

Exhibit A

Title 2
ADMINISTRATION AND PERSONNEL

Chapter 2.54
Office of the Hearing Examiner

Section:

2.54.070 Consideration of land use regulatory cases.

2.54.070 Consideration of land use regulatory cases.

The following cases shall be within the jurisdiction of the examiner under the terms and procedures of this chapter:

- (1) Short plat variance requests or appeals;
- (2) Shoreline substantial development, conditional use permits, shoreline permit rescissions and shoreline development variances related to the Puyallup Shoreline Master Program (SMP); appeals of administrative interpretations and statements of exemption related to the Puyallup Shoreline Master Program (SMP);
- (3) Appeals of administrative interpretations, shoreline substantial development and statements of exemption related to the Puyallup Shoreline Master Program (SMP); Shoreline development variances;
- (4) Preliminary major plat applications;
- (5) Rezone applications;
- (6) Preliminary plat modification requests;
- (7) Planned residential developments;
- (8) Planned commercial developments;
- (9) Conditional use permits;
- (10) Variances;
- (11) Appeals of zoning code interpretations;
- (12) Interpretation of zoning boundaries;

- (13) Appeals of administrative decisions;
- (14) State Environmental Policy Act (SEPA) appeals;
- (15) Public works – appeals of administrative decisions regarding alternative methods requests related to the City Standards for Public Works Engineering and Construction Manual;
- (16) Public works – appeals of administrative interpretation of Flood Insurance Rate Map (FIRM);
- (17) Public works – appeals of administrative decisions regarding alternative methods requests related to clearing, filling, and grading criteria;
- (18) Public works – appeals of administrative decisions regarding alternative methods requests related to storm water management criteria;
- (19) Appeals of administrative decisions regarding building permits;
- (20) Binding site plan applications;
- (21) Appeals of permit decisions related to heritage tree applications;
- (22) Appeals of decisions made by design review and historic preservation board (DRHPB) in relation to design review cases (as outlined by PMC 2.29.070).

***Title 21
ENVIRONMENT***

***Chapter 21.06
CRITICAL AREAS***

Article I. Purpose and General Provisions

Sections:

21.06.130 Findings.

Article IX. Wetlands

Sections:

21.06.910 Designation, mapping, and rating.

21.06.980 Wetlands mitigation – Additional types of mitigation.

Article I. Purpose and General Provisions

21.06.130 Findings.-----

The city finds that critical areas contain valuable natural resources, provide natural scenic qualities important to the character of the community, perform important ecological functions and processes, and/or present a hazard to life and property. With respect to particular critical areas, the city finds as follows:

(1) Wetlands.

(a) Wetlands perform numerous important ecological functions, including, but not limited to, provision of wildlife and fish habitat, water quality enhancement, flood and erosion control, ground water recharge and discharge, shoreline stabilization, research and education opportunity, and recreation.

(b) To achieve the goal of “no net loss,” as defined in PMC 21.06.210(88), of wetland functions and values within the city, the regulations of this chapter are intended to discourage or prohibit:

(i) Activities that block water flows, or damage or destroy flood storage areas or storm barriers, thereby resulting in greater potential flood damages;

(ii) Disposal of wastewater, solid wastes, or storm water not complying with the requirements of Chapter 21.10 PMC, or creation of unstable fills inappropriate to the function of wetlands, which may result in water pollution;

(iii) Application of pesticides, herbicides and algicides on wetlands unless warranted to protect the ecological functions of the wetland;

(iv) Activities that limit the function of a wetland to control erosion or runoff; provide water storage; or provide wildlife breeding, spawning, nesting, wintering, or feeding grounds; and

(v) Activities that detract from a wetland’s value in providing educational experiences, recreational uses, and/or open space.

(2) Fish and Wildlife Habitat Areas.

(a) Rivers, streams, and other fish and wildlife habitats perform many important biological and physical functions that benefit the fish and wildlife species inhabiting the region. These functions include, but are not limited to: providing cover, breeding/spawning habitat, and food for fish and wildlife species; maintaining water quality; storing and conveying storm and floodwater; and recharging ground water.

(b) Habitat areas also serve as a valuable resource for city residents by providing areas for recreation, education, scientific study, and aesthetic appreciation. Protection of these systems is necessary to protect the public health, safety, and general welfare.

