

Members

Jeremy C. Doty, Chair
Donald Erickson, Vice-Chair
Chris Beale
Peter Elswick
Thomas C. O'Connor
Sean Gaffney
Scott Morris
Ian Morrison
Matthew Nutsch

Community and Economic Development Department

Ryan Petty, Director
Peter Huffman, Assistant Director
Charles Solverson, P.E., Building Official

Public Works and Utilities Representatives

Jim Parvey, City Engineer/Assistant Director, Public Works Department
Heather Pennington, Resource Planning Manager, Tacoma Water
Diane Lachel, Community and Government Relations Manager, Click! Network, Tacoma Power



Agenda

Tacoma Planning Commission

747 Market Street, Room 1036
Tacoma, WA 98402-3793
253-591-5365 (phone) / 253-591-2002 (fax)
www.cityoftacoma.org/planning

(Agenda also available online at: www.cityoftacoma.org/planning > "Planning Commission" > "Agenda Packets")

MEETING: Regular Meeting

TIME: Wednesday, July 20, 2011, 4:00 p.m.

PLACE: Room 16, Tacoma Municipal Building North
733 Market Street, Tacoma, WA 98402

- A. CALL TO ORDER**
- B. QUORUM CALL**
- C. APPROVAL OF MINUTES – N/A**
- D. GENERAL BUSINESS**

(4:05 p.m.) **1. Downtown Parking Requirements**

Description: Continue to review the proposed code revisions regarding the elimination of off-street parking requirements in the Downtown Commercial Core zone and historic districts.

Actions Requested: Review; Discussion; Direction

Support Information: See "Agenda Item GB-1"

Staff Contact: Chelsea Levy, 591-5393, clevy@cityoftacoma.org

(4:30 p.m.) **2. Critical Areas Preservation Ordinance (CAPO) Update**

Description: Continue to discuss proposed revisions to CAPO.

Actions Requested: Review; Discussion; Direction

Support Information: See "Agenda Item GB-2"

Staff Contact: Karla Kluge, 591-5773, kkluge@cityoftacoma.org



(5:00 p.m.) **3. Master Program for Shoreline Development**

Description: Continue to review public comments concerning the Shoreline Master Program Update focusing on comments concerning the Thea Foss and Schuster Parkway shoreline districts.

Actions Requested: Review; Discussion; Direction

Support Information: See "Agenda Item GB-3"

Staff Contact: Steve Atkinson, 591-5531, satkinson@cityoftacoma.org

E. COMMUNICATION ITEMS

1. Letter and Photos from Gary Coy, Sperry Ocean Dock, July 11, 2011 – "Agenda Item C-1"

F. COMMENTS BY LONG-RANGE PLANNING DIVISION

G. COMMENTS BY PLANNING COMMISSION

H. ADJOURNMENT



City of Tacoma
Community and Economic Development Department

TO: Planning Commission

FROM: Donna Stenger, Manager, Long-Range Planning Division

SUBJECT: Amendment to the Downtown Parking Regulations

DATE: July 20, 2011

At the next meeting on July 20, 2011 the Planning Commission will continue their review of a request from the City Council's Economic Development and Environment and Public Works Committees to eliminate the minimum and maximum off-street parking regulations for new development in the area of downtown zoned DCC –Downtown Commercial Core and within the designated Historic and Conservation overlay districts (generally between S. 6th St. and S. 23rd St.) (See Attachment 2, Map).

Since the Commission last met to discuss this topic, staff has updated Council Members on the proposal at a joint meeting of the Economic Development and Environment and Public Works Committees. At that meeting some Council Members requested that the Commission evaluate retaining the parking maximums, restricting surface parking lots and expanding the proposed boundary. At the next Commission meeting staff will provide additional information on these topics and is seeking direction from the Commission on the following key issues related to the proposal.

Boundaries

- Does the Commission want to consider expanding the proposed boundary to include the entire University of Washington Tacoma campus footprint?

Surface Parking

- Does the Commission want to consider restricting surface parking lots on designated pedestrian streets?

Parking Maximums

- What are the Commission's desired goals and outcomes for off-street parking regulations?
- If parking maximums are desired for non-residential development, what is the "right" parking maximum?

Further evaluation of these key issues is provided in Attachment 2 to inform the Commission's review and discussion. If you have any questions, please contact Chelsea Levy at (253) 591-5393 or clevy@cityoftacoma.org.

c: Peter Huffman, Assistant Director

Attachments (4)

PROPOSED DOWNTOWN OFF-STREET PARKING REGULATIONS

review of key issues: boundaries, surface parking, parking maximums

Planning Commission Meeting

July 20, 2011

Overview

The following handout is provided to assist the Planning Commission in their review and discussion of key issues related to proposed changes to the off-street parking regulations: the boundaries of the proposal, surface parking lots and parking maximums. The current proposal is to eliminate the minimum and maximum parking requirements for new development in the Downtown Commercial Core zone and the Historic and Conservation overlay districts surrounding Old City Hall, Union Station and the University of Washington Tacoma, (See Attachment 2, Map) .

Boundaries

Question 1: Does the Commission want to consider expanding the proposed boundary to include the entire University of Washington Tacoma campus footprint?

The current boundaries of the RPA are between S. 6th St. and S. 23rd St., Court E and Dock St, encompassing 231 acres of downtown (see Attachment 2, Map). This boundary definition bisects the University of Washington Tacoma (UWT) campus. Officials from the University of Washington Tacoma have requested the boundary be expanded to Tacoma Ave. between S. 17th and S. 21st, so as to include the entire campus footprint. In the proposed 25 acre boundary expansion there are 71 parcels, 58% (41 parcels) of which are owned by UWT. The 30 parcels not owned by UWT are represented by 13 distinct property owners.

Surface Parking

Question 2: Does the Commission want to consider restricting surface parking lots on designated pedestrian streets within the proposed boundary?

Policy Guidance

Planning Commissioners and Council Members have expressed concern about construction of surface parking lots on designated pedestrian streets in downtown, citing the City's urban aesthetic and mobility goals. Policy guidance in the Comprehensive Plan repeatedly directs the City to minimize the amount of land dedicated to parking by emphasizing structured and on-street parking (LU-MUP-1, LU-MUP-2, LU-MUDTC-3). See Attachment 3, Policy Analysis for additional information.

Benchmarking

Staff developed the attached table (Attachment 3, Parking Regulations in Peer Cities) comparing Tacoma's surface parking regulations to those in 11 Northwest cities. Tacoma has landscaping requirements and limited restrictions on placing parking in front setback areas. Generally, Tacoma's current surface parking lot regulations are more generous than most of the cities surveyed, although, three cities (Bellingham, Boise and Vancouver) allow surface parking lots with few restrictions in their downtowns. Seven of the eleven cities (Everett, Spokane, Bellevue, Federal Way, Olympia, Portland and Redmond) prohibit or limit surface parking lots between buildings and designated streets. One city, Seattle has prohibited surface parking as a principal or accessory use in downtown.

Proposal

In response to this research and policy direction and to assist the Commission in their deliberations, staff developed the following proposal for surface parking lots on designated pedestrian streets within the proposed boundary (see Attachment 2, Map).

1. Prohibit standalone surface parking lots on pedestrian streets within the RPA including:
 - A St.: S. 8th – S. 12th
 - Pacific Ave: S. 7th – S. 23rd
 - Commerce: S. 7th – S. 15th
 - Broadway: S. 7th – S. 15th
2. Require on-site surface parking to be located to the rear, side, within or under a structure
3. Limit the maximum width of on-site surface parking, including driveways adjacent to pedestrian streets to 60 feet in width

Parking Maximums

Question 3: What are the Commission's desired goals and outcomes for off-street parking regulations?

No Parking Minimum or Maximum

- Incentivize development
- Remove regulatory barriers
- Decrease required development costs
- Increase competitiveness with suburban neighbors

Parking Maximum

- Control parking supply
- Reduce excessive parking supply, encourage shared parking
- Create more attractive streetscapes and better urban form
- Support more compact development
- Encourage use of alternative transportation modes

Policy Guidance

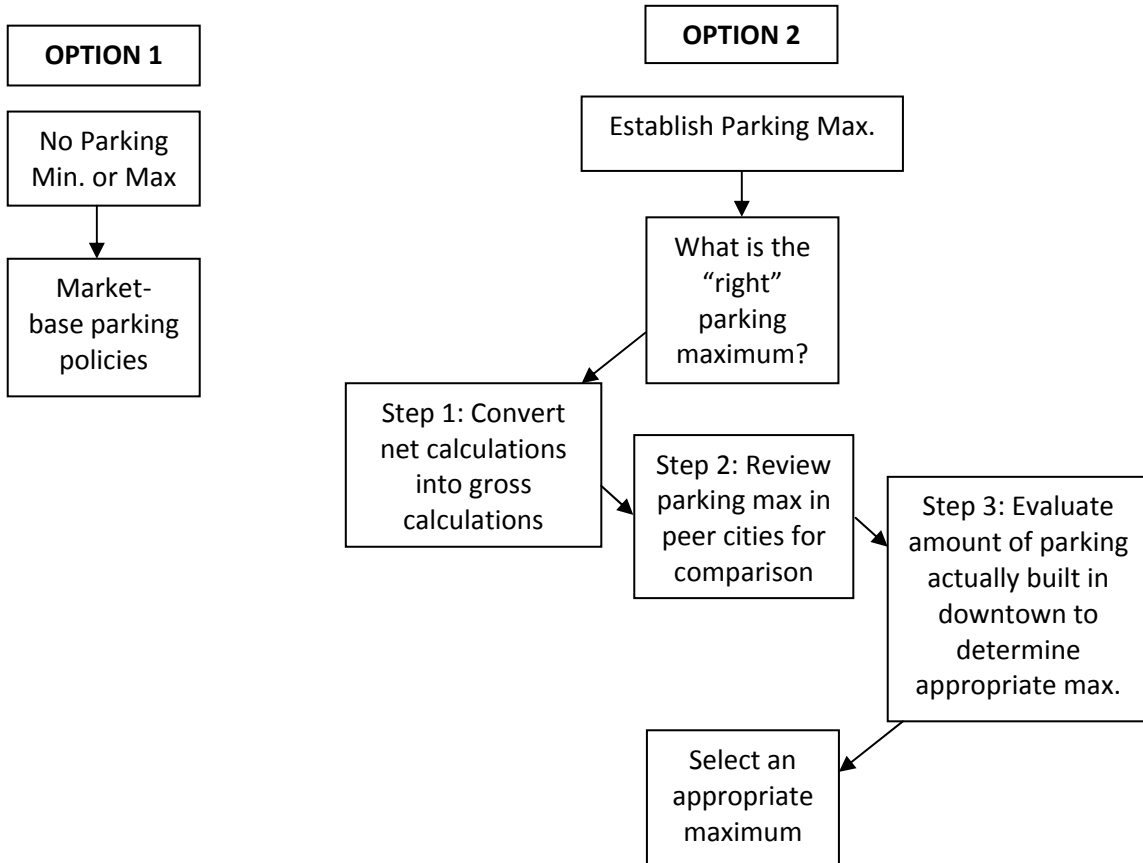
The original proposal is to eliminate both the parking minimums and maximums for new development within the defined boundary. However, some Council Members and Commissioners have expressed concern about eliminating the parking maximums, citing additional policy goals. Off-street parking-related policies in the Comprehensive Plan strives to balance sustainable planning strategies, particularly in the areas of transportation and land use, with strategies to increase opportunities for economic development. To achieve this goal the Plan directs the City to reduce and eventually eliminate off-street parking requirements for new development (LU-MUP-1 & LU-MUP-9), while considering creating parking maximums in downtown's most walkable neighborhoods (Downtown Element, 2.1E.6). See Attachment 2, Policy Analysis for additional information.

Benchmarking

At the June 15th Commission meeting Commissioners reviewed a comparison of Tacoma's parking regulation to those in 11 Northwest cities (Attachment 3, Surface Parking Regulations in Peer Cities). This survey found that six of the cities surveyed (Bellingham, Boise, Everett, Spokane, Federal Way and Vancouver, WA) have no parking maximums. Of the five cities that have established parking maximums (Bellevue, Olympia, Portland, Redmond and Seattle) the range is between 1 stall/1000 gross square feet and 3.5 stalls/1000 gross square feet. Tacoma's current maximum is 3/1000 gross square feet.

Proposal

The appropriate proposal varies depending on the Commission’s desired goals and outcomes for the off-street parking regulations. The following process charts are provided as suggestions to assist the commission in developing an appropriate proposal.



OPTION 1 – Eliminate parking minimums and maximums and move towards more market-based parking regulations in downtown.

OPTION 2 – Establish parking maximums and in doing so identify the “right” parking maximum based on available data. Staff have identified three criteria that influence what the “right” parking maximum may be (1) calculation of parking quantities in terms of net versus gross square footage, (2) comparison of parking maximums in peer cities, (3) amount of parking actually built in downtown commercial developments.

Step 1: As discussed at the June 15, 2011 Commission meeting, downtown parking quantity requirements are currently expressed in terms of net square footage (excluding parking, stairwells, elevator shafts, etc.), resulting in the City requiring fractions of parking stalls per 1,000 square feet. This calculation is both confusing and unnecessary. Based on the Commission’s discussion and direction from the Council staff recommends reducing the existing parking requirements to whole numbers.

Step 2: As described above, five of the 11 cities surveyed have established parking maximums (Bellevue, Olympia, Portland, Redmond and Seattle). Parking maximums range between 1 stall/1000 gross square feet and 3.5 stalls/1000 gross square feet, the average is 2.6 stalls/ 1000 gross square feet. Tacoma’s current maximum is 3/1000 gross square feet.

Step 3: Commissioners and Council members have suggested that the existing parking maximum in the DCC- Downtown Commercial Core zone (3 stalls/ 1,000 sq. ft.) is too high given the quantity of parking actually built in downtown commercial developments. Staff reviewed relatively recently constructed commercial buildings (see Attachment 3,) and determined that on average developers have built or sought out shared parking approximately 25%-30% above the minimum amount of parking required, which suggests the “right” parking maximum may lower than it is currently.

Calculate the appropriate parking maximum by following steps 1-3 above. The adjusted parking quantities may resemble those in Table 2, below.

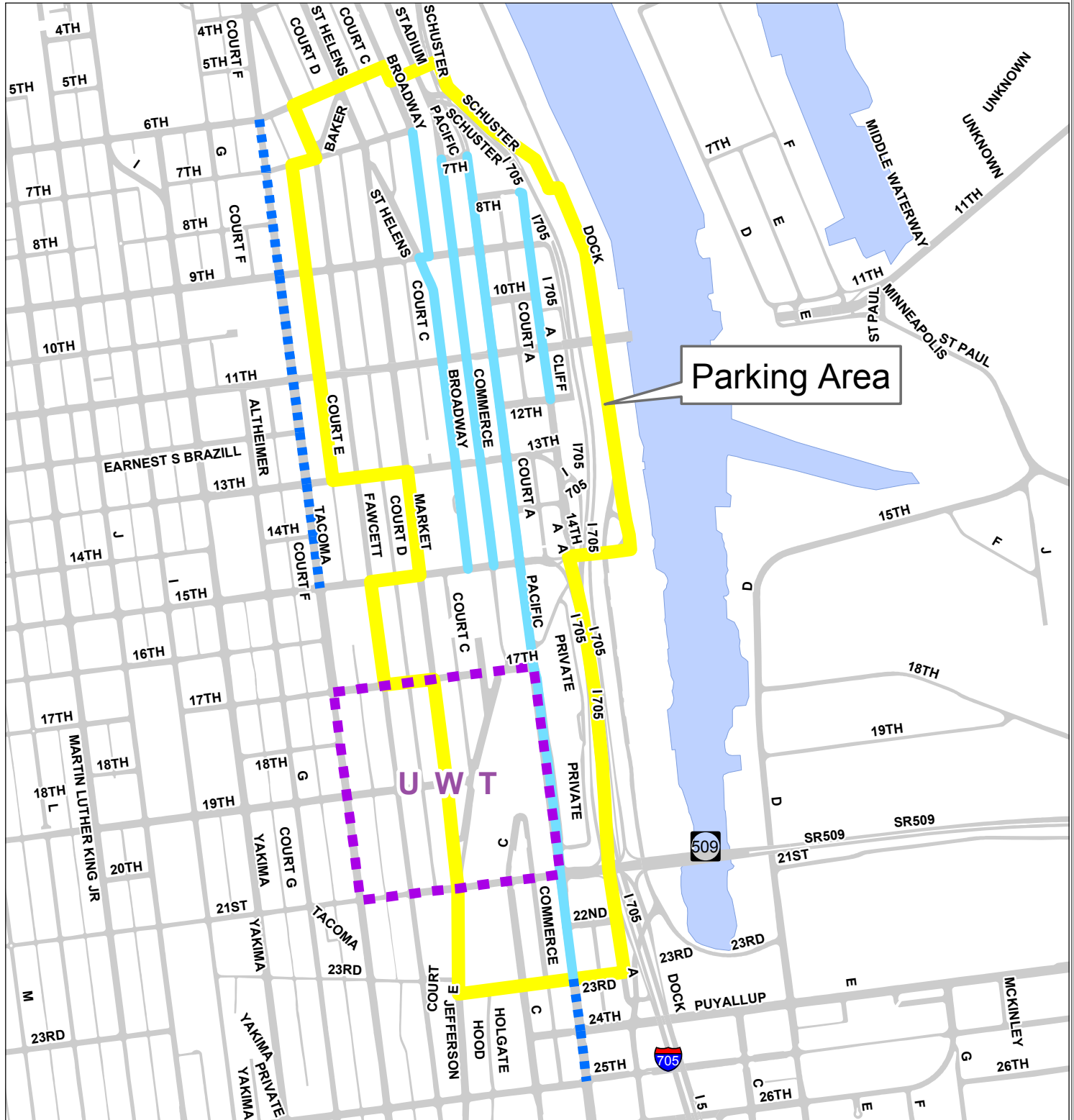
Table 1

Existing Non-Residential Parking Quantities		
	Non-Res Parking	
	Min	Max
	(stalls/ floor area sf)	
DCC	2.4/1000	3.6/1000
DMU	2.4/1000	3.6/1000
DR	1.2/1000	3.6/1000
WR	1.2/1000	3.6/1000

Table 2

Proposed Non-Residential Parking Quantities		
	Non-Res Parking	
	Min	Max
	(stalls/ floor area sf)	
RPA	-----	2/1000
DMU	2/1000	3/1000
DR	1/1000	3/1000
WR	1/1000	3/1000

Proposed Reduced Parking Area



Proposed Reduced Parking Area



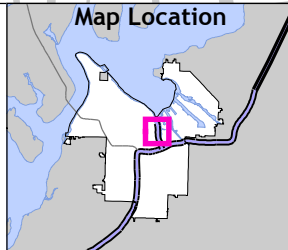
UW Tacoma

Pedestrian Streets

Inside Parking Area

Outside Parking Area

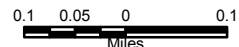
Map Location



City of Tacoma
Community & Economic Development Department
GIS Analysis & Data Services



NOTE: This map is for reference only.



AMENDMENT TO DOWNTOWN OFF-STREET PARKING REGULATIONS Policy Analysis

In 2007, City Manager Eric Anderson began a series of conversations with the public about future downtown transportation and parking needs. This led to the development of the Tacoma City Center Parking and Mobility Strategy, which was adopted in January 2008 by the City Council, Ordinance No. 37375. The goal of the Strategy is to "support a vital downtown and a city-wide multimodal transportation system that reduces downtown automobile congestion, assures access to parking for downtown visitors and residents, and supports the use of alternative forms of transportation. The strategy recommends considering "eliminating parking minimums in zoning requirements" (Recommendation 8).

In late 2007, the City contracted with AngelouEconomics, an Austin-based economic development consulting firm, to develop an economic development strategic plan for downtown Tacoma. AngelouEconomics is the largest independent economic development consulting firm in the U.S. and specializes in creating strategies for communities seeking high impact investment and targeted, managed growth solutions. Among other documents, AngelouEconomics produced the "Downtown Tacoma Economic Development Strategy", a strategic road map to increase private investment in Downtown Tacoma. The Strategy, in part, emphasizes that "development in downtown areas is almost universally more difficult than it is in suburban locations, due to less availability of land, stringent development restrictions, inadequate or deteriorating infrastructure, and limited parking options. In order to make a downtown location as appealing as a suburban location for developers, cities must often support investor interests by providing additional incentives...".

The Strategy's approach is consistent with the July 2008 recommendations of the Green Ribbon Climate Action Task Force, outlined in the Climate Action Plan (CAP). The CAP offers recommendations and strategies for Tacoma to reduce its greenhouse gas emissions. The Plan was developed through a thorough "review of other regions' climate action plans, evaluated strategies, projected potential reductions and estimated costs". Among its recommendations and strategies, the Plan suggests "Reduc[ing] or eliminate[ing] parking minimums required for residential/ mixed-use developments to encourage transit or non-motorized transportation and thereby making these developments more profitable" (Recommendation 19), and "Adopt[ing] parking maximums rather than parking minimums for new developments and major remodels" (Strategy U-59).

During this time the City Council passed Resolution No. 37508 designating the International Financial Services Area (IFSA) in the Downtown Commercial Core (DCC) zoning district (generally between South 8th and 17th, Broadway and I-705). The intent of this designation was to create a special emphasis area, on the recommendation of the AngelouEconomics, to encourage the retention, expansion, and recruitment of employers engaged in international financial services and support services to employees at these firms and to attract developers of high-rise buildings for these firms. The desire is to produce an environment attractive to such firms, their employees, suppliers, and customers. The adopted resolution notes that "The DCC regulations may contain provisions which are a barrier to facilitate desired development and need to be revised". The resolution also requests the Planning Commission to evaluate the DCC zoning regulations, including, but not limited to, maximum allowable building height,

floor area ratios, off-street parking requirements and design standards, and recommend changes that would remove any impediments to accomplishing this intent.

Following this designation and the directives of Resolution No. 37508, on August 11, 2009 the City Council adopted Ordinance No. 27825, amending Section 13.06A.060 of the Tacoma Municipal Code, eliminating off-street parking requirements for new construction in the designated International Financial Services Area (IFSA).

At a joint meeting of the Economic Development and Environment & Public Works Committees in March 2011, Council Members directed staff to consider an expansion to the parking-related benefits in the IFSA by identifying parking-related barriers to new development in a larger area of downtown, defined by the Downtown Commercial Core zone and within the designated Historic and Conservation overlay districts. The Council's intention is to further attract investment and remove impediments to economic development in downtown.

Applicable Provisions of the Comprehensive Plan

Downtown Tacoma's economic development, transportation and parking-related goals and policies are closely linked. The relationship between these goals and policies as they relate to the proposed amendment is discussed in the *Generalized Land Use Element, Downtown Element* and *Transportation Element* of the Comprehensive Plan. In anticipation of future growth, the Plan strives to responsibly balance sustainable planning strategies, particularly in the areas of transportation and land use, with strategies to increase opportunities for economic development.

Generalized Land Use Element

The *Generalized Land Use Element* contains policies for general growth and development, mixed-use centers, and commercial development, among other policies. Two sub-sections within *Section II – Mixed Use Centers* in this element address parking-related policies, *Parking* and *Downtown Tacoma Center*.

The intent of the Parking policies in the *Generalized Land Use Element* is to manage the amount of surface area in the Mixed-Use Centers that is developed for parking. The plan warns of the negative attributes of large parking areas; disruption of a cohesive urban form and pedestrian environment, inefficient use of available land, and unattractive design. Parking policies relevant to this proposal include:

LU-MUP-1 Parking: Minimize the amount of land dedicated to parking and encourage alternative transportation by reduced off-street parking requirements, use of compact stalls, joint and cooperative parking between uses, transportation demand management, multilevel parking structures, and other methods.

LU-MUP-2 Minimize Parking Impacts: Discourage surface parking lots and locate parking areas to the rear or side of buildings or within structures.

LU-MUP-9 Flexible Off-Street Parking Requirements for New Development: Allow for more flexibility in the amount of off-street parking provided by new development by eventually eliminating off-street parking requirements within centers by establishing two strategies to ensure adequate parking is supplied:

- *A center-wide parking management plan which includes provisions for residential parking zones*
- *SEPA review of parking for new developments.*

The intent of the Downtown Tacoma Center policies in the *Generalized Land Use Element* is for the Downtown Tacoma Center to be the highest concentration of and primary area for urban growth and development found anywhere in the city and within Pierce County. This section of the plan anticipates future population growth and corresponding high density commercial and residential development complemented by multi-modal transportation investments that preserve connections to I-5 and major arterials, while “providing amenities to make walking and bicycling desirable, realistic choices for people.” Specific to parking, this section states, “It is intended that the majority of parking will be accommodated within structures and on street. Joint use of parking facilities is strongly encouraged and new surface lots strongly discouraged.”

The *Generalized Land Use Element of the Comprehensive Plan* includes the following policies related to the goals of the proposed amendment:

LU-MUDTC-1 Maximize Development: Encourage maximum development of the downtown with diverse types of uses and facilities such as major financial, professional, office, cultural, retail and high density residential developments, giving the City of Tacoma a recognizable focal point that has continuous, vigorous use and affords maximum safety and convenience.

LU-MUDTC-3 Parking: Emphasize on-street parking and parking within structures to meet the majority of parking needs in the downtown area.

LU-MUDTC-5 Integrated Downtown: Encourage the development of an integrated transportation system consisting of automobile, transit, cycling, and pedestrian linkages that complements activities in the downtown center.

LU-MUDTC-6 Parking/Transit Relationship: Recognize the availability and cost of parking in downtown substantially influences public transit's viability as a transportation alternative.

Downtown Element

Further policy direction for off-street parking regulations in Downtown is provided in the *Downtown Element* of the *Comprehensive Plan*, updated in 2008. The goals and policies outlined in the *Downtown Element* incorporate the recommendations of the *Downtown Tacoma Economic Development Strategy* prepared by AngelouEconomics and complemented by the work of VIA Architecture who developed long-range planning and zoning strategies for the *Downtown Element* that support Angelou’s recommendations and help facilitate their implementation. The *Downtown Element* integrates the land use plan, transportation and parking strategies, and the economic development vision for downtown. The *Downtown Element* of the *Comprehensive Plan* includes the following policies related to the proposal:

Section 2.1E 'Place First' - Optimize on-site parking requirements with transportation access addresses goals and policies for downtown's parking system. This section states that a "key strategy for the downtown will be to reduce dependency on the single occupancy vehicle while maintaining access and mobility through alternative transportation options." The stated goal is for "a flexible parking management strategy [that] should mitigate that amount of capital investment necessary for automobile infrastructure and leverage opportunities for economic development." The policies in this section recognize that within Tacoma's current car-dominated culture, reducing dependency on the single occupancy vehicle requires striking a balance between providing parking for those who need it and providing infrastructure to increase viable alternative transportation options. Relevant policies and actions in this section include:

Policy 2.1E.B: Within Downtown, this parking strategy should be integrated into the transportation system as well as livable urban design policies so that people are encouraged to access multiple stops and destinations without using their cars.

Policy: 2.1E.C: Downtown should move towards the implementation of a shared satellite parking system, and consider steps towards a market based parking approach within certain areas of downtown.

Action 2.1E.b: The Plan should include some or all of the following: ... revised on-site parking requirements within Downtown zones..."

Action 2.1E.6: Consider creating parking maximums in downtown's most walkable neighborhoods to encourage full participation in above programs.

Section 2.2B Livability Criteria to Guide Building and Public Realm Design advises that as downtown continues to develop, a thoughtfulness about design that supports livability and a high quality urban environment is necessary. Policies in this section address details that collectively create a livable urban environment, sunlight, view, connectivity, open space, etcetera. The most relevant policy in this section is:

Policy 2.2B.A: Downtown development should be governed by principles that encourage walkability, transportation alternatives and enhanced livability for all users.

Section 2.3F Sustainable Transportation Choices calls for an integrated transportation approach to downtown. Sustainable transportation means that the public has a range of usable transportation options that help control air pollution, congestion and CO2 emission and improve public health. Sustainable transportation in Tacoma includes an integrated approach that provides "enhanced pedestrian and cycling amenities, pedestrian-oriented, compact urban design, and efficient and well planned transit systems (along with effective automobile access)."

Transportation Element

T-ES-3 Congestion Management – This section of the Comprehensive Plan encourages "the use of alternative modes, and thereby slow the increase in the use of single occupancy vehicles and the increase of environmental degradation associated with their use."

Surface Parking Regulations in Peer Cities

Attachment 4

City	High-Intensity Area	Maximum Parking Ratio	Surface Parking Regulations	Parking Regulation Details
Market-Based Parking (no requirements in designated downtown core)				
Tacoma	IFSA	Residential – No Maximum Office – 3/1,000 sq ft	Specific landscaping requirement and limited restriction on parking in front setbacks	
Bellingham	Yes	No Maximums	Allowed	
Boise	Yes	1.5 to 1.75 times the required parking	Allowed	
Everett	Yes (applies to downtown district)	No Maximums	Prohibited between buildings and streets, specific landscaping requirement	Corner parking lots are prohibited
Spokane	Yes	Residential – 3/1,000* Office – 3/1,000 sq ft*	Prohibited between buildings and streets on designated streets	*maximum applies to surface parking only (parking within a building or parking structure not counted toward maximum)
Regulated Parking in downtown zoning district				
Bellevue		Residential – 2/unit Office – 2.5/1,000 sq ft	Prohibited between buildings and streets on designated streets, specific landscaping requirement	New stand-alone parking facilities (not associated with a use) require approval from the Planning Director
Federal Way		No Maximums	Limited between buildings and streets	
Olympia		10% more than what is required	Required to be behind buildings when possible, otherwise limited on how much street frontage they can occupy	
Portland		Residential – No Maximum Office – 3.4/1,000 sq ft	Limited between buildings and streets, specific landscaping requirement	No maximum for commercial parking; surface parking accessory to a use can exceed maximum if site is not well served by transit
Redmond		Residential – 2.25/unit Office – 3.5/1,000 sq ft	Limited between buildings and streets on designated streets, limited on how much street frontage they can occupy on designated streets	
Seattle		Residential – No Maximum Office – 1/1,000 sq ft	Prohibited as principal or accessory use in Downtown	
Vancouver, WA		No Maximums	Allowed	



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-2

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning
SUBJECT: Critical Areas Preservation Ordinance Update
DATE: July 20, 2011

The Focus Group working on proposed revisions to the Critical Areas code have finished meeting and have concluded their review. Attached for the Planning Commission's information and discussion are draft revisions to two Chapters of Title 13 of the Tacoma Municipal Code (Land Use Regulatory Code). Section 13.11 is the Critical Areas Preservation Ordinance (CAPO) and related revisions are proposed to Chapter 13.05, Land Use Permit Procedures.

The Draft CAPO includes minor changes needed to clean up and clarify existing code language, as well as new code sections addressing voluntary restoration, small development projects, wetland buffer refinement, and additional mitigation options. The draft changes to Chapter 13.05 Land Use Permit Procedures supplement the changes proposed in Chapter 13.11 and provide an identified process for the new permit type; programmatic permits.

At the meeting on July 20, 2011, staff will provide an overview of the first half of the Draft CAPO. Staff is seeking direction from the Planning Commission on whether there are any additional modifications needed on the first half of the draft code. Staff intends to return to the Planning Commission at your next meeting on August 3, 2011 to complete the review of the draft code and present the staff's analysis of the code amendments as required in the Municipal Code. The Public Hearing is tentatively scheduled to occur on September 21, 2011.

If you have any questions, please contact Karla Kluge at 591-5773 or kkluge@cityoftacoma.org.

DS:kk

c. Peter Huffman, Assistant Director

Attachments (2)



2011 ANNUAL AMENDMENT

Amendments to the Land Use Regulatory Code – Chapter 13.11

*Note – These amendments show all of the changes to the *existing* land use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that is proposed to be deleted is shown in ~~strikethrough~~. Large sections that have been moved but are not proposed to be changed are noted in the right-hand margin.

