

# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## Environmentally Critical Areas Exceptions— Application Instructions and Submittal Requirements

Updated May 9, 2006

City of Seattle regulations for environmentally critical areas (ECAs) (*Seattle Municipal Code* (SMC) Chapter 25.09) affect geologic hazard areas, steep slope areas, flood-prone areas, wetlands, fish and wildlife habitat conservation areas, and abandoned landfills.

An applicant may request the Director of the Department of Planning and Development (DPD) to modify ECA development standards. This Client Assistance Memo (CAM) sets out the circumstances and submittal requirements under which such an application can be considered, and includes an application form. A CAM is only a guideline and not a substitute for the City's legal requirements. Specific requirements for exceptions to ECA development standards can be found in Section 25.09.300 of the City's Municipal Code, and other code sections cited in this CAM.

### GENERAL DISCUSSION

The Director of DPD may modify ECA development standards or other requirements when the applicant provides information sufficient to demonstrate that the ECA regulations deny reasonable use of the property, that the modification will allow reasonable use of the property, and that the modification is the minimum necessary change to the development standard(s) to grant relief and minimize injurious effects to the environment.

An ECA exception request will only be considered after all other administrative remedies in the ECA regulations and SMC Title 23 have been exhausted.

The applicant must demonstrate that if the modification is granted it would not cause significant injury to occupiers of the land, to other properties, to public resources, or to the environment.

An ECA development standard, or yard or setback standards, may be modified only to the extent necessary to make the standard reasonable in light of all the facts and circumstances of a particular case. In modifying a development standard the Director may impose reasonable conditions that prevent or mitigate the same harm that the modified regulation was intended to prevent or mitigate.

### WHAT SHOULD YOUR APPLICATION INCLUDE?

Before you submit your application, please review the following requirements and make sure your application includes this information.

#### Effects of Other Administrative Remedies

Per SMC Section 25.09.300 (B) (1) (a): An applicant must provide the Director with information showing that there are no other administrative measures that will provide the relief requested. The applicant's preferred proposal, as well as the alternative plans, should show the effect of all administrative remedies that may apply, other than the exception. For example, other administrative measures that the applicant should consider include, but are not limited to, ECA exemptions, ECA yard and setback variances, an ECA administrative conditional use, ECA buffer adjustments, or other administrative processes in Title 23.

#### Technical Studies and Data

Per SMC Section 25.09.300 (B) (1) (b) and (c): If the exception is granted, the applicant may develop without following the usual development standards for critical areas. The applicant must provide technical studies and data showing that the proposed development will not cause any greater risk to the environment, as defined in Chapter 25.09, than if the development standards were followed.

#### Alternative Proposals and Explanation

Per SMC Section 25.09.300 (B) (1) (d) and (e): In addition to the applicant's preferred proposal, the exception



application should include alternative proposals showing how the property can be developed if all standards are followed; that is, if the exception is not granted.

The application should also include a written explanation. The written explanation should analyze (1) how the alternative plans comply with all provisions of the ECA regulations and Title 23, (2) whether a different use would be a reasonable use; (3) the effect of other administrative remedies on the alternative plans, and (4) how the alternative plans would preclude a reasonable use of the property. Alternative proposals must be laid out according to the standards in CAM 103B, *Environmentally Critical Area Site Plan Requirements*, including a site plan and preliminary elevations.

Specific information required by these code sections includes the date the applicant purchased the property or obtained the right to develop or use it; the price the applicant paid for the rights to develop or use the property; and any existing restrictions or conditions on use of the property that attached to the property when the applicant acquired those rights.

## TECHNICAL REPORTS

Per Section: 25.09.300 (B) (2) and (3): After reviewing the information provided, the Director may require further information, as part of the application review process. Examples of other technical reports that the Director may require include:

- a. Vegetation and Revegetation Report
- b. Soils Report
- c. Geology Report
- d. Hydrology Report
- e. Wetlands/Riparian Corridor Report

The standard for submitting scientific information is set out in the Washington Administrative Code at WAC 365-195-905 (4) and (5).

## ECA EXCEPTION APPLICATION REVIEW PROCESS

For assistance on fees and procedural requirements, applicants should visit the DPD Applicant Services Center (ASC), located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave., or call (206) 684-8850.

When an applicant seeks more detailed information about the ECA exception review process, a land use planner will be available at the DPD Coaching Counter, located in the ASC. For more complicated proposals, the land use planner may suggest a pre-submittal conference.

ECA exception applications are filed with DPD by appointment at the ASC. To schedule a land use intake appointment, call (206) 684-8850.

