PLANNING COMMISSION

AGENDA

September 28, 2010

CITY OF OAK HARBOR
PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS

AGENDA
September 28, 2010
7:30 P.M.

ROLL CALL: **NEIL** _____ **JENSEN**_____ **FAKKEMA** _____

WASINGER _____ **DALE**_____ **OLIVER**_____

WALLIN_____

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1. Approval of Minutes – August 24, 2010

2. Public Comment – Planning Commission will accept public comment for items not otherwise on the agenda for the first 15 minutes of the Planning Commission meeting.

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3. <u>SHORELINE SUBSTANTIAL DEVELOPMENT CONDITIONAL USE PERMIT – SE PIONEER WAY – Public Hearing</u>

The Planning Commission will hold a public hearing on this proposal. The City is proposing to improve SE Pioneer Way in Downtown Oak Harbor. The proposed project will add multi-modal and pedestrian-friendly street improvements and streetscape enhancements. The project includes the removal and replacement of the entire surface street cross section, storm drainage conveyance system, and sanitary sewer system within the limits of the existing Pioneer Way right-of-way. In addition, streetscape improvements include widening sidewalks, providing on-street parking, and adding social gathering spaces. Existing overhead utilities will be located underground. The Planning Commission will forward a recommendation to the City Council.

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4. <u>ADULT ENTERTAINMENT INTERIM ORDINANCE</u> – Public Hearing

Planning Commission will continue a public hearing to consider additional information regarding the Interim Adult Entertainment Ordinance. The Public Hearing was opened on July 27th and will be continued to the October 26th Planning Commission meeting.

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5. <u>PERMIT EXTENSION FOR ADULT DAY CARE CONDITIONAL USE PERMIT – Public Hearing</u>

The Planning Commission will hold a public hearing to consider extending for two years a previously approved conditional use permit held by the Oak Harbor Senior Center to operate the Daybreak Adult Day Care out of a modular building at 917 E. Whidbey Avenue (Island County Parcel Number S7600-00-02604-0). This is a final decision of the Planning Commission.

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6. <u>2010 COMPREHENSIVE PLAN AMENDMENTS</u> – Public Hearing

The Planning Commission will open a public hearing on the 2010 Comprehensive Plan Amendments that included three land use designation changes and the Capital Improvements Plan 2010-2015. The hearing will be continued to the October 26th Planning Commission meeting.

Page 111 (Agenda Items 7 and 8 are presented together)

7. <u>CODE AMENDMENT – DEVELOPMENT APPLICATION VESTING</u> – Public Hearing

The Planning Commission will hold a public hearing to consider amending the Oak Harbor Municipal Code (Chapter 18.20) to define when a development application vests in the application of development regulations. The Planning Commission will forward a recommendation to the City Council.

8. <u>CODE AMENDMENT – ADMINISTRATIVE APPEALS OF FINAL EIS</u> – Public Hearing

The Planning Commission will hold a public hearing to consider amending various sections of the Oak Harbor Municipal Code to clarify the procedures for administratively appealing a final environmental impact statement (EIS). The Planning Commission will forward a recommendation to the City Council.

MINUTES

August 24, 2010

PLANNING COMMISSION
REGULAR MEETING
CITY HALL – COUNCIL CHAMBERS
August 24, 2010

ROLL CALL: **Present:** Keith Fakkema, Kristi Jensen, Keith Fakkema, Nancy Fey and Julie Dale.
Absent: Mark Wiggins and Greg Wasinger.
Staff Present: Development Services Director, Steve Powers; Senior Planners, Cac Kamak and Ethan Spoo; Associate Planner, Melissa Sartorius.

Vice Chairman Neil announced that the public hearing for the SE Pioneer Way shoreline substantial development conditional use permit was postponed until the September 28th Planning Commission meeting.

Vice Chairman Neil called the meeting to order at 7:35 p.m.

PUBLIC COMMENT
None.

MINUTES: **MS. FEY MOVED, MR. FAKKEMA SECONDED, MOTION CARRIED TO APPROVE THE JULY 27, 2010 MINUTES AS PRESENTED WITH ONE CORRECTION TO THIRD PARAGRAPH OF THE LAST PAGE OF THE MINITUES WHERE MS. FEY IS SHOWN AS MR. FEY.**

ADULT ENTERTAINMENT INTERIM ORDINANCE – Public Hearing
Mr. Kamak reported that City Council adopted three ordinances regarding adult entertainment facilities in March. One of the ordinances was an interim overlay zone for where adult entertainment uses can be located.

Mr. Kamak stated that the law only allows for interim ordinances to be effective for six months. If the work that is necessary cannot be completed within that six months a work plan is required to outline the steps that are necessary to complete the work. Staff has prepared a work plan which was attached to the Planning Commission agenda. The work plan will be presented for City Council's consideration at their September 7, 2010 meeting. If the wok plan is adopted the effective period of the interim zoning ordinance can be extended for an additional six months.

Commission Discussion
Ms. Jensen pointed out an error in the tentative schedule paragraph on page 11. The sentence that says that the six month extension that will keep the interim overlay zone effective until March 2010 should be corrected to say March 2011.

Public Comment
Mel Vance (PO Box 2882) urged the City to work closely with the County since the County is also considering adult entertainment regulations. He encouraged working together on the zoning regulations in the areas that seem most appropriate for adult entertainment facilities which are either adjacent to or in the Urban Growth Areas on the north side of the City.

ACTION: **MS. DALE MOVED, MS. JENSEN SECONDED, MOTION CARRIED TO CONTINUE THE PUBLIC HEARING TO SEPTEMBER 28, 2010.**

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URBAN GROWTH AREA (UGA) CAPACITY ANALYSIS – Public Meeting (NO ACTION REQUIRED)

Mr. Powers noted that the Commission is not being asked to take any action at this evening's meeting and that the meeting is the next in a continuing series of updates.

Mr. Kamak reviewed data presented at previous discussions as follows:

Population Data

- Historical Population growth
  - 67% of Island County growth in unincorporated areas
  - 33% in incorporated areas (Oak Harbor – 29%)
- Population Projections
  - Based on information provided by OFM

	2010 Population	2030 Population	Difference
ISLAND COUNTY			
Low	73,036	85,164	12,128
Medium	80,703	107,126	26,423
High	88,370	129,088	40,718
Medium - High	84,537	118,107	33,571
OAK HARBOR			
Low	21,180	24,698	3,517
Medium	23,404	31,067	7,663
High	25,672	37,436	11,808
Medium-High	24,516	34,251	9,735

Mr. Kamak noted that the medium-high category (9,735) in the above table is the population that the County and City agreed that the City should be planning for.

Population Densities

Year	Area1	Area annexed	Population2	Population increase	Population Density
1970	4165	3061	9,167		2.20
1980	4739	574	12,271	3,104	2.59
1990	4925	186	17,176	4,905	3.49
2000	5804	879	19,795	2,619	3.41
2009	6082	278	23,3603	3,565	3.84

Development Densities

Densities for residential developments over the last 10 years were calculated to yield an average density of 5.20 units per acre.

Building Data vs. Population Data

- No visible trend between them

Land Use inventory was conducted

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Methodologies

ILR – Improvement Value to Land Value Ratio
Based on assessed values
Uses a ratio between the land and the structure
Does not take into account any other feature of the property

Improvement to Land Ratio

- Ratio between the land and the improvements
  - Assessed Land value = 300,000
  - Assessed Improvement Value = 100,000

$$ILR = \frac{\text{Improvement value}}{\text{Land value}} = 33\%$$

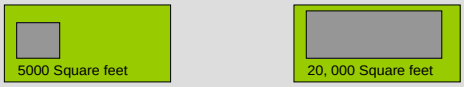
(The structure is 33% of land value)

•Typically this method considers land with ILR <50% as redevelopable

Density Ratio
Not based on assessed values
Uses a ratio between existing density and potential density
Requires creating a database of information not currently tracked

Density Ratio

- Ratio of the existing density to the potential density



Existing Density Potential Density

$$\text{Density Ratio} = \frac{\text{Existing Density}}{\text{Potential Density}} = 0.25$$

Low ratios indicate higher development potentials

LTR – Land Value to Total Value
Based on assessed values
Compares the land value against the total assessed value
Focuses on one aspect of the value

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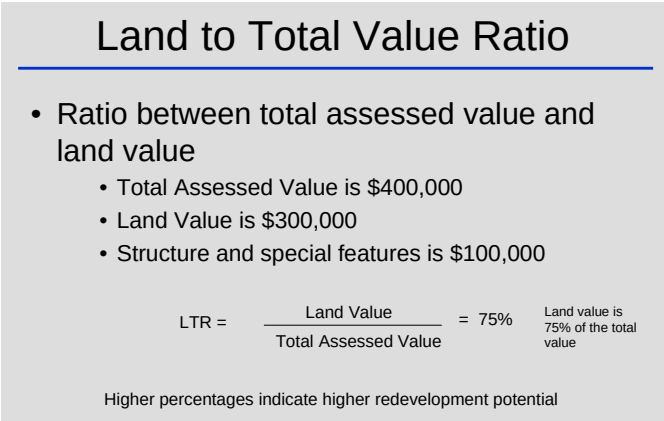

Data Source Management

Mr. Kamak explained that the data that the City uses comes from Island County Assessor's data.

Mr. Kamak transitioned to today's presentation which focused on the analysis of data using the Improvement to Land Ratio (ILR) and the Land to Total Value Ratio (LTR). Maps were displayed that indicate potentially developable properties based on a range of ILR and LTR ratios (maps are attached to these minutes as Attachment 1). Mr. Powers noted that the maps and a spreadsheet that provides the acreage available in each land use category for the various percentages of ILR and LTR are posted on the City's website.

Mr. Kamak explained that LTR focuses on the land value and compares it to the total value of the property. Higher LTRs indicate higher land value. The assumption is that if the land value is significantly high then the owner may think about redevelopment. The question for the Planning Commission is how high should the LTR be to considered the property a as a potential redevelopment property?

Mr. Kamak explained that ILR compares the improvement value to the land value of the property. Lower ILRs indicate that the value of the improvements are low when compared to the land value. The assumption is that if the value of improvements on the property is significantly low and the land value is high then the owner may think about redevelopment. An ILR of 30% indicates that the value of the structure is 30% of the land value. The question for the Planning Commission is how low should the structure value be in order to be considered as a potential redevelopment property?

Mr. Kamak presented LTR and ILR methodologies as follows:

LTR vs. ILR

- Both methods use Island County Assessor's data
- The assessors data has separate value for "Land", "Structure", "Other features" and "Total"
- All properties have some value for "Land"
- Properties can have no value for "Structure" if there are no buildings on the property (These properties will show up as developable properties in our analysis)
- "Other features" may have value it if there are other improvements or value such as by wells, easements etc.
- "Total" may have no value in it if the properties are filed as tax exempt (may still have values assigned to "Land", "Structure" and "Other features" – religious institutions, common areas in condominiums)

Maps of ILR (50%, 60%, 70%, 80%, 90%)

- Ratios were calculated using the “Structure” and “Land” assessed value data
- Ratios range from 0% to 100+%
- A value of 0% usually indicates that there are no structures on the property and 100+% indicates that the value of the structure exceeds the value of the land.
- Since lower structure values are indicative of possible development/redevelopment, it is a general practice to look at ILR of less than 50%
- Maps for ILR are created with a graduated scale
- <50% map indicates all properties that have an ILR value of less than 50%
- <40% map indicates all properties that have an ILR value of less than 40% (properties that have a value between 50% and 40% have been removed)
- <50% map may include properties that may be considered undevelopable and the <10% map may not indicate properties that may be considered developable.

