested in that there would be two houses on one existing parent lot.

The proposed new house would be up to three stories in height on the downhill or East Ford Place side with a two-car basement garage. The house would be similar in size and height to a number of nearby homes. The proposed house would have approximately 2,782 square feet of total floor area, including the garage. Total proposed lot coverage of all new and existing structures would be about 3,332 square feet or about 32.6% of the total area of existing Parcel B. Total impervious surface, including driveways and walkways together with building footprints, would be about 4,174 square feet or 41% of the total area of existing Parcel B. Seven trees of a total of fifteen trees on site are proposed to be removed. No significant trees as defined in the Seattle Municipal Code are proposed to be removed.

### Public Comment

Three comment letters were received during the public comment period for the proposed project. One comment expressed concern about possible effect of approval of the subject proposal on views. A second comment focused on concern about unstable soil conditions and secondarily about removal of trees and vegetation from the subject property. A third comment expressed support for the proposal.

### Environmentally Critical Areas Regulations

The project proposal includes a short subdivision (unit lot) proposal and was submitted to DPD prior to May 9, 2006. It is therefore subject to review under the Regulations for Environmentally Critical Areas as they existed prior to amendments effective on May 9, 2006. This discussion therefore reflects the regulations prior to the amendments. Seattle Municipal Code (SMC) Sections 25.09.040 and 25.09.060 establish standards that apply to all development within designated Environmentally Critical Areas (ECA), which includes submittal requirements for verifying the location of all such areas. 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 steep slope areas whenever possible and, if avoidance of development in the steep slope areas is not practicable, then a standard applies limiting grading, developmental activity, and other land disturbing activity to a maximum of 30% of the area measured as steep slopes of 40% or greater. All decisions subject to these standards are non-appealable Type I decisions made by the Director (or designee) of DPD.

Conditions imposed as a means of compliance with the ECA ordinance are non-appealable. General requirements and standards described in Section 25.09.060 include the recording of conditions of approval and of the identified ECA areas in a permanent covenant with the property, as well as specific construction methods and procedures.

SMC Section 25.09.260 provides a process for DPD to authorize the recovery of development credit in a single-family zone through an administrative conditional use review. The Director may approve, condition, or deny an application based upon a determination of whether the proposed recovery of development credit on the site meets the applicable criteria. Section 25.09.260 further allows clustering of structures where reductions in yards or lot sizes will accommodate recovery of development credit, encourage larger buffers, reduce impervious surfaces, and decrease the size of areas affected by development. An ECA Conditional Use decision is a Type II decision, subject to the provisions of SMC 23.76, and is appealable to the City Hearing Examiner. As proposed, the new structure and existing structures and other land disturbing activity would comply with the standard in SMC Section 25.09.180 A 3, which limits grading and other land disturbing activity to no more than 30% of the areas measured over 40% slope.

The Critical Areas Policies for steep slopes clearly indicate that the ECA Conditional Use is intended to allow recovery of development credit in steep slope areas where no alternative is available to avoid development of the steep slope, provided that the development standards for steep slopes set forth in Section 25.09.180 are met. The policies provide in part, at page 48:

“Although the basic provisions of these policies are geared to keeping development off of steep slopes, in some cases such development will be unavoidable: on existing lots where avoidance is not possible . . . or in new subdivision or short plats where development on steep slopes is permitted through the conditional use permit process . . . . In such cases, grading and other site disturbances, such as vegetation removal, on areas over 40% shall be minimized and in no case shall exceed 30% of the steep slope area.”

In this case, the survey and site plans submitted by the applicant show that approximately 1,989 square feet of proposed unit lot B is either outside of the steep slope critical area or within the exempt steep slope area near East Ford Place. Some of this area is required for a narrow front yard of about 8 feet, which will include pedestrian and driveway access to the proposed house, and side yards of five feet. As a cluster development with the existing house to the east, the proposal meets yard standards, since the yards are measured around the perimeters of existing Parcel B from the lot lines of the existing lots. The proposal also allows for code compliant side yards between the proposed and existing houses, even though code compliant side yards are not necessarily required in a unit lot subdivision. The proposed lot size for each unit lot would meet the minimum lot area requirement for the SF 5000 zone.

