



Planning Commission

Critical Areas Ordinance (CAO), Phase 2, Locally Important Habitat and Species Briefing

Agenda Date: 1/9/2017
Agenda Item Number: 6.A
File Number: 17-0006

Type: information Version: 1 Status: In Committee

Title

Critical Areas Ordinance (CAO), Phase 2, Locally Important Habitat and Species Briefing

Recommended Action

Information only. No action requested.

Report

Issue:

Whether to receive the information and update on Phase 2 of the CAO, Locally Important Habitat and Species.

Staff Contact:

Linda Bentley, Senior Planner, Community Planning and Development, 360.570.3746

Presenter(s):

Linda Bentley, Senior Planner, Community Planning and Development

Background and Analysis:

Under the Washington State Growth Management Act (GMA), the City is required to update the Critical Areas Ordinance (CAO) periodically as part of the City's Comprehensive Plan update. The required update included a mandate that the City's critical areas sections in the development code must be reviewed to ensure consistency with current best available science (BAS).

In addition to the required update, the Land Use and Environment Committee directed staff to include a review of potential additional protections for locally important habitat and species. To ensure staff could complete the state-required BAS updates by the deadline and to allow more time for an in-depth look at the locally important habitat species issue, we divided the tasks into Phase 1 (BAS) and Phase 2 (habitat and species).

Finally, when the City amends its CAO, it must also amend its Shoreline Master Program (SMP) to adopt the new CAO by reference.

Phase 1 of the CAO was approved by City Council on July 19, 2016. The tentative future timeline for Phase 2 follows:

Jan 9, 2017	Planning Commission Briefing
Jan 18, 2017	Public Open House
Feb-Mar 2017	Planning Commission Public Hearing (Including SMP amendment)
Mar-Apr 2017	City Council Ordinance adoption (Including SMP Ordinance to adopt amended CAO)

After hearing concerns and getting suggestions from a technical working group, staff and consultant Environmental Science Associates (ESA) did additional research and consulted with other jurisdictions regarding their experiences with protecting locally important species. For example, we were interested in other cities' experiences with inviting the public to nominate additional locally important species. Bellevue, Redmond and Kenmore have such a process but, according to their staff, no nominations have been received and they may be considering abandoning that portion of their programs. We are, however, suggesting a process by which additional locally important species and/or habitat could be nominated in Olympia (see attached proposed new OMC 18.32.325).

As suggested in ESA's October 31 memo (attached), we propose relying on our existing CAO and Shoreline Master Program (SMP) regulations to protect most species, with the exception of great blue heron and their breeding habitat.

Great Blue Heron and Habitat

In general, we are proposing the following approaches to protect heron rookeries:

- Adopting a fixed-width buffer around mapped heron rookeries
- Restricting the timing on some types of activities (e.g., clearing, grading)
- Requiring consultation with the City and the Washington Department of Fish & Wildlife (WDFW) during project planning

WDFW recognizes that protections for heron rookeries have a different set of considerations in urban areas than in less developed areas. Our goal is to find the best balance between protecting species and respecting private property rights. After reviewing similar protections for heron rookeries in Seattle and Kenmore, we are proposing a smaller seasonal buffer than that recommended in WDFW's published management recommendations for nests in rural and less developed areas. As indicated on the attached draft maps, we suggest a 200 foot year-round buffer and an additional 300 foot seasonal buffer for both the East Bay and West Bay rookeries. We also recommend regulatory language that outlines requirements for development near the rookeries (see proposed new OMC 18.32.327). We've developed two draft handouts - Great Blue Heron Management Guidelines and Great Blue Heron Development Conditions - which further explain the regulations.

Non-regulatory Protections

The best way to protect important habitat and species is to acquire the land that provides the necessary habitat for important species. Therefore, we recommend the following:

- The City should continue to work with non-profit groups such as the Olympia Coalition for Ecosystems Preservation to pursue opportunities to purchase properties that support or are near known rookeries.
- Property under consideration by Parks Department for acquisition for passive type parks

should consider the quality and extent of habitat value in its decision-making.

The City could also research and/or develop incentives for landowners who want to permanently protect any type of breeding season habitat and assist existing non-profit groups in developing an ongoing program of citizen science to assist in monitoring the status of locally important habitat and species.

Shoreline Master Program Amendments

The amendment to Olympia's SMP, which adopts the amended CAO by reference, ensures consistency with the CAO adopted July 19, 2016, and corrects errors, is attached. Minor changes to OMC 18.02.180 Definitions and OMC 18.32.500 and 515 are required to bring the CAO into consistency with the SMP and are also attached.

Neighborhood/Community Interests (if known):

Many groups and individuals in the community are interested in protection of the Great Blue Heron.

Financial Impact:

Initial review of locally important habitat and species was included in Community Planning and Development Department's 2016 budget; however, some approaches to this Phase 2 may require additional resources.

Attachments:

Proposed OMC 18.32 amendments
Rookeries maps
Great Blue Heron Management Guidelines
Great Blue Heron Development Conditions
ESA memo
Miscellaneous Title 18 OMC amendments
Shoreline Master Program amendments

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OMC Chapter 18.32 as approved by City Council Aug 16, 2016, with proposed new language shown in track changes.

18.32.300 Important Habitats and Species - Purpose and Intent

In order to preserve and protect important habitats and species which are known to occur in Thurston County and which may be found within the City of Olympia, and which are not already protected by another critical area category, appropriate protection of an important habitat or species location shall be subject to the standards in OMC 18.32.305 through OMC 18.32.330. Protection in lake and marine shorelines is regulated under the City of Olympia Shoreline Master Program, OMC ~~14.08~~18.20.

18.32.305 Important Habitats and Species - Applicability and Definition

"Important habitats and species" are habitats or species known to occur within Thurston County and which may be found within the City of Olympia and which are not receiving habitat protection by another critical area category (e.g. Streams, Wetlands, or Landslide Hazard Areas) in this Chapter and:

- A. Are designated as endangered or threatened species identified under the Endangered Species Act; or
- B. Are state priority species identified on the Washington Department of Fish and Wildlife (WDFW) Priority Habitats and Species (PHS) List and their habitats of primary association. (Consult the state WDFW for the current PHS list); or

C. Are designated as "locally important habitat or species" pursuant to OMC 18.32.327; or

CD. Are areas in Olympia that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.

DE. Small lakes, defined as naturally existing bodies of standing water less than twenty acres in size that exist on a year-round basis in a depression of land or expanded part of a stream and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act), are considered an "important habitat." This term does not apply to constructed ponds.

18.32.315 Important Habitats and Species - Authority

- A. No development shall be allowed in an important habitat and species area ~~where local, state or federally endangered, threatened or sensitive species have a primary association as defined in OMC 18.32.305~~ without approval from the Department. The Department may restrict the uses and activities of a development proposal, such as

construction restrictions during breeding season, which lie when the proposal is located within one thousand (1,000) feet of an important habitat or species location.

B. The minimum performance standards that apply to a development proposal shall be those provided by the Washington Department of Fish & Wildlife's Management Recommendations for Washington's Priority Habitat and Species (1991), as amended, and the requirements in OMC 18.32.115, except as modified on the basis of an Important Habitat and Species Management Plan described in OMC 18.32.330.

18.32.320 Important Habitats and Species - Buffers

The Department shall establish buffers for the habitat or species on a case-by-case basis, in consultation with the WDFW or others with expertise if needed, based on the critical area report outlined in OMC 18.32.115 and the WDFW management recommendations for Washington's priority habitats and species, if available. The buffers shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

18.32.325 Process to Identify Additional Locally Important Habitat and Species.

A. Additional species of local importance may be designated pursuant to OMC 18.58, zoning text amendment.

B. In addition to the decision criteria of OMC 18.59.050, a species may be designated locally important only if it demonstrates the following characteristics:

1. Local populations of native species are in danger of extirpation based on existing trends and best available science:

a. Local populations of native species that are likely to become endangered; or

b. Local populations of native species that are vulnerable or declining;

2. The species or habitat has recreation, commercial, game, tribal, or other special value;

3. Long-term persistence of a species is dependent on the protection of the species through the provisions of this part;

4. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and

5. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

C. Effect of Designation. Designation of a species of local importance under this section shall not impact projects or proposals with a vested application or approved permit.

18.32.327 Locally Important Habitat and Species – Definitions and Performance Standards

Great Blue Heron Rookeries

A. Definitions

1. Great Blue Heron Nesting Season means February 1 through August 31.
2. Great Blue Heron Nesting Colony means the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests.
3. Great Blue Heron Core Zone means the area consisting of the great blue heron nesting colony and the year-round buffer.
4. Great Blue Heron Management Area means the area consisting of a great blue heron nesting colony, the year-round buffer, and the seasonal buffer.
5. Screening Tree means a tree that is within a direct line of sight between structures or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from structures or development during any part of the year, and within the great blue heron management area.

B. Buffers and Measurements

1. The year-round buffer is 200 feet, measured from the nesting colony boundary.
2. The seasonal buffer is an additional 300 feet, measured from the great blue heron core zone boundary.
3. Great Blue Heron Pre-nesting Area means an area less than 1 kilometer (.62 miles) from a great blue heron nesting colony where male birds congregate prior to occupying the nests.

C. Development Conditions Within the Great Blue Heron Core Zone

1. No development shall occur in the great blue heron nesting colony.
2. Any development within the year-round buffer shall use mitigation sequencing as provided in OMC 18.32.135 to:
 - a. maintain baseline development conditions and ambient noise levels;
 - b. maintain great blue heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes; and shall

- c. include an implementation plan for both the development and any required mitigation with maps, as-built drawings, vegetation removal and planting, timing, and an operation and maintenance plan for businesses that include outside operations.
- 3. If the parcel where the development will occur abuts a parcel containing a great blue heron nesting colony, there shall be a minimum 30 foot building setback from the property line(s) closest to the nesting colony. The setback shall be vegetated using native trees and shrubs that screen activities on the parcel from the nesting colony.
- 4. If a nesting colony has been abandoned by a great blue heron colony, the great blue heron management core zone for this colony shall be protected for a period of ten years from the last known active nesting season.

D. Development Conditions Within the Great Blue Heron Management Area

- 1. Any clearing, grading, outside construction or other activity that causes loud noise above ambient noise levels shall be done from September 1 through January 31, outside of the nesting season. Ambient noise is specific to the location of the nesting colony site and can include noises such as sirens and leaf blowers. Noise that is not considered ambient noise includes but is not limited to outdoor construction and the use of dump trucks, front end loaders, pile drivers and blasting equipment.
- 2. All 6 inch diameter breast height (dbh) or larger trees shall be retained if the removal of those trees decreases the effectiveness of the trees' screening of new and existing development from the colony and if replacing the removed trees with other trees does not screen the nesting colony to the same extent as the existing trees.

18.32.330 Important Habitats and Species - Management Plan

When a development proposal lies within an important habitats and/or species location, an Important Habitats and Species Management Plan shall be submitted by the applicant. The Department may waive the submittal when consultation with the Washington Department of Fish and Wildlife staff indicates that such a plan is not needed.

An Important Habitats and Species Management Plan shall:

- A. Identify how the development impacts from the proposed project will be mitigated. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991), as amended, shall be the basis for this plan.

B. Be prepared by a person who demonstrates sufficient experience and education as a wildlife biologist, habitat management consultant or botanist.

C. Contain, but not be limited to:

1. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon the important species and its habitat;
2. An analysis of the effect of the proposed development, activity or land use change upon the important species and its habitat, based upon Washington Department of Fish and Wildlife management guidelines;
3. A mitigation plan by the applicant which shall explain how any adverse impacts to the important species or its habitat created by the development will be minimized or avoided, such as:
 - a. Establishment of buffer zones;
 - b. Preservation of important plants and trees;
 - c. Limitation of access;
 - d. Seasonal restriction of construction and other activities; and
 - e. Provisions for periodic review of the plan.

and

4. A map(s) to-scale, showing:
 - a. The location of the proposed development site, to include a boundary survey;
 - b. The relationship of the site to surrounding topographic features;
 - c. The nature and density of the proposed development or land use change;
 - d. Proposed building locations and arrangements;
 - e. Existing structures and landscape features including the name and location of all streams, ponds and other bodies of water;
 - f. The extent and location of the important species habitat;
 - g. A legend with: Title, scale and north arrows, and date, including revision dates if applicable.

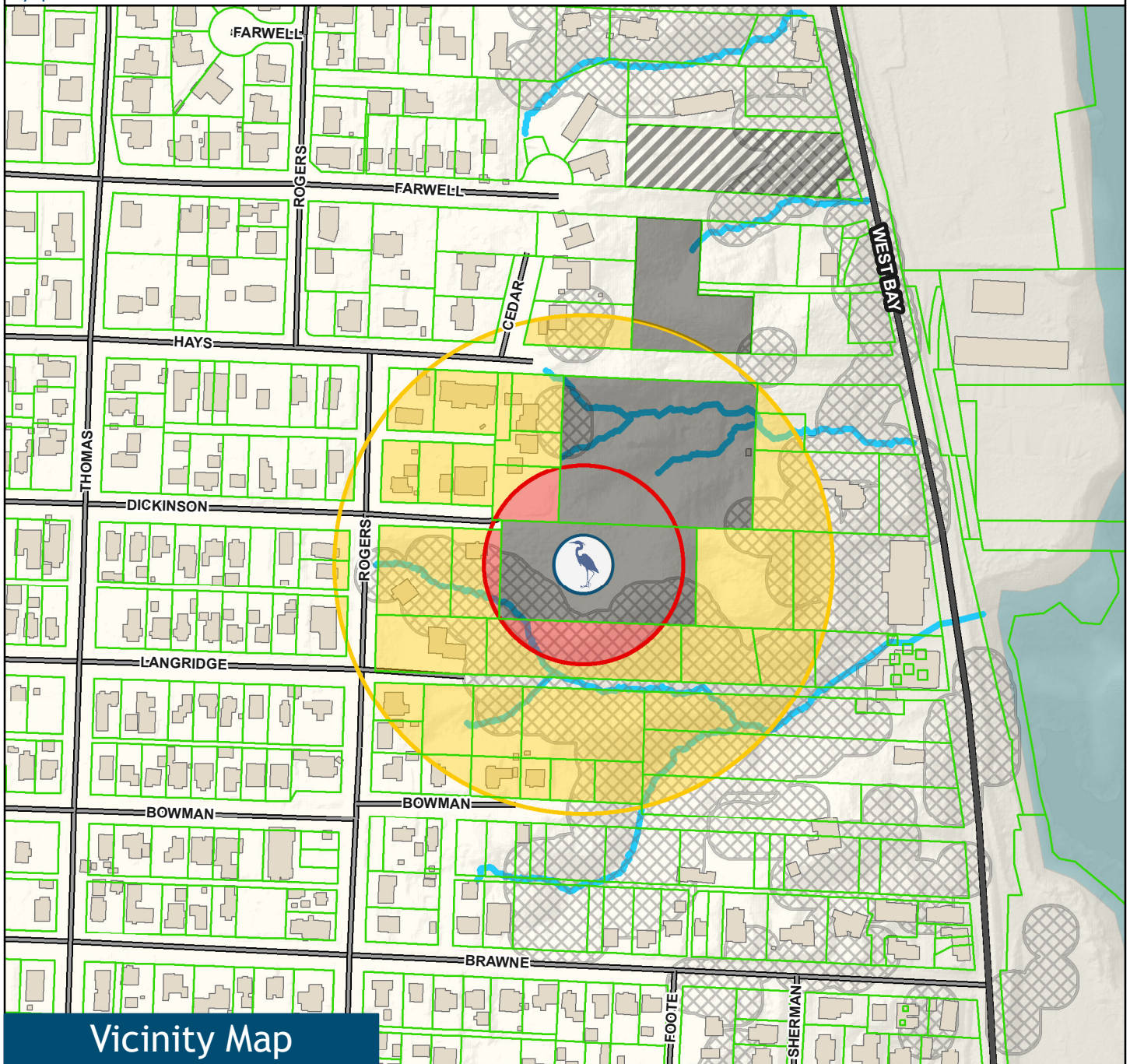
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ATTACHMENT 1

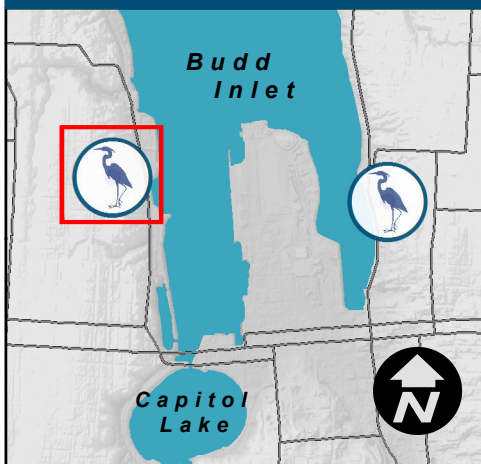


Community Planning and Development

Westside Heron Rookery



Vicinity Map



Heron Rookeries



200' Annual Buffer



Additional 300' Seasonal Buffer



City Parcels



Under Option by City



Government or
NGO Owned



Steep Slopes



Existing Buildings

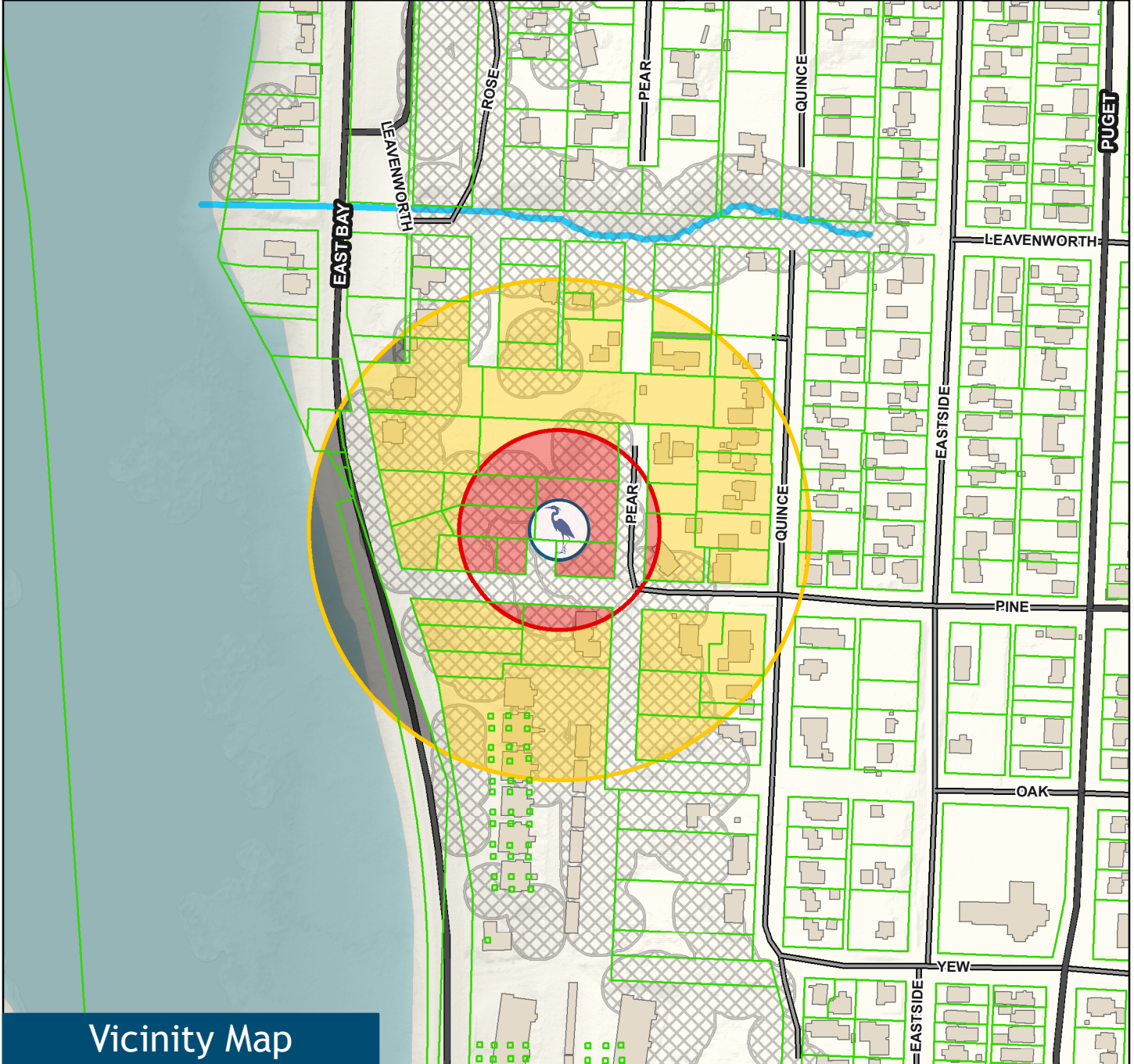
1 inch = 300 feet
0 0.03 0.06 Miles

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.

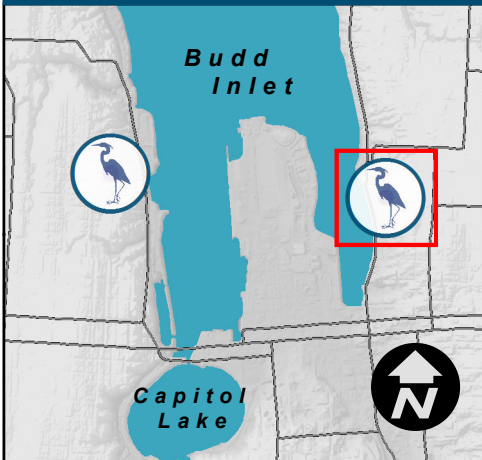


Community Planning and Development

Eastside Heron Rookery



Vicinity Map



Heron Rookeries



200' Annual Buffer



Additional 300' Seasonal Buffer



City Parcels



Government or
NGO Owned

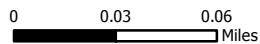


Steep Slopes



Existing Buildings

1 inch = 300 feet



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GREAT BLUE HERON MANAGEMENT GUIDELINES

Background & Purpose:

Great blue herons can be vulnerable because of their tendency to aggregate during the breeding season. They are colonial breeders that nest in a variety of deciduous and evergreen tree species. Nests are usually constructed in the tallest trees available, presumably to reduce the risk of predation by mammals. The availability of suitable great blue heron breeding habitat is declining as human population increases. Great blue heron nesting colonies are listed as a Washington State Department of Fish and Wildlife (WDFW) Priority Species.

Statewide Recommendations

Statewide, WDFW recommends a permanent, year-round buffer of 60 meters (197 feet) from the perimeter of the great blue heron nesting colony for urban areas as defined by WDFW. Additional management recommendations include a seasonal buffer of 200 meters (656 feet) for loud noises and 400 meters (1,320 feet) for extremely loud noises such as blasting. The seasonal buffers are measured from the outside edge of the year-round buffer. These management recommendations can be found in the 2012 Washington's Priority Species, Great Blue Heron, prepared by WDFW. This can be viewed by going to <http://wdfw.wa.gov/publications/01371/> or by contacting WDFW.

Local Recommendations

The WDFW recommends that local land use planning should, when possible, protect existing great blue heron colonies using colony site-specific management plans that consider the colony size, location, relative isolation and the degree of habituation to human disturbance. Typically in Olympia it is difficult to restrict development within larger buffer areas due to existing development and buildable lots in close proximity to colonies. Therefore, and because heron colonies within the City of Olympia are in part habituated to urban conditions and WDFW did not establish smaller seasonal buffers for urban areas, the City has established a 200 foot year-round buffer and an additional 300 foot seasonal buffer for great blue heron nesting colonies in both the West Bay and East Bay areas. Development conditions for proposed development within or near a Great Blue Heron Management Area are contained in OMC 18.32.327.

Definitions

Great Blue Heron Nesting Season means February 1 through August 31

Great Blue Heron Nesting Colony means the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests.

Great Blue Heron Core Zone means the area consisting of a great blue heron nesting colony and its 200 foot year-round buffer.

Great Blue Heron Management Area means the area consisting of a great blue heron nesting colony, the 200 foot year-round buffer, and the 300 foot seasonal buffer.

Screening Tree means a tree that is within the direct line of sight between the structure(s) or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from the structure(s) or development during any part of the year, and within the great blue heron management area.

Great Blue Heron Pre-nesting Area means an area less than 1 kilometer (.62 miles) from a great blue heron nesting colony where male birds congregate prior to occupying the nests.

Measurements

Year-round buffer: The 200 foot year-round buffer is measured from the nesting colony boundary.

Seasonal buffer: The additional 300 foot seasonal buffer is measured from the great blue heron core zone.

GREAT BLUE HERON DEVELOPMENT CONDITIONS:**Within the Great Blue Heron Management Area:**

- Any clearing, grading, outside construction or other activity that causes loud noise above ambient noise levels shall be done from September 1 through January 31, outside of the nesting season. Ambient noise is specific to the location of the nesting colony site and can include noises such as sirens and leaf blowers. Noise that is not considered ambient noise includes but is not limited to outdoor construction and the use of dump trucks, front end loaders, pile drivers and blasting equipment.
- All 6 inch diameter breast height (dbh) or larger trees shall be retained if the removal of those trees decreases the effectiveness of the trees' screening of new and existing development from the colony and if replacing the removed trees with other trees does not screen the nesting colony to the same extent as the existing trees.

Within the Great Blue Heron Core Zone:

- No development shall occur in the great blue heron nesting colony.
- Any development within the year-round buffer shall use mitigation sequencing as set out in OMC 18.32.135 to:
- maintain baseline development conditions and ambient noise levels;
 - maintain great blue heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes; and shall
 - Include an implementation plan for both the development and any required mitigation with maps, as-built drawings, vegetation removal and planting, timing, and an operation and maintenance plan for businesses that include outside operations.
- If a nesting colony has been abandoned by a great blue heron colony, the great blue heron core zone for this colony shall be protected for a period of 10 years from the last known active nesting season.
- If the parcel where the development will occur abuts a parcel containing a great blue heron nesting colony, there shall be a minimum 30 foot building setback from the property line(s) closest to the nesting colony. The setback shall be vegetated using native vegetation that screens activities on the parcel from the nesting colony.

If the standard conditions set forth above in the Conditions section are acceptable, please sign below and this will serve as your Great Blue Heron Management Plan. Activities will be periodically monitored and failure to comply with the Plan constitutes a violation as set forth in OMC 18.32.175.

I have read and understand the above conditions placed on parcel

_____ located at

Signature _____ Date _____

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ATTACHMENT 4



5309 Shilshole Avenue NW
Suite 200
Seattle, WA 98107
206.789.9658 phone
206.789.9684 fax

memorandum

date October 31, 2016

to Linda Bentley, City of Olympia

from Ilon Logan

subject Critical Areas Ordinance Update Phase II: **Locally Important Species and Associated Habitats Recommendations**

This memo is a follow-on to our previous memo *Locally Important Species and Associated Habitats Recommendations Overview and Options* (dated August 5, 2016) and includes high-level recommendations for implementing some of the previously discussed options. The intent is to provide a basis for discussion and decision-making by the City regarding protections for wildlife and wildlife habitats in Olympia.

Based on the review of existing information, published literature, and input from the CAO working group, we suggest the City consider a combination of regulatory and non-regulatory methods to expand and/or increase protections for wildlife and wildlife habitat. Our recommendations fall into two categories: 1) general protections for priority species and habitats, and 2) protections specific to great blue heron.

General Protections

As reported in our previous memo, the City of Olympia contains a low number of sensitive and/or rare habitats and species as documented by the Washington Department of Fish and Wildlife (WDFW) in the Priority Habitats and Species (PHS) database (WDFW, 2016). This is due to the developed-nature of lands within the City and urban growth area boundaries, the limited extent of stream corridors and wetland areas, and the lack of native prairie or oak woodland habitats. The PHS database does include records for wood duck breeding areas and mink occurrences (both from the early 1990s), great blue heron rookeries, bald eagle and peregrine falcon breeding sites, and bat communal roosts. Additionally, several of the species identified by the CAO working group as important and/or potentially declining (see July 26, 2016 meeting notes), including western grebe, purple martin, osprey, Vaux's swift, several bat species, and Olympic mudminnow, are on the PHS list.

To provide regulatory protections for individual wildlife species, we have the following high-level recommendations for the City:

- Rely on the current regulations for important habitats and species (OMC 18.32.305B) for peregrine falcon and bald eagle. Both are state sensitive species (<http://wdfw.wa.gov/conservation/endangered/status/SS/>) and federal species of concern, which puts them within the City's current definition of important habitats and species. In addition, these two bird species were not a major concern by the CAO working group as neither are currently experiencing population declines.
- Rely on the current regulations for streams (OMC 18.32.405A), wetlands (OMC 18.32.505), and small lakes (OMC 18.32.305D) for habitat protection of wood duck breeding areas, western grebe, and Olympic mudminnow.
- Rely on the current regulations for streams (OMC 18.32.405A) and important riparian areas (OMC 18.32.405B) for habitat protection of bat communal roosts (including Yuma myotis, California myotis, big brown bat, little brown bat, and Townsend's big-eared bat).

In terms of a nomination process for adding new locally important species and habitats, the City should have a nomination and designation process in place. The Department of Commerce (formerly CTED) has developed an example step-wise process (see our previous memo) that can be used as a guide. We note that some counties and cities (e.g., Thurston County and City of Bellevue) have codified their version of the process in the CAO regulations. Based on our experience, this approach is not necessary as the nomination and designation process is rarely used and is an optional requirement of the GMA. We recommend that the City prepare its guidelines and have them available upon request from the City manager or other representative.

Lastly, to increase protection of general wildlife habitats in the City, we recommend the City continue to work with the Olympia Coalition for Ecosystems Preservation and pursue opportunities to purchase properties near known rookery locations as they did in 2016 when 2.5 acres of the West Bay Woods were acquired (The Olympian, August 16, 2016). In addition to outright purchase, the City could consider innovative ways of acquiring property for open space such as Transfer of Development Rights (TDR) and development incentives for set asides. These programs provide reduced property tax rates for property owners who voluntarily commit a portion of land to open space or avoiding activities harmful to specific species or habitat.

Great Blue Heron Protections

To protect the population of great blue heron and their breeding habitat, we suggest the City follow an approach similar to the City of Kenmore, which includes:

- Adoption of a fixed-width buffer around mapped heron rookeries
- Timing restrictions on some types of activities (e.g., clearing, grading)
- Consultation with the City and WDFW during project planning

For specifics, we recommend the City follow WDFW's guidelines for identifying, mapping, and managing heron habitats as detailed in *Management Recommendations for Washington's Priority*

Species: Great Blue Heron (Azerrad, 2012). An abbreviated set of guidelines is provided with this memo.

Following the WDFW guidelines would address and document the known rookery locations in both the West Bay woods and East Bay forested ravine and establish those areas as Heron Management Areas (HMAs). The WDFW-recommended buffers for nesting colonies in urban areas include a year-round buffer of 60 meters (197 feet) and an additional seasonal buffer of 200 meters (656 feet) for unusually loud activities during breeding season (i.e., February-September). Buffer protections are based on the premise that adequate buffers result in greater longevity and colony productivity because they are a physical and visual barrier to potentially intrusive activities, can protect nest trees from being blown down, and provide habitat for birds when they move from one nest tree to another. The City should require a site-specific habitat management plan to be developed whenever a land use proposal is submitted in or near the HMA.

As an alternative to the WDFW-recommended buffer widths, we recommend the City consider the City of Seattle's protections for great blue heron drafted in 2016, but not yet adopted (City of Seattle, 2016). The proposed regulations establish a year-round buffer of 197 feet and seasonal buffers that are less than the WDFW-recommended width. The proposed seasonal buffers include a 500-foot buffer applied to the colonies in the Kiwanis and North Beach Ravines and a 300-foot buffer applied to all other nesting colonies. The City maintains that heron colonies within the City of Seattle are in part habituated to urban conditions and notes that WDFW did not establish smaller seasonal buffers for urban areas.

To address the sometimes transitory nature of nesting colonies, we recommend the City stipulate the period in which a HMA remains in effect from the last known active nesting season. As referenced in the WDFW recommendations, the Migratory Bird Treaty Act (MBTA) states that protections applying to an active colony should remain in effect for 10 years after the last recorded nesting season. The City of Seattle draft protection adopt this time period as well.

We suggest that City project planners actively consult the WDFW guidelines for carrying out the heron recommendations. During project review, a habitat management plan should be developed whenever a land use proposal is submitted in or near the HMA. Consultation with WDFW about known heron activity and breeding confirmation should also occur.

Lastly, the WDFW guidelines also recommend non-regulatory incentive programs for protecting great blue herons, such as those described previously. While many local governments protect the nesting colony through regulatory measures, habitats that indirectly benefit a colony sometimes go unprotected. WDFW suggests local governments offer incentives to landowners who want to permanently protect any type of breeding season habitat. Specifically, proposals near breeding season habitat deserve high priority when choosing between candidates for new Conservation Futures sites. Furthermore, land trusts should also consider these areas when developing their conservation portfolios.

References

- Azerrad, J. M. 2012. Management recommendations for Washington's priority species: Great Blue Heron. Washington Department of Fish and Wildlife, Olympia, Washington. <http://wdfw.wa.gov/publications/01371/>
- City of Olympia. 2016. Locally Important Species and Habitats Working Group Meeting notes. July 26, 2016. Olympia City Hall. Olympia, Washington.
- City of Seattle. 2016. Director's Rule X-2016: Great Blue Heron Management Plan. Draft. Available at: http://www.seattle.gov/dpd/cs/groups/pan/@pan/documents/web_informational/p2345109.pdf
- The Olympian. Olympia will buy 2.75 acres to protect great blue heron habitat. Published August 16, 2016. <http://www.theolympian.com/news/local/article96109887.html>
- Washington State Department of Fish and Wildlife (WDFW). 2008. Priority Habitat and Species List. Updated April 2014. Olympia, Washington. <http://wdfw.wa.gov/conservation/phs/list/>

1.6 Regulations Adopted by Reference

The Critical Areas regulations in ~~effect on October 1, 2013~~ adopted on August 16, 2016, Ordinance Number 7030 and additional amendments adopted on _____, Ordinance Number _____ and contained in the Olympia Municipal Code (OMC) Chapters 18.32 and 16.70 are integral and applicable to this Shoreline Program, and are hereby adopted by reference; provided that the reasonable use provisions set forth in OMC 18.66.040 shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines. Similarly, Section 18.06.100 A.2.C -- West Bay Drive Building Height and View Blockage Limits (Ordinance 6646, passed on July 14, 2009), is hereby adopted by reference to the extent that the height and use regulations identified therein are applicable to the shoreline jurisdiction area.

3.22 18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.
- B. If there are any conflicts or unclear distinctions between this chapter and Olympia's critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
 1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.435(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 3. ~~In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~
 4. ~~3.~~ Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(~~K~~)) and only when no other location is feasible.
 5. ~~4.~~ Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).

~~6.5.~~ Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).

~~7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.~~

~~8.6.~~ Wetland buffer reductions beyond twenty-five percent (25%) (~~OMC 18.32.535(H)~~) within shoreline jurisdiction shall require a shoreline variance.

~~9.7.~~ Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).

~~10.8.~~ Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.

~~11.9.~~ New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

~~12.10.~~ Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).

~~13. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.~~

3.58 18.20.810 – Permitted Shoreline Modifications

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use X – Prohibited X/C – Allowed by conditional use only in specific cases.	Natural	All other Shoreline Environments	Aquatic (Same as adjacent shoreline environment designation)	Notes & Applicable Regulations
Dredging	C (Only for Ecological Restoration/	P	←	See OMC 18.20.820

	Enhancement Projects)			
Fill	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.830 through 837
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20. 842-840 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through 18.20.870
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

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ATTACHMENT 6

18.02.180 DEFINITIONS – SPECIFIC.

Lake. A naturally existing or artificially created body of standing water greater than twenty (20) acres in size. Lakes include reservoirs which exist on a year-round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All such lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" found in the Shoreline Master Program, ~~for the Thurston Region in OMC 14.0818.20.~~

Land Use Approval. A written approval or permit issued by the Director or Hearing Examiner, or designee thereof, finding that a proposed project is consistent with applicable plans, regulations and standards and authorizing the recipient to make use of property in a certain manner. The land use approval consolidates various non-construction permit reviews of a project such as design review, environmental review, zoning conformance, and site plan review. Land Use Approval is a permit which does not directly authorize construction or improvements to real estate, but which is a necessary and required precursor to authorization of such construction or improvement. Land Use Approval includes, but is not limited to, applications for review and approval of a preliminary or final subdivision, short plat, binding site plan, conceptual or detailed master planned development, planned residential development, conceptual design review, site plan review, conditional use permit, variance, shoreline development permit, or other such reviews pertaining to land use.

Land Use Approval, Administrative. A Land Use Approval which may be issued by an authorized official or body, usually the Director, without an open record predecision hearing.

Land Use Approval, Quasi-Judicial. A Land Use Approval issued by an authorized official or body, usually the Hearing Examiner, following an open record predecision hearing.

Landscape Plan. A component of a site development plan on which is shown: proposed landscape species (number, spacing, size at time of planting, and plant details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

and generally furnished with desks, tables, files, and communication equipment.

Office, Veterinary/Clinic. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (See also Animal Hospital.)

Olympia Coordinate System. The horizontal ground scale coordinate system referenced to the Washington Coordinate System as established by the City Public Works Department.

On-Site. Located on the same lot that is the subject of an application for development.

On-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes generated on the same property, see current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.

Open Record Hearing. A hearing conducted by a single hearing body or officer that creates the City's record through testimony and submission of evidence and information under procedures prescribed by this Title. [See RCW 36.70B.020(3)].

Open Record Appeal Hearing. A form of open record hearing held on request in response to a notice of decision when no open record predecision hearing was held on the project permit. [See RCW 36.70B.020(3)].

Open Record Predecision Hearing. A form of open record hearing held prior to the City's decision on a project permit. [See RCW 36.70B.020(3)].

Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and may include such complementary structures and improvements as are necessary and appropriate.

Open Space, Public. Undeveloped public land that is permanently set aside (as opposed to regulated) to protect the special natural character of a particular location. Open space may include, but is not limited to wetlands; wetland buffers; creek, stream or river corridors; forested areas; ravines, bluffs or other geologically hazardous areas; and undeveloped areas within parks.

Ordinary High Water Mark (OHWM). (Also referred to as Ordinary High Water Line OHWL) Per

WAC ~~22-110-020220-660-030~~, the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of mean higher high water, and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood. ~~OWHM-OHWM~~ is used to determine the location of standard buffer widths of streams as required under OMC 18.32.435(C)(1).

Ordinary Repair and Maintenance. Work for which a permit issued by the City is not required by law, and where the purpose and effect of such work is to prevent or correct any deterioration or decay of or damage to the real property or structure appurtenant thereto and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

Outdoor Storage. The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 consecutive hours.

Over Water. Location above the surface of the water, including placement of buildings on piling or floats.

Overlay Zone. A zoning district or specific plan that encompasses one or more underlying zones or areas and which imposes requirements in addition to those required by the underlying zone. (See also Overlay Districts in Article III.)

Owner of Property. The fee simple owner of real property according to Thurston County Auditor records.

18.32.500 Wetlands - Purpose and Intent

In order to protect the natural function of wetlands and for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands or which lie within three hundred (300) feet of wetlands shall be subject to the standards in OMC 18.32.100(~~LA~~) and OMC 18.32.505 through OMC 18.32.595. (Note: Further information regarding development within associated wetlands along marine shorelines, lakes over 20 acres in size, and streams can be found in OMC 18.20 Shoreline Master Program.)

18.32.515 Wetlands - Small Wetlands

A. Wetlands less than one thousand (1,000) square feet shall be exempt from the requirements of OMC 18.32.135.A; wetland buffers in OMC 18.32.535, compensation projects in OMC 18.32.545 and replacement ratios in OMC 18.32.550 provided that the wetland or pond:

1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife~~;~~ ~~and~~
5. No part of the wetland is within shorelines of the State of Washington, except as authorized by OMC 18.20.420(C)(3).

B. Wetlands between one thousand (1,000) and four thousand (4,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, provided that the wetland:

1. Is rated as a Category III or IV wetland,
2. Is not associated with a riparian corridor,
3. Is not part of a wetland mosaic,
4. Does not score 5 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (2014),
5. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife, ~~and~~
6. A wetland mitigation report is provided as required by OMC 18.32.590~~;~~ ~~and~~
7. No part of the wetland is within shorelines of the State of Washington.



Meeting Minutes

Planning Commission

City Hall
601 4th Avenue E
Olympia, WA 98501
Contact: Joyce Phillips
360.570.3722

Monday, January 9, 2017

6:30 PM

Room 207

1. CALL TO ORDER

Vice Chair Auderer called the meeting to order at 6:32 p.m.

1.A ROLL CALL

Commissioner Richmond arrived after roll call was taken.

Present: 7 - Vice Chair Mike Auderer, Commissioner Travis Burns, Commissioner Paula Ehlers, Commissioner Darrell Hoppe, Commissioner Negheen Kamkar, Commissioner Carole Richmond and Commissioner Missy Watts

Excused: 1 - Chair Brian Mark

OTHERS PRESENT

Community Planning and Development:
Director Keith Stahley
Deputy Director Leonard Bauer
Senior Planner Joyce Phillips
Senior Planner Linda Bentley
Office Specialist/Minute Recorder Stacey Rodell

2. APPROVAL OF AGENDA

The agenda was approved.

3. APPROVAL OF MINUTES

3.A [17-0007](#) Approval of the November 21, 2016 Olympia Planning Commission Meeting Minutes

The minutes were approved.

4. PUBLIC COMMENT

The following members of the public spoke:

George Kurzman spoke in favor of changing the current code that prevents a property owner from renting out an accessory dwelling unit (ADU) that has been built on the owner's property when the property owner does not live on site.

Judy Bardin stated she would like to see someone from an environmental group included on the 'missing middle' work group. She presented a list of environmental groups in Olympia that she would like to see invited to join the work group. Ms. Bardin made reference to the "Tool Box" which is a document listing potential tools to implement Olympia Downtown Strategy (DTS). She feels Item 22 (Reduced building/planning/impact SDC fees) will impact needed City services such as compliance enforcement. Reducing impact fees for some projects will only shift the cost to other developers or the public resulting in a possible general fund reduction. Item 22 also mentions a reduction in stormwater fees; she feels this will impact the efforts towards preparing for sea level rise. She feels it is not logical to reduce fees for projects that may be most impacted by sea level rise. She spoke about Item 24 (SEPA) and how the environmental impact statement (EIS) for the Comprehensive Plan covered a broad range of topics but a site specific SEPA review may include additional information. She is in favor of Item 27 (Brownfields Area-Wide or Property-Specific Grants/Loans).

Chris van Daalen spoke in favor of the exploration of the 'missing middle' housing. He spoke about Vancouver's use of laneway housing.

Kirsten Evenson spoke in favor of tiny homes and urged the City to make changes to the code to allow these types of affordable housing.

Joseph Becker, ecological builder in Olympia, has built a number of tiny homes. He has been actively encouraging the development of ADU's with the City for about ten years. He spoke about Santa Cruz, CA and its successful ADU program. He is in favor of condominium ownership being applied to ADU's. He also spoke in favor of detached accessory structure (DAS) zoning. A DAS is a detached bedroom and shared main house.

Bob Jacobs spoke in favor of ADU's but cautions the belief of having these types units will make housing more affordable. He has concerns the economic development in the region will only create more unaffordable housing due to population growth.

5. STAFF ANNOUNCEMENTS

Ms. Phillips announced the following:

- Positions for City Advisory Boards are still open, including for the Planning Commission. The deadline to apply is January 31, 2017.
- A reminder the Commission will be reviewing and considering the Downtown Strategy recommendations soon. There is a lot of background information on the City's website to review. It is intended the final report will be sent to the Commission in mid-January. The briefing will be on February 6, 2017 with the public hearing tentatively scheduled for February 27, 2017.
- At the next meeting the Commission will begin developing the Planning Commission work plan for April 1, 2017 - March 31, 2018. The starting point is the remaining items on the current work plan that are not complete and the

2017 CPD Work Program.

- The Comprehensive Plan chapter “teach back” summaries from Commissioners to the rest of the Commission will begin at the next meeting. Commissioner Richmond will be giving a recap of the Capital Facilities Plan (CFP). On February 27, 2017, Chair Mark is scheduled to cover Community Values and Vision. Vice Chair Auderer and Commissioner Burns will be summarizing the Economy chapter. Commissioner Kamkar will be summarizing either the Transportation or Public Participation & Partners chapter.
- Some of the projects currently under review are Harrison Mixed Used, Washington Realtors, Colonial Estates, Briggs North Multifamily, Briggs Town Center Multifamily and Washington State Employee Credit Union (WSECU).

6. BUSINESS ITEMS

6.A [17-0006](#) Critical Areas Ordinance (CAO), Phase 2, Locally Important Habitat and Species Briefing

Ms. Bentley reported on the Critical Areas Ordinance (CAO) Phase 2 - locally important habitat and species via a PowerPoint presentation. Under the Washington State Growth Management Act (GMA), the City is required to update the Critical Areas Ordinance (CAO) periodically as part of the City’s Comprehensive Plan update. The required update included a mandate that the City’s critical areas sections in the development code must be reviewed to ensure consistency with current best available science (BAS).

