



**White Salmon Planning Commission Workshop
A G E N D A**

October 11, 2023 – 5:30 PM

119 NE Church and Via Zoom Teleconference

Meeting ID: 817 5391 3180

Call in Number: 1 (253) 215-8782 US (Tacoma)

Call to Order/Roll Call

Discussion Items

- [1.](#) White Salmon Critical Areas Update
- [2.](#) Meeting Minutes – September 13, 2023

Adjournment



File Attachments for Item:

1. White Salmon Critical Areas Update

Date: October 6, 2023
To: White Salmon Planning Commission
From: Alex Capron, AICP, Senior Planner
Project Name: White Salmon CAO
Project Number: 220534.2

Subject: White Salmon Critical Areas Ordinance Update

With the close of the public comment period for the City’s Critical Areas Ordinance (CAO) Update, City and DCG/Watershed staff have prepared a draft comment response matrix for review and discussion (attached). Responses from commissioners, as well as discussion topics from the September 13th Planning Commission deliberations are also included in this memo.

After the public hearing held on September 13th, Planning Commission held preliminary discussions on the proposed amendments to White Salmon Municipal Code (WSMC) Chapter 18.10 Critical Areas Ordinance, Section 19.10.040 Project permit application framework, and new proposed new Chapter 18.40 – Heritage Trees. Topics include: 1) heritage tree regulations; 2) new WSMC section 18.10.318 – Process for Designating Species of Local Importance; and 3) Jewett Creek stream typing. Additional discussion below responds directly to several written comments (enclosed) from Planning Commission.

1. Heritage Trees

To address concerns about City application of heritage tree regulations (both existing and proposed) the new Chapter 18.40 removes the 15-foot building setback that currently applies to all critical areas within Chapter 18.10. Even so, the scope of this CAO update does not include major changes to re-work the heritage tree ordinance at this time. Minor changes include:

- Replacing “or” with “and” to match intent of code for all situations where heritage tree provisions apply.
- Clarify nomination procedures to include both private and public property.
- Changing the wording within the exemptions section (proposed WSMC 18.40.010(H)) for this regulation to apply to all properties, not just single-family residential property.
- Capturing tailored comments from commissioner feedback (see responses below).

2. Process for Designating Species of Local Importance

To address questions on need for the process of designating additional species of local importance, the purpose of this section is to protect those habitats and species that, due to their population status or sensitivity to habitat manipulation, be considered by Council to warrant protection. Habitats under consideration for nomination may include a seasonal range where a species has a primary association and is otherwise not yet recognized formally by WDFW in their existing Priority Habitat Species (PHS) mapping application or by other state and federal agencies. Allowing this adaptability within the code may in-turn increase the likelihood that the species will maintain and reproduce over the long term. Further, justification for species or habitats must be based on best available science (BAS) to support both protection and future management when interacting with development proposals. This code, as drafted, appears appropriate in supporting the purpose of this Chapter (WSMC 18.10.030) to identify and address species and habitats that may be impacted through changing climates and other factors not yet understood today.

3. Jewett Creek Type F Stream Designation

In regards to Jewett Creek, several Planning Commission members had concerns with its type F stream designation upstream of a known fish barrier (dam), resulting in a 200-foot buffer under current code. It was suggested for the City to hire a biologist to review the stream type upstream of this fish barrier. However, this effort would likely need City budget support from general fund dollars to address an area with a limited number of single-family residential properties. Further, the upper sections of Jewett Creek likely contain resident, non-anadromous fish species and thus would still be designated Type F.

It is important to remember, even if undeveloped, there are still mechanisms through a reasonable use exception or variance to develop, or redevelop and expand up to 500 feet.

Finally, WDFW has commented on Site Potential Tree Height recommendations to potentially reduce this stream buffer by upwards of 50 feet, dependent on tree species found on a site-specific parcel. The City could opt to use this guidance instead of static stream buffers and adjust the code accordingly.

Response to Commissioner's Gilchrist's comments

Regarding Commissioner Gilchrist's comments not already covered above, the City and DCG/Watershed will consider accepting minor changes to the proposed Heritage Tree Chapter (WSMC 18.40), including the livability, environment and public health statement; inventory guidelines; clarification that topping be a prohibited pruning technique; violation clarifications holding arborists responsible for tree removal without permit; wildfire risk considerations associated with tree removal; and stop work on any arborist work or construction project that does not display permit for removal of a heritage tree.

Response to Commissioner's Stevensons's comments

Regarding Commissioners Stevenson's comments not already covered above, the original CAO was originally based roughly on La Center's CAO when the ordinance was updated in 2012, mainly due to population size similarity. This statement is currently irrelevant, as the edits proposed through the latest CAO draft did not consider La Center's CAO, but rather current Best Available Science and ease at utilizing the code for both City staff and applicants. This latest version shows the pre-amble paragraph as removed within WSMC 18.10.070 – Best available science and risk assessments. Questions, suggested amendments, and clarifications to mapped critical areas themselves should instead refer to existing mapped critical area resources from various agencies (WDFW, WDNR, Ecology, ect). These areas will not be modified based upon perceived presence or absence of a listed critical area, unless justified by a qualified professional. Critical Aquifer Recharge Area (CARA) regulations will remain, for example, even if there are no mapped CARA's to-date, as these regulations keep standards in-place to ensure this resource is protected within City limits, if ever encountered. Finally, the suggested edit to Anadromous Fish under WSMC 18.10.800 are not necessary as the current definition encompasses the variety of anadromous fish that may be present in the City.

Response to Commissioner's Hohensee's comments

Regarding Commissioner Hohensee's comments not already addressed above, we agree with the recommended clarification to proposed WSMC 18.10.115.A.3(ii), as intent of the 500 square-foot building footprint expansion in a critical area buffer intent is to also incorporate vertical expansions to the maximum allowed within the underlying zone. Further, we agree with the suggested edit to include 3rd party verification for designating species or habitat of local importance (new WSMC 18.10.318), to be paid for by applicant. Finally, the suggestion to eliminate the arborist requirement would otherwise make it difficult for the City staff to review

proposed pruning activities and justification for removal, if not based on ISA Certified guidance and documentation for why a given tree should be removed or pruned greater than 25%, as prescribed by existing code.

Response to Commissioner’s Morneault’s comments

Regarding Commissioner Morneault’s comments provided in the attached spreadsheet regarding WSMC 18.10, many of the suggested fixed citations and minor clarifications will be accepted, as they generally improve both readability and administration of the CAO. Suggested clarification (non-substantive) edits to the proposed Chapter 18.40 – Heritage Trees will also largely be incorporated, factoring in the recommended edits summarized on page one of this memo.

Schedule

The tentative adoption schedule is as follows:

2023 CAO UPDATE SCHEDULE – DRAFT*	
Mid-August	<ul style="list-style-type: none">Email notification sent to stakeholders and interested parties
August 23	<ul style="list-style-type: none">Planning Commission Introduction MeetingCity CAO memo placed on City website, along with schedule
August 30th– September 29th	<ul style="list-style-type: none">Post CAO draft amendments on websitePlanning Commission to review draft CAO Amendments30-day public comment period on draft revisionsPublic Hearing before Planning Commission during 30-day public comment period (September 13)
October	<ul style="list-style-type: none">Edits and revisions suggested by Planning Commission are made to draftRespond to public comments10/11 meeting to discuss draft comment responses and Planning Commission deliberation on recommended changesPlanning Commission Recommendation to City Council for approval (10/25 meeting)
November	<ul style="list-style-type: none">City Council CAO review and adoption

**All dates beyond October 11th Planning Commission Meeting are tentative*

Encl: Draft Public Comment Response Matrix, Commissioner Stevenson and Hohensee comments, Commissioner Morneault response spreadsheet, and separate suggested edits provided by both Commissioner Morneault and Gilchrist.

