

City of Selah
Planning Commission Minutes
of
March 18, 2014

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

A. Call to Order

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

B. Roll Call:

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

C. Agenda Change None.

D. Communications

1. Oral -None.

2. Written – None

E. Approval of Minutes

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

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

Chairman Quinnell called for a 5 minute recess.

F. Public Hearing

1. Old Business None

2. New Business

a. **CRITICAL AREA ORDINANCE**

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

Mr. Davison presented the staff report.

History

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

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

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

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

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

I. Introduction

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

II. Approach & Key Features

A. Approach

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

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

III. Costs and Financing

A. Private Costs

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

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

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

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

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

B. Public Costs and Financing

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

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

C. Private and Public Benefits

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

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

V. Policy Analysis

A. Environmental

1. SEPA Threshold Determination

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

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

B. Growth Management Act (GMA)

1. Goals

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

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

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

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

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

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

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

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

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

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

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

2. Best Available Science (BAS)

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

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

o Fish & Wildlife Habitat Conservation Areas

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

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

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

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

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

o Frequently Flooded Areas

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

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

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

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

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

- o Geologic Hazard Areas

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

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

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

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

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

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

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

- o Wetlands

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

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

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

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

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

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

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

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

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

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

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

- Critical Aquifer Recharge Areas

Designation. The definition of BAS has both legal and scientific aspects. For designating critical aquifer recharge areas, BAS depends on an evaluation of aquifer vulnerability and susceptibility, and points to wellhead protection areas generated through a variety of widely-accepted methods and models depending on the local situation. The State’s Model Critical Areas Ordinance recommends designating the 10- year time-of-travel zone as the critical aquifer recharge area.

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

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

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

C. Streamlining Permitting and Enforcement Processes

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

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

D. Commitments

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

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

E. Comprehensive Plan

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

Land Use Goals and Policies

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

Land Use and Growth Management

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

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

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

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

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

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

Natural Environment

Goal: Respect the Floodplain

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

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

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

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

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

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

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

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

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

GOAL: Promote and enhance surface and groundwater quality.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

VI. Findings

- A. The draft Critical Area Ordinance will not cause probable significant adverse environmental impacts.
- B. The proposed method of procedures under SMC 17.07.080, Application are necessary to implement the draft Critical Area Ordinance and streamline its review and permitting processes by integrating them with existing procedures.
- C. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 6 by (1) using best available science to identify and protect critical areas and (2) providing an exception process and a reasonable use exemption for cases where it would be difficult or impossible for landowners to meet the requirements of the ordinance.
- D. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 7 by (1) combining review of four critical areas into one permit, and (2) integrating the Critical Areas Permit with the streamlined development review process most recently adopted by the City as a part of the code update.
- E. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 8 by protecting streams and other water bodies that provide fish habitat (particularly anadromous fish) and the riparian areas necessary to their healthy functioning.
- F. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 9 by providing protection for identified priority fish and wildlife species and habitat designated by Washington Department of Fish and Wildlife or listed under the Endangered Species Act. The draft ordinance seeks to balance recreation and habitat protection by providing exemptions for less intensive or “passive” recreation activities in critical areas – such as bird watching, nature study, trails and wildlife viewing stations.
- G. The draft Critical Area Ordinance substantially advances achievement of GMA Goal 10 by providing protection for fish and wildlife habitat (including water bodies), flood plains, geologic hazard areas and wetlands and ensuring that any unavoidable impacts to these resources are minimized and mitigated.
- H. Best available science has been used to designate fish and wildlife habitat conservation areas, including review of scientific literature, consultation with local experts and agency staff, and local assessments of the resources and their functions.
- I. Designation of frequently flooded areas is based on best available science.
- J. The draft Critical Area Ordinance protects frequently flooded areas and is based on best available science.
- K. Designations of geologic (landslide, seismic, and erosion) hazard areas are based upon best available science.
- L. The draft Critical Area Ordinance protects geologic hazard areas and is based on best available science.
- M. The Critical Area Ordinance wetlands designations are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.
- N. The Critical Area Ordinance protections for wetlands are based on best available science, including scientific literature about the functions and values of these areas and local assessments of wetlands and the risks to them.
- O. Best available science has been used in designating the entire City as the critical aquifer recharge area under the Water Resources Protection Ordinance. There is no scientifically reasonable and practical way to accurately determine areas within the City that may not need the basic protections of the Water Resources Protection Ordinance and exclude them.
- P. Best available science has been used in developing policies and development regulations to protect critical aquifer recharge areas.

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

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

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

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

VII. Action Requested

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

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

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

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

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

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

LAND USE FINDINGS

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

PUBLIC OPINION

1. The owners of the adjacent land expressed neither approval / or disapproval of the proposal.
2. Interested agencies expressed neither approval / or disapproval of the proposal.

SPECIFIC FINDINGS APPLICABLE TO THE PROPOSAL

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

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

Land Use and Growth Management

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

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

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

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

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

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

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Goal: Respect the Floodplain

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

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

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

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

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

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

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

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

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

GOAL: Promote and enhance surface and groundwater quality.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Environmental Review:

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

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

Findings of Fact- *Critical Areas Protection Ordinance*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSIONS

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

Reasons for approval or denial: Based on the findings of fact, it is in the City’s interest to approve the proposed critical area ordinance.

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

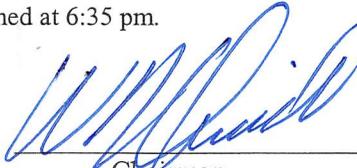
1. Old Business - None
2. New Business – None

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