

SELAH CITY COUNCIL

6:30pm March 25, 2014



Selah City Council
 Regular Meeting
 Tuesday, March 25, 2014
 6:30pm
 City Council Chambers

Mayor:
 Mayor Pro Tem:
 Council Members:

John Gawlik
 Brooke Finch
 Paul Overby
 John Tierney
 Dave Smeback
 Allen Schmid
 Roy Sample
 Jane Williams

CITY OF SELAH
 115 West Naches Avenue
 Selah, Washington 98942

City Administrator: David Kelly
 City Attorney: Bob Noe
 Clerk/Treasurer: Dale Novobielski

AGENDA

- A. Call to Order – Mayor Gawlik
- B. Roll Call
- C. Pledge of Allegiance
- D. Agenda Changes **None**
- E. Public Appearances/Introductions/Presentations
 - 1. Gary Green, Selah Community Days – Slideshow presentation
- F. Getting To Know Our Businesses **None**
- G. Communications
 - 1. Oral

This is a public meeting. If you wish to address the Council concerning any matter that is not on the agenda, you may do so now. Please come forward to the podium, stating your name for the record. The Mayor reserves the right to place a time limit on each person asking to be heard.

- 2. Written
 - David Kelly a. Yakima Transit – March 2014 Special Ridership Count
- H. Proclamations/Announcements **None**
- I. Consent Agenda

All items listed with an asterisk (*) are considered routine by the City Council and will be enacted by one motion, without discussion. Should any Council Member or member of the audience request that any item of the Consent Agenda be considered separately, that item will be removed from the Consent Agenda and become a part of the regular Agenda.

- Monica Lake * 1. Approval of Minutes: March 11, 2014 Study Session & Council Meeting
- Dale N. * 2. Approval of Claims & Payroll

- J. Public Hearings **None**
- K. New Business **None**
- L. Old Business **None**

- M. Resolutions
 - Joe Henne * 1. Resolution Authorizing the Mayor to Sign the WSDOT Local Agency Federal Aid Project Prospectus for the Transportation Alternatives Program (TAP) Funding for Sidewalk along Wernex Loop

- Joe Henne * 2. Resolution Authorizing the Mayor to Sign the WSDOT Local Agency Agreement for the Transportation Alternatives Program (TAP) Funding for Sidewalk along Wernex Loop
- Charlie Brown 3. Resolution authorizing the Mayor to sign a Sponsorship Agreement with Selah Les Schwab regarding Community 3rd of July Celebration
- Charlie Brown 4. Resolution authorizing the Mayor to sign a Sponsorship Agreement with Pingrey Ford regarding Community 3rd of July Celebration
- Charlie Brown 5. Resolution authorizing the Mayor to sign a Firework Display Agreement with Wolverine West, LLC

N. Ordinances

- Dennis Davison 1. Ordinance relating to the protection of fish and wildlife habitat conservation areas, frequently flooded areas, aquifer recharge areas, geologic hazard areas, and wetlands; establishing Selah Municipal Code Title 17, Chapter 17.07, Critical Area Ordinance; providing for severability; and providing for an effective date
- Dale Novobielski 2. Ordinance Amending the 2014 Budget for Street Improvements on Valleyview Avenue, South 3rd Street, Southern Avenue and South 1st Street

O. Communications

- 1. Oral

This is a public meeting. If you wish to address the Council concerning any matter that is not on the agenda, you may do so now. Please come forward to the podium, stating your name for the record. The Mayor reserves the right to place a time limit on each person asking to be heard.

P. Reports/Announcements

- 1. Mayor
- 2. Council Members
- 3. Departmental
- 4. Boards

Diana Turner a. Planning Commission Minutes – January 18, 2014

Q. Executive Session

- 1. 10 Minute Session – Contract Negotiations RCW 42.30.140

R. Adjournment

Each item on the Council Agenda is covered by an Agenda Item Sheet (AIS)
 A yellow AIS indicates an action item.
 A blue AIS indicates an information/non-action item.

Next Study Session April 8, 2014
 Next Regular Meeting April 8, 2014



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING INFORMATIONAL ITEM

3/25/2014 G – 2A

Title: Yakima Transit Service Special Ridership Count for the week of March 3, 2014

Thru: David Kelly, City Administrator

From: David Kelly, City Administrator

Action Requested: Informational - No action

Board/Commission Recommendation: Not applicable

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

Informational only

Background / Findings & Facts:

Informational item only.

Recommended Motion:

N/A

Selah Route

Special Ridership Count - Boardings¹ only

Week of March 3, 2014

		RT10/AM/PM	RT10 - All day	Daily Total
3/3/2014	Monday	70	135	205
3/4/2014	Tuesday	55	180	235
3/5/2014	Wednesday	43	125	168
3/6/2014	Thursday	59	150	209
3/7/2014	Friday	43	141	184
3/8/2014	Saturday	n/a	58	58
3/9/2014	Sunday	34	n/a	34
Total		304	789	1093

1: Selah City limit



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

3/25/2014 I-1

Title: Approval of Minutes: March 11, 2014 Study Session & Council Meeting

Thru: David Kelly, City Administrator

From: Monica Lake, Executive Assistant

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

Approval of the Minutes from the last Council Meeting.

Background / Findings & Facts:

See Minutes for details.

Recommended Motion:

Motion to approve the Consent Agenda as read. (This item is part of the Consent Agenda)

Study Session Minutes
Selah City Council
March 11, 2014
3:30pm

Mayor Gawlik opened the Study Session. He welcomed Selah School District Superintendent Shane Backlund and invited him to speak.

Superintendent Backlund gave a brief update on the high school construction, which is approximately ninety-five percent complete at this point, as well as various other school district projects. He noted that there has been an increase in enrollment this year. He said that the removal of the middle school structures will start tomorrow, adding that the project suffered a delay in December due a combination of cold temperatures and no moisture but the construction crew has already made up the lost time. He stated that they are scheduled to be into the new middle school next December. He commented that they are looking at going to the Viking mascot for all schools, not just the high school. He went on to say that they are putting in two portable at John Campbell Elementary, and hiring some new teachers as well, as part of the effort to have smaller class sizes for kindergarten and first grade. He remarked that the will also be doing some upgrades to the lunch and kitchen facilities for the high school, and talked briefly about the acquisition of iPads for all staff and the integration of them into classrooms next fall. A brief discussion followed.

Mayor Gawlik thanked Superintendent Backlund for his time. The Study Session ended at 3:57pm.

City of Selah
Council Minutes
March 11, 2014

Regular Meeting
Selah Council Chambers
115 West Naches Avenue
Selah, WA 98942

A. Call to Order Mayor Gawlik called the meeting to order at 4:00pm.

B. Roll Call

Members Present: John Tierney; Dave Smeback; Allen Schmid; Brooke Finch; Roy Sample; Jane Williams

Members Excused: Paul Overby

Staff Present: David Kelly, City Administrator; Bob Noe, City Attorney; Dale Novobielski, Clerk/Treasurer; Rick Hayes, Police Chief; Gary Hanna, Fire Chief; Joe Henne, Public Works Director; Dennis Davison, Community Planner; Charlie Brown, Recreation Manager; Monica Lake, Executive Assistant

C. Pledge of Allegiance

Council Member Finch led the Pledge of Allegiance. Pastor Kendra Behn-Smith led the opening prayer.

D. Agenda Changes **None**

E. Public Appearances/Introductions/ Presentations **None**

1. Fire Chief Hanna – Introduce new Firefighter

Fire Chief Hanna introduced Firefighter Josh Bertheas, the newest member of the Selah Fire Department. He noted that Firefighter Bertheas was a volunteer prior to being hired on as the newest staff member.

2. Police Chief Hayes – Introduction to “Chief for a Day” program with a video and meet Selah Police Department’s “2014 Chief for a Day” Kylee Ramsey

Police Chief Hayes introduced Kylee Ramsey, the Selah Police Department’s 2014 Chief for a Day (CFAD), to Council. He played a video presentation of the 2012 CFAD event, followed by a brief listing of some things that will be at this year’s event. He said that her uniform has not come in as of yet, but he hopes to bring her back to Council for a Swearing-In ceremony once the badge is here. He noted that this is all done by donations.

Council Member Tierney asked if the City will transport the family to the event.

Police Chief Hayes responded that they would provide transportation or gas cards if the family doesn't have reliable transportation. He noted that Ms. Ramsey will be transported in a Selah Police Department vehicle in the motorcade ride to the academy. He had hoped that one of the officers would still be at the academy and could be assigned to Ms. Ramsey, but both will be graduating prior to that.

Council Member Tierney wondered if they could send the newbie back for that purpose.

Police Chief Hayes commented that Officer Martin will be going to act as driver from the event to the destination. He stated that he has been to most of the service clubs in Selah requesting donations, as well as one local bank. He thanked Ms. Ramsey and her mother for coming to the meeting.

Mayor Gawlik expressed his thanks to Police Chief Hayes for bringing the program to their attention.

Police Chief Hayes remarked that some of the little chiefs never make it to August due to a life threatening illness.

F. Getting To Know Our Businesses **None**

G. Communications

1. Oral

Mayor Gawlik opened the meeting.

John Cooper, Yakima Valley Tourism, approached the podium and addressed the Council. He noted that they have recently changed their name from Yakima Valley Visitors & Convention Bureau to Yakima Valley Tourism. He presented Council with the annual report and gave a brief summary of the information pertinent to Selah, including tournaments and media coverage. He handed out the new Visitors Guide, noting that the cover this year features the Yakima River Canyon as the cover photograph.

Council Member Tierney wondered about the website insert on Selah that was not continued into 2014.

Mr. Cooper responded that the page in question was part of an additional marketing package that Council opted not to purchase for 2014. He thanked Council for their support.

Seeing no one else rise to speak, Mayor Gawlik closed the meeting.

2. Written

a. Yakima Transit Service Ridership Report for January & February 2014

Council Member Schmid expressed concern regarding the possible removal of the Ellensburg route that has been mentioned in the media recently.

City Administrator Kelly responded that the City of Yakima is looking at ways to save money; they currently spend approximately \$65,000 per year on the Ellensburg commuter and will also need to spend \$500,000 to replace the aging buses currently used for the Ellensburg route. He said that he had lunch out at the Yakima Training Center today and had an opportunity to talk with Yakima City Manager Tony O'Rourke about the matter. He was told that the Yakima City Council will be meeting tonight to discuss defunding the route in July,

and that he has requested that they talk with Yakima County, Kittitas County, and the Cities of Ellensburg, Union Gap and Selah regarding the continued funding of the route.

Council Member Schmid asked what the ridership has been.

City Administrator Kelly replied that it has been good; full to the point of standing room only in the morning and evening, and half full during the day. He noted that the route is used but they need to find a fiscal way to afford the continuation of service.

Council Member Tierney asked about the discontinuation of the Sunday service routes.

City Administrator Kelly responded that it is on the same agenda; the Sunday service was funded by a grant and they are trying to get away from funding general operating costs with grants.

Council Member Schmid inquired about the Sunday ridership.

City Administrator Kelly responded that it is a little less than during the week. He said that it is an affordability issue; they would need to either raise the rates or discontinue the service.

H. Proclamations/Announcements **None**

I. Consent Agenda

Executive Assistant Lake read the Consent Agenda.

All items listed with an asterisk (*) were considered as part of the Consent Agenda.

- * 1. Approval of Minutes: February 24, 2014 Study Session & Council Meeting
- * 2. Approval of Claims & Payroll:

Payroll Checks Nos. 77218 – 77248 for a total of \$220,781.17
Claim Checks Nos. 63466 – 63530 for a total of \$140,193.30

Council Member Tierney moved, and Council Member Schmid seconded, to approve the Consent Agenda as read. By voice vote, approval of the Consent Agenda was unanimous.

J. Public Hearings **None**

K. New Business **None**

L. Old Business **None**

M. Resolutions

1. Resolution Declaring Fire Department Property as Surplus and Authorizing Its Disposal

Fire Chief Hanna addressed M – 1. He said that one of the command vehicle Expeditions was slated for replacement this year, but due to some departmental restructuring he would prefer to use the funds elsewhere

and not replace the vehicle as originally intended. He requested permission surplus both the vehicle and the slide-out organizer for it.

Council Member Schmid wondered how many miles were on it.

Fire Chief Hanna responded that there are approximately 65,000 miles on it, adding that there is no meter on that one to factor in idle time.

Council Member Schmid asked about vehicle maintenance.

Fire Chief Hanna replied that it is serviced every 3-5,000 miles.

Council Member Finch moved, and Council Member Smeback seconded, to approve the Resolution Declaring Fire Department Property as Surplus and Authorizing Its Disposal. Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.

N. Ordinances

1. Ordinance Vacating a Portion of Shannon Road Public Right-of-way

Community Planner Davison addressed N – 1. He said that a public hearing regarding the vacation of a portion of the Shannon Road right of way was held at the last meeting, and that this Ordinance, if adopted, will vacate the right of way. He asked that Council approve the Ordinance.

Council Member Schmid wondered which budget the money would go into.

Public Works Director Henne responded that it would go into the street fund.

Council Member Schmid asked which fund specifically.

Clerk/Treasurer Novobielski remarked that it would be Fund 110.

Council Member Tierney inquired about the three conditions specified in the Ordinance.

Community Planner Davison listed the conditions, noting that the builder has already paid the purchase price. He noted that the vacated right of way will be merged with the adjacent properties once the Quit Claim Deed has been recorded with the County Auditor.

Council Member Schmid moved, and Council Member Smeback seconded, to approve the Ordinance Vacating a Portion of Shannon Road Public Right-of-way. Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.

2. Ordinance Amending the 2014 Budget for Audio System Improvements to the City Council Chambers

Clerk/Treasurer Novobielski addressed N – 2. He said that this budget adjustment is for the additional three microphones and a four channel mixer for the sound system, which were not built into the existing budget. He requested that Council modify the budget accordingly.

Council Member Schmid asked those in the audience if they could hear the Council Members when they spoke.

Various audience members replied in the affirmative.

Council Member Finch moved, and Council Member Tierney seconded, to approve the Resolution Declaring Fire Department Property as Surplus and Authorizing Its Disposal. Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.

3. Ordinance amending the 2014 Budget for Changes in the Public Works' Administrative Support Employment Positions

Clerk/Treasurer Novobielski addressed N – 3. He said that Council approved the request made by Public Works Director Henne to provide for two positions in the Public Works Department to replace the retiring Public Works Administrative Assistant. He remarked that the nine month cost will be approximately \$41,000 to various funds as described in the Agenda Item Summary, and that approval of this Ordinance will allow the City to end the year within budget.

Council Member Smeback moved, and Council Member Finch seconded, to approve the Resolution Declaring Fire Department Property as Surplus and Authorizing Its Disposal. Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.

O. Communications

1. Oral

Mayor Gawlik opened the meeting. Seeing no one rise to speak, he then closed the meeting.

P. Reports/Announcements

1. Mayor

Mayor Gawlik said that Fire Chief Hanna, Police Chief Hayes, City Administrator Kelly and himself attended a community leader luncheon at the Yakima Training Center earlier today, which was hosted by Colonel Hodges, commander of Joint Base Lewis-McChord, and LTC O'Steen, commander of the Yakima Training Center, as a thank you from the military for the communications we have established and are continuing to keep strong. He noted that the Yakima Training Center command will change in July, and that the incoming commander has been given orders to continue their relationship with the cities of Selah and Yakima.

2. Council Members

Council Member Finch had no report.

Council Member Sample had no report.

Council Member Tierney had no report.

Council Member Smeback had no report.

Council Member Schmid had no report.

Council Member Williams had no report.

3. Departmental

Public Works Director Henne said that he has received two of the three contracts back that were approved. He remarked that the crew is doing some general maintenance and that they will be pouring the footings for the gazebo this week. He noted that Matson Fruit, Tree Top, and the Selah School District all have construction projects at present.

Council Member Schmid wondered what was under construction at Monson.

Public Works Director Henne replied that they have been working on a parking lot as part of their master plan for expansion.

Council Member Smeback asked if the surveying for the widening of Bartlett Avenue has been done.

Public Works Director Henne replied in the affirmative.

Council Member Smeback wondered if the project would be completed before harvest.

Public Works Director Henne asked which harvest he was referring to, adding that it will be done before the apple run. He noted that the project encompasses less than thirty days' construction.

Community Planner Davison said that there are four new subdivisions, three new planned developments, and some rezones in the works. He remarked that a couple of subdivisions are currently under consideration and will be heard by the Hearing Examiner at a later date.

Council Member Smeback City wondered about the residential capacity of the wastewater treatment plant and domestic water system.

Public Works Director Henne replied that this is addressed in both the water systems plan and sewer systems plan.

Community Planner Davison noted that housing is based on vacancy rates and new house permits.

Mayor Gawlik asked if the City is anywhere near the caution point.

Public Works Director Henne responded that they are planned out to 2025; right now they are doing a water system plan update. He said that he hopes to have a draft done and sometime in April and to have the update complete by end of the year. He noted that they are comparing current figures with the last go round to see whether projections were above, below, or on par.

Council Member Smeback inquired about the possibility of needing to go into the water bank to secure certificates for new wells.

Public Works Director Henne responded that we haven't gotten to that yet; they are simply compiling data at this point.

Council Member Williams asked if the City would be sending out information to the newly annexed residents notifying them that they are now within City limits.

Community Planner Davison responded that, in the past, they have sent out a welcome letter from the Mayor. He said that he is working on a letter, but it isn't finished as of yet. He commented that the Planning Commission will be holding a hearing on the Critical Area Ordinance in approximately 10 days, and that he anticipates it coming to Council at next meeting.

Clerk/Treasurer Novobielski gave a brief update on sales tax and property taxes, noting that the sales tax is coming in on budget, while the property tax is lower than anticipated at this point. He said that he will provide another tax update in approximately sixty days. He stated that the City still has some retirees on the LEOFF 1 retirement system, under which the City is responsible for providing medical costs. He went on to say that the City took out long term care insurance on several of these retirees, and that the City recently received a \$71,000 check from a policy that wasn't used on a retiree who passed away in December.

Recreation Manager Brown had no report.

Fire Chief Hanna said that they are updating the landscaping at the Fire Station to be similar to the dry landscaping at the Public Works building, which will freshen it up and cut down on maintenance. He noted that Deputy Fire Chief Martin's wife passed away last Friday.

Police Chief Hayes said that he has two officers at the academy; both are doing well, and one will graduate next week. He remarked that Officer Brumley is in Seattle for a homicide refresher course, adding that this month is a heavy training month for the department. He noted that the new patrol cars haven't been built yet; it will be one to two weeks before they put the metal together.

Council Member Tierney asked what vehicle type was ordered.

Police Chief Hayes replied that they ordered interceptor Fords, as they are the only ones who make all wheel drive thus far. He added that the vehicle is an Explorer on a Taurus frame which accommodates those over 5'10" who have a difficult time getting out of the cruisers.

City Administrator Kelly had no report.

City Attorney Noe had no report.

Council took a five minute recess.

4. Boards

a. Parks Board Minutes – January 13, 2014

Q. Executive Session

1. 10 Minute Session – Contract Negotiations RCW 42.30.140
2. 20 Minute Session – Potential Litigation RCW 42.30.110(1)(i)

Council went into Executive Session at 5:02pm. At 5:32pm, Council went back on the record. Mayor Gawlik stated that they would be extending the Executive Session for an additional 10 minutes.

Council went back into Executive Session at 5:32pm. At 5:42pm, Council went back on the record. Mayor Gawlik stated that no action was taken during the Executive Session.

Council Member Schmid moved, and Council Member Finch seconded, to approve the Police Department Agreement for Teamsters Local Union #760 for January 1, 2014 through December 31, 2018. Roll was called: Council Member Tierney – yes; Council Member Smeback – yes; Council Member Schmid – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.

R. Adjournment

Council Member Schmid moved, and Council Member Smeback seconded, that the meeting be adjourned. By voice vote, approval was unanimous.

The meeting adjourned at 5:44pm.

John Gawlik, Mayor

EXCUSED

Paul Overby, Council Member

John Tierney, Council Member

Dave Smeback, Council Member

Allen Schmid, Council Member

Brooke Finch, Council Member

Roy Sample, Council Member

Jane Williams, Council Member

ATTEST:

Dale E. Novobielski, Clerk/Treasurer



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM
3/25/2014 I - 2

Title: Claims & Payroll

Thru: David Kelly, City Administrator

From: Dale Novobielski, Clerk/Treasurer

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: See Check Registers

Funding Source: Various. See Check Registers.

Staff Recommendation:

Approval of Claims & Payroll as listed on Check Registers.

Background / Findings & Facts:

See Check Registers.

Recommended Motion:

Motion to Approve the Consent Agenda as read. (This item is part of the Consent Agenda)



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

3/25/2014 M – 1

Title: Resolution Authorizing the Mayor to Sign the WSDOT Local Agency Federal Aid Project Prospectus for the Transportation Alternatives Program (TAP) Funding for Sidewalk along Wernex Loop

Thru: David Kelly, City Administrator

From: Joe Henne, Public Works Director

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$500

Funding Source: \$500 from Street Fund 111

Staff Recommendation:

To approve an resolution endorsing the WSDOT Local Agency Federal Aid Project Prospectus

Background / Findings & Facts:

The city applied for and was selected for funding to construct a curb, gutter and sidewalk along the north side of Wernex Loop. The Local Agency Federal Aid Project Prospectus outlines the scope of work, funding amounts, contacts and environmental requirements. Total project cost is estimated at \$213,000.

Recommended Motion:

To approve a resolution endorsing the WSDOT Local Agency Federal Aid Project Prospectus.



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:

Action Taken:

12/10/2013

City Council approves a resolution to a make an application for funding for the Wernex Sidewalk Improvements.

2/11/2014

City Council approves a resolution to amend the Six Year TIP for the Wernex Sidewalk Improvements.

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RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE WSDOT
LOCAL AGENCY FEDERAL AID PROJECT PROSPECTUS FOR THE
TRANSPORTATION ALTERNATIVES PROGRAM (TAP) FUNDING FOR
SIDEWALK ALONG WERNEX LOOP

WHEREAS, the City of Selah wishes WSDOT to release funding for sidewalk construction along Wernex Loop using the Transportation Alternatives Program, and

WHEREAS, approving the WSDOT Local Agency Federal Aid Project Prospectus outlines the scope of work, funding amounts, contacts, and environmental requirements, and

WHEREAS, the project will construct a six (6) foot sidewalk, curb and gutter from the entrance into the Selah Middle School, North along Wernex Loop to North First Street;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON that the Mayor be authorized to sign the Local Agency Federal Aid Project Prospectus for a sidewalk on Wernex Loop.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON this 25th day of March, 2014.

John Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Robert F. Noe, City Attorney

RESOLUTION NO. _____



Prefix		Route	()	Date	2/6/2014
Federal Aid Project Number	TAP			Central Contractor Registration Exp. Date	98942
Local Agency Project Number			(WSDOT Use Only)	Federal Employer Tax ID Number	91-60001501

Agency City of Selah	Federal Program Title <input type="checkbox"/> 20.205 <input type="checkbox"/> Other
Project Title Wernex Loop	Start Latitude 463937.24 Start Longitude 1203148.47 End Latitude 463948.08 End Longitude 1203048.94

Project Termini From - To North First Street North First Street	Nearest City Name Selah	Project Zip Code 98942
From: To: Length of Project	Award Type <input checked="" type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad	
Federal Agency <input checked="" type="checkbox"/> FHWA <input type="checkbox"/> Others	City Number 1155	County Number County Name 39 Yakima
WSDOT Region South Central Region	Congressional District 4	Legislative Districts 15
	Urban Area Number 5	TMA / MPO / RTPO YVCOG

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
				Month	Year
P.E.	\$26,400	\$500	\$25,900	03	2014
RAW					
Const.					
Total	\$26,400	\$500	\$25,900		

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width 25	Number of Lanes 2
---------------------	----------------------

Existing roadway is 25 feet wide asphalt pavement with out curbs, gutters or sidewalks.

Description of Proposed Work

Description of Proposed Work (Attach additional sheet(s) if necessary)

To construct curb and gutter and sidewalk on the north side of Wernex Loop and reconstruction of a substandard turning radius at North First Street.

Local Agency Contact Person Joe Henne	Title Public Works Director	Phone 509-698-7365
Mailing Address 222 S. Rushmore Road	City Selah	State Zip Code WA 98942
Project Prospectus Approval		By _____
Title Mayor		Approving Authority
		Date

Agency City of Selah	Project Title Wernex Loop	Date 2/6/2014
-------------------------	------------------------------	------------------

Type of Proposed Work		
Project Type (Check all that Apply)	Roadway Width	Number of Lanes
<input checked="" type="checkbox"/> New Construction <input type="checkbox"/> Path / Trail <input type="checkbox"/> 3-R <input type="checkbox"/> Reconstruction <input type="checkbox"/> Pedestrian / Facilities <input type="checkbox"/> 2-R <input type="checkbox"/> Railroad <input type="checkbox"/> Parking <input checked="" type="checkbox"/> Other <input type="checkbox"/> Bridge	25	2

Geometric Design Data		
Description	Through Route	Crossroad
Federal Functional Classification	<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Principal Arterial <input type="checkbox"/> Rural <input type="checkbox"/> Minor Arterial <input type="checkbox"/> NHS <input type="checkbox"/> Collector <input type="checkbox"/> <input type="checkbox"/> Major Collector <input type="checkbox"/> <input type="checkbox"/> Minor Collector <input type="checkbox"/> <input type="checkbox"/> Local Access	<input checked="" type="checkbox"/> Urban <input type="checkbox"/> Principal Arterial <input type="checkbox"/> Rural <input type="checkbox"/> Minor Arterial <input type="checkbox"/> NHS <input type="checkbox"/> Collector <input type="checkbox"/> <input type="checkbox"/> Major Collector <input type="checkbox"/> <input type="checkbox"/> Minor Collector <input type="checkbox"/> <input type="checkbox"/> Local Access
Terrain	<input type="checkbox"/> Flat <input checked="" type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input type="checkbox"/> Flat <input checked="" type="checkbox"/> Roll <input type="checkbox"/> Mountain
Posted Speed	25	
Design Speed	35	
Existing ADT		
Design Year ADT		
Design Year		
Design Hourly Volume (DHV)		

Performance of Work		
Preliminary Engineering Will Be Performed By Consultant	Others 100 %	Agency %
Construction Will Be Performed By Contractor	Contract 100 %	Agency %

Environmental Classification	
<input type="checkbox"/> Class I - Environmental Impact Statement (EIS) <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement <input type="checkbox"/> Class III - Environmental Assessment (EA) <input type="checkbox"/> Project Involves NEPA/SEPA Section 404 Interagency Agreement	<input checked="" type="checkbox"/> Class II - Categorically Excluded (CE) <input checked="" type="checkbox"/> Projects Requiring Documentation (Documented CE)

Environmental Considerations
A section 106 survey and report will be complete for the project.

Agency City of Selah	Project Title Wernex Loop	Date 2/6/2014
-------------------------	------------------------------	------------------

Right of Way

No Right of Way Required
* All construction required by the contract can be accomplished within the existing right of way.

Right of Way Required

No Relocation Relocation Required

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

FAA Involvement
Is any airport located within 3.2 kilometers (2 miles) of the proposed project? Yes No

Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency City of selah

Date

By

Mayor/Chairperson



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

3/25/2014 M – 2

Title: Resolution Authorizing the Mayor to Sign the WSDOT Local Agency Agreement for the Transportation Alternatives Program (TAP) Funding for Sidewalk along Wernex Loop

Thru: David Kelly, City Administrator

From: Joe Henne, Public Works Director

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$500

Funding Source: \$500 from Street Fund 111

Staff Recommendation:

To approve an resolution endorsing the WSDOT Local Agency Agreement

Background / Findings & Facts:

The City applied for and was selected for funding to construct a curb, gutter and sidewalk along the north side of Wernex Loop. The City is only responsible for up to \$500 for WSDOT and City administration cost. Total project cost is estimated at \$213,000.

Recommended Motion:

To approve an resolution endorsing the WSDOT Local Agency Agreement



CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY



Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:

Action Taken:

12/10/2013

City Council approves a resolution to a make an application for funding for the Wernex Sidewalk Improvements.

2/11/2014

City Council approves a resolution to amend the Six Year TIP for the Wernex Sidewalk Improvements.

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RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE WSDOT
LOCAL AGENCY AGREEMENT FOR THE TRANSPORTATION
ALTERNATIVES PROGRAM (TAP) FUNDING FOR SIDEWALK
ALONG WERNEX LOOP**

WHEREAS, the City of Selah wishes WSDOT to release funding for sidewalk construction along Wernex Loop using the Transportation Alternatives Program, and

WHEREAS, approving the WSDOT Local Agency Agreement outlines how the City shall spend the project funding, and

WHEREAS, the project will construct a six (6) foot sidewalk, curb and gutter from the entrance into the Selah Middle School, North along Wernex Loop to North First Street;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON that the Mayor be authorized to sign the Local Agency Agreement for a sidewalk on Wernex Loop.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON
this 25th day of March, 2014.**

John Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Robert F. Noe, City Attorney

RESOLUTION NO. _____



Local Agency Agreement

Agency City of Selah
 Address 222 South Rushmore Road
Selah, WA. 98942

CFDA No. **20.205**
 (Catalog of Federal Domestic Assistance)
 Project No. _____
 Agreement No. _____
 For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR 225, (4) Office of Management and Budget Circulars A-102, and A-133, (5) the policies and procedures promulgated by the Washington State Department of Transportation, and (6) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name Wernex Loop Length 0.19
 Termini From the entrance of the Selah Middle School north to North First Street

Description of Work

To construct curb and gutter and sidewalk on the north side of Wernex Loop and the reconstruction of a substandard turning radius at North First Street.

