



Meeting Agenda

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, July 18, 2017

7:00 PM

Council Chambers

1. ROLL CALL

1.A ANNOUNCEMENTS

1.B APPROVAL OF AGENDA

2. SPECIAL RECOGNITION - None

3. PUBLIC COMMUNICATION

(Estimated Time: 0-30 Minutes) (Sign-up Sheets are provided in the Foyer.)

During this portion of the meeting, citizens may address the City Council regarding items related to City business, including items on the Agenda. In order for the City Council to maintain impartiality and the appearance of fairness in upcoming matters and to comply with Public Disclosure Law for political campaigns, speakers will not be permitted to make public comments before the Council in these three areas: (1) on agenda items for which the City Council either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days, or (2) where the public testimony may implicate a matter on which the City Council will be required to act in a quasi-judicial capacity, or (3) where the speaker promotes or opposes a candidate for public office or a ballot measure.

Individual comments are limited to three (3) minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the City Council will refrain from commenting on individual remarks until all public comment has been taken. The City Council will allow for additional public comment to be taken at the end of the meeting for those who signed up at the beginning of the meeting and did not get an opportunity to speak during the allotted 30-minutes.

COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)

4. CONSENT CALENDAR

(Items of a Routine Nature)

4.A [17-0759](#) Approval of July 11, 2017 Study Session Meeting Minutes

Attachments: [Minutes](#)

4.B [17-0760](#) Approval of July 11, 2017 City Council Meeting Minutes

Attachments: [Minutes](#)

4.C [17-0685](#) Approval of a Resolution authorizing an Interlocal Agreement with the Washington State Department of Enterprise Services for Fire Protection

Attachments: [Resolution](#)

[Interlocal Agreement](#)

- 4.D [17-0683](#) Approval of a Resolution Authorizing a license agreement between the City and Hidden Creek Community Church for a Shared Parking Lot Adjacent to Decatur Woods Park

Attachments: [Resolution](#)

[License Agreement](#)

4. SECOND READINGS

- 4.E [17-0627](#) Approval of an Ordinance Establishing an Independent Salary Commission to Review City Council Compensation

Attachments: [Ordinance](#)

[List of Cities with Ordinances to Create Salary Commissions](#)

[Summary of Other Washington Cities with Salary Commissions History](#)

[2015 General Government Staff Report](#)

[June 7 Finance Committee Minutes](#)

- 4.F [17-0654](#) Approval of an Ordinance to Amend the Critical Areas Ordinance and Shoreline Master Program

Attachments: [Ordinance #1 \(without local species language\) - Chosen](#)

[Ordinance #2 \(with local species language\) - Not Chosen](#)

[Letter from Planning Commission](#)

[Planning Commission Meeting Packets and Minutes](#)

[ESA Technical Memo - Options](#)

[ESA Technical Memo - Recommendations](#)

[Critical Areas Ordinance Update Phase 1](#)

- 4.G [17-0715](#) Approval of Proposed Ordinance and Ballot Measure Relating to Regular Property Taxes for Submission to Voters to the General Election to be Held on November 7, 2017 of a Public Safety Proposition Authorizing the Levy of Regular Property Taxes in Excess of the Limitations of RCW Chapter 84.55 and Setting Forth the Text of the Ballot Proposition

Attachments: [Ordinance](#)

4. FIRST READINGS

- 4.H [17-0748](#) Approval of Ordinance Amending Olympia Municipal Code Chapter 9.08 Relating to Interference with a Public Meeting of the City of Olympia

Attachments: [Ordinance](#)

5. PUBLIC HEARING - None

6. OTHER BUSINESS

- 6.A [17-0757](#) Consideration of a Proposed Cultural Arts, Stadium and Convention Center District

Attachments: [Resolution](#)

[Thurston County Commissioners June 13, 2017 Letter](#)

- 6.B [17-0743](#) Briefing on the Preliminary 2018-2023 Capital Facilities Plan (CFP)

7. CONTINUED PUBLIC COMMUNICATION

(If needed for those who signed up earlier and did not get an opportunity to speak during the allotted 30 minutes)

8. REPORTS AND REFERRALS

8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

8.B CITY MANAGER'S REPORT AND REFERRALS

9. ADJOURNMENT

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.



City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

City Council

Approval of July 11, 2017 Study Session Meeting Minutes

Agenda Date: 7/18/2017
Agenda Item Number: 4.A
File Number: 17-0759

Type: minutes **Version:** 1 **Status:** Consent Calendar

Title

Approval of July 11, 2017 Study Session Meeting Minutes



Meeting Minutes - Draft

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, July 11, 2017

5:30 PM

Council Chambers

Study Session

1. ROLL CALL

Present: 7 - Mayor Cheryl Selby, Mayor Pro Tem Nathaniel Jones, Councilmember Jessica Bateman, Councilmember Jim Cooper, Councilmember Clark Gilman, Councilmember Julie Hankins and Councilmember Jeannine Roe

2. BUSINESS ITEM

2.A [17-0656](#) Action Plan and Partner Engagement Update

Mayor Selby introduced Senior Planner Stacey Ray.

Ms. Ray gave an overview of the topics to be covered during the Study Session, which include Partner Engagement, Action Plan Status Update and Discussion.

Ms. Ray noted one of the primary goals of the Action plan is involve partners and stakeholders in helping to carry out strategies in the Action Plan. Those partners include government and community organizations; nonprofits and private businesses. At the January City Council retreat, the Council selected three primary topics for further exploration regarding partnerships: homelessness/emergency sheltering and early learning. For each of the two topics, online survey input was collected and several interviews with key stakeholders were conducted. For early learning, a 2-hour stakeholder conversation was hosted.

Ms. Ray reviewed feedback received through the online surveys and interviews with stakeholders. She also discussed potential next steps regarding the issues.

Ms. Ray gave a brief update on the status of the Action Plan. She also discussed the City working with the Association of Washington Cities Center for Quality Communities on a leadership initiatives pilot program called the Participative Leadership Innovation Lab. The focus of the project is an Economic Development Approach to Addressing Poverty and Housing Instability.

She shared the benefits of the project, which include:

- Training in stakeholder engagement
- Addresses upstream causes of homelessness
- Economic development

- Regional partnerships: Thurston County Economic Alliance, Thurston Thrives, and Sustainable Thurston

Ms. Ray asked for feedback from the Council on the following questions:

Question #1: What's happened with the Action Plan that is important to you?

Question #2: In your role as a Councilmember, why is that thing important? Why does it matter?

Question #3: What should we do next?

The group discussed the responses. Councilmembers asked clarifying questions.

The study session was completed.

3. ADJOURNMENT

The meeting adjourned at 6:25p.m.



City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

City Council

Approval of July 11, 2017 City Council Meeting Minutes

Agenda Date: 7/18/2017
Agenda Item Number: 4.B
File Number: 17-0760

Type: minutes **Version:** 1 **Status:** Consent Calendar

Title

Approval of July 11, 2017 City Council Meeting Minutes



Meeting Minutes - Draft

City Council

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Tuesday, July 11, 2017

7:00 PM

Council Chambers

1. ROLL CALL

Present: 7 - Mayor Cheryl Selby, Mayor Pro Tem Nathaniel Jones, Councilmember Jessica Bateman, Councilmember Jim Cooper, Councilmember Clark Gilman, Councilmember Julie Hankins and Councilmember Jeannine Roe

1.A ANNOUNCEMENTS

Mayor Selby announced the Council met earlier in a Study Session.

1.B APPROVAL OF AGENDA

The agenda was approved.

2. SPECIAL RECOGNITION - None

3. PUBLIC COMMUNICATION

The following people spoke: Bonnie Jones, Mark Jones, Steve Rubicz, Steve Whalen, Kento Azegami, Franz Kilmerschultz, Katherine Himes, Noah Jensen, Bernadette, David Bellefeuille-Rice, Lisa Miller, Tomi Helm, Allan Hill, Chris Rea and Phil Schulte.

COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)

4. CONSENT CALENDAR

4.A [17-0720](#) Approval of June 10, 2017 City Council Mid-Year Retreat Meeting Minutes

The minutes were approved.

4.B [17-0718](#) Approval of June 20, 2017 Study Session Meeting Minutes

The minutes were approved.

4.C [17-0719](#) Approval of June 20, 2017 City Council Meeting Minutes

The minutes were approved.

4.D [17-0689](#) Approval of the Program Year 2017 Community Development Block

Grant Annual Action Plan

The decision was approved.

- 4.E** [17-0713](#) Approval of Resolution Authorizing Acquisition of Parcels near Olympia Woodland Trail from Thurston County

The resolution was adopted.

- 4.F** [17-0714](#) Approval of a Resolution Recognizing the Regional Need for Housing and Related Services for the Homeless, or Persons in Danger of Being Homeless, and to Consider Raising Revenue as Provided by State Law for Housing and Related Services

The resolution was adopted.

4. SECOND READINGS - None

4. FIRST READINGS

- 4.H** [17-0715](#) Approval of Proposed Ordinance and Ballot Measure Relating to Regular Property Taxes for Submission to Voters to the General Election to be Held on November 7, 2017 of a Public Safety Proposition Authorizing the Levy of Regular Property Taxes in Excess of the Limitations of RCW Chapter 84.55 and Setting Forth the Text of the Ballot Proposition

The ordinance was approved on first reading and moved to second reading.

Approval of the Consent Agenda

Councilmember Hankins moved, seconded by Councilmember Cooper, to adopt the Consent Calendar. The motion carried by the following vote:

Aye: 7 - Mayor Selby, Mayor Pro Tem Jones, Councilmember Bateman, Councilmember Cooper, Councilmember Gilman, Councilmember Hankins and Councilmember Roe

PULLED FROM CONSENT

- 4.G** [17-0740](#) Consideration of an Impeachment Investigation of President Trump

Mayor Pro Tem Jones, Councilmembers Gilman and Cooper discussed their opposition to the motion directing staff to draft a letter to send to the federal delegation encouraging them to proceed with an investigation of the current federal administration. They prefer the Council approve the proposed resolution.

Mayor Selby, Councilmembers Hankins, Roe and Bateman discussed their support of a letter.

City Manager Steve Hall reviewed the options of sending a letter, passing a resolution, a combination of the two or putting the matter to an advisory vote.

Councilmember Bateman expressed concerns regarding the topic being put on the agenda quickly, with little time for Councilmembers to review.

Mayor Selby noted she recently met with Congressman Heck, Senators Cantwell and Murray who are already engaged in this issue. She noted the Council could send the letter and follow up with a resolution at a later date.

Councilmember Hankins, seconded by Mayor Selby, moved to direct staff to write a letter to our federal delegation encouraging them to proceed with an investigation of the current federal administration.

Aye: 4 - Mayor Selby, Councilmember Cooper, Councilmember Hankins and Councilmember Roe

Nay: 3 - Mayor Pro Tem Jones, Councilmember Bateman and Councilmember Gilman

5. PUBLIC HEARING - None

6. OTHER BUSINESS

6.A [17-0654](#) Approval of an Ordinance to Amend the Critical Areas Ordinance and Shoreline Master Program

Community Planning & Development Assistant Director Leonard Bauer reviewed the amendments to the Critical Areas Ordinance (CAO). He gave background on Phase 1 that occurred in August 2016. He also reviewed Phase 2 which includes options to protect locally important species habitat.

Mr. Bauer reviewed the options for the City Council to take regarding the ordinance:

1. Adopt ordinance to amend SMP and establish future nomination process, but not including locally important species protections for great blue herons.
2. Adopt ordinance to amend SMP, plus locally important species protections for great blue herons and future nomination process.
3. Adopt ordinance to amend SMP, with modification to remove future nomination process.
4. Identify questions and issues for additional research and refer back to Planning Commission for recommendation.

Councilmembers asked clarifying questions.

Planning Commissioner Carol Richmond answered questions regarding the Planning Commission process.

Mayor Pro Tem Jones moved, seconded by Councilmember Roe, to approve on first reading and forward to second reading an ordinance amending OMC 18.32.500, 18.32.515 and 18.20; and amendments to the SMP; and not including locally important species protections which will be forwarded to the Planning Commission for further consideration.

6.B [17-0627](#) Approval of an Ordinance Establishing an Independent Salary Commission to Review City Council Compensation

City Manager Steve Hall reviewed the options regarding creating an independent salary commission. Councilmembers asked clarifying questions.

He noted next steps would be the Mayor recommending members to serve on the commission and the Council can consider the list.

Councilmembers asked clarifying questions.

Councilmember Hankins moved, seconded by Councilmember Cooper, to approve on first reading and forward to second reading an ordinance to create an independent salary commission to review City Council compensation.

7. CONTINUED PUBLIC COMMUNICATION

8. REPORTS AND REFERRALS

8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

Councilmembers reported on meeting and events attended.

Mayor Selby passed out a draft letter to the County Commissioners regarding the proposed Convention Center district.

8.B CITY MANAGER'S REPORT AND REFERRALS

Mr. Hall reported Lt. Sam Costello is acting Police Chief this week.

9. ADJOURNMENT

The meeting adjourned at 8:56p.m.



City Council

Approval of a Resolution authorizing an Interlocal Agreement with the Washington State Department of Enterprise Services for Fire Protection

Agenda Date: 7/18/2017
Agenda Item Number: 4.C
File Number: 17-0685

Type: resolution **Version:** 1 **Status:** Consent Calendar

Title

Approval of a Resolution authorizing an Interlocal Agreement with the Washington State Department of Enterprise Services for Fire Protection

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve a Resolution for the Mayor's signature authorizing the Interlocal Agreement between the City of Olympia (City) and the State of Washington Department of Enterprise Services (DES) for Fire Protection services for the July 1, 2017 to June 30, 2018 fiscal year.

Report

Issue:

Whether to approve the Resolution authorizing the Interlocal Agreement written to address Fire Protection services and billing of the State during the July 1, 2017 to June 30, 2018 fiscal year, as is allowed per RCW 35.21.779.

Staff Contact:

Greg Wright, Deputy Fire Chief, 360.753.8466
Shelley Flaherty, Line of Business Director, 360.753.8431

Presenter(s):

None - Consent Calendar Item

Background and Analysis:

Since 1993 the City of Olympia has billed the State for Fire Protection services. This billing is allowed per RCW 35.21.779 which stipulates, when the estimated value of state facilities sited in a municipality equals 10 percent or more of that municipality's total assessed valuation, state agencies owning those facilities shall enter into a compulsory fire protection contract with the municipality to

provide an equitable share of the fire protection costs.

The amount of the Department of Enterprise Services (DES) contract for the 2017-2018 fiscal year is unchanged from the 2016-2017 fiscal year, \$1,031,912.70.

The building at 1500 Jefferson, occupied by Washington State Consolidated Technology Services (WaTech), chose to negotiate separately from DES for their building(s) on the Capitol Campus. The 1500 Jefferson building is included in the calculation used to determine the amount of State property in the City but not in the dollar amount of this DES-only contract.

Neighborhood/Community Interests (if known):

N/A

Options:

1. Approve the Resolution authorizing the Interlocal Agreement: Accept the terms of the Interlocal Agreement and authorize for the Mayor to execute this Resolution.

2. Do not approve the Resolution authorizing the Interlocal Agreement and send it back to staff: Expected revenues for the 2017 to 2018 fiscal year from the State may not be collected as anticipated.

Financial Impact:

The city will receive \$1,031,912.70 from DES during the 2017-2018 fiscal year. Additionally, under a separate contract, the City will receive funding from Washington State Consolidated Technology Services (WaTech), for building(s) also on the State Campus.

Attachment:

Resolution

Interlocal Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF OLYMPIA AND WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES FOR FIRE PROTECTION SERVICES

WHEREAS, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, pursuant to RCW 39.34.080, each party is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: provided, that such contract shall be authorized by the governing body of each party to the contract and shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting parties;

WHEREAS, the State of Washington has contracted with the City of Olympia (the City) for fire protection services for state-owned buildings located within the city limits of Olympia since 1993; and

WHEREAS, the various state agencies with buildings located within the city limits have authorized the Washington State Department of Enterprise Services (DES) to negotiate with the City on their behalf for fire protection fees to run from July 1, 2017 through June 30, 2018; and

WHEREAS, the amount set forth in the attached Interlocal Agreement between the City and DES represents DES's share of costs for the 2017-2018 Fire Protection Agreement; and

WHEREAS, said amount is a fair share of the City's fire protection costs, being the result of good faith negotiations between the parties;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the form of *Interlocal Agreement between the City of Olympia and Washington State Department of Enterprise Services for Fire Protection Services* attached hereto as Exhibit A and the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the *Interlocal Agreement between the City of Olympia and Washington State Department of Enterprise Services for Fire Protection Services*, and any other documents

necessary to execute said Interlocal Agreement, and to make any minor modifications as may be required and are consistent with the intent of the attached Interlocal Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2017.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF OLYMPIA
AND
WASHINGTON STATE
DEPARTMENT OF ENTERPRISE SERVICES
FOR FIRE PROTECTION SERVICES**

THIS AGREEMENT is made and entered into by and between the City of Olympia, hereinafter referred to as "CITY" and the Washington State Department of Enterprise Services, hereinafter referred to as "DES" pursuant to the authority granted by RCW 39.34.

IT IS THE PURPOSE OF THIS AGREEMENT to document the parties' mutual agreement as to the amount of fire protection fees the State of Washington will pay to the CITY for the 2017-2018 state fiscal year. This Agreement is between the CITY and DES, on behalf of all state agencies, for all state owned property within the city limits.

Whereas, the various state agencies with buildings located within the city limits of Olympia have authorized Washington State Department of Enterprise Services to negotiate with the CITY on their behalf for Fire Protection fees to run from July 1, 2017 through June 30, 2018: and

Whereas, the amount set forth below for Washington State Department of Enterprise Services represents the state's share of costs for the 2017-2018 Fire Protection Agreement; and

Whereas, said amount is the State's share of the CITY's fire protection costs, being the result of good faith negotiations between parties, the parties agree as follows:

NOW, THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated by reference and made a part hereof, the above named parties mutually agree as follows:

1. STATEMENT OF WORK

The CITY shall do all things necessary to provide fire protection services for State-owned buildings administered by DES as outlined in Exhibit "A", in the same manner as the CITY provides such protection to other similar establishments within Olympia.

The CITY Fire Chief shall be responsible for management of the services provided herein. The Fire Chief shall be the contact person for all communication regarding the work under this Agreement. Any requests for records or documents or any other inquiries by DES shall be submitted to the Fire Chief.

2. TERMS AND CONDITIONS

All rights and obligations of the parties to this Agreement shall be subject to and governed by the terms and conditions contained in the text of this Agreement.

3. PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence July 1, 2017, and be completed on June 30, 2018.

4. CONSIDERATION

The State of Washington agencies listed in Section 5, *Billing and Payment Procedures* shall collectively pay the CITY the amount of \$1,031,912.70 for the full year of services under this Agreement. DES and the CITY have determined that the cost of accomplishing the work herein will not exceed \$1,031,912.70 for the 2017-2018 period.

Costs are pro-rated and will be billed by the CITY to the various state agencies as outlined in Section 5, *Billing and Payment Procedures*.

5. BILLING AND PAYMENT PROCEDURE

The CITY will invoice state agencies quarterly in July, October, January and April, per Billing Schedule below, on or before the 10th of the quarter month (July, October, January and April). The state agencies will pay the CITY within 30 days of receipt of properly executed invoice.

Annual Billing Schedule					
State Agency	Qtr 1 July	Qtr 2 October	Qtr 3 January	Qtr 4 April	Fiscal Year Total
Enterprise Services *	\$227,072.07	\$227,072.07	\$227,072.07	\$227,072.08	\$908,288.29
SPSCC	\$26,670.10	\$26,670.10	\$26,670.10	\$26,670.10	\$106,680.40
Fish & Wildlife	\$780.32	\$780.32	\$780.32	\$780.31	\$3,121.27
State Historical Society	\$836.05	\$836.05	\$836.05	\$836.06	\$3,344.21
Military Department	\$2,619.63	\$2,619.63	\$2,619.63	\$2,619.64	\$10,478.53
Fiscal Year Total	\$257,978.17	\$257,978.17	\$257,978.17	\$257,978.19	\$1,031,912.70

DES's invoices shall be forwarded to:
 Department of Enterprise Services
 Attn: Rose Hong
 PO Box 41460
 Olympia, WA 98504-1460

6. AGREEMENT ALTERATIONS AND AMENDMENTS

DES and the CITY may mutually amend this Agreement at any time. Such amendments shall not be binding unless they are in writing and signed by authorized representatives of DES and the CITY, or their respective delegates. Changes to agencies' rate and/or amounts, not DES, must be negotiated between DES and the agencies, in writing, prior to DES signing the Amendment(s). DES's rates and/or amounts shall be negotiated between DES and the CITY.

7. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

8. DISALLOWED COSTS

The City is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

9. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The decision of the Dispute Board shall be final and binding on the parties.

10. GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable state and federal statutes and rules;
- b. Statement of work, and
- c. Any other provisions of the agreement, including materials incorporated by reference.

11. INDEMNIFICATION & INSURANCE

DES and the CITY each agree to defend, indemnify and hold the other, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees, arising out of or in connection with that entity's respective performance of its responsibilities under the Agreement, except to the extent such injuries and damages are caused by the negligence of the other.

12. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

13. RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

14. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement, which can be given effect without the invalid provision if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

15. TERMINATION

Either party may terminate this Agreement upon 60-days' prior written notification to the other party. Should state funding become unavailable due to a state government shut-down or revocation of funding for fire protection services by the Legislature, DES may suspend or terminate this agreement immediately upon occurrence of either event.

16. WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

17. NOTICE

Any notice required under this Agreement shall be to the party at the address listed below and shall become effective three days following the date of deposit in the United States Postal Service.

CITY OF OLYMPIA

Attn: Larry Dibble, Fire Chief

Re: Interlocal Agreement with Washington State Department of Enterprise Services

PO Box 1967

Olympia, WA 98507-1967

WASHINGTON STATE DEPARTMENT OF
ENTERPRISE SERVICES
Attn: Rose Hong, Property Management Manager
Re: Interlocal Agreement with City of Olympia
1500 Jefferson – PO Box 41480
Olympia, WA 98504-1480

18. RECORDING

Prior to its entry into force, this Agreement shall be filed with the Thurston County Auditor or posted upon a party’s website or other electronically retrievable public source as provided by RCW 39.34.040.

19. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. All recitals set forth above are hereby incorporated by reference and made part of the terms of this Agreement.

Each party signatory hereto, having first had the opportunity to read this Agreement and discuss the same with independent legal counsel, in execution of this document hereby mutually agrees to all terms and conditions.

This Agreement shall take effect as of July 1, 2017, regardless of date of execution.

The undersigned acknowledge that they are authorized to execute this Agreement and bind their respective agencies to the obligations set forth herein.

City of Olympia

Department of Enterprise Services

SIGNATURE

SIGNATURE

STEVEN R. HALL
NAME

BILL FRARE
NAME

CITY MANAGER
TITLE

FACILITY PROFESSIONAL SERVICES MANAGER
TITLE

DATE

DATE

APPROVED AS TO FORM:



CITY ATTORNEY

EXHIBIT A
LIST OF STATE BUILDINGS IN THE CITY OF OLYMPIA

STATE AGENCY OWNER

AND BUILDING NAMES	ADDRESS OF BUILDING	Gross SF	%	Costs FY18
Department of Enterprise Services				
Archives (Storage)	1129 Washington St SE	51,317	1.09%	\$11,215.06
Ayer Press House	1417 Columbia St SW	3,727	0.08%	\$814.52
Columbia St. Garage	121 Union Ave SW	71,000	1.50%	\$15,516.67
Conservatory (Greenhouse)	1115 Water St SW	11,300	0.24%	\$2,469.55
Employment Security	212 Maple Park Ave SE	86,300	1.83%	\$18,860.40
GA Garage	124 Union Ave SW	67,100	1.42%	\$14,664.35
General Administration	210 11th Ave SW	283,865	6.01%	\$62,037.17
Governor's Mansion	501 13th Ave SW	21,400	0.45%	\$4,676.86
Highway Licenses	1125 Washington St SE	193,900	4.11%	\$42,375.81
Irving R. Newhouse Building	215 Sid Snyder Ave SW	25,084	0.53%	\$5,481.97
Insurance	302 Sid Snyder Ave SW	66,502	1.41%	\$14,533.66
John A. Cherberg	304 15th Ave SW	100,377	2.13%	\$21,936.85
John L. O'Brien	504 15th Ave SW	100,700	2.13%	\$22,007.44
Legislative	416 Sid Snyder Ave SW	255,564	5.41%	\$55,852.14
Natural Resources Building	1111 Washington St SE	387,558	8.21%	\$84,698.72
NRB Garage	1111 Washington St SE	394,200	8.35%	\$86,150.30
Office Building Two	1115 Washington St SE	379,204	8.03%	\$82,873.00
Old Capitol	614 Washington ST SE	120,500	2.55%	\$26,334.63
Plaza Garage	200 14th Ave SE	846,100	17.92%	\$184,910.62
Powerhouse	900 Water St SW	10,000	0.21%	\$2,185.45
Joel M. Pritchard Building	415 15th Ave SW	55,485	1.18%	\$12,125.95
ProArts	206-208 11th Ave	11,243	0.24%	\$2,457.10
Carlyon Press House	201 Sid Snyder Ave SW	5,600	0.12%	\$1,223.85
State Farm	1068 Washington Street	1,539	0.03%	\$336.34
Temple of Justice	415 12th Ave SW	85,900	1.82%	\$18,772.98
Transportation	310 Maple Park Ave SE	204,767	4.34%	\$44,750.73
DOT Garage	310 Maple Park Ave SE	157,800	3.34%	\$34,486.34
Information - Visitor Center	103 Sid Snyder Ave SW	1,500	0.03%	\$327.82
Capitol Park Building	1063 Capitol Way S	57,500	1.22%	\$12,566.32
State Daycare on Perry	232 Perry Street	7,138	0.15%	\$1,559.97
Union Avenue Buildign	120 Union Ave SE	12,900	0.27%	\$2,819.23
Washington Street Building	1007 Washington St sE	14,580	0.31%	\$3,186.38
Capitol Ct. Building	1110 S. Capital Way	40,948	0.87%	\$8,948.97
James M. Dolliver Building	801 Capital Way S	23,385	0.50%	\$5,110.67

Subtotal - Department of Enterprise Services		4,155,983	88.02%	\$908,267.79
SPSCC Community College				
SPSCC Community College System, SPCC	2011 Mottman SW	488,043	10.34%	\$106,659.18
Subtotal - SPSCC Community College		488,043	10.34%	\$106,659.18
Department of Fish & Wildlife				
Wildlife Office	600 Capitol Way N	14,500	0.31%	\$3,168.90
Subtotal - Department of Fish & Wildlife		14,500	0.31%	\$3,168.90
Washington State Historical Society				
WSHS, State Capitol Museum	211 21st Ave SW	15,483	0.33%	\$3,383.73
Subtotal - WSHS		15,483	0.33%	\$3,383.73
Military Department				
Armory	515 Eastside St SE	41,083	0.87%	\$8,978.47
Armory - Vehicle Storage	515 Eastside St SE	6,656	0.14%	\$1,454.63
Subtotal - Military Department		47,739	1.01%	\$10,433.10
Total for 2017-2018 City of Olympia Fire Protection Services		4,721,748	100.00%	\$1,031,912.70

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF OLYMPIA
AND
WASHINGTON STATE
DEPARTMENT OF ENTERPRISE SERVICES
FOR FIRE PROTECTION SERVICES**

THIS AGREEMENT is made and entered into by and between the City of Olympia, hereinafter referred to as "CITY" and the Washington State Department of Enterprise Services, hereinafter referred to as "DES" pursuant to the authority granted by RCW 39.34.

IT IS THE PURPOSE OF THIS AGREEMENT to document the parties' mutual agreement as to the amount of fire protection fees the State of Washington will pay to the CITY for the 2017-2018 state fiscal year. This Agreement is between the CITY and DES, on behalf of all state agencies, for all state owned property within the city limits.

Whereas, the various state agencies with buildings located within the city limits of Olympia have authorized Washington State Department of Enterprise Services to negotiate with the CITY on their behalf for Fire Protection fees to run from July 1, 2017 through June 30, 2018: and

Whereas, the amount set forth below for Washington State Department of Enterprise Services represents the state's share of costs for the 2017-2018 Fire Protection Agreement; and

Whereas, said amount is the State's share of the CITY's fire protection costs, being the result of good faith negotiations between parties, the parties agree as follows:

NOW, THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated by reference and made a part hereof, the above named parties mutually agree as follows:

1. STATEMENT OF WORK

The CITY shall do all things necessary to provide fire protection services for State-owned buildings administered by DES as outlined in Exhibit "A", in the same manner as the CITY provides such protection to other similar establishments within Olympia.

The CITY Fire Chief shall be responsible for management of the services provided herein. The Fire Chief shall be the contact person for all communication regarding the work under this Agreement. Any requests for records or documents or any other inquiries by DES shall be submitted to the Fire Chief.

2. TERMS AND CONDITIONS

All rights and obligations of the parties to this Agreement shall be subject to and governed by the terms and conditions contained in the text of this Agreement.

3. PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence July 1, 2017, and be completed on June 30, 2018.

4. CONSIDERATION

The State of Washington agencies listed in Section 5, *Billing and Payment Procedures* shall collectively pay the CITY the amount of \$1,031,912.70 for the full year of services under this Agreement. DES and the CITY have determined that the cost of accomplishing the work herein will not exceed \$1,031,912.70 for the 2017-2018 period.

Costs are pro-rated and will be billed by the CITY to the various state agencies as outlined in Section 5, *Billing and Payment Procedures*.

5. BILLING AND PAYMENT PROCEDURE

The CITY will invoice state agencies quarterly in July, October, January and April, per Billing Schedule below, on or before the 10th of the quarter month (July, October, January and April). The state agencies will pay the CITY within 30 days of receipt of properly executed invoice.

Annual Billing Schedule					
State Agency	Qtr 1 July	Qtr 2 October	Qtr 3 January	Qtr 4 April	Fiscal Year Total
Enterprise Services *	\$227,072.07	\$227,072.07	\$227,072.07	\$227,072.08	\$908,288.29
SPSCC	\$26,670.10	\$26,670.10	\$26,670.10	\$26,670.10	\$106,680.40
Fish & Wildlife	\$780.32	\$780.32	\$780.32	\$780.31	\$3,121.27
State Historical Society	\$836.05	\$836.05	\$836.05	\$836.06	\$3,344.21
Military Department	\$2,619.63	\$2,619.63	\$2,619.63	\$2,619.64	\$10,478.53
Fiscal Year Total	\$257,978.17	\$257,978.17	\$257,978.17	\$257,978.19	\$1,031,912.70

DES's invoices shall be forwarded to:
 Department of Enterprise Services
 Attn: Rose Hong
 PO Box 41460
 Olympia, WA 98504-1460

6. AGREEMENT ALTERATIONS AND AMENDMENTS

DES and the CITY may mutually amend this Agreement at any time. Such amendments shall not be binding unless they are in writing and signed by authorized representatives of DES and the CITY, or their respective delegates. Changes to agencies' rate and/or amounts, not DES, must be negotiated between DES and the agencies, in writing, prior to DES signing the Amendment(s). DES's rates and/or amounts shall be negotiated between DES and the CITY.

7. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

8. DISALLOWED COSTS

The City is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

9. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The decision of the Dispute Board shall be final and binding on the parties.

10. GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable state and federal statutes and rules;
- b. Statement of work, and
- c. Any other provisions of the agreement, including materials incorporated by reference.

11. INDEMNIFICATION & INSURANCE

DES and the CITY each agree to defend, indemnify and hold the other, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees, arising out of or in connection with that entity's respective performance of its responsibilities under the Agreement, except to the extent such injuries and damages are caused by the negligence of the other.

12. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

13. RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

14. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement, which can be given effect without the invalid provision if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

15. TERMINATION

Either party may terminate this Agreement upon 60-days' prior written notification to the other party. Should state funding become unavailable due to a state government shut-down or revocation of funding for fire protection services by the Legislature, DES may suspend or terminate this agreement immediately upon occurrence of either event.

16. WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

17. NOTICE

Any notice required under this Agreement shall be to the party at the address listed below and shall become effective three days following the date of deposit in the United States Postal Service.

CITY OF OLYMPIA

Attn: Larry Dibble, Fire Chief

Re: Interlocal Agreement with Washington State Department of Enterprise Services

PO Box 1967

Olympia, WA 98507-1967

WASHINGTON STATE DEPARTMENT OF
ENTERPRISE SERVICES
Attn: Rose Hong, Property Management Manager
Re: Interlocal Agreement with City of Olympia
1500 Jefferson – PO Box 41480
Olympia, WA 98504-1480

18. RECORDING

Prior to its entry into force, this Agreement shall be filed with the Thurston County Auditor or posted upon a party’s website or other electronically retrievable public source as provided by RCW 39.34.040.

19. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto. All recitals set forth above are hereby incorporated by reference and made part of the terms of this Agreement.

Each party signatory hereto, having first had the opportunity to read this Agreement and discuss the same with independent legal counsel, in execution of this document hereby mutually agrees to all terms and conditions.

This Agreement shall take effect as of July 1, 2017, regardless of date of execution.

The undersigned acknowledge that they are authorized to execute this Agreement and bind their respective agencies to the obligations set forth herein.

City of Olympia

Department of Enterprise Services

SIGNATURE

SIGNATURE

STEVEN R. HALL

BILL FRARE

NAME

NAME

CITY MANAGER

FACILITY PROFESSIONAL SERVICES MANAGER

TITLE

TITLE

DATE

DATE

APPROVED AS TO FORM:



CITY ATTORNEY

EXHIBIT A
LIST OF STATE BUILDINGS IN THE CITY OF OLYMPIA

STATE AGENCY OWNER

AND BUILDING NAMES	ADDRESS OF BUILDING	Gross SF	%	Costs FY18
Department of Enterprise Services				
Archives (Storage)	1129 Washington St SE	51,317	1.09%	\$11,215.06
Ayer Press House	1417 Columbia St SW	3,727	0.08%	\$814.52
Columbia St. Garage	121 Union Ave SW	71,000	1.50%	\$15,516.67
Conservatory (Greenhouse)	1115 Water St SW	11,300	0.24%	\$2,469.55
Employment Security	212 Maple Park Ave SE	86,300	1.83%	\$18,860.40
GA Garage	124 Union Ave SW	67,100	1.42%	\$14,664.35
General Administration	210 11th Ave SW	283,865	6.01%	\$62,037.17
Governor's Mansion	501 13th Ave SW	21,400	0.45%	\$4,676.86
Highway Licenses	1125 Washington St SE	193,900	4.11%	\$42,375.81
Irving R. Newhouse Building	215 Sid Snyder Ave SW	25,084	0.53%	\$5,481.97
Insurance	302 Sid Snyder Ave SW	66,502	1.41%	\$14,533.66
John A. Cherberg	304 15th Ave SW	100,377	2.13%	\$21,936.85
John L. O'Brien	504 15th Ave SW	100,700	2.13%	\$22,007.44
Legislative	416 Sid Snyder Ave SW	255,564	5.41%	\$55,852.14
Natural Resources Building	1111 Washington St SE	387,558	8.21%	\$84,698.72
NRB Garage	1111 Washington St SE	394,200	8.35%	\$86,150.30
Office Building Two	1115 Washington St SE	379,204	8.03%	\$82,873.00
Old Capitol	614 Washington ST SE	120,500	2.55%	\$26,334.63
Plaza Garage	200 14th Ave SE	846,100	17.92%	\$184,910.62
Powerhouse	900 Water St SW	10,000	0.21%	\$2,185.45
Joel M. Pritchard Building	415 15th Ave SW	55,485	1.18%	\$12,125.95
ProArts	206-208 11th Ave	11,243	0.24%	\$2,457.10
Carlyon Press House	201 Sid Snyder Ave SW	5,600	0.12%	\$1,223.85
State Farm	1068 Washington Street	1,539	0.03%	\$336.34
Temple of Justice	415 12th Ave SW	85,900	1.82%	\$18,772.98
Transportation	310 Maple Park Ave SE	204,767	4.34%	\$44,750.73
DOT Garage	310 Maple Park Ave SE	157,800	3.34%	\$34,486.34
Information - Visitor Center	103 Sid Snyder Ave SW	1,500	0.03%	\$327.82
Capitol Park Building	1063 Capitol Way S	57,500	1.22%	\$12,566.32
State Daycare on Perry	232 Perry Street	7,138	0.15%	\$1,559.97
Union Avenue Buildign	120 Union Ave SE	12,900	0.27%	\$2,819.23
Washington Street Building	1007 Washington St sE	14,580	0.31%	\$3,186.38
Capitol Ct. Building	1110 S. Capital Way	40,948	0.87%	\$8,948.97
James M. Dolliver Building	801 Capital Way S	23,385	0.50%	\$5,110.67

Subtotal - Department of Enterprise Services		4,155,983	88.02%	\$908,267.79
SPSCC Community College				
SPSCC Community College System, SPCC	2011 Mottman SW	488,043	10.34%	\$106,659.18
Subtotal - SPSCC Community College		488,043	10.34%	\$106,659.18
Department of Fish & Wildlife				
Wildlife Office	600 Capitol Way N	14,500	0.31%	\$3,168.90
Subtotal - Department of Fish & Wildlife		14,500	0.31%	\$3,168.90
Washington State Historical Society				
WSHS, State Capitol Museum	211 21st Ave SW	15,483	0.33%	\$3,383.73
Subtotal - WSHS		15,483	0.33%	\$3,383.73
Military Department				
Armory	515 Eastside St SE	41,083	0.87%	\$8,978.47
Armory - Vehicle Storage	515 Eastside St SE	6,656	0.14%	\$1,454.63
Subtotal - Military Department		47,739	1.01%	\$10,433.10
Total for 2017-2018 City of Olympia Fire Protection Services		4,721,748	100.00%	\$1,031,912.70



City Council

Approval of a Resolution Authorizing a license agreement between the City and Hidden Creek Community Church for a Shared Parking Lot Adjacent to Decatur Woods Park

Agenda Date: 7/18/2017
Agenda Item Number: 4.D
File Number: 17-0683

Type: resolution **Version:** 2 **Status:** Consent Calendar

Title

Approval of a Resolution Authorizing a license agreement between the City and Hidden Creek Community Church for a Shared Parking Lot Adjacent to Decatur Woods Park

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to approve a resolution authorizing the City Manager to execute a license agreement between the City and Hidden Creek Community Church for a shared parking lot adjacent to Decatur Woods Park.

Report

Issue:

Whether to approve a resolution authorizing the City Manager to execute a license agreement between the City and Hidden Creek Community Church for a shared parking lot adjacent to Decatur Woods Park.

Staff Contact:

Jonathon Turlove, Associate Director, Parks, Arts and Recreation, 360.753.8068

Presenter(s):

None - Consent Calendar Item.

Background and Analysis:

Decatur Woods Park does not have a dedicated parking lot and has limited on-street parking. Hidden Creek Community Church is immediately adjacent to the park. In 2008, the City entered into a shared parking agreement with the church. At that time, the City committed to contributing \$6,000 towards minor upgrades to the parking lot in exchange for the use of 12 parking stalls for park patrons Monday-Saturday. This agreement has been effective, and there is typically heavy use of

the shared parking area by park users.

While the original agreement still has one year remaining before it expires, the pastor of the church has recently notified the City that the lot is in need of repaving and has asked the City to contribute towards its proportional share of the project. Staff has calculated that the City's proportional share of the project is \$6,600.78, which includes a \$600 "discount" due to the original agreement being terminated one year early. The new agreement is proposed to terminate in 10 years.

Neighborhood/Community Interests (if known):

While there has been no formal community outreach on this issue, there appears to be significant community use of the shared parking area by park patrons.

Options:

1. Move to approve the resolution authorizing the City Manager to execute a license agreement between the City and Hidden Creek Community Church for a shared parking lot adjacent to Decatur Woods Park.
2. Do not approve the resolution authorizing the City Manager to execute a license agreement between the City and Hidden Creek Community Church for a shared parking lot adjacent to Decatur Woods Park. The existing agreement will expire in one year and after expiration, park users will have to use limited on-street parking.

Financial Impact:

The City's contribution towards its proportional share of the re-paving project is \$6,600.78. These funds will come from OPARD's operating budget from salary savings from several new positions funded for 2017 that were not hired until several months after the start of the year.

Attachments:

Resolution
License Agreement

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF OLYMPIA AND THE
HIDDEN CREEK COMMUNITY CHURCH FOR PUBLIC PARKING.**

WHEREAS, Hidden Creek Community Church is immediately adjacent to Decatur Woods Park; and

WHEREAS, Hidden Creek Community Church has designated 12 parking stalls as available to park patrons Monday thru Saturday; and

WHEREAS, Decatur Woods Park does not have a dedicated parking lot and has limited on-street parking along the park frontage; and

WHEREAS, The City will pay \$6,600.78 for license for the public to park in Hidden Creek Community Church parking stalls to access Decatur Woods Park;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the License Agreement between the City of Olympia and the Hidden Creek Community Church for Public Parking, attached hereto and incorporated herein as Exhibit A, under the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the attached License Agreement for Public Parking and to make any minor modifications as may be required and are consistent with the intent of the attached License Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2017.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

Exhibit A

LICENSE AGREEMENT FOR PUBLIC PARKING
BETWEEN
THE HIDDEN CREEK COMMUNITY CHURCH
AND
THE CITY OF OLYMPIA

This Agreement is entered into by and between the Hidden Creek Community Church 1807 9th Ave SW Olympia, Washington 98502, hereinafter referred to as the HCCC, and the City Of Olympia hereinafter referred to as CITY.

THEREFORE, IT IS MUTUALLY AGREED THAT:

1. STATEMENT OF PRINCIPLE AND PURPOSE

The CITY has a need for additional public parking to access Decatur Woods Park. HCCC has additional parking spaces it has offered for public use by the CITY for such purpose under the terms and conditions of this Agreement.

2. PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on the date of the last authorizing signature affixed hereto and shall terminate on July 1, 2027 unless terminated sooner or otherwise extended as provided herein.

3. CONSIDERATION

In consideration for HCCC providing for 12 overflow parking stalls on HCCC church property at 1807 9th Avenue SW in Olympia, Washington, the CITY, agrees to a one-time payment of \$6,600.78 for an unlimited parking license to reserve the stalls for public use of the park as provided in this Agreement. HCCC agrees to repave the stalls so that they are in good condition. Repaving shall be completed no later than December 31, 2017.

The designated stalls will be available Monday thru Saturday from dawn to dusk, unless an HCCC function (such as a wedding) requires HCCC use of the stalls. The CITY will provide and maintain proper signage for the purpose of public notification of the stalls available for public use. In addition, the CITY will maintain a pedestrian path connecting the Southwest portion of the referenced parking area with the existing path in Decatur Woods Park. CITY maintenance personnel will remove litter within the designated 12 parking spaces and its immediate vicinity on an as-needed basis, at the request of HCCC. All other regular maintenance of the stalls and parking lot shall be performed by HCCC.

4. RECORDS MAINTENANCE

The parties to this agreement shall each maintain books, records, documents and other evidence, which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review, or audit by personnel of parties, other personnel duly authorized by either party, the Office of the State Auditor, and other officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years or, as provided in the state retention schedule in the case of the CITY and any persons duly authorized by the parties shall have full access to and the right to examine any of these materials during this period.

5. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

6. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

7. TERMINATION

Either party may terminate this Agreement upon 90 days prior written notification to the other party, provided, however, that if HCCC chooses to terminate this agreement prior to 2027 without reasonable cause as determined by the CITY, HCCC will be required to reimburse the CITY it at a rate of \$660 for each year prior to 2027 the agreement is terminated. The \$660 reimbursement provision will apply if terminated without reasonable cause. Reasonable cause includes but is not limited to a third party's actions that result in severe, unanticipated impacts to church property that are due to public use of the spaces designated in this license, in which case the city may agree to a lesser or no reimbursement amount, depending on the circumstances causing the termination.

8. TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

9. DISPUTES

In the event that a dispute arises between the parties to this Agreement, it shall be determined by a dispute board in the following manner: Each party to this agreement shall appoint a member to the dispute board. The members so appointed shall jointly appoint an additional member to the dispute board. The dispute board shall evaluate the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the parties.

10. GOVERNANCE

This contract is entered into pursuant to and under the authority granted by the laws of the State of Washington and any applicable federal, state laws, or city ordinances. The provisions of this agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal, state statutes, city ordinances and rules;
2. Principles and Purpose clause; and
3. Any other provisions of the agreement, including materials incorporated by reference.

11. ASSIGNMENT

The provisions to be provided under this agreement and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

12. WAIVER

A failure by either party to exercise its rights under this agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

13. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

14. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

15. ANNUAL REVIEW

Both parties agree that an annual review of the conditions relating to park access would be beneficial to adjust for current conditions. An annual on site review will take place on site starting one year from the execution date of this agreement. If any modifications are necessary,

the CITY and HCCC will memorialize those amendments to this Agreement by written amendment to this Agreement.

16. INDEMNIFICATION/INSURANCE

A. **Indemnification.** In consideration for the City providing payment for a license for public parking, HCCC agrees to defend, indemnify, and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of HCCC in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of HCCC and the City, its officers, officials, employees, and volunteers, HCCC's liability, including the duty and cost to defend, hereunder shall be only to the extent of the HCCC's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes HCCC's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

B. **Insurance.** HCCC shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees. HCCC shall name the City as an additional insured.

C. **No Limitation.** HCCC's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of HCCC to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

17. CONTRACT MANAGEMENT

The designated representative for each of the parties shall be responsible for and shall be the contact person for all communications regarding the performance of this Agreement.

The Representative for the City is : <i>Jonathon Turlove, Associate Director Olympia Parks, Arts and Recreation P.O. Box 1967 Olympia, WA 98507 Phone: 360-753-8068</i>	The Representative for HCCC is: <i>Tim Heffer, Lead Pastor Hidden Creek Community Church 1807 9th Ave SW Olympia, WA 98502 Phone: 360-481-3289</i>
---	--

*****SIGNATURES APPEAR ON THE FOLLOWING PAGE*****

HIDDEN CREEK COMMUNITY CHURCH

By: _____
Print Name: _____
Its _____

Date: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On the ____ day of _____ 2017, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me _____, to me known to be the _____ of the Hidden Creek Community Church, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said Church for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.


Signature
Print Name: _____
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

CITY OF OLYMPIA

By: _____
Steven R. Hall, City Manager

Date: _____

APPROVED AS TO FORM:



Deputy City Attorney
City of Olympia

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On the ____ day of _____ 2017, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn; personally appeared before me _____, to me known to be the _____ of the City of Olympia, a municipal corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature
Print Name: _____
NOTARY PUBLIC in and for the State of Washington, residing at _____
My commission expires _____

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON,
APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF OLYMPIA AND THE
HIDDEN CREEK COMMUNITY CHURCH FOR PUBLIC PARKING.**

WHEREAS, Hidden Creek Community Church is immediately adjacent to Decatur Woods Park; and

WHEREAS, Hidden Creek Community Church has designated 12 parking stalls as available to park patrons Monday thru Saturday; and

WHEREAS, Decatur Woods Park does not have a dedicated parking lot and has limited on-street parking along the park frontage; and

WHEREAS, The City will pay \$6,600.78 for license for the public to park in Hidden Creek Community Church parking stalls to access Decatur Woods Park;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE as follows:

1. The Olympia City Council hereby approves the License Agreement between the City of Olympia and the Hidden Creek Community Church for Public Parking, attached hereto and incorporated herein as Exhibit A, under the terms and conditions contained therein.
2. The City Manager is directed and authorized to execute on behalf of the City of Olympia the attached License Agreement for Public Parking and to make any minor modifications as may be required and are consistent with the intent of the attached License Agreement, or to correct any scrivener's errors.

PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2017.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

Exhibit A

LICENSE AGREEMENT FOR PUBLIC PARKING

BETWEEN

THE HIDDEN CREEK COMMUNITY CHURCH

AND

THE CITY OF OLYMPIA

This Agreement is entered into by and between the Hidden Creek Community Church 1807 9th Ave SW Olympia, Washington 98502, hereinafter referred to as the HCCC, and the City Of Olympia hereinafter referred to as CITY.

THEREFORE, IT IS MUTUALLY AGREED THAT:

1. STATEMENT OF PRINCIPLE AND PURPOSE

The CITY has a need for additional public parking to access Decatur Woods Park. HCCC has additional parking spaces it has offered for public use by the CITY for such purpose under the terms and conditions of this Agreement.

2. PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on the date of the last authorizing signature affixed hereto and shall terminate on July 1, 2027 unless terminated sooner or otherwise extended as provided herein.

3. CONSIDERATION

In consideration for HCCC providing for 12 overflow parking stalls on HCCC church property at 1807 9th Avenue SW in Olympia, Washington, the CITY, agrees to a one-time payment of \$6,600.78 for an unlimited parking license to reserve the stalls for public use of the park as provided in this Agreement. HCCC agrees to repave the stalls so that they are in good condition. Repaving shall be completed no later than December 31, 2017.

The designated stalls will be available Monday thru Saturday from dawn to dusk, unless an HCCC function (such as a wedding) requires HCCC use of the stalls. The CITY will provide and maintain proper signage for the purpose of public notification of the stalls available for public use. In addition, the CITY will maintain a pedestrian path connecting the Southwest portion of the referenced parking area with the existing path in Decatur Woods Park. CITY maintenance personnel will remove litter within the designated 12 parking spaces and its immediate vicinity on an as-needed basis, at the request of HCCC. All other regular maintenance of the stalls and parking lot shall be performed by HCCC.

4. RECORDS MAINTENANCE

The parties to this agreement shall each maintain books, records, documents and other evidence, which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review, or audit by personnel of parties, other personnel duly authorized by either party, the Office of the State Auditor, and other officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years or, as provided in the state retention schedule in the case of the CITY and any persons duly authorized by the parties shall have full access to and the right to examine any of these materials during this period.

5. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

6. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

7. TERMINATION

Either party may terminate this Agreement upon 90 days prior written notification to the other party, provided, however, that if HCCC chooses to terminate this agreement prior to 2027 without reasonable cause as determined by the CITY, HCCC will be required to reimburse the CITY it at a rate of \$660 for each year prior to 2027 the agreement is terminated. The \$660 reimbursement provision will apply if terminated without reasonable cause. Reasonable cause includes but is not limited to a third party's actions that result in severe, unanticipated impacts to church property that are due to public use of the spaces designated in this license, in which case the city may agree to a lesser or no reimbursement amount, depending on the circumstances causing the termination.

8. TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If the failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

9. DISPUTES

In the event that a dispute arises between the parties to this Agreement, it shall be determined by a dispute board in the following manner: Each party to this agreement shall appoint a member to the dispute board. The members so appointed shall jointly appoint an additional member to the dispute board. The dispute board shall evaluate the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the parties.

10. GOVERNANCE

This contract is entered into pursuant to and under the authority granted by the laws of the State of Washington and any applicable federal, state laws, or city ordinances. The provisions of this agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal, state statutes, city ordinances and rules;
2. Principles and Purpose clause; and
3. Any other provisions of the agreement, including materials incorporated by reference.

11. ASSIGNMENT

The provisions to be provided under this agreement and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

12. WAIVER

A failure by either party to exercise its rights under this agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

13. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

14. ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

15. ANNUAL REVIEW

Both parties agree that an annual review of the conditions relating to park access would be beneficial to adjust for current conditions. An annual on site review will take place on site starting one year from the execution date of this agreement. If any modifications are necessary,

the CITY and HCCC will memorialize those amendments to this Agreement by written amendment to this Agreement.

16. INDEMNIFICATION/INSURANCE

A. **Indemnification.** In consideration for the City providing payment for a license for public parking, HCCC agrees to defend, indemnify, and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of HCCC in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of HCCC and the City, its officers, officials, employees, and volunteers, HCCC's liability, including the duty and cost to defend, hereunder shall be only to the extent of the HCCC's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes HCCC's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

B. **Insurance.** HCCC shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees. HCCC shall name the City as an additional insured.

C. **No Limitation.** HCCC's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of HCCC to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

17. CONTRACT MANAGEMENT

The designated representative for each of the parties shall be responsible for and shall be the contact person for all communications regarding the performance of this Agreement.

The Representative for the City is :	The Representative for HCCC is:
<i>Jonathon Turlove, Associate Director Olympia Parks, Arts and Recreation P.O. Box 1967 Olympia, WA 98507 Phone: 360-753-8068</i>	<i>Tim Heffer, Lead Pastor Hidden Creek Community Church 1807 9th Ave SW Olympia, WA 98502 Phone: 360-481-3289</i>

*****SIGNATURES APPEAR ON THE FOLLOWING PAGE*****

HIDDEN CREEK COMMUNITY CHURCH

By: Rev. Timothy D. Heffer, MA
Print Name: TIMOTHY D. HEFFER
Its LEAD PASTOR, CHAIRPERSON OF THE BOARD

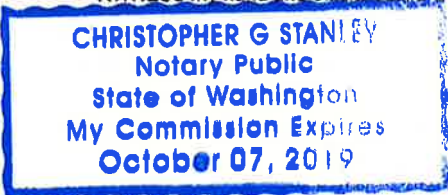
Date: JUNE 18, 2017

Timothy D. Heffer

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On the 18th day of JUNE 2017, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me _____, to me known to be the _____ of the Hidden Creek Community Church, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said Church for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.



Christopher G. Stanley
Signature
Print Name: CHRISTOPHER G STAWLEY
NOTARY PUBLIC in and for the State of Washington, residing at
6024 TIGER TAIL DR SW OLYMPIA, WA 98512
My commission expires OCTOBER 07, 2019

CITY OF OLYMPIA

By: _____
Steven R. Hall, City Manager

Date: _____

APPROVED AS TO FORM:

A. Harkness
Deputy City Attorney
City of Olympia

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On the ____ day of _____ 2017, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn; personally appeared before me _____, to me known to be the _____ of the City of Olympia, a municipal corporation who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath states that he/she is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature
Print Name: _____
NOTARY PUBLIC in and for the State of Washington, residing at

My commission expires _____



City Council

Approval of an Ordinance Establishing an Independent Salary Commission to Review City Council Compensation

Agenda Date: 7/18/2017
Agenda Item Number: 4.E
File Number: 17-0627

Type: ordinance **Version:** 3 **Status:** 2d Reading-Consent

Title

Approval of an Ordinance Establishing an Independent Salary Commission to Review City Council Compensation

Recommended Action

Committee Recommendation:

The Finance Committee reviewed this item on June 7, 2017 and unanimously recommends it to the City Council for action.

City Manager Recommendation:

Proceed with the Finance Committee recommendation to create an independent salary commission to review City Council compensation and approve the proposed ordinance on second reading.

Report

Issue:

Whether to direct City staff to develop an independent salary commission for consideration of Council compensation.

Staff Contact:

Steve Hall, City Manager, Executive Department, 360.753.8447
Mary Verner, Administrative Services Director, 360.753.8499
Mark Barber, City Attorney, 360.753.8223

Presenter(s):

Steve Hall, City Manager
Mary Verner, Administrative Services Director
Mark Barber, City Attorney

Background and Analysis:

Background and analysis has not changed from first to second reading.

Currently, Councilmembers receive a stipend to account for some of the costs and time related to service on the City Council. The amount of this stipend has not changed since 2008.

The City Council has the authority to change the amount of the stipend for newly elected Councilmembers or it can appoint a salary commission to review the stipend for all current and future Councilmembers. At its February 2, 2017 meeting, the City Council directed the Finance Committee to work with City staff on development of a proposed salary commission.

Staff prepared background on salary commissions and a draft ordinance for consideration by the Finance Committee at its June 7, 2017 meeting. The Committee endorsed the concept of a salary commission and recommended it unanimously to the City Council.

The Finance Committee suggested in addition to the comparative criteria for other cities of population, budget and number of employees, that the Commission look at the number of City Council assignments, interjurisdictional work, emails, phone calls and other workload indicators.

In addition, the Committee members felt the Commission should consider unique issues faced by Olympia by virtue of being the State Capitol, County seat and downtown for the region.

City staff have researched salary commissions in other cities. According to the Municipal Research and Services Center, 35 cities have ordinances to establish salary commissions. Of those, City staff inquired about the experience of those more recent cities, which have similar forms of government. Several appear to be dormant or the staff from those cities have not returned calls about the commission.

Neighborhood/Community Interests (if known):

N/A

Options:

1. Direct City staff to develop an independent salary commission for consideration of Council compensation.
2. Do not direct City staff to develop an independent salary commission for consideration of Council compensation.
3. Delay the development of an independent salary commission for consideration of Council compensation.

Financial Impact:

Unknown

Attachments:

Ordinance

List of Cities with Ordinances to Create Salary Commissions

Summary of Other Washington Cities with Salary Commissions History

2015 General Government Staff Report

June 7, 2017 Finance Committee Meeting Minutes

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING OLYMPIA MUNICIPAL CODE SECTIONS 2.00.000 AND 2.04.100 ON COMPENSATION AND ADDING A NEW CHAPTER 2.05 ENTITLED INDEPENDENT SALARY COMMISSION TO THE OLYMPIA MUNICIPAL CODE

WHEREAS, the salaries of the mayor, mayor pro-tem and city council have been adjusted from time to time by Council ordinance as provided in RCW 35A.13.040; and

WHEREAS, the current salaries for the mayor, mayor pro-tem and city council have not been adjusted in almost ten years; and

WHEREAS, the effects of inflation and cost of living have escalated and grown over the last decade; and

WHEREAS, RCW 35.21.015 authorizes the City to establish an independent salary commission by ordinance with authority to set the salary of the members of the Olympia City Council; and

WHEREAS, the City Council desires to have a comparative salary study conducted and recommendations for future salary adjustments provided by an independent salary commission composed of citizens and residents from the community;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Amendment of OMC 2.04. Olympia Municipal Code Chapter 2.04 is hereby amended to read as follows:

**Chapter 2.04
CITY COUNCIL**

2.04.000 Chapter Contents

Sections:

- 2.04.010 Composition.
- 2.04.020 Powers.
- 2.04.030 Forfeiture of office.
- 2.04.040 Vacancies—Filling
- 2.04.050 Meetings.
- 2.04.060 Mayor--Powers and duties--Election--Term.
- 2.04.070 Mayor pro tem--Designation--Alternate appointments.
- 2.04.080 Mayor--Powers to proclaim emergency.
- 2.04.090 Mayor--Powers during emergency.
- 2.04.100 Compensation.

Section 2.04.100 Compensation.

Effective upon the commencement of terms January 1, 2008 and following election and qualification, the annual salary of the mayor of the city shall be Nineteen Thousand Nine Hundred Sixty-Eight and no/100 Dollars (\$19,968); the annual salary of the mayor pro-tem shall be Eighteen Thousand Three Hundred Four and no/100 Dollars (\$18,304); the annual salary of councilmember positions two and three shall be

Sixteen Thousand Six Hundred Forty and no/100 Dollars (\$16,640) unless a councilmember serves in either of said positions is the mayor pro-tem, in which case the salary shall be as provided for the mayor pro-tem. The annual salary of the remaining councilmember positions shall be increased to Sixteen Thousand Six Hundred Forty and no/100 Dollars (\$16,640) upon commencement of the terms January 1, 2010, following election and qualification.

Notwithstanding the foregoing, this section shall not be applicable to any individual councilmember to the extent that the salaries provided for above are deemed by a court of competent jurisdiction to be an increase of compensation after a councilmember's election contrary to RCW 35A.13.040, Article II, §25, and/or Article XI, §8 of the Washington State Constitution.

Effective from and after passage and publication of an ordinance creating an independent salary commission, the salaries for city elected officials shall be set by the independent salary commission in accordance with § 1, Article XXX of the Washington State Constitution, RCW 35.21.015 and OMC Chapter 2.05.

Section 2. Amendment of OMC Title 2. A NEW CHAPTER 2.05, Independent Salary Commission, is hereby added to Title 2 of the Olympia Municipal Code, to be codified as follows:

Chapter 2.05 INDEPENDENT SALARY COMMISSION

2.05.000 Chapter Contents

Sections:

- 2.05.010 Established.
- 2.05.020 Purpose – Function.
- 2.05.030 Membership.
- 2.05.040 Qualifications.
- 2.05.050 Operation.
- 2.05.060 Responsibilities and Duties.
- 2.05.070 Vacancies.
- 2.05.080 Removal.
- 2.05.090 Effective Date – Salaries.

Section 2.05.010 Established.

There is created and established an independent salary commission.

Section 2.05.020 Purpose – Function.

The independent salary commission shall review and establish the salaries of the mayor, mayor pro-tem, and the council members and exercise the powers and perform the duties established by RCW 35.21.015, as now existing or hereafter amended.

Section 2.05.030 Membership.

A. The independent salary commission shall consist of five members appointed by the mayor and approved by the city council.

B. The independent salary commission shall serve without compensation.

C. Each member of the independent salary commission shall serve a term of two years commencing upon appointment and terminating 24 months thereafter.

D. No member of the commission shall be appointed to more than two terms.

Section 2.05.040 Qualifications.

A. No person shall be appointed to serve as a member of the independent salary commission unless that person is a citizen of the United States, a resident of the city for at least one year immediately preceding such appointment, and an elector of Thurston County.

B. No city officer, official, or employee of the city or any of their immediate family members may serve on the commission. "Immediate family member" as used in this subsection means the parents, spouse, siblings, children, or dependent relatives of an officer, official, or employee, whether or not living in the household of the officer, official, or employee.

Section 2.05.050 Operation.

A. The city manager will appoint appropriate city staff to assist the independent salary commission for clerical and support purposes.

B. The independent salary commission shall keep a written record of its proceedings, which shall be a public record in accordance with state law.

C. All meetings of the commission shall be open to the public pursuant to the Open Public Meetings Act, Chapter 42.30 RCW. The commission shall actively solicit public comment at all meetings, either verbally or in writing.

D. The independent salary commission shall meet as often as necessary in 2017 in order to file a salary schedule with the city clerk on or before October 1, 2017. Once a salary schedule has been filed, the commission will not meet again until at least one year following the date of filing. Thereafter, the commission shall meet no less than one time per year, during the months of June or July.

E. Three members of the commission shall constitute a quorum and the votes of three members shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the independent salary commission.

Section 2.05.060 Responsibilities and Duties.

The independent salary commission shall have the following responsibilities:

A. To study the relationship of salaries to the duties of the mayor, mayor pro-tem, and the city council, and to study the costs personally incurred by council members in performing such duties;

B. To study the relationship of Olympia City Council members' salaries and benefits to those salaries and benefits of council members in other city jurisdictions of a comparable nature and other current market conditions.

C. To establish salary and benefits by either increasing or decreasing the existing salary and benefits for each position of mayor, mayor pro-tem, and council members by an affirmative vote of not less than three members.

D. To review and file a salary and compensation schedule with the city clerk not later than October 1, 2017, and when a salary commission is convened thereafter, by October 1 in any subsequent year.

Section 2.05.070 Vacancies.

In the event of a vacancy in the independent salary commission due to resignation or removal, the Mayor shall appoint, subject to approval of the city council, a person to serve the unexpired portion of the term of the former commissioner's position.

Section 2.05.080 Removal.

A member of the independent salary commission shall only be removed from office for cause of incapacity, incompetence, neglect of duty, or malfeasance in office, or for a disqualifying change of residence.

Section 2.05.090 Effective Date – Salaries.

A. The city clerk will publish the salary commission's schedule of salary and compensation which shall not become effective until thirty days after publication. Such salary schedule shall be subject to referendum petition filed in accord with OMC Chapter 1.16 within thirty days after filing of the salary schedule. In the event of the filing of a valid referendum petition, the salary increase or decrease shall not go into effect until approved by a vote of the people. Referendum measures shall be submitted to the voters of the city at the next following general or municipal election occurring thirty days or more after the referendum petition is filed and shall be governed by the provisions of the state Constitution or laws generally applicable to referendum measures.

B. Any salary increase or decrease shall become effective and incorporated into the city budget without further action of the city council or salary commission.

C. Salary increases established by the commission shall be effective as to all members of the city council, regardless of their terms of office.

D. Salary decreases established by the salary commission shall not be effective as to incumbent city council members until commencement of their next term of office.

E. Any adjustment of salary by the commission shall supersede any city ordinance related to the budget or fixing of salaries, but only to the extent there is a conflict.

F. Existing salaries for the mayor, mayor pro-tem, and council members established by city ordinance shall remain in effect unless and until changed in accordance with the provisions of this chapter.

Section 3. Amendment of OMC 2.00.000. Olympia Municipal Code Section 2.00.000 is hereby amended to read as follows:

2.00.000 Title Contents

**Title 2
ADMINISTRATION AND PERSONNEL**

Chapters:

2.04 City Council

2.05 Independent Salary Commission

- 2.06 Council Committees
- 2.08 City Manager
- 2.12 Officers
- 2.14 Municipal Court
- 2.24 Department of Emergency Services
- 2.28 Fire Department
- 2.32 Fire Protection Agreements
- 2.36 Police Department
- 2.38 Police Auditor
- 2.40 Police Reserve Force
- 2.44 Civil Service Commission
- 2.64 Officers' Compensation
- 2.68 City Office Hours
- 2.70 Legal Defense for Acts or Omissions
- 2.72 Defense of Elected Officials in Recall Proceedings
- 2.74 Miscellaneous, Administration
- 2.82 Domestic Partnership Registry Program
- 2.100 Citizen-Member Boards, Commissions and Advisory Committees

Section 4. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 5. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 6. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 7. Effective Date. This Ordinance shall take effect five days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

MSRC List of Cities That Have Passed Ordinances Establishing Salary Commissions

- Bainbridge Island
- Bellevue
- Bonney Lake
- Bothell
- Bremerton
- Buckley
- Connell
- Dupont
- Edmonds
- Everett
- Federal Way
- Fife
- Gig Harbor
- Issaquah
- Kenmore
- Kent
- Kirkland
- LaCenter
- La Conner
- Mukilteo
- Oak Harbor
- Longview
- Lynnwood
- Marysville
- Mercer Island
- Mountlake Terrace
- Puyallup
- Redmond
- Spokane
- Spokane Valley
- Stanwood
- Sumner
- Sunnyside
- Vancouver
- Washougal

Other Washington Cities' Salary Commission Experiences

MV Notes up to 5/23/17

MRSC lists 35 cities with ordinances establishing a salary commission.

Kirkland Non-charter Council-Manager

Commission established 2005; no problem appointing 3 members; meetings publicized but little public interest; staffed by HR and Finance Directors, City Attorney, City Clerk takes minutes; meetings typically only @15 minutes, few if any comments; no controversies over commission's decisions.

Considerations: comparable salaries (per AWC survey) in 10 cities in Kirkland vicinity, use same 10 cities each time; spend more time on benefits than salaries.

Decision: Prior to salary commission, Council salaries were lower, now tend to track with staff COLAs.

Mercer Island Non-charter Council-Manager

Website most recent postings 2004

DuPont Council-Manager

Commission meets every 5 years; having trouble filling seats on commission; current salaries in effect through 2016 (previously not increased since 2005).

