



NOTICE OF DECISION

City of Woodinville

Development Services Department
425-489-2754 • 17301 133rd Avenue NE • Woodinville, WA 98072
Desk Hours • Monday – Thursday 7:30am – 5:00pm • Friday 7:30am – 4:00pm

The City of Woodinville has issued a Notice of Decision for the following project:

Project Name: NE 145th Street Walkway

Proponent: City of Woodinville

Project Number: SEP10019

Description of proposal: Installation of a new walkway along NE 145th Street, from 138th Way NE to Woodinville-Redmond Road NE. The project includes installation of approximately 440 linear feet of sidewalk along the north side of NE 145th Street, potential crossing of the railroad track on NE 145th Street, and installation of a 130 foot long retaining wall. SEPA is required due to the presence of an unnamed stream.

Project Location: NE 145th Street Right-of-Way between 138th Way NE and Woodinville-Redmond Road NE, Woodinville, WA.

Notice of Decision Date: September 27, 2010

End of Appeal Period Date/Time: October 18, 2010

Project Permit Expiration Date: September 27, 2012

Project Decision: A public hearing was held before the Woodinville Hearing Examiner on August 26, 2010 for review of the critical area exception application. After considering comments by the public, City staff, and outside agencies, the project, including the critical area exception was approved with conditions by the Woodinville Hearing Examiner, subject to the attached Findings of Fact, Conclusions and Decision.

The project permit and critical area exception shall be valid for two (2) years from the date of this Notice of Decision. If an issued permit is not obtained within this period, the project permit and critical area exception shall become null and void, and a new application would need to be submitted.

The project permit and critical area exception shall also be declared void if there is a failure to comply with the approved plans or conditions of approval.

The application, supporting documents, and studies are available for review at the City of Woodinville, 17301 133rd Avenue NE, Woodinville, WA 98072. Contact: Erin Martindale, Project Manager, at (425) 877-2283. Email address: erinm@ci.woodinville.wa.us.

Appeals: A Party of Record must file an appeal of this decision within 21 days from date of this Notice. The final decision of the Hearing Examiner's Decision is appealable to the King County Superior Court. Appeals must be filed with the King County Superior Court Clerk's Office and



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City of Woodinville

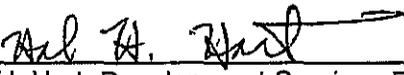
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must be filed no later than October 18, 2010. To receive additional information on appeals for this application, please contact the Project Manager listed below.

Affected property owners may request a change in valuation with King County for property tax purposes notwithstanding any program of revaluation. For information regarding property valuations and/or assessments, contact the King County Assessor's Office at 206-296-7300.

Contact person: Erin Martindale, Project Manager
Email address: erinm@ci.woodinville.wa.us

Phone: (425) 877-2283

Signature 
Hal H. Hart, Development Services Director

Date: September 27, 2010

Methods of Notice:

Published

Posted: 1) In-House, 2) Post Office & 3) Website

Post Site

Mailed to Parties of Record

King County Assessor's Office



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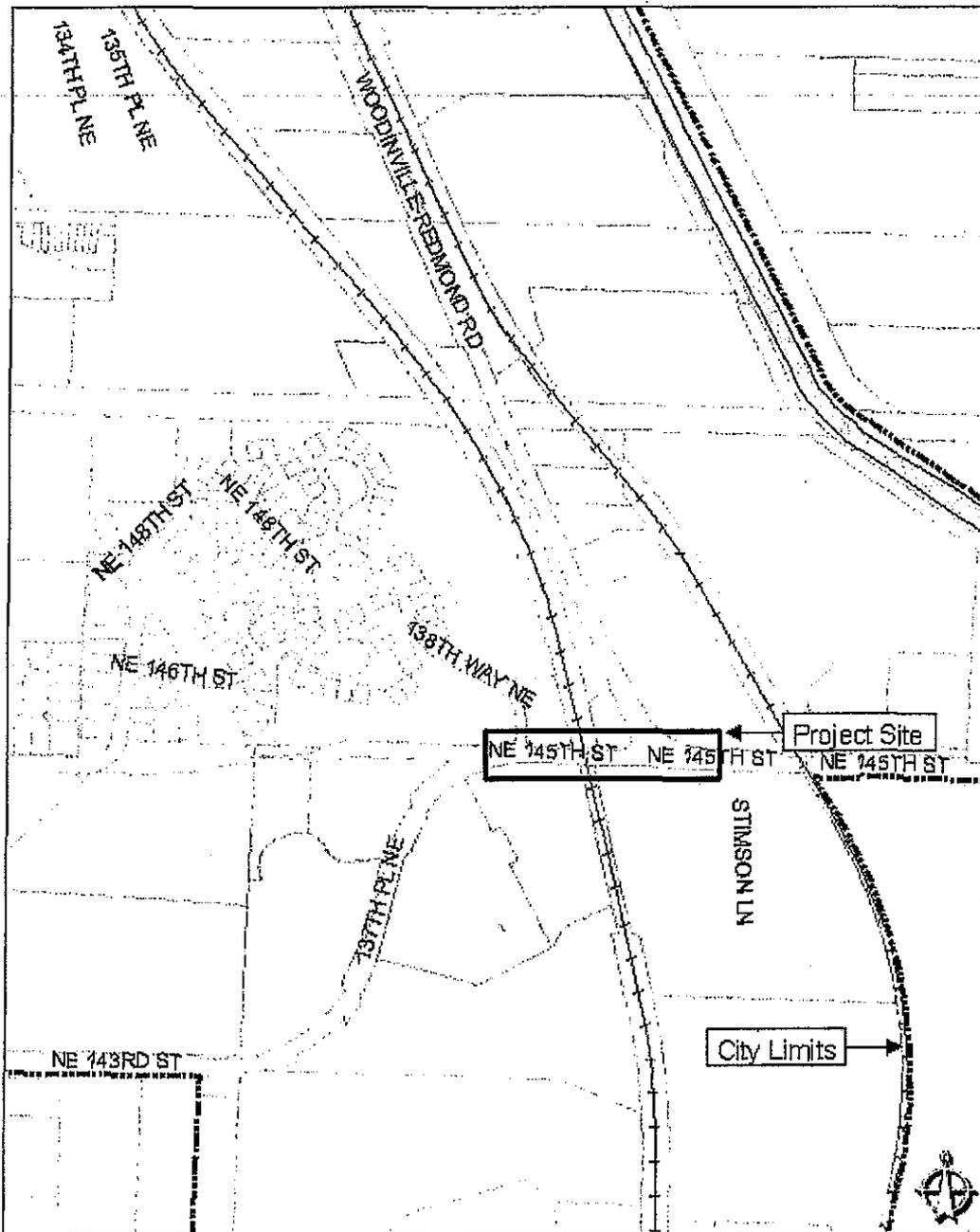
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Project Name: NE 145th Street Walkway

File Numbers: SEP10019



RECEIVED

SEP 14 2010

City of Woodinville

RECEIVED

BEFORE THE HEARING EXAMINER
FOR THE CITY OF WOODINVILLE

In the Matter of the Application of)
)
City of Woodinville)
Public Works Department)
)
)
For an Exception to the Critical Areas Ordinance)

File No. SEP10019

NE 145th Street Walkway

FINDINGS, CONCLUSION
AND DECISION

SEP 14 2010

CITY OF WOODINVILLE
DEVELOPMENT SERVICES

SUMMARY OF DECISION

The City of Woodinville Public Works Department requests an exception to the City of Woodinville Critical Area Ordinance to install a public sidewalk within public right-of-way on NE 145th Street. The proposed project would encroach on two stream buffers established by WMC 21.24.380. The Hearing Examiner affirms the recommendation of the City Development Services Director to approve the critical area exception. Conditions of approval are necessary to address specific impacts resulting from the proposal.

