

**Planning Commission Meeting
June 4, 2019 - 7:00 PM**

AGENDA

I. CALL TO ORDER

- A. ROLL CALL/ESTABLISHMENT OF QUORUM**
- B. PLEDGE OF ALLEGIANCE**

II. PUBLIC HEARINGS

III. APPROVAL OF MINUTES

- A. May 7, 2019 Draft Minutes from the Planning Commission Regular Meeting

IV. OTHER BUSINESS

A. Proposed Zoning Code Amendment Application for Inland Constuction

Proposed changes to three sections of the zoning code; the chapter dealing with the Planned Action (ACC 18.08)—this is provision that deals with the SEPA processing, the development standards of the C-4, Mixed Use Commercial zoning district (ACC 18.23), and the chapter on performance standards associated with mixed use development (ACC 18.57).

B. Shoreline Master Program and Critical Areas Ordinance Updates

Review proposed amendments to the SMP and City's critical area regulations.

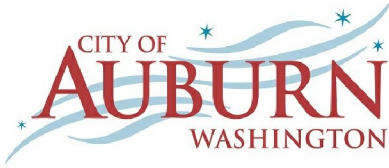
V. COMMUNITY DEVELOPMENT REPORT

Update on Community Development Services activities.

VI. ADJOURNMENT

The City of Auburn Planning Commission is a seven member advisory body that provides recommendations to the Auburn City Council on the preparation of and amendments to land use plans and related codes such as zoning. Planning Commissioners are appointed by the Mayor and confirmed by the City Council.

Actions taken by the Planning Commission, other than approvals or amendments to the Planning Commission Rules of Procedure, are not final decisions; they are in the form of recommendations to the city council which must ultimately make the final decision.



AGENDA BILL APPROVAL FORM

Agenda Subject:

May 7, 2019 Draft Minutes from the Planning Commission
Regular Meeting

Date:

May 22, 2019

Department:

Community Development

Attachments:

[May 7, 2019 Draft minutes from the Planning
Commission Regular Meeting](#)

Budget Impact:

Current Budget: \$0
Proposed Revision: \$0
Revised Budget: \$0

Administrative Recommendation:

Planning Commission review and approve the May 7, 2019 regular meeting minutes.

Background Summary:**Reviewed by Council Committees:****Councilmember:****Staff:**

Dixon

Meeting Date: June 4, 2019

Item Number:



May 7, 2019
MINUTES

I. CALL TO ORDER

Chair Judi Roland called the meeting to order at 7:01 p.m. in the Council Chambers located on the first floor of Auburn City Hall, 25 West Main Street, Auburn, WA.

a.) ROLL CALL/ESTABLISHMENT OF QUORUM

Planning Commission Members present were: Chair Judi Roland, Commissioner Mason, Vice-Chair Lee, Commissioner Moutzouris, Commissioner Khanal, Commissioner Stephens was excused.

Staff present included: Planning Services Manager Jeff Dixon, Senior Planner Thaniel Gouk, Senior Planner Dustin Lawrence and Community Development Administrative Assistant Jennifer Oliver.

Members of the public present: John Fisher with Inland Construction, Scott Morris with Inland Construction, Rick Mraz with WA State Dept. of Ecology, Neil McLited with WA State Dept. of Ecology.

b.) PLEDGE OF ALLEGEANCE

II. APPROVAL OF MINUTES

A. April 2, 2019

Administrative Assistant Jennifer Oliver informed the Commission that In the April 2, 2019 minutes Under "Roll Call/Establishment of Quorum" it stated that Commissioner Shin was present, when in fact he had resigned. Commissioner Khanal was also added to the Roll Call. The minutes have been adjusted accordingly.

Commissioner Khanal moved and Commissioner Lee seconded to approve the minutes from the April 2, 2019 meeting as corrected.

MOTION CARRIED UNANIMOUSLY. 5-0

III. PUBLIC HEARING

No items brought forward

IV. OTHER BUSINESS

A. Inland Construction Introduction and Presentation

Inland Construction to inform Planning Commission of potential acquisition of RPG property.

Planning Services Manager, Jeff Dixon provided background information that would be useful for the Commission. Inland Construction is interested in acquiring the Robertson Properties Group (RPG) property holdings, which is the former Valley Six Drive-In site and a few adjacent parcels. The total site is approximately 70 acres. The City has been looking forward to development of this particular property for some time. A development agreement was approved by Council in 2011. The agreement allowed flexibility for the developer as well as some relief of City standards in exchange for the City to get higher quality development. Discussions are in the early stages with Inland Construction. City Staff has met with Inland on several occasions for multiple hours to discuss the development, the vision and working towards additional approvals needed. Zoning Code changes could come before the Planning Commission over the next several meetings. Because of future actions, it was important for the Planning Commission to meet and hear from Inland Construction. Staff showed the Commission 2 maps and explained that complicating the development proposal for the site is a future floodplain map change by the Federal Emergency Management Agency (FEMA). The Commission asked staff to point out exactly where the old theater was on the map to better understand the layout of the site. Chair Roland asked if the name would continue to be "Auburn Gateway". Staff replied that has been the name used by RPG, so it has continued in use, it also could be subject to change.

Staff noted that some of the approvals will require consideration and action on a recommendation by the Planning Commission. So far staff has identified that project changes will necessitate changes to three sections of the zoning code; the chapter dealing with the Planned Action (ACC 18.08)—this is provision that deals with the SEPA processing, the development standards of the C-4, Mixed Use Commercial zoning district (ACC 18.23), and the chapter on performance standards associated with mixed use development (ACC 18.57).

Scott Morris from Inland Construction gave a brief description of the company Inland Construction and its types of developments. The company is from Spokane. Inland has properties it has developed throughout the Western United States and half of their properties are in Washington. Many of those properties are along the I-5 Corridor. Mr. Morris indicated they will be long-term owners of the property and are excited for the opportunity to work with the City of Auburn. The site is the subject of a development agreement from 2011, it was discovered that particular agreement from 2011 was meant to expedite development but has not had that result. Inland is hoping to expedite the development process.

John Fisher from Inland Construction indicated that they have been working with staff for several months and put together a good vision for the project: same commercial and residential land use space but with horizontal mixed use. Healthy life style is a focus and vision. The residential component will be to the south, and commercial to north. This will be connected through the "heart" which is a gathering open space area for the community. Their focus is amenity rich living, which consist of trails, pools, garden space (See the Inland presentation) Create activity space that will draw people to come to Auburn. Inland's goal for Commercial space would consist of community-based businesses such as Gosankos, a brewery, and local businesses. There is also a summer outdoor theater event space that consist of a grassy area that could hold summer concerts, outdoor movies, food trucks and so on. It is a goal to create a destination for businesses to thrive once they are there.

Residences: Copper Gate is the residential space for the Auburn Gateway project. Larger apartments with 3 and 4 bedroom options is a priority. CPTED Designs and landscape as well as interior and exterior energy efficient and environmentally friendly residences. May have a place for animals such as an off leash park integrated into the space based on feedback from Council. Feedback from the Planning Commission as well as staff on any ideas for the new area is also welcomed.

In order to achieve all of the ideas and plans, Inland Construction is asking for some changes to the development agreement and text changes to the zoning code. They are not trying to change the intent of the project, just want to make minor changes and add more flexibility for both vertical and horizontal configuration as a way to achieve what can be executed.

The Commission asked who would build the retail space that would be available at the site. Inland stated that they have not actively marketed the retail portion yet as it is still a little premature but they would build the residences and could possibly build the commercial space, as they are also a general contractor. However, there was not a decision on that at this time. It would depend on the commercial companies coming in and what they are seeking. As the owner, they are heavily involved with the asset management and the management in general of their communities.

Chair Roland asked if a business were to come in can, they buy that part of the property and Inland confirmed that they could.

Commissioner Khanal questioned if any of the housing being built will be affordable housing. Inland confirmed yes, the project is receiving financial incentives based on it being affordable housing.

The Commission also asked about the timeline and Inland stated the first part of December 2019 the goal was to take over and purchase the site. Spring 2020 will be full construction. First building turn over would be fall of 2020

Commissioner Mason stated that she feared local business's would vacate or be drawn away from the downtown core by this new Gateway site. Inland stated that they also had concerns about that as well. They reassured that the downtown Auburn area is attracting new development and working really well. Inland does not want to take away businesses and the vitality of the downtown core. They would like to see a horizontal component added to this new site to give a new look and feel.

The Commission asked what is the comparison to the original footprint in the RPG plan to Inland's plan and how does this relate to the amount of resulting traffic. Does it match or is it less or more, possibly the same? Mr. Fisher replied that the development proposal is for less development overall. 500 dwelling units allowable was previously studied. The amount of future retail space is depending on the FEMA floodplain zone, 90,000 to 200,000 square feet of retail depending on full build out is estimated. Traffic impact analysis is showing roughly a fifth of the original anticipated full build out when it comes to peak PM traffic counts.

Vice Chair Lee asked would that change the infrastructure work that was planned for the site in the RPG proposal compared to what Inland is proposing in terms of the local area. Mr. Fisher replied that Inland understands the City's desire for improvements for the 49th Street and the I street NE connection. Completing these is anticipating as part of our development. In areas outside of the focus of development, downstream patterns were not impacted as much as the original plan. The discussion of off-site improvements such as traffic signals and where they are installed is something they are working on with the City staff, currently.

The Commission asked if there has been any discussion or meetings with the Auburn School District. Mr. Fisher stated that planning and efforts to start outreach will begin for those discussions with the district.

Commissioner Khanal inquired while building the infrastructure; will there be energy efficient lights, off-site and on-site? Inland responded that yes, there are illumination requirements for off-site and how the lights do not impact neighbors. There will be energy efficient lights installed off-site and on-site.

Chair Roland stated that there is a tight time frame to be able to close on the property in order for decision made by Council and Planning Commission. Inland stated they are working with City Staff on scheduling meetings with Planning Commission and Council next month.

Mr. Scott spoke on the state bond allocation that has to be used this year. If it not used, it goes away. Large allocation for this project, which is causing the steps to

go at a quick pace. June 21st is City Council meeting for final decision on the project. If final decision is met by Council that week, permit applications will be submitted that same week.

The Commission stated they know the community has been waiting a long time for redevelopment of the site. Chair Roland thanked them for coming in and looked forward to meeting with them in the coming months.

B. Shoreline Master Program and Critical Areas Ordinance Updates.

Discuss with the Commission the status of the SMP update and present information on associated updates to the City's critical area regulation.

Senior Planner, Thaniel Gouk explained the handouts that were provided at the meeting for the Commission and their relationship to the Shoreline Master Program Periodic Update. He said the commission knows that the first draft of SMP was sent to WA State Dept. of Ecology (DOE) for initial review. In response, DOE needed to look at our Critical Areas Ordinance, which is part of the SMP adopted in 2009 and is now out of date. As a result, the City has had to also consider changes its critical areas code. Both, the SMP and critical areas code will go to DOE for the final approval prior to adoption. Without changes to the critical areas code, there is greater likelihood it can be appealed. The due date for the SMP update will now extend past the original June 30th deadline to endure that staff can properly review and include the City's Critical Areas Ordinance (CAO). In the distributed memo, staff proposed a schedule for the Planning Commission that would consist of review of chapters 1-2 of the SMP, discuss wetland and stream buffers, and a presentation from Mr. Rick Mraz from the Washington State Dept. of Ecology on wetland buffers.

The Planning Commission meetings in June, July, and August will include review of Chapters in the SMP, review remaining SMP documents, and review the first and second portion of the critical areas code. Staff also noted that a Public Hearing for SMP and critical areas code will be held in August and possibly a public open house prior to August.

Senior Planner Gouk explained the nature of changes that will be required to the critical areas code. He indicated there is a common element of changes to both the critical areas of streams and wetland, which is the buffers standards. Buffers protect critical areas by providing a natural area between the development and the particular critical area. The Commission asked staff if a proposed buffer would consist of vegetation was already there or would more have to be added. Staff explained that in many circumstances further enhancement for the wetland buffer is required. Among other changes, staff has proposed a code change to reference the methodology that is used in the field to identify and locate the wetland. Also proposed is a change to the wetland rating system that is used to

determine the classification of the wetland and thus the appropriate wetland buffer width. A handout to the Commission shows the existing and proposed wetland buffer widths. At the June 4th Planning Commission meeting Staff will present the proposed changes to the Chapters 4-6 of the SMP and the first portion of the proposed changes to the critical areas code.

The scope of critical area code changes affecting wetlands will become clearer after the presentation by Rick Mraz from the Dept. of Ecology.

Mr. Mraz explained that wetland are areas that are wet enough for a long enough period of time during the growing season that the soils are low in oxygen and only plants that can handle the wetness and lack of oxygen can grow there. All counties and cities are required to designate and protect critical areas functions and values by the State Growth Management Act (GMA). SMA Requires that critical areas within the jurisdiction of the SMA will be governed by the Shoreline Management Act. Each county and city adopts development regulations that protect critical areas that are required to be designated under state RCW code. Wetland functions consist of storing water during flood events and recharge groundwater during low flows. Wetlands remove pollutants, and provide habitat for animals and plants. Landowner incentives, public restoration, regulation, and permitting protects wetlands. Buffers are critical to maintaining wetlands and their functions.

Chair Roland asked if the buffers are just applied to properties being developed. Thaniel stated that yes, in the majority of instances buffer are identified as part of development-related action but there is a small number of instances that come to the city's attention where a property owner is adversely affecting a critical areas or buffer such as when homeowners contact the City when there are issues on their property.

V. COMMUNITY DEVELOPMENT REPORT

Planning Services Manager, Jeff Dixon asked if the Commission has any questions on any new projects they observed going on around the City.

Commissioner Joan Mason asked about the Hotel that will be built on the Muckleshoot Indian tribe property.

Staff responded that the hotel would be built on tribal land. The City does not have jurisdiction for properties in Tribal trust status however they requires city utility services and often times the Tribe will come to the city voluntarily for permits, and to make sure what they are building is built to code. The commission noted that because of SR 164, there will be a need to look into traffic impact. In the past, they have come to us but it is not certain at this time if they will work with the City.

The Commission inquired about earthwork observed at the Shell Gas station. Staff stated there is a project to rebrand the station as a 7-11 and to replace underground fuel storage tanks.

Chair Roland inquired if there were proposals for the Eagles Lodge property (M ST SE) and if so, what will be developed. Staff at this time, did not know of any new plans for that site.

Planning Services Manager Jeff Dixon confirmed Monday, May 13th at 5:30 is planned for the joint PC/City Council Study Session. He explained how the meeting would proceed and handed out an agenda bill that was provided to City Council and a listing of agenda topics items from past meetings of the Planning Commission. He indicated topics of discussion could include the Comprehensive Plan, issues that are commonly brought up by the public/neighbors, and any shared interest between the two groups.

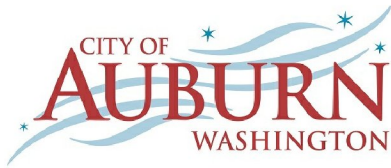
The Commission stated that many residents ask them what is happening around town and at times the Commission doesn't have knowledge on that particular project happening. In addition, Staff suggested that in response to their previous request for economic development information, Doug Lein from Economic Development could present at one of the future Planning Commission meetings to address some of those questions.

Staff mentioned to the Commission that the Inland Construction project is moving fast and that a public hearing will need to be scheduled. It was certain what the code changes were at this time, He inquired about the possibility to do have two meetings in June. The Commission asked for an email to be sent out asking who can attend the second meeting in June to determine if a quorum will be established.

The July 2 Planning Commission will more than likely be changed due to the holiday.

VI. ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 9:22 p.m.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Proposed Zoning Code Amendment Application for Inland
Constuction

Date:

May 28, 2019

Department:

Community Development

Attachments:

[Memorandum and Exhibits](#)

[Exhibit 1 - Combined ZOA Changes for PC](#)

[Exhibit 2 - Future Exhibit to Ordinance XX](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:**Background Summary:**

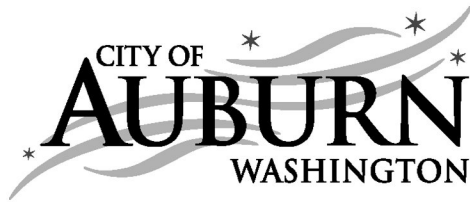
Please see attached Memorandum

Reviewed by Council Committees:**Councilmember:****Staff:**

Dixon

Meeting Date: June 4, 2019

Item Number:



MEMORANDUM

TO: Judi Roland, Chair, Planning Commission
Roger Lee, Vice-Chair, Planning Commission
Planning Commission Members

FROM: Jeff Dixon, Planning Services Mgr., Dept. of Community Development.

DATE: May 23, 2019

RE: Introductory Discussion of Zoning Code Amendments for Inland Construction LLC Development and the Auburn Gateway Project, City File No. REZ19-0002

ISSUE IDENTIFICATION

Inland Construction LLC ("Inland"), on May 17, 2019 filed an application (ZOA19-0002) for a zoning code text amendment to affect changes to three provisions of the zoning code as part of the various approvals needed for the proposed 'Auburn Gateway Project'. This project was previously proposed by Robertson Properties Group (RPG) for redevelopment of the former Valley 6 Drive-In Theater site associated with the parcels that RPG had acquired in Northeast Auburn and was the subject of a previously executed Development Agreement (DA) with the City. The project site is approximately 70 acres.

In summary, the following zoning code changes have been identified as needed for the revised proposal:

- **ACC 18.08 Change to Planned Action Ordinance (PAO)** This is a separate code chapter that is specifically for this development proposal and is being modified for project changes. Such changes include:
 - o Allowing horizontal integrated mixed use in addition to vertical integrated mixed use.
 - o Recognizing the preparation of additional environmental review documents
 - o Any other project changes and associated mitigation measures (Amending Exhibit 1 to the original Ordinance No. 6382, Planned Action Ordinance)
- **ACC 18.23 Commercial and industrial zones**
 - o Unique zoning of C-4, Mixed Use Commercial to be changed to also allow horizontal integrated mixed use in addition to vertical integrated mixed use.
 - o To allow an "outdoor recreation use for profit" as an allowed use subject to an administrative use permit (land use approval).
 - o To allow density standard greater than 20 dwelling units/per acre.

- **ACC 18.57.030 Mixed use development standard**

- o To allow mixed use commercial to be changed to allow horizontal mixed use as well as vertical.

BACKGROUND / HISTORY

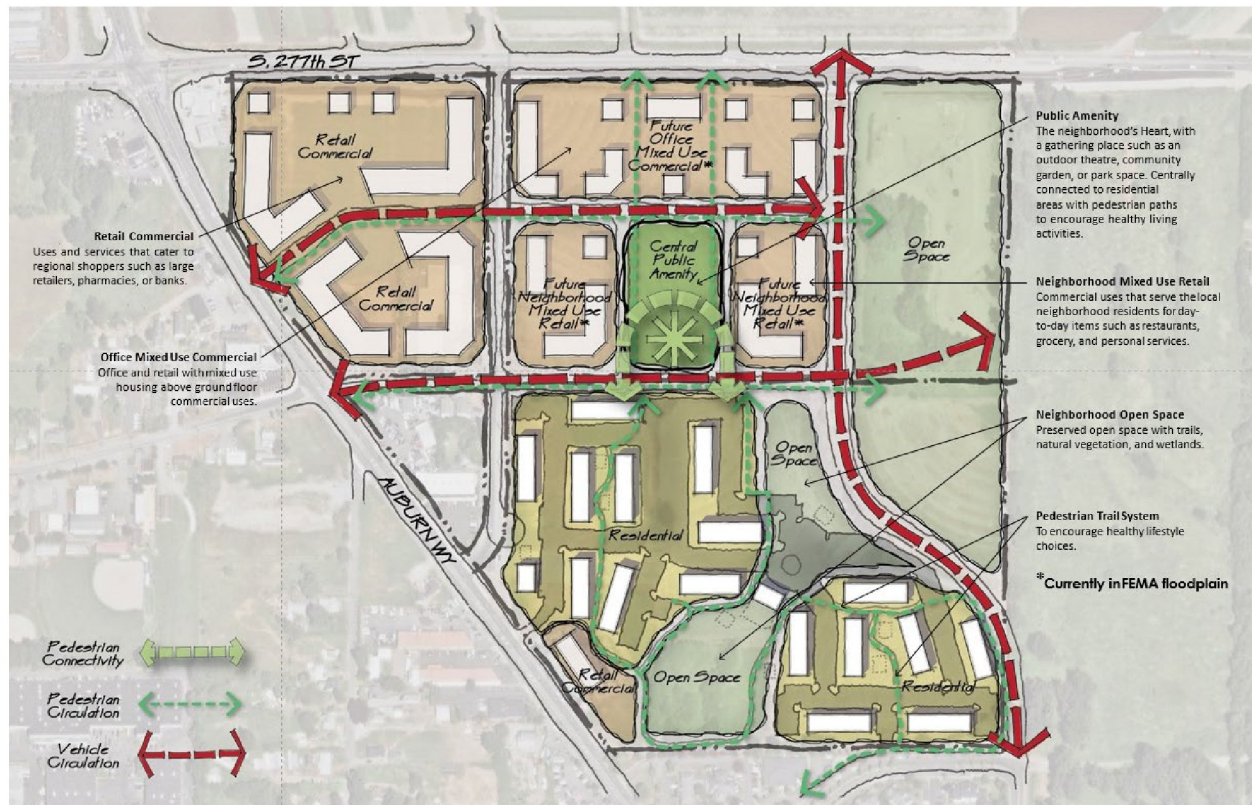
As you recall, at the Planning Commission's May 7, 2019 regular meeting, John Fisher and Scott Morris of Inland Construction LLC (Inland) introduced themselves, their company, the type of projects their company constructs and described their proposal for the Auburn Gateway Project. Inland is considering acquisition of the former Valley 6 Drive-In property from Robertson Properties Group (RPG) properties. In anticipation of acquiring the property, Inland has submitted an application to amend the City code and the existing Development Agreement (DA) adopted under Resolution No. 4756 (2011) in order to allow horizontal mixed use (the current DA allows only vertical mixed use in order to have residential).