Maps of LTR (10%, 20%, 30%, 40%, 50%)

- Ratios were calculated using the “Land” and “Total” assessed value data
- Ratios range from 0% to 100%
- A value of 0% usually indicates that there are no land values assigned (detentions basins, drainage tracts etc) and 100+% indicates that the value of the land equals the total assessed value of the property (vacant).
- Since higher land values are indicative of possible development/redevelopment, it is a general practice to look at LTR of greater than 50%
- Maps for LTR are created with a graduated scale
- >50% map indicates all properties that have an LTR value of greater than 50%
- >60% map indicates all properties that have an LTR value of greater than 60% (properties that have a value between 50% and 60% have been removed)
- >50% map may include properties that may be considered undevelopable and the >90% map may not indicate properties that may be considered developable.

Mr. Kamak noted that data corrections were necessary to calculate the values for ILR and LTR. They are primarily due to how the county assigns values. For example a condominium plat that has a common area will have a “Land” value but will not have a “Structure” value (since the structure value is assigned to the individual units). Based on the calculations, this property will indicate high development potential. Examples of these corrections were applied to the following:

- Condominiums
- Tracts
  - Buffers
  - Landscape or common areas
  - Detention basins
- Schools
- Parks
- Religious institutions
- Critical areas
- Utilities (Power substations, community wells)

- The properties designated for Low Density Residential that have an area less that 14,000 square feet with an existing structure were also removed from the calculations (these properties, if redeveloped, would replace units and will not be adding units)

Mr. Kamak displayed the following summary tables:

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ILR and LTR
Potentially developable acres*

		50%	40%	30%	20%	10%
ILR	**City**	633	612	578	544	466
	Unincorporated UGA	505	504	490	469	444
	Total	1138	1116	1068	1013	910
		50%	**60%**	**70%**	**80%**	**90%**
LTR	**City**	759	652	597	493	405
	Unincorporated UGA	552	487	460	415	383
	Total	1311	1139	1057	908	788

* Includes all land us categories

ILR and LTR
Potentially developable low density residential acres

		50%	40%	30%	20%	10%
ILR	**City**	144	142	140	131	115
	Unincorporated UGA	128	127	114	114	114
	Total	272	269	254	245	229
		50%	**60%**	**70%**	**80%**	**90%**
LTR	**City**	184	160	151	140	129
	Unincorporated UGA	148	132	130	115	110
	Total	332	292	281	255	239

ILR and LTR
Potentially developable residential acres

		50%	40%	30%	20%	10%
ILR	**City**	329	324	319	299	240
	Unincorporated UGA	132	131	117	117	117
	Total	461	455	436	416	358
	Density at 5.2/acre (past 10 yrs)	*2396*	*2367*	*2269*	*2166*	*1861*
	2000 average household 2.69	***6445***	***6366***	***6103***	***5825***	***5007***
		50%	**60%**	**70%**	**80%**	**90%**
LTR	**City**	385	334	313	249	187
	Unincorporated UGA	152	136	134	119	114
	Total	537	470	447	368	301
	Density at 5.2/acre (past 10 yrs)	*2791*	*2442*	*2325*	*1913*	*1564*
	2000 average household 2.69	***7508***	***6569***	***6253***	***5146***	***4208***

* Includes low, medium, medium-high and high residential land us categories

Mr. Kamak explained the following table. The check marks indicate that the property shows up on the indicated ILR or LTR percentage maps and the fraction indicates what amount of the property drops off at the indicated percentage.

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ILR and LTR
Drawing the development line

		50%	40%	30%	20%	10%
ILR	Ford Dealership Site	✓	✓	1/2	1/2	1/2
	SW corner of Pioneer and Midway	✓	✓	✓	✓	x
	Mobile Home Parks	✓	✓	✓	✓	✓
	Under Developed properties along the boardwalk (waterfront)	✓	✓	✓	1/3	1/3
	Gas Stations	✓	✓	x	x	x
		50%	60%	70%	80%	90%
LTR	Ford Dealership Site	✓	✓	✓	1/2	1/2
	SW corner of Pioneer and Midway	✓	✓	✓	✓	x
	Mobile Home Parks	✓	✓	1/2	1/3	1/3
	Under Developed properties along the boardwalk (waterfront)	✓	✓	✓	1/2	x
	Gas Stations	✓	✓	✓	x	x

Mr. Kamak pointed out that just because a property is marked on the map as redevelopable doesn't mean that it will redevelop because this is not an exact science and there are assumptions that have to be made when doing the calculations.

Mr. Kamak summarized the preliminary findings as follows:

- Development potential properties identified by ILR < 30% and LTR > 70%
- Average residential acres for ILR 30 (436) and LTR 70 (447) = 441.5
- Average density based on 10 yr development = 5.2 units per acre
- Average # of unit based on acreage = 2,295.8
- Average household size (2000 Census) = 2.69
- Average capacity for population in City and UGA = 6,176
- Targeted (med-high) population based on projections = 9,735

Committee Discussion

Ms. Jensen asked if the numbers used in the table on page 49 of the agenda packet were acres. Mr. Kamak indicated the numbers represent acres.

Ms. Jensen asked how the 2000 Census data and the number of acres from the table could be used to calculate the number of lots we have. Mr. Powers said that taking the acres and the number of units per acre will yield an estimated number of units. Once you have the total number of units you can use the persons per household figure 2.69, that comes from the 2000 Census to tell you what the expected population is that would be served by those units. Mr. Powers added that staff has to use the 2000 Census data because it will be at least 18 to 24 months before the 2010 Census data will be available. By the time that the City has to have the State mandated GMA update done we will have 2010 Census data.

Public Comment

GayLynn Beighton (2507 West Beach Road) commented that it is financially irresponsible to not try to plan and grow efficiently and sustainably within the City boundaries. Ms. Beighton said that her understanding of the purpose of the GMA was to keep the cities the cities and keep the rural areas rural and growth was to be inward to the cities that were going to become vibrant and healthy bustling pedestrian friendly places to live.

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Ms. Beighton asked how much it costs to calculate the Oak Harbor land capacity based on density and how much will it cost to bring water, sewer and road to this rural land? Ms. Beighton said she thought it was important to know what it costs to calculate the Oak Harbor land capacity based on density and what it costs to bring water, sewer and road to rural land so we can compare. "If we can't afford to do it right what is it going to cost us down the road?"

Ms. Beighton said she didn't think either of the recommended methodologies were accurate.

Ms. Beighton also referred to two properties (756 SE Barrington Drive and 778 SE Barrington Drive) that had been slated for development and permitted by the City of Oak Harbor in 2006 and is now not considered redevelopable land for 20 years.

Ms. Beighton provided a copy of her comments (attached to these minutes as Attachment 2).

Steve Erickson (Whidbey Environmental Action Network, PO Box 53, Langley, WA 98260) asked when the City and County agreed to use the medium-high forecast. Mr. Erickson commented that critical areas are not considered developable and his understanding of the Oak Harbor Critical Areas Ordinance is that critical areas, while they are not developable, the density for that land area simply gets transferred elsewhere on the property. This is also partially true with governmental organizations, non-profits but depends on the non-profit so you actually have to get specific and look at the particular use.

Mr. Erickson asked what the etceteras were at the end of the list on page 21. He also asked if any testing had been done to determine how predictive these methods are. Mr. Erickson also commented that the assumption that low density residential should be eliminated as being potentially redevelopable implicitly eliminates the possibility of up-zoning those properties for increase in density in the City and avoiding expanding the UGA. Increasing density is less expensive in terms of infrastructure and generally in terms of environmental impacts overall and generally good planning.

Mel Vance (PO Box 2882) commented that there are some flaws in the methods being used. Mr. Vance referred to the Ford Dealership site listed on the ILR vs LTR table on page 37 of the agenda packet and commented that if you apply the same standard to grocery stores, any active dealerships, under these formulas, all of them should be marked as developable because large amounts of the property take up the parking lots which do not show up as improvements. The only improvements are the building itself so very little of the property has improvements the rest of it technically is vacant. Also, by arbitrarily removing single-family residential he believed there are large parts of the City that are being removed from the equation. Mr. Vance noted that there are a number of areas of the City where there are no views that could easily accommodate five-story buildings. He didn't think that apartments and condominiums were being reflected in the way the analysis is being done. Mr. Vance stated that we also need to take into account the value of a property to the community which is not reflected in the actual monetary value of the land. Some examples that were brought up are the SW corner of Pioneer and Midway. He believed the property has some historic significance to the community and it should be removed as redevelopable. Mr. Vance commented on the underdeveloped properties along the waterfront, he believed the waterfront is the worst place for multiple story buildings. Those properties should go to a parks status or open it up for views of the bay. At worst case scenario they should be single story buildings. Mr. Vance pointed out another property that is shown as redevelopable located northwest of the Catholic Church; it is a very long and narrow strip of densely wooded vacant land. He would like to see that property preserved as open space. He stated that it absorbs a lot of runoff from housing developments and those adjacent to it. The environmental benefits it provides and wildlife corridor it provides are immensely valuable to the area.

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Mr. Powers responded to some of the questions and comments as follows:

Costs in Terms of Resources
The cost to take a parcel-by-parcel density analysis is a staff resource issue. The cost while not being quantified in terms of dollars and cents is one of the costs of having to spread our staff resources over not only this project but others as well. What we are attempting to do is to identify a methodology, one which has been utilized hopefully by other communities to arrive at a way to provide information to the community, to the Commission and to the Council so that ultimately the Planning Commission can make a recommendation to the Council and the Council can decide what is the appropriate course of action. I am not able to compare the labor cost of tackling that method nor have we tried to develop a consultant contract to do that because frankly I know that we are not able to fund such an effort. I agree whole-heartedly with the comment about the ability to look the cost of various development patterns and obviously the Growth Management Act is predicated on the idea that we will concentrate growth within the Urban Growth Areas that we will look to make the most efficient use of our utilities and our infrastructure as possible and I think we will look at it in its entirety the City's comprehensive planning both from a land use and form a utilities planning perspective try to support that Growth Management goal and that efficient use of our utilities. So the cost issue is difficult for me to give a direct answer to but when we talk about cost at the staff level what we are talking about is the resource cost, the ability to staff that sort of effort.

Staff is not aware that either of the two methods are any less accurate than the density method that is supported by at least one member of our audience this evening. So we are interested in those comments but to the best of our knowledge neither of those other methods are significantly flawed to say that the Commission should not be considering.

The City and County agreed to use the medium-high forecast when we started this effort in 2004 for the 2005 update process. That decision was supported by our City Council. It is my understanding that the County Commissioners never took formal action on that projection but it was agreed upon between the two jurisdictional staffs.

Critical Areas Density
We do density transfers out of those critical areas when we have parcels which also have developable land in them. Mr. Kamak's reference to critical areas were for those parcels which were primarily critical areas or for those areas in which any development potential just wasn't possible other than perhaps one or two units under some sort of reasonable use provision. We do transfer density out of the critical area so that it is utilized elsewhere within that developable area of the parcel. It is something that we should take a look at that when we talk about excepting out those lands that we aren't accepting out more than what we have intended to do.

Non-Profits
One of the challenges from the staff perspective is trying to predict what property owners are going to do with their property. It is very difficult for us to determine whether or not non-profit "A" is going to make some of their land available because they feel like they need to raise funds to support whatever their non-profit organization is or whether they decide to hold on to their property for the foreseeable future so they can use it for their own purposes. We have no way of predicting whether a church will sell off some of their holdings to support a mission effort somewhere or whether they'll continue to hold that land for future expansion for their church campus. So, what we have chosen to do this time as we did in 2005. We hope this consistency builds good information and data is to say those lands will not be available on the market for sale for development of residential units or commercial if they are commercially zoned. That's an assumption though. Part of what we intend to do for the Planning Commission and Council

is make it clear what all our assumptions are. If you believe those assumptions should be changed that is exactly what we need you to do is give us that feedback. Then we will rerun the work changing those assumptions.