Considerations: increased responsibility as reflected in increased property values, population, and total budget; change and growth within the city; isolated geography of the city; qualitative and quantitative comparisons of salary schedules for other cities.

Decision: increased salaries Mayor by \$100/month, Council Members by \$75/month.

Bellevue

Commission last met Dec 2016.

Considerations: city population, employees, budget, salaries in comparable cities, any significant changes in councilmembers' roles, time spent in council role, whether job has become more complex in nature.

Options considered: straight comparable to other cities; straight COLA; blend of comparables and COLA.

Decision: COLA

Tacoma

Commission met Sept 2015.

Considerations: salaries in other cities; city's economic and geographic uniqueness; potential that low salary would deter candidates from running for office weighted against component of volunteerism to serve in elected office; amount of time council members devote to council work (90% almost full time); equitable salary based on median household income.

Decision: significant *decreases* in salaries effective Jan 1, 2018: mayor - 25,476; council – 12,749; eliminated annual 2.75% salary increase for all future years.

Bainbridge Island

Per website, commission appears dormant; members' terms expired 2012-13; no details



General Government Committee

Discussion of Council Salaries

Agenda Date: 11/18/2015
Agenda Item Number: 4.D
File Number: 15-1043

Type: information **Version:** 1 **Status:** Filed

Title

Discussion of Council Salaries

Recommended Action

Committee Recommendation:

Not referred to a Committee.

City Manager Recommendation:

Review and discuss information presented on Council salaries. Briefing only; no action requested.

Report

Issue:

Consider how Olympia City Council salaries compare to similar sized cities; and what is a "salary commission?"

Staff Contact:

Joe Olson, Human Resources Director, Administrative Services Department 360.753.8309

Presenter(s):

Joe Olson, Human Resources Director

Background and Analysis:

1) Council requested information on how its salary compares to similar sized cities.

Background: The attached table compares salaries from AWC member cities that have a council/city manager form of government and a population 10,000 more or less than Olympia's. (The City is a member of the Association of Washington (AWC). Every year AWC does a salary survey of member cities on certain classifications including city council salaries.)

Analysis: Of the cities surveyed, Olympia has the highest rate of pay for council members.

2) Council requested information on how the City of Tumwater formed a salary commission which determines council salaries.

Background: The State Constitution prohibits elected officials from raising their own salaries during

their term in office. However, the state Constitution does permit mid-term salary increases for municipal officers who do not fix their own compensation.

The legislature passed RCW 35.21.015 which allows cities to establish a salary commission by ordinance. Such a commission is empowered to raise salaries of city elected officials at the time set by ordinance (including mid-term) as long as the commission is:

- Appointed by the mayor with approval of the city council;
- Not appointed for more than two terms;
- Only removed during their terms of office for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence; and
- Not composed of any officer, official, or employee of the city or town or any of their immediate family members.

Salary increases established by the commission shall be effective as to all city or town elected officials, regardless of their terms of office.

Salary decreases established by the commission shall become effective as to incumbent city or town elected officials at the commencement of their next subsequent terms of office.

Salary increases and decreases shall be subject to referendum petition by the people of the City.

The action fixing the salary by a commission established in conformity with this section shall supersede any other provision of state statute or city or town ordinance related to municipal budgets or to the fixing of salaries.

Analysis: Council can pass an ordinance establishing a salary commission. The commission can set salaries for elected officials at the time identified in the ordinance, including during the mid-term of a city council member.

Neighborhood/Community Interests (if known):

N/A

Options:

- 1) Create a salary commission.
- 2) Do not create a salary commission.

Financial Impact:

Unknown.

City Council Salary Survey Results

CITY	POP.	MAYOR'S COMPENSATION	MAYOR PRO TEM'S COMPENSATION	COUNCIL'S COMPENSATION
Lakewood	58,400	\$1,400	\$1,300	\$1,200
Shoreline	54,500	\$1,250	\$1,100	\$1,000
Richland	53,080	\$1,362	-	\$1,112
Olympia	51,020	\$1,664	\$1,525	\$1,386
Sammamish	49,980	\$950	-	\$850
Burien	48,810	\$750	\$600	\$600
Lacey	46,020	\$1,550	\$1,440	\$1,325
Bothell	42,640	\$1,200	\$1,050	\$1,000



Meeting Minutes - Final

Finance Committee

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Wednesday, June 7, 2017

5:00 PM

Room 207

1. CALL TO ORDER

Chair Cooper called the meeting to order at 5:01 p.m.

2. ROLL CALL

Present: 3 - Chair Jim Cooper, Committee member Jessica Bateman and Committee member Jeannine Roe

3. APPROVAL OF AGENDA

The agenda was approved.

4. APPROVAL OF MINUTES

4.A [17-0634](#) Approval of May 3, 2017 Finance Committee Meeting Minutes

The minutes were approved.

5. COMMITTEE BUSINESS

5.A [17-0608](#) Fire Department Apparatus and Vehicle Replacement Needs

Assistant Chief Mike Buchanan provided a presentation of the Olympia Fire Department vehicle replacement needs for 2018 through 2028. A/C Buchanan provided call volume comparisons for the population and area covered. The City of Olympia has a very high call volume for its size. He provided background and educational information regarding the service life of fire engines, ladder trucks, technical rescue vehicles, and command vehicles. He explained that the City has been fortunate to locate the necessary funds “just in time” when a vehicle needed to be purchased in the past; however, the Department felt that developing a plan to fund replacement vehicles is in the best interest of the City and public safety. A/C Buchanan asked for support of the Committee to work with Fiscal Services Manager Dean Walz to develop and incorporate the replacement schedule into the City budgeting process. The three Committee members gave their full support.

The SAFER grant was mentioned in this conversation. This grant to the Fire Department allows for the addition of six personnel for two years to be placed in areas

of need. The personnel are currently in training. Personnel hired with this grant will be available to serve the downtown area and gather data on trends in the types of emergency response calls coming from downtown.

The information was provided.

5.B [17-0613](#) 2016 Parks, Arts and Recreation Performance Report

Director Paul Simmons presented the 2016 Parks, Arts and Recreation Performance Report. This report tracks 44 data-supported performance measures, highlights annual achievements, and provides clear communication to the community. Director Simmons provided an example of how the Parks Department has become much more responsive to community needs. He received an email on Monday requesting the Department address a vegetation problem, and by Wednesday vegetation removal had begun. This is due to the Olympia Metropolitan Park District (OMPD) funding as well as data the Director has been able to collect for strategic decision making. The performance report is a historical review but will provide valuable insight into developing an action plan. Chair Cooper asked about adding a page to tie the performance report to the citywide Action Plan.

The report was received

5.C [17-0627](#) Consideration of a Salary Commission to Review City Council Compensation

City Manager Steve Hall introduced the topic of a salary commission as an optional independent assessment of salary levels for the City's elected officials. Being a member of the City Council is a demanding and time-consuming job, and salary adjustments are not automatic. Council salaries currently are set by ordinance, with the most recent increase occurring in 2008. Administrative Services Director Mary Verner provided information on other cities that have passed ordinances establishing a salary commission. She also provided more in-depth information on five cities, focusing on Kirkland and Mercer Island which have the same Council-Manager structure as Olympia. The Committee discussed how criteria are established for the commission to review salaries. Based on the salary commission's evaluation, salaries could go up or down. The recommendation of the commission is binding and doesn't consider the budget. City Attorney Mark Barber reviewed a draft ordinance establishing a salary commission he prepared for the Committee to review. Mr. Barber provided references to RCW 35.21.015 and answered questions regarding the ordinance. The salary commission's decision to change elected officials' salaries is subject to referendum and could be challenged.

Committee member Roe moved, seconded by Committee member Bateman, to forward the ordinance to the full Council for consideration. The motion passed unanimously.

5.D [17-0626](#) Discussion on a Sustainable Budget for 2018

Fiscal Services Manager Dean Walz provided a graphic representation of 2018 projected revenue along with a 2017 comparison and the “Big 5” tax revenues. At this stage of the budget process, the City is looking at a \$1 million gap between revenues and expenses going into 2018. Since the State hasn’t passed its budget, the \$1 million gap doesn’t take into consideration any impacts to the City from legislative actions. The projected shortfall is mostly due to insurance increases, retirement rate increases, and the loss of a major retailer. City Manager Steve Hall noted the current status of the 2018 budget is in a better position than normal. Ms. Verner provided additional information on 2018 unfunded needs. These items are not currently in the 2018 budget and do not have an identified source of funding.

The discussion was completed.

6. REPORTS AND UPDATES

Reminder: Second meeting this month scheduled for June 22, 2017, 5:00 pm.

The Committee would like to have the budget meeting off-site when they get to that point.

7. ADJOURNMENT

Chair Cooper adjourned the meeting at 6:55 p.m.



City Council

Approval of an Ordinance to Amend the Critical Areas Ordinance and Shoreline Master Program

Agenda Date: 7/18/2017
Agenda Item Number: 4.F
File Number: 17-0654

Type: ordinance **Version:** 2 **Status:** 2d Reading-Consent

Title

Approval of an Ordinance to Amend the Critical Areas Ordinance and Shoreline Master Program

Recommended Action

Committee Recommendation:

The Planning Commission recommends amending OMC 18.32.500, 18.32.515, 18.02 and 18.20; and amendments to the Shoreline Master Plan. The Planning Commission forwards to the City Council the draft amendments to OMC 18.32.300-330 (locally important species protections) with no recommendation.

City Manager Recommendation:

Move to approve on second reading, adopting amendments to the Critical Areas Ordinance (CAO) and related code sections, and to the Shoreline Master Program.

Report

Issue:

Whether to adopt proposed amendments to the CAO and related code sections, and to the Shoreline Master Program, and whether to adopt additional protections for locally important species including the Great Blue Heron.

Staff Contact:

Leonard Bauer, Deputy Director, Community Planning and Development, 360.570.3746

Presenter(s):

Leonard Bauer, Deputy Director, Community Planning and Development

Background and Analysis:

Background and analysis has not changed from first to second reading.

The Washington State Growth Management Act (GMA) required the City to update its CAO in 2016 to ensure it was consistent with the Best Available Science (BAS) and to protect anadromous fish. In 2015, the Land Use and Environment Committee (LUEC) directed staff to conduct an update of the

City's CAO in two phases:

- Phase 1 - the state-mandated update to include BAS and protect anadromous fish. Phase 1 was completed by City Council adoption of Ordinance 7030 on August 16, 2016 (see Attachment).
- Phase 2 - review potential additional protections for locally important habitat and species, including Great Blue Heron.

State law requires that protection measures for critical areas that occur along shorelines must be included in the City's Shoreline Master Program (RCW 36.70A.480). So, to ensure the City's CAO provisions also apply in shoreline areas, the City's Shoreline Master Program (SMP) adopts the CAO by reference. Amendments to the CAO are also then required to be amended into the SMP and approved by the WA Department of Ecology. Therefore, Ordinance 7030 specified that the Phase 1 CAO amendments will be effective upon approval by Ecology. The Phase 2 CAO amendments, when completed, will be combined with Phase 1 amendments to provide Ecology with a single package of SMP amendments to review and approve.

Phase 2 - Locally Important Habitat and Species

The City's consultant, ESA, 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, (See Attachments). Staff hosted a public open house to discuss proposed amendments, including protections for Great Blue Herons, on January 18, 2017. Planning Commission held a public hearing on January 23, 2017, and deliberated further at its meetings on February 6 and 27, March 6 and 20, and April 3. (See attachment containing all meeting packets, minutes and public comments considered at those Planning Commission meetings.)

On February 27, 2017, the Planning Commission completed its deliberations on part of the recommended changes and unanimously supported the proposed amendments to OMC 18.02, 18.32.500, and 18.20, and amendments to the Shoreline Master Program. Agreement on the proposed amendments to OMC 18.32.300-330 could not be reached and they voted to send no recommendation to Council on those sections. Instead, the Commissioners passed a motion to write a letter to City Council explaining their reasons (See Attachment). The information and comments reviewed by the Planning Commission during their deliberations is attached.

Draft Protections for Locally Important Species

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, proposed the amended regulations to OMC 18.32.300-330 (shown in Attachment) to give added protection to the Great Blue Heron and its habitat, while continuing to respect private property rights.

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

Great Blue Heron and Habitat

In general, staff proposed 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 proposed smaller buffers - a 200-foot year-round buffer and an additional 300-foot seasonal buffer for nesting colonies - than that recommended by WDFW for nests in rural and less developed areas.

Non-regulatory Approaches

The best way to protect important habitat and species is to acquire and manage land that provides the necessary habitat for important species. The Planning Commission also discussed ways in which the City could pursue these approaches. For example, the City's existing Habitat Stewardship and Parks programs could include consideration of locally important species and habitats as part of acquisition and stewardship programs.

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 proposed amendments to Olympia's SMP (included in Attachments) adopt the amended Phase 1 and Phase 2 CAO by reference, ensure consistency with the CAO adopted August 16, 2016, and correct errors. The 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.

Neighborhood/Community Interests (if known):

Many groups and individuals in the community are interested in protection of the Great Blue Heron. Comments considered by the Planning Commission are included in Attachment 4.

Options:

1. Adopt ordinance in Attachment 1, amending OMC 18.32.500, 18.32.515, 18.02 and 18.20; and amendments to the SMP; and **not including locally important species protections.**
2. Do not Adopt ordinance in Attachment 1, amending OMC 18.32.500, 18.32.515, 18.02 and 18.20; and amendments to the SMP; and **not including locally important species protections.**

Financial Impact:

Initial review of locally important habitat and species was included in Community Planning and Development Department's budget; however, habitat and species protections in Attachment 2 may require additional resources in the future.

Attachments:

Ordinance - Without Local Species - chosen
Ordinance - With Local Species - not chosen
Letter from Planning Commission
Planning Commission meeting packets and minutes
ESA Technical Memo - Options
ESA Technical Memo - Recommendations
Ordinance 7030 adopting CAO update Phase 1

Ordinance No. _____

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO
CRITICAL AREAS AND AMENDING SECTION 18.02.180 AND CHAPTER 18.20
AND 18.32 OF THE OLYMPIA MUNICIPAL CODE**

WHEREAS, Olympia Municipal Code (OMC) Chapter 18.32 contains the City's development regulations pertaining to the protection of critical areas located within the City of Olympia; and

WHEREAS, OMC Section 18.02.180 contains definitions pertaining, in part, to critical areas; and

WHEREAS, OMC Chapter 18.20 contains the City's Shoreline Master Program Regulations; and

WHEREAS, the City contracted with a consultant who 1) performed research on the standards and requirements for regulating critical areas, including protection of locally important habitat and species, 2) considered guidance available from state agencies including the Department of Ecology and the Department of Fish and Wildlife, and 3) consulted with experts in the disciplines covered by these regulations; and

WHEREAS, the environmental impacts of the amendments to the Critical Areas Regulations resulted in the issuance of a Determination of Non-Significance (DNS) on January 10, 2017, with no appeals filed; and

WHEREAS, the City of Olympia Planning Commission (the Planning Commission) considered the proposed Critical Areas and Shoreline Master Program Regulations amendments at a properly noticed public hearing on January 23, 2017, so as to receive public testimony; and

WHEREAS, at its February 27, 2017 meeting, the Planning Commission voted unanimously to recommend approval of the proposed amendment; and

WHEREAS, on July 11, 2017, the City Council discussed the proposed Critical Areas and Shoreline Master Program Regulations amendments at a properly noticed open public meeting; and

WHEREAS, pursuant to RCW 36.70A.370, the City used the process established by the Washington State Attorney General to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, on January 11, 2017, the City provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendment(s) to its Unified Development Code, OMC Title 18; and

WHEREAS, the City Council considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, including documents on file with the City of Olympia; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City Staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance; and

WHEREAS, Chapters 35A.63 and 36.70A RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, the City Council determined that the proposed amendments are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens and property owners of the City; and

WHEREAS, the City Council determined that the proposed amendments are consistent with the goals and requirements of the Growth Management Act; and

WHEREAS, it is the Council's expectation that this Ordinance will not be published as required by law until it is approved by the Washington State Department of Ecology (DOE); and

WHEREAS, once DOE approves the Ordinance, then it may be published as required by law;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 18.02.180. Olympia Municipal Code Subsection 18.02.180.L is hereby amended to read as follows:

18.02.180 Definitions

L. 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 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 18.20.~~

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.

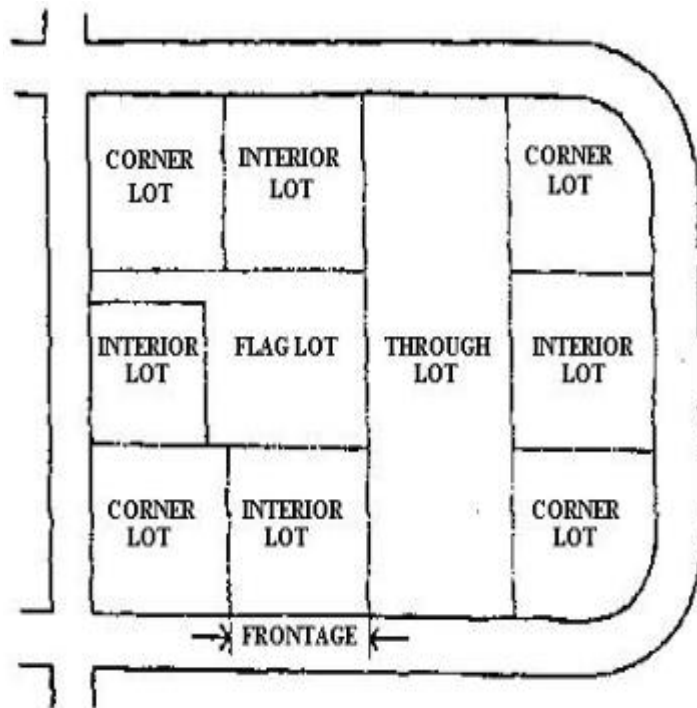
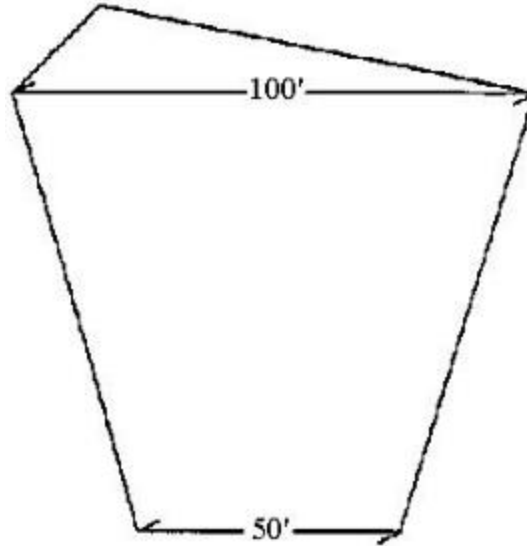


FIGURE 2-5



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.

Section 2. Amendment of OMC 18.02.180. Olympia Municipal Code Subsection 18.02.180.0 is hereby amended to read as follows:

18.02.180 Definitions

O. 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 ~~22-110-029~~220-660-030, 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. ~~OHWM~~ 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.

Section 3. Amendment of OMC 18.20.420. Olympia Municipal Code Section 18.20.420 is hereby amended to read as follows:

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~~L)) 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.~~

~~86.~~ Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.

~~97.~~ 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).

~~108.~~ 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.

~~119.~~ New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

~~1210.~~ 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.~~

Section 4. Amendment of OMC 18.20.810. Olympia Municipal Code Section 18.20.810 is hereby amended to read as follows:

18.20.810 Permitted Shoreline Modifications

Shoreline modifications may be allowed by shoreline environment designation as listed in Table 7.1. Aquatic environment provisions are based on the adjacent environment designation, including permitted with a Shoreline Substantial Development Permit or exemption (P), Shoreline Conditional Use permit (C), or prohibited outright (X). This table shall be used in conjunction with the written provisions for each use. Column notes provide additional clarification and identify other applicable City regulations.

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	X	X/C See OMC	←	See OMC 18.20.872 through

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
Weirs		18.20.874		18.20.874
Stair Towers	X	X	←	Prohibited

Section 5. Amendment of OMC 18.32.300. Olympia Municipal Code Section 18.32.300 is hereby amended to read as follows:

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 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, Chapter 18.20 OMC.

Section 6. Amendment of OMC 18.32.305. Olympia Municipal Code Section 18.32.305 is hereby amended to read as follows:

18.32.305 Important Habitats and Species - Applicability and Definition

- 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; or
- ⓍD. 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.

Section 7. Amendment of OMC 18.32.315. Olympia Municipal Code Section 18.32.315 is hereby amended to read as follows:

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.

Section 8. NEW SECTION 18.32.325. A NEW SECTION 18.32.325 is hereby added to Chapter 18.32 of the Olympia Municipal Code to read as follows:

18.32.325 Process to Identify Additional Locally Important Habitat and Species.

- A. Additional species of local importance may be designated pursuant to Chapter 18.58 OMC, 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.

Section 9. Amendment of OMC 18.32.500. Olympia Municipal Code Section 18.32.500 is hereby amended to read as follows:

18.32.500 Wetlands and Small Lakes - Purpose and Intent

In order to protect the natural function of wetlands and "small lakes" for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands and "small lakes" or which lie within three hundred (300) feet of wetlands and "small lakes" shall be subject to the standards in OMC 18.32.505 through OMC 18.32.595.

(Note: Further information regarding development within associated wetlands along marine shorelines, lakes over 20 (twenty) acres in size, and streams can be found in Chapter 18.20 OMC, Shoreline Master Program.)

Section 10. Amendment of OMC 18.32.515. Olympia Municipal Code Section 18.32.5015 is hereby amended to read as follows:

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;
7. No part of the wetland is within shorelines of the State of Washington.

Section 11. Official Shoreline Map. The current official Shoreline Map of the City of Olympia as referenced in OMC 18.20.310, Figure 4.1, is hereby replaced by the City of Olympia Shoreline Map attached hereto as Exhibit A.

Section 12. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary, non-substantive corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 13. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 14. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 15. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PASSED:

APPROVED:

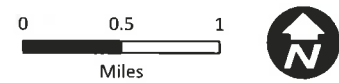
PUBLISHED:



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 shoreline, 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 refer to 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.

Ordinance No. _____

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO
CRITICAL AREAS AND AMENDING SECTION 18.02.180 AND CHAPTER 18.20
AND 18.32 OF THE OLYMPIA MUNICIPAL CODE**

WHEREAS, Olympia Municipal Code (OMC) Chapter 18.32 contains the City's development regulations pertaining to the protection of critical areas located within the City of Olympia; and

WHEREAS, OMC Section 18.02.180 contains definitions pertaining, in part, to critical areas; and

WHEREAS, OMC Chapter 18.20 contains the City's Shoreline Master Program Regulations; and

WHEREAS, the City contracted with a consultant who 1) performed research on the standards and requirements for regulating critical areas, including protection of locally important habitat and species, 2) considered guidance available from state agencies including the Department of Ecology and the Department of Fish and Wildlife, and 3) consulted with experts in the disciplines covered by these regulations; and

WHEREAS, the environmental impacts of the amendments to the Critical Areas Regulations resulted in the issuance of a Determination of Non-Significance (DNS) on January 10, 2017, with no appeals filed; and

WHEREAS, the City of Olympia Planning Commission (the Planning Commission) considered the proposed Critical Areas and Shoreline Master Program Regulations amendments at a properly noticed public hearing on January 23, 2017, so as to receive public testimony; and

WHEREAS, on July 11, 2017, the City Council discussed the proposed Critical Areas and Shoreline Master Program Regulations amendments at a properly noticed open public meeting; and

WHEREAS, pursuant to RCW 36.70A.370, the City used the process established by the Washington State Attorney General to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, on January 11, 2017, the City provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendment(s) to its Unified Development Code, OMC Title 18; and

WHEREAS, the City Council considered the entire public record, public comments, written and oral, and the Planning Commission's recommendation; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, including documents on file with the City of Olympia; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City Staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance; and

WHEREAS, Chapters 35A.63 and 36.70A RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, the City Council determined that the proposed amendments are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens and property owners of the City; and

WHEREAS, the City Council determined that the proposed amendments are consistent with the goals and requirements of the Growth Management Act; and

WHEREAS, it is the Council expectation that this Ordinance will not be published as required by law until it is approved by the Washington State Department of Ecology (DOE); and

WHEREAS, once the DOE approves the Ordinance, then it may be published as required by law; and

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC 18.02.180. Olympia Municipal Code Subsection 18.02.180.L is hereby amended to read as follows:

18.02.180 Definitions

L. 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 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 18.20.~~

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.

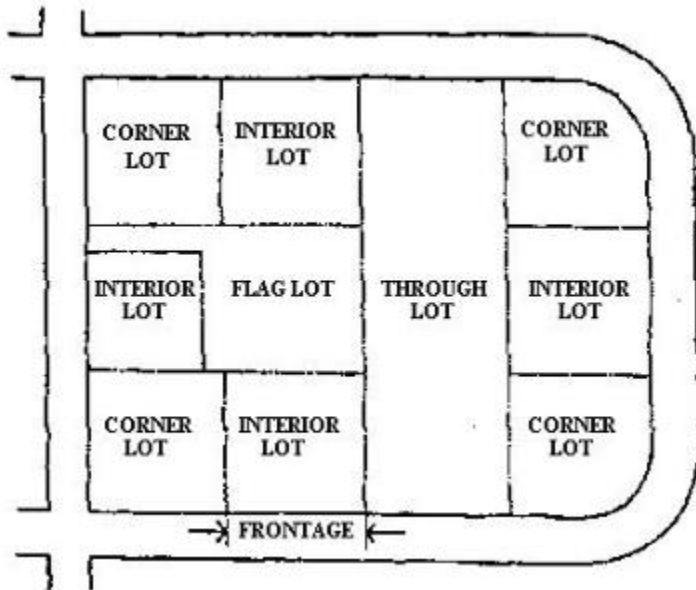
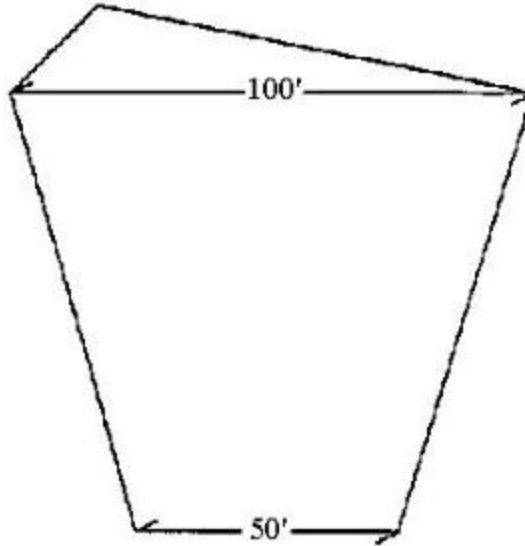


FIGURE 2-5



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.

Section 2. Amendment of OMC 18.02.180. Olympia Municipal Code Subsection 18.02.180.0 is hereby amended to read as follows:

18.02.180 Definitions

O. 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 ~~22-110-029~~220-660-030, 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. ~~OHWM~~ 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.

Section 3. Amendment of OMC 18.20.420. Olympia Municipal Code Section 18.20.420 is hereby amended to read as follows:

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~~L)) 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.~~

~~86.~~ Wetland buffer reductions beyond twenty-five percent (25%) ~~(OMC 18.32.535(H))~~ within shoreline jurisdiction shall require a shoreline variance.

~~97.~~ 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).

~~108.~~ 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.

~~119.~~ New development or the creation of new lots that would cause foreseeable risk from geological conditions during the life of the development is prohibited.

~~1210.~~ 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.~~

Section 4. Amendment of OMC 18.20.810. Olympia Municipal Code Section 18.20.810 is hereby amended to read as follows:

18.20.810 Permitted Shoreline Modifications

Shoreline modifications may be allowed by shoreline environment designation as listed in Table 7.1. Aquatic environment provisions are based on the adjacent environment designation, including permitted with a Shoreline Substantial Development Permit or exemption (P), Shoreline Conditional Use permit (C), or prohibited outright (X). This table shall be used in conjunction with the written provisions for each use. Column notes provide additional clarification and identify other applicable City regulations.

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. 842840 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	X	X/C See OMC	←	See OMC 18.20.872 through

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
Weirs		18.20.874		18.20.874
Stair Towers	X	X	←	Prohibited

Section 5. Amendment of OMC 18.32.300. Olympia Municipal Code Section 18.32.300 is hereby amended to read as follows:

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 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, Chapter 18.20 OMC.

Section 6. Amendment of OMC 18.32.305. Olympia Municipal Code Section 18.32.305 is hereby amended to read as follows:

18.32.305 Important Habitats and Species - Applicability and Definition

- 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; or
- ⓄD. 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.

Section 7. Amendment of OMC 18.32.315. Olympia Municipal Code Section 18.32.315 is hereby amended to read as follows:

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.

Section 8. NEW SECTION OMC 18.32.325. A NEW SECTION 18.32.325 is hereby added to Chapter 18.32 of the Olympia Municipal Code to read as follows:

18.32.325 Process to Identify Additional Locally Important Habitat and Species.

- A. Additional species of local importance may be designated pursuant to Chapter 18.58 OMC, 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.

Section 9. NEW SECTION OMC 18.32.327. A NEW SECTION 18.32.327 is hereby added to Chapter 18.32 of the Olympia Municipal Code to read as follows:

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.

Section 11. Amendment of OMC 18.32.500. Olympia Municipal Code Section 18.32.500 is hereby amended to read as follows:

18.32.500 Wetlands and Small Lakes - Purpose and Intent

In order to protect the natural function of wetlands and "small lakes" for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands and "small lakes" or which lie within three hundred (300) feet of wetlands and "small lakes" shall be subject to the standards in OMC 18.32.505 through OMC 18.32.595.

(Note: Further information regarding development within associated wetlands along marine shorelines, lakes over 20 (twenty) acres in size, and streams can be found in Chapter 18.20 OMC, Shoreline Master Program.)

Section 12. Amendment of OMC 18.32.515. Olympia Municipal Code Section 18.32.515 is hereby amended to read as follows:

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-;
7. No part of the wetland is within shorelines of the State of Washington.

Section 13. Official Shoreline Map. The current official Shoreline Map of the City of Olympia as referenced in OMC 18.20.310, Figure 4.1, is hereby replaced by the City of Olympia Shoreline Map attached hereto as Exhibit A.

Section 14. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary, non-substantive corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 15. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 16. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 17. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

Darren Nienaber

CITY ATTORNEY

PASSED:

APPROVED:

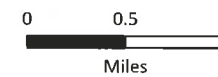
PUBLISHED:



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 shoreline, 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 reference 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.



April 20, 2017

Olympia City Council
PO Box 1967
Olympia, WA 98507

Dear Mayor Selby and City Councilmembers:

The Olympia Planning Commission (OPC) has conducted its review of the City of Olympia's proposed Shoreline Master Program and Critical Areas Ordinance amendments proposed as the Critical Areas Ordinance Phase 2 Amendments – Locally Important Habitats and Species. Each planning commissioner engaged in a thoughtful evaluation of the proposed amendments.

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 (attachment 2 – Proposed OMC 18.02 and 18.32.500 amendments; attachment 3 - Proposed OMC 18.20 amendments; and attachment 4 - Proposed Shoreline Master Program amendments). These amendments were unanimously supported by the voting members (Commissioner Ehlers recused herself).

The Commission continued deliberation of the amendments in Attachment 1 (proposed amendments to OMC 18.32.300 - .330). The Commission is forwarding the materials to the City Council without a recommendation on the proposed amendments covered 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

The Commission was unable to reach consensus to support the proposed amendments in OMC 18.32.300 - .330 and a motion to recommend approval of these proposed amendments failed.

The motion that did pass was for me to write a letter to City Council with a bulleted list of the reasons why the Commission could not come to a consensus. Those reasons are summarized as follows:

- Some Commissioners believe the proposed development restrictions would make it highly unlikely that a new home could be constructed in only one building season.
- Some Commissioners believe the protection of a nesting colony for a period of ten years after the most recent sighting seems too long without knowing whether or not the heron would return.
- It was troubling that the heron may move to a new site, and potentially several times, which could lead to a multitude of sites that would need to be protected for at least a period of ten years.
- Some Commissioners believe the proposed protection measures are not adequate to protect the herons.
- Some Commissioners believe the proposed protection measures are too prescriptive and would negatively impact private property rights.
- Some Commissioners believe that since it is not a specific requirement to protect the heron that a regulatory approach is not needed and that non-regulatory measures are more appropriate at this time.

We appreciate the opportunity to provide feedback and recommendations to the City of Olympia City Council.

Sincerely,



Brian Mark
Chair, City of Olympia Planning Commission



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

This page intentionally blank.

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.

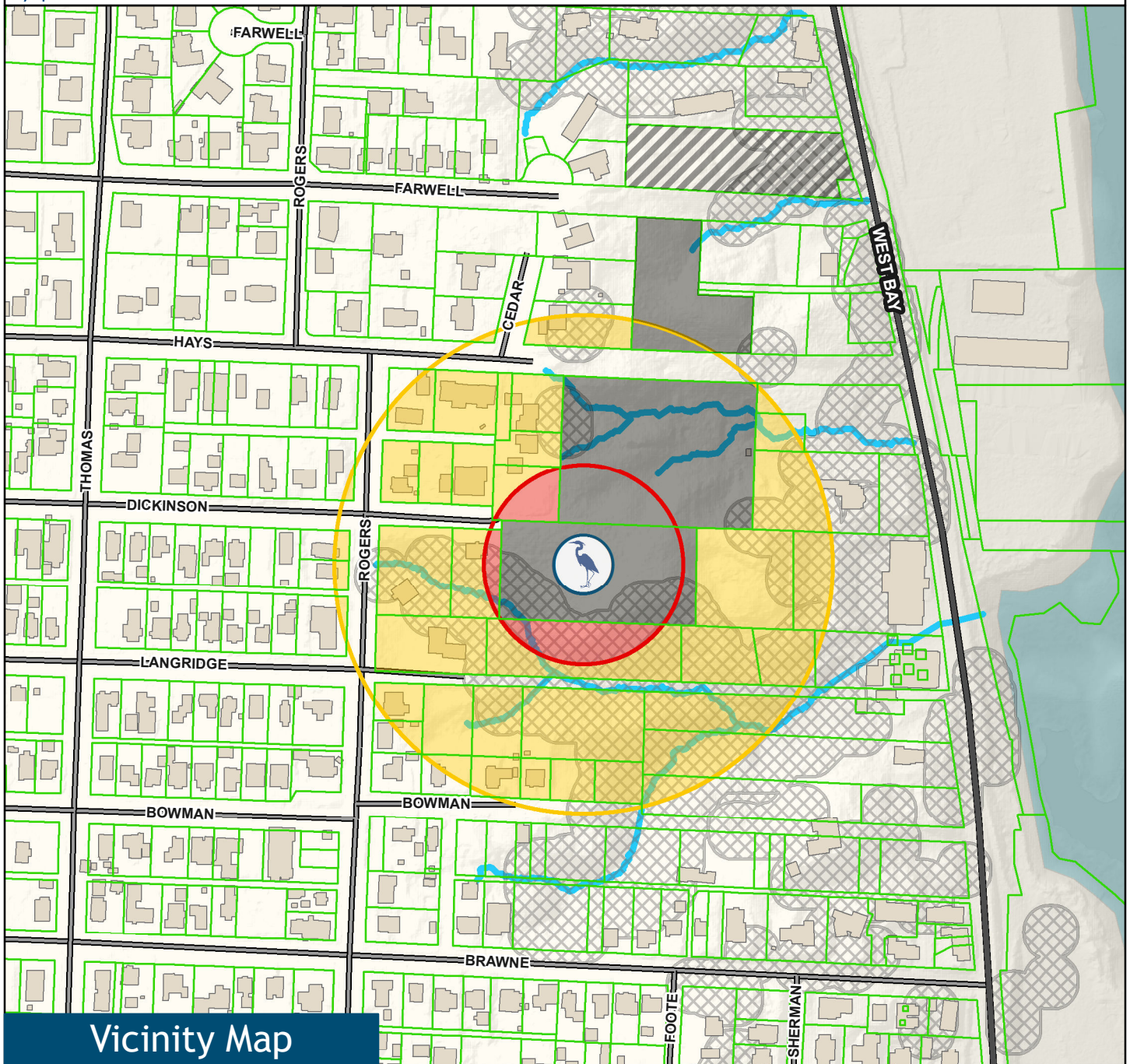
This page intentionally blank.

ATTACHMENT 1

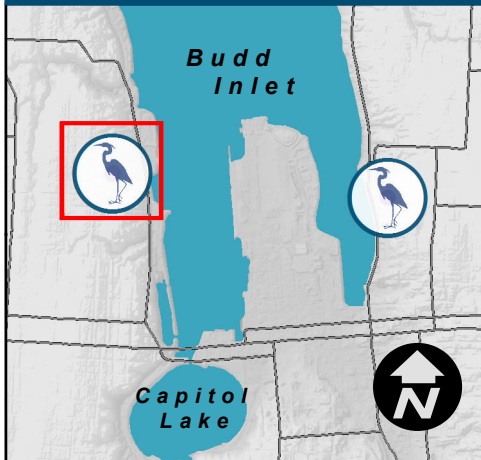


Community Planning and Development

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

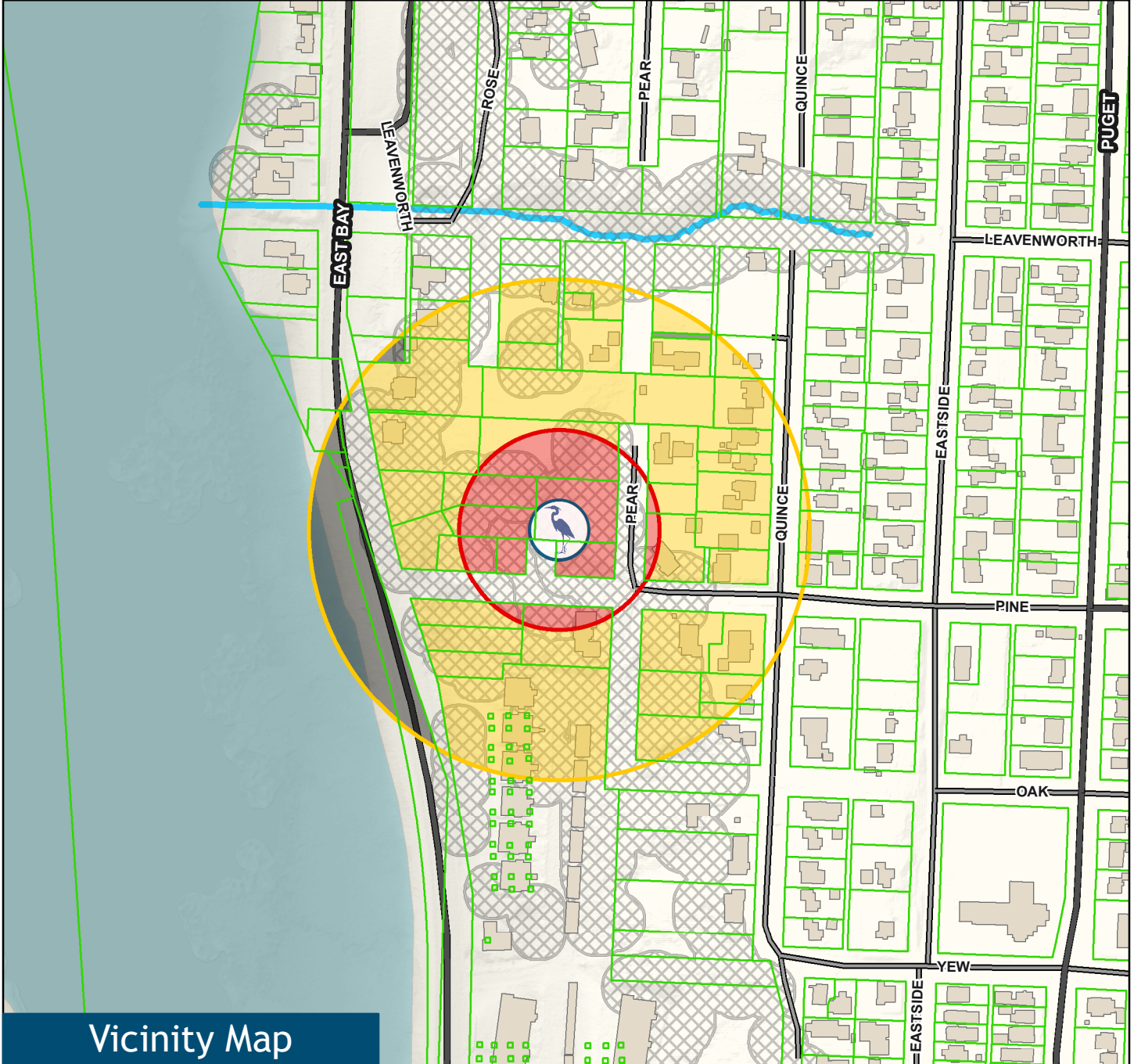
1 inch = 300 feet
 0 0.03 0.06 Miles

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.

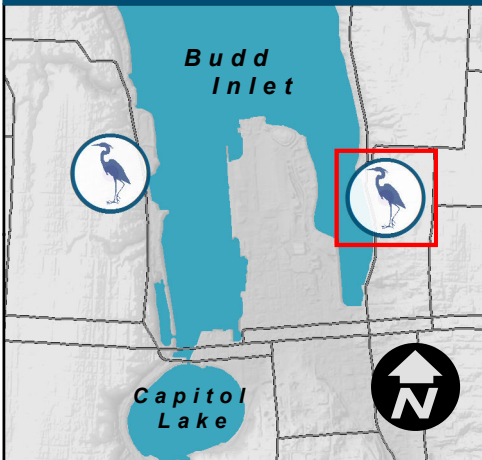


Community Planning and Development

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
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.

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 _____

This page intentionally blank.

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. Additional, 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

This page intentionally blank.

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.

This page intentionally blank.



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

This page intentionally blank.

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.

This page intentionally blank.

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

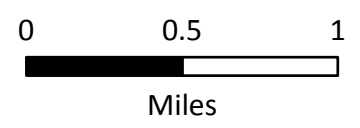
This page intentionally blank.

ATTACHMENT 3

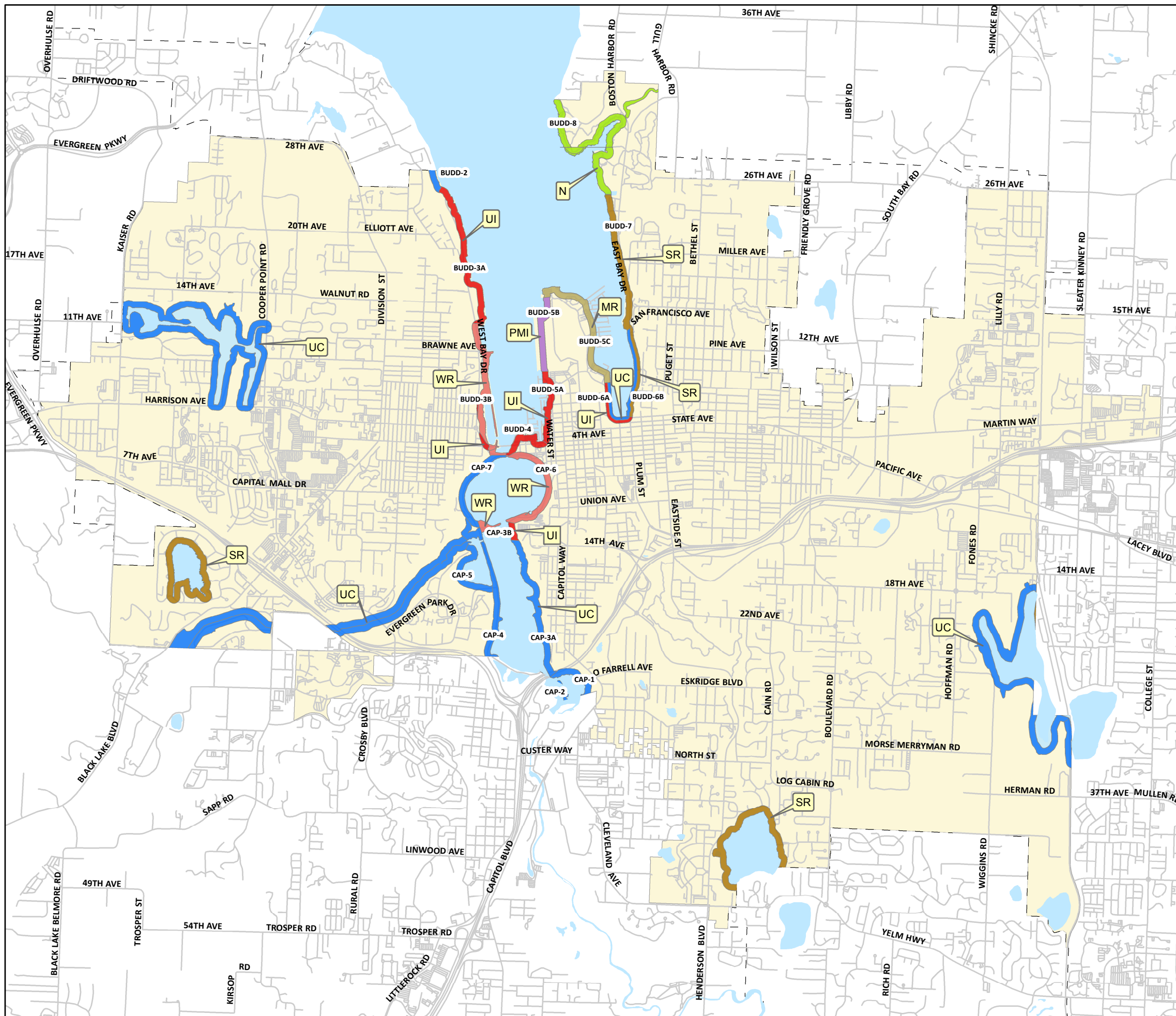
FIGURE 4.1 OLYMPIA SHORELINE MASTER PROGRAM

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.



This page intentionally blank.



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.

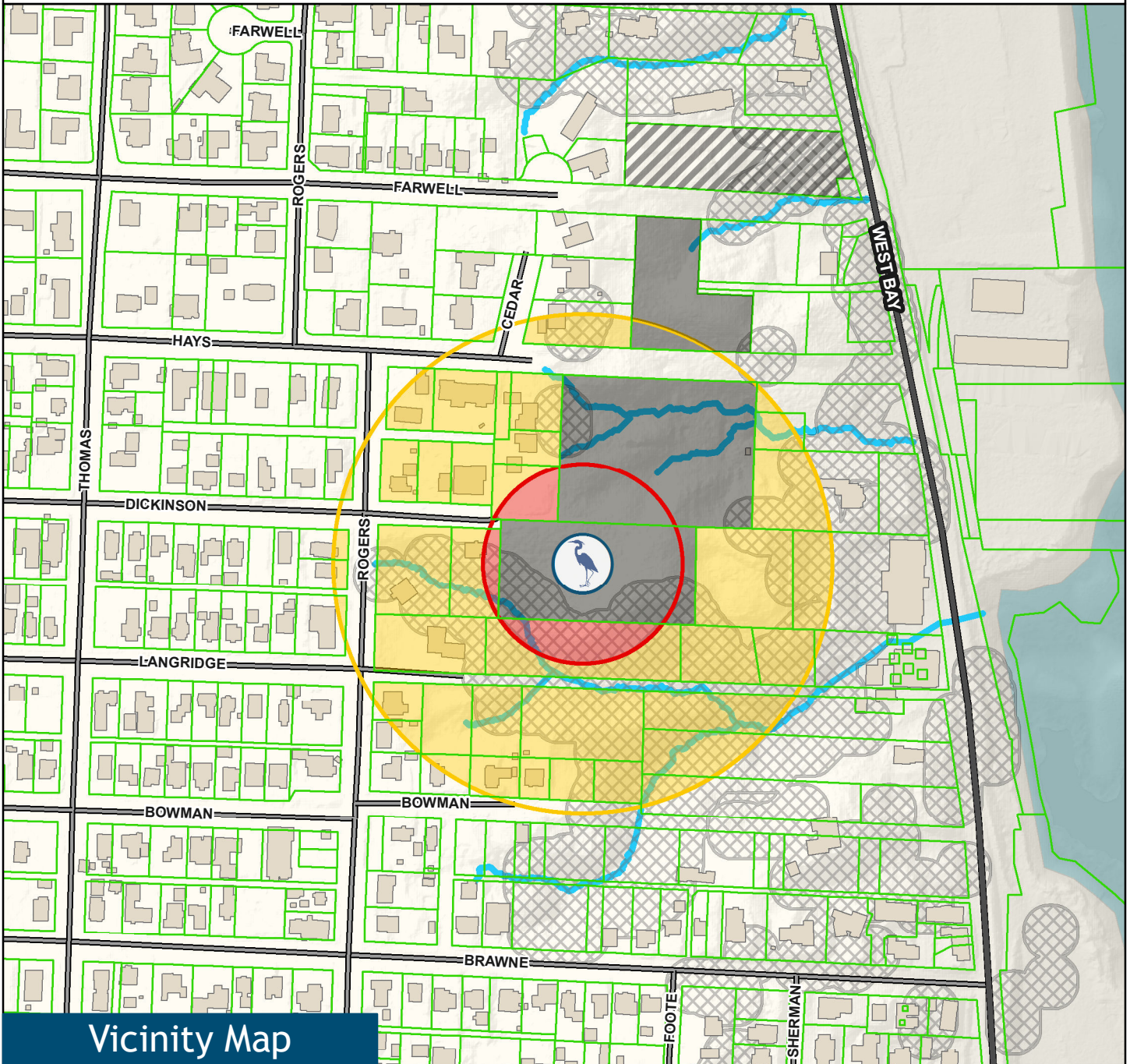
References

- 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/>

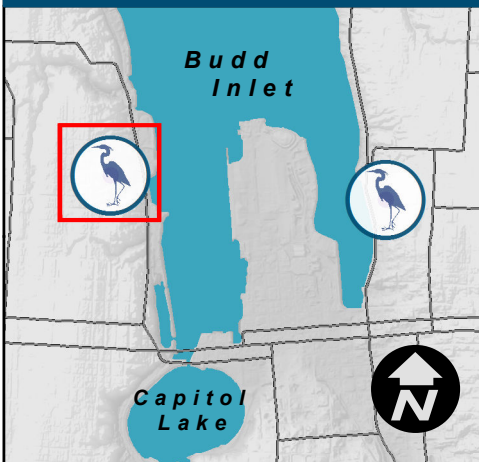


Community Planning and Development

Westside Heron Rookery



Vicinity Map



Heron Rookeries



200' Annual Buffer



Additional 300' Seasonal Buffer



City Parcels



Under Option by City



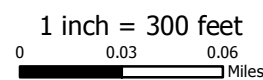
Government or NGO Owned



Steep Slopes



Existing Buildings

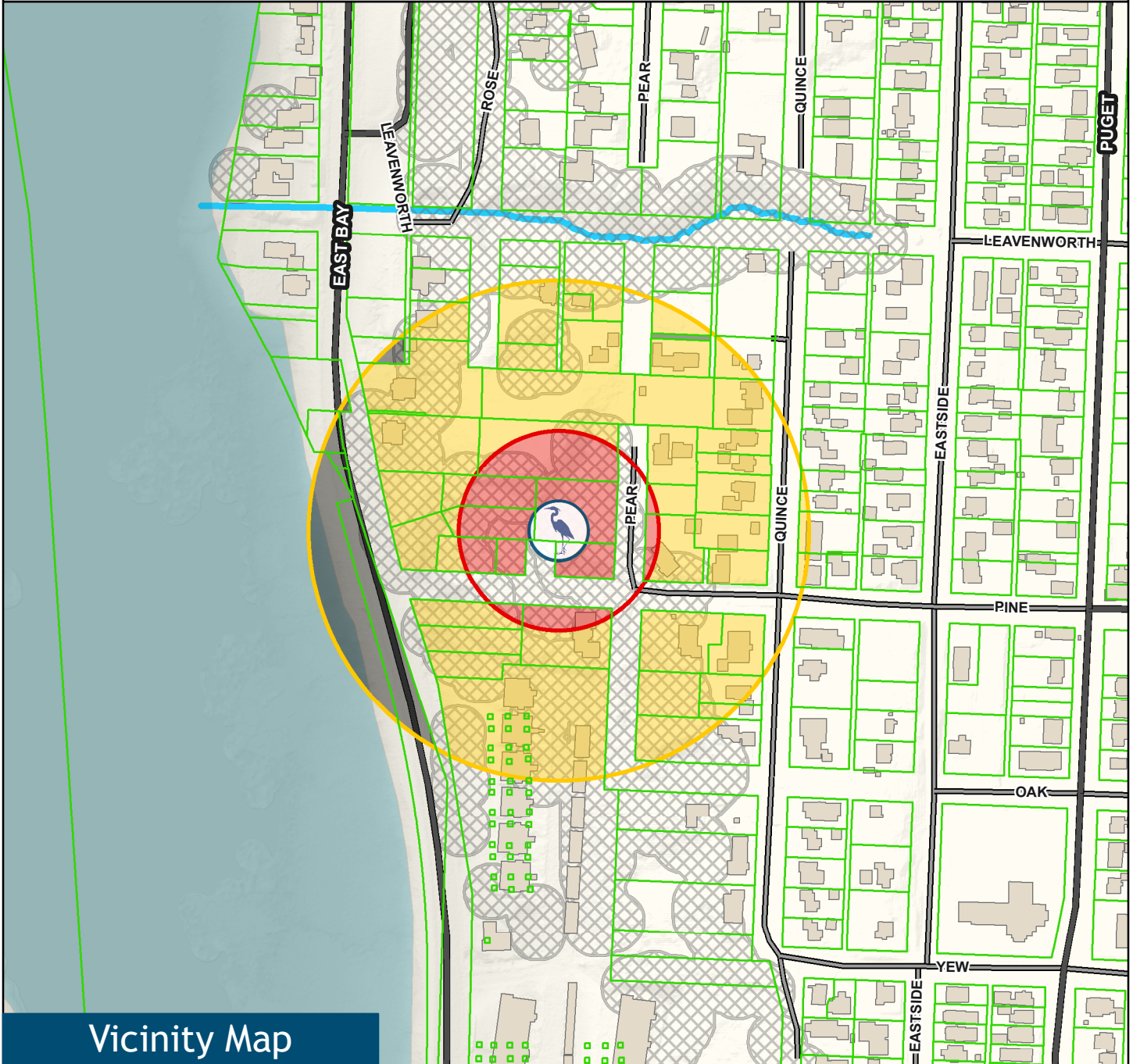


The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the 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.

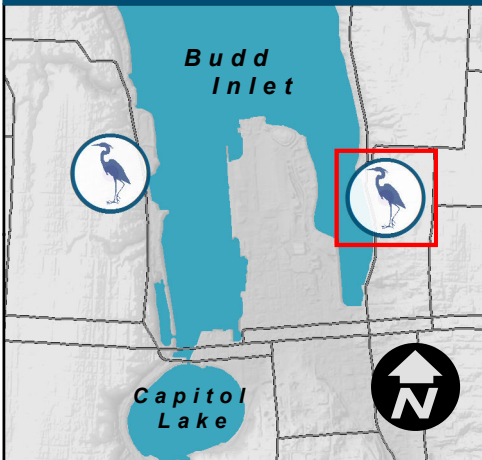


Community Planning and Development

Eastside Heron Rookery



Vicinity Map



Heron Rookeries



200' Annual Buffer



Additional 300' Seasonal Buffer



City Parcels



Government or
NGO Owned

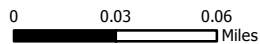


Steep Slopes



Existing Buildings

1 inch = 300 feet



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.

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 _____

This page intentionally blank.

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

This page intentionally blank.

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

This page intentionally blank.

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.

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

This page intentionally blank.

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.

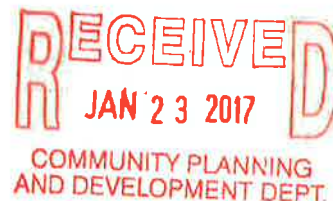
Currently, I have a large tree on my property that needs to come down before building - as there exists a large heart rot in the trunk. Under the new ordinance, such safety measures would not be allowed. This doesn't seem right.

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,



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

TABLE OF CONTENTS

1.0	Introduction.....	4
	1.1 Description of Project Site.....	4
	1.2 Site History.....	5
	1.3 Ecological Background.....	5
	1.4 Basin Information.....	6
	1.5 Goals & Objectives.....	6
2.0	Current Site Conditions.....	6
	2.1 Forest Overstory.....	7
	2.2 Regeneration.....	11
	2.3 Plant Communities.....	12
	2.4 Snags.....	12
	2.5 Coarse Woody Debris.....	14
	2.6 Breeding, Nesting, & Foraging Habitat.....	14
	2.7 Fish, Riparian, & Wetland Habitat.....	15
	2.8 Other Wildlife Use.....	15
3.0	Recommendations	15
	3.1 Invasive Plant Management.....	17
	3.2 Restoration Planting.....	17
	Works Cited.....	19

List of Figures & Tables:

Figure 1: Overstory diversity, heronry parcel.....	7
Figure 2: Basal area, heronry parcel.....	8
Figure 3: Trees per acre, heronry parcel.....	8
Figure 4: Overstory diversity, north parcel.....	9
Figure 5: Basal area, north parcel.....	10
Figure 6: Trees per acre, north parcel.....	10
Figure 7: Red Alder (<i>Alnus rubra</i>) density management diagram.....	11
Figure 8: Snags per acre, heronry parcel.....	13
Figure 9: Snags per acre, north parcel.....	13
Table 1: Plant List from MLK Day event, 2015.....	18

Appendix 1: Maps

Map 1: West Bay Heronry & North Parcel.....	20
Map 2: West Bay Heronry, circa 1947.....	21
Map 3: West Bay Basin.....	22
Map 4: English ivy (<i>Hedera helix</i>) Density & Distribution.....	23
Map 5: Key Foraging Grounds.....	24
Map 6: Heron Management Area, recommended buffers.....	25

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

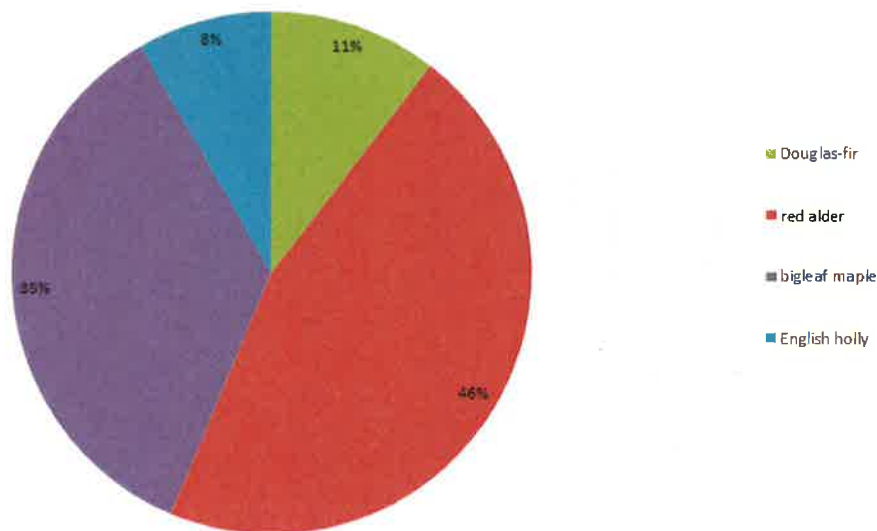
Current conditions and habitat elements of the forest were assessed using a five-part sampling methodology, which examined forest overstory, regeneration, plant community/ invasive plant coverage, snags, and downed wood on the forest floor. Data collected during the overstory survey allows the calculation 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-

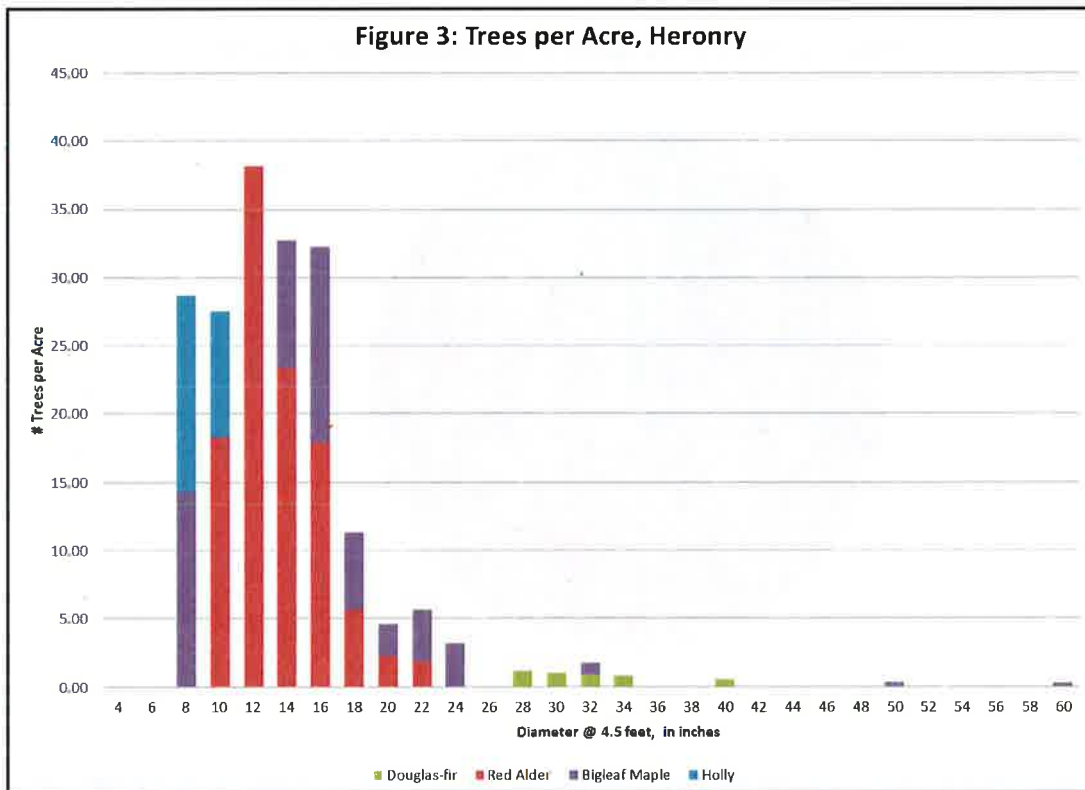
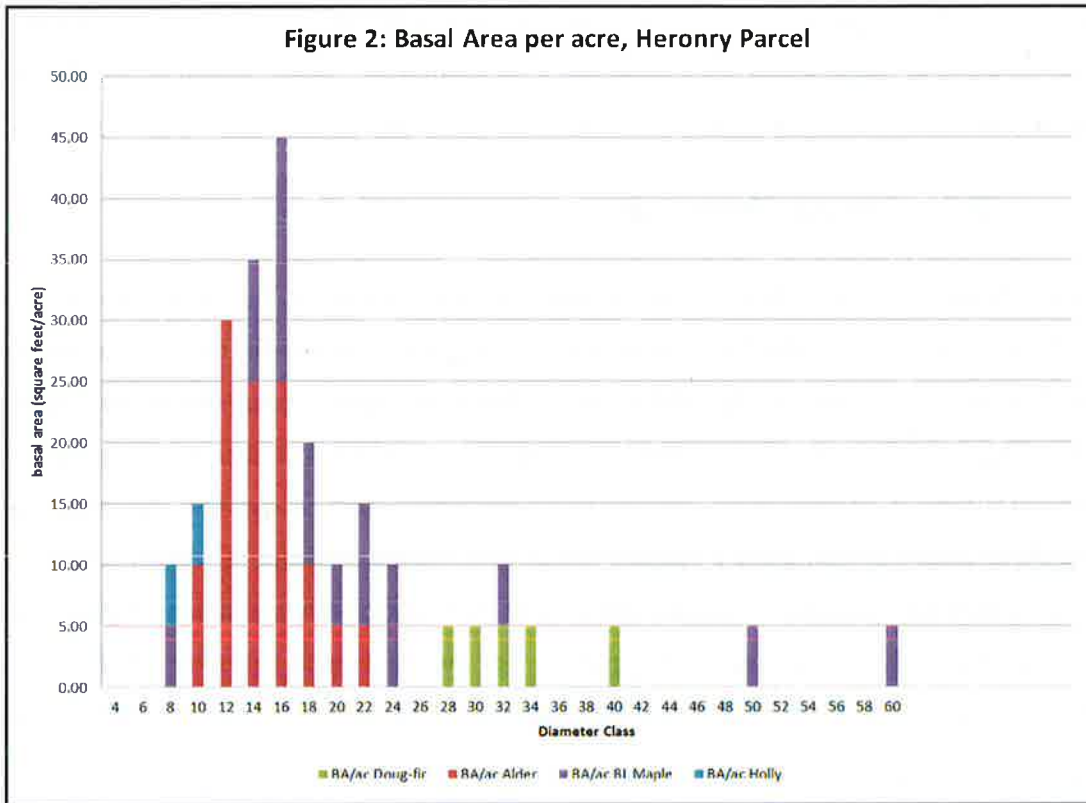
tifying future invasive plant removal efforts and allowing monitoring of vegetation community restoration success. Snag and downed wood surveys identify the current amount of dead wood within the forest, and can be used to predict future needs of these habitat elements.