DA's are a development tool allowed under State law. The concept behind a DA is to allow a municipality and a property owner to voluntarily agree to development terms for a specific development outside of adopted city code requirements. Both parties may have interest in entering into such an agreement because it allows a property owner greater flexibility in certain specified city standards that are determined upfront in exchange for a higher quality of development and greater benefits to the community than what the code requires. It is an optional process because it is a voluntary negotiated agreement.

The main code change is to allow horizontal mixed-use in addition to the currently required vertical mixed-use of the C-4, Mixed Use Commercial zoning district. Vertical mixed-use is where the ground floor consists of commercial tenants while multi-family residential located above. Such request would require a code amendment with a recommendation made by the Planning Commission and final action by the City Council. Amending the DA is a City Council decision.

Inland has indicated their desire to construct, as a first phase, a multi-family complex with 500 dwelling units. This number is consistent with the maximum number of multi-family units considered and approved in the previously approved sub area plan of the City's Comprehensive Plan, the Environmental Impact Statements (EIS's), and the DA. However, Inland has indicated that there are a number of circumstances that preclude construction of the full amount of the previously proposed 1.6 million square feet of professional office and/or 720,000 square feet of retail commercial space. These circumstances include a changed economic environment for retail storefronts and the anticipated changes in 2020 to the floodplain maps by the Federal Emergency Management Agency (FEMA) to increase the extent of floodplain in this vicinity.

Conceptual Site Plan



PROPOSED CHANGES

The code changes affect 3 different provisions (2 Chapters and 1 Section), but the changes are relatively few and straightforward. Each is summarized in greater detail, as follows:

1. ACC 18.08 Text Change to Planned Action Ordinance (PAO)

First, an explanation of the term: “Planned Actions”. A planned action is a tool of the WA State Environmental Policy Act (SEPA) that was added to the state laws in 1997. A planned action is a designated development project whose impacts have been addressed by an Environmental Impact Statement (EIS) associated with a plan for a specific geographic area before individual development projects are proposed. A planned action involves detailed SEPA review and preparation of EIS documents in conjunction with sub-area plans, consistent with [RCW 43.21C.031](#) and [WAC 197-11-164](#) through [WAC 197-11-172](#). The tool provides for up-front analysis of impacts and mitigation measures to facilitate expedited environmental review of subsequent individual development projects, when determined consistent.

The City adopted Chapter 18.08, ‘Northeast Auburn Special Area Plan and Auburn Gateway Planned Action’ in 2011 by Ordinance No. 6382 and has not been used, as no development has taken place. In summary, the text changes are for the purpose of:

- o To recognize the preparation of additional environmental review documents (change text to recognize the November 2, 2011 EIS addendum and a future EIS addendum that is currently being prepared).

- o To allow horizontal integrated mixed-use in addition to vertical integrated mixed-use that is currently required by the zoning classification (While this does not require any text changes, the PAO refers to the zoning that applies to the site in subsection ACC 18.08.040, 'Planned action thresholds' and the C-4, Mixed Use Commercial is also proposed to change). By reference, this is also a change.
- o To recognize the change in City Department name.
- o To recognize any other project changes and associated EIS identified mitigation measures (Amending Exhibit 1 to the original Ordinance No. 6382, Planned Action Ordinance).

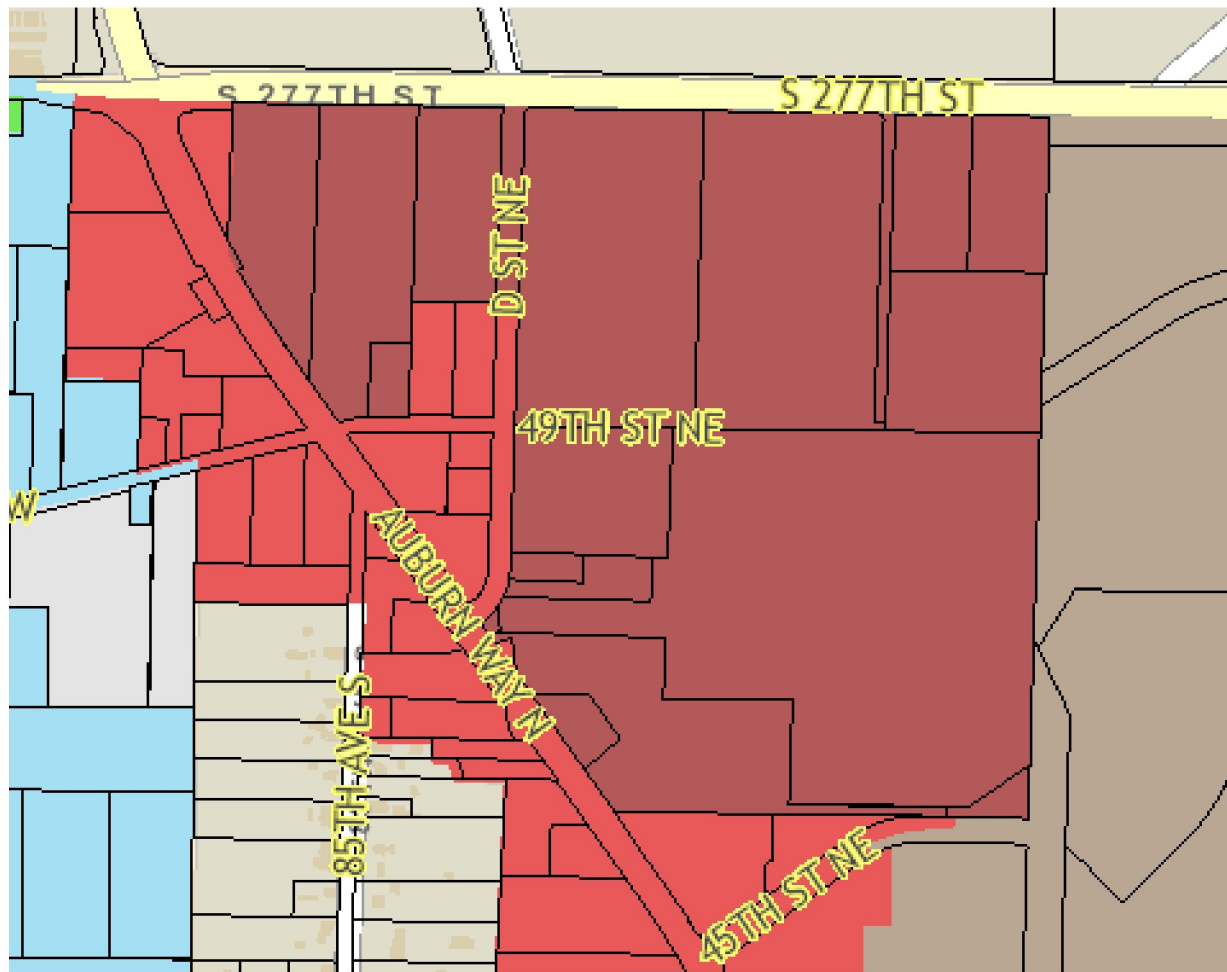
Attached, as part of Attachment 1, is the full text of the chapter showing text additions and deletions as underline and strikethrough, respectively.

Please note that in code subsection 18.08.080, 'Planned action mitigation measures' there is a reference to a separate document (Exhibit 1) that is not codified in this chapter. This Exhibit 1 consists of the mitigation measures drawn from the EIS's and due to their length are not made part of the same document. While this Exhibit 1 is transmitted to the Planning Commission to provide the fullest information, the contents of this Exhibit could require modifications since the environmental review process is underway and has not yet been completed. Changes, if needed, will be shared with the Planning Commission in the future.

2. ACC 18.23 Commercial and industrial zones

Chapter 18.23 ACC, 'Commercial and industrial zones' describes the purpose statement, uses regulations, and zoning development standards of certain zoning classifications. The text changes are related to modifying the C-4, Mixed use zoning classification. The project site is the only mapped location of this zoning classification within the city. See the following zoning map excerpt.

Zoning Map (excerpt)



■ C3 Heavy Commercial District

■ C4 Mixed Use Commercial

■ M1 Light Industrial District

■ R20 Residential 20 DU/Acre

The changes are for the purpose of:

- o Changing the C-4, Mixed Use Commercial zoning classification to also allow horizontal integrated mixed-use in addition to vertical integrated mixed-use.
- o Change the set of uses to recognize the listed use of: “outdoor recreation use for profit” in the zoning district subject to an administrative use permit (land use approval).
- o To allow density standard greater than 20 dwelling units/per acre.

Attached, as part of Attachment 1, is the full text of the Chapter 18.23 showing text additions and deletions as underline and strikethrough, respectively.

3. ACC 18.57.030 Mixed use development standard

Chapter 18.57 ACC, 'Standards for specific land uses' contains zoning development standards in addition to those contained in the zoning district chapter. This chapter provides site planning, development, and/or operating standards for certain land uses that are allowed by individual or multiple zoning districts, and for activities that require special standards to mitigate their potential adverse impacts. Section ACC 18.57.030, 'Mixed use development' contains standards that apply when mixed-use development is proposed in the city. The term mixed-use development is defined elsewhere in the city's code as:

18.04.625 Mixed-use development.

“Mixed-use development” means a single unified development that incorporates the planned integration of two or more different land uses consisting of some combination of office, light industrial, hotel, retail, entertainment, public uses, along with residential uses. Mixed-use development may be vertically oriented in one or more buildings, or horizontally distributed on a development site. When horizontally distributed, the different uses may be constructed concurrently and in separate phases, and should incorporate common and/or complementary features and/or elements such as pedestrian walkways, access driveways, parking areas, architectural themes, or other techniques that provide integration between uses on the site.”

The text amendments to the mixed-use standards are proposed to accomplish the following:

- o To allow mixed-use commercial to be changed to allow horizontal mixed-use as well as vertical. It should be noted that vertical mixed-use is not actively being pursued for this project.

Attached, as part of Attachment 1, Section 18.57.030 ACC is provided showing text additions and deletions as underline and strikethrough, respectively.

NEXT STEPS

At the June 4th regular meeting, Staff would like to discuss the contents of this memo with the Planning Commission. Then, based on the discussion, Staff would seek input on whether the code changes could be scheduled for a future hearing to be conducted by the Planning Commission.

Please note that since the environmental review process is simultaneously being prepared as this is being introduced to the Planning Commission, there is the potential for additional changes to code to be identified by staff. If any additional changes are necessary, it is expected that these would most likely affect Chapter 18.08, 'Northeast Auburn Special Area Plan and Auburn Gateway Planned Action' and its referenced list of mitigation measures.

Enc: Attachment 1 Strike through and underline mark ups of:

- ACC 18.08 Planned Action Ordinance (PAO)
 - o Exhibit 1 – to ACC 18.08 (Mitigation Measures)
- ACC 18.22 Commercial and industrial zones
- ACC 18.57.030 Mixed use standards

Chapter 18.08

NORTHEAST AUBURN SPECIAL AREA PLAN AND AUBURN GATEWAY PLANNED ACTION

Sections:

- 18.08.010 Purpose of the planned action.**
- 18.08.020 Findings related to the northeast Auburn special area plan.**
- 18.08.030 Applicability of the planned action.**
- 18.08.040 Planned action thresholds.**
- 18.08.050 Review criteria for planned actions.**
- 18.08.060 Effect of planned action designation.**
- 18.08.070 Planned action permit process.**
- 18.08.080 Planned action mitigation measures.**
- 18.08.090 Amendments.**

18.08.010 Purpose of the planned action.

The purpose of this chapter is to:

- A. Set forth a procedure designating certain project actions within a specific subject site as “planned actions” consistent with state law, RCW 43.21C.031; and
- B. Provide the public with an understanding as to what constitutes a planned action and how land use applications which qualify as planned actions will be processed by the city; and
- C. Streamline and expedite the development review process for this designated planned action by relying on completed and existing detailed environmental analysis for the subject site; and
- D. Combine environmental analysis with land use planning; and
- E. Apply the city’s development regulations together with the mitigation measures described in the environmental impact statement (EIS) [and EIS addenda](#) and this chapter to address the impacts of future development contemplated by the planned action. (Ord. 6382 § 2, 2011.)

18.08.020 Findings related to the northeast Auburn special area plan.

After thorough review and consideration, the city council makes the following findings:

- A. The Northeast Auburn special area plan ("subarea plan") and its accompanying draft and final environmental impact statement ("EIS") and EIS addenda have analyzed and addressed all of the probable significant environmental impacts associated with the land uses allowed by the city's development regulations and described in the subarea plan as to the Northeast Auburn special planning area.
- B. The analysis contained in the subarea plan and EIS and addenda is adequate to identify the probable environmental impacts of developments allowed under the city's development regulations which were not previously analyzed in the comprehensive plan and its accompanying environmental documents.
- C. The mitigation measures identified in the environmental element of the subarea plan, EIS and EIS addenda, together with the regulations in the city's development code, are adequate to identify and mitigate the probable significant environmental impacts of the land uses and developments considered within the planned action and subarea plan and EIS documents.
- D. The expedited development review procedure in this chapter is consistent with law, will be a benefit to the public, will protect the environment, and will enhance the city's economic development.
- E. The public interest will be served by implementing the expedited development review procedure set forth in this chapter.
- F. Public involvement and review of the subarea plan and EIS and EIS addenda have been extensive and meet the requirements of law, and have been sufficient to ensure that the subarea plan and EIS bear a substantial relationship to the public interest, health, safety, and welfare.
- G. The land uses identified in the subarea plan for the Northeast Auburn special area are consistent with and will implement the Comprehensive Plan.
- H. Northeast Auburn special area is hereby designated a planned action. (Ord. 6382 § 2, 2011.)

18.08.030 Applicability of the planned action.

A. *Planned Action Area.* This chapter applies to approximately 70 acres included in the Auburn Gateway project area as described in the Northeast Auburn/Robertson Properties special area plan EIS, issued by the city on July 30, 2004 [and EIS Addendum on November 2, 2011](#) (and any addenda thereto) and the adoption of the Northeast Auburn/Robertson Properties special area plan. Any other planned action for which the impacts have been studied in an EIS shall also meet the requirements of this chapter, be approved by the ~~planning and~~ ~~C~~ommunity ~~D~~evelopment ~~D~~irector (~~D~~irector), and be designated as a planned action by resolution of the city council before it shall be entitled to review and treatment as a planned action under this chapter.

B. *Environmental Document.* A planned action for a site-specific development shall be based on the environmental analysis contained in the Northeast Auburn/Robertson Properties special area plan EIS, issued by the city on July 30, 2004 [and EIS Addendum on November 2, 2011](#) (and any addenda thereto). The mitigation requirements in this chapter are based on the Northeast Auburn/Robertson Properties special area plan EIS [and addenda](#). These requirements, together with city codes, ordinances, and standards provide the framework for the decision by the city to impose conditions on a planned action project.

C. *Planned Action Designated.* Uses and activities described in the Northeast Auburn/Robertson Properties special area plan EIS (and any addenda thereto), subject to thresholds (ACC 18.08.040) and mitigation measures established by this chapter, are designated planned actions pursuant to RCW 43.21C.031. (Ord. 6382 § 2, 2011.)

18.08.040 Planned action thresholds.

Subject to the zoning regulations for the site and the mitigation measures described in this chapter, the maximum levels of development described below have been evaluated in the Northeast Auburn/Robertson Properties special area plan EIS, as described in the EIS (and any addenda thereto), and are planned actions pursuant to RCW 43.21C.031. In order to qualify as a planned action, total cumulative development within the Auburn Gateway project area that has been permitted under this chapter shall meet all of the following criteria:

A. *Land Use.*

1. The following are the primary categories of uses authorized under this planned action:

- a. Office.
- b. Retail.
- c. Multifamily residential.

2. *Land Use Review Threshold.* The planned action designation applies to future development proposals within the Auburn Gateway project area which are within the range evaluated in the Northeast Auburn/Robertson Properties special area plan EIS and the EIS addenda as shown below.

Use	Maximum Allowable	Maximum Structure Height
Multifamily residences	500 dwelling units	75 feet
Retail uses	720,000 square feet	75 feet
Office uses	1,600,000 square feet	75 feet

B. *Transportation.*

1. *Trip Ranges.* Cumulative development within the Auburn Gateway project area that does not exceed the following range of trip generation from all uses developed within the Auburn Gateway project area shall qualify as a planned action:

Maximum Net New (Non-Pass-By) Trip Generation Allowable in the Auburn Gateway Project Area

Time Range	Net New Trips
AM peak hour (primary)	1,862
PM peak hour (primary)	2,419

Daily Total: 18,920 Non-Pass-by Trips ("Auburn Gateway Transportation Impact Analysis" prepared by Transportation Solutions, Inc. in October 2011 for the Auburn Gateway Environmental Impact Statement (EIS) addendum).

2. The net new (non-pass-by) trip generation within a single phase shall qualify as a planned action that does not exceed the following:

Maximum Net New Trips Allowable within a Single Phase of the Auburn Gateway Project Area

Time Range	Net New Trips
AM Peak Hour (primary)	1,117
PM Peak Hour (primary)	1,451

C. *Earthwork*. The maximum amount of excavation and fill qualifying as a planned action shall be 250,000 cubic yards of excavation and 750,000 cubic yards of fill.

D. *Air Quality*. Modifications to regional arterials included in the planned action include potential new signals on Auburn Way North at 45th Street NE and 49th Street NE, and at the driveway access to Auburn Way North midpoint between the two intersections, if demonstrated by analysis of signal warrants and on South 277th Street and 45th Street NE at a relocated I Street NE. A roundabout or traffic signal would be provided at the intersection of 49th Street NE and I Street NE and a future signal at 45th Street NE.

E. *Water*.

1. *Floodplain Modifications*. Up to 33.73 acre feet of floodplain storage volume may be filled within the Auburn Gateway project area based on the 1995 FEMA floodplain. The actual amount of floodplain modification and storage compensatory flood storage volume will depend on the FEMA floodplain regulations in effect at the time of development. Since the extent of floodplain and amount of fill may be subject to change it may be subject to further environmental review. The amount of floodplain affected will require that compensatory volume is provided at the time of fill.

2. *Impervious Surfaces*. Up to 90 percent of the Auburn Gateway site area may be covered with impervious surfaces.

F. *Plants and Animals.* Up to 0.55 acres of wetland fill placed in accordance with local, state, and federal regulations in the wetland ditches along South 277th Street (approximately 0.5 acres), and as necessary to complete required improvements for I Street NE and 49th Street NE (up to 0.25 acres of wetland fill within the Auburn Gateway project area), shall qualify as part of this planned action. The wetland impacts to the yet undelineated Wetland F within the Gateway II project area will be in accordance with local, state and federal regulations in effect.

G. *Time of Submission.* The application is submitted during the time that the development agreement between the city of Auburn and Robertson Auburn Properties, entered into on November 21, 2011, is in effect. (Ord. 6382 § 2, 2011.)

18.08.050 Review criteria for planned actions.

The director or director's designee is hereby authorized to designate a project application as a planned action if the project meets all of the following conditions:

- A. The project is consistent with the adopted comprehensive plan.
- B. The project is located on the subject site as described with the planned action ordinance.
- C. The project's significant environmental impacts have been adequately addressed in the EIS and EIS addenda.
- D. The project complies with the planned action thresholds.
- E. The project's significant impacts have been mitigated through application of the mitigation measures identified in the EIS documents, EIS addenda, and other city requirements.
- F. The project is not an essential public facility. (Ord. 6382 § 2, 2011.)

18.08.060 Effect of planned action designation.

- A. Upon designation by the ~~planning~~ Community Development ~~Director~~ that the project qualifies as a planned action, the project shall not be subject to a SEPA threshold determination, an environmental impact statement (EIS), or any further review under SEPA.

- B. Being designated a planned action means that a proposed project has been reviewed in accordance with this chapter, and found to be consistent with the development parameters and environmental analysis included in the EIS documents and EIS addenda.
- C. Planned actions will not be subject to further procedural review under SEPA. However, projects may be subject to conditions designed to mitigate any environmental impacts which may result from the project proposal, and projects will be subject to whatever permit requirements are deemed appropriate by the city under state and city laws and ordinances. The planned action designation shall not excuse a project from meeting the city's code and ordinance requirements apart from the SEPA process. (Ord. 6382 § 2, 2011.)

