



City of Seattle

Greg Nickels, Mayor
Department of Planning and Development
Diane Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Numbers: 2403113
Applicant Name: Kevin Preston for Preston Investments, LLC
Address of Proposal: 3510 South Morgan Street

SUMMARY OF PROPOSED ACTIONS

Master Use Permit to establish use for future construction of a cluster housing development containing six (6) detached single family dwelling units. Accessory parking will be provided within each residential structure.

The following approvals are required:

Environmentally Critical Areas – Administrative Conditional Use to recover development credit in a designated ECA. SMC Chapter 25.09.

SEPA - Environmental Determination - SMC Chapter 25.05.

SEPA DETERMINATION: Exempt DNS MDNS EIS

DNS with conditions

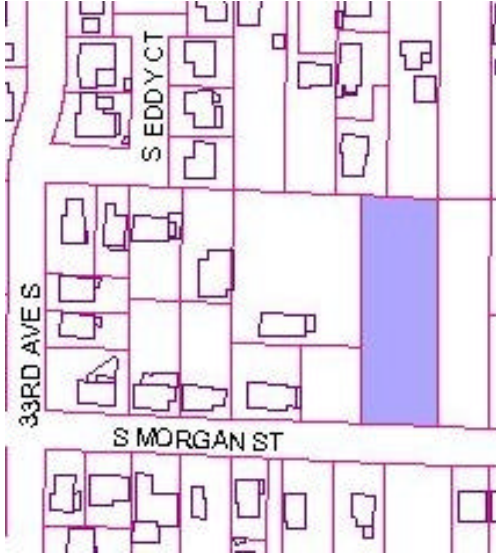
DNS involving non-exempt grading or demolition or involving another agency with jurisdiction

* A limited ECA exemption (#2401329) was granted on April 22, 2004.

** Early Notice DNS published June 24, 2004

BACKGROUND DATA

The subject site is located mid-block on the north side of South Morgan Street where the roadway within the right-of-way terminates east of 33rd Avenue South cross-street. The site is nestled within this north end Rainier Valley neighborhood within the City of Seattle. The existing parcel comprises a land area of approximately 30,264 square feet located in a Single Family residential zone with a minimum lot size of 5,000 square feet (SF 5000). The site is rectangular in shape, with its lengthwise orientation running along the north/south axis. The development site has street frontage along South Morgan Street. The site slopes dramatically from west to east and is identified as an Environmentally Critical Areas (ECA) steep slope. The slope currently features a stepped terrace and benches created to provide a driveway that once served a single family residence that was removed years ago. The level portion of the site angles away from the southwest corner to the midpoint along the north property line. A limited ECA exemption, #2401329, was granted prior to the submittal of this proposal. The documentation presented for the exemption showed that the slope running along the west property boundary line and the level area qualified for a limited exemption. All land area east of the driveway will be required to meet ECA standards for sites containing 40% steep slope as provided for in SMC Chapter 25.09.



The site is densely vegetated with mature deciduous trees, English Ivy, and other groundcover. The level area running north from the street right-of-way visually dominates the development site by virtue of an open spatial cavity in a densely wooded area. The street right-of-way immediately fronting the development site is developed with an asphalt roadway, curbs, sidewalks and gutters at the bulb terminus of the roadway. The rest of the right-of-way to the west features only an asphalt roadway surface, which provides the only vehicular access to the development site. To the east adjacent to the dead end (within the right-of-way) are stairs leading to an area where the paved roadway resumes at a lower elevation. The roadway within the right-of-way is not anticipated to be connected as a result of this project or anytime in the future because of the grade change of approximately 30 feet.