Phase 1 (BAS updates) - adopted by City Council at 2nd reading on August 16, 2016.

Phase 2

- Option to protect locally important species and habitats
- Shoreline Master Plan (SMP) amendment (concurrent with Phase 2 adoption)

Protection Options for locally important species and habitats

- Regulatory
 - Amend development code to include specific species/habitat
 - Requirements triggered by a specific proposal
 - Many species/habitats already protected by City CAO and SMP and by State Department of Fish and Wildlife Priority Habitat and Species list
 - Great Blue Heron habitat protection
 - Annual and additional seasonal buffers around known habitat
 - Provide and/or replace vegetative screening
 - Restrict timing on certain activities
 - Restrict development within a nesting colony
 - Nomination of additional locally important species/habitats
- Incentive-based
 - Land acquisition and/or conservation easements
 - Private donations

- Programmatic
 - Designate as open space, native growth protection, habitat preserve
 - Parks, Arts & Recreation - Land Acquisition West Bay Woods - Trails, Open Space, Habitat Protection
 - Public Works, Water Resources - Storm and Surface Water Plan - Aquatic Habitat - e.g., Low Impact Development regulations (in conjunction with Community Planning and Development)

Development considerations

- No development in the nesting colony
- Activities causing loud noises above the ambient level restricted in the breeding season - February 1-August 31
- All screening trees must be retained or replaced
- Development within the annual buffer must follow mitigation sequencing
- Development on parcels abutting nesting colony requires a minimum 30' building setback from the property lines closest to the colony
- If nesting colony abandoned, area should be protected for 10 years from last known active nesting season

Phase 2 Timeline

- Public Open House - January 18, 2017
- Planning Commission Public Hearing - January 23, 2017 (Including SMP Amendment)
- City Council Adoption - March-April 2017
- Department of Ecology Approval - Summer 2017

The information was received.

6.B [17-0029](#) Briefing on Housing Tool Box and Downtown Strategy Work Implementation Plan

Mr. Stahley reported on the housing toolbox and Downtown Strategy work implementation plan via a PowerPoint presentation. He reviewed the "housing trilemma" - cities face tradeoffs in terms of housing affordability, job availability and quality of life. The slide compared the 100 largest metropolitan statistical areas (MSA) in the country. He also reviewed the following:

- New Downtown housing units from 2014-2016
- Proposed Downtown housing units from 2017-2019
- Housing toolbox highlights
- City owned property
- Downtown Strategy implementation plan highlights

The report was received.

6.C [17-0024](#) 'Missing Middle' Infill Housing Analysis - Public Involvement Plan

Mr. Bauer reported on the 'Missing Middle' Infill Housing Analysis and the public involvement plan via a PowerPoint presentation. The term 'Missing Middle' refers to a range of multi-unit housing types that are compatible in scale with single-family homes. In other words, they provide 'middle' density housing. There have been

relatively few of these types of housing constructed in Olympia (and nation-wide) over the past 40 years - thus, they are referred to as 'missing'. Some examples of housing types this project will particularly focus on include tiny houses, modular units, cottage homes, townhouses, small multifamily apartments, and accessory dwelling units. To implement Comprehensive Plan goals and policies regarding providing a variety of housing types, the Missing Middle Infill Housing Analysis will review existing city regulations - such as zoning, permit fees, development standards, utility connection charges, etc. - for potentially disproportionate effects on the ability to provide for a variety of housing types in the City's residentially zoned areas. A work group will be formed to provide in-depth discussion and feedback throughout the project. The work group is currently proposed to include two Planning Commission members and one Utility Advisory Commission member. Mr. Bauer asked if any of the Commissioners would be interested in serving on this work group. Commissioner Ehlers and Commissioner Richmond indicated they would like to serve on this work group. Remaining work group members will represent a broad range of perspectives on infill housing design, financing, construction, neighborhood compatibility, and affordable housing.

The information was received.

7. REPORTS - None

8. OTHER TOPICS - None

9. ADJOURNMENT

The meeting adjourned at 8:41 p.m.

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Planning Commission

Public Hearing, Critical Areas Ordinance (CAO), Phase 2, Locally Important Habitat and Species

Agenda Date: 1/23/2017
Agenda Item Number: 6.A
File Number: 17-0054

Type: public hearing **Version:** 2 **Status:** In Committee

Title

Public Hearing, Critical Areas Ordinance (CAO), Phase 2, Locally Important Habitat and Species

Recommended Action

Conduct a public hearing on the Critical Areas Ordinance (CAO), Phase 2, Locally Important Habitat and Species

Report

Issue:

Whether to conduct a public hearing on the Critical Areas Ordinance (CAO), Phase 2, Locally Important Habitat and Species.

Staff Contact:

Linda Bentley, Senior Planner, Community Planning and Development, 360.570.3746

Presenter(s):

Linda Bentley, Senior Planner, Community Planning and Development

Background and Analysis:

In 2015, the Land Use and Environment Committee (LUEC) directed staff to review potential additional protections for locally important habitat and species after the Washington State Growth Management Act (GMA) mandated update to the Critical Areas Ordinance (CAO) was completed, which occurred in August 2016.

After working with consultant ESA, staff presented information on protections for locally important habitat and species to LUEC on September 15 and November 17, 2016 and to Planning Commission on August 8, 2016, and January 9, 2017. A public open house to discuss the proposed amendments was held January 18, 2017. A report of the open house will be available at the Planning Commission's January 23 meeting.

A SEPA Determination of Non-Significance (DNS) for the recommended changes was issued January 10, 2017. The 60-day notice of intent to adopt, as required by state statute, was sent to the Department of Commerce on January 11, 2017.

Proposed Protections

As suggested in ESA's October 31 memo (attached), staff and consultant believe that the city's existing CAO and SMP regulations will adequately protect most species and habitat but, based on community interest and Council direction, we are proposing new and amended regulations to give added protection to the great blue heron and its habitat.

Staff is also proposing a process by which additional locally important species and/or habitat could be nominated in the future as conditions change (proposed new OMC 18.32.325).

Great Blue Heron and Habitat

In general, we are proposing the following approaches to protect heron rookeries:

- Adopt a fixed-width buffer around mapped heron rookeries
- Require tree and vegetative screening
- Restrict the timing on some types of activities (e.g., clearing, grading)
- Require consultation with the City and the Washington State Department of Fish & Wildlife (WDFW) during project planning

Our goal is to find the best balance between protecting species and respecting private property rights. WDFW recognizes that protections for heron rookeries have a different set of considerations in urban areas than in less developed areas. Consequently, staff is proposing a smaller seasonal buffer than that recommended in WDFW's management recommendations for nests in rural and less developed areas. As indicated on the attached draft maps, we are proposing a 200 foot year-round buffer and an additional 300 foot seasonal buffer for both the East Bay and West Bay rookeries. We also recommend regulatory language that outlines requirements for development near the rookeries (see proposed new OMC 18.32.327). We've developed two draft handouts - Great Blue Heron Management Guidelines and Great Blue Heron Development Conditions - which further explain the regulations.

Non-regulatory Protections

The best way to protect important habitat and species is to acquire the land that provides the necessary habitat for important species. Therefore, we recommend the following:

- The City should continue to work with non-profit groups such as the Olympia Coalition for Ecosystems Preservation to pursue opportunities to purchase properties that support or are near known rookeries or other sensitive habitat.
- The City Parks Department should include as a consideration the quality and extent of habitat value when deliberating acquisition of land for passive-type parks.

The City could also research and develop incentives for landowners who want to permanently protect any type of breeding season habitat and assist existing non-profit groups to develop an ongoing citizen-science training program to assist in monitoring the status of locally important habitat and species.

Shoreline Master Program (SMP) Amendments

When the City amends its CAO, it must also amend its SMP to adopt the new CAO by reference. The Washington State Department of Ecology must approve the amendments to the SMP before they can become effective.

The attached amendment to Olympia's SMP adopts the amended CAO by reference, ensures consistency with the CAO adopted July 19, 2016, and corrects errors. Minor changes to OMC 18.02.180 Definitions and OMC 18.32.500 and 515 are required to bring the CAO into consistency with the SMP and are also attached.

Neighborhood/Community Interests (if known):

Many groups and individuals in the community are interested in protection of the Great Blue Heron.

Options:

1. Recommend to City Council adoption of amendments to OMC Chapter 18, adoption of amendments to the SMP and approval of the non-regulatory suggestions, **as recommended by staff.**
2. Recommend to City Council adoption of amendments to OMC Chapter 18, adoption of amendments to the SMP and approval of the non-regulatory suggestions, **with modifications.**
3. Request staff to furnish further clarification or revisions.
4. Recommend denial of all proposed amendments and/or non-regulatory suggestions.

Financial Impact:

Initial review of locally important habitat and species was included in Community Planning and Development Department's 2016 budget; however, some approaches to habitat and species protection may require additional resources in the future.

Attachments:

Proposed OMC 18.32 amendments
Miscellaneous Title 18 OMC amendments
Shoreline Master Program amendments
ESA memo
Rookeries maps
Great Blue Heron Management Guidelines
Great Blue Heron Development Conditions

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OMC Chapter 18.32 as approved by City Council Aug 16, 2016, with proposed new language shown in track changes.

18.32.300 Important Habitats and Species - Purpose and Intent

In order to preserve and protect important habitats and species which are known to occur in Thurston County and which may be found within the City of Olympia, and which are not already protected by another critical area category, appropriate protection of an important habitat or species location shall be subject to the standards in OMC 18.32.305 through OMC 18.32.330. Protection in lake and marine shorelines is regulated under the City of Olympia Shoreline Master Program, OMC ~~14.08~~18.20.

18.32.305 Important Habitats and Species - Applicability and Definition

"Important habitats and species" are habitats or species known to occur within Thurston County and which may be found within the City of Olympia and which are not receiving habitat protection by another critical area category (e.g. Streams, Wetlands, or Landslide Hazard Areas) in this Chapter and:

- A. Are designated as endangered or threatened species identified under the Endangered Species Act; or
- B. Are state priority species identified on the Washington Department of Fish and Wildlife (WDFW) Priority Habitats and Species (PHS) List and their habitats of primary association. (Consult the state WDFW for the current PHS list); or

C. Are designated as "locally important habitat or species" pursuant to OMC 18.32.327; or

CD. Are areas in Olympia that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.

DE. Small lakes, defined as naturally existing bodies of standing water less than twenty acres in size that exist on a year-round basis in a depression of land or expanded part of a stream and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act), are considered an "important habitat." This term does not apply to constructed ponds.

18.32.315 Important Habitats and Species - Authority

- A. No development shall be allowed in an important habitat and species area ~~where local, state or federally endangered, threatened or sensitive species have a primary association as defined in OMC 18.32.305~~ without approval from the Department. The Department may restrict the uses and activities of a development proposal, such as

construction restrictions during breeding season, which lie when the proposal is located within one thousand (1,000) feet of an important habitat or species location.

B. The minimum performance standards that apply to a development proposal shall be those provided by the Washington Department of Fish & Wildlife's Management Recommendations for Washington's Priority Habitat and Species (1991), as amended, and the requirements in OMC 18.32.115, except as modified on the basis of an Important Habitat and Species Management Plan described in OMC 18.32.330.

18.32.320 Important Habitats and Species - Buffers

The Department shall establish buffers for the habitat or species on a case-by-case basis, in consultation with the WDFW or others with expertise if needed, based on the critical area report outlined in OMC 18.32.115 and the WDFW management recommendations for Washington's priority habitats and species, if available. The buffers shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

18.32.325 Process to Identify Additional Locally Important Habitat and Species.

A. Additional species of local importance may be designated pursuant to OMC 18.58, zoning text amendment.

B. In addition to the decision criteria of OMC 18.59.050, a species may be designated locally important only if it demonstrates the following characteristics:

1. Local populations of native species are in danger of extirpation based on existing trends and best available science:

a. Local populations of native species that are likely to become endangered; or

b. Local populations of native species that are vulnerable or declining;

2. The species or habitat has recreation, commercial, game, tribal, or other special value;

3. Long-term persistence of a species is dependent on the protection of the species through the provisions of this part;

4. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and

5. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

C. Effect of Designation. Designation of a species of local importance under this section shall not impact projects or proposals with a vested application or approved permit.

18.32.327 Locally Important Habitat and Species – Definitions and Performance Standards

Great Blue Heron Rookeries

A. Definitions

1. Great Blue Heron Nesting Season means February 1 through August 31.
2. Great Blue Heron Nesting Colony means the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests.
3. Great Blue Heron Core Zone means the area consisting of the great blue heron nesting colony and the year-round buffer.
4. Great Blue Heron Management Area means the area consisting of a great blue heron nesting colony, the year-round buffer, and the seasonal buffer.
5. Screening Tree means a tree that is within a direct line of sight between structures or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from structures or development during any part of the year, and within the great blue heron management area.

B. Buffers and Measurements

1. The year-round buffer is 200 feet, measured from the nesting colony boundary.
2. The seasonal buffer is an additional 300 feet, measured from the great blue heron core zone boundary.
3. Great Blue Heron Pre-nesting Area means an area less than 1 kilometer (.62 miles) from a great blue heron nesting colony where male birds congregate prior to occupying the nests.

C. Development Conditions Within the Great Blue Heron Core Zone

1. No development shall occur in the great blue heron nesting colony.
2. Any development within the year-round buffer shall use mitigation sequencing as provided in OMC 18.32.135 to:
 - a. maintain baseline development conditions and ambient noise levels;
 - b. maintain great blue heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes; and shall

- c. include an implementation plan for both the development and any required mitigation with maps, as-built drawings, vegetation removal and planting, timing, and an operation and maintenance plan for businesses that include outside operations.
- 3. If the parcel where the development will occur abuts a parcel containing a great blue heron nesting colony, there shall be a minimum 30 foot building setback from the property line(s) closest to the nesting colony. The setback shall be vegetated using native trees and shrubs that screen activities on the parcel from the nesting colony.
- 4. If a nesting colony has been abandoned by a great blue heron colony, the great blue heron management core zone for this colony shall be protected for a period of ten years from the last known active nesting season.

D. Development Conditions Within the Great Blue Heron Management Area

- 1. Any clearing, grading, outside construction or other activity that causes loud noise above ambient noise levels shall be done from September 1 through January 31, outside of the nesting season. Ambient noise is specific to the location of the nesting colony site and can include noises such as sirens and leaf blowers. Noise that is not considered ambient noise includes but is not limited to outdoor construction and the use of dump trucks, front end loaders, pile drivers and blasting equipment.
- 2. All 6 inch diameter breast height (dbh) or larger trees shall be retained if the removal of those trees decreases the effectiveness of the trees' screening of new and existing development from the colony and if replacing the removed trees with other trees does not screen the nesting colony to the same extent as the existing trees.

18.32.330 Important Habitats and Species - Management Plan

When a development proposal lies within an important habitats and/or species location, an Important Habitats and Species Management Plan shall be submitted by the applicant. The Department may waive the submittal when consultation with the Washington Department of Fish and Wildlife staff indicates that such a plan is not needed.

An Important Habitats and Species Management Plan shall:

- A. Identify how the development impacts from the proposed project will be mitigated. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991), as amended, shall be the basis for this plan.

B. Be prepared by a person who demonstrates sufficient experience and education as a wildlife biologist, habitat management consultant or botanist.

C. Contain, but not be limited to:

1. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon the important species and its habitat;
2. An analysis of the effect of the proposed development, activity or land use change upon the important species and its habitat, based upon Washington Department of Fish and Wildlife management guidelines;
3. A mitigation plan by the applicant which shall explain how any adverse impacts to the important species or its habitat created by the development will be minimized or avoided, such as:
 - a. Establishment of buffer zones;
 - b. Preservation of important plants and trees;
 - c. Limitation of access;
 - d. Seasonal restriction of construction and other activities; and
 - e. Provisions for periodic review of the plan.

and

4. A map(s) to-scale, showing:
 - a. The location of the proposed development site, to include a boundary survey;
 - b. The relationship of the site to surrounding topographic features;
 - c. The nature and density of the proposed development or land use change;
 - d. Proposed building locations and arrangements;
 - e. Existing structures and landscape features including the name and location of all streams, ponds and other bodies of water;
 - f. The extent and location of the important species habitat;
 - g. A legend with: Title, scale and north arrows, and date, including revision dates if applicable.

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ATTACHMENT 1

18.02.180 DEFINITIONS – SPECIFIC.

Lake. A naturally existing or artificially created body of standing water greater than twenty (20) acres in size. Lakes include reservoirs which exist on a year-round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All such lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" found in the Shoreline Master Program, ~~for the Thurston Region in OMC 14.0818.20.~~

Land Use Approval. A written approval or permit issued by the Director or Hearing Examiner, or designee thereof, finding that a proposed project is consistent with applicable plans, regulations and standards and authorizing the recipient to make use of property in a certain manner. The land use approval consolidates various non-construction permit reviews of a project such as design review, environmental review, zoning conformance, and site plan review. Land Use Approval is a permit which does not directly authorize construction or improvements to real estate, but which is a necessary and required precursor to authorization of such construction or improvement. Land Use Approval includes, but is not limited to, applications for review and approval of a preliminary or final subdivision, short plat, binding site plan, conceptual or detailed master planned development, planned residential development, conceptual design review, site plan review, conditional use permit, variance, shoreline development permit, or other such reviews pertaining to land use.

Land Use Approval, Administrative. A Land Use Approval which may be issued by an authorized official or body, usually the Director, without an open record predecision hearing.

Land Use Approval, Quasi-Judicial. A Land Use Approval issued by an authorized official or body, usually the Hearing Examiner, following an open record predecision hearing.

Landscape Plan. A component of a site development plan on which is shown: proposed landscape species (number, spacing, size at time of planting, and plant details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

and generally furnished with desks, tables, files, and communication equipment.

Office, Veterinary/Clinic. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (See also Animal Hospital.)

Olympia Coordinate System. The horizontal ground scale coordinate system referenced to the Washington Coordinate System as established by the City Public Works Department.

On-Site. Located on the same lot that is the subject of an application for development.

On-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes generated on the same property, see current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.

Open Record Hearing. A hearing conducted by a single hearing body or officer that creates the City's record through testimony and submission of evidence and information under procedures prescribed by this Title. [See RCW 36.70B.020(3)].

Open Record Appeal Hearing. A form of open record hearing held on request in response to a notice of decision when no open record predecision hearing was held on the project permit. [See RCW 36.70B.020(3)].

Open Record Predecision Hearing. A form of open record hearing held prior to the City's decision on a project permit. [See RCW 36.70B.020(3)].

Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and may include such complementary structures and improvements as are necessary and appropriate.

Open Space, Public. Undeveloped public land that is permanently set aside (as opposed to regulated) to protect the special natural character of a particular location. Open space may include, but is not limited to wetlands; wetland buffers; creek, stream or river corridors; forested areas; ravines, bluffs or other geologically hazardous areas; and undeveloped areas within parks.

Ordinary High Water Mark (OHWM). (Also referred to as Ordinary High Water Line OHWL) Per

WAC ~~22-110-020220-660-030~~, the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of mean higher high water, and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood. ~~OWHM-OHWM~~ is used to determine the location of standard buffer widths of streams as required under OMC 18.32.435(C)(1).

Ordinary Repair and Maintenance. Work for which a permit issued by the City is not required by law, and where the purpose and effect of such work is to prevent or correct any deterioration or decay of or damage to the real property or structure appurtenant thereto and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

Outdoor Storage. The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 consecutive hours.

Over Water. Location above the surface of the water, including placement of buildings on piling or floats.

Overlay Zone. A zoning district or specific plan that encompasses one or more underlying zones or areas and which imposes requirements in addition to those required by the underlying zone. (See also Overlay Districts in Article III.)

Owner of Property. The fee simple owner of real property according to Thurston County Auditor records.

18.32.500 Wetlands - Purpose and Intent

In order to protect the natural function of wetlands and for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands or which lie within three hundred (300) feet of wetlands shall be subject to the standards in OMC 18.32.100(~~LA~~) and OMC 18.32.505 through OMC 18.32.595. (Note: Further information regarding development within associated wetlands along marine shorelines, lakes over 20 acres in size, and streams can be found in OMC 18.20 Shoreline Master Program.)

18.32.515 Wetlands - Small Wetlands

A. Wetlands less than one thousand (1,000) square feet shall be exempt from the requirements of OMC 18.32.135.A; wetland buffers in OMC 18.32.535, compensation projects in OMC 18.32.545 and replacement ratios in OMC 18.32.550 provided that the wetland or pond:

1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife~~;~~ ~~and~~
5. No part of the wetland is within shorelines of the State of Washington, except as authorized by OMC 18.20.420(C)(3).

B. Wetlands between one thousand (1,000) and four thousand (4,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, provided that the wetland:

1. Is rated as a Category III or IV wetland,
2. Is not associated with a riparian corridor,
3. Is not part of a wetland mosaic,
4. Does not score 5 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (2014),
5. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife, ~~and~~
6. A wetland mitigation report is provided as required by OMC 18.32.590~~;~~ ~~and~~
7. No part of the wetland is within shorelines of the State of Washington.

1.6 Regulations Adopted by Reference

The Critical Areas regulations ~~in effect on October 1, 2013~~ adopted on August 16, 2016, Ordinance Number 7030 and additional amendments adopted on _____, Ordinance Number _____ and contained in the Olympia Municipal Code (OMC) Chapters 18.32 and 16.70 are integral and applicable to this Shoreline Program, and are hereby adopted by reference; provided that the reasonable use provisions set forth in OMC 18.66.040 shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines. Similarly, Section 18.06.100 A.2.C -- West Bay Drive Building Height and View Blockage Limits (Ordinance 6646, passed on July 14, 2009), is hereby adopted by reference to the extent that the height and use regulations identified therein are applicable to the shoreline jurisdiction area.

3.17 18.20.310 – Official Shoreline Map

The Shoreline Map (Figure 4.1) is hereby amended to correct a map error in Budd Inlet, Reach BUDD-3B to show the intent, which is to include the now unused railway berm shown on previous maps but erroneously deleted in the latest SMP update. The Boundary Descriptions in Appendix B are correct.

3.22 18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.
- B. If there are any conflicts or unclear distinctions between this chapter and Olympia's critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
 1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.435(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 3. ~~In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~

~~4.3.~~ Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.

~~5.4.~~ Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).

~~6.5.~~ Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).

~~7.~~ In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.

~~8.6.~~ Wetland buffer reductions beyond twenty-five percent (25%) (OMC 18.32.535(H)) within shoreline jurisdiction shall require a shoreline variance.

~~9.7.~~ Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).

~~10.8.~~ Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.

~~11.9.~~ New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

~~12.10.~~ Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).

~~13.~~ In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.

3.58 18.20.810 – Permitted Shoreline Modifications

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use	Natural	All other Shoreline Environments	Aquatic (Same as adjacent	Notes & Applicable Regulations
---	---------	--	---------------------------------	--------------------------------------

X – Prohibited X/C – Allowed by conditional use only in specific cases.			shoreline environment designation)	
Dredging	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.820
Fill	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.830 through 837
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20.842-840 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through 18.20.870
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

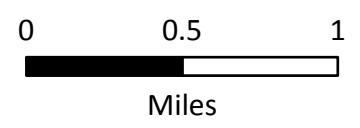
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ATTACHMENT 3

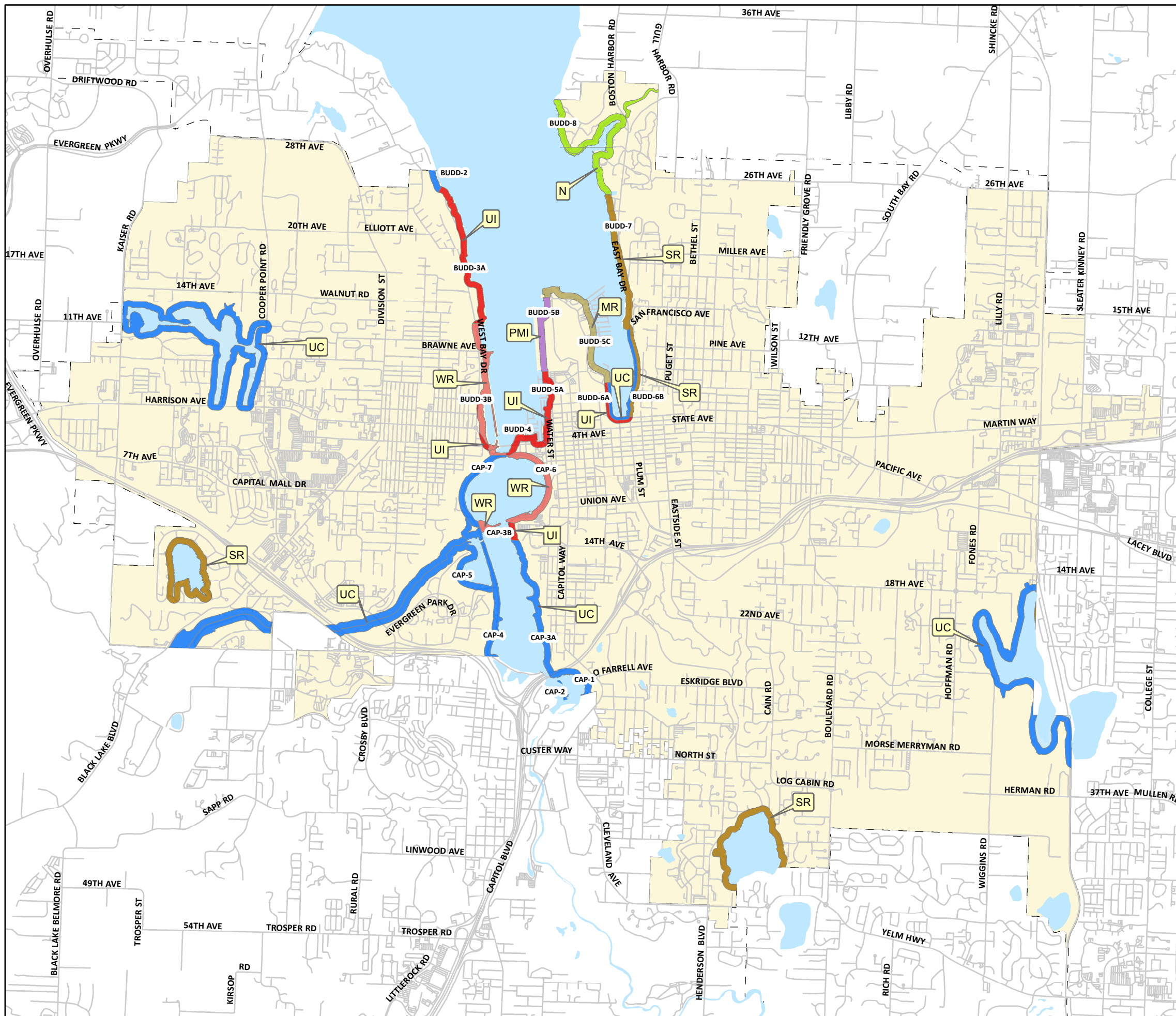
FIGURE 4.1 OLYMPIA SHORELINE MASTER PROGRAM

Shoreline Environment
Designations 10/8/2015

-  AQUATIC
-  MARINE RECREATION
-  NATURAL
-  PORT MARINE INDUSTRIAL
-  SHORELINE RESIDENTIAL
-  URBAN CONSERVANCY
-  URBAN INTENSITY
-  WATERFRONT RECREATION
-  Roads
-  Urban Growth Area
-  Olympia City Limits
-  Tumwater/Lacey City Limits



DISCLAIMER: This map was created for internal City use only. The parcels, right-of-ways, utilities and structures depicted on this map are based on information taken from historical records and aerial photos. The information has not been independently verified as complete or accurate. Access to such information is provided to the public as a matter of public record, for general information only. The completeness and accuracy of this information should not be relied upon. Users are advised to field-verify all information through a private, licensed professional. The City of Olympia and its personnel expressly disclaim any liability arising from commercial or private use of this map or the information, or absence of information, contained herein.



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memorandum

date October 31, 2016

to Linda Bentley, City of Olympia

from Ilon Logan

subject Critical Areas Ordinance Update Phase II: **Locally Important Species and Associated Habitats Recommendations**

This memo is a follow-on to our previous memo *Locally Important Species and Associated Habitats Recommendations Overview and Options* (dated August 5, 2016) and includes high-level recommendations for implementing some of the previously discussed options. The intent is to provide a basis for discussion and decision-making by the City regarding protections for wildlife and wildlife habitats in Olympia.

Based on the review of existing information, published literature, and input from the CAO working group, we suggest the City consider a combination of regulatory and non-regulatory methods to expand and/or increase protections for wildlife and wildlife habitat. Our recommendations fall into two categories: 1) general protections for priority species and habitats, and 2) protections specific to great blue heron.

General Protections

As reported in our previous memo, the City of Olympia contains a low number of sensitive and/or rare habitats and species as documented by the Washington Department of Fish and Wildlife (WDFW) in the Priority Habitats and Species (PHS) database (WDFW, 2016). This is due to the developed-nature of lands within the City and urban growth area boundaries, the limited extent of stream corridors and wetland areas, and the lack of native prairie or oak woodland habitats. The PHS database does include records for wood duck breeding areas and mink occurrences (both from the early 1990s), great blue heron rookeries, bald eagle and peregrine falcon breeding sites, and bat communal roosts. Additionally, several of the species identified by the CAO working group as important and/or potentially declining (see July 26, 2016 meeting notes), including western grebe, purple martin, osprey, Vaux's swift, several bat species, and Olympic mudminnow, are on the PHS list.

To provide regulatory protections for individual wildlife species, we have the following high-level recommendations for the City:

- Rely on the current regulations for important habitats and species (OMC 18.32.305B) for peregrine falcon and bald eagle. Both are state sensitive species (<http://wdfw.wa.gov/conservation/endangered/status/SS/>) and federal species of concern, which puts them within the City's current definition of important habitats and species. In addition, these two bird species were not a major concern by the CAO working group as neither are currently experiencing population declines.
- Rely on the current regulations for streams (OMC 18.32.405A), wetlands (OMC 18.32.505), and small lakes (OMC 18.32.305D) for habitat protection of wood duck breeding areas, western grebe, and Olympic mudminnow.
- Rely on the current regulations for streams (OMC 18.32.405A) and important riparian areas (OMC 18.32.405B) for habitat protection of bat communal roosts (including Yuma myotis, California myotis, big brown bat, little brown bat, and Townsend's big-eared bat).

In terms of a nomination process for adding new locally important species and habitats, the City should have a nomination and designation process in place. The Department of Commerce (formerly CTED) has developed an example step-wise process (see our previous memo) that can be used as a guide. We note that some counties and cities (e.g., Thurston County and City of Bellevue) have codified their version of the process in the CAO regulations. Based on our experience, this approach is not necessary as the nomination and designation process is rarely used and is an optional requirement of the GMA. We recommend that the City prepare its guidelines and have them available upon request from the City manager or other representative.

Lastly, to increase protection of general wildlife habitats in the City, we recommend the City continue to work with the Olympia Coalition for Ecosystems Preservation and pursue opportunities to purchase properties near known rookery locations as they did in 2016 when 2.5 acres of the West Bay Woods were acquired (The Olympian, August 16, 2016). In addition to outright purchase, the City could consider innovative ways of acquiring property for open space such as Transfer of Development Rights (TDR) and development incentives for set asides. These programs provide reduced property tax rates for property owners who voluntarily commit a portion of land to open space or avoiding activities harmful to specific species or habitat.

Great Blue Heron Protections

To protect the population of great blue heron and their breeding habitat, we suggest the City follow an approach similar to the City of Kenmore, which includes:

- Adoption of a fixed-width buffer around mapped heron rookeries
- Timing restrictions on some types of activities (e.g., clearing, grading)
- Consultation with the City and WDFW during project planning

For specifics, we recommend the City follow WDFW's guidelines for identifying, mapping, and managing heron habitats as detailed in *Management Recommendations for Washington's Priority*

Species: Great Blue Heron (Azerrad, 2012). An abbreviated set of guidelines is provided with this memo.

Following the WDFW guidelines would address and document the known rookery locations in both the West Bay woods and East Bay forested ravine and establish those areas as Heron Management Areas (HMAs). The WDFW-recommended buffers for nesting colonies in urban areas include a year-round buffer of 60 meters (197 feet) and an additional seasonal buffer of 200 meters (656 feet) for unusually loud activities during breeding season (i.e., February-September). Buffer protections are based on the premise that adequate buffers result in greater longevity and colony productivity because they are a physical and visual barrier to potentially intrusive activities, can protect nest trees from being blown down, and provide habitat for birds when they move from one nest tree to another. The City should require a site-specific habitat management plan to be developed whenever a land use proposal is submitted in or near the HMA.

As an alternative to the WDFW-recommended buffer widths, we recommend the City consider the City of Seattle's protections for great blue heron drafted in 2016, but not yet adopted (City of Seattle, 2016). The proposed regulations establish a year-round buffer of 197 feet and seasonal buffers that are less than the WDFW-recommended width. The proposed seasonal buffers include a 500-foot buffer applied to the colonies in the Kiwanis and North Beach Ravines and a 300-foot buffer applied to all other nesting colonies. The City maintains that heron colonies within the City of Seattle are in part habituated to urban conditions and notes that WDFW did not establish smaller seasonal buffers for urban areas.

To address the sometimes transitory nature of nesting colonies, we recommend the City stipulate the period in which a HMA remains in effect from the last known active nesting season. As referenced in the WDFW recommendations, the Migratory Bird Treaty Act (MBTA) states that protections applying to an active colony should remain in effect for 10 years after the last recorded nesting season. The City of Seattle draft protection adopt this time period as well.

We suggest that City project planners actively consult the WDFW guidelines for carrying out the heron recommendations. During project review, a habitat management plan should be developed whenever a land use proposal is submitted in or near the HMA. Consultation with WDFW about known heron activity and breeding confirmation should also occur.

Lastly, the WDFW guidelines also recommend non-regulatory incentive programs for protecting great blue herons, such as those described previously. While many local governments protect the nesting colony through regulatory measures, habitats that indirectly benefit a colony sometimes go unprotected. WDFW suggests local governments offer incentives to landowners who want to permanently protect any type of breeding season habitat. Specifically, proposals near breeding season habitat deserve high priority when choosing between candidates for new Conservation Futures sites. Furthermore, land trusts should also consider these areas when developing their conservation portfolios.

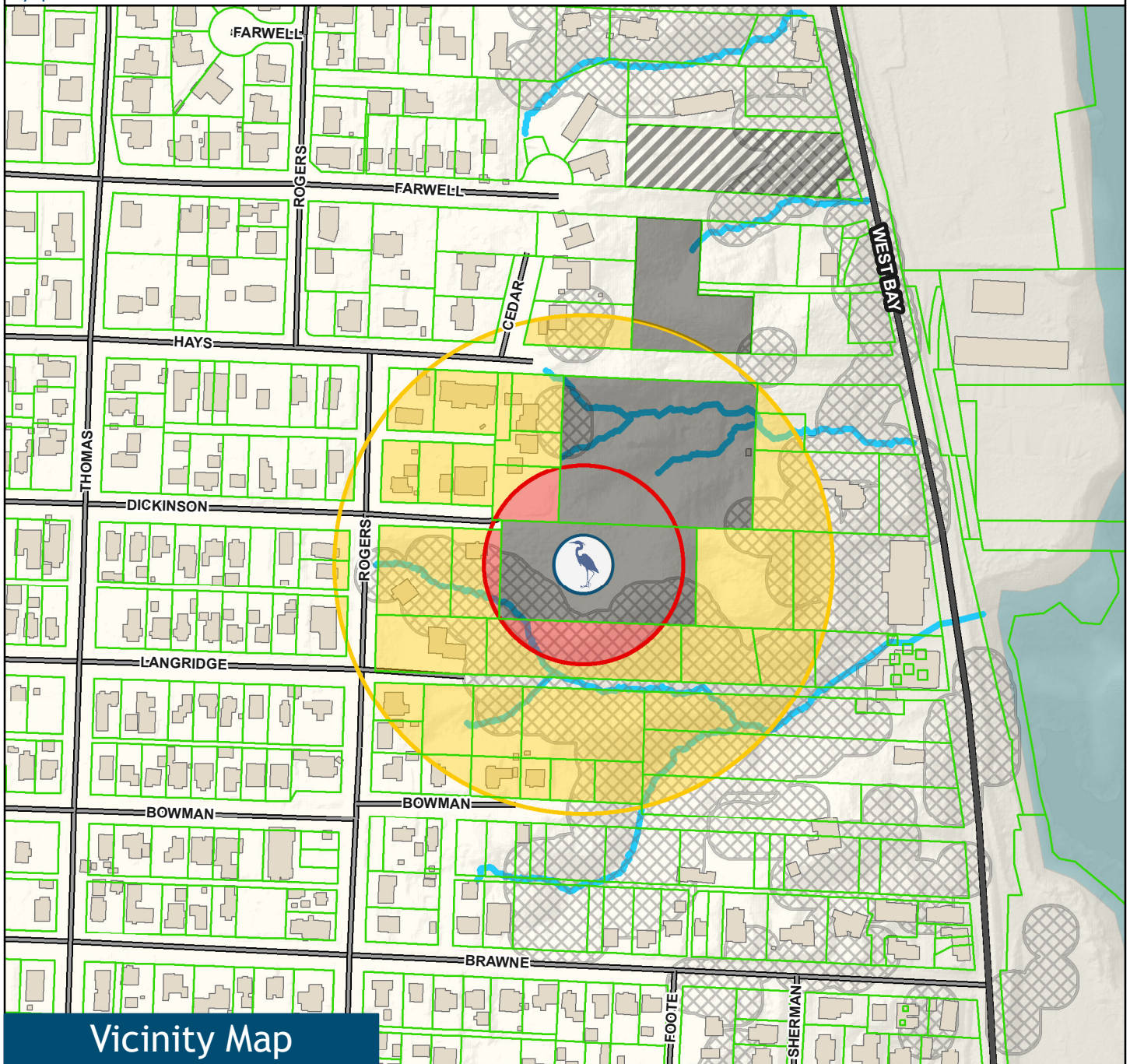
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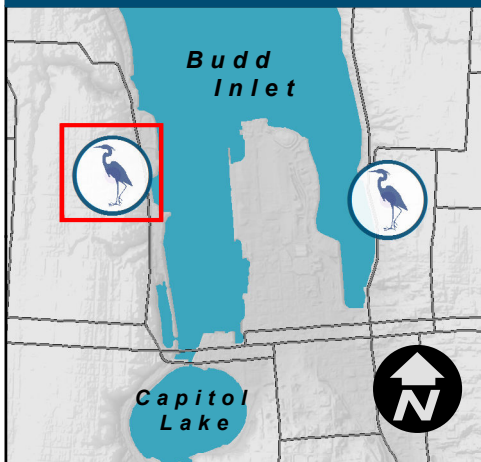


Community Planning and Development

Westside Heron Rookery



Vicinity Map



Heron Rookeries



200' Annual Buffer



Additional 300' Seasonal Buffer



City Parcels



Under Option by City



Government or NGO Owned



Steep Slopes



Existing Buildings

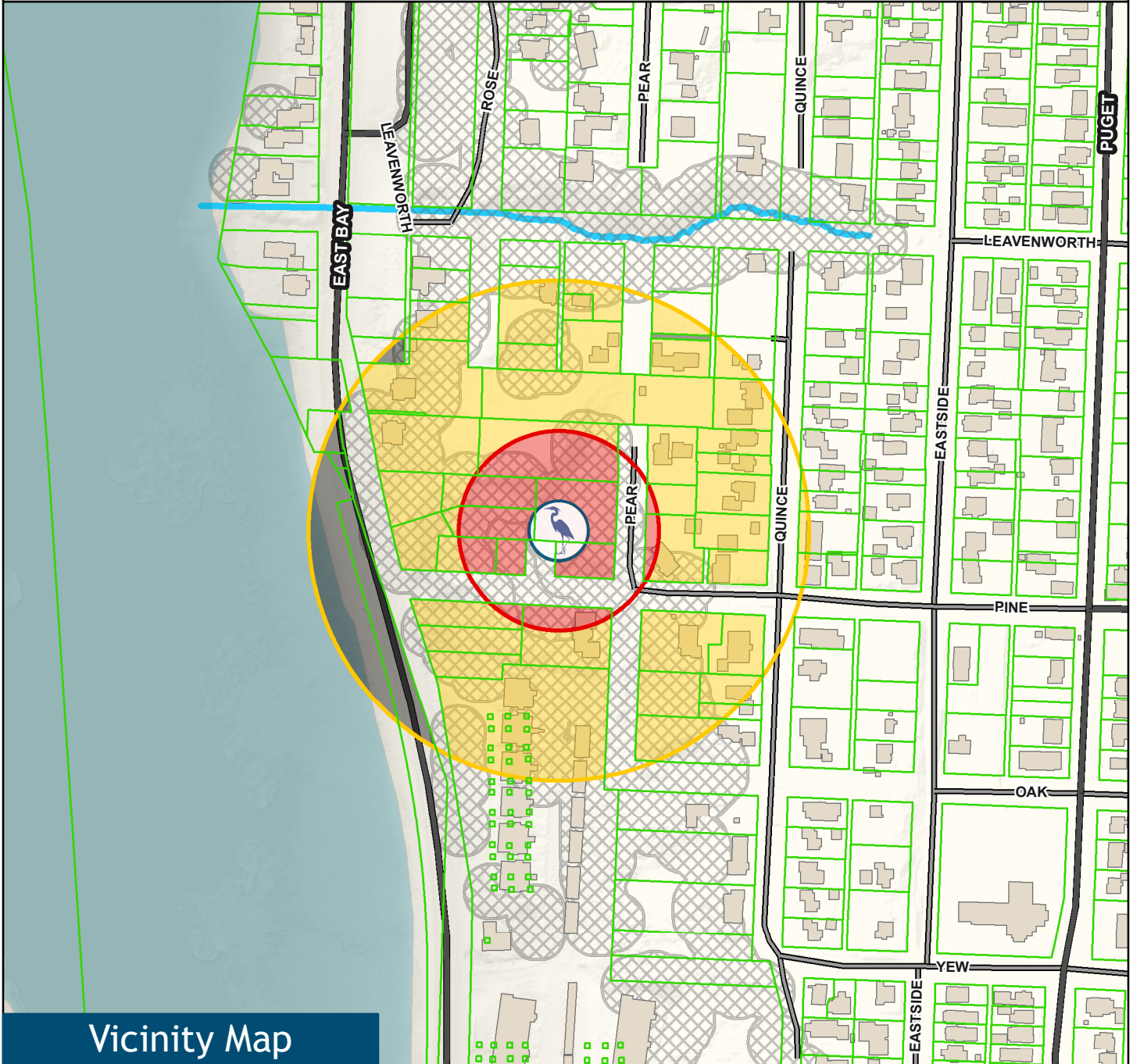
1 inch = 300 feet
 0 0.03 0.06 Miles

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and/or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.

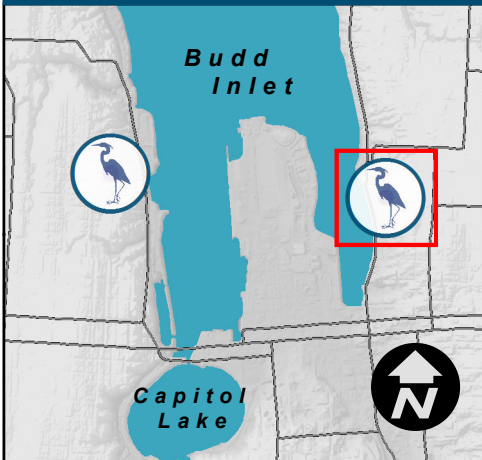


Community Planning and Development

Eastside Heron Rookery



Vicinity Map



Heron Rookeries



200' Annual Buffer



Additional 300' Seasonal Buffer



City Parcels



Government or
NGO Owned

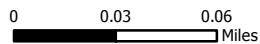


Steep Slopes



Existing Buildings

1 inch = 300 feet



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GREAT BLUE HERON DEVELOPMENT CONDITIONS:**Within the Great Blue Heron Management Area:**

- Any clearing, grading, outside construction or other activity that causes loud noise above ambient noise levels shall be done from September 1 through January 31, outside of the nesting season. Ambient noise is specific to the location of the nesting colony site and can include noises such as sirens and leaf blowers. Noise that is not considered ambient noise includes but is not limited to outdoor construction and the use of dump trucks, front end loaders, pile drivers and blasting equipment.
- All 6 inch diameter breast height (dbh) or larger trees shall be retained if the removal of those trees decreases the effectiveness of the trees' screening of new and existing development from the colony and if replacing the removed trees with other trees does not screen the nesting colony to the same extent as the existing trees.

