

ISLAND COUNTY FISH AND WILDLIFE HABITAT CONSERVATION AREAS

AUDIT AND POLICY / REGULATION FRAMEWORK

Prepared for:



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1.0 INTRODUCTION

1.1 PURPOSE

This *Island County Fish and Wildlife Habitat Conservation Areas Audit and Policy / Regulation Framework* has been prepared to identify key issues, options, and recommendations to update the Island County Fish and Wildlife Habitat Conservation Areas (FWHCA) regulations consistent with the Growth Management Act (GMA). The *Policy / Regulation Framework* recommendations are primarily intended to integrate the findings of the *Best Available Science and Existing Conditions Report for Island County's Fish and Wildlife Habitat Conservation Areas* (The Watershed Company and Parametrix, January 2014¹), hereafter referenced as the BAS Report, into the FWHCA regulations. Other purposes are to provide recommendations on policies and non-regulatory approaches to protecting FWHCAs, and to offer suggestions on code organization for ease of implementation and interpretation.

The report is divided into the following subsections:

- Introduction
- Audit
- Policy & Regulation Concepts

1.2 SUMMARY BEST AVAILABLE SCIENCE & EXISTING CONDITIONS RECOMMENDATIONS

Island County is located in north central Puget Sound in the Salish Sea, surrounded by the Strait of San Juan de Fuca to the west, and Georgia Strait to the north. Island County comprises two long, linear islands, Whidbey Island to the west, and Camano Island to the east. Saratoga passage is the body of water between the two islands. Seven smaller islands are also included within Island County. Whidbey Island is approximately 35 miles long and varies in width from 1.2 to 12 miles wide, and approximately 170 square miles in size. Camano Island is somewhat smaller, at approximately 100 square miles in size. Camano Island is separated from Snohomish County to the east by Possession Sound and Port Susan.

Island County contains 196 miles of marine shoreline and 11 miles of lake shoreline (ESA, 2012 in The Watershed Company and Parametrix, January 2014). The County does not have any rivers, and most streams are intermittent or ephemeral. Dikes and tidegates have created upland and freshwater habitats in areas that were historically estuarine habitats, including portions of some of the larger watersheds in the county, such as the Maxwellton and Dugualla basins. Although much of the historic prairie and oak woodlands have been lost to agriculture and development, small areas of prairie still remain in central Whidbey Island.

The county contains all forms of FWHCAs classified in GMA implementing rules:

- Areas important to endangered, threatened, and sensitive species;
- Habitats and species of local importance, as determined locally;

¹ The Watershed Company and Parametrix. January 31, 2014. Best Available Science and Existing Conditions Report for Island County's Fish and Wildlife Habitat Conservation Areas. Prepared for the Island County Planning and Community Development Department, Coupeville, WA.

- Commercial and recreational shellfish areas;
- Kelp and eelgrass beds;
- Forage fish spawning areas;
- Naturally occurring ponds under twenty acres;
- Waters of the State as defined in RCW 90.48.020;
- Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and
- State natural area preserves, natural resource conservation areas (not presently designated), and State wildlife areas.

In addition to those areas identified in the above list, counties and cities must also give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries (WAC 365-190-080). Marine and freshwaters in the county support anadromous fisheries.

In addition to regulating the minimum FWHCAs required by GMA implementing rules, the existing Island County FWHCA regulations also address:

- Species and Habitats of Local Importance as designated by reference at Island County Code (ICC) 17.02.050.C.1.h;
- Flora species included in Island County's Protected Species List (referenced at Island County Code (ICC) 17.02.050.C.1.j);
- All areas designated by the DNR through the Washington Natural Heritage Program as high quality wetland ecosystems and high quality terrestrial ecosystems and shown on the Map prepared by Island County dated October 11, 1999.

The majority of the county is in residential use, with other significant uses including government-owned lands, timber, and agriculture. Island County's population is projected to increase from just under 80,000 in 2010 to approximately 87,917 in 2036, based on the population projection adopted by the Board of Island County Commissioners (Resolution C-76-13). The County is one of the smallest counties in the state by area, yet has one of the highest densities per area, at 300 people per square mile (Island County Comprehensive Plan, 2011 in The Watershed Company and Parametrix, January 2014). Population growth has gradually slowed in recent years within the County, and the Island County Planning Department projects an average 0.46 percent annual growth rate through the year 2036 (Island County 2013 in The Watershed Company and Parametrix, January 2014). Most of Island County is zoned rural, and rural zoned areas have a minimum allowable lot size of one dwelling unit per 5 acres. Continued population growth would likely result in a greater proportion of permanent residences and residential development through subdivision of large lots to the minimum allowable lot size (one dwelling unit per 5 acres in rural-zoned areas, which compose the greatest area in unincorporated Island County).

Land conversion from agriculture and forestry to more intensive land uses and higher densities has occurred in the County (SRP 2005, in The Watershed Company and Parametrix, January 2014), and it is expected to continue. In contrast to residential development growth in the County, areas devoted to agricultural production have decreased in the County in recent years. Between 2002 and 2007, there was an 18 percent reduction in area of land in agriculture in Island County (USDA 2007 in The Watershed Company and Parametrix, January 2014). Between 2005 and 2012 the average annual acreage converted from forestry to non-forestry uses was 28.15 acres for Camano Island and 100.51 for Whidbey Island (Shattuck and Marks 2009 in The Watershed Company and Parametrix, January 2014).

**ISLAND COUNTY FISH AND WILDLIFE HABITAT CONSERVATION AREAS
AUDIT AND POLICY / REGULATION FRAMEWORK**

Consideration of landscape, riparian corridor, and site-specific conditions is recommended to effectively manage fish and wildlife in the county (see Exhibit 1 for scales of influence and management recommendations). By implementing management at appropriate, and potentially, multiple-scales of influence on varying species and habitats, management may be more effective compared to a more unilateral approach (Fausch et al. 2002, Roni et al. 2002, WDFW 2009, Stanley et al. 2012 in The Watershed Company and Parametrix, January 2014).

Exhibit 1. Summary of management considerations for water flow, water quality, and habitat based on the scale of influence

Process/Function	Management Considerations		
	Watershed-Scale	Riparian-Scale	Local Influence
Water Flow	<p>Watershed development and forest conversions alter water flow processes by increasing high flows, increasing variability in daily streamflow, reducing groundwater recharge, and reducing summer stream flows.</p> <p>Rural zoning and density limits help minimize effects of impervious surfaces, but even in rural areas, if forest loss is greater than 60 percent in a watershed, stream channels are expected to be unstable.</p> <p>Hydrologic alterations related to development tend to degrade stream morphology by decreasing bank and bed stability, resulting in incised, wider, and simpler stream channels.</p>	<p>Protection of hydrologic source areas and groundwater sources is particularly important for maintaining downstream hydrology.</p>	<p>Local scale effects on water flow processes are dependent on landscape position (see riparian scale). Local effects are most significant in the upper portions of watersheds. Low density development and low impact development measures can help limit the effects of development on water flow.</p> <p>Bluff-top development increases surface and groundwater inputs, reducing bluff stability.</p>
Water Quality			
Sediment	<p>Clearing and grading and any soil-disturbing activities contribute to fine sediment transport to streams.</p> <p>Watershed-scale studies have found that agricultural land uses are associated with the greatest production of fine sediment, followed by urbanized areas.</p>	<p>Convergence of sheet flow and piped stormwater systems can circumvent the effectiveness of riparian zones.</p>	<p>Sediment filtration capacity is significantly dependent on factors including soils and slope. Depending on those factors, buffers widths necessary for effective filtration range from 4-120 m (13-394 ft) wide. Buffers at the wider end of the range are needed to control sediments on slopes of 10 percent or more and in areas with soils with a significant clay component. Buffers at the narrower end of the range effectively filter sediment from slopes of 2 percent with sandy loam soils.</p> <p>Fine sediments travel further than coarse sediments and</p>

Management Considerations

Process/Function	Watershed-Scale	Riparian-Scale	Local Influence
Metals, Pathogens, and other Contaminants	<p>Cadmium, mercury, copper, zinc, and lead cause acute, chronic, and potentially lethal impacts to aquatic plants, invertebrates, fish, particularly salmonids, and seabirds.</p> <p>Municipal wastewater management and public education are important factors to limit the transport of pathogens and pharmaceuticals to the County's surface and groundwater resources.</p>	<p>The full suite of chronic and synergistic effects of metals and synthetic contaminants in field conditions is not well understood. Development can have significant, unforeseen effects on the health and survival of aquatic species.</p> <p>Pathogens associated with human and animal wastes present a significant health concern for contaminated shellfish consumption. Both point-source and non-point-source control of potential pathogen sources are required for effective management.</p> <p>Maximizing the distance of roads and septic systems from aquatic resource areas will help limit the transport of metals and pathogens to aquatic systems.</p> <p>Clustering development, limiting road densities, and/or requiring greater use of permeable paving materials could help minimize impacts.</p>	<p>need wider riparian zones (30-120 m or 98²-394 ft) for effective filtration and long-term retention.</p> <p>Relatively narrow buffers can effectively limit the transport of herbicides and pesticides through drift and runoff. Little additional benefit in herbicide filtration is gained from buffers wider than 18 m (59 ft).</p> <p>Best management practices during application of herbicides and pesticides can help limit leeching to groundwater.</p> <p>Stormwater system improvements to slow and infiltrate runoff could help reduce metals, herbicides, and pathogens entering aquatic systems.</p> <p>Local scale factors for controlling the transport of metals, pathogens, and pharmaceuticals are poorly understood.</p>
	Nutrients	<p>Any activity involving applying nutrients in excess of plant needs (fertilizing lawns, golf courses are other examples) and clearing/exposing soil may result in significant nutrient loading.</p> <p>Watershed-scale studies have found that agricultural land uses are associated with the greatest nutrient loads; whereas nutrient loading associated with rural residential land uses may be relatively low. In Island County, agricultural areas are decreasing, but rural development is resulting in significant forest clearing.</p>	<p>Headwater streams disproportionately affect nutrient loading; therefore, buffers on headwater streams are particularly effective at lowering nutrient levels downstream.</p> <p>Adsorption of nutrients is reduced immediately following dredging of agricultural channels.</p>

² Corrects an arithmetic error in BAS Report to say 98-394 feet rather than 13-394 feet. Meters are correct.

Management Considerations			
Process/Function	Watershed-Scale	Riparian-Scale	Local Influence
			<p>Forested riparian zones are generally most effective at filtering nitrogen and phosphorus, although alder-dominated buffers may increase soil nitrate.</p> <p>Riparian zones less than 15 m (49 ft) may contribute to nitrogen loading.</p> <p>Filtration capacity decreases with increasing loads, so best management practices that reduce nutrient loading will improve riparian function.</p>
Terrestrial Habitat	<p>Fragmentation creates sinks for some species, increases edge and disturbance, disrupts migration, favors synanthropic species, and promotes vegetative homogenization and invasive species establishment.</p> <p>Island and patch-size effects favor some species and negatively impact others,</p>	<p>Riparian wildlife species depend on the health and abundance of forage species, benefiting from efforts to maintain stream-dwelling fish and invertebrates.</p> <p>Reptiles and amphibians require vegetated riparian habitat for migration and dispersal.</p> <p>Corridors provided by riparian zones facilitate travel between habitat patches and provide habitat for some amphibian lifecycle stages.</p>	<p>Recommended corridor width to facilitate use by avian species ranges from 125-400 m (410-1,312 ft).</p> <p>Recommended corridor width to accommodate the furthest-ranging reptiles and amphibians in the U.S. is 77-289 m (253-948 ft).</p> <p>Protect rare habitats.</p> <p>Plan roads to minimize wildlife conflicts.</p> <p>Consider native vegetation retention, low-impact development, clustering, invasive species controls, habitat feature preservation, and other minimization techniques in planning and development.</p>
Freshwater Habitat	<p>Urban land uses, followed by agricultural uses, are associated with degraded physical stream conditions and invertebrate indices.</p> <p>Buffers are less effective at maintaining stream conditions, including physical structure, invertebrate composition, and wood loading in more intensively developed watersheds.</p> <p>Management options such as limiting densities, clustering development, limiting impervious surfaces and clearing areas may minimize catchment-scale effects on freshwater habitats.</p>	<p>Headwater streams provide locally significant habitat, and they are important to maintaining the condition of downstream areas. Avoiding development in these areas and in designated critical areas will limit impacts.</p> <p>Continuous riparian buffers help to minimize the effect of catchment-scale development on invertebrate communities and provide wildlife travel corridors.</p>	<p>The probability of a tree falling into a stream decreases with increasing distance from the stream. Most LWD originates within 15 m (49 ft) of the stream, but nearly 30 percent of LWD originated beyond 30 m (98 ft) from the stream. Additionally, trees beyond one site-potential-tree-height (SPTH) from a creek indirectly influence LWD recruitment.</p> <p>Riparian buffers of 30 m (98 ft) are generally sufficient to maintain sensitive invertebrate populations.</p> <p>Vegetation helps stabilize banks.</p> <p>Leaf cover and tree height may affect stream temperatures more than buffer width in buffers over 30</p>

Management Considerations			
Process/Function	Watershed-Scale	Riparian-Scale	Local Influence
			<p>m (98 ft) in width. Buffers less than 10 m (33 ft) are generally ineffective at maintaining water temperatures.</p> <p>Buffer widths over 42-74 m (138-243 ft) may be necessary to maintain pre-existing microclimate conditions; and riparian areas ranging from 10-45 m (33-147 ft) will minimize microclimate edge effects.</p>
Marine and Estuarine Habitat	<p>Nutrient, contaminant, and turbidity loads from freshwater streams negatively affect eelgrass, kelp, and shellfish beds, and may have both acute and chronic effects of marine fauna.</p> <p>Large woody debris supports beach stability and diversity of estuarine vegetation. In Island County, large wood is likely supplied by drift cell processes and bluff collapse.</p>	<p>Marine riparian vegetation supports bluff stability, provides nearshore detritus, and supports a temperature regime conducive to forage fish spawning habitat.</p>	<p>Development at the top of bluffs exacerbates erosion risk.</p> <p>Development at the top of bluffs may result in a proliferation of shoreline armoring, either as a result of a perceived threat or of accelerated erosion caused by the development.</p>

Source: The Watershed Company and Parametrix, 2014

More detailed management recommendations are included in the BAS Report addressing:

- Water Flow Processes
- Water Quality
- Freshwater Habitats
- Marine and Estuarine Habitats
- Terrestrial Habitats
- Species of Local Importance
- General Buffer Considerations

1.3 SUMMARY POLICY & CODE RECOMMENDATIONS

This *Policy / Regulation Framework* provides recommendations addressing the following FWHCA topics:

- Policy, Regulatory, and Program Approaches to FWHCA Protection:** Recognize policy, code, and non-regulatory approaches to protecting FWHCAs. Consider improving non-regulatory criteria, mapping, and implementation such as updated criteria for the Open Space Current Use Public Benefit Rating System and Conservation Futures funding criteria.
- Policy Organization and Support:** Remove FWHCA inventory text in existing Comprehensive Plan Elements and reference the BAS Report. Update Comprehensive Plan Overlay definition, amend policies to address primary FWHCAs, and add policies regarding landscape level processes that affect shoreline jurisdiction.

- C. Code Organization:** Reorganize the code for greater usability and clarity. A draft outline is included in the Appendix. A review draft code is available under separate cover.
- D. Permitted Uses, Exemptions, Reasonable Use, and Variances:** Clarify criteria and review procedures for exemptions, permitted uses, and variances. Ensure appropriate performance standards. Consolidate variance and reasonable use provisions. Ensure permit review procedures match the potential for alteration of critical areas.
- E. Stream Typing:** Use the Washington State Department of Natural Resources stream typing system.
- F. Riparian Buffers:** Provide a “standard” set of buffer widths that protect functions as identified in the BAS Report and that can be applied with minimal documentation from experts/consultants. Provide an allowance for reduced buffers that could be applied if an applicant proposes restoration actions that enhance or improve water quality or habitat functions. The condition of small non-fish bearing streams may disproportionately affect downstream areas. Buffers may be most effective in protecting these small streams, and because these streams cumulatively compose a significant portion of the total length of stream channel in a basin, these buffers are important to watershed functions. Consider an incentive program that allows reduced buffers on a subject site in exchange for improvements to buffers. Retain the ability to require larger buffers if threats to functions can be identified. Buffer averaging should continue to be allowed provided it can be demonstrated that both functions on site and downstream functions will not be degraded.
- G. Habitats and Species of Local Importance:** Rewrite the nomination criteria to focus on habitats and species of local importance that are not protected adequately by current regulations (local, state, federal). Require information regarding vulnerability and management standards. Current habitats and species of local importance should be compared to new criteria to determine if they should be carried forward in the FWHCA regulations; in the interim habitats and species of local importance that are regulated by other codes could be removed, while others should be vetted in the 2016 Comprehensive Plan Update process.
- H. Agricultural Activities:** Clarify when a stream is an artificial ditch versus a natural stream or modified natural stream; require compliance with critical area regulations when there is a proposal that would modify a natural stream or a modified natural stream beyond its permitted alteration level. Changes to artificial streams to support ongoing agriculture would be exempt. Clarify and distinguish between commercial agriculture and property/landscape maintenance.
- I. Fish and Wildlife Habitat Corridors:** For the 2014 FWHCA compliance efforts, reference the Parks and Recreation Element Illustrative Habitat Conservation Concept map as broadly identifying habitat corridors. For the Comprehensive Plan Update due in 2016 vet and improve the corridor map and voluntary incentive programs criteria to advance the County’s long term goals for fish and wildlife protection.

Recommendations are focused on FWHCAs that are upland of shoreline jurisdiction since Island County has recently adopted a Shoreline Master Program addressing FWHCAs that occur along marine waters and lakes that are 20 acres or greater in size. However, policies and code amendments are recommended to address landscape level and interrelated ecosystem considerations, such as the effect of upland development on shorelines.

Recommendations identify proposed policies and code that meet the immediate need to address FWHCA regulatory compliance in 2014; other programmatic improvements are recommended for consideration as part of the County’s 2016 Comprehensive Plan Update, e.g. open space corridors map refinement and current use tax incentive program improvements.