Single-family Parcels
The goal for single-family parcels was to say that in certain circumstances it's not realistic to expect that a parcel which, while it's larger than the minimum lot size for that particular zoning district, is likely to redevelop and provide an additional unit. All single family properties in Oak Harbor generally can qualify to have an accessory dwelling unit, what is typically referred to as a mother-in-law unit, our assumption that we are putting forth in this analysis is that we are not going to count those mother-in-law units as part of our capacity because our permit history to-date is showing us that that's not a type of housing which is being utilized in our community. Not to say that it's not going to happen in the future, but we don't expect that it is going to happen on a significant enough scale that it makes a difference in terms of where we might house that 20 year population. One of the reasons that we do this analysis on an occasional basis is because we need to check those assumptions as we go along. The point about excluding out single family properties below 14,000 square feet or below is not to exclude whole neighborhoods, its to say that the likelihood of that redeveloping and producing an extra unit, increasing the density, helping us meet that capacity for the 20-yeay future is pretty unlikely. Again, an assumption, that we are seeking feedback on from both the community as well as the Planning Commission.

Mr. Ericson had an excellent point that we need to be careful not to eliminate something happening in the future. That is where our comprehensive planning is intended to do for us. That is what our zoning categories are intended to do for us. Part of what we're trying to do is to figure out how much land do we think that we have available to develop under the rules as we know them today. Part of the Council decision making process is given that information, should we change the rules as we know them, which would fall in line with some of what the Planning Commission has heard this evening, to encourage certain things to happen. Or are the rules fine but what we need is additional capacity to support the rules that we have. The point is an excellent one, which is, we need to keep our eye on the fact that our analysis can change if the rules change, but at our point in time analysis, we can't predict or determine when those rules might change and if so what that change might look like. To a very large degree, while we are trying to look forward we have to do our analysis with what we know today.

Community Value of Property
Some of Mr. Vance's comments about community value of property, sentimental value, historic value, some sort of intrinsic value. Those are all excellent comments. That is different than capacity analysis. That is a comprehensive planning decision that the community can support and make as a zoning decision. Ultimately, it's a property owner's decision. What we are trying to do is boil this down to a numbers analysis that can yield you some objective data in which you can help make a recommendation to the Council. Again, if we start saying that property has value in a special way, we shouldn't think about that being developed or we should take this property out of the market place because it has open space value. Those are all community decisions that will start to affect the available amount of land. Currently we are at the stage of determining what the land numbers tell us today.

Mr. Powers concluded his comments by explaining what is this process about. Mr. Powers explained that the process is about sharing where the staff is right now and what we think we see and listening to the public comment. Ultimately the Commission is going to determine whether the right methodology is being used and are the right assumption being used and at what point the Planning Commission is comfortable in making a recommendation to the Council. So, this is sort of a stay tuned. We have a couple more briefings before we get to the end of

what we envision for this year. Mr. Powers also noted that we aren't in a process by which we are contemplating expansion of the Urban Growth Area this year. This year's work is only about trying to get a handle on what is our available land for development today. If and when the conversation is about expanding the Urban Growth Area that is a separate work effort, one that won't happen this calendar year. At the earliest it would start next year and could be even later than that.

Commission Discussion

Ms. Jensen asked about the subdivision code revision and how may buildable units we would get from that. Mr. Spoo stated that we changed some access provisions in the subdivision code to allow lots to front on private roads or shared driveways thereby encouraging infill where you would otherwise have to have a public street and take up more room. A city-wide analysis was not done to see how many extra lots we would get. Mr. Powers added that because of the subdivision code changes that allow those short plats to have less than a full public street access you are more likely to get closer to that average density than we were under the old rules. The old regulations required the 50 foot of right-of-way and the full public street improvements and we were using a disproportionate amount of the total land area for the public street as opposed to the number of units which could be served. Now we can allow those lots to be served on something less than a full public street on a shared driveway or private access. You will have to use less of that total acreage for the street which will make the difference between 3 lots and 4 lots or the difference between 4 lots and 5 lots but that is a big difference in the ability of the project to actually be realized. We didn't determine how many extra lots we might get but we are very confident that it will make better use of the parcels which are being identified through this capacity analysis.

Mr. Kamak distributed to the Commission a public comment letter that he had received. The comment letter is attached to these minutes as Attachment 3.

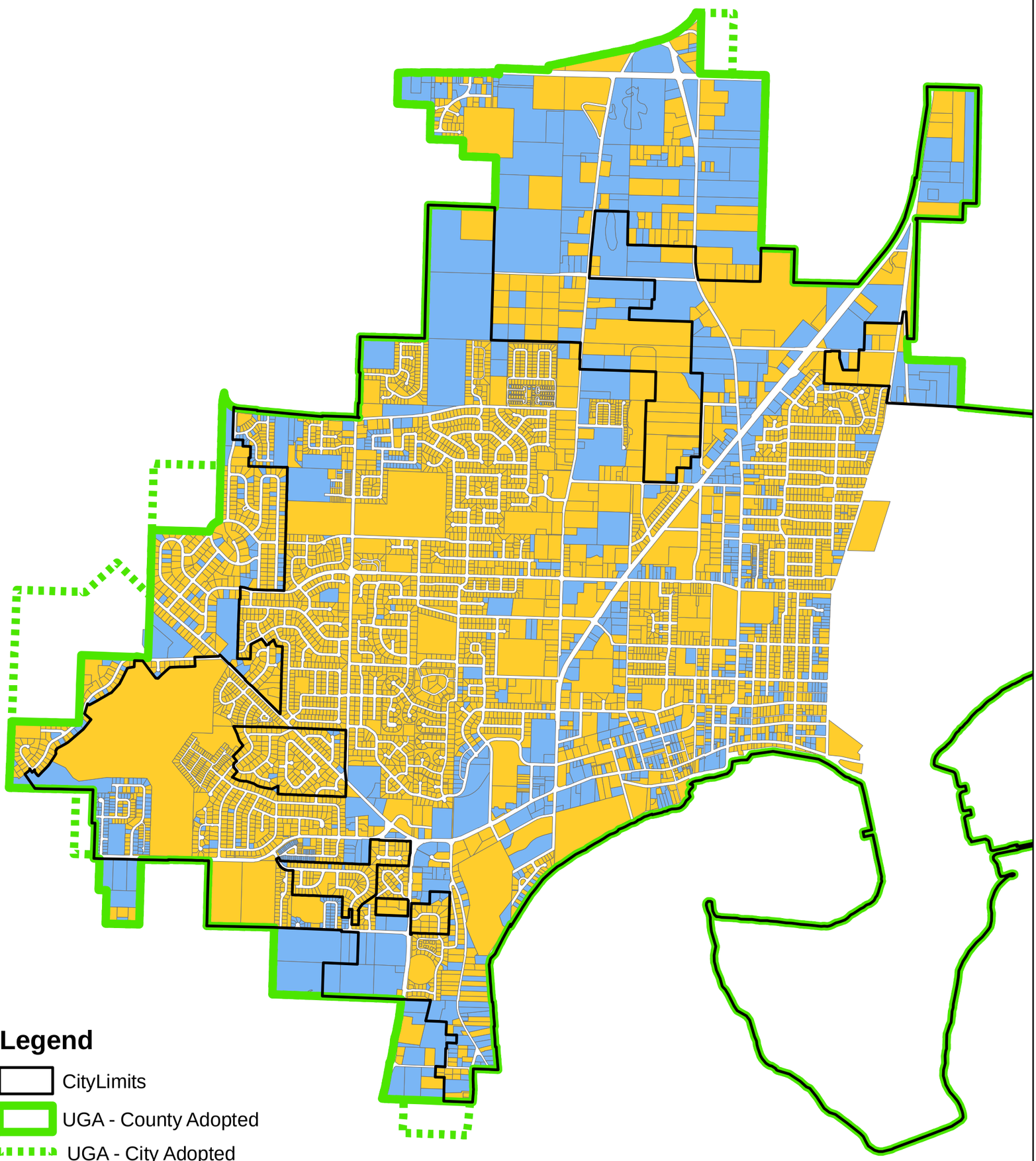
Mr. Fakkema asked if the number is a static number. Mr. Powers stated that it is a snapshot at a particular point in time but since our Comprehensive Plan has the policy statement that says we should look at our capacity at least once every five years. So when you think about a 20 year population projection that we are required to plan for and we retake that snapshot once every 5 years we have a really good way to check our work and assumptions to see whether the methodology that the community ultimately chose is holding true or not.

Vice Chairman Neil thanked the audience for commenting and attending the meetings. He thanked staff for their continued work.

BEING NO FURTHER BUSINESS BEFORE THE PLANNING COMMISSION, THE MEETING WAS ADJOURNED AT 8:55 P.M.

DRAFT

ALL PROPERTIES >50% LTR RATIO



Legend

- CityLimits
- UGA - County Adopted
- UGA - City Adopted (Not included in study area)

Developability

- Developable
- Undevelopable

Disclaimer:
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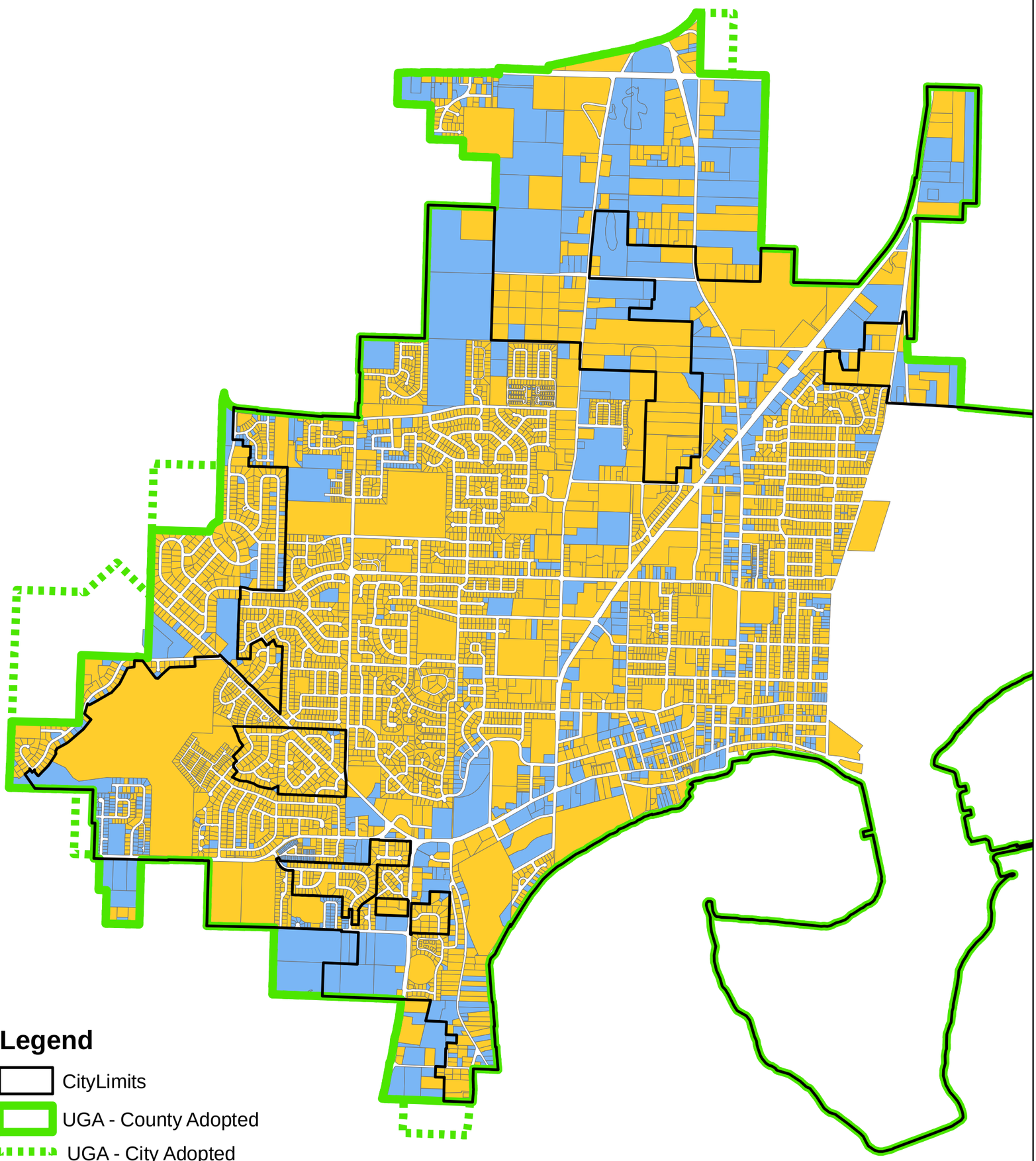
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ALL PROPERTIES >60% LTR RATIO



