

SELAH CITY COUNCIL

4:00pm April 8, 2014



Selah City Council
 Regular Meeting
 Tuesday, April 8, 2014
 4:00pm
 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. Dave McFadden & Jean Brown, Yakima Community Development Association
- 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 **None**
- 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 25, 2014 Council Meeting
- Dale N. * 2. Approval of Claims & Payroll

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

- M. Resolutions
 - David Kelly 1. Resolution authorizing the Mayor to sign a Public Sector Service Contract with the Yakima County Development Association
 - Charlie Brown 2. Resolution authorizing the Mayor to sign Sponsor Agreements with various persons or entities wishing to sponsor the Half Marathon and 5K Races in Selah

- Charlie Brown 3. Resolution authorizing the Mayor to sign a contract with Uberthons, LLC for Race Timing
- Charlie Brown 4. Resolution authorizing the Mayor to submit an application form to the Washington Wildlife and Recreation Program for it assistance in submitting a grant application to the Recreation and Conservation Office
- Charlie Brown 5. Resolution Declaring Vehicle and Printers Surplus and Providing for Disposition of the Same

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

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

Q. Executive Session

None

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 22, 2014
 Next Regular Meeting April 22, 2014



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



COUNCIL MEETING INFORMATIONAL ITEM

4/8/2014 E – 1

Title: Presentation from Yakima Community Development Association

Thru: David Kelly, City Administrator

From: Dave McFadden & Jean Brown, Yakima Community Development Association

Action Requested: Informational - No action

Board/Commission Recommendation: Not applicable

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

N/A

Background / Findings & Facts:

Informational only

Recommended Motion:

N/A



Building Economic Success Together



GROWTH | JOBS | BENEFITS

NEW VISION 
YAKIMA COUNTY DEVELOPMENT ASSOCIATION

WITH A VISION

Community leaders created the Yakima County Development Association (YCDA) in 1985 to engineer a county wide economic development effort. Operating as a private nonprofit under the trade name New Vision, the YCDA has successfully linked private sector drive and public sector accountability to promote economic growth throughout the Yakima Valley for the last 27 years.

Goals guide the focus. Action plans direct the efforts. And performance benchmarks measure outcomes for YCDA efforts.

This year's Development Council directs fundraising efforts that will sustain YCDA initiatives for the next five years.

Leadership Team



Mike Broadhead
Campaign Chair



Sharon Hill
Campaign Development Council



Gary Christiansen
Campaign Development Council



Lisa Long
Campaign Development Council



Tea Stokes
Campaign Development Council



Bob Hall
Campaign Development Council



Jay Heister
Groundwater Co-Chair



Gus Anteviga
Groundwater Co-Chair



During the past five years, YCDA has materially assisted 12 firms to locate or expand in the area. These firms have made investments in facilities and equipment totaling \$82.2 million, 435 new jobs. These jobs pay an estimated \$12.7 million annually in wages and salaries.

Business Assisted by YCDA Over Last 5 Years

Company	Expansion/Recruitment	Total	Capital Investment (New Bldg.)	Taxable
Pacific Steel	Expansion	\$1,700,000	\$1,700,000	\$1,700,000
Italstone	Recruitment	\$700,000	\$700,000	\$0
Adventurer RV	Recruitment	\$4,000,000	\$0	\$0
Yakima Craft Brewing	Expansion	\$500,000	\$0	\$0
Liberty Bottles	Expansion	\$4,000,000	\$0	\$0
Paragon Films	Recruitment	\$20,000,000	\$1,500,000	\$1,500,000
Bale Breaker Brewing Co.	Expansion	\$3,000,000	\$2,500,000	\$2,500,000
Arvato Digital Services	Recruitment	\$1,000,000	\$0	\$1,000,000
Printing Press/Peninsula	Expansion	\$20,000,000	\$0	\$0
Antech Corporation	Expansion	\$4,500,000	\$0	\$0
Biotwine (2nd expansion)	Expansion	\$750,000	\$750,000	\$750,000
Darigold (Planned)	Expansion	\$22,000,000	\$6,000,000	\$6,000,000
Investments 2008 - 2013		\$82,150,000	\$13,150,000	\$13,450,000
Investments Prior to 2008		\$309,500,000	\$213,950,000	\$80,250,000

Source: Cascade Planning Group, July 2013

These 435 direct jobs represent about 12% of the net job growth indicated for Yakima last five years. Even more significant is the fact that most of the investments are manufacturing that lost 1,050 local jobs over the same time frame. Without YCDA's efforts, the manufacturing could have registered even greater losses.

Tax Benefits

In addition to the private sector economic benefits, the expanded business activity also generates increased taxes for state and local government.

5 Year Fiscal Benefits from YCDA Business

Tax (Generated)	Construction	Operations
Property Taxes:		
Business Capital Investment		\$82,150,000
Employee Housing Values		\$68,300,000
Supported Assessed Value		\$140,450,000
Average Property Tax Rate		\$11.78
Property Taxes		\$1,654,501
Retail Sales Tax:		
Sales Taxable Capital Investment	\$13,450,000	

DA has materially assisted 43 firms to locate or expand in Yakima County. e made investments in facilities and equipment totaling \$391.7 million and ; 2,852 new jobs. These companies collectively generate over \$532 million ivity, or close to four percent of Yakima County's total economic output.

7 jobs at companies assisted by YCDA represent 6.3% of the net job growth County from 1988-2013. Workers earn an estimated \$91.9 million annually laries.

Business Assisted by YCDA by Economic Sector

Sector	Investment	Jobs	Payroll
Construction	\$750,000	5	\$124,800
Manufacturing	\$283,200,000	1,733	\$53,468,460
Wholesale Trade	\$53,600,000	758	\$28,055,040
Retail Trade	\$40,000,000	0	\$0
Information	\$10,000,000	6	\$249,600
Support Services	\$4,500,000	350	\$9,703,200
All Sectors	\$392,050,000	2,852	\$91,601,100

Fiscal Benefits from YCDA Business Development (Since 1988)

Tax Generated	Construction	Operations
Property Taxes:		
Business Capital Investment		\$391,650,000
Employee Housing Values		\$421,500,000
Supported Assessed Value		\$813,150,000
Average Property Tax Rate		\$11.78
Property Taxes		\$9,578,907
Retail Sales Tax:		
Sales Taxable Capital Investment	\$93,700,000	
Employee Taxable Retail Purchases		\$23,000,000
Sales Tax Rate	8.1%	8.1%
State & Local Sales Taxes	\$7,689,700	\$1,863,000

Source: Cascade Planning Group, July 2013



“New Vision worked with our company before we purchased Packaging Plus in Yakima. They helped us identify the community's resources and assets that could help our company get off to a good start in Yakima. We appreciate New Vision's help and we are excited about our continued growth in the region.”

John McKernan
Peninsula Packaging Company



Business development efforts of YCDA over the generated an annual increase of \$236.7 million activity in Yakima County. This dollar value enc tax revenues of \$1.9 million, increased sales for service businesses of \$3.2 million per year, other income of \$20.4 million, and other business in million per year.

Over the entire 27-year existence, YCDA have 1 million of economic activity comprising \$11.4 million tax revenues, \$23.0 million of local retail and \$136.0 million of other household income, and other business income.

YCDA currently operates on a budget of about : the longer-term annual budget has been more in \$300,000.

Comparing the five-year YCDA investment agai economic returns local communities receive, th investment is about \$95 dollars for every dollar for economic development in Yakima County. I every year as long as companies assisted retain : locally. The cumulative effect clearly represents with profound long-term benefits for the people of Yakima County.

Return on Investment (ROI)

Investments & Benefits	5 YR Estim
Investment:	
YCDA Operating Budget	\$2,500,000
Current Annual Economic Benefits:	
Selected Tax Revenues	\$1,913,701
Retail & Services Spending	\$3,200,000
Other Labor Income*	\$20,400,000
Other Industry Output**	\$211,186,299
Total	\$236,700,000

STAFF KNOWLEDGE AND CAPACITY

BOARD KNOWLEDGE AND CAPACITY

FINANCIAL RESOURCES

EXTERNAL REPUTATION AND IMAGE

COLLABORATIVE RELATIONSHIPS

KNOWLEDGE AND EXPERIENCE

Building Local Business | \$900,000

Provide tangible assistance to manufacturers, key companies, and entrepreneurs so local businesses can thrive and boost the regional economy.

- ◆ Provide in-depth assistance to manufacturers and key companies.
- ◆ Operate an Industry Roundtable that benefits local plant managers and other key personnel.
- ◆ Organize periodic workforce training seminars and initiatives that help local industry grow capable workers and managers.
- ◆ Help local employers attract and retain talented professional employees that relocate to the area.
- ◆ Support the interests of local entrepreneurs by offering seminars and brokering counseling services.

- ◆ 50 unique company outreach visits per year.
- ◆ Tangibly support four in-depth manufacturing expansion projects per year.
- ◆ Tangibly support twelve entrepreneurial ventures per year.
- ◆ Ten companies and 40 employees participate in specialized workforce seminars per year.
- ◆ Twenty-five companies participate in the Industry Roundtable each year.
- ◆ Twenty companies participate in "Talent Attraction" receptions and initiatives.
- ◆ Website traffic on LiveYakimaValley.com and yakimavalley.biz increase 30% per year.

Business Recruitment | \$500,000

Raise the Valley's image as a business location and try to attract new corporate facilities that generate new jobs and tax revenues.

- ◆ Continue marketing efforts to promote the Yakima Valley as a place to do business.
- ◆ Maintain an outstanding website that effectively markets Yakima County.
- ◆ Maintain and build relationships with professional site selectors.
- ◆ Respond quickly and professionally to interested clients and prospects.
- ◆ Work cooperatively with realtors, developers and property owners to maintain information on available sites and facilities.

- ◆ Connect with 25 site selectors per year through prospecting trips, special conferences, phone calls, and newsletters.
- ◆ Organize two prospecting trips per year (that connect with 10 expanding companies).
- ◆ Increase traffic to yeda.com by 30% per year.
- ◆ Respond to 25 prospective companies per year that are specifically interested in Yakima County (or Washington State).
- ◆ Host six prospect companies on local site visits each year.

Workforce and Community Leadership

Lead regional efforts to improve our business working to develop a highly skilled workforce that support our Valley's economic growth.

- ◆ Work with local education, workforce tri stakeholders to raise educational attainment industry driven worker training initiative
- ◆ Work cooperatively with local government agencies to improve predictability, train customer service.
- ◆ Administer the County SIED fund to target investments that underpin business industry community development.

- ◆ Provide regulatory and permitting assistance established or expanding companies
- ◆ Help create a STEM education web portal connects business, educators and student world learning opportunities.
- ◆ Help four local governments secure funding to support tangible economic development their communities.
- ◆ Help Yakima County invest \$1.5 million of Investments in Economic Diversification build public utilities that support business

Q: Is our investment tax deductible?

A: An investment to New Vision may be deductible as a trade or business expense if ordinary and necessary in the conduct of business. New Vision, the Yakima County Development Association (YCDA), is qualified as a tax exempt organization under section 501 (c) (6) of the Internal Revenue Code. New Vision has also established a charitable trust that is qualified as a tax exempt organization under section 501 (c) (3) of the Internal Revenue Code*. Please seek the counsel of a qualified tax consultant regarding the deductibility of your investment.

Q: When is our payment due?

A: Generally, your payment should be made at the time your pledge card is signed. Therefore, your first payment should be made in 2014. We will send you a renewal invoice in subsequent years.

Q: What should be the amount of the first payment?

A: A payment in full would be greatly appreciated, but we can arrange to bill you monthly, quarterly, or semiannually. Just let us know how you prefer to pay and we will accommodate your needs.

Q: We are not able to increase our budget at this time. Could we offer in-kind services or products?

A: In-kind services or products are accepted only if they are services or products that would normally be purchased in the campaign and/or during program implementation. The decision to accept in-kind investments rest solely with New Vision's Executive Committee.

Q: To whom should the check be made payable?

A: The check should be made payable to New Vision.

Q: Can securities or real property be accepted as a campaign investment?

A: Yes, securities or real property can be accepted as a campaign investment with the approval of New Vision's Board Treasurer.

Q: Will we be kept informed of the results of New Vision?

A: Yes, you will receive an exclusive bulletin, "Investor Notes" that is only distributed to New Vision investors. You will also receive

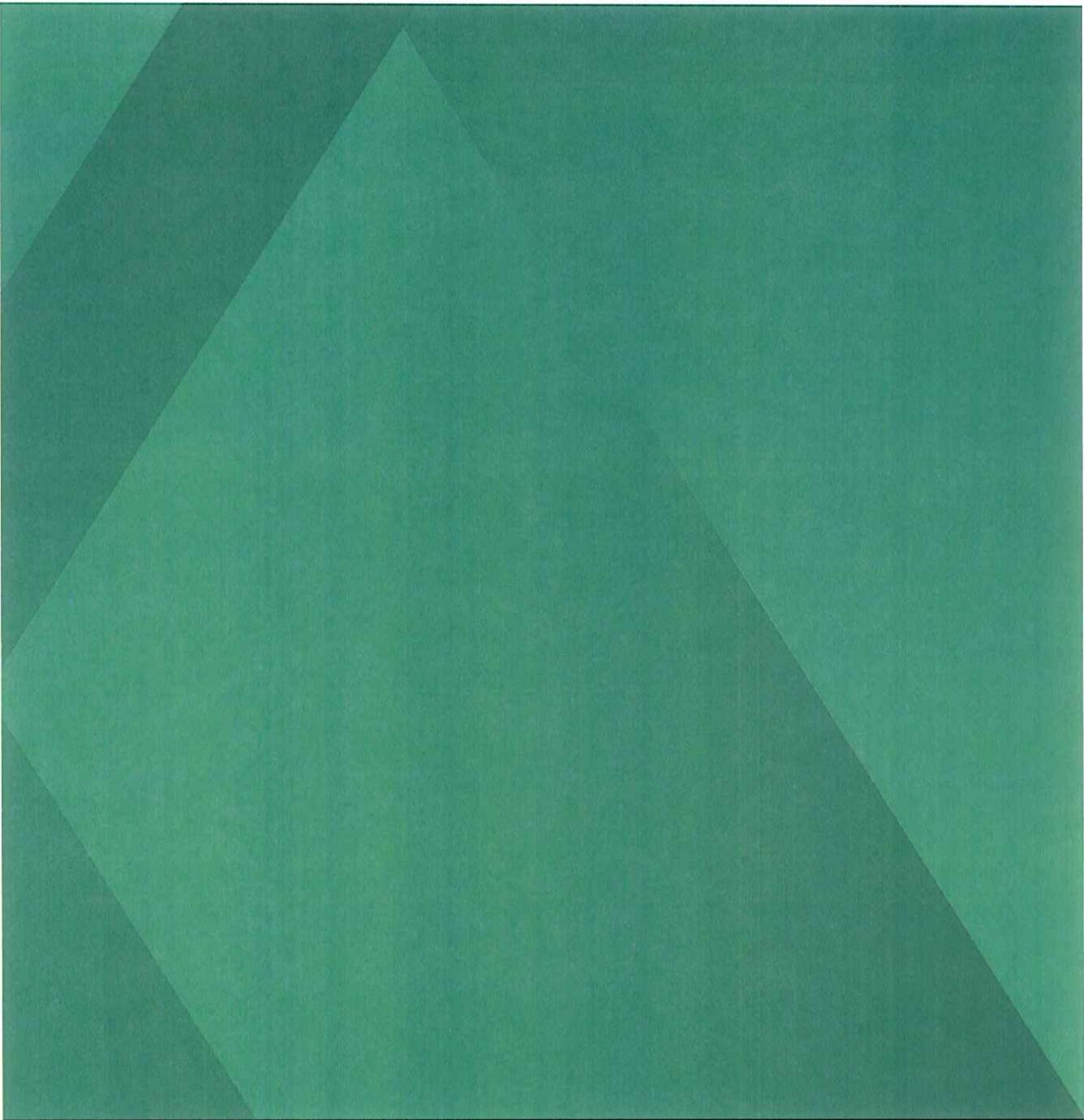




Accountability

is audited by an independent accounting firm. The Board of Directors review this audit
have monthly financial statements prepared to ensure that expenses are controlled and
directed in a manner that is consistent with New Vision's key initiatives.

er Vision Board maintains an "investor relations" program designed to keep investors fully



NEW VISION 
YAKIMA COUNTY DEVELOPMENT ASSOCIATION

10 North Ninth Street | Yakima, WA 98901
P.O. Box 1387 | Yakima, WA 98907-1387
509-575-1140

newvision@ycda.com | ycda.com | liveyakimavalley.com
workyakimavalley.com | yakimavalley.biz





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



COUNCIL MEETING ACTION ITEM

4/8/2014 I – 1

Title: Approval of Minutes: March 25, 2014 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)

City of Selah
Council Minutes
March 25, 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 6:30pm.

B. Roll Call

Members Present: John Tierney; Paul Overby; Dave Smeback; Brooke Finch; Roy Sample; Jane Williams

Members Excused: Allen Schmid

Staff Present: David Kelly, City Administrator; Bob Noe, City Attorney; Dale Novobielski, Clerk/Treasurer; Eric Steen, Deputy 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 Williams led the Pledge of Allegiance. Pastor Jason Williams led the opening prayer.

D. Agenda Changes

1. Removed from Agenda:

- a. Ordinance N – 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

E. Public Appearances/Introductions/ Presentations

1. Gary Green, Selah Community Days – Slideshow presentation

Gary Green, Selah Community Days, approached the podium and addressed the Council. He gave a slideshow presentation on the past route and the one they will use this year, highlighting the dangers of the previous route to both spectators and those in the parade, as well as the need for a safer route.

Norma Smith asked where the start of the parade route would be.

Mr. Green replied that it will start about where Les Schwab is this year, but they will move the starting point further down Wenas once the middle school has been completed. He noted that the new route will allow people to travel through town without having to wait for the parade to end.

Council Member Williams inquired about the end point of the route.

Mr. Green responded that it will end on Jim Clements Way just before it intersects with the road that goes around the back of the Tree Top facility, which will allow the car clubs to go to the intersection and leave on 1st Street and the others to de-stage in the area indicated on the slide.

Council Member Tierney wondered if they would prohibit people from setting up chairs along the emergency access lines that cross the parade route to allow for easy access if needed.

Mr. Green replied that they have discussed the matter with the emergency people, and they didn't feel it would be necessary; their concern was going down the parade route while the parade was still running. He said that the new route will allow them to easily cross over if necessary.

Council Member Overby asked where the reviewing stands would be located.

Mr. Green responded that they haven't made a decision on those as of yet. He went on to say that they are looking at placing one on the Tree Top lot where the bins are or by the Tree Top store, and have looked at a couple of places on the other end of the route. He mentioned that the parade route information will be available for viewing on the Community Days website, www.selahdays.org.

Council Member Williams inquired if people will be able to set up chairs on either side of street all the way down the route.

