



City of Port Orchard Council Meeting Agenda
March 9, 2021
6:30 p.m.

Mayor:

Rob Putaansuu
Administrative Official

Councilmembers:

Bek Ashby (Mayor Pro-Tempore)
Finance Committee
Economic Development & Tourism Committee
Transportation Committee, **Chair**
KRCC/KRCC PlanPol-alt /KRCC TransPol
PSRC-alt/PSRC TransPOL-Alt/PRTPO

Shawn Cucciardi
Finance Committee
E/D & Tourism Committee, **Chair**
Kitsap Economic Development Alliance

Fred Chang
Economic Development & Tourism Committee
Land Use Committee

Jay Rosapepe
Utilities/Sewer Advisory Committee
Land Use Committee, **Chair**
Transportation Committee
Lodging Tax Advisory Committee, **Chair**
KRCC-alt

John Clauson
Finance Committee, **Chair**
Utilities/Sewer Advisory Committee
Kitsap Public Health District-alt

Cindy Lucarelli
Festival of Chimes & Lights Committee, **Chair**
Utilities/Sewer Advisory Committee, **Chair**
Kitsap Economic Development Alliance

Scott Diener
Land Use Committee
Transportation Committee

Department Directors:

Nicholas Bond, AICP
Development Director

Mark Dorsey, P.E.
Director of Public Works/City Engineer

Tim Drury
Municipal Court Judge

Noah Crocker, M.B.A.
Finance Director

Matt Brown
Police Chief

Brandy Rinearson, MMC, CPRO
City Clerk

Meeting Location:

Council Chambers, 3rd Floor
216 Prospect Street
Port Orchard, WA 98366

Contact us:

(360) 876-4407
cityhall@cityofportorchard.us

Pursuant to the Governor's "Stay Home - Stay Safe" Order, the City will take actions on necessary and routine business items.

The City is prohibited from conducting meetings unless the meeting is NOT conducted in-person and instead provides options for the public to attend through telephone, internet or other means of remote access, and also provides the ability for persons attending the meeting (not in-person) to hear each other at the same time. Therefore;

Remote access only

Link: <https://us02web.zoom.us/j/87135721630>

Zoom Webinar ID: 871 3572 1630

Zoom Call-In: 1 253 215 8782

1. CALL TO ORDER

A. Pledge of Allegiance

2. APPROVAL OF AGENDA

3. CITIZENS COMMENTS

*(Please limit your comments to **3 minutes** for items listed on the Agenda and that are not for a Public Hearing. When recognized by the Mayor, please state your name for the official record)*

4. CONSENT AGENDA

(Approval of Consent Agenda passes all routine items listed below, which have been distributed to each Councilmember for reading and study. Consent Agenda items are not considered separately unless a Councilmember so requests. In the event of such a request, the item is returned to Business Items.)

A. Approval of Vouchers and Electronic Payments

B. Approval of Payroll and Direct Deposits

C. Approval of the Purchase of 2 Variable Message (Speed) Boards Via State Contract No. 03220 (Dorsey) Page 3

D. Approval of the February 23, 2021, City Council Meeting Minutes Page 6

5. PRESENTATION

6. PUBLIC HEARING

7. EXECUTIVE SESSION - Pursuant to RCW 42.30.110, the City Council WILL hold an executive session. The topic(s) and the session duration will be announced prior to the executive session.

8. BUSINESS ITEMS

A. Adoption of an Ordinance Adopting the 2021 Periodic Update to the City's Shoreline Master Program (Bond) Page 11

- B. Adoption of an Ordinance Reclassifying the Property Located at the Northwest Corner of the Intersection of Harold Drive SE and SE Lund Avenue from Residential 2 to Residential 3 (Bond) **Page 160**
- C. Adoption of an Ordinance Accepting a Grant with the Association of Washington Cities for the Purchase and Installation of New Evidence Lockers for the Police Department (Brown) **Page 183**
- D. Adoption of a Resolution Approving a Contract with Pacific Northwest Guardrail Services Co. for the Old Clifton Road and Tracy Avenue Guardrail Removal and Replacement (Dorsey) **Page 187**
- E. Approval of the February 16, 2021, City Council Work Study Session Meeting Minutes **Page 219**

9. DISCUSSION ITEMS (No Action to be Taken)

- A. Impact Fee Annual Report (Bond) **Page 223**
- B. Water Capital Facility Charges (Dorsey) **Page 227**

10. REPORTS OF COUNCIL COMMITTEES

11. REPORT OF MAYOR

12. REPORT OF DEPARTMENT HEADS

13. CITIZEN COMMENTS

*(Please limit your comments to **3 minutes** for any items not up for Public Hearing. When recognized by the Mayor, please state your name for the official record)*

14. ADJOURNMENT

COMMITTEE MEETINGS	Date & Time	Location
Economic Development and Tourism	April 12, 2021; 9:30am – 2 nd Monday of each month	Remote Access
Utilities	March 9, 2021; 5:00pm – 2 nd Tuesday of each month	Remote Access
Land Use	March 10, 2021; 4:30pm; 2 nd Wednesday of each month	Remote Access
Festival of Chimes & Lights	March 15, 2021; 3:30pm; 3 rd Monday of each month	Remote Access
Finance	March 16, 2021; 5:00pm – 3 rd Tuesday of each month	Remote Access
Transportation	March 23, 2021; 5:00pm; 4 th Tuesday of each month	Remote Access
Lodging Tax Advisory	March, 2021	Remote Access
Sewer Advisory	TBD, 2021	Remote Access
City Council Retreat	April 23, 2021; 8:30am	TBD
Outside Agency Committees	Varies	Varies

CITY COUNCIL GOOD OF THE ORDER

Please turn off cell phones during meeting and hold your questions for staff until the meeting has been adjourned.
 The Council may consider other ordinances and matters not listed on the Agenda, unless specific notification period is required.
 Meeting materials are available on the City’s website at: www.cityofportorchard.us or by contacting the City Clerk’s office at (360) 876-4407.
 The City of Port Orchard does not discriminate on the basis of disability. Contact the City Clerk’s office should you need special accommodations.



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.:	<u>Consent Agenda 4C</u>	Meeting Date:	<u>March 9, 2021</u>
Subject:	<u>Approval of the Purchase of 2 Variable</u>	Prepared by:	<u>Mark Dorsey, P.E.</u>
	<u>Message (Speed) Boards Via State</u>		<u>Public Works Director</u>
	<u>Contract No. 03220</u>	Atty Routing No.:	<u>N/A</u>
		Atty Review Date:	<u>N/A</u>

Summary: The Public Works Department budgeted \$40,000.00 within the 2021-2022 Biennial Budget for the purchase of two (2) Variable Message (Speed) Boards. On February 23, 2021, Public Works Department staff requested a quote from National Barricade Co. LLC, who is an approved vendor through WA DES Contract #03220. On February 25, 2021, National Barricade Co. LLC provided a quote of \$33,680.00 (plus applicable tax) for a total purchase price of \$36,929.20. Although budget authority is already provided for, the City’s Procurement Policy requires Council approval for purchase prices in excess \$35,000.00.

Relationship to Comprehensive Plan: N/A

Recommendation: Staff recommends that the City Council approve the purchase of two (2 Variable Message (Speed) Boards from National Barricade Co. LLC through WA DES Contract #03220 for a total purchase price of \$36,929.20 (applicable tax included.)

Motion for Consideration: I move to approve the purchase of two (2 Variable Message (Speed) Boards from National Barricade Co. LLC through WA DES Contract #03220 for a total purchase price of \$36,929.20 (applicable tax included.)

Fiscal Impact: The 2021-2022 Biennial Budget allocated \$40,000.00 for this purchase (002.05.594.42.60).

Alternatives: Do not approve.

Attachments: Interlocal Purchase Checklist and National Barricade Co., LLC Quote.

CITY OF PORT ORCHARD
PURCHASES THROUGH INTERLOCAL AGREEMENTS

City Contract No.: C057-13

Interlocal Agreement with (government agency or Purchasing Co-Op name): WA DES

Item Description: Variable Message Speed Signs (QTY: 2)

Do you have an Interlocal agreement signed with the Contract (host) Agency?

- If yes, where is it filed: Clerk's Office
- If no, get a mutually signed Agreement in place before you continue.

State OSP Contract No. #: #03220

If you have an Office of State Procurement (OSP) contract number you may skip the remainder of this test because the OSP contracts comply with remaining requirements and retain the documentation on hand for SAO to review in the OSP offices.

Is this a technology contract?

- If yes, do your own rules allow for technology contracts to be negotiated?
- If your own rules allow for negotiated IT contracts, you can skip this test.

Is this a services contract?

- If yes, do your own rules allow services to be negotiated?
- If your own rules allow for negotiated services, you can skip the remainder of the test.

Are you using this as only one of multiple quotes, for a small purchase?

- If yes, you can skip the remainder of the test. Your purchase will not mandate the sealed bid rules.

Checklist for Required Compliance

Does the host agency have a requirement to run a newspaper ad in their local paper and did they comply	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Federal and State contract rules usually don't require a newspaper ad. For others, attach the ad or place into the file
Did they list on a website? If so, state when and the address. Attach proof if possible.	<input type="checkbox"/> Yes	<input type="checkbox"/> No	Always required. Indicate date, address and/or attach or place into the file.
Did the bid & award comply with the Host agency's codes and statutes?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	If No, you cannot use the bid.
Did bid contain any preference that is illegal in your statutes such as WMBE points?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	If Yes, you cannot use the bid.

DELIVERY ORDER

ACCT #:

POR

24 HR ON CALL (206) 523-4045 (800) 884-4045 FAX (206) 525.2042



NATIONAL BARRICADE CO., LLC

ESTABLISHED IN 1951

6518 RAVENNA AVENUE N.E. SEATTLE, WASHINGTON 98115-7041

E-MAIL: NABCO@BARRICADE.COM WWW.BARRICADE.COM

DELIVERY ORDER
QUOTE
DATE
02/25/21

SOLD TO

Port Orchard, City
Ap@cityofportorchard.us

SHIPPED TO

Will Call - Marysville

WA

4231

ATTN: Marc Fournier TELEPHONE: (360) 535-2484

DATE SHIPPED		SHIP VIA		CUSTOMER PURCHASE ORDER NO.		REQUISTION NUMBER		SALESMAN		FREIGHT	
		UPS Ground				WS Contract #03220		Garth/gkr			
Quantity Ordered	Quantity Back Ordered	Quantity Shipped	Description				U / I	Unit Price	Amount		
2			Variable Message Board, Mid-Sized Full-Matrix, 92" x 54" Lift & Rotate Panel STI #MB2-LR-1548				ea	15,440.00	30,880.00		
			Standard Options: 160W Solar 45 Amp On-Board Charger								
			2-5/16" Ball/3" Pintle Eye MegaTech Touch Screen Controller (Lifetime Cellular Remote & GPS)								
			Round 7-Pin Commercial Plug 4-Swivel Leveling Jacks 1-Tongue Jack w/Wheel								
2			Radar Speed Detection				ea	1,500.00	3,000.00		

33,880.00

3,049.20

36,929.20

SHIPPERS REMARKS : Acounts due 30 days following billing & are past due thereafter. Customer is responsible for reasonable collection fees in the event of legal action

SHIPPED AS	RELEASED BY
RECEIVED BY	



**City of Port Orchard
Council Meeting Minutes
Regular Meeting of February 23, 2021**

1. CALL TO ORDER AND ROLL CALL

Mayor Putaansuu called the meeting to order at 6:31 p.m.

Roll call was taken by the City Clerk as follows:

Mayor Pro-Tem Ashby	Present via Remote Access
Councilmember Chang	Present via Remote Access
Councilmember Clauson	Present via Remote Access
Councilmember Cucciardi	Present via Remote Access
Councilmember Diener	Present via Remote Access
Councilmember Lucarelli	Present via Remote Access
Councilmember Rosapepe	Present via Remote Access
Mayor Putaansuu	Present via Remote Access

Staff present via Remote Access: Finance Director Crocker, Community Development Director Bond, Public Works Director Dorsey, Police Chief Brown, City Attorney Archer, Human Resources Manager Lund, City Clerk Rinearson and Deputy City Clerk Floyd.

Mayor Putaansuu stated pursuant to the Governor's Stay at Home, Stay Safe order, the City Council will be conducting the meeting via Zoom this evening.

The meeting is also streaming live on Facebook.

A. PLEDGE OF ALLEGIANCE

Mayor Putaansuu led the audience and Council in the Pledge of Allegiance.

2. APPROVAL OF AGENDA

Mayor Putaansuu noted we have a discussion item, Water Capital Facility Charges, that we are not prepared for and will try to bring back in two weeks.

MOTION: By Councilmember Clauson, seconded by Councilmember Lucarelli, to approve the agenda as published.

The motion carried.

3. CITIZENS COMMENTS

There were no citizen comments.

4. CONSENT AGENDA

- A.** Approval of Voucher Nos. 81498 through 81534 and 81541 through 81568, including bank drafts in the amount of \$293,595.66 and EFT's in the amount of \$17,877.76 totaling \$311,473.42.
- B.** Approval of Payroll Check Nos. 81535 through 81540 including bank drafts and EFT's in the amount of \$249,812.70; and Direct Deposits in the amount of \$185,203.30 totaling \$435,016.

MOTION: By Councilmember Lucarelli, seconded by Councilmember Clauson, to approve the consent agenda as presented.

The motion carried.

5. PRESENTATION

A. Storm Response Efforts by PSE

Brandon Capps, Affairs Representative with Puget Sound Energy representing Kitsap County, provided a presentation on Storm Preparedness, which included safety around downed power lines, safety and preparedness resources, readiness infrastructure, power restoration, things customers should know, PSE website, outage map, and COVID-19.

6. PUBLIC HEARING

A. Ordinance of an Ordinance Thereby Adopting the 2020 Amendment to the 2016 General Sewer Plan

Mayor Putaansuu opened the public hearing, and there being no testimony, closed the public hearing at 6:49 p.m.

7. BUSINESS ITEMS

A. Adoption of an Ordinance Amending Port Orchard Municipal Code Chapter 13.04 Concerning Sewer General Facility Fee Credits

MOTION: By Councilmember Lucarelli, seconded by Councilmember Cucciardi, to adopt an ordinance amending POMC Chapter 13.04 concerning sewer general facility fee credits.

The motion carried.

(Ordinance No. 009-21)

B. Adoption of an Ordinance Adopting the 2020 Amendment to the 2016 General Sewer Plan

MOTION: By Councilmember Rosapepe, seconded by Councilmember Lucarelli, to adopt Ordinance No. 008-21, thereby adopting the 2020 Amendment to the 2016 General Sewer Plan.

**The motion carried.
(Ordinance No. 008-21)**

C. Adoption of an Ordinance Amending Ordinance No. 017-19 and Approving Amendment No. 1 to Contract No. 038-19 with Police Chief Matt Brown

MOTION: By Councilmember Clauson, seconded by Councilmember Chang, to adopt an Ordinance, as presented, to amend Ordinance No. 017-19 relating to Contract No. 038-19 with Matthew H. Brown, Police Chief.

**The motion carried.
(Ordinance No. 010-21)**

D. Adoption of a Resolution Repealing Resolution No. 021-06 and Approving a Memorandum of Understanding with Guild Representing Patrol Officers Regarding Retirement Benefits

MOTION: By Councilmember Diener, seconded by Councilmember Clauson, to adopt a Resolution to repeal Resolution No. 021-06 and authorize the Mayor to execute a related Memorandum of Understanding with the Police Guild representing Patrol Officers.

**The motion carried.
(Resolution No. 021-21)**

E. Adoption of a Resolution Approving a Memorandum of Understanding for Participation in the Gorst Coalition, and an Increase in Funding for Participation

MOTION: By Councilmember Cucciardi, seconded by Councilmember Clauson, to adopt a Resolution authorizing the Mayor to sign a Memorandum of Understanding for the Gorst Coalition and authorize funding for the Gorst Coalition of \$20,000.

**The motion carried.
(Resolution No. 022-21)**

F. Approval of the February 9, 2021, City Council Meeting Minutes

MOTION: By Councilmember Clauson, seconded by Councilmember Lucarelli, to approve the minutes as published.

The motion carried. Councilmember Diener abstained.

8. DISCUSSION ITEMS (No Action to be Taken)

A. Water Capital Facility Charges

This discussion item was pulled earlier in the meeting.

9. REPORTS OF COUNCIL COMMITTEES

Councilmember Cucciardi reported the Economic Development and Tourism Committee is scheduled to meet March 8th.

Mayor Putaansuu reported the Utilities Committee is scheduled to meet March 9th.

Councilmember Clauson and Mayor Putaansuu reported on the February 16th Finance Committee meeting.

Councilmember Ashby reported on the February 23rd Transportation Committee meeting including information related to the Bay Street Pedestrian Pathway.

Councilmember Lucarelli reported on the February 22nd Festival of Chimes and Lights Committee meeting. The next meeting is scheduled for March 15th.

Councilmembers Rosapepe and Diener reported on the February 10th Land Use Committee meeting.

Councilmember Rosapepe reported LTAC will be meeting sometime in March.

Councilmember Ashby reported on Kitsap Regional Coordinating Council meetings and reported on the February 19th Peninsula Regional Transportation Planning meeting.

10. REPORT OF MAYOR

The Mayor reported on the following:

- South Kitsap Community Events Center update;
- State of the City report;
- Hanging Baskets and irrigation repairs;
- City Council retreat options;
- AWC [Association of Washington Cities] Action Days;
- Park survey signs;
- Senator Randall town hall meeting; and
- Social media and YouTube subscribers.

11. REPORT OF DEPARTMENT HEADS

Community Development Director Bond reported the McCormick Development agreement did get recorded and paid for and is now in effect and the traffic impact fees are in effect today.

Human Resources Manager Lund reported HR is very busy with multiple recruitments.

Finance Director Crocker reported at the next work study session we may have a brief review of the financial statements for 2020 and reported on the City's successful exit audit.

Police Chief Brown complimented HR Manager Lund on all of the interviews being conducted as it is a lot of work.

City Clerk Rinearson reported on the new Webinar platform through Zoom and live streaming on Facebook.

Mayor Putaansuu asked Councilmembers to get back with him on retreat topics.

GOOD OF THE ORDER

There was nothing for the Good of the Order.

12. CITIZEN COMMENTS

There were no citizen comments.

13. EXECUTIVE SESSION

There was no executive session.

14. ADJOURNMENT

The meeting adjourned at 7:55 p.m. No other action was taken. Audio/Visual was successful.

Brandy Rinearson, MMC, City Clerk

Robert Putaansuu, Mayor



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.: Business Item 8A
Subject: Adoption of an Ordinance Adopting the
2021 Periodic Update to the City’s
Shoreline Master Program

Meeting Date: March 9, 2021
Prepared by: Nicholas Bond, AICP
DCD Director
Atty Routing No.: 366922.0011 - DCD
Atty Review Date: March 4, 2021

Summary: The City adopted its Shoreline Master Program via Ordinance No. 005-13 in 2013, and has amended it periodically since adoption. The City has prepared a required update to the 2013 Shoreline Master Program (SMP), according to the periodic update timeline and requirements of the Washington State Department of Ecology (WAC 173-26-090, *et seq.*) and the Shoreline Management Act (RCW 98.50). The City is required to review and adopt updates to the SMP every eight years, with final approval by the Department of Ecology.

In accordance with the required procedures, the City engaged in public outreach, consistent with WAC 173-26-090. The Planning Commission held a public hearing on the SMP revisions on February 2, 2021 and voted to recommend approval to the City Council. The Land Use committee reviewed the SMP revisions at its meeting of February 10, 2021, and the full Council reviewed the SMP revisions at the February 16, 2021 work study meeting. Staff was directed to bring an ordinance to the Council for adoption of the amendments at the March 9 City Council meeting.

Relationship to Comprehensive Plan: The Shoreline Master Program is incorporated into the City’s Comprehensive Plan by reference – see Appendix B of the Comprehensive Plan.

Recommendation: Staff recommends that the City Council vote to adopt an ordinance amending Ordinance No. 005-13 and the 2013 Shoreline Master Program by adopting the 2021 Periodic Update thereto.

Motion for Consideration: “I move to adopt an ordinance amending Ordinance No. 005-13 and the 2013 Shoreline Master Program by adopting the 2021 Periodic Update thereto.”

Fiscal Impact: None.

Alternatives: Make additional revisions to the SMP prior to adoption. (The City must complete a periodic review and update to the SMP by June 30, 2021, according to the requirements and schedule in RCW 90.58.080.)

Attachments: Ordinance; Shoreline Master Program, inclusive of Appendix A (Shoreline Maps); Appendix B (Restoration Plan); and Appendix C (Mitigation and Restoration for Redevelopment Activities in the HI Shoreline Environment Designation).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO THE 2021 PERIODIC UPDATE OF THE CITY'S SHORELINE MASTER PROGRAM; AMENDING ORDINANCE NO. 005-13, THE 2013 SHORELINE MASTER PROGRAM AND ITS APPENDICES; PROVIDING FOR SEVERABILITY AND CORRECTIONS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on March 26, 2013, the Port Orchard City Council (the "City Council") approved Ordinance 005-13, which adopted the City of Port Orchard's (the "City") 2013 Shoreline Master Program (SMP); and

WHEREAS, since the adoption of the 2013 SMP, the City Council has adopted several minor amendments to the SMP, as provided in Ordinances 031-16, 032-16, 011-17, 019-17 and 006-18; and

WHEREAS, per RCW 90.58.080, by June 30, 2021 the City is required to review, and if necessary, adopt revisions to the SMP for consistency with applicable state laws and guidelines, and for consistency with the City's comprehensive plan, development regulations and other local requirements; and

WHEREAS, the City has reviewed its SMP, and desires to adopt updates for consistency with state laws and guidelines, and for consistency with the City's comprehensive plan, development regulations and other local requirements, and to make certain additional changes, clarifications, and corrections; and

WHEREAS, on January 21, 2021, the City's SEPA official issued a determination of non-significance for the proposed changes to the SMP, and there have been no appeals; and

WHEREAS, the City developed and implemented a public participation plan, in accordance with WAC 173-26-100 and 173-26-090(3), to make all reasonable efforts to inform, fully involve and encourage participation of all interested persons and private entities, tribes, and agencies of the federal, state or local government having interests and responsibilities relating to shorelines of the state and the local master program; and

WHEREAS, in accordance with the aforementioned public participation plan, on February 2, 2021, the Planning Commission held a duly-noticed public hearing on the proposed changes to the SMP, public testimony was received, and the Planning Commission recommended approval of the proposed changes to the City Council, subject to final approval by the Department of Ecology; and

WHEREAS, on February 3, 2021, the City provided the required 60-day notice of its intent

to amend the City's SMP to the Department of Commerce; and

WHEREAS, the City Council reviewed the proposed changes to the SMP at its Land Use Committee meeting on February 10, 2021, and its work-study meeting on February 16, 2021; and

WHEREAS, the City Council, after careful consideration of the recommendation from the Planning Commission, all public comment, and the proposed changes to the SMP, finds that the proposed changes to the SMP are consistent with the City's comprehensive plan and development regulations, the Growth Management Act, and Chapters 36.70A and 90.58 RCW, and that the amendments herein to the City's SMP are in the best interests of the residents of the City; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The City Council adopts all of the "Whereas" sections of this Ordinance as findings in support of this Ordinance.

SECTION 2. Adoption of Amendments to Shoreline Master Program. The City Council hereby approves of the amendments to Ordinance No. 003-05 and the 2013 Shoreline Master Program, inclusive of amendments to the appendices thereto, as depicted in Attachment 1 of this Ordinance. The document is hereby renamed by these amendments as the 2021 Shoreline Master Program. The Mayor or designee is requested to forward the documents to the Washington State Department of Ecology for review and approval.

SECTION 3. Corrections. Upon the approval of the city attorney, the city clerk and/or code publisher is authorized to make any necessary technical corrections to this Ordinance, including but not limited to the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

SECTION 4. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this Ordinance.

SECTION 5. Effective Date. This ordinance shall be published and shall take effect upon approval of the amendments herein as set forth in Attachment 1 by the Washington State Department of Ecology pursuant to RCW 90.58.090, WAC 173-26-110, and WAC 173-26-120.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 9th day of March 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Charlotte A. Archer, City Attorney

Scott Diener, Councilmember

PUBLISHED:
EFFECTIVE DATE:

- ATTACHMENTS:
1. 2021 Shoreline Master Program
 2. 2021 Appendix A – Official Shoreline Maps
 3. 2021 Appendix B – Restoration Plan
 4. 2021 Appendix C - Mitigation and Restoration for Redevelopment Activities in the High Intensity Shoreline Environment Designation

FINAL DRAFT: MARCH 9, 2021

SHORELINE MASTER PROGRAM 2021

CITY OF PORT ORCHARD



**CITY OF PORT ORCHARD
REVISED MARCH 2021**

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Appendix C - Mitigation and Restoration for Redevelopment Activities in the High Intensity Shoreline Environment Designation

CHAPTER 1: INTRODUCTION

1.1 Requirements of the Shoreline Management Act

Washington’s Shoreline Management Act (SMA) (Chapter 90.58 RCW, the Shoreline Management Act of 1971) was passed by the State Legislature in 1971 and adopted by the public in a referendum. The Act was created in response to a growing concern among residents of the state that serious and permanent damage was being to shorelines by unplanned and uncoordinated development. The goal of the Act was “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” While protecting shoreline resources by regulating development, the Act is also intended to provide for appropriate shoreline growth by encouraging land uses that enhance and conserve shoreline function and values.

The State shoreline guidelines (WAC 173-26), updated and adopted in 2003, emphasize the protection and restoration of shoreline natural resources, and give specific guidance to local jurisdictions. The guidelines refer to the protection of shoreline ecological processes (such as hydrology and sediment transport) and shoreline ecological functions (provided by water quality, vegetation, and habitat). A major concept in the protection of ecological functions is termed “no net loss.”

The Washington Shoreline Management Act (SMA) has three broad policies:

- **Promote preferred shoreline uses:** “uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state’s shorelines...”
- **Promote public access:** “the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally.”
- **Protect shoreline natural resources:** This includes “...the land and its vegetation and wildlife, and the water of the state and their aquatic life...”

In establishing preferred uses of the state’s shorelines, the SMA defines “water-dependent,” “water-related,” and “water-enjoyment” uses. These terms are officially defined in Chapter 13 of the SMP. General descriptions and example are included below.

- **Water-dependent use** means a use that requires direct access to the water to accomplish its primary function. It is a use, or a portion of a use, which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of the operation. Example: marina, ferry terminal, boat launch.
- **Water-related use** means a use that does not require direct access to the water, but provides goods or services associated with water dependent uses. A uses or portion of a

use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location. Example: boat repair, kayak rentals.

- **Water-enjoyment use** means a use that does not require access to the water, but is enhanced by a waterfront location. This includes uses that facilitate public access to the shoreline as a primary characteristic of the use; or uses that provide for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people. The use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Example: Restaurants, parks.
- **Water-oriented use** means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

1.2 Purpose and Intent of the Shoreline Master Program

The primary purpose of the Act is to provide for the management and protection of the State’s shoreline resources by planning for reasonable and appropriate uses. The law provides a two-tier planning and regulatory program by the state and local government. By law, the City is responsible for the following:

- Preparation of a Master Program in accordance with the policies and requirements of the Act and the State Shoreline Guidelines (WAC 173-26).
- Development of a permit system in accordance with the requirements of the Act.

Further, the purposes of this Master Program are;

- To carry out the responsibilities imposed on the City of Port Orchard by the Washington State Shoreline Management Act (RCW 90.58).
- To promote uses and development of the Port Orchard shoreline consistent with the City of Port Orchard Comprehensive Plan while protecting and restoring environmental resources.
- To promote the public health, safety, and general welfare by providing a guide and regulation for the future development of the shoreline resources of the City of Port Orchard.

1.3 Authority

Authority for enactment and administration of the Shoreline Master Program is the Shoreline Management Act of 1971, RCW 90.58, Washington’s Shoreline Management Act, RCW 90.58, was adopted in 1972. The purpose of the Act is to “prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” It has three broad policies: encourage water-dependent uses on the shoreline; protect shoreline natural resources; and, promote public access.

The Act establishes the concepts of *preferred uses* and *priority uses* in shoreline areas. RCW 90.58.020 indicates that *preferred* uses are those “which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state’s shorelines.” This section further states that *priority uses* include single family residences, ports, shoreline recreational uses, water dependent industrial and commercial developments and other developments that provide opportunities for the public to access the shoreline environment. To the maximum extent possible, the shorelines should be reserved for "water-oriented" uses, including "water-dependent", "water-related" and "water-enjoyment" uses, as defined in the Act.

The overarching policy is that “the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally.

RCW 90.58.020 and .100 provide goal and policy direction for the SMP, including:

- Protect the natural character and the resources and ecology of the shoreline;
- Increase public access and recreational opportunities;
- Mitigate and restore for habitat impacts to ensure no net loss of habitat function;
- Maintain the public right of navigation;
- Prioritize water-dependent and single-family residential uses and development;
- Coordinate shoreline management with other relevant local, state and federal regulations;
- Prevent and minimize flood damage;
- Protect private property rights;
- Protect and restore sites with historic, cultural or educational value.

1.4 Public Trust Doctrine

The Shoreline Management Act also implements the common law Public Trust Doctrine. The Public Trust Doctrine is a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust remains relevant even when the underlying land is in private ownership. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state. The Public Trust Doctrine does not allow the public to trespass over privately owned uplands to access the tidelands. It does, however, protect public use of navigable water bodies below the ordinary high water mark.

1.5 Governing Principles and Legislative Findings

In the Shoreline Management Act of 1971, RCW 90.58.020, the legislature found the following:

“The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shoreline necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on

the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- 1) Recognize and protect the statewide interest over local interest;*
- 2) Preserve the natural character of the shoreline;*
- 3) Result in long term over short term benefit;*
- 4) Protect the resources and ecology of the shoreline;*
- 5) Increase public access to publicly owned areas of the shorelines;*
- 6) Increase recreational opportunities for the public in the shoreline;*
- 7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.*

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreation uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department. Shorelines and shorelands of the state shall be appropriately classified and these classifications shall be revised when circumstances warrant regardless of whether the change in circumstances occurs through man-made causes or natural causes. Any areas resulting from alterations of the natural condition of the shorelines and shorelands of the state no longer meeting the definition of "shorelines of the state" shall not be subject to the provisions of chapter 90.58 RCW.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water.

1.6 References to Plans, Regulations, or Information Sources

A. **1973 Shoreline Master Program (Amended in 1994).** This SMP was originally adopted as Kitsap County's shoreline document. Port Orchard adopted it by reference. Changes were made in 1992, and again in 1994 that made it more specific to Port Orchard's shoreline.

B. **Critical Areas Ordinance.** Chapter 20.162 of the Port Orchard Municipal Code, Critical Areas Regulations (Ordinance 019-17, adopted June 23, 2017.) provides rules, setbacks, mitigation and other regulations for geologically hazardous areas, wetlands, streams, etc. For regulatory purposes, Chapter 20.162 applies to critical areas within the shoreline jurisdiction, , but this Master Program overrides the regulations in Chapter 20.162 within the shoreline jurisdiction if any conflict between the critical areas ordinance and the Master Program shall occur.

C. **2016 Comprehensive Plan.** The 2016 Comprehensive Plan, (Ordinance 014-16, adopted June 22, 2016) lays out a vision for the future of the City, including land use, housing, and parks needs.

D. **Blackjack Creek Watershed Assessment and Protection and Restoration Plan** (December 29, 2017). The Blackjack Creek plan includes watershed assessment findings, a set of strategies for addressing degraded watershed processes, and recommended actions for the protection and restoration of ecological processes and habitats.

1.7 Severability

The Act and this Program, as adopted and amended, comprise the basic state and municipal law regulating use of shorelines in Port Orchard. In the event provisions of the Program conflict with other applicable city policies or regulations, the more restrictive shall apply. Should any section or provision of this Program be declared invalid, such decision shall not affect the validity of the Program as a whole

1.8 Periodic Review and Effective Date

The most recent comprehensive update to this Program was approved by the Department of Ecology in March 2013. Subsequent City-initiated minor revisions were approved by Ecology in February 2018.

In accordance with the requirements of RCW 90.58.080, each local jurisdiction is required to review, and, if necessary, revise their Shoreline Master Program at least once every eight years. The purpose of the periodic review is to ensure that Program complies with applicable law and guidelines in effect at the time of the review, and to ensure that the Program is consistent with the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW, if applicable, and other local requirements. The periodic review process also the method for bringing shoreline master programs into compliance with the requirements of the act that have been added or changed since the last review.

The City of Port Orchard was required to complete its periodic review by June 30, 2021. This Program and all amendments thereto shall become effective fourteen (14) days after written notice of final action is issued by the Department of Ecology. The revisions adopted by the City in response to the periodic review requirement were approved by Ecology and are effective on **, 2021.

CHAPTER 2: SCOPE AND SHORELINE JURISDICTION

2.1 Applicability

Concepts and terms related to the City's shoreline jurisdiction are specific to those described in RCW 90.58.030, WAC 173-26-020, WAC 173-27-030, and WAC 173-22-030.

Under the SMA, the shoreline jurisdiction includes all water areas of the state, the lands underlying them, and areas that are 200 feet landward of the ordinary high water mark (OHWM) of waters that have been designated as "shorelines of statewide significance" or "shorelines of the state." These designations were established in 1971, and are described in RCW 90.58.030. Generally, "shorelines of statewide significance" include portions of Puget Sound and other marine waterbodies, rivers west of the Cascade Mountains that have a mean annual flow of 1,000 cubic feet per second (cfs) or greater, rivers east of the Cascade Range that have a mean annual flow of 200 cfs or greater, and freshwater lakes with a surface area of 1,000 acres or more. "Shorelines of the state" are generally described as all marine shorelines and shorelines of all streams or rivers having a mean annual flow of 20 cfs or greater and lakes with a surface area greater than 20 acres.

The City of Port Orchard and its associated urban growth area (UGA) contains marine shoreline, one stream, and two lakes that meet the criteria for shoreline jurisdiction.

Any person or party wishing to undertake activities constituting "development" (defined in Chapter 12) within the shoreline jurisdiction must conform to the Shoreline Management Act and this Master Program. All uses, even those not meeting the definition of development, are subject to the provisions and development regulations of this SMP, even if a permit is not required.

This Master Program shall apply to every individual, firm, partnership, association, organization, corporation, local, state or federal governmental agency, public or municipal corporation, or any other entity which develops, owns, leases, or administers lands, wetlands or waters that fall under the jurisdiction of the Shoreline Management Act.

The City shall regulate development within the shoreline jurisdiction under its general authority to regulate for the general health, safety, and welfare and its specific authority under the SMA. All uses within shoreline jurisdiction must be consistent with the policies and regulations of the Port Orchard SMP regardless of whether they require development or not. Furthermore, Shoreline Conditional Use and/or variance permits may still be required, even if a development activity is exempt from a shoreline substantial development permit. An exemption from a Shoreline Substantial Development Permit does not constitute an exemption from the policies and regulations of the Shoreline Management Act, this Master Program, or any other applicable city, state, or federal permit requirements.

WAC 173-27-140(1): No authorization to undertake use or development on shorelines of the state shall be granted by local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the Master Program.

2.2 Port Orchard Shoreline Jurisdiction

Shorelines within the city of Port Orchard include those portions of Puget Sound lying within the city limits and all lands extending landward 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark together with any associated wetlands, river deltas, and floodways associated with tidal waters that are subject to the provision of this chapter and whose locations have been designated by the Department of Ecology. However, the Shoreline Management Act does not apply to lands under exclusive federal jurisdiction.

The City also contains shorelines of statewide significance (SSWS). These SSWS are the marine shorelines from extreme low tide to the middle of Sinclair Inlet, which are adjacent to unincorporated Kitsap County and the City of Bremerton limits. In accordance with the State Shoreline Management Act, the uses of SSWS are in the following order of preference:

- 1) Recognize and protect the statewide interest over local interest;
- 2) Preserve the natural character of the shoreline;
- 3) Result in long term over short-term benefit;
- 4) Protect the resources and ecology of the shoreline;
- 5) Increase public access to publicly owned areas of the shorelines;
- 6) Increase recreational opportunities for the public in the shoreline;
- 7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

Additionally, Port Orchard shorelines also include Washington Department of Natural Resources Harbor Areas that are reserved for commerce and navigation.

In addition to the marine shorelines described above, the City contains one creek, Blackjack Creek, which meets the threshold of a shoreline of the state. According to information provided by the Kitsap Public Utilities District, which has a stream flow gauge in Blackjack Creek just downstream of the confluence of Ruby Creek, the average discharge for the years 2006 to 2009 was 18 cfs. To make an even breaking point for shoreline jurisdiction the confluence with the unnamed stream that merges underneath State Route 16 was selected as the end of shoreline jurisdiction for Blackjack Creek. The estuarine portion of Ross Creek is also a regulated shoreline of the state.

The City also has portions of two lakes that qualify as shorelines of the state. Big Lake, in the extreme southwest portion of the City, is approximately 22 acres, with four of those acres within City limits. Square Lake is approximately 30 acres, with ten acres within city limits.

Associated wetlands, deltas and floodways that are included in the shoreline jurisdiction are those that influence or are influenced by the regulated waters of Puget Sound. In general, a wetland is

“associated” if all or a portion of the wetland falls within that area that is 200 feet from the OHWM. A wetland outside of this area may also be associated if it is in proximity to the shoreline and there is a demonstrated influence between the wetland and the shoreline. Such influence can include hydraulic continuity, such as surface or groundwater connection.

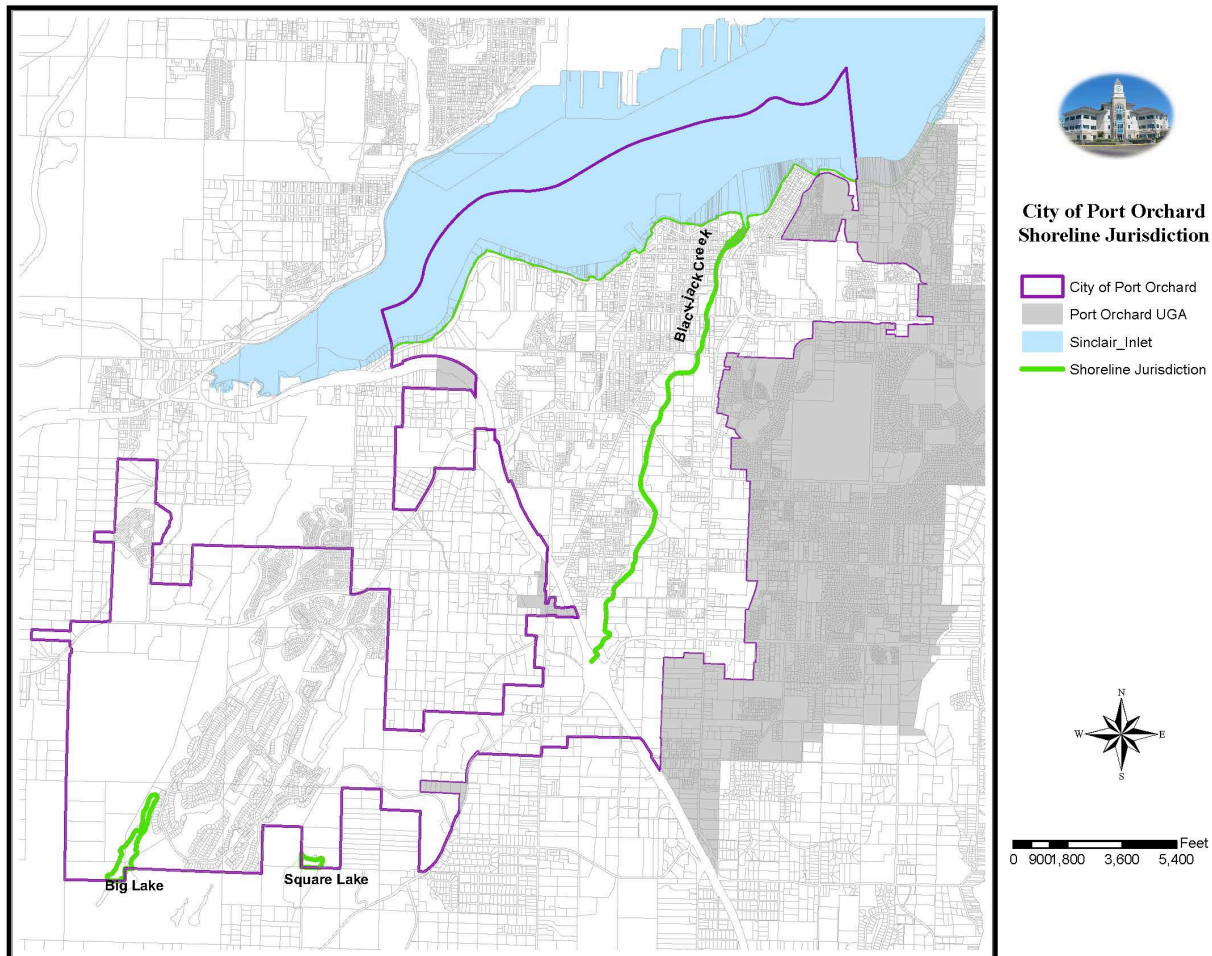


Figure 2.1 – City of Port Orchard Shoreline Jurisdiction

2.3 Relationship to Other Plans and Regulations

Uses and developments regulated by this Program may also be subject to other provisions of the Port Orchard Municipal Code (POMC), the City of Port Orchard Comprehensive Plan, the Washington State Environmental Policy Act (SEPA – RCW 41.21C and WAC 197-11), and other local, state and federal laws. Project proponents are responsible for complying with all applicable laws prior to commencing any use, development or activity. Where this Program makes reference to any RCW, WAC, or other state or federal law or regulation, the most recent amendment or current edition shall apply. In the event this

Program conflicts with other applicable County policies or regulations, all regulations shall apply and unless otherwise state, the more restrictive provisions shall apply.

The Port Orchard SMP refers to the City’s Comprehensive Plan, Zoning Code, Critical Areas Ordinance and other development plans and ordinances for which the SMP has relevance. Development within shoreline jurisdiction must also comply with zoning requirements, any special overlay districts, and the view protection overlay district as outlined in POMC Title 20. In case of conflict between the land use regulatory requirements and the SMP, the stricter requirement applies.

CHAPTER 3: SHORELINE INVENTORY SUMMARY

3.1 Introduction

The City of Port Orchard completed its Shoreline Inventory and Characterization Report in July 2010. The purpose was to describe existing conditions along the Port Orchard shoreline to allow development of goals, policies, and regulations for the Shoreline Master Program. That document, and reference documents included in the Appendix, provide a comprehensive analysis of ecological health and the built environment along Port Orchard's shorelines, and serves as a baseline for measuring no net loss of shoreline ecological functions.

The following are the documents that contain the most information about Port Orchard's shorelines and were relied upon to prepare the Inventory and Characterization Report.

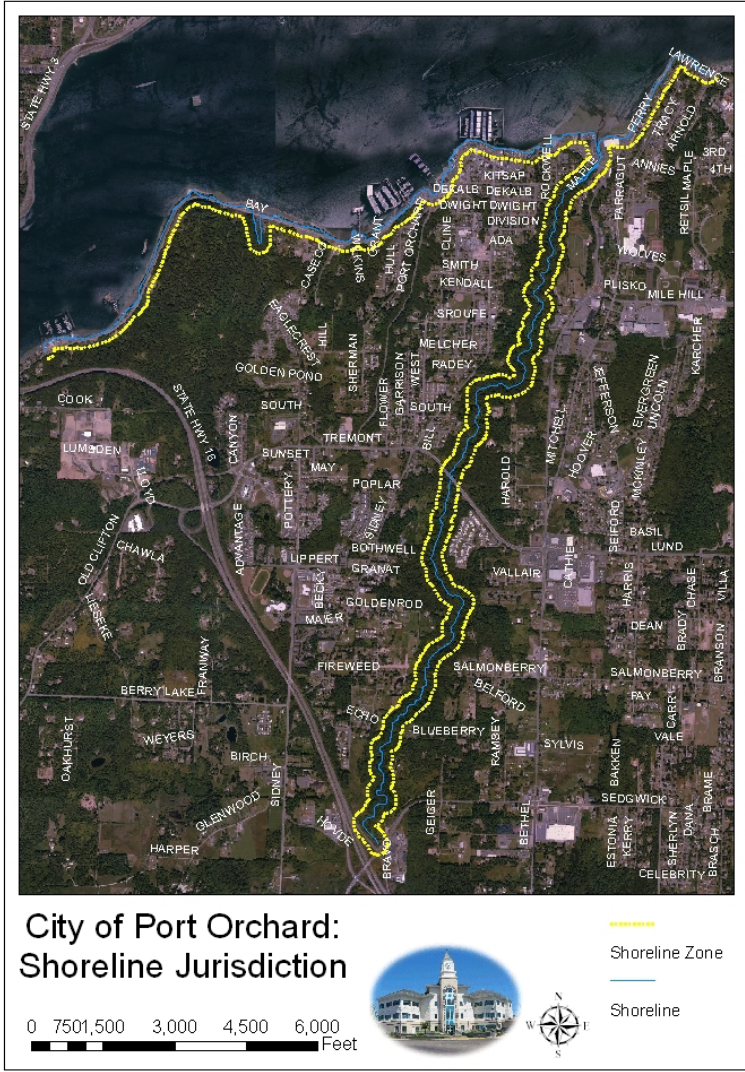
- *City of Port Orchard Comprehensive Plan* (City of Port Orchard, 2008)
- *East Kitsap County Nearshore Habitat Assessment and Restoration Prioritization Framework* (Batelle Marine Sciences Laboratory, 2009)
- *City of Port Orchard Shoreline Resource Analysis and Inventory* (Applied Environmental Sciences, 2003)
- *Blackjack Creek Comprehensive Management Plan for the City of Port Orchard* (FishPro, 1989)

Additionally, a list of other data sources are cited in Appendix F of the Shoreline Inventory and Characterization Report, which is available online at www.cityofportorchard.us or at the Department of Community Development.

3.2 Study Area

According to the Shoreline Management Act, found in WAC 173-26, and RCW 90.58, local jurisdictions must create a Shoreline Master Program (SMP) for any "shoreline of the state." These shorelines are generally described as all marine shorelines and shorelines of all other streams or rivers having a mean annual flow of 20 cfs (cubic feet per second) or greater and lakes with a surface area greater than 20 acres.

Within City limits, there are just over three miles of Puget Sound shoreline, over two miles of Blackjack Creek shoreline, and portions of Big Lake and Square Lake, which are over 20 acres. Additionally, in the Urban Growth Area (UGA), there are nearly three miles of Puget Sound shoreline, portions of Blackjack Creek, and a portion of the west side of Big Lake.



3.3 Summary of Findings

3.3.1 Sinclair Inlet Shoreline

In the Inventory and Characterization document, the Sinclair Inlet shoreline was broken into eight segments. Segments 1 through 7 were within City limits, and Segment 8 was the UGA portion of the shoreline.

The Sinclair Inlet shoreline is highly urbanized and physically altered, with approximately 89 percent of the shoreline being armored. There are also State highways, City Streets, and County roads along the entire length of the shoreline, with bridges or culverts constraining the streams that run to the Inlet.

Much of the road bed areas, and most development waterward of the roads were built on fill and are protected by various types of shoreline armoring. Native vegetation has been removed from much of the Sinclair Inlet shoreline as well.

Despite the altered state of the Sinclair Inlet shoreline, it is home to bald eagle perches, blue herons, and other shoreline birds. In addition, Sinclair Inlet has been designated as a nearshore refugia that includes portions of the shoreline. The refugia provides migration, foraging and rearing habitat for multiple salmonid species and other marine wildlife. The nearshore conditions also provide suitable spawning habitat for surf smelt and Pacific sand lance.

3.3.2 Blackjack Creek Shoreline

Unlike the Sinclair Inlet shoreline, the majority of the Blackjack Creek shoreline is relatively intact. The mouth of the Creek, which is also covered in Segment 7 of the Inventory and Characterization report, has been highly altered with shoreline armoring, paving, and channelization. However, just upstream, the Blackjack Creek corridor becomes nearly a wilderness area, with natural vegetation, wildlife corridors, and a healthy salmon stream.

In the Inventory and Characterization, Blackjack Creek was broken up into four segments, along lines determined in the Blackjack Creek Comprehensive Management Plan. Segment S1 is the most urbanized and altered from its natural state.

Blackjack Creek contains important habitat for several salmonid species. Fish use in the creek includes large numbers of early chum salmon, including an early-returning stock that the Washington State Department of Fish and Wildlife considers to be rare. In addition, the creek supports significant numbers of late returning chum, coho salmon, and steelhead, searun cutthroat trout, and resident cutthroat. There has also been documented use of Blackjack Creek by fall Chinook salmon.

The topography of the Blackjack Creek ravine has been a major factor in protecting the vegetation and resources of the Creek. It is extremely steep for the majority of the regulated area, and although it had been logged in the past, it has remained relatively untouched for several decades.

3.3.3 Lake Shorelines

Due to the annexation of McCormick Woods, the City gained parts of two lakes that are big enough to qualify as a shoreline of the state, and must be included in the SMP. Square and Big Lakes are both less than 30 acres, and both share shoreline jurisdiction with Kitsap County. Neither of them are located entirely in the City.

3.3.3.1 Square Lake

Approximately ten acres of Square Lake are located within the City of Port Orchard. The other twenty are entirely within Kitsap County jurisdiction, and are not within the UGA. There is just one property owner in the City within Square Lake jurisdiction, and the property is undeveloped. The area around Square Lake had been historically logged, but mature forests are present, and lack of human activity (there are only two houses that touch the lake, and the rest is State Park), allow for high vegetation function.