SUMMARY OF RECORD

Request:

The City of Woodinville Public Works Department requests an exception to the Critical Area Ordinance to install a public sidewalk within public right-of-way along NE 145th Street from 138th Way NE to Woodinville-Redmond Road NE in Woodinville, Washington. The proposed project would encroach on two stream buffers established by WMC 21.24.380.

Meeting:¹

The Hearing Examiner held a public meeting to review the Development Services Director's recommendation on August 26, 2010.²

¹ The City made an electronic recording of the public meeting. However, no audio was detected when playing the CD. Although a recording of any public hearing is normally required, here a public meeting rather than a public hearing was held and no verbatim transcript is required.

² WMC 21.24.080(1) provides that if an application of the Critical Areas Ordinance would prohibit a development proposal by a public agency, the agency may apply for an exception. WMC 21.24.080(1)(a) provides that the Development Services Director shall prepare a recommendation to the Hearing Examiner. WMC 21.24.080(1)(b) provides that the Hearing Examiner shall review the application and conduct a public hearing under appeal

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City Public Works CAO Exception, File No. SEP10019

Statements:

The following individuals presented clarifying comments at the public meeting:

Erin Martindale, City Senior Planner
Tom Hansen, City Engineer

Exhibits:

The following exhibits are the written record that formed the basis for the Development Services Director's recommendation:

1. Staff Report, dated August 19, 2010
2. General Application Form, received June 2, 2010
3. Plans received June 29, 2010, prepared by Otak
 - a) Cover Sheet (Sht. 1 of 9)
 - b) Right-of-Way Survey Control Plan (Sht. 2 of 9)
 - c) TESC and Demolition (Sht. 3 of 9)
 - d) Sidewalk Plan and Profile (Sht. 4 of 9)
 - e) Retaining Wall Plan and Profile (Sht. 5 of 9)
 - f) Retaining Wall Typical Section (Sht. 6 of 9)
 - g) Typical Section and Details (Sht. 7 of 9)
 - h) Pavement Marking Plan and Details (Sht. 8 of 9)
 - i) Buffer Mitigation at Woodin Creek Park (Sht. 9 of 9)
4. Notice of Application issued July 5, 2010
5. Determination of Nonsignificance, dated August 9, 2010, and SEPA checklist dated June 2, 2010
6. Mitigation Concept Memorandum, Otak, dated May 7, 2010
7. Agency Comments Received
8. Illustrative diagram and six photos (8.a- 8.f)

The Hearing Examiner enters the following Findings and Conclusions based upon the review of the record at the public meeting:

FINDINGS

1. Thomas E. Hansen, P.E., City Public Works Director, for the City of Woodinville Public Works Department (Applicant) requests an exception to the City's Critical Area Ordinance (CAO) to install a public sidewalk within public right-of-way along NE 145th

procedures found in Chapter 2.30 WMC. WMC 2.30.020(3) requires that the Hearing Examiner set the matter for a public meeting. WMC 2.40.020(5) provides that Hearing Examiner shall affirm the decision unless the decision is clearly erroneous. Therefore, the Hearing Examiner held a public meeting to review the recommendation made by the Development Services Director, Hal Hart.