Mr. Green replied in the affirmative, adding that it will provide more sitting area than the previous route.

Mayor Gawlik remarked that there was a lot of buzzing around town when parade route change was announced. He hoped that people appreciate the necessity of a route change; it is not worth the life of a child.

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

G. Communications

1. Oral

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

2. Written

a. Yakima Transit – March 2014 Special Ridership Count

H. Proclamations/Announcements **None**

I. Consent Agenda

Council Member Overby moved, and Council Member Smeback seconded, to add N – 2 to the Consent Agenda. Council Member Williams asked that the item remain as part of the Regular agenda. Council Member Overby withdrew his motion.

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: March 11, 2014 Study Session & Council Meeting
- * 2. Approval of Claims & Payroll:
 - Payroll Checks Nos. 77249 – 77291 for a total of \$157,678.95
 - Claim Checks Nos. 63531 – 63603 for a total of \$193,005.39
- * 3. Resolution M – 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
- * 4. Resolution M – 2 Resolution Authorizing the Mayor to Sign the WSDOT Local Agency Agreement for the Transportation Alternatives Program (TAP) Funding for Sidewalk along Wernex Loop

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

Recreation Manager Brown addressed M – 3, M – 4 and M – 5. He gave a brief rundown of the activities that his department has planned for the July 3rd celebration, which include a color run, product and food vendors at the JV softball field, games for the kids, a live band, and a fireworks display at the conclusion of the event. He noted that the first two contracts are donations for the fireworks and the live band, while the last one is for the local company licensed to do fireworks displays.

City Administrator Kelly asked that he state how much each entity is contributing.

Recreation Manager Brown responded that Les Schwab is donating \$5,000 for the fireworks, and Pingrey Ford is contributing \$2,500 for the live band.

Council Member Overby wondered if the Wolverine West contract is standard in regards to the cancellation clause.

Recreation Manager Brown replied that it is a standard contract, although he was told that they wouldn't charge the City a fee if they had to cancel.

Council Member Overby asked that he confirm that no fee would be paid if the City had to cancel the contract.

Recreation Manager Brown responded in the affirmative.

Council Member Williams inquired if the \$5,000 for the fireworks is covered by the donation from Les Schwab.

Recreation Manager Brown replied in the affirmative.

Council Member Williams asked if there would be any out of pocket expenses paid for by the City.

Recreation Manager Brown responded that the City will cover the costs of the color run. He remarked that the event will start at 6pm and end with fireworks at 10pm, to allow people time to get home and then join in the fun.

Council Member Tierney noted that the contract stated that the City would receive \$250 more in product they pay by June 1st. He wondered if the donation would be received that far in advance of the event.

Recreation Manager Brown replied that he will talk to them about it.

Council Member Overby asked about a time extension for the deadline listed on the Wolverine West, LLC contract.

Recreation Manager Brown responded that he called to verify that they would extend it, and is waiting for a call back. He was confident that they would extend the deadline.

Mayor Gawlik asked City Attorney Noe if the three contracts can be approved as a cumulative vote or if they will need to be done individually.

City Attorney Noe stated that they can be done in one motion.

Council Member Tierney moved, and Council Member Williams seconded, to approve the Resolution authorizing the Mayor to sign a Sponsorship Agreement with Selah Les Schwab regarding Community 3rd of July Celebration; the Resolution authorizing the Mayor to sign a Sponsorship Agreement with

Pingrey Ford regarding Community 3rd of July Celebration; and the Resolution authorizing the Mayor to sign a Firework Display Agreement with Wolverine West, LLC. Roll was called: Council Member Overby – yes; Council Member Tierney – yes; Council Member Smeback – yes; Council Member Finch – yes; Council Member Sample – yes; Council Member Williams – yes. By voice vote, approval was unanimous.

N. Ordinances

1. ****REMOVED FROM AGENDA****
2. Ordinance Amending the 2014 Budget for Street Improvements on Valleyview Avenue, South 3rd Street, Southern Avenue and South 1st Street

Clerk/Treasurer Novobielski addressed N – 2. He said that this is an amendment and addition to the current year’s budget to provide for a number of street improvements projects. He commented that Public Works Director Henne had thought this was included in the budget adopted in December but it was not. He noted that Council did take action on a couple items regarding this project, but the expenditures and grant revenue are not contained in 2014 budget. He observed that the fiscal impact to the City is or 13% of the total amount; Public Works Director Henne was able to obtain Federal assistance to make these improvements.

Public Works Director Henne clarified that the budget adjustment is only for the design work; the actual improvement costs are close is close to \$2,000,000.

Council Member Overby moved, and Council Member Finch seconded, to approve the Ordinance Amending the 2014 Budget for Street Improvements on Valleyview Avenue, South 3rd Street, Southern Avenue and South 1st Street. Roll was called: Council Member Overby – yes; Council Member Tierney – yes; Council Member Smeback – 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 read aloud an email from Andy Heider, Parks Maintenance Crew Lead for the City of Bellevue, complimenting the Parks crew on their excellent upkeep of the Carlon Park and McGonagle Park facilities.

2. Council Members

Council Member Finch had no report.

Council Member Overby had no report.

Council Member Sample had no report.

Council Member Tierney requested that a railing be installed at the back exit before someone gets hurt. He inquired about the pending file that he had previously requested from City staff.

City Administrator Kelly responded that he had an Excel spreadsheet on his computer and would provide it to Council in the near future.

Council Member Smeback had no report.

Council Member Williams gave a brief update on the Yakima Valley Conference of Governments meeting she attended last Wednesday, adding that Senator Honeyford, Bruce Chandler and Curtis King all presented a one hour recap of the most recent legislative session. She commented that Senator Honeyford is interested in attending a future Council Meeting to introduce himself to the Council. She spoke briefly about the Selah Park & Recreation Service Area Board meeting from the previous day, saying that they are looking into amending their Interlocal agreement with the City regarding the use of any excess funds from concessions and pool entry fees. She noted that Norma Smith and Council Member Sample were also in attendance.

3. Departmental

Fire Chief Hanna had no report.

Deputy Fire Chief Steen had no report.

Recreation Manager Brown gave a quick update on the Active Network software, saying that he was notified that the City can save \$1,500 by utilizing online training. He opted to save the City money by agreeing to the online training. He noted that doing so will also allow Active Network to get their work done faster; it should be ready to go in July.

Mayor Gawlik remarked that he has been working closely with City Administrator Kelly, as evidenced by the money savings just mentioned.

Clerk/Treasurer Novobielski had no report.

Public Works Director Henne said that the gazebo framework is in place, and they will attempt to pour the perimeter either tomorrow or Thursday. He noted that it will be a handicap access shelter. He had an update for Council Member Smeback regarding the Bartlett intersection; they have had 2 preconstruction conferences and the actual work is scheduled to start on March 31st. He added that it is a 15 day construction period and should be complete by middle of the month. He talked about the Goodlander Reservoir and water main replacement project, noting that it is slated to start on April 7th. He stated that they held a neighborhood meeting in November for those who would be affected during the construction, starting with the Hillview area.

Community Planner Davison remarked that there are numerous projects currently in the works which will be brought before the Council for their consideration sometime in the next few months.

City Administrator Kelly mentioned that he will be attending a meeting next Monday with the folks from Yakima Transit to discuss the long-term situation of the Ellensburg commuter. He noted that this will involve all the players from both counties; they will be looking at funding options to see if the route will be continued or not. He stated that he will provide an update at the next Council Meeting.

City Attorney Noe had no report.

Council took a ten minute recess.

4. Boards **None**

Q. Executive Session

1. 10 Minute Session – Contract Negotiations RCW 42.30.140

Council went into Executive Session at 7:19pm. At 7:29pm, Council went back on the record. Mayor Gawlik stated that no action was taken during the Executive Session.

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

R. Adjournment

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

The meeting adjourned at 7:29pm.

John Gawlik, Mayor

Paul Overby, Council Member

John Tierney, Council Member

Dave Smeback, Council Member

EXCUSED
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
4/8/2014 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

4/8/2014 M – 1

Title: Resolution authorizing the Mayor to sign a Public Sector Service Contract with the Yakima County Development Association

Thru: David Kelly, City Administrator

From: David Kelly, City Administrator

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$1,650.00 annually; \$8,250 over a five year span

Funding Source: Fund 001

Staff Recommendation:

Approval of the contract

Background / Findings & Facts:

The City utilizes the services of the Yakima County Development Association for various community development projects and the contract is up for renewal in 2014.

Recommended Motion:

Approve the Resolution and authorize the Mayor to sign the contract with the Yakima County Development Association



**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:

9/9/2008

Resolution Authorizing the Mayor To Sign the Contract between the City of Selah and the Yakima County Development Association for a Public Sector Services Contract

1/14/2014

Council voted to postpone the discussion regarding the Resolution authorizing the Mayor to sign a Public Sector Service Contract with the Yakima County Development Association until the April 8, 2014 Council Meeting

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CITY OF SELAH, WASHINGTON
RESOLUTION NO. _____

**A RESOLUTION authorizing the Mayor to sign a Public Sector Service
Contract with the Yakima County Development Association**

WHEREAS, the Yakima County Development Association (YCDA) is a Washington private non-profit corporation that assists business, government, labor, and educational institutions in planning, developing, and implementing community economic development programs;

WHEREAS, YCDA's staff possesses skill, experience and expertise in community economic development;

WHEREAS, the City wishes to utilize the skill, experience, and expertise of YCDA to perform those services for the City;

WHEREAS, the City, therefore, wishes to exercise authority granted under RCW 35.21.703 to contract with the YCDA to provide economic development assistance to the City;

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

The Mayor is authorized to sign a Public Sector Service Contract with the Yakima County Development Association.

PASSED this 8th day of April, 2014.

John Gawlik, Mayor

ATTEST:

APPROVED AS TO FORM:

Dale Novobielski, Clerk/Treasurer

Robert F. Noe, City Attorney

**YAKIMA COUNTY DEVELOPMENT ASSOCIATION
PUBLIC SECTOR SERVICE CONTRACT**

CONTRACTOR: City of Selah
CONTRACT PERIOD: January 1, 2014 to December 31, 2018

THIS CONTRACT is entered into by the City of Selah ("the City") and the Yakima County Development Association ("YCDA"), a Washington non-profit corporation.

WHEREAS, YCDA is a Washington private non-profit corporation representing a coalition of business, government, labor, and education leadership dedicated to planning, developing, and implementing community economic development programs; and

WHEREAS, economic development programs are coordinated public and private actions which aid in enhancing a community's quality of life and bringing its citizens into the economic mainstream by planning and building local economic capacity such as: an effective education and training system; sound transportation and physical infrastructure; attractive diverse private and public investments; and competitive and skilled work force; and

WHEREAS, YCDA staff possesses valuable skill, experience and expertise in community economic development; and

WHEREAS, YCDA has been involved in many significant investment decisions in the Selah area and Yakima County; and

WHEREAS, The City wishes to utilize the skill, experience, and expertise of YCDA rather than attempting to perform the same services at greater expense; and

WHEREAS, The City wishes to exercise authority granted under RCW 35.21.703 by contracting with YCDA to provide economic development assistance to the City; and

WHEREAS, The City desires to have certain services performed by YCDA as described within this Contract;

THEREFORE, in consideration of payment, covenants, and agreements hereinafter mentioned, to be made and performed by the parties hereto, the parties mutually covenant and agree to the following:

I. SCOPE OF SERVICES

The City desires to continue utilizing services provided by YCDA. The City recognizes that, because of the nature of a private economy, YCDA shall provide economic development programming for the entire Yakima County area and not exclusively for the City of Selah area. The City understands that it will receive economic development benefits from YCDA's efforts within Yakima County because the City is an economic focal point within the County. Such benefits to the City include a more diversified economic base, additional employment opportunities and greater prosperity. The

economic development program shall consist of an annual program of work drafted by the YCDA Board of Directors.

YCDA shall maintain a professional staff to carry out an economic development program in Yakima County. During the term of this Contract, YCDA will dedicate its best efforts to carry out such program.

As additional consideration, beyond its general mission of economic development in Yakima County, YCDA shall dedicate its professional and support staff to specific objectives to be mutually updated and agreed on an annual basis. As objectives for the 2009 calendar year YCDA shall:

- A. Market the City of Selah and Yakima County as a location for new business investment. Maintain accurate information about the City's costs and opportunities as they relate to new business development. Maintain confidentiality for business clients evaluating sites or facilities within the region.
- B. Work cooperatively with developers, realtors, land owners and other parties within the Selah area to maintain up-to-date information about sites and facilities that can meet the needs of new or existing businesses.
- C. Conduct yearly visits with Selah-based manufacturers as part of YCDA's business retention efforts. Provide appropriate follow-up assistance to local businesses based on needs identified during the survey interviews.
- D. Provide the City of Selah with a yearly report on the status of YCDA efforts and accomplishments as well as local economic trends and issues.
- E. Support the City's efforts to prepare commercial and industrial sites and facilities through grant applications to local, state or federal infrastructure financing programs.
- F. Advise the City, when requested, regarding commercial or industrial sector needs relative to the preparation of land use designation and urban development policies.
- G. Advise the City, when requested, on ways to mitigate development impacts from proposed manufacturing or commercial expansion projects.
- H. Advise the City, when requested, regarding public service planning for commercial and light industrial areas, including comments on streets, water, sewer, and other public facilities.

II. DURATION OF CONTRACT

This Contract shall commence on January 1, 2014 and shall terminate on December 31, 2014, but may be renewed annually through December 31, 2018, subject to performance review and evaluation conducted by the City during the yearly budget review process.

III. COMPENSATION, METHOD OF PAYMENT, REPORTING

YCDA shall receive payment for services as specified in this Contract in the total amount of Eight thousand two hundred and fifty dollars (\$8.250), which amount shall be paid to YCDA in payments of one thousand dollars (\$1650), with the payment due on July 1st. In the following years, payment shall be made to YCDA on July 1st, provided that this contract is renewed and compensation for services is authorized in the City's yearly budget based the annual performance review and evaluation.

YCDA shall provide monthly update reports and an annual report, which will be delivered by March 31st of the next year. Such reports shall contain a description of current initiative and accomplishments under the applicable scope of services provision of the Contract. Each annual report shall indicate the amount of new investment, retention of investment, and new jobs within Yakima County which affect economic development of the City.

IV. INTERNAL CONTROL AND ACCOUNTING SYSTEM

YCDA shall establish and maintain a system of accounting and internal controls which complies with applicable, generally accepted accounting principles, and government accounting and financial reporting standards.

V. ESTABLISHMENT AND MAINTENANCE OF RECORDS

YCDA shall maintain accounts and records, including personnel, property, financial, and program records, and such other records as the City may deem necessary, to ensure proper accounting for all project funds and compliance with this Contract.

VI. AUDITS AND INSPECTIONS

A. Records and documents pertaining to all matters covered by this Contract shall be subject at all times to inspections, review, or audit by the City and/or federal/state officials so authorized, including but not limited to, the Washington State Examiner.

B. YCDA shall have its annual financial statement reviewed or audited by an independent certified public accountant. Copies of any such review or audit performed by an independent certified public accountant shall be provided to the City upon request.

C. YCDA shall provide access of facilities to the City, the state and/or federal agencies or officials at reasonable times to monitor and evaluate the services provided under the Contract. The City will give advance notice to YCDA in the case of fiscal audits to be conducted by the City.

VII. REVIEW AND EVALUATION

YCDA agrees to cooperate with the City or its agent in the City's annual review and evaluation of YCDA's performance under this Contract and to make available all information reasonably required by any such evaluation process.

VIII. TERMINATION

This Contract may be terminated without cause prior to the date specified above in Section II, by either party providing the other party thirty (30) days written notice of the termination. In the event of termination, the amount of compensation shall be prorated monthly to the nearest full month of service.

IX. INSURANCE AND INDEMNIFICATION

YCDA shall procure and maintain at its own expense for the duration of this Contract insurance against injury to persons or damage to property or rights which may arise from, or in connection with the performance of work hereunder by YCDA, its agents, representatives, employees.

YCDA shall defend, indemnify, and hold the City of Selah, its officers, employees, and agents, harmless from any and all liability arising out of the performance of this Contract.

X. NONDISCRIMINATION

During the performance of this Contract, YCDA shall not discriminate on the basis of race, color, sex, religion, nationality, creed, sexual orientation, marital status, age, or the presence of any sensory, mental or physical handicap in employment or application for employment or in the administration or delivery of services or any other benefits under this Contract.

XI. CONFLICT OF INTEREST

YCDA covenants that no officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and implementation of the program funded herein, or any other person who presently exercises any functions or responsibilities in connection with the planning and implementation of the program funded herein shall have any personal financial interest, direct or indirect, in this Contract.

None of the funds, materials, property or services provided directly or indirectly under this Contract shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

XII. NOTICES

Whenever this Contract provides for notice to be provided by one party or another, such notices shall be in writing and directed to the chief executive officer of YCDA, P.O. Box 1387, Yakima, WA, 98907, or the City Supervisor for Selah, 115 West Naches, Selah, Washington, 98942. Any time within which a party must take some action shall be computed from the date that the notice is received by said party.

III. CHANGES

Either party may request changes to this Contract. Proposed changes, which are mutually agreed upon, shall be incorporated by written amendments to this Contract.

XIV. PROHIBITED ACTS

YCDA shall use all consideration provided under this Contract solely to pay for labor, equipment, materials, and overhead in its operations. It shall not use such consideration as loans, grants, or gifts to public or private entities for any purpose whatsoever nor shall such consideration be used for the purpose of promotional hosting. Violation of the provision of this section shall be cause of immediate termination of this Contract and YCDA shall repay to the City any funds transferred in violation of this section.

XV. WHOLE AGREEMENT

This Contract constitutes the whole and entire agreement between the parties.

XVI. ASSIGNMENT

YCDA shall not assign any of its duties under this Contract without the prior written consent of the City.

XVII. SEVERABILITY

In the event any portion of this Contract is found to be invalid, it is the intent of the parties to enforce the remainder of the Contract.

CITY OF SELAH

**YAKIMA COUNTY
DEVELOPMENT ASSOCIATION**

Signature

Signature

Name

Name

Title

Title

Date

Date

ATTEST

City Clerk



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



COUNCIL MEETING ACTION ITEM

4/8/2014 M – 2

Title: Resolution authorizing the Mayor to sign Sponsor Agreements with various persons or entities wishing to sponsor the Half Marathon and 5K Races in Selah

Thru: David Kelly, City Administrator

From: Charles Brown, Recreation Manager

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$3,000

Funding Source: 001

Staff Recommendation:

Approval of the sponsorship agreements and authorization for the Mayor to sign said agreements

Background / Findings & Facts:

The Army Base Race has significantly grown over the years and with that growth has needed a larger budget to operate. The growth has also attracted business with the opportunity to advertise their products and they are willing to pay for sponsorship at the various levels.