2.0 AUDIT

2.1 OVERVIEW

This section provides checklists prepared by the Washington State Department of Commerce intended to guide the FWHCA code update. Some checklists identify key provisions of GMA or implementing state rules, and others identify guidance statements by Commerce. Potential actions or discussion is provided with the summary requirement. Where appropriate, cross references are made to the areas of Section 3.0 Policy & Regulatory Concepts where more detailed evaluations of key issues, options, and recommendations are made.

2.2 GROWTH MANAGEMENT ACT & PROCEDURAL CRITERIA AUDIT

Department of Commerce Growth Management Act Checklist

Exhibit 2 shows the summary GMA provisions that apply to FWHCAs directly or indirectly, such as references to critical areas and open space corridors.

Exhibit 2. Department of Commerce Growth Management Act Checklist

Summary of Growth Management Act Provision or Issue	Policy/Code Location	Potential Action
Growth Management Act Checklist		
Open space corridors within and between urban growth areas (UGAs), including lands useful for recreation, wildlife habitat, trails, and connection of critical areas are identified. RCW 36.70A.160 and WAC 365-196-335	<input type="checkbox"/> Open space corridors Natural Environment Element contains open space corridors within and between UGAs. Parks and Recreation Element includes a more extensive Habitat Conservation Concept.	See Section 3.9.
<p>Critical areas are designated RCW 36.70A.170 and WAC 365-190-080. Best available science (BAS) is used to protect the functions and values of critical areas, and give “special consideration” to conservation or protection measures necessary to preserve or enhance anadromous fisheries. RCW 36.70A.172 and WAC 365-195-900 through 925</p> <p>Plan policies should address the five critical areas listed in RCW 36.70A.030(5) (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas. See Critical Areas Assistance Handbook(2007) and Small Communities Critical Areas Ordinance Implementation Guidebook (2007). Follow the process in WAC 365-195-915 to document decisions.</p> <p>Endangered Species: If there are anadromous fisheries, or if the jurisdiction affected by an Endangered Species Act (ESA) 4(d) rule, the comprehensive plan should contain policies guiding decisions which may impact listed species. Special consideration may include:</p> <ul style="list-style-type: none"> ▪ Revisions to zoning to protect habitat ▪ Revisions to the location of planned capital facilities ▪ Revisions to stormwater regulations or clearing and grading ordinances ▪ Establishment or maintenance of monitoring programs to ensure that 	<input type="checkbox"/> BAS used to designate and protect critical areas Island County has conducted a BAS review for its FWHCAs in 2013-14. See the BAS Report under separate cover. FWHCAs are considered an overlay in the Land Use Element and critical areas regulations and by definition include endangered species including anadromous fisheries. FWHCA regulations address the location of utilities and roads. Island County applies a stormwater design manual based on Ecology guidance. Island	Sections 3.1 to 3.9 identify areas of potential change in policies and regulations.

Summary of Growth Management Act Provision or Issue	Policy/Code Location	Potential Action
habitat is being maintained, See WAC 365-195-920 .	County has a grading ordinance. The Critical Areas Ordinance includes an extensive water quality monitoring program.	

Washington Administrative Code Minimum Guidelines to Classify FWHCAs

GMA requires Commerce to prepare rules defining and classifying critical areas. Exhibit 3 indicates where the criteria are addressed, such as in the Shoreline Master Program or under consideration in the FWHCA code update.

Exhibit 3. Minimum Guidelines to Classify FWHCAs

WAC 365-190-130 Fish and wildlife habitat conservation areas.	Discussion
<p>(1) "Fish and wildlife habitat conservation" means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination to help assure long term population viability.</p> <p>Fish and wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs.</p>	Definitions and designation criteria are included in the proposed code.
(2) Fish and wildlife habitat conservation areas that must be considered for classification and designation include:	All of these FWHCAs are included in the proposed code. Marine habitats are addressed by the SMP.
(a) Areas where endangered, threatened, and sensitive species have a primary association;	Are included as FWHCA.
(b) Habitats and species of local importance, as determined locally;	Habitats and species of local importance are included in the proposed code. New method of identification has been proposed. See Section 3.7. Wetlands and marine shorelines that are protected by other County codes and the Shoreline Master Program are removed as habitats of local importance to avoid confusion in code application and because management measures designed for those areas specific to their functions and values are found in the other referenced codes. See Appendix C.

WAC 365-190-130 Fish and wildlife habitat conservation areas.	Discussion
(c) Commercial and recreational shellfish areas;	Primarily addressed in the SMP. Comprehensive Plan policies are proposed to address potential impacts of development outside of shoreline jurisdiction that affect in-jurisdiction habitats. Proposed FWHCA regulations cross reference onsite septic system, grading, stormwater, water quality monitoring, and related regulations.
(d) Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;	Primarily addressed in the SMP. See comments under (2)(c) regarding policies and regulations.
(e) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;	These are addressed by Island County Code 17.02A (wetlands), if they are less than 20 acres in size, and are less 6.6 feet in depth. The proposed code addresses as freshwater habitats if greater than 6.6 feet deep.
(f) Waters of the state;	FWHCA includes surface and ground waters not otherwise regulated by SMP or as wetlands. (See (4)(f)(i) below.
(g) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and	Lakes 20 acres or larger regulated by Shoreline Master Program. Other waters such as streams are included as FWHCA.
(h) State natural area preserves, natural resource conservation areas, and state wildlife areas.	Are included as FWHCA.
(3) When classifying and designating these areas, counties and cities must include the best available science, as described in chapter 365-195 WAC.	BAS Report has been developed and is the basis for FWHCA policy and regulations updates.
(a) Counties and cities should consider the following:	
(i) Creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces, integrating with open space corridor planning where appropriate;	See section 3.9.
(ii) Level of human activity in such areas including presence of roads and level of recreation type (passive or active recreation may be appropriate for certain areas and habitats);	See section 3.9.
(iii) Protecting riparian ecosystems including salmonid habitat, which also includes marine nearshore areas;	Riparian ecosystem protections are included in section 3.5, and 3.6. Marine nearshore is regulated by SMP.
(iv) Evaluating land uses surrounding ponds and fish and wildlife habitat conservation areas that may negatively impact these areas, or conversely, that may contribute positively to their function;	Allowed uses and development standards are included in the proposed code.
(v) Establishing buffer zones around these areas to separate incompatible uses from habitat areas;	See Section 3.6.
(b) Counties and cities may also consider the following:	
(i) Potential for restoring lost and impaired salmonid habitat;	See Section 3.6.
(ii) Potential for designating areas important for local and ecoregional biodiversity; and	See Section 3.7 and Appendix C.
(iii) Establishing or enhancing nonregulatory approaches in addition to regulatory methods to protect fish and wildlife habitat conservation areas.	Non-regulatory approaches are considered. See Sections 3.1 and 3.9.

WAC 365-190-130 Fish and wildlife habitat conservation areas.	Discussion
(4) Sources and methods.	
<p>(a) Endangered, threatened and sensitive species. Counties and cities should identify and classify seasonal ranges and habitat elements where federal and state listed endangered, threatened and sensitive species have a primary association and which, if altered, may reduce the likelihood that the species will persist over the long term. Counties and cities should consult current information on priority habitats and species identified by the Washington state department of fish and wildlife. Recovery plans and management recommendations for many of these species are available from the United States Fish and Wildlife Service, the National Marine Fisheries Service and the Washington state department of fish and wildlife. Additional information is also available from the Washington state department of natural resources, natural heritage program, and aquatic resources program.</p>	<p>Endangered, threatened and sensitive species are considered in the proposed code. Communities identified in the Washington Natural Heritage Program as high quality terrestrial ecosystems are also considered.</p>
<p>(b) Habitats and species areas of local importance. Counties and cities should identify, classify and designate locally important habitats and species. Counties and cities should consult current information on priority habitats and species identified by the Washington state department of fish and wildlife. Priority habitat and species information includes endangered, threatened and sensitive species, but also includes candidate species and other vulnerable and unique species and habitats. While these priorities are those of the Washington state department of fish and wildlife, they should be considered by counties and cities as they include the best available science. The Washington state department of fish and wildlife can also provide assistance with identifying and mapping important habitat areas at various landscape scales. Similarly, the Washington state department of natural resources' natural heritage program can provide a list of high quality ecological communities and systems and rare plants.</p>	<p>See Section 3.7 and Appendix C.</p>
<p>(c) Shellfish areas. All public and private tidelands or bedlands suitable for shellfish harvest shall be classified as critical areas. Counties and cities should consider both commercial and recreational shellfish areas. Counties and cities should consider the Washington state department of health classification of commercial and recreational shellfish growing areas to determine the existing condition of these areas. Further consideration should be given to the vulnerability of these areas to contamination. Shellfish protection districts established pursuant to chapter 90.72 RCW shall be included in the classification of critical shellfish areas.</p>	<p>Addressed by SMP, except where activities outside of shoreline jurisdiction impact resources within shoreline jurisdiction. In such cases impacts are addressed by the recommended buffers and evaluation requirements.</p>
<p>(d) Kelp and eelgrass beds; herring, smelt and other forage fish spawning areas. Counties and cities must classify kelp and eelgrass beds, identified by the Washington state department of natural resources and the department of ecology. Though not an inclusive inventory, locations of kelp and eelgrass beds are compiled in the Washington coastal atlas published by the department of ecology. Herring, smelt and other forage fish spawning times and locations are outlined in WAC 220-110-240 through 220-110-271.</p>	<p>Addressed by SMP, except where activities outside of shoreline jurisdiction impact resources within shoreline jurisdiction. In such cases impacts are addressed by the recommended buffers and evaluation requirements</p>

WAC 365-190-130 Fish and wildlife habitat conservation areas.	Discussion
(e) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat. Naturally occurring ponds do not include ponds deliberately designed and created from dry sites, such as canals, detention facilities, wastewater treatment facilities, farmponds, temporary construction ponds (of less than three years duration) and landscape amenities. However, naturally occurring ponds may include those artificial ponds intentionally created from dry areas in order to mitigate conversion of ponds, if permitted by a regulatory authority.	Addressed as wetlands or freshwater habitats if greater than 6.6 feet deep.
(f) Waters of the state.	Consideration is included where appropriate.
(i) Waters of the state are defined in RCW 90.48.020 and include lakes, rivers, ponds, streams, inland waters, underground waters, salt waters, and all other surface waters and water courses in Washington. Stream types are classified in Title 222 WAC, the forest practices regulations. Counties and cities may use the classification system established in WAC 222-16-030 to classify waters of the state. Counties and cities using the water types defined in WAC 222-16-030 or 222-16-031 (interim) should not rely solely on Washington state department of natural resources maps of these stream types for purposes of regulating land uses or establishing stream buffers.	New water typing is recommended. See Section 3.5.
(ii) Counties and cities that use the stream typing system developed by the department of natural resources should develop a process to verify actual stream conditions, identify flow alterations, and locate fish passage barriers by conducting a field visit. Field verification of all intermittent or nonfish bearing streams should occur during the wet season months of October to March or as determined locally.	Stream type verification will be addressed by policy and in critical areas report requirements.
(iii) Counties and cities may consider the following factors when classifying waters of the state as fish and wildlife habitat conservation areas:	
(A) Species present which are endangered, threatened or sensitive, and other species of concern;	All of these factors (A) to (G) are considered in BAS Report and as appropriate in the proposed code.
(B) Species present which are sensitive to habitat manipulation (e.g., priority habitats and species program);	
(C) Historic presence of species of local importance;	
(D) Existing surrounding land uses that are incompatible with salmonid habitat;	
(E) Presence and size of riparian ecosystems;	
(F) Existing water rights; and	
(G) The intermittent nature of some waters of the state.	
(g) Lakes, ponds, streams, and rivers planted with game fish. This includes game fish planted in these water bodies under the auspices of a federal, state, local, or tribal program or which supports priority fish species as identified by the Washington state department of fish and wildlife.	Game fish are considered in the proposed code, by virtue of considering the waters of the state.
(h) State natural area preserves, natural resource conservation areas, and state wildlife areas. Natural area preserves and natural resource conservation areas are defined, established, and managed by the department of natural resources. State wildlife areas are defined, established, and managed by the Washington state department of fish and wildlife, which provides information about state wildlife areas for each county.	These areas are considered FWHCA in proposed code.

WAC 365-190-130 Fish and wildlife habitat conservation areas.	Discussion
(i) Salmonid habitat. Counties and cities should consider recommendations found in salmon recovery plans (see the governor's salmon recovery office). Counties and cities may use information prepared by the United States Department of the Interior Fish and Wildlife Service, National Marine Fisheries Service, the Washington state department of fish and wildlife, the state recreation and conservation office, and the Puget Sound partnership to designate, protect and restore salmonid habitat.	Salmon recovery plans were reviewed and incorporated in the BAS Report.

Exhibit 4 identifies guidance questions regarding critical areas regulations prepared by Commerce to assist local governments in their critical are code updates. The guidance questions are prompts to consider areas of review or coordination; they are not requirements. Exhibit 2 and Exhibit 3 reference laws and rules.

Exhibit 4. Commerce Critical Areas Review List of Potential Issues to Consider

Potential Issues to Consider	Discussion
Review and Evaluation	
Current Compliance Status: Have any compliance orders been issued and if so have they been addressed?	Island County is working towards compliance with a Growth Management Hearings Board order to address FWHCAs.
Existing Findings: Are they complete and accurate? Is there new information available?	New findings will be crafted based on the BAS Report consistent with the County legislative review process.
Sources of BAS identified: Is this list complete and included in the local record?	The BAS Report includes an extensive list of sources.
FWHCAs	
Have all habitat areas primarily associated with endangered, threatened, and sensitive species, as well as locally-important habitats and species been identified, including potential connectivity corridors?	Yes. See Section 3.9.
Have the habitat needs for both aquatic and terrestrial local wildlife been considered?	Yes. The BAS Report considers both aquatic and terrestrial wildlife.
Have sufficient habitat conservation areas been designated to support local populations of identified fish and wildlife species?	Individual fish and wildlife habitats have been mapped. The BAS Report considers landscape level processes that directly or indirectly affect discrete fish and wildlife habitat. The Parks and Recreation Element includes a corridors map that is based on habitat and other considerations. See Section 3.9.
If needed, have adjacent jurisdictions been contacted to ensure consistent approaches to protecting identified critical areas?	Technical Advisory Group includes Tribal representatives. Adjacent jurisdictions are part of the County's stakeholder list to be notified of public comment and public meeting opportunities. Additionally, as part of the 2016 Island County Comprehensive Plan Update, Island County and the cities in Island County are amending the County-wide Planning Policies. As currently proposed these policies would require coordination between jurisdictions to ensure consistent protection of critical areas.
Has a process been established for reviewing development projects for potential impacts to designated fish and wildlife habitat conservation areas? Does this process require mitigation sequencing?	See Section 3.3. Mitigation plans for potential adverse activities in FWHCAs requires demonstration of mitigation sequencing.

Potential Issues to Consider	Discussion
Have regional lead entities for salmon planning and recovery been contacted?	Regional lead entities were contacted during the preparation of the BAS Report (Lead Entity Coordinator for WRIA 6). The BAS Report includes priorities per the Salmon Recovery Plan for the WRIA.
Have nonprofit groups engaged in habitat conservation been contacted?	Nonprofit stakeholder groups were invited to participate in the Technical Advisory Group.
Have you considered reviewing regional and local habitat assessment information? Sources include Ecoregional Assessments for access to broad scale information on critical habitat needs and potential opportunity areas; Local Habitat Assessments, completed for some areas, and Conservation Opportunity Framework maps from the Washington Biodiversity Strategy.	The FWHCA update involved the consideration of watershed characterization and landscape level habitat information, including Ecoregional Assessments and Washington's Biodiversity Strategy. See the BAS Report.
Other Considerations	
Does the public involvement program for the update specifically address critical areas issues?	A public involvement program was created specifically for the FWHCA Update project.
Are educational resources on critical areas available to the public, elected officials, planning commissioners, and planning staff?	A project website has been established.
Are there incentives available and promoted as part of the critical areas protection program? See Incentives and Stewardship Options.	See Section 3.1 regarding non-regulatory tax incentives, Section 3.6 regarding enhancement incentives, and Section 3.9 regarding approach to corridors.
Has there been a regional review or discussion with adjacent and potentially affected jurisdictions?	Technical Advisory Group includes Tribal representatives and state agencies as well as stakeholder group representatives. Adjacent jurisdictions are part of the County's stakeholder list to be notified of public comment and public meeting opportunities.
Are appropriate interlocal agreements in place for addressing shared critical areas?	As part of the 2016 Island County Comprehensive Plan Update, Island County and the cities in Island County are amending the County-wide Planning Policies. As currently proposed these policies would require coordination between jurisdictions to ensure consistent protection of critical areas. As part of this process new inter-local agreements may be developed.
Have Low Impact Development alternatives been included in development regulations? See Low Impact Development information	ICC Chapter 11.03 incentivizes the use of Low Impact Development for small residential development within a designated Critical Drainage Area, other small development, and major development.
Is the jurisdiction covered by a NPDES municipal stormwater general permit (Phase I or Phase II)?	No.
Does the jurisdiction apply the Ecology stormwater manual (or an equivalent) to all new development and redevelopment?	The County's Stormwater Design Manual adopts by reference the following document: The Washington State Department of Ecology Stormwater Management Manual For The Puget Sound Basin, The Technical Manual with local amendments. The stormwater code is contained in ICC Chapter 11.03.
Does the CAO require the correct sequence of mitigation in order to reduce severity of impacts to critical areas?	Mitigation plans for potential adverse activities in FWHCA requires demonstration of mitigation sequencing.
Is there an adopted Clearing and Grading ordinance?	Yes.
Has the issue of how to align the CAO with the required Shoreline Master Program update been addressed?	To be addressed in FWHCA Update. See Section 3.2.