Type of Work		Estimate of Funding		
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE 100 % Federal Aid Participation Ratio for PE	a. Agency			
	b. Other Design Engineering	19,900.00		19,900.00
	c. Other Environmental	6,000.00		6,000.00
	d. State	500.00	500.00	
	e. Total PE Cost Estimate (a+b+c+d)	26,400.00	500.00	25,900.00
Right of Way _____% Federal Aid Participation Ratio for RW	f. Agency			
	g. Other			
	h. Other			
	i. State			
	j. Total R/W Cost Estimate (f+g+h+i)			
Construction 100 % Federal Aid Participation Ratio for CN	k. Contract			
	l. Other	187,100.00		187,100.00
	m. Other			
	n. Other			
	o. Agency			
	p. State			
	q. Total CN Cost Estimate (k+l+m+n+o+p)	187,100.00		187,100.00
	r. Total Project Cost Estimate (e+j+q)	213,500.00	500.00	213,000.00

Agency Official

Washington State Department of Transportation

By _____

By _____

Title _____

Director of Highways and Local Programs

Date Executed _____

Construction Method of Financing (Check Method Selected)

State Aid and Award

- Method A - Advance Payment - Agency Share of total construction cost (based on contract award)
- Method B - Withhold from gas tax the Agency's share of total construction cost (line 4, column 2) in the amount of \$ _____ at \$ _____ per month for _____ months.

Local Force or Local Aid and Award

- Method C - Agency cost incurred with partial reimbursement

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will comply with the applicable provisions set forth below. Adopted by official action on

_____ March 25 , 2014 , Resolution/Ordinance No. _____

Provisions

I. Scope of Work

The Agency shall provide all the work, labor, materials, and services necessary to perform the project which is described and set forth in detail in the "Project Description" and "Type of Work."

When the State acts for and on behalf of the Agency, the State shall be deemed an agent of the Agency and shall perform the services described and indicated in "Type of Work" on the face of this agreement, in accordance with plans and specifications as proposed by the Agency and approved by the State and the Federal Highway Administration.

When the State acts for the Agency but is not subject to the right of control by the Agency, the State shall have the right to perform the work subject to the ordinary procedures of the State and Federal Highway Administration.

II. Delegation of Authority

The State is willing to fulfill the responsibilities to the Federal Government by the administration of this project. The Agency agrees that the State shall have the full authority to carry out this administration. The State shall review, process, and approve documents required for federal aid reimbursement in accordance with federal requirements. If the State advertises and awards the contract, the State will further act for the Agency in all matters concerning the project as requested by the Agency. If the Local Agency advertises and awards the project, the State shall review the work to ensure conformity with the approved plans and specifications.

III. Project Administration

Certain types of work and services shall be provided by the State on this project as requested by the Agency and described in the Type of Work above. In addition, the State will furnish qualified personnel for the supervision and inspection of the work in progress. On Local Agency advertised and awarded projects, the supervision and inspection shall be limited to ensuring all work is in conformance with approved plans, specifications, and federal aid requirements. The salary of such engineer or other supervisor and all other salaries and costs incurred by State forces upon the project will be considered a cost thereof. All costs related to this project incurred by employees of the State in the customary manner on highway payrolls and vouchers shall be charged as costs of the project.

IV. Availability of Records

All project records in support of all costs incurred and actual expenditures kept by the Agency are to be maintained in accordance with local government accounting procedures prescribed by the Washington State Auditor's Office, the U.S. Department of Transportation, and the Washington State Department of Transportation. The records shall be open to inspection by the State and Federal Government at all reasonable times and shall be retained and made available for such inspection for a period of not less than three years from the final payment of any federal aid funds to the Agency. Copies of said records shall be furnished to the State and/or Federal Government upon request.

V. Compliance with Provisions

The Agency shall not incur any federal aid participation costs on any classification of work on this project until authorized in writing by the State for each classification. The classifications of work for projects are:

1. Preliminary engineering.
2. Right of way acquisition.
3. Project construction.

In the event that right of way acquisition, or actual construction of the road, for which preliminary engineering is undertaken is not started by the closing of the tenth fiscal year following the fiscal year in which the agreement is executed, the Agency will repay to the State the sum or sums of federal funds paid to the Agency under the terms of this agreement (see Section IX).

The Agency agrees that all stages of construction necessary to provide the initially planned complete facility within the limits of this project will conform to at least the minimum values set by approved statewide design standards applicable to this class of highways, even though such additional work is financed without federal aid participation.

The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR 225 and Office of Management and Budget circulars A-102 and A-133. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursed by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the state for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR 225 - Cost Principles for State, Local, and Indian Tribal Government, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency's share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a billing to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency's share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allotments. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project.

The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant's records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency's files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FIWA; and Office of Management and Budget Circular A-133.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal Office of Management and Budget (OMB) Circular A-133 as well as all applicable federal and state statutes and regulations. A subrecipient who expends \$500,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of OMB Circular A-133. Upon conclusion of the A-133 audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State's billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has been billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allotments to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed the Director of Highways and Local Programs.

X. Traffic Control, Signing, Marking, and Roadway Maintenance

The Agency will not permit any changes to be made in the provisions for parking regulations and traffic control on this project without prior approval of the State and Federal Highway Administration. The Agency will not install or permit to be installed any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration and MUTCD. The Agency will, at its own expense, maintain the improvement covered by this agreement.

XI. Indemnity

The Agency shall hold the Federal Government and the State harmless from and shall process and defend at its own expense all claims, demands, or suits, whether at law or equity brought against the Agency, State, or Federal Government, arising from the Agency's execution.

performance, or failure to perform any of the provisions of this agreement, or of any other agreement or contract connected with this agreement, or arising by reason of the participation of the State or Federal Government in the project. PROVIDED, nothing herein shall require the Agency to reimburse the State or the Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the State.

XII. Nondiscrimination Provision

No liability shall attach to the State or Federal Government except as expressly provided herein.

The Agency shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract and/or agreement or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts and agreements. The WSDOT's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Agency of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

The Agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor in 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee or understanding pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the required contract provisions for Federal-Aid Contracts (FHWA 1273), located in Chapter 44 of the Local Agency Guidelines.

The Agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the contract.

The Agency also agrees:

(1) To assist and cooperate actively with the State in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and rules, regulations, and relevant orders of the Secretary of Labor.

(2) To furnish the State such information as it may require for the supervision of such compliance and that it will otherwise assist the State in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the State, Federal Highway Administration, or the Secretary of Labor pursuant to Part II, subpart D of the Executive Order.

In addition, the Agency agrees that if it fails or refuses to comply with these undertakings, the State may take any or all of the following actions:

(a) Cancel, terminate, or suspend this agreement in whole or in part;

(b) Refrain from extending any further assistance to the Agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

XIII. Liquidated Damages

The Agency hereby agrees that the liquidated damages provisions of 23 CFR Part 635, Subpart 127, as supplemented, relative to the amount of Federal participation in the project cost, shall be applicable in the event the contractor fails to complete the contract within the contract time. Failure to include liquidated damages provision will not relieve the Agency from reduction of federal participation in accordance with this paragraph.

XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

(1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.

(2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.

(3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.

(4) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - L.L.L. "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Additional Provisions



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

3/25/2014 M – 3

Title: Resolution authorizing the Mayor to sign a Sponsorship Agreement with Selah Les Schwab regarding Community 3rd of July Celebration

Thru: David Kelly, City Administrator

From: Charles Brown, Recreation Manager

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$5,000

Funding Source: 001

Staff Recommendation:

I recommend that we authorize the contract with Les Schwab to be signed so we can proceed with the July 3rd event.

Background / Findings & Facts:

The contract is with Les Schwab outlines that Les Schwab will give the City \$5000 for the 3rd of July Fireworks and details what we will provide for their sponsorship.

Recommended Motion:

I recommend that we approve the resolution for the Mayor to sign the contract with Les Schwab for the 3rd of July Event.

CITY OF SELAH, WASHINGTON
RESOLUTION NO. _____

A RESOLUTION authorizing the Mayor to sign a Sponsorship Agreement with Selah Les Schwab regarding Community 3rd of July Celebration

WHEREAS, the City of Selah and Selah Les Schwab wish to enter into an agreement relating to Les Schwab's sponsorship of the Community 3rd of July Celebration and what Les Schwab will receive in return for its monetary sponsorship;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, HEREBY RESOLVES as follows:

The Mayor is authorized to sign a Sponsorship Agreement with Selah Les Schwab regarding Community 3rd of July Celebration.

PASSED this 25th day of March, 2014.

John Gawlik, Mayor

ATTEST:

APPROVED AS TO FORM:

Dale Novobielski, Clerk/Treasurer

Robert F. Noe, City Attorney

THIS SPONSORSHIP AGREEMENT is entered into and effective as of this _____ day of _____, 2014 by _____ of Selah Les Schwab (herein after "Sponsor") and the City of Selah (herein after "City")

The parties desire to enter this Sponsor Agreement for the purposes and on terms and conditions stated in this agreement. Therefore, the parties agree as follows:

1. PURPOSE

The Purpose of the Agreement is:

1. Host a community celebration on July 3, 2014 for the 4th of July
2. Promote the City of Selah and its local businesses
3. Provide an experience for which people will continue to return

2. TERMS

Sponsor agrees to

Pay the City of Selah the amount of \$5000.00 by June 15th, 2013

In return the City of Selah agrees to provide the following:

- ❖ Les Schwab's name on all print media
- ❖ Banners to be displayed
- ❖ Les Schwab trucks at the entrance of the event
- ❖ Mention on any and all radio commercials
- ❖ Mentioned during event as Event Sponsor
- ❖ Les Schwab's Logo on all T-shirts
- ❖ 10 free runners for Color run (Color Run)
- ❖ Les Schwab Logo on City Website as Event Sponsor
- ❖ Table at event with your advertising materials.
- ❖ Bags of Color will have name of event as well Les Schwab logo (Color Run)
- ❖ Frosty's Freezin 5 K Event Sponsorship

Signatures of Parties

Selah Les Schwab _____ Printed _____
Its: _____

Mayor of Selah _____ Printed _____

Attest:

Dale Novobielski, Clerk/Treasurer



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

3/25/2014 M – 4

Title: Resolution authorizing the Mayor to sign a Sponsorship Agreement with Pingrey Ford regarding Community 3rd of July Celebration

Thru: David Kelly, City Administrator

From: Charles Brown, Recreation Manager

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$2,500

Funding Source: 001

Staff Recommendation:

I recommend that we authorize the contract with Pingrey Ford to be signed so we can proceed with the July 3rd event.

Background / Findings & Facts:

The contract is with Pingrey Ford and outlines that they will give the City \$2,500 for the band (Cody Bebee and the Crooks) at the 3rd of July event and details what we will provide for their sponsorship.

Recommended Motion:

I recommend that we approve the resolution for the Mayor to sign the contract with Pingrey Ford for the 3rd of July Event.

CITY OF SELAH, WASHINGTON
RESOLUTION NO. _____

A RESOLUTION authorizing the Mayor to sign a Sponsorship Agreement with Pingrey Ford regarding Community 3rd of July Celebration

WHEREAS, the City of Selah and Pingrey Ford wish to enter into an agreement relating to Pingrey Ford's sponsorship of the Community 3rd of July Celebration and what Pingrey Ford will receive in return for its monetary sponsorship;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, HEREBY RESOLVES as follows:

The Mayor is authorized to sign a Sponsorship Agreement with Pingrey Ford regarding Community 3rd of July Celebration.

PASSED this 25th day of March, 2014.

John Gawlik, Mayor

ATTEST:

APPROVED AS TO FORM:

Dale Novobielski, Clerk/Treasurer

Robert F. Noe, City Attorney

THIS SPONSORSHIP AGREEMENT is entered into and effective as of this _____ day of _____, 2014 by _____ of ___Pingrey Ford___ (hereinafter "Sponsor") and the City of Selah (hereinafter "City")

The parties desire to enter this Sponsor Agreement for the purposes and on terms and conditions stated in this agreement. Therefore, the parties agree as follows:

1. PURPOSE

The Purpose of the Agreement is:

1. Host a community celebration for the 4th of July
2. Promote the City of Selah and its local businesses
3. Provide an experience for which people will continue to return

2. TERMS

___Sponsor___ agrees to

Pay the City of Selah the amount of \$2500.00 by June 15th, 2014

In return the City of Selah agrees to provide the following:

- Sponsor name on any and all print media
- Sponsor Banner to be displayed
- Sponsor vehicles at event
- Mention on any and all radio commercials
- Mentioned during event as Music Sponsor
- Sponsor Logo on City Website as Music Sponsor

Signatures of Parties

Sponsor _____ Printed _____
Its: _____

Mayor of Selah _____ Printed _____

Attest: _____
Dale Novobielski, City Clerk Treasurer



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

3/25/2014 M – 5

Title: Resolution authorizing the Mayor to sign a Firework Display Agreement with Wolverine West, LLC

Thru: David Kelly, City Administrator

From: Charles Brown, Recreation Manager

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$5,000

Funding Source: 001

Staff Recommendation:

I recommend that we authorize the contract with Wolverine West to be signed so we can proceed with the July 3rd event.

Background / Findings & Facts:

The contract is with the company that will be putting on the firework display that will take place that evening. It includes all licenses and also states that if we pay before June 1st we could get \$250 more in product.

Recommended Motion:

I recommend that we approve the resolution for the Mayor to sign the contract for Wolverine West to put on a fireworks display on July 3rd.

CITY OF SELAH, WASHINGTON
RESOLUTION NO. _____

A RESOLUTION authorizing the Mayor to sign a Firework Display Agreement with Wolverine West, LLC.

WHEREAS, the City of Selah wishes to have a fireworks display in celebration of the 4th of July on July 3, 2014 within the City of Selah;

WHEREAS, the City of Selah would like to contract with Wolverine West, LLC for the provision of a fireworks display on July 3, 2014;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, HEREBY RESOLVES as follows:

The Mayor is authorized to sign a Firework Display Agreement with Wolverine West, LLC.

PASSED this 25th day of March, 2014.

John Gawlik, Mayor

ATTEST:

APPROVED AS TO FORM:

Dale Novobielski, Clerk/Treasurer

Robert F. Noe, City Attorney

Fireworks Display Agreement

This agreement entered into this 18 day of February, by and between **WOLVERINE WEST, LLC** ("WW") and _____ ("Purchaser").

1. Purchase of Show. Where WW agrees to provide and Purchaser agrees to purchase the fireworks, labor, transportation and equipment set forth below (hereinafter, the "Display"):

Display Date: 7-3-14
Location: Seiwa High School.

Description

- A. One Aerial Fireworks Display per Attached Itemized Proposal
 - B. Necessary State Licenses and Permits
 - C. Display Liability Insurance Coverage of \$5,000,000.00
2. Purchase Price. The Purchase Price for the Display shall be \$5,000⁰⁰ (including applicable taxes).

Payment shall be as follows:

50 % payment due by 3-20-14.

 % final payment due no later than 10 days after the display date.

Outstanding balances thereafter shall incur a daily periodic interest rate equivalent to 1% per month.

3. Purchaser's Obligations. Purchaser is responsible for, at its sole expense:
 - 3.1 Timely provide a fireworks staging area acceptable to WW that complies with all applicable state and municipal requirements for fireworks safety, including the storage necessary to keep fireworks dry during unloading, preparation, and firing of fireworks;
 - 3.2 Timely provide; floating docks (if display is fired from on the water) and adequate guards, monitors, fencing and/or rope barriers for the staging area acceptable to WW that comply with all applicable federal, state and municipal requirements for fireworks safety and that ensure there is no public access to the fireworks and staging area at any time, from unloading through final inspection of the staging area, and during the Display.
 - 3.3 Timely provide a fireworks display launch location acceptable to WW that complies with all applicable federal, state and municipal requirements for fireworks safety, taking into account appropriate firing and debris fallout zones where the fireworks may safely be fired, and providing for rise and fall of fireworks, clear of spectator viewing areas, parking areas and structures. If the display is fired from on the water, timely provide adequate patrol boat(s) and personnel to maintain the fallout zone while the display is being fired.

- 3.4 Timely provide any additional costs incurred by WW to remedy any failure of the Purchaser to timely meet Purchaser's obligations in this Section 3.
4. Safety Evaluation. WW shall have the sole discretion to determine in good faith whether the Display may safely proceed as agreed on the scheduled date and at the scheduled time. WW determination may include, but is not limited to, such factors as the weather, the condition of the fireworks, audience or property safety, and full compliance with any federal (NFPA 1123), state and municipal requirements. Purchaser expressly assumes the risk that all or any part of the Display may not be timely performed at WW's discretion.
5. Insurance. WW shall obtain public liability insurance for WW's design, setup and performance of the Display only, in the aggregate amount of \$5,000,000 per each accident and products liability of \$1,000,000. This Certificate of Insurance will name Purchaser as an additional insured.
6. Personal Liability. The personal liability of WW's owners, employees, and its subcontractors shall not exceed, and shall in all cases be strictly limited to the Purchase Price of said Display.
7. Limitation of Losses/Assumption of Risk. To the fullest extent permitted by law, WW shall indemnify, defend and hold harmless Purchaser from and against all claims for injuries or death or property damage arising out of or resulting from the negligent acts of WW while presenting the fireworks display on the scheduled Display Date described in section 1.
8. Intellectual Property. WW retains ownership of all intellectual property aspects of the Display, including but not limited to the right to publicly display, publicly perform, reproduce by any means, and distribute any reproduction of the Display. Any reproduction or distribution without WW's written authorization is prohibited.
9. Cancellation and Rescheduling. In the event WW determines in good faith that the Display may not proceed after erecting the equipment on site to provide the Display due to public safety concerns outline in Section 3 and 4 of this agreement, or Purchaser cancels the Display the day of the Display, Purchaser agrees to compensate WW 75% of the Purchase Price. If Purchaser cancels the Display within ten (10) days of the scheduled Display Date, Purchaser agrees to compensate WW 25% of the Purchase Price. In the event Purchaser elects to reschedule the Display Date on the day of the Display, WW and Purchaser will agree on a mutually convenient Display Date and Purchaser shall only pay WW the additional, direct incremental costs, there and above the original Purchase Price specified in Section 2, for rescheduling the display if any. *Not being held to #9*
10. Miscellaneous.
- 10.1 Successors Bound. This Agreement shall be binding upon and inure to the benefit of the parties, their respective legal representatives, successors, and permitted assigns.
- 10.2 Substitutions. WW reserves the right to substitute firework items described in proposals, whether written or oral, pending product availability. In this event, WW, in good faith will substitute firework items of equivalent value and of like kind to those firework items.

10.3 Notices. Any notices required or desired to be given under this Agreement shall be in writing and delivered to:

Wolverine West, LLC
PO Box 99095
Seattle, WA 98139
Or faxed to (888) 492.4902

Purchaser: _____
St. #: _____
City/State/Zip: _____
Or faxed to: _____

10.4 Arbitration. Any dispute between or among the parties hereto arising out of or related to this Agreement shall be submitted to and resolved by a single arbitrator selected by the parties from the Seattle-Tacoma panel of, first, JAMS-Endispute, Inc., or second, Washington Arbitration and Mediation Service. The arbitrator may award arbitration fees, attorneys' fees and costs to the prevailing party.

This Agreement must be signed and returned to WW no later than 4-3-20-14 with deposit prescribed in Section 2 of this agreement to be valid.

If there are any changes to this Agreement the costs will be reduce from firework items at \$65.00 per hour for Wolverine West, LLC and \$295.00 per hour for Wolverine West, LLC's attorney.

PURCHASER:

WW:

Wolverine West, LLC

BY:

BY:

Print Name:

Print Name: RODNEY F. HASH

Date:

Date: 2-18-14

Title:

Title: Partner

Milt Drown
814 S. 6th Ave
Yakima, wa. 98902
(509) 594-7050

5% Increase in product if
full amount pre paid by
6-1-14



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

3/25/2014 N – 1

Title: Ordinance relating to the protection of fish and wildlife habitat conservation areas, frequently flooded areas, aquifer recharge areas, geologic hazard areas, and wetlands; establishing Selah Municipal Code Title 17, Chapter 17.07, Critical Area Ordinance; providing for severability; and providing for an effective date

Thru: David Kelly, City Administrator

From: Dennis Davison, Community Planner

Action Requested: Approval

Board/Commission Recommendation: Approval

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

Adopt Title 17, Chapter 17.07 of the Selah Municipal Code, “Critical Area Ordinance” and the Planning Commission’s Findings & Facts

Background / Findings & Facts:

See attached staff report and Planning Commission’s Findings & Facts

Recommended Motion:

I move we adopt a new Title 17, Chapter 17.07 “Critical Area Ordinance” to the Selah Municipal Code and adopt the Findings and Facts developed by the Planning Commission as if they were our own



CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY



Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:

Action Taken:

3/18/2014

Planning Commission Public Hearing on City of Selah
Critical Area Ordinance

[Click here to enter a date.](#) [Click here to enter text.](#)

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ORDINANCE NO. _____

AN ORDINANCE relating to the protection of fish and wildlife habitat conservation areas, frequently flooded areas, aquifer recharge areas, geologic hazard areas, and wetlands; establishing Selah Municipal Code Title 17, Chapter 17.07, Critical Area Ordinance; providing for severability; and providing for an effective date.

WHEREAS, the State of Washington Growth Management Act of 1990 (36.70A RCW) amended in 1995 requires designation and protection of fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, and wetlands (critical areas) through development regulations;

WHEREAS, the State of Washington Growth Management Act of 1990 (36.70A.172 RCW) amended in 1995 requires the City of Selah to include best available science in designating and protecting these critical areas and in development policies and development regulations to protect their functions and values, and to give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;

WHEREAS, the federal Clean Water Act requires the City of Selah to protect waters of the United States; to protect water quality; and to provide related public education about the importance of clean water and healthy streams;

WHEREAS, the Endangered Species Act requires the City of Selah to protect listed species and to prevent harm to any life stage of listed species, including harm to habitat functions;

WHEREAS, the City of Selah's Urban Growth Area Comprehensive Plan commits to improving the City's ability to plan and manage growth to protect the environment, enhancing the livability and character of our neighborhoods, and providing for a range of retail and employment opportunities;

WHEREAS, the City of Selah's Urban Growth Area Comprehensive Plan provides policy direction for protecting, sustaining, and providing for healthy and diverse ecosystem; promoting and facilitating ecosystem restoration and enhancement; coordinating environmental policies and programs and consolidating environmental regulations; protecting habitat for listed species and facilitating their recovery; protecting other species from becoming listed; enhancing and protecting water quality; promoting planting using native vegetation; managing development in geologically hazardous areas to protect public health and safety; and promoting sustainable public and private development practices and patterns;

WHEREAS, the new Selah Municipal Code, Title 17, Chapter 17.07, would provide the necessary regulations and standards for achieving the aforementioned goals and directions;

WHEREAS, the proposed Critical Area Ordinance has been subject to proper review through SEPA;

WHEREAS, the Planning Commission held a duly advertised public hearing to consider adoption of the Critical Area Ordinance on Tuesday, March 18, 2014;

WHEREAS, following the public hearing on Tuesday, March 18, 2014, the Planning Commission adopted findings and recommended adoption of the Critical Area Ordinance;

WHEREAS, the City Council considered the Planning Commission recommendation at a regularly scheduled public meeting on Tuesday, March 25, 2014, to consider adoption of the Critical Area Ordinance;

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SELAH:

Section 1. Findings. The City Council makes the following legislative findings:

1. The findings of the Staff Report and Recommendation to Planning Commission in this matter, Critical Area Ordinance dated Tuesday, March 18, 2014 for the public hearing scheduled for Tuesday, March 18, 2014 are hereby adopted and incorporated herein by reference.

2. The Findings of Fact and Recommendation of the Selah Planning Commission in this matter, Critical Area Ordinance, dated March 18, 2014 are hereby adopted and incorporated herein by reference.

3. Best available science has been used to designate and protect fish and wildlife habitat conservation areas, frequently flooded areas, aquifer recharge areas, geologic hazard areas, and wetlands.

4. Special consideration has been given to conservation or protection measures necessary to preserve or enhance anadromous fisheries. The provisions of the Critical Area Ordinance will help to ensure good water quality, a fundamental requirement of anadromous fish.

5. The City provided avenues and opportunities for early and continuous public participation in the process to draft the proposed Critical Area Ordinance.

6. The proposed Critical Area Ordinance is consistent with the policies of the City of Selah Urban Growth Area Comprehensive Plan.

7. The proposed Critical Area Ordinance is coordinated with federal, state, and local regulations and programs for protecting fish and wildlife habitat

conservation areas, frequently flooded areas, geologic hazard areas, aquifer recharge areas, fish and wildlife habitat areas, wetlands and streams, flood hazards areas, and geologic hazards areas, and wetlands.

8. The proposed Critical Area Ordinance is consistent with the US Clean Water Act.

9. The proposed Critical Area Ordinance furthers the City's implementation of the Endangered Species Act.

Section 2, New SMC Chapter 17.07 Critical Area Ordinance, Established. SMC Chapter 17.07, Critical Area Ordinance is hereby established to read as follows: (See attached Exhibit A)

Section 3, Severability. If any clause, sentence, paragraph, section, or part of this Critical Area Ordinance or the application thereof to any person or circumstances shall be adjudged by any court of competent jurisdiction to be invalid, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any parts thereof to any other person or circumstances and to this end the provisions of each clause, sentence, paragraph, section or part of this law are hereby declared to be severable.

Section 4. Effective Date. This ordinance shall become effective on April 15, 2014.

PASSED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, THIS 25TH DAY OF MARCH, 2014.

John Gawlik, Mayor

ATTEST:

Dale Novobielski, Clerk/Treasurer

APPROVED AS TO FORM:

Robert F. Noe, City Attorney

Date published: _____, 2014

Effective Date: April 15, 2014

CHAPTER 17.07

CRITICAL AREA PROTECTION

1
2 Sections:

- 3
4 17.07.010 Purpose and Intent.
5 17.07.020 General provisions.
6 17.07.030 Definitions.
7 17.07.040 Applicability -- Regulated activities.
8 17.07.050 Exemptions and nonconforming uses.
9 17.07.060 Exceptions.
10 17.07.070 Reference maps and materials
11 17.07.080 Application.
12 17.07.090 Appeals.
13 17.07.100 Enforcement.
14 17.07.110 Aquifer recharge areas.
15 17.07.120 Fish and wildlife habitat conservation areas.
16 17.07.130 Wetlands.
17 17.07.140 Frequently flooded area.
18 17.07.150 Geologically hazardous areas.
19
20

21 **17.07.010 Purpose and Intent.**

22 The purpose of this chapter is to designate and classify ecologically sensitive and
23 hazardous areas and to protect these areas and their functions and values in a manner that
24 also allows reasonable use of private property. This section is intended to:

- 25
26 A. Implement the City of Selah Comprehensive Land Use Plan and the requirements
27 of the Growth Management Act;
28
29 B. Protect critical areas, in accordance with the Growth Management Act and
30 through the application of best available science, as determined according to
31 WAC 365-195-900 through 365-195-925 as it exists or may hereafter be
32 amended, and in consultation with state and federal agencies and other qualified
33 professionals;
34
35 C. Protect the general public, resources and facilities from injury, loss of life,
36 property damage or financial loss due to flooding, landslides, or steep slopes
37 failure;
38
39 D. Protect unique, fragile and valuable elements of the environment, including
40 ground and surface waters, wetlands, and fish and wildlife and their habitats;
41
42 E. Prevent cumulative adverse environmental impacts to water quality and

1 availability, wetlands, and fish and wildlife habitat;

2
3 F. Provide flexibility and attention to site-specific characteristics, so as to ensure
4 reasonable use of the property;

5
6 G. Preserve development options within designated critical areas where such
7 development will not adversely impact critical areas values and functions,
8 particularly the functional properties of stream corridors and other hydrological
9 related critical areas. (Ord. ???? § ??, 2014)

10
11
12 **17.07.020 General provisions.**

13
14 (A) The City of Selah contains areas that can be identified and characterized as critical
15 or environmentally sensitive. Such areas within the city include aquifer recharge areas,
16 fish and wildlife habitat areas, wetlands and streams, flood hazard areas, and geologic
17 hazard areas.

18
19 (B) The city finds that these critical areas perform a variety of valuable and beneficial
20 biological and physical functions that benefit the city and its residents. Alteration of
21 certain critical areas may also pose a threat to public safety or to public and private
22 property or the environment. The city therefore finds that identification, regulation and
23 protection of critical areas are necessary to protect the public health, safety and general
24 welfare. The city further finds that the functions of critical areas and the purpose of these
25 regulations include the following:

- 26
27 1. Wetlands. Wetlands perform a variety of functions that include maintaining water
28 quality; storing and conveying stormwater and floodwater; recharging
29 groundwater; providing important fish and wildlife habitat; and serving as areas
30 for recreation, education and scientific study, and aesthetic appreciation.

31
32 Wetland buffers serve to moderate runoff volumes and flow rates; reduce
33 sediment, chemical nutrient and toxic pollutants; provide shading to maintain
34 desirable water temperatures; provide habitat for wildlife; and protect wetland
35 resources from harmful intrusion.

36
37 The primary goals of wetland protection are to avoid adverse wetland impacts; to
38 achieve no net loss of wetland function and value – acreage may also be
39 considered in achieving the overall goal; to provide levels of protection that
40 reflect the sensitivity of individual wetlands and the intensity of proposed land
41 uses; and to restore and/or enhance existing wetlands, where possible.

