



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

Project Number: 3007401

Applicant: Lisa Kennan-Meyer For  
James Danielson and Kathryn Johnson

Address of Proposal: 3251 56<sup>th</sup> Place SW

SUMMARY OF PROPOSED ACTION

Land Use Application to allow construction of a 4594 square foot single family home with attached garage in an environmentally critical area (wetland buffer).

The following approvals are required:

**Environmentally Critical Areas Exception:** - to allow land disturbing activity in a Class 4 wetland buffer Section 25.09.300, Seattle Municipal Code

**SEPA Environmental Determination** - Section 25.05, Seattle Municipal Code

BACKGROUND DATA

Site and Vicinity

The subject property is a vacant lot of 21,532 square feet in size, zoned SQUARE FEET 7200: Single Family Residential, with a required minimum lot size of 7200 square feet. It is located in West Seattle, as a portion of Section 15, Township 24N, Range 3E, WM. The site is comprised of a forested and scrub/ shrub hillside that contains a Category IV wetland and associated Type 4 stream that flows intermittently north across the subject site. A Type 4 stream is located within a Class B riparian corridor.

The proposal site consists of three parcels of land, two of which, Parcels B and C, qualify as legal building sites. Each of the two parcels could potentially be the subject of independent single family development which would likely include application for Environmentally Critical Area Exception authority to disturb wetland buffer, wetland or riparian buffer areas.

The property is bordered to the south, east and west by developed residential parcels, and to the north by the terminus of 56th Place SW. The topography across the site descends to the west and north, with a pronounced “knob” feature across the eastern property boundary with approximately 20 feet in elevation change from the street access to the top bench. The existing topography of a small, level area abutting the east property line and a steepened slope downhill of this area are likely the result of past grading modification of this hillside area for development of the existing neighboring residential structures and rear yards. The small, level area on-site is a continuation of level backyards on two abutting lots, and grading associated with the end of the right of way at the property.

The wetland is Category IV, per the Critical Area Study and Mitigation Plan prepared by Wetland Resources, Inc. This report includes a full mitigation plan for the proposed disturbance to the wetland buffer. The proposed project does not encroach into the wetland. Quoting from the report, “The onsite wetland emerges from hillside seeps and provides a moderate to low level of function and value. The habitat value of this wetland is limited by the urban nature of the site and the resulting isolation from other natural systems..Overall, this wetland provides a low level of functions and values.”

The proposed project does not impact the Type 4 stream or its 50 foot non-disturbance buffer nor it the area of disturbance in the 35% allowed in the 100 feet of limited disturbance buffer area.

Both the eastern and western portions of the property contain slopes greater than 40%. A steep slope limited exemption was granted for the site on 2 July 2007. (December 12, 2007, by William Bou, City of Seattle DPD, setting forth ECA exemption decision made on July 2, 2007).

DPD staff has confirmed that the property as a whole constitutes a legal building site. (February 27, 2009 email by William Mills, City of Seattle DPD, to James Danielson),

A private, neighborhood covenant restricts development on the property to a maximum of 12 feet above a point on the east property line, on top of the bench. This was put in place when the lot was created to preserve the view of Puget Sound from the neighboring properties. The subject property appears to have been created by property owners in the 1950’s through deeding of portions of surrounding lots.

Vegetation throughout the site consists of general ground cover and other non-native landscape species, and invasive species including Himalayan blackberry.

The site is irregular in shape and has a gross area of 21,532 square feet. Of this area, 11,999.5 square feet are classified as the wetland, and an additional 7,309 square feet are wetland buffer. The remaining area not considered either wetland or buffers is 2,223.5 square feet.

Neighboring properties are also zoned SQUARE FEET 7200. With an area of 21,532 square feet, this lot is the largest in the immediate vicinity. The drawing below shows the neighboring properties and platting pattern, and the table below that shows the relative size of the adjacent homes and their lots.