Potential Issues to Consider	Discussion
Has the option of aligning SEPA reviews with the CAO been considered or completed? See WAC 197-11-908.	Island County currently has not designated critical areas where SEPA exemptions do not apply as allowed by WAC 197-11-908. The proposed code has addressed this tool for FWHCAs. Regarding other critical areas, this is a tool the County can consider as part of its 2016 Comprehensive Plan Update and associated development regulations
Has there been an Endangered Species Act (ESA) compliance review?	The BAS Report includes priorities per the Salmon Recovery Plan for the WRIA. Further, recommendations of the BAS Report have been incorporated into the draft code, providing protection for threatened and endangered species and stream buffers.
Have the potential impacts of climate change on critical areas been assessed? For identified impacts, have relevant regulations been changed to minimize risks?	Climate change effects on FWHCAs in Island County are considered a data gap in the BAS Report. The BAS Report notes that climate change may affect the abundance and spatial distribution of species and exacerbate the effects of development on water flow and water quality in a watershed. The updated SMP contains policy language regarding considering sea level rise in permit decisions. In the 2016 Comprehensive Plan Update the County is considering policies regarding sea level rise related to flood prone areas and tsunami hazards.
Have alternative, optional wetland mitigation approaches that are consistent with current federal and state wetlands regulations been included? This includes the need to address watershed-based or landscape-scale assessments to identify the best locations for compensatory mitigation actions.	Wetlands are addressed in a separate code not presently under review. As part of the 2016 Comprehensive Plan update, Island County may incorporate optional mitigation measures and utilize a landscape/watershed based analysis framework to inform broad land use decisions.

3.0 POLICY & REGULATORY CONCEPTS

3.1 POLICY, REGULATORY, AND PROGRAM APPROACHES TO FWHCA PROTECTION

What are Policies and Regulations?

Under GMA, critical areas such as FWHCAs are considered in goals, policies and regulations. From the general to the specific, each level of tool is defined below.

The Island County Policy Plan/Land Use Element defines goals and policies as:

- Goals represent the ideals of the community.
- Policies provide guidance in daily decision-making defining the route being taken to achieve the goals.

An example of a goal in the Island County Policy Plan/Land Use Element is:

To protect fish and wildlife habitat areas.

The goal provides the ideal or aim of Island County to protect these critical areas. An example policy provides more detail on how this is accomplished:

C. Conserve habitats necessary for continued reproductive success of designated species.

*1. Protect elements necessary to the survival of designated species, including habitat areas such as nests, breeding areas, nurseries from disturbance during critical life cycle periods. ****

For the purposes of this report, regulations are defined as the specific, enforceable standards that implement goals and policies. Critical areas regulations, required by GMA, are intended to define FWHCAs, identify performance standards to protect FWHCAs, and provide a review process to ensure local conditions and FWHCAs functions are appropriately considered.

Tools Available to Guide, Regulate or Incentivize FWHCA Protection

Goals, policies, and regulations together provide guidance and requirements to protect FWHCAs. Goals and policies can also be used to guide and prioritize the allocation of budget resources and restoration activities. Beyond regulatory protections, voluntary actions can be incentivized to enhance or conserve FWHCAs. Other tools include an environmental review process that provides an opportunity to apply mitigation measures to fill gaps in regulations, as described below.

Regulatory Incentives

Critical area regulations require protection of FWHCAs, and where impacts may occur mitigation sequencing is required. Critical area regulations alone cannot require expansion, enhancement, or restoration of FWHCAs. To achieve habitat improvements, regulations can include incentives that offer something of value to a property owner or development applicant in exchange for habitat improvement. For example, incentives could include increased residential density, added building height, flexible setbacks, or other motivations in exchange for increasing or restoring habitat.

Environmental Review Process: SEPA

The purpose of the State Environmental Policy Act (SEPA) is to provide an agency and public review process evaluating the built and natural environmental impacts or consequences of project and non-project actions (e.g. development or plans, respectively). The SEPA process applies to non-exempt development.³ Non-exempt proposals are reviewed in a SEPA checklist or environmental impact statement (EIS), where current conditions, potential impacts, and mitigation measures are described.

SEPA mitigation measures are applied to reduce impacts in circumstances where there are gaps in federal, state, or local laws. Agencies can condition or deny subject proposals based upon SEPA policies incorporated into regulations, plans, or codes formally designated by the agency; most agencies adopt

³ Standard exemptions include:

(b) The following types of construction shall be exempt, except when undertaken wholly or partly on lands covered by water:

(i) The construction or location of four detached single family residential units.

(ii) The construction or location of four multifamily residential units.

(iii) The construction of a barn, loafing shed, farm equipment storage building, produce storage or packing structure, or similar agricultural structure, covering 10,000 square feet, and to be used only by the property owner or his or her agent in the conduct of farming the property. This exemption shall not apply to feed lots.

(iv) The construction of an office, school, commercial, recreational, service or storage building with 4,000 square feet of gross floor area, and with associated parking facilities designed for twenty automobiles. This exemption includes stand-alone parking lots.

(v) Any landfill or excavation of 100 cubic yards throughout the total lifetime of the fill or excavation not associated with an exempt project in subsection (b)(i), (ii), (iii), or (iv); and any fill or excavation classified as a Class I, II, or III forest practice under RCW 76.09.050 or regulations thereunder. (WAC 197-11-800(1))

their comprehensive plans as SEPA policies together with many other types of plans and codes and Island County has accomplished this in ICC 16.14C.160.

Programs

Programs are voluntary, non-regulatory approaches to FWHCA conservation. Three example programs include:

- Current Use Assessment
- Conservation Futures
- Habitat Grants, Recreation Conservation Office

Current Use Assessment

Current use taxation allows property to be taxed at a reduced level based on its worth as agriculture, forestry, or open space; this helps support the continued use of the resource activities. Current use taxation parameters are established in Chapter 84.34 RCW and are applied by County Assessor's across the state. The Open Space current use portion of the program provides enrollees the greatest amount of benefit (value reduction per acre).

Counties have the option to install a Public Benefit Rating System (PBRs) that creates a weighted evaluation method tied to the amount of current use value reduction. PBRs are based on a point system and are assigned to each qualifying resource and/or bonus categories as identified in a County's Open Space Plan. The total points awarded for an applicant's PBRs directly translate into some percentage reduction in land taxable assessed value.

Island County has created a PBRs with high, medium and low priority resources and an associated scoring system. Habitat related priorities include:

Significant Fish and Wildlife Habitat Conservation Areas, Species and Habitats of Local Importance, Category A and B Wetlands and Special Plant Sites:

Significant Fish and Wildlife Habitat Conservation Areas. Those areas identified as being of critical importance to the maintenance of fish and wildlife species including areas with which endangered, threatened, and sensitive species have a primary association; habitats and species of local importance; streams; commercial and recreational shellfish areas; kelp and eelgrass beds; herring and smelt spawning areas; state natural area preserves, and state natural resource conservation; or

Species and Habitats of Local Importance

(i) Those areas containing vascular plant species as identified and listed in the Natural Heritage Program as being either endangered, threatened, or sensitive and areas identified in the Natural Heritage Program as high quality ecosystems.

(ii) Those areas or species designated as Species or Habitats of Local Importance set forth in Chapter 17.02 ICC.

Category A and B Wetlands. Wetlands that are classified Category "A" or "B" by Chapter 17.02A ICC and "A" by Chapter 17.02 ICC.

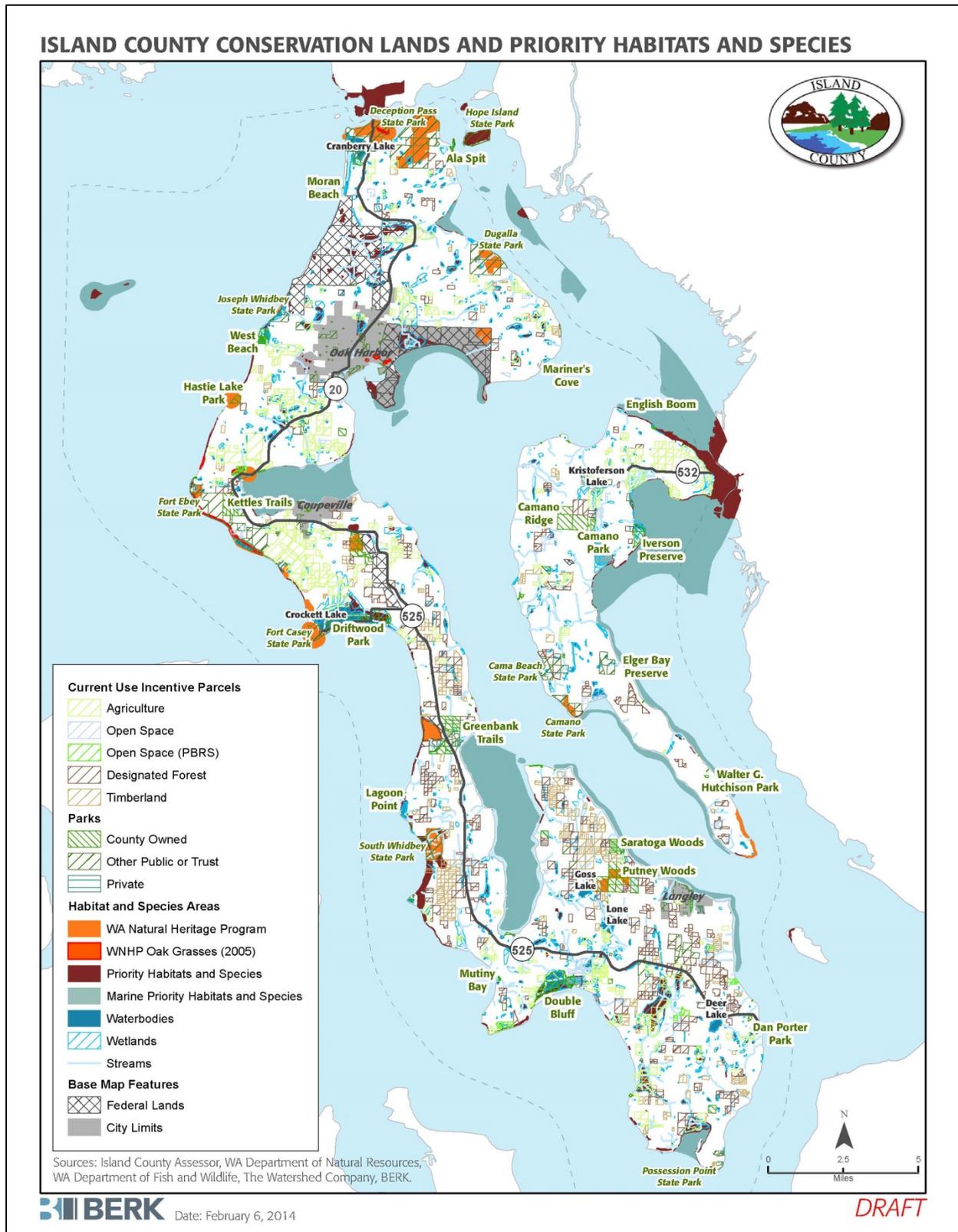
Special Plant Sites

(i) Those sites where preservation, restoration or enhancement of native plant communities is maintained subject to an approved management plan, or

(ii) Those areas where Blue Flag Iris (Iris missouriensis) can be identified or where the property owner proposes a management plan to introduce and maintain a population of Blue Flag Iris.

A map of current use taxation parcels including those approved under the PBRS program are identified in Exhibit 5, along with habitat areas and parks. Many public park lands and current use properties contain habitat and species areas.

Exhibit 5. Conservation Lands and Priority Habitats and Species



Though the above criteria together with others in Exhibit 6 represent the County's Open Space Plan for purposes of the current use program, a map compilation has not been published.⁴ Such a map could be prepared and modified based on the updated FWHCAs to promote habitat corridors for example (see Section 3.9). The map would need to be updated as properties are added to the PBRS program as part of the Open Space Plan. Further, as noted in Section 3.9, the PBRS program could be revised to include clearly defined outcomes, and promote the protection of habitats and species that are not already protected in some other manner. The program could also include measurable/verifiable requirements.

⁴ This form needs to be updated in the near future to accommodate previous and future Critical Area code changes such as wetland ratings.

Exhibit 6. PBRs Application Form – Summary of High, Medium, and Low Priority Resources & Points

PROPERTY INFORMATION

II. RESOURCE INVENTORY

Priority Resources: Which of the following priority resources as defined in the *Basis for Assessment for Island County Public Benefit Rating System* document are contained on your property? (Rate all that apply)
 Remember to include justifications for each category on a separate sheet of paper.

High Priority Resource (5 Points)	
Resource and Rural Agricultural Lands	
Rural Forest Lands/Woodlots	
Privately Owned Trails and Corridors	
Natural Shoreline Environments	
Significant Fish and Wildlife Habitat Conservation Areas, Special Plant Sites, Category A Wetlands	
Historic Landmark/Archaeological Site	
Private Lands within Designated National Preserves	
Medium Priority Resource (3 Points)	
Conservancy Shoreline Environment	
Flood Hazard Buffer Area	
Geologic Hazard Buffer Area	
Scenic Natural Resources, Viewpoint, or View Corridor	
Urban Growth Area Open Space	
Public Lands Buffer	
Category 'B' Wetlands	
Low Priority Resource (1 Point)	
Artificial (Category C) Wetlands	
Total Resource Priority Points	

30 points maximum from no more than 6 categories from above resource categories – 3.40.030 ICC

Bonus System	
Public Priority (5 pts)	
Resource Restoration (5 pts)	
Bonus Surface Water Quality Buffer (1, 3, 5 pts)	
Contiguous Parcels Under Separate Ownership (2 pts)	
Conservation/Historic/Trail Easement in Perpetuity (5 pts)	
Approved Rural Stewardship Plan (5 pts)	

Bonus System – Public Access ¹	
Unlimited Public Access (5 pts)	
Limited Public Access – Due to Resource Sensitivity (5 pts)	
Privately Owned Tideland Access (5 pts)	
Limited Public Access (3 pts)	
Super Bonus Category	
Properties with at least one (1) high priority open space resource AND which allow unlimited public access or limited public access for a sensitive area (due to resource sensitivity) AND which convey a conservation, historic, or trail easement in perpetuity, in a form and with such conditions as are acceptable to the County, shall be automatically eligible for current use value at ten percent (10%) of assessed value.	☐
Total Bonus System Points	

27 points maximum from above bonus system categories – 3.40.030 ICC

TOTAL RESOURCE AND BONUS SYSTEM POINTS	
--	--

Corresponding Tax Reduction
 (for reference purposes only)

Public Benefit Rating Points	Current Use Value
0-4	100% of assessed value
5-9	80% of assessed value
10-14	70% of assessed value
15-19	60% of assessed value
20-24	50% of assessed value
25-29	40% of assessed value
30-34	30% of assessed value
35-39	20% of assessed value
40-52	10% of assessed value

¹Public access is not required as a condition of enrollment into the PBRs program; although, public access is highly encouraged.

If proposing public access, describe on a separate sheet of paper how the land can be accessed by the public.

Conservation Futures

Island County has established a Conservation Futures Program to acquire and conserve open space lands across the county. Conservation Futures is a land preservation program for the protection of threatened areas of open space, timber lands, wetland, habitat areas, agricultural and farm lands. This levy money may be used solely for the purpose of acquiring rights and interests (such as easements) in real property. The property eligible include lands that are in the open space land, farm and agricultural land, and timberland current use taxation program as provided in RCW 84.34.

Criteria for review of applications seeking Conservation Futures Funds include (ICC 3.22A):

- a) *Environmental benefits of acquisition.*
- b) *Cost of Acquisition.*
- c) *Threat of development resulting in the loss of a valuable resource.*
- d) *Minimum controlling interest obtainable. (Acquisition methods, such as purchase of development rights and easements, should be preferred over fee simple purchase).*
- e) *Long-term maintenance costs.*
- f) *Compatibility with and enhancement of existing open space land, facilities and programs with similar purposes such as agricultural and forest land core areas, trail networks, habitat areas, etc.*
- g) *Productivity of resource lands.*
- h) *Potential for compatible multiple uses.*
- i) *The T.A.G. [Conservation Futures Technical Advisory Group] may recommend the acquisition of properties through gift or less than value purchase which do not meet selection criteria, but meet the requirements of RCW 84.34, provided the acquisition is for the purpose of generating additional funds for acquisition of properties that do meet the criteria.*

The property tax levy is intended to provide a reliable and predictable source of funds to help preserve open space in both the unincorporated and incorporated areas of the County. Open space land acquisition applications for the use of this property tax levy are submitted by local jurisdictions and citizens. Citizen and staff committees review all applications and recommend to the Board of County Commissioners approval of qualifying projects.

Since 1991, Island County Conservation Futures has been a source of funding used to help protect the lands with different conservation values including fish and wildlife habitat. Exhibit 7 shows a list of properties or easements acquired with Conservation Futures Fund:

Exhibit 7. Conservation Futures Properties and Easements

Property	Acres	Easements	Acres
Double Bluff	2.7	Easements	Acres
Ala Spit	16.7	Wilbert Trail	7.3
Maxwellton Classroom	6.3	Hoypus Hill	57
Amber / Kettles	140.8	Useless Bay	55
Dry Lake Trailhead	3.3	Ebeys Farmland	136
English Boom	5.2	Dugalla Flats	39
Freund Marshland	3.36	Skagit Nearshore	39
Greenbank Farm	313.2	Ebeys Farmland 2	200

ISLAND COUNTY FISH AND WILDLIFE HABITAT CONSERVATION AREAS
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Property	Acres	Easements	Acres
West Beach Lake	97.7	Greenbank Farm	140.7
Iverson	115.1	Muzzall Farm*	117
English Boom 2	2	Trillium Forrest	654
Four Springs	50.1	Noble Creek*	8
Saratoga Woods	117	Total Easement Acres	1,453.0
Utsalady beach	1.7		
Kristoferson	0.9	Property Type Conserved	Acres
Dry Lake Phase 2	1	Agriculture	508.00
Henry Hallow	7.3	Timber	1,299.90
Crocket Lake***	374	Shoreline & Access	771.30
Indian Point	70	Open Space	202.16
Total Property Acres	1,328.36	Total**	2,781.36

*= Project not yet complete.

