Debbie Beadle

From: Evan Maxim
Sent: Wednesday, October 17, 2012 1:01 PM
To: Debbie Beadle
Cc: Kathy Curry; Kamuron Gurol; Susan Cezar; Carl de Simas
Subject: FW: WDFW comments on the Sammamish ECAO update
Attachments: Sammamish CAO_WDFW comments.docx

Public Comment...

Evan Maxim
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City of Sammamish
425.295.0523

From: Nation, Theresa K (DFW) [mailto:Theresa.Nation@dfw.wa.gov]
Sent: Wednesday, October 17, 2012 11:50 AM
To: Evan Maxim
Cc: McGraner, Patrick (ECY); Brock, David W (DFW); Carlson, Margen L (DFW); Kalinowski, Stephan (DFW)
Subject: WDFW comments on the Sammamish ECAO update

Dear Mr. Maxim,

Please find attached a comment letter regarding the ongoing update of the Sammamish Environmentally Critical Areas (ECA) Regulations. Patrick McGraner (Dept. of Ecology) brought the project to my attention and I have reviewed some of the public hearing evaluation forms.

Please contact me if you have any questions about the comments, or if you require any other type of assistance with the ECA update.

Thank you,

Theresa Nation
Land Use and Environmental Planner
Washington Department of Fish and Wildlife
(360) 902-2562

EXHIBIT NO. 228

State of Washington
DEPARTMENT OF FISH AND WILDLIFE

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October 16, 2012

Mr. Evan Maxim
Senior Planner
City Sammamish
801 228th Avenue, SE
Sammamish, WA 98075

RE: WDFW Comments on Sammamish Proposed Amendments and Evaluation Forms
Amendments to Environmentally Critical Areas Ordinance

Dear Mr. Maxim:

The Washington Department of Fish and Wildlife (WDFW) appreciates the opportunity to review the City of Sammamish's Evaluation Forms for Amendments to the Environmentally Critical Areas Ordinance. The comments below are presented for your consideration.

Specify Species of Concern, Item 2-1

WDFW supports the proposal to identify species of local importance (referred to as "species of concern" in 2-1) in the Sammamish Fish and Wildlife Conservation Areas regulations (SMC 21A.50.325). There are a variety of ways to identify species of local importance. WDFW recommends consulting the Priority Habitats and Species List (PHS) (WDFW, 2008) as a starting point. The list contains habitats and species considered by WDFW to be a priority for conservation and management. WDFW also maintains geographic databases regarding known occurrences of priority habitats and species. This data can be requested in map or GIS format, and viewed online via the PHS on the Web application. For more information, please visit the PHS homepage at: http://wdfw.wa.gov/conservation/phs/

Fee-In-Lieu Mitigation for Streams, Item 2-8

WDFW does not condone or discourage the use of in-lieu fee mitigation (ILF) programs. Such programs have both advantages and disadvantages, and must be tailored to the needs of a specific area. At this time, WDFW has a slight preference for on-site mitigation. However, WDFW does evaluate proposed ILF programs on a case-by-case basis. We recognize that overall ecological functions for an individual stream or even an entire watershed can be improved through

appropriate use of ILF programs. Off-site mitigation may sometimes be more effective than on-site mitigation, while allowing additional flexibility for landowners. On the other hand, a poorly planned program has the potential to allow continuing ecological degradation.

Some of the things that WDFW looks for in an ILF program include:

- The primary goal must be to achieve no net loss of habitat functions and values.
- Proper mitigation sequencing must be applied before any off-site mitigation is considered. First avoid impacts, then minimize, and lastly mitigate.
- An ILF program must be science-based.
- An ILF program should have a watershed-based approach and identify the areas that are most appropriate for development or protection.
- Mitigation receiving sites should be located in an area relevant to the area impacted. (E.g., in the same sub-watershed or river system.)
- Mitigation credits and debits must be based on a scientifically valid measure of habitat function, value and area. Ratios must be greater than 1:1 to compensate for temporal loss, uncertainty of performance and difference in functions and values.
- Mitigation must be in-kind.
- An ILF program should include an ongoing monitoring component in order to evaluate whether goals are being met and whether or not there is any net loss of ecological functions.
- A contingency plan should be developed and funded in case the ILF program fails.