The block to the west of the subject site is developed with modest two-story single family structures, with a predominate number constructed between the late 50's through mid 60's. This area is located on the lower eastside of Beacon Hill, slopping dramatically downward from west to east. The development site is located within a SF 5000 zone with moderately sized one and two-story homes in this section of the Rainier Valley. This neighborhood has a suburban-like feel with its limited access, mix of housing stock and moderately sized mature trees and scrubs. To the east, within walking distance is Martin Luther King Jr. Way South, a commercial corridor serving the needs of this south end community. Along this corridor the underlying zone is Commercial One, with height limits of 40 and 65

feet (C1- 40 & C1- 65). This area supports a number business establishments including, general retail, commercial rental, and office uses.

Proposal

The densely vegetated development site would be developed with six (6) single family dwelling units. These units would be located on the development site generally along a north/south axis, largely to the center and east-of-center of the property just outside the 40% steep slope environment. The steep slope areas along the easterly portion of the property would remain partially undisturbed with side sewer trenching, minor re-vegetation and re-grading in portions as a result of the project. Parking would be located in the proposed structures. The single access driveway to the individual houses will feature a retaining wall along the property's west boundary line and a twenty foot wide paved driveway surface with pedestrian access lane to South Morgan Street. In the future the applicants intend to submit an application for a short unit lot subdivision.

Public Comment

Date of Notice of Application :	June 24, 2004
Date End of Comment Period:	July 07, 2003
# Letters	3

Issues: All comment letters were received after the end of the comment period. One of the letters received requested to extend the public comment period for an additional two weeks as allowed by Code. The envelope was postmarked the day after the comment period ended. Typically, DPD will accept and evaluate comments letters received up to the time of decision analysis, which was the case for this proposal. The remaining comments addressed concerns surrounding traffic safety within the South Morgan Street right-of-way which are discussed in the SEPA analysis section.

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, 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.

Section 25.09.240.D states that critical areas and their required buffer areas (site contains no buffer areas) receive no development credit for use in calculating the number of lots permitted. If the steep slope and buffer areas, comprising a total of 5,747 square feet of the development site, are subtracted from the total area, only 24,517 square feet of lot area remains, and this is an insufficient area for six lots in the SF 5000 zone. Information provided by the applicants' geotechnical engineer, Geotech Consultants, Inc., dated 2/18/05, and evaluated by the planner confirmed no buffer areas were warranted at the development site. Under a strict application of the regulations, development site has sufficient non-critical area for four houses permitted outright, although the total land area is enough for six under the applicable zoning. However, development site still has a total of 24,517 square feet of area outside the steep slope which structures could be constructed.

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 residences and other land disturbing activity comply with the standards of SMC Section 25.09.180.A.1, which requires that development on areas over 40% slope be avoided whenever possible. This is achieved by concentrating development to the west of the eastern extent of the level area on the existing development site. As a cluster development, the proposal meets yard standards for the front and side, since the yards are measured around the perimeter of the development site. The applicant is requesting a reduction in the required rear yard from 25 feet to 5 feet, which is allowed if the Director determines that the proposal has accommodated recovery of development credit and minimized disturbance impacts on the existing lot.

Since the applicants have indicated that they will likely apply for a unit lot subdivision, it is appropriate to consider the yard reductions that are required in the event of a subdivision. The concentration of development necessitates the reduction of the rear yards for proposed Buildings 1 and 2 from the standard 25 feet or 20% of lot depth to five (5) feet and nineteen (19) feet, respectively. The proposed lot size for Buildings one and two, in the event of future approval of a unit lot subdivision, would also be reduced from the minimum 5,000 square feet required in the zone to 3,400 square feet each.

By clustering, with or without a unit lot subdivision, the proposal limits development in the steep slope. 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 standard of Section 25.09.180.A.1 is 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. The existing development occupies a land area of approximately 30,264 square feet (inclusive of the steep slope area). The number of new residences proposed by this application is six, with a planned future unit lot subdivision of one parcel into six unit lots. When the critical area is subtracted from the total lot area in calculating development credit, as required by SMC Section 25.09.240.D, only 24,517 square feet of non-critical lot area remains, which is less than the required 30,000 square feet of lot area for six lots (one house per lot). Thus, precluding the existing development site from meeting development standards for a short subdivision contained in SMC Section 25.09.240.

