



# Meeting Agenda

## Land Use & Environment Committee

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8447

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Thursday, July 16, 2015

5:30 PM

Council Chambers

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### Special Meeting

1. ROLL CALL

2. CALL TO ORDER

3. APPROVAL OF MINUTES

- 3.A [15-0689](#) Approval of June 23, 2015 Land Use & Environment Committee Meeting Minutes

Attachments: [Minutes](#)

4. COMMITTEE BUSINESS

- 4.A [15-0694](#) Rezone Hearing Body - Potential Code Amendment

Attachments: [Planning Commission Minutes Excerpt](#)  
[WCIA Guidance](#)

PUBLIC COMMENT

- 4.B [15-0684](#) Action Plan Update

Attachments: [Action Plan Outreach Tools](#)  
[Highlights of Action Plan Public Participation Program](#)

PUBLIC COMMENT

- 4.C [15-0696](#) Critical Areas Ordinance

Attachments: [Approaches to Including Locally Important Species and Habitat in the CAO Update](#)

PUBLIC COMMENT

- 4.D [15-0715](#) Status Reports and Updates

PUBLIC COMMENT

5. ADJOURNMENT

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City Hall  
601 4th Avenue E.  
Olympia, WA 98501  
360-753-8447

**Land Use & Environment Committee**  
**Approval of June 23, 2015 Land Use &  
Environment Committee Meeting Minutes**

**Agenda Date: 7/16/2015**  
**Agenda Item Number: 3.A**  
**File Number: 15-0689**

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

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**Title**

Approval of June 23, 2015 Land Use & Environment Committee Meeting Minutes



**Meeting Minutes - Draft**  
**Land Use & Environment Committee**

City Hall  
601 4th Avenue E  
Olympia, WA 98501  
Information: 360.753.8447

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**Tuesday, June 23, 2015**

**5:30 PM**

**Council Chambers**

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**Special Meeting**

**1. ROLL CALL**

**Present:** 3 - Chair Steve Langer, Committee Member Julie Hankins and Committee Member Jeannine Roe

**OTHERS PRESENT**

Community Planning and Development (CP&D) Director Keith Stahley  
CP&D Principal Planner Todd Stamm  
CP&D Deputy Director Leonard Bauer  
CP&D Downtown Liaison Brian Wilson  
CP&D Senior Planner Stacey Ray  
Public Works Waste ReSources Senior Program Specialist Ron Jones  
Public Works Senior Planner Laura Keehan  
Public Works Water Resources Director Andy Haub

**2. CALL TO ORDER**

Chair Langer called the meeting to order at 5:31 p.m.

**3. APPROVAL OF MINUTES**

**3.A** [15-0623](#) Approval of April 23, 2015 Land Use and Environment Committee Meeting Minutes

**The minutes were approved.**

**4. COMMITTEE BUSINESS**

**4.A** [15-0601](#) Consider the Department of Ecology's Required and Recommended Changes to the City's Shoreline Master Program

Mr. Stahley presented the changes to the Shoreline Master Program (SMP).

Discussion:

- Consider forwarding a recommendation to City Council to approve the SMP.
- Some changes are required, others are suggestions.
- Appreciation to staff for hard work, particularly Nancy Lenzi for compiling the packet.
- The changes were reviewed and slight revisions from staff were noted.

**The recommendation was approved.**

PUBLIC COMMENT

- Question about view impact section.
- Impacts on heron species.
- Concerns over the 30ft setback being too short.

**4.B**     [15-0488](#)     Briefing on Critical Areas Ordinance

Ms. Ray presented the briefing on the Critical Areas Ordinance (CAO).

Discussion:

- Critical areas are managed to protect the public and conform to the Washington Growth Management Act.
- Focus includes water quality, food chain support, and protection from natural hazards.
- The deadline to conduct technical review is June 30, 2016.
- Staff recommended updates including adopting the Washington wetland rating system and clarifying language.
- Staff will return at the July 23rd meeting to provide an update
- Private property rights will be taken into account.
- Protection efforts are focused on the species and this would allow protection of herons.
- A best-available science review would inform the enforcement of the ordinance.
- Additional protection efforts can be made by the community.