- 42
43 2. Streams. Streams and their associated riparian corridors provide important fish
44 and wildlife habitat; help to maintain water quality; store and convey stormwater
45 and floodwater; recharge groundwater; and serve as areas for recreation, education
46 and scientific study and aesthetic appreciation. Stream buffers serve to moderate

1 runoff volumes and flow rates; reduce sediment, chemical nutrient and toxic
2 pollutants; provide shading to maintain desirable water temperatures; provide
3 habitat for wildlife; and protect wetland resources from harmful intrusion.
4

5 The primary goals of stream protection are to avoid adverse impacts to streams
6 and associated riparian corridors; to achieve no net loss of functions and values of
7 the larger ecosystem in which the stream is located; to protect fish and wildlife
8 resources; to protect water quality through appropriate management techniques;
9 and, where possible, to provide for stream enhancement and rehabilitation.
10

- 11 3. Fish and Wildlife Habitat. Fish and wildlife habitat areas provide opportunities for
12 food, cover, nesting, breeding and movement for fish and wildlife, maintain and
13 promote diversity of species and habitat; coordinate habitat protection with
14 elements of the open space system; help to maintain air and water quality; help
15 control erosion; serve as areas for recreation, education, scientific study, and
16 aesthetic appreciation; and provide neighborhood separation and visual diversity
17 within urban areas.
18

19 The primary goals of fish and wildlife habitat protection are to avoid adverse
20 impacts to critical habitats for fish and wildlife; to achieve no net loss of functions
21 and values of the larger ecosystem in which the fish and wildlife habitat is
22 located; to implement the goals of the Endangered Species Act; to promote
23 connectivity between habitat areas to allow for wildlife movement; to provide
24 multi-purpose open space corridors; and, where possible, to provide for fish and
25 wildlife enhancement and rehabilitation that reflects the sensitivity of the species.
26

- 27 4. Aquifer Recharge Areas. Aquifer recharge areas provide a source of potable water
28 and contribute to stream discharge/flow. Such areas contribute to the recharge of
29 aquifers, springs and/or wells and are susceptible to contamination of water
30 supplies through infiltration of pollutants through the soil.
31

32 The primary goals of aquifer recharge protections are to protect groundwater
33 quality by maintaining the quality of recharge, avoiding or limiting land use
34 activities that pose potential risk of aquifer contamination; and to minimize or
35 avoid adverse impacts to aquifer recharge areas through the application of
36 performance standards , and to comply with the requirements of the Federal Safe
37 Drinking Water Act and Washington Administrative Code that requires Group A
38 public water systems to develop and implement a wellhead protection program.
39

- 40 5. Flood Hazard Areas. Floodplains help to store and convey stormwater and
41 floodwater; recharge groundwater; provide important areas for riparian habitat;
42 and serve as areas for recreation, education, scientific study. Development within
43 floodplain areas can be hazardous to those inhabiting such development, and those
44 living upstream and downstream. Floods also cause substantial damage to public
45 and private property which can result in significant costs to the public and
46 individuals.

1
2 The primary goals of flood hazard protections are to limit or condition
3 development within the 100-year floodplain to avoid substantial risk of damage to
4 public and private property and that result in significant costs to the public and
5 individuals; to avoid significant increases in peak stormwater flows or loss of
6 flood storage capacity.

- 7
8 6. Geologic Hazard Areas. Geologic hazard areas include lands or areas
9 characterized by geologic, hydrologic and topographic conditions that render them
10 susceptible to varying degrees of risk of landslides, erosion, seismic or volcanic
11 activity.

12
13 The primary goals of regulating geologic hazards are to avoid and minimize
14 potential impacts to life and property by regulating and/or limiting land uses
15 where necessary, and to conduct appropriate levels of analysis and ensure sound
16 engineering and construction practices to address identified hazards.

17
18 (B) This chapter of the Selah Municipal Code and other sections are incorporated by
19 reference contain standards, procedures, criteria and requirements intended to identify,
20 analyze, and mitigate potential impacts to the city's critical areas, and to enhance and
21 restore degraded resources where possible. The general intent of these protections is to
22 avoid impacts to critical areas. In appropriate circumstances, impacts to specified critical
23 areas resulting from regulated activities may be minimized, rectified, reduced and/or
24 compensated for, consistent with the requirements of this chapter. (Ord. ??? § ??, 2014)

25
26
27 **17.07.030 Definitions.**

28
29 For purposes of this chapter, the following definitions for terms, phrases, words and their
30 derivatives used in this chapter shall apply. Where any of these definitions conflict with
31 definitions used in other chapters of the municipal code the definitions in this chapter
32 shall prevail for the purpose of this chapter. Where terms are not defined they shall have
33 the ordinary accepted meaning within the context with which they are used. Where an
34 activity or land use could fall under two (2) or more definitions the more specific shall
35 apply. Webster's Third New International, 1993 (unabridged), shall be the source for
36 ordinary accepted meaning and for the definition of words not defined in this chapter.
37 Specific examples are included as illustrations but are not intended to restrict a more
38 general definition.

39
40 **A**

41
42 "Agriculture" and "farming" shall include cultivation of the soil, raising or harvesting any
43 agricultural or horticultural commodity or the construction, operation or maintenance of
44 ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling,
45 planting, drying, packing, packaging, processing, freezing, grading, storing or delivering

1 to storage or to market, or to a carrier for transportation to market, or for direct sale any
2 agricultural or horticultural commodity as an incident to ordinary farming operations, or,
3 in the case of fruits and vegetables, as an incident to the preparation of such fruits and
4 vegetables for market or for direct sale.

5
6 “Anadromous fish” means fish that spawn and rear in freshwater and mature in the
7 marine environment, such as salmon, steelhead, sea-run cutthroat, and bull trout.

8
9 “Applicant” means a person, party, firm, corporation, or other legal entity that proposes,
10 has performed an activity, or submits an application for any permit or approval required
11 by this title and who is the owner of the subject property or the authorized agent of the
12 owner.

13
14 “Aquifer” means, generally, any water bearing soil or rock unit. Specifically, a body of
15 soil or rock that contains sufficient saturated permeable material to conduct groundwater
16 and yield significant quantities of groundwater to wells or springs.

17
18 “Aquifer recharge areas” means land areas designated by the city beneath which
19 groundwater occurs that is a current or potential future source of drinking water for the
20 city.

21
22 “Artificially created wetlands” means wetlands created from nonwetland sites through
23 purposeful, legally authorized human action, such as irrigation and drainage ditches,
24 grass-lined swales, canals, retention and detention facilities, wastewater treatment
25 facilities, farm ponds, and landscape amenities.

26 27 **B**

28
29 “Best available science” means as defined in the procedural criteria for adopting
30 comprehensive plans and development regulations for best available science at WAC
31 365-195-900 et seq. or as may be amended.

32
33 “Buffer,” “buffer area,” or “critical area” means a naturally vegetated, undisturbed,
34 enhanced or vegetated zone surrounding a critical area that protects the critical area from
35 adverse impacts to its integrity and value, and is an integral part of the resource’s
36 ecosystem.

37 38 **C**

39
40 “City” means the city of Selah.

41
42 “Clearing” means the removal of timber, brush, grass, ground cover or other vegetative
43 matter from the site, which exposes the earth’s surface of the site, or any actions, which
44 disturb the existing ground surface.

1 “Comprehensive plan” means the city of Selah urban growth area comprehensive plan as
2 it now exists or hereafter amended.

3
4 “Critical areas” or “environmentally sensitive areas” means areas that possess important
5 natural functions and embody a variety of important natural and community values. Such
6 areas include aquifer recharge areas, fish and wildlife habitat areas, wetlands and streams,
7 flood hazard and geologic hazard areas. If not conducted properly, development or
8 alteration of such areas may cause significant impacts to the valuable functions and
9 values of these areas and/or may generate risks to the public health and general welfare,
10 and/or to public or private property.

11
12 “Critical area report” means a report prepared by a qualified consultant to determine the
13 presence, type, class, size, function and/or value of an area subject to these regulations.
14 Also see “Stream reconnaissance report,” “Wetland impact assessment report” and
15 “Wildlife report.”

16
17 “Critical erosion hazard areas” means lands or areas underlain by soils identified by the
18 U.S. Department of Agriculture Soil Conservation Service (SCS) (now known as the
19 Natural Resource Conservation Service) as having “severe” or “very severe” erosion
20 hazard.

21
22 “Critical geologic hazard areas” means lands or areas subject to high or severe risk of
23 geologic hazard, including critical erosion hazard areas, critical landslide hazard areas,
24 and critical seismic hazard areas.

25
26 “Critical habitat” or “critical fish and wildlife habitat” means habitat areas associated
27 with threatened, endangered, or sensitive species of plant or wildlife (pursuant to WAC
28 232-12-297(2.4), (2.5) and (2.6) as it exists or may hereafter be amended) and which, if
29 altered, could reduce the likelihood that the species will maintain and reproduce over the
30 long term.

31
32 “Critical landslide hazard areas” means lands or areas where there is a high or very high
33 risk of landslide due to a combination of slope, soil permeability, and water.

34
35 “Critical seismic hazard areas” means lands or areas where there is a high of seismic
36 events and damage.

37 38 **D**

39
40 “Delineation manual,” “wetland delineation manual,” or “wetland delineation
41 methodology” means the manual and methodology used to identify wetlands in the field,
42 in accordance with the approved federal wetland delineation manual and applicable
43 regional supplements. All areas within the City meeting the wetland designation criteria
44 in that procedure are hereby designated critical areas and are subject to the provisions of
45 this Chapter. Use of this manual is required by RCW 36.70A.175 as it exists or may

1 hereafter be amended.

2

3 “Department” means the city of Selah department of planning or successor agency, unless
4 the context indicates a different city department.

5

6

7

E

8

9 “Earth/earth material” means naturally occurring rock, soil, stone, sediment, or
10 combination thereof.

11

12 “Enhancement” means the improvement of an existing viable wetland, stream or habitat
13 area or the buffers established for such areas, though such measures as increasing plant
14 diversity, increasing fish and wildlife habitat, installing environmentally compatible
15 erosion controls, increasing structural diversity or removing plant or animal species that
16 are not indigenous to the area. Enhancement also includes actions performed to improve
17 the quality of an existing wetland, stream, or habitat area. See also “Restoration.”

18

19 “Erosion” means a process whereby wind, rain, water, and other natural agents mobilize
20 and transport soil particles.

21

22 “Erosion hazard areas” means lands or areas that, based on a combination of slope
23 inclination and the characteristics of the underlying soils, are susceptible to varying
24 degrees of risk of erosion. Erosion hazard areas are classified as “low” (areas sloping less
25 than 15 percent) or “high” (areas sloping more than 15 percent) on the following: Soil
26 Conservation Service (SCS) now known as the Natural Resource Conservation Service
27 (NRCS). Soil groups may be identified through site-specific analysis.

28

29 “Excavation” means the removal or displacement of earth material by human or
30 mechanical means.

31

32 “Existing and ongoing agricultural activities” means those activities conducted on lands
33 defined in RCW 84.34.020(2), as it exists or may hereafter be amended, and those
34 activities involved in the production of crops and livestock. Such activities must have
35 been in existence as a July 1, 1990 (the effective date of the Growth Management Act).
36 The definition includes, but is not limited to, operation and maintenance of farm and
37 stock ponds or drainage ditches, irrigation systems, changes between agricultural
38 activities or crops, and normal operation, maintenance or repair of existing serviceable
39 structures, facilities or improved areas. Activities, which bring an area into agricultural
40 use from a previous nonagricultural use, are not considered part of an ongoing activity.
41 An operation ceases to be ongoing when the area on which it was conducted is proposed
42 for conversion to a nonagricultural use or has lain idle for a period of longer than five
43 years, unless the idle land is registered in a federal or state soils conservation program.

44

45 “Exotic” means any species of plant or animal, not native to or not usually found as

1 domestic pets in the United States, which is foreign and not indigenous to the Yakima
2 County regional area.

3 4 5 **F**

6
7 “Fill/fill material” means a deposit of earth material placed by human or mechanical
8 means.

9
10 “Filling” means the act of transporting and placing (by any manner or mechanism) fill
11 material from, to, or on any surface water body or wetland, soil surface, sediment surface
12 or other fill material.

13 14 **G**

15
16 “Geologic hazard area” means lands or areas characterized by geologic, hydrologic and
17 topographic conditions that render them susceptible to varying degrees of risk of
18 landslides, erosion, seismic or volcanic activity.

19
20 “Grading” means any excavation, filling, clearing, leveling or contouring of the ground
21 surface by human or mechanical means.

22 23 **H**

24
25 “Habitat management” means management of land and its associated resources/features
26 to maintain species in suitable habitats within their natural geographic distribution so that
27 isolated subpopulations are not created. This does not imply maintaining all habitat or
28 individuals of all species in all cases.

29
30 “Hazardous materials” means and includes all dangerous and extremely hazardous waste,
31 including petroleum contaminated soils, either singularly or in combination, that is a
32 physical or health hazard whether the materials are in usable or waste condition; and any
33 material that may degrade groundwater quality when improperly stored, handled, treated,
34 used, produced, recycled, disposed of, or otherwise mismanaged. Hazardous materials
35 shall also include, without exception:

- 36
37 1. All materials defined as or designated by rule as a dangerous waste or
38 extremely hazardous waste under Chapter 70.105 RCW and Chapter 173-303
39 WAC or as it may be amended;
40
41 2. Any substance defined as or designated by rule as a hazardous substance
42 under Chapter 70.105 RCW and Chapter 173-303 WAC or as it may be
43 amended; and
44
45 3. Petroleum or petroleum products, including any waste oils or sludge’s.

1
2 “Hydrologic ally isolated” means wetlands which: (1) have no surface water connection
3 to a lake, river, or stream during any part of the year; (2) are outside of and not
4 contiguous to any 100-year floodplain of a lake, river, or stream; and (3) have no
5 contiguous hydric soil between the wetland and any lake, river, or stream. May also be a
6 pond excavated from uplands with no surface water connection to a stream, lake, or other
7 wetland.
8

9 I

10
11 “In-kind wetland mitigation” means replacement of wetlands with wetlands whose
12 characteristics closely approximate those destroyed or degraded by a regulated activity.
13

14 “Injection well” means a “well” that is used for the subsurface emplacement of fluids.
15 (From WAC 173-218-030 or as may be amended.)
16

17 “Intentionally created streams” means streams created through purposeful human action,
18 such as irrigation and drainage ditches, grass-lined swales, and canals. This definition
19 does not include stream modifications performed pursuant to city authorization, such as
20 changes or redirection of stream channels.
21

22 L

23
24 “Landslide” means episodic down slope movement of a mass of soil or rock.
25

26 “Landslide hazard areas” means areas that, due to a combination of slope inclination,
27 relative soil permeability, and hydrologic conditions are susceptible to varying degrees of
28 risk of land sliding. Landslide hazards areas are classified as Class I through IV based on
29 the degree of risk as follows:
30

- 31 1. Class I/Low Hazard. Areas with slopes of 15 percent or less.
- 32
33 2. Class II/Moderate Hazard. Areas with slopes greater than 15 percent up to 40
34 percent 15 percent and that are underlain by soils that consist largely of sand or
35 gravel.
- 36
37 3. Class III/High Hazard. Areas with slopes greater than 15 percent up to 40 percent
38 15 percent and that are underlain by soils consisting largely of silt and clay.
- 39
40 4. Class IV/Very High Hazard. Areas with slopes steeper than 15 percent with
41 identifiable zones of emergent water (i.e., springs or groundwater seepage), areas
42 of identifiable landslide deposits regardless of slope and all areas sloping more
43 steeply than 40 percent.
44

45 The slopes previously referenced include only those where the surface drops 10 feet or

1 more vertically within a horizontal distance of 25 feet.

2 3 **M**

4
5 “Mitigation” means activities which include:

- 6
7 1. Avoiding the impact altogether by not taking a certain action or parts of actions.
- 8
9 2. Minimizing impacts by limiting the degree or magnitude of the action and its
10 implementation.
- 11
12 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected
13 environment.
- 14
15 4. Reducing or eliminating the impact over time by preservation and maintenance
16 operations during the life of the action.
- 17
18 5. Compensating for the impact over time by replacing or providing substitute
19 resources or environments.

20
21 While monitoring without additional actions is not considered mitigation for the purposes
22 of these regulations, it shall be part of a comprehensive mitigation program.

23
24 “Mitigation sequencing” means considering or performing mitigation actions, as defined
25 in the definition of ‘mitigation,’ in a preferred sequence from (1) through (5). Avoidance
26 is preferred and must be considered prior to pursuing other forms of mitigation.

27 28 **N**

29
30 “Native” means any species of plant or animal which are or were indigenous to the
31 Yakima County regional area.

32
33 “Natural heritage wetlands” means wetlands that are identified by scientists of the
34 Washington Natural Heritage Program/DNR as high quality, relatively undisturbed
35 wetlands, or wetlands that support state-listed threatened or endangered species.

36 37 **O**

38
39 “Off-site mitigation” means performance of mitigation actions, pursuant to standards
40 established in this chapter, on a site or in an area other than the site proposed for conduct
41 of a regulated activity.

42
43 “Out-of-kind mitigation” means replacement of wetlands or habitat with substitute
44 wetlands or habitat whose characteristics do not closely approximate those adversely
45 affected, destroyed, or degraded by a regulated activity.

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P

“Permanent erosion control” means continuous on-site and off-site control measures that are needed to control conveyance of deposition or earth, turbidity, or pollutants after development, construction, or restoration.

“Planning official” means the planning official of the city of Selah department of planning or successor agency.

Q

“Qualified consultant” should be a professional wetland scientist with at least two years of full time work experience as a wetlands professional, including delineating wetlands using the state of federal manuals, preparing wetland reports, conducting function assessments, and developing and implementing mitigation plans.

R

“Reasonable use” means a legal concept articulated by federal and state courts in regulatory taking issues. See “Reasonable use alternatives” for guidelines in determination.

“Reasonable use alternatives” means an action that could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts, either directly or indirectly through requirement of mitigation measures. (See WAC 197-11-440(5) and 197-11-660 or as may be amended.).

“Regulated activities” means activities that have a potential to significantly impact a critical area that is subject to the provisions of the chapter. Regulated activities generally include, but are not limited to, any filling, dredging, dumping or stockpiling, release of contaminants to soil or water, draining, excavation, flooding, clearing or grading, construction or reconstruction, driving pilings, obstructing, clearing, or harvesting.

“Restoration” means actions taken to reestablish wetland, stream or habitat functional values, and the characteristics that have been destroyed or degraded by past alterations (i.e., filling or grading). See also “Enhancement.”

S

“Secondary habitat” means areas that offer less diversity of animal and plant species than critical areas but are important for performing the essential functions of habitat.

1
2 “Seismic hazard areas” means areas that, due to a combination of soil and groundwater
3 conditions, are subject to the risk of ground shaking, subsidence or liquefaction of soils
4 during earthquakes. These areas are typically underlain by soft or loose saturated soils
5 (such as alluvium), have a shallow groundwater table, and are typically located on the
6 floors of river valleys.

7
8 “Site” means the location containing a regulated critical area and on which a regulated
9 activity is proposed. The location may be a parcel or portion hereof, or any combination
10 of contiguous parcels where a proposed activity may impact a critical area.

11
12 “Slope” means an inclined earth surface, the incline of which is expressed as the ratio of
13 horizontal distance to vertical distance. The slope referenced above includes only those
14 where the surface drops ten (10) feet or more vertically within the horizontal distance of
15 twenty-five (25) feet.

16
17 “Spring” means a source of water where an aquifer comes in contact with the ground
18 surface.

19
20 “Stream reconnaissance report” means a type of critical area report prepared by an
21 applicant’s qualified consultant to describe a stream and to characterize its conditions,
22 wildlife, habitat values and water quality. The report also includes an analysis of potential
23 of proposed activity impacts.

24
25 “Streams” means those areas where surface waters produce a defined channel or bed that
26 demonstrates clear evidence of the passage of water and includes, but is not limited to,
27 bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The
28 channel or bed need not contain water year-round. This definition is not intended to
29 include artificially created irrigation ditches, canals, storm or surface water devices, or
30 other entirely artificial watercourses unless they are used by fish or created for the
31 purpose of stream mitigation.

32
33 “Structural diversity, vegetative” means the relative degree of diversity or complexity of
34 vegetation in a fish and wildlife habitat area as indicated by the stratification or layering
35 of different plant communities (i.e., ground cover, shrub layer and free canopy), the
36 variety of plant species and the spacing or pattern of vegetation.

37
38 “Substrata” means the soil, sediment, decomposing organic matter or combination of
39 these located on the bottom surface of the wetland, lake, stream, or river.

40 41 **T**

42
43 “Temporary erosion control” means on-site and off-site control measures that are needed
44 to control conveyance or deposition of earth, turbidity, or pollutants during development,
45 construction, or restoration.

1
2 “Tertiary habitat” means habitat that supports some wildlife but does not satisfy the
3 definition of secondary or critical habitat.
4

5 U

6
7 “Utility” includes natural gas, electric, telephone and telecommunications, cable
8 communications, water, sewer or storm drainage, and their respective facilities, lines,
9 pipes, mains, equipment and appurtenances.
10

11 V

12
13 “Variance” means permission to depart from the requirements of the specific regulations
14 of this chapter for a particular piece of property.
15

16 “Volcanic hazard areas” means areas identified by the U.S. Geological Survey (maps
17 dated 1998 or as hereafter revised) as subject to a risk of large lahars with a recurrence
18 interval of 500 to 1,000 years.
19

20 W

21
22 “Wells” includes any excavation that is drilled, cored, washed, driven, dug, jetted or
23 otherwise constructed when the intended use of an excavation is for the location,
24 diversion, artificial recharge, or withdrawal of groundwater.
25

26 “Wellhead protection area” means the portion of a well’s, well fields or spring’s zone of
27 contribution defined as such using the criteria established by the city.
28

29 “Wetland” or “wetlands” means areas that are inundated or saturated by surface water or
30 groundwater at a frequency and duration to support, and that under normal circumstances
31 do support, a prevalence of vegetation typically adapted for life in saturated soil
32 conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
33 Wetlands do not include those artificial watercourses intentionally created as nonwetland
34 sites, including but not limited to irrigation and drainage ditches, grass-lined swales,
35 canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape
36 amenities. However, wetlands include those artificial wetlands intentionally created from
37 nonwetland areas to mitigate conversion of wetlands. (Definition taken from the
38 Washington State Wetlands Identification and Delineation Manual, Ecology Publication
39 No. 96-94.)
40

41 “Wetland impact assessment report” means a report prepared by a qualified consultant
42 that identifies, characterizes and analyzes potential impacts to wetland consistent with
43 applicable provisions of these regulations. A wetland impact assessment may be
44 combined with and include a formal wetland delineation.
45

1 “Wildlife report” means a report prepared by a qualified consultant that evaluates plant
2 communities and wildlife functions and values on a site, consistent with the format and
3 requirements established by this chapter. This report also includes an analysis of impacts.
4 (Ord. ??? § ??, 2014)
5

6
7 **17.07.40 Applicability—Regulated activities.**
8

9 (A) All persons proposing development in a critical are of their buffers must first
10 submit an application pursuant to this chapter, except as exempted pursuant to SMC
11 17.07.050. These critical area protections shall apply as an overlay to zoning and other
12 land use regulations established by the city.
13

- 14 1. Any new development, construction or use within the city that lies within a
15 critical area as defined herein shall comply with the provisions of this chapter. No
16 action shall be taken by any person that results in the alteration or modification of
17 any critical area except as consistent with the requirements, objectives and intent
18 of this chapter.
19
- 20 2. Where two or more types of critical areas overlap, requirements for the
21 development shall be consistent with the standards for each critical area.
22
- 23 3. These critical area regulations shall apply concurrently with review conducted
24 under the State Environmental Policy Act (SEPA), as locally adopted. Any
25 conditions required pursuant to this chapter may be included in the SEPA review
26 and threshold determination.
27

28
29 (B) To avoid duplication, the following permits and approvals shall be subject to and
30 Coordinated with the requirements of this chapter: land clearing; grading; subdivision or
31 short subdivision; building permit, planned development (when permitted by city code);
32 shoreline substantial development; variance, Class 1, 2 or 3 Use; and any other permits
33 that may lead to the development or alteration of land.
34

35 (C) Administrative actions, such as rezones, annexations, and the adoption of plans
36 and programs, shall be subject to the requirements of this chapter. However, the city
37 administrator, using discretion, permit any studies or evaluations required by this chapter
38 to use methodologies and provide a level of detail appropriate to the administrative action
39 proposed. (Ord. ??? § ??, 2014)
40

41
42 **17.07.050 Exemptions and nonconforming uses.**
43

44 The activities listed below are exempt from the provisions of the chapter. Exempt
45 activities shall be conducted using all reasonable methods to avoid impacts to critical
46 areas. Exemption from this chapter shall not be considered permission to degrade a

1 critical area or ignore risks from natural hazards. Incidental damage to, or alteration of, a
2 critical area that is not a necessary outcome of an exempted activity shall be restored and
3 rehabilitated at the property owner's expense.
4

- 5 A. Emergency construction or repair necessary to protect life or property from
6 immediate damage by the elements. An emergency is an unanticipated event or
7 occurrence which poses an imminent threat to public health and safety, to private
8 or public property, or to the environment, and which requires immediate action
9 within a time too short to allow full compliance. Once the threat to the public
10 health, safety, or the environment has dissipated, the construction undertaken as a
11 result of the previous emergency shall then be evaluated and brought into
12 reasonable compliance with this chapter with due consideration given to the
13 nature, type and extent of emergency responses and actions;
14
- 15 B. Normal maintenance or repair of existing buildings, structures, roads, utilities,
16 levees, or drainage system, that do not require construction permits, provided the
17 activity does not materially alter, encroach upon, or increase impacts to critical
18 areas or associated buffers;
19
- 20 C. Existing and ongoing agricultural activities normal or necessary to conduct
21 general farming;
22
- 23 D. Site investigative work necessary for land use application submittals such as
24 surveys, soil logs, percolation tests and other related activities. In every case,
25 critical area impacts should be minimized and disturbed areas shall be
26 immediately restored;
27
- 28 E. Passive recreational, scientific or educational activities, including, but not limited
29 to: bicycling, bird watching, boating, canoeing, hiking, hunting, and fishing
30 provided the activity does not alter the critical area or its buffer by changing
31 existing topography, water conditions or water sources;
32
- 33 F. Minor safety improvements to state and local transportation facilities provided the
34 project meets the exempted size impacts for the critical areas;
35
- 36 G. The operation and maintenance of canals, waterways, drains, reservoirs, or other
37 man-made facilities that now exist or are hereafter created or developed as a part
38 of an irrigation system. Portions of historic waterways that were altered in order to
39 facilitate irrigation delivery are subject to the mitigation requirements of this
40 ordinance if they are filled or if new irrigations lines or ditches are placed within
41 wetlands or their required buffers;
42
- 43 H. Maintenance of above-ground utility transmission lines and poles;
44
- 45 I. Any streamside management project associated with a single-family residence or
46 agricultural activity designed to achieve, through the use of native or natural

1 vegetation and/or bioengineering alternatives, the functional properties of the
2 critical area and carried out in conformance with a conservation plan or design
3 developed through North Yakima County Conservation District, or by a qualified
4 professional certified to develop such plans or designs according to best
5 management practices;

6
7 J. Activities involving artificially created wetlands or streams intentionally created
8 from nonwetland sites, including but not limited to, grass-lined swales, irrigation
9 and drainage ditches, retention or detention facilities, and landscape features,
10 except wetlands or streams created as mitigation or when the site contains another
11 critical area;

12
13 K. Additions to a legally established single-family residential structure in existence
14 before October 1, 2012 located within a wetland or stream buffer may be
15 permitted if all of the following criteria are met:

- 16
17 1. The addition is no greater than 500 square feet of building footprint over
18 that in existence on October 1, 2012;
- 19
20 2. The addition is not located closer to the critical area than the existing
21 structure;
- 22
23 3. Impacts on critical area functions are avoided consistent with the purpose
24 and intent of this chapter; and
- 25
26 4. There are no changes in slope stability, flood conditions or drainage;

27
28 L. Permanent additions to a legally established existing and ongoing farming
29 operation in existence before October 1, 2012 located within a wetland buffer or
30 stream buffer may be permitted if all of the following criteria are met:

- 31
32 1. The addition is not located closer to the critical area than the other existing
33 structure(s); and
- 34
35 2. Impacts on critical area functions are avoided consistent with the purpose
36 and intent of this chapter; and
- 37
38 3. There are no changes in slope stability, flood conditions or drainage; and
- 39
40 4. Does not meet the “reasonable use alternatives” requirements. (Ord.
41 ??? § ??, 2014)

42
43
44 **17.07.60 Exemptions.**

45
46 A. Exception. Subdivision and Short Plats with Substantial Completion of

1 Infrastructure. A building permit application shall not be denied under this chapter
2 if there has been substantial completion of the infrastructure of the plat within
3 which the subject property of the permit is specifically located. A determination of
4 substantial completion shall be based on the city administrator's assessment of
5 existing constructed infrastructure such as streets, utilities, and drainage
6 improvements.
7

- 8 1. Typically "substantial construction" means the amount of construction
9 within a particular project area has impacted critical areas to the maximum
10 extent that would be attributable to the project actions and on-site
11 mitigation is neither economically nor ecologically viable.
12
- 13 2. The city administrator may confer with other city department heads,
14 including the city attorney, regarding the consequences of a decision to
15 deny a building permit for a project with a valid clearing and grading
16 permit, approved site plans, and an authorization to proceed with
17 construction.
18

19 B. Exception. Reasonable Use Alternatives. The city may modify the
20 requirements of this section in specific cases when necessary to allow reasonable
21 use of an applicant's property.
22

- 23 1. Reasonable Use Review Criteria. To qualify for such relief the applicant
24 must demonstrate all of the following:
25
 - 26 a. That no other reasonable use can be made of the property that will
27 have a lesser impact on the critical area;
28
 - 29 b. That there are no feasible and reasonable on-site alternatives to the
30 proposed activities, including changes in site layout, reductions in
31 density, and similar factors that would allow a reasonable
32 economic use with fewer impacts;
33
 - 34 c. That the proposed use does not pose a material threat to the public
35 health, safety or welfare;
36
 - 37 d. Any alteration shall be the minimum required to allow reasonable
38 use of the property;
39
 - 40 e. The inability of the proponent to derive reasonable use of the
41 property shall not be the result of applicant's actions after the
42 effective date of the ordinance codified in this section; and
43
 - 44 f. The proposal is consistent with other applicable regulations and
45 standards.
46

- 1 2. Exception Request and Review Process. A request for a reasonable use
2 exception shall be submitted to the city planning department and shall
3 include a critical area report, including mitigation plan, if necessary; and
4 any other related project documents, such as permit applications to other
5 agencies, special studies, and environmental documents prepared pursuant
6 to the State Environmental Policy Act (Chapter 43.21C RCW or as it may
7 be amended) (if reasonable necessary to evaluate the application). The
8 planning official shall prepare a recommendation based on review of the
9 submitted information, a site inspection, and the requested proposal's
10 compliance with the reasonable use exception criteria in subsection (B)(1)
11 of this section.
- 12
- 13 3. A Reasonable Use Exception. Reasonable use exceptions shall be
14 processed according to the provisions of a Class 2 review process in SMC
15 10.06.020 or as may be amended and may be approved , approved with
16 conditions, or denied based on the proposal's ability or lack of ability to
17 comply with all of the reasonable use exception review criteria in
18 subsection (B)(1) of this section. Any alteration of a critical area(s)
19 approved under this section may be subject to appropriate conditions and
20 will require mitigation under an approved mitigation plan.
- 21
- 22 4. Burden of Proof. The burden of proof shall be on the applicant to bring
23 forth evidence in support of the application and to provide sufficient
24 information on which any decision has to be made on the application.
25 (Ord. ???? § ??, 2014)

26

27

28 **17.07.070 Reference maps and materials.**

29

30 The city shall maintain reference maps and materials that provide information on the
31 general locations of critical areas. Since boundaries are generalized, the application of
32 this section and the actual type, extent and boundaries of critical areas shall be determined
33 and governed by the classification section established for each critical area. In the event
34 of any conflict between the critical area location or designation shown on the city's maps
35 and the criteria and standards established in this section, or the site-specific conditions,
36 the criteria, standards and/or site-specific conditions shall take precedence. Reference
37 maps and inventories shall include, but are not limited to, the following:

38 (A) Wetlands Map, based upon U.S. Fish and Wildlife Service National Wetlands.