18.08.070 Planned action permit process.

The Dedirector shall establish a procedure to review projects and determine whether they meet the planned action criteria, and establishing minimum application and notice requirements. The procedure shall consist, at a minimum, of the following:

- A. Developments shall meet the requirements of ACC Titles 12, 13, 14, 15, 16, 17, 18, and 19, except as modified by a Development Agreement. Application shall be made on the forms provided by the city and shall include a SEPA checklist (where approved through WAC 197-11-315(2)) or such other environmental review forms provided by the city.
- B. The Dedirector shall determine if the application is complete as provided in Chapter 14.06 ACC.
- C. If the project is within the area designated as a planned action, the application shall be reviewed to determine if it is consistent with all of the requirements in this chapter.
- D. When a complete application for development has been determined by the city to qualify as a planned action, the Dedirector shall notify the applicant and the project shall proceed in accordance with the appropriate permit procedure, with the exception that no additional SEPA review, threshold determination, or EIS shall be required.
- E. Public notice for project qualifying as planned actions shall be tied to the underlying permit. If notice is otherwise required for the underlying permit, the notice shall state that the project has qualified as a planned action. If notice is not otherwise required for the underlying permit, no special public notice is required.

F. If a project is determined to not qualify as a planned action, the Director shall so notify the applicant and the SEPA responsible official, and shall prescribe a SEPA review procedure consistent with the city's SEPA regulations and the requirements of state law. (Ord. 6382 § 2, 2011.)

18.08.080 Planned action mitigation measures.

The planned action mitigation measures set forth in the Exhibit 1 attached to the ordinance codified in this chapter and incorporated herein by this reference shall apply to the project identified therein. This Exhibit 1 shall not be codified with the provisions of this chapter, but shall be on file and available for review in the office of the city clerk. (Ord. 6382 § 2, 2011.)

18.08.090 Amendments.

Amendments to this chapter may be initiated by the city, the proponent, or the proponent's successor, and shall occur as follows:

A. The Community Development Director ~~director of community development and public works~~ may interpret the words and meaning of certain conditions in order to resolve conflicts in implementation. All words in the ordinance codified in this chapter shall carry their customary and ordinary meaning.

B. If changes to the language of the ordinance codified in this chapter are required, such proposed changes shall be reviewed by the Community Development Director ~~director of community development and public works~~. If, in the estimation of the Community Development Director ~~director of community development and public works~~, the proposed change is minor, then the proposed change shall be forwarded directly to the city council for its consideration. If, in the estimation of the Community Development Director ~~director of community development and public works~~, the change is major, the proposed change shall be referred to the planning commission which shall conduct a public hearing and make a recommendation to the city council. (Ord. 6532 § 28, 2014; Ord. 6382 § 2, 2011.)

(Amending Exhibit 1 to Ordinance 6382, Planned Action Ordinance)

D. Prior to any Issuance of Permits for Vertical Construction within Either the North or South Phases of the Project:

Storm Drainage

1. Prior to issuance of permit for vertical construction, the Applicant shall provide to the City for review and approval a **Storm Drainage Master Plan** for the combined North and South Phases of the Project. The plan shall include the approximate location, elevation, and size of all major storm drainage conveyance, water quality, and flow control facilities in conformance with the City's Engineering Design Standards. The storm drainage master plan shall contain sufficient information, including supporting storm drainage calculations, to demonstrate that the system design and configuration is feasible and is capable of meeting city standards.

In addition, if the storm drainage discharge from the project is not as proposed in previous drainage analysis prepared for the purposes of the EIS ("Hydraulic Model Evaluation of Potential Drainage System Impacts Associated with the Auburn Gateway Project", Herrera, 2003) and the discharge is all directed to either: South 277th Street (EIS Scenario 3a) or split evenly between South 277th Street and D Street NE (EIS Scenario 3b), then additional downstream drainage analysis shall be required as directed by the City Engineer prior to issuance of a permit for vertical construction.

If all the storm drainage discharge from the project is directed to South 277th Street (EIS Scenario 3a) the applicant shall design the master plan to include the following storm drainage improvements for any phase of development:

- Replace the existing storm drainage pipe located in D Street NE with a 36-inch pipe in D Street NE from South 277m Street to Auburn Way North.

The master storm drainage plan shall also define which improvements are to be constructed concurrent with each phase of the project (North Phase, South Phase, or Combined North and South Phases),

Water

2. Prior to issuance of permit for vertical construction, the Applicant shall provide to the City for review and approval a **Water Master Plan** -for the combined North and South Phases of the Project. The plan shall include the approximate location and size of all pipes, valves, and. fire hydrants in conformance with the City's.

Comprehensive Water

Plan and Engineering Design Standards. The Water Master plan shall contain sufficient information, including hydraulic analysis if deemed necessary by the City Engineer, to demonstrate that the system layout is feasible and provides adequate fire flow and system reliability.

The master water plan shall also fine which improvements are to be constructed concurrent with each. phase of the project (North Phase, South Phase, or Combined North and South Phases) as follows:

North Phase

- Replace the existing 8-inch and 6-inch water pipes with 12-inch water pipe in 49 Street NE from Auburn Way North to I Street NE.
- Construct a new 12-inch water pipe along the extension of I Street NE between 49th Street NE and South 277th Street.

South Phase

- Replace the existing 8-inch and 6-inch water pipes with 12-inch water pipe in 49 Street NE from Auburn Way North to I Street NE.
- Construct a new 12-inch water pipe along the extension of I Street NE between 45th Street NE and 49th Street NE.

Combined North and South Phases

The combined water system mitigation listed above for the North and South Phases.

Sanitary Sewer

3. Prior to issuance of permit for vertical construction, the applicant shall provide to the City for review and approval a **Sanitary Sewer Master Plan** for the combined North and South Phases of the Project. The plan shall include the approximate location, elevation, and size of all pipes and manholes in conformance with the City's Comprehensive Sanitary Sewer Plan and Engineering Design Standards. The sanitary sewer master plan shall contain sufficient information, including hydraulic analysis if deemed necessary by the City Engineer, to demonstrate that the system layout is feasible and is capable of meeting city standards.

The master sanitary sewer plan shall also define which improvements are to be constructed concurrent with each phase of the project (North Phase, South Phase, or Combined North and South Phases).

Storm Drainage, Water, and Sanitary Sewer

4. Prior to issuance of permit for vertical construction, the Applicant shall submit **civil utilities construction plans**, consistent with the approved combined North and/or South Phases of the:
 - master storm drainage plan,
 - master water plan, and
 - master sanitary sewer planto the City for review and approval in conformance with the City's Engineering Design Standards

Transportation

5. Prior to issuance of permit for vertical construction, the Applicant shall provide a **master plan for pedestrian/non-motorized circulation** to the City for review and approval. The master plan for pedestrian/non-motorized circulation shall be in conformance with the City's engineering design standards and provide an efficient and safe pedestrian circulation system that provides appropriate crossing of I Street NE, D Street NE, and 49th Street NE at places where pedestrian/non-motorized crossings are likely to occur and where crossings can be safely accommodated with necessary improvements to minimize travel distance. The master pedestrian circulation plan shall specify the location and types of paths, the materials and methods to be used to promote safety at street and driveway crossings, and the framework of connections and amenities to be developed, as described in the "Auburn Gateway Architectural and Site Design Standards", BCRA Inc., October 2011.

The master plan for pedestrian/non-motorized circulation shall also define which improvements are to be constructed concurrent with each phase of the project (North Phase, South Phase, or Combined North and South Phases).

6. Prior to issuance of permit for vertical construction, the Applicant shall provide a **master transit plan** to the City for review and approval. The plan shall be coordinated with King County Metro Transit and shall include the approximate locations of existing and proposed transit stops and associated facilities serving the Auburn Gateway Project. The plan shall also address opportunities to provide weekday park & ride spaces within the Auburn Gateway Project.

The master transit plan shall also define which transit improvements are to be constructed concurrent with each phase of the project (North Phase, South Phase, or Combined North and South Phases)

7. Prior to the action indicated in the heading above, the Applicant shall provide a **master access and onsite vehicular circulation plan** to the City for review and approval. The plan shall be in conformance with the City's Engineering Design Standards and include locations and dimensions of access points expected for all portions of the Auburn Gateway project area. The access and onsite vehicular circulation plan must be accompanied with a traffic analysis that indicates

commercial/delivery vehicle turning templates, emergency access lanes, and the volumes of traffic and levels of service expected at each access location.

The master access and onsite vehicular circulation plan shall also define which access points are to be constructed concurrent with each phase of the project (North Phase, South Phase, or Combined North and South Phases).

Prior to issuance of permit for vertical construction, the Applicant shall provide a **master motorized public improvement plan** to the City for review and approval. The plan shall be in conformance with the City's Engineering Design Standards and include streets, traffic signals, and intersection improvements for all portions of the Auburn Gateway project area.

The master motorized improvement plan shall also define which street improvements are to be constructed concurrent with each phase of the project (North Phase, South Phase, or Combined North and South Phases) as follows:

North Phase First

- Widen South 277th Street to include two westbound through lanes, three eastbound through lanes, paved shoulder, drainage systems, planting strip and 12-foot wide paved non-motorized trail between L St NE and Auburn Way North.
- Complete a traffic signal at the intersection of South 277th Street and I Street NE including two traffic monitoring cameras. The signalized intersection shall consist of two westbound through lanes, two westbound left turn pockets, three eastbound through lanes, one eastbound right turn pocket, and three northbound turning lanes.
- Complete one eastbound right turn pocket at the intersection of South 277th Street and D Street NE.
- Complete one westbound right turn pocket at the intersection of Auburn Way North and South 277th Street.
- Complete I Street NE from 49th Street NE to South 277th Street. This roadway shall be designed to the city's minor arterial standard and include five travel lanes (two lanes in each direction plus a raised landscape island with turn pockets at intersections) and bicycle lanes. Auxiliary right-turn lanes may also be required at driveways as identified in the master access and onsite vehicular circulation plan.
- Complete a traffic signal at intersection of I Street NE and 49th Street NE including one traffic monitoring camera when the north, south, and west legs of the intersection are each connected to through streets. The signalized intersection shall be widened to facilitate northbound and southbound u-turns and include a leg for the future eastward street extension of 49th St NE.
- Complete 49th Street NE between Auburn Way North and the eastern property line of the Auburn Gateway project area. This street shall be designed as a minor arterial with three lanes (one lane in each direction plus a center left-turn lane) and bicycle lanes.
- Complete a traffic signal at the intersection of 49th Street NE and Auburn Way North including one traffic monitoring camera. The signalized intersection shall be widened to facilitate northbound and southbound u-turns.

- Complete a traffic signal at the intersection of 45th Street NE and Auburn Way North including one traffic monitoring camera when any traffic signal warrant is met at this intersection up to two years after issuance of final occupancy of full project build-out or prior to constructing a signal at the south development access drive at Auburn Way North.
- Construct a cul-de-sac at southern terminus of D Street NE at Auburn Way North and eliminate the vehicular connection to Auburn Way North.

South Phase First

- Widen the south side of South 277th Street to include two westbound through lanes, two eastbound through lanes, paved shoulder, drainage systems, planting strip and 12 foot wide paved non-motorized trail between L St NE and Auburn Way North.
- Complete one eastbound right turn pocket at the intersection of South 277th Street and D Street NE.
 - Complete I Street NE from 45th Street NE to 49th Street NE. This roadway shall be designed to a minor arterial standard and include five travel lanes (two lanes in each direction plus a raised landscape island with turn pockets at intersections) and bicycle lanes. Auxiliary right-turn lanes may also be required at driveways as identified in the master access and onsite vehicular circulation plan.
- Complete a traffic signal at intersection of I Street NE and 49th Street NE including one traffic monitoring camera when the north, south, and west legs of the intersection are each connected to through streets. The signalized intersection shall be widened to facilitate northbound and southbound u-turns and include a leg for the future eastward street extension of 49th St NE.
- Complete 49th Street NE between Auburn Way North and the eastern property line of the Auburn Gateway project area. This street shall be designed as a minor arterial with three lanes (one lane in each direction plus a center left-turn lane) and bicycle lanes,
- Complete a traffic signal at the intersection of 49th Street NE and Auburn Way North including one traffic monitoring camera. The signalized intersection shall be widened to facilitate northbound and southbound u-turns.
- Complete a traffic signal at the intersection of 45th Street NE and Auburn Way North including one traffic monitoring camera when any traffic signal warrant is met at this intersection up to two years after issuance of final occupancy at full project build-out or prior to constructing a signal at the south development access drive at Auburn Way North.
 - Complete a traffic signal at the intersection of 45th Street NE and I Street NE including one traffic monitoring camera when any traffic signal warrant is met at this intersection up to two years after issuance of final occupancy at full project build-out.
- Construct a cul-de-sac at southern terminus of D Street NE at Auburn Way North and eliminate the vehicular connection to Auburn Way North.

Combined North and South Phases

- Complete the combined improvements listed above for the North and South Phases.

8. Prior to issuance of permit for vertical construction, the Applicant shall submit **civil transportation construction plans**, consistent with the approved combined North and South Phases of the:
 - * master pedestrian/non-motorized circulation plan,
 - * master transit plan,
 - * master access and onsite vehicular circulation plan, and
 - * master motorized public improvement planto the City for review and approval in conformance with the City's Engineering Design Standards.

Signage

9. Prior to issuance of permit for vertical construction, the Applicant shall submit a **master signage plan** to establish locations sizes and materials for all types of signage to be used in subsequent phases (except traffic control signage). The master signage plan shall be prepared in accordance with the provisions of ACC 18.56.030.K, in effect as provided in the vesting provisions of the development Agreement between the City and Developer. The plan shall include commercial and directional signage as well as interpretive material such as information on wildlife near wetlands or historical information about the area. The plan shall be coordinated with the Auburn Gateway Architectural and Site Design Standards document. The master signage plan shall be recorded as required by ACC 18.56.030.M.

Project plans shall demonstrate that the proposed project is consistent with the approved master signage plan. Modifications to the master signage plan may be allowed by the Director only after determining that the changes are consistent with the "Auburn Gateway Architectural and Site Design Standards," BCRA Inc., October 2011.

Visual/Aesthetics

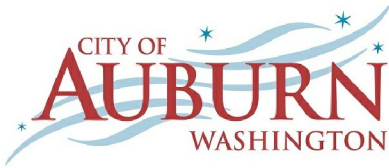
10. Project construction plans shall adhere to the document: "Auburn Gateway Architectural and Site Design Standards", BCRA Inc.; October 2011.
11. Project plans shall incorporate principles of crime prevention through environmental design (CPTED) in all project designs. These include but are not limited to the measures discussed in the "Auburn Gateway Architectural and Site Design Standards", BCRA Inc. October 2011.

Noise

12. Prior to the issuance of a permit for vertical construction, the Applicant shall prepare and submit a **noise control plan** to be approved by the City of Auburn for areas in which noise-generating equipment, such as mechanical equipment (i.e., heating, ventilating, and air conditioning [HVAC] systems), loading docks, solid waste removal areas, compactors, outdoor retail speakers, and backup power generators, cannot be located away from noise-sensitive receivers. The City of Auburn require noise containment systems where necessary to meet the noise regulations.

Prior to the issuance of a permit for vertical construction, the Applicant shall provide a binding agreement to ensure that all subsequent applications for City approval shall meet parameters of the approved noise control plan.

13. Project plans shall include the use of buildings, fences, berms, or large landscape buffers to shield noise-sensitive receivers from onsite traffic noise.
14. Automobile fuel stations shall be located as far as possible from residential uses. If located within 100 feet of residential uses, the City of Auburn may require additional design measures to limit noise, odor, and glare impacts.
15. Outdoor activity areas such as eating and drinking establishments shall be located away from residential areas. If located closer than 300 feet to a residential area the City of Auburn may require design measures or operational restrictions to limit noise impacts from late evening use.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Shoreline Master Program and Critical Areas Ordinance Updates

Date:

May 22, 2019

Department:

Community Development

Attachments:

[Exhibit 1 - SMP Ch. 4 Pt. 1](#)

[Exhibit 2 - CAO Redlines](#)

[Exhibit 3 - Final Gap Analysis](#)

[Exhibit 4 - May 7 PC Memo](#)

Budget Impact:

Current Budget: \$0

Proposed Revision: \$0

Revised Budget: \$0

Administrative Recommendation:**Background Summary:**

Included in this memo for review by the Planning Commission (PC) is the first portion of Chapter 4 of the SMP (the PC reviewed Chapters 1-3 at the May 7th meeting) and the sections of the Critical Areas Ordinance (CAO) pertaining to wetland and stream buffers and wetland replacement ratios. Also included is the final Gap Analysis from the Watershed Company (the PC has seen earlier draft versions of this) and the memo from the May 7th meeting as it contains pertinent information (in lieu of repeating it again in this memo).

SMP UPDATE: CHAPTER 4 Part 1

Attached (in ~~strikeout~~ and underline format) as **Exhibit 1** to this memo is the first portion of Chapter 4 of the SMP. The two major changes to this section are:

- Adding a new subsection under where the SMP applies relating to developments that are not subject to SMP review. It is unlikely any of these instances would come up in Auburn, however, it is a required addition per WAC 173-27.
- Removal of the Critical Areas regulations from the SMP. This will help reduce confusion about if the SMP or the CAO applies, it will also reduce potential inconsistencies if one of the documents is updated in the future.

CRITICAL AREAS ORDINANCE UPDATE: SECTIONS ACC 16.10.080, .090, .110

Attached (in ~~strikeout~~ and underline format) as **Exhibit 2** to this memo are the portions of the

CAO that apply to the methodology used to rate and classify wetlands and streams, updated buffer widths for wetlands and streams, and updated wetland modification ratios. To further expand on these topics:

- The CAO would be updated to reflect the most recent wetland rating (or classifications) methodology. Currently the CAO references an out of date 2004 document. The language would be updated to reference the most current document and the description of the types of wetlands would be updated as well.
- The minimum buffers for wetlands will be updated to reflect current Ecology recommendations. The proposed buffer table shows options for using mitigation measures to have lower buffer widths and also what the widths would be if the mitigation measures aren't implemented. The PC could recommend to leave the table like this, or could opt to require the mitigation measures and only have the smaller buffer widths in the table.
- Updating the ratios used for when wetlands are disturbed to the current Ecology recommendations. The City's existing table of replacement ratios is well below what Best Available Science (BAS) recommends. The updated table would also be simplified and not differentiate between the different types of wetlands for Categories II and III (which are most of the wetlands the City sees during development proposals).

NEXT STEPS

At the next meeting in July Staff will bring additional materials to the PC for review. Scheduled to be included is the second part of Chapter 4 along with Chapters 5 and 6 and the other changes proposed for the CAO.

Reviewed by Council Committees:

Councilmember:

Staff:

Gouk

Meeting Date: June 4, 2019

Item Number:

CHAPTER 4.0 Shoreline Master Program Policies, Development Standards and Use Regulations

The purpose of this chapter is to:

- A. Implement the goals of the Shoreline Master Program Elements and establish policies to be integrated with the Auburn Comprehensive Plan; and
- B. Allow for all reasonable and appropriate uses of the City of Auburn's shorelines without degradation of environmental quality or risk to public health or safety; and
- C. Provide standards that will regulate and promote intensities and qualities of development consistent with the protection of the shoreline environment and its related resources and the Shoreline Management Act of 1971.

4.1 Scope.

No development, as defined in RCW 90.58.030 (3)-(d) ~~as a use which consists of construction or exterior alteration of structures, dredging, drilling, dumping, filling, removal of any sand, gravel or minerals, driving of piling, placing of obstructions, or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the Shoreline Management Act of 1971~~ and this SMP, shall be undertaken except in compliance with the provisions of this chapter and then only after securing all required permits.

A substantial development permit shall be required for any development of which the total cost or fair market value exceeds five-seven thousand ~~seven-hundred~~ and eighteen-forty-seven dollars (~~\$57,718,047~~), or the value as amended or adjusted for inflation per WAC 173-27-040(2)(a) / RCW 90.58.030 (3)-(e), or any development which materially interferes with the normal public use of the water of the sShorelines of the sState unless exempt under the Act.

4.2 Applicability.

- A. The provisions of this chapter shall apply to all shorelines, shorelands and associated wetland areas covered by the Shoreline Management Act of 1971 as follows:
 - 1. All rivers and streams and their associated wetlands downstream from a point where the mean annual flow is 20 cubic feet per second or greater.
 - 2. All lakes and their associated wetlands which are 20 surface acres in size or larger.
 - 3. Shorelands and associated uplands extending 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark OHWM; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with their streams, lakes, and tidal waters subject to the provisions of Chapter 90.58 RCW.
- B. All new development and uses occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, The Shoreline Management Act, Chapters 173-26 and 173-27 of the Washington Administrative Code, and this sShoreline ~~m~~Master pProgram.

C. Developments not required to obtain shoreline permits or local reviews.

Requirements to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

1. Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to Chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under Chapter 70.105D RCW.
2. Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
3. WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a substantial development permit, conditional use permit, variance, letter of exemption, or other local review.
4. Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
5. Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to Chapter 80.50 RCW.

4.3 Interpretation.

A. General.

1. In interpreting and applying the provisions of this chapter, the provisions shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare.
2. When the provisions of this chapter impose greater restrictions than are imposed by other applicable ~~city~~City, county, regional, state, and federal regulations, the provisions of this chapter shall control.
3. When a provision of this chapter conflicts with another provision in this chapter, the more restrictive provision shall apply.
4. Unless the context clearly indicates otherwise, words in the present tense can include the future tense, and words in the singular can include the plural, or vice versa.
5. The word “shall” is always mandatory. The word “should” means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act, WAC 173-26, and this SMP, against taking the action. The word “may” means the action is acceptable; provided it conforms to the provisions of WAC 173-26 and this SMP.

