



Planning Commission

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TO: City Council

February 6, 2013

FM: Kathy Richardson, Chair

Mike Luxenberg, Vice Chair

RE: Summary of Major and Minor amendments to the ECA Regulations

Through the course of their review, the Planning Commission identified over 75 possible changes to the Environmental Critical Area (ECA) regulations. Most of these amendments were identified during the Best Available Science review and were subsequently included in the recommended updates to the ECA regulations. The Planning Commission also initially identified 17 major policy amendments to the ECA regulations, which were reduced to 12 items through the course of their review.

The following list represents a summary of all of the amendments incorporated into the Planning Commission Recommended Draft ECA Regulations. For reference, the Planning Commission's vote on each recommended policy approach to each item is captured as part of the description (votes for – votes against).

Recommended major policy amendments to the ECA regulations: After review and deliberation, the Planning Commission has recommended that the City Council adopt the following major policy amendments to the ECA regulations.

- 2-8b. **Fee-in-lieu mitigation for streams (6-0).** The City's consultant recommended that the city consider adopting a fee-in-lieu mitigation program for stream and wetland mitigation.
- 2-13c. **Alternative wildlife protection approach (5-1).** This amendment was proposed as an alternative to a recommended update to the Fish and Wildlife Habitat Conservation Area regulations. The alternative allows for site specific analysis of wildlife habitat protection, but does not include the identification of species of priority.
- 2-14c. **Alternative Balance of ECA protection and property use (6-0).** This amendment clarifies how the city regulates legally established improvements within ECA features and associated buffers. The amendment was proposed as an alternative to site specific buffer delineation, and also provides increased flexibility for established improvements.
- 3-3b. **Fee-in-lieu mitigation for wetlands (6-0).** The City's consultant recommended that the city consider adopting a fee-in-lieu mitigation program for stream and wetland mitigation.
- 3-6. **Revise wetland mitigation ratios in the code to be dependent on the kind of mitigation proposed (6-1).** The City's consultant recommended that the city refine the wetland mitigation tables to clarify the mitigation ratios associated with different types of wetland mitigation (e.g. creation, rehabilitation, etc).
- 3-7b. **Wetland Mosaic (6-0).** Washington State requires that the city evaluate a wetland's status as part of a mosaic of wetland features when classifying the wetland and applying ECA regulations. This amendment clarifies the requirement in the city's regulations.

- 3-19. **Wetland Development Flexibilities (5-1).** This amendment was identified during public testimony to the Planning Commission. The amendment will increase the amount of wetland alteration allowed under the ECA regulations without first avoiding the impact, and will provide reduced buffers for very small, low value wetland features.
- 4-15. **Development in the no-disturbance area of the Erosion Hazard Near Sensitive Water Bodies (EHNSWB) Overlay.** The amendments associated with this policy item focused on two aspects of development.
- Item 4-15e **(5-2)** addresses single family home construction / modification on existing lots in the no-disturbance area. This item allows for an expansion in the amount of impervious surface on a site in the no-disturbance area, if no increase in stormwater volume will result.
- Item 4-15g **(5-2)** authorizes subdivisions in the no-disturbance area of the EHNSWB overlay subject to a pilot program which would control erosion and sediment during and after development. Subdivisions would either directly tightline into Lake Sammamish or not increase the amount of stormwater volume.
- Item 4-15f **(4-3)** would expand the pilot program under 4-15g to allow projects that incorporate Low Impact Development techniques and level 3 flow control into their design to subdivide subject to the pilot program. Storm water would be handled via existing man-made conveyances (e.g. road side ditches).

Major policy amendments to the ECA regulations that are NOT recommended: The Planning Commission has also evaluated several possible major amendments to the ECA regulations, and after deliberations has recommended that the City Council not adopt the following amendments. The following amendments are not reflected in the Planning Commission Recommended Code Amendments.

- 2-7b. **Capital Projects & Type F Stream Relocations (2-4).** The City's consultant recommended that the city consider prohibiting the relocation of Type F streams for capital projects without requiring the use of a "Public Agency / Utility Exception".
- 3-4b. **Wetland Buffer Modified by Conditions (0-6).** This amendment was initially proposed by the City's consultant as a way to better reflect the effects of high intensity improvements adjacent to wetland buffers. The amendment would have resulted in the increase in many of the wetland buffers.
- 4-8c. **Steep Slope Exemption (3-3).** This amendment would have required that a site constrained with a steep slope (i.e. a 40% slope) that could otherwise be exempted from the ECA regulations, also comply with the requirements of the 2009 King County Surface Water Design Manual.

Other recommended amendments to the ECA regulations: The following recommended amendments to the ECA regulations are also included in the Planning Commission Recommended Code Amendments. These amendments were sometimes referred to as “minor” amendments by the Planning Commission, but actually include both non-substantive changes to the existing regulations, and substantive changes that did not require the depth of analysis afforded the “Major” policy amendments.

CARA

- 1-1. Modify the Critical Aquifer Recharge Area (CARA) regulations to further regulate land use activities that use chemicals that have a potential to degrade groundwater and surface water quality when used inappropriately or in excess.
- 1-3. Limit groundwater injection wells within Class 1 and 2 CARAs.