3.3.3.2 Big Lake

Big Lake (also known as Big Pond) lies in a shallow depression west of the McCormick Woods housing development. The lake is very shallow, and is long and narrow, heading from the northeast to the southwest, and lies within City limits for four of its 22 acres. The remaining area lies within the South Kitsap UGA and unincorporated Kitsap County. There are two property owners within City shoreline jurisdiction, one of them being the McCormick Woods Homeowners Association, which maintains trails near the lake and its associated wetlands.

Big Lake is inaccessible by car or public transportation, and public access is limited to bikes and walkers who are homeowners (or guests of homeowners) in the McCormick Woods housing development.

CHAPTER 4: SHORELINE ENVIRONMENTS

Shoreline environment designations are required by WAC 173-26-211, and are intended to serve as a tool for applying the statewide policies to local shorelines. Environment designations are assigned to reflect the type of development that has taken place over time, as well as development, or the lack of it, that should take place in the future in order to preserve ecological function.

4.1 Applicability

The City of Port Orchard classification system consists of five shoreline environments that are contained in the recommended classification system identified in WAC 173-26-211(5). The State's Shoreline Master Program Guidelines describe the purpose of environment designations in WAC 173-26-191(1(d)).

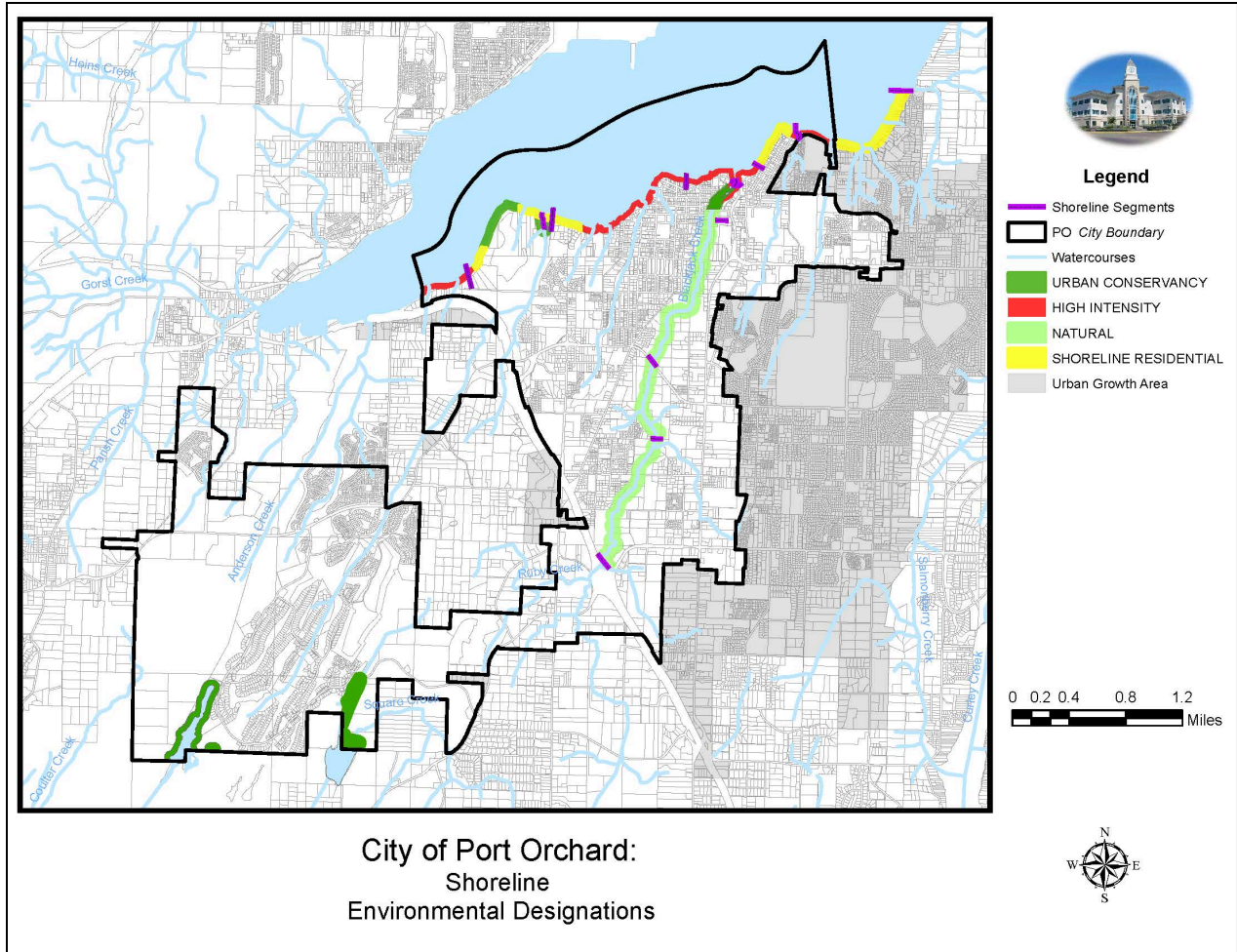
Shoreline management must address a wide range of physical conditions and development settings along shoreline areas. Effective shoreline management requires that the Shoreline Master Program prescribe different sets of environmental protection measures, allowable use provisions, and development regulations for each shoreline segment. Assigning shoreline designations, each with different policies and regulatory measures, provides a regulatory framework for environmental protection and development depending on the development and resources present in specific areas.

The Port Orchard classification system consists of five shoreline environment designations consistent with the SMA (RCW 90.58), the Shoreline Master Program Guidelines (WAC 173-26), and the City of Port Orchard Comprehensive Plan. The five shoreline environments are:

- High-Intensity
- Shoreline Residential
- Urban Conservancy
- Natural
- Aquatic

4.2 Official Shoreline Map

The official Shoreline Environment Designation maps can be found in Appendix A. Pursuant to RCW 90.58.040, the maps illustrate the shoreline environment designations that apply to all shorelines of the state within the City of Port Orchard's jurisdiction. The lateral extent of the shoreline jurisdiction shall be determined for specific cases or development proposals based on the location of the ordinary high water mark (OHWM), floodway, and the presence of associated wetlands. In the event of a mapping error, the City will rely upon the boundary descriptions and the criteria in the sections below.



Overview of Shoreline Designations from Appendix A

4.3 High-Intensity Environment

4.3.1 Purpose

The purpose of the "high-intensity" environment is to provide for high-intensity water-oriented commercial, mixed-use, transportation, and industrial uses while protecting existing ecological functions.

4.3.2 Management policies.

- a) First priority should be given to water-dependent uses. Second priority should be given to water-related and water-enjoyment uses.
- b) Full utilization of existing urban areas should be achieved before further expansion of intensive development is allowed. Reasonable long-range projections of regional economic need should guide the amount of shoreline designated "high-intensity." However, consideration should be given to the potential for displacement of non-water oriented uses with water oriented uses when analyzing full utilization of urban waterfronts and before considering expansion of such areas.

c) Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. Where feasible, new development shall include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.

d) Visual and physical public access should be required as provided for in WAC 173-26-221(4)(d).

e) Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

4.3.3 Designation Criteria

A "high-intensity" environment designation will be assigned to shoreline areas within City limits, as described by RCW 36.70A.070 if they currently support high-intensity uses related to commerce, transportation or navigation, mixed-use or multi-family residential; or are suitable and planned for high-intensity water-oriented uses.

4.4 Shoreline Residential Environment

4.4.1 Purpose

The purpose of the "shoreline residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. A secondary purpose is to provide appropriate public access and recreational uses.

4.4.2 Management policies

a) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, and the level of infrastructure and services available.

b) Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

c) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

d) Commercial development should be limited to water-oriented uses, home professions, or home occupations as described in POMC Title 20, and as allowed by the underlying zoning district.

4.4.3 Designation Criteria

A "shoreline residential" environment designation is assigned to shoreline areas inside city limits or the South Kitsap urban growth area, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

4.5 Urban Conservancy Environment

4.5.1 Purpose.

The purpose of the "urban conservancy" environment is to protect and restore ecological functions of open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses. It should be applied to those areas where most benefit the public if their existing character is maintained, but can also tolerate limited development.

4.5.2 Management policies.

(a) Uses that preserve the natural character of the area or promote preservation of open space, floodplain or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.

(b) Standards should be established for shoreline stabilization measures, vegetation conservation, water quality, and shoreline modifications within the "urban conservancy" designation. These standards should ensure that new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

(c) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

(d) Water-oriented uses should be given priority over non-water oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.

4.5.3 Designation Criteria

An "urban conservancy" environment designation is assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses, if any of the following characteristics apply:

(a) They are suitable for water-related or water-enjoyment uses;

(b) They are open space, flood plain or other sensitive areas that should not be more intensively developed;

(c) They have potential for ecological restoration;

(d) They retain important ecological functions, even though partially developed; or

(e) They have the potential for development that is compatible with ecological restoration.

Any shorelines that have been left undesignated shall be assigned an Urban Conservancy designation per WAC 173-26-211(2)(e).

4.6 Natural Environment

4.6.1 Purpose

The purpose of the "natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation local jurisdictions should include planning for restoration of degraded shorelines within this environment.

4.6.2 Management policies

Any use that would substantially degrade the ecological functions or natural character of the shoreline should not be allowed.

The following new uses should not be allowed in the "natural" environment:

a) Commercial Uses

b) Industrial uses

c) High-intensity recreational uses

- d) Roads, utility corridors, and parking areas that can be located outside of “natural”-designated shorelines.
- e) Single-family residential development may be allowed as a conditional use within the “natural” environment if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.
- f) Commercial forestry may be allowed as a conditional use in the “natural” environment provided it meets the conditions of the State Forest Practices Act and the City of Port Orchard Critical Areas Ordinance and its implementing rules and is conducted in a manner consistent with the purpose of this environment designation.
- g) Agricultural uses of a very low intensity nature may be consistent with the Natural Environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation.
- h) Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result.
- i) New development or significant vegetation removal that would reduce the capability of vegetation to perform normal ecological functions should not be allowed. Do not allow the subdivision of property in a configuration that, to achieve its intended purpose, will require significant vegetation removal or shoreline modification that adversely impacts ecological functions. That is, each new parcel must be able to support its intended development without significant ecological impacts to the shoreline ecological functions.

4.6.3 Designation Criteria.

A “natural” environment designation is assigned to most of the Blackjack Creek shoreline, within City limits, but outside of the downtown area. It is also assigned to Blackjack Creek within the South Kitsap Urban Growth Area. Areas assigned the “natural” designation contain the following characteristics:

- a) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
- b) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
- c) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.
- d) Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as “natural.”

Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of the natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses.

4.7 Aquatic Environment

4.7.1 Purpose.

The purpose of the "aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

4.7.2 Management policies.

- (a) Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.
- (b) The size of new over-water structures should be limited to the minimum necessary to support the structure's intended use.
- (c) In order to reduce the impacts of shoreline development and increase effective use of water resources, multiple uses of over-water facilities should be encouraged.
- (d) All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to consider impacts to public views, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
- (e) Uses that adversely impact the ecological functions of critical saltwater and freshwater habitats should not be allowed except where necessary to achieve the objectives of RCW 90.58.020, and then only when their impacts are mitigated according to the sequence described in WAC 173-26-201(2)(e) as necessary to assure no net loss of ecological functions.
- (f) Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.

4.7.3 Designation Criteria

An "aquatic" environment designation is assigned to lands waterward of the ordinary high-water mark.

CHAPTER 5: MASTER PROGRAM ELEMENTS AND GOALS

5.1 Introduction

The City of Port Orchard is required to address master program elements, as listed in RCW 98.58.100(2). The Master goal for the shorelines is as follows:

To plan for shoreline uses that enhance, promote, and protect the balance between the sensitive ecology of Port Orchard's shoreline and its urban development.

5.2 Economic Development

To encourage economic development that is sensitive to the shoreline environment, is water-related or dependent, and benefits the community. Enhance Port Orchard's appeal as a boating destination for commercial and pleasure vessels while supporting and encouraging maritime businesses, boatyards, and boat repair facilities, recognizing that Port Orchard is one of few remaining places for boat repair on the west side of Puget Sound.

5.3 Public Access

Enhance public access to City shorelines and preserve views of the shoreline and water, while maintaining safety and respect for adjacent private property. Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

5.4 Recreation

Improve and maintain the publicly owned shorelines dedicated to public recreation and develop their potential for visitors and citizens while recognizing the importance of existing park, trail and recreation areas. Ensure that water-oriented recreational uses are permitted in the shoreline area when consistent with the goals, policies and regulations of this SMP.

5.5 Transportation

To achieve safe, convenient, and diversified circulation systems to provide public access to the shoreline, efficient movement of people and goods, with minimum disruption to the shoreline environment and minimum conflict among shoreline uses and between shoreline users and abutting upland areas, while maintaining vital shoreline road and ferry links.

5.6 Shoreline Use

Coordinate the regulation for a variety of shoreline uses which result in long-term rather than short-term benefits.

5.7 Conservation

Preserve, protect, and restore shoreline vegetation and wetlands, as practical, to optimize the support of wild, botanic, and aquatic life, as it exists today, with the goal of achieving no net loss of ecological functions.

5.8 Historic, Cultural, Scientific, and Educational

Prevent the destruction or damage of any site having historic, cultural, scientific, or educational value, as identified by the appropriate authorities, including the State Office of Archaeology and Historic Preservation and affected tribes.

5.9 Flood Hazard Reduction

To protect public and private infrastructure and property from loss and damage created by flood events, including increased coastal flooding caused by sea level rise.

5.10 Climate Change and Sea Level Rise

To protect coastal resources, both natural and man-made, from the deleterious effects of sea level rise over time due to climate change, including but not limited to: increased coastal flooding, loss of shoreline habitat, saltwater intrusion, damage to public and private improvements and infrastructure, and mobilization of contaminated sediments.

CHAPTER 6:

GENERAL SHORELINE MASTER PROGRAM POLICIES & REGULATIONS

Development and use proposals may involve a number of uses and shoreline modifications and must comply with the policies and regulations for each. Each project is reviewed for compliance with the applicable “use” policies and regulations in this Chapter and with the applicable policies and regulations in the applicable Chapters of this Master Program. For example, uses associated with a new marina may include boat launches, industrial and port facilities, parking facilities, and recreational facilities. Construction of a marina may involve numerous shoreline modifications, including dredging, dredge spoil disposal, a jetty or breakwater, and perhaps landfill. All shoreline developments and uses must comply with the policies and standards of this Master Program whether or not a shoreline substantial development permit is required

The general policies are to be generally applied to all shoreline areas, without regard to environment designation. The provisions are established in WAC 173-26-221. The policies incorporate much of the existing Shoreline Master Program content, as well as significant incorporation of the “principles” sections that are listed in the WAC.

Specific conditions that ensure such compliance may be attached as a condition of permit approval. Shoreline uses specifically listed are permitted outright or eligible for consideration as a shoreline variance or shoreline conditional use permit. However, if the use is permitted, deviations from the minimum performance standards may be approved under a shoreline variance unless specifically stated otherwise. The performance standards contained herein augment standards established through other land development regulations. Where conflict arises between these and other applicable controls, the regulations that provide more protection to the shoreline area shall apply. All provisions of this Shoreline Master Program are enforceable provided no reasonable alternative exist, or when the alternative would result in unreasonable and disproportionate cost to the landowner. If redevelopment or expansion of a nonconforming structure or use is proposed, or if redevelopment or expansion is proposed to take place within a shoreline buffer, the redevelopment or expansion must comply with the underlying zoning of the property as well as Appendix C of this Master Program.

6.1 Applicability

The provisions in this chapter shall be applied either generally to all shoreline areas or to shoreline areas that meet the specified criteria of the provision without regard to environment designation. These provisions address certain elements as required by RCW 90.58.100(2) and implement the principles as established in WAC 173-26-186.

6.2 Archaeological and Historical Resources

The following provisions apply to archaeological and historic resources that are either recorded at the State Historic Preservation Office and/or by local jurisdictions or have been inadvertently uncovered. Archaeological sites located both in and outside shoreline jurisdiction are subject to RCW 27.44.055 and RCW 27.56 and development or uses that may impact such sites shall comply with WAC 25-48.

Management Policies

SMP-GP-1 Prevent the destruction or damage of any site having historic, cultural, scientific, or educational value, as identified by the appropriate authorities, including the state office of Archaeology and Historic Preservation and the Suquamish Tribe.

Development Regulations

G-DR 1 Developers and property owners must immediately stop excavation work in the immediate vicinity and notify the local government, the Office of Archaeology and Historic Preservation and affected Indian tribes if archaeological resources are uncovered during excavation.

G-DR 2 Permits issued in areas with a high probability for unrecorded archaeological resources or that are documented to contain archaeological resources may require a site inspection or evaluation by a professional archaeologist in consultation with the Washington State Department of Archaeology and Historic Preservation and the Suquamish Tribe.

6.3 Critical Areas

The shorelines in the City of Port Orchard, and the associated Urban Growth Area, are largely developed. Within shoreline jurisdiction there are many other types of critical areas that have been identified to be protected. All critical areas, including marine shorelines, have been provided regulatory protection with the adoption of Port Orchard Municipal Code Title 20, and the 2017 update of the Port Orchard Critical Areas Ordinance. With the implementation of the critical areas policies listed below, the Port Orchard Shoreline Master Program provides for management of critical areas, can be implemented, and is consistent with RCW 90.58.090(4) and WAC 173-26-221.

a. Wetlands

Management Policies

SMP-GP-2 Exhibit, at a minimum, no net loss of wetland area and function for wetlands associated with the shoreline and with Blackjack Creek and the Ross Creek estuary.

SMP-GP-3 Grading, filling, draining, flooding, or dredging within regulated wetland areas, including those associated with Blackjack Creek and the Ross Creek estuary, should be prohibited.

Development Regulations

G-DR 3 All development proposals on lands containing wetlands within shoreline jurisdiction shall follow all regulations regarding the rating, categorization, delineation and protection of wetlands, and the establishment and maintenance of wetland buffers, as set forth in POMC Title 20, Chapter 20.162 (Critical Areas Regulations)..

b. Geologically Hazardous Areas

Management Policies

SMP-GP-4 New development or the creation of new lots that would cause reasonably foreseeable risk to people or improvements over the life of the development should be prohibited.

SMP-GP-5 Development that would require structural shoreline stabilization over the life of the development should be prohibited in accordance with WAC 173-26-221 (2(c)).

SMP-GP-6 Structural shoreline stabilization measures will be allowed to protect existing primary residential structures and properties in conformance with WAC 173-26-221(ii).

Development Regulations

G-DR 4 All development proposals on land containing geologically hazardous areas within shoreline jurisdiction shall follow all regulations set forth in Port Orchard Municipal Code Title 20.

c. Critical Saltwater Habitats

Critical saltwater habitats provide important ecological functions, and therefore require a higher level of protection. While Sinclair Inlet does not have known kelp or eelgrass beds, it does have spawning and holding areas for forage fish such as smelt and sandlance, as well as migratory routes for salmon.

Management Policies

SMP-GP-7 Development within areas identified as critical saltwater habitats for anadromous fish habitat, or eagle use and buffer, shall comply with all state and federal regulations for protection of listed species and their habitats.

SMP-GP-8 Repair and reconstruction of existing legal structures or facilities within critical saltwater habitats may be permitted, provided that identified adverse impacts shall be mitigated to encourage no net loss of ecological function.

SMP-GP-9 When development is proposed on a property that includes tidelands or submerged lands designated as critical saltwater habitat, provisions should be included in the development application that address protection, enhancement and potential restoration of habitat areas.

Development Regulations

G-DR 5 Structures, developments, and uses, including marinas, docks, piers, mooring areas, underwater parks, utilities, and shoreline modifications, may not intrude into or be built over critical saltwater habitat unless the applicant can demonstrate that the following criteria can be met:

- a. An alternative alignment or location is not feasible.

- b. The project is designed to minimize its impacts on critical saltwater habitats and the shoreline environment.
- c. Impacts to critical saltwater habitat functions can be mitigated to result in equal or better ecological function.
- d. The facility is a public facility and is in the public interest.

G-DR 6 In areas not previously identified as critical saltwater habitat, the project proponent shall submit appropriate studies to determine whether critical saltwater habitats exist, whenever the following two conditions are applicable:

- a. The proposed development, use or activity has the potential to cause significant adverse impacts to a critical saltwater habitat; and
- b. The beach or saltwater area that may be directly impacted by the proposed development, use or activity is the type of environment in which a critical saltwater habitat has been demonstrated to occur.

G-DR 7 Except as a habitat improvement or restoration measure, aquatic herbicide treatments, mechanical removal of vegetation and aquatic pesticide treatments may not be used on critical saltwater habitats. Use of aquatic herbicide treatments are to be discouraged.

G-DR 8 Sand, gravel, or other materials may neither be added nor removed from critical saltwater habitats, except when part of an approved restoration project or as allowed in G-DR 5 above.

G-DR 9 New outfalls (including stormwater and treated sewer outfalls) and discharge pipes are discouraged from being located in critical saltwater habitats or areas where outfall or discharge will adversely affect critical saltwater habitats unless the applicant can show that the majority of the following can be met:

- a. There is no feasible alternative location for the outfall or pipe.
- b. The outfall or pipe is placed below the surface of the beach or bed of the water body.
- c. The outfall discharges waterward of the subtidal zone.
- d. The disturbed area will be revegetated with native plants.
- e. The discharge point(s) on the outfall or discharge pipes is located so that the discharges, including nutrients in the discharge and currents, do not adversely affect critical saltwater habitats.

d. Critical Freshwater Habitats

Critical freshwater habitat within Port Orchard City limits is limited to the Blackjack Creek corridor and the estuarine portion of Ross Creek. Ecological functions of streams depend upon continuity and connectivity along the shoreline and the conditions of the surrounding lands on either side of the channel. Improper stormwater, sewer, or industrial outfalls and unmanaged clearing and grading can degrade ecological functions downstream thereby altering hydrographic conditions, raising water temperatures resulting in the corridor being inhospitable to priority species and posing flood risks to human health, safety and property.

Management Policies

SMP-GP-10 The City shall take special care when reviewing and inspecting development projects that discharge stormwater toward Blackjack Creek and the Ross Creek estuary.

SMP-GP-11 Where appropriate, the City should integrate protection of critical freshwater habitat with flood hazard reduction and other stream management provisions.

SMP-GP-12 The City should encourage, assist, and facilitate appropriate restoration projects, as appropriate.

SMP-GP-13 Realignment or rechannelization, clearing of adjacent native vegetation or large woody debris, and water withdrawals and diversion from the Blackjack Creek shoreline should be prohibited except for purposes of habitat restoration and enhancement, recreation and public access.

Development Regulations

G-DR 10 All development proposals within the Blackjack Creek shoreline jurisdiction or the Ross Creek estuary shoreline jurisdiction shall be subject to the provisions of the POMC Title 20 regulations for Fish and Wildlife Habitat Conservation Areas.

6.4 Flood Hazard Reduction

Flood hazard reduction may consist of both structural and nonstructural measures. Flood hazard reduction nonstructural measures may include such measures as setbacks, land use controls, wetland restoration, relocation of a use, and stormwater management programs. Further, flood hazard reduction may take the form of structural measures, such as dikes, levee, revetments, flood walls, channel realignment, and elevation of structures.

Management Policies

SMP-GP-14 Discourage future non-water dependent development, including redevelopment and expansion of existing non-water dependent development in areas lying at or below the 100 year flood elevation, unless flood hazard is reduced by removing, moving, elevating, and/or building structures at new, higher elevations. Flood hazard reduction may also include adding freeboard to existing shoreline armor in areas that are frequently flooded (i.e. within a 100-year flood hazard area) landward of existing shoreline armor, in compliance with FEMA requirements for coastal flood protection structures.

SMP-GP-15 Discourage alterations to stream systems' natural hydrological and geomorphological processes.

SMP-GP-16 When feasible, give preference to nonstructural flood hazard reduction measures over structural measures, except that in areas that are frequently flooded (i.e. within a 100-year flood hazard area) landward of existing shoreline armor, hazard reduction measures may include adding freeboard to existing shoreline armor.

SMP-GP-17 Ensure to the greatest extent feasible that flood hazard protection measures do not result in a net loss of ecological functions.

SMP-GP-18 The creation of new lots or tracts that would be located entirely within a 100-year flood hazard area should not be allowed, unless the intent of the subdivision is for the lot or tract to remain undeveloped for the purposes of ecological restoration and/or development setback, consistent with the City's flood damage prevention and subdivision regulations (POMC Title 20).

SMP-GP-19 Public utility and transportation structures are allowed, provided no reasonable alternative exists, in areas where such structures currently exist, or where the alternative would result in unreasonable and disproportionate costs.

SMP-GP-20 The City shall create and maintain for public reference and planning purposes a coastal flood risk map which shows the City's base 100 year coastal flood elevation areas at the time of map creation, and includes a future projection of any additional areas which have at least a 50% probability of being flooded within 20 years. This map shall be based on best available science provided by the State of Washington and shall be updated, at minimum, with each required periodic and comprehensive update of the City's shoreline master program.

SMP-GP-21 For each required periodic and comprehensive update to the City's shoreline master program, the City shall evaluate the program's coastal flood hazard reduction policies and development regulations, and coastal flood risk map, and shall revise them according to best available science provided by the State of Washington.

SMP-GP-22 The City should map all shoreline locations in which there are known contaminated sediments, and develop a long-term plan to evaluate and address those in need of attention due to risk of mobilization due to coastal flooding.

Development Regulations

G-DR 11 Proposals for new structural flood hazard reduction measures shall be required to provide scientific and engineering documentation that such measures will protect existing structures, that they are consistent with the City's flood damage prevention regulations (POMC Title 20), that nonstructural measures are not reasonable, and that impacts on ecological functions are mitigated to encourage no net loss.

G-DR 12 New or expanded development or uses in the shoreline zone, including the subdivision of land, that would require structural flood control works within a 100 year flood hazard area, a stream, a channel migration zone and/or a floodway are prohibited.

G-DR 13 As part of the City's shoreline permit application review process, all proposed development and redevelopment activities in the City's shoreline requiring a permit shall determine and disclose whether any sediment material on the development site, including fill, is contaminated and requires remediation to prevent spread of contamination through mobilization due to coastal flooding events. This requirement applies whether or not the contaminated area on the site will be disturbed as part of the development process. If contaminated sediment at risk of mobilization is determined to be present, the City shall require a remediation plan as a condition of shoreline permit approval. The City may require independent review at the applicant's expense of findings and recommendations regarding

contamination and remediation, by a hydrologist, geologist, engineer or other qualified professional.

6.5 Public Access

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on waters of the state, and to view the water and the shoreline from adjacent locations. Water views are currently easily accessible to the public from waterfront roadways, including SR 166, Bay Street, and Beach Drive, which are located very close to the shoreline for the entire length of the City and the Port Orchard Urban Growth Area.

Management Policies

SMP-GP-23 Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

SMP-GP-24 Protect the rights of navigation and commerce, and the space necessary for water-dependent uses.

SMP-GP-25 Protect the public's opportunities to enjoy the physical and aesthetic qualities of the shorelines, including views of the water, to the greatest extent feasible.

SMP-GP-26 Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

SMP-GP-27 Continue to acquire easements and/or require construction of future segments of the Mosquito Fleet Trail.

SMP-GP-28 The City shall retain and protect existing shoreline parks, trails, and other opportunities for the public to access and enjoy the Sinclair Inlet shoreline and to view the shoreline and water views from public property and roadways.

SMP-GP-29 In compliance with WAC 173-26-221(4), or as subsequently amended, require the dedication and improvement of public access in developments for water-enjoyment, water-related, and water-dependent uses and for the subdivision of land into more than four parcels when either partially or completely within shoreline jurisdiction.

SMP-GP-30 New shoreline development or major redevelopment by public entities, including local governments, port districts, state agencies and public utility districts, shall include public access as part of each development project, unless such access is demonstrated to be incompatible due to reasons of safety, security or environmental impacts.

SMP-GP-31 Pursue funding and acquisition of property and easements for trails serving the shoreline, including the Mosquito Fleet Trail and the Blackjack Creek Wilderness Trail.

SMP-GP-32 The City shall not vacate any public right-of-way that abuts or connects to shorelines, unless the use of such right-of-way for shoreline access is determined to present a public health or safety risk that would prevent such use for access.

SMP-GP-33 Public access and use improvements are encouraged to result in no net loss of ecological function.

SMP-GP-34 The City should encourage conversion into water-enjoyment, public access, or recreational uses of the Department of Natural Resource owned portion of the waterfront parking area within the downtown.

Development Regulations

G-DR 14 All waterfront development proposals within the High Intensity environment shall provide public physical access to the City's waterfront pedestrian boardwalk and/or other public waterfront amenities where feasible, except in cases of public safety, security or impacts to the shoreline environment. If such access is provided, no additional public shoreline physical access will be required. If such access is not feasible, alternative public physical or view access to the shoreline, such as open space or a viewing deck or platform, shall be provided. All new non-water-oriented commercial or industrial uses shall provide public access or ecological restoration, where feasible, to ensure that the proposed use provides a significant public benefit with respect to the Shoreline Management Act objectives.

G-DR 15 Alternatives to on-site, physical access to the shoreline may be approved if the applicant can demonstrate to the satisfaction of the City that shoreline access is infeasible. Alternatives may include, but are not limited to:

- a.** Publicly accessible rooftop decks.
- b.** Off-site public access, such as improvement to a nearby street end, an offsite viewpoint, or a trail system, purchase of land or an easement at a location appropriate for future access improvements.
- c.** A payment in lieu agreement with the City in accordance with RCW 82.02.020.

G-DR 16 When required, public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity, except where the City determines an appropriate mechanism such as development agreement for delayed public access implementation is necessary for practical reasons.

G-DR 17 Where deemed necessary to protect ecological functions and ensure no net loss, the easement may encourage a buffer of native vegetation between the OHWM and the public access walkway.

G-DR 18 Public access easements and permit conditions shall be recorded in an appropriate manner with the Kitsap County Auditor's Office.

G-DR 19 If Public access hours are to be limited for access easements, they must be approved by the City Council and are required to include signage installed by the applicant and posted on the site.

G-DR 20 Public access sites are encouraged to be connected directly to the nearest public area (e.g. street, public park, or adjoining public access easement). Where connections are not currently possible, the site shall be designed to accommodate logical future connections.

G-DR 21 Public access sites shall be made barrier free for the physically disabled, where feasible, and designed consistent with the Americans with Disabilities Act.

G-DR-22 Public access landscape design, when required shall use predominantly native vegetation (60 percent or greater), particularly saline tolerant plant species. Landscape buffers may be incorporated where desirable to provide public/private space separation.

G-DR 23 Natural elements such as logs, rocks, shrubs, trees, and elevation separations are encouraged as a means to define the separation between public and private space.

G-DR 24 New multi-family residential development bordering public space designed for shoreline access shall be clearly delineated from adjacent public pathways to provide a visual privacy separation between uses. A grade separation may be a means of delineation and would not be required on the upland side of a development.

G-DR 25 The City may require the installation of benches, bicycle racks, pet waste, garbage and recycling receptacles, educational signage, and other street furniture at shoreline public access points commensurate with the degree of project impact. Where required,

- a.** Benches shall be set back from a walkway or path so that the path is not encumbered when the benches are in use. Benches shall be at least 4 feet in length.
- b.** Provisions for maintenance will be encouraged to be required as a condition of permit approval.

6.6 Shoreline Vegetation Conservation

The City of Port Orchard's Sinclair Inlet shoreline has been historically heavily developed. A result of the historical maritime, transportation, and industrial use of the Sinclair Inlet waterfront has resulted in very little native vegetation existing or being preserved. The Blackjack Creek shoreline, however, has remained in a mostly natural state. Shoreline vegetation has been determined to provide shade necessary to maintain cool temperatures required by salmonids, provides food for fish in the form of insects, stabilizes banks, minimizes erosion, and reduces the occurrence of landslides. Vegetation also provides critical wildlife habitat, including migration corridors and feeding, watering, rearing, and refugia areas.

Management Policies

SMP-GP-35 The City shall develop and apply standards and regulations that require shoreline development and uses to meet the no net loss standard for maintenance of shoreline ecological function.

SMP-GP-36 Native vegetation should be preserved to the greatest extent feasible while providing for the removal of noxious weeds and vegetation that poses a risk to property, or safety or ecological function.

SMP-GP-37 Introduction of invasive non-native plants and noxious weeds shall be discouraged.

Development Regulations

G-DR 26 Existing native shoreline vegetation in an Aquatic Environment or within a shoreline buffer, should be preserved and protected, with limited exceptions for water dependent, water enjoyment, public recreation and public access uses, maintenance of public views, and “reasonable use” on undeveloped parcels located entirely or primarily within the shoreline buffer.

G-DR 27 Land within shoreline and critical buffer areas extending from marine ordinary high water mark, shall be considered vegetation conservation areas. Native shoreline vegetation that has not been otherwise disturbed by legal means shall be preserved to the maximum extent feasible within the vegetation conservation area consistent with safe construction practices, and other provisions of this chapter. Native trees and shrubs shall be preserved, to the maximum extent feasible, to maintain and provide shoreline ecological functions such as habitat, shade, and slope stabilization.

G-DR 28 In all cases where clearing is followed by revegetation, native plants shall be preferred. Lawns are discouraged due to their limited erosion control value, limited water retention capacity and associated chemical and fertilizer applications. Non-native plants are to be discouraged.

G-DR 29 The following minimum standards for shoreline and critical area vegetation conservation shall apply:

- a. No more than 15 percent of the area with native shoreline vegetation shall be cleared within the vegetation conservation area, without mitigation.
- b. All native trees in the vegetation conservation area over 18 inches in diameter at breast height shall be retained. Trees determined by the City to be hazardous or diseased may be removed. Replacement of non-native vegetation with native species shall be done in a manner that will not leave soil bare or vulnerable to erosion.
- c. The Shoreline Administrator may allow removal of vegetation exceeding that described above where an applicant agrees to replacement plantings and a mitigation plan.

G-DR 30 All clearing and grading activities shall be limited to the minimum necessary for the permitted development.

G-DR 31 Exposed soils shall be immediately developed or revegetated to prevent erosion.

G-DR 32 Revegetation must be planted such that complete coverage of exposed soils is attained within one growing season.

G-DR 33 Clearing and grading within required shoreline setbacks shall only be permitted upon approval of a detailed landscape plan for revegetation. (The Shoreline Administrator may waive this

requirement when potential impacts to shoreline resources are insignificant). The landscape plan shall include:

- a. A map illustrating the distribution of existing plant communities in the area proposed for landscaping. The map must be accompanied by a description of the vegetative condition of the site, including plant species, plant density, any natural or man-made disturbances, overhanging vegetation, and the functions served by the existing plant community (e.g., fish and wildlife habitat values, slope stabilization).
- b. If applicable, a description of the intertidal shade conditions created by existing vegetation. This description shall include an inventory of overhanging vegetation as well as a determination of how much shade is created in the intertidal zone by standing trees, during midday at midsummer.
- c. A detailed landscape map indicating which areas will be preserved and which will be cleared, including tree removal.
- d. Drawings illustrating the proposed landscape scheme, including the type, distribution, and density of plants. Any pathways or nonvegetated portions should be noted.
- e. A description of any vegetation introduced for the purposes of fish and wildlife habitat. Significant loss of wildlife habitat shall be mitigated in accordance with Chapter 6 of this master program. If on-site mitigation is not possible, off-site mitigation shall be permitted at a minimum replacement ratio of one-to-one (1:1 habitat lost to habitat replaced).

The revegetation landscaping required by this regulation shall meet the following standards:

- f. At the time of planting, shrubs must be at least eighteen (18) inches high. Shrubs should be planted such that within two years the shrubs will cover at least sixty percent (60%) of the area that would be covered when the shrubs have attained a mature size. At the time of planting, deciduous trees must be at least two (2) inches in caliper as measured one (1) foot above grade, and coniferous trees must be at least five (5) feet in height.
- g. The applicant may be required to install and implement an irrigation system to ensure survival of vegetation planted. For remote areas lacking access to a water system, an alternative method (e.g., hand watering) may be approved.
- h. For a period of two (2) years after initial planting, the applicant shall replace any unhealthy or dead vegetation planted as part of an approved landscape plan. For a minimum of five (5) years after initial planting, the applicant shall mechanically remove any invasive vegetation. The use of herbicides will not be allowed in the control of invasive vegetation.

G-DR 34 Stabilization of exposed erosional surfaces along shorelines shall, whenever feasible, utilize soil bioengineering techniques.

G-DR 35 All shoreline development and activity shall use effect measures to minimize increases in surface water runoff that may result from clearing and grading activity. The applicant must implement best management practices (BMPs) for clearing, grading and erosion control under the City's engineering design standards, and must obtain a site development permit from the City's Public Works Department.

G-DR 36 The City may require a performance bond as a condition of permit approval, to ensure compliance with this Program.

G-DR 37 The City shall require, where feasible, restoration of native shoreline and aquatic vegetation in mitigation and restoration plans and in stormwater management for redevelopment activities within the shoreline area.

G-DR 38 Redevelopment activities in the High Intensity (HI) shoreline environment designation shall comply with the shoreline vegetation conservation and restoration requirements of Appendix E of this plan, in addition to any other applicable City requirements and regulations.

6.7 Climate Change and Sea Level Rise

Management Policies

SMP-GP-38 The City should create specific development and building design standards for the downtown shoreline that address issues related to coastal hazards and impacts from future sea level rise, including but not limited to: coastal flooding, earthquake liquefaction and tsunami risk, saltwater intrusion, mobilization of contaminated sediments, and impacts to geologic hazard areas.

Development Regulations

G-DR-39 During each periodic review of the City's shoreline master program, the City will evaluate its development and building design standards and revise them as needed for the downtown shoreline to protect against risks from sea level rise and coastal hazards including but not limited to: coastal flooding, earthquake liquefaction and tsunami risk, saltwater intrusion, mobilization of contaminated sediments, and impacts to geologic hazard areas.

CHAPTER 7: SHORELINE DEVELOPMENT STANDARDS AND USE REGULATIONS

The shoreline uses that are addressed below are outlined and required in WAC 173-26-241. The provisions apply to specific common uses and types of development that may occur within the shoreline jurisdiction. This section also includes a matrix outlining which uses are allowed in particular shoreline environments.

7.1 Shoreline Uses

The provisions in this Appendix A for shoreline use and development shall be applied either generally to all shoreline areas or to shoreline areas that meet the specified criteria of the provision without regard to environment designation. These provisions address certain principles as established in WAC 173-26-241. (x = not permitted, p = permitted, a = administrative review, c = conditional use permit, n/a = not applicable)

SHORELINE USE CATEGORIES	NATURAL	URBAN CONSERVANCY	HIGH INTENSITY	SHORELINE RESIDENTIAL	AQUATIC
Agriculture	x	p	a	p	n/a
Aquaculture	n/a	n/a	n/a	n/a	c
Boating Facilities – public or marinas	x	c	p	c	p
Boat launches	x	c	p	p	c
Commercial – water-dependent ¹	x	c	p	c	c
Commercial – water-related ¹	x	c	p	c	c
Commercial – water-enjoyment ¹	x	c	p	c	x
Commercial – non-water oriented	x	x	p	x	x
Float Plane Facilities	x	x	c	c	c
Flood Control Management	x	c	c	p	c
Forest Practices	x	c	p	p	n/a
Industrial – water-dependent	x	c	p	p	c
Industrial – water-related	x	x	p	x	x
Industrial – non-water oriented	x	x	x	x	x
Mining	x	x	x	x	x
Mixed-use (multi-family residential use, along with commercial, public use and/or recreational uses. May include parking to serve residents, customers and tenants of the onsite mixed-use structure(s).	Refer to rows below.				

Mixed use: Non-residential uses(s) are non-water-oriented uses:	x	x	p	x	x
Mixed use: Non-residential uses(s) include one or more water-dependent, water-related or water-enjoyment uses:	x	x	p	c	x
Parking (Accessory to a principal use)	c	c	p	p	x
Parking (Principal use, or commercial paid, or parking to serve offsite uses.)	x	x	p	c	x
Public use (civic use, government-owned non-transportation facility, or similar use.)	x	x	p	c	x
Recreation – water-dependent	p	p	p	p	c
Recreation – water-related	p	p	p	p	c
Recreation – non-water oriented	c	c	p	p	c
Residential – single-family residence	p	p	x ²	p	x
Residential – other than a single-family residence	x	c	p	a	x
Transportation facilities – water-dependent	c	c	p	c	c
Transportation facilities – water-related	c	c	p	c	c
Transportation facilities – non-water related	c	c	c	c	c
Transportation facilities – trails/boardwalks	p	p	p	p	c
Utilities – above ground distribution poles	a	p	p	p	c
Utilities – underground	a	p	p	p	c
Utilities – cellular towers	c	c	c	c	c

(x = not permitted, p = permitted, a = administrative review, c = conditional use permit)

¹Commercial uses are allowed in the Shoreline Residential environment only as a secondary component of a mixed-use development (i.e. a combination of residential and commercial uses in the same building), and only when consistent with the underlying zoning.

²Although new single-family residential uses in the HI environment are not permitted, single-family residential uses that were legally established (permitted) prior to the effective date of this SMP shall be considered legal conforming uses for the purposes of this SMP. See footnote 5 in Table 7.2, Shoreline Development Standards Matrix, for additional information.

7.2 Shoreline Development Standards Matrix

DEVELOPMENT STANDARDS SETBACKS (BUFFER) AND HEIGHT REQUIREMENTS	NATURAL	URBAN CONSERVANCY	HIGH INTENSITY	SHORELINE RESIDENTIAL	AQUATIC
Agriculture ¹					
Cultivation / Grazing setback	x	100	x	100	x
Building Setback	x	100	50	50	x

Height limits (See underlying zoning Code or overlay districts – POMC Title 20)					
Aquaculture					
Water-dependent setback	x	0	0	0	0
Water-related setback ²	x	50	25	35	x
Height limits:					
Upland (See underlying zoning Code or overlay districts – POMC Title 20)					
Over-water	x	x	x	x	15
Boating Facilities & Boat Launches					
Water-dependent setback	0	0	0	0	0
Building setback ²	x	50	25	25	n/a
Height limits: ³					
Upland (See underlying zoning Code or overlay districts – POMC Title 20)					
Overwater structures	x	x	x	x	30
Commercial Development ⁵					
Water-dependent setback	x	0	0	x	0
Water-related setback ²	x	100	25	x	0
Non-water oriented setback ²	x	x	75	x	x
Building height limit (See POMC Title 20)					
Forest Practices					
Setback	x	100	n/a	75	n/a
Industrial Development					
Building Setbacks:					
Water-dependent	x	x	0	x	0
Water-related ²	x	x	50	x	x
Non-water oriented ²	x	x	100	x	x
Height Limits (See POMC Title 20)					
Parking					
Accessory use	150	100	10	10	x
Principal use	x	x	25	x	x
Recreational Development					
Water-dependent	n/a	0	0	0	0
Water-related/oriented	10	10	0	0	x
Non-water oriented (unless specified below) ²	100	75	25	25	x
Access Roads, restrooms, & accessory buildings	x	100	25	25	x
Golf Courses or sports fields	x	200	100	100	x
Trails, boardwalks, or overlooks	0	0	0	0	0
Residential Development ⁴					
Building setback - single-family residence	150	100	X ⁶	25	x
Building setback - Accessory use(s) to a single-family residence (patios, decks, etc.)	100	50	x	15	x

Building setback – other than a single family residence. ²	x	x	40 ⁶	50	x
Building setback – accessory uses to residences other than a single-family residence. ²	x	x	20	25	x
Transportation					
Arterials, Highways, Railroads	x	200	50	50	x
Multi-use trails, paths	x	0	0	0	0
Secondary/Access Roads	x	100	50	50	x
Utilities					
Buildings, transmission line, tower setbacks	200	100	50	75	0
Distribution pole height limit	36	36	36	36	x
Cellular tower height limit	x	100	100	x	x

(x = not permitted, p = permitted, a = administrative review, c = conditional use permit)

¹ See Policy Regulation SU-DR-7.

² Within the High Intensity environment, lawfully constructed non-water-oriented structures and uses that are nonconforming to this SMP because of their location within a shoreline buffer may be redeveloped in accordance with this SMP. Refer to Appendix C for more information.

³ Height limits are subject to zoning and overlay district regulations found in POMC Title 20.

⁴ If a public road lies between a proposed residential use and the shoreline, the regular front yard zoning setbacks shall apply.

⁵ Commercial uses are allowed in the Shoreline Residential environment only as a secondary component of a mixed-use development (i.e. a combination of residential and commercial uses in the same building), and only when consistent with the underlying zoning.

⁶ With the exception of any residential structure or residential appurtenant structure built over or partially over an aquatic environment, pursuant to RCW 90.58.620 a legally-established (permitted) residential structure and appurtenant residential structure(s) used for a conforming use in the HI environment shall be considered a conforming structure, even if it does not meet this SMP's current standards for setbacks, buffers, yards, area, bulk, height or density. However, such a structure may be added to or enlarged only if such addition or enlargement conforms to the regulations of the zoning district and the shoreline environment designation, provided that the addition or enlargement is consistent with the standards of Appendix C.

7.3 Agriculture

Although agricultural activity is limited within the City of Port Orchard, SMP guidelines require development of policies and regulations for agricultural use.

Management Policies

SMP-SU-1 For purposes of this section, the terms agricultural activities, agricultural products, equipment and facilities and agricultural land shall be defined as provided in WAC 173-26-020.

SMP-SU-2 Agricultural activities should not have a negative impact on water quality or destruction of vegetation.

SMP-SU-3 Agricultural uses and development in support of agricultural uses should be conducted in such a manner as to assure no net loss of shoreline ecological functions and processes and avoid substantial adverse impacts on other shoreline resources and values.

Development Regulations

SU-DR-1 Agriculture uses may only be permitted in the Shoreline Residential, and Urban Conservancy environments, and shall be limited to those agricultural uses permitted in the underlying zoning regulations.

SU-DR-2 Shoreline waters shall not be used for livestock watering, and shall be fenced or otherwise blocked to prohibit livestock access.

SU-DR-3 A buffer of native vegetation may be established and maintained between areas used for cultivation or grazing and adjacent water bodies and wetlands. The buffer should not be less than 20 feet wide, and shall be sufficiently enhanced to retard runoff, reduce sedimentation, and provide riparian habitat. Buffers shall include fencing to prevent encroachment.

SU-DR-4 Application of commercial pesticides within 100 feet of a shoreline is prohibited.

SU-DR-5 Pesticides shall be used, handled, and disposed of in accordance with provisions of the Washington State Pesticide Application Act (RCW 17.21) and the Washington State Pesticide Act (RCW 15.57) to prevent contamination and sanitation problems.

SU-DR-6 Livestock waste shall be disposed in a manner that will prevent surface or groundwater contamination.

SU-DR-7 Agricultural activities and uses are not permitted within the marine (saltwater) shoreline jurisdiction of Sinclair Inlet and the estuarine shoreline jurisdiction of Blackjack Creek.

7.4 Aquaculture

Sinclair Inlet has historically been limited regarding the harvest of shellfish and/or aquaculture, due to heavy historical industrial and military use and the resulting water quality concerns. There are significant industrialized harbors and military areas, and significant requirements for clear navigation of naval vessels, which may preclude the use of large-scale aquacultural facilities within Sinclair Inlet. Regarding any proposed aquaculture facilities, WAC 173-26-241(3)(b) outlines the development of goals and policies within the SMP document.

Management Policies

SMP-SU-4 Aquaculture in areas where it is demonstrated to result in a net loss of ecological functions, proven to adversely impacts eelgrass and macroalgae, or significantly conflicts with navigation and other water-dependent uses, should be prohibited.

Development Regulations

SU-DR-8 Shellfish seeding/culturing when conducted for native population recovery in accordance to government approved requirements, may be permitted.

7.5 Boating Facilities

Boating facilities include both public and private marinas, boat ramps, haulout, launching and infrastructure required to support watercraft, and are vitally important to maintaining public access to the water. Public boating facilities and public boating provisions within private facilities are supported throughout the shoreline.

Management Policies

SMP-SU-5 Boating facilities should be located only at sites with suitable environmental conditions, shoreline configuration, access, and neighboring uses.

SMP-SU-6 Significantly negative aesthetic impacts of new or redeveloped boating facilities should be avoided or mitigated.

SMP-SU-7 The development of boating facilities, and associated and accessory uses, should not result in a net loss of shoreline ecological functions or other significant adverse impacts.

SMP-SU-8 New boating facilities should limit the amount of shoreline modifications to as little as possible to accommodate the permitted uses.

Development Regulations

SU-DR-9 Boat launches for Port, commercial, or public recreational uses are supported in the high-intensity environment and are conditional in the urban conservancy and shoreline residential environments.

SU-DR-10 New boat launches requiring significant shoreline modifications shall be allowed only as conditional uses due to their potentially significant impacts to the shoreline environment.

SU-DR-11 Hand launch sites where improvements are limited to installation of signage and improvements valued at a monetary amount that does not exceed the amount currently established and effective per WAC 173-27-040(2)(a) or its successor shall be exempt from a Shoreline Substantial Development Permit.

SU-DR-12 Reconstruction of an existing launch is permitted and supported.

SU-DR-13 Boat launches and ancillary facilities shall be located, designed, constructed and operated as to:

- a. Minimize adverse affects to fish, shellfish, wildlife, water quality and existing geohydraulic shoreline and stream processes.
- b. Provide adequate on-shore facilities for waste-disposal, parking, and restrooms.
- c. Be compatible with adjacent uses.

- d.* Should endeavor to avoid negative aesthetic impacts.

SU-DR-14 Associated docks and floats shall conform to the applicable policies and performance standards of this Master Program.

SU-DR-15 Associated parking and loading areas shall:

- a.* Provide adequate off-road parking and loading areas
- b.* Facilitate orderly launching and retrieval of boats, as well as the movement of vehicles and trailers in the launching area
- c.* Be located away from the immediate water's edge and beaches as much as practicable.
- d.* Be designed in a manner that surface runoff does not pollute adjacent waters or cause soil or beach erosion.