Within the Great Blue Heron Core Zone:

- No development shall occur in the great blue heron nesting colony.
- Any development within the year-round buffer shall use mitigation sequencing as set out in OMC 18.32.135 to:
 - maintain baseline development conditions and ambient noise levels;
 - maintain great blue heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes; and shall
 - Include an implementation plan for both the development and any required mitigation with maps, as-built drawings, vegetation removal and planting, timing, and an operation and maintenance plan for businesses that include outside operations.
- If a nesting colony has been abandoned by a great blue heron colony, the great blue heron core zone for this colony shall be protected for a period of 10 years from the last known active nesting season.
- If the parcel where the development will occur abuts a parcel containing a great blue heron nesting colony, there shall be a minimum 30 foot building setback from the property line(s) closest to the nesting colony. The setback shall be vegetated using native vegetation that screens activities on the parcel from the nesting colony.

If the standard conditions set forth above in the Conditions section are acceptable, please sign below and this will serve as your Great Blue Heron Management Plan. Activities will be periodically monitored and failure to comply with the Plan constitutes a violation as set forth in OMC 18.32.175.

I have read and understand the above conditions placed on parcel

_____ located at

Signature _____ Date _____

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ATTACHMENT 7

GREAT BLUE HERON MANAGEMENT GUIDELINES

Background & Purpose:

Great blue herons can be vulnerable because of their tendency to aggregate during the breeding season. They are colonial breeders that nest in a variety of deciduous and evergreen tree species. Nests are usually constructed in the tallest trees available, presumably to reduce the risk of predation by mammals. The availability of suitable great blue heron breeding habitat is declining as human population increases. Great blue heron nesting colonies are listed as a Washington State Department of Fish and Wildlife (WDFW) Priority Species.

Statewide Recommendations

Statewide, WDFW recommends a permanent, year-round buffer of 60 meters (197 feet) from the perimeter of the great blue heron nesting colony for urban areas as defined by WDFW. Additional management recommendations include a seasonal buffer of 200 meters (656 feet) for loud noises and 400 meters (1,320 feet) for extremely loud noises such as blasting. The seasonal buffers are measured from the outside edge of the year-round buffer. These management recommendations can be found in the 2012 Washington's Priority Species, Great Blue Heron, prepared by WDFW. This can be viewed by going to <http://wdfw.wa.gov/publications/01371/> or by contacting WDFW.

Local Recommendations

The WDFW recommends that local land use planning should, when possible, protect existing great blue heron colonies using colony site-specific management plans that consider the colony size, location, relative isolation and the degree of habituation to human disturbance. Typically in Olympia it is difficult to restrict development within larger buffer areas due to existing development and buildable lots in close proximity to colonies. Therefore, and because heron colonies within the City of Olympia are in part habituated to urban conditions and WDFW did not establish smaller seasonal buffers for urban areas, the City has established a 200 foot year-round buffer and an additional 300 foot seasonal buffer for great blue heron nesting colonies in both the West Bay and East Bay areas. Development conditions for proposed development within or near a Great Blue Heron Management Area are contained in OMC 18.32.327.

Definitions

Great Blue Heron Nesting Season means February 1 through August 31

Great Blue Heron Nesting Colony means the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests.

Great Blue Heron Core Zone means the area consisting of a great blue heron nesting colony and its 200 foot year-round buffer.

Great Blue Heron Management Area means the area consisting of a great blue heron nesting colony, the 200 foot year-round buffer, and the 300 foot seasonal buffer.

Screening Tree means a tree that is within the direct line of sight between the structure(s) or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from the structure(s) or development during any part of the year, and within the great blue heron management area.

Great Blue Heron Pre-nesting Area means an area less than 1 kilometer (.62 miles) from a great blue heron nesting colony where male birds congregate prior to occupying the nests.

Measurements

Year-round buffer: The 200 foot year-round buffer is measured from the nesting colony boundary.

Seasonal buffer: The additional 300 foot seasonal buffer is measured from the great blue heron core zone.



Meeting Minutes

Planning Commission

City Hall
601 4th Avenue E
Olympia, WA 98501
Contact: Joyce Phillips
360.570.3722

Monday, January 23, 2017

6:30 PM

Room 207

1. CALL TO ORDER

Chair Mark called the meeting to order at 6:30 p.m.

1.A ROLL CALL

Present: 7 - Chair Brian Mark, Vice Chair Mike Auderer, Commissioner Paula Ehlers, Commissioner Darrell Hoppe, Commissioner Negheen Kamkar, Commissioner Carole Richmond and Commissioner Missy Watts

Excused: 1 - Commissioner Travis Burns

OTHERS PRESENT

Community Planning and Development:
Deputy Director Leonard Bauer
Senior Planner Joyce Phillips
Senior Planner Linda Bentley
Office Specialist/Minutes Recorder Stacey Rodell

2. APPROVAL OF AGENDA

The agenda was approved.

3. APPROVAL OF MINUTES

3.A [17-0062](#) Approval of the January 9, 2017 Olympia Planning Commission Meeting Minutes

The minutes were approved.

4. PUBLIC COMMENT - None

5. STAFF ANNOUNCEMENTS

Ms. Phillips made the following announcements:

- Positions for City advisory boards are still open, including for the Planning Commission. The deadline to apply is January 31, 2017.
- The next Planning Commission meeting is on February 6, 2017. It will be held in the Council Chambers as Room 207 will be closed for the installation of new

A/V equipment. The meeting will primarily be dedicated to the Downtown Strategy (DTS) briefing. A DTS open house will occur from 5:00 - 6:30 pm. Planning Commission is invited and encouraged to attend.

- Staff is working hard to get the DTS graphic report summary formatted by Thursday - February 2, 2017. The approximately 40-page summary will be sent to the Commission and posted to the web. Copies for Commissioners and the public will be available at the February 6, 2017 meeting.
- As the more detailed background chapters are completed, they will be posted to the web and a link sent to the Commission. The hope is to have these all complete and posted by February 13, 2017; however if they are not completed by that date, the public hearing date (currently planned for February 27, 2017) may be held at a later date.
- The Comprehensive Plan chapter “teach back” summaries from Commission members to the rest of the Commission begin tonight with Commissioner Richmond giving a recap of the Capital Facilities Plan chapter. On February 27, 2017, Chair Mark is scheduled to cover Community Values and Vision.
- Public comment for written comments will remain open until noon on January 27, 2017 for the Critical Areas Ordinance. The Commission’s deliberations will begin on February 6, 2017.

6. BUSINESS ITEMS

6.A [17-0054](#) Public Hearing, Critical Areas Ordinance (CAO), Phase 2, Locally Important Habitat and Species

Ms. Bentley presented a briefing regarding the Critical Areas Ordinance (CAO) via a PowerPoint presentation.

Discussion:

- Commissioner Richmond asked how developable the land is at the west side habitat. Ms. Bentley explained it is sloped, there are some streams and there is some developable land. Most of the property is owned by a non-profit organization that does not plan to develop the land. Determination of whether or not the land is developable would be considered on a case to case basis.
- Vice Chair Auderer asked if there has been a revenue impact study done on either of the areas. Ms. Bentley indicated there hasn’t been a study done to the best of her knowledge. Chair Auderer indicated he would like staff to inquire further regarding this impact. Ms. Bentley indicated she will look into this further.
- Commissioner Hoppe inquired why development would be restricted during the non-occupied habitat season. Ms. Bentley indicated if the habitat is not occupied then the development activity time period will be extended to April 1st instead of September 1st. Commissioner Hoppe asked how the herons will be tracked in the future. Ms. Bentley stated what would trigger such a determination of if there are herons on a parcel would be when a property owner submits an application for development.

- Commissioner Watts asked for clarification on the decibel noise levels. Ms. Bentley provided some clarification.
- Vice Chair Auderer said he would like to see the decibel level portion of the ordinance be more clearly defined.
- Mr. Bauer provided some clarification that noise level impacts would be measured at the boundary of the nesting colony.

Chair Mark opened the public hearing.

The following members of the public spoke:

Andrea Buser, Daniel Einstein, Martin McCallum, Jennifer Schafer, Katherine Himes, Noah Jensen, Harry Branch and Bob Jacobs all spoke in support of the ordinance.

Tom Schrader spoke in support of protecting the herons but questioned the City's process of developing the CAO. He was not in support of the ordinance as it is written.

Joel Baxter, a representative for Olympia Master Builders, stated he believes the five month development period is too short to finish a development project. He feels the ten year restriction could create a burden on land owners and there should be additional scientific study done regarding the CAO and the protection of the herons.

Chair Mark stated the public hearing would remain open for any additional written comments to be submitted to the City by noon on Friday, January 27, 2017.

The verbal portion of the public hearing was held and closed.

6.B [17-0053](#) Preliminary Planning Commission Work Plan for April 1, 2017 through March 31, 2018

Ms. Phillips reviewed the 2017 draft work plan. The Commission discussed the draft work plan.

The discussion was completed.

7. REPORTS

Chair Mark presented a report on the recent Arts Commission meeting he attended. They have completed the request for proposals process and have selected a consultant for the Gateways project. They also reviewed their 2017 draft work plan as well as the municipal art plan. The Poet Laureate has started with the City. Chair Mark will be meeting with the Coalition of Neighborhood Associations regarding a pilot garden project in the public right-of-ways in neighborhoods.

8. OTHER TOPICS

Commissioner Richmond gave a PowerPoint presentation that included an overview of the Capital Facilities Plan (CFP), the goals and policies of the Capital Facilities Element, and how they relate to the City's comprehensive plan and capital budget.

She reviewed the requirements of Capital Facilities Elements as outlined in the Growth Management Act (RCW 36.70A) and discussed the Commission's role in the review of the annual CFP.

Vice Chair Auderer inquired as to what event started the Critical Areas Ordinance (CAO). Ms. Phillips and the Commission briefly discussed the origin of the CAO.

9. ADJOURNMENT

The meeting adjourned at 9:04 p.m.



Planning Commission

Deliberations, Amendments to Critical Areas Ordinance (CAO), Locally Important Habitat and Species, and Shoreline Master Program

Agenda Date: 2/6/2017
Agenda Item Number: 6.B
File Number: 17-0109

Type: recommendation **Version:** 1 **Status:** In Committee

Title

Deliberations, Amendments to Critical Areas Ordinance (CAO), Locally Important Habitat and Species, and Shoreline Master Program

Recommended Action

Recommend to City Council adoption of proposed amendments to the Critical Areas Ordinance (CAO) and related code sections and to the Shoreline Master Program.

Report

Issue:

Whether to recommend to City Council adoption of proposed amendments to the Critical Areas Ordinance (CAO) and related code sections and to the Shoreline Master Program.

Staff Contact:

Linda Bentley, Senior Planner, Community Planning and Development, 360.570.3746

Presenter(s):

Linda Bentley, Senior Planner, Community Planning and Development

Background and Analysis:

In 2015, the Land Use and Environment Committee (LUEC) directed staff to review potential additional protections for locally important habitat and species after the Washington State Growth Management Act (GMA) mandated update to the Critical Areas Ordinance (CAO) was completed, which occurred in August 2016.

After working with consultant ESA, staff presented information on protections for locally important habitat and species to LUEC on September 15 and November 17, 2016 and to Planning Commission on August 8, 2016, and January 9, 2017. Staff hosted a public open house to discuss the proposed amendments on January 18, 2017 and the Planning Commission held a public hearing on January 23, 2017. Any written comments received by noon, January 27, 2017, and the additional information requested of staff will be presented before or at the meeting for consideration as part of the Commission's deliberations.

The City issued a SEPA Determination of Non-Significance (DNS) for the recommended changes on January 10, 2017, and sent the 60-day notice of intent to adopt, as required by state statute, to the Department of Commerce on January 11, 2017.

Proposed Protections

Staff and consultant believe that the city's existing CAO and SMP regulations will adequately protect most species and habitat but, based on community interest and Council direction, we are proposing new and amended regulations to give added protection to the great blue heron and its habitat (attached).

Staff is also proposing a process by which additional locally important species and/or habitat could be nominated in the future as conditions change (proposed new OMC 18.32.325).

Great Blue Heron and Habitat

In general, we are proposing the following approaches to protect heron nesting colonies when development is proposed:

- Adopt fixed-width buffers around heron nesting colonies
- Require tree and vegetative screening
- Restrict the timing on some types of activities (e.g., loud noise, clearing, grading)
- Require mitigation sequencing where appropriate
- Require consultation with the City and the Washington State Department of Fish & Wildlife (WDFW) during project planning

Our goal is to find the best balance between protecting species and respecting private property rights. WDFW recognizes that protections for heron rookeries have a different set of considerations in urban areas than in less developed areas. Consequently, staff is proposing a smaller seasonal buffer than that recommended in WDFW's management recommendations for nests in rural and less developed areas: a 200 foot year-round buffer and an additional 300 foot seasonal buffer for nesting colonies.

Non-regulatory Protections

The best way to protect important habitat and species is to acquire the land that provides the necessary habitat for important species. Therefore, we recommend the following:

- The City should continue to work with non-profit groups such as the Olympia Coalition for Ecosystems Preservation to pursue opportunities to purchase properties that support or are near known rookeries or other sensitive habitat.
- The City Parks Department should include as a consideration the quality and extent of habitat value when deliberating acquisition of land for passive-type parks.

The City could also 1) research and develop incentives for landowners who want to permanently protect any type of breeding season habitat; and 2) help non-profit groups to develop an ongoing citizen-science training program to assist in monitoring the status of locally important habitat and species.

Shoreline Master Program (SMP) Amendments

When the City amends its CAO, it must also amend its SMP to adopt the new CAO by reference. The Washington State Department of Ecology must approve the amendments to the SMP before they can become effective.

The attached amendment to Olympia's SMP adopts the amended CAO by reference, ensures consistency with the CAO adopted July 19, 2016, and corrects errors. Minor changes to OMC 18.02.180 Definitions, OMC 18.32.500 and 515, and OMC 18.20 are required to bring the CAO into consistency with the SMP and are also attached.

Neighborhood/Community Interests (if known):

Many groups and individuals in the community are interested in protection of the Great Blue Heron.

Options:

1. Recommend to City Council adoption of amendments to OMC Chapters 18.32, 18.02 and 18.20; adoption of amendments to the SMP; and approval of the non-regulatory suggestions, **as recommended by staff.**
2. Recommend to City Council adoption of amendments to OMC Chapters 18.32, 18.02 and 18.20; adoption of amendments to the SMP; and approval of the non-regulatory suggestions, **with modifications.**
3. Request staff to furnish further clarification or revisions.
4. Recommend denial of all proposed amendments and/or non-regulatory suggestions.

Financial Impact:

Initial review of locally important habitat and species was included in Community Planning and Development Department's 2016 budget; however, some approaches to habitat and species protection may require additional resources in the future.

Attachments:

Proposed OMC 18.32.300 amendments
Proposed OMC 18.02 and 18.32.500 amendments
Proposed OMC 18.20 amendments
Proposed Shoreline Master Program amendments
Written public comments

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OMC Chapter 18.32 as approved by City Council Aug 16, 2016, with proposed new language shown in track changes. PROPOSED CHANGES FROM PC 1/9/17 VERSION HIGHLIGHTED YELLOW IN 18.32.327

18.32.300 Important Habitats and Species - Purpose and Intent

In order to preserve and protect important habitats and species which are known to occur in Thurston County and which may be found within the City of Olympia, and which are not already protected by another critical area category, appropriate protection of an important habitat or species location shall be subject to the standards in OMC 18.32.305 through OMC 18.32.330. Protection in lake and marine shorelines is regulated under the City of Olympia Shoreline Master Program, OMC ~~14.08~~18.20.

18.32.305 Important Habitats and Species - Applicability and Definition

"Important habitats and species" are habitats or species known to occur within Thurston County and which may be found within the City of Olympia and which are not receiving habitat protection by another critical area category (e.g. Streams, Wetlands, or Landslide Hazard Areas) in this Chapter and:

A. Are designated as endangered or threatened species identified under the Endangered Species Act; or

B. Are state priority species identified on the Washington Department of Fish and Wildlife (WDFW) Priority Habitats and Species (PHS) List and their habitats of primary association. (Consult the state WDFW for the current PHS list); or

C. Are designated as "locally important habitat or species" pursuant to OMC 18.32.327; or

CD. Are areas in Olympia that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.

DE. Small lakes, defined as naturally existing bodies of standing water less than twenty acres in size that exist on a year-round basis in a depression of land or expanded part of a stream and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act), are considered an "important habitat." This term does not apply to constructed ponds.

18.32.315 Important Habitats and Species - Authority

A. No development shall be allowed in an important habitat and species area ~~where local, state or federally endangered, threatened or sensitive species have a primary association as defined in OMC 18.32.305~~ without approval from the Department. The

Department may restrict the uses and activities of a development proposal, such as construction restrictions during breeding season, which lie when the proposal is located within one thousand (1,000) feet of an important habitat or species location.

B. The minimum performance standards that apply to a development proposal shall be those provided by the Washington Department of Fish & Wildlife's Management Recommendations for Washington's Priority Habitat and Species (1991), as amended, and the requirements in OMC 18.32.115, except as modified on the basis of an Important Habitat and Species Management Plan described in OMC 18.32.330.

18.32.320 Important Habitats and Species - Buffers

The Department shall establish buffers for the habitat or species on a case-by-case basis, in consultation with the WDFW or others with expertise if needed, based on the critical area report outlined in OMC 18.32.115 and the WDFW management recommendations for Washington's priority habitats and species, if available. The buffers shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

18.32.325 Process to Identify Additional Locally Important Habitat and Species.

A. Additional species of local importance may be designated pursuant to OMC 18.58, zoning text amendment.

B. In addition to the decision criteria of OMC 18.59.050, a species may be designated locally important only if it demonstrates the following characteristics:

1. Local populations of native species are in danger of extirpation based on existing trends and best available science:
 - a. Local populations of native species that are likely to become endangered; or
 - b. Local populations of native species that are vulnerable or declining;
2. The species or habitat has recreation, commercial, game, tribal, or other special value;
3. Long-term persistence of a species is dependent on the protection of the species through the provisions of this part;
4. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and
5. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

C. Effect of Designation. Designation of a species of local importance under this section shall not impact projects or proposals with a vested application or approved permit.

18.32.327 Locally Important Habitat and Species – Definitions and Performance Standards

Great Blue Heron Rookeries

A. Definitions

1. Great Blue Heron Nesting Season means February 1 through August 31.
2. Great Blue Heron Nesting Colony means the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests.
3. Great Blue Heron Core Zone means the area consisting of the great blue heron nesting colony and the year-round buffer.
4. Great Blue Heron Management Area means the area consisting of a great blue heron nesting colony, the year-round buffer, and the seasonal buffer.
5. Screening Tree means a tree that is within a direct line of sight between structures or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from structures or development during any part of the year, and within the great blue heron management area.

B. Buffers and Measurements

1. The year-round buffer is 200 feet, measured from the nesting colony boundary.
2. The seasonal buffer is an additional 300 feet, measured from the great blue heron core zone boundary.
3. Great Blue Heron Pre-nesting Area means an area less than 1 kilometer (.62 miles) from a great blue heron nesting colony where male birds congregate prior to occupying the nests.

C. Development Conditions Within the Great Blue Heron Core Zone

1. No development shall occur in the great blue heron nesting colony, except under OMC 18.66.040 Reasonable Use Exception.
2. Any development or other activity that requires a permit within the year-round buffer is subject to the provisions of OMC 18.32.330 and shall use mitigation sequencing as provided in OMC 18.32.135 to:
 - a. maintain baseline development conditions and ambient noise levels;
 - b. maintain great blue heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes; and shall
 - c. include an implementation plan for both the development and any required mitigation with maps, as-built drawings, vegetation removal and planting, timing, and an operation and maintenance plan for businesses that include outside operations.
3. ~~If the parcel where the development will occur abuts a parcel containing a great blue heron nesting colony, there shall be a minimum 30 foot building setback from the property line(s) closest to the nesting colony. The setback shall be vegetated using native trees and shrubs that screen activities on the parcel from the nesting colony.~~
3. If no herons have congregated or nested by March 31, as certified by a report submitted by the developer from a qualified professional, as defined in OMC 18.02.180, the City may allow development April 1 through December 31 for that year, subject to the provisions of OMC 18.32.330 and mitigation sequencing in OMC 18.32.327(C)(2).
4. If a nesting colony has been abandoned by a great blue heron colony, the great blue heron management core zone for this colony shall be protected for a period of ten years from the last known active nesting season.

Comment [LB1]: Included code reference to make the reasonable use doctrine explicit

Comment [LB2]: Clarification that a habitat management plan (HMP) may be required.

Comment [LB3]: Not clear and redundant with 18.32.327(C)(2)

Comment [LB4]: To allow a longer development time period.

Comment [LB5]: Clarification that a habitat management plan (HMP) may be required.

D. Development Conditions Within the Great Blue Heron Management Area

4. When herons are present, any clearing, grading, outside construction or other activity in the seasonal buffer that causes loud noise (exceeding 92 decibels at the outer boundary of a nesting colony) above ambient noise levels specific to the site shall be done outside of the nesting season, generally September 1 through January 31, unless a different nesting season for that year is certified by a report from a qualified professional. Ambient noise is specific to the location of the nesting colony site and can include noises such as sirens and leaf blowers. Noise that is not considered ambient noise includes but is not limited to outdoor construction and the use of dump trucks, front end loaders, pile drivers and

Comment [LB6]: Clarification of "loud noise" definition from WDFD management recommendations.

~~blasting equipment.~~

~~2. Development may occur at any time in the seasonal buffer in a year where it appears no herons have congregated or nested, subject to the applicant submitting a report from a qualified professional so stating.~~

~~3. All 6 inch diameter breast height (dbh) or larger trees shall be retained if the removal of those trees decreases the effectiveness of the trees' screening of new and existing development from the colony and if replacing the removed trees with other trees does not screen the nesting colony to the same extent as the existing trees.~~

~~3. Unless determined to be hazardous by the Urban Forester, all 6 inch diameter breast height (dbh) trees or larger shall be retained. Any required new or replacement trees shall be provided in conformance with the City's Urban Forestry Manual replacement rates and shall be strategically placed to ensure effective screening of new development from the colony. When possible, use the same species as nest trees. Removal and planting should take place in the non-breeding season.~~

Comment [LB7]: Revised for clarity. See new language below.

18.32.330 Important Habitats and Species - Management Plan

When a development proposal lies within an important habitats and/or species location, an Important Habitats and Species Management Plan shall be submitted by the applicant. The Department may waive the submittal when consultation with the Washington Department of Fish and Wildlife staff indicates that such a plan is not needed.

An Important Habitats and Species Management Plan shall:

- A. Identify how the development impacts from the proposed project will be mitigated. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991), as amended, shall be the basis for this plan.
- B. Be prepared by a person who demonstrates sufficient experience and education as a wildlife biologist, habitat management consultant or botanist.
- C. Contain, but not be limited to:
 1. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon the important species and its habitat;
 2. An analysis of the effect of the proposed development, activity or land use change upon the important species and its habitat, based upon Washington Department of Fish and Wildlife management guidelines;

3. A mitigation plan by the applicant which shall explain how any adverse impacts to the important species or its habitat created by the development will be minimized or avoided, such as:

- a. Establishment of buffer zones;
- b. Preservation of important plants and trees;
- c. Limitation of access;
- d. Seasonal restriction of construction and other activities; and
- e. Provisions for periodic review of the plan.

and

4. A map(s) to-scale, showing:

- a. The location of the proposed development site, to include a boundary survey;
- b. The relationship of the site to surrounding topographic features;
- c. The nature and density of the proposed development or land use change;
- d. Proposed building locations and arrangements;
- e. Existing structures and landscape features including the name and location of all streams, ponds and other bodies of water;
- f. The extent and location of the important species habitat;
- g. A legend with: Title, scale and north arrows, and date, including revision dates if applicable.

18.02.180 DEFINITIONS – SPECIFIC.

Lake. A naturally existing or artificially created body of standing water greater than twenty (20) acres in size. Lakes include reservoirs which exist on a year-round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All such lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" found in the Shoreline Master Program, ~~for the Thurston Region in OMC 14.0818.20.~~

Land Use Approval. A written approval or permit issued by the Director or Hearing Examiner, or designee thereof, finding that a proposed project is consistent with applicable plans, regulations and standards and authorizing the recipient to make use of property in a certain manner. The land use approval consolidates various non-construction permit reviews of a project such as design review, environmental review, zoning conformance, and site plan review. Land Use Approval is a permit which does not directly authorize construction or improvements to real estate, but which is a necessary and required precursor to authorization of such construction or improvement. Land Use Approval includes, but is not limited to, applications for review and approval of a preliminary or final subdivision, short plat, binding site plan, conceptual or detailed master planned development, planned residential development, conceptual design review, site plan review, conditional use permit, variance, shoreline development permit, or other such reviews pertaining to land use.

Land Use Approval, Administrative. A Land Use Approval which may be issued by an authorized official or body, usually the Director, without an open record predecision hearing.

Land Use Approval, Quasi-Judicial. A Land Use Approval issued by an authorized official or body, usually the Hearing Examiner, following an open record predecision hearing.

Landscape Plan. A component of a site development plan on which is shown: proposed landscape species (number, spacing, size at time of planting, and plant details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

and generally furnished with desks, tables, files, and communication equipment.

Office, Veterinary/Clinic. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (See also Animal Hospital.)

Olympia Coordinate System. The horizontal ground scale coordinate system referenced to the Washington Coordinate System as established by the City Public Works Department.

On-Site. Located on the same lot that is the subject of an application for development.

On-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes generated on the same property, see current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.

Open Record Hearing. A hearing conducted by a single hearing body or officer that creates the City's record through testimony and submission of evidence and information under procedures prescribed by this Title. [See RCW 36.70B.020(3)].

Open Record Appeal Hearing. A form of open record hearing held on request in response to a notice of decision when no open record predecision hearing was held on the project permit. [See RCW 36.70B.020(3)].

Open Record Predecision Hearing. A form of open record hearing held prior to the City's decision on a project permit. [See RCW 36.70B.020(3)].

Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and may include such complementary structures and improvements as are necessary and appropriate.

Open Space, Public. Undeveloped public land that is permanently set aside (as opposed to regulated) to protect the special natural character of a particular location. Open space may include, but is not limited to wetlands; wetland buffers; creek, stream or river corridors; forested areas; ravines, bluffs or other geologically hazardous areas; and undeveloped areas within parks.

Ordinary High Water Mark (OHWM). (Also referred to as Ordinary High Water Line OHWL) Per

WAC ~~22-110-020220-660-030~~, the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of mean higher high water, and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood. ~~OWHM-OHWM~~ is used to determine the location of standard buffer widths of streams as required under OMC 18.32.435(C)(1).

Ordinary Repair and Maintenance. Work for which a permit issued by the City is not required by law, and where the purpose and effect of such work is to prevent or correct any deterioration or decay of or damage to the real property or structure appurtenant thereto and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

Outdoor Storage. The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 consecutive hours.

Over Water. Location above the surface of the water, including placement of buildings on piling or floats.

Overlay Zone. A zoning district or specific plan that encompasses one or more underlying zones or areas and which imposes requirements in addition to those required by the underlying zone. (See also Overlay Districts in Article III.)

Owner of Property. The fee simple owner of real property according to Thurston County Auditor records.

18.32.500 Wetlands - Purpose and Intent

In order to protect the natural function of wetlands and for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands or which lie within three hundred (300) feet of wetlands shall be subject to the standards in OMC 18.32.100(~~LA~~) and OMC 18.32.505 through OMC 18.32.595. (Note: Further information regarding development within associated wetlands along marine shorelines, lakes over 20 acres in size, and streams can be found in OMC 18.20 Shoreline Master Program.)

18.32.515 Wetlands - Small Wetlands

A. Wetlands less than one thousand (1,000) square feet shall be exempt from the requirements of OMC 18.32.135.A; wetland buffers in OMC 18.32.535, compensation projects in OMC 18.32.545 and replacement ratios in OMC 18.32.550 provided that the wetland or pond:

1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife~~;~~ ~~and~~
5. No part of the wetland is within shorelines of the State of Washington, except as authorized by OMC 18.20.420(C)(3).

B. Wetlands between one thousand (1,000) and four thousand (4,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, provided that the wetland:

1. Is rated as a Category III or IV wetland,
2. Is not associated with a riparian corridor,
3. Is not part of a wetland mosaic,
4. Does not score 5 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (2014),
5. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife, ~~and~~
6. A wetland mitigation report is provided as required by OMC 18.32.590~~;~~ ~~and~~
7. No part of the wetland is within shorelines of the State of Washington.

The following amendments are to bring OMC 18.20 into consistency with the City's Shoreline Master Program:

3.17 18.20.310 – Official Shoreline Map

The Shoreline Map (Figure 4.1) is hereby amended to correct a map error in Budd Inlet, Reach BUDD-3B to show the intent, which is to include the now unused railway berm shown on previous maps but erroneously deleted in the latest SMP update. The Boundary Descriptions in Appendix B are correct.

18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.
- B. If there are any conflicts or unclear distinctions between this chapter and Olympia's critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
 1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.435(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 - ~~3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~
 - 4.3. Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.
 - 5.4. Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).
 - 6.5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).
 - ~~7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.~~

~~8.6.~~ Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.

~~9.7.~~ Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).

~~10.8.~~ Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.

~~11.9.~~ New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

~~12.10.~~ Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).

~~13. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.~~

18.20.810 – Permitted Shoreline Modifications

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use X – Prohibited X/C – Allowed by conditional use only in specific cases.	Natural	All other Shoreline Environments	Aquatic (Same as adjacent shoreline environment designation)	Notes & Applicable Regulations
Dredging	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.820
Fill	C (Only for Ecological Restoration/ Enhancement	P	←	See OMC 18.20.830 through 837

	Projects)			
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20.842-840 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through 18.20.870
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

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ATTACHMENT 3

1.6 Regulations Adopted by Reference

The Critical Areas regulations ~~in effect on October 1, 2013~~ adopted on August 16, 2016, Ordinance Number 7030 and additional amendments adopted on _____, Ordinance Number _____ and contained in the Olympia Municipal Code (OMC) Chapters 18.32 and 16.70 are integral and applicable to this Shoreline Program, and are hereby adopted by reference; provided that the reasonable use provisions set forth in OMC 18.66.040 shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines. Similarly, Section 18.06.100 A.2.C -- West Bay Drive Building Height and View Blockage Limits (Ordinance 6646, passed on July 14, 2009), is hereby adopted by reference to the extent that the height and use regulations identified therein are applicable to the shoreline jurisdiction area.

3.17 18.20.310 – Official Shoreline Map

The Shoreline Map (Figure 4.1) is hereby amended to correct a map error in Budd Inlet, Reach BUDD-3B to show the intent, which is to include the now unused railway berm shown on previous maps but erroneously deleted in the latest SMP update. The Boundary Descriptions in Appendix B are correct.

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~~4.3.~~ Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.

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3.58 18.20.810 – Permitted Shoreline Modifications

Table 7.1 – Shoreline Modifications

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Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

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ATTACHMENT 4

Public comments received
January 23-January 27, 2017,
on proposed amendments to the City's CAO
and SMP

Olympia Community Planning and Development Department
601 4th Ave E
PO Box 1967
Olympia WA, 98507-1967

Re: Comments to Public Hearing #1038 - Changes to Critical Areas Ordinance - January 23, 2017

I am opposed to the proposed changes regarding heron habitat quiet period.

As a land owner within the proposed seasonal boundaries, I see the new regulations as overly oppressive. Currently, because of steep slopes critical areas, the building period for my property is limited to the 'dry season' (May 1st to September 30th). If the new regulations, limiting activity above ambient noise, go into effect and restricts building from February 1st to August 1st, my effective building period will be limited to one month a year. Not a viable situation.

I'm am willing to perform excessively noisy operations – like blasting and pile driving during the 'non-nesting-season'. But standard building operations such as pouring footers, framing, roofing, paving will need to take place during the dry season to build a house within standard permitting timeframe.

Restrictions on activities should not exists during the spring and summer if the herons are not nesting that year.

I am opposed to the proposed changes regarding screen trees.

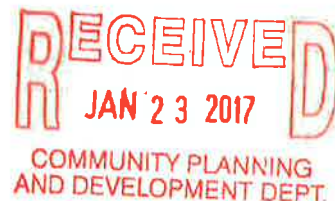
Currently, I have a large tree on my property that needs to come down before building - as there exists a large heart rot in the trunk. Under the new ordinance, such safety measures would not be allowed. This doesn't seem right.

I plan to respect a setback of 30 feet on the rookery side of my property, but it will take decades to grow vegetation that effectively screens the rookery.

In summary, I see the proposed protection plan of the East and West bay rookeries as an overreaction. Herons are urban birds and can coexist with our modern world. There is no science that says otherwise – or even that herons are bothered by human noise. Herons are threatened by animals that eat their young, not by those that admire them from afar.

Thank you,

Doug Keck
dbKeck@yahoo.com
303 NW Kenyon #4B
Olympia, WA 98502



Linda Bentley

From: Tom Schrader <schraderfour@gmail.com>
Sent: Monday, January 23, 2017 9:25 PM
To: Linda Bentley; Brian Mark; Carole Richmond; Darrell Hoppe; Mike Auderer; Missy Watts; Negheen Kamkar; Paula Ehlers
Cc: glenn wells; Tim Smith
Subject: > CITY OF OLY - CAO (Blue Herons) 2017

Dear Planning Commissioners,

We just finished tonight's meeting regarding the City of Olympia's CAO/Blue Heron issue, Phase II.

If we all are really serious about preserving the wonderful blue herons we currently have, we would begin to set policy which actually saves these birds. Since the great blue heron is a transitory species, and doesn't the area for a warmer climate, etc... the birds have to be somewhere right now. Right now-- before this years' breeding season begins.

Since the West Bay site has been decimated for years... the only "known nesting site" most likely is the East Bay site,... or is it? Tonight, we were told that site wasn't even known for sure as a nesting location.

If this is the case, why isn't it a nesting site now??? For if the herons can't/won't nest in the West Bay site, shouldn't we be doing everything we can to get ready for them at East Bay NOW before the breeding/nesting season?

Or wherever they will nest this year?!?

Where is today's science--- here in our South Sound, on where they are now, and where they nested last year, and future REAL SCIENCE (not neighbors, or emotional well intentioned eco-groups, etc...)???

- 1) GET A REAL PLAN, FORMULATED BY REAL ANIMAL BIOLOGISTS ON HOW TO PROTECT THE HERON'S NESTS --- EVERY YEAR.**
- 2) ONCE A NESTING SITE HAS BEEN DETERMINED (by the biologist...), ENFORCE ALL THE CAO ORDINANCE'S WE HAVE IN FRONT OF US TODAY.**
- 3) HAVE BUILDERS/ HOMEOWNERS WHO WANT TO BUILD/ETC... HIRE A BIOLOGIST FOR EVERY SUSPECTED HABITAT (much like mazama gopher soils...), AND PROVE THERE AREN'T HERONS THERE.**

NOW we can get on to your CAO guidelines you have brought to Phase II, because we know where the birds are, where they are nesting and how we protect their habitat next year, and then next for decades to come!

Let's get to work and do this--- for all of us, our children's children!

Thank you for your time and service to our beautiful community!

Tom Schrader
 (360) 480-9387



OlyEcosystems

Olympia Coalition for Ecosystems Preservation

January 26, 2017

Members of the Olympia Planning Commission,

The purpose of this letter is to enhance and amend oral comments given in support of the proposed Phase II of the Critical Areas Ordinance (CAO) update. However, we believe that it is necessary to correct statements made by opponents of the proposed CAO during the January 23, 2017 public hearing regarding the activities of the Olympia Coalition for Ecosystem Preservation (OCEP) at the West Olympia Heronry. We believe this is necessary, because it provides proper context for how and whether the community should strive to protect the Pacific Great Blue Heron in Olympia, and provides background for critical next steps, such as the adoption of Phase II of the CAO update. We believe the City of Olympia can and should preserve the interface of our urban and natural environment.

Part I - Corrections

- 1) It was vocally and somewhat aggressively stated that by removing invasive English Ivy from the trees and ground at the Westside Heronry, OCEP volunteers had driven away the resident heron colony by altering the heron's preferred habitat. Moreover, it was stated that the actions of OCEP were well-meaning but naïve, and that they certainly were not science-based. Nothing could be farther from the truth.

First, we ask you to consider the fact that English Ivy is invasive and has only been present in the Olympia area for approximately 50 years, whereas the Pacific Great Blue Heron have inhabited our shores since the receding of the glaciers, approximately 12,000 years ago. The fact that English ivy is a recent introduction contradicts the assertion that it is necessary or even desirable for the survival of the herons.

Secondly, of the three OCEP Board Members with Ph.D.'s, one has a Ph.D. in restoration ecology and actively teaches the subject for the Master of Environmental Studies graduate program at The Evergreen State College. As a practitioner, she has many years of experience in the field. Collectively, as scientists, we appreciate the need for research and due diligence.

Thus, before beginning restoration, we consulted with heron conservation groups throughout the Puget Sound region; additionally, we consulted with the Washington State Department of Fish and Wildlife. Moreover, our restoration activities directly follow the

stewardship directives prepared for this site by the City of Olympia's Public Works Environmental Services Habitat Stewardship Program. That document is attached to this letter. Finally, our restoration activities have been guided by a Conservation Strategy memorandum for the West Bay Woods compiled by the regional land trust Forterra.

In short, the assertion of unintended harm by restoration activities carried out by OCEP confuses correlation with causation. In fact, while the herons did not breed at the Westside Heronry in the 2016 season, they did breed at the site in the 2015 season, which is documented and in the April 23, 2015 article in *The Olympian*, available here: <http://www.theolympian.com/news/local/article26125213.html>. In contrast, the predominant reason the herons did not breed in 2016 at the Westside Heronry was eagle predation, which drove the herons to the East Bay site. Heron movement underscores the inadequacy of preserving a circumscribed set of trees at a single location. Nature is dynamic, and animals adapt to survive. For Olympia's herons, this demonstrates the importance of providing an alternate breeding site, and not destroying their habitat should they not be present in one rookery for one or two breeding seasons.

Barring habitat destruction at the East Bay site, eagle predation is likely to drive Olympia's herons back to the West Bay site. Heron movement between breeding sites is a pattern; it is not arbitrary, nor are the locations arbitrary. It requires much less energy to inhabit an old breeding site than to find and create new site. In nature, energy conservation equates with survival. It is estimated that 40% of colony abandonment in the Puget Sound region is due to eagle predation. The remaining 60% is due to habitat destruction. There are many variables at play in wildlife biology. Humans control one variable: habitat destruction.

Finally, let us point out that OCEP and its activities enjoy substantial public support in Olympia. In addition, the City of Olympia has repeatedly and tangibly supported conservation at the Westside Heronry through technical and other in-kind support, such as applying Parks funds to purchase threatened areas in the West Bay Woods, and writing letters of support for OCEP grant applications. To date, we have received approximately \$200k in foundation and agency support, including most recently \$150k for the purchase of a 1-acre parcel from the Thurston County Conservation Futures Program. A proposal to conserve an additional 3 acres in the West Bay Woods was ranked competitively by the State of Washington's Recreation and Conservation Office this year and likely will be funded. Clearly, OCEP's activities have earned the respect they merit. The next step is to protect this progress with fair and effective regulation.

It was also asserted that by removing English Ivy from the forest floor, restoration left the ground denuded of plants. This is also false. The flat plateau where the herons nest are located was a holly plantation as late as the early 1950's. The combination of holly (also an invasive species) and dense English Ivy on the forest floor made it impossible for

understory forest plants to establish growth in the intervening years. Nearly every plant on the forest floor under the heron nests was planted in the last two years. In fact, OCEP, with foundation support, has installed nearly 5000 native plants in the area. It is true that not all plants survive. The summer drought of 2015 was particularly brutal. With the area occupied by herons, there was no way to water the young plants without disturbing the colony. Nevertheless, we estimate that approximately 75% of installed plants did survive, a percentage that is well within the norm for a typical year and frankly exceptional for a drought year. Accounts of plant death due to the drought are widespread, affecting many mature trees throughout the region.

- 2) It was stated that accounts of the herons' presence at the West Olympia Heronry was merely anecdotal. Again, this statement is provably false. The Washington Department of Fish and Wildlife has monitored this site on and off since at least 2005. The City of Olympia is in possession of these documents; they are also readily available to the public.

Part II - Recommendations

As stated orally during the January 23, 2017 public hearing, we do not think that the proposed ordinance is perfect. We would prefer stronger protections in each of the buffer zones. We do, however, find the bulk of the ordinance to be a common-sense compromise; one that is not an excessive imposition on property owners, while clearly underscoring the need for additional conservation. We point out that the ordinance is universally supported by West Olympia Heronry neighbors, who have made their homes in the vicinity of the heronry. Many of these neighbors provided oral testimony during the January 23, 2017 hearing.

Regulation exists to uphold the values and interests of the many, over the narrow interests of the few. Beyond the East and West side neighborhoods, habitat and species conservation is the first or second priority of a statistically significant pool of citizens in multiple surveys conducted by the City of Olympia. This ordinance update enjoys widespread community support.

However, the real measure of regulation is whether it will work, and whether it can work. The goal of this CAO update is to protect and preserve Olympia's sole Pacific Great Blue Heron colony. As such, protection and preservation must be its first yardstick of success.

Recently, an amendment to permit development on off-season years during the heron breeding season in the 'heron colony' was introduced. This amendment was presented publically for the first time at the January 23, 2017 public hearing. The working group established to help craft this proposed update to the CAO was not consulted on this amendment, and, we believe, would not support this change. Permitting development within the heron colony during a ten-year window should herons not be present by April 1 will not protect and preserve Olympia's sole Great Blue Heron colony.

First, the 10-year window is not arbitrary; rather, it aligns with federal and state recommendations for Great Blue Heron protection and preservation. As stated previously, a small number of alternate breeding sites are critical for heron survival. Allowing development within the colony during the breeding season would completely remove the possibility for the herons to escape eagle predation at their secondary breeding site. Olympia's herons were on the West Side as late as April 23, 2015; about a month later they abandoned that site due to eagle predation. At this time, the entire colony moved to the East Side to an historic breeding site. There they successfully fledged a small number of chicks late in the season. Had development been allowed at the Eastside location – where after all no herons were present the year before - the herons would have been left with no alternate breeding site, and Olympia's heron population would have crashed.

There are approximately 9000 breeding individuals of the Pacific Great Blue Heron left in the world. We believe that our city must protect and preserve breeding sites for these animals. Thus, we cannot support the amendment. Should it remain, then we will withdraw our support for the entire ordinance. With the amendment, the ordinance is not workable and has a high probability of failure.

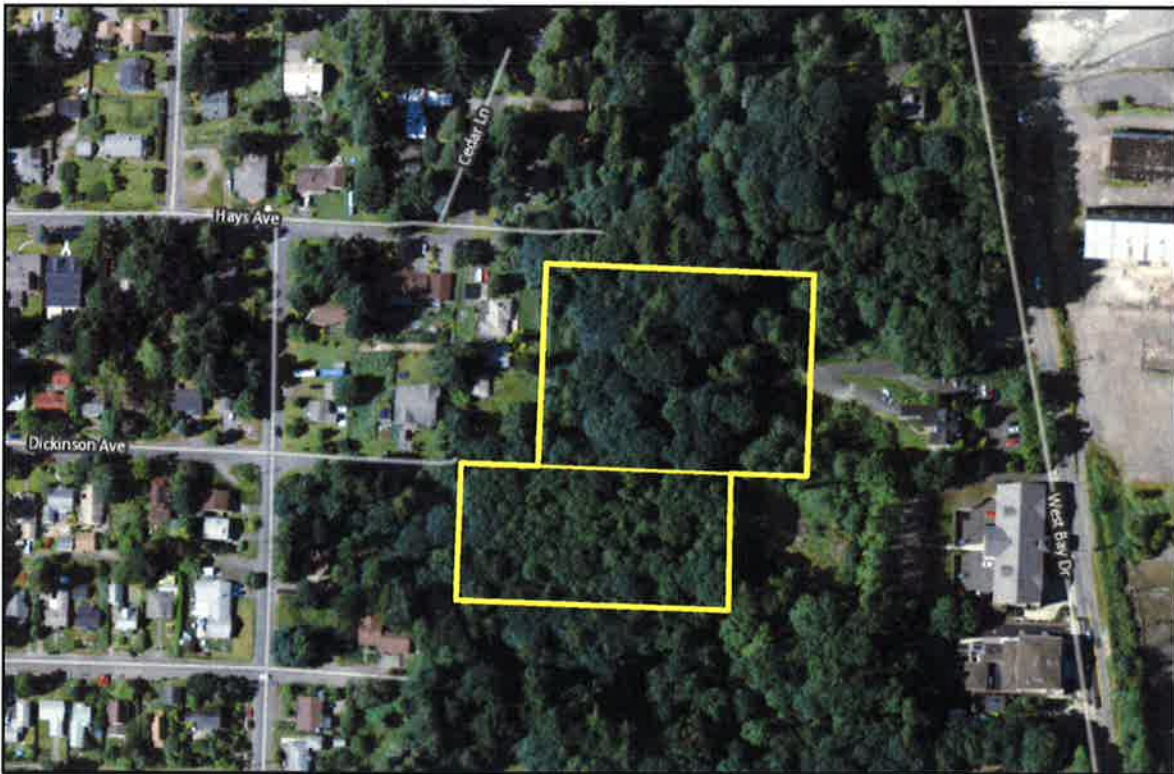
Sincerely,

A handwritten signature in black ink, appearing to read 'D. Einstein', with a stylized flourish at the end.