Much of the land conserved has been shoreline and timberland, followed by agriculture and open space properties.

A description of properties protected has been compiled by the Whidbey Camano Land Trust:
http://www.wclt.org/wp-content/uploads/2013/11/CFF_Projects_Descriptions_Final.pdf.

It may be appropriate to revisit the funding criteria to address how best to conserve fish and wildlife habitats, and particularly areas that are not already protected under critical areas regulations (such as corridors).

Washington State Recreation Conservation Office Habitat Grants

The Washington State Recreation Conservation Office (RCO) offers Habitat Conservation and Restoration Grants. The purposes of these grants include protection and restoration of:

- High quality, native ecosystems
- Habitat for endangered or threatened species
- Habitat along the water

Example proposals that may qualify for funding include:⁵

- Purchasing pristine habitat for salmon recovery
- Protecting the largest seal nursery in south Puget Sound
- Buying land for the largest, high quality native oak forest remaining in Western Washington
- Restoring a prairie for recovering golden paintbrush, a plant threatened with extinction
- Purchasing waterfront for a pedestrian boardwalk
- Removing a bulkhead and reshaping of natural beach to improve salmon habitat

A summary of the programs and criteria that apply to fish and wildlife habitat outside of shoreline jurisdiction is provided in Exhibit 8.

⁵ See RCO website for more information: http://www.rco.wa.gov/grants/habitat_grants.shtml

In order to be eligible for the grants, there is a planning requirement, such as an RCO approved parks, recreation, and open space (PROS) plan containing a habitat element. Island County has developed such a plan in its Parks and Recreation Element of the Comprehensive Plan (see Section 3.9).

**Exhibit 8. Washington State Recreation and Conservation Office:
Fish and Wildlife Habitat Related Grants (For Areas Outside of Shoreline Jurisdiction)**

Category / Description	Potential Project Elements	Evaluation Criteria
<p>Critical Habitat</p> <p>This category provides grants to acquire, create, or enhance habitat for wildlife including game and non-game species; food fish; shellfish; and freshwater, anadromous, and other fish including habitat for endangered, threatened, or sensitive species.</p>	<p>Includes habitats such as wetlands, forests, shrub-steppe, deer and elk winter range, and riparian zones, and habitats for saltwater or freshwater fish and shellfish.</p> <p>May include public use for both consumptive and non-consumptive activities.</p> <p>May include acquisition for species protection or enhancement.</p> <p>May include habitat enhancement or creation.</p> <p>May include limited development of public facilities such as roads, trails, parking, restrooms, signs, and fences to allow public use and enjoyment.</p> <p>May exclude public use, if needed to protect habitat and species.</p> <p>Does not allow renovation of facilities.</p>	<p>Ecological and Biological Characteristics: The bigger picture; Uniqueness and significance of the site; Fish and wildlife species or communities; Quality of habitat</p> <p>Species and Communities with Special Status: Threat to species or communities; Importance of acquisitions; Ecological roles; Taxonomic distinctness; Rarity</p> <p>Manageability and Viability: Immediacy of threat to the site; Long-term viability; Enhancement of existing protected land; Ongoing stewardship</p> <p>Public Benefit: Project support; Educational and/or scientific value</p>
<p>Land and Water Conservation Fund</p> <p>The Land and Water Conservation Fund (LWCF) provides funding to preserve and develop outdoor recreation resources, including parks, trails, and wildlife lands. Examples of habitat related elements that are eligible for LWCF funding include:</p> <ul style="list-style-type: none"> ▪ Natural areas, open space ▪ Trails (including interpretive) and pathways ▪ Vistas and view points ▪ Wildlife management areas (fishing or hunting) <p>There are many other active recreation facilities that are also eligible.</p>	<p>May involve any of the following:</p> <ul style="list-style-type: none"> ▪ Acquisition of real property ▪ Development or renovation of public outdoor recreation facilities ▪ Both acquisition and development in the same project <p>Must be consistent with the outdoor recreation goals and objectives contained in the statewide Comprehensive Outdoor Recreation Plan (SCORP) and recreation elements of local comprehensive plans.</p> <p>Must stand on their own merits as viable projects that are not dependent on other, future phases.</p> <p>Must be retained for public outdoor recreation use in perpetuity.</p>	<p>Consistency with the state comprehensive outdoor recreation plan (SCORP)</p> <p>Ned for the project, considering goal of the project and the service area</p> <p>Well designed and results in a quality recreational opportunity while protecting the integrity of the environment</p> <p>Urgency and Viability: Immediacy of threat to the site; Long-term viability</p> <p>Consistency with Department of the Interior and National Park Service goals for grant programs</p> <p>Readiness to proceed</p> <p>Demonstrates efficiencies or reduces government costs (e.g. volunteers, donations, sustainable design, etc.)</p> <p>Proximity to a populated area</p>
<p>Riparian Protection</p> <p>This category provides grants to acquire or restore riparian habitat adjacent to any water body or its submerged lands. Riparian habitat may include shorelines, near-shore marine habitat, estuaries, lakes, wetlands, streams, or rivers.</p>	<p>Must include acquisition of real property (fee title, easement, or lease).</p> <p>May include functional habitat for salmon and other wildlife species.</p> <p>May include restoration or enhancement of the property to be acquired.</p> <p>May include limited development for low impact, public access. Development may include trails, roads to trail heads, parking, restrooms, signs, and fences.</p>	<p>Riparian habitat benefits</p> <p>Planning priority</p> <p>Site suitability and project design</p> <p>Threats to the habitat</p> <p>Project support</p> <p>Public access opportunities</p> <p>Ongoing stewardship and management</p> <p>Matching share</p>

**ISLAND COUNTY FISH AND WILDLIFE HABITAT CONSERVATION AREAS
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Category / Description	Potential Project Elements	Evaluation Criteria
	<p>May include costs for developing stewardship plans.</p> <p>May include conservation easements or leases for land enrolled in the Conservation Enhancement Reserve Program (CREP). Leases must be for at least 25 years.</p> <p>May exclude public use, if needed to protect habitat and species.</p>	<p>Growth Management Act compliance</p>
<p>Salmon Recovery</p> <p>Provides funding to improve important habitat conditions or watershed processes to benefit salmon and bull trout.</p> <p>Projects may include the actual habitat used by salmon and the land and water that support ecosystem functions and processes important to salmon.</p>	<p>The SRFB funds a range of projects, but ALL of them must address habitat condition or watershed processes that are important to salmon recovery. The project may provide other benefits, such as flood control or education, but those benefits must be secondary.</p> <p>Projects may include acquisition, restoration, a combination of acquisition and restoration, or planning and assessment projects. Projects may be phased but each stage should stand on its own merits as a viable project.</p>	<p>Projects must go through selection by local lead entities and must address goals and actions defined in regional recovery plans or lead entity strategies.</p> <p>RCO has identified a guide for lead entity project evaluation to evaluate benefits to fish and certainty of project success.</p> <p>SRFB shifted to a technical evaluation of site-specific projects using the Project of Concern (POC) criteria. Projects that have a low benefit to salmon, a low likelihood of success, or that have costs that outweigh the anticipated benefits will be designated as projects of concern. The review panel will not otherwise rate, score, or rank projects.</p> <p>More detailed information about the process and criteria are available, here: http://www.rco.wa.gov/documents/manuals&forms/Manual_18.pdf.</p>
<p>Urban Wildlife Habitat</p> <p>These grants are for the acquisition, development, or restoration of urban wildlife habitat.</p>	<p>The land must lie:</p> <p>Within the corporate limits of a city or town with a population of at least 5,000 or within 5 miles of such a city or town (or its adopted UGA)</p> <p>Within 5 miles of an adopted UGA in a county that has a population density of at least 250 people per square mile.</p> <p>Projects:</p> <p>Provide habitat for wildlife, food fish, shellfish, or freshwater or marine fish.</p> <p>May serve as a corridor for wildlife movement in existing populated areas.</p> <p>May include and encourage public use for wildlife interpretation and observation.</p> <p>May include development of limited facilities, such as fences, interpretive or observation trails, interpretive signs or kiosks, restrooms, and parking.</p> <p>May include creation or enhancement of habitat.</p> <p>May exclude public use, if needed to protect habitat and species.</p> <p>Does not allow renovation of existing facilities.</p>	<p>Ecological and Biological Characteristics:</p> <p>The bigger picture; Uniqueness and significance of the site; Fish and wildlife species and/or communities; Quality of habitat</p> <p>Species and Communities with Special Status</p> <p>Threat to species or communities; Importance of acquisitions to protection and recovery; Ecological roles; Taxonomic distinctness; Rarity</p> <p>Manageability and Viability</p> <p>Immediacy of threat to the site; Long-term viability; Enhancement of existing protected land; Ongoing stewardship</p> <p>Public Benefit: Project support</p> <p>Educational Opportunities: Educational and scientific value</p> <p>Public Use: public's use of the site</p> <p>GMA: Growth Management Act planning requirement</p> <p>Population: Population of, and proximity to, the nearest urban area</p>

Source: Recreation and Conservation Office 2014

3.2 POLICY ORGANIZATION AND SUPPORT

Key Issues

Island County's Comprehensive Plan contains three elements addressing FWHCAs outside of shoreline jurisdiction including:

- Policy Plan/Land Use Element (prepared 1998 / last amended 2011)
- Natural Lands Element (1998)
- Parks and Recreation Element (2011)

Each element was prepared in a different timeframe, and with a different focus, and there is some confusion where the elements overlap (e.g. open space corridors). The remainder of this section concentrates on FWHCA policies, map, and text compatibility among the three elements, except that the issue of open space corridors is treated in its own Section 3.9 below.

Text Compatibility

The Policy Plan/Land Use Element, Natural Element, and Parks and Recreation Element each contain inventory information relevant to FWHCAs, but were prepared at different times and do not necessarily reflect the latest information contained in the BAS, particularly the Policy Plan/Land Use Element and Natural Element that were prepared earlier than the Parks and Recreation Element. The inventory text in the Policy Plan/Land Use Element, Natural Element, and Parks and Recreation Element could be amended to instead refer to the BAS Report.

Map Compatibility

Inventory Maps

The Policy Plan/Land Use Element contains a series of critical areas maps that are intended to be informational but not regulatory:

- Map F Island County Wetlands
- Map G Island County Floodplains
- Map H Island County Steep/Unstable Slopes - RESERVED
- Map I Island County Aquifer Recharge Areas
- Map J Island County Fish and Wildlife Habitat Areas - RESERVED

The Fish and Wildlife Habitat Areas Map has a placeholder "reserved". The Policy Plan/Land Use Element could be amended to remove the reference to Map J and instead refer to the BAS Report, or a compilation map from the BAS Report could be inserted as informational only; written definitions should guide the application of critical areas policies and regulations.

Overlay Criteria

The definition of Fish and Wildlife Habitat Conservation Areas Overlay in the Comprehensive Plan Policy Plan/Land Use Element is generally consistent with Minimum Guidelines to Classify FWHCAs (WAC 365-190-130) but could be refined to be more accurate, and to avoid overlaps with the Shorelines Overlay, as follows:

Fish and Wildlife Habitat Conservation Areas Overlay

Definition:

Land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created.

Designation Criteria:

Areas upland of the Shorelines Overlay that exhibit the following features:

A. Areas with which species listed as endangered, threatened, and sensitive by federal or state government have a primary association.

B. Lakes, ponds, streams, inland waters, underground waters, not otherwise regulated as a wetlands.

C. State natural area preserves, natural resource conservation areas, and state wildlife areas, where established.

D. In addition, habitats and species of local importance may be nominated and designated.

See the Shorelines Overlay for Fish and Wildlife Habitat Conservation Areas regulated under the Shoreline Master Program, including but not limited to:

- *Areas where endangered, threatened and sensitive marine species have a primary association.*
- *Commercial and recreational shellfish areas.*
- *Kelp and eelgrass beds.*
- *Herring, smelt, and other forage fish spawning areas.*

When a critical area identified above or in WAC 365-190-130 lies within the Shorelines Overlay but its buffer falls outside of shoreline jurisdiction, a buffer shall be established through the application of critical area protection standards and buffers. Further, natural or manmade processes inside the Fish and Wildlife Habitat Conservation Areas Overlay that impact habitats and species inside shoreline jurisdiction are subject to Fish and Wildlife Habitat Conservation Areas Overlay policies and ICC critical areas regulations.

Similar distinctions between habitats protected through GMA critical areas and policies and habitats protected through the Shoreline Master Program (SMP) should also be made in the critical areas regulations. Further, some of the Shoreline Master Program provisions regarding clearing and grading, vegetation conservation, and geotechnical assessments and setback standards may be appropriate to integrate into the FWHCA critical areas regulations for consistency as well as to address interrelated ecosystems inside and outside shoreline jurisdiction.

Policy Compatibility

Based on our review of policies to date, we have found no obvious incompatibilities between the policies of the three elements as they have different purposes:

- The Policy Plan/Land Use Element directly addresses FWHCAs as an overlay land use designation and provides policy direction that is largely implemented in critical area regulations.
- The Natural Lands Element provides policies that focus on the functions and values of open space and non-regulatory approaches to open space protection such as tax incentives, education, partnerships, etc.

- The Parks and Recreation Element focuses on the County’s park system; the element also addresses environmental conditions, including habitat connectivity, as well as the role of other non-County park and open space providers that contribute to the overall recreation and natural environment system.

Options & Recommendations

Following the BAS analysis, there are areas of improvement in the Policy Plan/Land Use Element itself:

1. The Policy Plan/Land Use Element policies do not address each type of FWHCAs and the terminology of the policies should be updated similar to the overlay criteria above. For example, policies call for protecting streams, but not other freshwater systems (e.g. surface water not subject to shoreline jurisdiction and groundwater).
2. The policies begin with habitats and species of local importance rather than the other defined FWHCAs that are called out in the minimum guidelines for classification. It would be appropriate to start with the more specific and encompassing FWHCA categories first (e.g. habitats for endangered, threatened, and sensitive species) and then identify locally determined categories such as habitats and species of local importance.
3. Given the adoption of the Island County SMP, the Fish and Wildlife Habitat Conservation Areas Overlay policies related to marine habitats should be removed. Instead the policies could cross reference the SMP as applicable FWHCAs that only occur in shoreline jurisdiction (e.g. kelp and eelgrass beds).
 - a. In addition to clarity in the policies, there should be clarity in mapping and the code, that everything meeting FWHCA criteria in shoreline jurisdiction is governed by the SMP, and everything upland meeting FWHCA criteria is governed by GMA Critical Area policies and regulations. Both policies and code should be clear about what is regulated by which specific section of policy or code.
 - b. While there is a geographic distinction between Overlay areas, the areas are interrelated, and there may be development activities occurring outside of shoreline jurisdiction that have the potential to impact critical areas within shoreline jurisdiction; for example interference with natural erosion of bluffs may be a concern.
4. A current FWHCA policy below supports protection of habitat corridors. It could be strengthened by referencing the Parks and Recreation Element Habitat Conservation Concept Map (see Section 3.9).

Encourage the provision of corridors and networks of native vegetation between protected habitat areas to minimize isolating and fragmenting designated wildlife habitat. Incorporate natural resource lands supporting uses such as forestry and agriculture into wildlife corridors and networks.

5. County staff has identified the option of moving the monitoring provisions of ICC 17.02.040.L that read more like policies than code to the Comprehensive Plan (e.g. to the Water Resources Element or a new consolidated “Critical Areas Element”). The current code provisions are more policy directives to guide the County’s work than code requirements which apply to members of the public. Similarly, there may be an appropriate location in the Comprehensive Plan to place wetland monitoring/adaptive management policies, such as part of the 2016 Comprehensive Plan Update. While policy-like direction may be moved to the Comprehensive Plan, there should be specific direction on monitoring in the code, such as the ability to condition proposals to provide monitoring of critical areas and mitigation.

- a. The status of critical area and related monitoring programs should be evaluated. For example, there is a management plan for Blue Iris, but County staff are unaware of how or whether it's been implemented. Water quality monitoring activities have been continually conducted and data published on maps regularly; a report has been prepared but not published. A preliminary wetland monitoring report has been prepared and will identify where there are needed improvements in monitoring as appropriate. Further analysis of Island County's monitoring programs may be part of the 2016 Comprehensive Plan update.

The BAS Report identified some functions and processes across the landscape that influence FWHCAs but which include lands that do not directly include FWHCAs in and of themselves. The BAS Report also identified some potential habitats that could be considered locally important.

6. The BAS identified landscape level processes important for FWHCAs functions and values, including water processes, forested blocks, erosion and sedimentation processes, etc.
 - a. Comprehensive Plan policies could be strengthened by including or cross referencing policies that recognize these landscape level processes (e.g. stormwater/low impact development, clearing and grading, geologic hazards, and tree retention policies, regulations, and plans).
 - b. Shoreline bluffs that are outside of shoreline jurisdiction but which have significant processes that affect fish and wildlife inside shoreline jurisdictions should be called out in policies. The recent Shoreline Master Program has slope setbacks standards that the County could consider adopting in the FWHCA regulations applicable to slopes where the crest is outside of shoreline jurisdiction.
7. The BAS identified potential habitats that may have some merit for conservation and could be considered habitats of local importance once they are vetted through the County's local review process for such a designation. Policies could be added to provide some level of recognition of potential habitats of local importance in the current 2014 Compliance timeframe until such time as a nomination process is complete such as through the 2016 Comprehensive Plan update process. For example, the BAS Report recommended: *Manage to preserve scarce and rare habitats, such as prairies and old-growth forest, in the County. Given regional conservation priorities, prairies and their associated flora and fauna should be considered for designation as a Habitat of Local Importance.*

Recommendations

For the 2014 Compliance efforts it is recommended that Policy Amendments 1 through 4 be made. The County has a Water Resources Element where the water quality monitoring provisions of ICC 17.02.040.L could reside (Amendment 5), with a cross reference from the Policy Plan/Land Use Element policies addressing FWHCAs.