**The information was received.**

PUBLIC COMMENT

- A request was made to specifically add the blue heron to the CAO.
- It is important to focus on the species as a part of an ecosystem, not individually.
- Heron are important beyond science and impact people through things such as art.
- Heron nests have been destroyed by development.
- Seattle is spending a lot of money to return their land to the state that ours is still in.
- Olympia has not adopted the Department of Fish and Wildlife (DFW) request to protect the heron.

Committee Response:

- Request for staff to bring comments to help speed up the process and look at the DFW request for potential adoption.
- Request for staff to return with options to consider.

**4.C**     [15-0453](#)     Update on the Low Impact Development Code Revision Project

Ms. Keehan provided an update on the Low Impact Development (LID) code revision.

Discussion:

- Comprehensive code revisions are required in order to meet the preferred stats expectation.
- A full LID code revision will take place in 2016.
- Issue papers are being developed to express best management practices.
- The code includes site evaluation, design, storm water, landscaping, and pavements.
- A technical work group will be used to refine the documents.
- The Olympia Drainage Manual will also be updated.
- Ideally, this system will benefit the ecosystem and improve water quality in Puget Sound.
- The goal is to improve how we develop properties and utilize more dispersed treatment methods.

**The information was received.**

**4.D 15-0428 2015-2020 Waste ReSources Management Plan**

Mr. Jones presented an update to the 2008-2013 Management Plan.

Discussion:

- Key issues have been fleshed out with the help of consultants.
- Our City is recycling at a decent rate compared with other cities.
- There are many materials we do not have local systems in place to recycle.
- Current goals include reduction of waste, increasing recycling/composting, and operating safely and efficiently.
- The next step is to forward the plan to Council for approval.

**The plan was referred to the City Council for consideration at the August 11, 2015 Council meeting.**

**4.E [15-0625](#) ORAL REPORT - Status Reports and Updates**

Mr. Wilson provided a report on recent City business.

Discussion:

- The Clean Team picks up over 1000 lbs. of recyclables a month and the cigarette receptacles are well used.
- The Volunteers in Paint program has brought over 80 realtors and many others to paint downtown.
- The Welcome Center has had nearly 1000 visitors since opening for Arts Walk.
- The Play at the Well event series kicks off on June 27.
- The Bridge series will be doing seven events downtown at The Commons.
- Top floor apartments at 123 4th Avenue are going for roughly \$3000/mo.

Committee Comments:

- Appreciation for Anna Schlecht and her work heading the paint program and presenting.

**The report was completed.**

**5. ADJOURNMENT**

The meeting was adjourned at 8:25 p.m.



**Land Use & Environment Committee**  
**Rezone Hearing Body - Potential Code**  
**Amendment**

**Agenda Date:** 7/16/2015  
**Agenda Item Number:** 4.A  
**File Number:** 15-0694

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

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**Title**

Rezone Hearing Body - Potential Code Amendment

**Recommended Action**

**Planning Commission Recommendation:**

Recommend to City Council that the Development Code be amended to provide that the Planning Commission, instead of the Hearing Examiner, will hold public hearings related to site-specific rezone applications. (Option 2.)

**City Manager Recommendation:**

Recommend to the City Council that the City retain existing development code provision so that Hearing Examiner holds public hearings and makes recommendations to City Council regarding site-specific rezone applications; and direct staff to report to Land Use and Environment Committee in 2016 regarding experience with this approach. (Option 1.)

[Note, staff did not make a recommendation when this issue was considered by the Planning Commission.]

**Report**

**Issue:**

Should Olympia's Hearing Examiner or Planning Commission hold public hearings before making a recommendation to the City Council regarding proposed changes in the land use zoning of individual properties?

**Staff Contact:**

Todd Stamm, Principal Planner, (360) 753-8597

**Presenter:**

Todd Stamm, Principal Planner

**Background and Analysis:**

During the recent update of the Comprehensive Plan some members of the public suggested that if the Plan were to allow for more rezone applications, the City's Development Code should be amended to provide that rezone hearings would be held by the Planning Commission instead of the Hearing Examiner. On September 23, 2013, the Commission held a public hearing regarding this



proposal and following deliberation on October 21, 2013 the Commission unanimously recommended that the City Council amend the Development Code accordingly. (See attached minutes' excerpts.) This proposal was placed on hold until the Council's decision regarding the Plan update in December of 2014. On May 19, 2015, the Council referred the rezone-hearing-body issue to the Land Use and Environment Committee for consideration.