Daniel R. Einstein, Ph.D.
Chairman, Olympia Coalition for Ecosystems Preservation

City of Olympia Public Works, Environmental services

Habitat Stewardship Program



Habitat Assessment for West Bay Heronry

May 2015

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1.0 Introduction

In 2012, the City of Olympia Utility Advisory Committee directed the Stormwater Planning & Implementation (now Environmental Services) section of Water Resources at Public Works to explore opportunities for strategic land stewardship by protecting and improving aquatic, riparian, and associated habitat within Olympia and its urban growth boundary. Following a detailed city-wide analysis, a Preliminary Habitat & Stewardship Strategy (City of Olympia 2014) was developed, which led to the creation of the Environmental Services (ES) Habitat Program in 2014. The program's mission is to "Partner with the community to protect, steward, and restore aquatic, riparian, and associated terrestrial habitats within Olympia's watersheds".

In late 2014, ES staff collaborated with landowner Alicia Elliott and the Olympia Coalition for Ecosystems Preservation (OlyEcosystems) in wildlife habitat enhancement activities on a 4.5 acre site, found near the intersection of Rogers St. NW and Dickinson Ave. NW. This site is of particular value as wildlife habitat because it is some of the last breeding and nesting habitat for the Pacific great blue heron (*Ardea herodias fannini*) found within Olympia city limits. This document presents the findings of Olympia ES staff regarding current habitat conditions and concludes with general maintenance and restoration recommendations. It is the goal of ES staff to form productive partnerships with like-minded community members and organizations, such as Alicia and OlyEcosystems, for the improvement of habitat and ecological function throughout the City of Olympia and Urban Growth Area.

1.1 Description of Project Site

The site is located on two properties, both purchased for habitat conservation by Alicia Elliott, with the support of OlyEcosystems, in 2014. The southernmost of the parcels contains the heron colony proper (county parcel # 09030002001; 1.87 acres); the northern parcel (#67400003600; 2.73 acres), has value for other wildlife, as a buffer for the breeding colony, and as a portion of the West Bay Woods wildlife habitat corridor envisioned by OlyEcosystems. Map 1 shows the parcels purchased for conservation, hereafter referred to as the West Bay Heronry. The habitat corridor would connect the West Bay Heronry with wooded properties to the north, as well as the Schneider Creek stream basin.

1.2 Site History

West Olympia's agricultural and residential development dates to the mid-1800s; the first wooden bridge between the west side and downtown was constructed in 1869. A more reliable concrete bridge was installed in 1919, allowing increased residential, agricultural, and industrial development. The heronry parcel was used as a holly (*Ilex aquifolium*) plantation as recently as the mid-1900s. Map 2 depicts a historic aerial photo of the site from 1947. The photo was georeferenced to show land use as of 1947 at the site and cross-referenced with the current Thurston County parcel layer. In this photo, a plantation of English holly is clearly visible. Since that time, the site has grown into a deciduous plant community and is currently heavily impacted by invasive vegetation. Further detail into the ecology of the site is provided below.

1.3 Ecological Background

Thurston County lies on a glacial plain, carved by the advance and retreat of the Vashon Glacier ~10 - 20,000 years ago. It is bordered by low-lying mountain chains to the south, west, and east, and by the Puget Sound to the north. The West Bay Heronry site is located on the west side of Budd Inlet, within the Olympia city limits. The area is geologically and topographically similar to the coastal regions and islands of the south Puget Sound. The parent material is typically Vashon-age glacial till. Historically, late successional forests in the area likely consisted of Douglas-fir (*Pseudotsuga menziesii*), western redcedar (*Thuja plicata*), western hemlock (*Tsuga heterophylla*), bigleaf maple (*Acer macrophyllum*), and grand fir (*Abies grandis*), with salal (*Gaultheria shallon*), Oregon grape (*Mahonia nervosa*), huckleberry (*Vaccinium* spp.) sword fern (*Polystichum munitrum*), and trailing blackberry (*Rubus ursinus*) in the understory. In wetter or more disturbed areas, one might find red alder (*Alnus rubra*), black cottonwood (*Populus trichocarpa*), Oregon ash (*Fraxinus latifolia*), willow (*Salix* spp.), and other faster growing deciduous tree species. The West Bay Heronry, at one time, probably held a late-seral, temperate forest plant community such as the one described above. This is evident by the redcedar found occupying a prominent space in the canopy of the north parcel, as well as the Douglas-fir located in the draw to the south, which is steeper and less likely to experience human disturbance. Some time after the land ceased to be managed as a holly farm, red alder likely seeded in naturally, along with a variety of invasive vegetation, leading to the site's current condition.

1.4 Basin Information

The West Bay Heronry lies within the watershed of Budd Inlet, with the basin flowing directly into West Bay. Map 3 shows the complete West Bay basin, from Cooper Point to Capitol Lake. A small intermittent stream flows along the southern edge of the heronry parcel, fed by runoff from the northwest Rogers Street and the neighborhood. An intermittent stream may flow through the north parcel; although no standing or flowing water was present at time of survey.

1.5 Goals & Objectives

The formation of OlyEcosystems was and land purchase for conservation, was in part, a response to the threat development on adjacent properties, including an access/road easement on the parcel currently owned by Alicia Elliott which would have cut directly through the heron colony. Now that the property has been acquired by Alicia for habitat conservation, ES staff are collaborating with her and OlyEcosystems to restore and improve habitat conditions on site, for the heron in particular, and also for other wildlife species that use the area. The fact that great blue heron are aquatic-dependent species, the relative rarity locally and sensitivity of their breeding colonies to disturbance, and desire to support community conservations efforts merit the Habitat Program's involvement.

2.0 Current Site Conditions

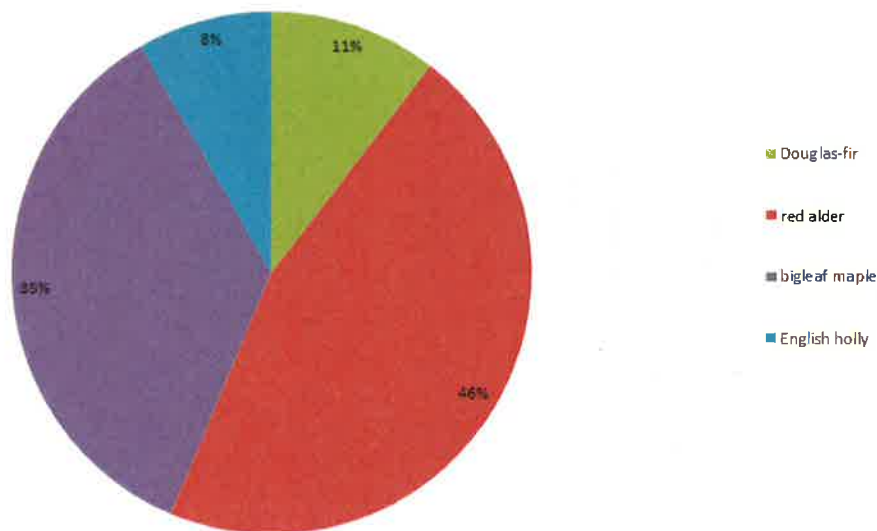
Current conditions and habitat elements of the forest were assessed using a five-part sampling methodology, which examined forest overstory, regeneration, plant community/ invasive plant coverage, snags, and downed wood on the forest floor. Data collected during the overstory survey allows the calculation of metrics such as basal area per acre, number of trees per acre, tree species distribution, and relative stand density; a measure long used by foresters to determine optimal stocking levels in a working forest (Reineke 1933; Curtis 1981). Relative stand density is also useful for determining stocking levels in forests managed as wildlife habitat (Bottorff et al. 2003). Tree seedling and sapling regeneration data allows the analysis of the future seral stages of the forest. Vegetation community analysis identifies native plant communities onsite, facilitating native species selection for replanting and restoration efforts. Approximate distribution and coverage of invasive vegetation was also determined during the vegetation survey, iden-

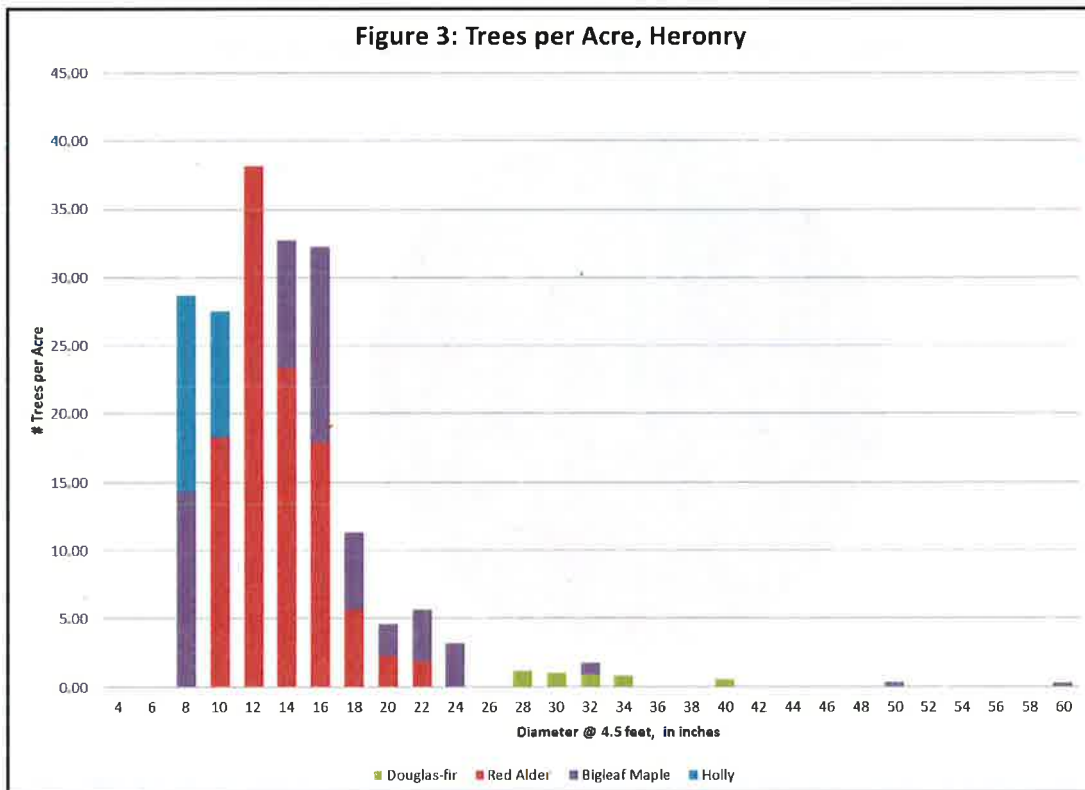
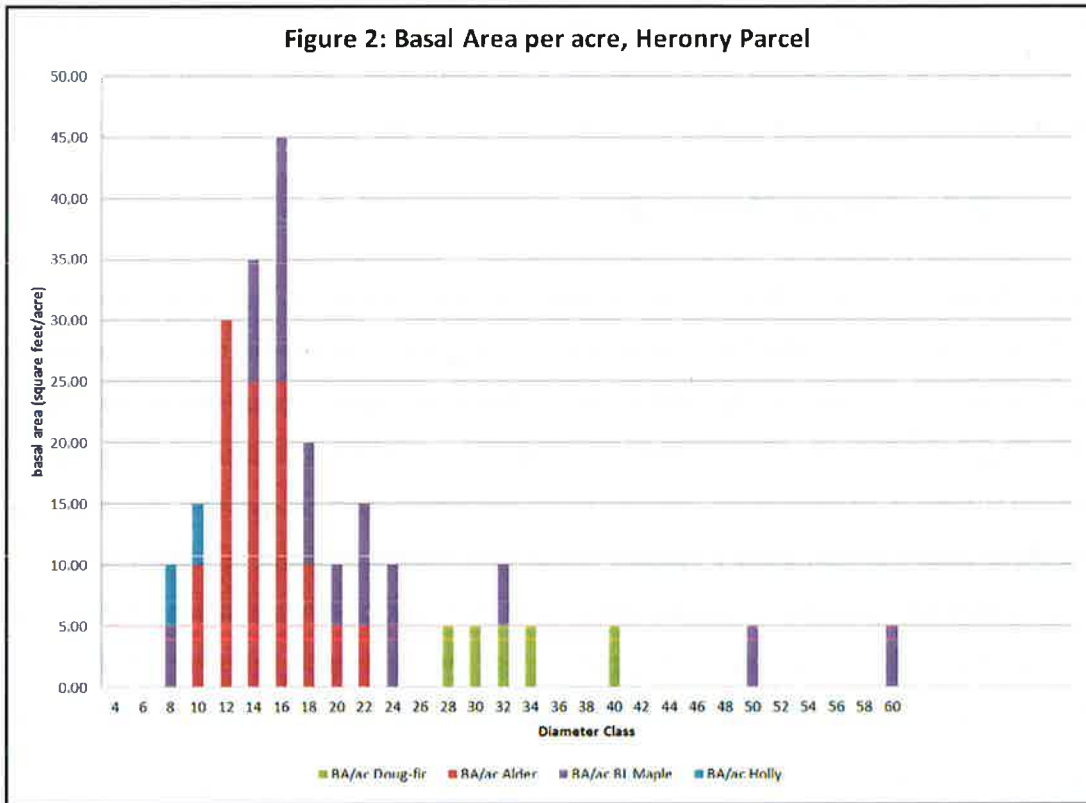
tifying future invasive plant removal efforts and allowing monitoring of vegetation community restoration success. Snag and downed wood surveys identify the current amount of dead wood within the forest, and can be used to predict future needs of these habitat elements.

2.1 Forest Overstory

Heronry Parcel: The overstory is primarily comprised of red alder, with a secondary component of bigleaf maple. The third most common tree species is Douglas-fir, found primarily within the draw along the southern edge of the parcel. The fourth species noted during the tree survey was English holly, normally considered a shrub species, which would be noted during the vegetation survey. However, the specimens found on site are large enough that they were tallied during the overstory survey using a variable-radius plot method of sampling (Avery and Burkhart 1983), possibly due to a legacy effect from the historic holly plantation. Figure 1 illustrates tree species diversity on the heronry parcel. The quadratic mean diameter (QMD, the diameter of a tree with average basal area for the site) for the heronry parcel is 14.9 inches. Basal

Figure 1: Overstory Species Diversity, Heronry Parcel

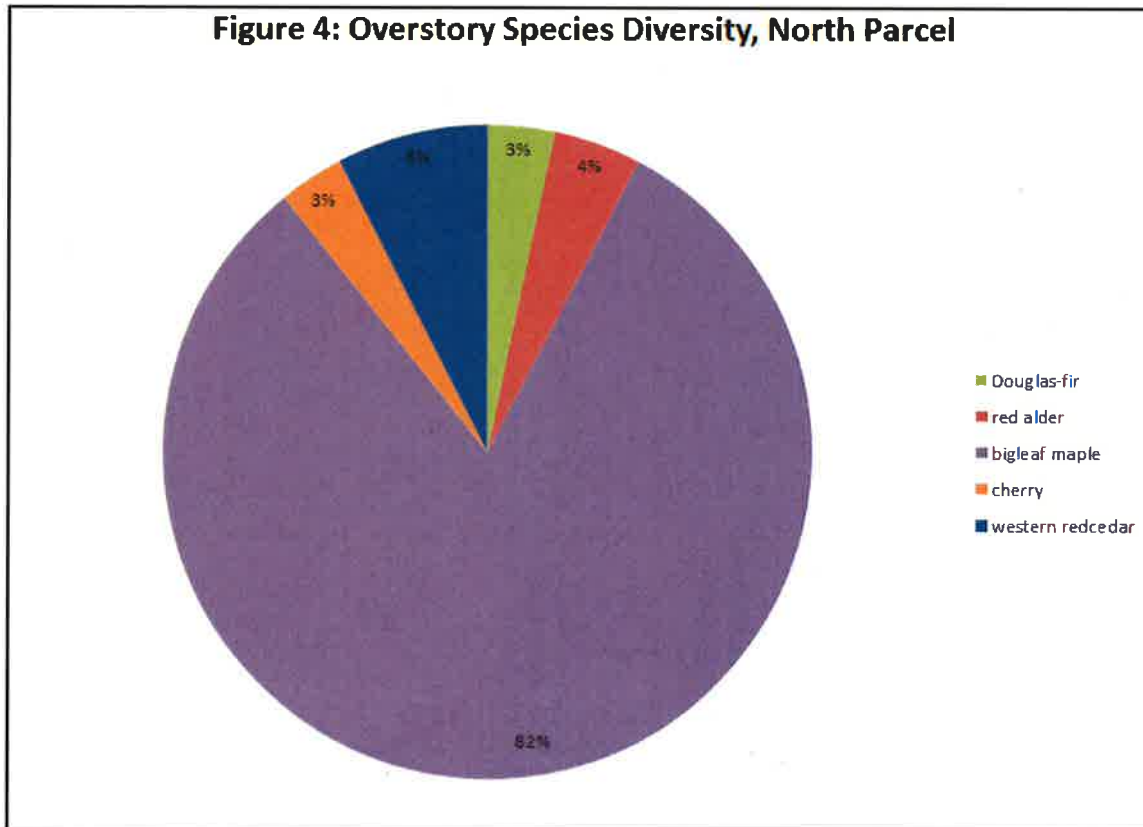


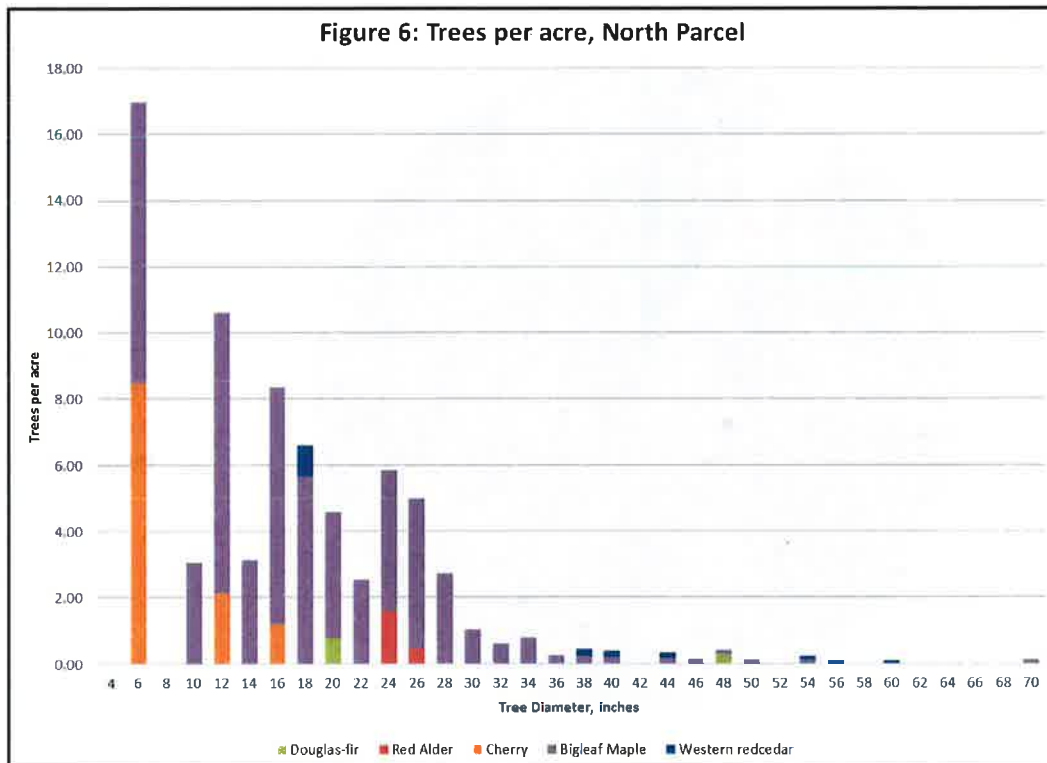
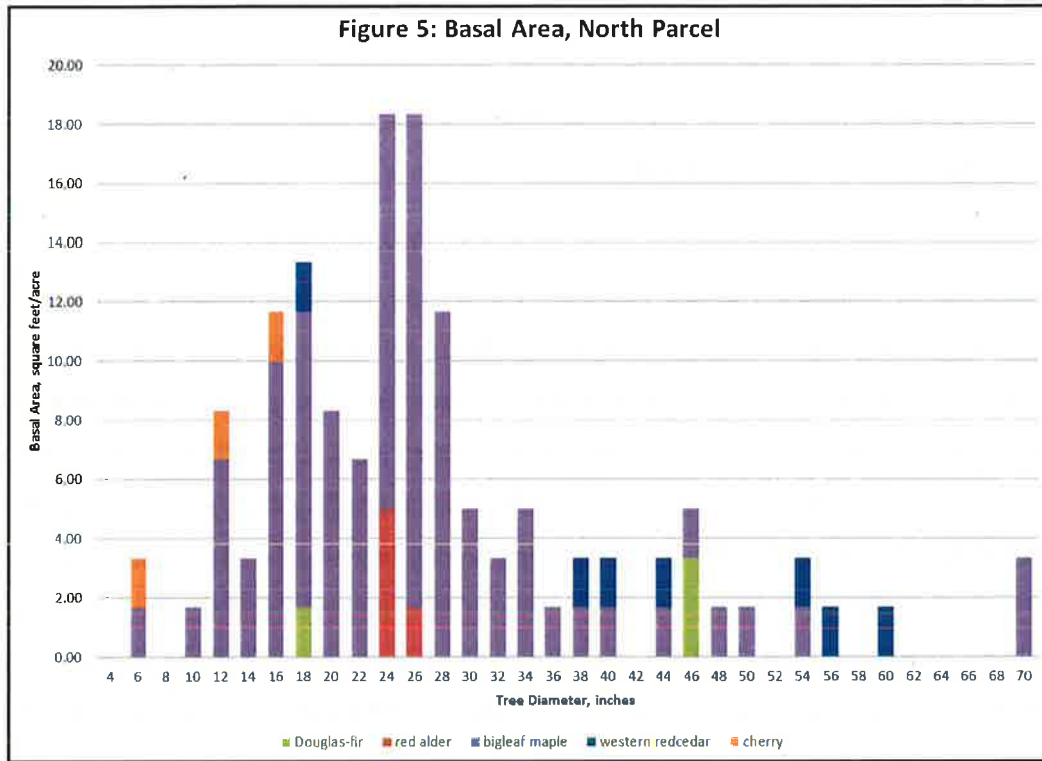


area is about 230 square feet per acre (Figure 2), and average number of trees per acre is 190 (Figure 3). Using a theoretical maximum stand density for red alder of 595, relative density for the heronry parcel is around 61%. What these numbers mean, and how they can be used for wildlife habitat management, is discussed below.

North Parcel: Trees on the north parcel are primarily made up of big-leaf maple, with a small amount of western redcedar, red alder, cherry [*Prunus* spp.], and Douglas-fir (Figure 4). QMD for the north parcel is 19.13 inches. Basal area is about 148 square feet per acre (Figure 5), and the north parcel has an average of 74 trees per acre (Figure 6). Again, using a maximum stand density of 595, relative density for the north parcel is about 35%. Bottorff et al. (2003) recommend a relative density within the range of 25-45% when managing even-aged Douglas-fir as wildlife habitat; the reason for this is that a lower stocking level would allow understory shrubs, as well as new seedlings, to thrive, creating more structural and species diversity within the forest. While Douglas-fir is not the dominant overstory species on this site, there are clear relationships between red alder canopy cover and understory growth (Grotta and Zobrist 2009). Puett-

Figure 4: Overstory Species Diversity, North Parcel





man et al. (1993) have created a density management guide for red alder forests, and while their guidelines optimize wood production, their techniques and the relationships between trees per acre and average diameter can be used for wildlife habitat management as well. Figure 7 is a diagram showing recommended “management zones” for red alder forests; according to this diagram, the heronry parcel is above recommended stocking levels for timber management, which are typically higher than stocking recommendations for wildlife.

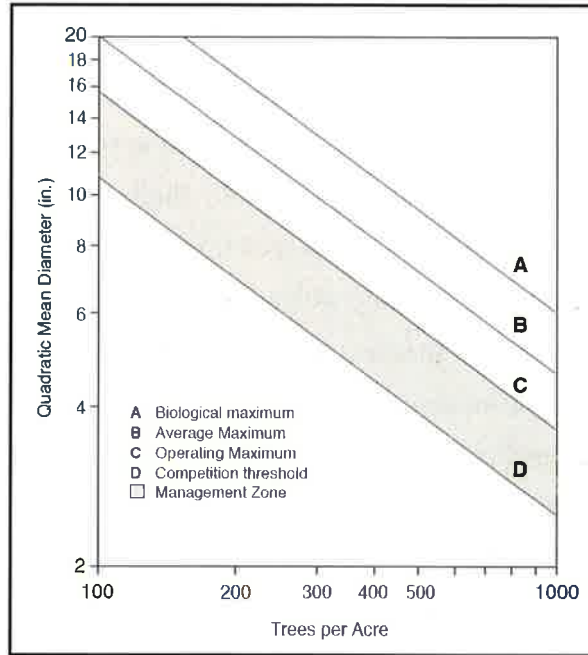


Figure 7: Red Alder (*Alnus rubra*) density management diagram (from Puettman et al. 1993)

2.2 Regeneration

Heronry Parcel: No tree regeneration was discovered on this site; the only woody species found growing in the understory were Indian plum (*Oemleria cerasiformis*) and invasive English holly, along with small amounts of beaked hazelnut (*Corylus cornuta*), as well as some salmonberry (*Rubus spectabilis*) in the southern drainage.

North Parcel: Again, very little tree regeneration was noted during the survey; no trees of seedling or sapling size (< 4 inches diameter @ 4.5 feet) were found on any sample plot. However,

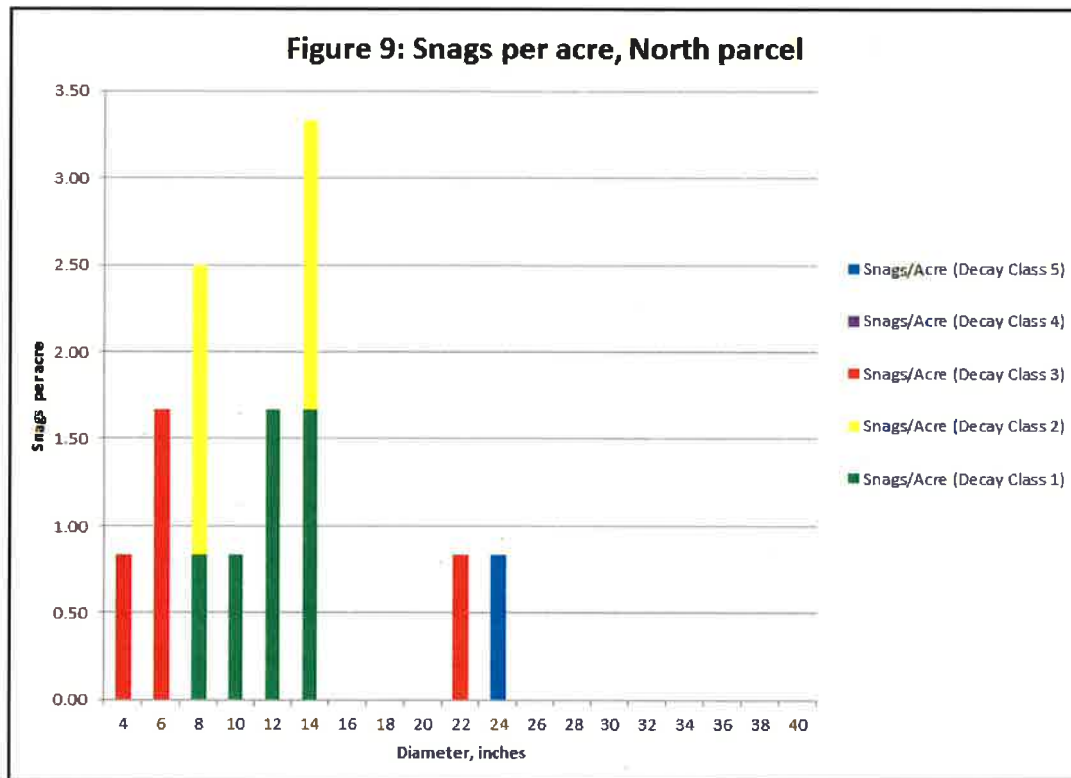
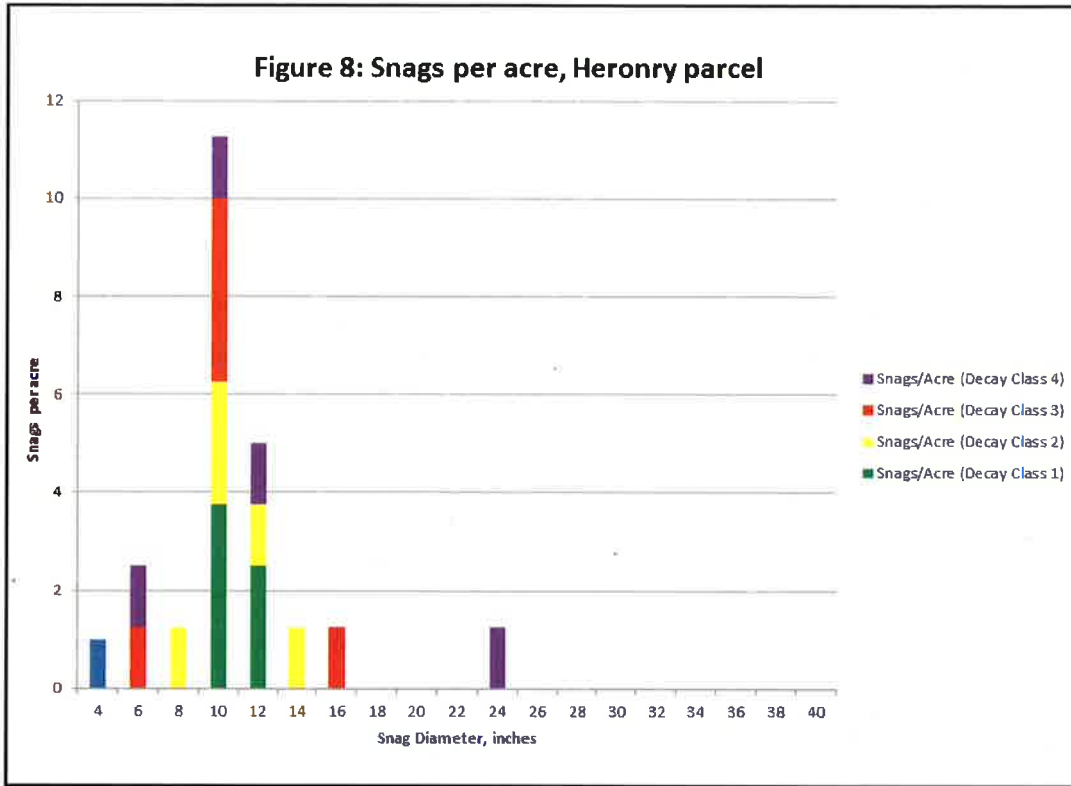
some small cherry, redcedar, and bigleaf maple were noted on the unit which did not make it into the sample.

2.3 Plant Communities

The majority of habitat on both parcels of the West Bay heronry appears to be part of a red alder/sword fern (*A. rubra/Polystichum munitum*) plant community (Chappell 2006). As mentioned in section 2.1, forest canopy is dominated by red alder, with a large component of bigleaf maple. Some Douglas-fir can be found on the southern and eastern borders of the heronry parcel, while the north parcel is home to a number of western redcedar, as well as small amounts of cherry. The heronry parcel also holds a number of large English holly shrubs and trees, likely left over from when the site was used as a holly plantation and seed from those mature plants. The shrub component of both parcels is dominated by holly, with more holly found on the southern parcel. The second-most common shrub on both sites was Indian plum, with small amounts of non-native one-seed hawthorn (*Crataegus monogyna*), beaked hazelnut (*Corylus cornuta*), and salmon-berry (*Rubus spectabilis*). Ground cover on both parcels was dominated by English ivy (*Hedera helix*), with the vine climbing into the canopy on many of the trees found on both sites. Map 4 illustrates density and distribution of *H. helix* on the two parcels. Restoration projects in late 2014/early 2015 have drastically reduced the amount of ivy on the heronry parcel, as well as installed a number of native forest plants. The newly-installed plantings had not been installed prior to the vegetation survey.

2.4 Snags

West Bay Heronry: Nineteen snags were found on eight 1/10th acre plots; this equates to an average of 23.75 snags per acre. Decay class was measured on a scale of 1-5, (1 would be a freshly dead snag and 5 showing advanced stages of decay). Bunnell et al. (2002) suggest one large (> 12-inch diameter) snag, and 4-8 smaller snags per acre, as a target for acceptable snag habitat in Pacific Northwest forests. The West Bay heronry contains an average of 20 smaller snags and 3.75 larger snags per acre, well over the suggested target range (Figure 8).



North parcel: The north parcel held a smaller number of snags per acre, at 12.5. Of these, 7.5 snags were 12 inches or less, while 5 per acre were in the larger diameter range. While this is substantially less than the heronry parcel, it is still within the target range (Figure 9).

2.5 Coarse Woody debris

West Bay Heronry: While the value of coarse woody debris (CWD) on the ground as a habitat element has been known for years (Thomas 1979), ideal amounts and spatial distribution of downed wood can be difficult to determine. Bunnell et al. (2002) found that volumes of 1400-2800 cubic feet per acre, with a variety of log sizes, should sustain most users of downed wood. During the CWD survey, an average of 1793.25 cubic feet of downed wood per acre was found on the heronry site, within the recommended target range mentioned above.

North parcel: The north parcel had a much higher volume of CWD per acre than the heronry site, with 2724.04 cubic feet of CWD per acre. This may be due to trees being prematurely taken down by English ivy climbing into the canopy adding weight and surface area for wind exposure.

2.6 Great Blue Heron Breeding, Nesting, & Foraging Habitat

The colony found on site appeared to contain 12-15 nests at the time of the survey (non-nesting season) and occupied approximately 20,000 square feet (about one half acre). Nests are large (3 ft. + in diameter), and found in the upper portions of the 70-80 foot red alder. A likely reason for the existence of the heron colony at this location is the proximity to foraging areas; Map 6 shows the intertidal estuarine habitat, as identified by Washington Department of Fish & Wildlife (WDFW), found within 3 km of the West Bay Heronry. Key foraging grounds for this colony are likely located in shallows and mudflats along the shoreline of Budd Inlet in close proximity to the colony within 3 km of the rookery (Azerrad 2012). Though invasive plants, such as English ivy and holly will eventually lead to a net loss in habitat diversity for the site, and may even prevent new trees from establishing, the horizontal and vertical visual screening of the nests which these plants provide may have been another factor in the heron choosing this site for a nesting colony.

2.7 Fish, Riparian, & Wetland Habitat

No areas on either the heronry parcel or the north parcel have been identified as containing riparian, wetland, or stream habitat. The herons nesting at the site are wetland and estuary dependent species. This association along with the relative scarcity of local nesting populations supports the involvement of the Habitat Program in site stewardship and technical assistance.

A ravine along the south edge of the heronry parcel contains an intermittent stream fed by storm-water runoff originating off of Rogers St. NW and the surrounding neighborhood and likely some groundwater inputs. This small channel contains some wetland-associated plants, such as skunk cabbage (*Lysichiton americanum*) and salmonberry, though the majority of these types of plants were located further down the ravine, and not on the West Bay Heronry parcel. On the north parcel, some small hillside seeps and other hydrologic activity resulted in small microsites with wetland characteristics; as none of these microsites are greater than 1000 square feet, part of a wetland mosaic, or considered as critical habitat to a WDFW listed or priority species, these micro-wetlands are likely not subject to critical areas protection.

2.8 Other Wildlife Use

A variety of other wildlife species have been identified using the site, including black-tailed deer (*Odocoileus hemionus columbianus*), raccoon (*Procyon lotor*), eastern grey squirrel (*Sciurus carolinensis*), Virginia opossum (*Didelphis virginiana*), Steller's jay (*Cyanocitta stelleri*), American robin (*Turdus migratorius*), and American crow (*Corvus brachyrhynchos*). Similar species of wildlife can be found on the north parcel, and in the more open areas, extensive evidence of mountain beaver (*Aplodontia rufa*) activity was found.

3.0 Recommendations

Collected data was used to develop recommendations to optimize the habitat value of the West Bay Heronry parcels and protect nesting herons from disturbance. Why great blue heron have chosen this site for nesting is unknown, but key issues have been identified which may threaten the health of the forest on the site. This may eventually force the colony to migrate to property that is not protected for conservation. This is also a natural response as landscape conditions

change over time in both natural and urban environments with various forest and vegetation communities developing and changing in response to disturbance and forest succession. This dynamic speaks to the need to conserve appropriate forested parcels within a reasonable proximity to key foraging ground capable of supporting a breeding colony (alternative nesting sites) in addition to protecting the current colony location from disturbance. WDFW's guidance on heron management describes stand traits and proximity to consider (Azerrad 2012).

Other general recommendations aim to improve the habitat for all wildlife users, increasing diversity of the on-site forest, understory, and planting screening vegetation from the surrounding residences, neighborhood, community residents and their pets. Perhaps the most pressing long term issue with forest health at the West Bay Heronry is the age and decadence of the overstory canopy, and little to no seedling regeneration occurring underneath. The forest is comprised of a deciduous closed canopy of trees approaching the end of their life. If no new seedlings exist to replace the dying canopy, then the site will degenerate into a brush patch filled with noxious and invasive vegetation, such as English ivy and Himalayan blackberry. The infestation of English ivy on the ground across much of both parcels may be preventing seedlings from establishing.

The site should be protected from disturbance from the early nesting season in February through the month of August; a split-rail fence, installed by OlyEcosystems with help from volunteers, is an effective way to limit traffic on the retired road bed which cuts through the colony. It is recommended that trees and shrubs be planted along the perimeter of the West Bay Heronry site, to further screen the colony from disturbance. WDFW has published recommendations for management of great blue heron habitat (Azerrad 2012); these guidelines should be used to protect and minimize disturbance at the colony site. As per WDFW guidelines, ES recommends more accurate identification of nesting and overlapping trees, to obtain a more accurate boundary for the nesting colony. Buffer sizes and locations are displayed on Map 7; buffer distances are based on the density of development within $\frac{1}{4}$ mile of the nest colony. In urban areas, a year-round buffer of 197 feet is recommended; for suburban or rural areas, the buffer is increased to 656 feet ($\sim\frac{1}{8}$ mile). From February to September; it is recommended that unusually loud activities (> 92 decibels) be prohibited from occurring within the $\frac{1}{8}$ mile seasonal buffer. Extremely loud activities (an example would be rock blasting) should be prevented from occurring during the nesting season within $\frac{1}{4}$ mile of the colony location.

3.1 Invasive Management

Currently, Olympia has not developed a city-wide Integrated Pest Management (IPM). The Parks, Arts, and Recreation Department has their own policy that applies to property under their management. Until a policy addressing our City's needs and standards is developed, pest and vegetation management recommendations for the City will be based on the Thurston County IPM policy (Thurston County 2013). Through several meetings between OlyEcosystems and ES staff, it was determined that the best control strategies for the two parcels are mechanical removal, including hand-pulling of ivy and English laurel, as well as the girdling or cutting of English holly on site. While the holly may resprout from the base below the point of girdle or stump, this treatment should slow the spread of seed from the mature holly trees, and the standing dead stems continue to provide habitat as cover and as snags. Suckers sprouting from the base of the holly will need to be cut annually (or more frequently) for a number of years to exhaust the root reserves.

3.2 Restoration Planting

It is recommended that any area in which invasive vegetation is removed be promptly replanted with native vegetation, to reduce erosion and prevent invasive plants from reestablishing in the site. Due to the lack of regenerating seedlings within the forest, it is recommended that shade-tolerant tree species be used to underplant the alder/maple overstory. A mix of conifers is recommended, such as western redcedar and Sitka spruce (*Picea sitchensis*) in the wetter areas, and western hemlock (*Thuja heterophylla*) or grand fir (*Abies grandis*), in dryer, shaded sites. A mixture of native understory shrubs including low Oregon grape (*Mahonia nervosa*), Indian plum, salmonberry, oceanspray, and vine maple would be appropriate. This will help recreate the natural plant succession on a site in absence of invasive vegetation. In areas of disturbed ground after removal of dense ivy woody mulch, straw, and/or native seeds should be spread to prevent erosion.

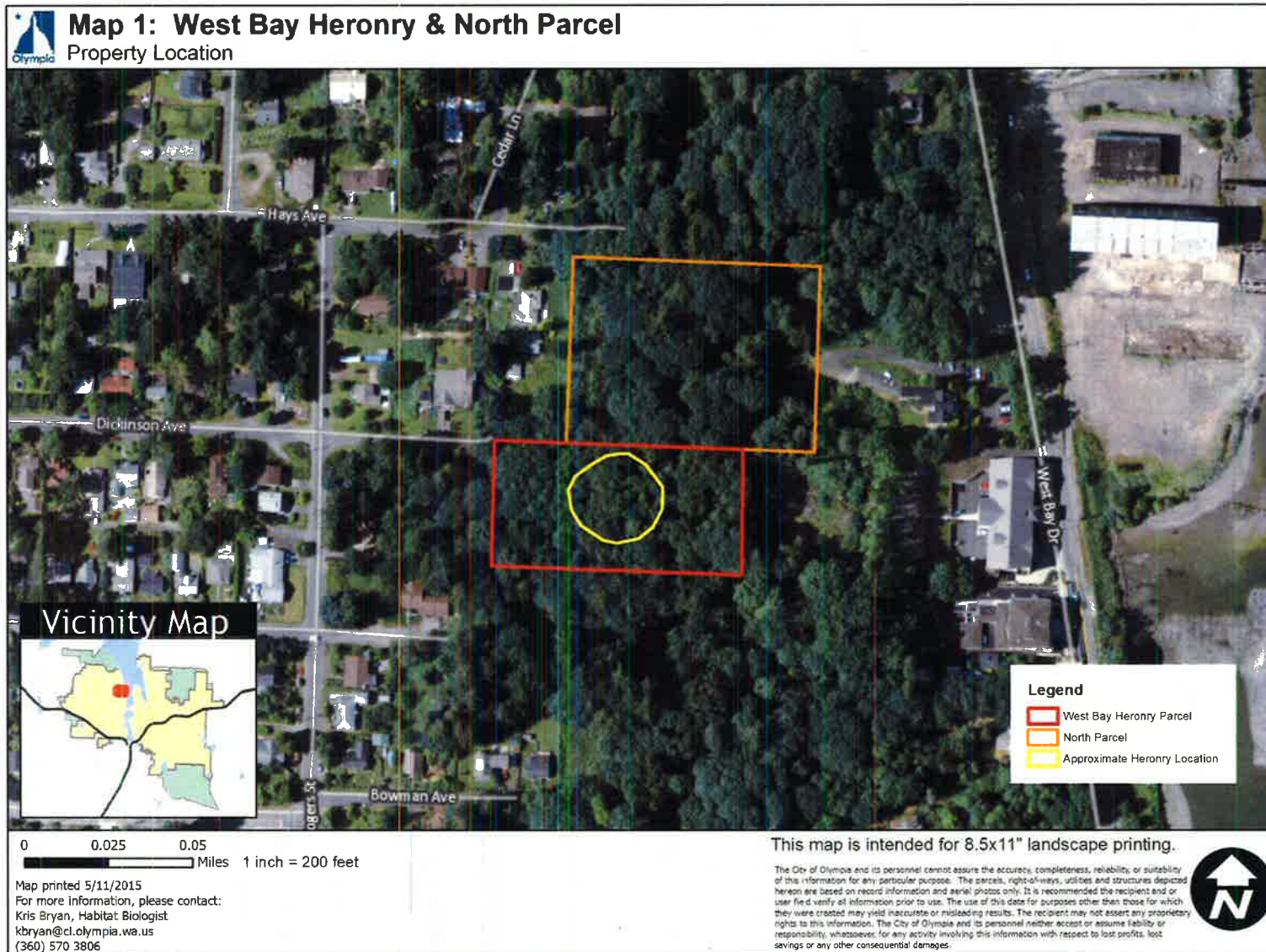
In January of 2015 800 native plants were planted on the heronry parcel where ivy had been removed by a contract crew hired by Alicia and OlyEcosystems over approximately 0.5 acre. The bulk of this area was also mulched during the January 21st event and the next weekend. See Table 1 on the following page for a plant list.