However, the conditional use provisions of Section 25.09.260, which incorporates the critical areas policies, allow recovery of development credit and reduction of yards and lot sizes through clustering as an alternative to strict application of Section 25.09.240.D. The applicant has therefore applied for an ECA administrative conditional use to both “recover” sufficient development credit to allow construction of six houses (the maximum allowed by the total lot area) and to allow clustering of the six houses by reducing the depth of the required rear yard. A contemplated future unit lot subdivision would also reduce two proposed lots below the minimum lot area required in the SF-5000 zone.

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.” On property that is partly level and partly comprised of steep slope areas, as in the case of this development site, Section 25.09.180.A requires that development be concentrated outside the steep slope with the exception of work associated with a gravity flow sewer system. The proposal will be essentially outside the non-exempted steep slope environment. Additionally, no buffer is required adjacent to the ECA steep slope at the development site. Thus, the proposal results in a transfer of development credit from the steep slope area to the non-critical westerly and central portions of the property.

All substantial development will occur on the west portion of the development site up to where the steep slope begins. The area of development includes a 20 foot wide driveway (with pedestrian walkway) extending along the west property line. The houses will be sited to the north and east of the driveway on the level portion of the lot. A retaining wall system, which includes foundations for the proposed houses and attached retaining walls, will be arranged to further stabilize the site outside the steep slope environment, further minimizing erosion during and after construction. The impervious surfaces will be equipped with drainage infrastructure tight-lined to the storm drainage system on South Morgan Street, which will reduce runoff to the steep slope and therefore reduce the risk of erosion and superficial landslide. Limitation of land disturbing activity will be a condition of approval of the proposed development, as will as the designation of the critical area as a limited disturbance area by ECA covenant. Submittal of an erosion control plan will be a condition to be met prior to issuance of any building permits.

A hand dug two foot wide trench is proposed within the steep slope environment to accommodate a gravity flow side sewer connecting to an existing sewer line within South Morgan Street right-of-way. The disturbance activity will be limited to approximately 5% of the ECA steep slope. The applicant’s geotechnical engineer has recommended limiting both the depth and width of the sewer trench to approximately two feet, in order to minimize potential adverse impacts to slope stability. The trench would be excavated by hand and backfilled with control density fill to prevent subsurface water from following the trench backfill.

The development site is currently covered with trees (Black Cottonwoods, Big Leaf Maples, and Red Alders), shrubs, English Ivy and other forms of groundcover within the proposed construction sites. All trees outside the steep slope are slated to be removed and will be replaced with new ones. A number of trees slated for removal absorb vast quantities of water which will need to be taken into consideration when new trees are introduced at the development site. Therefore, conditions will be added to specify the appropriate tree species to be planted near the steep slope. Accordingly, native plant species shall be required throughout the development site with a detailed plant schedule delineated on the revegetation plan to augment the natural surroundings adjacent to the site.

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 (particularly the 600-foot radius around the development site) range from a minimum of 4,982 square feet to a maximum of 40,624 square feet, according to King County Assessor's records, but most lots in the SF-5000 zone exceed the zone minimum, up to a thousand square feet greater than the minimum. The proposal is to cluster six houses on one lot with a total area of 30,264 square feet, for an average area of one house per 5,044 square feet of land. Recently, the area has undergone a significant transformation as the number of lots created through short subdivisions has increased. The average lot area is near the minimum size for the zone. Thus, the development in terms of lot area would be well within the range of similar lots having been created through short subdivisions in the immediate neighborhood.