Parcel ID	Location	Owner	Lot SF	Footprint	TOTAL LIVING SF
0219200080	2 lots south	Campbell	16,500	2680	4,530
0219200085	1 lot south	Leduc	18,460	2260	4,390
0148000527	1 lot to west	Finnegan	9,450	2390	3,510
0148000542	1 lot north	Rombauer	9,750	1780	2,890
0219200076	3 lots south	Haggerty	16,724	1930	2,280
0148000526	1 lot west	Leduc	14,000	1450	1,790

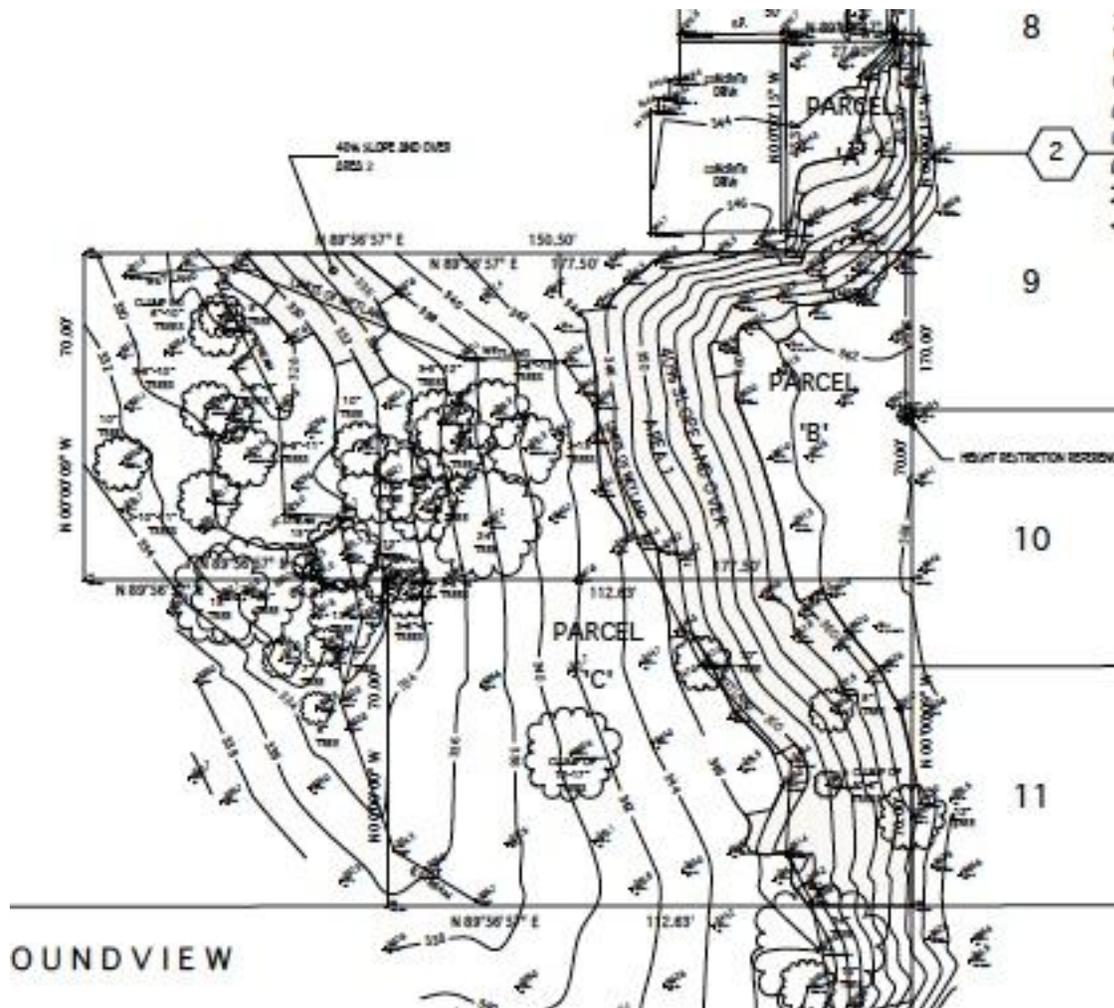
The neighboring homes are mostly 1940 and 1950 style homes with daylight basements. They are square-shaped in plan, and have integral garages with human scaled entries in the center of the facade. Some have been enlarged, and most are in very good condition. There is a predominance of brick and cedar siding, and low sloped, hip-shaped roofs.