This proposal minimizes development in the steep slope critical area to a practicable extent, given that some yards areas are proposed in keeping with neighborhood character. The Critical Areas Policies for steep slopes specifically indicate that the ECA Conditional Use was intended to allow recovery of development credit in steep slope areas, where the development standards of either Section 25.09.180 A 1 or 25.09.180 A 3 are met.

#### **ANALYSIS - ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT AND PERMIT CLUSTERED DEVELOPMENT**

Section 23.42.042 of the Seattle Land Use 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 Decisions. Section 25.09.260 of the ECA ordinance sets forth the review criteria for Administrative Conditional Use Permits [ACU] to recover development credit and permit clustered development in single-family zones. Applicable review criteria and supporting analysis follows:

- A. Up to full development credit on-site (determined by calculating the maximum number of lots allowed based on the underlying single-family zoning and size of the originating property) may be granted by the Director through an administrative conditional use permit, authorized under SMC Section 23.42.042, Conditional uses, in the Land Use Code.

The minimum lot size in this zone is 5,000 square feet. Existing Parcel B has approximately 10,286 square feet of area (inclusive of the steep slope area and its buffer). When the critical area and buffer are subtracted from the total lot area in calculating development credit, as required by SMC Section 25.09.240 D, only about 6,239 square feet of non-critical lot area remains, which is considerably less than the 10,000 square feet of lot area required for two lots (one house per lot). Thus, existing Parcel B does not meet the development standards for a short subdivision contained in SMC Section 25.09.240. However, the conditional use provisions of Section 25.09.260, which incorporate the critical areas policies, allow recovery of development credit as an alternative to strict application of Section 25.09.240 D.

SMC Section 25.09.260 A allows recovery of development credit on a parcel of property provided that the criteria in that section are met.

Discussion of the criteria in subsection E (1-9) is followed by analysis of the clustering provisions of subsections F, G and H, and then by analysis of the general conditional use criteria of subsections B and C. Subsection D requires that DPD issue written findings of fact and conclusions to support its decision.

E. The Director may approve the transfer of development credit if it can be shown that the development would meet the following conditions and findings:

1. *The transfer of development credit shall not result in any significant increase of negative environmental impacts, including erosion, on the identified ECA and its buffer;*

As noted above, Section 25.09.180 A requires that development be avoided on steep slopes “whenever possible.” The subject property is comprised partly of steep slope areas and partly of areas less than 40% average slope or greater or otherwise exempt from steep slope development standards. While development would ordinarily be required to concentrate in the areas less than 40% slope or otherwise exempt, these areas are concentrated in a narrow band near the street and some of this area is needed for access. Examples of the transfer of development credit on pages 62 and 63 of the critical areas policies suggest that the “transfer” was generally expected to occur from the critical portion of a site to the noncritical portion. In the case of Parcel B, such a scheme is not feasible, since the more level portions of the site and exempt steep slopes are concentrated near the street and development of building footprints strictly within those areas would only allow a limited building footprint. SMC Section 25.09.180 A 3 allows disturbance of up to 30% of the areas that are 40% steep slope or greater when it is not practicable to avoid disturbance of these steep slope areas. (Note that Section 25.09.180 A 3 would apply to allow disturbance of up to 30% of the steep slope areas on the site regardless of whether the proposed new house is constructed. The existing house could be expanded or it could be demolished and a larger house built within these standards).

Actual proposed disturbance of nonexempt steep slope areas would be about 25%, which is within the scope of the standard set in Section 25.09.180 A 3. The applicant’s site plan indicates that the total area of steep slope to be developed or otherwise disturbed will not exceed 1,015 square feet.

Parcel B is currently covered with brush, shrubbery, and a few small trees in the proposed disturbance area. The proposed development must, of necessity, remove some vegetation, but removal of vegetation is limited to the 2,956 square feet in the proposed disturbance area (non-critical area as well as 25% of steep slope areas). More than 44% of proposed unit lot B, as well as existing undisturbed areas of proposed unit lot A, will remain undeveloped, which will preserve vegetation within 75% of the steep slope area. Construction of additions to the existing single house, or redevelopment of the site with one new house, which is now permitted outright on the property and is subject to a lot coverage limit of 35% under SMC Section 23.44.010 C,

would likely involve removal of much the same amount of vegetation in much the same area as the subject proposal for a new house and maintenance of the existing house. Revegetation of disturbed area will be required as a condition of approval of the development proposal.