It is anticipated that the larger lots in the vicinity will continue the trend of short platting that was initiated during the 1970's. Moreover, the surrounding topographic conditions and development pattern, by and large, will make the proposed development visually imperceptible from adjacent areas. The site is located where the roadway surface ends, near mid-slope. The site is visually buffered by a stand of trees to the south, east, and north of the property. The closest adjacent structures are located uphill, approximately 6 feet above finished grade with a minimum distance of 33 feet to the nearest proposed structure. There will generally not be less substantial vegetation from what is presently found on other development sites in the immediate area.

The proposed new houses at the development site will be two stories structures with attached two-car garages, similar in size and height to many nearby residences and comparable to typical newly built and remodeled homes in the immediate area. Proposed yards will generally conform to the Land Use Code except for a reduced rear yard for two houses that will cluster to accommodate vehicle access and siting constraints on the rectangular shaped lot. The two structures proposed to be sited within the rear yard will be setback approximately five to nineteen feet from the rear property boundary line.

Essentially, the rear yard will function as a side yard abutting a rear yard of the adjoining property. Occurrences of rear yards abutting side yards are common in the area and throughout the City of Seattle. As designed it is anticipated that the reduced rear yard will not adversely impact the abutting properties. It is very likely that if the development site were short platted, the area between the north property line would become a side yard to maximize development coverage, due in part to the steep slope along the east property line. Actual lot coverage of the six structures will be well within the 35% total coverage limits permitted by the Land Use Code. The effect of the extent of lot coverage and of the yard reductions on the surface, with respect to the rest of the neighborhood, will be no different than if five or four larger houses were built at the development site without discretionary conditional use approval.

The development will have no adverse effect on the pedestrian environment in the neighborhood. The applicant proposes a 30 foot deep front yard, 10 feet more than code requires facing South Morgan Street. The new houses will share one driveway with one curbcut to minimize impact upon both the street system and the environmentally critical area. No significant increase in traffic will occur from six new houses within a cluster development with one shared driveway. 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 siting arrangement of the proposed new residential structures takes advantage of existing topographic conditions to minimize disturbance in the steep slope environment. The proposed houses will be located on the existing level areas that have subtle curves running along the top of the bench of the steep slope. Twelve of the existing fifteen trees with diameters ranging from 8 inches to 24 inches and groundcover including shrubbery will be preserved in the ECA. Three Big Leaf Maple trees with English Ivy blanketing the outer core are slated for removal within the steep slope to rid the development site of hazardous trees near proposed structures. All trees outside the identified ECA will be removed. No exceptional trees will be removed or damaged as a result of the development.

Removal of trees will be mitigated by revegetation within the steep slope area with water absorbing tree species (i.e., cedar, conifer, spruce sitka, and vine maple) and by landscaping within the construction area for the houses. A landscaped buffer area at the top of the steep slope will be protected by a temporary construction fence and maintained with landscaping features to stabilize the area beyond the steep slope. The applicants have further proposed planting of native trees and shrubs to replace trees previously removed from the site outside of the critical area. With conditions attached to this decision including a revegetation plan for the steep slope, establishing 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 approved discharge point at the street through a tight-lined system. A drainage control plan that complies with the City's Stormwater, Grading and Drainage Control Code is required as a condition of approval of the proposal. As conditioned, 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.*

The proposed development will nominally disturb the steep slope area to accommodate a sewer trench and revegetation. Thus, water quality is protected and slope stability will be maintained by limiting all new substantial development to the level area and westerly portion thereof. The development, conditioned by this decision and in compliance with City Codes, will not adversely affect other ECAs in the same drainage basin.

