



King County
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REGULATORY REVIEW COMMITTEE

- MINUTES -

MEETING DATE: February 8, 2018
Minutes finalized May 4, 2018

TO: Wally Archuleta Steve Bottheim
 Sheryl Lux Chris Ricketts
 Ty Peterson Steve Roberge
 Scott Smith

Jim Chan, Interim Director
Randy Sandin, Interim Assistant Director
Devon Shannon, Prosecuting Attorney's Office

FM: Lisa Verner, Legislative Coordinator and RRC Chair

Present: Devon Shannon, Wally Archuleta, Steve Roberge, Sheryl Lux, Lisa Verner, Pesha Klein and Matt Maynard.

1. For purposes of onsite mitigation, is “buffer addition” an available regulatory tool for allowed alterations under KCC 21A.24.045?

Background

When reviewing applications for allowed alterations under KCC 21A.24.045, the code requires mitigation and prioritizes onsite mitigation. When calculation mitigation for allowed alterations (drainfields, wellheads and access driveways), the alteration is considered to be within the buffer (i.e. the buffer is not displaced).

Staff have developed the term “buffer addition” in reference to adding buffer area outside the identified wetland buffer as an additional method of mitigation to compensate for the portion of the buffer that is impacted by the proposed allowed alteration. “Buffer averaging” is a separate tool identified in the code. Buffer averaging is typically used where the buffer boundary is redrawn to create an area outside of the buffer for alterations that are not allowed within a buffer (i.e. structure).

Staff has noted confusion on the part of applicants and applicants' consultants about the meanings of these two terms and when they are used.

Discussion

Mitigation is one of a series of prioritized ways to address impacts to wetlands: avoidance, minimization, mitigation, reduction, compensation and monitoring (KCC 21A.24.125). The code allows and prioritizes onsite mitigation as the preferred way to mitigate for impacts (KCC 21A.24.133).

KCC 21A.24.335, .340 and .380 identify forms of compensatory mitigation for impacts by allowed alterations. Buffer averaging is allowed in particular circumstances under KCC 21A.24.325. Buffer addition is a different type of onsite mitigation that is available to look beyond the designated wetland buffer to create or "add" wetland buffer as a form of mitigation for allowed alternations. The term "buffer addition" is not creating a new process, but is labeling a form of on-site mitigation that is contemplated by the code and has been applied to achieve mitigation in various impact scenarios.

Conclusion

Buffer addition and buffer averaging are distinct tools authorized under the code to carry out mitigation under KCC 21A.24.340 and .380. They are both part of the onsite mitigation package that is already allowed and encouraged, provided that the applicant submits a detailed analysis demonstrating that the ecological structure and function of the resulting buffer is equivalent to or greater to insure compliance with KCC chapter 21A.24. Buffer addition is a mitigation option for staff in review of allowed critical area alterations.