Legend

CityLimits

UGA - County Adopted

UGA - City Adopted
(Not included in study area)

Developability

Developable

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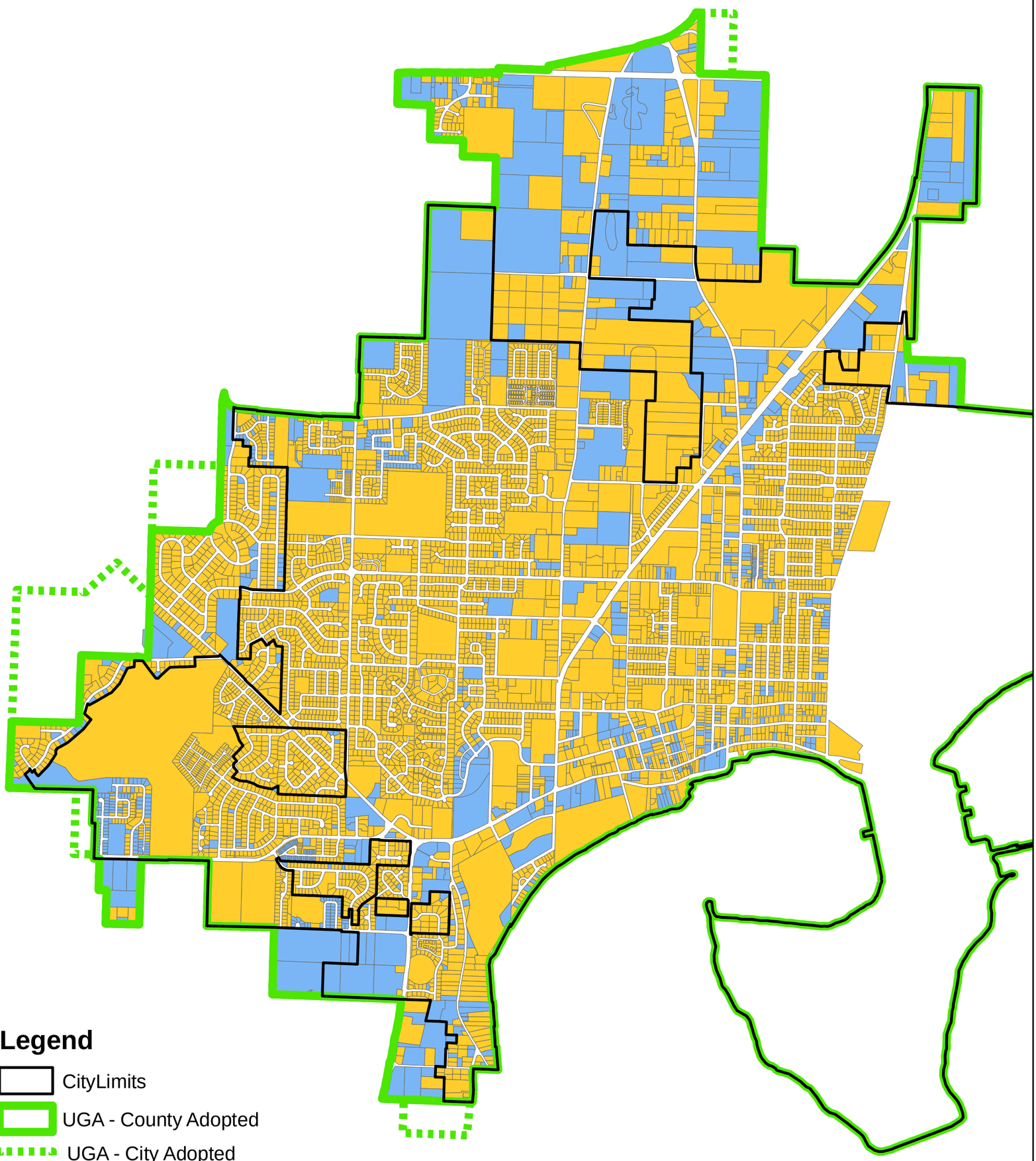
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ALL PROPERTIES >70% LTR RATIO



Legend

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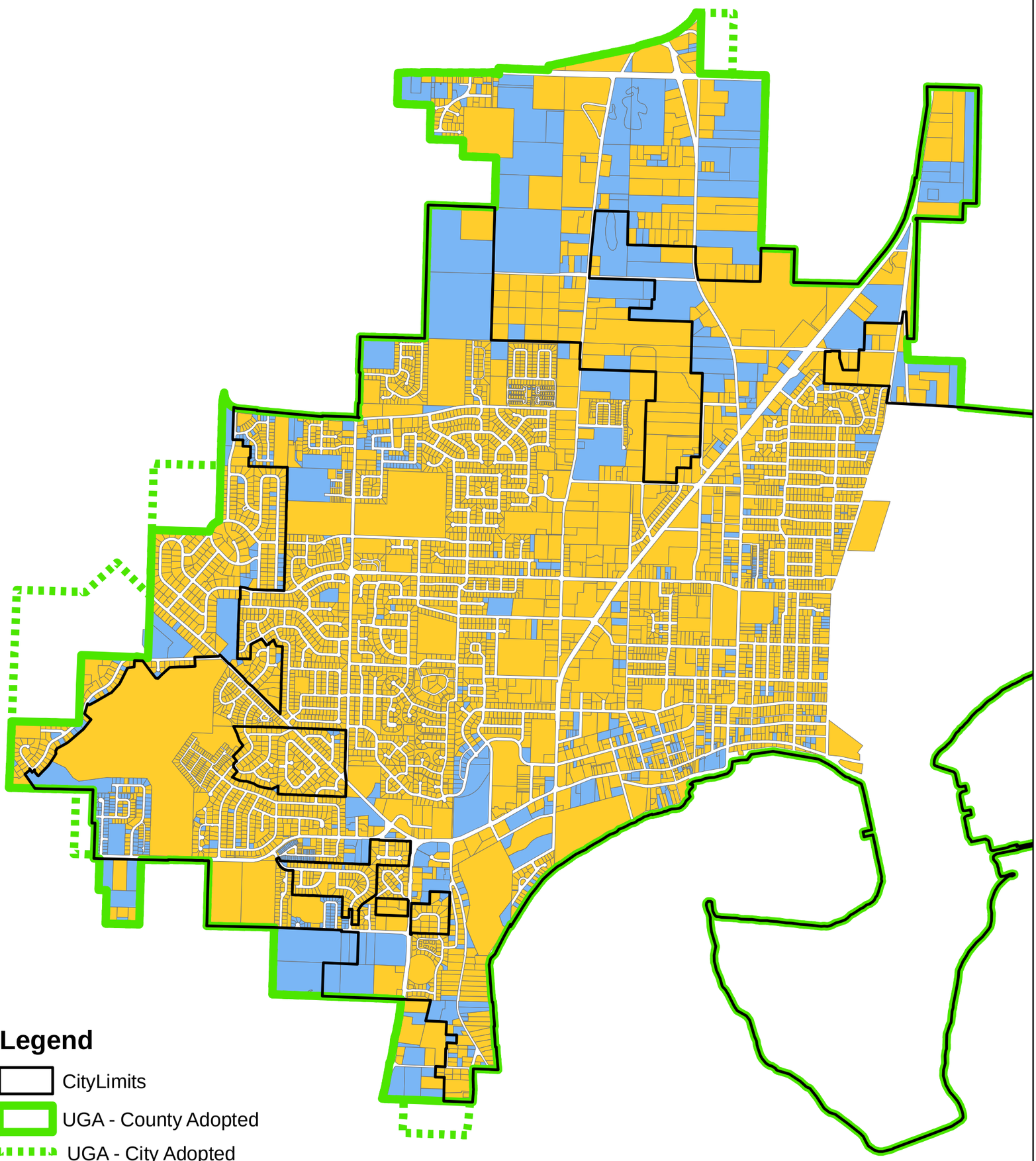
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ALL PROPERTIES >80% LTR RATIO



Legend

CityLimits

UGA - County Adopted

UGA - City Adopted
(Not included in study area)

Developability

Developable

Undevelopable

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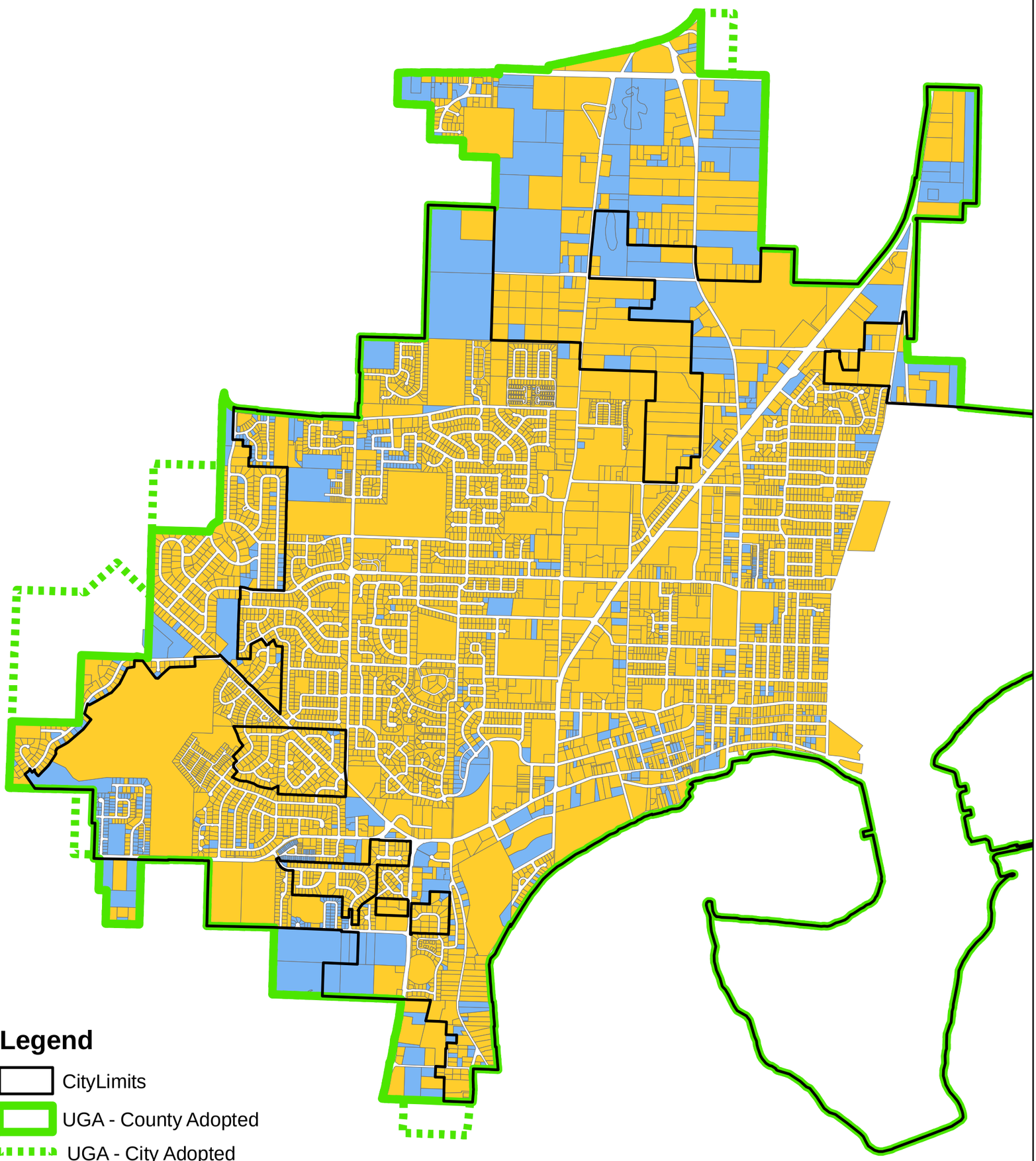
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ALL PROPERTIES >90% LTR RATIO