Recommended Motion:

Approval of the Resolution



**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:

2/12/2013

Resolution Authorizing the Mayor to sign Sponsor Agreements with various persons or entities wishing to sponsor the Half Marathon and 5K Run/Walk Races in Selah

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**CITY OF SELAH, WASHINGTON
RESOLUTION NO.**

A **RESOLUTION** authorizing the Mayor to sign Sponsor Agreements with various persons or entities wishing to sponsor the Half Marathon and 5K Races in Selah.

WHEREAS, the City of Selah has coordinated and conducted a Marathon and 5K Race over the past three years;

WHEREAS, the Marathon and 5K Races were successful and have become very popular;

WHEREAS, there are persons and entities wishing to provide money to sponsor the event in exchange for advertising and other public recognition;

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

The Mayor is authorized to Sponsor Agreements with various persons or entities wishing to sponsor the Half Marathon and 5K Races in Selah.

PASSED this 8th day of April, 2014.

John Gawlik, Mayor

ATTEST:

APPROVED AS TO FORM:

Dale Novobielski, Clerk/Treasurer

Robert F. Noe, City Attorney



CITY OF SELAH

115 West Naches Avenue
Selah, Washington 98942

Phone 509-698-7326
Fax 509-698-7338

THIS SPONSOR AGREEMENT is entered into and effective as of this 8th day of April, 2014 by Erik Michelson of Howard's Medical Supply (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 Half Marathon and 5K run & walk in Selah
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 \$3000.00 by April 30, 2013
- Two weeks radio advertising on six Clear Channel radio stations
- Promotion of the race with the Hard-Core Runners of Yakima
- Hand out flyers at local doctor's offices and senior centers
- Use of Graphic Designer for brochures and flyers

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

- Sponsor's Company Name in the title of the Army Base Race
- Sponsor's Logo on the front of all race shirts
- Sponsor's Banner on stage at awards banquet
- Sponsor's Company Logo pair with name on all advertising
- 10 free runners (either race)
- Sponsor's Banner at packet pick-up on Friday before race
- Sponsor's Table at the event if you choose
- Sponsor's Banner at the race
- Sponsor's Handout in the runner's bags
- Sponsor's Logo on the runner's bags
- Sponsor's Logo on our event website
- Sponsor's Logo on PA at Awards Banquet
- Thank you to Sponsor in the Yakima Herald



Signatures of Partners:

City of Selah

Howard's Medical Supply

Signed: _____

Signed: _____

Name & Title: John Gawlik, Mayor

Name & Title: _____

Date: _____

Date: _____

Attest: _____

Dale Novobielski, City Clerk/ Treasurer





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



COUNCIL MEETING ACTION ITEM

4/8/2014 M – 3

Title: Resolution authorizing the Mayor to sign a contract with Uberthons, LLC for Race Timing

Thru: David Kelly, City Administrator

From: Charles Brown, Recreation Manager

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$3,000

Funding Source: 001

Staff Recommendation:

I recommend that we authorize the contract with Uberthons to be signed so we can proceed with the Army Base Race

Background / Findings & Facts:

The contract is with Uberthons is a rental contract for us to use a chip timing system. We rented this system from them last year and were extremely pleased with the product. I would like to rent this system one more year and look to purchase our own in the future. With the equipment they also build a registration website that allows people to register for the race and it gives them all the information they need for the individuals chip for race day.



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



Recommended Motion:

I recommend that we approve the Resolution authorizing the Mayor to sign a contract with Uberthons, LLC for Race Timing.

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:

2/12/2013

Resolution authorizing the Mayor to sign a contract with Uberthons, LLC for Race Timing

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CITY OF SELAH, WASHINGTON
RESOLUTION NO. _____

A **RESOLUTION** authorizing the Mayor to sign a contract with Uberthons, LLC for Race Timing.

WHEREAS, the City of Selah has conducted a race for the past three years (Army Base Race);

WHEREAS, the race has grown in popularity and the City could no longer use a manual system for tracking racer times;

WHEREAS, the City contracted with Uberthons, LLC for race timing equipment rental and for the provision of race times for participants last and the Parks and Recreation Department is recommended that the City contract with Uberthons again this year;

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

The Mayor is authorized to sign a contract with Uberthons, LLC for Race Timing equipment and services.

PASSED this 8th day of April, 2014

John Gawlik, Mayor

ATTEST:

APPROVED AS TO FORM:

Dale Novobielski, Clerk/Treasurer

Robert F. Noe, City Attorney



Race Timing Solutions

Uberthons LLC Timing Services

Our Innovative Services

When we time your event, we provide more than just results. We help you create an experience that the participants will not soon forget. Here is a short list of benefits that we could provide with our services:

- Our antennas are mounted overhead on our tower structures. This means you have no trip hazards on the course
- Our system will record the chip time to 1,000th of a second providing the most accurate times in the world
- Our finish line includes large screen monitors that show the clock times as well as real-time results
- We can provide redundant finish-line timing to ensure maximum chip-timing success
- We can provide a very professional finish chute with fencing
- Your PA announcer can have a laptop that we provide that shows real-time results for the finishers
- Our staff is comprised of full- and part-time employees who are also experienced athletes and race directors
- Our results will be provided to you in real-time on monitors. You may also use an ipad to view the results.
- We will post your results to our website in real-time every few minutes during the race
- We can provide event webpage and registration services
- We will treat you as a valued partner and customer and provide a very professional race-timing experience
- The following pictures show examples of races we have timed, which shows some of our equipment



Race Timing Proposal

Thank you for requesting our services for your upcoming event. This draft proposal summarizes some of the services that Uberthons LLC (Uberthons) can provide

Date and Time of Event:	September 20, 2014
Location of event:	Selah, Washington
Customer Name:	City of Selah
Authorized Signature:	John Gawlik, Mayor
Customer Address:	115 W. Naches Ave., Selah, WA 98941
Contact Name:	Charlie Brown
Email Address:	c.brown@fairpoint.net

Our company's philosophy is that nothing is left to chance when it comes to putting on a world-class event. Thus, you will find that our approach is extremely comprehensive and designed to minimize risks or surprises. The following information summarizes our game plan for each component of your event.

Race planning leading up to the event:

- We will hold a phone conversation with you one month prior to the event to discuss race plans, logistics, and any other issues regarding the event.
- We will hold a final review with you two weeks prior to the event to manage any last-minute changes or logistics issues.
- We will have an onsite meeting with you the day before the event, if necessary, to discuss any remaining issues that arise prior to the start of the event.
- We will provide you cell phone numbers of our senior staff members so that you are always able to reach us prior to the event.
- During the last week prior to the event, we will provide you an emergency-contact cell-phone number that will be manned 24 hours a day.



Race Timing Proposal

We will provide the following for your event:

- We will provide one start/finish-line timing at one location. Cost of second location is \$300.
- We will provide qualified staff members who are professionals who are certified to use Jaguar.
- We will provide a large flat-panel monitor showing the race time and results at the primary finish line.
- If Internet service is available, we can provide updated Website results you may use for your awards presentations via your monitor or your ipad.
- We will provide at least one touch-screen monitor that will show results via Internet if Internet is available. If you provide additional air cards, we will provide additional touch screen monitors to view results. All results are GREEN.
- Race results for runners and walkers on UberResultsSystem
- Link to the UberResultsSystem you may put on your facebook page and on your website
- All Internet results will be shown as individuals - not teams - and age groups in five-year increments as shown on the latest current results.uberthons.com results pages.
- Our team will arrive in the morning to assure that all logistics and installation are handled properly.
- We will be operating a closed system using Ethernet platform. Our race results will be updated constantly in real-time to our control center near the finish line. We will provide a high performance RFID disposable timing chip for each participant.
- We will provide tables for our equipment.
- We will provide three chairs for our employees.
- PA system for your finish line as well as customized race music
- We will provide results with individual home pages for each participant. If your photographers download photos to our laptop during and at the end of the event, these pictures will also be on the individual home page – sorted by bib number. We recommend you provide us with at least 1,000 photos.
- We will provide registration services. The person who registers pays a small fee for processing and merchant fee.
- We will order bibs so the bibs will be in our hands when we need to program and attach the RFID timing chips.

Race Timing Proposal

As race director, you will provide the following for your event:

- a point of contact who is available during the time leading up to the event to quickly respond to any question or concern that come up and to participate in our planning meetings.
- a dedicated staff member or volunteer, who has decision-making authority, assigned to us beginning the morning before the event, and up to the conclusion of the event.
- 2 volunteers who are dedicated to helping us during the event. These volunteers will help set up the truss structure starting 4 hours before the event starts.
- FINISH line flags, water, tables, food, chairs, and awards for event participants.
- The water you provide at the FinishLine must be located within 30 feet of the FinishLine. You must provide at least two people to hand water bottles to runners and to help the runners if they need help.
- all volunteers for the event including packet pickup and registration.
- any required permits including road, structures, police, PA, and generator permits.
- photographers as needed.
- insurance for the event. A good place to purchase this insurance is from USA Track & Field as outlined on the online brochure at this webpage:
<http://www.usatf.org/events/sanctions/benefits/InsuranceBrochure.pdf>,
- all event management and promotion.
- proof of authority for the signature on the agreement.
- ensure that we can begin setting up our equipment 4 hours before the race starts
- ensure that we have a minimum of three hours to break down our equipment and pack-up.
- all course setup, signs, volunteer training, and monitoring
- Email to each participant describing bib placement and chip timing information. Two E-flyers will be provided to you to email to all participants one week in advance, and later registrations on the Thursday night before the event. Überthons will provide to you the email flyers. Überthons will provide the results page URL to your participants.
- Written instructions mailed or emailed to Überthons two weeks before the event describing the awards system. How will you present awards? Age groups, overalls, etc. Be very specific. If no instructions are presented to Überthons two weeks before the event, Überthons will provide Overall winners and age-group winners in five-year increments.
- Finish line flags, chute if needed
- Webpage, and other promotional media if needed
- Graphic for event. You will provide this to Überthons to be used on bibs and shirts
- Course map on your website if needed
- Course volunteers if needed
- Course signs may be rented from Überthons. Provide a description of LEFT, RIGHT, STRAIGHT, and MILES.
- One or two people to enter day-of registrations into a laptop that we provide for your use on the morning of the event. We will train these people how to use the software two days before the event.
- An announcer to start the race and to announce the names of runners/walkers as they finish.
- You will design and pay for the bibs. You can use our graphics designer free.
- Überthons logo and timing information on your website



Race Timing Estimate

The Total Estimated Fee for our services is as follows:

Pricing	Item Description:
	\$1,000.00 base fee. Registrations over 400 will be an additional \$3.00 each
At cost	Event racing bibs. Uberthons will order bibs. (\$250 for 1,000)
	Charge for each day-of registration @ \$5.00 each registration
	Registration services. Participants pay a fee when they register.
\$150	Mileage gas charge
\$130	Hotel, food
Optional	Shirts. Mesh DRI FIT. 400 shirts @ \$7.55 each
	Medals. With Japanese and English writing. TBD
Included	Use of PA system, you will supply the person
	Run will provide website
	Run will set up the course
	Course sign rental - \$2.00 per sign
	TAX – you will pay all state taxes if any
If desired	Expo & Packet Pickup Friday night. Uberthons will attend
Included	Heavy-duty trussing for START FINISH line width of line 19.68 feet
Included	Digital LED race clock
\$100	Up to 1,500 photos loaded on our facebook page, and on individual's home pages
\$100	Build multi-year leaderboard
Note:	A minimum of \$1,000 for base fee for timing services including chips <i>NA – not applicable or included</i>



Race Timing Agreement

Information in this proposal may contain errors and all information is subject to change at any time until you sign a final race agreement.

Acceptance and Payment Terms:

This proposed Agreement is valid until April 15, 2014. Uberthons is tentatively holding the dates of September 20, 2014 for your event. Deposit of \$400 will be made by April 15, 2014 for Uberthons to hold this date for the event. The unpaid balance of your Fee is due the day before your race date, and will be determined by the number of registered participants to that date.

You will receive an invoice for any additional participants at the conclusion of your race, payable within 14 days. There is no refund or discount if you cancel the event or change the date.

If you expect to have more than 500 participants, we must be notified 30 days prior to the race so we may order and receive additional timing chips.

Insurance and Indemnity:

You shall defend, indemnify, and hold harmless Uberthons and its suppliers, licensors, successors, affiliates, agents, employees, executives, and assigns from any claims, damages, injuries, losses, or expenses (including without limitation attorney fees and losses or damages occurring with connection with any and all damages, losses, injuries, claims, suits, judgments, or causes of action asserted against Uberthons Indemnified Parties by third parties, your customers, suppliers, agents, employees, volunteers, or race participants related to this event. In any and all cases, Uberthons shall not be liable for more than one hundred dollars for damage or liquidated damages.



Disclaimer of Warranty:

CHIP TIMING OF RACE PARTICIPANTS IS NOT AN EXACT SCIENCE. WHILE WE WILL DO EVERYTHING POSSIBLE TO PROVIDE ACCURATE AND RELIABLE TIMING SERVICES, THERE ARE A NUMBER OF ISSUES THAT CAN OCCUR OUTSIDE OF OUR CONTROL THAT COULD IMPACT THE NUMBER OF PARTICIPANTS WHO RECEIVE TIMING RESULTS. THUS, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF UBERTHONS SERVICES IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH YOU. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UBERTHONS SERVICES ARE PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND UBERTHONS HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE UBERTHONS SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANT ABILITY OF SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE OR ACCURACY, OR ENJOYMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY UBERTHONS OR AN UBERTHON REPRESENTATIVE SHALL CREATE A WARRANTY. YOU FULLY ACKNOWLEDGE THAT THE UBERTHONS SERVICES MAY NOT RESULT IN READING ALL TIMING CHIPS. IN ADDITION, WHILE NOT LIKELY, THE UBERTHONS SYSEM COULD FAIL AT ANY TIME AND YOU AGREE TO ACCEPT ALL RESPONSIBILITY AND LIABILITY IN THE EVENT THAT TIMING INFORMATION IS NOT GATHERED, IS LOST, OR IS INACCURATELY REPORTED.

Race Timing Agreement

By signing the Agreement, both parties agree to the Proposal and Estimated Charges in preceding pages, and that the Proposal and Estimated Charges are part of this Agreement. The stated items Uberthons will provide and the stated items you will provide will become part of the agreement when signed by both parties. In addition, the stated total fees are an estimate, and will change depending on the number of registrations.

This Agreement is formed and drafted by both parties.

This Agreement shall be governed by the laws of the State of Oregon, without reference to conflict of laws and principles. Any suit brought forth to enforce this Agreement shall be brought in Washington County, Oregon and all parties hereby submit to the personal jurisdiction of the courts. This document contains the entire agreement between Uberthons and Customer with respect to the subject matter hereof. Any failure to enforce any provision of this Agreement shall not constitute a waiver thereof or of any other provision hereof. This Agreement may not be amended, nor any obligation waived, except by a writing signed by both parties. In the event any term of this Agreement is found by the court to be void or otherwise unenforceable, the remainder of this Agreement shall remain valid and enforceable as though such terms were agreed upon the date of its execution. Customer may not assign this Agreement.

This Agreement must be accepted no later than April 15, 2014, or the Agreement will no longer lock in and hold the date for the event.



IN WITNESS WHEREOF, the parties have executed this Agreement as of the Dates below.

Uberthons
P.O. Box 217
Sherwood, OR 97140
(503) 860-9821

City of Selah
John Gawlik, Mayor

(Signature)

(Signature)

(Print Name)

(Print Name)



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



COUNCIL MEETING ACTION ITEM

4/8/2014 M – 4

Title: Resolution authorizing the Mayor to submit an application form to the Washington Wildlife and Recreation Program for its assistance in submitting a grant application to the Recreation and Conservation Office

Thru: David Kelly, City Administrator

From: Charles Brown, Recreation Manager

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: \$700,000

Funding Source: Fund 001, 40k Cash, 110K in-kind; State and other grant funding 370k; Fund raising 180k.

Staff Recommendation:

I recommend that we sign the resolution to apply for WWRP Grants that will allow us to develop Volunteer Park.

Background / Findings & Facts:

Upon the acceptance of the Selah Comprehensive Parks Plan we became eligible to apply for state funding of parks projects. The Parks & Recreation Department has been working with an outside group to find matching funds for the grant. The grant monies will be used to develop Volunteer Park (Merinda Drive) into a usable park.



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



Recommended Motion:

I move to approve the Resolution authorizing the Mayor to submit an application form to the Washington Wildlife and Recreation Program for it assistance in submitting a grant application to the Recreation and Conservation Office.

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:

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

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CITY OF SELAH, WASHINGTON
RESOLUTION NO. _____

A **RESOLUTION** authorizing the Mayor to submit an application form to the Washington Wildlife and Recreation Program for its assistance in submitting a grant application to the Recreation and Conservation Office.

WHEREAS, the City of Selah has approved a comprehensive parks and recreation plan, which includes the Volunteer Park project;

WHEREAS, under the provisions of the Washington Wildlife and Recreation Program (WWRP), the City can request state grant assistance to aid in financing the cost of Volunteer Park project;

WHEREAS, the City can submit an application authorizing the submission of application(s) for grant funding assistance to the WWRP and it will pursue an application to the Recreation and Conservation Office as provided in Chapter 79A.15 RCW, Acquisition of habitat conservation and outdoor recreation lands and WAC 286;

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

The Mayor is authorized to submit an application form to the Washington Wildlife and Recreation Program for grant funding assistance and application to the Recreation and Conservation Office.

PASSED this 8th day of April, 2014.

John Gawlik, Mayor

ATTEST:

APPROVED AS TO FORM:

Dale Novobielski, Clerk/Treasurer

Robert F. Noe, City Attorney

State Agency
Washington Wildlife and Recreation Program
Application Authorization
Projects with Development or Restoration

Organization Name _____

Project Name(s) _____

This form authorizes submitting application(s) for grant funding assistance for Washington Wildlife and Recreation Program project(s) to the Recreation and Conservation Office as provided in Chapter 79A.15 RCW, Acquisition of habitat conservation and outdoor recreation lands, WAC 286 and subsequent Legislative action.

WHEREAS, our agency has approved a comprehensive parks and recreation plan or habitat conservation plan that includes this project; and

WHEREAS, under the provisions of the Washington Wildlife and Recreation Program (WWRP), state grant assistance is requested to aid in financing the cost of _____ [insert: *facility development; or facility development and restoration; or restoration*]; and

WHEREAS, our organization considers it in the best public interest to complete the project described in the application(s);

NOW, THEREFORE:

1. The _____ [insert *DIRECTOR, ETC*] is authorized to make formal application to the Recreation and Conservation Office for grant assistance;
2. Any grant assistance received will be used for direct costs associated with implementation of the project referenced above;
3. We acknowledge that the grant assistance, if approved, will be paid on a reimbursement basis, meaning we will only request payment from the Recreation and Conservation Office after eligible and allowable costs have been incurred and payment remitted to our vendors, and that the Recreation and Conservation Office will hold retainage until the project is deemed complete.
4. We acknowledge that any facility developed and/or property restored through grant assistance from the Recreation and Conservation Funding Board must be reasonably maintained and made available to the general public unless other restrictions have been agreed to by the Recreation and Conservation Office Director or the Recreation and Conservation Funding Board.
5. We acknowledge that any facility developed and/or property restored with grant assistance from the Recreation and Conservation Funding Board must be dedicated for public outdoor recreation or conservation purposes, and be retained and maintained for such use for perpetuity unless otherwise provided and agreed to by our organization and the Recreation and Conservation Funding Board.
6. This application authorization becomes part of a formal application to the Recreation and Conservation Office for grant assistance; and
7. We provided appropriate opportunity for public comment on this application.

