

Debbie Beadle

From: greg@gregorykipp.com
Sent: Thursday, September 13, 2012 8:21 PM
To: Debbie Beadle; Kamuron Gurol; Evan Maxim
Subject: RE: Kipp Response

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Beadle, Mr. Gurol & Mr. Maxim:

Thank you for sending the draft extended response to ECA/Density Calculations issue being considered by the Planning Commission. I have reviewed the response and for the most part am okay with the draft. There is one important factor not included in the paper, and I request that you add the following language to the final staff response.

City staff also suggested that the commenter narrow the scope of his proposal to minimize the impact on the comprehensive plan. The commenter's revised proposal limits the ECA density credit to only R-1 zoned lands. The rationale being:

- *fewer than 330 new single family homes would be added to the current growth projections for the city if all R-1 zoned lands were allowed to count ECA lands in calculating net density; and*
- *R-1 properties (and only R-1 properties) must already set aside 50% of the land for permanent open space; and*

Thank you for considering this request, and would appreciate you forwarding this email to the Planning Commissioners as I do not have their email addresses.

Best Regards,

Gregory Kipp

EXHIBIT NO. 205

----- Original Message -----

Subject: Kipp Response
From: Debbie Beadle <dbeadle@ci.sammamish.wa.us>
Date: Fri, September 07, 2012 2:15 pm
To: "greg@gregorykipp.com" <greg@gregorykipp.com>

| Dear Mr. Kipp,

As a part of our Environmentally Critical Areas (ECA) update process, staff has prepared extended responses to selected items from our public comment including for your submitted comment. Like all materials generated for the ECA process, these staff responses will be provided to the Planning Commission and posted to the website, likely later this month.

We are sending the draft response to you today as a courtesy and ask that you take a few minutes to review and provide comment if you choose. Because these are staff responses, I will not guarantee that we will make any changes that you request but I am willing to consider any comments. Please provide your comments by Friday September 14, 2012.

Thanks for your participation in this important process. If you have questions, please let me know.

-Kamuron Gurol

Thank you

Debbie Beadle

Administrative Assistant to the Community Development Director/Deputy Director

Community Development Department

City of Sammamish

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Please be aware that email communication with Council Members or City staff is a public record and is subject to disclosure upon request.

Debbie Beadle

From: James Osgood <james.osgood.officefinder@gmail.com> on behalf of jim@officefinder.com
Sent: Friday, September 14, 2012 10:41 AM
To: Debbie Beadle
Cc: Samuel Rodabough; Robert Kapela; Susan Richardson
Subject: Alternate Evaluation Form - 4-15
Attachments: EHNSWB Evaluation FormR2.pdf

Hi Debbie,

Attached please find my Alternate Evaluation Form for item 4-15. It is on 8 ½ by 14 paper for printing. Please add this to the public comment and distribute to the Planning commissioners.

Thank you,

Jim

Jim Osgood

(425) 391-8900 Extension 4



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EXHIBIT NO. 206.

Existing Regulation(s)	Proposed Amendment & Description
The existing regulations (SMC 21A.50.225) prohibit development <i>or site improvements</i> within the no-disturbance area of the Erosion Hazard near Sensitive Water Body (ENSWB) overlay except for: <ul style="list-style-type: none">• <i>Small</i> Single family homes on pre-existing lots <i>subject to limited RUE regulations</i>• Utility improvements in public right of way• Street construction to access existing property• Public park facilities.	Allow development, specifically subdivision, and site improvements of property in the no-disturbance area, contained within the Erosion Hazard near Sensitive Water Body overlay. Incorporate appropriate stormwater controls into any allowed development, which, <i>depending on the site characteristics, may include</i> : <ul style="list-style-type: none">• Required phasing of development• Seasonal clearing / grading limits with close out plan• Limit on overall area of an opened up site• Install permanent storm facilities at the onset• Tightline / direct discharge requirement• NPDES / 2009 KCSWDM as standard• Site specific analysis of drainage controls• Adaptive site management• Mandatory peer review
Desired Result of Amendment: Allow for development <i>including sub-division and site improvement</i> within the no-disturbance area of the Erosion Hazard near Sensitive Water Body overlay. Manage risk of large erosion / sediment loads into Lake Sammamish through the use of various site development management techniques.	