Site Specific Stream Buffer Location, Item 2-10
Variable Regulations for Stream Areas, Item 2-11

WDFW defines the riparian habitat area as "the area adjacent to aquatic systems with flowing water (e.g., rivers, perennial or intermittent streams, seeps, springs) that contains elements of both aquatic and terrestrial ecosystems which mutually influence each other." (Knutson and Naef, 1997) Riparian habitat performs functions that are essential to fish survival and productivity. In addition, approximately 85% of Washington's terrestrial vertebrate species use riparian habitat for essential life activities. Stream and riparian functions can be protected from some of the negative impacts associated with development by establishing stream buffers that encompass the entire area of influence. WDFW has reviewed the best available science (BAS) and developed buffer recommendations for retaining full stream and riparian functions. (See Knutson and Naef, 1997. Reference below.) The recommendations are based on the ecological functions performed by a given stream type. The values are considerably larger than what is found in the existing Sammamish regulations. Thus, one must consider that the established stream buffers already represent a considerably reduced buffer than what would be needed for full protection of functions.

WDFW does not support the proposals described in items 2-10 or 2-11. The purpose of the buffer area is to protect existing stream and riparian habitat, and prevent further degradation of ecological functions. The 2-10 proposal bases buffers first on the state of development and second on ecological function. This is not a logical approach. Buffers must be based on what is necessary to protect the resource. Buffers determined by taking a snapshot of current conditions and excluding everything but "viable habitat" have a host of problems. Some of these include making mandatory mitigation impossible, discouraging voluntary restoration, and failing to take into consideration future conditions. Another important aspect is that this approach to determining site-specific buffers does not take into account the cumulative impacts of consequently reduced habitat and functions that would be seen throughout a watershed. The result is impairment of functions on a watershed scale.

In highly developed landscapes, many functions may already be severely degraded. WDFW acknowledges that it is not reasonable to ask landowners to remove existing, legally built development without due cause (such as part of a mitigation agreement). However, we do expect that changes or redevelopment be done in a manner that does not further degrade stream or riparian functions. Riparian areas that have been previously degraded by development are still riparian areas and must be given consideration as such.

Since the current regulations contain already-reduced buffers from what BAS suggests, we find it unlikely that any site-specific evaluation would result in a determination that smaller buffers would provide acceptable protection of functions. We also find that a less-stringent set of standards, such as proposed in item 2-11 will not achieve protection of current functions and will have many of the same problems identified for item 2-10.

WDFW wishes to thank you again for the opportunity to provide comments on the City of Sammamish's Evaluation Forms for Amendments to the Environmentally Critical Areas Ordinance. There are many diverse viewpoints expressed in the various public comment letters, and updating the ordinance will undoubtedly be challenging. We hope that our comments will help clarify our position on some of the matters under consideration. Please do not hesitate to contact me with any questions.

Sincerely,

Theresa Nation
Land Use and Environmental Planner
Washington Department of Fish and Wildlife

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Olympia, WA 98501-1091

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E-mail: Theresa.nation@dfw.wa.gov

cc: David Brock, Regional Habitat Program Manager, WDFW
Margen Carlson, Interim Land Use Policy Lead, WDFW
Patrick McGraner, Wetland Specialist, WA Dept. of Ecology

References:

Knutson, K. L., and V. L. Naef. 1997. Management Recommendations for Washington's Priority Habitats: Riparian. Wash. Dept. of Fish and Wildlife, Olympia. 181 pp. Available at: http://wdfw.wa.gov/publications/00029/

Washington Department of Fish and Wildlife. 2008. Priority Habitats and Species List. Olympia. 177 pp. Available at: http://wdfw.wa.gov/conservation/phs/list/