The County may consider some policy additions in topics 6 and 7 addressing landscape level processes and habitats of local importance in order to strengthen its policy framework for SEPA reviews. However, since these topics are not strictly related to FWHCA compliance⁶, and should benefit from additional analysis and public review, any further refinement or implementation could occur through the 2016 Comprehensive Plan Update.

⁶ WAC 365-190-130 indicates counties and cities should consider creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces. Habitats and species of local importance must be considered but are determined locally. See Exhibit 3.

Draft policy amendments are included in Appendix B.

3.3 CODE ORGANIZATION

The current FWHCA code could be improved in organization to be easier to navigate and minimize interpretations. The code should set up a framework where it is possible to find answers to the following questions:

- Are there FWHCAs present? (Designations, definitions & mapping, study requirements)
- What can I do given the presence/absence of FWHCA resource X? (Applicability, exemptions, reasonable use exceptions)
- How does the regulation affect my project design? (Buffers, vegetation conservation, etc.)
- If avoidance is not possible, what do I have to do to protect the resource? (Mitigation sequencing and mitigation plan, alternative standards – habitat management plan)
- I can't move forward with standard or alternative regulations, what can I do? (Variance, conditional use, code amendment)
- The code has been violated? What are the consequences? (Enforcement and penalties)

A draft outline is included in the Appendix indicating a potential code framework. Proposed code amendments are provided under separate cover.

3.4 PERMITTED USES, EXEMPTIONS, REASONABLE USE AND VARIANCES

Key Issues

The current FWHCA regulations have a list of permitted uses and exemptions allowed to occur within the habitat or required buffers subject to criteria or conditions. The current regulations also allow for exceptions to the regulations if a reasonable use of the property would not be possible otherwise, subject to review of criteria.

The current regulations do not define the meaning of “permitted” or “exempt” activities. Exceptions for reasonable uses of property are defined in the code as “[t]he logical or rational use of a specific parcel of land which a person can be expected to conduct or maintain fairly and appropriately under the specific circumstances.” Criteria for reasonable use should allow the minimum necessary modification to accommodate the reasonable use. Also, since the purpose and criteria for reasonable use and variance are similar the requests could be combined into one process.

The current code typically includes criteria or conditions for permitted uses, exemptions, or reasonable use exceptions to minimize potential impacts, such as by minimizing the area affected, applying best management practices, and requiring restoration.

While the code does have these protections, based on County and consultant input, some areas of complexity or confusion include:

**ISLAND COUNTY FISH AND WILDLIFE HABITAT CONSERVATION AREAS
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- The code does not progress from exemptions to permitted uses to reasonable use exceptions, and to variances, in an order that indicates the extent of potential concern regarding impacts or extent of review required. Thresholds should differentiate between when a particular activity or use is an exemption and when it becomes something more (permitted activity, reasonable use, or variance). General discretionary standards could be included to guide the staff’s determination of each level of activity (exemption, or permitted activity, etc.). There could be an overall threshold as well as thresholds specific to different exempt activities.
- There are also two sections for reasonable use, one for single family residences and another for other activities.
- “Reasonable use” is defined differently in ICC 17.02, 17.02A, and 17.03.
- Some exemptions apply to activities that would only occur in shoreline jurisdiction (e.g. tidegates). The SMP treats exemptions differently whereby certain exemptions are excused from permit fees but not from substantive requirements.
- Some exemptions allow for reconstruction of existing structures, but there should be a distinction between intentional demolition where the structure can be accommodated outside of the critical area and its buffer.
- Some allowed activities in critical areas or their buffers are contained in the performance standard for the critical area rather than in the permitted uses section. For example, an allowed use in riparian buffers includes: *Low impact uses that are consistent with the purpose and intent of this Ordinance, and that do not detract from the buffer’s ability to preserve stream and riparian functions may be permitted. Examples of low impact uses and activities that are permitted in buffers include pedestrian (pervious) trails, interpretive signs, fencing, and viewing platforms.*

Exhibit 9 summarizes the current permitted uses, exemptions, and reasonable use exemptions allowed in the current FWHCA code. Note that the existing ongoing agriculture exemption is addressed further in Section 3.8.

Exhibit 9. Summary of Permitted Uses, Reasonable Uses, and Exemptions in Current FWHCA Code

Summary of Activity (see Code for Complete Requirements)	Permitted	Reasonable Use	Exemptions*
Roads or utilities that are the least environmentally damaging, practical alternative, if mitigation proportionate to the impacts is provided.	X		
Installation of underground utilities or moderate impact stormwater facilities , such as grass-lined swales, in the outer 10-50% of buffers depending on type of stream.	X		
Conservation , preservation, or enhancement projects to protect functions of critical areas. Requires a Biological Site Assessment.	X		
Existing and on-going agricultural activities when undertaken pursuant to best management practices to minimize impacts to critical areas.			X
Forest practices under state jurisdiction per state laws and rules.			X
Maintenance or reconstruction of existing serviceable public or private roads, paths, bicycle ways, trails, bridges, and associated storm drainage facilities , and when reconstruction does			X

Summary of Activity (see Code for Complete Requirements)	Permitted	Reasonable Use	Exemptions*
not involve expansion.			
Maintenance and repair of existing serviceable drainage facilities or systems , including, ditches, culverts, catch basins, tidegates and outfalls.			X
Normal and routine maintenance or repair of existing utility facilities or rights-of- way.			X
Installation, construction, relocation and replacement, operation, repair, or alteration of all utility lines , equipment, or appurtenances, not including substations, in improved road rights-of-way.			X
Reconstruction, remodeling, or maintenance of existing structures.			X
Site investigative work			X
Emergency action			X
Flood Control. Operation, maintenance and repair of dikes, ditches, reservoirs, etc. which were created or developed as part of normal flood control activities on or prior to December 31, 1984.			X
Recreational Uses. Swimming, boating and fishing.			X
Existing Residential Landscaping			X
Removal or destruction of noxious weeds			X
Reasonable Use - Single Family Residence on Existing Lots. Applies to new single family residences on existing, legal lots where application of the critical area regulations would preclude reasonable economic use. Criteria address maximum foundation square footage.		X	
Reasonable Use Exception. If the application of this section would deny reasonable use of an existing parcel, development may be allowed which is consistent with the general purposes of this section, the public interest, and the specified criteria.		X	

Note: * Exemptions are subject providing best management practices to minimize impacts to critical areas and restoration of any disturbed critical area or its buffer.

Many of the County's permitted uses and exemptions are similar to the example exemptions, partial exemptions, and allowed activities listed in the Department of Community, Trade, and Economic Development (now Department of Commerce) *Critical Areas Handbook* developed in 2007:

- Emergencies
- Operation, maintenance, or repair
- Passive outdoor activities
- Forest practices regulated by the state
- Projects previously reviewed for critical areas impacts
- Modification of existing structures
- Activities within the improved right-of-way
- Minor utility projects
- Trails

- Minor vegetation removal and the removal of hazard trees
- Minor site investigation work
- Navigational aids and boundary markers

However, some conditions or performance standards associated with the activities differ. For example, in the Critical Areas Handbook, operation, maintenance and repair activities are exempt unless they would directly impact an endangered or threatened species.

Options and Recommendations

Exemptions and Permitted Activity

It is recommended that each exemption be evaluated against the following criteria:

- Is the activity unlikely to result in a detrimental impact?
- Would the time and expense to review such activities be excessive in comparison to the potential impact that minor activities might result in?
- Are there missing conditions in the exemption?
- Should notification of exempt activities be provided to the County where there is no other permit being sought? Are exemptions required to be in writing?
- If the activity should no longer be an exemption, what is the appropriate type of review? Are there needed performance standards?

With these criteria, the exemptions can be affirmed or modified appropriately.

- For example, County staff notes that some drainage and flood control facilities could result in sediment plumes into salmon bearing streams, and the best management practices that are currently adopted likely do not adequately address these impacts.
- Restoration activities, considered permitted activities requiring a Biological Site Assessment, may have long term environmental benefits but may also result in impacts due to grading and filling and could benefit from permit review.

Some exemptions should be clarified:

- Scientific investigative work not associated with a development should be exempt (e.g. such work associated with monitoring) to ensure similar activities are treated in the same way.
- Flood control facilities that were created or developed as part of normal flood control activities prior to December 31, 1984; “existing” facilities could be added to the explanation of the exemption and a definition accordingly provided.

The review process could be clarified to ensure County staff positively affirm that something is exempt or permitted activity referencing any thresholds for review in the code. The code should clarify what sort of information needs to be included about the critical area and the proposed activity, with respect to requested exempt activities.

Reasonable Use Exceptions and Variances

To make the reasonable use process easier to interpret and implement, consider:

- Consolidating “reasonable use section” to include specific reasonable uses (single family homes) with general criteria.

- Adding more specific guidance for reasonable uses aside from single family homes – are there size or percentage limits that could be instituted? Are there other categories of reasonable use exceptions, such as public agency exceptions?
- Treating single family residences with reasonable use performance standards as a permitted use. Then there could be a separate section for reasonable uses in general.
- Consolidating the reasonable use and variance processes into one process.

It is recommended that the single family standards be incorporated into the code as part of a permitted use, and otherwise having a single reasonable use section.

Permit Types

Currently, determination of Permitted Uses/Reasonable Uses are administrative Type I permits. Critical Area Alterations are a Type III permit (Hearing Examiner review).

It is suggested that exemptions be processed as Type I permits, and regulated uses and permitted alterations as Type II permits. For a more rigorous process, “reasonable use” could be processed as a Type III permit similar to a variance (or those processes could be combined). Habitats and Species of Local Importance nominations would continue to be Type IV legislative actions.

3.5 STREAM TYPING

Key Issues

The State has moved to the new stream typing system promulgated by DNR (WAC 222-16-030). Island County can convert its current typing system (1 – 5) according to Exhibit 10.

Exhibit 10. Island County Water Type Conversion Table

Existing Water Typing	Permanent Water Typing	Definitions
Type 1 Water	Type "S"	Shorelines of the State
Type 2 and 3 Water	Type "F"	Waters that are no Type S and contain fish habitat
Type 4 Water	Type "Np"	perennial nonfish habitat streams
Type 5 Water	Type "Ns"	Seasonal nonfish habitat streams

Options and Recommendations

It is recommended that Island County adapt the Department of Natural Resources stream typing system for ease of interpretation.

3.6 RIPARIAN BUFFERS

Key Issues

Riparian buffers serve to protect several functions of streams. These include water quality and freshwater habitat. Exhibit 11 below shows the County’s current stream buffers corresponding to existing water typing and the proposed new water typing:

Exhibit 11
Island County Current Freshwater Buffers

Old type	New Type	Current Buffer
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**ISLAND COUNTY FISH AND WILDLIFE HABITAT CONSERVATION AREAS
AUDIT AND POLICY / REGULATION FRAMEWORK**

1	S	150
2	F	100
3 w/ no anad. fish	Np	75
3 w/ anad. fish	F	100
4	Ns	50
5	Ns	50

The inputs that degrade water quality include the broad categories of 1) sediments; 2) metals, pathogens and other contaminants; and 3) nutrients. Synthetic contaminants including herbicides, pesticides, and pharmaceuticals can also degrade water quality. The primary source of these contaminants in fresh waters is generally lack of stormwater infiltration resulting from the increase impervious surfaces accompanying development. There are multiple means of controlling the source of these contaminants and controlling their flow and infiltration rates. Creating and maintaining undeveloped vegetated buffers along streams is one method of creating an opportunity for contaminants to infiltrate to the subsurface before entering waterbodies directly.

Freshwater habitat functions are created by a complex interaction of landscape process that including the flows of water, sediments, wood and other organic inputs. These flows determine, overtime, the structure of waterbodies such as streams. For example wood in stream channels will slow water flows, preventing bank erosion and creating pools, which are necessary fish habitat components. The components of freshwater habitat that are important include woody debris, invertebrates and detritus and steam temperature. As noted, these components are created by landscape scale processes. But, can be improved through the use of vegetated buffers along streams.

Buffers can protect and/or improve fresh water quality and freshwater habitats. To the extent feasible, the size and regulation of buffers should be based on scientific findings. Numerous studies have looked at the effects of buffers on the individual components of water quality and freshwater habitats. Best available science supports the premise that vegetated buffers can protect and/or improve many of these functions. But the size needed and the benefits derived from buffers vary for each function and vary depending on site-specific conditions. Also, the overall effectiveness of buffers generally decreases with width, so that as buffers get wider, there is a marginally lower benefit for each additional unit of width. The table below (Exhibit 12) shows ranges of buffer widths which have been observed to protect the functions listed above. This table is based on the findings in the BAS Report.

**Exhibit 12
BAS Documented Buffer Width Ranges by Function**

Function	Buffer Range Based on BAS Report (feet)	BAS Report Reference
Water Quality		
Fine Sediments	98 - 394	Table 2; Section 4.2.1
Herbicides and Pesticides	20 - 59	Table 2; Section 4.2.2
Metals, Pathogens and other Contaminants	NA	Table 2; Section 4.2.2
Nutrients	49 – 430	Table 2; Section 4.2.3
Freshwater Habitat		

Function	Buffer Range Based on BAS Report (feet)	BAS Report Reference
Wood recruitment	98 (or at least 49)	Table 2; Section 5.3
Invertebrates	98	Table 2; Section 5.4
Temp	33 – 98	Table 2; Section 5.5
Microclimate conditions	138 - 243	Table 2; Section 5.5

Options

Buffers and the functions that they maintain and protect should be considered carefully. The following presents broad policy considerations for each stream type:

Type S. There are no streams in Island County that are considered waters of the state or type S. Only the stretch of streams within the marine shoreline (i.e. 200 feet from OHWM of marine waters) are regulated within the SMP.

Type F. There are several type F stream in the County. Buffer consideration for water quality and freshwater habitat should be considered for these.

Types Ns & Np. There are many streams in the County that are considered Ns or Np. Neither of these types supports significant fisheries or anadromous fish. Heavier consideration should be given to protecting water quality functions in these streams.

BAS shows greater relative effects from healthy buffers in headwater streams for downstream temperature, invertebrate populations and detrital inputs. Np or Ns streams that are tributaries of Type F streams should be given special consideration.

A set of “standard” buffers can be prescribed base on BAS that could provide protection for the identified water quality and habitat functions. Such a system would not differ significantly from the existing buffer widths and is shown in Exhibit 13. The ranges would depend on site-specific conditions.

Exhibit 13. Potential New Freshwater Buffers

Old type	New Type	Current Buffer	Potential Standard Buffers	New	Minimum Buffers Allowed with Functional Improvements	Buffers Allowed Demonstrated
1	S	150	Refer to SMP		Refer to SMP	
2	F	100	100 – 150*		TBD	
3 w/ anad. fish	F	100	100 – 150*		TBD	
3 w/ no anad. fish	Np	75	75 – 100*		TBD	
4	Ns	50	50 – 75		TBD	
5	Ns	50	50 – 75		TBD	

* See recommendation #8

Recommendations

8. Provide a “standard” set of buffer widths as shown above that can be applied with minimal documentation from experts/consultants. The ranges presented in Exhibit 10 would depend largely on the site-specific soil types and slope; slopes could be more straightforward to use as a threshold given LIDAR maps, whereas absent a site specific soils analysis federal soil maps are more coarse. They may also depend on the quality of tree cover adjacent to the water body. These are characteristics that would need to be identified as part of a typical building permit process and would require minimal expert documentation.
9. Provide an allowance for reduced buffers that could be applied if an applicant demonstrates a need and proposes restoration actions as part of proposal that would enhance or improve water quality or habitat functions. Such actions would have to be part of a restoration or management plan developed by an expert and would have to consider site-specific conditions and basin-wide (catchment) conditions.
10. Headwater portions of streams that are tributaries to Type F streams should have stronger protection where possible.
11. Consider an incentive program that allows reduced buffers on a subject site in exchange for improvements to buffers along a headwater stream that is a tributary to a Type F stream. Such improvements would have to improve conditions throughout the stream system.
12. The code administrator should retain the ability to require larger buffers if threats to functions can be identified.
13. Buffer averaging should continue to be allowed provided it can be demonstrated that functions and downstream functions will not be degraded.

3.7 HABITATS AND SPECIES OF LOCAL IMPORTANCE

Key Issues

WAC 365-190-130 lists “Habitats and Species of Local Importance” as a FWHCA that must be considered for classification and designation.

WAC 365-190-130(4)(b) states the following:

“Habitats and species areas of local importance. Counties and cities should identify, classify and designate locally important habitats and species. Counties and cities should consult current information on priority habitats and species identified by the Washington state department of fish and wildlife. Priority habitat and species information includes endangered, threatened and sensitive species, but also includes candidate species and other vulnerable and unique species and habitats. While these priorities are those of the Washington state department of fish and wildlife, they should be considered by counties and cities as they include the best available science. The Washington state department of fish and wildlife can also provide assistance with identifying and mapping important habitat areas at various landscape scales. Similarly, the Washington state department of natural resources’ natural heritage program can provide a list of high quality ecological communities and systems and rare plants.”

Currently ICC 17.02.050(1)(h) – provides a process for nomination of a habitat or species of local importance. It includes nomination criteria:

“(1) Local populations which are in danger of extirpation based on existing trends since January 1, 1985.

(2) *The species is sensitive to habitat manipulation.*

(3) *The species or habitat has commercial, game, or other special value such as locally rare species.”*

And it includes criteria for habitats nominated to protect a particular species:

“(1) Where a habitat is nominated to protect a species, the use of the habitat by that species is documented or is highly likely or the habitat is proposed to be restored with the consent of the affected property owner so that it will be suitable for use by the species; and

(2) Long term persistence of the species is dependent on the protection, maintenance or restoration of the habitat.”

The nomination must indicate the specific habitat feature to be protected and must include a management strategy based on BAS. Protection standards for habitat or species of local importance are limited to existing regulations in other sections of the code:

“Protection Standards: Habitats of Local Importance. Property owners within these areas are required to comply with Chapter 17.02 ICC, the Island County Critical Areas Ordinance; Chapter 17.03 ICC, the Island County Zoning Ordinance; Chapter 11.02 ICC, the Island County Clearing and Grading Ordinance; the Island County Shoreline Master Program; and all other applicable Federal, State and County regulations.”

