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**BEFORE THE HEARING EXAMINER FOR THE CITY OF RUSTON**

In the Matter of the Conditional Use Permit  
of

**Filipp Kapustin**

Property Address: 5114 N. 49<sup>th</sup> Street  
Ruston WA

File No. CUP 24-035

CITY OF RUSTON’S MOTION TO  
EXCLUDE WETLAND CLAIMS FROM  
CONSIDERATION IN THIS  
CONDITIONAL USE PERMIT

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**I. Pertinent Facts.**

The Applicant, Filipp Kapustin (“Applicant”) owns property at 5114 N. 49<sup>th</sup> Street, Ruston WA (“Property”) which is zoned Residential. Applicant previously applied to Ruston for a Filling and Grading permit for this Property on November 30, 2022.<sup>1</sup> This was assigned permit number RST 22-000135. The Filling and Grading permit allowed for the complete elimination of the wetland area on the Property subject to certain conditions. As part of that application, the City required SEPA to be performed. The SEPA checklist dated November 29, 2022 was submitted with the application.<sup>2</sup> In addition, the Applicant submitted a Critical Areas Report and Mitigation Plan prepared by Land Services Northwest.<sup>3</sup> The City found that the mitigation plan was appropriate and issued a Determination of Non-significance (“DNS”) for the Project on January 27, 2023<sup>4</sup> with a comment period expiring on February 10, 2023. This

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<sup>1</sup> A copy of the application is attached to this Motion as Exhibit “A”.

<sup>2</sup> A copy of the SEPA Checklist was previously submitted to the Hearing Examiner as part of this CUP Application.

<sup>3</sup> A copy of the Critical Areas Report is attached to this Motion as Exhibit “B”.

<sup>4</sup> A copy of the DNS was previously submitted to the Hearing Examiner as part of this CUP Application.

1 DNS was never appealed. The City approved the Filling and Grading Permit in July of 2023  
2 which included the condition that the Critical Areas Report mitigation be followed. The permit  
3 was signed by the Applicant’s representative and issued on July 24, 2023.<sup>5</sup> The Filling and  
4 Grading permit was not appealed. The deadline for appealing the Filling and Grading Permit  
5 and the SEPA determination is the LUPA appeal deadline under state law since there is no  
6 administrative appeal in Ruston for a Filling and Grading permit. *See* RCW 36.70C.040;  
7 43.21C.075(5)(b); WAC 197-11-680. Since the Filling and Grading permit was issued on July  
8 24, 2023, the deadline for appeal was **August 14, 2023**. Those decisions are now final and may  
9 no longer be appealed.

10 Applicant applied for a Conditional Use Permit (“CUP”) to build a Fourplex on the  
11 Property on March 13, 2024.<sup>6</sup> The SEPA documents utilized for the Filling and Grading permit  
12 were also used for the CUP. The Hearing Examiner held a duly-noticed hearing on May 22,  
13 2024 at which numerous Ruston residents attended, submitted written comments, and testified.  
14 A significant body of the written and oral testimony from residents related to potential wetland  
15 on the Property and the impacts to the wetland.

16 The City, represented by Charles McKenna, Associate Planner, and Rob White,  
17 Community Development Director, testified to the Hearing Examiner that the Property was  
18 examined by a City biologist, Eric Mendenhall, several years ago and was found not to contain  
19 a jurisdictional wetland. The Hearing Examiner asked the City to produce that document,  
20 however, the City could not immediately locate it. In addition, the Hearing Examiner learned

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21 <sup>5</sup> A copy of the Filling and Grading Permit (RST 22-000135) is attached to this Motion as Exhibit “C”.  
22 <sup>6</sup> A copy of the CUP application was previously submitted to the Hearing Examiner.



1 that it is possible that some people could not attend the hearing due to the limits of the video  
2 conferencing application. Therefore, the Hearing Examiner set this matter for a continued  
3 hearing to be held on Wednesday, July 24<sup>th</sup> at 2:00 PM.

4 The City has since located the document from Mr. Mendenhall dated March 16, 2016  
5 which is attached to this Motion as Exhibit “D”. In addition, attached as Exhibit “E” is a letter  
6 from Community Development Director White dated November 24, 2020 to Mayor Hopkins  
7 regarding wetland issues on the Property. In reviewing the prior permit files, it is clear that the  
8 issue of the existence of a wetland and the modification of such wetland has already been  
9 determined as part of the Filling and Grading Permit which was never appealed. Under  
10 Washington law, this became a final land use decision and cannot be collaterally attacked as part  
11 of the CUP consideration. The City requests that the Hearing Examiner exclude consideration  
12 of any wetland issues as part of the CUP application as those issues have been addressed and  
13 are final.

14 **II. Question Presented.**

15 Can the Hearing Examiner consider wetland issues with regard to this CUP  
16 when the wetland issues were determined in a prior land use decision that  
17 was never appealed? **NO.**

18 **III. Argument.**

19 **A. Once a land use decision becomes final, it may not be collaterally attacked at a  
20 later date.**

21 Under state law, if a land use decision is not appealed, it becomes final and may not be  
22 later collaterally attacked, even in a later permit application. The State Legislature adopted the

1 Land Use Petition Act (“LUPA”)<sup>7</sup> to provide a method for appealing local land use decisions.  
2 LUPA establishes a mandatory and clearly delineated 21-day deadline for appealing final  
3 decisions of local land use authorities. RCW 36.70C.040(3). *See also: Habitat Watch v. Skagit*  
4 *County*, 155 Wash.2d 397, 406, 120 P.3d 56 (2005); *Samuel’s Furniture v. Ecology*, 147 Wn.2d  
5 440, 450, 54 P.3d 1194 (2002); *Wenatchee Sportsman v. Chelan Co.*, 141 Wn.2d 169, 181, 4  
6 P.3d 123 (2000) (Court is precluded from reviewing a land use decision challenged through  
7 LUPA once 21-day appeal period expires). As the Court of Appeals noted in *Asche v.*  
8 *Bloomquist*, 132 Wash.App. 784, 133 P.3d 475 (2006):

To serve the purpose of timely review, LUPA provides **stringent deadlines**,  
requiring that a petitioner file a petition for review within 21-days of the date of  
the Land Use Decision. RCW 36.70C.040(3).

10 *Id.* at 795. Even illegal decisions under local land use codes must be challenged under LUPA  
11 within the 21-day time; otherwise, the illegal land use decision becomes “valid.”<sup>8</sup> *See, e.g.,*  
12 *Asche v. Bloomquist*, supra, 132 Wash.App. 795-796; *Habitat Watch v. Skagit Co.*; *Samuel’s*  
13 *Furniture v. Ecology*, supra. “Furthermore, a party may not collaterally challenge a land use  
14 decision for which the appeal period has passed via a challenge to a subsequent land use  
15 decision.” *Durland v. San Juan County*, 174 Wn. App. 1, 13, 298 P.3d 757 (2012).

16 Allowing the wetland issue to be re-litigated in the CUP application is contrary to  
17 LUPA’s stated purpose of promoting finality, predictability, and efficiency. *Durland v. San Juan*  
18 *County*, 182 Wn.2d 55, 69 (2014). The residents objecting to this CUP did not appeal either the  
19

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<sup>7</sup> Ch. 36.70C RCW.

<sup>8</sup> The strict 21-day time for seeking relief under LUPA is part of the express stated purpose of LUPA to provide  
“**expedited review**” of petitions to provide “**expedited appeal procedures**” and “consistent, predictable **and timely**  
judicial review.” RCW 36.70C. 020 and .090 (emphasis added). *Also*, RCW 36.70C.040, .080(1) and (3).

1 SEPA determination nor the Filling and Grading permit which authorized the complete  
2 filling/removal of the wetland. The failure to timely pursue and appeal of a land use decision  
3 precludes a subsequent collateral attack of that decision under binding case law.

4 In *Habitat Watch v. Skagit County*, 155 Wn.2d 397, 410–11 (2005), the Court held that  
5 a challenge to grading permit amounted to untimely collateral attack of earlier granted special  
6 use permit because the authorization for the grading permit came from special use permit, whose  
7 appeal period had passed, and where sole basis for challenging grading permit was that  
8 extensions of special use permit were improper. The Court opined, “Because appeal of the  
9 special use permit and its extensions are time barred under LUPA, Habitat Watch cannot  
10 collaterally attack them through its challenge to the grading permit.”<sup>9</sup> In *Wenatchee Sportsmen*  
11 *Ass’n v. Chelan County*, 141 Wn.2d 169, 180–82, 4 P.3d 123 (2000) the appellant challenged  
12 the county’s approval of a plat application based on challenge to density of plat. The Court found  
13 this was an untimely collateral attack where petitioner had not challenged rezone decision  
14 establishing allowed density for project two years earlier. Both the *Habitat Watch* and  
15 *Wenatchee Sportsmen* cases are akin to the residents’ requests to the Hearing Examiner to deny  
16 the CUP based on the impacts to the wetland on the Property. However, the prior (unappealed)  
17 SEPA and (unappealed) Filling and Grading permit already allowed the property to be filled and  
18 graded, including any areas which may contain wetlands. Thus, using the wetland as the basis  
19 to deny or condition the CUP would amount to a collateral attack on the Filling and Grading  
20 permit. This is not allowed due to the finality under LUPA of the Filling and Grading permit

21 \_\_\_\_\_  
<sup>9</sup> *Id.*

1 and the SEPA determination. Here, the residents' commenting against the CUP based on the  
2 wetland impacts are attempting to undo what was already granted in the Filling and Grading  
3 permit. This is something that state law does not allow, and it should not be allowed in this  
4 matter.

5 **IV. Conclusion.**

6 The City requests that the Hearing Examiner refuse to consider evidence or argument  
7 regarding the wetland impacts of this CUP and to evaluate the CUP without regard to the wetland  
8 impacts. Claims regarding the wetland should have been made in 2023 as a challenge to the  
9 Filling and Grading permit and/or the SEPA determination. No such appeal was made of those  
10 prior decisions, and thus it is far too late to bring those challenges now. Therefore, those  
11 decisions cannot now be challenged as part of the CUP nor should the claims regarding the  
12 wetland form the basis to condition the CUP. The City requests that the Hearing Examiner refuse  
13 to consider the wetland issues asserted by the residents in this case.

14 **RESPECTFULLY SUBMITTED** this 18<sup>th</sup> day of July, 2024.

15 **INSLEE, BEST, DOEZIE & RYDER, P.S.**

16 By 

17 Jennifer S. Robertson, W.S.B.A. #23445  
18 Attorneys for the City of Ruston  
19 10900 NE 4<sup>th</sup> Street, Suite 1500  
20 Bellevue, WA 98004  
21 Phone: (425) 455-1234  
22 Fax: (425) 635-7720  
23 E-mail: [jrobertson@insleebest.com](mailto:jrobertson@insleebest.com)

# Exhibit A



BUILDING DEPARTMENT  
 5117 N. Winnifred Street  
 Ruston, Washington 98407-6597  
 Phone (253) 759-3544, Fax (253) 752-3754  
[www.rustonwa.org](http://www.rustonwa.org) | [www.codeproswa.com](http://www.codeproswa.com)

**CODEPROs, LLC.**  
 Permit Number:  
 RST \_\_\_ - \_\_\_

## BUILDING PERMIT APPLICATION

**Applicant Information:** **Owner Information:**

Applicant Name: Filipp Kapustin Owner Name: City of Ruston  
 Applicant Address: PO Box 2010 Owner Address: \_\_\_\_\_  
 City, State, Zip: Milton, WA 98354 City, State, Zip: \_\_\_\_\_  
 Phone Number: 2537224864 Phone Number: \_\_\_\_\_  
 E-mail Address: adaptbd@yahoo.com E-mail Address: \_\_\_\_\_

**Lender Information:** **Business Information:**

Lender's Name: \_\_\_\_\_ (If Commercial):  
 Lender's Address: \_\_\_\_\_ Business Name: \_\_\_\_\_  
 City, State, Zip \_\_\_\_\_ Business Owner Name: \_\_\_\_\_  
 Lender's Phone Number: \_\_\_\_\_ Business Phone Number: \_\_\_\_\_

**Contractor Information:**

Contractor Company Name: \_\_\_\_\_ Contractor Registration#: \_\_\_\_\_  
 Contractor Address: \_\_\_\_\_ Contractor UBI#: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_ Is the Owner acting as his/her own general contractor?  
 Contractor Contact Name: \_\_\_\_\_ If yes, check the box:  and initial the following:  
 Phone Number: \_\_\_\_\_ I certify that I am exempt from the requirements of the State Contractor's  
 E-mail Address: \_\_\_\_\_ Registration Law under RCW 18.27 and WAC 296-200A. \_\_\_\_\_

**Parcel/Property Information:**

Site Address: 5114 N 49th St, Ruston, WA 98407 Parcel Area: \_\_\_\_\_  
 Parcel Number: 2365000700 Existing Impervious Surface Area: \_\_\_\_\_  
 Parcel Zoning: \_\_\_\_\_ Proposed New Impervious Area: \_\_\_\_\_

**Project Information:**

Project Type:  
 Residential  Commercial  
 New Dwelling  New Building  
 New Garage  Addition  
 New Deck  Tenant Improvement  
 New Covered Porch  Repair  
 Addition  Mechanical Only  
 Remodel  Plumbing Only  
 Repair  Re-Roof  
 Mechanical Only  Sign  
 Plumbing Only  Other \_\_\_\_\_  
 Re-Roof Occupancy Type: \_\_\_\_\_  
 Fence Construction Type: \_\_\_\_\_  
 Other: Fill and G Fire Sprinkled? Yes , No

Full Project Description: \_\_\_\_\_ Square Footage:  
Fill and Grade to prepare for a SF Main Floor: \_\_\_\_\_  
report and sepa application. Second Floor: \_\_\_\_\_  
 \_\_\_\_\_ Basement: \_\_\_\_\_  
 \_\_\_\_\_ Garage: \_\_\_\_\_  
 Public Water Supply , Private Well  Covered Porch: \_\_\_\_\_  
 Public Sewer , or Private Septic  Open Deck: \_\_\_\_\_  
 Heated? No Heat , Electric , Gas  Other: \_\_\_\_\_  
 Plumbing Included? Yes , No   
 Mechanical Included? Yes , No   
 Gas Included? Yes , Natural , LP

**Project Valuation:**  
 Required. Enter anticipated value of entire project, including all materials and labor, including your own.  
 Project Valuation: \$10000

**Signature:** **Office Use:**

I hereby certify that I have read and examined this application and know the same to be true and correct. I also certify that I am the owner (or owner's authorized agent) of this property and that all work shall be performed in accordance with all state and local laws regulating the project proposed by this application. I hereby authorize representatives of the City of Ruston to enter upon the property for inspection purposes. I understand that the granting of a permit does not presume to give the authority to violate or cancel provisions of any State or local law regulating construction or the performance of the construction. I understand that failure to comply with such laws or the submission of inaccurate information may result in the revocation of any permit issued pursuant to this application.

Signature of Owner or Authorized Agent:   
 Printed Name: Filipp Kapustin  
 Date: 11/30/22

**Permit Fees:**

Building Plan Review Fee: \$ \_\_\_\_\_  
 Energy Code Fee: \$ \_\_\_\_\_  
 Building Permit Fee: \$ \_\_\_\_\_  
 WA SBCC Surcharge: \$ \_\_\_\_\_

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Total: \$ \_\_\_\_\_  
 Deposit Paid: Date: \_\_\_\_\_ \$ \_\_\_\_\_  
 Balance Due Upon Issuance: \$ \_\_\_\_\_



# Exhibit B

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# Craftsman Single-family Residence Critical Areas Report and Mitigation Plan Olympia, WA

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Prepared for  
Craftsman Construction  
Tacoma, WA



Prepared by  
Land Services Northwest  
120 State Avenue NE #190  
Olympia, WA 98501  
November 29, 2022

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## Executive Summary

**Site Name:** Kapustin SFR Critical Areas Analysis RUE Report

**Site Location:** 5114 N. 49th Street, Ruston, WA 98407

**Parcel Number:** 2365000700

**Site Square Feet/ Acreage:** 10,363 sq ft / .2 acres

**Legal Description:** Section 23 Township 21 Range 02 Quarter 14 Plat BAY VIEW L 6, 7 & 8 B 26 TOG/W S 9.5 FT OF N 49TH ST ABUTT VAC BY ORD #682 ALSO TOG/W E 5 FT L 5 B 26 APPROVED SUBD TOWN OF RUSTON 3-30-04 SEG 2004-0826BL 03-04-04BL DC/BL 06-21-04BL

**Project Staff:** Alex Callender MS, PWS

**Field Survey Conducted:** February 5, 2022

**Findings:** Wetland A is a 3,521 sq ft on site Depressional wetland. The wetlands is rated as a Category IV wetlands with an overall score of 14 and a habitat score of three (LLL). Category IV wetlands in the Town of Ruston with a high intensity land use carry a 50-foot buffer. The code allows for a 25% reduction in the buffer; however, more will be needed to allow the applicant to build a single-family residence with appurtenances.

**Project Description:** The applicant proposes a 2,850 sq foot single-family residence with a 760 sq ft garage and a 840 sq ft driveway for ingress and egress, using City Sewer and Water.

**Project Impacts:** The lot is only 10,363 sq ft and the project will require removal of the vegetation before filling the area to grade. The project will impact all 3,521 sq ft of onsite wetland and the wetland buffer. Town of Ruston Code allows impacts to Category IV wetlands as long as the applicant can provide mitigation for the impacts if available. The site will be filled to grade and since the watershed is fully developed, there are no areas in which to mitigate in the watershed. Out of kind mitigation will be used to mitigated for wetland and buffer impacts

**Mitigation:** Mitigation includes tightlining the groundwater to the existing culvert and pretreating all surface waters to provide cleaner waters to Commencement Bay, a 303d listed waterbody. This will eliminate the risk of discharge of turbid of polluted water to the system. Onsite stormwater generated from the building will be treated before discharge to the outfall which will be an improvement over the baseline condition. In addition, the native vegetation rain garden treatment areas will provide many of the wetland functions better than the existing degraded wetland. The remaining areas of the property will be planted with native plants which will provide an upland buffer filter for the newly created raingardens which are also built for water quality treatment. The installed vegetation will provide structure, diversity and habitat for the area wildlife while improving water quality over baseline.

## 1.0 INTRODUCTION

This report is the result of a critical areas study of the delineation .2-acre parcel#2365000700 at 5114 N. 49th Street, Ruston, WA 98407, with the legal description of Section 23 Township 21 Range 02 Quarter 14 Plat BAY VIEW L 6, 7 & 8 B 26 TOG/W S 9.5 FT OF N 49TH ST ABUTT VAC BY ORD #682 ALSO TOG/W E 5 FT L 5 B 26 APPROVED SUBD TOWN OF RUSTON 3-30-04 SEG 2004-0826BL 03-04-04BL DC/BL 06-21-04BLin Pierce County, Washington (**Figure 1**).

The purpose of this report is to 1) identify and describe the critical areas on-site and within 315 ft off-site of the property 2) identify impacts to critical areas and their buffers, and 3) apply mitigation or conservation measures to off-set critical areas or buffer impacts.

This report was prepared to satisfy the critical areas review process required by the Town of Ruston of Ruston set forth in RMC Title 30 Critical Areas and 30.10.150 - Exception—Reasonable use.

The Town of Ruston and possibly other agencies that may evaluate impacts to critical areas from the proposed project will be able to utilize information in this report.

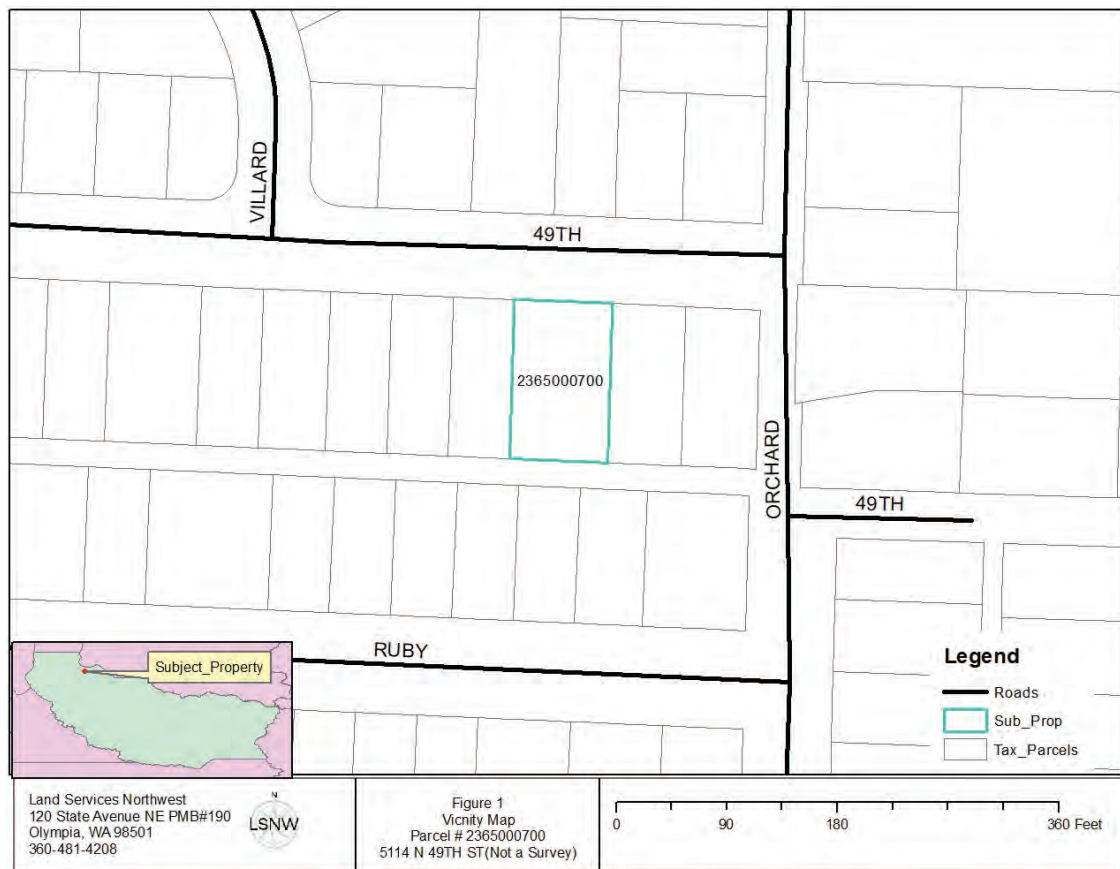


Figure 1-Vicinity Map, Parcel# 23650007000

## 2.0 GENERAL DESCRIPTION AND LAND USE

### 2.1 Historical and Current Land Use

Historically, the property has been a vacant lot with a footpath and a stormwater drainage with a trash grate and no other improvements. There are single-family residences and to the north and south, Adams Lane to the West and vacant parcel to the east (**Figure 2**).