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Street from 138th Way NE to Woodinville-Redmond Road NE, in Woodinville, Washington. The proposed project would encroach on two stream buffers established by WMC 21.24.380.³ *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 2; Exhibit 3(a)-(h).*

2. The City of Woodinville Development Services Department (City) determined that the Critical Areas Exception application was complete on June 28, 2010. The City provided notice of the application on July 5, 2010, by posting notice on-site and at the official locations for City notices, mailing a copy of the notice to property owners with 500 feet of the project and interested agencies; and publishing notice in the *Woodinville Weekly*. The City informed the Applicant of the public meeting. WMC 2.30.020(4). *Exhibit 1, Staff Report, pages 2 and 6; Exhibit 4.*
3. The City acted as lead agency in analyzing the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA). After review of the Environmental Checklist and other information on file, the City determined that the proposal would not result in a probable significant adverse impact on the environment, and issued a Determination of Nonsignificance (DNS) on August 9, 2010, with a comment period through August 23, 2010. The City did not receive any comments or appeals of the DNS prior to the end of the appeal period on August 23, 2010. *Exhibit 1, Staff Report, page 2; Exhibit 5.*
4. The project site is located within public right-of-way along the north side of NE 145th Street from 138th Way NE to Woodinville-Redmond Road NE. The Comprehensive Plan designation of the adjacent property includes Low Density Residential and Industrial. Public walkways support the Comprehensive Plan Community Design Element GOAL CD-4 to promote and plan for pedestrian/bicycle connections to and through residential neighborhoods and Transportation Element GOAL T-6 to promote non-motorized travel and ensure its safety, convenience, and comfort. *Exhibit 1, Staff Report page 3; Exhibit 3(a); Exhibit 3(b).*
5. Property to the north contains vacant lots and a tavern and is zoned Low Density Residential and Industrial with Tourist District Overlay. Property to the east includes a production winery and is zoned Industrial with Tourist District Overlay. Property to the south contains single-family residential and a production winery, and is zoned Low Density Residential and Industrial with Tourist District Overlay. Property to the west contains vacant lots and single-family residential. The proposed project would cross a railroad track owned by the Port of Seattle on NE 145th Street. *Exhibit 1, Staff Report, pages 1 and 2; Exhibit 5, Environmental Checklist, p. 2.*

³ A legal description is given in the environmental checklist. *Exhibit 5, Environmental Checklist, page 2.*

6. The Applicant proposes installing a 130-foot retaining wall with hand rail and approximately 400 lineal feet of five-foot wide concrete sidewalk along the north side of NE 145th Street. The proposed project would be constructed within a Type 4 stream buffer and within two feet of the stream's ordinary high water mark. The proposal would provide pedestrian access from the Chateau Highlands neighborhood to the Woodinville Tourist District. *Exhibit 1, Staff Report, pages 1, 2 and 4; Exhibit 3(a)-(i); Exhibit 5, Environmental Checklist, pages 2 and 7.*
7. The project site includes portions of two stream buffers subject to the provisions of the City's CAO. The purpose of the CAO is to implement the goals and policies of the Washington State Environmental Policy Act and the City of Woodinville Comprehensive Plan, including, but not limited to protection of unique, fragile, and valuable elements of the environment including wildlife and its habitat; prevention of overall net loss of wetland and stream functions; and, promotion of public enjoyment of environmentally protected areas by encouraging multiple use of sensitive area buffers when feasible and sensible. *WMC 21.24.010; Exhibit 1, Staff Report, page 4.*
8. Suzanne Anderson, Senior Wetland Ecologist, Otak, prepared a mitigation concept memorandum for the Applicant, dated May 7, 2010. The Otak memorandum identified a ditch and culvert system, which is designated as a Type 4 stream with a 50-foot wide buffer, located along the north side of NE 145th Street. A higher quality natural system, designated as a Type 3 stream with a 75-foot wide buffer and wetland, is located along the south side of NE 145th Street. The proposed walkway along the north side of NE 145th Street would be located within the buffers of both streams. A Type 3 stream buffer may be administratively reduced to 50 feet wide and a Type 4 stream buffer to 35 feet wide with buffer enhancement. The Otak memorandum determined that an alternative of placing the sidewalk on the south side of NE 145th Street would have greater impacts to the Type 3 stream and wetland complex than the proposed location. *WMC 21.24.370, -.380; Exhibit 5, Environmental checklist, page 4; Exhibit 6.*
9. No jurisdictional wetlands are associated with the Type 3 stream. Along the north side of NE 145th Street, the majority of the stream buffer to the west, south and east consists of pavement, gravel shoulders and railroad tracks. The northern portion of the buffer consists of mowed lawn with scattered trees. The proposal would avoid all direct impacts to the Type 4 stream, but would create approximately 1,200 square feet of impacts to the unpaved stream buffer area. The Otak memorandum determined that onsite buffer mitigation would not be effective because there is insufficient room to plant native woody species between the Type 4 stream and the sidewalk, and the north bank is composed of a rock wall. Plantings on top of the rock wall would not provide any shading for the Type 4 stream. *Exhibit 6.*