Signed and approved by the following authorized representative:

Signed _____

Title _____ Date _____



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



COUNCIL MEETING ACTION ITEM

4/8/2014 M – 5

Title: Resolution Declaring Vehicle and Printers Surplus and Providing for Disposition of the Same

Thru: David Kelly, City Administrator

From: Charles Brown, Recreation Manager

Action Requested: Approval

Board/Commission Recommendation: Not applicable

Fiscal Impact: N/A

Funding Source: N/A

Staff Recommendation:

I recommend that the Recreation Department be allowed to surplus a pickup truck, four printers and one copy machine, once they obtain an all in one copier, scanner, fax and printer.

Background / Findings & Facts:

The department currently spends about \$800 a year on ink for our printers plus the cost of maintenance and toner for the copier. We are looking to cut that cost down by purchasing one machine that will do it all. We can save approximately \$200 a year by making this switch.

There is a 1992 Ford Ranger that currently sits at the Civic Center with little to no use. Recently we spent money to have a window replaced because it had been broken into. Before that we had to take it to Les Schwab to test the tire because it was flat. We are putting more effort into maintaining a vehicle that



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



rarely gets used. The last time we used that vehicle was in September for the Army Base Race. As a department we will still have one vehicle that we will share to get around for various needs.

Recommended Motion:

I move to approve the ordinance allowing the Recreation Department to surplus its excess printers and pickup truck.

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:

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CITY OF SELAH, WASHINGTON
RESOLUTION NO. _____

**RESOLUTION DECLARING VEHICLE AND PRINTERS SURPLUS AND
PROVIDING FOR DISPOSITION OF THE SAME**

WHEREAS, the City of Selah has determined that it no longer has need for a Recreation Department motor vehicle and printers;

WHEREAS, the City of Selah wishes to surplus and dispose of the items;

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

Section 1. The Recreation Department property as follows are hereby declared surplus:

- a. 1992 Ford Ranger, mileage 53,422
VIN: IFT14UNPB01333
- b. HP Photosmart Plus Printer
- c. HP Photosmart Printer, Model C5580
- d. HP Officejet Printer, Model 6500A Plus
- e. Samsung Printer, Model ML-2510
- f. Kyocera Copier, Model KM-3035

Section 2. The Recreation Department is authorized to dispose of the above-listed motor vehicle and printers in a commercially reasonable manner.

PASSED this 8th day of April, 2014.

John Gawlik, Mayor

ATTEST:

APPROVED AS TO FORM:

Dale Novobielski, Clerk/Treasurer

Robert F. Noe, City Attorney



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



COUNCIL MEETING ACTION ITEM

4/8/2014 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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1 SEPA;

2
3 **WHEREAS**, the Planning Commission held a duly advertised public hearing to consider
4 adoption of the Critical Area Ordinance on Tuesday, March 18, 2014;

5
6 **WHEREAS**, following the public hearing on Tuesday, March 18, 2014, the Planning
7 Commission adopted findings and recommended adoption of the Critical Area Ordinance;

8
9 **WHEREAS**, the City Council considered the Planning Commission recommendation at a
10 regularly scheduled public meeting on Tuesday, April 8, 2014, to consider adoption of the
11 Critical Area Ordinance;

12
13 **NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SELAH:**

14
15 **Section 1. Findings.** The City Council makes the following legislative findings:

16
17 1. The findings of the Staff Report and Recommendation to Planning
18 Commission in this matter, Critical Area Ordinance dated Tuesday, March 18,
19 2014 for the public hearing scheduled for Tuesday, March 18, 2014 are hereby
20 adopted and incorporated herein by reference.

21
22 2. The Findings of Fact and Recommendation of the Selah Planning
23 Commission in this matter, Critical Area Ordinance, dated March 18, 2014 are
24 hereby adopted and incorporated herein by reference.

25
26 3. Best available science has been used to designate and protect fish and
27 wildlife habitat conservation areas, frequently flooded areas, aquifer recharge
28 areas, geologic hazard areas, and wetlands.

29
30 4. Special consideration has been given to conservation or protection
31 measures necessary to preserve or enhance anadromous fisheries. The provisions
32 of the Critical Area Ordinance will help to ensure good water quality, a
33 fundamental requirement of anadromous fish.

34
35 5. The City provided avenues and opportunities for early and continuous
36 public participation in the process to draft the proposed Critical Area Ordinance.

37
38 6. The proposed Critical Area Ordinance is consistent with the policies of

1 the City of Selah Urban Growth Area Comprehensive Plan.

2
3 7. The proposed Critical Area Ordinance is coordinated with federal, state,
4 and local regulations and programs for protecting fish and wildlife habitat
5 conservation areas, frequently flooded areas, geologic hazard areas, aquifer
6 recharge areas, fish and wildlife habitat areas, wetlands and streams, flood hazards
7 areas, and geologic hazards areas, and wetlands.

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

11
12 9. The proposed Critical Area Ordinance furthers the City's
13 implementation of the Endangered Species Act.

14
15 **Section 2, New SMC Chapter 17.07 Critical Area Ordinance, Established.** SMC Chapter
16 17.07, Critical Area Ordinance is hereby established to read as follows: (See attached Exhibit A)

17
18 **Section 3, Severability.** If any clause, sentence, paragraph, section, or part of this Critical Area
19 Ordinance or the application thereof to any person or circumstances shall be adjudged by any
20 court of competent jurisdiction to be invalid, such order or judgment shall be confined in its
21 operation to the controversy in which it was rendered and shall not affect or invalidate the
22 remainder of any parts thereof to any other person or circumstances and to this end the provisions
23 of each clause, sentence, paragraph, section or part of this law are hereby declared to be
24 severable.

25
26 **Section 4. Effective Date.** This ordinance shall become effective on April 22, 2014.

27
28
29 **PASSED BY THE CITY COUNCIL OF THE CITY OF SELAH, WASHINGTON, THIS**
30 **8TH DAY OF APRIL, 2014.**

31
32
33
34 _____
John Gawlik, Mayor

35
36 ATTEST:

APPROVED AS TO FORM:

37
38
39 _____
40 Dale Novobielski, Clerk/Treasurer

41 _____
42 Robert F. Noe, City Attorney

43 *Date published: _____, 2014*

Effective Date: April 22, 2014

1
2 **EXHIBIT A**

3 **CHAPTER 17.07**

4 **CRITICAL AREA ORDINANCE**

5 Sections:

- 6
7 17.07.010 Purpose and Intent.
8 17.07.020 General provisions.
9 17.07.030 Definitions.
10 17.07.040 Applicability -- Regulated activities.
11 17.07.050 Exemptions and nonconforming uses.
12 17.07.060 Exceptions.
13 17.07.070 Reference maps and materials
14 17.07.080 Application.
15 17.07.090 Appeals.
16 17.07.100 Enforcement.
17 17.07.110 Aquifer recharge areas.
18 17.07.120 Fish and wildlife habitat conservation areas.
19 17.07.130 Wetlands.
20 17.07.140 Frequently flooded area.
21 17.07.150 Geologically hazardous areas.

22
23
24 **17.07.010 Purpose and Intent.**

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

- 28
29 A. Implement the City of Selah Comprehensive Land Use Plan and the requirements of the
30 Growth Management Act;
31
32 B. Protect critical areas, in accordance with the Growth Management Act and through the
33 application of best available science, as determined according to WAC 365-195-900
34 through 365-195-925 as it exists or may hereafter be amended, and in consultation with
35 state and federal agencies and other qualified professionals;
36
37 C. Protect the general public, resources and facilities from injury, loss of life, property
38 damage or financial loss due to flooding, landslides, or steep slopes failure;
39

- 1 D. Protect unique, fragile and valuable elements of the environment, including ground and
2 surface waters, wetlands, and fish and wildlife and their habitats;
3
4 E. Prevent cumulative adverse environmental impacts to water quality and availability,
5 wetlands, and fish and wildlife habitat;
6
7 F. Provide flexibility and attention to site-specific characteristics, so as to ensure reasonable
8 use of the property;
9
10 G. Preserve development options within designated critical areas where such development
11 will not adversely impact critical areas values and functions, particularly the functional
12 properties of stream corridors and other hydrological related critical areas.
13

14
15 **17.07.020 General provisions.**
16

17 (A) The City of Selah contains areas that can be identified and characterized as critical or
18 environmentally sensitive. Such areas within the city include aquifer recharge areas, fish and
19 wildlife habitat areas, wetlands and streams, flood hazard areas, and geologic hazard areas.
20

21 (B) The city finds that these critical areas perform a variety of valuable and beneficial
22 biological and physical functions that benefit the city and its residents. Alteration of certain
23 critical areas may also pose a threat to public safety or to public and private property or the
24 environment. The city therefore finds that identification, regulation and protection of critical
25 areas are necessary to protect the public health, safety and general welfare. The city further finds
26 that the functions of critical areas and the purpose of these regulations include the following:
27

- 28 1. Wetlands. Wetlands perform a variety of functions that include maintaining water quality;
29 storing and conveying stormwater and floodwater; recharging groundwater; providing
30 important fish and wildlife habitat; and serving as areas for recreation, education and
31 scientific study, and aesthetic appreciation.
32

33 Wetland buffers serve to moderate runoff volumes and flow rates; reduce sediment,
34 chemical nutrient and toxic pollutants; provide shading to maintain desirable water
35 temperatures; provide habitat for wildlife; and protect wetland resources from harmful
36 intrusion.
37

38 The primary goals of wetland protection are to avoid adverse wetland impacts; to achieve
39 no net loss of wetland function and value – acreage may also be considered in achieving
40 the overall goal; to provide levels of protection that reflect the sensitivity of individual
41 wetlands and the intensity of proposed land uses; and to restore and/or enhance existing
42 wetlands, where possible.
43

- 1 2. Streams. Streams and their associated riparian corridors provide important fish and
2 wildlife habitat; help to maintain water quality; store and convey stormwater and
3 floodwater; recharge groundwater; and serve as areas for recreation, education and
4 scientific study and aesthetic appreciation. Stream buffers serve to moderate runoff
5 volumes and flow rates; reduce sediment, chemical nutrient and toxic pollutants; provide
6 shading to maintain desirable water temperatures; provide habitat for wildlife; and protect
7 wetland resources from harmful intrusion.

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

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

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

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

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

- 42
43 5. Flood Hazard Areas. Floodplains help to store and convey stormwater and floodwater;

1 recharge groundwater; provide important areas for riparian habitat; and serve as areas for
2 recreation, education, scientific study. Development within floodplain areas can be
3 hazardous to those inhabiting such development, and those living upstream and
4 downstream. Floods also cause substantial damage to public and private property which
5 can result in significant costs to the public and individuals.
6

7 The primary goals of flood hazard protections are to limit or condition development
8 within the 100-year floodplain to avoid substantial risk of damage to public and private
9 property and that result in significant costs to the public and individuals; to avoid
10 significant increases in peak stormwater flows or loss of flood storage capacity.
11

- 12 6. Geologic Hazard Areas. Geologic hazard areas include lands or areas characterized by
13 geologic, hydrologic and topographic conditions that render them susceptible to varying
14 degrees of risk of landslides, erosion, seismic or volcanic activity.
15

16 The primary goals of regulating geologic hazards are to avoid and minimize potential
17 impacts to life and property by regulating and/or limiting land uses where necessary, and
18 to conduct appropriate levels of analysis and ensure sound engineering and construction
19 practices to address identified hazards.
20

- 21 H. (B) This chapter of the Selah Municipal Code and other sections incorporated by
22 reference contain standards, procedures, criteria and requirements intended to identify,
23 analyze, and mitigate potential impacts to the city's critical areas, and to enhance and
24 restore degraded resources where possible. The general intent of these protections is to
25 avoid impacts to critical areas. In appropriate circumstances, impacts to specified critical
26 areas resulting from regulated activities may be minimized, rectified, reduced and/or
27 compensated for, consistent with the requirements of this chapter.
28
29

30 **17.07.030 Definitions.**
31

32 For purposes of this chapter, the following definitions for terms, phrases, words and their
33 derivatives used in this chapter shall apply. Where any of these definitions conflict with
34 definitions used in other chapters of the municipal code the definitions in this chapter shall
35 prevail for the purpose of this chapter. Where terms are not defined they shall have the ordinary
36 accepted meaning within the context with which they are used. Where an activity or land use
37 could fall under two (2) or more definitions the more specific shall apply. Webster's Third New
38 International, 1993 (unabridged), shall be the source for ordinary accepted meaning and for the
39 definition of words not defined in this chapter. Specific examples are included as illustrations but
40 are not intended to restrict a more general definition.
41

42 A
43

1 “Agriculture” and “farming” shall include cultivation of the soil, raising or harvesting any
2 agricultural or horticultural commodity or the construction, operation or maintenance of ditches,
3 canals, reservoirs or waterways used exclusively for farming purposes; handling, planting,
4 drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to
5 market, or to a carrier for transportation to market, or for direct sale any agricultural or
6 horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits
7 and vegetables, as an incident to the preparation of such fruits and vegetables for market or for
8 direct sale.

9
10 “Anadromous fish” means fish that spawn and rear in freshwater and mature in the marine
11 environment, such as salmon, steelhead, sea-run cutthroat, and bull trout.

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

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

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

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

28 29 B

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

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

38 39 C

40
41 “City” means the city of Selah.

42
43 “Clearing” means the removal of timber, brush, grass, ground cover or other vegetative matter

1 from the site, which exposes the earth's surface of the site, or any actions, which disturb the
2 existing ground surface.

3
4 "Comprehensive plan" means the city of Selah urban growth area comprehensive plan as it now
5 exists or hereafter amended.

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

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

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

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

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

30
31 "Critical landslide hazard areas" means lands or areas where there is a high or very high risk of
32 landslide due to a combination of slope, soil permeability, and water.

33
34 "Critical seismic hazard areas" means lands or areas where there is a high of seismic events and
35 damage.

36 37 D

38
39 "Delineation manual," "wetland delineation manual," or "wetland delineation methodology"
40 means the manual and methodology used to identify wetlands in the field, in accordance with the
41 approved federal wetland delineation manual and applicable regional supplements. All areas
42 within the City meeting the wetland designation criteria in that procedure are hereby designated
43 critical areas and are subject to the provisions of this Chapter. Use of this manual is required by

1 RCW 36.70A.175 as it exists or may hereafter be amended.

2
3 “Department” means the city of Selah department of planning or successor agency, unless the
4 context indicates a different city department.

5
6
7 **E**

8
9 “Earth/earth material” means naturally occurring rock, soil, stone, sediment, or combination
10 thereof.

11
12 “Enhancement” means the improvement of an existing viable wetland, stream or habitat area or
13 the buffers established for such areas, though such measures as increasing plant diversity,
14 increasing fish and wildlife habitat, installing environmentally compatible erosion controls,
15 increasing structural diversity or removing plant or animal species that are not indigenous to the
16 area. Enhancement also includes actions performed to improve the quality of an existing wetland,
17 stream, or habitat area. See also “Restoration.”

18
19 “Erosion” means a process whereby wind, rain, water, and other natural agents mobilize and
20 transport soil particles.

21
22 “Erosion hazard areas” means lands or areas that, based on a combination of slope inclination
23 and the characteristics of the underlying soils, are susceptible to varying degrees of risk of
24 erosion. Erosion hazard areas are classified as “low” (areas sloping less than 15 percent) or
25 “high” (areas sloping more than 15 percent) on the following: Soil Conservation Service (SCS)
26 now known as the Natural Resource Conservation Service (NRCS). Soil groups may be
27 identified through site-specific analysis.

28
29 “Excavation” means the removal or displacement of earth material by human or mechanical
30 means.

31
32 “Existing and ongoing agricultural activities” means those activities conducted on lands defined
33 in RCW 84.34.020(2), as it exists or may hereafter be amended, and those activities involved in
34 the production of crops and livestock. Such activities must have been in existence as a July 1,
35 1990 (the effective date of the Growth Management Act). The definition includes, but is not
36 limited to, operation and maintenance of farm and stock ponds or drainage ditches, irrigation
37 systems, changes between agricultural activities or crops, and normal operation, maintenance or
38 repair of existing serviceable structures, facilities or improved areas. Activities, which bring an
39 area into agricultural use from a previous nonagricultural use, are not considered part of an
40 ongoing activity. An operation ceases to be ongoing when the area on which it was conducted is
41 proposed for conversion to a nonagricultural use or has lain idle for a period of longer than five
42 years, unless the idle land is registered in a federal or state soils conservation program.

1 “Exotic” means any species of plant or animal, not native to or not usually found as domestic
2 pets in the United States, which is foreign and not indigenous to the Yakima County regional
3 area.
4

5 6 F

7
8 “Fill/fill material” means a deposit of earth material placed by human or mechanical means.
9

10 “Filling” means the act of transporting and placing (by any manner or mechanism) fill material
11 from, to, or on any surface water body or wetland, soil surface, sediment surface or other fill
12 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 landslides,
18 erosion, seismic or volcanic activity.
19

20 “Grading” means any excavation, filling, clearing, leveling or contouring of the ground surface
21 by human or mechanical means.
22

23 H

24
25 “Habitat management” means management of land and its associated resources/features to
26 maintain species in suitable habitats within their natural geographic distribution so that isolated
27 subpopulations are not created. This does not imply maintaining all habitat or individuals of all
28 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 physical or
32 health hazard whether the materials are in usable or waste condition; and any material that may
33 degrade groundwater quality when improperly stored, handled, treated, used, produced, recycled,
34 disposed of, or otherwise mismanaged. Hazardous materials shall also include, without
35 exception:
36

- 37 1. All materials defined as or designated by rule as a dangerous waste or extremely
38 hazardous waste under Chapter 70.105 RCW and Chapter 173-303 WAC or as it may
39 be amended;
- 40 2. Any substance defined as or designated by rule as a hazardous substance under
41 Chapter 70.105 RCW and Chapter 173-303 WAC or as it may be amended; and
42
43

1 3. Petroleum or petroleum products, including any waste oils or sludge's.