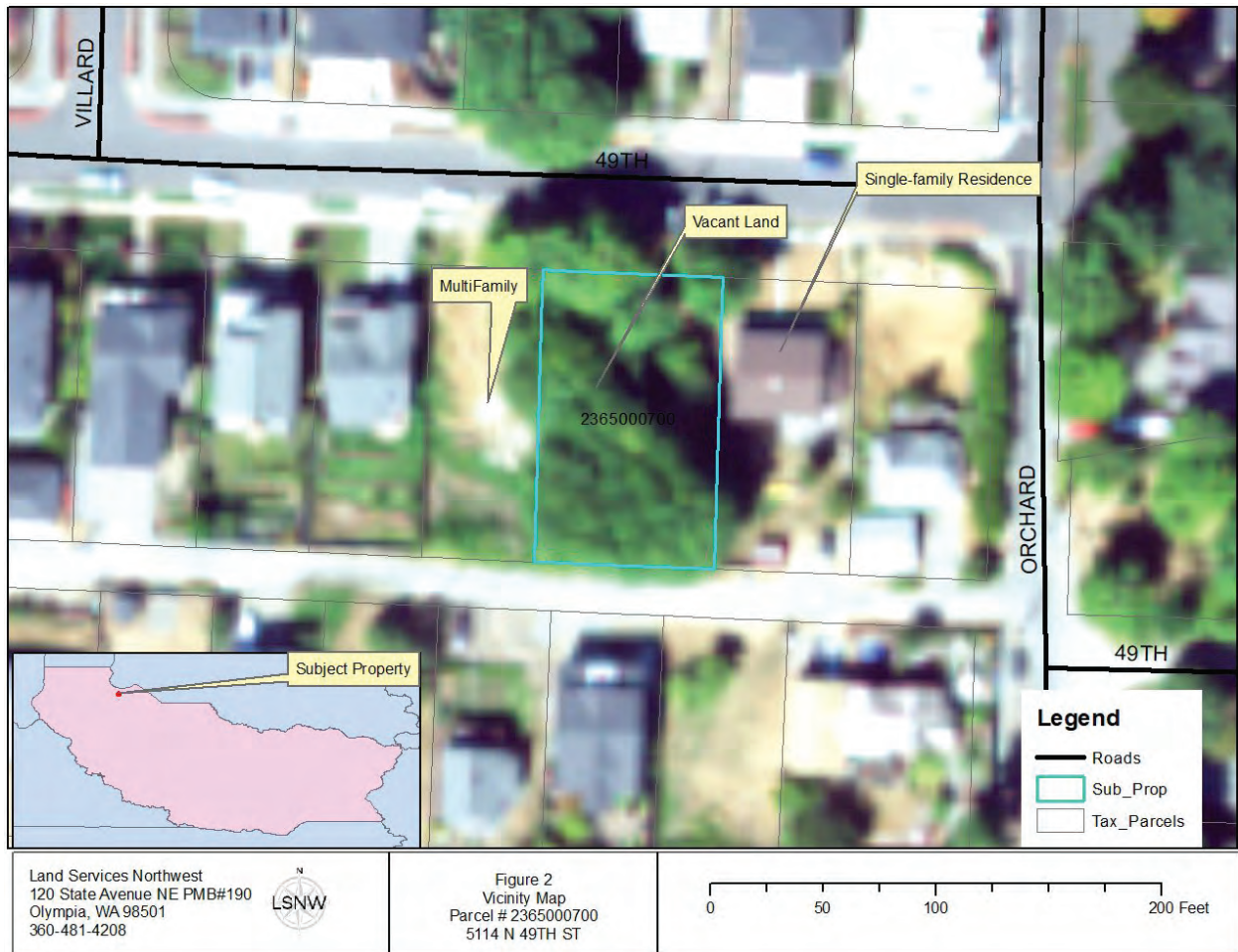


Figure 2 - Current Conditions

## 3.0 METHODOLOGY

### 3.1 Existing Information Review

Background information on existing information was reviewed prior to field investigations and included the following:

National Wetlands Inventory (NWI) Map, USFWS Shapefile Data (**Appendix B**)

Thurston County Area Soil Survey, Soil Conservation Service (U.S. Department of Agriculture, 1973)  
National Resource Conservation Service Shapefiles (NRCS Soils Data Mart, 2006) (**Appendix C**)

Thurston County Geodata Wetland Inventory and Historical Aerials (**Appendix D**)

USGS 7.5 Minute Quadrangle Topographic Maps (**Appendix E**)

Washington Department of Natural Resources Forest Practices Stream Type Map (**Appendix F**)

Washington Department of Fish and Wildlife Priority Habitats and Species Database and  
Salmonscape (**Appendix F**)

NOAA NOW Precipitation Data (**Appendix G**)

Town of Ruston Title 30 Critical Areas

### 3.2 Analysis of Existing Information

The following existing information was reviewed to gain a better understanding of on-site conditions and its position in the landscape.

#### National Wetland Inventory (NWI) Map

The National Wetland Inventory (NWI) map (**Appendix B**), developed by the U.S. Fish and Wildlife Service (USFWS), shows an R4SBC which is Riverine Intermittent Streambed Seasonally flooded wetland in the position of the Wetland A, but the extent of the wetland shown is greater than what exists today. Since the creation of the NWI, many of the Nation's wetlands line this one have been developed.

#### WADNR Forest Practices Stream Type Map

The WADNR maintains a GIS database of wetlands, streams and waterbodies and their stream type as defined in WAC 222-16-32. This data does not have any wetlands, but it does show a stream originating onsite and flowing to Commencement Bay. This information matches the data found in the National Wetland Inventory. No stream exists offsite. (**Appendix C**).

#### Pierce County Wetland, Stream, and Waterbody Inventory

The Pierce County website has a shapefile that depicts various critical areas such as streams, wetlands, and waterbodies. This site shows the Puget Sound to the north; however, it does not show any wetlands, streams or waterbodies within 315 feet of the subject property (**Appendix D**).



### USGS 7.5 Minute Topo Map

The USGS has topographical maps that depict natural and artificial features on the landscape including wetlands. This map shows the Puget Sound to the north, but it does not show anything on or near the subject property (**Appendix E**).

### WDFW Priority Habitats and Species Inventory

The Department of Fish and Wildlife maintains an inventory of priority habitats and species information (**Appendix F**). This database does not show any priority habitats or species in the area

No threatened or endangered species are shown in the vicinity of the subject property.

### Salmonscape Map

The WDFW Salmonscape Map does not show any streams that are utilized by salmonids in the vicinity of the subject property (**Appendix G**).

### NOAA NOW Precipitation Data

The National Weather Service maintains data on precipitation accumulations during a day, month, and year. This data shows that the precipitation was higher than normal, and the highest for the period of record. No adjustments are needed due to the rainfall in the area as measured Tacoma #1 Station (**Appendix H**).

## 3.3 Field Investigation

### Wetland Determination Guidelines

Land Services Northwest based its wetland identification and delineation upon the 1987 Army Corps of Engineers Wetland Delineation Manual (Environmental Laboratory, 1987) and the regional specificity found in Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0) (USACE, 2010). Generally, as outlined in the manuals, wetlands are distinguished from other landforms by three criteria: 1) hydrophytic vegetation, 2) hydric soils, and 3) wetland hydrology.

### General Field Guidelines

Plant species were identified according to the taxonomy in *Flora of the Pacific Northwest* (Hitchcock and Cronquist, 1973), and the wetland status of plant species was assigned according to: *The National Wetland Plant List: 2016* (Lichvar, 2016). Wetland classes were determined by the U.S. Fish and Wildlife Service's system of wetland classification (FGDC, 2013). The wetland determination was based on soils, vegetation, and hydrology characteristics indicative of wetland conditions.

The Corps Manual and Supplement describes soil, vegetation, and hydrological indicators of wetlands. A hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part (National Technical Committee for Hydric Soils, 1994). Anaerobic conditions cause redoximorphic features to develop, which can be evidenced through the observation of mottling or gleying in the soil. Soils are hydric if they match the indicators in the supplement or meet the technical definition.

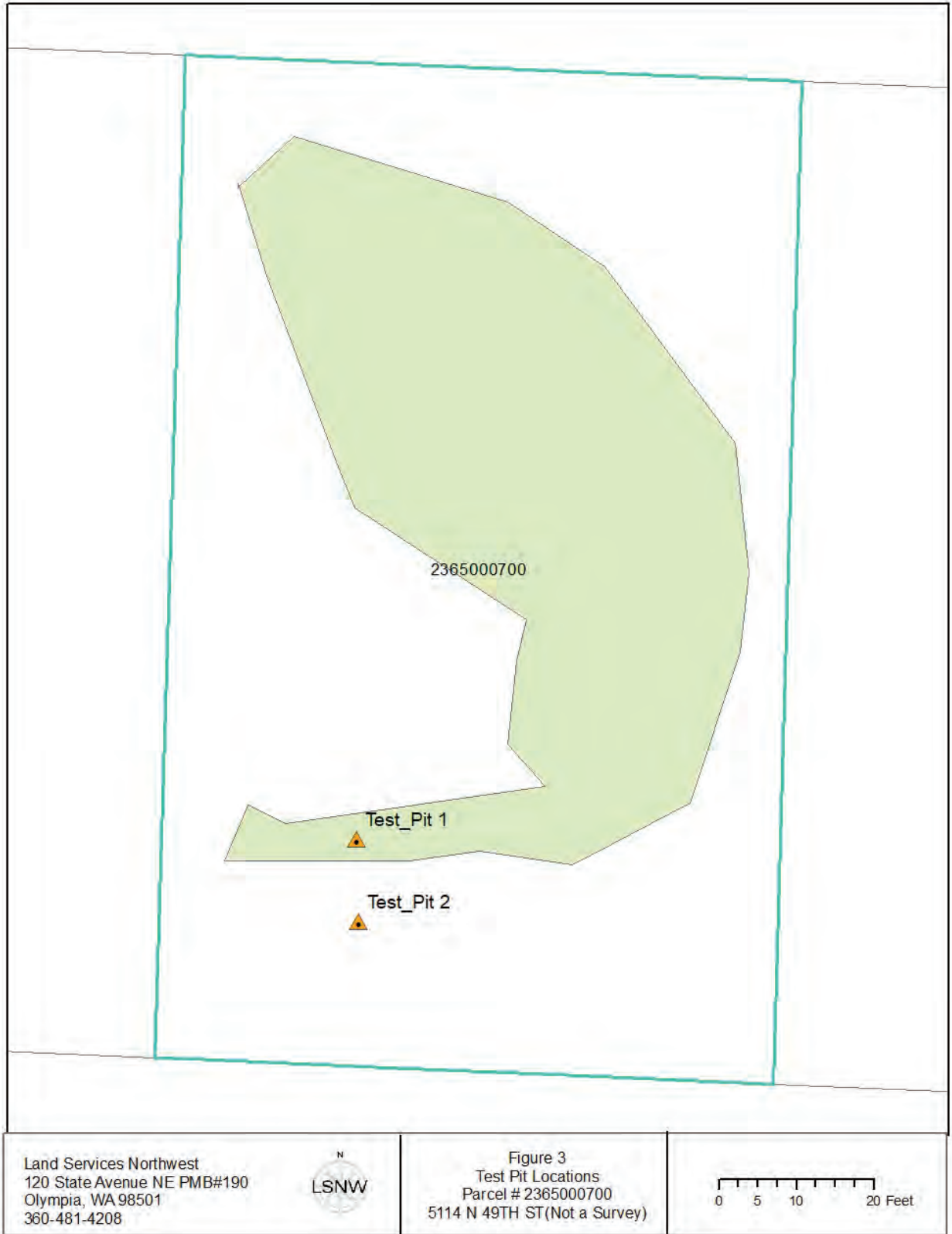
A soils evaluation was performed to determine if the area contained hydric soils. Additional test plots were sampled to gauge possible wetland indicators and characteristics. Soils are normally excavated to

18 inches or more below the surface within a test pit to evaluate soil characteristics and hydrological conditions in both wetland and upland areas. Soil chroma (color) is evaluated using the *Munsell Color Chart* (Munsell Color, 1988) The test pit locations area show below (**Figure 3**).

The COE describe a wetland rating system for plants. Each plant species is assigned a probability of occurrence within wetlands, which is referred to as its wetland status. The wetland plant indicator system is as follows:

Table 1 Indicator Status Ratings

Indicator Status	Abrv.	Definitions - Short Version ( <a href="#">ERDC/CRREL TN-12-1</a> )
Obligate	OBL	Almost always occur in wetlands.
Facultative Wetland	FACW	Usually occur in wetlands but may occur in non-wetlands.
Facultative	FAC	Occur in wetlands and nonwetlands.
Facultative Upland	FACU	Usually occur in non-wetlands but may occur in wetlands.
Upland	UPL	Almost never occur in wetlands.
		(USACE, 2016)



### Figure 3 – Test Pit Locations

In general, under the Federal methodology, more than 50 percent of the predominant plant species within a test plot must be rated FAC or wetter (i.e., FACW, OBL) to satisfy the wetland criteria for hydrophytic vegetation. Dominant species are those when ranked comprise 50% of the total or those that have a percent cover greater or equal to 20 percent within the test plot. Only dominant plant species were considered in the data analysis.

If wetland hydrology, including pooling, ponding, and soil saturation, is not clear, hydrological conditions may be observed through surface or soil indicators. Indicators of hydrological conditions include drainage patterns, drift lines, sediment deposition, watermarks, historic records, visual observation of saturated soils, and visual observation of inundation.

## 4.0 WETLAND ANALYSIS

### 4.1 Wetland Findings

One freshwater wetland, labeled Wetland A, was found during the delineation which was performed on February 2, 2022. Wetland A is a slope /depressional wetland. The wetland has depressions which hold water however it also has seeps that are flowing into the depression and all the water is moving in one direction. The primary source of water is the stormwater which is released to the south and flows to the north to a stormwater pipe along the northern border of the property.

#### Wetland A

Wetland A is slope/ depressional HGM class wetlands with a Palustrine Forested, seasonally flooded Cowardin Classification. The wetlands derive their hydrology from precipitation and overland flow and possibly some groundwater influence.

#### Plants

Red alder, Salmonberry, slough sedge, lady fern and creeping buttercup are the dominant hydrophytes in these wetlands.

#### Soils

Soils were the secondary indicator of wetlands on the site. Soils in Wetland A are silty clay loam 10YR 3/1 black underlain with (10YR 6/2) with many dark yellowish brown redoximorphic features (10YR 6/8) below the A horizon. The delineation of the wetland area closely follows the topography of the site where the hydric soils are limited to the lower portion of the hillslope near the drainage.

#### Hydrology

It was the rainy season, so hydrology was directly observed. It attains hydrology from the area groundwater at a break in the slope. It also receives precipitation and overland flow from stormwater.

## 5.0 WETLAND FUNCTIONAL VALUES

### 5.1 Wetland Functional Analysis Methodology

Wetlands, in general, provide many valuable ecological and social functions, including 1) stormwater storage, 2) groundwater recharge, 3) erosion control, 4) water quality improvement, 5) natural biological support, 6) overall habitat functions, 7) specific habitat functions, and 8) cultural and socioeconomic value.

Several procedures have been developed for assessing the importance and magnitude of functions and include the Washington Functional Assessment Method (WAFAM) Wetland Evaluation Technique, the Hydrogeomorphic Assessment Method the Habitat Evaluation Procedure (HEP), and numerous regional and/or local procedures. However, none of these methods were consistent with the needs of this project.

Wetland functions were also semi-quantitatively assessed using information gathered while performing the ECY Wetland Rating System for Western Washington (Hruby, 2014). The scores from the analysis of the wetland are found in Appendix H. This method is a comprehensive approach requiring substantial data input and assessment of onsite and landscape functions. The descriptions of wetland functions and the factors and parameters considered by that method are extremely helpful in interpreting the functioning of the subject wetlands and buffer areas. The methodology is scientifically based, in that its application requires a prior understanding of how wetlands function. Advanced experience, training and scientific objectivity of a wetland scientist applying the method is essential for an accurate assessment. Alex Callender has attended and received credit for the training in this method.

### 5.2 Wetland Functions

#### *Wetland A*

Wetland A is a wetland Category IV with an overall score of 14 and a habitat score of 3 (LLL). The wetland probably extended down the slope at one time, however the infill development of the urban environment has eliminated any natural functions long ago. Like many of the drainages along the northern slopes above Commencement Bay, this one has a stormwater culvert as an outlet and impervious surfaces that severely change the hydroperiod and flood pulse that it receives from the surrounding area.

#### *Wetland A*

Wetland A is approximately 3,521 sq ft. This wetland emanates from the hillslope to the south and flows to the north offsite via a culvert, and downhill to Commencement Bay. There is no fish passage at this point, even though it flows to the Bay. The flow from the slope is likely due to the surrounding bedrock which underlays the site and provides an impenetrable surface for stormwater which escapes the city's stormwater infrastructure uphill from the site.

#### *Water Quality*

Wetland A is slightly constricted with less than ¼ seasonally ponded. The wetland is mostly (90%) ungrazed. The wetland is forested with some shrubs and slough sedge in the understory. There are no organic soils.

There are no septic systems within 250 ft of the wetland as it is in an urban environment and the area is on sewer. The wetland discharges to Commencement Bay which is a 303d waterbody within a mile and the basin is subject to a TMDL in the basin, so it rates high for position in the landscape as do many of the wetlands in the Puget Sound Area.

#### *Hydrologic*

There is urban stormwater runoff to this wetland, due to the impervious city hardscape. There is no opportunity to protect against flooding as the property is near the Puget Sound and discharges to the Puget Sound via a pipe so no flooding can occur due to the wetland.

There are some impervious surfaces in the area that drains to the wetland. The wetland is not named in a watershed study as important for this function. And there is no flooding in this basin.

#### *Habitat*

The wetland is forested with a shrub scrub and herbaceous layer. There are two hydroperiods with a seasonally and permanently flooded hydroperiod. The species diversity is moderate, and the structure diversity is low. The forest is of moderate age ~15-20 years and there are invasive species like Himalayan blackberry throughout the area. There are no priority habitats and species onsite or within 330 feet of the subject property.

## 6.0 REGULATORY REVIEW

### 6.1 Town of Ruston Critical Areas Regulations

#### *Wetlands*

The Town of Ruston regulates Critical Areas under Title 30 Critical Areas; however, the site is under an EPA clean up order and remediation of arsenic has occurred which has resulted in removal of the onsite soils that supported an onsite wetland. A letter from Parford Enterprises Inc. dated December 4, 2003, states that the cleanup was done at Lot HT01 to the cleanup standards. The EPA confirms that this action was done with their letter which confirms that Lot HT01, meets the remediation requirements under the Record of Decision for the Ruston/North Tacoma Study Area.

Wetlands are defined in the Town of Ruston Municipal Code as.

“Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation 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 non-wetland 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 non-wetland areas to mitigate the conversion of wetlands. For identifying and delineating a wetland, local government shall use the Washington State Wetland Identification and Delineation Manual.”

One regulated wetland, (Wetland A), was found onsite and delineated the wetland was rated as a Category IV with a low habitat (3).

30.20.040 - Performance standards—General requirements.

(a)Activities may only be permitted in a wetland or wetland buffer if the applicant can show that the proposed activity will not degrade the functions and functional performance of the wetland and other critical areas.

An analysis that provides for this follows.

(b)Activities and uses shall be prohibited in wetlands and wetland buffers, except as provided for in this title.

(e)Category IV Wetlands. Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the acreage and loss functions will be provided under the terms established under Section 30.20.050

Required standard wetland buffers, based on wetland category and land use intensity, are as follows:(A) Category I.

High intensity 300 feet;

Moderate intensity 250 feet;

Low intensity 200 feet.

(B)Category II.

High intensity 200 feet;

Moderate intensity 150 feet;

Low intensity 100 feet.

(C)Category III.

High intensity 100 feet;

Moderate intensity 75 feet;

Low intensity 50 feet.

(D)Category IV.

**High intensity 50 feet;**

Low and Moderate intensity 35 feet.

Typically, a Category IV with a wetland in the town of Ruston with a high intensity use carries a 50-foot buffer. This wetland and it's buffer would completely encumber the property (**Figure 4**).

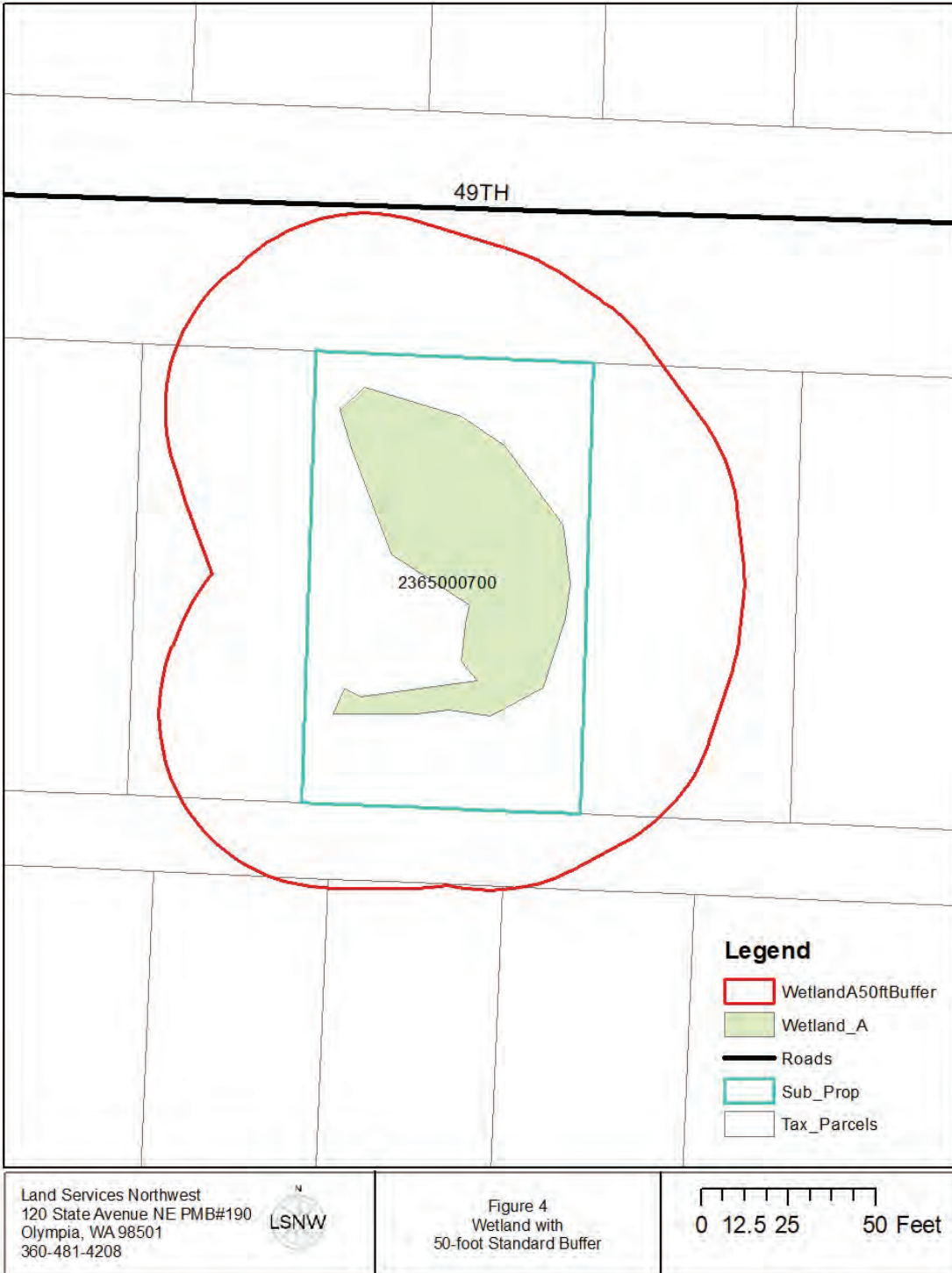


Figure 4 – Wetland with Standard Buffers



As mentioned above, in 30.20.040(e) Activities and uses that result in unavoidable and necessary impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area report and mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives.