### Proposal Description

The applicant proposes to construct a new three-story single family residence with an integral garage. Due to the constraints of the subject property, including the on-site wetland, stream, and associated buffers, the applicant is proposing to construct the single-family residence through an Environmentally Critical Areas Exception.

The proposed development is located in the wetland buffer area, but neither the home nor the construction grading would touch the wetland itself. The proposal includes enhancement of 6,783 square feet of on-site wetland and 2,229 square feet of degraded buffer. Together, the wetland and buffer enhancement areas total of 9,912 square feet.

The portion of the lot that is currently outside the wetland buffer is the rectangle of Parcel A, a triangle of Parcel B, and none of Parcel C. Parcels are labeled on the site plans, and on the diagram below. The home that is proposed for the site sits entirely on Parcel B, creating a home that is rectangular in plan, with an extension to the north as an attachment to the driveway access, which is across Parcel A.



The property owner is proposing to enhance 9,912 square feet of the wetland and associated buffer. According to the Mitigation Plan prepared for the property, this enhancement will result in increased protection to the wetland over that which would be provided by a 50 foot buffer left in its current condition. The proposed wetland and buffer enhancement would also provide an overall increase in the function and value of the critical area on site. Planting native vegetation in the wetland and buffer would increase the vegetative structure and diversity of the site, improve wildlife habitat, increase the infiltrative capacity of the soil, reduce the potential for erosion, and discourage intrusion by humans into the on-site sensitive areas.

The applicants developed site plans showing the allowable construction area under three scenarios: fully code conforming, making use of a variance for setbacks only and the proposed development under an ECA Exception. Each of these is shown, in turn, below.







The property owner desires to use Parcel A for driveway access, guest parking and as active play space for their three children. Most of the property is devoted to mitigated wetland and buffer, so unlike all other homes in the vicinity, the proposal would not result in a large rear yard providing outdoor play space for children. The rectangular home plane, with a slight extension to the north for the garage, is in keeping with the massing of neighboring homes that tend to be square or rectangular in plan. It also allows the entry to be located near the center of the front facade, again providing similar visual cues to the existing homes, and providing a floor plan with rooms on both sides of a central north-south vertical circulation space. A set of planters and integrated stairs lead to the front door.

The “knob” of land on Parcel B is proposed to be removed to locate a building footprint that allows access to the garage from the street, and daylights the top floor of the home, two stories above street grade, on the flat bench.

The east side yard will be used for shoring. To have the garage enter at the grade of the adjacent street right of way, the cut in the grade at the north east corner of the home will be approaching two stories. To have windows on the east side, the structure must be set back at least five feet from the property line. Windows are needed for access to natural light along the east building wall, for egress in case of fire, and for aesthetic considerations.

The twelve foot height limit above the east property line makes a low sloped roof necessary, as well as a house that is horizontal in massing.

The proposed home would be three stories. The footprint of the house, decks and garage is 2,626 square feet.

Due to encroachment for excavation and access and limitation on where windows can be placed, the lower floor is primarily garage, storage and mechanical space. A partially buried family room would have access to windows day-lighted to the west. The finished space on this level, including the family room, home office, bathroom, mud room, and access to the garage would be 1,104 square feet.

The middle level would also be cut into the grade. Building setback from shoring on the east side would allow egress windows. This level is proposed to be 1,725 of finished space, and 132 of deck.

The upper level would be the only level above original grade, and is limited to 12 feet above this grade by private covenant. It would consist of 1,765 square feet of finished living area, and 575 of outdoor deck space and exterior stairs.

The proposed lot coverage would be 2,626 square feet, or 12.2% of the total lot.

#### Additional Information

Additional information provided by the applicants includes the following.

The Johnson/ Danielsons purchased the subject property in 2007 for \$346,500. Although it is difficult to demonstrate that the proposed home is the minimum development for this property, there are multiple ways in which this proposal makes minimal impact on the site, while providing reasonable use based on the expectations of both the property owners and the City.

This lot, at 21,532 square feet, is the largest in the vicinity, although 16,500 square foot, 16,724 and 18,460 square foot lots are located to the south of the subject property. Information from the property owners indicates the property was created by 3 neighbors reducing the yards of their properties and amalgamating them into this lot. This occurred in the 1950's, prior to the existence of ECA regulations. It can be postulated that the creation of the lot was motivated by the desire to place a height restrictive covenant on the neighboring property, and then sell what was considered space not needed by the abutting lots.

