



COMMUNITY DEVELOPMENT DEPARTMENT

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CRITICAL AREA DETERMINATION - APPROVAL WITH CONDITIONS FOR NEW CONSTRUCTION WITHIN A FREQUENTLY FLOODED AREA, AND WITHIN VICINITY OF WETLANDS, INCLUDING BUFFER AVERAGING

Date of Original Submittal: 12/14/2018

Date of Disallowed Activity – Revised Critical Area Report Needed – 1/11/2019

Date Critical Area Report Submitted: 2/10/2020

Date of Final Decision: 7/2/2020

Project Applicant: Patti Johnson, Kittitas County Solid Waste Director, owner.

Project File #: P18-163

Project Description: The applicant initially submitted a Critical Area Form (a Type I Review) along with a SEPA (P20-011) for the siting of an essential public facility - the proposed construction of the new Kittitas County Transfer station – as well as a new Lower County Public Works Maintenance Facility. A short plat is being processed concurrently to divide the current site located on Parcel ID# 611033 into two parcels, one 10.87-acres (for location of the Maintenance Facility) and one 38.84-acres in size (for location of the Transfer Station). The property is currently zoned Industrial Light (I-L), and the main access for both the Maintenance Facility and the Transfer Station will be provided along US 97.

The updated critical area report shows that within the boundaries of Parcel ID# 611033, there are three wetlands, and several nonwetland waters (excavated irrigation ditches). The project site is also located on FEMA Flood Insurance Maps (FIRM) No. 5300950439B, and a small portion of the property is considered an A1 Flood Zone within the 100-year floodplain. The original critical area submittal was denied on January 11, 2019, due to the submitted report not including information regarding the 100-Year A1 Flood Zone on the property. In addition, the wetland buffers in the report did not reflect the 2018 Code updates to wetland buffers. The applicant submitted a revised critical area report on February 10, 2020.

Project Location: This proposal is located on what is currently Parcel ID#611033. A two-lot short plat has been proposed but is not finalized, which would divide this site into a 10.87-acre site, and a 38.84-acre site.

FINAL DECISION:

Approved – The proposed construction of a new Kittitas County Transfer station (an essential public facility) and a new Lower County Public Works Maintenance Facility, including approval to utilize wetland buffer averaging.

A SEPA Mitigated Determination of Non-Significance is being processed concurrently with this Critical Area Determination. This determination addresses required mitigation steps to protect the critical areas on site.

Wetland Rationale:

1. The subject parcel is identified on the US Fish and Wildlife Service's National Wetland Inventory as having a 5.94-acre PEM1C wetland in the southwest corner of the property.
2. As such, the parcel falls under the Critical Area Ordinance, Ellensburg City Code (ECC) Chapter 15.620, pertaining to "Wetlands".
3. Per ECC 15.620.020(A) All critical areas located within 300 feet of the project area that have been designated by the city and are shown on city, state, or federal government agency maps and/or reports shall be addressed in a critical area report for wetlands.
4. Jacobs Engineering submitted a Critical Area Analysis of the Wetlands and found 2.07 acres of wetlands within the survey area. All three wetlands noted are Palustrine Emergent Wetlands requiring 50-foot buffers. Wetland 1 (W1) is 1.44 acres, Wetland 2 (W2) is 0.26 acres, and Wetland 3 (W3) is 0.37 acres.
5. The proposed site plan and narrative avoid any new development within the established wetlands or buffers, except near Wetland 1. Per the site plan and critical area report, the project will result in permanent impacts to 12,836 square feet of W1 buffer. The report proposes mitigation through buffer averaging, by delineating, protecting, and enhancing an equal amount of buffer adjacent to the existing W1 buffer at a 1:1 ratio. The report determines that this will not impact the existing wetland.
6. Per ECC 15.620.030(E)(6) - Wetland Buffer Width Averaging. The director may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:
 - a. It will not reduce wetland functions or functional performance;
 - b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
 - c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
 - d. The buffer width is not reduced to less than 75 percent of the standard width or 35 feet.
7. The proposed site plan and mitigation appear to fall within the requirements of

ECC 15.620.030(E)(6) Wetland Buffer Width Averaging and therefore, can be approved through our Ellensburg City Code.