City of White Salmon Critical Areas Ordinance: Comment Response Matrix

CAO Public Comment Period, August 30th – September 29th, 2023

CAO Public Hearing, September 13th, 2023

SEPA Threshold Determination/Comment Period, August 30th – September 13th, 2023

Comment Number	Commenter	Comment Topic and Section Number (Citation)	Comment	Local Government Response and Rationale
VERBAL				
1	Peter Wright	Heritage Tree Protection	<p>Peter Wright, a resident of city limits, expressed his appreciation for the removal of the heritage tree portion from the critical area ordinance. He also raised questions about the diameters of trees and their impact on future development sites. Wright believes that it would be helpful to know the relationship between potential infill development and trees, and where there might be a push and pull between housing goals and tree preservation goals.</p> <p>Wright believes that there is still work to be done in promoting more trees within the city. He and his wife plant trees on their property and believe that this ordinance should be reevaluated in the context of other communities with similar size and enforcement resources. The ordinance should focus on getting more trees while balancing the need for infill housing.</p> <p>Wright also highlighted the norm of having exemptions for single-family homes in some communities. He stated that Covington, Washington, has a structure where every tree removed must be replaced by at least one, and they lower their threshold for significant trees. Land that is zoned for higher density allows for more trees to be removed, balancing the single-family home exemption.</p>	<p>No Further Changes Recommended. The City has opted to remove the heritage tree ordinance outside Chapter 18.10 and place into a separate chapter within Title 18. The focus remains on updating the Critical Areas Ordinance. As such, no significant changes will occur to the Heritage Tree Regulations at this time.</p>
WRITTEN				

Comment Number	Commenter	Comment Topic and Section Number (Citation)	Comment	Local Government Response and Rationale
1	WDFW	SMP Appendix B Table 3-1 Standard Stream Buffer Widths	<p>Incorporate our management recommendations for riparian buffers throughout the document. We recognize that the city discussed their decision to not incorporate WDFW’s Riparian Management Recommendations into the updated CAO, as stated in the technical memorandum. Unfortunately, by not adopting SPTH200, the city has not met the requirement to utilize the best available science within their CAO.</p> <p>We understand that adopting our new management recommendations is a significant change from current practice, but it defines the area of habitat that needs to be protected to ensure all critical functions for the habitat remain intact. In addition to adopting our management recommendations outright, some jurisdictions have explored alternative approaches that better align with the needs of their cities or counties. For example, using an average SPTH200 for each creek, instead of a variable buffer, can be used to simplify the implementation of this new guidance. The City of White Salmon only has two creeks within the city limits. The SPTH200 for the stream segments within the city limits range from 150 to 195 for both Dry Creek and Jewett Creek. Therefore, using our new management recommendations would not only use best available science but would also not significantly alter (and may even decrease) the amount of protected riparian habitat in the city.</p>	<p>No changes are recommended. The City acknowledges the Washington Department of Fish and Wildlife (WDFW) has issued new management recommendations for riparian management zones. Although the City is not proposing to use site potential tree height as a determining factor for stream buffers, the City has evaluated ecological functions that would occur by utilizing this tool, found here: Priority Habitats And Species: Riparian Ecosystems and the Online SPTH Map Tool (arctgis.com). Coincidentally, while stream segments range from 150 – 195 feet, there are as many as three separate buffers for a given point along both Jewett Creek and Dry Creek. There is also not clear guidance in which for this to be implemented at a parcel scale for proposed development. The City anticipates further reviewing WDFW management recommendations and incorporating best available science during the next update of the critical areas ordinance.</p> <p>Or</p> <p>Change recommended. The City will incorporate Riparian Management</p>

Comment Number	Committer	Comment Topic and Section Number (Citation)	Comment	Local Government Response and Rationale
				<p>Recommendations for Site Potential Tree Height. As a result, all stream buffers will be a minimum of 100 feet and will range upwards to 195 feet for mature Ponderosa Pine species, depending on findings of tree species on-site within the WDFW Riparian Ecosystems mapping tool (Priority Habitats And Species: Riparian Ecosystems and the Online SPTH Map Tool (arcgis.com)). As noted in the WDFW comments, the City may decide to average the SPTH200 buffers along each creek (based on tree species present at a given site) to establish one buffer width along each creek. Note, this most likely will result in lowering protections for Dry Creek and Jewett Creek, which currently both have a 200-foot buffer.</p>
2	WDFW	<p>WSMC 18.10.210 Mitigation Sequence</p> <p>WSMC 18.10.217 – Critical areas reports/stu</p>	<p>Add information detailing information needed to demonstrate mitigation sequence was followed. We appreciate the City of White Salmon’s efforts to outline the mitigation sequence and emphasize the importance of avoidance and minimization. We recommend adding language to clarify what information project proponents need to provide when their project impacts critical areas. Specifically, we recommend having project proponents articulate why alternative designs that have less impact are not possible. The inclusion of this language would increase transparency and reinforce the importance of exploration of</p>	<p>Change not recommended (1st edit) change recommended (2nd edit): It is general practice to review monitoring reports and have the applicant rectify deficiencies on an annual basis. If unresponsive, the bond posted will be pulled by the City to ensure corrective measures capture deficiencies within the permit-</p>

Comment Number	Commenter	Comment Topic and Section Number (Citation)	Comment	Local Government Response and Rationale
		dies	<p>alternative designs when critical areas are impacted by a development project. We also recommend adding language at the end of the mitigation sequence that describes the key step of monitoring the project for success. Recommended edits in <u>red underline</u> below.</p> <p><i>WSMC 18.10.210 – Mitigation Sequence</i> <u><i>F. Monitor mitigation actions and use adaptive management to achieve the identified goal.</i></u></p> <p><i>WSMC 18.10.217 – Critical areas reports/studies</i> <i>c. General Critical Areas Report Requirements</i> <i>xi. written report detailing</i> <i>(h) When alteration to a critical area or its buffer is proposed, <u>explain why the impact is unavoidable, why alternative designs cannot be used to avoid and minimize the impact, and how it meets the criteria for a defined exception.</u></i></p>	<p>established time period (five year minimum). As such, further adaptive management requirements are not necessary under the Mitigation Sequence provisions.</p> <p>As for the proposed edits to WSMC 18.10.217, the City accepts these changes, as the additional language falls within the bounds of mitigation sequencing and ensuring that alternative designs are exhausted as a form of avoidance and minimization prior to mitigating for an impact.</p>
3	WDFW	WSMC 18.10.120 - Enforcement	<p>Add requirements to consult with WDFW and use management recommendations to guide development of mitigation plans for projects or violations that impact PHS. The Washington Department of Fish and Wildlife have produced a number of PHS documents that provide guidance on how to manage these critical areas. We recommend consulting with WDFW and using our published management recommendations when reviewing mitigation plans that impact PHS. Frequent and early collaboration between WDFW and the City of White Salmon will ensure mitigation plans are using best available science and be more likely to result in no-net-loss of function. Recommended</p>	<p>Change recommended. This suggested change appears appropriate in this circumstance for projects illegally impacting WDFW mapped Priority Habitat Species (PHS). The City may incorporate this change.</p>

Comment Number	Commenter	Comment Topic and Section Number (Citation)	Comment	Local Government Response and Rationale
			<p>edits in <u>red underline</u> below.</p> <p>(Page 18) WSMC 18.10.12 – Unauthorized Alterations and Enforcement</p> <p><i>E. When the City or its agent have determined that complete restoration is required, the person or agent responsible shall prepare a restoration plan. A qualified professional shall prepare the plan using the currently accepted scientific principles and shall describe how the actions proposed meet the minimum requirements described in subsection F below. The City or its agent shall seek expert advice, at the expense of the applicant or other responsible party, in determining the adequacy of the plan. <u>This includes consulting with WDFW when the violation impacts a species identified in the Priority Habitat and Species program.</u> Inadequate plans shall be returned to the applicant or violator for revision and resubmittal.</i></p> <p>(Page 38) 18.10.220 – Best Available Science.</p> <p><i>Any approval of mitigation to compensate for impacts to a critical area or its buffer shall be supported by the best available science. <u>The city will consult with WDW and use WDFW published management recommendations when reviewing mitigation plans for critical areas that are listed under the Priority Habitat and Species program.</u></i></p>	
4	Dean Cameron	Heritage Trees – WSMC 18.40	The ordinance as written is ambiguous and potentially restricts reasonable use as defined by State and Federal courts and can represent a “taking”. Takings require that the property owner be compensated. The existing Heritage Tree Ordinance places	No Further Changes Recommended. Per initial project scoping, public outreach messaging, SEPA threshold determination, and the

