



Planning Commission

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TO: City Council

February 6, 2013

FM: Kathy Richardson, Chair
Mike Luxenberg, Vice Chair

RE: Recommendation for Environmentally Critical Areas Regulations Update

On behalf of the Planning Commission, we are pleased to transmit the Planning Commission's recommendations for the Environmentally Critical Areas (ECA) Regulations Update. At the City Council's direction, the Planning Commission used a thorough, inclusive, and well documented process to develop the recommended amendments. The Planning Commission has worked within the scope established by the City Council in its "Known Topics" documentation, and has further ensured that a complete Best Available Science review of the ECA regulations has been completed.

Thorough Fact-finding and Analysis

The City Council provided direction to the Planning Commission to review the existing Environmentally Critical Areas regulations and identified a list of known topics to be addressed. The update has also been prepared to satisfy the Growth Management Act (GMA) update requirements by considering legislative changes and including Best Available Science (BAS) as required under the GMA.

Best Available Science reports were produced by the City's consultant AMEC Environment & Infrastructure, Inc., detailing the current BAS for a variety of topics, noting any legislative changes, and including recommendations where appropriate. The consultant reports were reviewed and considered as part of the update process. The Commission and the public also were provided opportunities to ask questions of the consultant experts related to each report. The city actively worked with several agencies, including the local water and sewer districts, and the Department of Ecology, to obtain additional relevant information for the Planning Commission's review and recommendation.

The BAS reports serve as the primary source for the majority of the recommended amendments to the ECA regulations. Citizen and agency testimony were also valuable sources, which informed the ECA update process and are well documented in the public record; in the case of major policy items, the Evaluation Forms developed by the Planning Commission further document the sources of proposed amendments.

Inclusive Process

The ECA update used an extensive public participation process that began in March 2012 and included several public open house/roundtable discussions attended by staff, consultants and planning commissioners, more than 25 Planning Commission meetings, a number of opportunities for interested parties to meet in small groups or individually with staff, and a public hearing process. A comprehensive web page was developed and updated throughout the process, in addition to periodic e-mail updates through *GovDelivery*, a postcard was mailed to the entire city inviting people interested in the subject to attend Planning Commission meetings, and articles were published in the city newsletter. A total of 280 individual written comments were received as well as more than 165 verbal comments, and responses to these comments have been generated and are part of the public record.

A variety of opinions were expressed by the public and various governmental agencies related to proposed or needed code revisions to the ECA. For example:

- Some property owners expressed a desire for greater flexibility around property restrictions, desiring additional development opportunities, both related to existing residential uses, and subdivision. Primarily,

these comments related to additional flexibility on sites with smaller, lower value wetlands, allowing additional development and structures within stream and wetland buffers in developed neighborhoods, and increasing flexibility for both existing residential development and subdivision in the erosion hazard near sensitive water bodies overlay, an area located above and upon the slopes above Lake Sammamish.

- Other property owners expressed a desire to ensure adequate protection of the environment, and preservation of the natural features that provide important ecological functions and bring value to Sammamish as a desirable community. In particular, the Planning Commission heard many concerns related to the protection of water quality in Lake Sammamish, and the possible degradation of water quality if development is allowed in the erosion hazard near sensitive water bodies overlay. Further, some property owners were concerned about continuing to protect the functions and values of streams, wetlands, associated buffers, and wildlife habitat preservation.

The Washington State Department of Ecology, the Sammamish Plateau Water and Sewer District, Northeast Sammamish Sewer and Water District and King County Department of Natural Resources and Parks have also provided review and comment into the update process. The Department of Ecology primarily focused its comments on the protection of wetlands, the erosion hazard near sensitive water body overlay, and the eventual adoption of the ECA regulations in to the Shoreline Master Program. The water and sewer districts recommended additional protections for areas within the city susceptible to groundwater contamination (i.e. Critical Aquifer Recharge Areas). The King County Department of Natural Resources and Parks provided comments on a proposed mitigation fee-in-lieu program for wetlands and streams.

Well Documented Review Process

The state requires that each community identify, designate, and protect critical areas through their development regulations, and update the regulations periodically. Best Available Science (BAS) must be included in order to assure protection of the functions and values of critical areas. Additionally, special consideration is required of conservation or protection measures necessary to preserve or enhance anadromous fisheries. The city's consultant, AMEC Environment and Infrastructure, Inc. has documented this review in their BAS reports and addenda, to inform the Planning Commission's process. A significant majority of the Planning Commission recommendations are consistent with Best Available Science. For a minority of the items, the Planning Commission has recommended deviating from Best Available Science; a rationale and explanation has been provided as required by the Growth Management Act.

The Planning Commission has used a fact-based process in order to balance competing viewpoints and interests, while at the same time meeting the requirements of state law, addressing the known topics, considering the goals and policies of the comprehensive plan, and weighing the comments of various governmental agencies with jurisdiction or expertise.

In order to provide a framework for this process, the Commission developed a success statement and ground rules for public participation in the ECA update process. Additionally, to ensure appropriate consideration of the various aspects of proposed code changes, the Commission developed and utilized a new evaluation form mechanism and decision-making process. The evaluation forms helped the Commission weigh the various considerations related to the environment, implementation, and property aspects of the major policy items under consideration. A summary evaluation rating resulted for each proposed amendment, as well as for alternatives suggested by the public, staff, or the Commission. The Commission has recommended including in the ECA revisions only those items that received an overall positive rating.

In addition to major items, the Commission also considered a number of minor items and various "housekeeping" changes that were considered improvements in clarity, readability, and ease of use. These lesser amendments were discussed on an as needed basis and voted upon as a group.

Summary Recommendation

The Planning Commission **recommends, by a vote of six to one, that the City Council adopt** the proposed Environmentally Critical Areas revisions as amendments to the Sammamish Municipal Code. The Planning Commission also recognizes the city's desire to regulate critical areas consistently city-wide, including within shoreline

jurisdiction, and therefore also **recommends that the city amend the Shoreline Master Program (SMP)** to incorporate these changes into the SMP.

A summary of the recommended amendments and the minority reports is attached to this transmittal.

On February 12, the staff will provide a binder of material, titled "2013 ECA Update Volume 1", which we understand will include the following items:

- PC handoff materials from 2/6:
 - Handoff memo
 - Minority reports
 - Known topics document
 - List of recommended major policy items with summary statements, identify split votes
 - List of recommended minor items
- Existing flexibilities
- Success statement
- Evaluation forms-final PC versions
- Rating key and overall effects document
- Rationale for deviations from BAS
- Draft code
- Relevant Comprehensive Plan policies
- Growth Management Act requirements (RCW / WAC)

A second binder of background material, titled "2013 ECA Update Volume 2" will be available on request with the additional following information:

- Rules of conduct from CC retreat binders and tab 5 in PC binder
- BAS reports and addendums
- Public comments
- Agency comments
- Previous drafts of evaluation forms
- All other materials provided in the PC binder, except Tab 6 (PC schedule) and those items in Volume 1
- Cumulative Impact Analysis
- SEPA Checklist & Determination

Staff has reported that they will conduct the required review under the State Environmental Policy Act (SEPA) during the City Council's review process, and that they will prepare a Cumulative Impact Analysis, so as to process a Shoreline Master Program Amendment for review by the Department of Ecology.

Thank you for your consideration of our recommendations. We look forward to responding to your questions at the February 12th study session.

If you have any questions, please contact Kamuron Gurol, Director of Community Development at (425) 295-0520 or kgurol@ci.sammamish.wa.us.