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

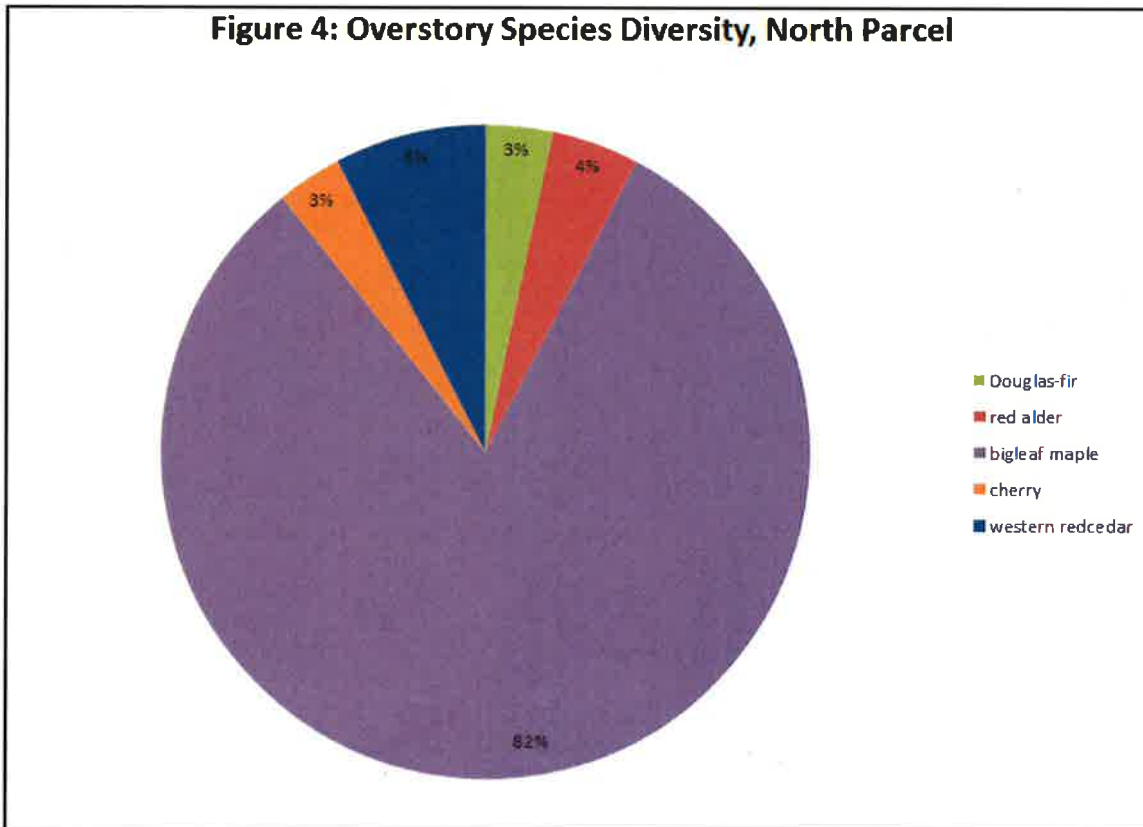


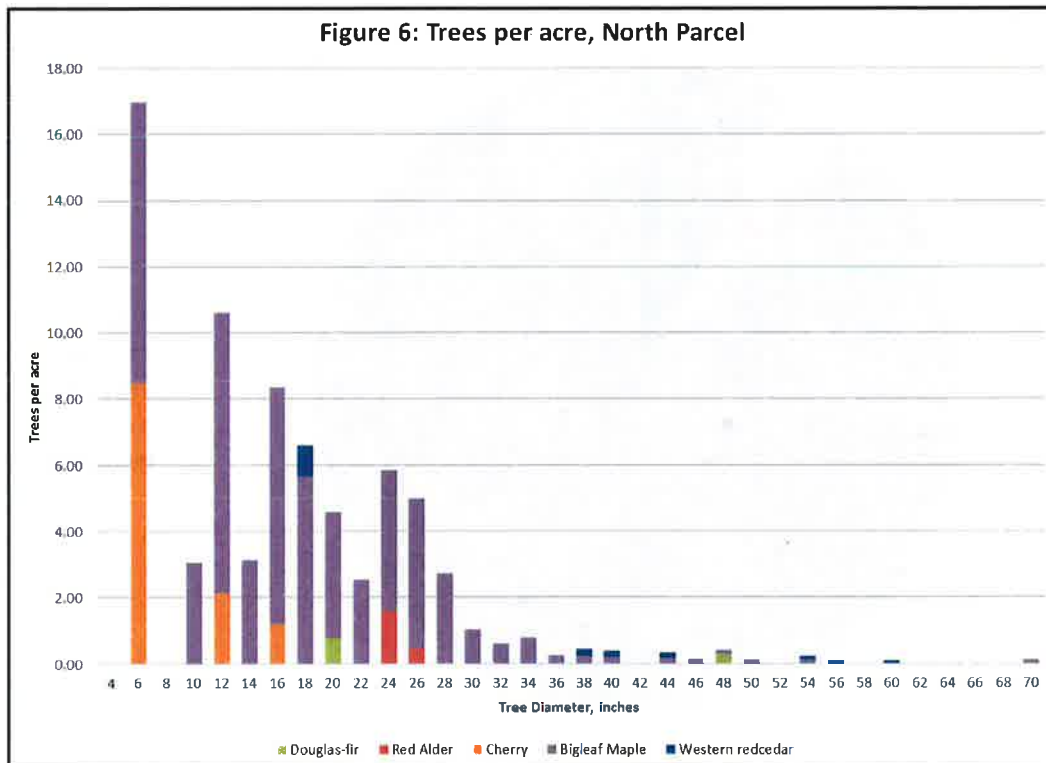
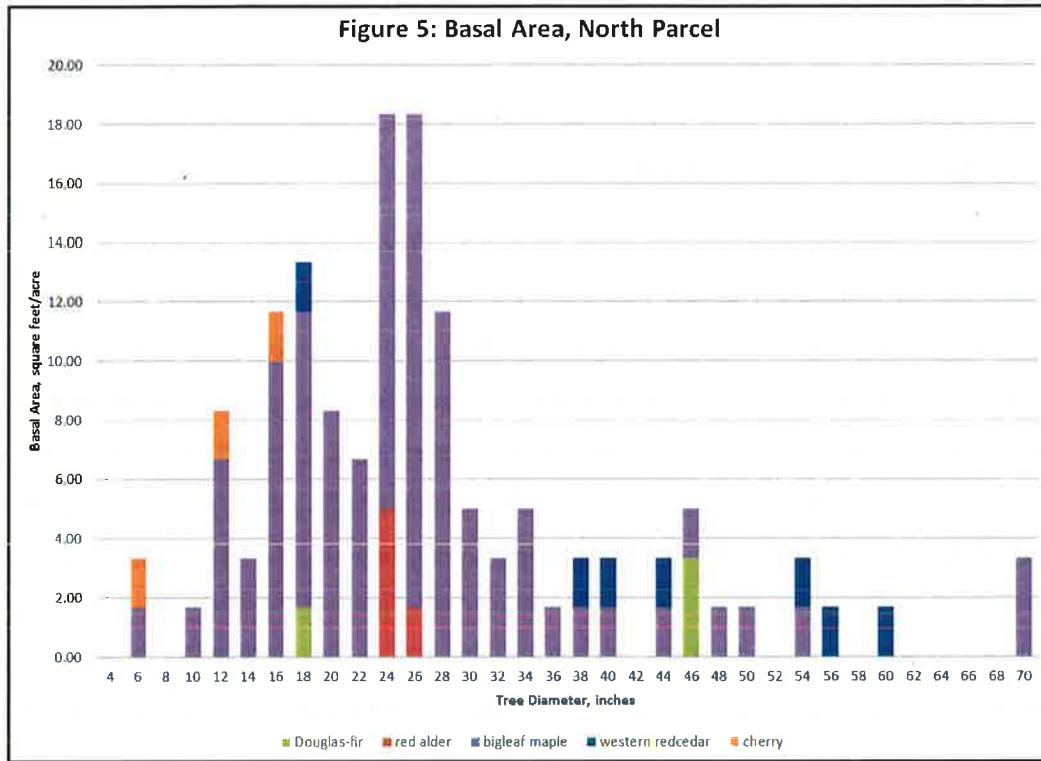


area is about 230 square feet per acre (Figure 2), and average number of trees per acre is 190 (Figure 3). Using a theoretical maximum stand density for red alder of 595, relative density for the heronry parcel is around 61%. What these numbers mean, and how they can be used for wildlife habitat management,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

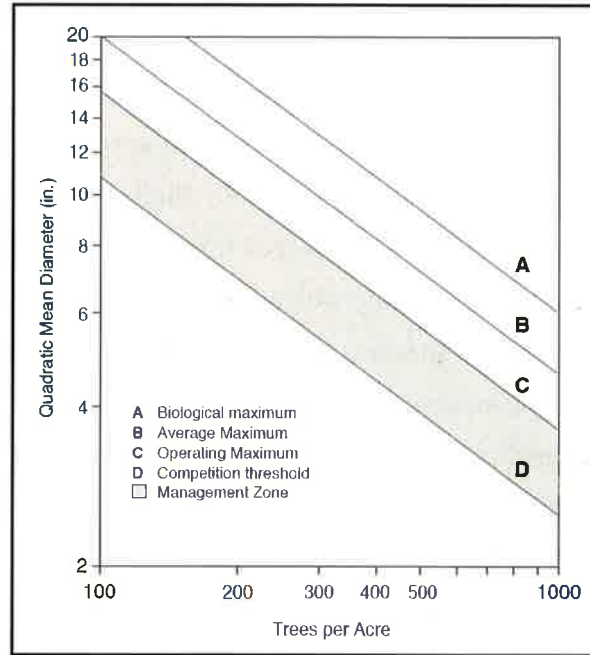


Figure 7: Red Alder (*Alnus rubra*) density management diagram (from Puettman et al. 1993)

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,

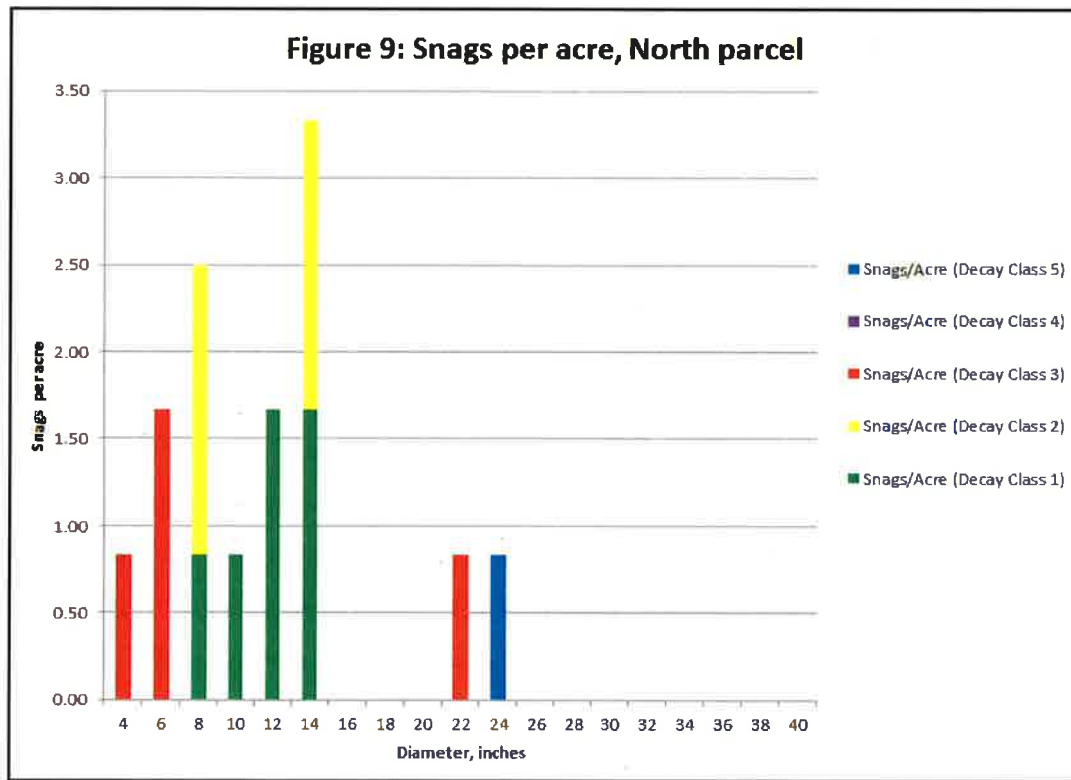
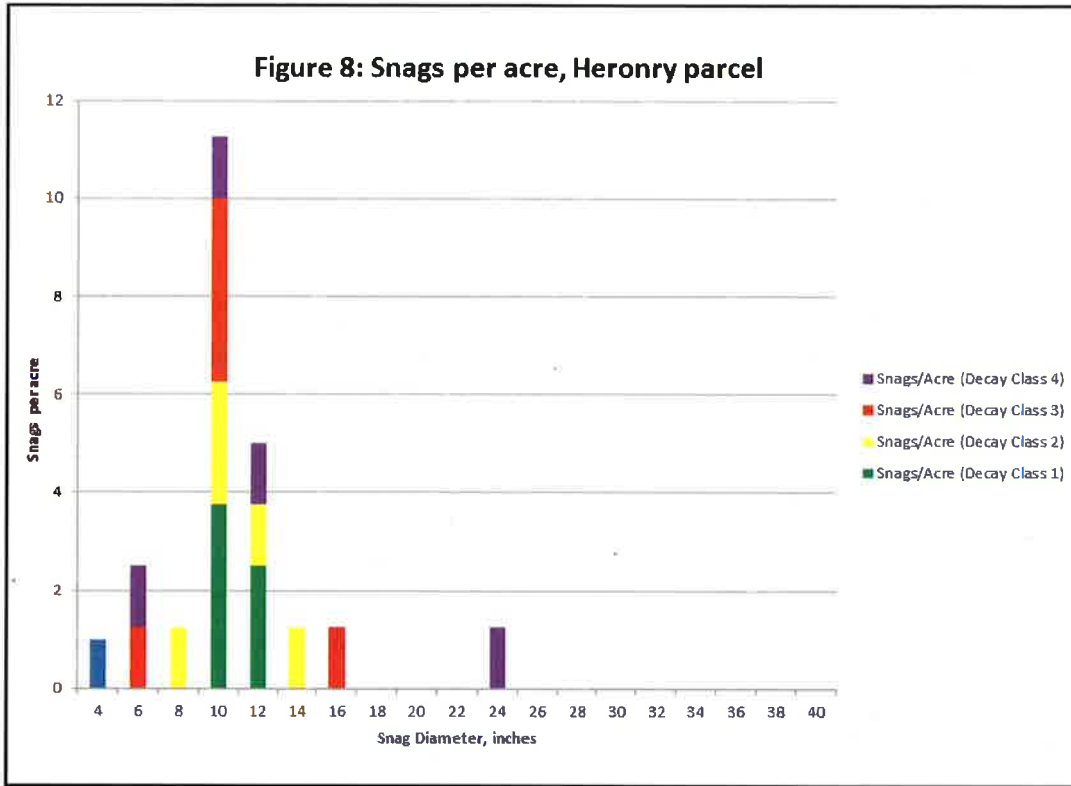
some small cherry, redcedar, and bigleaf maple were noted on the unit which did not make it into the sample.

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.

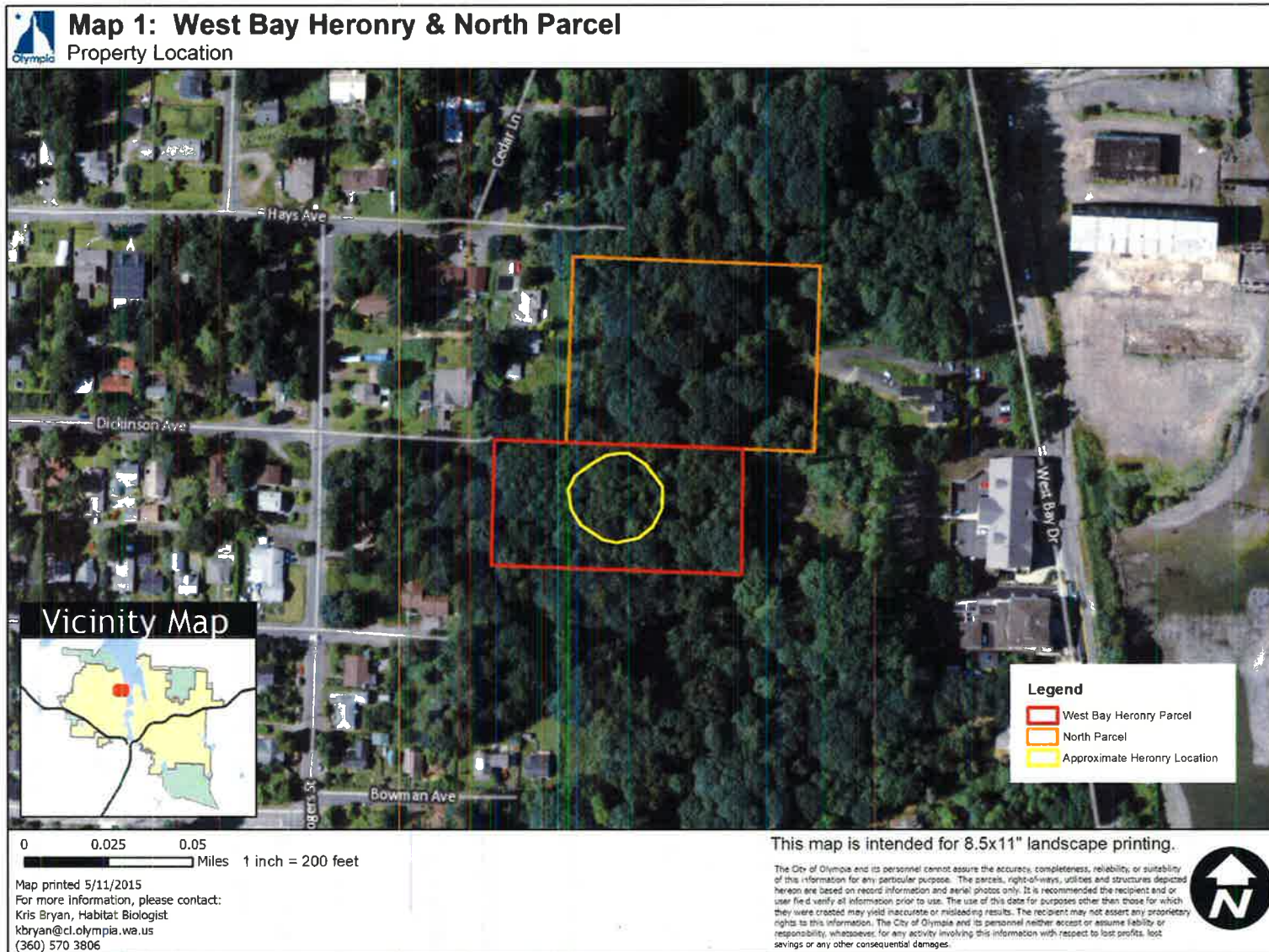
In January of 2015 800 native plants were planted on the heronry parcel where ivy had been removed by a contract crew hired by Alicia and OlyEcosystems over approximately 0.5 acre. The bulk of this area was also mulched during the January 21st event and the next weekend. See Table 1 on the following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

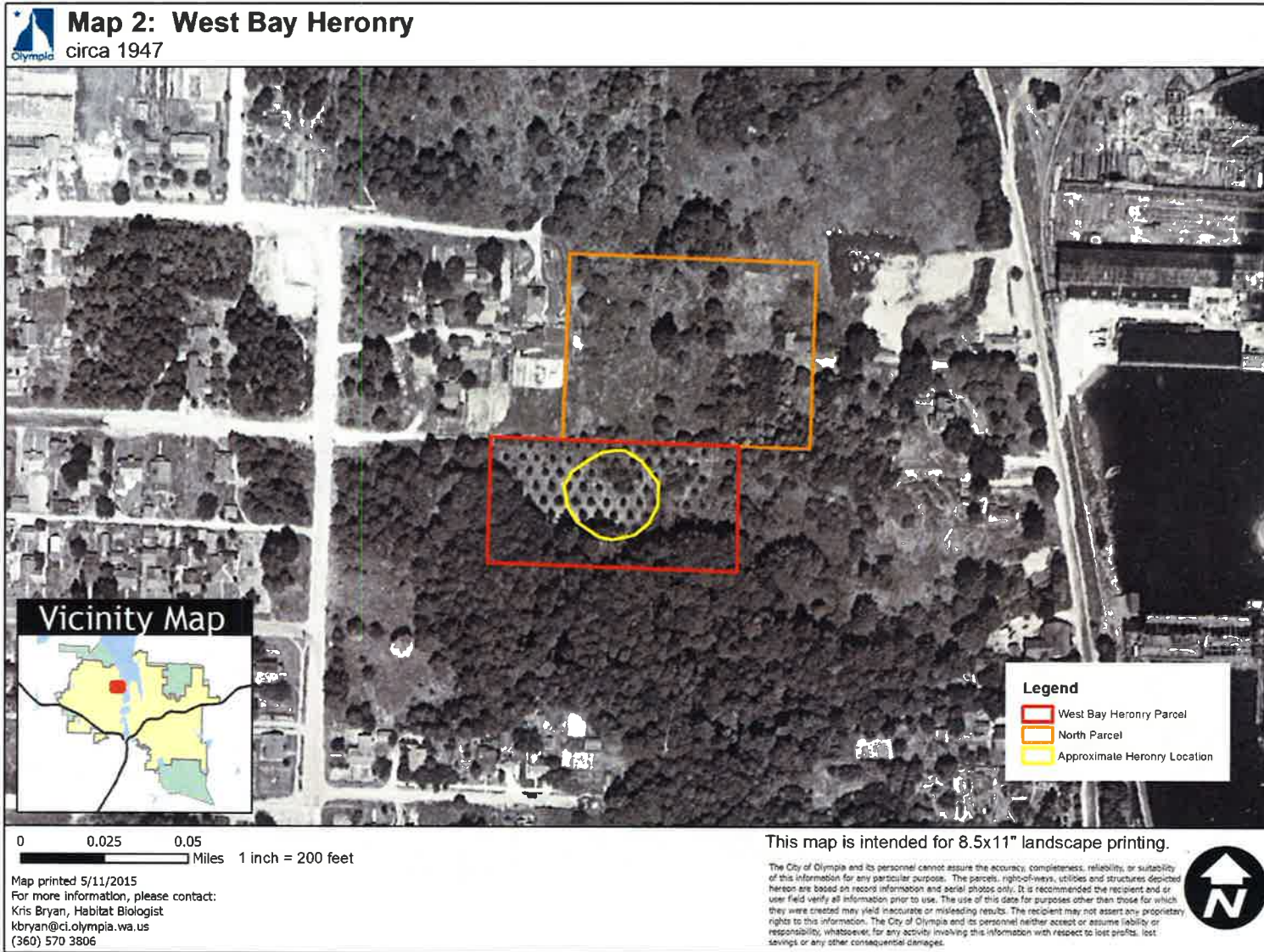
Species	Quantity	Stock Type
cascara	20	#2
Douglas fir	20	#5
hazelnut	14	#1
Indian plum	150	#1 and BR
low Oregon grape	66	#1
Nootka rose	25	#3
oceanspray	15	#1
western red cedar	25	#1
salmonberry	100	BR
sword fern	350	#1 and BR
vine maple	112	#1 and BR
Total	897	

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

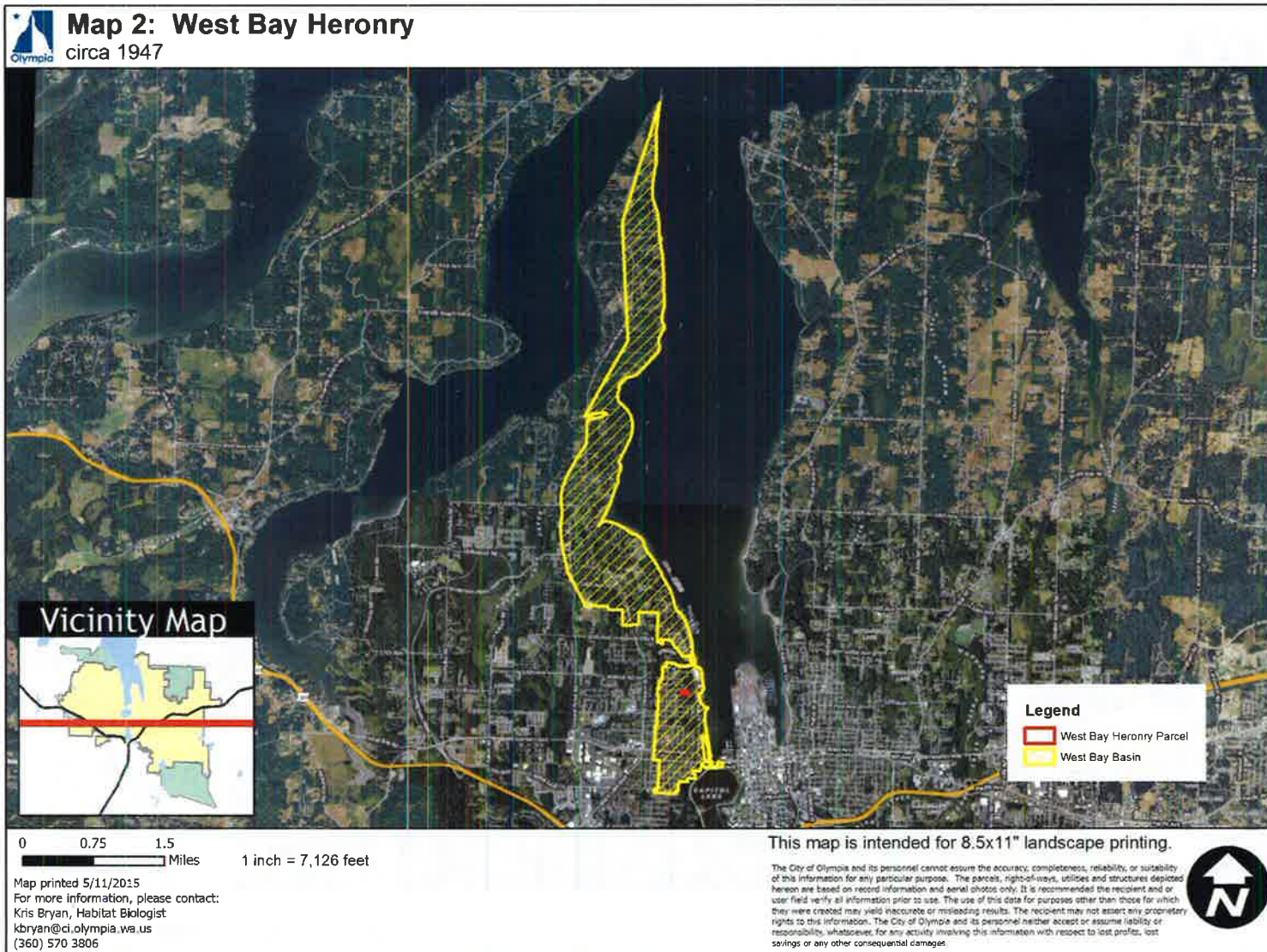
Works Cited

- Avery, T. E., and Burkhart, H. E. (1983). *Forest Measurements*. McGraw-Hill, New York, NY
- Bottorff, J. and Helgerson, O. (2003) *Thinning Young Douglas-fir west of the Cascades for Timber and Wildlife*. Washington State University College of Agriculture and Home Economics, Pullman, WA
- Azerrad, J. M. (2012). *Management Recommendations for Washington's Priority Habitats and Species: Great Blue Heron*. Washington Department of Fish & Wildlife, Olympia, WA
- Bunnell, F. L., Boyland, M., Wind, E. (2002) *How Should We Spatially Distribute Dying and Dead Wood?* USDA Forest Service.
- Chappell, C.B. (2006). *Upland Plant Associations of the Puget Trough Ecoregion, Washington*. Natural Heritage Rep. 2006-01. Washington Department of Natural Resources, Natural Heritage Program.
- City of Olympia (2014). *Preliminary Habitat & Stewardship Strategy*. Olympia Public Works, Water Resources, Storm & Surface Water Utility, Olympia, WA
- Curtis, R. O., Clendenen, G. W., DeMars, D. J. (1981). *A new stand simulator for coast Douglas-fir: DFSIM user's guide*. USDA Forest Service General Technical Report. PNW-128
- Grotta, A. T., and Zobrist, K. W. (2009). *Management Options for Declining Red Alder Forests*. Washington State University, Extension Manual EM003
- Puettmann, K. J., DeBell, D. S., Hibbs, D. E. (1993). *Density Management Guide for Red Alder*. Oregon State University College of Forestry, Forest Research Laboratory.
- Reineke, L. H. (1933). *Perfecting a stand-density index for even-aged forests*. J. Agric. Res. 46: 627-638
- Thomas, J. W. (1979). *Wildlife Habitats in Managed Forests: the Blue Mountains of Oregon and Washington*. US Department of Agriculture, Forest Service, Agriculture Handbook No. 553
- Thurston County. (2013). *Thurston County Noxious Weed Control Rules and Regulations*. Noxious Weed Control Board, Thurston County, WA.

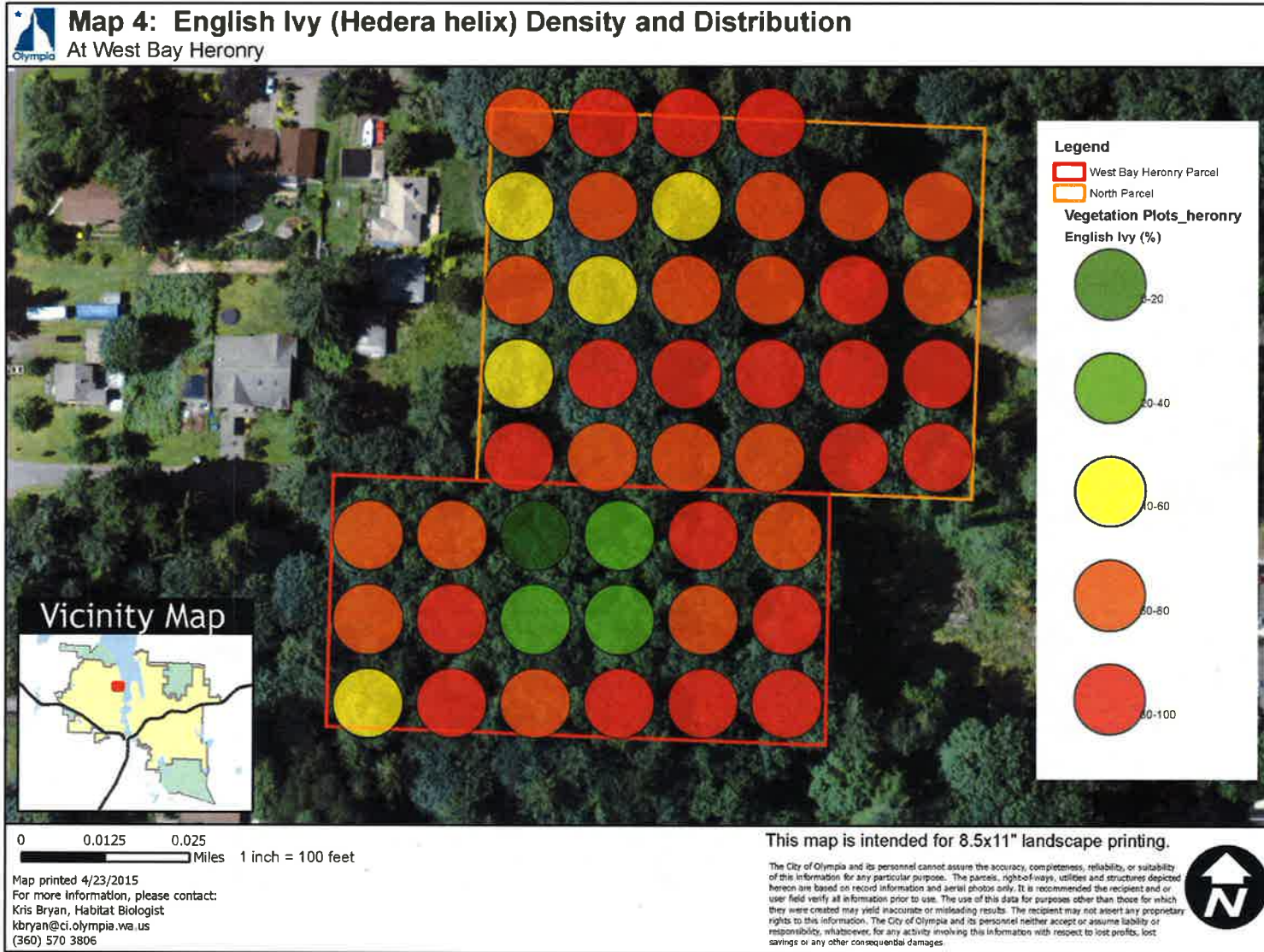




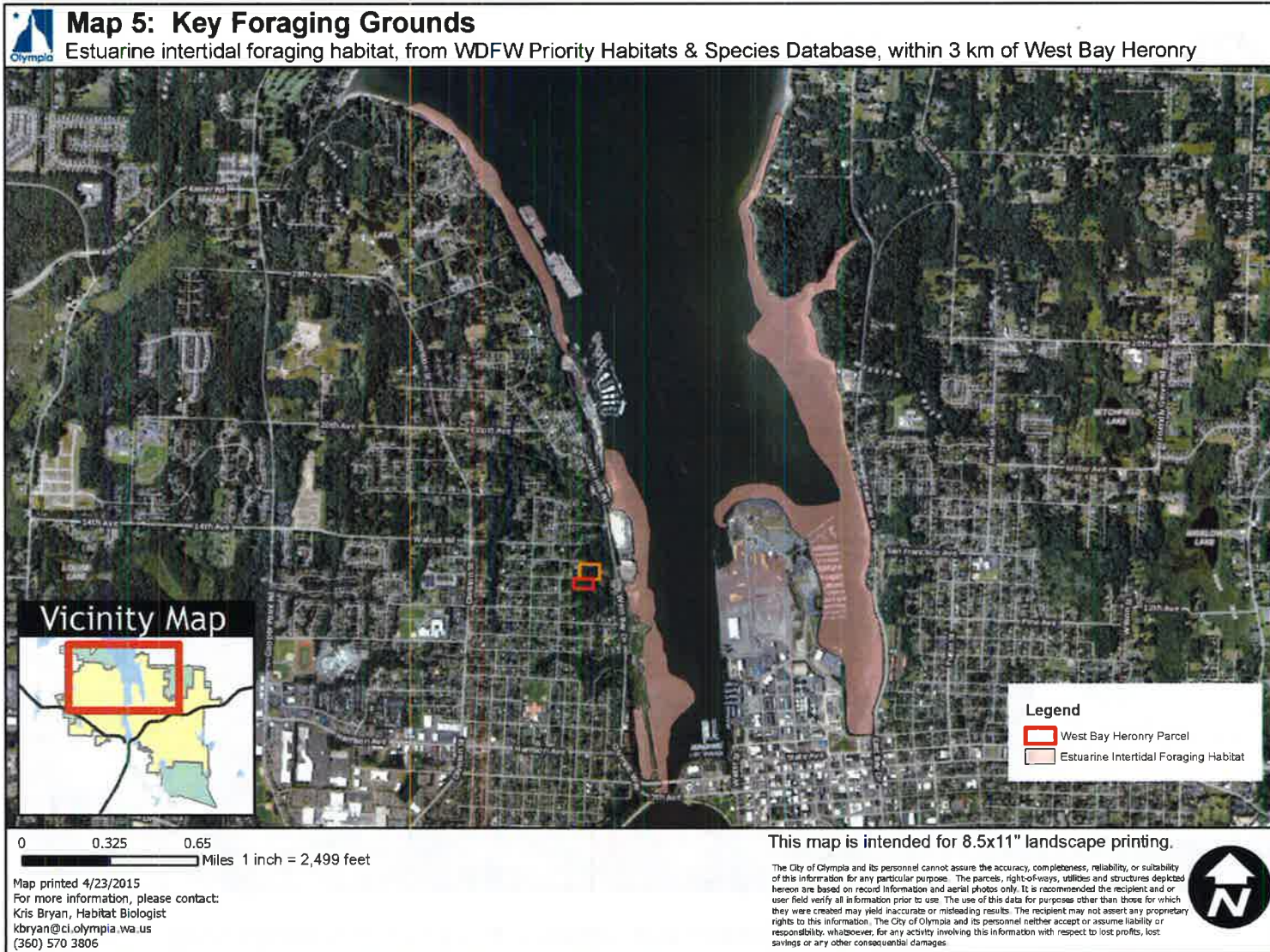
file name and path: I:\civ\in\PV Water Resources\SSW Planning & Implementation\ENVIRONMENTAL SERVICES - NPW\FOLDER\HABITAT_TEAM\PROJECTS\Site\Photos\5114\Heronry\Heronry Habitat Assessment\assessment_maps.mxd



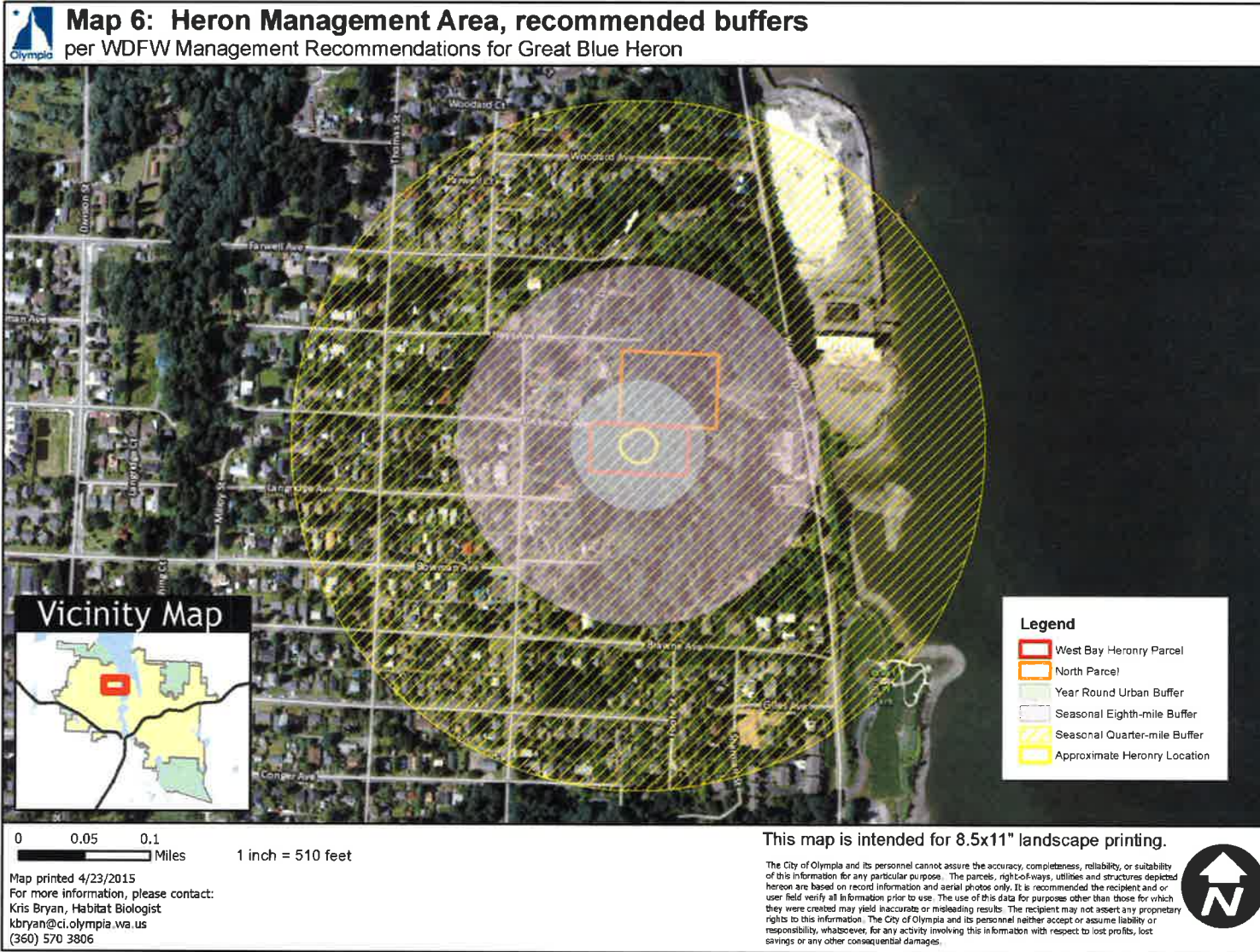
File name and path: \\c:\data\GIS\Water Resources\GSW Planning & Implementation\ENVIRONMENTAL SERVICES - NEW FOLDER\HABITAT_TEAM\PROJECT_SITES\Private Sites\Reviews\Wetland Habitat Assessment\Assessment_maps.mxd



File name and path: \\c:\n\p\w\water Resources\2015 Planning & Implementation\5-A\ROD-PHENOL SERVICES_NEW\FOLDER\PROJECT_SITES\Private\Shed\Heronry\heronry\Habitat Assessment\Map\Map.mxd



File name and path: \\scm\kris_bryan\resources\GIS\MapInfo & Imagery\GIS\ENVIRONMENTAL SERVICES_INDR_FOLD\PROJECT_SITES\Habitat_Species\Heronry\Heronry_Habitat_Assessment\Map5.mxd



File Name and Path: \\Seattle\SR\Water Resources\GIS\Planning & Implementation\GIS\WORLD\WORLD_SERVICES_L\NEW_FOLDERS\WRT\TE\WPROJECT SITE\Heronry\Heronry Habitat Assessment\Map6.mxd



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
File Number: 17-0188

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

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

This page intentionally blank.

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.

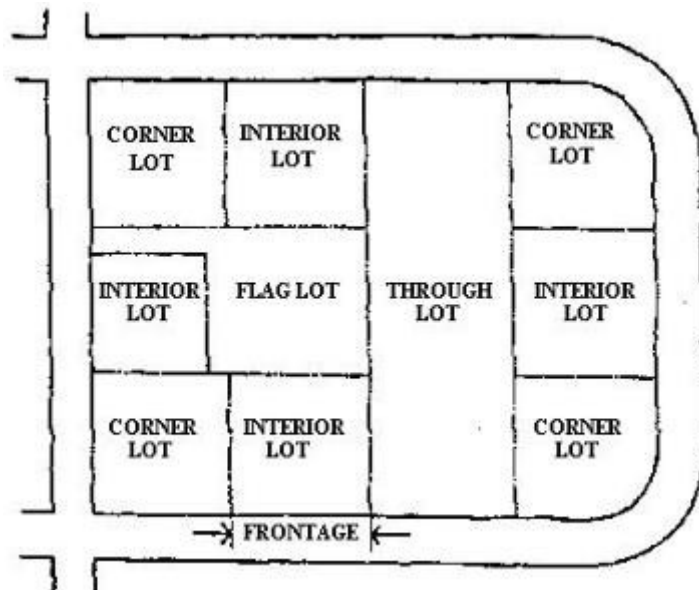
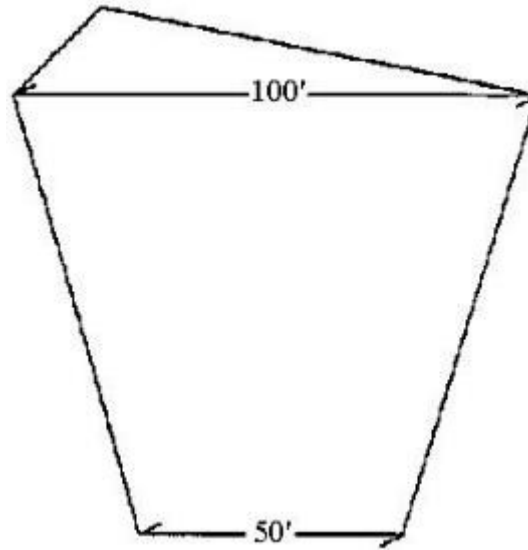


FIGURE 2-5



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:

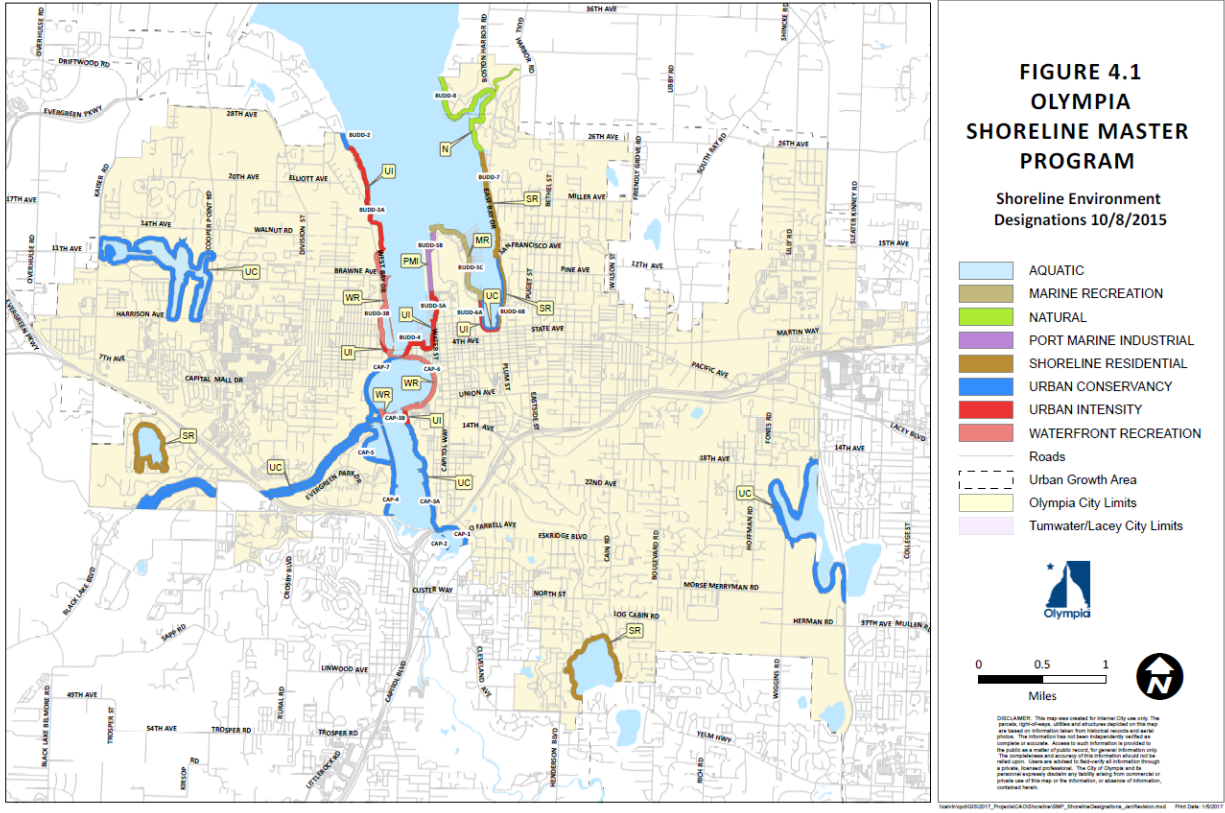
1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; ~~and~~
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

This page intentionally blank.

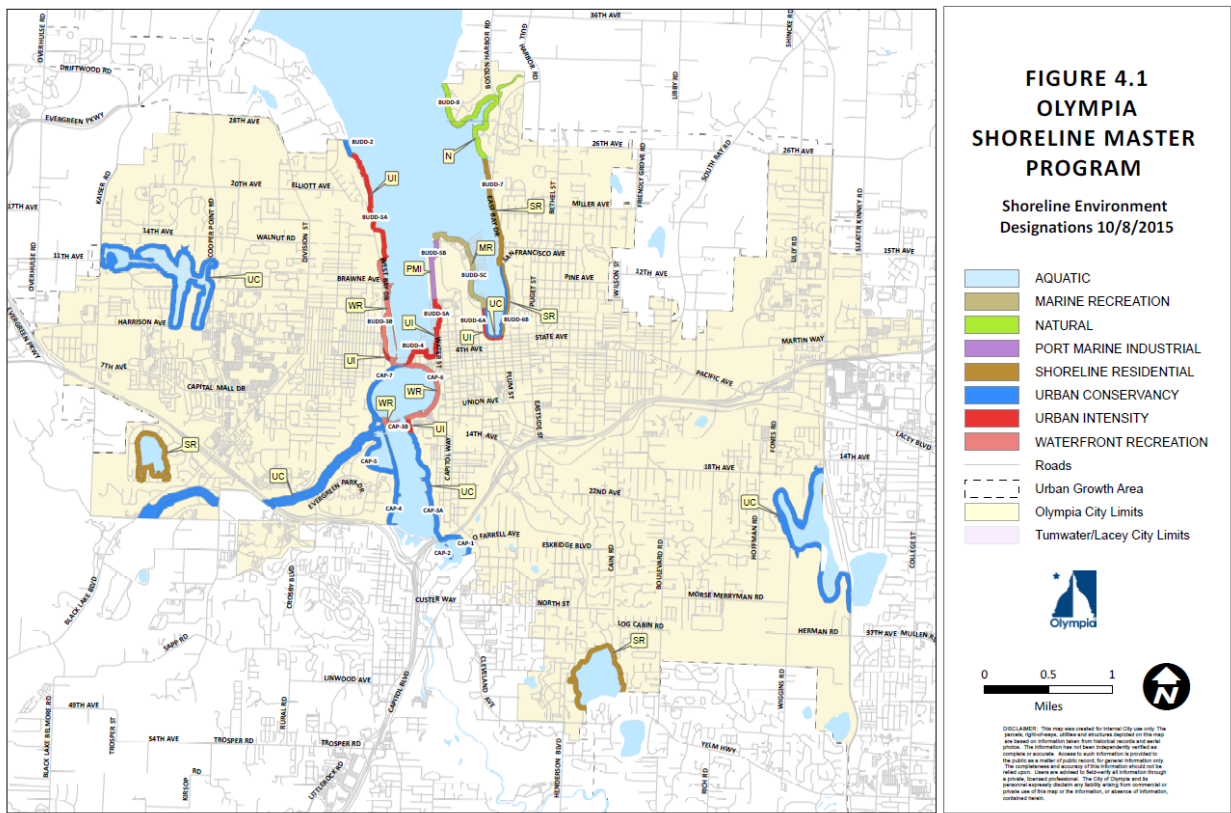
ATTACHMENT 3

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.~~

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/ 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



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.

This page intentionally blank.



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

This page intentionally blank.

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.

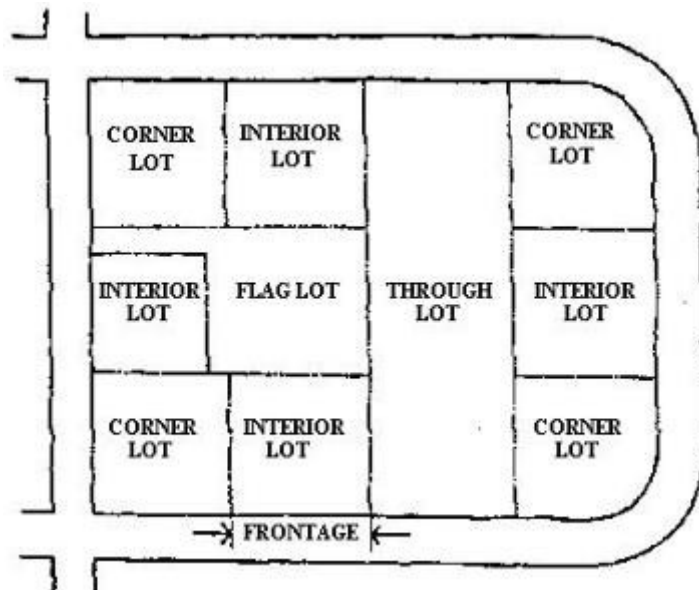
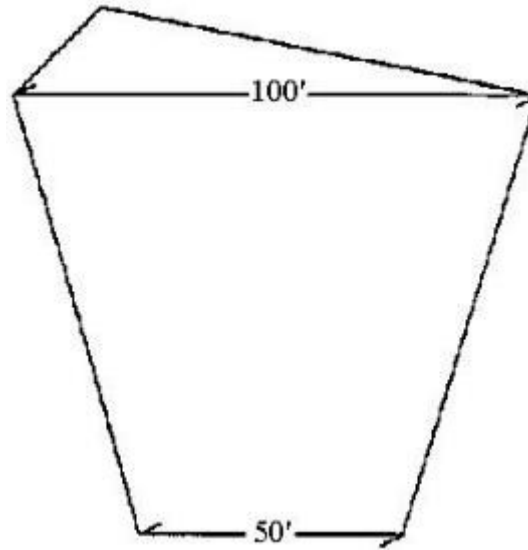


FIGURE 2-5



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:

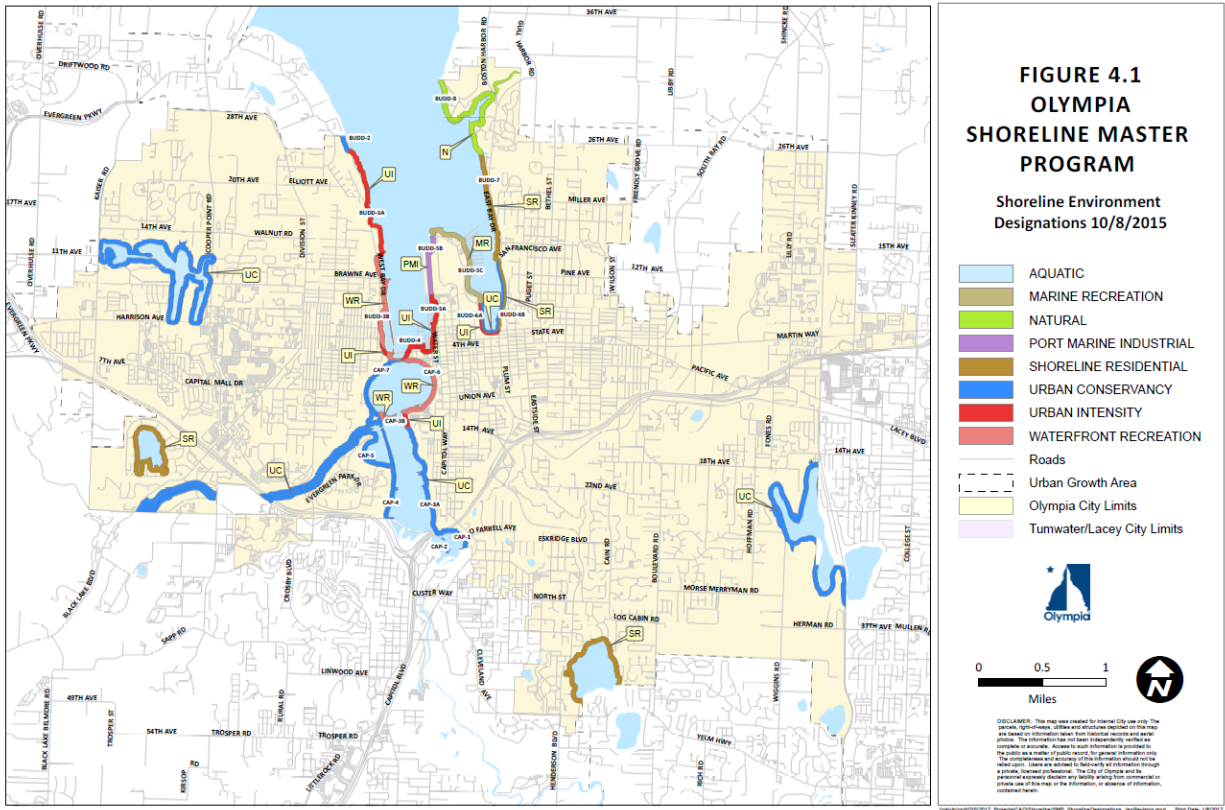
1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; ~~and~~
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

This page intentionally blank.

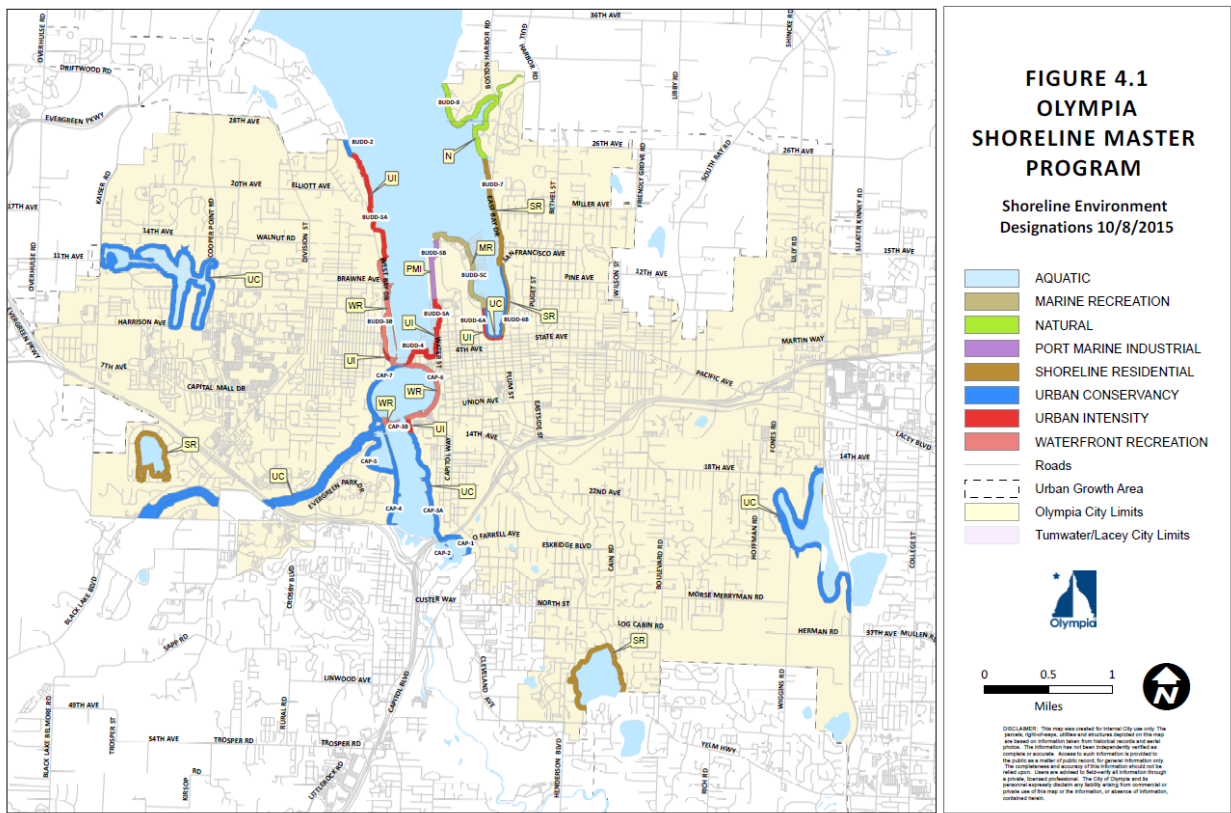
ATTACHMENT 3

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.~~

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/ 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



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.

This page intentionally blank.



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

This page intentionally blank.

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.

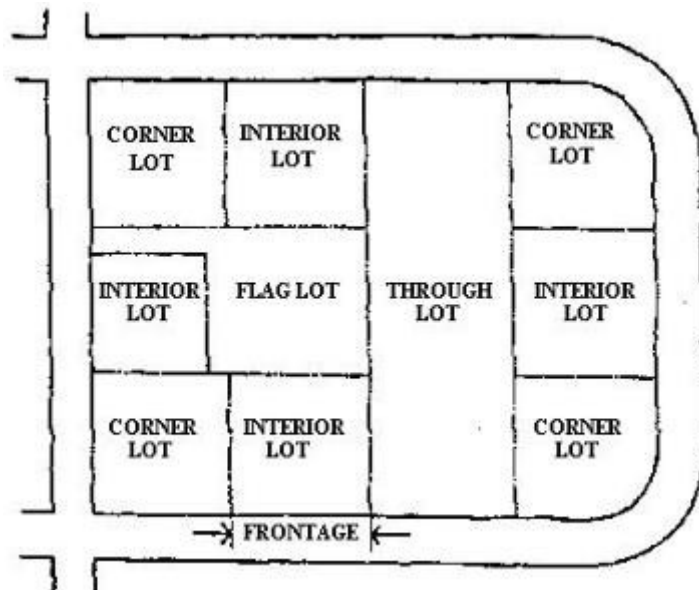
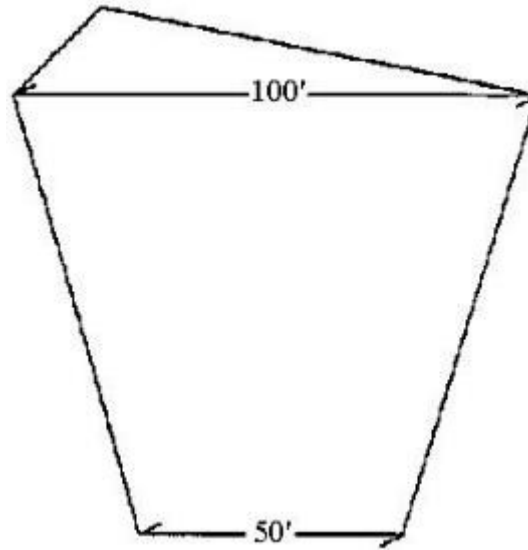


FIGURE 2-5



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:

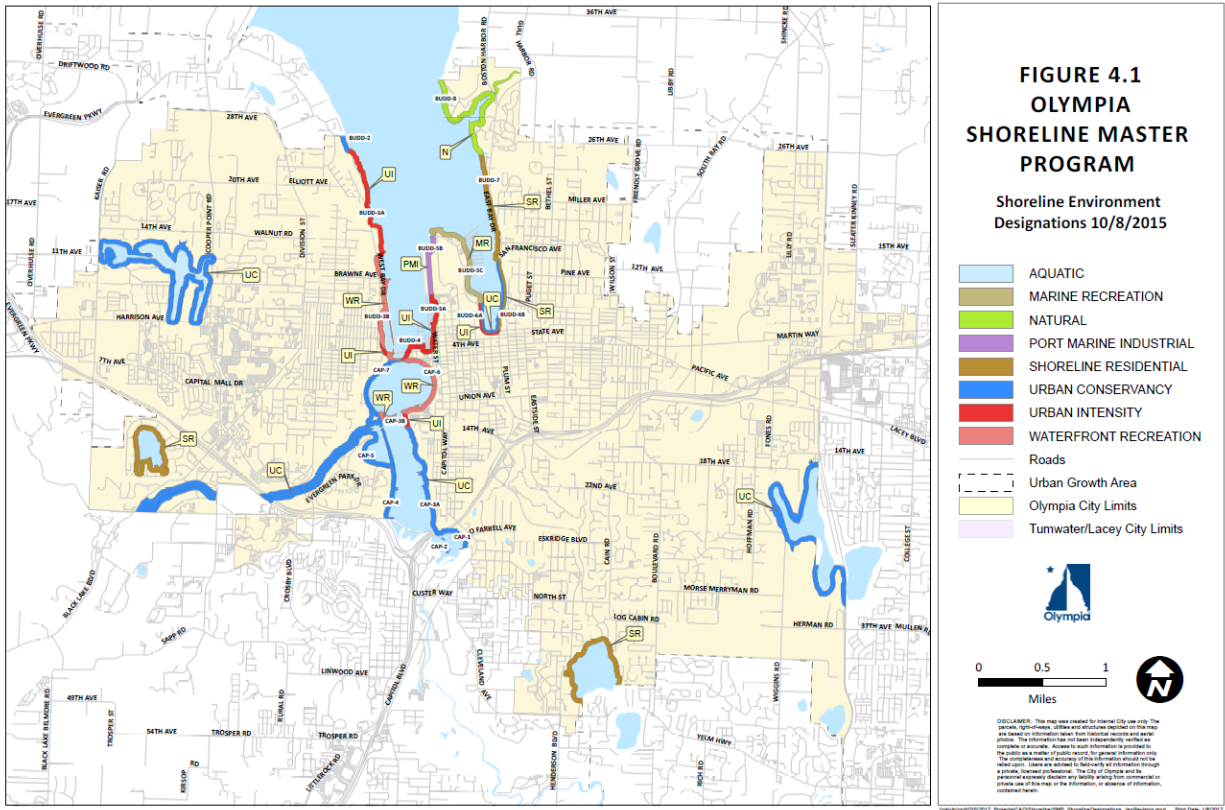
1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; ~~and~~
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

This page intentionally blank.

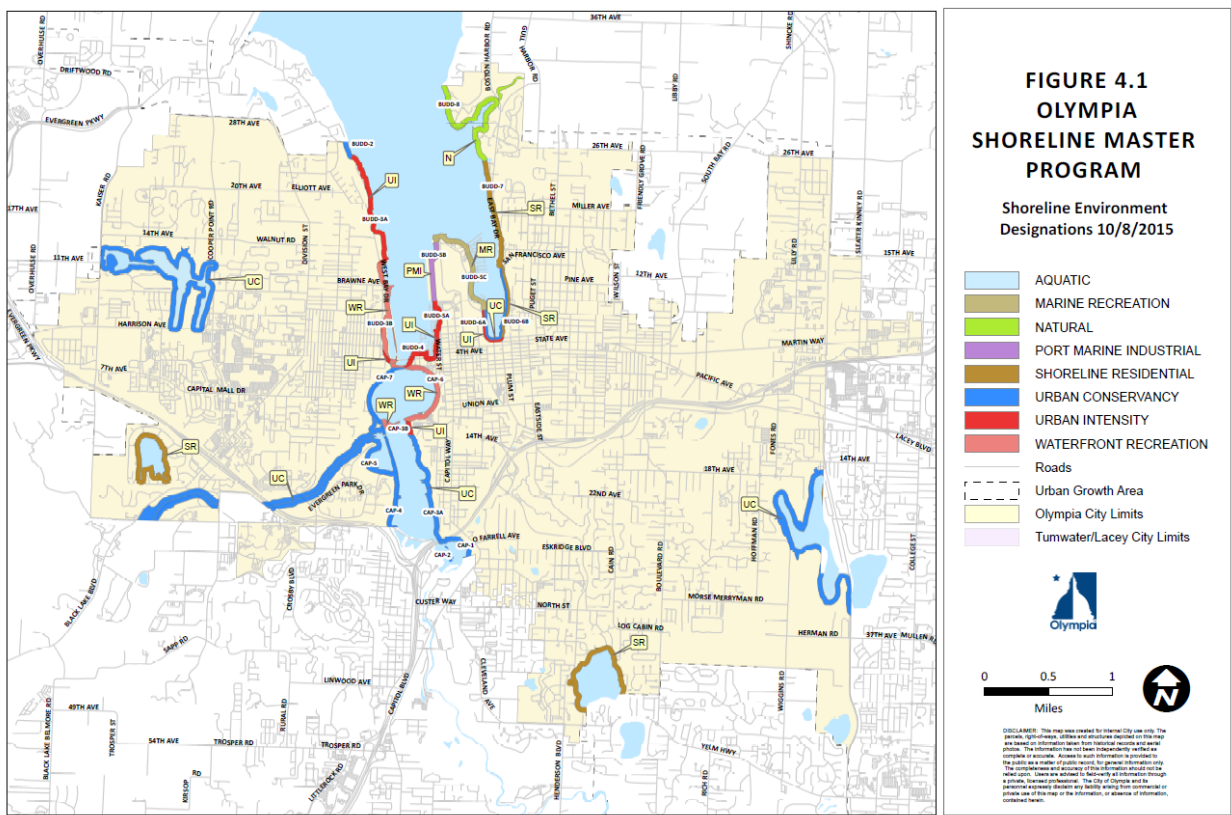
ATTACHMENT 3

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.~~

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/ 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



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.

This page intentionally blank.



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

This page intentionally blank.

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.

