



# City of Tukwila

## Department of Community Development

Jim Haggerton, Mayor

Jack Pace, Director

June 1, 2010

### NOTICE OF DECISION

TO: Todd Smith, Applicant  
King County Assessor, Accounting Division  
Washington State Department of Ecology  
USACOE

This letter serves as a notice of decision and is issued pursuant to TMC 18.104.170 on the following project and permit approval.

#### I. PROJECT INFORMATION

Project File Number: L09-012 Buffer Reduction, L08-065 Tree Clearing Permit

Applicant: Todd Smith, Property Owner

Type of Permit Applied for: Special Permission from the Director to deviate from the City's buffer requirements for a Type 3 wetland buffer; Tree Clearing permit (mitigation plan) for unauthorized tree clearing in a sensitive area buffer.

Project Description: The applicant has been selected by the City to develop his site into a 9-lot compact single family development under the City's Housing Options Ordinance. As part of the site design, the applicant is seeking approval of a 50% buffer reduction, buffer mitigation and enhancement plans, wetland dredging and tree clearing permit. The applicant has requested to reduce the buffer distance from 50 feet to 25 feet. Additionally, using low-impact development techniques, some stormwater from the site will eventually be discharged into the buffer area and wetland.

Location: 13325 Macadam Road South

Associated Files: L09-020 (Short Plat), E09-001 (Environmental Review), L09-013 (Design Review), future Development Permit and future Public Works Activities Permits

Comprehensive Plan Designation/Zoning District: Low-Density Residential (LDR)

#### II. DECISION

SEPA Determination: A Determination of Non-Significance was issued on November 20, 2009.

Decision on Substantive Permit: The Community Development Director has determined that the application for wetland enhancement, wetland buffer reduction and tree clearing in preparation to develop a 9-lot compact single family project complies with applicable City and state code requirements and has approved that application, subject to any conditions which are set forth in the Decision based on the findings and conclusions contained in the staff report.

The following conditions have been placed on the project:

1. Work in the mitigation area will only occur during non-flowing/saturated conditions. The preferred time for construction is in the dry season (June-October).
2. Prior to the issuance of the Public Works permit:
  - a. Provide a cost estimate of the labor and materials for the five year monitoring requirement for the City's approval.
  - b. Submit a performance and maintenance security guarantee (bond or cash assignment) of 150% of the approved cost of labor and materials for the project to guarantee performance, maintenance, monitoring costs and correction of possible deficiencies. The guarantee may be held longer than 5 years if the performance standards have not been met or the mitigation has not been successfully established (TMC 18.45.090F7 and 18.45.210).
3. Monitoring:
  - a. A monitoring report, prepared by a qualified wetland biologist that documents performance of the wetland/buffer area in comparison to the performance standards, shall be submitted to the City on an annual basis, starting approximately 1 year after completion of the construction.
  - b. The monitoring report shall include evidence that this project has not changed the hydrology of any downstream, off-site wetlands. Prior to the final inspection of the public works permit the applicant shall provide baseline off-site hydrology conditions and the future monitoring shall be compared to the baseline conditions.
  - c. A qualified landscape maintenance contractor is required to carry out the maintenance for the five year monitoring period.

### **III. YOUR APPEAL RIGHTS**

The Decision on this Permit Application is a Type 2 decision pursuant to Tukwila Municipal Code §18.104.010. Other land use applications related to this project may still be pending.

No administrative appeal of a DNS or an EIS is permitted. One administrative appeal to the Planning Commission of the Decision on the Permit itself is permitted. If an MDNS was issued, any person wishing to challenge either the conditions which were imposed by the MDNS decision or the failure of the Department to impose additional conditions in the MDNS must raise such issues as part of the appeal to the Planning Commission.

A party who is not satisfied with the outcome of the administrative appeal process may file an appeal in King County Superior Court from the Planning Commission decision.

### **IV. PROCEDURES AND TIME FOR APPEALING**

In order to appeal the Community Development Director's decision on the Permit Application, a written notice of appeal must be filed with the Department of Community Development within 21 days of the issuance of this Decision, which is by June 23, 2010.



The requirements for such appeals are set forth in Tukwila Municipal Code 18.116. All appeal materials shall be submitted to the Department of Community Development. Appeal materials MUST include:

1. The name of the appealing party.
2. The address and phone number of the appealing party; and if the appealing party is a corporation, association or other group, the address and phone number of a contact person authorized to receive notices on the appealing party's behalf.
3. A statement identifying the decision being appealed and the alleged errors in the decision, including any specific challenge to an MDNS.
4. The Notice of Appeal shall identify (a) the specific errors of fact or errors in application of the law in the decision being appealed; (b) the harm suffered or anticipated by the appellant, and (c) the relief sought. The scope of an appeal shall be limited to matters or issues raised in the Notice of Appeal.
5. Appeal fee of \$115.

#### V. APPEAL HEARINGS PROCESS

Any administrative appeal regarding the Permit shall be conducted as an open record hearing before the Hearing Examiner based on the testimony and documentary evidence presented at the open record hearing. The Hearing Examiner's decision on the appeal is the City's final decision.

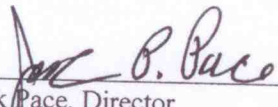
Any party wishing to challenge the Director's decision on this application must file an appeal pursuant to the procedures and time limitations set forth in RCW 36.70C. An appeal challenging a DNS, an MDNS or an EIS may be included in such an appeal. If no appeal of the Planning Commission decision is properly filed in Superior Court within such time limit, the Decision on this permit will be final.

The City's decision to issue a DNS, an MDNS or an EIS is final for this permit and any other pending permit applications for the development of the subject property.

#### VI. INSPECTION OF INFORMATION ON THE APPLICATION

Project materials including the application, any staff reports, and other studies related to the permits are available for inspection at the Tukwila Department of Community Development, 6300 Southcenter Blvd., Suite 100, Tukwila, Washington 98188 from Monday through Friday between 8:30 a.m. and 5:00 p.m. The project planner is Stacy MacGregor, who may be contacted at 206-433-7166 or [smacgregor@ci.tukwila.wa.us](mailto:smacgregor@ci.tukwila.wa.us) for further information.

Property owners affected by this decision may request a change in valuation for their property tax purposes. Contact the King County Assessor's Office for further information regarding property tax valuation changes. The notice board must be removed at the expiration of the appeal period if no appeal is filed.

  
\_\_\_\_\_  
Jack Pace, Director  
Department of Community Development  
City of Tukwila