Comment Number	Commenter	Comment Topic and Section Number (Citation)	Comment	Local Government Response and Rationale
			<p>undue burden on specific property owners and in some cases may not necessarily enhance the aesthetics or livability of the community. It can severely impact one property because they have a tree of an arbitrary size, while letting the adjacent properties be developed without regard to trees.</p> <p>Certainly, we all agree that trees are a valuable resource and should be preserved and even more trees planted, wherever reasonable. However, the city is an urban environment. This is where people live, work, and shop. We must allow for these basic uses in the city. Although we wish to keep our community as natural as possible, we must allow for reasonable use and development to provide housing and the businesses that serve the residents.</p> <p>The current Heritage Tree ordinance is based upon an arbitrary size criterion. If we are trying to preserve old trees, size is not necessarily a determinant. The size of a tree is more frequently a result of the quality of the soil, water table, shade, vegetative competition, and/or species of tree. For example, the Ponderosa pine is a common tree in the region. This tree can grow very rapidly in the correct soil and conditions. A 25-30 year old tree could be 16" to 20" in diameter, while a 100 year old tree only 50' away may only be 10" in diameter. Some long-lived tree species never even reach 18" as required by the current ordinances. The question then arises as to whether it is appropriate for a homeowner, or commercial property owner, to be required to limit the use of their property and provide an easement to the public because they let a tree grow to a large</p>	<p>follow-up 10/11/23 technical memo address to Planning Commission for their workshop, the primary focus of this update is limited to address Best Available Science and administrative improvements to the City's Critical Areas Ordinance (CAO) Update, including removal of the heritage tree ordinance from the CAO, as it is not a state-defined critical area.</p> <p>The City may elect to conduct a more focused evaluation of the efficacy of this heritage tree ordinance at a later date as a separate effort, independent of the City CAO update. As a result, while administrative improvements, definitions, and an improved intent statement have been captured within the heritage tree ordinance based upon City staff, DCG/Watershed staff and commissioner comments, no substantive regulatory changes will be made at this time.</p>

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			<p>size on their property? This ordinance could readily cause many property owners to cut down trees before they reach the specified diameter to ensure that they are not trapped into unreasonable limitations on the use of their private property. In this case, the ordinance defeats the purpose. Younger trees won't be allowed to reach the size where they might impact reasonable use of the property. The current ordinance is then discouraging tree growth. Most property owners love trees and most strive to have large trees by choice. However, it is not clear that the city should mandate and limit the use of private property to require only large trees.</p> <p>Commercial and industrial zones should be exempt from any tree ordinance. These zones already have open space and landscape requirements. These zones are the urban areas where we have decided to concentrate the more intensive uses needed by the residents of the area. Certainly, even in these zones we want to preserve trees and enhance the streetscape; however, we have designated these as high use urban areas. We wouldn't have a downtown White Salmon, Bingen, or Hood River with the existing Heritage Tree ordinance. We would have sprawling commercial pockets that covered broad areas in order to avoid trees. Since we can't expand the city limits and sprawl, we must accept that we will have more concentrated uses in the existing commercial and industrial zones. We really don't have the room to limit development in these zones.</p> <p>I have owned property in White Salmon since 2006. When I acquired the property the Heritage Tree ordinance did not exist.</p>	<p>To address takings and downtown redevelopment concerns posed, there are existing exemptions in WSMC 18.40.010(H) where a site is allowed to develop up to 50% of the lot and remove trees, as necessary, to accomplish a development proposal.</p>

Comment Number	Commenter	Comment Topic and Section Number (Citation)	Comment	Local Government Response and Rationale
			<p>At that time only one tree would have qualified as a Heritage Tree due to size. I always intended to retain that tree, but also intended to improve the property. I hoped to retain several of the existing smaller trees and even plant more trees, once construction was complete. However, the current ordinance enacted after I acquired the property now places significant constraints on the use. The property next door doesn't have any trees that are large enough to qualify as a Heritage Tree based upon size. Why should that property be allowed to be developed, while I cannot? I have owned my property and paid taxes to support the city longer than they have. The current Heritage Tree ordinance is a taking of the reasonable use property rights that I acquired and creates a diminution in the property value.</p> <p>I hope that you will modify the Heritage Tree Ordinance so that it only impacts publicly owned land, is completely voluntary, or repealed in its entirety. It should not apply to commercial or industrial zones. We should encourage trees in the required landscape areas as properties are developed. We all love our natural environment and that is why we live in the Gorge. Since we are surrounded by the Gorge Scenic Act and cannot expand, we need the city to allow for reasonable and responsible uses in those areas that are zoned for development.</p>	
SEPA Public Comments				
None received.				

Review of CRITICAL AREAS ORDINANCE

REVIEWER: Morneault

Note on Clause References". Since the Chapter Title is known (18.10), only note the subsequence notion in the column below, e.g. xxx.yy.A.2.b

CLAUSE	SUGGESTED COMMENTS, CORRECTIONS, AND /OR QUESTIONS
	GENERAL: the subject occurs in several places in the reviewed document. By using REPLACE ALL or DELETE ALL every instance is repaired at once.
GENERAL	Delete " or its agents General: used to delete that the subject occurs in several places in the reviewed document. By using REPLACE ALL or DELETE ALL every instance is repaired at once
GENERAL	Delete " or its agent " and " or its agents."
GENERAL	Add "WSMC" before every code reference, e.g. "18.100.10" becomes "WSMC 18.10.010"
GENERAL	Delete "Section" when referring to the code
GENERAL	Delete the title of a code section such as "general provisions"
GENERAL	The use of parenthesis " " denote words or phrases to be deleted, changed, etc.
GENERAL	The document must always be in the present tense.
GENERAL	Change "Administer" and "Administor" to "City"
GENERAL	Change "City of White Salmon", "city of White Salmon", "city" to "City", except in the definitions
GENERAL	Indentation identifiers: Ensure they are consistent throughout the documents and they change with new indentation. On pages 7/98 and 83/98, small roman numerals are used successively. Suggest using italicized identifiers, e.g. <i>A.</i> , <i>I.</i> , <i>a.</i> , <i>ii.</i> , or capital roman numerals I., II., etc. Since there is enough tab space, I suggest left justifying roman numerals is OK. The City does not have an official style manual for the WSMC, at least as I can find.
GENERAL	Delete subsection word identifiers such as 316 A. "Type S and F Streams"
GENERAL	
030	1st paragraph Change " detracts from" to "can be detrimental to"
030	3rd paragraph. "intent is used here and "purpose". Is used in the title of the section. I do not see the words meaning the same thing
030	4th paragraph. Change "will not" to "does not".
070	Change "(Washington Administrative Code [WAC365-195" to "WAC] 365-195"
110 A.	All references to previous ordinances should be deleted. I suggest adding a statement such as "The entire CAO chapter to Title 18 was updated through ordinance xxxxxx. All future changes to part of the chapter will be noted with the change."
110 A.	Change "Revised Code of Washington (RCW) Chapter 36.70A (the Growth Management Act) to "Chapter 36.70A RCW". This matches the state style manual
110 B	Delete entire sentence. The next subsection C covers SEPA, along with all the other requirements.
110 D.	Delete first sentence. This is covered under subsection C.
110 D.	Change " shall apply" to "governs"
1143	Change "1143" to "113"
113 A.	RE: phrase "may be required". Under what circumstances would a report be required? If required in all circumstances, change "may" to "shall".
113 A.	Change "Chapter 18.10" to "CAO".
113 A.	Change "which" to "that"
114 C.	Add "and Private" between public and rights-of-ways. This will cover the railroads.
114 E. 1.	Change "taken away" to "removed"
	Change ":" to "." Make a new subsection beginning with "Plants". There is a change in the subject
	Change "appropriately" to "in accordance to all laws and regulations"
114 E. 2.	Change "may" to "shall"