The current nominating process does provide discrete purposes for the nomination. It also does not include a list of the specific habitat functions at risk and what types of activities are creating the risk. County staff have found the process of nominating these areas and regulating development around these areas difficult. Staff have noted that the purpose of Habitats and Species of Local Importance designation is not clearly defined within the code. As a result, there is no clear rationale on why areas were designated on what is being protected in these areas. Many of the areas listed in the code as habitat or species of local importance are already regulated under other critical area regulations (e.g. wetlands).

Options

A nominating process for habitats and species of local importance was included in Commerce’s (then CTED’s) *Critical Areas Assistance Handbook* (2003). However, a nominating process is not included as a requirement in the WAC. The requirement is simply that the County must consider designating these areas. As a first option, the County could replace or discard the process of nominating and develop an alternative means of identifying habitats and species of local importance. The County could re-write the nomination process. Such a re-write could consider the following:

- Habitats and species of local importance should only include those species and/or habitats that are *not* adequately protected by other County, State or Federal regulations or rules.
- The nomination process should require that habitats and species of local importance include the following:
 - Science-based rationale for nomination (could be based on regional conservation priorities or data related to habitat use [Audubon Important Bird Area designation, for example]).
 - An indication of whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries), or whether the habitat or ecosystem is being nominated in its entirety. If it is an ecosystem – a specific management plan should be required.

- For habitats, a clear understanding of boundaries including, where appropriate, geographic boundaries, specific list of species, specific list of functions should be included.
- The specific habitat functions that are vulnerable.
- The causes for vulnerability, including requiring a description of specific development activities that compromise these areas, as well as a list of proposed protection measures.
- Proponents should also be required to demonstrate why existing regulations don't adequately protect the habitat or species.

Designation of a habitat of local importance should trigger development of a management plan (within a BSA Report) with protection standards specific to the habitat components and/or species requirements that occur within that management plan. Once nominated with this information, application of protection measures should be more transparent to staff and land owners.

The County should also consider other broader land use actions to protect some of these areas, such as density decreases, clustering, or other land use requirements based on a set of criteria. These types of actions could be more effective and can be contemplated as policy updates.

Recommendations

14. The habitats and species of local importance are included in GMA as a means of protecting a potential gap in protection. The County should consider whether such a gap exists. It is possible that other County, State and Federal regulations cover areas that do not fall within FWHCA categories. If not covered as a FWHCA, the County may choose to rely on its SEPA authority to protect these areas provided there are policies in the Comprehensive Plan, which are part of the County's substantive authority under SEPA.
15. If the County chooses to retain a habitat and species of local importance nominating process. The process should be updated to include information at a level of specificity (outlined above) that allows staff to clearly describe to an applicant what steps are necessary (BSA and/or management plan). Current habitats and species of local importance should be compared to new criteria to determine if they should be carried forward in the FWHCA regulations; in the interim habitats and species of local importance that are regulated by other sections of the code could be removed, while others should be vetted in the 2016 Comprehensive Plan Update process.
 - a. The County could also consider moving the nominating process for habitats and species of local importance to the Comprehensive Plan and specifying that the nomination process is a Type IV amendment pursuant to ICC 16.19.
 - b. The County could retain the Type IV legislative review process and maintain the nomination process in the code.

3.8 AGRICULTURAL ACTIVITIES

Key Issues

Existing and on-going agricultural activities are exempt from FWHCA regulations provided there are best management practices to minimize impacts to critical areas:

Existing and on-going agricultural activities when undertaken pursuant to best management practices to minimize impacts to critical areas. For example, by minimizing the use of motorized vehicles and machinery in such areas.

The Island County Code notes that revisions to this exemption were adopted in 2006 but have not yet gone into effect as the provisions were upheld by the Growth Management Hearings Board but appealed to court.⁷

County staff has indicated that agricultural activities and streams need to be more clearly defined. Based on experience applying the code, staff has found that depending on how one interprets the code some agricultural activities may either be exempt or require a critical area alteration. Further some activities are similar but not identical, such as commercial agriculture or hobby farming/large lot property gardening or maintenance.

Existing and on-going agricultural activities are defined in the County Code as follows:

Agricultural Activities, Existing and On-Going: Those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops or livestock. These activities include the operation and maintenance of farm and stock ponds or drainage ditches, operation and maintenance of ditches, irrigation systems including irrigation laterals, canals, or irrigation drainage ditches, changes between agricultural activities, and normal maintenance, repair, or operation of existing serviceable structures, facilities, or improved areas. Activities which bring an area into agricultural use are not part of an ongoing operation. An operation ceases to be on-going when the area on which it is conducted is converted to a nonagricultural use or has lain idle for more than five (5) years, unless the idle land is registered in a federal or state soils conservation program, or unless the activity is maintenance of irrigation ditches, laterals, canals, or drainage ditches related to an existing and on-going agricultural activity. Forest practices are not included in this definition.

County staff suggest clarifying that the maintenance of irrigation facilities is related to “existing” ones; and similar to nonconforming use standards, there could be an “abandonment” period.

Streams are defined as:

Streams: Those areas where naturally occurring surface waters produce a defined channel, bed, bank or side, and where there is clear evidence of the passage of water such as bedrock channels, gravel beds, sand and silt beds and defined channel swales. The channel or bed need not contain water year-round. This definition is not intended to include irrigation or drainage ditches or swales, canals, storm or surface water run-off devices or other artificial watercourses unless they are used by salmonids or to convey streams naturally occurring prior to construction of such watercourses.

Options

There are several options in use by other counties to address the intent of regulations to allow agriculture to continue but also to minimize impacts to critical areas, particularly naturally occurring streams that may have been altered for agricultural practices.

Skagit County Definitions and Approach to Watercourses and Agricultural and Property Maintenance Activities

Skagit County has three definitions to describe watercourses – natural water course, modified natural watercourse, and artificial watercourse.

⁷ Code note at section 17.02.040.E.1 states: 1A Reviser’s Note: Ord. C-150-05 [PLG-021-05], adopted May 15, 2006, vol. 2006, p. 163, which will eliminate this exemption, is not yet in effect under the terms of the ordinance. The ordinance is available at this location: <http://www.islandcounty.net/code/Ordinances.htm>.

Natural watercourse: any stream in existence prior to settlement that originated from a natural source. An example of a natural watercourse is a stream that originates in the foothills, flows through agricultural and/or urban land, and empties into a salt water bay or another watercourse.

Modified natural watercourse: that segment of a natural stream that has been modified and is maintained by diking and drainage districts, and where such modification activity was done as a permitted activity that has undergone environmental review (SEPA and/or NEPA), and is in compliance with all necessary permits in effect at the time of its approval.

Artificial watercourse: ditches and other water conveyance systems, not constructed from natural watercourses, which are artificially constructed and actively maintained for irrigation and drainage. Artificial watercourses include lateral field ditches used to drain farmland where the ditch did not replace a natural watercourse.

Skagit County critical area regulations applicable to ongoing agriculture indicate that isolated artificial watercourses are not subject to regulation:

Isolated, artificial watercourses that have no channelized surface hydraulic connection or no piped hydraulic connection between the artificial watercourse and any natural or modified natural watercourse or any salt water shall not be subject to the requirements of this Section. Drainage tile used to convey groundwater shall not be considered a piped hydraulic connection.

A modification of the Skagit County approach could address watercourses that have not been channelized or relocated, regulating them as wetlands. Maintenance of them could be exempted with appropriate best management practices, but their regulated status would be identified.

Skagit County distinguishes exemptions for ongoing agriculture on designated agricultural land and landscape maintenance:

Existing activities defined as ongoing agriculture⁸ on designated agricultural land, including related development and activities which do not result in expansion into a critical area or its buffer and which do not result in significant adverse impacts to a critical area or its buffer; provided, that such activities comply with the provisions of SCC 14.24.120. New development and/or expansion of existing agricultural operations shall comply with both the substantive and procedural provisions of this Chapter. Existing and ongoing agricultural activities that result in significant adverse impacts to a critical area or its buffer shall not be allowed without standard review under this Chapter.

Maintenance activities such as mowing and normal pruning; provided, that such maintenance activities are limited to existing landscaping improvements and do not expand into critical areas or associated buffers, do not expose soils, do not alter topography, do not destroy or clear native

⁸ Ongoing agriculture: the continuation of any existing agricultural activity on Agricultural—Natural Resource lands or Rural Resource—Natural Resource lands, including crop rotations; provided, however, that for lands in RRC-NRL that are subject to the provisions of SCC 14.24.120, any property owner who applies for and receives CaRD approval under SCC 14.18.300 through 14.18.330 shall, at the time of CaRD approval, automatically be subject to the buffer requirements of SCC 14.24.530 and shall no longer be subject to the provisions of SCC 14.24.120. Activities undertaken for the first time after May 13, 1996, the date Skagit County adopted Ordinance 16156, the Critical Areas Ordinance, do not constitute “ongoing agriculture”; provided, that any lands that were fallow on May 13, 1996, but had been in agricultural production within 5 years prior to May 13, 1996, shall be considered “ongoing agriculture” for purposes of this definition.

vegetation, and do not diminish water quality or quantity. This allowance shall not be construed as applying to agricultural activities undertaken outside the Agriculture-NRL zoning district.

While both are exempt activities, ongoing agriculture has additional specific performance standards in a subsection of the chapter.

King County Agricultural Practices and the Critical Areas Ordinance

King County allows existing agriculture to continue with few exceptions, including that a farm plan is needed to maintain agricultural ditches, per their fact sheet:

- *Farmers who wish to maintain their agricultural ditches must have an approved Farm Management Plan that covers this activity. A King County clearing and grading permit is not required for agricultural ditch maintenance under these circumstances, however a permit from the Washington State Department of Fish and Wildlife may be required.*
- *Livestock owners must meet specific fencing setback requirements: fencing setbacks are 50 feet without a Farm Plan and 25 feet with an approved Farm Plan.*
- *With the exception of agricultural ditch maintenance, farm management plans are not required for agricultural operations in place prior to January 1, 2005 that do not expand their operations. Farmers are encouraged, however, to develop plans on a voluntary basis.*

Additionally, maintenance of agricultural waterways requires compliance with the agricultural drainage assistance program as agreed to by the Washington state Department of Fish and Wildlife.

Details of their regulations are in the Exhibit 14 below. The table identifies alterations that are “allowed” if the alteration complies with the development standards, impact avoidance and mitigation requirements and other applicable requirements established in this chapter”. Vegetation management is separately called out in the list of allowed alterations versus Agriculture activities in Exhibit 14.

Exhibit 14. Example King County Allowances for Ongoing Agriculture

KEY	L O		S A		W B		A B C			W A	
	A V		T N		E U		Q U H			I N	
A number in a cell means the corresponding numbered condition in subsection D. applies	N E		E D		T F		U F A			L D	
	D R		P B		A E		T E N			L N	
"Wildlife area and network" column applies to both Wildlife Habitat Conservation Area and Wildlife Habitat Network	L 40%		U		N R		I R E			I E	
	I		S F		D		C L			F T	
D A		L F		A		A N M			E W		
E N		O E		A		R D I			A O		
H D		P R		N		E G			R K		
A B		H		D		A S R			E A		
Z U		A		H		E A			A		
A F		Z		A		A V T			N E I		
R F		A		D		D R O			E N		
D E		R		D							
Clearing											
Clearing	A 18	A 18	A 18, 20	A 14, 18, 20	A 4, 14, 18, 20						
Cutting firewood		A 21	A 21	A 21	A 4, 21						
Vegetation management	A 19	A 19	A 19	A 19	A 4, 19						

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KEY
Letter "A" in a cell means alteration is allowed

A number in a cell means the corresponding numbered condition in subsection D. applies

"Wildlife area and network" column applies to both Wildlife Habitat Conservation Area and Wildlife Habitat Network

L	O	S	A	W	B	A	B	C	W	A
A	V	T	N	E	U	Q	U	H	I	N
N	E	E	D	T	F	U	F	A	L	D
D	R	E		L	F	A	F	N	D	
S		P	B	A	E	T	E	N	L	N
L	40%		U	N	R	I	R	E	I	E
I		S	F	D		C		L	F	T
D	A	L	F				A		E	W
E	N	O	E	A		A	N	M		O
	D	P	R	N		R	D	I	A	R
H		E		D		E		G	R	K
A	B					A	S	R	E	
Z	U	H					E	A	A	
A	F	A				A	V	T		
R	F	Z				N	E	I		
D	E	A				D	R	O		
	R	R					E	N		
		D								

Removal of vegetation for fire safety	A 22	A 22	A 22	A 22	A 4, 22
Removal of noxious weeds or invasive vegetation	A 23	A 23	A 23	A 23	A 4, 23
Agriculture					
Horticulture activity including tilling, discing, planting, seeding, harvesting, preparing soil, rotating crops and related activity	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Grazing livestock	A 53	A 53	A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of a commercial fish farm			A 53, 54	A 53, 54	A 53, 54
Construction or maintenance of livestock manure storage facility			A 53, 54, 55	A 53, 54, 55, 56	A 53, 54
Construction of a livestock heavy use area			A 53, 54, 55	A 53, 54, 55, 56	A 53, 54
Construction or maintenance of a farm pad			A 56	A 56	
Construction of agricultural drainage			A 57	A 57	A 4, 57
Maintenance or replacement of agricultural drainage	A 23, 58	A 23, 58	A 23, 53, 54, 58	A 23, 53, 54, 58	A 4, 23, 53, 54, 58
Maintenance of agricultural waterway			A 69	A 69	
Construction or maintenance of farm pond, fish pond or livestock watering pond	A 53	A 53	A 53, 54	A 53, 54	A 53, 54

4. No clearing, external construction or other disturbance in a wildlife habitat conservation area is allowed during breeding seasons established under K.C.C. 21A.24.382.

14. The following are allowed in the severe channel migration hazard area if conducted more than one hundred sixty-five feet from the ordinary high water mark in the rural area and one-hundred fifteen feet from the ordinary high water mark in the urban area:

- a. grading of up to fifty cubic yards on lot less than five acres; and
- b. clearing of up to one-thousand square feet or up to a cumulative thirty-five percent of the severe channel migration hazard area.

18. Allowed for the removal of hazard trees and vegetation as necessary for surveying or testing purposes.

- 19.** The limited trimming, pruning or removal of vegetation under a vegetation management plan approved by the department:
- a. in steep slope and landslide hazard areas, for the making and maintenance of view corridors; and
 - b. in all critical areas for habitat enhancement, invasive species control or forest management activities.
- 20.** Harvesting of plants and plant materials, such as plugs, stakes, seeds or fruits, for restoration and enhancement projects is allowed.
- 21.** Cutting of firewood is subject to the following:
- a. within a wildlife habitat conservation area, cutting firewood is not allowed;
 - b. within a wildlife network, cutting shall be in accordance with a management plan approved under K.C.C. 21A.24.386; and
 - c. within a critical area buffer, cutting shall be for personal use and in accordance with an approved forest management plan or rural stewardship plan.
- 22.** Allowed only in buffers if in accordance with best management practices approved by the King County fire marshal.
- 23.** Allowed as follows:
- a. if conducted in accordance with an approved forest management plan, farm management plan or rural stewardship plan; or
 - b. without an approved forest management plan, farm management plan or rural stewardship plan, only if:
 - (1) removal is undertaken with hand labor, including hand-held mechanical tools, unless the King County noxious weed control board otherwise prescribes the use of riding mowers, light mechanical cultivating equipment or herbicides or biological control methods;
 - (2) the area is stabilized to avoid regrowth or regeneration of noxious weeds;
 - (3) the cleared area is revegetated with native vegetation and stabilized against erosion; and
 - (4) herbicide use is in accordance with federal and state law;
- 53.** Limited to activities in continuous existence since January 1, 2005, with no expansion within the critical area or critical area buffer. "Continuous existence" includes cyclical operations and managed periods of soil restoration, enhancement or other fallow states associated with these horticultural and agricultural activities.
- 54.** Allowed for expansion of existing or new agricultural activities where:
- a. the site is predominantly involved in the practice of agriculture;
 - b. there is no expansion into an area that:
 - (1) has been cleared under a class I, II, III, IV-S or nonconversion IV-G forest practice permit; or
 - (2) is more than ten thousand square feet with tree cover at a uniform density more than ninety trees per acre and with the predominant mainstream diameter of the trees at least four inches diameter at breast height, not including areas that are actively managed as agricultural crops for pulpwood, Christmas trees or ornamental nursery stock;
 - c. the activities are in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051; and
 - d. all best management practices associated with the activities specified in the farm management plan are installed and maintained.
- 55.** Only allowed in grazed or tilled wet meadows or their buffers if:
- a. the facilities are designed to the standards of an approved farm management plan in accordance K.C.C. 21A.24.051 or an approved livestock management plan in accordance with K.C.C. chapter 21A.30;
 - b. there is not a feasible alternative location available on the site; and
 - c. the facilities are located close to the outside edge of the buffer to the maximum extent practical.
- 56.** Only allowed in a severe channel migration hazard area, grazed or tilled wet meadow or wet meadow buffer or aquatic area buffer and only if:
- a. located outside the shoreline jurisdiction;
 - b. the applicant demonstrates that adverse impacts to the critical area and critical area buffers have been minimized;

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- c. there is not another feasible location available on the site that is located outside of the critical area or critical area buffer; and
 - d. for proposals located in the severe channel migration hazard area, the farm pad or livestock manure storage facility is located where it is least subject to risk from channel migration.
- 57.** Allowed for new agricultural drainage in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051 and all best management practices associated with the activities specified in the farm management plan are installed and maintained.
- 58.** If the agricultural drainage is used by salmonids, maintenance shall be in compliance with an approved farm management plan in accordance with K.C.C. 21A.24.051.
- 69.** Only for maintenance of agricultural waterways if:
- a. the purpose of the maintenance project is to improve agricultural production on a site predominately engaged in the practice of agriculture;
 - b. the maintenance project is conducted in compliance with a hydraulic project approval issued by the Washington state Department of Fish and Wildlife pursuant to chapter 77.55 RCW;
 - c. the maintenance project complies with the King County agricultural drainage assistance program as agreed to by the Washington state Department of Fish and Wildlife, the department of permitting and environmental review and the department of natural resources and parks, and as reviewed by the Washington state Department of Ecology;
 - d. the person performing the maintenance and the land owner have attended training provided by King County on the King County agricultural drainage assistance program and the best management practices required under that program; and
 - e. the maintenance project complies with K.C.C. chapter 16.82.