The project would be impossible to accomplish without impacts to the wetland due to surrounding development, slopes and other site-specific features, therefore, the project should be allowed.

#### 30.10.240 - Mitigation sequencing.

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

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

The applicant cannot avoid impacts as the wetland encompasses a majority of the lot. In order to provide any reasonable development, fill will be required, and with the existing slopes, the applicant will practicably be required to fill the entire wetland. The city is encouraging the applicant to fully develop the lot as this would be the highest and best use. The city had the lot arsenic issue remediated in order to allow development of the site for this use as the city no longer has any use for this lot.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;

The impacts are limited to what is required to accomplish the purpose of providing a reasonable single-family residence. It is proposed that the applicant will build a 3- bedroom 2,825 square foot residence which is smaller than many of the other homes in the area. This homes' footprint is equivalent to approximately 80% of the wetland. The position of the wetland with regard to site slopes would prevent creation of the wetland in a different position on the property would be unsuccessful. In addition, the need to provide accessible ingress and egress requires the fill of the entire wetland. In order to accomplish this, we will be filling the wetland and tightlining the groundwater hydrology to the existing stormwater culvert.

(c) Rectifying the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by repairing, rehabilitating, or restoring the affected environment to the historical conditions or the conditions existing at the time of the initiation of the project.

There are no opportunities for rectifying the impacts to the wetland with in kind mitigation. The filling of the wetland will prevent future discharge of contaminants to Commencement Bay which is a type of repair to the area maintaining the flow of water without contaminants.

(d) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through engineered or other methods;

The applicant will gather and tightline the water from the hillside seep to the culvert on the north end of the property. The fill will be provided in lifts in order to stabilize the area.

(e) Reducing or eliminating the impact or hazard over time by preservation and maintenance operations during the life of the action;

This will not be possible, however, we will be eliminating the risk of further impacts.

(f) Compensating for the impact to wetlands, critical aquifer recharge areas, frequently flooded areas, and habitat conservation areas by replacing, enhancing, or providing substitute resources or environments; and

Since there is no way to maintain wetland conditions on the site without killing the project. We will be providing upland vegetation in the upland areas and a raingarden for stormwater with wetland vegetation to replace some of the wetland vegetation/habitat functions.

(g) Monitoring the hazard or other required mitigation and taking remedial action when necessary.

No monitoring of the site will be required.

As we have mentioned, the lot will require fill of the onsite wetland A as the entire lot is encumbered.

The applicant will require a reasonable use exception

### 30.10.150 - Exception—Reasonable use.

(a) If the application of this title would deny all reasonable economic use of the subject property, the City shall determine if compensation is an appropriate action, or the property owner may apply for an exception pursuant to this section.

Noted

(b) Exception Request and Review Process. An application for a reasonable use exception shall be made to the City and shall include a critical area identification form; critical area report, including mitigation plan, if necessary; and any other related project documents, such as permit applications to other agencies, special studies, and environmental documents prepared pursuant to the State Environmental Policy Act (Chapter 43.21C RCW) (SEPA documents). The Planning Director shall prepare a recommendation to the hearing examiner based on review of the submitted information, a site inspection, and the proposal's ability to comply with reasonable use exception criteria in Subsection (d).

(c) Hearing Examiner Review. The hearing examiner shall review the application and conduct a public hearing pursuant to the provisions of the applicable City chapter. The hearing examiner shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the reasonable use exception review criteria in Subsection (d).

Noted

(d) Reasonable Use Review Criteria. Criteria for review and approval of reasonable use exceptions follow, one or more may apply:

(1) The application of this title would deny all reasonable economic use of the property;

The site is completely encumbered and the ability to mitigate onsite is limited to out of kind mitigation.

(2) No other reasonable economic use of the property has less impact on the critical area;

The site is zoned for residential use as the highest and best use. No other use would provide a reasonable return on investment. It was subdivided with residential development in mind.

(3) The proposed impact to the critical area is the minimum necessary to allow for reasonable economic use of the property;

Our analysis shows that the wetland must be filled in order to allow reasonable development which we are providing.

(4) The inability of the applicant to derive reasonable economic use of the property is not the result of actions by the applicant after the effective date of this title, or its predecessor;

The applicant has not created the inability to derive economic use of the property by their actions after the effective date of this title, and the Town of Ruston has not either. The Town of Ruston has cleaned up the site to allow this development.

(5) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

The applicant will maintain safe development and will not discharge pollutants or other materials that might threaten the public health safety or welfare on the proposed site. The area has gone through an EPA approved cleanup to maintain safe conditions on this site.

(6) The proposal will result in no net loss of critical area functions and values consistent with the best available science; or

The applicant's proposal contains a mitigation plan which we believe will maintain the critical areas functions and values using an alternative replacement. A functional analysis of the replacement functions supports out assertion that the functions will be maintained, and in some instances improved.

(7) The proposal is consistent with other applicable regulations and standards.

The proposal will be consistent with the Town of Ruston Building Standards and Zoning Codes as well as the critical areas codes.

(e) Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

Alex Callender has over 18 years experience in Critical Areas Code evaluations and mitigation plans.

He is a former Ecology wetland and shoreland specialist and assisted the city with critical areas code interpretations and development. The mitigation we have provided is what is available on the site and will provide no net loss of wetland functions and values.

Table 2 - Summary of Impacts on or in the Vicinity of the Subject Property

Feature	Type/Category	Habitat Points	Size	Standard Buffer	Buffer Impacts	Notes
Wetland A	Slope/Depressional/Category IV	3 LLL	3521.85 sq feet	50 feet	Impacts to the wetland buffers will encompass the entire site	The wetland will be filled.

30.10.270 - Determination process.

The Planning Director shall make a determination as to whether the proposed activity and mitigation, if any, is consistent with the provisions of this title. The Planning Director's determination shall be based on the criteria of Review Criteria, [Section 30.10.280](#).

30.10.280 - Review criteria.

(a) Any alteration to a critical area, unless otherwise provided for in this title, shall be reviewed and approved, approved with conditions, or denied based on the proposal's ability to comply with all of the following criteria:

(1) The proposal minimizes the impact on critical areas in accordance with Mitigation Sequencing, [Section 30.10.240](#);

We have provided a mitigation sequence analysis using the criteria in Section 30.10.240, and given the limited opportunities on this site, we have determined that the impacts are unavoidable, as the wetland and the buffer would completely encumber the property.

(2) The proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site;

The proposal will have less threat to public health safety and welfare as it will no longer allow untreated stormwater to enter the system to discharge to Commencement Bay. This proposal will maintain an onsite out of kind mitigation by maintaining water quality for the public health and safety by prevention of pollution to the waters of the state. In addition, onsite landscaping will use native plants to maintain the vegetation and habitat for animals and macroinvertebrates that will benefit the area. The area did not have significant flood or hydrologic functions so the overall maintenance of onsite stormwater will be consistent with the provisions of this chapter

(3) The proposal is consistent with the general purposes of this title and the public interest;

The general purpose of the title is to maintain no net loss of the functions and values. This is one of the last buildable lots in Ruston in this area and its development will protect the public interest by preventing discharge of sediment laden water to Waters of the State. Vegetation will be maintained through the planting plan and the hydrologic functions of the area will be maintained as the quantity of runoff will remain unchanged to the area.

(4) Any alterations permitted to the critical area are mitigated in accordance with Mitigation Requirements, [Section 30.10.230](#);

30.10.230 - Mitigation requirements.

(a)The applicant shall avoid all impacts that degrade the functions and values of a critical area or areas. Unless otherwise provided in this title, if alteration to the critical area is unavoidable, all adverse impacts to or from critical areas and buffers resulting from a development proposal or alteration shall be mitigated using the best available science in accordance with an approved critical area report and SEPA documents, so as to result in no net loss of critical area functions and values.

The overall development proposal will result in no-net loss of critical areas functions and values using out-of kind mitigation for the limited opportunities that this development allows the applicant. The applicant cannot avoid adverse impacts to the critical area and the buffers and the site will be replanted with native vegetation where available so as to maintain the vegetation functions in the area.

(b)Mitigation shall be in-kind and on site, when possible, and sufficient to maintain the functions and values of the critical area, and to prevent risk from a hazard posed by a critical area.

On site, in-kind mitigation is not possible and if we were to minimize impacts to only the unavoidable impacts, the project would not be viable as there is no practicable way that we can provide a building site that would meet the market demands and still maintain the onsite wetland. We have provided a discussion of how the area will maintain functions and values using substitutes out of kind mitigation for these functions. This should maintain the overall functions of this already severely disturbed and impacted isolated urban wetland fragment.

Wetlands provide many different functions and values, and this wetland was rated using the Wetland Rating System for Western Washington as a Category IV wetland with an overall score of 14 and a habitat score of three. The code allows for impacts to these wetlands; however it requires mitigation of functions and values due to development activities.

(c) Mitigation shall not be implemented until after City approval of a critical area report that includes a mitigation plan, and mitigation shall be in accordance with the provisions of the approved critical area report.

Noted.

(5) The proposal protects the critical area functions and values consistent with the best available science and results in no net loss of critical area functions and values; and

The area has limited opportunities to avoid impacts and mitigate for the few available functions that have been noted and scored with the Wetland Rating System for Western Washington. The functions have been qualitatively maintained in order to improve what all available steps to maintain the functions in accordance with this provision.

(6) The proposal is consistent with other applicable regulations and standards.

The proposed buildings will be consistent with the building standards, stormwater standards, air quality standards and other standards which the city maintains through their regulatory jurisdiction.

(b) The City may condition the proposed activity as necessary to mitigate impacts to critical areas and to conform to the standards required by this title.

Noted

(c) Except as provided for by this title, any project that cannot adequately mitigate its impacts to critical areas in the sequencing order of preferences in Mitigation Sequencing, [Section 30.10.240](#), shall be denied.

We are providing to the best of our knowledge, a mitigation plan that will meet the applicable requirements of the mitigation sequencing in light of the limitations that the site and its attributes will allow.

(d) Type and Location of Mitigation. Unless it is demonstrated that a higher level of ecological functioning would result from an alternate approach, compensatory mitigation for ecological functions shall be either in-kind and on site, or in-kind and within the same stream reach, sub-basin, or drift cell. Mitigation actions shall be conducted within the same subdrainage basin and on the site as the alteration except when all of the following apply:

(1) There are no reasonable on-site or in-subdrainage basin opportunities or on-site and in-subdrainage basin opportunities do not have a high likelihood of success, after a determination of the natural capacity of the site to mitigate for the impacts. Consideration should include anticipated wetland mitigation replacement ratios, buffer conditions and proposed widths, hydro geomorphic classes of on-site wetlands when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity);

The drainage is tightlined and we will replace functions as able using on site out of kind replacement plan which should adequately maintain the few wetland functions and values that remain with this highly impacted wetland.

#### 30.10.290 - Favorable determination.

If the Planning Director determines that the proposed activity meets the criteria in Review Criteria, [Section 30.10.280](#), and complies with the applicable provisions of this title, the Planning Director shall prepare a written notice of determination and identify any required conditions of approval. The notice of determination and conditions of approval shall be included in the project file and be considered in the next phase of the City's review of the proposed activity in accordance with any other applicable codes or regulations.

Any conditions of approval included in a notice of determination shall be attached to the underlying permit or approval. Any subsequent changes to the conditions of approval shall void the previous determination pending re-review of the proposal and conditions of approval by the Planning Director.

A favorable determination should not be construed as endorsement or approval of any underlying permit or approval.

Noted.

#### 30.10.300 - Unfavorable determination.

If the Planning Director determines that a proposed activity does not adequately mitigate its impacts on the critical areas and/or does not comply with the criteria in Review Criteria, [Section 30.10.280](#), and the provisions of this title, the Planning Director shall prepare written notice of the determination that includes findings of noncompliance.

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

Following notice of determination that the proposed activity does not meet the review criteria and/or does not comply with the applicable provisions of this title, the applicant may request consideration of a revised critical area report. If the revision is found to be substantial and relevant to the critical area review, the Planning Director may reopen the critical area review and make a new determination based on the revised report.

## 7.2 Corps Regulations

The Wetland A has culvert to that conveys the hydrology from the site to the Puget Sound, it is not clear if this would be maintained as a Water of the US and regulated under the Clean Water Act.

### 7.3 Ecology Regulations

Under RCW 90.48, the Washington Department of Ecology (DOE) reserves regulatory authority to regulate “waters of the state” under Section 401 of the Clean Water Act.

## 8.0 WILDLIFE

Wildlife observed during the field investigations are typical of urban/suburban adapted species (Table 2). The European starling, possum, racoons, and other species adapted to urbanization may inhabit or visit the site for food and shelter.

No Federally listed, or priority species was observed on the subject property or near the site based on the WDFW Priority Habitats and Species (PHS) and field observations during the reconnaissance and delineation. No evidence of the Marbled Murrelet, or Spotted Owl was observed on-site.

No Federally listed salmonid species are known to occur on-site, based on the WDFW SalmonScope.

No other wildlife was observed during the site visits.

## 9.0 PROPOSED PROJECT

### 9.1 Description

The project consists of a 2,850 square foot 3-bedroom residence with a driveway for ingress and egress. The project will require removal of the existing vegetation in Wetland A and structural fill of the 3,521 sq feet of Wetland A to provide for the 3,800 square feet of overall project area for the home garage, driveway and sidewalks. The project will use city water and sewer and power is at the road (**See Site Plan/ Figure 5**)

### 9.2 Development Impacts

The 3,521 sq ft of impacts are summarized in Table 2. The overall impact area is approximately 3,800 square feet for structures. There are additional impacts to the buffer of the wetland so overall wetland buffer impacts would encompass the remaining 6,842 sq ft due to buffer impacts for a total of impacts 10,642 sq ft of wetland and buffer impacts.

The area of impact consists of forested wetland with a light understory of shrubs and sedges. The project requires elimination of the wetland in order to provide a viable build site.

### 9.3 Impact Avoidance and Minimization

The area that will be cleared for residence, driveway, and a very small yard represents the smallest amount of impact we could have while still maintaining the objective of providing useable housing for the applicant. A mitigation report for the project impacts will be provided that will have a wetland and stream buffer enhancement plan with invasive species removal. This will maintain no net loss of wetland functions.

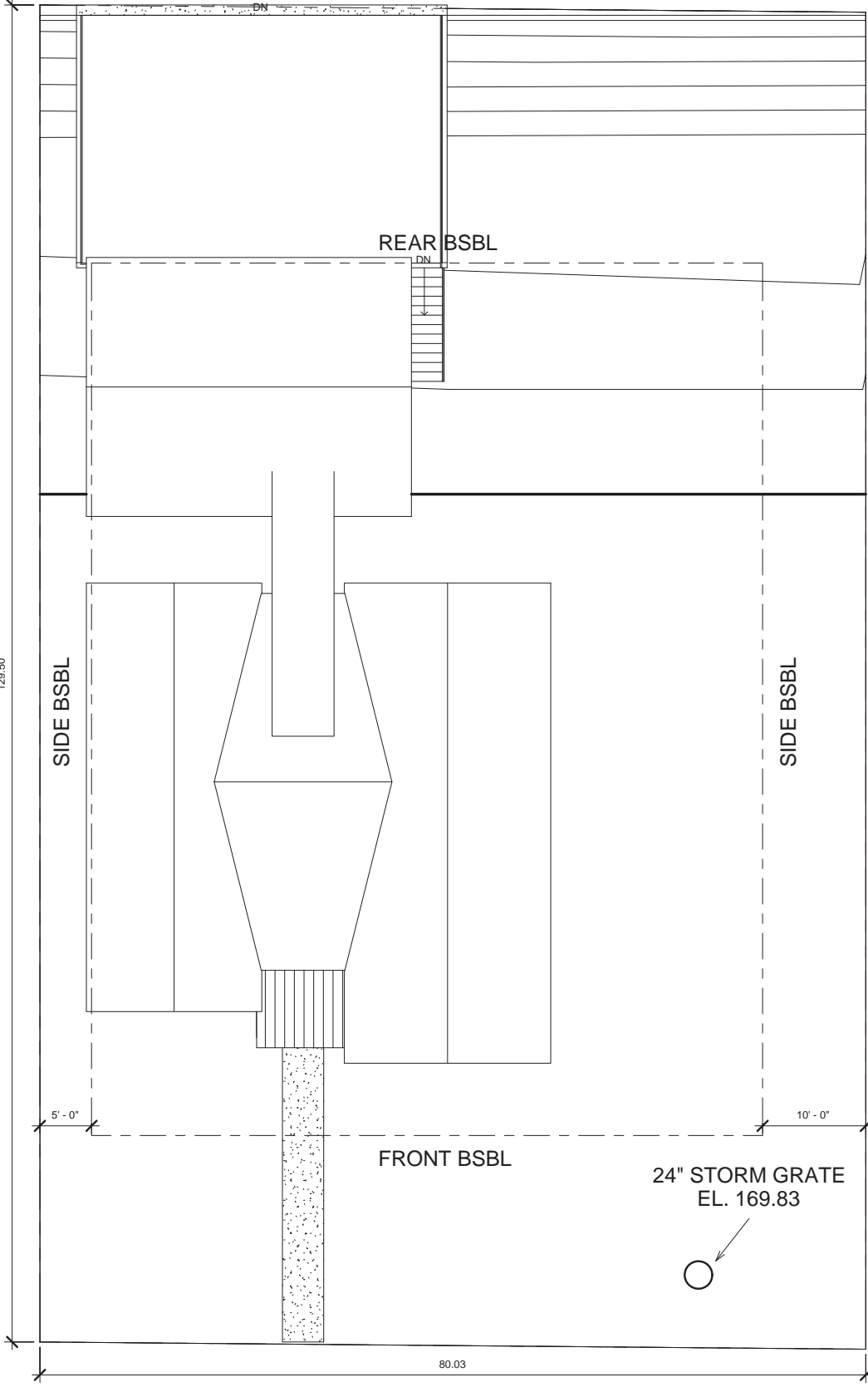
The rest of the property is expected be maintained in a natural vegetation landscape plan that will work in conjunction with the rain gardens that we have outlined. The use of native vegetation in the landscape plan will help to maintain the buffer functions that will be removed with the clearing for the residence and appurtenances.



#### 9.4 Minimization of Water Quality Impacts

Implementing water quality and sedimentation best management practices (BMPs) will act to minimize sedimentation and protect water quality on-site and any bare areas will be planted with a cover crop. Silt fences and straw wattles will be used where necessary. Splash blocks and infiltration galleries will be used to reduce stormwater impacts from the patio. The increase in vegetation from the proposed buffer enhancement plan will provide for increased surface roughness and nutrient uptake.

Insert Figure 5 - Site Plan



Land Services Northwest  
 120 State Avenue NE PMB 190  
 Olympia, WA 98501  
 360-481-4208



Figure 5  
 SITE PLAN

CRAFTSMAN SINGLE-FAMILY RESIDENCE  
 ADDRESS: 5114N49 th Street ,Ruston ,WA 98407  
 PARCEL NUMBER: 2365000700  
 ACREAGE: 10,363 sq ft / .2 acres

Scale: 1" = 10'

## 10.0 Mitigation

### 10.1 No-Net-Loss Mitigation Plan

As mentioned earlier, the wetland will have 3,521 square feet of direct impacts. In addition, the buffer will have 6,842 sq ft of wetland buffer impact.

In order to provide mitigation for the low-quality Category IV wetland, we are recommending on site out of kind mitigation.

The wetland will be filled, and we will maintain the functions of this remaining fragment of the wetland in order to provide the home, driveway, sidewalks and typical appurtenances.

As a feature to the home, the applicant will have raingardens put along the downspouts of the home. These raingardens will improve water quality on onsite habitat. After treatment the stormwater will discharge to the storm drain so the freshwater input from the wetland to Commencement Bay will not diminish. The remaining areas of the property not occupied by the home, or its appurtenances will be planted with native plants in order to maintain the habitat that these plants provide. An analysis of the planting plan and raingardens is provided to show a maintenance of the wetland functions and values. There will be a necessary loss of acreage, but the overall impact should be an improvement over the baseline as shown below.

The following is an examination of the wetland before and after the fill and mitigation. The analysis uses the same functional analysis attributes of high medium or low which is the highest resolution that can be maintain as the Wetland Rating System which has a low, medium and high rating for each of the functions. It was found that this is best way to measure functions while maintaining a relatively fast evaluation.

TABLE 3 - Buffer Functions Comparison Before and After Mitigation

Buffer Performance criteria	Vegetation for Screening	Pollution Prevention	Invasive Species Presence	Hydrologic Attenuation	Pollen	Structure Diversity	Surface roughness	Temperature attenuation	Erosion control
Before mitigating measures	Low	Low	Low (Invasives Present)	Low	Low	Low	Medium	Medium	Low
After mitigating measures	Moderate	Medium	Medium (Invasives Removed)	Moderate	Medium	Medium	High	Medium	High

Scale- Low, Medium, High

The following planting plan is proposed.