114 E. 3.	Change "direct" to "on-site"
114 N.	Change "that term is used" to "defined"
115 A. 3. ii. Vi	Add "and watercourses" after "capacities".
115 B.	Change the last sentence to "The City will approve an exception if, after holding a Type II hearing, it is found that:". The "may" is very subjective and arbitrary, especially if the City finds that one or more of the listed conditions doesd exist, then it has no choice put to graant the exception.
115 C. 1.	Change "must be" to "shall"
115 C. 3.	Use the same sentence structure as in 115 B.
115 C. 4.	Change "must" to "shall"
115 C. 4. f.	Change "effective date" to "adaption"
	delete "or its predecessor", if a vested project is not involved.
116 B. 1. a.	Make this a new unindented paragraph under B.1.
	Change "at the City" to "with the City"
117	If an applicant suspects, but does not report its existance to the City, what happens?
118	The way this secton is phrase. A developer wopuld if or when a report is required. The word "may" is subjective to the whims of the City. A more definitive sentence is needed.
119 C.	How and when is the future value of a restored area deterrmined and by whom. Perhaps a different phrase is needed, such as "the City and developer will negotiate the cost of restoration and then the amount of the bonding agreed upon."
122 C.	Change " the City has been assured that rhe same or similar violatiomn is not like to occur" to "a Start Work Order has been issued."
122 E.	Change "the person the agent responsible shall prepare a restoration plan." to the permittee shall submit a restoration plan."
	Change "applicant or other responsible party" to "permittee"
122 F.	Change "applicant or other responsible party" to "permittee"
122 F. 1.	Add "and watercourses" after "quality"
123 A.	Change "adopted by the City Council and updated from time to time." to "as listed in WSMC Title 3."
125 A.	Change "the effective date of this title" to "adoption of this Chapter."
125 B. 3. c.	Change "decision maker" to "City"
200	Selete"Subsections"
	Delete "of White Salmon (the city)"
211 C.	I think "edge of roadbed" instead of "edge of road" is meant. Usig roadbed then the erntire cross section of sa road or railroad is taken into consideration.
	Question: If a theoretical buffer extends beyond the far edge,does the buffer proceed past the far edge?
214 A.	Change " according to the direction of the City"to" in a form or format required by the county.,"
215 B.	add "to the satisfaction of the City" after "materials"
217 B. 2.	Question: WSho pays for the professional?
217 C. 2. a.	Using 1:20 is great if one is using a metric system. Conventional American civil and landscape scales are in feet on the ground per inch on the paper, 1"=20', or 1:240.
	Restate iii. As: Two fott contour intervals and ten foot index contours. The vertical benchmark shall be shown.
219 C. 5. b.	Instead of "very high rate of success" could a percentage be used?
219 C. 5. d.	add "in other project." after successful
221 C. 8.	Change "will" to "shall"
223	Change "applicant" to "property owner" I am assuming this subsection is meant for long term monitoring, therefor the owner is responsible.
316 A. 1. d.	Culverts at stream crossings shall have a clear span greater than the OHWM or 100 year flood, whichever is greater.

316 A. 4.	Add "Stormwater" before "facilities"
317 A. 2.	Question: Is feasibility technical, financial, or both?
318 B.	Change "must" to "shall"
	Change "ti" to "t"
318 C. 2.	Question: What is "SCC"
318 C. 4.	Change "scienceBAS" to "science (BAS)"
318 D. 1.	Delete "council" and "city"
318 D. 2. a.	Delete "as may be"
318 D. 2.	Delete sentence d. and e. These pertain to internal City workings and should not be in the public code.
318 D. 4.	Delete "one hundred twenty".
320 A. 1. k.	Should the sentence read "determined to be necessary" or "determined as needed"
320 B. 1. b.	Change to "The toe of all slopes, 25% or greater, within 25 feet of the OHWM."
411	Change "earthquake" to "due to heavy rainfall, seismic activity,". Please note that all areas are subject to earthquakes.
512 D. 7.	How does the NFIP in Puget Sound affect this area?
711 B.	Change "applicant or applicant's knowledge" to "land owner". To my mind, the land owner always has the ultimate responsibility for what happens under his/her ownership.
712 A. 1.	Delete "Standard buffer widths. Move 1.a. up a level.
712 A. 1. a.	What qualifies a "wetland professional"? Is there a certification program for this?
	Change "or as revised" to "current edition"
712 A. 3. a.	Correct citations are 50 CFR 17.11 and 50 CFR 17.12
712 B. 6.	Change "are necessary" to "shall be required"
712 B. 7.	Change "taken away from the site and appropriately disposed of." to "removed from the site and disposed of in accordance with all laws and requirements"
	Make a new subsection beginning with "Plants". There is change in the subject matter.
714	Allow buffer uses not shown in 18.10.713. per comment by CM55
	Change "requirements of this chapter" to "following requirements"
714 C.	Change "local conservation district" to "Underwood Conservation District"
714 F.	Change "are necessary" to "shall be required"
714 G.	Change "taken away from the site and appropriately disposed of properly." to "removed from the site and disposed of in accordance with all laws and requirements"
	Make a new subsection beginning with "Plants". There is change in the subject matter.
714 J.	What is "Low Impact Development"? Is this in another area of the WSMC? If it is, the specific location needs to be cited.
715 B. 2.	This subsection is in the future tense and should not be in the code until it has been adopted by the City. If the city wishes to keep the location for eventual enactment, I suggest "In-lieu Mitigation.
715 B. 3.	I suggest changing the last sentence to: "The following types of permittee responsible mitigation are acceptable. The permittee may submit alternative types, though they shall meet the requirement of this chapter."
715 B. 3. d. vi.	What is being ratioed?
717 A. 5.	What is "Cowardin"?
800	My own preference is for definitions and abbreviation list should be under Section 100.
	City: Change "designee" to "acting through its staff"
	Clearing: Change "or" to "and/or"
	Geologically Hazardous Areas: Change "earthquake" to "Seismic Activity"
	Landscaping: Add "or imported" after "natural"

Commissioner Michael Morneau Edit

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Chapter 18.40 – HERITAGE TREES.

18.40.10 ~~18.40.010~~ Special provisions—~~heritage~~Heritage treesTrees.

Commented [AC1]: See Review Memo. Heritage trees are not a critical area, as defined by the State, and are not typically included in critical areas regulations. As a result, this has been re-located outside Chapter 18.10 into its own chapter.
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A. ~~Trees providing valuable natural habitat can be afforded protection by the City and can be designated as Heritage Trees~~All heritage trees qualifying for protection provide valuable local habitat and protection by the City. The tree protection area shall be equal to 10 times the trunk diameter of the tree or the average diameter of the area enclosed within the outer edge of the drip line of the canopy, whichever is greater.

B. Heritage

B.1. Heritage trees include:

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1.a. Oregon white oaks (*Quercus garryana*), with a trunk diameter larger than fourteen inches,

2.b. All other tree species with a trunk diameter greater than eighteen inches, or

3.c. Any tree designated as a heritage tree by the City Council in accordance with the nomination process detailed below.

2. Truck Measurement: Truck diameter (DBH) shall be measured 4½ feet above the lowest ground elevation at the truck base.

3. Heritage Tree Protection Area (HTPA): ~~The tree protection area~~HTPA shall be equal to 10 times the trunk diameter of the tree or the average diameter of the area enclosed within the outer edge of the drip line of the canopy, whichever is greater.

3.

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C. ~~To be considered a heritage tree, the tree must be nominated by the landowner of the ground sustaining the tree and be accepted by the City onto the inventory list of heritage trees compiled and maintained by the City.~~

D.C. ~~Heritage trees may be designated in accordance with the following nomination and designation process.~~Heritage Tree Nomination and designation process.

1. The tree must be nominated by the owner of the land sustaining the tree

1.2. Trees with smaller trunk diameters may also be nominated for heritage status by the property owner by submitting a map, a photograph, and a narrative description, including the location, species, approximate age, and the specific characteristics and reasoning on which the nomination is based. To receive such a designation, a tree must be an outstanding specimen, especially old or large, or of distinctive form, location, or of ecological, cultural, or historical significance.

3. The City shall inspect the tree, consider public comments, consult with a certified arborist if relevant, and decide whether or not the tree is to be designated a heritage tree.

Notice of the City's decision shall be mailed to the landowner and any other parties participating in the evaluation process.