7.6 Commercial Development

Management Policies

SMP-SU-9 Commercial Use provisions of the Shoreline Master Program are intended to be consistent with Comprehensive Plan, zoning, overlay districts, and other development regulations within the City.

SMP-SU-10 Preference shall be given to water-dependent commercial uses over nonwater-dependent uses.

SMP-SU-11 Commercial properties should ensure visual compatibility with adjacent non-commercial properties.

SMP-SU-12 Commercial uses located in the shoreline should provide public access in accordance with constitutional or other legal limitations unless such improvements are demonstrated to be infeasible or present hazards to life and property.

SMP-SU-13 Restoration of impaired shoreline ecological functions and processes should be encouraged as part of commercial development.

SMP-SU-14 Commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources and values, to include navigation, recreation and public access.

Development Regulations

SU-DR-16 Projects located within the Downtown Overlay District must be consistent with regulations in POMC Title 20.

SU-DR-17 Over-water construction of commercial uses is prohibited except as follows:

- a.* The development of docks, boat launch ramps, boardwalks, marine repair facilities, or other shoreline access facilities.
- b.* Commercial uses of existing over-water buildings may be allowed to facilitate reuse of existing structures along the waterfront.

- c. Minor commercial uses that are accessory and clearly incidental to an allowed use may be provided on publicly owned docks, piers, and properties.
- d. Commercial uses of over-water buildings are essential to water dependent industry or use.

SU-DR-18 All commercial development or redevelopment requiring a Substantial Development or Conditional Use Permit within the shoreline jurisdiction shall provide for public visual and/or physical access to the shoreline in accordance with the *Public Access* section of this Master Program. Properties within the Downtown Overlay District must be consistent with the *Public Access* section as well as any additional requirements in POMC Title 20.

7.7 Flood Control Works and Instream Structures

Management Policies

SMP-SU-15 New or expanding development or uses in the shoreline, including subdivision of land, that would likely require structural flood control works within a stream, channel migration zone, or floodway should not be allowed.

SMP-SU-16 Flood control works and instream structures should be planned and designed to be compatible with appropriate multiple uses of stream resources over the long term, especially in shorelines of statewide significance.

SMP-SU-17 Flood control works should only be allowed in the shoreline if they are necessary to protect existing development and where non-structural flood hazard reduction measures are infeasible.

SMP-SU-18 Flood control works to protect existing development should be permitted only when the primary use being protected is consistent with this Program, and the works can be developed in a manner that is compatible with multiple use of streams and associated resources for the long term, including shoreline ecological functions, fish and wildlife management, and recreation.

Development Regulations

SU-DR-19 Flood control works shall be permitted when it is demonstrated by engineering and scientific evaluations that:

- a) they are necessary to protect health/safety and/or existing development and,
- b) non-structural flood hazard reduction measures are not practicable.

SU-DR-20 New flood control works are prohibited on estuarine shores, on point and channel bars, and in salmon and trout spawning areas, except for the purpose of fish or wildlife habitat enhancement, restoration, or as identified in Development Regulation SU-DR-18.

SU-DR-21 New structural flood control works shall be placed landward of associated wetlands, and designated habitat conservation areas, except for works that improve ecological functions, such as wetland restoration, or as identified in Development Regulation SU-DR-18.

SU-DR-22 Revetments shall not be placed waterward of the OHWM except for weirs and current deflectors where necessary to protect bridges and roads.

SU-DR-23 No motor vehicles, appliances, other similar structures or parts thereof; nor structure demolition debris; nor any other solid waste shall be used for flood control works.

SU-DR-24 Cut-and-fill slopes and back-filled areas shall be stabilized with brush matting and buffer strips and revegetated with native grasses, shrubs, or trees to prevent loss of shoreline ecological functions and processes.

7.8 Industrial and Port Development

Management Policies

SMP-SU-19 Shoreline sites particularly suitable for development such as deep water harbors with access to adequate highway and utility systems should be reserved for water-dependent or water-related industrial and port development.

SMP-SU-20 In order to provide adequate shoreline for future water-dependent and water-related uses, industrial or port development at deep water sites should be limited to those uses that produce the greatest long term economic base.

SMP-SU-21 Industrial and port development that is consistent with this Program should be protected from encroachment or interference by incompatible uses with less stringent siting requirements, such as residential or commercial uses.

SMP-SU-22 Mixed use development, including nonwater-dependent uses, should only be encouraged when it includes and supports water-dependent and/or water-enjoyment uses.

SMP-SU-23 Regional needs for port facilities should be carefully considered in reviewing new port proposals and in allocating shorelines for such development. Such reviews or allocations should be coordinated with port districts, adjacent counties and cities, and the State.

SMP-SU-24 Existing, officially designated State Harbor Areas should be used for new port development to the maximum extent whenever possible.

SMP-SU-25 Multiple use of industrial and port facilities is encouraged to limit duplicative facilities and reduce adverse impacts. New non-water oriented uses should be prohibited on shorelines except when: a) The use is part of a mixed-use project that includes water-dependent and/or water-enjoyment uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or b) Navigability is severely limited at the proposed site, and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

SMP-SU-26 New facilities for water-dependent uses should be considered only after assessment of the potential for shared use of existing facilities.

SMP-SU-27 Industrial and port developments shall provide opportunities for physical and/or visual public shoreline access in accordance with the Shoreline Management Act's public access policies, including recreational use of undeveloped shorelines not needed for port or industry operations; provided that, such uses are safely compatible with facility operations.

SMP-SU-28 Industrial and port development in the shoreline should be located and designed to avoid significant adverse impacts to other shoreline uses, resources, and values, including shoreline geomorphic processes, water quality, fish and wildlife habitat, commercial aquaculture, and the aquatic food chain.

SMP-SU-29 Restoration of impaired shoreline ecological functions and processes should be encouraged as part of industrial and port development.

Development Regulations

SU-DR-25 Over-water construction of non-water dependent industrial uses is prohibited, except as follows :

- a.** Development of an overwater structure for mixed use of water dependent and water-enjoyment uses;
- b.** Water-dependent industrial uses of existing over-water buildings may be allowed to facilitate reuse of existing structures along the waterfront
- c.** Minor industrial uses that are accessory and clearly incidental to an allowed use may be provided on publicly owned docks, piers, and properties;
- d.** Navigability is severely limited at the proposed site, and the industrial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.

SU-DR-26 Storage and/or disposal of industrial wastes are prohibited within shoreline jurisdiction, unless specifically listed in SU-DR-26 below.

SU-DR-27 The following may be permitted as an accessory use:

- a.** Storage of oil, fuel, chemicals, or hazardous materials, provided that they are an accessory to the main industrial use on the property and that secondary containment and an emergency spill response plan are included in the proposal.
- b.** Wastewater treatment and reclamation systems accessory to a permitted use, provided that alternate inland areas are unavailable and the proposed location, design and operation are compatible with existing and planned water-oriented uses.

SU-DR-28 Industrial and port facilities shall be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with the right of adjacent property owners, as well as adjacent shoreline or water uses. Proposed industrial or port facilities must demonstrate conformance with the following:

- a.** Comply with all federal, state, regional, and local requirements regarding air and water quality. No generation of fly-ash, dust, vapors, odors, smoke or other substances shall be permitted that are harmful to health, animals, vegetation or neighboring properties.
- b.** Adequate buffers shall be installed to protect adjacent non-industrial uses. Buffers may be used for outdoor recreation or public access if consistent with public access provisions. Buffers may not be used for storage or waste disposal.
- c.** Industrial or port facilities shall be designed and operated to promote joint use of over-water and accessory facilities such as piers, docks, and storage, whenever practicable.
- d.** Protect public views of harbor areas and other vistas. Certain private views may be protected within overlay districts as provided in Title 20 of the City's municipal code.

- e.** A minimum 4-foot vertical separation between the storage floor surface and the highest seasonal water is required where unpaved storage areas are proposed.
- f.** Compliance with all applicable fire safety and storage laws under South Kitsap Fire & Rescue jurisdiction.
- g.** Exterior lighting shall be directed away from water bodies or adjacent parcels whenever practicable.

7.9 Marinas

Management Policies

SMP-SU-30 Marinas shall meet federal, state, and local standards for health, safety and welfare.

SMP-SU-31 New marinas or redevelopment projects in existing marinas, shall provide dedicated public access, particularly where water-enjoyment uses are associated with the marina.

SMP-SU-32 Impacts to shoreline resources from live-aboard vessels should be regulated.

SMP-SU-33 The rights of navigation shall be protected and public boating facilities are encouraged.

SMP-SU-34 Accessory uses at marinas should be limited to water-oriented uses, or uses that provide physical or visual shoreline access for substantial numbers of the general public.

Development Regulations

SU-DR-29 New marinas and marina expansions should be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with adjacent residential property owners and adjacent shoreline or water uses. Proposals for new or expanded facilities shall:

- a.** Be located with regard to favorable conditions related to prevailing winds, currents, bathymetrics, and adequate harbor flushing.
- b.** Comply with all federal, state, regional, and local requirements regarding water quality.
- c.** Be generally compatible with the general aesthetic quality of the shoreline area. Provide for adequate upland support facilities.
- d.** Provide accessory parking and loading areas.
- e.** Facilitate orderly launching, retrieval, and storage of boats as well as circulation of vehicles and pedestrians in the vicinity of the marina.
- f.** Have an emergency plan to minimize and handle accidental spills of hazardous liquids and wastes.
- g.** Provide pump-out and on-shore sewage and waste disposal facilities.

SU-DR-30 Marinas shall provide public access in accordance with this Master Program and the Shoreline Management Act.

SU-DR-31 All building materials shall be of a non-reflective material.

SU-DR-32 Individual boathouses are discouraged in new or expanded marinas. Replacement boathouses at existing marinas are supported.

SU-DR-33 On state-owned aquatic lands within marinas, the number of live-aboard vessel slips are limited to the provisions identified within WAC 332-30-171.

7.10 Moorage: Docks, Piers and Mooring Buoys

Management Policies

SMP-SU-35 Moorage associated with a single family residence is considered a water-dependent use provided that it is designed and used as a facility to access watercraft, and other moorage facilities are not available or feasible. Moorage for water-related and water enjoyment uses or shared moorage for other types of residential uses should be allowed as part of a mixed use development or where it also provides public access.

SMP-SU-36 New moorage, excluding docks accessory to single family residences, should be permitted only when the applicant/proponent has demonstrated that a specific need exists to support the intended water-dependent or public access use.

SMP-SU-37 Mooring buoys are preferred over docks or floats. Shared moorage facilities are preferred over single-user moorage where feasible, especially where water use conflicts exist or are predicted. New residential developments, including single-family subdivisions and multifamily and mixed-use developments, should provide shared moorage.

SMP-SU-38 Docks, piers and mooring buoys should avoid locations where they will adversely impact shoreline ecological functions or processes, including currents and littoral drift.

SMP-SU-39 Moorage should be spaced and oriented in a manner that minimizes hazards and obstructions to public navigation rights and corollary rights thereto such as, but not limited to, fishing, swimming and pleasure boating, as well as private riparian rights of adjacent land owners.

SMP-SU-40 Moorage should be restricted to the minimum size necessary to meet the needs of the proposed use. The length, width and height of piers and docks should be no greater than that required for safety and practicality for the principal use.

SMP-SU-41 In general, pile supports are preferred over floats because piles do not displace water surface and intertidal or aquatic habitat and are removable and thus more flexible in terms of long-term use patterns; however, floats may be less desirable than pile structures where aquatic habitat or littoral drift are significant.

SMP-SU-42 The use of buoys for small craft moorage is preferred over piles or float structures because of lesser long term impact on shore features and users; moorage buoys should be placed as close to shore as possible to minimize obstruction to navigation.

SMP-SU-43 Shoreline resources and water quality should be protected from overuse by boaters living on vessels (liveaboards). Boaters permanently living on vessels are restricted to established marinas with facilities to address waste handling and other sanitary services.

SMP-SU-44 Vessels are prohibited from extended mooring on waters of the state unless such moorage is in compliance with the open moorage requirements of WAC 332-30-139.

SMP-SU-45 No vessel being used as a liveaboard residence shall be moored on waters of the state outside a marina. .

SMP-SU-46 Piers and docks should be constructed of materials that will not adversely affect water quality or aquatic plants and animals in the long term.

SMP-SU-47 New pier and dock development should be designed so as not to interfere with lawful public access to or use of shorelines. Developers of new piers and shared moorage should be encouraged to provide physical or visual public access to shorelines whenever safe and compatible with the principal use and shore features.

Development Regulations

SU-DR-34 Applications for public mooring buoys should include an enforcement and management plan that describes rules and regulations for public use of state aquatic lands and navigable waters.

SU-DR-35 Private mooring buoys are permitted in Aquatic environments adjacent to Shoreline Residential, High Intensity, and Urban Conservancy environments.

SU-DR-36 Mooring buoys are subject to permitting requirements and Hydraulic Project Approval conditions from the Washington State Department of Fish & Wildlife.

SU-DR-37 Mooring buoys shall be located, designed, constructed, and operated so as to minimize impacts to shoreline resources and unnecessary interference with the right of adjacent property owners, as well as adjacent shoreline or water uses.

SU-DR-38 A mooring buoy shall secure no more than two boats.

SU-DR-39 Washington Department of Natural Resources (DNR) requires registration for mooring buoys placed onto state-owned aquatic lands.

SU-DR-40 No creosote, chromate copper arsenate, or pentachlorophenol treated wood, or other comparably toxic compounds may be used as part of the in-water decking, pilings, or other components of any structures such as docks, wharves, piers, marinas, rafts, floats or terminals. Treated wood may only be used for above water structural framing and is discouraged to be used as decking, pilings, etc. During maintenance, existing treated wood should be replaced with alternative non-toxic materials.

SU-DR-41 Tires are prohibited as part of above or below water structures or where tires could potentially come in contact with the water. Existing tires used for floatation should be replaced with inert or encapsulated materials such as plastic or encased foam, during maintenance or repair of the structure.

SU-DR-42 All foam material must be encapsulated within a shell that prevents breakup or loss of the foam material into the water and is not readily subject to damage by ultraviolet radiation or abrasion. During maintenance, existing un-encapsulated foam material should be removed or replaced.

SU-DR-43 To prevent prop scour, boat mooring areas for new docks, marinas, shipyards and terminals, mooring buoys, rafts and floats should be located where the water will be deeper than 2 meters (7 feet) at the lowest low water, or where it can be shown that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads.

SU-DR-44 The design, location, and construction of docks, floats, and piers, as well as their subsequent use, should minimize adverse effects on fish, shellfish, wildlife, water quality, and geohydraulic processes.

SU-DR-45 Docks, piers, and floats should be designed, located and operated to minimize interference with adjacent water uses. The maximum length of a pier or dock should be the minimum necessary to accomplish moorage.

Development Standards for new Piers and Docks

Docks, piers, and floats should be designed, located and operated to minimize interference with adjacent water uses and impacts to fish, shellfish and habitat. The maximum length, width and surface area of a pier or dock should be consistent with the requirements of WAC 220-660-380 or its successor, and should be the minimum necessary to accomplish moorage and shore access based on site-specific circumstances as determined by a marine engineer, as well as potential impacts and mitigation requirements. The maximum width of a residential pier or dock is 6 feet. The maximum width of a ramp is 4 feet. Ells are not permitted on single-family residential docks, piers or floats.

Unless otherwise recommended by the Department of Ecology and/or the Department of Fish and Wildlife based on site-specific review, all decking, and floats 6 feet or less in width shall include a minimum of thirty percent (30%) functional grating, floats greater than 6 feet in width shall have a minimum of fifty percent (50%) functional grating, and ramps shall be fully grated. Functional grating shall not be covered or used as a storage area, and must be maintained in a condition free of algae, mud or other debris that may impede light transmission.

The diameter of piling shall not exceed 12 inches and shall be the minimum required for the purpose based on site-specific circumstances as determined by a marine engineer. New or replaced piles or structural members of a pile in direct contact with the water shall be constructed of concrete or steel in accordance with current best management practices and shall not be treated or coated with herbicides, fungicides or pentachlorophenol. No creosote, pentachlorophenol, CCA or comparable toxic compounds not approved for marine use shall be used for any portion of the overwater or in-water structure of a new or replacement pile, or a pile wrapping. ACZA treated wood may be used for overwater pile structures as long as it meets the most recent Post Treatment Procedures established as best management practices by the American Wood Preservers' Association and Western Wood Preservers Institute.

SU-DR-46 Publicly owned dock or pier facilities may not exceed the minimum length required for moorage.

SU-DR-47 Railings, if provided, should be of open framework design and conform to the Uniform Building Code where required.

SU-DR-48 Utility service, if provided on docks and piers, should be placed on or under the deck. Overhead utility service is prohibited. Lighting shall be designed and installed to prevent unnecessary glare.

SU-DR-49 Docks, piers and floats should be marked as necessary to avoid hazardous conditions for surface water users.

SU-DR-50 Structures over three (3) feet in height should not be permitted on a noncommercial pier, dock, or float, except railings, navigational features, hoists, shielded safety lighting, or other safety devices. This does not include floating dock pilings.

SU-DR-51 All piers and docks should be constructed and maintained in a safe condition. Abandoned or unsafe docks and piers should be removed or repaired promptly by the owner. Where any such structure constitutes a hazard to the public, the City may, following proper notice to the owner, abate the structure if the owner fails to do so within 90 days, and may impose a lien on the related shoreline property in an amount equal to the cost of the abatement.

SU-DR-52 Prohibited uses and activities are as follows.

- a) Piers, docks, boathouses, and floats used for solely residential purposes (live-aboards are allowed within established commercial marinas).
- b) Piers, docks, and floats on streams.
- c) Covered moorage or boathouses over water except within established marinas and boat repair yards.
- d) Fill waterward of the ordinary high water mark or within a marsh, bog or swamp to accommodate a pier, dock, or float.

7.11 Parking

This section applies to both surface and structure parking facilities. Parking may be a principal use or an accessory use.

Management Policies

SMP-SU-47 Parking lots and/or parking within structures to support permitted and conditionally permitted shoreline uses are not a preferred use in the shoreline jurisdiction, and should only be allowed where no feasible alternatives exist.-

SMP-SU-48 The City should explore options for reducing and/or removing publicly-owned parking lots within the shoreline jurisdiction, including conversion to shoreline public access, public water-dependent and water-enjoyment uses, and shoreline recreation facilities such as beaches and fishing areas.

Development Regulations

SU-DR-53 New or redeveloped surface parking areas and parking lots shall be located outside the shoreline jurisdiction where feasible.

SU-DR-54 Parking for redevelopment in the HI shoreline environment shall meet the requirements of Appendix C, in addition to all other requirements of this master program.

SU-DR-55 Surface parking as a principal use, including commercial (pay) parking and/or parking for offsite uses, is not allowed in the Natural, Urban Conservancy, or Shoreline Residential environments.

SU-DR-56 Stand-alone structure parking is not allowed in the shoreline jurisdiction.

7.12 Recreation

Shoreline recreational development provides opportunities for play, sports, relaxation, amusement, or contemplation. It includes facilities for passive recreational activities, such as hiking, photography, and viewing. It also includes facilities for active or more intensive uses such as parks, trails, and fishing. This section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or a private club, group, association, or individual.

Management Policies

SMP-SU-49 Shoreline recreational development should be given priority for shoreline location to the extent that the use facilitates the public's ability to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline. Where appropriate, such facilities should be dispersed along the shoreline in a manner that supports more frequent recreational access and aesthetic enjoyment of the shoreline for a substantial number of people.

SMP-SU-50 Recreational developments should facilitate appropriate use of shoreline resources while conserving them. These resources include, but are not limited to: accretion shoreforms, wetlands, soils, ground water, surface water, native plant and animal life, and shore processes.

SMP-SU-51 Recreational developments and plans should provide the regional population a varied and balanced choice of recreation experiences in appropriate locations. Public agencies and private developers should coordinate their plans and activities to provide a wide variety of recreational opportunities without needlessly duplicating facilities.

SMP-SU-52 Trail links between shoreline parks and public access points should be encouraged for walking or bicycle riding where appropriate. The City of Port Orchard Comprehensive Park Plan and the Mosquito Fleet Trail Plan should be considered in design and approval of public trail systems.

SMP-SU-52 Access to natural areas, including but not limited to shoreline beaches and Blackjack and Ross Creeks, should be a combination of linear shoreline trails or easements and small parking or access tracts to minimize user concentration to small portions of the shoreline.

SMP-SU-533 Recreation facilities should incorporate public education regarding shoreline ecological functions and processes, the role of human actions on the environment and the importance of public involvement in shorelines management. Opportunities incorporating educational and interpretive information should be pursued in design and operation of recreation facilities and nature trails.

SMP-SU-54 Recreation development should be located only where utility and road capability is adequate or may be provided without significant damage to shore features commensurate with the number and concentration of anticipated users.

SMP-SU-55 Cooperative efforts among public and private persons toward the acquisition and/or development of suitable recreation sites or facilities should be explored to assure long-term availability of sufficient public sites to meet local recreation needs.

Development Regulations

SU-DR-57 Recreational facilities shall make adequate provisions for:

- a.** Vehicular and pedestrian access
- b.** The prevention of overflows and trespasses onto adjacent properties.
- c.** Screening, buffer strips, fences, and signs to prevent park overflow and to protect the value and enjoyment of adjacent or nearby private or public properties
- d.** The enforcement of laws and regulations associated with use of the facilities being proposed
- e.** Water supply, sewage disposal, parking, and garbage collection.
- f.** Security
- g.** Maintenance

SU-DR-58 Valuable shoreline resources and fragile or unique areas, such as wetlands and accretion shoreforms, should be used only for non-intensive recreation activities.

SU-DR-59 Stairways and landings should be located upland of existing bulkheads, banks, and the OHWM unless integral to a water-dependent use or overwater structure permitted by this Master Program.

7.13 Residential Development

Residential development refers to one or more buildings, structures, lots, parcels, or portions of parcels that are used or intended to be used to provide a dwelling for human beings. Residential development includes single-family residences, duplexes, other detached dwellings, multifamily residences, apartments, townhouses, , group housing, condominiums, subdivisions, planned unit developments, and short subdivisions. Residential development also includes accessory (aka appurtenant) uses and structures such as garages, sheds, tennis courts, swimming pools, driveways, parking areas, fences, cabanas, saunas, and accessory dwelling units, when allowed by the underlying zoning. Single-family residences are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal.

Management Policies

SMP-SU-56 Single family residences are designated as a priority use consistent with RCW 90.58.

SMP-SU-57 New residential development is encouraged to cluster dwelling units together to reduce physical and visual impacts on shorelines and to reduce utility and road costs. Planned unit developments that include common open space and recreation facilities, or a variety of dwelling sizes and types, are encouraged at suitable locations as a preferable alternative to extensive single lot subdivisions on shorelines. Plats and subdivisions must be designed, configured and developed in a manner that assures no net loss of ecological functions from full build-out of all lots.

SMP-SU-58 Structures or development for uses accessory to residential use should preserve shoreline open space, be visually and physically compatible with adjacent shoreline features, be

reasonable in size and purpose, and result in no net loss of shoreline ecological functions and processes.

SMP-SU-59 Building heights must be compatible with POMC Title 20, including any height restrictions required by overlay districts, and any subarea plans adopted in the City's Comprehensive Plan. .

SMP-SU-60 New residential development should be planned and built to minimize the need for shoreline stabilization and flood hazard reduction measures and assures not net loss of ecological functions.

SMP-SU-61 Measures to conserve native vegetation along shorelines should be required for all residential development. Vegetation conservation may include avoidance or minimization of clearing or grading, restoration of areas of native vegetation, and/or control of invasive or non-native vegetation.

SMP-SU-62 Whenever possible, non-regulatory methods to protect shoreline ecological functions and other shoreline resources should be encouraged for residential development. Such methods may include resource management planning, low impact development techniques, voluntary protection and enhancement projects, education, or incentive programs.

SMP-SU-63 New multi-unit waterfront residential developments, including single-family residential developments of more than four parcels, should provide substantial shoreline access for development residents and the public, unless public access is infeasible due to incompatible uses, safety, impacts to shoreline ecology or legal limitations.

SMP-SU-64 Development should provide open space corridors between structures, and along site boundaries, so as to provide space for outdoor recreation, preserve views, and minimize use conflicts.

Development Regulations

SU-DR-60 Single-family homes are exempt from the Shoreline Substantial Development Permit requirements.

SU-DR-61 Residential development shall be located and designed to avoid the need for structural shoreline armoring and flood protection.

SU-DR-62 Subdivisions or development of more than four dwelling units adjacent to the waterfront shall dedicate, improve, and provide maintenance provisions for a pedestrian easement that provides area sufficient to ensure usable access to the shoreline for residents of the development and the general public. When required, public access easements must comply with the Public Access section of this Master program.

7.14 Shoreline Stabilization and Bulkheads

Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind or wave action. These actions include structural and nonstructural methods. Shoreline stabilization measures can

include a wide range of works varying from hard vertical walls to vegetation conservation and enhancement.

Management Policies

SMP-SU-65 New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible.

SMP-SU-66 New structural stabilization should only be allowed to protect existing principal structures or in support of new water-dependent uses.

SMP-SU-67 New shoreline stabilization should result in no net loss of ecological functions

SMP-SU-68 The size of stabilization measure should be limited to the minimum necessary. Soft approaches should be used unless demonstrated not to be sufficient to protect principal structures, dwellings and businesses.

Development Regulations

SU-DR-63 Subdivisions of land must ensure the lots created will not require shoreline stabilization in order for reasonable development to occur, based on geotechnical analysis of the site and shoreline characteristics.

SU-DR-64 New bulkheads will be allowed only if a geotechnical analysis demonstrates danger and structural damage is likely to a legal principal structure.

- a. New or enlarged structural shoreline stabilization measures for an existing principal structure, including residences, shall not be allowed unless there is conclusive evidence, documented by a qualified professional, that the structure is in danger from shoreline erosion caused by currents or wave action. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The analysis must evaluate onsite drainage issues and address drainage problems before considering structural shoreline stabilization.
- b. Supplementary or non-structural stabilization must be shown to be impractical or non-effective, as demonstrated by a geotechnical report.
- c. The report(s) must determine that the stabilization structure will not result in a net loss of shoreline ecological functions.

SU-DR-65 Replacement bulkheads will be allowed, if soft armoring alternatives are not feasible. Replacement bulkheads should be placed landward of the OHWM, and will not be allowed waterward of the existing bulkhead.

SU-DR-66 Alternatives for shoreline stabilization shall be based on the following hierarchy of preference:

- a. No action
- b. Flexible stabilization constructed of natural materials incorporating measures such as soft shore protection and bioengineering, including beach nourishment, protective berms, or vegetative stabilization.

- c. Flexible stabilization, as described above, with rigid works, constructed as a protective measure.
- d. Rigid works constructed of artificial materials such as riprap or concrete.

SU-DR-67 A seawall or bulkhead protecting state or local roads, may be rebuilt or repaired if deemed necessary by the City Engineer and Shoreline Administrator.

7.15 Signs

The City of Port Orchard recognizes the constitutional right for property owners to communicate using signs on their property. These policies are intended to ensure that signage within shoreline areas is consistent with the purpose and intent of the Act and this Program by addressing impacts to ecological functions, public safety and visual aesthetics.

Management Policies

SMP-SU-69 Signs should be located, designed and maintained to be visually compatible with local shoreline scenery as seen from both land and water, especially on shorelines of statewide significance.

SMP-SU-70 Sign location and design should not substantially impair shoreline views.

SMP-SU-71 All signs shall meet the requirements of POMC Title 20.

SMP-SU-72 Communities, districts, and/or multi-use or multi-tenant commercial developments are encouraged to erect single, common use gateway signs to identify and give directions to local premises and public facilities as a preferable alternative to a proliferation of single purpose signs.

SMP-SU-73 Off-premise signs are prohibited. Signs that are not water-dependent or that reduce public enjoyment of or access to shorelines are not encouraged. Such signs should not be located on shorelines except for approved community gateway or directional signs.

SMP-SU-74 Free-standing signs should be located to avoid blocking scenic views and be located on the landward side of public transportation routes which generally parallel the shoreline.

SMP-SU-75 To minimize negative visual impacts and obstructions to shoreline access and use, low-profile, on-premise wall signs are preferred over free-standing signs or other wall signs.

SMP-SU-76 Moving or flashing signs should be prohibited on shorelines.

SMP-SU-77 Artificial lighting for signs or security should be directed or beamed away from the water, public streets or adjacent properties.

Development Regulations

SU-DR-68 Signs shall conform to all provisions in POMC Title 20.

7.16 Transportation Facilities

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, ferry terminals, railroad facilities, and boat and floatplane terminals. The shoreline areas within the City of Port Orchard and the South Kitsap Urban Growth Area are dominated by transportation facilities. Major State Highways and local roads are adjacent to the entire length of the marine shoreline, parallel to the Sinclair Inlet, and multiple private docks and public passenger-only ferry docks are located in the area. Transit interchanges and transportation hubs are vital to the shoreline connection to major cities and transportation infrastructure that is vital to the local and regional economy.

Management Policies

SMP-SU-78 New transportation facilities should be located so as to not interfere with existing public access areas and significant natural, historic, archaeological or cultural sites.

SMP-SU-79 New or expanded public transportation facility route selection and development within the shoreline should be coordinated with related local and state government land use and circulation planning.

SMP-SU-80 Transportation system route planning, acquisition, and design in the shoreline should provide space wherever possible for compatible multiple uses such as utility lines, public access, pedestrian shore access or view points, or recreational trails.

SMP-SU-81 Transportation system plans and transportation projects within shorelines should provide adequate, safe, and compatible space for non-motorized traffic such as pedestrians and bicyclists. Space for such uses should be required along roads on shorelines, where appropriate, and must be considered when shoreline rights-of-way ends are being vacated or abandoned.

SMP-SU-82 Public access should be provided to shorelines where safe and compatible with the principal and adjacent use, or should be replaced where transportation development substantially impairs lawful public access. Viewpoints, parking, trails and similar improvements should be considered for transportation system projects in shoreline areas, especially where a need has been identified.

SMP-SU-83 Public transportation routes, particularly arterial highways and railways within the shoreline, should be located, designed, and maintained to permit safe enjoyment of adjacent shore areas and properties by other appropriate uses such as recreation or residences. Vegetative screening or other buffering should be considered.

SMP-SU-84 Efforts to implement waterfront trails including the Mosquito Fleet Trail and Blackjack Creek Trail should accompany any shoreline transportation projects.

SMP-SU-85 Maintenance and repair of existing roadways and transportation facilities within the shorelines should not be unduly encumbered by Shoreline Master Program implementation.

Development Regulations

SU-DR-69 When feasible, major new transportation facilities should be located away from the shoreline.

SU-DR-70 Roads shall be located to avoid critical areas where possible.

SU-DR-71 Roads and waterway crossings are discouraged within wetlands or critical fish and wildlife conservation areas except when all upland alternatives have been proven infeasible and the transportation facilities are necessary to support uses consistent with this program.

SU-DR-72 Roads, bridges, culverts and similar devices are encouraged to afford maximum protection for fish and wildlife resources.

SU-DR-73 New transportation facilities should be located in a manner to and encouraged to be designed to minimize or prevent the need for shoreline protective measures such as riprap or other bank stabilization, landfill, bulkheads, groins, jetties or substantial site regrading.

SU-DR-74 Maintenance, repair, and replacement of existing road facilities is encouraged.

SU-DR-75 Road routes shall make provisions for pedestrian, bicycle, and other non-motorized modes of travel whenever feasible.

7.17 Utilities

Utilities are services and facilities that produce, transmit, carry, store, process, or dispose of electric power, water, sewage, communications, oil, gas, stormwater, and the like. The provisions in this section apply to principal use and activities such as sewage treatment plants, sewer lift pumps, stormwater outfalls and fuel storage facilities. On-site utility features serving a principal use, such as water, sewer or gas line to a residence, are "accessory utilities" and shall be reviewed as appurtenances to the principal use (in this example, the residential use).

Management Policies

SMP-SU-86 New public or private utilities should be located inland from the land/water interface, preferably out of the shoreline jurisdiction, unless:

- a. Perpendicular water crossings are unavoidable; or
- b. Utilities are required for authorized shoreline uses consistent with this Program.

SMP-SU-87 Utilities should be located and designed to avoid public recreation and public access areas and significant natural, historic, archaeological or cultural resources.

SMP-SU-88 Utilities should be located, designed, constructed, and operated to result in no net loss of shoreline ecological functions and processes with appropriate mitigation.

SMP-SU-89 All utility development should be consistent with and coordinated with all local government and state planning, including comprehensive plans and single purpose plans to meet

the needs of future populations in areas planned to accommodate growth. Site planning and rights-of-way for utility development should provide for compatible multiple uses such as shore access, trails, and recreation or other appropriate use whenever possible; utility right-of-way acquisition should also be coordinated with transportation and recreation planning.

SMP-SU-90 Utilities should be located in existing rights-of-way and corridors whenever possible.

SMP-SU-91 Utilities serving new development should be located underground, wherever possible.

SMP-SU-92 Development of pipelines and cables on aquatic lands and tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which would disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists.

Development Regulations

SU-DR-76 Utility development should provide for compatible, multiple uses of sites and rights-of-way.

SU-DR-77 Replacement of existing wires, utility poles, and similar existing infrastructure are permitted and are exempt from shoreline substantial permit requirements.

SU-DR-78 Utilities shall be located adjacent to or within existing utility or circulation easements or rights-of-way whenever feasible. Joint use of rights-of-way and corridors is encouraged.

SU-DR-79 Utilities shall be located, designed, constructed and operated so as to document no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses.

SU-DR-80 Utility distribution lines serving new development including electricity, communications and fuel lines should be located underground, except where the presence of bedrock or other obstructions make such placement infeasible. Existing above-ground lines should be moved underground during normal replacement processes.

SU-DR-81 Land filling in shoreline jurisdictions for utility facilities or line placement is prohibited.

SU-DR-82 Clearing of vegetation for the installation or maintenance of utilities should be kept to a minimum.

SU-DR-83 Within the shoreline jurisdiction, new utility mounting and transmission poles are limited to 35 feet in height, or the height limit provided for the zone by Title 20, whichever is less.

CHAPTER 8:

SHORELINE ADMINISTRATION AND PERMIT PROCEDURES

This chapter provides information on the City's processes and permit procedures regarding the Shoreline Management Act and the City of Port Orchard Shoreline Master Program.

8.1 Shoreline Administrator

The City of Port Orchard's Community Development Director, or his/her designee, shall serve as the Shoreline Administrator. The Shoreline Administrator shall determine the proper procedure for all shoreline permit applications, and shall have the authority to grant, condition, or deny shoreline exemptions and administrative shoreline permits.

8.2 Hearing Examiner

The Hearing Examiner shall have authority to conduct open record public hearings and to grant, condition, or deny applications for shoreline substantial use, variance, and conditional use permits, subject to final approval by the Department of Ecology.

8.3 Shoreline Exemptions

A shoreline exemption is a Type I administrative decision, per POMC Section 20.22.020. The Shoreline Administrator shall promptly issue a letter of exemption if a proposed action meets the criteria required by WAC 173-27-040(2), or is specifically exempted pursuant to RCW 90.58.030(3)(e).

Additionally, requirements to obtain a Substantial Development Permit (SDP), Conditional Use Permit, Variance, letter of exemption, or other review to implement the Shoreline Management Act do not apply to the following:

- (i) Remedial actions. Pursuant to RCW 90.58.355, any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW.
- (ii) Boatyard improvements to meet NPDES permit requirements. Pursuant to RCW 90.58.355, any person installing site improvements for storm water treatment in an existing boatyard facility to meet requirements of a national pollutant discharge elimination system storm water general permit.
- (iii) WSDOT facility maintenance and safety improvements. Pursuant to RCW 90.58.356, Washington State Department of Transportation projects and activities meeting the conditions of RCW 90.58.356 are not required to obtain a Substantial Development Permit, Conditional Use Permit, Variance, letter of exemption, or other local review.
- (iv) Projects consistent with an environmental excellence program agreement pursuant to RCW 90.58.045.
- (v) Projects authorized through the Energy Facility Site Evaluation Council process, pursuant to chapter 80.50 RCW.

Per WAC 173-27-040, exemptions shall be construed narrowly. Only those developments that meet the precise terms of one or more of the listed exemptions may be granted exemption from the SDP process. An exemption from the SDP process is not an exemption from compliance with the Shoreline Management Act or the City's Shoreline Master Program, nor from any other regulatory requirements. To be authorized, all uses and developments must be consistent with the policies and provisions of this Master Program and the Act. The burden of proof that a development or use is exempt from the permit process is on the applicant.

If any part of a proposed development is not eligible for exemption, then an SDP is required for the entire proposed development project.

The City may attach conditions to the approval of exempted developments and/or uses as necessary to assure consistency of the project with the Act and the Master Program.

8.4 Multiple Permits Required

Certain shoreline development or use proposals may require more than one shoreline permit or decision type (substantial development permit, shoreline conditional use permit, shoreline variance), and/or may also require additional land use permit approvals such as preliminary plat, conditional use permit, variance, binding site plan, etc. When more than one permit type is required for a shoreline development or use, all permit applications will be processed and reviewed concurrently according to the highest permit type (Types I-V) as specified in POMC 20.20 and 90.58.140, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control.

8.5 Shoreline Substantial Development Permits

Shoreline Substantial Development Permits ("SDPs") are required for all developments (unless specifically exempt) that meet the legal definition of "substantial development." A "substantial development" is any development which meets the criteria of WAC 173-27-040(2)(a) or its successor, or any development which materially interferes with the normal public use of the water or shorelines of the state, or as specifically exempted pursuant to RCW 90.58.030(3)(e).

SDPs are reviewed and processed by local governments and subsequently sent to Ecology. Under WAC 173-27-150, substantial development permits cannot be approved unless they are consistent with policies and procedures of the Shoreline Management Act, Ecology rules, and the local master program. The City may condition a permit if needed to ensure consistency of the project with the Act and the City's Master Program.

Certain proposed development activities and uses may qualify for processing as an administrative SDP subject to Section 8.4.1.1. An administrative SDP is a Type II decision per POMC Section 20.22.020. If a development activity or use does not qualify for an administrative SDP, it will be processed as a regular SDP, which is a Type III decision per POMC Section 20.22.020, and requires a public hearing before the City's hearing examiner.

8.5.1 Shoreline Substantial Development Permits - Administrative

8.5.1.1 Development Activities

Development activities that meet one or more of the following criteria and exceed the exemption thresholds shall be processed as an administrative SDP:

- (a) The remodel, rehabilitation, or other development activities that significantly alter the exterior of an existing building (e.g., adding a fire escape to a building exterior). Minor modifications such as roof replacement, changes in window or door openings, or new siding may qualify as a shoreline exemption;
- (b) Expansions of existing buildings that do not exceed a total of 1,000 square feet, will not exceed one-story in height, and will not increase the height of an existing roof;
- (c) Temporary buildings or other activities that do not qualify as an exemption because they may have a temporary adverse impact on public views, aesthetics, or public access;
- (d) Public access and other associated amenities that are located landward of the OHWM and the fair market value does not exceed \$50,000;
- (e) Underground utility improvements, including utility extensions, within an existing right-of-way;
- (f) Installation of public art.

8.5.1.2 Permit Process

Administrative shoreline permits will be processed as an administrative (Type II) permit in accordance with the requirements of POMC 20.22 and RCW 90.58.140, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control.

8.5.2 Shoreline Substantial Development Permits – Hearing Examiner

8.5.2.1. Development Activities.

Substantial development permits that do not qualify for administrative review and approval under 8.4.1 shall be processed as a hearing examiner decision (Type III) permit in accordance with the requirements of POMC 20.22 and RCW.90.58.140, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control.

8.5.2.2. Permit Process

Hearing examiner shoreline substantial development permits will be processed as a quasi-judicial (Type III) permit in accordance with the requirements of POMC 20.22 and RCW 90.58.140, or as hereafter amended. If there is any conflict between the requirements of these regulations, the more stringent requirement shall control.

8.6 Shoreline Conditional Use Permits

8.6.1 Description

A Shoreline Conditional Use Permit (SCUP) is a Type III (quasi-judicial) decision per POMC 20.22.020, and requires a public hearing and decision by the City's hearing examiner. An SCUP allows greater flexibility

in applying use regulations of the shoreline master program.. A development or use that is listed as a conditional use in the use table in 7.1, or that is not listed in the use table in 7.1, must obtain an SCUP even if the development or use does not require a substantial development permit or is otherwise exempt from permit requirements. A development or use that is listed as “prohibited” in the use table in 7.1 cannot be approved through an SCUP.

8.6.2 Criteria for Granting Shoreline Conditional Use Permits

Uses which are classified or set forth in the applicable master program as conditional uses may be authorized provided that the applicant demonstrates all of the following:

1. That the proposed use is consistent with the policies of the SMA (RCW 90.58.020) and the master program;
2. That the proposed use will not interfere with the normal public use of public shorelines;
3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
5. That the public interest suffers no substantial detrimental effect.
6. Conditional uses must also meet criteria in WAC 173-27-140 which apply to all development.

Some proposals may require both a shoreline substantial development permit (Type I administrative or Type II hearing examiner) and a shoreline conditional use permit. Other proposals that are not a "substantial development" and are exempt from receiving an SDP might require a shoreline conditional use permit.

8.6.3 Permit Process

Shoreline Conditional Use Permits are subject to processing under POMC 20.22.050, RCW 90.58.140 and WAC 173-27-160. . They are administered by the Shoreline Administrator or his/her designee, and are subject to public notice, public comment, a public hearing and SEPA requirements. City-approved SCUPs are sent to Ecology at the end of the local appeal period. Ecology must either approve, deny or condition every SCUP within 30 days of receiving a complete permit application.

8.7 Shoreline Variances

8.7.1 Description

Shoreline variances are requests to adjust the applicable setback and/or bulk and dimensional requirements of the SMP where there are extraordinary or unique circumstances relating to the subject property such that the strict implementation of the SMP requirements would impose unnecessary hardship on the applicant or thwart the policies set for in RCW 90.58.020. When a development and/or use is proposed that does not comply with the bulk, dimensional and performance standards of the master program, such development can only be authorized by approval of a variance. A variance cannot be approved to permit a use that is listed as “prohibited” in the use table in 7.1.

Certain variance requests may qualify for processing as an administrative variance subject to Section 8.7.2. An administrative variance is a Type II decision per POMC Section 20.22.020. If a variance request does not qualify for an administrative variance, it will be processed as a regular variance, which is a Type III (quasi-judicial) decision per POMC Section 20.22.020, and requires a public hearing and a decision by the City's hearing examiner.

8.7.2 Criteria for Granting Shoreline Variances

Any variance request must meet the requirements listed below, depending on whether an administrative (Type II) or hearing examiner (Type III) variance is requested.

8.7.3 Shoreline Variances - Administrative

8.7.3.1 Criteria for granting administrative (Type II) shoreline variances

A request for an administrative shoreline variance must demonstrate that the development or use meets all of the criteria below, in order to be approved:

1. The development and/or use is located landward of the ordinary high water mark (OHWM) as defined in RCW 90.58.030(2)(c), and/or landward of any wetland as defined in RCW 90.58.030(2)(h); and
2. The maximum relief requested by the variance deviates from the applicable bulk, dimensional or performance standard(s) in the City's master program by no more than 20% of each applicable standard; and
3. The development and/or use meets all of the criteria of WAC 173-27-170(2).

If the administrative variance request meets the criteria for 3. above, but does not meet the criteria for both 1. and 2., an administrative variance cannot be granted, but a hearing examiner (Type III) shoreline variance may be requested.

8.7.4 Shoreline Variances – Hearing Examiner

8.7.4.1 When a hearing examiner (Type III) shoreline variance is required.

A development proposal does not qualify to request an administrative (Type II) shoreline variance if either or both of the criteria below are met, and a hearing examiner shoreline variance must be requested:

1. The development or use will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(c), or within any wetland as defined in RCW 90.58.030(2)(h);
2. The relief requested by the variance deviates from the applicable bulk, dimensional or performance standard(s) in the City's master program by more than 20% of any applicable standard.

8.7.4.2 Criteria for granting hearing examiner (Type III) shoreline variances

A request for a hearing examiner variance must demonstrate that the development or use will meet all of the criteria below, as applicable, in order to be approved:

1. If the development or use will be located waterward of the ordinary high water mark (OHWM), as defined in RCW 90.58.030(2)(c), or within any wetland as defined in RCW 90.58.030(2)(h), it must meet the criteria of WAC 173-27-170(3).
2. For all variance requests, the development and/or use must meet all of the criteria of WAC 173-27-170(2).

8.7.5 Permit Process

Requests for a shoreline variance (Type II or Type III) are administered by the Shoreline Administrator or his/her designee, and are subject to public notice, public comment, a public hearing (Type III only) and SEPA requirements. City-approved shoreline variances are sent to Ecology at the end of the local appeal period. Ecology must either approve, deny or condition every shoreline variance within 30 days of receiving a complete permit application.

8.8 Appeals

The granting, denying or rescinding of a shoreline substantial development permit, shoreline conditional use permit or shoreline variance may be appealed to the state shoreline hearings board as provided in RCW 90.58.180.

CHAPTER 9: NONCONFORMING DEVELOPMENT AND USES

Nonconforming development includes shoreline uses and structures which were lawfully constructed, established, or created prior to the effective date of the Shoreline Management Act or the Master Program, or amendments thereto, but which do not conform to present regulations or standards of the Master Program or policies of the Act. In such cases, the standards of this Chapter shall apply. Redevelopment or expansion of nonconforming development and uses located within the High Intensity shoreline environment may occur consistent with the requirement of Appendix C.

9.1 Nonconforming Uses

Nonconforming uses include shoreline uses which were lawfully established prior to the effective date of the Act or the Master Program, or amendments thereto, but which do not conform to present regulations or standards of the Master Program or policies of the Act. The continuance of a nonconforming use is subject to the following standards:

- a. Change of ownership, tenancy, or management of a nonconforming use shall not affect its nonconforming status, provided, that the use does not change or intensify.
- b. Additional development of any property on which a nonconforming use exists shall require that all new uses conform to this Master Program and the Act.
- c. If a nonconforming use is converted to a conforming use, no nonconforming use may be resumed without a shoreline variance.
- d. If a nonconforming use is discontinued for a period of 365 or more consecutive calendar days, it shall lose its nonconforming status, and the continued use of the property shall be required to conform to the provisions of this Master Program and the Act, or obtain a shoreline variance.

A use which is listed as a conditional use but which existed prior to adoption of the Master Program for which a Conditional Use Permit has not been obtained shall be considered a nonconforming use.

9.2 Nonconforming Structures

1) Nonconforming structures include shoreline structures which were lawfully constructed or placed prior to the effective date of the Act or the Master Program, or amendments thereto, but which do not conform to present bulk, height, dimensional, setback, or density requirements. Nonconforming structures may continue even though the structures fail to conform to the present requirements of the environmental designation in which they are located. A nonconforming structure may be maintained as follows:

- a. Necessary repairs and alterations that do not increase the degree of nonconformity may be made to nonconforming structures.
- b. A nonconforming building or structure may be repaired and maintained, and replaced as provided in and as limited by this section and by Appendix C. Any maintenance or repair shall be within the existing building or structure footprint and shall not increase the degree of nonconformity.
- c. Changes to interior walls or non structural improvements may be made to nonconforming buildings or structures.

- d. A nonconforming building or structure that is located within the High Intensity shoreline designation, and that is nonconforming as to the bulk, dimensional and density requirements of this Master Program, may be added to or enlarged if such addition or enlargement conforms to the regulations of the zoning district and the shoreline environment designation, provided that the addition or enlargement is consistent with the standards of Appendix C.
- e. A structure for which a variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.

2) Residential structures shall be deemed “conforming” and not subject to the provisions of this Section 9.2 under the following conditions:

- a. the residential structure or appurtenant structure was legally established and used for a conforming use when established;
- b. the residential structure or appurtenant structure is not an over-water structure;
- c. the residential structure or appurtenant structure is non-conforming solely because it no longer meets the current standards for: setbacks, buffers, or yards; area; bulk; height; or density; and
- d. redevelopment, expansion, change of occupancy class, or replacement of the residential structure is consistent with the master program, including requirements for no net loss of shoreline ecological functions.

For purposes of this provision, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures. Nothing in this section affects the application of other federal, state, or local government requirements to residential structures.

9.3 Nonconforming Lots

Undeveloped lots, tracts, parcels or sites located landward of the ordinary high water mark that were established prior to the effective date of the Act and this Master Program, but that do not conform to the present lot size or density standards are considered nonconforming lots of record and are legally buildable subject to the following conditions:

- a. All new structures or additions to structures on any nonconforming lot must meet all setback, height, and other construction requirements of this Master Program, the Act, and the underlying zoning requirements, and must also comply with the City’s applicable design, building, and engineering standards.
- b. Lot or boundary line adjustments must be reviewed and approved by the City of Port Orchard Planning Department, so as not to create further nonconformities.

CHAPTER 10: SHORELINE ENFORCEMENT AND PENALTIES

10.1 Shoreline Enforcement

The choice of enforcement action and the severity of any penalty should be based on the nature of the violation and the damage or risk to the public or to public resources. The existence or degree of bad faith of the persons subject to the enforcement action, the benefits that the violator enjoys, and the cost of obtaining compliance should be considered. The City's Shoreline Administrator and the City's Code Enforcement Officer, or his/her designees, are authorized to enforce the City's shoreline master program.

10.2 Penalties

Any person found to have willfully engaged in activities on the City's shorelines in violation of the Shoreline Management Act of 1971 or in violation of the City's Master Program, rules or regulations adopted pursuant thereto shall be subject to the enforcement and penalty provisions of POMC Chapter 20.02, or as amended hereafter.

