**Debbie Beadle**

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| **From:** | Reid Brockway <waterat@comcast.net> |
| **Sent:** | Tuesday, September 18, 2012 9:52 PM |
| **To:** | ECA |
| **Cc:** | Kathy Richardson |
| **Subject:** | Reference material for 9/20 meeting |
| **Attachments:** | Stream Type definitions.docx; Overview of restrictions associated with streams.docx |
| **Follow Up Flag:** | Follow up |
| **Flag Status:** | Flagged |

Please provide the two attached one-page documents to the Planning Commission prior to the 9/20 meeting.

Based on questions a couple folks asked me during the critical areas tour this evening, I think it would be helpful for the Commission to have the two items attached to this email to refer to when addressing the stream-related amendments at this Thursday's meeting. One is the definitions of the three stream Types excerpted from the Definitions section the Development Code. The other is a brief summary I prepared of our code's restrictions associated with stream buffers and setbacks from the perspective of established residents living near streams.

I hope the Commission finds these useful.

Thanks,
Reid Brockway

EXHIBIT NO. 211

## 21A.15.1240 Streams.

"Streams" means those areas in the City where surface waters produce a defined channel or bed, not including irrigation ditches, canals, storm or storm water runoff conveyance devices or other entirely artificial watercourses, unless they are used by salmonids or are used to convey streams naturally occurring prior to construction of such watercourses. For the purpose of this definition, a defined channel or bed is an area that demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. For the purpose of defining the following categories of streams, normal rainfall is rainfall that is at or near the mean of the accumulated annual rainfall record, based upon the water year for King County as recorded at the Seattle-Tacoma International Airport.

(1) Streams shall be classified according to the following criteria:

(a) Type S streams are all streams inventoried as "shorelines of the state" under the City's shoreline master program. No Type S streams have been identified in the City as of September 1, 2005.

(b) Type F streams are those streams that are used by salmonids, have the potential to support salmonid uses, or that have been identified as being of special significance. Streams of special significance are those perennial reaches designated by the City based on historic fish presence and/or the probability of restoration of the following:

(i) George Davis Creek;
(ii) Ebright Creek;
(iii) Pine Lake Creek; and
(iv) Laughing Jacobs Creek, below Laughing Jacobs Lake.

(c) Type Np streams which are perennial during a year of normal rainfall and do not have the potential to be used by salmonids. Type Np streams include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. If the uppermost point of perennial flow cannot be identified with simple, nontechnical observations, then the point of perennial flow should be determined using the best professional judgment of a qualified professional.

(d) Type Ns streams which are seasonal or ephemeral during a year of normal rainfall and do not have the potential to be used by salmonids.

(2) For the purposes of this definition, "used by salmonids" and "potential to support salmonid uses" is presumed for:

(a) Streams where naturally reoccurring use by salmonid populations has been documented by a government agency;

(b) Streams that are fish passable by salmonid populations from Lake Sammamish, as determined by a qualified professional based on review of stream flow, gradient and barriers and criteria for fish passability established by the Washington Department of Fish and Wildlife; and

(c) Streams that are planned for restoration in a six-year capital improvement plan adopted by a government agency that will result in a fish passable connection to Lake Sammamish. (Ord. O2005-193 § 2; Ord. O2003-132 § 10)

**Overview of restrictions associated with streams** REB 9/18/12

For a Type F stream the required buffer is 150 ft on either side from the OHWM (21A.50.330 (1)), or more if the city deems it necessary (21A.50.330 (5))

Residents living near a Type F stream cannot:

- Make any alterations within a stream buffer without submitting a Critical Areas Study (21A.50.340 (1))
- Install any structure within 165 feet of the stream's OHWM (21A.50.210).[1]
- Plant any non-native plant species within 150 ft without obtaining "a state or federal permit or approval" (21A.50.340 (3))
- Remove invasive vegetation within 150 ft without submitting a "restoration or enhancement plan" (21A.50.060 (1)(d)
- Expand the footprint of a house within the buffer if built after Nov. 27, 1990, or by more than 1000 sf if built before that date (21A.50.060 (1) (a) & (b))

This is true even if the stream is on someone else's property, as will be the case where lots are not large. It can also be true even if that stream is an intermittent trickle.[2]

Same restrictions apply to Type Ns and Np streams, except...

- Type Np stream buffer is 75 ft (+15 ft setback)

- Type Ns stream buffer is 50 ft (+15 ft setback)

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[1] Note that the code defines "structure" as anything except low fences and uncovered low decks and paved areas. Therefore a garden shed, for example, is not permitted.

[2] Type F streams have no flow criteria; what makes them Type F is their "potential" for use by salmonids.