B. Interpretation by the Director.

The authority to administer the provisions of this chapter shall rest with the Director ~~-of Planning, Building and Community~~ or successor department or designee. The Director shall have the authority to

determine that a proposed use is unclassified per the Master Program (neither prohibited nor included in a particular shoreline environment). The Director's determination in these instances may be appealed according to ACC [18.70.050](#). Such unclassified uses would be treated as conditional uses and may be allowed through the [eConditional Use Permit](#) (CUP) process described in WAC [173-27-160](#).

4.3.1 Adoption of additional regulations.

- A. Applicable provisions of ACC Chapter [16.10 ACC \(per Ordinance No. xxxx – 2019 adoption\)](#), Critical Areas are herein incorporated into this [mMaster pProgram](#) and included in Appendix A.
- B. The regulations of ACC Chapter [18.54 ACC](#), Nonconforming Structures, Land and Uses are herein incorporated into this [mMaster pProgram](#) and included in Appendix B.

4.4 General Policies and Regulations

The following general policies and regulations apply to all [sShorelines](#) of the [sState](#) that are located in Auburn, regardless of the specific shoreline environment designation in any one location.

4.4.1 Conservation and Restoration

Policies

1. Prioritize enhancement and restoration efforts at public parks and public open space lands
2. Work with owners of other publicly-owned land to encourage restoration and enhancement projects.
3. Work with the public and other interested parties to prioritize restoration opportunities identified in the Shoreline Inventory and Characterization Report.
4. Promote vegetation restoration, and the control of invasive weeds and nonnative species to avoid adverse impacts to hydrology, and to reduce the hazard of slope failures or accelerated erosion.
5. Integrate bioengineering and/or soft engineering approaches into local and regional flood control measures, infrastructure, and related capital improvement projects.
6. Develop a program to implement restoration projects, including funding strategies.
7. Monitor and adaptively manage restoration projects.
8. Continue to work with the State, King County, Pierce County, Watershed Resource Inventory Area (WRIA) 9 and 10 Forums, the Muckleshoot Tribe, and other governmental and non-governmental organizations to explore how local governments (with their assistance) can best address the needs of preserving ecological processes and shoreline functions.
9. Continue to work with the State, King County, Pierce County, Green River Flood Control Zone District, and the Inter-County River Improvement Agency to identify and implement flood management strategies that protect existing development and restores floodplain and channel migration functions.
10. Continue to work with the WRIA 9 and 10 Forums to restore shoreline habitats and seasonal ranges that support listed endangered and threatened species, as well as other anadromous fisheries.

11. Create incentives that will make it economically or otherwise attractive to integrate shoreline ecological restoration into development projects.
12. Encourage restoration or enhancement of native riparian vegetation through incentives and non-regulatory programs.
13. Establish public education materials to provide shoreline landowners technical assistance about the benefits of native vegetation plantings.
14. Explore opportunities with other educational organizations and agencies to develop an on-going program of shoreline education for all ages.
15. Identify areas where kiosks and interpretive signs can enhance the educational experiences of users of the shoreline.
16. Develop strategies to fund shoreline-related educational and interpretative projects.

4.4.2 Shoreline Vegetation Conservation

Policies

1. Developments and activities in the City's shoreline should be planned and designed to retain native vegetation or replace shoreline vegetation with native species to achieve no net loss of the ecological functions and ecosystem-wide processes performed by vegetation.
2. Woody debris should be left in the river corridors to enhance wildlife habitat and shoreline ecological functions, except where it threatens personal safety or critical infrastructure, such as bridge pilings. In such cases where debris poses a threat, it should be dislodged, but should not be removed from the river.

Regulations

1. During any development activity within the shoreline jurisdiction, native plant communities located within the shoreline buffer (minimum of 100-feet from OHWM for Shoreline Residential and Urban Conservancy environments; 200-feet for Natural environment) shall be protected, maintained, or enhanced per the regulations established in the Critical Areas Ordinance and the Master Program. Pursuant to ACC 16.10.090, "Buffer Areas and Setbacks", buffers that have been previously disturbed shall be re-vegetated pursuant to an approved enhancement plan.
2. The following uses are allowed within the shoreline buffer only when also allowed within the applicable shoreline environment designation:
 - a. Improvements that are part of an approved enhancement, restoration or mitigation plan
 - b. New public roads and bridges, where no feasible alternative location exists
 - c. Utilities and accessory structures, where no feasible alternative location exists
 - d. Foot trails constructed according to the following criteria:
 - i. Designed to minimize impact of permeable materials;
 - ii. Designed to minimize impact on the shoreline system;
 - iii. Of a maximum width of twelve (12) feet; and

- iv. Located within the outer half of the shoreline buffer, i.e. the portion of the buffer that is farther away from the stream.
 - e. Footbridges
 - f. Education facilities, such as viewing platforms and informational signs
 - g. Water-oriented uses
 - h. Replacement or rehabilitation of existing levees
 - i. Under residential development regulations, approved docks, floats, buoys, bulkheads, launching ramps and similar structures are exempt from the setback.
3. Pursuant to ACC ~~18.50.06045~~, "~~General landscape requirements~~Preservation of significant trees", all significant trees shall be retained and made part of the landscape plan, as applicable. Pursuant to ACC ~~18.50.03045~~, "~~Definitions~~", significant trees are defined as a healthy evergreen tree, six inches or more in diameter measured four feet above grade; or a healthy deciduous tree four inches or more in diameter measured four feet above grade. The Director may authorize the exclusion of any significant tree which for the reason of public health, safety or reasonable site development is not desirable to maintain.
 4. Any pruning of trees or shrubs shall be for the purpose of maintaining the tree or shrub in a healthy growing condition and/or to enhance its natural growing form. Excessive pruning of trees or shrubs that adversely affects the healthy living condition of the plant or excessively damages the natural growing form of the plant shall be prohibited; unless such pruning is done to alleviate documented public health and safety concerns.
 5. A critical areas study shall be submitted for review for all proposed development activity within the shoreline jurisdiction. The purpose of the report is to determine the extent, characteristics and functions of critical areas located on or potentially affected by proposed activities on site. See ACC ~~Section 16.10.070~~ "Critical Area Review Process and Application Requirements" for required report contents.
 6. Shoreline buffers shall be protected during construction by placement of a temporary barricade, notice of the presence of the critical area and implementation of appropriate erosion and sedimentation controls as described in ACC 16.10.090, "Buffer Areas and Setbacks".
 7. As part of a development proposal, the Director may require the shoreline buffer to be placed in a separate tract on which development is prohibited; protected by execution of an easement dedicated to the City, a conservation organization, or land trust; or similarly preserved through a permanent protective mechanism acceptable to the City as described in ACC Section 16.10.090, "Buffer Areas and Setbacks".
 8. Proposed development in the shoreline jurisdiction shall include provision of landscape information appropriate to identify and remove nonnative and invasive species and replace with native vegetation to maintain or enhance shoreline ecological functions on the property. When required by the Director, landscape plans shall establish a staged vegetation removal and replacement program that keeps the amount of exposed soil during and after clearing and grading activities to a minimum. In drier months, temporary surface irrigation or temporary installation of intermediate plantings may be required until weather or seasonal conditions permit installation of the permanent plantings.
 9. If the area of clearing or grading necessary to remove nonnative or invasive vegetation totals one-acre or greater (43,560 square feet), located on site, in or outside of shoreline jurisdiction,

then water quality and erosion control measures shall be established through the NPDES Construction Stormwater General Permit and associated Stormwater Pollution Prevention Plan (SWPPP).—If the area of clearing or grading is less than one-acre, but includes disturbance of land in shoreline jurisdiction, a Temporary Erosion and Sediment Control (TESC) Plan shall be required.—The TESC Plan shall employ best management practices (BMPs) consistent with [cityCity](#) design and construction standards.

10. Should a development create unavoidable impacts adverse to shoreline vegetation located within the shoreline jurisdiction, mitigation shall be required. Mitigation shall ensure that there will be no net loss in the amount of vegetated area or the ecological functions performed by the disturbed vegetation. The Director shall rely on the critical areas study required under regulation [#45 of this section](#) to provide a site specific description of the ecological functions while also relying on the Auburn Inventory and Characterization report as a general guide. Pursuant to Section 4.4.3., “Environmental Impact Mitigation” of the Master Program and ACC [16.10.120](#), “Mitigation Standards, Criteria and Plan Requirements”, on-site and in-kind mitigation is preferred. Mitigation plans shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule that assures completion prior to occupancy has been approved by the Director.
11. Restoration of any shoreline that has been disturbed or degraded shall use native plant materials with a diversity and type appropriate for the site. As described in ACC [Section 16.10.120](#), “Performance Standards for Mitigation Planning”, plants native to the Puget Lowlands or Pacific Northwest ecoregion should be used as well as plants that are adapted and appropriate for the proposed habitats. Significant areas of the site should not be planted with species that have questionable potential for successful establishment. The use of perennial plants is preferred over annual species. Plant species high in food and cover value for native fish and wildlife species that are known or likely to use the mitigation site should be used. Emulate the plant species heterogeneity and structural diversity found in native plant communities, as described in regionally recognized publications on native landscapes.
12. Aquatic weed control shall only occur when native plant communities and associated habitats are threatened or when an existing water-dependent use is restricted by the presence of weeds.
13. For lawns and other vegetation maintained within shoreline jurisdiction, the use of chemical fertilizers, pesticides or other similar chemical treatments shall be discouraged and alternative practices shall be employed.—Where chemical fertilizer, herbicide, or pesticide use is necessary for protecting existing natural vegetation or establishing new vegetation in shoreline areas as part of an erosion control or mitigation plan, the use of time release fertilizer and herbicides shall be preferred over liquid or concentrate application. As described in ACC [16.10.120](#), “Performance Standards for Mitigation Planning”, fertilizers must be applied per manufacturer specifications to planting holes in organic or controlled release forms, and never broadcast on the ground surface. If herbicides are used, only those approved for use in aquatic ecosystems by the Washington Department of Ecology shall be used. Herbicides shall only be used in conformance with all applicable laws and regulations and be applied per manufacturer specifications by an applicator licensed in the state of Washington.

4.4.3 Environmental Impact Mitigation

Policies

1. All shoreline use and development should be carried out in a manner that avoids and minimizes adverse impacts so that the resulting ecological condition does not become worse than the current condition. This means assuring no net loss of ecological functions and processes and protecting critical areas designated in Auburn City Code Chapter [16.10 ACC](#) that are located in the shoreline. Should a proposed use and development potentially create significant adverse environmental impacts not otherwise avoided or mitigated by compliance with the master program, the Director should require mitigation measures to ensure no net loss of shoreline ecological functions.

Regulations

1. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), [Chapter 43.21C RCW](#), is applicable, the analysis of environmental impacts from proposed shoreline uses or developments shall be conducted consistent with the rules implementing SEPA ([ACC Chapter 16.06 ACC](#) and [WAC 197-11](#)).
2. Where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority.
 - a. Avoiding the impact altogether by not taking a certain action or parts of an action;
 - b. 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;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations;
 - e. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
 - f. Monitoring the impact and the compensation projects and taking appropriate corrective measures.
3. In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.
4. Required mitigation shall not be in excess of that necessary to assure that proposed uses or development will result in no net loss of shoreline ecological functions.
5. Mitigation actions shall not have a significant adverse impact on other shoreline functions fostered by the policies of the Shoreline Management Act.
6. When compensatory measures are appropriate pursuant to the priority of mitigation sequencing above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that addresses limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive

resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions. ACC [Section 16.10.110](#), “Mitigation Standards, Criteria And Plan Requirements,” establishes regulations on location and timing of mitigation. On-site and in-kind mitigation are preferred.

7. A monitoring program shall be prepared and implemented by the applicant for mitigation projects. The monitoring program shall include a contingency plan in the event that implementation of the mitigation plan is inadequate or fails. A performance and maintenance security is required in the amount of one hundred and twenty-five percent of the cost of the mitigation project for the length of the monitoring period. This is to ensure the applicant complies with the terms of the approved mitigation plan. See ACC [16.10.130](#), “Monitoring Program and Contingency Plan”, for specific elements that need to be incorporated into the monitoring program.

4.4.4 Critical Areas

Policies

1. Provide a level of protection to critical areas within the shoreline that is at least equal to that which is provided by the City’s critical areas regulations adopted pursuant to the Growth Management Act and the City’s Comprehensive Plan. If conflicts between the SMP and the critical area regulations arise, the regulations that are most consistent with the SMA or its WAC provisions will govern.
2. Allow activities in critical areas that protect and, where possible, restore the ecological functions and ecosystem-wide processes of the City’s shorelines.
3. Preserve, protect, restore and/or mitigate [wetlands-critical areas](#) within and associated with the City’s shorelines to achieve no net loss of [wetland-area-and-wetland-shoreline ecological](#) functions.
4. Developments in shoreline areas that are identified as geologically hazardous areas, or pose a foreseeable risk to people and improvements during the life of the development, should not be allowed.

Regulations

1. Provisions of the City of Auburn Critical Areas Ordinance, as codified in Chapter [16.10 ACC](#) ([per Ordinance No. xxxx—when we update in 2019](#)) are herein incorporated into this master program except as noted below:
 - a. If there are any conflicts or unclear distinctions between the Shoreline Master Program and the Critical Areas standards as part of the Master Program, the requirements that are the most consistent with the SMA or its WAC provisions shall apply, [as determined by the City](#).
 - b. Provisions of the Critical Areas standards that are not consistent with the Shoreline Management Act ([Chapter 90.858 RCW](#)), and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction.
 - c. The provisions of Auburn’s Critical Areas standards do not extend shoreline jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffer areas

that are outside shoreline jurisdiction, see [Auburn's Critical Areas Ordinance Chapter 16.10 ACC](#).

- d. When definitions per ACC [16.10.020](#) "Definitions" conflict with SMP definitions per Chapter 1, SMP definitions shall apply.
- e. ACC [16.10.030](#) "Applicability – Regulated activities" shall not apply. Determining which activities are regulated shall be governed by this Master Program.
- f. Activities that are exempt from the provisions of Auburn's Critical Areas Ordinance per ACC [16.10.040](#) "Exemptions and nonconforming uses" shall be governed by this [Master](#) Program.
- g. Provisions of Auburn's Critical Area Ordinance that include a "reasonable use determination" shall not apply within shoreline jurisdiction. Specifically,
 - i. References to reasonable use in Section ACC [16.10.100](#) "Alteration or development of critical areas – Standards and criteria" shall not apply; and
 - ii. Section ACC [16.10.150](#) "Reasonable use provision" shall not apply.

In the event an applicant wishes to adjust standards and provisions for designated critical areas per the Reasonable Use Exception under ACC [16.10.150](#), such application shall be processed as a Shoreline Variance Permit process, per the provisions of this SMP and WAC [173-27](#), Shoreline Management Permit and Enforcement Procedures.

- h. Provisions of Auburn's Critical Areas Ordinance relating to variance procedures and criteria do not apply [within the](#) shoreline jurisdiction. Within [the](#) shoreline jurisdiction, the purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the [applicable Shoreline mMaster pProgram](#) where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the [Shoreline mMaster pProgram](#) will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW [90.58.020](#). Specifically,
 - i. References to variances in Section ACC [16.10.090](#) "Buffer areas and setbacks" shall not apply; and
 - ii. ACC [section 16.10.160](#) "Variances" shall not apply. Variance procedures and criteria shall be established in this SMP, Chapter 6, and in WAC [173-27-170](#).
 - i. ACC [16.10.170](#) "Special exception for public agencies and utilities" shall not apply.
2. All shoreline uses and activities shall be located, designed, constructed and managed to protect and/or enhance the ecological functions and ecosystem-wide processes provided by critical areas including, but not limited to: Wetlands, Streams, Wildlife Habitat, Groundwater Protection Areas, Geologically Hazardous Areas, and Flood Hazard Areas as defined and designated by the Critical Areas Ordinance; and Critical Freshwater Habitats as defined by the Shoreline Master Program.
 3. Proponents of development in shoreline areas that may impact [Ggeologically Hhazardous areas, as defined and designated in the Critical Areas Ordinance \(Chapter 16.10 ACC\), critical areas](#) must submit a [gGeologicetechnical hazard rReport that complies consistent with Chapter 16.10 ACC and the City of Auburn Engineering Design Standards the submittal requirements provided in Appendix C.](#)

4.4.5 Critical Area Regulations Table

The following table provides a summary of standards and provisions per ACC “Critical Areas.” The table is only meant to serve as a reference; applicable provisions ACC (included as Appendix A) should be consulted directly to determine the full extent of the regulation. Per ACC, the Green River and White River are considered Class I Streams. Other designated critical areas that may be located within shoreline jurisdiction include wetlands, wildlife habitat areas, and geologic hazard areas.

Table 1. Critical Area Regulations

Critical Area	Minimum Buffer Width	Maximum Buffer Width	How to Measure Buffer Width	Buffer Composition	Buffer Averaging/Width Reduction
Class I Streams	100 feet (<i>Urban Conservancy and Shoreline Residential</i>) 200 feet (<i>Natural</i>)	Buffer width may be increased by the Director by up to a maximum of 50% pursuant to ACC (E)(2)(b)	The buffer shall be measured from the ordinary high water mark.	Buffers shall typically consist of an undisturbed area of native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by ACC or the Master Program. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan.	Buffer averaging is not permitted Buffer widths may be reduced by up to 35% provided the applicant demonstrates that a reduction will not result in any adverse impact to the stream. Enhancement of the buffer may be required. Buffer width reduction must comply with ACC (E)(1).
Wetlands			The buffer shall be measured perpendicular from the wetland edge as delineated and marked in the field using the 1997 Washington State Wetlands Identification Manual.		Buffer width averaging may be allowed provided the total area contained within the buffer after averaging is no less in area than contained within the standard buffer prior to averaging, where such reduction shall not result in greater than a
Category I	100 feet	200 feet			
Category II	50 feet	100 feet			

Critical Area	Minimum Buffer Width	Maximum Buffer Width	How to Measure Buffer Width	Buffer Composition	Buffer Averaging/Width Reduction
Category III	25 feet	50 feet			35-percent reduction in the buffer width and the applicant demonstrates compliance with ACC (E)(1) Buffer Areas and Setbacks. Buffer width can be reduced by up to 35% provided the applicant enhances or restores the buffer. The restoration or enhancement would have to meet requirements per ACC (E)(1) Buffer Areas and Setbacks.
Category IV	25 feet	30 feet			

Critical Area	Minimum Buffer Width	Maximum Buffer Width	How to Measure Buffer Width	Buffer Composition	Buffer Averaging/Width Reduction
Wildlife Habitat Areas	Buffer widths shall be determined by the director based on the following factors: • species recommendations of the Department of Fish and Wildlife; • recommendations contained in the wildlife report and the nature and intensity of land uses and activities occurring on the site and on adjacent sites.	N/A	N/A	Buffers shall typically consist of an undisturbed area of native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by ACC or the Master Program. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan.	Buffer widths for critical habitat areas may be modified by averaging buffer widths or by enhancing or restoring buffer quality.
Geologic Hazard Areas	Required buffers may vary in width. The widths of the buffer shall reflect the sensitivity of the geologic hazard area in question and the types and density of uses proposed on or adjacent to the geologic hazard.	N/A	Geologic hazard area buffers shall be measured from the top and toe and along the sides of the slope.		Not permitted

Critical Area	Minimum Buffer Width	Maximum Buffer Width	How to Measure Buffer Width	Buffer Composition	Buffer Averaging/Width Reduction
				Buffers shall typically consist of an undisturbed area of native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by ACC 16.10 or the Master Program. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan. Buffers shall typically consist of an undisturbed area of	

Critical Area	Minimum Buffer Width	Maximum Buffer Width	How to Measure Buffer Width	Buffer Composition	Buffer Averaging/Width Reduction
				native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by ACC 16.10 or the Master Program. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan.	

4.4.64.4.5 Public Access (including views)

Policies

1. Public access improvements should not result in adverse impacts to the natural character and quality of the shoreline and associated wetlands or result in a net loss of shoreline ecological functions.—Developments and activities within the shoreline should not impair or detract from the public's visual or physical access to the water.
2. Protection and enhancement of the public's physical and visual access to shorelines should be encouraged.
3. The amount and diversity of public access to shorelines should be increased consistent with the natural shoreline character, property rights, and public safety.
4. Publicly owned shorelines should be limited to water-dependent or public recreation uses, otherwise such shorelines should remain protected, undeveloped open space.
5. Public access should be designed to provide for public safety. Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and should be designed to be ADA accessible.