(3) Critical Aquifer Recharge Areas. Areas that have a critical recharging effect on ground water are essential for maintaining public water supplies including supplies of potable drinking water. These areas are susceptible to contamination from certain land use activities, and therefore must be protected.

(4) Geologically Hazardous Areas. Geologically hazardous areas pose a risk to public property, welfare, and to the natural systems that make up the environment of the city. Natural processes make these areas susceptible to landslides, erosion, and volcanic and seismic events. Therefore, regulation of these areas to avoid or minimize geologic hazards is necessary to protect the health, safety, and general welfare of Puyallup's citizens.

(5) Frequently Flooded Areas. Areas subject to frequent flooding provide valuable habitat for many fish and wildlife species and also pose a risk to public health and safety. Protection of floodplains and areas subject to frequent flooding is necessary to protect human life and property. Protection and management of frequently flooded areas shall be in accordance with the provisions of Chapter 21.07 PMC, Flood Damage Protection.

(6) Shorelines of the State. Shorelines of the state are among the most valuable and fragile of its natural resources and there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. The City's Shoreline Master Program is designed to ensure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. The Shoreline Master Program shall protect against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary

rights incidental thereto. Protection and management of shorelines of the state shall be in accordance with the provisions of the city's adopted Shoreline Master Program (SMP).

Article IX. Wetlands

21.06.910 Designation, mapping, and rating......

(1) Wetlands are those areas identified through any and all technical wetland delineation manuals as required by RCW 36.70A.175. Wetland delineations will be conducted in accordance with the current manual(s) required to be utilized by the Department of Ecology, including federally approved Army Corps of Engineers manual(s) and regional supplements. All areas within the city meeting the criteria in the approved federal manual and applicable regional supplements, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter. Ponds and other open water bodies shall also be subject to the provisions of this chapter.

(2) The approximate location and extent of previously identified wetlands are shown on the city's adopted critical area maps. These maps are to be used as a guide for the city, project applicants and/or property owners, and shall be updated as new wetlands are identified. The city's maps do not represent to show all possible wetlands within city boundaries. The actual location of a wetland's boundary shall be determined through field investigation by a qualified professional applying the methods and procedures in the approved federal manual and applicable regional supplements.

(3) Wetlands shall be rated and regulated according to the categories defined by the most current Washington Department of Ecology Wetland Rating System for Western Washington. This document contains the methods for determining the wetland category based on the following criteria:

(a) Category I. Category I wetlands are: (1) relatively undisturbed estuarine wetlands larger than one acre; (2) wetlands of high conservation value that are identified by scientists of the Washington Natural Heritage Program/DNR; (3) bogs; (4) mature and old-growth forested wetlands larger than one acre; (5) wetlands in coastal lagoons; (6) interdunal wetlands that score eight or nine habitat points and are larger than one acre; and (7) wetlands that perform many functions well (scoring 23 points or more). These wetlands: (1) represent unique or rare wetland types; (2) are more sensitive to disturbance than most wetlands; (3) are relatively undisturbed and

contain ecological attributes that are impossible to replace within a human lifetime; or (4) provide a high level of functions.

(b) Category II. Category II wetlands are: (1) estuarine wetlands smaller than one acre, or disturbed estuarine wetlands larger than one acre; (2) interdunal wetlands larger than one acre or those found in a mosaic of wetlands; or (3) wetlands with a moderately high level of functions (scoring between 20 and 22 points).

(c) Category III. Category III wetlands are: (1) wetlands with a moderate level of functions (scoring between 16 and 19 points); (2) can often be adequately replaced with a well-planned mitigation project; and (3) interdunal wetlands between one-tenth and one acre. Wetlands scoring between 16 and 19 points generally have been disturbed in some ways and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands.

(d) Category IV. Category IV wetlands have the lowest levels of functions (scoring fewer than 16 points) and are often heavily disturbed. These are wetlands that we should be able to replace, or in some cases to improve. However, experience has shown that replacement cannot be guaranteed in any specific case. These wetlands may provide some important functions, and should be protected to some degree.