### Legal Framework

Land use zoning, i.e., limiting land uses in each part of the community, is one of the primary means by which most cities seek to implement their Comprehensive Plans. Changes in the zoning map, commonly referred to as "rezones," may be proposed for individual properties or large areas of the City. As required by state law, the City Council makes the final decision for the City regarding all such zoning and development code amendments. However, a series of court decisions have outlined that the process for reviewing '**site-specific**' zoning changes should be different than for '**area-wide**' zoning changes. (Although these terms are commonly used by the courts and in State law, they do not have specific definitions.)

Olympia's current development code provides that **area-wide** zoning changes and any proposed rezone that would be inconsistent with the City's Comprehensive Plan are to be the subject of a Planning Commission public hearing and recommendation prior to a decision by the City Council. In contrast, the Code provides that the 'open record' public hearing regarding a proposed '**site specific**' rezone is to be held by the Olympia Hearing Examiner prior to the Examiner making a recommendation to the Council. Such **site-specific** rezone proposals are also referred to the Commission for review and recommendation, but because State law allows only one such hearing, the Commission does not hold a public hearing.

### History of Olympia's Rezone Process

Olympia first adopted land use zoning during the 1930s. For about fifty years, rezone hearings were held by the Planning Commission. However, in the 1980s Olympia and many other cities instituted a 'Hearing Examiner system' in response to court directives requiring that certain land use actions conform with 'quasi-judicial' procedures. These directives noted that certain actions, including site-specific rezones, determined the property rights of a few individuals and accordingly that these proceedings should be more akin to judicial processes. These practices -- intended to achieve a fair hearing and result -- include specific design criteria, sworn testimony, the opportunity for cross-examining witnesses, limited contact outside the hearing, and ultimately specific written findings of fact and conclusions of law. These proceedings differ greatly from the more common "legislative" processes where the City has broad discretion with regard to procedures and the courts give much greater deference to local government decisions.

To ensure compliance with these strict procedural requirements, Olympia's code was amended and for about ten years the Olympia Hearing Examiner held hearings regarding site-specific rezone proposals. However, in the mid-1990s Olympia's Comprehensive Plan became more specific, with the result that rezone applications were routinely joined with 'legislative' Plan amendments, and as a result subject to Planning Commission hearings.

Since the Plan adopted by the City in December of 2014 is not specific with regard to the zoning of each parcel of land, the staff anticipates that a few (maybe 2 or 3) site-specific rezone applications will be received each year hereafter. State law requires that one and only one 'open record' public hearing be held by a city when considering a proposed site-specific rezone. The question now

presented for the Council's consideration is whether the public hearing for these types of proposals should be heard by a Hearing Examiner or the Planning Commission. Neither Olympia's Comprehensive Plan nor State law designates whether the Commission or the Examiner should hold such hearings and makes recommendation to the Council - so ultimately this choice of processes is at the Council's discretion.

Considerations (not intended to be in order of priority or importance):

1. Both the Hearing Examiner and Planning Commission membership are selected by the City Council. If the regular Examiner is unable to hear a particular matter, a temporary Examiner is selected by the Community Planning and Development Director from a list pre-approved by the Council.
2. Unlike a voting body such as the Commission, an Examiner's decision cannot result in a tie vote. Similarly, conflicting statements or opinions expressed by different commissioners can result in greater legal risk when quasi-judicial decisions, such as site-specific rezones, are reviewed on appeal.
3. Since the Commission's review must occur at public meetings with due notice, review and recommendation; reaching a decision generally requires more time for a Commission than if review is conducted by an Examiner. (Examiners are generally limited to a 14-day review period.)
4. The Planning Commission's work program is typically very full throughout the year. Adding site-specific rezone requests likely would affect the timeliness for completing consideration of other items on their meeting agendas. The Hearing Examiner is available as needed to address site-specific rezones.
5. Unlike a single Examiner, the recommendation of a Planning Commission can turn on the particular members who participate in the proceeding, and especially who attends the meeting where the final vote occurs.
6. Site-specific rezones are 'quasi-judicial' matters subject to extraordinary procedural requirements. Among these are requirements to ensure that the process is not only fair in fact, but that it appears fair to a reasonable person; contact with interested parties outside of the hearing is generally prohibited; and specific findings and conclusions supporting the decision are usually needed. In general, professional Hearing Examiners are better trained in complying with these requirements than lay Planning Commissioners. The higher number of commissioners can lead to greater opportunity for contact with interested parties.
7. Hearing Examiners usually are responsible for reviewing development proposals, while Planning Commissions generally address broader policy questions. Site-specific rezones include aspects of both types of decisions. Like development proposals, they must be decided based on specific criteria, but like broader code amendments they are changes in regulations.
8. Hearing Examiners are trained professionals accustomed to the quasi-judicial format and process required for site-specific rezone reviews, while Planning Commissioners are generally appointed based on other considerations.