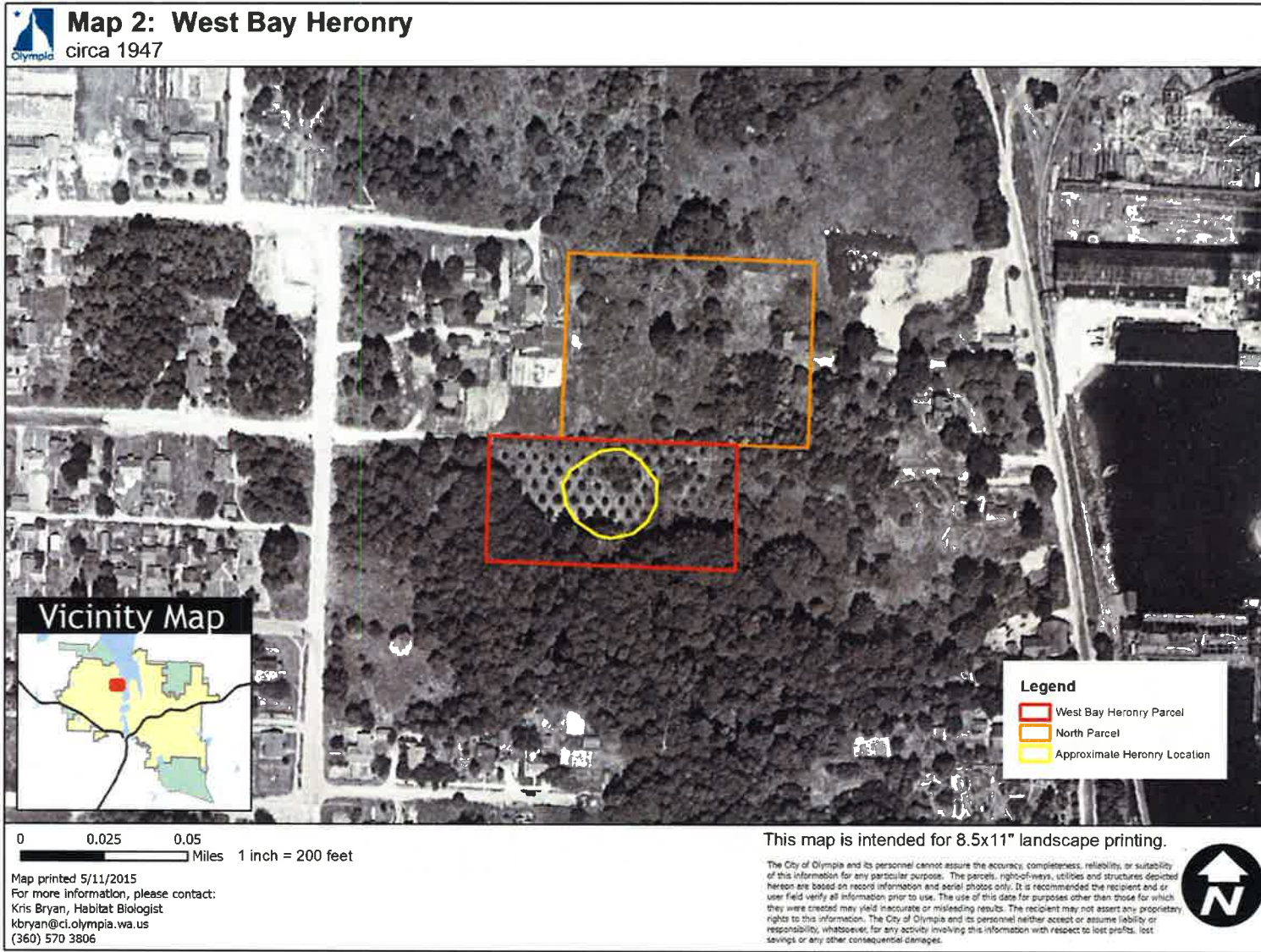
Species	Quantity	Stock Type
cascara	20	#2
Douglas fir	20	#5
hazelnut	14	#1
Indian plum	150	#1 and BR
low Oregon grape	66	#1
Nootka rose	25	#3
oceanspray	15	#1
western red cedar	25	#1
salmonberry	100	BR
sword fern	350	#1 and BR
vine maple	112	#1 and BR
Total	897	

Table 1: Plant List from Martin Luther King Jr. Day event, 2015

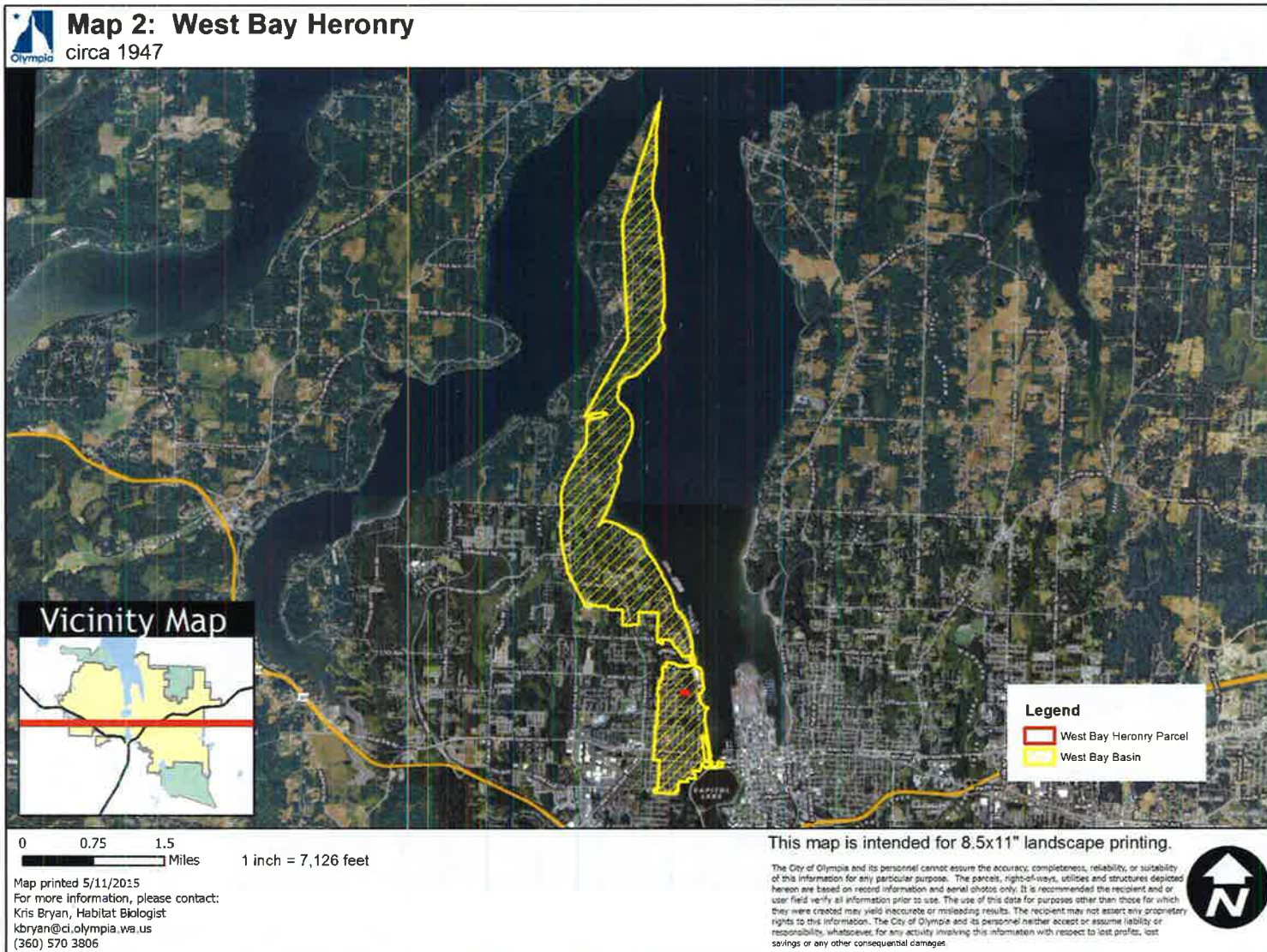
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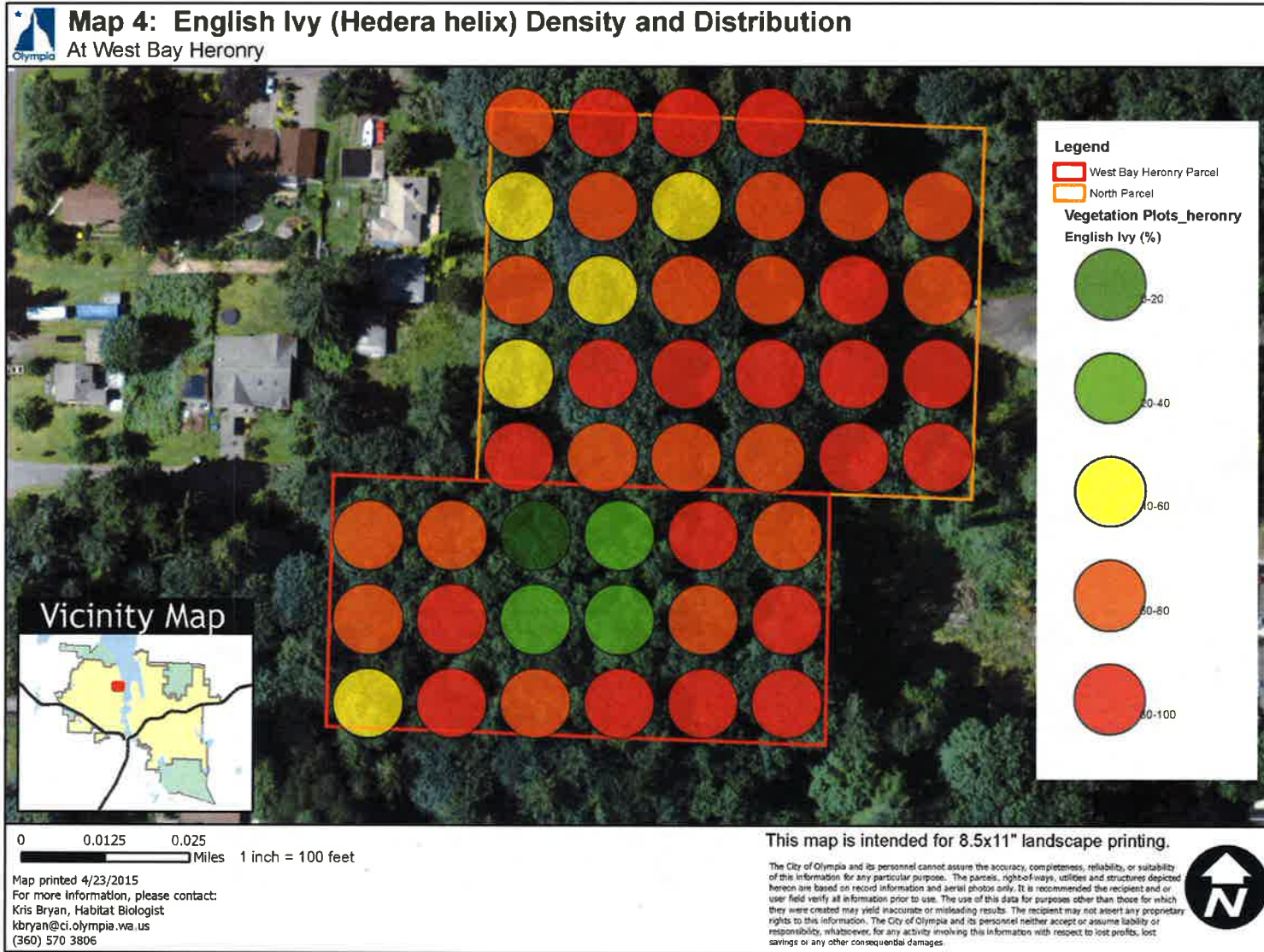




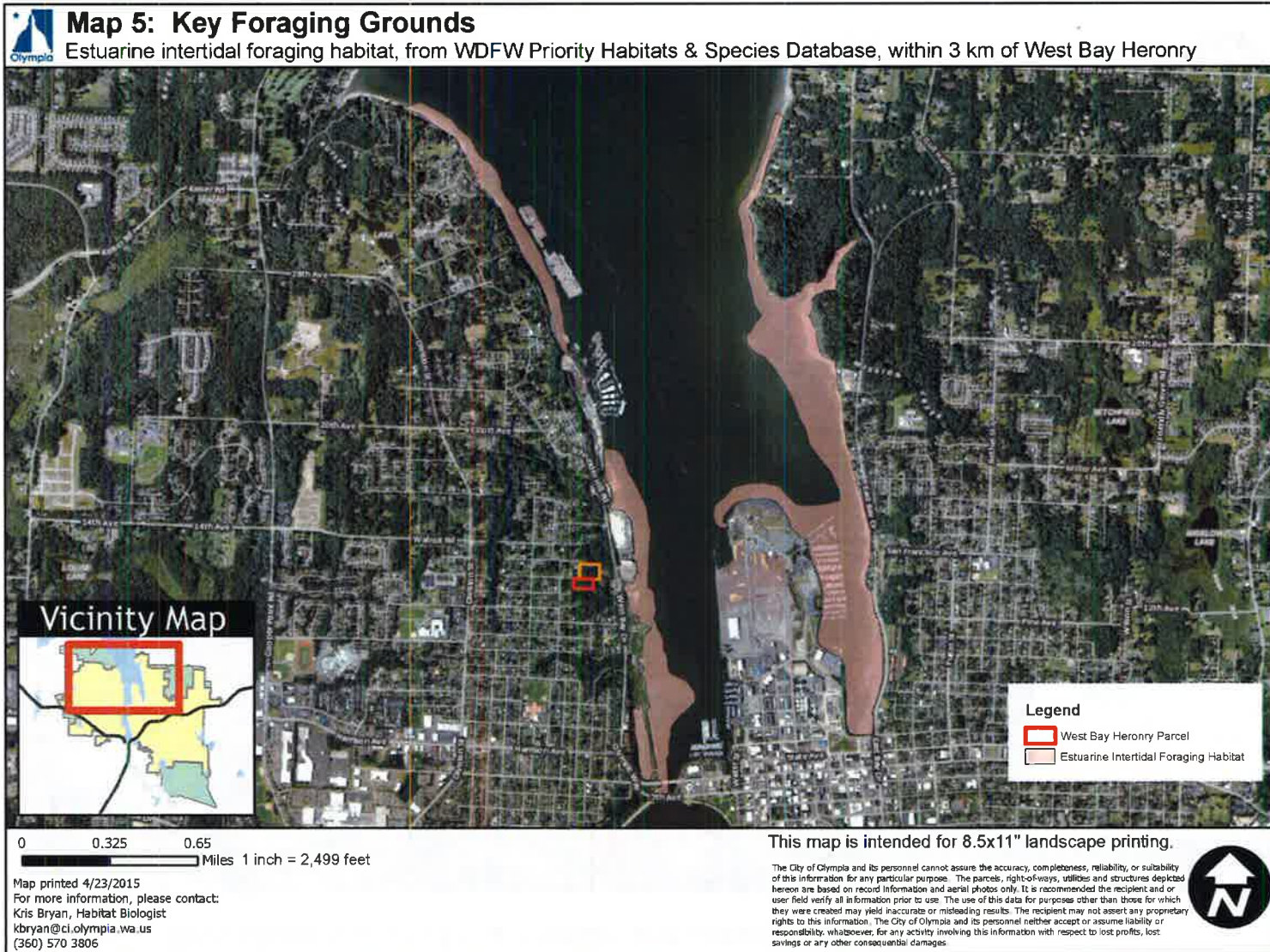
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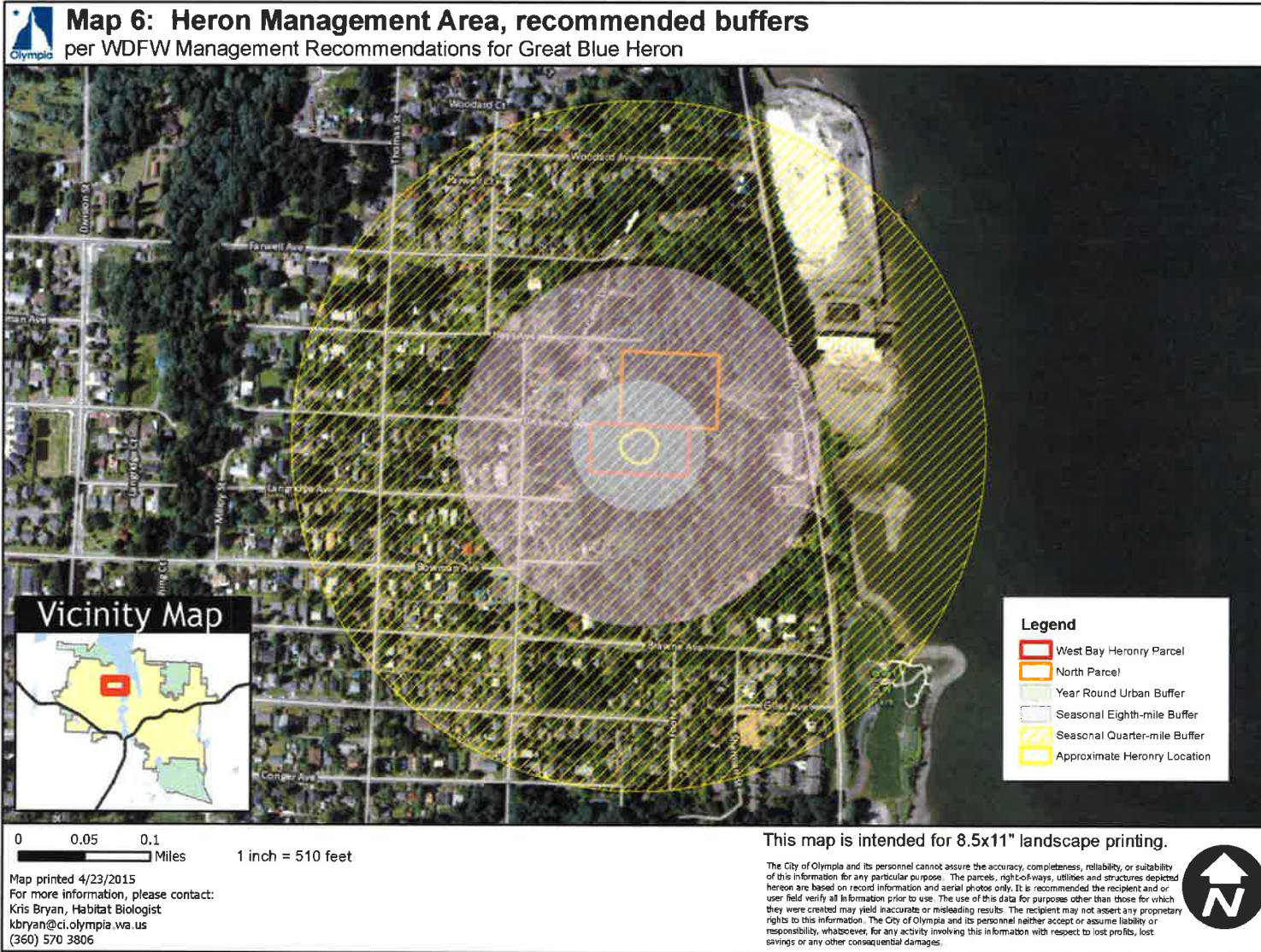
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Meeting Minutes

Planning Commission

City Hall
601 4th Avenue E
Olympia, WA 98501
Contact: Joyce Phillips
360.570.3722

Monday, February 6, 2017

6:30 PM

Council Chambers

1. CALL TO ORDER

Vice Chair Auderer called the meeting to order at 6:30 p.m.

1.A ROLL CALL

Present: 6 - Vice Chair Mike Auderer, Commissioner Travis Burns, Commissioner Paula Ehlers, Commissioner Darrell Hoppe, Commissioner Carole Richmond and Commissioner Missy Watts

Excused: 2 - Chair Brian Mark and Commissioner Negheen Kamkar

OTHERS PRESENT

Community Planning and Development:
Director Keith Stahley
Deputy Director Leonard Bauer
Economic Development Director Renee Sunde
Senior Planner Joyce Phillips
Senior Planner Amy Buckler
Housing Program Manager Anna Schlecht
Senior Planner Linda Bentley
Office Specialist/Minutes Recorder Stacey Rodell
MAKERS John Owen

2. APPROVAL OF AGENDA

The agenda was approved.

3. APPROVAL OF MINUTES

3.A [17-0108](#) Approval of the January 23, 2017 Olympia Planning Commission Meeting Minutes

The minutes were approved.

4. PUBLIC COMMENT - None

5. STAFF ANNOUNCEMENTS

Ms. Phillips announced the following:

- There will not be a Comprehensive Plan chapter “teach back” summary at this meeting. Chair Mark is scheduled to cover Community Values and Vision on February 27, 2017. Vice Chair Auderer and Commissioner Burns will be discussing the Economy chapter, and Commissioner Kamkar reviewing either the Transportation or Public Participation & Partners chapter at a future meeting.
- There are no scheduled proposals for the Site Plan Review Committee this week or next. However, our current planning staff has been quite busy with projects over the last several weeks, including a pre-submission conference for medical offices and senior living apartment residential units on a 19 acre parcel in the Kaiser Harrison Opportunity Area.
- The City has received 9 applications for the three Planning Commission seats.
- The Planning Commission will not meet again until February 27, 2017, due to the President’s Day holiday.

6. BUSINESS ITEMS

6.A [17-0110](#) Presentation of the Downtown Strategy Draft

Ms. Buckler and Mr. Owen presented the Downtown Strategy (DTS) draft. They reviewed the following:

- Process
- Concept - character areas
- Elements and Actions
 - Land use
 - Transportation
 - Design
 - Housing
 - Homelessness and street dependency
 - Toolbox of development incentives
 - Retail Business, Community and Economic Development
- City Council direction for Olympia Planning Commission (OPC)
 - Hold a public hearing on the draft Downtown Strategy so that the public has an opportunity to comment on the final draft report
 - Summarize public’s main comments and OPC recommendation in a letter to Council
 - Respond to the following:
 - Is the DTS consistent with the Comprehensive Plan?
 - Was any new information provided that causes OPC to make a different recommendation or that should be included in the report
 - Include any memos from advisory boards
- Next steps
 - February 15, 2017 background chapters to be posted online
 - February 27, 2017 Public Hearing before the Planning
 - March - Planning Commission deliberation
 - March - Briefings on design guideline, zoning and SEPA updates

- Spring - Planning Commission/Council study session and Council adoption
- Implementation

The report was received.

- 6.B** [17-0109](#) Deliberations, Amendments to Critical Areas Ordinance (CAO), Locally Important Habitat and Species, and Shoreline Master Program

Ms. Bentley presented a brief update on amendments that occurred since the public hearing on January 23, 2017 in response to comments raised at the public hearing. She also provided clarifying information requested by the Commission.

The Commission deliberated.

Commissioner Burns moved, seconded by Commissioner Richmond, to take no action during this meeting and continue deliberation at the next Planning Commission meeting. The motion carried by the following vote:

- Aye:** 4 - Vice Chair Auderer, Commissioner Burns, Commissioner Richmond and Commissioner Watts
- Nay:** 1 - Commissioner Hoppe
- Excused:** 2 - Chair Mark and Commissioner Kamkar
- Recused:** 1 - Commissioner Ehlers

- 6.C** [17-0107](#) Approval of the draft Planning Commission Work Plan

Commissioner Burns moved, seconded by Commissioner Richmond, to approve the 2017 draft work plan as proposed. The motion was unanimously approved.

7. REPORTS

Commissioner Burns commented on the recent resolution that passed for Olympia becoming a Sanctuary City and he encouraged everyone to be aware of the future of this topic given recent events at the federal level.

Commissioner Watts commented about environmental protections becoming in jeopardy on a federal level and how it is now more important than ever these issues be addressed locally. She cautioned care needs to be taken when handling these issues.

8. OTHER TOPICS - None

9. ADJOURNMENT

The meeting adjourned at 9:03 p.m.



Planning Commission

Deliberations, Amendments to Critical Areas Ordinance (CAO) and Shoreline Master Program

Agenda Date: 2/27/2017
Agenda Item Number: 6.B
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Title

Deliberations, Amendments to Critical Areas Ordinance (CAO) and Shoreline Master Program

Recommended Action

Recommend to City Council adoption of proposed amendments to the Critical Areas Ordinance (CAO) and related code sections and to the Shoreline Master Program.

Report

Issue:

Whether to recommend to City Council adoption of proposed amendments to the Critical Areas Ordinance (CAO) and related code sections and to the Shoreline Master Program.

Staff Contact:

Linda Bentley, Senior Planner, Community Planning and Development, 360.570.3746

Presenter(s):

Linda Bentley, Senior Planner, Community Planning and Development

Background and Analysis:

In 2015, the Land Use and Environment Committee (LUEC) directed staff to review potential additional protections for locally important habitat and species after the Washington State Growth Management Act (GMA) mandated update to the Critical Areas Ordinance (CAO) was completed, which occurred in August 2016.

After working with consultant ESA, staff presented information on protections for locally important habitat and species to LUEC on September 15 and November 17, 2016 and to Planning Commission on August 8, 2016, and January 9, 2017. Staff hosted a public open house to discuss the proposed amendments on January 18, 2017 and the Planning Commission held a public hearing on January 23, 2017. All written comments received by noon, January 27, 2017, and the additional information requested of staff were presented to the Planning Commission at its February 6, 2017, meeting.

The City issued a SEPA Determination of Non-Significance (DNS) for the recommended changes on January 10, 2017, and sent the 60-day notice of intent to adopt, as required by state statute, to the Department of Commerce on January 11, 2017.

Proposed Protections

Staff and consultant believe that the city's existing CAO and SMP regulations will adequately protect most species and habitat but, based on community interest and Council direction, we are proposing new and amended regulations (attached) to give added protection to the great blue heron and its habitat, while continuing to respect private property rights.

Staff is also proposing a process by which additional locally important species and/or habitat could be nominated in the future as conditions change (proposed new OMC 18.32.325).

Great Blue Heron and Habitat

In general, we are proposing the following approaches to protect heron nesting colonies when development is proposed:

- Adopt fixed-width buffers around heron nesting colonies
- Require tree and vegetative screening
- Restrict the timing on some types of activities (e.g., loud noise, clearing, grading)
- Require mitigation sequencing where appropriate
- Require consultation with the City and the Washington State Department of Fish & Wildlife (WDFW) during project planning

WDFW recognizes that protections for heron rookeries have a different set of considerations in urban areas than in less developed areas. Consequently, staff is proposing a smaller seasonal buffer than that recommended by WDFW for nests in rural and less developed areas: a 200 foot year-round buffer and an additional 300 foot seasonal buffer for nesting colonies.

Non-regulatory Protections

The best way to protect important habitat and species is to acquire the land that provides the necessary habitat for important species. Therefore, we recommend the following:

- The City should continue to work with non-profit groups such as the Olympia Coalition for Ecosystems Preservation to pursue opportunities to purchase properties that support or are near known rookeries or other sensitive habitat.
- The City Parks Department should include as a consideration the quality and extent of habitat value when deliberating acquisition of land for passive-type parks.

The City could also:

- research and develop incentives for landowners who want to permanently protect any type of breeding season habitat; and
- help non-profit groups to develop an ongoing citizen-science training program to assist in monitoring the status of locally important habitat and species.

Shoreline Master Program (SMP) Amendments

When the City amends its CAO, it must also amend its SMP to adopt the new CAO by reference. The Washington State Department of Ecology must approve the amendments to the SMP before they can become effective.

The attached amendment to Olympia's SMP adopts the amended CAO by reference, ensures consistency with the CAO adopted July 19, 2016, and corrects errors. Minor changes to OMC 18.02.180 Definitions, OMC 18.32.500 and 515, and OMC 18.20 are required to bring Title 18 OMC into consistency with the SMP and are also attached.

Neighborhood/Community Interests (if known):

Many groups and individuals in the community are interested in protection of the Great Blue Heron.

Options:

1. Recommend to City Council adoption of amendments to OMC 18.32.300-330, 18.32.500, 18.32.515, 18.02 and 18.20; adoption of amendments to the SMP; and approval of the non-regulatory suggestions, **as recommended by staff.**
2. Recommend to City Council adoption of amendments to OMC 18.32.300-330, 18.32.500, 18.32.515, 18.02 and 18.20; adoption of amendments to the SMP; and approval of the non-regulatory suggestions, **with modifications.**
3. Recommend to City Council adoption of amendments to OMC 18.32.500, 18.32.515, 18.02 and 18.20; adoption of amendments to the SMP; and approval of the non-regulatory suggestions
4. Recommend denial of all proposed amendments and/or non-regulatory suggestions.

Financial Impact:

Initial review of locally important habitat and species was included in Community Planning and Development Department's 2016 budget; however, some approaches to habitat and species protection may require additional resources in the future.

Attachments:

Proposed OMC 18.32.300 amendments
Proposed OMC 18.02 and 18.32.500 amendments
Proposed OMC 18.20 amendments
Proposed Shoreline Master Program amendments

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OMC 18.32.300-330 AS APPROVED BY CITY COUNCIL AUGUST 16, 2016, WITH PROPOSED NEW LANGUAGE SHOWN IN TRACK CHANGES

18.32.300 Important Habitats and Species - Purpose and Intent

In order to preserve and protect important habitats and species which are known to occur in Thurston County and which may be found within the City of Olympia, and which are not already protected by another critical area category, appropriate protection of an important habitat or species location shall be subject to the standards in OMC 18.32.305 through OMC 18.32.330. Protection in lake and marine shorelines is regulated under the City of Olympia Shoreline Master Program, OMC ~~14.08~~18.20.

18.32.305 Important Habitats and Species - Applicability and Definition

"Important habitats and species" are habitats or species known to occur within Thurston County and which may be found within the City of Olympia and which are not receiving habitat protection by another critical area category (e.g. Streams, Wetlands, or Landslide Hazard Areas) in this Chapter and:

- A. Are designated as endangered or threatened species identified under the Endangered Species Act; or
- B. Are state priority species identified on the Washington Department of Fish and Wildlife (WDFW) Priority Habitats and Species (PHS) List and their habitats of primary association. (Consult the state WDFW for the current PHS list); or

C. Are designated as "locally important habitat or species" pursuant to OMC 18.32.325 and 18.32.327; or

CD. Are areas in Olympia that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.

DE. Small lakes, defined as naturally existing bodies of standing water less than twenty acres in size that exist on a year-round basis in a depression of land or expanded part of a stream and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act), are considered an "important habitat." This term does not apply to constructed ponds.

18.32.315 Important Habitats and Species - Authority

- A. No development shall be allowed in an important habitat and species area ~~where local, state or federally endangered, threatened or sensitive species have a primary association as defined in OMC 18.32.305~~ without approval from the Department. The Department may restrict the uses and activities of a development proposal, such as

construction restrictions during breeding season, which lie when the proposal is located within one thousand (1,000) feet of an important habitat or species location.

B. The minimum performance standards that apply to a development proposal shall be those provided by the Washington Department of Fish & Wildlife's Management Recommendations for Washington's Priority Habitat and Species (1991), as amended, and the requirements in OMC 18.32.115, except as modified on the basis of an Important Habitat and Species Management Plan described in OMC 18.32.330.

18.32.320 Important Habitats and Species - Buffers

The Department shall establish buffers for the habitat or species on a case-by-case basis, in consultation with the WDFW or others with expertise if needed, based on the critical area report outlined in OMC 18.32.115 and the WDFW management recommendations for Washington's priority habitats and species, if available. The buffers shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

18.32.325 Process to Identify Additional Locally Important Habitat and Species.

A. Additional species of local importance may be designated pursuant to OMC 18.58, zoning text amendment.

B. In addition to the decision criteria of OMC 18.59.050, a species may be designated locally important only if it demonstrates the following characteristics:

1. Local populations of native species are in danger of extirpation based on existing trends and best available science:

a. Local populations of native species that are likely to become endangered; or

b. Local populations of native species that are vulnerable or declining;

2. The species or habitat has recreation, commercial, game, tribal, or other special value;

3. Long-term persistence of a species is dependent on the protection of the species through the provisions of this part;

4. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and

5. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

C. Effect of Designation. Designation of a species of local importance under this section shall not impact projects or proposals with a vested application or approved permit.

18.32.327 Locally Important Habitat and Species – Definitions and Performance Standards

Great Blue Heron Rookeries

A. Definitions

1. Great Blue Heron Nesting Season means February 15 through August 31.
2. Great Blue Heron Nesting Colony means the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests.
3. Great Blue Heron Core Zone means the area consisting of the great blue heron nesting colony and the year-round buffer.
4. Great Blue Heron Management Area means the area consisting of a great blue heron nesting colony, the year-round buffer, and the seasonal buffer.
5. Screening Tree means a tree that is within a direct line of sight between structures or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from structures or development during any part of the year, and within the great blue heron management area.

B. Buffers and Measurements

1. The year-round buffer is 200 feet, measured from the nesting colony boundary.
2. The seasonal buffer is an additional 300 feet, measured from the great blue heron core zone boundary.
3. Great Blue Heron Pre-nesting Area means an area less than 1 kilometer (.62 miles) from a great blue heron nesting colony where male birds congregate prior to occupying the nests.

C. Development Conditions Within the Great Blue Heron Core Zone

No development shall occur in the great blue heron nesting colony.

1. Any development or other activity that requires a permit within the year-round buffer is subject to the provisions of OMC 18.32.330 and shall use mitigation sequencing as provided in OMC 18.32.135 to:

- a. maintain baseline development conditions and ambient noise levels;
 - b. maintain great blue heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes; and shall
 - c. include an implementation plan for both the development and any required mitigation with maps, as-built drawings, vegetation removal and planting, timing, and an operation and maintenance plan for businesses that include outside operations.
3. If no herons have congregated or nested in any year by April 15, as certified by a report submitted by the developer from a qualified professional, as defined in OMC 18.02.180, the City may allow development April 16 through January 31, subject to the provisions of OMC 18.32.330 and mitigation sequencing in OMC 18.32.327(C)(2).
 4. If a nesting colony has been abandoned by a great blue heron colony, the great blue heron management core zone for this colony shall be protected for a period of ten years from the last known active nesting season.

D. Development Conditions Within the Great Blue Heron Management Area

a. 1. When herons are present, any clearing, grading, outside construction or other activity in the seasonal buffer that causes loud noise (exceeding 92 decibels at the outer boundary of a nesting colony) above ambient noise levels specific to the site shall be performed outside of the nesting season. The nesting season is generally February 15 through August 31, unless a different nesting season for that year is certified by a report from a qualified professional.

2. Development may occur at any time in the seasonal buffer in a year where it appears no herons have congregated or nested, subject to the applicant submitting a report from a qualified professional so stating. Development may occur at any time in the seasonal buffer, subject to the applicant submitting a report from a qualified professional documenting that no herons congregated or nested from February 1 through April 15 of a specific year. [Wording amended for clarity upon advice from Legal.]

—3. Unless determined to be hazardous by the Urban Forester, all 6 inch diameter breast height (dbh) trees or larger shall be retained. Any required new or replacement trees shall be provided in conformance with the City's Urban Forestry Manual replacement rates and shall be strategically placed to ensure effective screening of new development from the colony. When possible, use the same species as nest trees. Removal and planting should take place in the non-breeding season.

18.32.330 Important Habitats and Species - Management Plan

When a development proposal lies within an important habitats and/or species location, an Important Habitats and Species Management Plan shall be submitted by the applicant. The Department may waive the submittal when consultation with the

Washington Department of Fish and Wildlife staff indicates that such a plan is not needed.

An Important Habitats and Species Management Plan shall:

- A. Identify how the development impacts from the proposed project will be mitigated. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991), as amended, shall be the basis for this plan.
- B. Be prepared by a person who demonstrates sufficient experience and education as a wildlife biologist, habitat management consultant or botanist.
- C. Contain, but not be limited to:
 1. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon the important species and its habitat;
 2. An analysis of the effect of the proposed development, activity or land use change upon the important species and its habitat, based upon Washington Department of Fish and Wildlife management guidelines;
 3. A mitigation plan by the applicant which shall explain how any adverse impacts to the important species or its habitat created by the development will be minimized or avoided, such as:
 - a. Establishment of buffer zones;
 - b. Preservation of important plants and trees;
 - c. Limitation of access;
 - d. Seasonal restriction of construction and other activities; and
 - e. Provisions for periodic review of the plan.

and

4. A map(s) to-scale, showing:
 - a. The location of the proposed development site, to include a boundary survey;
 - b. The relationship of the site to surrounding topographic features;
 - c. The nature and density of the proposed development or land use change;
 - d. Proposed building locations and arrangements;
 - e. Existing structures and landscape features including the name and location of all streams, ponds and other bodies of water;

- f. The extent and location of the important species habitat;
- g. A legend with: Title, scale and north arrows, and date, including revision dates if applicable.

DRAFT

THE FOLLOWING AMENDMENTS ARE TO BRING OMC 18.02.180, 18.32.500 AND 18.32.515 INTO CONSISTENCY WITH THE CITY'S SHORELINE MASTER PROGRAM

18.02.180 DEFINITIONS – SPECIFIC.

Lake. A naturally existing or artificially created body of standing water greater than twenty (20) acres in size. Lakes include reservoirs which exist on a year-round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All such lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" found in the Shoreline Master Program, ~~for the Thurston Region in OMC 14.0818.20.~~

Land Use Approval. A written approval or permit issued by the Director or Hearing Examiner, or designee thereof, finding that a proposed project is consistent with applicable plans, regulations and standards and authorizing the recipient to make use of property in a certain manner. The land use approval consolidates various non-construction permit reviews of a project such as design review, environmental review, zoning conformance, and site plan review. Land Use Approval is a permit which does not directly authorize construction or improvements to real estate, but which is a necessary and required precursor to authorization of such construction or improvement. Land Use Approval includes, but is not limited to, applications for review and approval of a preliminary or final subdivision, short plat, binding site plan, conceptual or detailed master planned development, planned residential development, conceptual design review, site plan review, conditional use permit, variance, shoreline development permit, or other such reviews pertaining to land use.

Land Use Approval, Administrative. A Land Use Approval which may be issued by an authorized official or body, usually the Director, without an open record predecision hearing.

Land Use Approval, Quasi-Judicial. A Land Use Approval issued by an authorized official or body, usually the Hearing Examiner, following an open record predecision hearing.

Landscape Plan. A component of a site development plan on which is shown: proposed landscape species (number, spacing, size at time of planting, and plant details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features;

grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving

authority.

Landscape Structure. A fence, wall, trellis, statue or other landscape and ornamental object.

Landscaping. An area devoted to or developed and maintained predominantly with native or non-native plant materials including lawn, groundcover, trees, shrubs, and other plant materials; and also including accessory decorative outdoor landscape elements such as ornamental pools, fountains, paved or decorated surfaces (excluding driveways, parking, loading, or storage areas), and sculptural elements.

Landslide. Episodic down-slope movement of a mass of soil or rock that includes but is not limited to rockfalls, slumps, mudflows, earthflows and snow avalanches.

Large Lot Subdivision. The division of land into lots or tracts, each of which is 1/128 of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land.

Laundry and Laundry Pick-up Agency. An enterprise where articles of clothing, linen, etc. are washed, including self-service laundries as well as those where customers drop off articles to be laundered either on or off the premises, or dry-cleaned off the premises only. This includes diaper services, but not the following, which are classified as Light Industrial uses: dry-cleaning plants, linen supply services, carpet and upholstery cleaning plants, and industrial launderers.

Legal Lot of Record. A lot of a subdivision plat or binding site plan or a parcel of land described in a deed either of which is officially recorded to create a separate unit of property, provided that such plat, site plan, or deed shall accord with applicable local, state or federal law on the date created. Separate descriptions of adjoining parcels within a single deed shall not necessarily constitute separate legal lots of record.

Local Improvement. A public improvement for the benefit of property owners provided to a specific area that benefits that area and that is usually paid for, at least in part, by a special assessment.

Lodging House. See Dwelling, Transient.

Lot. Lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall also include tracts and parcels. Lot classifications are as follows:

- a. Lot, Corner. A lot that abuts two (2) or more intersecting streets.
- b. Lot, Flag or Panhandle. A lot with less than thirty (30) feet of street frontage which is typically connected to a public or private street by a narrow driveway. A lot where access is only provided by a private easement is not a flag lot.
- c. Lot, Interior. A lot that has frontage on one public or private street only, or is provided access by a private easement.
- d. Lot, Through. A lot that fronts on two (2) parallel or nearly parallel streets that do not intersect at the boundaries of the lot.
- e. Lot, Wedge-shaped. A lot with a street frontage which is no more than half as wide as the lot's width at the rear property line, as depicted in Figure 2-5b.

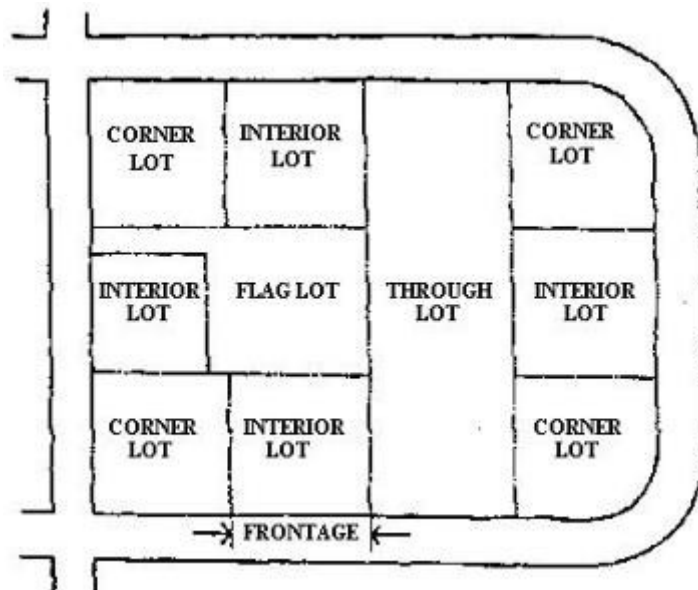
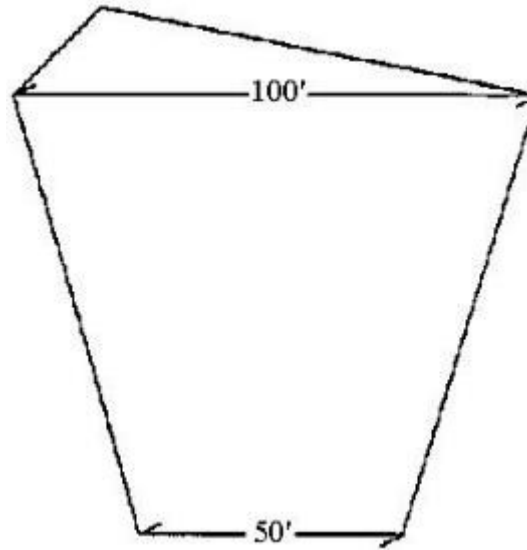


FIGURE 2-5



Example of a Wedge-Shaped Lot

FIGURE 2-5b

Lot Frontage. See Frontage.

Lot Line. A line dividing one lot from another lot or from a street rights-of-way or alley. (See also Property Line.)

Lot of Record. A lot, the plat, or deed to which is officially recorded as a unit of property and is described by metes and bounds.

Lot, Substandard. A parcel of land that is less than the minimum area or minimum dimensions required in the zone in which the lot is located. (See also Minimum Lot Size, Undersized Lots in development standards.)

Lot Width. The straight line distance measured between side lot lines parallel to the front setback line. (See also Section 18.04.080(G)(1) and Table 4.04.)

Low Income Housing. See Affordable Housing.

18.02.180 DEFINITIONS - SPECIFIC.

Object. A thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Off-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes or special incinerator ash generated on properties other than the property on which the off-site facility is located. (See also current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.)

Office. A building or portion thereof which is primarily used to transact the administrative or professional activities of a business. Such uses include, but are not limited to: medical (excluding veterinary), dental, chiropractic, optometric, legal, banking, insurance, real estate, security brokers, administrative, public, contractors, consultants, corporate, or manufacturers' offices. (See also Home Occupation.)

Office, Bank. Banks, savings and loans, credit unions, and other depository institutions.

Office, Business. The offices of real estate agencies, mortgage brokers, advertising agencies, credit agencies, mailing services and postal substations, employment agencies, insurance agencies, membership organizations except fraternal organizations, accountants, attorneys, security brokers, financial advisors, architects, engineers, surveyors, tax preparation services, computer software development, and other similar business services. This may also include the administrative offices for businesses whose primary activity may be construction, manufacturing, utility services, or some other non-office use conducted elsewhere.

Office, Government. The legislative, administrative, service delivery, or judicial offices of local, state, or federal agencies. It also includes federal post offices where mail processing takes place for local delivery. It does not include government land uses such as maintenance facilities for government-owned trucks, busses, or heavy equipment which are a Light Industrial use.

Office, Medical. This includes the offices of doctors, dentists, chiropractors, optometrists, and other health practitioners providing outpatient care. It also includes medical and dental laboratories, blood banks, and the like.

Office Supplies and Equipment Stores. Stores selling office products such as stationery, legal forms, writing implements, typewriters, computers, copiers, office furniture, and the like.

Office Uses, General. A room or group of rooms used for conducting the affairs of a business

and generally furnished with desks, tables, files, and communication equipment.

Office, Veterinary/Clinic. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (See also Animal Hospital.)

Olympia Coordinate System. The horizontal ground scale coordinate system referenced to the Washington Coordinate System as established by the City Public Works Department.