Table 4 – Area 1 (190 sq ft)

Common Name	Species	Quantity	Spacing	Cost	Total
<i>Evergreen huckleberry</i>	<i>Vaccinium ovatum</i>	5	15 ft oc	\$10.00	\$50.00
<b>Total</b>		<b>5</b>			<b>\$50.00</b>

Table 5 - Area 2 (981 sq ft)

Common Name	Species	Quantity	Spacing	Cost	Total
Sitka spruce	<i>Picea sitchensis</i>	4	15 ft oc	\$50.00	\$200.00
Salal	<i>Gaultheria shallon</i>	50	5 ft oc	\$2.00	\$100.00
<b>Total</b>		<b>10</b>			<b>\$100.00</b>

Table 6 – Area 3 (824 sq ft)

Common Name	Species	Quantity	Spacing	Cost	Total
Flowering current	<i>Picea sitchensis</i>	4	15 ft oc	\$50.00	\$200.00
Salal	<i>Gaultheria shallon</i>	50	5 ft oc	\$2.00	\$100.00
<b>Total</b>		<b>10</b>			<b>\$300.00</b>

Table 7 - Raingarden Area 4 (836 sq ft)

Common Name	Species	Quantity	Spacing	Cost	Total
Pacific willow	<i>Salix lasiandra</i>	10	15 ft oc	\$10.00	\$100.00
Twinberry	<i>Lonicera Involucrata</i>	5	15 ft oc	10.00	\$50.00
Pacific ninebark	<i>Physocarpa capitatus</i>	5	8 ft oc	\$10.00	\$50.00
Slough sedge	<i>Carex obnuta</i>	100	5ft oc	\$1.00	\$100.00
<b>Total</b>		<b>120</b>			<b>\$300.00</b>

Table 8 -Area 5 (1176 sq ft)

Common Name	Species	Quantity	Spacing	Cost	Total
Salmonberry	<i>Salix lasiandra</i>	10	15 ft oc	\$10.00	\$100.00
Blackcap raspberry	<i>Lonicera Involucrata</i>	5	15 ft oc	10.00	\$50.00
Red elderberry	<i>Physocarpa capitatus</i>	5	8 ft oc	\$10.00	\$50.00
Oregon grape	Mahonia nervosa	10	5ft oc	\$10.00	\$100.00
<b>Total</b>		<b>30</b>			<b>\$300.00</b>

Table 9 - Area 6 (445 sq ft)

Common Name	Species	Quantity	Spacing	Cost	Total
Vine maple	<i>Acer circinatum</i>	10	15 ft oc	\$10.00	\$100.00
<b>Total</b>		<b>20</b>			<b>\$100.00</b>

Table 10 – Area 7 (982sq ft)

Common Name	Species	Quantity	Spacing	Cost	Total
Nootka rose	<i>Rosa Nutkana</i>	20	15 ft oc	\$10.00	\$200.00
<b>Total</b>		<b>20</b>			<b>\$200.00</b>

Table 11 – Area 8 (982 sq ft)

Common Name	Species	Quantity	Spacing	Cost	Total
Quaking aspen	<i>Populous tremuloides</i>	20	15 ft oc	\$10.00	\$200.00
<b>Total</b>		<b>20</b>			<b>\$200.00</b>

Table 3- Total Costs

Labor		\$1,500.00
Mulch	\$100/5 yards	\$200.00
Monitoring w/report (5 years)	500.00/yr.	\$2500.00
Plants and Materials		\$1550.00
<b>Total</b>		<b>\$5,750.00</b>

Insert Figure 6 – Mitigation Plan



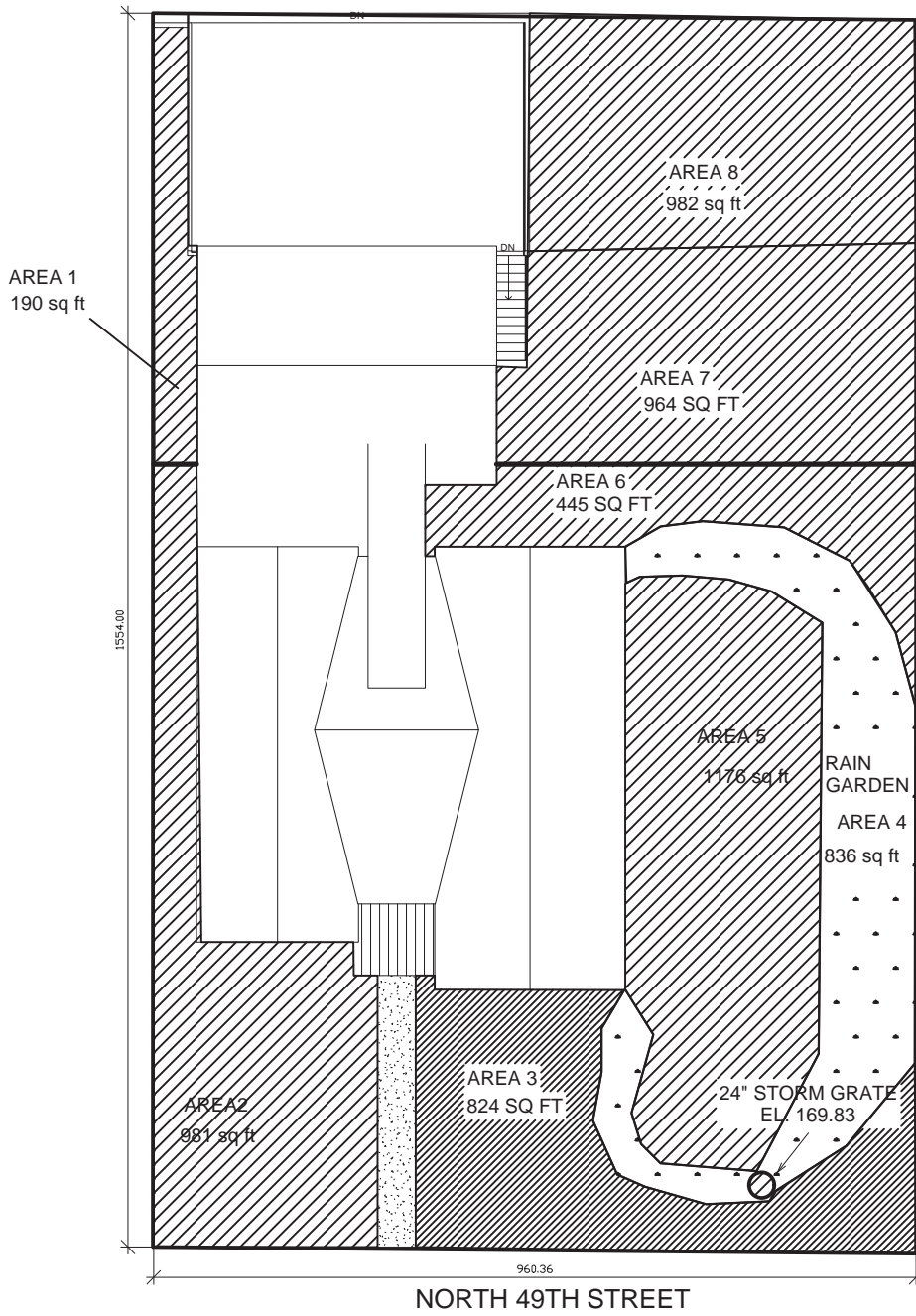
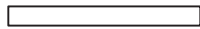


Figure 6  
Mitigation Planting Plan



Scale: 1" = 20'



MITIGATION PLANTING AREA (4,738 SQ FT TOTAL)

## 10.2 Installation

Plants will be sourced from a reputable nursery and will consist of native plants (no cultivars allowed). No fertilizer is proposed, but mulch shall be used to promote moisture retention. All plants will be inspected prior to installation and any plants that appear to be in bad health will be returned and replaced with thriving plants.

Trees will be planted at grade in holes 2-3 times the width of the container or root ball. Mulch shall be applied around each tree 2-4 inches deep around the tree with an edge to retain water. Rootbound trees will be cut with sharp shears on the bottom in an x pattern to promote root growth. Four cuts will be made vertically to allow roots to spread. Trees will be thoroughly watered in after installation. Shrubs will be installed in a similar manner.

Circular pits 6 inches wide will be dug for all groundcover. Rootballs will be thoroughly soaked prior to installation. Plants will be planted at grade. A ring of soil around each plant will be made to prevent drying.

The species selected are typical native northwest species that usually survive our summers, however it may be necessary to irrigate during the first two years to ensure survival.

## 10.3 Performance Measures

The following performance measures will determine whether or not the project is successful.

### Monitoring and Management

Monitoring will be conducted in the early spring for a period of five years, shortly after leaf-out to assure proper identification of plants. Reports will be sent out within 1 month of monitoring and management actions like weeding spraying with herbicide will occur during the early summer while replanting is needed will occur in the fall.

8 Photo points will be set in year zero or as built and pictures will be taken that show the plant condition in four cardinal directions to give a general view of the overall project health and coverage.

### Survival

Survival will be 100% for years 1 and two. 80% counting up to 10 percent native volunteers toward the total by year five. If dead or dying trees, shrubs or herbaceous groundcover is found, it will be replaced in year two. If mortality is greater than 20% in year five, the dead plants will be replaced, and the site will be monitored for one more year.

### Invasive Plants

The site will be monitored for invasive species within the designated planting area which will be determined during the as-built. Invasive species will be removed by hand unless a herbicidal treatment is necessary for removal as determined by the applicant. Herbicide will be applied during the dry summer months according to the recommendations found in the King County Noxious Weed Control Program BMP's. No invasive species will total more than 20% aerial coverage in the planting area although it is expected that it will be much less.

### Contingencies

If it appears that plant species survival standards are not being met, contingencies such as watering, species replacement, or other contingencies may be implemented upon approval by Pierce County Planning and Public Works.

## 11.0 CONCLUSIONS

The project is a single-family residence with a garage and driveway using city sewer and water. The project will directly impact an 3,521 square feet of onsite wetlands and the remaining portion of the site which consists of the wetland buffer; however, there will be mitigation using upland native vegetation plantings and raingardens which will provide mitigation in the remaining available areas to meet help meet the no net loss provisions of the code and should result in a proper single-family residential lot to support the reasonable use exception with the amenities provided by the natural resources of the Town of Ruston.

## 12.0 LIMITATIONS

This report was created with care and best professional judgment using the currently accepted best available science, but the report is subject to interpretation by local state and federal regulators who have the final regulatory authority on wetlands and other critical area boundary determinations. No outcomes are warranted by this report.

# Appendix A

## Photographs



## Looking North







## South Bank





## Invasive Himalayan blackberry



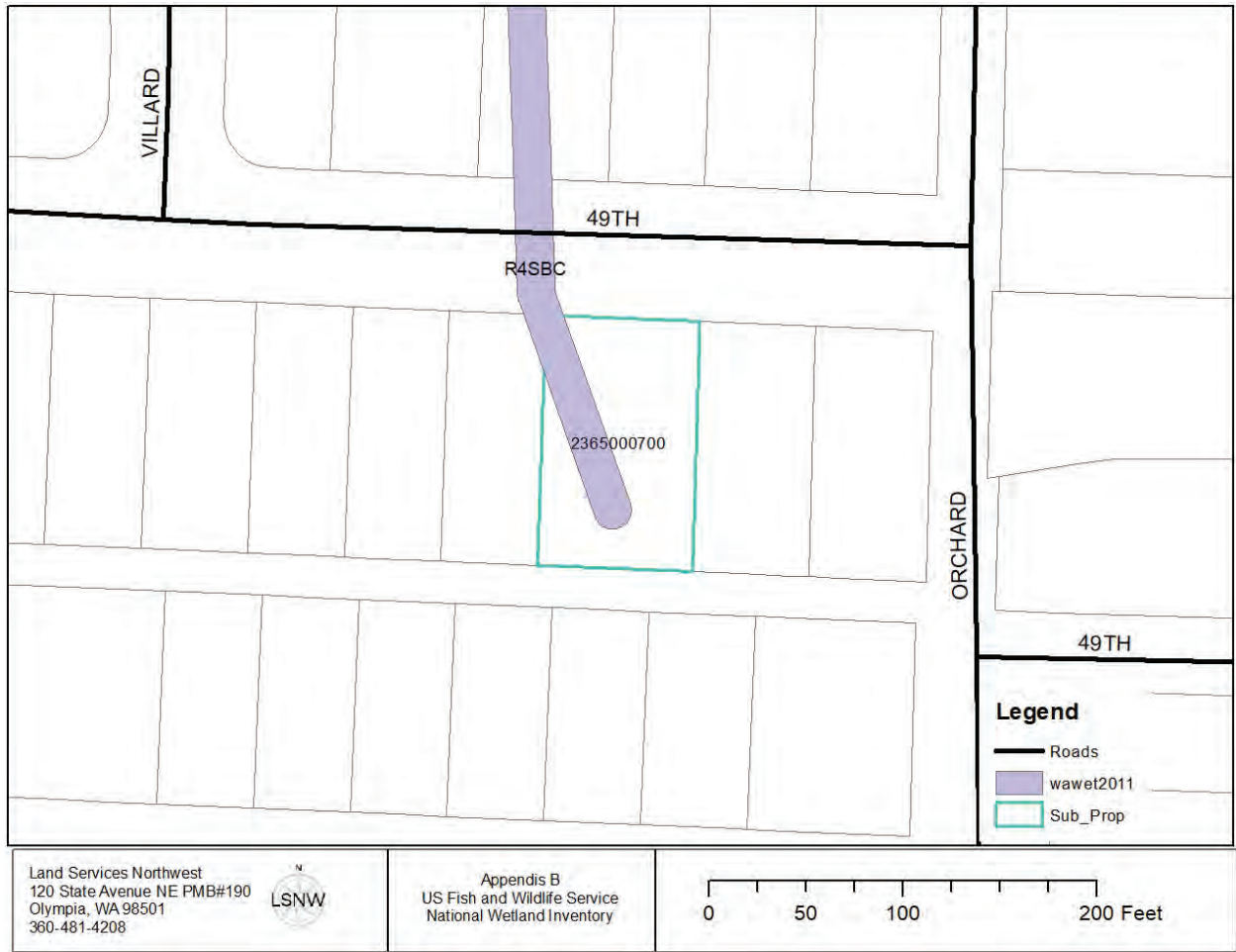




LSNW  
Craftsmen  
T1  
07.23.2022 01:21 PM  
47.29471, -122.50581  
5114 N 49th St, Ruston, WA 98407, USA

## APPENDIX B

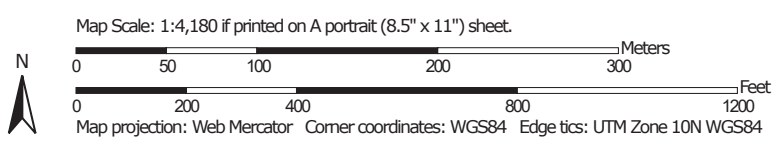
# US FISH AND WILDLIFE SERVICE NATIONAL WETLAND INVENTORY



## APPENDIX C





































### WADNR Forest Practices Stream Type Map

Soil Map—City of Tacoma, Washington  
(Appendix C - Soil Survey Pierce County)



Soil Map—City of Tacoma, Washington  
(Appendix C - Soil Survey Pierce County)

### MAP LEGEND

- |                               |   |                        |   |                       |
|-------------------------------|---|------------------------|---|-----------------------|
| <b>Area of Interest (AOI)</b> |    | Area of Interest (AOI) |    | Spoil Area            |
| <b>Soils</b>                  |    | Soil Map Unit Polygons |    | Stony Spot            |
|                               |    | Soil Map Unit Lines    |    | Very Stony Spot       |
|                               |    | Soil Map Unit Points   |    | Wet Spot              |
| <b>Special Point Features</b> |    | Blowout                |    | Other                 |
|                               |    | Borrow Pit             |    | Special Line Features |
|                               |    | Clay Spot              | <b>Water Features</b>   |                       |
|                               |    | Closed Depression      |    | Streams and Canals    |
|                               |   | Gravel Pit             | <b>Transportation</b>   |                       |
|                               |  | Gravelly Spot          |    | Rails                 |
|                               |  | Landfill               |    | Interstate Highways   |
|                               |  | Lava Flow              |  | US Routes             |
|                               |  | Marsh or swamp         |  | Major Roads           |
|                               |  | Mine or Quarry         |  | Local Roads           |
|                               |  | Miscellaneous Water    | <b>Background</b>   |                       |
|                               |  | Perennial Water        |  | Aerial Photography    |
|                               |  | Rock Outcrop           |   |                       |
|                               |  | Saline Spot            |   |                       |
|                               |  | Sandy Spot             |   |                       |
|                               |  | Severely Eroded Spot   |   |                       |
|                               |  | Sinkhole               |   |                       |
|                               |  | Slide or Slip          |   |                       |
|                               |  | Sodic Spot             |   |                       |

### MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.  
Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
Web Soil Survey URL:  
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: City of Tacoma, Washington  
Survey Area Data: Version 5, Sep 8, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Aug 5, 2020—Aug 10, 2020

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

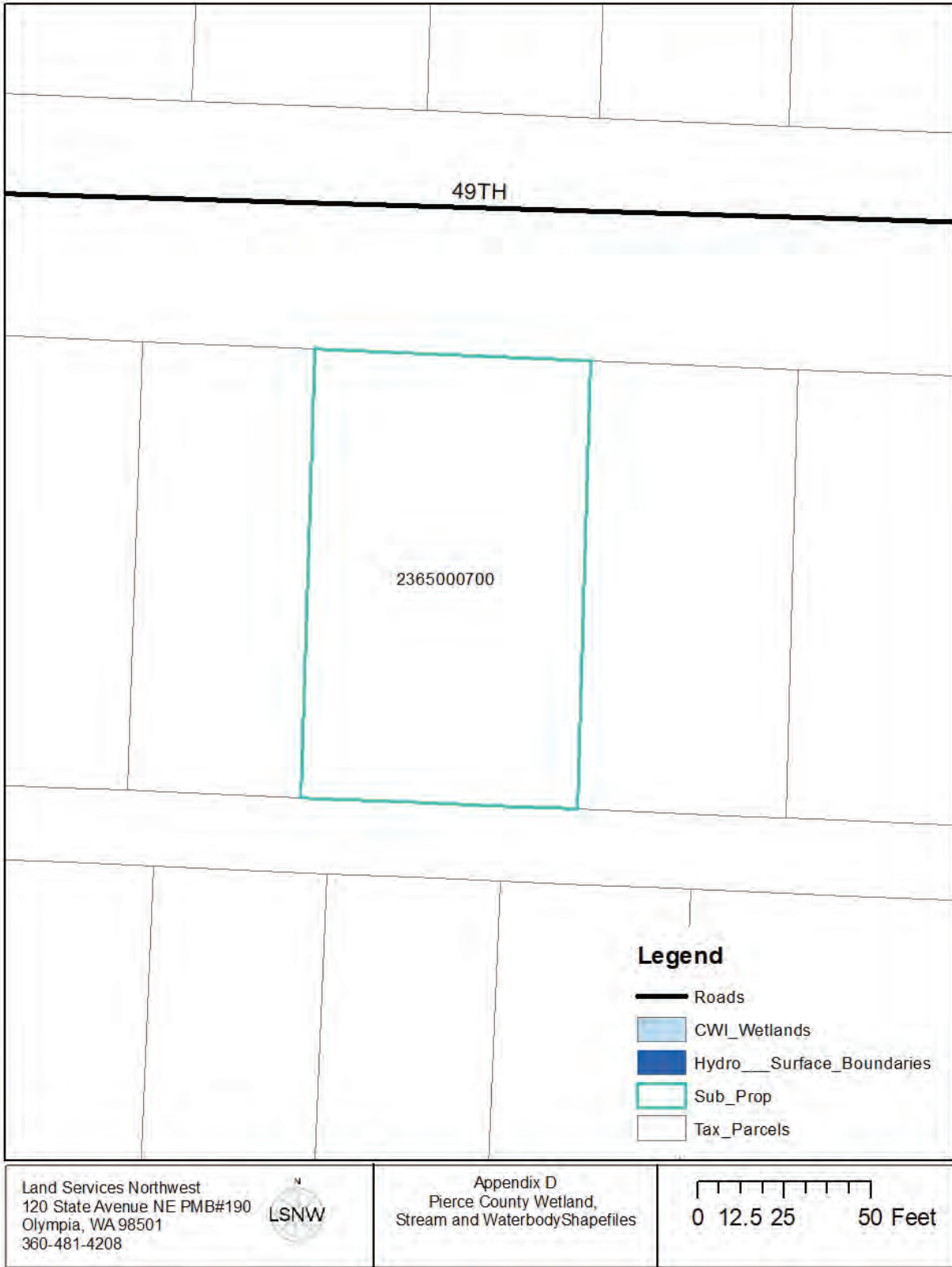


## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
988	Urban land, 0 to 5 percent slopes	11.5	12.1%
3055	Urban land-Alderwood complex, 0 to 5 percent slopes	15.6	16.4%
3056	Urban land-Alderwood complex, 5 to 12 percent slopes	39.4	41.4%
3057	Urban land-Alderwood complex, 12 to 35 percent slopes	14.7	15.5%
3063	Alderwood-Everett complex, 35 to 60 percent slopes	0.4	0.4%
4012	Alderwood-Kitsap complex, 12 to 60 percent slopes	13.5	14.2%
<b>Totals for Area of Interest</b>		<b>95.2</b>	<b>100.0%</b>