All other lots in the vicinity are developed, and have been for many years. Any new construction in the area is on lots where other homes were removed, or substantially remodeled. A search of homes sold within a 5 block radius of the property from 2007 until November 2010 shows 29 properties. The pertinent ones are summarized in the table below:

address	price/ date	house size/ lot size
3224 56th AVE SW	\$775, 000/ June 2010	2900 square feet/ 8690 square feet
3219 56th PLACE SW	\$1,075,000/ Oct. 2007	3090 square feet/ 8239 square feet
3449 58th AVE SW	\$1,095,000/ July 2009	2580 square feet/ 7900 square feet
3249 57th AVE SW	\$900,000 (unfinished)/Aug. 2010	5000 square feet/ 9160 square feet
3445 58th AVE SW	\$700,000 (“needs work”)/Oct. 2008	4000 square feet/ 7900 square feet

The property owners state that when they purchased the lot, they understood that a home commensurate with the lot size could be built. They were looking at a very large piece of undeveloped property within an established neighborhood with homes ranging from 2500 square feet to over 5000 square feet. A real estate flyer for the property from the summer of 2007 is attached:

3251 56th Pl. SW

List Price **\$359,000**

- 21,632 Square feet lot
- Sweeping View
- Dead end street
- Blocks to Alki Beach
- Survey in Process
- Geo-tech by Earth Consultants available
- Wetland Analysis in progress
- Height restriction
- Contact agent for copies

For Information Please call:  
**Susan Shelland**  
206-715-4446 cell  
206-937-7600 ext. 273

**Windermere**  
Windermere Real Estate Fauntleroy, Inc.

This flyer shows that both geotechnical and wetland analysis were taking place while the lot was marketed. Delivered to the Johnson/ Danielsons prior to purchasing the property, both reports indicated that it was possible to build on the property. The property owner states that they made 3 separate trips to DPD prior to purchasing the lot. On two of those occasions she reviewed requirements with counter staff. On the third occasion the applicant met with a staff person (Rob Knable) who was, at that time, the planner assigned to wetlands. Ms. Johnson's statement is "As I recall, when I met with the wetlands guy (Rob), he was shown a 2000 sq. ft. footprint for an approx. 4000 square foot house and the proposed mitigation at that time included removing blackberries and enhancing about 3500 square feet of the buffer with planting. He stated something to the effect of, 'That is consistent with the type of mitigation we would look for with this type of construction.' He also said that what is considered 'reasonable' is usually something consistent with neighboring properties. I certainly came away from the meeting with the impression that we were in the ballpark and there was a great likelihood that we could build a 4000 square foot house if we enhanced about the same amount of wetland buffer."

The property owners' architect affirms that the architectural character of the proposed home is an updated version of the neighboring Northwest Style homes. This style is characterized by low-slope roofs, large expanses of glass, light, airy decks, and natural building materials.

#### Public Comments

Twelve written comments were received during the public comment period that ended on April 28, 2010. The comments expressed concern about the effects of new construction on drainage in the area, the wetland environment, and steep slope instability. One neighbor expressed concern that the proposed home will have more impact than a smaller home. There were three comments in support of the proposed development, including one from the adjoining neighbor to the north, noting that the proposed new construction "has more pluses than minuses, and so I think it should be approved."

#### Environmentally Critical Areas Regulations

Seattle Municipal Code (SMC) Sections 25.09.040 and 25.09.060 establish standards that apply to all development within designated Environmentally Critical Areas, including submittal requirements for verifying the location of all such areas. SMC Section 25.09.160 provides specific standards for all development in wetlands and their buffers on existing lots.

Conditions imposed as a means of compliance with the ECA ordinance are reviewable through a request for interpretation under Section 23.88.020 pursuant to Section 25.09.017.F. 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.

Seattle Municipal Code (SMC) Section 25.09.300 authorizes exceptions to ECA development standards. A standard may be reduced, waived or modified only if strict application of the standard is unreasonable, and a standard may be modified only to the extent necessary to allow reasonable use of the property in light of the facts and

circumstances of a particular case. Application of the relevant criteria will be discussed below.