CHAPTER 11: MASTER PROGRAM REVIEW, AMENDMENTS AND ADOPTION

11.1 Master Program Review

This Master Program shall be periodically reviewed and adjustments shall be made as are necessary to reflect changing local circumstances, new information, improved data, and changes in State statutes and regulations. This review process shall be consistent with WAC 173-26 requirements and shall include a local citizen involvement effort and public hearings consistent with state and local requirements.

11.2 Amendments to the Shoreline Master Program

Any provisions of this Master Program may be amended as provided for in RCW 90.58.120 and 90.58.200 and WAC 173-26. Amendments or revision to the Master Program, as provided by law, do not become effective until approved by the Washington State Department of Ecology.

Proposals for changes to shoreline environment designations must demonstrate consistency with the criteria set forth in WAC 173-22-040

11.3 Severability

If any provisions of this Master Program, or its application to any person or legal entity or parcel of land or circumstances is held invalid, the remainder of the Master Program, or the application of the provisions to other persons or legal entities or parcels of land or circumstances, shall not be affected.

11.4 Effective Date

This Master Program shall take effect on ***, 2021 and shall apply to new applications submitted on or after that date and to incomplete applications submitted prior to that date.

CHAPTER 12: DEFINITIONS

Accessory Building – A separate building attached to or detached from the principal building and used for purposes customarily incidental to the use of the principal building. Accessory buildings can include, but are not limited to: garage, shed, playhouse, cabana, hobby room, etc.

Accessory Dwelling Unit (ADU) – A separate, complete dwelling unit attached to or contained within the structure of the principal dwelling; or contained within a separate structure that is accessory to the principal dwelling unit on the premises.

Accessory Use – A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.

Accretion – The growth of a beach by the addition of material transported by wind and/or water. Included are such shoreforms as barrier beaches, points, spits, and hooks.

Act – The Shoreline Management Act of 1971, as amended (RCW Chapter 90.58).

Activity – An occurrence associated with a use; the use of energy toward a specific action or pursuit including, but not limited to fishing, boating, swimming, shellfish harvest, etc.

Administrator – The Shoreline Administrator is the City of Port Orchard Development Director, or designee, charged with administering the Shoreline Master Program.

Agriculture - The cultivation of soil, production of crops, and/or raising of livestock.

Agricultural activities – Agricultural uses and practices including, but not limited to: producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as the result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation.

Agricultural products – Agricultural products includes, but is not limited to, horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including, but not limited to, meat, upland finfish, poultry and poultry products, and dairy products.

Agricultural equipment and agricultural facilities – Includes, but is not limited to:

a) The following used in agricultural operations: Equipment machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including, but not limited to, pumps, pipes, tapes, canals, ditches, and drains.

b) Corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands

- c) Farm residences and associated equipment, lands, and facilities
- d) Roadside stands and on-farm markets for marketing fruit or vegetables

Agricultural land – Those specific land areas on which agricultural activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or other documentation. After the effective date of the master program, land converted to agricultural use is subject to compliance with the requirements of the master program.

Amendment – A revision, update, addition, deletion and/or reenactment to the Port Orchard SMP.

Anadromous Fish – Species, such as salmon, which are born in fresh water, spend a large part of their lives in the sea, and return to freshwater rivers and streams to spawn and reproduce.

Approval – An official action by the City of Port Orchard agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to the SMA.

Appurtenant Structure or Building – A structure or building that is secondary to or which supports the use of the principal structure or building on the site, serving a purpose customarily associated with and incidental to the principal structure. Examples: decks, garages, parking lots and patios.

Aquaculture – The culture and farming of fish, shellfish, or other aquatic plants and animals. Aquaculture does not include the harvest of wild geoduck associated with the state managed wildstock geoduck fishery or upland finfish.

Aquatic - All water bodies, including marine waters, lakes, rivers, and streams and their respective water columns and underlying lands, which are defined as shorelines of the state.

Archaeology – The systematic recovery by scientific methods of material evidence remaining from human life and culture in past ages, and the detailed study of this evidence.

Assessed Value – The value of land and/or improvements as determined by the Kitsap County Assessor.

Associated Wetlands – Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act.

Backshore – The shore area wetted by storm tides but normally dry between the coastline and the high tide line. It may be a narrow gravel berm below a sea bluff or a broader complex of berms, marshes, meadows, or dunes landward of the high tide line.

Bathymetry, Bathymetrics - The measurement of water depth at various locations in a body of water, and; the information derived from such measurements.

Beach – The zone of unconsolidated material that is moved by waves, wind and tidal currents, extending landward to the coastline.

Beach feeding – A process by which beach material is deposited at one or several locations in the updrift portion of a driftcell. The material is then naturally transported by a wave’s downdrift to stabilized or restore eroding beaches or berms.

Benthic – Of or having to do with the bottom of oceans or seas.

Berms – A linear mound of sand or gravel that is placed parallel to the shore at or above ordinary high water mark. It may be a natural or a manmade feature.

Best Management Practices (BMPs) – BMPs are methods of improving water quality. BMPs encompass a variety of behavioral, procedural, and structural measures that reduce the amount of contaminants in stormwater runoff and in receiving waters. The term “best management practices” is typically applied to nonpoint source pollution controls.

Bioengineering – The practice of using natural vegetative materials to stabilize shorelines and prevent erosion. This may include use of bundles of stems, root systems, or other living plant material, soft gabions, fabric, or other soil stabilization techniques, and limited rock toe protection where appropriate. Bioengineering projects often include fish habitat enhancement measures in project design. The use of bioengineering is seen as an alternative to riprap, concrete, or other structural solutions.

Biofiltration System – A stormwater or other drainage treatment system that utilizes as a primary feature the ability of plant life to screen out and metabolize sediment and pollutants. Typically, biofiltration systems are designed to include grassy swales, retention ponds, and other vegetative features.

Biota – Animals and plants that live in a particular location or region.

Boat House – A structure designed for storage of vessels located over water or in upland areas. Boat houses do not include any sort of residential development (i.e. houseboats).

Boat Launch – Graded slopes, slabs, pads, planks or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat Lift – A mechanical device that can hoist vessels out of the water for storage, repair, or maintenance.

Boat Ramp – See “boat launch” above.

Boating Facilities – Boating facilities include marinas, both backshore and foreshore, dry storage and wet-moorage types, covered moorage, and marine travel lifts.

Boatyard – A service business that builds, repairs or maintains small vessels:

- At least 85 percent of which are 65 feet or less in length; or
- More than 85 percent of the gross receipts come from working on vessels.

Breakwater – A structure, either rigid or floating, constructed offshore to protect beaches, bluffs, dunes or harbor areas from wave action.

Buffer – A parcel or strip of land that is designed and designated to permanently remain vegetated in an undisturbed and natural condition to protect an adjacent aquatic or wetland site from upland impacts, or to provide habitat for wildlife.

Building - Any structure having a roof and walls, used or built for the housing, shelter or enclosure of persons, animals or property of any kind.

Building Height – The vertical height or distance from the uphill elevation of the lower or either the existing or finished grade at the foundation or slab to the highest point of the roof of the building. If the uphill elevation line is not level, the average uphill elevation shall be the basis for the measurement.

Bulkhead – A solid or open pile wall usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are used to protect marine bluffs by retaining soil at the toe of the slope or by protecting the toe of the bank from

erosion and undercutting. Bulkheads are typically constructed of concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.

Buoy – A floating device anchored in a waterbody for navigational purposes or moorage. See also “mooring buoy.”

Campground – An outdoor area established for recreational overnight accommodations.

Channel – An open conduit for water either naturally or artificially created.

Channel Migration Zone – An area in a floodplain where a stream or river channel can be expected to move naturally over time in response to gravity and topography.

City – The City of Port Orchard, Washington.

Clearing – The destruction or removal of vegetation, ground cover, shrubs and trees including, but not limited to, root material removal that affects the erosive potential of soils.

Covered Moorage – Boat moorage, with or without walls, that has a roof to protect vessels.

Commercial – Commercial developments are those uses that include wholesale, retail, service, office or business trade activities. A mixed-use development that contains commercial uses and residential uses within the same building or buildings shall be regulated as a commercial use according to the requirements of this Master Plan, including but not limited to setbacks, height and public access.

Comprehensive Plan – The document, including maps, adopted by the City Council that outlines the City’s goals and policies relating to the management of growth, and prepared in accordance with RCW 36.70A.

Conditional Use – A use, development, or substantial development which is classified as a conditional use or a use which is not classified within the Master Program.

Conservancy – An area with valuable natural, cultural, or historical resources.

County – Kitsap County, Washington.

Creek – A small stream, often a shallow or intermittent tributary to a river.

Critical Areas – Aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas and critical drainage corridors, geologically hazardous areas, wetlands and streams.

Cumulative Impacts – The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Development – For the purposes of this Master Program, development means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level. Development does not include dismantling or removing structures if no other work is being performed.

Dike – An embankment usually placed within or near the edge of a flood plain to protect adjacent lowlands from flooding.

Dock – A landing and moorage facility for watercraft that abuts the shoreline and does not include recreational decks, storage facilities, or other appurtenances.

Downdrift – The direction of movement of beach materials.

Dredging – The removal of earth, sand, gravel, silt, or debris from the bottom of a stream, river, lake, inlet, bay, or other water body and associated wetlands.

Drift Cell – A geographic unit along the shore. Each begins at a sediment source along an eroding shoreline, often at the base of “feeder bluffs.” Sediment is transported within the drift cell by currents and wind-blown waves, finally being deposited at an accretion shoreform (e.g. spits, sandbars, accretion beach) marking the end of the drift cell.

Dwelling unit – One or more rooms designed for occupancy by a person or family for living and sleeping purposes, containing kitchen facilities, lavatory, and closet, and rooms with internal accessibility, for use solely by the dwelling’s occupant; including but not limited to bachelor, efficiency and studio apartments, modular and manufactured homes.

Dwelling unit – multifamily – A residential structure designed for occupancy by more than one family household that is built in combination with other residential structures. Each dwelling unit in the structure is built exclusively for occupancy by a single family with no other uses except accessory activities. However, a multifamily structure may share one or more common walls and stack units on multiple floors. Multifamily residential structures may be clustered on a site, located on a lot line (zero lot line), and include stacked multiplex, garden apartments, and other prototypes.

Ecological Function – Work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline’s natural ecosystem.

Ecosystem-wide processes – The suite of naturally occurring physical and geologic processes of erosion, transport, and deposition, and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

Enhancement – An action approved by the Shoreline Administrator and taken with the intention on probable effect of improving the condition and function of a shoreline area, such as improving environmental functions in an existing, viable shoreline habitat by means of increasing plant diversity, increasing wildlife habitat, installing environmentally compatible erosion controls, or removing nonindigenous or invasive plant or animal species. Enhancement may include alteration of an existing resource to improve or increase ecological characteristics and processes without degrading other existing functions. Any fish habitat enhancement project must meet the criteria of one or more actions included in RCW 77.55.181(1)(a).

Environmental Impacts – The effects or consequences of actions on the natural and built environments.

Erosion – The group of natural processes including weathering, dissolution, abrasion, corrosion, and transporting by which earth or rocky material is removed from any part of the earth’s surface. Erosion can be exacerbated by human action, such as earth-moving or clearing activities.

Esplanade – A level stretch of ground, especially a public walk or walkway.

Estuary – The portion of a shoreline in which marine water is measurably diluted with fresh water from streams and/or land drainage.

Exaction – The act or process of exacting; extortion; something exacted; especially a fee, reward or contribution demanded or levied with severity or injustice.

Exemption – Development activity exempt from the requirements of the substantial development permit process of the SMA. An activity that is exempt from the substantial development provisions of the SMA must still comply with the policies and standards of the Act, and this Master Program. Condition use and/or variance permits may also be required even though the activity does not need a substantial development permit.

Extreme Low Tide – The lowest line of the land reached by a receding tide.

Fair Market Value – The open market bid price of a property and associated improvements. Fair market value for a proposed development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services, materials, and labor necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, and equipment and facility usage, transportation and contractor overhead and profit. The fair market value of a development shall include the fair market value of any donated, contributed, or found labor, equipment, or materials.

Feasible – An action such as a development project, mitigation, or preservation requirement, that meets all of the following conditions: a) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; b) the action provides a reasonable likelihood of achieving its intended purpose; and c) the action does not physically preclude achieving the project’s primary intended legal use.

Feeder Bluff – A bluff or cliff experiencing periodic erosion from waves, sliding or slumping, whose eroded earth, sand or gravel material is naturally transported (littoral drift) via a driftway to an accretion shoreform.

Fill – The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.

First Class Tidelands – The beds and shores of navigable tidal waters lying within or in front of the corporate limits of any city, or within one mile thereof, upon either side and between the line of the ordinary high tide and the inner harbor line, and within two miles of the corporate limits on either side and between the line of ordinary high tide and the line of extreme low tide.

Fish Habitat Enhancement – see “Enhancement”

Float – A floating structure, not connected to the shoreline, that is moored, anchored, or otherwise secured in the water. A float may be accessible via a ramp connected to the shore.

Flood Control – Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high precipitation or stream overflow.

Floodplain – The one-hundred year flood plain, or land area susceptible to being inundated by stream derived waters with a one percent chance of being equaled or exceeded in any given year. The limits of

this area are based on flood regulation ordinance maps or a reasonable method that meets the objectives of the SMA.

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

Footprint, Building - The area covered by a building on the ground. For the purposes of this Master Program, this definition does not include cantilevered portions of a building, or those portions of a site that have only surface development without walls and a roof (such as a deck or patio) or development located solely underground (such as a below-ground basement).

Functions and Values – See “Ecological Functions.”

Forest Practices – Any activity conducted on or directly related to forest land and related to growing, harvesting, or processing timber. These activities include, but are not limited to; road and trail construction, final and intermediate harvesting, precommercial thinning, reforestation, fertilization, prevention and suppression of disease and insects, salvage of trees, and brush control. Forest practices that only involve timber cutting are not considered “development” under the Shoreline Management Act, and do not require shoreline development permits; however, other permits may be required.

Freeboard – For the purposes of this Master Plan, it is the difference between the height of a shoreline armor structure and the water depth at the ordinary high water mark, measured at the seaward toe of the structure.

Gabions – Structures composed of masses of rocks, rubble or masonry held tightly together usually by wire mesh so as to form blocks or walls. Sometimes used on heavy erosion areas to retard wave action or as foundations for breakwaters or jetties.

Geomorphology – The science dealing with the relief features of the earth and the processes influencing their formation.

Growth Management Act (GMA) – The Washington State Growth Management Act of 1990 and amended thereto. Codified in RCW 36.70A.

Grading – The movement or redistribution of soil, sand, rock, gravel, sediment or other material on a site in a manner that alters the natural contour of the land.

Grassy Swale – A vegetated drainage channel that is designed to remove pollutants from stormwater runoff through biofiltration.

Groin – A barrier-type structure extending from the backshore or streambank into a water body for the purpose of the protection of a shoreline and adjacent uplands by influencing the movement of water and/or deposition of materials.

Guidelines – Those standards adopted by the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

Habitat – The place or type of site where a plant or animal naturally or normally lives and grows.

Habitat Enhancement – see “Enhancement”

Harbor Area – The area of navigable tidal waters as determined in Section 1, Article 15 of the Washington State Constitution, which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

Hearing Examiner – The Hearing Examiner of the City of Port Orchard.

Hearings Board – The Shoreline Hearings Board established by the Shoreline Management Act.

Height, Building – See “building height.”

Hook – A spit or narrow cape of sand or gravel which turns landward at the terminal end.

Hydraulic Project Approval (HPA) – The permit issued by the Washington Department of Fish and Wildlife pursuant to RCW 75.20.100-140.

Hydric Soil – Soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper soil horizon(s), thereby influencing the growth of plants.

Industry – The production, processing, manufacturing, or fabrication of goods or materials. Warehousing and storage of materials is considered part of the industrial process.

Inner Harbor Line – A line located and established in navigable tidal waters between the line of ordinary high tide and the out harbor line and constituting the inner boundary of the harbor area.

In-kind Replacement – To replace natural or man-made features with features whose characteristics closely match those which were destroyed, displaced, degraded or removed by an activity.

Intertidal – The vertical zone between the average high and average low tides. The intertidal zone of a stationary structure or bank is subject to alternate wetting and drying.

Jetty – A structure projecting out into the sea at the mouth of a river for the purpose of protecting a navigational channel, a harbor, or to influence water currents.

Landfill – The creation of dry upland areas by the deposition of sand, soil, or gravel into a body of water or wetland.

Levee – A large dike or embankment which is designed as part of a system to protect land from floods.

Littoral Drift – The mud, sand, or gravel material moved parallel to the shoreline in the nearshore zone by waves and currents.

Marina – A facility that provides launching, storage, supplies, moorage, and other accessory services for six or more pleasure and/or commercial water craft.

Master Program – See “shoreline master program.”

May – Means the action is acceptable, provided it conforms to the provisions of WAC 173-26.

Mitigation – The process of avoiding, reducing, or compensating for environmental impact(s) of a proposal.

Mixed-Use – A mixed-use development contains a multi-family residential use, and commercial, public and/or recreational uses within the same building(s).

Moorage – Any device or structure used to secure a vessel for temporary anchorage, but which is not attached to the vessel (such as a dock or buoy).

Mooring Buoy – A floating object anchored to the bottom of a water body that provides tie up capabilities for vessels.

Must – Means a mandate; the action is required.

Navigable Waters – Those waters lying waterward of and below the line of navigability on lakes not subject to tidal flow, or extreme low tide mark in navigable tidal waters, or the outer harbor line where harbor area has been created.

Non-conforming Use or Development, Legal – A shoreline use or structure or portion thereof which was lawfully constructed or established prior to the effective date of the SMA or local Shoreline Master Program or amendments, but no longer conforms to the policies and regulations of the Master Program.

Non-water-oriented Use – A use which has little or no relationship to the shoreline and is not considered a priority use under the SMA. All uses which do not meet the definition of water-dependent, water-related or water-enjoyment are classified as non-water-oriented uses. Examples may include, but are not limited to professional offices, gas stations, auto dealerships, convenience stores, general retail, etc.

Normal Maintenance – Those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition.

Normal Repair – To restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction, except where repair involves total replacement which is not common practice or causes substantial adverse effects upon the shoreline resource environment.

Noxious Weed – Any plant that is invasive, and is listed on the state noxious weed list in WAC 16-750.

Offshore – The sloping subtidal area seaward from low tide.

Offshore Moorage Device – An offshore device anchored or otherwise attached to the sea bottom used to moor watercraft.

Off-site Compensation – Compensation for lost or degraded wetlands or other shoreline environmental resources by creating or restoring these areas on lands other than the site on which the impacts were located.

OHWM – See Ordinary High Water Mark

On-site Compensation – Compensation for lost or degraded wetlands or other shoreline environmental resources by creating or restoring these areas at or adjacent to the site on which the impacts were located.

One-hundred Year Flood Elevation – The elevation in feet of the area which has a one percent chance or greater of being flooded in any given year.

One-Hundred Year Flood Hazard Area – An area which has a one percent chance or greater of being flooded in any given year.

One-Hundred Year Flood – The maximum flood expected to occur during a one-hundred year period.

Open Space – A land area allowing view, use or passage that is almost entirely unobstructed by buildings, paved areas, or other manmade structures.

Ordinary High Water Mark (OHWM) – That mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the Department of Ecology; provided that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

Outer Harbor Line – A line located and established in navigable waters as provided in Section 1 of Article 15 of the Washington State Constitution, beyond which the State shall never sell or lease any rights whatsoever.

Over-water Structures – Structures built waterward of the OHWM including, but not limited to, piers, docks, jetties, dwelling units, and breakwaters.

Permit – A shoreline substantial development permit, variance, or conditional use permit, permit revision, or any combination thereof.

Person – An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, agency of the state, or local government unit, however designated.

Pier – A fixed, pile-supported structure built over the water, used as a landing place for marine transport or for recreational purposes.

Pocket Beach – An isolated accretion beach bordered by shoreline modifications.

Pollutant – Any substance that has been or may be determined to cause or tend to cause injurious, corrupt, impure, or unclean conditions when discharged to surface water, air, ground, sanitary sewer system, or storm drainage system.

Priority Habitat – A habitat type with unique or significant value to one or more species. An area classified and mapped as priority habitat must have one or more of the following attributes;

- Comparatively high fish or wildlife density
- Comparatively high fish or wildlife species diversity
- Fish spawning habitat
- Important wildlife habitat
- Important fish or wildlife seasonal range
- Important fish or wildlife movement corridor
- Rearing and foraging habitat
- Important marine mammal haul-out
- Refugia habitat
- Limited availability
- High vulnerability to habitat alteration
- Unique of dependent species

- Shellfish bed

A priority habitat may be described by a unique vegetation type or by a dominant plant species that is of primary importance to fish and wildlife (such as oak woodlands or eelgrass meadows). A priority habitat may also be described by a successional stage (such as, old growth and mature forests). Alternatively, a priority habitat may consist of a specific habitat element (such as a consolidated marine/estuarine shoreline, talus slopes, caves, snags) of key value to fish and wildlife. A priority habitat may contain priority and/or nonpriority fish and wildlife.

Priority Species – means species requiring protective measures and/or management guidelines to ensure their persistence at genetically viable population levels. Priority species are those that meet any of the criteria listed below.

a) Criterion 1. State-listed or state proposed species. State-listed species are those native fish and wildlife species legally designated as endangered (WAC 232-12-014), threatened (WAC 232-12-011), or sensitive (WAC 232-12-011). State proposed species are those fish and wildlife species that will be reviewed by the Department of Fish & Wildlife (POL-M-6001) for possible listing as endangered, threatened, or sensitive according to the process and criteria defined in WAC 232-12-297.

b) Criterion 2. Vulnerable aggregations. Vulnerable aggregations include those species or groups of animals susceptible to significant population declines, within a specific area or statewide, by virtue of their inclination to congregate. Examples include heron colonies, seabird concentrations, and marine mammal congregations.

c) Criterion 3. Species of recreational, commercial, and/or tribal importance. Native and nonnative fish, shellfish, and wildlife species of recreational or commercial importance and recognized species used for tribal ceremonial and subsistence purposes that are vulnerable to habitat loss or degradation.

d) Criterion 4. Species listed under the federal Endangered Species Act as either proposed, threatened, or endangered.

Priority Use – The Shoreline Management Act and this Master Program give preference to shoreline uses that are water-dependent or water-related, provide public access and recreational use of the shoreline, as well as other uses which provide an opportunity for substantial numbers of people to enjoy the shoreline and to single-family residences.

Provisions – Policies, regulations, standards, guideline criteria or environment designations.

Public Access – A means of physical approach to and along the shoreline available to the general public. This may also include visual access. Provision of public access is a non-profit activity.

Public Interest – The interest shared by citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected such as an effect on public property or on health, safety, or general welfare resulting from a use or development.

Public Use – To be made available daily to the general public on a first-come, first-served basis.

RCW – Revised Code of Washington

Recreational Facilities – Facilities such as parks, trails, pathways, campgrounds, and swim rafts that provide a means for relaxation, play, or amusement.

Redevelop, Redevelopment - “Redevelop” or “redevelopment” means the replacement of an existing structure or part of an existing structure, or demolition of the structure, with development of a new and/or remodeled structure or structures in its place.

Revetment – A sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against currents and wave action. Revetments are most commonly built of randomly placed boulders (riprap) but may also be built of sand cement bags, paving, or building blocks, gabions, or other systems and materials.

Riprap – A loose assemblage of broken rock or concrete erected in or near water for protection from wave and current action.

Rock Weir – A structure made of loose rock that is designed to control sediment movement, water flow, or both. A rock weir adjacent to a shoreline is typically formed by placing rock in a line outward from the shore, with the top of the rock embankment below the water level to restrict current movements parallel to the shore without completely blocking flow.

SEPA – State Environmental Policy Act

SEPA Checklist – A form, available at the City, which is required of some projects to identify the probable significant adverse impacts on the environment. The checklist will assist the responsible official with making a determination of significance or nonsignificance.

Sea Wall – A bulkhead, for the primary purpose of armoring the shore from erosion by waves, which also may incidentally retain uplands or fills. Sea walls are usually larger than bulkheads because they are designed to resist the full force of waves.

Setbacks – The distance between buildings or uses and their lot lines as established in the Land Use Regulatory Code or the Shoreline Master program.

Shorelands – Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark, including all wetlands associated with the shoreline which are subject to the provisions of the Shoreline Management Act and this Master Program, and to determination by the Department of Ecology.

Shoreline Administrator – The Shoreline Administrator for the City of Port Orchard is the Director of the Department of Community Development, or his/her designee.

Shoreline Permit – See “Permit.”

Shorelines – All the water areas within the state, including reservoirs, and their associated wetlands, together with all underlying lands, EXCEPT 1) shorelines of statewide significance; 2) shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less, and the associated wetlands; and 3) shorelines on lakes of less than 20 acres in size and their associated wetlands.

Shorelines of Statewide Significance – Shorelines designated by the Shoreline Management act of 1971. Sinclair Inlet and adjacent saltwaters lying seaward of the extreme low tide are identified as a Shoreline of Statewide Significance.

Shorelines Hearings Board – A state-level quasi-judicial body, created by the Shoreline Management Act, which hears appeals by any aggrieved party on the issuance of a shoreline permit, enforcement penalty and appeals by local government of DOE approval of master programs, rules, regulations, guidelines or designations under the SMA.

Shorelines of the State – The total of all shorelines and shorelines of statewide significance.

Sign – Any visual communication device, structure, fixture, placard, painted surface, awning, banner, or balloon using graphics, lights, symbols, and/or written copy designated specifically for the purpose of advertising, identifying, or promoting the interest of any person, institution, business, event, product, goods, or services; provided, that the same is visible from any public right-of-way or waterway.

Single-Family Residence – A detached dwelling unit designed for and occupied by one family, including those buildings, structures and developments within a contiguous ownership which are of a normal appurtenance (WAC 173-27-040(2)(g)). This definition does not prevent a single-family residence from containing an accessory dwelling unit provided that the requirements of POMC Title 20 for this use are met.

SMA – See Shoreline Management Act.

State Environmental Policy Act (SEPA) – SEPA requires state agencies, local governments and other lead agencies to consider environmental impacts when making most types of permit decisions, especially for development proposals of a significant scale. As part of the SEPA process, EISs may be required to be prepared and public comments solicited.

Stream – A body of running water that moves over the land surface in a channel or bed.

Structure – A permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels.

Structure or Building, Principal – The structure or building associated with the principal use of the property. In some circumstances, such as multi-building commercial or multifamily residential development, there may be more than one principal structure on a property. This definition shall not include nonhabitable, accessory structures and buildings such as storage sheds, decks, patios, greenhouses, swimming pools, and parking lots.

Substantial Development – Any developments of which the total cost or fair market value exceeds the amount currently established and in effect per WAC 173-27-040(2)(a), or any development which materially interferes with the normal public use of the water or shorelines of the state; EXCEPT as specifically exempted pursuant to RCW 90.58.030(3)(e).

Taking – The act of one who takes; something taken, as a catch of fish; informal receipts, especially of money; a government action assuming ownership of real property by eminent domain.

Upland – The area above and landward of the ordinary high water mark.

Use – The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained and shall include any manner of performance or operation of such activity with respect to the provision of this title. The definition of “use” also includes the definition of “development.”

Utility – A service or facility that produces, transmits, stores, processes, or disposes of electrical power, gas, water, sewage, communications, oil, and the like. Utilities have been categorized as principal, accessory, and personal wireless facilities.

- a) Principal utilities are services and facilities that produce, transmit, carry, store, process or dispose of power gas, water, sewage, communications (except wireless facilities), oil and the like.
- b) Accessory utilities are small-scale distribution services directly serving a permitted shoreline use.
- c) Personal wireless facilities include any unstaffed facility for the transmission and/or reception of personal wireless services. This can consist of an equipment shed or cabinet, a support structure, or an existing structure to achieve the necessary elevation, and the antenna or antenna array.

Variance – To grant relief from specific bulk, dimensional or performance standards set forth in the applicable master program and not a means to vary a use of a shoreline.

Vegetation Removal – The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Vessel – Means ships, boats, barges or any other floating craft that are designed for navigation in order to transport people or goods over water, are used for or capable of being used for navigation, and do not interfere with the normal public use of the water. A vessel is considered capable of being used for navigation even if it is not used for navigation due to actions or inactions of the vessel owner(s) or due to conditions affecting the use of the vessel for navigation, which include, but are not limited to, broken engines, lack of an engine, hull damage, physical modifications, or missing sails. Vessel also means historic ships that do not have means of self-propulsion and steering equipment.

Water-dependent Use – A use which cannot exist in any other location than on the water and is dependent on the water by reason of the intrinsic nature of its operations. Examples of water-dependent uses may include, but are not limited to:

- 1) Public or private terminal/transfer facilities
- 2) Ferry terminals
- 3) Ship construction and repair facilities
- 4) Marinas and boat moorages
- 5) Tug and barge companies
- 6) Water transport dependent industries (e.g. pulp and lumber mills)
- 7) Fish processing plants requiring water transport
- 8) Float plane facilities
- 9) Aquaculture
- 10) Sewer outfalls

Water-enjoyment Use – A use providing passive and active recreation for a large number of people along shorelines. Through location, design, and operation, the use also provides the ability for the public to interact with the shoreline. To qualify as a water enjoyment use, the use must be open to the public with most, if not all, of the shoreline devoted to fostering human interaction with the shoreline.

Water enjoyment uses include, but are not limited to:

- 1) Public waterfront parks
- 2) Public Beaches
- 3) Aquariums

- 4) Public restaurants
- 5) Resorts and convention centers with facilities open to the public
- 6) Retail and mixed commercial developments designed to enhance a waterfront location through expanse of views, amenities oriented to pedestrians, and other aesthetic design features.

Water-oriented Use – Any one or a combination of water dependent, water related, or water enjoyment uses.

Water-related Use – A use or a portion of a use which is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a waterfront location. Water-related uses include, but are not limited to:

- 1) Warehousing of goods transported by water
- 2) Seafood processing plants
- 3) Gravel storage when transported by barge
- 4) Log storage

Wetlands or Wetland Areas – Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support , and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands; and (11). The definition set forth in Chapter 90.58 shall also apply as used herein.

Wireless Facilities – See “Utilities.”

APPENDIX A – Shoreline Maps

CITY OF PORT ORCHARD



Revised: January 2021





APPENDIX A1 – Shoreline Jurisdiction Map

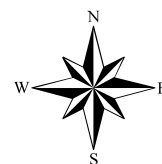


CITY OF PORT ORCHARD

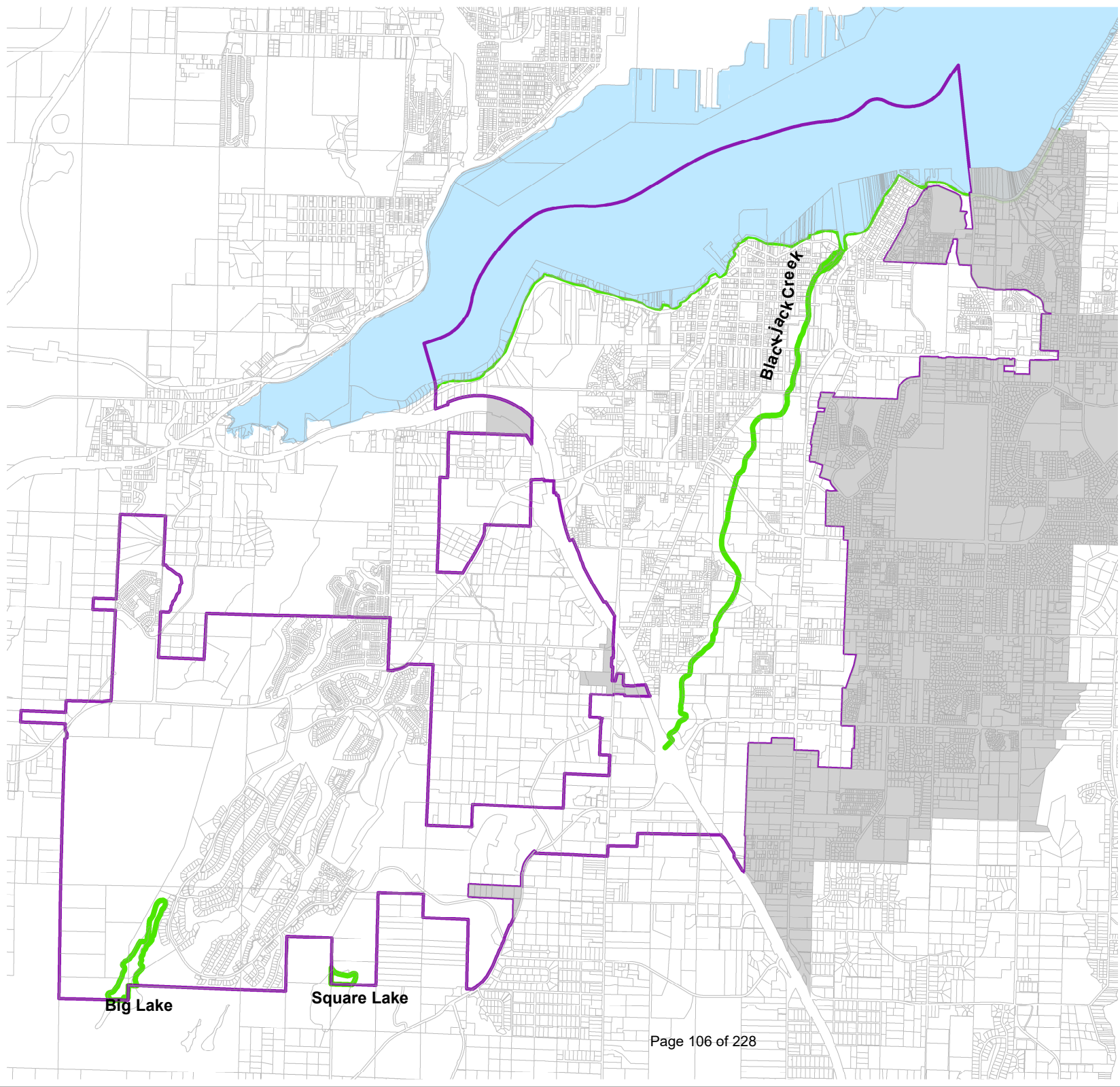


City of Port Orchard Shoreline Jurisdiction

-  City of Port Orchard
-  Port Orchard UGA
-  Sinclair_Inlet
-  Shoreline Jurisdiction



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APPENDIX A2 – Shoreline Environment Designation Maps

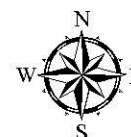


CITY OF PORT ORCHARD

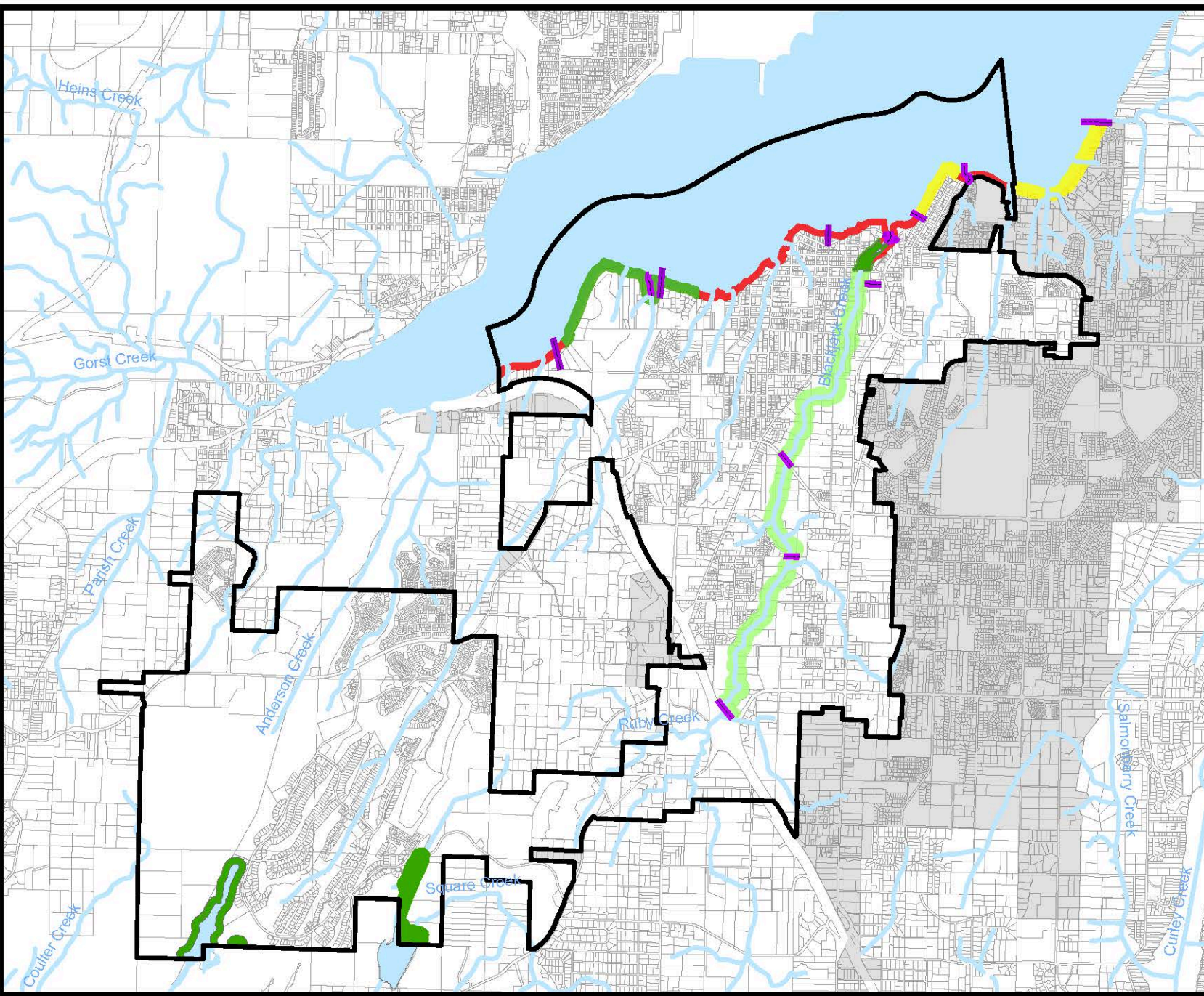


Legend

- Shoreline Segments
- PO City Boundary
- Watercourses
- URBAN CONSERVANCY
- HIGH INTENSITY
- NATURAL
- SHORELINE RESIDENTIAL
- Urban Growth Area



City of Port Orchard: Shoreline Environmental Designations





Legend

- Shoreline Segments
- PO City Boundary
- Watercourses
- URBAN CONSERVANCY
- HIGH INTENSITY
- NATURAL
- SHORELINE RESIDENTIAL
- Urban Growth Area

Segment 1

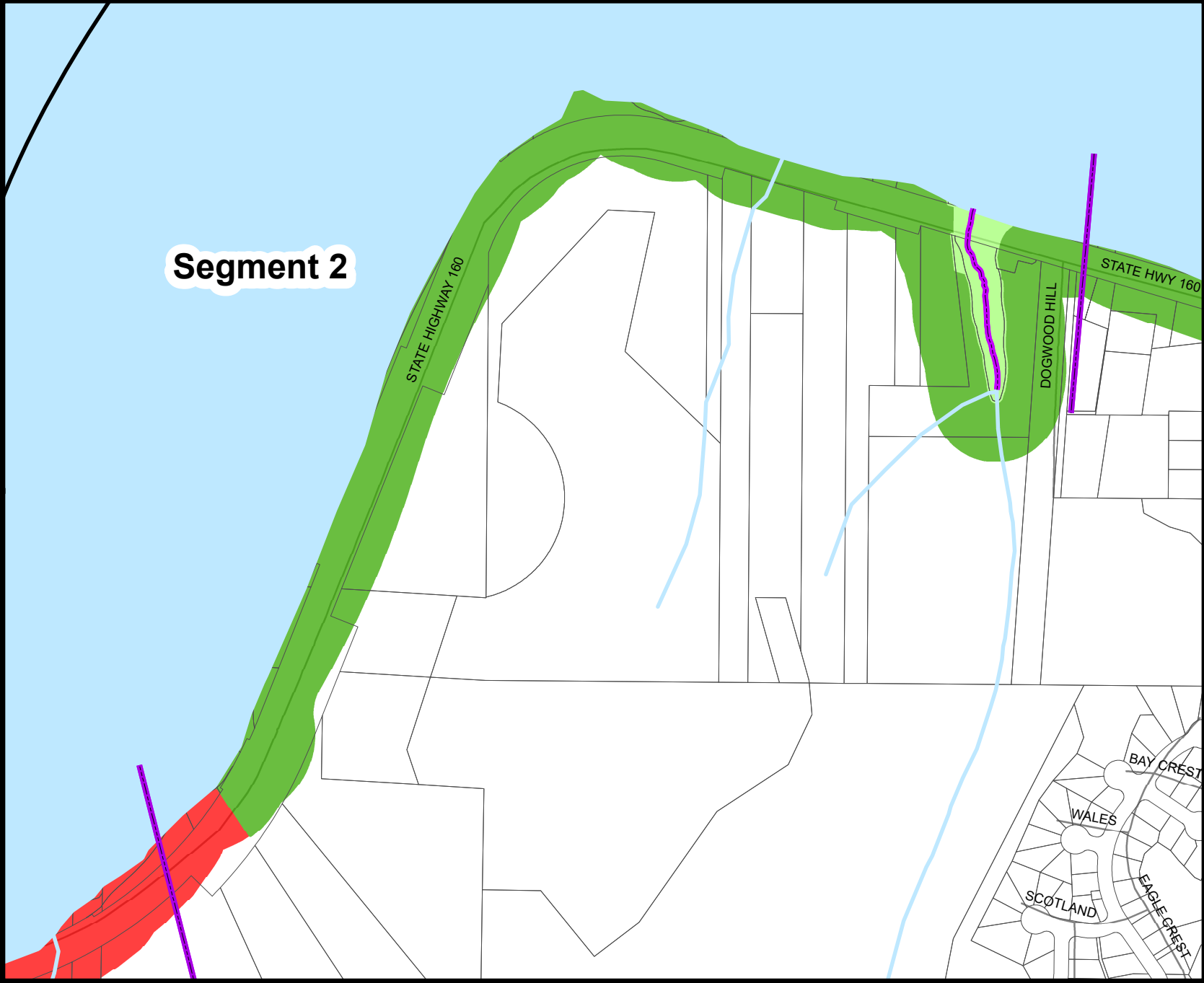




Legend

- Shoreline Segments
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- Watercourses
- URBAN CONSERVANCY
- HIGH INTENSITY
- NATURAL
- SHORELINE RESIDENTIAL
- Urban Growth Area









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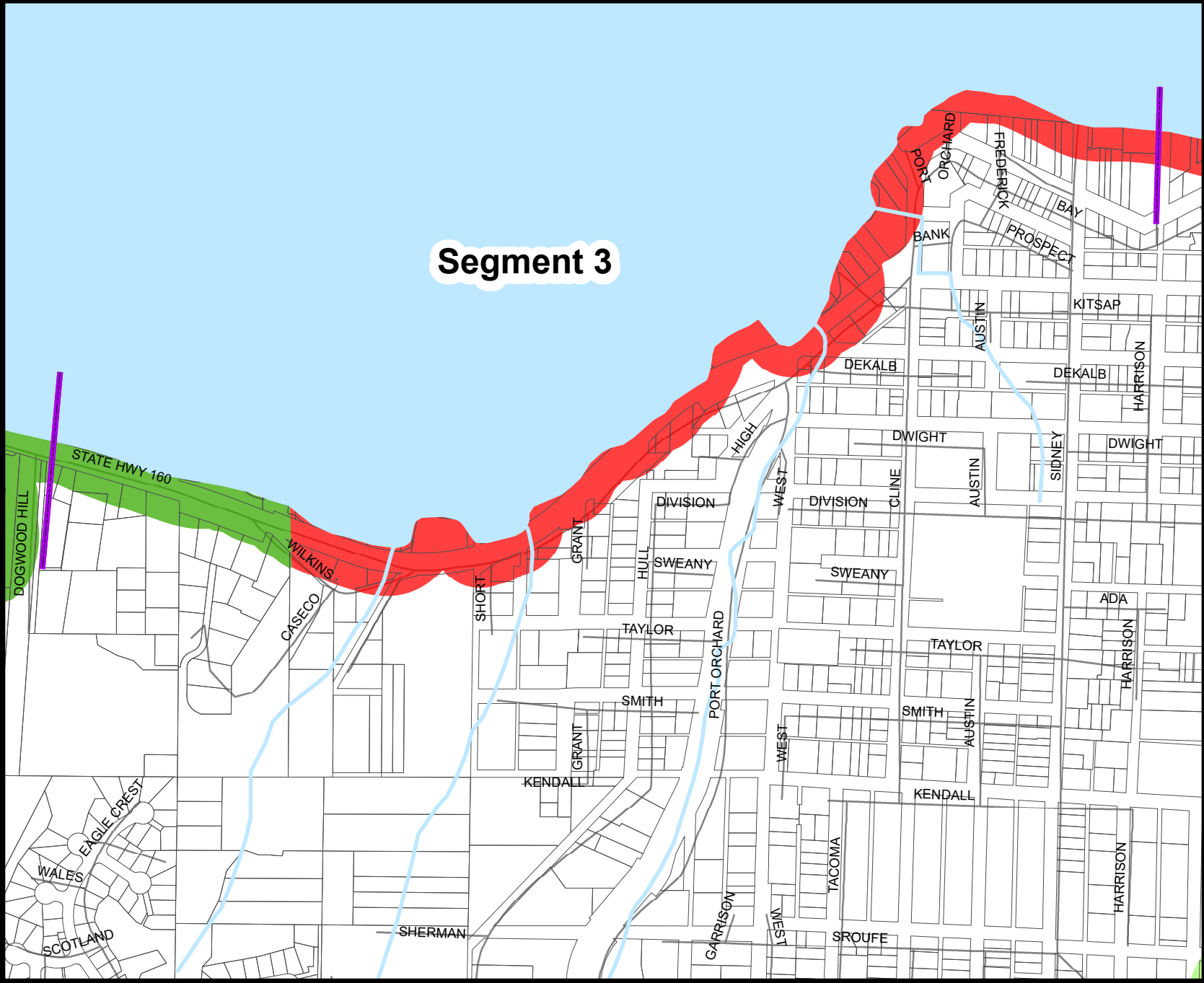
City of Port Orchard: Shoreline Environmental Designations



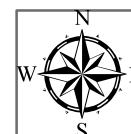
Legend

-  Shoreline Segments
-  PO City Boundary
-  Watercourses
-  URBAN CONSERVANCY
-  HIGH INTENSITY
-  NATURAL
-  SHORELINE RESIDENTIAL
-  Urban Growth Area

Segment 3



City of Port Orchard: Shoreline Environmental Designations













Segment 4

Segment 7

Segment SB-1

Legend

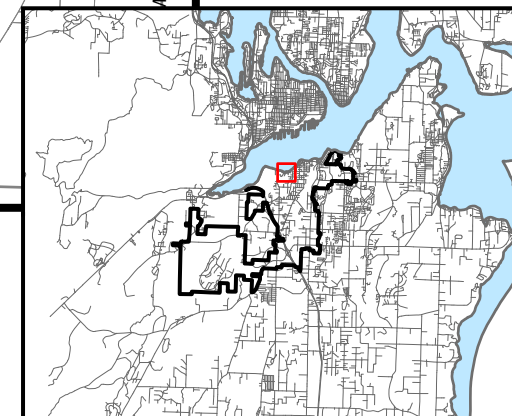
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-  City Boundary
-  NATURAL
-  URBAN CONSERVANCY
-  HIGH INTENSITY
-  SHORELINE RESIDENTIAL
-  Port Orchard UGA
-  Waterbodies

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This map is not a substitute for a field survey.