39

40 (B) Fish and Wildlife Habitat Area Maps, based on Washington Department of Fish
41 and Wildlife priority habitats and species data.

42

43 (C) Soils Maps, based upon Yakima County Soils Survey, May, 1985.
44 United States Department of Agriculture, Natural Resources Conservation Service
45 (NRCS).

- 1 (D) Steep Slope Maps, Yakima County GIS.
2
3 (E) United States Geological Survey (USGS) 7.5 minute Series Topographic
4 Quadrangle Maps.
5
6 (F) Aerial photos, Yakima County GIS.
7
8 (G) City of Selah Urban Growth Area Comprehensive Plan, January 2005, or as
9 amended.
10
11 (H) Yakima County Regional Shorelines Master Program, September 2008, or as
12 amended.
13
14 (I) City of Selah critical area maps: aquifer recharge areas, streams, lakes, potential
15 wetlands, and floodplains; and geologically hazardous areas, prepared December 2003
16 and 2004.
17
18 (J) The manual and methodology used to identify wetlands in the field, in accordance
19 with the approved federal wetland delineation manual and applicable regional
20 supplements.
21
22 (K) Washington State Wetlands Rating System for Eastern Washington—Revised
23 (Publication No. 04-06-15), March 2007, or as amended.
24
25 (L) “The Flood Insurance Study for Yakima County, Washington and Incorporated
26 Areas” dated November 18, 2009, and any revisions thereto, with an accompanying flood
27 insurance rate map (FIRM), and any revisions thereto; and
28
29 (M) Approved special reports previously completed for a subject property.
30 (Ord. ??? § ??, 2014)
31
32

33 **17.07.080 Application.**
34

35 (A) Review Process. Any new development, construction or use shall require that
36 applicants disclose activities within 250 feet of a known or suspected critical area. The
37 provisions of the section shall be applied to any such proposal. The review process shall
38 proceed as follows:
39

- 40 1. Application Meeting/Site Visit. Upon receiving a land use or development
41 proposal, the planning official may schedule an application meeting and/or site
42 visit with the proponent for purposes of a preliminary determination whether the
43 proposal is likely to result in impacts to the functions and values of critical areas
44 or pose health and safety hazards. At this meeting, the planning official may
45 discuss the requirements of this chapter and other applicable regulations; provide
46 critical area maps and other available reference materials; outline the review and

1 permitting process; and work with the proponent to identify any potential
2 concerns with regards to critical areas.

- 3
- 4 2. Application and SEPA Checklist. For all nonexempt proposals, the proponent
5 shall submit all relevant land use/development applications, together with a
6 completed SEPA checklist.
- 7
- 8 3. Determination of Need for Critical Areas Report. Based upon the preapplication
9 meeting, if conducted, application materials, and the SEPA Checklist. The
10 planning official shall determine if there is cause to require a critical area report.
11 In addition, the planning official may use critical areas maps and reference
12 materials, information and scientific opinions from appropriate agencies, or any
13 reasonable evidence regarding the existence of critical area(s) on or adjacent to the
14 site of the proposed activity. See subsection (C) of this section.
- 15
- 16 4. Documentation and Notification. The planning official shall document the pre-
17 application meeting if conducted, and/or site visit, application and SEPA
18 threshold determination, and any other steps or findings regarding the
19 determination of whether a critical areas report will be required. The applicant
20 shall receive notice of the determination and any findings that support it.

21

22 (B) Application Review and Conditions. Any new development, construction or use
23 shall require that applicants disclose activities within 250 feet of a known or suspected
24 critical area. The provisions of the section shall be applied to any such proposal. The
25 review process shall proceed as follows:

- 26
- 27 1. A permit shall only be granted if the permit, as conditioned, is consistent with the
28 purpose and intent of this chapter. Additionally, permits shall only be granted if:
- 29
- 30 a. A proposed action:
- 31
- 32 i. Avoids significant adverse impacts to critical areas;
- 33
- 34 ii. Takes affirmative and appropriate measures to minimize
35 significant adverse impacts to critical areas; or
- 36
- 37 iii. Mitigates (compensates for) unavoidable adverse impacts to
38 critical areas; and
- 39
- 40 iv. Assures no net loss of wetland function or value; and
- 41
- 42 v. The proposal is consistent with all other applicable local, state, and
43 federal regulations and standards.
- 44
- 45 2. The proposal is compatible in design, scale, and use with other development or
46 potential development in the area.

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3. The proposed actions implement, to the maximum extent possible, the best available construction, design, and development techniques that will result in the least adverse impact to the critical area.
4. Any alteration to a critical area, unless otherwise provided for in this chapter, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the criteria in subsection (B)(1)(a)(i) through (v) of this section.
5. The city may condition the proposed activity as necessary to mitigate impacts or address adverse impacts to critical areas and to conform to the standards required of this chapter. Through the review process the city of Selah shall have the authority to attach such conditions to any permit or authorization issued in order to mitigate impacts to critical area(s) and to carry out the provisions of this chapter. Such conditions may include, but are not limited to, the following:
 - a. Specification of allowable lot sizes;
 - b. Provisions for additional buffers relative to the intensity of a use or activity;
 - c. Requirements and/or restrictions on the construction, size, location, bulk and/or height, etc., of structure(s);
 - d. Dedication of necessary easements for utilities, conservation, open space, etc.;
 - e. Imposition of easements agreements, sureties, deed restrictions, covenants, etc., on the future use and/or division of land that run with the land and are filed and recorded in the office of the Yakima County auditor;
 - f. Limitations on the removal of existing vegetation;
 - g. Additional measures to address issues such as erosion control, stormwater management, filling, grading, etc.;
 - h. Development of a mitigation plan to create, enhance, or restore damaged or degraded critical area(s) on and/or off site; and
 - i. Any monitoring and/or maintenance plans necessary to implement the provisions of the chapter.
6. Except as provided for by this chapter, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences shall be denied.

1 7. Favorable Determination. If the administrator determines that the proposed
2 activity meets the criteria in this section and complies with the applicable
3 provisions of this chapter, the administrator shall prepare a written notice of
4 determination and identify any required conditions of approval. The notice of
5 determination and conditions of approval shall be included in the project file and
6 be considered in the next phase of the city's review of the proposed activity in
7 accordance with any other applicable codes or regulations.

8
9 a. Any conditions of approval included in a notice of determination shall be
10 attached to the underlying permit or approval. Any subsequent changes to
11 the conditions of approval shall void the previous determination pending
12 review of the proposal and conditions of approval by the planning official.

13
14 b. A favorable determination should not be construed as an endorsement or
15 approval of any underlying permit or approval.

16
17 8. Unfavorable Determination. If the administrator determines that the proposed
18 activity does not adequately mitigate its impacts on the critical area and/or does
19 not comply with the criteria in subsection (B)(4) of this section and the provisions
20 of this chapter, the administrator shall prepare a written notice of the determination
21 that includes findings of noncompliance.

22
23 a. No proposed activity or permit shall be approved or issued if it is
24 determined that the proposed activity does not adequately mitigate its
25 impacts on the critical areas and/or does not comply with the provisions of
26 this chapter.

27
28 b. Following notice of determination that the proposed activity does not meet
29 the review criteria and/or does not comply with the applicable provisions
30 of this chapter, the applicant may request consideration of a revised critical
31 areas report. If the revision is found to be substantial and relevant to the
32 critical area review, the administrator may reopen the critical area review
33 and make a new determination based on the revised report.

34
35 9. Completion of the Critical Area Review. The city's determination regarding
36 critical areas pursuant to this chapter shall be final concurrent with the final
37 decision to approve, approve with conditions, or deny the development proposal
38 or other activity involved.

39
40 (C) Critical Areas Report. If the planning official determines that the site of a
41 proposed development potentially includes, or is adjacent to, critical area(s), a critical
42 areas report may be required. When required, the expense of preparing the critical areas
43 report shall be borne by the applicant. The content, format and extent of the critical areas
44 report shall be approved by the planning official.

45 1. The requirement for a critical areas report may be waived by the planning official
46 if there is substantial evidence that:

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- a. There will be no alteration of the critical area(s) and/or the required buffer(s);
 - b. The proposal will not impact the critical area(s) in a manner contrary to the purpose, intent and requirements of this chapter and the city's comprehensive land use plan; and
 - c. The minimum standards of this section will be met.
2. No critical area report is required for proposals that area exempt from the provisions of this chapter.
3. Critical area reports shall be completed by a qualified professional in the area to which the report pertains, approved by the planning official, who is knowledgeable about the specific critical area(s) in question.
4. At a minimum, a required critical areas report shall contain the following information:
- a. Applicant's name and contact information, permits being sought, and description of the proposal;
 - b. A copy of the site plan for the development proposal, drawn to scale and showing:
 - i. Identified critical areas, buffers, and the development proposal with dimensions;
 - ii. Limits of any areas to be cleared; and
 - iii. A description of the proposed stormwater management plan for the development and consideration of impacts to drainage alterations;
 - c. The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 - d. Identification and characterization of all critical areas, wetland, water bodies, and buffers adjacent to the proposed project area. Delineation of wetlands shall be accomplished using the Washington State Wetlands Identification and Delineation Manual (Publication No. 96-94), March 1997 (as amended or revised);
 - e. An assessment of the probable cumulative impacts to critical areas resulting from the proposed development of the site;

- f. An analysis of site development alternatives;
- g. A description of reasonable efforts made to apply mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas;
- h. A mitigation plan, as necessary, developed in accordance with the mitigation requirements of this section and site assessment and evaluation, including, but not limited to:
 - i. The identification of impacts of the proposed use or development within or adjacent to a critical area or buffer on the critical area; and
 - ii. The impacts of proposed alteration of a critical area or buffer on the development proposal, other properties and the environment;
- i. A discussion of the performance standards applicable to the critical area and proposed activity;
- j. Financial guarantees to secure compliance; and
- k. Any additional information required for specific critical areas as listed in subsequent sections of this chapter.

5. The planning official may request any other information reasonably deemed necessary to evaluate impacts to critical areas.

(D) **Mitigation Requirements.** The applicant shall seek to avoid material impacts that degrade the functions and values of critical areas. If alteration is not reasonably avoidable, material adverse impacts to critical areas and buffers resulting from the development or use proposed shall be mitigated in accordance with an approved critical areas report and SEPA documents. Mitigation shall be on-site, when possible, and sufficient and reasonably maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

1. **Mitigation Sequencing.** Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration of a critical area is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference:
 - a. Avoiding the impact by not taking a certain action or parts of an action;
 - b. Minimizing or reducing impacts by reducing the scope of the proposed use or development; by using accepted technology, engineering or design, or by taking affirmative steps, such as project design, relocation, or timing to avoid or reduce impacts;

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- c. Rectifying the impacts to wetlands, critical aquifer recharge area(s), frequently flooded area(s), and habitat conservation area(s) by repairing, rehabilitating, or restoring the affected environment to historical conditions or the conditions existing at the time of initiation of the project;
- d. Minimizing or eliminating the risk or impact by restoring, stabilizing or protecting the critical area through engineered or other methods;
- e. Reducing or eliminating the risk or impact over time by preservation and maintenance operations for the duration of the proposed use or development;
- f. Compensating for the impact to critical areas, wetlands, critical aquifer recharge area, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and
- g. Monitoring the risk or other required mitigation and taking remedial action when necessary.

2. Mitigation Plan. When mitigation is required, the applicants shall submit for approval a mitigation plan as part of the critical area report. The mitigation plan shall include:

- a. A written report identifying mitigation objectives, including:
 - i. A description of the anticipated impacts to the critical area and the proposed mitigating actions and/or compensation measures, including the site selection criteria; identification of compensation objectives; identification of critical area functions and values; and dates for beginning and completion of site compensation construction activities;
 - ii. A review of the best available science for the proposed mitigation and identification of authors (including curriculum vitae); and
 - iii. An analysis of mitigation benefits derived from the compensation project.
- b. Measurable criteria for evaluation of the mitigation plan and compliance with the requirements of this chapter.
- c. Written specifications and descriptions of proposed mitigation, including but not limited to:

- i. The proposed construction sequence, timing, and duration;
 - ii. Grading and excavation details;
 - iii. Erosion and sediment control features;
 - iv. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
 - v. Measures to protect and maintain plants until established.
- d. A program for monitoring mitigation measures and/or compensation project, and for assessing the completed project over time. The program may include a schedule for site monitoring and compliance with performance standards. A monitoring report may be required to document milestones, successes, problems, and contingency actions for either mitigation measures or compensation project. The mitigation measures or compensation project shall be monitored for a reasonable period necessary to establish that performance standards have been satisfied.
 - e. Identify potential or alternative courses of action, and any corrective measures to be considered if monitoring or evaluation indicates the project has failed to meet performance standards.

(E) Agency Review. In cases where the planning official does not have adequate knowledge or training to determine the sufficiency and accuracy of information contained within a critical area report or mitigation plan, said reports or plans shall be submitted to qualified agencies or consultants for review and recommendations prior to acceptance by the city.

(F) Surety/Bonding. If a development proposal is subject to mitigation, maintenance or monitoring plans, the City of Selah, in a form acceptable to the city council and the city attorney, may require security, bond or other assurance device reasonable or necessary to insure performance and compliance. (Ord. ??? § ??, 2014)

17.07.090 Appeals.

Any decision to approve, condition, or deny a development proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the permit or approval involved. (Ord. ??? § ??, 2014)

17.07.100 Enforcement.

Violation or failure to comply with the provisions of this chapter or any permit issued

1 hereunder shall be subject to enforcement actions by the city of Selah, including but not
2 limited to, (A) revocation of any issued permit(s); (B) remedies authorized in the Selah
3 Municipal Code, development regulations and shorelines master program or any other
4 land use regulation of the city of Selah; and (C) remedies and penalties provided by ant
5 other applicable law. The city attorney, when authorized by the mayor and council, shall
6 seek penalties, remedies, injunctions and other legal sanctions necessary for the
7 enforcement of this chapter. In addition to costs allowed by these regulations, the
8 prevailing party in an enforcement action may, at the court's discretion, be allowed
9 interest and reasonable attorney fee. The city attorney shall seek such costs, interest, and
10 the reasonable attorney fees on behalf of the city of Selah when the city is the prevailing
11 party. (Ord. ???? § ??, 2014)
12

13
14 **17.07.110 Aquifer Recharge Areas.**
15

16 (A) Classification. The following three-level classification scheme is used to
17 determine the level of protection necessary for land areas:
18

- 19 1. Extreme Potential. Rivers, creeks, wetlands, lakes and ponds, and lands that have
20 been specifically identified as critical recharge areas based on reliable scientific
21 data.
22
- 23 2. High Potential. Lands adjacent to rivers, creeks, wetlands, lakes and ponds, that
24 include soils that show permeability ratings in the county soil survey of more than
25 twenty (20) inches per hour within sixty (60) inches of the soil surface.
26
- 27 3. Moderate Potential. Lands with soil that show permeability ratings in the county
28 soil survey of more than twenty (20) inches per hour within sixty (60) inches of
29 the soil surface.
30

31 (B) Designation. The city of Selah adopts those aquifer recharge areas within the city
32 identified by Yakima County, both present and in the future and shall be designated as
33 each is identified in accordance with the classification provisions. Where no specific
34 hydrogeologic studies have been completed, the city may use existing soil, surficial
35 geologic and well log information to determine where recharge areas are likely to be
36 located. Therefore, aquifer recharge areas in the city of Selah shall be designated as they
37 are identified in accordance with the classification provisions. Because the classification
38 focuses on areas where recharge is generally known to occur, protections shall be broad
39 enough to preserve essential recharge functions and values

40 (C) Performance Standards. In addition to the general provisions of this chapter and
41 the requirements of the underlying land use zoning, the following minimum standards
42 shall apply to development activities within and adjacent to aquifer recharge areas:
43

- 44 1. Development activities within an aquifer recharge area shall be designed,
45 developed and operated in a manner that will not potentially degrade groundwater
46 resources nor adversely effect the recharging of the aquifer.

2. A hydrogeologic study and/or ongoing monitoring may be required to access impacts of development activities on groundwater resources.
3. All proposed activities within aquifer recharge areas must comply with the water source protection requirements of the Federal Environmental Protection Agency and the Yakima County Health District.
4. On-site stormwater facilities shall be designed and installed in all aquifer recharge areas, so as to provide bot detention and treatment of all runoff associated with the development.
5. All development occurring within aquifer recharge areas shall be required to connect to city sewer and water systems, and on-site sewage disposal shall be prohibited except as may be approved by city council and permitted by the Yakima County Health District.
6. Landfills, junkyards/salvage yards, mining, wood treatment facilities, or any other activity that could impair the recharge of a critical aquifer recharge area is not permitted within areas of high or moderate recharge potential unless in accordance with applicable zoning regulations, and, provided the applicant can satisfactorily demonstrate that potential negative impacts to groundwater can be prevented.
7. All storage tanks, whether above or underground shall be required to be constructed so as to be protected against corrosion for the operational life of the tank, to prevent any release of hazardous substances to the ground, groundwaters, or surface waters, and to utilize appropriate containment methods.
8. Any agricultural activities conducted within aquifer recharge areas shall incorporate best management practices concerning waste disposal, fertilizer/pesticide/herbicide use, and stream corridor management. If necessary, applicants shall seek technical assistance from the North Yakima County Conservation District or the Washington State Univerity Cooperative Extension Office.
9. Application of pesticides, herbicides and fertilizer within aquifer recharge areas shall comply with timing and rates specified on product packaging.
10. Vehicle repair and servicing activities must be conducted over impermeable pads and within covered structures capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur. (Ord. ??? § ??, 2014)

17.07.120 Fish and Wildlife Habitat Conservation Areas.

1
2 (A) Classification. The Washington Department of Fish and Wildlife (WDFW) has
3 identified those fish and wildlife resources that are considered a priority for management
4 and conservation. Priority habitats are those with unique or significant value to many fish
5 or wildlife species. Priority species are those which require special efforts to ensure their
6 perpetuation because of their low numbers, sensitivity to habitat alterations, tendency to
7 form vulnerable aggregations or because they hold commercial, recreational, or tribal
8 importance. The city of Selah shall use the WDFW Priority Habitat and Species Program
9 to classify all fish and wildlife habitat conservation areas within the city of Selah and the
10 Selah Urban Growth Area Boundary. Two classifications shall apply:

- 11
- 12 1. Critical. Areas within which state or federally designated endangered, threatened
13 and sensitive species have a primary association, including anadromous fish
14 species and habitats requiring special consideration under RCW 36.70A.172(1) or
15 as may be amended.
 - 16
 - 17 2. Awareness. All other priority habitats and species identified by WDFW.
 - 18

19 (B) Designation. Fish and wildlife conservation areas are designated under the
20 Washington Department of Fish and Wildlife Priority Habitat and Species Program.
21 Priority habitats are considered to be priorities for conservation and management. Priority
22 species require protective measures for their perpetuation due to their population status,
23 sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance.
24 Priority habitat and species maps prepared by Yakima County based on WDFW data
25 show the range of existing habitat by species.

26

27 (C) Standards. In addition to the general provisions of this section and the
28 requirements of the underlying zoning district, the following minimum standards shall
29 apply to development activities within and adjacent to fish and wildlife habitat
30 conservation areas:

- 31
- 32 1. Critical area reports for fish and wildlife habitat conservation areas shall include a
33 habitat assessment to evaluate the presence or absence of a potential critical
34 species or habitat;
 - 35
 - 36 2. The Washington State Department of Fish and Wildlife priority habitat and
37 species management recommendations shall be consulted in developing specific
38 measures to protect a specific project site;
 - 39
 - 40 3. All projects shall comply with the applicable federal, statute and local regulations
41 regarding the species and habitats identified upon a site;
 - 42
 - 43 4. Establishment of Buffers. When needed to protect the functions and values of
44 habitat conservation areas, the planning official shall require the establishment of
45 buffer areas for activities in or adjacent to such areas. Buffers shall consist of an
46 undisturbed area of natural vegetation, or areas identified for restoration. Buffer

1 widths shall reflect the sensitivity of the habitat and the intensity of activity
2 proposed, and shall be consistent with the management recommendations issued
3 by the Washington State Department of Fish and Wildlife;
4

- 5 5. As determined through the site-specific study, mitigation measures shall be
6 implemented that maintain the base line populations and reproduction rates for the
7 particular species, and
8
9 6. As determined through the site-specific study, appropriate habitat conservation,
10 management and monitoring plan(s) shall be developed and implemented, with
11 any necessary surety to ensure compliance with such plan(s) being provided as
12 described in this chapter. (Ord. ??? § ??, 2014)
13
14

15 **17.07.130 Wetlands.**
16

17 (A) Classification. The City of Selah adopts wetland determinations as set forth in
18 RCW 36.70A.030(20) or as may be amended and classification shall be in accordance
19 with the Washington State Wetlands Rating System for Eastern Washington:
20

- 21 1. Category I. Category I wetlands are those that score over seventy (70) points
22 on the rating system. They are those that:
23
24 a. Represents a unique or rare wetland type;
25
26 b. Are sensitive to disturbance;
27
28 c. Are relatively undisturbed and contain ecological attributes that are
29 impossible to replace within a human lifetime; or
30
31 d. Provide a very high level of functions.
32

33 The City of Selah does not wish to risk any degradation to these wetlands.
34 Generally, these wetlands are not common and make up a small percentage of
35 the wetlands in Eastern Washington. Category 1 wetlands include alkali
36 wetlands, bogs, natural heritage wetlands, mature and old-growth forested
37 wetlands with slow growing trees, forests with stands of aspen, and wetlands
38 that perform many functions well, as measured by the rating system.
39

- 40 2. Category II. Category II wetlands are those that score between fifty-one (51)
41 and sixty-nine (69) points on the rating system. They generally are:
42
43 a. Forested wetlands in the channel migration zone of rivers;
44
45 b. Matured forested wetlands containing fast growing trees;
46

- c. Vernal pools present within a mosaic of other wetlands; or
- d. Those wetlands with a moderately high level of functions.

These wetlands are difficult, though not impossible, to replace. They provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a high level of protection.

- 3. Category III. Category III wetlands are those that score between thirty (30) to fifty (50) points on the rating system. They generally are:

- a. Vernal pools that are isolated; or
- b. Wetlands with a moderate level of functions as measured by the rating system.

These wetlands have generally been disturbed in some manner, and are often smaller, less diverse and/or more isolated in the landscape than Category II wetlands. They provide high levels of some functions. These wetlands occur more commonly than Category I wetlands, but still need a high level of protection.

- 4. Category IV. Category IV wetlands have the lowest level of functions, as measured by the rating system, and are often heavily disturbed. They score less than thirty (30) points. These are wetlands that could be replaced, and in some cases improved. These wetlands do provide some important functions, and should be afforded some degree of protection.

(B) Designation. To date there has been no wetlands mapping done specifically for the City of Selah vicinity. To remedy this, the city should pursue an accurate accounting of all wetlands in the City's Urban Growth Area based on the manual and methodology used to identify wetlands in the field, in accordance with the approved federal wetland delineation manual and applicable regional supplements. However, until funding is obtained to conduct a comprehensive inventory of wetlands, the National Wetlands Inventory (NWI) maps shall be used as a base designation. The NWI maps, along with other supportive documentation, shall be used to review development proposals, but because the National Wetlands Inventory was done at such a broad scale, local verification according to the classification criteria shall be part of the standard process for identifying and designating wetlands.

(C) Performance Standards. In addition to the general provisions of this section and the requirements of the underlying zoning district, the following minimum standards shall apply to the development activities within and adjacent to wetland areas:

- 1. The following buffer zones are required adjacent to and outside of all regulated wetlands according to the following schedule, if impacts from land use and

1 wetland functions are not incorporated. The exception in Category III and IV
2 wetlands between 1,000 and 4,000 square feet which are excluded from all
3 provisions of this section provided the wetland meets the criteria of ©(1)(a) of this
4 section.

5
6 i. Category I - 250 feet

7
8 ii. Category II - 200 feet

9
10 iii. Category III - 150 feet

11
12 iv. Category IV - 50 feet

13
14 The standard buffer widths shall be applied unless the planning official determines
15 through a scientifically supportable method that a greater or lesser buffer width would
16 serve to protect the functions and values of a particular wetland. The standard buffer
17 widths may not be reduced by more than twenty-five (25) percent or to no less than thirty-
18 five (35) feet whichever is greater. The planning official may also consider buffer
19 averaging.

20 Averaging to allow reasonable use of the parcel may be permitted when **all** of the
21 following are met:

- 22
23 a. There are no feasible alternatives to the site design that could be
24 accomplished without buffer averaging; and
25
26 b. The averaged buffer will not result in degradation of the wetland's
27 functions and values as demonstrated by a critical areas report from a
28 qualified wetland professional; and
29
30 c. The total buffer area after averaging is equal to the area required without
31 averaging; and
32
33 d. The buffer at its narrowest point is never less than either seventy-five
34 percent (75%) of the required buffer width or seventy-five feet (75') for
35 Category I and II, or fifty feet (50') for Category III, and twenty-five feet
36 (25') for Category IV, whichever is greater.
37

38 Greater buffer widths or rehabilitation of an inadequate plant community may be required
39 where necessary to ensure development does not result in adverse impacts to wetlands.

- 40
41 a. Impacts allowed under this provision to these wetlands will be fully
42 mitigated as required in the mitigation section.
43
44 b. All Category I and Category II wetlands between one-thousand (1,000) and
45 four-thousand (4,000) square feet should be evaluated with full mitigation
46 sequencing and buffer establishment. Any approved impacts should be

1 adequately compensated by mitigation.

2
3 c. Wetlands larger than four-thousand (4,000) square feet will be evaluated
4 using standard procedures for wetland review.

5
6 2. Wetland buffer zones shall be retained in their natural condition. Where buffer
7 disturbances are unavoidable during adjacent construction, revegetation with
8 native plant materials will be required.

9
10 3. Wetland alteration proposals shall be approved only if no alternative is available.
11 When no alternative exists, wetland replacement shall be used to mitigate impacts
12 and shall be based on the functions and values of the particular wetland being
13 impacted. Simplified ratios for wetlands replacement projects shall be as follows:

14
15 a. Category I: 6-1;

16
17 b. Category II: 3-1;

18
19 c. Category III: 2-1;

20
21 d. Category IV: 1.5-1.

22
23 Wetland enhancement ratios shall not be less than one and one-half (1½) to one (1) for
24 replacement.

25
26 4. The following activities are allowed to occur in wetlands and wetland buffer
27 zones subject to conditioning with appropriate best management practices to
28 minimize impacts on the functions and values of wetlands:

29
30 a. Outdoor passive recreational activities;

31
32 b. Existing and ongoing agricultural activities (provided no additional area is
33 added beyond demonstrated historic levels).