(4) All wetlands shall be regulated and subject to the provisions of this chapter regardless of size, except for ~~Category III~~ wetlands less than 1,000 ~~2,500~~ square feet if the wetland is not associated with a riparian corridor or part of a wetland mosaic and Category IV wetlands less than 4,000 ~~40,000~~ square feet. ~~Impacts will be allowed to Category III wetlands between 2,500 square feet and 3,000 square feet, if the~~ following criteria are met as detailed in an approved critical area report demonstrating:

(a) The wetland is not associated with a shoreline of the state, a riparian corridor, or buffer associated with the riparian corridor;

(b) The wetland is not part of a wetland mosaic;

(c) The wetland does not score five ~~six~~ points or greater for habitat function in the Western Washington Wetland Rating System form;

(d) The wetland does not contain priority habitat or a priority habitat area identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife, nor does the wetland habitat related to federally listed species or their critical habitat, or species of local importance; and

(e) The impacts are fully mitigated in accordance with any conditions from the state Department of Ecology and/or U.S. Army Corps (USACE). This exemption does not relieve the applicant/property owner from permits required by the state Department of Ecology and/or U.S. Army Corps (USACE). The applicant/property owner shall provide proof of applicable approvals, exemptions and/or permits obtained from the state Department of Ecology and/or U.S. Army Corps (USACE) prior to the city approving any construction permits for the subject fill action.

21.06.980 Wetlands mitigation – Additional types of mitigation.

(1) Enhancement and Rehabilitation. Impacts to wetlands may be compensated by enhancement and/or rehabilitation of existing significantly degraded wetlands. Applicants proposing to enhance wetlands must complete and submit a critical area report that identifies how enhancement will increase the functions of the degraded wetland and how this increase will adequately mitigate for the loss of wetland area and function at the impact site. An enhancement proposal must also show whether existing wetland functions will be reduced by the enhancement actions. All proposed rehabilitation or enhancement mitigation proposals shall utilize the rehabilitation/enhancement mitigation ratios as established in Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Ecology Publication No. 06-06-011a, March 2006, or most recently revised version).

(2) Preservation. Impacts to wetlands may be mitigated by preservation of wetland areas, in a separate tract or easement in accordance with PMC 21.06.830. Preservation is used as a form of mitigation only after the standard sequencing of mitigation (avoid, minimize, and then compensate) has been applied. Mitigation ratios for preservation shall utilize the preservation mitigation ratios as established in Wetland Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Ecology Publication No. 06-06-011a, March 2006, or most recently revised version). ~~range from 10 to 1 to 20 to 1, as determined by the director, depending on the quality of the wetlands being mitigated and the quality of the wetlands being preserved.~~

- (a) Preservation as mitigation is acceptable when done in combination with restoration, creation, or enhancement; provided, that a minimum of 1 to 1 acreage replacement is provided by restoration or creation;
- (b) Preservation of at-risk, high-quality wetlands may be used as the sole means of mitigation for wetland impacts to Category III or IV wetlands when the impact area is small, and the preservation occurs in the same drainage basin as the wetland impact;
- (c) Preservation sites include buffer areas adequate to protect the habitat and its functions from encroachment and degradation;
- (d) Creation, restoration, and enhancement opportunities have also been considered, and preservation is the best mitigation option;
- (e) The preservation site has the potential to experience a high rate of undesirable ecological change due to on- or off-site activities; and
- (f) The area proposed for preservation is critical for the health of the watershed or basin.

(3) Wetland Mitigation Banks. Credits from an approved wetland mitigation bank may be approved for use as compensation for unavoidable impacts to wetlands when:

- (a) The wetland mitigation bank is certified by the director and by state resource agencies with wetland jurisdiction;
- (b) The director determines that the wetland mitigation bank provides appropriate compensation for the authorized impacts; and
- (c) The proposed use of credits, including replacement ratios, is consistent with the terms and conditions of the wetland mitigation bank's certification. Certified wetland mitigation bank credits may be used to compensate for impacts located within the service area specified in the certification.
 - (i) State or federally designated endangered, threatened, and sensitive species;
 - (ii) State priority habitats and areas associated with state priority species; or
 - (iii) Habitats and species of local importance including habitat corridors connecting habitat blocks and open spaces.