Chapter 13.11

CRITICAL AREAS PRESERVATION

Sections:

- 13.11.100** General Provisions. ~~The 100 and 200 sections contain the general provisions.~~
- 13.11.110 Purpose.
- 13.11.120 Intent.
- 13.11.130 Scope and Applicability.
- 13.11.140 Regulated Uses/Activities.
~~Exempted Activities.~~
- 13.11.150 Pre-existing Uses/Structures. ~~Repealed.~~
- 13.11.160 Abrogation and Greater Restrictions.
~~Pre-existing Uses/Structures.~~
- 13.11.170 Severability. ~~Critical Area Designation and SEPA.~~
- 13.11.180 Critical Area Designation and SEPA.
~~Abrogation and Greater Restrictions.~~
- 13.11.190 Review Process. ~~Severability.~~
- 13.11.200 Allowed Activities ~~Notice on Title~~
- 13.11.210 Activities Allowed with Staff Review
~~Residential Density Credits.~~
- 13.11.220 Application Types. ~~Regulated Uses/Activities.~~
- 13.11.230 Application Submittal Requirements
~~Application Types.~~
- 13.11.240 Legal Test(s).
- 13.11.250 General Standards ~~Review Process.~~
- 13.11.260 Residential Density Credits. ~~General Mitigation Requirements.~~
- 13.11.270 General Mitigation Requirements.
~~Sureties.~~
- 13.11.280 Conditions, Notice on Title and Appeals.
- 13.11.290 Sureties.

The Sections have been reorganized and renumbered to allow for a more logical flow of regulatory requirements.

- 13.11.300 Wetlands.**
- 13.11.310 Wetland Classification.
- 13.11.320 Wetland Buffers.
- 13.11.330 Wetland Buffer Modifications.
- 13.11.340 [Wetland Mitigation Requirements](#) ~~Wetland Standards.~~
- 13.11.350 ~~Wetland Mitigation Requirements.~~
- 13.11.360 *Repealed.*
- 13.11.400 Streams and Riparian Habitats.**
- 13.11.410 Stream Classification.
- 13.11.420 Stream Buffers.
- 13.11.430 Stream Buffer Modifications.
- 13.11.440 Stream ~~Crossing~~ Standards.
- 13.11.450 Stream Mitigation Requirements.
- 13.11.500 Fish and Wildlife Habitat Conservation Areas (FWHCAs).**
- 13.11.510 Classification.
- 13.11.520 Standards.
- 13.11.530 FWHCA's Shoreline – Marine Buffers.
- 13.11.540 FWHCA's Marine Buffer Modifications.
- 13.11.550 FWHCA's Mitigation Requirements.
- 13.11.560 FWHCA's Management Areas.
- ~~13.11.580 Habitat Zones.~~
- 13.11.600 Flood Hazard Areas.**
- 13.11.610 Classification.
- 13.11.620 Standards.
- 13.11.700 Geologic Hazardous Areas.**
- 13.11.710 Designation.
- 13.11.720 Classification.
- 13.11.730 General Development Standards.
- 13.11.800 Aquifer Recharge Areas.**
- 13.11.810 Classification.
- 13.11.820 Standards.
- 13.11.900 Definitions.**

~~13.11.100 General Provisions~~

~~The 100 and 200 sections contain the general provisions, including the following:~~

- ~~13.11.110 Purpose.~~
- ~~13.11.120 Intent.~~
- ~~13.11.130 Scope and Applicability.~~
- ~~13.11.140 Exempted Activities.~~
- ~~13.11.150 Repealed.~~
- ~~13.11.160 Pre-existing Uses/Structures.~~
- ~~13.11.170 Critical Area Designation and SEPA.~~
- ~~13.11.180 Abrogation and Greater Restrictions.~~
- ~~13.11.190 Severability.~~
- ~~13.11.200 Notice on Title.~~
- ~~13.11.210 Residential Density Credits.~~
- ~~13.11.220 Regulated Uses/Activities.~~
- ~~13.11.230 Application Types.~~
- ~~13.11.240 Legal Test(s).~~
- ~~13.11.250 Review Process.~~
- ~~13.11.260 General Mitigation Requirements.~~
- ~~13.11.270 Sureties~~

13.11.120 Intent.

A. Critical areas include critical aquifer recharge areas, fish and wildlife habitat conservation areas (FWHCAs), flood hazard areas, geologically hazardous areas, stream corridors, and wetlands, ~~and any buffer zones~~. These critical areas serve many important ecological functions. Many of the critical areas in Tacoma have been lost or degraded through past development. Tacoma, as an urban growth area, is experiencing increasing growth and its land resource is diminishing. This increasing growth and diminishing land resource is creating pressure for the development of critical areas. New construction technology is also creating pressure on these sites by making development feasible on sites where it was formerly impractical to build.

B. Because of the ecological benefits of critical areas, their past destruction, and the increasing pressure to develop them, the intent of this chapter is to ensure that the City's remaining critical areas are preserved and protected and that activities development in or adjacent to these areas ~~is~~ are managed. The preservation standards are provisions designed to protect critical areas from degradation ~~caused by improper development~~. These criteria and standards will secure the public health, safety, and welfare by:

1. Protecting members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, volcanic eruptions, flooding or similar events;
2. Maintaining healthy, functioning ecosystems through the protection of ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve biodiversity of plant and animal species;
3. Preventing cumulative adverse impacts to water quality, streams, FWHCAs, and wetlands including the prevention of net loss of wetlands.
4. Providing open space and aesthetic value;
5. Providing migratory pathways for fish and birds;
6. Giving special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries;
7. Providing unique urban wilds that serve as natural laboratories for schools and the general public;
8. Avoiding public expenditures to correct damaged or degraded critical ecosystems;
9. Alerting appraisers, assessors, owners, potential buyers, or lessees to the potential presence of a critical ecosystem and possible development limitations; and

10. Providing City officials with information, direction, and authority to protect ecosystems when evaluating development proposals.

13.11.130 Scope and Applicability.

A. The provisions of this chapter apply to all lands and waters, all land uses and development activities, and all structures and facilities in the City, whether or not a permit or authorization is required, and shall apply to every person, firm, partnership, corporation, group, governmental agency, or other entity that owns, leases, or administers land within the City. This chapter specifically applies to any activity which would destroy ~~the natural~~ vegetation; result in a significant change in critical habitat, water temperature, physical, or chemical characteristics; or alter natural contours and/or substantially alter existing patterns of tidal, sediment, or storm water flow on any land which meets the classification standards for any critical area defined herein. Such activities include excavation, grading, filling, the removal of vegetation, and the construction, exterior alteration, or enlargement of any building or structure. In addition, this chapter applies to all public or private actions, permits, and approvals in or adjacent to a critical area and its buffer, ~~including, but not limited to, the following:~~

- ~~1. Building, demolition, clearing and grading, filling, special, storm water, and sanitary sewer permits, and local improvement districts;~~
- ~~2. Subdivisions and short plats;~~
- ~~3. Reclassifications, site plan approvals, shoreline substantial development permits, and special and conditional use permits and variances.~~

13.11.140~~220~~ Regulated Uses/Activities.

Pursuant to the requirements of this chapter, a site review or permit shall be obtained prior to undertaking any of the following activities within a wetland, stream, fish and wildlife habitat conservation area (FWHCA) or their associated buffer/management area, unless otherwise covered under Sections ~~13.11.200+40~~ and 13.11.210.

A. Filling, placing, or dumping any soil, loam, peat, sand, gravel, rock, chemical substance, refuse, trash, rubbish, debris, or dredge material;

B. Excavating, dredging, grading or clearing any soil, loam, peat, sand, gravel, rock, vegetation, trees, or mineral substance;

C. Discharge of hazardous substances, including, but not limited to heavy metals, pesticides, petroleum products, or secondary effluent;

D. Any act which results in draining, flooding, or disturbing the water level or table;

All public and private actions, permits, and approvals in or adjacent to a critical area and buffer area are already included. A specific list is not required and permit types change over time.

This section is not new. It was moved.

E. Exterior alteration, construction, demolition, or reconstruction of a building, structure or infrastructure, including driving pilings or placing obstructions;

F. Destroying or altering vegetation through clearing, harvesting, shading, pruning, or planting vegetation that would alter the character of the site; and

G. Any act or use which would destroy natural vegetation; result in significant change in water level, water temperature, physical, or chemical characteristics of the wetland or stream; substantially alter the existing pattern of tidal flow, obstruct the flow of sediment, or alter the natural contours of a site.

13.11.1560 Pre-existing Uses/Structures.

A. An established use or existing structure that was lawfully permitted prior to adoption of this chapter, but which is not in compliance with this chapter, may continue subject to the provisions of Tacoma Municipal Code (TMC) Section 13.11.200-440, Section 13.11.210, Section 13.10 Shoreline Management and Section 13.06.630.

13.11.1680 Abrogation and Greater Restrictions.

A. It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, provisions of this chapter shall prevail.

B. Where one site is classified as containing two or more critical areas, the project shall meet the minimum standards and requirements for each identified critical area set forth in this chapter.

13.11.1790 Severability.

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

13.11.180 Critical Area Designation and SEPA.

A. Pursuant to WAC 197-11-908 and Section 13.12.930 of the TMC, aquifer recharge areas, fish and wildlife habitat conservation areas (FWHCAs), flood hazard areas, geologically hazard areas, wetlands, and streams are hereby designated as critical areas. Many of these areas are mapped on Tacoma's Generalized Critical Areas Maps available in the Community and Economic Development Department or as defined by this chapter. The following SEPA categorical exemptions shall not apply within these areas, unless the changes or alterations are confined to the interior of an

This section is not new. It was moved.

This section is not new. It was moved.

This section is not new. It was moved.

This section is not new. It was moved.

existing structure or unless the project does not require a permit under this chapter: Section 13.12.310 of the TMC and the following subsections of WAC 197-11-800(1)(b); (2)(d) excluding landscaping, (e), (f), and (g); (3); 24(a), (b), (c), and (d).

B. The scope of environmental review of actions within critical areas shall be limited to: (a) documenting whether the proposal is consistent with the requirements of this chapter; and (b) evaluating potentially significant impacts on the critical area resources not adequately addressed by development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

13.11.19250 Review Process.

A. Overview: The Review Process is used to determine whether a critical area or critical area buffer is present on or adjacent to a proposal, and whether additional review or permitting is required.

1. Exemptions. Application for an Exemption under Section 13.11.140 shall be made in accordance with Subsection 13.11.140.B. City Staff shall issue an Exemption Letter to the applicant. The Exemption Letter is not subject to appeal separately from its associated permit.

2. Assessment, Verification, or Development Permit. Application for an Assessment, Verification or Development Permit for wetlands, streams and fish and wildlife habitat conservation areas (FWHCAs) by one or more property owners or applicants shall be made in accordance with the provisions of Chapter 13.05 to Building and Land Use Services. Building and Land Use Services may utilize information from the Critical area may be located through the use of information from the United States Department of Agriculture Natural Resource Conservation Service, the United States Geological Survey, the Washington Department of Ecology, the Coastal Zone Atlas, the Washington Department of Fish and Wildlife stream maps and Priority Habitat and Species maps, Washington DNR Aquatic Lands maps, the National Wetlands Inventory maps, Tacoma topography maps, the City's Generalized Wetland and Critical Areas Inventory maps, and Pierce County Assessor's maps to establish general locations and/or verify the location of any wetland, or stream, or FWHCA site. The City's Generalized Wetland and Critical Area Inventory maps and other above-listed sources are only guidelines available for reference. The actual location of critical areas must be determined on a site-by-site basis according to the classification criteria.

The City may utilize information from any source referred to above or available in order to establish general locations and/or to verify the location of any wetland, stream or FWHCA.

Process information has been deleted and re-worded in permit section.

Duplicate language concerning map information is now combined under this section.

B. Site Review. In order to assist customers with potential proposals, City staff will provide an initial site review based on existing information, maps and a potential site visit to identify potential wetlands, streams, and their associated buffers within 300 feet, and FWHCAs and their marine habitat buffer/management areas will also be identified. The FWHCA management areas will be based on the type of critical habitat or species and WDFW recommendations. Site reviews are completed on a case-by-case basis and may require the applicant to submit a wetland delineation, wetland categorization, stream type and Ordinary High Water Mark location, hydrology reports, and priority fish and wildlife species and habitat presence information from WDFW or the City.

Following the site visit and Review Process, a project may be found exempt from further critical area permitting if the applicant can demonstrate the following:

1. There are no adverse impacts to the critical area or buffer, and
2. Structures and improvements are all located beyond the required buffers, and
3. Existing hydrology will be maintained to support critical areas, and
4. The proposed use or activity is consistent with WDFW species management recommendations.

C. In conjunction with the site review process, the Land Use Administrator may require additional information on the physical, biological, and anthropogenic features that contribute to the existing ecological conditions and functions to determine whether a formal wetland/stream/FWHCA exemption, assessment or development permit is required.

D. Review, Assessment and Permit Requirements.

1. Review of development activities within the jurisdiction of the Shoreline Management Act, including Puget Sound, Wapato Lake, or any stream where the mean annual flow is 20 cubic feet per second or greater are regulated under provisions of both this Chapter and TMC 13.10, Shoreline Management. If there are any conflicts between TMC 13.10, Shoreline Management, and Chapter 13.11, Critical Areas Preservation, the most restrictive requirements shall apply. Upon adoption of the new Shoreline Master Program and code, all code excerpts contained within Section 13.11 relating to critical areas contained within the shoreline shall be regulated under the new shoreline code and will no longer be considered valid under 13.11.

a. Development activities that require a Shoreline Substantial Development permit do not require a separate Wetland/Stream/FWHCA permit or exemption, provided the Shoreline Substantial Development Permit review includes review for consistency with this Chapter.

This section is not new. It was moved and combined with the process section.

Previously, an Assessment Permit was required for the review of projects that included development on a site with a wetland or buffer. Now, review may be conducted and the determination of no impact can be made without going through a permit process. This language is very similar to the previous "Assessment Permit" language.

This section is not new. It was moved.

The new Shoreline Master Program and shoreline code will regulate all critical areas contained within the shoreline upon the Department of Ecology approval and adoption. This statement is a placeholder acknowledging that upon adoption, certain provisions within this code will no longer apply. The clean up and removal of any extraneous language will be removed during a subsequent update.

- b. Development activities that require a Shoreline Exemption and a Wetland/Stream/FWHCA permit will be processed separately.
 - c. Development activities that require a Shoreline Exemption and a Wetland/Stream/FWHCA exemption will be processed under the Shoreline Exemption.
 - d. Development activities that do not require a building or land use permit may still be subject to a Wetland/Stream/FWHCA permit or exemption.
2. Review of development activities outside the jurisdiction of the Shoreline Management Act.
- a. Development activities that require a land use or building permit do not require a separate FWHCA permit provided:
 - (1) Identification of FWHCA's and their Management Area is conducted according to 13.11.190~~250~~ and none are found that would affect the development site, or
 - (2) If a FWHCA or FWHCA Management Area is found on the project site the applicant complies with applicable WDFW species management recommendation or with an approved Habitat Management Plan (HMP) submitted by the applicant.
 - b. Development activities that do not require a land use or building permit may require a separate FWHCA permit under this Chapter.
 - c. A separate wetland/stream permit may be required when wetlands, streams or their associated buffers are found on the development site.

~~C. Critical areas may be located through the use of information from the United States Department of Agriculture Natural Resource Conservation Service, the United States Geological Survey, the Washington Department of Ecology, the Coastal Zone Atlas, the Washington Department of Fish and Wildlife Priority Habitat and Species maps, the Washington Department of Natural Resources Aquatic Lands Program, the National Wetlands Inventory maps, Tacoma topography maps, the City's Generalized Wetland and Critical Areas Inventory maps, and Pierce County Assessor's maps. The City's Generalized Wetland and Critical Areas Inventory maps and other above listed sources are only guidelines available for reference. The actual location of critical areas must be determined on a site by site basis according to the classification criteria.~~

13.11.20140 Allowed~~Exempted~~ Activities.

A. Purpose. The purpose of this section is to allow certain activities that are unlikely to result in critical area impacts. The activities must comply with the protective standards of this chapter and provisions of other local, state, and federal laws. All activities shall use reasonable methods to avoid and minimize impacts. Any incidental damage to, or alteration of,

Duplicative language moved and combined above.

Allowed activities are those actions that may proceed without additional review or process. City staff may be contacted for assistance with any allowed activity, but it is not required.

Most of these allowed activities were contained within the previous code in some form. They have been modified or clarified to better describe the level of actions approved.

a critical area, or buffer, shall be restored or replaced at the responsible party's expense.

~~A. Exempt activities and impacts to critical areas. All work shall be conducted using best management practices to ensure that flow, circulation patterns, and chemical and biological characteristics of the critical area are not impaired. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity shall be restored, rehabilitated, or replaced at the responsible party's expense.~~

B. The following activities may occur without City review or approval in compliance with the purpose stated above.

1. The maintenance and repair of legally existing utilities, roads, structures, or facilities used in the service of the public provided such work does not expand the footprint of the facility or right-of-way or alter any regulated critical area or buffer. Activities must be in compliance with the current City Surface Water Management Manual and Regional Road Maintenance Manual and provide all known and reasonable protection methods for the critical area.

~~2e. Holding basins and detention ponds that are part of the municipality's storm water system are exempt from the provisions of this chapter when such holding basin and detention pond is controlled by an engineered outlet.~~Hosmer holding basin, Leach Creek holding basin, and Flett Creek holding basin are exempt from the provisions of this chapter. Detention ponds or similar stormwater facilities constructed in nonwetlands that are part of the municipality's separate storm sewer system (MS4) are also exempt from the provisions of this chapter.

3. Maintenance of legally existing structures, accessways, trails, promenades, stairways, parking lots, and landscaping provided such work does not expand the foot print of the structure or right-of-way and does not alter any regulated critical area or buffer.

~~4. 3. Passive recreational activities, educational activities and scientific research that do not have a detrimental effect within the critical area are allowed. Outdoor passive recreational activities including, e but are not limited to, fishing, bird watching, walking or hiking and non-motorized boating.~~

5. The following can be removed by hand or hand-held light equipment provided that appropriate methods are used to protect native vegetation. Removal methods may be found in the Green Tacoma Partnership Habitat Steward Field Guide.

a. English Ivy may be removed from plants on which is is adhered or rolled up off the ground provided ground disturbance is minimal and does not cause erosion.

b. Regulated noxious weeds as listed on the Pierce County noxious weed list that are required to be eradicated (Class A and Class B) as specified by the Pierce County Noxious Weed Board.

Routine Maintenance of public infrastructure was "split" into two sections. This section allows maintenance activities to occur without review when there is no alteration of the critical area or buffer such as working within right-of-way that is within a buffer or near a critical area.

The Holding Basin exemption is not new. It was moved and the known Holding Basins that have not been regulated historically have been specifically identified.

Maintenance of private land amenities is allowed where there is no alteration of the critical area. The maintenance exemptions from the previous code are combined.

Previous passive activities are combined.

New vegetation management provisions allow removal of invasive plants and planting within small areas without formal oversight by the City. In an effort to assist residents, City approved planting plans or templates will be developed.

c. Invasive species removal in a critical area buffer when the total area is 1,000 square feet or less and slopes are less than 15%.

d. Refuse and debris.

6. Native vegetation planting in a critical area buffer when the total area is 1,000 square feet or less, slopes are less than 15% and a City approved planting plan is utilized.

7. On-site response, removal or remedial action undertaken pursuant to the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or remedial actions undertaken pursuant to a state Model Toxics Control Act (MTCA) order, agreed order or consent decree, or a Department of Homeland Security order that preempt local regulations in the findings of the order. Any subsequent use or redevelopment of the property may be eligible for modification of requirements in this chapter when they are in conflict with the order, such as re-vegetation that would disturb a protective cap placed to contain contaminated soils.

~~8. Activities and uses taken to comply with NRDA Consent Decrees or similar order, U.S. Environmental Protection Agency Superfund related order or Consent Decree, or a Washington Department of Ecology order pursuant to the Model Toxics Control Act, or a Department of Homeland Security order that preempt local regulations in the findings of the order.~~

~~10. Orders and Consent Decrees. Any future development or use of property that is the subject of a consent decree or order described in TMC 13.11.140(C)(8) may be exempt from or eligible for modification of the requirements of this chapter if the City determines that it is necessary to comply with the requirements of such order through the permitting process.~~

13.11.210 Activities Allowed with Staff Review.

A. Purpose. The purpose of this section is to allow a level of City staff review to determine whether potential impacts to a critical area or buffer may occur, without requiring a critical area permit. The staff review will ensure the activity meets the specific criteria below.

B. The following activities require review by City staff. Review and authorization may occur over-the-counter or staff may issue a letter of approval with conditions. Additional information and studies may be requested. Activities must comply with the protective standards of this chapter and provisions of other local, state, and federal laws. Any incidental damage to, or alteration of, a critical area shall be restored or replaced at the responsible party's expense.

~~Exemption application and review process. The following activities require letter of exemption in accordance with the process in Section 13.11.250. The exemption application shall~~

This provision (#7) was corrected and clarified as appropriate.

Activities Allowed with Staff Review require staff review and approval through a short, formal process. A letter may be issued that is similar to the exemption letters previously issued under the current code. These authorizations may also be conditioned. They are not subject to appeal with a land use permit. However, they are subject to LUPA.

~~include, but not be limited to a description of the specific activity, the critical area affected, the section of the code that applies, and a description of the reasonable methods to avoid and minimize impact to the critical area. The City may impose conditions to the exemption approval as necessary to meet the requirements of this Chapter. A Joint Aquatic Resource Permit Application (JARPA) is required for exemptions required by TMC 13.10, Shoreline Management.~~

1. Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare or pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for normal processing. Emergency actions that create an impact to a critical area or its buffer shall use best management practices to address the emergency and, in addition, the action must have the least possible impact to the critical area or its buffer.

The person or agency undertaking such action shall notify the City within one (1) working day following the commencement of the emergency activity. The City shall determine if the action taken was within the scope of an emergency action and following that determination, may require the action to be processed in accordance with all provisions of this chapter including the application of appropriate permits within thirty (30) days of the impact. The emergency exemption may be rescinded at any time upon the determination by the City that the action was not, or is no longer necessary.

After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary mitigative actions including, but not limited to, restoration and rehabilitation or other appropriate mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved mitigation plan. All mitigation activities must take place within one (1) year following the emergency action and impact to the critical area, or within a timeframe approved by the City and reflected within an approved schedule. Monitoring will be required as specified in the General Mitigation Requirements (Section 13.11.2760).

2. ~~Utility operations and infrastructure maintenance and repair.~~

a. ~~Maintenance and repair of legally existing utilities, roads, structures, or facilities used in the service of the public-public may occur following review where alteration of the critical area or buffer is unavoidable, to provide transportation, electricity, gas, water, telephone, telegraph, telecommunication, sanitary sewer, or other services and the installation or construction within improved street rights-of-way of structures or facilities used to provide such services are exempt from the requirements of this chapter, provided a one-time application for such exemption is made to and approved by the City. All activities must be in compliance with the current City Surface Water Management Manual and~~

Routine maintenance was “split” and this section requires some level of staff review where critical areas or buffer may be impacted and restorative work is necessary.

The public storm utility maintenance exemption is not new.

~~All work must be conducted using best management practices and comply with applicable manuals for the action, including but not limited to, the current Regional Road Maintenance Manual and provide all known and reasonable protection methods for the critical area. -~~

~~The maintenance and repair of public storm water services may occur without additional review and approval provided there is no expansion into the critical area or buffer. -The City may place conditions on any such one-time exemption.~~

~~b. The maintenance and repair of legally existing roads, structures, or facilities used in the service of the public to provide storm water services may occur without application to and approval by the City provided such work is conducted using best management practices, and is in compliance with the current City Surface Water Management Manual.~~

~~c. Holding basins and detention ponds that are part of the municipality's storm water system are exempt from the provisions of this chapter when such holding basin and detention pond is controlled by an engineered outlet.~~

~~Any potential wetland area that does not meet the wetland definition as described within this Chapter is exempt from the provisions of this Chapter. Non-jurisdictional wetland determination may require a Wetland Assessment.~~

3. Isolated Category III or Category IV wetlands, which have been classified and identified as having a total cumulative area of less than 1,000 square feet, regardless of property lines are exempt from the provision of this Chapter provided they:

- a. Are of low habitat function (less than 20 points in the Washington Wetlands Rating System for Western Washington).
- b. Are hydrologically isolated and ~~Are~~ not part of a mosaic wetland system.
- c. Are not associated with a Shoreline of the state or wetland that is part of a riparian habitat area, and
- d. Are not critical habitat to local populations of priority species.

4. Geotechnical investigation activities may be performed, provided that an access plan, protection measures, best management practices, and restoration are utilized to protect and maintain the critical area where possible. These items must be included with the ~~exemption~~ application.

5. Reconstruction or exterior remodeling, of existing structures and accessory structures provided that disturbance of native vegetation is kept to a minimum and any vegetation that is disturbed shall be replaced. Activities must comply with WDFW management recommendations where applicable. This shall not apply to reconstruction which is proposed as a result of structural damage associated with a critical area, such as slope failure in a landslide hazard area or flooding in a flood hazard area.

This section was moved and slightly modified.

This statement relates directly to the wetland definition and is not needed.

Items (#5 and #6). The previous exemption language was "split" to clarify the difference between reconstruction and expansion and the requirements for each.

6. One-time expansion of existing structures and accessory structures, provided that expansion of the developed footprint within the critical area or buffer does not increase by more than 25 percent and that the new construction or related use extends away from the critical area ; keeps disturbance of native vegetation to a minimum; and replaces native vegetation that may be disturbed This expansion may also occur in a direction parallel to the critical area if the expansion takes place upon existing impervious surfaces. Activities must comply with WDFW management recommendations where applicable. A Notice on Title must be recorded to be eligible for staff review and approval.

~~Reconstruction, remodeling, or maintenance of existing structures and accessory structures that are located outside a flood hazard area and active landslide hazard area, provided that a one-time only expansion of the building footprint does not increase by more than 25 percent and that the new construction or related use extends away from the critical area or related buffer; keeps disturbance of native vegetation to a minimum; and replaces native vegetation that may be disturbed as a result of construction activity and does not have a significant impact on a FWHCA or its management area. The exemption shall not apply to reconstruction which is proposed as a result of structural damage associated with a critical area, such as slope failure in a landslide hazard area or flooding in a flood hazard area. Expansion up to 25 percent may also occur in a direction parallel to the critical area or related buffer if the expansion takes place upon existing impervious surfaces. A Notice on Title must be recorded to be eligible for this exemption.~~

76. Maintenance and repair of existing bulkheads, shoreline armoring, and bioengineered stabilization measures designed to protect property from erosion.

87. Interrupted wetland, stream, and FWHCA buffers.

a. Where a legally established, pre-existing use of the buffer exists, those proposed activities that are within the ~~buffer wetland, stream, or FWHCA buffer~~, but are separated from the critical area by , or are located in-an existing permanent substantial improvement, which serves to eliminate or greatly reduce the impact of the proposed activity upon the critical area ~~may be allowed~~are exempt provided that the detrimental impact to the critical area does not increase. However, if the impacts do increase, the City shall determine if additional buffer may be required along the impact area of the interruption. Substantial improvements may include developed public infrastructure (roads, railroads, dikes, and levees) and buildings. Substantial improvements may not include paved trails, sidewalks, parking areas, or bulkheads. ~~An exemption request for~~ Review of an interrupted buffer may require a functional analysis report for the type of critical area buffer that is affected. In determining whether a functional analysis is necessary, the City shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the interruption.

The interrupted buffer provision was clarified regarding a project in or on an interruption. For example, levee or dike work would be on the interruption within the buffer.

b. Where a legally established, pre-existing structure or use is located within a regulated wetland or stream buffer area and where the regulated buffer is fully paved and does not conform to the interrupted buffer provision above, the buffer will end at the edge of pavement, adjacent to the wetland or stream.

98. Construction of pedestrian trails within the buffer of a wetland, stream, lake, pond, or FWHCA is permitted, subject to the following criteria:

a. The trail is constructed of pervious material such as bark chip or equivalent.

b. The trail does not cross or alter any regulated drainage features or waters of the state.

c. The trail shall be located within or near the outer ¼ edge of the buffer, except for limited viewing vistas.

d. The trail system discourages pedestrians from using informal trails that are not part of the designated trail system.

e. The trail is designed to avoid human disturbance to priority species and priority habitat.

f. Low impact trails shall not be later widened or upgraded to impervious trails that encourage activities with greater impacts without additional review and required permitting.

g. Informational signs are required at trail heads, at a minimum, and are subject to City approval.

10. Voluntary enhancement of a critical area or buffer that exceeds the provisions above in 13.11.200.B.5 may be allowed if the activity meets the requirements of this section.

a. Individual projects

1) Enhancement activities shall be limited to planting native vegetation, controlling noxious and invasive species and providing minor habitat structures such as nest boxes.

2) Activities shall not include grading or water control structures.

3) A planting plan containing information on vegetation species, quantities, and general location of planting areas including the identification of wetlands, streams, and their buffers, is required for review.

4) Proper erosion control measures are provided.

5) If equipment, other than hand-held equipment is utilized, list the type of equipment, methods and best management practices to prevent unnecessary impacts.

b. Community Projects

Multi-party projects within designated Habitat Corridors or Open Space Areas, or adjacent vegetated areas that form expanded corridors are encouraged. These projects shall not include new destination facilities or high-intensity recreation facilities as described in 13.06.560. A City approved habitat

MetroParks and volunteer groups requested more guidance for passive and improved trail construction. This expanded trail language allows passive trails to be constructed with staff review and approval. Improved trails may be processed under a Minor Development permit, or Development permit depending upon any associated structures and impacts.

New provisions require informational signs at trailheads, placement of new trails at outer edge of buffer and clarification of “pervious” trails.

The new Voluntary Enhancement and Restoration provisions allow individuals and community groups to remove invasive plants and replant in critical areas and their buffers, and provide site amenities that do not require compensatory mitigation-thereby avoiding costly and unnecessary permits. The staff review and approval will allow appropriate level of review and assurance that protected critical areas are not inappropriately impacted.

New code language for recreation facilities is forthcoming and 13.06.560 refers to this new provision.

management template or equivalent must be provided that has been reviewed and approved by all property owners. In addition, the project is subject to the following:

- 1) The primary focus is preservation and increase in biological functions through the preservation and improvement of habitat, species diversity and natural features.
- 2) Preserves and connect habitat corridors.
- 3) Includes goals, objectives, and measureable performance standards
- 4) Includes a monitoring plan and contingency plan.
- 5) Trails shall comply with the provisions in Section 13.11.200.B.9.
- 6) Buildings and paved surfaces shall be located outside of the critical area and buffer.
- 7) Picnic Tables, benches, and signage are allowed when they are located to avoid and minimize impacts.
- 8) A maintenance plan that describes the proper techniques and methods used for on-going maintenance and preservation.
- 9) The identification of a trained habitat steward who will be responsible for overseeing volunteers, employees, and/or contractors for all aspects of the project.

109. Hazard trees. The removal of hazard trees from the critical area or critical area buffer -that are posing a threat to public safety, or -~~imposing an~~ imminent risk of damage to an existing structure, public or private road or sidewalk, or other permanent improvement, may be allowed following City staff review or ~~to private property may be removed~~ provided that a report from a certified arborist, landscape architect or professional forester is submitted to the City for review and approval. The report must include an evaluation for tree stabilization potential and removal techniques for the hazard tree and-procedures for protecting the surrounding critical area and replacement of native trees. Where possible, the hazard tree shall be left as a standing snag and the cut portions of hazard trees are to shall be left within the critical area as ~~a habitat tree such as a standing snag or downed woody debris-~~ unless removal is warranted due to fire hazard, disease, or pest control.