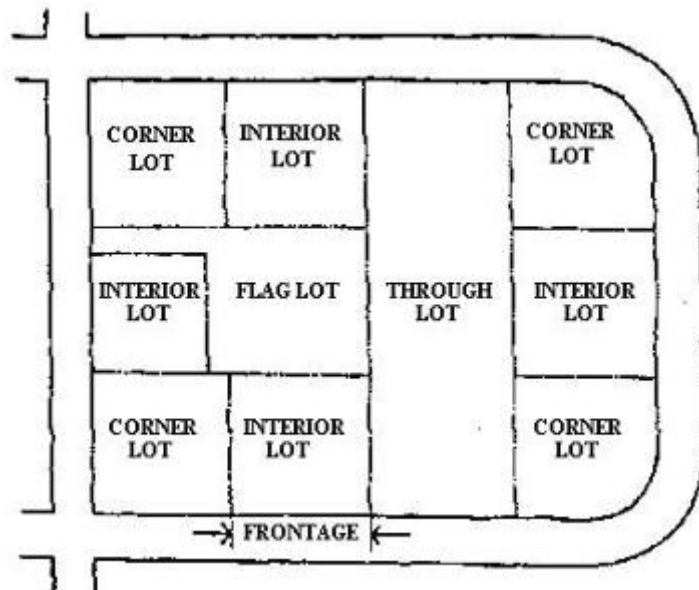
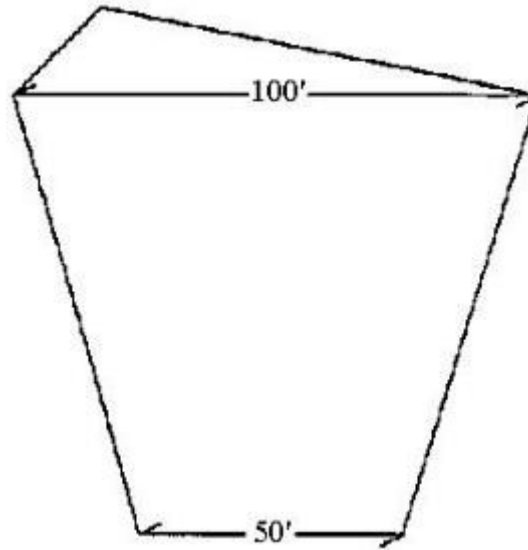


FIGURE 2-5



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:

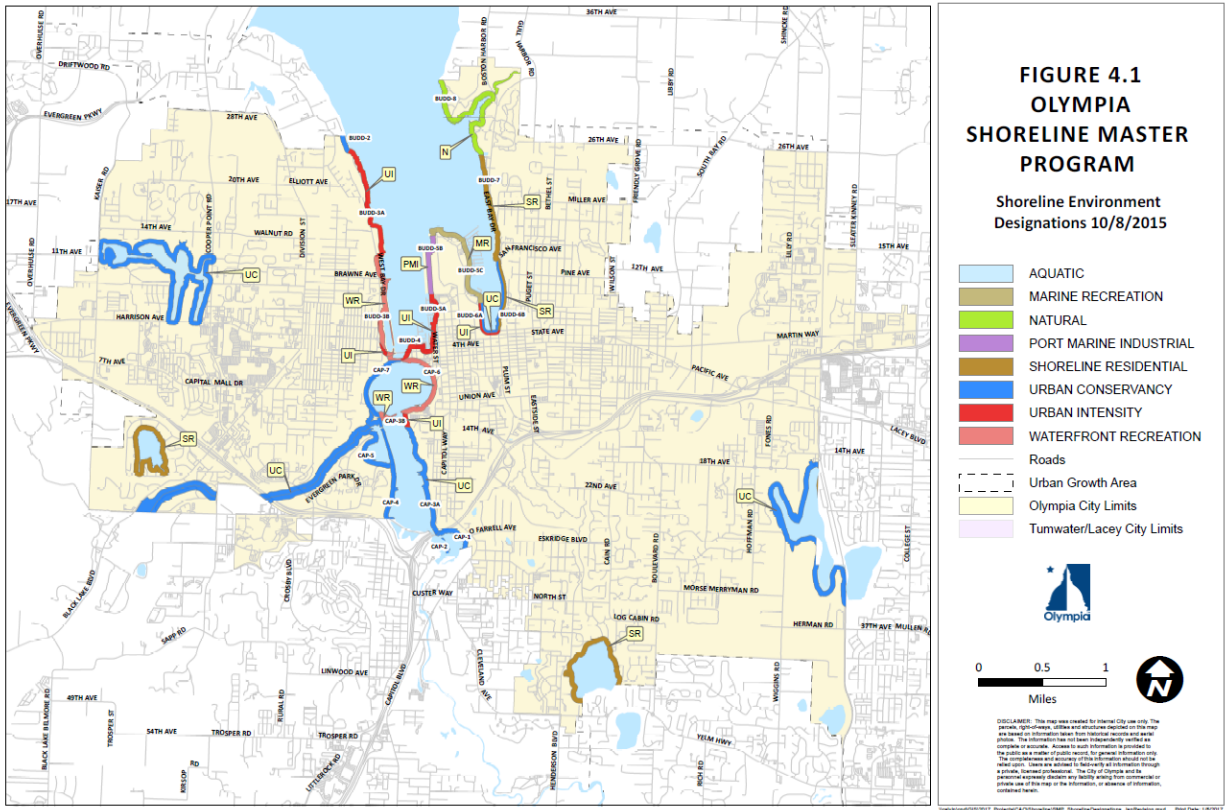
1. -Is an isolated Category III or IV wetland;
2. Is not associated with a riparian corridor;
3. Is not part of a wetland mosaic; ~~and~~
4. Does not contain habitat identified as essential for local populations of priority species identified by the Washington State Department of Fish and Wildlife; ~~and~~
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%) ~~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 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

This page intentionally blank.

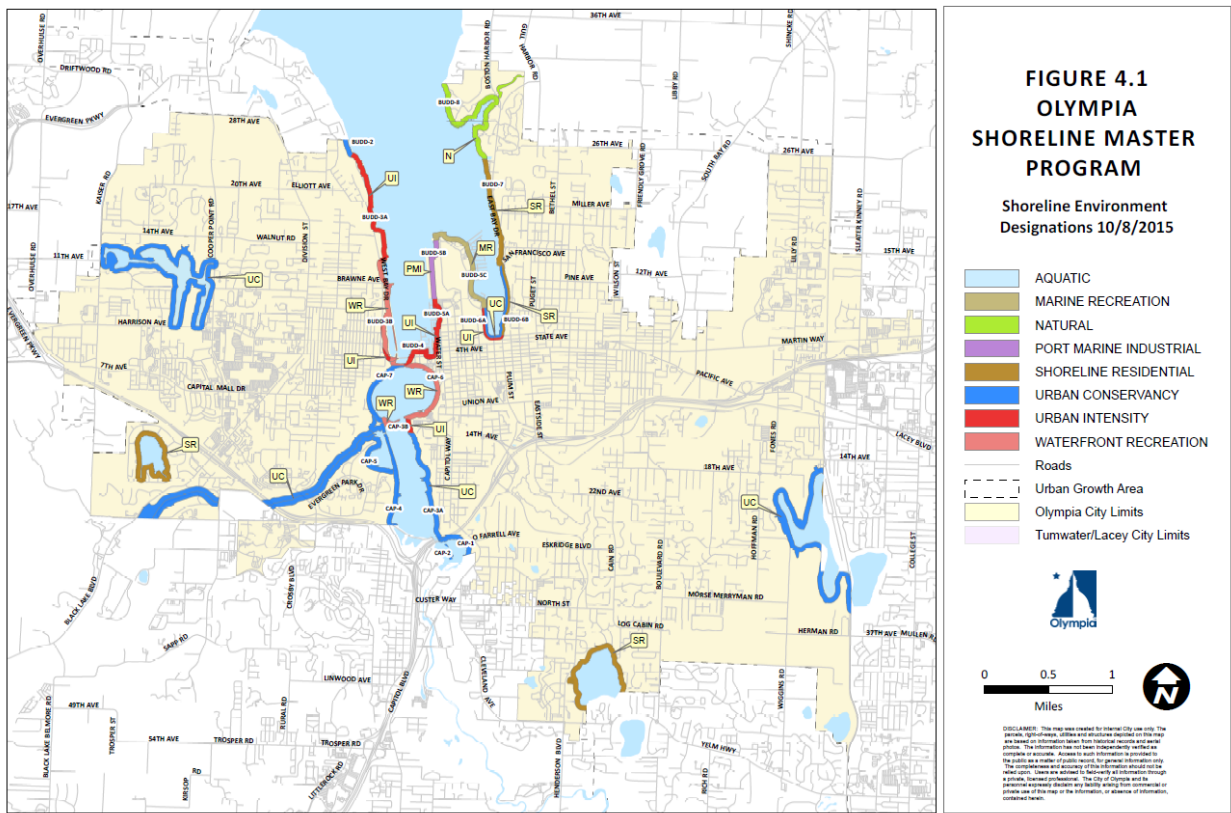
ATTACHMENT 3

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.~~

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/ 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



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.

This page intentionally blank.



5309 Shilshole Avenue NW
Suite 200
Seattle, WA 98107
206.789.9658 [phone](tel:2067899658)
206.789.9684 [fax](tel:2067899684)

www.esassoc.com

memorandum

date August 5, 2016

to Linda Bentley, City of Olympia
Leonard Bauer, City of Olympia

from Ilon Logan and Christina Hersum, ESA

subject Critical Areas Ordinance Update Phase II: Locally Important Species and Associated Habitats Overview and Options Memo

The City of Olympia (City) is concluding its Critical Areas Ordinance (CAO) update process in accordance with the requirements of the Growth Management Act (GMA) (RCW 36.70A). The City has performed a review of current best available science (BAS) for informing policies and regulations that protect and manage activities in and near critical areas and applied special considerations to salmonids. The *Best Available Science* memo (ESA, 2016) incorporates the findings of previous review efforts conducted by the City and assesses the existing regulations for consistency with current BAS.

For Phase II of the CAO update process, the City has elected to research, evaluate, and engage community members and elected officials in identifying potential protections for locally important species and associated habitats. The City is interested in multiple wildlife species, but in particular, great blue heron. ESA has prepared this memo to incorporate findings from the BAS science review with information from the City regarding valued wildlife species and/or habitats in the City and describe the following:

- Current federal, state, and local regulatory protections for wildlife species and their habitats;
- Legal basis for protecting species and habitats of local value or importance;
- Current approaches in cities with comparable characteristics to Olympia; and
- Options for increasing protections the identified species and/or habitats.

The intent of this memo is to provide a basis for discussion between stakeholders and the City about wildlife and wildlife habitats in Olympia.

Mapped Priority Species and Habitats and Prairie Soils in Olympia

ESA performed a limited evaluation of existing GIS information of species and habitats in the City and its UGA. The major source of information is the Washington Department of Fish and Wildlife (WDFW)

Priority Habitats and Species (PHS) database (WDFW, 2016). The PHS database is continuously updated by WDFW, but does not include all known occurrences of priority species and habitats due to limited agency resources. Figure 1 shows the location of current and historic wildlife occurrences and concentrations as mapped by WDFW and Table 1 provides a summary of PHS records. The PHS database includes both individual species and species group records for Olympia including documentation of wood duck breeding areas, mink occurrences (both from the early 1990s), great blue heron rookeries, bald eagle and peregrine falcon breeding sites, and bat communal roosts. There are mapped concentrations of shorebirds and waterfowl in Budd Inlet and Capitol Lake, respectively. Capitol Lake and the Percival Creek riparian corridor is mapped as a Biodiversity Area and Corridor.

Table 1. Mapped WDFW Priority Habitats and Species

Habitat or Species	PHS Category	Location
Habitats		
Biodiversity Area & Corridor	Priority Habitat	Capitol Lake
Shorebird Concentration Area	Regular Concentration	Budd Inlet
Waterfowl Concentration Area	Regular Concentration	Capitol Lake
Birds		
Wood duck	Breeding Area	West Olympia
Great blue heron	Breeding Area	West Bay
Bald eagle	Breeding Area/Nest Site	Deschutes River, Capitol Lake (nest)
Peregrine falcon	Breeding Area/Nest Site	Port of Olympia
Purple martin	Breeding Area/Site	East Bay Marina, West Bay Marina, Percival Landing, Fiddlehead Marina
Vaux's swift	Communal Roost	Deschutes River, SE of Capitol Lake
Mammals and Amphibians		
Mink	Occurrence	Black Lake Ditch corridor
Mazama pocket gopher	Occurrence	One individual near Yelm Highway/Blvd Road
Oregon spotted frog	Occurrence	Two egg mass in Fish Pond Creek
Bats		
Yuma myotis	Communal Roost	Woodard Creek, Deschutes River, near Hazard Lake
California myotis	Communal Roost	Deschutes River
Big brown bat	Communal Roost	Capitol Lake
Little brown bat	Communal Roost	Woodard Creek
Townsend's Big-eared bat	Occurrence	Deschutes River
Fish		
Olympic mudminnow	Occurrence	Ditch at Kaiser Road, Green Cove (headwaters, drainage, Creek), Cooper Pt Road, Louise Lake, Woodard Creek
Coho	Occurrence/Migration	Indian Creek, Moxlie Creek, Deschutes River, Schneider Creek, Percival Creek, Ellis Creek, Black Lake Drainage Ditch
Fall Chinook	Occurrence/Migration	Indian Creek, Moxlie Creek, Deschutes River, Percival Creek
Fall Chum	Occurrence/Migration	Indian Creek, Moxlie Creek, Deschutes

		River, Percival Creek
Residential Coastal Cutthroat	Occurrence/Migration	Woodard Creek, Indian Creek, Deschutes River, Percival Creek
Winter Steelhead	Occurrence	Deschutes River, Woodard Creek
Surf smelt	Breeding Area	Budd Inlet

Prairie-dependent plant and wildlife species are of concern in Thurston County. As described in detail later in this memo, the County has designated prairies as locally important habitats and employs Natural Resources Conservation Service (NRCS) soil mapping to preliminarily identify locations that may support dry or wet prairie habitats. The County provides a list of soils known to be associated with prairies in its CAO (Table 24.25-6 in Thurston County Code Title 24). Figure 2 shows the location of these soil types in the City of Olympia and its UGA.

The Washington Department of Natural Resources (WDNR) maintains a database of rare plant species and ecosystems of special concern through its Natural Heritage Program (NHP). Native prairies and oak woodlands are considered high-quality terrestrial ecosystems and their occurrence is mapped by the NHP. Based on a review of the NHP database, there are no known locations of these habitats in the City of Olympia and its UGA.

Additional Information on Wildlife in the City

WDFW records for great blue heron in the City note active breeding (confirmed by WDFW biologists) in 2008, 2009, 2010, 2012, 2013, and 2014 (WDFW, 2015). Information provided by citizens note breeding in 2015 and 2016 (Einstein, 2016). Approximately 30 individuals comprise the heron population, which has alternated rookery locations on forested slopes of both the West Bay and East Bay of Budd Inlet (Einstein, 2016). The West Bay rookery location is shown on Figure 1.

The Black Hills Audubon Society conducts surveys of bird species in Olympia during the annual Christmas Bird Count. The data has been compiled by citizen volunteers and provides a basis of overall patterns in bird abundance over time when appropriately interpreted. Abundance patterns for great blue heron, purple martin, osprey, Western grebe, and Vaux’s swift are available (Black Hills Audubon, 2016).

Federal and State Regulatory Protections

Fish and wildlife species and their habitats are protected under multiple federal, state, and local government policies, regulations, and laws. At the federal level, the major environmental law protecting wildlife is the Endangered Species Act. Species listed under the Act are a limited number of fishes, mammals, and birds that are designated as “endangered,” “threatened,” and “candidate” species.

In Olympia, listed species that are mapped by the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) include salmonids such as Chinook and steelhead, pocket gopher, marbled murrelet, streaked horned lark, and yellow-billed cuckoo and one plant species (golden paintbrush) (USFWS, 2016; NMFS, 2016). However, suitable habitat for the pocket gopher, the three bird species, and golden paintbrush is not present within the City limits or the urban growth area (UGA) and these species are unlikely to occur.

The Migratory Bird Treaty Act (MBTA) protects native bird species from harm (specifically illegal is to take, possess, import, export, transport, sell, purchase, barter, or offer for sale, purchase, or barter the parts, nests, or eggs). The list of birds protected under the MBTA is periodically updated with the most recent update occurring in 2013, which designated 1,026 bird species. According to USFWS (2016), the migratory bird species that occur in Olympia include numerous waterfowl, raptor, and songbird species.

The MBTA protects the individual bird, its nest, and its eggs, but it does not protect the bird’s habitat. Thus, removing a tree with an active nest would be considered unlawful under the MBTA, but removing the same tree outside of the nesting season would not. The MBTA is administered by USFWS who also authorizes WDFW for state and local projects. Enforcement of the MBTA is common for federally-funded projects, but less so for state and local projects due to limited WDFW resources.

Similar to the MBTA, the Bald and Golden Eagle Protection Act protects the “taking” of eagles, including their parts, nests, or eggs. Bald eagles regularly occur in the City and nest along the shoreline of Budd Inlet and other waterbodies such as the Deschutes River.

Table 2 summarizes all of the applicable federal and state laws as well as programs for wildlife and their habitats. Two state laws, the GMA and the Shoreline Management Act (SMA), provide the legal basis for protecting wildlife species and habitats in Washington. Both acts are implemented at the local level (as described in the following section).

Table 2. Federal and State Regulations and Programs Protecting Wildlife

Statute	Lead Agency	Regulated Activities / Program
Federal		
Endangered Species Act (50 CFR Part 17)	NMFS and USFWS	Protects species identified as endangered or threatened along with designated critical habitat required for the conservation of those species. NMFS has authority over most anadromous fishes, marine mammals, marine reptiles, and other marine fish species, while the USFWS has authority over terrestrial wildlife and resident fish species that inhabit inland waters.
Magnuson-Stevens Fishery Conservation Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267)	NMFS	Requires federal agencies to consult with NMFS on federal actions that may adversely affect designated Essential Fish Habitat for federally managed fish species.
Marine Mammal Protection Act	NMFS and USFWS	Protects all marine mammals from take in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products. NMFS is charged with protecting whales, dolphins, porpoises, seals, and sea lions. Walrus, manatees, otters, and polar bears are protected by the USFWS.
Bald and Golden Eagle Protection Act (50 CFR Part 22)	USFWS	Protects bald and golden eagles and makes it unlawful to take, import, export, sell, purchase, or barter any bald or golden eagles, their parts, products, nests, or eggs. The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb."

Migratory Bird Treaty Act (50 CFR Part 21)	USFWS	Protects many common native birds as well as birds that are listed as threatened or endangered. USFWS regulates most aspects of the taking, possession, transportation, sale, purchase, barter, exportation, and importation of migratory birds.
State		
Growth Management Act (Chapter 36.70A RCW)	Department of Commerce	Requires county and local municipalities to manage Washington's growth through the identification and protection of critical areas and natural resource lands; the designation of <i>urban growth areas</i> ; and the preparation and implementation of comprehensive plans.
Shoreline Management Act (Chapter 90.58 RCW)	Department of Ecology (Ecology)	Regulates water bodies above a threshold size as well as lands within 200 feet of the ordinary high water mark of those water bodies. Includes policies and regulations to protect shoreline habitat, preserve public access, and allow for water-dependent uses.
State Wildlife Permanent Regulations (Chapter 232-12 WAC)	WDFW	Protects and regulates the hunting of wildlife including game species, listed species, etc.
Priority Habitats and Species Program	WDFW	Non-regulatory program that provides information on documented locations of fish and aquatic resources, terrestrial plants and animals, and habitats listed or defined as priority. Priority species include state endangered, threatened, sensitive, or candidate species; animal aggregations considered vulnerable; and species of recreational, commercial, or tribal importance that are vulnerable. Priority habitats are habitat types or elements of habitat with unique or significant value to a diverse assemblage of species. A priority habitat may consist of a unique vegetation type (e.g., shrub-steppe) or dominant plant species, a described successional stage (e.g., old-growth forest), or a specific habitat feature (e.g., cliffs).
Natural Heritage Program	WDNR	Non-regulatory program that provides information for listed plant species or those defined as rare. Also maintains information on rare ecological communities and priority species.

City of Olympia Regulatory Protections and Gaps

The local regulatory programs and policies associated with wildlife species and habitat currently implemented by the City include the CAO, Shoreline Master Program (SMP), and Comprehensive Plan. The City's CAO protects and regulates activities on or adjacent to designated critical areas with the goal of minimizing potential impacts to fish, wildlife, and plant species and habitats. It helps to establish allowed uses, buffers, setback requirements, and mitigation requirements for regulated critical areas. City administration of the CAO and SMP regulations must also be balanced with private property uses and rights under state law. Per the state's constitution and state law (RCW 36.70A .370), land use regulations that affect the use of private property must be administered in a manner that does not constitute a taking of private property or violate the principles of substantive due process (State of Washington, 2015).

Among the critical areas identified for protection under the GMA are fish and wildlife habitat conservation areas (FWHCAs). FWHCAs are defined as (WAC 365-190-130):

- a) Areas where endangered, threatened, and sensitive species have a primary association;
- b) Habitats and species of local importance, as determined locally;
- c) Commercial and recreational shellfish areas;
- d) Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;
- e) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
- f) Waters of the state;
- g) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and
- h) State natural area preserves, natural resource conservation areas, and state wildlife areas.

The current CAO provides standards for protection of FWHCAs in two sections of OMC 18.32: Important Habitats and Species (18.32.300-330) and Streams and Important Riparian Areas (18.32.400-445). Important habitats and species are defined in OMC 18.32.305 as "*habitats or species known to occur within Thurston County and which may be found within the City of Olympia...*" and include ESA-listed species, as well as state-listed species. The code does not provide a list of habitats or species and does not reference the lists available in the Thurston County CAO (discussed in detail below).

The SMP establishes allowed uses, buffers, setback requirements, and mitigation requirements for shorelines of regulated waterways (e.g. streams, wetlands) in OMC 14.08. It identifies specific shoreline areas for protection that provide important wildlife habitat, including: Port Lagoon, Priest Point Park, Ellis Cove, Grass Lake, Chambers Lake, and Percival Canyon. The SMP generally identifies wildlife species for habitat protection as "locally important plant, fish and wildlife species..." but does not identify particular species.

Lastly, the Olympia Comprehensive Plan contains policies that include: protection of ecological processes and functions of wildlife habitat (e.g. wetlands, streams), restoration of natural features, and tree retention. Similar to the CAO and SMP, no specific wildlife habitats or species are identified for protection or restoration.

In summary, Olympia's CAO addresses species that are already listed under federal and state regulations (e.g., salmonids, marine mammals, bald eagle), several specific habitat types (e.g., eelgrass beds, surf smelt breeding areas), and habitats that occur in specific locations (e.g., Important Riparian Areas and those identified in the City's SMP). Conversely, wildlife species that are not listed and/or that do not have a primary association with the habitats defined as FWHCAs or those specifically identified in the CAO and SMP, are not protected. In the case of great blue herons, if the heron rookery were located in one of the areas specifically protected or within a standard buffer of a wetland or stream, then critical areas protections would apply. If it were located outside of these areas, only the removal of an active nest would be considered unlawful under the MBTA and state law (WAC 232-12-011), and removal of nest trees outside of the nesting season would not.

Legislation for Protecting Local Habitats and Species

Primary legislation for protecting local habitats and species is provided by the GMA. As previously mentioned, the GMA designates FWHCAs for protection as a critical area and provides a definition for

FWHCAs that includes habitats and species of local importance, as determined locally (WAC 365-190-030(19)):

"Habitats of local importance" designated as fish and wildlife habitat conservation areas include those areas found to be locally important by counties and cities;

"Species of local importance" as those species that are of local concern due to their population status or their sensitivity to habitat alteration or that are game species.

The GMA does not provide additional specificity about designating habitat or species of local importance beyond the above definitions. To assist local jurisdictions, the Department of Commerce (formerly CTED) provides one method of designating habitats and species through a set of example code provisions (CTED, 2007). The example provisions are as follows:

- a. **Designation Process.** The [city/county] shall accept and consider nominations for habitat areas and species to be designated as locally important on an annual basis.
 - i. Habitats and species to be designated shall exhibit the following characteristics:
 - (a) Local populations of native species are in danger of extirpation based on existing trends:
 1. Local populations of native species that are likely to become endangered; or
 2. Local populations of native species that are vulnerable or declining (see WAC 232-12-297);
 - (b) The species or habitat has recreation, commercial, game, tribal, or other special value;
 - (c) Long-term persistence of a species is dependent on the protection, maintenance, and/or restoration of the nominated habitat;
 - (d) 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 [city/county]; and
 - (e) Without protection, there is a likelihood that the species or habitat will be diminished over the long term.
 - ii. Areas nominated to protect a particular habitat or species must represent either high-quality native habitat or habitat that has a high potential to recover to a suitable condition and which is of limited availability, highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape.
 - iii. Habitats and species may be nominated for designation by any person.
 - iv. The nomination should indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries), or whether the habitat or ecosystem is being nominated in its entirety.
 - v. The nomination may include management strategies for the species or habitats. Management strategies must be supported by the best available science, and where

restoration of habitat is proposed, a specific plan for restoration must be provided prior to nomination.

- vi. The [director] shall determine whether the nomination proposal is complete, and if complete, shall evaluate it according to the characteristics enumerated in subsection (i) and make a recommendation to the [planning commission] based on those findings.
- vii. The [planning commission] shall hold a public hearing for proposals found to be complete in accordance with [locally adopted hearing procedures] and make a recommendation to the [city council or county commissioners] based on the characteristics enumerated in subsection (i).
- viii. Following the recommendation of the [planning commission], the [city council or county commissioners] shall designate a Habitat or Species of Local Importance.
- ix. Approved nominations will be subject to the provisions of this Title.

Current Approaches in Other Jurisdictions

Some local governments identify and protect specific habitats and species of local importance through their CAO with the goal of protecting the species before they end up on a state or federal threatened or endangered species list. The following paragraphs discuss the current protections for habitats and species of local importance in neighboring jurisdictions, including Thurston County and the cities of Kenmore, Redmond, Bellevue, and Tacoma.

Thurston County

The Thurston County CAO (Thurston County Code [TCC] Title 24) designates habitats and species of local importance as a FWHCA. The County follows a process similar to the example code provisions from Commerce as listed in the previous section. Thurston County has codified these specific submission requirements for adding or removing habitats or species of local importance in their CAO ([TCC 24.25.065\(C\)](#)). Habitats of local importance are defined in TCC 24.03 as habitats that:

"... may include a seasonal range or habitat element with which a given species has a primary association, and which, if altered, may reduce the likelihood that the species will maintain and reproduce over the long-term. These might include areas of high relative density or species richness, breeding habitat, winter range, and movement corridors. These might also include habitats that are of limited availability or high vulnerability to alteration."

The County has designated five habitats of local importance. Table 3 lists the habitats as well as a justification for the habitat listing.

Table 3. TCC Table 24.25-4 Habitats of Local Importance.

Habitat	Purpose of Habitat/Basis for Listing	Related Species
Cottonwood floodplains	Current floodplain regulations do not protect this habitat from being cleared for converting to agricultural uses. This is a habitat found only along the Nisqually River in Thurston County.	Red-eyed vireo

Habitat	Purpose of Habitat/Basis for Listing	Related Species
	Cottonwoods are a keystone species in many riparian zones (Johnson et al 2001).	
Balds (dry plant communities, grasslands)	Globally unique and rare plant community. Primarily located in SE corner of Thurston County, vicinity of Bald Hills. Similar to prairies, but smaller and shallower soils (associated with bedrock outcrops).	
Prairie or Westside Prairie	Important prairie or westside prairie habitat means herbaceous, non-forested (forested means greater than or equal to sixty percent forest canopy cover) plant communities that can either take the form of a dry prairie where soils are well-drained or a wet prairie. Priority dry prairie areas have a minimum size of one acre. In addition, some areas dominated by Scot's (Scotch) Broom (non-native shrub) or other invasive species to prairies shall be considered prairie if the area is restorable and when there are native prairie species in the understory below the shrubs. Such marginal and restorable areas can be less valuable, but may have significant value if they are large in area, or in a landscape that connects two or more prairies. Small areas less than one acre with characteristics meeting the definition of prairie habitat which are functionally connected to another larger prairie habitat within approximately one half mile are also important prairie habitat areas. Mima mounds shall be preserved to the greatest practicable extent as determined by the review authority. See the definitions for prairie habitat, dry prairie, and wet prairie.	Mazama pocket gopher, Taylor's checkerspot butterfly, Mardon skipper, streaked horned lark
Oregon White Oak Habitat	Important Oak Habitat means stands of Oregon white oak (<i>Quercus garryana</i>) or oak/conifer associations where canopy coverage of the oak component of the stand is twenty-five percent or more; or where total canopy coverage of the stand is less than twenty-five percent, but oak accounts for at least fifty percent of the canopy coverage. The latter is often referred to as oak savanna. Important oak habitat consists of stands greater than or equal to one acre (0.4 hectares) in size. Single oaks or stands less than one acre (0.4 hectares) shall also be considered an important habitat when found to be particularly valuable to fish and wildlife (i.e. they contain many cavities, have a large diameter at breast height, are used by priority species, or have a large canopy), or are located in degraded habitat areas. Individual oak trees and stands of pure oak or oak conifer associations less than one acre in size that are located in close proximity to an oak habitat larger than one acre may also be considered an important habitat.	Western gray squirrel
Springs and seeps (includes mineral springs)	Forested springs/seeps are protected in the Forests and Fish Report to protect stream associated amphibians (SAA), protect water quality, etc. fifty-foot no cut buffer required. Mineral springs are important to Band-tailed pigeons, especially during breeding season.	Band Tailed Pigeon

Species of local importance in Thurston County are defined in TCC 24.03 as:

"... those species that may not be endangered or threatened from a statewide perspective, but are of local concern due to their population status or their sensitivity to habitat manipulation and have been designated as such."

The County has designated eight bird species and four amphibian and reptiles species of local importance. Table 4 lists the species as well as a justification for listing.

Table 4. TCC Table 24.25-5 Wildlife Species of Local Importance

Common Name	Scientific Name	Basis for Listing as Locally Important
<i>Birds:</i>		The following bird species depend on prairie habitat and are declining in population due to loss of habitat. They serve as indicator species for relatively large and/or healthy prairie and may assist in protection of prairie habitat.
Western Meadowlark	<i>Sturnella neglecta</i>	Prairie species. Needs large open areas. Found on Joint Base Lewis McChord (JBLM), Mima Mounds, and Olympia Airport year round.
Lazuli Bunting	<i>Passerina amoena</i>	Prairie species. Declining populations. Found near Scatter Creek and Joint Base Lewis McChord (JBLM).
Common nighthawk	<i>Chordeiles minor</i>	Prairie species. Population declining significantly.
American Kestrel	<i>Falco sparverius</i>	Prairie species. Population is declining. Nests in cavities. Can use nest boxes.
Northern Harrier	<i>Circus cyaneus</i>	Prairie and herbaceous wetlands. Ground nester. Uncommon breeding in Washington.
American Bittern	<i>Botaurus lentiginosus</i>	State of Washington Birds classifies A. Bittern as a Species of Immediate Concern for wetlands.
Olive-sided Flycatcher	<i>Contopus cooperi</i>	State of Washington Birds classifies Olive-sided Flycatcher as a Species of Immediate Concern for forests.
Short-eared owl	<i>Asio flammeus</i>	State of Wa Birds classifies Short-eared owl as a Species of High Concern for grasslands.
<i>Amphibians and Reptiles:</i>		The following amphibian species ranges have been significantly reduced due to habitat alteration and development. Sensitive to site and landscape alterations, specifically that limit breeding and foraging site connectivity, and dispersal/seasonal corridors.
Olympic Torrent Salamander	<i>Rhyacotriton olympicus</i>	Three of the four species of Rhyacotritoninae occur in Thurston County - Olympic Torrent, Columbia Torrent, and Cascade Torrent. Cascade and Columbia Torrent salamanders are both listed as State Candidate Species by WDFW. Erik Neatherlin of WDFW and Bill Leonard, Biologist with WDOT, both recommend listing the Olympic Torrent Salamander as a Locally Important Species due to their association with old-growth forests and

Common Name	Scientific Name	Basis for Listing as Locally Important
		sensitivity to increased temperatures and sedimentation in streams and headwaters.
Tailed Frog	<i>Ascaphus trui</i>	Sensitive to timber harvest. Survival may depend on protection of cool flowing streams required for breeding and larval development. Likely to be affected by increased water temperatures occurring after timber harvest. Headwater stream protection through buffers is important mitigation measure.
Cope's Giant Salamander	<i>Dicamptodon copei</i>	Cope's giant salamander (<i>Dicamptodon copei</i>) are sensitive to habitat change and fragmentation from development. Both species would be expected to occur in the extreme SE portion of the county, similar to the two PHS species, Cascades torrent salamander and Van Dyke's salamander. The SE portion of the county in the headwaters of the Deschutes systems and the Nisqually system in the vicinity of Alder lake should be considered a "hot" region for all four (2 PHS, 2 local species mentioned) as this area is the only place they are likely to occur in the county. (Source: E. Neatherlin, WDFW)
Pacific Giant Salamander	<i>Dicamptodon tenebrosus</i>	May be associated with old-growth forests. Found in moist coniferous forests. During breeding season found in or near streams. Closely associated with high gradient streams with coarse substrate.

City of Kenmore

The City of Kenmore CAO (Kenmore Municipal Code [KMC] 18.55) designates habitats of local importance through the following criteria (KMC 18.55.500):

1. Documented presence of species listed by the federal government or the State of Washington as endangered or threatened; or
2. Heron rookeries or active nesting trees; or
3. Class 1 wetlands as defined in KMC 18.55; or
4. Type 1 streams as defined in KMC 18.55; or
5. Bald eagle habitat shall be protected pursuant to the Washington State Bald Eagle Protection Rules (WAC [232-12-292](#)).

According to the code, all areas meeting one or more of these criteria within the City of Kenmore, regardless of formal identification, are designated as critical areas and are subject to the provisions of the CAO (KMC 18.55). The code includes specific performance standards for these species including the following provisions for great blue heron rookeries (KMC 18.55.530(B)):

1. A buffer equal to the distance of a 900-foot radius measured from the outermost nest tree in the rookery will be established around an active rookery. This area will be maintained in native vegetation. For the Kenmore heron rookery located adjacent to the Kenmore park-and-ride lot, the buffer excludes the area south of the north edge of the State Route 522 right-of-way and west of the east edge of the 73rd Avenue NE right-of-way.
2. Between January 1st and July 31st, no clearing, grading or land disturbing activity shall be allowed within 900 feet of the rookery unless approved by the City and Washington State

Department of Fish and Wildlife. For the Kenmore heron rookery located adjacent to the Kenmore park-and-ride lot, the area south of the north edge of the State Route 522 right-of-way and west of the east edge of 73rd Avenue NE right-of-way is excluded.

3. Approval of permits for activities within the heron rookery buffer shall not occur prior to the approval of a habitat management plan by the City and the Washington State Department of Fish and Wildlife.

Note that the performance standards have been written to apply to great blue heron rookeries in general as well as a specific existing rookery.

Cities of Bellevue, Tacoma, and Redmond

The City of Bellevue CAO (Bellevue Land Use Code [LUC] 20.25H) provides a list of 23 species as the definition for 'species of local importance' and designation as a critical area (LUC 20.25H.150). Any habitat associated with listed species of local importance is also designated as a critical area (LUC 20.25H.150). Like Thurston County, the City includes a process for identifying additional species. <http://www.codepublishing.com/WA/Bellevue/LUC/BellevueLUC2025H.html>. The City of Bellevue also developed and adopted an Urban Wildlife Habitat Functional Assessment Model (Watershed Company, 2009a and 2009b), which allows users to rate habitat on a property based on its potential to support species of local importance and other wildlife. The City requires habitat assessment for proposals that are in and adjacent to important habitat areas.

While the City of Tacoma CAO does not specifically designate 'locally important' species or habitats, it does provide a list of WDFW priority habitat and species known to be located within the City limits that are designated for protection as FWHCAs (Tacoma Municipal Code [TMC] 13.11.520).

The City of Redmond designates great blue heron as its only species of local importance (Redmond Municipal Code [RMC] 21.64.020(A)(2)). For habitats, the City has two distinctive designations: Core Preservation and Quality Habitat Areas. Core preservation areas are "areas that protect habitat and that are preserved through any of the regulatory mechanisms provided in [the] Zoning Code, including Native Growth Protection Areas, Class I streams and their buffers, Class II through IV streams, and other areas similarly protected. Core Preservation Areas may also include lands where development rights have been sold and some lands with recorded open space easements, depending on the purpose of the easement. These areas include wetlands and streams and their associated buffers as they become identified at a site-specific level." Quality habitats areas are "areas that provide significant wildlife value by virtue of their characteristics. These characteristics include several parameters indicative of quality habitat, including size, community diversity, interspersed (spatial patterns), continuity, forest vegetation layers, forest age, and lack of invasive plants." Proposals located in either of these areas are reviewed under special criteria with the intent of protecting and preserving habitat.

Options for Protecting Local Habitats and Species

Programmatic

A programmatic approach to identifying and protecting locally important habitats and species entails the designation of land for specific purposes such as open space, native growth protection areas, or habitat preservation areas. Native growth protection areas are probably the most commonly used and are typically defined as areas "where native vegetation is preserved for the purpose of preventing harm

to property and the environment, including but not limited to providing open space, maintaining wildlife corridors, maintaining slope stability, controlling runoff and erosion, and/or any other designated purpose.” Other programs include Conservation Futures, a state tax levy program that allows counties to preserve land of public interest for future generations. The Thurston County Conservation Futures Program “protects, preserves, maintains, improves, restores, and limits the future use of threatened areas of open space, timberlands, wetlands, habitat areas, culturally significant sites, and agricultural farmlands.” Similarly, Open Space Tax Programs help maintain, preserve, and conserve adequate open space lands for the production of food, fiber, and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty. These programs provide reduced property tax rates for property owners who voluntarily commit a portion of land to open space.

The City of Redmond uses a programmatic approach to wildlife habitats by designating Core Preservation Areas (defined previously). These areas are mapped by the City and consist of habitats that are already protected. Existing native growth protection easements, categorized streams and Class I stream buffers, properties that have transferred development rights, and preserved parkland are all examples of core preservation areas. The map is available at:

<https://www.redmond.gov/cms/one.aspx?portalId=169&pageId=7398>

With support from its Comprehensive Plan, the City of Olympia could consider designating specific publicly-owned lands for wildlife habitat. Enforcing the protection of these lands would need to be done through regulations, but a City-wide approach to wildlife habitat would establish a basis for protection.

Regulatory

As described previously, some cities and counties protect locally important species and habitats through specific regulations that limit the type, location, and timing of development adjacent to known species locations or habitats. This is the most common approach because it can be tailored to specific species or habitats of interest (in the jurisdiction) and then applied to site-specific proposals as needed. The regulatory approach also relies on state guidance (for designating habitats and species).

To add protections for the great blue heron, the City of Olympia could consider an approach similar to Kenmore, which requires a 900-foot buffer around heron rookeries, timing restrictions on construction, and consultation with the City and WDFW. More broadly, the City could consider adopting the Thurston County lists of habitats as a conservative approach to protecting multiple habitats. However, based on available mapping of prairie soils, known prairie habitats, and oak woodlands, adding protections for these habitats similar to the Thurston County may not be warranted due to the lack of their occurrence of the City and its UGA. Another approach is to focus on landscaping regulations that can ensure preservation of special natural areas and significant trees that are typically used by heron or other locally important wildlife species.

Incentive-based

Incentive-based approaches to wildlife habitat protection include both acquisition and easements on property that support locally important wildlife and their habitats. The City could consider innovative ways of acquiring property for open space such as transfer of development rights and development

incentives for set asides. Where appropriate, the City could encourage private donations of land or conservation easements for locally important wildlife and habitats.

References

- Black Hills Audubon Society. 2016. Summary data for great blue heron, purple martin, osprey, Western grebe, and Vaux's swift in Olympia. Provided by Sam Merrill, Conservation Chair. Christmas Bird Count data is available at:
<http://netapp.audubon.org/CBCObservation/Historical/ResultsByCount.aspx>
- CTED (Washington State Department of Community, Trade, and Economic Development). 2007. Critical Areas Assistance Handbook: Protecting Critical Areas within the Framework of the Washington Growth Management Act. January 2007. Available at:
<http://www.commerce.wa.gov/Documents/GMS-Critical-Areas-Assist-Handbook.pdf>.
- NMFS (National Marine Fisheries Service). 2012. Status of ESA Listings & Critical Habitat Designations for West Coast Salmon & Steelhead. Updated 2012. Available at:
http://www.westcoast.fisheries.noaa.gov/protected_species/species_list/species_lists.html
- State of Washington. 2015. Advisory Memorandum and Recommended Process for Evaluating Proposed Regulatory or Administrative Actions to Avoid Unconstitutional Takings of Private Property. State of Washington, Office of the Attorney General. Olympia, WA. Available at:
<http://www.atg.wa.gov/avoiding-unconstitutional-takings-private-property>
- USFWS (United States Fish and Wildlife Service). 2016. IPaC Trust Resource Report of proposed, candidate, endangered and threatened species and critical habitat; migratory birds; refuges; and wetlands in the vicinity of Olympia. Accessed online on July 2016 at:
<https://ecos.fws.gov/ipac/>
- Washington State Department of Fish and Wildlife (WDFW). 2015. Report for Great blue heron #475 West Bay. Olympia, Washington.
- Washington State Department of Fish and Wildlife (WDFW). 2016. Priority Habitat and Species database. Olympia, Washington.
- The Watershed Company. 2009a. Bellevue Urban Wildlife Habitat Literature Review. City of Bellevue Planning and Community Development Department, Bellevue, WA. Available at:
<http://www.ci.bellevue.wa.us/critical-areas.htm>
- The Watershed Company. 2009b. Guidance: Using the Bellevue Urban Wildlife Functional Assessment Model. Model and Guidance produced for the City of Bellevue. 21 May 2009. Available at:
<http://www.ci.bellevue.wa.us/critical-areas.htm>



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

www.esassoc.com

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. Additional, 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/>

ORDINANCE NO. 7030

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON RELATING TO CRITICAL AREAS AND AMENDING CHAPTER 18.32, AND SECTIONS 18.02.180 AND 18.37.070 OF THE OLYMPIA MUNICIPAL CODE.

WHEREAS, the City of Olympia is required to plan under RCW 36.70A.040; and

WHEREAS, the Growth Management Act mandates that the City adopt development regulations to protect the functions and values of five (5) types of critical areas: wetlands, critical aquifer recharge areas, fish and wildlife habitat areas, frequently flooded areas, and geologically hazardous areas; and

WHEREAS, OMC 18.32 contains the City's development regulations pertaining to the protection of critical areas located within the City; and

WHEREAS, OMC 18.02.180 contains definitions pertaining, in part, to critical areas; and

WHEREAS, OMC 18.37.070 pertains to nonconforming structures and uses within critical areas; and

WHEREAS, pursuant to RCW 36.70A.130, the City is required to periodically review and, if needed, revise its development regulations, including its critical areas regulations, to ensure its regulations comply with the goals and requirements of the Growth Management Act; and

WHEREAS, RCW 36.70A.172 requires that when reviewing its Critical Areas Regulations the City must include Best Available Science in developing the regulations to protect the functions and values of critical areas and to give special consideration to conservation and protection measures necessary to preserve or enhance anadromous fisheries; and

WHEREAS, in performing this periodic review, the City hired a consultant who did extensive research on the standards and requirements for regulating critical areas, considered guidance available from state agencies including the Departments of Commerce and Ecology, consulted with experts in the disciplines covered by these regulations, and considered various sources of Best Available Science in developing its Critical Areas Regulations, giving special consideration to anadromous fisheries; and

WHEREAS, mines and volcanic hazards have not been included in this critical areas update as the City is not subject to these geological hazards; and

WHEREAS, the environmental impacts of the amendments to the Critical Areas Regulations resulted in the issuance of a Determination of Non-Significance (DNS) on May 26, 2016, with no appeals filed; and

WHEREAS, in developing these Critical Areas Regulations, the City provided for early and continuous public participation through a variety of means as demonstrated by the public record; and

WHEREAS, the City of Olympia Planning Commission considered the proposed Critical Areas Regulations amendments at a properly noticed public hearing on June 6, 2016, so as to receive public testimony; and

WHEREAS, at its June 20, 2016, meeting, the Planning Commission voted unanimously to recommend approval of the proposed amendment; and

WHEREAS, on July 19, 2016, the City Council discussed the proposed Critical Areas Regulations amendments at the properly noticed open public meeting; and

WHEREAS, pursuant to RCW 36.70A.370, the City utilized the process established by the Washington State Attorney General to assure the protection of private property rights; and

WHEREAS, pursuant to RCW 36.70A.106, on May 17, 2016, the City provided the Washington State Department of Commerce with a 60-day notice of its intent to adopt the amendment(s) to its Unified Development Code; and

WHEREAS, the City Council considered the entire public record, public comments, written and oral, the Best Available Science, and the Planning Commission's recommendation; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, including documents on file with the City of Olympia; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City Staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance;

WHEREAS, Chapters 35A.63 and 36.70A RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, the City Council determined that the proposed amendments are in accord with the Comprehensive Plan, will not adversely affect the public health, safety, or general welfare, and are in the best interest of the citizens and property owners of the City; and

WHEREAS, the City Council determined that the proposed amendments are necessary to ensure compliance with the goals and requirements of the Growth Management Act;
WHEREAS, it is the Council expectation that this Ordinance will not be published as required by law until it is approved by the Washington State Department of Ecology; and

WHEREAS, once the Department of Ecology approves the Ordinance, then it may be published as required by law; and

THEREFORE, THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Amendment. OMC 18.32 Critical Areas is amended as set forth in Exhibit A to this Ordinance; OMC.18.02.180 Definitions is amended as set forth in Exhibit B to this Ordinance; and OMC 18.37.070 Nonconforming Structures and Uses Within Critical Area Buffers is amended as set forth in Exhibit C to this Ordinance.

Section 2. Severability. If any portion of OMC 18.32, OMC 18.02.180, or OMC 18.37.070 is found to be invalid or unenforceable for any reason, such finding shall not affect the validity or enforceability of any other chapter or any other section of OMC 18.32, OMC 18.02, or 18.37.070.

Section 3. Codification of Amendments. The City Council authorizes the City Clerk to correct any non-substantive errors in Exhibit A, codify the amendments to OMC 18.32, 18.02.180, and 18.37.070 and publish the amended code.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Publication and Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.




MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED: 8/16/2016

APPROVED: 8/16/2016

PUBLISHED:

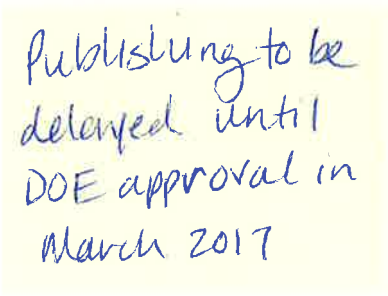

Publishing to be
delayed until
DOE approval in
March 2017

Exhibit A

Chapter 18.32
CRITICAL AREAS

18.32.000 Chapter Contents

Sections:

- 18.32.100 General Provisions - Purpose and Intent.
- 18.32.105 General Provisions - Critical Area Development Regulations.
- 18.32.110 General Provisions - Application of Critical Area Regulations.
- 18.32.111 General Provisions - Exemptions.
- 18.32.112 General Provisions - Public Agency and Utility Exception.
- 18.32.115 General Provisions - Applicant Requirements.
- 18.32.120 General Provisions - Application Form for Critical Areas Review.
- 18.32.125 General Provisions - Department Requirements.
- 18.32.130 General Provisions - Hearing Examiner Role.
- 18.32.135 General Provisions - Mitigation-Priorities Sequencing and General Measures.
- 18.32.136 General Provisions - Mitigation Plan Requirements.
- 18.32.140 General Provisions - Critical Area Tracts.
- 18.32.145 General Provisions - Signs and Fencing.
- 18.32.150 General Provisions - Notice on Title.
- 18.32.155 General Provisions - Authorized Activity Time Period.
- 18.32.160 General Provisions - Application of Multiple Development Regulations.
- 18.32.165 General Provisions - Emergency Actions.
- 18.32.170 General Provisions - Critical Area Maps.
- 18.32.175 General Provisions - Unauthorized Alterations and Enforcement.
- 18.32.200 Drinking Water (Wellhead) Protection Areas - Purpose and Intent.
- 18.32.205 Drinking Water (Wellhead) Protection Areas - Applicability and Designation.
- 18.32.210 Drinking Water (Wellhead) Protection Areas - Exempt Uses and Activities.
- 18.32.215 Drinking Water (Wellhead) Protection Areas - Prohibited Uses and Activities.
- 18.32.220 Drinking Water (Wellhead) Protection Areas - Administratively Authorized Uses and Activities.
- 18.32.225 Drinking Water (Wellhead) Protection Areas - Minimum Mitigation Standards.
- 18.32.230 Drinking Water (Wellhead) Protection Areas - Hydrogeological Report.
- 18.32.235 Drinking Water (Wellhead) Protection Areas - Existing Uses.
- 18.32.240 Drinking Water (Wellhead) Protection Areas - Farm Conservation Plan.
- 18.32.300 Important Habitats and Species - Purpose and Intent.
- 18.32.305 Important Habitats and Species - Applicability and Definition.
- ~~18.32.310 Important Habitats and Species - Exempt, Prohibited, Administratively Authorized Uses, and Hearing Examiner Authorized Uses and Activities.~~
- 18.32.315 Important Habitats and Species - Authority.
- 18.32.320 Important Habitats and Species - Buffers.

Exhibit A

- ~~18.32.325~~ ~~Important Habitats and Species~~ ~~Special Reports.~~
- 18.32.330 Important Habitats and Species - Management Plan.
- 18.32.400 Streams and ~~Important~~ Priority Riparian Areas - Purpose and Intent.
- 18.32.405 Streams and ~~Important~~ Priority Riparian Areas - Applicability and Definition.
- 18.32.410 Streams and ~~Important~~ Priority Riparian Areas - Typing System.
- ~~18.32.415~~ ~~Streams and Important Riparian Areas~~ ~~Prohibited Alterations.~~
- 18.32.420 Streams and ~~Important~~ Priority Riparian Areas - Exempt Uses and Activities.
- 18.32.425 Streams and ~~Important~~ Priority Riparian Areas - Administratively Authorized Uses and Activities.
- 18.32.430 Streams and ~~Important~~ Priority Riparian Areas - Hearing Examiner Authorized Uses and Activities.
- 18.32.435 Streams and ~~Important~~ Priority Riparian Areas - Buffers.
- 18.32.440 Streams and ~~Important~~ Priority Riparian Areas - Special Reports.
- 18.32.445 Streams and ~~Important~~ Priority Riparian Areas - Biological Assessment.
- 18.32.500 Wetlands and Small Lakes-- Purpose and Intent.
- 18.32.505 Wetlands and Small Lakes-- Definition.
- 18.32.510 Wetlands and Small Lakes-- Rating System.
- 18.32.515 Wetlands and Small Lakes-- Small Wetlands.
- ~~18.32.518~~ ~~Wetlands and Small Lakes~~ ~~Prohibited Alterations.~~
- 18.32.520 Wetlands and Small Lakes-- Exempt Uses and Activities.
- 18.32.525 Wetlands and Small Lakes-- Administratively Authorized Uses and Activities.
- 18.32.530 Wetlands and Small Lakes-- Hearing Examiner Authorized Uses and Activities.
- 18.32.535 Wetlands and Small Lakes-- Wetland Buffers.
- 18.32.540 Wetlands and Small Lakes-- ~~Compensating for Loss or Affected Functions~~Preference of Mitigation Actions.
- 18.32.545 Wetlands and Small Lakes-- ~~Compensation Projects~~Wetland Mitigation Requirements.
- 18.32.550 Wetlands and Small Lakes-- Replacement Ratios.
- 18.32.555 Wetlands and Small Lakes-- Increase and Reduction to Replacement Ratios
- ~~18.32.560~~ ~~Wetlands and Small Lakes~~ ~~Type and Location of Compensation Mitigation.~~
- 18.32.565 Wetlands and Small Lakes-- Mitigation Timing.
- 18.32.570 Wetlands and Small Lakes-- Wetland Mitigation Banks and In-lieu Fee.
- 18.32.575 Wetlands and Small Lakes-- Special Reports.
- 18.32.580 Wetlands and Small Lakes - Wetland Boundary Delineation.
- ~~18.32.585~~ ~~Wetlands and Small Lakes~~ ~~Wetland Rating Report.~~
- ~~18.32.587~~ ~~Wetlands and Ponds~~ ~~Wetland Rating Report.~~
- 18.32.590 Wetlands and Small Lakes-- Wetland Mitigation Report.
- 18.32.595 Wetlands and Small Lakes-- Wetland Compensation Mitigation ReportPlan.
- 18.32.600 ~~Landslide Hazard Areas~~ ~~Purpose and Intent~~Geological Hazard Areas - Purpose and Intent.
- 18.32.603 Geological Hazard Areas - Mapping.
- 18.32.605 ~~Landslide Hazard Areas~~ ~~Applicability and Definition~~Geological Hazard Areas - Alterations.

Exhibit A

- 18.32.610 Landslide Hazard Areas - ~~Prohibited Alterations~~Applicability and Definition.
- 18.32.615 Landslide Hazard Areas - Exempt Uses and Activities.
- 18.32.620 Landslide Hazard Areas - Administratively Authorized Uses and Activities.
- 18.32.625 Landslide Hazard Areas - Hearing Examiner Authorized Uses and Activities.
- 18.32.630 Landslide Hazard Areas - Buffers.
- 18.32.635 Landslide Hazard Areas - Special Reports.
- 18.32.640 Landslide Hazard Areas - Geotechnical Report.
- 18.32.645 Landslide Hazard Areas - Covenant.
- 18.32.650 Erosion Hazard Areas - Description.
- 18.32.655 Erosion Hazard Areas - Protection Measures.
- 18.32.660 Seismic Hazard Areas – Description.
- 18.32.665 Seismic Hazard Areas - Alterations.

18.32.100 General Provisions - Purpose and Intent

It is the intent of this Chapter to implement the State of Washington Growth Management Act and its guidelines, the Countywide Planning Policies, and the Olympia Comprehensive Plan by ~~accomplishing the following:~~

- A. ~~Protecting critical areas and the functions they perform by regulating their development, associated buffers, and their functions, and values while allowing reasonable use of property by;~~
 - 1. achieving no net loss of critical areas values and functions;
 - 2. directing activities not essential in such areas to other locations;
 - 3. providing for review of proposed uses and activities on properties containing critical areas or their buffers to achieve compliance with standards designed to minimize impacts to critical areas and associated buffers; and
 - 4. providing for mitigation of unavoidable impacts;
- B. Establishing enforcement tools and processes designed to deter activities in violation of this chapter and provide for remedial action for unauthorized impacts to critical areas and their buffers;
- ~~B~~C. Maintaining groundwater recharge and preventing the contamination of groundwater resources;
- ~~E~~D. Minimizing damage due to landslides, seismic events, erosion or flooding;
- ~~D~~E. Protecting natural flood control and stormwater storage from alterations to drainage or stream flow patterns;

Exhibit A

- EF. Protecting wildlife habitat and species where possible throughout the City;
- FG. Controlling siltation, protecting nutrient reserves and maintaining stream flows and stream quality for fish and marine shellfish;
- ~~G. Protecting areas with high potential for marine aquaculture activities from degradation by other types of uses;~~
- H. Minimizing turbidity and pollution of wetlands, streams and fish-bearing waters and maintaining their associated wildlife habitat;
- I. Protecting the general public against avoidable losses from:
 - 1. Property damage and the cost of replacing public facilities,
 - 2. Subsidizing public mitigation of avoidable impacts, and
 - 3. The cost for public emergency rescue and relief operations;
- J. Identifying and mapping critical areas so that this information is available to appraisers, planners, assessors, owners, and potential buyers and lessees of property;
- K. Assisting property owners in developing their property consistent with this Chapter by promoting the use of innovative land use techniques; and
- ~~L. Achieving no overall net loss in acreage and functions of the City's remaining wetlands.~~

18.32.105 General Provisions - Critical Area Development Regulations

- A. This Chapter shall constitute the City of Olympia development regulations for the following critical area categories:
 - 1. General Provisions and standards which apply to the critical area categories are contained in OMC 18.32.100,
 - 2. Critical Aquifer Recharge Areas are covered in Drinking Water (Wellhead) Protection Areas provisions are contained in OMC 18.32.200,
 - 3. Important Habitats and Species provisions are contained in OMC 18.32.300,
 - 4. Stream and ~~Important Priority~~ Riparian Areas provisions are contained in OMC 18.32.400,

Exhibit A

5. ~~Wetlands and Small Lakes~~ provisions are contained in OMC 18.32.500, and
 6. ~~Landslide-Geological~~ Hazard Areas provisions are contained in OMC 18.32.600.
- B. The development regulations for Frequently Flooded Areas are contained in OMC 16.70.
- C. The development regulations for Erosion Hazards Areas are contained in OMC 13.16 and OMC 18.32.650-660.
- D. The development regulations for Drinking Water (Wellhead) Protection Areas are contained in OMC 18.32.200 and 18.40.080.
- E. The development regulations for Marine Shorelines and Lake Shorelines as defined by the Shoreline Management Act are contained in ~~OMC 14.08~~ the City's Shoreline Master Program.

18.32.110 General Provisions - Application of Critical Area Regulations

- A. ~~This Chapter contains general provisions which apply to all critical areas and their buffers. The city shall regulate all uses, activities, and development within critical areas and the corresponding buffers and setbacks.~~ Additional requirements specific to a particular critical area are found in the sections for that critical area category (e.g., Landslide Hazard Areas, Wetlands). Compliance is required for both the general provisions regulations and those contained within the particular critical area category.
- B. The particular critical area category may include limitations on uses and activities which are specific to that critical area. Listing of various uses or activities within the critical area category does not authorize these if prohibited by another provision of the Olympia Municipal Code.
- ~~C. — Developments which include or lie within three hundred (300) feet of a landslide hazard area, stream, or wetland, and a distance of up to one thousand (1,000) feet of an important habitat or species location depending upon the type of habitat, shall be subject to the provisions found herein.~~
- ~~D.~~ No action shall be undertaken by any person, ~~which that~~ results in any alteration of a critical area or its buffer except in compliance with the requirements, purpose and intent of this Chapter.
- ~~E.~~ Each regulated use and activity requiring either an administrative review or permit shall obtain written authorization from the Department prior to undertaking the activity.
- ~~F.~~ Special reports shall be prepared pursuant to OMC Section 18.32.115~~(B)~~ prior to approval of development proposals in order to evaluate any potential adverse environmental impacts upon the critical area.

Exhibit A

GE. Mitigation required by this Chapter shall be incorporated into the project except in cases where an alternative mitigation has been considered by the Department or the Hearing Examiner and found to be equal to or better than the requirements, and meets the purpose and intent of the Chapter.

HG. The Department may approve, approve with conditions or deny permits and approvals in order to carry out the purpose and intent of this Chapter.

HH. Approval of or exemption of a development proposal pursuant to the provisions of this Chapter does not discharge the obligation of the applicant to comply with the procedural and substantive provisions of this Chapter.

I. These critical areas regulations shall be in addition to zoning and other regulations adopted by the City. Compliance with other regulations does not exempt the applicant from critical areas regulations. In the event of any conflict between these regulations and any other City regulations, those regulations which provide the greater protection to critical areas shall apply. Regulations can apply simultaneously and not be a conflict.

J. Any individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most protection to the critical areas involved. When any provision of this chapter or any existing regulation, easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas shall apply.

K. Compliance with the provisions of this chapter does not constitute compliance with other federal, state, and local regulations and permit requirements that may be required (for example, shoreline substantial development or conditional use permits, shoreline variances, the Washington State Department of Fish and Wildlife hydraulic project approval (HPA), Army Corps of Engineers Section 404 permits, and National Pollution Discharge Elimination System (NPDES) permits). The applicant is responsible for complying with these requirements, apart from the process established in this chapter.

18.32.111 General Provisions – Exemptions

The following activities and developments are exempt from the provisions of this chapter. All exempted activities shall use reasonable methods to avoid potential impacts to critical areas, such as observing any seasonal moratorium on alterations. An exemption from this chapter is not an endorsement to degrade a critical area; ignore risk from natural hazards; or otherwise limit the ability of the Department to identify and abate such actions that may cause degradation to a critical area.

A. Operation, maintenance, or repair of existing public improvements, utilities, public or private roads, parks, trails, or drainage systems if the activity does not further alter or increase impact to, or encroach further within, the critical area or buffer and there is no increased risk to life or property as a result of the proposed operation, maintenance, or repair, and no new clearing of native vegetation beyond routine pruning.

Exhibit A

B. Development involving or near artificially created wetlands or streams intentionally created from non-wetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, detention facilities, and landscape features, except wetlands, streams, or swales created as mitigation or that provide habitat for salmonids.

C. Normal maintenance and repair, reconstruction or remodeling, and additions to existing structures that do not increase the previously approved building footprint.

D. Development within the footprint of existing paved surfaces that were previously approved.

E. Educational and scientific research and investigative or exploratory activities such as wetland delineation or soil boring that do not require grading or placement of structures.

F. Passive recreation such as fishing, hiking or bird watching.

G. Removal by hand of invasive and noxious vegetation, which does not include using mechanical equipment or the use of herbicides. Invasive vegetation removal on steep slopes with the potential for erosion should use erosion control practices, followed by planting of native species to ensure slope stability.

H. Non-commercial signs associated with critical areas, including interpretive signs, Critical Area boundary signs as provided in OMC 18.32.145, and survey markers.

18.32.112 General Provisions – Public Agency and Utility Exception

A. If the application of this Chapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

Exhibit A

B. An application for a public agency and utility exception shall be made to the City and shall include a critical area report including mitigation plan, if necessary; and any other related project documents such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act. The Department shall prepare a recommendation to the Hearing Examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with the criteria in OMC 18.32.112(D).

C. The Hearing Examiner shall review the application and Department recommendation, and conduct a public hearing pursuant to the provisions of OMC 18.82. The Hearing Examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the public agency and utility exception criteria in OMC 18.32.112(D).

D. The criteria for review and approval of public agency and utility exceptions follow:

1. There is no other practical alternative to the proposed development with less impact on the critical areas;

2. The application of this Chapter would unreasonably restrict the ability to provide utility services to the public;

3. The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

4. The proposal attempts to protect and mitigate impacts to the critical area functions and values consistent with the best available science; and

5. The proposal is consistent with other applicable regulations and standards.

E. The burden of proof shall be on the applicant to provide sufficient information and bring forth evidence in support of the application.

18.32.115 General Provisions - Applicant Requirements

The applicant requesting a critical areas review or approval for a development proposal on a site which includes or is near one or more critical areas shall submit a report containing the following:

A. Demonstrate that any proposed project submitted conforms to the purposes, standards and protection mechanisms of this Chapter; and The name and contact information of the applicant, a description of the proposal, and identification of the permit requested;

Exhibit A

B. Include with the associated application a report whichA copy of the site plan for the development proposal including:

1. Identifies and characterizes critical areas on the development parcel, and critical areas located on adjacent parcels to the extent feasible;A map to scale depicting critical areas, buffers, the development proposal, and any areas to be cleared; and

2. Assesses the impact upon the critical areas both from activities outside the critical area and from any proposed alteration of the critical areas determined to be permitted under this Chapter, andA description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations.3. — Proposes adequate protection mechanisms for the specific critical areas which may include but not be limited to avoidance, mitigation, monitoring and financial measures.

C. The dates, names, and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;

D. Identification and characterization of all critical areas, wetlands, water bodies, and buffers adjacent to the proposed project area;

E. A statement specifying the accuracy of the report, and all assumptions made and relied upon;

F. An assessment of the probable cumulative impacts to critical areas resulting from development of the site and the proposed development;

G. A description of reasonable efforts made to apply mitigation sequencing pursuant to OMC 18.32.135 to avoid, minimize, and mitigate impacts to critical areas;

H. Plans for adequate mitigation, as needed, pursuant to OMC 18.32.136.

18.32.120 General Provisions - Application Form for Critical Areas Review

A. Applications to undertake a use or activity within a critical area or its buffer which requires review by the Department shall be made on forms furnished by the Department and include information identified in the City of Olympia Application Content Lists, as amended.

B. Any person seeking to determine whether a proposed activity or an area is subject to this Chapter may request a written determination from the Department. Such a request for determination shall contain plans, data and other information as may be specified by the Department.

C. Any person intending to apply for authorization to undertake a regulated use or activity within a critical area is encouraged to meet with the Department as early as possible during the project planning stage. Efforts

Exhibit A

put into pre-application consultations will help applicants create projects ~~which~~that require less time to review and are more easily processed.

- D. The Department may waive one or more of the reports of this Chapter:
 - 1. If the information is contained in another form submitted to the City,
 - 2. If the Department already has adequate information regarding the critical area, or
 - 3. If the nature of the project and its impacts are generally known, or the impacts of the project have been mitigated.

18.32.125 General Provisions - Department Requirements

In evaluating a request for a development proposal on a site which includes or lies near a critical area as described in OMC 18.32.110(C), the Department shall:

- A. Confirm the nature and type of the critical areas by an on-site inspection and evaluate any special reports;
- B. Request that an interdisciplinary team evaluate a project if conditions warrant;
- C. Determine whether the development proposal is consistent with this Chapter, by granting, denying or conditioning projects;
- D. Make recommendations to the Hearing Examiner for projects requiring a Hearing Examiner review;
- E. Determine whether proposed alterations to critical areas are allowed by the standards contained in this Chapter or are necessary to allow reasonable use of the property as outlined in OMC 18.66.040; and
- F. Determine if any protection mechanisms, mitigation measures, monitoring plans, or financial surety measures are required to protect the public health, safety and welfare consistent with the purpose and intent of this Chapter, and if so, condition the permit or approval accordingly.

18.32.130 General Provisions - Hearing Examiner Role

- A. Within all critical area categories, "a public project of significant importance" may be authorized only by the Hearing Examiner after a public hearing.
- B. The Hearing Examiner shall review other uses and activities as listed in the particular critical area category.

Exhibit A

C. Hearing Examiner approval may be conditioned upon the implementation of mitigating measures determined necessary to ensure adequate protection of the public, critical area category, and purpose and intent of this Chapter.

18.32.135 General Provisions - Mitigation ~~Priorities~~ Sequencing and General Measures

A. ~~Mitigation shall be undertaken in the following order of preference~~ Applicants shall demonstrate that all reasonable alternatives have been examined with the intent to avoid and minimize impacts to critical areas. When alteration to a critical area is proposed, the alteration shall be avoided, minimized, or compensated in the following order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action;
5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments;
6. Monitoring the impact and taking appropriate corrective measures.

Mitigation for individual actions may include a combination of the above measures.

B. Unavoidable impacts to critical areas often can and should be minimized by sensitive site design and deliberate actions during construction and implementation.

C. In addition to meeting the standards of the underlying zone, the Department may require the use of more restrictive mitigation techniques described as follows:

1. Limitation of building and development coverage;
2. Setbacks or buffers;
3. Size of lots and development sites;
4. Height limits;

Exhibit A

5. Density limits;
6. Time limits;
7. Restoration of ground cover and vegetation;
8. Creation of critical area tracts;
9. Innovative design or construction methods;
10. Signing, fencing, and limitation of access;
11. Notice of conditions placed on the title of the property;
12. Provisions for access or rights-of-way;
13. Financial surety; and/or
14. Other measures for environmental protection.