While the proposed development presents some risk of erosion during construction, the development must conform to the requirements of 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 proposed development maintains a minimum 10 foot setback from the top of the steep slope, which effectively creates a buffer area to be landscaped with native vegetation to lessen negative effects of development on the steep slope area. Drainage will be directed to the street, within the steep slope as noted earlier. Proposed houses staggered along the crest of the steep slope will feature decks extending within a few feet of the steep slope, as illustrated on the applicants' site plan, has been determined to pose no risk of disturbance to the steep slope critical area based on information supplied by the applicants' geotechnical engineer. Subject to the requirements noted above, the seventh criterion will 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. South Morgan Street is a City street improved with paved roadway, sidewalk, 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.” By locating all substantial development west of the eastern extent of the level portion of the subject property, the steep slope will be protected from grading, land disturbing activity, and terracing. There will be no driveways or utilities (other than the temporary drainage trench) passing through the steep slope. The project has been designed to maximize use of the undeveloped area on the property while protecting the critical area and buffer. 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 six houses at the development site without encroaching on the steep slope, the applicant proposes a cluster development of six houses on a lot encompassing a land area of 30,264 square feet. In the event of approval of a future unit lot subdivision, there would be no change in required yards as all unit lots together would continue to need to meet developments of the larger parent lot.

The configuration is reasonable in order to avoid disturbance to the critical area. The proposed houses will retain 30-foot-deep front yard facing south Morgan Street, as well as side setbacks substantially greater than 5 feet from the westerly and easterly lot lines. Each proposed house will maintain a ten foot separation from each structure. Full development credit on the existing development site, which has a total of 30,264 square feet of area, would be six houses, so the proposal to construct six new houses 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*

Most of the clustering criteria have been discussed in the analysis of the recovery of development credit. The subject cluster will protect the steep slope area on the site by concentrating all proposed new developmental coverage outside of the critical area. By concentrating the new development west of the easterly extent of the level portion of the site, the project minimizes disturbance of the environment and will not impact the steep slope. The proposal will alter the topographic features at the development site which shall be minimally apparent after construction is completed. The remainder of the lot within the steep slope will be unchanged topographically. Access and circulation to all proposed structures will be from a presently dedicated street right-of-way through one (20 feet wide) driveway and curbcut that will be shared by all houses. Although additional impervious surface will be added in the non-critical portion, it is well within the coverage limits of the Land Use Code. Thus, the development as proposed will not affect the area's natural character and environmental resources.

Development will be limited to the existing level area in the westerly part of the property, with existing trees overgrown with English Ivy and vegetation now on site, removed. Excluding three trees previously identified within the critical area, the existing trees will be preserved in the steep slope area. Additional planting will include a revegetation plan for the steep slope and landscaping within the building construction area using native water absorbing Northwest tree and shrub species. With establishment of the revegetation and landscaping plans, the proposal appropriately protects the visual continuity of existing natural greenery, tree canopy, and natural habitat. As previously described, the six proposed houses and future unit lot sizes are of comparable size and footprint to many other houses in the immediate neighborhood, and therefore will have no adverse impact on neighborhood character, design or scale. The location of proposed and existing development within the non-critical westerly part of development site represents the best area for construction with non disturbance of the steep slope critical areas, while minimizing 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.*

The significant development will occur on the non-critical westerly and central portions of the subject site. There is no clustering within the existing steep slope area and all clustering will be outside the area of steep slope. 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 the development site.

- 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 the subject site 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 to Recover Development Credit and Permit Clustered Development

The proposal to recover development credit 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 (dated May 5, 2004) and annotated by the Land Use Planner. The information in the checklist, the supplemental information submitted by the applicant and the experience of the lead agency, with the review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part, “Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation” subject to some limitations. Under such limitations/circumstances (SMC 25.05.665) mitigation can be considered.

Short-term Impacts

Construction activities could result in the following adverse impacts: construction dust and storm water runoff, erosion, emissions from construction machinery and vehicles, increased particulate levels, increased noise levels, occasional disruption of adjacent vehicular and pedestrian traffic, and a small increase in traffic and parking impacts due to construction workers’ vehicles. Existing City codes and ordinances applicable to the project such as: The Noise Ordinance, the Stormwater Grading and Drainage Control Code, the Street Use Ordinance, and the Building Code, would mitigate several construction-related impacts. Following is an analysis of the air, water quality, streets, parking, drainage and construction-related noise impacts as well as mitigation.