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

9 I

10
11 “In-kind wetland mitigation” means replacement of wetlands with wetlands whose characteristics
12 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. (From
15 WAC 173-218-030 or as may be amended.)
16

17 “Intentionally created streams” means streams created through purposeful human action, such as
18 irrigation and drainage ditches, grass-lined swales, and canals. This definition does not include
19 stream modifications performed pursuant to city authorization, such as changes or redirection of
20 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, relative soil
27 permeability, and hydrologic conditions are susceptible to varying degrees of risk of land sliding.
28 Landslide hazards areas are classified as Class I through IV based on the degree of risk as
29 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 percent 15
34 percent and that are underlain by soils that consist largely of sand or gravel.
- 35
- 36 3. Class III/High Hazard. Areas with slopes greater than 15 percent up to 40 percent 15
37 percent and that are underlain by soils consisting largely of silt and clay.
- 38
- 39 4. Class IV/Very High Hazard. Areas with slopes steeper than 15 percent with identifiable
40 zones of emergent water (i.e., springs or groundwater seepage), areas of identifiable
41 landslide deposits regardless of slope and all areas sloping more steeply than 40 percent.
42

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

1 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 environment.
- 13
14 4. Reducing or eliminating the impact over time by preservation and maintenance operations
15 during the life of the action.
- 16
17 5. Compensating for the impact over time by replacing or providing substitute resources or
18 environments.

19
20 While monitoring without additional actions is not considered mitigation for the purposes of
21 these regulations, it shall be part of a comprehensive mitigation program.

22
23 “Mitigation sequencing” means considering or performing mitigation actions, as defined in the
24 definition of ‘mitigation,’ in a preferred sequence from (1) through (5). Avoidance is preferred
25 and must be considered prior to pursuing other forms of mitigation.

26 27 N

28
29 “Native” means any species of plant or animal which are or were indigenous to the Yakima
30 County regional area.

31
32 “Natural heritage wetlands” means wetlands that are identified by scientists of the Washington
33 Natural Heritage Program/DNR as high quality, relatively undisturbed wetlands, or wetlands that
34 support state-listed threatened or endangered species.

35 36 O

37
38 “Off-site mitigation” means performance of mitigation actions, pursuant to standards established
39 in this chapter, on a site or in an area other than the site proposed for conduct of a regulated
40 activity.

41
42 “Out-of-kind mitigation” means replacement of wetlands or habitat with substitute wetlands or
43 habitat whose characteristics do not closely approximate those adversely affected, destroyed, or

1 degraded by a regulated activity.

2
3 **P**

4
5 “Permanent erosion control” means continuous on-site and off-site control measures that are
6 needed to control conveyance of deposition or earth, turbidity, or pollutants after development,
7 construction, or restoration.

8
9 “Planning official” means the planning official of the city of Selah department of planning or
10 successor agency.

11
12 **Q**

13
14 “Qualified consultant/professional” person with experience and training in the pertinent
15 scientific discipline, and who is a qualified scientific expert with expertise appropriate for the
16 relevant critical area subject in accordance with WAC 365-195-905. A qualified professional
17 must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental
18 studies, fisheries, geomorphology, or related field, and have at least five years of related work
19 experience.

20
21 (a) A qualified professional for wetlands must be a professional wetland scientist with at least
22 two years of full-time work experience as a wetlands professional, including delineating wetlands
23 using the state or federal manuals, preparing wetlands reports, conducting function assessments,
24 and developing and implementing mitigation plans.

25
26 (b) A qualified professional for habitat must have a degree in biology or a related degree and
27 professional experience related to the subject species.

28
29 (c) A qualified professional for a geological hazard must be a professional engineer or geologist,
30 licensed in the State of Washington.

31
32 (d) A qualified professional for critical aquifer recharge areas means a hydrogeologist, geologist,
33 engineer, or other scientist with experience in preparing hydrogeologic assessments.

34
35 **R**

36
37 “Reasonable use” means a legal concept articulated by federal and state courts in regulatory
38 taking issues. See “Reasonable use alternatives” for guidelines in determination.

39
40 “Reasonable use alternatives” means an action that could feasibly attain or approximate a
41 proposal’s objectives, but at a lower environmental cost or decreased level of environmental
42 degradation. Reasonable alternatives may be those over which an agency with jurisdiction has
43 authority to control impacts, either directly or indirectly through requirement of mitigation

1 measures. (See WAC 197-11-440(5) and 197-11-660 or as may be amended.).

2
3 “Regulated activities” means activities that have a potential to impact a critical are that is subject
4 to the provisions of the chapter. Regulated activities generally include, but are not limited to, any
5 filling, dredging, dumping or stockpiling, release of contaminants to soil or water, draining,
6 excavation, flooding, clearing or grading, construction or reconstruction, driving pilings,
7 obstructing, clearing, or harvesting.

8
9 “Restoration” means actions taken to reestablish wetland, stream or habitat functional values, and
10 the characteristics that have been destroyed or degraded by past alterations (i.e., filing or
11 grading). See also “Enhancement.”

12 S

13
14
15 “Secondary habitat” means areas that offer less diversity of animal and plant species than critical
16 areas but are important for performing the essential functions of habitat.

17
18 “Seismic hazard areas” means areas that, due to a combination of soil and groundwater
19 conditions, are subject to the risk of ground shaking, subsidence or liquefaction of soils during
20 earthquakes. These areas are typically underlain by soft or loose saturated soils (such as
21 alluvium), have a shallow groundwater table, and are typically located on the floors of river
22 valleys.

23
24 “Site” means the location containing a regulated critical area and on which a regulated activity is
25 proposed. The location may be a parcel or portion hereof, or any combination of contiguous
26 parcels where a proposed activity may impact a critical area.

27
28 “Slope” means an inclined earth surface, the incline of which is expressed as the ratio of
29 horizontal distance to vertical distance. The slope referenced above includes only those where the
30 surface drops ten (10) feet or more vertically within the horizontal distance of twenty-five (25)
31 feet.

32
33 “Spring” means a source of water where an aquifer comes in contact with the ground surface.

34
35 “Stream reconnaissance report” means a type of critical area report prepared by an applicant’s
36 qualified consultant to describe a stream and to characterize its conditions, wildlife, habitat
37 values and water quality. The report also includes an analysis of potential of proposed activity
38 impacts.

39
40 “Streams” means those areas where surface waters produce a defined channel or bed that
41 demonstrates clear evidence of the passage of water and includes, but is not limited to, bedrock
42 channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed need
43 not contain water year-round. This definition is not intended to include artificially created

1 irrigation ditches, canals, storm or surface water devices, or other entirely artificial watercourses
2 unless they are used by fish or created for the purpose of stream mitigation.

3
4 “Structural diversity, vegetative” means the relative degree of diversity or complexity of
5 vegetation in a fish and wildlife habitat area as indicated by the stratification or layering of
6 different plant communities (i.e., ground cover, shrub layer and free canopy), the variety of plant
7 species and the spacing or pattern of vegetation.

8
9 “Substrata” means the soil, sediment, decomposing organic matter or combination of these
10 located on the bottom surface of the wetland, lake, stream, or river.

11 T

12
13
14 “Temporary erosion control” means on-site and off-site control measures that are needed to
15 control conveyance or deposition of earth, turbidity, or pollutants during development,
16 construction, or restoration.

17
18 “Tertiary habitat” means habitat that supports some wildlife but does not satisfy the definition of
19 secondary or critical habitat.

20 U

21
22
23 “Utility” includes natural gas, electric, telephone and telecommunications, cable
24 communications, water, sewer or storm drainage, and their respective facilities, lines, pipes,
25 mains, equipment and appurtenances.

26 V

27
28
29 “Variance” means permission to depart from the requirements of the specific regulations of this
30 chapter for a particular piece of property.

31
32 “Volcanic hazard areas” means areas identified by the U.S. Geological Survey (maps dated 1998
33 or as hereafter revised) as subject to a risk of large lahars with a recurrence interval of 500 to
34 1,000 years.

35 W

36
37
38 “Wells” includes any excavation that is drilled, cored, washed, driven, dug, jetted or otherwise
39 constructed when the intended use of an excavation is for the location, diversion, artificial
40 recharge, or withdrawal of groundwater.

41
42 “Wellhead protection area” means the portion of a well’s, well fields or spring’s zone of

1 contribution defined as such using the criteria established by the city.
2

3 “Wetland” or “wetlands” means areas that are inundated or saturated by surface water or
4 groundwater at a frequency and duration to support, and that under normal circumstances do
5 support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
6 Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include
7 those artificial watercourses intentionally created from nonwetland sites, including but not
8 limited to irrigation and drainage ditches, grass-lined swales, canals, detention facilities,
9 wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands include
10 those artificial wetlands intentionally created from nonwetland areas to mitigate conversion of
11 wetlands. (Wetlands and CAO Updates: Guidance for Small Cities [Eastern Washington
12 Version], Ecology Publication No. 10-06-00.)
13

14 “Wetland impact assessment report” means a report prepared by a qualified consultant that
15 identifies, characterizes and analyzes potential impacts to wetland consistent with applicable
16 provisions of these regulations. A wetland impact assessment may be combined with and include
17 a formal wetland delineation.
18

19 “Wildlife report” means a report prepared by a qualified consultant that evaluates plant
20 communities and wildlife functions and values on a site, consistent with the format and
21 requirements established by this chapter. This report also includes an analysis of impacts.
22
23

24 **17.07.040 Applicability—Regulated activities.**
25

26 (A) All persons proposing development in a critical area or their buffers must first submit an
27 application pursuant to this chapter, except as exempted pursuant to SMC 17.07.050. These
28 critical area protections shall apply as an overlay to zoning and other land use regulations
29 established by the city.
30

- 31 1. Any new development, construction or use within the city that lies within a critical area as
32 defined herein shall comply with the provisions of this chapter. No action shall be taken
33 by any person that results in the alteration or modification of any critical area except as
34 consistent with the requirements, objectives and intent of this chapter.
35
- 36 2. Where two or more types of critical areas overlap, requirements for the development shall
37 be consistent with the standards for each critical area.
38
- 39 3. These critical area regulations shall apply concurrently with review conducted under the
40 State Environmental Policy Act (SEPA), as locally adopted. Any conditions required
41 pursuant to this chapter may be included in the SEPA review and threshold
42 determination.
43

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

7
8 (C) Administrative actions, such as rezones, annexations, and the adoption of plans and
9 programs, shall be subject to the requirements of this chapter. However, the city administrator, in
10 the exercise of his or her discretion, may permit any studies or evaluations required by this
11 chapter to use methodologies and provide a level of detail appropriate to the administrative
12 action proposed.

13
14 **17.07.050 Exemptions and nonconforming uses.**

15
16 The activities listed below are exempt from the provisions of the chapter. Exempt activities shall
17 be conducted using all reasonable methods to avoid impacts to critical areas. Exemption from
18 this chapter shall not be considered permission to degrade a critical area or ignore risks from
19 natural hazards. Incidental damage to, or alteration of, a critical area that is not a necessary
20 outcome of an exempted activity shall be restored and rehabilitated at the property owner's
21 expense.

- 22
23 A. Emergency construction or repair necessary to protect life or property from immediate
24 damage by the elements. An emergency is an unanticipated event or occurrence which
25 possess an imminent threat to public health and safety, to private or public property, or to
26 the environment, and which requires immediate action within a time too short to allow
27 full compliance. Once the threat to the public health, safety, or the environment has
28 dissipated, the construction undertaken as a result of the previous emergency shall then be
29 evaluated and brought into reasonable compliance with this chapter with due
30 consideration given to the nature, type and extent of emergency responses and actions and
31 after the fact permits may be required and other actions required to mitigate impacts;
32
33 B. Normal maintenance or repair of existing buildings, structures, roads, utilities, levees, or
34 drainage system, that do not require construction permits, provided the activity does not
35 materially alter, encroach upon, or increase impacts to critical areas or associated buffers;
36
37 C. Existing and ongoing agricultural activities normal or necessary to conduct general
38 farming;
39
40 D. Site investigative work necessary for land use application submittals such as surveys, soil
41 logs, percolation tests and other related activities. In every case, critical area impacts
42 should be minimized and disturbed areas shall be immediately restored;
43

- 1 E. Passive recreational, scientific or educational activities, including, but not limited to:
2 bicycling, bird watching, boating, canoeing, hiking, hunting, and fishing provided the
3 activity does not alter the critical area or its buffer by changing existing topography, water
4 conditions or water sources;
5
- 6 F. Minor safety improvements to state and local transportation facilities provided the project
7 meets the exempted size impacts for the critical areas;
8
- 9 G. The operation and maintenance of canals, waterways, drains, reservoirs, or other man-
10 made facilities that now exist or are hereafter created or developed as a part of an
11 irrigation system. Portions of historic waterways that were altered in order to facilitate
12 irrigation delivery are subject to the mitigation requirements of this ordinance if they are
13 filled or if new irrigations lines or ditches are placed within wetlands or their required
14 buffers;
15
- 16 H. Maintenance of above-ground utility transmission lines and poles;
17
- 18 I. Any streamside management project associated with a single-family residence or
19 agricultural activity designed to achieve, through the use of native or natural vegetation
20 and/or bioengineering alternatives, the functional properties of the critical area and
21 carried out in conformance with a conservation plan or design developed through North
22 Yakima County Conservation District, or by a qualified professional certified to develop
23 such plans or designs according to best management practices;
24
- 25 J. Activities involving artificially created wetlands or streams intentionally created from
26 nonwetland sites, including but not limited to, grass-lined swales, irrigation and drainage
27 ditches, retention or detention facilities, and landscape features, except wetlands or
28 streams created as mitigation or when the site contains another critical area;
29
- 30 K. Additions to a legally established single-family residential structure in existence before
31 October 1, 2012 located within a wetland buffer or stream buffer may be permitted if all
32 of the following criteria are met:
33
- 34 1. The addition is no greater than 500 square feet of building footprint over that in
35 existence on October 1, 2012;
 - 36
 - 37 2. The addition is not located closer to the critical area than the existing structure;
38
 - 39 3. Impacts on critical area functions are avoided consistent with the purpose and
40 intent of this chapter; and
41
 - 42 4. There are no changes in slope stability, flood conditions or drainage;
43

1 L. Permanent additions to a legally established existing and ongoing farming operation in
2 existence before October 1, 2012 (where such farming operation does not include the
3 processing of agricultural products or other industrial aspects of agriculture) located
4 within a wetland buffer or stream buffer may be permitted if all of the following criteria
5 are met:
6

- 7 1. The addition is not located closer to the critical area than the other existing
8 structure(s); and
9
- 10 2. Impacts on critical area functions are avoided consistent with the purpose and
11 intent of this chapter; and
12
- 13 3. There are no changes in slope stability, flood conditions or drainage; and
14
- 15 4. Does not meet the “reasonable use alternatives” requirements.
16

17
18 **17.07.060 Exemptions.**
19

20 A. Exception. Subdivision and Short Plats with Substantial Completion of Infrastructure.
21 A building permit application shall not be denied under this chapter if there has been
22 substantial completion of the infrastructure of the plat within which the subject property
23 of the permit is specifically located. A determination of substantial completion shall be
24 based on the city administrator’s assessment of existing constructed infrastructure such as
25 streets, utilities, and drainage improvements.
26

- 27 1. Typically “substantial construction” means the amount of construction within a
28 particular project area which has impacted critical areas to the maximum extent
29 that would be attributable to the project actions and on-site mitigation is neither
30 economically nor ecologically viable. Substantial construction may also require
31 off-site mitigation to ensure “no net loss” of wetland function or the function of
32 other critical areas.
33
- 34 2 The city administrator may confer with other city department heads, including the
35 city attorney, regarding the consequences of a decision to deny a building permit
36 for a project with a valid clearing and grading permit, approved site plans, and an
37 authorization to proceed with construction.
38

39 B. Exception. Reasonable Use Alternatives. The city may modify the requirements of
40 this section in specific cases when necessary to allow reasonable use of an applicant’s
41 property.
42

- 43 1. Reasonable Use Review Criteria. To qualify for such relief the applicant must

1 demonstrate all of the following:
2

- 3 a. That no other reasonable use can be made of the property that will have a
4 lesser impact on the critical area;
5
- 6 b. That there are no feasible and reasonable on-site alternatives to the
7 proposed activities, including changes in site layout, reductions in density,
8 and similar factors that would allow a reasonable economic use with fewer
9 impacts;
10
- 11 c. That the proposed use does not pose a material threat to the public health,
12 safety or welfare;
13
- 14 d. Any alteration shall be the minimum required to allow reasonable use of
15 the property;
16
- 17 e. The inability of the proponent to derive reasonable use of the property
18 shall not be the result of applicant's actions after the effective date of the
19 ordinance codified in this section; and
20
- 21 f. The proposal is consistent with other applicable regulations and standards.
22

23 2. Exception Request and Review Process. A request for a reasonable use exception
24 shall be submitted to the city planning department and shall include a critical area
25 report, including mitigation plan, if necessary; and any other related project
26 documents, such as permit applications to other agencies, special studies, and
27 environmental documents prepared pursuant to the State Environmental Policy
28 Act (Chapter 43.21C RCW or as it may be amended) (if reasonable necessary to
29 evaluate the application). The planning official shall prepare a recommendation
30 based on review of the submitted information, a site inspection, and the requested
31 proposal's compliance with the reasonable use exception criteria in subsection
32 (B)(1) of this section.
33

34 3. A Reasonable Use Exception. Reasonable use exceptions shall be processed
35 according to the provisions of a Class 2 review process in SMC 10.06.020 or as
36 may be amended and may be approved , approved with conditions, or denied
37 based on the proposal's ability or lack of ability to comply with all of the
38 reasonable use exception review criteria in subsection (B)(1) of this section. Any
39 alteration of a critical area(s) approved under this section may be subject to
40 appropriate conditions and will require mitigation under an approved mitigation
41 plan.
42

43 4. Burden of Proof. The burden of proof shall be on the applicant to bring forth

1 evidence in support of the application and to provide sufficient information on
2 which any decision has to be made on the application.
3

4
5 **17.07.070 Reference maps and materials.**
6

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

- 15 (A) Wetlands Map, based upon U.S. Fish and Wildlife Service National Wetlands.
16
- 17 (B) Fish and Wildlife Habitat Area Maps, based on Washington Department of Fish and
18 Wildlife priority habitats and species data.
19
- 20 (C) Soils Maps, based upon Yakima County Soils Survey, May, 1985.
21 United States Department of Agriculture, Natural Resources Conservation Service (NRCS).
22
- 23 (D) Steep Slope Maps, Yakima County GIS.
24
- 25 (E) United States Geological Survey (USGS) 7.5 minute Series Topographic Quadrangle
26 Maps.
27
- 28 (F) Aerial photos, Yakima County GIS.
29
- 30 (G) City of Selah Urban Growth Area Comprehensive Plan, January 2005, or as amended.
31
- 32 (H) Yakima County Regional Shorelines Master Program, September 2008, or as amended.
33
- 34 a. City of Selah critical area maps: aquifer recharge areas, streams, lakes, potential
35 wetlands, and floodplains; and geologically hazardous areas, prepared December 2003 and 2004.
36
- 37 (J) The manual and methodology used to identify wetlands in the field, in accordance with
38 the approved federal wetland delineation manual and applicable regional supplements.
39
- 40 (K) Washington State Wetlands Rating System for Eastern Washington—Revised
41 (Publication No. 04-06-15), March 2007, or as amended.
42
- 43 (L) “The Flood Insurance Study for Yakima County, Washington and Incorporated Areas”

