

Important Information

About Your Wetland Delineation/Mitigation and/or Stream Assessment
Report

A WETLAND/STREAM REPORT IS BASED ON PROJECT-SPECIFIC FACTORS.

Wetland delineation/mitigation and stream classification reports are based on a unique set of project-specific factors. These typically include the general nature of the project and property involved, its size and configuration, historical use and practice, the location of the project on the site and its orientation, and the level of additional risk the client assumed by virtue of limitations imposed upon the exploratory program. The jurisdiction of any particular wetland/stream is determined by the regulatory authority(ies) issuing the permit(s). As a result, one or more agencies will have jurisdiction over a particular wetland or stream with sometimes confusing regulations. It is necessary to involve a consultant who understands which agency(ies) has jurisdiction over a particular wetland/stream and what the agency(ies) permitting requirements are for that wetland/stream. To help reduce or avoid potential costly problems, have the consultant determine how any factors or regulations (which can change subsequent to the report) may affect the recommendations.

Unless your consultant indicates otherwise, your report should not be used:

- If the size or configuration of the proposed project is altered.
- If the location or orientation of the proposed project is modified.
- If there is a change of ownership.
- For application to an adjacent site.
- For construction at an adjacent site or on site.
- Following floods, earthquakes, or other acts of nature.

Wetland/stream consultants cannot accept responsibility for problems that may develop if they are not consulted after factors considered in their reports have changed. Therefore, it is incumbent upon you to notify your consultant of any factors that may have changed prior to submission of our final report.

Wetland boundaries identified and stream classifications made by Shannon & Wilson are considered preliminary until validated by the U.S. Army Corps of Engineers (Corps) and/or the local jurisdictional agency. Validation by the regulating agency(ies) provides a certification, usually written, that the wetland boundaries verified are the boundaries that will be regulated by the agency(ies) until a specified date, or until the regulations are modified, and that the stream has been properly classified. Only the regulating agency(ies) can provide this certification.

MOST WETLAND/STREAM "FINDINGS" ARE PROFESSIONAL ESTIMATES.

Site exploration identifies wetland/stream conditions at only those points where samples are taken and when they are taken, but the physical means of obtaining data preclude the determination of precise conditions. Consequently, the information obtained is intended to be sufficiently accurate for design but is subject to interpretation. Additionally, data derived through sampling and subsequent laboratory testing are extrapolated by the consultant who then renders an opinion about overall conditions, the likely reaction to proposed construction activity, and/or appropriate design. Even under optimal circumstances, actual conditions may differ from those thought to exist because no consultant, no matter how qualified, and no exploration program, no matter how comprehensive, can reveal what is hidden by earth, rock, and time. Nothing can be done to prevent the unanticipated, but steps can be taken to help reduce their impacts. For this reason, most experienced owners retain

their consultants through the construction or wetland mitigation/stream classification stage to identify variances, conduct additional evaluations that may be needed, and recommend solutions to problems encountered on site.

WETLAND/STREAM CONDITIONS CAN CHANGE.

Since natural systems are dynamic systems affected by both natural processes and human activities, changes in wetland boundaries and stream conditions may be expected. Therefore, delineated wetland boundaries and stream classifications cannot remain valid for an indefinite period of time. The Corps typically recognizes the validity of wetland delineations for a period of five years after completion. Some city and county agencies recognize the validity of wetland delineations for a period of two years. If a period of years has passed since the wetland/stream report was completed, the owner is advised to have the consultant reexamine the wetland/stream to determine if the classification is still accurate.

Construction operations at or adjacent to the site and natural events such as floods, earthquakes, or water fluctuations may also affect conditions and, thus, the continuing adequacy of the wetland/stream report. The consultant should be kept apprised of any such events and consulted to determine if additional evaluation is necessary.

THE WETLAND/STREAM REPORT IS SUBJECT TO MISINTERPRETATION.

Costly problems can occur when plans are developed based on misinterpretation of a wetland/stream report. To help avoid these problems, the consultant should be retained to work with other appropriate professionals to explain relevant wetland, stream, geological, and other findings, and to review the adequacy of plans and specifications relative to these issues.

DATA FORMS SHOULD NOT BE SEPARATED FROM THE REPORT.

Final data forms are developed by the consultant based on interpretation of field sheets (assembled by site personnel) and laboratory evaluation of field samples. Only final data forms are customarily included in a report. These data forms should not, under any circumstances, be drawn for inclusion in other drawings, because drafters may commit errors or omissions in the transfer process. Although photographic reproduction eliminates this problem, it does nothing to reduce the possibility of misinterpreting the forms. When this occurs, delays, disputes, and unanticipated costs are frequently the result.

To reduce the likelihood of data from misinterpretation, contractors, engineers, and planners should be given ready access to the complete report. Those who do not provide such access may proceed under the mistaken impression that simply disclaiming responsibility for the accuracy of information always insulates them from attendant liability. Providing the best available information to contractors, engineers, and planners helps prevent costly problems and the adversarial attitudes that aggravate them to a disproportionate scale.

READ RESPONSIBILITY CLAUSES CLOSELY.