9. Although site-specific rezones must be reviewed according to court-mandated and adopted legal criteria, both proponents and opponents will often seek to have reviewing parties consider factors outside these standards.
10. Site-specific rezones not associated with a Comprehensive Plan amendment are subject to the Washington Local Project Review Act. Thus any appeal is to Superior Court instead of the Growth Hearings Board, and the Court's review is different in form and substance from that of the Board. For instance, the Court will generally review the City's decision for consistency with the Comprehensive Plan but not for consistency with the Growth Management Act. The Court's review will usually be based on the City's hearing record and written decision.
11. Site-specific rezones can be the subject of only one 'open-record' (evidentiary) hearing and, pursuant to a recently adopted City code, are reviewed in two sets each year and must be decided within 180 days. (Absent this City code, the State imposes a 120-day time limit.)
12. The direct cost to a rezone applicant is greater when review is conducted by a Hearing Examiner since the City requires the applicant to reimburse the City for the cost of employing an Examiner.
13. Unlike a Comprehensive Plan amendment proposal, any application for a site-specific rezone is to be considered on its merits; i.e., unlike Plan amendments, there is no 'screening' step by which the City can decline to consider a rezone application. It is difficult to predict how many such applications will be received each year. In general the Hearing Examiner can adapt more easily than the Commission's calendar to workload surges.
14. The proposed amendment would not be applicable to the 'master planned development' approvals of 'centers and villages' which are a hybrid of development approval and zoning map amendment. Such master plans are reviewed by both the Hearing Examiner and the Design Review Board and subject to final action by the Council. Unlike 'pure' rezones such map amendments simply add a note referencing the master plan approval consistent with the zoning. (Some citizens have suggested that the Commission, instead of the Examiner, should also hold the hearings related to these types of developments.)
15. Although rezone proposals must be judged against specific criteria including those in Olympia Municipal Code 18.59.050, these criteria are much broader in nature than the prescriptive measurements and criteria usually applicable to specific development proposals. Olympia's rezone criteria set forth more specifically in Olympia Municipal Code 18.59.050 and 18.59.055, can be summarized as whether:
  - The rezone is consistent with the Comprehensive Plan and its Future Land Use Map
  - The rezone will maintain the public health, safety, or welfare
  - The rezone is consistent with other development regulations
  
  - The rezone will result in a zoning district that is compatible with adjoining district

- Existing and planned public facilities are adequate and likely available to serve the potential development

### Conclusions

A survey of Olympia's peer cities (over a dozen similarly sized Washington cities plus Tumwater and Salem) revealed a broad range of approaches. For example, in Richland, Lacey, Longview, and Edmonds all rezones are reviewed by their Planning Commissions. In contrast, in Salem and Bremerton all rezones are reviewed by Hearing Examiners. Puyallup and Sammamish have split processes similar to Olympia. Many cities responded that they have tried or considered alternatives and each approach has advantages and disadvantages.

As noted above, Olympia has little recent experience with site-specific rezone applications independent of Comprehensive Plan amendments. A site-specific rezone, known as the Medela rezone, is now being considered by the Hearing Examiner. The Examiner's resulting recommendation will reach the Council in the coming months. Review of any other rezone applications received in the next few months will commence on October 1.

The Washington Cities Insurance Authority recommends that all quasi-judicial matters, including site-specific rezones, be heard by a Hearing Examiner. (See attached WCIA guidance.)

