

## **D#105 UTILITIES, OPEN SPACE, AND CRITICAL AREAS IN TRACTS**

### **SUPPLEMENTAL STAFF REPORT**

**SUMMARY:** This Supplemental Staff Report provides responses to issues that were raised at a Planning Commission meeting regarding amendments to the Renton Municipal Code Development Regulations (Title IV).

#### **General Description**

Currently, Title IV allows utilities, open space, and critical areas to be reserved as easements. The placement of these areas in tracts, however, would provide ease of maintenance by the City Public Works Department. The revisions to Title IV proposed herein would require certain utilities, open space, and critical areas to be located within tracts.

Protection of dedicated open space and critical areas would be enhanced.

The proposed text amendments would require such tracts to be identified on final plats upon recording.

Planning Commission Issue: Upon initial review, the Planning Commission questioned the language of the proposed revisions in regard to the ownership of tracts by residents of the subdivision in which the tract or tracts is/are located.

Staff Response: The Property Services Division of the Department of Community and Economic Development has reviewed the proposed revisions to the applicable sections of Title IV and their comments are now incorporated into the proposed revisions.

*[The following are proposed changes to the Draft Critical Areas Regulations that reflect the docket item to require utilities, open space, and critical areas to be included within tracts]*

#### 4-3-050 CRITICAL AREAS REGULATIONS

#### E. NATIVE GROWTH PROTECTION AREAS AND BUILDING SETBACKS:

#### 4. Native Growth Protection Areas:

**c. Method of Creation:** Native Growth Protection Areas shall be established by one of the following methods, in order of preference:

**i. Tract and Deed Restriction:** The permit holder shall establish and record a permanent and irrevocable deed restriction Notice of Sensitive Area on the property title of any critical area management tract or tracts created as a condition of a permit. Such deed restriction(s) Notice of Sensitive Area shall prohibit development, alteration, or disturbance within the tract except for purposes of habitat enhancement as part of an enhancement project, which has received prior written approval from the City, and from any other agency with jurisdiction over such activity. A In addition, the Notice of Sensitive Area covenant shall be placed on the tract prevent the sale of such tract to any party without the prior approval of the City of Renton restricting its separate sale. Each abutting lot owner of the subdivision shall be granted an equal and or the homeowners' association shall have an undivided ownership interest in the tract.

**ii. Conservation Easement:** The permit holder shall, subject to the City's approval, convey to the City or other public or nonprofit entity specified by the City, a recorded easement for the protection of the critical area and/or its buffer.

~~**ii. Protective Easement:** The permit holder shall establish and record a permanent and irrevocable easement on the property title of a parcel or tract of land containing a critical area and/or its buffer created as a condition of a permit. Such protective easement shall be held by the current and future property owner, shall run with the land, and shall prohibit development, alteration, or disturbance within the easement except for purposes of habitat enhancement as part of an enhancement project which has received prior written approval from the City, and from any other agency with jurisdiction over such activity.~~

~~**iii. Tract and Deed Restriction:** The permit holder shall establish and record a permanent and irrevocable deed restriction on the property title of any critical area management tract or tracts created as a condition of a permit. Such deed restriction(s) shall prohibit development, alteration, or disturbance within the tract except for purposes of habitat enhancement as part of an enhancement project~~

~~which has received prior written approval from the City, and from any other agency with jurisdiction over such activity. A covenant shall be placed on the tract restricting its separate sale. Each abutting lot owner or the homeowners' association shall have an undivided interest in the tract.~~

**g. Responsibility for Maintenance:** Responsibility for maintaining the Native Growth Protection Area easements or tract or tracts shall be held by a homeowners' association, ~~abutting lot owners, the permit applicant or designee,~~ or other appropriate entity, as approved by the City.