### ANALYSIS – ENVIRONMENTALLY CRITICAL AREAS (ECA) EXCEPTION

Seattle Municipal Code Section 25.09.300.A allows an applicant to apply for an ECA exception for modification of ECA development standards if the Director concludes that no other applicable administrative remedies in SMC Chapter 25.09 (ECA regulations) or in SMC Title 23 (Seattle Land Use Code) will provide sufficient relief.

Subsection B of SMC 24.09.300 mandates information and studies to be provided by the applicants. Documentation to show that no other applicable administrative remedy would provide sufficient relief was provided in the form of site plans, floor plan axonometric drawings of options: one code complying; one making use of ECA variance relief only; and one showing the requested development scheme. Technical studies to assess the potential injurious effects to the proposed development on occupiers of the site and other properties and on public resources and showing how it would protect the same were provided. An explanation, and supporting documentation, was provided of how and why compliance with all environmentally critical areas development standards would not permit any reasonable use of the property. Included was disclosure and assertion that the Johnson/ Danielsons purchased the subject vacant lot in August 2007 for \$346, 500 and that they investigated at DPD the suitability of developing the site at prior to purchase, determining that while there were restrictions in place, including environmentally critical areas regulations, a reasonable sized single family residence could be expected to be constructed and wetland buffering and restoration similar to that proposed would likely be approvable.

Pursuant to SMC Section 25.09.300.C: “The Director may modify or waive an environmentally critical areas development standard and/or the yard and setback standard for front or rear yards when an applicant demonstrates by clear and convincing evidence that strict application of the development standards would not permit any reasonable use of the property and that development undertaken pursuant to the modified or waived standards would not cause significant injury to occupiers of the land, to other properties, and to public resources, or to the environment.”

Section 25.09.300.D indicates that the relief granted by reduction, waiver, or modification of an environmental critical areas development standard or the front or rear yard shall be the minimum to allow reasonable use of the property and that preference shall be given to modifying or waiving the yard and setback standards for front or rear yards. In modifying a regulation, the Director may impose reasonable conditions that prevent or mitigate the same harm that the modified or waived regulation was intended to prevent or mitigate.

The proposed development must be assessed to determine against other development schemes, including one conforming to land use and ECA regulations and another making use of an ECA Variance for buffer reduction, whether the waivers or modifications of front or rear yard setback requirements or of ECA development standards are the minimum necessary to make any reasonable use of the property.

The proposed development of a single family residence on this property is limited by the wetland, riparian corridor, riparian corridor buffer, and wetland buffer which, combined, cover 89.7% of the site. The standards of SMC Sections 25.09.160C establishes required wetland buffers of 50 feet from the edge of a Class VI wetland over 1000 square feet in size. The ECA provisions of SMC Section 25.09.160 C, D, E, F and G are applicable to the subject site.

There is a process for applying for a variance from the wetland buffer standards of Section 25.09.160. If the project meets the standards for obtaining a variance in SMC Section 25.09.160D.1 and 2, the maximum relief available is a buffer reduction to 35 feet. The variance process allows the Director to grant buffer reduction or development in the critical area that is the minimum necessary to afford relief from the hardship.

Here, the applicant proposes to disturb the wetland buffer beyond the 35 foot reduction through the exception process. The applicant has provided a site plan showing a single family residence that in theory could be constructed within the variance standards. The plans show that a grant of the variance would allow a building footprint of approximately 2,026 square feet. This would allow construction of a single family structure, including a tandem garage, on three levels, with a total habitable living area (with access to windows) of about 3,222 square feet. However, this variance-compliant proposal requires substantial expensive shoring walls to be constructed on both east and west sides of the structure. The preferred proposal eliminates the west shoring wall. The home resulting from a variance is narrow and out of character with the neighborhood. The applicant has shown that interior spaces are unworkable for the family home that is commensurate with the size and cost of this lot. The variance-compliant home, having the appearance of a "butcher knife" in plan view, is not compatible with the character of homes in the area and would be unattractive, particularly to the three homes abutting the east property line. It is also uneconomic to build due to the expense of two shoring walls. The property owner declares that the variance-compliant house likely cannot be financed due to the odd configuration and appearance, and the expense of construction.