Amendment Source:

Public comment

Best Available Science Support: Neutral

Best Available Science Report "Erosion Hazard Areas & Erosion Hazards Near Sensitive Water Bodies" by AMEC Environment & Infrastructure, Inc. and Herrera Scientific Data.

Relevant Information (includes technical papers and/or references):

- East Sammamish Draft EIS, King County Planning & Community Development, July 1992
- East Sammamish Basin and Non Point Action Plan, King County SWM Division, December 1994
- National Pollutant Discharge Eliminate System (NPDES) Phase 2 permit issued by DOE
- Herrera submittals (comment # 145, 184, 193)
- Dr. Welch Submittal (comment #164)
- Greg Krabbe Submittals (comment #123, 143, 147, 149, 150, 158, 191, 192, 201)

Affected Code Section(s) (includes duplicative and overlapping sections):

- 21A.50.225 Erosion hazards near sensitive water bodies – Special district overlay
- 21A.110.030 (cross reference)
- 16.15.070 (cross reference)

Public Comment Reference(s):

37, 38, 62, 119, 123, 131, 143, 145, 147, 149, 150, 153-157, 158, 165, 184, 191, 192, 193

Technological Advances (if applicable):

- 2009 King County Surface Water Design Manual
- Low Impact Development Technical Guidance Manual for Puget Sound by PSAT, 2005

Notes:

"Lake Sammamish meets water quality standards for phosphorus, the lake is at risk for several other water quality parameters. Currently (2008), Lake Sammamish is on Ecology's 303(d) list, as a Category 5 waterbody for ammonia N, dissolved oxygen, and fecal coliform10 (Ecology 303(d) water quality data are available at <http://www.ecy.wa.gov/programs/wq/303d/index.html>)."
Source: <http://www.ci.sammamish.wa.us/files/document/5530.pdf>

(Alt.) Development in the No-Disturbance Item 4-15

Ratings are either: large positive (P), small positive (p), neutral, large negative (N), small negative (n)			
Environmental	Neutral	Implementation	Neutral
<ul style="list-style-type: none"> • Reduced on-site protection of the EHNSWB functions and values (F&V) • <i>Improved post development on-site protection of the EHNSWB functions and values (F&V)</i> • Neutral protection of public assets and resources (e.g. streets, water quality) with added Stormwater systems • Decreasing cumulative impacts to the EHNSWB F&V as development occurs • Neutral potential to restore damaged F&V • Neutral chance of damage to ECA F&V • Neutral potential to damage high quality, unique ECA features • Neutral effect on loss of ECA F&V <p>The proposed amendment will allow for development in the no-disturbance area of the EHNSWB overlay, which <i>may</i> allow for site impacts that would not otherwise occur, although these impacts can be largely controlled through the use of appropriate erosion / sediment control. The risk to water quality in Lake Sammamish <i>minimally</i> increases. Even a large erosion event would result in little impact to the lake quality. The risk for erosion control failures during the dry season is very small.</p>	<ul style="list-style-type: none"> • Greater chance for unintended consequences • Neutral effect on ability for consistent, efficient implementation by the staff • <i>Neutral</i> likelihood of support/approval by other agencies • Neutral effective mitigation, harder to monitor <p>The amendment would allow for development in the no-disturbance area with specified controls (or a menu of controls <i>based upon site characteristics</i>) to be proposed by the applicant and monitored by the city. Adaptive site management <i>may</i> be required to minimize unintended consequences from development. <i>Lake Sammamish meets water quality standards for phosphorus consequently likely will not be opposed by other agencies.</i> Implementing adaptive site management and effective erosion and sediment control measures will make overall site monitoring and mitigation harder to enforce given current resources, <i>but that is a small cost compared to loss of property value.</i></p>		
Property	P	Overall Effect	
<ul style="list-style-type: none"> • Increased flexibility and options for property owner's use of property • Neutral effect on predictability for permit applicants and neighbors • Increased recognition of site improvements and existing uses in standards • More expensive / more time <p>The proposed amendment will allow for development (i.e. subdivision, site improvements) where it is currently prohibited in the no-disturbance area, which provides options and flexibility for property owners. Review of development proposals, water quality protections, and erosion and sediment control will increase development costs and will increase development review times.</p>	<p style="font-size: 2em; font-weight: bold; margin: 0;">Positive</p>		