11. Tree Pruning. Tree pruning may be allowed provided a report from a certified arborist, landscape architect or professional forester regarding the health of the tree is submitted, and a functional impact analysis from a qualified professional evaluating the functions of the critical area as a result of the pruning, is also submitted to the City for review and approval. No topping, complete removal or impacts to the health of the tree shall be allowed.

~~10. Orders and Consent Decrees. Any future development or use of property that is the subject of a consent decree or order~~

Additional qualified professionals were added to the list of people that may evaluate a hazard tree, and a provision to evaluate the tree's potential for stabilization with bracing techniques.

Tree pruning was also added to this section to allow minor pruning of trees within critical areas and buffers.

Tree pruning used to be processed under a Development Permit. This provision allows review for continued tree health and protection of the critical area.

~~described in TMC 13.11.140(C)(8) may be exempt from or eligible for modification of the requirements of this chapter if the City determines that it is necessary to comply with the requirements of such order through the permitting process.~~

~~14.2. Within Shorelines of the State, as defined by RCW 90.58.030, activities exempt under WAC 173-27-040, with the exception of WAC 173-27-040 (2) (c), (g) and (h). This exemption shall not include activities within wetlands, streams, or their associated buffers, and also shall not include activities within associated wetlands or streams as established in RCW 90.58.030(2)(d).'~~

~~13. Watershed restoration projects that conform to the provisions of RCW 89.08.460 shall be reviewed without fee and approved within 45 days per RCW 89.08.490.~~

~~14. Fish habitat enhancement projects that conform to the provision of RCW 77.55.181 shall be reviewed without fee and comments provided as specified in RCW 77.55.181.~~

~~15. Maintenance and repair of existing bulkheads, stream bank armoring and bioengineered stabilization measures designed to protect property from erosion or slope failure.~~

~~16.2. Demolition of structures.~~

~~C. The following activities are allowed without an exemption approval unless otherwise required by TMC 13.10, Shoreline Management.~~

~~1. Maintenance of existing landscaping, including existing lawns, within a wetland, stream, FWHCA, or their associated buffers/management areas provided the maintenance does not expand the existing landscaped area.~~

~~2. Maintenance of existing public and private accessways, trails, paths, promenades, stairways, and parking lots provided the maintenance does not expand the aforementioned items.~~

~~3. Passive recreational activities, educational activities and scientific research that do not have a detrimental effect within the critical area are allowed. Outdoor passive recreational activities include but are not limited to fishing, bird watching, walking or hiking and non-motorized boating.~~

~~4. The following vegetation removal activities are allowed, provided that appropriate removal methods are used to preserve and protect the underlying vegetation. Removal may be conducted by hand or with light equipment. The removal of any item that requires restoration, rehabilitation or other appropriate mitigation of the critical area or its buffer may require the action to be processed in accordance with all provisions of this chapter including the acquisition of appropriate permits.~~

~~a. English Ivy (Hedera helix) may be removed from plants on which it is adhered.~~

~~b. Noxious weeds as listed on the Pierce County noxious weed list.~~

Provisions #12, #13, #14 are not new; however, they have been reworded and corrected to reflect updated RCW's and WAC's.

These provisions C.1-C.8 have been moved.

~~5. Removal of refuse and debris, or other items detrimental to the critical area or buffer is allowed by hand or light equipment. The removal of any item that requires restoration, rehabilitation or other appropriate mitigation of the critical area may require the action to be processed in accordance with all provisions of this chapter including the acquisition of appropriate permits.~~

~~6. Any public or private project designed to improve fish or wildlife habitat or fish passage that qualifies for a shoreline substantial development permit exemption pursuant to RCW 90.58.147, RCW 90.58.515, WAC 173 27 040(2)(o), or WAC 173 27 040(2)(p), shall also qualify for a similar exemption from the permit requirements of this chapter when the City has determined that the project is consistent with the requirements of this chapter and either of the following apply:~~

~~a. The project has been approved by the Washington Department of Fish and Wildlife; or~~

~~b. The project has received Hydraulic Project Approval by the Washington Department of Fish and Wildlife, pursuant to RCW 77.55.~~

~~7. Fish habitat enhancement projects that conform to the provision of RCW 77.55.181 are exempt from the procedural and substantive requirements of Chapter 13.11.~~

~~8. Activities and uses taken to comply with NRDA Consent Decrees or similar order, U.S. Environmental Protection Agency Superfund related order or Consent Decree, or a Washington Department of Ecology order pursuant to the Model Toxics Control Act, or a Department of Homeland Security order that preempt local regulations in the findings of the order.~~

~~13.11.150 — Allowed Activities.~~

~~Repealed by Ord. 27728~~

~~13.11.160 — Pre-existing Uses/Structures.~~

~~A. An established use or existing structure that was lawfully permitted prior to adoption of this chapter, but which is not in compliance with this chapter, may continue subject to the provisions of Tacoma Municipal Code (TMC) Section 13.11.140, Section 13.10 Shoreline Management and Section 13.06.630.~~

~~13.11.170 — Critical Area Designation and SEPA.~~

~~A. Pursuant to WAC 197 11 908 and Section 13.12.908 of the TMC, aquifer recharge areas, fish and wildlife habitat conservation areas (FWHCAs), flood hazard areas, geologically hazard areas, wetlands, and streams are hereby designated as critical areas. These areas are mapped on Tacoma's Generalized Critical Areas Maps available in the Tacoma Economic Development Department or as defined by this chapter. The following SEPA categorical exemptions shall not apply within these areas, unless the changes or~~

These sections 13.11.150-13.11.170 were moved.

~~alterations are confined to the interior of an existing structure; Section 13.12.801 of the TMC and the following subsections of WAC 197-11-800(1)(b); (2)(d) excluding landscaping, (e), (f), and (g); (3); 24(a), (b), (c), and (d).~~

~~B. The scope of environmental review of actions within critical areas shall be limited to: (a) documenting whether the proposal is consistent with the requirements of this chapter; and (b) evaluating potentially significant impacts on the critical area resources not adequately addressed by development regulations, if any, including any additional mitigation measures needed to protect the critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.~~

~~13.11.180 — Abrogation and Greater Restrictions.~~

~~A. It is not intended that this chapter repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, provisions of this chapter shall prevail.~~

~~B. Where one site is classified as containing two or more critical areas, the project shall meet the minimum standards and requirements for each identified critical area set forth in this chapter.~~

~~13.11.190 — Severability.~~

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

~~13.11.200 — Notice on Title.~~

~~In addition to provisions of Chapter 13.05, the owner of any property upon which approval under Title 13, Tacoma Municipal Code, or Chapter 2.02, Building Code, of the TMC, is sought with a critical area or critical area buffer verified on site through a wetland/stream/FWHCA or building permit, shall record with the Pierce County Auditor a notice of presence of the critical area and buffer. Such recording shall contain notice of the critical area and buffer and the applicability of this chapter to said property. Such notification shall be in a form as specified by Building and Land Use Services. The notice shall be notarized and the applicant must submit proof that the notice has been legally recorded before the final approval for development is issued. The notice shall run with the land and failure to record such notice shall be in violation of this chapter.~~

These sections 13.11.180-13.11.200 were moved.

This section was moved.

~~13.11.210—Residential Density Credits.~~

~~A. For residential development proposals on lands containing fish and wildlife habitat conservation areas (FWHCAs), erosion hazard areas, landslide hazard areas or steep slopes, the density that would have been allowed in the critical area and buffer but for the provisions of this chapter is generally transferred to the remainder of the site not in the critical area or buffer. For residential development proposals on lands containing wetland or stream buffers, the density that would have been allowed in the buffer but for the provisions of this chapter is generally transferred to the remainder of the site not in the critical area or buffer. For wetlands and streams, density credits do not apply to the portion of the site occupied by the critical area. The allowable number of dwelling units shall be determined using the following formula, table, 125 percent maximum density rule and setback provisions.~~

~~B. The formula for determining the number of dwelling units allowed after the application of density credits is as follows:~~

~~Dwelling units allowed on site = (CA x DC + DA)/MLS, where:~~

~~CA = Critical acreage: The amount of land on the project site which is located in the critical area and required buffer and in which no regulated activity is allowed. For wetlands, streams, and FWHCAs the critical acreage only includes the amount of land which is located in the required buffer and in which no regulated activity is allowed.~~

~~DC = Density credit: The percentage of the density that would have been allowed in the critical area and/or required buffer but for the provisions of this chapter that is allowed to be transferred to the remainder of the site. The density credit is based on the percentage of the site in the critical area and/or buffer and is determined using the table in subsection C below.~~

~~DA = Developable acreage: The amount of land on the project site which is not located in the critical area or the required critical area buffer.~~

~~MLS = Minimum lot size: The minimum amount of land required for a dwelling unit in a specific zoning district.~~

~~C. Table of density credits:~~

~~Percentage of Site in Density~~

~~Critical Area and/or Buffer Credit~~

1—10%	100%
11—20%	90%
21—30%	80%
31—40%	70%
41—50%	60%
51—60%	50%

61—70%	—40%
71—80%	—30%
81—90%	—20%
91—99%	—10%

~~D. The 125 percent maximum density rule provides that the maximum number of dwelling units cannot exceed 125 percent of the allowed number of dwelling units without a density credit on the developable acreage of the site.~~

~~E. The setback requirements shall be the same as the setback requirements for Planned Residential Developments as provided in Section 13.06.140.~~

~~F. The density credits can only be transferred within the same development proposal site.~~

~~13.11.220—Regulated Uses/Activities.~~

~~Pursuant to the requirements of this chapter, a site review or permit shall be obtained prior to undertaking any of the following activities within a wetland, stream, fish and wildlife habitat conservation area (FWHCA) or their associated buffer/management area, unless otherwise exempted under Section 13.11.140.~~

~~A. Filling, placing, or dumping any soil, loam, peat, sand, gravel, rock, chemical substance, refuse, trash, rubbish, debris, or dredge material;~~

~~B. Excavating, dredging, or clearing any soil, loam, peat, sand, gravel, rock, vegetation, trees, or mineral substance;~~

~~C. Discharge of hazardous substances, including, but not limited to heavy metals, pesticides, petroleum products, or secondary effluent;~~

~~D. Any act which results in draining, flooding, or disturbing the water level or table;~~

~~E. Alteration, construction, demolition, or reconstruction of a structure or infrastructure, including driving pilings or placing obstructions;~~

~~F. Destroying or altering vegetation through clearing, harvesting, shading, pruning, or planting vegetation that would alter the character of the site; and~~

~~G. Any act or use which would destroy natural vegetation; result in significant change in water level, water temperature, physical, or chemical characteristics of the wetland or stream; substantially alter the existing pattern of tidal flow, obstruct the flow of sediment, or alter the natural contours of a site.~~

~~13.11.230—Application Types~~

~~A. This chapter allows four types of wetland/stream/fish and wildlife habitat conservation area (FWHCA) applications; three of which result in the issuance of an administrative appealable decision. Exemptions are issued by the Building~~

This section was moved.

The Application Types have been reorganized and changed. A brand new section follows.

and Land Use Services staff and are not subject to an administrative appeal. After the appeal period expires, an approved decision becomes the official permit for each project, so a separate permit is not issued. The Land Use Administrator issues a decision for Verifications, Assessments and Wetland/Stream/FWHCA development permit applications consistent with Chapter 13.05. All applications shall be consistent with the sections of this chapter, including provisions described below. Applications must contain all submittal requirements as specified in 13.11.250.

1. ~~Exemption.~~ An exemption may be issued by staff when a project meets the requirements as specified in Section 13.11.140.

2. ~~Verification.~~ Wetland Delineation, Stream OHWM, or FWHCA Verification. An applicant may request verification of a wetland, or stream, or FWHCA without submitting plans for a specific project.

3. ~~Assessment.~~ An assessment may be issued verifying whether a regulated wetland, stream or FWHCA exists on the subject site or within 300 feet of the subject site. This distance may be expanded if the type of critical habitat or species involved requires more than a 300 foot management area pursuant to WDFW management recommendations.

a. ~~Wetland/Stream Assessment.~~ An assessment may also be issued exempting a project from a wetland/stream development permit if the applicant can demonstrate the following:

- 1) No adverse impacts will occur to the wetland or stream and/or adjacent buffers; and
- 2) The proposed use or structure is located beyond the required buffers; and
- 3) Stormwater runoff will be appropriately analyzed to maintain existing flows to critical areas and additional stormwater runoff will discharge into an approved storm drainage system in accordance with 13.11.250 (h).

b. ~~FWHCA Assessment.~~ An assessment may also be issued exempting a project from a FWHCA development permit if the applicant can demonstrate the following:

- 1) No adverse impacts will occur to the FWHCA and their marine buffers/management areas; and
- 2) The proposed use or structure is located beyond the required marine buffer; and
- 3) The proposed use or activity is consistent with WDFW species management recommendations; and
- 4) Stormwater runoff will be appropriately analyzed to maintain existing flows to critical areas and additional stormwater runoff will discharge into an approved storm drainage system in accordance with 13.11.250 (h).

~~4. Wetland/Stream/FWHCA Development Permit. A Wetland/Stream/FWHCA Development decision will be issued where, in the opinion of the Land Use Administrator, the proposal may result in possible adverse impacts to the wetland, stream, or FWHCA; or the applicant cannot meet the minimum buffer requirements as provided in Chapter 13.11.~~

~~a. The applicant must meet the requirements of one of three legal tests; No Practicable Alternatives, Public Interest or Reasonable Use, and~~

~~b. Provide mitigation as required in accordance with this Chapter.~~

13.11.220 Application Types

A. This chapter allows four types of wetland/stream/fish and wildlife habitat conservation area (FWHCA) applications, which result in the issuance of an administratively appealable decision consistent with Chapter 13.05. After the appeal period expires, the Land Use Administrator's approved decision becomes the official permit.

B. The four types of permit applications are as follows:

1. Verification. Wetland Delineation, Stream OHWM, or FWHCA Verification. An applicant may request verification of a wetland, or stream, or FWHCA on the subject site or within 300 feet of the subject site without submitting plans for a specific project. A verification request may include presence, a boundary determination through wetland delineation or an Ordinary High Water Mark determination. A verification request may also include the jurisdictional status of a critical area.

2. Minor Development Permit. A Minor Development permit may be issued when an applicant cannot meet the minimum buffer requirements or where the Land Use Administrator determines that the proposal will result in temporary, minor, or de-minimis impacts to the buffer or critical area. The Land Use Administrator will consider the size of the area affected, the sensitivity of the critical area and/or presence of priority species and habitat when determining whether the impact is temporary, minor, or de-minimis. The project must comply with the following:

a. The project will not result in a permanent impact to the critical area that would require compensatory mitigation; and

b. Mitigation is provided to restore the site to pre-development conditions, including the maintenance of pre-development hydrological conditions and vegetation conditions.

c. For buffer modification, the project meets the following:

i) Buffer averaging as allowed within Sections 13.11.330 and 13.11.430; or

Jurisdictional verifications are currently processed through a "Wetland Assessment" permit process. Now, both types of verifications can be processed under the "Verification" section separately or together.

Minor (small) development projects may be processed through a Minor Development Permit process rather than a complex Development Permit process saving applicants and the City time and expense. If a critical area is also impacted that requires compensatory mitigation or if the temporary impacts cover a large area, then the project may be reviewed under a Development Permit, as determined by the Land Use Administrator.

Buffer Averaging and Buffer Reduction used to be processed through a Development Permit. Buffer modifications do not involve direct critical area impacts and are less complex to review. Thus, changing the permit type, but retaining the protection allows for a streamlined permit process.

ii) Buffer reduction as allowed within Section 13.11.330.

3. Development Permit. A decision will be issued where the Land Use Administrator determines that avoidance and minimization have not eliminated all impacts and compensatory mitigation will be required as a result of the proposal.

a. The applicant must meet the requirements of one of three legal tests; No Practicable Alternatives, Public Interest or Reasonable Use, and

b. Demonstrate Mitigation Sequencing, and

c. Provide mitigation as required in accordance with this Chapter.

4. Programmatic Development Permit. An applicant may request a programmatic permit where voluntary enhancement and restoration activities are included with the proposal in addition to compensatory mitigation requirements of this chapter. The intent is to encourage advance mitigation, greater project flexibility and phased development. Proposals may include new destination facilities or high-intensity recreation facilities as described in 13.06.560.

a. The applicant must meet the requirements of one of three legal tests; No Practicable Alternatives, Public Interest or Reasonable Use, and

b. Demonstrate Mitigation Sequencing, and

c. Provide mitigation as required in accordance with this Chapter.

13.11.230. Application Submittal Requirements:

A. The purpose of information submittal and review is to require a level of study sufficient to protect critical areas and/or the public from hazards. All information submitted shall be reviewed as to its validity and may be rejected as incomplete or incorrect. Additional information or electronic copies of all information may be requested for review and to ensure compliance. In the event of conflicts regarding information submitted, the Land Use Administrator may, at the applicant's expense, obtain expert services to verify information.

B. The following items are required for permit review and approval, where applicable depending upon the project and permit type, and as determined necessary by City staff.

1. A Joint Aquatic Resource Permit Application and vicinity map for the project.

2. A surveyed site plan that includes the following:

“Mitigation sequencing” was added to clarify existing requirements.

Permit streamlining for voluntary restoration and enhancement by community volunteers has become a priority for the City. This new process builds on the small scale “Allowed Activities” and “Activities Allowed with Staff Review” vegetation restoration and enhancement processes by allowing long term restoration efforts and public facilities to be considered in the same application as a development proposal. This process would be completed as a Process II and included in Chapter 13.05.

The application submittal requirements have been re-written to combine and clarify requirements that were contained in various areas of the code. These requirements clarified application form information, critical area report information and compensatory mitigation plan requirements.

- a. Parcel line(s), north arrow, scale and two foot contours.
- b. Location and square footage for existing and proposed site improvements including, utilities, stormwater and drainage facilities, construction and clearing limits, and off-site improvements. Include the amounts and specifications for all draining, excavation, filling, grading or dredging.
- c. The location and specifications of barrier fencing, silt fencing and other erosion control measures.
- d. Base flood elevation, floodplain type and boundary and floodways, if site is within a floodplain.
- e. Critical Areas including all surveyed, delineated wetland boundaries, and the ordinary high water mark of any stream and their buffers, and all Fish and Wildlife Conservation Areas (FWHCA), marine buffers and any FWHCA Management Areas.
- f. The square footage of the existing critical areas and buffers located on-site and the location and square footage of any impacted areas.
- g. Locations of all data collection points used for the field delineation and general location of off-site critical areas and any buffer that extends onto the project site. Location and dominant species for significantly vegetated areas.
- h. The location and square footage of impact areas, mitigation areas and remaining critical areas and buffers; including areas proposed for buffer modification.

3. Critical Area report prepared by a qualified professional as defined in 13.11.900 Q. The analysis shall be commensurate with the sensitivity of the critical area, relative to the scale of potential impacts and consistent with best available science. The report must include the following where appropriate:

a. Delineation, characterization and square footage for critical areas on or within 300 feet of the project area and proposed buffer(s). Delineation and characterization is based on the entire critical area. When a critical area is located or extends off-site and cannot be accessed, estimate off-site conditions using the best available information and appropriate methodologies.

1) Wetland Delineations will be conducted in accordance with the current manual designated by the Department of Ecology, including federally approved manuals and supplements.

2) The wetland characterization shall include physical, chemical, and biological processes performed as well as aesthetic, and economic values and must use a method recognized by local or state agencies. Include hydrogeomorphic and Cowardin wetland type.

3) Ordinary high water mark determination shall be in accordance with methodology from the Department of Ecology.

4) Priority species and habitat identification shall be prepared according to professional standards and guidance from the Washington Department of Fish and Wildlife. Depending on the type of priority species, the review area may extend beyond 300 feet.

b. Field data sheets for all fieldwork performed on the site. The field assessment shall identify habitat elements, rare plant species, hydrologic information including inlet/outlets, water depths, and hydro-period patterns based on visual cues, and/or staff/crest gage data.

c. Provide a detailed description of the project proposal including off-site improvements. Include alterations of ground or surface water flow, clearing and grading, construction techniques, materials and equipment, and best management practices to reduce temporary impacts.

c. Assess potential direct and indirect physical, biological, and chemical impacts as a result of the proposal. Provide the square footage for the area of impact with the analysis. The evaluation must consider cumulative impacts.

d. Identification of priority species/habitats and any potential impacts. Incorporate Washington State Department of Fish and Wildlife and/or US Department of Fish and Wildlife management recommendations where applicable. When required, plan shall include at a minimum the following:

1) Special management recommendations which have been incorporated and any other mitigation measures to minimize or avoid impacts, including design considerations such as reducing impacts from noise and light.

2) Ongoing management practices which will protect the priority species and/or habitat after development, including monitoring and maintenance programs.

e. A hydrologic report or narrative demonstrating that pre and post development flows to wetlands and streams will be maintained.

f. Runoff from pollution generating surfaces proposed to be discharged to a critical area shall receive water quality treatment in accordance with the current City's Surface Water Management Manual, where applicable. Water quality treatment and monitoring may be required irrespective of the thresholds established in the manual. Water quality treatment shall be required for pollution generating surfaces using all known, available and reasonable methods of prevention, control and treatment.

g. Studies of potential flood, erosion, geological or any other hazards on the site and measures to eliminate or reduce the hazard.

4. A Compensatory mitigation plan shall be provided for all permanent impacts and will conform to the general mitigation requirements listed under Section 13.11.270 and any specific requirements identified in this chapter for the critical area. The plan shall include the following:

a. The applicant must demonstrate that they meet one of three legal tests provided in 13.11.240.

b. Mitigation sequencing. The applicant shall demonstrate that an alternative design could not avoid or reduce impacts and shall provide a description of the specific steps taken to minimize impacts.

c. Assessment of impacts including the amount, existing condition and anticipated functional loss. Include probable cumulative impacts.

d. The amount and type of mitigation. Include goals, objectives, and clearly defined and measurable performance standards. Include contingency plans that define the specific course of action if mitigation fails. The Land Use Administrator may waive the requirement that a mitigation plan be prepared by a qualified professional when mitigation is limited to standard planting or enhancement activities. The waiver shall not be granted for creation or restoration activities.

e. A description of the existing conditions and anticipated future conditions for the proposed mitigation area(s) including future successional community types for years 1,5,10 and 25, future wildlife habitat potential, water quality and hydrologic conditions. Compare this to the future conditions if no mitigation actions are undertaken.

f. Specifications of the mitigation design and installation including construction techniques, equipment, timing, sequencing, and best management practices to reduce temporary impacts.

g. A plant schedule including number, spacing, species, size and type, source of plant material, watering schedule and measures to protect plants from destruction;

h. Monitoring methods and schedule for a minimum of five years.

i. A maintenance schedule to include ongoing maintenance and responsibility for removal of non-native, invasive vegetation and debris after monitoring is complete;

j. A hydrologic report including any mitigative measures for alterations of the hydroperiod. The City may require additional pre- and post-development field studies and/or monitoring to establish water levels, hydroperiods, and water quality. Water quality shall be required for pollution generating surfaces using all known, available, and reasonable methods of prevention, control, and treatment.

k. When mitigation includes creation or restoration of critical areas, surface and subsurface hydrologic conditions including existing and proposed hydrologic regimes shall be provided. Describe the anticipated hydrogeomorphic class and illustrate how data for existing hydrologic conditions were utilized to form the estimates of future hydrologic conditions

l. Existing topography must be ground-proofed at two foot contour intervals in the zone of any proposed creation or rehabilitation actions. Provide cross-sections of existing wetland and/or streams that are proposed to be impacted and cross-section(s) (estimated one-foot intervals) for the proposed areas of creation and/or rehabilitation.

m. A bond estimate for the compensatory mitigation using a bond quantity sheet provided by the City, or a minimum of three bond estimates.

n. An evaluation of potential adverse impacts on adjacent property owners resulting from the proposed mitigation and measures to address such impacts.

5. Programmatic Development Permit. In addition to the requirements above an application shall also include a Management Plan for the area using an approved template format or equivalent. The following information shall be included in the document;

a. Explanation of the voluntary restoration and enhancement components including phasing.

b. Identification of the qualified habitat steward who will be responsible for overseeing restoration and enhancement activities.

c. Explanation of training provided to individuals involved in activities to ensure an understanding of how to perform in accordance with the terms of the permit.

~~13.11.250 – Review Process~~

~~A. Overview~~

~~1. Exemptions. Application for an Exemption under Section 13.11.140 shall be made in accordance with Subsection 13.11.140.B. City Staff shall issue an Exemption Letter to the~~

This section was moved.

~~applicant. The Exemption Letter is not subject to appeal separately from its associated permit.~~

~~2. Assessment, Verification, or Development Permit. Application for an Assessment, Verification or Development Permit for wetlands, streams and fish and wildlife habitat conservation areas (FWHCAs) by one or more property owners or applicants shall be made in accordance with the provisions of Chapter 13.05 to Building and Land Use Services. Building and Land Use Services may utilize information from the United States Department of Agriculture Natural Resource Conservation Service, the United States Geological Survey, the Washington Department of Ecology, the Coastal Zone Atlas, the Washington Department of Fish and Wildlife stream maps and Priority Habitat and Species maps, Washington DNR Aquatic Lands maps, the National Wetlands Inventory maps, Tacoma topography maps, the City's Generalized Wetland and Critical Areas Inventory maps, and Pierce County Assessor's maps to establish general locations and/or verify the location of any wetland, or stream, or FWHCA site. The City's Generalized Wetland and Critical Area Inventory maps and other above listed sources are only guidelines available for reference. The actual location of critical areas must be determined on a site by site basis according to the classification criteria.~~

~~B. Site Review. City staff will provide an initial site review based on existing information, maps and a potential site visit to identify potential wetlands, streams, and their associated buffers within 300 feet, and FWHCAs and their marine habitat buffer/management areas. The FWHCA management areas will be based on the type of critical habitat or species and WDFW recommendations. Site reviews are completed on a site by site basis and may require a wetland delineation, wetland categorization, stream type and Ordinary High Water Mark location, hydrology reports, and priority fish and wildlife species and habitat presence information from WDFW or the City.~~

~~C. In conjunction with the site review process, the Land Use Administrator may require additional information on the physical, biological, and anthropogenic features that contribute to the existing ecological conditions and functions to determine whether a formal wetland/stream/FWHCA exemption, assessment or development permit is required.~~

D. Application Submittal Requirements:

~~1. For exemption submittal requirements, see Section 13.11.140 and conduct the site review in 13.11.250.B and C. Applications for permit decisions, with the exception of exemption approvals shall contain the information listed in this Section. Technical reports shall be submitted and the Land Use Administrator shall review all information submitted as to its validity and may reject it as incomplete or incorrect. Technical reports, such as wetland delineations, FWHCA or stream reports shall be prepared by a qualified professional as defined in 13.11.900.Q.~~

This section was moved and combined with duplicate language.

a. ~~A Joint Aquatic Resource Permit Application including, but not limited to, the name and contact information of the applicant, the name, qualifications, and contact information for the primary author(s) of any Critical Area report, including Wetland Delineation reports or FWHCA reports, a description of the proposal, and identification of all the local, state and/or federal wetland related permit(s) required for the project, and a vicinity map for the project;~~

b. ~~A surveyed site plan that:~~

~~(1) Identifies the surveyed, delineated, wetland boundary and buffer, the surveyed ordinary high water mark of any stream and buffer, with an accompanying legal description and an electronic copy of all data; and~~

~~(2) Identifies FWHCAs, FWHCA Management Areas, and the ordinary high water mark and marine buffers within shoreline jurisdiction;~~

c. ~~Documentation of any fieldwork performed on the site, including field data sheets for delineations, functional assessments, baseline hydrologic data, etc. Wetland Delineations shall be prepared according to the currently adopted Department of Ecology, Washington State Wetlands Identification and Delineation Manual; FWHCA Delineations and ordinary high water mark shall be prepared according to professional standards.~~

d. ~~A description of the methodologies used to conduct the wetland delineations, functional assessments, or impact analyses including references;~~

e. ~~Identification and characterization of all critical areas, wetlands, water bodies, shorelines, floodplains and buffers on or adjacent to the proposed project area. For areas off site of the project site, estimate conditions within 300 feet of the project boundaries or more, if specified by state or federal agency guidelines, using best available information. In the event of conflicts regarding information in the delineation report, the Land Use Administrator may, at the applicant's expense, obtain competent expert services to verify information and establish a final delineation;~~

f. ~~For each wetland/stream identified on site and within 300 feet of the project site, provide the wetland rating, stream type required buffers, hydrogeomorphic classification. Provide acreage for on site wetlands, streams, or buffers based on a professional survey from the field delineation.~~

~~For wetlands provide the Cowardin classification of vegetation communities including vegetation characterization, habitat elements, soil conditions based on site assessment, soil information, and to the extent possible, hydrologic information such as location of inlet/outlets (if they can be legally accessed), estimate water depths within the wetland, estimated hydro period patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide square foot estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site;~~

~~g. For all FWHCAs, marine buffers, or management areas, provide identification of the species and WDFW management recommendations. For FWHCAs within shoreline jurisdiction, also identify marine buffers and acreage.~~

~~h. A technical report containing a discussion of the potential direct and indirect physical and biological impacts to the wetland(s), stream(s), FWHCA(s) and associated impacts with anticipated hydro period alterations from the project;~~

~~i. A hydrologic study for the wetland or stream identifying the contributing basin and demonstrating that pre and post development flows will be maintained;~~

~~j. Shall demonstrate that all runoff from pollution generating surfaces discharging to wetlands or stream or FWHCA shall receive water quality treatment in accordance with the current City's Surface Water Management Manual. Water quality treatment is required for all sites irrespective of the thresholds established in this Manual; and~~

~~k. A description of the proposed actions including an estimation of square footage of impacts to wetland and buffers based on the field delineation and survey, and an analysis of site development alternatives including a no development alternative.~~

~~l. A Habitat Management Plan, biological evaluation, or equivalent, that is in accordance with WDFW management recommendations for the impacts associated with the development proposal and the identified FWHCAs, marine buffers, and any management areas that are found on site.~~

~~2. A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:~~

~~a. Maps to scale depicting delineated and surveyed wetland, stream and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; grading and clearing limits; and areas of proposed impacts to wetland(s), stream(s) and buffer(s), (include square footage estimates);~~

~~b. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas;~~

~~c. Two foot contours, terrain, and drainage flow, significantly vegetated areas, specific location and species name of trees/shrubs with => 6 inch caliper, existing site improvements/structures (calculate square feet and percentage of coverage/impervious surfaces), existing grading, drainage control facilities (natural and artificial), and existing utilities above and below ground where appropriate and required by the City; and~~

~~d. The specifications of all proposed draining, excavation, filling, grading or dredging, including exact locations, amounts and methods, control facilities and utilities.~~

~~3. For Wetland/Stream/FWHCA Development Permits, the additional following information is required:~~

- ~~a. A description of reasonable efforts made to apply mitigation sequencing pursuant to Section 13.11.260.DE, Mitigation Sequencing, to avoid, minimize, and mitigate impacts to critical areas;~~
- ~~b. A mitigation plan for impacts associated with actions contained within a development permit application. The mitigation plan must be in conformance with the General Mitigation Requirements under Section 13.11.260 and the mitigation requirements specified under each critical area;~~
- ~~c. Identification of which test(s) the applicant believes applies for a Development Permit application, an explanation of why the applicant believes it applies and an analysis of how the applicant intends to meet the requirements of the test(s);~~
- ~~d. Assessment and documentation of the FWHCA's, wetland's or stream's functional characteristics, along with its ecological, aesthetic, economic, and other values. Evaluation of functions for the FWHCA, wetland or stream and adjacent buffer using a functions assessment method recognized by local or state agency staff and including the reference for the method and all data sheets;~~
- ~~e. An assessment of the probable cumulative impacts to the FWHCAs, wetlands, streams and buffers resulting from the proposed development;~~
- ~~f. Study of potential flood, erosion or other hazards on the site and provisions for protective measures that might be taken to reduce such hazards as required by the Land Use Administrator;~~
- ~~g. Any other information deemed necessary to verify compliance with the provisions of this chapter; and~~
- ~~h. A Construction Stormwater Pollution Prevention Plan shall be submitted by the applicant in accordance with the current City's Surface Water Management Manual.~~

13.11.25340 General Wetland Standards.

~~A. General permit standards. The Land Use Administrator shall issue wetland or stream development permits in accordance with the wetland or stream classification. No regulated activity or use shall be permitted within a wetland or stream corridor without prior approval and without meeting the provisions of this section. A permit for development in or adjacent to wetlands or stream corridors shall only be granted if it has been demonstrated that the permit, as conditioned, is consistent with the provisions of this chapter and provided:~~

- ~~1. The applicant has taken appropriate action to first, avoid adverse impacts, then minimize impacts and finally, compensate or mitigate for unavoidable impacts;~~
- ~~2. The result of the proposed activity is no net loss of wetland or stream functions;~~

This section is not new. It was moved from the wetland section because these provisions are relevant for any critical area.

