City of Seattle

Edward B. Murray, Mayor

Seattle Department of Construction and Inspections

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To: Councilmember Rob Johnson, Chair
Planning Land Use and Zoning (PLUZ) Committee

From: Margaret Glowacki, SDCI, Senior Planner

Subject: Environmentally Critical Area Regulations

Policy Background and Directives

In 1990 the Washington State Legislature passed the Growth Management Act (GMA) requiring local governments to manage growth by designating urban growth areas, preparing comprehensive plans, and adopting development regulations, including regulations to protect environmentally critical areas. The designation and protection of critical areas is one of the first requirements that must be satisfied under the GMA (RCW 36.70A.060(2) and RCW 36.70A.170). The designation and protection of critical areas is an important determinant of where development should or should not occur.

The City of Seattle protects environmentally critical areas (ECAs) through the regulations of Chapter 25.09 of the Seattle Municipal Code (SMC). In Seattle there are five types of ECAs as defined by RCW 36.70A.030: Geologic hazard areas, flood-prone areas, wetlands, fish and wildlife habitat conservation areas and abandoned landfills.

In general, the ECA regulations apply to any development or platting activity carried out on a public or private parcel containing an ECA or its buffer. As defined in Section 25.09.520, “development” includes all components of and activities related to construction or disturbance of a site.

In developing critical areas regulations best available science is required to be used in establishing the regulations to protect the functions and values of critical areas (RCW 36.70A.172(1)). These functions and values are dependent on the critical area type and include enhanced water quality, wildlife habitat, and managing flood risks. The requirement to include best available science also require measures to conserve and protect anadromous fisheries (salmon), including the protection of habitat for all life states of anadromous fish.

Proposed Changes

- Increase the buffer of Class III wetlands with moderate to high habitat function from 85 feet to 110 feet.
- Extend protection to areas that meet the definition of Washington Department of Fish and Wildlife (WDFW) biodiversity areas and corridors (currently only areas that are mapped as WDFW biodiversity areas and corridors are protected.)
- Allow the Director to protect WDFW Priority Habitat in addition to Priority Species with measures contained in a Director's Rule.
- Include greater protection for great blue heron based on WDFW's 2012 Priority Habitat and Species guidance for great blue heron.
- Remove the City requirement for State Environmental Policy Act (SEPA) review for certain projects that are exempt from SEPA under Section 25.09.800, but are located in a critical area, and add clear and predictable regulations protecting the environmentally critical areas, including the three previous stated changes.
- Amend the Director's Rule titled *State Environmental Policy Act (SEPA) Exemptions from Environmental Review Requirements When Establishing, Changing or Expanding a Use* to allow vegetation management that meets the ECA requirements as a SEPA exempt activity if it meets the SEPA exemption thresholds.
- Apply standards to achieve better fit in existing neighborhoods in subdivision processes. The proposal would require area outside of the ECA to be available for utility connections and apply certain development standards based on the area of the lot outside the ECA. New houses would be required to meet the single-family lot coverage, maximum height, and yard standards based on the non-ECA area.
- Include a new section that establishes the steps in mitigation sequencing to offset negative impacts to any critical area as set out in the 2007 Department of Community, Trade and Economic Development's *Critical Areas Assistance Handbook: Protecting Critical Areas within the Framework of the Washington Growth Management Act*.

Additional changes to the regulations that provide clarity in implementing the regulations are also included in this update.