~~2.4. When the tree is accepted for heritage, it shall be added to the Heritage Tree Inventory compiled and maintained by the City.~~

~~3.5. The Council may be asked to reverse its designation of a heritage tree.~~

~~D. Tree inventory is required: The City shall maintain a list of heritage trees designated within the city limits in response to the voluntary nomination process. The inventory may include a map identifying the location of the trees and a brief narrative description of each heritage tree.~~

~~E.:~~

~~1. The City shall maintain a list of heritage trees designated within the city limits in response to the voluntary nomination process. The inventory may include a map identifying the location of the trees and a brief narrative description of each heritage tree.~~

~~F.E. Maintenance and preservation of heritage trees is required.~~

1. Any owner or applicant shall use reasonable efforts to maintain and preserve all heritage trees located thereon in a state of good health pursuant to the provisions of this chapter. Failure to do so shall constitute a violation of this chapter. Reasonable efforts to protect heritage trees include:
 - a. Avoidance of grading, excavation, demolition, or construction activity within the heritage tree protection area where possible. The City shall consider special variances to allow the location of structures outside the building setback line of a heritage tree whenever it is reasonable to approve such variance to yard requirements or other setback requirements.
 - b. Grading, excavation, demolition, or construction activity within the heritage tree protection area shall require submittal of a tree protection plan, prepared in accordance with applicable guidelines for a critical area report and habitat management plan per WSMC 18.10.200, General Provisions.
 - c. Consideration of the habitat or other value of mature trees in the request for a variance or other modification of land use standards may require listing the tree as a heritage tree. Once listed for protection, the approval of variances or modification of standards are considered reasonable actions and not the result of a self-created hardship.
2. The critical areas report for purpose of this section shall include a heritage tree protection plan and shall be prepared by a certified arborist. The plan shall address issues related to protective fencing and protective techniques to minimize impacts associated with grading, excavation, demolition, and construction. The City may impose conditions on any permit to assure compliance with this section.

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3. Review and approval of the critical areas report and tree protection plan by the City is required prior to issuance of any permit for grading or construction within the heritage tree protection area.
4. A heritage tree protection easement (HTPE) shall be required. An HTPE is an easement granted to the City to protect a heritage tree protection area. HTPEs shall be required as specified in these rules and shall be recorded on final development permits and all documents of title and with the county recorder at the applicant's expense. The required language is as follows:

Dedication of a heritage tree protection easement (HTPE) conveys to the public a beneficial interest in the land within the easement. This interest includes the preservation of existing heritage tree for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, visual and aural buffering, and protection of plant and animal habitat. The HTPE imposes upon all present and future owners and occupiers of land subject to the easement the obligation, enforceable on behalf of the public of the City of White Salmon, to leave undisturbed all heritage trees within the easement. The heritage tree protection area may not be impacted by grading, excavation, demolition or construction without express written permission from the City of White Salmon, ~~which permission must be obtained in writing.~~

G.F. Heritage tree removal and major pruning are prohibited. It is unlawful for any person to remove, or cause to be removed, any heritage tree from any parcel of property in the city or to prune more than one-fourth of the branches or roots within a 12-month period without obtaining a permit. In case of an emergency, when a tree is imminently hazardous or dangerous to life or property, it may be removed by order of the police chief, fire chief, the director of public works, or their respective designees. Any person who vandalizes, grievously mutilates, destroys, or unbalances a heritage tree without a permit or beyond the scope of an approved permit shall be in violation of this chapter.

H.G. Exceptions to the provisions in this section include:

1. A heritage tree can be removed if it is dead, dangerous, or a **nuisance**, as attested by an arborist's report, submitted to the City and paid for by the tree owner or by order of the police chief, fire chief, the director of public works, or their respective designees.
2. A heritage tree in or very close to the "building area" of an approved design for a single-family residence can be replaced by another tree. A heritage tree can be removed if its presence reduces the building area of the lot by more than 50 percent after all potential alternatives, including possible setbacks to minimum yard depth and width requirements, have been considered.
3. Any person desiring to remove one or more heritage trees or perform major pruning (per 18.10.316 F, above) shall apply for an exception pursuant to procedures established

Commented [MM2]: define a nuisance

by this section rather than 18.10.125, Exceptions, which generally applies elsewhere in this chapter.

Commented [MM3]: This subsection needs to be revised, 18.10.316 pertains to streams

4. It is the joint responsibility of the property owner and the party removing the heritage tree or trees, or portions thereof, to obtain a written exception. The City may issue a permit for the removal or major pruning of a heritage tree only if it is determined that there is good cause for such action. In determining whether there is good cause, the City shall consult with a certified arborist, paid for by the applicant, as appropriate. The City shall also consider the following.
 - a. The condition of the tree or trees with respect to disease, danger of falling, proximity to existing or proposed structures, and interference with utility services.
 - b. The necessity to remove the tree or trees in order to construct proposed improvements to the property.
 - c. The topography of the land and the effect of the removal of the tree on erosion, soil retention, and the diversion or increased flow of surface waters.
 - d. The long-term value of the species under consideration, particularly its lifespan and growth rate.
 - e. The ecological value of the tree or group of trees, such as for food, nesting, habitat, protection, and shade for wildlife or plant species.
 - f. The number, size, species, age distribution, and location of existing trees in the area and the effect the removal would have upon shade, privacy, and scenic beauty.
 - g. The remaining number of trees the particular parcel can adequately support according to good arboricultural practices.
 - h. The availability of reasonable and feasible alternatives that would allow the preservation of the tree(s).
 - h.i. After a Heritage Tree(s) removal has been completed, it is the land owner's responsibility to correct the land title with the county recorder.

Commented [MM4]: What is supported.

Commissioner Seth Gilchrist Edit

18.10.317 Special provisions—Heritage trees.

Heritage trees are valued for their contributions to the livability, environment, public health and quality of life in White Salmon. Their benefits include:

- (1) [Shade](#)
- (2) [Climate resilience](#)
- (3) [Improved air quality](#)
- (4) [Soil stabilization](#)
- (5) [Enhancement of city beauty and character](#)
- (6) [Enhanced property values](#)

~~A. Wildlife Habitat~~ The requirements provided in this section supplement those identified in Section 18.10.200 General Provisions. All heritage trees qualifying for protection provide valuable local habitat and shall be protected as critical areas. The tree protection area shall be equal to ten times the trunk diameter of the tree or the average diameter of the area enclosed within the outer edge of the drip line of the canopy, whichever is greater.

B. Heritage trees include:

1. Oregon White Oaks with a trunk diameter larger than fourteen ~~(14)~~ inches at fifty four (54) inches above ground level,
2. All other tree species with a trunk diameter greater than ~~twenty two (22) eighteen~~ inches at fifty four (54) inches above ground level, or
3. Any tree or group (grove) of trees designated as a heritage tree by the city council in accordance with the nomination process detailed below.

For (1) and (2), if the tree is a multi-trunk tree, the measurement will be taken below the main union. If the main union is below grade, each trunk will be considered individually.

To be considered a heritage tree the tree must be nominated by the landowner of the ground sustaining the tree and be accepted by the city onto the inventory list of heritage trees compiled and maintained by the city. Heritage trees designated under part (3) shall be marked on the trunk with an inventory identification number. In a heritage grove, the largest trunk close to a major access shall be marked with an inventory identification number.

C. Heritage trees not included in B.1 or B.2 may be designated in accordance with the following nomination and designation process:

1. Trees with smaller trunk diameters may also be nominated for heritage status by the property owner, by submitting a map, a photograph, and a narrative description including the location, species, approximate age, and the specific characteristics and reasoning on which the nomination is based. To receive such a designation, ~~a trees~~ must be an outstanding specimens, especially old or large, or of distinctive form, location, or of ecological, cultural or historical significance.

2. The city shall inspect the tree or trees, ~~consider public comments~~, consult with a certified arborist if relevant, and decide whether or not the tree or trees are is to be designated a heritage tree or tree grove. Notice of the city's decision shall be mailed to the land owner and any other parties participating in the evaluation process.

3. At the behest of the property owner, the Council may be asked, but is not required to, reverse the designation of a heritage tree. The council may be asked by the property owner to reverse its designation of a heritage tree.

D. Tree inventory is required.

1. The city shall maintain a list of heritage trees or groves designated within the city limits in response to the voluntary nomination process. The inventory may include a map identifying the location of the trees and a brief narrative description of each heritage tree.