The proposal to develop one new house in addition to the existing house on proposed Unit Lot A, if constructed in the limited disturbance area identified on the plans, with appropriate revegetation and conducted according to the recommendations of the applicant's Geotechnical Engineer, will not significantly increase negative impacts on the environment, including erosion. Limitation of land disturbing activity will be a condition of approval of the proposed development, as will the designation of most of the steep slope critical area as a nondisturbance area by ECA covenant. Submittal of an erosion control plan will be a condition to be met prior to issuance of any building permits. The negative environmental impacts from the proposed transfer of development credit are essentially the same as would be expected from addition to the existing house or redevelopment of one single family house. The proposal, conditioned according to this decision, will meet the first criterion for conditional use approval.

2. *The development shall be reasonably compatible with neighborhood characteristics. This shall include but not be limited to concerns such as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining;*

Lot sizes in the immediate neighborhood range from a minimum of about 4,500 square feet to a maximum of 10,000 square feet, according to King County Assessor's records. Most lots in the immediate area are close to the zone minimum or up to a thousand square feet greater than the minimum. The proposal is to cluster two houses on one existing parent lot with a total area of 10,286 square feet, for an average area of one house per 5,143 square feet of land. If the proposed unit lot subdivision were approved, the unit lot sizes would each contain at least 5,000 square feet, although this is not required with a unit lot short plat. Thus, the development in terms of lot area is well within the range of similar lots in the immediate neighborhood. There will be minimal loss of vegetation from what is presently on Parcel B, consistent with what would be lost if only one house were expanded or redeveloped on the property.

The proposed new house will be two stories of living area above a basement garage and spare room, and comparable in size and height to nearby residences. The proposed house will have an area of about 2,782 square feet of floor area, including a two-car garage. At least four other nearby houses have areas between 2,310 square feet and 3,760 square feet and are two stories, according to records of the King County Assessor's office. While other houses in the immediate area are somewhat smaller, there are several more that are two-story or 1½-story with living area ranging from 1,430 square feet to 1,860 square feet, and some have additional garage area. Proposed yards will generally conform to the Land Use Code, including the front yard of 8.28 feet reduced from the standard 20-foot front yard due to the sloping lot. The house blends into the hillside on which it is proposed to be constructed, since the lowest elevations of the house are on the uphill side and the proposed "shed roof" design reduces bulk on the uphill side as well. Actual development coverage of the proposed and existing structures will be within the 35% total coverage limits permitted by the Land Use Code (about 32.6% of the total site). The effect of the extent of lot coverage on the appearance of the proposed development with respect to the

rest of the neighborhood will not be significantly different than if one larger house with accessory development were built on the single existing Parcel B.

The development will have no adverse effect on the pedestrian environment in the neighborhood. There will be standard yards facing East Ford Place. No significant increase in traffic will occur from one new house added to the existing development on the street. The second criterion is met.

3. *In no case shall development credit be allowed for the area covered by an open water area of a wetland or riparian corridor.*

No development is proposed for an area covered by open water of a wetland or riparian corridor, so this criterion is met.

4. *The development shall retain and protect vegetation on designated undisturbed areas on and off site. Significant species or stands of trees shall be protected, and tree removal shall be minimized. Replacement and establishment of trees and vegetation shall be required where it is not possible to save trees.*

The two-story and basement garage design of the proposed new house minimizes the area of the building footprint. Development will occur within the standard for disturbance of steep slope areas set forth in SMC Section 25.09.180 A 3. Eight existing trees with diameters from 6 inches to 16 inches will be preserved. No significant trees will be removed or damaged as a result of the development. Removal of trees will be mitigated by appropriate revegetation and landscaping within the construction area for the proposed house. The steep slope areas on the site not proposed to be disturbed will be protected by the proposed soldier pile wall. With conditions attached to this decision including establishing the bulk of the vegetated steep slope area as a nondisturbance area and a landscaping plan for the construction area, the fourth criterion is satisfied by the proposal.

