



## **INFORMATIONAL MEMORANDUM**

.TO: **Planning and Community Development Committee**

FROM: **Nora Gierloff, AICP, Director of Community Development**

BY: **Maxwell Baker, AICP, Development Supervisor**

CC: **Thomas McLeod**

DATE: **May 12, 2025**

SUBJECT: **Ordinance Establishing a Critical Area Designation Permit and Requiring Pre-Application Conferences for Certain Permits**

### **ISSUE**

The proposed ordinance amends Tukwila Municipal Code (TMC) Title 18, Zoning, to create a Critical Area Designation (CAD) Permit and formalize the pre-application conference process. These changes are intended to improve clarity and coordination in the development review process, particularly for environmentally sensitive sites.

### **BACKGROUND**

The City of Tukwila regulates critical areas, such as wetlands, streams and steep slopes, under TMC Title 18. However, the absence of a dedicated permit type for establishing the presence and boundaries of critical areas has led to inconsistencies in early site review and confusion about how to determine project feasibility prior to full permit submittal. To address this, staff are proposing a new Critical Area Designation (CAD) Permit, which would provide a formal determination of critical area presence and applicability before development permits are accepted. The Planning and Community Development Committee was initially briefed about the Critical Area Designation Permit at the February 10, 2025, meeting and expressed support for moving the proposal forward.

As a companion improvement to the development review process, staff are also introducing a formal requirement for pre-application conferences. A pre-application conference is an early meeting between an applicant and City staff to discuss a potential development proposal, identify relevant codes and requirements, and flag potential issues before a full application is submitted. While pre-application conferences have long been an optional tool available to applicants under TMC 18.104.050, they are not required for any specific permit type. The current code allows applicants to request a meeting to discuss requirements and receive feedback on their proposal, but attendance is voluntary. The proposed code amendment would establish a mandatory pre-application process for certain complex permit types identified by the department, ensuring early coordination and better project outcomes.

### **DISCUSSION**

#### **Critical Area Designation (CAD) Permit**

The proposed new CAD Permit must be obtained for any property located within 150 feet of a confirmed or potential critical area before any development permit can be accepted. It would provide an official determination of the presence, or lack, of critical areas and would be valid for five years, unless site conditions or regulatory maps change significantly. Applicants may choose to use the City's consultant for the critical area study or submit their own report, which may be subject to peer review.

### **Pre-Application Conferences**

The amendment to TMC 18.104.050 would require pre-application meetings for certain permit types. The Department would publish a guidance document identifying which permits require a pre-application conference. Generally, these would include larger land use and development permits or permit types that are expected to lead to subsequent permits, such as design review. The intent is to ensure early coordination, clarify submittal requirements, identify potential site constraints, and facilitate interdepartmental review. A fee would be charged for the conference and credited toward the permit fee if an application is submitted within six months and the project scope remains consistent. These conferences would not vest project rights.

### **FINANCIAL IMPACT**

There is no direct budget impact. Permit and pre-application fees would be collected under the City's adopted fee schedule. The new processes are expected to improve permitting efficiency and reduce downstream review issues, potentially saving staff time and resources. For permits required to attend a pre-application conference, the pre-application fee will be credited toward the permit application fee if the applicant submits their project within six months and the scope remains substantially the same, including key elements such as use, intensity, and site layout.

### **RECOMMENDATION**

The Council is being asked to consider the ordinance at the May 12, 2025, Committee of the Whole meeting, with approval to take place as part of the Consent Agenda at the May 19, 2025, Regular Meeting.

### **ATTACHMENTS**

- A. Draft Ordinance – Critical Area Designation Permit and Pre-Application Conference Requirements

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, AMENDING TUKWILA MUNICIPAL CODE (TMC) ESTABLISHING NEW SECTION 18.45.050 TO ESTABLISH A PRE-APPLICATION CONFERENCE PROCESS FOR LAND USE PERMITS; AMENDING ORDINANCE NOS 2741 §3 (PART) AND 2745 §7, AS CODIFIED AT TMC 18.104.010; AMENDING ORDINANCE NO. 2741 §3 (PART), AS CODIFIED AT TMC 18.104.050; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, Title 18 of the Tukwila Municipal Code (“TMC”) establishes regulations for critical areas, and the City seeks to ensure these regulations align with best practices and statutory requirements; and

**WHEREAS**, the City desires to improve the permitting process by establishing a Critical Area Designation Permit, streamlining the review of critical areas while maintaining environmental protections; and

**WHEREAS**, the requirement for detailed critical area delineations has been identified as essential for ensuring compliance with TMC Title 18, and a dedicated permit will provide clarity and efficiency in the review process; and

**WHEREAS**, the proposed amendments to the Tukwila Municipal Code to establish the Critical Area Designation Permit are exempt from review under the State Environmental Policy Act (SEPA); and

**WHEREAS**, on February 10, 2025, the Planning and Community Development Committee received a briefing on the proposed approach and expressed support for moving the item forward to the City Council for consideration;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:**

**Section 1. Adoption of Findings of Fact.** The City Council finds as follows:

A. The above recitals, set forth as “WHEREAS” clauses, are hereby adopted as Findings of Fact in support of the adoption of this ordinance.

B. The amendments that are established below comply with the requirements of the Washington State Growth Management Act and the Tukwila Municipal Code.