E. Maintenance and preservation of heritage trees is required.

1. Any owner or applicant shall use reasonable efforts to maintain and preserve all heritage trees located thereon in a state of good health pursuant to the provisions of this chapter. Failure to do so shall constitute a violation of this chapter. Reasonable efforts to protect heritage trees include:

a. Avoidance of grading, excavation, demolition or construction activity including site access for large equipment within the heritage tree protection area where possible. The city shall consider special variances to allow location of structures outside the building setback line of a heritage tree whenever it is reasonable to approve such variance to yard requirements or other set back requirements.

b. Grading, excavation, demolition or construction activity within the heritage tree protection area shall require submissionsubmittal of a tree protection plan which shall include construction of tree buffer fencing that shall be left in place for the duration of the activity., ~~prepared in accordance [with] applicable guidelines for a critical area report and habitat management plan per Section 18.10.200, General Provisions.~~

c. Consideration of the habitat or other value of mature trees in the request for a variance or other modification of land use standards may require listing of the tree as a heritage tree. Once listed for protection, approval of variances or modification of standards are considered reasonable actions and not the result of a self-created hardship.

~~2. The critical area report for purpose of this section shall include a heritage tree protection plan and shall be prepared by a certified arborist. The plan shall address issues related to protective fencing and protective techniques to minimize impacts associated with grading, excavation, demolition and construction. The city may impose conditions on any permit to assure compliance with this section. (Note: Some provisions in section 18.10.200, such as 18.10.211 Buffers, 18.10.214 Native growth protection easement, 18.10.215 Critical areas tracts, and 18.10.216 Marking and/or fencing requirements; may not be applicable to protection areas for heritage trees.)~~

~~3. Building set back lines stipulated by subsection 18.10.212 shall be measured from the outer line of the tree protection area for heritage trees.~~

~~4. Review and approval of the critical areas report and tree protection plan by the city is required prior to issuance of any permit for grading or construction within the heritage tree protection area.~~

~~5. In lieu of the NGPE required in subsection 18.10.214, a heritage tree protection easement (HTPE) shall be required. A HTPE is an easement granted to the city for the protection of a heritage tree protection area. HTPEs shall be required as specified in these rules and shall be recorded on final development permits and all documents of title and with the county recorder at the applicant's expense. The required language is as follows:~~

~~"Dedication of a Heritage Tree Protection Easement (HTPE) conveys to the public a beneficial interest in the land within the easement. This interest includes the preservation of existing heritage tree for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, visual and aural buffering, and protection of plant and animal habitat. The HTPE imposes upon all present and future owners and occupiers of land subject to the easement the obligation, enforceable on behalf of the public of the city of White Salmon, to leave undisturbed all heritage trees within the easement. The heritage tree protection area may not be impacted by grading, excavation, demolition or construction without express permission from the city of White Salmon, which permission must be obtained in writing."~~

F. Heritage tree removal and major pruning, including topping, is prohibited. It is unlawful for any person to remove, or cause to be removed any heritage tree from any parcel of property in the city, or perform major pruninge more than one-fourth of the branches or roots within a twelve-month period, without obtaining a permit; provided, that in case of emergency, when a tree is imminently hazardous or dangerous to life or property, it may be removed by order of the police chief, fire chief, the director of public works or their respective designees. Any person who vandalizes, grievously mutilates, destroys or unbalances a heritage tree without a permit or beyond the scope of an approved permit shall be in violation of this chapter.

G. Exceptions to the provisions in this section include:

1. A heritage tree can be removed if it is dead, dangerous, or a nuisance. The city may optionally request for any reason, as attested by an arborist's report by a city approved arborist, submitted to the city and paid for by the tree owner, or by order of the police chief, fire chief, the director of public works or their respective designees.

2. A heritage tree in or very close to the "building area" of an approved single family residence design can be replaced by another tree. A heritage tree can be removed if its presence reduces the building area of the lot by more than fifty percent after all potential alternatives including possible ~~setbacks~~set backs to minimum yard depth and width requirements have been considered.

3. A heritage tree cannot be removed to facilitate construction access and will only be considered for removal if it impedes the ability of the landowner to develop structures or build permanent access as described by a driveway permit, pursuant to WSMC 13.01.070

~~3. Any person desiring to remove one or more heritage trees or perform major pruning (per subsection 18.10.316 F, above) shall apply for an exception pursuant to procedures established by this section rather than subsection 18.10.125 Exceptions, which generally applies elsewhere in this chapter.~~

3. Removal of a heritage tree requires public signage of the pending removal including permit number and date of removal no less than 14 days before the removal date. Removal decisions are not contestable by the public, but illegal removals are reportable by the public.

4. It is the joint responsibility of the property owner and party removing the heritage tree or trees, or portions thereof to obtain exception. Arborists who knowingly remove a heritage tree without a permit will be considered in violation of this ordinance. The city may only issue a permit for the removal or major pruning of a heritage tree if it is determined that there is good cause for such action. In determining whether there is good cause, the city shall consult with a certified arborist, paid for by the applicant, as appropriate. The city shall also give consideration to the following:

a. The condition of the tree or trees with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility services;

b. The necessity to remove the tree or trees in order to construct proposed improvements to the property;

c. The topography of the land and the effect of the removal of the tree on erosion, soil retention and diversion or increased flow of surface waters;

d. The long-term value of the species under consideration, particularly lifespan and growth rate;

e. The ecological value of the tree or group of trees, such as food, nesting, habitat, protection and shade for wildlife or other plant species;

f. The number, size, species, age distribution and location of existing trees in the area and the effect the removal would have upon shade, privacy impact and scenic beauty;

g. The number of trees the particular parcel can adequately support according to good arboricultural practices; and

h. The availability of reasonable and feasible alternatives that would allow for the preservation of the tree(s).

i. The wildfire risk posed by the tree(s).

H. City enforcement of heritage tree protection regulations may include:

1. Stop work on any construction project which threatens a heritage tree until it is shown that appropriate measures have been taken to protect the tree or an exception is granted for its removal; and/or

2. Stop work on any arborist work or construction project that does not display a permit for removal or major pruning of a heritage tree.

23. As part of a civil action brought by the city, a court may assess against any person who commits, allows, or maintains a violation of any provision of this chapter a civil penalty in an amount not to exceed five thousand dollars per violation. Where the violation has resulted in removal of a tree, the civil penalty shall be in an amount not to exceed five thousand dollars per tree unlawfully removed, or the replacement value of each such tree, whichever amount is higher. Such amount shall be payable to the city. Replacement value for the purposes of this section shall be determined utilizing the most recent edition of the Guide for Plant Appraisal, published by the Council of Tree and Landscape Appraisers.

(Ord. No. 2012-11-906, § 1, 11-26-2012)

From: [Erika Castro-Guzman](#)
To: [Alex Capron](#)
Subject: Fwd: cao meeting notes
Date: Monday, October 2, 2023 10:44:13 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi Alex,
Please see below for Chair Greg Hohensee's comments.

Erika Castro Guzman ½ [City of White Salmon](#)  (509) 493.1133 ext 209

----- Forwarded message -----

From: **Greg Hohensee** <gregh@ci.white-salmon.wa.us>
Date: Mon, Oct 2, 2023 at 9:58 AM
Subject: cao meeting notes
To: Erika Castro-Guzman <erikac@ci.white-salmon.wa.us>

18.10.115 A 3 ii.- add language to specify 500sqft footprint, with allowable max height in applicable zone

18.10.318 species of local importance. - needs language to include 3rd party verification of facts presented in application. Applicant can't pay an impartial scientist.

I am opposed to the designation of any tree inside the building envelope of a private parcel being designated a heritage tree by any means other than self selection. It becomes a barrier to affordability that the wealthy can easily circumvent by paying an arborist for a report. There should be an administrative path for tree removal above the described thresholds that includes removal of trees within the building envelope and replacement with trees planted or retained outside the building envelope, that are then registered and receive a protected status. Enforcement of the current code has been spotty if not non-existent. Within the viewshed of my house there have been multiple violations of this code, with no remedy as far as I know.