On-Site. Located on the same lot that is the subject of an application for development.

On-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes generated on the same property, see current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.

Open Record Hearing. A hearing conducted by a single hearing body or officer that creates the City's record through testimony and submission of evidence and information under procedures prescribed by this Title. [See RCW 36.70B.020(3)].

Open Record Appeal Hearing. A form of open record hearing held on request in response to a notice of decision when no open record predecision hearing was held on the project permit. [See RCW 36.70B.020(3)].

Open Record Predecision Hearing. A form of open record hearing held prior to the City's decision on a project permit. [See RCW 36.70B.020(3)].

Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and may include such complementary structures and improvements as are necessary and appropriate.

Open Space, Public. Undeveloped public land that is permanently set aside (as opposed to regulated) to protect the special natural character of a particular location. Open space may include, but is not limited to wetlands; wetland buffers; creek, stream or river corridors; forested areas; ravines, bluffs or other geologically hazardous areas; and undeveloped areas within parks.

Ordinary High Water Mark (OHWM). (Also referred to as Ordinary High Water Line OHWL) Per

WAC ~~22-110-020220-660-030~~, the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of mean higher high water, and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood. ~~OWHM-OHWM~~ is used to determine the location of standard buffer widths of streams as required under OMC 18.32.435(C)(1).

Ordinary Repair and Maintenance. Work for which a permit issued by the City is not required by law, and where the purpose and effect of such work is to prevent or correct any deterioration or decay of or damage to the real property or structure appurtenant thereto and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

Outdoor Storage. The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 consecutive hours.

Over Water. Location above the surface of the water, including placement of buildings on piling or floats.

Overlay Zone. A zoning district or specific plan that encompasses one or more underlying zones or areas and which imposes requirements in addition to those required by the underlying zone. (See also Overlay Districts in Article III.)

Owner of Property. The fee simple owner of real property according to Thurston County Auditor records.

18.32.500 Wetlands - Purpose and Intent

In order to protect the natural function of wetlands and for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands or which lie within three hundred (300) feet of wetlands shall be subject to the standards in OMC 18.32.100(~~LA~~) and OMC 18.32.505 through OMC 18.32.595. (Note: Further information regarding development within associated wetlands along marine shorelines, lakes over 20 acres in size, and streams can be found in OMC 18.20 Shoreline Master Program.)

18.32.515 Wetlands - Small Wetlands

A. Wetlands less than one thousand (1,000) square feet shall be exempt from the requirements of OMC 18.32.135.A; wetland buffers in OMC 18.32.535, compensation projects in OMC 18.32.545 and replacement ratios in OMC 18.32.550 provided that the wetland or pond:

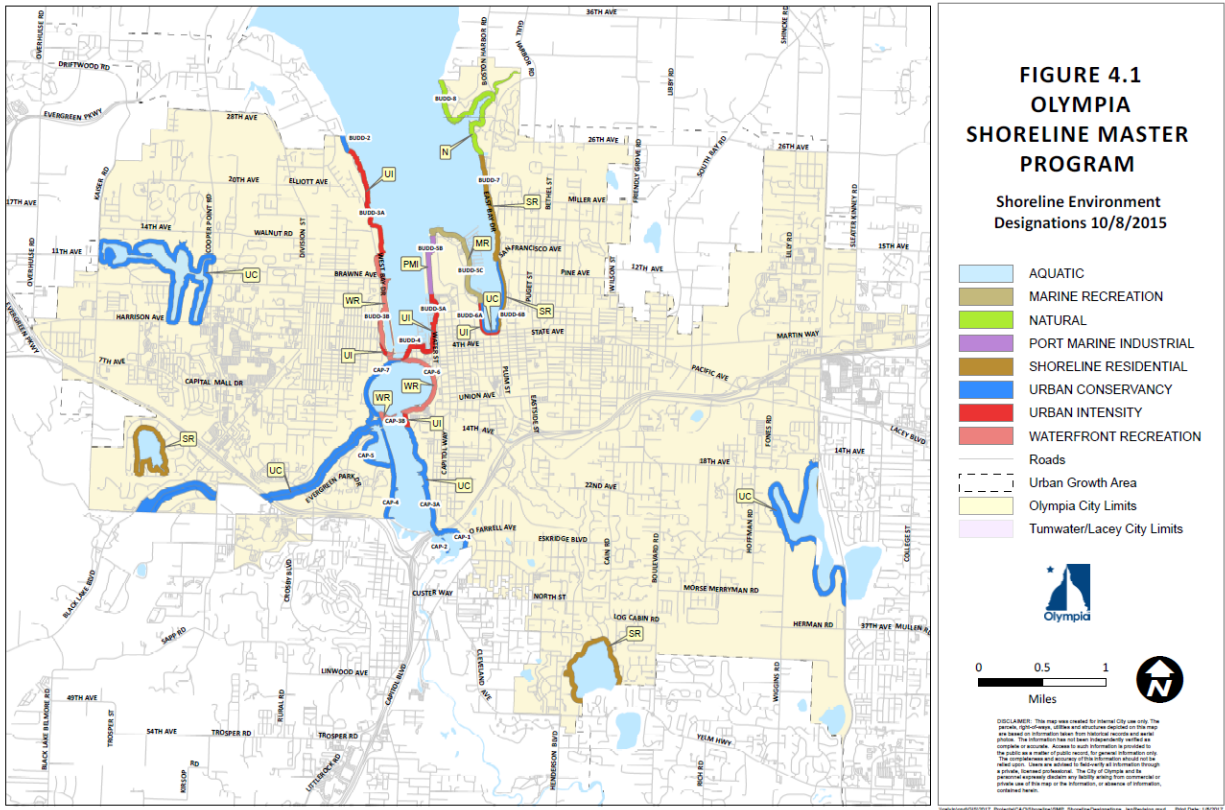
1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; ~~and~~
5. No part of the wetland is within shorelines of the State of Washington, except as authorized by OMC 18.20.420(C)(3).

B. Wetlands between one thousand (1,000) and four thousand (4,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, provided that the wetland:

1. Is rated as a Category III or IV wetland,
2. Is not associated with a riparian corridor,
3. Is not part of a wetland mosaic,
4. Does not score 5 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (2014),
5. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife, ~~and~~
6. A wetland mitigation report is provided as required by OMC 18.32.590; ~~and~~
7. No part of the wetland is within shorelines of the State of Washington.

THE FOLLOWING AMENDMENTS ARE TO BRING OMC 18.20 INTO CONSISTENCY WITH THE CITY'S SHORELINE MASTER PROGRAM:

18.20.320 – Official Shoreline Map



18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.
- B. If there are any conflicts or unclear distinctions between this chapter and Olympia’s critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
 - 1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 - 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~from~~ **18.32.435(H))** within shoreline jurisdiction shall require a shoreline variance.

~~3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~

4.3. Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.

5.4. Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).

6.5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).

~~7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.~~

8.6. Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.

9.7. Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).

10.8. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.

11.9. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

12.10. Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).

~~13. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.~~

18.20.810 – Permitted Shoreline Modifications

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use X – Prohibited X/C – Allowed by conditional use only in specific cases.	Natural	All other Shoreline Environments	Aquatic (Same as adjacent shoreline environment designation)	Notes & Applicable Regulations
Dredging	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.820
Fill	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.830 through 837
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20. 842-840 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through 18.20.870
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

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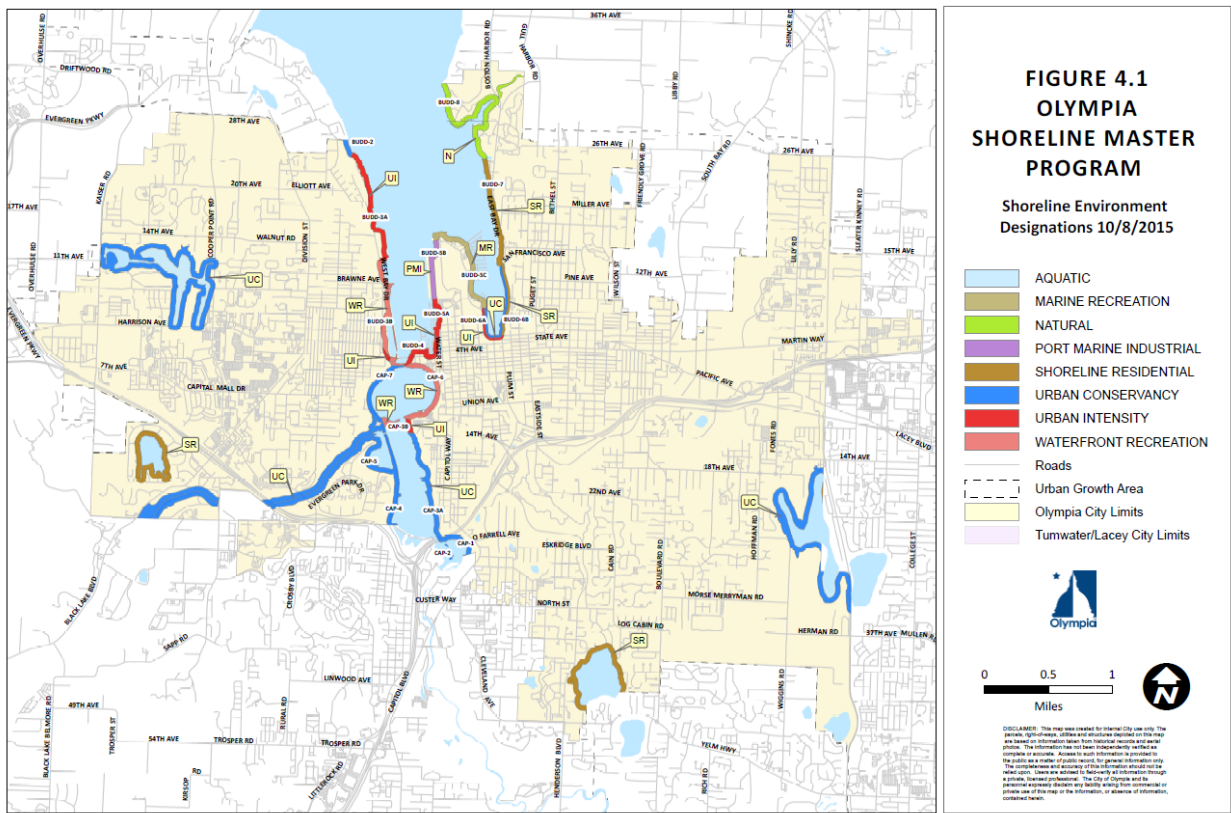
ATTACHMENT 3

SHORELINE MASTER PROGRAM AMENDMENTS

1.6 Regulations Adopted by Reference

The Critical Areas regulations ~~in effect on October 1, 2013~~ adopted on August 16, 2016, Ordinance Number 7030 and additional amendments adopted on _____, Ordinance Number _____ and contained in the Olympia Municipal Code (OMC) Chapters 18.32 and 16.70 are integral and applicable to this Shoreline Program, and are hereby adopted by reference; provided that the reasonable use provisions set forth in OMC 18.66.040 shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines. Similarly, Section 18.06.100 A.2.C -- West Bay Drive Building Height and View Blockage Limits (Ordinance 6646, passed on July 14, 2009), is hereby adopted by reference to the extent that the height and use regulations identified therein are applicable to the shoreline jurisdiction area.

3.17 18.20.320 – Official Shoreline Map



3.22 18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.

- B. If there are any conflicts or unclear distinctions between this chapter and Olympia's critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.435(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 - ~~3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~
 - 4.3. Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.
 - 5.4. Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).
 - 6.5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).
 - ~~7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.~~
 - 8.6. Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 - 9.7. Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).
 - 10.8. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.
 - 11.9. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

~~12.10.~~ Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).

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Stair Towers	X	X	←	Prohibited



Meeting Minutes

Planning Commission

City Hall
601 4th Avenue E
Olympia, WA 98501
Contact: Joyce Phillips
360.570.3722

Monday, February 27, 2017

6:30 PM

Council Chamber

1. CALL TO ORDER

Chair Mark called the meeting to order at 6:31 p.m.

1.A ROLL CALL

Commissioner Watts arrived after the roll call was taken.

Present: 7 - Chair Brian Mark, Vice Chair Mike Auderer, Commissioner Travis Burns, Commissioner Paula Ehlers, Commissioner Darrell Hoppe, Commissioner Carole Richmond and Commissioner Missy Watts

Excused: 1 - Commissioner Negheen Kamkar

OTHERS PRESENT

Community Planning and Development:
Director Keith Stahley
Deputy Director Leonard Bauer
Senior Planner Joyce Phillips
Senior Planner Amy Buckler
Office Specialist/Minutes Recorder Stacey Rodell
MAKERS: John Owen

2. APPROVAL OF AGENDA

The agenda was approved.

3. APPROVAL OF MINUTES

3.A [17-0165](#) Approval of the February 6, 2017 Olympia Planning Commission Meeting Minutes

The minutes were approved.

4. PUBLIC COMMENT - None

5. STAFF ANNOUNCEMENTS

Ms. Phillips announced the following:

- The next Planning Commission meeting will be on March 6, 2017. There will

be a Downtown Strategy - Design Guidelines and Views Briefing and Downtown Strategy deliberations will begin.

- A written summary of the sign code update has been provided to the Commission and a detailed briefing will be conducted in April.
- This week the Site Plan Review Committee (SPRC) will consider the Pizza Parlor project proposed on Harrison Avenue near the Bark and Garden Center.
- Next week SPRC will consider four items - 2 for recommendations to the director and 2 as presubmission conferences to provide information to the applicants:
 - Capital High School Track & Field Renovation (recommendation)
 - Martin Way Residential (recommendation)
 - East Bay Flats and Townhomes (presubmission)
 - Capitol Plaza Building Improvements (presubmission)
- There will be a neighborhood meeting on Wednesday - March 1, 2017 at 5:30 p.m. in City Hall regarding the Olympia Community Care Center.

6. BUSINESS ITEMS

6.A [17-0197](#) Public Hearing on the Downtown Strategy Draft

Ms. Buckler presented a short briefing and noted written public comment will be accepted until Friday, March 3, 2017 at 5:00 p.m.

Chair Mark opened the public hearing.

Public testimony was received from:

Stewart Drebeck, a local developer, stated he felt the document was a good one which can help to create the vision, and he commended staff for their work during this process. His concerns were:

- Housing Chapter Page 1, second sentence - *The City's Comprehensive Plan includes a target of directing ¼ of the city's forecasted population growth into downtown. This translates into about 5,000 new downtown residents living in approximately 2,500 to 3,500 new residences over the next 20 years.* Concerned about the word "directing" and feels it should not become a mandate by the City. He feels the expectation of building 150 housing units per year over the next 20 years is overly optimistic and the market will not bear it. Multifamily is a cyclical industry that overbuilds then stops because the banks won't lend. There is too much available land elsewhere that is far less expensive than Downtown.
- Housing Chapter Page 3 - *Avoid displacement of lower income groups from the downtown.* Concerned about the City mandating owners of existing lower income rentals from remodeling these units and raising the rent.
- Housing Chapter Page 4 - He feels the example of a potential quarter block development is unrealistic as it is too big for anyone to take on.
- Housing Chapter Page 11 - Concerned the costs associated with rehabilitation or demolition of existing buildings make this an unrealistic option.

- Concerned about how Olympia might implement its goal of maintaining affordable units. He does not want to see the City implement rent control. That would be bad for the community and bad for people who own real estate.

Bonnie Jacobs, a long-time Olympia resident, referenced written testimony from the Friends of the Waterfront (FOW) organization. She praised the Planning Commission for their service, and stressed the importance of the waterfront as a treasured community asset. Their concerns are:

- View protection from the waterfront. When planning for more visitors and for 5,000 more residents, think about views and setback from the waterfront.
- The Shoreline Master Program minimum 30-foot setback is insufficient for a pathway and the setback distance should be increased.

Aaron Sauerhoff, a student at Evergreen State College, thanked everyone who put the thoughtful and thorough plan together. He is concerned about collaboration with experts who have the most current data regarding sea level rise and urged the importance of not missing any available data when implementing the Downtown Strategy.

Joel Baxter, a representative from the Olympia Master Builders (OMB), feels the plan is mostly easy to read and understand and will be a good tool for citizen involvement. While OMB members do not often build in downtown, they wanted to weigh in on the Downtown Strategy because they care about the vitality of downtown and believe it is important to the region. His concerns are:

- The plan's priority of walkability and the desire to add 5,000 residents to Downtown. He feels the current restrictions on building height may create a challenge of obtaining the goal of increasing housing units. OMB does not want to eliminate views, but housing goals as well as walkability can only be supported by increasing density.
- When considering affordable housing incentives an actual affordable housing dollar amount needs to be established in order to determine if a developer can meet this goal of supplying affordable units.

Bob Jacobs, a long time Olympia resident, referenced written testimony from the FOW organization. Two themes he sees are holistic and long-term. Different interests have to be balanced in order to have a healthy community, and we need to prepare for growth, for example by setting aside park land and putting view protections in place. He reiterated the following concerns of FOW:

- The Shoreline Master Program minimum 30-foot setback is insufficient for a pathway and the setback distance should be increased. Only 20 feet of that is flat land. Fifty-five feet would be better for trail users and private businesses (e.g. for outdoor seating).
- Appreciate the recommendations to get people to the waterfront but need to think about the experience people have when they get there.
- View protection - the draft recommends the Capitol Dome view be defined as only the Capitol Dome, not including the Drum. FOW thinks both the Dome

and the Drum are important to the view. (The draft also includes a typo that states the recommended view is the Capitol “Drum” - intended to be Capitol “Dome”)

- Isthmus - urges that the Downtown Strategy should include a recommendation to remove the Capitol Center Building from the isthmus and replace it with a grand public open space.

Chair Mark closed the public hearing.

The public hearing was held and closed.

6.B [17-0188](#) Deliberations, Amendments to Critical Areas Ordinance (CAO) and Shoreline Master Program

Chair Mark opened the deliberation of the Critical Areas Ordinance (CAO) amendments.

Commissioner Richmond made a motion to accept amendments as proposed by staff at the public hearing on January 23, 2017, using the language that was originally proposed, rather than the amended language considered at the meeting on February 6, 2017. There not being a second, this motion did not move to a vote.

Commissioner Hoppe stated he is uncomfortable accepting the amendments to OMC 18.32.300-330 as written. He believes there is insufficient science to move forward with the proposed language to protect the Heron. He is in favor of revisiting these amendments upon the next CAO review.

Commissioner Richmond indicated there was a report provided with a letter from OlyEcosystems. The report is from the Habitat Stewardship Program, Environmental Services section of the Public Works Department. This is the best available science to support the amendment of OMC 18.32.300-330.

Vice Chair Auderer asked Commissioner Richmond about her opinion on the “regulatory taking” of the property in these rookeries. Commissioner Richmond said she had thought the legal department would have provided clarification by this meeting but they have not provided this information yet. Due to her research on property law she feels these regulations do not fall under the “regulatory taking” criteria, as development is allowed to occur with these amendments.

Mr. Bauer indicated legal staff replied prior to this meeting. He summarized the legal staff’s response, indicating the proposed language, given the reasonable use and other code provisions that would remain in effect, would not result in a regulatory takings.

Commissioner Watts indicated the amendments to OMC 18.32.300-330 are too prescriptive for property owners and she doesn’t have enough information to make a recommendation on these amendments at this time.

Commissioner Hoppe moved, seconded by Commissioner Watts, to recommend to City Council adoption of amendments to the Critical Areas Ordinance (CAO) and related codes in OMC 18.02.180, 18.32.500, 18.32.515, 18.20.320, 18.20.420, 18.20.810 and to the Shoreline Master Program 1.6, 3.17, 3.22, 3.58, and to support the non-regulatory measures to protect the heron. The remainder of the proposed amendments OMC 18.32.300-330 will be deliberated upon at a future meeting of the Planning Commission. The motion carried by the following vote:

Aye: 6 - Chair Mark, Vice Chair Auderer, Commissioner Burns, Commissioner Hoppe, Commissioner Richmond and Commissioner Watts

Excused: 1 - Commissioner Kamkar

Recused: 1 - Commissioner Ehlers

7. REPORTS

Commissioner Richmond attended the February 14, 2017 City Council meeting and reported about the briefing on affordable housing and homelessness. There was a discussion about a proposal to raise property taxes to fund a partnership with Lacey and Tumwater to build 500 affordable housing units.

Vice Chair Auderer reported on a recent meeting he attended for the Olympia Downtown Association (ODA) regarding economic development.

Chair Mark indicated the community kickoff meeting for the Gateways project will at the Olympia Center in room 101 & 102 on March 30, 2017 from 7:00 p.m. to 9:00 p.m. Community members can meet with staff and the consultants working on the gateways master plan.

Chair Mark reported on a recent Land Use and Environment Committee meeting he attended. He presented the proposed 2017 Planning Commission work plan to the Committee. They approved of the plan and were in favor of a joint meeting with the Planning Commission.

8. OTHER TOPICS

The Commissioners asked for some clarification regarding the Downtown Strategy plan. Mr. Owen and Ms. Buckler provided clarification.

9. ADJOURNMENT

The meeting adjourned at 7:58 p.m.

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Planning Commission

Recommendation on Draft Amendments to Critical Areas Ordinance (CAO)

Agenda Date: 3/6/2017
Agenda Item Number: 6.C
File Number: 17-0226

Type: recommendation **Version:** 1 **Status:** In Committee

Title

Recommendation on Draft Amendments to Critical Areas Ordinance (CAO)

Recommended Action

Recommend to City Council adoption of draft amendments to the Critical Areas Ordinance (CAO)

Report

Issue:

Whether to recommend to City Council adoption of draft amendments to the Critical Areas Ordinance (CAO)

Staff Contact:

Leonard Bauer, Deputy Director, Community Planning and Development, 360.753.8206

Presenter(s):

Leonard Bauer, Deputy Director, Community Planning and Development

Background and Analysis:

In 2015, the Land Use and Environment Committee (LUEC) directed staff to review potential additional protections for locally important habitat and species after the Washington State Growth Management Act (GMA) mandated update to the Critical Areas Ordinance (CAO) was completed, which occurred in August 2016.

After working with consultant ESA, staff presented information on protections for locally important habitat and species to LUEC on September 15 and November 17, 2016 and to Planning Commission on August 8, 2016, and January 9, 2017. Staff hosted a public open house to discuss the proposed amendments on January 18, 2017 and the Planning Commission held a public hearing on January 23, 2017. All written comments received by noon, January 27, 2017, and the additional information requested of staff were presented to the Planning Commission at its February 6 and 27, 2017, meetings.

The City issued a SEPA Determination of Non-Significance (DNS) for the recommended changes on January 10, 2017, and sent the 60-day notice of intent to adopt, as required by state statute, to the

Department of Commerce on January 11, 2017.

At its February 27, 2017 meeting, the Planning Commission voted to recommend approval of the amendments to the Olympia Municipal Code and Shoreline Master Program in Attachments 2-4. The Commission continued deliberation of the amendments in Attachment 1.

The draft amendments in Attachment 1 include the following:

- a process by which additional locally important species and/or habitat could be nominated in the future as conditions change
- designation of the great blue heron as a locally important species, with the following approaches to protect heron nesting colonies when development is proposed:
 - Adopt fixed-width buffers around heron nesting colonies
 - Require tree and vegetative screening
 - Restrict the timing on some types of activities (e.g., loud noise, clearing, grading)
 - Require mitigation sequencing where appropriate
 - Require consultation with the City and the Washington State Department of Fish & Wildlife (WDFW) during project planning

WDFW recognizes that protections for heron rookeries have a different set of considerations in urban areas than in less developed areas. Consequently, this draft includes a smaller seasonal buffer than that recommended by WDFW for nests in rural and less developed areas: a 200 foot year-round buffer and an additional 300 foot seasonal buffer for nesting colonies.

Neighborhood/Community Interests (if known):

Many groups and individuals in the community are interested in protection of the Great Blue Heron.

Options:

1. Recommend to City Council adoption of amendments to OMC 18.32.300-330, and approval of the non-regulatory suggestions, **as recommended by staff**.
2. Recommend to City Council adoption of amendments to OMC 18.32.300-330, and approval of the non-regulatory suggestions, **with modifications**.
3. Recommend City Council **not adopt** locally important species regulations at this time.
4. Forward the draft amendments to OMC 18.32.300-.330 to City Council with **no recommendation**.

Under any of these options, the Planning Commission may direct staff to present the recommendation to the City Council, designate one or more Commissioners to present the recommendation to City Council along with staff, or create a written letter to describe the recommendation to be forwarded to City Council.

Financial Impact:

Initial review of locally important habitat and species was included in Community Planning and Development Department's 2016 budget; however, some approaches to habitat and species

protection may require additional resources in the future.

Attachments:

Proposed OMC 18.32.300 - .330 amendments

Proposed OMC 18.02 and 18.32.500 amendments

Proposed OMC 18.20 amendments

Proposed Shoreline Master Program amendments

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OMC 18.32.300-330 AS APPROVED BY CITY COUNCIL AUGUST 16, 2016, WITH PROPOSED NEW LANGUAGE SHOWN IN TRACK CHANGES

18.32.300 Important Habitats and Species - Purpose and Intent

In order to preserve and protect important habitats and species which are known to occur in Thurston County and which may be found within the City of Olympia, and which are not already protected by another critical area category, appropriate protection of an important habitat or species location shall be subject to the standards in OMC 18.32.305 through OMC 18.32.330. Protection in lake and marine shorelines is regulated under the City of Olympia Shoreline Master Program, OMC ~~14.08~~18.20.

18.32.305 Important Habitats and Species - Applicability and Definition

"Important habitats and species" are habitats or species known to occur within Thurston County and which may be found within the City of Olympia and which are not receiving habitat protection by another critical area category (e.g. Streams, Wetlands, or Landslide Hazard Areas) in this Chapter and:

- A. Are designated as endangered or threatened species identified under the Endangered Species Act; or
- B. Are state priority species identified on the Washington Department of Fish and Wildlife (WDFW) Priority Habitats and Species (PHS) List and their habitats of primary association. (Consult the state WDFW for the current PHS list); or

C. Are designated as "locally important habitat or species" pursuant to OMC 18.32.325 and 18.32.327; or

CD. Are areas in Olympia that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.

DE. Small lakes, defined as naturally existing bodies of standing water less than twenty acres in size that exist on a year-round basis in a depression of land or expanded part of a stream and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act), are considered an "important habitat." This term does not apply to constructed ponds.

18.32.315 Important Habitats and Species - Authority

- A. No development shall be allowed in an important habitat and species area ~~where local, state or federally endangered, threatened or sensitive species have a primary association as defined in OMC 18.32.305~~ without approval from the Department. The Department may restrict the uses and activities of a development proposal, such as

construction restrictions during breeding season, which lie when the proposal is located within one thousand (1,000) feet of an important habitat or species location.

B. The minimum performance standards that apply to a development proposal shall be those provided by the Washington Department of Fish & Wildlife's Management Recommendations for Washington's Priority Habitat and Species (1991), as amended, and the requirements in OMC 18.32.115, except as modified on the basis of an Important Habitat and Species Management Plan described in OMC 18.32.330.

18.32.320 Important Habitats and Species - Buffers

The Department shall establish buffers for the habitat or species on a case-by-case basis, in consultation with the WDFW or others with expertise if needed, based on the critical area report outlined in OMC 18.32.115 and the WDFW management recommendations for Washington's priority habitats and species, if available. The buffers shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

18.32.325 Process to Identify Additional Locally Important Habitat and Species.

A. Additional species of local importance may be designated pursuant to OMC 18.58, zoning text amendment.

B. In addition to the decision criteria of OMC 18.59.050, a species may be designated locally important only if it demonstrates the following characteristics:

1. Local populations of native species are in danger of extirpation based on existing trends and best available science:

a. Local populations of native species that are likely to become endangered; or

b. Local populations of native species that are vulnerable or declining;

2. The species or habitat has recreation, commercial, game, tribal, or other special value;

3. Long-term persistence of a species is dependent on the protection of the species through the provisions of this part;

4. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and

5. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

C. Effect of Designation. Designation of a species of local importance under this section shall not impact projects or proposals with a vested application or approved permit.

18.32.327 Locally Important Habitat and Species – Definitions and Performance Standards

Great Blue Heron Rookeries

A. Definitions

1. Great Blue Heron Nesting Season means February 15 through August 31.
2. Great Blue Heron Nesting Colony means the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests.
3. Great Blue Heron Core Zone means the area consisting of the great blue heron nesting colony and the year-round buffer.
4. Great Blue Heron Management Area means the area consisting of a great blue heron nesting colony, the year-round buffer, and the seasonal buffer.
5. Screening Tree means a tree that is within a direct line of sight between structures or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from structures or development during any part of the year, and within the great blue heron management area.

B. Buffers and Measurements

1. The year-round buffer is 200 feet, measured from the nesting colony boundary.
2. The seasonal buffer is an additional 300 feet, measured from the great blue heron core zone boundary.
3. Great Blue Heron Pre-nesting Area means an area less than 1 kilometer (.62 miles) from a great blue heron nesting colony where male birds congregate prior to occupying the nests.

C. Development Conditions Within the Great Blue Heron Core Zone

No development shall occur in the great blue heron nesting colony.

1. Any development or other activity that requires a permit within the year-round buffer is subject to the provisions of OMC 18.32.330 and shall use mitigation sequencing as provided in OMC 18.32.135 to:

- a. maintain baseline development conditions and ambient noise levels;
 - b. maintain great blue heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes; and shall
 - c. include an implementation plan for both the development and any required mitigation with maps, as-built drawings, vegetation removal and planting, timing, and an operation and maintenance plan for businesses that include outside operations.
3. If no herons have congregated or nested in any year by April 15, as certified by a report submitted by the developer from a qualified professional, as defined in OMC 18.02.180, the City may allow development April 16 through January 31, subject to the provisions of OMC 18.32.330 and mitigation sequencing in OMC 18.32.327(C)(2).
 4. If a nesting colony has been abandoned by a great blue heron colony, the great blue heron management core zone for this colony shall be protected for a period of ten years from the last known active nesting season.

D. Development Conditions Within the Great Blue Heron Management Area

- a. 1. When herons are present, any clearing, grading, outside construction or other activity in the seasonal buffer that causes loud noise (exceeding 92 decibels at the outer boundary of a nesting colony) above ambient noise levels specific to the site shall be performed outside of the nesting season. The nesting season is generally February 15 through August 31, unless a different nesting season for that year is certified by a report from a qualified professional.
2. Development may occur at any time in the seasonal buffer in a year where it appears no herons have congregated or nested, subject to the applicant submitting a report from a qualified professional so stating. Development may occur at any time in the seasonal buffer, subject to the applicant submitting a report from a qualified professional documenting that no herons congregated or nested from February 1 through April 15 of a specific year. [Wording amended for clarity upon advice from Legal.]
- 3. Unless determined to be hazardous by the Urban Forester, all 6 inch diameter breast height (dbh) trees or larger shall be retained. Any required new or replacement trees shall be provided in conformance with the City's Urban Forestry Manual replacement rates and shall be strategically placed to ensure effective screening of new development from the colony. When possible, use the same species as nest trees. Removal and planting should take place in the non-breeding season.

18.32.330 Important Habitats and Species - Management Plan

When a development proposal lies within an important habitats and/or species location, an Important Habitats and Species Management Plan shall be submitted by the applicant. The Department may waive the submittal when consultation with the

Washington Department of Fish and Wildlife staff indicates that such a plan is not needed.

An Important Habitats and Species Management Plan shall:

- A. Identify how the development impacts from the proposed project will be mitigated. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991), as amended, shall be the basis for this plan.
- B. Be prepared by a person who demonstrates sufficient experience and education as a wildlife biologist, habitat management consultant or botanist.
- C. Contain, but not be limited to:
 1. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon the important species and its habitat;
 2. An analysis of the effect of the proposed development, activity or land use change upon the important species and its habitat, based upon Washington Department of Fish and Wildlife management guidelines;
 3. A mitigation plan by the applicant which shall explain how any adverse impacts to the important species or its habitat created by the development will be minimized or avoided, such as:
 - a. Establishment of buffer zones;
 - b. Preservation of important plants and trees;
 - c. Limitation of access;
 - d. Seasonal restriction of construction and other activities; and
 - e. Provisions for periodic review of the plan.

and

4. A map(s) to-scale, showing:
 - a. The location of the proposed development site, to include a boundary survey;
 - b. The relationship of the site to surrounding topographic features;
 - c. The nature and density of the proposed development or land use change;
 - d. Proposed building locations and arrangements;
 - e. Existing structures and landscape features including the name and location of all streams, ponds and other bodies of water;

- f. The extent and location of the important species habitat;
- g. A legend with: Title, scale and north arrows, and date, including revision dates if applicable.

DRAFT

THE FOLLOWING AMENDMENTS ARE TO BRING OMC 18.02.180, 18.32.500 AND 18.32.515 INTO CONSISTENCY WITH THE CITY'S SHORELINE MASTER PROGRAM

18.02.180 DEFINITIONS – SPECIFIC.

Lake. A naturally existing or artificially created body of standing water greater than twenty (20) acres in size. Lakes include reservoirs which exist on a year-round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All such lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" found in the Shoreline Master Program, ~~for the Thurston Region in OMC 14.0818.20.~~

Land Use Approval. A written approval or permit issued by the Director or Hearing Examiner, or designee thereof, finding that a proposed project is consistent with applicable plans, regulations and standards and authorizing the recipient to make use of property in a certain manner. The land use approval consolidates various non-construction permit reviews of a project such as design review, environmental review, zoning conformance, and site plan review. Land Use Approval is a permit which does not directly authorize construction or improvements to real estate, but which is a necessary and required precursor to authorization of such construction or improvement. Land Use Approval includes, but is not limited to, applications for review and approval of a preliminary or final subdivision, short plat, binding site plan, conceptual or detailed master planned development, planned residential development, conceptual design review, site plan review, conditional use permit, variance, shoreline development permit, or other such reviews pertaining to land use.

Land Use Approval, Administrative. A Land Use Approval which may be issued by an authorized official or body, usually the Director, without an open record predecision hearing.

Land Use Approval, Quasi-Judicial. A Land Use Approval issued by an authorized official or body, usually the Hearing Examiner, following an open record predecision hearing.

Landscape Plan. A component of a site development plan on which is shown: proposed landscape species (number, spacing, size at time of planting, and plant details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features;

grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving

authority.

Landscape Structure. A fence, wall, trellis, statue or other landscape and ornamental object.

Landscaping. An area devoted to or developed and maintained predominantly with native or non-native plant materials including lawn, groundcover, trees, shrubs, and other plant materials; and also including accessory decorative outdoor landscape elements such as ornamental pools, fountains, paved or decorated surfaces (excluding driveways, parking, loading, or storage areas), and sculptural elements.

Landslide. Episodic down-slope movement of a mass of soil or rock that includes but is not limited to rockfalls, slumps, mudflows, earthflows and snow avalanches.

Large Lot Subdivision. The division of land into lots or tracts, each of which is 1/128 of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land.

Laundry and Laundry Pick-up Agency. An enterprise where articles of clothing, linen, etc. are washed, including self-service laundries as well as those where customers drop off articles to be laundered either on or off the premises, or dry-cleaned off the premises only. This includes diaper services, but not the following, which are classified as Light Industrial uses: dry-cleaning plants, linen supply services, carpet and upholstery cleaning plants, and industrial launderers.

Legal Lot of Record. A lot of a subdivision plat or binding site plan or a parcel of land described in a deed either of which is officially recorded to create a separate unit of property, provided that such plat, site plan, or deed shall accord with applicable local, state or federal law on the date created. Separate descriptions of adjoining parcels within a single deed shall not necessarily constitute separate legal lots of record.

Local Improvement. A public improvement for the benefit of property owners provided to a specific area that benefits that area and that is usually paid for, at least in part, by a special assessment.

Lodging House. See Dwelling, Transient.

Lot. Lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall also include tracts and parcels. Lot classifications are as follows:

- a. Lot, Corner. A lot that abuts two (2) or more intersecting streets.
- b. Lot, Flag or Panhandle. A lot with less than thirty (30) feet of street frontage which is typically connected to a public or private street by a narrow driveway. A lot where access is only provided by a private easement is not a flag lot.
- c. Lot, Interior. A lot that has frontage on one public or private street only, or is provided access by a private easement.
- d. Lot, Through. A lot that fronts on two (2) parallel or nearly parallel streets that do not intersect at the boundaries of the lot.
- e. Lot, Wedge-shaped. A lot with a street frontage which is no more than half as wide as the lot's width at the rear property line, as depicted in Figure 2-5b.

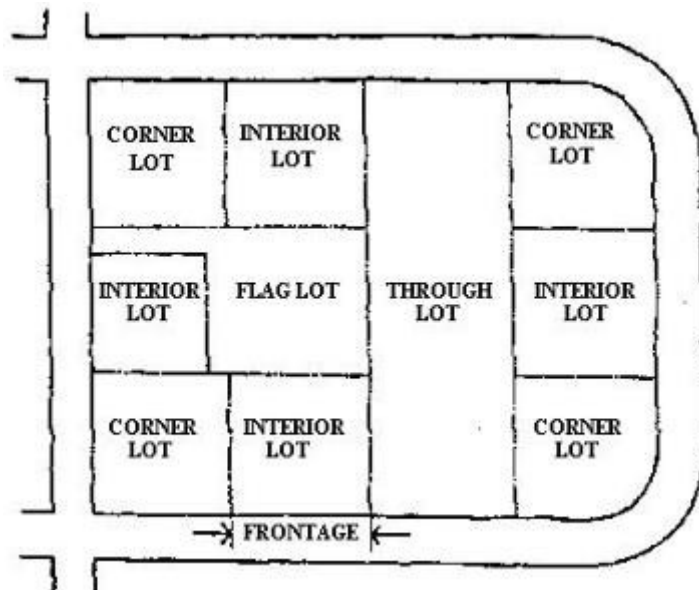
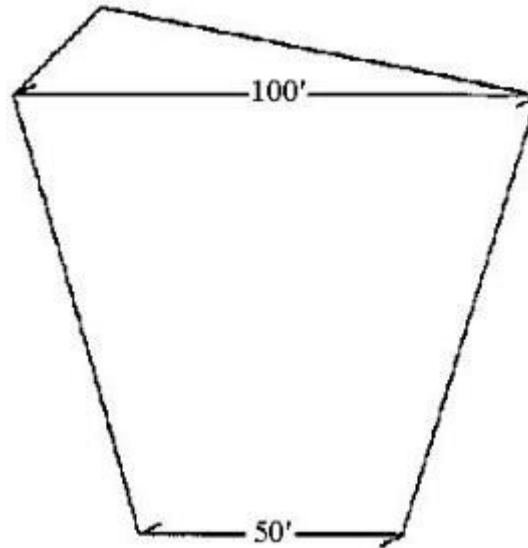


FIGURE 2-5



Example of a Wedge-Shaped Lot

FIGURE 2-5b

Lot Frontage. See Frontage.

Lot Line. A line dividing one lot from another lot or from a street rights-of-way or alley. (See also Property Line.)

Lot of Record. A lot, the plat, or deed to which is officially recorded as a unit of property and is described by metes and bounds.

Lot, Substandard. A parcel of land that is less than the minimum area or minimum dimensions required in the zone in which the lot is located. (See also Minimum Lot Size, Undersized Lots in development standards.)

Lot Width. The straight line distance measured between side lot lines parallel to the front setback line. (See also Section 18.04.080(G)(1) and Table 4.04.)

Low Income Housing. See Affordable Housing.

18.02.180 DEFINITIONS - SPECIFIC.

Object. A thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Off-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes or special incinerator ash generated on properties other than the property on which the off-site facility is located. (See also current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.)

Office. A building or portion thereof which is primarily used to transact the administrative or professional activities of a business. Such uses include, but are not limited to: medical (excluding veterinary), dental, chiropractic, optometric, legal, banking, insurance, real estate, security brokers, administrative, public, contractors, consultants, corporate, or manufacturers' offices. (See also Home Occupation.)

Office, Bank. Banks, savings and loans, credit unions, and other depository institutions.

Office, Business. The offices of real estate agencies, mortgage brokers, advertising agencies, credit agencies, mailing services and postal substations, employment agencies, insurance agencies, membership organizations except fraternal organizations, accountants, attorneys, security brokers, financial advisors, architects, engineers, surveyors, tax preparation services, computer software development, and other similar business services. This may also include the administrative offices for businesses whose primary activity may be construction, manufacturing, utility services, or some other non-office use conducted elsewhere.

Office, Government. The legislative, administrative, service delivery, or judicial offices of local, state, or federal agencies. It also includes federal post offices where mail processing takes place for local delivery. It does not include government land uses such as maintenance facilities for government-owned trucks, busses, or heavy equipment which are a Light Industrial use.

Office, Medical. This includes the offices of doctors, dentists, chiropractors, optometrists, and other health practitioners providing outpatient care. It also includes medical and dental laboratories, blood banks, and the like.

Office Supplies and Equipment Stores. Stores selling office products such as stationery, legal forms, writing implements, typewriters, computers, copiers, office furniture, and the like.

Office Uses, General. A room or group of rooms used for conducting the affairs of a business

and generally furnished with desks, tables, files, and communication equipment.

Office, Veterinary/Clinic. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (See also Animal Hospital.)

Olympia Coordinate System. The horizontal ground scale coordinate system referenced to the Washington Coordinate System as established by the City Public Works Department.

On-Site. Located on the same lot that is the subject of an application for development.

On-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes generated on the same property, see current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.

Open Record Hearing. A hearing conducted by a single hearing body or officer that creates the City's record through testimony and submission of evidence and information under procedures prescribed by this Title. [See RCW 36.70B.020(3)].

Open Record Appeal Hearing. A form of open record hearing held on request in response to a notice of decision when no open record predecision hearing was held on the project permit. [See RCW 36.70B.020(3)].

Open Record Predecision Hearing. A form of open record hearing held prior to the City's decision on a project permit. [See RCW 36.70B.020(3)].

Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and may include such complementary structures and improvements as are necessary and appropriate.

Open Space, Public. Undeveloped public land that is permanently set aside (as opposed to regulated) to protect the special natural character of a particular location. Open space may include, but is not limited to wetlands; wetland buffers; creek, stream or river corridors; forested areas; ravines, bluffs or other geologically hazardous areas; and undeveloped areas within parks.

Ordinary High Water Mark (OHWM). (Also referred to as Ordinary High Water Line OHWL) Per

WAC ~~22-110-020220-660-030~~, the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of mean higher high water, and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood. ~~OWHM-OHWM~~ is used to determine the location of standard buffer widths of streams as required under OMC 18.32.435(C)(1).

Ordinary Repair and Maintenance. Work for which a permit issued by the City is not required by law, and where the purpose and effect of such work is to prevent or correct any deterioration or decay of or damage to the real property or structure appurtenant thereto and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

Outdoor Storage. The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 consecutive hours.

Over Water. Location above the surface of the water, including placement of buildings on piling or floats.

Overlay Zone. A zoning district or specific plan that encompasses one or more underlying zones or areas and which imposes requirements in addition to those required by the underlying zone. (See also Overlay Districts in Article III.)

Owner of Property. The fee simple owner of real property according to Thurston County Auditor records.

18.32.500 Wetlands - Purpose and Intent

In order to protect the natural function of wetlands and for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands or which lie within three hundred (300) feet of wetlands shall be subject to the standards in OMC 18.32.100(~~LA~~) and OMC 18.32.505 through OMC 18.32.595. (Note: Further information regarding development within associated wetlands along marine shorelines, lakes over 20 acres in size, and streams can be found in OMC 18.20 Shoreline Master Program.)