Whatcom County Critical Area Regulations

Whatcom County allows maintenance of ditches and drainage channels on agricultural lands provided there is notification to the County and information that the activity will minimize impacts to critical areas.

16.16.235 Activities allowed with notification.

The following activities as specified are authorized within critical areas and buffers; provided, that the applicant provides a written notification to the technical administrator (see Appendix B of this chapter). The notification will provide specific information describing the activity and the mitigation to be implemented to document that the activity will not result in increased risk to public health, safety and welfare, that adverse impacts to critical areas are minimized, and that disturbed areas are restored as soon as possible following the activity. Notification shall be submitted to the technical administrator at least 10 full business days prior to initiating work. Unless otherwise specified, notification shall be valid for one year per activity; provided, that there is no change in the scope of the project including, but not limited to, the location and/or extent of the activity allowed under the notification process. Upon receipt of the notification, the county may provide guidance on best management practices for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and use of chemical applications to be used in the execution of the following activities:

B. Maintenance, operation and/or repair of existing infrastructure improvements, including dikes and drainage ditches, rights-of-way, trails, roads, fences, and utilities; provided, that the activity does not further alter, impact, or encroach upon critical areas or buffers or further affect their functions. The maintenance activity shall not result in increased risk to life or property. Maintenance shall be allowed pursuant to the provisions set forth in this chapter; provided, that:

1. The applicant shall submit to the technical administrator a written description of the maintenance activity with all of the following general information:
 - a. Type, timing, frequency and sequence of maintenance activity to be conducted;
 - b. Type of equipment to be used (hand or mechanical);
 - c. Manner in which the equipment will be used; and
 - d. Best management practices to be used.
2. The applicant's written description shall be valid for up to five years; provided, that there is no significant change in the type or extent of maintenance activity.

J. Routine maintenance of drainage channels on agricultural lands; provided, that all of the following are met:

1. The maintenance is necessary to support ongoing agricultural operations;
2. The maintenance activity does not expand the dimensions of the drainage channel beyond the original, lawfully established dimensions;
3. The agricultural activities are conducted pursuant to an approved farm conservation plan prepared pursuant to WCC 16.16.290;
4. The farm operator obtains a hydraulic project approval (HPA), if required from the Washington State Department of Fish and Wildlife (WDFW), prior to the maintenance activity; and
5. The farm operator provides a copy of the HPA to the technical administrator as part of the written notification. No other written notification is needed.

Other agricultural activities require a farm conservation plan.

16.16.290 Conservation program on agriculture lands (CPAL).

Ongoing agriculture activities shall be permitted within critical areas and/or their buffers in accordance with the standards of this chapter or pursuant to an approved conservation program established by this section. This program shall be subject to continued monitoring and adaptive management to ensure that it meets the purpose and intent of this chapter:

Whatcom County exemptions address property and landscaping maintenance – whereas ongoing agriculture is an activity allowed with notification as identified above:

Maintenance of existing, lawfully established vegetation, landscaping and gardens within a regulated critical area or its buffer, including, but not limited to, cutting, mowing lawns, weeding, removal of noxious and invasive species, harvesting and replanting of garden crops, pruning and planting of noninvasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas; provided, that native growth protection areas, mitigation sites, or other areas protected via conservation easements or similar restrictive covenants are not covered by this exception.

Recommendations

Given the status that the Island County's Ordinance C-150-05 is still in judicial review and it addresses treatment of ongoing agriculture, amendments proposed for the 2014 Compliance efforts are recommended to focus on clarity of current regulations.

Since the County's current approach is to exempt ongoing agriculture provided there are best management practices to avoid impacts, clarifying when a stream is an artificial ditch versus a natural stream or modified natural stream similar to Skagit County would allow the County to require compliance with critical area regulations when there is a proposal that would modify a natural stream or a modified natural stream beyond its permitted alteration level. Changes to artificial streams to support ongoing agriculture would be exempt. Optionally, requiring some kind of notification similar to Whatcom County that an activity affecting a stream is proposed would allow the County to determine if the subject watercourse is natural, natural modified, or artificial.

In the future, the County could consider defining best management practices for artificial watercourse maintenance, similar to King and Whatcom Counties.

3.9 FISH & WILDLIFE HABITAT CORRIDORS

Key Issues

GMA requires comprehensive plans to address open space corridors for a variety of purposes, including wildlife habitat, focused on areas between urban growth areas (UGAs) ([RCW 36.70A.160](#)):

Each county and city that is required or chooses to prepare a comprehensive land use plan under RCW 36.70A.040 shall identify open space corridors within and between urban growth areas. They shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030.

GMA also requires the protection of critical areas, and in its minimum guidelines to classify critical areas, Department of Commerce rules promote the consideration of corridors to protect fish and wildlife (WAC 365-190-130(3)(a)(i):

Counties and cities should consider the following: Creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces, integrating with open space corridor planning where appropriate.

While defining habitat corridors is not strictly mandated under GMA (i.e. "should consider"), other programs may benefit from considering habitat corridors, such as the Current Use Open Space Public Benefit Rating System and RCO habitat grants.

Island County's Comprehensive Plan contains two maps relevant to fish and wildlife habitat corridors, one addressing open space corridors between UGAs in the Natural Element and the other showing a more extensive connected habitat concept map in the Parks and Recreation Element.

Island County's Natural Lands Element habitat connectivity map (Exhibit 15) is far less extensive than the Parks and Recreation Element Habitat Corridors Map (Exhibit 16) because the Natural Environment Element map focus is on lands adjacent to UGA consistent with RCW 36.70A.160. However, the Natural Environment Element vision, goals, policies and implementation strategies are more inclusive of land across the county though not mapped as illustrated in the following goal:

Goal 3 - Maintenance of Ecological Functions and Values: To maintain the important ecological functions and values of natural landscapes such as wetlands, stream corridors, shoreline systems and forests.

Exhibit 15. Natural Environment Element Open Space Corridors

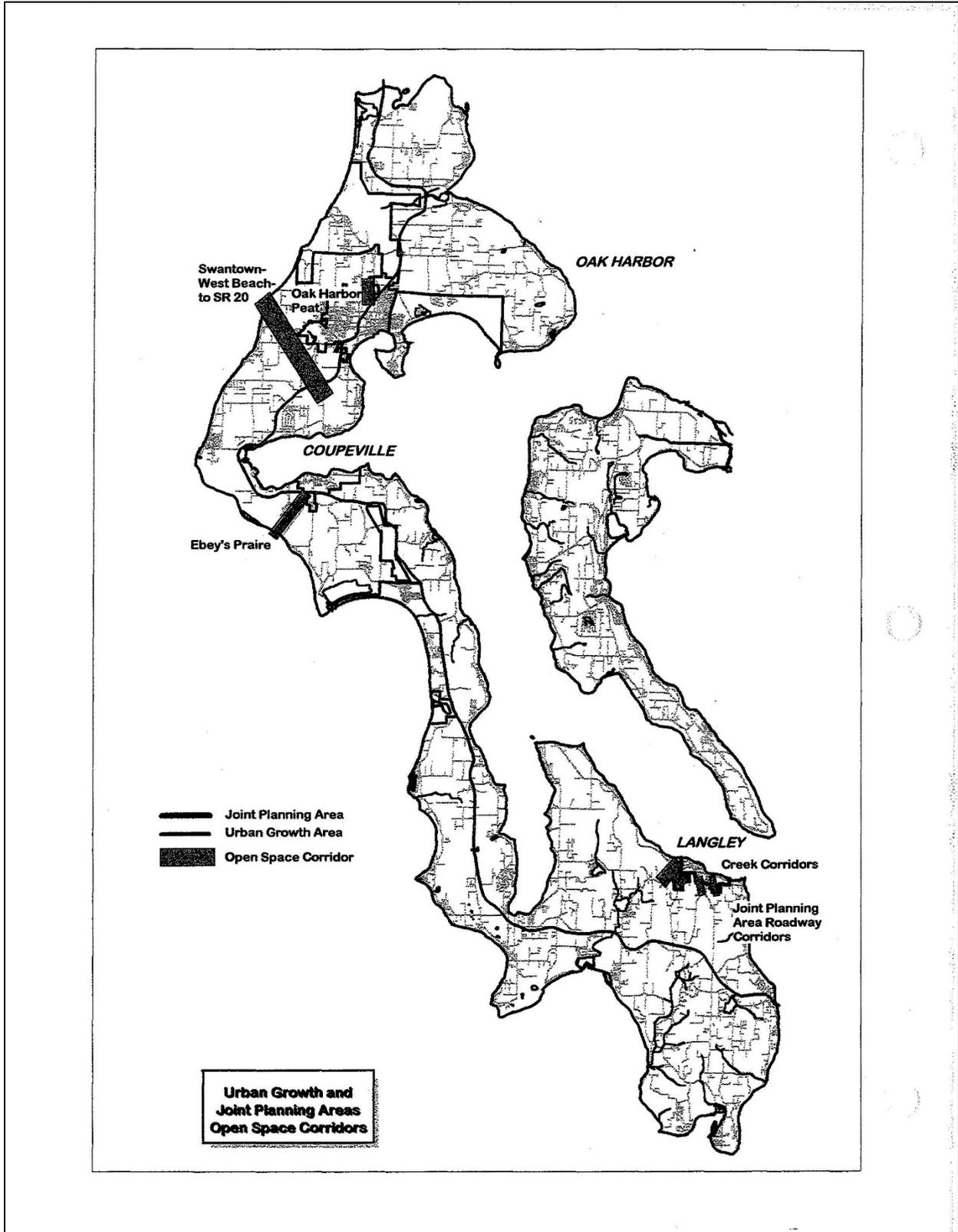
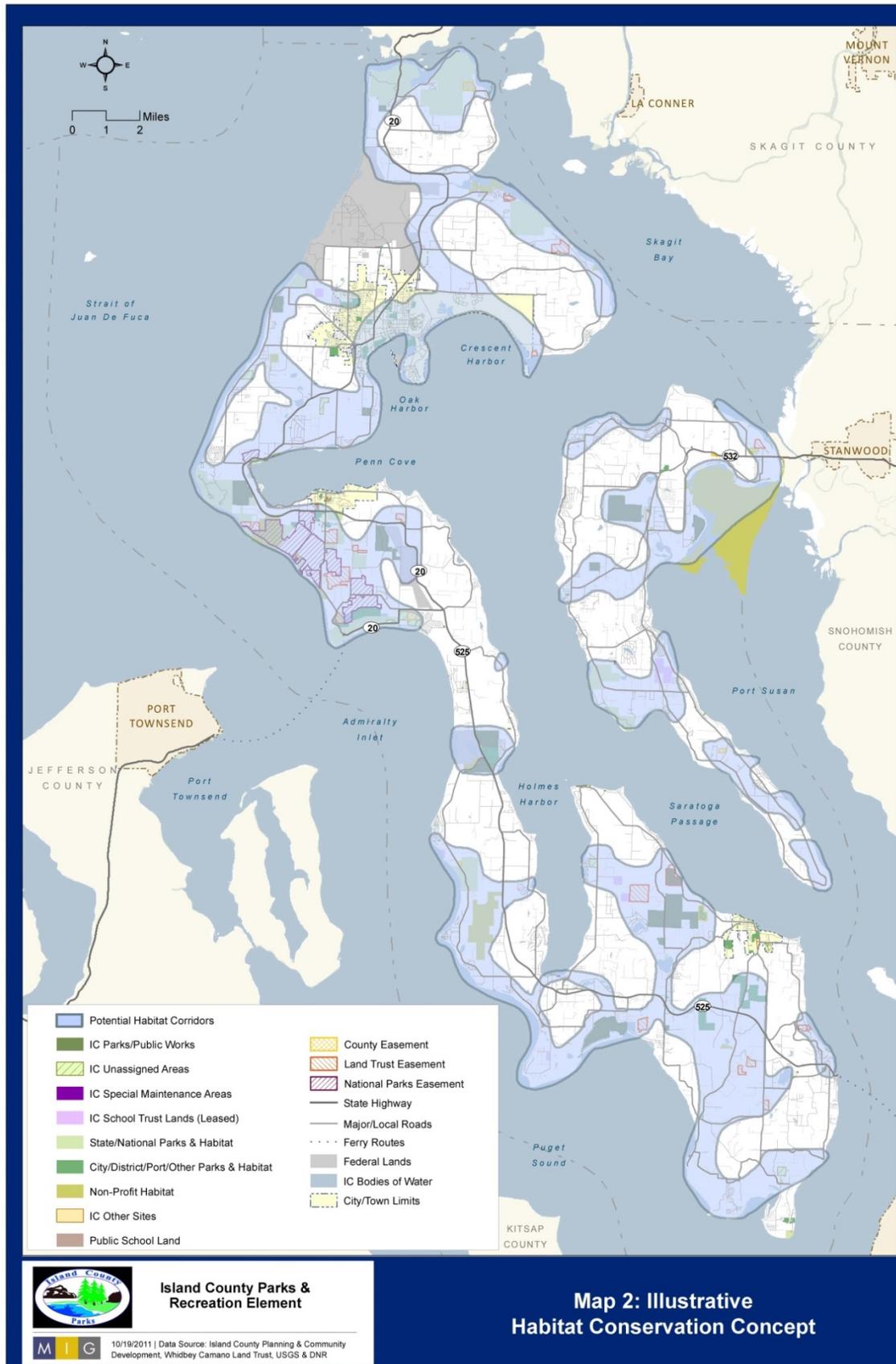


Exhibit 16. Habitat Conservation Concept



The Island County Parks and Recreation Element provides a more extensive habitat conservation concept map, and defines the habitat corridors as follows:

Wildlife Corridors are connecting habitat that links larger patches of habitat, allowing the movement, migration, and dispersal of animals and plants. These are called ‘corridors’ even though they are not always linear. Connecting one habitat with another allows species to flow between larger habitat patches, interbreed, genetically mix, and access food and other resources. It is the long term intent of the Parks & Recreation Element to create corridors with formal permanent protection, typically through fee simple land acquisition or purchase of easements from willing landowners.

The criteria for the Parks and Recreation Element Habitat Conservation Concept map in Exhibit 16 include the following:

Identified as a Whidbey Camano Land Trust Priority Habitat: As part of the Land Trust’s efforts to permanently protect the most important and irreplaceable lands and waters on Camano and Whidbey Islands, the organization has developed a Land Protection Plan and Protection Priorities Map. First created in 2003 based on known data and input from experts, the Land Protection Plan Map highlights the Land Trust’s identified target areas.

Adjacent to Other Conservation Lands: Larger protected areas provide better habitat than smaller isolated parcels. For this reason, the criterion included any land within 1,000 feet of an Island County park land; Non-Profit habitat and easements; State Parks; and National Park Service sites and easements. These parcels would allow existing conservation lands to expand.

Contains Critical Areas: Island County identifies and updates Critical Areas through its Critical Areas Ordinance, which includes wetlands and aquifer recharge areas as well as unstable slopes.

Contains Rare Habitat: Prairies and Oak Woodlands were identified by the Project Management Team as priority rare habitat in Island County.

Contains Other Significant Habitat: The site contains “Habitats of Local Importance” and “Protected Plant Communities” on Whidbey and Camano Islands, or has been identified by the Washington Department of Natural Resources, Natural Heritage Program as potentially containing rare plants and ecosystems.

Prioritized in the Shoreline Master Program: This includes those shoreline areas designated as Natural Environments, Conservancy Environments, or Aquatic Conservancy Environments within Island County, or otherwise identified for habitat conservation in the 2010 update of the Shoreline Master Program.

The Parks and Recreation Element notes that the criteria are initial ones and may be modified over time as better information or other priorities surface:

These criteria are intended to be dynamic, not to paint a static picture of habitat needs across the County. As newer or better information is developed, the County can continue to refine its habitat conservation priorities.

The Parks and Recreation Element map, while more inclusive and extensive, does not include all of the features of the Natural Element Open Space Corridors, particularly features inside city limits such as the Oak Harbor Peat, and Langley Creek Corridors.

Options

Options to improve consistency and effectiveness of mapping that promotes fish and wildlife habitat conservation include:

16. **Cross Reference Corridor Maps in Text:** Provide text based cross references between the Parks and Recreation Element and Natural Environment Elements to identify the interpretation and implementation of corridors shown on each map if the purposes of the maps are still considered distinct.
17. **Consolidate and Reference Corridor Maps, Relying on Parks and Recreation Element Habitat Conservation Concept Map:** Remove the Natural Environment Element Open Space Corridors Map and instead reference the Parks and Recreation Element Habitat Conservation Concept map in the Natural Environment Element, since the areas not included in the Parks and Recreation Element Habitat Conservation Concept map are in city limits, and under the jurisdiction of those cities' critical area regulations. It should be noted that other lands in the cities limits are included in the Parks and Recreation Element Habitat Conservation Concept map, thus considering corridors between and within UGAs.
18. **Review and Potentially Amend the Habitat Conservation Concept Map:** Overlay the Parks and Recreation Element Habitat Conservation Concept map over the updated critical areas mapping (BAS Report) to ascertain the map is inclusive of FWHCAs as most recently studied in the BAS Report. Ensure the Parks and Recreation Element Habitat Conservation Concept map is inclusive of Open Space Corridors mapped in the Natural Environment Element. Once the Parks and Recreation Element Habitat Conservation Concept map is vetted and refined as needed, make it the single open space and habitat corridor map referenced in the Comprehensive Plan.
19. **Voluntary Incentives:** Consider tying the Parks and Recreation Element Habitat Conservation Concept to non-regulatory incentives such as the Open Space Current Use Taxation Public Benefit Rating System and Conservations Futures acquisition priorities. This would occur through the amendment of these codes' definitions, criteria, and scoring systems. A focus should be on the value of fish and wildlife habitat as well as the ability of such lands to be protected through other means. For example the ratings and criteria could prioritize habitat which supports Endangered Species Act listed species since these species are small in number and the species is at risk of extinction, or since the habitat would be protected by federal and state laws and critical areas regulations the criteria could address habitat that is valuable or rare but not otherwise protected by laws or regulations, such as open space lands that provide connectivity between specific habitats.
20. **Apply the Habitat Conservation Concept Map to Land Use Map:** Overlay the Parks and Recreation Element Habitat Conservation Concept map as potentially amended per action 18 on top of the County's land use plan and zoning to identify potential areas of concern regarding wildlife habitat connectivity or landscape level processes and effects on FWHCAs, e.g. areas of shoreline bluffs and erosion, forest cover retention, etc. Should any additional protective measures be considered to uplands?
21. **Add Policies:** Through the addition of policies, the County could encourage future code changes that promote cluster developments and linking the resulting open space blocks with one another, and agricultural, forest, and park land.

