



## Code Interpretation

### Sammamish Municipal Code (SMC) 21.03.020.K.2.f

#### Interpretation Request:

When is an updated critical areas report required? (Please see Exhibit 01 for details regarding this specific request.)

#### Context, Finding, Facts:

The Planning Division received an inquiry regarding the term of validity of a critical area report utilized for an expired permit, specifically a wetland delineation, in relation to new development proposal. Discussion points from the applicant's request are listed below:

1. *The critical report authored by me in 2019 stated in Section 2 page 1 states:*

*"This critical area report will be used to determine the encumbrances of the on-site critical areas for a future expansion of the existing single-family home. Wetlands Northwest LLC originally visited the property on October 2, 2014 for delineation and data collection when the property was under a different owner. A subsequent meeting with City staff, representatives of the Washington State Department of Fish and Wildlife (WDFW) and the present owners met on March 5, 2019 to determine if priority species or habitat was on-site. Wetlands Northwest LLC made another visit on May 15, 2019 to re-delineate the on-site stream and wetland, GPS locate and rate the on-site wetlands using the updated wetland rating system."*

*Based on the history on mybuildingpermit.com, the planning portion of the building permit was approved on 12/19/2019 by Jasvir Singh. I am assuming this is the date of vesting for the critical area report. I believe the vesting for the critical area report expires sometime in the 4th quarter of 2024 based on SMC21.03.020.K.2.f, therefore the critical area component for the new permit has been addressed.*

2. *The wetland delineation was performed and approved by City staff in 2019, it does not need to be revisited and it could be used for a new building permit. The impacts resulting from the expired building permit remain unchanged and will be the same building expansion and buffer modification in a future building permit. The impacts and compensatory mitigation were addressed in the report and approved by City staff in 2019 so it is my contention that SMC 21.03.020.K.2.a is moot.*

3. *Based on my reading of the Code, I believe the report approved in December 2019 negates the requirement for critical area review for any future permit December 2024. The Planning Department has a different point of view (you can view the history of the conversation in the message thread below). I've have been performing critical area reports pertaining to streams and wetlands for over twenty years and it has been the industry norm that a critical area report is valid for five years.*

A Critical Area Review, CAR2015-01426, was applied for in June 2015 and a review letter was provided in August 2015 (Exhibit 02). No additional permitting information was found for CAR2015-01426. In 2018, a building permit for an addition, BLD2018-05715, was applied for utilizing an updated version of the previously reviewed critical areas report. After multiple rounds of review, BLD2018-05715 was approved

December 30, 2019, and issued June 24, 2020. The final critical area report is dated October 21, 2019, the Wetland Determination Data Forms are dated October 2, 2015, and the Rating Summary – Western Washington is dated May 15, 2019. The October 21, 2019, critical areas report does not include a figure that identifies where each sampling point from the Wetland Determination Data Forms were located. BLD2018-05715 expired June 24, 2022

On January 1, 2022, Title 21 of the Sammamish Unified Development Code went into effect.

#### Interpretation:

The Department of Community Development has determined that new development proposals that include impacts to critical areas or their buffers must provide a critical areas study and wetland delineations completed over five years ago must be revisited.

The Wetland Determination Data Forms state the sampling date was October 2, 2015, and the report fails to provide a figure indicating the location of each data point. As the data forms associated with the wetland delineation in the critical areas report were completed in 2015, field verification is required. Field verification will be completed by the City's 3<sup>rd</sup> Party Peer Reviewer at the cost of the applicant. Staff recommends the applicant's biologist prepares a cover letter memorandum for the October 21, 2019, report that describes the site's history and confirms the information contained within the critical areas report, specifically the wetland delineation, remains accurate as of a current site visit.

#### Applicable Code Sections:

##### [SMC 21.03.020.K.2. Critical areas study requirement.](#)

- a. *An applicant for a development proposal where impacts to or alteration of an environmentally critical area or modification or reduction of a buffer associated with an environmentally critical area is proposed or may occur as a consequence of proposed actions shall submit a critical areas study at a level determined by the director to adequately evaluate the proposal and probable impacts.*
- b. *The director may waive or modify the requirement for a critical areas study if the applicant shows, to the director's satisfaction, that:*
  - i. *There will be no alteration of the critical area or buffer;*
  - ii. *The development proposal will not have an impact on the critical area in a manner contrary to the goals, purposes, objectives, and requirements of this chapter; and*
  - iii. *The minimum standards required by this chapter are met; or*
  - iv. *Critical areas are located off site and access to applicable off-site property is restricted.*
- c. *If the development proposal will affect only a part of the development proposal site, the department may limit the scope of the required critical areas study to include only that area that is affected by the development proposal.*
- d. *If necessary to ensure compliance with this chapter, the director may require additional information from the applicant, separate from the critical areas study.*
- e. *A development proposal may be allowed to utilize past studies from neighboring properties, if confirmed that the study findings remain accurate and applicable to proposed development.*
- f. *A wetland delineation completed over five years ago needs to be revisited. Revisiting a wetland delineation that is five or more years old does not necessarily mean that a new wetland delineation needs to be completed. It means that a field verification by the City may need to be performed to determine whether the delineation is still accurate or whether it needs to be redone based on existing conditions.*

Applicable Comprehensive Plan Goals and Policies:

Goal EC.2	Protect people, property and the environment in areas of natural hazards.
Goal EC.3	Protect wetlands and other water resources from encroachment and degradation and encourage restoration of such resources.
Goal EC.4	Protect and promote a diversity of plant, pollinator and animal species habitat in Sammamish.

General Authority:

As described in SMC 21.01.070 and SMC 21.09.070, code interpretations are binding interpretations concerning land use codes administered by the City’s Community Development Department. It is the intent of this chapter to establish the procedure by which the City of Sammamish will render a formal interpretation of a development regulation. The purpose of such an interpretation includes clarifying conflicting or ambiguous provisions in the City’s development regulations.

Applicant: Robert King, PWS, Wetlands NW LLC

Project Location: 1234 238th Avenue SE (applicable City-wide).

Appeal Period: February 7, 2024, through February 28, 2024. Pursuant to SMC 21.09.070.I.2.b, this interpretation may be appealed within 21 days from the date of issuance, on or before February 28, 2023, at 5:00 PM. Appeals are heard by the Hearing Examiner.

Staff Member Assigned: Savannah Hutchins, Associate Planner  
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David Pyle  
[David Pyle \(Feb 7, 2024 20:44 PST\)](#)  
David Pyle, Director of Community Development

02/07/2024  
Date

Exhibits

- 01 – 2023.12.13 Code Interpretation Request Email
- 02 – CAR2015-01426 Critical Area Review Letter
- 03 – BLD2018-05715 REVISED 2019 CRITICAL AREA REPORT