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Miles











City of Port Orchard: Shoreline Environmental Designations

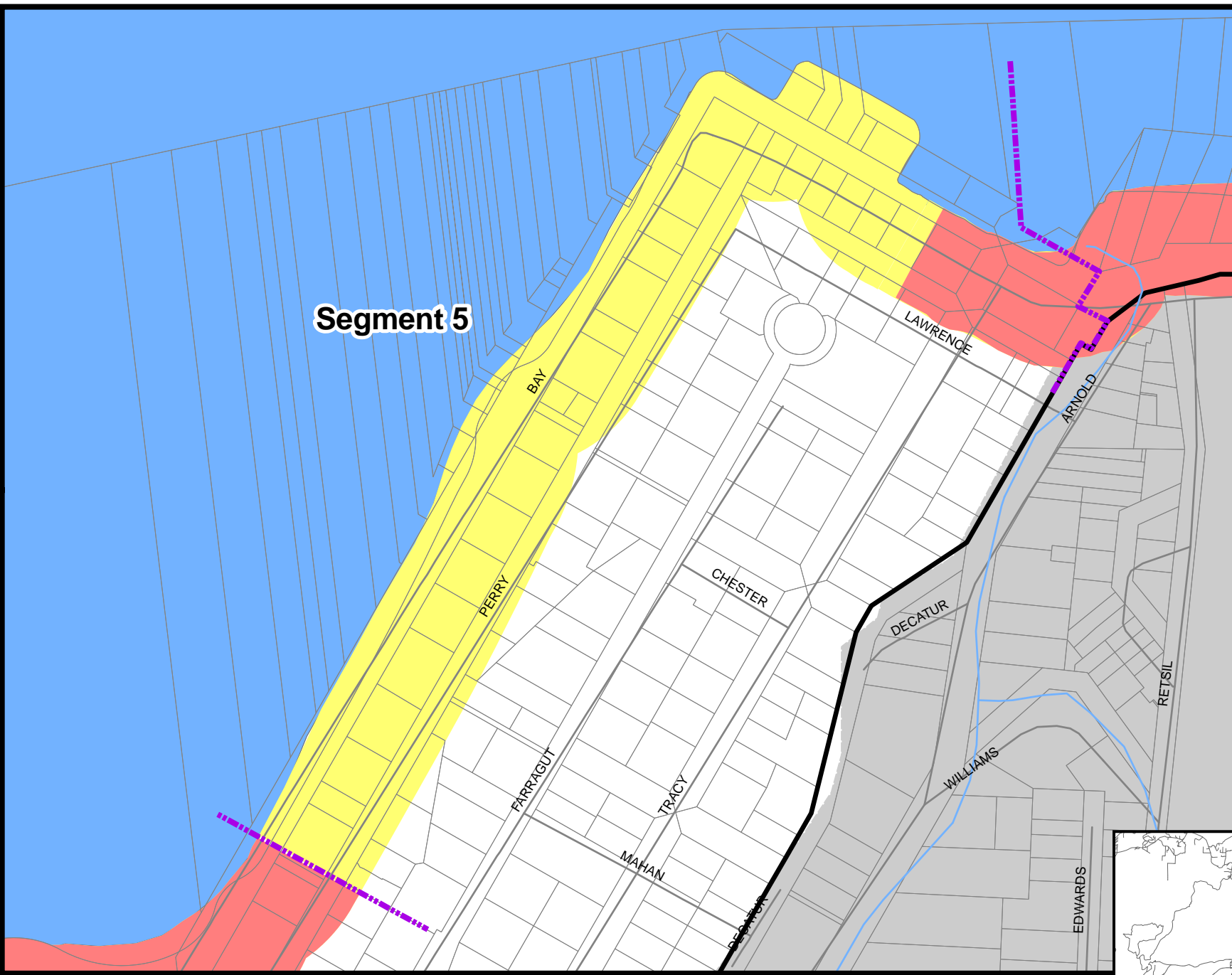




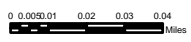
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-  Shoreline Segment Lines
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-  SHORELINE RESIDENTIAL
-  Port Orchard UGA
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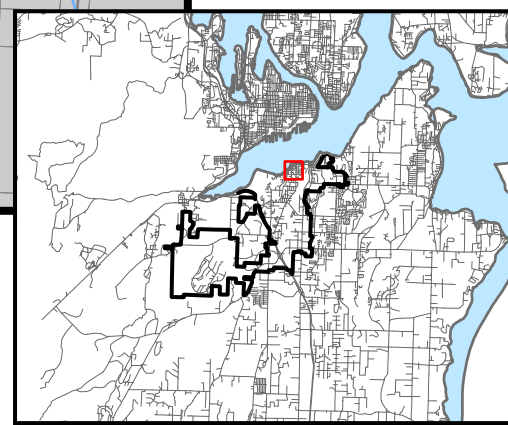
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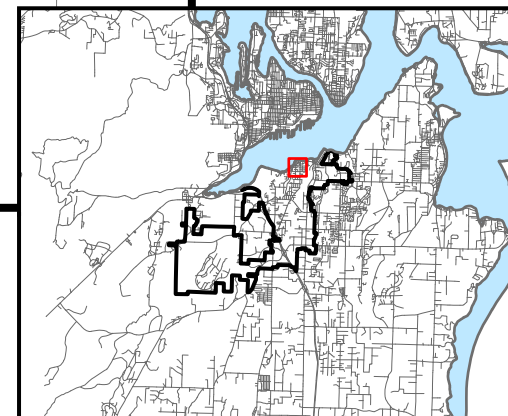
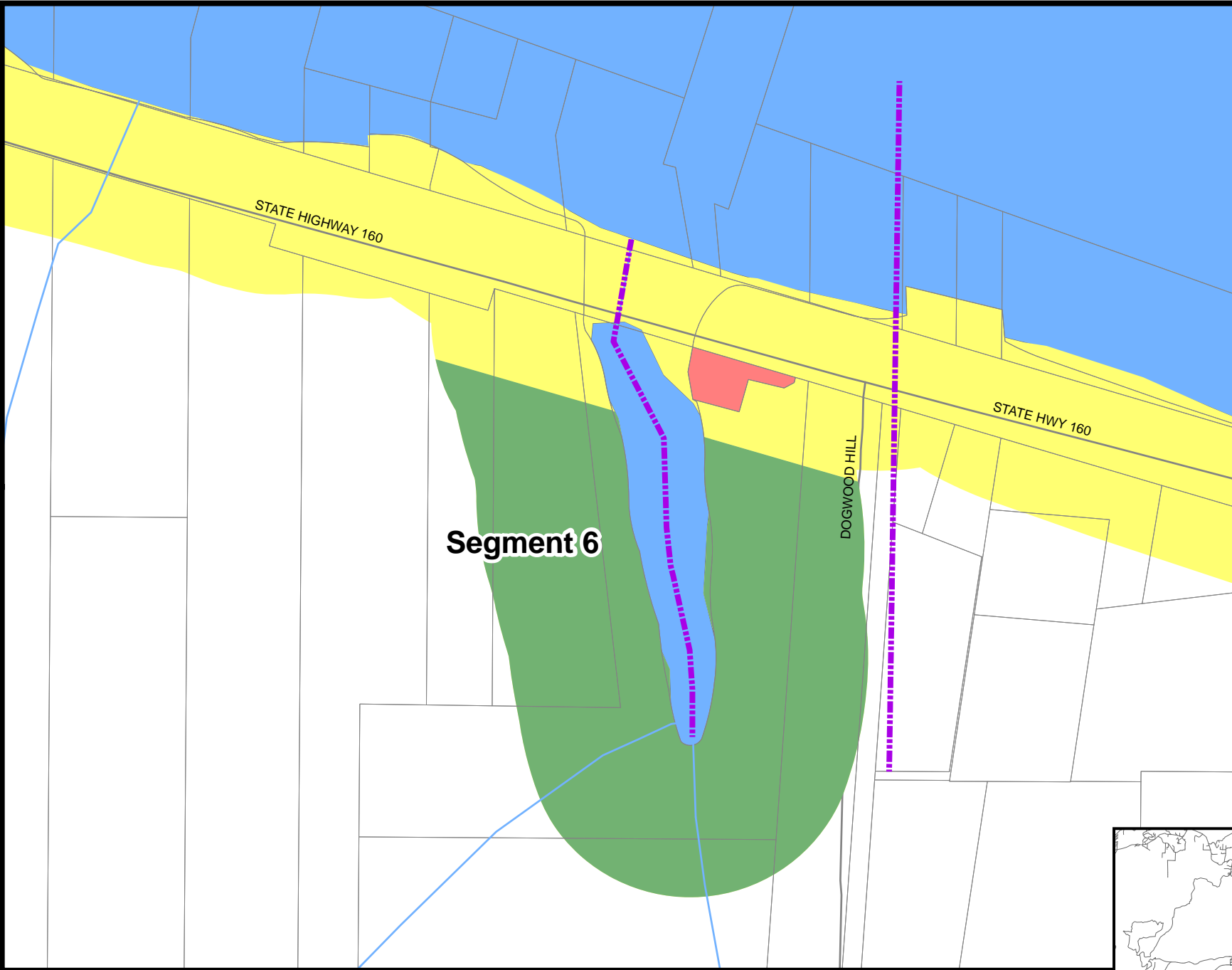
City of Port Orchard: Shoreline Environmental Designations





Legend

- Shoreline Segment Lines
- City Boundary
- NATURAL
- URBAN CONSERVANCY
- HIGH INTENSITY
- SHORELINE RESIDENTIAL
- Port Orchard UGA
- Waterbodies

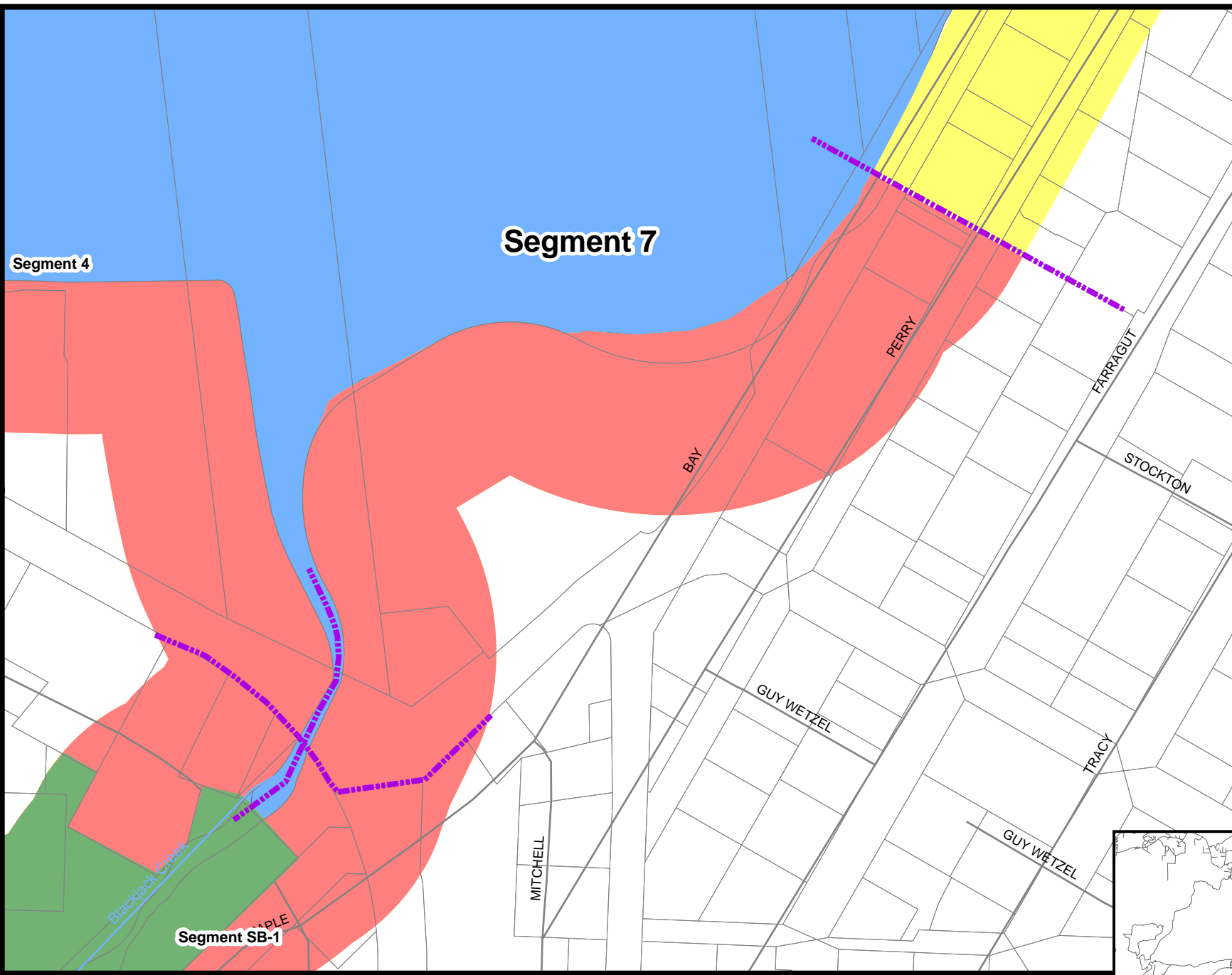


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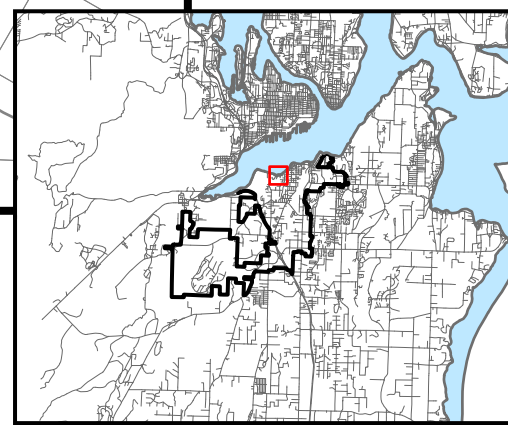


City of Port Orchard: Shoreline Environmental Designations

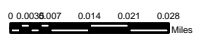


Legend

- Shoreline Segment Lines
- City Boundary
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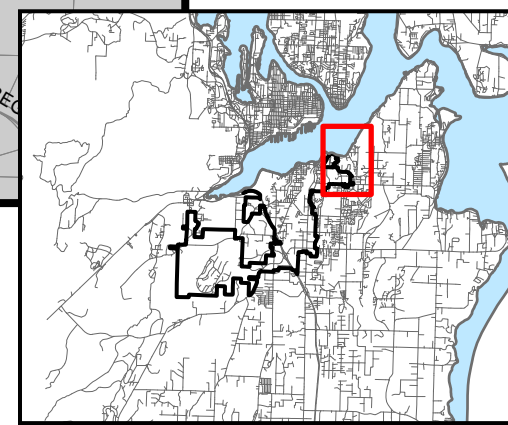
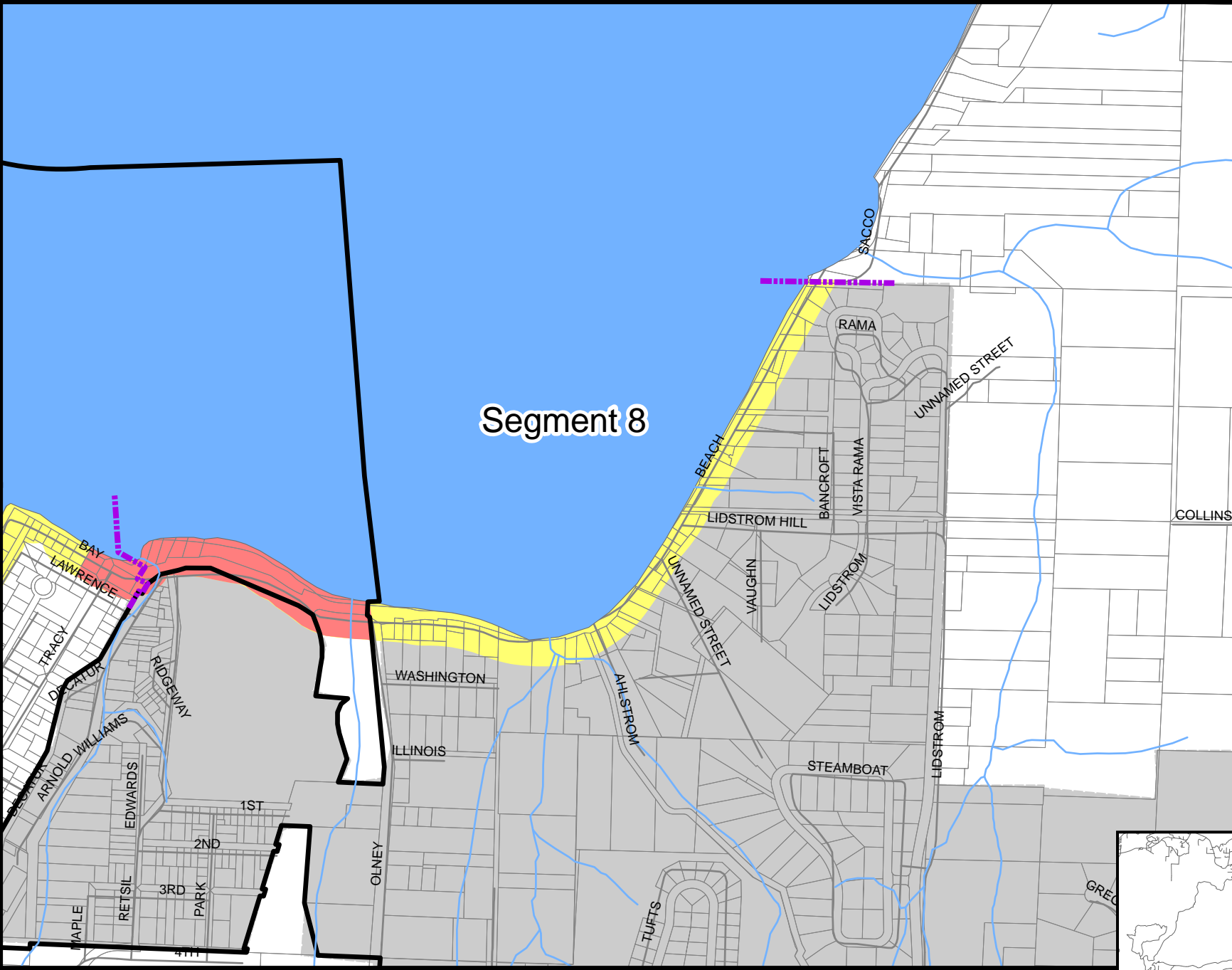
City of Port Orchard: Shoreline Environmental Designations



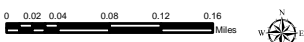
Legend

- NATURAL
- URBAN CONSERVANCY
- HIGH INTENSITY
- SHORELINE RESIDENTIAL
- Shoreline Segment Lines
- Port Orchard UGA
- City Boundary
- Waterbodies

Segment 8



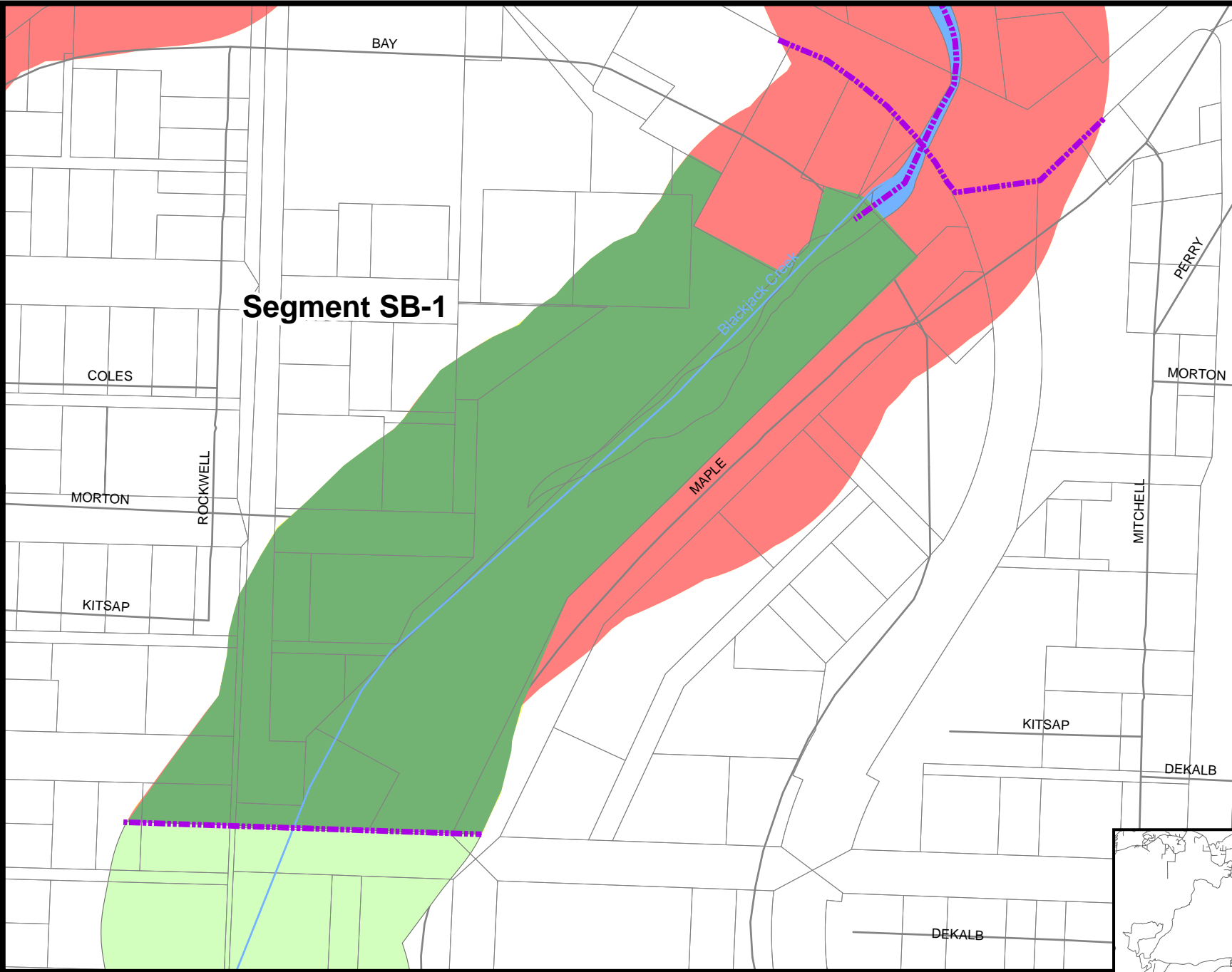
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City of Port Orchard: Shoreline Environmental Designations

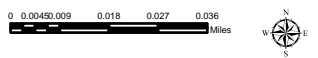


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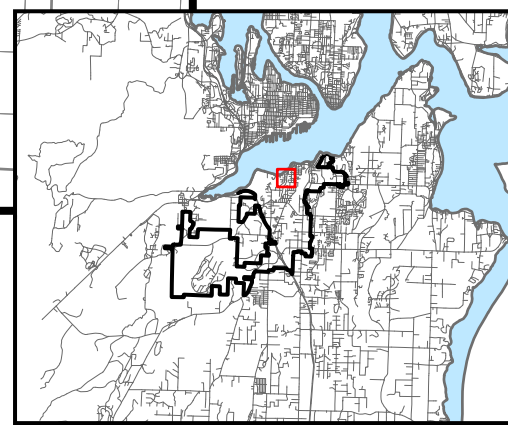


- Legend**
- Shoreline Segment Lines
 - City Boundary
 - NATURAL
 - URBAN CONSERVANCY
 - HIGH INTENSITY
 - SHORELINE RESIDENTIAL
 - Port Orchard UGA
 - Waterbodies

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City of Port Orchard: Shoreline Environmental Designations





Legend

- NATURAL
- URBAN CONSERVANCY
- HIGH INTENSITY
- SHORELINE RESIDENTIAL
- Shoreline Segment Lines
- Port Orchard UGA
- City Boundary
- Waterbodies

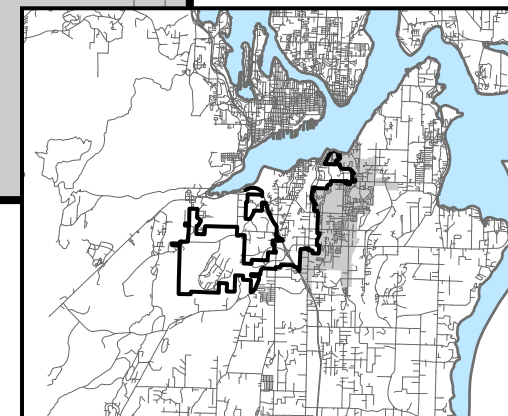
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Miles



City of Port Orchard: Shoreline Environmental Designations



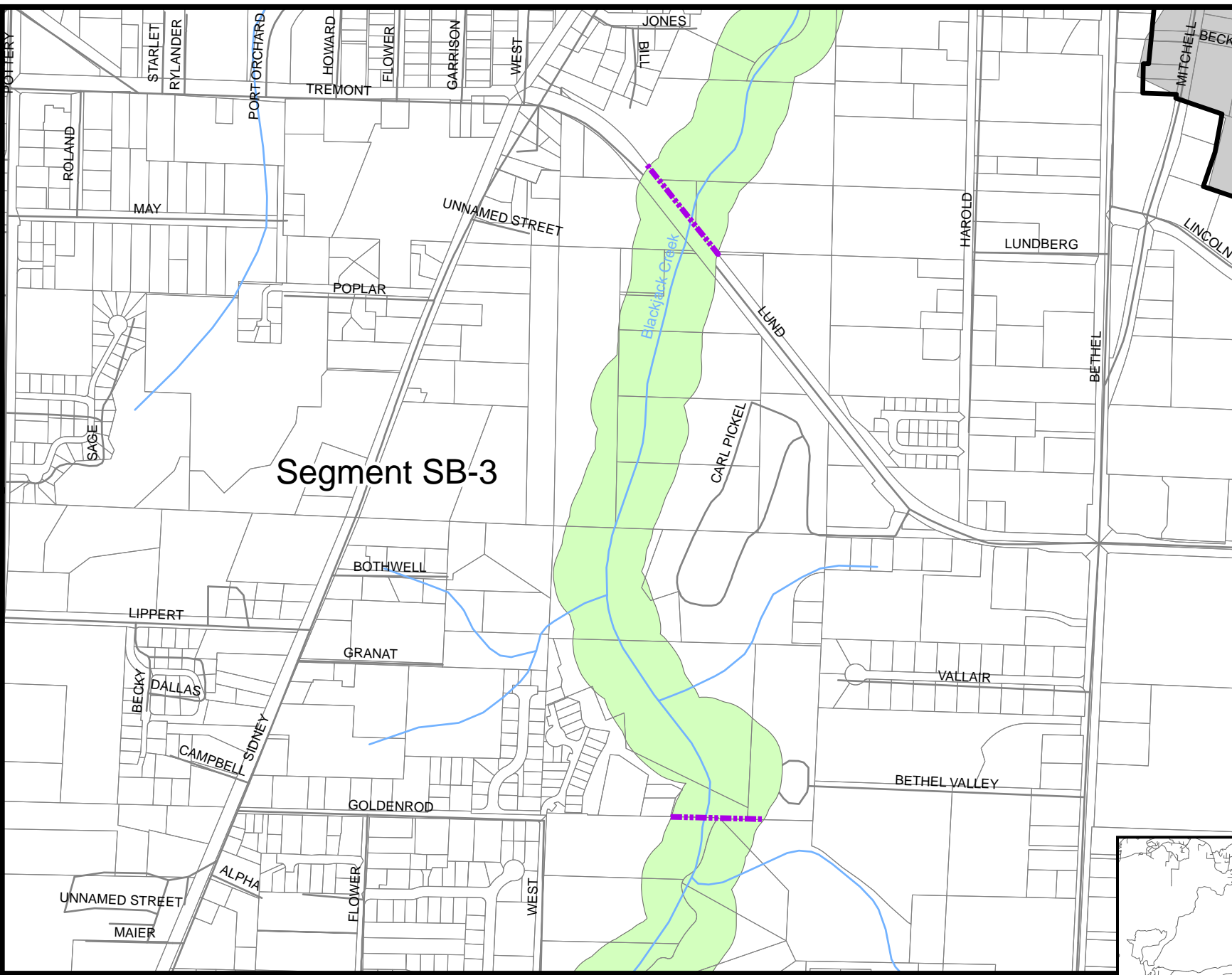


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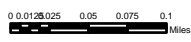
- NATURAL
- URBAN CONSERVANCY
- HIGH INTENSITY
- SHORELINE RESIDENTIAL
- Shoreline Segment Lines
- Port Orchard UGA
- City Boundary
- Waterbodies

Segment SB-3

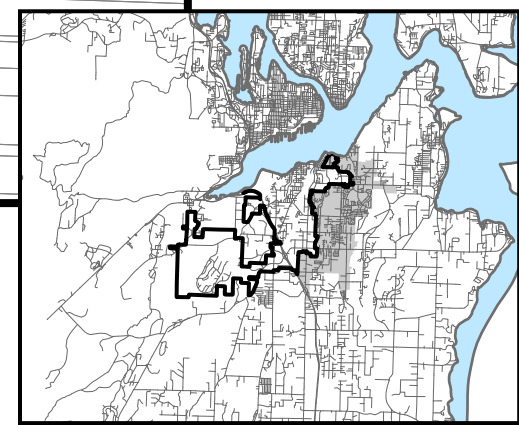
Blackjack Creek



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 This map is not a substitute for a field survey.



City of Port Orchard: Shoreline Environmental Designations

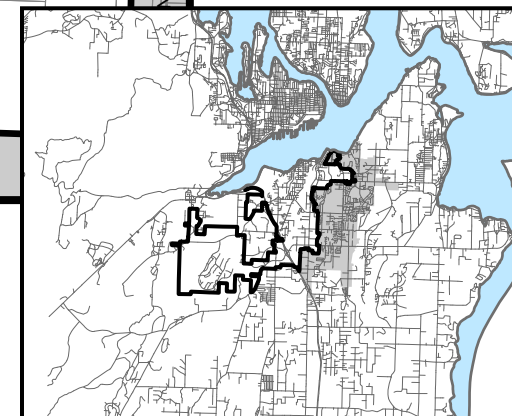
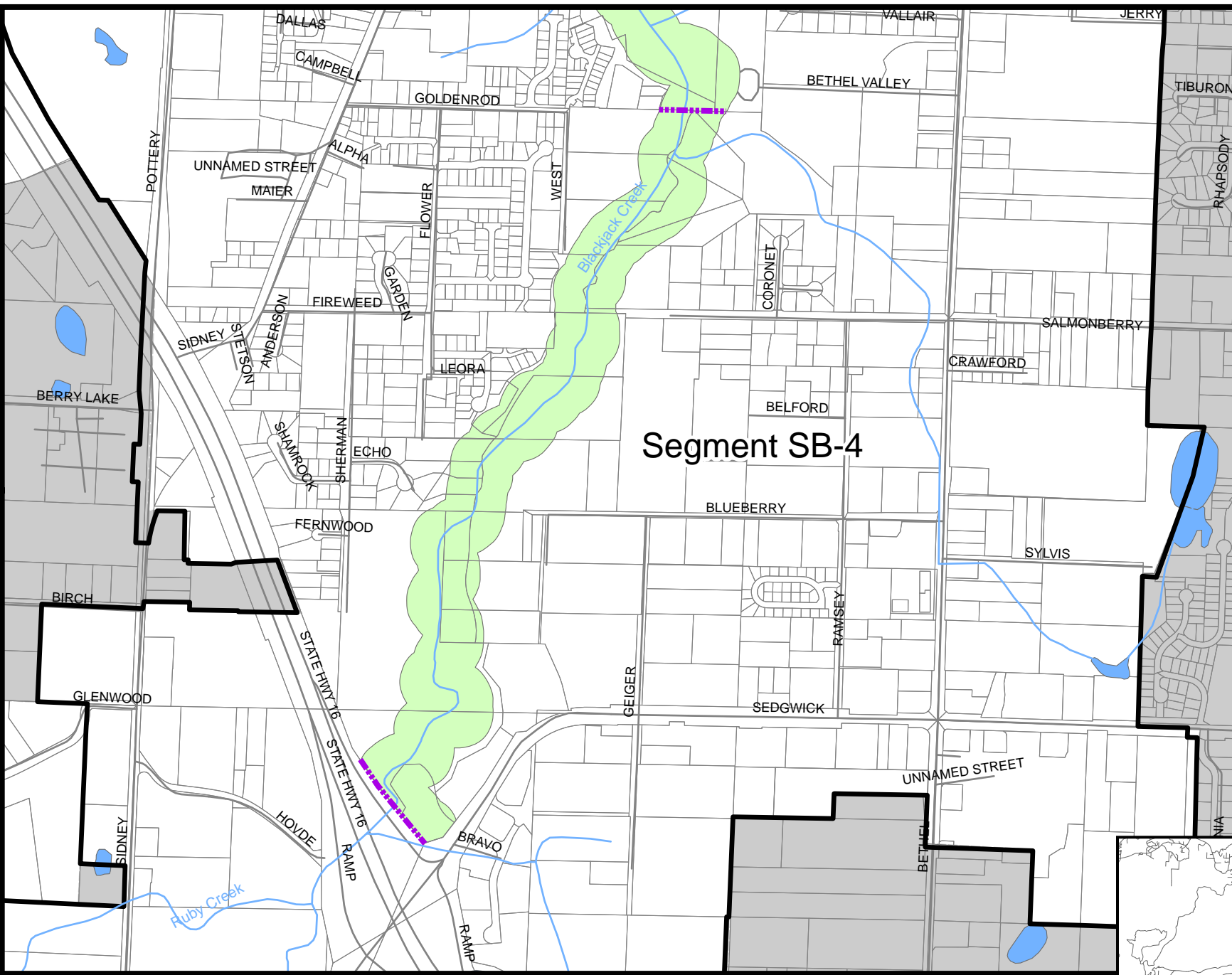




Legend

- NATURAL
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- SHORELINE RESIDENTIAL
- Shoreline Segment Lines
- Port Orchard UGA
- City Boundary
- Waterbodies

Segment SB-4











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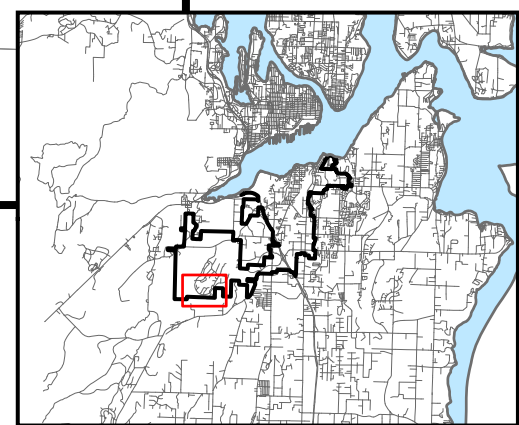
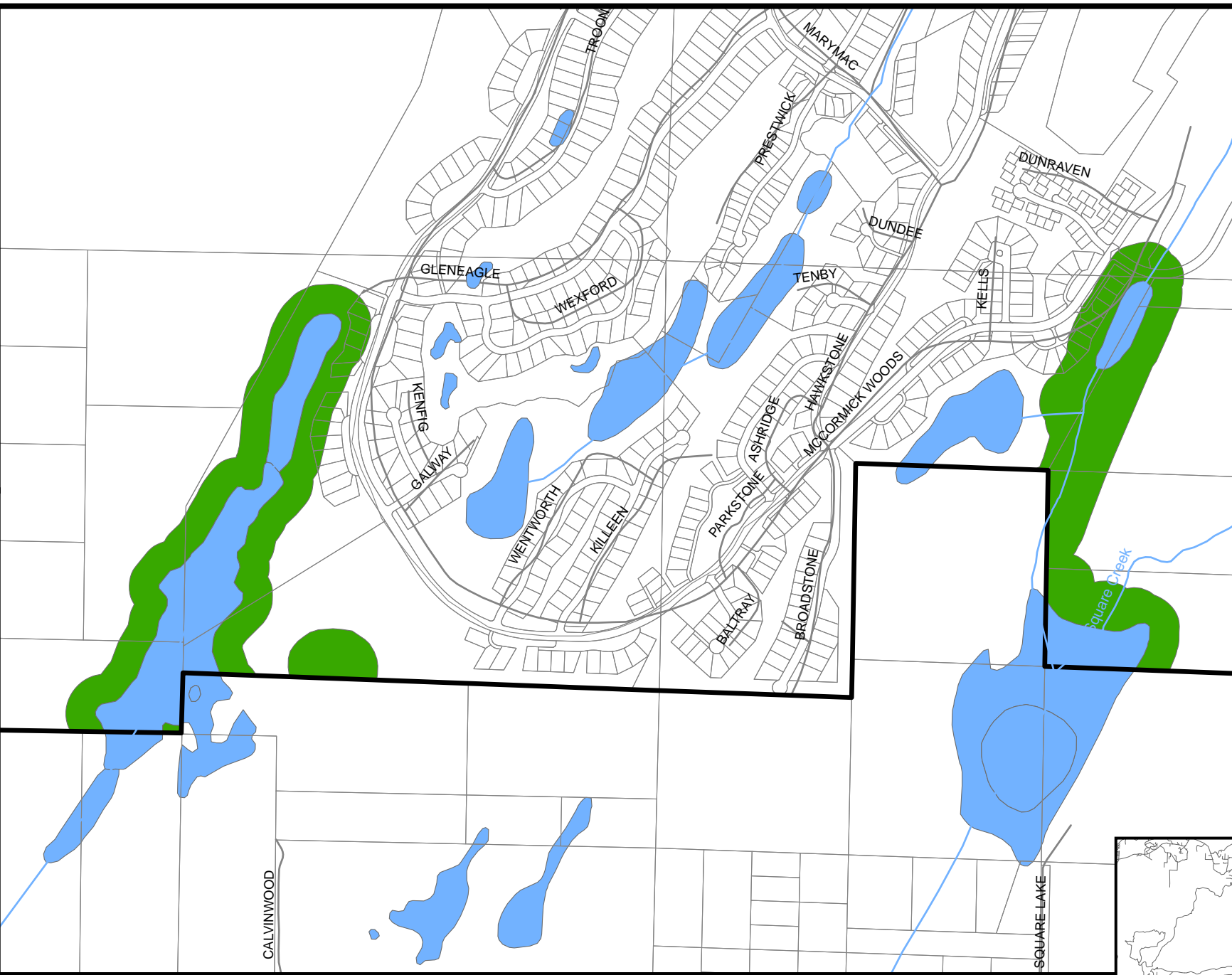


City of Port Orchard: Shoreline Environmental Designations



Legend

-  Shoreline Segment Lines
-  City Boundary
-  NATURAL
-  HIGH INTENSITY
-  URBAN CONSERVANCY
-  SHORELINE RESIDENTIAL
-  Waterbodies
-  Port Orchard UGA



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This map is not a substitute for a field survey.



**City of Port Orchard:
Shoreline Environmental
Designations:
Big Lake and Square Lake**

APPENDIX C - SHORELINE RESTORATION PLAN

CITY OF PORT ORCHARD



CITY OF PORT ORCHARD

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- 2. RESTORATION GOALS AND POLICIES
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- 4. RESTORATION AND ENHANCEMENT OPPORTUNITIES
- 5. POTENTIAL FUNDING SOURCES
- 6. REFERENCES
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CHAPTER 1: INTRODUCTION

1.1 Purpose

This Restoration Plan intended to meet the requirements of the Shoreline Management Act. WAC 173-26-201 (2(f)) is specific to restoration planning, and is in italics below.

*(f) **Shoreline restoration planning.** Consistent with principle WAC 173-26-186 (8)(c), master programs shall include goals, policies and actions for restoration of impaired shoreline ecological functions. These master program provisions should be designed to achieve overall improvements in shoreline ecological functions over time, when compared to the status upon adoption of the master program. The approach to restoration planning may vary significantly among local jurisdictions, depending on:*

- The size of the jurisdiction;*
- The extent and condition of shorelines in the jurisdiction;*
- The availability of grants, volunteer programs or other tools for restoration; and*
- The nature of the ecological functions to be addressed by restoration planning.*

Master program restoration plans shall consider and address the following subjects:

(i) Identify degraded areas, impaired ecological functions, and sites with potential for ecological restoration;

(ii) Establish overall goals and priorities for restoration of degraded areas and impaired ecological functions;

(iii) Identify existing and ongoing projects and programs that are currently being implemented, or are reasonably assured of being implemented (based on an evaluation of funding likely in the foreseeable future), which are designed to contribute to local restoration goals;

(iv) Identify additional projects and programs needed to achieve local restoration goals, and implementation strategies including identifying prospective funding sources for those projects and programs;

(v) Identify timelines and benchmarks for implementing restoration projects and programs and achieving local restoration goals;

(vi) Provide for mechanisms or strategies to ensure that restoration projects and programs will be implemented according to plans and to appropriately review the effectiveness of the projects and programs in meeting the overall restoration goals.

With this restoration plan, the City endeavors to first, do no harm to ecological functions along the shoreline. Where appropriate, feasible, and affordable, the City will attempt to restore ecological function at degraded sites. The major difficulty for restoration in Port Orchard, especially along the Sinclair Inlet shoreline, is the major transportation infrastructure that exists right up against the edge of the shoreline. It is not feasible to remove the waterfront roads and restore the shorelines to pre-development conditions.

The existing shoreline conditions can be found in the City of Port Orchard Shoreline Resource Analysis and Inventory, which can be found at http://www.cityofportorchard.us/docs/planning/Shoreline/info/final_inventory_characterization_report.pdf

Table 1.1 – Study Segments of the Port Orchard Marine Shoreline

Shoreline Segment	Location Description (Kitsap County Nearshore Assessment Units)	Approximate Length
1	From the western edge of City Limits/UGA to east edge of Commercial zoned property (NAU 207, 505)	1,850 feet
2	Greenbelt and Low-density residential areas of Ross Point (NAU 205-106, 503-505)	6,175 feet
3	Western edge of Commercially zoned property, through downtown, to western edge of Port of Bremerton Marina Park. (NAU 202-204)	4,875 feet
4	From Marina Park to east end of Westbay Center parking lot (NAU 200-201)	2,430 feet
5	From east end of Westbay center parking lot to eastern City limits at Annapolis (NAU 199, 501)	2,600 feet
6	Ross Creek (tidal influenced) (portion of NAU 205)	530 feet
7	Blackjack Creek (tidal influenced) (portion of NAU 200)	530 feet
8	Eastern City limits to eastern edge of UGA (NAU 188-198)	15,233 feet

The restoration projects that will be most successful in the City of Port Orchard, due to fiscal constraints, property ownership, and roadways on the shoreline, will be projects that are done with grant money and cooperation from other government agencies and private property owners. Many of the restoration projects listed in Chapter 4 may also be implemented as mitigation for other projects, whether proposed by the City, or by a private developer.

Port Orchard is in the process of planning and designing segments of a Citywide trail system. These trails will provide opportunities for restoration of degraded areas, and public involvement and educational opportunities for residents and visitors.

CHAPTER 2: RESTORATION GOALS AND POLICIES

SHORELINE RESTORATION GOALS

1. Protect unique shoreline features and habitat that supports threatened species and maintain and/or enhance their ecological function.
2. Where feasible, improve connectivity between shoreline habitat areas to promote contiguous, functional areas of native habitat, while protecting vital shoreline transportation links and water-dependent uses.
3. Encourage good shoreline stewardship and voluntary habitat restoration efforts by shoreline property owners.

Management Policies

RP-1 The importance of restoration of shoreline ecological functions and processes are recognized. Cooperative restoration efforts and programs between local, state, and federal public agencies, tribes, non-profit organizations, and landowners to address shorelines with impaired ecological functions and/or processes are encouraged.

RP-2 Restoration actions should restore shoreline ecological functions and processes as well as shoreline features and should be targeted towards meeting the needs of sensitive and/or locally important plant, fish and wildlife species as well as the biological recovery goals for threatened species, and other salmonid species and populations.

RP-3 Restoration should be integrated with other parallel natural resource management efforts by Kitsap County, Washington State Department of Ecology, Washington State Department of Fish & Wildlife, the US Navy, local Tribes, and non-profit organizations.

RP-4 The City shall endeavor to acquire ecologically sensitive shorelands as they are available and affordable in order to preserve fish and wildlife habitat.

CHAPTER 3: EXISTING PROJECTS AND PROGRAMS

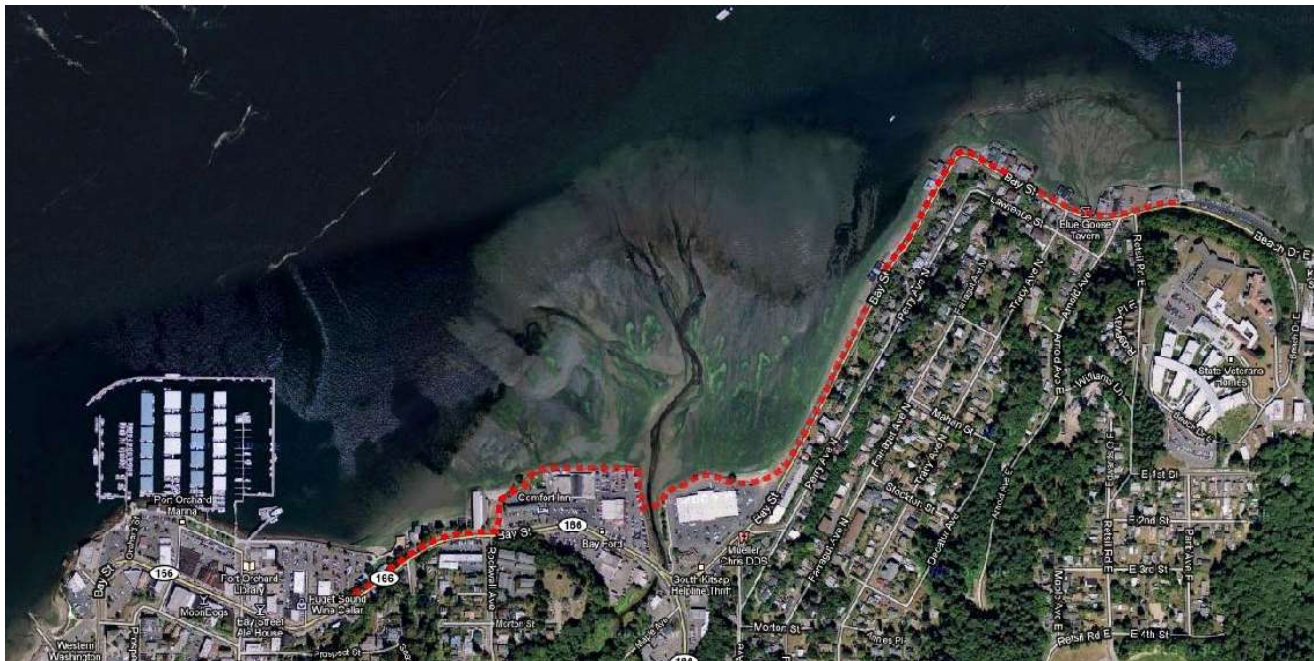
3.1 Port Orchard Public Works NPDES Updates

The City of Port Orchard Public Works and Engineering Department is currently updating its Procedures Manual for Illicit Discharge Detection and Elimination. The update will include procedures for cleaning and maintaining stormwater infrastructure, detention and retention pond maintenance, and an education program for citizens to learn how to avoid pollution of streams and the Puget Sound. This project is a part of the National Pollutant Discharge Elimination System (NPDES) permit from Department of Ecology which is mandated under the Federal Clean Water Act.

3.2 Blackjack Creek Viewing Platform and Trail

This project, referred to in Chapter 4 as project 31, is in the design stages. The City has received a grant from the State Department of Recreation and Conservation for construction of a viewing platform just upstream from the Creek mouth, as well as a trail running parallel along the Creek, but staying at least 50 feet away from the Creek for most of the length. It will connect to another trail which crosses the Creek with a pedestrian bridge built by the Boy Scouts in the early 1980s. The viewing platform and trail will eventually include informative displays about the Creek ecosystem and fish, and will increase public involvement and awareness about the Creek and its ecosystem.

3.3 Mosquito Fleet Trail



Proposed Bay Street Pedestrian Path

The Mosquito Fleet Trail project has been included in restoration and development plans for Port Orchard since the early 1980s. It has also been included in a County-wide planning effort to connect

communities and to provide public access, biking, and walking opportunities to the public. The preferred trail path has been chosen, and partial design has been completed. The City is in the process of looking for funding to construct a path from the current waterfront boardwalk to the Annapolis Ferry Dock.

In addition to the portion to be constructed by the City, current draft Shoreline Master Program regulations, as well as the regulations currently in effect, require construction of a public walkway, or some type of public shoreline access, for major redevelopment projects on the waterfront.

3.4 Dekalb Pier Improvements

The City is currently working on plans to replace the Dekalb Street Pier to make it safer for users and for the environment. The floats, which currently rest on the ground at low-tide, will be replaced and will not be able to touch the intertidal areas. They will also be using grating to allow light penetration that the current solid floats do not allow. The creosote-coated wooden pilings will be replaced with more environmentally-friendly concrete.

3.5 Water Street Boat Launch Improvements

The City of Port Orchard, in cooperation with the Port of Bremerton, is currently seeking funding for the design and repair of the only public boat launch within City Limits. The dock associated with the boat launch currently has creosote-coated pilings, which will be replaced with concrete. The boat launch decking, and the ramp itself will be removed and replaced with materials that meet current environmental standards. Additionally, soft-shore armoring will be installed to replace an existing stacked concrete revetment wall.

3.6 Sinclair Inlet Cleanup

Each Spring, a variety of volunteers and organizations, including Kitsap County, Waste Management, and the Washington Department of Transportation, among others, walk the shoreline and pick up garbage, debris and other waste.

3.7 Kitsap County Health District Pollution Identification and Correction Program

The Kitsap County Health District Pollution Identification and Correction Program (PIC) has Sinclair Inlet and its associated creeks on their workplan to be completed by 2013. The PIC takes water samples in streams, lakes, and in the Puget Sound to determine the causes and sources of bacterial water pollution. Common sources of bacterial pollution include failing on-site sewage systems and animal waste. Projects are generally funded by the Kitsap County Surface and Stormwater Management Program and grants from the Washington State Department of Ecology. The Health District also monitors and enforces sewage standards for marinas, and tests shellfish and provides lists of where shellfish are not safe to consume.

CHAPTER 4: RESTORATION AND ENHANCEMENT OPPORTUNITIES

In 2010, The Naval Facilities Engineering Command, Northwest prepared the *Sinclair Inlet Enhancement Opportunities (AQUASCAPE II)* document, in accordance with a 2008 Memorandum of Agreement (MOA) between the Navy and the Suquamish Tribe. The MOA was developed regarding the construction of a Maintenance Wharf and Intermediate Maintenance Facility at Naval Base Kitsap in Bremerton. The Navy actively sought input from stakeholders including: NOAA, the National Marine Fisheries Service, the U.S. Fish & Wildlife Service, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, Washington Department of Ecology, Kitsap County, the Puget Sound Restoration Fund, Washington Sea Grant, and the Cities of Bremerton and Port Orchard.

The most problematic obstacle to restoration of the Sinclair Inlet shoreline is the existence of important roadways immediately adjacent to the shoreline. These roads are State Route 166 (SW Bay Street), Bay Street, and Beach Drive. Removal of any of the roadways, or even portions of them, is not realistic, and would deny property access to many property owners, as well as the public.

