



**King County**

**Department of Permitting  
and Environmental Review**

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## **FINAL CODE INTERPRETATION CINT-15-0001 (Billmaier)**

### Background

James Billmaier owns two adjacent residential lots on 196<sup>th</sup> Court NE in a subdivision called The Crossings near Woodinville (tax lots 185300-0460 and 185300-0450). Both lots abut Cottage Lake Creek (Type F stream) and contain wetland areas. Both lots are subject to 165 foot stream buffer from Cottage Lake Creek. On behalf of Mr. Billmaier, Kenny Booth, AICP with The Watershed Company, submitted applications for Critical Area Alteration Exceptions (CAEX14-0001 and CAEX14-0002) on January 8, 2014. Both applications were to identify allowed site disturbance envelopes; the exceptions were approved on October 21, 2014 with the issuance of a Report and Decision for each permit.

Each Alteration Exception allowed a site disturbance area of no more than 5,000 sf within the critical area buffer on each lot. The location and shape of these site disturbance areas were drawn on the map in the permit approval package. Each approval contained the following condition of approval (Condition #4):

*The establishment of the site improvements including a 15-foot BSBL shall result in no more (than) 9,204 (8,852) square feet of permanent buffer disturbance. The remainder of the site outside of areas approved for site disturbance and areas of mitigation planning shall remain in undisturbed vegetation.*

According to Mr. Billmaier's request for code interpretation" Following issuance of the decisions, County staff informed the applicant that they interpret Condition #4 to mean that a 15-foot building setback must be provided on all four interior sides of the five-thousand square foot alteration exception disturbance envelopes..."

This is a Type 2 decision and is appealable to the Hearing Examiner within a specified time frame. Neither the applicant (Mr. Billmaier) nor his representative appealed the conditions during the stated appeal period.

The following code provision addresses building setbacks in critical areas:

#### **K.C.C. 21A.24.070 Alteration exception.**

B. The director may approve alterations to critical areas, critical area buffers and critical area setbacks if the application of this chapter would deny all reasonable use of the property as follow:

d. for dwelling units, no more than five thousand square feet or ten percent of the site, whichever is greater, may be disturbed by structures, building

setbacks or other land alteration, including grading, utility installations and landscaping but not including the area used for a driveway or for an on-site sewage disposal system;

**KCC 21A.24.200 Building setbacks.** Unless otherwise provided, an applicant shall set buildings and other structures back a distance of fifteen feet from the edges of all critical area buffers or from the edges of all critical areas, if no buffers are required. The following are allowed in the building setback area:

- A. Landscaping;
- B. Uncovered decks;
- C. Building overhangs if the overhangs do not extend more than eighteen inches into the setback area;
- D. Impervious ground surfaces, such as driveways and patios, but the improvements are required to meet any special drainage provisions specified in public rules adopted for the various critical areas;
- E. Utility service connections as long as the excavation for installation avoids impacts to the buffer; and
- F. Minor encroachments if adequate protection of the buffer will be maintained.

### Discussion

In reviewing the Critical Area Alteration Exception application, staff determined that site disturbance of a maximum of 5,000 sf located within the wetland buffer was acceptable, per K.C.C. 21A.24.070. The permit was approved with conditions; one of these conditions specified building setbacks.

The purpose of building setbacks is to reduce impacts to the buffer and to allow adequate circulation access around the structure. The director has the discretion to alter the setbacks in order to provide reasonable use of the property. In this case, it was determined that 15 foot setbacks were necessary to address the impacts to the buffer and ensure no encroachment in the remaining buffer area.

Under K.C.C. 21A.24.200, staff has the discretion to impose building setbacks of 15 feet or another distance when the building envelope is adjacent to and/or outside the critical area buffer, depending on the degree of impact to the buffer or critical area.

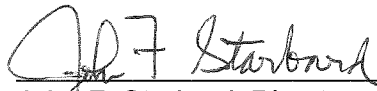
### Conclusion

The exception process allows for a reduction in setbacks based on identified impacts to the critical area. In this case, staff found that conditions warranted setbacks (the whole site disturbance area is within the buffer area) and specified in the condition of approval for both permits that the required setback was 15 feet under the discretion authorized in K.C.C. 21A.24.070. Since the building envelope area is drawn with four sides and each side borders on the critical area buffer, the building setback of 15 feet applies to each side.

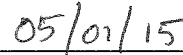
Neither the applicant nor his representative raised questions about Condition #4 or how it might be applied during the appeal period for the Critical Area Alteration Exception permits. Neither did they appeal the condition of approval.

Finality of Code Interpretations

Under K.C.C. 2.100.050.A, the director's decision on a code interpretation is final. A code interpretation issued by the director governs all staff review and decisions unless withdrawn or modified by the director or modified or reversed on appeal by the King County hearing examiner, King County council, or an adjudicatory body (K.C.C.2.100.040.H).



John F. Starbard, Director  
Department of Permitting and Environmental Review



Date