Additional new trail language was added to clarify trails construction.

3. The existence of plant or wildlife species appearing on the federal or state endangered or threatened species list will not be jeopardized;

4. The proposal will not lead to significant degradation of groundwater or surface water quality; and

5. The proposal complies with the remaining standards of this chapter, which include those pertaining to wetland compensation and the provision of bonds.

B. Low-impact uses and activities consistent with the stream or wetland buffer function may be permitted within a buffer that has not been reduced depending upon the sensitivity of wetland and intensity of activity or use. These may include pedestrian trails, viewing platforms, utility easements and storm water management facilities such as grass-lined swales that are used to sustain existing hydrologic functions of the critical area.

C. Yard Reduction. In order to accommodate for the required buffer zone, the Land Use Administrator may reduce the front and/or rear yard set-back requirements on individual lots. The front and/or rear yard shall not be reduced by more than 50 percent. In determining whether or not to allow the yard reduction, the Land Use Administrator shall consider the impacts of the reduction on adjacent land uses.

D. As an incentive, the buffer area between a wetland or stream and regulated activity may be reduced or averaged, not less than $\frac{3}{4}$ of its standard regulated buffer width, depending upon the intensity of use and the wetland category or stream type, if the wetland or stream and its buffer area are dedicated to the public by deeding the property to the City, with City approval. The Land Use Administrator shall determine whether the dedication is of benefit to the City for protection of natural resources.

E. Trail use and construction

1. Trails shall be located on or near the outer $\frac{1}{4}$ edge of the buffer, where possible, with the exception of limited viewing platforms and crossings.

2. Where possible, trails and associated viewing platforms shall not be made of continuous impervious materials. Natural trails with pervious surfaces such as, but not limited to, bark chip are encouraged.

13.11.2640 Residential Density Credits.

A. For residential development proposals on lands containing fish and wildlife habitat conservation areas (FWHCAs), erosion hazard areas, landslide hazard areas or steep slopes, the density that would have been allowed in the critical area and buffer but for the provisions of this chapter is generally transferred to the remainder of the site not in the critical area or buffer. For residential development proposals on lands containing wetland or stream buffers, the density that would

This section is not new. It was moved.

have been allowed in the buffer but for the provisions of this chapter is generally transferred to the remainder of the site not in the critical area or buffer. For wetlands and streams, density credits do not apply to the portion of the site occupied by the critical area. The allowable number of dwelling units shall be determined using the following formula, table, 125 percent maximum density rule and setback provisions.

B. The formula for determining the number of dwelling units allowed after the application of density credits is as follows:

Dwelling units allowed on site = (CA x DC + DA)/MLS, where:

CA = Critical acreage: The amount of land on the project site which is located in the critical area and required buffer and in which no regulated activity is allowed. For wetlands, streams, and FWHCAs the critical acreage only includes the amount of land which is located in the required buffer and in which no regulated activity is allowed.

DC = Density credit: The percentage of the density that would have been allowed in the critical area and/or required buffer but for the provisions of this chapter that is allowed to be transferred to the remainder of the site. The density credit is based on the percentage of the site in the critical area and/or buffer and is determined using the table in subsection C below.

DA = Developable acreage: The amount of land on the project site which is not located in the critical area or the required critical area buffer.

MLS = Minimum lot size: The minimum amount of land required for a dwelling unit in a specific zoning district.

C. Table of density credits.

Percentage of Site in Density

Critical Area and/or Buffer Credit

<u>1 – 10%</u>	<u>100%</u>
<u>11 – 20%</u>	<u>90%</u>
<u>21 – 30%</u>	<u>80%</u>
<u>31 – 40%</u>	<u>70%</u>
<u>41 – 50%</u>	<u>60%</u>
<u>51 – 60%</u>	<u>50%</u>
<u>61 – 70%</u>	<u>40%</u>
<u>71 – 80%</u>	<u>30%</u>
<u>81 – 90%</u>	<u>20%</u>
<u>91 – 99%</u>	<u>10%</u>

D. The 125 percent maximum density rule provides that the maximum number of dwelling units cannot exceed 125 percent of the allowed number of dwelling units without a density credit on the developable acreage of the site.

E. The setback requirements shall be the same as the setback requirements for Planned Residential Developments as provided in Section 13.06.140.

F. The density credits can only be transferred within the same development proposal site.

13.11.2760 General Mitigation Requirements.

A. Unless otherwise provided in this Title, if alteration to a wetland, stream, FWHCA, or its buffer is unavoidable, all adverse impacts resulting from a development proposal or alteration shall be mitigated using the best available science, so as to result in no net loss of critical area functions and values. In making a determination as to whether such a requirement will be imposed, and if so, the degree to which it would be required, the Land Use Administrator may consider the following:

1. The long-term and short-term effects of the action and the reversible or irreversible nature of the impairment to or loss of the FWHCA, wetland or stream;

2. The location, size, and type of and benefit provided by the original and altered FWHCA, wetland or stream;

3. The effect the proposed work may have upon any remaining critical area or associated aquatic system;

4. The cost and likely success of the compensation measures in relation to the magnitude of the proposed project or violation;

5. The observed or predicted trend with regard to the gains or losses of the specific type of wetland or stream; and

6. The extent to which the applicant has demonstrated a good faith effort to incorporate measures to minimize and avoid impacts within the project.

B. Mitigation projects shall not result in adverse impacts to adjacent property owners.

C. Mitigation shall be in-kind and on-site, when possible, and sufficient to maintain the functions and values of the critical area.

D. Mitigation shall not be implemented until after permit approval of the Land Use Administrator and shall be in accordance with all reports and representations made therein.

E. Mitigation Sequencing. When an alteration to a critical area or its buffer is proposed, such alteration shall be avoided, minimized, or compensated for in the following order of preference.

1. Avoiding the impact altogether by not taking a certain action or parts of an action.

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate

This section was moved from the Conditions and Appeals section and appears to fit here as these are considerations by the Land Use Administrator, not conditional requirements.

technology, or by taking affirmative steps to avoid or reduce impacts.

3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
4. Reducing or eliminating the impact over time by preservation and maintenance operations.
5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments.
6. Monitoring the required mitigation and taking remedial action where necessary.

F. Mitigation for Lost or Affected Functions. Compensatory mitigation shall address the functions affected by the proposed project or alteration to achieve functional equivalency or improvement and shall provide similar critical area or buffer functions as those lost, except when:

1. The lost critical area or buffer provides minimal functions as determined by a site-specific functional assessment, and the proposed compensatory mitigation action(s) will provide equal or greater functions or will provide functions shown to be limiting within a watershed through a formal Washington state watershed assessment plan or protocol; or
2. Out of kind replacement of wetland, stream or FWHCA type or functions will best meet watershed goals formally identified by the City, such as replacement of historically diminished critical areas.

G. Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternative approach, compensatory mitigation for ecological functions shall be either in-kind and on-site, or in-kind and within the same stream reach, subbasin, or drift cell (if estuarine wetlands are impacted). Mitigation action shall be conducted within the same sub-drainage basin and on the site of the alteration except when all of the following apply:

1. There are no reasonable on-site or in subdrainage basin opportunities (e.g. on-site options would require elimination of high functioning upland habitat), or on-site and in subdrainage basin opportunities do not have a high likelihood of success based on a determination of the natural capacity of the site to compensate for impacts. Considerations should include: anticipated wetland/stream/FWHCA mitigation ratios, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands, or streams when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);
2. Off-site mitigation has a greater likelihood of providing equal or improved critical area functions than the impacted critical area; and

3. Off-site locations shall be in the same sub-drainage basin unless established watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site.

H. Wetland Mitigation Banks.

1. Credits from a wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:
 - a. the bank is certified under state rules;
 - b. The Administrator determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
 - c. The proposed use of credits shall be consistent with terms and conditions of the bank's certification.
2. Replacement ratios for projects using bank credits shall be consistent with replacement ratios specified in the bank's certification.
3. Credits from a certified wetland mitigation bank may be used to compensate for impacts located within the service area specified in the bank's certification. In some cases, the service area of the bank may include portions of more than one adjacent drainage basin for specific wetland functions.

I. In-Lieu Fee. To aid in the implementation of off-site mitigation, the City may develop a program which prioritizes wetland areas for use as mitigation and/or allows payment in lieu of providing mitigation on a development site. This program shall be developed and approved through a public process and be consistent with state and federal rules. The program should address:

1. The identification of sites within the City that are suitable for use as off-site mitigation. Site suitability shall take into account wetland functions, potential for wetland degradation, an dpotential for urban growth and service expansion, and
2. The use of fees for mitigation on available sites that have been identified as suitable and prioritized.

J.H. Timing of Compensatory Mitigation. It is preferred that compensation projects will be completed prior to activities that will disturb the on-site critical area. If not completed prior to disturbance, compensatory mitigation shall be completed immediately following the disturbance and prior to the issuance of final certificate of occupancy. Construction of

New mitigation options including mitigation banks and in lieu fee programs will be available to Tacoma development projects as they are developed and become available.

mitigation projects shall be timed to reduce impacts to existing fisheries, wildlife, and flora.

The Land Use Administrator may authorize a one-time temporary delay in completing construction or installation of the compensatory mitigation when the applicant provides a written explanation from a qualified professional as to the rationale for the delay (i.e. seasonal planting requirements, fisheries window).

K.I. Critical Area Enhancement as Mitigation. Impacts to critical area functions may be mitigated by enhancement of existing significantly degraded critical areas, but should be used in conjunction with restoration and/or creation where possible. Applicants proposing to enhance critical areas or their buffers must include in a report how the enhancement will increase the functions of the degraded critical area or buffer and how this increase will adequately mitigate for the loss of critical area and function at the impact site. An enhancement proposal must also show whether any existing critical area functions will be reduced by the enhancement action.

L.J. Innovative Mitigation. The Land Use Administrator may approve innovative mitigation projects that are based on best available science including but not limited to activities such as advance mitigation and preferred environmental alternatives. Innovative mitigation proposals must offer an equivalent or better level of protection of critical area functions and values than would be provided by the strict application of this chapter. Such mitigation proposals must demonstrate special consideration for conservation and protection measures for anadromous fisheries. The Land Use Administrator shall consider the following for approval of an innovative mitigation proposal:

1. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas;
2. The applicant demonstrates that long-term protection and management of the habitat area will be provided;
3. There is clear potential for success of the proposed mitigation at the proposed mitigation site;
4. Mitigation according to TMC 13.11.27~~60~~.E is not feasible due to site constraints such as parcel size, stream type, wetland category, or excessive costs;
5. A wetland of a different type is justified based on regional needs or functions and values;
6. The replacement ratios are not reduced or eliminated; unless the reduction results in a preferred environmental alternative; and
7. Public entity cooperative preservation agreements such as conservation easements [are applied](#).

~~**K.** Mitigation Plan Requirements.~~

This section moved and incorporated into Application Submittal Requirements section.

~~1. Compensatory mitigation shall be provided for all unavoidable adverse alterations to a critical area or buffer. A mitigation plan shall be consistent with best available science. The intent of these provisions is to require a level of technical study and analysis sufficient to protect critical areas and/or protect developments and occupants from critical areas involving hazards. The analysis shall be commensurate with the value or sensitivity of a particular critical area and relative to the scale and potential impacts of the proposed activity.~~

~~2. The mitigation plan shall provide for construction, maintenance, monitoring, and contingencies as required by conditions of approval and consistent with the requirements of this chapter.~~

~~3. The mitigation plan shall be prepared by a qualified professional; provided, that the Land Use Administrator may waive the requirement to hire a qualified professional to prepare a mitigation plan when the required mitigation involves standard planting or enhancement practices. The waiver shall not be granted for mitigation practices involving critical area creation, rehabilitation and/or restoration.~~

~~4. The mitigation plan shall contain the following information:~~

~~a. A description and scaled drawings of the activities proposed to reduce risks associated with geologic hazards and/or flooding, and/or to mitigate for impacts to critical area functions and values. This shall include all clearing, grading/excavation, drainage alterations, planting, invasive weed management, installation of habitat structures, irrigation, and other site treatments associated with the development activities.~~

~~b. Specific information on construction or the proposed mitigation activity including timing, sequence, equipment needs, and best management practices.~~

~~c. A description of the functions and values that the proposed mitigation area(s) shall provide, and/or a description of the level of hazard mitigation provided.~~

~~d. The goals, objectives, and performance standards that the proposed mitigation action(s) shall achieve.~~

~~e. A description of how the mitigation area(s) will be evaluated and monitored to determine if the performance standards are being met.~~

~~f. A program and schedule for construction and postconstruction monitoring of the mitigation project.~~

~~g. An evaluation of potential adverse impacts on adjacent property owners resulting from the proposed mitigation and measures to address such impacts.~~

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

~~i. Plan sheets showing the edge of the critical area and buffer area. The affected area shall be clearly staked, flagged, and/or fenced prior to and during any site clearing and construction to ensure protection for the critical area and buffer during construction.~~

~~j. A description of other permits and approvals being sought, including the need for permits from state and/or federal agencies.~~

~~k. Additional information as required by the subsequent articles of this Chapter.~~

~~13.11.270 Sureties.~~

~~The City will accept performance and monitoring and maintenance sureties in the form of bonds or other sureties in a form accepted in writing by the City. Sureties shall be posted prior to issuance of any development permits including, but not limited to, clearing and grading permits and building permits.~~

~~(1) Performance Surety. Except for public agencies, applicants receiving a permit involving compensation for mitigation are required to post a cash performance bond or other acceptable security to guarantee compliance with this chapter prior to beginning any site work. The surety shall guarantee that work and materials used in construction are free from defects. All sureties shall be approved by the City Attorney. The surety cannot be terminated or cancelled without written approval. The Land Use Administrator shall release the surety after documented proof that all structures and improvements have been shown to meet the requirements of this chapter.~~

~~(2) Monitoring and Maintenance Surety. Except for public agencies, an applicant shall be required to post a cash maintenance bond or other acceptable security guaranteeing that structures and improvements required by this chapter will perform satisfactorily for a minimum of five years after they have been constructed and approved. The value of the surety shall be based on the average or median of three contract bids that establish all costs of compensation, including costs relative to performance, monitoring, maintenance, and provision for contingency plans. The amount of the surety shall be set at 150 percent of the average expected cost of the compensation project. All surety shall be on a form approved by the City Attorney. Without written release, the surety cannot be cancelled or terminated. The Land Use Administrator shall release the surety after determination that the performance standards established for measuring the effectiveness and success of the project have been met.~~

13.11.280 Conditions and Appeals.

A. The Land Use Administrator shall have the authority, in accordance with Chapter 13.05, to attach such conditions to the granting of any permit under this chapter deemed necessary to mitigate adverse impacts and carry out the

This section was moved.

provisions of this chapter. In addition, such conditions may include, but are not limited to, the following:

1. Placement of Notice on Title on the subject parcel;

13.11.200 – Notice on Title.

In addition to provisions of Chapter 13.05, the owner of any property upon which approval under Title 13, Tacoma Municipal Code, or Chapter 2.02, Building Code, of the TMC, is sought with a critical area or critical area buffer verified on site through a wetland/stream/FWHCA or building permit, shall record with the Pierce County Auditor a notice of presence of the critical area and buffer with the exception of protected information. Such recording shall contain notice of the critical area and buffer and the applicability of this chapter to said property. Such notification shall be in a form as specified by Building and Land Use Services. The notice shall be notarized and the applicant must submit proof that the notice has been legally recorded before the final approval for development is issued. The notice shall run with the land and failure to record such notice shall be in violation of this chapter.

2. Limitations on minimum lot size;
3. Provisions for additional vegetative buffer zones depending on the intensity of the use or activity;
4. Requirements that structures be elevated on piles, limited in size or located with additional setback requirements;
5. Dedication of utility easements;
6. Modification of waste disposal or water supply facilities;
7. Imposition of easement agreements or deed restrictions concerning future use including conservation easements within fish and wildlife habitat conservation area (FWHCA), wetland, stream or other natural area tracts and subdivision of lands;
8. Limitation of vegetation removal;
9. Setting minimum open space requirements;
10. Erosion control and storm water management measures, including restrictions on fill and other activities in the FWHCA, wetland or stream;
11. Development of a plan involving the creation or enhancement of a stream corridor, wetland, or FWHCA or restoration of a damaged or degraded stream corridor, wetland, or FWHCA to compensate for adverse impacts;
12. Permanent Signs may be required on each lot or FWHCA, wetland, stream or natural area tract, and shall be prepared in accordance with the approved City of Tacoma template for signs. Additional custom signs may be required for areas with sensitive species that require specific protection measures;

The language was clarified to exclude protected WDFW species and habitat information.

13. Fencing is required when the Land Use Administrator determines that a fence will prevent future impacts to a protected FWHCA, wetland or stream or other natural habitat area. Fencing installed as part of a proposed activity shall not interfere with species migration, including fish runs, nor shall it impede emergency egress; and

14. Subdivisions. The subdivision and short subdivision of land in FWHCAs or wetlands and associated buffers is subject to the following and Chapter 13.04.310:

a. Land that is located partially within a FWHCA, wetland or its buffer may be subdivided provided that an accessible and contiguous portion of each new lot is located outside the wetland and its buffer.

b. Access roads and utilities serving the proposed subdivision may be permitted within the wetland and associated buffers only if the Land Use Administrator determines that no other feasible alternative exists and the project is consistent with the remaining provisions of this chapter.

c. A protection covenant such as a Conservation Easement shall be recorded with the Pierce County Assessor's Office for FWHCA, wetland, stream or natural area tracts that are created as part of the permitting process.

B. Compensatory mitigation as a condition. As a condition of a permit or as an enforcement action under this chapter, the City shall require, where not in conflict with a reasonable economic use of the property, that the applicant provide compensatory mitigation to offset, in whole or part, the loss resulting from an applicant's or violator's action or proposal. Such compensation may include the enhancement of a FWHCA, stream corridor or wetland, the restoration of a damaged or degraded wetland, FWHCA or stream; or the creation of a new FWHCA, wetland or stream. ~~In making a determination as to whether such a requirement will be imposed, and if so, the degree to which it would be required, the Land Use Administrator may consider the following:~~

~~1. The long term and short term effects of the action and the reversible or irreversible nature of the impairment to or loss of the FWHCA, wetland or stream;~~

~~2. The location, size, and type of and benefit provided by the original and altered FWHCA, wetland or stream;~~

~~3. The effect the proposed work may have upon any remaining critical area or associated aquatic system;~~

~~4. The cost and likely success of the compensation measures in relation to the magnitude of the proposed project or violation;~~

~~5. The observed or predicted trend with regard to the gains or losses of the specific type of wetland or stream; and~~

~~6. The extent to which the applicant has demonstrated a good faith effort to incorporate measures to minimize and avoid impacts within the project.~~

C. Appeals. An appeal of a decision regarding a critical area, except for staff decisions regarding exemptions which are not subject to an administrative appeal, may be made in accordance with the provisions of Chapter 13.05 and Chapter 1.23 of the Tacoma Municipal Code.

13.11.2970 Sureties.

The City will accept performance and monitoring and maintenance sureties in the form of bonds or other sureties in a form accepted in writing by the City. Sureties shall be posted prior to issuance of any development permits including, but not limited to, clearing and grading permits and building permits.

(1) Performance Surety. Except for public agencies, applicants receiving a permit involving compensation for mitigation are required to post a cash performance bond or other acceptable security to guarantee compliance with this chapter prior to beginning any site work. The value of the surety shall be based on the average of three contract bids that establish all costs of compensation including costs relative to performance, monitoring, maintenance, and provisions for contingency plans. The amount of the surety shall be set at 150 percent of the average expected cost of the compensation project and include all review fees. The surety shall guarantee that work and materials used in construction are free from defects. All sureties shall be on a form approved by the City Attorney. Without written release, the surety cannot be terminated or cancelled, without written approval. The Land Use Administrator shall release the surety after documented proof that all plantings, structures and improvements have been shown to meet the requirements of this chapter.

(2) Monitoring and Maintenance Surety. Except for public agencies, an applicant receiving a permit involving compensatory mitigation shall be required to post a cash maintenance bond or other acceptable security prior to beginning any site work guaranteeing that structures and improvements required by this chapter will perform satisfactorily for a minimum of five years after they have been constructed and approved. The value of the surety shall be based on the average or median of three contract bids that establish all costs of compensation, including costs relative to performance, monitoring, maintenance, and provision for contingency plans. The amount of the surety shall be set at 150 percent of the average expected cost of the compensation project and include all review fees. All sureties shall be on a form approved by the City Attorney. Without written release, the surety cannot be cancelled or terminated. The Land Use Administrator shall release the surety following a after determination that the performance standards established for measuring the effectiveness and success of the project have been met.

This section is not new. It was moved. The language was clarified to better describe the current internal process.

13.11.300 Wetlands.

The 300 section contains the regulations for wetlands, including the following:

- 13.11.310 Wetland Classification.
- 13.11.320 Wetland Buffers.
- 13.11.330 Wetland Buffer Modifications.
- 13.11.340 Wetland Standards.
- 13.11.350 Wetland Mitigation Requirements.
- 13.11.360 *Repealed.*

13.11.320 Wetland Buffers.

A. General. A buffer area shall be provided for all uses and activities adjacent to a wetland area to protect the integrity, function, and value of the wetland. Buffers adjacent to wetlands are important because they help to stabilize soils, prevent erosion, act as filters for pollutants, enhance wildlife diversity, and support and protect plants and wildlife. A permit may be granted if it has been demonstrated that no adverse impact to a wetland will occur and a minimum buffer width will be provided in accordance with this section. The buffer shall be measured horizontally from the delineated edge of the wetland. The buffer shall be vegetated with the exception of areas that include development interruptions as described within this chapter.

B. Minimum Requirement.

1. Wetlands. Wetland buffer widths shall be established according to the following tables which are based on wetland classification, habitat function, land use intensity, and local significance:

Rating of impact from proposed changes in land use	Land-Use Types
High	Commercial, Urban, Industrial, Institutional, Retail Sales, Residential with more than 1 unit/acre, new agriculture (high intensity processing such as dairies, nurseries and green houses, raising and harvesting crops requiring annual tilling, raising and maintaining animals), high intensity recreation (golf courses, ball fields), hobby farms
Moderate	Residential with less than or equal to 1 unit/acre, moderate intensity open space (parks), new agriculture (moderate intensity such as orchards and hay fields)

Low	Forestry, open space (low intensity such as passive recreation and natural resources preservation)
-----	--

Table 12. Examples to minimize disturbance*		
Disturbance element	Minimum measures to minimize impacts	Activities that may cause the disturbance
Lights	Direct lights away from wetland	Parking Lots, Warehouses, Manufacturing, High Density Residential
Noise	Place activity that generates noise away from the wetland	Manufacturing, High Density Residential
Toxic runoff	Route all new untreated runoff away from wetland, Covenants limiting use of pesticides within 150 feet of wetland	Parking Lots, Roads, Manufacturing, residential Areas, Application of Agricultural Pesticides, Landscaping
Change in water regime	Infiltrate or treat, detain and disperse into buffer new runoff from surface	Any impermeable surface, lawns, tilling
Pets and Human disturbance	Fence around buffer, Plant buffer with "impenetrable" natural vegetation appropriate for region	Residential areas
Dust	Best Management Practices for dust	Tilled fields
*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3		

Table 3. Buffer width for category I wetlands located within a Habitat Zone²

Wetland Characteristics	Buffer Widths by Impact of Land Use (feet)	Other Measures Recommended for Protection
Natural Heritage Wetlands	Low—125	No additional discharges of surface water.
	Moderate—190	No septic systems within 300 feet.
	High—250	Restore degraded parts of the buffer.
Bogs	Low—125	No additional surface discharges.
	Moderate—190	Restore degraded parts of the buffer.
	High—250	
Forested	Low—150	If forested wetland scores high for habitat, need to maintain connectivity to other natural areas.
	Moderate—225	Restore degraded parts of the buffer.
	High—300	
Estuarine	Low—100	N/A
	Moderate—150	
	High—200	
Wetlands in Coastal Lagoons	Low—100	N/A
	Moderate—150	
	High—200	

Table 3. Buffer width for category I wetlands located within a Habitat Zone*

High level of function for habitat (score for habitat 29-36 pts.)	Low—150	Maintain connectivity to other natural areas.
	Moderate—225	
	High—300	Restore degraded parts of the buffer.
Moderate level of function for habitat (score for habitat 20-28 pts.)	Low—75	N/A
	Moderate—110	
	High—150	
High level of function for water quality improvement (24-32 pts.) and low for habitat (less than 20 pts)	Low—50	No additional discharges of untreated runoff.
	Moderate—75	
	High—100	
Not meeting any criteria above	Low—50	N/A
	Moderate—75	
	High—100	
*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State, Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3		

Table 4. Buffer width for category II wetlands located within a Habitat Zone*

Wetland Characteristics	Buffer Widths by Impact of Land Use (feet)	Other Measures Recommended for Protection
High level of function for habitat (score for habitat 29-36 pts.)	Low—150	Maintain connectivity to other natural resources
	Moderate—225	
	High—300	
Moderate level of function for habitat (score for habitat 20-28 pts.)	Low—75	N/A
	Moderate—110	
	High—150	

Table 4. Buffer width for category II wetlands located within a Habitat Zone*

High level of function for water quality improvement and low for habitat (score for water quality 24-32 pts.; habitat less than 20 pts.)	Low—50 Moderate—75 High—100	No additional discharges of untreated runoff
Estuarine	Low—75 Moderate—110 High—150	N/A
Interdunal	Low—75 Moderate—110 High—150	N/A
Not meeting any criteria above	Low—50 Moderate—75 High—100	N/A

*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

Table 5. Buffer width for category III wetlands located within a Habitat Zone*

Wetland Characteristics	Buffer Widths by Impact of Land Use (feet)	Other Measures Recommended for Protection
Moderate level of function for habitat (score for habitat 20-28 points)	Low—75 Moderate—110 High—150	N/A
Not meeting the above criteria	Low—40 Moderate—60 High—80	N/A

*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

Table 6. Buffer width for category IV wetlands located within a Habitat Zone*

Wetland Characteristics	Buffer Widths by Impact of Land Use (feet)	Other Measures Recommended for Protection
Score for functions less than 30 pts.	Low—25 Moderate—40 High—50	N/A.

*Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

Level of Function	Habitat Score in Rating System
High (H)	30-36
Medium (M)	20-29
Low (L)	<20

Table 37. Buffer width for all wetlands outside the perimeter of a Habitat Zone*

Wetland Category	Buffer Width (feet)
Category I	H and M -200 L-175
Category II	H and M- 150 L-100
Category III	H,M,L -75
Category IV	H,M,L - 50

*Best Available Science Review, City of Tacoma, Critical Areas Preservation Ordinance, Tacoma, Washington, June 15, 2004, prepared by GeoEngineers

Buffer widths are no longer dependent upon the Habitat Zone map. The new wetland buffer table is a modified version of the previous Alternative 1 Wetland Buffer Table with buffer distance dependent upon the habitat score.

Table 8. Wetlands of local significance*

Site	Buffers (feet)
Snake Lake	300
China Lake	300
Delong Park	300
Wapato Lake	300
McKinley Park	300

*Best Available Science Review Recommendation from City of Tacoma Critical Areas Task Force June 2004

13.11.330 Wetland Buffer Modifications.

A. Buffer Requirements. The standard buffer widths in Table 2 have been established in accordance with the best

available science. They are based on the category of wetland and the habitat score as determined by a qualified wetland professional using the Washington state wetland rating system for western Washington. The use of the standard buffer widths **requires** the implementation of the measures in Table I, where applicable, to minimize the impacts of the adjacent land uses.

Buffer increases, buffer averaging and buffer reduction language were modified for the new buffer table. Many of the elements in the language are similar to the previous code, but have been modified to allow their use without using the Alternative 3 buffer methodology.

B. Buffer Increases. Buffer widths shall be increased on a case by case basis as determined by the Administrator when a larger buffer is necessary to protect wetland functions and values. This determination shall be supported by appropriate documentation showing that it is reasonably related to protection of the functions and values of the wetland. The documentation must include but not be limited to the following criteria:

- a. The wetland is used by a plant or animal species listed by the federal government or the state as endangered, threatened, candidate, sensitive, monitored or documented priority species or habitats, or essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
- b. The adjacent land is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
- c. The adjacent land has minimal vegetative cover or slopes are greater than 30 percent.
- d. The adjacent land contains an identified connective corridor that should not be bisected.

C. Buffer Averaging. The widths of buffers may be averaged if this will improve the protection of wetland functions, or if it is the only way to allow for use of the parcel. Averaging may not be used in conjunction with the provisions for buffer reductions.

1. Averaging to improve wetland protection may be permitted when all of the following conditions are met:

- a. The wetland has significant differences in characteristics that affect its habitat functions, such as a wetland with a forested component adjacent to a degraded emergent component or a dual-rated wetland with a Category I area adjacent to a lower rated area, and
- b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a report from a qualified wetland expert; and
- c. The buffer is increased adjacent to the high-functioning area of habitat or more sensitive portion of the wetland and decreased adjacent to the lower-functioning or less sensitive portion; and

- d. The total area of the buffer after averaging is equal to the area required without averaging; and
 - e. The buffer at its narrowest point is never less than ¾ of the required width.
2. Averaging to allow a reasonable use of a legal lot of record may be permitted when all of the following are met:
- a. There are no feasible alternatives to the site design that could be accomplished without buffer averaging; and
 - b. The averaged buffer will not result in degradation of the wetland's functions and values as demonstrated by a report from a qualified wetland expert;
 - c. The total area of the buffer after averaging is equal to the area required without averaging; and
 - d. The buffer at its narrowest point is never less than ¾ of the required width.

D. Buffer Reduction. Buffer widths can be reduced according to the following criteria:

- 1. The buffer for wetlands that score moderate or high for habitat (20) points or more may be reduced to the low habitat buffer if the following criteria are met;
 - a. A relatively undisturbed vegetated corridor at least 100 feet wide is protected between the wetland and any other Priority Habitats as defined by the Washington State Department of Fish and Wildlife. The corridor must be protected for the entire distance between the wetland and the Priority Habitat via some type of legal protection such as a conservation easement, or
 - b. An existing buffer that is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions and the buffer is planted to create the appropriate plant community, and
 - c. The buffer at its narrowest point is never less than ¾ of the required width.

~~13.11.340 Wetland Standards.~~

~~A. General permit standards. The Land Use Administrator shall issue wetland or stream development permits in accordance with the wetland or stream classification. No regulated activity or use shall be permitted within a wetland or stream corridor without prior approval and without meeting the provisions of this section. A permit for development in or adjacent to wetlands or stream corridors shall only be granted if it has been demonstrated that the permit, as conditioned, is consistent with the provisions of this chapter and provided:~~

- ~~1. The applicant has taken appropriate action to first, avoid adverse impacts, then minimize impacts and finally, compensate or mitigate for unavoidable impacts;~~

This section was moved. These standards apply to other buffers and a General Standard Section was developed under Section 13.11.250.

