

**Debbie Beadle**

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**From:** George Toskey <getoskey@comcast.net>  
**Sent:** Friday, November 16, 2012 7:59 AM  
**To:** Debbie Beadle  
**Subject:** City's 20-foot Rationale  
**Attachments:** ECA Proposal.doc

Debbie,

Please forward to the planning commissioners. The document contains the following link to the City's 20-foot setback rationale for Lake Sammamish.

<http://www.ci.sammamish.wa.us/files/packet/7959.pdf>

Thanks,  
George

EXHIBIT NO. 258.

## Stream Buffer Widths and Protection of Fish and Wildlife Habitat Conservation Areas

The proposed widths of the stream buffers are inconsistent with setbacks from Lake Sammamish and Pine and Beaver lakes. Houses can be built within 20 feet of Lake Sammamish and within 50 feet of Pine and Beaver lakes.

How can this inconsistency be rectified?

**Number 1.** Follow the RCW 36.70A.030 (5) definition for critical areas exactly as written; remove streams from 21A.50. The setbacks for streams should appear elsewhere in the development code. The setback should be consistent with the 20-foot setback from Lake Sammamish.

The City went beyond the RCW definition in 2005 when lakes were included as critical areas in 21A.50. The Planning Commission is urged not to make the same mistake again.

**Number 2.** Explicitly specify the Fish and Wildlife Habitat Conservation Areas within Sammamish. The most likely candidates are the streams of special significance listed in 21A.15.1240(1)(b) with appropriate buffers.

“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”

A 50-foot buffer would be consistent with the setback from Pine and Beaver lakes. Both lakes are candidates for Fish and Wildlife Habitat Conservation Areas according to WAC 365-190-130(2)(g).

The proposed regulations in 21A.50.325 allows the City to require a critical area study as “appropriate due to the type of habitat or species.” With the type of habitat and species unidentified, the study could be forced upon anyone at the City’s discretion. This is unacceptable. I know of no one who appreciates uncertainty with respect to protection of the environment or use of their property.

The City’s rationale for the 20-foot setback from Lake Sammamish can be found in the city council packet for June 20, 2011 beginning on page 153.

<http://www.ci.sammamish.wa.us/files/packet/7959.pdf>

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## Appropriate Sections from Washington State Law

RCW 36.70A.030 Definitions.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. "Fish and wildlife habitat conservation areas" does not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

WAC 365-190-130

Agency filings affecting this section

Fish and wildlife habitat conservation areas.

(1) "Fish and wildlife habitat conservation" means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination to help assure long term population viability.

Fish and wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs.

(2) Fish and wildlife habitat conservation areas that must be considered for classification and designation include:

(a) Areas where endangered, threatened, and sensitive species have a primary association;

(b) Habitats and species of local importance, as determined locally;

(c) Commercial and recreational shellfish areas;

(d) Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;

(e) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;

(f) Waters of the state;

(g) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;  
and

(h) State natural area preserves, natural resource conservation areas, and state wildlife areas.

(3) When classifying and designating these areas, counties and cities must include the best available science, as described in chapter 365-195 WAC.

(a) Counties and cities should consider the following:

(i) Creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces, integrating with open space corridor planning where appropriate;

(ii) Level of human activity in such areas including presence of roads and level of recreation type (passive or active recreation may be appropriate for certain areas and habitats);

(iii) Protecting riparian ecosystems including salmonid habitat, which also includes marine nearshore areas;

(iv) Evaluating land uses surrounding ponds and fish and wildlife habitat conservation areas that may negatively impact these areas, or conversely, that may contribute positively to their function;

(v) Establishing buffer zones around these areas to separate incompatible uses from habitat areas;

(b) Counties and cities may also consider the following:

(i) Potential for restoring lost and impaired salmonid habitat;

(ii) Potential for designating areas important for local and ecoregional biodiversity; and

(iii) Establishing or enhancing nonregulatory approaches in addition to regulatory methods to protect fish and wildlife habitat conservation areas.