Multiple commissioners called out the lack of salmon in Jewett creek upstream of the waterfalls as a reason to remove setbacks inside city limits. While it is unlikely that salmon make it past the waterfalls, stream health does have a great impact on fisheries health. I would recommend reduction of the setback to allow for protection of riparian buffers while maximizing building envelope with the possibility of mitigation methods engineered into building plans. Again, enforcement is a concern.

Comments on revised: CRITICAL AREAS ORDINANCE

18.10.70 - Best available science and risk assessments.

It should be noted that while La Center was at one time similar in population to White Salmon it is now nearly 50% larger and, more importantly, has increased in population over 7 times in the last 30 years (White Salmon increased only 50% in the same time). La Center is located in flat terrain along Interstate 5, just north of Portland and Vancouver, WA. While White Salmon is situated on a bluff 300 feet above the Columbia River, 60 miles east of Portland in the Columbia River Gorge Scenic Area with a defined and restricted size based on its historic area governing future size growth. It is also bounded on the south by the Columbia River and the west by the White Salmon River. The size of the two cities have just begun to separate and based on the pressure of population growth and expanding developable area, La Center will likely outsize White Salmon greatly in the near future. These basic differences in the two towns should be taken into consideration when making regulation decisions. Best available science needs to be given proper historical background before expecting correct decisions to be made.

18.10.112 - Applicability

While it is noted that “based on information CARAs are not present with the City”, it could also be noted the due to White Salmon’s unique topography, and restricted growth area (proximity to adjacent rivers and Gorge Scenic Area boundary) affect many of the other Critical Areas regulated by this chapter:

- 1) Wetland
- 2) Critical Aquifer recharge areas.
- 3) Frequently flooded areas
- 4) Fish and Wildlife habitat conservation areas.
- 5) Geologically hazardous areas.

All these listed critical areas are infrequent, if not at all present, and can also be modified by an expanded version of the last sentence of 18.10.112 A as a model:

“Based on available information CARAs are not present within the City, if in the future and CARAs are identified within the city based on development of additional public drinking water or other potable water sources, the city shall adopt standards and criteria based on best available science to protect the resulting critical areas”.

The proposed CAO states: “Few, if any wetlands are expected to be located as very few potential wetland areas appear on National Wetland Inventory maps (NWI)”, an additional sentence could be added to the end of 18.10.112 A: If wetlands are identified within the city based on development the city shall adopt standards and criteria based on best available science to protect the resulting critical areas.

Areas of additional expansion:

Frequently flooded areas, Fish and Wildlife habitat conservation areas are also few within the city limits, although they’re close by and are protected by Scenic Area and National and State and County waterway

regulations. White Salmon's CAO should take into consideration where White Salmon is situated and its uniqueness otherwise the "science" will not be site specific, or best available.

Even though White Salmon sits on a steep solid rock bluff its geologic hazard is probably less than that of flat sandy sites, especially earthquake specific. We should identify this and make it part of the CAO.

18.10.312 – Designation

Yes, take out Heritage tree sites (for the reason mentioned).

18.10.318 – Process for Designating Species of Local Importance.

During the last Planning Commission meeting on September 13, 2023, Greg Hohensee brought up a good criticism of this provision and I agree with him completely. His comments can be found on the tape of the meeting. I believe that this provision, all of 18.10.318, should be deleted.

18.10.800 – Definitions

4. Anadromous Fish

(of a fish such as the salmon) migrating up rivers from the sea to spawn.

Other than in the Waterfront District, it should be noted that White Salmon, especially north of Hwy 141, has no anadromous fish (because of its site on a 200-300 foot bluff).

This should be noted on stream types in White Salmon. It should not be necessary for residents near streams to prove that there are no anadromous fish in the stream.

Please add these comments Erika,

Thanks,

Tom Stevenson

File Attachments for Item:

2. Meeting Minutes – September 13, 2023



DRAFT
CITY OF WHITE SALMON
Planning Commission Meeting - Wednesday, September 13, 2023

COMMISSION AND ADMINISTRATIVE PERSONNEL PRESENT

Commission Members:

Greg Hohensee, Chair
Seth Gilchrist
Michael Morneault
Ross Henry
Tom Stevenson

Staff:

Erika Castro Guzman, Project Coordinator

Planning Consultants:

Alex Capron, Consultant Planner

CALL TO ORDER/ ROLL CALL

Chairman Greg Hohensee called the meeting to order at 5:30 pm. A quorum of planning commissioner members was present. Two audience members attended in person and by teleconference.

APPROVAL OF MEETING MINUTES

1. Meeting Minutes – August 9, 2023
2. Meeting Minutes – August 23, 2023

Moved by Michael Morneault. Seconded by Seth Gilchrist.

Motion to approve minutes of August 9, 2023, and August 23, 2023, as written.

MOTION CARRIED 5–0.

Henry – Aye, Stevenson – Aye, Gilchrist – Aye, Morneault– Aye, Hohensee – Aye.

PUBLIC COMMENT

There was no verbal or written public comment.

Public Hearing

3. White Salmon Critical Area Update

Presentation

Senior Planner Alex Capron from DCG/Watershed discussed the need for a Critical Areas Ordinance Update to comply with Washington State requirements. The proposed amendments included reformatting for easier applicant use, combining variance and exemption processes, and providing more specific enforcement proceedings.

Senior Planner Alex Capron presented that the White Salmon Municipal Code, Chapter 18.10, and building code regulations in 15.28 define critical areas such as Fish and Wildlife Habitat Conservation Areas, geologically hazardous areas, flood hazard areas, and critical aquifer recharge areas. The code has also added flexibility to clarify the requirements for applicants, such as maintenance of existing single-family residences and vegetation trimming.

He stated that the allowed uses section has been updated by combining variance and reasonable use exemption criteria. This allows for development of vacant lots that are fully or partially encumbered to the point where there is no feasible path towards development. The process is

now moved to a hearing examiner, which is a common practice. A best practices guide for staff recommendation and final approval.

Senior Planner Alex Capron added that the general provisions of the code include adding flexibility for single-family remodels up to 500 square feet, which was not in the code before. This is a common issue in single-family residential lots, and the updated code addresses these concerns.

Senior Planner Alex Capron outlined the updated provisions for critical areas, including the National Wetlands Inventory, Department of Fish and Wildlife Priority Habitat Species Maps, and Department of Natural Resources Geologic Maps. The revised provisions include more stringent enforcement proceedings for development in critical areas without a permit, allowing for an extension of a two-year period for restoring nonconforming structures damaged by fire or natural events. Mitigation sequencing has been updated to match state-level guidelines, with avoidance being the first priority.

He highlighted that exemptions have been made. Such as moving heritage tree regulations outside the critical areas ordinance, as they are not considered critical areas at the state level. These regulations can still persist but do not have an extra building setback area attached to a critical area.

He said the exemption for mule and black-tailed deer habitat include development for fences of a certain height and gap, allowing for the species to still operate in and around a single-family development. For geologically hazardous areas, the key is to protect structures, as these are unique critical areas.

The Department of Washington Department of Natural Resources (WA-DNR) reference for geologic maps has been added, along with habitat county map references, and some undefined geologic events like earthquakes and liquefaction areas. There is an option for critical facilities, public or utility facilities, to operate within the confines of the code. Development regulations around drainage plans have been added, requiring qualified professionals to develop them. Standards for maintaining a tight line to the top to bottom of geologically hazardous areas have been added for best practices. The only significant change for frequently flooded areas is a federal change reflected in FEMA Region 10 to require habitat assessments for endangered species compliance for new development within a floodplain. This provision is now within the code. An isolated buffer provision has been added for wetlands, where a road or railway stops the buffer on its linear route. These changes aim to ensure compliance with regulations and best practices in geologically hazardous areas.

The proposed buffer table would have a larger buffer than the current one, incorporating minimization measures such as shielding, lighting, and preventing erosion from reaching the wetland. Stormwater best management practices would be used for these measures.

Planning Commissioner Michael Morneault provided initial comments to city staff, mentioning that fish and wildlife are involved when a priority habitat species is mapped. If there are questions about these species, the Department of Fish and Wildlife would be engaged.