Legend

CityLimits

UGA - County Adopted

UGA - City Adopted
(Not included in study area)

Developability

Developable

Undevelopable

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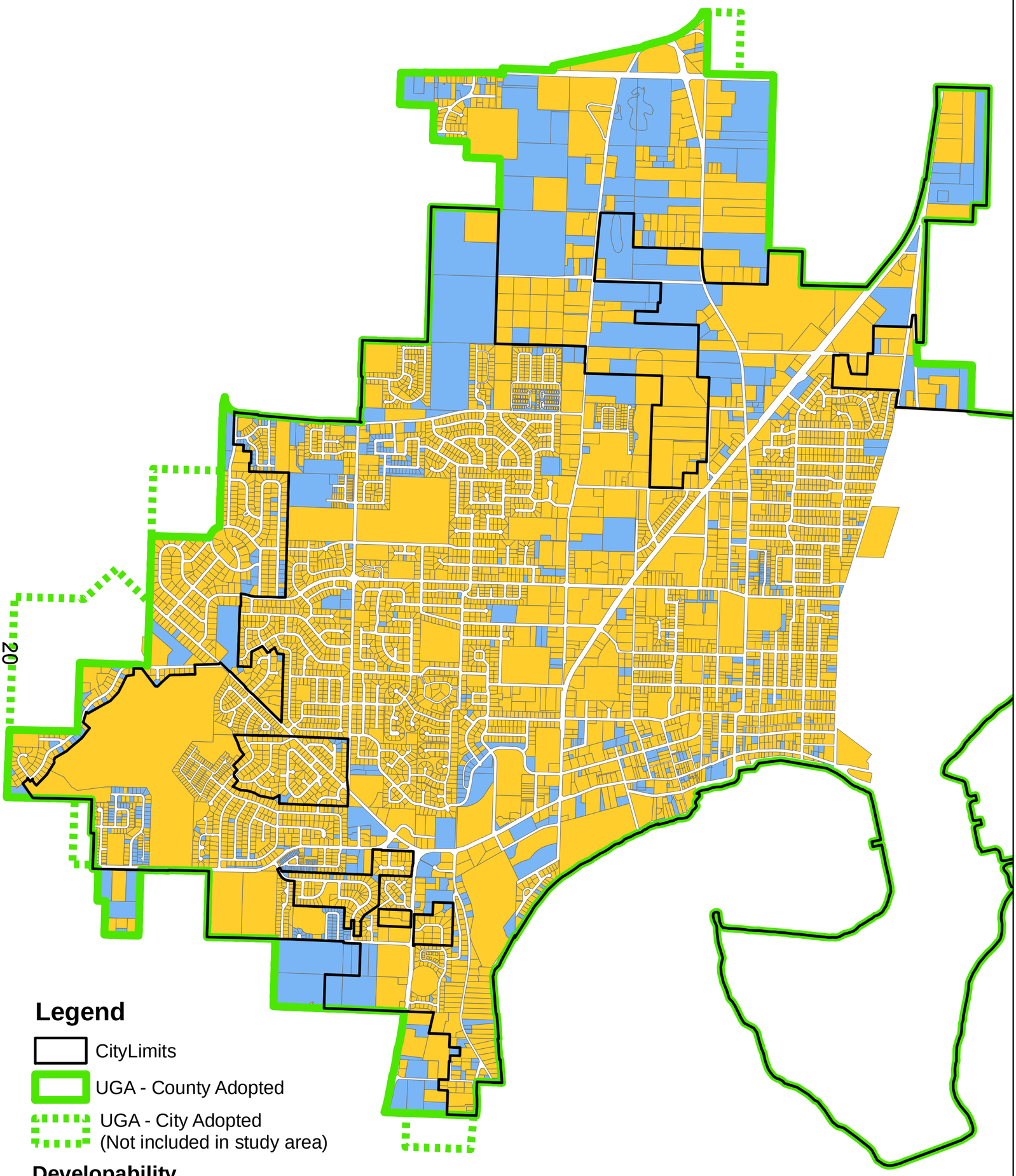
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ALL PROPERTIES <10% ILR RATIO



Legend

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- UGA - City Adopted (Not included in study area)

Developability

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- Undevelopable

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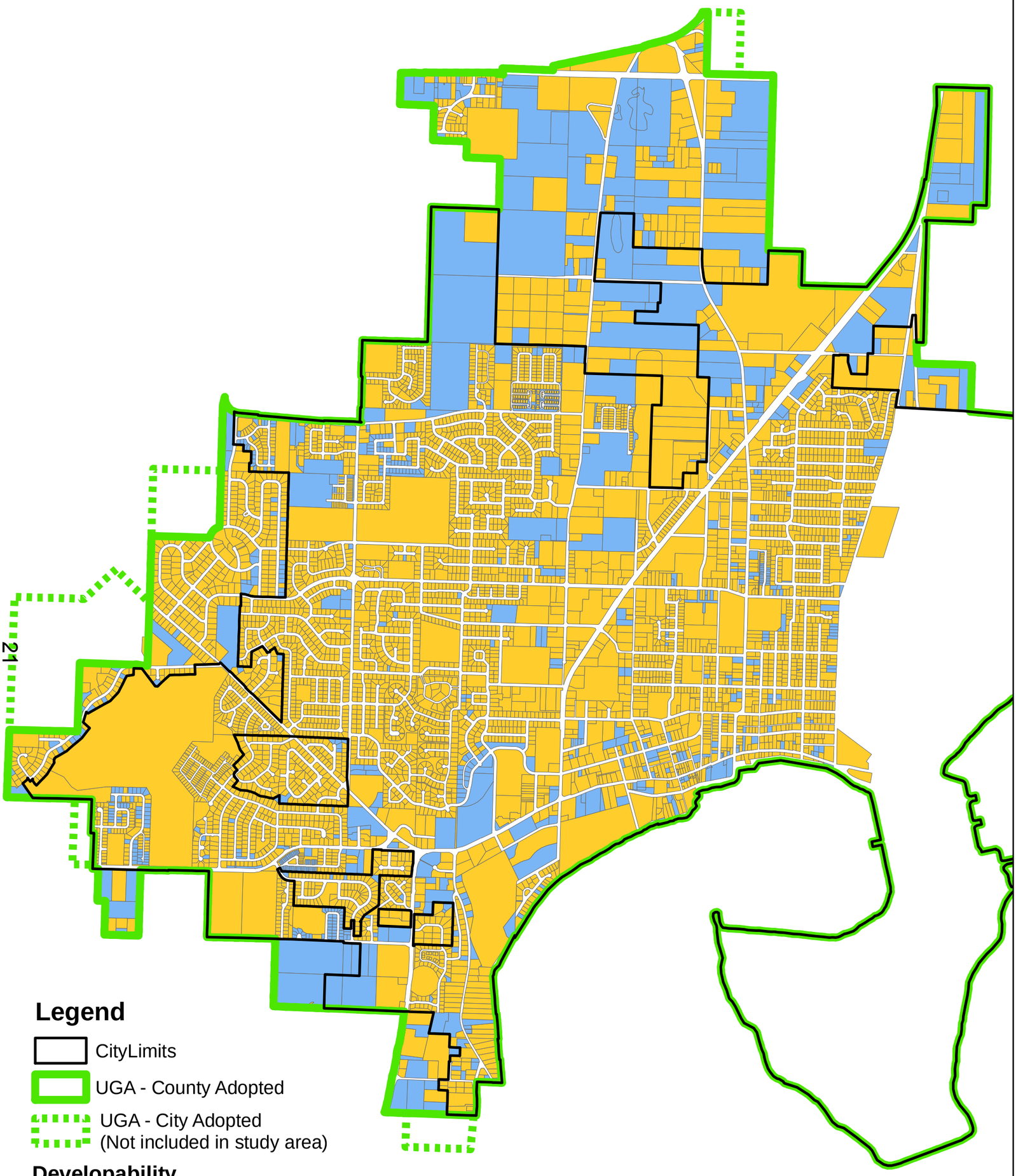
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ALL PROPERTIES <20% ILR RATIO



Legend

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Developability

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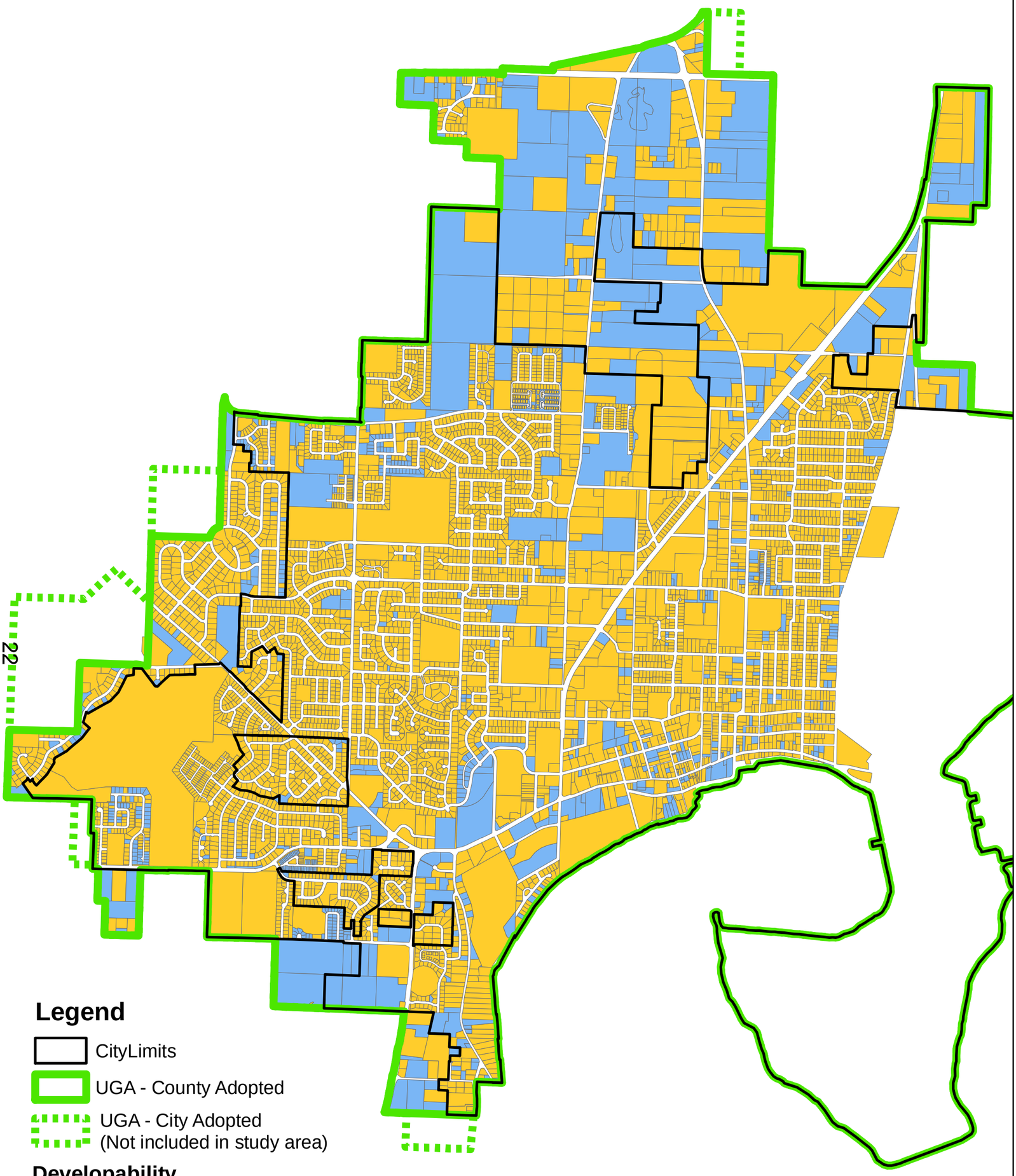
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ALL PROPERTIES <30% ILR RATIO