18.32.515 Wetlands - Small Wetlands

A. Wetlands less than one thousand (1,000) square feet shall be exempt from the requirements of OMC 18.32.135.A; wetland buffers in OMC 18.32.535, compensation projects in OMC 18.32.545 and replacement ratios in OMC 18.32.550 provided that the wetland or pond:

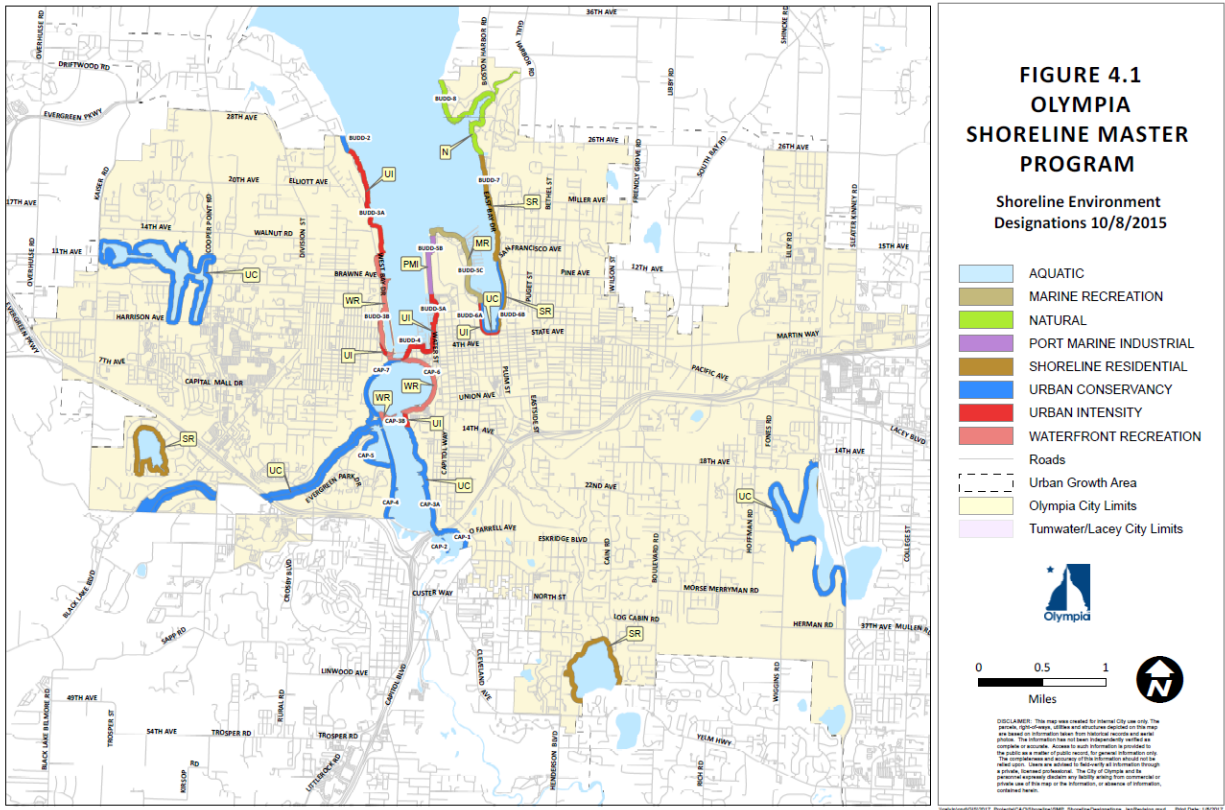
1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; ~~and~~
5. No part of the wetland is within shorelines of the State of Washington, except as authorized by OMC 18.20.420(C)(3).

B. Wetlands between one thousand (1,000) and four thousand (4,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, provided that the wetland:

1. Is rated as a Category III or IV wetland,
2. Is not associated with a riparian corridor,
3. Is not part of a wetland mosaic,
4. Does not score 5 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (2014),
5. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife, ~~and~~
6. A wetland mitigation report is provided as required by OMC 18.32.590; ~~and~~
7. No part of the wetland is within shorelines of the State of Washington.

THE FOLLOWING AMENDMENTS ARE TO BRING OMC 18.20 INTO CONSISTENCY WITH THE CITY'S SHORELINE MASTER PROGRAM:

18.20.320 – Official Shoreline Map



18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.
- B. If there are any conflicts or unclear distinctions between this chapter and Olympia’s critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
 - 1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 - 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~from~~ **18.32.435(H))** within shoreline jurisdiction shall require a shoreline variance.

~~3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~

4.3. Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.

5.4. Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).

6.5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).

~~7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.~~

8.6. Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.

9.7. Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).

10.8. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.

11.9. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

12.10. Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).

~~13. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.~~

18.20.810 – Permitted Shoreline Modifications

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use X – Prohibited X/C – Allowed by conditional use only in specific cases.	Natural	All other Shoreline Environments	Aquatic (Same as adjacent shoreline environment designation)	Notes & Applicable Regulations
Dredging	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.820
Fill	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.830 through 837
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20.842-840 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through 18.20.870
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

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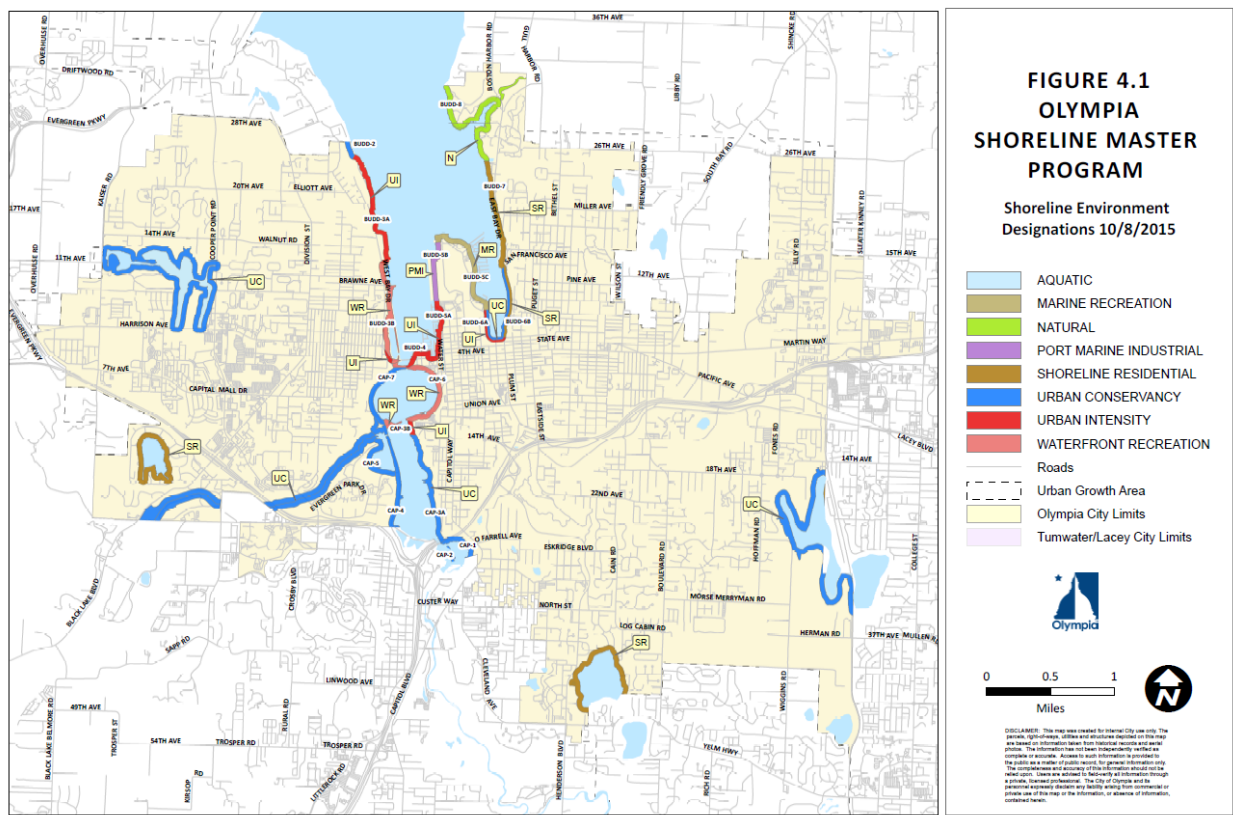
ATTACHMENT 3

SHORELINE MASTER PROGRAM AMENDMENTS

1.6 Regulations Adopted by Reference

The Critical Areas regulations ~~in effect on October 1, 2013~~ adopted on August 16, 2016, Ordinance Number 7030 and additional amendments adopted on _____, Ordinance Number _____ and contained in the Olympia Municipal Code (OMC) Chapters 18.32 and 16.70 are integral and applicable to this Shoreline Program, and are hereby adopted by reference; provided that the reasonable use provisions set forth in OMC 18.66.040 shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines. Similarly, Section 18.06.100 A.2.C -- West Bay Drive Building Height and View Blockage Limits (Ordinance 6646, passed on July 14, 2009), is hereby adopted by reference to the extent that the height and use regulations identified therein are applicable to the shoreline jurisdiction area.

3.17 18.20.320 – Official Shoreline Map



3.22 18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.

- B. If there are any conflicts or unclear distinctions between this chapter and Olympia’s critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.435(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 - ~~3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~
 - 4.3. Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.
 - 5.4. Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).
 - 6.5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).
 - ~~7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.~~
 - 8.6. Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 - 9.7. Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).
 - 10.8. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.
 - 11.9. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

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Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through

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Stair Towers	X	X	←	Prohibited



Meeting Minutes

Planning Commission

City Hall
601 4th Avenue E
Olympia, WA 98501
Contact: Joyce Phillips
360.570.3722

Monday, March 6, 2017

6:30 PM

Room 207

1. CALL TO ORDER

Chair Mark called the meeting to order at 6:35 p.m.

1.A ROLL CALL

There was not a quorum present.

Present: 4 - Chair Brian Mark, Vice Chair Mike Auderer, Commissioner Darrell Hoppe and Commissioner Carole Richmond

Excused: 3 - Commissioner Travis Burns, Commissioner Paula Ehlers and Commissioner Missy Watts

Absent: 1 - Commissioner Negheen Kamkar

OTHERS PRESENT

Community Planning and Development:
Deputy Director Leonard Bauer
Senior Planner Joyce Phillips
Senior Planner Amy Buckler
Office Specialist/Minutes Recorder Stacey Rodell
MAKERS: John Owen

2. APPROVAL OF AGENDA

There was not a quorum present, therefore this item could not be voted upon.

3. APPROVAL OF MINUTES

3.A [17-0227](#) Approval of the February 27, 2017 Olympia Planning Commission Meeting Minutes

Due to a lack of a quorum, approval of the minutes was postponed to the March 20 Planning Commission meeting under File 17-0278.

4. PUBLIC COMMENT - None

5. STAFF ANNOUNCEMENTS

Ms. Phillips announced the following:

- The Parking Strategy survey is open through the end of the day - March 6, 2017. As of noon - March 6, 2017, over 2,600 participants have taken the survey.
- At its March 7, 2017 meeting the Council will consider a charter for an Ad Hoc Committee on Housing Affordability. The Committee will have its first meeting on March 10, 2017 at 3:15 p.m. in Council Chambers at City Hall. The Ad Hoc Committee on Housing Affordability will consist of Chairs of the three standing City Council Committees (Councilmember Roe, Councilmember Hankins and Councilmember Cooper). Community Planning and Development Director Keith Stahley will be the primary staff liaison to the Committee.
- The *Plans in Progress* page on the City's website has recently been updated. It now includes links to webpages on the Missing Middle housing project and Sea Level Rise planning. She provided a copy of the recently updated Major Planning Projects timeline.
- The Missing Middle housing work group will have its first meeting on March 14, 2017 from 4:30 p.m. to 6:00 p.m. at City Hall, Council Chambers. The work group will be chaired by Planning Commissioner Richmond.

6. BUSINESS ITEMS

6.A [17-0220](#) Briefing on Downtown Design Guidelines Update

Mr. Owen presented a briefing on Downtown Design Guidelines update via a PowerPoint presentation. He reviewed the following:

Basic Objectives:

- Simplify
- Avoid vague language
- Update illustrations
- Address character areas
- Integrate with other code provisions
- Re-examine "pedestrian oriented streets"
- Address Historic District review
- Incorporate Crime Prevention Through Environmental Design (CPTED) principles
- Update mixed-use standards
- Add private open space requirements
- Incorporate view protection regulations

Guideline Topics:

- Site planning
- Site design
- Building design

Next steps/schedule 2017 including the potential April 12, 2017 Open House.

Commission Discussion:

- Vice Chair Auderer stated he would like to see the City's building official be involved early in the process to ensure design guidelines are financially realistic.
- Commissioner Richmond would like to see harmony when addressing the many different styles of Downtown buildings.
- Commissioner Hoppe stated:
 - He would like to see the festival street going from Sylvester Park to 4th Avenue.
 - He feels the view observation points should encompass a larger area than what was analyzed.
 - He has concerns about the design guidelines for the Backflow Prevention Assembly (BPA) locations. Mr. Bauer indicated it is being reviewed.

The report was received.

6.B [17-0224](#) Recommendation on the Downtown Strategy Draft

Ms. Buckler indicated the goal was to have the Commission's recommendation letter completed by the March 20, 2017 Planning Commission meeting. Ms. Buckler and Mr. Owen addressed public comments that were made at the public hearing on February 27, 2017. She handed out copies of written comments received during the public comment period as well as a matrix summarizing all public comments received (both verbal and written) and provided clarification on the comments.

Commission recommendations and discussion:

- Enhancements to crosswalks needed
- Streetlight type should reflect the character areas
- Building scale/height and providing interest with design
- A data pictorial explanation of the Downtown Strategy process similar to the one being done for the Action Plan
- Add language to the Retail Chapter to emphasize the importance of the Downtown Ambassador program and the Welcome Center
- Emphasis on emergency management - could add in language referencing the emergency response plan to the DTS
- Department of Commerce and the Department of Ecology referenced as partners in the *Sea Level Rise* chapter under the partners section
- Reference the Critical Areas Ordinance (CAO) in the *Sea Level Rise* chapter in regards to Best Available Science (BAS) around frequently flooded areas
- Incorporate a cost analysis for potential flood damage to existing buildings
- Citizen work group to inform the community about the *Sea Level Response* plan and it should remain an on-going group
- Revision to a sentence in the *Homelessness* chapter: - "Convene a broad range of community stakeholders, including social service providers, business owners, housed and homeless Downtown residents, Downtown business patrons, agency/ City/County representatives, and other relevant sub-groups, to develop an action plan leading to a more coordinated response to

homelessness and street dependency and the impacts to Downtown". Chair Mark stated in his experience with the homeless, it will be difficult for the City to "convene" the homeless to a meeting. He would like to see the language rewritten to read "Actively engage the homeless Downtown residents to gather feedback" and not require them to come to a meeting.

- Incorporate the body of work being done by Aaron Rodriguez in response to homelessness
- Incorporate intention of future plans by cross referencing other City plans (e.g. Parks Plan, Shoreline Master Plan, Emergency Management Plan etc.)
- Website suggestion of moving Ms. Buckler's contact information to the top of the website and also add in a "how we got here" section
- Flood proofing - 16 feet may be insufficient
- *Homelessness* Chapter - add an emergency relocation plan in response to development causing displacement. Connect with the homeless proactively before development occurs and direct them to services.
- Make sure to emphasize the 5 year implementation cycle

Ms. Buckler referenced the public comments matrix and asked the Commission to address the areas where staff is seeking direction.

Parklets were briefly discussed and will be addressed further during the design guidelines update.

Chair Mark will compose a draft a letter of recommendation for the Downtown Strategy to City Council and it will be reviewed at the next Planning Commission meeting.

The recommendation was discussed and continued to the March 20 Planning Commission meeting under File 17-0274.

- 6.C [17-0226](#) Recommendation on Draft Amendments to Critical Areas Ordinance (CAO)

There was a consensus to table this business item until the March 20 Planning Commission meeting.

7. **REPORTS**

Commissioner Richmond attended the Artesian Commons Leadership Committee meeting March 2, 2017.

Chair Mark discussed the upcoming Arts Commission meeting he is planning on attending.

Vice Chair Auderer attended the Olympia Community Care Center neighborhood meeting March 1, 2017.

8. OTHER TOPICS - None

9. ADJOURNMENT

The meeting adjourned at 9:20 p.m.

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Planning Commission

Recommendation on Draft Amendments to Critical Areas Ordinance (CAO)

Agenda Date: 3/20/2017
Agenda Item Number: 6.B
File Number: 17-0226

Type: recommendation **Version:** 1 **Status:** In Committee

Title

Recommendation on Draft Amendments to Critical Areas Ordinance (CAO)

Recommended Action

Recommend to City Council adoption of draft amendments to the Critical Areas Ordinance (CAO)

Report

Issue:

Whether to recommend to City Council adoption of draft amendments to the Critical Areas Ordinance (CAO)

Staff Contact:

Leonard Bauer, Deputy Director, Community Planning and Development, 360.753.8206

Presenter(s):

Leonard Bauer, Deputy Director, Community Planning and Development

Background and Analysis:

In 2015, the Land Use and Environment Committee (LUEC) directed staff to review potential additional protections for locally important habitat and species after the Washington State Growth Management Act (GMA) mandated update to the Critical Areas Ordinance (CAO) was completed, which occurred in August 2016.

After working with consultant ESA, staff presented information on protections for locally important habitat and species to LUEC on September 15 and November 17, 2016 and to Planning Commission on August 8, 2016, and January 9, 2017. Staff hosted a public open house to discuss the proposed amendments on January 18, 2017 and the Planning Commission held a public hearing on January 23, 2017. All written comments received by noon, January 27, 2017, and the additional information requested of staff were presented to the Planning Commission at its February 6 and 27, 2017, meetings.

The City issued a SEPA Determination of Non-Significance (DNS) for the recommended changes on January 10, 2017, and sent the 60-day notice of intent to adopt, as required by state statute, to the

Department of Commerce on January 11, 2017.

At its February 27, 2017 meeting, the Planning Commission voted to recommend approval of the amendments to the Olympia Municipal Code and Shoreline Master Program in Attachments 2-4. The Commission continued deliberation of the amendments in Attachment 1.

The draft amendments in Attachment 1 include the following:

- a process by which additional locally important species and/or habitat could be nominated in the future as conditions change
- designation of the great blue heron as a locally important species, with the following approaches to protect heron nesting colonies when development is proposed:
 - Adopt fixed-width buffers around heron nesting colonies
 - Require tree and vegetative screening
 - Restrict the timing on some types of activities (e.g., loud noise, clearing, grading)
 - Require mitigation sequencing where appropriate
 - Require consultation with the City and the Washington State Department of Fish & Wildlife (WDFW) during project planning

WDFW recognizes that protections for heron rookeries have a different set of considerations in urban areas than in less developed areas. Consequently, this draft includes a smaller seasonal buffer than that recommended by WDFW for nests in rural and less developed areas: a 200 foot year-round buffer and an additional 300 foot seasonal buffer for nesting colonies.

Neighborhood/Community Interests (if known):

Many groups and individuals in the community are interested in protection of the Great Blue Heron.

Options:

1. Recommend to City Council adoption of amendments to OMC 18.32.300-330, and approval of the non-regulatory suggestions, **as recommended by staff**.
2. Recommend to City Council adoption of amendments to OMC 18.32.300-330, and approval of the non-regulatory suggestions, **with modifications**.
3. Recommend City Council **not adopt** locally important species regulations at this time.
4. Forward the draft amendments to OMC 18.32.300-.330 to City Council with **no recommendation**.

Under any of these options, the Planning Commission may direct staff to present the recommendation to the City Council, designate one or more Commissioners to present the recommendation to City Council along with staff, or create a written letter to describe the recommendation to be forwarded to City Council.

Financial Impact:

Initial review of locally important habitat and species was included in Community Planning and Development Department's 2016 budget; however, some approaches to habitat and species

protection may require additional resources in the future.

Attachments:

Proposed OMC 18.32.300 - .330 amendments

Proposed OMC 18.02 and 18.32.500 amendments

Proposed OMC 18.20 amendments

Proposed Shoreline Master Program amendments

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OMC 18.32.300-330 AS APPROVED BY CITY COUNCIL AUGUST 16, 2016, WITH PROPOSED NEW LANGUAGE SHOWN IN TRACK CHANGES

18.32.300 Important Habitats and Species - Purpose and Intent

In order to preserve and protect important habitats and species which are known to occur in Thurston County and which may be found within the City of Olympia, and which are not already protected by another critical area category, appropriate protection of an important habitat or species location shall be subject to the standards in OMC 18.32.305 through OMC 18.32.330. Protection in lake and marine shorelines is regulated under the City of Olympia Shoreline Master Program, OMC ~~14.08~~18.20.

18.32.305 Important Habitats and Species - Applicability and Definition

"Important habitats and species" are habitats or species known to occur within Thurston County and which may be found within the City of Olympia and which are not receiving habitat protection by another critical area category (e.g. Streams, Wetlands, or Landslide Hazard Areas) in this Chapter and:

- A. Are designated as endangered or threatened species identified under the Endangered Species Act; or
- B. Are state priority species identified on the Washington Department of Fish and Wildlife (WDFW) Priority Habitats and Species (PHS) List and their habitats of primary association. (Consult the state WDFW for the current PHS list); or

C. Are designated as "locally important habitat or species" pursuant to OMC 18.32.325 and 18.32.327; or

CD. Are areas in Olympia that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.

DE. Small lakes, defined as naturally existing bodies of standing water less than twenty acres in size that exist on a year-round basis in a depression of land or expanded part of a stream and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act), are considered an "important habitat." This term does not apply to constructed ponds.

18.32.315 Important Habitats and Species - Authority

- A. No development shall be allowed in an important habitat and species area ~~where local, state or federally endangered, threatened or sensitive species have a primary association as defined in OMC 18.32.305~~ without approval from the Department. The Department may restrict the uses and activities of a development proposal, such as

construction restrictions during breeding season, which lie when the proposal is located within one thousand (1,000) feet of an important habitat or species location.

B. The minimum performance standards that apply to a development proposal shall be those provided by the Washington Department of Fish & Wildlife's Management Recommendations for Washington's Priority Habitat and Species (1991), as amended, and the requirements in OMC 18.32.115, except as modified on the basis of an Important Habitat and Species Management Plan described in OMC 18.32.330.

18.32.320 Important Habitats and Species - Buffers

The Department shall establish buffers for the habitat or species on a case-by-case basis, in consultation with the WDFW or others with expertise if needed, based on the critical area report outlined in OMC 18.32.115 and the WDFW management recommendations for Washington's priority habitats and species, if available. The buffers shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

18.32.325 Process to Identify Additional Locally Important Habitat and Species.

A. Additional species of local importance may be designated pursuant to OMC 18.58, zoning text amendment.

B. In addition to the decision criteria of OMC 18.59.050, a species may be designated locally important only if it demonstrates the following characteristics:

1. Local populations of native species are in danger of extirpation based on existing trends and best available science:

a. Local populations of native species that are likely to become endangered; or

b. Local populations of native species that are vulnerable or declining;

2. The species or habitat has recreation, commercial, game, tribal, or other special value;

3. Long-term persistence of a species is dependent on the protection of the species through the provisions of this part;

4. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and

5. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

C. Effect of Designation. Designation of a species of local importance under this section shall not impact projects or proposals with a vested application or approved permit.

18.32.327 Locally Important Habitat and Species – Definitions and Performance Standards

Great Blue Heron Rookeries

A. Definitions

1. Great Blue Heron Nesting Season means February 15 through August 31.
2. Great Blue Heron Nesting Colony means the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests.
3. Great Blue Heron Core Zone means the area consisting of the great blue heron nesting colony and the year-round buffer.
4. Great Blue Heron Management Area means the area consisting of a great blue heron nesting colony, the year-round buffer, and the seasonal buffer.
5. Screening Tree means a tree that is within a direct line of sight between structures or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from structures or development during any part of the year, and within the great blue heron management area.

B. Buffers and Measurements

1. The year-round buffer is 200 feet, measured from the nesting colony boundary.
2. The seasonal buffer is an additional 300 feet, measured from the great blue heron core zone boundary.
3. Great Blue Heron Pre-nesting Area means an area less than 1 kilometer (.62 miles) from a great blue heron nesting colony where male birds congregate prior to occupying the nests.

C. Development Conditions Within the Great Blue Heron Core Zone

No development shall occur in the great blue heron nesting colony.

1. Any development or other activity that requires a permit within the year-round buffer is subject to the provisions of OMC 18.32.330 and shall use mitigation sequencing as provided in OMC 18.32.135 to:

- a. maintain baseline development conditions and ambient noise levels;
 - b. maintain great blue heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes; and shall
 - c. include an implementation plan for both the development and any required mitigation with maps, as-built drawings, vegetation removal and planting, timing, and an operation and maintenance plan for businesses that include outside operations.
3. If no herons have congregated or nested in any year by April 15, as certified by a report submitted by the developer from a qualified professional, as defined in OMC 18.02.180, the City may allow development April 16 through January 31, subject to the provisions of OMC 18.32.330 and mitigation sequencing in OMC 18.32.327(C)(2).
 4. If a nesting colony has been abandoned by a great blue heron colony, the great blue heron management core zone for this colony shall be protected for a period of ten years from the last known active nesting season.

D. Development Conditions Within the Great Blue Heron Management Area

- a. 1. When herons are present, any clearing, grading, outside construction or other activity in the seasonal buffer that causes loud noise (exceeding 92 decibels at the outer boundary of a nesting colony) above ambient noise levels specific to the site shall be performed outside of the nesting season. The nesting season is generally February 15 through August 31, unless a different nesting season for that year is certified by a report from a qualified professional.
2. Development may occur at any time in the seasonal buffer in a year where it appears no herons have congregated or nested, subject to the applicant submitting a report from a qualified professional so stating. Development may occur at any time in the seasonal buffer, subject to the applicant submitting a report from a qualified professional documenting that no herons congregated or nested from February 1 through April 15 of a specific year. [Wording amended for clarity upon advice from Legal.]
- 3. Unless determined to be hazardous by the Urban Forester, all 6 inch diameter breast height (dbh) trees or larger shall be retained. Any required new or replacement trees shall be provided in conformance with the City's Urban Forestry Manual replacement rates and shall be strategically placed to ensure effective screening of new development from the colony. When possible, use the same species as nest trees. Removal and planting should take place in the non-breeding season.

18.32.330 Important Habitats and Species - Management Plan

When a development proposal lies within an important habitats and/or species location, an Important Habitats and Species Management Plan shall be submitted by the applicant. The Department may waive the submittal when consultation with the

Washington Department of Fish and Wildlife staff indicates that such a plan is not needed.

An Important Habitats and Species Management Plan shall:

- A. Identify how the development impacts from the proposed project will be mitigated. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991), as amended, shall be the basis for this plan.
- B. Be prepared by a person who demonstrates sufficient experience and education as a wildlife biologist, habitat management consultant or botanist.
- C. Contain, but not be limited to:
 1. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon the important species and its habitat;
 2. An analysis of the effect of the proposed development, activity or land use change upon the important species and its habitat, based upon Washington Department of Fish and Wildlife management guidelines;
 3. A mitigation plan by the applicant which shall explain how any adverse impacts to the important species or its habitat created by the development will be minimized or avoided, such as:
 - a. Establishment of buffer zones;
 - b. Preservation of important plants and trees;
 - c. Limitation of access;
 - d. Seasonal restriction of construction and other activities; and
 - e. Provisions for periodic review of the plan.

and

4. A map(s) to-scale, showing:
 - a. The location of the proposed development site, to include a boundary survey;
 - b. The relationship of the site to surrounding topographic features;
 - c. The nature and density of the proposed development or land use change;
 - d. Proposed building locations and arrangements;
 - e. Existing structures and landscape features including the name and location of all streams, ponds and other bodies of water;

- f. The extent and location of the important species habitat;
- g. A legend with: Title, scale and north arrows, and date, including revision dates if applicable.

DRAFT

THE FOLLOWING AMENDMENTS ARE TO BRING OMC 18.02.180, 18.32.500 AND 18.32.515 INTO CONSISTENCY WITH THE CITY'S SHORELINE MASTER PROGRAM

18.02.180 DEFINITIONS – SPECIFIC.

Lake. A naturally existing or artificially created body of standing water greater than twenty (20) acres in size. Lakes include reservoirs which exist on a year-round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All such lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" found in the Shoreline Master Program, ~~for the Thurston Region in OMC 14.0818.20.~~

Land Use Approval. A written approval or permit issued by the Director or Hearing Examiner, or designee thereof, finding that a proposed project is consistent with applicable plans, regulations and standards and authorizing the recipient to make use of property in a certain manner. The land use approval consolidates various non-construction permit reviews of a project such as design review, environmental review, zoning conformance, and site plan review. Land Use Approval is a permit which does not directly authorize construction or improvements to real estate, but which is a necessary and required precursor to authorization of such construction or improvement. Land Use Approval includes, but is not limited to, applications for review and approval of a preliminary or final subdivision, short plat, binding site plan, conceptual or detailed master planned development, planned residential development, conceptual design review, site plan review, conditional use permit, variance, shoreline development permit, or other such reviews pertaining to land use.

Land Use Approval, Administrative. A Land Use Approval which may be issued by an authorized official or body, usually the Director, without an open record predecision hearing.

Land Use Approval, Quasi-Judicial. A Land Use Approval issued by an authorized official or body, usually the Hearing Examiner, following an open record predecision hearing.

Landscape Plan. A component of a site development plan on which is shown: proposed landscape species (number, spacing, size at time of planting, and plant details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features;

grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving

authority.

Landscape Structure. A fence, wall, trellis, statue or other landscape and ornamental object.

Landscaping. An area devoted to or developed and maintained predominantly with native or non-native plant materials including lawn, groundcover, trees, shrubs, and other plant materials; and also including accessory decorative outdoor landscape elements such as ornamental pools, fountains, paved or decorated surfaces (excluding driveways, parking, loading, or storage areas), and sculptural elements.

Landslide. Episodic down-slope movement of a mass of soil or rock that includes but is not limited to rockfalls, slumps, mudflows, earthflows and snow avalanches.

Large Lot Subdivision. The division of land into lots or tracts, each of which is 1/128 of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land.

Laundry and Laundry Pick-up Agency. An enterprise where articles of clothing, linen, etc. are washed, including self-service laundries as well as those where customers drop off articles to be laundered either on or off the premises, or dry-cleaned off the premises only. This includes diaper services, but not the following, which are classified as Light Industrial uses: dry-cleaning plants, linen supply services, carpet and upholstery cleaning plants, and industrial launderers.

Legal Lot of Record. A lot of a subdivision plat or binding site plan or a parcel of land described in a deed either of which is officially recorded to create a separate unit of property, provided that such plat, site plan, or deed shall accord with applicable local, state or federal law on the date created. Separate descriptions of adjoining parcels within a single deed shall not necessarily constitute separate legal lots of record.

Local Improvement. A public improvement for the benefit of property owners provided to a specific area that benefits that area and that is usually paid for, at least in part, by a special assessment.

Lodging House. See Dwelling, Transient.

Lot. Lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall also include tracts and parcels. Lot classifications are as follows:

- a. Lot, Corner. A lot that abuts two (2) or more intersecting streets.
- b. Lot, Flag or Panhandle. A lot with less than thirty (30) feet of street frontage which is typically connected to a public or private street by a narrow driveway. A lot where access is only provided by a private easement is not a flag lot.
- c. Lot, Interior. A lot that has frontage on one public or private street only, or is provided access by a private easement.
- d. Lot, Through. A lot that fronts on two (2) parallel or nearly parallel streets that do not intersect at the boundaries of the lot.
- e. Lot, Wedge-shaped. A lot with a street frontage which is no more than half as wide as the lot's width at the rear property line, as depicted in Figure 2-5b.

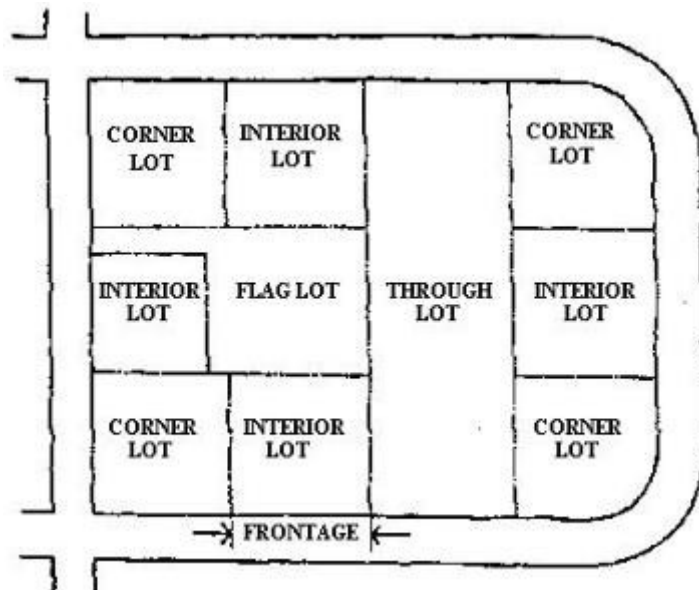
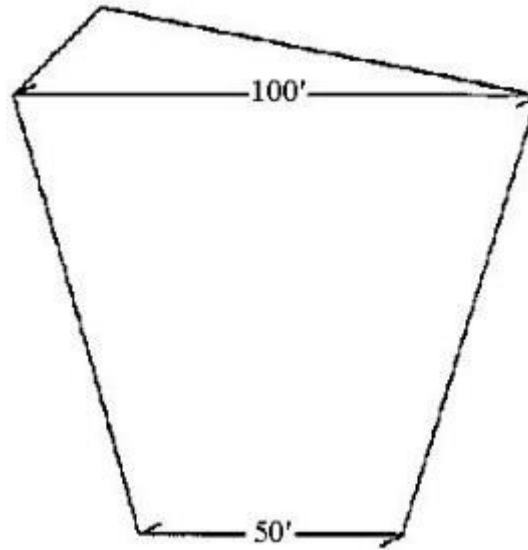


FIGURE 2-5



Example of a Wedge-Shaped Lot

FIGURE 2-5b

Lot Frontage. See Frontage.

Lot Line. A line dividing one lot from another lot or from a street rights-of-way or alley. (See also Property Line.)

Lot of Record. A lot, the plat, or deed to which is officially recorded as a unit of property and is described by metes and bounds.

Lot, Substandard. A parcel of land that is less than the minimum area or minimum dimensions required in the zone in which the lot is located. (See also Minimum Lot Size, Undersized Lots in development standards.)

Lot Width. The straight line distance measured between side lot lines parallel to the front setback line. (See also Section 18.04.080(G)(1) and Table 4.04.)

Low Income Housing. See Affordable Housing.

18.02.180 DEFINITIONS - SPECIFIC.

Object. A thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Off-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes or special incinerator ash generated on properties other than the property on which the off-site facility is located. (See also current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.)

Office. A building or portion thereof which is primarily used to transact the administrative or professional activities of a business. Such uses include, but are not limited to: medical (excluding veterinary), dental, chiropractic, optometric, legal, banking, insurance, real estate, security brokers, administrative, public, contractors, consultants, corporate, or manufacturers' offices. (See also Home Occupation.)

Office, Bank. Banks, savings and loans, credit unions, and other depository institutions.

Office, Business. The offices of real estate agencies, mortgage brokers, advertising agencies, credit agencies, mailing services and postal substations, employment agencies, insurance agencies, membership organizations except fraternal organizations, accountants, attorneys, security brokers, financial advisors, architects, engineers, surveyors, tax preparation services, computer software development, and other similar business services. This may also include the administrative offices for businesses whose primary activity may be construction, manufacturing, utility services, or some other non-office use conducted elsewhere.

Office, Government. The legislative, administrative, service delivery, or judicial offices of local, state, or federal agencies. It also includes federal post offices where mail processing takes place for local delivery. It does not include government land uses such as maintenance facilities for government-owned trucks, busses, or heavy equipment which are a Light Industrial use.

Office, Medical. This includes the offices of doctors, dentists, chiropractors, optometrists, and other health practitioners providing outpatient care. It also includes medical and dental laboratories, blood banks, and the like.

Office Supplies and Equipment Stores. Stores selling office products such as stationery, legal forms, writing implements, typewriters, computers, copiers, office furniture, and the like.

Office Uses, General. A room or group of rooms used for conducting the affairs of a business

and generally furnished with desks, tables, files, and communication equipment.

Office, Veterinary/Clinic. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (See also Animal Hospital.)

Olympia Coordinate System. The horizontal ground scale coordinate system referenced to the Washington Coordinate System as established by the City Public Works Department.

On-Site. Located on the same lot that is the subject of an application for development.

On-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes generated on the same property, see current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.

Open Record Hearing. A hearing conducted by a single hearing body or officer that creates the City's record through testimony and submission of evidence and information under procedures prescribed by this Title. [See RCW 36.70B.020(3)].

Open Record Appeal Hearing. A form of open record hearing held on request in response to a notice of decision when no open record predecision hearing was held on the project permit. [See RCW 36.70B.020(3)].

Open Record Predecision Hearing. A form of open record hearing held prior to the City's decision on a project permit. [See RCW 36.70B.020(3)].

Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and may include such complementary structures and improvements as are necessary and appropriate.

Open Space, Public. Undeveloped public land that is permanently set aside (as opposed to regulated) to protect the special natural character of a particular location. Open space may include, but is not limited to wetlands; wetland buffers; creek, stream or river corridors; forested areas; ravines, bluffs or other geologically hazardous areas; and undeveloped areas within parks.

Ordinary High Water Mark (OHWM). (Also referred to as Ordinary High Water Line OHWL) Per

WAC ~~22-110-020220-660-030~~, the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of mean higher high water, and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood. ~~OWHM-OHWM~~ is used to determine the location of standard buffer widths of streams as required under OMC 18.32.435(C)(1).

Ordinary Repair and Maintenance. Work for which a permit issued by the City is not required by law, and where the purpose and effect of such work is to prevent or correct any deterioration or decay of or damage to the real property or structure appurtenant thereto and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

Outdoor Storage. The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 consecutive hours.

Over Water. Location above the surface of the water, including placement of buildings on piling or floats.

Overlay Zone. A zoning district or specific plan that encompasses one or more underlying zones or areas and which imposes requirements in addition to those required by the underlying zone. (See also Overlay Districts in Article III.)

Owner of Property. The fee simple owner of real property according to Thurston County Auditor records.

18.32.500 Wetlands - Purpose and Intent

In order to protect the natural function of wetlands and for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands or which lie within three hundred (300) feet of wetlands shall be subject to the standards in OMC 18.32.100(~~LA~~) and OMC 18.32.505 through OMC 18.32.595. (Note: Further information regarding development within associated wetlands along marine shorelines, lakes over 20 acres in size, and streams can be found in OMC 18.20 Shoreline Master Program.)

18.32.515 Wetlands - Small Wetlands

A. Wetlands less than one thousand (1,000) square feet shall be exempt from the requirements of OMC 18.32.135.A; wetland buffers in OMC 18.32.535, compensation projects in OMC 18.32.545 and replacement ratios in OMC 18.32.550 provided that the wetland or pond:

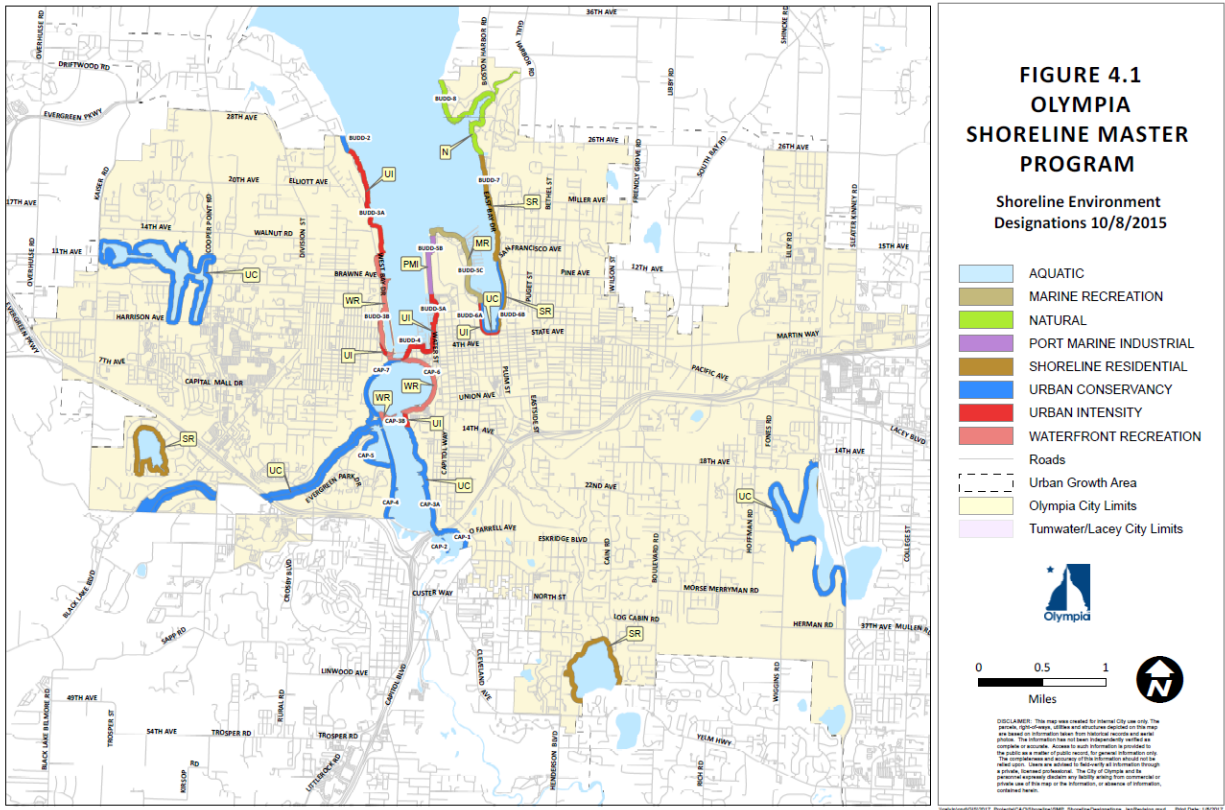
1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; ~~and~~
5. No part of the wetland is within shorelines of the State of Washington, except as authorized by OMC 18.20.420(C)(3).

B. Wetlands between one thousand (1,000) and four thousand (4,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, provided that the wetland:

1. Is rated as a Category III or IV wetland,
2. Is not associated with a riparian corridor,
3. Is not part of a wetland mosaic,
4. Does not score 5 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (2014),
5. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife, ~~and~~
6. A wetland mitigation report is provided as required by OMC 18.32.590; ~~and~~
7. No part of the wetland is within shorelines of the State of Washington.

THE FOLLOWING AMENDMENTS ARE TO BRING OMC 18.20 INTO CONSISTENCY WITH THE CITY'S SHORELINE MASTER PROGRAM:

18.20.320 – Official Shoreline Map



18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.
- B. If there are any conflicts or unclear distinctions between this chapter and Olympia’s critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
 - 1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 - 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~from~~ **18.32.435(H))** within shoreline jurisdiction shall require a shoreline variance.

~~3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~

4.3. Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.

5.4. Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).

6.5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).

~~7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.~~

8.6. Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.

9.7. Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).

10.8. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.

11.9. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

12.10. Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).

~~13. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.~~

18.20.810 – Permitted Shoreline Modifications

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use X – Prohibited X/C – Allowed by conditional use only in specific cases.	Natural	All other Shoreline Environments	Aquatic (Same as adjacent shoreline environment designation)	Notes & Applicable Regulations
Dredging	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.820
Fill	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.830 through 837
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20. 842-840 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through 18.20.870
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

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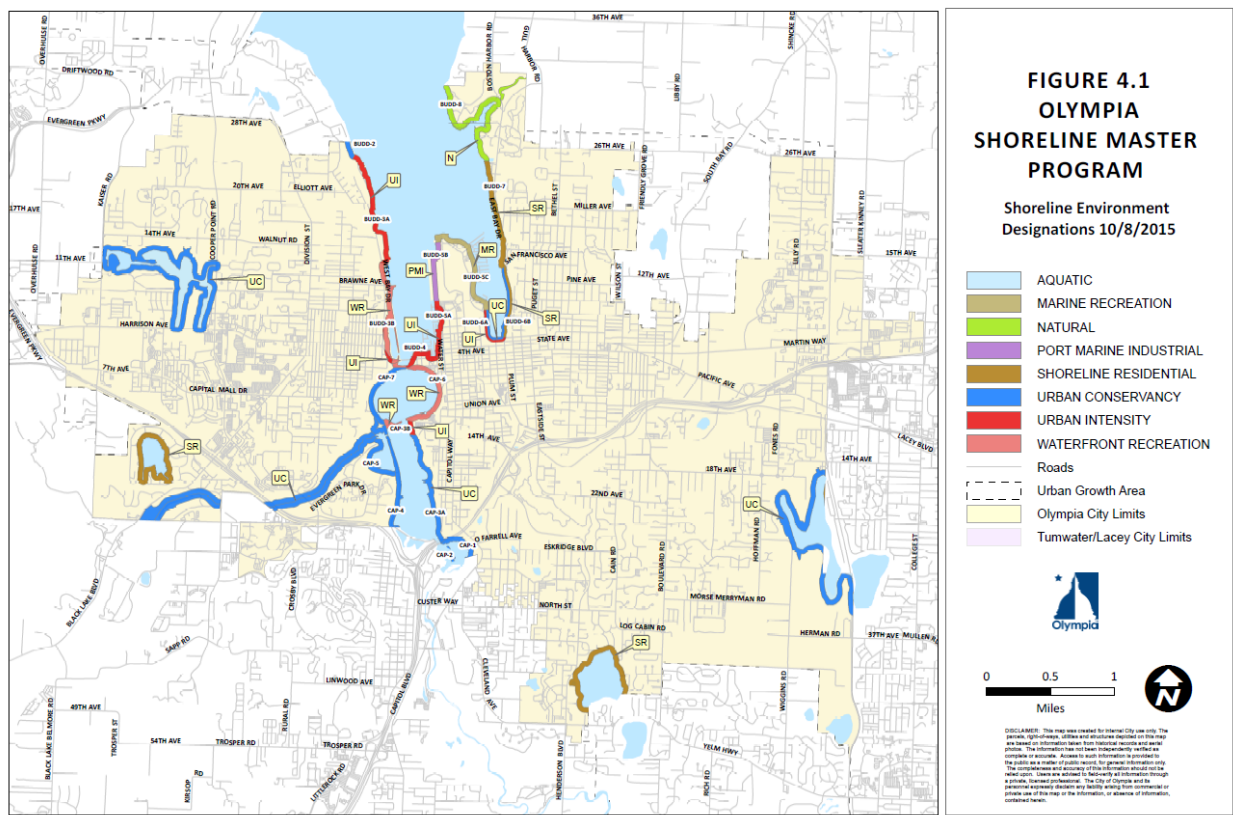
ATTACHMENT 3

SHORELINE MASTER PROGRAM AMENDMENTS

1.6 Regulations Adopted by Reference

The Critical Areas regulations ~~in effect on October 1, 2013~~ adopted on August 16, 2016, Ordinance Number 7030 and additional amendments adopted on _____, Ordinance Number _____ and contained in the Olympia Municipal Code (OMC) Chapters 18.32 and 16.70 are integral and applicable to this Shoreline Program, and are hereby adopted by reference; provided that the reasonable use provisions set forth in OMC 18.66.040 shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines. Similarly, Section 18.06.100 A.2.C -- West Bay Drive Building Height and View Blockage Limits (Ordinance 6646, passed on July 14, 2009), is hereby adopted by reference to the extent that the height and use regulations identified therein are applicable to the shoreline jurisdiction area.