Debbie Beadle

From: Brent Carson <brc@vnf.com>
Sent: Friday, September 14, 2012 11:33 AM
To: Debbie Beadle
Cc: Kamuron Guroi; Evan Maxim
Subject: Sammamish Planning Commission - CAO Update
Attachments: Letter to Planning Commission.PDF

Ms. Beadle,

Please distribute the attached letter to the Planning Commission. This letter concerns the Critical Areas Update and is intended to be reviewed by the Planning Commission prior to their September 20th meeting.

If you have any questions, please let me know.

Brent Carson

Member

Van Ness Feldman GordonDerr *(Please note our new address & phone numbers)*

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EXHIBIT NO. 207.

September 14, 2012

Sammamish Planning Commission
City of Sammamish
801 - 228th Avenue SE
Sammamish, WA 98075

Re: Amendments Allowing Controlled Development in the No-Disturbance Area -
Revised Evaluation 4-15

Dear Planning Commission Members:

I am writing in follow-up to the presentation that I made and Mr. Krabbe made at your September 6, 2012 meeting regarding proposed code changes to the Erosion Hazards Near Sensitive Water Bodies (EHNSWB) standards and, in particular, modification to the No-Disturbance Area regulations.

As we discussed at your last meeting, the initial draft of Evaluation 4-15 provided by staff failed to accurately summarize the scientific evidence presented to date and did not reasonably evaluate the environmental and implementation effects of our proposed amendments. In response, we have drafted for your consideration a revision to Evaluation 4-15 (enclosed with this letter as Attachment A), taking into account the full scope of our proposed code amendments summarized in Citizen Comment #191.

Importantly, our proposal summarized in Comment #191 addresses two separate aspects of regulations to assure protection of water quality in Lake Sammamish from the potential adverse effects of development in areas within and tributary to the EHNSWB overlay.

We first propose tightening regulations for those properties that are tributary to the EHNSWB overlay that now contribute to erosion of stream channels and potential contribution of phosphates to the lake. As you know, public testimony indicates that there is currently an issue with peak flows within existing streams within the EHNSWB causing stream bank erosion. Development tributary to these natural conveyances, both inside and outside of the EHNSWB, contribute to these flows. This condition can be mitigated through the city's current runoff attenuation requirements as outlined in current drainage code, if implemented by new development and redevelopment. However, the City currently exempts properties 1 acre and below from full drainage review which eliminates a powerful tool to correct this problem. We suggest removing this exemption for properties tributary to the EHNSWB.

Secondly, we propose a detailed list of strict limitations and controls on new development within the current “no disturbance area,” that would assure protection of the lake both during and after development. These restrictions go far beyond the already stringent best management practice requirements under the NPDES Construction General Storm Water Permit and the Western Washington Storm Water Manual, which have proven effective in controlling phosphate during construction of properties within the Lake Sammamish basin (see Comments # 145).

Our proposed Evaluation 4-15 reaches a “Neutral” conclusion on the environmental impacts element of the decision tree based largely on two factors. First, our proposal, as noted above, would tighten regulations for currently exempt projects tributary to the EHNSWB, thereby providing some offset to any risks attributable to allowing development in the current “no-disturbance area.” Second, the scientific evidence submitted into the record demonstrates that the risk of development having an adverse water quality impact to the lake is minimal.

I would note that AMEC, the city’s consultant, has based its conclusions on the nearly twenty year old East Sammamish Basin and Non Point Action Plan without taking into account the advances in stormwater management and regulation since then that protect critical areas by reducing flows, controlling erosion, and minimizing the release of phosphorous. AMEC’s analysis also fails to consider the scientific information presented by Mr. Zisette of Herrera and Mr. Krabbe, demonstrating that development can occur without creating undue risk to the health of the lake.