34
35 5. Maintenance of existing facilities, structures, ditches, roads and utility systems.
36 All projects shall comply with the applicable federal, state and local regulations
37 regarding the species.

38
39 6. As determined through the site-specific study, mitigation measures shall be
40 implemented that maintain the functions and values found in the particular
41 wetland.

42
43 7. As determined through the site-specific study, appropriate mitigation,
44 management and monitoring plan(s) may be developed and implemented, with
45 any necessary security to ensure compliance with such plan(s) being provided as
46 described in SMC 17.07.080C(4)(j).

- 1
2 8. A use or structure established prior to the effective date (insert effective date) of
3 the ordinance codified in this section which does not conform to standards set
4 forth herein is allowed to continue and be reasonably maintained; provided, that
5 such activity or structure shall not be expanded or enlarged in any manner that
6 increases the extent of its nonconformity. (Ord. ??? § ??, 2014)
7
8

9 **17.07.140 Frequently flooded areas.**

10
11 (A) Classification. The following classification system will be used to determine the
12 level of protection necessary for frequently flooded areas:
13

- 14 1. Class I. The floodway of any river or stream as designated by the Federal
15 Emergency Management Agency (FEMA); and draws, alluvials and flood
16 channels that are not mapped by FEMA but are areas of local concern that have a
17 historical reoccurrence of flood events characterized by significant damage due to
18 flood flows.
19
20 2. Class II. All areas mapped by FEMA as a one-hundred (100) year floodplain; and
21 those areas of local concern that experience reoccurrence of flooding that are
22 characterized by damage due primarily to inundation.
23

24 (B) Designation. The city designates the areas of special flood hazard In
25 addition to the general provisions of this section and the requirements of the underlying
26 zoning district, the following minimum standards shall apply to the development
27 activities within and adjacent to wetland areas.
28

29 (C) Standards. In addition to the general provisions of these regulations and the
30 requirements of the underlying zoning district, the following minimum standards shall
31 apply to development activities within and adjacent to frequently flooded areas:
32

- 33 1. All development within frequently flooded areas shall be reviewed under and
34 subject to the requirements of the City of Selah's flood damage prevention
35 regulations (SMC, Chapter 11.19), SMC.
36
37 2. All development within frequently flooded areas shall be consistent with the
38 goals, objectives, findings, and recommendations of the City's comprehensive
39 land use plan and flood damage prevention plan. The flood damage prevention
40 plan, along with the City's comprehensive land use plan, provides a policy basis
41 for management of flood hazard areas.
42
43 3. Where practical, development activities shall be coordinated with structural
44 activities recommend in the flood damage prevention plan.
45
46 4. Where frequently flooded areas coincide with other designated critical areas,

1 critical areas reports and mitigation plans shall address any combined functions
2 and values.

3
4 5. In all cases where mitigation measures are proposed, said measures shall be
5 consistent with the City's flood damage prevention plan.

6
7 6. Filling and grading in frequently flooded areas shall occur only upon a
8 determination by a qualified professional that the filling or grading will not
9 increase flood hazards to others.

10
11 7. Subdivision in frequently flooded areas will be subject to the following:

12
13 a. All lots created shall have adequate building space outside flood hazard
14 areas, including the floodway, one-hundred (100) year floodplain, and
15 channel migration zones;

16
17 b. Plat maps shall indicate the floodway and/or the one-hundred (100) year
18 floodplain;

19
20 c. Subdivisions shall be designed to minimize or eliminate the potential for
21 flood damage; and

22
23 d. Subdivisions shall provide for stormwater drainage, in accordance with
24 City standards, so as to reduce exposure o flood hazards.

25
26 8. Bank stabilization projects. Where consistent with other regulations and with the
27 flood damage prevention plan, protection of structures, public roadways or sole
28 access routes in existence before the effective date (insert effective date) of the
29 ordinance codified in this chapter shall be allowed. Such projects shall be
30 designed to minimize adverse impacts to property, public improvements, and
31 ecological functions. (Ord. ??? § ??, 2014)

32
33
34 **17.07.150 Geologically hazardous areas.**

35
36 (A) Classification. Known geologically hazardous areas within the City of Selah
37 consist of erosion hazard areas, including steep slopes. As more information is obtained
38 that demonstrates the existence of other types and/or areas of geologically hazardous
39 areas, these types and/or areas shall be classified and protected in accordance with the
40 provisions of this section.

41
42 1. The following general classification system will be used to determine the level of
43 protection necessary for geologically hazardous areas, based upon the risk to
44 development:

45
46 a. Known or suspected risk;

- b. No risk;
- c. Risk unknown.

2. The following criteria shall be used in determining the status of an area as a particular type of geologically hazardous area:

a. Erosion hazard areas are those that contain all three (3) of the following characteristics:

- i. A slope of fifteen (15) percent or greater;
- ii. Soils identified by the Natural Resource Conservation Service (NRCS) as unstable and having a high potential for erosion; and
- iii. Areas that are exposed to the erosion effects of wind or water.

b. Landslide hazard areas are those that may contain any of the following circumstances:

- i. All areas that have historically been prone to land sliding;
- ii. All areas containing soil types identified by the Natural Resource Conservation Service (NRCS) as unstable and prone to landslide hazard;
- iii. All areas that show evidence of or are at risk from snow avalanches; or
- iv. All areas that are potentially unstable as a result of rapid stream incision or stream bank erosion..

(B) Designations.

1. Geologically Hazardous Areas. Each type of geologically hazardous area is designated based on different factors. The designation process for each type is as follows:

2. Erosion Hazard Areas. SCS soil erosion-hazard ratings are interpretations of the potential for erosion, applied to broadly generalized map units. They do not pinpoint erosion sites, but rather areas that, because of soil properties, availability of water, etc., The SCS maps will be used to identify areas of erosion potential. The soil information needs to be combined with site-specific information (rills, inter-rills, and wind erosion) to determine if an erosion hazard is present on the site. The soil types that have erosion hazard potential have been identified within

1 the Selah urban growth area in the county.

- 2
- 3 3. Landslide Hazard Areas. Lands that meet the classification criteria are hereby
4 designated as landslide hazard areas and should be mapped as resources become
5 available.
- 6
- 7 4. Mine Hazard Areas. Lands that meet the classification criteria are hereby
8 designated as mine hazard areas and will be mapped as resources become
9 available.
- 10
- 11 5. Seismic Hazard Areas. There are no known active faults in the City of Selah. The
12 majority of the city is located within Seismic Zone C in accordance with the
13 International Building Code (2009 Edition, or as amended).
- 14
- 15 6. Volcanic Hazard Areas. There are no volcanic hazard areas in the City of Selah.
16 There are, however, several active volcanoes that could have impacts on the city,
17 particularly the fallout of ash. There is no way to prevent the impacts of fallen ash,
18 but there are ways to respond to the ash that could lessen its impacts.

19

20 (C) Standards. In addition to the general provisions of these regulations and the
21 requirements of the underlying zoning district, the following minimum standards shall
22 apply to development activities within and adjacent to geologic hazard areas:

- 23
- 24 1. All projects shall be evaluated through a geotechnical report to determine whether
25 the project is proposed to be located in a geologically hazardous area, and if so,
26 what is the project's potential impact on the geologically hazardous area and the
27 potential impact of the geologic hazard on the proposed project;
- 28
- 29 2. All projects shall comply with the applicable federal, state and local regulations,
30 including the most recently adopted International Building Code;
- 31
- 32 3. As determined through the site-specific study, appropriate buffers shall be
33 maintained between all permitted uses and activities and the designated
34 geologically hazardous area(s);
- 35
- 36 4. The existing native vegetation within the buffer area(s) shall be maintained,
37 except that normal, nondestructive pruning and trimming of vegetation for
38 maintenance purposes is allowed;
- 39
- 40 5. As determined through the site-specific study, appropriate drainage, grading,
41 excavation and erosion control measures shall be implemented in the geologically
42 hazardous area(s);
- 43
- 44 6. As determined through the site-specific study, mitigation measures shall be
45 implemented that maintain the integrity of the geologically hazardous area(s);
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7. As determined through the site-specific study, appropriate management and monitoring plan(s) shall be developed and implemented to preserve and protect both the geologically hazardous area(s) and the project, with any necessary surety to ensure compliance with such plan(s) being provided in SMC 17.07.080(C)(4)(j) (critical areas report): and
8. A use or structure established prior to the effective date (insert effective date) of the ordinance codified in this section which does not conform to standards set forth herein is allowed to continue and be reasonably maintained; provided, that such activity or structure shall not be expanded or enlarged in any manner that increases the extent of its nonconformity, unless otherwise approved.
(Ord. ??? § ??, 2014)

**CITY OF SELAH
STAFF REPORT and RECOMMENDATION
CRITICAL AREA ORDINANCE (CAO)**

To: Selah Planning Commission

From: Dennis Davison, Community Planner

Report Date: Tuesday, March 18, 2014

Hearing Date: Tuesday, March 18, 2014

History

All cities and counties in Washington are required to adopt critical areas regulations by the Growth Management Act (GMA) (RCW 36.70A.060). The GMA was amended in 1995 to require counties and cities to include the best available science in developing policies and development regulations to protect the functions and values of critical areas (RCW 36.70A.172). All jurisdictions are required to review, evaluate, and, if necessary, revise their critical areas ordinances according to an update schedule.

City of Selah is proposing to adopt its Critical Area Ordinance (CAO) development regulations. The City previously adopted goals and policies relating to Critical Areas in the City of Selah Urban Growth Area Comprehensive Plan. This proposal, if adopted, will allow city to comply with state law.

Jurisdiction: Consideration and adoption of Selah Municipal Code, Title 17, Chapter 17.07 is a legislative function, reviewed and recommended for approval by the Selah Planning Commission after consideration at a duly advertised public hearing. Adoption is the legislative function of the Selah City Council with recommendations presented from the Selah Planning Commission. Decisions of City Council are final, unless a request for reconsideration is filed before an appeal of a City Council decision can be filed in Superior Court.

Summary: Adoption of the proposed Critical Area Ordinance will bring the City into full compliance with the Growth Management Act (GMA) and will further its compliance with the Endangered Species (ESA) and Clean Water Acts (CWA).

Recommendation: Forward to City Council with a recommendation for adoption of the draft Critical Area Ordinance.

I. Introduction

The Growth Management Act (GMA) as currently amended requires local jurisdictions to review and as necessary, revise their development regulations protecting critical areas: fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, wetlands, and areas with a critical recharging effect on aquifers providing drinking water. Best available science is to be considered in designating and protecting critical areas, and special consideration is to be given to protecting anadromous fisheries. State law now also specifies that the State Environmental Policy Act (SEPA) be used to protect these areas only where adopted development regulations are insufficient. The City must also comply with other state and federal statutes such as the Endangered Species Act (ESA) and Clean Water Act (CWA). The City's adoption of a critical area ordinance is necessary to comply with these statutes.

II. Approach & Key Features

A. Approach

Staff applied the following principles in developing the draft Critical Area Ordinance. They provide the regulatory framework for balancing critical area protection and development, and are reflected in the approval criteria and other regulations.

- Avoid impacts that degrade the functions of critical areas.
- Where avoidance is not feasible, minimize the adverse impacts and mitigate for impacts by replacing each of the affected functions in kind and on site to the extent feasible.
- Encourage development to make efficient use of land where critical areas have already lost many of their environmental functions in order to avoid conversion of fully functioning critical areas.
- Strive for no net loss of critical areas and functions on- or off-site.
- Proposals must not pose a significant risk of injury or property damage.
- The review process and submittal requirements are proportionate to the scope and potential impacts of the proposal.
- Allow reasonable economic use of property.
- Ensure coordination with other state and federal agencies and regulations.

III. Costs and Financing

A. Private Costs

In general, there are three types of costs that are likely to change as a result of adoption of the ordinance:

1. Fees to partially cover the cost of processing the application;
2. Cost of time to obtain the permit;
3. Cost of expert help to complete the critical areas report.

Processing the Critical Area Permit will be combined with other permit processing; no additional time is expected to be added to the time currently required for permitting.

Because the amount of work required will depend on the characteristics of the property and the development proposal, it is difficult to provide a precise estimate of the costs to property owners and developers of compliance with this ordinance. A small property with several large critical area constraints will face a more challenging design process to locate the development, avoid critical areas and provide for mitigation than would a larger property with minor critical area constraints. The cost of an expert helping to delineate and characterize the critical areas and develop appropriate mitigation is likely to be higher in the first case than in the latter. Information from consultants indicates that the range of costs is likely to be as follows:

- Fish and wildlife habitat – from \$2,000 to \$10,000, depending on the size of the project/property, functions of the resource and extent of the impact.
- Flood hazard – from \$2,500 to \$5,000, depending on the size of the project/property, extent of the impact and availability of accurate topographic information.
- Geologic hazard – from \$1,500 to \$8,000, depending on the size of the project/property, extent of the impact and type of development proposed.
- Wetlands – from \$2,500 to \$20,000, depending on the size of the project/property, functions/category of the resource, and extent of the impact.

B. Public Costs and Financing

There are three areas where the City can possibly expect costs to increase upon adoption of the Critical Area Ordinance:

1. Increase in review time and staff resources due to the increased numbers of projects subject to aquifer recharge or wetland reviews (small wetlands are no longer exempt) as well as any pre-application conferences due to broadened scope of applicability;
2. Increase in staff resources to respond to enforcement-related complaints; and
3. Increased use of consultants with expertise in all five critical areas to review critical area reports prepared by the applicant's qualified professionals and make recommendations to City review staff. There will likely be an incremental increase in the number of wetland, floodplain and geo-hazard applications requiring such reviews.

C. Private and Public Benefits

Adoption of the draft Critical Area Ordinance would bring the following benefits:

- Compliance with state law (GMA requires local jurisdictions to identify critical areas and adopt regulations to protect them);
- Early identification of potential critical areas issues that could affect development (including single-family homes) through the site visit/ application conference;
- Protection of wetlands, riparian areas and flood plains that are the most efficient and cost effective way to handle storm water run-off;
- Protection of residents and their property from damage from geologic hazards and flood damage;
- Protection of the water bodies essential to the survival of anadromous fish listed under the federal Endangered Species Act;
- Protection of Priority Habitat and Species identified by Washington Department of Fish and Wildlife.

V. Policy Analysis

A. Environmental

1. SEPA Threshold Determination

A SEPA Checklist was prepared on February 20, 2014 and a SEPA Determination of Non-significance (DNS) was issued on March 5, 2014 for the draft Critical Area Ordinance. No written comments were received during the comment period. A Final SEPA DNS will be issued March 20, 2014.

Finding: The draft Critical Area Ordinance will not cause probable significant adverse environmental impacts.

B. Growth Management Act (GMA)

1. Goals

a. Goal 6 of the Growth Management Act states: Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 6 by (1) using best available science to identify and protect critical areas and (2) providing an exception process and a reasonable use exemption for cases where it would be difficult or impossible for landowners to meet the requirements of the ordinance.

b. Goal 7 of the Growth Management Act states: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 7 by (1) combining review of all critical areas into one permit/process, and (2) integrating the Critical Areas review with the streamlined development review process most recently adopted by the City as a part of the code update.

c. Goal 8 of the Growth Management Act states: Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 8 by protecting streams and other water bodies that provide fish habitat (particularly anadromous fish) and the riparian areas necessary to their healthy functioning.

d. Goal 9 of the Growth Management Act states: Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water and develop parks and recreation facilities.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 9 by providing protection for identified priority fish and wildlife species and habitat designated by Washington Department of Fish and Wildlife or listed under the Endangered Species Act. The draft ordinance seeks to balance recreation and habitat protection by providing exemptions for less intensive or “passive” recreation activities in critical areas – such as bird watching and nature study.

e. Goal 10 of the Growth Management Act states: Protect the environment and enhance the state’s high quality of life, including air and water quality, and the availability of water.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 10 by providing protection for fish and wildlife habitat (including water bodies), flood plains, geologic hazard areas and wetlands and ensuring that any unavoidable impacts to these resources are minimized and mitigated.

f. Goal 11 of the Growth Management Act states: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

2. Best Available Science (BAS)

Amendments to the GMA require jurisdictions to include BAS in designating and protecting critical areas and in developing policies and development regulations to protect their functions and values. In addition, special consideration is to be given to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

The draft ordinance is based on BAS. BAS sources used are of two types, scientific literature and local assessments or review. The sections below describe the BAS upon which designation and protection of the critical areas are based.

o Fish & Wildlife Habitat Conservation Areas

Designation. The purpose of designating fish and wildlife habitat conservation areas is to protect the habitat functions provided by the areas. Functions include:

- Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; and
- Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.

RCW 36.70A.030 and WAC 365-190-030 specify that critical areas include fish and wildlife habitat conservation areas. WAC 365-190-080 and *The Critical Areas Assistance Handbook*, Washington State Department of Commerce (formally Community, Trade and Economic Development) November, 2003, list fish and wildlife habitat conservation areas as critical areas requiring designation and protection. Areas include:

- Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association,
- State Priority Habits and areas associated with State Priority Species
- Habitats and species of local importance
- Naturally occurring ponds under twenty acres
- Water of the state
- Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity
- State natural area preserves and natural resource conservation areas
- Areas of rare plant species and high quality ecosystems
- Land useful or essential for preserving connections between habitat blocks and open spaces

Finding: The Critical Area Ordinance protections for fish and wildlife habitat are based on best available science, including scientific literature about the functions and values of these areas and local assessments of fish and wildlife habitat and the risks to them.

o Frequently Flooded Areas

Designation. Frequently flooded areas are those that are subject to inundation by the base (100-year) flood and are also known as the *100-year floodplain* or *areas of special flood hazards*. The 100-year flood was established as the base flood by federal law (44 CFR 59.1) and state law (WAC 173-158-030).

Frequently flooded areas include the floodway and the flood fringe. The floodway is the area that must be kept free of encroachment in order to discharge the base flood without raising the flood elevation by more

than one foot. The flood fringe is the remaining portion of the floodplain. These areas are also defined by federal law (44 CFR 59.1 and 44 CFR 60.3(d)(2)) and state law (WAC 173-158-030).

The Federal Insurance Administration and Federal Emergency Management Agency identified the areas of special flood hazards in scientific and engineering reports entitled *The Flood Insurance Study for Yakima County, Washington and Incorporated Areas*” dated November 18, 2009. As part of its responsibility for managing the National Flood Insurance Program (NFIP), the Federal Emergency Management Agency (FEMA) reviews and approves proposed floodplain map amendments. At this time, the existing maps as amended constitute the best available science for designating frequently flooded areas. The proposed code language allows the City to use the most up-to-date maps as they become available.

Finding: Designation of frequently flooded areas is based on best available science.

○ **Geologic Hazard Areas**

Designation. Under GMA, landslide, seismic, and erosion hazard areas are required to be designated and protected through development regulations. These regulations are intended to minimize or eliminate potential damage to life and property from a geologic hazard; and to maintain or reduce the risk of a geologic hazard due to development.

(A) Landslide Hazard Areas. Designated landslide hazard areas include steep slopes; areas of historic, active, or potential landslides, and adjacent areas within 100 feet. Steep slopes are those greater than 25%.

(B) Seismic Hazard Areas. Seismic hazard areas include areas of potential liquefaction, ground shaking amplification, and fault rupture hazards. Liquefaction occurs when a soil loses its strength and behaves like a liquid rather than a solid causing damage to buildings and infrastructure. Ground shaking amplification depends on soil type as well. As waves generated by an earthquake move through certain soils, they become stronger and cause greater damage. Faults are cracks in the earth’s crust. Earthquakes may be caused by the two faces of the fault slipping against one another or moving apart.

Therefore, the proposed code allows for the possibility that faults could be identified and designates them and adjacent areas within 100 feet as seismic hazard areas.

(C) Erosion Hazard Areas. Erosion hazard areas include areas where soil type and slope present a severe risk of erosion and areas along lakes, streams, and rivers that are subject to regression or retreat due to fluvial processes as well as adjacent land within 100’. The former are designated as *soil erosion hazard areas* and the latter as *bank erosion hazard areas* in the proposed code.

Soil erosion hazard areas are identified as having a severe erosion hazard by the 1985 USDA Soil Conservation Service *Soil Survey of Yakima County Washington*. This study is the most recent and comprehensive study of soils for this area. This is the best available science for designating soil erosion hazard areas and is the information that the proposed code relies upon in doing so.

Finding: Designations of geologic (landslide, seismic, and erosion) hazard areas are based upon best available science.

○ **Wetlands**

Designation. The purpose of designating wetlands is to protect the functions of the wetlands. Functions include:

- Hydrology – controlling the movement of water, both surface and ground water, in the watershed
- Water quality – removing pollution, maintaining water temperatures
- Habitat – providing habitat for fish, wildlife and plants

RCW 36.70A.030 and WAC 365-190-030 specify that critical areas include wetlands. WAC 365-190-080 and *The Critical Areas Assistance Handbook*, Washington State Department of Commerce (formally Community, Trade and Economic Development), November, 2003, list wetlands as critical areas requiring designation and protection.

Wetlands are designated according to the system provided by Ecology (Hruby, 2004, Washington State Wetland Rating System for Eastern Washington Revised). Wetland functions are evaluated using the Wetland Rating Form for Eastern Washington. The rating, that takes place in the field, results in a score for each of the functions (hydrology, water quality, and habitat), and a total score for all functions. A wetland is designated as one of four categories depending on the rating score and certain other characteristics of the wetland.

Category I wetlands are those that meet one or more of the following criteria:

- Wetlands that are identified by scientists of the Washington Department of Natural Resources Washington Natural Heritage Program as high quality wetlands;
- Bogs larger than ½ acre;
- Mature and old growth forested wetlands larger than 1 acre;
- Wetlands that perform many functions well, as indicated by scoring 70 points (out of 100) in the rating system.

Category II wetlands are those that meet one or more of the following criteria:

- Wetlands identified by the Washington Natural Heritage Program as containing “sensitive” plant species;
- Bogs between ¼ and ½ acre in size;
- Wetlands with a moderately high level of functions, as indicated by scoring 51-69 in the Ecology rating system.

Category III wetlands are those with a moderate level of functions, as indicated by scoring 30-50 in the Ecology rating system.

Category IV wetlands are those with a low level of functions, as indicated by scoring less than 30 in the Ecology rating system. An inventory of wetlands within the City of Zillah is not available. The Yakima County Geographic Information System contains a data layer for critical areas consisting of maps from the National Wetlands Inventory. Areas within the city that meet the definition of wetlands, whether mapped or not, are designated as wetlands and are subject to the provisions of the draft ordinance.

Finding: The Critical Area Ordinance wetlands designations are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.

○ ***Critical Aquifer Recharge Areas***

Designation. The definition of BAS has both legal and scientific aspects. For designating critical aquifer recharge areas, BAS depends on an evaluation of aquifer vulnerability and susceptibility, and points to wellhead protection areas generated through a variety of widely-accepted methods and models depending

on the local situation. The State's Model Critical Areas Ordinance recommends designating the 10- year time-of-travel zone as the critical aquifer recharge area.

Vulnerability and susceptibility have been evaluated for the City's aquifers, and time-of-travel zones have been modeled. According to the studies, there is a moderate to high degree of susceptibility in large areas of the City. However, the finer points of the studies and modeling are debatable. Further, determining which time-of-travel zone is the most appropriate for regulatory purposes is very difficult.

Using a time-of-travel zone for regulatory purposes is difficult for several reasons. Such zones are not static, but very dynamic, and imprecise. It would be difficult to say with a high degree of confidence that a particular property is inside or outside the zone during a given period of time. More predictability for planning and development processes is necessary. In addition, an operation just outside the bounds of a zone can contaminate water resources just as quickly as one just inside its bounds. A substantial amount of the City's groundwater recharge originates outside its boundaries, throughout an area much larger than the City itself and the 10-year time-of-travel zones it encompasses.

Finding: Best available science has been used in designating the entire City as the critical aquifer recharge area. There is no scientifically reasonable and practical way to accurately determine areas within the City that may not need the basic protections of the Critical Area Ordinance and exclude them.

C. Streamlining Permitting and Enforcement Processes

A main feature of the proposed ordinance is the consolidation of the existing permitting procedures which results in a more efficient and less cumbersome review process for both applicant and staff. The proposed permitting and enforcement processes build on existing review procedures already in place but also seek to streamline whenever possible.

Finding: The proposed Critical Area Ordinance streamlines permitting and enforcement processes furthering the City's compliance with GMA.

D. Commitments

The City is committed to "Promote planned and coordinated growth and the delivery of public services in a fiscally responsible manner in and near the City of Selah." Strategies to realize this commitment include encouraging citizen involvement in planning processes and developing partnerships to implement environmental goals, objectives, policies, and regulations.

The draft Critical Area Ordinance employs development regulations to achieve and balance environmental protection and economic development goals.

E. Comprehensive Plan

The following Comprehensive Plan goals and policies support and are supported by the provisions of the draft Critical Area Ordinance:

Land Use Goals and Policies

Comprehensive Plan: The following Comprehensive Plan policies support and are supported by the provisions of the draft Critical Area Ordinance:

Land Use and Growth Management

Land Use Goal: Provide for the protection of significant natural areas and the public health through land use policies.

Policy LUGM #4.1: Provide for the protection of wellheads and springs from land uses that present a threat to surface and groundwater quality. Aquifer recharge areas shall be subject to close scrutiny and intergovernmental efforts to control potential threats to aquifer contamination.

Policy LUGM #4.2: Protect shoreline areas from incompatible types and intensities of development through careful application and periodic review of the Selah Shoreline Master Program (SMP). All goals and policies of the SMP and any subsequent amendments shall be adopted by reference in their entirety to assure consistency between the Comprehensive Plan and the SMP.

Policy LUGM #4.3: Integrate flexibility into development regulations that would allow for incentives and bonuses for developers who maintain natural areas and open space as a part of new development.

Policy LUGM #4.4: Continue to upgrade and refine City regulations to protect wetlands, aquifer recharge areas, frequently flooded areas, seismic hazard areas, steep slopes, agricultural areas, and anadromous fish habitat from incompatible levels or types of development in accordance with the Washington Growth Management Act.

Policy LUGM #4.5: Ensure that land use practices in geologically hazardous areas do not cause or exacerbate natural processes which may endanger lives, property or resources.

Natural Environment

Goal: Respect the Floodplain

Objective ENV 1: Respect habitat and wetland areas within the 100-year floodplain.

Policy ENV 1.1: Map important habitat and wetland areas within the 100-year floodplain.

Policy ENV 1.2: Adopt wildlife and wetland habitat overlay zones within the zoning ordinance.

Policy ENV 1.3: Require appropriate studies for projects in the 100-year floodplain, as identified on Federal Emergency Management Agency (FEMA) flood maps.

Policy ENV 1.4: Only developments which respect the floodplain and meet appropriate local, state and federal requirements will be allowed in the 100-year floodplain.

GOAL: Preserve the natural stormwater storage capacity of the floodplain.

Objective ENV 2: Adopt land use policies that reduce or eliminate negative impacts of development on stormwater drainage capacities and systems.

Policy ENV 2.1: Encourage the retention of native vegetation or the creation of vegetative buffers near drainage courses to preserve water quality, and to aid in bio-filtration of stormwater.

Policy ENV 2.2: Minimize adverse stormwater impacts generated by the removal of vegetation and alteration of landforms.

GOAL: Promote and enhance surface and groundwater quality.

Objective ENV 3: Maintain and manage the quality of surface and groundwater resources as near as possible to their natural condition and in compliance with state water quality standards.

Policy ENV 3.1: Develop performance standards and regulate uses for activities which adversely impact water quantity and quality in aquifers, watersheds and surface waters.

Policy ENV 3.2: Evaluate the potential impact of development proposals on groundwater quality, and require alternative site designs to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

Policy ENV 3.3: Encourage the retention of natural open spaces in development proposals overlying areas highly susceptible for contaminating groundwater resources.

Policy ENV 3.4: Support regional educational efforts which inform citizens of measures they can take to reduce contaminant loading of groundwater systems.

Policy ENV 3.5: Protect water quality from the adverse impacts associated with erosion and sedimentation.

Policy ENV 3.6: Encourage the use of drainage, erosion, and sediment control practices for all construction or development activities.

Policy ENV 3.7: Make use of local and regional data sources to monitor and assess surface and groundwater quality.

Policy ENV 3.8: Participate in water quality improvement planning and implementation efforts by local, regional, state, federal and tribal agencies.

GOAL: Provide appropriate protection for recognized habitat and critical areas.

Objective ENV 4: Establish specific, science-based criteria for identification and protection of environmentally sensitive resources.

Policy ENV 4.1: Monitor designated environmental critical areas to ensure continue viability and protection.

Policy ENV 4.2: Integrate environmental considerations into all planning efforts and comply with all state and federally mandated environmental legislation.

Policy ENV 4.3: Support regional efforts for the protection of fish and wildlife habitat consistent with science-based criteria to protect the natural values and functions of those habitats. Fish and wildlife habitat protection considerations should include:

1. The physical and hydrological connections between different habitat types to prevent isolation of those habitats;
2. Diversity of habitat types both on a local and regional scale;
3. Large tracts of fish and wildlife habitat;
4. Areas of high species diversity;

5. Locally or regionally unique or rare habitats;
6. Winter range and migratory bird habitat of seasonal importance.

Policy ENV 4.4: Direct development away from areas containing significant fish and wildlife habitat areas, especially areas that are currently undeveloped or are primarily dominated by low intensity land uses.