Unless associated with a project under review, before making an appointment, the applicant is required to submit a Preliminary Application to a permit technician at the ASC. The applicant may obtain this form from DPD's website at [www.seattle.gov/dpd/publications/forms](http://www.seattle.gov/dpd/publications/forms) or in person from the ASC and mail it to DPD.

There is a fee for an ECA exception application, which is collected at the time of application. Once analysis or research begins on an application, none of the fee is refundable. Questions about fees should be directed to the Public Resource Center, or find information online at [www.seattle.gov/dpd/fees](http://www.seattle.gov/dpd/fees).

The ECA exception application form is included in this CAM. The application must be fully completed with the required information and documentation attached before it can be accepted by the land use planner. Additional information may be requested of the applicant during the review process. Once an application is made, public notice of the project will be given in the DPD *Land Use Information Bulletin* (LUIB) and four placards will be posted in the neighborhood. Interested parties may comment on the exception application. A land use planner in the Land Use Division will be assigned to the project to conduct review and analysis. The application may be distributed to other City departments for their comment.

When an ECA exception application is controversial and/or significant interest in the application is shown by neighborhood groups, DPD will/may coordinate meetings between the applicant and neighborhood groups early in the application process to allow the applicant to hear neighborhood concerns and take these into consideration during final project planning.

DPD will evaluate the request for an ECA exception in the context of the applicant's alternative proposals and the characteristics of the critical areas and take into account the surrounding development pattern and zoning designation. Once the staff report is completed, a decision about the exception will be made and notice of the decision will be published in the LUIB and the Daily Journal of Commerce. Notice of the decision will also be sent to individuals who have indicated their interest in receiving it.

The DPD decision may be appealed to the hearing examiner. The hearing examiner's decision is the final City decision.

## OTHER ECA-RELATED DOCUMENTS

The following documents on ECA regulations are available on DPD's website at [www.seattle.gov/dpd](http://www.seattle.gov/dpd) or from the DPD Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave., (206) 684-8467.

- **CAM 103B**, *ECA Site Plan Requirements*
- **CAM 324**, *Reducing Landslide and Stormwater Erosion Damage: What You Can Do*
- **CAM 327**, *ECA Exemptions and Modifications to ECA Submittal Requirements—Application Instructions and Submittal Requirements*
- **CAM 329**, *ECA Administrative Conditional Use Permit—Application Instructions and Submittal Requirements*
- **CAM 330**, *ECA Yard and Setback Variance—Application Instructions and Submittal Requirements*
- **CAM 331**, *ECA: Tree and Vegetation Overview*
- **CAM 331A**, *ECA: Vegetation Restoration*
- **CAM 331B**, *ECA: Hazard Trees*

## Access to Information

Links to electronic versions of DPD **Client Assistance Memos (CAMs)**, **Director's Rules**, and the **Seattle Municipal Code** are available on the "Publications" and "Codes" pages of our website at [www.seattle.gov/dpd](http://www.seattle.gov/dpd). Paper copies of these documents, as well as additional regulations mentioned in this CAM, are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.

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**City of Seattle**  
**Department of Planning and Development**  
 700 Fifth Ave., Suite 2000, P.O. Box 34019  
 Seattle, WA 98124-4019

## Environmentally Critical Areas Exception Application

TO BE COMPLETED BY APPLICANT

### SITE AND PROJECT INFORMATION

Property Address: \_\_\_\_\_

Description of Proposed Project: \_\_\_\_\_

\_\_\_\_\_  
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 \_\_\_\_\_  
 \_\_\_\_\_  
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Legal Description of Property: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Assessor's Parcel Number: \_\_\_\_\_

If your application is related to a DPD project, please enter the project number here: \_\_\_\_\_

TO BE COMPLETED BY DPD STAFF

Application Number: \_\_\_\_\_ Receipt #: \_\_\_\_\_

Land Use Planner: \_\_\_\_\_ Fee: \_\_\_\_\_

Analyst: \_\_\_\_\_ Land Use Map Page: \_\_\_\_\_

Zone: \_\_\_\_\_

Type of Critical Area(s): \_\_\_\_\_

Other Land Use Designations: \_\_\_\_\_

Approved: \_\_\_\_\_ Denied: \_\_\_\_\_

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T O B E C O M P L E T E D B Y A P P L I C A N T

**NAME AND ADDRESS OF OWNER(S) OF THE PROPERTY**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

**NAME AND ADDRESS OF AGENT FOR OWNER(S)**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

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Applicant's Signature: \_\_\_\_\_

Date of Application: \_\_\_\_\_

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For guidance as to information required with this application, see Code section 25.09.300 and the section of this CAM titled "**What Should Your Application Include?**"