



City of Seattle

Edward B. Murray, Mayor

Department of Construction and Inspections

Nathan Torgelson, Director

CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Applicant Name: City of Seattle Department of Construction and Inspections

Address of Proposal: All parcels in Seattle in which one or more Environmental Critical Area is located.

Lead Agency: City of Seattle Department of Construction and Inspections

SUMMARY OF PROPOSED ACTION

This is a non-project action that is proposing legislative action to amend the Regulations for Environmentally Critical Areas (SMC 25.09) including Best Available Science and giving “special consideration” to conservation or protection measures necessary to preserve or enhance anadromous fisheries. Amendments are also proposed to Sections 25.09.305, 25.09.747, 25.05.800, 25.05.900, and 25.05.908 of the City’s SEPA regulations, governing categorical exemptions and application of SEPA to environmentally critical areas. Further, the Great Blue Heron Management Plan Director’s Rule and the State Environmental Policy Act (SEPA) Exemptions From Environmental Review Requirements When Establishing, Changing or Expanding A Use Director’s Rule will be updated as part of the proposed code changes.

It is expected that the City Council will act on the proposed non-project legislation in summer of 2016.

The following approvals are required:

SEPA – Environmental Determination (Chapter 25.05, SMC)

Legislative Decision – City Council Action

SEPA DETERMINATION: Exempt DNS EIS

DNS with conditions

DNS issued under WAC 197-11-340(2). Comments must be submitted by June 26, 2016.

BACKGROUND DATA

Site Location and Description

This is a non-project action affecting sites that contain one or more Environmentally Critical Areas (ECA). Environmental Critical Areas include wetlands, fish and wildlife habitat conservation areas, geologic hazard areas (such as landslide-prone, steep-slope erosion and liquefaction-prone areas), flood-prone areas, and abandoned landfills located within the City of Seattle.

Proposal Description

The proposal is to amend the provisions of the existing Regulations for Environmentally Critical Areas (ECA) to meet the Growth Management Act (GMA) requirement that the City update its land use regulations to comply with the requirements of the GMA, including the provisions in RCW 36.70A.172. The requirements of RCW 36.70A.172 are to include the “best available science” (BAS) and to give “special consideration” to conservation or protection measures necessary to preserve or enhance anadromous fisheries when developing policies and regulations that protect the functions and values of critical areas.

The proposed changes to the ECA to protect critical areas, are in keeping with the requirements of the Growth Management Act. A summary of proposed changes are found in the Director’s Report included in Appendix A of this decision.

Existing Conditions

The existing Environmentally Critical Areas regulations act to protect critical areas. Although the existing regulations were adopted in 1990, prior to the requirements in RCW 36.70A.172 to include the “best available science” (BAS) and to give “special consideration” to conservation or protection measures necessary to preserve or enhance anadromous fisheries, they were adopted with consideration of a wide variety of scientific information. After RCW 36.70A.172 was enacted and during the 2006, 2007, 2008, 2012 and 2013 ECA amendments, BAS was included in developing these updates. Amendments to the regulations included additional protection to the following ECAs:

- Wetlands and wetland buffers;
- Fish and wildlife corridors;
- Riparian corridors;
- Floodplains;
- Steep slope areas

In addition, these amendments developed regulations and review processes for altering trees and other vegetation in critical areas. Also, these amendments limited the use of small project waivers and clarified when exemptions from critical area regulations are allowed and the conditions that apply to them.

Public Process

Summary of public participation

During nine months of public outreach, staff of the Department of Planning and Development (DPD), the predecessor to the Seattle Department of Construction and Inspections (SDCI), attended a number of meetings with organizations and neighborhood groups to discuss these proposed changes.

Meeting Date	Organization
January 21, 2015	Master Builders Association
February 3, 2015	North Beacon Hill Council
February 4, 2015	Leschi Community Council
February 12, 2015	Master Builders Association
February 25, 2015	Public Meeting at City Hall
February 27, 2015	City Interdepartmental Meeting
March 31, 2015	Beacon Hill Public Forum
April 4, 2015	Seattle Parks and Recreation Mini-Summit
May 6, 2015	Urban Forestry Commission
May 12, 2015	Heron Habitat Helpers
May 28, 2015	Thornton Creek Alliance
June 25, 2015	Cedar Park Neighborhood Council
November 6, 2015	Cedar Park Neighborhood Council

Public input collected at these meetings addressed the following topics that are the six main topics proposed for change:

1. Application of subsections 25.09.045.F.3.f – Exemptions for public projects;
2. Application of Sections 25.09.240 – Short subdivisions and subdivisions;
3. Application of Section 25.09.260 – Administrative conditional uses;
4. Application of the stormwater regulations in relation to the ECA regulations;
5. Protection of great blue heron; and
6. Protection of wildlife habitat and other wildlife areas.

DPD used input from these meetings in the development of the proposed amendments. Prior to releasing this staff draft of the proposed amendments, DPD developed a summary of potential code changes that was circulated to stakeholders through the ECA listserv, distributed at public meetings, and posted on the ECA update project website. DPD has continually updated the project website with a timeline, background information, and BAS documents.

In September, 2015 the draft code of the ECA regulations, a summary of the proposed code amendments, DPD's Director's Report, and the Best Available Science Document were released for public comment. These documents were made available (and are currently available) for review on DPD/SDCI's website and at the Public Resource Center at 700 5th Avenue, Suite 2000, Seattle, WA. DPD/SDCI received comments from eleven individuals, organizations and agencies on the public draft. Additional amendments to the ECA regulations were made based on these comments, prior to publishing environmental (SEPA) review of the proposed legislation.

Additionally, a public hearing before the City Council's "Planning, Land Use and Zoning (PLUZ)" Committee will be held. Notice is provided in SDCI's Land Use Information Bulletin (LUIB) and publication in the City's official newspaper, which is the Daily Journal of Commerce. Public testimony will be taken at this public hearing. Written comments on the proposal will also be accepted.

Public Comment

DPD received comments from eleven individuals, organizations, and agencies.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from the project was made in the environmental checklist dated May 20, 2016. The information in the checklist, supplemental information provided by the applicant, which includes the Proposed Code Amendments, Director's Report and Best Available Science Document, and the experience of the lead agency with review of similar projects form the basis for the analysis and decision.

Short-term Impacts

As a non-project action, and with no current projects pending, the proposed amendment will not have any short-term (or construction related) impacts on the environment. After adoption this legislation will protect environmentally critical areas and mitigate short term environmental impacts.

Long-term Impacts

Over the long term the proposed amendments are expected to improve the protection of designated environmentally critical areas within Seattle. This legislation will mitigate long term environmental impacts of future development.

Conclusion

The proposed amendments to the ECA code will result in no significant adverse impacts to the environment and are intended to maintain or increase current protections of environmentally critical areas including wetlands, fish and wildlife habitat conservation areas, geologic hazard areas, flood-prone areas, and abandoned landfills areas. The proposed amendments will promote the public interest by protecting critical areas and allowing reasonable development. As such, there is no mitigation necessary or warranted by the application of the City's adopted SEPA policies.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.0302c.
- Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.0302c.

RECOMMENDED CONDITIONS - SEPA

None

Signature: (signature on file) Date: June 13, 2016
William K. Mills, Land Use Planner Supervisor