~~2. The result of the proposed activity is no net loss of wetland functions;~~

~~3. The existence of plant or wildlife species appearing on the federal or state endangered or threatened species list will not be jeopardized;~~

~~4. The proposal will not lead to significant degradation of groundwater or surface water quality; and~~

~~5. The proposal complies with the remaining standards of this chapter, which include those pertaining to wetland compensation and the provision of bonds.~~

~~B. Low impact uses and activities consistent with the stream or wetland buffer function may be permitted within a buffer that has not been reduced depending upon the sensitivity of wetland and intensity of activity or use. These may include pedestrian trails, viewing platforms, utility easements and storm water management facilities such as grass lined swales that are used to sustain existing hydrologic functions of the critical area.~~

~~C. Yard Reduction. In order to accommodate for the required buffer zone, the Land Use Administrator may reduce the front and/or rear yard set back requirements on individual lots. The front and/or rear yard shall not be reduced by more than 50 percent. In determining whether or not to allow the yard reduction, the Land Use Administrator shall consider the impacts of the reduction on adjacent land uses.~~

~~D. As an incentive, the buffer area between a wetland or stream and regulated activity may be reduced or averaged, not less than ¾ of its standard regulated buffer width, depending upon the intensity of use and the wetland category or stream type, if the wetland or stream and its buffer area are dedicated to the public by deeding the property to the City, with City approval.~~

13.11.3450 Wetland Mitigation Requirements.

A. The applicant shall avoid all impacts that degrade the functions and values of wetland and their buffers. Unless otherwise provided in this Title, if alteration to the wetland or its buffer is unavoidable, all adverse impacts resulting from a development proposal or alteration shall be mitigated using the best available science, so as to result in no net loss of critical area functions and values.

B. All wetland mitigation will comply with applicable mitigation requirements specified in ~~13.11.260~~ and 13.11.270, including, but not be limited to, mitigation plan requirements, monitoring and bonding.

C. Preference of Mitigation Actions. Methods to achieve compensation for wetland functions shall be approached in the following order of preference:

1. Restoration (re-establishment and rehabilitation) of wetlands on upland sites that were formerly wetlands.

2. Creation (Establishment) of wetlands on disturbed upland sites such as those with vegetative cover consisting primarily of non-native introduced species. This should only be attempted when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive for the wetland community that is being designed.

3. Enhancement of significantly degraded wetlands in combination with restoration or creation. Such enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.

D. Mitigation ratios.

1. The ratios contained within Table “9” shall apply to all Creation, Re-establishment, Rehabilitation, and Enhancement compensatory mitigation.

2. Increased replacement ratios. The Land Use Administrator may increase the ratios under the following circumstances:

- a. Uncertainty exists as to the probable success of the proposed restoration or creation;
- b. A significant period of time will elapse between impact and replication of wetland functions;
- c. Proposed mitigation will result in a lower category wetland or reduced function relative to the wetland being impacted; or
- d. The impact was an unauthorized impact.

Table 9. Mitigation ratios for projects in Western Washington that do not alter the hydro-geomorphic setting of the site***

Category and Type of Wetland	Re-establishment or Creation	Rehabilitation	1:1 Re-establishment or Creation (R/C) and Enhancement (E)	Enhancement only
All Category IV	1:5:1	3:1	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 E	8:1
Category II Estuarine	Case-by-case	4:1 rehabilitation of an estuarine wetland	Case-by-case	Case-by-case
Category II Interdunal	2:1 Compensation has to be interdunal wetland	4:1 compensation has to be interdunal	1:1 R/C and 2:1 E	8:1
All other Category II	3:1	8:1	1:1 R/C and 4:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 E	24:1
Category I based on score for functions	4:1	8:1	1:1 R/C and 6:1 E	16:1
Category I Natural Heritage site	Not considered possible	6:1	Case-by-case	Case-by-case

Category I Coastal lagoon	Not considered possible	6:1	Case-by-case	Case-by-case
Category I Bog	Not considered possible	6:1	Case-by-case	Case-by-case
Category I Estuarine	Case-by-case	6:1	Case-by-case	Case-by-case

*Natural heritage site, coastal lagoons, and bogs are considered irreplaceable wetlands, and therefore no amount of compensation would replace these ecosystems. Avoidance is the best option. In the rare cases when impacts cannot be avoided, replacement ratios will be assigned on a case-by-case basis. However, these ratios will be significantly higher than the other ratios for Category I wetland.

**Rehabilitation ratios area based on the assumption that actions judged to be most effective for that site are being implemented.

**Rehabilitation ratios area based on the assumption that actions judged to be most effective for that site are being implemented.

***Washington State Department of Ecology and Washington State Department of Fish and Wildlife's Wetlands in Washington State; Volume 2: Guidance for Protecting and Managing Wetlands, Buffer Alternative 3

E. Compensatory Mitigation Plan Requirements. When a project involves wetland or buffer impacts, a compensatory mitigation report shall be required, meeting the following minimum standards:

1. Preparation by qualified Wetland Specialist. A compensatory mitigation report for wetland or buffer impacts shall be prepared by a qualified Wetland Specialist as specified in 13.11.900.W.

2. A Wetland Delineation Report must accompany or be included in the compensatory mitigation report.

~~3. Compensatory Mitigation Report. Must include a written report and plan sheets that must contain, at a minimum, the following elements as found below. Full guidance can be found in the Draft Guidance on Wetlands Mitigation in Washington State, Part 2, 2004 (Washington State Department of Ecology, US Army Corps of Engineers Seattle District, and US~~

~~Environmental Protection Agency Region 10; Ecology Publication number 0406-013B). The written report must contain, at a minimum:~~

~~a. The name and contact information of the applicant, the name, qualifications, and contact information for the primary author(s) of the Compensatory Mitigation Report, a description of the proposal, a summary of the impacts and proposed compensation concept, and identification of all the local, state, and federal wetland-related permit(s) required for the project, plus a vicinity map for the project;~~

~~b. Description of the existing wetland and buffer areas proposed to be impacted including: square footage based on professional surveys of the delineations; Cowardin classifications including dominant vegetation community types (for upland and wetland habitats); the results of a functional assessment for the entire wetland and the portions proposed to be impacted; wetland rating based on the provisions of this Title;~~

- c. ~~An assessment of the potential changes in wetland hydroperiod for the proposed project and how the design has been modified to avoid, minimize or reduce impacts to the wetland hydroperiod;~~
- d. ~~A description of the proposed conceptual compensation actions for wetland and upland areas. Describe future vegetation community types for years 1,5,10 and 25 post-installation including the succession of vegetation community types and dominants expected. Describe the successional sequence of expected changes in hydroperiod for the compensation site(s) for the same time periods as vegetation success. Describe the change in habitat characteristics expected over the same 25 year time period;~~
- e. ~~An assessment of existing conditions in the zone of the proposed compensation, including; vegetation community structure and composition, existing hydroperiod, existing soil conditions, existing habitat functions. Estimate future conditions in this location if the compensation actions are NOT undertaken (i.e. how would this site progress through natural succession?);~~
- f. ~~The field data collected to document existing conditions and on which future condition assumptions are based for hydroperiod (e.g. existing hydroperiod based on piezometer data, staff/crest gage data, hydrologic modeling, visual observations, etc.) and soils (e.g. soil pit data hand dug or mechanically trenched, soil boring data; do not rely on soil survey data for establishing existing conditions);~~
- g. ~~A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs. The monitoring plan should include a period of not less than 5 years, and establish the responsibility for long term removal of non-native, invasive vegetation;~~
- h. ~~Contingency plans which clearly define course of action or corrective measures needed if performance standards are not met; and~~
- i. ~~A bond estimate for the entire compensatory mitigation including the following elements: site preparation, plant materials, construction materials, installation oversight, maintenance twice/year for up to 5 years, annual monitoring field work and reporting, and contingency actions for a maximum of the total required number of years for monitoring.~~
4. ~~The sealed plan sheets for the compensatory mitigation must contain, at a minimum:~~
- a. ~~Existing wetland and buffer surveyed edges, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation action, and a legal description of the wetland, stream and buffer for the proposed development site;~~

~~b. Existing topography, ground proofed, at two foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Indicate the existing cross sections of on-site wetland areas that are proposed to be impacted. Provide cross-section(s) (estimated one foot intervals) for the proposed areas of wetland or buffer compensation.~~

~~c. Surface and subsurface hydrologic conditions including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Illustrate how data for existing hydrologic conditions were utilized to form the estimates of future hydrologic conditions;~~

~~d. Proposed conditions expected from the proposed action on site including future HGM types, vegetation community types by dominant species (wetland and upland), and future hydrologic regimes;~~

~~e. Required wetland buffers for existing wetlands and proposed compensation areas. Identify any zones where buffers area proposed to be reduced or enlarged outside of the standards identified in this title;~~

~~f. A plant schedule including all species by proposed community type and hydrologic regime, size and type of plant material to be installed, spacing of plants, "typical" clustering patterns, total number of each species by community type, timing of installation, nutrient requirements, watering schedule and where appropriate measures to protect plants from destruction;~~

~~g. Performance standards (measurable standards reflective of years post installation) for upland and wetland communities, monitoring schedule, reporting requirements to the City, and maintenance schedule and actions for each year of monitoring.~~

~~h. The applicant must demonstrate fiscal, administrative, and technical competence to successfully execute the overall project through completion. This compensation project shall be monitored for a minimum of five years, with monitoring reports provided to the City in accordance with the approved performance and maintenance agreement. In the event of a breach of any condition of said agreement, the Land Use Administrator may institute an action in court and prosecute the same to judgment and execution. Final approval for the completed compensation project involving creation, enhancement or restoration shall be granted by the Land Use Administrator when the applicant submits documentation that all requirements of this section have been completed.~~

13.11.360 Bonds.

Repealed by Ord. 27728

13.11.400 Streams and Riparian Habitats.

The 400 section contains the regulations for streams, including the following:

13.11.410 Stream Classification.

13.11.420 Stream Buffers.

- 13.11.430 Stream Buffer Modification.
- 13.11.440 [Stream Crossing](#)Standards.
- 13.11.450 Stream Mitigation Requirements

13.11.410 Stream Classification.

A. Streams shall be generally classified in accordance with the Washington State Water Typing System set forth in WAC 222-16-030 to describe Type “S,” “F,” “Np” and “Ns” streams. Additional criteria typing for “F1”, and “F2” and “Ns1” and “Ns2” streams are included within this section.

~~For permits previously issued, and pre-existing uses and structures, refer to WAC 222-16-031, the interim water typing system that describes stream categories utilized prior to the adoption of this Chapter. The new water typing system described in WAC 222-16-030 separates streams and other water courses into Type S, F, Np and Ns Water. The interim water typing system described in WAC 222-16-031 separates streams into Type I, II, III, IV, and V streams and their respective conversions to the types described in WAC 222-16-030.~~

General descriptions of the ~~new~~ water typing system are as follows:

1. Type “S” Water means all streams or rivers, within their bankfull width, inventoried as “shorelines of the state” or “shorelines of statewide significance” under the Tacoma Shoreline Management Program (TMC 13.10) or chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW, including periodically inundated areas of their associated wetlands.
2. Type “F” Water means segments of natural waters other than Type S Waters, which are within the bankfull widths of defined channels and periodically inundated areas of their associated wetlands, ~~or~~ within lakes, ponds, or impoundments having a surface area of 0.5 acre or greater at seasonal low water and which in any case contain fish habitat or as further described within WAC 222-16-030~~+~~. Type “F1” Water means segments of natural waters containing salmonid fishes. Type “F2” Water means segments of natural water containing fish that are not salmonids~~.~~
3. Type “Np” Water means all segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are waters that do not go dry any time of a year of normal rainfall or as further described within WAC 222-16-030~~+~~.
4. Type “Ns” Water means all segments of natural waters within the bankfull widths of the defined channels that are not Type S, F, or Np Water. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np Water. “Ns1” Waters must be physically connected by an above ground channel system to Type, F, or Np Waters. “Ns2”

This section is not needed. It was used during an interim code in 2004-2005.

Waters may not be physically connected by an above ground channel system to Type, F, or Np Waters.

13.11.420 Stream Buffers.

A. General. A buffer area shall be provided for all uses and activities adjacent to a stream to protect the integrity and function of the stream. Buffers adjacent to streams are important because they help to stabilize soils, prevent erosion, act as filters for pollutants, enhance wildlife diversity, and support and protect plants and wildlife. ~~An assessment permit may be granted if it has been demonstrated that no adverse impact to a stream will occur and a minimum buffer width will be provided in accordance with this section.~~ The buffer shall be measured horizontally from the edge of the ordinary high water mark. ~~The buffer shall be vegetated with the exception of areas that include development interruptions as described within this Chapter.~~

This section removes the previous “assessment permit” language and the unclear vegetation language that appeared to direct restoration without development.

B. Minimum Requirement.

1. Streams. Stream buffer widths shall be established according to the following table which is based on stream classification:

Table 10. Stream Types	
Stream Type	Buffer (feet)
Type S or Streams of local significance	150
Type F1 (Salmonids)	150
Type F2 (Non-Salmonids)	100
Type Np (No fish)	100
Type Ns1 (Connected to S, F, or Np)	75
Type Ns2 (Not connected to S, F, or Np)	25

Streams of local significance	
Name	Buffer (feet)
Puyallup River	150
Hylebos Creek	150
Puget Creek	150
Wapato Creek	150
Swan Creek	150

13.11.430 Stream Buffer Modifications.

A. Stream Buffer Increase.

The required buffer widths shall be increased as follows;

1. When the Land Use Administrator determines that the recommended width is insufficient to prevent habitat

degradation and to protect the structure and functions of the habitat area;

2. When the frequently flooded area exceeds the recommended buffer width, the buffer area ~~may~~shall extend to the outer edge of the frequently flooded area, where appropriate;

3. When a channel migration zone is present, the stream buffer riparian habitat area width shall be measured from the outer edge of the channel migration zone;

4. When the habitat area is in an area of high blowdown potential, the stream buffer riparian habitat area width shall be expanded an additional fifty feet on the windward side; or

5. When the habitat area is within an erosion or landslide area, or buffer, the buffer riparian habitat area width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

B.- Stream Buffer Averaging and Reduction :

The Land Use Administrator may allow the recommended stream buffer width to be averaged or reduced in accordance with a stream habitat analysis report only if:

1 The stream buffer areas that are reduced through buffer averaging will not reduce stream or habitat functions, including those of nonfish habitat;

2. The stream buffer areas that are reduced will not degrade the habitat, including habitat for anadromous fish;

~~3. The proposal will provide additional habitat protection;~~

3.4. The total area contained in the stream buffer of each stream on the development proposal site is not decreased;

~~4.5~~. The recommended stream buffer width is not reduced by more than twenty-five (25%) percent in any one location;

~~5.6~~. The stream buffer areas that are reduced will not be located within another critical area or associated buffer; and

~~6.7~~. The stream buffer areas that are reduced and required mitigation are supported by best available science.

7. When averaging the stream buffer, the proposal will provide additional habitat protection by including more highly functioning areas and reducing the buffer only in the low functioning areas

8. When reducing the stream buffer, with an existing buffer that is unvegetated, sparsely vegetated, or vegetated with invasive species that do not perform needed functions, the remaining buffer shall be planted to create the appropriate plant community.

Riparian habitat in this case was referring to the stream buffer and the language was changed to be consistent with other buffer sections.

This additional language clarifies the requirements for stream buffer reduction and stream buffer averaging.

13.11.440 Stream-Crossing Standards.

A. Type F1, F2, Np, and Ns1, and Ns2 streams may be relocated or placed in culverts provided it can be demonstrated that:

1. There is no other feasible alternative route with less impact on the environment;
2. Existing location of the stream would prevent a reasonable economic use of the property;
3. No significant habitat area will be destroyed;
4. The crossing minimizes interruption of downstream movement of wood and gravel;
5. The new channel or culvert is designed and installed to allow passage of fish inhabiting or using the stream and complies with WDFW requirements;

6. The channel or culvert also complies with the City Tacoma current Storm Water Management Manual. ~~is large enough to accommodate a 100-year storm;~~

7. The applicant will, at all times, keep the channel or culvert free of debris and sediment to allow free passage of water and fish;

~~8. The applicant will provide a bond or other financial security to ensure maintenance as provided in Section 13.11.360 hereof;~~

~~9.~~9. Roads in riparian habitat areas or buffers shall not run parallel to the water body;

~~10. Trails shall be located on or near the outer edge of the riparian area or buffer, where possible, except for limited viewing platforms and crossings;~~

~~11.~~11. Crossing, where necessary, shall only occur as near to perpendicular with the water body as possible;

~~12.~~12. Road bridges are designed according to Washington Department of Fish and Wildlife Design of Road Culverts for Fish Passage, 2003, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossing, 2000; and

~~13. Where possible, trails and associated viewing platforms shall not be made of continuous impervious materials. Natural trails with pervious surfaces such as, but not limited, to bark chip are encouraged.~~

13.11.450 Stream Mitigation Requirements.

All proposed alterations in the buffer of a stream ~~with riparian habitat~~ shall be in accordance with the standards for the applicable wetland category, where riparian wetland exists. ~~Where riparian habitat does not exist, restoration, enhancement or creation will be required within the standard or modified buffer width.~~

General trail standards are now included above.

~~All stream mitigation will comply with applicable mitigation requirements specified in 13.11.260 and 13.11.270, including, but not be limited to, mitigation plan requirements, monitoring and bonding.~~

In the event stream corridor alterations or relocations, as specified above, are allowed, the applicant shall submit an alteration or relocation plan prepared in association with a qualified professional with expertise in this area. In addition to the general mitigation plan standards, the plan shall address the following information:

1. Creation of natural meander patterns and gentle side slope formations;
2. Creation of narrow sub channel, where feasible, against the south or west bank;
3. Provisions for the use of native vegetation;
4. Creation, restoration or enhancement of fish spawning and nesting areas;
5. The proposed reuse of the prior stream channel;
6. Provision of a qualified consultant, approved by the City, to supervise work to completion and to provide a written report to the Land Use Administrator stating the new channel complies with the provisions of this chapter; and
7. When streambank stabilization is necessary, bioengineering or soft armoring techniques are required, where possible.

The Washington Department of Fish and Wildlife has authority over all projects in State Waters which impact fish. Construction in State Waters is governed by Chapter 75.20 RCW, Construction Projects in State Waters.

13.11.500 Fish and Wildlife Habitat Conservation Areas (FWHCAs).

The 500 section contains the regulations for fish and wildlife habitat conservation areas (FWHCAs), including the following:

- | | |
|-----------|--------------------------------------|
| 13.11.510 | Classification. |
| 13.11.520 | Standards. |
| 13.11.530 | FWHCA's Shoreline – Marine Buffers. |
| 13.11.540 | FWHCA's Marine Buffer Modifications. |
| 13.11.550 | FWHCA's Mitigation Requirements. |
| 13.11.560 | FWHCA's Management Areas. |
| 13.11.580 | Habitat Zones. |

13.11.510 Classification.

A. Fish and wildlife habitat conservation areas are areas identified by the Washington Department of Wildlife as being of critical importance to the maintenance of fish and wildlife species. These areas may include other critical areas such as geologically hazardous areas, stream corridors, wetlands, and these critical areas' associative buffers.

1. Fish and Wildlife Habitat Conservation Areas (FWHCAs).
Fish and Wildlife habitat areas include:

- a. Lands [and waters](#) containing priority habitats and species [including Commencement Bay and all waterways](#).
- b. All public and private tidelands or bedlands suitable for shellfish harvest, including any shellfish protection districts established pursuant to Chapter 90.72 RCW. The Washington Department of Health's classification system shall be used to classify commercial shellfish areas.
- c. Kelp and eelgrass beds and herring, sand lance, and smelt spawning areas. Kelp and eelgrass beds may be classified and identified by the Washington Department of Natural Resources Aquatic Lands Program and the Washington Department of Ecology. Locations are compiled in the WDNR Aquatic Lands Shore Zone Inventory, and the Puget Sound Environmental Atlas, Volumes 1 and 2. Herring, sand lance, and surf smelt spawning times and locations are outlined in RCW 220-110, Hydraulic Code Rules and the Puget Sound Environmental Atlas.
- d. Natural ponds under 20 acres and their submerged aquatic beds that provide critical fish or wildlife habitat.
- e. Waters of the State, which are defined in WAC Title 222, Forest Practices Rules and Regulations. Waters of the State must be classified using the system in WAC 222-16-030. In classifying waters of the state as FWHCAs the following may be considered:
 - (1) Species present which are endangered, threatened, sensitive, or priority;
 - (2) Species present which are sensitive to habitat manipulation;
 - (3) Historic presence of priority species;
 - (4) Existing surrounding land uses that are incompatible with salmonid habitat;
 - (5) Presence and size of riparian ecosystem;
 - (6) Existing water rights; and
 - (7) The intermittent nature of some of the higher classes of Waters of the State.
- f. Lakes, ponds, streams and rivers planted with game fish, including those planted under the auspices of a federal, state, local, or tribal program and waters which support priority fish species as identified by the Washington Department of Fish and Wildlife.

~~13.11.580—Habitat Zones.~~

~~Habitat Zones. Areas designated and mapped that depict high quality, relatively undisturbed natural open spaces that provide valuable functions and values beyond the individual natural~~

The Habitat Zone map was used to determine the wetland buffer under the Alternative 3 buffer determination method. A modified version of Alternative 1 is now proposed; therefore, this map is no longer needed.

~~habitats contained within. Habitat Zones are lands mapped in the City of Tacoma for their biological diversity and remaining natural habitats for all flora and fauna native to the local environment, including special consideration for anadromous fish. The map depicting these lands is contained within the Environmental Policy Plan element of the Comprehensive Plan. Any parcel that is fifty percent (50%) or more within a mapped Habitat Zone shall be considered fully contained within the Habitat Zone.~~

13.11.600 Flood Hazard Areas.

The 600 section contains the regulations for flood hazard areas, including the following:

- 13.11.610 Classification.
- 13.11.620 Standards.
- 13.11.630 *Repealed.*

13.11.610 Classification.

Classifications of flood hazard areas shall be consistent with the most recent official map of the Federal Insurance Administration that delineates areas of special flood hazards and includes the risk premium zones applicable to the City [or as determined by the FIA](#). Also known as “flood insurance rate map” or “FIRM.”

Where the flood insurance map and studies do not provide adequate information, the City, through Building and Land Use Services, shall consider and interpret information produced by the Army Corps of Engineers, Natural Resource Conservation Service, Department of Housing and Urban Development, or any other qualified person or agency to determine the location of Flood Hazard Areas and Coastal High Hazard Areas.

13.11.620 Standards.

All development proposals shall comply with Sections 2.12.040 through 2.12.050, Flood Hazard and Coastal High Hazard Areas, and Chapter 12.08 Surface Water Management Manual of the TMC for general and specific flood hazard protection. Development shall not reduce the base flood water storage ability. Construction, grading, or other regulated activities which would reduce the flood water storage ability must be mitigated by creating compensatory storage on- or off-site. [Compensatory storage provided off-site for purposes of mitigating habitat shall comply with all applicable wetland, stream, and fish and wildlife habitat conservation area requirements. Compensatory storage provided off-site for purposes of providing flood water storage capacity shall be of similar elevation in the same floodplain as the development. Compensatory storage is not required in Coastal A and V Zone flood hazard areas or in flood hazard areas with a mapped floodway but containing no functional salmonid habitat on the site. For sites with functional connection to salmonid bearing waters that provide a fish accessible pathway during flooding, compensatory storage](#)

In order to implement the National Marine Fisheries Service’s Biological Opinion on the National Flood Insurance Program for FEMA, the City of Tacoma has elected to use a checklist to demonstrate compliance with the performance standards of the Biological Opinion. The new language in Sections 13.11.620 and 13.11.630 clarifies review and permitting requirements designed to protect fish habitat.

areas shall be graded and vegetated to allow fish refugia during flood events and their return to the main channel as floodwater recede without creating flood stranding risks. Base flood data and flood hazard notes shall be shown on the face of any recorded plat or site plan, including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway.

13.11.630 General Development Standards.

~~(Deleted by Ord. 27431 § 49; passed Nov. 15, 2005; Ord. 27294 § 2; passed Nov. 16, 2004)~~

The owner of any property upon which new development occurs is required to record a Notice on Title according to Section 13.11.280 if the property contains land with the 100-year floodplain and/or the Riparian Buffer zone, before a permit may be issued.

Development with a flood hazard area that does not otherwise require a building permit, such as material storage or building of small accessory structures, must still obtain review and approval prior to development, and is subject to all applicable regulations including flood, Critical Areas, and Shoreline regulations.

Stormwater and drainage features shall incorporate low impact development techniques that the mimic pre-development hydrologic conditions, when technically feasible.

13.11.900 Definitions.

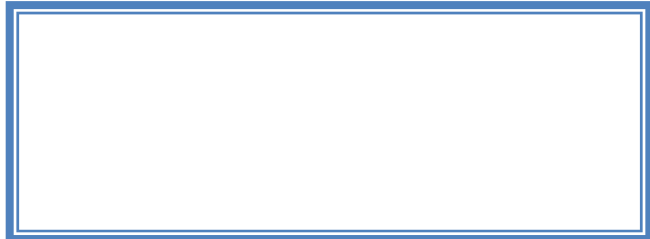
Words and phrases used in this chapter shall be interpreted as defined below. Where ambiguity exists, words or phrases shall be interpreted so as to give this chapter its most reasonable application in carrying out its regulatory purpose.

13.11.900.A

Aleration. Any human-induced change in an existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, channelizing, dredging, clearing of vegetation, construction, compaction, excavation, or any other activity that changes the character of the critical area.

13.11.900.B

Buffer or Buffer zone. An area required by this chapter that is contiguous to and protects a critical area which is required for the continued maintenance, functioning, and/or structural stability of a critical area. The area may be surrounding a natural, restored, or newly created critical area.



13.11.900.C

Cumulative Impacts or Effects. The combined, incremental effects of human activity on ecological or critical area functions and values. Cumulative impacts result when the effects of an action are added to or interact with the effects of other action in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

13.11.900.H

Habitat. The specific area or environment in which a particular type of animal lives. An ecological or environmental area that is inhabited by particular species of animal, plant or other type of organism. It is the natural environment in which an organism lives, or the physical environment that surrounds, influences, and is utilized by a species or population.

~~Habitat Zones. Areas designated and mapped that depict high quality, relatively undisturbed critical areas and natural open spaces that provide valuable functions and values beyond the individual natural habitats contained within. Habitat Zones are lands mapped in the City of Tacoma for their biological diversity and remaining natural habitats for all flora and fauna native to the local environment, including the special consideration for anadromous fish. The map depicting these lands is contained within the Environmental Policy Plan element of the Comprehensive Plan. Any parcel that is fifty percent (50%) or more within a mapped Habitat Zone shall be considered fully contained within the Habitat Zone.~~

13.11.900.I

In Lieu Fee Program. An agreement between a regulatory agency (state, federal, or local) and a single sponsor, generally a public agency or non-profit organization. Under an in lieu fee agreement, the mitigation sponsor collects funds from an individual or a number of individuals who are required to conduct compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or a number of sites under the authority of the agreement to satisfy the permittees' required mitigation.

Infiltration. The downward entry of water into the immediate surface of the soil.

13.11.900.M

Mature Forested Wetland. A wetland where at least one acre of the wetland surface is covered by woody vegetation greater than 20 feet in height with a crown cover of at least 30 percent and where at least 8 trees/acre are 80-200 years old or have average diameters (dbh) exceeding 21 inches (53 centimeters) measured from the uphill side of the tree trunk at 4.5 feet up from the ground.

13.11.900.N

Native vegetation. Vegetation comprised of plant species which are indigenous to the area in question, and were not introduced by human activities.

Nonwetlands. Uplands and lowland areas that are neither deepwater aquatic habitats, wetlands, nor other special aquatic sites. They are seldom or never inundated, or if frequently inundated, they have saturated soils for only brief periods during the growing season, and if vegetated, they normally support a prevalence of vegetation typically adapted for life only in aerobic soil conditions.

13.11.900.S

~~Lands and waters contained within a channel which support hydrophytes and where the substrate is predominantly undrained hydric soils, nonsoil and/or is saturated with water or covered by water each growing season.~~ An area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff structures or other entirely artificial watercourses, unless they are used by fish or are used to convey a naturally occurring watercourse. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

13.11.900.W

“Waters of the State”. Lakes, rivers, ponds, streams, inland water, underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington.

Wetland Mosaic. An area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water.



2011 ANNUAL AMENDMENT

Amendments to the Land Use Regulatory Code – Chapter 13.05

*Note – These amendments show all of the changes to the *existing* land use regulations. The sections included are only those portions of the code that are associated with these amendments. New text is underlined and text that is proposed to be deleted is shown in ~~strikethrough~~.

Chapter 13.05

LAND USE PERMIT PROCEDURES

Sections:

- 13.05.005 Definitions.
- 13.05.010 Application requirements for land use permits.
- 13.05.020 Notice process.
- 13.05.030 Land Use Administrator – Creation and purpose – Appointment – Authority.
- 13.05.040 Decision of the Land Use Administrator.
- 13.05.050 Appeals of administrative decisions.
- 13.05.060 Applications considered by the Hearing Examiner.
- 13.05.070 Expiration of permits.
- 13.05.080 Modification/revision to permits.
- 13.05.090 Land Use Administrator approval authority.
- 13.05.095 Development Regulation Agreements.
- 13.05.100 Enforcement.
- 13.05.105 *Repealed.*
- 13.05.110 *Repealed.*

13.05.010 Application requirements for land use permits.

C. Application Requirements.

1. Predevelopment Conference. A predevelopment conference may be scheduled at the request of the Department or the applicant. The predevelopment conference is intended to define the project scope and identify regulatory requirements of Title 13, prior to preparing a land use proposal.

2. Pre-Application Meeting. The pre-application meeting is a meeting between Department staff and a potential applicant for a land use permit to discuss the application submittal requirements and pertinent fees. A pre-application meeting is required prior to submittal of an application for rezoning, platting, height variances, conditional use permit, shoreline management substantial development (including conditional use, variance, and revision), wetland/stream/Fish and Wildlife Habitat Conservation Area (FWHCA) development permits, wetland/stream/~~FWHCA assessments~~ minor development permits, and ~~wetland delineation~~ wetland/stream/FWHCA verifications and wetland/stream/FWHCA programmatic permits. This requirement may be waived by the Department. The pre-application meeting is optional for other permits.

13.05.020 Notice process.

A. Purpose. The purpose of this section is to provide notice requirements for land use applications.

B. Process I – Minor Land Use Decisions.

1. A notice of application shall be provided within 14 days following a notice of complete application being issued to the applicant as identified in Section 13.05.010.E. Examples of minor land use decisions are waivers, ~~and~~ variances, [wetland/stream/FWHCA Verifications](#), and [wetland/stream/FWHCA Minor Development Permits](#).

C. Process II – Administrative Decisions Requiring an Environmental Determination and Height Variances, Shoreline Permits, Conditional Use, Special Development Permits, Wetland/Stream/Fish & Wildlife Habitat Conservation Area (FWHCA) Development Permits, ~~Wetland/Stream/FWHCA Assessments, and Wetland Delineation Verifications~~ and [Wetland/Stream/FWHCA Programmatic Permits](#).

1. A notice of application shall be provided within 14 days following a notice of complete application being issued to the applicant as identified in Section 13.05.010.E.