1 dated November 18, 2009, and any revisions thereto, with an accompanying flood insurance rate
2 map (FIRM), and any revisions thereto; and

3
4 (M) Approved special reports previously completed for a subject property.
5

6
7 **17.07.080 Application.**
8

9 (A) Review Process. Any new development, construction or use shall require that applicants
10 disclose activities within 250 feet of a known or suspected critical area. The provisions of the
11 section shall be applied to any such proposal. The review process shall proceed as follows:
12

- 13 1. Application Meeting/Site Visit. Upon receiving a land use or development proposal, the
14 planning official may schedule an application meeting and/or site visit with the proponent
15 for purposes of a preliminary determination whether the proposal is likely to result in
16 impacts to the functions and values of critical areas or pose health and safety hazards. At
17 this meeting, the planning official may discuss the requirements of this chapter and other
18 applicable regulations; provide critical area maps and other available reference materials;
19 outline the review and permitting process; and work with the proponent to identify any
20 potential concerns with regards to critical areas.
21
- 22 2. Application and SEPA Checklist. For all nonexempt proposals, the proponent shall
23 submit all relevant land use/development applications, together with a completed SEPA
24 checklist.
25
- 26 3. Determination of Need for Critical Areas Report. Based upon the preapplication meeting,
27 if conducted, application materials, and the SEPA Checklist. The planning official shall
28 determine if there is cause to require a critical area report. In addition, the planning
29 official may use critical areas maps and reference materials, information and scientific
30 opinions from appropriate agencies, or any reasonable evidence regarding the existence of
31 critical area(s) on or adjacent to the site of the proposed activity. See subsection (C) of
32 this section.
33
- 34 4. Documentation and Notification. The planning official shall document the pre-application
35 meeting if conducted, and/or site visit, application and SEPA threshold determination,
36 and any other steps or findings regarding the determination of whether a critical areas
37 report will be required. The applicant shall receive notice of the determination and any
38 findings that support it.
39

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

- 1
2 1. A permit shall only be granted if the permit, as conditioned, is consistent with the purpose
3 and intent of this chapter. Additionally, permits shall only be granted if:
4
5 a. A proposed action:
6
7 i. Avoids significant adverse impacts to critical areas;
8
9 ii. Takes affirmative and appropriate measures to minimize significant
10 adverse impacts to critical areas; or
11
12 iii. Mitigates (compensates for) unavoidable adverse impacts to critical areas;
13 and
14
15 iv. Assures no net loss of wetland function or value; and
16
17 v. The proposal is consistent with all other applicable local, state, and federal
18 regulations and standards.
19
20 2. The proposal is compatible in design, scale, and use with other development or potential
21 development in the area.
22
23 3. The proposed actions implement, to the maximum extent possible, the best available
24 construction, design, and development techniques that will result in the least adverse
25 impact to the critical area.
26
27 4. Any alteration to a critical area, unless otherwise provided for in this chapter, shall be
28 reviewed and approved, approved with conditions, or denied based on the proposal's
29 ability to comply with all of the criteria in subsection (B)(1)(a)(i) through (v) of this
30 section. The Planning official shall document the pre-application meeting if conducted,
31 and/or site visit, findings of an exemption, SEPA, or any other required to review
32 application.
33
34 5. The city may condition the proposed activity as necessary to mitigate impacts or address
35 adverse impacts to critical areas and to conform to the standards required of this chapter.
36 Through the review process the city of Selah shall have the authority to attach such
37 conditions to any permit or authorization issued in order to mitigate impacts to critical
38 area(s) and to carry out the provisions of this chapter. Such conditions may include, but
39 are not limited to, the following:
40
41 a. Specification of allowable lot sizes;
42
43 b. Provisions for additional buffers relative to the intensity of a use or activity;

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- 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.
7. Favorable Determination. If the administrator determines that the proposed activity meets the criteria in this section and complies with the applicable provisions of this chapter, the administrator shall prepare a written notice of determination and identify any required conditions of approval. The notice of determination and conditions of approval shall be included in the project file and be considered in the next phase of the city's review of the proposed activity in accordance with any other applicable codes or regulations.
- a. Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending review of the proposal and conditions of approval by the planning official.
 - b. A favorable determination should not be construed as an endorsement or approval of any underlying permit or approval.
8. Unfavorable Determination. If the administrator determines that the proposed activity does not adequately mitigate its impacts on the critical area and/or does not comply with the criteria in subsection (B)(4) of this section and the provisions of this chapter, the administrator shall prepare a written notice of the determination that includes findings of

1 noncompliance.
2

3 a. No proposed activity or permit shall be approved or issued if it is determined that
4 the proposed activity does not adequately mitigate its impacts on the critical areas
5 and/or does not comply with the provisions of this chapter.
6

7 b. Following notice of determination that the proposed activity does not meet the
8 review criteria and/or does not comply with the applicable provisions of this
9 chapter, the applicant may request consideration of a revised critical areas report.
10 If the revision is found to be substantial and relevant to the critical area review,
11 the administrator may reopen the critical area review and make a new
12 determination based on the revised report.
13

14 9. Completion of the Critical Area Review. The city's determination regarding critical areas
15 pursuant to this chapter shall be final concurrent with the final decision to approve,
16 approve with conditions, or deny the development proposal or other activity involved.
17

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

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

25 a. There will be no alteration of the critical area(s) and/or the required buffer(s);
26

27 b. The proposal will not impact the critical area(s) in a manner contrary to the
28 purpose, intent and requirements of this chapter and the city's comprehensive land
29 use plan; and
30

31 c. The minimum standards of this section will be met.
32

33 2. No critical area report is required for proposals that area exempt from the provisions of
34 this chapter.
35

36 3. Critical area reports shall be completed by a qualified professional in the area to which
37 the report pertains, approved by the planning official, who is knowledgeable about the
38 specific critical area(s) in question.
39

40 4. At a minimum, a required critical areas report shall contain the following information:
41

42 a. Applicant's name and contact information, permits being sought, and description
43

1 of the proposal;
2

- 3 b. A copy of the site plan for the development proposal, drawn to scale and showing:
4
5 i. Identified critical areas, buffers, and the development proposal with
6 dimensions;
7
8 ii. Limits of any areas to be cleared; and
9
10 iii. A description of the proposed stormwater management plan for the
11 development and consideration of impacts to drainage alterations;
12
13 c. The names and qualifications of the persons preparing the report and
14 documentation of any fieldwork performed on the site;
15
16 d. Identification and characterization of all critical areas, wetland, water bodies, and
17 buffers adjacent to the proposed project area. Delineation of wetlands shall be
18 accomplished using the Washington State Wetlands Identification and Delineation
19 Manual (Publication No. 96-94), March 1997 (as amended or revised);
20
21 e. An assessment of the probable cumulative impacts to critical areas resulting from
22 the proposed development of the site;
23
24 f. An analysis of site development alternatives;
25
26 g. A description of reasonable efforts made to apply mitigation sequencing to avoid,
27 minimize, and mitigate impacts to critical areas;
28
29 h. A mitigation plan, as necessary, developed in accordance with the mitigation
30 requirements of this section and site assessment and evaluation, including, but not
31 limited to:
32
33 i. The identification of impacts of the proposed use or development within or
34 adjacent to a critical area or buffer on the critical area; and
35
36 ii. The impacts of proposed alteration of a critical area or buffer on the
37 development proposal, other properties and the environment;
38
39 i. A discussion of the performance standards applicable to the critical area and
40 proposed activity;
41
42 j. Financial guarantees to secure compliance; and
43

1 k. Any additional information required for specific critical areas as listed in
2 subsequent sections of this chapter.
3

4 5. The planning official may request any other information reasonably deemed necessary to
5 evaluate impacts to critical areas.
6

7 (D) Mitigation Requirements. The applicant shall seek to avoid material impacts that degrade
8 the functions and values of critical areas. If alteration is not reasonably avoidable, material
9 adverse impacts to critical areas and buffers resulting from the development or use proposed
10 shall be mitigated in accordance with an approved critical areas report and SEPA documents.
11 Mitigation shall be on-site, when possible, and sufficient and reasonably maintain the functions
12 and values of the critical area, and to prevent risk from a hazard posed by a critical area.
13

14 1. Mitigation Sequencing. Applicants shall demonstrate that all reasonable efforts have been
15 examined with the intent to avoid and minimize impacts to critical areas. When an
16 alteration of a critical area is proposed, such alteration shall be avoided, minimized, or
17 compensated for in the following order of preference:
18

19 a. Avoiding the impact by not taking a certain action or parts of an action;
20

21 b. Minimizing or reducing impacts by reducing the scope of the proposed use or
22 development; by using accepted technology, engineering or design, or by taking
23 affirmative steps, such as project design, relocation, or timing to avoid or reduce
24 impacts;
25

26 c. Rectifying the impacts to wetlands, critical aquifer recharge area(s), frequently
27 flooded area(s), and habitat conservation area(s) by repairing, rehabilitating, or
28 restoring the affected environment to historical conditions or the conditions
29 existing at the time of initiation of the project;
30

31 d. Minimizing or eliminating the risk or impact by restoring, stabilizing or protecting
32 the critical area through engineered or other methods;
33

34 e. Reducing or eliminating the risk or impact over time by preservation and
35 maintenance operations for the duration of the proposed use or development;
36

37 f. Compensating for the impact to critical areas, wetlands, critical aquifer recharge
38 area, frequently flooded areas, and habitat conservation areas by replacing,
39 enhancing, or providing substitute resources or environments; and
40

41 g. Monitoring the risk or other required mitigation and taking remedial action when
42 necessary.
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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

1 be considered if monitoring or evaluation indicates the project has failed to meet
2 performance standards.
3

4 (E) Agency Review. In cases where the planning official does not have adequate knowledge
5 or training to determine the sufficiency and accuracy of information contained within a critical
6 area report or mitigation plan, said reports or plans shall be submitted to qualified agencies or
7 consultants for review and recommendations prior to acceptance by the city.
8

9 (F) Surety/Bonding. If a development proposal is subject to mitigation, maintenance or
10 monitoring plans, the City of Selah, in a form acceptable to the city council and the city attorney,
11 may require security, bond or other assurance device reasonable or necessary to insure
12 performance and compliance.
13

14
15 **17.07.090 Appeals.**
16

17 Any decision to approve, condition, or deny a development proposal or other activity based on
18 the requirements of this chapter may be appealed according to, and as part of, the appeal
19 procedure for the permit or approval involved.
20

21
22 **17.07.100 Enforcement.**
23

24 Violation or failure to comply with the provisions of this chapter or any permit issued hereunder
25 shall be subject to enforcement actions by the city of Selah, including but not limited to, (A)
26 revocation of any issued permit(s); (B) remedies authorized in the Selah Municipal Code,
27 development regulations and shorelines master program or any other land use regulation of the
28 city of Selah; and (C) remedies and penalties provided by any other applicable law. The city
29 attorney, when authorized by the mayor and council, shall seek penalties, remedies, injunctions
30 and other legal sanctions necessary for the enforcement of this chapter. In addition to costs
31 allowed by these regulations, the prevailing party in an enforcement action may, at the court's
32 discretion, also be allowed interest and reasonable attorney fee. The city attorney shall seek such
33 costs, interest, and the reasonable attorney fees on behalf of the city of Selah when the city is the
34 prevailing party.
35

36
37 **17.07.110 Aquifer Recharge Areas.**
38

39 (A) Classification. The following three-level classification scheme is used to determine the
40 level of protection necessary for land areas:
41

- 42 1. Extreme Potential. Rivers, creeks, wetlands, lakes and ponds, and lands that have been
43 specifically identified as critical recharge areas based on reliable scientific data.

2. High Potential. Lands adjacent to rivers, creeks, wetlands, lakes and ponds, which include soils that show permeability ratings in the county soil survey of more than twenty (20) inches per hour within sixty (60) inches of the soil surface.
3. Moderate Potential. Lands with soil that show permeability ratings in the county soil survey of more than twenty (20) inches per hour within sixty (60) inches of the soil surface.

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

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

1. Development activities within an aquifer recharge area shall be designed, developed and operated in a manner that will not potentially degrade groundwater resources nor adversely affect the recharging of the aquifer.
2. A hydrogeologic study and/or ongoing monitoring may be required to assess 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 both 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

1 that could impair the recharge of a critical aquifer recharge area is not permitted within
2 areas of high or moderate recharge potential unless in accordance with applicable zoning
3 regulations, and, provided the applicant can satisfactorily demonstrate that potential
4 negative impacts to groundwater can be prevented.

- 5
6 7. All storage tanks, whether above or underground shall be required to be constructed so as
7 to be protected against corrosion for the operational life of the tank, to prevent any release
8 of hazardous substances to the ground, groundwaters, or surface waters, and to utilize
9 appropriate containment methods.
10
11 8. Any agricultural activities conducted within aquifer recharge areas shall incorporate best
12 management practices concerning waste disposal, fertilizer/pesticide/herbicide use, and
13 stream corridor management. If necessary, applicants shall seek technical assistance from
14 the North Yakima County Conservation District or the Washington State University
15 Cooperative Extension Office.
16
17 9. Application of pesticides, herbicides and fertilizer within aquifer recharge areas shall
18 comply with timing and rates specified on product packaging.
19
20 10. Vehicle repair and servicing activities must be conducted over impermeable pads and
21 within covered structures capable of withstanding normally expected weather conditions.
22 Chemicals used in the process of vehicle repair and servicing must be stored in a manner
23 that protects them from weather and provides containment should leaks occur.
24
25

26 **17.07.120 Fish and Wildlife Habitat Conservation Areas.**

27
28 (A) Classification. The Washington Department of Fish and Wildlife (WDFW) has identified
29 those fish and wildlife resources that are considered a priority for management and conservation.
30 Priority habitats are those with unique or significant value to many fish or wildlife species.
31 Priority species are those which require special efforts to ensure their perpetuation because of
32 their low numbers, sensitivity to habitat alterations, tendency to form vulnerable aggregations or
33 because they hold commercial, recreational, or tribal importance. The city of Selah shall use the
34 WDFW Priority Habitat and Species Program to classify all fish and wildlife habitat conservation
35 areas within the city of Selah and the Selah Urban Growth Area Boundary. Two classifications
36 shall apply:
37

- 38 1. Critical. Areas within which state or federally designated endangered, threatened and
39 sensitive species have a primary association, including anadromous fish species and
40 habitats requiring special consideration under RCW 36.70A.172(1) or as may be
41 amended.
42
43 2. Awareness. All other priority habitats and species identified by WDFW.

1
2 (B) Designation. Fish and wildlife conservation areas are designated under the Washington
3 Department of Fish and Wildlife Priority Habitat and Species Program. Priority habitats are
4 considered to be priorities for conservation and management. Priority species require protective
5 measures for their perpetuation due to their population status, sensitivity to habitat alteration,
6 and/or recreational, commercial, or tribal importance. Priority habitat and species maps prepared
7 by Yakima County based on WDFW data show the range of existing habitat by species.
8

9 C) Standards. In addition to the general provisions of this section and the requirements of the
10 underlying zoning district, the following minimum standards shall apply to development
11 activities within and adjacent to fish and wildlife habitat conservation areas:
12

- 13 1. Critical area reports for fish and wildlife habitat conservation areas shall include a habitat
14 assessment to evaluate the presence or absence of a potential critical species or habitat;
15
- 16 2. The Washington State Department of Fish and Wildlife priority habitat and species
17 management recommendations shall be consulted in developing specific measures to
18 protect a specific project site;
19
- 20 3. All projects shall comply with the applicable federal, statute and local regulations
21 regarding the species and habitats identified upon a site;
22
- 23 4. Establishment of Buffers. When needed to protect the functions and values of habitat
24 conservation areas, the planning official shall require the establishment of buffer areas for
25 activities in or adjacent to such areas. Buffers shall consist of an undisturbed area of
26 natural vegetation, or areas identified for restoration. Buffer widths shall reflect the
27 sensitivity of the habitat and the intensity of activity proposed, and shall be consistent
28 with the management recommendations issued by the Washington State Department of
29 Fish and Wildlife;
30
- 31 5. As determined through the site-specific study, mitigation measures shall be implemented
32 that maintain the base line populations and reproduction rates for the particular species,
33 and
34
- 35 6. As determined through the site-specific study, appropriate habitat conservation,
36 management and monitoring plan(s) shall be developed and implemented, with any
37 necessary surety to ensure compliance with such plan(s) being provided as described in
38 this chapter.
39

40
41 **17.07.130 Wetlands.**
42

43 (A) Classification. The City of Selah adopts wetland determinations as set forth in RCW

1 36.70A.030(20) or as may be amended and classification shall be in accordance with the
2 Washington State Wetlands Rating System for Eastern Washington or as updated or amended:
3

4 1. Category I. Category I wetlands are those that score over seventy (70) points on the
5 rating system. They are those that:
6

- 7 a. Represents a unique or rare wetland type;
- 8
- 9 b. Are sensitive to disturbance;
- 10
- 11 c. Are relatively undisturbed and contain ecological attributes that are impossible to
12 replace within a human lifetime; or
- 13
- 14 d. Provide a very high level of functions.
- 15

16 The City of Selah does not wish to risk any degradation to these wetlands. Generally,
17 these wetlands are not common and make up a small percentage of the wetlands in
18 Eastern Washington. Category 1 wetlands include alkali wetlands, bogs, natural
19 heritage wetlands, mature and old-growth forested wetlands with slow growing trees,
20 forests with stands of aspen, and wetlands that perform many functions well, as
21 measured by the rating system.
22

23 2. Category II. Category II wetlands are those that score between fifty-one (51) and sixty-
24 nine (69) points on the rating system. They generally are:
25

- 26 a. Forested wetlands in the channel migration zone of rivers;
- 27
- 28 b. Matured forested wetlands containing fast growing trees;
- 29
- 30 c. Vernal pools present within a mosaic of other wetlands; or
- 31
- 32 d. Those wetlands with a moderately high level of functions.
- 33

34 These wetlands are difficult, though not impossible, to replace. They provide high
35 levels of some functions. These wetlands occur more commonly than Category I
36 wetlands, but still need a high level of protection.
37

38 3. Category III. Category III wetlands are those that score between thirty (30) to fifty (50)
39 points on the rating system. They generally are:
40

- 41 a. Vernal pools that are isolated; or
- 42
- 43 b. Wetlands with a moderate level of functions as measured by the rating system.