18.32.136 General Provisions - Mitigation Plan Requirements

When mitigation is required, the applicant shall submit for approval by the Department a mitigation plan as part of the critical area report. The mitigation plan shall include:

- A. A written report identifying environmental goals and objectives of the mitigation proposed and including:
 1. description of the anticipated impacts to the critical areas, the mitigating actions proposed and the purposes of the mitigation measures, including the site selection criteria; identification of mitigation goals; identification of resource functions; and dates for beginning and completion of site mitigation construction activities. The goals and objectives shall be related to the functions and values of the impacted critical area;
 2. review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring, enhancing, or creating the type of critical area proposed;
and
 3. analysis of the likelihood of success of the mitigation project.
- B. Measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained and whether or not the requirements of this Chapter have been met.
- C. Written specifications and descriptions of the mitigation proposed, such as: _____

Exhibit A

1. the proposed construction sequence, timing, and duration;
2. grading and excavation details;
3. erosion and sediment control features;
4. a planting plan specifying plant species, quantities, locations, size, spacing, and density; and
5. measures to protect and maintain plants until established.

These written specifications shall be accompanied by detailed site diagrams, scaled cross-sectional drawings, topographic maps showing slope percentage and final grade elevations, and any other drawings appropriate to show construction techniques or anticipated final outcome.

D. A program for monitoring construction of the mitigation project and for assessing a completed project. A protocol shall be included outlining the schedule for site monitoring (for example, monitoring shall occur in years 1, 3, 5, and 7 after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met. A monitoring report shall be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. The mitigation project shall be monitored for a period necessary to establish that performance standards have been met, but not less than five (5) years.

E. Identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met.

F. Financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented, including fulfillment of the mitigation project, monitoring program, and any contingency measures.

G. Each critical area in this Chapter may require additional mitigation plan information.

18.32.140 General Provisions - Critical Area Tracts

A. As a condition of a binding site plan, short plat, large lot subdivision, planned residential development, or subdivision, the applicant may be required to create a separate critical area tract or tracts containing critical areas or their buffers as defined by this Chapter.

B. Critical area tract or tracts shall be subject to either:

1. A conservation easement for the protection of native vegetation within a critical area and/or its buffer dedicated to the City or other appropriate public, nonprofit, or private entity (e.g., land trust) with a demonstrated record of land conservation and approved by the Department;

Exhibit A

2. A deed restriction recorded on the Chapter of all lots containing a critical area tract or tracts created as a condition of the permit; or
3. Limiting conditions on the face of the recorded plat or binding site plan.

C. The deed restriction language shall be substantially similar to the following:

"Note: Before beginning and during the course of any grading, building construction, or other development activity, on a lot or development site subject to this deed restriction, the common boundary between the area subject to the deed restriction and the area of development activity must be fenced or otherwise marked to the satisfaction of the Olympia Community Planning and Development Department."

D. Responsibility for maintaining the tracts shall be held by an entity approved by the Department, such as a homeowners' association, adjacent lot owners, the permit applicant or designee, or other appropriate entity.

E. A note substantially similar to the following shall appear on the face of all plats, short plats, planned residential developments, or other approved site plans containing separate critical area tracts, and shall be recorded on the title of all affected lots:

"Note: The _____ is responsible for maintenance and protection of the critical area tracts. Maintenance includes ensuring that no alterations occur and that all vegetation remains undisturbed unless the express written authorization of the Olympia Community Planning and Development Department has been received."

18.32.145 General Provisions - Signs and Fencing

A. Permanent fences with signs or other access limiting features may be required on the perimeter of critical area buffers of hazardous or sensitive critical areas. Signs and fences must be maintained by the property owner in perpetuity.

B. The perimeter between the critical area buffer and those areas to be disturbed pursuant to a permit or authorization shall be marked in the field, and inspected by the ~~Director~~ Department prior to the commencement of permitted activities. This temporary marking shall be maintained throughout the duration of the permit.

C. Any sign shall be made of wood or metal and attached to a wood or metal post or another material of equal durability and posted at an interval of one per lot or every fifty feet, whichever is less, with the following or with alternative language approved by the Director:

"(Critical Area)

Protected by Law

Exhibit A

Contact City of Olympia Community Planning & Development

for Information"

D. The fence shall be visually open and constructed to allow animal passage.

18.32.150 General Provisions - Notice on Title

A. The property owner shall record a notice approved by the ~~Director~~ Department with the Thurston County Auditor.

B. This notice will provide notice in the ~~pubic~~ public record of the presence of a critical area or its buffer, the application of this Chapter to the property, and limitations on uses and activities within or affecting this area.

18.32.155 General Provisions - Authorized Activity Time Period

A. Authorization to undertake regulated activities within critical areas or their buffers shall be valid for a period of twelve (12) months from the date of issue unless a longer or shorter period is specified by the Department upon issuance of the permit.

B. For all administrative permits, an extension of an original permit may be granted upon written request to the Department by the original permit holder or the successor in title.

C. Prior to the granting of an extension, the Department may require updated studies and/or additional hearings if, in its judgment, the original intent of the permit would be altered or enlarged by the renewal, if the circumstances relevant to the review and issuance of the original permit have changed substantially, or if the applicant failed to abide by the terms of the original permit.

18.32.160 General Provisions - Application of Multiple Development Regulations

A. In those cases where there are differences in the degree of environmental protection imposed by this Chapter and that of other city ordinances or state or federal laws, the more restrictive shall prevail.

B. Where two or more critical areas overlap, the requirements of the more restrictive critical area shall apply.

C. When a critical area is also defined by OMC 14.08 as a shoreline, all applicable regulations shall apply.

18.32.165 General Provisions - Emergency Actions

A. Emergency actions that create an impact to a critical area or its buffer shall use reasonable methods to address the emergency; in addition, they must have the least possible impact to the critical area or its buffer.

Exhibit A

B. The person or agency responsible for the emergency action shall undertake good faith efforts to notify the Department prior to taking action and shall report to the Department ~~as soon as possible following commencement of the emergency activity, but in no case more than~~ within five-one (51) working days after commencement.

C. Within thirty (30) days, the Department will determine if the action taken was within the scope of the emergency actions allowed in this subsection.

D. If the Department determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, then enforcement provisions ~~of~~ contained in OMC 18.73 and 4.44 shall apply.

E. Within thirty (30) days of the decision in 18.32.165.C, the person or agency undertaking the action shall:

1. Submit all required applications and reports as would be required for a critical areas review. This application packet shall be reviewed in accordance with the review procedures contained within this Chapter; and
2. Fund and conduct necessary restoration and/or mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and mitigation plan.

F. Restoration and/or mitigation activities must be initiated within and completed in a timely manner. Seasonal delays (such as not working in fish-bearing streams during spawning season) are acceptable.

18.32.170 General Provisions - Critical Area Maps

A. The Department shall maintain a set of critical area maps for each critical area category (e.g., landslide hazard area, wetlands).

B. The boundaries of those critical areas shall be ~~these as~~ defined in this Chapter.

C. Additions or corrections to those critical area maps shall be made as necessary when additional site specific information is available.

D. ~~In the event that~~ If there is a conflict between a boundary on the map and the criteria set forth in this Chapter, the criteria shall control.

E. Omission of a site from a critical area map does not and shall not exempt that site from complying with otherwise applicable provisions of this Chapter.

18.32.175 General Provisions - Unauthorized Alterations and Enforcement

Exhibit A

A. When a critical area or its buffer has been altered in violation of this Chapter, the City shall have the authority to issue a stop work order to cease all ongoing development work, and order restoration, rehabilitation, or replacement measures at the owner's or other responsible party's expense to compensate for violation of provisions of this Chapter.

B. When a stop work order is issued by the City, the affected development work shall remain stopped until the owner prepares a restoration plan which is approved by the City. Such a plan shall be prepared by a qualified professional using the best available science and shall describe how the actions proposed meet the minimum requirements described in Subsection (C). The Department may, at the violator's expense, seek expert advice in determining the adequacy of the plan. Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.

C. Minimum Performance Standards for Restoration

1. For alterations to critical aquifer recharge areas, frequently flooded areas, wetlands, and habitat conservation areas, the following minimum performance standards shall be met for the restoration of a critical area, provided that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:

a. The historic structural and functional values shall be restored, including water quality and habitat functions;

b. The historic soil types and configuration shall be replicated;

c. The critical area and buffers shall be replanted with native vegetation that replicates the vegetation historically found on the site in species types, sizes, and densities. The historic functions and values should be replicated at the location of the alteration; and

d. Information demonstrating compliance with the mitigation plan requirements for a particular critical area shall be submitted to the Department

2. For alterations to flood and geological hazards, the following minimum performance standards shall be met for the restoration of a critical area, provided that, if the violator can demonstrate that greater safety can be obtained, these standards may be modified:

a. The hazard shall be reduced to a level equal to, or less than, the pre-development hazard;

b. Any risk of personal injury resulting from the alteration shall be eliminated or minimized; and

c. The hazard area and buffers shall be replanted with native vegetation, sufficient to minimize the hazard.

18.32.200 Drinking Water (Wellhead) Protection Areas - Purpose and Intent

~~In order to~~ Protection of groundwater and related critical aquifer recharge areas is necessary to prevent contamination of drinking water and to provide critical recharging effects on streams, lakes, and wetlands that provide critical fish and wildlife habitat. To protect the public health and safety, prevent the degradation of groundwater used for potable water, ~~and to provide for regulations that prevent and control risks to the degradation of groundwater,~~ and to prevent negative effects on streams, lakes, and wetlands, drinking water (wellhead) protection areas shall be subject to the standards described in OMC 18.32.205 through 18.32.240.

18.32.205 Drinking Water (Wellhead) Protection Areas - Applicability and Designation

A. "Drinking Water (Wellhead) Protection Area" shall include the surface and subsurface area surrounding a water well or well field supplying a public water supply system with over one thousand (1,000) connections through which contaminants are reasonably likely to move toward and reach such well or well field within six (6) months, and one (1), five (5), and ten (10) years; for which the water purveyor has adopted a wellhead protection plan; and which said plan has been either formally proposed by the City to the Washington Department of Health pursuant to WAC 246-290-135 (3) and WAC 246-290-100 (2) or approved by the Washington State Department of Health.

The periods of time (six months and one, five and ten years) for movement of a contaminant toward a drinking water well define "time-of-travel zones." These zones establish areas around a drinking water source within which these wellhead protection measures apply.

An Extended Capture Zone can be designated outside the ten year zone if it is determined that surface water flows within that zone will discharge into the Wellhead Protection Area. All of the capture zones are considered part of the Drinking Water (Wellhead) Protection Zone.

Maps adopted pursuant to WAC 246-290-135 (3) and WAC 246-290-100 (2) which are hereby adopted by reference as though fully set forth herein, shall constitute the Drinking Water (wellhead) Protection Areas. Three copies of these maps shall be kept on file in the office of the City Clerk.

18.32.210 Drinking Water (Wellhead) Protection Areas - Exempt Uses and Activities

The following activities shall be exempt from the review requirements of this critical area category:

- A. Agriculture, existing and ongoing; except in conditions described in OMC 18.32.240;
- B. Boundary line adjustments;
- C. Building projects for individual, single family residences or duplexes connected to a sanitary sewer;

Exhibit A

- D. Conservation or preservation of soil, water, vegetation and wildlife in consultation with the Natural Resources Conservation Service, Washington Department of Fish and Wildlife, or other appropriate federal or state agency;
- E. Grading permit for less than five hundred (500) cubic yards of material;
- F. Installation, replacement, alteration or construction and operation in improved city road right-of-way of all water or electric facilities, lines, equipment or appurtenances but excluding substations and the application of chemical substances;
- G. Installation, replacement, alteration or construction and operation in improved city road right-of-way of all natural gas, cable communications and telephone facilities, lines, pipes, mains, equipment or appurtenances, but excluding the application of chemical substances;
- H. Location of boundary markers;
- I. Passive noncommercial outdoor recreation activities that have no impact on aquifer recharge, such as bird watching or hiking;
- J. Nondevelopment educational activities and scientific research;
- K. Normal and routine maintenance or repair of existing utility structures or right-of-way, excluding the application of chemical substances; and
- L. Site investigative work necessary for land use application submittals such as surveys, soil logs, percolation tests and other related activities.

18.32.215 Drinking Water (Wellhead) Protection Areas - Prohibited Uses and Activities

- A. Expansion or development of the following uses shall be prohibited within a designated drinking water (wellhead) protection area:
 - 1. Landfills (municipal sanitary solid waste and hazardous waste, demolition (inert) and wood waste);
 - 2. Chemical/Hazardous waste reprocessing transfer, storage and disposal facilities;
 - 3. Wood and wood products preserving/treating;
 - 4. Chemical (including pesticides) manufacturing, processing, mixing, ~~manufacturing,~~ and storage;
 - 5. Gas stations without attendant;

Exhibit A

6. Pipelines - liquid petroleum projects or other hazardous liquid transmission;
7. Solid waste processing;
8. Electroplating, metal plating;
9. Manufacturing - electrical/electronic;
10. Petroleum products refining, reprocessing and related storage [except underground storage of heating oil or agricultural fueling in quantities less than one thousand one hundred (1,100) gallons for consumptive use on the parcel where stored];
11. Land spreading disposal facilities (as defined by WAC 173-304 and 173-308);
12. Cemeteries; and
13. Vehicle wrecking/junk/scrap/salvage yards.

B. Expansion or development of the following uses within the six (6) month and one (1) year time-of-travel zone of a designated drinking water (wellhead) protection area shall be prohibited:

1. Agriculture operations with over two hundred (200) animal units;
2. Gas stations with attendants,
3. Confined animal feeding operations including, but not limited to dairies, stables, horse boarding/training, auction facilities, feedlots, poultry raising;
4. Funeral facilities and taxidermy (~~without not connected to a sanitary sewer~~);
5. Maintenance/fueling facilities including but not limited to municipal, county, school district, transit, airports, railroads, buses;
6. Hazardous waste transfer and storage facilities, including radioactive wastes as defined in Chapter 43.200 RCW;
7. Fertilizer storage facilities;
8. Storage tanks, underground;
9. Solid waste handling, transferring, recycling;

Exhibit A

10. Asphalt plants/cement/-concrete plants;
11. Furniture staining/fabricating with hazardous materials;
12. Machine shops, metal finishing/fabricating.
13. Metal processing with etchers and chemicals;
- ~~13~~14. Wastewater reuse facilities/wastewater recycling satellite plant; and
- ~~14~~15. All other activities involving the use, handling, or storing of hazardous materials ~~of or~~ generating hazardous materials by their activities or action in quantities exceeding the threshold in 18.32.235 (B).

18.32.220 Drinking Water (Wellhead) Protection Areas - Administratively Authorized Uses and Activities

- A. All other uses and activities (~~i.e.,~~ those not listed in OMC 18.32.210 Exempted Uses and Activities, and OMC 18.32.215 Prohibited Uses and Activities) are subject to minimum mitigation standards as outlined in OMC 18.32.225 and further review by the Department in consultation with the Thurston County Health Officer. The Department shall determine whether the use or activity will ensure adequate protection of the source water supply, after a review of the hydrogeological reports, if required, as outlined in OMC 18.32.230.
- B. Administrative approval may be conditioned upon the implementation of mitigating measures which the Department determines are needed to ensure adequate protection of the source water supply.

18.32.225 Drinking Water (Wellhead) Protection Areas - Minimum Mitigation Standards

- A. Every application for a non-exempt development permit within a drinking water (wellhead) protection area shall meet these minimum standards for mitigation:
 1. If the development proposal indicates the use, storage, handling or disposal of hazardous materials above the minimum quantity thresholds listed in OMC 18.32.235, the applicant shall submit a hazardous materials management (spill) plan as outlined in OMC 18.32.235.
 2. Landscaping and irrigation plans that mitigate the leaching of soluble contaminants into groundwater. These plans shall meet the requirement of OMC 18.36 and in addition incorporate the following requirements:
 - a. Within the landscaping plans, the Agreement to Maintain Stormwater Facilities Operations and Maintenance Agreement, and the Conditions, Covenants and Restrictions regarding fertilizers, insert the following specific passage, "Only slow-release fertilizers shall be applied for the life of

Exhibit A

the development at a maximum amount of 4 lbs of nitrate as nitrogen annually and no more than 1 lb- per application for every 1,000 square feet of turf grass. Only fertilizer formulas with a minimum of 50% water-insoluble form of nitrogen are permitted for use. Approved water-insoluble forms of nitrogen include sulfur-coated and/or polymer-coated coated fertilizers, isobutylidene diurea (IBDU), methylene urea and ureaform, and organic fertilizers registered with the Washington Department of Agriculture."

b. The total turf area of the development will be limited to 25% of the total regulated landscaped area. All additional plantings will include native and/or drought tolerant plants as listed in the Thurston County Common Sense Gardening Plant List or a similar list approved by the ~~above~~ department Washington Department of Agriculture.

c. Irrigation systems shall be designed and managed to maximize efficient use of water. Lawns will not be watered more than a ~~depth of~~ 1 inch per week over the area of turf. An irrigation consultation will be required at the time the irrigation system is installed to determine ~~precipitation~~ application rates and system uniformity ~~of system~~. Consultations will be conducted by an Irrigation Association Certified Landscape Irrigation auditor.

d. Integrated Pest Management Plans as required by Thurston County for any land use projects located within a City of Olympia delineated well head capture zone.

3. A well inventory report. Any existing wells shall be identified on a map, with an assessment of their condition, photographs and well logs (if available). Wells that are not being used for ongoing domestic water use, irrigation or monitoring will be decommissioned by the applicant following the procedures in WAC Chapter 173-160-381 WAC.

4. A ~~g~~Grant to the Department permission to access the development for the purposes of:

a. Providing pollution prevention outreach to residents, employees, and contractors. Access Outreach may include but is not limited to: interpretive sign installation, model home displays, demonstration sites, conducting interviews and surveys, observing practices, and distributing informational materials.

b. Ensuring compliance with items described under this section OMC 18.32.225, section A above.

c. The grant of access shall be included in the Stormwater Operations and Maintenance Agreement and the Conditions, Covenants, and Restrictions for the project.

B. A dedicated groundwater monitoring well is or wells may be required in situations where infiltration of stormwater is proposed, or where other groundwater contamination risks or water quality or water level monitoring needs are identified by the Department. The wells will be installed and equipped with a dedicated

Exhibit A

pump and dedicated groundwater level pressure transducer and data logger by the applicant to eCity standards. Within 60 days after installation, the developer must demonstrate to the satisfaction of the Department that installed equipment functions as intended, consistent with Chapter 6 of the Engineering Design and Development Standards for groundwater monitoring wells. The developer must submit a report to the Department within 60 days of well completion with detailed information about the well including location, name of drilling company, date drilled and completed, borehole log, well construction log, depth to groundwater, any water quality sample results, and copies of documents required by the Washington State Department of Ecology as related to the well. Once the well passes City inspection, it will become part of the City's groundwater monitoring network of wells, to be monitored as needed by the City

C. The city may allow alternatives to the minimum mitigation standards described in this section in unique conditions and on a case-by-case basis when the applicant demonstrates that: the proposed alternative mitigation measure(s) will be adequate to protect the drinking water source.

1. The alternative mitigation measure(s) must be based on the best available science; and

2. The project ~~has been~~ must be evaluated by a Hydrogeological Report as described in OMC 18.32.230, if required by the Department. ~~and~~

2. Based upon the Hydrogeological Report and the best available science the proposed alternative mitigation measures will be adequate to protect the drinking water source.

18.32.230 Drinking Water (Wellhead) Protection Areas - Hydrogeological Report

A. If the ~~d~~Department determines that where risks from on-site activities within a drinking water protection area are not well known, or where site specific assessment is necessary to determine mitigation levels above the minimum standards outlined in OMC 18.32.225, a ~~H~~Hydrogeological ~~R~~Report shall be required. This report shall identify the proposed development plan and the risks associated with on-site activities which may degrade the groundwater within a designated wellhead protection area.

B. This report shall be prepared, signed, and dated by a ~~state~~-licensed geologist or hydrogeologist, consistent with Chapter 18.220 RCW.

C. A Hydrogeological Report shall contain:

1. Information sources;
2. Geologic setting, including well logs or borings;
3. Background water quality;
4. Groundwater elevations;

Exhibit A

5. Location and depth of perched water tables and water-bearing aquifers;
6. Recharge potential of facility-site soils(permeability/transmissivity);
7. Groundwater flow direction and gradient;
8. Available data on wells located within 1/4 mile of the site;
9. Available data on ~~any~~ springs within 1/4 mile of the site;
10. Permanent and seasonal surface water body locations and recharge potential;
11. Any proposed monitoring or sampling schedules;
12. Analysis of the possible effects on the groundwater resource ~~of~~ by the proposed project including the storage or use of any hazardous materials;
13. Discussion of potential mitigation measures, should it be determined that the proposed project will have an adverse impact on groundwater resources;
14. Information required under Washington Department of Ecology Publication 05-10-028, as amended; and
15. Any other information as required by the Department.

18.32.235 Drinking Water (Wellhead) Protection Areas - Existing Uses

A. The Department in consultation with the Thurston County Health Officer shall request that an owner of any existing use which is located within a designated drinking water protection area, which uses, stores, handles or disposes of hazardous materials above the minimum cumulative quantities listed within this section submit a hazardous materials management (spill) plan that will ensure adequate protection of the aquifer and any domestic water supply. This plan shall be reviewed and updated as needed, and conditions under this plan shall be met on an ongoing basis.

Hazardous materials management (spill) plans shall include, at a minimum, the following:

1. A brief description of business activities and a list and map of the locations, amounts, and types of hazardous materials, hazardous waste and petroleum products, used or stored on site;
2. A description of inspection procedures for hazardous material storage areas and containers and the minimum inspection intervals. An inspection logbook shall be maintained for periodic review by the county;

Exhibit A

3. Provision of an appropriate spill kit with adequate spill supplies and protective clothing;
4. Detailed spill cleanup and emergency response procedures identifying how the applicant will satisfy the requirements of the Dangerous Waste Regulations, Chapter 173-303 WAC, in the event that hazardous material is released into the ground, ground water, or surface water;
5. Procedures to report spills immediately to the Department of Ecology and the Environmental Health Division of the Thurston County Public Health and Social Services Department, in that order;
6. A list of emergency phone numbers (e.g., the local fire district and ambulance);
7. Procedures to ensure that all employees with access to locations where hazardous materials are used or stored receive adequate spill training. A training logbook shall be maintained for periodic review by the county;
8. A map showing the location of all floor drains and any hazardous material and petroleum product transfer areas; and
9. Additional information determined by the approval authority to be necessary to demonstrate that the use or activity will not have an adverse impact on ground water quality.
10. Liquid, soluble, or leachable hazardous materials, shall be stored in a secondary contaminant device or system that will effectively prevent discharge on-site. (~~See Chapter 15.54 and 17.21 RCW regarding pesticide storage.~~) (Refer to Chapter 14.32 TCC, International Fire Code, regarding seismic standards).

B. Any existing use ~~which that~~ uses, stores, handles or disposes of ~~hazardous~~ hazardous materials above these minimum cumulative quantities will meet requirements described in A-OMC 18.32.235(A) above:

1. Chemical substances that are ignitable, corrosive, reactive or toxic, consistent with WAC 173-303-090, as amended, except as provided for below. Minimum cumulative quantity: 160 pounds or the equivalent of 20 gallons.
2. Cleaning substances for janitorial use or retail sale in the same size, packaging and concentrations as a product packaged for use by the general public. Chlorinated solvents and nonchlorinated solvents which are derived from petroleum or coal tar will not be considered a cleaning substance under this subsection, but rather a chemical substance under subsection (B)(1) of this section. Minimum cumulative quantity: eight hundred (800) pounds [or the equivalent one hundred (100) gallons], not to exceed fifty-five (55) gallons for any single package.
3. Businesses which use, store, handle or dispose of chemicals listed in WAC 173-303-9903 as "P" chemicals. Minimum cumulative quantity: two and two tenths (2.2) pounds.

18.32.240 Drinking Water (Wellhead) Protection Areas - Farm Conservation Plan

A. The Department, upon request of the Thurston County Health Officer, or based upon good cause and with reasonable expectations of risk to groundwater, shall request that the owner of an existing agricultural use located within a designated drinking water protection area develop and implement a ~~f~~Farm ~~e~~Conservation ~~p~~Plan.

B. Where a ~~f~~Farm ~~e~~Conservation ~~p~~Plan has been requested, such plan shall be prepared in conformance with the Natural Resources Conservation Service - Field Office Technical Guide. The Department may solicit advice from the Thurston Conservation District with regard to consistency of a ~~f~~Farm ~~e~~Conservation ~~p~~Plan with the Technical Guide. Only those portions of the Farm Conservation Plan which are related to groundwater protection must be implemented to comply with this standard.

C. The Farm Conservation Plan shall include the following:

1. A resource inventory which includes livestock types/numbers, soil types, surface water and groundwater issues and location of wells;_i
2. ~~An approved-~~ management plan for manure storage on site, or manure export off-site;
3. Adequate setbacks from surface water and wells;_i
4. Heavy use protection in confinement areas;_i and
5. A management plan that addresses if and when fertilizers, manure, pesticides and/or herbicides may be applied.

18.32.300 Important Habitats and Species - Purpose and Intent

In order to preserve and protect important habitats and ~~important~~ 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 ~~shall be provided on lands which lie within one thousand (1,000) feet 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.

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:

Exhibit A

- A. Are designated as endangered or threatened species identified under the Endangered Species Act; or
- B. ~~Are state designated-endangered, threatened, or sensitive species identified by the Washington Department of Fish and Wildlife and the habitat primarily associated with those 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 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.
- D. 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.

~~18.32.310 Important Habitats and Species—Exempt, Prohibited, Administratively Authorized Uses, and Hearing Examiner Authorized Uses and Activities~~

~~Within one thousand (1,000) feet of an important habitat or important species location there are no specific limitations on uses and activities, except those imposed by the Department based upon its review of the Important Habitat and Species Management Plan provided in OMC 18.32.330.~~

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 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 within one thousand (1,000) feet of an important habitat or species location.
- B. The minimum performance standards ~~which will~~that apply to a development proposal shall be those ~~contained within~~provided by the Washington Department of Fish & Wildlife's Management Recommendations for Washington's Priority Habitat and Species Management Recommendations (1991), as amended, and the requirements in OMC 18.32.115, except as modified on the basis of ~~the an~~ Important Habitat and Species Management Plan described in OMC 18.32.330.

18.32.320 Important Habitats and Species – Buffers

~~Buffers shall be established on a case-by-case basis as described in an Important Habitats and Species Management Plan per OMC 18.32.325 and 18.32.330. 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 Important Habitats and Species – Special Reports~~

~~When a development proposal lies within one thousand (1,000) feet of an important habitats and species location an Important Habitats and Species Management Plan shall be submitted by the applicant, provided 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.~~

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 Fish and Wildlife's Management Recommendations for Washington's 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;

Exhibit A

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.

18.32.400 Streams and ~~Important Priority~~ Riparian Areas - Purpose and Intent

In order to preserve the natural functions of streams and "~~important priority~~ riparian areas" by controlling siltation, minimizing turbidity, protecting nutrient reserves, maintaining stream flows, providing a source of large woody debris, preserving natural flood storage capacities, protecting fish bearing waters, preserving overhanging vegetation, providing groundwater recharge, and protecting the wildlife habitat associated with streams and intact riparian areas of marine and lake shorelines, all areas within three hundred (300) feet of such waters shall be subject to the standards in OMC 18.32.405 through OMC 18.32.445. (Note: Further information regarding development along marine shorelines, lakes over 20 acres in size, and streams can be found in the City's Shoreline Master Program).

18.32.405 Streams and ~~Important~~ Priority Riparian Areas - Applicability and Definition

A. "Streams" means an area where surface waters flow sufficiently to produce a defined channel or bed, i.e., an area which demonstrates clear evidence of the passage of water including but not limited to bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need not contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff devices or other entirely artificial watercourses unless they are used to convey streams naturally occurring prior to construction.

B. "~~Important~~ Priority Riparian Areas" means those marine and lake shorelines, as measured from the ordinary high water mark, in the following locations:

1. The eastern shore of Budd Inlet from the southern property line of Priest Point Park northward to the city limits;
2. The western shore of Budd Inlet (in the Port Lagoon) from 4th Avenue NW northward to the extension of Jackson Avenue NW, but not including the BNSF railroad causeway and trestle or their western or eastern shores; West Bay Drive NW; Olympic Way NW; and parcels west of the rights-of-ways of West Bay Drive NW and Olympic Way NW;
3. The western shore of Budd Inlet (north of West Bay Drive) from the extension of 24th Avenue NW northward to the city limits, being approximately six hundred and fifty (650) feet from the end of the fill to the city limits;
4. The eastern shore of Capitol Lake (in the Middle Basin) from the extension of 13th Avenue SE (Olmsted Brothers Axis) southward to the right of way of Interstate 5;
5. The eastern shore of Capitol Lake (in the South Basin) from the right of way of Interstate 5 southward to the city limits; and
6. The western shore of Capitol Lake (in Percival Cove) from the intersection of Lakeridge Drive SW and Deschutes Parkway SW westward to the mouth of Percival Creek (a point due north of the terminus of Evergreen Park Court SW).

18.32.410 Streams and ~~Important~~ Priority Riparian Areas - Typing System

Streams are grouped into categories according to the Washington Department of Natural Resources Water Typing System. The criteria, definitions and methods for determining the water type of a stream are found in WAC 222-16-030 and 031, and the Stream Type Conversion Table below.

Exhibit A

STREAM TYPE CONVERSION TABLE

Stream Typing (per WAC 222-16-031)	Stream Typing (per WAC 222-16-030)
Type 1 stream	Type "S"
Type 2 stream	Type "F"
Type 3 stream	Type "F"
Type 4 stream	Type "Np"
Type 5 stream	Type "Ns"

A. "Type 1S streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030 and 031, as a Type 1S Water and those inventoried as "Shorelines of the State" under the Shoreline Master Program for the Thurston Region (1990), TCC 19.04, pursuant to RCW Chapter 90.58. Type 1S streams contain salmonid fish habitat.

B. "Type 2F streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030 and 031, as a Type 2F Water. Type 2F streams contain salmonid fish habitat.

~~C. "Type 3 streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030 and 031, as a Type 3 Water. Type 3 streams contain salmonid fish habitat.~~

~~D. "Type 4Np streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030 and 031, as a Type 4Np Water. Type 4Np streams do not contain salmonid fish habitat.~~

~~E. "Type 5Ns streams" are those surface waters which meet the criteria of the Washington Department of Natural Resources, WAC 222-16-030 and 031, as a Type 5Ns Water. These streams are areas of perennial or intermittent seepage, and ponds and drainage ways having short periods of spring or storm runoff. Type 5Ns streams do not contain salmonid fish habitat.~~

E. Waters having any of the following characteristics are presumed to have fish use:

Exhibit A

1. Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington, and having a gradient of 16 percent or less;
2. Stream segments having a defined channel of 2 feet or greater within the bankfull width in Western Washington, and having a gradient greater than 16 percent and less than or equal to 20 percent, and having greater than 50 acres in contributing basin size based on hydrographic boundaries;
3. Ponds or impoundments having a surface area of less than 1 acre at seasonal low water and having an outlet to a fish stream;
4. Ponds or impoundments having a surface area greater than 0.5 acre at seasonal low water.

~~18.32.415 Streams and Important Riparian Areas—Prohibited Alterations~~

~~The following alterations or commencement of the following activities shall be prohibited within a stream or "important riparian area" and its associated buffer, except as specified in 18.37.070, 18.32.420 Exempt Uses and Activities, 18.32.425—Administratively Authorized Uses and Activities, or 18.32.430 Hearing Examiner Authorized Uses and Activities:~~

~~Any human action which changes the existing condition including, but not limited to:~~

- ~~A.—Grading;~~
- ~~B.—Dredging;~~
- ~~C.—Channelizing;~~
- ~~D.—Cutting;~~
- ~~E.—Clearing;~~
- ~~F.—Filling;~~
- ~~G.—Paving;~~
- ~~H.—Building of structures;~~
- ~~I.—Demolition of structures;~~
- ~~J.—Relocating or removing vegetation;~~
- ~~K.—Introduction of invasive plant species;~~

Exhibit A

~~L.— Application of herbicides, pesticides, or any hazardous or toxic substance;~~

~~M.— Discharging pollutants;~~

~~N.— Grazing domestic animals;~~

~~O.— Modifying for surface water management purposes; or~~

~~P.— Any other human activity that changes the existing vegetation, hydrology, wildlife, or wildlife habitat.~~

18.32.420 Streams and ~~Important Priority~~ Riparian Areas - Exempt Uses and Activities

In addition to the exemptions in OMC 18.32.111, the following activities shall be exempt from the review requirements of this Chapter:

A. Activities within an Improved Right-of-Way, except those activities that alter a stream or wetland, such as a bridge or culvert, or result in the transport of sediment or increased stormwater.

B. Forest Practices Class I, II, and III, as defined in and conducted pursuant to the provisions of RCW 76.09.050, as amended.

C. Construction and/or maintenance of a trail in the stream buffer, four (4) feet or less in width, not paved, and involving less than fifty (50) cubic yards of cut or fill.

~~D.— Non-commercial Signs Associated with streams or "important riparian areas," including interpretive signs, Critical Area boundary signs, and survey markers.~~

~~E.— Normal Maintenance or Repair.~~

~~F.— Passive Recreation Activities.~~

18.32.425 Streams and ~~Important Priority~~ Riparian Areas - Administratively Authorized Uses and Activities

After evaluation and consideration of mitigation sequencing requirements in OMC 18.32.135, the Department may authorize the following uses and activities within a stream or "important priority riparian area" or its buffer following guidelines in OMC 18.32.115 and OMC 18.32.125 and provided that appropriate erosion control best management practices are implemented during construction (if applicable) and any areas cleared of vegetation are replanted with native species:

A. ~~Bank Stabilization.~~ Bank stabilization may be ~~an~~ allowed on a case-by-case basis when needed to protect the following:

Exhibit A

1. An existing structure where relocation of the structure away from the channel is not feasible within the same parcel, or
2. The pier or foundation of either a railroad, road, or trail.

Bioengineering (the use of plant materials to stabilize eroding stream channels and banks) shall be employed when possible in lieu of designs which contain rip rap or concrete revetments.

B. Beach or Shoreline Access.

C. Dock/Float.

D. ~~Fencing~~The Department shall determine if fencing is necessary to protect the functions and values of the critical area. If found to be necessary, the Department shall condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence, as described in OMC 18.32.145 at the edge of the critical area or buffer, when fencing will prevent future impacts to the critical area.

The applicant shall be required to install a permanent fence around the critical area or buffer when domestic grazing animals are present or may be introduced on site.

Fencing installed as part of a proposed activity or as required in this Subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

E. ~~Forest Practices~~. Forest practices may be allowed pursuant to the provisions of OMC 16.60 and RCW 76.09.050, as amended.

F. ~~Minor Enhancement~~. Minor enhancement projects may be allowed for streams or stream buffers not associated with any other development proposal in order to enhance stream functions. Such enhancement shall be performed by a qualified professional, as defined in OMC 18.02.180, under the direct supervision of a fisheries biologist according to a plan approved by the department for the design, implementation, maintenance and monitoring of the project, ~~prepared by a civil engineer and a fisheries biologist with experience preparing riparian enhancement reports.~~

G. ~~Minor Restoration~~. Minor restoration project may be allowed when the minor stream restoration projects for fish habitat enhancement ~~when is~~ conducted by a public agency whose mandate includes such work and when the work is not associated with mitigation of a specific development proposal and does not to exceed twenty-five thousand (\$25,000) dollars in cost. Such projects are limited to placement of rock weirs, log controls, spawning gravel and other specific salmonid habitat improvements and shall involve use of hand labor and light equipment only.

H. ~~Nondevelopment Educational Activities and Scientific Research.~~

Exhibit A

~~I. Noxious Weed Control.~~

~~3H. Road/Street - Expansion of Existing Corridor and New Facilities.~~

1. Crossings of streams shall be avoided to the extent possible;
2. Bridges or open bottom culverts shall be used for crossing of Types ~~1-3~~ S and F streams;
3. Crossings using culverts shall use super span or oversize culverts;
4. Crossings shall be constructed and installed between June 15th and September 15th;
5. Crossings shall not occur in salmonid spawning areas;
6. Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative exists;
7. Crossings shall not diminish flood carrying capacity; and
8. Crossings shall serve multiple properties/purposes whenever possible.

~~KI. Stormwater Facilities.~~ Stormwater facilities may be allowed ~~only in the outer half of Types 4Np and 5Ns stream buffers, and~~ only when:

1. The facility ~~does not exceed~~ is located in the outer twenty-five (25) percent of the buffer on site; ~~and~~
2. The functions of the buffer and the stream are not significantly adversely impacted; and.
3. Habitat for anadromous fish will not be adversely impacted.

J. Stormwater retrofit facilities may be allowed in Types S, F, Np, and Ns stream buffers.

~~EK.~~ Trail construction or maintenance of a trail located immediately adjacent to a stream or "important priority riparian area," greater than four (4) feet wide, with a paved surface, and/or involving more than fifty (50) cubic yards of cut or fill, but only when the Department determines that there are no practicable or reasonable alternatives.

1. Public and private trails and trail-related facilities such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites shall be allowed, but use of impervious surfaces shall be minimized.

Exhibit A

2. Trail planning, construction, and maintenance shall adhere to the following additional criteria:
 - a. Trails and related facilities shall, to the extent feasible, be placed on previously disturbed areas such as: existing or abandoned levees, or road, railroad, or utility corridors; and
 - b. Trails and trail related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat.

~~M.~~ Utility lines may be allowed within streams or "~~important priority~~ riparian area" and their buffers when it is demonstrated that:

1. There are no practicable upland alternatives for the utility corridor;
2. The corridor alignment follows a path of least impact to the functions of the stream and buffer including maintaining and protecting the hydrologic and hydraulic functions of wetlands and streams;
3. The corridor avoids cutting trees greater than six (6) inches in diameter at breast height when possible; and
4. Any access to the corridor for maintenance is provided as much as possible at specific points rather than by parallel roads.

M. Emergency actions as provided in OMC 18.362.165.

18.32.430 Streams and ~~Important Priority~~ Riparian Areas - Hearing Examiner Authorized Uses and Activities

~~After review~~As provided for in OMC 18.32.130, the Hearing Examiner may authorize the following uses and activities within a stream or "~~important priority~~ riparian area" or its buffer:

- A. ~~Bank Stabilization. The Department may allow b~~Bank stabilization when the design is consistent with the ~~Integrated Streambank Protection Guidelines (2002), published by the Washington State Aquatic Habitat Guideline Program~~Washington Department of Fish and Wildlife Integrated Streambank Protection Guidelines (Cramer et al., 2002), as amended or revised.
- B. ~~Stormwater Facilities. The Department may allow s~~Stormwater facilities in the outer half of Types ~~1, 2S~~ and ~~3-F~~ stream buffers subject to the performance standards in OMC 18.32.425(KI), and in the buffer of Types ~~4-Np~~ and ~~5Ns~~ streams provided that the facility will have a net positive benefit on the functions of the stream and its buffer and habitat for anadromous fish will not be adversely impacted.
- C. Stream Relocation.

Exhibit A

1. Streams which support salmonids shall not be relocated except as necessitated by public road projects which have been identified as a "public project of significant importance."
2. Streams may be relocated under a mitigation plan or restoration for the purpose of enhancement of in-stream resources and/or appropriate floodplain protection. Such relocations shall include:
 - a. The natural channel dimensions replicated, including substantially identical depth, width, length and gradient at the original location and the original horizontal alignment (meander lengths);
 - b. Bottom restored with identical or similar materials;
 - c. Bank and buffer configuration to as close as feasible to the original and/or natural conditions;
 - d. Channel, bank and buffer areas replanted with native vegetation which replicates the original in species, size and densities; and
 - e. Recreation of the original and/or natural habitat value.
3. An applicant must demonstrate, based on information provided by a civil engineer and a qualified biologist, that:
 - a. The equivalent base flood storage volume and function will be maintained;
 - b. There will be no adverse impact to groundwater;
 - c. There will be no increase in velocity;
 - d. There will be no interbasin transfer of water;
 - e. Performance standards as set out in the mitigation plan will be met;
 - f. The relocation conforms to other applicable laws; and
 - g. All work will be carried out under the direct supervision of a qualified biologist.

18.32.435 Streams and ~~Important~~ Priority Riparian Areas - Buffers

A. Buffers shall be required as set forth for each stream type or "priority riparian area." The required buffers shall be delineated, both on a site plan or plat and on the property, prior to approval of any regulated activity.

Exhibit A

B. The required buffer shall be extended to include any adjacent regulated wetland(s), landslide hazard areas and/or erosion hazard areas and required buffers.

C. Stream buffers shall be based on the water type classification as established by the Department of Natural Resources Stream Typing Classification System and required by OMC 18.32.410. The table below includes detail differentiating stream types based on fish habitat presence, stream widths, and mass wasting potential:

<u>Stream Type and Description</u>	<u>Buffer</u>
<u>Type S – Shorelines of the State</u>	<u>250 feet</u>
<u>Type F streams greater than 5 feet wide (bankfull width) that provide habitat for fish</u>	<u>250 feet</u>
<u>Type F streams less than 5 feet wide (bankfull width) that provide habitat for fish</u>	<u>200 feet</u>
<u>Type Np and Ns streams (no fish habitat) with high mass wasting potential</u>	<u>225 feet</u>
<u>Type Np and Ns streams (no fish habitat) without high mass wasting potential</u>	<u>150 feet</u>

1. Stream buffers shall be measured on a horizontal plane, outward from the ordinary high water mark (OHWM) on each side of the stream. (See Figure 32-1).

2. For streams that occur within ravines (which are not designated as a landslide hazard area) and where the standard buffer extends onto a slope of 30% or greater that is at least 10 feet in height, the buffer shall extend a minimum of 25 feet beyond the top of the slope to protect the stream channel from sediment loading from mass wasting events (e.g., landslides, earth/debris flows and slumps, and rock falls/earth topples) and reduce the risk to structures and human safety.

Exhibit A

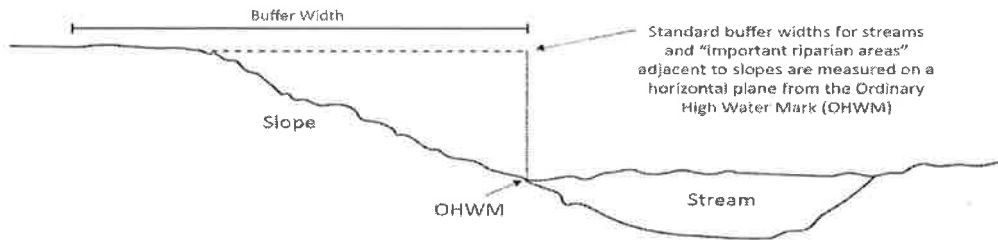


FIGURE 32-1

A.—For streams maintain the existing vegetation along both sides of a stream channel to whichever distance is greater:

- 1.—In ravines greater than ten (10) feet in depth, the existing vegetation within the ravine and within a strip fifty (50) feet from the top of the slope (refer to Figure 3):
- 2.—Where there is no ravine or where a ravine is less than ten (10) feet in depth, the existing vegetation on both sides of the stream for the distance set forth below for the applicable stream type, using the stream rating system in OMC 18.32.410 (refer to Figure 2):
 - a.—Type 1 and 2 streams: 250 feet;
 - b.—Type 3 streams: 200 feet;
 - c.—Type 4 and 5 streams: 150 feet.

BD. Maintain a buffer of existing vegetation for "important priority riparian areas:" as defined in OMC 18.32.405.

- 1.—250 feet along the eastern shore of Budd Inlet from the southern property line of Priest Point Park northward to the city limits;
- 2.—200 feet along the western shore of Budd Inlet (in the Port Lagoon) from 4th Avenue NW northward to the extension of Jackson Avenue NW, but not including the BNSF railroad causeway and trestle or their western or eastern shores, West Bay Drive NW, Olympic Way NW, and parcels west of the rights of ways of West Bay Drive NW and Olympic Way NW;

Exhibit A

3.—150 feet along the western shore of Budd Inlet (north of West Bay Drive) from the extension of 24th Avenue NW northward to the city limits, being approximately six hundred and fifty (650) feet from the end of the fill to the city limits;

4.—250 feet along the eastern shore of Capitol Lake (in the Middle Basin) from the extension of 13th Avenue SE (Olmsted Brothers Axis) southward to the right of way of Interstate 5;

5.—250 feet along the eastern shore of Capitol Lake (in the South Basin) from the right of way of Interstate 5 southward to the city limits; and

6.—250 feet along the western shore of Capitol Lake (in Percival Cove) from the intersection of Lakeridge Drive SW and Deschutes Parkway SW westward to the mouth of Percival Creek (a point due north of the terminus of Evergreen Park Court SW).

C.—All stream and "important riparian area" buffers shall be measured from the ordinary high water mark.

D.E. The stream or "~~important priority~~ riparian area" buffer widths contained in OMC 18.32.435 AC and B presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the stream functions and values at the time of the proposed activity. If the vegetation and other buffer elements are inadequate, then the buffer shall be planted ~~to with a density and species composition~~ a density of four hundred (400) tree units per acre pursuant to OMC 16.60 and with an understory of native plants commonly found in comparable but healthy riparian areas of Thurston County and as approved by the City of Olympia Urban Forester.

E.—The Department may allow modification of the required stream buffer width by averaging buffer widths. Averaging of buffer widths, which can include the shifting the buffer from one side of the stream to the opposite bank, may be allowed in accordance with a Biological Assessment described in OMC 18.32.445 only if:

- 1.—It will not reduce stream functions or values;
- 2.—The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer;
- 3.—The buffer width is not reduced by more than twenty five percent (25%) of the required width; and
- 4.—The stream buffer has been placed in a critical areas tract or a conservation easement.

F. The Department may reduce the required stream or "~~important priority~~ riparian area" buffer widths up to twenty five percent (25%) on a case-by-case basis in accordance with a Biological Assessment described in OMC 18.32.445 when it can be demonstrated that:

Exhibit A

1. The existing buffer area is not a high functioning buffer but instead is currently providing reduced functions due to existing land uses or previous alterations~~well vegetated with native species, as described in OMC 18.32.435 D;~~
2. Protection of the stream or "important priority riparian area" buffer using a fence and sign have been provided, as described in OMC 18.32.145;
3. Topographic conditions of the site and the buffer are protective of the stream;
4. The intensity and type of the land uses adjacent to the buffer will minimize potential adverse impacts upon the stream and wildlife habitat; [e.g., publicly owned parks, designated open space areas in plats and binding site plans, or lands with a recorded conservation easement];
5. The site design and building layout will minimize potential adverse impacts upon the stream and wildlife habitat; and
6. The smaller buffer will be adequate to protect the functions of the stream based on the best available science; and
7. Alternative mitigation measures as provided in "Land Use Planning for Salmon, Steelhead and Trout: A Land planner's guide to salmonid habitat protection and recovery," Washington Department of Fish and Wildlife, 2009, have been proposed by the applicant and approved by the Department.

G. ~~The Department may vary from the provisions of OMC 18.32.435 B up to fifty percent (50%) for Type 5 streams which have no fish usage and which discharge directly into Puget Sound when:~~

1. ~~A substantial buffer of native vegetation exists, or~~
2. ~~The buffer has been replanted to a density of four hundred (400) tree units per acre pursuant to OMC 16.60 including an understory of native plants commonly found in riparian areas of Thurston County, and~~
3. ~~Conservation measures have been taken to ensure the long term protection of the stream buffer, such as those as described in OMC 18.32.435(F)(4).~~

H. ~~The Hearing Examiner may allow reductions greater than those described in OMC 18.32.435(F) & (G) to the required stream or "important riparian area" buffer width in unique conditions and on a case by case basis when it can be demonstrated that:~~

1. ~~The provisions of the required stream or "important riparian area" have been evaluated by a Biological Assessment described in OMC 18.32.445, and~~

Exhibit A

2. —Based upon the Biological Assessment and the best available science the proposed stream-buffer width will be adequate to protect the functions of the stream or "important riparian area."

IG. If a stream segment is removed from a culvert it will not be required to meet the stream buffer requirements of OMC 18.32.435. It shall comply with the purpose and intent of this title to the degree possible, as determined by the Department.

JH. The required stream buffer widths shall be increased when the Department determines that the recommended width is insufficient to prevent habitat degradation and to protect the structure and functions of the stream and/or to protect habitat corridors between streams and other habitats.

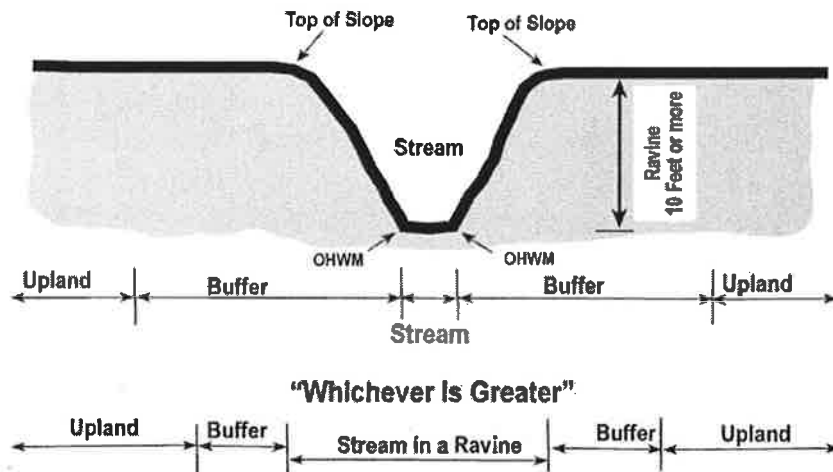


FIGURE 2

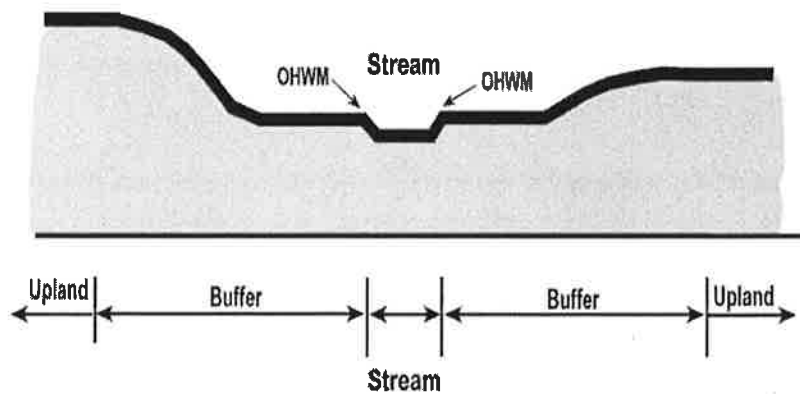


FIGURE 3

18.32.440 Streams and ~~Important-Priority~~ Riparian Areas - Special Reports

- A. Every application for development within a stream, or "~~important-priority~~ riparian area" or their ~~its~~ buffer shall include a drainage and erosion control plan and a grading plan.
- B. For applications which propose a reduction of the buffer pursuant to OMC 18.32.435(F) ~~and (G)~~, or for uses and activities which require Hearing Examiner authorization in OMC 18.32.430, a Biological Assessment shall be submitted.

18.32.445 Streams and ~~Important-Priority~~ Riparian Areas - Biological Assessment

- A. Depending upon the species of salmon, the preparation of a Biological Assessment shall follow the provisions of:
1. National Marine Fisheries Service, 1996. Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Watershed Scale. National Marine Fisheries Service, Environmental and Technical Services Division, Habitat Conservation Division, Portland, Oregon, or
 2. U.S. Fish and Wildlife Service, 1998. A Framework to Assist in Making Endangered Species Act Determinations of Effect for Individual or Grouped Actions at the Bull Trout Subpopulation Watershed Scale (draft). Prepared by United States Fish and Wildlife Service (adapted from the National Marine Fisheries Service).
- B. The Biological Assessment shall be prepared by a ~~person who has sufficient experience and education in fish biology, as determined by the Department~~ qualified professional as defined in OMC 18.02.

18.32.500 Wetlands ~~and Small Lakes~~ - Purpose and Intent

In order to protect the natural function of wetlands and "~~small lakes~~" for floodwater storage, floodwater conveyance, sediment control, pollution control, surface water supply, aquifer recharge, wildlife habitat, and recreation, those lands with wetlands and "~~small lakes~~" or which lie within three hundred (300) feet of wetlands and "~~small lakes~~" shall be subject to the standards in OMC 18.32.100(L) and OMC 18.32.505 through OMC 18.32.595.

18.32.505 Wetlands ~~and Small Lakes~~ - Definition

A.—"Wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1,

Exhibit A

1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands.

B. "Small Lakes" means naturally existing bodies of standing water less than twenty acres in size, which 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). This term does not apply to constructed ponds.

18.32.510 Wetlands and Small Lakes-- Rating System

A. The Washington State Wetland Rating System for Western Washington (2004/2014 update) as amended or revised, shall be used to determine if the wetland is a Category I, II, III or IV wetland. These documents contain the criteria, definitions and methods for determining if the criteria below are met.

1. ~~Category I.~~ Category I wetlands are (1) relatively undisturbed estuarine wetlands larger than 1 acre; (2) wetlands with high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than 1 acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre; and (7) wetlands that perform many functions well (scoring 23 points or more). ~~These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.~~ those that 1) represent a rare wetland type; 2) are highly sensitive to disturbance; 3) are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; 4) provide a very high level of functions; or are designated as high-value wetlands of local significance.
2. ~~Category II.~~ Category II wetlands are (1) estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre; (2) interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points). ~~those that 1) are sensitive to disturbance, 2) are difficult to replicate, 3) wetlands with a moderately high level of functions or are designated as wetlands of local significance. These wetlands are difficult, though not impossible, to replace, and provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a high level of protection.~~
3. ~~Category III.~~ Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between 0.1 and 1 acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. These wetlands generally have been altered in some ways, or are smaller, less diverse and/or more isolated in the landscape than Category

Exhibit A

II wetlands. For the purpose of this chapter, all "small lakes" shall be considered to be Category III wetlands.

4. ~~Category IV.~~ Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree, and often have been heavily altered. These are wetlands where it may be possible to replace, and in some cases be able to improve. These wetlands do provide some important functions, and should to some degree be protected.

B. Wetland rating categories shall be applied as the wetland exists on the date of application. However, wetland ratings shall not recognize alterations resulting from illegal activities.

18.32.515 Wetlands and Small Lakes - Small Wetlands

A. Wetlands and "small lakes" 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 Washington Department of Fish and Wildlife.

B. Wetlands and "small lakes" 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 or small lake:

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 ~~20~~5 points or greater for habitat in the Washington State Wetland Rating System for Western Washington (~~2004~~2014),

Exhibit A

5. Does not contain habitat identified as essential for local populations of priority species identified by Washington Department of Fish and Wildlife, and
6. A wetland mitigation report is provided as required by OMC 18.32.590.

~~18.32.518 Wetlands and Small Lakes—Prohibited Alterations~~

~~The following alterations or commencement of the following activities are prohibited within a wetland and its associated buffer, except as specified in OMC 18.37.070, 18.32.520—Exempt Uses and Activities, OMC 18.32.525—Administratively Authorized Uses and Activities, or OMC 18.32.530—Hearing Examiner Authorized Uses and Activities:~~

~~Any human action which changes the existing condition including but not limited to:~~

- ~~A.—Grading;~~
- ~~B.—Dredging;~~
- ~~C.—Channelizing;~~
- ~~D.—Cutting;~~
- ~~E.—Clearing;~~
- ~~F.—Filling;~~
- ~~G.—Paving;~~
- ~~H.—Building of structures;~~
- ~~I.—Demolition of structures;~~
- ~~J.—Relocating or removing vegetation;~~
- ~~K.—Introduction of invasive plant species;~~
- ~~L.—Application of herbicides, pesticides, or any hazardous or toxic substance;~~
- ~~M.—Discharging pollutants;~~
- ~~N.—Grazing domestic animals;~~
- ~~O.—Modifying for surface water management purposes; or~~

Exhibit A

~~P. Any other human activity that changes the existing vegetation, hydrology, wildlife, or wildlife habitat.~~

18.32.520 Wetlands and Small Lakes - Exempt Uses and Activities

In addition to the exemptions in OMC 18.32.111, the following activities shall be exempt from the review requirements of this Chapter:

A. Activities within an ~~Improved Right-of-Way~~, except those activities that alter a stream or wetland, such as a bridge or culvert, or result in the transport of sediment or increased stormwater.

B. Forest Practices Class I, II, and III, as defined in and conducted pursuant to the provisions of RCW 76.09.050, as amended.

C. Construction and/or maintenance of a trail in the wetland buffer, four (4) feet or less in width, not paved, and involving less than fifty (50) cubic yards of cut or fill.

~~D. Non-commercial Signs Associated with wetlands, including interpretive signs, Critical Area boundary signs, and survey markers.~~

~~E. Normal Maintenance or Repair.~~

~~F. Passive Recreation Activities.~~

18.32.525 Wetlands and Small Lakes - Administratively Authorized Uses and Activities

The following uses and activities may be authorized within a wetland or its buffer after an evaluation by the Department following the provisions in OMC 18.32.115 and OMC 18.32.125.

A. Beach or ~~S~~horeline ~~A~~ccess.

B. Dock/~~F~~loat in Category III and IV ~~W~~wetlands only.

C. Compensation ~~M~~itigation ~~S~~ite in Category III and IV Wetlands only, and the buffer only of Category II ~~W~~wetlands.

D. Fencing~~If fencing is necessary to protect the functions and values and/or to prevent future impacts of the critical area, the Department shall condition any permit or authorization issued pursuant to this Chapter to require the applicant to install a permanent fence, as described in OMC 18.32.145, at the edge of the critical area or buffer.~~

The applicant shall be required to install a permanent fence around the critical area or buffer when domestic grazing animals are present or may be introduced on site.

Exhibit A

Fencing installed as part of a proposed activity or as required in this subsection shall be designed so as to not interfere with species migration, including fish runs, and shall be constructed in a manner that minimizes habitat impacts.

E. ~~Forest Practices:~~ Forest practices may be allowed pursuant to the provisions of OMC 16.60 and RCW 76.09.050, as amended, in Category III and IV ~~W~~wetlands.

F. ~~Minor Enhancement:~~ Minor enhancement may be allowed of wetlands or wetland buffers not associated with any other development proposal in order to enhance wetland functions, as determined by the Department and any state agency or tribal entity with jurisdiction. Such enhancement shall be performed under a plan for the design, implementation, maintenance and monitoring of the project prepared by a ~~civil engineer and a fisheries biologist with experience preparing riparian enhancement reports, under the direct supervision of a wetland scientist~~ qualified professional, as defined in OMC 18.02.180.

G. ~~Minor Restoration:~~ Minor Restoration may be allowed but shall be limited to Category II, III and IV ~~W~~wetlands and the buffer of Category I ~~W~~wetlands.

H. ~~Noxious Weed Control~~

I. ~~Nondevelopment Educational Activities and Scientific Research~~

JH. ~~Road/Street Expansion of Existing Corridor and New Facilities in Category III and IV W~~wetlands only as follows:

1. Crossings of wetlands or other critical areas shall be avoided to the extent to the extent possible
2. Crossing of wetlands shall follow all applicable local, state and federal laws and the following criteria to ensure the least impact to wetlands:
 - a. ~~3.~~ 3.—Bridge-type structures are required for new crossings of wetlands;
 - b. ~~4.~~ 4.—Crossings using culverts shall use super span or oversize culverts.
 - c. ~~5.~~ 5.—Crossings shall be constructed and installed during periods of time when there will be the least impact on the adjacent fish and wildlife habitat;
 - ~~6.~~ 6.—Bridge piers or abutments shall not be placed in either the floodway or between the ordinary high water marks unless no other feasible alternative placement exists;
 - d. ~~7.~~ 7.—Crossings shall not diminish flood carrying capacity;
 - e. ~~8.~~ 8.—Crossings shall provide for maintenance of culverts, bridges and utilities; and

Exhibit A

f. 9.—Crossings shall serve multiple properties whenever possible.

KI. Stormwater Facilities may be allowed ~~only in the outer half of in~~ Category III and IV wetland buffers ~~only,~~
and only when:

1. The facility ~~does not exceed~~ is located in the outer twenty-five (25) percent of the buffer on site;
and
2. The location of such facilities will not degrade or have a significant, adverse impact on the functions
or values of the wetland or buffer.

J. Stormwater retrofit facilities may be allowed in Category I, II, III and IV wetland buffers provided the
facility does not negatively impact the wetland's functions or values.

LK. Trail construction or maintenance of a trail greater than four (4) feet wide, with a paved surface, and/or
involving more than fifty (50) cubic yards of cut or fill located in a Category II, III or IV wetland, but only when
the department has determined that there are no practicable or reasonable alternatives:

1. Public and private trails and trail-related facilities, (such as picnic tables, benches, interpretive
centers and signs and, viewing platforms and campsites) shall be allowed, but use of impervious
surfaces shall be minimized.
2. Trail planning, construction and maintenance shall adhere to the following additional criteria:
 - a. Trails and related facilities shall, to the extent feasible, be placed on previously disturbed
areas such as: existing or abandoned levees, or road, railroad, or utility corridors; and
 - b. Trails and trail related facilities shall be planned to minimize removal of trees, shrubs, snags
and important wildlife habitat.

ML. Utility lines may be allowed within Category II, III and IV wetlands and their buffers when it is
demonstrated that:

1. There are no practicable upland alternatives for the utility corridor;
2. The corridor alignment follows a path of least impact to the functions of the stream and buffer
critical areas including maintaining and protecting the hydrologic and hydraulic functions of wetlands
and streams;
3. The utility provider avoids cutting trees in the corridor greater than six (6) inches in diameter at
breast height when possible; and

Exhibit A

4. Any access to the corridor for maintenance is provided as much as possible at specific points rather than by parallel roads.

~~NM.~~ Wildlife Blind.

~~N.~~ Emergency actions as provided in OMC 18.32.165.

18.32.530 Wetlands and ~~Small Lakes~~ Hearing Examiner Authorized Uses and Activities

The following uses and activities may be authorized within a wetland or its buffer after a review by the Hearing Examiner as provided in OMC 18.32.130:-

- A. ~~Communication Towers~~ in the buffers of Category III and IV ~~W~~wetlands only.
- B. ~~Compensation M~~itigation ~~S~~ite in Category II ~~W~~wetlands only.
- C. ~~Dock/F~~loat in Category II ~~W~~wetlands only.
- D. ~~Road/S~~street only:
 - 1. In Category II wetlands subject to the performance standards ~~for Road/Street Expansion of Existing Corridor and New Facilities~~ in OMC 18.32.525(~~JH~~).
 - 2. In Category I wetlands subject to the performance standards ~~for Road/Street Expansion of Existing Corridor and New Facilities~~ in OMC 18.32.525(~~JH~~), and being processed as a "public project of significant importance."
- E. Stormwater Facilities in Category III or IV wetlands only, and in the outer half only of a Category II standard wetland buffer, provided that if the placement of such a facility in a wetland results in elimination of an area's wetland status, then mitigation will be required to compensate for the loss of that wetland as provided in OMC 18.32.550.
- F. Trail construction or maintenance of a trail greater than four (4) feet wide, with a paved surface, and/or involving more than fifty (50) cubic yards of cut or fill located in a Category I wetland, but only when the Hearing Examiner has determined that there are no practicable or reasonable alternatives. Trails shall be subject to the performance standards ~~for T~~rails in OMC 18.32.525(~~LK~~).
- G. Utility Facility only in Category I, II, III and IV wetlands.

18.32.535 Wetlands and Small Lakes - Wetland Buffers

A. Wetlands buffer areas shall be maintained between all regulated activities and wetlands to retain the wetland's natural functions and values. ~~The required width of the wetland buffer shall be determined as provided in the tables below.~~ Wetland buffers are based upon the rating of the wetland pursuant to OMC 18.32.585575.

B. The required width of the wetland buffer shall be determined as provided in the table below.

Table ~~X~~32-1: Wetland Buffer Widths

Wetland Characteristics	Wetland Buffer Width
Natural Heritage Wetlands	Not less than 250 feet
Bogs	Not less than 250 feet
Estuarine - Category I	250 feet
Estuarine - Category II	150 feet
Habitat score: 31 pts and more <u>3 pts</u>	300-100 feet
Habitat score: 30-4 <u>pts</u>	280-100 feet
Habitat score: 29-5 <u>pts</u>	260-140 feet
Habitat score: 28-6 <u>pts</u>	240-180 feet
Habitat score: 27-7 <u>pts</u>	220 feet
Habitat score: 26-8 <u>pts</u>	200-260 feet
Habitat score: 25-9 <u>pts</u>	180-300 feet
Habitat score: 24 <u>pts</u>	160 feet
Habitat score: 23 <u>pts</u>	140 feet
Habitat score: 22 <u>pts</u>	120 feet
Habitat score: 21 <u>pts</u>	100 feet
Habitat score: 20 <u>pts</u>	100 feet
Habitat score: 19 <u>pts</u>	100 feet
Water Quality Improvement Score: 24-8 - 32-9 <u>pts</u> , and Habitat score: 19 <u>4 pts</u> or less	100 feet
Category I or II Wetland - Not meeting any of the above criteria	100 feet
Category III Wetland - Not meeting any of the above criteria	80 feet

Table ~~X32-1~~: Wetland Buffer Widths

Wetland Characteristics	Wetland Buffer Width
Category IV Wetland - Score for all three wetland functions is less than 30 <u>16</u> pts	50 feet

- C. All wetland buffers shall be measured from the wetland boundary.
- D. The wetland buffer widths contained in OMC 18.32.535(B) Table 32-1 presume the existence of a relatively intact native vegetation community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the vegetation and other buffer elements are inadequate, then the buffer shall be planted ~~to a density of four hundred (400) tree units per acre~~ with native trees to a density common in the specific buffer area and ~~pursuant to OMC 16.60 including an~~ understory of native plants commonly found in riparian areas of Thurston County.
- E. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations shall be the same as the buffer required for the category of the created, restored, or enhanced wetland.
- F. The Department may allow modification of the required wetland buffer width by either allowing a reduction pursuant to OMC 18.32.535(G) or by allowing averaging of buffer widths when all of the following conditions are met:
1. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a "dual-rated" wetland with a Category I area adjacent to a lower rated area,
 2. The buffer is increased adjacent to the higher-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower functioning or less sensitive portion,
 3. The total area of the buffer after averaging is equal to the area required without averaging, and
 4. The buffer at its narrowest point is never less than seventy five percent (75%) of the required width.
- G. If buffer averaging has not been used, ~~the~~ Department may reduce the required wetland buffer widths by twenty five percent (25%) under the following conditions:
1. For wetlands that score ~~twenty-five~~ (205) points or more for the habitat functions, if both of the following criteria are met:

Exhibit A

a. A relatively undisturbed, vegetated corridor at least one hundred (100) feet wide is protected between the wetland and any other priority habitats as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected for the entire distance between the wetland and the priority habitat by legal protection such as a conservation easement.

b. Measures to minimize the impacts of different land uses on wetlands, such as those described on Table 8c-11~~8~~, Appendix 8-C, of Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands (2005) Ecology publication #05-06-008, as amended or revised, are applied. Examples of these measures include directing lighting away from wetland, locating noise generating activities away from the wetland, and densely planting the buffer to act as barrier to pets and human disturbance.