2. Notice of application shall be mailed by first-class mail to the applicant; property owner (if different than the applicant); neighborhood councils in the vicinity where the proposal is located; qualified neighborhood or community organizations consistent with the requirements set forth for Process I land use permits; the Tacoma Landmarks Commission (for proposals located within a historic district or affecting a designated landmark); the Puyallup Indian Tribe for “substantial action” as defined in the “Agreement Between the Puyallup Tribe of Indians, Local Governments in Pierce County, the State of Washington, the United States of America, and Certain Private Property Owners,” dated August 27, 1988; and to owners of property and/or taxpayers of record, as indicated by the records of the Pierce County Assessor/Treasurer, within the distances identified in Section 13.05.020.G. For major modifications to development approved in a PRD District rezone and/or site approval, the notice of application shall also be provided to all owners of property and/or taxpayers of record within the entire PRD District and owners of property and/or taxpayers of record, as indicated by the records of the Pierce County Assessor/Treasurer, within the distances identified in Section 13.05.020.G from the boundary of the PRD District.

3. Parties receiving notice of application shall be given 30 days, with the exception of five to nine lot preliminary plats which shall be given 20 days, ~~and Wetland/Stream Assessments which shall be given 14 days~~ from the date of mailing (including the day of mailing) to provide any comments on the proposed project to the Department, unless a Public Meeting is held, as provided by Section 13.05.020.F. The notice shall indicate that a copy of the decision taken upon such application will be provided to any person who submits written comments on the application within 30 days of the mailing of such notice, or who requests receipt of a copy of the decision.

4. A public information sign (or signs), provided by the Department for applications noted in Table G (Section 13.05.020.G), indicating that a land use permit application for a proposal has been submitted, shall be erected on the site by the applicant, in a location specified by the Department, within seven calendar days of the date on which a notice of complete application is issued to the applicant. The sign shall remain on the site until the date of final decision, at which time the sign shall be removed by the applicant. The sign shall contain, at a minimum, the following information: type of application, name of applicant, description and location of proposal, and where additional information can be obtained.

5. Notice shall be published in a newspaper of general circulation for applications identified in the table in subsection G of this section.

G. Notice and Comment Period for Specified Permit Applications. Table G specifies how to notify, the distance required, the comment period allowed, expiration of permits, and who has authority for the decision to be made on the application.

Table G – Notice, Comment and Expiration for Land Use Permits

Permit Type	Preapplication Meeting	Notice: Distance	Notice: Newspaper	Notice: Post Site	Comment Period	Decision	Hearing Required	City Council	Expiration of Permit
Interpretation/determination of code	Recommended	100 feet for site specific	For general application	Yes	14 days	LUA	No	No	None
Uses not specifically classified	Recommended	400 feet	Yes	Yes	30 days	LUA	No	No	None
Boundary line adjustment	Required	No	No	No	No	LUA	No	No	5 years***
Binding site plan	Required	No	No	No	No	LUA	No	No	5 years***
Environmental SEPA DNS/EIS	Optional	Same as case type	Yes if no hearing required	Yes for EIS	Same as case type	Dept. Director	No	No	None
Variance , height of main structure	Required	400 feet	No	Yes	30 days	LUA	No*	No	5 years
Open space classification	Required	400 feet	No	Yes	**	Hearing Examiner	Yes	Yes	None
Plats 10+ lots	Required	400 feet	Yes	Yes	21 days SEPA**	Hearing Examiner	Yes	Final Plat	5 years***
Plats 5-9 lots	Required	400 feet	Yes	Yes	20 days	LUA	No*	Final Plat	5 years***
Rezones	Required	400 feet	No	Yes	21 days SEPA**	Hearing Examiner	Yes	Yes	None
Shoreline/CUP/ variance	Required	400 feet	No	Yes	30 days*** **	LUA	No*	No	2 years/ maximum 6
Short plat	Required	No	No	No	No	LUA	No	No	5 years***
Site approval	Optional	400 feet	No	Yes	30 days*** **	LUA	No*	No	5 years
Conditional use	Required	400 feet	No	Yes	30 days*** **	LUA	No*	No	5 years****
Variance	Optional	100 feet	No	Yes	14 days	LUA	No*	No	5 years
Waiver	Optional	100 feet	No	Yes	14 days	LUA	No*	No	Condition of permit
Wetland/Stream/ FWPCA development permits	Required	400 feet	No	Yes	30 days	LUA	No*	No	5 years
Wetland/stream/ FWPCA assessment Wetland/Stream/ FWHCAMinor Development Permits	Required	400-100 feet	No	Yes	14 days	LUA	No*	No	5 years
Wetland/Stream/ FWPCA delineation verification	Required	400-100 feet	No	Yes	14 30 days	LUA	No*	No	5 years
Wetland/Stream/ FWPCA Programmatic Permits	Required	400 feet	No	Yes	30 days	LUA	No*	No	5 years with 5-year renewal option

INFORMATION IN THIS TABLE IS FOR REFERENCE PURPOSE ONLY.

- * When an open record hearing is required, all other land use permit applications for a specific site or project shall be considered concurrently by the Hearing Examiner (refer to Section 13.05.040.E).
- ** Comment on land use permit proposal allowed from date of notice to hearing.
- *** Must be recorded with the Pierce County Auditor within five years.
- **** Special use permits for wireless communication facilities, including towers, are limited to two years from the effective date of the

Land Use Administrator's decision.

***** If a public meeting is held, the public comment period shall be extended 7 days beyond and including the date of the public meeting.

(Ord. 27893 Ex. A; passed Jun. 15, 2010; Ord. 27813 Ex. C; passed Jun. 30, 2009; Ord. 27771 Ex. B; passed Dec. 9, 2008; Ord. 27728 Ex. A; passed Jul. 1, 2008; Ord. 27631 Ex. A; passed Jul. 10, 2007; Ord. 27431 § 6; passed Nov. 15, 2005; Ord. 27245 § 2; passed Jun. 22, 2004; Ord. 27158 § 1; passed Nov. 4, 2003; Ord. 26195 § 1; passed Jan. 27, 1998; Ord. 25852 § 1; passed Feb. 27, 1996)

13.05.030 Land Use Administrator – Creation and purpose – Appointment – Authority.

C. Authority. The Land Use Administrator shall have the authority to act upon the following matters:

1. Interpretation, enforcement, and administration of the City's land use regulatory codes as prescribed in this title;
2. Applications for conditional use permits;
3. Applications for site plan approvals;
4. Applications for variances;
5. Applications for waivers;
6. Applications for preliminary and final plats as outlined in Chapter 13.04, Platting;
7. Applications for Wetland/Stream/FWHCA Development Permits, ~~Wetland Delineation~~ [Wetland/Stream/FWHCA Verifications](#), [Wetland/Stream/FWHCA Minor Development Permits and Wetland/Stream/FWHCA Programmatic Permits](#) ~~Wetland/Stream/FWHCA Assessments~~ as outlined in Chapter 13.11;
8. Applications for Shoreline Management Substantial Development Permits/conditional use/ variances as outlined in Chapter 13.10;
9. Modifications or revisions to any of the above approvals;
10. Approval of landscape plans;
11. Extension of time limitations;
12. Application for permitted use classification for those uses not specifically classified.
13. Boundary line adjustments, binding site plans, and short plats;
14. Approval of building or development permits requiring Land Use Code and Environmental Code compliance.

13.05.040 Decision of the Land Use Administrator.

B. Conditioning Land Use Approvals. When acting on any land use matter, the Land Use Administrator may attach any reasonable conditions found necessary to make the project compatible with its environment, to carry out the goals and policies of the City's Comprehensive Plan, including its Shoreline Master Program, or to provide compliance with applicable criteria or standards set forth in the City's Land Use Regulatory Codes. Such conditions may include, but are not limited to:

1. The exact location and nature of the development, including additional building and parking area setbacks, screening in the form of landscape berms, landscaping or fencing;

2. Mitigating measures, identified in applicable environmental documents, which are reasonably capable of being accomplished by the project’s sponsor, and which are intended to eliminate or lessen the environmental impact of the development;
3. Provisions for low- and moderate-income housing as authorized by state statute;
4. Hours of use or operation, or type and intensity of activities;
5. Sequence in scheduling of development;
6. Maintenance of the development;
7. Duration of use and subsequent removal of structures;
8. Dedication of land or granting of easements for public utilities and other public purposes;
9. Construction of, or other provisions for, public facilities and utilities. In regard to the conditions requiring the dedication of land or granting of easements for public use and the actual construction of or other provisions for public facilities and utilities, the Land Use Administrator shall find that the problem to be remedied by the condition arises, in whole or significant part, from the development under consideration, the condition is reasonable, and is for a legitimate public purpose.
10. Wetland/stream/~~FWHCA~~ development permits, [wetland/stream/FWHCA minor development permits, wetland/stream assessments, and wetland delineation](#), [wetland/stream/FWHCA verifications](#), [and wetland/stream/FWHCA programmatic permits](#) shall be subject to TMC Chapter 13.11.

13.05.070 Expiration of permits.

(Refer to Table G in Section 13.05.020).

A. Expiration Schedule. The following schedule indicates the expiration provisions for land use permits within the City of Tacoma.

	Type of Permit	Maximum Duration
1.	Conditional Use Permit	5 years
2.	Variance	5 years
3.	Site Approval	5 years
4.	Waiver	5 years
5.	Wetland/Stream/FWHCA Development Permits, Minor Development Permits and Verifications and Wetland/Stream/FWHCA Assessments	5 years
6.	Wetland Delineation Verifications Wetland/Stream/FWHCA Programmatic permits	5 years 5 years with an option to renew for an additional 5 years
7.	Preliminary Plats, Binding Site Plans, Short Plats, Boundary Line Adjustments	5 years to record with Pierce County Auditor
8.	Shoreline Permits	2 years to commence construction; 5 years maximum, possible one- year extension

Conditional use permits for wireless communication facilities, including towers, are limited to two years from the effective date of the Land Use Administrator’s decision.

The Hearing Examiner or Land Use Administrator may, when issuing a decision, require a shorter expiration period than that indicated in subsection A of this section. However, in limiting the term of a permit, the Hearing Examiner or Land Use Administrator shall find that the nature of the specific development is such that the normal expiration period is unreasonable or would adversely affect the health, safety, or general welfare of people working or residing in the area of the proposal. The Land Use Administrator may adopt appropriate time limits as a part of action on shoreline permits, in accordance with WAC 173-27-090.

C. When Permit Expired. A permit under this chapter shall expire if, on the date the permit expires, the project sponsor has not submitted a complete application for building permit or the building permit has expired, with the exception of wetland/stream/FWHCA programmatic permits. Programmatic permits shall have an additional 5 years following a renewal process. In order to renew for 5 additional years, the applicant is required to submit a status report explaining the progress of development under the programmatic permit and the remaining items requiring additional permitting including building permits prior to the 5 year termination of the original permit-



City of Tacoma
Community and Economic Development Department

Agenda Item
GB-3

TO: Planning Commission
FROM: Donna Stenger, Manager, Long-Range Planning Division
SUBJECT: Shoreline Master Program Update
DATE: July 14, 2011

On June 15th the Commission was provided with the public testimony on the draft Tacoma Shoreline Master Program. Staff presented a general summary of the public comment and discussed the Commission's work program to respond to comments and make a recommendation to the City Council on August 3rd.

On July 20th staff will be presenting preliminary responses to key public comments regarding the S-7 Schuster Parkway Shoreline District, S-8 Thea Foss Waterway Shoreline District, and those comments submitted by Kim Van Zwalenburg, Project Officer for the Department of Ecology. Detailed maps of the two affected shoreline districts will be available at the meeting to facilitate the Commission's review. In addition, Gary G. Coy, Sperry Ocean Dock, Ltd. has submitted recent photos of his property for the Commission's consideration, Communication item C-1, attached to this agenda.

In support of these discussions, staff is providing the following documents for Commission review:

- A Preliminary Responsiveness Summary for the issues to be discussed;
- Maps prepared by BST and Associates for the Waterfront Lands Analysis (2008) identifying the prevalence of water-depths necessary to support deep draft vessels; and
- Memorandum from Dick McKinley, Public Works Director, and Ryan Petty, Community and Economic Development Director, to City Manager Eric Anderson, June 22, 2011.

As an informational item, staff is attaching the Flood Hazard map from the Shoreline Inventory and Characterization Report. Flood hazard areas within shoreline jurisdiction are regulated under Chapter 6.4 of the draft TSMP.

In addition, the Commission may want to review the oral summary and written comments as submitted on the above issues that are referenced in the attached draft summary of comments and responses. These can be found in the public testimony book. If you have any questions, please contact Stephen Atkinson at 591-5531 or satkinson@cityoftacoma.org.

DS:sa

c. Peter Huffman, Assistant Director

Attachments (4)

Shoreline Master Program Update
 Planning Commission Public Hearing and Comments (through June 10, 2011)
Preliminary Responsiveness Summary

5 – Shoreline Environment Designations

Source Key	Page	Section	Commenting Agency	Name of Commenter	Comment	Response to Comment
A.10, B.13			Grette Associates, Sperry Ocean Dock	Boyle, Coy	Sperry Ocean Dock and area do not meet DOE designation criteria for Urban Conservancy	Comment noted. The Sperry Ocean Dock site may not be consistent with the character of the Ruston Way shoreline and the existing land uses. However, it is within the City's authority to designate areas based upon the goals and aspirations of the community.
B.13, B.28, B.44			Sperry Ocean Dock, Port of Tacoma, CHB	Coy, Jordan, Rose	Inclusion of Sperry Ocean dock in S-6 is inconsistent with designation criteria in WAC 173-26-110(3). – Should be HI based on WAC 173-26-211(5)(D).	WAC 173-26-211 outlines the process for designating shoreline areas. WAC 173-26-211(2)(a) states that the classification system should be based on the following: <ul style="list-style-type: none"> • The existing use pattern; • The biological and physical characteristics of the shoreline; and • The goals and aspirations of the community.
B.22			Walk the Waterfront	Herrmann	Move S-7 from HI to UC	The City reviewed the above

					<p>information and has recommended a designation classification system consistent with State recommendations and criteria. However, the Planning Commission has the authority to make a recommendation based upon the goals and aspirations of the community and not solely on the existing use pattern or any one individual criteria.</p>
--	--	--	--	--	---

In addition, City's have the authority to utilize alternative systems under WAC 173-26-221(4)(c). The State recommends a classification system, management policies and designation criteria, but the City is not bound to adhere only to those recommendations. The City may develop an alternative designation and develop its own designation criteria, as it has proposed with the Downtown Waterfront Designation.

In this case, the City has proposed using designation criteria for the Urban Conservancy environment consistent with State recommendations and has utilized the information specified above. The Planning Commission has received testimony on the

						proposal and may make a recommendation that considers that testimony.
B.13			Sperry Ocean Dock	Coy	Sperry Ocean Dock is consistent with the High Intensity Designation and should remain High Intensity.	Staff agrees that the Sperry Ocean Dock site is consistent with the character of the High Intensity designated shoreline, however, the City may re-designate an area based on other criteria, including the goals and aspirations of the community or to better implement other objectives under the SMA.
B.12		5.5.6(A)(6)	NuStar, VSI Law Group,	Combs	Amend to read “Promote the east side of the Foss Waterway as a center for industries and firms specializing in the design, research development, and implementation of clean technology while supporting the existing industrial and terminal uses north of 11 th Street.”	Staff concurs that language should be added that more adequately recognizes and accommodates the existing industrial uses. Staff will review and recommend specific language changes.
B.12		5.5.6(D)(1)(b)(i)	NuStar, VSI Law Group,	Combs	Amend to read “Retain the “working waterfront’ by supporting and encouraging existing water related industrial and terminal operations north of 11 th Street and by encouraging a mix of water-oriented commercial, industrial, retail and office uses, and industries specializing in the design and development of clean technology.”	
B.50	Page 101	5.4.4(B)(2)	DOE	Van Zwalenburg	Clarify to ensure that SMP regulations are not applied to those portions outside of shoreline jurisdiction	Rather than utilizing a shoreline overlay, the City of Tacoma uses Shoreline Zoning Districts to

implement the goals and policies of the Master Program. In several instances, shoreline zoning in the existing Master Program has been expanded outside shoreline jurisdiction in order to establish consistent use and development standards in a defined area. As the shoreline jurisdiction line follows the ordinary high water mark, it is possible to have a circumstance where the jurisdiction line weaves along a roadway or a parcel so that it is periodically within and periodically outside of the shoreline jurisdiction. In these cases, the City has proposed extending the zoning district to a defined boundary, in this case Ruston Way, to add predictability and consistency to the permit process. It should be noted that in these cases shoreline *jurisdiction* does not apply outside 200' of OHWM, but only the use and development standards. This means that some SMA objectives, such as public access and no net loss standards, do not apply in these areas outside shoreline jurisdiction.

Staff proposes clarifying this issue in the applicability section of the TSMP as well as in TMC 13.06.

B.50	Page 103	5.5.2 (D)(2) and (D)(3)	DOE	Van Zwalenburg	Are framed as policies but some seem to be a bit out of sync with regulatory language elsewhere in the SMP. Specifically, see (3)(a) which would allow a 10% expansion of the structure for limited purposes (public access, environmental restoration, and safety) but these provisions are not reflected in the allowance on page 85 (2.5 (B)(2)(a)) in the nonconforming structure section	Staff concurs and will revise text for consistency.
------	----------	-------------------------	-----	----------------	---	---

7.5 Port, Terminal and Industrial Use

A.2, A.3, A.4, A.6, A.10, A.13, A.14, A.18, A.24, A.11, A.12, A.17, B.5, B.44, B.36, B.38			Tacoma-Pierce County Chamber, QVAKM Real Estate, Brotherhood of Locomotive Engineers, Sperry Ocean Dock, Grette Associates, International Longshore and Warehouse Union Local 23, Tacoma Fire Fighters IAFF Local 31, Youth Marine Foundation,	Murray, Fox, Elliot, Coy, Boyle, Mason, Baurichter, Lonergan, Lucas, Callendar, Jordan, Dowie, Rose, McEntee, Murray	Opposes prohibition of expansion of existing industrial uses in S-8 (E Foss)	In 1974, the City adopted the <i>City Waterway Policy Plan</i> (the City Waterway is now known as the Thea Foss Waterway) that provided the foundation to transform the former shipping terminal and industrial waterfront into an urban waterfront with a mix of public and private uses emphasizing public access and enjoyment. The Plan's vision was echoed in the implementing S-8 shoreline regulations of the time, which applied to the west side of the waterway and wrapped around the east side terminating at the centerline of East 15 th Street. The northern edge of the east side of the waterway was included in the S-10 Port Industrial
---	--	--	--	--	--	---

			Citizen, Conoco Phillips, Port of Tacoma, FWDA, CHB, Simpson			Shoreline District, which allowed and encouraged continued industrial use. The 1974 Plan recommended that the both sides of waterway be included in the S-8 Shoreline District to achieve the vision of redeveloping the overall waterfront area. Studies and plans that followed the 1974 Plan also concluded that both sides of the waterway needed to be planned as a single area and in 1996 the entire waterway area was rezoned to S-8.
B.16			FWDA	Dowie	Would like revisions to section 7.5.3(C) 2 to allow existing industrial businesses in S-8 to expand beyond property boundaries if a new water-dependent, water-related, or water-oriented use is part of the expansion.	
B.12			NuStar, VSI Law Group,	Combs	NuStar would like the language from SMP section 7.5.3(C)(2) to read as follows, "Existing industrial and water related terminal uses may expand, adapt, repair, replace, or otherwise modify, including changes necessitated by technological advancements; provided, however, the use may not be expanded into other S-8 designated properties."	Because of concerns raised by eastside industrial property owners about the effect of the 1996 S - 8 rezone, the shoreline regulations allow industrial uses that existed in 1996 to continue as permitted uses. The regulations also allow repair, replacement, or modernization of the existing facilities and expansion to the full extent of their property lines but restrict their ability to expand onto adjacent properties within the S-8 district. To further appease concerns, the 1996 existing industrial uses are exempt from public access requirements as well as side yard setbacks that provide view corridors.

						<p>New water-oriented industrial uses are permitted north of East 15th Street; however, new industrial uses need to fully comply with public access and setback requirements. It should be noted that no new industrial use has located to the Foss Waterway since the 1996 rezone.</p>
--	--	--	--	--	--	--

						<p>An analysis reveals that some of the 1996 existing industrial uses may have discontinued operations and therefore the restriction no longer applies. Also, expansion within the S-8 shoreline district is restricted by other conditions including the Urban Waters development and existing rights-of-way, and some existing industrial uses own property in adjacent zoning districts and can expand eastward without restriction. Staff estimates that perhaps 2-4 properties may be affected by the zoning restriction on expansion. It appears reasonable to discontinue this provision because of its limited applicability and its continued inclusion has caused confusion. A map of the affected properties and ownerships will be presented at the July 20 meeting.</p>
--	--	--	--	--	--	--

A.37			Citizen	Rose (Rick)	Inadequate buffer between industrial (i.e Sperry Ocean Dock) and other uses	In the S-6 and S-7 Shoreline Districts the draft does not require a landscaped (or other) buffer between industrial and non-industrial uses.
A.38			Citizen	Heaton	Industrial uses should not interfere with pedestrian connections	Comment noted.
B.22			Walk the Waterfront	Herrmann	Remove shoreline location priority for port, terminal, and industrial uses in S-7 – 7.5.3	At this time, the draft gives shoreline location priority to port, terminal and industrial uses in the S-7 and S-10 shoreline districts. The Commission can consider whether this preference is appropriate in this location.

9 – District-Specific Regulations

Source Key	Page	Section	Commenting Agency	Name of Commenter	Comment	Response to Comment
9.7 S-6 Ruston Way (UC)						
A.1, A.5, A.20, A.28, A.31, A.33, A.39, B.2, B.7, B.8, B.11, B.20, B.22, B.29, B.30, B.31, B.36, B.41, B.42, B.45, B.46			Citizen, Schroedel Planning Services, Citizen, Citizen, Citizen, Citizen, NENC, Citizen, Brown and Haley, Citizen, Citizen	Lampson, Schroedel, Rietmann, Wiegman, Singh, Schain, Price, Barker, Clair (Peirson), Clair (Sara), Coleman, Heaton, Herrmann, Keniston-Longrie, Lane, Lehrer,	Supports proposed extension of S-6.	The Commission has received multiple suggestions as to where the appropriate S-6 and S-7 boundary should be. Generally, the comments fall into one of three categories: 1. Maintain the boundary as proposed, extending the S-6 to include Jack Hyde Park, Chinese Reconciliation Park and Sperry Ocean Dock;

				McGovern, Price, Rietmann, Schain, Singh,		2. Extend the S-6 to include the parks, but maintain the Tahoma Salt Marsh and Sperry Ocean Dock as S-7; and 3. Extinguish the S-7 altogether and rezone the entirety of the Schuster Parkway shoreline as S-6.
A.19, A.37, B.5, B.7, B.9, B.18, B.29, B.30, B.41, B.47, B.49, B.52			Greater Metro Parks, Bellarmine Preparatory School Foundation, Brown and Haley, Citizen, RE/MAX Professionals, Citizen	Clair (Sara), Rose (Rick), Birmingham, Clair (Pierson), Clifford, Grunberg, Keniston-Longrie, Lane, Price, Stirn, Teitge, Wissmer	Extend S-6 zoning from edge of Point Ruston to Thea's Park	The most significant changes that would result from rezoning any portion of S-7 to S-6 would be the reduction of height allowances from 100 feet down to 35 feet and the prohibition of Port, Terminal and Industrial Uses, resulting in nonconforming status for the existing uses in the S-7.
A.2, A.3, A.4, A.6, A.10, A.13, A.14, A.18, A.24, A.12, B.4, B.6, B.17, B.19, B.27, B.28, B.44, B.34, B.38			Tacoma-Pierce County Chamber, QVAKM Real Estate, Brotherhood of Locomotive Engineers, Sperry Ocean Dock, Grette Associates, International Longshore and Warehouse Union Local 23, Tacoma Fire Fighters IAFF Local 31, Youth Marine Foundation, Citizen, Port of	Murray, Fox, Elliot, Coy, Boyle, Mason, Baurichter, Lonergan, Lucas, Jordan, Brackett, Finn, Hansen, Johnson, Jordan, Rose, Mason, Murray	Opposes extension of S-6 through Tahoma Salt Marsh and Sperry Ocean Dock	Other differences between the two districts includes: <ul style="list-style-type: none"> • Marinas area permitted in S-7 but not S-6; • Seaplane floats are permitted in the S-6 but prohibited in the S-7. Other permitted uses and modifications are generally consistent between the two districts.

			Tacoma, Christophersen, BNFS, Puget Creek Restoration Society, Temco, Port of Tacoma, ILWU Local 23			The two districts have distinctly different intent statements, S-6 being focused on low-intensity uses, especially public access and water-enjoyment uses, whereas, the S-7 provides for the development of deep water terminal facilities and light industrial uses.
A.6, A.12			Sperry Ocean Dock, Port of Tacoma	Coy, Jordan	Supports expansion of S-6 to the westward edge of Tahoma Salt Marsh – leaving the salt marsh in S-7	
A.14, A.30			Tacoma Fire Fighters IAFF Local 31, Simpson Companies	Baurichter, McEntee	Maintain existing S-6/S-7 boundary	In addition to the proposed rezone, the Commission could consider the types of uses permitted in the S-6 and S-7 more broadly. For example, the S-6 could still give priority to water-dependent uses or uses that utilize deep water access, as deep water is available throughout the Ruston Way shoreline.
B.11			Citizen	Coleman	Encourages extension of S-6 all the way to Thea Foss, but supports keeping Temco property in S-7.	
A.25, A.26, A.38.43			Citizen, Citizen, Citizen	Clair (Pierson), McGovern, Heaton, Rose (Richard)	Extend S-6 to TEMCO	
A.10, B.13			Grette Associates	Boyle, Coy	Sperry Ocean Dock is inconsistent with the Intent of the S-6 District.	The intent for each district is not required to reflect only what is present at this time, but can be aspirational – by promoting a change of use and development patterns over time. In addition, the Commission can maintain the existing district intent or modify it to reflect the proposed boundary change. Likewise, the Commission can revise the designation criteria

						and proposed management policies or maintain the current proposal.
B.28			Port of Tacoma	Jordan	The Port requests written findings as to how the S-6/7 change is consistent with the Guidelines	The Planning Commission's recommendation to the City Council will include findings of fact in support of those recommendations. The Commission has not made a recommendation at this time.
B.50	Page 214	9.7 (B)	DOE	Van Zwalenburg	Describes the boundary as extending to the westernmost extent of the Ruston Way right-of-way which is greater than 200' from the OHWM. How do you propose to implement this? Will there be complementary regulations in your zoning code to address this issue?	Rather than utilizing a shoreline overlay, the City of Tacoma uses Shoreline Zoning Districts to implement the goals and policies of the Master Program. In several instances, shoreline zoning in the existing Master Program has been expanded outside shoreline jurisdiction in order to establish consistent use and development standards in a defined area. As the shoreline jurisdiction line follows the ordinary high water mark, it is possible to have a circumstance where the jurisdiction line weaves along a roadway or a parcel so that it is periodically within and periodically outside of the shoreline jurisdiction. In these cases, the City has proposed extending the zoning district to a defined point, in this case Ruston Way, to add predictability and consistency to the permit process.

					<p>It should be noted that in these cases shoreline <i>jurisdiction</i> does not apply outside 200' of OHWM, but only the use and development standards. This means that some SMA objectives, such as public access and no net loss standards, do not apply in these areas outside shoreline jurisdiction.</p> <p>Staff proposes clarifying this issue in the applicability section of the TSMP as well as in TMC 13.06.</p>
--	--	--	--	--	--

9.8 S-7 Schuster Parkway (HI)

A.4			Brotherhood of Locomotive Engineers	Elliot	S-7 should extend from McCarver Street to Temco	Please see the staff responses for the S-6 Shoreline District.
A.5, A.22, A.27, A.37, B.8, B.11, B.22, B.41, B.47			Schroedel Planning Services, Citizen, Walk the Waterfront, Citizen, Sternco	Schroedel, Coleman, Herrmann, Rose (Rick), Clair (Sara), Coleman, Price, Stirn	Confine industrial/Port uses to S-10. Extinguish S-7 along Ruston Way/Schuster Prkwy. Allow non-conforming uses to continue.	
A.12, A.16, A.32			Port of Tacoma, Citizen, Temco and BNSF Railway	Jordan, Christophersen, Stauffacher	S-7 should include Tahoma Salt Marsh and south.	
B.13			Sperry Ocean Dock	Coy	Sperry Ocean Dock is consistent with the Intent of the S-7 Shoreline District.	

Staff agrees that the Sperry Ocean Dock site is consistent with the intent for the S-7 District, however, it is within the City's discretion to rezone shoreline districts to respond to community

					goals and aspirations or to further implement other goals and objectives of the SMA.
B.4			Chamber of Commerce	Brackett	<p>Change of S-7 to S-6 is counter to preference for water-dependent uses</p> <p>Irregardless of the specific zoning district, the SMP can continue to give preference to water-dependent uses. Many water-dependent uses are recreation or commercial oriented. Giving preference to water-dependent uses does not necessarily lead to a preference for port, terminal or industrial related uses. In addition, not all water-dependent uses require deep water. However, different types of uses may require different water depths. The Waterfront Lands Analysis indicates that:</p> <p>Recreational boats typically require depths of 6 to 12 feet</p> <p>Tugs, barges, larger commercial fishing boats, small freighters, and ferries need 10 to 30 feet of water depth</p> <p>Larger commercial vessels (e.g. tankers and breakbulk vessels) usually need more than 30 feet of water depth</p> <p>Larger container vessels (8,000</p>

					<p>TEU+) have drafts of more than 45 feet and require a depth of 50+ feet.</p> <p>The Ready Reserve fleet has a draft of 32 to 34 feet when loaded, needs channel and berth depth of 35 feet or more.</p> <p>The BST report characterized shoreline areas by the available water depth. These maps have been provided to the Planning Commission for reference.</p>
		Chamber of Commerce	Brackett	Change of S-7 to S-6 and S-10 to S-8 do not conform to PSRC Vision 2040 MPP-Ec-19.	<p>MPP-Ec-19 states: "Maximize the use of existing designated manufacturing and industrial centers by focusing appropriate types and amounts of employment growth in these areas and by protecting them from incompatible adjacent uses."</p> <p>According to the City of Tacoma Comprehensive Plan, the S-7 Shoreline District is not included within the manufacturing and industrial center. A change to this zoning, therefore, does not create a conflict with Vision 2040.</p> <p>The S-8 boundary on the eastside of the Foss as it currently exists is the approximate shared boundary for the Downtown Regional</p>

						<p>Growth Center and the Manufacturing/Industrial Center</p> <p>The division between these two centers runs along the eastern boundary of the S-8 Shoreline District. To the east of E. D. Street is the M-2 zoning district, which is also a part of the M/I Center.</p> <p>However, the proposed rezone only affects that portion at the NE corner of the Foss Waterway. The NuStar property is currently divided between S-8 and S-10 and therefore, it is partially within the DRGC and in part, in the M/I Center. Leaving the site as it is currently zoned, split between the S-8 and S-10 would maintain consistency with the center boundaries.</p>
B.4			Chamber of Commerce	Gary Brackett	Change of S-7 to S-6 and S-10 to S-8 are not consistent with SMP pg 25: for amendment of zoning classifications, substantial similarities of conditions and characteristics on abutting properties must be present.	The Commission has broad discretion to recommend Comprehensive Plan Amendments that support planned land uses. In making a recommendation to amend the Comprehensive Plan or for an area-wide rezone, the Commission can consider both existing and planned land uses.
B.22			Walk the Waterfront	Herrmann	Change district intent (9.8) from focus on deep water port, terminal, industrial facilities to recreation and transport	Comment noted. This is one option the Commission could weigh for the S-7 district intent statement and use allowances.