On balance, it is the staff's opinion that, given the procedural complexity similar to other development proposals, the Examiner is the more appropriate officer to hold site-specific rezone hearings. Staff can provide annual reports to the LUEC on site-specific reviews by the Examiner.

### **Neighborhood/Community Interests (if known):**

Public interest in this topic has been minimal, but those citizens who have commented have generally favored the Planning Commission holding hearings regarding site-specific rezones.

### **Options:**

1. Recommend that the Council not approve the proposed amendment and instead retain the current Examiner review of site-specific rezones; and direct staff to report to the Committee in about one year regarding experience with this process.
2. Recommend that the Council approve the amendment recommended by the Planning Commission, i.e., that the Code be revised so the Commission holds rezone hearings, instead of the Hearing Examiner.
3. Recommend that the Council hold a public hearing regarding this proposal.

### **Financial Impact:**

No direct impact; Examiner's hearing costs are borne by rezone applicants. As discussed above, increases in secondary costs could result from the proposed change.

## Site-Specific Rezone Hearing Body

### Planning Commission Minutes Excerpts

#### **September 23, 2013:**

Code Amendment to Change Rezone Hearing Body

Principal Planner Todd Stamm provided an overview of a potential code change to make the Planning Commission the hearing body on all rezones. A more comprehensive overview is in the agenda packet. Mr. Stamm gave examples of property owner feedback regarding the amendment, and responded to questions about the decision-making and appeal process, costs, timing, and public comment opportunities.

Chair Parker opened the public hearing:

Bob Jacobs of 720 Governor Stevens spoke about the role of the Planning Commission.

Walt Jorgenson of 823 North Street spoke about the hearing examiner and Planning Commission decision-making processes. He supports the continuation of rezoning issues being handled by the Planning Commission.

Chair Parker closed the public hearing.

#### **October 21, 2013:**

Code Amendment to Change Rezone Hearing Body

Commissioner Horn moved, seconded by Commissioner Hoppe, that the proposed language beginning on page 14 of 50 be approved.

#### **Discussion:**

- Expand the scope of review for urban villages and put request on future work plan.
- Retain the current responsibility or authority for rezoning.
- It is likely that similar rezones will come to the Commission without amendment.
- Process or easing of workload should be considered.
- Concern about changing the protocol when the current Hearing Examiner is competent and meetings are open to the public.
- Hearing Examiner may be a better fit for these hearings.
- Planning Commission is tasked with big picture decisions and Hearing Examiner can attend to smaller matters of policy.
- Policy issues should come to the Commission and are more appropriate for their oversight.
- The Commission can reliably decide rezone questions.
- 9 member Commission could help decisions be more diverse and protective of policy.
- Difference between site specific and regional process decisions.

**Commissioner Horn moved, seconded by Commissioner Hoppe, to approve the recommendation. The motion carried by the following vote:**

Chair Parker, Vice Chair Bardin, Commissioner Andresen, Commissioner Bateman, Commissioner Brown, Commissioner Hoppe, Commissioner Horn, Commissioner Richmond and Commissioner Watts

# Are you using your land use hearing examiner to the fullest extent possible?

by Tanya Crites

While many WCIA member cities and towns are using hearing examiners for various land use and code enforcement matters, some may not be utilizing a hearing examiner to the fullest extent provided by law. RCW 35A.63.170 authorizes a local government's legislative body to adopt a hearing examiner system under which the hearing examiner may hear and decide on various types of issues, including but not limited to:

- (a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;
- (b) Appeals of administrative decisions or determinations; and
- (c) Appeals of administrative decisions or determinations pursuant to, RCW 43.21C, State Environmental Policy.

The legislative body prescribes the procedures to be followed by the hearing examiner and provides the authority for the hearing examiner to conduct open record hearings and decide applications for all types of permits and land use approvals.

The only two instances in which the legislative body must make decisions on land use permits and approvals are:

- (a) decisions on final plats (subdivisions), and
- (b) area-wide/general application zoning decisions/rezones.

There are many compelling arguments in favor of using a hearing examiner system. By using a politically neutral, specially trained professional hearing examiner to the greatest extent possible, the legislative body and planning commission have more time for other important planning, goal setting and law-making functions, in addition to reducing the risk of political influence and pressure. WCIA recommends that all members adopt a hearing examiner system that allows the hearing examiner to make final quasi-judicial decisions on land use permits and decide administrative appeals, and that hearing examiner decision appeals go to superior court.