2. For wetlands that score ~~nineteen-four (194)~~ points or less for habitat function, apply the provisions of OMC 18.32.535(G)(1)(b).

~~H. The Hearing Examiner may allow:~~

~~1. Reductions to the required wetland buffer width greater than those described in OMC 18.32.535-G on a case-by-case basis when it can be demonstrated that:~~

~~a. The provisions of OMC 18.32.535(G) have been evaluated by a Wetland Mitigation Report described in OMC 18.32.590, and~~

~~b. The proposed wetland buffer width will protect the wetlands' functions and values based upon the Wetland Mitigation Report and the best available science.~~

~~2. Buffer averaging up to fifty percent (50%) of the required width, except for a Category IV wetland, when it can be demonstrated that:~~

~~a. It will not reduce wetland functions or values according to a Wetland Mitigation Report described in OMC 18.32.590;~~

~~b. Measures to minimize the impacts of different land uses on wetlands, such as those described on Table 8c-11, Appendix 8-C, of Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands (2005) Ecology publication #05-06-008, as amended or revised, are applied;~~

~~c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and~~

~~d. The wetland buffer has been placed in a critical areas tract or a conservation easement.~~

Exhibit A

H. The Department or Hearing Examiner, as appropriate, shall require increased buffer widths in accordance with the recommendations of an experienced, qualified wetland scientist, and the best available science on a case-by-case basis when a larger buffer is necessary to protect wetland functions and values based on site-specific characteristics. This determination shall be based on one or more of the following criteria:

1. A larger buffer is needed to protect other critical areas;
2. The buffer or adjacent uplands has a slope greater than fifteen percent (15%) or is susceptible to erosion and standard erosion-control measures will not prevent adverse impacts to the wetland; or
3. The buffer area has minimal vegetative cover. In lieu of increasing the buffer width where existing buffer vegetation is inadequate to project the wetland functions and values, implementation of a buffer planting plan may substitute. Where a buffer planting plan is proposed, it shall include densities that are not less than three (3) feet on center for shrubs and eight (8) feet on center for trees and require monitoring and maintenance to ensure success. Existing buffer vegetation is considered "inadequate" and will need to be enhanced through additional native plantings and (if appropriate) removal of non-native plants when:
 - a. non-native or invasive plant species provide the dominant cover,
 - b. vegetation is lacking due to disturbance and wetland resources could be adversely affected, or
 - c. enhancement plantings in the buffer could significantly improve buffer functions.

18.32.540 Wetlands – Preference of Mitigation Actions

Mitigation for lost or diminished wetland and buffer functions shall rely on the types below in the following order of preference:

A. Restoration (re-establishment and rehabilitation of wetlands):

1. The goal of re-establishment is returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.
2. The goal of rehabilitation is repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.

B. Creation (establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native species. Establishment results in a gain in wetland acres. This should be

Exhibit A

attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design. If a site is not available for wetland restoration to compensate for expected wetland and/or buffer impacts, the Department may authorize creation of a wetland and buffer upon demonstration by the applicant's qualified wetland scientist that:

1. The hydrology and soil conditions at the proposed mitigation site are conducive for sustaining the proposed wetland and that creation of a wetland at the site will not likely cause hydrologic problems elsewhere;
2. The proposed mitigation site does not contain invasive plants or noxious weeds or that such vegetation will be completely eradicated at the site;
3. Adjacent land uses and site conditions do not jeopardize the viability of the proposed wetland and buffer (e.g., due to the presence of invasive plants or noxious weeds, stormwater runoff, noise, light, or other impacts); and
4. The proposed land and buffer will eventually be self-sustaining with little or no long-term maintenance.

C. Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement should be part of a mitigation package that includes replacing the altered area and meeting appropriate ratio requirements. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions lost. Applicants proposing to enhance wetlands or associated buffers shall demonstrate:

1. How the proposed enhancements will increase the wetland's/buffer's functions;
2. How this increase in function will adequately compensate for the impacts; and
3. How all other existing wetland functions at the mitigation site will be protected.

18.32.5405 Wetlands and Small Lakes - Compensating for Loss or Affected Functions
Wetland Mitigation Requirements

- A. Property development that may result in the loss of wetlands or "small lake" or adversely affect wetland values and/or functions shall provide compensatory mitigation in accordance with the order of priority preference set forth in OMC 18.32.135540.
- B. Compensatory mitigation shall provide functional equivalency or improvement of the wetland functions lost, except when either:

Exhibit A

1. The lost wetland provides minimal functions as determined by a site specific function assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
2. Out-of-kind replacement of wetland type or functions will best meet watershed goals, such as replacement of historically diminished wetland types.

C. Compensatory mitigation shall be conducted on the site of the alteration except when all of the following apply:

1. There are no reasonable on-site or in sub-drainage basin opportunities (e.g., on-site options would require elimination of high-functioning upland habitat), or on-site and in sub-drainage basin opportunities do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydro geomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity); and
2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland.

D. Off-site compensatory mitigation shall be provided in the same drainage sub-basin unless:

1. Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the Department and strongly justify location of mitigation at another site in a different drainage sub-basin; or
2. Credits from a state-certified wetland mitigation bank are used as compensation and the use of credits is consistent with the terms of the bank's certification.

E. The design for the compensatory mitigation project shall be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland is a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). It should not provide exaggerated morphology or require a berm or other engineered structures to hold back water.

~~18.32.545 Wetlands and Small Lakes – Compensation Projects~~

AF. Any wetland compensation project prepared pursuant to this Chapter and approved by the Department shall become part of the approved development project.

BG. Critical area tracts or a conservation easement for any mitigation area created, restored or enhanced as a part of a wetland mitigation proposal will be required if necessary to provide a reasonable assurance that the mitigation or adverse impacts will not be lost after the completion of the project, or to provide a reasonable period of time for establishment of a functioning system. The ~~regulatory agency~~ Department may accept a comparable use restriction such as, but not limited to, state or federal ownership.

CH. The person proposing a wetland compensation project shall demonstrate to the Department that sufficient expertise, supervisory capability and financial resources exist to carry out the proposed compensation project. The needed expertise, supervisory capability and financial resources will be commensurate with the proposed compensation. At minimum, the project applicant must provide a description of the personnel who will be involved in carrying out and supervising the project including academic degrees, areas of experience and work experience to date.

~~D.— Compensation areas shall be determined according to function, acreage, type, location, time factors, ability to be self-sustaining and projected success. Wetland functions and values shall be determined by use of the Washington State Methods for Assessing Wetland Functions (1999), Ecology Publication #99-115 and 99-116, as amended. Multiple compensation projects may be proposed for one project in order to best achieve the goal of no net loss.~~

EI. A development project by a public entity, or a private development project with a wetland less than four thousand (4,000) square feet, may pay a fee to the Department to have the City construct a compensation project. Such a proposal shall be on a case by case basis, must have funds committed towards a project on property owned by the city, a public entity, or a nonprofit agency acceptable to the City and meets all other provisions of this Chapter.

FJ. When loss or disturbance of wetland results from a violation of this Chapter or of any permit, order or approved mitigation plan issued pursuant thereto, penalties provided in OMC 18.73 may be imposed.

~~18.32.550 Wetlands and Small Lakes - Replacement Ratios~~

~~A.—~~The wetland replacement ratios shall be those described on Table 8c-11, Appendix 8-C, of Wetlands in Washington State - Volume 2: Guidance for Protecting and Managing Wetlands (2005) Ecology publication #05-06-008, as amended or revised.

~~B.—~~When the acreage required for compensatory mitigation is divided by the acreage of wetland adversely affected, the result is a number known variously as a replacement, compensation, or mitigation ratio.

Exhibit A

Compensatory mitigation ratios are used to help ensure that compensatory mitigation actions are adequate to offset unavoidable wetland impacts by requiring a greater amount of mitigation area than the area of impact.

18.32.555 Wetlands and Small Lakes - Increase and Reduction to Replacement Ratios

A. The Department may increase the wetland replacement ratios contained in OMC 18.32.550 under any of the following circumstances:

1. Uncertainty as to the probable success of the proposed restoration or creation;
2. Significant period of time between destruction and replication of wetland functions;
3. Projected losses in functional value; or
4. The wetland impact was unauthorized.

B. The Department may decrease the wetland replacement ratios for Category II, III, and IV wetlands contained in OMC 18.32.550 to not less than a 1 to 1 acreage replacement ratio when a qualified wetlands specialist can document that:

1. The proposed mitigation actions have a very high likelihood of success, and either
2. The proposed mitigation actions will provide functions and values that are significantly greater than the wetland being impacted, or
3. The proposed mitigation actions which are to be conducted in advance of the wetland impact have been shown to be successful.

18.32.560 Wetlands and Small Lakes - Type and Location of Compensation Mitigation

A. Compensatory mitigation actions shall be conducted on the site of the alteration except when all of the following apply:

1. There are no reasonable on-site or in drainage of sub-basin opportunities (e.g., on-site options would require elimination of high-functioning upland habitat), or on-site and in-sub-drainage basin opportunities do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include: anticipated replacement ratios for wetland mitigation, buffer conditions and proposed widths, available water to maintain anticipated hydro geomorphic classes of wetlands when restored, proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity); and

Exhibit A

2.—Off site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland.

B.—Off site compensatory mitigation shall be provided in the same drainage sub-basin unless:

1.—Established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the department and strongly justify location of mitigation at another site in a different drainage sub-basin; or

2.—Credits from a state certified wetland mitigation bank are used as compensation and the use of credits is consistent with the terms of the bank's certification.

C.—The design for the compensatory mitigation project shall be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland is a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). It should not provide exaggerated morphology or require a berm or other engineered structures to hold back water.

18.32.565 Wetlands and Small Lakes - Mitigation Timing

A. Where feasible, compensatory projects shall be completed prior to activities that will permanently disturb wetlands, and immediately after activities that will temporarily disturb wetlands.

B. In all cases compensatory projects shall be completed within one year after use or occupancy of the activity or development which was conditioned upon such compensation.

C. Construction of compensation projects shall be timed to reduce impacts to existing flora, fauna and fisheries.

D. The Department may authorize a one-time delay not to exceed twelve (12) months in the construction or installation of the compensatory mitigation. A written request shall be prepared by a qualified wetland professional and include the rationale for the delay. In granting a delay the Department must determine that it will not be injurious to the health, safety, and general welfare of the public.

18.32.570 Wetlands and Small Lakes - Wetland Mitigation Banks and In-lieu Fee

A.—Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

1.—The bank is certified under Chapter 173-700 WAC;

Exhibit A

~~2.—The Department determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and~~

~~3.—The proposed use of credits is consistent with the terms and conditions of the bank's certification.~~

~~B.—Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.~~

~~C.—Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.~~

A. The city may approve mitigation banking or in-lieu fee mitigation as a form of compensatory mitigation for wetland and habitat conservation area impacts when the provisions of this chapter require mitigation and the use of a mitigation bank/in-lieu fee program will provide equivalent or greater replacement of critical area functions and values when compared to conventional permittee-responsible mitigation.

B. Mitigation banks and in-lieu fee programs shall only be used when it can be demonstrated that they provide significant ecological benefits including long-term conservation of critical areas, important species, and habitats or habitat linkages, and when they are documented to provide a viable alternative to the piecemeal mitigation for individual project impacts to achieve ecosystem-based conservation goals.

C. Mitigation banks and in-lieu fee programs shall not be used unless they are certified in accordance with applicable federal and state mitigation rules and expressly authorized through city legislative action.

18.32.575 Wetlands and Small Lakes - Special Reports

Every application for development that proposed to be located within or adjacent to a regulated wetland or its buffer shall include the following special reports:

- A. Wetland boundary delineation,
- B. Wetland rating report (if the wetland is unrated),
- C. Wetland mitigation report, and
- D. Wetland compensatory mitigation plan (if the application includes wetland replacement).

18.32.580 Wetlands and Small Lakes - Wetland Boundary Delineation

A. A wetland boundary delineation report shall establish the exact location of a wetland's boundary based on a field investigation by a qualified professional, ~~applying the Washington State Wetlands Identification and~~

Exhibit A

~~Delineation Manual, (1997) Ecology Publication #96-94, as amended or revised. Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements (WAC 173-22-035). Wetland data sheets shall be included in wetland reports.~~

~~B. The boundary delineation shall be prepared by a wetland biologist with experience preparing wetland reports, such as an individual certified by the Society of Wetland Scientists. Wetland delineations are valid for 5 years.~~

~~C. The wetland boundary, wetland buffer, and any critical area tract shall be identified on all grading, landscaping, site, utility or other development plans submitted on the project.~~

~~18.32.585 Wetlands and Small Lakes – Wetland Rating Report~~

~~A. A wetland rating report shall categorize the wetland (e.g., I, II, III, or IV) based on the Washington State Wetland Rating System for Western Washington (2004) as amended or revised.~~

~~B. The applicant may elect to pay a fee to the Department in lieu of submitting the wetland rating report. The Department will hire a qualified individual or firm to prepare the wetlands rating report.~~

~~C. The Department will determine the wetland category and required buffer width.~~

~~18.32.587 Wetlands and Ponds – Wetland Rating Report~~

~~A. The Washington State Wetland Rating System for Western Washington (2004) as amended or revised, shall be used to determine if the wetland is a Category I, II, III or IV wetland.~~

~~B. A wetland rating report shall categorize the wetland (e.g., I, II, III, or IV) based on the Washington State Wetland Rating System for Western Washington (2004) as amended or revised.~~

~~C. The applicant may elect to pay a fee (See OMC 4.) to the Olympia Community Planning and Development Department in lieu of submitting the wetland rating report. The Olympia Community Planning and Development Department will hire a consultant from a list of qualified individuals or firms to prepare the wetlands rating report.~~

~~D. The Department will determine the wetland category and required buffer width based on the wetlands rating report~~

~~18.32.590 Wetlands and Small Lakes - Wetland Mitigation Report~~

~~A. A Wetland Mitigation Report shall include an evaluation of the functions and values of the wetland.~~

Exhibit A

- B. It shall be prepared by a wetland biologist with expertise in preparing wetlands reports.
- C. The report ~~may~~ shall include the wetland boundary delineation and the wetland rating.
- D. The report shall include a list of the mitigation measures proposed, based upon OMC 18.32.135.
- E. It shall include a to-scale map with conditions as appropriate to the site. Use OMC 18.32.595 (DC) as guidance for those features to be included on this map.

F. The applicant may elect to pay a fee to the Department in lieu of submitting the wetland rating report. The fee shall be sufficient to cover the cost to the Department to hire a qualified individual or firm to prepare the wetlands rating report, which will determine the wetland category and required buffer width.

18.32.595 Wetlands and Small Lakes - Wetland Compensation Mitigation Report Plan

A. The Wetland Compensation Mitigation Report Plan must meet the general guidelines in OMC 18.32.136 in addition to the following specific guidelines. The Plan shall be prepared by a wetland biologist with experience preparing wetland reports, such as an individual certified by the Society of Wetland Scientists, must include a written report and map with the following elements: Full guidance can be found in the Guidance on Wetland Mitigation in Washington State - Part 2: Guidelines for Developing Wetland Mitigation Plans and Proposals, (2004) - Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10; Ecology Publication #04-06-013b, as amended or revised; and Selecting Wetland Mitigation Sites Using a Watershed Approach (Western Washington) – Ecology Publication No. 09-06-32.

~~B. The report shall be prepared by a wetland biologist with experience preparing wetland reports, such as an individual certified by the Society of Wetland Scientists.~~

~~B.~~ The written report must contain:

1. The name and contact information of the applicant; the name, qualifications, and contact information for the primary author(s) of the report; a description of the proposal; a summary of the impacts and proposed compensation concept; identification of all the local, state, and/or federal wetland related permit(s) required for the project; and a vicinity map for the project;
2. Description of the existing wetland and buffer areas proposed to be impacted including: acreages (or square footage) based on professional surveys of the delineations; Cowardin classifications including dominant vegetation community types (for upland and wetland habitats); hydro geomorphic classification of wetland(s) on and adjacent to the site; the results of a functional assessment for the entire wetland and the portions proposed to be impacted; wetland rating based upon OMC 18.32. 585;

Exhibit A

3. An assessment of the potential changes in wetland hydroperiod from the proposed project and how the design has been modified to avoid, minimize, or reduce adverse impacts to the wetland hydroperiod;
4. An assessment of existing conditions in the zone of the proposed compensation, including: vegetation community structure and composition, existing hydroperiod, existing soil conditions, existing habitat functions. Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e., how would this site progress through natural succession?);
5. A description of the proposed actions to compensate for the wetland and upland areas affected by the project. Describe future vegetation community types for years one (1), three (3), five (5), ten (10), and twenty five (25) post-installation including the succession of vegetation community types and dominants expected. Describe the successional sequence of expected changes in hydroperiod for the compensation site(s) for the same time periods as vegetation success. Describe the change in habitat characteristics expected over the same twenty five (25) year time period;
6. The field data collected to document existing conditions and on which future condition assumptions are based for hydroperiod (e.g., existing hydroperiod based on piezometer data, staff/crest gage data, hydrologic modeling, visual observations, etc.) and soils (e.g., soil pit data - hand dug or mechanically trenched, and soil boring data. Do not rely upon soil survey data for establishing existing conditions.);
7. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);
8. The estimated total cost for the bond for the entire compensatory mitigation project, including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice/year for up to five (5) years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring. The estimate shall be in sufficient detail to permit issuance of a bond to guarantee performance of the work; and
9. Proof of establishment of Notice on Title for the wetlands and buffers on the project site, including the compensatory mitigation areas.

DC. The map must contain:

1. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;
2. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also

Exhibit A

existing cross-sections of on-site wetland areas that are proposed to be impacted, and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;

3. Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;
4. Proposed conditions expected from the proposed actions on site including future hydro geomorphic types, vegetation community types by dominant species (wetland and upland), and future hydrologic regimes;
5. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this Title;
6. A plant schedule for the compensatory area including all species by proposed community type and hydrologic regime, size and type of plant material to be installed, spacing of plants, "typical" clustering patterns, total number of each species by community type, timing of installation; and
7. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring schedule, and maintenance schedule and actions by each year.

18.32.600 ~~Landslide-Geological~~ Hazard Areas - Purpose and Intent

In order to minimize damage to health and property due to landslide, erosion, seismic hazard or other naturally occurring events; control erosion, siltation, and stream health which affect fish and shellfish resources; and safeguard the public from hazards associated with landslides, mud flows and rock fall, landslide-geological hazard areas shall be subject to the standards described in OMC 18.32.605-603 through OMC 18.32.645665. The Department may also restrict the uses and activities of a development proposal located within 300 feet of a geological hazard area.

18.32.603 Geological Hazard Areas - Mapping

A. The approximate location and extent of geologically hazardous areas are shown on the following maps:

1. U.S. Geological Survey landslide hazard, seismic hazard, and volcano hazard maps;
2. Washington State Department of Natural Resources seismic hazard maps for Western Washington;
3. Washington State Department of Natural Resources slope stability maps;

Exhibit A

4. Federal Emergency Management Administration flood insurance maps; and
5. Locally available maps.

B. These maps are a reference and do not provide a final critical area designation. They may be used as a guide for the City, project applicants, and property owners and may be continuously updated as new critical areas are identified.

18.32.605 Geological Hazard Areas - Alterations

A. Alterations of geological hazard areas or associated buffers may occur only for activities that meet the following criteria:

1. Will not increase the existing threat of the geological hazard to adjacent properties;
2. Will not decrease the factor of safety within the landslide area below the limits of 1.5 for static conditions and 1.1 for dynamic conditions. Analysis of dynamic (seismic) conditions shall be based on a minimum horizontal acceleration as established by the current version of the Washington State Building Code.
3. Will not adversely impact other critical areas;
4. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre-development conditions; and
5. Are certified as safe as designed under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.

The department may condition or deny proposals as appropriate to achieve these criteria. Conditions may include limitations of proposed uses, modification of density, alteration of site layout, and other appropriate changes to the proposal.

B. Public emergency, health, and safety facilities, and public utilities, shall not be sited within geologically hazardous areas, or in areas that could be affected by geologic hazards, such as landslide run out zones, unless there is no other practicable alternative.

18.32.605-610 Landslide Hazard Areas - Applicability and Definition

A. "Landslide Hazard Area" means those areas which are potentially subject to risk of mass movement due to a combination of geologic, topographic and hydrologic factors; and where the vertical height is ten (10) feet or more. The following areas are considered to be subject to landslide hazards:

Exhibit A

1. Steep slopes of forty (40) percent or greater (refer to Figure ~~632-2~~);
2. Slopes of fifteen (15) percent or greater, with:
 - a. Impermeable subsurface material (typically silt and clay), frequently interbedded with granular soils (predominantly sand and gravel), and
 - b. Springs or seeping groundwater during the wet season (November to February) ~~(Refer to Figure 7)~~.
3. Any areas located on a landslide feature which has shown movement during the past ten thousand years or which is underlain by mass wastage debris from that period of time.

B. Not included in the definition of "Landslide Hazard Area" are those man-made steep slopes which were created in conformance with accepted construction standards or which meet the requirement of 18.32.640(C).

~~18.32.610 Landslide Hazard Areas – Prohibited Alterations~~

~~The following alterations or commencement of the following activities shall be prohibited within a landslide hazard area and its associated buffer, except as specified in OMC 18.37.070, 18.32.415 – Exempt Uses and Activities, OMC 18.32.420 – Administratively Authorized Uses and Activities, or OMC 18.32.425 – Hearing Examiner Authorized Uses and Activities:~~

~~Any human action which changes the existing condition including but are not limited to:~~

- ~~A. Grading;~~
- ~~B. Dredging;~~
- ~~C. Channelizing;~~
- ~~D. Cutting;~~
- ~~E. Clearing;~~
- ~~F. Filling;~~
- ~~G. Paving;~~
- ~~H. Building of structures;~~
- ~~I. Demolition of structures;~~

Exhibit A

- J.— Relocating or removing vegetation;
- K.— Introduction of invasive plant species;
- L.— Application of herbicides, pesticides, or any hazardous or toxic substance;
- M.— Discharging pollutants;
- N.— Grazing domestic animals;
- O.— Modifying for surface water management purposes; or
- P.— Any other human activity that changes the existing vegetation, hydrology, wildlife, or wildlife habitat.

18.32.615 Landslide Hazard Areas - Exempt Uses and Activities

In addition to the exemptions in OMC 18.32.111, the following activities shall be exempt from the review requirements of this Chapter provided that appropriate erosion control best management practices are implemented during construction (if applicable) and any areas cleared of vegetation are replanted with native species:

- A. Activities within an ~~Improved Right-of-Way~~, except those activities that alter a stream or wetland, such as a bridge or culvert, or result in the transport of sediment or increased stormwater.
- B. Fencing.
- C. Forest Practices Class I, II, and III, as defined in and conducted pursuant to the provisions of RCW 76.09.050, as amended.
- D. Construction and/or maintenance of a trail in the stream buffer, four (4) feet or less in width, not paved, and involving less than fifty (50) cubic yards of cut or fill.
- E.— ~~Non-commercial Signs Associated with Streams, including interpretive signs, Critical Area boundary signs, and survey markers.~~
- F.— ~~Normal Maintenance or Repair.~~
- G.— ~~Passive Recreation Activities.~~
- HE. Wildlife ~~N~~esting ~~S~~tructure.

18.32.620 Landslide Hazard Areas - Administratively Authorized Uses and Activities

The Department may, after evaluation, authorize the following uses and activities within a landslide hazard area or its buffer:

- A. Beach or ~~S~~shoreline ~~A~~ccess.
- B. Existing ~~S~~structure - ~~R~~emodel and ~~R~~eplacement.
- C. Forest ~~P~~actices, pursuant to the provisions of OMC 16.60 and RCW 76.09.050, as amended.
- ~~D. Nondevelopment educational activities and scientific research.~~
- ~~E. Noxious Weed Control.~~
- ~~FD. Restoration/R~~evegetation of ~~S~~ite.
- ~~GE. Site I~~nvestigation.
- ~~HE. Slope Stabilization. The Department may allow the e~~limination of a landslide hazard area less than twenty (20) feet in height to stabilize a slope, subject to the provision of the IBC.
- ~~IG. Stormwater Facilities. The Department may allow s~~Stormwater facilities only in the outer half of the buffer at the toe of the slope, and only if the applicant demonstrates:
 - 1. No practicable alternative exists;
 - 2. The facility does not exceed twenty-five (25) percent of the buffer on site; and
 - 3. The stability of the landslide hazard area will not be adversely impacted.
- ~~3H. Trail construction or maintenance of a trail located immediately adjacent to a stream, greater than four (4) feet wide, with a paved surface, and/or involving more than fifty (50) cubic yards of cut or fill, but only when the Department determines that there are no practicable or reasonable alternatives.~~
 - 1. Public and private trails and trail-related facilities such as picnic tables, benches, interpretive centers and signs, viewing platforms and campsites shall be allowed, but use of impervious surfaces shall be minimized.
 - 2. Trail planning, construction, and maintenance shall adhere to the following additional criteria:

Exhibit A

- a. Trails and related facilities shall, to the extent feasible, be placed on previously disturbed areas such as: existing or abandoned levees, or road, railroad, or utility corridors; and
- b. Trails and trail related facilities shall be planned to minimize removal of trees, shrubs, snags and important wildlife habitat.

~~KI. Utility Line.~~ Utility lines may be allowed within landslide hazard areas when it can be determined that:

1. There are no practicable alternatives for the utility corridor,
2. The corridor alignment follows a path of least impact to the landslide hazard areas critical areas including maintaining and protecting and retaining the slope stability of streams in ravines and landslide hazard areas;
3. The corridor avoids cutting trees greater than six (6) inches in diameter at breast height when possible; and
4. Any access to the corridor for maintenance is provided as much as possible at specific points rather than by parallel roads.

18.32.625 Landslide Hazard Areas - Hearing Examiner Authorized Uses and Activities

The Hearing Examiner may, after review, authorize the following uses and activities within a landslide hazard area or its buffer:

- A. Road/Street - Expansion of Existing Corridor and New Facilities.
 1. Crossings of landslide hazard areas or other critical areas shall be avoided to the extent possible.
 2. Crossings shall serve multiple properties/purposes, whenever possible.
- B. Utility Facility.

Refer to the performance standards for Utility Line in OMC 18.32.625(~~K~~)620(I).

- C. Elimination of a Landslide Hazard Area.

When the landslide hazard area has a vertical dimension greater than twenty (20) feet in height and the landslide hazard could be eliminated through site grading.

- D. Other uses and activities.

Exhibit A

Other uses and activities may be allowed within a landslide hazard area on a case-by-case basis when it can be demonstrated that:

1. A Geotechnical Report described in OMC 18.32.640 has been provided, and
2. The applicant has demonstrated to the Examiner's satisfaction that legally enforceable commitments, such as bonds, letters of credit, and/or covenants, guarantee the use of development practices that will render the development as safe as if it were not located in a landslide hazard area.

18.32.630 Landslide Hazard Areas - Buffers

A. In order to minimize damage to personal health and property due to landslides, a buffer of undisturbed vegetation as provided in this Section shall be maintained between all regulated activities and landslide hazard areas. Development must maximize the retention of existing vegetation and retains all vegetation outside of the developed building area. Vegetation, in the form of ground cover, shrubs or trees, assists in stabilizing the ground surface. Damage to existing vegetation through removal or disturbance can have significant impacts on slope stability. Any removal of vegetation, therefore, must be minimized in steep slope areas. Where removal of vegetation cannot be avoided in order to accommodate a permitted development or to stabilize a slope, an acceptable plan to fully revegetate and restabilize affected areas must be provided.

B. The minimum required buffer widths ~~is are the greater amount of~~ the following distances measured from the edges of the landslide hazard area ~~(except for Subsection B.4 below)~~:

1. ~~From all sides of the landslide hazard area limits: the distance recommended by the engineering geologist or geotechnical engineer~~ The minimum distance recommended by the engineering geologist or geotechnical engineer;
2. If no recommendation by an engineering geologist or geotechnical engineer, then (See Figure 32-3):
 - 2a. At the top of the landslide hazard area: a distance of one-third (1/3) the height of the slope or 50 feet, whichever is greater;
 - 3b. At the bottom of the landslide hazard area a distance of one-half (1/2) the height of the slope or 50 feet, whichever is greater; or
 - 4c. Fifty (50) feet in all directions from a seep; or,
5. ~~The minimum distance recommended by the engineering geologist or geotechnical engineer (Refer to Figures 6 and 7).~~

C. All landslide hazard area buffers shall be measured from the landslide hazard area as located in the field.

Exhibit A

D. The landslide hazard area, its buffer, and any critical area tract shall be identified on all grading, landscaping, site, utility or other development plans submitted on the project.

E. The Department may reduce the required landslide hazard areas buffer widths except buffers recommended pursuant to OMC 18.32.630 B 5~~1~~, up to fifty (50) percent on a case-by-case basis when supported by a Geotechnical Report including the following:

1. Buffer width reduction is supported by a Geotechnical Report described in OMC 18.32.640~~that evaluates the criteria in OMC 18.32.630(E)~~;
2. The existing buffer area is well-vegetated;
3. The protection of the landslide hazard area buffer using a fence and sign have been evaluated, as described in OMC 18.32.145;
4. Topographic conditions of the site and the buffer have been evaluated;
5. The intensity and type of the land uses adjacent to the buffer have been evaluated with respect to minimizing potential adverse impacts upon the landslide hazard area; [e.g. publicly owned parks, designated open space areas in plats and binding site plans, or lands with a recorded conservation easement];
6. The site has been evaluated with respect to its site design and building layout to minimize potential risks with landslide hazard areas; and
7. A smaller buffer will be adequate to protect property from the landslide hazard based on the best available science.

F. The Hearing Examiner may allow reductions greater than those described in OMC 18.32.630(E) to the required landslide hazard area buffer width on a case-by-case basis when it can be demonstrated that:

1. The provisions of OMC 18.32.630(E) have been evaluated by a Geotechnical Report described in OMC 18.32.640, and
2. Based upon the Geotechnical Report and the best available science it is demonstrated that the proposed landslide hazard area buffer width will be adequate to protect personal health and property from a landslide from this site.

Exhibit A

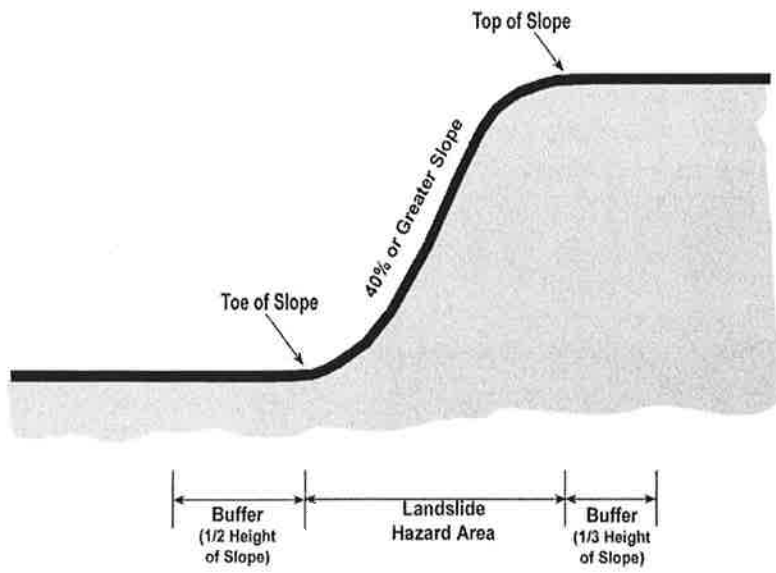


FIGURE 632-2

Exhibit A

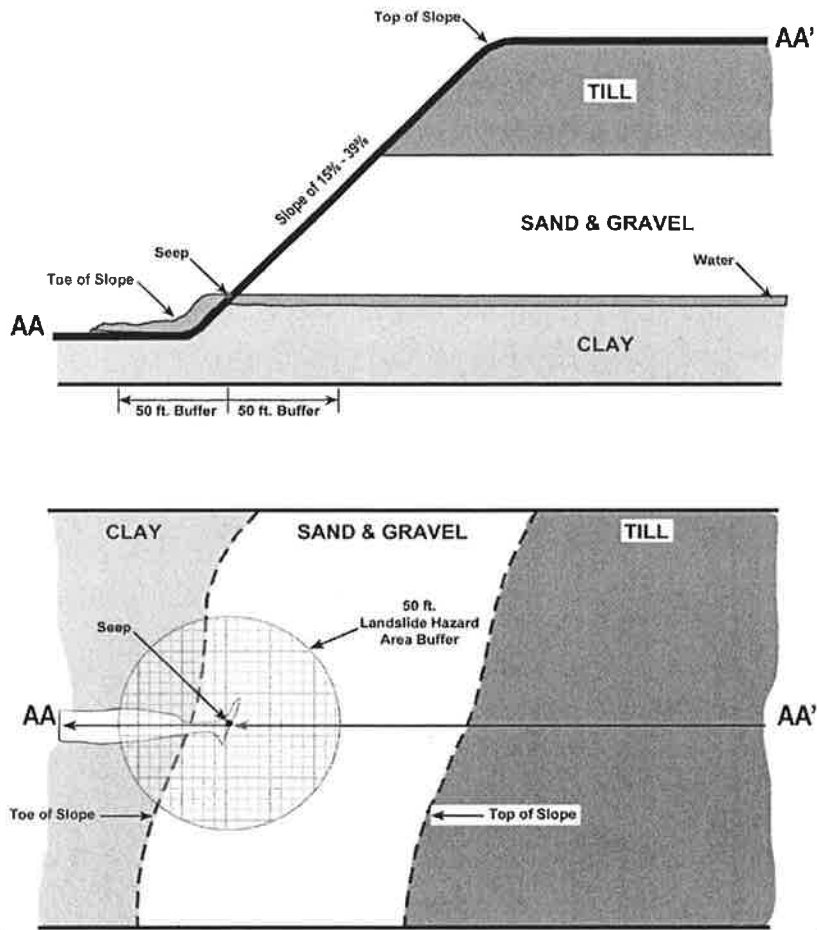


FIGURE-7

18.32.635 Landslide Hazard Areas - Special Reports

A. Every application for development within a landslide hazard area or its buffer shall provide the following special reports:

1. Drainage and erosion control plan;
2. Grading plan;
3. Geotechnical Report, and
4. Landscape Plan.

B. The Department may waive the submittal of any or all of these special reports when:

Exhibit A

1. The proposal increases the impervious surfaces within the subject parcel or parcels by less than ten (10) percent,
2. The removal of vegetation is minimal and is not likely to cause erosion or slope instability,
3. Less than fifty (50) cubic yards of material is excavated upslope from the steep slope,
4. The surface water flow is directed away from the face of the steep slope, or
5. The proposed project or activity will not substantially affect the natural integrity of the steep slope.

18.32.640 Landslide Hazard Areas - Geotechnical Report

A. The Geotechnical Report shall be prepared and sealed by either an engineering geologist as defined by RCW 18.220, as amended, or a geotechnical-licensed engineer as defined by RCW 18.22043, as amended and in accordance with the Washington State Geologist Licensing Board's "Guidelines for Preparing Engineering Geologist Reports in Washington, 2006."

B. The Geotechnical Report shall indicate if:

1. A potential landslide hazard is either present or highly likely; or
2. A potential landslide hazard is present or that it is highly unlikely; or
3. Available information to evaluate a potential landslide hazard is inadequate.

C. Any area in which the Geotechnical Report investigation indicates a potential landslide hazard shall not be subject to development unless the report demonstrates one of the following:

1. The site specific subsurface conditions indicate that the proposed development is not located in a landslide hazard area or its buffer; or
2. The proposed development has been designed so that the risk on the site and to adjacent property have been eliminated or mitigated to such a degree that the site is determined to be safe;
3. Development practices are proposed that would render the development as safe as if it were not located in a landslide hazard area, or
4. The proposed development activity is so minor as not to pose a threat to the public health, safety, and welfare.

D. The Geotechnical Report shall be submitted for review by the Department and shall include:

Exhibit A

1. A detailed review of the field investigations, published data and references, data and conclusions from past geological assessments, or geotechnical investigations of the site, site-specific measurements, tests, investigations, or studies,
2. A determination of potential landslide hazard area conditions on the site, and its immediate vicinity, which may affect development on the site,
3. Consideration of the run-out hazard to the proposed development posed by debris from a landslide starting upslope (whether part of the subject property or on a neighboring property) and/or the impacts of landslide run-out on down slope properties, and
4. Results, conclusions and recommendations including supporting analysis and calculations and a list of mitigation measures necessary in order to safely construct or develop within the landslide hazard area.

18.32.645 Landslide Hazard Areas - Covenant

A. The Department may require a covenant between the owner(s) of the property and the City when development is to occur within a landslide hazard area. The covenant shall be signed by the owner(s) of the site and notarized prior to issuance of any permit by the City. The covenant shall not be required where the permit or approval is for work done by the City. The covenant shall include:

1. A legal description of the property;
2. A description of the property condition making this subsection applicable;
3. A statement that the owner(s) of the property understands and accepts the responsibility for the risks associated with development on the property given the described condition, and agrees to inform future purchasers and other successors and assignees that the property is located within a landslide hazard area, of the risks associated with development thereon, of any conditions or prohibitions on development imposed by the City, and of any features in this design which will require maintenance or modification to address anticipated soils changes;
4. The application date, type, and number of the permit or approval for which the covenant is required; and
5. A statement waiving the right of the owner(s), the owner's heirs, successors and assigns to assert any claim against the City for any loss or damage to people or property either on- or off-site resulting from soil movement by reason of or arising out of issuance of the permit or approval by the City for the development on the property, except only for such losses that may directly result from the sole negligence of the City.

Exhibit A

B. The covenant shall be filed by the Department with the Thurston County Auditor, at the expense of the owner, so as to become part of the Thurston County real property records.

18.32.650 Erosion Hazard Areas - Description

Erosion hazard areas are those areas characterized by soil types that are subject to severe erosion when disturbed. These include, but are not limited to, those identified by the United States Department of Agriculture Soil Conservation Service Soil Classification System, with a water erosion hazard of "severe" or "high." These areas may not be highly erodible until or unless the soil is disturbed by activities such as clearing or grading.

18.32.655 Erosion Hazard Areas - Protection Measures

A. Before approving any development under this subsection, the Department may require the applicant to submit any or all of the following information in addition to a critical areas report:

1. A geotechnical report prepared by a geotechnical engineer or engineering geologist licensed in the state that describes how the proposed development will impact or be impacted by each of the following on the subject property and nearby properties:

a. Slope stability, landslide hazard, and sloughing;

b. Seismic hazards;

c. Groundwater;

d. Seeps, springs and other surface waters; and

e. Existing vegetation

2. A site plan, in two-foot contours, that identifies the type and extent of geologically hazardous areas on site and off site that are likely to impact or be impacted by the proposal.

3. Recommended foundation design and optimal location for roadway improvements.

4. Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties.

5. Any other information the city determines is reasonably necessary to evaluate the proposal.

B. If the city approves any development under this section, it may, among other appropriate conditions, impose the following conditions of approval:

1. The recommendations of the geotechnical report are followed;

Exhibit A

2. A geotechnical engineer or engineering geologist is present on site during all development activities. As an alternative, the city may require minimal site visits by the geotechnical engineer or engineering geologist to establish proper methods, techniques and adherence to plan drawings;
3. Trees, shrubs and groundcover are retained except where necessary for approved development activities on the subject property;
4. Additional vegetation is planted in disturbed areas; and
5. Submit a letter by the geotechnical engineer or engineering geologist stating that they have reviewed the project plan drawings and in their opinion the plans and specifications meet the intent of the geotechnical report.

18.32.660 Seismic Hazard Areas – Description

Seismic hazard areas are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, lateral spreading, or surface faulting. One indicator of potential for future earthquake damage is a record of earthquake damage in the past. Ground shaking is the primary cause of earthquake damage in Washington. The strength of ground shaking is primarily affected by:

- A. The magnitude of an earthquake;
- B. The distance from the source of an earthquake;
- C. The type of thickness of geologic materials at the surface; and
- D. The type of subsurface geologic structure.

18.32.665 Seismic Hazard Areas - Alterations

Alterations to seismic hazard areas may be allowed only as follows:

- A. The evaluation of site-specific subsurface conditions shows that the proposed development site is not located in a seismic hazard area; or
- B. Mitigation based on the best available engineering and geotechnical practices shall be implemented which either eliminates or minimizes the risk of damage, death, or injury resulting from seismically induced settlement or soil liquefaction. Mitigation shall be consistent with the requirements of OMC 18.32.135 and shall be approved by the Department.

Exhibit A

Exhibit A

Exhibit A

18.02.180 Definitions

A. DEFINITIONS - SPECIFIC.

Abandon. To cease or suspend from developing or maintaining a building or use for a definite period of time.

Abandoned Activity. A business or activity with no reported sales or activity for a period of twelve (12) months, except temporary closures for repairs, alterations, or other similar situations. Land and/or buildings not in use for such period are considered vacant and unoccupied and may be subject to review including land use approval prior to renewal of use.

Abutting. Two or more parcels or buildings sharing a common boundary of at least one point.

Access. Safe, adequate, and usable ingress/egress (entrance/exit) to a property or use.

Accessory Dwelling Unit. See Dwelling, Conventional.

Accessory Structure. A structure detached from the principal building located on the same lot and customarily incidental and subordinate to the principal building. Any part of the main building which shares a common wall and roof is considered a part of that building. A building or portion thereof is not considered attached if the attachment is by a covered breezeway. (See also Subordinate.)

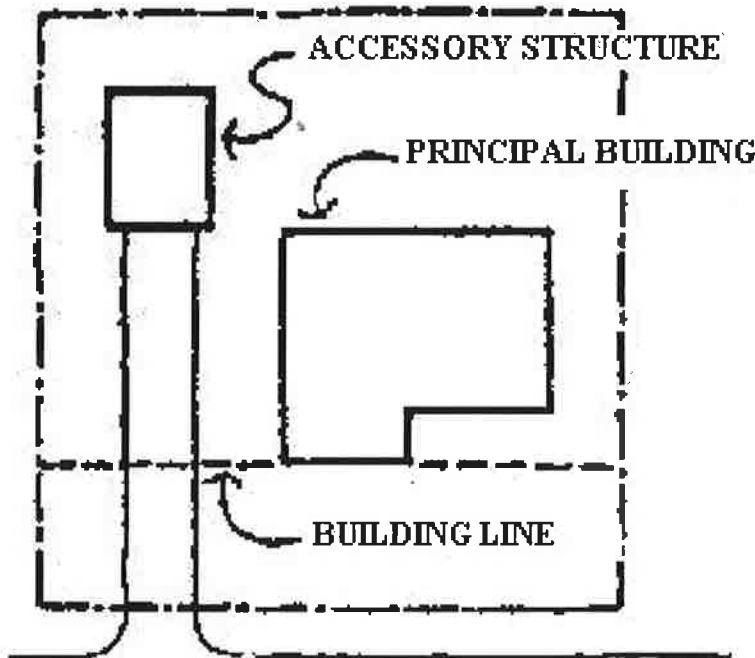


FIGURE 2-1

Exhibit B

Accessory Use. A use of land or a portion thereof customarily incidental and subordinate to the principal use of the land and located on the same lot with the principal use, such as: garage sales; merchandise displays outside of a business; community oriented outdoor activity associated with schools, churches, and other non-profit organizations; and temporary contractor offices on a construction site.

Action. A decision made by the review authority(s) on a land use application, including any findings, environmental determination and conditions of approval.

Adult Day Care Home. See Dwelling, Assisted Living.

Adult Entertainment.

a. Any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance involves a person who is unclothed or in such costume, attire, or clothing as to expose any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals, or human male genitals in a discernibly turgid state, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva, or genitals, or human male genitals in a discernibly turgid state, even if completely opaquely covered; or

b. Any exhibition, performance, or dance of any type conducted in a premises where such exhibition, performance, or dance is distinguished or characterized by a predominant emphasis on the depiction, description, simulation of, or relation to, the following specified sexual activities:

i. Human genitals in a state of sexual stimulation or arousal;

ii. Acts of human masturbation, sexual intercourse, or sodomy; or

iii. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; provided, adult entertainment and specifically the "depiction, description, simulation of, or relation to" sexual activities described above, shall not be construed to include any form of actual sexual conduct as defined in this section.

c. Any exhibition, performance, or dance intended to sexually stimulate any patron and conducted in a premises where such exhibition, performance, or dance is performed for, arranged with, or engaged in with fewer than all patrons on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance exhibition or dance. For purposes of example and not limitation, such exhibitions, performances, or dances are commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing, or straddle dancing.

Adult-Oriented Business. Shall mean the following businesses:

Exhibit B

- a. Adult arcade. An establishment containing any individual viewing areas or booths, where, for any form of consideration, including a membership fee, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines are used to show films, motion pictures, video cassettes, slides, or other photographic reproduction of sexual conduct, or adult entertainment.
- b. Adult cabaret. A night club, bar, restaurant, theater, or auditorium, or similar commercial establishment, whether or not alcoholic beverages are served, which presents adult entertainment.
- c. Adult motel. A hotel, motel, or similar commercial establishment which:
 - i. Offers sleeping accommodation to the public for any form of consideration and, as a significant purpose of its business, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of or description of sexual conduct or adult entertainment and are not rated G, PG, PG-13, NC-13, NC-17, or R by the Motion Picture Association of America; or
 - ii. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - iii. Allows a tenant or occupant of a sleeping room to sub rent the room for a period time that is less than ten (10) hours.
- d. Adult motion picture theater. A commercial establishment or drive-in theater where a significant portion of the films, motion pictures, video cassettes, slides, or similar photographic reproductions are characterized by the depiction or description of adult entertainment or sexual conduct and are not rated G, PG, PG-13, NC-13, NC-17, or R by the Motion Picture Association of America and are shown for any form of consideration.
- e. Adult book store. A business having as a significant portion of its volume of trade the display, barter, rental and/or sale of books, printed matter, video tapes, discs or cassettes, films, pictures or other material or paraphernalia distinguished or characterized by an emphasis on matters depicting, describing or relating to sexual conduct or adult entertainment, as defined herein. For purposes of this ordinance, "portion of its volume or trade" means that portion of the store's display space devoted to such material, or that portion of its gross receipts received from the sale of such material, whichever is greater.
- f. Other adult entertainment facility. Any commercial establishment to which any patron is invited or admitted and where adult entertainment is presented as a substantial part of the premises' activity, including but not limited to escort agencies, seminude or nude modeling studios, or similar establishments.

Affected Party. Any individual, partnership, corporation, association, or public or private organization of any character, significantly affected by or interested in an action before the Review Authority, including any party in a contested case.

Exhibit B

Affordable Housing. Housing affordable to households with an income not greater than 80 percent of the median income for Thurston County as determined by the U.S. Department of Housing and Urban Development. Affordable housing should cost no more than 30 percent of gross household income (including utilities).

Agriculture. The use of land for farming, dairying, pasturing and grazing, horticulture, floriculture, viticulture, apiaries, animal and poultry husbandry, and accessory activities, including, but not limited to, storage, harvesting, feeding or maintenance of equipment and onsite sales of agricultural products, but excluding stockyards, slaughtering or commercial food processing.

Airport or Heliport. Any area of land or structure designated and set aside for the landing and taking off of any aircraft regulated by the Federal Aviation Administration.

Alley. A public or private way, at the rear or side of property, permanently reserved as a means of vehicular or pedestrian access to a property.

Alteration. Any change, addition or modification in construction or occupancy.

Alteration, Critical Area. Any change to, addition to, or modification of an existing use, including any human activity that results or is likely to result in an adverse impact on the existing condition of a critical area or its buffer. "Alteration" does not include passive recreation such as walking, fishing or similar low impact activities.

Amendment. The action whereby the content of this title is revised, including additions, deletions, or clarification of language, maps, or diagrams.

Amusement Activity. An indoor, covered or outdoor facility or building that contains various devices for entertainment, including coin or token-operated machines, rides, booths to conduct games or the sale of souvenir items.

Ancillary Structure, WCF. Any form of development associated with a wireless communications facility, including but not limited to: foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; however, specifically excluding equipment cabinets.

Animals. Any living organism except a plant, fungus, virus, or bacterium. (See also Pet, Traditional.)

Animal Hospital. A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment, including the accessory use of the premises as a kennel or a place where animals or pets are boarded for compensation.

Animal Kennel. See Kennel.

Exhibit B

Animal Unit. One thousand pounds of live weight of any given livestock species or any combination of livestock species. For additional information, see the U.S. Department of Agriculture Natural Resource Conservation Service Animal Waste Field Handbook.

Antenna. Any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including but not limited to: telephonic, radio or television communications. Types of elements include, but are not limited to: omni-directional (whip) antennas, sectionalized (panel) antennas, multi or single bay (FM and TV), yagi, or parabolic (dish) antennas.

Antenna Array. A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

Antenna Element. Any antenna or antenna array.

Antenna Support Structure. A vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Antenna support structures do not include any device used to attach antennas to an existing building. Types of support structures include the following:

Guyed Structure. A style of antenna support structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Lattice Structure. A tapered style of antenna support structure that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas.

Monopole Structure. A style of freestanding antenna support structure consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of antenna support structure is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof.

Anti-Climbing Device. A piece or pieces of equipment, which are either attached to an antenna support structure, or which are freestanding and are designed to prevent people from climbing the structure. These devices may include but are not limited to fine mesh wrap around structure legs, "squirrel-cones," or other approved devices, but excluding the use of barbed or razor wire.

Apartment. See Dwelling, Conventional.

Exhibit B

Apparel and Accessory Stores. Stores primarily engaged in selling new or used clothing, shoes, jewelry, and related articles for personal wear and adornment and stores which rent clothing such as costumes or formal wear.

Applicant. Owner(s) or lessee(s) of property, including their agent(s) who submit an application for development, including person(s) who have contracted to purchase property.

Application Content Lists. That document entitled "City of Olympia Project Permit Application Content Lists" approved and adopted by the City Council setting forth the required content for project permit applications to be "completed" as that term is used in RCW 36.70B.080.

Arcade. A covered walk with shops along one side and a line of arches or columns on the other side.

Archaeological Sites. Any site or location of prehistoric or historic significance including, but not limited to, burial sites, camp sites, rock shelters, caves and their artifacts, implements and remains of preexisting native Americans.

Architectural Elements. Components that are part of a building, such as windows, doors, materials, details, and structural membrane.

Articulation. The giving of emphasis to architectural elements of a building (like windows, balconies, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces.

Ash, Incinerator. Particulate or solid residues resulting from the operation of incinerator or energy recovery facilities managing municipal solid waste, including solid waste from residential, commercial and industrial establishments, if the ash residues:

- a. Would otherwise be regulated as hazardous wastes under RCW 70.105; and
- b. Are not regulated as a hazardous waste under the Federal Resource Conservation and Recovery Act (RCRA), 42, U.S.C. Section 6910, et seq.

ASR. The Antenna Structure Registration Number as required by the FAA and FCC.

Attached Structure. Any structure that has an enclosed interior wall(s) and covered roof in common with another structure sufficient to constitute an occupiable room (i.e., seven feet wide or more). A structure connected to another structure only by a covered passageway is not considered attached. (See Detached Structure; note that structures conforming with neither definition must conform with requirements of this title for both types of structures.)

Auction. See Swap Meet.

Exhibit B

Auditor. The Auditor of Thurston County, Washington.

Automobile Rental Agencies. This includes businesses primarily engaged in short-term rental or extended-term leasing of passenger cars, hearses, limousines, and the like, without drivers. Finance (equity or full-payout) leasing of automobiles is classified with Motor Vehicle Sales.

Automobile Wrecking. The wrecking, dismantling, or salvage of motor vehicles or trailers, or the storage of, sale of or recycling or disposal of dismantled, partly dismantled, or wrecked motor vehicles or their parts. (See also Junk or Salvage Facility.)

Awning. A structure affixed to a building which extends over windows, sidewalks or doors, principally as protection from sun and rain.

B. DEFINITIONS - SPECIFIC.

Bank. See Office, Bank.

Bankfull Width (of Streams). Per WAC 222-16-010, the measurement of the lateral extent of the water surface elevation perpendicular to the channel at bankfull depth. In cases where multiple channels exist, bankfull width is the sum of the individual channel widths along the cross section. Field determination of the bankfull channel edge generally relies on changes in topography, vegetation, and sediment texture. Bankfull width is used to assess stream types per the Department of Natural Resources Stream Typing Classification System as required under OMC 18.32.435(C).

Base Station. The electronic equipment utilized by the wireless providers for the transmission and reception of radio signals.

Bed and Breakfast House. See Dwelling, Transient Housing.

Berm. A mound or embankment of earth.

Bicycle, In Building Parking. A secure bicycle storage area located within a building where access is restricted to users only.

Bicycle Check-in Systems. A bicycle storage area providing long and short-term storage and which is managed by an attendant.

Bicycle Lockers. A box, cabinet or other storage device which individually protects a bicycle and its components, and which contains a see-thru window or view holes. Such lockers are typically coin operated, rented on a monthly basis or managed to ensure their proper use.

Exhibit B

Bicycle, Limited Access Fenced in Areas. A restricted bicycle storage area that is protected from the weather and where access is supervised or limited to individual users.

Binding Site Plan. A drawing made and approved in accordance with the provisions of Title 17, Subdivision, and which contains inscriptions and attachments setting forth such appropriate limitations and conditions for the use of the land established by the city, and which contains provisions requiring any development to be in conformance with the site plan.

Bioengineering. The use of plant materials to stabilize and/or revegetate eroding stream channels and banks.

Blank Wall. Walls that meet the following criteria: A ground floor street wall or building wall or segment of a wall which is within 50 feet of the public rights-of-way and which is longer than 15 horizontal feet without having a ground level window door, or building facade modulation at least one foot in depth, or other architectural feature lying wholly or in part within that 15 feet length.

Block. Parcel(s) of land surrounded by public streets, highways, freeways, railroad rights-of-way, flood control channels, creeks, washes, rivers or unplatted acreage or any combination thereof.

Block Face. One complete side of a block, usually facing a public street.

Boarding Home. See Dwelling, Conventional.

Boat Sales and Rentals. A business primarily engaged in sales and/or rental of new and used motorboats, sailboats, and other watercraft. Businesses primarily engaged in the sale of supplies for recreational boating, such as sails, outboard motors, and marine hardware, are classified as Specialty Stores.

Boat Storage Facility. A facility meant to provide long-term shelter for watercraft and their accessories, e.g., canoes, sail boats, power boats, etc.; not including service, repair or sales.

Breakpoint Technology. The engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

Buffer. An area or distance from the critical area which is required for the continued maintenance, functioning, and/or structural stability of a critical area; or is necessary to minimize risk to the public.

Buildable Lot. A lot meeting all minimum requirements of size, shape, frontage, and sanitation contained in this Title and other ordinances of the city.

Exhibit B

Building. A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or property of any kind.

Building Area. The net portion of the lot remaining after deducting all required setbacks, public rights-of-way, critical area buffers and other required open space from the gross area of the lot.

Building Coverage. See Coverage, Building.

Building Line. A line parallel with the structural foundation located on the inside border of the required yard.

Building, Main. The principal building on a lot or building site designed or used to accommodate the primary use to which the premises is devoted. When more than one building on the premise is designed or used for the primary use, each such building is considered a main building.

Building Materials, Garden and Farm Supplies Store. This includes businesses primarily engaged in selling products such as lumber and other building materials; paint; glass; wallpaper; hardware; nursery stock; lawn and garden supplies including mowers and garden tractors; and farm supplies such as seeds, feeds, fertilizer, and farm tools. It includes such firms if they sell to the general public, even if they also sell to contractors; if they do not sell to the general public at all, they are classified as Wholesale Trade. Firms primarily selling plumbing, heating and air conditioning equipment, or electrical supplies are also classified as Wholesale Trade. Florists and other stores selling cut flowers and potted plants not grown on the premises are classified as Specialty Stores. (See also Greenhouse and Nursery.)

Building Site. A parcel of land occupied or intended to be occupied by a main building and its accessory buildings, together with all the open space and yards required by this Development Code.

C. DEFINITIONS - SPECIFIC.

Caliper. The American Association of Nurserymen standard trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to and including four inch caliper size, and twelve inches above the ground for larger sizes.

Canopy. A permanent flat roof-like structure attached to and supported by a building, used principally as protection from sun and rain. The structure may or may not incorporate a sign.

Carport. A roofed structure providing space for the parking of motor vehicles, boats, recreational vehicles or other equipment, and enclosed on no more than three sides.

Cemetery. Property used for the interment of the dead.

Certificate of Appropriateness. A letter or other document stating that proposed changes will not adversely affect the historic characteristics of the property that contribute to its designation.

Exhibit B

Certificate of Occupancy. A permit issued by the Community Planning and Development Department prior to occupancy of a structure when the structure is ready for occupancy.

Change of Occupancy. A change in the existing occupancy classification of a building, structure, or land, or portion thereof, as established and defined by the Uniform Building Code then in effect. Land use approval by appropriate authority and a certificate of occupancy issued by the building official may be required for any such change

Change of Use. Any use that substantially differs from the previous use of a building or land. If a particular land use is undefined by this Development Code, the most similar use listed in the Standard Industrial Classification (SIC) Manual shall be used. A change of ownership shall not be considered a change of use. (See also Thurston County Assessor SIC land use classifications.)

Child Day Care. The provision of supplemental parental care and supervision:

- a. For an unrelated child or children,
- b. On a regular basis,
- c. For less than 24 hours a day, and
- d. Under license by the Washington State Department of Social and Health Services.

As used in this Development Code, the term is not intended to include babysitting services of a casual, non-recurring nature or in the child's own home. Likewise, the term is not intended to include cooperative, reciprocal child care by a group of parents in their respective domiciles.

Child Care Home, Family. A facility in the residence of the licensee providing regular scheduled care for twelve or fewer children, within a birth through eleven-years-of-age range exclusively, for periods of less than 24 hours.

Child Day Care Center. A facility providing regularly scheduled care for a group of children one month of age through 12 years of age for periods less than 24 hours.

Church. A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses, not to include bingo or games of chance, nor schools which exceed normal religious service hours.

City. The City of Olympia.

City Council. The duly elected Mayor and Council Members of the City of Olympia.

Exhibit B

Clear Sight Triangle. A triangular-shaped portion of land at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the vision of vehicle operators entering or exiting the intersection. (See also Chapter 18.40.)

Clearing. The destruction or removal of vegetation from a site by physical, mechanical, chemical, or other means, not including landscape maintenance or pruning consistent with accepted horticultural practices which does not impair the health or survival of trees and vegetation.

Clinic. A place for outpatient medical services to human patients.

Closed Record Appeal. An administrative appeal following an open record hearing on a project permit application when the appeal is on the record with no new evidence or information allowed to be submitted and only appeal argument allowed. [See RCW 36.70B.020 (1)].

Club. An association of persons (whether or not incorporated) organized for some common purpose, not including a group organized primarily to render a service customarily carried on as a business. Retail warehouse buying clubs are not included in this definition. (See also Health Club and Country Club.)

Clustered Subdivision. A subdivision development in which building lots are sized to conform to the "footprint" of the structures and placed closer together than conventional development (usually in groups or clusters). The remaining undeveloped land is generally preserved as open space and/or recreation land. Private development easements around the structures are permitted for private landscaping, pools, spas, yards, and similar uses.

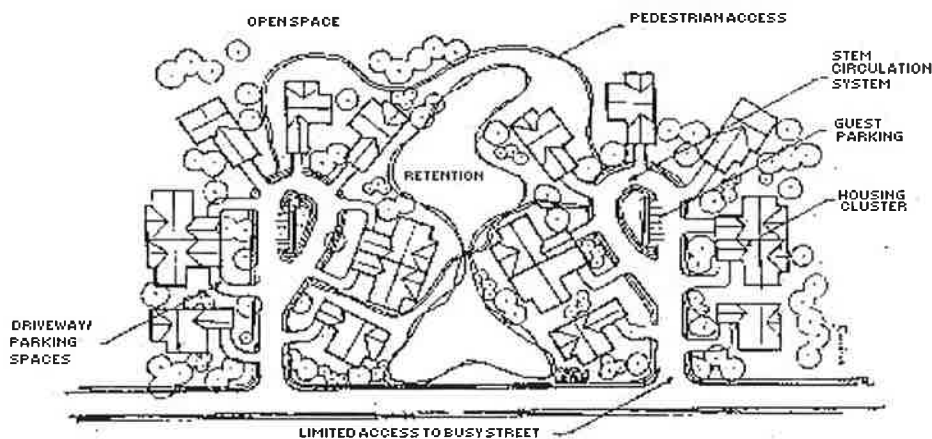


FIGURE 2-2

Cocktail Lounge. See Drinking Establishments.

Exhibit B

Co-Housing. See Dwelling, Conventional.

Collocation. The practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same antenna support structure or attached wireless communication facility using different and separate antenna, feed lines and radio frequency generating equipment.

Combined Antenna. An antenna or an antenna array designed and utilized to provide services for more than one wireless provider for the same or similar type of services.

Commercial Vehicle. A vehicle customarily used as part of a business for the transportation of goods or people.

Commission. The Planning Commission of the City of Olympia.

Common Structure. A commonly owned structure intended for the common use of all residents of the development which meets the requirements of Section 18.04.060(F)(1).

Community Clubhouse. A privately owned structure in which inhabitants of a neighborhood or subdivision, or members of a neighborhood association gather for meetings and other activities.

Community Park. An area intended for use by the community for active and/or passive recreation activities. Such parks may contain large areas such as lake fronts, parkways, forest areas, picnic areas, arts facilities and regulation size athletic fields designed for organized competitive sports such as softball, baseball or soccer.

Compensation. Types of compensation include, but are not limited to the following:

In-Kind. Replacement of a habitat type with substitute habitat whose characteristics closely approximate those destroyed or degraded by an allowable use or activity.

Off-Site. Replacement of a specific habitat type away from the site on which a habitat type has been impacted by an allowable use or activity.

On-Site. Replacement of a habitat type at or within 500 feet of the site on which the habitat type has been impacted by an allowable use or activity.

Out-of-Kind. Replacement of a habitat type with a substitute habitat type whose characteristics do not closely approximate those destroyed or degraded by an allowable use or activity.

Compensation Project. Actions necessary to replace project-induced losses to the functional values of a critical area, including land acquisition, planning, construction plans, monitoring and contingency actions.

Complete Application. A written application for a project permit which meets the procedural submission requirements of the City and is sufficient for continued processing even though additional information may be

Exhibit B

required or project modifications may subsequently occur. To be complete, an application must include all required information, elements, attachments and supplemental studies or reports as set forth in the applicable section of the Olympia Municipal Code and as described on the approved application form, including any environmental checklist required by OMC Chapter 14.04; all insufficient detail for the reviewing authority to determine whether or not such application conforms with applicable regulations and standards. An application including such information which does not conform or is inconsistent with such regulations and standards shall nonetheless be deemed complete. See RCW 36.70A.440.

Complete Application, Date of. The date upon which the City has received all necessary information, forms, and fees required for the City to issue a determination of completeness. The date of complete application may precede the date upon which such determination is issued.

Comprehensive Plan. The plan adopted by the City Council to guide the physical growth and improvement of the city, including any future amendments and revisions.

Conditional Use Permit. A discretionary permit granted under the provisions of this Development Code and which, when granted, authorizes a specific use to be made of a specific property, subject to compliance with all terms and conditions imposed on the permit.

Condominium. See Dwelling, Conventional.

Conference Center. A facility used for seminars, conventions, symposiums and similar uses, with meeting rooms and possibly food preparation and eating facilities.

Confidential Shelter. See Dwelling, Assisted Living.

Conforming Use. A land use consistent with the list of permitted uses for the district in which it is located, or otherwise designated as a conforming use in that district.

Congregate Care Senior Housing. See Dwelling, Assisted Living.

Consistency with Comprehensive Plan. Performance in accordance with and complying and conforming with state law and the Olympia Comprehensive Plan as determined by consideration of the type of land use, the level of development, infrastructure, and the character of the development. [See RCW 36.70B.040].

Construction Permit. A building permit or engineering permit issued by the City of Olympia or other public agency authorizing specific physical alteration of land or alteration, installation, placement or creation of structures attached to land, including land covered by water.

Construction Permit, SEPA-exempt. A construction permit or license exempt from the threshold determination and environmental impact statement requirements of the State Environmental Policy Act, such as an electrical, mechanical, plumbing or single-family building permit, and installation permits for lateral utility lines.

Exhibit B

Contiguous Land. Parcels adjoining and touching other land and having the same owner regardless of whether or not portions of the parcels have a separate tax lot numbers, were purchased at different times, lie in different sections, are different government lots or are separated from each other by private roads or private rights-of-way.

Contributing Historic Property. A property within a designated historic district listed as having enough historic significance to have been listed as a "contributing" property during the historic district approval process.

Convalescent Home. See Dwelling, Assisted Living.

Cornice. Any ornamental molding which protrudes along the top of a building.

Cottage Housing. See Dwelling, Conventional.

Country Club. A private or public membership facility designed for tennis, swim and other recreational activities except riding stables. Such uses and activities may be grouped around a clubhouse containing a restaurant, banquet and meeting room facilities. (See also Golf Course.)

County. Thurston County.

Courtyard. An open, unoccupied space, other than a yard, on the same lot with a building and bounded on two or more sides by the walls of a building.

Covenant. See Restrictive Covenant.

Coverage, Building. The portion of a lot covered by the principal and accessory building floor area including all areas covered by a weather-tight roof, excluding eaves.

Coverage, Impervious/Development. The area which is occupied or covered by all impervious surfaces including the total horizontal surface of all buildings, except two feet of eaves. (See also Net Site Area and Impervious Surface.)

Crematorium. A facility that uses heat or fire to reduce human or animal remains to ashes.

Creek. See Stream.

Crisis Intervention Service. A mental health agency that offers 24 hour counseling, instruction and referral to persons in critical situations. This service is provided by telephone only and not in-person. Crisis intervention services are defined and regulated in Chapter 275-56-350 of the Washington Administrative Code. Such facilities may be characterized by a need for location confidentiality. This is not defined as a Business Office nor a Government Office.

Exhibit B

Critical Area. Any of the following areas and ecosystems:

- a. Wellhead Protection Areas,
- b. Important Habitats and Species,
- c. Streams and Priority Riparian Areas,
- d. Wetlands and Ponds, and
- e. Landslide-Geological Hazard Areas.

Critical Area Tract. An area containing a critical area and/or buffer and that is subject to a recorded critical area protection restriction. (See Tract)

Culvert. A conveyance device (e.g., concrete box, pipe) which conveys water under (usually across) a roadway or embankment.

D. DEFINITIONS - SPECIFIC.

Dangerous Waste. Any discarded, useless, unwanted or abandoned substances, including but not limited to certain pesticides, or any residues or containers of such substances which are disposed of in such quantity or concentration as to pose a substantial present or potential hazard to human health, wildlife, or the environment because such wastes or constituents or combinations of such wastes:

- a. Have short-lived, toxic properties that may cause death, injury or illness or have mutagenic, teratogenic or carcinogenic properties; or
- b. Are corrosive, explosive, flammable or may generate pressure through decomposition or other means. (See also Hazardous Waste, Extremely.)