3.17 18.20.320 – Official Shoreline Map



3.22 18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.

- B. If there are any conflicts or unclear distinctions between this chapter and Olympia’s critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.435(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 - ~~3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~
 - 4.3. Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.
 - 5.4. Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).
 - 6.5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).
 - ~~7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.~~
 - 8.6. Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 - 9.7. Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).
 - 10.8. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.
 - 11.9. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

~~12-10.~~ Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).

~~13. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.~~

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Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited



Meeting Minutes

Planning Commission

City Hall
601 4th Avenue E
Olympia, WA 98501
Contact: Joyce Phillips
360.570.3722

Monday, March 20, 2017

6:30 PM

Room 207

1. CALL TO ORDER

Chair Mark called the meeting to order at 6:30 p.m.

1.A ROLL CALL

Present: 5 - Chair Brian Mark, Vice Chair Mike Auderer, Commissioner Travis Burns, Commissioner Paula Ehlers and Commissioner Carole Richmond

Excused: 2 - Commissioner Negheen Kamkar and Commissioner Missy Watts

Absent: 1 - Commissioner Darrell Hoppe

OTHERS PRESENT

Community Planning and Development:
Deputy Director Leonard Bauer
Senior Planner Amy Buckler
Senior Planner Joyce Phillips
Office Specialist/Minutes Recorder Stacey Rodell
MAKERS: John Owen

2. APPROVAL OF AGENDA

The agenda was approved.

3. APPROVAL OF MINUTES

3.A [17-0278](#) Approval of the February 27, 2017 Olympia Planning Commission Meeting Minutes

Commissioner Richmond had one revision to the minutes. Page 4 - Item 6. B - 5th paragraph, change sentence from *Due to her experience in property law...to Due to her research on property law...*

The minutes were approved as amended.

4. PUBLIC COMMENT - None

5. STAFF ANNOUNCEMENTS

Ms. Phillips announced the following:

- Planning Association of Washington is offering its Boot Camp on March 24, 2017 at the Lacey Community Center. The City of Olympia has a group membership and we can send up to three Commissioners for the member rate. You could then share the information you learned with the rest of the Commission. Agenda items include Vested Rights; Vested Rights for Stormwater Regulations; Water Rights; Regulation of Homelessness; Sign Codes; and Land Use Case Law.
- At the March 21, 2017 City Council Study Session, there will be a discussion regarding planning for the Isthmus, including options for long-term planning, continued blight removal, and proposed interim improvements on the Isthmus.
- The Site Plan Review Committee has three presubmission conferences scheduled this week:
 - Columbarium Project, Lutheran Church of the Good Shepherd - a new structure of 63 niches.
 - Chamber Lake Townhomes Addition, 1718-1730 Elizabeth St. SE. The proposal is to add 3 new buildings to parcel, which currently has two buildings on it.
 - Cooper's Knoll Preliminary Plat, 2400 Kaiser Rd. NW - Subdivide an existing parcel into 20 residential lots.

6. BUSINESS ITEMS

6.A [17-0274](#) Recommendation on the Downtown Strategy Draft

The Commission completed its deliberation. There were several amendments to the recommendation letter.

Vice Chair Auderer moved, seconded by Commissioner Burns, to approve the recommendation letter as amended and forward to City Council for consideration at the April 25, 2017 Council meeting under File 17-0422.

6.B [17-0226](#) Recommendation on Draft Amendments to Critical Areas Ordinance (CAO)

Commissioner Ehlers recused herself from this business item; therefore, there was not a quorum to make a decision tonight.

The recommendation was postponed until the April 3, 2017 Planning Commission meeting.

7. REPORTS

Commissioners Ehlers and Richmond reported on the Missing Middle Work Group meeting they attended on March 14, 2017 at City Hall.

Chair Mark announced the Gateways Community kick-off meeting will be on Thursday, March 30, 2017 from 7:00 p.m. to 9:00 p.m. at the Olympia Center.

8. OTHER TOPICS - None

9. ADJOURNMENT

The meeting adjourned at 7:55 p.m.

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Planning Commission

Recommendation on Draft Amendments to Critical Areas Ordinance (CAO)

Agenda Date: 4/3/2017
Agenda Item Number: 6.A
File Number: 17-0226

Type: recommendation **Version:** 1 **Status:** In Committee

Title

Recommendation on Draft Amendments to Critical Areas Ordinance (CAO)

Recommended Action

Recommend to City Council adoption of draft amendments to the Critical Areas Ordinance (CAO)

Report

Issue:

Whether to recommend to City Council adoption of draft amendments to the Critical Areas Ordinance (CAO)

Staff Contact:

Leonard Bauer, Deputy Director, Community Planning and Development, 360.753.8206

Presenter(s):

Leonard Bauer, Deputy Director, Community Planning and Development

Background and Analysis:

In 2015, the Land Use and Environment Committee (LUEC) directed staff to review potential additional protections for locally important habitat and species after the Washington State Growth Management Act (GMA) mandated update to the Critical Areas Ordinance (CAO) was completed, which occurred in August 2016.

After working with consultant ESA, staff presented information on protections for locally important habitat and species to LUEC on September 15 and November 17, 2016 and to Planning Commission on August 8, 2016, and January 9, 2017. Staff hosted a public open house to discuss the proposed amendments on January 18, 2017 and the Planning Commission held a public hearing on January 23, 2017. All written comments received by noon, January 27, 2017, and the additional information requested of staff were presented to the Planning Commission at its February 6 and 27, 2017, meetings.

The City issued a SEPA Determination of Non-Significance (DNS) for the recommended changes on January 10, 2017, and sent the 60-day notice of intent to adopt, as required by state statute, to the

Department of Commerce on January 11, 2017.

At its February 27, 2017 meeting, the Planning Commission voted to recommend approval of the amendments to the Olympia Municipal Code and Shoreline Master Program in Attachments 2-4. The Commission continued deliberation of the amendments in Attachment 1.

The draft amendments in Attachment 1 include the following:

- a process by which additional locally important species and/or habitat could be nominated in the future as conditions change
- designation of the great blue heron as a locally important species, with the following approaches to protect heron nesting colonies when development is proposed:
 - Adopt fixed-width buffers around heron nesting colonies
 - Require tree and vegetative screening
 - Restrict the timing on some types of activities (e.g., loud noise, clearing, grading)
 - Require mitigation sequencing where appropriate
 - Require consultation with the City and the Washington State Department of Fish & Wildlife (WDFW) during project planning

WDFW recognizes that protections for heron rookeries have a different set of considerations in urban areas than in less developed areas. Consequently, this draft includes a smaller seasonal buffer than that recommended by WDFW for nests in rural and less developed areas: a 200 foot year-round buffer and an additional 300 foot seasonal buffer for nesting colonies.

Neighborhood/Community Interests (if known):

Many groups and individuals in the community are interested in protection of the Great Blue Heron.

Options:

1. Recommend to City Council adoption of amendments to OMC 18.32.300-330, and approval of the non-regulatory suggestions, **as recommended by staff**.
2. Recommend to City Council adoption of amendments to OMC 18.32.300-330, and approval of the non-regulatory suggestions, **with modifications**.
3. Recommend City Council **not adopt** locally important species regulations at this time.
4. Forward the draft amendments to OMC 18.32.300-.330 to City Council with **no recommendation**.

Under any of these options, the Planning Commission may direct staff to present the recommendation to the City Council, designate one or more Commissioners to present the recommendation to City Council along with staff, or create a written letter to describe the recommendation to be forwarded to City Council.

Financial Impact:

Initial review of locally important habitat and species was included in Community Planning and Development Department's 2016 budget; however, some approaches to habitat and species

protection may require additional resources in the future.

Attachments:

Proposed OMC 18.32.300 - .330 amendments

Proposed OMC 18.02 and 18.32.500 amendments

Proposed OMC 18.20 amendments

Proposed Shoreline Master Program amendments

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OMC 18.32.300-330 AS APPROVED BY CITY COUNCIL AUGUST 16, 2016, WITH PROPOSED NEW LANGUAGE SHOWN IN TRACK CHANGES

18.32.300 Important Habitats and Species - Purpose and Intent

In order to preserve and protect important habitats and species which are known to occur in Thurston County and which may be found within the City of Olympia, and which are not already protected by another critical area category, appropriate protection of an important habitat or species location shall be subject to the standards in OMC 18.32.305 through OMC 18.32.330. Protection in lake and marine shorelines is regulated under the City of Olympia Shoreline Master Program, OMC ~~14.08~~18.20.

18.32.305 Important Habitats and Species - Applicability and Definition

"Important habitats and species" are habitats or species known to occur within Thurston County and which may be found within the City of Olympia and which are not receiving habitat protection by another critical area category (e.g. Streams, Wetlands, or Landslide Hazard Areas) in this Chapter and:

- A. Are designated as endangered or threatened species identified under the Endangered Species Act; or
- B. Are state priority species identified on the Washington Department of Fish and Wildlife (WDFW) Priority Habitats and Species (PHS) List and their habitats of primary association. (Consult the state WDFW for the current PHS list); or

C. Are designated as "locally important habitat or species" pursuant to OMC 18.32.325 and 18.32.327; or

CD. Are areas in Olympia that serve a critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness.

DE. Small lakes, defined as naturally existing bodies of standing water less than twenty acres in size that exist on a year-round basis in a depression of land or expanded part of a stream and not defined as "Shorelines of the State" by RCW 90.58 (Shoreline Management Act), are considered an "important habitat." This term does not apply to constructed ponds.

18.32.315 Important Habitats and Species - Authority

- A. No development shall be allowed in an important habitat and species area ~~where local, state or federally endangered, threatened or sensitive species have a primary association as defined in OMC 18.32.305~~ without approval from the Department. The Department may restrict the uses and activities of a development proposal, such as

construction restrictions during breeding season, which lie when the proposal is located within one thousand (1,000) feet of an important habitat or species location.

B. The minimum performance standards that apply to a development proposal shall be those provided by the Washington Department of Fish & Wildlife's Management Recommendations for Washington's Priority Habitat and Species (1991), as amended, and the requirements in OMC 18.32.115, except as modified on the basis of an Important Habitat and Species Management Plan described in OMC 18.32.330.

18.32.320 Important Habitats and Species - Buffers

The Department shall establish buffers for the habitat or species on a case-by-case basis, in consultation with the WDFW or others with expertise if needed, based on the critical area report outlined in OMC 18.32.115 and the WDFW management recommendations for Washington's priority habitats and species, if available. The buffers shall reflect the sensitivity of the specific habitat(s) and/or species to be protected.

18.32.325 Process to Identify Additional Locally Important Habitat and Species.

A. Additional species of local importance may be designated pursuant to OMC 18.58, zoning text amendment.

B. In addition to the decision criteria of OMC 18.59.050, a species may be designated locally important only if it demonstrates the following characteristics:

1. Local populations of native species are in danger of extirpation based on existing trends and best available science:

a. Local populations of native species that are likely to become endangered; or

b. Local populations of native species that are vulnerable or declining;

2. The species or habitat has recreation, commercial, game, tribal, or other special value;

3. Long-term persistence of a species is dependent on the protection of the species through the provisions of this part;

4. Protection by other county, state, or federal policies, laws, regulations, or nonregulatory tools is not adequate to prevent degradation of the species or habitat in the City; and

5. Without protection, there is a likelihood that the species or habitat will be diminished over the long term.

C. Effect of Designation. Designation of a species of local importance under this section shall not impact projects or proposals with a vested application or approved permit.

18.32.327 Locally Important Habitat and Species – Definitions and Performance Standards

Great Blue Heron Rookeries

A. Definitions

1. Great Blue Heron Nesting Season means February 15 through August 31.
2. Great Blue Heron Nesting Colony means the area inside the line created when the outermost nesting trees are connected. This line is the nesting colony boundary of two or more nests.
3. Great Blue Heron Core Zone means the area consisting of the great blue heron nesting colony and the year-round buffer.
4. Great Blue Heron Management Area means the area consisting of a great blue heron nesting colony, the year-round buffer, and the seasonal buffer.
5. Screening Tree means a tree that is within a direct line of sight between structures or development and the nesting area, and/or a tree that blocks the visibility of the nesting colony from structures or development during any part of the year, and within the great blue heron management area.

B. Buffers and Measurements

1. The year-round buffer is 200 feet, measured from the nesting colony boundary.
2. The seasonal buffer is an additional 300 feet, measured from the great blue heron core zone boundary.
3. Great Blue Heron Pre-nesting Area means an area less than 1 kilometer (.62 miles) from a great blue heron nesting colony where male birds congregate prior to occupying the nests.

C. Development Conditions Within the Great Blue Heron Core Zone

No development shall occur in the great blue heron nesting colony.

1. Any development or other activity that requires a permit within the year-round buffer is subject to the provisions of OMC 18.32.330 and shall use mitigation sequencing as provided in OMC 18.32.135 to:

- a. maintain baseline development conditions and ambient noise levels;
 - b. maintain great blue heron habitat features and processes and provide mitigation for any loss of heron habitat features and processes; and shall
 - c. include an implementation plan for both the development and any required mitigation with maps, as-built drawings, vegetation removal and planting, timing, and an operation and maintenance plan for businesses that include outside operations.
3. If no herons have congregated or nested in any year by April 15, as certified by a report submitted by the developer from a qualified professional, as defined in OMC 18.02.180, the City may allow development April 16 through January 31, subject to the provisions of OMC 18.32.330 and mitigation sequencing in OMC 18.32.327(C)(2).
 4. If a nesting colony has been abandoned by a great blue heron colony, the great blue heron management core zone for this colony shall be protected for a period of ten years from the last known active nesting season.

D. Development Conditions Within the Great Blue Heron Management Area

- a. 1. When herons are present, any clearing, grading, outside construction or other activity in the seasonal buffer that causes loud noise (exceeding 92 decibels at the outer boundary of a nesting colony) above ambient noise levels specific to the site shall be performed outside of the nesting season. The nesting season is generally February 15 through August 31, unless a different nesting season for that year is certified by a report from a qualified professional.
2. Development may occur at any time in the seasonal buffer in a year where it appears no herons have congregated or nested, subject to the applicant submitting a report from a qualified professional so stating. Development may occur at any time in the seasonal buffer, subject to the applicant submitting a report from a qualified professional documenting that no herons congregated or nested from February 1 through April 15 of a specific year. [Wording amended for clarity upon advice from Legal.]
- 3. Unless determined to be hazardous by the Urban Forester, all 6 inch diameter breast height (dbh) trees or larger shall be retained. Any required new or replacement trees shall be provided in conformance with the City's Urban Forestry Manual replacement rates and shall be strategically placed to ensure effective screening of new development from the colony. When possible, use the same species as nest trees. Removal and planting should take place in the non-breeding season.

18.32.330 Important Habitats and Species - Management Plan

When a development proposal lies within an important habitats and/or species location, an Important Habitats and Species Management Plan shall be submitted by the applicant. The Department may waive the submittal when consultation with the

Washington Department of Fish and Wildlife staff indicates that such a plan is not needed.

An Important Habitats and Species Management Plan shall:

- A. Identify how the development impacts from the proposed project will be mitigated. The Washington Department of Wildlife Priority Habitat and Species Management Recommendations (1991), as amended, shall be the basis for this plan.
- B. Be prepared by a person who demonstrates sufficient experience and education as a wildlife biologist, habitat management consultant or botanist.
- C. Contain, but not be limited to:
 1. A description of the nature, density and intensity of the proposed development in sufficient detail to allow analysis of such land use change upon the important species and its habitat;
 2. An analysis of the effect of the proposed development, activity or land use change upon the important species and its habitat, based upon Washington Department of Fish and Wildlife management guidelines;
 3. A mitigation plan by the applicant which shall explain how any adverse impacts to the important species or its habitat created by the development will be minimized or avoided, such as:
 - a. Establishment of buffer zones;
 - b. Preservation of important plants and trees;
 - c. Limitation of access;
 - d. Seasonal restriction of construction and other activities; and
 - e. Provisions for periodic review of the plan.

and

4. A map(s) to-scale, showing:
 - a. The location of the proposed development site, to include a boundary survey;
 - b. The relationship of the site to surrounding topographic features;
 - c. The nature and density of the proposed development or land use change;
 - d. Proposed building locations and arrangements;
 - e. Existing structures and landscape features including the name and location of all streams, ponds and other bodies of water;

- f. The extent and location of the important species habitat;
- g. A legend with: Title, scale and north arrows, and date, including revision dates if applicable.

DRAFT

THE FOLLOWING AMENDMENTS ARE TO BRING OMC 18.02.180, 18.32.500 AND 18.32.515 INTO CONSISTENCY WITH THE CITY'S SHORELINE MASTER PROGRAM

18.02.180 DEFINITIONS – SPECIFIC.

Lake. A naturally existing or artificially created body of standing water greater than twenty (20) acres in size. Lakes include reservoirs which exist on a year-round basis and occur in a depression of land or expanded part of a stream. A lake is bounded by the ordinary high water mark or the extension of the elevation of the lake's ordinary high water mark within the stream, where the stream enters the lake. All such lakes meet the criteria of RCW Chapter 90.58 (Shoreline Management Act) and have been inventoried as "Shorelines of the State" found in the Shoreline Master Program, ~~for the Thurston Region in OMC 14.0818.20.~~

Land Use Approval. A written approval or permit issued by the Director or Hearing Examiner, or designee thereof, finding that a proposed project is consistent with applicable plans, regulations and standards and authorizing the recipient to make use of property in a certain manner. The land use approval consolidates various non-construction permit reviews of a project such as design review, environmental review, zoning conformance, and site plan review. Land Use Approval is a permit which does not directly authorize construction or improvements to real estate, but which is a necessary and required precursor to authorization of such construction or improvement. Land Use Approval includes, but is not limited to, applications for review and approval of a preliminary or final subdivision, short plat, binding site plan, conceptual or detailed master planned development, planned residential development, conceptual design review, site plan review, conditional use permit, variance, shoreline development permit, or other such reviews pertaining to land use.

Land Use Approval, Administrative. A Land Use Approval which may be issued by an authorized official or body, usually the Director, without an open record predecision hearing.

Land Use Approval, Quasi-Judicial. A Land Use Approval issued by an authorized official or body, usually the Hearing Examiner, following an open record predecision hearing.

Landscape Plan. A component of a site development plan on which is shown: proposed landscape species (number, spacing, size at time of planting, and plant details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features;

grade changes; buffers and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving

authority.

Landscape Structure. A fence, wall, trellis, statue or other landscape and ornamental object.

Landscaping. An area devoted to or developed and maintained predominantly with native or non-native plant materials including lawn, groundcover, trees, shrubs, and other plant materials; and also including accessory decorative outdoor landscape elements such as ornamental pools, fountains, paved or decorated surfaces (excluding driveways, parking, loading, or storage areas), and sculptural elements.

Landslide. Episodic down-slope movement of a mass of soil or rock that includes but is not limited to rockfalls, slumps, mudflows, earthflows and snow avalanches.

Large Lot Subdivision. The division of land into lots or tracts, each of which is 1/128 of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land.

Laundry and Laundry Pick-up Agency. An enterprise where articles of clothing, linen, etc. are washed, including self-service laundries as well as those where customers drop off articles to be laundered either on or off the premises, or dry-cleaned off the premises only. This includes diaper services, but not the following, which are classified as Light Industrial uses: dry-cleaning plants, linen supply services, carpet and upholstery cleaning plants, and industrial launderers.

Legal Lot of Record. A lot of a subdivision plat or binding site plan or a parcel of land described in a deed either of which is officially recorded to create a separate unit of property, provided that such plat, site plan, or deed shall accord with applicable local, state or federal law on the date created. Separate descriptions of adjoining parcels within a single deed shall not necessarily constitute separate legal lots of record.

Local Improvement. A public improvement for the benefit of property owners provided to a specific area that benefits that area and that is usually paid for, at least in part, by a special assessment.

Lodging House. See Dwelling, Transient.

Lot. Lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall also include tracts and parcels. Lot classifications are as follows:

- a. Lot, Corner. A lot that abuts two (2) or more intersecting streets.
- b. Lot, Flag or Panhandle. A lot with less than thirty (30) feet of street frontage which is typically connected to a public or private street by a narrow driveway. A lot where access is only provided by a private easement is not a flag lot.
- c. Lot, Interior. A lot that has frontage on one public or private street only, or is provided access by a private easement.
- d. Lot, Through. A lot that fronts on two (2) parallel or nearly parallel streets that do not intersect at the boundaries of the lot.
- e. Lot, Wedge-shaped. A lot with a street frontage which is no more than half as wide as the lot's width at the rear property line, as depicted in Figure 2-5b.

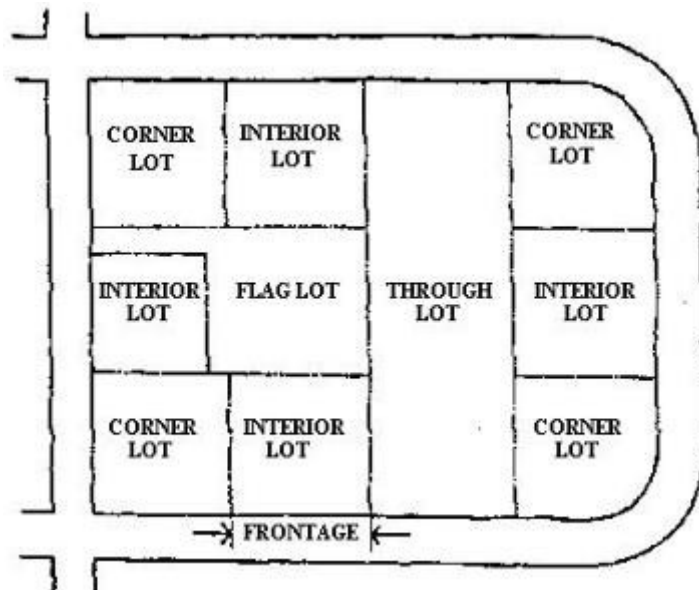
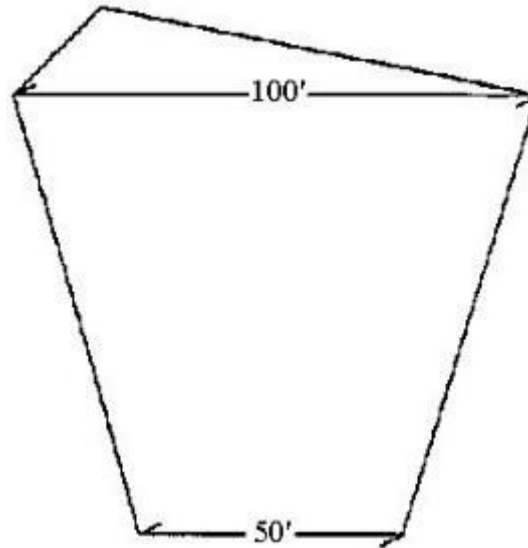


FIGURE 2-5



Example of a Wedge-Shaped Lot

FIGURE 2-5b

Lot Frontage. See Frontage.

Lot Line. A line dividing one lot from another lot or from a street rights-of-way or alley. (See also Property Line.)

Lot of Record. A lot, the plat, or deed to which is officially recorded as a unit of property and is described by metes and bounds.

Lot, Substandard. A parcel of land that is less than the minimum area or minimum dimensions required in the zone in which the lot is located. (See also Minimum Lot Size, Undersized Lots in development standards.)

Lot Width. The straight line distance measured between side lot lines parallel to the front setback line. (See also Section 18.04.080(G)(1) and Table 4.04.)

Low Income Housing. See Affordable Housing.

18.02.180 DEFINITIONS - SPECIFIC.

Object. A thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Off-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes or special incinerator ash generated on properties other than the property on which the off-site facility is located. (See also current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.)

Office. A building or portion thereof which is primarily used to transact the administrative or professional activities of a business. Such uses include, but are not limited to: medical (excluding veterinary), dental, chiropractic, optometric, legal, banking, insurance, real estate, security brokers, administrative, public, contractors, consultants, corporate, or manufacturers' offices. (See also Home Occupation.)

Office, Bank. Banks, savings and loans, credit unions, and other depository institutions.

Office, Business. The offices of real estate agencies, mortgage brokers, advertising agencies, credit agencies, mailing services and postal substations, employment agencies, insurance agencies, membership organizations except fraternal organizations, accountants, attorneys, security brokers, financial advisors, architects, engineers, surveyors, tax preparation services, computer software development, and other similar business services. This may also include the administrative offices for businesses whose primary activity may be construction, manufacturing, utility services, or some other non-office use conducted elsewhere.

Office, Government. The legislative, administrative, service delivery, or judicial offices of local, state, or federal agencies. It also includes federal post offices where mail processing takes place for local delivery. It does not include government land uses such as maintenance facilities for government-owned trucks, busses, or heavy equipment which are a Light Industrial use.

Office, Medical. This includes the offices of doctors, dentists, chiropractors, optometrists, and other health practitioners providing outpatient care. It also includes medical and dental laboratories, blood banks, and the like.

Office Supplies and Equipment Stores. Stores selling office products such as stationery, legal forms, writing implements, typewriters, computers, copiers, office furniture, and the like.

Office Uses, General. A room or group of rooms used for conducting the affairs of a business

and generally furnished with desks, tables, files, and communication equipment.

Office, Veterinary/Clinic. A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use. (See also Animal Hospital.)

Olympia Coordinate System. The horizontal ground scale coordinate system referenced to the Washington Coordinate System as established by the City Public Works Department.

On-Site. Located on the same lot that is the subject of an application for development.

On-Site Treatment and Storage Facility. A facility that treats or stores hazardous wastes generated on the same property, see current edition of "Zoning Guidelines for Hazardous Waste Treatment and Storage Facilities," prepared by the Solid and Hazardous Waste Program of the State Department of Ecology.

Open Record Hearing. A hearing conducted by a single hearing body or officer that creates the City's record through testimony and submission of evidence and information under procedures prescribed by this Title. [See RCW 36.70B.020(3)].

Open Record Appeal Hearing. A form of open record hearing held on request in response to a notice of decision when no open record predecision hearing was held on the project permit. [See RCW 36.70B.020(3)].

Open Record Predecision Hearing. A form of open record hearing held prior to the City's decision on a project permit. [See RCW 36.70B.020(3)].

Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and may include such complementary structures and improvements as are necessary and appropriate.

Open Space, Public. Undeveloped public land that is permanently set aside (as opposed to regulated) to protect the special natural character of a particular location. Open space may include, but is not limited to wetlands; wetland buffers; creek, stream or river corridors; forested areas; ravines, bluffs or other geologically hazardous areas; and undeveloped areas within parks.

Ordinary High Water Mark (OHWM). (Also referred to as Ordinary High Water Line OHWL) Per

WAC ~~22-110-020220-660-030~~, the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater shall be the line of mean higher high water, and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood. ~~OWHM-OHWM~~ is used to determine the location of standard buffer widths of streams as required under OMC 18.32.435(C)(1).

Ordinary Repair and Maintenance. Work for which a permit issued by the City is not required by law, and where the purpose and effect of such work is to prevent or correct any deterioration or decay of or damage to the real property or structure appurtenant thereto and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay or damage.

Outdoor Storage. The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 consecutive hours.

Over Water. Location above the surface of the water, including placement of buildings on piling or floats.

Overlay Zone. A zoning district or specific plan that encompasses one or more underlying zones or areas and which imposes requirements in addition to those required by the underlying zone. (See also Overlay Districts in Article III.)

Owner of Property. The fee simple owner of real property according to Thurston County Auditor records.

18.32.500 Wetlands - Purpose and Intent

In order to protect the natural function of wetlands and for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands or which lie within three hundred (300) feet of wetlands shall be subject to the standards in OMC 18.32.100(~~LA~~) and OMC 18.32.505 through OMC 18.32.595. (Note: Further information regarding development within associated wetlands along marine shorelines, lakes over 20 acres in size, and streams can be found in OMC 18.20 Shoreline Master Program.)

18.32.515 Wetlands - Small Wetlands

A. Wetlands less than one thousand (1,000) square feet shall be exempt from the requirements of OMC 18.32.135.A; wetland buffers in OMC 18.32.535, compensation projects in OMC 18.32.545 and replacement ratios in OMC 18.32.550 provided that the wetland or pond:

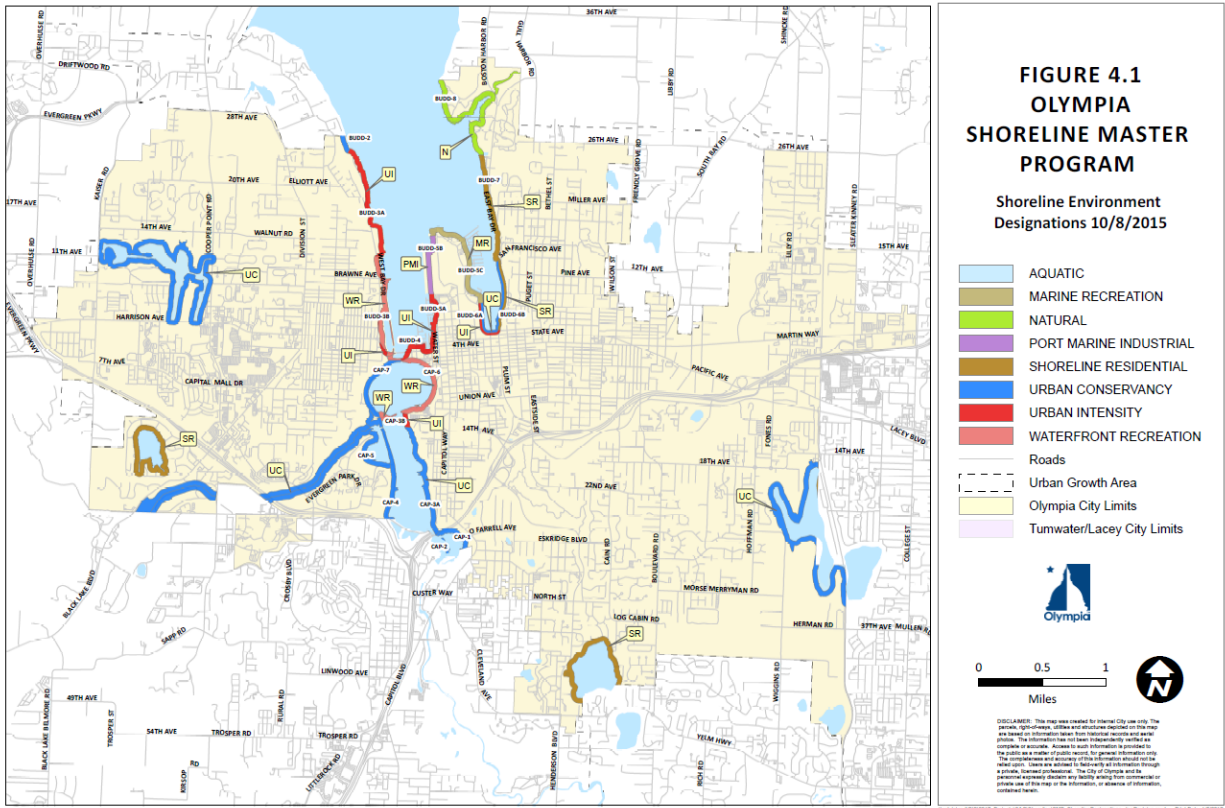
1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; ~~and~~
5. No part of the wetland is within shorelines of the State of Washington, except as authorized by OMC 18.20.420(C)(3).

B. Wetlands between one thousand (1,000) and four thousand (4,000) square feet shall be exempt from the requirements of OMC 18.32.135.A, provided that the wetland:

1. Is rated as a Category III or IV wetland,
2. Is not associated with a riparian corridor,
3. Is not part of a wetland mosaic,
4. Does not score 5 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (2014),
5. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife, ~~and~~
6. A wetland mitigation report is provided as required by OMC 18.32.590; ~~and~~
7. No part of the wetland is within shorelines of the State of Washington.

THE FOLLOWING AMENDMENTS ARE TO BRING OMC 18.20 INTO CONSISTENCY WITH THE CITY'S SHORELINE MASTER PROGRAM:

18.20.320 – Official Shoreline Map



18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.
- B. If there are any conflicts or unclear distinctions between this chapter and Olympia's critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
- C. Regardless of other provisions in Chapter 18.32, to ensure consistency with the shoreline Management Act critical areas within shoreline jurisdiction shall be subject to the following:
 1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~from~~ **18.32.435(H))** within shoreline jurisdiction shall require a shoreline variance.

~~3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~

4.3. Stormwater facilities may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(K)) and only when no other location is feasible.

5.4. Utility lines may be allowed in the outer twenty-five percent (25%) of Category III and IV wetland buffers in shoreline jurisdiction (OMC 18.32.525(M)).

6.5. Locating stormwater facilities or utilities within wetlands or within any wetland buffer other than those specified in numbers 4 and 5 above shall require a shoreline variance (OMC 18.32.530(E) and (G)).

~~7. In shoreline jurisdiction, provisions allowing wetland buffer averaging (OMC 18.32.535(F)) and administrative wetland buffer reductions (OMC 18.32.535(G)) shall not be used together.~~

8.6. Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.

9.7. Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).

10.8. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.

11.9. New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

12.10. Uses and activities that may be authorized within floodways are limited to those listed in WAC 173-26-221 (3)(c)(i).

~~13. In shoreline jurisdiction, the point scale used to separate wetland categories in OMC 18.32.510 does not apply. Category I wetlands are those that score 23 or more points, category II wetlands are those that score between 20 and 22 points, category III wetlands are those that score between 16 and 19 points, and category IV wetlands are those that score fewer than 16 points.~~

18.20.810 – Permitted Shoreline Modifications

Table 7.1 – Shoreline Modifications

P – Permitted C – Conditional Use X – Prohibited X/C – Allowed by conditional use only in specific cases.	Natural	All other Shoreline Environments	Aquatic (Same as adjacent shoreline environment designation)	Notes & Applicable Regulations
Dredging	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.820
Fill	C (Only for Ecological Restoration/ Enhancement Projects)	P	←	See OMC 18.20.830 through 837
Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20.842-840 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through 18.20.870
Shoreline Stabilization Soft Armoring	P	P	←	See OMC 18.20.860 through 18.20.870
Breakwaters, Jetties, Groins, and Weirs	X	X/C See OMC 18.20.874	←	See OMC 18.20.872 through 18.20.874
Stair Towers	X	X	←	Prohibited

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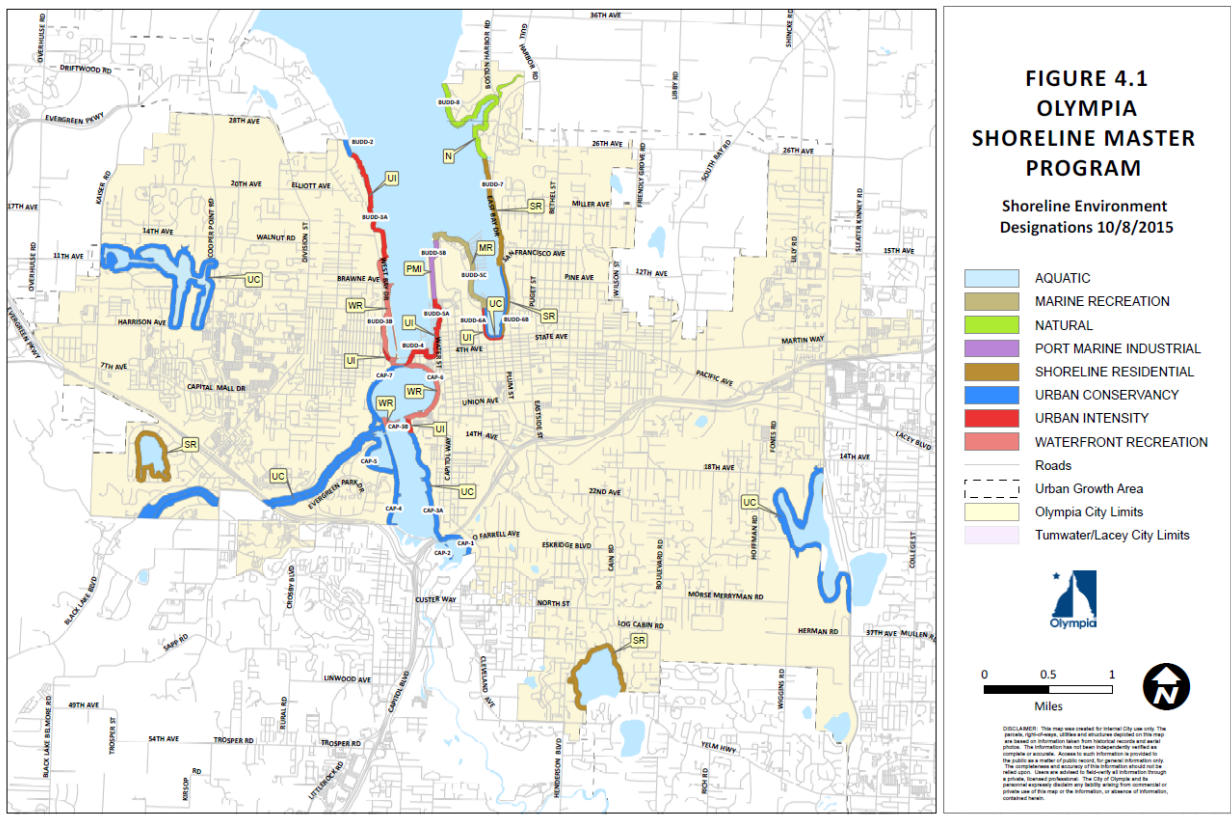
ATTACHMENT 3

SHORELINE MASTER PROGRAM AMENDMENTS

1.6 Regulations Adopted by Reference

The Critical Areas regulations ~~in effect on October 1, 2013~~ adopted on August 16, 2016, Ordinance Number 7030 and additional amendments adopted on _____, Ordinance Number _____ and contained in the Olympia Municipal Code (OMC) Chapters 18.32 and 16.70 are integral and applicable to this Shoreline Program, and are hereby adopted by reference; provided that the reasonable use provisions set forth in OMC 18.66.040 shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines. Similarly, Section 18.06.100 A.2.C -- West Bay Drive Building Height and View Blockage Limits (Ordinance 6646, passed on July 14, 2009), is hereby adopted by reference to the extent that the height and use regulations identified therein are applicable to the shoreline jurisdiction area.

3.17 18.20.320 – Official Shoreline Map



3.22 18.20.420 - Critical Areas

- A. All uses and development occurring within the shoreline jurisdiction shall comply with Chapter 18.32 (critical area regulations) and Chapter 16.70 (flood damage prevention), except as modified in (C) below.

- B. If there are any conflicts or unclear distinctions between this chapter and Olympia’s critical area or flood damage prevention regulations, the requirements that are the most consistent with the Shoreline Management Act or Washington Administrative Code pertaining to shoreline management shall apply.
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1. In shoreline jurisdiction, critical area review and permit procedures will be incorporated into and conducted consistently with the associated shoreline permit or exemption review and approval.
 2. Stream and Important Riparian Area buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.435(H))~~ within shoreline jurisdiction shall require a shoreline variance.
 - ~~3. In shoreline jurisdiction, OMC 18.32.515(B) does not apply. Furthermore, OMC 18.32.515(A) only applies to isolated Category III and IV wetlands, and impacts must be compensated for (the replacement ratios in OMC 18.32.550 apply in shoreline jurisdiction).~~
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 - 9.7. Identification of wetlands and delineation of their boundaries in shoreline jurisdiction shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (OMC 18.32.580).
 - 10.8. Reasonable use exceptions (OMC 18.66.040) are not available for relief from critical area standards within the shoreline jurisdiction. Instead, applicants seeking relief from the critical area standards shall apply for a shoreline variance.
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Piers, Docks, Floats and Buoys	X	P	←	See OMC 18.20. 842-840 through 18.20.848
Ecological Restoration and Enhancement	P	P	←	See OMC 18.20.850 through 18.20.855
Instream Structures	P	P	←	See OMC 18.20.857
Shoreline Stabilization Hard Armoring	X	X/C See OMC 18.20.870	←	See OMC 18.20.860 through

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Meeting Minutes

Planning Commission

City Hall
601 4th Avenue E
Olympia, WA 98501
Contact: Joyce Phillips
360.570.3722

Monday, April 3, 2017

6:30 PM

Room 207

1. CALL TO ORDER

Chair Mark called the meeting to order at 6:30 p.m.

1.A ROLL CALL

Commissioner Hoppe arrived after the roll call was taken.

Present: 7 - Chair Brian Mark, Commissioner Paula Ehlers, Commissioner Negheen Kamkar, Commissioner Missy Watts, Commissioner Darrell Hoppe, Commissioner Carole Richmond and Commissioner Rad Cunningham

Excused: 2 - Vice Chair Mike Auderer and Commissioner Travis Burns

OTHERS PRESENT

Community Planning and Development:
Senior Planner Amy Buckler
Senior Planner Linda Bentley
Office Specialist/Minutes Recorder Stacey Rodell

2. APPROVAL OF AGENDA

The agenda was approved.

3. APPROVAL OF MINUTES

3.A [17-0282](#) Approval of the March 6, 2017 Olympia Planning Commission Meeting Minutes

The minutes were approved.

3.B [17-0322](#) Approval of the March 20, 2017 Olympia Planning Commission Meeting Minutes

The minutes were approved.

4. PUBLIC COMMENT - None

5. STAFF ANNOUNCEMENTS

Ms. Buckler announced the following:

- Welcomed the newest Planning Commissioner, Rad Cunningham. Commissioner Cunningham said a few words about himself.
- Congratulated Commissioners Richmond and Hoppe for their reappointment to the Commission.
- Every three years members of the City advisory committees are required to complete Open Public Meetings training. The record indicates Commissioner Hoppe will need to complete the training by June 4, 2017 and Commissioner Watts will need to do so by July 21, 2017. The training can be accessed on the City's website. Inform Ms. Phillips once the training has been completed so she can update the record.
- On March 21, 2017 the City Council directed staff to move forward on an interim parks management plan for the isthmus. This will involve resurfacing the existing parking lots, removing blighted foundations from the old County Health and Health Authority sites, and designing and establishing a more attractive, flat base to serve as temporary event space until the area is more fully planned and developed. The City will scope a larger planning effort to consider long-term changes at the end of 2017 and the public process will begin in 2018. Meanwhile we will have something better in the interim 3-5 year period before what is ultimately planned can be completed. There will be a public meeting on the interim design later this year.
- An updated Planning Commission roster was handed out to each of the Commissioners.

6. BUSINESS ITEMS

6.A [17-0226](#) Recommendation on Draft Amendments to Critical Areas Ordinance (CAO)

Ms. Bentley reminded the Commission of changes to the proposed amended language that had been presented at the February 27, 2017 Planning Commission meeting.

The Commission completed its deliberation.

Commissioner Richmond moved, seconded by Commissioner Kamkar to approve staff recommendation as presented at this meeting and forward on to Council for adoption. Opposed: Chair Mark, Commissioner Hoppe and Commissioner Watts. Commissioner Richmond and Commissioner Kamkar were in favor of this motion. Commissioner Cunningham abstained from voting. Commissioner Ehlers recused herself from voting. The motion did not pass.

Chair Mark moved, seconded by Commissioner Hoppe, to write a letter to City Council with regard to OMC 18.32.300-330 proposed amendments stating a bulleted list of reasons as to why the Commission could not come to consensus. Commissioner Cunningham abstained and Commissioner Ehlers recused herself from voting. The motion passed unanimously by the

voting Commissioners.**7. REPORTS**

Commissioner Ehlers attended the Land Use Boot Camp. Sign code update and municipal regulation of homelessness were two of the items she valued most from the training.

Chair Mark provided a briefing on the recent Gateway Master Plan kick off meeting he attended. He also attended a portion of the Ad Hoc Committee on Housing Availability (AHCOHA) meeting prior to this meeting and provided a briefing.

8. OTHER TOPICS

Ms. Buckler provided some updates to the Downtown Strategy draft with regards to the Planning Commission's recommendation.

9. ADJOURNMENT

The meeting adjourned at 7:10 p.m.

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