The property contains a riparian corridor, wetland, and the buffers associated with both. Non-ECA areas total 2,223.5 square feet, or 10.3% of the lot. The 2,223.5 square feet that are not ECA are in a very narrow portion of the lot that, although issued a steep slope exception, is still a steep and challenging area in which to build. The applicant has provided alternative building plans that show a code compliant home that is buried up to the top level, and likely not viable for a residence due to cost of construction, massing and layout of useable rooms, access to windows for light, air and egress. Further, such a home would be incompatible with the established aesthetics of the neighborhood.

The wetland buffer averaging and buffer reductions of SMC Section 25.09.160.D was explored. It was determined that there was not enough area on the lot that was not already designated buffer for buffer averaging to provide and meaningful reduction.

The applicant has provided a second alternative plan to examine the type of home that could be built if the buffer is reduced from the required 50 feet to 35 feet. Although the home is slightly larger than the fully code-compliant version, at a 2,120 square foot footprint, it has issues similar to the code-compliant house, including being buried up to the top level, and is

not viable for a residence due to cost of construction, massing and layout of useable rooms, access to windows for light, air and egress, and incompatibility with the established aesthetic of the neighborhood. If the front yard setback is reduced, and a portion of the building 16-17 feet wide is required to extend into the flag portion of the parcel, the result would be unattractive and would not work well for placement of the front door and entry. The entry would either need to be placed in a five foot wide section next to the garage door with a stairway up on the opposite side or it would need to be moved to a side facing location not visible from the street. In addition such a building front would present an unattractive, predominantly garage entry front façade along the street front; largely incompatible with surrounding residences. In addition this arrangement would greatly lessen the amount of level open space at grade available to be used as active play space for children.

The east side yard setback in the considered development schemes would be used for shoring. Reducing the east side yard setback would not be viable as this area is needed for a shoring wall, and to allow for windows on the east side in areas otherwise below grade.

Information provided by the property owner's geotechnical engineer, civil engineer, and wetland consultant, reviewed and by DPD, suggests the proposed development would not cause significant injury to occupiers of land, other properties, or to public resources. In particular, the geotechnical report prepared by Earth Solutions NW, and dated March 12, 2010, includes a minimal risk statement, which reads, "Based on our understanding of the proposed development, in our opinion the proposed development will not increase the potential for soil movement, and the risk of damage to the proposed development or adjacent properties from soil movement will be minimal."

In further detail, the soils report also addresses the concerns of adjacent property owners: "Foundation Setbacks: In our opinion, given the dense nature of these site soils and the separation between the subject property and the surrounding residential structures, no additional buffers would be required to be incorporated into site designs. Standard zoning setbacks will provide adequate separation between foundation elements and adjacent properties."

No negative impact on public resources would be expected to result from the proposed development. Ground water in the area is expected to remain little changed. Soil stability is expected to be improved. Animal habitat would be reduced in area, but the wetland area would be extensively enhanced through removal of invasive species and planting with appropriate ones it would be permanently preserved with an ECA Covenant.

The applicant has submitted, as part of this application an Environmentally Critical Areas Study and Mitigation Plan dated October 5, 2009 which sets forth a plan to remediate the degraded on site wetlands. If this plan is implemented the proposal will result in a substantial improvement in the environmental health and function of the wetland.

SMC Section 25.09.160E.5 gives restoration and enhancement ratios. The Mitigation Plan prepared by Wetland Resources, Inc. notes that the proposed residence and associated development does not encroach into the wetland, but only into the buffer. Mitigation for the 4154 square feet of buffer impact is offered through a combination of wetland and buffer improvements. The onsite buffer is currently degraded, dominated by Himalayan blackberry.

As a result, there is the potential through enhancement to provide significant improvements to the level of function and values provided by the site. To compensate for the proposed impacts the property owner is proposing to enhance a total of 7683 square feet of on-site wetland, and 2229 square feet of degraded buffer. Together, the wetland and buffer enhancement areas total 9912 square feet yielding more than a 2:1 mitigation-to-buffer-impact ratio.