Date of Filing. The date that a complete and accurate application is submitted and appropriate fees paid.

Days. Consecutive calendar days unless otherwise stated.

Decorative Grille Work. Grille work which through the use of material, geometric pattern, configuration, embellishment, or workmanship exceeds the normal functional requirements. Parallel vertical bars - resembling a jail cell pattern - are not considered decorative grille work.

Dedication. The deliberate appropriation of land by an owner(s) for any general and public uses, reserving to themselves no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property is to be devoted. The intent to dedicate shall be evidenced by the owner by the

Exhibit B

presentment for filing of a final plat, short plat or binding site plan which shows the dedication thereon. Acceptance by the public shall be evidenced by written approval issued by the city of such document for filing with the County Auditor.

Deficiency, Application. The lack of an element or information which results in an application being deemed not complete, or which otherwise prevents meaningful review and rendering of a decision regarding the application. A deficiency includes an element or information which is absent, is inaccurate or in some other aspect does not conform with applicable regulations and standards, and supplemental information or studies required to review an application. Erroneous or misleading information intentionally included in an application shall constitute a deficiency.

Department. The City of Olympia Community Planning and Development Department.

Design. The planning and engineering of street alignments, grades and widths; drainage and sanitary facilities and utilities, including alignment and grades thereof; location and size of all required easements and rights-of-way; fire roads and fire breaks; lot size and configuration; vehicle access; grading; land to be dedicated for park or recreational purposes; building and other accessory physical requirements.

Design Review. The evaluation of a site, building, landscape design plan or sign program submitted to the Design Review Board or staff, which may approve or deny the plan in part, or make further design recommendations based upon adopted guidelines.

Design Review Board. A committee with a balance of design professionals (architecture, planning, engineering, landscape architecture) and citizens who are appointed by the City Council.

Detached. Any building or structure that does not have a wall and roof in common with any other building or structure and where exterior walls are separated by six feet or more. (See Attached Structures; note that structures conforming with neither definition must conform with the requirements of this title for both types of structures).

Determination of Completeness. A written determination by the director or fire chief or their respective designees that all required elements of an application have been received by the City. This determination initiates the statutory review period for the application, if any, and subject to certain exceptions, entitles the applicant to have the application considered and reviewed pursuant to the laws, regulations and standards in effect on the date the application was complete.

Development. The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, clearing or land disturbance; or any change of use or extension of the use of land. (See also Improvement.)

Exhibit B

Development Area, WCF. The area occupied by a wireless communications facility including areas inside or under the following: an antenna support structure's framework, equipment cabinets, ancillary structures and access ways.

Development Code. A text incorporating areas of regulation more typically presented in separate zoning and subdivision ordinances and related chapters of the Municipal Code.

Development Coverage. See Coverage, Development.

Development Permit. Any land use permit which must be approved prior to the improvement and development of land or structures.

Director. The Director of the City of Olympia Community Planning and Development Department, and the Director's designees.

District or Zone. A specific area designated on the official zoning map of the city as one of the use districts as provided for in this title; such area is subject to all the requirements and regulations applicable to such district.

Dormitory. A residential structure intended principally for sleeping accommodations, where no individual kitchen facilities are provided, and which is related to an educational or public institution or is maintained and operated by a non-profit welfare organization.

Drinking Establishment. A business primarily engaged in the retail sale of alcoholic beverages for consumption on the premises, including night clubs, bars, and taverns. A lounge operated as part of a restaurant is considered to be accessory to the restaurant.

Drinking Water Protection Area. See OMC 18.32.205.

Drip Line. An imaginary ground line around a tree or building that defines the outermost limits of the tree canopy or building roof eave.

Drive-in Theater. An open lot devoted primarily to the showing of motion pictures.

Drive-Through Restaurant. See Restaurant, Drive-Through.

Dwelling Unit. See definition for single-family. Various types of housing or human shelter, which are listed below and categorized by use.

- a. Dwelling, Conventional.

Exhibit B

- i. Accessory Dwelling Unit. A dwelling unit that has been added onto, created within, or separated from a single-family detached dwelling for use as a complete independent living unit with provisions for cooking, sanitation and sleeping.
- ii. Apartment. A dwelling within a structure designed and used for occupancy by three or more individual persons or families living independently of each other. These structures include triplexes, fourplexes, and other multi-unit configurations.
- iii. Boarding Home. Any home or institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator, under the provisions of Chapter 18.20 RCW. It shall not include any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. (See also Dwelling, Assisted Living.)
- iv. Co-Housing. Co-housing developments consist of two or more dwelling units, one or more shared community structures (e.g., containing a meeting hall, dining hall/kitchen, community center, or day care) and perhaps a community garden, recreation area, or similar community oriented use.
- v. Condominium. A development consisting of an undivided interest in common for a portion of a parcel coupled with a separate interest in space in a residential or commercial building on the parcel.
- vi. Cottage Housing Development. Four or more small, detached dwelling units sharing a commonly owned courtyard/common area and parking area.
- vii. Duplex. One building containing two single-family dwelling units totally separated from each other by a one-hour fire wall or floor.
- viii. Guest House. Living quarters without kitchen facilities located on the same lot with a principal building and occupied for the sole use of members of the family, temporary guests, or persons permanently employed on the premises. (See also Accessory Dwelling Unit.)
- ix. Manufactured Home. A single-family residence constructed after June 15, 1976, and installed in accordance with the U.S. Department of Housing and Urban Development (HUD) requirements for manufactured housing and bearing the appropriate insignia indicating such compliance.
- x. Manufactured Home, Designated. A manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes, and which meets the requirements of OMC 18.04.060.O.

Exhibit B

xi. **Manufactured Home, New.** Any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2).

xii. **Mobile Home.** A single-family residence transportable in one or more sections, built on a permanent chassis, designed to be used as a permanent dwelling and constructed before June 15, 1976.

xiii. **Modular Home.** A structure constructed in a factory and installed in accordance with the applicable Building Code and bearing the appropriate insignia indicating such compliance. This definition includes "pre-fabricated," "panelized" and "factory built" units.

xiv. **Single-Family Dwelling.** A single unit providing complete, independent living facilities for a family, including permanent provisions for living, sleeping, cooking and sanitation.

xv. **Single-Room Occupancy.** A housing type consisting of one room with cooking facilities and with shared bathroom facilities. (See also Boarding Home, Lodging House and Bed and Breakfast.)

xvi. **Townhouse.** A single-family dwelling unit which is part of a group of two or more such units separated by a completely independent structural wall (including utilities in separate walls), extending from the ground to the roof in accordance with the applicable Building Code and which has no doors, windows or other provisions for human passage or visibility through the wall. In certain zoning districts, such dwelling units are platted with common side and/or rear property lines between the structural walls. See Chapter 18.64.

b. Dwelling, Transient.

i. **Bed and Breakfast.** A dwelling for the purpose of providing lodging for travelers and guests for a period of less than two weeks for compensation and having at least one kitchen used to provide breakfast but no other meals. Such dwelling shall have no more than five such guest rooms for persons other than the immediate family of the operator occupying such dwelling. Any such dwelling having over five such guest rooms is a hotel.

ii. **Hotel.** Any building containing six or more guest rooms where lodging, with or without meals, is provided for compensation, and where no provisions are made for cooking in any individual room or suite.

iii. **Lodging House.** A dwelling having only one kitchen and used for the purpose of providing lodging, or lodging and meals, for compensation for no more than five persons other than the members of the immediate family of the operator occupying such dwelling. Any such dwelling having

Exhibit B

over five such guests is considered a hotel. (See also Boarding Home.) [NOTE: A lodging house allows for an unlimited stay, unlike a Bed and Breakfast which is limited to two weeks.]

iv. Motel. Guest rooms or suites occupied on a transient basis often with most rooms gaining access from an exterior walkway. (See also Recreational Vehicle.)

v. Trailer House. See Recreational Vehicle.

c. Dwelling, Assisted Living.

i. Adult Day Care Home. A residence in which adults (at least 18 years in age) and who are not related to the caregiver stay for no more than 12 hours per day. Emergency medical care may be provided in such facilities, but not convalescent care. (See also Convalescent Home and Elder Care Home.)

ii. Convalescent Home. Any home, place, institution or facility which provides convalescent or chronic care, or both, for a period in excess of 24 consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable properly to care for themselves. Such establishment shall be duly licensed by the State of Washington as a "nursing home" in accordance with the provisions of Chapter 18.51 RCW.

iii. Congregate Care Facilities. A building or complex of dwellings specifically designed for occupancy by senior citizens which provides for shared use of facilities, such as kitchens, dining areas, and recreation areas. Such complexes may also provide kitchens and dining space in individual dwelling units. Practical nursing care may be provided, but not nursing care as described in Section 18.04.100(S).

iv. Elder Care Home. An elder care home or adult family home in the primary residence of a person licensed pursuant to Chapter 70.128 RCW to provide personal care, room, and board for one to five adults (at least 18 years of age) who are not related to the caregiver. Home health care and limited nursing care (dispensing of medicine and emergency medical aid) may be provided, but not convalescent care. (See also Convalescent Home, and Boarding Home.)

v. Group Homes. A place of residence for the handicapped, physically or mentally disabled, developmentally disabled, homeless, or otherwise dependent persons. Group Homes are intended to provide residential facilities in a home-like environment. Such homes range from licensed establishments operated with 24 hour supervision to non-licensed facilities offering only shelter. They shall not include correctional facilities (except as authorized by Chapter 137-56 and 137-57 WAC for work/training release programs), nursing homes, Type III group care facilities, foster family homes, or adult family homes as defined by the Washington State Department of Social and Health Services or its successor agency. Group homes include, but are not limited to the following:

Exhibit B

(a) Confidential Shelters. Shelters for victims of domestic violence as defined and regulated in Chapter 70.123 RCW and Chapter 388-61A WAC. Such facilities are characterized by a need for confidentiality.

(b) Home for the Disabled. A home or other facility which provides board and domiciliary care to individuals who, by reason of infirmity, require such care. An infirmity may be based on conditions including, but not limited to, physical handicap, mental illness, and other developmental disabilities. These group homes are a type of boarding home, as defined and regulated in Chapter 18.20 RCW. However, boarding homes serving the aged infirm are not included in this definition.

(c) Homeless Shelter. A facility offering lodging and/or emergency shelter to homeless individuals for an indefinite period of time and meeting the standards of Chapter 248-144 WAC.

(d) Group Home for Youth. Any home maintained and operated for the care of children on a 24 hour basis as defined and regulated in Chapter 388-73 WAC and Chapter 74.15 RCW.

(e) Group Home for Offenders. A home or other facility operated for housing and supervision of work/training release residents during their stay in a work/training release program as defined and regulated in Chapters 137-56 and 137-57 WAC.

vi. Hospice Care Center. Facilities licensed under Chapter 70.41 RCW which provide for the emotional and physical care of terminally ill patients. Such centers provide food, lodging, and palliative care on a full-time (24 hour) basis for two or more people, unrelated to the Center's operator, who are in the latter stages of a disease expected to cause death.

vii. Nursing Homes. See Convalescent Home.

viii. Rest Home. See Congregate Care.

E. DEFINITIONS - SPECIFIC.

Easement. A right of one owner of land to make lawful and beneficial use of the land of another, created by an express or implied agreement.

Easement, Conservation. The grant of a property right stipulating that the described land will remain in its current state, precluding future or additional development.

Easement, Scenic. An easement the purpose of which is to limit development in order to preserve or enhance a view or scenic area.

Elder Care. See Dwelling, Assisted Living.

Exhibit B

Electric Vehicle Infrastructure. Structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations, rapid charging stations, and battery exchange stations.

- a. "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles.
- b. "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process.
- c. "Charging levels" means the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms 1, 2, and 3 are the most common electric vehicle charging levels, and include the following specifications:
 - i. Level 1 is considered slow charging. Level 1 is present in homes and businesses and typically operates on a 15- or 20-amp breaker on a 120-volt Alternating Current (AC) circuit and standard outlet.
 - ii. Level 2 is considered medium charging. Typically, Level 2 is for home and public charging and operates on a 40-amp to 100-amp breaker on a 208 or 240-volt AC circuit.
 - iii. Level 3 is considered fast or rapid charging. Level 3 is primarily for commercial and public applications (e.g., taxi fleets and charging along freeways) and typically operates on a 60-amp or higher dedicated breaker on a 480-volt or higher three-phase circuit with special grounding equipment.
- d. "Electric vehicle" means any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric vehicle" includes any one of the following: (1) a battery electric vehicle; (2) a plug-in hybrid electric vehicle; (3) a neighborhood electric vehicle; and (4) a medium-speed electric vehicle.

Emergency. An imminent threat to health, safety, or welfare, or an imminent risk of substantial damage to public or private property.

Emergency Housing. A temporary shelter usually in the form of a mobile home which is occupied only during the period of reconstruction of a dwelling following damage sustained by fire, explosion, act of nature or act of public enemy.

Emergency Repair. Work necessary to prevent destruction or dilapidation of real or personal property or structures immediately threatened or damaged by fire, flood, earthquake or other disaster.

Exhibit B

Entertainment Event. Includes any festival, sporting event, celebration, circus, carnival, fair, or other similar event open to the public.

Equipment Cabinet, WCF. Any structure above the base flood elevation (including cabinets, shelters, pedestals, and other similar structures) used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

Equipment Compound, WCF. The fenced area surrounding the ground-based wireless communication facility including the areas inside or under the following: an antenna support structure's framework and ancillary structures such as equipment necessary to operate the antenna on the WCF that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures.

Entertainment (Live). Any act, play, revue, pantomime, scene, dance act, or song and dance act, or any combination thereof, performed by one or more persons, whether or not they are compensated for the performance.

Equipment - Light. Machinery which a person does not ride such as chain saws, wheelbarrows, and hand-held tools.

Equipment Rental Service, Commercial. A business which rents or leases equipment for personal or household use, including but not limited to power and hand tools, yard and garden equipment, or party supplies such as dishware, glassware, and folding tables and chairs. This does not include rental of furniture or appliances, which is classified under Furniture, Home Furnishings, and Appliance stores. It also does not include rental or leasing of portable toilets, heavy equipment like bulldozers, or similar services to the construction trades. These are classified as Light Industrial uses.

Essential Public Facilities. Public facilities and privately owned or operated facilities serving a public purpose which are typically difficult to site. They include, but are not limited to, airports; state educational facilities; state or regional transportation facilities; prisons, jails, and other correctional facilities; solid waste handling facilities; inpatient facilities such as group homes and mental health facilities; sewage treatment facilities; and communication towers and antennas.

Examiner. The Hearing Examiner of the City of Olympia.

Excavation. Any digging, scooping or other method of removing earth material.

Ex Parte Communication. Any written or oral communication made outside of a public hearing and not included in the public record.

F. DEFINITIONS - SPECIFIC.

FAA. The Federal Aviation Administration.

Exhibit B

Facade. The vertical side or sides of a building facing city streets or pedestrian plazas.

Family. An individual, or two or more persons related by blood, or marriage, or a group of not more than six persons (excluding servants) who are not related by blood or marriage, living together in a dwelling unit or a foster family home, or an adult family home, as defined under Washington State law or administrative code.

Farmers Market. See Swap Meet.

FCC. The Federal Communications Commission.

Feed Lines. Cables used as the interconnecting media between the transmission/receiving base station and the antenna of a WCF.

Fence. A physical barrier used to prevent entrance or exit, or to mark a boundary.

Filling or Fill. Any depositing or stockpiling of earth materials.

Final Approval. The final official action taken by the Review Authority on a proposed subdivision, short subdivision, binding site plan, large lot subdivision, dedication, or other application requiring City approval.

Flashing Sign. See Sign, Animated.

Flea Market. See Swap Meet.

Flood Hazard Area. Those lands having a one percent or greater chance of flooding in any one year.

Floor Area. See Gross Floor Area.

Floor Area Ratio (FAR). The ratio of floor area permitted on a zoning lot to the size of the lot. 1:1 means a one story building can cover the entire buildable area of the lot, except in the Urban Waterfront Housing District, 1 FAR of commercial is allowed, while the remainder of the building (up to the allowed zoning height) must be residential.

Flush-Mounted Antenna. Any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

Food Stores. Stores primarily engaged in selling food and beverages for home preparation and consumption. It includes grocery stores; meat and fish markets, including freezer provisioners; fruit and vegetable markets; candy, nut, and confectionery stores; dairy products stores; retail bakeries; wine and beer shops; liquor stores;

Exhibit B

and miscellaneous stores specializing in items such as spices, coffee, or health foods. As an accessory use, a food store may also sell prepared products for on-site or off-site consumption.

Fraternity House. A building which is occupied by unrelated members of a private educational organization, and which contains sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room. (See Dormitory.)

Fraternal Organization. A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings, rituals, and formal written membership requirements. [NOTE: This is not a Fraternity.]

Front Wall. The wall of a structure nearest to the street upon which the structure faces, excluding cornices, canopies, eaves, or any other architectural embellishments.

Front Yard. See Yard, Front.

Frontage. The side(s) of a lot abutting a public rights-of-way.

Frontage Improvements. See Improvements.

Functions, beneficial functions or functions and values. The beneficial roles served by critical areas including, but not limited to: water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation, groundwater recharge and discharge; erosion control; wave attenuation; historical and archaeological value protection; and aesthetic value and recreation.

Funeral Parlors and Mortuaries. Businesses primarily engaged in conducting funerals and preparing the dead for burial, but not including crematoriums.

Furniture, Home Furnishings, and Appliance Stores. Businesses primarily engaged in the retail sale of goods used for furnishing the home, such as furniture, floor coverings, draperies, lighting fixtures, woodstoves, domestic cookstoves, refrigerators, and other household electrical and gas appliances. This category also includes rental of furniture, appliances, and the like. Consumer electronics such as televisions, stereo equipment, and personal computers are classified under Specialty Stores. Mini-computers and mainframe computers are classified under Office Supplies and Equipment Stores. (See also Specialty Stores.)

G. DEFINITIONS - SPECIFIC.

Gambling Establishment. A business primarily engaged in Class E and F (fee-charged and enhanced card room activities) and house-banked card games and similar activities as defined and regulated by the Washington State Gambling Commission.

Exhibit B

Garage. An enclosed detached or attached accessory building which is primarily used for the parking of vehicles. (See also Parking Facility.)

Garage, Commercial. A structure, or portion thereof, used primarily for the parking and storage of motor vehicles and available to the general public. (See also Parking Facility, Commercial.)

Garage, Private. Any building or portion thereof accessory to, or within, the principal building, and which is used or intended to be used by persons residing on the premises for the storage or parking of motor vehicles, boats and other permitted uses. (See also Carport.)

Gas Station. See Service Station.

General Merchandise Stores. Stores which sell a number of lines of merchandise in one store, such as department stores, warehouse buying clubs, variety stores, country general stores, drug stores, and the like. A store which primarily sells only prescription and over-the-counter drugs is defined as a Pharmacy.

Geographic Search Ring. An area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

Geologist. A person who has earned a degree in geology from an accredited college or university, or a person who has equivalent educational training and has experience as a practicing geologist.

~~Geotechnical engineer. A practicing, geotechnical/civil engineer licensed as a professional civil engineer with the State of Washington who has at least four years of professional employment as a geotechnical engineer evaluating landslides.~~

Golf Course. A private or public facility with extensive outdoor grounds designed for playing golf (typically 9 or 18 holes). Accessory uses may include a clubhouse, tennis and swim activities, and a driving range, but not to include riding stables. (See also Country Club).

Grade. The finished ground level adjoining the building at the exterior walls.

Grade Plane. A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building between the structure and a point six feet from the building.

Grading. Any excavating or filling of earth materials or any combination thereof.

Greenhouse. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity may be regulated for the cultivation of delicate or out-of-season plants for sale or personal enjoyment. (See also Nursery.)

Exhibit B

Grocery Store. A subcategory of food store which is primarily engaged in the retail sale of a wide variety of fresh foods, packaged foods and household supplies for preparation and consumption in the home. Commonly known as a supermarket, grocery store, or minimarket, this type of store sells such goods as tea, coffee, spices, sugar, flour and packaged foods; fresh and/or frozen fruits and vegetables; fresh and/or prepared meats, fish, and poultry; domestic cleaning products and paper goods; and miscellaneous small items for home use. See also "food store." A store which also sells a wide variety of non-grocery items (such as automotive supplies, consumer electronics, hardware, building materials, apparel, sporting goods or the like) as a major part of its sales (i.e., 30 percent or more of its display area) is classified as a "general merchandise store."

Gross Acreage. The total area within the lot lines of a lot or parcel of land before public streets, easements or other areas to be dedicated or reserved for public use are deducted from such lot or parcel.

Gross Floor Area. The area included within the surrounding exterior finished wall surface of a building or portion thereof, exclusive of courtyards.

Ground Area. See Gross Acreage.

Ground Cover. A variety of grasses or other low growing plants often cultivated to reduce soil and wind erosion.

Groundwater. Water in a saturated zone or stratum beneath the surface of land or below a surface water body.

Group Home. See Dwelling, Assisted Living.

Guest House. See Dwelling, Conventional.

H. DEFINITIONS - SPECIFIC.

Handoff Candidate. A wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first "tier" surrounding the initial wireless facility.

Hazardous Materials. Those materials which are acutely toxic, ignitable, corrosive, reactive, persistent, carcinogenic, or which leach hazardous constituents, as described in Chapter 173-303 WAC. Examples include, but are not limited to, pesticides, acids, paint strippers and antifreeze.

Hazardous Waste. Those wastes which are acutely toxic, ignitable, corrosive, reactive, persistent, carcinogenic, or which leach hazardous constituents or are specifically listed as hazardous waste, as described in Chapter 173-303 WAC. Examples include, but are not limited to, pesticides, acids, paint strippers and antifreeze.

Hazardous Waste, Extremely. Any dangerous waste which:

Exhibit B

a. Will persist in a hazardous form for several years or more at a disposal site and which in its persistent form:

i. Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic makeup of man or wildlife, and/or

ii. Is highly toxic to man or wildlife;

b. Is disposed of at a disposal site in such quantities as would present an extreme hazard to people or the environment. (See also Ash, Incinerator and Off-Site Treatment and Storage Facility.)

Health Fitness Centers and Dance Studios. Health clubs, aerobics centers, athletic clubs and gymnasiums, indoor tennis and swim clubs, handball and racquetball clubs, weight-reducing centers, dance studios, and other businesses primarily engaged in indoor health and recreation activities, whether on a membership basis or for the general public. (See also Commercial Recreation, Golf Courses, Country Clubs, and Riding Stables.)

Health Officer. That person of the Thurston County Health Department described as such in Chapter of 70.05 RCW or a duly authorized representative.

Hearing Examiner. See Examiner.

Hedge. A row of shrubs or low-branching trees planted close together that forms a sight-obscuring or obstructing barrier below seven feet above the ground.

Height, Building. The vertical distance from grade plane to the average height of the highest roof surface.

Herbicide. Any substance used to kill plants, especially weeds.

Heritage Commission. A commission charged with historic planning and preservation, consisting of members appointed by the City Council.

Heritage Register or Register. The listing of properties having special historic significance and is listed on the Olympia Heritage Register, and including listings on the Washington Heritage Register, or National Register of Historic Places.

Heritage Review Committee. A sub-committee of the Heritage Commission charged with reviewing proposed changes to properties on the Heritage Register or within a historic district, and with making recommendations on permit approval to the Building Official.

Historic Building. A building listed on the Olympia Heritage Register, the National Register of Historic Places and/or the Washington Heritage Register.

Exhibit B

Historic District. A geographically defined area containing buildings, structures, sites, objects and spaces linked historically through location, design, setting, materials, workmanship, feeling, and/or association. The significance of a district is the product of the sense of time and place in history that its individual components collectively convey. This sense may relate to developments during one period or through several periods in history.

Historic House Museum. A home owned by a public or registered nonprofit organization that has been placed on the National, local or State Register of Historic Places, and which is open to the public.

Historic Preservation Officer, Preservation Officer. The person designated by the Director to respond to requests for review and information relating to historic preservation and to be the primary staff liaison to work with the Heritage Commission.

Historic Resources. Any building, structure, object, district, area, or site that is significant in the history, architecture, archaeology or culture of this city, state, or nation, as identified by the Olympia Heritage Register, Washington Heritage Register, or the National Register of Historic Places.

Historic Site. A place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupation or activities that may be marked by physical remains; or the site may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may be the location of a ruined or now nonexistent building, structure, or object if the location itself possesses historic, cultural, or archaeological significance.

Historic Sites (Registered). Those buildings, structures, districts, sites and objects which are on the City Heritage Register or the State or National Register of Historic Places. (See also Archaeological Sites.)

Home Occupation. A commercial use within a residential dwelling unit which is clearly incidental and accessory to the residential use of the property and complies with applicable provisions of this Title.

Hospice Care Center. See Dwelling, Assisted Living.

Hospital. A medical institution or facility within an integrated campus setting for the purpose of diagnosis, care, and treatment of human illness, including surgery, long-term and emergency medical treatment. (See also Office, Medical.)

Hotel. See Dwelling, Transient.

Human Scale. The size or proportion of a building element or space, or an article of furniture, relative to the structural or functional dimensions of the human body. For example, a brick is approximately the size of a human hand.

Exhibit B

Hydric Soil. A hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. (USDA—NRCS 1995, Federal Register, 7/13/94, Vol. 59, No. 133, pp 35680-83). Hydric soils that occur in areas having positive indicators of hydrophytic vegetation and wetland hydrology are wetland soils, as defined by the Regional Supplement to the Corps of Engineers Wetland Delineation Manual; Western Mountains, Valleys, and Coast Region (Version 2.0) May 2010. ~~Washington State Wetlands Identification and Delineation Manual (1997), Ecology Publication #96-94, as amended or revised.~~

I. DEFINITIONS - SPECIFIC.

Impervious Surface. Pavement, including but not limited to, asphalt, concrete, and compacted gravel, roofs, revetments, and any other man-made surfaces which substantially impede the infiltration of precipitation. Exceptional pavements and other materials may be exempted in whole or in part by the Director.

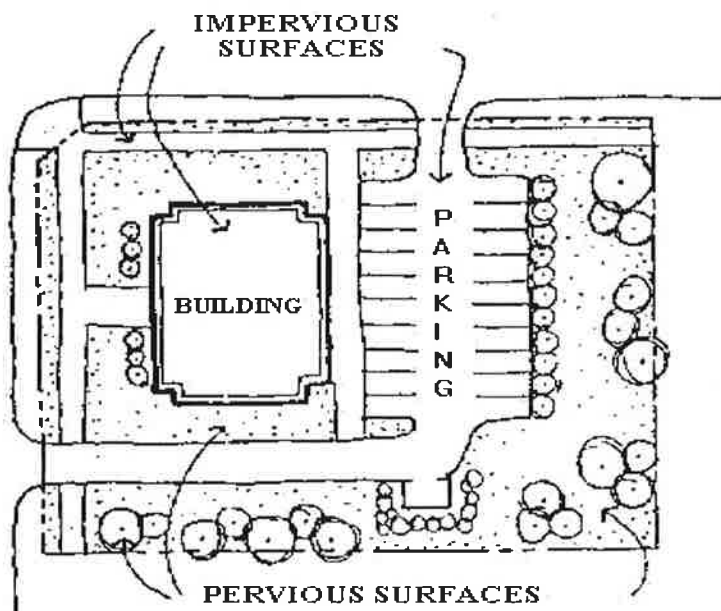


FIGURE 2-4

Important Habitat. See OMC 18.32.305.

Important Riparian Area. See OMC 18.32.405.

Important Species. See OMC 18.32.305.

Improvements. Any act which improves the value of public, real and personal property, or which is necessary as a condition of development, including but not limited to: streets and roads complying with the development standards and specifications adopted by the city; public utility and pedestrian facilities; street lights; landscape features; sewer and water lines; bridge structures; storm drainage facilities; and traffic control devices as are

Exhibit B

required to be installed as a part of subdivision, short subdivision, large lot subdivision, binding site plan, or commercial development. (See also Development.)

Incentives. A motivation or stimulus provided by government for public purposes, including but not limited to: compensation, rights or privileges or combination thereof which the City Council, or other local, state or federal public body or agency, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner(s) of properties. Examples of economic incentives include but are not limited to tax relief, bonus densities, conditional use permits, rezones, street vacations, planned unit developments, transfer of development rights, facade easements, gifts, preferential leasing policies, private or public grants-in-aid, beneficial placement of public improvements, or amenities, or the like.

Industry, Heavy. The basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. This may include either Group F (factory and industrial) or Group H (hazardous) occupancies (types of buildings) under the Uniform Building Code. Other occupancies, such as Group M (mercantile) or Group S (storage), are allowed.

Industry, Light. A use engaged in the basic processing and manufacturing of materials or products predominantly from previously prepared materials or finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic processing of raw materials, except for food products. This also includes maintenance and service facilities for motor vehicle passenger transportation, such as for taxi fleets, public transit fleets, or school bus fleets. This may include Group F (factory and industrial)--but not Group H (hazardous)--occupancies (types of buildings) under the Uniform Building Code. Other occupancies, such as Group B (business) or Group S (storage), are allowed.

Infill Development. New development that occurs on vacant lots within areas already developed.

Inpatient Facility. A state-licensed facility providing board and room on a 24 hour per day basis as part of a treatment program for alcoholism, drug addiction, or other chemical dependency. The term includes shelters for qualified indigent alcoholics and/or drug addicts placed by chemical dependency assessment centers.

Interdisciplinary Team. A group of technical experts from the City of Olympia, other consulted agencies, and tribes which advises the Department on a specific development application.

J. DEFINITIONS - SPECIFIC.

Joint Review Committee. The committee comprised of representatives from the Heritage Commission and Design Review Board.

Exhibit B

Junk Yard or Salvage Facility. Primary or accessory use of structures and/or land for storage, recycling, dismantling and/or selling of cast-off, unused, scrap or salvage material of any sort.

K. DEFINITIONS - SPECIFIC.

Kennel. Any site where four or more dogs, cats, or other small animals over the age of four months are kept, whether such keeping is for pleasure, profit, breeding, or exhibiting, including places where said animals are boarded, kept for sale, or hire.

Kitchen. Any room or area, all or part of which is designed and/or used for storage, refrigeration, cooking and the preparation of food.

L. 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 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 14.08.

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;

Exhibit B

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.

Exhibit B

- 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.

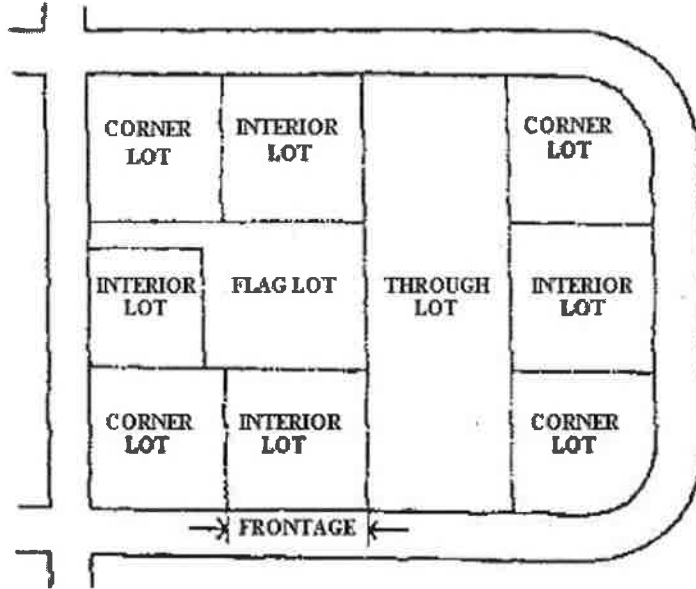
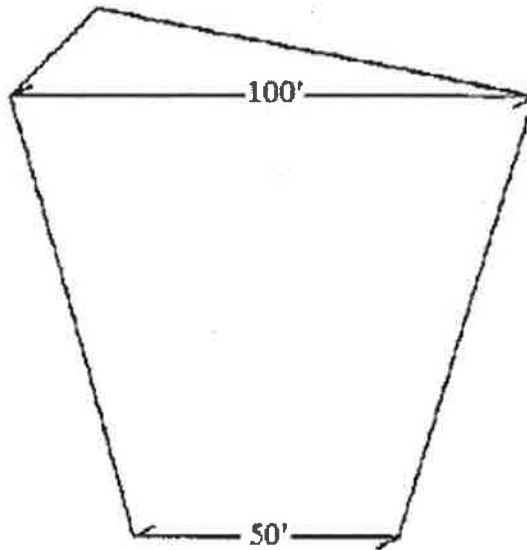


FIGURE 2-5



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.

M. DEFINITIONS - SPECIFIC.

Main Building. See Building, Maintenance.

Management Plan. See Specific or Management Plan.

Manufactured Home. See Dwelling, Conventional.

Marina/Boat Launching Facility. A facility for storing, servicing, fueling, berthing, launching and securing boats, which may include eating, sleeping, and retail facilities for owners, crews, and guests.

Marquee. A permanent covered structure, attached to and supported by a building, which protrudes outward.

Mass Wasting. A general term for a variety of processes by which large masses of rock or earth material are moved downslope by gravity, either slowly or quickly. Mass wasting can take the form of landslides, earth/debris flows and slumps, and rock falls/earth topples. The potential for mass wasting can be determined based on the surrounding topography, presence of slope-stabilizing vegetation and historical records.

Mean Sea Level Datum. The published mean sea level datum established by the U.S. Coast and Geodetic Survey (National Geodetic Survey).

Median. A paved or planted area separating a street or highway into two or more lanes of opposite direction of travel.

Exhibit B

Mental Health Facility. A private or public hospital, sanitarium, or other similar place which is licensed or operated under RCW 71.12 or RCW 72.23, and whose primary business is to receive or care for mentally ill or mentally incompetent persons.

Micro Brewery. A combination retail, wholesale and manufacturing business that brews and serves beer and/or food.

Ministorage. A building or group of buildings which may contain manager living quarters, office and individual, compartmentalized self-storage units, stalls, or lockers which are rented or leased for the storage of household or business goods, supplies or materials.

Mitigation. Methods used to alleviate or lessen the impact of development, including avoiding, minimizing, or compensating for adverse critical area impacts. Mitigation includes, but is not limited to, the following:

- a. Compensatory. The replacement of probable project-induced critical area losses including, but not limited to, restoration, creation or enhancement.
- b. Creation. A type of mitigation performed to intentionally establish a critical area (e.g. wetland) at a site where it does not currently exist.
- c. Enhancement. A type of mitigation performed to improve the condition of existing degraded critical areas (e.g. wetlands) so that the functions they provide are of a higher quality.
- d. Restoration. A type of mitigation performed to reestablish a critical area (e.g. wetland), or the functional characteristic and processes which have been lost by alterations, activities or catastrophic events within an area which no longer meets the definition of a critical area (e.g. wetland).

Mitigation, WCF. A modification of an existing antenna support structure to increase the height, or to improve its integrity, by replacing or removing one or several antenna support structure(s) located in proximity to a proposed new antenna support structure in order to encourage compliance with this ordinance or improve aesthetics or functionality of the overall wireless network.

Mixed Use Development. The development of a parcel or structure with two or more different land uses, such as a combination of residential, office, manufacturing, retail, public, or entertainment in a single or physically integrated group of structures.

Mobile Home. See Dwelling, Conventional.

Mobile, Manufactured and Modular Housing Sales. The sale of new or used mobile, manufactured, or modular housing. Sale of recreational vehicles and motor homes is classified under Motor Vehicle Sales.

Exhibit B

Mobile Vendor. A vendor that sells food, goods or services from a non-permanent location, and that is unrelated to the primary use of the property and readily movable at all times. (Does not include accessory uses, uses listed under a Festival and Event permit, busking, or uses such as ice cream or home delivery trucks that operate in constant motion within the street.)

Model Home. A home or homes used for the purpose of advertising various floor plans and styles of architecture found within a residential subdivision. Model homes are usually located on-site and are occupied only by a sales representative.

Modular Home. See Dwelling, Conventional.

Modulation. The measured proportional inflexion (stepping back and stepping forward) of a building facade.

Monitoring. The collection and analysis of data by various methods for the purposes of understanding and documenting changes in systems and features. "Monitoring" includes gathering baseline data, evaluating the impacts of development proposals on the biological, hydrologic and geologic elements of such systems and assessing the performance of required mitigation measures.

Motel. See Dwelling, Transient.

Motor Vehicle Dealer. A business engaged in the buying, selling, exchanging, or otherwise dealing in motor vehicle sales and service at an established place of business (see motor vehicle sales).

Motor Vehicle Franchise. One or more agreements, whether oral or written, between a manufacturer and a new motor vehicle dealer, under which the new motor vehicle dealer is authorized to sell, service, and repair new motor vehicles, parts, and accessories under a common name, trade name, trademark, or service mark of the manufacturer. "Franchise" includes an oral or written contract and includes a dealer agreement, either expressed or implied, between a manufacturer and a new motor vehicle dealer that purports to fix the legal rights and liabilities between the parties and under which (a) the dealer is granted the right to purchase and resell motor vehicles manufactured, distributed, or imported by the manufacturer; (b) the dealer's business is associated with the trademark, trade name, commercial symbol, or advertisement designating the franchisor or the products distributed by the manufacturer; and (c) the dealer's business relies on the manufacturer for a continued supply of motor vehicles, parts, and accessories.

Motor Vehicle Sales. A business primarily engaged in the sale of new and used autos, trucks, motorcycles, recreational vehicles, utility trailers, aircraft, snowmobiles, and the like.

Motor Vehicle Supply Stores. Auto supply stores, tire dealers, and the like. Firms which salvage used parts from inoperable vehicles are classified as Junk Yards and Salvage Facilities. Businesses primarily engaged in both selling and installing such automotive parts as mufflers and brakes are classified as Service Stations.

Exhibit B

N. DEFINITIONS - SPECIFIC.

National Register of Historic Places. The national listing of properties deemed significant because of their documented importance to our history and architectural, engineering or cultural heritage, as administered by the Department of the Interior under the National Historic Preservation Act of 1966.

Neighborhood Association. A group of people organized for the purpose of considering and acting upon any of a broad range of issues affecting the livability and quality of their neighborhood. A neighborhood association may be "recognized" by the City if it meets the minimum standards and applicable guidelines adopted by the City in Chapter 18.86 OMC.

Net Site Area. The total area within the lot lines of a lot or parcel of land after public street rights-of-way or other areas to be dedicated or reserved for public use are deducted from such lot or parcel.

Nonconforming Building or Structure. A building or structure or portion thereof which was lawfully erected or altered and maintained, but because of the application of this title no longer conforms to the yard, height or area requirements of the use district in which it is located.

Nonconforming Lot. A lot which does not conform with the provisions of this Title or Subdivision Code.

Nonconforming Use. An activity in a structure or on a tract of land that was legally established, but because of the application of this title no longer conforms to the use regulations of the district in which it is located.

Nonprofit Institutions. A charitable organization formed and devoted to performing public service or to further private benevolent endeavors.

Non-Profit Physical Facilities. Facilities for physical education activities such as sports or health fitness, which are owned and operated by a non-profit organization.

Normal Maintenance. Those usual acts to prevent a decline, lapse or cessation from a lawfully established condition.

Normal Repair. To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction, except where repair involves a near or total replacement which is not common practice or causes substantial adverse effects to the environment.

Notice of Application. A written notice that a complete project permit application has been received by the City, including, at minimum, the date of application, the date of the notice of completeness of the application, the date of the notice of application, a description of the proposed project, a list of permits requested by the applicant, a list of any studies requested by the City, identification of other permits known to be required for the project but not requested by the applicant, identification of existing environmental documents evaluating the proposal, the location where the application and any studies can be reviewed, a statement of the public

Exhibit B

comment period, a statement of the right of any person to comment on the application, receive notice of and participate in any hearing, request a copy of the decision once made, and of any appeal rights, the date, time, place, and type of any hearing scheduled at the date of the notice, a statement of the preliminary determination of those development regulations that will be used for project impact mitigation, a statement of whether an environmental impact statement will be required and a statement of any preliminary determination of consistency with plans and regulations of the City. [See RCW 36.70B.110].

Notice of Decision. A written notice of the City's decision on a project permit application, including a statement of any SEPA threshold determination and any administrative appeals procedures.

Noxious Weed Control. Those activities subject to review or action by the Thurston County Noxious Weed Board under RCW 17.10.

Number. See Rounding of Quantities.

Nursery. Land or greenhouses used to raise flowers, shrubs, and plants for retail or wholesale. (See also Greenhouse.)

Nursing Home. See Convalescent Home, under Dwelling, Assisted Living.

O. 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

Exhibit B

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)].

Exhibit B

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 22-110-020, 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. 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.

P. DEFINITIONS - SPECIFIC.

Parcel. A parcel of land under one ownership that has been legally subdivided or combined and is shown as a single parcel on the most recent equalized assessment roll.

Park, Neighborhood. An area suited for passive and/or active family activities and play which may include facilities such as picnic table and shelters, barbecue pits, playground equipment, basketball backboards, small

Exhibit B

sized playfields, volleyball courts and tennis courts. Neighborhood parks can serve an urban design as well as recreational function and are a core feature of neighborhood centers.

Park, Public. A park, playground, swimming pool, beach, pier, reservoir, golf course or athletic field which is under the control, operation or management of the city, county, state, or federal government.

Parking, Combined. Two or more land uses or a multi-tenant building which merge parking needs to gain a higher efficiency in vehicular and pedestrian circulation.

Parking Facility or Lot. A land area, building or structure that is devoted primarily to the temporary parking or storage of vehicles for which a fee may or may not be charged, and where no service or repairs of any kind are furnished.

Parking Facility, Commercial. A parking facility available to the general public, for which a fee is charged on an hourly, daily, weekly, monthly, or other similar basis.

Parking, Shared. Two or more land uses or a multi-tenant building which merge parking needs based on different operating hours to gain a higher efficiency in vehicular and pedestrian circulation, economize space, reduce impervious surface and provide a superior grouping of building(s).

Parking Space. An area which is primarily intended for the temporary storage of vehicles and which meets the design requirements of this code.

Party of Record. The applicant and any person who prior to a decision has requested notice of the decision or submitted substantive comments on an application.

Passive Recreation. See Recreation, Passive.

Pedestrian-Oriented Business. A commercial enterprise whose customers commonly arrive at a business on foot, or whose signage, advertising, window display and entry ways are oriented toward pedestrian traffic. Pedestrian-oriented business may include restaurants, retail shops, personal service businesses, travel services, banks, (except drive-through windows), and similar establishments.

Pedestrian Plaza. An area between a building and a public street which promotes visual and pedestrian access onto the site and which provides pedestrian-oriented amenities and landscaping to enhance the public's use of the space for activities such as resting, gathering, reading and picnicking.

Pedestrian Street. Street devoted to uses and amenities which stimulate and reinforce pedestrian activities and visually interesting features at the pedestrian level. Uses are typically sidewalk oriented and physically and visually accessed by pedestrians from the sidewalks, are open during established shopping hours, generate walk-in pedestrian clientele and contribute to a high level of pedestrian activity. Such uses include, but are not limited to, retail shops, restaurants, personal services, day care facilities, banks, travel agencies, cinemas,

Exhibit B

theaters, amusement establishments, galleries, museums, public display spaces, drug stores, shoe repair shops, floral shops, hair shops, department stores, small hardware stores, and apparel shops. Visually interesting features include, but are not limited to, sculptures, display cases, landscaping, vendor stalls and carts, and architectural detailing.

Percolation. The downward flow or infiltration of water through the pores or spaces of rock or soil. (See also Impervious Surface.)

Performance Guarantee. A financial guarantee acceptable to the City Attorney to ensure all improvements, facilities, or work required by this ordinance will be completed in compliance with this ordinance, regulations, and approved plans and specifications.

Perimeter. The boundaries or borders of a lot, tract, or parcel of land.

Permitted Use. A use allowed by law in a use district and subject to the provisions applicable in that district.

Person. Any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, company, joint stock association, corporation, estate, trust, organization, business, business trust, public agency, school district, state or its political subdivisions or instrumentalities, syndicate or any group or combination thereof, acting as a unit, including any trustee, receiver or assignee.

Personal Services. A business primarily engaged in providing services generally involving the maintenance of the human body, or other services to one's person or household pets. Such businesses include, but are not limited to, barber and beauty shops, photographic studios, tanning parlors, massage practitioners, pet grooming, and obedience training. This does not include Medical Offices, Kennels or Veterinary Clinics. (See also Health Fitness Centers and Dance Studios.)

Personal Wireless Service. Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996 and 47 U.S.C. 332 and future amendments thereof.

Pesticide. Any chemical that is used to kill pests, especially insects and rodents.

Pet, Traditional. Animals which can be house-broken, walked on a leash, are frequently, but not necessarily, housed within the residence, or as a class judged neither obnoxious nor to pose a public safety or health threat. Traditional pet birds include song birds and parrots.

Pharmacies and Medical Supply Stores. Businesses primarily engaged in the sale of prescription and over-the-counter drugs, plus perhaps vitamins, first-aid supplies, and other health-related products. It also includes firms primarily engaged in the sale of medical equipment such as orthopedic or prosthetic devices, or equipment for home health testing. Pharmacies which also sell a wide variety of other types of merchandise,

Exhibit B

such as beauty products, camera equipment, small consumer electronics, giftware, food items, greeting cards, toys, housewares, and/or cleaning supplies are commonly known as "drug stores," and are classified as General Merchandise Stores.

Pigeons, Performing and Racing. Pigeons which are raised and used in the sport, hobby or competition of performing or racing; which require being released for freedom of flight for purposes of training, maintaining physical conditioning or competitive performance; and which are identified by a leg band containing the name or initials of the owner, or with an identification or registration number stamped on said band. Specifically included in this category are flying tipplers, tumblers, rollers and homing or racing pigeons.

Plat. A map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions or dedications.

Plat, Final. The final drawing or map of a subdivision and dedication, prepared for recordation with the County Auditor and containing all elements and requirements set forth in RCW Chapter 58.17 and in the City of Olympia Subdivision Ordinance.

Plat, Preliminary. A drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and other elements of a subdivision consistent with the requirements of this code. The preliminary plat furnishes a basis for approval or disapproval of a general layout for a subdivision.

Plat, Preliminary Approval. The official action approving a proposed division of land, normally subject to the installation of improvements or fulfillment of conditions prior to final approval.

Plat, Short. The map or representation of a short subdivision containing all pertinent information required by Title 17, 18 and other applicable ordinances.

Portable Classroom. An accessory building/structure used for public, private or parochial education, and located on the same site as the principal building of instruction.

Principal Use. The primary or predominant use of any lot, building or structure.

Printing, Commercial. This includes shops specializing in printing small jobs for business clients or the general public, such as photocopying, offset printing, or screen printing of documents, announcements, business cards, or the like. This also may include blueprinting, computer plotting, and similar business services. These shops may engage in typesetting, photoengraving, plate-making, and other printing functions incidental to their primary activity; however, if they are primarily engaged in these functions as a service to other printing businesses, they are classified under Industrial Printing. Businesses which print books, magazines, newspapers, or other periodicals for others are classified under Industrial Printing.

Exhibit B

Printing, Industrial. Businesses which print books, magazines, newspapers, or other periodicals for others. It also includes printers of maps, posters, and the like; makers of business forms, looseleaf binders, and the like; and service industries for the printing trade, such as engraving, typesetting, photoengraving, electrotyping and stereotyping, lithographic platemaking, and related services.

Private School. See School, Private.

Private Utility. A privately owned enterprise that provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage and garbage collection or other similar public services.

Prohibited Use. A use that is not permitted in a zoning or land use district.

Project. A change in occupancy or modification or improvement of real estate, whether done by clearing, grading, or structure creation or modification in any manner requiring approval, licensing, or permitting by the City of Olympia.

Project Permit. Any land use or environmental permit or license required from the city for a project action, such as a building permit, preliminary or final plat approval, binding site plan approval, conditional use approval, shoreline substantial development permit, land use approval or a site specific rezone authorized by the Olympia Comprehensive Plan. Adoption or amendment of a comprehensive or other municipal plan, subarea plan, or development regulation or imposition of impact or other fee is not a project permit. [See RCW 36.70B.020(4)].

Project Permit Application. A formal written request to the City for a project permit on forms approved by the City Council.

Property Line. Any line bounding the ownership of a parcel of land.

- a. Front property line. Any property line separating any parcel of land from the street rights-of-way. In case of a corner lot, the owner of such lot may elect any property line abutting on a street as the front property line, provided such choice, in the opinion of the Building Official, will not be detrimental to the existing or future development of adjacent properties. In case of a through lot, both property lines abutting on a street are front property lines. In the case of a lot not abutting a street, the front property line is that line nearest to and roughly parallel with a street, provided that the Building Official may approve an alternative front line if it will not be detrimental to existing and future development.
- b. Rear property line. Any property line that does not qualify as a front or side property line.
- c. Side property line. Any property lines that intersect the front property line. These lines may intersect at any angle and be of any length. (See also Yards.)

Public Access (Shoreline). The physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water from upland locations. There are a variety of types of public access

Exhibit B

including picnic areas, pathways and trails (including handicapped accessible), floats and docks, promenades, viewing towers, bridges, boat launches, street ends, ingress and egress, parking, and others.

Public Art. Expressionistic forms, either man-made or natural, which are located for community view on private or public property.

Public Building. Any building, structure, facility, or complex used by the general public, whether constructed by any state, county, or municipal government agency or instrumentality or any private individual, partnership, association, or corporation, including, but not limited to, assembly buildings, such as auditoriums, libraries, public eating places, schools, and theaters; business buildings, such as offices; and factories and industrial buildings.

Public Facility. Land, buildings or structures operated by a municipal or other governmental agency to provide local protective, social, recreational, cultural, or mass transportation services directly to the general public. This includes police and fire stations, libraries, recreation facilities, bus transfer stations and park-and-ride lots. It also includes public land or buildings devoted solely to the storage of equipment and materials. It does not include facilities whose primary purpose is to provide administrative or judicial services, except as they may be incidental to the defined use, nor parking lots that are accessory to uses that would otherwise not be allowed in the underlying zone.

Public Hearing. A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

Public Meeting. An informal meeting, hearing, workshop or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the City's decision on the permit application. A public meeting may include a design review board meeting, a neighborhood association meeting, or a scoping meeting on a draft environmental impact statement. A public meeting is distinct from and does not include an open record hearing. [See RCW 36.70B.020(5)].

Public Notice. The advertisement of a public hearing or meeting in a newspaper of general circulation, or through other media such as site posting and direct mailing, indicating the time, place, and nature of the public hearing.

Public Project of Significant Importance. See OMC 18.66.090.

Public Safety Communications Equipment. All communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the City and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

Public Services. Fire protection and suppression, law enforcement, public health, education, recreation, environmental protection and other governmental services.

Exhibit B

Public Use Area. An outdoor portion of a property that is dedicated to public use and which contains one or more of the following elements: benches, tables, lawns, public art, gardens, exercise or play equipment, or similar improvements or features. These elements are to provide the public with recreational activities in addition to the right to traverse or stand in this area.

Public Utility. An organization or government agency which provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage or garbage collection or other essential public services.

Publishing. Businesses which publish and print on their premises books, magazines, newspapers, or other periodicals. If such establishments do not perform printing on their premises, they are classified as Business Offices.

Q. DEFINITIONS - SPECIFIC.

Qualified Professional – A person with experience and training in the pertinent scientific discipline, and who is a qualified scientific expert with expertise appropriate for the relevant critical area subject in accordance with WAC 365-195-905. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology, or related field, and have at least five years of related work experience.

a) A qualified professional for wetlands must be a professional wetland scientist with at least two years of full-time work experience as a wetlands professional, including delineating wetlands using the federal manuals and supplements, preparing wetlands reports, conducting function assessments, and developing and implementing mitigation plans.

b) A qualified professional for habitat must have a degree in biology or a related degree and professional experience related to the subject species.

c) A qualified professional for a geological hazard must be a professional engineer or geologist, licensed in the state of Washington.

d) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist, engineer, or other scientist with experience in preparing hydrogeologic assessments.

Quarry. A place where rock, ore, stone and similar materials are excavated and/or processed for sale or for off-site use.

Queue Lane. Area for temporary waiting of vehicles while obtaining a service or other activity such as drive-up windows.

R. DEFINITIONS - SPECIFIC.

Exhibit B

Radio Frequency Emissions. Any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

Radio, Television, or Communication Tower. A vertical structure that is intended to send or receive radio, or other wireless communications and to serve more than one user or an enterprise whose principal business is such communications. See Antenna.

Ravine. A narrow gorge that normally contains steep slopes and is deeper than ten (10) vertical feet as measured from the lowest point of the valley to the top of the slope.

Rear Yard. See Yard, Rear.

Reasonable Alternative. An activity that could feasibly attain or approximate a proposal's objectives, but with less environmental impact or decreased level of environmental degradation.

Recreation, Active. Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields.

Recreation, Commercial. A facility operated as a business which is designed and equipped for leisure-time activities such as theaters, bowling alleys, museums, aquariums, public and private recreational concessions, miniature golf, archery ranges, and amusement activities such as coin or token-operated machines, rides, or booths to conduct games. (See also Health Fitness Centers and Dance Studios, Golf Courses, Country Clubs, and Riding Stables.)

Recreation, Passive. Activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, card games, chess, checkers, or similar table games and activities which may involve educating the user.

Recreation Facility. A place designed and equipped for the purpose of sports and leisure-time activities.

Recreational Vehicle. A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for recreational or sporting purposes. The term recreational vehicle includes, but is not limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks or buses, boats and boat trailers, and all terrain vehicles.

Recreational Vehicle Park. Any lot or parcel of land upon which two or more recreational vehicles sites are located, established, or maintained as temporary living quarters for recreation or vacation purposes.

Recycling. The process by which waste products are collected and reduced to raw materials and transformed into new products.

Exhibit B

Recycling Facility. A facility for the collection and/or sorting and storage of recyclable materials generated from domestic or small business sources, such as bottles, cans, paper, cardboard, aluminum, and plastics. This definition does not include facilities for the processing of recyclable materials, which are classified as an industrial use. Recycling facilities are further divided into two categories: Type I Recycling Facilities include bins or other temporary or permanent facilities for the collection of small quantities of recyclable materials to be sorted and/or processed elsewhere. A Type I facility may be accessory to a primary use, such as a recycling bin at a grocery store parking lot. Type II Recycling Facilities include facilities primarily dedicated to the collection, sorting, or purchase and resale of recyclable materials.

Remodel. The alteration, restoration, reconstruction, addition to, structural modification, change of existing building footprint or internal floor plan that requires city approval or the issuance of any City permit.

Rental, Residence. The temporary rental of a single-family home for personal social events such as a wedding reception, private party or similar activity. (See also Temporary Uses.)

Replat. The further division of lots or the relocation of lot lines of any lot or lots within a subdivision previously approved and recorded according to law; or the alteration of any streets or the establishment of any new streets within any such subdivision, but not including conveyances, made so as to combine existing lots by deed or other instruction.

Restaurant. A use providing preparation and retail sale of food and beverages, including coffee shops, sandwich shops, ice cream parlors, fast food take-out, espresso stands, and similar uses. A restaurant may include licensed "on-site" provision of alcoholic beverages for consumption on the premises when accessory to such food service. A "drive-in" restaurant is one where all or a significant portion of the consumption takes place or is designed to take place with the patrons remaining in their vehicles while on the premises. A "drive-through" restaurant is one which has one or more drive-through lanes for ordering and dispensing of food and beverages to patrons remaining in their vehicles, for consumption off the premises.

Restoration. Measures taken to restore an altered or damaged natural feature including:

- a. Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the functioning condition that existed prior to an unauthorized alteration; and
- b. Actions performed to reestablish structural and functional characteristics of the critical area that have been lost by alteration, past management activities, or catastrophic events.

Restrictive Covenant. A restriction on the use of land usually set forth in the deed. [NOTE: Restrictive covenants usually run with the land and are binding upon subsequent owners of the property. However, some restrictive covenants run for specific periods of time.]

Exhibit B

Retail Trade. The selling of goods or merchandise to the general public for personal, business, or household consumption. The retail sales establishment is usually a place of business and is engaged in activity to attract the general public to buy goods. The establishment may also buy and receive goods. Retail sales includes services related to the retail goods. The establishment may process, repair, manufacture, and wholesale some of the products, such as jewelry, baked goods, beverages, apparel, pottery, or consumer electronics, but such processing, repair, or manufacturing must be associated with retail activities, be limited to rear or upper floor areas in the same building, and emit no loud noise or noxious odor. See Industry, Light.

Revision of Application, Minor. A change or correction by an applicant of a proposed project, either voluntarily or to conform with applicable standards and requirements, that does not, in the opinion of the Director, constitute a substantial change requiring reinitialization of the review process and period.

Revision of Application, Substantial. A change or correction by an applicant of a proposed project, either initiated voluntarily by the applicant or to conform with applicable standards and requirements, that in the opinion of the Director requires a new review process and period. For example, a change in a proposal which, as a result of changes in the proposed land use, substantially greater floor area or number of residential units, or substantial relocation of uses or structures, or the like, probably would result in significantly different impacts to the environment, upon public services or facilities, or to neighboring properties or land uses.

Review Authority. A person, committee, commission or council responsible for review and final action on a land use or development entitlement or permit.

Revolving Sign. See Sign, Animated.

Rezone. A change in the land use classification of a specific area to another use classification.

Right-of-Way - Improved. All of the right of way where any portion of it is used for motor vehicle travel.

Rights-of-Way. The right of one to use or pass over the property of another.

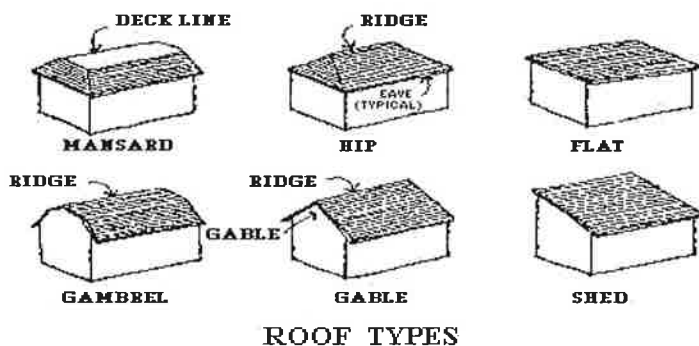


FIGURE 2-6

Exhibit B

Roof. The outside top covering of a building.

Rooming House. See Lodging House.

ROW. Rights-of-ways of public easements, roadways, streets, or other so defined public access locations.

Rummage Sale. An occasional or periodic market held in an open area or structure which is sponsored by schools, places of worship or other nonprofit organizations.

Run With The Land. A covenant, benefit or restriction of the use of land binding on present and future owners of the property.

S. DEFINITIONS – SPECIFIC.

Salmonid. A member of the fish family salmonidae, such as chinook, coho, chum, sockeye and pink salmon, rainbow, steelhead, cutthroat salmon, brown trout, bull trout, Brook and Dolly Varden char, kokanee and whitefish.

Sanitary Landfill. A site for solid waste (garbage) disposal.

Satellite Earth Station. A single or group of parabolic (or dish) antennas that are mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

Scale, Architectural. The perceived height and bulk of a building relative to that of neighboring buildings. A building's perceived height and bulk may be reduced by modulating facades.

Scenic Vistas. Those areas which provide, for significant numbers of people, outstanding views from public rights-of-way of Mt. Rainier, the Olympic Mountains, Budd Inlet, the Black Hills, the Capitol Building, and Capitol Lake or its surrounding hillsides.

School. An institution of learning, whether public or private, which offers instruction in those courses of study required by the Washington Education Code or which is maintained pursuant to standards required by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, junior high school, senior high school or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

Screening. A continuous fence or wall supplemented with landscaping, or an evergreen hedge or combination thereof, that effectively provides a sight-obscuring and sound-absorbing buffer around the property it encloses, and is broken only for access drives and walks.

Exhibit B

Sculptured Building Top. A building top which has:

- a. Reduced floor area on the upper floors; and
- b. A distinctive roof form such as pitched roof, hip roof, dome, chateau roof, tower, turret, pediment, dormers, or other distinctive forms. Roofline embellishments such as medallions, statuary, cornices, brackets, finials, or similar ornament would not be considered sculptured building tops; and
- c. Upper floors which are set back from the street wall.

Secretary of the Interior's Standards for the Treatment of Historic Properties, The (as amended). Guidelines adopted by the Secretary of the Department of the Interior to guide the rehabilitation, restoration or reconstruction of a historic property.

Section of Land. Measured 640 acres, one square mile, or 1/36 of a township.

Secure Community Transition Facility. A residential facility for persons civilly committed and conditionally released from a total confinement facility operated by the Secretary of Washington Social and Health Services or under contract with the Secretary pursuant to RCW 71.09.020(10) as described in RCW 71.09.250. All secure community transition facilities located within the City of Olympia shall conform with Olympia Municipal Code Subsection 18.08.080(E).

Seep. A spot where groundwater oozes to the surface. A small spring.

Service and Repair Shop. An establishment providing major repair and/or maintenance of motor vehicles, equipment or major appliances, including, but not limited to: mechanical repair, replacement of parts, body repair, painting, engine overhaul, or other major repair or maintenance, including operations which may require open flame or welding.

Service Stations. Businesses which sell gasoline or alternative vehicle fuels, and/or which may perform minor vehicle maintenance or repair, and/or wash cars. "Minor maintenance or repair" is limited to the exchange of parts and maintenance requiring no open flame or welding. Service stations include self-service gas stations, full-service gas stations, diesel fueling stations, oil change and lubrication shops, auto detailing shops, and car washes. Businesses which provide major repair work such as engine overhauls, vehicle painting, or body repair are classified as Service and Repair Shops.

Servicing of Personal Apparel and Equipment. A business primarily engaged in the upkeep of personal or small household belongings. Such businesses include, but are not limited to: tailors, locksmiths, piano tuners, or businesses which repair shoes, cameras, small appliances, or consumer electronics.

Setback. The distance between the building and any lot line. See specific zone district for allowed projections into setback areas and point of measurement. (See also Yard.)

Exhibit B

Setback Line. An imaginary line that establishes the required minimum distance from any lot line and defines the area where the principal structure must be erected. (See also Building Line, Yard, and Lot.)

Sewer. Any pipe or conduit used to collect and carry away sewage and sometimes stormwater runoff from the generating source to a treatment plant.

Sexual conduct.

- a. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or
- b. Any penetration of the vagina or anus, however slight, by an object; or
- c. Any contact between persons involving the sex organs of one person and the mouth or anus of another; or
- d. Masturbation, manual or instrumental, of oneself or of one person by another; or
- e. Direct touching of the sex organs or anus, whether clothed or unclothed, of oneself or of one person by another; or
- f. Flagellation or torture in the context of a sexual relationship; or
- g. Sodomy.

Shopping Center. A commercial development with unenclosed pedestrian walks in which there are a number of separate commercial activities, with accessory shared facilities such as parking, and which is designed to provide a single area which the public can obtain varied products and services. Shopping centers are typically characterized by at least one large retail "anchor" store.

Shopping Mall. A shopping center with stores on one or both sides of a covered and enclosed pedestrian walkway.

Sidewalk. A paved, surfaced, or leveled area, paralleling and usually separated from the street and normally used as a pedestrian walkway.

Sign. Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means. Such means may include words, letters, figures, design, movement, symbols, fixtures, colors, illumination, or projected images.

Sign, Abandoned. Any sign which:

Exhibit B

- a. Is located on property which becomes vacant and unoccupied for a period of 12 consecutive months or more (excepting legal off-premise signs), or
- b. Relates to any occupant or business unrelated to the present occupant or their business (excepting legal off-premise signs), or
- c. Pertains to a time, event or purpose which no longer applies.

Sign, Animated. A sign with action or motion (including those that flash, oscillate or revolve) or one that involves color changes, illustrations or messages. This does not include wind activated elements such as flags or banners; nor does it include public service signs (such as time and temperature signs).

Sign Area. The entire background of a sign upon which advertising could be placed (counting all faces), including the frame but not other supporting structure, except that the area of advertising affixed directly to, or painted on a building without any background, other than the building, shall be the area contained in the smallest geometric figure enclosing all portions of the sign message (i.e., all letters, numbers, graphics, etc.).

Sign Awning. A sign which is on an awning. Awning signs are a type of building mounted sign.

Sign, Billboard. A rigidly assembled outdoor sign permanently affixed to the ground or permanently attached to a building or other permanent structure, unrelated to any use or activity on the property on which the sign is located, but not including directional signs as defined herein.

Sign, Building Mounted. A permanent sign which is attached to, or erected against or painted on, any exterior wall, fascia, or window of a building or structure. For the purpose of this Title, signs which shall be considered building mounted signs, include flush mounted signs, signs on marquees and awnings, projecting signs, and signs erected on the side of a mansard roof provided the sign does not project above the uppermost roof line or flashing.

Sign, Business Directory. A type of development identification sign which lists the names of the individual uses in a development.

Sign, Changeable Copy. See Sign, Readerboard.

Signs, Channel Letters. A flush mounted wall sign that consists of individual letters or characters not bound together in one complete structure. Channel Letter signs are signs in which each letter or character is mounted individually within its own area, with the total area of individual letters or characters comprising the sign.

Sign, Ground. A ground supported sign which is no greater than twelve (12) feet in height above grade.

Sign, Development Identification. A freestanding or building mounted sign which identifies the name of a development. For the purpose of sign standards, a development consists of multiple building complexes such

Exhibit B

as shopping malls, industrial and business parks, residential subdivision developments, and multiple occupancy buildings.

Sign, Directional. A sign designed solely to guide or direct pedestrian or vehicular traffic to an area, place or convenience.

Sign, Flashing. See Sign, Animated.

Sign, Flush-Mounted. A type of building mounted sign which and is attached to, or erected against any exterior wall or fascia of a building or structure, with the exposed face of the sign parallel to the plane of the wall.

Sign, Freestanding. A permanent sign supported by one or more uprights, poles or braces in or upon the ground. For the purposes of this Title, freestanding signs include pole signs and signs otherwise known as ground signs or monument signs.

Sign Height. The vertical distance from ground level to the top of the sign.

Sign, Identification. A pole or ground sign which identifies the name of a shopping center.

Sign, Inflatable. Balloons or other gas-filled figures. For purposes of this section, inflatable signs shall be treated as temporary signs.

Sign, Marquee. Any sign which forms part or is integrated into a marquee or canopy and which does not extend horizontally beyond the limits of such marquee or canopy.

Sign, Monument. See Sign, Freestanding.

Sign, Non-conforming. Any sign existing at the time of this Ordinance which does meet the provisions of Title 18.

Sign, On-Premises. A sign which carries advertisement related to a lawful use of the premises on which it is located, including signs indicating the business transacted, services rendered, goods sold or produced on the premises, name of business, name of the person, firm or corporation occupying the premises.

Sign, Out-of-Date. Signs for which the event, time, or purpose no longer applies.

Sign, Pole. A ground supported sign which is no less than twelve (12) and no greater than thirty (30) feet in height above grade.