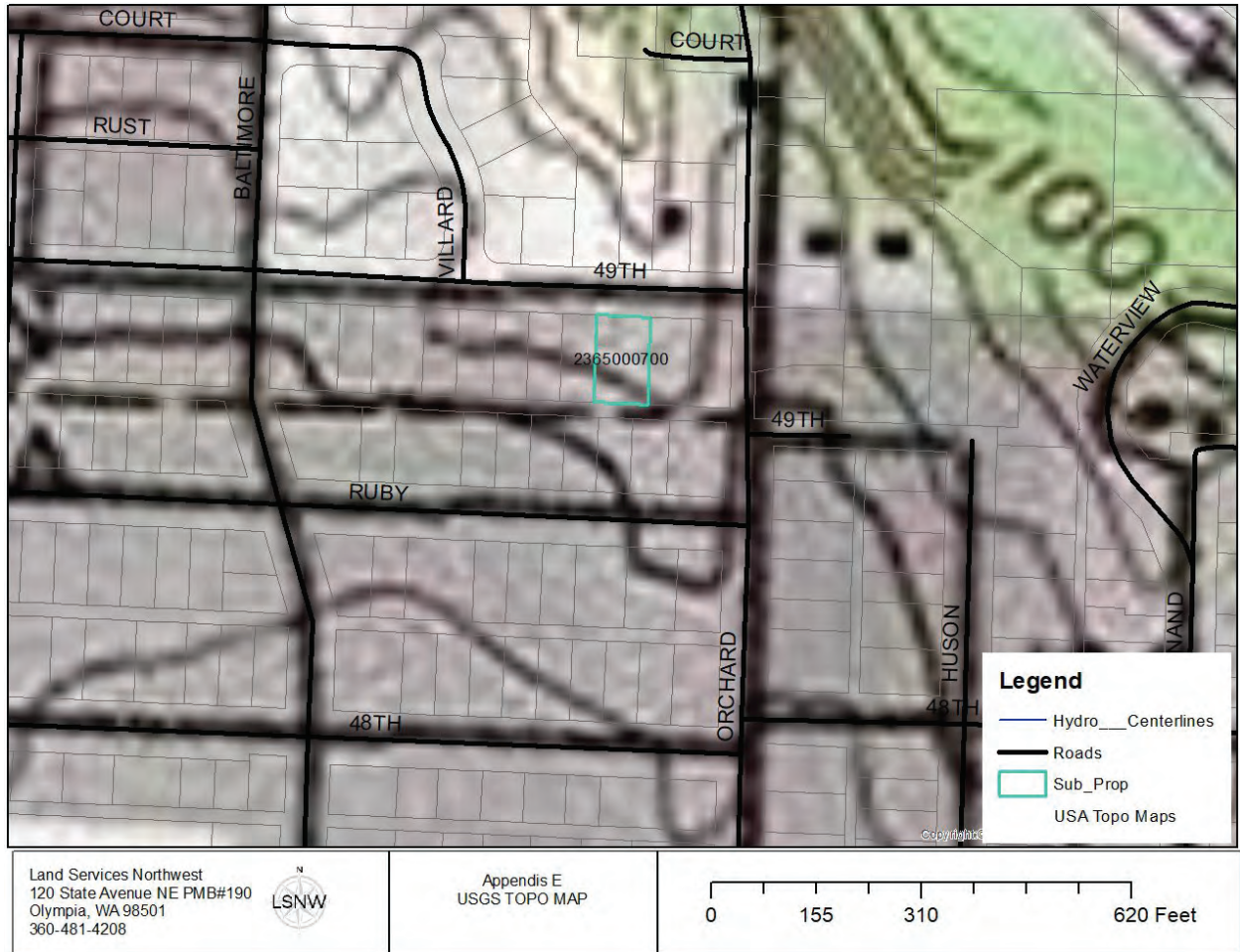
APPENDIX D

PIERCECOUNTY  
WETLAND, STREAM,  
AND WATERBODY SHAPEFILE MAP



## APPENDIX E

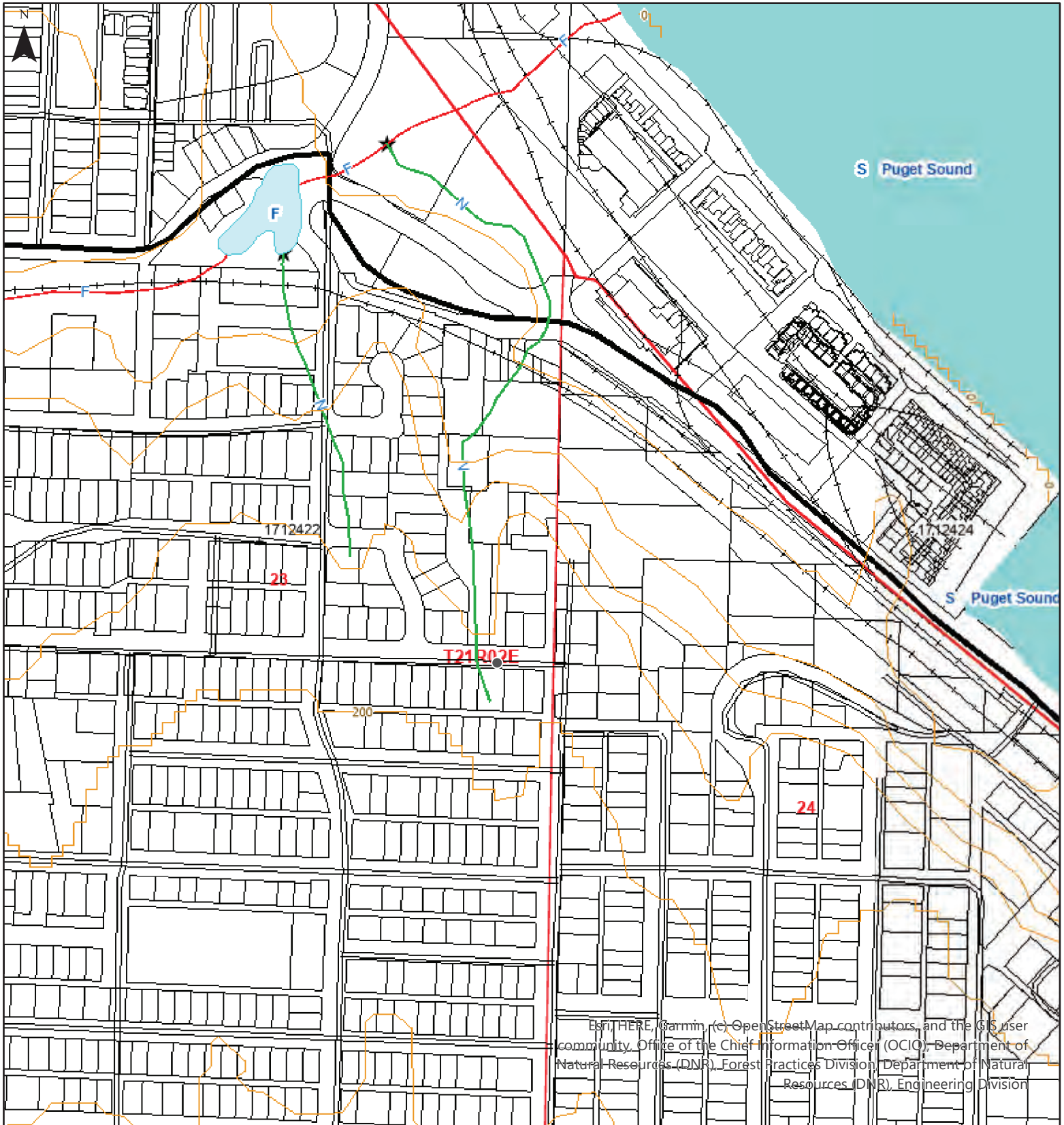
### USGS 7.5 MINUTE TOPOGRAPHIC MAP











## APPENDIX F

# WADNR Forest Practices Stream Type Map

# Forest Practices Water Type Map



### Map Symbols

-  New Stream
-  Proposed Water Type
-  Stream Removal
-  Break between water types
-  Start and End Point of Surveyed Reach
-  Natural Fish Barrier
-  Manmade Barrier
-  End of Fish or Last Fish

### Additional Information

5114 N. 49th Street, Ruston, WA 98407

### Legal Description



































S23 T21.0N R02.0E, S24 T21.0N R02.0E



Extreme care was used during the compilation of this map to ensure its accuracy. However, due to changes in data and the need to rely on outside information, the Department of Natural Resources cannot accept responsibility for errors or omissions, and therefore, there are no warranties that accompany this material.

Approximate Scale : 1:4,800  
 0 200 400 800 Feet  
 Date: 11/21/2022 Time: 10:50 PM

# Legend

	County Boundaries		Open Saltwater		Railroad Grade
	40 ft. Contours		Artificial Feature		Paved Road
	Type A Wetland		Type S		Unpaved Road/Surface
	Type B Wetland		Type F		Unknown
	Forested Wetland		Type N, Np, Ns		Abandoned
	Other Wetland		U, unknown		Orphaned
	WAUs		X, non-typed per WAC 222-16		Water Type Breaks (FP)
	Other Impoundments		WRIA Boundaries		Map Registration Tics
	Open Freshwater		WTMF - PDFs (FP)		Public Land Survey Sections
	Subject to Inundation		Trail		Public Land Survey Townships
	Glacier / Snowfield		Railroad		County Tax Parcels
	Wet Area				



## APPENDIX G

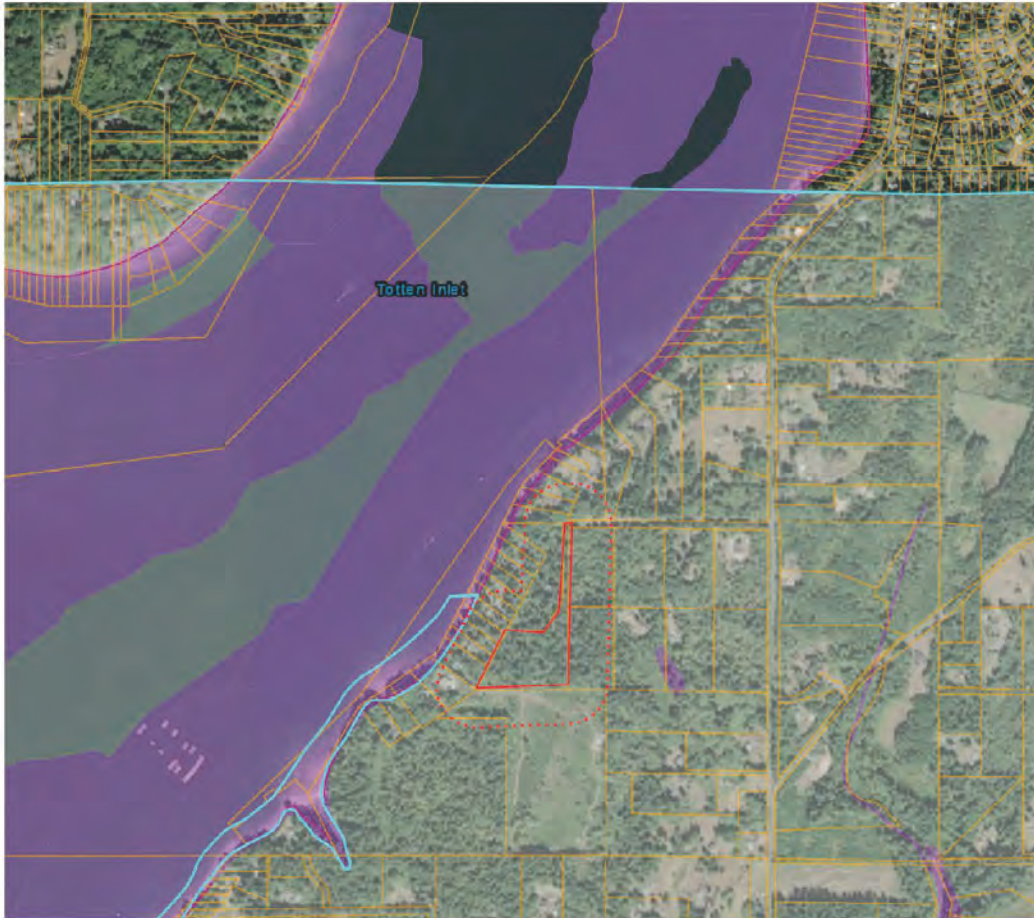
### WDFW PRIORITY HABITATS AND SPECIES SALMONSCAPE AND FORGE FISH MAPS

11/3/21, 2:20 PM

PHS Report



## Priority Habitats and Species on the Web



**Buffer radius: 310 Feet**

**Report Date: 11/03/2021**

**PHS Species/Habitats Overview:**

Occurrence Name	Federal Status	State Status	Sensitive Location
Estuarine and Marine Wetland	N/A	N/A	No
Big brown bat	N/A	N/A	Yes
Little Brown Bat	N/A	N/A	Yes

1/3

11/3/21, 2:20 PM

PHS Report

**PHS Species/Habitats Details:**

Estuarine and Marine Wetland	
Priority Area	Aquatic Habitat
Site Name	N/A
Accuracy	NA
Notes	Wetland System: Estuarine and Marine Wetland - NWI Code: E2AB/USN
Source Dataset	NWetlands
Source Name	Not Given
Source Entity	US Fish and Wildlife Service
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS Listed Occurrence
Sensitive	N
SGCN	N
Display Resolution	AS MAPPED
ManagementRecommendations	<a href="http://www.ecy.wa.gov/programs/sea/wetlands/bas/index.html">http://www.ecy.wa.gov/programs/sea/wetlands/bas/index.html</a>
Geometry Type	Polygons

Big brown bat	
Scientific Name	<i>Eptesicus fuscus</i>
Notes	This polygon mask represents one or more records of the above species or habitat occurrence. Contact PHS Data Release (360-902-2543) for obtaining information about masked sensitive species and habitats.
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS Listed Occurrence
Sensitive	Y
SGCN	N
Display Resolution	TOWNSHIP
ManagementRecommendations	<a href="http://wdfw.wa.gov/publications/pub.php?id=00605">http://wdfw.wa.gov/publications/pub.php?id=00605</a>

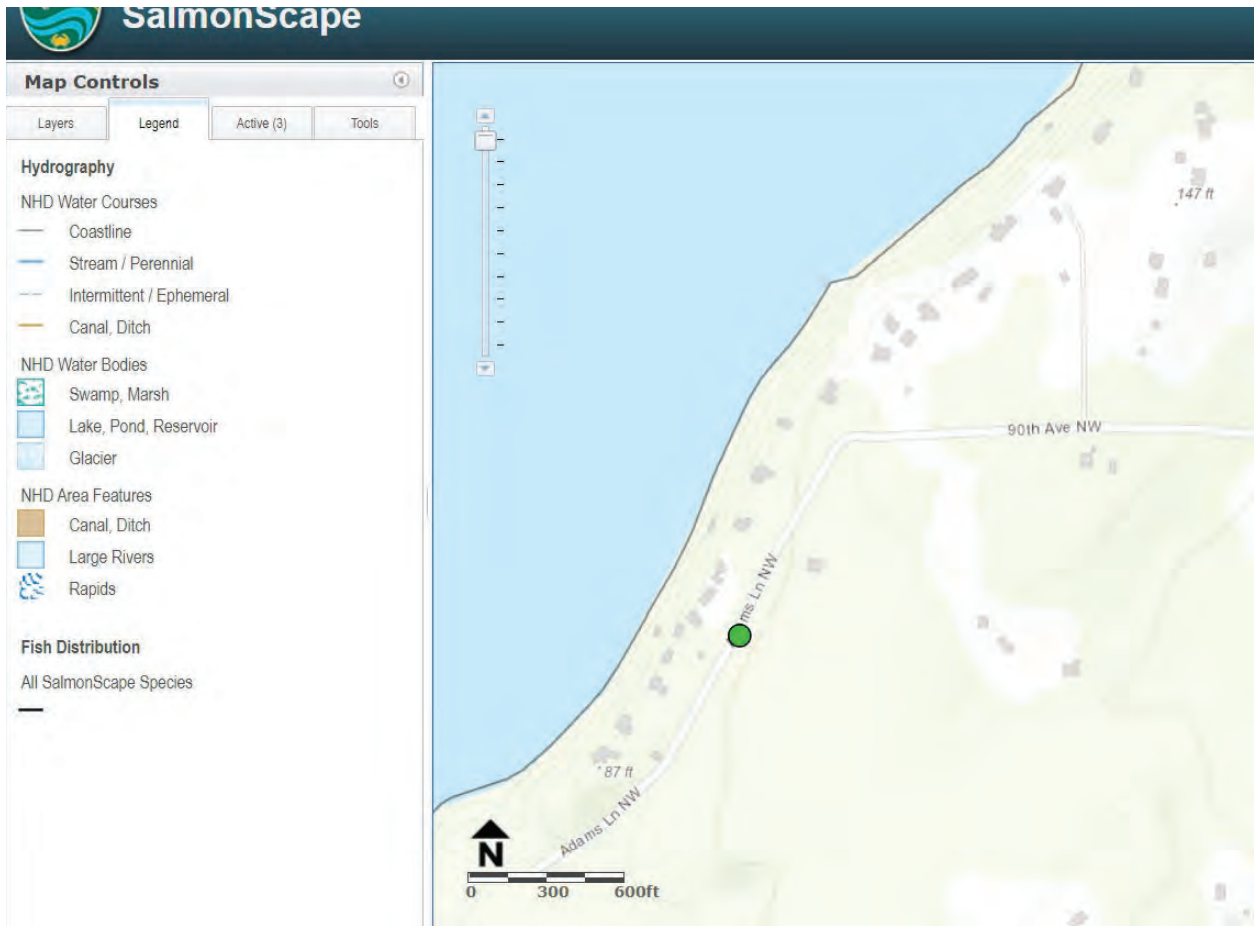
Little Brown Bat	
Scientific Name	<i>Myotis lucifugus</i>
Notes	This polygon mask represents one or more records of the above species or habitat occurrence. Contact PHS Data Release (360-902-2543) for obtaining information about masked sensitive species and habitats.
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS Listed Occurrence
Sensitive	Y
SGCN	N
Display Resolution	TOWNSHIP
ManagementRecommendations	<a href="http://wdfw.wa.gov/publications/pub.php?id=00605">http://wdfw.wa.gov/publications/pub.php?id=00605</a>

2/3

11/3/21, 2:20 PM

PHS Report

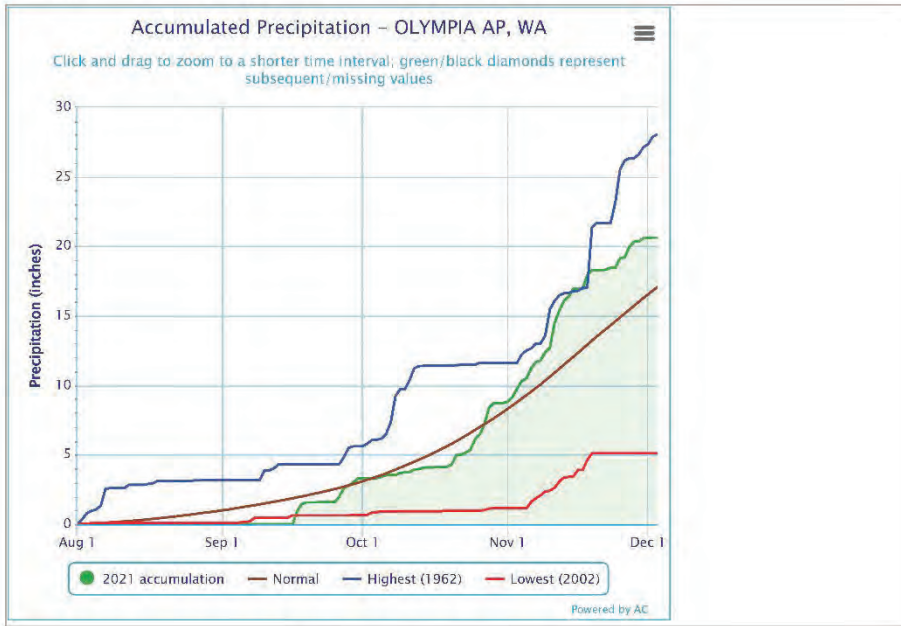
DISCLAIMER: This report includes information that the Washington Department of Fish and Wildlife (WDFW) maintains in a central computer database. It is not an attempt to provide you with an official agency response as to the impacts of your project on fish and wildlife. This information only documents the location of fish and wildlife resources to the best of our knowledge. It is not a complete inventory and it is important to note that fish and wildlife resources may occur in areas not currently known to WDFW biologists, or in areas for which comprehensive surveys have not been conducted. Site specific surveys are frequently necessary to rule out the presence of priority resources. Locations of fish and wildlife resources are subject to variation caused by disturbance, changes in season and weather, and other factors. WDFW does not recommend using reports more than six months old.



## APPENDIX H

### NOAA NOW PRECIPITATION DATA

3/3/22, 1:18 AM



Note regarding subsequent/missing values

## APPENDIX J

### WETLAND DATA SHEETS



# WETLAND DETERMINATION DATA FORM – Western Mountains, Valleys, and Coast Region

Project/Site: Craftsman SingleFamily City/County: Thurston Sampling Date: 2.5.22  
 Applicant/Owner: Craftsman Consulting State: WA Sampling Point: TP1  
 Investigator(s): Alex Callender Section, Township, Range: Section 23 Township 21 Range 02  
 Landform (hillslope, terrace, etc.): depression Local relief (concave, convex, none): concave Slope (%): 2  
 Subregion (LRR): 2 Lat: \_\_\_\_\_ Long: \_\_\_\_\_ Datum: Wgs84  
 Soil Map Unit Name: None NWI classification: None  
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes  No  (If no, explain in Remarks.)  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ significantly disturbed? Yes  No   
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	x	<b>Is the Sampled Area within a Wetland?</b>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Hydric Soil Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Wetland Hydrology Present?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>				
Remarks:						

## VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: <u>30</u> )	Absolute % Cover	Dominant Species?	Indicator Status	
1. <u>Alnus rubra</u>	75	Yes	FAC	<b>Dominance Test worksheet:</b> Number of Dominant Species That Are OBL, FACW, or FAC: <u>3</u> (A) Total Number of Dominant Species Across All Strata: <u>3</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100</u> (A/B)
2. _____				
3. _____				
4. _____				
_____ = Total Cover				<b>Prevalence Index worksheet:</b> Total % Cover of: _____ Multiply by: OBL species _____ x 1 = _____ FACW species _____ x 2 = _____ FAC species _____ x 3 = _____ FACU species _____ x 4 = _____ UPL species _____ x 5 = _____ Column Totals: _____ (A) _____ (B) Prevalence Index = B/A = _____
<b>Sapling/Shrub Stratum (Plot size: <u>15</u> )</b>				
1. <u>Rubus armeniacus</u>	15	Yes	FAC	
2. _____				
3. _____				
4. _____				
5. _____				
_____ = Total Cover				
<b>Herb Stratum (Plot size: <u>15</u> )</b>				
1. <u>Carex obnupta</u>	95	Yes	OBL	
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
11. _____				
95 = Total Cover				
<b>Woody Vine Stratum (Plot size: _____ )</b>				
1. _____				
2. _____				
_____ = Total Cover				
% Bare Ground in Herb Stratum _____				
<b>Hydrophytic Vegetation Indicators:</b> <input type="checkbox"/> 1 - Rapid Test for Hydrophytic Vegetation <input type="checkbox"/> 2 - Dominance Test is >50% <input type="checkbox"/> 3 - Prevalence Index is ≤3.0 <sup>1</sup> <input type="checkbox"/> 4 - Morphological Adaptations <sup>1</sup> (Provide supporting data in Remarks or on a separate sheet) <input type="checkbox"/> 5 - Wetland Non-Vascular Plants <sup>1</sup> <input type="checkbox"/> Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)				
<sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.				
<b>Hydrophytic Vegetation Present?</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>				
Remarks: 100% FAC or Wetter				



# WETLAND DETERMINATION DATA FORM – Western Mountains, Valleys, and Coast Region

Project/Site: Craftsman SingleFamily City/County: Thurston Sampling Date: 2.5.22  
 Applicant/Owner: Craftsman Consulting State: WA Sampling Point: TP2  
 Investigator(s): Alex Callender Section, Township, Range: Section 23 Township 21 Range 02  
 Landform (hillslope, terrace, etc.): depression Local relief (concave, convex, none): concave Slope (%): 2  
 Subregion (LRR): 2 Lat: \_\_\_\_\_ Long: \_\_\_\_\_ Datum: Wgs84  
 Soil Map Unit Name: None NWI classification: None  
 Are climatic / hydrologic conditions on the site typical for this time of year? Yes  No  (If no, explain in Remarks.)  
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ significantly disturbed? Yes  No   
 Are Vegetation \_\_\_\_\_, Soil \_\_\_\_\_, or Hydrology \_\_\_\_\_ naturally problematic? (If needed, explain any answers in Remarks.)

## SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes <input checked="" type="checkbox"/>	N <input type="checkbox"/>	Is the Sampled Area within a Wetland? Yes _____ No <input checked="" type="checkbox"/>
Hydric Soil Present?	Yes _____	N <input checked="" type="checkbox"/>	
Wetland Hydrology Present?	Yes _____	N <input checked="" type="checkbox"/>	
Remarks:			

## VEGETATION – Use scientific names of plants.

Tree Stratum (Plot size: <u>30</u> )	Absolute % Cover	Dominant Species?	Indicator Status	Dominance Test worksheet:		
1. <u>Alnus rubra</u>	85	Yes	FAC	Number of Dominant Species That Are OBL, FACW, or FAC:	<u>2</u> (A)	
2. _____				Total Number of Dominant Species Across All Strata:	<u>2</u> (B)	
3. _____				Percent of Dominant Species That Are OBL, FACW, or FAC:	<u>100</u> (A/B)	
4. _____						
_____ = Total Cover						
Sapling/Shrub Stratum (Plot size: <u>15</u> )	Absolute % Cover	Dominant Species?	Indicator Status	Prevalence Index worksheet:		
1. _____						Total % Cover of:
2. _____				OBL species	_____ x 1 = _____	
3. _____				FACW species	_____ x 2 = _____	
4. _____				FAC species	_____ x 3 = _____	
5. _____				FACU species	_____ x 4 = _____	
_____ = Total Cover				UPL species	_____ x 5 = _____	
				Column Totals:	_____ (A) _____ (B)	
				Prevalence Index = B/A =	_____	
Herb Stratum (Plot size: <u>15</u> )	Absolute % Cover	Dominant Species?	Indicator Status	Hydrophytic Vegetation Indicators:		
1. <u>Festuca rubra</u>	95	Yes	FAC			<input type="checkbox"/> 1 - Rapid Test for Hydrophytic Vegetation
2. _____						<input type="checkbox"/> 2 - Dominance Test is >50%
3. _____						<input type="checkbox"/> 3 - Prevalence Index is ≤3.0 <sup>1</sup>
4. _____						<input type="checkbox"/> 4 - Morphological Adaptations <sup>1</sup> (Provide supporting data in Remarks or on a separate sheet)
5. _____						<input type="checkbox"/> 5 - Wetland Non-Vascular Plants <sup>1</sup>
6. _____						<input type="checkbox"/> Problematic Hydrophytic Vegetation <sup>1</sup> (Explain)
7. _____						<sup>1</sup> Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.
8. _____						
9. _____						
10. _____						
11. _____						
95 = Total Cover						
Woody Vine Stratum (Plot size: _____ )	Absolute % Cover	Dominant Species?	Indicator Status	Hydrophytic Vegetation Present? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
1. _____						
2. _____						
_____ = Total Cover						
% Bare Ground in Herb Stratum _____						
Remarks: 100% FAC or Wetter						



## APPENDIX K

# WETLAND RATING SYSTEM FOR WESTERN WASHINGTON

Land Use Calculations

	ACRES	%		
1KM	797			
Wetland A	0.080831			
1KM-Wetland A	796.9192	100		
High Intensity	607	0.761683	76.16833	
Relatively Undisturbed	23.5466	0.029547	2.954704	
Low Medium Use	166.3726	0.20877	20.87697	
Accessible Habitat	2.25108	0.002824		
Wetland A	0.080831			
Accessible Habitat-Wet A	2.170249	0.002723		
RU	0	0	0	
Low/Medium LU	0.2	1.42E-05	0.001418	
High Intensity	2.159169	0.002709	0.270912	



**Legend**

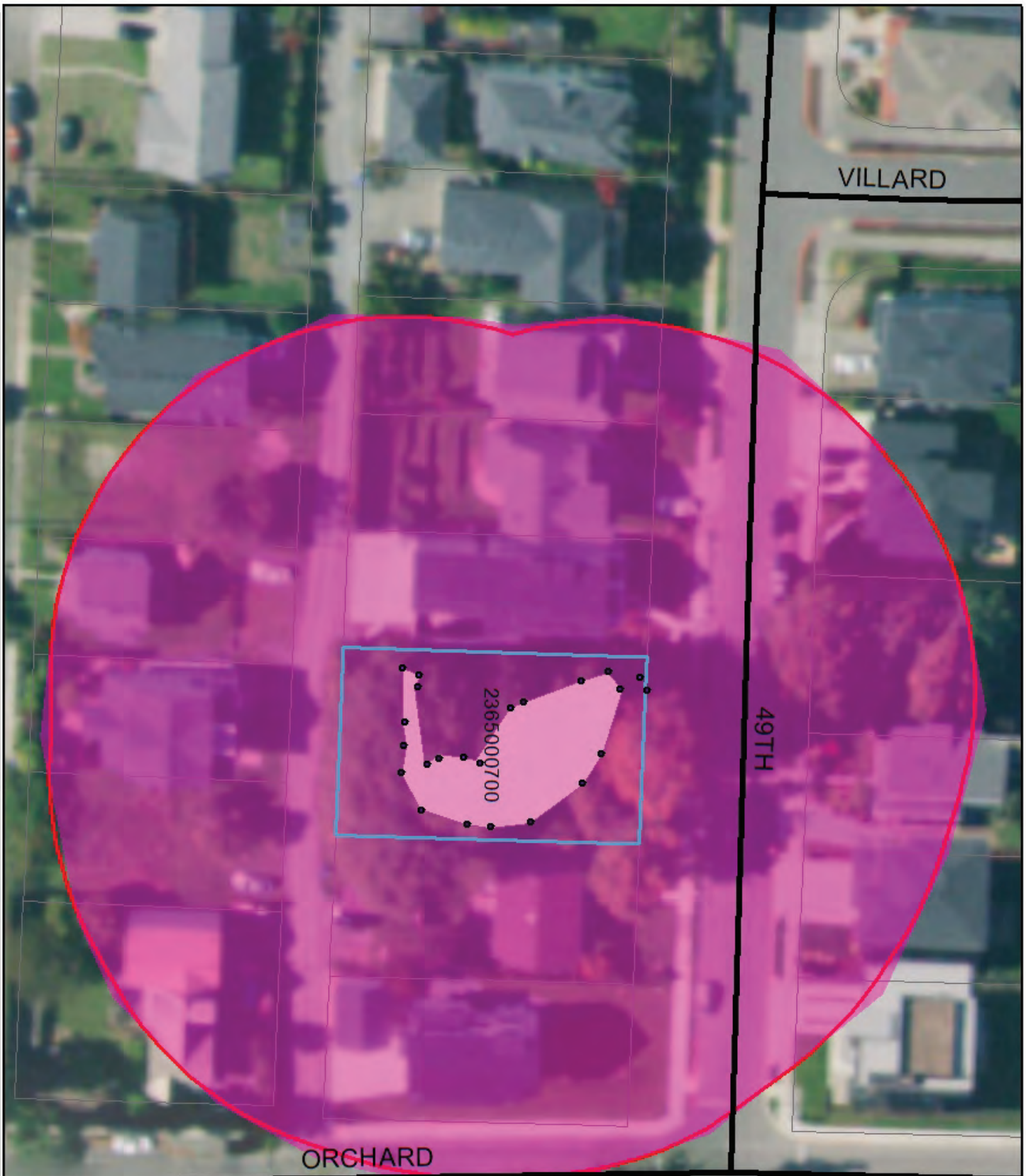
- gps:2wpts252022
- Roads
- 1KMWeta
- RelUndist
- high\_Int
- Access\_Hab
- Wetland\_A
- Sub\_Prop

Land Services Northwest  
 120 State Avenue NE PMB#190  
 Olympia, WA 98501  
 360-481-4208



1KM Land Use Map  
 Parcel # 2365000700  
 5114 N 49TH ST (Not a Survey)





VILLARD

49TH

ORCHARD

2365000700

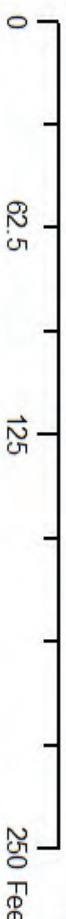
**Legend**

- gps2wpts252022
- Roads
- PollutionGenLandUse
- 150ftWeta
- Wetland\_A
- Sub\_Prop

Land Services Northwest  
 120 State Avenue NE PMB#190  
 Olympia, WA 98501  
 360-481-4208

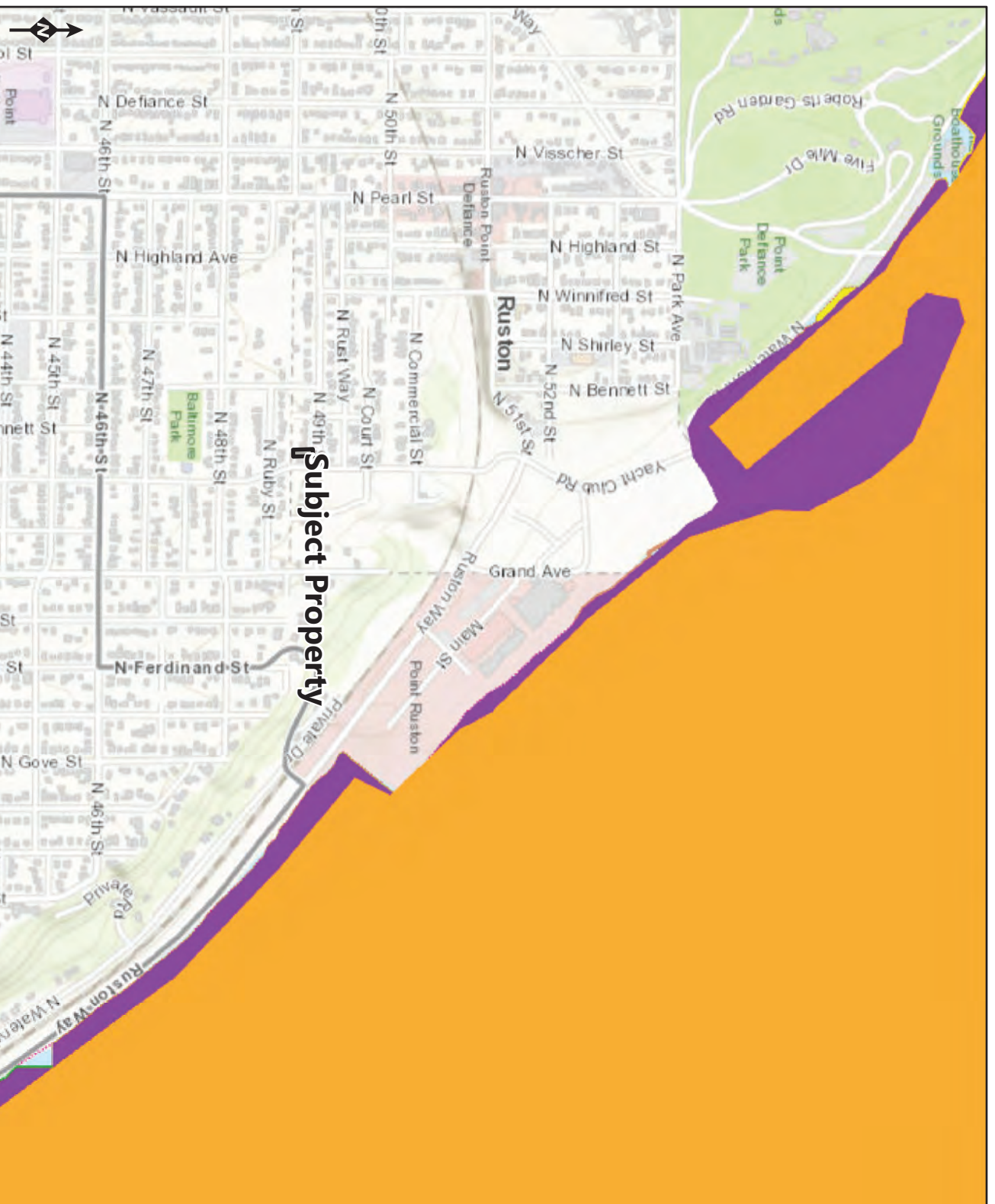


150ft Land Use  
 Parcel # 2365000700  
 5114 N 49TH ST (Not a Survey)





# 303d Water Quality Atlas Map



## Assessed Water/Sediment

- Water**
- Category 5 - 303d
  - Category 4C
  - Category 4B
  - Category 4A
  - Category 2
  - Category 1

- Sediment**
- Category 5 - 303d
  - Category 4C
  - Category 4B
  - Category 4A
  - Category 2
  - Category 1

## WQ Improvement Projects

- Approved
- In Development

## Parcels

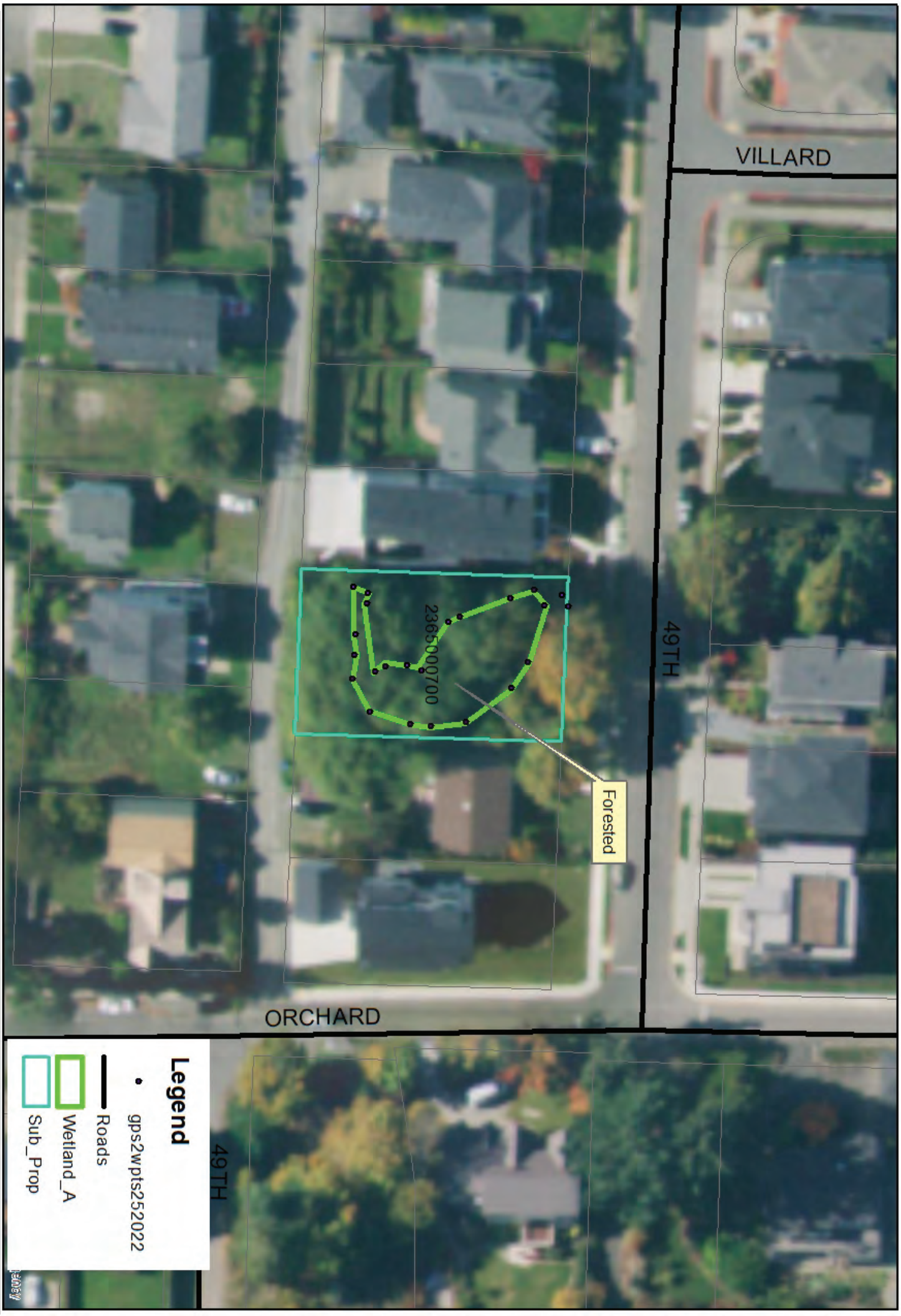
- Parcel boundary

## Subbasins (12 digit HUCs)

- HUC boundary

**Subject Property**

Esrri, NASA, NGA, USGS, FEMA  
 Sources: Esri, HERE, Garmin, Intermap, Increment P Corp., GEBCO, USGS,  
 FAO, NPS, NRCAN, Geobase, IGN, Kadaster NL, Ordnance Survey, Esri



VILLARD

49TH

ORCHARD

49TH

Forested

2365000700

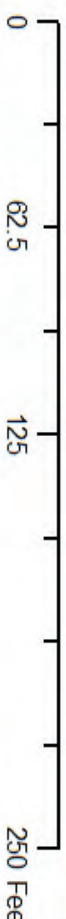
**Legend**

- gps2wpts252022
- Roads
- Wetland\_A
- Sub\_Prop

Land Services Northwest  
 120 State Avenue NE PMB#190  
 Olympia, WA 98501  
 360-481-4208



Cowardin Classification  
 Parcel # 2365000700  
 5114 N 49TH ST (Not a Survey)





VILLARD

49TH

ORCHARD

Seasonally Flooded

2365000700

49TH

**Legend**

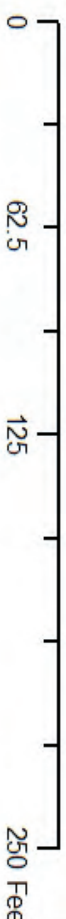
- gps2wpts252022
- Roads
- Wetland\_A
- Sub\_Prop

Jan 2023

Land Services Northwest  
 120 State Avenue NE PMB#190  
 Olympia, WA 98501  
 360-481-4208



Hydroperiod Classification  
 Parcel # 2365000700  
 5114 N 49TH ST (Not a Survey)



# RATING SUMMARY – Western Washington

Name of wetland (or ID #): Wetland A Date of site visit: 2/5/2021

Rated by Alex Callender Trained by Ecology?  Yes  No Date of training Dec-13

HGM Class used for rating Slope Wetland has multiple HGM classes?  Yes  No

**NOTE: Form is not complete with out the figures requested (figures can be combined).**

Source of base aerial photo/map 2018 Geodata

OVERALL WETLAND CATEGORY IV (based on functions  or special characteristics )

## 1. Category of wetland based on FUNCTIONS

- Category I - Total score = 23 - 27
- Category II - Total score = 20 - 22
- Category III - Total score = 16 - 19
- X   Category IV - Total score = 9 - 15

**Score for each function based on three ratings**  
(order of ratings is not important)

9 = H, H, H  
8 = H, H, M  
7 = H, H, L  
7 = H, M, M  
6 = H, M, L  
6 = M, M, M  
5 = H, L, L  
5 = M, M, L  
4 = M, L, L  
3 = L, L, L

FUNCTION	Improving Water Quality	Hydrologic	Habitat	
<i>List appropriate rating (H, M, L)</i>				
Site Potential	M	L	L	
Landscape Potential	M	M	L	
Value	H	L	L	<b>Total</b>
<b>Score Based on Ratings</b>	7	4	3	<b>14</b>

## 2. Category based on SPECIAL CHARACTERISTICS of wetland

CHARACTERISTIC	Category
Estuarine	
Wetland of High Conservation Value	
Bog	
Mature Forest	
Old Growth Forest	
Coastal Lagoon	
Interdunal	
None of the above	<b>X</b>

## Maps and Figures required to answer questions correctly for Western Washington

### Depressional Wetlands

Map of:	To answer questions:	Figure #
Cowardin plant classes	D 1.3, H 1.1, H 1.4	
Hydroperiods	D 1.4, H 1.2	
Location of outlet ( <i>can be added to map of hydroperiods</i> )	D 1.1, D 4.1	
Boundary of area within 150 ft of the wetland ( <i>can be added to another figure</i> )	D 2.2, D 5.2	
Map of the contributing basin	D 4.3, D 5.3	
1 km Polygon: Area that extends 1 km from entire wetland edge - including polygons for accessible habitat and undisturbed habitat	H 2.1, H 2.2, H 2.3	
Screen capture of map of 303(d) listed waters in basin (from Ecology website)	D 3.1, D 3.2	
Screen capture of list of TMDLs for WRIA in which unit is found (from web)	D 3.3	

### Riverine Wetlands

Map of:	To answer questions:	Figure #
Cowardin plant classes	H 1.1, H 1.4	
Hydroperiods	H 1.2	
Ponded depressions	R 1.1	
Boundary of area within 150 ft of the wetland ( <i>can be added to another figure</i> )	R 2.4	
Plant cover of trees, shrubs, and herbaceous plants	R 1.2, R 4.2	
Width of unit vs. width of stream ( <i>can be added to another figure</i> )	R 4.1	
Map of the contributing basin	R 2.2, R 2.3, R 5.2	
1 km Polygon: Area that extends 1 km from entire wetland edge - including polygons for accessible habitat and undisturbed habitat	H 2.1, H 2.2, H 2.3	
Screen capture of map of 303(d) listed waters in basin (from Ecology website)	R 3.1	
Screen capture of list of TMDLs for WRIA in which unit is found (from web)	R 3.2, R 3.3	

### Lake Fringe Wetlands

Map of:	To answer questions:	Figure #
Cowardin plant classes	L 1.1, L 4.1, H 1.1, H 1.4	Cowardin
Plant cover of trees, shrubs, and herbaceous plants	L 1.2	Dense Vegetation
Boundary of area within 150 ft of the wetland ( <i>can be added to another figure</i> )	L 2.2	150ft
1 km Polygon: Area that extends 1 km from entire wetland edge - including polygons for accessible habitat and undisturbed habitat	H 2.1, H 2.2, H 2.3	1KM
Screen capture of map of 303(d) listed waters in basin (from Ecology website)	L 3.1, L 3.2	303d
Screen capture of list of TMDLs for WRIA in which unit is found (from web)	L 3.3	TMDL

### Slope Wetlands

Map of:	To answer questions:	Figure #
Cowardin plant classes	H 1.1, H 1.4	Cowardin
Hydroperiods	H 1.2	Hydro
Plant cover of <b>dense</b> trees, shrubs, and herbaceous plants	S 1.3	dense rigid cover
Plant cover of <b>dense, rigid</b> trees, shrubs, and herbaceous plants ( <i>can be added to another figure</i> )	S 4.1	dense rigid cover
Boundary of area within 150 ft of the wetland ( <i>can be added to another figure</i> )	S 2.1, S 5.1	150ft
1 km Polygon: Area that extends 1 km from entire wetland edge - including polygons for accessible habitat and undisturbed habitat	H 2.1, H 2.2, H 2.3	1KM
Screen capture of map of 303(d) listed waters in basin (from Ecology website)	S 3.1, S 3.2	303d
Screen capture of list of TMDLs for WRIA in which unit is found (from web)	S 3.3	TMDL

## HGM Classification of Wetland in Western Washington

For questions 1 -7, the criteria described must apply to the entire unit being rated.  
If hydrologic criteria listed in each question do not apply to the entire unit being rated, you probably have a unit with multiple HGM classes. In this case, identify which hydrologic criteria in questions 1 - 7 apply, and go to Question 8.