The Street Use Ordinance includes regulations that mitigate dust, mud, and circulation. Temporary closure of sidewalks and/or traffic lane(s) would be adequately controlled with a street use permit through the Transportation Department, and no further SEPA conditioning would be needed.

Construction traffic would moderately increase congestion in the area for a limit period of time, and then decrease to modest levels associated with delivery and removal of construction materials and debris. The area has adequate street access to accommodate any increased traffic. During a period of approximately 17 days the applicants have anticipated hauling in five truck loads of fill soil per day, for a total of 85 trips to the development site. This will be the most active period during the construction phase that will moderately increase congestion. The imported soil will be used to fill areas westerly of a retaining wall

system (including foundations and connecting retaining walls) adjacent to the steep slope, to stabilize the development site. Additional traffic will be generated by the anticipated 8 – 10 persons during peak work conditions that will access construction site on a daily basis. To facilitate the flow of traffic impacts during the operation of the grading activity upon surrounding properties, a traffic management plan shall be required, and a schedule of hauling truck traffic shall be made available to neighboring properties.

Construction of the project is proposed to last for several months. Parking utilization along streets in the vicinity is moderate and the demand for parking by construction workers during construction is not anticipated to reduce the supply of available parking in the vicinity. Parking demand for construction personal can be accommodated at the development site and any spillover can be managed within the lower level of South Morgan Street right-of-way and nearby streets.

Therefore, no further mitigation for traffic and parking related impacts during construction is warranted pursuant to SEPA policies.

The development site is located adjacent to a residential area where construction of this scale would impact the noise levels. The SEPA Noise Policy (Section 25.05.675B SMC) lists mitigation measures for construction noise impacts. It is the department's conclusion that limiting hours of construction beyond the requirements of the Noise Ordinance is necessary to mitigate impacts that would result from the proposal on surrounding properties, because existing City ordinances do not adequately mitigate such impacts. This is due to the density of residential units in the area and the proximity of these structures to the subject site. The proposal is, therefore, conditioned to limit construction activity to non-holiday weekday hours between 7:30 A.M. and 6:00 P.M. After the structure are enclosed, interior construction may be done in compliance with the noise ordinance. The department may modify this condition to allow work of an emergency nature or which cannot otherwise be accomplished during these hours by prior written approval of the Land Use Planner.

Construction is expected to temporarily add particulates to the air and will result in a slight increase in auto-generated air contaminants from construction worker vehicles; however, this increase is not anticipated to be significant. Federal auto emission controls are the primary means of mitigating air quality impacts from motor vehicles as stated in the Air Quality Policy (Section 25.05.675 SMC). No unusual circumstances exist, which warrant additional mitigation, per the SEPA Overview Policy.

The following temporary or construction-related impacts are expected: decreased air quality due to increased dust and other suspended air particulates during construction; potential soil erosion during grading, excavation and general site work; increased runoff; tracking of mud onto adjacent streets by construction vehicles; increased demand on traffic and parking from construction equipment and personnel; conflict with normal pedestrian movement adjacent to the site; increased noise; and consumption of renewable and non-renewable resources. Due to the temporary nature and limited scope of these impacts, they are not considered significant (SMC Section 25.05.794). Although not significant, these impacts are adverse.

There are no short term impacts identified with the creation of short unit lot subdivisions. Short term impacts are associated with the construction of the structures and have been analyzed and discussed with no further conditioning is warranted.

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; increased bulk and scale on the site; increased traffic and parking demand due to residents and visitors; minor increase in airborne emissions resulting from additional traffic; increases in ambient noise due to increased human activity; increased demand on public services and utilities; increased light and glare; loss of vegetation; and increased energy consumption. These long-term impacts are not expected to be significant.