Although there is room for improvement, Blackjack Creek has remained relatively healthy, despite the stress that it has been put under due to man-made alterations and stressors. Although elevated fecal coliform levels are present, the stream remains inviting to several salmonid species, birds, and mammals. Segment 1 is the segment most modified by human activities, including fill of the estuary, and armoring of the floodway. Segments 2 and 3 are the most natural. They contain steep ravines, which have played no small role in discouraging development in the area. Segment 4 has been altered significantly, especially in regard to removal of vegetation. However, it is currently not used heavily, and provides the most opportunity for restoration as part of future developments in the area. The following opportunities apply to segments S1, S2, S3 and S4.

The forty-five projects listed below are extracted from the *AQUASCAPE II* document. They are located in Port Orchard or within the Urban Growth Area that is subject to requirements of the Shoreline Management Act.

RESTORATION PROJECTS

GOAL: Protect processes, structures, functions

1. Purchase and Preserve Property Identify and purchase property for conservation

Ecological benefits:	Prevent future disturbance and changes
Process Improvements:	Ecological Function
Public Benefits:	Perpetual preservation, insurance against further development
Issues:	Would require land purchase, easement or agreement with owner.
Cost:	Unknown
Likelihood of Success:	High
Maintenance Needed:	Unknown

References: URS Greiner, Inc. and SAIC 1999

GOAL: Restore process, structures, functions

2. Culvert Replacement and Restore Estuary Functions, Ross Creek At Highway 166 Replace culvert at the SR 166 crossing with bridge or a much larger culvert into Sinclair Inlet, helping to restore saltwater tidal influence upstream and flush accumulated sediments into Sinclair Inlet, restore estuary functions

Ecological Benefits: Improved fish passage. Improved diversity of estuary habitat. Enhanced fish spawning opportunities.

Process Improvements: Sediment transport and hydrology, ecological function

Public Benefits: Action would contribute to healthy and more sustainable fish populations.

Issues:

- Should conduct Baseline Stream Assessment prior to implementation
- Would require land ownership, easement, or agreement with owner(s) prior to actions
- Would temporarily disrupt traffic on major arterial

Cost: Unknown

Likelihood of Success: High, with appropriate design, installation, and maintenance

Maintenance Needed: Yes

References: Borde et al. 2009. Applied Environmental Services, Inc. 2002. Haring 200. URS Greiner, Inc. and SAIC 1999. Bates et al. 2003.

3. Purchase and Remove or relocate restaurant, Ross Creek at SR 166 Purchase restaurant, remove or relocate buildings and pavement, remove invasive species.

Ecological Benefits: Improved fish passage. Improved diversity of estuary habitat. Enhanced salmonid spawning opportunities.

Process Improvements: Sediment transport, hydrology, and ecological function.

Public Benefits: Action would contribute to healthy and more sustainable fish populations.

Issues: Would require land acquisition prior to any action.

Cost: Unknown

Likelihood of Success: Moderate to high, with monitoring, adaptive management, and maintenance.

Maintenance Needed: Likely

References: Applied Environmental Services, Inc. 2002. Haring 2000.

4. Remove Bulkhead, Add Beach Nourishment, Ross Point Remove bulkhead, add gravel nourishment along edges of surf smelt spawning zone and monitor for spawning expansion.

Ecological benefits: Expanded surf smelt spawning zone, improved ecological function

Process Improvements: Augment sediment transport with addition of appropriate substrate.

Public Benefits: Improved public views. Action would contribute to healthy and sustainable fish populations by supporting forage fish populations.

Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.

Cost: Unknown

Likelihood of success: Moderate, with periodic maintenance.

Maintenance needed: Periodic replenishment required.

References: Applied Environmental Services, Inc. 2002. Haring 2000.

GOAL: Restore Processes, Structures, Functions

5. Remove Old Foundations and Piles, Ross Point

Remove old homesite foundations and piles on intertidal area south of Ross Point.

Ecological benefits: Expanded natural shoreline. Increased forage fish spawning area.

Process Improvements: Hydrology, sediment transport, ecological function.

Public Benefits: Improved public views.

Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.

Cost: Unknown

Likelihood of success: High.

Maintenance needed: Unlikely.

References: Applied Environmental Services, Inc. 2002. Haring 2000.

6. Remove Creosote Piling and Derelict Vessels, Ross Point

Remove old creosote pilings just south of barge anchorage. Remove derelict vessels and unauthorized moorage.

Ecological benefits: Improved water quality, reduced structural over-water coverage.

Process Improvements: Hydrology, sediment transport, ecological function.

Public Benefits: Improved public views.

Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.

Cost: Unknown

Likelihood of success: High.

Maintenance needed: Unlikely.

References: Applied Environmental Services, Inc. 2002. Haring 2000.

7. Remove Barge Anchorages, Ross Point

Remove existing barge anchorages at Ross Point.

Ecological benefits: Improved water quality, reduced structural over-water coverage.

Process Improvements: Reduced shading, ecological function.

Public Benefits: Improved public views.

Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.

Cost: Unknown
 Likelihood of success: High.
 Maintenance needed: Unlikely.
 References: Aquascape II stakeholder meeting January 13, 2010.

8. Beach Nourishment Barge Anchorage, Ross Point

Beach nourishment on beach adjacent to barge anchorage. Maintain beach nourishment through adaptive management.

Ecological benefits: Expanded surf smelt spawning zone.
 Process Improvements: Augment sediment transport with addition of appropriate substrate.
 Public Benefits: Action could contribute to healthy and sustainable fish populations by supporting forage fish populations.
 Issues: Location is close to active forage fish spawning areas. Further investigation needed to determine potential benefits/impacts of nourishment at this location.
 Cost: Unknown
 Likelihood of success: Low to moderate, would require long-term monitoring and maintenance.
 Maintenance needed: Yes, periodic replenishment required.
 References: Applied Environmental Services, Inc. 2002. Haring 2000.

9. Large Woody Debris (LWD) Ross Point

Develop and implement a short-term LWD strategy to provide LWD presence and habitat diversity until full riparian function is restored.

Ecological benefits: Improved stream spawning habitat.
 Process Improvements: Improved stream hydrology, ecological function
 Public Benefits: Action could contribute to healthy and sustainable fish populations.
 Issues: Would require land ownership, easement or agreement with owner(s) prior to actions. This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions.
 Cost: Unknown
 Likelihood of success: High, with appropriate design and implementation.
 Maintenance needed: Likely
 References: Applied Environmental Services, Inc. 2002. Haring 2000.

10. Riparian Buffers, Ross Creek

Eliminate or reduce encroachment from existing development and establish functional riparian buffers.

Ecological benefits: Improved water quality. Increased riparian diversity.
 Process Improvements: Improved riparian system, ecological function.
 Public Benefits: Action could contribute to healthy and sustainable fish populations.
 Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: Moderate to High, with periodic maintenance.
 Maintenance needed: Likely

References: Applied Environmental Services, Inc. 2002. Haring 2000.

11. Remove Invasive Species, Ross Creek

Remove invasive plant species in Ross Creek.

Ecological benefits: Improved native vegetation diversity and habitat quality.
Process Improvements: Native vegetation succession, ecological function.
Public Benefits: Improved public views.
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
Cost: Unknown
Likelihood of success: Moderate to High, with periodic maintenance.
Maintenance needed: Likely
References: Aquascape stakeholder meeting January 13, 2010.

12. Trash Removal Ross Creek

Remove accumulated garbage and debris in Ross Creek.

Ecological benefits: Improved water quality, hydrology, and habitat quality.
Process Improvements: Hydrology, ecological function.
Public Benefits: Improved water quality, improved aesthetics, improved public views.
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
Cost: Unknown
Likelihood of success: High, with periodic maintenance.
Maintenance needed: Likely
References: Applied Environmental Services, Inc. 2002. Haring 2000.

GOAL: Reduce Pollution

13. Low Impact Development, Ross Creek

Implement low impact development, including stormwater quantity control and water quality treatment for stormwater runoff. Retrofit existing development in watershed to state-of-the-art stormwater quality and quantity best management practices.

Ecological benefits: Improved water quality.
Process Improvements: Increased stormwater retention and infiltration.
Public Benefits: Improved water quality.
Issues: This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions. Would require land ownership, easement or agreement with owner(s) prior to actions.
Cost: Unknown
Likelihood of success: High, with appropriate design and implementation.
Maintenance needed: Routine maintenance would be required.
References: Applied Environmental Services, Inc. 2002. Haring 2000.

14. Fecal Coliform and Dissolved Oxygen, Ross Creek	Identify and correct sources of fecal coliform contamination. Monitor dissolved oxygen levels, correct problems as warranted.
Ecological benefits:	Improved water quality.
Process Improvements:	N/A
Public Benefits:	Improved water quality.
Issues:	Department of Ecology has enforcement authority (RCW 90.48) for water quality in waters of the state. Kitsap County Health Department has local enforcement authority for water quality problems that put public health at risk and can also enforce local solid waste ordinances. This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions.
Cost:	Unknown
Likelihood of success:	Moderate to High, with appropriate design and implementation.
Maintenance needed:	Routine maintenance likely.
References:	Applied Environmental Services, Inc. 2002. Haring 2000.

GOAL: Public Involvement

15. Citizen-based Watershed Management, Ross Creek	Fund citizen-based watershed management efforts.
Ecological benefits:	Understand health of system and assist future planning efforts.
Process Improvements:	N/A
Public Benefits:	Increased public interest and involvement. Public feedback and input considered before decisions made.
Issues:	This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions.
Cost:	Unknown
Likelihood of success:	High, with appropriate outreach and participation.
Maintenance needed:	Ongoing efforts necessary to maintain public interest.
References:	URS Greiner, Inc. and SAIC 1999.

GOAL: Assess

16. Baseline Stream Assessment, Ross Creek	Assess existing stream channel conditions, historical changes, and that shape the channel over time. Assessment should include: <ul style="list-style-type: none"> • Processes that influenced past and current channel morphology and habitats. • Current channel conditions including morphology and stability. • Probable future channel morphology. • Potential constraints to recovery and restoration.
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Ecological benefits: Understand driving forces of channel morphology to increase likelihood of

success for habitat restoration, streambank protection, and other instream construction projects.

Process Improvements: Understand causes of change prior to designing/implementing projects to mimic or alter natural channel processes.

Public Benefits: Increased public education and awareness of stream processes and challenges.

Issues: This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions. Would require land ownership, easement or agreement with owner(s) prior to actions.

Cost: Unknown

Likelihood of success: N/A

Maintenance needed: N/A

References: Saldi-Caromile et al. 2004

GOAL: Restore Processes, Structures, Functions

17. Intertidal Enhancement, Port Orchard Boat Launch Add gravel/cobble to intertidal area around the boat launch where the slope of the bottom is ideal for surf smelt spawning.

Ecological benefits: Improved surf smelt spawning habitat.

Process Improvements: Augment sediment transport with addition of appropriate substrate.

Public Benefits: Action would contribute to healthy and sustainable salmonid populations by supporting forage fish populations.

Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.

Cost: Unknown

Likelihood of success: Moderate, would require long-term monitoring and maintenance.

Maintenance needed: Yes. Periodic replenishment required.

References: Applied Environmental Services, Inc. 2002. Haring 2000.

GOAL: Assess

18. Investigate Enhancement Opportunities at Port Orchard Marina and Sinclair Marina Determine need and feasibility of enhancing existing pocket beach. Pocket beach is highly productive surf smelt spawning area.

Ecological benefits: Assess opportunities to improve surf smelt spawning habitat.

Process Improvements: N/A

Public Benefits: Public education and awareness of values and challenges.

Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.

Cost: Unknown

Likelihood of success: N/A

Maintenance needed: N/A

References: Aquascape stakeholder meeting, January 13, 2010.

19. Investigate Transportation Alternatives and Improvements to Reduce Highway Use

Investigate transportation alternatives and improvements to reduce highway use. For example, water taxi service between Port Orchard and Bainbridge Island could reduce reliance on existing highways.

Ecological benefits: Reduce highway use, reduced need for enlarged/upgraded transportation infrastructure.

Process Improvements: N/A

Public Benefits: Public education and awareness of transportation impacts and challenges.

Issues:

Cost: Unknown

Likelihood of success: N/A

Maintenance needed: N/A

References: Aquascape stakeholder meeting, January 13, 2010.

GOAL: Protect Processes, Structures, Functions

20. Acquire and Protect High Quality Habitat along Blackjack Creek

Identify and protect high quality riparian habitat on Blackjack Creek through purchase and/or easements. Continue protection and development restrictions in lower Blackjack Creek canyon. Protect high quality riparian habitat on Blackjack Creek just upstream of Sidney Road. Protect/preserve/acquire as much of Square Creek upstream of Sidney Road as possible. Protect as much of Ruby Creek upstream of Sidney Road as possible.

Ecological benefits: Prevent future disturbance and changes.

Process Improvements: N/A

Public Benefits: Perpetual preservation, insurance against further development.

Issues: Would require land purchase, easement or agreement with owner(s).

Cost: Unknown

Likelihood of success: High

Maintenance needed: Unknown

References: Applied Environmental Services, Inc. 2002. Haring 2000. URS Greiner, Inc. and SAIC 1999.

GOAL: Restore Processes, Structures, Functions

21. Estuary Improvement Blackjack Creek

Rebuild the Blackjack Creek outlet and sub-estuary. Remove or relocate commercial development within the former Blackjack Creek estuary. Remove channel and rip rap, add more riparian vegetation. Protect and restore estuarine habitat (particularly upstream of Bay Street), including restoration of riparian function and reduction of commercial encroachment, where feasible.

Ecological benefits: Increased natural shoreline habitat. Improved beach spawning habitat. Increased riparian diversity.

Process Improvements: Hydrology, sediment transport processes, native vegetation succession.

Public Benefits: Aesthetic improvement, increased wildlife observation opportunities.
 Issues: Should conduct Baseline Stream Assessment prior to implementing action. Would require land purchase, easement or agreement with owner(s) prior to action.
 Cost: Unknown
 Likelihood of success: Moderate to High, with appropriate design and implementation.
 Maintenance needed: Maintenance likely, particularly if all actions not accomplished at one time.
 References: Applied Environmental Services, Inc. 2002. Haring 2000.

22. Channel and Riparian Improvements, Blackjack Creek Restore natural channel configuration and floodplain function on Blackjack Creek through the channelized agricultural area upstream from Sedgwick Road, and through the agricultural area of Ruby Creek downstream of Glenwood Road. Restore functional riparian zones throughout the watershed, with particular emphasis on Blackjack Creek upstream of Sedgwick Road, Unnamed 15.02506, and Square Creek.

Ecological benefits: Improved fish access and spawning habitat.
 Process Improvements: Hydrology, ecological function.
 Public Benefits: Action would contribute to healthy and sustainable fish populations.
 Issues: Should conduct Baseline Stream Assessment prior to implementing action. Would require land purchase, easement or agreement with owner(s) prior to action.
 Cost: Unknown
 Likelihood of success: Moderate to High, with appropriate design and implementation.
 Maintenance needed: Likely
 References: Haring 2000.

23. Agricultural Improvements, Blackjack Creek Reduce habitat impacts on agricultural lands upstream of SR 16, including development and implementation of farm plans that restore stream functions. Identify and correct areas in the watershed that have unrestricted livestock access.

Ecological benefits: Improved water quality.
 Process Improvements: Ecological function.
 Public Benefits: Improved water quality.
 Issues: - In the upper watershed, especially Ruby Creek, there are hobby farms of various sizes, some with cattle in the channel, etc. Ruby Creek itself has been straightened and somewhat channelized in many reaches, with wetlands filled and other impacts. There is also a history of conversion from agricultural to commercial use. Stormwater impacts from past poor practices are apparent. Riparian areas are compromised by past agriculture and current uses. Many old fields are covered in reed canary grass with little or no successional processes at work.
 - Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: High, with appropriate design and implementation.

Maintenance needed: Likely
References: Applied Environmental Services, Inc. 2002. Haring 2000.

24. Upstream Fish Passage and Habitat Improvements, Blackjack Creek

Improve fish passage and upstream habitat at two culverts in the Ruby Creek drainage and at the Sidney Road crossing of Square Creek.

Ecological benefits: Improved fish access and spawning habitat.
Process Improvements: Sediment transport and hydrology, ecological function.
Public Benefits: Action would contribute to healthy and sustainable fish populations.
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
Cost: Unknown
Likelihood of success: High, with appropriate design and installation.
Maintenance needed: Likely
References: Haring 2000. Bates, et al. 2003.

25. Pocket Beach Improvements, Blackjack Creek

Improve pocket beach for baitfish spawning at north edge of mall parking lot next to informal parking lot. Remove informal parking lot and replace with riparian vegetation. Meet with business owners and operators to gain cooperation with shoreline vegetation restoration program in pocket beaches and specific locations.

Ecological benefits: Improved natural shoreline habitat. Improved beach spawning habitat, more riparian diversity.
Process Improvements: Sediment transport processes, hydrology, native vegetation succession.
Public Benefits: Aesthetic improvement, contribute to healthy and sustainable salmonid populations by supporting forage fish populations, increased wildlife observation opportunities.
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
Cost: Unknown
Likelihood of success: Moderate to High, with appropriate design, implementation and maintenance.
Maintenance needed: Likely, particularly if all actions not accomplished at one time.
References: Applied Environmental Services, Inc. 2002. Haring 2000.

26. Remove Asphalt, Blackjack Creek Shoreline

Remove concrete and asphalt along road end near hotel and revegetate with native trees and shrubs.

Ecological benefits: More native vegetation.
Process Improvements: Sediment transport processes, hydrology, native vegetation succession.
Public Benefits: Aesthetic improvement, contribute to healthy and sustainable salmonid populations.

Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: Moderate to High, with appropriate design, implementation.
 Maintenance needed: Likely. Expect to need maintenance until vegetation permanently established.
 References: Applied Environmental Services, Inc. 2002. Haring 2000.

27. Large Wood Debris (LWD), Blackjack Creek Develop and implement a short-term LWD strategy for lower two miles of Blackjack Creek and Square Creek, to provide LWD presence and habitat diversity until full riparian function is restored.

Ecological benefits: Improved stream spawning habitat.
 Process Improvements: Improve stream hydrology, ecological function.
 Public Benefits: Action would contribute to healthy and sustainable fish populations.
 Issues: Would require land ownership, easement or agreement with owner(s) prior to actions. This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions.
 Cost: Unknown
 Likelihood of success: High, with appropriate design and implementation.
 Maintenance needed: Likely.
 References: Haring 2000.

28. Trash Removal, Blackjack Creek Remove accumulated garbage and debris in Blackjack Creek.

Ecological benefits: Improved water quality, hydrology, and habitat quality.
 Process Improvements: Improved stream hydrology.
 Public Benefits: Improved water quality, improved aesthetics, improved public views.
 Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: High
 Maintenance needed: Periodic trash removal likely.
 References: Applied Environmental Services, Inc. 2002. Haring 2000.

GOAL: Reduce Pollution

29. Low Impact Development (LID), Blackjack Creek Implement low impact development, including stormwater quantity control and water quality treatment for stormwater runoff. Remediate existing stormwater impacts to the channel.

Ecological benefits: Improved water quality.
 Process Improvements: Increased stormwater retention and infiltration.
 Public Benefits: Improved water quality.

Issues: Would require land purchase, easement or agreement with owner(s) prior to action. This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions.

Cost: Unknown

Likelihood of success: High, with appropriate design and implementation.

Maintenance needed: Routine maintenance would be required.

References: Applied Environmental Services, Inc. 2002. Haring 2000.

30. Fecal Coliform and Dissolved Oxygen, Blackjack Creek Identify and correct sources of fecal coliform contamination. Monitor dissolved oxygen levels downstream of Sedgwick Road and on Ruby Creek downstream of Sidney Avenue, correct problems.

Ecological benefits: Improved water quality.

Process Improvements: N/A

Public Benefits: Improved water quality.

Issues: Department of Ecology has enforcement authority (RCW 90.48) for water quality in waters of the state. Kitsap County Health Department has local enforcement authority for water quality problems that put public health at risk and can also enforce local solid waste ordinances.. This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions.

Cost: Unknown

Likelihood of success: Moderate to High, with appropriate design and implementation.

Maintenance needed: Routine maintenance likely.

References: Applied Environmental Services, Inc. 2002. Haring 2000.

GOAL: Public Involvement

31. Viewing Platform, Blackjack Creek Construct a viewing platform at the estuary to promote public awareness and education. Locate platform to avoid estuary impacts.

Ecological benefits: N/A

Process Improvements: N/A

Public Benefits: Viewing platform would promote public awareness and education.

Issues: May require land ownership, easement or agreement with owner(s)/user(s).

Cost: Unknown

Likelihood of success: High, with appropriate outreach and participation.

Maintenance needed: Patrol and structural maintenance would be required.

References: Applied Environmental Services, Inc. 2002. Haring 2000.

32. Public Involvement, Blackjack Creek Fund citizen-based watershed monitoring groups and landowner education programs. Fund public access and interpretive program.

Ecological benefits: Understand health of system and assist future planning efforts.

Process Improvements: N/A
 Public Benefits: Increased public interest and involvement. Public feedback and input considered before decisions made.
 Issues: This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions.
 Cost: Unknown
 Likelihood of success: High, with appropriate outreach and participation.
 Maintenance needed: On-going efforts necessary to maintain public interest.
 References: URS Greiner, Inc. and SAIC 1999.

GOAL: Assess

33. Baseline Physical Stream Assessment, Blackjack Creek Assess existing stream channel conditions, historical changes, and processes that shape the channel over time. Assessment should include:

- Processes that influenced past and current channel morphology and habitats.
- Current channel conditions including morphology and stability.
- Probable future channel morphology.
- Potential constraints to recovery and restoration.

Ecological benefits: Understand driving forces of channel morphology to increase likelihood of success for habitat restoration, streambank protection, and other instream construction projects.
 Process Improvements: Understand causes of change prior to designing/implementing projects to mimic or alter natural channel processes.
 Public Benefits: Increase public education and awareness of stream processes and challenges.
 Issues: This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions Site access require land ownership, easement or agreement with owner(s).
 Cost: Unknown
 Likelihood of success: N/A
 Maintenance needed: N/A
 References: Saldi-Caromile et al. 2004.

34. Biological Stream Assessment, Blackjack Creek Perform continued stream assessments on Blackjack Creek to closely monitor its health and viability as a salmon stream.

Ecological benefits: Understand health of system and assist future planning efforts.
 Process Improvements: N/A
 Public Benefits: Public education and awareness of values and challenges.
 Issues: Site access may require land ownership, easement or agreement with owner(s).
 Cost: Unknown
 Likelihood of success: N/A
 Maintenance needed: N/A

References: Applied Environmental Services, Inc. 2002. Haring 2000.

GOAL: Restore Processes, Structures, Functions

35. Culvert Replacement and Floodway Restoration, Annapolis Creek Replace undersized restrictive culvert, Annapolis Creek at Beach Drive, and restore floodway.

Ecological benefits: Improved fish access.
Process Improvements: Sediment transport and hydrology, ecological function.
Public Benefits: Action would contribute to healthy and sustainable fish populations.
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
Cost: Unknown
Likelihood of success: High, with appropriate design, installation, and maintenance.
Maintenance needed: Yes.
References: Borde et al. 2009. Haring 2000. Bates et al. 2003.

36. Culvert Replacement Karcher (Olney, Retsil) Creek at Beach Drive Replace culvert, Karcher (Olney, Retsil) Creek at Beach Drive.

Ecological benefits: Improved fish access.
Process Improvements: Sediment transport and hydrology, ecological function.
Public Benefits: Action would contribute to healthy and sustainable fish populations.
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
Cost: Unknown
Likelihood of success: High, with appropriate design, installation, and maintenance.
Maintenance needed: Yes.
References: Borde et al. 2009. Bates et al. 2003.

37. Estuary Restoration, Sacco (Sullivan) Creek Relocate roads away from estuary edge and allow marsh re-establishment.

Ecological benefits: Improved fish access, enhanced estuary, diversified habitat.
Process Improvements: Sediment transport and hydrology, ecological function.
Public Benefits: Action would contribute to healthy and sustainable fish populations.
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions. Should conduct Baseline Stream Assessment prior to implementing action.
Cost: Unknown
Likelihood of success: High, with appropriate design, installation, and maintenance.
Maintenance needed: Yes.
References: Borde et al. 2009. Bates et al. 2003.

38. Riparian Improvements, Annapolis Creek

Restore functional riparian zones throughout the watershed, particularly through the high school property and along Arnold Avenue. Remove small hydro dam at the high school, and restore natural channel configuration and functional habitat conditions. Assess, prioritize, and correct fish passage barriers upstream of the high school, as warranted.

Ecological benefits: Improved fish and wildlife habitat. Increased fish access.
Process Improvements: Hydrology, native vegetation succession, ecological function.
Public Benefits: Improved public views.
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
Cost: Unknown
Likelihood of success: Moderate, due to existing development. Would require monitoring, adaptive management, and maintenance.
Maintenance needed: Likely.
References: Haring 2000.

39. Remove Invasive Vegetation, Karcher (Olney, Retsil) Creek

Remove invasive vegetation.

Ecological benefits: Improved native vegetation diversity and habitat quality.
Process Improvements: Native vegetation succession, ecological function.
Public Benefits: Improved public views.
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
Cost: Unknown
Likelihood of success: Moderate to high, with periodic maintenance.
Maintenance needed: Likely.
References: Borde et al. 2009.

40. Large Woody Debris (LWD), East Port Orchard

Develop and implement a short-term LWD strategy to provide LWD presence and habitat diversity until full riparian function is restored.

Ecological benefits: Improved stream spawning habitat.
Process Improvements: Improved stream hydrology, ecological function.
Public Benefits: Action would contribute to healthy and sustainable fish populations
Issues: Would require land ownership, easement or agreement with owner(s) prior to actions. This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions
Cost: Unknown
Likelihood of success: High, with appropriate design and implementation
Maintenance needed: Likely.
References: Applied Environmental Services, Inc. 2002. Haring 2000.

41. Remove Riprap and Restore Natural Shoreline Remove riprap at the site of the former Annapolis boat ramp and restore shoreline.

Ecological benefits: Improved beach and shoreline.
 Process Improvements: Sediment transport, ecological function.
 Public Benefits: Improved public views.
 Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: High
 Maintenance needed: Likely to require maintenance until shoreline stabilized.
 References: Borde et al. 2009. Applied Environmental Services, Inc. 2002. Haring 2000.

42. Beach Nourishment, East Port Orchard Beach nourishment at appropriate locations.

Ecological benefits: Improved beach habitat.
 Process Improvements: Augment sediment transport with addition of appropriate substrate and vegetation, ecological function.
 Public Benefits: Improved public views. Action would contribute to healthy and sustainable fish populations by supporting forage fish populations.
 Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: Depends on location
 Maintenance needed: Yes, periodic replenishment required.
 References: Applied Environmental Services, Inc. 2002. Haring 2000.

GOAL: Reduce Pollution

43. Low Impact Development, Annapolis Creek Implement low impact development throughout the watershed, including stormwater quantity control and water quality treatment for stormwater runoff. Retrofit existing development to state-of-the-art stormwater quality and quantity best management practices.

Ecological benefits: Improved water quality.
 Process Improvements: Increased stormwater retention and infiltration.
 Public Benefits: Action would contribute to water quality improvement.
 Issues: This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions. Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: High, with appropriate design and implementation.
 Maintenance needed: Routine maintenance would be required.
 References: Haring 2000.

44. Fecal Coliform, Annapolis Creek

Ecological benefits:	Improved water quality.
Process Improvements:	Decreased nutrient loading, improved dissolved oxygen (DO).
Public Benefits:	Improved water quality.
Issues:	Department of Ecology has enforcement authority (RCW 90.48) for water quality in waters of the state. Kitsap County Health Department has local enforcement authority for water quality problems that put public health at risk and can also enforce local solid waste ordinances. This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions.
Cost:	Unknown
Likelihood of success:	Moderate to High, with appropriate design and implementation.
Maintenance needed:	Routine maintenance likely.
References:	Haring 2000.

45. Baseline Stream Assessment, Annapolis, Karcher (Olney/Retsil) / Sacco (Sullivan) Creeks

Assess existing stream channel conditions, historical changes, and processes that shape the channel over time. Assessment should include:

- Processes that influenced past and current channel morphology and habitats.
- Current channel conditions including morphology and stability.
- Probable future channel morphology
- Potential constraints to recovery and restoration.

Ecological benefits:	Understand driving forces of channel morphology to increase likelihood of success for habitat restoration, streambank protection, and other instream construction projects.
Process Improvements:	Understand causes of change prior to designing/implementing projects to mimic or alter natural channel processes.
Public Benefits:	Increase public education and awareness of stream processes and challenges.
Issues:	This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions. Site access may require land ownership, easement or agreement with owner(s).
Cost:	Unknown
Likelihood of success:	N/A
Maintenance needed:	N/A
References:	Saldi-Caromile et al. 2004.

BIG LAKE AND SQUARE LAKE RESTORATION

46. Remove Invasive Vegetation, Big Lake, Square Lake

Remove invasive vegetation, both aquatic and riparian.

Ecological benefits: Improved native vegetation diversity and habitat quality.
 Process Improvements: Native vegetation succession, ecological function.
 Public Benefits: Improved public views.
 Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: Moderate to high, with periodic maintenance.
 Maintenance needed: Likely.

47. Riparian Improvements, Big Lake, Square Lake

Restore functional riparian zones throughout the watershed, particularly within 200 feet of the shoreline. Restore natural channel configuration and functional habitat conditions. Assess, prioritize, and correct fish passage barriers downstream of the lakes, as warranted.

Ecological benefits: Improved fish and wildlife habitat. Increased fish access.
 Process Improvements: Hydrology, native vegetation succession, ecological function.
 Public Benefits: Improved public views.
 Issues: Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: High. Would require monitoring, adaptive management, and maintenance.
 Maintenance needed: Likely.

48. Low Impact Development, Big Lake, Square Lake

Implement low impact development, including stormwater quantity control and water quality treatment for stormwater runoff. Retrofit existing development in watershed to state-of-the-art stormwater quality and quantity best management practices.

Ecological benefits: Improved water quality.
 Process Improvements: Increased stormwater retention and infiltration.
 Public Benefits: Improved water quality.
 Issues: This action is recommended in multiple watersheds. Implementing this action basin-wide would result in consistency, efficiency, and cost savings over individual actions. Would require land ownership, easement or agreement with owner(s) prior to actions.
 Cost: Unknown
 Likelihood of success: High, with appropriate design and implementation.
 Maintenance needed: Routine maintenance would be required.

ADDITIONAL POTENTIAL OPPORTUNITIES

1. Replace existing revetment wall with soft-shore armoring, boat launch

Remove existing stacked-concrete revetment wall at the Port Orchard boat launch and parking lot, replace with soft-shore armoring.

Ecological benefits: Improved beach and shoreline habitat
 Process Improvements: Sediment transport
 Public Benefits: Improved views and beach access
 Issues: Funding
 Cost: Unknown
 Likelihood of success: High
 Maintenance needed: Occasional
 References: Meeting between Port of Bremerton and City of Port Orchard

2. Remove two overwater residences in downtown area Remove two Port of Bremerton-owned houses east of Park and marina area and construct portion of Mosquito Fleet Trail.

Ecological benefits: Improved beach and shoreline habitat
 Process Improvements: Sediment transport, less shading
 Public Benefits: Improved views and beach access, public access
 Issues: Site access will require land ownership, easement, and/or agreement with owner. Houses are currently occupied.
 Cost: Unknown
 Likelihood of success: High
 Maintenance needed: Occasional, once trail is constructed
 References: City of Port Orchard waterfront trail plan

3. Replace existing riprap revetment with soft-shore armoring, Marlee Apartments, Comfort Inn Remove existing riprap at the Marlee Apartments and Comfort Inn, replace with soft-shore armoring.

Ecological benefits: Improved beach and shoreline habitat
 Process Improvements: Sediment transport
 Public Benefits: Improved views and beach access
 Issues: Site access will require land ownership, easement, and/or agreement with owner(s)
 Cost: Unknown
 Likelihood of success: High
 Maintenance needed: Occasional
 References: City of Port Orchard Waterfront Trail Plan

4. Remove Overwater Structures, City-wide Remove overwater structures (piers, docks, homes) that are obsolete, non-functional, and unnecessary.

Ecological benefits: Improved beach and shoreline habitat
 Process Improvements: Sediment transport
 Public Benefits: Improved views and beach access
 Issues: Site access will require land ownership, easement, and/or agreement with owner(s)
 Cost: Unknown

Likelihood of success: High
Maintenance needed: No
References: Suquamish Tribe comments on Port Orchard Draft SMP, March 25, 2011

CHAPTER 5: POTENTIAL FUNDING SOURCES

Funding Source	Allocating Entity
Aquatic Lands Enhancement Account	Washington State Recreation and Conservation Office
Bring Back the Natives	National Fish and Wildlife Foundation
Coastal and Estuarine Land Conservation Program	National Oceanic and Atmospheric Administration
Estuary and Salmon Restoration Program	Puget Sound Nearshore Ecosystem Restoration Project
Five-Star Restoration Program	National Fish and Wildlife Foundation
Land and Water Conservation Fund	Washington State Recreation and Conservation Office
Salmon Recovery Funding Board	Washington State Recreation and Conservation Office
State Wildlife Action Project	National Wildlife Federation
Water Quality Grants and Loans	Washington Department of Ecology
Washington Wildlife and Recreation Program	Washington State Recreation and Conservation Office
Wildlife and Habitat Conservation Fund	National Fish and Wildlife Foundation

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**APPENDIX C –
Mitigation and Restoration for Redevelopment Activities
in the
High Intensity Shoreline Environment Designation
Revised: March 2021**



Shoreline redevelopment, as defined in this Master Plan, shall be designed and conducted in a manner that protects the current ecological condition of the shoreline, and prevents or mitigates adverse impacts, while encouraging revitalization and improvements within the City's waterfront areas. Redevelopment proposals shall preserve existing native habitat and shoreline functions to the maximum extent feasible, and shoreline restoration may be required for redevelopment within the shoreline buffer.

A. Applicability.

The provisions of this Appendix must be referenced in conjunction with other requirements of this Master Program and with other city policies and regulations. If a conflict appears to exist between this Appendix and another section of this Master Program or other city policies or regulations, the redevelopment proposal shall comply with the more stringent requirement, unless otherwise indicated herein.

B. Mitigation Sequencing

1. When redevelopment is proposed that could result in adverse impacts to the shoreline, mitigation measures shall be applied in the following sequence of steps, listed in order of priority:
 - a. Avoid the impact altogether by not taking a certain action or parts of an action;
 - b. Minimize impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
 - c. Rectify the impact by repairing, rehabilitating or restoring the affected environment;
 - d. Reduce or eliminate the impact over time by preservation and maintenance operations;
 - e. Compensate for the impact by replacing, enhancing, or providing substitute resources or environments, including utilization of the in-lieu fee process where appropriate; and
 - f. Monitor the impact and the mitigation projects, and take appropriate corrective measures.
2. Application of the mitigation sequence shall achieve no net loss of ecological functions for each redevelopment proposal.
3. After mitigation sequencing is applied in accordance with 1. and 2. above, compensatory mitigation selection shall be guided by the following sections of this Appendix.
4. Failure to demonstrate that the mitigation sequencing standards have been met may result in permit denial, or the city may restrict or reduce development or uses, or impose additional conditions.

C. Mitigation Standards

1. Some redevelopment projects may result in multiple types of impacts to shoreline ecological

functions, each of which may require compensatory mitigation.

2. Mitigation is not required outside of the standard shoreline buffer established for the relevant use and shoreline environment in Table 7.2 of this Master Program, unless the redevelopment impact is to aquatic lands, critical saltwater or freshwater habitat, or water quality. All other requirements of this Master Plan are applicable to the site, as are all other applicable city policies and regulations, including but not limited to, the land use and zoning code, critical areas ordinance, stormwater regulations, clearing and grading ordinance, and permit requirements.

3. A Shoreline Mitigation Plan shall be prepared for any redevelopment project that will result in adverse impacts to the shoreline, including removal of native vegetation within the shoreline buffer. If the project will also involve restoration, a combined Shoreline Mitigation and Restoration Plan may be submitted by the applicant.

4. Shoreline Mitigation Plans shall be prepared using site-specific data according to the requirements of WAC 173-26-201(2)(e) and WAC 197-11-660, to ensure no net loss of shoreline habitat values and functions or impacts to priority species. If critical areas will be impacted, the applicable requirements of the city's critical areas ordinance shall also be addressed in the mitigation plan.

5. Mitigation plantings or other mitigation options shall occur adjacent and parallel to the ordinary high water mark of the shoreline as a first preference. Depending on site conditions, mitigation may be allowed away from the shoreline edge, if the actions are replacing in-kind functions and would achieve greater ecological benefit.

6. All mitigation activities shall protect the integrity of adjacent natural resources, including critical areas, aquatic habitats and water quality, and shall be compatible with adjacent shoreline uses.

7. Removal of vegetation within a shoreline buffer shall comply with the following replacement ratios based on the area measurement of the vegetation to be removed, unless an alternative proposal can be demonstrated to have greater ecological benefit:

a. Removal of grass/lawn: 1:1 replacement with native vegetation.

b. Removal of non-native landscaping (groundcover other than lawn, shrubs, trees): 2:1 replacement with native vegetation.

c. Removal of native vegetation: 4:1 replacement with native vegetation.

D. Restoration Standards

1. Restoration of ecological functions and processes shall be carried out in accordance with a city-approved Shoreline Restoration Plan and the requirements of this Master Program. Shoreline Restoration Plans shall be prepared using site-specific data according to the requirements of WAC 173-

26-201(2)(e) and WAC 197-11-660, to ensure no net loss of shoreline habitat values and functions or impacts to priority species. If critical areas will be impacted, the applicable requirements of the city's critical areas ordinance shall also be addressed in the restoration plan.

2. All restoration activities shall protect the integrity of adjacent natural resources, including critical areas, aquatic habitats and water quality, and shall be compatible with adjacent shoreline uses.

3. Covered Activities. The following actions, individually or in combination, are allowed under this section:

- a. Establishment or enhancement of native vegetation;
- b. Removal of nonnative or invasive plants upland of the ordinary high water mark, or hard or impervious surfaces such as pavement or other existing structures, and replacement with native vegetation.
- c. Conversion of existing hard structural shoreline stabilization to permitted soft shoreline stabilization, including associated clearing, dredging and filling necessary to implement the conversion; provided, that the primary purpose of such actions is clearly restoration of natural character and the ecological functions of the shoreline and that the actions are consistent with the requirements of this Master Program and this Appendix.

E. Redevelopment Within a Shoreline Buffer (Setback)

1. Within a shoreline buffer, redevelopment of a site with one or more existing non-water-dependent, legal conforming or nonconforming building(s), or redevelopment of a portion of such building(s), may be allowed subject to the following:

- a. The shoreline designation of the redevelopment site is High Intensity.
- b. The redevelopment proposal shall not extend further waterward than the footprint of the existing primary building or the portion of such primary building to be redeveloped. Areas located between existing primary buildings, including planted landscaping and lawn, pavement and similar surface coverage, may be developed if the development will not extend further waterward than the existing primary buildings.
- c. Any shoreline impacts anticipated to result from the redevelopment shall be subject to mitigation sequencing as provided in this Appendix, and addressed in a Shoreline Mitigation Plan.
- d. Regardless of whether a Shoreline Mitigation Plan is required, the redevelopment proposal shall include a Shoreline Restoration Plan consistent with subsection C. above and with Section 6.6 (Shoreline Vegetation Conservation) herein that will provide a substantive, measurable improvement to shoreline conditions within the site or in aquatic areas adjacent to the site, unless the site has an interrupted buffer pursuant to this chapter.
- e. The redevelopment proposal shall not result in the loss of public access to the shoreline, including undeveloped easements or right of way.
- f. In general, new or redeveloped surface parking areas and parking lots included in a redevelopment

proposal shall be located outside the shoreline buffer where feasible. Parking in the shoreline buffer for redevelopment projects containing water-dependent, water-related and water-enjoyment uses may be allowed provided all other provisions of this section are met. Stand-alone structured parking is not allowed in the shoreline buffer.

g. Redevelopment within a shoreline buffer is not allowed in areas of special flood hazards as established according to POMC Section 20.170.060, or in geologic hazard areas as defined in POMC Section 20.162.044.

h. All portions of the shoreline buffer that will not be developed shall be maintained or replanted in native vegetation. Removal of existing native vegetation to accommodate development is not allowed within the shoreline buffer unless it is required for the water-related or water-dependent uses and accompanied by mitigation according to this Master Plan.

i. The city may request that the applicant submit studies by qualified professionals, or that a submitted study, impact analysis, and/or shoreline mitigation or restoration plan be peer-reviewed by qualified professionals at the applicant's expense, in order to determine compliance with the mitigation and/or restoration requirements of this Appendix.

j. The redevelopment proposal shall be consistent with other applicable city policies and regulations, including but not limited to the land use and zoning code, critical areas ordinance, stormwater regulations, clearing and grading ordinance, and permit processing requirements.

k. If the applicant is unable or unwilling to comply with subsections a. – j. above, the standard shoreline buffer for the shoreline environment designation of the site shall apply and all new development or redevelopment on the site shall be located outside the shoreline buffer unless otherwise allowed by the Act and this Master Plan.

F. Monitoring and Maintenance of Mitigation and Restoration Activities

1. Mitigation and restoration activities are subject to the requirements of Section 6.6 – Development Regulations G-DR-33.h. and G-DR-36 of this Master Program.

2. Mitigation and restoration activities that are unpermitted, are inconsistent with an approved mitigation plan or restoration plan, or are not maintained in accordance with subsection 1. above, are subject to enforcement per Chapter 10 of this Master Program.



City of Port Orchard

216 Prospect Street, Port Orchard, WA 98366
(360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.: Business Item 8B
Subject: Adoption of an Ordinance Reclassifying
the Property Located at the Northwest
Corner of the Intersection of Harold Drive
SE and SE Lund Avenue from Residential 2
to Residential 3

Meeting Date: March 9, 2021
Prepared by: Nick Bond, AICP
DCD Director
Atty Routing No.: 366922.0011 (DCD)
Atty Review Date: March 1, 2021

Summary: The City received an application for a site-specific rezone for the unaddressed property located at the northwest corner of the intersection of Harold Drive SE, an unimproved right-of-way, and SE Lund Ave, identified as Assessor Parcel Number 4625-000-009-0206 (the "Property"), to change the zoning designation from Residential 2 (R2) to Residential 3 (R3). The City of Port Orchard Hearing Examiner held a public hearing consistent with the requirements of POMC 20.22.060, on January 27, 2021, and issued a Recommendation to approve the rezone for consideration by the City Council on February 10, 2021. The proposed rezone will grant the property development rights associated with the Residential 3 zoning designation, but future development of the Property is subject to additional permitting requirements.

Background:

James Upchurch, on behalf of Contour Capital LLC, applied for the requested site-specific rezone on July 8, 2020. The proposal consists of changing the zoning of the Property, located at the northwest corner of Harold Drive SE and SE Lund Ave, from Residential 2 (R2) to Residential 3 (R3), to accommodate the future development of a 23-unit apartment building. Prior to the City's annexation of the Property, while in Kitsap County's jurisdiction, the Property was designated with *Urban Low Residential (4-9 DU/Ac)* zoning. Upon the April 2012 annexation into the City, the City Council adopted zoning for the Property which most closely resembled the applicable Kitsap County zoning designations prior to annexation. Accordingly, the Property was designated *Residential: 4.5 units/acre* on the City of Port Orchard Zoning map and was subject to the standards found in POMC Title 16.

On March 27, 2019, the City of Port Orchard revised the zoning classifications and added additional zones which fall under the Residential, Commercial and Industrial Comprehensive Plan land use designations. Consistent with the approach utilized upon annexation, the City of Port Orchard again attempted to closely mirror the previously applied Kitsap County zones for the annexed parcels, while being mindful of the ultimate urban form and land use patterns derived through the new zoning designations in implementation of the City's Comprehensive Plan. In this instance, the Property's designation was amended to *Residential 2 (R2)* which permits single-family detached and single-family attached as a use but does not allow multi-family uses.

The Port Orchard Municipal Code is a form-based code which addresses permitted building types, in addition to permissible land uses. The Residential 2 designation does not permit apartments as an allowed building

type nor multi-family residential as a permitted use as described in POMC 20.34.020(2) and 20.20.39.040, respectively. In contrast, the Residential 3 designation allows the development of apartment buildings and multi-family residential as an allowable building type and permitted use. The parcels to the north of the Property are zoned Residential 3. The approval of the requested site-specific rezone would allow the future development of an apartment building with normal and expected infrastructure of a multi-family development, subject to the City's permitting requirements for such a development.

After review by City staff and other agencies, the application was determined technically complete, prompting the issuance of a Determination of Complete Application on August 3, 2020. The City provided Notice of Application with the Optional Determination of Nonsignificance process established in Washington Administrative Code 197-11-355 on August 13, 2020, consistent with the requirements of POMC 20.24. The comment period for the Notice of Application (NOA) and Determination of Nonsignificance (DNS) was held open until August 27, 2020, with an extension for additional comment to November 2, 2020. The City of Port Orchard received comments from the public that were considered fully prior to issuance of the DNS on November 3, 2020. The DNS was appealed prior to the appeal deadline of November 17, 2020.

The City of Port Orchard Hearing Examiner held an open record hearing on the appeal on January 27, 2021, with the appellant, applicant and City presenting live witness testimony and relevant records. The Hearing Examiner issued a Decision on February 10, 2021, denying the appeal based on the substantial evidence in the record supporting the City's decision to issue the DNS.

Immediately following the appeal hearing, the City of Port Orchard Hearing Examiner held an open record hearing for the site-specific rezone request on January 27, 2021. The Hearing Examiner issued a Recommendation to the City of Port Orchard City Council on February 10, 2021, recommending approval of the request to rezone the Property from the "Residential 2" to "Residential 3" zoning designation. This Recommendation is attached to the Ordinance submitted for the Council's review as Exhibit A.

Recommendation: Adoption of an ordinance, granting approval of the site-specific rezone from "Residential 2" to "Residential 3".

Relationship to the Comprehensive Plan: As described in the Hearing Examiner's Recommendation (Exhibit A to the Ordinance), the request for a site-specific rezone from Residential 2 to Residential 3 is consistent with the City's Comprehensive Plan designation of Medium-Density Residential. The proposal requests that the Property be designated Residential 3 in an area designated as Medium-Density Residential on the City of Port Orchard Comprehensive Plan Map. The site-specific rezone request is consistent with the Medium-Density Residential Comprehensive Plan Designation, the Goals and Policies in the Land Use, Transportation, Housing, and Economic Development Elements of the adopted City of Port Orchard Comprehensive Plan.

Motion for consideration: I move to adopt an Ordinance, granting approval of the site-specific rezone from "Residential 2" to "Residential 3" for the property located at the northwest corner of the intersection of Harold Drive SE identified as Assessor Parcel Number 4625-000-009-0206.

Fiscal Impact: None.

Alternatives: Approval with added conditions.

Attachments: Ordinance, Exhibit A thereto (Hearing Examiner Recommendation), and Exhibit B thereto (revised Zoning Map).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF PORT ORCHARD; RECLASSIFYING THE PROPERTY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF HAROLD DRIVE SE AND SE LUND AVENUE, IDENTIFIED AS ASSESSOR PARCEL NUMBER 4625-000-009-0206, FROM RESIDENTIAL 2 TO RESIDENTIAL 3 ZONING DESIGNATION; ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Contour Capital, LLC (the “Applicant”) is the owner of 1.23-acre parcel located at the northwest corner of the intersection of Harold Drive SE, an unimproved right-of-way, and SE Lund Ave, identified as Assessor Parcel Number 4625-000-009-0206, in the City of Port Orchard (the “Property”); and

WHEREAS, the Applicant submitted a complete application for reclassification of their Property from the zoning designation “Residential 2” to “Residential 3”, in order to facilitate the future construction of a 23-unit apartment building on the Property; and

WHEREAS, the “Residential 3” zoning designation is appropriate in areas designated as Medium-Density Residential within the City of Port Orchard Comprehensive Plan Land Use Element; and

WHEREAS, the request to reclassify the Property has been reviewed and processed pursuant to Port Orchard Municipal Code (“POMC”) Chapter 20.42, with notices of the rezone application provided in accordance with state and local requirements; and

WHEREAS, a determination of non-significance was issued for the rezone application in accordance with Chapter 20.42 POMC; and

WHEREAS, on January 27, 2021, the Hearing Examiner held a duly-noticed open record public hearing on the request; and

WHEREAS, on February 10, 2021, the Hearing Examiner issued his Findings, Conclusions and Recommendation to the City Council, recommending approval of the request for reclassification; and

WHEREAS, the City Council concurs with the Findings, Conclusions and Recommendation of the Hearing Examiner, and finds that the rezone application should be approved; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Rezone Findings. The City Council hereby adopts the Findings and Conclusions, and Recommendation to approve the rezone issued by the Hearing Examiner in “In Matter of the Application of James Upchurch, on behalf of Contour Capital, LLC for Approval of a Site-Specific Rezone,” No. LU20-REZONE-01, attached to this Ordinance as Exhibit A and incorporated herein by this reference.

SECTION 2. Zone Reclassification. Pursuant to POMC 20.42.040, and consistent with Section 1 of this Ordinance, the City Council amends the “Official Zoning Map of the City of Port Orchard” by changing the zone designation for the Property from “Residential 2” to “Residential 3.” The Property and its newly approved zone designation is shown on Exhibit B attached to this Ordinance and incorporated herein by this reference.

SECTION 3. No Expiration. Pursuant to POMC 20.42.050(1)(b), it is the intent of the City Council that this approval shall not expire.