Regulations

1. All shoreline permits shall include provisions to provide public access where any of the following conditions are present:
 - a. Where a development or use will create increased demand for public access to the shoreline;
 - b. Where a development or use will interfere with an existing public access way;
 - c. Where a use is not a priority use under the Act;
 - d. Where a new multi-unit residential development or land subdivision for more than four parcels is proposed
 - e. Where a non-water-dependent use (including water-enjoyment and water-related use) is proposed or,
 - f. Where a use or development will interfere with the public use of the lands or waters subject to the public trust doctrine.
2. An applicant need not provide public access where one or more of the following conditions apply:
 - a. The City of Auburn provides more effective public access through preparation and adoption of a public access planning process and plan as described in WAC [173-26-221\(4\)\(c\)](#);
 - b. Unavoidable health or safety hazards to the public exists which cannot be prevented by practical means;
 - c. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;
 - d. Environmental harm will result from the public access that cannot be mitigated; or,

- e. Adverse and unavoidable conflict between access requirements and the proposed use cannot be mitigated.
3. Public access shall be designed to respect private properties.
4. Development uses and activities shall be designed and operated to avoid blocking, obstructing, reducing or adversely interfering with the public's physical and visual access to the water and shorelines.
5. Development on the water shall be constructed of non-reflective materials that are compatible in terms of color and texture with the surrounding area.
6. Public access locations shall be clearly marked with visible signage.
7. Public access provided by shoreline street ends, public utilities, and rights-of-way shall not be diminished (RCW [36.87.130](#)).
8. Shoreline development by any public entities, including the City of Auburn, port districts, state agencies, and public utility districts, shall include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, impact to the shoreline environment or other provisions listed in WAC [173-26-221](#)(4)(d).

4.4.74.4.6 Flood Hazard Reduction

Policies

1. The City should manage flood protection through the City's Comprehensive Drainage Plan, Comprehensive Plan, stormwater regulations, and flood hazard areas regulations.
2. Discourage development within the floodplains associated with the City's shorelines that would individually or cumulatively result in an increase to the risk of flood damage.
3. Non-structural flood hazard reduction measures should be given preference over structural measures. Structural flood hazard reduction measures should be avoided whenever possible. When necessary, they should be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes. Non-structural measures include setbacks, land use controls prohibiting or limiting development in areas that are historically flooded, stormwater management plans, or bioengineering measures.
4. Where possible, public access should be integrated into publicly financed flood control and management facilities.

Regulations

1. No permanent non-water dependent structures or uses shall be placed in the floodway zone. Bank protection associated with bridge construction and maintenance may be permitted and shall conform to provisions of the State Hydraulics Code (RCW [77.55](#)).
2. Normal maintenance and repair of existing flood control structures, such as levees and dikes, to a state comparable to its original condition, shall be allowed per WAC [173-27-040](#)(2)-(b).
3. Rehabilitation or replacement of existing flood control structures, such as levees and dikes, whose primary purpose is to contain the 1-percent annual chance flood event, shall be allowed where it can be demonstrated by an engineering analysis that the existing structure:

- a. Does not provide an appropriate level of protection for surrounding lands; or
- b. Does not meet appropriate engineering design standards for stability (e.g., oversteepened side slopes for existing soil and/or flow conditions).

Rehabilitated or replaced structures shall maintain equal or lesser side slope angles to existing conditions, and shall not extend the toe of slope laterally into the channel.

4. New structural flood hazard reduction measures shall be allowed only under the following circumstances:
 - a. When it can be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development;
 - b. That non-structural measures are not feasible;
 - c. That impacts to ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss; and
 - d. That appropriate vegetation restoration and conservation actions are undertaken consistent with regulations under Section 4.4.2 "Shoreline Vegetation Conservation" of the Master Program and [ACC Chapter 16.10 ACC](#), "Critical Areas".
5. Permanent structures placed within the 100-year floodplain shall be designed and constructed in accordance with the requirements of [ACC Chapter 15.68 ACC](#), "Flood Hazard Areas".
6. New structural flood hazard reduction measures, such as dikes, levees, berms and similar flood control structures shall be placed landward of the floodway as determined by the U.S. Army Corps of Engineers and the State of Washington, Department of Ecology.
7. New structural flood hazard reduction measures, such as dikes, levees, berms shall be placed landward of associated wetlands, and designated vegetation conservation areas, except when the project includes increasing ecological functions as part of the design or as mitigation for impacts.
8. Dikes, levees, berms and similar flood control structures shall be shaped and planted with vegetation suitable for wildlife habitat.
9. New structural public flood hazard reduction measures, such as dikes and levees shall dedicate and provide or improve public access unless public access improvements would cause unavoidable health or safety hazards to the public, inherent and unavoidable security problems, significant ecological impacts that cannot be mitigated, unavoidable conflict with the proposed use, or a cost that is disproportionate and unreasonable to the total long-term cost of the development.
10. Removal of gravel from the river channel for flood management purposes is prohibited.

[4.4.84.4.7](#) Water Quality, Storm water and Non-Point Pollution

Policies

1. The City should prevent impacts to water quality and storm water quantity that would result in a net loss of shoreline ecological functions, or a significant impact to aesthetic qualities, or recreational opportunities.

2. Storm water management treatment, conveyance, or discharge facilities should be discouraged in the shoreline jurisdiction, unless no other feasible alternative is available.
3. Low impact development techniques that allow for greater amount of storm water to infiltrate into the soil should be encouraged to reduce storm water run-off.
4. Encourage conservation of existing shoreline vegetation which provides water quality protection by slowing and filtering stormwater runoff.

Regulations

1. Shoreline development and use shall incorporate measures to protect and maintain surface and ground water quantity and quality in accordance with all applicable laws. Appropriate vegetation restoration and conservation actions shall be undertaken consistent with regulations under Section 4.4.2, "Shoreline Vegetation Conservation" and [ACC Chapter 16.10 ACC](#), "Critical Areas".
2. Development within the City's shoreline shall conform to all requirements in the City's Comprehensive Drainage Plan and stormwater standards, Comprehensive Plan, and Flood Hazard Areas regulations.
3. The construction of new outfalls into water bodies and improvements to existing facilities shall comply with all appropriate Federal, State, and City regulations for water quality.
4. Water discharged to rivers shall receive appropriate treatment as determined by the Department of Ecology and shall not present a thermal or other barrier to fish migration.
5. Use of pesticides and fertilizers in or near shoreline jurisdiction shall conform to the following:
 - a. Pesticides applied using aerial spraying techniques within the shoreline jurisdiction, including over water bodies or wetlands, shall be prohibited unless specifically permitted under the Washington Departments of Agriculture or Ecology.
 - b. Pesticides, organic or mineral derived fertilizers, or other hazardous substances, if necessary shall be restricted in accordance with: the state Department of Fish and Wildlife Management Recommendations; the regulations of the state Department of Ecology as the Environmental Protection Agency's delegated authority and permitting body for the application of pesticides and herbicides to the waters of Washington State; and pesticide labels as per the authority of the state Department of Agriculture.
 - c. Pesticides shall be used, handled, and be disposed of in accordance with provisions of the Washington State Pesticide Application Act (RCW [17.21](#)) and the Washington State Pesticide Act (RCW [15.587](#)) to prevent contamination and sanitation problems.

[4.4.94.4.8](#) Educational and Archeological Areas and Historic Sites

Policies

1. Where possible, Educational and Archeological Areas and Historic sites in the shoreline should be permanently preserved for scientific study, education, and public observation.

2. Consideration should be given to the National Historic Preservation Act of 1966 ~~and Chapter 43.51 RCW~~ to provide for the protection, rehabilitation, restoration and reconstruction of districts, sites, buildings, structures and objects located or associated with the shoreline that are significant in American, Washington and local history, architecture, archeology or culture.
3. Where feasible and appropriate, access trails to shorelines should incorporate access to or educational signage acknowledging protected, historical, cultural and archeological sites or areas in the shoreline.

Regulations

1. If any archeological artifacts are uncovered during excavations in the shoreline, work must stop and the City of Auburn, the State Department of Archeology and Historic Preservation and the Muckleshoot Indian Tribe must be notified.
2. Permits issued in areas known or highly suspected to contain archeological artifacts and data shall have provisions providing for a site inspection and evaluation by an archeologist prior to initiation of disturbance and for monitoring of potentially disruptive activities. Cost for inspection and evaluation of the site will be the responsibility of the developer. This condition shall require the approval by the Director before work can begin or resume on a project. Significant archeological data or artifacts shall be recovered before work resumes or begins on a project.

16.10.080 Classification and rating of critical areas.

A. To promote consistent application of the standards and requirements of this chapter, critical areas within the city of Auburn shall be rated or classified according to their characteristics, function and value, and/or their sensitivity to disturbance.

B. Classification of critical areas shall be determined by the director based on consideration of the following factors and in the following order:

1. Consideration of the technical reports submitted by qualified consultants in connection with applications subject to these regulations;
2. Application of the criteria contained in these regulations; and
3. Critical areas maps maintained by the ~~planning and~~ department of community development ~~department~~.

C. Wetland Classification. Wetlands shall be designated Category I, Category II, Category III, Category IV and as artificially created according to the criteria in this section. Wetland classifications incorporate the current Washington State Wetlands Rating System for Western Washington ~~from the~~ (Department of Ecology, 2004, Publication No. 04-06-025). Wetland rating categories shall be applied as the wetland exists on the date of adoption of the rating system by the local government, as the wetland naturally changes thereafter, or as the wetland changes in accordance with permitted activities. Wetland rating categories shall not change due to illegal modifications.

1. "Category I wetlands" are those wetlands which meet any of the following criteria: (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. Such wetlands are:

- a. ~~Represent a unique or rare wetland type; or~~ Relatively undisturbed estuarine wetlands larger than 1 acre;
- b. ~~Are more sensitive to disturbance than most wetlands; or~~ Wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR;
- c. ~~Are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime; or~~ Bogs;
- d. ~~Are providing a high level of functions, scoring 70-23 points or more out of 100~~ 27 (DOE Wetlands Rating System, 20104); or Mature and old-growth forested wetlands larger than 1 acre;
- e. ~~Are characterized as a national heritage wetland; or~~ Wetlands in coastal lagoons;
- f. ~~Are characterized as a bog; or~~ Interdunal wetlands that score 8 or 9 habitat points and are larger than 1 acre;
- g. ~~Are over one acre and characterized as a mature and old-growth forested wetland~~ Wetlands that perform many functions well (scoring 23 points or more).

2. "Category II wetlands" are: those wetlands which are not Category I wetlands and which meet any of the following criteria:

- a. ~~Provide high levels of some functions, being difficult, though not impossible to replace; or~~ Estuarine wetlands smaller than 1 acre, or disturbed estuarine wetlands larger than 1 acre;
- b. ~~Perform most functions relatively well, scoring 51-20—69~~ 22 out of 100 ~~27 points (DOE Wetlands Rating System, 20104).~~ Interdunal wetlands larger than 1 acre or those found in a mosaic of wetlands;
- c. Wetlands with a moderately high level of functions (scoring between 20 and 22 points).

3. "Category III wetlands", which have a score 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. Such wetlands are: are those wetlands that are not Category I or II wetlands, and which meet the following criterion:

~~a. Provide moderate levels of functions, scoring between 3016—5019 out of 10027 points (DOE Wetlands Rating System, 20104).~~ Wetlands with a moderate level of functions (scoring between 16 and 19 points);

b. Can often be adequately replaced with a well-planned mitigation project;

c. Interdunal wetlands between 0.1 and 1 acre.

4. “Category IV wetlands” are those wetlands that meet the following criterion: have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that should be able to be replace, or in some cases be improved. 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.

~~a. Provide low levels of functions, scoring less than 3016 out of 10027 points (DOE Wetlands Rating System, 20104).~~

5. “Artificially created wetlands” are purposefully created landscape features, ponds and storm water detention or retention facilities. Artificially created wetlands do not include wetlands created as mitigation, and wetlands modified for approved land use activities. Purposeful creation must be demonstrated to the director through documentation, photographs, statements and/or other evidence. Artificial wetlands intentionally created from nonwetland sites are excluded from regulation under this section.

D. Stream Classification. Streams shall be classified according to the water typing system as provided in WAC 222-16-030, as amended and designated as Class I Type S, Class II Type F, Class III Type Np, and Class IV Type Ns according to the criteria in this section:

1. “Class I Type S streams” are those natural streams identified as “shorelines of the state” under Chapter 90.58 RCW and the city of Auburn shoreline master program.

2. “Class II Type F streams” are those natural streams that are not Class I streams and are either perennial or intermittent and have one of the following characteristics:

a. Contain fish habitat; or

b. Has significant recreational value, as determined by the director.

3. “Class III Type Np streams” are those natural streams with perennial (year-round) or intermittent flow and do not contain fish habitat.

4. “Class IV Type Ns streams” are those natural streams and drainage swales with channel width less than two feet taken at the ordinary high water mark, that do not contain fish habitat.

5. “Intentionally created streams” are those manmade streams defined as such in these regulations, and do not include streams created as mitigation. Purposeful creation must be demonstrated through documentation, photographs, statements and/or other evidence. Intentionally created streams may include irrigation and drainage ditches, grass-lined swales and canals. Intentionally created streams are excluded from regulation under this section, except manmade streams that provide “critical habitat,” as designated by federal or state agencies, for salmonids.

16.10.090 Buffer areas and setbacks.

A. General Provisions. The establishment of on-site buffers, buffer areas or setbacks shall be required for all development proposals and activities in or adjacent to critical areas. The purpose of the buffer shall be to protect the integrity, function, value, and resources of the subject critical area (in the case of wetlands, streams, and/or wildlife habitat areas), and/or to protect life, property and resources from risks associated with development on unstable or critical lands (in the case of geologically hazardous areas). Buffers shall typically consist of an undisturbed area of native vegetation retained or established to achieve the purpose of the buffer. No buildings or structures shall be allowed within the buffer unless as otherwise permitted by this section. If the site has previously been disturbed, the buffer area shall be revegetated pursuant to an approved enhancement plan. Buffers shall be protected during construction by placement of a temporary barricade, notice of the presence of the critical area and implementation of appropriate erosion and sedimentation controls. Restrictive covenants or conservation easements may be required to provide long-term preservation and protection of buffer areas.

B. Required buffer widths shall reflect the sensitivity of the particular critical area and resource or the risks associated with development and, in those circumstances permitted by these regulations, the type and intensity of human activity proposed to be conducted on or near the critical area.

C. Buffers shall be measured as follows:

1. Wetland buffers – the buffer shall be measured perpendicular from the wetland edge as delineated and marked in the field using the ~~1997 Washington State approved federal Wetlands Identification and Delineation Manual~~ and the Western Mountains, Valleys, and Coast Regional supplement;
2. Stream buffers – the buffer shall be measured from the ordinary high water mark;
3. Geologic~~ally~~ hazardous area buffers shall be required for critical landslide hazard areas and shall be measured from the top and toe and along the sides of the slope.

D. Buffer Width Variances. A variance from buffer width requirements may be granted by the city subject to the variance criteria set forth in ACC 16.10.160. Minor variances, defined as up to and including 10 percent of the requirement, shall be considered by the director. Variance requests which exceed 10 percent shall be considered by the hearing examiner.

E. Buffer widths shall be established for specific critical areas according to the following standards and criteria:

1. Wetland buffers shall be established ~~as follows:~~ per the following table.

Wetland Category	Minimum Buffer Width (in feet) with Minimization Measures listed in ACC 16.10.090(E)(2)			Maximum Buffer Width (in feet) without Minimization Measures listed in ACC 16.10.090(E)(2) (see subsection (E)(1)(g) of this section)		
	Habitat Score*			Habitat Score*		
	Low	Medium	High	Low	Medium	High
Category I	100 feet <u>75</u>	<u>110</u>	<u>225</u>	200 feet <u>100</u>	<u>150</u>	<u>300</u>
Category II	50 feet <u>75</u>	<u>110</u>	<u>225</u>	100 feet <u>100</u>	<u>150</u>	<u>300</u>
Category III	25 feet <u>60</u>	<u>110</u>	<u>225</u>	50 feet <u>80</u>	<u>150</u>	<u>300</u>
Category IV	25 feet <u>40</u>	<u>40</u>	<u>40</u>	30 feet <u>50</u>	<u>50</u>	<u>50</u>

*As determined per ACC 16.10.090(C)(1).

2. Standard buffer widths as noted in subsection (E)(1) of this section may be reduced, as provided in that subsection's table, if all of the following minimization measures are implemented.

<u>Disturbance</u>	<u>Required Measures to Minimize Impacts</u>
<u>Lights</u>	- <u>Direct lights away from wetland</u>
<u>Noise</u>	- <u>Locate activity that generates noise away from wetland</u> - <u>If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source</u> - <u>For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the activity</u>
<u>Toxic runoff</u>	- <u>Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered</u> - <u>Establish covenants limiting use of pesticides within 150 ft of wetland</u> - <u>Apply integrated pest management</u>
<u>Stormwater Runoff</u>	- <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u> - <u>Prevent channelized flow from lawns that directly enters the buffer</u> - <u>Use Low Intensity Development techniques</u>
<u>Change in water regime</u>	- <u>Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns</u>
<u>Pets and human disturbance</u>	- <u>Use privacy fencing or plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion</u> - <u>Place wetland and its buffer in a separate tract or protect with a conservation easement</u>
<u>Dust</u>	- <u>Use best management practices to control dust</u>

Different buffer width requirements may apply to various portions of a site, without requiring averaging or variances, based on the site plan, the intensity of land uses in various locations, and differences in the category of wetland.

a. ~~Buffer width averaging to improve wetland protection may be permitted when all of may be allowed where the applicant demonstrates to the director that the wetland contains variations in sensitivity due to existing physical characteristics, that lower intensity land uses would be located adjacent to areas where buffer width is reduced, that width averaging will not adversely impact the wetland functional values and/or that the total area contained within the buffer after averaging is no less in area than contained within the standard buffer prior to averaging. Buffer width averaging may be allowed only where such reduction shall not result in greater than a 35 percent reduction in the buffer width established in this section and the applicant demonstrates the following conditions are met:~~

i. ~~The proposed buffer area is extensively vegetated and has less than 25 percent slopes, and the reduction will not result in adverse impacts to the wetland; or 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.~~

ii. ~~The project includes a buffer~~ 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 as demonstrated by a critical areas report from a qualified wetland professional. ~~enhancement plan, as part of the mitigation required by this chapter and has less than 25 percent slopes. The buffer enhancement plan shall use plant species which are native to the project area, and shall substantiate that an enhanced buffer will improve the functional attributes of the buffer to provide additional protection for wetland functional values;~~ or

iii. ~~The total area of the buffer after averaging is equal to the area required without averaging~~ acreage included in the buffer would substantially exceed the size of the wetland and the reduction will not result in adverse impacts to the wetland and the project includes a buffer enhancement plan which ensures that the reduction will not result in adverse impacts to the wetland.

iv. The buffer at its narrowest point is never less than either 75% of the required width or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever buffer is greater.

~~b. Buffer width may be reduced by up to 35 percent if an applicant undertakes measures approved by the director to enhance or restore the buffer. The restoration or enhancement may include, but is not limited to, planting of native trees or shrubs, increasing the diversity of plant cover types or replacement of exotic species with native species which approximate in composition a naturally occurring plant community.~~

~~eb.~~ Application of subsections (E)(1)(a) ~~and (b)~~ of this section shall not result in a buffer width less than 25 feet.

~~ed.~~ Certain uses and activities which are consistent with the purpose and function of the wetland buffer and do not detract from its integrity may be permitted by the director within the buffer depending on the sensitivity of the wetland. Examples of uses and activities with minimal impacts which may be permitted in appropriate cases include permeable pedestrian trails, viewing platforms, and utility easements; ~~provided, that any impacts to the buffer resulting from such permitted activities shall be mitigated. Uses permitted within the buffer shall generally be located as far from the wetland as possible. Walkways and trails should be limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located only in the outer twenty-five percent (25%) of the wetland buffer area, and located to avoid removal of significant trees. They should be limited to pervious surfaces no more than five (5) feet in width for pedestrian use only. Raised boardwalks utilizing non-treated pilings may be acceptable.~~

~~ed.~~ Where existing buffers are degraded, the director may allow limited filling within the buffer when the applicant demonstrates that the buffer will be enhanced according to standards of this chapter, including appropriate soil preparation, will not result in slopes exceeding 25 percent, and there will be no net loss of wetland or buffer functions and values.

~~fe.~~ Long-term protection of a regulated wetland and its associated buffer shall be provided by one of the following methods. It shall be placed in a separate tract on which development is prohibited, protected by execution of an easement dedicated to the city, a conservation organization or land trust, or similarly preserved through a permanent protective mechanism acceptable to the city. The location and limitations associated with the wetland and its buffer shall be shown on the face of the deed or plat applicable to the property and shall be recorded with the King or Pierce County recording department.

~~g. The director may require increased buffer widths up to the amount in this column when a larger buffer is deemed necessary to protect wetland functions and values based on site conditions, site design, intensity and operational characteristics of the development/land use. Examples where increased buffers may be required include, but are not limited to, where a larger buffer is necessary to maintain viable populations of species listed as endangered, threatened or sensitive, or when land adjacent to the buffer is susceptible to severe erosion and erosion control measures are inadequate to effectively prevent adverse wetland impacts.~~

g. The following wetlands may be exempt from the requirement to avoid impacts and they may be filled if the impacts are fully mitigated based on the remaining actions. If available, impacts should be mitigated through the purchase of credits from an in-lieu fee program or mitigation bank, consistent with the terms and conditions of the program or bank. In order to verify the following conditions, a critical area report for wetlands meeting the requirements in ACC 16.10.060 must be submitted.

i. All isolated Category IV wetlands less than 4,000 square feet that:

(A) Are not associated with riparian areas or their buffers

(B) Are not associated with shorelines of the state or their associated buffers

(C) Are not part of a wetland mosaic

(D) Do not score 5 or more points for habitat function based on the 2014 update to the Washington State Wetland Rating System for Western Washington: 2014 Update (Ecology Publication #14- 06-029, or as revised and approved by Ecology)

(E) Do not contain a Priority Habitat or a Priority Area for a Priority Species identified by the Washington Department of Fish and Wildlife, do not contain federally listed species or their critical habitat, or species of local importance identified in ACC 16.10.080(E).

ii. Wetlands less than 1,000 square feet that meet the above criteria and do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter.