Sign, Political. A sign for the purpose of advertising a candidate or candidates for public elective office, or a political party, or which promotes a position on a public or ballot issue.

Exhibit B

Sign, Portable (Mobile). A sign made of any material which by its design is readily movable and which is not permanently affixed to the ground, a structure or a building.

Sign, Projecting. A sign which projects 12 inches or more from a building and is supported by a wall or structure.

Sign, Public Service. A sign which provides a service to the public (such as indicating the current time and temperature or a community bulletin board) but which includes no advertising other than the name of the sponsoring organization.

Sign, Readerboard. A sign with characters or letters that can be manually changed without altering the face of the sign. Electronic signs are not readerboards for the purposes of this Title, but are animated signs.

Sign, Revolving. See Sign, Animated.

Sign, Roof. A sign erected upon or above a roof or parapet of a building or structure. A sign shall be considered a building mounted sign if it is erected on the side of a mansard roof and does not project above the uppermost roof line or flashing.

Sign, Sandwich Board Sidewalk Sign. A type of portable sign.

Sign, Structural Alteration. Any change or modification in the supporting members of the structure, such as the pole, cabinet, footing/foundation. Exceptions are new paint, rewiring, or face change.

Sign Structure. Any structure which supports or is capable of supporting any sign. A sign structure may be a single pole and may be an integral part of the building.

Sign, Temporary. Any sign, banner, pennant, valance or advertising display intended to be displayed for only a limited period of time.

Sign, Window. A sign permanently painted on or mounted to an exterior window (e.g., a neon sign). Window signs are a type of building mounted sign.

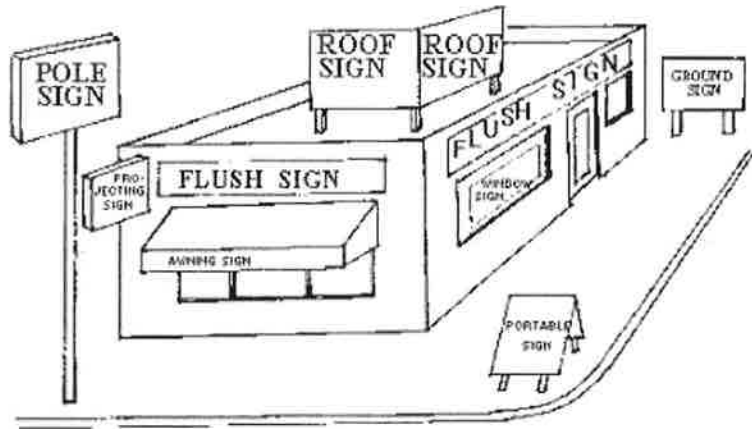


FIGURE 2-7

Significant. When used in the context of historic significance: A property which helps in the understanding of the history of the local area, state or nation (whichever is applicable) by illuminating the local, state-wide or nation-wide impact of the events or persons associated with the property, or its architectural type or style or information potential. The local area can include the City of Olympia, Thurston County, the region of Puget Sound or Southwest Washington, or a modest geographic or cultural area, such as a neighborhood. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.

Single-Family Dwelling. See Dwelling, Conventional.

Single-Room Occupancy (SRO). See Dwelling, Conventional.

Site Plan. The development plan which shows the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, walkways; means of ingress and egress; circulation; utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development; and any other information that reasonably may be required in order that an informed decision can be made by the reviewing authority.

Site Plan Review Committee. A technical development review group comprised of representatives from the Department of Community Planning and Development, the Fire Department and the Public Works Department, who provide technical assistance to the CP&D Director or his/her designee on land use issues. At a minimum this includes the Building Official, Planner, City Engineer, Fire Chief, and SEPA official, or their appointed designees.

Slope. The deviation of a surface from the horizontal, usually expressed in percent or degrees. (See also Grade.)

Exhibit B

[NOTE: Percentage of slope is calculated by dividing the vertical distance by the horizontal distance times one-hundred (100).]

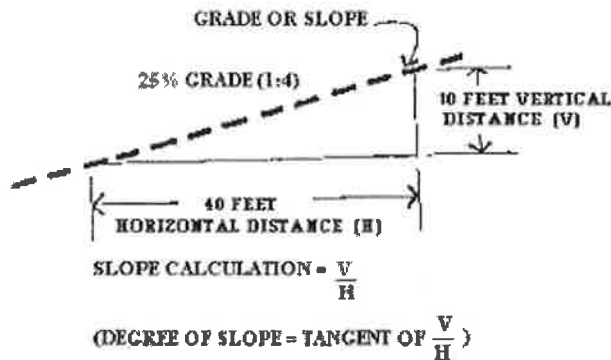


FIGURE 2-8

% GRADE	100	50	40	33.3	30	25	20	15	12	10	8	6
DEGREES	45	26.6	21.8	18.4	16.7	14	11.3	8.5	6.8	5.7	4.6	3.4
RATIO	1:1	2:1	2.5:1	3:1	3.3:1	4:1	5:1	6.7:1	8.3:1	10:1	12.5:1	16.7:1

Slope, Steep. An area which is equal to or in excess of 40 percent slope, or where the ground surface rises ten feet or more vertically within a horizontal distance of 25 feet. This can also include a slope of 15 to 39.9 percent if otherwise defined as a landslide hazard area.

Slope, Steep Toe, or Steep Top. A distinct topographic break in slope which separates slopes inclined less than forty (40%) percent from slopes equal to or greater than forty (40%) percent. Where no distinct break exists, this point shall be the limit of the area where the ground surface drops ten (10) feet or more vertically within a horizontal distance of twenty-five (25) feet.

Small Lake. See OMC 18.32.50518.32.305 C.

Small Lot Review. A Director review of proposed construction on undersized legal lots of record approved prior to June 19, 1995.

Small Lot Subdivision. See Subdivision, Short.

Sorority House. A building, occupied by unrelated female members of a private educational organization, which contains sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room. (See Fraternity, Dormitory.)

Special Assessment District. A district with the power to levy taxes created by act, petition, or vote of property owners for a specific purpose.

Exhibit B

Special Valuation for Historic Properties, Special Valuation. The process, pursuant to Chapter 84.26 Revised Code of Washington (RCW) and Chapter 3.60 OMC, under which the tax basis of an eligible, rehabilitated historic property may be reduced by the actual incurred cost of the rehabilitation for a period of up to ten years.

Specialty Stores. Stores selling antiques, sporting goods and bicycles, marine supplies, glassware and chinaware, books, videos (including rentals), music, cards and stationery, jewelry, toys, hobby supplies, cameras, gifts and souvenirs, sewing supplies, flowers, tobacco products, newspapers and magazines, art and art supplies, pets and pet supplies, religious supplies, consumer electronics, personal computers, or other miscellaneous goods. It also includes second-hand stores and pawnshops.

Specific or Management Plan. A plan consisting of text, maps, and other documents and exhibits regulating development within an area of special interest or which contains unique land use and development problems.

Spot Zoning. Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the comprehensive plan. [NOTE: Spot zoning is usually invalid when all the following factors are present: (1) a small parcel of land is singled out for special and privileged treatment; (2) the singling out is not in the public interest but only for the benefit of the land owner; and (3) the action is not in accord with a comprehensive plan.]

Stables, Riding. A structure providing shelter for horses, mules or ponies which are boarded for compensation. This may include arenas, tracks, and other facilities for equestrian activities either for members of a private club or for the general public. This may also include accessory facilities such as a clubhouse.

Stable, Private. An accessory structure providing shelter for horses or ponies, for use by occupants of the premises.

Staff. Permanent or temporarily employed personnel of the City of Olympia, Washington.

Stepback. Additional setbacks of upper building floor levels.

Storage. Placement or retention of goods, materials and/or personal property in one location for more than 24 consecutive hours.

Stormwater Facility. A constructed stormwater system component, including but not limited to a detention, retention, sediment, or constructed wetland basin or pond, generally installed at the ground surface.

Stormwater Retention/Detention Basin. A facility, either above-ground or underground, that temporarily stores stormwater prior to its release to the ground (retention facility), to a surface water (detention facility), or some combination of the two. [NOTE: Retention basins differ from detention basins in that the latter are temporary storage areas. Retention basins have the potential for water recreation and water-oriented landscaping since

Exhibit B

the water may remain. Both types of basins provide for controlled release of the stored water and groundwater recharge.]

Stormwater Retrofit Facilities. A stormwater treatment or flow-control facility that complies with the City of Olympia Drainage Design and Erosion Control Manual and is constructed by the City of Olympia for the purpose of providing treatment or flow-control in an area where little to none was previously provided.

Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

Story Above Grade. Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is: more than six feet above grade plane, more than six feet above the finished ground level for more than 50% of the total building perimeter, or more than 12 feet above the finished ground level at any point.

Story First. The lowest above grade story in a building, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined herein, for more than 50 percent of the total perimeter, or more than eight feet below grade, as defined herein, at any point.

Stream. See OMC 18.32.405.

Stream Corridor. Any river, stream, pond, lake, or wetland, together with adjacent upland areas that support vegetation adjacent to the water's edge.

Street. A public or private rights-of-way which affords a primary means of vehicular access to abutting property.

Street, Arterial. An arterial street provides an efficient direct route for long-distance travel within the region and between different parts of the city. Streets connecting freeway interchanges to commercial concentrations are classified as arterials. Traffic on arterials is given preference at intersections, and some access control may be considered in order to maintain capacity to carry high volumes of traffic.

Exhibit B

Street Cul-De-Sac. A street with a single common ingress and egress and with a circular turnaround at the end.

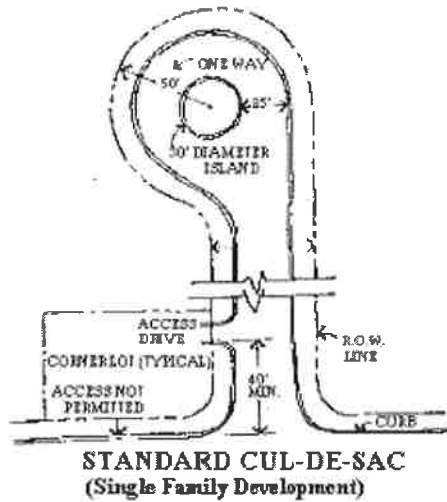


FIGURE 2-9

Street Frontage. The area between any lot lines which intersect, or area of a lot which directly abuts, the boundary of a public or private street rights-of-way.

Street Furniture. Constructed, above-ground objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, fountains, and telephone booths, that have the potential for enlivening and giving variety to streets, sidewalks, plazas, and other outdoor spaces open to, and used by, the public.

Street, Local Access. A street which provides access to abutting land uses and serves to carry local traffic to a collector.

Street, Major Collector. A street that provides connections between the arterial and concentrations of residential and commercial land uses. The amount of through traffic is less than an arterial, and there is more service to abutting land uses. Traffic flow is given preference over lesser streets.

Street, Neighborhood Collector. A street which distributes and collects traffic within a neighborhood and provides a connection to an arterial or major collector. Neighborhood collectors serve local traffic, provide access to abutting land uses, and do not carry through traffic. Their design is compatible with residential and commercial neighborhood centers.

Street, Private. A street that has not been accepted for maintenance and public ownership by the City of Olympia or other government entity. This does not include private driveways or access easements.

Street Wall. A building wall that faces or is parallel to the street frontage.

Exhibit B

Streetscape. The visual character of a street as determined by various elements such as structures, greenery, open space, and view.

Structure. An edifice or building of any kind which is built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Structured Parking. A building or a portion of a building used for the parking of motor vehicles.

Subdivider. A person who undertakes the subdividing of land.

Subdivision. The division or redivision of land into ten or more lots, tracts, parcels, sites or divisions, any of which are less than five acres in area, for the purpose of sale, lease or transfer of ownership. (See also Subdivision, Short.)

Subdivision Cluster. See Cluster Subdivision.

Subdivision, Large Lot. 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. For purposes of computing the size of any lot under this section which borders on a street, the lot size shall be expanded to include that area which would be bounded by the centerline of the street and the side lot lines of the lot running perpendicular to such centerline.

Subdivision, Short. The division or redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose of transfer of ownership, sale or lease.

Subordinate. A supplementary use to a permitted primary or principal use.

Substantial Improvement. Any extension, repair, reconstruction, or other improvement of a property, the cost of which equals or exceeds fifty (50) percent of the fair market value of a property either before the improvement is started or, if the property has been damaged and is being restored, before the damage occurred.

Surface water. A body of water open to the atmosphere and subject to surface runoff.

Swap Meet. Any outdoor place, location, or activity where new or used goods or secondhand personal property is offered for sale or exchange to the general public by a multitude of individual licensed vendors, usually in compartmentalized spaces; and, where a fee may be charged to prospective buyers for admission, or a fee may be charged for the privilege of offering or displaying such merchandise. The term swap meet is interchangeable with and applicable to: flea markets, auctions, open air markets, farmers markets, or other similarly named or labeled activities; but the term does not include the usual supermarket or department store retail operations.

Exhibit B

T. DEFINITIONS - SPECIFIC.

Temporary Use. A use established for a specified period of time, with the intent to discontinue the use at the end of the designated time period.

Theater. A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

Time-of-travel. The time required for ground water to move through the water bearing zone from a specific point to a well.

Townhouse. See Dwelling, Conventional.

Toxic Substance. See Hazardous Materials or Hazardous Waste.

Tract. An area, parcel, site, piece of land or property. (See also Lot and Critical Area Tract.)

Traffic Impact Study. A report analyzing anticipated traffic flow conditions with and without proposed development. [NOTE: The report includes an analysis of mitigation measures and a calculation of fair share financial contributions.]

Trail. A paved or unpaved surface for pedestrian and/or bicycle commuting or recreational use, which may include sidewalks. Trails may be located parallel to an improved street, within a single development; or may inter-connect different areas by an off-street route.

Transfer of Development Right Sending Zone. The area designated by Thurston County from which development rights can be transferred.

Transferable Development Right. An interest in real property which is the difference between the existing use of a parcel and its potential development use expressed in residential units per acre. This right is made severable from the parcel to which the interest is appurtenant and transferable to another parcel of land for development and use in accordance with applicable regulations.

Transient. A continuous period of two weeks or less.

Transportation Demand Management. Strategies aimed at reducing the number of motor vehicle trips, shortening trip lengths, and changing the timing of trips to non-peak hours. [NOTE: These strategies encourage the use of mass transit, car pools, van pools, bicycling, and walking and typically focus on the home-to-work commute. They also include efforts to provide housing close to jobs to shorten trip lengths. These strategies often require the joint cooperation of developers, employers, and local governments.]

Exhibit B

Transportation Demand Management Plan. A system of actions and timetables to alleviate traffic problems through improved management of motor vehicle trip demand. (See also Transportation Demand Management.)

Tree. A self-supporting perennial woody plant characterized by one main stem or trunk of at least six inches diameter at breast height, or a multi-stemmed trunk system with a definite crown, maturing at a height of at least six feet above ground level.

Trip. A single or one-way motor vehicle movement either to or from a subject property within a study area.

Truck, Trailer, and Recreational Vehicle Rental. Businesses primarily engaged in short-term rental or extended-term leasing of trucks, truck-tractors, semi-trailers, moving vans, utility trailers, recreational vehicles, and the like. Finance (equity or full-payout) leasing of trucks, trailers, and recreational vehicles is classified with Motor Vehicle Sales.

U. DEFINITIONS - SPECIFIC.

Unavoidable and necessary impacts. Those impacts to critical areas that may result when a person proposing to alter such an area has demonstrated that no alternative exists for the proposed project.

Unusual Uses. Undefined land uses or activities resulting from advancing technology.

Upland. The area above and landward of the ordinary high water mark.

Use. The purpose, type and extent for which land or a building is arranged, designed, or intended, or for which either land or a structure is occupied or maintained.

Utility Facility. The physical infrastructure used by private and public utilities to provide service to their customers, e.g., lines, equipment, substations, pump station, and appurtenances. (See also Private Utility and Public Utility.)

Utility Line, Service or Distribution. Any utility line that extends from a main line and terminates at a building or structure.

Utility Line, Stormwater. A constructed stormwater system component, including but not limited to:

1. A ditch, swale, or similar component installed at ground surface, generally in a linear fashion with clearing and grading limited to 15 feet or less of lateral extent from the centerline;
2. A pipe, culvert, or similar component installed underground, generally in a linear fashion with clearing and grading limited to 15 feet or less of lateral extent from the centerline; or
3. A vault, manhole, catch basin/storm drain, or similar component, which:

Exhibit B

- a. Is installed underground,
- b. Is connected to one of the above-listed components, and
- c. Results in clearing and grading no more extensive than described above.

Utility Line, Transmission or Main. Any public or private utility line that provides service to numerous commercial, residential, public and/or industrial land uses.

V. DEFINITIONS - SPECIFIC.

Variance. A modification of the terms of this title that may be granted because of the unusual shape, exceptional topographic conditions or other extraordinary situation or condition in connection with a specific piece of property, where the literal enforcement of this title would involve practical difficulties and cause undue hardship unnecessary to carry out the spirit and intent of this title.

Vegetation - Hydrophytic. Vascular plant life and mosses which grow in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content as described in the Federal Manual for Identifying and Delineating Jurisdictional Wetlands,(1989) as amended or revised.

Vegetation - Native. Plants species which have adapted over thousands of years to the weather, soil, and topography of Thurston County, Washington.

Vehicle. A device capable of being moved upon a public highway and in, upon, or by which persons or property are or may be transported or drawn upon a public highway, including automobiles, trucks, buses, motorcycles, trailers, and the like. The term includes bicycles, but does not include other devices moved by human or animal power (e.g., skateboards or horse-drawn wagons), nor devices used exclusively upon stationary rails or tracks.

Veterinary Clinic. See Office, Veterinary/Clinic.

View Corridor. An area at ground level providing views of the waterfront and other landforms of significance, unobstructed by permanent structures between a public street and the preserved. (See also Easement, Scenic.)

Village Center. That portion of an urban village, neighborhood village, or community oriented shopping center which is occupied by commercial, commercial/residential mixed uses, and associated uses such as parking or a village green or park.

W. DEFINITIONS - SPECIFIC.

Waiver of a Certificate of Appropriateness, Waiver. A letter or other document which allows the building or zoning official to issue a permit for demolition.

Exhibit B

Warehouse. A building primarily used for storage and distribution of products, equipment, or materials, which are not available for retail sale on the premises. "Warehousing" is the associated activity. Compare Mini-storage.

Welding and Fabrication. A business engaged in stamping or shaping pieces of metal which are then connected by heat until molten and fused, in order to manufacture, service, or repair sheet metal products.

Wellhead Protection Area. See OMC 18.32.205.

Wet pond. An artificial water body with a permanent water surface dug as a part of a surface water management system.

Wetland, habitat types or wetland types. Descriptive classes of the wetlands taxonomic classification system of the United States Fish and Wildlife Service (Cowardin, et al 1978). These habitat types can include emergent, scrub-shrub or forested wetlands.

Emergent. A wetland with at least thirty (30) percent of the surface area covered by erect, rooted, herbaceous vegetation as the uppermost vegetative stratum.

Forested. A wetland with at least twenty (20) percent of the surface area covered by woody vegetation greater than twenty (20) feet in height.

Scrub-shrub. A wetland with at least thirty (30) percent of its surface area covered by woody vegetation less than twenty (20) feet in height as the uppermost stratum.

Wetlands. See OMC 18.32.505.

Wetlands, Isolated. Those regulated wetlands which:

- a. Are outside of and not contiguous to any one hundred (100)-year floodplain of a lake, river or stream; and
- b. Have no contiguous hydric soil between the wetland and any surface water.

Wetlands Mitigation Bank. A site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved expressly for the purpose of providing compensatory mitigation in advance of authorized impacts to similar resources.

Wetland - Mosaic. A wetland where each patch of wetland is less than one (1) acre; and each patch is less than one hundred (100) ft apart, on the average; and the areas delineated as vegetated wetland are more than fifty percent (50%) of the total area of the wetlands and the uplands together, or wetlands, open water, and river bars, all as defined in the Washington State Wetland Rating System for Western Washington(20042014) as amended or revised.

Exhibit B

Wholesale Sales or Trade. Establishments or places of business primarily engaged in selling merchandise to retailers.

Wildlife blind. A structure no larger than two hundred (200) square feet used for the observation of wildlife.

Wireless Communication Facility (WCF). Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure. The following developments shall be deemed a WCF: developments containing new, mitigated, or existing antenna support structures, public antenna support structures, replacement antenna support structures, collocation on existing antenna support structures, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities. Excluded from the definition are: non-commercial amateur radio, amateur ham radio and citizen band antennas, satellite earth stations and antenna support structures, and antennas and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities.

Specific types of WCFs include:

Attached WCF. An antenna or antenna array that is secured to an existing building or structure other than an antenna support structure - including light standards, transmission towers, utility poles, or the like - together with a) any accompanying pole or device which attaches it to the building or structure, b) transmission cables, and c) an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An attached wireless communications facility is considered to be an accessory use to the existing principal use on a site. (See also Freestanding WCF.

Concealed WCF, sometimes referred to as a stealth or camouflaged facility. A WCF, ancillary structure, or WCF equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed WCFs: 1) attached and 2) freestanding. 1) Examples of concealed attached facilities include, but are not limited to the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. 2) Concealed freestanding WCFs usually have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, bell tower, clock tower, light standard, flagpole with or without a flag, or tree. (See also Non-concealed WCF.)

Freestanding WCF. Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, feed lines, and equipment cabinets, and may include an antenna support structure. A freestanding wireless communication facility includes, but is not limited to the following: guyed, lattice, or monopole antenna support structures. (See also Attached WCF.)

Exhibit B

Non-concealed WCF. A wireless communication facility that is readily identifiable as such and can be either freestanding or attached. (See also Concealed WCF.)

ROW Attached Structure. A special case of an attached WCF, this is defined as a pole or other structure primarily used as an electrical transmission support structure for electrical, telephone, cable, or other wired services that can be or has been configured to support the antenna(s) and feedlines of one or more wireless service providers for use as a WCF.

Wireless Communications. Any personal wireless service, which includes but is not limited to: cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), and unlicensed spectrum services utilizing devices described in Part 15 of the FCC rules and regulations (e.g., wireless internet services and paging).

Wireless Telecommunications Master Plan. A plan developed to enforce applicable development standards, state statutes, and federal regulations related to the deployment of wireless telecommunications infrastructure.

Workshops for Disabled People. Sheltered workshops and facilities which provide disabled people with opportunities for training, recreation, and/or employment. This may include assembly of products or any other activity allowed as a permitted use in the district.

X. DEFINITIONS - SPECIFIC.

Xeriscape. A landscape design which conserves water through creative landscaping. Principles of xeriscape design include reduction of turf areas and increased use of groundcover; grouping of plants with similar water needs; soil improvements to increase moisture and decrease evaporation; and use of drought tolerant plant materials.

Y. DEFINITIONS - SPECIFIC.

Yard. An open space on a parcel of land, other than a court, unobstructed and unoccupied from the ground upward, except for projections permitted by this code.

a. Front yard. A yard extending across the full width of the building site, having at no point less than the minimum required distance between the front property line and the building line.

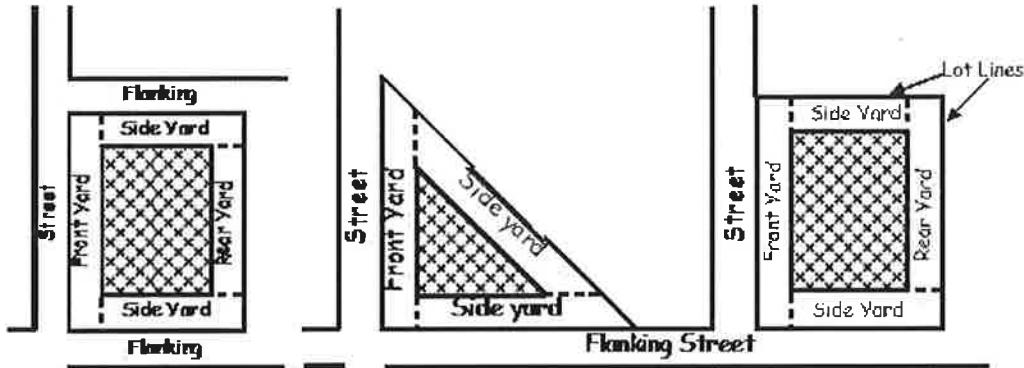
b. Rear yard. A yard extending from one side property line to the other, except in the case of a corner building site when the rear yard shall extend from the interior side property line to the opposite side yard.

c. Side yard. A yard extending from the front yard to the rear yard, except in the case of a corner building site when the side yard on the flanking street shall extend to the rear property line. [NOTE: See Figure 2-10 for yard examples.]

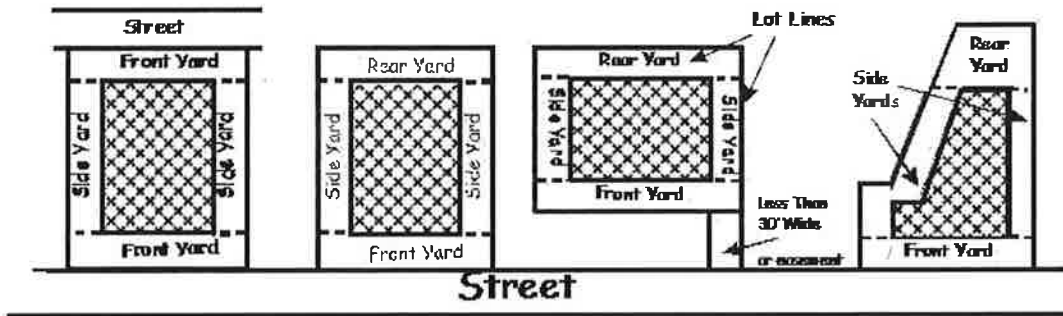
Year. Three hundred and sixty-five days in a normal year, or 366 in a leap year.

Z. DEFINITIONS - SPECIFIC.

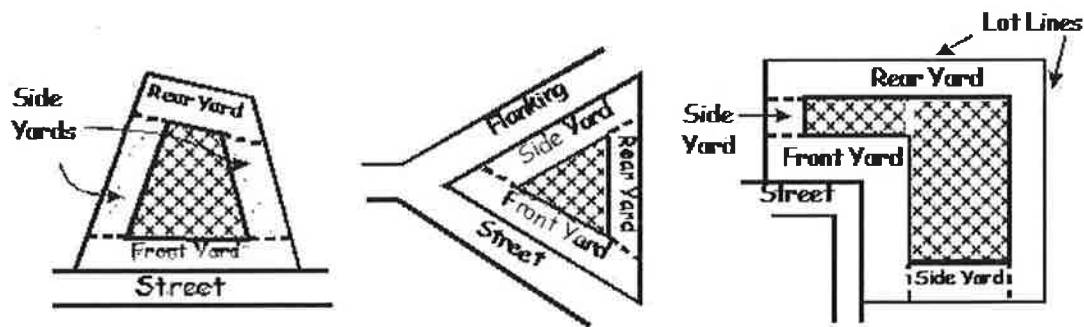
Zero Lot. A lot designed in such a manner that one (1) or more sides of the structure may rest directly on or near a side lot line.



CORNER LOT EXAMPLES



INTERIOR LOT EXAMPLES



**ODD-SHAPED LOT EXAMPLES
REQUIRED YARDS**

 **Building (Zoning) Envelope (Two Dimensional)**

FIGURE 2-10

18.37.070 Nonconforming Structures and Uses Within Critical Area Buffers

A. Existing structures and uses. Existing structures and uses which are located within a critical area or its buffer prior to the effective date of Chapter 18.32, which is June 20, 2005, may continue pursuant to the provisions of this Chapter.

B. Appurtenant structures and related development. ~~Existing structures located within a critical area or its buffer as provided in OMC 18.37.070(A),~~ If there is no negative impact to critical area buffers, the Department may include as "existing structures and uses," pursuant to OMC 18.37.070(A) appurtenant structures and related development such as but not be limited to: garages, out-buildings, lawns, landscaping, gardens, sports fields, sport courts, picnic areas, play equipment, trails and driveways which also existed prior to the effective date of Chapter 18.32.

C. Critical area review. That portion of a parcel which contains existing structure, appurtenant structures, and related development as defined by OMC 18.37.010(A) and 18.37.070(B), shall be exempt from further review of OMC Chapter 18.32, except as provided in OMC 18.32.215. Expansion or additions of structures and uses listed in OMC 18.37.070(A) and 18.37.070(B) into undisturbed parts of the property which are within a critical area or its buffer will require a critical area review per OMC Chapter 18.32.



City Council

Approval of Proposed Ordinance and Ballot Measure Relating to Regular Property Taxes for Submission to Voters to the General Election to be Held on November 7, 2017 of a Public Safety Proposition Authorizing the Levy of Regular Property Taxes in Excess of the Limitations of RCW Chapter 84.55 and Setting Forth the Text of the Ballot Proposition

Agenda Date: 7/18/2017
Agenda Item Number: 4.G
File Number: 17-0715

Type: ordinance **Version:** 1 **Status:** 2d Reading-Consent

Title

Approval of Proposed Ordinance and Ballot Measure Relating to Regular Property Taxes for Submission to Voters to the General Election to be Held on November 7, 2017 of a Public Safety Proposition Authorizing the Levy of Regular Property Taxes in Excess of the Limitations of RCW Chapter 84.55 and Setting Forth the Text of the Ballot Proposition

Recommended Action

City Council:

Move to approve an ordinance setting a ballot proposition for submission to voters at the general election on November 7, 2017 authorizing the levy of regular property taxes in excess of the limitations of RCW Chapter 84.55.

City Manager Recommendation:

Move to approve the proposed Public Safety Levy-Lid Lift Ballot Measure Ordinance on second reading.

Report

Issue:

Should the Council approve the proposed Public Safety Levy-Lid Lift Ballot Measure Ordinance?

Staff Contact:

Steve Hall, City Manager, 360.753.8447
Mary Verner, Administrative Services Director, 360.753.8499
Mark Barber, City Attorney, 360.753.8338

Background and Analysis:

Background and Analysis has not changed from first to second reading.

At the June 6, 2017 City Council Study Session, Stuart Elway of Elway Research presented the results of a recent resident voter opinion poll commissioned by the City. The Elway Poll asked residents to respond to a series of questions pertaining to housing and public safety. Mr. Elway reported there was strong support for a public safety package with nearly 8 in 10 respondents supporting the package.

The public safety package consists of funding law enforcement officers for the downtown walking patrol, community liaisons, code enforcement, a mental health response team, direct mental health services, and Community Court. The total estimated cost is approximately \$2.85 million.

Without additional revenue, the public safety services contemplated by this ballot measure cannot be funded. The public safety package may be funded through an ad valorem property tax levy-lid lift.

On June 20, 2017, Councilmember Cooper moved, seconded by Councilmember Bateman, to direct City staff to, among other issues, prepare an ordinance placing the public safety package on the November 2017 ballot. The motion passed by unanimous vote of the Council, with all Councilmembers present and voting.

Summary of the Ordinance

The attached proposed ordinance was prepared for Council review and will be updated or amended to reflect any subsequent additional input from bond counsel. The form and content of the ordinance is guided by relevant state law, staff and the City Attorney, working in cooperation with outside legal counsel, Nancy Neraas and Stephen DiJulio of Foster Pepper, PLLC, and has undergone bond counsel review.

The ballot title must conform to certain statutory requirements and is subject to a 75-word limit describing the measure. The proposed ordinance would place a measure on the November 7, 2017 ballot.

If approved by a majority of the voters within the City of Olympia, the public safety levy-lid lift measure would increase the City's regular property tax levy to a total authorized rate not to exceed \$2.71 per \$1,000. This is an estimated increase of \$0.45 per \$1,000 over the current levy of assessed valuation for collection beginning in 2018 and to use the 2018 levy amount to recalculate subsequent levy limits.

Neighborhood/Community Interests (if known):

The poll conducted by Stuart Elway reported strong resident support for a public safety package.

Options:

1. Approve the proposed ordinance and forward the ordinance to second reading.
2. Provide direction to delay action to 2018 or beyond.
3. Do nothing at this time.

Financial Impact:

Previous discussions about the public safety package have preliminarily discussed an increase of property taxes by \$0.45/\$1,000 (45 cents per \$1,000) of AV, which would generate an estimated \$2,850,000 per year in additional funding for public safety purposes. The estimated cost to the

owner of a \$250,000 home is approximately \$112.50/year or \$9.38 per month.

Attachments:

Proposed ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO REGULAR PROPERTY TAXES; PROVIDING FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF THE CITY AT A GENERAL ELECTION TO BE HELD ON NOVEMBER 7, 2017, OF A PUBLIC SAFETY PROPOSITION AUTHORIZING THE CITY TO LEVY REGULAR PROPERTY TAXES IN EXCESS OF THE LIMITATIONS OF RCW CHAPTER 84.55; AND SETTING FORTH THE TEXT OF THE BALLOT PROPOSITION.

WHEREAS, the Olympia City Council finds there is a need to provide public safety services that will require the hiring of police officers for the City’s walking patrol, other law enforcement personnel, police training and recruitment, a code enforcement officer, a community policing program, a policy manager, a mental health response team, for direct mental health services, and for Olympia’s Community Court, which services are in the best interest of the City and which will serve the residents of Olympia, improve public safety, and provide necessary services to the mentally ill; and

WHEREAS, RCW 84.55.050 provides for the levy of regular property taxes in an amount exceeding the limitations specified in Chapter 84.55 RCW if such increased levy is authorized by a ballot proposition approved by a majority of the voters at an election held within the taxing district (a “levy lid lift”); and

WHEREAS, the Olympia City Council has determined that it is in the best interest of the City and its residents to submit a levy lid lift proposition under RCW 84.55.050(1) to the voters for their approval or rejection;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Calling of Election. The Olympia City Council finds that it is in the best interests of the City to submit to the qualified voters of the City, at the general election to be held on November 7, 2017, a proposition authorizing the City to increase its regular property tax levy for collection in 2018 by an amount greater than otherwise permitted under Chapter 84.55 RCW for the purposes described in Section 2(a) herein. If this proposition is approved, the City Council will be authorized to adopt, in accordance with its regular budget process, an increased regular property tax as described in Section 2 herein.

Section 2. Purpose and Description of Ballot Proposition (the “Proposition”). For the purposes identified below, the Olympia City Council seeks voter approval under RCW 84.55.050 for a levy lid lift, as follows:

(a) **Purpose.** The amounts collected pursuant to the increase authorized by the Proposition shall be used to pay for the hiring of police officers for the City’s walking patrol, other law enforcement personnel, a code enforcement officer, a community policing program, a policy manager, police training and recruitment, a mental health response team, for direct mental health services, and for Olympia’s Community Court.

(b) Increase Authorized in 2017. The Proposition authorizes a maximum increase in the City's total levy rate to the maximum rate otherwise allowed for collection in 2018 under Chapter 84.55 RCW to finance public safety, law enforcement, code enforcement, mental health and Community Court services. This proposition would increase the City's regular property tax levy to a total authorized rate of not to exceed \$2.71 per \$1,000 (an estimated increase of \$0.45 per \$1,000 over the current levy) of assessed valuation for collection beginning 2018 and to use the 2018 levy amount to recalculate subsequent levy limits.

(c) Increase Authorized in Future Years. Pursuant to RCW 84.55.050(4), the dollar amount of the maximum authorized levy under Chapter 84.55 RCW for collection in 2018 and thereafter shall be used for the purpose of computing the limitations for subsequent levies provided for under Chapter 84.55 RCW, and such funds shall be limited to the purposes described in Section 2(a), above.

Section 3. Ballot Proposition. The Auditor of Thurston County, Washington (the "Auditor"), as *ex officio* supervisor of elections, is hereby requested to call and conduct an election in the City, in the manner provided by law, to be held on the date identified in Section 1, for the purpose of submitting to the voters of the City, a proposition in substantially the following form:

THE CITY OF OLYMPIA
PROPOSITION NUMBER 1

Public Safety Levy

The Olympia City Council adopted Ordinance No. ____ concerning property taxes for public safety, law enforcement, **police training and recruitment**, code enforcement, mental health services, and Community Court purposes.

To finance public safety, law enforcement, **police training and recruitment**, code enforcement, mental health and Community Court services, this proposition would increase the City's regular property tax levy to a total authorized rate of not to exceed \$2.71 per \$1,000 (an estimated increase of \$0.45 per \$1,000 over the current levy) of assessed valuation for collection beginning 2018 and to use the 2018 levy amount to recalculate subsequent levy limits. Should this proposition be:

Approved Rejected

Section 4. Notices Relating to Ballot Proposition. For purposes of receiving notice of the exact language of the ballot proposition required by RCW 29A.36.080, the Olympia City Council designates (1) the Administrative Services Director, Mary Verner, 360-753-8499, mverner@ci.olympia.wa.us; (2) the City Attorney, Mark Barber, 360-753-8223, mbarber@ci.olympia.wa.us; and (3) Foster Pepper PLLC, Nancy Neraas, 206-447-4400, neran@foster.com, as the individuals to whom such notice should be provided.

Section 5. Authorization to Deliver Ordinance and Perform Other Necessary Duties. The City Clerk is authorized and directed, no later than July 31, 2017, to certify a copy of this Ordinance to the Auditor and to perform such other duties as are necessary or required by law to the end that the Proposition described herein should appear on the ballot at the general election identified in Section 1 of this

Ordinance and any other acts taken after the passage of this Ordinance and consistent with its authority, are hereby ratified and confirmed.

Section 6. Severability. The recitals stated above constitute specific findings by the Olympia City Council in support of passage of this Ordinance. If any provision of this Ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, then such provision shall be null and void and shall be separable from the remaining provisions of this Ordinance, and said invalid provision shall in no way affect the validity of the other provisions of this Ordinance or of the levy or collection of the taxes authorized herein.

Section 7. Publication and Effective Date. This Ordinance shall take effect and be in force five (5) days after publication as provided by law.

PASSED by the Olympia City Council at a regular open public meeting thereof this ____ day of July, 2017.

CITY OF OLYMPIA

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO REGULAR PROPERTY TAXES; PROVIDING FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF THE CITY AT A GENERAL ELECTION TO BE HELD ON NOVEMBER 7, 2017, OF A PUBLIC SAFETY PROPOSITION AUTHORIZING THE CITY TO LEVY REGULAR PROPERTY TAXES IN EXCESS OF THE LIMITATIONS OF RCW CHAPTER 84.55; AND SETTING FORTH THE TEXT OF THE BALLOT PROPOSITION

WHEREAS, the Olympia City Council finds there is a need to provide public safety services that will require the hiring of police officers for the City's walking patrol, other law enforcement personnel, a code enforcement officer, a community policing program, a policy manager, a mental health response team, for direct mental health services, and for Olympia's Community Court, which services are in the best interest of the City and which will serve the residents of Olympia, improve public safety, and provide necessary services to the mentally ill; and

WHEREAS, RCW 84.55.050 provides for the levy of regular property taxes in an amount exceeding the limitations specified in Chapter 84.55 RCW if such increased levy is authorized by a ballot proposition approved by a majority of the voters at an election held within the taxing district (a "levy lid lift"); and

WHEREAS, the Olympia City Council has determined that it is in the best interest of the City and its residents to submit a levy lid lift proposition under RCW 84.55.050(1) to the voters for their approval or rejection;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. Calling of Election. The Olympia City Council finds that it is in the best interests of the City to submit to the qualified voters of the City, at the general election to be held on November 7, 2017, a proposition authorizing the City to increase its regular property tax levy for collection in 2018 by an amount greater than otherwise permitted under Chapter 84.55 RCW for the purposes described in Section 2(a) herein. If this proposition is approved, the City Council will be authorized to adopt, in accordance with its regular budget process, an increased regular property tax as described in Section 2 herein.

Section 2. Purpose and Description of Ballot Proposition (the "Proposition"). For the purposes identified below, the Olympia City Council seeks voter approval under RCW 84.55.050 for a levy lid lift, as follows:

(a) Purpose. The amounts collected pursuant to the increase authorized by the Proposition shall be used to pay for the hiring of police officers for the City's walking patrol, other law enforcement personnel, a code enforcement officer, a community policing program, a policy manager, a mental health response team, for direct mental health services, and for Olympia's Community Court.

(b) Increase Authorized in 2017. The Proposition authorizes a maximum increase in the City's total levy rate to the maximum rate otherwise allowed for collection in 2018 under Chapter 84.55 RCW to finance public safety, law enforcement, code enforcement, mental health and Community Court services. This proposition would increase the City's regular property tax levy to a total authorized rate of not to exceed \$2.71 per \$1,000 (an estimated increase of \$0.45 per \$1,000 over the current levy) of assessed

valuation for collection beginning 2018 and to use the 2018 levy amount to recalculate subsequent levy limits.

(c) Increase Authorized in Future Years. Pursuant to RCW 84.55.050(4), the dollar amount of the maximum authorized levy under Chapter 84.55 RCW for collection in 2018 and thereafter shall be used for the purpose of computing the limitations for subsequent levies provided for under Chapter 84.55 RCW, and such funds shall be limited to the purposes described in Section 2(a), above.

Section 3. Ballot Proposition. The Auditor of Thurston County, Washington (the "Auditor"), as *ex officio* supervisor of elections, is hereby requested to call and conduct an election in the City, in the manner provided by law, to be held on the date identified in Section 1, for the purpose of submitting to the voters of the City, a proposition in substantially the following form:

THE CITY OF OLYMPIA
PROPOSITION NUMBER 1

Public Safety Levy

The Olympia City Council adopted Ordinance No. _____ concerning property taxes for public safety, law enforcement, code enforcement, mental health services, and Community Court purposes.

To finance public safety, law enforcement, code enforcement, mental health and Community Court services, this proposition would increase the City's regular property tax levy to a total authorized rate of not to exceed \$2.71 per \$1,000 (an estimated increase of \$0.45 per \$1,000 over the current levy) of assessed valuation for collection beginning 2018 and to use the 2018 levy amount to recalculate subsequent levy limits. Should this proposition be:

____ Approved ____ Rejected

Section 4. Notices Relating to Ballot Proposition. For purposes of receiving notice of the exact language of the ballot proposition required by RCW 29A.36.080, the Olympia City Council designates (1) the Administrative Services Director, Mary Verner, 360-753-8499, mverner@ci.olympia.wa.us; (2) the City Attorney, Mark Barber, 360-753-8223, mbarber@ci.olympia.wa.us; and (3) Foster Pepper PLLC, Nancy Neraas, 206-447-4400, neran@foster.com, as the individuals to whom such notice should be provided.

Section 5. Authorization to Deliver Ordinance and Perform Other Necessary Duties. The City Clerk is authorized and directed, no later than July 31, 2017, to certify a copy of this Ordinance to the Auditor and to perform such other duties as are necessary or required by law to the end that the Proposition described herein should appear on the ballot at the general election identified in Section 1 of this Ordinance and any other acts taken after the passage of this Ordinance and consistent with its authority, are hereby ratified and confirmed.

Section 6. Severability. The recitals stated above constitute specific findings by the Olympia City Council in support of passage of this Ordinance. If any provision of this Ordinance or its application to any person or circumstance is held invalid by a court of competent jurisdiction, then such provision shall be null and void and shall be separable from the remaining provisions of this Ordinance, and said invalid provision shall in no way affect the validity of the other provisions of this Ordinance or of the levy or collection of the taxes authorized herein.

Section 7. Publication and Effective Date. This Ordinance shall take effect and be in force five (5) days after publication as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Approval of Ordinance Amending Olympia Municipal Code Chapter 9.08 Relating to Interference with a Public Meeting of the City of Olympia

Agenda Date: 7/18/2017
Agenda Item Number: 4.H
File Number: 17-0748

Type: ordinance **Version:** 1 **Status:** 1st Reading-Consent

Title

Approval of Ordinance Amending Olympia Municipal Code Chapter 9.08 Relating to Interference with a Public Meeting of the City of Olympia

Recommended Action

Committee Recommendation:

Not referred to a committee

City Manager Recommendation:

Move to approve on first reading and forward to second reading the Ordinance amending Olympia Municipal Code Chapter 9.08 relating to interference with a public meeting of the City of Olympia.

Report

Issue:

Whether to adopt an ordinance amending Olympia Municipal Code Chapter 9.08 to provide for a new misdemeanor offense related to interference with a public meeting of the City of Olympia.

Staff Contact:

Annaliese Harksen, Deputy City Attorney, Legal Department, 360.753.8003
Rocio Ferguson, Chief Criminal Prosecutor, Legal Department, 360.753.8043

Presenter(s):

Consent Calendar Item

Background and Analysis:

The City of Olympia typically provides an opportunity at each public meeting for members of the public to speak and voice concerns about pertinent issues. In the recent past, City Council and staff have been repeatedly interrupted at City meetings by certain members of the public who have been disruptive by speaking outside of public comment and making unreasonable noise, forcing meetings to adjourn and relocate to rooms that are not open to the public so that City officials can conduct City business. While moving a City meeting due to interruption is certainly allowed pursuant to RCW

42.30.050, it is inconvenient to the public and City Council, as well as to City staff. It also forces the meeting to a space that is not open to the public, which is contrary to the manner in which the Olympia City Council wishes to conduct the business of the City.

The proposed ordinance will allow the City Council and City staff to exclude from certain City locations those who engage in behavior that disrupts City meetings so as to allow those meetings to continue in a limited public forum. Definitions for “City Meeting” and “City Location” have been included in the proposed ordinance to assist with implementation of the new law. *The definition of “Official Detention” is only included here as it must be renumbered to make room for the new definitions. That definition relates to sections 9.08.030, 9.08.050, and 9.08.060 of the Olympia Municipal Code.*

Interference with a City meeting is a misdemeanor offense punishable by up to 90 days in jail and up to a \$1,000 fine.

Neighborhood/Community Interests (if known):

The community has an interest in being free from disruptive conduct at open public meetings of the City of Olympia.

Options:

1. Adopt the proposed Ordinance amending OMC Chapter 9.08 relating to interference with a public meeting of the City of Olympia
2. Do not adopt the proposed Ordinance
3. Instruct staff to make changes to the proposed Ordinance and bring it back to Council for reconsideration

Financial Impact:

None

Attachments:

Ordinance

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, AMENDING DEFINITIONS AND ADDING A SECTION TO OLYMPIA MUNICIPAL CODE CHAPTER 9.08 RELATING TO INTERFERENCE WITH A PUBLIC MEETING OF THE CITY OF OLYMPIA

WHEREAS, the City of Olympia is committed to open civil discourse on a variety of issues important to the public and the business of the City; and

WHEREAS, the City of Olympia typically provides an opportunity at each public meeting for members of the public to speak and voice concerns that they may have or to discuss the City's actions or position on issues in a limited public forum; and

WHEREAS, the City Council, Council Committees and staff at other public City meetings have an interest in hearing from members of the public on the issues important to them in a limited public forum; and

WHEREAS, the City has developed rules and decorum that allow persons to speak so as to be fair to all who wish to be heard, yet in a manner that is civil and does not interrupt or intimidate others who may also wish to speak; and

WHEREAS, the City has a significant interest in maintaining order at City meetings for the safety of all those present and in order for the City to proceed with City business; and

WHEREAS, the City Council and City staff and committee members have, unfortunately, been interrupted in the course of attempting to conduct open public meetings, forcing the relocation of such meetings to spaces that are not open to the public to enable them to finish conducting City business, in accordance with RCW 42.30.050; and

WHEREAS, the City Council believes it must enact an ordinance that will allow the City to exclude from public meetings those who engage in behavior that disrupts and delays meetings or that may cause people to fear for their safety or the safety of others, causing those meetings to be moved in order to continue with the work of the City; and

WHEREAS, the City Council wishes to comply with the law and to hold its meetings for the benefit of all members of the public who wish to communicate in a manner in which all persons may be heard, without fear of such meeting being taken over by persons whose sole purpose appears to be to disrupt the City's meetings, preventing other citizens from expressing their respective viewpoints;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES ORDAIN AS FOLLOWS:

Section 1. Amendment of OMC 9.08. Olympia Municipal Code Chapter 9.08 is hereby amended by adding a NEW SECTION 9.08.100, Interference with a City Meeting, to read as follows:

Chapter 9.08 OFFENSES AGAINST GOVERNMENT

9.08.000 Chapter Contents

Sections:

- 9.08.010 Definitions.
- 9.08.020 Obstructing a public servant or officer.
- 9.08.025 Making a false or misleading statement to a public servant.
- 9.08.030 Hindering a law enforcement official.
- 9.08.040 Resisting arrest.
- 9.08.050 Rescue from official detention.
- 9.08.055 Introducing contraband into jail.
- 9.08.060 Escape.
- 9.08.065 Bail Jumping.
- 9.08.070 False reporting.
- 9.08.080 Refusing to summon aid for a police officer.
- 9.08.090 Misrepresentation as policeman.
- 9.08.100 Interference with a City Meeting

9.08.100 Interference with a City Meeting.

(a) A person is guilty of Interference with a City Meeting when he/she:

Alone or in concert with others, knowingly and unreasonably disturbs, disrupts or interferes with any City Meeting held at a City Location by (A) engaging in violent, tumultuous, intimidating or threatening behavior; or (B) using abusive or obscene language; or (C) continuously or repeatedly yelling, shouting or making unreasonable noise; or (D) performing any other act which unreasonably disturbs, disrupts, or interferes with a City Meeting; or (E) refusing to comply with a lawful order to leave a City Location after having been given such order by police, or by the City of Olympia Mayor, Councilmembers, staff, or volunteers who are presiding over a City Meeting.

(b) Interference with a City Meeting is a misdemeanor.

Section 2. Amendment of Olympia Municipal Code Section 9.08.010, Definitions, is hereby amended to read as follows:

9.08.010 Definitions

For the purposes of this chapter, ~~Official detention" means:~~ the words below are defined as follows:

1. "City Location" means: Olympia City Council chambers, Olympia City Hall, the Olympia Center, or any other building or room(s) under the immediate control of City of Olympia councilmembers, staff, or volunteers in or adjacent to which a City Meeting is being held.
2. "City Meeting" means: An open public meeting held by City of Olympia councilmembers, staff, or volunteers for the purpose of conducting city business.

3. "Official detention" means:

- A. Restraint pursuant to a lawful arrest for an offense; or
- B. Lawful confinement in the city jail; or
- C. Custody for purposes incident to the foregoing, including but not necessarily limited to:
 - 1. Transportation, or
 - 2. Medical diagnosis or treatment, or
 - 3. Court appearances, or
 - 4. Work and recreation.

Section 3. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 5. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 6. Effective Date. This Ordinance shall take effect thirty (30) days after passage and publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:



City Council

Consideration of a Proposed Cultural Arts, Stadium and Convention Center District

Agenda Date: 7/18/2017
Agenda Item Number: 6.A
File Number: 17-0757

Type: resolution **Version:** 1 **Status:** Other Business

Title

Consideration of a Proposed Cultural Arts, Stadium and Convention Center District

Recommended Action

Committee Recommendation:

Not referred to a committee.

City Manager Recommendation:

Move to consider the proposed resolution, which would remove the City of Olympia from the Cultural Arts, Stadium and Convention Center District proposed by Thurston County.

Report

Issue:

Whether the City of Olympia should remain in the proposed Cultural Arts, Stadium and Convention Center District.

Staff Contact:

City Manager, Steve Hall - 360-753-8370

Presenter(s):

City Manager, Steve Hall

Background and Analysis:

On June 13, 2017, the Thurston County Commissioners sent a letter to Thurston County jurisdictions proposing the creation of a Cultural Arts, Stadium, and Convention Center District (District) to study and potentially authorize a regional convention center pursuant to RCW 67.38. The City's options are to do nothing and be part of the proposed District pending voter approval in the November General Election. Alternatively, the City may opt out of the District by passage of a resolution and notification to the Board of County Commissioners prior to July 25. The attached resolution would indicate the City opting out of the potential District.

On July 11, the City of Yelm voted to opt out. The City of Tumwater is proposing to opt out on July 18 and the City of Lacey is proposing to opt out on July 13 or 20. While the proposed district would create economic opportunity and jobs, the statute used to create the district is very rigid and allows

little time for discussion with the Visitors and Convention Bureau, Economic Development Council and others before acting.

On July 14, the Mayor, on behalf of the Olympia City Council sent a letter to the Thurston County Board of Commissioners requesting that they slow down the process by withdrawing their current resolution to create a district.

If the County chooses to move ahead, staff recommends the City opt out.

Neighborhood/Community Interests (if known):

n/a

Options:

1. Do not pass the resolution and remain in the district.
2. Pass the resolution and opt out.

Financial Impact:

There are no direct fiscal impacts associated with the resolution. The district would be able to levy its own funding on Olympia taxpayers.

Attachments:

Resolution
Thurston County Commissioners June 13, 2017 Letter

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, REQUESTING DELETION OF THE CITY OF OLYMPIA FROM THE BOUNDARIES OF THURSTON COUNTY'S PROPOSED CULTURAL ARTS, STADIUM AND CONVENTION DISTRICT

WHEREAS, chapter 67.38 of the Revised Code of Washington (RCW) provides authority for a county to initiate the creation of a cultural arts, stadium and convention district by adoption of a resolution calling for a public hearing and delineating proposed boundaries of the district; and

WHEREAS, the Olympia City Council has received notice from the Thurston County Commissioners pursuant to RCW 67.38.030 of their proposal to create a cultural arts, stadium and convention district, setting a public hearing for July 25, 2017, and delineating the boundaries to include all of Thurston County, including the City of Olympia; and

WHEREAS, a city may request its area be deleted from the proposed cultural arts, stadium and convention district if before the date of the public hearing a resolution is adopted and forwarded to the county authority; and

WHEREAS, following the public hearing, Thurston County may adopt a resolution setting the boundaries of the proposed district and submitting a proposal to the voters within those boundaries within two years of adoption of said resolution; and

WHEREAS, although the concept of a regional cultural arts, stadium and convention district could have economic benefits to the City of Olympia and the surrounding areas in terms of increased tourism and employment, the Olympia City Council believes that further discussion and information, such as an economic study, is needed before proceeding; and

WHEREAS, the Olympia City Council finds that at this time it is in the best interests of its residents to exclude the City of Olympia from the proposed boundaries of a cultural arts, stadium and convention district;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Olympia City Council directs the Thurston County Commissioners to remove the corporate limits of the City of Olympia from the boundaries of the proposed cultural arts, stadium and convention district as identified in Thurston County Resolution No. 15476.

Section 2. Ratification. Any act consistent with the authority and prior to the effective date of this Resolution is hereby ratified and affirmed.

Section 3. Severability. The provisions of this Resolution are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Resolution or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the Resolution, or the validity of its application to other persons or circumstances.

Section 4. Effective Date. This Resolution shall become effective immediately upon adoption and signature as provided by law.

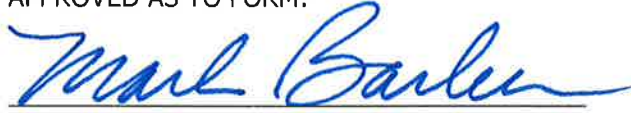
PASSED BY THE OLYMPIA CITY COUNCIL this _____ day of _____ 2017.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY



COUNTY COMMISSIONERS

John Hutchings

District One

Gary Edwards

District Two

Bud Blake

District Three

BOARD OF COUNTY COMMISSIONERS

June 13, 2017

The Honorable Cheryl Selby, Mayor of Olympia
and Members of the Olympia City Council

P.O. Box 1967

Olympia, WA 98507-1967

Dear Mayor Selby and Members of the City Council:

The Thurston County Board of County Commissioners (BoCC), acting in their legislative authority, is hereby providing notice to the City of Olympia per RCW 67.38 of the proposed creation of a cultural arts, stadium, and convention district, inclusive of all Thurston County areas. The main objective of this new district, if approved by the voters, will be to implement a regional convention center.

On June 6th, 2017, the BoCC passed Resolution No. 15476 (attached) setting a public hearing that will take place on July 25th, 2017 at 5:30 p.m. in Building 1, Room 280 of the County Courthouse Campus to receive public comment on the creation of this district.

Under RCW 67.38.030, the City of Olympia will participate in the creation of the cultural arts, stadium, and convention center district, and hold a seat on its governing board; or may opt out by submitting a copy of an adopted resolution requesting its deletion from the proposed district. Accordingly, if Olympia chooses to opt out, this request must be submitted to the BoCC before July 25th, 2017. If no response is received, the City of Olympia will automatically be included in the district.

Per RCW 67.38.050, members of the governing body may only consist of a combination of council members, mayors or county elected officials located within the proposed cultural arts, stadium, and convention district. No governing body may consist of more than nine voting members.

The following is a general timeline for the process:

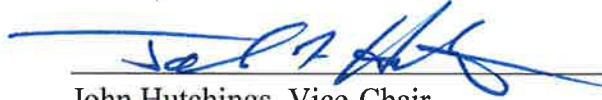
- BoCC resolution setting the public hearing– June 6, 2017
- Public hearing – July 25, 2017
- BoCC resolution approving a ballot measure - August 1, 2017
- Submission of ballot measure to the Thurston County Auditor – August 4, 2017
- Ballot measure up for vote – General Election November 8, 2017

Thank you in advance for your support of this very important regional economic development effort.

Sincerely,



Bud Blake, Chair



John Hutchings, Vice-Chair



Gary Edwards, Commissioner

Resolution No. 15476

A RESOLUTION of the Thurston County Board of County Commissioners calling for a public hearing on the proposed creation of a cultural arts, stadium, and convention district pursuant to chapter 67.38 RCW.

WHEREAS, it is the policy of the Thurston County Board of County Commissioners (BOCC) to promote and facilitate the orderly development and economic stability of the communities within Thurston County; and

WHEREAS, local governments need the ability to raise revenue to finance public improvements that are designed to encourage economic growth and development in their communities; and

WHEREAS, the lack of public improvements, such as convention centers, hinders the economic vitality of Thurston County, and the surrounding region; and

WHEREAS, the development of public improvements to support cultural arts, stadium and convention services will encourage investment in job-producing private development and expand the public tax base in Thurston County; and

WHEREAS, chapter 67.38 RCW provides the authority to create a cultural arts, stadium and convention district and the means to finance the construction of necessary public improvements to support cultural arts, stadium and convention services in accordance with a local economic comprehensive plan; and

WHEREAS, a cultural arts, stadium and convention district may be initiated by the BOCC through adoption of a resolution calling for a public hearing on the proposed creation of such a district and delineating proposed boundaries; and

WHEREAS, within sixty days of the adoption of such resolution calling for a public hearing the BOCC shall hold a public hearing on the proposed creation of such district; and

WHEREAS, at the conclusion of the public hearing and within two years of the public hearing, the BOCC may adopt a second resolution to submit a proposition to the voters of the proposed district to create a cultural arts, stadium and convention district; and

WHEREAS, the district shall be created upon approval of the proposition by simple majority vote; and

WHEREAS, the BOCC finds that the creation of a cultural arts, stadium and convention district is in the public interest and that the area included with the district can reasonably be expected to benefit from its creation.

NOW THEREFORE BE IT RESOLVED the Thurston County Board of Commissioners calls for a public hearing on July 25, 2017 on the proposed creation of a cultural arts, stadium and convention district, whose boundaries will be coextensive with the boundaries of Thurston County, for the development of public improvements to support cultural arts, stadium or convention services.

ADOPTED: June 16, 2017

BOARD OF COUNTY COMMISSIONERS
Thurston County, Washington

ATTEST:

LaBonita J. Boymer
Clerk of the Board

Bud Blake
BUD BLAKE, Chair

Approved as to form:

John Hutchings
JOHN HUTCHINGS, Vice-Chair

JON TUNHEIM
PROSECUTING ATTORNEY

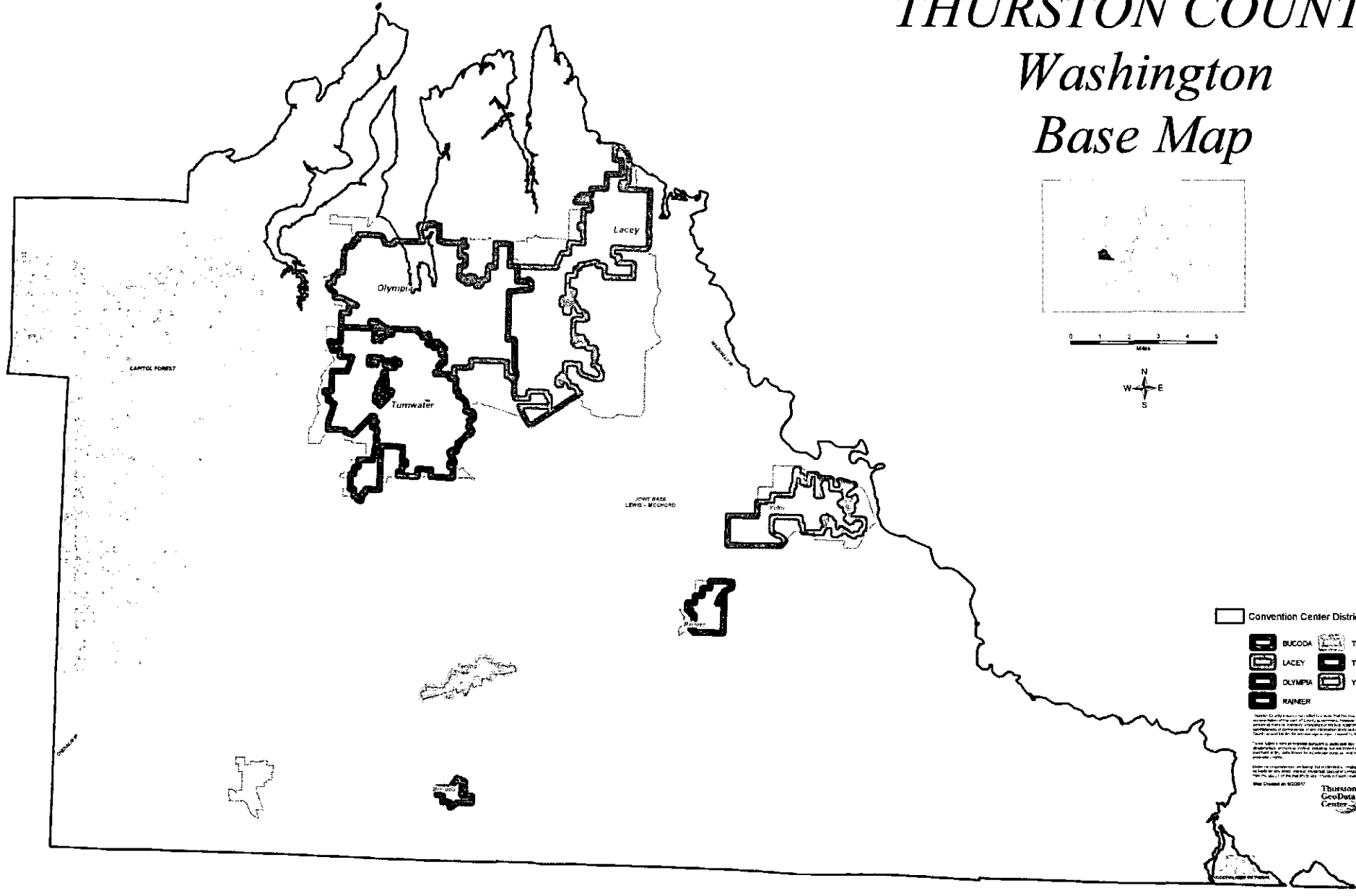
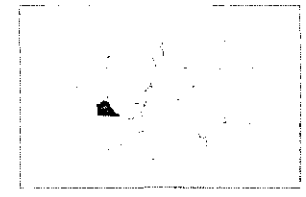
Gary Edwards
GARY EDWARDS, Commissioner

By: Elizabeth Petrich

THURSTON COUNTY

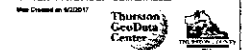
Washington

Base Map



- Convention Center District Boundary
- BUCODA
- LACEY
- OLYMPIA
- RAINIER
- TENINO
- TUMWATER
- YELM

This map is a general reference map and does not constitute a warranty of accuracy. The map is based on the best available information and is subject to change without notice. The map is not intended for use in any legal proceeding. The map is the property of the Thurston County Auditor and is loaned to you for your information only. It is not to be reproduced or distributed without the written consent of the Thurston County Auditor.





City Council

Briefing on the Preliminary 2018-2023 Capital Facilities Plan (CFP)

Agenda Date: 7/18/2017
Agenda Item Number: 6.B
File Number: 17-0743

Type: report **Version:** 1 **Status:** Other Business

Title

Briefing on the Preliminary 2018-2023 Capital Facilities Plan (CFP)

Recommended Action

Committee Recommendation:

The Finance Committee was briefed on the Preliminary 2018-2023 CFP on July 12. There are no recommendations to forward at this time.

City Manager Recommendation:

Receive the briefing and concur with forwarding the Preliminary CFP to the Planning Commission for review, hearing, and comment.

Report

Issue:

Whether to forward the Preliminary 2018-2023 CFP to the Planning Commission for review, hearing, and comment.

Staff Contact:

Mary Verner, Administrative Services Director, 360.743.8499

Presenter(s):

Mary Verner, Administrative Services Director

Background and Analysis:

Each year, the City Manager presents an updated six-year Capital Facilities Plan (CFP) to City Council for adoption. Capital planning involves determining when and where capital investments are needed, and how much they will cost to construct and maintain. The CFP must be balanced so that revenues received will realistically pay for projects proposed in the plan.

The City of Olympia collects impact fees not only for City Parks and Utilities, but also for the Olympia School District. So the School District's CFP must be incorporated into the City's CFP document before final adoption. In addition, any Thurston County projects within the boundaries of the Olympia Urban Growth Management Area are to be included in the final CFP document for reference.

Neighborhood/Community Interests (if known):

The Planning Commission will review the Preliminary CFP in depth to evaluate whether the proposed capital projects are consistent with, and further the policies and goals of, the Comprehensive Plan. The CFP is of interest to the Utility Advisory Committee, Bicycle and Pedestrian Advisory Committee, Parks and Recreation Advisory Committee, Olympia Metropolitan Parks District Board, neighborhood associations, and members of the public.

Options:

1. Forward the Preliminary CFP to the Planning Commission for review and comment.
2. Amend the Preliminary CFP prior to submitting to the Planning Commission for review and comment.

Financial Impact:

The 2018-2023 CFP totals \$144,404,126 in investments over the six-year planning period, a more than 2 percent increase over the 2017-2022 plan. The capital budget for 2018 alone is \$23,338,466. Revenue sources dedicated to capital projects include: voted and non-voted utility tax on private utilities, Real Estate Excise Tax (REET), OMPD property taxes, TBD vehicle tab fees, impact fees, utility rates, and grants.

As in the current 2017-2022 CFP, the largest single increase is in Parks funding and projects. Over \$11 million of Olympia Metropolitan Park District (OMPD) funds will be invested in Parks capital projects over the next six years. Street repairs also receive an infusion of funds in this CFP. Approximately \$9.1 million will be collected over the next six years from vehicle license tab fee renewals at the \$40 per vehicle rate. These tab fees will be invested to improve the condition of streets throughout the city.

Attachments:

None. Copies of the Preliminary CFP will be distributed to Councilmembers at the meeting and will be posted on the City's website for online access and viewing on or around July 21.