						<p>The intent statement could give priority to transportation and recreation facilities that require deep water, such as a ferry terminal or a moorage for a cruise vessel. While there are a number of uses that require deep water access, the primary limiting factor along the S-7 District is the constrained upland land supply. Due to the BNSF rail and Schuster Parkway alignments, there is a lack of land for the upland facilities necessary to support many of the uses that could otherwise utilize the deep water.</p>
--	--	--	--	--	--	---

9.9 S-8 Thea Foss Waterway (DW)

A.7, A.8, A.30, B.4, B.12, B.44, B.38, B.42, B.46			NuStar, VSI Law Group, Simpson Companies, Tacoma-Pierce County Chamber, CHB, Ciitizen	Roller, Combs, McEntee, Brackett, Rose, Murray, Rietmann, Singh	Opposes changes to S-8/S-10 on E Foss	<p>The entire waterway was rezoned to S-8 in 1996. The rezoning was the last step in acting upon a long standing recommendation to plan both sides of the waterway as a cohesive whole. The Plan and zoning acknowledge that the northeast section has existing industrial uses and a different character found in other parts of the Foss Waterway. New industrial development is permitted north of East 15th Street, subject to design, access and other development standards</p>
A.3			QVAKM Real Estate	Fox	Supports rezoning industrial uses on E. Foss from to S-8 to S-10	
B.7			Brown & Haley	Clair (Pierson)	E and W Foss and the south side of Commencement should not be zoned high-intensity or port/industrial.	
B.5			ConocoPhillips	Callender	Requests that Conoco facility be zoned S-10 and requests that the City consider	

					rezoning entire E Foss, north of 11th Street S-10.	<p>as applicable. The development of Urban Waters, a \$35 million investment, houses the headquarters of the Puget Sound Partnership, UWT research labs and the City's Environmental Services Division of the Public Works Department. This public investment is well-regarded as an indicator of the type of uses that are expected in the future. The City and others are actively seeking complementary uses that involve design, research and technology to address urban water pollution. Changing the zoning to S-10 would undermine these efforts and isolate Urban Waters from the rest of the Waterway. The City and its partners in the development, the State of Washington and UWT, have relied on the zoning remaining intact in order to leverage future private investment building on the success of the model sustainable office and research facility.</p> <p>In addition, other developments on the E Foss signal that there is an ongoing transition to a mix of industrial and non-industrial uses, including the location of the Youth Marine Center on the E Foss north</p>
A.11			Conoco Phillips	Callendar	Would prefer to be zoned S-10	
B.6			Bellarmine Preparatory School	Birmingham	Supports proposed changes to the S-8/S-10 boundary on the E Foss	

						of 11 th Street. Several other sites in this area appear to be inactive at this time.
B.12, B.28			NuStar, VSI Law Group, Port of Tacoma	Combs, Jordan	NuStar Property should be zoned S-10 because its uplands are zoned for industrial use.	The M-2 Zoning District also allows non-industrial uses that are consistent with the use allowances of the S-8, including taverns, commercial recreation and entertainment, cultural institutions, parks and recreation and office development. In addition, industrial uses are permitted on the eastside of the Foss Waterway north of 15 th Street.
A.2, A.3, A.4, A.6, A.10, A.13, A.14, A.18, A.24,			Tacoma-Pierce County Chamber, QVAKM Real Estate, Brotherhood of Locomotive Engineers, Sperry Ocean Dock, Grette Associates, International Longshore and Warehouse Union Local 23, Tacoma Fire Fighters IAFF Local 31, Youth	Murray, Fox, Elliot, Coy, Boyle, Mason, Baurichter, Lonergan, Lucas	SMP does not follow Council Resolution 36702, mandating design standards along E D Street to create a barrier between industrial and mixed uses	In 2005 the Chamber of Commerce submitted an application to amend the Thea Foss shoreline regulations. The proposed amendment, as originally submitted, requested the prohibition of residential and hotel/motel uses on the eastside of the Thea Foss Waterway, allowing non-water related or non-water dependent industrial uses as permitted uses rather than as conditional uses, and modifying the maximum allowed height in the portion of the eastside south of 15 th Street to allow an additional four feet of height above the current 100-foot

			Marine Foundation, Citizen.			limit for every one foot a structure is set back. Ultimately the Chamber modified their application to request only the proposal to ban residential and hotel/motel uses citing incompatibility of these uses with industrial development. A project application to build an office/condo project on the current site of Urban Waters had sparked their application submittal. The Chamber, Port of Tacoma and industrial property owners all expressed concern that “gentrification” would spread from the Foss shoreline toward the Puyallup River making it more difficult for existing and future industrial uses to co-exist.
B.36, B.38			Simpson, Tacoma-Pierce County Chamber	McEntee, Murray	The City Resolution 36702 must be incorporated into the TSMP	
B.5			ConocoPhillips	Callender	Opposes changes of traffic designation and rebuilding the roadway on East D St to include sidewalks, parking, and a waterfront walkway – noted in the draft East Thea Foss Waterway Transportation Corridor Study.	<p>Although the Planning Commission denied the amendment application, the City Council voted to prohibit residential and hotel/motel uses but only in the eastside segment north of East 11th Street on November 15, 2005. The same evening the Council also adopted Resolution No. 36702, expressing the intent for future planning and development on the eastside of the Foss. The Resolution was the result of a negotiated agreement</p>

					<p>among many parties. Among other things, the resolution outlines actions that the City would take in cooperation with the Port of Tacoma and Pierce County to discourage future encroachment of non-industrial uses eastward of the Waterway. The Resolution directed the development of standards for shoreline uses as one action to accomplish this purpose. The update to the Foss Plan and regulations includes new and revised guidelines and standards that apply to the entire waterway as well as those that apply to the eastside of the Foss. These standards support the resolution by emphasizing that new development will be oriented to the shoreline. Attached is a recent memorandum to the City Manager from the directors of the Community and Economic Development Department and the Public Works Department detailing the status of the actions outlined in the Resolution.</p>	
B.12			NuStar, VSI Law Group,	Combs	<p>If NuStar is in S-8, add language from existing 13.10.110(A) back to district intent.</p>	<p>Staff concurs. This addition would encourage existing industrial uses to continue their operations and their leases to industrial tenants.</p>

B.12			NuStar, VSI Law Group,	Combs	If NuStar is in S-8, add language to 7.5(B)(1): “Existing industrial and terminal uses be allowed to continue their current operations.”	Staff concurs. Please see response to comments on this issue under 7.5 Port, Terminal and Industrial Uses.
B.16		9.9.D.1	FWDA	Dowie	Supports Section 9.9.D.1, allowing 10 years of interim use, and conditional use permits	The existing Thea Foss Waterway Design and Development Concept Plan envisions the Westside of the Foss Waterway as an area for retail commercial, office, hotel and residential use in a mixed-use configuration, with a strong emphasis on residential development between South 15 th and South 21 st Street. The Shoreline Master Program included development standards to implement this vision. Some of the relevant standards include: Policies that the ground level of new buildings should be design and occupied to create an exciting pedestrian environment and to promote the enjoyment of the water. Policies discouraging residential uses, non-water-oriented uses, and uses that are not pedestrian friendly from occupying the frontage along the esplanade and view/access corridors. Requirements for pedestrian
B.26		9.9.D.1	Citizen	Jacobs	Opposes Section 9.9.D.1, allowing 10 years of interim use – should require CUP.	
B.50	Page 217	9.9 (D)	DOE	Van Zwalenburg	Is there a way to turn this in to an incentive? This language also merits specific documentation and findings to support the need for flexibility.	

oriented uses to occupy a minimum of 50% of the esplanade frontage and 20% of the frontage along the view/access corridors and Dock Street.

In addition, pedestrian oriented uses are required to locate at or near the corners where possible.

Lastly, a majority of the ground level floor must be occupied by water-oriented uses.

Non-water-oriented commercial uses are allowed through a CUP.

Since 1996, the mixed-use structures that have been built along the Westside of the Foss Waterway have struggled to sustain the preferred uses on the ground level and the expectations for build-out of the Westside have changed significantly.

Currently, only the Glass Museum, Albers Mill (a small residential mixed-use building) Thea's Landing (a mixed-use residential building with 486 units of apartments and condominiums) and The Esplanade (a largely vacant mixed-use building) have been constructed between South

15th and South 21st Streets. In addition, the esplanade public accessway has not been completed. At this time no hotels or commercial office buildings have been completed as envisioned. Also, the plan for angled parking along Dock Street has been eliminated as the result of the expansion of railroad lines by BNSF. Moreover, anticipated visits to the Glass Museum are about one-half of that expected at the time it was constructed. These conditions have led to only minimal pedestrian traffic along both the esplanade and Dock Street.

The FWDA and developers along the Westside have consistently cited concerns about the development standards that have led to unnecessary permitting conflicts and complexities.

In response, proposed revisions to the development standards would do the following: replace the term 'pedestrian-oriented' uses with the more broadly encompassing 'water-oriented' uses; delete the requirement for a majority of the ground level to be water-oriented, focusing more on the esplanade

frontage; and deleting the requirement for pedestrian-oriented uses to cluster at or near the corners.

From a pedestrian-oriented standpoint, water-oriented uses along the frontage of Dock Street and the Esplanade have a more direct interface with the public and a more direct role in creating the desired environment than requiring 51% of the entire ground level to be water-oriented. This will provide a degree of additional flexibility for new development.

In addition, increasing pedestrian traffic will largely be influenced by achieving the full build-out as envisioned in the Foss Plan and within the draft TSMP. To respond to the conditions above and to further the implementation of the Foss Plan, revised use allowances would provide additional flexibility for new development at the outset, while still ensuring that in the long-term, uses locate on the Foss Waterway that are consistent with the vision.

These proposals include allowing a new or existing mixed-use

					<p>structure to occupy 100% of the ground level with non-water-oriented uses for a period of 10 years through a conditional use permit. Or, if at least 25% of the esplanade frontage is occupied with water-oriented uses, the development could be permitted through a shoreline substantial development permit. In either case, the remaining frontage requirements would have to be built to suit a future conversion to water-oriented uses. The permits would have to be reviewed after 10 years and would be eligible for a 5 year extension.</p>
--	--	--	--	--	--

Since the opening of Thea's Landing in 2003, the vacancy rate for the commercial space has fluctuated between 46% and 96%. The proposed changes to the S-8 regulations will go a considerable way towards alleviating these conditions in the near-term, accelerating the pace of development and creating a more pedestrian-oriented environment by allowing vacant commercial spaces to be leased for short term uses, while not foreclosing on the long-term vision for water-oriented uses along Dock Street and the esplanade.

						<p>Under the proposal, residential uses would remain prohibited on the ground level.</p> <p>The Planning Commission's recommendation to the City Council will include findings of fact in support of their recommendations. The Commission has not made a recommendation on this issue at this time.</p>
B.16			FWDA	Dowie	Would like revisions to section 9.9.2(2)b and other referenced sections so that the 13 th St access and view corridor is a secondary corridor rather than a primary one.	Staff concurs.
B.16			FWDA	Dowie	Would like revisions to section 7.4.2(C)2 so that artisan/craftpersons, vendors or mobile vendors are not treated as a permanent structure within the S-8 shoreline district while permanent structures for vendors should require a shoreline permit.	Staff concurs and will provide clarifying text changes.
B.26			Citizen	Jacobs	Allow "home occupation"	Home occupations are permitted in the S-8.
B.26		9.9.2.1(c)	Citizen	Jacobs	Define "substantial number of people."	What qualifies as substantial is context specific and may depend on the type of use proposed.
B.26		9.9.2.2	Citizen	Jacobs	Omit "within a structure"	Comment noted. Staff will review.
B.26		Table 9-1	Citizen	Jacobs	Change Puget Sound Freight Building to Balfour Dock Building	Staff concurs.
B.26			Citizen	Jacobs	Do not require minimum height	Comment noted. Staff will review.

B.12			NuStar, VSI Law Group,	Combs	W Foss should be oriented toward pedestrians and E Foss should be oriented toward industrial users.	Comment noted. The intent of the existing Thea Foss Waterway is to plan for an integrated waterway that provides continuous public access and amenities. However, it also recognizes the industrial character of the NE corner of the Waterway. These elements have been carried forward into this draft.
B.29			Citizen	Keniston-Longrie	Zone E and W Foss S-6	Rezoning the S-8 to S-6 would significantly change the planned uses and development standards for the Foss Waterway, contrary to the public goals, objectives, and vision for this Waterway as represented in past and current planning documents.

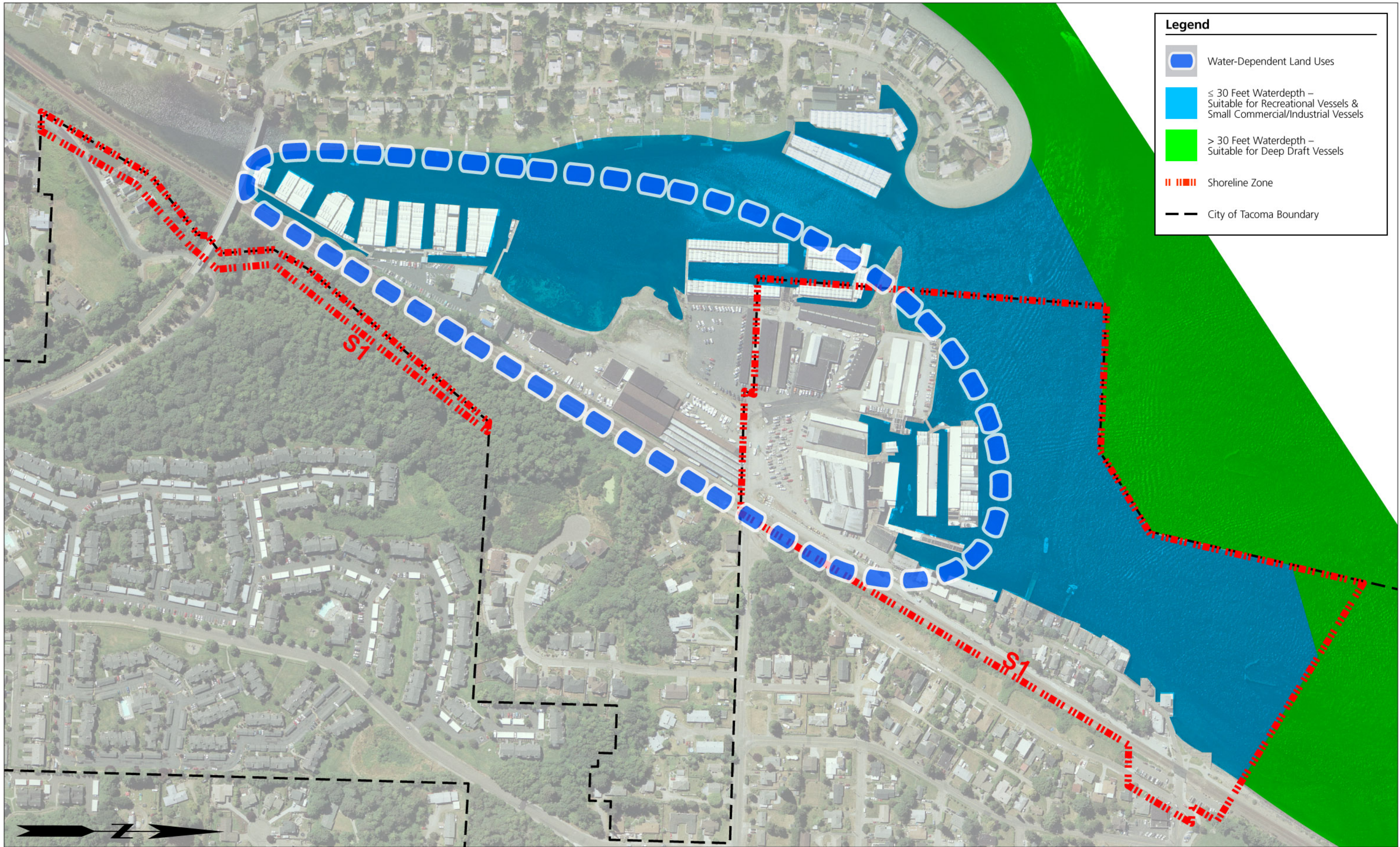
Thea Foss Waterway Design Guidelines

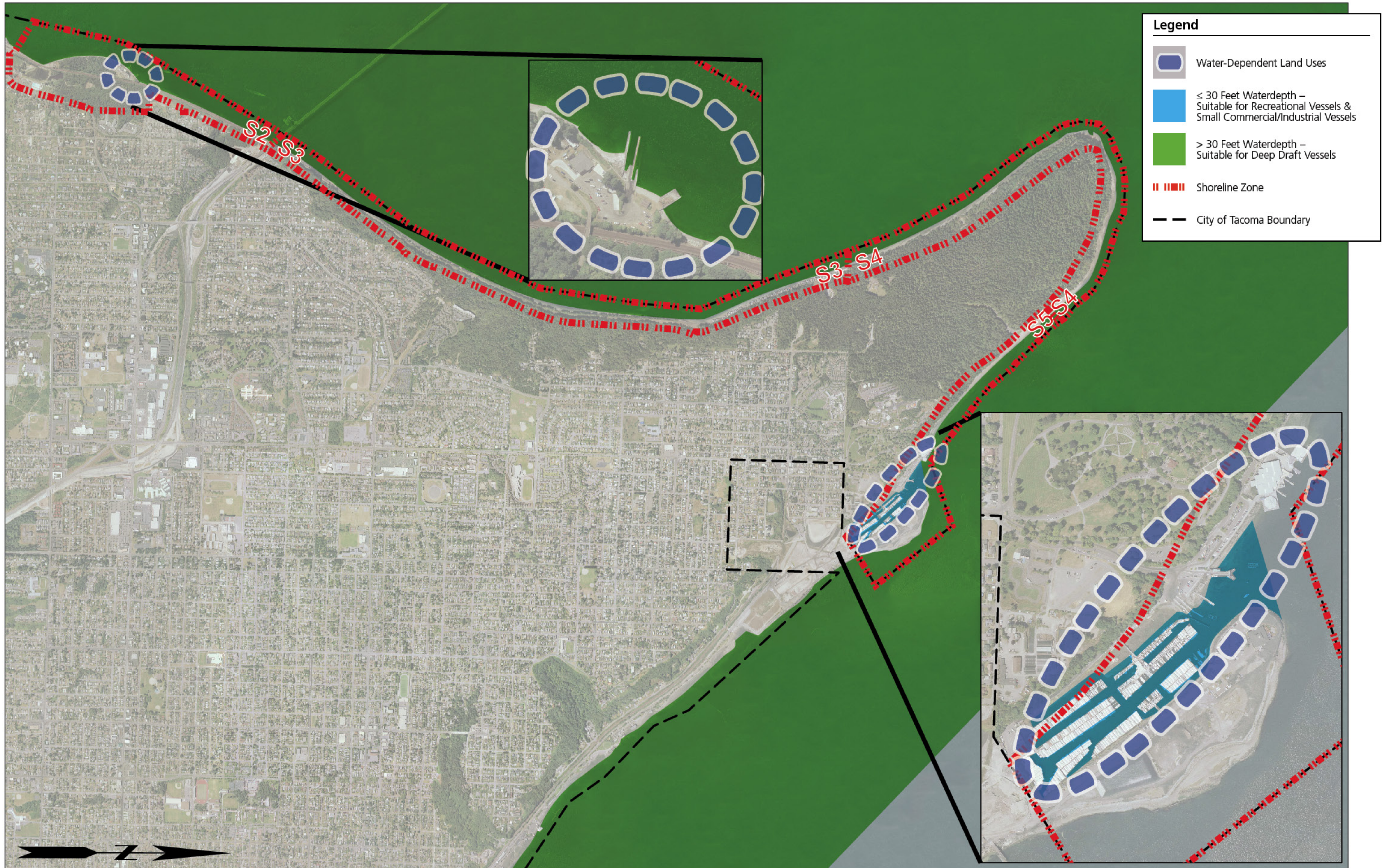
Source Key	Page	Section	Commenting Agency	Name of Commenter	Comment	Response to Comment
B.28		5.5.6.D.2.d:	Port of Tacoma	Jordan	Area north of 15 th should be exempt from design standards – design standards should be encouraged through incentives.	The Foss Plan, as incorporated into the draft TSMP, requires new development to implement continuous design elements that improve the pedestrian orientation of the Waterway, creating a more unified Waterway while still recognizing distinct sub-areas. While the majority of these guidelines apply to the design and amenities associated with public access, they also address issues

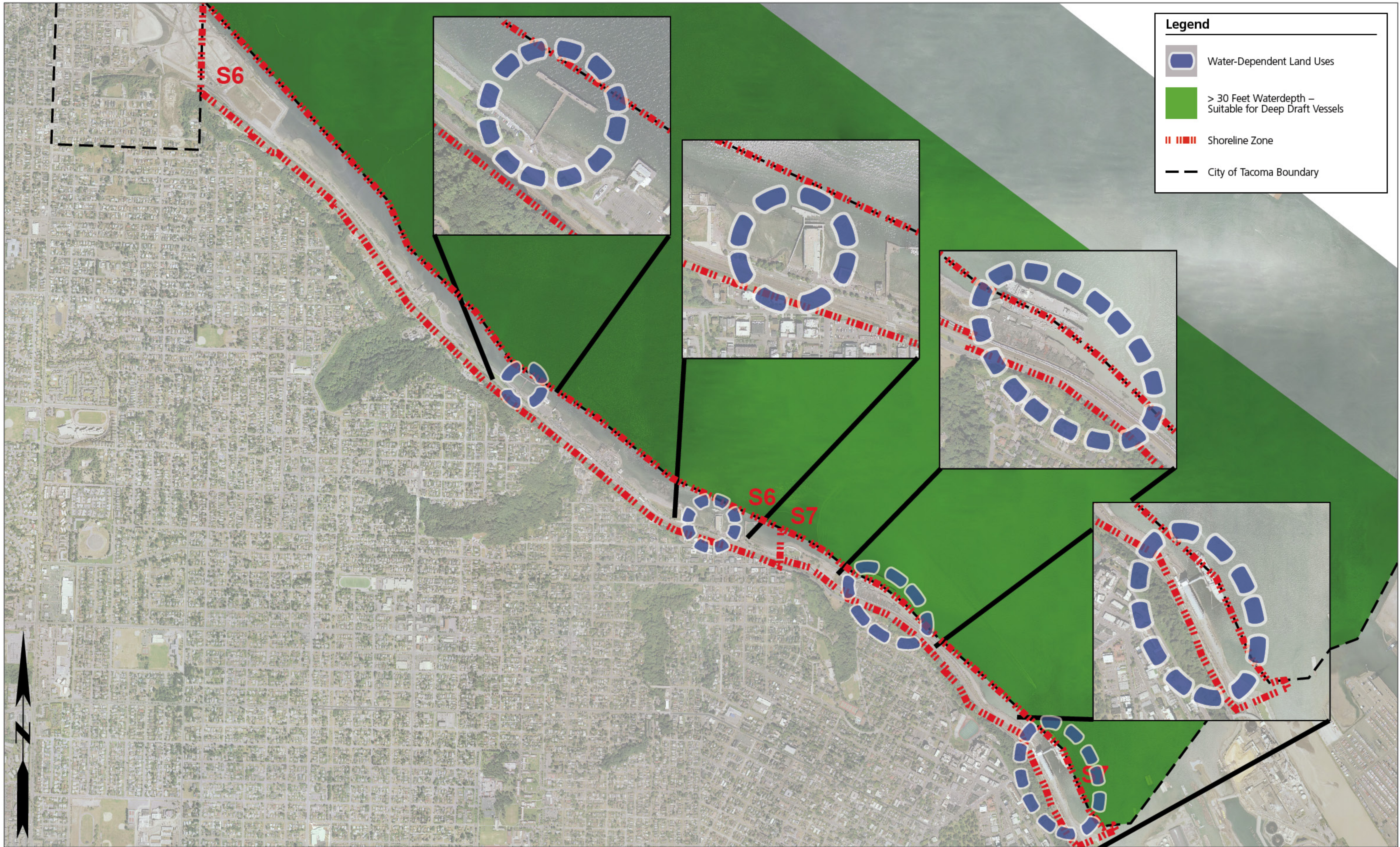
						related to building sites, including view and shading considerations. These guidelines do not apply retroactively and would only be triggered as part of new substantial development, and even then, many of the guidelines would not apply to industrial uses. The design review would occur by city staff. as part of the shoreline permit
--	--	--	--	--	--	--

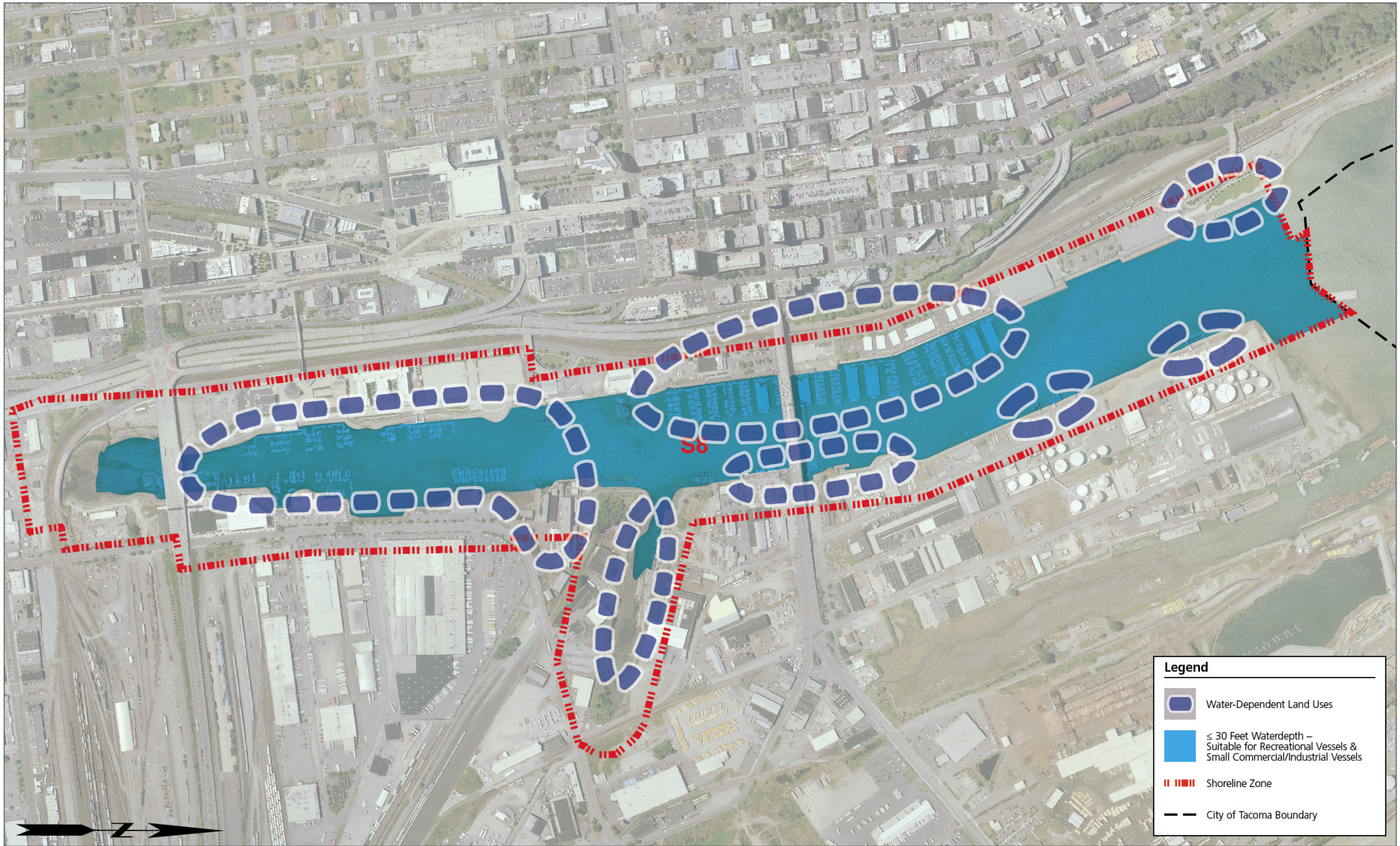
Other Plan and Polices

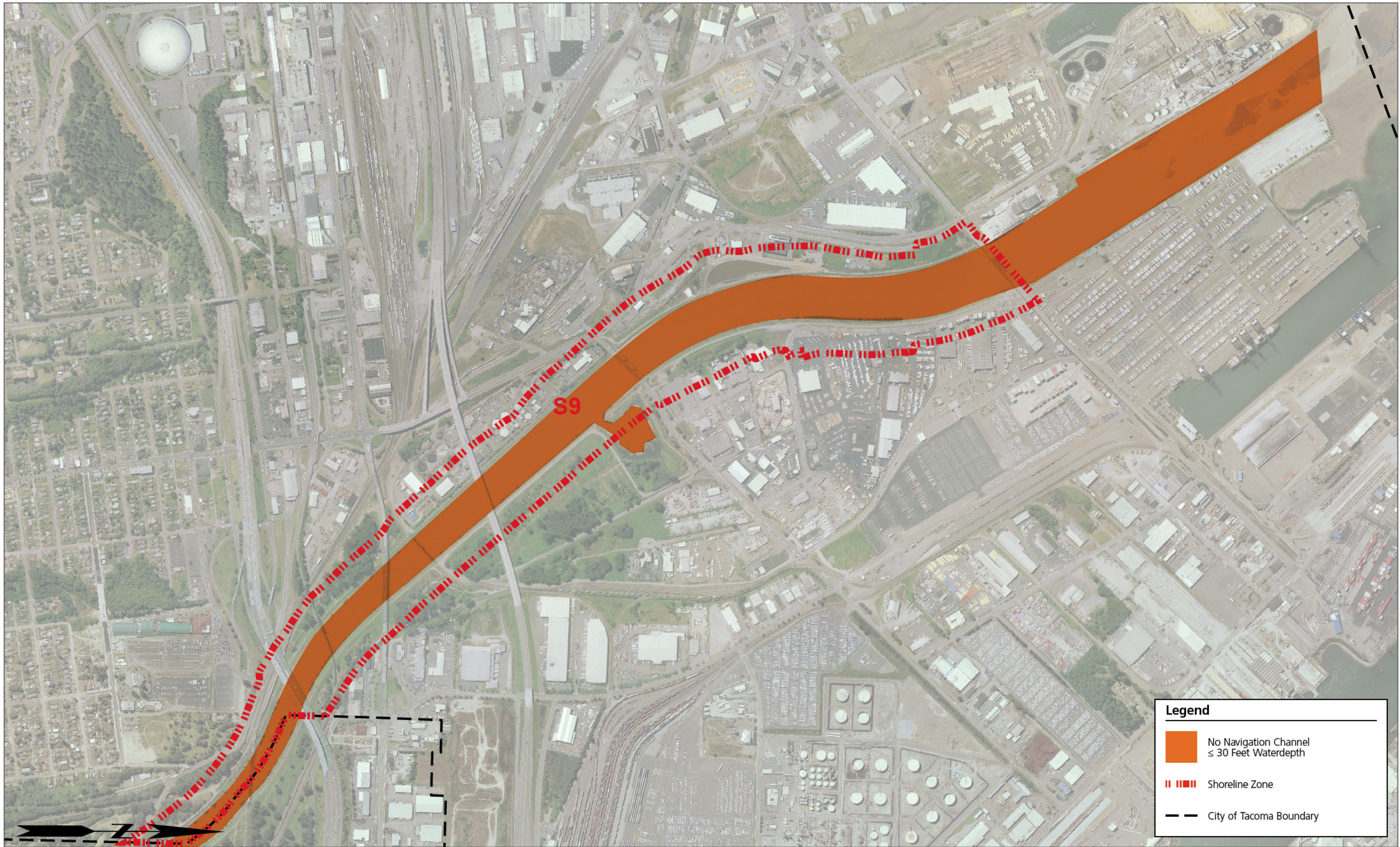
Source Key	Page	Section	Commenting Agency	Name of Commenter	Comment	Response to Comment
B.11, B.22			Citizen, Walk the waterfront	Coleman, Herrmann	Do not rescind Foss Waterway (2005) or Ruston Way (1981) plans	The Comprehensive Plan consists of individual elements (chapters) most of which have been consolidated into a single document. Prior to consolidation, the Plan was comprised of individual stand-alone documents; approximately 38 in total. With the passage of GMA, the City began a process to incorporate the individual plans into a consolidated document. As new elements are developed or revised, the pertinent parts of the older planning documents are incorporated and rescinded. To date, 16 plans have been rescinded. The Ruston Way and Shoreline Trails Plan were
B.29			Citizen	Keniston-Longrie	Ruston Way Plan must be integrated in to the S-6	