Seismic Hazard Area

- 1-4. Update the Seismic Hazard Area definition to specifically reference the terminology used within the updated Seismic Hazard map.

Stream

- 2-3. Require that trails crossing streams and aquatic areas use bridges and raised boardwalks.
- 2-4. Add functional criteria for allowing buffer reductions.
- 2-5. Add functional criteria for increasing buffer widths.
- 2-6. Authorize relocations of Type F streams for restoration purposes (amend language authorizing stream restoration to include stream relocation).

Wetland & Wetland Management Area overlay

- 3-1. Adopt the latest federal delineation manual and its supplemental documents, these should be used to delineate and categorize wetlands.
- 3-5. Provide additional guidance for mitigation impacts to wetland buffers.
- 3-10. Consider wetland buffer reduction options in combination with preserving / maintaining wetland and buffer functions.
- 3-20. Consolidate wetland definitions (public comment #75).

Lake Management Areas

- 3-12. Introduce thresholds to trigger stormwater treatment for redeveloped sites and pervious pollutant generating areas.
- 3-13. Allowing stormwater treatment technologies that have been tested using Ecology’s TAPE protocol and given a General Use Level designation to be incorporated into stormwater treatment systems in the Lake Management Areas.
- 3-14. Reference the King County or Ecology manual procedures to size, analyze, and design stormwater treatment BMPs for phosphorus reduction.

Erosion Hazard Areas

- 4-1. Define the “fully mitigated” conditions when construction is excepted from the seasonal clearing restrictions and allowed during the wet season [SMC 21A.50.220(1)(a)].
- 4-2. Specify actions required when measured site discharges exceed state water quality criteria [SMC 21A.50.220(4)].

Erosion Hazard near Sensitive Water Body overlay

- 4-3. Amend the description of the top of the no-disturbance area for clarity and require that delineation of the no-disturbance area by qualified consultant [SMC 21A.50.225(3)(a)].

- 4-5. Amend language specifying which developments must evaluate infiltration from those properties that historically “drained to” the no-disturbance zone to those properties that currently “drain to” the no-disturbance zone. [SMC 21A.50.225(3)(b)].

Landslide Hazard Areas

- 4-7. Revise the standard within SMC 21A.50.260(1) such that landslide hazard area buffers extend from top and toe of slope (instead of from edge).
- 4-9. Delete SMC 21A.50.260 (6) regarding drainage design in landslide hazard areas.
- 4-10. Option for the City to have a third party review of geotechnical reports in landslide hazard areas.
- 4-11. Revise SMC 21A.50.260 (2)(b) to include specified minimum static and seismic factors of safety for slope stability.
- 4-12. Revise SMC 21A.15.680 to include a definition of distinct break within a slope.
- 4-13. Revise definition of geologist in SMC 21A.15.545 to licensed geologist.
- 4-14. Revise definition of geologist and qualified professional in SMC 21A.15.545 and SMC 21A.15.942 respectively.

Administrative

- 5-1. Clarify the Partial Exemption provisions contained in SMC 21A.50.060.
- 5-2. Revise the provisions for select vegetation removal contained in SMC 21A.50.060.
- 5-3. Clarify the provisions and restrictions on removal of large woody debris contained in SMC 21A.50.060.
- 5-4. Clarify the use of and extent of mapping of critical areas contained in SMC 21A.50.090.
- 5-6. Revise the requirements for critical areas studies contained in SMC 21A.50.130.
- 5-7. Revise the signage and fencing requirements contained in SMC 21A.50.170.
- 5-8. Revise SMC 21A.50.260(2)(a) such that critical areas studies for landslide hazard areas can't be waived.
- 5-9. Clarify the provisions for previously established wetland and stream buffers contained in SMC 21A.50.290(1)(b) and 21A.50.330(1)(b).
- 5-10. Clarify the wetland buffer averaging provisions contained in SMC 21A.50.290.
- 5-11. Clarify the wetland buffer and stream buffer averaging provisions contained in SMC 21A.50.290 and 21A.50.330.
- 5-12. Clarify livestock standards for wetlands and stream protections standards contained in SMC 21A.50.290 and 21A.50.340.
- 5-13. Clarify the allowance of stormwater discharge at the edge of wetland and stream buffers in SMC 21A.50.300 and 21A.50.340.
- 5-14. Clarify the restoration requirements for wetlands streams, and stream / wetland buffers contained in SMC 21A.50.310 and SMC 21A.50.350.
- 5-15. Clarify the limitations on introducing non-native vegetation in SMC 21A.50.300 and 21A.50.340.
- 5-16. Clarify the stream and habitat restoration or enhancement provisions in SMC 21A.50.340.
- 5-17. Eliminate the “naturally occurring ponds” provisions contained in 21A.50.351.
- 5-18. Relocated definitions for Lake Management Areas to the definition chapter (SMC 21A.15) from SMC 21A.50.355.
- 5-20. Clarify the “existing development” or legal non-conforming regulations as applied to ECA regulations.