**h. Maintenance Covenant and Note Required:** The following note shall appear on the face of all plats, short plats, Planned Unit Developments, or other approved site plans containing separate Native Growth Protection Area tract or tracts, and shall also be recorded as a covenant running with the land on the title of record for all affected lots on the title: "MAINTENANCE RESPONSIBILITY: All owners of lots created by or benefiting from this City action, abutting or including a Native Growth Protection Area easement {tract} are responsible for maintenance and protection of the ~~easement {tract}~~. Maintenance includes ensuring that no alterations occur within the tract and that all vegetation remains undisturbed, unless the express written authorization of the City has been received."

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## **6. Very High Landslide Hazards:**

**c. Native Growth Protection Area – Very High Landslide Hazards:** The landslide hazard area shall be placed in a Native Growth Protection Area tract pursuant to subsection E4 of this Section and designated as a "no improvement areas," ~~or~~ The tract may be dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the City. Based upon the results of the geotechnical study, the buffer may be placed in designated a Native Growth Protection Area and included in the NGPA tract, or it may be designated as a "no build" easement, or the area may be designated, in part, a Native Growth Protection Area and included in the NGPA tract and, in part, a "no build" easement not included within the NGPA tract.

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## **K. FISH AND WILDLIFE HABITAT CONSERVATION AREAS:**

### **4. Native Growth Protection Areas:**

Based on the required habitat assessment, critical habitat areas and their associated buffers may be ~~required to be placed in designated a~~ Native Growth Protection Areas, subject to the requirements of subsection E4 of this Section, or dedicated to a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the City.

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## **L. FWHCAS – STREAMS AND LAKES:**

## 6. Criteria for Permit Approval – Class 2 to 4:

a. **Creation of Native Growth Protection Areas Tract Required:** As a condition of any approval for any development permit issued pursuant to this Section, the property owner shall be required to create a Native Growth Protection Area tract containing that includes the stream/lake area and associated buffers based upon field investigations performed pursuant to subsection E4 of this Section; and

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## M. WETLANDS:

### 7. Requirements for Compensatory Mitigation:

h. **Protection:** All mitigation areas whether on- or off-site shall be designated as Native Growth Protection Areas within separate tracts and thereby permanently protected and managed to prevent degradation and ensure protection of critical area functions and values into perpetuity. Permanent protection shall be achieved through ~~deed~~ restrictions Notice of Sensitive Area on the NGPA tract or other protective covenant in accordance with RMC 4-3-050.

*[The following are proposed changes to the Renton Municipal Code that reflect the docket item to require utilities, open space, and critical areas to be included within tracts]*

## 4-4-130 TREE RETENTION AND LAND CLEARING REGULATIONS:

### D. PROHIBITED ACTIVITIES:

4. **Restrictions for Native Growth Protection Areas:** Tree removal or land clearing shall not be permitted within a ~~a~~Native g~~G~~rowth p~~P~~rotection Area, easement except as provided in the established ~~a~~Native g~~G~~rowth p~~P~~rotection a~~A~~rea requirements of RMC ~~4-3-050~~E4. (Ord. 5650, 12-12-2011)

## 4-6-030 DRAINAGE (SURFACE WATER) STANDARDS:

### K. MAINTENANCE OF DRAINAGE FACILITIES:

3. Conveyance systems to be maintained and operated by the City must be located in a drainage easement, tract, or right-of-way granted to City. Drainage structures, such as vaults or ponds, must be located within a dedicated tract. Offsite areas that naturally

drain onto the project site must be intercepted at the natural drainage course within the project site and conveyed in a separate conveyance system and must bypass onsite stormwater facilities. Separate conveyance systems that intercept offsite runoff and are located on private property must be located in a drainage easement that may be dedicated to the City if the City deems it appropriate depending on the upstream tributary area.