Policy ENV 4.5: Limit development projects or require mitigation measures in areas adjacent to public lands containing significant fish and wildlife habitat.

Policy ENV 4.6: Protect the habitat of *Washington State Listed Species of Concern and Priority Habitats and Species* in order to maintain their populations.

Policy ENV 4.7: Cooperate with resource agencies to prioritize habitats and provide appropriate measures to protect them according to their respective values.

Objective ENV 5: Provide for long-term protection of wetlands.

Policy ENV 5.1: Preserve, protect, manage and regulate wetlands for purposes of public health, safety and general welfare by:

1. Conserving fish, wildlife, and other natural resources;
2. Regulating property use and development to maintain the natural and economic benefits provided by wetlands, consistent with the general welfare of the City;
3. Protecting private property rights consistent with the public interest;
4. Requiring wetland buffers and building setbacks around regulated wetlands to preserve vital wetland functions and values.

Policy ENV 5.2: Adopt a clear definition of a regulated wetland and a method for delineating regulated wetland boundaries.

Policy ENV 5.3: Manage and mitigate human activities or actions that would have a probable adverse impact on the existing conditions or regulated wetlands or their buffers.

Policy ENV 5.4: Require mitigation for any regulated activity which alters regulated wetlands and their buffers.

VI. Findings

A. The draft Critical Area Ordinance will not cause probable significant adverse environmental impacts.

B. The proposed method of procedures under SMC 17.07.080, Application are necessary to implement the draft Critical Area Ordinance and streamline its review and permitting processes by integrating them with existing procedures.

C. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 6 by (1) using best available science to identify and protect critical areas and (2) providing an exception process and a reasonable use exemption for cases where it would be difficult or impossible for landowners to meet the requirements of the ordinance.

D. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 7 by (1) combining review of four critical areas into one permit, and (2) integrating the Critical Areas Permit with the streamlined development review process most recently adopted by the City as a part of the code update.

E. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 8 by protecting streams and other water bodies that provide fish habitat (particularly anadromous fish) and the riparian areas necessary to their healthy functioning.

F. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 9 by providing protection for identified priority fish and wildlife species and habitat designated by Washington Department of Fish and Wildlife or listed under the Endangered Species Act. The draft ordinance seeks to balance recreation and habitat protection by providing exemptions for less intensive or “passive” recreation activities in critical areas – such as bird watching, nature study, trails and wildlife viewing stations.

G. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 10 by providing protection for fish and wildlife habitat (including water bodies), flood plains, geologic hazard areas and wetlands and ensuring that any unavoidable impacts to these resources are minimized and mitigated.

H. Best available science has been used to designate fish and wildlife habitat conservation areas, including review of scientific literature, consultation with local experts and agency staff, and local assessments of the resources and their functions.

I. Designation of frequently flooded areas is based on best available science.

J. The draft Critical Area Ordinance protects frequently flooded areas and is based on best available science.

K. Designations of geologic (landslide, seismic, and erosion) hazard areas are based upon best available science.

L. The draft Critical Area Ordinance protects geologic hazard areas and is based on best available science.

M. The Critical Area Ordinance wetlands designations are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.

N. The Critical Area Ordinance protections for wetlands are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.

O. Best available science has been used in designating the entire City as the critical aquifer recharge area under the Water Resources Protection Ordinance. There is no scientifically reasonable and practical way to accurately determine areas within the City that may not need the basic protections of the Water Resources Protection Ordinance and exclude them.

P. Best available science has been used in developing policies and development regulations to protect critical aquifer recharge areas.

Q. The proposed Critical Area Ordinance streamlines permitting and enforcement processes furthering the City's compliance with GMA.

R. The draft Critical Area Ordinance supports the City of Selah Urban Growth Area Comprehensive Plan Policies

S. The draft Critical Area Ordinance discourages development in geologically hazardous areas or floodplains and requires that where such development occurs, it is designed to minimize risk to the lives or property of those on the developed property or adjacent to them.

T. Adoption of the Critical Area Ordinance would provide protection to Selah's limited water bodies and wetlands, in keeping with the goals of the Clean Water Act.

VII. Action Requested

Staff requests that based on the facts, analysis, findings, and exhibits submitted with this staff report, the Selah Planning Commission recommend to the City Council the following:

A. Adoption of chapter, SMC 17.07, entitled Critical Area Ordinance; and

**Selah Planning Commission
CRITICAL AREA ORDINANCE (CAO)
Findings of Fact & Recommendation
March 18, 2014**

This matter having come for public hearing before the city of Selah Planning Commission on March 18, 2014 for the purpose of considering a Critical Area Ordinance by the city of Selah which impacts all properties located within the city limits of Selah, Washington, under Selah Municipal Code, Chapter 17.

Members of the Planning Commission present for the Public Hearing were Chairman Willie Quinnell and Planning Commission members Dillon Pendelton, Carl Torkelson and Eric Miller.

Legal notification pursuant to Selah Code was given on the March 5, 2014. All persons present were given the opportunity to speak for or against the proposed critical areas protections.

LAND USE FINDINGS

1. The Critical Area Ordinance will impact all properties located within the city limits of Selah containing designated critical areas regardless of comprehensive plan or zoning designation.

PUBLIC OPINION

1. The owners of the adjacent land expressed NEITHER APPROVAL / OR DISAPPROVAL of the proposal.
2. Interested agencies expressed NEITHER APPROVAL / OR DISAPPROVAL of the proposal.

SPECIFIC FINDINGS APPLICABLE TO THE PROPOSAL

Jurisdiction: Consideration and adoption of Selah Municipal Code, Title 17, Chapter 17.07 is a legislative function, reviewed and recommended for approval by the Selah Planning Commission after consideration at a duly advertised public hearing. Adoption is the legislative function of the Selah City Council with recommendations presented from the Selah Planning Commission. Decisions of City Council are final, unless a request for reconsideration is filed before an appeal of a City Council decision can be filed in Superior Court.

Comprehensive Plan: The following Comprehensive Plan policies support and are supported by the provisions of the draft Critical Area Ordinance:

Land Use and Growth Management

Land Use Goal: Provide for the protection of significant natural areas and the public health through land use policies.

Policy LUGM #4.1: Provide for the protection of wellheads and springs from land uses that present a threat to surface and groundwater quality. Aquifer recharge areas shall be subject to close scrutiny and intergovernmental efforts to control potential threats to aquifer contamination.

Policy LUGM #4.2: Protect shoreline areas from incompatible types and intensities of development through careful application and periodic review of the Selah Shoreline Master Program (SMP). All goals and policies of the SMP and any subsequent amendments shall be adopted by reference in their entirety to assure consistency between the Comprehensive Plan and the SMP.

Policy LUGM #4.3: Integrate flexibility into development regulations that would allow for incentives and bonuses for developers who maintain natural areas and open space as a part of new development.

Policy LUGM #4.4: Continue to upgrade and refine City regulations to protect wetlands, aquifer recharge areas, frequently flooded areas, seismic hazard areas, steep slopes, agricultural areas, and anadromous fish habitat from incompatible levels or types of development in accordance with the Washington Growth Management Act.

Policy LUGM #4.5: Ensure that land use practices in geologically hazardous areas do not cause or exacerbate natural processes which may endanger lives, property or resources.

Natural Environment

Goal: Respect the Floodplain

Objective ENV 1: Respect habitat and wetland areas within the 100-year floodplain.

Policy ENV 1.1: Map important habitat and wetland areas within the 100-year floodplain.

Policy ENV 1.2: Adopt wildlife and wetland habitat overlay zones within the zoning ordinance.

Policy ENV 1.3: Require appropriate studies for projects in the 100-year floodplain, as identified on Federal Emergency Management Agency (FEMA) flood maps.

Policy ENV 1.4: Only developments which respect the floodplain and meet appropriate local, state and federal requirements will be allowed in the 100-year floodplain.

GOAL: Preserve the natural stormwater storage capacity of the floodplain.

Objective ENV 2: Adopt land use policies that reduce or eliminate negative impacts of development on stormwater drainage capacities and systems.

Policy ENV 2.1: Encourage the retention of native vegetation or the creation of vegetative buffers near drainage courses to preserve water quality, and to aid in bio-filtration of stormwater.

Policy ENV 2.2: Minimize adverse stormwater impacts generated by the removal of vegetation and alteration of landforms.

GOAL: Promote and enhance surface and groundwater quality.

Objective ENV 3: Maintain and manage the quality of surface and groundwater resources as near as possible to their natural condition and in compliance with state water quality standards.

Policy ENV 3.1: Develop performance standards and regulate uses for activities which adversely impact water quantity and quality in aquifers, watersheds and surface waters.

Policy ENV 3.2: Evaluate the potential impact of development proposals on groundwater quality, and require alternative site designs to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

Policy ENV 3.3: Encourage the retention of natural open spaces in development proposals overlying areas highly susceptible for contaminating groundwater resources.

Policy ENV 3.4: Support regional educational efforts which inform citizens of measures they can take to reduce contaminant loading of groundwater systems.

Policy ENV 3.5: Protect water quality from the adverse impacts associated with erosion and sedimentation.

Policy ENV 3.6: Encourage the use of drainage, erosion, and sediment control practices for all construction or development activities.

Policy ENV 3.7: Make use of local and regional data sources to monitor and assess surface and groundwater quality.

Policy ENV 3.8: Participate in water quality improvement planning and implementation efforts by local, regional, state, federal and tribal agencies.

GOAL: Provide appropriate protection for recognized habitat and critical areas.

Objective ENV 4: Establish specific, science-based criteria for identification and protection of environmentally sensitive resources.

Policy ENV 4.1: Monitor designated environmental critical areas to ensure continue viability and protection.

Policy ENV 4.2: Integrate environmental considerations into all planning efforts and comply with all state and federally mandated environmental legislation.

Policy ENV 4.3: Support regional efforts for the protection of fish and wildlife habitat consistent with science-based criteria to protect the natural values and functions of those habitats. Fish and wildlife habitat protection considerations should include:

1. The physical and hydrological connections between different habitat types to prevent isolation of those habitats;
2. Diversity of habitat types both on a local and regional scale;
3. Large tracts of fish and wildlife habitat;
4. Areas of high species diversity;
5. Locally or regionally unique or rare habitats;
6. Winter range and migratory bird habitat of seasonal importance.

Policy ENV 4.4: Direct development away from areas containing significant fish and wildlife habitat areas, especially areas that are currently undeveloped or are primarily dominated by low intensity land uses.

Policy ENV 4.5: Limit development projects or require mitigation measures in areas adjacent to public lands containing significant fish and wildlife habitat.

Policy ENV 4.6: Protect the habitat of *Washington State Listed Species of Concern and Priority Habitats and Species* in order to maintain their populations.

Policy ENV 4.7: Cooperate with resource agencies to prioritize habitats and provide appropriate measures to protect them according to their respective values.

Objective ENV 5: Provide for long-term protection of wetlands.

Policy ENV 5.1: Preserve, protect, manage and regulate wetlands for purposes of public health, safety and general welfare by:

1. Conserving fish, wildlife, and other natural resources;
2. Regulating property use and development to maintain the natural and economic benefits provided by wetlands, consistent with the general welfare of the City;
3. Protecting private property rights consistent with the public interest;
4. Requiring wetland buffers and building setbacks around regulated wetlands to preserve vital wetland functions and values.

Policy ENV 5.2: Adopt a clear definition of a regulated wetland and a method for delineating regulated wetland boundaries.

Policy ENV 5.3: Manage and mitigate human activities or actions that would have a probable adverse impact on the existing conditions or regulated wetlands or their buffers.

Policy ENV 5.4: Require mitigation for any regulated activity which alters regulated wetlands and their buffers.

Environmental Review:

Factual Findings: A SEPA Checklist was prepared on February 20, 2014 and a SEPA Determination of Non-significance (DNS) was issued on March 5, 2014 for the draft Critical Area Ordinance. No written comments were received during the comment period. A Final SEPA DNS will be issued on March 20, 2014.

Conclusions: *The draft Critical Area Ordinance will not cause probable significant adverse environmental impacts.*

Findings of Fact- Critical Areas Protection Ordinance

A. The draft Critical Area Ordinance will not cause probable significant adverse environmental impacts.

B. The proposed method of procedures under proposed SMC 17.07.080, Application are necessary to implement the draft Critical Area Ordinance and streamline its review and permitting processes by integrating them with existing procedures.

C. The draft Critical Area Ordinance substantially advances achievement of Growth Management Act (GMA) Goal 6 by (1) using best available science to identify and protect critical areas and (2) providing an exception process and a reasonable use exemption for cases where it would be difficult or impossible for landowners to meet the requirements of the ordinance.

D. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 7 by (1) combining review of four critical areas into one permit.

E. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 8 by protecting streams and other water bodies that provide fish habitat (particularly anadromous fish) and the riparian areas necessary to their healthy functioning.

F. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 9 by providing protection for identified priority fish and wildlife species and habitat designated by Washington Department of Fish and Wildlife or listed under the Endangered Species Act. The draft ordinance seeks to balance recreation and habitat protection by providing exemptions for less intensive or “passive” recreation activities in critical areas – such as bird watching, nature study, trails and wildlife viewing stations.

G. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 10 by providing protection for fish and wildlife habitat (including water bodies), flood plains, geologic hazard areas and wetlands and ensuring that any unavoidable impacts to these resources are minimized and mitigated.

H. Best available science has been used to designate fish and wildlife habitat conservation areas, including review of scientific literature, consultation with local experts and agency staff, and local assessments of the resources and their functions.

I. Designation of frequently flooded areas is based on best available science.

J. The draft Critical Area Ordinance protects frequently flooded areas and is based on best available science.

K. Designations of geologic (landslide, seismic, and erosion) hazard areas are based upon best available science.

L. The draft Critical Area Ordinance protects geologic hazard areas and is based on best available science.

M. The Critical Area Ordinance wetlands designations are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.

N. The Critical Area Ordinance protections for wetlands are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.

O. Best available science has been used in developing policies and development regulations to protect critical aquifer recharge areas.

P. The proposed Critical Area Ordinance streamlines permitting and enforcement processes furthering the City’s compliance with GMA.

Q. The draft Critical Area Ordinance supports Selah Comprehensive Plan Policies.

R. The draft Critical Area Ordinance discourages development in geologically hazardous areas or floodplains and requires that where such development occurs, it is designed to minimize risk to the lives or property of those on the developed property or adjacent to them.

S. Adoption of the Critical Area Ordinance would provide protection to Selah's limited water bodies and wetlands, in keeping with the goals of the Clean Water Act.

CONCLUSIONS

Based upon consideration of the above factors and the specific findings, applicable to the proposal, the proposal is **CONSISTENT** with the criteria, purpose, and intent of the Washington State Growth Management Act and the Selah Urban Growth Area Comprehensive Plan.

REASONS FOR APPROVAL OR DENIAL: Based on the findings of fact, it is in the City's interest to **APPROVE** the proposed **CRITICAL AREA ORDINANCE**.

MOTION TO RECOMMEND **APPROVE** THE CRITICAL AREA ORDINANCE BY: TORKELSON SECONDED BY: PENDELTON. VOTE: 4-0.

MOTION TO **ADOPT** FINDINGS OF FACT BY: TORKELSON SECONDED BY: MILLER VOTE: 4-0.

DECISION

As Chairman of the city of Selah Planning Commission, I hereby attest to the Planning Commission Decision as stated above:



Willie Quinnell
Selah Planning Commission Chairman

Date: 3/18/14

City of Selah
Planning Commission Minutes
of
March 18, 2014

Selah Council Chambers
115 W. Naches Ave.
Selah, Washington 98942

A. Call to Order

The meeting was called to order by Vice Chairman Quinnell at 5:30 p.m.

B. Roll Call:

Members Present: Commissioners Miller, Pendleton, Torkelson, and Quinnell
Members Absent: Commissioner Smith
Staff Present: Dennis Davison, Community Planner; Ty Jones, Public Works Supervisor; Diana Turner, Secretary
Guests: None

C. Agenda Change None.

D. Communications

1. Oral -None.

2. Written – None

E. Approval of Minutes

Chairman Quinnell called for a motion on the minutes of the Planning Commission meeting of January 21, 2014.

Commissioner Torkelson to approve the minutes, Chairman Pendleton seconded. Minutes were approved with voice vote 4/0.

Chairman Quinnell called for a 5 minute recess.

F. Public Hearing

1. Old Business None

2. New Business

a. **CRITICAL AREA ORDINANCE**

Chairman Quinnell opened the public hearing at 6:00 pm and asked staff to present their report.

Mr. Davison presented the staff report.

History

All cities and counties in Washington are required to adopt critical areas regulations by the Growth Management Act (GMA) (RCW 36.70A.060). The GMA was amended in 1995 to require counties and cities to include the best available science in developing policies and development regulations to protect the functions and values of critical areas (RCW 36.70A.172). All jurisdictions are required to review, evaluate, and, if necessary, revise their critical areas ordinances according to an update schedule.

City of Selah is proposing to adopt its Critical Area Ordinance (CAO) development regulations. The City previously adopted goals and policies relating to Critical Areas in the City of Selah Urban Growth Area Comprehensive Plan. This proposal, if adopted, will allow city to comply with state law.

Jurisdiction: Consideration and adoption of Selah Municipal Code, Title 17, Chapter 17.07 is a legislative function, reviewed and recommended for approval by the Selah Planning Commission after consideration at a duly advertised public hearing. Adoption is the legislative function of the Selah City Council with recommendations presented from the Selah Planning Commission. Decisions of City Council are final, unless a request for reconsideration is filed before an appeal of a City Council decision can be filed in Superior Court.

Summary: Adoption of the proposed Critical Area Ordinance will bring the City into full compliance with the Growth Management Act (GMA) and will further its compliance with the Endangered Species (ESA) and Clean Water Acts (CWA).

Recommendation: Forward to City Council with a recommendation for adoption of the draft Critical Area Ordinance.

I. Introduction

The Growth Management Act (GMA) as currently amended requires local jurisdictions to review and as necessary, revise their development regulations protecting critical areas: fish and wildlife habitat conservation areas, frequently flooded areas, geologic hazard areas, wetlands, and areas with a critical recharging effect on aquifers providing drinking water. Best available science is to be considered in designating and protecting critical areas, and special consideration is to be given to protecting anadromous fisheries. State law now also specifies that the State Environmental Policy Act (SEPA) be used to protect these areas only where adopted development regulations are insufficient. The City must also comply with other state and federal statutes such as the Endangered Species Act (ESA) and Clean Water Act (CWA). The City's adoption of a critical area ordinance is necessary to comply with these statutes.

II. Approach & Key Features

A. Approach

Staff applied the following principles in developing the draft Critical Area Ordinance. They provide the regulatory framework for balancing critical area protection and development, and are reflected in the approval criteria and other regulations.

- Avoid impacts that degrade the functions of critical areas.
- Where avoidance is not feasible, minimize the adverse impacts and mitigate for impacts by replacing each of the affected functions in kind and on site to the extent feasible.
- Encourage development to make efficient use of land where critical areas have already lost many of their environmental functions in order to avoid conversion of fully functioning critical areas.
- Strive for no net loss of critical areas and functions on- or off-site.
- Proposals must not pose a significant risk of injury or property damage.
- The review process and submittal requirements are proportionate to the scope and potential impacts of the proposal.
- Allow reasonable economic use of property.
- Ensure coordination with other state and federal agencies and regulations.

III. Costs and Financing

A. Private Costs

In general, there are three types of costs that are likely to change as a result of adoption of the ordinance:

1. Fees to partially cover the cost of processing the application;
2. Cost of time to obtain the permit;
3. Cost of expert help to complete the critical areas report.

Processing the Critical Area Permit will be combined with other permit processing; no additional time is expected to be added to the time currently required for permitting.

Because the amount of work required will depend on the characteristics of the property and the development proposal, it is difficult to provide a precise estimate of the costs to property owners and developers of compliance with this ordinance. A small property with several large critical area constraints will face a more challenging design process to locate the development, avoid critical areas and provide for mitigation than would a larger property with minor critical area constraints. The cost of an expert helping to delineate and characterize the critical areas and develop appropriate mitigation is likely to be higher in the first case than in the latter. Information from consultants indicates that the range of costs is likely to be as follows:

- Fish and wildlife habitat – from \$2,000 to \$10,000, depending on the size of the project/property, functions of the resource and extent of the impact.
- Flood hazard – from \$2,500 to \$5,000, depending on the size of the project/property, extent of the impact and availability of accurate topographic information.
- Geologic hazard – from \$1,500 to \$8,000, depending on the size of the project/property, extent of the impact and type of development proposed.
- Wetlands – from \$2,500 to \$20,000, depending on the size of the project/property, functions/category of the resource, and extent of the impact.

B. Public Costs and Financing

There are three areas where the City can possibly expect costs to increase upon adoption of the Critical Area Ordinance:

1. Increase in review time and staff resources due to the increased numbers of projects subject to aquifer recharge or wetland reviews (small wetlands are no longer exempt) as well as any pre-application conferences due to broadened scope of applicability;
2. Increase in staff resources to respond to enforcement-related complaints; and
3. Increased use of consultants with expertise in all five critical areas to review critical area reports prepared by the applicant's qualified professionals and make recommendations to City review staff. There will likely be an incremental increase in the number of wetland, floodplain and geo-hazard applications requiring such reviews.

C. Private and Public Benefits

Adoption of the draft Critical Area Ordinance would bring the following benefits:

- Compliance with state law (GMA requires local jurisdictions to identify critical areas and adopt regulations to protect them);
- Early identification of potential critical areas issues that could affect development (including single-family homes) through the site visit/ application conference;
- Protection of wetlands, riparian areas and flood plains that are the most efficient and cost effective way to handle storm water run-off;
- Protection of residents and their property from damage from geologic hazards and flood damage;
- Protection of the water bodies essential to the survival of anadromous fish listed under the federal Endangered Species Act;
- Protection of Priority Habitat and Species identified by Washington Department of Fish and Wildlife.

V. Policy Analysis

A. Environmental

1. SEPA Threshold Determination

A SEPA Checklist was prepared on February 20, 2014 and a SEPA Determination of Non-significance (DNS) was issued on March 5, 2014 for the draft Critical Area Ordinance. No written comments were received during the comment period. A Final SEPA DNS will be issued March 20, 2014.

Finding: The draft Critical Area Ordinance will not cause probable significant adverse environmental impacts.

B. Growth Management Act (GMA)

1. Goals

a. Goal 6 of the Growth Management Act states: Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 6 by (1) using best available science to identify and protect critical areas and (2) providing an exception process and a reasonable use exemption for cases where it would be difficult or impossible for landowners to meet the requirements of the ordinance.

b. Goal 7 of the Growth Management Act states: Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 7 by (1) combining review of all critical areas into one permit/process, and (2) integrating the Critical Areas review with the streamlined development review process most recently adopted by the City as a part of the code update.

c. Goal 8 of the Growth Management Act states: Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 8 by protecting streams and other water bodies that provide fish habitat (particularly anadromous fish) and the riparian areas necessary to their healthy functioning.

d. Goal 9 of the Growth Management Act states: Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water and develop parks and recreation facilities.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 9 by providing protection for identified priority fish and wildlife species and habitat designated by Washington Department of Fish and Wildlife or listed under the Endangered Species Act. The draft ordinance seeks to balance recreation and habitat protection by providing exemptions for less intensive or “passive” recreation activities in critical areas – such as bird watching and nature study.

e. Goal 10 of the Growth Management Act states: Protect the environment and enhance the state’s high quality of life, including air and water quality, and the availability of water.

Finding: The draft Critical Area Ordinance substantially advances achievement of GMA Goal 10 by providing protection for fish and wildlife habitat (including water bodies), flood plains, geologic hazard areas and wetlands and ensuring that any unavoidable impacts to these resources are minimized and mitigated.

f. Goal 11 of the Growth Management Act states: Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

2. Best Available Science (BAS)

Amendments to the GMA require jurisdictions to include BAS in designating and protecting critical areas and in developing policies and development regulations to protect their functions and values. In addition, special consideration is to be given to conservation or protection measures necessary to preserve or enhance anadromous fisheries.

The draft ordinance is based on BAS. BAS sources used are of two types, scientific literature and local assessments or review. The sections below describe the BAS upon which designation and protection of the critical areas are based.

o Fish & Wildlife Habitat Conservation Areas

Designation. The purpose of designating fish and wildlife habitat conservation areas is to protect the habitat functions provided by the areas. Functions include:

- Providing habitat for breeding, rearing, foraging, protection and escape, migration, and over-wintering; and
- Providing complexity of physical structure, supporting biological diversity, regulating stormwater runoff and infiltration, removing pollutants from water, and maintaining appropriate temperatures.

RCW 36.70A.030 and WAC 365-190-030 specify that critical areas include fish and wildlife habitat conservation areas. WAC 365-190-080 and The Critical Areas Assistance Handbook, Washington State Department of Commerce (formally Community, Trade and Economic Development) November, 2003, list fish and wildlife habitat conservation areas as critical areas requiring designation and protection. Areas include:

- Areas with which state or federally designated endangered, threatened, and sensitive species have a primary association,
- State Priority Habits and areas associated with State Priority Species
- Habitats and species of local importance
- Naturally occurring ponds under twenty acres
- Water of the state
- Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity
- State natural area preserves and natural resource conservation areas
- Areas of rare plant species and high quality ecosystems
- Land useful or essential for preserving connections between habitat blocks and open spaces

Finding: The Critical Area Ordinance protections for fish and wildlife habitat are based on best available science, including scientific literature about the functions and values of these areas and local assessments of fish and wildlife habitat and the risks to them.

o Frequently Flooded Areas

Designation. Frequently flooded areas are those that are subject to inundation by the base (100-year) flood and are also known as the *100-year floodplain* or *areas of special flood hazards*. The 100-year flood was established as the base flood by federal law (44 CFR 59.1) and state law (WAC 173-158-030).

Frequently flooded areas include the floodway and the flood fringe. The floodway is the area that must be kept free of encroachment in order to discharge the base flood without raising the flood elevation by more than one foot. The flood fringe is the remaining portion of the floodplain. These areas are also defined by federal law (44 CFR 59.1 and 4 CFR 60.3(d)(2)) and state law (WAC 173-158-030).

The Federal Insurance Administration and Federal Emergency Management Agency identified the areas of special flood hazards in scientific and engineering reports entitled The Flood Insurance Study for Yakima County,

Washington and Incorporated Areas” dated November 18, 2009. As part of its responsibility for managing the National Flood Insurance Program (NFIP), the Federal Emergency Management Agency (FEMA) reviews and approves proposed floodplain map amendments. At this time, the existing maps as amended constitute the best available science for designating frequently flooded areas. The proposed code language allows the City to use the most up-to-date maps as they become available.

Finding: Designation of frequently flooded areas is based on best available science.

- o Geologic Hazard Areas

Designation. Under GMA, landslide, seismic, and erosion hazard areas are required to be designated and protected through development regulations. These regulations are intended to minimize or eliminate potential damage to life and property from a geologic hazard; and to maintain or reduce the risk of a geologic hazard due to development.

(A) Landslide Hazard Areas. Designated landslide hazard areas include steep slopes; areas of historic, active, or potential landslides, and adjacent areas within 100 feet. Steep slopes are those greater than 25%.

(B) Seismic Hazard Areas. Seismic hazard areas include areas of potential liquefaction, ground shaking amplification, and fault rupture hazards. Liquefaction occurs when a soil loses its strength and behaves like a liquid rather than a solid causing damage to buildings and infrastructure. Ground shaking amplification depends on soil type as well. As waves generated by an earthquake move through certain soils, they become stronger and cause greater damage. Faults are cracks in the earth’s crust. Earthquakes may be caused by the two faces of the fault slipping against one another or moving apart.

Therefore, the proposed code allows for the possibility that faults could be identified and designates them and adjacent areas within 100 feet as seismic hazard areas.

(C) Erosion Hazard Areas. Erosion hazard areas include areas where soil type and slope present a severe risk of erosion and areas along lakes, streams, and rivers that are subject to regression or retreat due to fluvial processes as well as adjacent land within 100’. The former are designated as *soil erosion hazard areas* and the latter as bank erosion hazard areas in the proposed code.

Soil erosion hazard areas are identified as having a severe erosion hazard by the 1985 USDA Soil Conservation Service Soil Survey of Yakima County Washington. This study is the most recent and comprehensive study of soils for this area. This is the best available science for designating soil erosion hazard areas and is the information that the proposed code relies upon in doing so.

Finding: Designations of geologic (landslide, seismic, and erosion) hazard areas are based upon best available science.

- o Wetlands

Designation. The purpose of designating wetlands is to protect the functions of the wetlands. Functions include:

- Hydrology – controlling the movement of water, both surface and ground water, in the watershed
- Water quality – removing pollution, maintaining water temperatures
- Habitat – providing habitat for fish, wildlife and plants

RCW 36.70A.030 and WAC 365-190-030 specify that critical areas include wetlands. WAC 365-190-080 and The Critical Areas Assistance Handbook, Washington State Department of Commerce (formally Community, Trade and Economic Development), November, 2003, list wetlands as critical areas requiring designation and protection.

Wetlands are designated according to the system provided by Ecology (Hruby, 2004, Washington State Wetland Rating System for Eastern Washington Revised). Wetland functions are evaluated using the Wetland Rating Form for Eastern Washington. The rating, that takes place in the field, results in a score for each of the functions (hydrology, water quality, and habitat), and a total score for all functions. A wetland is designated as one of four categories depending on the rating score and certain other characteristics of the wetland.

Category I wetlands are those that meet one or more of the following criteria:

- Wetlands that are identified by scientists of the Washington Department of Natural Resources Washington Natural Heritage Program as high quality wetlands;
- Bogs larger than ½ acre;
- Mature and old growth forested wetlands larger than 1 acre;
- Wetlands that perform many functions well, as indicated by scoring 70 points (out of 100) in the rating system.