The report continues, and describes post mitigation functions and values, The property owner is proposing to enhance 7683 square feet of the on-site Category IV wetland, and 2229 square feet of associated buffer. This enhancement will result in increased protection to the wetland over that which would be provided by a 50-foot buffer left in its current condition. The proposed wetland and buffer enhancement will also provide an overall increase in the functions and values for the site. Planting native vegetation in the wetland and buffer will increase the vegetative structure and diversity of the site, improve the wildlife habitat, increase the infiltrative capacity of the soil through root action, reduce the potential for erosion, and discourage intrusion by humans into the on-site sensitive areas. Implementation of the wetland and buffer enhancement plan will result in an increase of the functions and values over that which currently exists on the site.

The Johnson/Danielsons purchased the subject vacant lot in August 2007 for \$346, 500. The couple from whom they bought the property purchased it in 1999 for \$165,000. The Johnson/Danielsons purchased the property with the intent of building a home for their growing family in a neighborhood where they admired the style of the existing homes. The size of the parcel of land and the price paid for it both indicate of some substantial size, functional utility and architectural beauty were expected to be created on the site.

With a proposed footprint of 1,721 or 2,120, neither the code compliant or variance homes is in keeping with the size and scale of the neighboring homes (see chart above), nor would such homes be economic or reasonable use in view of the property purchase price.

Aesthetically, the neighborhood is a mature mix of 1950 and 1960 homes with daylight basements, and with some second story additions. They are stylistically influenced by the work of the Northwest Style of architecture. The narrow, buried, alternative home plans with light wells are inconsistent with the community standard. They would be incompatible with the neighborhood character. Similarly, extending a portion of the proposed dwelling toward the street through the narrow “flag lot” portion of the proposal site, with a front façade dominated by a garage entry and little landscaped front yard, would create an appearance at the street inconsistent with the development pattern of surrounding properties. It is the proposed option for a structure architecturally compatible with the neighborhood context and without structure in the “flag” portion of the site which best avoids causing injury to surrounding properties.

In past ECA Exception decisions this Department has concluded that allowing encroachment into a critical area for more than a single parking space is beyond the minimum necessary to make a reasonable use of a single family site. In this particular case, where excavation of fill material on the site and construction of a retaining wall would result in a structure below grade on the east and day lighting on the west the area proposed of a two car garage and storage area is below grade in an area of the structure without windows created by the

retaining wall necessary to create the true living areas of the proposed house above. Reducing the size of the proposed garage might reduce the amount of excavation undertaken, but, it would be unlikely to reduce the amount of site disturbance created by the upper two stories. Hence, expansion of a single car garage into a larger one has no impact on the amount of ECA exception relief necessary.

The wetland present on the site is characterized as “Class 4”. It is in the lowest class with the least environmental value in the City of Seattle wetland classification system. Pursuant to SMC 23.09.160.C.3 Class 4 wetland under 1,000 square feet in size has no required buffer and may be removed and replaced with features as proscribed which might include a green roof or bioengineered/infiltration facility. In the proposal under review here the wetland is not proposed to be disturbed other than to effectuate a substantial wetland enhancement plan and an element of protective buffer would be re-established as a natively landscaped area.

The proposal site consists of what appear to be two parcels, B and C, of a three unit subdivision which are each developable under current ECA and Land Use codes in Seattle with a single family residence. Part of the assessment of the reasonableness of the proposed use and determination that the disturbance proposed is necessary to make a minimal, reasonable use of the site derives from the fact that two large legal building sites are proposed to be developed with one house located in the least environmentally sensitive portion of the entire site with an even larger portion of the site being permanently sequestered as a undisturbed wetland with associated buffers. The single family structure proposed requires only Parcels A and B with C remaining undisturbed by other than landscape elements and a low retaining wall. To insure that the proposed condition of the site remains in the condition allowed by this permit, with limited disturbance of ECA’s and their buffers, and to insure a proposal is not approved at some future date for a residence on Parcel C, it is necessary to condition this ECA Exception to provide that an ECA Covenant, approved in content by DPD, limiting disturbance to the remaining Environmentally Critical Areas (wetland, wetland buffer and steep slope) be executed by the property owner and recorded against the entire site prior to issuance to any construction permits. For the same reason it is necessary to condition this permit to clarify that Parcel C is no longer a separate legal building site from Parcel B.