#### **4-7-130 ENVIRONMENTAL CONSIDERATION – GENERAL REQUIREMENTS AND MINIMUM STANDARDS:**

##### **C. ENVIRONMENTAL CONSIDERATIONS:**

A plat, short plat, subdivision or dedication shall be prepared in conformance with the following provisions:

**2. Native Growth Protection Areas ~~Easement and Minimum Lot Size:~~** Native ~~g~~Growth ~~p~~Protection ~~a~~Areas ~~easements may~~ must be within separate tracts, included in the minimum lot size of lots created through the subdivision process; provided, that the area of the lot outside of the easement is sufficient to allow for adequate buildable area and yards. (Ord. 4835, 3-27-2000)

#### **4-7-190 PUBLIC USE AND SERVICE AREA – GENERAL REQUIREMENTS AND MINIMUM STANDARDS:**

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##### **A. EASEMENTS FOR UTILITIES:**

Easements may be required for the maintenance and operation of utilities as specified by the Department.

##### **B. UTILITIES IN TRACTS:**

Utilities, such as stormwater vaults, ponds, or other structures, shall be located within dedicated tracts.

##### **BC. COMMUNITY ASSETS:**

Due regard shall be shown to all natural features such as large trees, watercourses, and similar community assets. Such natural features should be preserved, thereby adding attractiveness and value to the property. (Ord. 5100, 11-1-2004)

#### **4-7-200 INSTALLATION OF UTILITIES – GENERAL REQUIREMENTS AND MINIMUM STANDARDS:**

##### **B. STORM DRAINAGE:**

An adequate drainage system shall be provided for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit full-width roadway and required slopes. The drainage system shall be designed per the requirements of RMC [4-6-030](#), Drainage (Surface Water) Standards. The drainage system shall include detention capacity for the new street areas. Residential plats shall also include detention capacity for future development of the lots. Water quality features shall also be designed to provide capacity for the new street paving for the plat. Drainage vaults, ponds, etc. shall be located within dedicated tracts.

#### **4-7-220 HILLSIDE SUBDIVISIONS:**

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##### **C. STANDARDS:**

The following additional standards shall apply to hillside subdivisions:

- 1. Application Information:** Information concerning the soils, geology, drainage patterns, and vegetation shall be presented in order to evaluate the drainage, erosion control and slope stability for site development of the proposed plat. The applicant must demonstrate that the development of the hillside subdivision will not result in soil erosion and sedimentation, landslide, slippage, excess surface water runoff, increased costs of building and maintaining roads and public facilities and increased need for emergency relief and rescue operations.
- 2. Grading:** Detailed plans for any proposed cut and fill operations shall be submitted. These plans shall include the angle of slope, contours, compaction, and retaining walls.

3. Tracts: Areas of the subdivision deemed to be critical areas due to designation as protected slopes shall be located within a tract or tracts.

**34. Streets:**

- a. Streets may only have a grade exceeding fifteen percent (15%) if approved by the Department and the Fire Department.
- b. Street widths may be less than those required in the street standards for streets with grades steeper than fifteen percent (15%) if parking prohibition on one or both sides of the street is approved by the Administrator.

**4-8-120 SUBMITTAL REQUIREMENTS – SPECIFIC TO APPLICATION TYPE:**

**D. DEFINITIONS OF TERMS USED IN SUBMITTAL REQUIREMENTS FOR BUILDING, PLANNING AND PUBLIC WORKS PERMIT APPLICATIONS:**

**6. Definitions F:**

**Final Plat Plan:** The final plat or final short subdivision map (for short subdivisions of five (5) or more lots) shall be drawn to a scale of not less than one inch representing one hundred feet (1" = 100') unless otherwise approved by the Department, and on sheets eighteen inches by twenty four inches (18" x 24"). The original reproducible drawing shall be in black ink on stabilized drafting film, and shall:

- a. Include the date, title, name and location of subdivision, graphic scale, and north arrow.
- b. Include names, locations, widths and other dimensions of existing and proposed streets, alleys, easements, parks, open spaces and reservations.
- c. Include lot lines with all property lines dimensioned and square footage of each lot.
- d. Include boundaries of utility, open space, and/or critical area(s) tracts, and square footage, and purpose statement of each tract.
- ~~d~~e. Include location, dimensions, and square footage of any existing structures to remain within or abutting the plat.