Category II wetlands are those that meet one or more of the following criteria:

- Wetlands identified by the Washington Natural Heritage Program as containing “sensitive” plant species;
- Bogs between ¼ and ½ acre in size;
- Wetlands with a moderately high level of functions, as indicated by scoring 51-69 in the Ecology rating system.

Category III wetlands are those with a moderate level of functions, as indicated by scoring 30-50 in the Ecology rating system.

Category IV wetlands are those with a low level of functions, as indicated by scoring less than 30 in the Ecology rating system. An inventory of wetlands within the City of Zillah is not available. The Yakima County Geographic Information System contains a data layer for critical areas consisting of maps from the National Wetlands Inventory. Areas within the city that meet the definition of wetlands, whether mapped or not, are designated as wetlands and are subject to the provisions of the draft ordinance.

Finding: The Critical Area Ordinance wetlands designations are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.

- Critical Aquifer Recharge Areas

Designation. The definition of BAS has both legal and scientific aspects. For designating critical aquifer recharge areas, BAS depends on an evaluation of aquifer vulnerability and susceptibility, and points to wellhead protection areas generated through a variety of widely-accepted methods and models depending on the local situation. The State’s Model Critical Areas Ordinance recommends designating the 10- year time-of-travel zone as the critical aquifer recharge area.

Vulnerability and susceptibility have been evaluated for the City’s aquifers, and time-of-travel zones have been modeled. According to the studies, there is a moderate to high degree of susceptibility in large areas of the City. However, the finer points of the studies and modeling are debatable. Further, determining which time-of-travel zone is the most appropriate for regulatory purposes is very difficult.

Using a time-of-travel zone for regulatory purposes is difficult for several reasons. Such zones are not static, but very dynamic, and imprecise. It would be difficult to say with a high degree of confidence that a particular property is inside or outside the zone during a given period of time. More predictability for planning and development processes is necessary. In addition, an operation just outside the bounds of a zone can contaminate water resources just as quickly as one just inside its bounds. A substantial amount of the City’s groundwater recharge originates outside its boundaries, throughout an area much larger than the City itself and the 10-year time-of-travel zones it encompasses.

Finding: Best available science has been used in designating the entire City as the critical aquifer recharge area. There is no scientifically reasonable and practical way to accurately determine areas within the City that may not need the basic protections of the Critical Area Ordinance and exclude them.

C. Streamlining Permitting and Enforcement Processes

A main feature of the proposed ordinance is the consolidation of the existing permitting procedures which results in a more efficient and less cumbersome review process for both applicant and staff. The proposed permitting and enforcement processes build on existing review procedures already in place but also seek to streamline whenever possible.

Finding: The proposed Critical Area Ordinance streamlines permitting and enforcement processes furthering the City's compliance with GMA.

D. Commitments

The City is committed to “*Promote planned and coordinated growth and the delivery of public services in a fiscally responsible manner in and near the City of Selah.*” Strategies to realize this commitment include encouraging citizen involvement in planning processes and developing partnerships to implement environmental goals, objectives, policies, and regulations.

The draft Critical Area Ordinance employs development regulations to achieve and balance environmental protection and economic development goals.

E. Comprehensive Plan

The following Comprehensive Plan goals and policies support and are supported by the provisions of the draft Critical Area Ordinance:

Land Use Goals and Policies

Comprehensive Plan: The following Comprehensive Plan policies support and are supported by the provisions of the draft Critical Area Ordinance:

Land Use and Growth Management

Land Use Goal: Provide for the protection of significant natural areas and the public health through land use policies.

Policy LUGM #4.1: Provide for the protection of wellheads and springs from land uses that present a threat to surface and groundwater quality. Aquifer recharge areas shall be subject to close scrutiny and intergovernmental efforts to control potential threats to aquifer contamination.

Policy LUGM #4.2: Protect shoreline areas from incompatible types and intensities of development through careful application and periodic review of the Selah Shoreline Master Program (SMP). All goals and policies of the SMP and any subsequent amendments shall be adopted by reference in their entirety to assure consistency between the Comprehensive Plan and the SMP.

Policy LUGM #4.3: Integrate flexibility into development regulations that would allow for incentives and bonuses for developers who maintain natural areas and open space as a part of new development.

Policy LUGM #4.4: Continue to upgrade and refine City regulations to protect wetlands, aquifer recharge areas, frequently flooded areas, seismic hazard areas, steep slopes, agricultural areas, and anadromous fish habitat from incompatible levels or types of development in accordance with the Washington Growth Management Act.

Policy LUGM #4.5: Ensure that land use practices in geologically hazardous areas do not cause or exacerbate natural processes which may endanger lives, property or resources.

Natural Environment

Goal: Respect the Floodplain

Objective ENV 1: Respect habitat and wetland areas within the 100-year floodplain.

Policy ENV 1.1: Map important habitat and wetland areas within the 100-year floodplain.

Policy ENV 1.2: Adopt wildlife and wetland habitat overlay zones within the zoning ordinance.

Policy ENV 1.3: Require appropriate studies for projects in the 100-year floodplain, as identified on Federal Emergency Management Agency (FEMA) flood maps.

Policy ENV 1.4: Only developments which respect the floodplain and meet appropriate local, state and federal requirements will be allowed in the 100-year floodplain.

GOAL: Preserve the natural stormwater storage capacity of the floodplain.

Objective ENV 2: Adopt land use policies that reduce or eliminate negative impacts of development on stormwater drainage capacities and systems.

Policy ENV 2.1: Encourage the retention of native vegetation or the creation of vegetative buffers near drainage courses to preserve water quality, and to aid in bio-filtration of stormwater.

Policy ENV 2.2: Minimize adverse stormwater impacts generated by the removal of vegetation and alteration of landforms.

GOAL: Promote and enhance surface and groundwater quality.

Objective ENV 3: Maintain and manage the quality of surface and groundwater resources as near as possible to their natural condition and in compliance with state water quality standards.

Policy ENV 3.1: Develop performance standards and regulate uses for activities which adversely impact water quantity and quality in aquifers, watersheds and surface waters.

Policy ENV 3.2: Evaluate the potential impact of development proposals on groundwater quality, and require alternative site designs to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

Policy ENV 3.3: Encourage the retention of natural open spaces in development proposals overlying areas highly susceptible for contaminating groundwater resources.

Policy ENV 3.4: Support regional educational efforts which inform citizens of measures they can take to reduce contaminant loading of groundwater systems.

Policy ENV 3.5: Protect water quality from the adverse impacts associated with erosion and sedimentation.

Policy ENV 3.6: Encourage the use of drainage, erosion, and sediment control practices for all construction or development activities.

Policy ENV 3.7: Make use of local and regional data sources to monitor and assess surface and groundwater quality.

Policy ENV 3.8: Participate in water quality improvement planning and implementation efforts by local, regional, state, federal and tribal agencies.

GOAL: Provide appropriate protection for recognized habitat and critical areas.

Objective ENV 4: Establish specific, science-based criteria for identification and protection of environmentally sensitive resources.

Policy ENV 4.1: Monitor designated environmental critical areas to ensure continue viability and protection.

Policy ENV 4.2: Integrate environmental considerations into all planning efforts and comply with all state and federally mandated environmental legislation.

Policy ENV 4.3: Support regional efforts for the protection of fish and wildlife habitat consistent with science-based criteria to protect the natural values and functions of those habitats. Fish and wildlife habitat protection considerations should include:

1. The physical and hydrological connections between different habitat types to prevent isolation of those habitats;
2. Diversity of habitat types both on a local and regional scale;
3. Large tracts of fish and wildlife habitat;
4. Areas of high species diversity;
5. Locally or regionally unique or rare habitats;
6. Winter range and migratory bird habitat of seasonal importance.

Policy ENV 4.4: Direct development away from areas containing significant fish and wildlife habitat areas, especially areas that are currently undeveloped or are primarily dominated by low intensity land uses.

Policy ENV 4.5: Limit development projects or require mitigation measures in areas adjacent to public lands containing significant fish and wildlife habitat.

Policy ENV 4.6: Protect the habitat of Washington State Listed Species of Concern and Priority Habitats and Species in order to maintain their populations.

Policy ENV 4.7: Cooperate with resource agencies to prioritize habitats and provide appropriate measures to protect them according to their respective values.

Objective ENV 5: Provide for long-term protection of wetlands.

Policy ENV 5.1: Preserve, protect, manage and regulate wetlands for purposes of public health, safety and general welfare by:

1. Conserving fish, wildlife, and other natural resources;
2. Regulating property use and development to maintain the natural and economic benefits provided by wetlands, consistent with the general welfare of the City;
3. Protecting private property rights consistent with the public interest;
4. Requiring wetland buffers and building setbacks around regulated wetlands to preserve vital wetland functions and values.

Policy ENV 5.2: Adopt a clear definition of a regulated wetland and a method for delineating regulated wetland boundaries.

Policy ENV 5.3: Manage and mitigate human activities or actions that would have a probable adverse impact on the existing conditions or regulated wetlands or their buffers.

Policy ENV 5.4: Require mitigation for any regulated activity which alters regulated wetlands and their buffers.

VI. Findings

- A. The draft Critical Area Ordinance will not cause probable significant adverse environmental impacts.
- B. The proposed method of procedures under SMC 17.07.080, Application are necessary to implement the draft Critical Area Ordinance and streamline its review and permitting processes by integrating them with existing procedures.
- C. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 6 by (1) using best available science to identify and protect critical areas and (2) providing an exception process and a reasonable use exemption for cases where it would be difficult or impossible for landowners to meet the requirements of the ordinance.
- D. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 7 by (1) combining review of four critical areas into one permit, and (2) integrating the Critical Areas Permit with the streamlined development review process most recently adopted by the City as a part of the code update.
- E. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 8 by protecting streams and other water bodies that provide fish habitat (particularly anadromous fish) and the riparian areas necessary to their healthy functioning.
- F. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 9 by providing protection for identified priority fish and wildlife species and habitat designated by Washington Department of Fish and Wildlife or listed under the Endangered Species Act. The draft ordinance seeks to balance recreation and habitat protection by providing exemptions for less intensive or “passive” recreation activities in critical areas – such as bird watching, nature study, trails and wildlife viewing stations.
- G. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 10 by providing protection for fish and wildlife habitat (including water bodies), flood plains, geologic hazard areas and wetlands and ensuring that any unavoidable impacts to these resources are minimized and mitigated.
- H. Best available science has been used to designate fish and wildlife habitat conservation areas, including review of scientific literature, consultation with local experts and agency staff, and local assessments of the resources and their functions.
- I. Designation of frequently flooded areas is based on best available science.
- J. The draft Critical Area Ordinance protects frequently flooded areas and is based on best available science.
- K. Designations of geologic (landslide, seismic, and erosion) hazard areas are based upon best available science.
- L. The draft Critical Area Ordinance protects geologic hazard areas and is based on best available science.
- M. The Critical Area Ordinance wetlands designations are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.
- N. The Critical Area Ordinance protections for wetlands are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.
- O. Best available science has been used in designating the entire City as the critical aquifer recharge area under the Water Resources Protection Ordinance. There is no scientifically reasonable and practical way to accurately determine areas within the City that may not need the basic protections of the Water Resources Protection Ordinance and exclude them.
- P. Best available science has been used in developing policies and development regulations to protect critical aquifer recharge areas.

Q. The proposed Critical Area Ordinance streamlines permitting and enforcement processes furthering the City's compliance with GMA.

R. The draft Critical Area Ordinance supports the City of Selah Urban Growth Area Comprehensive Plan Policies

S. The draft Critical Area Ordinance discourages development in geologically hazardous areas or floodplains and requires that where such development occurs, it is designed to minimize risk to the lives or property of those on the developed property or adjacent to them.

T. Adoption of the Critical Area Ordinance would provide protection to Selah's limited water bodies and wetlands, in keeping with the goals of the Clean Water Act.

VII. Action Requested

Staff requests that based on the facts, analysis, findings, and exhibits submitted with this staff report, the Selah Planning Commission recommend to the City Council the following:

A. Adoption of chapter, SMC 17.07, entitled Critical Area Ordinance; and

Selah Planning Commission - CRITICAL AREA ORDINANCE (CAO)
Findings of Fact & Recommendation March 18, 2014

This matter having come for public hearing before the city of Selah Planning Commission on March 18, 2014 for the purpose of considering a Critical Area Ordinance by the city of Selah which impacts all properties located within the city limits of Selah, Washington, under Selah Municipal Code, Chapter 17.

Members of the Planning Commission present for the Public Hearing were Chairman Willie Quinnell and Planning Commission members Lisa Smith, Dillon Pendleton, Carl Torkelson and Eric Miller.

Legal notification pursuant to Selah Code was given on the March 5, 2014. All persons present were given the opportunity to speak for or against the proposed critical areas protections.

LAND USE FINDINGS

1. The Critical Area Ordinance will impact all properties located within the city limits of Selah containing designated critical areas regardless of comprehensive plan or zoning designation.

PUBLIC OPINION

1. The owners of the adjacent land expressed neither approval / or disapproval of the proposal.
2. Interested agencies expressed neither approval / or disapproval of the proposal.

SPECIFIC FINDINGS APPLICABLE TO THE PROPOSAL

Jurisdiction: Consideration and adoption of Selah Municipal Code, Title 17, Chapter 17.07 is a legislative function, reviewed and recommended for approval by the Selah Planning Commission after consideration at a duly advertised public hearing. Adoption is the legislative function of the Selah City Council with recommendations presented from the Selah Planning Commission. Decisions of City Council are final, unless a request for reconsideration is filed before an appeal of a City Council decision can be filed in Superior Court.

Comprehensive Plan: The following Comprehensive Plan policies support and are supported by the provisions of the draft Critical Area Ordinance:

Land Use and Growth Management

Land Use Goal: Provide for the protection of significant natural areas and the public health through land use policies.

Policy LUGM #4.1: Provide for the protection of wellheads and springs from land uses that present a threat to surface and groundwater quality. Aquifer recharge areas shall be subject to close scrutiny and intergovernmental efforts to control potential threats to aquifer contamination.

Policy LUGM #4.2: Protect shoreline areas from incompatible types and intensities of development through careful application and periodic review of the Selah Shoreline Master Program (SMP). All goals and policies of the SMP and any subsequent amendments shall be adopted by reference in their entirety to assure consistency between the Comprehensive Plan and the SMP.

Policy LUGM #4.3: Integrate flexibility into development regulations that would allow for incentives and bonuses for developers who maintain natural areas and open space as a part of new development.

Policy LUGM #4.4: Continue to upgrade and refine City regulations to protect wetlands, aquifer recharge areas, frequently flooded areas, seismic hazard areas, steep slopes, agricultural areas, and anadromous fish habitat from incompatible levels or types of development in accordance with the Washington Growth Management Act.

Policy LUGM #4.5: Ensure that land use practices in geologically hazardous areas do not cause or exacerbate natural processes which may endanger lives, property or resources.

Natural Environment

Goal: Respect the Floodplain

Objective ENV 1: Respect habitat and wetland areas within the 100-year floodplain.

Policy ENV 1.1: Map important habitat and wetland areas within the 100-year floodplain.

Policy ENV 1.2: Adopt wildlife and wetland habitat overlay zones within the zoning ordinance.

Policy ENV 1.3: Require appropriate studies for projects in the 100-year floodplain, as identified on Federal Emergency Management Agency (FEMA) flood maps.

Policy ENV 1.4: Only developments which respect the floodplain and meet appropriate local, state and federal requirements will be allowed in the 100-year floodplain.

GOAL: Preserve the natural stormwater storage capacity of the floodplain.

Objective ENV 2: Adopt land use policies that reduce or eliminate negative impacts of development on stormwater drainage capacities and systems.

Policy ENV 2.1: Encourage the retention of native vegetation or the creation of vegetative buffers near drainage courses to preserve water quality, and to aid in bio-filtration of stormwater.

Policy ENV 2.2: Minimize adverse stormwater impacts generated by the removal of vegetation and alteration of landforms.

GOAL: Promote and enhance surface and groundwater quality.

Objective ENV 3: Maintain and manage the quality of surface and groundwater resources as near as possible to their natural condition and in compliance with state water quality standards.

Policy ENV 3.1: Develop performance standards and regulate uses for activities which adversely impact water quantity and quality in aquifers, watersheds and surface waters.

Policy ENV 3.2: Evaluate the potential impact of development proposals on groundwater quality, and require alternative site designs to reduce contaminant loading where site conditions indicate that the proposed action will measurably degrade groundwater quality.

Policy ENV 3.3: Encourage the retention of natural open spaces in development proposals overlying areas highly susceptible for contaminating groundwater resources.

Policy ENV 3.4: Support regional educational efforts which inform citizens of measures they can take to reduce contaminant loading of groundwater systems.

Policy ENV 3.5: Protect water quality from the adverse impacts associated with erosion and sedimentation.

Policy ENV 3.6: Encourage the use of drainage, erosion, and sediment control practices for all construction or development activities.

Policy ENV 3.7: Make use of local and regional data sources to monitor and assess surface and groundwater quality.

Policy ENV 3.8: Participate in water quality improvement planning and implementation efforts by local, regional, state, federal and tribal agencies.

GOAL: Provide appropriate protection for recognized habitat and critical areas.

Objective ENV 4: Establish specific, science-based criteria for identification and protection of environmentally sensitive resources.

Policy ENV 4.1: Monitor designated environmental critical areas to ensure continue viability and protection.

Policy ENV 4.2: Integrate environmental considerations into all planning efforts and comply with all state and federally mandated environmental legislation.

Policy ENV 4.3: Support regional efforts for the protection of fish and wildlife habitat consistent with science-based criteria to protect the natural values and functions of those habitats. Fish and wildlife habitat protection considerations should include:

1. The physical and hydrological connections between different habitat types to prevent isolation of those habitats;
2. Diversity of habitat types both on a local and regional scale;
3. Large tracts of fish and wildlife habitat;
4. Areas of high species diversity;
5. Locally or regionally unique or rare habitats;
6. Winter range and migratory bird habitat of seasonal importance.

Policy ENV 4.4: Direct development away from areas containing significant fish and wildlife habitat areas, especially areas that are currently undeveloped or are primarily dominated by low intensity land uses.

Policy ENV 4.5: Limit development projects or require mitigation measures in areas adjacent to public lands containing significant fish and wildlife habitat.

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4. Requiring wetland buffers and building setbacks around regulated wetlands to preserve vital wetland functions and values.

Policy ENV 5.2: Adopt a clear definition of a regulated wetland and a method for delineating regulated wetland boundaries.

Policy ENV 5.3: Manage and mitigate human activities or actions that would have a probable adverse impact on the existing conditions or regulated wetlands or their buffers.

Policy ENV 5.4: Require mitigation for any regulated activity which alters regulated wetlands and their buffers.

Environmental Review:

Factual Findings: A SEPA Checklist was prepared on February 20, 2014 and a SEPA Determination of Non-significance (DNS) was issued on March 5, 2014 for the draft Critical Area Ordinance. No written comments were received during the comment period. A Final SEPA DNS will be issued on March 20, 2014.

Conclusions: The draft Critical Area Ordinance will not cause probable significant adverse environmental impacts.

Findings of Fact- *Critical Areas Protection Ordinance*

A. The draft Critical Area Ordinance will not cause probable significant adverse environmental impacts.

B. The proposed method of procedures under proposed SMC 17.07.080, Application are necessary to implement the draft Critical Area Ordinance and streamline its review and permitting processes by integrating them with existing procedures.

C. The draft Critical Area Ordinance substantially advances achievement of Growth Management Act (GMA) Goal 6 by (1) using best available science to identify and protect critical areas and (2) providing an exception process and a reasonable use exemption for cases where it would be difficult or impossible for landowners to meet the requirements of the ordinance.

D. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 7 by (1) combining review of four critical areas into one permit.

E. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 8 by protecting streams and other water bodies that provide fish habitat (particularly anadromous fish) and the riparian areas necessary to their healthy functioning.

F. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 9 by providing protection for identified priority fish and wildlife species and habitat designated by Washington Department of Fish and Wildlife or listed under the Endangered Species Act. The draft ordinance seeks to balance recreation and habitat protection by providing exemptions for less intensive or “passive” recreation activities in critical areas – such as bird watching, nature study, trails and wildlife viewing stations.

G. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 10 by providing protection for fish and wildlife habitat (including water bodies), flood plains, geologic hazard areas and wetlands and ensuring that any unavoidable impacts to these resources are minimized and mitigated.

H. Best available science has been used to designate fish and wildlife habitat conservation areas, including review of scientific literature, consultation with local experts and agency staff, and local assessments of the resources and their functions.

I. Designation of frequently flooded areas is based on best available science.

J. The draft Critical Area Ordinance protects frequently flooded areas and is based on best available science.

K. Designations of geologic (landslide, seismic, and erosion) hazard areas are based upon best available science.

L. The draft Critical Area Ordinance protects geologic hazard areas and is based on best available science.

M. The Critical Area Ordinance wetlands designations are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.

N. The Critical Area Ordinance protections for wetlands are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.

O. Best available science has been used in developing policies and development regulations to protect critical aquifer recharge areas.

P. The proposed Critical Area Ordinance streamlines permitting and enforcement processes furthering the City’s compliance with GMA.

Q. The draft Critical Area Ordinance supports Selah Comprehensive Plan Policies.

R. The draft Critical Area Ordinance discourages development in geologically hazardous areas or floodplains and requires that where such development occurs, it is designed to minimize risk to the lives or property of those on the developed property or adjacent to them.

S. Adoption of the Critical Area Ordinance would provide protection to Selah’s limited water bodies and wetlands, in keeping with the goals of the Clean Water Act.

CONCLUSIONS

Based upon consideration of the above factors and the specific findings, applicable to the proposal, the proposal is CONSISTENT with the criteria, purpose, and intent of the Washington State Growth Management Act and the Selah Urban Growth Area Comprehensive Plan.

Reasons for approval or denial: Based on the findings of fact, it is in the City’s interest to approve the proposed critical area ordinance.

Chairman Quinnell called for questions or comments from the Commissioners.

There was little discussion on the Ordinance

Chairman Quinnell called for a motion on the ordinance and the findings and decision.

Motion to recommend approve the critical area ordinance by: Torkelson, Seconded by: Pendleton. Vote: 4/0.

Motion to adopt findings of fact by: Torkelson, Seconded by: Miller. Vote:4/0.

G: General Business

1. Old Business - None
2. New Business – None

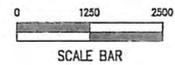
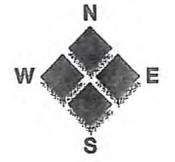
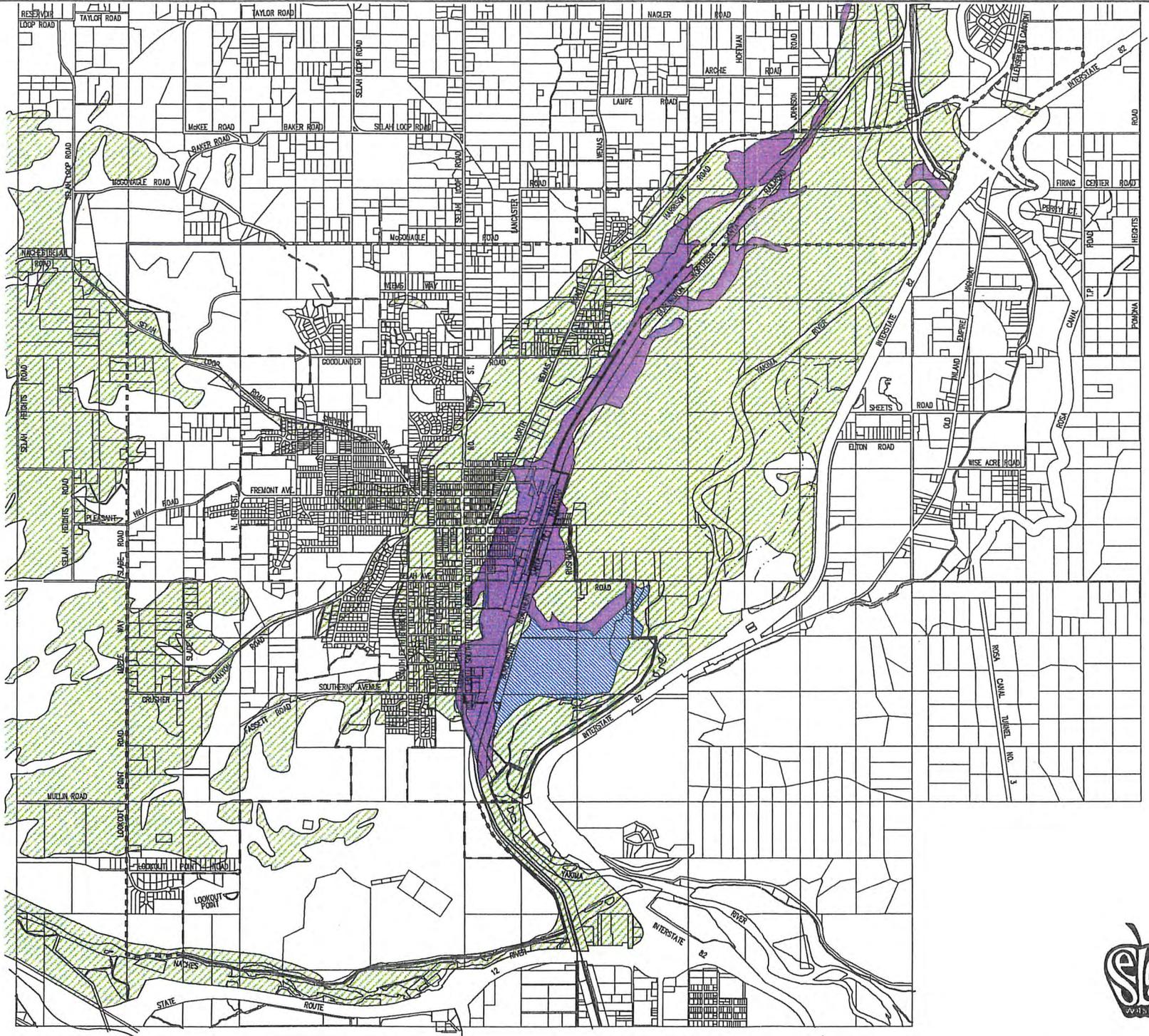
H. Reports/Announcements

1. Chairman – none
2. Commissioners – none.
3. Staff – Mr. Davison stated three are several proposals that will be going before the Hearings Examiner and some coming to the Commission.

I. Adjournment

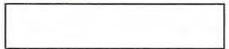
Chairman Quinnell called for a motion to adjourn. Commissioner Torkelson moved to adjourn and Commissioner Miller seconded the motion, the meeting was adjourned at 6:35 pm.

