



STAFF REPORT TO THE PLANNING COMMISSION June 27, 2019

- FILE NUMBERS: L18-0056 Critical Areas Code Update
- REQUEST: Review and revise Tukwila’s Critical Areas regulations, hold a public hearing and make a recommendation to the City Council.
- LOCATION: City Wide
- PUBLIC NOTICE: Notice was published in the Seattle Times and a postcard was mailed to the owners and tenants of all Tukwila parcels on 3/28/19. Proposed amendments were posted on the website and an email notification was sent to the interested parties list on 3/22/19. Information about the update was included in the citywide Stormwater mailer and the September eHazelnut newsletter. An open house was held on 10/9/18. Email notifications with links to the Planning Commission meetings were provided to the interested parties list.
- STAFF: Minnie Dhaliwal, Planning Supervisor
- ATTACHMENTS:
- A. Letter dated June 13th from Nancy Rogers representing Segale Properties
 - B. Summary of the proposed changes to the Vegetation Management regulations in the Shoreline, Critical Areas, Landscape and Tree Code
 - C. Edits in underline/strikeout version to the Vegetation Management regulations in the following Chapters:
 - 1. Shoreline (TMC 18.44),
 - 2. Critical Areas (TMC18.45)
 - 3. Landscape (TMC 18.52)
 - 4. Tree (18.54)

BACKGROUND

Staff had a work session with the Planning Commission on this item on November 8, 2019. The staff report for the November 8, 2018 meeting is available online. Here is the link to [staff report](#).

The second work session was held on February 28, 2019 and here is the link to the [staff report](#).

The public hearing was held on April 11, 2019 and here is the link to the [staff report](#)

Planning Commission deliberations were held on May 23, 2019 and here is the link to the [staff report](#)

On May 23, 2019, the Planning Commission deliberated and provided direction on the proposed amendments and asked staff to come back with a recommendation on the following two items:

- 1) Vesting provisions for Critical Areas Master Plan Overlay
- 2) Applicability and consistency revisions related to the vegetation management section of the Shoreline, Critical Areas, Landscape and Tree Code.

One additional item that has come up as part of the Department of Ecology's review of the Shoreline Master Program related to wetland buffers associated with restoration projects that include creation of off-channel habitat projects.

DISCUSSION

1. Vesting provision for Critical Areas Master Plan Overlay

Sensitive Areas Master Plan (SAMP) was approved for the Tukwila South area (approximately 400 acres south of 180th) in 2010. This approval allowed filling of smaller wetlands in exchange for enhancing larger wetlands located south of S. 200th St. Additionally, an off-channel habitat area was created as mitigation. See Attachment A for comments received from Nancy Rogers representing Segale Properties. The request is to vest the project to the buffers approved as part of the SAMP if the land has been cleared and graded and here is the language proposed by Nancy Rogers for the Planning Commission's consideration:

The external boundaries of critical area buffers adjacent to lands that have been cleared and graded pursuant to an approved Critical Area Master Plan (CAMP) or Sensitive Area Master Plan (SAMP) are not subject to expansion due to the later adoption of increased buffer widths into this Critical Areas Ordinance, the Shoreline Overlay regulations, or other applicable regulations. This limitation on expansion of buffer width means that future applications for building permits on lands previously graded to CAMP- or SAMP approved buffer boundaries, will remain subject to the CAMP- or SAMP-approved critical area buffer widths.

Here are some policy options for the Planning Commission:

- A. The vesting provisions for Tukwila South are addressed in the Development Agreement. No additional language is necessary in the Critical Areas code.
- B. Consistent with the vesting provisions in the Washington State a building permit shall vest the project. No additional language is necessary in the Critical Areas code.
- C. Allow a grading permit to vest the project to the buffers approved as part of the SAMP. Under this option the proposed language should be amended to take out reference to Shoreline Overlay regulations as the Planning Commission has finalized their recommendation on the Shoreline Code update. Also, the extent of clearing and grading that vests a project should be clarified.

Staff recommends option A.

2. Applicability and consistency revisions related to the vegetation management section of the Shoreline, Critical Areas, Landscape and Tree Code

Summary of the proposed changes is included as Attachment B. See Attachment C1, C2, C3 and C4 for the proposed amendments to the vegetation management sections of TMC 18.44

(Shoreline), 18.45 (Critical Areas), 18.52(Landscaping) and 18.54 (Tree). The purpose of these proposed amendments is to provide consistency between the four chapters and address lessons learned during implementation of the newly adopted Tree and Landscape Code.

3. Wetlands buffers associated with restoration projects that include creation of an off-channel habitat projects.

For shoreline restoration projects that result in a change in the location of the ordinary high water mark and associated shoreline jurisdiction on the subject property and/or adjacent properties, relief may be granted from Shoreline Master Program standards and use regulations. However, the relief for restoration projects is limited to ordinary high water mark and not buffers of any associated critical areas such as wetlands. Therefore, staff is recommending adding a new subsection:

TMC 18.45.90 Wetlands Uses, Alterations and Mitigation (D) Wetland and Buffer Mitigation Location:

7. Wetland creation for restoration projects may only be approved if the applicant can show (1) that the adjoining property owners are amenable to having wetland buffers extend onto or across their property; or (2) that the on-site wetland buffers are sufficient to protect the functions and values of the wetland and the project as a whole results in net environmental benefit.

RECOMMENDATION

Review the three items listed above and determine if these should become part of the Planning Commission's recommendation to the City Council. Staff will incorporate the changes recommended by the Planning Commission prior to forwarding the document to the City Council for further review.