10. Proposed stream buffer mitigation would take place within Woodin Creek Park near the convergence of Woodin Creek and the Sammamish River. Woodin Creek Park is located north of the proposed project site within the same drainage, but different sub-basin. 1,200 square feet of stream buffer within Woodin Creek would be enhanced with planted trees and shrubs, at a one-to-one mitigation ratio, as described in a final planting plan. *Exhibit 1, Staff Report, page 6; Exhibit 3(i); Exhibit 6.*
11. The Type 4 stream is piped upstream of the project area, and carries storm water from a natural drainage basin east of 132nd Avenue NE. Stormwater currently flows from the crown of NE 145th Street into the stream. The stream flows downstream parallel to the railroad tracks, crosses Woodinville-Redmond Road NE, and is piped to the Sammamish River, approximately 3,000 feet from the proposed project site. The project design would include a curb and gutter. This would prevent stormwater from entering the stream along the new sidewalk section by collecting stormwater sheet flow into a new catch basin downstream of the open stream channel. Downhill of the stream, an additional catch basin would be installed along the north side of NE 145th Street. These catch basins are not part of the CAO exception request. The proposed project would comply with the 2005 King County Surface Water Management Design Manual. *Exhibit 1, Staff Report, page 5; Exhibit 5, Environmental Checklist, page 5.*
12. Erin Martindale, City Senior Planner, provided clarifying comments explaining that the City determined that a public meeting was appropriate to review the CAO exception. The City provided public notice of the application and the SEPA DNS. No public comments were received. Ms. Martindale commented that the Applicant had received notice of the public meeting. The Port of Seattle provided comments requesting a right of entry from the Port prior to any approved work in the Port right-of-way. The proposed project is located within an identified potential high erosion area. The proposed project would not impact any geologically hazards area. The Development Services Director recommended approval with conditions. *WMC 21.24.290; Exhibit 1, page 6; Exhibit 2; Exhibit 7; Statement of Ms. Martindale.*
13. Tom Hansen, City Engineer, clarified that proposed Condition #4 addresses the request from the Woodinville Police Department to review a traffic control plan for any lane closures. Proposed Condition #5 responds to the request from the Woodinville Fire Department for notification of any road closures or water shut-offs. Mr. Hansen commented that compacted gravel is considered an impervious surface, so sidewalk paving does not increase impervious service. The proposed mitigation accounts for impacts to the stream buffers on both sides of NE 145th Street. Mr. Hansen commented that the proposed sidewalk would have the same buffer impacts whether constructed on the north or south side, but the stream along the south side of NE 145th Street is a Type 3, with greater resource value. The proposed retaining wall would allow the sidewalk to be

at street level while minimizing impacts to the stream bank. Mr. Hansen noted that a Port of Seattle permit would be needed for work in the railroad right-of-way. *Exhibit 7; Statement of Mr. Hansen.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to decide applications for exceptions under the Critical Areas Ordinance pursuant to WMC 2.27.030; WMC 2.30.020 and WMC 21.24.080(1)(b).

Criteria for Review:

An Applicant may qualify for an exception to the Critical Areas Ordinance if the following criteria are met:

- (i) There is no other practical alternative to the proposed development with less impact on the sensitive area: and
- (ii) The proposal minimizes the impact on critical areas.
WMC 21.24.080(1)(b).