Chairman

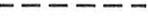


PERMEABLE SOILS

LEGEND

-  HIGH PERMEABILITY
-  MODERATE PERMEABILITY
-  SLOW PERMEABILITY
-  NOT CLASSIFIED AS PERMEABLE

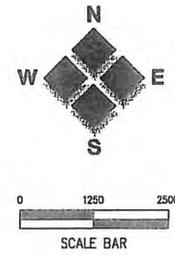
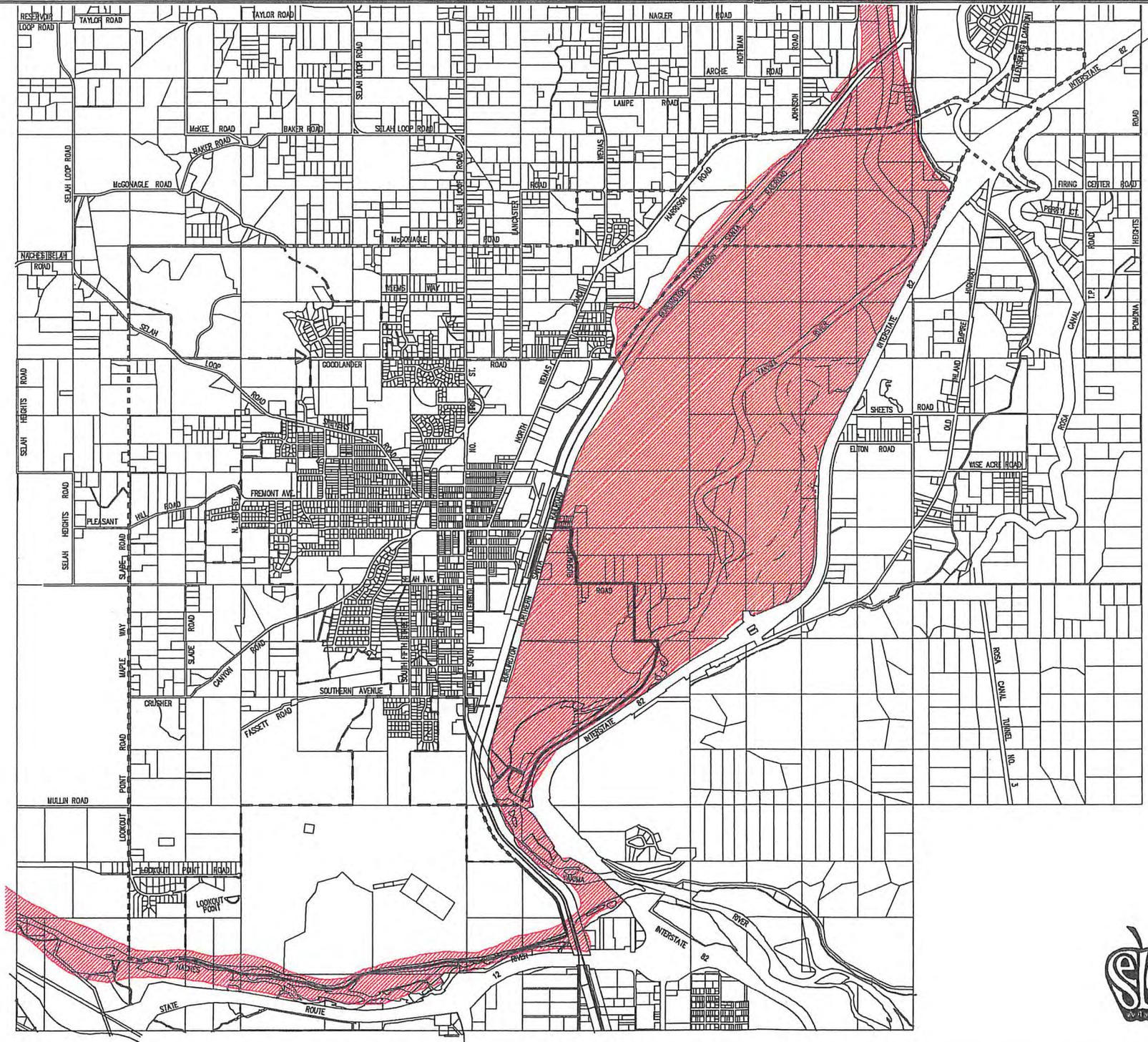
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- MUNICIPAL BOUNDARY & URBAN GROWTH AREA BOUNDARY 



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 3800 Sunnyside, Suite 100 • Yelm, WA 98502
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EXHIBIT 2



FLOODPLAINS

LEGEND

 FEMA 100 YEAR FLOODPLAIN

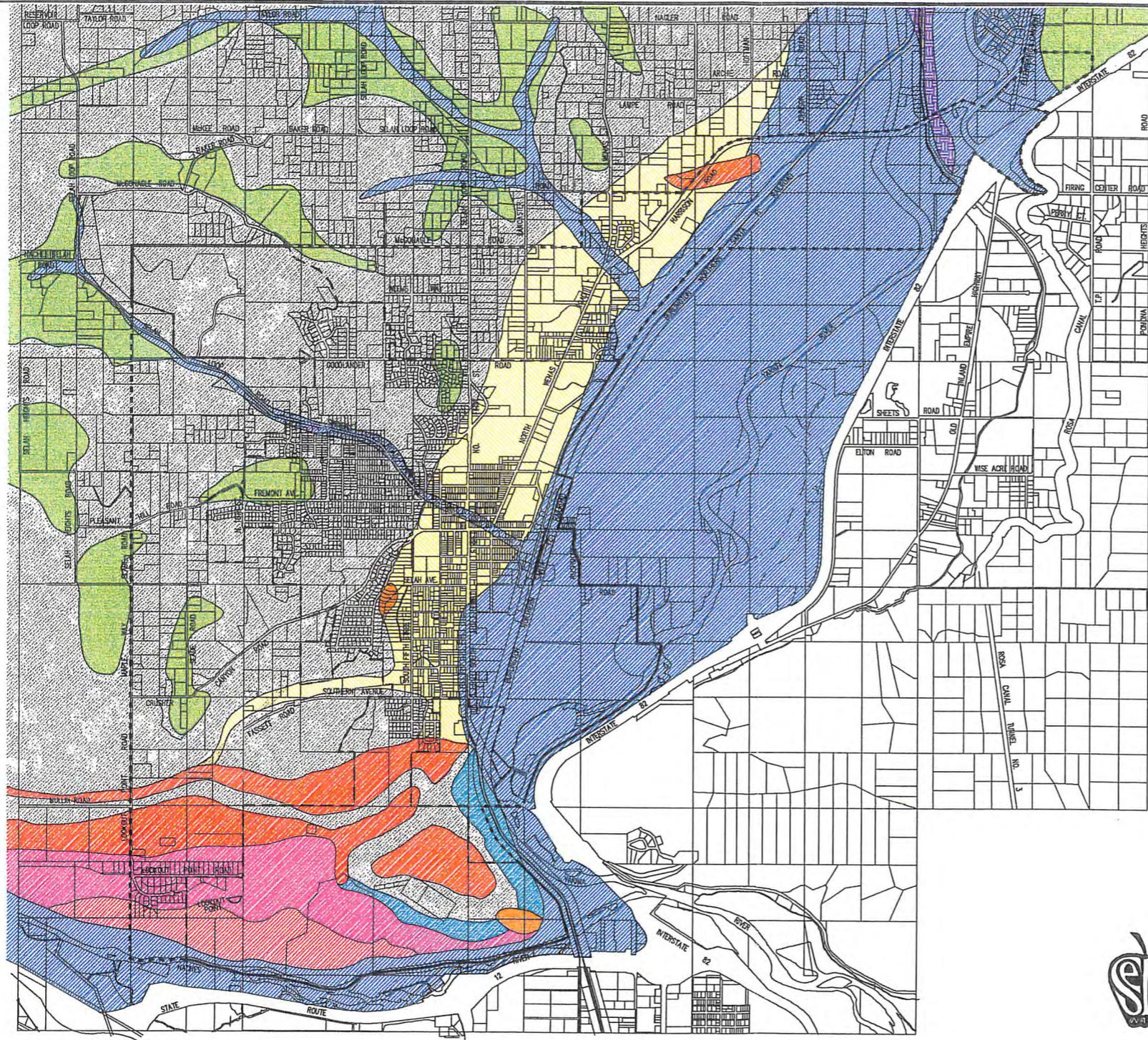
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EXHIBIT 3



UNDERLYING GEOLOGY

LEGEND

-  WANAPUM BASALT
-  EOLIAN DEPOSITS
-  ALLUVIUM
-  POMONA MEMBER
-  GRANDE RONDE BASALT
-  TERRACED DEPOSITS
-  LANDSLIDE DEPOSITS
-  ELLENSBURG FORMATION
-  FRENCHMAN SPRINGS
-  PRIEST RAPIDS MEMBER

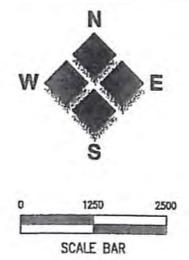
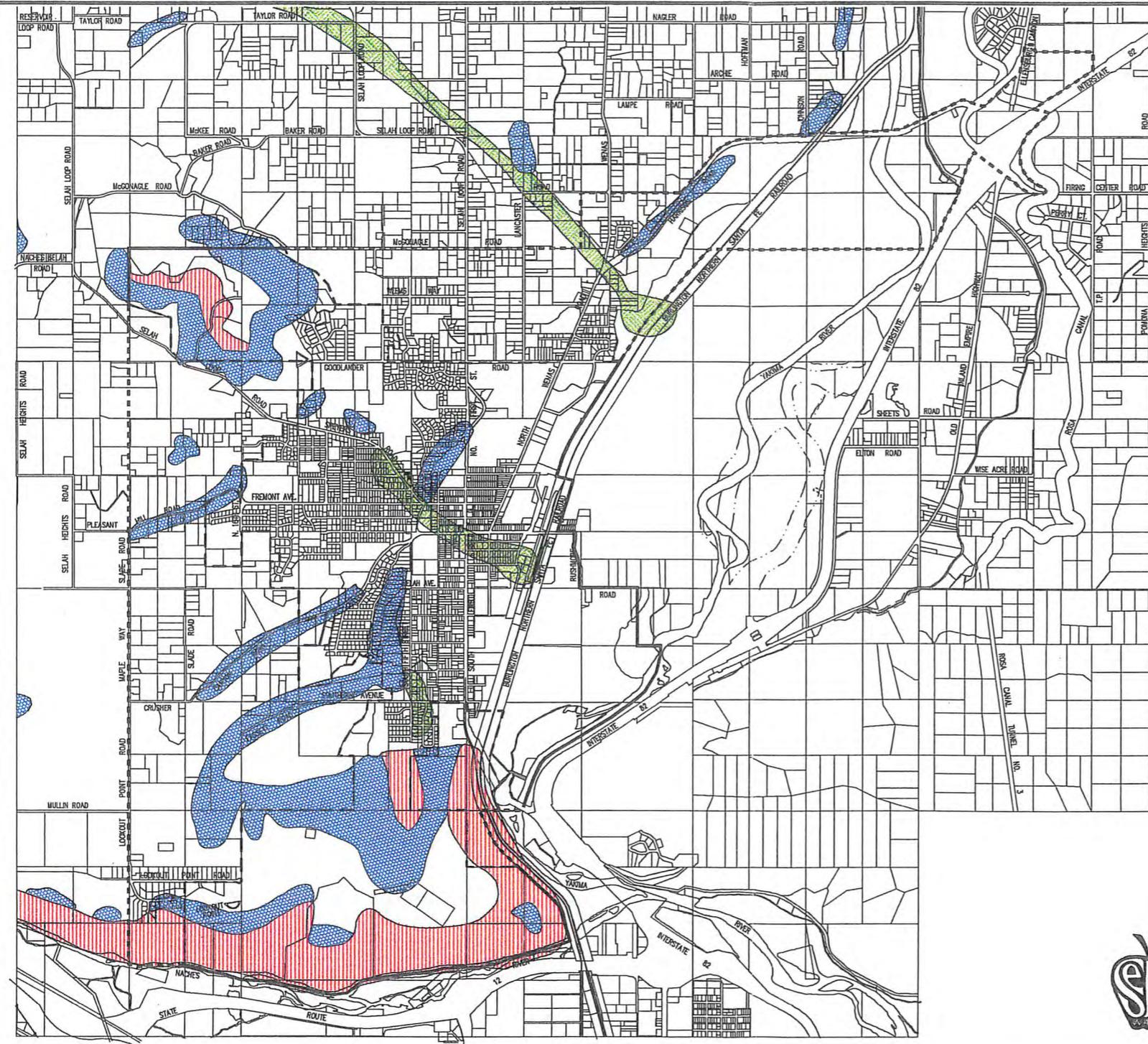
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EXHIBIT 4



GEOLOGIC HAZARDS

LEGEND

OVERSTEEP SLOPES

-  HIGH RISK
-  LOW RISK

ALLUVIAL FAN DEPOSITION

-  LOW RISK

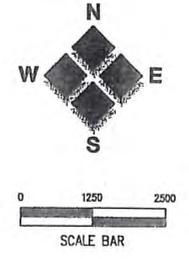
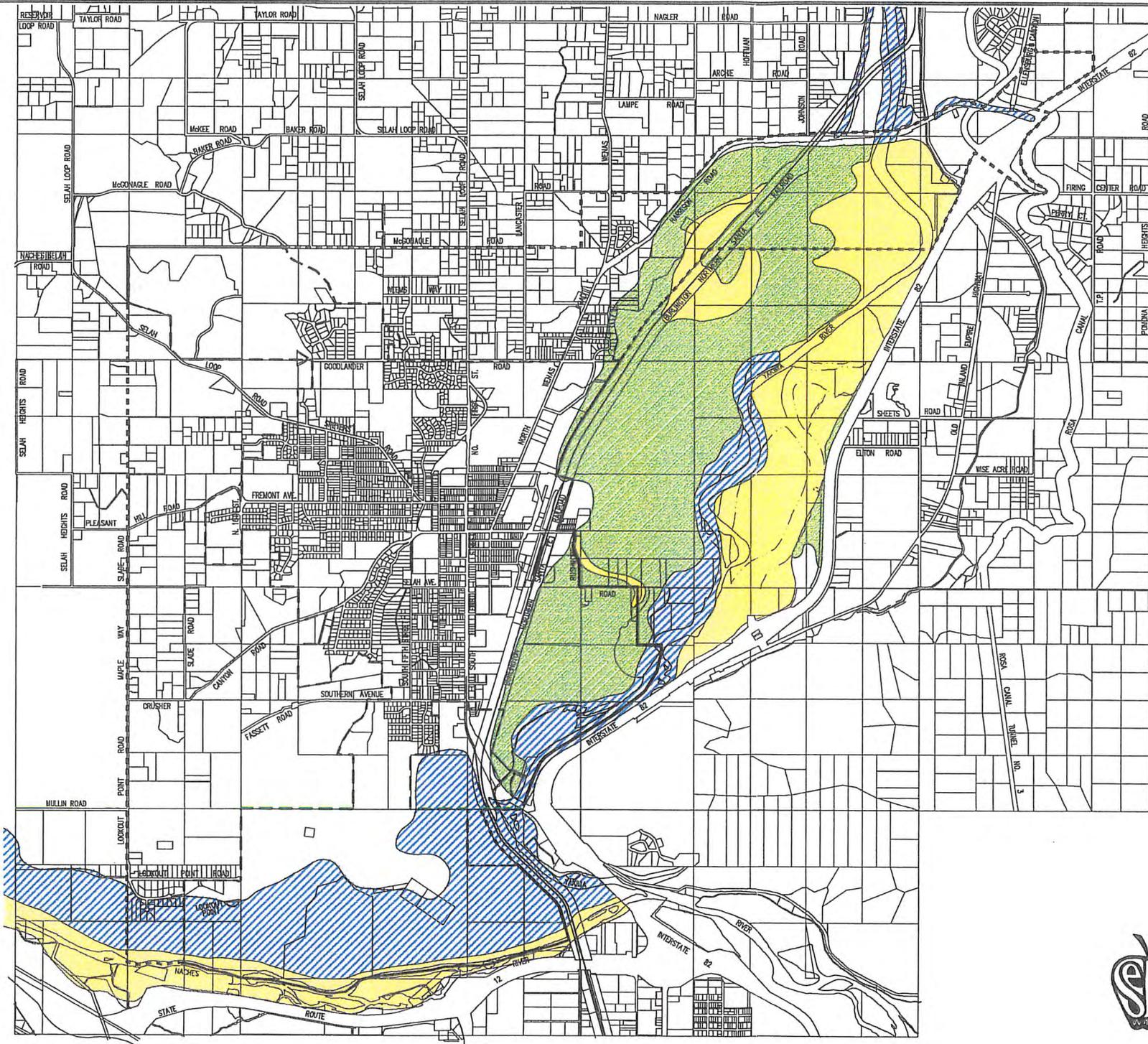
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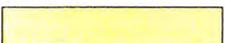
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EXHIBIT 5



WILDLIFE HABITAT AREAS

LEGEND

-  HABITAT AREAS
-  BREEDING OR COMMUNAL ROOSTING AREAS
-  AREAS OF OBSERVED PRESENCE

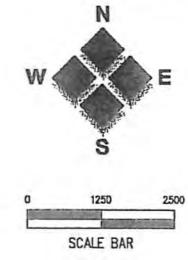
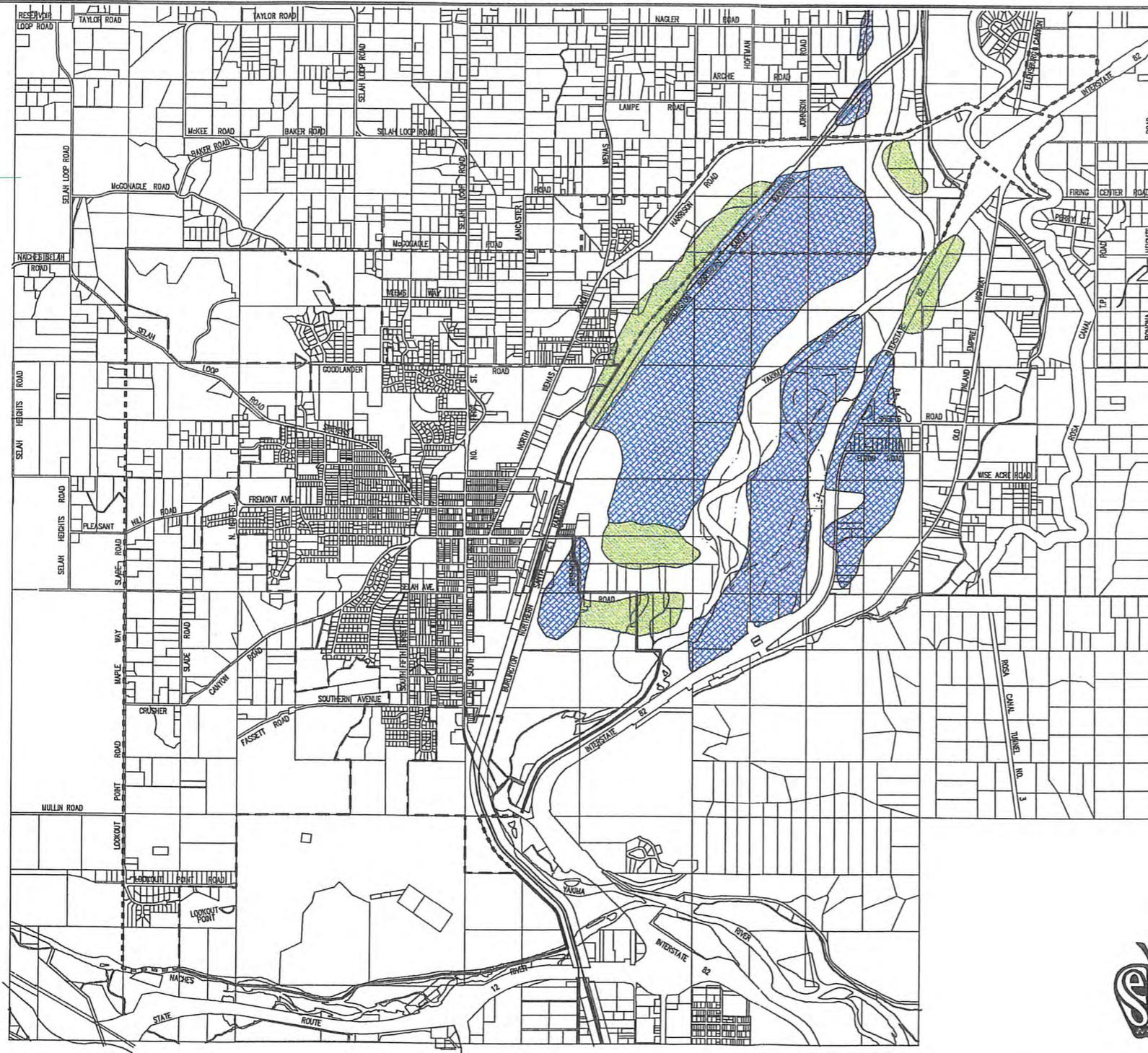
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EXHIBIT 6



MINERAL POTENTIALS

LEGEND

GRAVEL DEPOSITS

-  CONCRETE GRADE - GOOD
-  CONCRETE GRADE - FAIR

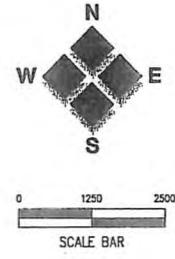
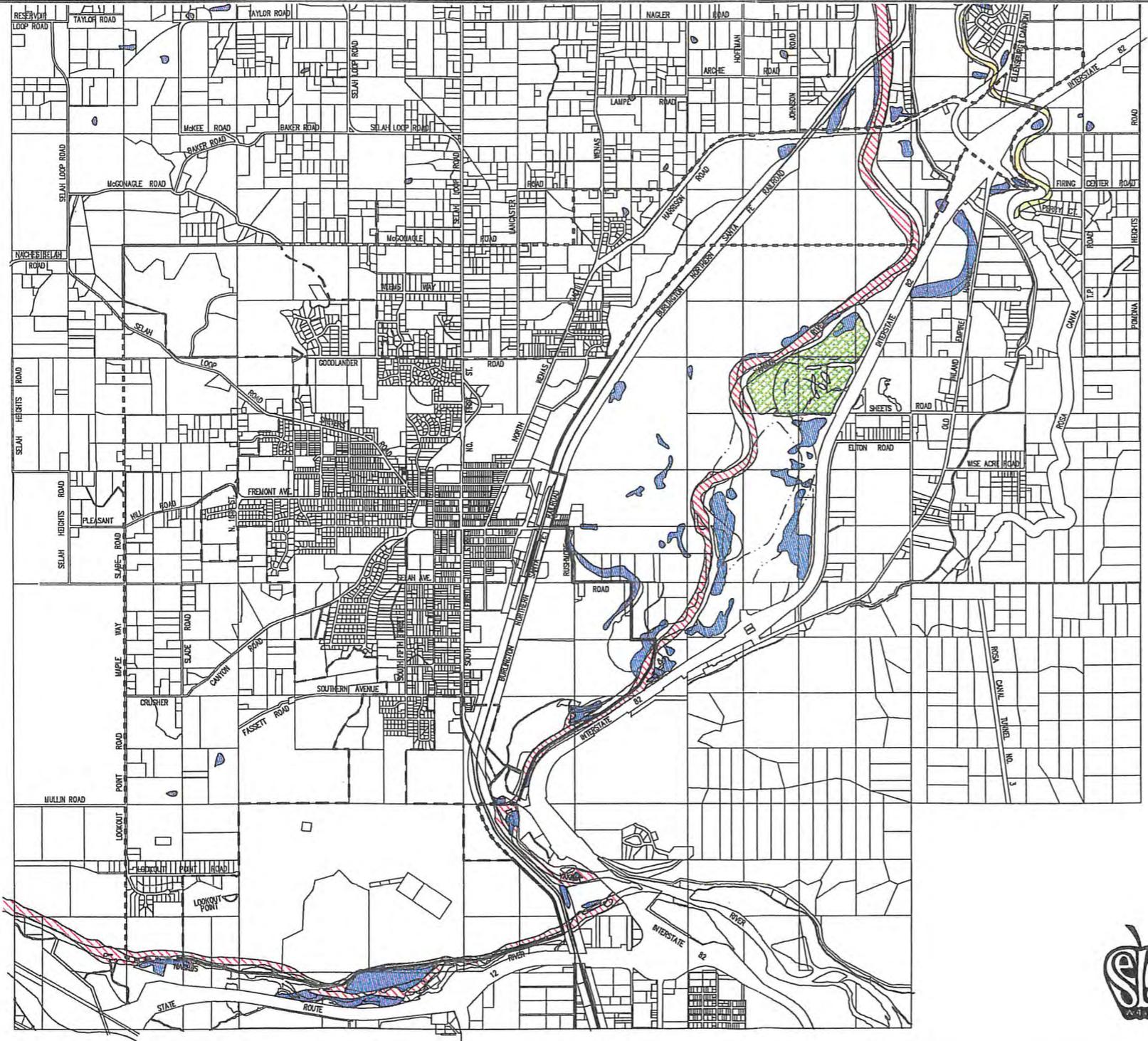
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EXHIBIT 7



WETLANDS

LEGEND

-  RIVERINE LOWER PERENNIAL
-  RIVERINE UPPER PERENNIAL
-  PALUSTRINE
-  LACUSTRINE LIMNETIC

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EXHIBIT 1



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING ACTION ITEM

3/25/2014 N – 2

Title: Ordinance Amending the 2014 Budget For Street Improvements on Valleyview Avenue, South 3rd Street, Southern Avenue and South 1st Street

Thru: David Kelly, City Administrator

From: Dale Novobielski, Clerk/Treasurer

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$ 220,462.

Funding Source: F115 Local Access Street Improvement \$ 29,762 and Department of Transportation Federal Aid \$ 190,700.

Staff Recommendation:

Approve an Ordinance amending the 2014 Budget for street improvements on Valleyview Avenue, South 3rd Street, Southern Avenue and South 1st Street.

Background / Findings & Facts:

At the December 10, 2013 Council meeting Resolutions were approved authorizing the Mayor to sign a Local Agency Standard Consulting Agreement for engineering services and an agreement for acceptance services for street improvements on Valleyview Avenue, South 3rd Street, Southern Avenue, and South 1st Street.



CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY



Recommended Motion:

I move to approve the Ordinance amending the 2014 Budget for street improvements on Valleyview Avenue, South 3rd Street, Southern Avenue and South First Street.



CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY



Record of all prior actions taken by the City Council and/or a City Board, City Committee, Planning Commission, or the Hearing Examiner (where applicable)

Date:

Action Taken:

12/10/2013

Resolution authorizing the Mayor to sign a local agency standard consulting agreement for professional municipal engineering services with Huibregtse Louman Associates, Inc for the Valleyview Avenue, South 3rd Street, Southern Avenue and South 1st Street project.

12/10/2013

Resolution authorizing the Mayor to sign an agreement for certified acceptance services with Yakima County, Washington – STP Paving Project on Valleyview Avenue, South 3rd Street, Southern Avenue and South 1st Street.

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ORDINANCE NO. _____

AN ORDINANCE AMENDING THE 2014 BUDGET FOR STREET
IMPROVEMENTS ON VALLEYVIEW AVENUE, SOUTH 3RD STREET,
SOUTHERN AVENUE AND SOUTH 1ST STREET

WHEREAS, the City desires to amend the 2014 budget for street improvements on Valleyview Avenue, South 3rd Street, Southern Avenue and South 1st Street;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, does ordain as follows: that the Clerk-Treasurer be authorized to amend the 2014 Budget as follows:

111 Street Improvement

111.000.095.333.20.02.00	STP Grant – VV/3 rd /Southern/S 1 st	\$ 190,700
111.000.095.397.00.00.00	Operating Transfers-In	29,762

111.000.095.595.30.63.31	Valleyview/S 3 rd /Southern/ S 1st	\$ 220,462
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115 Local Access St Improv.

115.000.097.597.00.01.00	Operating Transfers-Out	\$ 29,762
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115.000.008.508.80.00.00	New Ending Unreserved Fund Balance	\$ 104,508
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PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF SELAH,
WASHINGTON this 25th day of March 2014.

John J. Gawlik, Mayor

ATTEST:

Dale E. Novobielski, Clerk-Treasurer

APPROVED AS TO FORM:

Robert Noe, City Attorney

ORDINANCE NO. _____



**CITY OF SELAH
CITY COUNCIL
AGENDA ITEM SUMMARY**



COUNCIL MEETING INFORMATIONAL ITEM

3/25/2014 P – 4A

Title: Planning Commission Minutes of January 18, 2014

Thru: David Kelly, City Administrator

From: Diana Turner – Public Works Administrative Assistant

Action Requested: Informational - No action

Board/Commission Recommendation: Not applicable

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

Information only

Background / Findings & Facts:

Information only

Recommended Motion:

Information only

City of Selah
Planning Commission Minutes
of
January 21, 2014

Selah Council Chambers
115 W. Naches Ave.
Selah, Washington 98942

A. Call to Order

The meeting was called to order by Vice Chairman Quinnell at 5:30 p.m.

B. Roll Call:

Members Present: Commissioners Smith, Pendleton, and Quinnell

Members Absent:

Staff Present: Dennis Davison, Community Planner; Ty Jones, Public Works Supervisor; Diana Turner, Secretary

Guests: None

C. Agenda Change Mr. Davison stated the Commission needed to elect on a Chairman, Vice Chairman and COG Representative .

Vice Chairman Quinnell called for nominations on Chairman position.

Commission Pendleton nominated Commissioner Quinnell, second by Commissioner Smith. Voice vote 3/0

Vice Chairman Quinnell called for nominations on Vice Chairman position.

Commission Pendleton nominated Commissioner Smith, second by Commissioner Quinnell. Voice vote 3/0

Chairman Quinnell called for nominations on COG Representative.

Commission Smith nominated Commissioner Smith, second by Commissioner Quinnell. Voice vote 3/0

D. Communications

1. Oral -None.

2. Written - None

E. Approval of Minutes

Chairman Quinnell called for a motion on the minutes of the Planning Commission meeting of December 12, 2013.

Commissioner Smith moved to approve the minutes, Chairman Quinnell seconded. Minutes were approved with voice vote 3/0.

F. Public Hearing

1. Old Business None

2. New Business

a. **SELAH COMMUNITY PARKS AND RECREATION PLAN, 2014 - 2019**

Chairman Quinnell opened the public hearing and asked staff to present their report.

Mr. Davison presented the staff report.

Mr. Davison stated there is 37 pages of the Comprehensive Plan for the Parks and Recreation and 5 pages of the draft Findings of Facts. We will send this to Council next week and they will have their own Public Hearing in case they want to amend it. This document has gone through Environmental Review and was submitted to several agencies. As required by Growth Management the Commission has to approve it and then adopted by the Council. Mr. Davison turned over the rest of the staff report to Mr. Jones.

Mr. Jones stated that the Plan has to be updated every 6 years. This is his first time of updating the Plan and he reduced it down to less than 50 pages.

Chairman Quinnell asked how the estimated cost on page 37 was determined.

Mr. Jones stated some of the projects have been estimated by HuiBregtse Louman Associates. He reduced the projects down to ones that he felt could be done in the next 6 years and some he had to guess but he had a base line to start with.

Discussion ensued.

Chairman Quinnell called for more comments or questions.

Discussion ensued.

Mr. Davison stated the Findings and Facts was taken from the last time it was adopted and changed to reflect present items. You

Chairman Quinnell called for a motion.

Commissioner Smith moved to approve the Comp Plan and findings and facts as written. Second by Commissioner Pendleton. Vote 3/0

- G: General Business
- 1. Old Business - None
- 2. New Business - None

H. Reports/Announcements

- 1. Chairman - Welcome the new Chairperson and the new COG person.
- 2. Commissioners - Commissioner Smith stated she had someone interested in being on the Commission.
- 3. Staff - Mr. Davison stated he is trying to form a community forum to talk about Marijuana. Discussion ensued on Marijuana.

I. Adjournment

Chairman Quinnell called for a motion to adjourn. Chairman Quinnell moved to adjourn and Commissioner Smith seconded the motion The meeting was adjourned at 6:01 pm.



Chairman