SECTION 4. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

SECTION 5. Effective Date. This ordinance shall be in full force and effect five (5) days after posting and publication as required by law. A summary of this Ordinance may be published in lieu of the entire ordinance, as authorized by State Law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the City Clerk in authentication of such passage this 9th day of March 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

SPONSOR:

Charlotte A. Archer, City Attorney

Not Applicable
Councilmember

PUBLISHED:

EFFECTIVE DATE:

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF PORT ORCHARD**

In the Matter of the Application of)	No. LU20-REZONE-01
)	
James Upchurch, on behalf of)	Contour Apartments Rezone
Contour Capital, LLC)	
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Site-Specific Rezone</u>)	AND RECOMMENDATION

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends that the City Council **APPROVE** the request to rezone the 1.23-acre parcel located at the northwest corner of the intersection of SE Lund Avenue and the unopened right-of-way of Harold Drive SE from the “Residential 2” zoning designation to the “Residential 3” zoning designation.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on January 27, 2021, using remote technology due to the ongoing COVID-19 pandemic. The site-specific rezone hearing followed a hearing on an appeal of the State Environmental Policy Act (SEPA) determination issued by the City of Port Orchard (City), in association with the rezone application, held the same day.¹

Testimony:

The following individuals presented testimony under oath at the open record hearing:

- James Fisk, City Associate Planner
- Nick Bond, Department of Community Development Director
- Andrew Bratlien, Transportation Solutions
- Ian Smith, Department of Public Works Civil Engineer
- James Upchurch, Applicant Representative
- Kerry Geffen

¹ The appeal by Kerry Geffen (No. HEA-2020-01) has been decided concurrently with the site-specific rezone application following a consolidated hearing, as required by Washington Administrative Code (WAC) 197-11-680(3)(v) and Port Orchard Municipal Code (POMC) 20.160.240(5).

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Exhibits:

The following exhibits were admitted into the record:

1. Application Materials:
 - A. Master Permit Application Form, dated July 5, 2020
 - B. Site-Specific Rezone Application, dated July 6, 2020
 - C. Project Narrative, received July 8, 2020
 - D. SEPA Environmental Checklist, dated July 7, 2020
 - E. Legal Description, received July 8, 2020
 - F. Vicinity Map, received July 8, 2020
 - G. Application for Non-Binding Water Availability Letter, dated December 18, 2019
 - H. Application for Binding Sewer Availability Commitment, dated December 18, 2019
 - I. Signing Authority Letter, dated August 13, 2019
 - J. Plan Set (11x17) (6 Sheets), dated July 8, 2020
 - K. Plan Set (34x22) (6 Sheets), dated July 8, 2020
2. Transmittal Letter, dated July 16, 2020
3. Determination of Technical Completeness, issued August 3, 2020
4. Affidavit of Mailing/Emailing (Determination of Technical Completeness), dated August 3 and 4, 2020
5. Notice of Application/SEPA DNS, issued August 13, 2020
6. Affidavit of Emailing (Notice of Application/SEPA DNS), dated August 4, 2020
7. Affidavit of Publication (Notice of Application/SEPA DNS), dated August 13, 2020
8. Affidavit of Mailing/Emailing (Notice of Application/SEPA DNS), *Kitsap Sun*, dated August 13, 2020
9. Affidavit of Posting, dated August 13, 2020
10. Public Comments received week of August 17, 2020
 - A. Comment from Matt Smith, dated August 14, 2020
 - B. Comment from Laureen Nicoletti, dated August 14, 2020
 - C. Comment from Franklin Harder, undated
- Determination of Nonsignificance, issued December 23, 2019
11. Public Comments received week of August 23, 2020
 - A. Comment from Kerry and Jon Geffen, dated August 27, 2020
 - B. Comment from Laurie Welch, dated August 28, 2020
12. Public Comment received week of August 30, 2020
 - A. Comment from Kristi Brenton, dated August 29, 2020
13. Traffic Impact Analysis and Concurrency Review, Transportation Solutions, dated October 6, 2020
14. Determination of Nonsignificance, issued November 3, 2020
15. Affidavit of Mailing and Emailing (DNS), dated November 3, 2020
16. Kerry Geffen – DNS Appeal, dated November 17, 2020
17. Hearing Examiner’s Pre-Hearing Order, dated November 23, 2020
18. Affidavit of Emailing (DNS Appeal), dated November 20, 2020

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19. Capacity Reservation Certificate, issued December 11, 2020
20. Notice of Appeal Hearing
21. Notice of Public Hearing
22. Affidavit of Publication (Notice of Hearing), *Kitsap Sun*, dated January 13, 2021
23. Affidavit of Emailing (Notice of Appeal Hearing), dated January 13, 2021
24. Affidavit Mailing and Emailing (Notice of Public Hearing), dated January 13, 2021
25. Staff Report, dated January 14, 2021

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Background

1. The subject property is approximately 1.23 acres and is currently undeveloped. The property is generally flat and is triangular, with approximately 430 feet of frontage on its southern property line adjacent to SE Lund Avenue and 246 feet of frontage on its eastern property line adjacent to the unopened Harold Drive SE right-of-way. The property was zoned “Urban Low Residential” by Kitsap County prior to its annexation by the City of Port Orchard (City) in April 2012. With annexation, the City Council adopted zoning for the project site that most closely resembled the associated zoning designation under Kitsap County. Accordingly, the property was zoned “Residential” at that time. On March 27, 2019, the City revised its zoning classifications for the area and added additional zoning classifications that fall under the Residential, Commercial, or Industrial designations of the City’s Comprehensive Plan. Again, the City attempted to match previously zoned properties in the impacted area with the new classifications. This led to the subject property being rezoned as “Residential 2” (R2), a zoning designation that does not allow for apartment building types or multi-family residential uses. *Port Orchard Municipal Code (POMC) 20.34.020; POMC 20.39.040. Exhibit 25, Staff Report, pages 1 through 3.*

Application and Notice

2. James Upchurch, on behalf of Contour Capital, LLC (Applicant), requests a site-specific rezone of a 1.23-acre parcel from the “Residential 2” (R2) zoning designation to the “Residential 3” (R3) zoning designation. With approval of the site-specific rezone request, the Applicant intends to develop the property with a three story, 23-unit apartment building with 41 parking spaces and associated improvements that would include stormwater drainage facilities and an extension of Harold Drive SE to connect to SE Lund Avenue. The currently unaddressed property is located at the northwest corner of the intersection of SE Lund Avenue and the unopened Harold Drive SE right-of-way.² *Exhibit 1; Exhibit 25, Staff Report, pages 1 and 2.*

² The subject property is identified by tax parcel number 4625-000-009-0206. *Exhibit 1.A; Exhibit 25, Staff Report, page 1.* A legal description is included with the application materials. *Exhibit 1.E.*

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3. The City determined that the site-specific rezone application was complete on August 3, 2020. On August 4, 2020, the City emailed notice of the application to reviewing government agencies. On August 13, 2020, the City mailed or emailed notice of the application to owners of property surrounding the subject property and published notice in the *Kitsap Sun*, with a comment deadline of August 27, 2020. The Applicant posted notice of the application on the subject property the same day. On January 13, 2021, the City mailed or emailed notice of the hearing associated with the application to surrounding property owners, interested parties, and reviewing government agencies and published notice in the *Kitsap Sun*. *Exhibit 3; Exhibits 5 through 9; Exhibits 21 through 24; Exhibit 25, Staff Report, page 20.*

4. The City did not receive any comments from reviewing government agencies in response to its notice materials. The City received six comments from surrounding property owners in response to its notice materials. Specifically:
 - Matt Smith raised concerns about the privacy and traffic impacts of the proposal.
 - Laruen Nicoletti raised concerns about the privacy, traffic, noise, and crime impacts of the proposal.
 - Franklin Harder raised concerns about the traffic and vehicular safety impacts of the proposal.
 - Kerry and Jon Geffen raised concerns about the privacy, traffic, and vehicular safety impacts of the proposal.
 - Laurie Welch raised concerns about the proposal's impacts to the small-town character of the neighborhood. She also raised concerns about the proposal's privacy, parking, pedestrian safety, and traffic impacts.
 - Kristi Brenton raised concerns about the traffic and safety impacts of the proposal.*Exhibits 10 through 12; Exhibit 25, Staff Report, page 20.*

5. The City provided responses to the concerns raised by the public, which note:
 - Development applications must pass a concurrency test demonstrating that the traffic generated by a specific proposal would not result in a Level of Service (LOS) failure on the City's transportation network. The Applicant will submit a Traffic Impact Analysis (TIA) to allow the City to evaluate the traffic impacts of the proposal. If the Applicant's TIA shows that the proposal would cause an LOS failure, the proposal will not be approved without mitigation to ensure an acceptable LOS.
 - There are no current applicable regulations that would require preservation of existing vegetation on the property as a "greenbelt."
 - The City has design standards that address the appearance of structures and the relationship between proposed buildings and adjacent properties to protect the privacy of residents on adjacent properties.

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- The municipal code has landscaping design standards that would require landscaping buffer to be provided along the perimeter of the site and a certain percentage of recreational space to be created as part of multi-family development. If the rezone is approved, compliance with these standards would be reviewed with the land disturbing activity permit and/or building permit.
- The Applicant has applied for a rezone to designate the property as R3. R3 is an appropriate zoning designation for properties identified in the City Comprehensive Plan as Medium Density Residential. The subject property and properties on Cassandra Loop that are designated R3 are designated as Medium Density Residential in the Comprehensive Plan. The R3 zone allows for the same type of development as the R2 zone but also includes apartments as an allowed building type.
- If the rezone is approved, the Applicant would be required to provide on-street and off-street parking in accordance with municipal code requirements.
- The Department of Community Development does not attribute crime to specific housing types.

Exhibits 10 through 12.

State Environmental Policy Act

6. City Department of Community Development (DCD) acted as lead agency and analyzed the environmental impacts of the proposal under the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The City consolidated notice of the SEPA review and notice of the application under the optional process provided for by Washington Administrative Code (WAC) 197-11-355, with a comment deadline of August 27, 2020. The City's notice materials stated that the City's SEPA Responsible Official expected to issue a Determination of Nonsignificance (DNS) for the proposal. DCD reviewed the Applicant's environmental checklist and other information on file, including comments submitted by the public, and determined that the proposal would not have a probable significant adverse impact on the environment. Accordingly, the City's SEPA Responsible Official issued a DNS on November 3, 2020, with an appeal deadline of November 17, 2020. The City provided additional notice and opportunity to comment on the DNS by mailing or emailing the DNS to surrounding property owners and interested parties. *Exhibit 1; Exhibit 5; Exhibit 14; Exhibit 15; Exhibit 25, Staff Report, pages 4 and 20.*
7. Following the initial SEPA comment period (ending on August 27, 2020), Transportation Solutions prepared a Traffic Impact Analysis and Concurrency Review (TIA) for the proposal, dated October 6, 2020. The TIA determined that the construction of a 23-unit apartment building on the property, allowable with the rezone, would generate a total of 126 new daily trips, with 8 new AM peak-hour trips and 10 new PM peak-hour trips. The TIA identified seven intersections that would be impacted by the proposal, all of which currently operate below the City's minimum LOS standards. The TIA noted that

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the trips generated from a build-out of the 23-unit apartment complex would not cause any new LOS deficiencies to the area intersections and that the LOS deficiencies to these intersections would be addressed through improvements identified in the City's 2020-2039 Transportation Improvement Program or through improvements identified in the Washington State Department of Transportation's SR-16 – Tacoma Narrows Bridge to SR 3 Congestion Study. The TIA further determined that the proposed new intersection at SE Lund Avenue and Harold Drive SE would operate at an acceptable LOS. As noted above, the City's SEPA Responsible Official reviewed the TIA prior to issuing the final DNS on the proposal, on November 3, 2020. Later, on December 11, 2020, the City issued a Capacity Reservation Certificate for the proposal. *Exhibit 13; Exhibit 19.*

8. As discussed above, the City received six comments from surrounding property owners in response to its notice materials, including comments from Kerry Geffen, who timely appealed the DNS. Ms. Geffen argued in her appeal that the City's SEPA Responsible Official issued the DNS based on incomplete or missing information in the Applicant's environmental checklist, that the traffic impact analysis and concurrency review for the project failed to include information about the traffic impacts of a nearby residential project, and that the City's transportation network cannot support the proposed development of a 23-unit apartment building that would be allowed with the rezone. As explained in detail in the companion decision issued concurrently with this decision, the Hearing Examiner determined that substantial evidence in the record supports the decision of the City's SEPA Responsible Official to issue a DNS, such that the decision was not clearly erroneous. Accordingly, Ms. Geffen's appeal has been denied. *Hearing Examiner's Findings, Conclusions, and Decision, Kerry Geffen Appeal, No. HEA-2020-01, dated February 10, 2021.*
9. The site is adjacent to areas with potential for wetlands. Because approval of the site-specific rezone does not authorize any development, the City determined that a wetland report is not required at this time. The Applicant would be required to provide a wetland report categorizing and delineating wetlands with any future development permit application, and review for compliance with critical areas regulations would occur at that time. *Exhibit 25, Staff Report, pages 19 and 20.*

Comprehensive Plan and Zoning

10. The City revised its Comprehensive Plan in July 2020. The City designates the subject property and surrounding properties to the north, south, and west as Medium Density Residential. Properties to the east are designated Commercial. Uses within the Medium Density Residential designation include single-family detached housing, single-family attached housing, and apartment buildings. *Comprehensive Plan, Sec. 2.4, Table 1 (Revised July 2020). Exhibit 1.F; Exhibit 25, Staff Report, pages 2 and 4.*

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11. City staff reviewed the proposal and identified several Comprehensive Plan goals and policies as applicable to the rezone, including:
- Retaining the City’s small town commercial and residential character while accommodating allocated growth citywide. [Land Use Goal 1]
 - Ensuring that sufficient land is available for development to accommodate allocated growth in population and employment. [Land Use Goal 2]
 - Protecting, enhancing, and maintaining the values and functions of the City’s natural areas, open spaces, and critical areas. [Land Use Goal 5]
 - Reducing congestion and greenhouse gas emissions, promoting public health, reducing automobile dependency, and increasing multimodal transportation opportunities for accessing retail services, health care services, and places of employment. [Land Use Goal 6]
 - Encouraging the development of active, vibrant, and attractive destinations throughout the community. [Land Use Goal 7]
 - Connecting new and existing neighborhoods to each other, to commercial and employment centers, and to public facilities. [Land Use Goal 8].
 - Ensuring that the City’s housing stock responds to changes in desired housing types based on demographic trends and population growth. [Housing Goal 1]
 - Ensuring that housing is affordable and available to all socioeconomic levels of the City’s residents. [Housing Goal 2]
 - Promoting the efficient provision of municipal infrastructure and services to new housing developments. [Housing Goal 4]
 - Promoting the efficient use of residential land to maximize development potential. [Housing Goal 5]
 - Ensuring that future residential development protects and maintains natural ecosystems and critical areas, including wetlands, streams, and wildlife habitats. [Housing Goal 9]
 - Increasing the ability of residents to enjoy a high quality of life and access to healthy living opportunities, such as locally produced food, nearby grocery stores, parks and open spaces, and safe streets for walking and bicycling. [Economic Development Goal 5]
 - Providing a safe, comfortable, and reliable transportation system. [Transportation Goal 2]
 - Developing a funding strategy and financing plan to meet the multi-modal and programmatic needs identified in the transportation element of the Comprehensive Plan. [Transportation Goal 3]
 - Working with Kitsap Transit to provide increased transit service to the City as development occurs. [Transportation Goal 7]
 - Promoting pedestrian, bicycle, and other non-motorized travel. [Transportation Goal 10]

- Integrating walking and bicycle facilities into private development in a way that minimizes impacts on the development process and property owners. [Transportation Goal 14]
- Supporting and reinforcing coordination between land use and transportation. [Transportation Goal 22]
- Developing transportation improvements that respect the natural and community character and are consistent with both the short-term and long-term vision of the Comprehensive Plan. [Transportation Goal 25]

Exhibit 25, Staff Report, pages 5 through 8.

12. The property is currently zoned R2, as are surrounding properties to the east and south. Properties to the north are zoned R3, and properties to the east are zoned “Commercial Corridor” (CC). The R2 zone is “intended to accommodate detached house, duplex, and townhouse development with a minimum lot size that varies based on building type.” *Port Orchard Municipal Code (POMC) 20.34.020(1)*. Apartments are not a permitted building type and multi-family residential is not an allowed use in the R2 zoning district. *POMC 20.34.020(2); POMC 20.39.040. Exhibit 25, Staff Report, pages 2 and 9 through 13.*
13. Chapter 36.70A Revised Code of Washington (RCW) mandates that zoning classifications should be consistent with Comprehensive Plan designations. The City’s Residential Medium Density designation includes both the R2 and R3 zoning districts. The R3 zone is “intended to accommodate a variety of residential options limited to three stories in height.” *POMC 20.34.030(1)*. Unlike the R2 zone, the R3 zone allows for multi-family residential uses and for apartment building types. *POMC 20.34.030(2)(i); POMC 20.39.040; POMC 20.35.025(1). Exhibit 25, Staff Report, pages 9 through 13.*

Rezone Criteria

14. City staff reviewed the proposed site-specific rezone request against the required criteria for a rezone in POMC 20.42.030 and determined:
 - The proposed rezone would be consistent with the Comprehensive Plan.
 - The proposed rezone, which would allow for a 23-unit apartment building and associated improvements, would be consistent with the purpose of the R3 zone by providing denser residential development consistent with development standards and landscaping requirements applicable to the R3 zone.
 - The subject property is in an area where a transition from more intense commercial uses may be transitioned to lower-density residential uses through a medium-density residential use. The requested rezone to R3 would be consistent with the purpose of the district and the characteristics of existing development through transitioning land uses from more intense uses.
 - The zoning history includes Urban Low Residential zoning by Kitsap County prior to annexation. The City has subsequently adopted zoning classifications for

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the property that would most closely resemble the historic zoning designation by Kitsap County. Other than areawide rezones through annexation or adoption of development code regulations, the zoning designations of the area have remained largely consistent. A 2019 site-specific rezone request for the property located at the northeast corner of Harold Drive SE and SE Lundberg Road was approved by the City of Port Orchard City Council, which redesignated the property from Commercial Mixed Use (CMU) to Business Professional Mixed Use (BPMU) to rectify a non-conforming use that had not been evaluated at annexation or subsequently.

- The proposed rezone would not create a transition from more intense zones to less intense zones, but the permitted use and building types in the proposed rezone would offer the opportunity to create a transition from more intense existing and potential uses in the CC zone to the east of the site with the existing single-family detached residential uses to the north of the site.
- Required site improvements associated with multi-family development on the site would be adequately buffered by required zoning setbacks, landscaping requirements, building design standards, and existing and required roadway improvements.
- No new parcel boundaries would be created.
- The proposed development would be required to face Harold Drive SE, which would provide access to the property, to comply with the building type requirements of POMC 20.32.100(6). Future commercial development east of the site would be required to satisfy varied block frontage standards, likely resulting in parking lots located to the side or rear of structures with a commercial building entrance facing SE Lund Avenue, the primary street.
- The proposed rezone would provide for housing type options increasing available housing capacity in the city.
- The proposed rezone would create additional demand on public services and facilities but would not cause a level of service failure to City facilities. The City has the ability to provide appropriate public services to meet the additional demand.
- The proposed rezone would not substantially increase impacts to the environment. Any environmental impact to adjacent wetlands from subsequent development on the property would be reviewed upon submittal of a land disturbing activity permit.
- The proposal makes provisions for pedestrian safety through the connection of pedestrian facilities associated with improvements to the Harold Drive SE right-of-way.
- Manufacturing activity is not applicable to the proposal.
- The proposed rezone would not impact employment intensity.
- The area is not a registered historic place.

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- Shoreline view, public access, and recreation are not applicable to the proposal.
- Any future development would be analyzed for its impacts to service capacities.
- The proposed rezone would not impact the commercial capacity of the site because commercial uses are not permitted in either the R2 or R3 zoning districts. The proposed rezone may result in an increase to population because it would allow for multi-family residential development that is not permitted in the R2 zone.
- The proposed rezone to R3 would be more compatible with surrounding properties and would provide an opportunity to transition from more intense land uses in the vicinity.
- Potential wetlands are located to the east of the property. Any proposed development would address impacts to the potential wetlands and would be subject to the critical areas ordinance in effect at the time of development application.

Exhibit 25, Staff Report, pages 15 through 18.

15. City staff determined that that proposed rezone would be consistent with the Comprehensive Plan goals and policies and would meet the specific criteria for a rezone under POMC 20.42.030. *Exhibit 25, Staff Report, pages 4, 5, 8, and 15 through 21.*

Testimony³

16. City Associate Planner James Fisk testified generally about the proposal. He explained that a rezone of the property from R2 to R3 would be necessary to accommodate the development of a 23-unit apartment building with associated improvements on the property. Mr. Fisk stated that the rezone would be consistent with the Comprehensive Plan designation of the property as Medium Density Residential and would be consistent with several Comprehensive Plan goals and policies. He explained that City staff analyzed the potential impacts created by the development of a 23-unit apartment building and determined that existing code requirements would adequately mitigate for such potential impacts. Mr. Fisk noted that, if the rezone request were to be approved, the Applicant would be required to obtain additional development permits prior to construction of the apartment building and that further environmental review would likely occur due to potential wetlands near the site. He explained that a Capacity Reservation Certificate was issued for the project after City staff determined that the proposal would not cause an LOS failure to intersections that would be impacted by the development. Mr. Fisk acknowledged that the TIA for the project identified several intersections that currently operate below the City's minimum LOS standards and that the proposed development would add additional trips to the already failing intersections, but

³ At the consolidated hearing, the Hearing Examiner explained that duplicative testimony between the SEPA appeal and the preliminary plat portions of the hearing would not be necessary. Accordingly, testimony received during the SEPA portion of the appeal has been replicated here, where applicable.

he stressed that the City could not require the Applicant to mitigate for the failing intersections because the failure was not caused by the proposal. *Testimony of Mr. Fisk.*

17. Community Development Director Nick Bond testified that he is the SEPA Responsible Official for the City. He noted that SEPA environmental review was required for the proposal under the Washington Administrative Code because the environmental checklist submitted with the rezone application identified a potential development proposal associated with the rezone request. *Testimony of Mr. Bond.*
18. Andrew Bratlien, of Transportation Solutions, testified that he prepared the TIA for the proposal. He noted that the purpose of the Capacity Reservation Certificate (CTC) application review process is to ensure that transportation concurrency is maintained in accord with Growth Management Act requirements and to ensure that the City can monitor the operational capacity of the transportation network so that it can schedule improvements concurrent with pending development. Mr. Bratlien explained that Transportation Solutions maintains a traffic forecast model for the City to forecast level of service (LOS) deficiencies, which is updated every time a permit application is submitted to account for a proposed project's traffic impacts. He noted that data on the traffic impacts of the nearby Riverstone residential development project were entered into the traffic forecast model prior to analyzing the traffic impacts of the current proposal. He also noted that Transportation Solutions developed a traffic forecast, as part of the Bethel Road and Sedgwick Road Corridor Plan, to identify existing deficiencies and design improvements to meet future traffic needs. Regarding the TIA prepared for the Applicant's proposal, Mr. Bratlien stated that all studied intersections currently operate below the City's minimum LOS standards and that the additional trips that would be generated by the development of a 23-unit apartment building would not cause any new deficiency. He explained that a project proponent may be responsible to mitigate for traffic impacts even if there are pre-existing LOS deficiencies but only if the project has a significant impact. Mr. Bratlien stated that the proposed apartment building project's addition of less than 2 PM peak-hour trips to the affected intersection would not be significant enough to warrant required mitigation beyond the payment of traffic impact fees. He explained that traffic collision rates are periodically reviewed as part of the city-wide comprehensive update process. *Testimony of Mr. Bratlien.*
19. Department of Public Works Civil Engineer Ian Smith testified that improvements to failing intersections would be implemented through the City's Bethel Road and Sedgwick Road Corridor Plan, which would include roundabout at the intersection of Bethel Road and SE Lund Avenue as part of Phase 5 of the plan. He noted that the planned roundabout is slated for construction in December 2022 and that the City is motivated to move the improvement plan forward because the City has been awarded federal funding, which has pushed up the date for construction. Mr. Smith further explained that the City

has several area projects identified in its long-term Transportation Improvements Plans (TIPs) specifically designed to address congestion. *Testimony of Mr. Smith.*

20. Applicant Representative James Upchurch testified that the Applicant purchased the property in August 2019 and had complied with all requirements for a site-specific rezone of the property. He noted that there would be adequate parking provided on-site to serve residential tenants and that additional off-street parking would be provided as part of the SE Lund Avenue extension. Mr. Upchurch stated that he is not familiar with a requirement that the proposed apartment building provide a minimum of four electric car charging stations but that the Applicant would comply with all code requirements as it moves forward with the project. *Testimony of Mr. Upchurch.*
21. Kerry Geffen testified that she owns residential property that is adjacent to the parcel for which the Applicant has requested a site-specific rezone and on which the Applicant intends to develop an apartment building. She stated that she manages her property as a rental unit for residential tenants. Ms. Geffen described the surrounding neighborhood as full of children who use the local street as their playground, and she expressed her opposition to the proposed site-specific rezone allowing development of an apartment building because it would change the character of the neighborhood. She asserted that the City failed to comply with SEPA when issuing the DNS because it failed to analyze relevant information pertaining to the proposal's traffic impacts, particularly information indicating that affected intersections were already operating below acceptable levels of service and from traffic studies associated with another pending development project in the vicinity of the subject property. Ms. Geffen stressed that the City should have been aware that the existing traffic infrastructure was failing and would not be able to support additional development absent significant improvements. *Testimony of Ms. Geffen.*

Staff Recommendation

22. City staff recommends approval of the proposed site-specific rezone without conditions. *Exhibit 25, Staff Report, page 21.*

CONCLUSIONS

Jurisdiction

The City of Port Orchard Hearing Examiner has jurisdiction to hold a hearing on rezone applications that are not part of the Comprehensive Plan Amendment process. Based on the evidence in the record, the Hearing Examiner shall make a recommendation to the City Council as to whether the proposed rezone meets the criteria in POMC 20.42.030. *POMC 2.76.080; POMC 2.76.100; POMC 2.76.110; POMC Table 20.22.020, -.060(5); POMC 20.42.010(2), - 040(5).*

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When reviewing a rezone application, the Hearing Examiner does not review development proposals. Rather, the role of the Hearing Examiner is to review the rezone request to ensure compliance with the site-specific rezone criteria found in POMC 20.42.030. The City Council then reviews the Hearing Examiner's recommendation and may hold an additional hearing on the site-specific rezone application at its discretion. The City Council's approval, modification, deferral, or denial of a site-specific rezone application shall be based on the criteria set forth in POMC 20.42.030. If a quasi-judicial rezone is approved, the city council will subsequently adopt an ordinance amending the city's official zoning map to be consistent with their final decision on the rezone application. *POMC 20.42.040(6)*.

Criteria for Review

POMC 20.42.030 sets forth general provisions and criteria the Hearing Examiner must use to evaluate a request for a site-specific rezone. A request for a rezone shall only be approved upon compliance with the following review criteria:

- (1) The following general provisions shall apply to review of all site-specific rezone applications:
 - (a) There is no presumption of validity favoring the action of rezoning;
 - (b) The proponents of the rezone have the burden of proof to demonstrate that conditions have changed since the original zoning; and
 - (c) The rezone must bear a substantial relationship to the public health, safety, morals or welfare.
- (2) Criteria for Review. In addition to the general criteria in subsection (1) of this section, the city shall review applications for site-specific rezone applications and issue approval of said applications pursuant to the following criteria:
 - (a) Consistency with the existing comprehensive plan (the comprehensive plan that has been approved and is in place at the time the application was submitted);
 - (b) Consistency with the purpose of the proposed zoning district;
 - (c) Consistency between zone criteria and area characteristics;
 - (d) Zoning history and precedential effect. Previous and potential zoning changes both in and around the area identified in the application shall be examined;
 - (e) The impact of more intense zones on less intense zones or industrial and commercial zones on other zones shall be minimized by the use of transitions or buffers in the more intense zone, if possible. A gradual transition between zoning categories, including height limits, is preferred;
 - (f) Physical buffers may provide an effective separation between different uses and intensities of development. The following elements may be considered as buffers:

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- (i) Natural features such as topographical breaks, lakes, rivers, streams, ravines and shorelines;
- (ii) Freeways, other major traffic arterials and railroad tracks;
- (iii) Distinct change in street layout and block orientation;
- (iv) Open space and greenspaces suitable in area to mitigate against more intense uses;
- (v) Zone boundaries;
- (g) In establishing boundaries, the following elements shall be considered:
 - (i) Physical buffers as described in subsection (2)(f) of this section; and
 - (ii) Platted lot lines;
- (h) Boundaries between commercial and residential areas shall generally be established so that commercial uses face each other across the street on which they are located, and face away from adjacent residential areas. An exception may be made when physical buffers can provide a more effective separation between uses;
- (i) Impact Evaluation. The evaluation of the changes that would result from approval of the application shall consider the possible negative and positive impacts on the affected area and its surroundings. Factors to be examined include, but are not limited to, the following:
 - (i) Housing;
 - (ii) Public services;
 - (iii) Environmental factors, such as noise, air and water quality, terrestrial and aquatic flora and fauna, glare, odor, shadows and energy conservation;
 - (iv) Pedestrian safety;
 - (v) Manufacturing activity;
 - (vi) Employment activity;
 - (vii) Character of areas recognized for architectural or historic value;
 - (viii) Shoreline view, public access and recreation;
 - (ix) Service Capacities. Development which can be reasonably anticipated based on the proposed development potential shall not exceed the service capacities which can reasonably be anticipated in the area, including: street access to the area; street capacity in the area; transit service; parking capacity; utility and sewer capacity; shoreline navigation;

- (x) Population and employment allocations as established through the countywide planning policies;
- (xi) Changed Circumstances. Consideration of changed circumstances shall be limited to elements or conditions included in the criteria for the relevant zone designations in the zoning code;
- (xii) Critical Areas. If the area is located in or adjacent to a critical area, the effect of the rezone on the critical area shall be considered.

POMC 20.42.030.

The criteria for review adopted by the Port Orchard City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions

1. **The rezone would meet the general site-specific rezone provisions of POMC 20.42.030(1) and rezone criteria of POMC 20.42.030(2)(a)-(e).** The City provided reasonable notice of the application and associated hearing. No comments from reviewing government agencies were received in response to the City’s notice materials. The City received several comments from members of the public, which generally raised concerns about the traffic, safety, and privacy impacts associated with the planned construction of a three story, 23-unit apartment building that would be allowed with the rezone. City design standards applicable to building appearance and landscape buffering would ensure that any future development on the property would adequately protect the privacy of adjacent residential properties, and compliance with these standards would be reviewed with any future development permit application. The traffic impact analysis (TIA) prepared for the proposal determined that, although the planned construction of a 23-unit apartment building on the property would add increased daily vehicle trips to nearby intersections already operating at deficient levels of service, the project did not cause those failures and, therefore, the Applicant would not be required to mitigate for traffic impacts beyond the payment of traffic impact fees. The City reviewed the TIA and issued a Capacity Reservation Certificate. Existing deficiencies to the City’s transportation network will be remedied through implementation of the City’s Bethel Road and Sedgwick Road Corridor Plan, and through implementation of other projects within the City’s TIPS.

The property was zoned Urban Low Residential by Kitsap County and annexed into the City. In 2019, the City rezoned the property to R2. The Applicant has requested that the property be rezoned to R3 to allow multi-family residential uses and the construction of

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an apartment building on the property. The R3 zoning designation is consistent with the City's Comprehensive Plan Medium Density Residential designation for this area, and City staff identified several Comprehensive Plan goals and policies that would be furthered by the rezone, including goals ensuring that the City's housing stock is adequate to accommodate population growth and is affordable and available to all socioeconomic levels of City residents. The proposed rezone would be consistent with the characteristics of the area. Adjacent property to the north is zoned R3 and developed with single-family residences. The multi-family uses and apartment building types that would be allowed by the rezone could help create a transition from existing commercial uses to the east of the property and the single-family residential uses to the north and west of the property. Site improvements *Findings 1 – 23*.

2. **The rezone would meet the rezone criteria of POMC 20.030(2)(f)-(h).** The triangular property is bordered to the southwest by SE Lund Avenue. Planned development of the property would include an extension of the unopened Harold Drive SE right-of-way along the property's western border to connect to SE Lund Ave. Site improvements that would be required with future multi-family development of the property would ensure adequate buffering to residential properties to the north through required zoning setbacks, landscaping requirements, and building design standards. The proposed rezone is limited to the property's existing parcel boundaries and would not create a parcel split by zoning designations. Future buildings on the property would be required to face Harold Drive SE, which would provide primary access to the property, and future commercial development on properties east of Harold Drive SE would be required to comply with frontage standards requirements that would likely result in commercial building entrances facing SE Lund Avenue. *Findings 1 – 5, 13 – 23*.

3. **The rezone would meet the rezone criteria of POMC 20.030(2)(i).** The proposed rezone would allow multi-family residential uses and an apartment building type that would increase available housing capacity in the city. The proposed rezone would have no significant impact on public services. As discussed above in Conclusion 1, the City properly issued a Capacity Reservation Certificate for the proposal after determining that it would not cause an LOS failure to City facilities. The City reviewed the proposal's environmental impacts and issued a Determination of Nonsignificance (DNS). As detailed in the companion decision issued concurrently with this decision, the Hearing Examiner denied an appeal from the DNS. Any impacts to potential wetlands located near the site resulting from the planned development of the property would be reviewed and addressed with the development permit applications. The planned development of the property would make provisions for pedestrian safety through street improvements that would be required for the extension of Harold Drive SE. The proposed rezone would not impact employment intensity, and any future development would be analyzed for its impacts to service capacities. The City determined that the R3 zone is more compatible

with surrounding properties and would provide an opportunity to transition from more intense land uses in the vicinity. *Findings 1 – 23.*

RECOMMENDATION

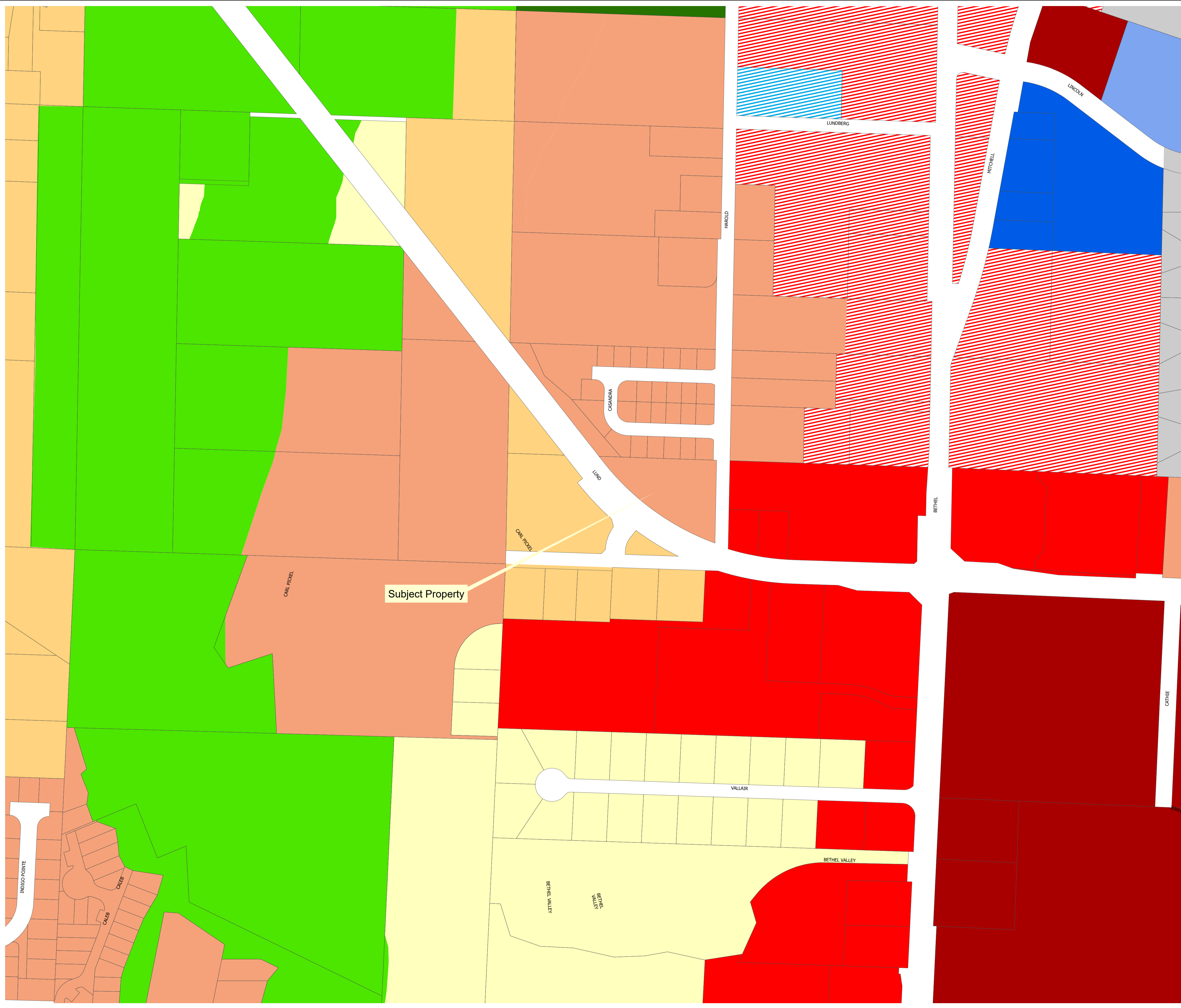
Based on the above findings and conclusions, the Hearing Examiner recommends that the City Council **APPROVE** the request for a site-specific rezone from Residential 2 to Residential 3 for the approximately 1.23-acre parcel located at the northwest corner of the intersection of SE Lund Avenue and the unopened right-of-way of Harold Drive SE.


















RECOMMENDED this 10th day of February 2021.

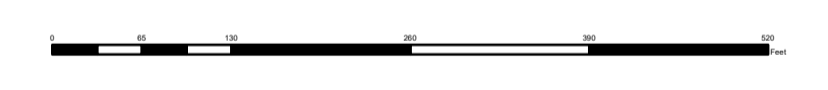


ANDREW M. REEVES
Hearing Examiner
Sound Law Center

CITY OF PORT ORCHARD 2020 ZONING MAP EXHIBIT B

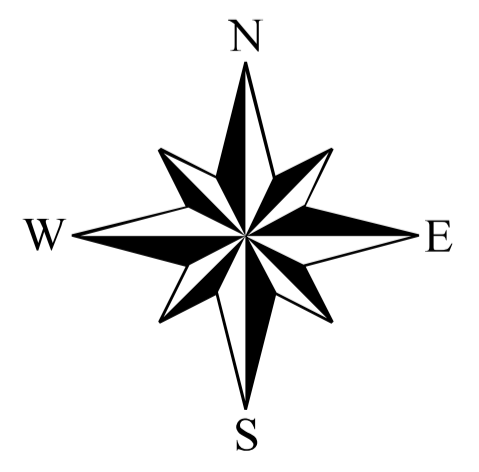


-  Business Professional Mixed Use (BPMU)
-  Civic and Institutional (CI)
-  Commercial Corridor (CC)
-  Commercial Heavy (CH)
-  Commercial Mixed Use (CMU)
-  Downtown Mixed Use (DMU)
-  Gateway Mixed Use (GMU)
-  Greenbelt (GB)
-  Light Industrial (LI)
-  Neighborhood Mixed Use (NMU)
-  Parks and Recreation (PR)
-  Public Facilities (PF)
-  Residential 1 (R1)
-  Residential 2 (R2)
-  Residential 3 (R3)
-  Residential 4 (R4)
-  Residential 6 (R6)



City of Port Orchard Department of Community Development
 216 Prospect Street, Port Orchard, WA 98366
 Phone: (360) 874-5533 Fax: (360) 876-4980
 www.cityofportorchard.us

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City of Port Orchard
 216 Prospect Street, Port Orchard, WA 98366
 (360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.:	<u>Business Item 8C</u>	Meeting Date:	<u>March 9, 2021</u>
Subject:	<u>Adoption of an Ordinance Accepting a</u>	Prepared by:	<u>Matt Brown</u>
	<u>Grant with the Association of Washington</u>		<u>Chief of Police</u>
	<u>Cities for the Purchase and Installation</u>	Atty Routing No.:	<u>366922.0012 – PD</u>
	<u>of New Evidence Lockers for the Police</u>	Atty Review Date:	<u>March 3, 2021</u>
	<u>Department</u>		

Summary: On February 24, 2021, the City of Port Orchard was awarded a loss prevention grant of \$10,000 from the Association of Washington Cities. The grant funding is specifically to partially fund the purchase and installation of new evidence lockers for the Police Department. The grant does not require matching funds. The purchase and installation of the project must be completed, and supporting documents submitted to AWC, prior to August 31st, 2021.

The total cost of the project is \$27,810, excluding city staff time. This project was included in the 2021-2022 budget for the Police Department in full, but with the anticipation of receiving the AWC grant. The City’s practice is to accept grants by ordinance.

Relationship to Comprehensive Plan: N/A

Recommendation: Staff recommends that the City Council adopt an Ordinance, thereby approving the acceptance of a grant from the Association of Washington Cities in the amount of \$10,000 to partially fund the purchase and installation of new evidence lockers for the Police Department.

Motion for Consideration: I move to adopt an Ordinance, thereby approving the acceptance of a grant from the Association of Washington Cities in the amount of \$10,000 to partially fund the purchase and installation of new evidence lockers for the Police Department.

Fiscal Impact: \$10,000 grant will offset the budgeted cost of this \$27,810 project.

Alternative: Refuse the grant and provide additional guidance.

Attachment: Ordinance and AWC Award Letter (dated February 24, 2021).

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, ACCEPTING THE LOSS PREVENTION GRANT FUNDED BY THE ASSOCIATION OF WASHINGTON CITIES FOR THE PURCHASE AND INSTALLATION OF NEW EVIDENCE LOCKERS FOR THE POLICE DEPARTMENT.

WHEREAS, in the City's 2021/22 biennial budget, the City Council authorized an expenditure for the purchase and installation of new evidence lockers for the City of Port Orchard Police Department; and

WHEREAS, on February 23rd, 2021, the Police Department applied for a loss prevention grant from the Association of Washington Cities to partially fund the purchase and installation of new evidence lockers; and

WHEREAS, on February 24th, 2021, the Police Department was notified by AWC that the City was selected to receive \$10,000 in grant funding for this purpose in a letter identifying the terms and conditions of the grant, which is Exhibit A to this Ordinance and incorporated herein by this reference; and

WHEREAS, it is the Police Department's intent to use the previously-allocated local funding for the remaining costs for purchase and installation; and

WHEREAS, the grant funding requires that the purchase and installation occur prior to August 1st, 2021; and

WHEREAS, the City Council has determined it to be in the best interests of the City to accept the grant funding from AWC for the purchase and installation of new evidence lockers for the Police Department; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. The City Council authorizes the City to accept the grant from the Association of Washington Cities, and the City agrees to be bound by the terms and conditions thereof in their entirety as set out in Exhibit A hereto.

SECTION 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

SECTION 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

SECTION 4. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of the City of Port Orchard, APPROVED by the Mayor and attested by the Clerk in authentication of such passage this 9th day of March 2021.

Robert Putaansuu, Mayor

ATTEST:

SPONSOR:

Brandy Rinearson, MMC, City Clerk

Cindy Lucarelli, Councilmember

APPROVED AS TO FORM:

Charlotte Archer, City Attorney

PUBLISHED:

EFFECTIVE DATE:

Exhibit A to Ordinance No. ____

2/24/2021

Matt Brown
Chief of Police
RE: AWC RMSA Loss Prevention Grant Application

Dear Matt,

Congratulations! This letter confirms that RMSA has accepted your application for grant funds. Grants that are being accepted in whole or in part are for projects that clearly show potential savings to the membership pool because of the lower potential for losses to occur, and lower severity of the claims that do occur. The project you have outlined is directly in line with the initiatives of the program.

To be reimbursed for the funds, we will need to receive paid invoices and/or receipts showing the work has been completed. **As stated on the application, these documents must be submitted no later than August 31st for RMSA review.** Documents can be emailed to rmsa@awcnet.org.

The total amount available for you to collect per your submitted application is \$10,000.00.

We thank you for your dedication to working with us, and the rest of the members, to mitigate the risks that we face on a regular basis. It is our belief that proper use of the grant program will solidify the financial success of the pooling program for years to come.

Please let us know if you have any questions or concerns by [email](mailto:rmsa@awcnet.org) or by phone at 360-753-4137.

Sincerely,

RMSA Membership Team



City of Port Orchard
 216 Prospect Street, Port Orchard, WA 98366
 (360) 876-4407 • FAX (360) 895-9029

Agenda Staff Report

Agenda Item No.:	<u>Business Item 8D</u>	Meeting Date:	<u>March 9, 2021</u>
Subject:	<u>Adoption of a Resolution Approving a Contract with Pacific Northwest Guardrail Services Co. for the Old Clifton Road and Tracy Avenue Guardrail Removal and Replacement</u>	Prepared by:	<u>Mark Dorsey, P.E. Public Works Director</u>
		Atty Routing No.:	<u>366922.009 – PW</u>
		Atty Review Date:	<u>March 3, 2021</u>

Summary: By this Resolution, the City Council would authorize the Mayor to execute a contract with Pacific Northwest Guardrail Services Co. for the Old Clifton Rd and Tracy Ave Guardrail Removal & Replacement project. On January 21, 2021, the City established a list of qualified contractors from the 2021 MRSC Small Works Roster for the Main Category; Roadway Construction, Repair and Maintenance and Sub-Category; Guardrail Installation, to perform the Old Clifton Rd and Tracy Ave Guardrail Removal & Replacement. A copy of that list of qualified contractors is attached to the Resolution as Exhibit A.

On January 21, 2021, and pursuant to Resolution No. 019-17 (see Section 5 – Bid Procedures), the City’s Public Works Department emailed a Request for Proposal for Old Clifton Guardrail Removal and Replacement to the three qualified contractors on the list. Three (3) bids were timely received. Pacific Northwest Guardrail Services Co. was deemed the presumed low bidder. That bid included a mathematical error on the Schedule of Contract Prices that had no impact on the outcome of the bid award. Staff corrected the error upon advice of legal counsel, and, after correcting the error, Pacific Northwest Guardrail Services Co. remained the low bidder. Final bid amounts were as follows:

Name of Contractor	Bid Total
Pacific Northwest Guardrail Services Co.	\$51,657.00 (\$48,657.00)
Peterson Brothers Inc.	\$54,963.00
Coral Construction	\$72,841.00

On February 17, 2021, the City’s Public Works Department Staff completed the MRSC Mandatory Bidder Responsibility Checklist and determined that the Pacific Northwest Guardrail Services Co. bid of \$51,657.00 was the lowest qualified bid. The Public Works Department has confirmed that the bidding procedures for Public Works have been followed.

Recommendation: Staff recommends that the City Council adopt Resolution No. 019-21, authorizing the Mayor to execute Contract No. C034-21 with Pacific Northwest Guardrail Services Co. for the Old Clifton Rd and Tracy Ave Guardrail Removal & Replacement Contract in the amount of \$51,657.00

Relationship to Comprehensive Plan: Utilities – Streets

Motion for Consideration: I move to adopt Resolution No. 019-21, authorizing the Mayor to execute Contract No. C034-21 with Pacific Northwest Guardrail Services Co. for the Old Clifton Rd and Tracy Ave Guardrail Removal & Replacement in the amount not to exceed \$51,657.00.

Fiscal Impact: \$40,000.00 2021-2022 Budget

Insurance company will be re-imbursing a portion of the cost due to accident on Old Clifton.

Remaining Balance will require budget amendment.

Attachments: Resolution, Ex. A – List of selected, qualified contractors, Ex. B - Small Works Contract No. C034-21 and Pacific Northwest Guardrail Services Bid submittal.

RESOLUTION NO. 019-21

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, APPROVING SMALL WORKS CONTRACT NO. C034-21 WITH PACIFIC NORTHWEST GUARDRAIL SERVICES CO. FOR THE OLD CLIFTON AND TRACY AVE GUARDRAIL REMOVAL AND REPLACEMENT PROJECT AND DOCUMENTING THE SMALL PUBLIC WORKS ROSTER PROCUREMENT PROCEDURES.

WHEREAS, as performed annually since 2013 the Municipal Research and Services Center of Washington (MRSC) solicited on behalf of participating local government agencies within Washington State (including the City of Port Orchard), for the 2021 MRSC Small Public Works Roster; and

WHEREAS, on January 21, 2021, pursuant to RCW 39.04.155, the City's Public Works Department established a roster of qualified contractors from the 2021 Small Works Roster, a copy of which is attached hereto as Exhibit A, for the Main Category – Roadway Construction, Repair and Maintenance and Sub-Category – Guardrail Installation; and

WHEREAS, on January 21, 2021, and pursuant to Resolution No. 019-17, Section 5.0 Bid Procedures, the City's Public Works Department issued an email Invitation to Bid for Old Clifton Rd and Tracy Ave Guardrail Removal & Replacement Project to the consultants on the selected roster; and

WHEREAS, on February 5, 2021, the City's Public Works Department received three (3) bids, and Pacific Northwest Guardrail Services Co. was the apparent lowest, qualified Proposal for the Old Clifton Rd and Tracy Ave Guardrail Removal & Replacement; and

WHEREAS, on February 17, 2021, the City's Public Works Department completed the MRSC Mandatory Bidder Responsibility Checklist and confirmed Pacific Northwest Guardrail Services Co. as the lowest, qualified proposer; and

WHEREAS, the Port Orchard City Council, at the 2015 recommendation of the State Auditor's Office, wishes to document their selection/procurement process as described above for this particular contract by Resolution; now, therefore,

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: It is the intent of the Port Orchard City Council that the recitals set forth above are hereby adopted and incorporated as findings in support of this Resolution.