Legend

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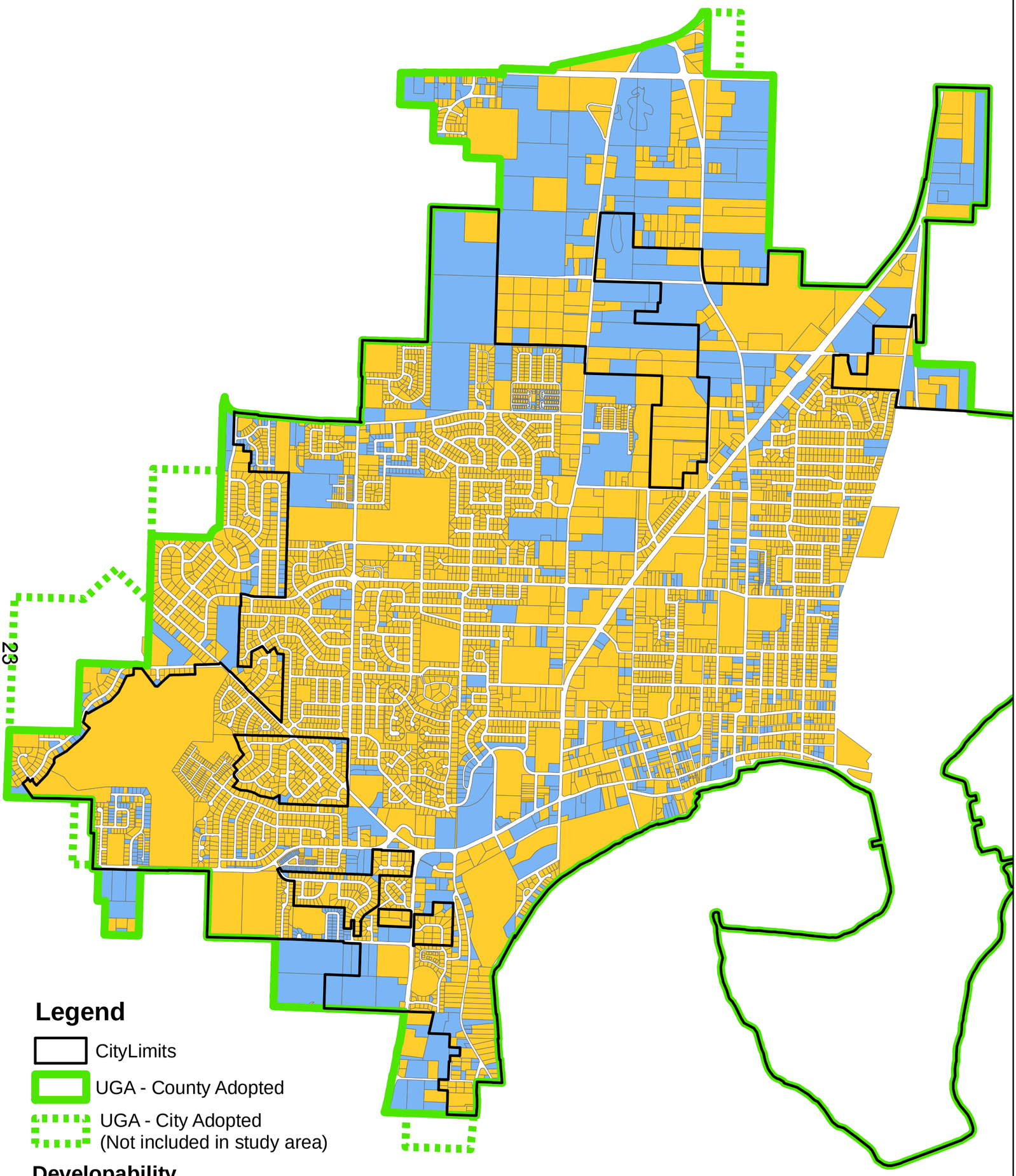
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ALL PROPERTIES <40% ILR RATIO



Legend

- CityLimits
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- UGA - City Adopted (Not included in study area)

Developability

- Developable
- Undevelopable

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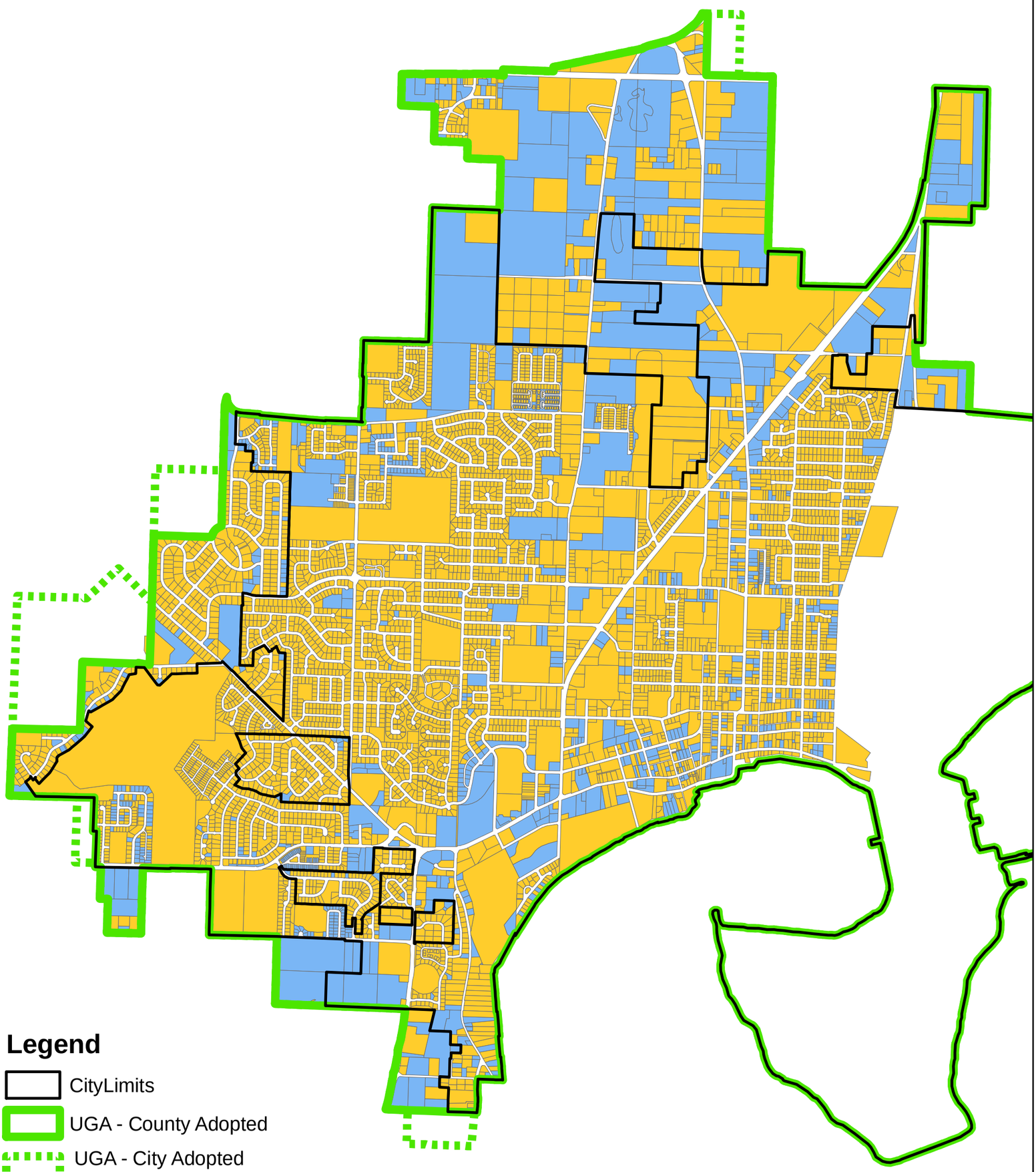
CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

ALL PROPERTIES <50% ILR RATIO



Legend

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- UGA - City Adopted (Not included in study area)

Developability

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- Undevelopable

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CITY OF Oak Harbor
WHIDBEY ISLAND, WASHINGTON

Land Use Distribution of Developable and Undevelopable properties for LTR and ILR (graduated scale)

	Total Land to Value Ratio > 50%				Total Land to value Ratio > 60%				Total Value to Land Ratio > 70%				Total Land to Vlaue Ratio > 80%				Total Land to Value Ratio > 90%			
	Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable	
	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA
Auto/Industrial Commercial	61.45	5.52	42.87	20.91	61.45	3.25	42.87	23.18	60.15	3.25	44.16	23.18	52.38	3.25	51.93	23.18	41.73	3.25	62.58	23.18
Central Business District	22.94		18.06		20.14		20.86		15.56		25.44		12.38		28.62		10.01		30.99	
Community Commercial	91.52	53.39	62.61	4.57	54.47	41.73	99.66	16.23	36.84	39.73	117.29	18.24	22.19	39.15	131.94	18.81	16.70	35.45	137.43	22.51
High Density Residential	52.01		97.84		46.67		103.18		39.93		109.92		31.51		118.34		16.37		133.47	
Highway Corridor Commercial	30.08		45.31		25.41		49.98		20.16		55.23		13.93		61.46		9.68		65.71	
Industrial	9.43	112.82	10.81	35.56	9.43	98.43	10.81	49.95	9.43	98.43	10.81	49.95	5.58	78.06	14.66	70.32	4.46	78.06	15.79	70.32
Low Density Residential	184.29	148.49	932.01	278.52	160.04	132.33	956.26	294.68	151.43	130.74	964.87	296.27	140.07	115.39	976.22	311.62	129.42	110.99	986.87	316.02
Medium Density Residential	78.04	3.35	122.36	2.11	56.63	3.35	143.78	2.11	53.02	3.35	147.39	2.11	47.49	3.35	152.91	2.11	38.97	3.35	161.43	2.11
Medium-High Density Residential	70.60		13.49		70.60		13.49		68.58		15.51		30.10		53.99		1.74		82.35	
Neighborhood Commercial	2.83		3.58		1.58		4.83		1.20		5.21		0.80		5.61		0.80		5.61	
Open Space	2.93	7.43	214.21	48.14	2.93	6.58	214.21	48.99	2.93	6.58	214.21	48.99	2.93	6.58	214.21	48.99	2.93	6.58	214.21	48.99
Planned Business Park	69.94	49.84	9.98	4.68	69.94	48.67	9.98	5.84	69.94	44.03	9.98	10.48	69.94	44.03	9.98	10.48	69.94	44.03	9.98	10.48
Planned Industrial Park	49.61	145.75	13.96	116.76	49.61	135.81	13.96	126.70	49.61	117.59	13.96	144.93	49.61	110.38	13.96	152.13	49.61	96.14	13.96	166.38
Public Facilities	9.89		348.46	17.71	9.89		348.46	17.71	9.89		348.46	17.71	9.89		348.46	17.71	9.89		348.46	17.71
Residential Office	23.27		70.12		13.64		79.74		8.37		85.02		4.62		88.77		3.26		90.12	
Residential Estate		25.13		45.26		17.11		53.28		16.11		54.28		15.15		55.24		5.59		64.80
	758.82	551.72	2005.66	574.22	652.40	487.27	2112.07	638.68	597.03	459.81	2167.44	666.14	493.41	415.35	2271.07	710.60	405.50	383.44	2358.98	742.50
	Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable	
	1310.54		2579.88		1139.67		2750.75		1056.84		2833.58		908.75		2981.67		788.94		3101.48	
Total Area	3890.42				3890.42				3890.42				3890.42				3890.42			