Recommendations

For greater effectiveness in implementing county fish and wildlife protection goals, policies, regulations, and programs greater consistency in open space corridor mapping is recommended.

For the 2014 FWHCA Compliance efforts, Options 16 or 17 should be considered to provide basic consistency between maps and text. Since Island County is in the process of updating its Comprehensive Plan by June 2016 consistent with GMA, the County could consider Options 18, 19, 20 and 21 for improved maps and voluntary incentive programs that are not strictly required for compliance, but that would advance the County's long term goals for fish and wildlife protection.

APPENDIX A. DRAFT CRITICAL AREAS CODE OUTLINE

17.02B Island County Critical Areas Ordinance: Fish and Wildlife Habitat Conservation Areas Update

Article 1. General Provisions

17.02B.10 Purpose and Intent

17.02B.20 Authority

17.02B.30 Applicability

17.02B.40 Relationship to Other Regulations

17.02B.50 Administrator and Hearing Examiner Authority

17.02B.60 Permit Required

17.02B.70 General Mitigation Requirements

17.02B.80 Existing Uses

17.02B.90 Appeals

17.02B.100 Penalties and Enforcement

17.02B.110 Severability

Article 2. Definitions

17.02B.200 General Interpretation and Definitions

17.02B.210 Definitions – Fish and Wildlife Habitat Conservation Areas

17.02B.220 Definitions – Wetlands Definitions: Reserved.

17.02B.230 Definitions – Geological Hazards Definitions: Reserved.

Article 3. Designation, Classification and Mapping

17.02B.300 Fish and Wildlife Habitat Conservation Areas

17.02B.310 Wetlands: Reserved

17.02B.320 Geological Hazardous Areas: Reserved

Article 4. Exemptions and Variances

17.02B.400 Exempt Activities

17.02B.410 Permitted Alterations

17.02B.420 Variances

Article 5. Evaluation and Protection Standards

17.02B.500 General: Reserved

17.02B.510 Evaluation Requirements – Fish and Wildlife Habitat Conservation Areas

17.02B.520 Protection Standards – Streams and other Aquatic Habitats

17.02B.530 Protection Standards – Other Fish and Wildlife Habitat Conservation Areas

17.02B.540 Additional Provisions – Habitats and Species of Local Importance

17.02B.550 General Standards – Fish and Wildlife Habitat Conservation Areas

17.02B.560 Wetlands: Reserved

17.02B.570 Geological Hazardous Areas: Reserved

Article 6. Appendix

17.02B.600 Habitats and Species of Local Importance Nomination Process

APPENDIX B. PROPOSED POLICY AMENDMENTS

Land Use Element

Critical Areas Map

Remove references to the following map and add a reference the BAS Report instead:

- Map J Island County Fish and Wildlife Habitat Areas - RESERVED

Fish and Wildlife Habitat Conservation Areas Overlay

The definition of Fish and Wildlife Habitat Conservation Areas Overlay in the Comprehensive Plan Policy Plan/Land Use Element is generally consistent with Minimum Guidelines to Classify FWHCAs (WAC 365-190-130) but could be refined to be more accurate, and to avoid overlaps with the Shorelines Overlay, as follows:

Definition:

Land management for maintaining species in suitable habitats within their natural geographic distribution so that isolated subpopulations are not created.

Designation Criteria:

Areas upland of the Shorelines Overlay that exhibit the following features:

A. Areas with which species listed as endangered, threatened, and sensitive by federal or state government have a primary association.

B. Lakes, ponds, streams, inland waters, underground waters, not otherwise regulated as a wetlands.

C. State natural area preserves, natural resource conservation areas, and state wildlife areas, where established.

D. In addition, habitats and species of local importance may be nominated and designated.

See the Shorelines Overlay for Fish and Wildlife Habitat Conservation Areas regulated under the Shoreline Master Program, including but not limited to:

- *Areas where endangered, threatened and sensitive marine species have a primary association.*
- *Commercial and recreational shellfish areas.*
- *Kelp and eelgrass beds.*
- *Herring, smelt, and other forage fish spawning areas.*

When a critical area identified above or in WAC 365-190-130 lies within the Shorelines Overlay but its buffer falls outside of shoreline jurisdiction, a buffer shall be established through the application of critical area protection standards and buffers. Further, natural or manmade processes inside the Fish and Wildlife Habitat Conservation Areas Overlay that impact habitats and species inside shoreline jurisdiction are subject to Fish and Wildlife Habitat Conservation Areas Overlay policies and ICC critical areas regulations.

Goal:

To protect fish and wildlife habitat areas.

Policies:

A. Protect habitats and species designated within the Fish and Wildlife Habitat Conservation Areas Overlay, particularly:

- Areas with which species listed as endangered, threatened, and sensitive by federal or state government have a primary association.
- Lakes, ponds, streams, inland waters, underground waters.
- State natural area preserves, natural resource conservation areas, and state wildlife areas.

B. Develop specific criteria and processes to nominate, designate and classify habitats and species of local importance, particularly those habitats and species that are not otherwise protected under federal, state, or local regulation which are vulnerable to loss or alteration. Ensure management recommendations are provided for habitats and species of local importance, and that conservation is monitored over time.

- Manage to preserve scarce and rare habitats, such as prairies and old-growth forest, in the county. Consider prairies and their associated flora and fauna for designation as a Habitat of Local Importance.
- Periodically review the list of species and habitats identified by state agencies as priority species and habitats in the State that occur in Island County and determine if they should be considered habitats and species of local importance where there are gaps in other regulations or programs designed to protect the priority species and habitats and potential vulnerability of the habitats and species.

C. Ensure natural processes and ecosystem functions are maintained between Fish and Wildlife Habitat Conservation Areas Overlay and the Shorelines Overlay in order to protect marine and freshwater habitats and species, particularly:

- Areas where endangered, threatened and sensitive marine species have a primary association.
- Commercial and recreational shellfish areas.
- Kelp and eelgrass beds.
- Herring, smelt, and other forage fish spawning areas.

D. Periodically review and update designations as new information on species viability and habitat needs becomes available.

E. Conserve habitats necessary for continued reproductive success of designated species.

1. Protect elements necessary to the survival of designated species, including habitat areas such as nests, breeding areas, nurseries from disturbance during critical life cycle periods.
2. Encourage enhancement of degraded habitat areas.
3. Based on the recommendations of Biological Site Assessment or Habitat Management Plan, provide physical buffers or timing restrictions around specific habitat areas used by designated species commensurate to the seasonal use of the area (where that is the case), the sensitivity of the species and habitat, the relative importance of the species and habitat, and the intensity of proposed and actual uses.

4. Landscaping, screening, or vegetated buffers required through development review should retain, salvage, or re-establish native vegetation.
 5. Discourage use of non-native or invasive plant species.
 6. Encourage the provision of corridors and networks of native vegetation between protected habitat areas to minimize isolating and fragmenting designated wildlife habitat. Incorporate natural resource lands supporting uses such as forestry and agriculture into wildlife corridors and networks. Map 2: Illustrative Habitat Conservation Concept in Chapter 7 Parks and Recreation Element identifies corridors that include habitats and species as well as public and other conservation lands. Map 2 in Chapter 7 may be consulted in development reviews such as in State Environmental Policy Act documentation and in program implementation such as current use taxation implementation.
 7. Consult with state and federal agencies when making wildlife management and protection decisions.
 8. Develop and implement programs to restore, rehabilitate, and acquire important habitat areas.
- F. Protect all lakes, ponds, streams, inland waters, and underground waters.
1. Ensure the design of new and replacement on-site sewage systems meets the minimum requirements outlined in ICC 8.07C and are designed and located so as to discharge sewage effluent as far as possible from critical areas and their buffers.
 2. Require buffers for new development adjacent to streams habitats to protect ecological functions. Where critical area protections overlap, the most protective regulations should control. For example, where a stream buffer and a wetland buffer overlap, the regulated buffer should extend to the outer width of the more extensive required buffer.
 3. Require preparation of farm plans for new agriculture uses in the Commercial Agriculture land use district.
 4. Require implementation of best management practices for new and existing agricultural activities.
- G. Protect fish and wildlife habitat conservation areas in the Shoreline Overlay including near-shore habitats, including commercial and recreational shellfish areas; kelp and eelgrass beds; herring and smelt spawning areas through the application of the Shoreline Master Program.
- H. When a critical area lies in the Shorelines Overlay but its buffer falls outside of shoreline jurisdiction, the buffer is subject to Fish and Wildlife Habitat Conservation Areas Overlay policies.
- I. Proposed uses, activities, and alterations inside the Fish and Wildlife Habitat Conservation Areas Overlay that impact habitats and species inside shoreline jurisdiction are subject to Fish and Wildlife Habitat Conservation Areas Overlay policies.
- J. Protect landscape level processes that indirectly or directly affect Fish and Wildlife Habitat Conservation Areas by implementing low impact development, stormwater, water quality clearing and grading, steep slope, and tree retention policies, regulations, and plans.
- K. Maps, site-specific studies, and information collected by other agencies available for public review will be made readily accessible to potential and existing landowners, interested citizens, and development interests to aid in the protection of these areas.
- L. Regulation of these areas will take into consideration the function of the area, the potential environmental costs of alterations, the sensitivity of the area to disturbance, and the intensity and potential risks associated with a proposed land use.
- M. Promote incentives to conserve and restore habitats.

- Include incentives for habitat enhancement in Fish and Wildlife Habitat Conservation Areas regulations.
 - Update and maintain a habitat corridor map to direct programs and funding to landscapes that connect Fish and Wildlife Habitat Conservation Areas.
 - Update the Open Space Current Use Public Benefit Rating System to prioritize rare and valuable habitats and species that are at risk of alteration or loss and that lack regulatory protection. Ensure the program includes clearly defined outcomes and measurable and verifiable requirements.
- N. Ensure the County coordinates its own programs with those of other public and private organizations to enhance management of Critical Areas in Island County.
- O. When considering revisions to planning policies or land use designations, consideration should be given to assigning appropriate densities and use allowances which are consistent with the protection of fish and wildlife habitat conservation areas.
- P. When considering changes to development regulations and planning policies consideration should be given to policies and regulations which encourage the creation, linkage and maintenance of large blocks of uninterrupted forest cover.
- Q. When a violation of the policies and regulations of this area is identified, the enforcement action and severity of any penalty will be proportional to the nature and circumstances of the violation and the damage or risk to private and public resources.
- R. Overlay policies and development regulations shall be implemented in addition to those associated with the underlying land use designation. When there is a conflict in policy statements or development regulations, the more restrictive shall apply.

Natural Lands Element

Page 6-9 text referencing open space corridors map:

Open Space Corridors. The protection or conservation of individual areas of wildlife habitat are not sufficient for the protection of many species. These species require areas sufficient to permit migratory patterns, access to water, and access to seasonal forage areas. The preservation of natural and man-made corridors can serve this purpose. Conversely, seemingly minor intrusions into existing corridors can have significant unforeseen impacts. Natural lands corridors also serve important functions for humans, providing walking, jogging or cycling paths, or scenic vistas.

The identification of open space corridors within cities and Urban Growth Areas is of particular importance in meeting the requirements of GMA. Such corridors will include streams and their associated buffer areas, shorelines and intertidal areas, utility transmission paths, non-motorized trails, and scenic roadways. The comprehensive plans of several incorporated areas within the county have identified areas that may be important as open space corridors. These corridors may be located within city limits, or within UGAs, or within the broader Joint Planning Areas cooperatively identified between the county and the various communities. *Map 2 Illustrative Habitat Conservation Concept* in Chapter 7, Parks and Recreation Element, identifies the open space corridors within and between Urban Growth Areas of the cities of Langley and Oak Harbor. The town of Coupeville does not have an Urban Growth Area. The map also conceptually identifies public lands, lands protected by conservation easements, and potential habitat corridors.

Page 6-10 Map: Urban Growth and Joint Planning Areas Open Space Corridors:

- Delete Map on page 6-10

Parks and Recreation Element

None.

Water Resources Element

Relocate the monitoring provisions of ICC 17.02.040 that are policy like in nature to the Water Resources Element. Alternatively include them in a new Critical Areas Element.

APPENDIX C: PROPOSED CODE CONSIDERATION OF PROTECTED SPECIES AND HABITATS AND SPECIES OF LOCAL IMPORTANCE

This section indicates the status of the Protected Species and Habitats and Species of Local Importance in the current code in ICC 17.02 and the proposed code numbered as 17.02B. Habitats or species addressed in other County codes and plans are proposed for removal in the proposed code. Otherwise the current list (with any species name corrections) are retained in the proposed code. Any additions to the current list would be required to go through a nomination process using the proposed new nomination rules.

Protected Species List

Fauna:

The following fauna continue to be protected by the proposed code. A specific table is not included in the proposed code since all threatened, endangered or sensitive species are by definition protected as FWHCA.

Scientific Name	Common Name	Ordinance Status ICC 17.02	State Status	Federal Status	Addressed as FWHCA in Proposed Code 17.02B?
Eumetopias jubatus	northern sea lion	threatened	threatened	endangered	SMP 17.05A
Haliaeetus leucocephalus	bald eagle	threatened	sensitive	<i>de-listed</i>	17.02B.300.A.1.b
Falco peregrinus (current code has incorrect scientific name)	peregrine falcon	endangered	sensitive	<i>de-listed</i>	17.02B.300.A.1.b
Eschrichtius glaucus	gray whale	sensitive	sensitive	endangered	SMP 17.05A
Brachyramphus marmoratus	marbled murrelet	threatened	threatened	threatened	17.02B.300.A.1.a and b

Flora:

A similar table is included in the proposed code, listing protected species with corrections to scientific names in some cases.

Scientific Name	Common Name	ICC Ordinance Status 17.02	State Status	Federal Status	Addressed as FWHCA in Proposed Code 17.02B?
Agoseris elata (current code has incorrect scientific name)	tall agoseris	sensitive	sensitive		17.02B.600.G
Sericocarpus rigidus (current code has incorrect scientific name)	white-top aster	sensitive	sensitive	species of concern	17.02B.600.G
Castilleja levisecta	golden indian paintbrush	endangered	endangered	listed threatened	17.02B.300 A.3, State Natural Area Preserves, Admiralty Inlet NAP and

Scientific Name	Common Name	ICC Ordinance Status 17.02	State Status	Federal Status	Addressed as FWHCA in Proposed Code 17.02B?
					17.02B.600.G
<i>Circuta bulbifera</i>	bulb bearing water hemlock	sensitive	sensitive		17.02B.600.G
<i>Fritillaria camschatcensis</i>	black lily	sensitive	sensitive		17.02B.600.G
<i>Meconella oregana</i>	white meconella		threatened	species of concern	17.02B.600.G
<i>Puccinella nutkaensis</i>	Alaska alkaligrass	sensitive			17.02B.600.G

Species of Local Importance List

Fauna:

Except for the common loon whose habitat is addressed in the County's Shoreline Master Program, all fauna is listed in the proposed code with slight clarifications of protected habitat (e.g. nest sites).

Scientific Name	Common Name	ICC 17.02 Protected Habitat	State Status	Federal Status	Addressed as FWHCA in Proposed Code 17.02B?
<i>Ardea herodias</i>	great blue heron	nests			17.02B.600.G Nest sites
<i>Gavia immer</i>	common loon	nests			SMP 17.05A
<i>Pandion haliaetus</i>	osprey	nests			17.02B.600.G Nests
<i>Dryocopus pileatus</i>	pileated woodpecker	nests			17.02B.600.G Nest sites
<i>Cygnus buccinator</i>	trumpeter swan				17.02B.600.G Foraging habitat

Habitats of Local Importance List

The proposed code retains the Whidbey Island Game Farm. Other habitats that are protected under other County codes (wetlands or SMP) are not included in the proposed code to avoid confusion and to allow for application of standards specifically designed for the subject habitats.

Habitat included in Ordinance, 17.02	Addressed as FWHCA in Proposed Code 17.02B?	Addressed in Other County Code?
Bos Lake		SMP 17.05A
Newman Road Lakes		Wetlands 17.02A
Penn Cove		SMP 17.05A
Crockett Lake		SMP 17.05A
Cultus Bay Flats		SMP 17.05A
Hastie Lake		Wetlands 17.02A
Deer Lagoon		SMP 17.05A
Whidbey Island Game Farm	17.02B.600.G	
Useless Bay		SMP 17.05A

Non-Native Wetland Species List

Aside from Protected Species and Habitats and Species of Local Importance the current code lists some non-native wetland species that are allowed to be removed in some performance standards. While the concept is carried forward in the proposed code, reference is made to more comprehensive lists.

Scientific Name	Common Name	Addressed in Proposed Code?
Iris pseudocorus repens	Yellow Iris	This list is incomplete and basis of the list is unclear. The proposed code references the Noxious Weed List for Island County (adopted 3/6/14) which is established in compliance with ICC 8.28, as well as RCW 17.10 and WAC 16-750, such as in the exemptions for noxious weed removal.
Juncus effusus. (current code has incorrect scientific name)	Soft Rush	
Myriophyllum spicatum	Eurasian Millfoil	
Ranunculus repens	Creeping Buttercup	
Phalaris arundinacea	Reed Canarygrass	