Here is how WCIA can help members adopt or expand a hearing examiner system. Typically, the first step is educating the council on the benefits of a comprehensive

hearing examiner system. Through the legal consultation program, WCIA can provide information on the legal, political and community benefits of using a hearing examiner to the fullest extent. WCIA can provide this guidance in a written document specifically prepared for the member's council or with an on-site presentation. Contact your assigned Risk Management Representative to arrange for assistance.



## Land Use & Environment Committee

### Action Plan Update

**Agenda Date:** 7/16/2015  
**Agenda Item Number:** 4.B  
**File Number:** 15-0684

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

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#### **Title**

Action Plan Update

#### **Recommended Action**

##### **City Manager Recommendation:**

Receive and discuss a briefing on the status of the Action Plan.

#### **Report**

##### **Issue:**

Staff will provide the Land Use and Environment Committee with a status report on development of Olympia's first Action Plan, including the public involvement process and the project timeline.

##### **Presenter(s):**

Stacey Ray, Senior Planner, Community Planning & Development, 360.753-8046

#### **Background and Analysis:**

Olympia has a new Comprehensive Plan with a clear vision for our community's future. The Action Plan will lay out specifically what we, as a community, will do to accomplish our adopted goals. That may include everything from individual projects, like completion of the Percival Landing rehabilitation, to on-going programs, such as the expansion of a citywide bike corridor network. The Plan will also include community indicators to help us track our progress and share stories of success.

#### Public Involvement and Communication Strategy

In November 2014, LUEC reviewed and provided staff with direction on a Public Involvement and Communication Strategy. The strategy was developed to achieve:

- Authentic collaboration with community partners and community members;
- Broad-ranging community member involvement; and
- The use of successful tools and techniques from other communities.

The public involvement process is now complete. Attachment 1 highlights the different tools and methods that were planned to be used to encourage community member and partner organization involvement in the Action Plan.

Methods that were effective in garnering participation resulted in community members providing



excellent, constructive input and who are enthusiastic about staying engaged in the future implementation of the Plan. Participants in the Action Plan Partner Work Group and the Focus Work Groups have expressed an interest in continuing to stay informed of future opportunities to stay involved.

The table in Attachment 2 highlights when specific events and meetings were held and the number of people who participated. The total is not inclusive of other ways in which staff received input, such as emails, phone calls, and individual meetings.

Not every tool on the original list was used, and some were not as successful as others. For example, we opted not to create a street banner, but are instead developing a Comprehensive Plan Summary handout. We also didn't receive many responses to our offer to provide presentations or work sessions for community groups, organizations, or agencies.

### Project Timeline

While the primary purpose of this update is to provide LUEC an overview of the public involvement process and to share some of the emerging themes and highlights, staff will also share a proposed update to the project timeline.

A new timeline will help provide staff adequate time to review and integrate the public input into a new draft, keep LUEC and Council informed on the development of the Plan, and avoid conflicts with regularly scheduled Council business in the last quarter of the year.



## Action Plan Outreach Tools

### Inform

- Utility bill insert
- Online videos
- City e-newsletter
- City website
- Social media - Facebook & Twitter
- TCTV announcements
- Flyers, posters and displays
- Street banner
- News releases
- Email notices

### Consult

- City Council briefings
- OlySpeaks
- Comment cards
- Presentations for community groups, government agencies, non-profits, and neighborhood groups

### Involve

- Work sessions with community groups, government agencies, non-profits and neighborhood groups.
- OlySpeaks (City online survey and/or discussion groups)
- Community open houses (Kick-off event and unveiling & Partner Recognition Event)

### Collaborate

- Action Plan Partner Work Group
- Focus work groups
- Advisory Committees and Commissions

Make a Difference – Take Action  
Ask me how you can help  
sray@ci.olympia.wa.us  
2015