5. *The ability of natural drainage systems to control the quality and quantity of stormwater runoff shall not be significantly impaired.*

All stormwater runoff from impervious surfaces will be directed to the public combined sewer in East Ford Place. Any additional drainage requirements will be reviewed at the time of submittal of an application for a building permit. The fifth criterion is met.

6. *The development shall not adversely affect water quality and quantity, erosion potential, drainage, and slope stability of other ECAs located in the same drainage basin.*

While the proposed development will disturb some of the steep slope area, the applicant's geotechnical engineer has indicated that the soils within the Parcel B site are stable with respect to possible deep seated failures, and the proposed structures will be stable if founded on the dense native soils that underlie the site. Construction of foundation, basement, and rockery wall features as discussed in the applicant's geotechnical report will provide a sufficient catchment feature for any surficial soils that may be involved in debris slides from the adjacent steep slope. Disturbed areas not covered by impervious surfaces will be revegetated with appropriate ground cover and the impervious surfaces equipped with drainage infrastructure directed to the public combined sewer in East Ford Place. The development, conditioned as recommended by the geotechnical engineer and in compliance with City Codes, will not adversely affect other ECAs in the same drainage basin.

The proposed development presents some risk of erosion and shallow debris slides during construction and other activities. Thus, the development must conform to the requirements of the landslide prone critical areas regulations and the Stormwater, Grading and Drainage Control regulations. An erosion and sediment control plan for the property employing Best Management Practices as outlined in DPD Director's Rule 16-00 will be required for the project. If constructed in conformity to City regulations and Best Management Practices, the development will not adversely affect water quality, erosion, drainage, or slope stability. The sixth criterion is therefore satisfied.

7. *The development's site plan shall include measures to minimize potential negative effects of the development on the undeveloped portion of the site, including provision of natural barriers.*

The proposed development, at the building permit stage, is subject to the following ECA requirements: dry season grading; the preparation of a detailed construction schedule; approved temporary and permanent erosion control plans; a comprehensive drainage control plan or alternative as determined by DPD plan review at the time of a building permit application; ECA covenants; bonds; insurance; a non-disturbance fence; adherence to geotechnical recommendations for development, and a pre-construction meeting.

The vegetated steep slope itself provides a significant natural barrier to intrusion into the non-disturbance area outlined on the applicant's site plan. The area is not practical for use as a yard or garden, and the proposed house can be designed so that no direct access is provided to the steep slope nondisturbance areas from the houses. This will be a condition of project approval. The seventh criterion will therefore be met.

8. *Adequate infrastructure (streets and utilities) shall be available or will be provided; and*

Adequate infrastructure of streets and utilities are presently available. East Ford Place is a City street improved with paved roadway and a full complement of utilities. The eighth criterion is met.

9. *The Site Design Guidelines of Section 25.09.180C shall be followed for designated steep slope areas.*

Section 25.09.180 C 1 states that “Structures should be designed and placed on the hillside to minimize negative impacts, such as grading and land disturbing activity.” The proposal demonstrates that grading and other land disturbing activity on the steep slope areas of existing Parcel B will be within the 30% standard for disturbance of the non-exempt steep slope area in the steep slope development standards of Section 25.09.180 A 3. Access is through existing street right-of-way and exempt steep slope that minimizes impacts to the non-exempt steep slope critical areas. By concentrating new development near East Ford Place, most of the steep slope will be protected from grading, land disturbing activity, and terracing. Thus, the ninth criterion is met.

- F. *The Director may approve more than one (1) dwelling unit per lot and may approve smaller than required lot sizes and yards to accommodate recovery of development credit, and to encourage larger buffers, reduce impermeable surfaces, and decrease size of affected area. Full development credit on-site shall not be increased beyond that permitted by the underlying single-family zone.*

SMC Section 25.09.260.F authorizes the Director to approve more than one dwelling unit per lot as well as smaller yards and lot sizes than ordinarily required in order to accommodate recovery of development credit and to encourage larger buffers, reduce impermeable surfaces, and decrease size of affected areas. In order to develop a second house on Parcel B while minimizing encroachment on the steep slope critical area, the applicant proposes a cluster development of two houses on one lot. However, even with the proposed unit lot subdivision, yards that comply with the Land Use Code requirements are proposed. All other development standards of the Land Use Code will also be met for the proposed house. Full development credit on existing Parcel B is two houses, so the proposal to construct one new house does not increase development credit on the site beyond what is permitted by the underlying zoning.