Legend

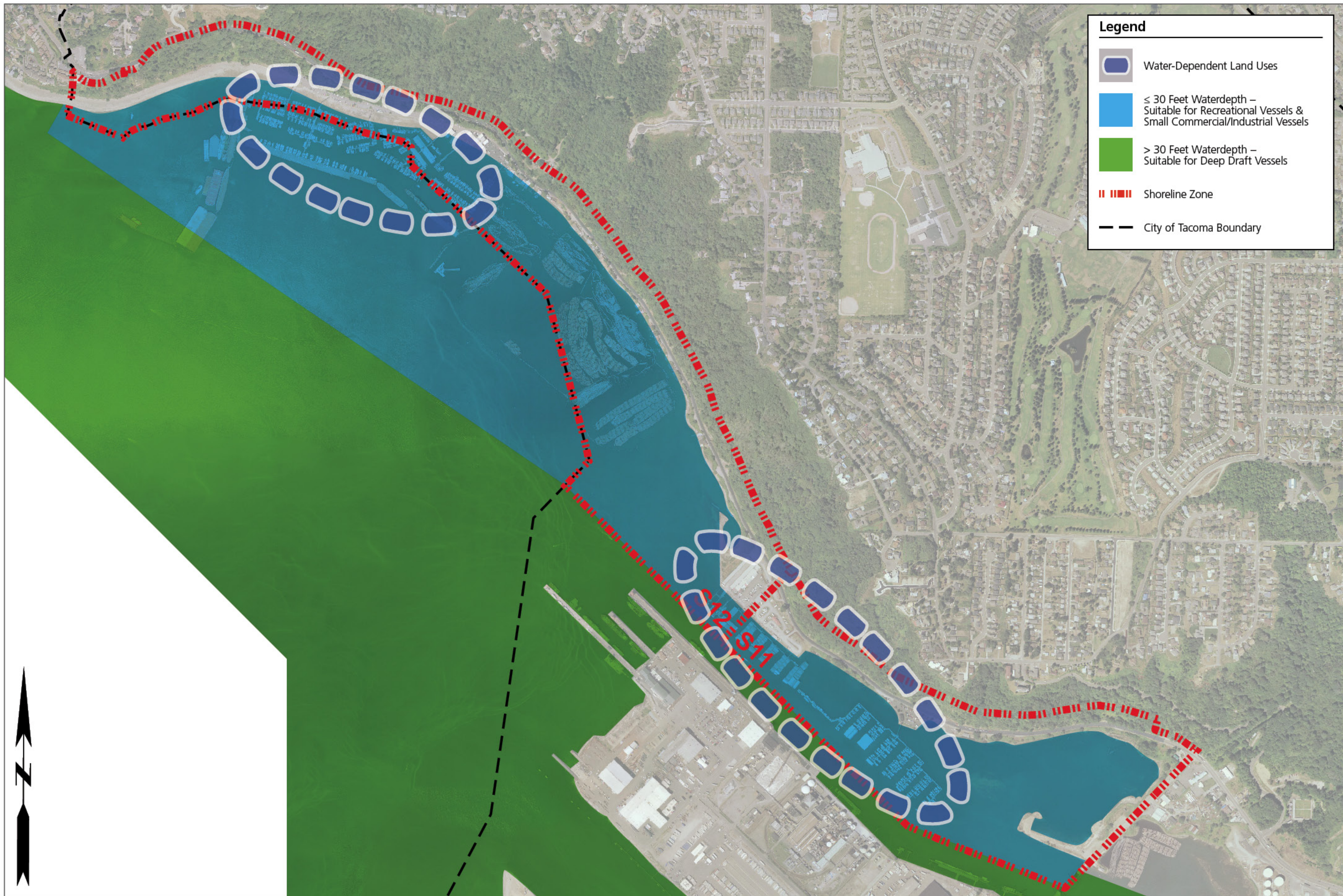
-  No Navigation Channel ≤ 30 Feet Waterdepth
-  Shoreline Zone
-  City of Tacoma Boundary



Legend

- Water-Dependent Land Uses
- ≤ 30 Feet Waterdepth – Suitable for Recreational Vessels & Small Commercial/Industrial Vessels
- > 30 Feet Waterdepth – Suitable for Deep Draft Vessels
- No Navigation Channel ≤ 30 Feet Waterdepth
- Shoreline Zone
- City of Tacoma Boundary

S10





TO: Eric Anderson, City Manager

FROM: Dick McKinley, Director, Public Works Department *M.P. McKinley*
Ryan Petty, Director, Community and Economic Development Department *Ryan Petty*

SUBJECT: Master Program for Shoreline Development

DATE: June 22, 2011

You have requested a report on the status of Resolution No. 36702 and the question of whether the City has fulfilled its obligations. A copy of the resolution, as adopted by the City Council on November 15, 2005, is attached. Resolution No. 36702 is the culmination of a negotiated agreement among several parties concerning industrial development and potential incompatibilities on the eastside shoreline of the Thea Foss Waterway. The resolution outlines actions that the City would take to discourage encroachment of incompatible uses into the industrial area that lies eastward of the Thea Foss Waterway. The resolution also outlines actions, including actions to be taken by the private sector and Port of Tacoma, to address important regional transportation needs. Staff provides the following for your information.

City actions required by Resolution No. 36702

1. Prohibit residential development and hotel/motel uses in the area north of the East 11 the street right-of-way on the eastside of the Thea Foss Waterway.

The City Council amended the Thea Foss Waterway Design and Development Plan and the implementing regulations of the S-8 shoreline district in November 2005 prohibiting these uses. The Foss Plan and implementing regulations have been reviewed through the required update to the Master Program for Shoreline Development, which is currently being updated. No changes are proposed in the current update regarding this prohibition.

2. Establish a transportation corridor on or about the alignment of the present East D street that will connect to the approach to the Murray Morgan Bridge and which will be located to serve as a barrier to encroachment of nonindustrial development to the east of East D Street.

To address this directive, the City commissioned the *East Thea Foss Waterway Transportation Corridor Study* to not only address the encroachment issue but to address vehicular access and circulation concerns. The study was guided by a steering committee that included representatives of the Tacoma-Pierce Chamber of Commerce, Port of Tacoma, City of Tacoma and the Foss Waterway Development Authority. The study was completed in 2008; its purposes were: (1) to identify possible short term and long term transportation solutions that are consistent with existing land use and zoning; (2) to protect and encourage economic development; and (3) to facilitate a smooth transition between co-existing land uses. The process included interviews with stakeholders on the Foss Peninsula as well as a public workshop. In summary, the study's recommended

implementation strategy is for the City to work with area land owners, strategic partners and agencies to implement three priority projects:

1. Improve East 11th Street at the East F Street/St Paul intersection
2. Move forward with SR 509 ramp feasibility with WSDOT and BNSF
3. Increase the maintenance of roads and rail crossings

Other implementation strategies included:

- Develop a plan to classify heavy truck arterials and implement heavy truck arterial design standards.
- Determine if a shared cost approach (Local Improvement District or other approach) would be acceptable to study area businesses and property owners.
- As funding allows, adopt the recommended projects into the City's Six-Year Transportation Program
- Add all unfunded capital projects to the Comprehensive Plan/Transportation Element

The findings of the study were presented to the Environment and Public Works Committee in July 2008. At that time, the Council instructed staff to continue stakeholder dialogue to gauge interest in public/private funding opportunities for right-of-way improvements.

City staff have met on four occasions since November 2008 with area stakeholders. City staff's role has been transparent facilitation, presentation of capital improvement options, and idea exchanges. The East Foss group has discussed the recommended roadway projects identified in the study but made no decisions. The last stakeholder meeting was held on July 1, 2009. The group decided they would need to develop an agreeable vision for the peninsula before decisions on projects, costs, and financing could be made. No additional meetings have been scheduled.

The City has a \$6 million grant award pending on the outcome of a required feasibility study (IJR) for the SR-509 slip ramps. The feasibility study is expected to cost \$1M. The City has received a verbal private contribution of \$3.5 million towards the total estimated cost of \$19M for the project. The remaining project cost would need grant funding.

At this time, two of the recommended street improvement projects in the East Foss study have been added to the 6-Year Transportation Improvement Plan. These are the SR-509 slip ramps project and the intersection improvements at East F Street and 11th Street.

- 3. Develop and implement design standards applicable to new development on the eastern shore of the Thea Foss Waterway south of East 11th Street that will discourage nonindustrial uses east of East D Street.**

East D Street is the general boundary for the S-8 shoreline District. The area located to the east of D Street is outside of shoreline jurisdiction and is zoned M-2 Heavy Industrial. The M-2 zoning allows non-industrial uses; however, given the context of the resolution the issue seems to be non-industrial uses that are deemed incompatible with industrial

development. As noted above, residential and hotel/motel uses are considered incompatible and these uses are prohibited in the M-2 zoning district.

The draft update to the Master Program, which includes revisions to the plan and zoning for the Thea Foss Waterway, includes design guidelines and standards for shoreline properties and streetscape. The guidelines address how the buildings should relate to the shoreline location and includes site design elements to encourage mixed-use waterfront development. Generally, pedestrian amenities will occur on the shoreline side of D Street and new buildings will be oriented predominately towards the water rather than East D Street. In addition, the Eastside Transportation study includes design standards that would functionally separate pedestrian, bicycle, and non-industrial traffic from industrial traffic. These standards include recommendations that pedestrian improvements occur on the west side of D Street and to include a landscaped median in portions of the right-of-way as a further separation barrier. The study also recommends improvements to East F and E Streets that would improve and disperse industrial freight circulation throughout the Peninsula.

The draft Master Program includes a new policy that carries out the recommendations of the transportation study by stating that East D Street should be designed and reconstructed as a transition between the mixed-use shoreline zoning and the industrial zoning east of East D Street. The policy also states that East D Street should be redesigned to achieve functional separation of industrial and nonindustrial traffic wherever feasible.

4. The City should work closely and cooperatively with the Port of Tacoma and Pierce County to support the acquisition of funding for completion of State Route 167 and State Route 174.

The City participates fully with its partners, the Chamber, the Port, the County, and industrial property owners, in all efforts to obtain funding for the completion of these necessary roads.

5. The City should also work closely and cooperatively with the Port and County to secure additional funding through special appropriations or other stand-alone funding consistent with Resolution No. 35952 to preserve and restore the Murray Morgan Bridge.

The City signed a Turnback Agreement with the State in December 2009 that returned ownership of the bridge to the City and partially funded the rehabilitation of the bridge. The Port confirmed their desire to have the bridge returned to service instead of being torn down which helped the City during the Turnback Agreement negotiations.

The City received approximately \$37.4 million from the Turnback Agreement and a \$20 million no interest loan (federal funding) payable within 10 years for total rehabilitation funding of \$57.4 million. This funding will complete the first phase of the bridge rehabilitation which will return traffic to the bridge by the end of 2012. The first phase

includes structural repairs, deck replacement, preparing and painting the steel components, superstructure seismic enhancements, and replacement of the mechanical and electrical systems. The second phase, which is unfunded, consists of subsurface seismic enhancements.

The City awarded a design-build contract to a team led by PCL Construction Services, in January 2011. The design effort will be complete for most of the design packages by the end of August 2011. The contractor started erecting scaffolding and containment structures on April 25 and will begin sandblasting and painting the east truss span before the end of June. Old paint removal and painting will occur over the next 12 months. Demolition of the bridge deck will start in August. The discovery of a Peregrine falcon nest on one of the bridge towers delayed painting about two weeks. The City worked with the Washington Department of Fish and Wildlife to successfully relocate a newborn falcon. This delay will not impact the overall project schedule. The project is also within budget.

Staff believes that the City has met or is meeting its obligations as outlined in the resolution and as described above. If you have any further questions or guidance, please advise.



RESOLUTION NO. 36702

1
2 WHEREAS the City has invested tens of millions of dollars in cleaning
3 the Thea Foss Waterway ("Foss Waterway") and developing public spaces on
4 the west side of the Foss Waterway, and

5 WHEREAS the private sector has invested additional millions, creating
6 an exciting commercial and residential area on the west side of the Foss
7 Waterway, and

8
9 WHEREAS the Port of Tacoma ("Port") is one of the largest drivers of
10 the economy in Tacoma and Pierce County ("County"), and

11 WHEREAS the Port has entered a phase of rapid growth and
12 redevelopment of its marine terminals, and

13 WHEREAS the Port has concerns about the negative effect that
14 residential and hotel and motel development in the area between the east side
15 of the Foss Waterway and the Hylebos Waterway (collectively "Waterways")
16 may have on its future operations, and

17
18 WHEREAS several existing industrial businesses located on the east
19 side of the Waterways have expressed similar concerns, and

20 WHEREAS, recognizing the validity of such concerns, the City Council
21 has amended its Thea Foss Waterway Design and Development Plan, an
22 element of the Comprehensive Plan, and Chapter 13.10 of the Shoreline
23 Management Plan, both of which are part of the Master Program for Shoreline
24

42



1 Development to restrict residential and hotel and motel uses on the east side of
2 the Foss Waterway to the south of East 11th Street, and

3 WHEREAS the Murray Morgan Bridge is an important access route
4 between downtown Tacoma, the Foss Waterway, and the Port industrial area,
5 and

6 WHEREAS the Murray Morgan Bridge is an historic structure that is
7 listed on the state and federal historic registers, and

8 WHEREAS the City Council adopted Resolution No. 35952 on
9 September 23, 2003, directing City staff to "make every feasible effort to
10 preserve and restore the bridge," and

11
12 WHEREAS the City has agreed to assume ownership of the Murray
13 Morgan Bridge from the state of Washington so long as the City is provided
14 adequate funds to restore the bridge, and

15 WHEREAS there are other important transportation projects that have
16 regional impact and that are seeking funding. These projects include the
17 completion of State Route 167 ("SR 167") and State Route 704 ("SR 704"),
18 known as the Cross Base Highway, and

19
20 WHEREAS representatives of the Port and the County have previously
21 expressed their support for SR 167 and SR 704 and have also indicated their
22 intent to support the Murray Morgan Bridge, and

23 WHEREAS the City Council believes it is in the best interests of the
24 community to work cooperatively with the Port and the County to protect the
25 Port and other industrial businesses on the east side of the Foss Waterway
26



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

from incompatible encroachment, to preserve and restore the Murray Morgan Bridge, and to secure funding for important regional transportation projects;

Now, Therefore

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA

That the City Council has amended its Thea Foss Waterway Design and Development Plan, an element of the Comprehensive Plan, and Chapter 13.10 of the Shoreline Management Plan, both of which are part of the Master Program for Shoreline Development to restrict residential and hotel and motel uses on the east side of the Thea Foss Waterway to the south of East 11th Street.

BE IT FURTHER RESOLVED that the City Council hereby expresses the intention of the City of Tacoma to establish a transportation corridor on or about the alignment of the present East "D" Street that will connect to the approach to the Murray Morgan Bridge and which will be located to serve as a barrier to encroachment of nonindustrial development to the east of East "D" Street.

BE IT FURTHER RESOLVED that the City Council hereby expresses the intention of the City of Tacoma to develop and implement design standards applicable to new development on the eastern shore of the Thea Foss Waterway south of East 11th Street that will discourage nonindustrial uses east of East "D" Street.

94

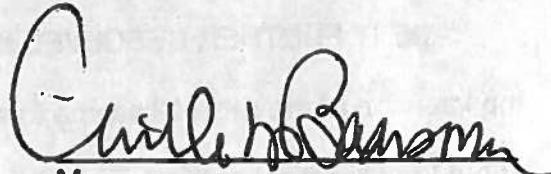


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26


BE IT FURTHER RESOLVED that the City Council hereby expresses the intention of the City of Tacoma to work closely and cooperatively with the Port of Tacoma and Pierce County to support the acquisition of funding for completion of State Route 167 and State Route 704.

BE IT FURTHER RESOLVED that the City Council hereby expresses the intention of the City of Tacoma to work closely and cooperatively with the Port of Tacoma and Pierce County to secure additional funding through special appropriations or other stand-alone funding consistent with Resolution No. 35952.

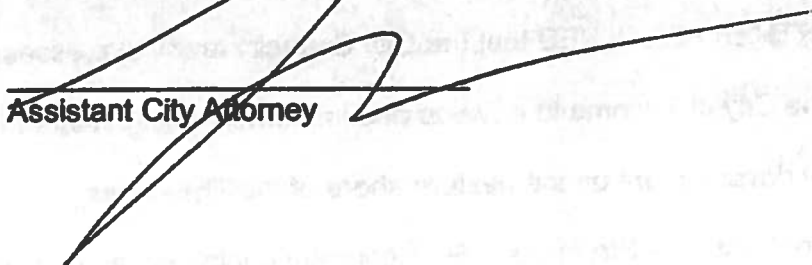
Adopted NOV 15 2005

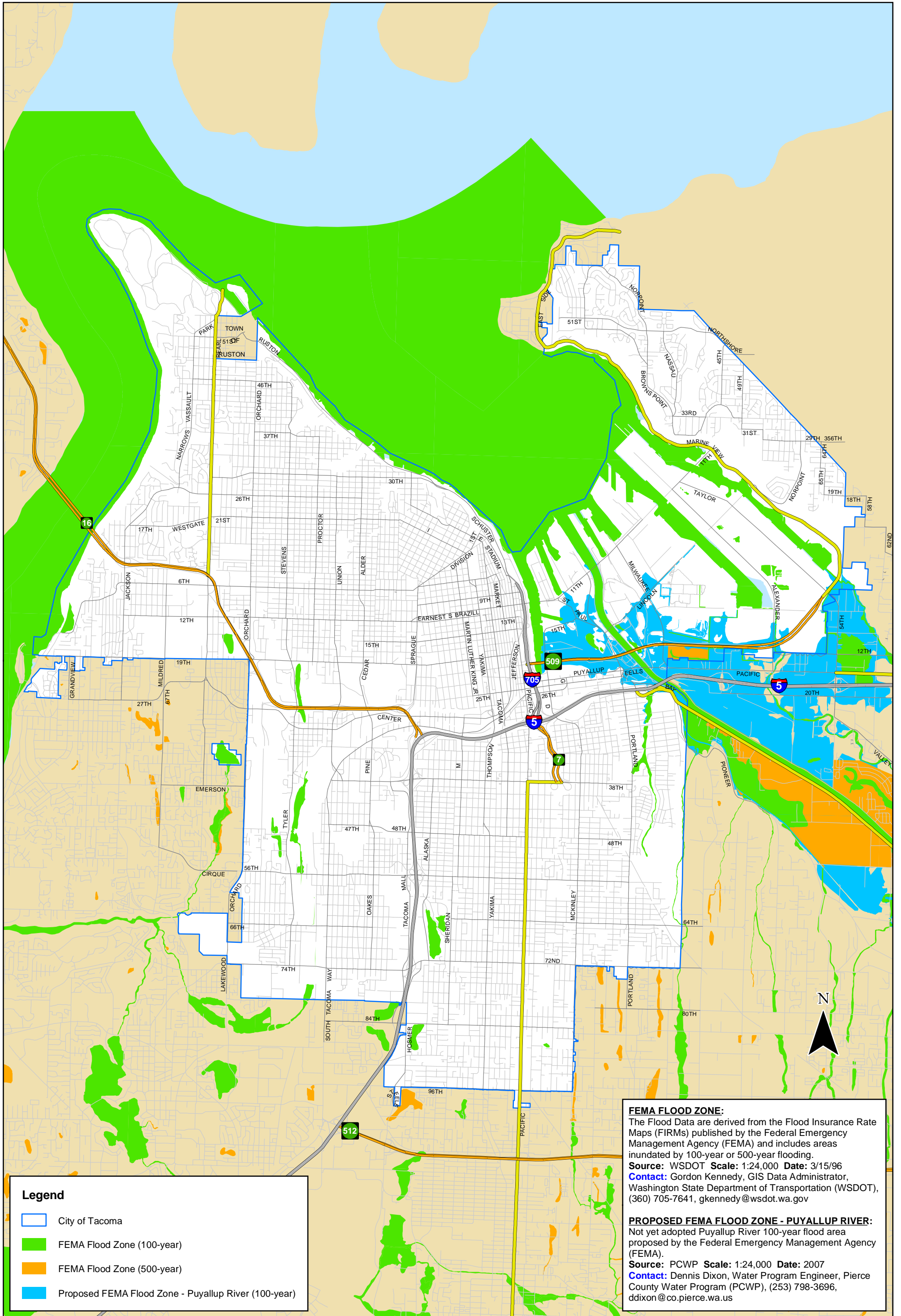

Mayor

Attest:


City Clerk

Approved as to form:


Assistant City Attorney



Legend

- City of Tacoma
- FEMA Flood Zone (100-year)
- FEMA Flood Zone (500-year)
- Proposed FEMA Flood Zone - Puyallup River (100-year)

FEMA FLOOD ZONE:
 The Flood Data are derived from the Flood Insurance Rate Maps (FIRMs) published by the Federal Emergency Management Agency (FEMA) and includes areas inundated by 100-year or 500-year flooding.
Source: WSDOT **Scale:** 1:24,000 **Date:** 3/15/96
Contact: Gordon Kennedy, GIS Data Administrator, Washington State Department of Transportation (WSDOT), (360) 705-7641, gkennedy@wsdot.wa.gov

PROPOSED FEMA FLOOD ZONE - PUYALLUP RIVER:
 Not yet adopted Puyallup River 100-year flood area proposed by the Federal Emergency Management Agency (FEMA).
Source: PCWP **Scale:** 1:24,000 **Date:** 2007
Contact: Dennis Dixon, Water Program Engineer, Pierce County Water Program (PCWP), (253) 798-3696, ddixon@co.pierce.wa.us



2000 0 2000 4000 6000
 Feet

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. It is to be used for reference purposes only.

MAP 12
 FLOOD HAZARD AREAS
 TACOMA SHORELINE INVENTORY AND CHARACTERIZATION
 TACOMA, WASHINGTON



Sperry Ocean Dock, Ltd.

15001 28th Ave. S.W.
P.O. Box 349
Seahurst, WA 98062-0349
sperryocean@comcast.net
(206) 835-5694
Fax: (206) 835-5695

c/o City of Tacoma
Attn: Mr. Stephen Atkinson
747 Market Street, Room 1036
Tacoma, WA 98402

July 11, 2011

Mr. Atkinson,

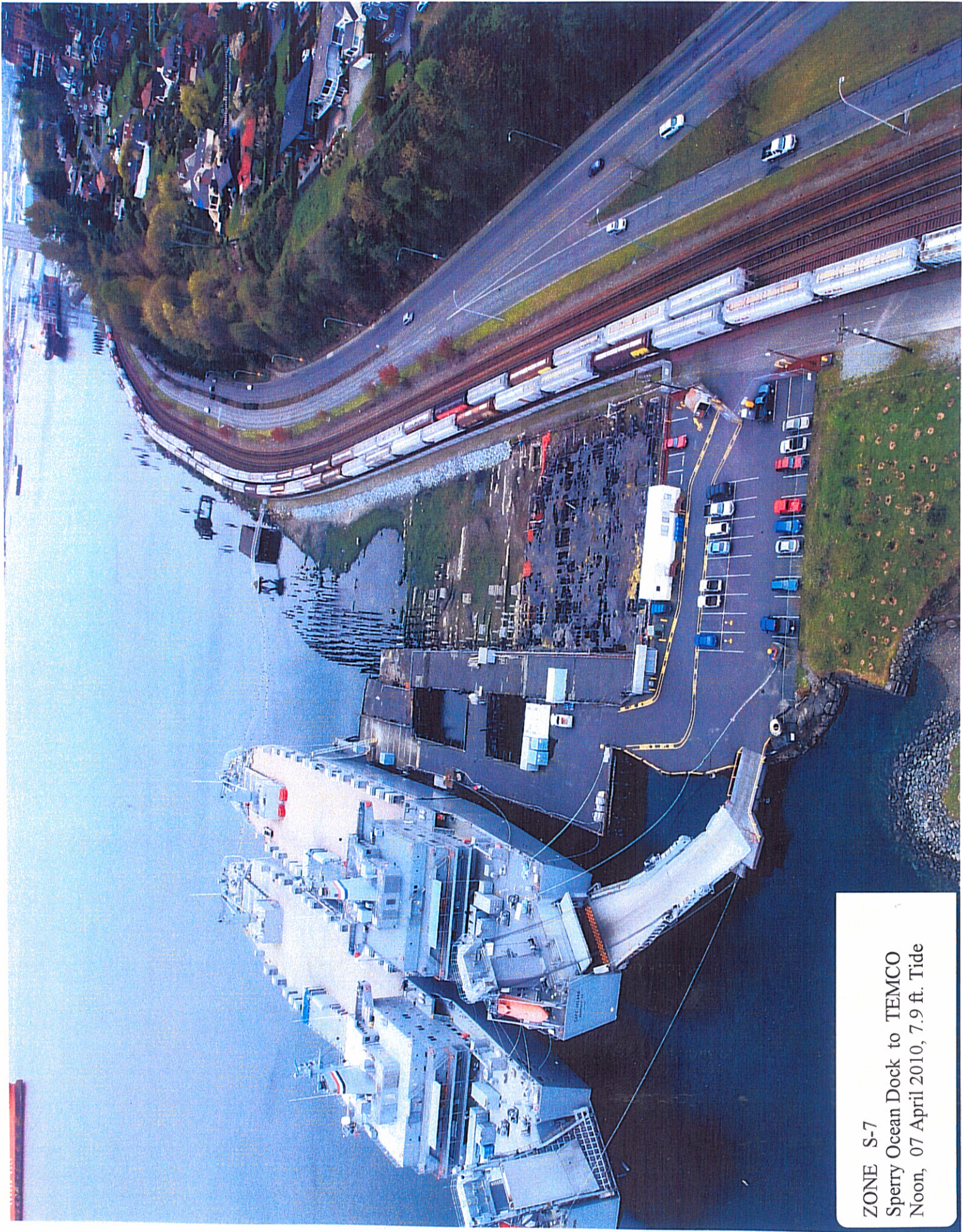
When it comes to my personal property in the S-7 zone. I notice that you are providing old photos to the Planning Commission, nothing with in the last (2) two plus years. Attached are (2) two photo's, one showing the S-7 area to TEMCO. The second photo depicts the first phase of the 650 feet of beach restoration at Sperry. Removing 88,000 sq. ft. of over water coverage along with 1000 old piles, all done by the property owner, no tax payer's money. This will help the Commissioners understand why Citizens for a Health Bay along with Washington Department of Natural Resources have written the letters they have in support of our custodianship, in this section of Commencement Bay.

Sincerely,

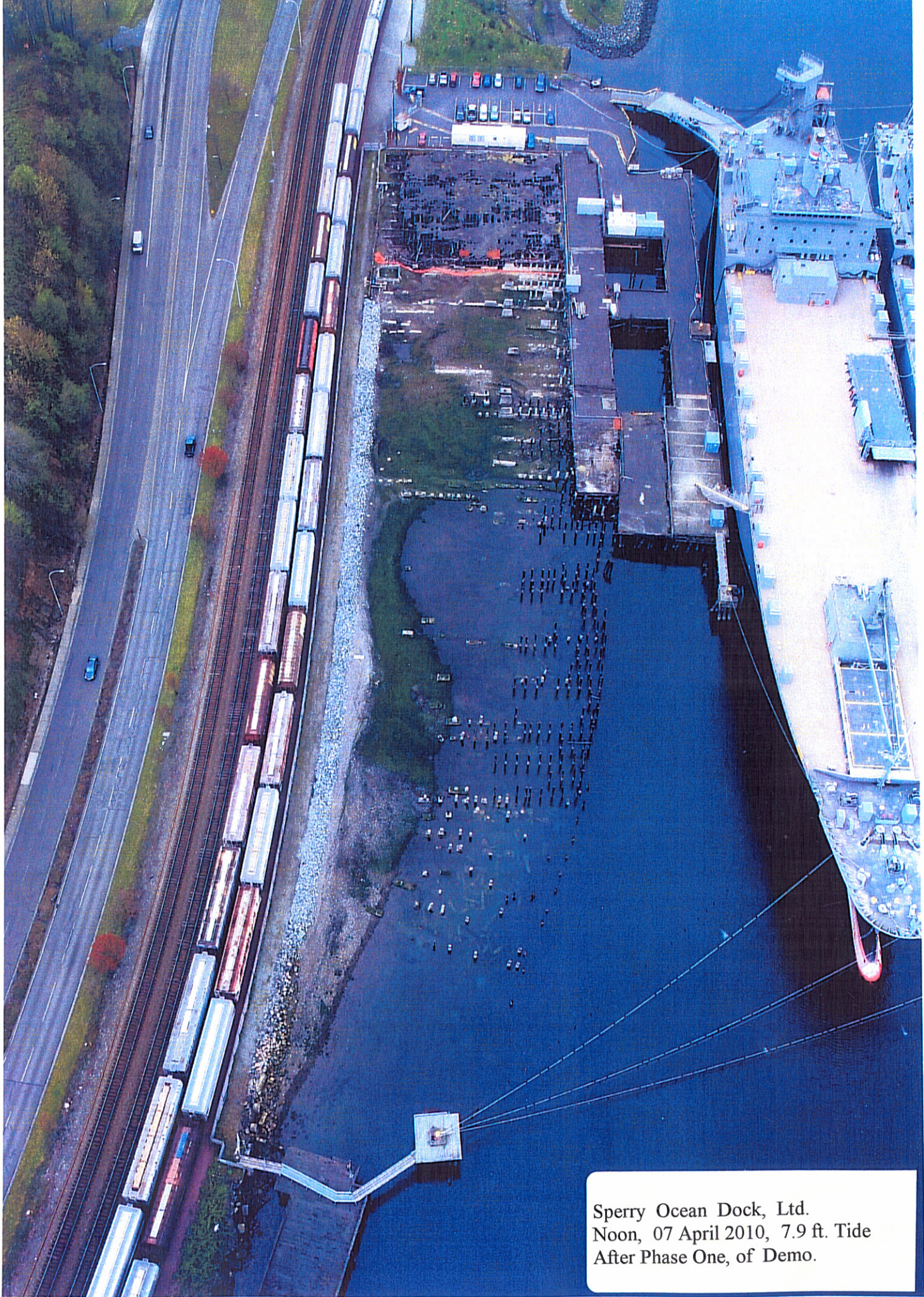
Gary G. Coy

CC: Commissioner Mr. Jeremy C. Doty, Chair
Commissioner Mr. Donald Erickson, Vice-Chair
Commissioner Mr. Thomas O'Connor
Commissioner Mr. Ian Morrison
Commissioner Mr. Scott Morris
Commissioner Mr. Peter Elswick
Commissioner Mr. Sean Gaffney
Commissioner Mr. Chris Beale
Commissioner Mr. Matthew Nutsch

The Honorable Mayor Marilyn Strickland
Councilmember's City of Tacoma



ZONE S-7
Sperry Ocean Dock to TEMCO
Noon, 07 April 2010, 7.9 ft. Tide



Sperry Ocean Dock, Ltd.
Noon, 07 April 2010, 7.9 ft. Tide
After Phase One, of Demo.