## Highlights of Action Plan Public Participation Program

**April – June, 2015**

| <b>Action Plan Outreach Events and Tools (2015)</b>       |   |                  |
|---|---|------------------|
| <b>Launch Party</b>                                       | April 18  | 40 participants  |
| <b>Action Plan Partner Work Group</b>                     | March 20<br>March 30<br>June 30   | 15 participants  |
| <b>Advisory Committees and Commissions</b>                | April 22 - BPAC<br>May 4 - OPC<br>May 7 - UAC, PRAC<br>May 14 - Arts  | 42               |
| <b>Presentations for community groups, agencies, etc.</b> | April 13 - Coalition of Neighborhood Associations (CNA)<br>May 7 – Olympia Downtown Association/Economic Dev. Committee<br>May 13 – Olympia Downtown Association/ Board Meeting | Approx. 40       |
| <b>Focus Work Groups</b>                                  | May 27, 2015 (1)<br>May 28, 2015 (2)  | 30 participants  |
| <b>Olyspeaks (online survey)</b>                          | April-June  | 384 participants |



## Land Use & Environment Committee

### Critical Areas Ordinance

**Agenda Date:** 7/16/2015  
**Agenda Item Number:** 4.C  
**File Number:** 15-0696

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

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#### **Title**

Critical Areas Ordinance

#### **Recommended Action**

##### **City Manager Recommendation:**

Guidance on an approach to updating the City's Critical Areas Ordinance.

#### **Report**

##### **Issue:**

The Washington State Growth Management Act (GMA) requires that the City of Olympia review and update as needed its Critical Areas Ordinance (CAO) by June 30, 2016. As a follow-up to a briefing provided by staff on June 23, 2015, staff will provide the Land Use and Environment Committee (LUEC) options for how to approach an update to the City's Critical Areas Ordinance, and specifically in regards to locally important species and habitat.

##### **Staff Contact:**

Stacey Ray, Senior Planner, Community Planning and Development, 360.753.8046

##### **Presenter(s):**

Keith Stahley, Director, Community Planning and Development, 360.753.8227

#### **Background and Analysis:**

In 1990, with passage of the Washington State Growth Management Act (GMA), comprehensive planning for critical areas became a requirement for cities. However, Olympia has been protecting critical areas for many decades through management of land it owns, educational programs, and regulations on building and development. With each update, these programs and regulations have continued to evolve in scope and to integrate the most current and best available science regarding how to preserve and protect those areas.

The Olympia Critical Areas Ordinance (CAO) is the primary set of regulations on development that protects critical areas. It can be found in the Olympia Municipal Code, Chapter 18.32. It addresses five types of environmentally sensitive areas: drinking water (wellhead) protection areas, important habitats and species, streams and important riparian areas, wetlands and small lakes, and landslide hazard areas. Frequently flooded areas are addressed in a different section of the code: OMC 16.70, and marine shorelines and freshwater shorelines as defined by the Shoreline Management

Act are addressed in OMC 14.08. See Attachment A for brief descriptions of each of the five critical area designations in the CAO, frequently flooded areas, and shorelines regulated through the Shoreline Management Act.

### Growth Management Act

The Growth Management Act requires that cities review their CAO every eight years so that it remains consistent with the Act's guidelines. With an extension having been adopted by the state legislature, the next review and update deadline for Olympia is June 30, 2016. There are two requirements that we need to address by the deadline:

- **Critical Areas Review for Best Available Science.** It has been over 10 years since our last CAO review and update in 2005, so we are due to conduct a technical review of the best available science in designating critical areas and evaluate our development regulations for effectiveness in protecting the functions and values of critical areas.
- **Anadromous Fish.** Cities are required to give special consideration in their development regulations to conservation or protection measures necessary to preserve or enhance anadromous fish. Anadromous fish are those that spawn and rear in fresh water and mature in marine waters, including salmon.

### Best Available Science Review

A Best Available Science Review (BAS) ensures that our policies and development regulations are based on the most current science and best management practices available for designating and protecting critical areas. GMA doesn't require that cities go out and conduct scientific studies, but to gather and evaluate the best science available. Sources of information can include state agencies, universities, tribes, and other experts; however, ultimately, we are responsible for determining what is reliable and appropriate for our local area. WAC 365-195-905 provides guidance to cities in making that determination.

Staff will recommend several updates be included in the scope to help clarify existing language or meet revised state and federal guidelines. Those that have been identified so far include:

- Adopting the newly updated Washington State Wetland Rating System for Western Washington;
- Clarifying the ownership and maintenance responsibilities for groundwater monitoring wells for Drinking Water (Wellhead) Protection Areas; and
- Adopting into code that new structures downtown be elevated can additional foot in response to anticipated sea level rise or flood events.