- G. The Director may require that structures be located on the site in order to preserve or enhance topographical conditions, adjacent uses and the layout of the project and to maintain a compatible scale and design with the surrounding community. In order to approve clustered dwelling units in all environmentally critical areas, the following criteria shall be met:

1. *Clustering of units shall help to protect the following critical areas: riparian corridors, wetlands and steep slopes;*
2. *Clustering of units shall require siting of structures to minimize disturbance of the environment;*
3. *Clustering of units shall help to protect priority species or stands of mature trees;*
4. *Clustering of units shall ensure maximum retention of topographic features;*

5. *Clustering of units shall limit location of access and circulation to maximize the protection of an area's natural character and environmental resource;*
6. *Clustering of units shall help protect the visual continuity of natural greenery, tree canopy, and wildlife habitat;*
7. *Clustering of units shall not have an adverse impact on the character, design and scale of the surrounding neighborhood; and*
8. *Clustering of units shall promote expansion, restoration or enhancement of a riparian corridor and its buffer, a wetland and its buffer or a steep-slope area and its buffer.*

The clustering criteria have been discussed in the analysis of the recovery of development credit. The subject cluster will minimize disturbance to the steep slope area on the site, consistent with the standards of SMC Section 25.09.180 A 3, by concentrating all proposed new developmental coverage in the southerly portion of the property near East Ford Place. The proposal will retain the topographic features on the remainder of the lot. Access and circulation to the proposed structure will be from a presently dedicated street right-of-way through one new driveway and curbcut. The addition of impervious surface to the property is within the coverage limits of the Critical Areas Regulations and the Land Use Code. Thus, the development as proposed will not affect the area's natural character and environmental resources.

The proposal will preserve much of the existing vegetation and trees on the site. Additional planting will include landscaping within the building construction area using native Northwest tree and shrub species. With the imposition of a landscaping plan and establishment of nondisturbance areas on the site, the proposal suitably protects the visual continuity of existing natural greenery, tree canopy, and wildlife habitat. As previously described, the proposed houses and lot sizes are of comparable size and footprint to many other houses in the immediate neighborhood and will therefore not have an adverse impact on neighborhood character, design, or scale. The location of proposed development within the southerly part of Parcel B represents the best area for construction with minimal disturbance of the steep slope critical areas and buffers, while also minimizing grading and other land disturbing activity.

#### H. Additional Conditional Use Provisions for Steep Slopes and Steep-slope Buffers.

1. *In steep-slope areas and their buffers, the Director may allow clustering on the steep-slope portions of the site when the site is predominantly characterized by steep slopes. However, the preference shall be to cluster away from steep-slope and buffer areas.*
2. *The Director shall require clear and convincing evidence that the clustering criteria and findings of this subchapter are met when a transfer in development credit within a steep-slope area is also characterized by or adjacent to:*

- a. *A wetland over fifteen hundred (1,500) square feet in size, or a stream or creek designated as a riparian corridor; or*
- b. *A large (over five (5) acres) undeveloped steep-slope system; or*
- c. *Areas designated by the Washington Department of Wildlife as urban natural open space habitat areas or areas with significant tree cover providing valuable wildlife habitat.*

Since existing Parcel B is predominantly characterized by steep slope and steep slope buffer areas, with only small areas of less than 40% slope, the proposed clustering will require some disturbance of steep slope and buffer areas, but within the standards of Section 25.09.180 A 3. Accordingly, Criterion H.1 is satisfied. Criterion H.2 (a-c) is not applicable, since none of the features described are present on or adjacent to existing Parcel B.

- B. The Director may approve, condition or deny an application for an administrative conditional use. The Director's decision shall be based on a determination of whether the proposed transfer of development credit within the site meets the criteria for allowing the specific conditional use and whether the use will be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which the property is located.