In addition, RCW 36.70B.040 requires consistency with City development regulations or the appropriate elements of the comprehensive plan, considering:

- a. The type of land use;
- b. The level of development, such as units per acre or other measures of density;
- c. Infrastructure, including public facilities and services needed to serve the development; and
- d. The characteristics of the development, such as development standards.

RCW 36.70B.040.

Conclusions Based on Findings:

1. **There is no other practical alternative to the proposed development with less impact on the sensitive area.** The proposal would impact the buffer area of the Type 4 stream - a ditch along the north side of NE 145th Street. The only other practical alternative would be to locate the sidewalk on the south side of NE 145th Street. However, siting the proposed sidewalk on the south side of NE 145th Street would impact the buffer of a Type 3 stream, a much higher quality natural system compared to the ditch/culvert system on the north side of the street. Thus, there is no other practical alternative. *Findings 1-3, 6-13.*
2. **The proposal minimizes the impact on critical areas.** The City reviewed the Applicant's Environmental Checklist and issued a Determination of Nonsignificance. NE 145th Street and its gravel road shoulder make up most of the southern Type 3 stream buffer critical area. As proposed, the sidewalk is designed to minimize impact because

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no work would be done within the stream's ordinary high water mark, stormwater runoff would not discharge directly into the stream, and the project would comply with the 2005 King County Surface Water Management Design Manual. *Findings 1-3, 6-13.*

- 3. With conditions, the proposal is consistent with City development regulations under RCW 36.70B.040.** Siting a public sidewalk along NE 145th Street is appropriate to provide pedestrian connectivity and carry out the goals and policies of the City's Comprehensive Plan. The City's Critical Areas Ordinance applies to the proposed project. A Type 4 stream requires a 50-foot wide stream buffer, which may be administratively adjusted to a 35-foot wide buffer. Here the proposed sidewalk would be located within two feet of the Type 4 stream and an administrative adjustment would not provide relief. In this case, the Applicant's proposed offsite stream buffer mitigation is reasonable because of the limited onsite opportunities for buffer enhancement. Conditions of approval are necessary to ensure that the Applicant carries out the buffer mitigation plan, provides the City Police Department of a traffic control plan, and alerts the Fire Marshal 48 hours prior to the closure of any roads or water shut-offs. *Findings 1-13.*

DECISION

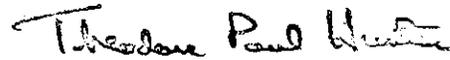
Based on the above Findings and Conclusions, the recommendation of the Development Services Director to approve an Exception to the City of Woodinville's Critical Area Ordinance to install a public sidewalk within public right-of-way on NE 145th Street encroaching on two stream buffers is **AFFIRMED**, subject to the following conditions:⁴

1. All work shall proceed largely in conformance with the approved plans and supplemental reports. Minor modifications to the approved plans, as established in WMC 17.09.020(6), may be authorized by the Public Works and Development Services Directors.
2. The buffer mitigation plan is approved as submitted on June 29, 2010 and described in the Conceptual Mitigation Memorandum and Monitoring Plan prepared by Otak. Any proposed changes shall be reviewed and approved by the Development Services Director prior to doing the changes work. All mitigation work shall be completed prior to finalizing the walkway project, or within the next planting season.
3. All required state, federal and other permits shall be obtained prior to beginning construction.

⁴ Conditions are necessary to comply with City ordinances as well as mitigate project impacts

4. A copy of the traffic control plan shall be provided to the Woodinville Police Department for review and comment prior to the start of construction.
5. The contractor shall notify the Woodinville Fire Marshal a minimum of 48 hours in advance of any and all road closures or water shut-offs.

Decided this 9th day of September 2010.



Theodore Paul Hunter
Hearing Examiner
Sound Law Center