

Debbie Beadle

From: Martin, Larry <LarryMartin@dwt.com>
Sent: Wednesday, November 07, 2012 3:05 PM
To: Debbie Beadle
Subject: Public Hearing Comments--Pilot Program for development in EHANSW no disturbance area
Attachments: Pilotprogramcomments.pdf

Ms. Beadle –

My comments on the proposed Pilot Program that would allow subdivision development in the EHANSW No-Disturbance Area (Evaluation form 4-15d) are noted on the attached excerpt from the public hearing draft of the proposed code amendment. My comments are labeled “Comment [LCM3]” and “Comment[LCM 4]”.

Please distribute this email and the attachment to the Planning Commission and staff and include it in the official record of this proceeding.

Thank you.

Larry Martin

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EXHIBIT NO. 239.

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(5) Pilot Program.

Comment [EM1]: Item 4-15d

(a) Establishment of Pilot Program. A Pilot Program is hereby established to allow clearing and development projects within the no-disturbance area as set forth herein on land that has slopes of less than 40 percent grade and that is located outside of critical area buffers.

(b) Purpose. The purpose of this Pilot Program is to allow for limited development within the no disturbance area under strict limitations in order to evaluate the ability to allow increased development within the no-disturbance area without adversely affecting the water quality of Lake Sammamish. Projects qualifying for this Pilot Program would not be subject to the preceding sections of 21A.50.225.

(c) Eligible Projects. Projects eligible for inclusion in this Pilot Program shall include, without limitation, three (3) subdivisions, and three (3) short subdivisions that are designed subject to one of the following:

(i) Where direct access to Lake Sammamish is available, the applicant shall install permanent water quality treatment and a tightline storm drain system discharging directly into Lake Sammamish designed by a professional engineer using the most current drainage manual and technologies. The applicant shall also install temporary erosion sediment control improvements, in particular active water quality treatment. The tightline system shall extend through the property and be available by extension or easement upstream to properties that naturally drain to the subject property; or,

(ii) Where direct access to Lake Sammamish is not available, the applicant shall design a project consistent with the development standards of Low Impact Development, in particular the project shall:

Comment [EM2]: Item 4-15d

(A) Sixty-five (65) percent of the site shall remain as forested open space. Re-vegetation shall be required to convert no forested open space to forested as part of the project approval.

(B) Ten (10) percent of the gross site area may be covered with impervious surface.

(C) Effective impervious surface on the site shall be minimized to the maximum extent practically feasible by limiting stormwater discharge volumes to match average annual volume discharged from the pre-developed forested site conditions as determined using a calibrated continuous simulation hydrologic model based on the EPA's HSPF program or an approved equivalent model. The city may modify these requirements based upon site specific analysis of the feasibility of required improvements, standards and specifications. Such analysis shall include evaluation of site and vicinity soils, hydrology, and other factors, as determined by the City, affecting the

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successful design of the stormwater or low impact development improvements. The city shall consider purpose, effectiveness, engineering feasibility, commercial availability of technology, best management practices, safety and cost of the proposal when evaluating a waiver or modification request. The applicant shall bear the burden of proof that a waiver or modification is warranted.

(d) A complete application for preliminary subdivision approval or preliminary short subdivision approval Applications for an eligible projects meeting the provisions of 5(c) above must be submitted within three calendar years from the effective date of the adoption by ordinance of the Pilot Program on forms provided by the Department. The Pilot Program shall expire and no further applications may be accepted after such three year period; Provided that if less than three complete preliminary subdivision applications, or three complete preliminary plat applications are submitted during such period, the Pilot Program shall be extended until three of each such applications have been submitted . Projects for which complete applications are accepted into the Pilot Program filed within the applicable time period may be reviewed, approved and constructed, under the terms of the Pilot Program, even if such review, approval, or construction occurs after the Pilot Program has expired. The City shall maintain a register of applications submitted after the maximum number of application have been received. In the event that an application for a project accepted into the Pilot Program is withdrawn by the applicant or cancelled by the City prior to the expiration of the Pilot Program, the next submitted application on the register for the same development type shall be accepted into the Pilot Program.

Comment [LCM3]: It is important that a sufficient volume and variety of development occurs under the Pilot Program to provide a meaningful level of monitoring and results. The City will not be able to decide if the ban on development should be continued or lifted permanently or otherwise modified without a good basis for doing so.

(e) Development Restrictions. Projects accepted under this Pilot Program may conduct clearing and development in the no-disturbance area, and shall not be subject to subsection 21A.50.225(2) so long as such clearing and development meets all of the following requirements:

(i) Clearing of the site shall be limited based on the treatment capacity designed into the permanent and temporary water quality treatment systems installed.