1. Are the water levels in the entire unit usually controlled by tides except during floods?

- NO - go to 2  YES - the wetland class is **Tidal Fringe** - go to 1.1

1.1 Is the salinity of the water during periods of annual low flow below 0.5 ppt (parts per thousand)?

- NO - Saltwater Tidal Fringe (Estuarine)**  YES - Freshwater Tidal Fringe  
*If your wetland can be classified as a Freshwater Tidal Fringe use the forms for **Riverine** wetlands.  
 If it is Saltwater Tidal Fringe it is an **Estuarine** wetland and is not scored. This method **cannot** be used to score functions for estuarine wetlands.*

2. The entire wetland unit is flat and precipitation is the only source (>90%) of water to it. Groundwater and surface water runoff are NOT sources of water to the unit.

- NO - go to 3  YES - The wetland class is **Flats**  
*If your wetland can be classified as a Flats wetland, use the form for **Depressional** wetlands.*

3. Does the entire wetland unit **meet all** of the following criteria?

- The vegetated part of the wetland is on the shores of a body of permanent open water (without any plants on the surface at any time of the year) at least 20 ac (8 ha) in size;  
 At least 30% of the open water area is deeper than 6.6 ft (2 m).

- NO - go to 4  YES - The wetland class is **Lake Fringe** (Lacustrine Fringe)

4. Does the entire wetland unit **meet all** of the following criteria?

- The wetland is on a slope (*slope can be very gradual*),  
 The water flows through the wetland in one direction (unidirectional) and usually comes from seeps. It may flow subsurface, as sheetflow, or in a swale without distinct banks.  
 The water leaves the wetland **without being impounded**.

- NO - go to 5  YES - The wetland class is **Slope**

**NOTE:** Surface water does not pond in these type of wetlands except occasionally in very small and shallow depressions or behind hummocks (depressions are usually <3 ft diameter and less than 1 ft deep).

5. Does the entire wetland unit **meet all** of the following criteria?

- The unit is in a valley, or stream channel, where it gets inundated by overbank flooding from that stream or river,  
 The overbank flooding occurs at least once every 2 years.

- NO - go to 6  YES - The wetland class is **Riverine**

**NOTE:** The Riverine unit can contain depressions that are filled with water when the river is not flooding.

6. Is the entire wetland unit in a topographic depression in which water ponds, or is saturated to the surface, at some time during the year? *This means that any outlet, if present, is higher than the interior of the wetland.*

NO - go to 7

YES - The wetland class is **Depressional**

7. Is the entire wetland unit located in a very flat area with no obvious depression and no overbank flooding? The unit does not pond surface water more than a few inches. The unit seems to be maintained by high groundwater in the area. The wetland may be ditched, but has no obvious natural outlet.

NO - go to 8

YES - The wetland class is **Depressional**

8. Your wetland unit seems to be difficult to classify and probably contains several different HGM classes. For example, seeps at the base of a slope may grade into a riverine floodplain, or a small stream within a Depressional wetland has a zone of flooding along its sides. **GO BACK AND IDENTIFY WHICH OF THE HYDROLOGIC REGIMES DESCRIBED IN QUESTIONS 1-7 APPLY TO DIFFERENT AREAS IN THE UNIT** (make a rough sketch to help you decide). Use the following table to identify the appropriate class to use for the rating system if you have several HGM classes present within the wetland unit being scored.

**NOTE:** Use this table only if the class that is recommended in the second column represents 10% or more of the total area of the wetland unit being rated. If the area of the HGM class listed in column 2 is less than 10% of the unit; classify the wetland using the class that represents more than 90% of the total area.

HGM classes within the wetland unit being rated	HGM class to use in rating
Slope + Riverine	Riverine
Slope + Depressional	Depressional
Slope + Lake Fringe	Lake Fringe
Depressional + Riverine along stream within boundary of depression	Depressional
Depressional + Lake Fringe	Depressional
Riverine + Lake Fringe	Riverine
Salt Water Tidal Fringe and any other class of freshwater wetland	Treat as ESTUARINE

*If you are still unable to determine which of the above criteria apply to your wetland, or if you have **more than 2 HGM classes** within a wetland boundary, classify the wetland as Depressional for the rating.*

Wetland name or number

Wetland A



<b>SLOPE WETLANDS</b>		
<b>Water Quality Functions - Indicators that the site functions to improve water quality</b>		
S 1.0. Does the site have the potential to improve water quality?		
S 1.1. Characteristics of the average slope of the wetland: <i>(a 1% slope has a 1 ft vertical drop in elevation for every 100 ft of horizontal distance)</i>		
Slope is 1% or less	points = 3	1
Slope is > 1% - 2%	points = 2	
Slope is > 2% - 5%	points = 1	
Slope is greater than 5%	points = 0	
S 1.2. The soil 2 in below the surface (or duff layer) is true clay or true organic <i>(use NRCS definitions)</i> :		Yes = 3 No = 0
S 1.3. Characteristics of the plants in the wetland that trap sediments and pollutants: Choose the points appropriate for the description that best fits the plants in the wetland. <i>Dense means you have trouble seeing the soil surface (&gt;75% cover), and uncut means not grazed or mowed and plants are higher than 6 in.</i>		
Dense, uncut, herbaceous plants > 90% of the wetland area	points = 6	6
Dense, uncut, herbaceous plants > 1/2 of area	points = 3	
Dense, woody, plants > 1/2 of area	points = 2	
Dense, uncut, herbaceous plants > 1/4 of area	points = 1	
Does not meet any of the criteria above for plants	points = 0	
<b>Total for S 1</b>		<b>7</b>

**Rating of Site Potential** If score is:  12 = H  6 - 11 = M  0 - 5 = L *Record the rating on the first page*

S 2.0. Does the landscape have the potential to support the water quality function of the site?		
S 2.1. Is > 10% of the area within 150 ft on the uphill side of the wetland in land uses that generate pollutants?		Yes = 1 No = 0
S 2.2. Are there other sources of pollutants coming into the wetland that are not listed in question S 2.1?		Yes = 1 No = 0
Other Sources		Yes = 1 No = 0
<b>Total for S 2</b>		<b>1</b>

**Rating of Landscape Potential** If score is:  1 - 2 = M  0 = L *Record the rating on the first page*

S 3.0. Is the water quality improvement provided by the site valuable to society?		
S 3.1. Does the wetland discharge directly (i.e., within 1 mi) to a stream, river, lake, or marine water that is on the 303(d) list?		Yes = 1 No = 0
S 3.2. Is the wetland in a basin or sub-basin where water quality is an issue? <i>At least one aquatic resource in the basin is on the 303(d) list.</i>		Yes = 1 No = 0
S 3.3. Has the site been identified in a watershed or local plan as important for maintaining water quality? <i>Answer YES if there is a TMDL for the basin in which the unit is found?</i>		Yes = 2 No = 0
<b>Total for S 3</b>		<b>4</b>

**Rating of Value** If score is:  2 - 4 = H  1 = M  0 = L *Record the rating on the first page*

## SLOPE WETLANDS

### Hydrologic Functions - Indicators that the site functions to reduce flooding and stream erosion

S 4.0. Does the site have the potential to reduce flooding and stream erosion?

S 4.1. Characteristics of plants that reduce the velocity of surface flows during storms: Choose the points appropriate for the description that best fits conditions in the wetland. <i>Stems of plants should be thick enough (usually &gt; 1/8 in), or dense enough, to remain erect during surface flows.</i>	0
Dense, uncut, <b>rigid</b> plants cover > 90% of the area of the wetland	points = 1
All other conditions	points = 0

**Rating of Site Potential** If score is:  1 = M  0 = L

*Record the rating on the first page*

S 5.0. Does the landscape have the potential to support hydrologic functions of the site?

S 5.1. Is more than 25% of the area within 150 ft upslope of wetland in land uses or cover that generate excess surface runoff?	1
Yes = 1 No = 0	

**Rating of Landscape Potential** If score is:  1 = M  0 = L

*Record the rating on the first page*

S 6.0. Are the hydrologic functions provided by the site valuable to society?

S 6.1. Distance to the nearest areas downstream that have flooding problems:	0
The sub-basin immediately down-gradient of site has flooding problems that result in damage to human or natural resources (e.g., houses or salmon redds)	points = 2
Surface flooding problems are in a sub-basin farther down-gradient	points = 1
No flooding problems anywhere downstream	points = 0

S 6.2. Has the site been identified as important for flood storage or flood conveyance in a regional flood control plan?	0
Yes = 2 No = 0	

Total for S 6	Add the points in the boxes above	<b>0</b>
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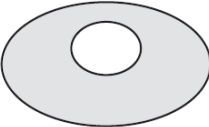



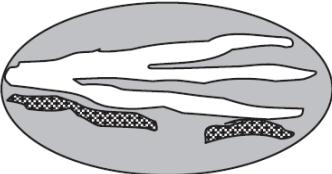
**Rating of Value** If score is:  2 - 4 = H  1 = M  0 = L

*Record the rating on the first page*

NOTES and FIELD OBSERVATIONS:

Wetland name or number

Wetland A

<b>These questions apply to wetlands of all HGM classes.</b>	
<b>HABITAT FUNCTIONS</b> - Indicators that site functions to provide important habitat	
<b>H 1.0. Does the site have the potential to provide habitat?</b>	
<p>H 1.1. Structure of plant community: <i>Indicators are Cowardin classes and strata within the Forested class. Check the Cowardin plant classes in the wetland. Up to 10 patches may be combined for each class to meet the threshold of ¼ ac or more than 10% of the unit if it is smaller than 2.5 ac. Add the number of structures checked.</i></p> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <ul style="list-style-type: none"> <li><input type="checkbox"/> Aquatic bed</li> <li><input type="checkbox"/> Emergent</li> <li><input type="checkbox"/> Scrub-shrub (areas where shrubs have &gt; 30% cover)</li> <li><input checked="" type="checkbox"/> Forested (areas where trees have &gt; 30% cover)</li> <li><i>If the unit has a Forested class, check if:</i></li> <li><input checked="" type="checkbox"/> The Forested class has 3 out of 5 strata (canopy, sub-canopy, shrubs, herbaceous, moss/ground-cover) that each cover 20% within the Forested polygon</li> </ul> </div> <div style="width: 35%;"> <p>4 structures or more: points = 4</p> <p>3 structures: points = 2</p> <p>2 structures: points = 1</p> <p>1 structure: points = 0</p> </div> </div>	<p>1</p>
<p>H 1.2. Hydroperiods Check the types of water regimes (hydroperiods) present within the wetland. The water regime has to cover more than 10% of the wetland or ¼ ac to count (<i>see text for descriptions of hydroperiods</i>).</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <ul style="list-style-type: none"> <li><input type="checkbox"/> Permanently flooded or inundated</li> <li><input checked="" type="checkbox"/> Seasonally flooded or inundated</li> <li><input type="checkbox"/> Occasionally flooded or inundated</li> <li><input type="checkbox"/> Saturated only</li> <li><input checked="" type="checkbox"/> Permanently flowing stream or river in, or adjacent to, the wetland</li> <li><input type="checkbox"/> Seasonally flowing stream in, or adjacent to, the wetland</li> <li><input type="checkbox"/> <b>Lake Fringe wetland</b></li> <li><input type="checkbox"/> <b>Freshwater tidal wetland</b></li> </ul> </div> <div style="width: 35%;"> <p>4 or more types present: points = 3</p> <p>3 types present: points = 2</p> <p>2 types present: points = 1</p> <p>1 types present: points = 0</p> </div> </div>	<p>1</p>
<p>H 1.3. Richness of plant species Count the number of plant species in the wetland that cover at least 10 ft<sup>2</sup>. <i>Different patches of the same species can be combined to meet the size threshold and you do not have to name the species. <b>Do not include Eurasian milfoil, reed canarygrass, purple loosestrife, Canadian thistle</b></i></p> <p>If you counted:</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <ul style="list-style-type: none"> <li>&gt; 19 species</li> <li>5 - 19 species</li> <li>&lt; 5 species</li> </ul> </div> <div style="width: 35%;"> <p>points = 2</p> <p>points = 1</p> <p>points = 0</p> </div> </div>	<p>1</p>
<p>H 1.4. Interspersion of habitats Decide from the diagrams below whether interspersion among Cowardin plants classes (described in H 1.1), or the classes and unvegetated areas (can include open water or mudflats) is high, moderate, low, or none. <i>If you have four or more plant classes or three classes and open water, the rating is always high.</i></p> <div style="display: flex; justify-content: space-around; align-items: flex-start; margin-top: 20px;"> <div style="text-align: center;">  <p><b>None = 0 points</b></p> </div> <div style="text-align: center;">  <p><b>Low = 1 point</b></p> </div> <div style="text-align: center;">  <p><b>Moderate = 2 points</b></p> </div> </div> <div style="margin-top: 20px;"> <p>All three diagrams in this row are <b>HIGH = 3 points</b></p> <div style="display: flex; justify-content: space-around;">    </div> </div>	<p>0</p>

<b>H 1.5. Special habitat features:</b> Check the habitat features that are present in the wetland. <i>The number of checks is the number of points.</i>		1
<input checked="" type="checkbox"/> Large, downed, woody debris within the wetland (> 4 in diameter and 6 ft long)		
<input checked="" type="checkbox"/> Standing snags (dbh > 4 in) within the wetland		
<input type="checkbox"/> Undercut banks are present for at least 6.6 ft (2 m) <b>and/or</b> overhanging plants extends at least 3.3 ft (1 m) over a stream (or ditch) in, or contiguous with the wetland, for at least 33 ft (10 m)		
<input type="checkbox"/> Stable steep banks of fine material that might be used by beaver or muskrat for denning (> 30 degree slope) OR signs of recent beaver activity are present ( <i>cut shrubs or trees that have not yet weathered where wood is exposed</i> )		
<input type="checkbox"/> At least ¼ ac of thin-stemmed persistent plants or woody branches are present in areas that are permanently or seasonally inundated ( <i>structures for egg-laying by amphibians</i> )		
<input type="checkbox"/> Invasive plants cover less than 25% of the wetland area in every stratum of plants (see H 1.1 for list of strata)		
<b>Total for H 1</b> Add the points in the boxes above		4
<b>Rating of Site Potential</b> If Score is: <input type="checkbox"/> 15 - 18 = H <input type="checkbox"/> 7 - 14 = M <input checked="" type="checkbox"/> 0 - 6 = L Record the rating on the first page		

<b>H 2.0. Does the landscape have the potential to support the habitat function of the site?</b>		
<b>H 2.1 Accessible habitat (include <i>only habitat that directly abuts wetland unit</i>).</b> <i>Calculate:</i> $0.2\% \text{ undisturbed habitat} + (\text{ } 0\% \text{ moderate \& low intensity land uses} / 2) = 0.2\%$		
If total accessible habitat is: > 1/3 (33.3%) of 1 km Polygon points = 3 20 - 33% of 1 km Polygon points = 2 10 - 19% of 1 km Polygon points = 1 < 10 % of 1 km Polygon points = 0		0
<b>H 2.2. Undisturbed habitat in 1 km Polygon around the wetland.</b> <i>Calculate:</i> $3\% \text{ undisturbed habitat} + (\text{ } 20\% \text{ moderate \& low intensity land uses} / 2) = 13\%$		
Undisturbed habitat > 50% of Polygon points = 3 Undisturbed habitat 10 - 50% and in 1-3 patches points = 2 Undisturbed habitat 10 - 50% and > 3 patches points = 1 Undisturbed habitat < 10% of 1 km Polygon points = 0		1
<b>H 2.3 Land use intensity in 1 km Polygon: If</b> > 50% of 1 km Polygon is high intensity land use points = (-2) ≤ 50% of 1km Polygon is high intensity points = 0		
<b>Total for H 2</b> Add the points in the boxes above		-1
<b>Rating of Landscape Potential</b> If Score is: <input checked="" type="checkbox"/> 4 - 6 = H <input type="checkbox"/> 1 - 3 = M <input type="checkbox"/> < 1 = L Record the rating on the first page		

<b>H 3.0. Is the habitat provided by the site valuable to society?</b>		
<b>H 3.1. Does the site provide habitat for species valued in laws, regulations, or policies? Choose <i>only the highest score that applies to the wetland being rated.</i></b>		
Site meets ANY of the following criteria: points = 2		0
<input checked="" type="checkbox"/> It has 3 or more priority habitats within 100 m (see next page)		
<input type="checkbox"/> It provides habitat for Threatened or Endangered species (any plant or animal on the state or federal lists)		
<input type="checkbox"/> It is mapped as a location for an individual WDFW priority species		
<input type="checkbox"/> It is a Wetland of High Conservation Value as determined by the Department of Natural Resources		
<input type="checkbox"/> It has been categorized as an important habitat site in a local or regional comprehensive plan, in a Shoreline Master Plan, or in a watershed plan		
Site has 1 or 2 priority habitats (listed on next page) with in 100m points = 1		

Wetland name or number

Wetland A

Site does not meet any of the criteria above points = 0

**Rating of Value** If Score is:  2 = H  1 = M  0 = L

*Record the rating on the first page*

## WDFW Priority Habitats

Priority habitats listed by WDFW (see complete descriptions of WDFW priority habitats, and the counties in which they can be found, in: Washington Department of Fish and Wildlife. 2008. Priority Habitat and Species List. Olympia, Washington. 177 pp.

<http://wdfw.wa.gov/publications/00165/wdfw00165.pdf> or access the list from here:

<http://wdfw.wa.gov/conservation/phs/list/>

Count how many of the following priority habitats are within 330 ft (100 m) of the wetland unit: **NOTE: This question is independent of the land use between the wetland unit and the priority habitat.**

- Aspen Stands:** Pure or mixed stands of aspen greater than 1 ac (0.4 ha).
- Biodiversity Areas and Corridors:** Areas of habitat that are relatively important to various species of native fish and wildlife (*full descriptions in WDFW PHS report*).
- Herbaceous Balds:** Variable size patches of grass and forbs on shallow soils over bedrock.
- Old-growth/Mature forests:** Old-growth west of Cascade crest – Stands of at least 2 tree species, forming a multi-layered canopy with occasional small openings; with at least 8 trees/ac (20 trees/ha) > 32 in (81 cm) dbh or > 200 years of age. Mature forests – Stands with average diameters exceeding 21 in (53 cm) dbh; crown cover may be less than 100%; decay, decadence, numbers of snags, and quantity of large downed material is generally less than that found in old-growth; 80-200 years old west of the Cascade crest.
- Oregon White Oak:** Woodland stands of pure oak or oak/conifer associations where canopy coverage of the oak component is important (*full descriptions in WDFW PHS report p. 158 – see web link above*).
- Riparian:** The area adjacent to aquatic systems with flowing water that contains elements of both aquatic and terrestrial ecosystems which mutually influence each other.
- Westside Prairies:** Herbaceous, non-forested plant communities that can either take the form of a dry prairie or a wet prairie (*full descriptions in WDFW PHS report p. 161 – see web link above*).
- Instream:** The combination of physical, biological, and chemical processes and conditions that interact to provide functional life history requirements for instream fish and wildlife resources.
- Nearshore:** Relatively undisturbed nearshore habitats. These include Coastal Nearshore, Open Coast Nearshore, and Puget Sound Nearshore. (*full descriptions of habitats and the definition of relatively undisturbed are in WDFW report – see web link on previous page*).
- Caves:** A naturally occurring cavity, recess, void, or system of interconnected passages under the earth in soils, rock, ice, or other geological formations and is large enough to contain a human.
- Cliffs:** Greater than 25 ft (7.6 m) high and occurring below 5000 ft elevation.
- Talus:** Homogenous areas of rock rubble ranging in average size 0.5 - 6.5 ft (0.15 - 2.0 m), composed of basalt, andesite, and/or sedimentary rock, including riprap slides and mine tailings. May be associated with cliffs.
- Snags and Logs:** Trees are considered snags if they are dead or dying and exhibit sufficient decay characteristics to enable cavity excavation/use by wildlife. Priority snags have a diameter at breast height of > 20 in (51 cm) in western Washington and are > 6.5 ft (2 m) in height. Priority logs are > 12 in (30 cm) in diameter at the largest end, and > 20 ft (6 m) long.

**Note:** All vegetated wetlands are by definition a priority habitat but are not included in this list because they are

Wetland name or number  
addressed elsewhere.

Wetland A



## CATEGORIZATION BASED ON SPECIAL CHARACTERISTICS

Wetland Type	Category
<i>Check off any criteria that apply to the wetland. List the category when the appropriate criteria are met.</i>	
<p><b>SC 1.0. Estuarine Wetlands</b></p> <p>Does the wetland meet the following criteria for Estuarine wetlands?</p> <p><input type="checkbox"/> The dominant water regime is tidal,  <input type="checkbox"/> Vegetated, and  <input type="checkbox"/> With a salinity greater than 0.5 ppt</p> <p style="text-align: right;"><input type="checkbox"/> Yes - Go to <b>SC 1.1</b>      <input type="checkbox"/> No = <b>Not an estuarine wetland</b></p>	
<p>SC 1.1. Is the wetland within a National Wildlife Refuge, National Park, National Estuary Reserve, Natural Area Preserve, State Park or Educational, Environmental, or Scientific Reserve designated under WAC 332-30-151?</p> <p style="text-align: right;"><input type="checkbox"/> Yes = <b>Category I</b>      <input type="checkbox"/> No - Go to <b>SC 1.2</b></p>	
<p>SC 1.2. Is the wetland unit at least 1 ac in size and meets at least two of the following three conditions?</p> <p><input type="checkbox"/> The wetland is relatively undisturbed (has no diking, ditching, filling, cultivation, grazing, and has less than 10% cover of non-native plant species. (If non-native species are <i>Spartina</i>, see page 25)</p> <p><input type="checkbox"/> At least ¾ of the landward edge of the wetland has a 100 ft buffer of shrub, forest, or un-grazed or un-mowed grassland.</p> <p><input type="checkbox"/> The wetland has at least two of the following features: tidal channels, depressions with open water, or contiguous freshwater wetlands.</p> <p style="text-align: right;"><input type="checkbox"/> Yes = <b>Category I</b>      <input type="checkbox"/> No = <b>Category II</b></p>	
<p><b>SC 2.0. Wetlands of High Conservation Value (WHCV)</b></p> <p>SC 2.1. Has the WA Department of Natural Resources updated their website to include the list of Wetlands of High Conservation Value?</p> <p style="text-align: right;"><input type="checkbox"/> Yes - Go to <b>SC 2.2</b>      <input type="checkbox"/> No - Go to <b>SC 2.3</b></p> <p>SC 2.2. Is the wetland listed on the WDNR database as a Wetland of High Conservation Value?</p> <p style="text-align: right;"><input type="checkbox"/> Yes = <b>Category I</b>      <input type="checkbox"/> No = <b>Not WHCV</b></p> <p>SC 2.3. Is the wetland in a Section/Township/Range that contains a Natural Heritage wetland?  <a href="http://www1.dnr.wa.gov/nhp/refdesk/datasearch/wnhpwetlands.pdf">http://www1.dnr.wa.gov/nhp/refdesk/datasearch/wnhpwetlands.pdf</a></p> <p style="text-align: right;"><input type="checkbox"/> Yes - <b>Contact WNHP/WDNR and to SC 2.4</b>      <input type="checkbox"/> No = <b>Not WHCV</b></p> <p>SC 2.4. Has WDNR identified the wetland within the S/T/R as a Wetland of High Conservation Value and listed it on their website?</p> <p style="text-align: right;"><input type="checkbox"/> Yes = <b>Category I</b>      <input type="checkbox"/> No = <b>Not WHCV</b></p>	
<p><b>SC 3.0. Bogs</b></p> <p>Does the wetland (or any part of the unit) meet both the criteria for soils and vegetation in bogs? <i>Use the key below. If you answer YES you will still need to rate the wetland based on its functions.</i></p> <p>SC 3.1. Does an area within the wetland unit have organic soil horizons, either peats or mucks, that compose 16 in or more of the first 32 in of the soil profile?</p> <p style="text-align: right;"><input type="checkbox"/> Yes - Go to <b>SC 3.3</b>      <input type="checkbox"/> No - Go to <b>SC 3.2</b></p> <p>SC 3.2. Does an area within the wetland unit have organic soils, either peats or mucks, that are less than 16 in deep over bedrock, or an impermeable hardpan such as clay or volcanic ash, or that are floating on top of a lake or pond?</p> <p style="text-align: right;"><input type="checkbox"/> Yes - Go to <b>SC 3.3</b>      <input type="checkbox"/> No = <b>Is not a bog</b></p> <p>SC 3.3. Does an area with peats or mucks have more than 70% cover of mosses at ground level, AND at least a 30% cover of plant species listed in Table 4?</p> <p style="text-align: right;"><input type="checkbox"/> Yes = <b>Is a Category I bog</b>      <input type="checkbox"/> No - Go to <b>SC 3.4</b></p> <p><b>NOTE:</b> If you are uncertain about the extent of mosses in the understory, you may substitute that criterion by measuring the pH of the water that seeps into a hole dug at least 16 in deep. If the pH is less than 5.0 and the plant species in Table 4 are present, the wetland is a bog.</p> <p>SC 3.4. Is an area with peats or mucks forested (&gt; 30% cover) with Sitka spruce, subalpine fir, western red cedar, western hemlock, lodgepole pine, quaking aspen, Engelmann spruce, or western white pine, AND any of the species (or combination of species) listed</p>	

Wetland name or number

Wetland A

in Table 4 provide more than 30% of the cover under the canopy?