THAT: The City Council approves and authorizes the Mayor to execute Contract No. C034-21 with Pacific Northwest Guardrail Services Co. for the Old Clifton Rd and Tracy

Ave Guardrail Removal & Replacement, a copy of which is attached hereto as Exhibit B and incorporated herein by this reference.

THAT: The Resolution shall take full force and effect upon passage and signatures hereon.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage on this 9th day of March 2021.

Robert Putaansuu, Mayor

ATTEST:

Brandy Rinearson, MMC, City Clerk

Public Agency Name:	City of Port Orchard
Roster Type:	Small Works Roster
Date:	01/14/2021
Time:	11:36 am
Main Category:	Roadway Construction, Repair, and Maintenance
Sub-Category:	Guardrail Installation

A 1 asphalt paving Inc

Accord Contractors, LLC

Active Construction Inc.

Adopt A Stream Foundation

Barcott Construction LLC

Ceccanti, Inc.

Chinook Contractors

Clark And Sons Excavating INC

CLK CONSTRUCTION LLC

Coral Construction Company

DeAngelo Brothers, LLC

Diggin it,

Dirt and Aggregate Interchange, Inc.

Element Homes llc

FORMA Construction Company

GeoStabilization International, LLC

Global Contractors LLC

Grenlar Construction

Huber General Contractors Inc

IMAC, INC

Iron Creek Construction LLC

J.A.M. Construction, Inc.

Jackson Environmental

James Lynch Construction

JTI Commercial Services

Kuchan Construction inc.

Lakeridge Paving Co., LLC

Liden Land Development & Excavation INC.

Long Construction Inc

M2 Industrial, Inc.

Marshbank Construction, Inc.

Mass X Construction LLC

MBI Construction Services, Inc

McCann Construction Enterprises, Inc.

MCD, McDonald & Company, Inc

MC Excavating LLC

Michael Green Construction, Inc.

NOVA Contracting, Inc

N P M Construction Co.

NW Construction General Contracting, Inc.

Oceanside Construction, Inc.

Omni Contracting Solutions

OSG Dozing, LLC

Pacific Northwest Guardrail Services, Co

Pape & Sons Construction, Inc.

Pavement Surface Control

Perimeter Security Group

Petersen Brothers, Inc.

R. Hicks Steel Construction Services LLC

RailWorks Track Systems

Rainbow Sweepers, Inc. "RSI"

Rains Contracting Inc

Ram Construction General Contractors, LLC

RAZZ Construction, Inc.
R C Walsh & Company LLC
RC Zeigler Company Inc
Redtail
Reign City Services LLC
Reliant Construction Services
ROGNLINS INC.
SeaBay Building Group, LLC
Signature General Construction Inc.
Simmons and Sons Contracting Inc
South Sound Contractors
South Sound Steel & Recycling, Inc
Square Peg Fabrication, LLC.
Stan's Construction and Son, LLC
Streamline Industrial Corp
Swofford Excavating
Talakai Construction,LLC
TKK,LLC
Transblue
TRICO Companies, LLC
Trinity Contractors Inc.
Triple C Fabricators
Triple Eight Construction
Valdez Construction, Inc
Welch Brothers Construction Inc.
Welwest Construction Inc.
Western States Construction, Inc.
Westwood Company LLC
Woodland Industries

**CITY OF PORT ORCHARD SMALL WORKS OVER 35K
CONSTRUCTION CONTRACT NO. C034-21
PUBLIC WORKS PROJECT NO. PW2021-006**

THIS Agreement is made effective as of the 9th day of March, 2021, by and between

CITY OF PORT ORCHARD, WASHINGTON (“CITY”)
216 Prospect Street
Port Orchard, Washington 98366

Contact: Mayor Robert Putaansuu Phone: 360.876.4407 Fax: 360.895.9029

and

Pacific Northwest Guardrail Services Co. (“CONTRACTOR”)
17936 Upland Dr SE
Yelm, WA 98597

Contact: Elizabeth Renkert Phone: 253.227.9144 Email: aaron@pnwguardrail.com

For the following Project:

Old Clifton Rd and Tracy Ave Guardrail Removal & Replacement (“PROJECT”)

The City and Contractor agree as follows:

1. **Contract Documents.** The Contractor shall complete the Work described in the Contract Documents for the Project. The following documents are collectively referred to as the “Contract Documents”:
 - a. This Master Contract Agreement, signed by the City and the Contractor;
 - b. Division 1 of WSDOT Standard Specifications for Road, Bridge and Municipal Construction, 2018 edition, together with APWA Supplement (1-99), subject to specific provisions contained within the Public Works Terms and Conditions;
 - c. The attached Special Provisions, Plans and Specifications;
 - d. 2015 International Building Code (IBC) and 2015 Energy Code Compliance;
 - e. Written change orders or orders for minor changes in the Work issued after execution of this Agreement;
 - f. Public Works Terms and Conditions;
 - g. Insurance and Bonding Requirements;
 - h. The Invitation to Bid, and bid proposal submitted by the Contractor, except when inconsistent with Contract Documents a-g, and h; and
 - i. City of Port Orchard Development Guidelines.

*City of Port Orchard and Pacific Northwest Guardrail Services Co.
Public Works Project No. PW2021-006
Small Works Contract No. C034-21*

Rev 5/1/2020

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. These Contract Documents complement each other in describing a complete work. Any requirement in one document binds as if stated in all. The Contractor shall provide any work or materials clearly implied in the Contract even if the Contract does not mention it specifically.

2. **Date of Commencement and Substantial Completion Date.** The date of commencement shall be **7 days from notice to proceed (NTP)**. The Contractor shall substantially complete the Work not later than **May 31st, 2021**, subject to adjustment by written change order executed by the City.
3. The Contractor shall do all work and furnish all tools, materials, and equipment in accordance with the above-described Construction Contract Documents. The Contractor shall provide and bear the expense of all equipment, work, and labor of any sort whatsoever that may be required for the transfer of materials and for constructing and completing of the work provided for in these Construction Contract Documents, except those items mentioned therein to be furnished by the City.
4. Subject to additions and deductions by change order, the construction Contract Sum is the base bid amount of **\$51,657.00 (including applicable sales tax)**. The construction Contract Sum shall include all items and services necessary for the proper execution and completion of the work. The City hereby promises and agrees with the Contractor to employ and does employ the Contractor to provide the materials and to do and cause to be done the work described in the Construction Contract Documents and to complete and finish the same according to the plans and specifications and the terms and conditions herein contained; and hereby contracts to pay for the same at the time and in the manner and upon the conditions provided for in this Contract.
5. The Contractor agrees to comply with all state and federal laws relating to the employment of labor and wage rates to be paid. The Contractor agrees to furnish insurance of the types and in the amounts set forth in the Construction Contract Documents.
6. The Contractor agrees to repair and replace all property of the City and all property of others damaged by himself, his employees, and sub-contractors.
7. The Contractor for himself and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein upon the part of the Contractor.
8. It is further provided that no liability shall attach to the City of Port Orchard by reason of entering into this Construction Contract, except as expressly provided herein.

9. Title VI

The City of Port Orchard, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation subtitle A, Office of the Secretary, Part 21, nondiscrimination in federally assisted programs of the Department of Transportation issued pursuant to such Act, must affirmatively insure that its contracts comply with these regulations.

Therefore, during the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest agrees as follows:

1. **Compliance with Regulations:** The Contractor will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during this Agreement, will not discriminate on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations as set forth in Appendix A, attached hereto and incorporated herein by this reference, including employment practices when this Agreement covers any activity, project, or program set forth in Appendix B of 49 C.F.R. part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this Agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, sex, age, disability, income-level, or LEP.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the City or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the Non-discrimination provisions of this Agreement, the City will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 1. withholding payments to the Contractor under the Agreement until the contractor complies; and/or
 2. cancelling, terminating, or suspending the Agreement, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the City or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided,

that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the City to enter into any litigation to protect the interests of the City. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be duly executed on the date first written above.

CITY OF PORT ORCHARD

CONTRACTOR

Robert Putaansuu, Mayor

By: _____
Its: _____

ATTEST/AUTHENTICATE:

Brandy Rinearson, MMC, City Clerk

APPROVED AS TO FORM:

Charlotte A. Archer, City Attorney

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____ (*Corporate Officer (Not Contract Signer)*)
certify that I am the _____ (*Corporate Title*) of the
corporation named as the Contractor in the Agreement attached hereto; that
_____, (*Contract Signer*) who signed said Agreement on behalf
of the Contractor, was then _____ (*Corporate Title*) of said corporation;
that said Agreement was duly signed for and in behalf of said corporation by authority of its
governing body, and is within the scope of its corporate powers.

Corporate Seal

Corp. officer signature (not contract signer)

Printed

Title

State of _____)
County of _____)

_____, (*corporate officer (not contract signer)*) being
duly sworn, deposes and says that he/she is _____ (*Corporate Title*)
of _____ (*Name of Corporation*)

Subscribed and sworn to before me this _____ day of _____, 20_____

Notary Public (Signature)

Notary Public (Print)

My commission expires _____

**CITY OF PORT ORCHARD
PUBLIC WORK PROJECT TERMS AND CONDITIONS**

The following terms and conditions shall be used in conjunction with the Standard Specifications for Road, Bridge and Municipal Construction, 2018 edition, together with the APWA Supplement (Section 1-99), as issued by the Washington State Department of Transportation and American Public Works Association, Washington State Chapter, hereinafter referred to as the "standard specifications". The standard specifications, except as they may be modified or superseded by these provisions, shall govern all phases of work under this Contract, and they are by reference made an integral part of these specifications and Contract as if herein fully set forth.

When the provisions of the standard specification conflict with the terms and conditions as contained herein, the terms and conditions shall prevail.

1. **BID PRICE:** The bid price(s) shall include all necessary permits, fees and items of labor, material, equipment, tools, overhead and compensation, supplies, taxes, utilities and other incidentals necessary to complete the work in a fully functional and operational state. All prices including bid prices are in US funds.

2. **DEFINITIONS:** The term "City" means Port Orchard, Washington, "successful bidder" means the apparent lowest and best responsible bidder to whom an award is made, and "Contractor" means the successful bidder who has satisfied the requirements for the award and who receives a contract executed by the City. "Bidder" means the person, firm or corporation that has made an offer in response to the invitation to bid. "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations.

3. **LICENSING AND REGISTRATION:** The Contractor must have a Washington State certificate of registration per chapter 18.27 RCW; a current state unified business identifier number; and if applicable, industrial insurance coverage for the bidder's employees working in Washington, an Employment Security Department number, and a state excise tax registration number. In addition, the bidder must not be disqualified from bidding on any public works contracts under RCW 39.06.010 or 39.12.065(3).

4. **PUBLIC WORK REQUIREMENTS:** This project constitutes a public work under state law. Bidders are warned to take into consideration statutory legal requirements, particularly, the payment of prevailing wages and fringe benefits, payment and performance bonds and sales tax implications in making their bids. It is the sole responsibility of the bidder to insure that the appropriate labor classification(s) are identified and that the applicable wage and benefit rates are taken into consideration when preparing their bid according to these specifications. The Contractor shall complete and file State of Washington, Department of Labor & Industries, Statement of Intent to Pay Prevailing Wages and Affidavit of Wages Paid forms and shall familiarize itself with their requirements. The Contractor shall also be responsible for and pay all costs pertaining to the processing of these forms.

5. **INSURANCE REQUIREMENT:** The successful bidder will furnish insurance as stipulated in the Attachment entitled "Insurance Requirements."

6. **RECEIPT OF ADDENDA:** All official clarifications or interpretations of the bid documents will be by written addenda only.

*City of Port Orchard and Pacific Northwest Guardrail Services Co.
Public Works Project No. PW2021-006
Small Works Contract No. C034-21*

Rev 5/1/2020

7. **PROJECT COMPLIANCE:** In compliance with the request for quotation, Bidder hereby proposes to perform all work for this project in strict accordance with the Contract Documents, at the Contract Sum, and within the time set forth herein with the understanding that time is of the essence in the performance of this Contract.

8. **TAXES:** Proposals shall include all applicable taxes except sales tax, which is a separate bid item. It shall be the Bidder's responsibility to furnish Federal Excise Tax Exemption Certificate, when applicable.

9. **ERROR IN EXTENSION:** Unit price, when used, shall govern in case of extension error.

10. **PERMITS AND FEES:** The Contractor shall furnish all permits, inspection fees, and fees required in the performance of this Contract, including those charged under RCW 39.12.070 by the Department of Labor and Industries for the approval of statements of intent to pay prevailing wages and the certification of affidavits of wages paid, etc. The Department may also charge fees to persons or organizations requesting the arbitration of disputes under RCW 39.12.060. The Contractor is responsible for all fees resulting from these statutes.

11. **CONTRACT:** The Contract Documents, as defined in the master Contract Agreement ("Contract"), when properly signed, will be the only form that will be recognized by the City as an award. The executed Contract supersedes all previous communications and negotiations, except as referenced herein, and constitutes the entire agreement between the City and Contractor (parties), except as provided herein. The Contractor shall not make any changes, alterations, or variations in the terms of the Contract without the written consent of the City. No terms stated by the Bidder in its proposal shall be binding on the City unless accepted in writing by the City. The successful bidder may not assign the Contract resulting from this invitation to bid without the City's prior written consent. No waiver by the City of a breach of any provision of the terms and conditions outlined in the invitation to bid shall constitute a waiver of any other breach of such provision or of any other provisions.

12. **CHANGE ORDERS:** If the City or the Contractor requests a change in the Work, or either party believes that a change is necessary, then the parties shall comply with the following procedure to document and reflect a change in the Work: (a) The party requesting the change shall write a description of the change and give the description to the other party (the "Change Notice"); (b) Before proceeding with the change in Work, unless otherwise excused by emergency, the Contractor shall provide the City with a fixed-price written estimate of the cost and time impact of the change in Work; and (c) The City and the Contractor shall execute a Change Order confirming their agreement as to the change in Work, the fixed-price cost, and the extension of the Substantial Completion Date, if any. If the change in Work cannot be performed on a fixed-price basis, the Change Order shall identify the agreed method of compensation.

13. **CHANGE DIRECTIVES:** A "Change Directive" is a written order signed by the City, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Substantial Completion Date, or both. The City may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Substantial Completion Date being adjusted accordingly. A Change Directive shall only be used in the absence of total agreement on the terms of a Change Order. Upon receipt of a Change Directive, the Contractor shall promptly proceed with the change in the Work and advise the City of its agreement or disagreement with the proposed method for determining the proposed adjustment in the Contract Sum and/or Substantial Completion Date, if any, provided in the Change Directive. A Change Directive signed by the Contractor indicates agreement with all terms set forth in the Change Directive. Such

agreement shall be effective immediately and shall be recorded as soon as practical with a Change Order. If the parties are unable to agree on an adjustment to the Contract Sum and/or Substantial Completion Date, if any, then either party may submit the matter for determination in accordance with Section 21.

14. **MINOR CHANGES IN THE WORK:** The City shall have the authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Substantial Completion Date and not inconsistent with the Contract documents. The Contractor shall promptly carry out such written orders for minor changes in the Work.

15. **COMPLIANCE WITH LAWS AND REGULATIONS:** The Contractor warrants full compliance with all applicable local, state or federal laws and regulations and agrees to indemnify and defend the City against any loss, cost, liability or damage, including reasonable attorney's fees, by reason of successful bidder's violation of this paragraph.

16. **INDEMNIFICATION:** All services to be rendered or performed under this Contract will be rendered or performed entirely at the Contractor's own risk. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Contract, except for injuries and damages caused by the sole negligence of the City. Should a court of competent jurisdiction determine that this Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. **IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE CONTRACTOR'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THIS WAIVER HAS BEEN MUTUALLY NEGOTIATED BY THE PARTIES. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS CONTRACT.**

17. **TERMINATION:** This Contract may be terminated in whole or in part, without penalty to the City, under the following conditions: 1) by mutual written agreement; 2) by the City for breach by the Contractor of any of the obligations or requirements set forth in the Contract Documents which would, at the option of the City, require the Contractor to assume liability for any and all damages, including the excess of re-procuring similar products or services; 3) for convenience of the City; or 4) by the City for non-appropriation of funds.

18. **TERMINATION BY THE CITY WITHOUT CAUSE:** Notwithstanding any other provisions contained herein, the City, without cause, may terminate the Contract between the parties by providing notice to the Contractor. Upon termination under this section: 1) All remaining obligations of the parties are discharged, but any right based upon breach or performance occurring prior to termination survives; 2) If the reasonable costs of performance incurred by the Contractor prior to termination exceed the amount paid by the City to the Contractor on the Contract Sum, the City shall reimburse the Contractor in the amount of such excess; 3) If the amount paid by the City to the Contractor on the Contract Sum exceeds the reasonable costs of performance incurred by the Contractor prior to termination, the Contractor shall reimburse the City in the amount of such excess; and 4) Any funds obtained or retained by the Contractor as provided in subsections 2) or 3), above, shall constitute full payment and consideration for the services performed by the Contractor prior to termination.

19. COMPLIANCE WITH TERMS: The City may at any time insist upon strict compliance with these terms and conditions, notwithstanding any previous custom, practice, or course of dealing to the contrary.

20. PAYMENT: Contractor shall maintain time and expense records and provide them to the City along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice. All invoices shall be paid by the City within 45 days of receipt of a proper invoice. If the services rendered do not meet the requirements of the Contract, Contractor will correct or modify the work to comply with the Contract. City may withhold payment for such work until the work meets the requirements of the Contract.

21. DISPUTE RESOLUTION: In the event there is a dispute between the parties, the parties agree to resolve that dispute in the following manner: (a) The parties shall attempt in good faith to resolve any dispute promptly through negotiation. Either party may give the other party written notice that a dispute exists (a "Notice of Dispute"). The Notice of Dispute shall include a statement of such party's position. Within ten (10) days of the delivery of the Notice of Dispute, the parties shall meet at a mutually acceptable time and place and attempt to resolve the dispute; (b) If the parties are unable to resolve the dispute, they may elect to submit the dispute to mediation. The cost of the mediation shall be borne equally by the parties. The mediator shall be selected by the mutual agreement of the parties; (c) If the mediation does not result in a settlement of the dispute, the dispute shall be settled by binding arbitration by the Judicial Arbitration and Mediation Services ("JAMS") in accordance with the then operative construction rules of JAMS. The parties may select an arbitrator by mutual agreement, or if unable to agree, the arbitrator will be selected pursuant to the rules of JAMS. The parties shall be bound by the decision of such arbitrator. The arbitration shall be conducted in Kitsap County, Washington; provided, if JAMS is unable to conduct the arbitration in Kitsap County, then the arbitration shall be held in such location as the parties may agree after consulting with JAMS.

CITY OF PORT ORCHARD INSURANCE REQUIREMENTS

The Contractor shall procure and maintain for the duration of the Contract with the City, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, their agents, representatives, employees and subcontractors.

No Limitation. The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

Minimum Scope of Insurance. The Contractor shall obtain insurance of the types described below:

- *Automobile Liability* insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- *Commercial General Liability* insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal injury and advertising injury and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent endorsement. There shall be no endorsement or modification of the Commercial General Liability Insurance for liability arising from explosion, collapse or underground property damage. The City shall be named by endorsement as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG or substitute endorsements providing equivalent coverage.
- *Workers' Compensation* coverage as required by the Industrial Insurance laws of the State of Washington.
- *Builders Risk* insurance covering interests of the City, the Contractor, Subcontractors, and Sub-subcontractors in the work. Builders Risk insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, collapse, temporary buildings and debris removal. The Builders Risk insurance covering the work will have a deductible of \$5,000 for each occurrence, which will be the responsibility of the Contractor. Higher deductibles for flood and earthquake perils may be accepted by the City upon written request by the Contractor and written acceptance by the City. Any increased deductibles accepted by the City will remain the responsibility of the Contractor.

The Builders Risk insurance shall be maintained until final acceptance of the work by the City.

- *Employer's Liability* insurance limit of \$1,000,000 each accident, *Employer's Liability Disease* each employee \$1,000,000 and *Employer's Liability Disease – Policy* limit \$1,000,000.

Minimum Amounts of Insurance. The Contractor shall maintain the following insurance limits:

- *Automobile Liability* insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- *Commercial General Liability* insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products-completed operations aggregate limit.
- *Builders Risk* insurance shall be written in the amount of the completed value of the project with no coinsurance provisions.

Other Insurance Provisions. The Contractor's Automobile Liability, Commercial General Liability and Builders Risk insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respects the City (as applicable to each line of coverage). The Consultant's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance or insurance pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it. If any coverage is written on a "claims made" basis, then a minimum of three (3) year extended reporting period shall be included with the claims made policy, and proof of this extended reporting period provided by the City.

Contractor's Insurance for Other Losses. The Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools, including but not limited to the Contractor's employee-owned tools, machinery, equipment or motor vehicles owned or rented by the Contractor, or the Contractor's agents, suppliers or contractors as well as any temporary structures, scaffolding and protective fences.

Waiver of Subrogation. The Contractor waives all rights against the City, any of its Subcontractors, Sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by Builders Risk insurance or other property insurance obtained pursuant to this Insurance Requirements Section of the Contract or other property insurance applicable to the work. The Contractor's insurance shall be endorsed to waive the right of subrogation against the City, or any self-insurance, or insurance pool coverage maintained by the City. The City will not waive its right to subrogation against the Contractor. The Contractor's insurance shall be endorsed acknowledging that the City will not waive its right to subrogation.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

Verification of Coverage. The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the Automobile Liability and Commercial General Liability insurance of the Contractor before commencement of the work. Before any exposure to loss may occur, the Contractor shall file with the City a copy of the Builders Risk insurance policy that includes all applicable conditions, exclusions, definitions, terms and endorsements related to this project.

Subcontractors. The Contractor shall have sole responsibility for determining the insurance coverage and limits required, if any, to be obtained by subcontractors, which determination shall be made in accordance with reasonable and prudent business practices.

Notice of Cancellation. The Consultant shall provide thirty (30) days written notice by certified mail, return receipt requested, to the City prior to the cancellation or alteration of coverage. The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation, within two business days of their receipt of such notice.

Failure to Maintain Insurance. The insurance required by this Section will not be canceled, materially changed or altered without forty-five (45) days prior written notice submitted to the City. Failure on the part of the Contractor to maintain insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the Contract, or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

**CITY OF PORT ORCHARD
DECLARATION OF OPTION FOR PERFORMANCE
BOND OR ADDITIONAL RETAINAGE**

(APPLICABLE TO CONTRACTS OF \$150,000 OR LESS –RCW 39.08.010)

Note: This form must be submitted at the time the Contractor executes the Contract. The Contractor shall designate the option desired by checking the appropriate space.

1. The Contractor shall provide 5% retainage, pursuant to RCW 60.28.011(1)(a).
2. In addition, the Contractor elects to (select one):

_____ (1) Furnish a performance bond in the amount of the total contract sum. An executed performance bond on the required form is included with the executed contract documents.

_____ (2) Have the City retain, in lieu of the performance and payment bonds, ten percent (10%) of the total contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later. RCW 39.08.010.

In choosing option 2, the Contractor agrees that if the Contractor, its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract, and shall faithfully perform all the provisions of such Contract and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of the Contract that may hereafter be made, at the time and in the manner therein specified, and shall pay all laborers, mechanics, subcontractors, and materialmen, and all persons who shall supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, on his or her part, and shall defend, indemnify, and save harmless the City of Port Orchard, Washington, its officers and agents from any claim for such payment, then the funds retained in lieu of a performance bond shall be released at the time provided in said option 2; otherwise, the funds shall be retained until the Contractor fulfills the said obligations.

Contractor Signature, Date _____
Bond No. _____

PERFORMANCE AND PAYMENT BOND

**CITY OF PORT ORCHARD
OLD CLIFTON RD AND TRACY AVE GUARDRAIL REMOVAL & REPLACEMENT
CONTRACT NO. C034-21**

Bond to City of Port Orchard, Washington

Bond No. _____

We, _____, and _____,
(Principal) (Surety)

a _____ Corporation, and as a surety corporation authorized to become a surety upon Bonds of Contractors with municipal corporations in Washington State, are jointly and severally bound to the City of Port Orchard, Washington (“Owner”), in the penal sum of _____ Dollars (\$ _____), the payment of which sum, on demand, we bind ourselves and our successors, heirs, administrators, executors, or personal representatives, as the case may be. This Performance Bond is provided to secure the performance of Principal in connection with a contract dated _____, 20____, between Principal and Owner for a project entitled Old Clifton Rd and Tracy Ave Guardrail Removal & Replacement Contract No. C034-21 (“Contract”). The initial penal sum shall equal 100 percent of the Total Bid Price, including sales tax, as specified in the Proposal submitted by Principal.

NOW, THEREFORE, this Performance and Payment Bond shall be satisfied and released only upon the condition that Principal:

- Faithfully performs all provisions of the Contract and changes authorized by Owner in the manner and within the time specified as may be extended under the Contract;
- Pays all laborers, mechanics, subcontractors, lower tier subcontractors, material persons, and all other persons or agents who supply labor, equipment, or materials to the Project; and
- Pays the taxes, increases and penalties incurred on the Project under Titles 50, 51 and 82 RCW on: (A) Projects referred to in RCW 60.28.011(1)(b); and/or (B) Projects for which the bond is conditioned on the payment of such taxes, increases and penalties.

The surety shall indemnify, defend, and protect the Owner against any claim of direct or indirect loss resulting from the failure:

- Of the Principal (or any of the employees, subcontractors, or lower tier subcontractors of the Principal) to faithfully perform the contract, or
- Of the Principal (or any subcontractor or lower tier subcontractor of the Principal) to pay all laborers, mechanics, subcontractors, lower tier subcontractors, material person, or any other person who provides supplies or provisions for carrying out the work.

The liability of Surety shall be limited to the penal sum of this Performance and Payment Bond.

Principle and Surety agree that if the Owner is required to engage the services of an attorney in connection with enforcement of this bond each shall pay the Owner reasonable attorney’s fees, whether or not suit is commenced, in addition to the penal sum.

No change, extension of time, alteration, or addition to the terms of the Contract or to the Work to be performed under the Contract shall in any way affect Surety's obligation on the Performance Bond. Surety hereby waives notice of any change, extension of time, alteration, or addition to the terms of the Contract or the Work, with the exception that Surety shall be notified if the Contract time is extended by more than twenty percent (20%).

If any modification or change increases the total amount to be paid under the Contract, Surety's obligation under this Performance and Payment Bond shall automatically increase in a like amount. Any such increase shall not exceed twenty-five percent (25%) of the original amount of the Performance and Payment Bond without the prior written consent of Surety.

This Performance and Payment Bond shall be governed and construed by the laws of the State of Washington, and venue shall be in Kitsap County, Washington.

IN WITNESS WHEREOF, the parties have executed this instrument in two (2) identical counterparts this _____ day of _____, 20 ____.

Principal

Surety

Signature of Authorized Official

Signature of Authorized Official

Printed Name and Title

By _____
Attorney in Fact (Attach Power of Attorney)

Name and address of local office of Agent and/or Surety Company:

Surety companies executing bonds must appear on the current Authorized Insurance List in the State of Washington per Section 1-02.7 of the Standard Specifications.

ACKNOWLEDGEMENT

Corporation, Partnership, or Individual

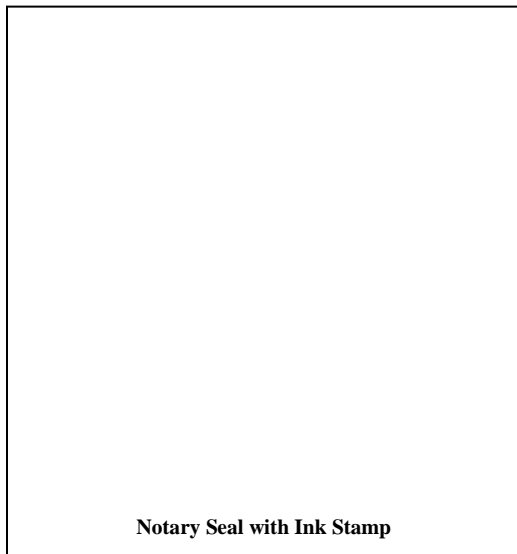
STATE OF _____)
)ss.
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the (check one of the following boxes):

- _____ of _____, the **corporation,**
- _____ of _____, the **partnership,**
- individual,**

that executed the foregoing instrument to be the free and voluntary act and deed of said corporation, partnership, individual for the uses and purposes therein mentioned, and on oath stated that he she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Dated: _____

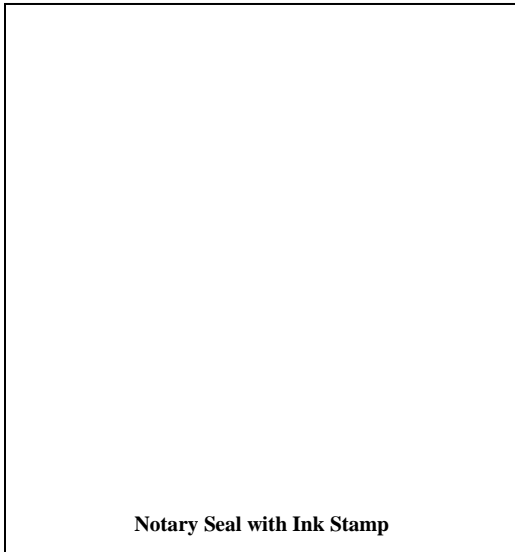
 Print or type name
NOTARY PUBLIC,
 in and for the State of Washington
 Residing at: _____
 My Commission expires: _____

SURETY ACKNOWLEDGEMENT

STATE OF _____)
)ss.
COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____, the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Dated: _____

Print or type name

NOTARY PUBLIC,
in and for the State of Washington

Residing at: _____

My Commission expires: _____

**CITY OF PORT ORCHARD
MAINTENANCE/WARRANTY BOND**

(Note: Before the Performance Bond can be released the City must receive the two years Maintenance/Warranty Bond)

PROJECT #, PERMIT #, PW2021-006
CONTRACT # C034-21
SURETY BOND #: _____
DATE POSTED: _____
EXPIRATION DATE: _____

RE: Project Name: Old Clifton Rd and Tracy Ave Guardrail Removal & Replacement
Owner/Developer/Contractor: _____
Project Address: Old Clifton Rd & Tracy Ave, Port Orchard, WA 98366

KNOW ALL PERSONS BY THESE PRESENTS: That we, _____ (hereinafter called the "Principal"), and _____, a corporation organized under the laws of the State of _____, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Port Orchard, Washington, in the sum of _____ dollars (\$ _____) 20% Total Contract Amount, lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents. THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal has constructed and installed certain improvements on public property in connection with a project as described above within the City of Port Orchard; and

WHEREAS, the Principal is required to post a bond for the twenty-four (24) months following written and final acceptance of the project in order to provide security for the obligation of the Principal to repair and/or replace said improvements against defects in workmanship, materials or installation during the twenty-four (24) months after written and final approval/acceptance of the same by the City;

NOW, THEREFORE, this Maintenance Bond has been secured and is hereby submitted to the City. It is understood and agreed that this obligation shall continue in effect until released in writing by the City, but only after the Principal has performed and satisfied the following conditions:

A. The work or improvements installed by the Principal and subject to the terms and conditions of this Bond are as follows: (insert complete description of work here)

B. The Principal and Surety agree that the work and improvements installed in the above-referenced project shall remain free from defects in material, workmanship and installation (or, in the case of landscaping, shall survive,) for a period of twenty-four (24) months after written and final acceptance of the same and approval by the City. Maintenance is defined as acts carried out to prevent a decline, lapse or cessation of the state of the project or improvements as accepted by the City during the twenty-four (24) month period after final and written acceptance, and includes, but is not limited to, repair or replacement of defective workmanship, materials or installations.

*City of Port Orchard and Pacific Northwest Guardrail Services Co.
Public Works Project No. PW2021-006
Small Works Contract No. C034-21*

Rev 5/1/2020

C. The Principal shall, at its sole cost and expense, carefully replace and/or repair any damage or defects in workmanship, materials or installation to the City-owned real property on which improvements have been installed, and leave the same in as good condition as it was before commencement of the work.

D. The Principal and the Surety agree that in the event any of the improvements or restoration work installed or completed by the Principal as described herein, fail to remain free from defects in materials, workmanship or installation (or in the case of landscaping, fail to survive), for a period of twenty-four (24) months from the date of approval/acceptance of the work by the City, the Principal shall repair and/replace the same within ten (10) days of demand by the City, and if the Principal should fail to do so, then the Surety shall:

1. Within twenty (20) days of demand of the City, make written commitment to the City that it will either:
 - a). remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b). tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection D(1)(b), the City shall notify the Surety of the actual cost of the remedy, upon completion of the remedy. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs which exceeded the City estimate, limited to the bond amount.

2. In the event the Principal fails to make repairs or provide maintenance within the time period requested by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of repairing or maintaining the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to repair or maintain such improvements.

E. Corrections. Any corrections required by the City shall be commenced within ten (10) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this bond as described in Section D above.

F. Extensions and Changes. No change, extension of time, alteration or addition to the work to be performed by the Principal shall affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The Surety waives notice of any such change, extension, alteration or addition thereunder.

G. Enforcement. It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby

agrees that this bond shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this bond shall be in Kitsap County Superior Court.

H. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and until released in writing by the City at the request of the Surety or Principal.

DATED this _____ day of _____, 20__.

SURETY COMPANY
(Signature must be notarized)

DEVELOPER/OWNER
(Signature must be notarized)

By: _____
Its _____

By _____
Its _____

Business Name: _____

Business Name: _____

Business Address: _____

Business Address: _____

City/State/Zip Code: _____

City/State/Zip Code: _____

Telephone Number: _____

Telephone Number: _____

CITY OF PORT ORCHARD

By: _____
Its Public Works Director/City Engineer

Date: _____

CHECK FOR ATTACHED NOTARY SIGNATURE

- _____ **Individual (Form P-1)**
- _____ **Corporation (Form P-2)**
- _____ **Surety Company (Form P-2)**

FORM P-1 / NOTARY BLOCK

(Use For Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I certify that I know or have satisfactory evidence that _____ is the person who
City of Port Orchard and Pacific Northwest Guardrail Services Co.
Public Works Project No. PW2021-006
Small Works Contract No. C034-21

Rev 5/1/2020

appeared before me, and said person acknowledged that (he/she) signed this instrument, and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

_____ (print or type name)

NOTARY PUBLIC in and for the

State of Washington, residing

at: _____

My Commission expires: _____

FORM P-2 / NOTARY BLOCK

(Use For Partnership or Corporation Only)

(Developer/Owner)

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged as the _____ of _____ that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing
at: _____
My Commission expires: _____

(Surety Company)

STATE OF WASHINGTON)
) ss.
COUNTY OF)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged as the _____ of _____ that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: _____

(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing
at: _____
My Commission expires: _____

APPENDIX A

During the performance of this Agreement, the Contractor, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 C.F.R. Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 C.F.R. Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to -ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

SCHEDULE OF CONTRACT PRICES
GUARDRAIL REMOVAL/REPLACEMENT ON OLD CLIFTON RD SW @ LLOYD PARKWAY
& ON TRACY AVE N BETWEEN CHESTER ST & LAWRENCE ST

NOTE: If a discrepancy between the numerical unit price and the written (words) unit price is found, the written (words) unit price shall control.

Item No.	Estimated Quantity	SP/STD	Description of Item	Unit Price	Amount
1.	1.0 L.S.	STD	SITE 1: SW Old Clifton Rd. See Scope of Work.	L.S.	\$ <u>28,865.50</u>
2.	1.0 L.S.	STD	SITE 2: Tracy Ave N. See Scope of Work.	L.S.	\$ <u>22,791.50</u>

TOTAL BID: \$ 51,657.00

SALES TAX

In accordance with Section 1-07.2(1) and DOR Rule 171, State Sales Tax: Work performed on City, County, or Federally-owned land, **the Contractor shall include Washington State retail sales taxes in the various unit bid prices** or other amounts. These retail sales taxes shall include those the Contractor pays on purchases of materials, equipment, and supplies used or consumed in doing the work.



**City of Port Orchard
Council Meeting Minutes
Work Study Session Meeting of February 16, 2021**

CALL TO ORDER AND ROLL CALL

Mayor Putaansuu called the meeting to order at 6:30 p.m.

Roll call was taken by the City Clerk as follows:

Mayor Pro-Tem Ashby	Present via Remote Access
Councilmember Chang	Present via Remote Access
Councilmember Clauson	Present via Remote Access
Councilmember Cucciardi	Absent
Councilmember Diener	Present via Remote Access
Councilmember Lucarelli	Present via Remote Access
Councilmember Rosapepe	Present via Remote Access
Mayor Putaansuu	Present via Remote Access

Staff present via Remote Access: Community Development Director Bond, Long Range Associate Planner Sallee, Public Works Director Dorsey, City Clerk Rinearson, Police Chief Brown, and Deputy City Clerk Floyd.

Mayor Putaansuu said Pursuant to the Governor’s “Stay Home - Stay Safe” Order, the City will conduct the meeting through Zoom.

Pledge of Allegiance

Mayor Putaansuu led the audience and Council in the Pledge of Allegiance.

1. Kitsap Transit-Presentation on SR 16 Park and Ride Study

Councilmember Clauson noted he is a Kitsap Transit employee and asked if anyone would like him to recuse himself.

No one voiced any objections.

Community Development Director Bond introduced Sandy Glover with Parametrix, the consultant who was hired to conduct the SR 16 Park and Ride Study, and Ed Coviello, Transportation Planner with Kitsap Transit.

Ms. Glover provided a presentation on the study which included project benefits, park-and-ride location needs, project priority, stakeholders, evaluation and screening, evaluation criteria, four sites

for level 3 screen, evaluation of the four sites, major benefits and risks, major site option differences, density of workers, expected demand, online open house results from 2020, funding, recommendations, and next steps for 2021-2023.

Discussion was held regarding the Ruby Creek site option, current downtown parking restrictions, impacts to foot ferry, overall timeline, and other transit site options.

Council Direction: No direction was given to staff.

2. City Hall Weatherization Project

Mayor Putaansuu noted City Hall is over 20 years old and is having some issues. It is time to think about weatherizing the building.

Steve Rice with Rice Fergus Miller introduced Jason Ritter-Lopatowski with Rice Fergus Miller, and Morgan Heater with Ecotope. Mr. Rice showed a presentation which included brick and brick ties, lap siding and options, insulation, building codes, roof assembly options and weight, HVAC system, electrical system, solar panels and locations, and clocktower project cost breakdown.

Additional discussion was held regarding the construction cost, financial return and a possible artist rendition of the solar panels, City Hall expansion, selection of the new clockface, and disruptions to the public or staff when the indoor phase begins.

Council Direction: Allow Rice Fergus Miller to continue with the study and design and come back in a few months to provide an update.

3. 2021 Shoreline Master Program Periodic Update

Community Development Director Bond introduced Kari Sallee, Long Range Associate Planner for the City. He said she has taken a leadership role in this project. Our tentative schedule right now on completing the Shoreline Master Program (SMP) Update is to bring this to Council at the first meeting in March for a preliminary adoption. The SMP will then need to go to the Department of Ecology for approval, and then back to Council in June for final adoption.

Long Range Associate Planner Sallee noted their department has been working on this for about a year and a half. This draft update has been to the Land Use Committee and the Planning Commission for a public hearing. This is a required update to our SMP every eight years. A comprehensive re-write of this was completed in 2013.

Ms. Sallee spoke to the updates which included cost thresholds for permits, making sure the SMP is consistent with the City's internal plans, codes and policies, making the SMP more user friendly, sea level rise, downtown parking, flood hazards, revisions to shoreline and land use tables, transportation facilities, view restrictions, parking structures, shoreline exemptions and public noticing regarding the update.

Council Direction: No direction was given to staff.

NEW: GOOD OF THE ORDER

Mayor Putaansuu noted we are successful on live streaming on Facebook.

Councilmember Ashby reported KRCC [Kitsap Regional Coordinating Council] is having a retreat on incorporating equity into our CPP's [Countywide Planning Policies] on March 4th.

Councilmember Rosapepe said he had several people approach him to say they appreciated the City's work in getting the roads plowed in a timely manner.

ADJOURNMENT

The meeting adjourned at 8:50 p.m. No other action was taken. Audio/Visual was successful.

Brandy Rinearson, MMC, City Clerk

Robert Putaansuu, Mayor

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Memorandum

To: The City Council
From: Nicholas Bond AICP, DCD Director
Date: March 1, 2021
Re: 2020 Impact Fee Annual Report (Per POMC 16.70.130 E)

In November 2015, the City Council passed an Impact Fee Ordinance which took effect on January 1, 2016. This ordinance established Transportation Impact fees while continuing the collection of Park Impact fees. Port Orchard Municipal Code Section 20.182.130 (5) requires the Director to provide an annual report on the collection of Park and Transportation Impact fees. McCormick Park Impact Fees were assigned to the City as part of the McCormick Woods annexation from County to City and were fully expended in 2018. This memo is written to satisfy the reporting requirement.

Park Impact Fee:

Background: Park Impact fees are assessed at \$811 for new single-family residences and \$584 for new multifamily residences. Park impact fees are not assessed against non-residential development.

2020 Financial Overview:

On January 1, 2020, there was a Parks Impact Fee balance of \$123,325. Revenue received during the year included park impact fees of \$172,268 and interest of \$1277 for a total revenue received of \$173,546. Parks Impact fees were used to pay towards McCormick Woods Splash Pad Retrofit Project in 2020 in the amount of \$41,862 leaving an ending balance of **\$255,009**.

The follow table represents the revenue and expense activity:

Park Impact Fees			
	2018	2019	2020
Beginning Balance	320,410	44,266	123,325
Revenue	92,555	79,059	173,546
Expenditure	(368,700)		(41,862)
Ending Balance	44,266	123,325	255,009

Transportation Impact Fee:

Background: Transportation impact fees, excluding those collected pursuant to a development agreement with McCormick Land Co as assigned by GEM 1 LLC (or assigns), were adopted in 2015 and took effect on January 1, 2016. Transportation impact fees are assessed against all new development and are based on the peak PM trip generation of a project.

2020 Financial Overview:

On January 1, 2020 there was a balance of \$702,981. Revenue received during the year included impact fees of \$492,001 and interest of \$6,542 for a total of \$498,544 in Transportation Impact Fee Revenue. Transportation Impact fees were used to purchase right of way for the Bethel corridor project in the amount of \$257,383 for 2020. Transportation Impact Fees ended the year with a balance of **\$944,142**.

The follow table represents the revenue and expense activity:

	Transportation Impact		
	2018	2019	2020
Beginning Balance	402,818	542,494	702,981
Revenue	186,677	160,487	498,544
Expenditure	(47,000)	-	(257,383)
Ending Balance	542,494	702,981	944,142

McCormick Woods Transportation Impact Fee:

Background: McCormick Woods Impact Fees were and continue to be collected and accounted for separately from the City-wide transportation impact fees and can only be spent on a specific list of projects.

2020 Financial Overview:

On January 1, 2020 there was a balance of \$610,659 for McCormick Woods Transportation Fees. Revenue received during the year included impact fees of \$217,214 and interest of \$5,256 for a total of \$222,471. In 2020 McCormick Woods Impact fees in the amount of \$47,310 were used to reimburse McCormick Land Co. (as assigned) for previously constructed improvements pursuant to Development Agreement. The result of these activities is an ending balance of **\$785,820**.

The follow table represents the revenue and expense activity:

McCormick Woods Transportation			
	2018	2019	2020
Beginning Balance	490,066	536,834	610,659
Revenue	179,374	124,868	222,471
Expenditure	(132,606)	(51,043)	(47,310)
Ending Balance	536,834	610,659	785,820

Transportation Detail History

Transportation Impact Fee:

City TIF- Project Description	TIP 2015	2015 TIF Growth Share	Annual Expenses					Growth Share Remaining	Certified Project Cost	Completed Projects	Yet to be Completed
			2016	2017	2018	2019	2020				
Tremont Street Widening	1.1	1,289,439	-	-	47,000	-	-	1,242,439		X	
SR 160 Corridor Pre-Design*	1.3	69,173	-	-	-	-	-	69,173		X	
Bethel Corridor Re-Engineering	1.4	291,509	-	-	-	-	-	291,509			
Anderson Hill/Clifton Intersection	1.5	445,420	-	-	-	-	-	445,420			
Old Clifton/Campus Parkway Intersection	1.6	138,575	-	-	-	-	-	138,575			
Sedgwick West Design/ROW	2.1	533,072	-	-	-	-	-	533,072			
Sedgwick West Construction	2.2	1,599,214	-	-	-	-	-	1,599,214			
Bethel Corridor ROW/Construction	2.3	9,328,302	-	-	-	-	257,383	9,070,919			
SR160 Roundabout #1	2.4	1,078,882	-	-	-	-	-	1,078,882			
SR160 Roundabout #2	2.5	1,078,882	-	-	-	-	-	1,078,882			
Sidney Avenue South Widening	2.8	2,316,608	-	-	-	-	-	2,316,608			
Old Clifton Shoulder & Pedestrian	2.10	1,020,234	-	-	-	-	-	1,020,234			
Old Clifton/McCormick Woods Dr Intersection	2.11	498,698	-	-	-	-	-	498,698			
Total		19,688,007	-	-	47,000	-	257,383	19,383,624	-	-	-

McCormick Woods Transportation Impact Fee:

McCormick Projects (2.5.2) Urban Village	TIP 2015	2015 TIF Growth Share	Annual Expenses					Growth Share Remaining	Certified Project Cost	Completed Projects	Yet to be Completed
			2016	2017	2018	2019	2020				
Anderson Hill/Clifton Intersection	1.5	173,000	118,923	28,762	-	-	-	25,315			
Old Clifton/Campus Parkway Intersection	1.6	371,000	-	-	-	-	-	371,000			
Old Clifton Shoulder & Pedestrian*	2.10	2,000,000	-	-	86,630	-	-	1,913,370			
Old Clifton/McCormick Woods Dr Intersection	2.11	110,000	-	-	-	-	-	110,000			
Total		2,654,000	118,923	28,762	86,630	-	-	2,419,685	-	-	-

Note:

1)Old Clifton Shoulder & Pedestrian noted above extends through the Old Clifton Anderson Hill Intersection

Formerly Gem 1 Development Agreement 2015 Impact Fee:

Gem 1 Dev Agreement- Appendix A	2005 Growth Share	Annual Expenses										Growth Share Remaining	Certified Project Cost			
		2008	2010	2011	2012	2013	2015	2016	2017	2018	2019			2020		
Clifton/Sunnyslope intersection	126,000															
Clifton/Feigley intersection	235,000	76,474														76,474
Clifton/Campus Parkway intersection	371,000															-
Clifton/McCormick Woods Drive intersection	110,000															-
Clifton/Anderson Hill Road intersection	173,000															-
Clifton/Berry Lake Road intersection	165,000															-
Glenwood Connector Roadway	2,000,000	32,703	73,690	154,198	50,618	30,616	49,786	33,799	11,843	45,976	51,043	47,310	1,542,240	2,123,823		
Sunnyslope Road Widening	384,000															-
Clifton Road Widening (McCormick 2.10 Referenced above)	2,000,000															-
Total	5,564,000	109,177	73,690	154,198	50,618	30,616	49,786	33,799	11,843	45,976	51,043	47,310				

Note:

- 1) Projects highlighted above were executed under the original agreement.
- 2) Clifton/Feigley and the Glenwood Connector Roadway receives payments each year until the 2005 Growth Share Remaining has been paid off.
- 3) Clifton Road Widening has been re-negotiated to the McCormick Woods 2.5.2 table number as Old Clifton Shoulder & Pedestrian 2.10

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UTILITY DEPARTMENT PROGRAM

Sewer CFCs:	City Adopted	9/22/2020	ORD #027-20 (Based on updated CIP's)
Sewer Credits:	City Discussion	2/9/2021	
	City Adoption	2/23/2021	Ord #009-21
Storm Plan:	Consultant Contract	1/26/2021	Contract #C001-21, RES #001-21
	DOE Approval	TBD (2022)	
	City WS Presentation	TBD (2022)	
	City Hearing/Adoption	TBD (2022)	RES # _____
	Adopted into Comp Plan	TBD (2023)	ORD # _____
Sewer GSP Amendment:	DOE Approved	10/12/2020	
	City Hearing & Adoption	2/23/2021	ORD #008-21 (Incl. updated CIP's)
Water CIP/CFCs:	City Discussion	3/9/2021	
	KIA Contract	3/23/2021	RES # _____ (W CIP's, W CFC's & W/S Rates)
	POMC Update	TBD (2021)	Ord # _____ (Comp Plan app. mod. - DCD)
	City Adoption	4/27/2021	RES # _____ (Updated CIP's & New CFC's)
	Comp Plan Application	TBD (2021)	
	Comp Plan Adoption	TBD (6/2021)	Ord. # _____ (Incorporated by Reference)
Water Credits:	City Discussion	TBD (2021)	
	City Adoption	TBD (2021)	Ord # _____
Water/Sewer Rates:	Consultant Contract	3/9/2021	Contract # _____, RES # _____
	City WS Presentation	TBD (2021)	
	City Hearing #1	TBD (2021)	
	City Hearing #2/Adoption	TBD (2021)	ORD # _____
Water System Plan Update:	DOH Approved	TBD (Fall 2021)	

Sewer GSP Update:

City WS Presentation
City Hearing/Adoption
Adopted into Comp Plan

TBD (2021)
TBD (2021)
TBD (2023)

RES # _____
Ord # _____

Consultant Contract
DOE Approval
City WS Presentation
City Hearing/Adoption
Adopted into Comp Plan

TBD (2022)
TBD (2023)
TBD (2023)
TBD (2023)
TBD (2023)

Contract # _____, RES # _____

RES # _____
ORD # _____