As discussed above, the proposed transfer of development credit and clustering within the site meets the conditional use criteria for approval. As proposed, and subject to the conditions of approval of this decision, the development would not be materially detrimental to the public welfare or injurious to property in the zone or vicinity in which Parcel B is located.

- C. In authorizing an administrative conditional use, the Director may mitigate adverse negative impacts by imposing requirements and conditions deemed necessary for the protection of other properties in the zone or vicinity in which the property is located.

Conditions have been included to mitigate potential adverse negative impacts. These conditions are set forth following the SEPA analysis below.

#### **DECISION – Administrative Conditional Use**

The proposal to recover development credit is **CONDITIONALLY GRANTED.**

#### **ANALYSIS - SHORT SUBDIVISION**

Pursuant to SMC 23.24.040, no unit lot subdivision shall be approved unless all of the following facts and conditions are found to exist. The findings which follow are based upon information provided by the applicant; review of access, drainage and zoning within the Department of Planning and Development (DPD); review from Seattle Public Utilities, Seattle Fire Department and Seattle City Light; and, review by the Land Use Planner.

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

The existing parent lot subject to this unit lot subdivision conforms to all development standards of the SF-5000 zone. The parent lot configuration provides adequate buildable area to meet applicable lot area standards, yard standards, lot coverage requirements, and other land use code development standards. The unit lots proposed by this subdivision conform to the standards for unit lot subdivisions (SMC 23.24.045) and other code provisions applicable to unit lot subdivisions. Any new development must conform to land use code requirements at the time of application.

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

Each of the proposed unit lots will have adequate vehicle, utility and fire protection access to East Ford Place. Unit Lot A has 60 feet of street frontage and Unit Lot B has about 66 feet of street frontage. The Seattle Fire Department has reviewed and approved this proposal for adequacy of emergency vehicle access.

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

All stormwater runoff from impervious surfaces will be directed to the public combined sewer in East Ford Place. A joint use and maintenance agreement is required. Any additional drainage requirements will be reviewed at the time of submittal of an application for a building permit. Seattle Public Utilities reviewed the short subdivision application and approved Water Availability Certificate No. 20061064 on June 14, 2006. All conditions on the certificate must be met prior to receiving water service.

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

The proposed subdivision is consistent with relevant SF-5000 zone land use policies and meets the minimum provisions of the Seattle Land Use Code. As a unit lot subdivision, it is also consistent with relevant Environmentally Critical Areas policies and meets the minimum provisions of the Regulations for Environmentally Critical Areas. The proposal meets all applicable criteria for approval of a unit lot short plat as discussed in this analysis and decision. The public use and interests are served by permitting the proposed division of land.

*5. Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

The proposal site contains mapped Steep Slope and landslide-prone Environmentally Critical Areas as defined in Seattle Municipal Code Chapter 25.09. The applicant has also applied for an administrative conditional use decision to allow recovery of development credit and clustering of two houses on one lot under this DPD application. With the conditions imposed by the conditional use decision, the proposed unit lot subdivision conforms to the provisions of Section

25.09.240. The environmentally critical areas general and submittal standards, as well as the specific standards for steep slopes and other related development standards, as well as the specific conditions imposed by the administrative conditional use approval to recover development credit, are still applicable. This shall be noted on the final plat.

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

All proposed development is within a 46-foot to 65-foot-wide area adjacent to East Ford Place on the downhill side of the property away. By concentrating the proposed development in the area adjacent to East Ford Place at the toe of the steep slope area, tree and vegetation removal will be minimized. A limited amount of tree and vegetation removal is reasonable, because the bulk of the site in the nondisturbance areas will retain the existing vegetation and trees, and because the disturbed areas of the slope not covered by impervious surfaces are to be revegetated with appropriate ground cover. The revegetation will include new trees to be planted, as a condition of the administrative conditional use approval. Further, maintenance of the existing vegetation and trees in the non-disturbed ECA areas on site is required. The tree requirements of SMC 23.44.008 require trees for new development in SF 5000 zones. The nondisturbance area, including the location of permanent ECA markers, shall be shown on the final plat.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