Yes = **Is a Category I bog**

No = **Is not a bog**

<p><b>SC 4.0. Forested Wetlands</b></p> <p>Does the wetland have at least <u>1 contiguous acre</u> of forest that meets one of these criteria for the WA Department of Fish and Wildlife's forests as priority habitats? <b><i>If you answer YES you will still need to rate the wetland based on its functions.</i></b></p> <p><input type="checkbox"/> <b>Old-growth forests</b> (west of Cascade crest): Stands of at least two tree species, forming a multi-layered canopy with occasional small openings; with at least 8 trees/ac (20 trees/ha) that are at least 200 years of age OR have a diameter at breast height (dbh) of 32 in (81 cm) or more.</p> <p><input type="checkbox"/> <b>Mature forests</b> (west of the Cascade Crest): Stands where the largest trees are 80-200 years old OR the species that make up the canopy have an average diameter (dbh) exceeding 21 in (53 cm).</p> <p><input type="checkbox"/> Yes = <b>Category I</b>    <input type="checkbox"/> No = <b>Not a forested wetland for this section</b></p>	
<p><b>SC 5.0. Wetlands in Coastal Lagoons</b></p> <p>Does the wetland meet all of the following criteria of a wetland in a coastal lagoon?</p> <p><input type="checkbox"/> The wetland lies in a depression adjacent to marine waters that is wholly or partially separated from marine waters by sandbanks, gravel banks, shingle, or, less frequently, rocks</p> <p><input type="checkbox"/> The lagoon in which the wetland is located contains ponded water that is saline or brackish (&gt; 0.5 ppt) during most of the year in at least a portion of the lagoon (<i>needs to be measured near the bottom</i>)</p> <p><input type="checkbox"/> Yes - Go to <b>SC 5.1</b>    <input type="checkbox"/> No = <b>Not a wetland in a coastal lagoon</b></p> <p><b>SC 5.1.</b> Does the wetland meet all of the following three conditions?</p> <p><input type="checkbox"/> The wetland is relatively undisturbed (has no diking, ditching, filling, cultivation, grazing), and has less than 20% cover of aggressive, opportunistic plant species (see list of species on p. 100).</p> <p><input type="checkbox"/> At least ¾ of the landward edge of the wetland has a 100 ft buffer of shrub, forest, or un-grazed or un-mowed grassland.</p> <p><input type="checkbox"/> The wetland is larger than 1/10 ac (4350 ft<sup>2</sup>)</p> <p><input type="checkbox"/> Yes = <b>Category I</b>    <input type="checkbox"/> No = <b>Category II</b></p>	
<p><b>SC 6.0. Interdunal Wetlands</b></p> <p>Is the wetland west of the 1889 line (also called the Western Boundary of Upland Ownership or WBUO)? <b><i>If you answer yes you will still need to rate the wetland based on its habitat functions.</i></b></p> <p>In practical terms that means the following geographic areas:</p> <p><input type="checkbox"/> Long Beach Peninsula: Lands west of SR 103</p> <p><input type="checkbox"/> Grayland-Westport: Lands west of SR 105</p> <p><input type="checkbox"/> Ocean Shores-Copalis: Lands west of SR 115 and SR 109</p> <p><input type="checkbox"/> Yes - Go to <b>SC 6.1</b>    <input type="checkbox"/> No = <b>Not an interdunal wetland for rating</b></p> <p><b>SC 6.1.</b> Is the wetland 1 ac or larger and scores an 8 or 9 for the habitat functions on the form (rates H,H,H or H,H,M for the three aspects of function)?</p> <p><input type="checkbox"/> Yes = <b>Category I</b>    <input type="checkbox"/> No - Go to <b>SC 6.2</b></p> <p><b>SC 6.2.</b> Is the wetland 1 ac or larger, or is it in a mosaic of wetlands that is 1 ac or larger?</p> <p><input type="checkbox"/> Yes = <b>Category II</b>    <input type="checkbox"/> No - Go to <b>SC 6.3</b></p> <p><b>SC 6.3.</b> Is the unit between 0.1 and 1 ac, or is it in a mosaic of wetlands that is between 0.1 and 1 ac?</p> <p><input type="checkbox"/> Yes = <b>Category III</b>    <input type="checkbox"/> No = <b>Category IV</b></p>	
<p><b>Category of wetland based on Special Characteristics</b></p> <p>If you answered No for all types, enter "Not Applicable" on Summary Form</p>	

# Exhibit C

Applicant Name: Filipp Kapustin	Address: PO Box 2010, Milton, WA 98354	Phone: 253-722-4864
Owner: City of Ruston (under contract)	Address: 5117 N. Winnifred St. Ruston 98407	Phone:
Contractor: Craftsman Structures	Address: PO Box 616, Auburn, WA 98071	Phone: 253-332-5823
WA License Number: CRAFTSL940LE	City License Number:	UBI: 602 614 508
Mortgage Lender: (None)	Address:	Phone:

Site Address: 5114 N. 49<sup>th</sup> Street  
Parcel Number: 2365000700  
Parcel Zoning: RES  
Permit Type: Fill & Grade  
Plumbing Included?  No  
Mechanical Included?  No  
Project Valuation: \$10,000.00

Fees:  
Building Plan Review Fee: \$ 143.05  
Energy Code Fee: \$ 0  
Building Permit Fee: \$ 220.07  
WA State Surcharge: \$ 6.50  
**Total: \$369.62**

**Project Description:**

"Fill and Grade" an existing vacant residential lot, in accordance with a Critical Areas Report and Mitigation Plan prepared by Land Services Northwest, for Craftsman [Construction], dated November 29, 2022.

Building Code Edition: 2018 IRC, 2018 IBC, & Appendix Chapter J.

**Minimum Required Inspections**

Inspection requests must be received by 4:00PM in order to be scheduled for next day inspection. To request an inspection, please call CodePros, LLC at 360-801-3913. Please be sure to provide the permit number, site address, contact person and phone number, and the type of inspection.

- Surface Preparation
- Documentation of any sub-surface drainage systems
- Final

**Permit Conditions**

The City of Ruston's approval of this permit pertains only to the City's regulatory jurisdiction, and compliance with the City's ordinances and regulations does not necessarily ensure compliance with Federal or State laws. Permit approval and issuance is subject to the following conditions which must be fully satisfied by the project owner, applicant and contractor.

**Custom Condition:** This Fill & Grade permit, issued in accordance with IBC Appendix Chapter J, is issued for the general clearing, fill placement and grading of a residential lot. It does not include an engineered fill plan for structural purposes. Any subsequent construction on the property will need to include a geo-technical engineer's analysis and structural design to either remove and replace fill as structurally compacted fill or include a foundation design that bears directly on natural grade, below the level of fill materials. Surface preparation before fill placement shall be performed in accordance with best management practices, including removal of organic materials, level benching, etc. Any sub-surface drainage systems installed shall be monitored by a geo-technical engineer, photographed, and shown on an "as-built" plan, approved by the geotechnical engineer.

**Critical Areas Report & Mitigation Plan:** This permit includes a copy of a Critical Areas Report and Mitigation Plan, prepared by Land Services Northwest, dated November 29, 2022. All recommendations of the report shall be closely followed, and conditions satisfied, as if spelled out in full within these Fill & Grade permit conditions.

**Excavation, Grading, Fill Placement.** All excavation, grading and fill placement operations shall be performed in full accordance with the IBC Appendix Chapter J, as adopted by the City of Ruston in Ruston Municipal Code Section 12.20.020 and shall not have any adverse effects on any adjacent or downstream properties.

The slope of cut surfaces shall be no steeper than is safe for the intended use, and shall be no steeper than two units horizontal to one unit vertical (50-percent slope) unless the owner or authorized agent furnishes a geotechnical report justifying a steeper slope.

Prior to the placement of any fill, the ground surface shall be prepared to receive fill by removing vegetation, topsoil and other unsuitable materials, and scarifying the ground to provide a bond with the fill material. Fill material shall not include organic, frozen or other deleterious materials. No rock or similar irreducible material greater than 12 inches in any dimension shall be included in fills. All fill material shall be compacted to 90 percent of maximum density as determined by ASTM D 1557, Modified Proctor, in lifts not exceeding 12 inches in depth. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes steeper than two units horizontal to one unit vertical (50-percent slope) shall be justified by a geotechnical report or engineering data.

Cut and fill slopes shall be set back from the property lines in accordance with IBC Appendix J, Section J108. Setback dimensions shall be measured perpendicular to the property line and shall be as shown in IBC Figure J108.1, unless substantiating data is submitted justifying reduced setbacks.

Drainage across property lines shall not exceed that which existed prior to grading. Excess or concentrated drainage shall be contained on site or directed to an approved drainage facility. Erosion of the ground in the area of discharge shall be prevented by installation of nonerosive down drains or other devices. The faces of cut and fill slopes and graded areas shall be prepared and maintained to control erosion. This control shall be permitted to consist of effective planting. Erosion control for the slopes shall be installed as soon as practicable and prior to calling for final inspection. Where necessary, check dams, cribbing, riprap or other devices or methods shall be employed to control erosion and provide safety..

**Site Requirements:** A silt fence shall be installed around the perimeter of the construction site and a stabilized construction entrance established before any other work is performed. The contractor shall provide all measures necessary to contain all sediments onsite. No tracking or release of sediments or silt laden storm water shall be permitted off site. Adjacent properties shall not be used for soil stockpiles, material handling, etc. unless such properties also have a proper construction entrance, and all other silt and erosion control measures are fully provided, and all properties and the Right-Of-Way(s) are properly protected.

*AS*

**Rockery - Retaining Walls:** Any retaining walls or rockeries in excess of 4 feet in height, within 8 feet horizontally of another wall, or any other size or location where a surcharge is applied to the wall(s), require an additional, separate building permit in accordance with IBC 105.1 as adopted by the State of Washington and the City of Ruston.

**Address Posting:** Numerals for the site address shall be conspicuously displayed on a contrasting background and shall be a minimum of 4 inches in height with a minimum stroke of 1/2 inch. Property addresses shall be posted prior to requesting any inspections. If property addresses are not posted upon inspection, inspection may not be approved and a re-inspection fee may be charged and must be collected by the City prior to any further inspections being performed.

*AS*

**Other Fees:** The Building Permit Fee, Building Plan Review Fee, and Energy Code fees indicated above are the construction code fees associated with this building permit in accordance with the Ruston Master Fee Resolution, Resolution #722, Section 1. The Washington State Surcharge is the State Building Code Act Fee as required by RCW 19.27.085. Also associated with this permit may be Planning and Engineering Service Department Fees as established in the Ruston Master Fee Resolution, Resolution #722, Section 2. The Planning and Engineering Service Department Fees might not be known at the time of permit issuance, but must be paid by the owner/applicant prior to the completion of this project. To determine any outstanding fees prior to requesting a final inspection, please contact the Ruston City Clerk-Treasurer.

Shown in the fee section above may also be additional fees for sewer, electrical or storm water system connections. Though not necessarily a part of this permit, these fees are included as a convenience to the project applicant in accordance with the following: \*Sewer Connection fee: \$2,000.00 in accordance with RMC 21.01.040; \*\*Electrical System Connection (Meter) fee: \$1,000.00 in accordance with RMC 18.05.010; and, \*\*\*Storm Sewer Connection fee: \$500.00 in accordance with RMC 20.02.020.

*AS*

**Zoning Code Review:** The site plan and Critical Areas Report and Mitigation Plan, etc. have been reviewed and approved by the City of Ruston's City Planner. All construction activity shall be in accordance with the Ruston Zoning Code as adopted in Ruston Municipal Code (RMC) Title 25. Any changes affecting compliance with the Zoning Code shall be reviewed and approved by the City Planner prior to implementation.

*AS*

**No Work in ROW:** The submitted plans do not show any work within the City's right-of-way (ROW). Therefore, this permit does not authorize any work within the City's right-of-way. If the need arises for any work in the ROW, (or excavation work immediately adjacent to the ROW) a separate Street Excavation Permit (SEP) will be required prior to any such work being performed.

*AS*

**All Construction:** All construction shall meet or exceed all local ordinances and the requirements of the 2018 International Codes as adopted by the City of Ruston and Washington State. Occupancy is limited to the approved and permitted classification. Any non-approved change of use or occupancy could result in permit revocation and/or Code Enforcement action.

*AS*

**Field Correct:** The construction of the permitted project is subject to inspections by the City of Ruston Building & Planning Departments. All construction must be in conformance with the 2018 International Codes as adopted by the City of Ruston and Washington State. Any corrections, changes or alterations required by a building inspector, fire inspector or City Planner shall be made prior to requesting additional inspections.

*AS*

**Property Lines:** All property lines shall be clearly identified at all times throughout the grading process.

*AS*

**Final Inspection Required:** All permits shall have a final inspection performed and approved by the City of Ruston Building Department prior to permit expiration. The failure to request a final inspection or failure to obtain final approval prior to expiration will be documented in the legal property records on file with the City of Ruston as being non-compliant with the city's ordinances and building regulations and may be referred to the City Attorney for action.

*AS*

**Permit Validity:** IBC 105.4: The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the building code, or any other code or ordinance of the City of Ruston. Permits presuming to give authority to violate or cancel the provisions of the building code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction.

*AS*

**Permit Expiration:** All permits expire 180 days after permit issuance, or 180 days after the last inspection activity is performed. The Building Official may extend the time for action for a period not exceeding 180 days, upon the receipt of a written extension request indicating that circumstances beyond the control of the permit holder have prevented action from being taken.

*AS*

**Demolition:** All organic debris shall be properly transported to and disposed of within an approved solid waste facility or approved recycling center. Copies of disposal receipts may be requested prior to final inspection. Demolition and/or land clearing activities must conform to all State and local County regulations. The property shall be left in a clean, safe condition, protected from erosion. Provision shall be made to prevent the accumulation of water. Foundations and all other portions of adjacent property shall be protected and left undamaged.

*AS*

**Utility Locate:** The applicant shall call 811 or 1-800-424-5555, or access via the web at: [www.callbeforeyoudig.org/washington/](http://www.callbeforeyoudig.org/washington/) for Utility locate service at least 48 hours prior to any excavation.

*AS*

**Sales Taxes:** This work is being done in the City of Ruston. All sales tax for materials delivered to, or work performed in Ruston shall be sourced to the City of Ruston. Prior to final approval, a completed supplier/sub-contractor list may be requested by the City of Ruston to

identify suppliers that delivered materials to the project site, and sub-contractors who performed work on the site.

**Business License:** All businesses, contractors and sub-contractors must obtain a City Business License prior to occupying a building, or performing work on a building within the city limits of Ruston. Contact Ruston City Hall regarding application, fee and questions.

*AK*

**Soil Stockpiles:** Cover and properly locate stockpiles. (1) Earth stockpiles should be set back at least 50 feet from downslope drainage features (eg. channels, catch basins, detention ponds, pavement, stream banks, critical drainage areas); (2) Stockpiles should be located on the uphill side of the excavated area wherever possible so that they can act as diversions; (3) Earth stockpiles should not be placed on pavement without implementation of a procedure to prevent sediment transport; (4) Earth stockpiles should be completely covered or otherwise stabilized with an appropriate BMP on a daily basis during winter months and within 30 days during dry seasons; (5) The bottom of the stockpile should be circled with an interceptor swale and/or Filter Fabric Fence to catch sediment-laden runoff from the stockpile.

*AK*

**Survey Markers, Monuments & Corners:** In accordance with RCW 58 and WAC 332-120, survey monuments and property corners (survey points) shall not be disturbed or removed for this property.

*AK*

**Owner/Contractor:** All contractors working in the State of Washington must be registered in accordance with RCW 18.27. There is significant risk and potential monetary liability to a homeowner who uses an unregistered contractor. To obtain information regarding contractor registration requirements and other helpful information for homeowners to protect themselves from un-registered contractors, please visit the Washington State Department of Labor and Industries (L&I) website at: [www.lni.wa.gov/tradeslicensing/contractors](http://www.lni.wa.gov/tradeslicensing/contractors).

*AK*

This permit shall become null and void if the building or work described and authorized by this permit has not commenced within 180 days from the date of issuance, or if this building or work is suspended or abandoned at any time after the work is commenced for a period of 180 days. Obtaining inspections at intervals not exceeding 180 days identifies that work has not been suspended. I hereby certify that I have read and examined this permit and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give the authority to violate or cancel provisions of any State or local law regulating construction or the performance of the construction. All building permits are required to pass a final inspection of the building or project pursuant to the issuance of this permit in order to obtain a certificate of occupancy prior to its use or occupancy. All revisions to an approved plan require Ruston Planning and Building Department review and approval prior to performing work. If listing the owner as general contractor, I certify that I am exempt from the requirements of the State Contractor's Registration Law under RCW 18.27 and WAC 296-200A.

I have read, and agree to abide by the conditions of this permit including all conditions of the zoning and building codes adopted by the City of Ruston, and all State and Federal laws.

Signature of Owner  
or Authorized Agent:

*Alex Kovat*

Printed Name:

*Alex Kovat*

Date: 7-24-23

# Exhibit D





Rob White &lt;rob@northcreekconsulting.com&gt;

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**49th Street Property**

1 message

**Eric Mendenhall** <ericm@rustonwa.org>

Wed, Mar 16, 2016 at 3:58 PM

To: Shane Degross &lt;sdegross@rbrady.net&gt;, Rob White &lt;robw@rustonwa.org&gt;

Hi Shane,

Sorry it took me a bit to get back to you on this piece of property. As discussed last week the City's regulations do not regulate the wetland located here. The wetland is likely regulated by the USACE and the clean water act. However, given that there is possible contaminates in the soil it may qualify for fill under a 404 nationwide permit. In fact, if the EPA claims it as part of the Ruston clean up it may be exempt from permitting all together. I recommend that we gather more data for this site, particularly, soil samples.

Additionally, I recommend that we submit a SEPA checklist and fill and grade permit to place a culvert and fill the site to get vested under existing regulations. Once we obtain a permit from the city we can wait, if needs be, to get the proper approvals from the feds.

I would be happy to meet and discuss further if you like.

Best regards,

Eric Mendenhall

# Exhibit E



November 24, 2020

Mayor Hopkins  
5117 N Winnifred Street  
Ruston, WA 98407

**RE: Development Process for 5114 N 49<sup>th</sup> Street, Ruston, WA**

Dear Mayor Hopkins,

According to Ruston's former staff member, Eric Mendenhal, who is a certified wetland biologist, the wet areas of the site located at 5114 N 49th Street are too small to be considered a jurisdictional wetland and therefore may be filled and developed upon approval of site development permits. His recommendation for permit approval steps to prepare the site for development included the following:

- 1) Submit a wetland study/letter from a third-party (non-city staff) wetland biologist stating that the wet areas of the site do not qualify as a jurisdictional wetland because it is too small.
- 2) Submit a fill/grade permit along with a SEPA Environmental Checklist which proposes to connect the Tacoma storm drain culvert at the alley to the culvert under Commercial Street, and to also place fill in order to bring the site up to grade with the street and surrounding residential properties. This would also serve to fully cap any areas of the site which may not have been fully addressed by either the EPA or Washington State Dept of Ecology. As was done with the Point Ruston site, I would expect that Ruston would consider final grade after remediation to be the grade that is used to determine maximum building height.
- 3) Submit permits to construct a single-family home and associated frontage/utility improvements.

Hopefully, the above information provides a clear description of the process needed to allow residential development at the site. Please do not hesitate to contact me with any other questions at [robw@rustonwa.org](mailto:robw@rustonwa.org).

Sincerely,

A handwritten signature in black ink that reads "Rob White". The signature is written in a cursive, slightly slanted style.

Rob White,  
Community Development Director  
City of Ruston

1 **DECLARATION OF SERVICE**

2 I, Ankita Das, hereby declare under penalty of perjury under the laws of the State of  
3 Washington, that on the 18<sup>th</sup> day of July, 2024 before 5 PM, I caused to be served true and  
4 correct copies of the Motion to Exclude Wetland Issues from Consideration, with Exhibits A –  
E, on the following parties and/or counsel of record named below in the specific manner  
indicated:

5 **Hearing Examiner Clerk:**

6 Charles McKenna  
7 City of Ruston, Hearing Examiner  
8 Clerk

Email: [charlesm@rustonwa.org](mailto:charlesm@rustonwa.org)

9 **Hearing Examiner:**

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23 **DATED** this 18th day of July, 2024, at Bellevue, Washington.

24 *s/ Ankita Das*  
Ankita Das