2. Stream buffers shall be established as follows:

Stream ClassType	Minimum Buffer Width (in feet)
Class-I (see subsection (E)(2)(b) of this section) Type S	100 feet Per SMP
Class-II Type F	75 feet 100-165
Class-III Type Np	25 feet 50-65
Class-IV Type Ns	25 feet 50-65

a. The applicable minimum buffer for ~~Class-I~~~~Type S~~ streams ~~shall be the larger of the buffer established by these regulations or that established by is listed in~~ the city's shoreline master program.

b. The buffer widths required in this section may be increased by the director up to a maximum of 50 percent for ~~Class-I, II and IV~~~~Type F, and Ns~~ streams and up to 100 percent for ~~Class-III~~ ~~Type Np~~ streams in response to site-specific conditions and based on the report information submitted to characterize the functions and values of the stream. This includes, but is not limited to, situations where the critical area serves as habitat for threatened, endangered or sensitive species. The applicant may propose to implement one or more enhancement measures, listed in order of preference below, which will be considered in establishing buffer requirements:

i. Removal of fish barriers to restore accessibility to anadromous fish.

ii. Enhancement of fish habitat using log structures incorporated as part of a fish habitat enhancement plan.

iii. Enhancement of wildlife habitat by adding structures that are likely to be used by wildlife, including wood duck houses, bat boxes, nesting platforms, snags, root wads/stumps, birdhouses, and heron nesting areas.

iv. Additional mitigating measures may include but are not limited to:

(A) Landscaping outside the buffer area with native vegetation or a reduction in the amount of clearing outside the buffer area;

(B) Planting native vegetation within the buffer area, especially vegetation that would increase value for fish and wildlife, increase stream bank or slope stability, improve water quality, or provide aesthetic/recreational value;

(C) Creating a surface channel where a stream was previously culverted or piped;

(D) Removing or modifying existing stream culverts (such as at road crossings) to improve fish passage and flow capabilities which are not detrimental to fish;

(E) Upgrading retention/detention facilities or other drainage facilities beyond required levels; or

(F) Similar measures determined applicable by the director.

c. No structures or improvements shall be permitted within the stream buffer area, including buildings, decks, docks, except as otherwise permitted or required under the city's adopted shoreline master program, or under one of the following circumstances:

i. When the improvements are part of an approved enhancement, restoration or mitigation plan; or

ii. For construction of new public roads and utilities, and accessory structures, when no feasible alternative location exists; or

iii. Construction of foot trails, according to the following criteria:

(A) Designed to minimize impact of permeable materials;

(B) Designed to minimize impact on the stream system;

(C) Of a maximum width of 12 feet;

(D) Located within the outer half of the buffer, i.e., the portion of the buffer that is farther away from the stream; or

iv. Construction of footbridges; or

v. Construction of educational facilities, such as viewing platforms and informational signs.

d. Buffer width averaging may be allowed for ~~Class-III~~Type F and ~~Class-III~~Type Np streams only; provided, that all of the following are demonstrated by the applicant:

i. One or more of the enhancement measures identified in subsection (E)(2)(b)(i) through (iv) of this section is implemented;

ii. The total area contained within the buffer after averaging is no less in area than contained within the standard buffer prior to averaging;

iii. The buffer width averaging will result in stream functions and values equal or greater than before averaging; and

iv. The buffer width is not reduced by more than ~~35-25~~ percent in any location than the buffer widths established by this chapter.

e. Stream buffer widths may be reduced by the director on a case-by-case basis by up to ~~35-25~~ percent if an applicant demonstrates that a reduction will not result in any adverse impact to the stream. Further, if an existing buffer is vegetated, a buffer enhancement plan may be required to demonstrate how the function and values of the buffer and stream will be improved. If the existing buffer has been disturbed and/or is not vegetated, an enhancement plan shall be required that identifies measures to enhance the buffer functions and values and provide additional protection for the stream function and values. Enhancement plans are subject to approval by the ~~planning~~ director.

f. Long-term protection of a regulated stream and its associated buffer shall be provided by one of the following methods, except for the portion of ~~Class-I~~Type S streams which are owned by the State Department of Natural Resources. The stream and buffer shall be placed in a separate tract on which development is prohibited, protected by execution of an easement dedicated to the city, a conservation organization, land trust, or similarly preserved through a permanent protective mechanism acceptable to the city. The location and limitations associated with the stream and its buffer shall be shown on the face of the deed or plat applicable to the property and shall be recorded with the King or Pierce County recording department.

16.10.110 Mitigation standards, criteria and plan requirements.

A. Mitigation Standards. Adverse impacts to critical area functions and values shall be mitigated. Mitigation actions shall generally be implemented in the preferred sequence identified in this chapter. Proposals which include less preferred and/or compensatory mitigation shall demonstrate that:

1. All feasible and reasonable measures as determined by the department have been taken to reduce impacts and losses to the critical area, or to avoid impacts where avoidance is required by these regulations;
2. The restored, created or enhanced critical area or buffer will be as viable and enduring as the critical area or buffer area it replaces; and
3. No overall net loss will occur in wetland or stream functions and values. The mitigation shall be functionally equivalent to or greater than the altered wetland or stream in terms of hydrological, biological, physical, and chemical functions.

B. Location and Timing of Mitigation.

1. The preferred location of mitigation is on site when ecologically preferable to other identified alternatives. Mitigation may be allowed off site when it is determined by the department that on-site mitigation is not ecologically preferable to other identified alternatives, or, in the case of wetlands, where the affected site is identified as appropriate for off-site mitigation in the Mill Creek Special Area Management Plan (SAMP), April 2000. The burden of proof shall be on the applicant to demonstrate that mitigation cannot be provided on site or is consistent with the SAMP. If it is determined that on-site mitigation is not ecologically preferable to other identified alternatives, mitigation shall be provided in the same drainage basin as the permitted activity on property owned, secured, or controlled by the applicant, or provided by the applicant using alternative mitigation options such as mitigation banking or in-lieu fee programs. The mitigation should result in no net loss to the critical area functions impacted and associated watershed. Where mitigation is authorized to be located outside the city limits, the applicant shall assure to the satisfaction of the department that other requirements of this chapter will be met, including but not limited to, monitoring and maintenance.
2. In-kind mitigation shall be provided except when the applicant demonstrates, and the department concurs, that greater functional and habitat value can be achieved through out-of-kind mitigation.
3. When wetland, stream or habitat mitigation is permitted by these regulations, the mitigation project shall occur near an adequate water supply (river, stream, ground water) with a hydrologic connection to the critical area to ensure a successful mitigation or restoration. A natural hydrologic connection is preferential as compared to one which relies upon manmade or constructed features requiring routine maintenance.
4. Any mitigation plan shall be completed before initiation of other permitted activities, unless a phased or concurrent schedule that assures completion prior to occupancy has been approved by the department.

C. Wetland Replacement Ratios.

1. Where wetland alterations are permitted by the director, the applicant shall enhance or create areas of wetlands in order to compensate for wetland losses. The compensation shall be determined according to acreage, function, type, location, timing factors and projected success of enhancement or creation.
2. The following acreage replacement and enhancement ratios shall be implemented; however, the department may vary these standards if the applicant can demonstrate and the director agrees that the variation will provide adequate compensation for lost wetland area, functions and values, or if other circumstances as determined by the director justify the variation. Except as provided for Category IV wetlands in subsection (C)(3) of this section, in no case shall the amount of mitigation be less than the area of affected wetland. The director may at his discretion increase these standards where mitigation is to occur off-site or in other appropriate circumstances.
3. Category IV wetlands can be mitigated by either: (a) meeting one of the replacement ratios (*see following table); or (b) implementing mitigation which ensures no net loss of values and functions of the larger ecosystem in which the critical area is located.

Wetland Category and type of Wetland	Wetland Creation Ratio (Acres) or Re-establishment	Rehabilitation	Wetland Enhancement Ratio (Acres)
	(Acres Created or Enhanced: Acres Impacted)		
Category I: Bog, Natural Heritage Site	6:1 Not considered possible	Case by case	12:1 Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	Forested 3:1	6:1	6 12:1
	Scrub/Shrub 2:1	4:1	
	Emergent 2:1	4:1	
Category III	Forested 2 3:1	4:1	6 8:1
	Scrub/Shrub 2:1	4:1	
	Emergent 2:1	4:1	
Category IV*	1.25:1*	3:1	2.5 6:1*

Gap Analysis Report

Shoreline Master Program Periodic Update City of Auburn

Revised April 2019

Prepared on behalf of:



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1. Introduction

In accordance with the Washington State Shoreline Management Act (SMA), local jurisdictions with shorelines of the state are required to conduct a periodic review of their Shoreline Master Programs (SMPs) (WAC 173-26-090). This review is intended to keep SMPs current with amendments to state laws or rules, changes to local plans and regulations, changes in local circumstances, and new or improved data and information.

The City of Auburn (City) adopted its current SMP in 2009 (Ordinance No. 6235). In Auburn, the Green River and the White River are the only Shorelines of the State, and both are also designated Shorelines of Statewide Significance. The City's SMP includes goals and policies, shoreline environment designations, and development regulations that guide the development and protection of these shorelines.

As a first step in the periodic review process, The Watershed Company (Watershed) reviewed the current SMP for consistency with legislative amendments made since its adoption. Watershed staff also reviewed the current SMP for consistency with the policies in the City's Comprehensive Plan, adopted in December 2015 (Ordinance No. 6584), and with the implementing development regulations in the Auburn Municipal Code (ACC). Finally, as the periodic review process represents an opportunity to revise and improve the SMP, both City and Watershed staff reviewed the current SMP for overall usability.

The purpose of this gap analysis report is to provide a summary of the review and inform updates to the SMP. The report is organized into the following sections according to the content of the review:

- **Section 2** identifies gaps in the SMP's consistency with legislative amendments. This analysis is based on a list of amendments between 2007 and 2017, as summarized by the Washington State Department of Ecology (Ecology) and provided to the City as a Periodic Review Checklist.
- **Section 3** identifies gaps in consistency of the SMP with the City's Critical Areas Ordinance (CAO) (ACC Chapter 16.10). The CAO was most recently updated in 2010, and applies to critical areas outside of shoreline jurisdiction.
- **Section 4** identifies gaps in consistency with the City's Comprehensive Plan, and with implementing sections of the City's development regulations other than the CAO.
- **Section 5** identifies issues of usability noted by both City staff and residents.

For each section, the report presents the topic, relevant section(s) in the SMP, a summary of the analysis (consistency or usability), and a recommendation for revisions to the SMP.

This report includes several tables that identify potential revision actions. Where potential revision actions are identified, they are classified as follows:

- **“Mandatory”** indicates revisions that are required for consistency with state laws.
- **“Recommended”** indicates revisions that would improve consistency with state laws, but are not strictly required.
- **“Optional”** indicates revisions that represent ways in which the City could elect to amend its SMP in accordance with state laws, but that are not required or recommended for consistency with state laws.

This document attempts to minimize the use of abbreviations; however, a select few are used to keep the document concise. These abbreviations are compiled below in Table 1.

Table 1. Abbreviations used in this document.

Abbreviation	Meaning
BAS	Best available science
CARs	Critical areas regulations
City	City of Auburn
Ecology	Washington State Department of Ecology
FEMA	Federal Emergency Management Agency
RCW	Revised Code of Washington
SMP	Shoreline Master Program
SMA	Shoreline Management Act
WAC	Washington Administrative Code
ACC	Auburn City/Municipal Code

2. Consistency with Legislative Amendments

Table 2 summarizes mandatory and recommended revisions to the Auburn SMP based on the review of consistency with legislative amendments made since SMP adoption. Topics are organized in reverse chronological order of legislative amendments addressed. In general, mandatory changes to the SMP are minor in nature. The majority of them address revised rules with regard to SMP applicability, including updated exemption thresholds and definitions. Ecology has also developed new guidance on regulating nonconforming uses, structures, and development that could be of use to the City in clarifying the nonconformance regulations in its SMP.

Table 2. Summary of gaps in consistency with legislative amendments sorted by year, and associated mandatory and recommended SMP revisions.

Row	Summary of change	Review	Action
2017			
a.	The Washington State Office of Financial Management (OFM) adjusted the cost threshold for substantial development to \$7,047.	SMP Section 4.1 and definition for “Substantial Development” (Section 1.2) cite a cost threshold of \$5,718. Relevant Sections: Definition of “Substantial Development” (Section 1.2, Page 1-13) & Section 4.1 (Page 4-1)	Mandatory: The cost threshold should be updated to reflect the current cost threshold of \$7,047 for substantial development.
b.	Ecology amended rules to clarify that the definition of “development” does not include dismantling or removing structures.	The SMP does not clarify that removing structures does not constitute development. Relevant Section: Definition for “Development” (Section 1.2).	Mandatory: Revise definition of “development” to include Ecology’s suggested language: “Development” does not include dismantling or removing structures if there is no other associated

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
			<i>development or re-development.</i>
c.	Ecology adopted rules that clarify exceptions to local review under the SMA.	The SMP (Chapter 6, Section 16.08.015) adopts exemptions under WAC 173-27-040 by reference, but does not refer to exceptions under WAC 173-27-044 or -045. Relevant Sections: Chapter 6, Section 16.08 & Section 4.1.	Mandatory: Add reference to statutory exceptions via reference to WAC 173-27-044 and -045.
d.	Ecology amended rules that clarify permit filing procedures consistent with a 2011 statute.	The SMP (Chapter 6, Section 16.08.015) adopts provisions of WAC 173-27-130 by reference. Chapter 6, Section 16.08.190 references RCW 90.58.140. Relevant Sections: SMP Chapter 6, Sections 16.08.015 & 16.08.190	No change needed.
e.	Ecology amended forestry use regulations to clarify that forest practices that only involves timber cutting are not SMA “developments” and do not require Substantial Development Permits.	Forest practices are prohibited in Auburn’s SMP for all Shoreline Environment Designations (Section 4.7.1) although the definition for “Forest Practices” (Section 1.2) does not clarify that timber cutting practices are not SMA developments and	Recommended: Consider updating definition of “Forest Practices” for consistency with Ecology’s recommended language: <i>A forest practice that only involves timber cutting is not a development under the act and does not require a shoreline substantial development permit or a</i>

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
		could potentially be allowed. Relevant Section: Definition of “Forest Practices” (Section 1.2)	<i>shoreline exemption. A forest practice that includes activities other than timber cutting may be a development under the act and may require a substantial development permit, as required by WAC 222-50-020.</i>
f.	Ecology clarified the SMA does not apply to lands under exclusive federal jurisdiction	Auburn has no lands under exclusive federal jurisdiction (ie, National Parks, permanent military installations, etc) within shoreline jurisdiction.	No change needed.
g.	Ecology clarified “default” provisions for nonconforming uses and development .	The SMP establishes its own standards for nonconforming use and development in Section 4.4.10, Appendix B, and ACC 18.54. Relevant Sections: Section 4.4.10, SMP Appendix B (ACC 18.54), and definition for “Nonconforming Use and Development” (Section 1.2).	Recommended: Update definitions to define nonconforming structures, uses, and lots for consistency with the definitions in WAC 173-27-080(1).
h.	Ecology adopted rule amendments to clarify the scope and process for conducting periodic reviews .	The SMP does not include a discussion of periodic reviews.	No change needed.

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
i.	Ecology adopted a new rule creating an optional SMP amendment process that allows for a shared local/state public comment period.	Section 5 of the SMP establishes amendment procedure, and includes reference WAC 173-26. Relevant Section: SMP Section 5	<i>No changed needed.</i>
j.	Submittal to Ecology of proposed SMP amendments.	SMP Section 5.1.10 discusses transmittal of SMP amendments to Ecology. Relevant Section: Section 5.1.10	Recommended: Consider updating language in Section 5.1.10 to clarify that SMP amendments take effect 14 days after Ecology approval, or directly reference WAC 173-26-110.
2016			
a.	The Legislature created a new shoreline permit exemption for retrofitting existing structures to comply with the Americans with Disabilities Act .	Chapter 6, Section 16.08.015 adopts exemptions by reference to WAC 173-27-040. Relevant Section: Chapter 6, Section 16.08.015.	<i>No change needed.</i>
b.	Ecology updated wetlands critical areas guidance including implementation guidance for the 2014 wetlands rating system.	Chapter 16 ACC & SMP Appendix A both reference the 2004 wetlands rating system. Relevant Section: Chapter 16.10.080(C), 16.10.090(E)(1) ACC & Appendix A 8.1.6(C), 8.1.7(E)(1)	Mandatory: Revise shoreline critical areas regulations to reference 2014 wetlands rating system. This includes updating the referenced manual for wetland rating to the 2014 publication, as well as updating the scoring system in accordance with the 2014 system. See

Row	Summary of change	Review	Action
			section 3 for further discussion on integration of critical areas regulations.
2015			
a.	The Legislature adopted a 90-day target for local review of Washington State Department of Transportation (WSDOT) projects.	The SMP does not address this.	Optional: Consider amending SMP to define special procedures for WSDOT projects per WAC 173-27-125.
2014			
a.	The Legislature raised the cost threshold for requiring a Substantial Development Permit (SDP) for replacement docks on lakes and rivers to \$20,000 (from \$10,000).	Piers and docks are prohibited in Auburn's SMP for all Shoreline Environment Designations (Section 4.5 & 4.6.1), although the definition of "Substantial Development" does reference the \$10,000 threshold for exemption. Chapter 16.08.015 adopts exemptions by reference to WAC 173-27-040. Relevant Sections: Section 4.5, Section 4.6.1, and the definition for "Substantial Development" (Section 1.2).	Recommended: Amend definition of "Substantial Development" to remove discussion of exemptions for docks, as it is not relevant in Auburn.
b.	The Legislature created a new definition and policy for floating on-water residences legally established before 7/1/2014.	SMP Section 4.7.8(1) prohibits new floating on-water residences. Relevant Section: Section 4.7.8(1)	No change needed. There are no existing FOWRs in Auburn that were legally established before 7/1/2014.

Row	Summary of change	Review	Action
2012			
a.	The Legislature amended the SMA to clarify SMP appeal procedures .	Auburn's SMP does not outline the SMP appeal process.	<i>No change needed.</i>
2011			
a.	Ecology adopted a rule requiring that wetlands be delineated in accordance with the approved federal wetland delineation manual .	The current SMP CARs and Chapter 16 ACC reference the Washington state wetland delineation manual, rather than the approved federal delineation manual. Relevant Sections: Chapter 6, Sections 16.10.020, 16.10.090 ACC & Appendix A 8.1.2, 8.1.7(C)(1)	Mandatory: Amend language of shoreline critical areas regulations to reference the approved federal wetland delineation manual. Use Ecology's suggested language: <i>Identification of wetlands and delineation of their boundaries shall be done in accordance with the approved federal wetland delineation manual and applicable regional supplements. See section 3 for further discussion on integration of critical areas regulations.</i>
b.	Ecology adopted rules for new commercial geoduck aquaculture .	Not applicable: Auburn has no saltwater shorelines.	<i>Not applicable.</i>
c.	The Legislature created a new definition and policy for floating homes permitted or legally established prior to January 1, 2011.	SMP Section 4.7.8(1) prohibits new floating on-water residences. Relevant Section: Section 4.7.8(1)	<i>No change needed.</i> There are no existing FOWRs in Auburn that were legally established before 1/1/2011.

Row	Summary of change	Review	Action
d.	The Legislature authorized a new option to classify existing structures as conforming .	Section 4.4.10 of the SMP establishes that existing structures may be maintained and repaired and may be enlarged or expanded. Relevant Section: Section 4.4.10 – Regulations (1).	Recommended: Consider updating language to clearly identify legally established existing residential structures as conforming. If done, consider updating definition of “Nonconforming Use and Development” to clarify that existing residential structures may be classified as conforming. See further discussion regarding non-conforming lots and structures in Section 5 of this report.
2010			
a.	The Legislature adopted Growth Management Act – Shoreline Management Act clarifications .	The City has already previously updated its CAO and the SMP and therefore addressed the issue of overlapping critical area regulations. Shoreline critical areas are addressed in Appendix A. The City’s SMP also includes no net loss provisions. However, the SMP does not indicate the 14-day rule for Ecology approval.	Recommended Action: Update SMP to indicate that it is effective 14 days after Ecology’s approval letter.

Row	Summary of change	Review	Action
		Relevant Sections: SMP Appendix A.	
2009			
a.	The Legislature created new “relief” procedures for instances in which a shoreline restoration project within a UGA creates a shift in Ordinary High Water Mark.	The SMP does not address this.	Recommended: Reference relief procedure for shoreline restoration project within a UGA (WAC 173-27-215) in Section 4.6.7, Shoreline Habitat and Natural Systems Enhancement Projects.
b.	Ecology adopted a rule for certifying wetland mitigation banks .	The current SMP CARs allow for off-site mitigation only when on-site mitigation is not scientifically feasible or practical. Chapter 16 ACC is more amenable to off-site mitigation, if it is the ecologically preferable alternative, and references potential use of mitigation banks or in-lieu fee mitigation programs. SMP Appendix A is more limited in regards to off-site mitigation options than Chapter 16 ACC. Relevant Section: Chapter 16.10.110 ACC & Appendix A 8.1.9	Recommended: Per City preference, remove Appendix A from the SMP and rely solely on reference to ACC 16.10 for critical areas regulations in shoreline jurisdiction. This would make the wetland mitigation bank allowances in ACC 16.10 applicable in shoreline jurisdiction. See section 3 for further discussion on integration of critical areas regulations.