Because a wetland delineation/stream classification is based extensively on judgment and opinion, it is far less exact than other design disciplines. This situation has resulted in wholly unwarranted claims being lodged against consultants. To help prevent this problem, consultants have developed a number of clauses for use in written transmittals. These are not exculpatory clauses designed to foist the consultant's liabilities onto someone else; rather, they are definitive clauses that identify where

the consultant's responsibilities begin and end. Their use helps all parties involved recognize their individual responsibilities and take appropriate action. Some of these definitive clauses are likely to appear in your report, and you are encouraged to read them closely. Your consultant will be pleased to give full and frank answers to your questions.

THERE MAY BE OTHER STEPS YOU CAN TAKE TO REDUCE RISK.

Your consultant will be pleased to discuss other techniques or designs that can be employed to mitigate the risk of delays and to provide a variety of alternatives that may be beneficial to your project.

Contact your consultant for further information.

May 31, 2023

Tony Leavitt
City of Kirkland
Planning and Building Department
123 Fifth Avenue
Kirkland, WA 98003

Re: Finn Hill Middle School Addition – Environmental Peer Review

DCG/Watershed Reference Number: 200134.66

Dear Tony:

This letter presents our peer review findings for the updated environmental package submitted for Finn Hill Middle School, located at 8040 NE 132nd Street in Kirkland (parcel 2426049128). The critical area findings and site plan have been reviewed for accuracy and compliance with the Kirkland Zoning Code (KZC) Chapter 90 (Critical Areas Regulations). A site visit was conducted on May 19, 2023, to verify reported conditions. The following document was reviewed:

- May 31, 2023. Email exchange between Kirkland Planner, Tony Leavitt, and Integrus Architect, Tim Hanlon.
- May 8, 2023. *Critical Areas Report, Finn Hill Middle School Addition Project, City of Kirkland, Washington* (CAR). Prepared for Lake Washington School District. Prepared by Shannon & Wilson.
- April 7, 2023. *Overall Control Plan, Lake Washington School District No. 414 Finn Hill Middle School Addition*, Sheet C010. Prepared by Integrus Architecture and Jacobson Consulting Engineers.
- September 9, 2022. *Zoning Analysis, Site Plan, Lake Washington School District No. 414 Finn Hill Middle School Addition*, Sheet G003 (Updated Site Plan). Prepared by Integrus Architecture.
- July 9, 2010. *Existing Site Plan, Lake Washington School District, Finn Hill Junior High School / EAS*. Prepared by Mahlum.

The 2009 wetland buffer mitigation plan documenting the buffer modification permitted by King County prior to annexation into City of Kirkland was also referenced.

Wetland Buffer Modification History

The school was rebuilt in 2010 prior to its annexation into City of Kirkland. That project was permitted by King County, and it included a wetland buffer modification as documented in the enclosed 2009 mitigation plan. A combination of buffer averaging, reduction and enhancement were applied to a standard 187.5-foot buffer for the northern Big Finn Hill Park Wetland (labeled Wetland A at that time). The modified buffer was reduced to a minimum of 98.5-feet adjacent to the rain garden and increased to approximately 220-feet east of the rain garden. King County iMap records indicate the buffer modification was not recorded on the title.

Peer Review Findings

Wetland & Buffer Conditions

Wetland A is in the southwest property corner, more than 900-feet away from the proposed project area. It is rated as a Category III wetland with low habitat functions. I concur with the rating; minor differences in the form did not change the wetland rating scores. The buffer does not meet vegetative buffer standards; dense Himalayan blackberry brambles are present. The standard buffer is 60-feet as reported and would increase to 79.8-feet if a 33% increase was applied.

The 2009 mitigation plan documents another small wetland in the southwest corner of the property. Presence or absence of this previously documented feature was not verified due to approximately 900-feet of distance from the current project area. The proposed project has no impact to areas in the southwestern corner of the property.

The delineation of the Big Finn Hill Park Wetland, labeled Wetland B by Shannon & Wilson, was limited to a small on-property portion, north of the existing rain garden. The boundary within the adjacent park property appears to be consistent with the 2009 mitigation plan as shown on the current site plan by Integrus. I concur with observed wetland flags in the field and the submitted wetland rating. Wetland B is a Category I wetland with 7 habitat points. Standard buffer width is 110-feet. As documented in the CAR, the buffer does not meet vegetative buffer standards. If a 33% increase is applied, the buffer would become 146.3-feet. Except for the buffer reduction previously approved by King County for the rain garden, the current protected buffer exceeds that width.

I concur with the reported assessment of KZC 90.125; buffer width increases are not required under that code section. However, as noted above, high invasive plant cover in the buffer would require a 33% buffer increase if vegetative buffer standards are not met (KZC 90.130).

Site Plan

The Site Plan, prepared by Integrus Architecture, is provided in CAR Appendix D. New construction is not labeled and is presumed to be within the dashed lines. During my site visit, I observed that area is presently lawn. The Site Plan indicates the proposed building addition is just north of the labeled “commons”, south of the existing access off 84th Avenue NE. This places the new development well outside of the existing modified buffer, more than 250 feet south of the wetland area. The CAR Appendix D Site Plan contains errors and omissions. Therefore, the Updated Site Plan was referenced for this review instead.