Floodplain Rationale:

1. The proposal, per ECC 15.630.010(A), is located within a frequently flooded area as identified by Flood Insurance Maps, specifically Firm Panel 5300950439B, which is a 100-Year Flood, A1 Zone (areas of shallow flooding).
2. ECC 15.610.060 "Critical Area Review Requirements" states that "prior to the city's consideration of any proposed activity not found to be exempt under ECC 15.610.020 or allowed pursuant to ECC 15.610.030, the applicant shall submit to the department complete information regarding the critical area on the application for the underlying development, on forms provided by the city."
3. The necessary documentation, including a detailed site plan, written project description, and updated Critical Area Report were submitted, outlining proposed flood mitigation measures. The applicant is proposing to divert D1 ditch around the perimeter of the site, and fill will be placed within the existing ditch D1 as part of the proposed design. Additional compensation will be provided through enhancement plantings along the length of the new ditch.
4. The applicant has addressed that this mitigation measure to divert the existing 100-year floodplain ditch will also be further developed and refined in coordination with the Army Corps of Engineers during preparation of the Section 404 permit application.
5. Development is allowed within the City's A zones, provided that the performance standards of ECC 15.630 are complied with.

Conditions:

1. The applicant shall follow the conditions as specified in the associated SEPA Threshold Determination (P20-011).
2. If any further development activity is pursued, beyond the approved scope of work proposed for this site, it will be necessary to submit a new Critical Area Information Review Form for review by the City.
3. Any further construction proposed for this site shall be reviewed with the impacts of this approved scope of work, for determining cumulative impacts to the site. Cumulative impacts will be calculated to determine if future SEPA review will be required.
4. The applicant shall comply with all requirements outlined in the City of Ellensburg Public Works division memo, dated 4/22/2020, regarding roadway and access, water, sewer, storm water, post office, and the Traffic Impact Analysis (TIA).

5. The applicant shall comply with all requirements outlined in the State Department of Ecology letters, dated 4/21/2020 and 6/24/2020, regarding water quality and water resources, along with any other applicable environmental regulations per state and/or federal law.
6. The applicant shall provide the City with a copy of the approved Army Corps of Engineer 404 permit prior to construction.
7. Requirements of all City Departments, the Fire District, all utility providers, and affected agencies must be satisfied, as outlined in adopted City Codes and other regulatory documents.
8. Plans shall adhere to the critical area requirements of the Ellensburg City Code 15.620, specific to wetlands, including but not limited to the following:

ECC 15.620.030 Performance standards – General requirements.

- A. Permit(s) Required.** Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas.
- B. Measurement of Wetland Buffers. ECC 15.620.030(E)(4)-** All buffers shall be measured from the wetland boundary as surveyed in the field. The width of the wetland buffer shall be determined according to the wetland category. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created restored or enhanced wetland. Only fully vegetated buffers will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered buffers.
- C. Wetland Buffer Width Averaging- ECC 15.620.030(E)(5)(6)** The director may allow modification of the standard wetland buffer width in accordance with an approved critical area report and the best available science on a case-by-case basis by averaging buffer widths. Averaging of buffer widths may only be allowed where a qualified professional wetland scientist demonstrates that:
 - a. It will not reduce wetland functions or functional performance;
 - b. The wetland contains variations in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrower buffer in other places;
 - c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
 - d. The buffer width is not reduced to less than 75 percent of the standard width or 35 feet.
- F. Signs and Fencing of Wetlands.
ECC 15.620.030(F)(1):**

The outer perimeter of the wetland and buffer and the limits of those areas to be disturbed pursuant to an approved permit or authorization shall be marked in the field in such a way as to ensure that no unauthorized intrusion will occur and is subject to inspection by the director prior to the commencement of permitted activities. The director shall have the authority to require that temporary fencing be placed on-site to mark the outer perimeter of the wetland and its associated buffer area. This temporary marking, and any required temporary fencing, shall be maintained throughout construction and shall not be removed until permanent signs, if required, are in place.