Section 23.24.045 of the Seattle Municipal Code provides that under certain circumstances some types of parcels may be created that do not individually meet the zoning requirements for lot size, yards, or lot coverage, or the requirements of Section 25.09.240 for a standard short subdivision within an environmentally critical area. These are called unit lot subdivisions and may be permitted as long as the development as a whole meets development standards. However, as a result of this subdivision, development on the individual lots may be nonconforming. To assure that future owners have constructive notice that additional development may be limited due to nonconformity or the presence of ECA nondisturbance areas, the following statement shall be required to be included as a note on the final short subdivision: "The unit lots shown on this site are not separate buildable lots. Additional development on any individual unit lot in this 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, Chapter 23 of the Seattle Municipal Code."

**DECISION - SHORT SUBDIVISION**

The proposed Short Subdivision is **CONDITIONALLY GRANTED**.

## **ANALYSIS - SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist. This information, along with the experience of the lead agency in similar situations, forms the basis for this analysis and decision. Short- and long-term adverse impacts are anticipated from the proposal.

The SEPA Overview Policy (SMC 25.05.665.D) states “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 (see below under Long-term Impacts). Several adopted City codes and/or ordinances provide mitigation for some of the identified impacts. Specifically these are: the Stormwater, Grading and Drainage Control Code (soil erosion); and Building Code (construction standards). Compliance with these codes and ordinances will be adequate to achieve sufficient mitigation of identified adverse impacts.

Under SMC Section 25.05.908 B, the scope of environmental review within critical areas is limited to documenting that the proposal is consistent with ECA regulations, SMC Chapter 25.09, and to 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 this decision, is determined to be consistent with ECA regulations. Potentially adverse impacts are further discussed below.

### **Short-term Impacts**

The following temporary or construction-related impacts are expected: increased soil erosion and sedimentation during general site work; increased runoff; and tracking of mud onto adjacent streets by construction vehicles. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC Section 25.05.794).

### **Earth (slope stability) and erosion**

There is a potential for erosion during excavation of the proposed building footprint. The applicant will follow recommendations from the soils engineer and provide subsurface walls and retaining walls to address soils stability issues. Pursuant to these proposals, and if the requirements of Director’s Rule 33-2006 and 16-2000 (the latter 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 are also anticipated from the proposal: increased surface water runoff from greater site coverage by increased impervious surfaces; and 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 residential development and are expected to 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 the Stormwater, Grading and Drainage Control Code (storm water runoff from additional site coverage by impervious surface). Other impacts not noted here are not sufficiently adverse to warrant further mitigation by conditioning.

### **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.

- [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 - ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT AND PERMIT CLUSTERED DEVELOPMENT:**

#### **Nonappealable Conditions of Approval Prior to Issuance of a Master Use Permit**

1. Record a covenant that restricts development to the area designated on the site plan for disturbance. The covenant shall show the location of permanent ECA markers and provide for their maintenance by the property owners or other responsible parties. The covenant shall be in the form given to the applicant by DPD.
2. Permanent visible markers must be placed along the edge of the nondisturbance area as approved on the site plan. 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 edge of the nondisturbance line where the line changes direction. Markers must be in place before issuance of this Master Use permit.

Condition of Approval Prior to Issuance of a Master Use Permit

3. A landscape plan shall be submitted, showing specific landscaping proposals for the approved developable area of Parcel B with native plant species, including types of plants and other requirements as specified in DPD Director's Rule 13-92, and including replacement of removed trees. The plan shall be subject to review and approval by DPD.

Nonappealable ECA conditions

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 complete calculations for development coverage, impervious surface area, and construction activity areas, noting areas and percentages of site;
6. Show on the site plan location of grading activities, including final grade contours, and drainage control facilities;
7. Show on the site plan location of existing utilities and proposed methods/locations of connection(s) to these services as they relate to the ECAs;
8. Show on the site plan 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 approval by DPD.
11. Building plans must demonstrate that there will be no direct access to the steep slope area from the houses.

**CONDITIONS - SHORT SUBDIVISION**

Prior to Recording

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

12. Provide final recording forms and fees. Have the 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 the field and all property corners set in conformance with appropriate state statute. The property corners set shall