This scientific evidence confirms that the water quality problems identified within Lake Sammamish in the 1994 Plan have been effectively addressed. Significant development has occurred in the Lake Sammamish basin since 1994, yet the lake has responded positively in terms of improved water quality. As noted by the analyses of Mr. Zisette of Herrera, this can be attributed to effective stormwater management during and after construction of these projects, since, without effective stormwater management, these projects would have contributed phosphate to the lake and the water quality in the lake would have declined.

Mr. Krabbe’s evaluation of the NPDES Construction General Stormwater Permit also shows that current requirements for best management practices have been very successful in controlling turbidity. Comment #201. With the additional restrictions proposed in our amendment, including direct tight-lining of stormwater to the lake, installation of stormwater controls at the outset of clearing, and strict seasonal construction limitations, development can occur without adverse impacts to the lake.

Mr. Zisette even analyzed the potential effect of a complete failure of erosion control (a highly unlikely scenario). He concluded that “high rates of soil erosion from a 5-acre construction site over an entire year would not have a measureable impact on water quality in Lake Sammamish.” See Comment #193.

For these reasons, we conclude that an overall “Neutral” conclusion should be reached with regard to environmental impacts from our proposed amendments.

With regard to the “Implementation” criteria of the decision matrix, we have also concluded that a “Neutral” conclusion is appropriate. While amending the current “no

disturbance area” requirements and allowing development under specific standards could require additional staff time to implement code requirements (which would be offset by additional fees), these changes would clarify existing regulations that allow the Director to grant reasonable use exemptions or to modify specific development standards. See Sammamish Municipal Code §§21A.50.225(g) and (h).

Moreover, as noted above, because the overall environmental effect of this proposal is “neutral,” other agencies are unlikely to raise issues as was suggested in staff’s initial draft. Indeed, no surrounding jurisdiction other than Sammamish has completely prohibited development on slopes less than 40% with erodible soils, yet these other jurisdictions have not faced challenges to their critical area regulations on this issue.

Finally, as reflected in the testimony before the Planning Commission, the City faces a real risk of litigation if subdivisions continue to be prohibited in the existing “no disturbance area” considering the well-established record demonstrating that such severe restrictions on private property rights are unwarranted. Adopting the proposed amendments would reduce the risk of such litigation, which must be considered as a positive implementation outcome in the decision matrix.

Overall, it is our conclusion, based on the record before the Planning Commission and the decision tree adopted, that the Planning Commission should reach a positive conclusion and recommend these proposed amendments to the City Council.

Thank you for your time and consideration of this important issue.

Very truly yours,



Brent Carson

BC:kl

Enclosures

cc: Client
Greg Krabbe
Evan Maxim
Kamuron Gurol

Existing Regulation(s)	Proposed Amendment & Description
<p>The existing regulations (SMC 21A.50.225) prohibit development within the no-disturbance area of the Erosion Hazard near Sensitive Water Body (EHNSWB) overlay except for:</p> <ul style="list-style-type: none"> • Single family homes on pre-existing lots • Utility improvements in public right of way • Street construction to access existing property • Public park facilities. <p>Also, under existing regulations, there has been erosion within existing streams within the EHNSWB from existing development due to poor drainage practices in the past and because properties smaller than 1 acre are exempt from full drainage review (City of Sammamish Surface Water Design Manual Addendum (1 acre exemption))</p>	<p>Allow development, and specifically subdivision of property in the no-disturbance area, contained within the Erosion Hazard near Sensitive Water Body overlay.</p> <p>Incorporate additional mandatory stormwater controls into any allowed development, including:</p> <ul style="list-style-type: none"> • Required phasing of development • Firm seasonal clearing / grading limits with close out plan • Limit on overall area of an opened up site • Install permanent storm facilities at the onset • Tightline / direct discharge requirement • NPDES / 2009 KCSWDM as standard • Site specific analysis of drainage controls • Adaptive site management • Mandatory peer review <p>Eliminate the 1 acre exemption from drainage reviews and require tightline stormwater conveyance to Lake Sammamish where feasible.</p>

Desired Result of Amendment:

Allow for development within the no-disturbance area of the Erosion Hazard near Sensitive Water Body overlay. Manage risk of large erosion / sediment loads into Lake Sammamish through the use of various site development management techniques and better management of stormwater during redevelopment. Mitigate or correct peak flow erosion in streams within the EHNSWB.