<i>Row</i>	<i>Summary of change</i>	<i>Review</i>	<i>Action</i>
c.	The Legislature added moratoria authority and procedures to the SMA.	The SMP does not address this.	Optional: Consider addressing moratoria authority. See below for Ecology's suggested code language.
2007			
a.	The Legislature clarified options for defining "floodway" as either the area that has been established in FEMA maps, or the floodway criteria set in the SMA.	The SMP definition of "Floodway" (Section 1.2) appears to be a combination of the FEMA mapped definition of floodway and the SMA floodway definition. Both components are consistent with the two options provided by Ecology. Relevant Section: Definition of "Floodway" (Section 1.2)	Optional: Consider updating definition of "Floodway" to be wholly consistent with one of Ecology's options for definition. See below for Ecology's suggested language.
b.	Ecology amended rules to clarify that comprehensively updated SMPs shall include a list and map of streams and lakes that are in shoreline jurisdiction.	Section 3.5 addresses jurisdictional waterbodies and mapping.	No change needed. Update maps as necessary.
c.	Ecology's rule listing statutory exemptions from the requirement for an SDP was amended to include fish habitat enhancement projects that conform to the provisions of RCW 77.55.181.	Chapter 6, Section 16.08.015 of the SMP references WAC 173-27-040 for exemptions. Relevant Section: Chapter 6, Section 16.08.015	No change needed.

Example Code Language

2009.c – Moratoria Authority

(X) Moratoria authority and requirements

(1) The City has authority to adopting a moratorium control or other interim control on development under RCW 90.58.590.

(2) Before adopting the moratorium must:

(i) Hold a public hearing on the moratorium or control;

(ii) Adopt detailed findings of fact that include, but are not limited to justifications for the proposed or adopted actions and explanations of the desired and likely outcomes;

(iii) Notify the department of Ecology of the moratorium or control immediately after its adoption. The notification must specify the time, place, and date of any public hearing.

(b) The public hearing must be held within sixty days of the adoption of the moratorium or control.

(3) A moratorium or control adopted under this section may be effective for up to six months if a detailed work plan for remedying the issues and circumstances necessitating the moratorium or control is developed and made available for public review.

(4) A moratorium or control may be renewed for one or more six-month period if the City complies with the requirements in subsection (2) above before each renewal.

2007.a – Options for Defining Floodway

Option 1. If a local government elects to use FEMA maps to define the floodway, Ecology recommends the SMP include the following definition:

"Floodway" means the area that has been established in effective federal emergency management agency flood insurance rate maps or floodway maps. The floodway does not include lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or maintained under license from the federal government, the state, or a political subdivision of the state.

Option 2. If the SMA floodway is used, the definition in the SMP should be consistent with RCW 90.58.030(2)(b)(ii).

The SMA floodway "...consists of those portions of a river valley lying streamward from the outer limits of a watercourse upon which flood waters are carried during periods of flooding that occur with reasonable regularity, although not necessarily annually, said floodway being identified, under normal condition, by changes in surface soil conditions or changes in types or quality of vegetative ground cover condition, topography, or other indicators of flooding that occurs with reasonable regularity, although not necessarily annually."

3. Consistency with Critical Areas Ordinance

The City's SMP alone provides protection for critical areas within shoreline jurisdiction, and the current SMP regulates critical areas in shoreline jurisdiction through a blanket reference to ACC 16.10 and the adoption of shoreline critical areas regulations in Appendix A. Elsewhere throughout the City, critical areas are regulated solely by the City's Critical Areas Ordinance (CAO), codified in Chapter 16 ACC in 2005 and last updated in 2010. The critical areas regulations in Appendix A are a subset of the applicable sections from Chapter 16 ACC that were in place at the time of SMP adoption in 2009. The minimal time between when both sets of critical areas regulations were last updated has resulted in little inconsistency between the way critical areas are regulated inside and outside of shoreline jurisdiction.

The City has decided to remove Appendix A from the SMP and rely solely on a reference to ACC 16.10 to regulate critical areas in shoreline jurisdiction. This entails updating the reference in the SMP to cite a specific, dated CAO, as well as clarifying exclusions for sections of the CAO that are inconsistent with the SMA or out-of-date with respect to current SMA requirements and shall not apply in shoreline jurisdiction. However, both sets of regulations are currently outdated in several areas relative to the best available science and current guidance. Inconsistencies between critical areas regulations in Appendix A of the SMP, Chapter 16 ACC, and current guidance include wetland rating systems, wetland delineation methods, stream typing, and wetland buffers.

Table 3 below summarizes issues to be resolved in order to incorporate the City's CAO into the updated SMP. The table is organized by critical areas regulations subject area. A more detailed discussion follows Table 3.

Table 3. Issues to be resolved to integrate the City's CAO into the updated SMP

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
Applicability			
1	Incorporating ACC 16.10 (CAO) by Reference	Review: Section 4.4.4 Critical Areas adopts the provisions of ACC 16.10 by reference as shoreline critical areas regulations. The current reference to ACC 16.10 does not cite a specific, dated Critical Areas Ordinance, but rather includes a blanket reference. The SMP also establishes that "Provisions of the Critical Areas standards that are not consistent with the Shoreline	Recommended: In the updated SMP, reference a specific, dated Critical Areas Ordinance. Ensure its clear which sections of the CAO shall not apply in shoreline jurisdiction. See additional discussion below for examples on effectively incorporating a CAO into an SMP.

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
		Management Act Chapter, 90.58 RCW, and supporting Washington Administrative Code chapters shall not apply in shoreline jurisdiction.” The City has expressed an interest in removing Appendix A from the SMP and relying solely on reference to ACC 16.10 for shoreline CARs. The Shoreline CARs in Appendix A do not include sections from Chapter 16 ACC on applicability, reasonable use provisions, variances, and special exemptions for public agencies and utilities. In removing Appendix A, the language in the SMP could more explicitly define what sections of the CARs are not applicable in shoreline jurisdiction. <u>Current SMP:</u> • <i>Section 4.4.4(page 4-9)</i> • <i>Appendix A</i> <u>Auburn Municipal Code:</u> • <i>16.10</i>	
2	Amendments to the Growth Management Act and Shoreline Management Act clarified that critical areas in shorelines must be regulated to “assure no net loss of shoreline ecological function” as provided in Ecology’s SMP Guidelines.	<u>Review:</u> In the context of critical areas, Section 4.4.3 Environmental Impacts Mitigation states that “All shoreline use and development should be carried out in a manner that avoids and minimizes adverse impacts so that the resulting ecological condition does not become worse than the current condition. This means assuring no net loss of ecological functions and processes and protecting critical areas designated in Appendix A, Chapter 16.10 ‘Critical Areas’ that are located in the shoreline.” Section 4.4.4. Critical Areas establishes a policy of no net loss of wetland area and functions, but this could be broadened to state that the critical areas policy is to	<i>Optional:</i> Revise language in Section 4.4.4 to clarify that critical areas in shorelines are regulated to assure no net loss of “shoreline ecological functions” rather than “wetland area and functions.” Replace policy 3 with the following language: <i>Preserve, protect, restore, and/or mitigate critical areas within and associated with the City’s shorelines to achieve no net loss of shoreline ecological functions.</i>

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
		assure no net loss of any shoreline ecological function. Current SMP: Section 4.4.3 (page 4-7) and 4.4.4 (page 4-8)	
Wetlands			
3	Ecology modified its wetland buffer guidance in 2014 and again in 2018.	Review: The current SMP CARs specify minimum and maximum wetland buffers based on wetland category as determined by the 2004 Ecology wetland rating system. The resulting buffer widths identified in the current SMP are not consistent with recent Ecology guidance published in 2018. See discussion and Table 4 below for additional details. Current SMP: - Section 4.4.5 Current SMP CARs (SMP Appendix A & Chapter 16.10 ACC): - SMP Appendix A 8.1.6(C) & 8.1.7(E)(1) - ACC 16.10.080(C) & 16.10.090(E)(1)	Mandatory: Revise SMP Appendix A to reference 2014 wetland rating system. Recommended: Revise wetland buffer provisions in the SMP CARs to be consistent with current Ecology guidance related to habitat scores and wetland buffers. Update SMP Section 4.4.5 to reflect updated buffer widths.
4	Approved wetland delineation method.	Review: The current SMP CARs and Chapter 16 ACC reference the Washington state wetland delineation manual, rather than the approved federal delineation manual. Current SMP CARs (SMP Appendix A & Chapter 16.10 ACC): - SMP Appendix A 8.1.2 & 8.1.7(C)(1) - ACC 16.10.020 & 16.10.090(C)(1)	Mandatory: Update shoreline critical areas regulations to reference the approved federal delineation manual and applicable regional supplement.
5	Variation of wetland buffer widths	Review: The current SMP CARs include allow for reduction of wetland buffer widths up to 35% if the applicant proposes to enhance a degraded buffer. However, per Ecology guidance, the BAS-based buffer	Recommended: To align with BAS and Ecology guidance, revise SMP Appendix A, Section 16.10.090(E)(1)(b), to allow buffer averaging rather than buffer reduction, and limit that averaging to 75% of the

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
		widths proposed in this report assume that the buffer is vegetated with native plants, and if not, the buffer should either be planted or widened to ensure that adequate buffer function is provided. That is, the buffer widths proposed in this report represent the minimum necessary, per BAS, to protect wetland functions. As a result, Ecology guidance recommends buffer averaging, with up to a 25% reduction of buffer width and no reduction of total buffer area, rather than buffer reduction to provide flexibility and accommodate site constraints. The current SMP CARs allow for buffer averaging including up to a 35% reduction in buffer width. Current SMP: <i>Section 4.4.5</i> Current SMP CARs (SMP Appendix A & Chapter 16.10 ACC): • <i>SMP Appendix A 8.1.7(E)(1)(b)</i> • <i>ACC 16.10.080(E)(1)(b)</i>	standard buffer width. Update SMP Section 4.4.5 to reflect updated buffer variation provisions.
Water Typing and Stream Buffers			
6	Updated water typing system.	Review: SMP Appendix A and Chapter 16 ACC both establish a stream classification system to rate streams from Class I to Class IV. Current SMP CARs (SMP Appendix A & Chapter 16.10 ACC): • <i>SMP Appendix A 8.1.6(D)</i> • <i>ACC 16.10.080(D)</i>	Recommended: Update SMP Appendix A to reflect updated water typing system as defined in WAC 222-16-030. Future recommendation: Update Chapter 16 ACC to reflect updated water typing system as defined in WAC 222-16-030.
7	Stream buffers	Review: The SMP, Appendix A, and Chapter 16 ACC are all consistent with each other in regards to stream buffer provisions. The CARs in Appendix A and Chapter 16 ACC establish a buffer width of 100 feet for shorelines of the state, while the SMP establishes a 100 foot buffer in the Shoreline Residential and	Recommended: Update stream buffer provisions in the SMP and Appendix A for consistency with current best available science. A wide range of stream buffer widths are recommended by BAS, depending on the target functions and buffer condition.

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
		Urban Conservancy environments, but a 200 foot buffer in the Natural environment. However, SMP Appendix A, Section establishes that either the SMP buffer or the CAR buffer, whichever is larger, shall apply, eliminating potential inconsistencies between the two provisions. While stream buffer provisions are consistent across these documents, they are outdated in regards to the best available science. Current buffer provisions can be found in Table 7 below, alongside a range of sample buffer widths based on BAS and provisions from other jurisdictions. <u>Current SMP:</u> • Section 4.4.2 & 4.4.5 <u>Current SMP CARs (SMP Appendix A & Chapter 16.10 ACC):</u> • SMP Appendix A 8.1.7(E)(2) • ACC 16.10.090(E)(2)	A range of buffer widths based on BAS and the provisions in place in other jurisdictions is shown in Table 7. <i>Future recommendation:</i> Update stream buffer provisions in Chapter 16 ACC for consistency with current best available science.
8	Variation of stream buffer widths	<u>Review:</u> The current SMP CARs include allow for reduction of wetland buffer widths up to 35% if the applicant proposes to enhance a degraded buffer. Based on the functions that different widths of buffers provide, fish bearing streams should remain as close to 100 feet as possible. Reductions of up to 25% are likely to provide adequate protection for most small stream channels. <u>Current SMP:</u> • Section 4.4.5 <u>Current SMP CARs (SMP Appendix A & Chapter 16.10 ACC):</u> • SMP Appendix A 8.1.7(E)(2)(e) • ACC 16.10.080(E)(2)(e)	<i>Recommended:</i> To align with BAS and Ecology guidance, revise SMP Appendix A, Section 16.10.090(E)(2)(e), to allow buffer averaging limited to a 25% reduction of the standard buffer width, in conjunction with adoption of updated stream buffer widths per the recommendations in this report. Update SMP Section 4.4.5 to reflect updated buffer variation provisions.

#	Issue	Review & Relevant Location(s) ^{1, 2}	Action
Flood Hazard Areas			
9	Reference to Chapter 15 ACC on Flood Hazard Areas	Review: SMP Appendix A 8.1.1(B)(6) references the “Draft Mill Creek Flood Control Plan” while Chapter 16 ACC references Chapter 15 ACC for policies related to Flood Hazard Areas. Current SMP CARs (SMP Appendix A & Chapter 16.10 ACC): • <i>SMP Appendix A 8.1.1(B)(6)</i> • <i>ACC 16.10.010(B)(6)</i>	Recommended: Remove Appendix A from the SMP and adopt ACC 16.10 by reference. See discussion below for additional information.
Definitions			
10	Updates to definitions in Critical Areas Regulations.	Review: The definitions in both Chapter 16 ACC and SMP Appendix A have out-of-date definitions, or are lacking definitions, for the following terms: • <i>Wetland</i> • <i>Geologic Hazard Areas/Geologically Hazardous Areas</i> • <i>Fish & Wildlife Habitat Conservation Areas</i> • <i>Delineation Manual</i> Current SMP CARs (SMP Appendix A & Chapter 16.10 ACC): • <i>SMP Appendix A 8.1.2</i> • <i>ACC 16.10.020</i>	Recommended: Revise the definition for “Delineation Manual” to reference the approved federal delineation manual. Revise the definitions for “Wetland”, “Geologic Hazard Areas”, and “Fish and Wildlife Habitat Conservation Areas” for consistency with definitions in RCW 36.70A.030.
¹ This column attempts to capture the primary relevant location(s) of content related to the item described in the Summary of Change column; however, due to length of the SMP, all relevant locations may not be listed. ² Locations in italics indicate that the location does not actually address the specific content described in the Summary of Change column; these locations are listed to indicate where generally related content is found.			

Adopting the City’s Critical Areas Ordinance (ACC 16.10) by Reference

The current SMP both references ACC 16.10 for Critical Areas Regulations and includes portions of ACC 16.10 as Appendix A in the SMP. The City has expressed an interest in removing Appendix A from the SMP and relying solely on reference to ACC 16.10 to regulate critical areas within shoreline jurisdiction. However, CAOs typically include regulations that are inconsistent with the Shoreline Management Act, including reasonable use exceptions,

administrative exemptions, and waivers. Other administrative provisions which are authorized by the Growth Management Act, including appeals, permits, penalties, and enforcement, are also not applicable in shoreline jurisdiction. As a result, the City does not have the option of referencing its entire CAO in the SMP.

In order for the City to adopt ACC 16.10 by reference in the SMP, the reference must be to a specific, dated version of the CAO and must exclude sections of the CAO that do not apply in shoreline jurisdiction. The SMP currently includes a blanket reference to ACC 16.10 and does not cite a specific, dated CAO. Additionally, the current SMP includes general exclusionary statements in regards to ACC 16.10. The City may wish to more explicitly cite exclusions from the referenced CAO to improve clarity and usability in shoreline jurisdiction.

Below are examples of how other the City of Marysville, Whatcom County, and the City of Redmond have effectively incorporated a CAO into their SMPs.

City of Marysville

The Marysville Critical Areas Regulations, as codified in Chapter 19.24 MMC (dated May 2nd, 2005, Ordinance #2571), are herein incorporated into this master program, except as noted below.

Exceptions to the applicability of Marysville Critical Areas Regulations in Shoreline Jurisdiction in the instances specified below.

- 1. If provisions of the Critical Areas Regulations and other parts of the master program conflict, the provisions most protective of the ecological resource shall apply, as determined by the City.*
- 2. Provisions of the Critical Areas Regulations that are not consistent with the Shoreline Management Act Chapter, 90.85 RCW, and supporting Washington Administrative Code chapters shall not apply in Shoreline jurisdiction.*
- 3. The provisions of Marysville Critical Areas Regulations do not extend Shoreline Jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffer areas that are outside Shoreline Jurisdiction, see Marysville Critical Areas Regulations.*
- 4. Provisions of Marysville Critical Area Regulations that include a "reasonable use determination" shall not apply within Shoreline Jurisdiction. Specifically,*
 - The sentence in MMC 19.24.020 referring to reasonable use determination does not apply.*

- MMC Section 19.24.420 does not apply.

5. Provisions of Marysville Critical Areas Regulations relating to variance procedures and criteria do not apply in Shoreline Jurisdiction. Within Shoreline Jurisdiction, the purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant or thwart the policies set forth in RCW 90.58.020. Specifically,

- MMC section 19.24.320(2) shall not apply.

Variance procedures and criteria shall be established in this SMP, Chapter 8 Section B and in Washington Administrative Code WAC 173-27-170.4. Environmental Impacts.

6. Criteria (b) and (c) describing exceptions for approved plats and legally created lots in MMC section 19.24.330(7) shall not apply, except where adjacent to the QWULOOLT Restoration Project.

Whatcom County

A. The Whatcom County Critical Areas Ordinance, WCC 16.16 (Ordinance No. 2005- 00068, dated Sept 30, 2005, and as amended on February 27, 2007) is hereby adopted in whole as a part of this Program, except that the permit, non-conforming use, appeal and enforcement provisions of the Critical Areas Ordinance (WCC 16.16.270-285) shall not apply within shoreline jurisdiction. All references to the Critical Area Ordinance WCC 16.16 (CAO) are for this specific version

City of Redmond

(1) Shoreline Master Program Regulations. The following regulations shall constitute the Redmond Shoreline Master Program development regulations

- (a) RCDG 20D.150, Shoreline Regulations
- (b) RCDG 20D.140, Critical Areas (Ord. 2259, dated May 28, 2005), with the exception of the following subsections:
 - (i) 20D.140.10-030, Exemptions
 - (ii) 20D.140.10-060, Permit Process and Application Requirements
 - (iii) 20D.140.10-170, Buffer Width Variances
 - (iv) 20D.140.10-190, Reasonable Use Provision
 - (v) 20D.140.10-200, Public Project Reasonable Use Provision
 - (vi) 20D.140.20-020(6), (7), Stream Buffer Width Averaging

- (vii) 20D.140.20-020(8), *Clearing and Grading in Outer Buffer*
- (viii) 20D.140.20-020(10), *Expansion of Nonconformity in Stream Buffer*
- (ix) 20D.140.20-030, *Alteration of Fish and Wildlife Habitat Conservation Areas*
- (x) 20D.140.60-030, *Alteration of Geologically Hazardous Areas – Generally*
- (xi) 20D.140.60-040, *Alteration of Geologically Hazardous Areas*
- (xii) 20D.140.70, *Procedures*

(2) In the event of any conflict between these regulations and any other regulations of the City, the regulations that provide greater protection of the shoreline natural environment and aquatic habitat shall prevail.

In order to adopt ACC 16.10 by reference, the City will also need to ensure that required updates shoreline critical areas regulations, in particular adopting the 2014 wetlands rating system and the approved federal wetland delineation manual, are applied to the updated SMP. This would be most simply and efficiently accomplished by excluding those out-of-date sections of the CAO in the SMP, and then including updated regulations to apply only in shoreline jurisdiction within the body of the SMP itself.

Wetlands

SMP Appendix A and Chapter 16.10 ACC both refer to the “Washington State Wetlands Rating System for Western Washington, (Washington State Department of Ecology, August 2004, Publication #04-06-025).” Ecology updated this rating system in June of 2014. The current BAS-based wetland rating system is the *Washington State Wetland Rating System for Western Washington* (Hruby 2014, Ecology publication No. 14-06-029). Using reference wetlands, Ecology calibrated the updated 2014 wetland rating system to maintain roughly the same distribution of wetland categories that were present under the prior 2004 rating system. A comparison sample of the distribution of wetland categories under the old and new rating systems is provided in Table 4 below (Hruby 2014).

Table 4. Number of sampled wetlands in each category based on their score for functions.

Category	2004 Rating System	2014 Rating System
I	13	11
II	52	44
III	39	49

IV	7	7
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The substantive changes to the wetland rating system are: 1) a High, Medium, or Low ranking for each function instead of numeric scores; and 2) the opportunity section was replaced with two new sections: landscape potential and value. The shift to a High, Medium, Low ranking scheme was prompted by a statistical analysis of wetland rating data, which indicated that the rapid-assessment wetland rating tool is not scientifically accurate beyond a qualitative ranking. As a result of this change, the total point range changed from 0-100 to 9-27 (Hruby 2014), with nine possible points each for water quality, hydrologic, and habitat functions.