However, the BAS may also identify other potential updates. For example, there may be new science, tools, or best management practices developed since the Oso, WA landslide in 2014 to better identify geologically hazardous areas.

Lastly, the BAS may help locate or clarify current information on other topics of interest, such as protecting locally important species and habitat. The current science and best practices may provide additional information on how Olympia might identify locally important species and/or habitats and

establish effective protective measures. This can then be combined with other information, such as the potential implications adopting new regulations may have on property rights, to analyze policy options.

### Locally Important Species and Habitat

Staff, community members, and Council have all brought forward other emerging issues or topics of interest for possible inclusion in the scope of the CAO update. One example is the protection of locally important species and their associated habitat, such as the Great Blue Heron and Oregon white oak.

At the June 23 LUEC meeting, several members of the community provided comments on the need to move forward quickly with updating the CAO to protect specifically the Great Blue Heron and its associated habitat.

Based on that discussion, staff has prepared three potential approaches for including locally important species and habitat in the scope of the update to the CAO. Also identified for each approach is the anticipated impact on the timeline and resources needed to complete the work (Attachment A).

While staff will still expect to return to LUEC and the full City Council after completion of the BAS to more fully discuss the scope of the update, direction from LUEC on the options in Attachment A can help guide our scoping process, BAS review, and help us better understand and prepare for the resources needed to complete the update. Staff will also be seeking direction on whether or not the scoping process and the BAS review should specifically address the Great Blue Heron.

### **Neighborhood/Community Interests (if known):**

Critical areas are found throughout the City; how they are regulated could have an impact citywide.

### **Options:**

- A) Provide staff with direction on how to scope and identify resources for including locally important species and habitat in the CAO update process.
- B) Wait until after the BAS is completed to scope and identify resources for including locally important species and habitat in the CAO update process.

### **Financial Impact:**

Reviewing and updating as needed the Critical Areas Ordinance to meet the June 2016 deadline established by the Growth Management Action is already a budgeted work item for Community Planning and Development. Additional review or updates beyond the minimal requirements may require additional resources in 2015 and 2016.

# Critical Areas Ordinance Update

Staff, community members, and Council have all brought forward emerging issues or topics of interest for possible inclusion in the scope of the Critical Areas Ordinance (CAO) update. One example is the protection of locally important species and their associated habitat, such as the Great Blue Heron and Oregon white oak.

Described below are three potential approaches for including locally important species and habitat in the scope of the update to the CAO. Also identified for each approach is the anticipated impact on the timeline and resources needed to complete the work.

| <b>Possible Approaches to Including Locally Important Species and Habitat in the CAO Update</b>  |                             |   |
|--|-----------------------------|---|
| <b>Option A: The Process Approach</b>  | <b>Estimated Completion</b> | <b>Resources Needed*</b>  |
| Develop a process that would allow any interested person or group to nominate a locally important species and their associated habitat for protection in the CAO.              | June 2016                   | No additional resources needed to adopt a nomination process. Depending on the adopted process, additional resources may be needed to evaluate individual nominations |
| <b>Option B: The Species Approach</b>  |                             |   |
| Identify a short list of species based on current WA Department of Fish and Wildlife recommendations and update the CAO to protect those species and their associated habitat. | Fall/Winter 2016            | Additional resources needed   |
| <b>Option C: The Habitat Approach</b>  |                             |   |
| Conduct a citywide species and habitat analysis to identify strategies, policies, and regulations for protecting locally important species and/or habitat.                     | Summer 2017                 | Significant additional resources needed   |

*\*Additional resources beyond what is needed to complete the GMA-mandated updates, staff-recommended updates, and findings from the BAS by the June 30, 2016 deadline.*

Staff will return to LUEC and the full City Council after completion of the Best Available Science (BAS) review to more fully discuss the scope of the update; however, direction from LUEC on the options above can help guide the scoping process, BAS review, and preparing the resources needed to complete the update.



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## Land Use & Environment Committee

### Status Reports and Updates

**Agenda Date:** 7/16/2015  
**Agenda Item Number:** 4.D  
**File Number:** 15-0715

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

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**Title**  
Status Reports and Updates