**Section 2. Regulations Established.** TMC 18.45.050 is hereby established to read as follows:

**18.45.050 Critical Area Designation Permit**

A. A Critical Area Designation Permit establishes whether critical areas or buffers are present on or near the property and includes a critical area study if needed.

1. A Critical Area Designation Permit is required for any property that contains, or is located within 150 feet of, a confirmed or potential critical area before any other development permit can be accepted or issued.

2. A Critical Area Designation Permit may be applied for at any time by the property owner or the property owner's agent.

B. To apply for a Critical Area Designation Permit, the property owner or the property owner's agent must submit an application to the department using a form provided by the department. The application may cover the entire site or a portion, provided that a map is included identifying the area for which designation is sought.

C. The department, or its consultant, shall conduct an initial site review to determine whether critical areas or buffers exist, or have the potential to exist, on the property or within 150 feet. If a wetland or stream is identified, the applicant must obtain a critical area report consistent with TMC 18.45.070, as provided in subsection D as currently enacted or hereafter amended. If the presence or classification of a stream is uncertain, the report shall include a professional recommendation. If the report concludes that no wetland or stream exists on or within 150 feet of the property, and the department concurs, no further assessment shall be required.

D. To fulfill the requirement for a critical area report, the applicant shall either:

1. Fund a critical area study prepared by the City's consultant, which will not be subject to peer review; or

2. Submit a critical area study prepared by a qualified professional as defined in TMC Title 18, which may be subject to applicant-funded peer review by the City or its consultant.

E. Upon request by the applicant, the Critical Area Designation Permit may include an evaluation or interpretation of the applicability of critical area buffers and standards to a potential future development.

F. Based on the critical area report, the Department shall issue a final determination for the Critical Area Designation Permit.

G. The Department shall make its written determination on the Critical Area Designation Permit within one hundred twenty (120) days of receiving a complete application, unless an extension is authorized under the Tukwila Municipal Code.

H. The Critical Area Designation Permit shall be valid for five (5) years unless:

1. Physical conditions on or within 300 feet of the subject property have markedly and demonstrably changed due to natural processes or man-made activity, or

2. Applicable regulatory agencies adopt updated maps or designations that conflict with the original determination in the Critical Area Designation Permit.

**Section 3.** Ordinance Nos. 2741 §3 (part) and 2745 §7, as codified at TMC 18.104.010, "Classification of Project Permit Applications," is hereby amended to read as follows:

### TYPE 1 DECISIONS

TYPE OF PERMIT	DECISION MAKER
Temporary Encampment Permit Revocation (TMC Chapter 18.48)	Director
Administrative Variance for Noise – 30 days or less (TMC 8.22.120)	Director
Any land use permit or approval issued by the City, unless specifically categorized as a Type 2, 3, 4, or 5 decision by this chapter	As specified by ordinance
Boundary Line Adjustment, including Lot Consolidation (TMC 17.08)	Director
Critical Area Designation Permit	Director
Minor Modification of a Boundary Line Adjustment or Lot Consolidation Preliminary Approval (TMC 17.08.030)	Director
Development Permit	Building Official
Minor Modification to Design Review Approval (TMC 18.60.030)	Director
Minor Modification to PRD (TMC 18.46.130)	Director
Signs (TMC 19.12.020)	Director
Tree Permit (TMC 18.54)	Director
Wireless Communication Facility, Eligible Facilities (TMC 18.58)	Director

**Section 4.** Ordinance No. 2741 §3 (part), as codified at TMC 18.104.050, “Pre-Application Conferences” is hereby amended to read as follows:

**18.104.050 Pre-Application Conferences**

~~—A. Prior to filing a permit application requiring a Type 1, 2, 3, 4 or 5 decision, the applicant may contact the Department to schedule a pre-application conference. The purpose of the preapplication conference is to review and discuss the application requirements with the applicant and provide comments on the development proposal. The pre-application conference shall be scheduled by the Department at the request of an applicant, and shall be held in a timely manner.~~

A. A pre-application conference shall be required prior to filing a permit application when the permit type is identified in a guidance document maintained by the department. When a pre-application conference is not required, an applicant may voluntarily request one.

B. The purpose of the pre-application conference is to assist the applicant in understanding the applicable regulations, required permits, submittal expectations, and any known site constraints such as critical areas.

C. The department shall schedule the pre-application conference in a timely manner once a complete request is submitted on forms provided by the department, along with any required fee set forth in the City’s fee resolution, which shall be amended from time to time. Staff from other affected City departments or agencies may attend as determined necessary by the department.

D. For permits that require a pre-application conference, the City will not accept an application under this chapter unless the applicant attended a pre-application conference under this section within six (6) months immediately prior to the date of application submittal.

E. Applicants shall be charged a fee for the pre-application conference. If a permit application is submitted within six (6) months of the pre-application conference and the project scope remains consistent with what was presented, the pre-application fee shall be credited toward the permit application fee.

F. Pre-application conferences do not vest the applicant’s rights to any regulations in effect on the date of the conference.

**Section 4. Corrections by City Clerk or Code Reviser Authorized.** Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

**Section 5. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such

invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

**Section 6. Effective Date.** This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Andy Youn-Barnett, CMC, City Clerk

\_\_\_\_\_  
Thomas McLeod, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: \_\_\_\_\_

Passed by the City Council: \_\_\_\_\_

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Ordinance Number: \_\_\_\_\_

\_\_\_\_\_  
Office of the City Attorney