The Updated Site Plan, provided 5/31/2023, shows the site plan in greater detail than CAR Appendix D. Although the date on this exhibit is older, the wetland boundary shown matches the CAR, Wetland Delineation Map (Figure 2). Current wetland delineation data appears to be incorporated in the Updated Site Plan; this was confirmed by the project architect via email (5/31/2023). However, the buffer is drawn as a direct off-set from the wetland edge. Wetland buffer points should arc around each point to maintain the correct buffer width.

The Updated Site Plan shows the narrowest buffer width between the Wetland B and the existing large rain garden is 60.8-feet (55% of the standard 110-foot buffer). The 2009 Mitigation Plan showed that minimum buffer width as 98.5-feet. This difference may be due in part to GPS-accuracy level versus land survey.

Additional information on the Updated Site Plan was provided to you by the project architect via email on 5/31/2023. The project architect confirmed no new building, parking, or utility improvements are proposed within the former 2009 or present wetland buffer. Utility improvements are shown on the submitted Overall Site Plan (C010). No modification of the existing NGPA (2009 mitigation area), split-rail fencing or existing buffer is proposed.

Public Agency Exemption

The Public Agency Exemption (PAE) may be applied to a development proposal that would otherwise be prohibited by strict application of critical area standards. The PAE provision states (KZC 90.45.1), bold emphasis added:

1. *General – Prior to seeking approval through this section, the Planning Official in conjunction with a public agency or public utility **shall first determine that:***

- a. *The project scope cannot be approved under KZC 90.60 for wetland modifications; KZC 90.70 for stream modifications; KZC 90.85 for stream channel stabilization; and KZC 90.95 for wildlife habitat conservation areas; and*
- b. *The project cannot meet the requirements under KZC 90.130, Vegetative Buffer Standards; and KZC 90.140, Structure Setback from Critical Area Buffer; or any other provision in this chapter.*

Review of existing wetland buffer conditions relative to the proposed project do not indicate a conflict that would necessitate a PAE review.

Per KZC 90.60.4 (bold emphasis added):

*Process – Unless otherwise specified in **KZC 90.40**, 90.115 or 90.120, any proposal to modify a wetland and its buffer shall be reviewed and approved pursuant to Process I, described in Chapter 145 KZC.*

To retain existing stormwater facilities in the buffer, KZC 90.40 may apply. Implications of overlap with the prior King County permit approval may be further considered. No new buffer impacts are shown on the submitted Site Plan.

Recommendations

The following actions are recommended to ensure critical area code compliance.

- Check accuracy of GPS wetland mapping to verify the existing rain garden does reduce the standard buffer in excess of 25% as shown on the Updated Site Plan.
- Update the buffer line on the Updated Site Plan to arc around each wetland boundary point. The current mirror-image off-set slightly underestimates buffer area.
- Require applicant to demonstrate compliance with KZC 90.40 for retention of the existing rain garden within the buffer.

Please contact is with any questions or request for additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nell Lund', written in a cursive style.

Nell Lund, PWS
Senior Ecologist

Enclosure:

2009 Mitigation Plan (approved for King County permit # B09C0104, issued 7/21/2010)



May 31, 2023

Tim Hanlin
Integrus
thanlon@integrusarch.com

Dear Tim,

Subject: Permit No. ZON22-00796

The City of Kirkland, with the assistance from our consulting biologist (The DCG Watershed Company) has completed the determination of the onsite critical areas located on the Finn Hill Middle School Campus.

Based on the available information (including the Shannon and Wilson Report dated May 8, 2023), the applicable codes, and data gathered from the field, the City of Kirkland has determined the presence of two wetlands on the site.

Wetland A is a Category III wetland, with four (4) habitat points. The standard buffer width for Wetland A is 60 feet with an additional 10-foot structure setback from the buffer's boundary. The existing buffer does not meet the City's vegetative standards found in KZC 90.130 so the buffer is required to be increased to 79.8 feet.

Wetland B is a Category I wetland, with seven (7) habitat points. The standard buffer width for Wetland A is 110 feet with an additional 10-foot structure setback from the buffer's boundary. The existing buffer does not meet the City's vegetative standards found in KZC 90.130 so the buffer is required to be increased to 146.3 feet.

This determination is valid for five (5) years from the date of the decision pursuant to KZC 90.105.4. The determination may be modified whenever physical circumstances have markedly and demonstrably changed on the subject property, or within 300 feet of the subject property for wetlands and 125 feet for streams because of natural processes or authorized human activity.

The Planning Official's final determination regarding the existence of a stream or wetland and the proper classification of that stream or wetland may be appealed pursuant to provisions of KZC 90.220.

Please let me know if you have any additional questions.

Sincerely,

PLANNING AND BUILDING DEPARTMENT

A handwritten signature in black ink, appearing to read "Tony Leavitt", is written over a light blue dotted rectangular background.

Tony Leavitt
Senior Planner