#### DECISION – ENVIRONMENTALLY CRITICAL AREAS EXCEPTION

ECA Exception to allow land disturbing activity in the wetland buffer is **CONDITIONALLY GRANTED**.

#### **ANALYSIS – SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant and dated April 2, 2010. The information in that checklist, associated plans and reports, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The project site is located in multiple environmentally critical areas (steep slope and wetland) is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes evaluating the need for additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and applicable environmental laws.

The Department of Planning and Development has reviewed and analyzed the environmental checklist submitted by the applicant, geotechnical report, supplemental information provided by the applicant and the accompanying project plans and determined that the proposal will not result in significant adverse impacts to the environmentally critical area environment. Codes and development regulations applicable to this proposed project will provide sufficient mitigation and no further mitigation is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

#### CONDITIONS – SEPA

None.

#### CONDITIONS – ECA EXCEPTION

##### Prior to Issuance of a Master Use Permit

1. Show on the site plan the location of permanent ECA markers and location a split rail fence limiting access into ECA buffer areas.
2. Show on building plans the location of a temporary, durable, highly visible construction fence at the boundary between the construction activity area and areas of steep slope and steep slope buffer which are to be left undisturbed. (SMC Section 25.09.060)
3. Provide a wetland mitigation plan approved by DPD that complies with the requirements of SMC Section 25.09.160.C.3.
4. ECA Covenant. Provide an ECA Covenant Per SMC 25.09.335B and C. Note that the ECA Covenant is not the same as the Geologic Hazard Covenant. This covenant will provide for non development and non-disturbance in the future.

##### Prior to Issuance of Any Building Permits

The owner and/or responsible party shall:

5. Obtain final approval by DPD of the ECA wetland restoration and enhancement plan for the site.

6. Place permanent visible markers along the edge of the no disturbance area as proposed 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 no disturbance line where the line changes direction. Markers must be in place before issuance of a building permit. Markers should be detailed in accordance with description contained in Director's Rule 4-2007.
7. Show on building plans the location and boundaries of wetland, riparian corridor and their buffers on the site.
8. Provide on building plans calculations for developmental coverage and impervious surface, and show the construction activity area for the proposal on building plans. (25.09.060)
9. Provide a five year monitoring plan for wetland and buffer restoration.
10. Show on building plans the location of a temporary, durable, highly visible construction fence at the boundary between the construction activity area and areas of steep slope and steep slope buffer which are to be left undisturbed. (25.09.060)
11. Show on building plans the existing and proposed final grade contours.
12. Show on building plans the location of the storm water control system and method of handling storm water.
13. Provide on building plans a Best Management Practices plan to include temporary and permanent drainage and erosion control.
14. Provide note on building plans indicating that grading must be stabilized by October 31<sup>st</sup>, and no excavation to be performed between October 31<sup>st</sup> and April 1<sup>st</sup>. (25.09.060C.9) unless authorized by DPD.
15. Provide split rail fence location on site plan.
16. Provide a construction activity schedule for the earthwork and foundation work. The schedule should include type of equipment, installation of BMP measures and temporary/permanent storm water controls, and other pertinent information. (25.09.060C11)
17. Provide a note on building plans that a pre-construction meeting is required between owner's representatives and DPD. (25.09.060C11)
18. Bonds and insurance are required by the ECA Regulations for excavation below a 45°-degree projection from the property line deeper than 4 feet.

Prior to Occupancy

19. Install split rail fence per mitigation plan.
20. Implement ECA restoration and enhancement plan.

For the Life of the Project

21. Limit development and other disturbance on the site to that shown on the issued plans for Master Use Permit 3007401.
22. Parcel C is no longer a legal building site separate from Parcel B.
23. Implement the ongoing provisions of the ECA Restoration and Enhancement Plan.

Signature: \_\_\_\_\_ (Signature on File)  
Scott Kemp, Senior Land Use Planner  
Department of Planning and Development

Date: October 31, 2011