ECC 15.620.030(F)(2)(a):

Permanent signs shall be made of a metal face with a green color background and white letters; attached to a metal post, or another nontreated material of equal durability; made with a sign face no smaller than one foot by one foot square and no larger than two feet by two feet square; and mounted with the bottom of the sign face no less than three feet above and no more than five feet above adjacent grade. Signs must be posted at a minimum of one per lot of record, or on large parcels every 300 feet, or additional signs as required by the director and must remain unobstructed and be maintained by the property owner in perpetuity. The sign(s) shall be worded as follows or with alternative language approved by the director:

Protected Critical Area

Do Not Disturb

Contact the city of Ellensburg

Regarding Uses and Restriction

ECC 15.620.040 Performance standards – Compensatory mitigation requirements.

Compensatory mitigation for alterations to wetlands shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with the State Department of Ecology Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans, 2006, or as may be subsequently revised.

9. Plans shall adhere to the critical area requirements of the Ellensburg City Code 15.630, specific to frequently flooded areas, including but not limited to the following:

ECC 15.630.040 Performance standards – General requirements.

- A. Permit(s) Required.** The permit required by this section shall be incorporated into the basic underlying permits necessary for the project or activity to proceed within a frequently flooded area, e.g., building permit, short plat, public works permits, State Environmental Policy Act and city critical areas reviews, and similar permits and development reviews. Completion of and compliance with the necessary

review processes and permits listed above shall satisfy the requirement of issuance of a development permit for any activity that would alter land or commence a new use within a frequently flooded area.

- B. All necessary permits shall be obtained.** The director shall verify that all necessary permits have been obtained from those governmental agencies from which prior approval is required by federal, state, or local law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendment of 1972 and the Endangered Species Act of 1973.
- C. Development proposals must not reduce the effective base flood storage volume of a floodplain.** Grading or other activity that would reduce the effective storage volume must be mitigated by creating compensatory storage on the site. The compensatory storage must provide equivalent volume at equivalent elevations to that being displaced, be hydraulically connected to the source of the flooding, be provided in the same construction season, and occur on-site or off-site, if legal arrangements can be made to assure that the effective compensatory storage will be preserved over time.
- E. Construction Materials and Methods.**
1. Methods that minimize flood damage. All new construction and substantial improvements shall be constructed using flood-resistant materials and utility equipment, and with methods and practices that minimize flood damage.
 2. Structures shall be located outside the floodplain. All structures shall be located on the buildable portion of the site out of the floodplain unless there is no buildable site area out of the floodplain. For sites with no buildable area out of the floodplain, structures shall be placed on the highest land on the site, oriented parallel to the anticipated flow of water rather than perpendicular, and sited as far from the watercourse and other critical areas as possible. If the director finds any evidence of active hypothetical exchange on a site, the development shall be located to minimize disruption of such exchange.
 3. Utilities shall be protected. All utilities shall be located on the buildable portion of the site out of the floodplain unless there is no buildable site area out of the floodplain. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located to prevent water from entering or accumulating within their components during conditions of flooding.
- F. Elevation Certificate Required Following Construction.** Following construction of a structure within the floodplain where the base flood elevation is provided, the applicant shall be required to submit to the director an as-built elevation certificate from a licensed professional land surveyor that records the elevation of the lowest floor. The director shall obtain said as-built elevation certificate and maintain said certificates in its official records.
- I. Fill and Grading.**
Fill and grading within the floodplain shall only occur after the review and approval by the city of the clearing, grading, and fill proposal. Such a proposal shall require

a determination from a licensed professional engineer that the fill or grading will not block side channels, inhibit channel migration, increase flood hazards to others, or be placed within a channel migration zone, whether or not the city delineated such zones as of the time of the application. [Ord. 4656 § 1 (Exh. O2), 2013.]

ECC 15.630.060 Performance standards – Areas of Shallow Flooding.

Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:

B. Nonresidential Structures. New construction and substantial improvements of nonresidential structures within such AO zones shall either:

1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site to an height totaling one foot higher than the depth number specified in feet on the flood insurance map or at least two feet if no depth number is specified; or
2. Together with attendant utility and sanitary facilities, be completely floodproofed one foot above the depth number specified in the flood insurance map(s) referenced in ECC 15.630.010(A) so that any space below that depth number is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in ECC 15.630.040(G), Floodproofing.

C. Drainage Paths. All development shall include adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.



Kirsten Sackett, Administrator



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