The proposal also includes some edits to clarify the role of the city and permit to applicant in development applications. The language regarding agent and other responsible party is suggested to be removed, and the seismic geologically hazardous areas to be kept. The proposal

also acknowledges the edit for the International Building Code and carries out the necessary changes.

Senior Planner Alex Capron said the permit process framework criteria should additionally be updated, with references to Chapter 17.81 (this would fall outside the scope of the critical areas coordinates update). Overall, the proposed buffer table and proposed changes aim to improve the overall planning process.

Proposed Timeline

Senior Planner Alex Capron stated that the public comment period began on August 30th, with Planning Commission meetings scheduled for September and October to discuss suggested changes and make a recommendation on the draft ordinance.

- City public comment period – (Through) September 29, 2023
- City Planning Commission Public Hearing – September 13, 2023 (Today)
- Respond to Public Comments and Planning Commission Workshop – October 11, 2023
- City Planning Commission Recommendation – October 25, 2023
- City Council Adoption of the Critical Area Ordinance – November 2023

Public Testimony

Chairman Greg Hohensee opened the public comment portion of the hearing at 5:50 pm.

Peter Wright, NE Green Street (Inside City Limits)

Peter Wright, a resident of city limits, expressed his appreciation for the removal of the heritage tree portion from the critical area ordinance. He raised questions about the diameters of trees and their impact on future development sites. Wright believes that it would be helpful to know the relationship between potential infill development and trees, and where there might be a push and pull between housing goals and tree preservation goals.

Wright believes that there is still work to be done in promoting more trees within the city. He and his wife plant trees on their property and believe that this ordinance should be reevaluated in the context of other communities with similar sized and enforcement resources. The ordinance should focus on getting more trees while balancing the need for infill housing.

Wright also highlighted the norm of having exemptions for single-family homes in some communities. He stated that Covington, Washington, has a structure where every tree removed must be replaced by at least one, and they lower their threshold for significant trees. Land that is zoned for higher density allows for more trees to be removed, balancing the single-family home exemption.

Chairman Greg Hohensee closed the public comment portion of the hearing at 5:55 pm.

Discussion

The Planning Commission discussed the Critical Area Ordinance proposed changes.

Commissioner Tom Stevenson reflected on increasing house remodeling ability up to 1,000 sq ft within a buffer in White Salmon. He questioned why the 500-sq ft limit, considering the need for change in housing and the town's history.

Senior Planner Alex Capron responded by stating that he's seen 500-sq ft limit of total addition (structure impact) in other jurisdictions as a direct impact within a buffer; he stated that it's incidental in terms of impact towards the critical area buffer. Senior Planner Alex Capron

explained that a 1,000- sq ft of building footprint could be a new house, while 2,000 square feet of gross floor area for a two-store house is part of it.

Commissioner Seth Gilchrist inquired about the designation of the Type F waterways, a perennial fish-bearing waters, including Jewett Creek and Dry Creek, in the ordinance. He asked if Jewett Creek, above the waterfall, is fish-bearing, and if it is based on knowledge of fish presence or a map indication.

Senior Planner Alex Capron said he was unsure if above the waterfall is fish-bearing, as it is site-specific. He stated that the fish are mapped in the creek, but if there is no fish at a specific point, biologists may determine if it is not a Type F stream.

Commissioner Ross Henry added that The Department of Fish and Wildlife approaches waterways with a data-driven approach to market water-based species, this requires landowners to hire biologists for testing and proving their validity. Senior Planner Alex Capron stated that he would circle around with a biologist or a wetland ecologist for further insight.

Commissioner Gilchrist discussed the interpretation of existing code regarding heritage trees. He stated that it reads that a heritage tree must be nominated by the landowner, but argue that heritage trees are not considered by their virtue of existence, but rather by their physical characteristics. Commissioner Gilchrist question was if this code interpretation applies to public trees and those nominated as heritage by landowners.

Senior Planner Alex Capron answered that the critical areas ordinance historically has captured the (15-foot) building setback line buffer, which is applied to all critical areas, including the root zone. However, the use of “or” in part B, instead of “and,” would allow the applicant to choose which provision within part B and C would apply, thus capturing the root zone as part of the protected area.

Staff clarified that there is a (contract) hearings examiner knowledgeable in public hearing proceedings and land-use decisions that is directed by the appealing body and carried through by the planning staff. Staff additionally clarified there are critical area maps, as referenced in text.

Chairman Greg Hohensee closed the public hearing at 6:17 pm.

Discussion Item

4. White Salmon Critical Area Update Deliberation

Commissioner Set Gilchrist expressed concern about the Type F waterway in Jewett Creek, predominantly above the waterfall. He believes no fish could make it up the waterfall and is a burden on landowners. Commissioner Gilchrist suggests recommending the city council approve a budget for a professional to examine the waterway and work with The Department of Fish and Wildlife as there is a natural (topography) buffers and physical limitations.

Chair Greg Hohensee asked Senior Planner Alex Capron if it is possible to add an exemption to the Type F stream, upstream of the waterfalls, into the critical areas ordinance to reduce setbacks for this specific area.

Senior Planner Alex Capron acknowledges that regulations related to stream buffers are not being addressed, and fish and wildlife have riparian management zone guidance. However, this guidance is

difficult to implement due to its reliance on site potential tree height and soils. He stated that it may not be appropriate for smaller jurisdictions but can pose the question as it relates to inside city limits.

Senior Planner Alex Capron cations that drastic changes to the buffer could require a re-notice due to the lack of description and capture within the SEPA process, which could conflict with the best available science.

Commissioner Tom Stevenson said he believes that trees are a shared resource, similar to streams, and should be preserved. He argued that heritage trees work aims to prevent developers from removing trees for access reasons, as it is easier to not have a tree there than to have it. This perspective emphasizes the importance of preserving heritage trees. Commissioner Stevenson suggested modifying the critical areas ordinance to include trees of a certain size. He said he understands this would impact development opportunities where trees can be designated as critical areas tract during the land-use process.

Commissioner Ross Henery further discussed the applicability of the critical area ordinance specific to White Salmon city limits.

Chair Greg Hohensee added the need for this ordinance to be easily interpreted and overlays readily accessible for developers without requiring staff's time.

Chair Hohensee expressed his thoughts on the use of a hearings examiner to oversee a complex ordinance. He believes that the intent of the hearings examiner is to put someone qualified in the position. He said he is concerned about the potential for a bad hire and the potential for political influence. Chair Hohensee believed that planning commissioners are less susceptible to political influence because of the four-year term. He also express concern about the potential for the commission to be solely responsible for critical areas, ordinances, and variances, which could lead to poor decisions.

Chair Greg Hohensee said he believes that if the Planning Commission is responsible for the issue, they should have the time and energy to understand the ordinance and make effective decisions. He stated that he was unsure of his stance on the matter, but he understood the importance of having a hearings examiner in place. He ultimately suggested that having five opinions heard on a complex subject is less prone to influence than one.

Chair Hohensee discussed the possibility of naming local flora and fauna for protection, even if they are not protected at the state or federal level. He expressed concern about the language used, as it may allow individuals with significant influence to prevent certain building projects.

Chair Greg Hohensee talked about the importance of aquifer language, stating that if new wells are needed, it is crucial to have a language in place to protect the water that needs to be accessed.

Commissioners agreed to review the heritage tree ordinance to protect trees like they are a shared resource but does it in a way that provides equity to the community.

Senior Planner Alex Capron stated that any management recommendations must be based on science and need technical documentation to be protected if someone used a species to prevent development near them.

The discussion continued to raise awareness of the issue of enforcing the ordinance at the time of building, regardless of whether the city and developer follow all the right steps to preserve a sensitive area.

The discussion also included enforcement issues regarding heritage trees in fair to poor health that have caused dangerous situations.

No formal action was taken.

The next steps include continuing to collect public comments through September 29, 2023, and the Planning Commission will follow-up with further edits or comments for the October 11 workshop. The Planning Commission anticipates making a recommendation to the city council on October 25, 2023; a public hearing is optional.

Commissioner Ross Henry shared he will be unavailable from October 13 – November 10, 2023.

ADJOURNMENT

The meeting was adjourned at 7:09 pm.

Greg Hohensee, Chairman

Erika Castro Guzman, City Project Coordinator