Except as discussed in the ECA conditional use analysis above, the expected long-term impacts are typical of a single family residential development and are expected to be mitigated by the City's adopted codes and/or ordinances (together with fulfillment of other City Department requirements). Specifically these are: the Stormwater, Grading and Drainage Control Ordinance (storm water runoff from additional site coverage by impervious surface); the Land Use Code (height, setbacks, parking); and the Seattle Energy Code (long-term energy consumption). Specific impacts to the steep slope areas would be mitigated by compliance with conditions set forth in accordance with the ECAs Ordinance (conditional use and exception) analyses and conditions imposed above. Non-typical impacts associated with the clustering configuration have been adequately mitigated pursuant to the ECA conditional use authority.

While the site has been clearly delineated in terms of where new development is to be located in relation to slopes that can or cannot be disturbed, there has been no extensive analysis of the ECA that will not be disturbed. This area of 'non-disturbance' should be evaluated to determine the health of the plant stock in relation to these areas and any methods to employ that will ensure the viability of the vegetation in these areas. The long term viability of the vegetation on these slopes is especially important given the degree and number of Limited Exemptions granted to the project and how the long term health of the vegetation on the non-disturbed areas contributes to the slopes long-term stability. Accordingly, a SEPA condition is stated below.

Other impacts not noted here as mitigated by codes or conditions (earth/soils, increased ambient noise, increased traffic, increased demand on public services and utilities, increased airborne emissions, increased light and glare, loss of vegetation) are not sufficiently adverse to warrant further mitigation by condition.

There are no long term impacts identified with the creation of short unit lot subdivisions. Long term impacts have been analyzed and discussed above with no further conditioning warranted.

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 - SEPA

Prior to issuance of any permit to grade or construct:

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

1. Provide a plan, satisfactory to the DPD Land Use Division, for preventing or adequately mitigating construction related activities. The plan shall include, to the degree feasible, truck rout(s) hauling soil to and from development site, timing, construction worker parking areas, parking restriction areas within 100 feet of the development site's street frontage, and method of dispersion advance public notice of trucks activity.

During Construction:

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other weatherproofing material and shall remain in place for the duration of construction.

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

2. The hours of exterior construction shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. Limited work on weekdays between 6:00 p.m. and 8:00 p.m. and on Saturdays between 9:00 a.m. and 5:00 p.m. may be allowed if prior approval is obtained from the Land Use Planner at DPD. Such after hours work could include emergency construction necessitated by safety or street use concerns, or work which would substantially shorten the overall construction timeframe. Application for approval for such work shall be made at least two working days prior to the date of the activity.

3. Implement the approved plan for mitigating construction related impacts.

CONDITIONS - ECA CONDITIONAL USE TO RECOVER DEVELOPMENT CREDIT AND PERMIT CLUSTERED DEVELOPMENT AND ECA EXCEPTIONS:

Prior to issuance of the Master Use Permit:

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

4. Remove all English Ivy from the development site, including the ECA steep slope. Ground cover within the steep slope environment shall be replanted with native ground cover species.
5. Revised the plan set to clearly illustrate the two foot width of the sewer trench within the steep slope area.
6. Submit a revised landscape plan to show the specific types of landscape plants in the non-exempted ECA areas. All plants shall be native species to the region. This plan shall be augmented by a Certified Arborist to show document the general condition of these areas and what, if any, additional plantings should be undertaken to ensure long term slope stability.
7. Record a required ECA covenant.

For the life of the project:

8. All yards, landscaping, garage & parking, other improvements, and management plans shall be maintained per plan.

Compliance with all conditions must be verified and approved by the Land Use Planner, Bradley Wilburn, ph.: 206-615-0508, at the specified development stage, as required by the Director's decision. The applicant/responsible party are responsible for providing the Land Use Planner with the appropriate documents at the construction intake appointment. The Land Use Planner shall determine whether the condition requires submission of additional documentation or field verification to assure that compliance has been achieved

Signature: _____ (signature on file) Date: March 31, 2005
Bradley Wilburn, Land Use Planner
Land Use Services
Department of Planning and Development