In July 2018, Ecology again updated its guidance for wetland buffers. The change in guidance is the result of Ecology's continued evaluation of the 2014 wetland rating system as it relates to the 2004 wetland rating system. The wetland buffers referenced in the SMP and in Chapter 16 ACC are consistent with each other, but both are outdated related to the best available science and Ecology's most recent guidance.

The updated guidance provides alternatives to buffer tables based solely on wetland category to provide a balance of predictability and flexibility while being easy to use and protecting wetland functions and values. The preferred alternative includes variable buffer widths based on wetland category and habitat score, according to the updated rating system, as shown in Table 5 below. While the updated guidance does allow for continuing the practice of applying wetland buffers based solely on wetland category, this option provides the least flexibility, as buffers must be large enough for each category to protect the most sensitive wetlands from the most damaging impacts. Likewise, the updated guidance includes alternatives for variable buffer widths based on the intensity of adjacent land use, although this is not widely recommended for cities as most urban land uses are likely to be moderate or high intensity.

Under the preferred alternative of variable buffer widths based on wetland category and habitat score, projects that can mitigate the impacts and disturbances associated with surrounding land use may be eligible for reductions in required buffer widths. Table 6 lists impact-minimization measures which, when implemented in combination with a wildlife corridor to adjacent priority habitats where applicable, allow an applicant to reduce the standard buffer widths by up to 25 percent (Ecology 2016). The resulting standard buffer widths range according to habitat score from 75 to 225 feet for Category I and II wetlands and from 60 to 225 feet for Category III wetlands, and are 40 feet for Category IV wetlands.

To align the SMP guidance with the updated guidance, we recommend updating the Shoreline Critical Areas Regulations to reference the 2014 wetland rating system and to follow Ecology's new guidance for wetland buffer widths. There are several discrepancies between the buffer widths currently in SMP Appendix A and the updated guidance. This comparison is shown in

Table 5 below. The City should also consider updating Chapter 16 ACC at the next CAO update to avoid buffers being applied inconsistently throughout Auburn based on project location. Table 5 shows the different buffer widths under SMP Appendix A, Chapter 16 ACC, and Ecology's most recent guidance.

Table 5. Wetland buffer widths (in feet) under Chapter 16 ACC/SMP Appendix A and Ecology's most recent guidance

Chapter 16 ACC & SMP Appendix A			Proposed Per 2018 Ecology Guidance					
Category	Min	Max	Without minimization measures			With minimization measures		
			Habitat Score			Habitat Score		
			High	Moderate	Low	High	Moderate	Low
1	100	200	300	150	100	225	110	75
2	50	100	300	150	100	225	110	75
3	25	50	300	150	80	225	110	60
4	25	30	50			40		

Table 6. Wetland buffer impact minimization measures, per Ecology's most recent guidance

Disturbance	Required Measures to Minimize Impacts
Lights	*Direct lights away from wetland
Noise	*Locate activity that generates noise away from wetland *If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source *For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the
Toxic runoff	*Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered *Establish covenants limiting use of pesticides within 150 ft of wetland *Apply integrated pest management
Stormwater runoff	*Retrofit stormwater detention and treatment for roads and existing adjacent development *Prevent channelized flow from lawns that directly enters the buffer *Use Low Intensity Development techniques (for more information refer to the drainage ordinance and
Change in water regime	*Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	*Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion *Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	*Use best management practices to control dust

Streams

SMP Appendix A and Chapter 16 ACC both establish a water typing system that classifies stream from Class I to Class 4. This classification system and criteria are inconsistent with current BAS, and we recommend that the City adopt the Washington State Department of Natural Resources (WDNR) Forest Practices water typing system, as established in WAC 222-16-030. The WDNR system is widely accepted across most jurisdictions in Washington.

A wide range of stream buffer widths are recommended by BAS, depending on the target functions and buffer conditions. Buffer continuity and vegetative quality are important factors in determining buffer widths. Current stream buffer requirements under SMP Appendix A and Chapter 16 ACC are consistently below the ranges recommended by BAS. Based on the functions that different widths of buffers provide, fish bearing stream buffers should be a minimum of 100 feet, although buffer averaging may be allowed to reduce these buffers to as low as 75 feet.

Table 7 below provides a comparison of current water typing and buffer widths alongside the proposed WDNR water typing system and a summary of buffer width ranges derived from BAS and other local jurisdictions.

Table 7. Stream buffer provisions under Chapter 16 ACC/SMP Appendix A, SMP, and BAS, including an updated water typing system

Chapter 16 ACC & SMP Appendix A		Sample Buffer Ranges and Updated Water Typing	
Stream Class	Buffer Width	Stream Type	Buffer Width
1 (Shorelines)	100*	Type S	115-165
2 (Fish bearing)	75	Type F	100-165
3 (Non-fish bearing)	25	Type Np	50-65
4 (Swales and small channels)	25	Type Ns	50-65

*Buffers are 200 feet under the Natural Shoreline Environment Designation

4. Consistency with Comprehensive Plan and Other Development Regulations.

Table 4 summarizes recommended revisions to the Auburn SMP, Auburn Municipal Code, and the Auburn Comprehensive Plan based on a review of consistency between the three documents. The Auburn Comprehensive Plan does not contain a specific Shoreline Element and does not establish policies related to shorelines. There are very few references to shorelines or the SMP, with the only references of note occurring in Appendix H, the Auburn Community Vision document. The lack of reference to shoreline policies, the SMP, and critical areas policies in the Comprehensive Plan results in very little opportunity for inconsistency between the documents, and no changes to the SMP are recommended to ensure consistency with the Comprehensive Plan at this time.

Important sections of the Auburn Municipal Code, particularly those pertaining to Land Clearing, Filling, and Grading, and Environmental Review, directly reference shoreline management jurisdiction or adopt provisions of the SMP by reference, which is a useful measure to strengthen application of the SMP and improve clarity in regards to the applicability of shoreline regulations. Title 18 of ACC, the Auburn Zoning Code, may be a section that could benefit from a direct reference to the SMP. While the SMP clearly states that in the case of any discrepancies between the City's zoning code and the SMP, the provisions of the SMP and SMA shall prevail, there is no such language in Title 18 of the ACC.

Table 8. Summary of recommended SMP, ACC, and Comprehensive Plan revisions to improve consistency.

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
1	Consistency between Auburn Zoning Code and the SMP	Section 4.7.8 of the SMP states that "In the case of discrepancy between the requirements of this Master Program and the City's Zoning Code, or other regulations, consistency with the SMP, the SMA, and its provisions shall prevail." Title 18 of the ACC does not contain similar language. In the north end of the City, along the Green River, there are some instances of land zoned R-1, R-5, and R-7 lying within the Urban Conservancy shoreline jurisdiction, rather than the Shoreline Residential shoreline jurisdiction.	Consider incorporating reference to the SMP or the SMA into Title 18 during the next CAO update to further clarify the applicability of SMP regulations in cases of inconsistency between the SMP and the City's zoning code. Additional discussion and collaboration with City of Auburn staff is necessary to identify options for addressing issues of residential zoning in the Urban Conservancy shoreline jurisdiction. This can

#	Issue	Review & Relevant Location(s) ^{1, 2}	Recommended Action
		<u>Current SMP</u> • <i>Section 4.7.8</i> <u>Auburn Municipal Code</u> • <i>Title 18</i>	include possible text amendments to avoid a complete re-designation process.
¹ This column attempts to capture the primary relevant location(s) of content related to the item described in the Summary of Change column; however, due to length of the SMP, all relevant locations may not be listed. ² Locations in italics indicate that the location does not actually address the specific content described in the Summary of Change column; these locations are listed to indicate where generally related content is found.			

5. Staff Recommendations & Other Issues for Consideration

City of Auburn Planning staff have also proposed modifications to the SMP, Appendix A, and Chapter 16 ACC. The proposed changes, rationale, and input from The Watershed Company are included in Table 5.

Table 9. Staff recommended changes to SMP

#	Issue	Review & Relevant Location(s)	Action
1	Fences in the Floodway in Shoreline Jurisdiction	Review: City planning staff expressed interest in addressing the issue of fencing proposals within the floodway. The current SMP establishes that no fence shall extend waterward of the OHWM and that fences waterward of houses shall be limited to four feet in height or less, but does not address issues of fence building within the floodway. Current SMP: • Section 4.7.8(10)	Recommended: Consider updating language such that newly proposed fences shall be prohibited in the floodway. Additionally, for instances where floodway boundaries change, legally permitted fence structures can be maintained and repaired in place, while replacement fences should be required to conform to the provisions of the SMP and be relocated outside of the floodway.
2	Nonconforming provisions of the SMP	Review: City planning staff have identified nonconforming residential lots, including 8 vacant lots, which are currently very difficult to build upon based on the current nonconforming provisions of the SMP. The SMP does currently allow for some expansion of single-family residential structures and appurtenances, but nonconforming undeveloped lots may only be developed if they conform to current SMP provisions. No provisions for 'breaking' the shoreline buffer at a road or levee exist in the SMP. As discussed in the legislative amendments in Section 2 above, there is an option to legally classify	Additional coordination with City of Auburn staff and Ecology is required to further develop recommendations for easing the burden of the nonconforming provisions of the SMP on the parcels in question. See the Technical Memo regarding Potential Amendments to Nonconforming Lot and Structure Provisions (January 2019) for additional information.

#	Issue	Review & Relevant Location(s)	Action
		existing residential structures as conforming. <u>Current SMP</u> • <i>Section 4.4.10</i> <u>Auburn Municipal Code</u> • <i>ACC 18.54</i>	
	Outdated References	<u>Review:</u> City staff have noted several outdated references throughout the SMP document. These include references to the following: • ACC 18.50.030 • RCW 43.51 • RCW 15.57 • WAC 232-12-297 • RCW 75.20 <u>Current SMP:</u> • <i>1.2 (Definitions)</i> • <i>4.4.2</i> • <i>4.4.8</i> • <i>4.4.9</i>	<i>Recommended:</i> Update references as shown below: • ACC 18.50.030: Update to reference ACC 18.50.045 • RCW 43.51: Remove reference • RCW 15.57: Update to reference RCW 15.58 • WAC 232-12-297: Update to reference WAC 173-26-221(2)(iv) • RCW 75.20: Update to reference RCW 77.55
	Removal of Chapter 6 – Shoreline Management Administrative and Permitting Procedures	<u>Review:</u> City staff have expressed an interest in removing the text from Chapter 6, and relying solely on a reference to ACC 16.08 for Shoreline Management Administrative and Permitting Procedures. <u>Current SMP:</u> • <i>Chapter 6</i> <u>Auburn Municipal Code:</u> • <i>16.08</i>	<i>Recommended:</i> Per City preference, remove text from Chapter 6 and include only a reference to ACC 16.08 for Shoreline Management Administrative Permitting Procedures.
	Removal of Appendix B – ACC 18.54 Nonconforming Structures, Land, and Use	<u>Review:</u> The SMP both references ACC 18.54 for regulations related to nonconforming structures, land, and use, and contains the text of ACC 18.54 in Appendix B. The SMP also contains some shoreline	<i>Recommended:</i> Per City preference, remove Appendix B and rely only on Section 4.4.10 and reference to ACC 18.54 for policies and regulations related to nonconforming structures, land, and use in shoreline jurisdiction.

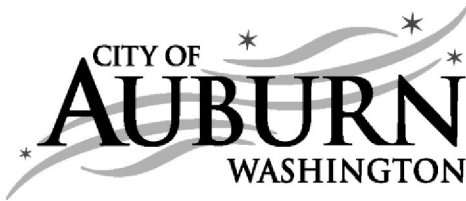
#	Issue	Review & Relevant Location(s)	Action
		specific policies and regulations related to nonconformity in Section 4.4.10. The City has expressed an interest in removing Appendix B from the SMP and relying solely on a reference to ACC 18.54 and the provisions in Section 4.4.10 to provide policies and regulations related to nonconforming structures, land, and use in shoreline jurisdiction. <u>Current SMP:</u> • 4.4.10 • Appendix B	
	Removal of Appendix C – Geologic Hazard Report Submittal Requirements	<u>Review:</u> The current SMP includes Geologic Hazard Report Submittals Requirements as Appendix C. City have expressed an interest in removing this as an Appendix and instead referencing the appropriate sections of the Public Works Engineering Design Standards to satisfy submittal requirements. <u>Current SMP:</u> • 4.4.4 • Appendix C	<i>Recommended:</i> Per City preference, remove Appendix C from the SMP. Modify language in Section 4.4.4 to reference the Public Works Engineering Design Standards rather than Appendix C.
	Removal of Appendix D – Permit Data Sheet	<u>Review:</u> The SMP currently includes a Permit Data Sheet as Appendix D. ACC 16.08 also references the Shoreline Management Act – Permit Data Sheet and Transmittal Letter in WAC 173-27-990. City staff have expressed an interest in removing the Permit Data Sheet from Appendix D and relying solely on the reference to the WAC. <u>Current SMP:</u> • Appendix D	<i>Recommended:</i> Per City preference, remove Appendix D from the SMP.

#	Issue	Review & Relevant Location(s)	Action
		<u>Auburn Municipal Code:</u> • 16.08.040(B)	

References

Hruby, T. 2014. Washington State Wetland Rating System for Western Washington: 2014 Update. Ecology Publication No. 14-06-029. Washington State Department of Ecology, Olympia, WA.

Washington Administrative Code. 2018. Washington State Legislature. Available online: <http://apps.leg.wa.gov/WAC/default.aspx>.



MEMORANDUM

TO: Judi Roland, Chair, Planning Commission
Roger Lee, Vice-Chair, Planning Commission
Planning Commission Members

FROM: Thaniel Gouk, Senior Planner, Department of Community Development

DATE: April 24, 2019

RE: Shoreline Master Program Periodic Update – Status and schedule

As you recall, at last month's meeting, staff provided a memo dated April 2, 2019 saying that based on additional study, provisions of the City's critical areas regulations related to streams, wetlands, and aquifer protection areas also warrant changes simultaneously with the SMP update and that the WA State Dept. of Ecology would allow the SMP update work to extend beyond the previously communicated June 30th completion date.

In follow up to the April 2, 2019 memo, staff has prepared some information to advance the discussion on the State-mandated periodic update to the City's Shoreline Master Program (SMP). The additional information contained in this memo includes:

- An updated schedule for Planning Commission (PC) review
- Initial chapters of the SMP with proposed text changes showing
- The scope of changes to the critical area regulations (ACC 16.10)

SCHEDULE UPDATE

Per the April 2nd memo to the PC, the due date for the SMP update will extend past the original June 30th deadline to ensure the City can properly review and include the City's Critical Areas Ordinance (CAO). Staff is proposing the following schedule for the PC:

May 7th – (*this meeting*) review Chapters 1-3 of the SMP, discuss wetland and stream buffers, and a presentation from Rick Mraz (WA State Dept. of Ecology) on wetland buffers.

June 4th – PC review Chapters 4-6 of the SMP, review first portion of the CAO.

July 2nd (*date may change due to the 4th of July*) – review remaining SMP documents (e.g. maps, etc.), review second portion of the CAO.

August 6th – PC public hearing for SMP and CAO.

A public open house may also be held at some time prior to August.

SMP UPDATE: CHAPTERS 1-3

Attached (in ~~strikeout~~- and underline format) as **Exhibit 1** to this memo are Chapters 1 through 3 of the SMP. Chapter 1 contains the Definitions section. There are no major changes to this section. The few definitions that are modified include explanatory comments next to them. Chapter 2 contains the Goals and Elements of the SMP and Chapter 3 contains the Shoreline Environment Designations (These are like the zoning districts of the SMP). There are no changes to these sections.

CRITICAL AREAS CODE UPDATES

In short, the main subject areas of the critical area code changes include:

- Critical areas code update (associated with Shoreline Management Program update)
 - Streams/rivers
 - Classification system
 - Buffer standards
 - Wetlands
 - delineation methodology
 - Buffer standards
 - Aquifer Recharge/Well head protection
 - Address protection of private well sites

Since a common element of changes to both the critical areas of streams and wetland is buffers, some further description of this term is appropriate.

“Buffer or buffer area” means a naturally vegetated, undisturbed, enhanced or revegetated zone surrounding a critical area that protects the critical area from adverse impacts to its integrity and value, and is an integral part of the resource’s ecosystem.

Buffers protect critical areas by providing a natural area between development and the particular critical area. Buffers apply to not only streams and wetlands but may apply to other environmentally sensitive areas such as steep slopes. Buffers are one of the most common elements of critical areas ordinances (CAO), and they are consistently the part of a CAO of most interest and concern to the public.

Under the state Growth Management Act (GMA), local governments are required to use the best available science in their policies and regulations (RCW 36.70A.172). To assist local jurisdictions with this requirement and avoid the expense, the Dept. of Ecology (DOE) has developed guidance on the science currently available. They requested the City to review and revise the CAO to take into consideration this current BAS. Most local jurisdictions have already implemented these changes.

Streams.

For streams, the buffers would be updated as well as the methodology for classifying them, consistent with the “Washington State Department of Natural Resources (WDNR) Forest Practices water typing system”. This classification methodology is used by most jurisdictions so that a consistent approach can be used for review by various agencies. The current and DOE recommended stream buffers are as follows:

Existing Stream Buffers		Proposed Buffer Ranges (per current BAS)	
Stream Class	Buffer Width	Stream Type (per WAC 222-16-030)	Buffer Width
<i>Class 1 (Green and White rivers)*</i>	<i>100-200'</i>	<i>Type S*</i>	<i>115-200'</i>
Class 2 (fish bearing)	75'	Type F	100-165'
Class 3 (non-fish bearing)	25'	Type Np	50-65'
Class 4 (swales and small channels)	25'	Type Ns	50-65'

**Subject to the SMP*

The buffers range in width depending on the target functions and buffer conditions. For example, fish bearing stream buffers should be a minimum of 100 feet in width, although buffer averaging may be allowed to reduce these buffers to as low as 75 feet.

Wetlands.

A wetland delineation establishes the existence (location) and physical limits (size) of a wetland for purposes of federal, state, and local regulations. The city’s code requires changes to reflect the latest wetland delineation methodology to remain consistent with what is required by the State (WAC 173-22-035). So staff proposes a code change to reference the methodology that is used in the field to identify and locate the wetland.

Also proposed is a change to the wetland rating system that is used to determine the appropriate wetland buffer width. While the numeric classification range of 1 through 4 used by the City will remain, there will be greater number of subcategories within each of these classifications to prescribe the appropriate buffer width needed for wetland protection. The subcategories will be distinguished by a point scoring based on cumulative point values for water quality, hydrologic function, and habitat functions. The current CAO refers to the Washington State Wetlands Rating System for Western Washington (Dept. of Ecology, 2004). The current BAS-based wetland rating system is the Washington State Wetland Rating System for Western Washington (Hruby, 2014).

In July 2018, Ecology again updated its guidance for wetland buffers based on continued evaluation of wetlands that ultimately resulted in additional options for wetland buffers. The updated guidance provides alternatives to buffer tables based solely on wetland category to provide a balance of predictability and flexibility while being easy to use and protecting wetland functions and values. There would also be options for buffer reductions based on a list of impact-minimization measures that could be utilized.

The following table shows the existing and proposed wetland buffer widths.

Existing Wetland Buffers			Proposed per 2018 Dept. of Ecology Guidance					
Category	Min.	Max.	Without Minimization Measures			With Minimization Measures		
			Habitat Score			Habitat Score		
			High	Moderate	Low	High	Moderate	Low
1	100'	200'	300'	150'	100'	225'	110'	75'

2	50'	100'	300'	150'	100'	225'	110'	75'
3	25'	50'	300'	150'	80'	225'	110'	60'
4	25'	30'	50'			40'		

The following table shows the wetland buffer impact minimization measures, per Ecology's most recent guidance.

<i>Disturbance</i>	<i>Required Measures to Minimize Impacts</i>
Lights	- Direct lights away from wetland.
Noise	- Locate activity that generates noise away from wetland. - If warranted, enhance existing buffer with native vegetation plantings adjacent to noise source. - For activities that generate relatively continuous, potentially disruptive noise, such as certain heavy industry or mining, establish an additional 10' heavily vegetated buffer strip immediately adjacent to the outer wetland buffer.
Toxic runoff	- Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered. - Establish covenants limiting use of pesticides within 150 ft. of wetland. - Apply integrated pest management.
Stormwater runoff	- Retrofit stormwater detention and treatment for roads and existing adjacent development. - Prevent channelized flow from lawns that directly enters the buffer. - Use Low Intensity Development techniques (for more information refer to the drainage ordinance and manual).
Change in water regime	- Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns.
Pets and humans	- Use privacy fencing OR plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion. - Place wetland and its buffer in a separate tract or protect with a conservation easement.
Dust	- Use best management practices to control dust

The scope of critical area code changes affecting wetland will become more clear after the presentation by Rick Mraz, Professional Wetland Scientist, Dept. of Ecology.

Aquifer Recharge/Well head protection.

This topic will be explained at a future planning Commission meeting.

NEXT STEPS

At the June 4th PC meeting Staff will present the proposed changes to Chapters 4-6 of the SMP and the first portion of the proposed changes to the CAO. Chapter 4 is the main body of the SMP containing policies and will contain the more substantive topics.