1
2 These wetlands have generally been disturbed in some manner, and are often smaller,
3 less diverse and/or more isolated in the landscape than Category II wetlands. They
4 provide high levels of some functions. These wetlands occur more commonly than
5 Category I wetlands, but still need a high level of protection.
6

- 7 4. Category IV. Category IV wetlands have the lowest level of functions, as measured by
8 the rating system, and are often heavily disturbed. They score less than thirty (30) points.
9 These are wetlands that could be replaced, and in some cases improved. These wetlands
10 do provide some important functions, and should be afforded some degree of protection.
11

12 (B) Designation. To date there has been no wetlands mapping done specifically for the City of
13 Selah vicinity. To remedy this, the city should pursue an accurate accounting of all wetlands in
14 the City's Urban Growth Area based on the manual and methodology used to identify wetlands in
15 the field, in accordance with the approved federal wetland delineation manual and applicable
16 regional supplements. However, until funding is obtained to conduct a comprehensive inventory
17 of wetlands, the National Wetlands Inventory (NWI) maps shall be used as a base designation.
18 The NWI maps, along with other supportive documentation, shall be used to review development
19 proposals, but because the National Wetlands Inventory was done at such a broad scale, local
20 verification according to the classification criteria shall be part of the standard process for
21 identifying and designating wetlands.
22

23 (C) Performance Standards. In addition to the general provisions of this section and the
24 requirements of the underlying zoning district, the following minimum standards shall apply to
25 the development activities within and adjacent to wetland areas:
26

- 27 1. The following buffer zones are required adjacent to and outside of all regulated wetlands
28 according to the following schedule. There is an exception for Category III and IV
29 wetlands between 1,000 and 4,000 square feet provided the wetland meets the criteria of
30 C (1)(a) of this section.
31

32 i. Category I - 250 feet

33 ii. Category II - 200 feet

34 iii. Category III - 150 feet

35 iv. Category IV - 50 feet
36
37
38
39

40 The standard buffer widths shall be applied unless the planning official determines through a
41 scientifically supportable method that a greater or lesser buffer width would serve to protect the
42 functions and values of a particular wetland. The standard buffer widths may not be reduced by
43 more than twenty-five (25) percent or to no less than thirty-five (35) feet whichever is greater.

1 The planning official may also consider buffer averaging.

2
3 Averaging to allow reasonable use of the parcel may be permitted when **all** of the
4 following are met:

- 5
6 a. There are no feasible alternatives to the site design that could be accomplished
7 without buffer averaging; and
8
9 b. The averaged buffer will not result in degradation of the wetland's functions and
10 values as demonstrated by a critical areas report from a qualified wetland
11 professional; and
12
13 c. The total buffer area after averaging is equal to the area required without
14 averaging; and
15
16 d. The buffer at its narrowest point is never less than either seventy-five percent
17 (75%) of the required buffer width or seventy-five feet (75') for Category I and II,
18 or fifty feet (50') for Category III, and twenty-five feet (25') for Category IV,
19 whichever is greater.
20

21 2. Greater buffer widths or revegetation of an inadequate plant community may be required
22 where necessary to ensure development does not result in adverse impacts to wetlands.

- 23
24 a. Impacts allowed under this provision to these wetlands will be fully mitigated as
25 required in the mitigation section.
26
27 b. All Category I and Category II wetlands between one-thousand (1,000) and four-
28 thousand (4,000) square feet should be evaluated with full mitigation sequencing and
29 buffer establishment. Any approved impacts should be adequately compensated by
30 mitigation.
31
32 c. Wetlands larger than four-thousand (4,000) square feet will be evaluated using
33 standard procedures for wetland review.
34 d. Mitigation consistent with the mitigation ratios set forth in Table A-19. Wetlands
35 as CAO updates; Guidance for Small Cities (Eastern Washington Version) Ecology
36 Publication Number 10-06-001, or as may be updated or amended, may be required.
37

38 3. Wetland buffer zones shall be retained in their natural condition. Where buffer
39 disturbances are unavoidable during adjacent construction, revegetation with native plant
40 materials will be required.
41

42 4. Wetland alteration proposals shall be approved only if no alternative is available. When
43 no alternative exists, wetland replacement shall be used to mitigate impacts and shall be

1 based on the functions and values of the particular wetland being impacted. Simplified
2 ratios for wetlands replacement projects shall be as follows:
3

- 4 a. Category I: 6-1;
- 5
- 6 b. Category II: 3-1;
- 7
- 8 c. Category III: 2-1;
- 9
- 10 d. Category IV: 1.5-1.
- 11

12 Wetland enhancement ratios shall not be less than one and one-half (1½) to one (1) for
13 replacement.
14

- 15 5. The following activities are allowed to occur in wetlands and wetland buffer zones
16 subject to conditioning with appropriate best management practices to minimize impacts
17 on the functions and values of wetlands:
18
 - 19 a. Outdoor passive recreational activities;
 - 20
 - 21 b. Existing and ongoing agricultural activities (provided no additional area is added
22 beyond demonstrated historic levels within the past five years). Agricultural
23 activities in this section do not include the processing of agricultural products or
24 other industrial aspects of agriculture.
 - 25
- 26 6. Maintenance of existing facilities, structures, ditches, roads and utility systems. All
27 projects shall comply with the applicable federal, state and local regulations regarding the
28 species.
29
- 30 7. As determined through the site-specific study, mitigation measures shall be implemented
31 that maintain the functions and values found in the particular wetland.
32
- 33 8. As determined through the site-specific study, appropriate mitigation, management and
34 monitoring plan(s) may be developed and implemented, with any necessary security to
35 ensure compliance with such plan(s) being provided as described in SMC
36 17.07.080C(4)(j).
37
- 38 9. A use or structure established prior to April 22, 2014 which does not conform to
39 standards set forth herein is allowed to continue and be reasonably maintained; provided,
40 that such activity or structure shall not be expanded or enlarged in any manner that
41 increases the extent of its nonconformity.
42
43

1 **17.07.140 Frequently flooded areas.**

2
3 (A) Classification. The following classification system will be used to determine the level of
4 protection necessary for frequently flooded areas:

- 5
6 1. Class I. The floodway of any river or stream as designated by the Federal Emergency
7 Management Agency (FEMA); and draws, alluvials and flood channels that are not
8 mapped by FEMA but are areas of local concern that have a historical reoccurrence of
9 flood events characterized by significant damage due to flood flows.
10
11 2. Class II. All areas mapped by FEMA as a one-hundred (100) year floodplain; and those
12 areas of local concern that experience reoccurrence of flooding that are characterized by
13 damage due primarily to inundation.
14

15 (B) Designation. The city designates the areas of special flood hazard (including special flood
16 risk zones) in addition to the general provisions of this section and the requirements of the
17 underlying zoning district, the following minimum standards shall apply to the development
18 activities within and adjacent to wetland areas.
19

20 (C) Standards. In addition to the general provisions of these regulations and the requirements
21 of the underlying zoning district, the following minimum standards shall apply to development
22 activities within and adjacent to frequently flooded areas:
23

- 24 1. All development within frequently flooded areas shall be reviewed under and subject to
25 the requirements of the City of Selah's flood damage prevention regulations (SMC,
26 Chapter 11.19), SMC.
27
28 2. All development within frequently flooded areas shall be consistent with the goals,
29 objectives, findings, and recommendations of the City's comprehensive land use plan and
30 flood damage prevention plan. The flood damage prevention plan, along with the City's
31 comprehensive land use plan, provides a policy basis for management of flood hazard
32 areas.
33
34 3. Where practical, development activities shall be coordinated with structural activities
35 recommend in the flood damage prevention plan.
36
37 4. Where frequently flooded areas coincide with other designated critical areas, critical areas
38 reports and mitigation plans shall address any combined functions and values.
39
40 5. In all cases where mitigation measures are proposed, said measures shall be consistent
41 with the City's flood damage prevention plan.
42
43 6. Filling and grading in frequently flooded areas shall occur only upon a determination by a

1 qualified professional that the filling or grading will not increase flood hazards to others.
2

3 7. Subdivision in frequently flooded areas will be subject to the following:
4

5 a. All lots created shall have adequate building space outside flood hazard areas,
6 including the floodway, one-hundred (100) year floodplain, and channel
7 migration zones;
8

9 b. Plat maps shall indicate the floodway and/or the one-hundred (100) year
10 floodplain;
11

12 c. Subdivisions shall be designed to minimize or eliminate the potential for flood
13 damage; and
14

15 d. Subdivisions shall provide for stormwater drainage, in accordance with City
16 standards, so as to reduce exposure to flood hazards.
17

18 8. Bank stabilization projects. Where consistent with other regulations and with the flood
19 damage prevention plan, protection of structures, public roadways or sole access routes in
20 existence before April 22, 2014 shall be allowed. Such projects shall be designed to
21 minimize adverse impacts to property, public improvements, and ecological functions.
22
23

24 **17.07.150 Geologically hazardous areas.**
25

26 (A) Classification. Known geologically hazardous areas within the City of Selah consist of
27 erosion hazard areas, including steep slopes. As more information is obtained that demonstrates
28 the existence of other types and/or areas of geologically hazardous areas, these types and/or areas
29 shall be classified and protected in accordance with the provisions of this section.
30

31 1. The following general classification system will be used to determine the level of
32 protection necessary for geologically hazardous areas, based upon the risk to
33 development:
34

35 a. Known or suspected risk;
36

37 b. No risk;
38

39 c. Risk unknown.
40

41 2. The following criteria shall be used in determining the status of an area as a particular
42 type of geologically hazardous area:
43

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

3
4 i. A slope of fifteen (15) percent or greater;

5
6 ii. Soils identified by the Natural Resource Conservation Service (NRCS) as
7 unstable and having a high potential for erosion; and

8
9 iii. Areas that are exposed to the erosion effects of wind or water.

10
11 b. Landslide hazard areas are those that may contain any of the following
12 circumstances:

13
14 i. All areas that have historically been prone to land sliding;

15
16 ii. All areas containing soil types identified by the Natural Resource
17 Conservation Service (NRCS) as unstable and prone to landslide hazard;

18
19 iii. All areas that show evidence of or are at risk from snow avalanches; or

20
21 iv. All areas that are potentially unstable as a result of rapid stream incision or
22 stream bank erosion.

23
24 (B) Designations.

25
26 1. Geologically Hazardous Areas. Each type of geologically hazardous area is designated
27 based on different factors. The designation process for each type is as follows:

28
29 2. Erosion Hazard Areas. NSCS soil erosion-hazard ratings are interpretations of the
30 potential for erosion, applied to broadly generalized map units. They do not pinpoint
31 erosion sites, but rather areas that, because of soil properties, availability of water, etc.,
32 The SCS maps will be used to identify areas of erosion potential. The soil information
33 needs to be combined with site-specific information (rills, inter-rills, and wind erosion) to
34 determine if an erosion hazard is present on the site. The soil types that have erosion
35 hazard potential have been identified within the Selah urban growth area in the county.

36
37 3. Landslide Hazard Areas. Lands that meet the classification criteria are hereby designated
38 as landslide hazard areas and should be mapped as resources become available.

39
40 4. Mine Hazard Areas. Lands that meet the classification criteria are hereby designated as
41 mine hazard areas and will be mapped as resources become available.

42
43 5. Seismic Hazard Areas. There are no known active faults in the City of Selah. The

1 majority of the city is located within Seismic Zone C in accordance with the International
2 Building Code (2009 Edition, or as amended).

- 3
4 6. Volcanic Hazard Areas. There are no volcanic hazard areas in the City of Selah. There
5 are, however, several active volcanoes that could have impacts on the city, particularly
6 the fallout of ash. There is no way to prevent the impacts of fallen ash, but there are ways
7 to respond to the ash that could lessen its impacts.

8
9 (C) Standards. In addition to the general provisions of these regulations and the requirements
10 of the underlying zoning district, the following minimum standards shall apply to development
11 activities within and adjacent to geologic hazard areas:

- 12
13 1. All projects shall be evaluated through a geotechnical report to determine whether the
14 project is proposed to be located in a geologically hazardous area, and if so, what is the
15 project's potential impact on the geologically hazardous area and the potential impact of
16 the geologic hazard on the proposed project;
17
18 2. All projects shall comply with the applicable federal, state and local regulations,
19 including the most recently adopted International Building Code;
20
21 3. As determined through the site-specific study, appropriate buffers shall be maintained
22 between all permitted uses and activities and the designated geologically hazardous
23 area(s);
24
25 4. The existing native vegetation within the buffer area(s) shall be maintained, except that
26 normal, nondestructive pruning and trimming of vegetation for maintenance purposes is
27 allowed;
28
29 5. As determined through the site-specific study, appropriate drainage, grading, excavation
30 and erosion control measures shall be implemented in the geologically hazardous area(s);
31
32 6. As determined through the site-specific study, mitigation measures shall be implemented
33 that maintain the integrity of the geologically hazardous area(s);
34
35 7. As determined through the site-specific study, appropriate management and monitoring
36 plan(s) shall be developed and implemented to preserve and protect both the geologically
37 hazardous area(s) and the project, with any necessary surety to ensure compliance with
38 such plan(s) being provided in SMC 17.07.080(C)(4)(j) (critical areas report): and
39

40 A use or structure established prior to April 22, 2014 which does not conform to standards set
41 forth herein is allowed to continue and be reasonably maintained; provided, that such activity or
42 structure shall not be expanded or enlarged in any manner that increases the extent of its
43 nonconformity, unless otherwise approved.

**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 overwintering; 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.

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 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 APPROVAL 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.

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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: _____, SECONDED BY: _____, VOTE: _____.

MOTION TO **ADOPT** FINDINGS OF FACT BY: _____, SECONDED BY: _____, VOTE: _____.

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: _____

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.

- 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 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.

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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.

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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.

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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

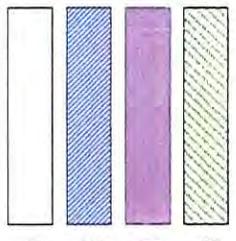
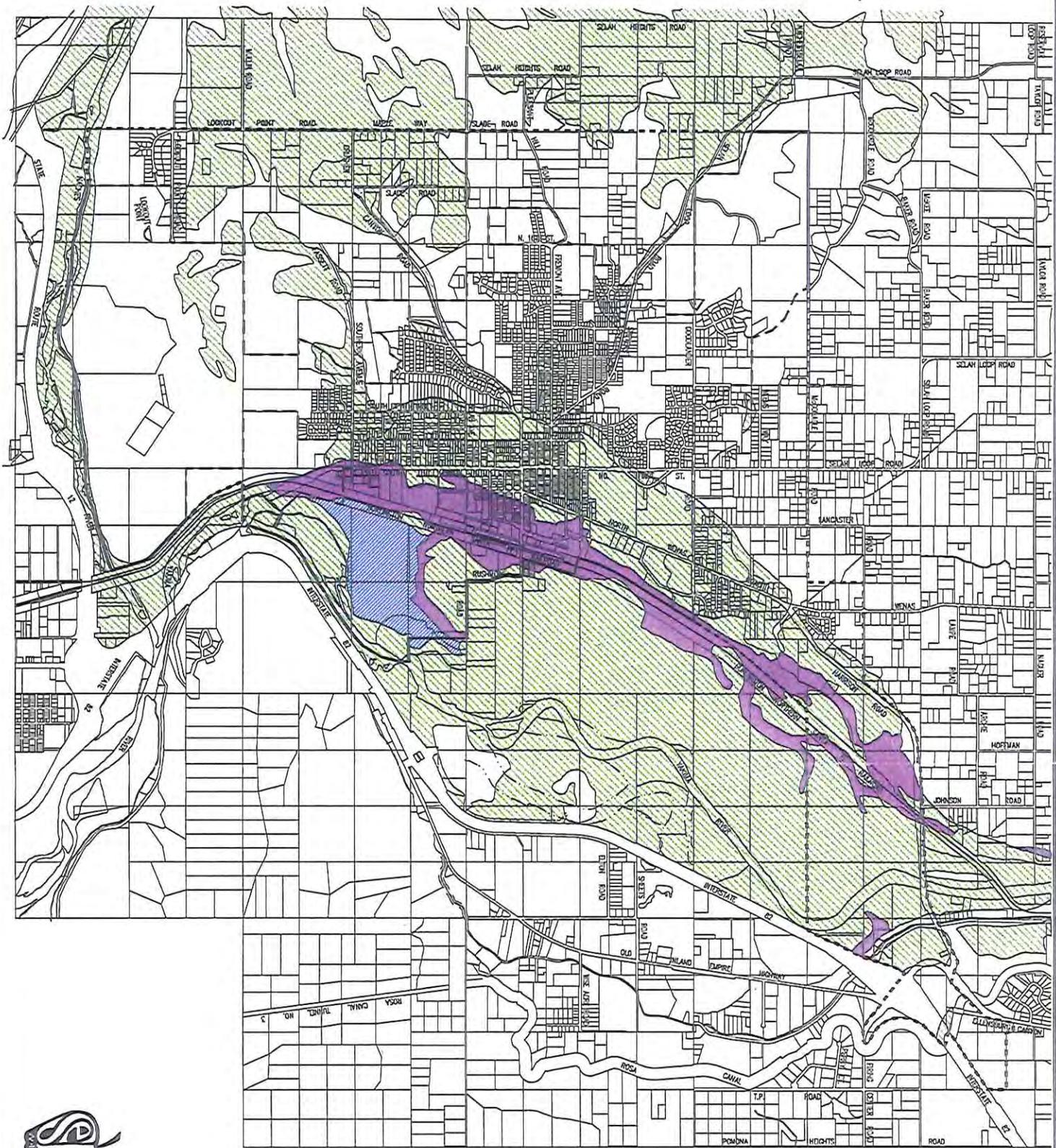
H. Reports/Announcements