(ii) Construction Season Work Limits - Land clearing and grading may only occur between May 1st to September 30th with the phases of construction limited as follows:

(A) On or after May 1st, site clearing and grading necessary for the installation of permanent and temporary water quality treatment and conveyance may occur. Clearing and grading shall be limited to those portions of a site where such work is necessary to install tight-line stormwater conveyance, permanent and temporary stormwater detention, and/or water quality facilities. For the purposes of temporary erosion control, the required tightline system may be either a portion of the permanent stormwater

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- conveyance system if feasible, or a temporary tightline system to be replaced by the permanent system as construction progresses;
- (B) On or after June 1st, development of the site may occur.
- (C) No later than September 30th, all site clearing and grading activity must be completed and the site fully prepared for winter rains, through techniques such as hydroseeding or stabilization as set forth in an approved Construction Season Work Limit Plan.
- (D) Seasonal construction limitations may be extended with permission of the director if appropriate erosion control measures and practices are in place and weather patterns permit.
- (iii) Construction Season Work Limit Implementation. City approval of a temporary erosion control plan consistent with this section and other laws and regulations is required prior to any site work. The erosion control plan must demonstrate compliance with the grading limit area must include a Construction Season Work Limit confirming compliance with the construction season limitations and a Close Out Plan identifying the actions that will be taken to ready the site for winter weather. The Close Out Plan shall be updated as follows:
- (A) By August 15th City approval of any proposed changes to the Close Out Plan to assure that the site will be prepared for winter weather by September 30th is required.
- (B) By September 1st review and approval of any revisions to the close out plan is required.
- (C) By September 15th inspection of the site to confirm that all elements of the Close Out Plan are being implemented is required. Following inspections, the applicant of additional actions that are necessary and may order all construction work to be stopped other than work to prepare the site for winter weather.
- (D) By September 30th the all site work to prepare the site for winter weather shall be completed.
- (E) Seasonal construction limitations may be extended with permission of the director if appropriate erosion control measures and practices are in place and weather patterns permit.
- (iv) Early Installation of Permanent Stormwater Management System. In addition to installation of all required Temporary Sediment and Erosion Control measures, and prior to any grading, other than grading necessary for installation of the stormwater management system, the applicant shall construct the Project's stormwater management systems in accordance with plans approved by the City. Stormwater systems shall include permanent and temporary water quality treatment and detention facilities specified in the latest approved version of the

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Surface Water Design Manual and the pipes and outlet facilities necessary to convey stormwater to the approved discharge location.

(A) Temporary water quality treatment facilities shall be sized to treat runoff generated by cleared areas during a 25 year storm event and release treated runoff with a measured turbidity of no more than 25 NTU.

(B) Temporary water quality treatment facilities shall include active sediment controls, such as chemical treatment, enhanced filtration or a combination of both per DOE guidelines (Section C250 & C251, Volume II, Department of Ecology Stormwater Management Manual).

~~(v) No more than one (1) subdivision and one (1) short subdivision may start construction per dry season.~~

(vi) Ongoing monitoring data shall be collected by the applicant in accordance with the NPDES permit at the natural discharge location. Monitoring data shall be collected prior to the start of construction, through the construction period and until the last house has been built on the site. Data shall be summarized in annual reports to the city. Developer reports shall evaluate the effect on King County water quality data from Lake Sammamish.

(f) Pilot Program Evaluation. The city shall monitor the pilot program through the annual reports and shall summarize the report findings in a report evaluating how well the project achieved its purpose and goals and present the report to the City Council.

~~(g) If the application of this section would deny all reasonable use of property, the applicant may apply for a reasonable use exception pursuant to SMC 21A.50.070(2).~~

~~(h) The director may modify the property specific development standards required by this section when a critical areas study is conducted by the applicant and approved by the director which demonstrates that the proposed development substantially increases water quality by showing the following:~~

~~(i) Water quality on site is improved through site enhancements and/or other innovative management techniques;~~

~~(ii) The development project will not subject downstream channels to increased risk of landslide or erosion; and~~

~~(iii) The development project will not subject the nearest sensitive water body to additional erosion hazards. (Ord. O2009-250 § 1; Ord. O2005-193 § 1)~~

Comment [LCM4]: This limitation is not warranted or practical. It should be deleted. Significant cost must be incurred to prepare complete preliminary and final subdivision applications. Applicants cannot incur these costs with no assurance of when they will be able to go forward with development. This requirement would create unacceptable risk that market conditions could change by the time the development is allowed to go forward. There would be little or no ability to obtain pre-construction financing without a predictable construction start date. To get usable data for use in deciding whether the "no development" rule should be lifted permanently or modified, a typical level of development activity needs to be monitored for successive years. Allowing just one subdivision and one short subdivision per season will not produce any meaningful results upon which to base a decision about the regulation going forward. This limitation creates unacceptable risk that a construction season will see no activity because the one authorized development could be delayed or cancelled for any number of reasons without time for the next applicant in line to arrange financing and take its place in the pending construction season.

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