Amendment Source:

Public comment

Best Available Science Support: Conflicting Views

Best Available Science Report “Erosion Hazard Areas & Erosion Hazards Near Sensitive Water Bodies” by AMEC Environment & Infrastructure, Inc. noted not supported
 Scientific data submitted by Herrera supports amendment.

Relevant Information (includes technical papers and/or references):

- East Sammamish Draft EIS, King County Planning & Community Development, July 1992
- East Sammamish Basin and Non Point Action Plan, King County SWM Division, December 1994
- National Pollutant Discharge Eliminate System (NPDES) Phase 2 permit issued by DOE

City of Sammamish
 Planning Commission
 Environmentally Critical Areas Update

Development in the No-Disturbance Area Item 4-15

Revised 9/13/12

- Herrera submittals (comment # 145, 184, 193)
- Dr. Welch Submittal (comment #164)
- Greg Krabbe Submittals (comment #123, 143, 147, 149, 150, 158, 191, 192, 201)

Affected Code Section(s) (includes duplicative and overlapping sections):

- A.50.225 Erosion hazards near sensitive water bodies – Special district overlay
- 21A.110.030 (cross reference)
- 16.15.070 (cross reference)
- City of Sammamish Surface Water Design Manual Addendum (1 acre exemption)

Public Comment Reference(s):

37, 38, 62, 119, 123, 131, 137, 138, 141, 142, 159, 162, 167, 173, 180, 187

Technological Advances (if applicable):

2009 King County Surface Water Design Manual

Low Impact Development Technical Guidance Manual for Puget Sound by PSAT, 2005

City of Sammamish
Planning Commission
Environmentally Critical Areas Update

ATTACHMENT A

Evaluation Form

Ratings are either: large positive (P), small positive (p), neutral, large negative (N), small negative (n)

Environmental	Neutral	Implementation	Neutral
<ul style="list-style-type: none"> • Slight risk of reduced on-site protection of the EHNSWB functions and values (F&V) from allowing subdivisions in current No-Disturbance Area • Slight risk of reduced protection of public assets and resources (e.g. streets, water quality) • Improved water quality during redevelopment by removal of 1-acre exemption and requiring tight-lining • Neutral cumulative impacts to the EHNSWB F&V • Positive potential to restore damaged F&V • Neutral chance of damage to ECA F&V • Neutral potential to damage high quality, unique ECA features • Positive effect on loss of ECA F&V <p>The proposed amendment will allow for additional development in the no-disturbance area of the EHNSWB overlay, which will allow for site impacts that would not otherwise occur, although the risk of adverse impacts from such development are very low. Such risks can be largely eliminated by the use of proposed additional erosion / sediment control. Over time, drainage impacts from existing development will be reduced as properties are redeveloped and systems upgraded</p>	<ul style="list-style-type: none"> • Slightly greater chance for unintended consequences • Neutral effect on ability for consistent, efficient implementation by the staff • Neutral likelihood of support/approval by other agencies • More rigorous mitigation and monitoring practices • Positive effect on avoiding need to consider “reasonable use exceptions” or face regulatory takings claims. <p>The amendment would allow for development in the no disturbance area with specified controls (or a menu of controls) to be proposed by the applicant and monitored by the city. Adaptive site management would be required to minimize unintended consequences from development.</p> <p>In addition, current exemptions from full drainage review with the City’s code would be eliminated for properties tributary to the EHNSWB.</p> <p>Although Lake Sammamish is listed as a water quality impaired lake (Clean Water Act - 303(d) listing), because the risks to impairing water quality are so low, and balanced by improvements to water quality by redevelopment requirements, neutral likely consequence of adverse action by other agencies.</p>		

Property	P	Overall Effect
<ul style="list-style-type: none"> • Increased flexibility and options for property owner's use of property • Neutral effect on predictability for permit applicants and neighbors • Increased recognition of site improvements and existing uses in standards • More expensive / more time <p>The proposed amendment will allow for additional types development (i.e. subdivision) where it is currently prohibited in the no disturbance area, which increases options and flexibility for property owners. Review of development proposals, water quality protections, and erosion and sediment control will increase development costs and will increase development review times.</p>		<p>Positive</p>