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



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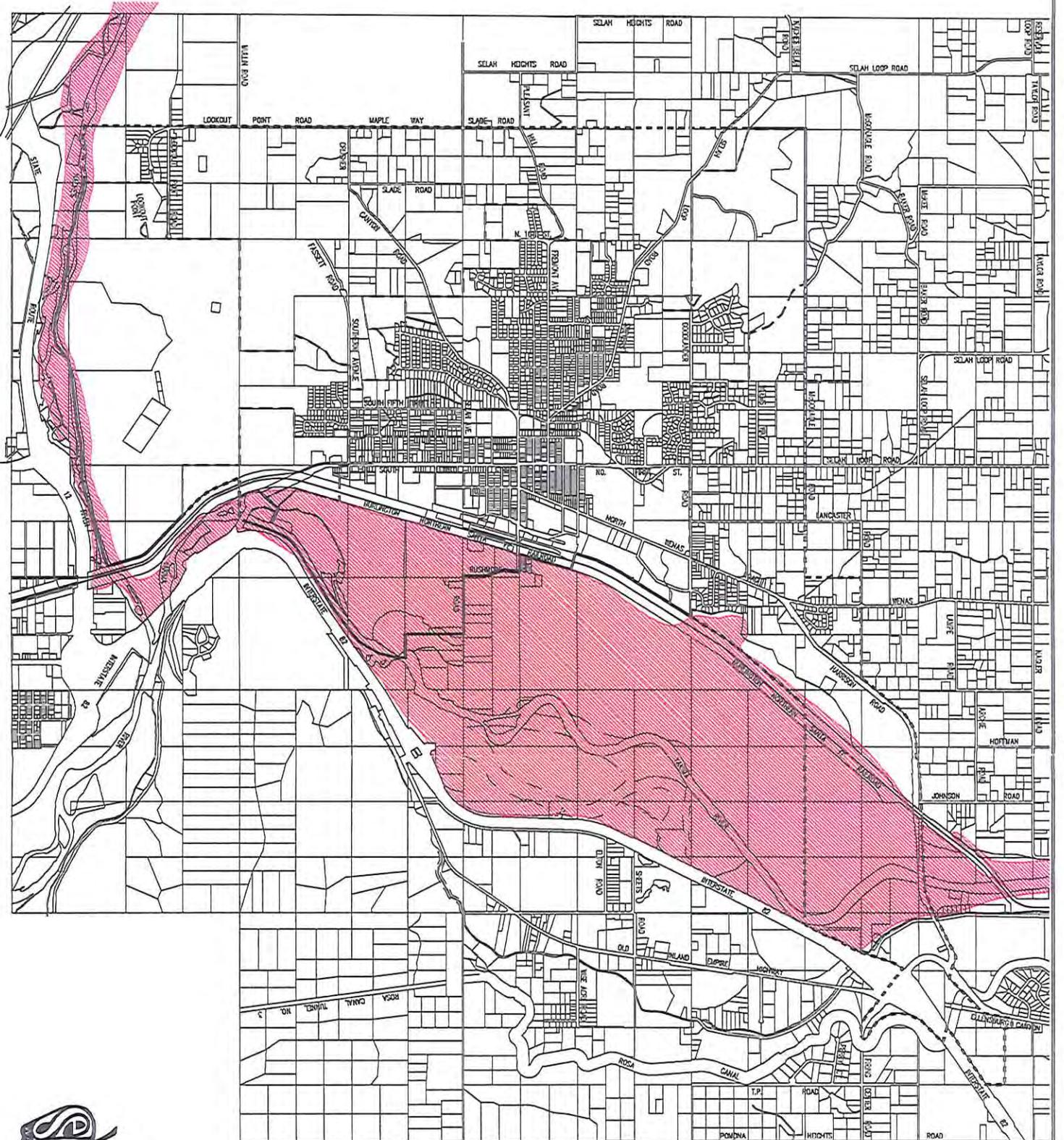
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3005 SW 20th Ave
(503) 888-7600

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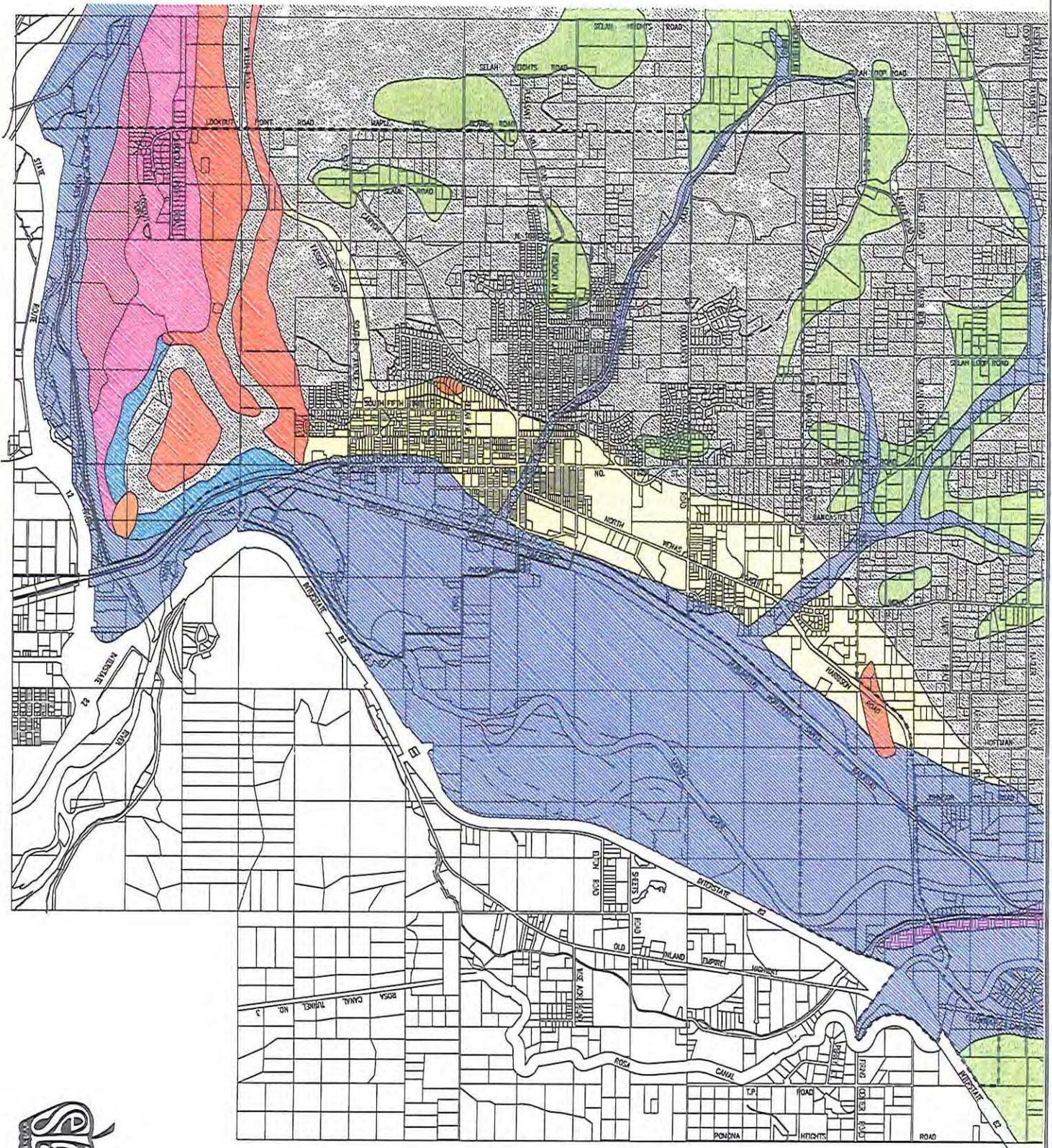
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 300 S. ...
 (503) 847-7...

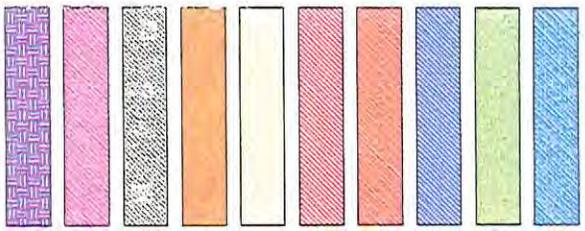


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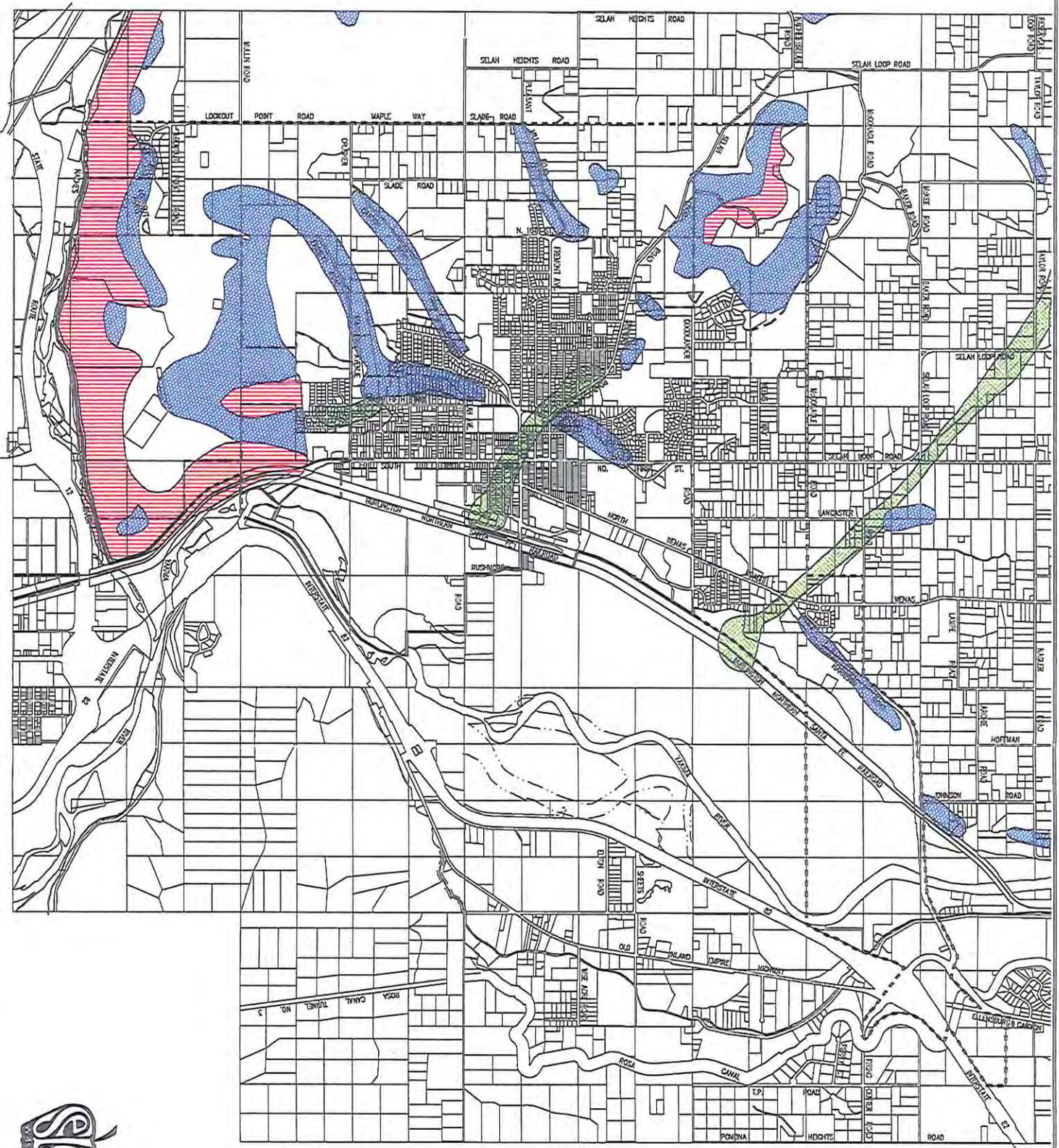
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Hulbert & Associates, Inc.
 CIVIL ENGINEERS
 3000 Sycamore
 (951) 854-1111

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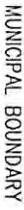


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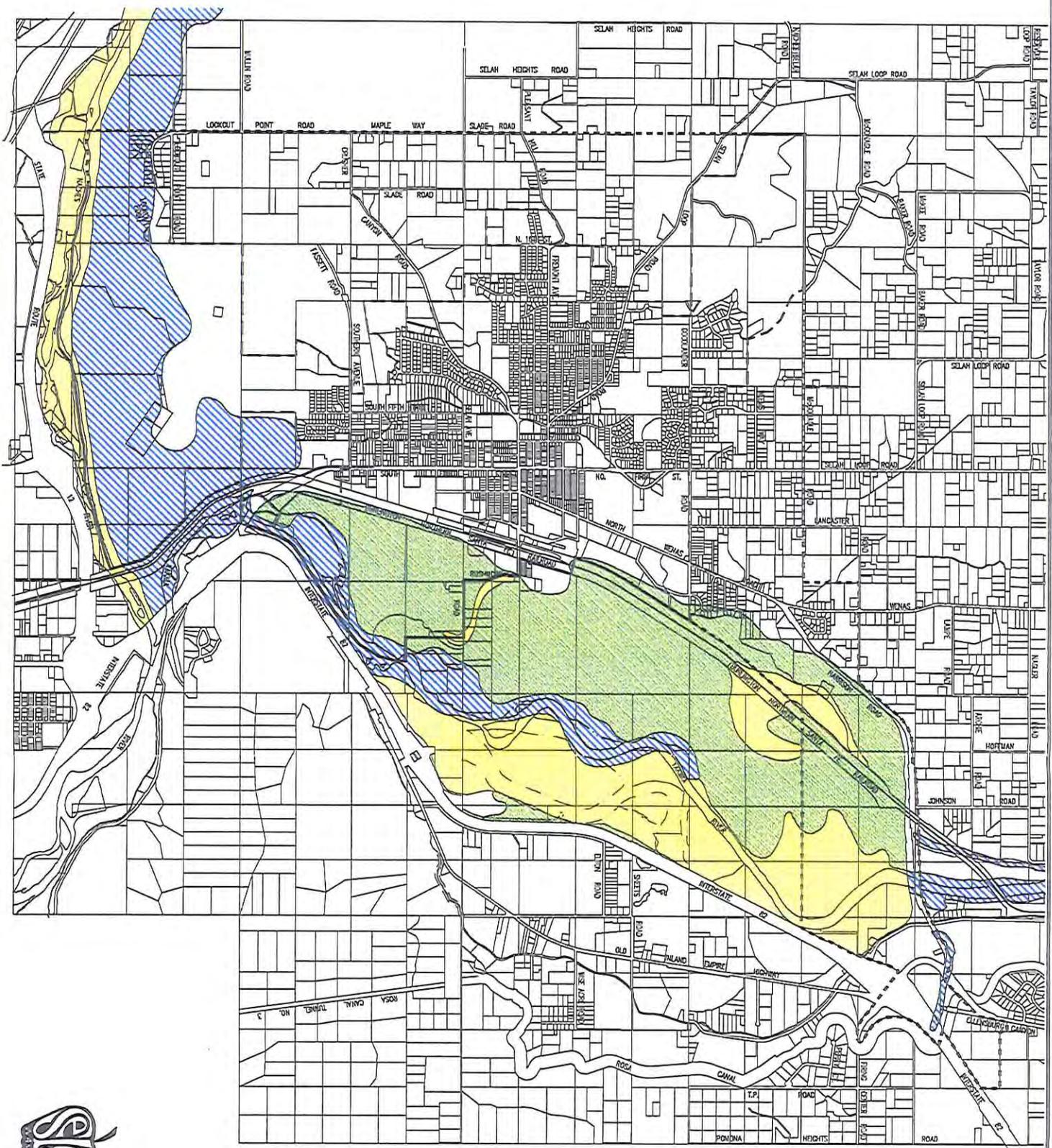
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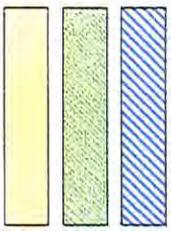


Halbritger, L.P.A.
 CIVIL ENGINEERING
 2000 S. GARDNER
 ST. LOUIS, MO 63104
 (314) 435-1111

EXHIBIT



WILDLIFE HABITAT



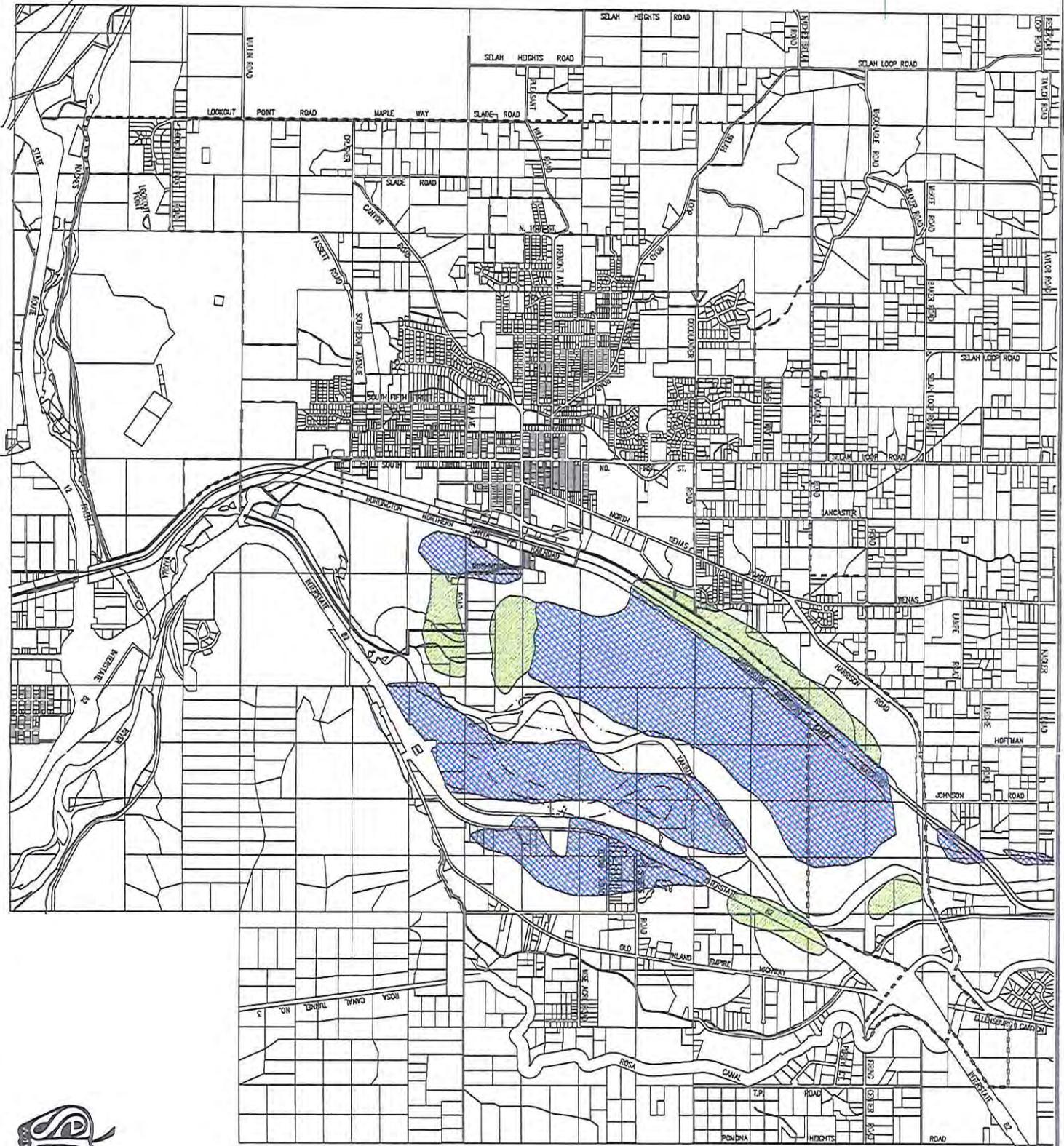
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Holtgreaves, L.
CIVIL ENGINEER
2002 E. Main Street
(503) 555-1111

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- URBAN GROWTH AREA BOUNDARY
- MUNICIPAL BOUNDARY & URBAN GROWTH AREA BOUNDARY



Halvorsen, Inc.
 CIVIL ENGINEERING
 2809 S. 10th Street
 (206) 948-1100

EXHIBIT