	ILR Ratio > 50%				ILR Ratio > 40%				ILR Ratio > 30%				ILR Ratio > 20%				ILR Ratio > 10%			
	Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable	
	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA	City	UGA
Auto/Industrial Commercial	61.45	3.25	42.87	23.18	61.45	3.25	42.87	23.18	55.65	3.25	48.67	23.18	53.68	3.25	50.64	23.18	41.73	3.25	62.58	23.18
Central Business District	20.98		20.01		18.26		22.73		16.15		24.85		12.08		28.92		10.87		30.13	
Community Commercial	46.59	41.71	107.54	16.25	36.90	40.32	117.23	17.65	28.96	40.32	125.17	17.65	22.27	40.13	131.86	17.84	16.86	39.74	137.27	18.22
High Density Residential	48.17		101.68		47.01		102.84		45.74		104.11		42.68		107.17		23.75		126.10	
Highway Corridor Commercial	21.61		53.77		20.16		55.23		14.85		60.54		13.93		61.46		13.02		62.37	
Industrial	6.12	112.10	14.13	36.27	6.12	112.10	14.13	36.27	2.27	112.10	17.97	36.27	2.27	103.14	17.97	45.23	2.27	90.96	17.97	57.42
Low Density Residential	144.08	128.18	972.21	298.83	142.27	127.75	974.03	299.25	139.62	114.13	976.68	312.88	130.60	114.13	985.69	312.88	114.94	114.13	1001.36	312.88
Medium Density Residential	65.51	3.35	134.89	2.11	65.27	3.35	135.13	2.11	64.03	3.35	136.37	2.11	58.57	3.35	141.83	2.11	52.19	3.35	148.21	2.11
Medium-High Density Residential	71.47		12.62		69.44		14.65		69.44		14.65		67.12		16.97		49.58		34.52	
Neighborhood Commercial	1.95		4.46		1.58		4.83		1.17		5.24		1.17		5.24		1.17		5.24	
Open Space	3.68	6.24	213.45	49.33	3.68	6.24	213.45	49.33	3.68	6.24	213.45	49.33	3.68	6.24	213.45	49.33	3.68	6.24	213.45	49.33
Planned Business Park	69.94	47.83	9.98	6.68	69.94	47.83	9.98	6.68	69.94	47.83	9.98	6.68	69.94	44.03	9.98	10.48	69.94	44.03	9.98	10.48
Planned Industrial Park	51.22	146.65	12.35	115.86	51.22	146.65	12.35	115.86	51.22	146.65	12.35	115.86	51.22	139.45	12.35	123.07	51.22	127.25	12.35	135.27
Public Facilities	10.30			17.71	10.30			17.71	10.30			17.71	10.30			17.71	10.30			17.71
Residential Office	10.43		82.95		8.77		84.61		5.03		88.36		4.75		88.63		4.12		89.26	
Residential Estate		16.11		54.28		16.11		54.28		16.11		54.28		15.15		55.24		15.15		55.24
	633.49	505.44	1782.93	620.51	612.36	503.62	1804.06	622.33	578.04	489.99	1838.38	635.95	544.25	468.88	1872.17	657.07	465.63	444.11	1950.79	681.84
	Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable		Developable		Undevelopable	
	1138.93		2403.44		1115.98		2426.39		1068.04		2474.33		1013.13		2529.24		909.73		2632.63	
Total Area	3542.36	910			3542.36				3542.36				3542.36				3542.36			

08/24/10. Gay Lynn Beighton - Comments & questions

8/24 RSP

(1) It has been repeatedly stated that the city of OH cannot afford the cost to calculate the OH land capacity based on density. How much is this cost?

(2) If a less accurate methodology used to calculate land capacity & it misses developable properties that would reasonably be developed & therefore a recommendation ~~is~~ to expand the OH UGA ~~is~~ results in expanding the OH UGA. How much is the cost to bring water, sewer & roads to this rural land?

It is financially irresponsible to not try & plan to grow efficiently & sustainably.

 8/24 RSP

Property Profile

Chicago Title

Primary Owner: KDR HOLDINGS LLC
Secondary Owner:
Mail Address: 32785 SR 20 STE 4
OAK HARBOR WA 98277
Site Address: 756 SE BARRINGTON DR
OAK HARBOR WA 98277
Assessor Parcel Number: S6565-00-00066-0
Housing Tract Number:
Lot Number: 66
Page Grid:
Legal Description: Lot: 66 Map Ref: MAP 88 Abbreviated Description: LOT:66 SUBD:6565 ELYS ADD ELY 69'OF LOT 66 MAP REF:MAP 88

Property Characteristics

Bedrooms : 2	Year Built : 1928	Square Feet : 875 SF
Bathrooms : 1	Garage :	Lot Size : 15,200 SF
Total Rooms :	Fireplace :	Number of Units : 0
Zoning : OH	Pool :	Use Code : Single Family Residential
No of Stories : 1		
Building Style :		

Sale Information

Transfer Date : 09/13/2006	Seller : DAVIS, RICHARD P; DAVIS, JUNE A	
Transfer Value : $500,000	Document # : 4181607	Cost/Sq Feet : $571
Title Company : CHICAGO TITLE CO ISLAND DIV		

Assessment & Tax Information

Assessed Value : $241,436	Percent Improvement : 29.74%	Homeowner Exemption :
Land Value : $169,632	Tax Amount : $1,981.20	Tax Rate Area : 100
Improvement Value : $71,804	Tax Account ID : 253237	Tax Status :
Market Improvement Value : $71,804	Market Land Value : $169,632	Market Value : $241,436
Tax Year : 2010		

Courtesy of Chicago Title
Offered by Chicago Title
All information produced is deemed reliable but is not guaranteed.

ILR
Imp/Land Value

Total Value = $241,436 = 100%.
Land Value = $169,632 = 70.3%
Improv. Value = $ 71,804 = 29.7%.

42.33%.

the lower the improvement value the more likely new development

 8/24 PSP

Property Profile

Chicago Title

Primary Owner: KDR HOLDINGS LLC
Secondary Owner:
Mail Address: 32785 SR 20 STE 4
OAK HARBOR WA 98277
Site Address: 778 SE BARRINGTON DR
OAK HARBOR WA 98277
Assessor Parcel Number: S6565-00-00067-0
Housing Tract Number:
Lot Number: 67
Page Grid:
Legal Description: Lot: 67 Map Ref: MAP 88 Abbreviated Description: LOT:67 SUBD:6565 ELYS ADD LOT 67 MAP REF:MAP 88

Property Characteristics

Bedrooms : 2	Year Built : 1910	Square Feet : 1,408 SF
Bathrooms : 1.5	Garage :	Lot Size : 15,200 SF
Total Rooms :	Fireplace :	Number of Units : 0
Zoning : OH	Pool :	Use Code : Single Family Residential
No of Stories : 1		
Building Style :		

Sale Information

Transfer Date : 09/13/2006	Seller : DAVIS, RICHARD P; DAVIS, JUNE A	
Transfer Value : $500,000	Document # : 4181607	Cost/Sq Feet : $355
Title Company : CHICAGO TITLE CO ISLAND DIV		

Assessment & Tax Information

Assessed Value : $241,675	Percent Improvement : 29.81%	Homeowner Exemption :
Land Value : $169,632	Tax Amount : $1,983.18	Tax Rate Area : 100
Improvement Value : $72,043	Tax Account ID : 253246	Tax Status :
Market Improvement Value : $72,043	Market Land Value : $169,632	Market Value : $241,675
Tax Year : 2010		

Courtesy of Chicago Title
Offered by Chicago Title
All information produced is deemed reliable but is not guaranteed.

Imp./Land Value

Total A. Value = 241,675 100%
land A. value = 169632 = 70% (70.2%)
Improv. value 72,043 = 30% (29.8%)

42% Imp/Land

Kathy Gifford

From: Dina Nichols
Sent: Monday, August 23, 2010 2:28 PM
To: Kathy Gifford
Subject: FW: Planning Commission Public Hearing

Kathy
This was sent to the city website.
Dina

-----Original Message-----
From: Jim Somers [mailto:jimsomerswhidbey@gmail.com]
Sent: Monday, August 23, 2010 2:01 PM
To: Dina Nichols
Subject: Planning Commission Public Hearing

I am unable to attend the Planning Commission Public Hearing on August 24 however I would like to convey my concerns regarding the UGA Capacity analysis. The core of commercial downtown is presently seriously underutilized with a number of vacant shops and several sizable open spaces. The residential home market is seemingly flooded with unsold new and resale homes. It therefore does not make sense to enlarge the Urban Growth area and create additional sprawl on this relatively narrow portion of north Whidbey. Additional expansion to the west along Fort Nugent and Swantown Rds will seemingly cut the island in half with urban development. The need for additional utilities including water and sewer would seem to overwhelm the existing availability. Will the city be able to obtain additional fresh water from the Skagit River via Anacortes? The present sewage facilities as we know are outdated and inadequate. Apparently funding and location of a new facility has not been determined.

The prudent way to proceed is to maximize the use of the present Urban Growth Area, determine a definite course of action regarding serving the present area, and thoughts about expansion of the UGA should be shelved for the foreseeable future.

Sincerely,
James Somers
1554 Deer Ridge Rd.
Oak Harbor WA 98277

Shoreline Substantial Development Conditional Use Permit

Public Hearing

City of Oak Harbor
Planning Commission Report

Date: September 28, 2010
Subject: Shoreline Substantial Development Conditional Use Permit for Pioneer Way Street Improvements Project

FROM: Ethan Spoo, AICP
Senior Planner

PURPOSE

This report presents the application (Attachments 1, 2, and 3) for a Shoreline Substantial Development Conditional Use Permit by the City of Oak Harbor for the Pioneer Way Street Improvements Project in downtown Oak Harbor.

AUTHORITY

RCW 98.58.050 provides the authority and the responsibility to local governments for the planning and administering the shoreline regulatory program consistent with the Shoreline Management Act. The City's adopted Shoreline Master Program establishes that the Planning Commission shall serve as the hearing body for these applications.

The report highlights the goals and policies that are relevant to the review of the Shoreline Substantial Development Conditional Use Permit (SSDCUP) application. The application for SSDCUP applies to the easterly 125 feet of the project near the intersection with Midway Boulevard. This is the only portion of the project which is within the regulated shoreline area of the state as defined by RCW 90.58.030 and is therefore the only portion of the project which requires the approval of the SSDCUP. Proposed findings of fact on the project are also included with the report. The shoreline review process is intended to review the project against the shoreline criteria. The design of the street is not the subject of the shoreline permit.

BACKGROUND

Existing Conditions

SE Pioneer Way is the primary thoroughfare and main street in historic downtown Oak Harbor. Pioneer Way also serves as the primary vehicle and pedestrian access for the commercial businesses, restaurants, and taverns fronting the street and is used as a way of accessing the Navy Seaplane Base to the east of downtown. The street has existed in one form or another at least since the Town of Oak Harbor was established in 1889. Since that time, the street has been improved to have two, east-west vehicle travel lanes, on-street parallel parking, and a variable width concrete sidewalk ranging from 5 – 8 feet wide. Planter areas are interspersed along the street containing a mix of trees and shrubs.

The proposed project will add multi-modal and pedestrian-friendly street improvements and streetscape enhancements. The project includes the removal and replacement of the entire surface street cross section, storm drainage conveyance system, and sanitary sewer system within the limits of the existing infrastructure. In addition, streetscape improvements include widening sidewalks, and providing on-street parking. Existing overhead utilities will be relocated underground. The project is limited to the area

between City Beach Street and Midway Boulevard as shown on the attached plans in Attachment 3.

The proposed project improvements will not only add multi-modal facilities and enhance the aesthetic qualities of the streetscape, but will also remedy existing problems with the aging stormwater and sewer system. Standing puddles of water exist along portions of Pioneer Way after rainfall, because the existing stormwater conveyance system is not fully functional. The sidewalk is cracked and buckled in multiple places.

Project area and proposed improvements
Within the regulated shoreline area, specific improvements will include:

- Parking. Angled on-street parking will be located on the north side of the street,
- A 15-foot wide vehicle travel lane
- Curb and gutter along the north and south sides of SE Pioneer Way
- Sidewalk improvements on both the north and south sides of Pioneer Way
- Sidewalk improvements which will round the corner on Pioneer Way and connect with the sidewalk on SE Bayshore Street.
- Street trees on the southside of Pioneer Way.
- Below grade sanitary sewer and storm drain infrastructure improvements.
- Undergrounding of existing overhead utility lines.

Shoreline Substantial Development Conditional Use Permit
Shoreline Substantial Development permits are usually required for permitted improvements within the regulated shoreline area. However, Section 5.01 of the City's Shoreline Master Program (SMP) indicates that transportation facilities are only permitted conditionally in the "urban" shoreline designation where the proposed project is located. For this reason, a Shoreline Substantial Development Conditional Use Permit is required and the project must comply with the conditional use permit criteria in Section 7.03 of the City's SMP.

Public Notice
A Notice of Application (NOA) for the proposed project was posted on the property and published in the newspaper, as per the requirement of the Shoreline Master Program for two consecutive weeks, on July 10, 2010 and July 17, 2010. The notice provided a comment period of 30 days with a deadline of August 18, 2010. Property owners within 300 feet of the project were also notified my mail.

The Public Hearing for the Planning Commission was advertised in the newspaper on September 11, 2010. The hearing notice was also mailed to property owners within 300 feet. Pioneer Way commercial tenants were included in the mailing list. Staff did not receive any comments on the SSDCUP during the comment period.

SEPA
A SEPA checklist was submitted along with the application. The Notice of Application was published in the local newspaper on July 10, 2010 and July 17, 2010. The deadline for comments was July 26, 2010. Staff received one comment from Island Transit requesting that Dock Street south of Pioneer Way be converted to a one way street.

A Mitigated Determination of Non Significance was issued for the project on August 6, 2010. Notice of the determination was published in the local newspaper on August 7th with the comment period ending on August 23, 2010. The SEPA appeal period ended on September 6, 2010. No comments or appeals were received.

A copy of the Determination and the SEPA checklist has been included (Attachment 3) for Planning Commission's reference. Because Pioneer Way is an existing street, the newly proposed street will largely have the same shoreline impacts as the existing street. For this reason, the mitigation measures included in the determination address construction impacts. Mitigation measures include a requirement to follow the recommendations in the geotechnical report, maintenance of proper erosion control techniques to control construction runoff into the Shoreline area, maintenance of a response plan for hazardous spills, notice to property owners of any nighttime construction which may occur, and notice to Island Transit for construction which would affect transit services.

For more details on the mitigation measures, please refer to the MDNS in Attachment 4.

REVIEW AGAINST POLICIES AND REGULATIONS

Pioneer Way is located within the "urban" shoreline environment as defined in the City's adopted SMP. The proposed project is a conditional use within this designation. This staff report reviews the project against the relevant shoreline policies and regulations, proceeding from the general policies and regulations which apply to all substantial developments and ending with the more specific conditional use permit criteria. The compliance report is thus organized as follows:

- Urban Environment (Section 4.02). The policies and regulations review projects which are located within the "urban" shoreline environment. This is the shoreline environment which allows the most intense type of development of all the shoreline environments (acquatic and natural are less intense designations).
- General Regulations (5.02). The General Regulations apply to all shoreline substantial development projects and are not specific to transportation facilities.
- Transportation Facilities (Section 5.19). The policies in this section are specific to new transportation facilities and improvements to existing transportation facilities within the regulated shoreline area.
- Utilities (Section 5.20). The policies in this section are specific to new utility facilities and improved utility facilities within the regulated shoreline area.
- Conditional Use Criteria (Section 7.03). Because transportation facilities are conditional uses in the "urban" environment designation, the project must meet the conditional use permit criteria in Section 7.03 of the Shoreline Master Program.

4.02 Urban Environment – Management Policies

The project is located within the shoreline "urban" environment. Applicable management policies include:

3. Provide public access to the shoreline. New and expanded development should be designed to include physical or visual access.

The proposed improvements are a roadway project which includes physical access to the regulated shoreline area in the form of sidewalks, bike lanes, and a vehicle travel lane. Because the roadway will occur in the existing area of improvements, visual access to the shoreline will not be affected.

4. Link public access points by pedestrian routes where practical.

The wider sidewalks and bike lanes proposed as part of the project will help enhance access to the shoreline and will connect with the existing system of sidewalks and access points to the shoreline, such as the waterfront trail system.

7. Regulate urban shoreline development to minimize adverse impacts on adjacent shoreline and upland areas.

As a "transportation facility" in the "urban" shoreline environment, the proposed improvements for Pioneer Way are regulated by the provisions of the City's SMP. Compliance with the City's SMP is demonstrated by this report and by the Shoreline Substantial Development Conditional Use Permit application materials submitted by the applicant dated June 11, 2010 which are attached as Attachements 1 – 3.

5.02 General Regulations

The following general regulations apply to all use activities proposed within the regulated shoreline area. As such, every substantial development within the shoreline is reviewed against these general regulations. The general regulations are not specific to transportation projects.

1. Environmental Protection

a. All uses and developments within the shoreline or over the water shall be located, designed and constructed to avoid disturbance of and detrimental effects on aquatic habitats, water circulation and erosion accretion processes.

The project will occur entirely within the existing area of improvements for Pioneer Way and thus will not have an increased environmental impacts from what currently exists. During construction, stormwater BMPS will be used to minimize potential for erosion and siltation. A mitigated determination of non-significance (MDNS) was issued for the project according to the provisions of RCW 43.91 on August 6, 2010 which determined that no significant environmental impacts would occur as a result of the construction and operation of the project.

b. All shoreline and over water developments shall use measures to minimize increases in surface runoff and shall control runoff so that adjacent properties and water bodies are not degraded by sedimentation or pollutants.

As part of the project, new stormwater infrastructure will be installed which will contain and treat any surface runoff created by the project. The stormwater infrastructure will meet the standards of the 2005 Stormwater Management Manual for Western Washington. The new stormwater system will remedy existing stormwater problems on Pioneer Way which include pooling and standing bodies of water which affect adjacent properties.

c. The release of oil, chemicals and other hazardous materials into the water is prohibited.

The project will contain both temporary and permanent stormwater treatment techniques which will prevent release of oil, chemicals and other hazardous materials into the Puget Sound. Additionally, the construction contractor will be required to have a spill response plan in place prior to commencing construction.

d. All uses and developments within the shoreline or over the water shall use effective methods for control of erosion during construction and operation.

As previously mentioned, the project will utilize stormwater BMPs during construction and operation. Temporary controls may include silt blankets and silt fences. Permanent stormwater infrastructure will be installed as part of the project which will meet standards in the 2005 Stormwater Management Manual for Western Washington.

e. Clearing, grading or filling for site preparation shall be limited to the minimum amount necessary for development.

The project improvements will occur entirely within the limits of existing Pioneer Way improvements. Thus, grading and filling activities will occur only within areas which have already been graded and filled.

2. Public Access

a. Public access shall be required for all over water and shoreline development except single family residential development provided that public access may not be required where it is demonstrated by the applicant and determined by the City in it's findings that one or more of the following provisions apply:

The project will contain public access to the regulated shoreline area in the form of 8 to 10-foot sidewalks on both the north and the south sides of Pioneer Way.

b. No development shall be permitted to obstruct or impede public access to publicly owned shorelines.

The street improvements will be constructed at grade and will not impede access to publicly owned shorelines.

c. Any public open space, access area or view corridor, required or otherwise provided in association with new or expanded development shall be of a size, location and design appropriate to the site proposed, primary use, adjacent uses, and the existing and projected demand by the community.

The applicant is proposing public open spaces in the form of wider sidewalks and curb bump out areas. These areas are appropriate for the size and location of the project in a historic downtown.

d. To the extent possible, public access locations shall have access from public roads.

The public access to the regulated shoreline area will be in the form of 8 to 10-foot wide sidewalks on either side of Pioneer Way, which is a public street.

e. Public access signs such as the standard state approved, local or equivalent shall be constructed, installed and maintained by the applicant. If the Council determines that use limitations are appropriate for reasons of public safety or to

avoid use conflicts, such limitations shall be specified in permit conditions and posted on an on premise sign.

In this case, the public access to the shoreline is the public right-of-way, which will offer unrestricted public access to the regulated shoreline area. The above provision requiring public access signs refers to public access over private property, which is not applicable in this case. Therefore, the requirement does not apply.

f. *Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development.*

Public access via the 8 to 10-foot wide sidewalks will be fully developed and available at the time the newly reconstructed Pioneer Way is available for use by the public. Some form of public access to the Shoreline will be maintained throughout construction.

g. *Provisions for handicapped impaired persons shall be included in conformance with the Americans with Disabilities Act.*

The proposed sidewalk facilities located on the north and south sides of Pioneer Way will be ADA compliant having 4 feet or more of unobstructed width and a grade of less than 8.33%.

h. *Public access easements and permit conditions shall be recorded on property deeds and, in the case of a subdivision, on the face of a plat as a covenant running in perpetuity with the land. The required easement and/or covenant shall be recorded with the County Auditor's office at the time of permit approval.*

Since Pioneer Way is a public right-of-way, there are no public access easements to the shoreline required. Therefore, this provision is not applicable.

i. *Future actions shall not diminish the usefulness or value of the public access.*

As a public right-of-way, the sidewalks proposed as part of the project will be maintained in perpetuity.

5.19 Transportation Facilities – Policies

These policies are intended to apply to new and improved transportation facilities with the regulated shoreline area. Many of these policies are directed at the development of new transportation facilities within the shoreline. Since the subject project is an improvement to an already existing street, many of the transportation policies do not apply.

1. *Transportation facilities should not be located over water or on shorelines if they could feasibly and practically be located elsewhere.*

The project proposes to make improvements to an existing, long establish public right-of-way. The proposed improvements are not located over water, but do occur within the City's regulated shoreline area, as previously noted. However, the improvements cannot feasibly or practically be located elsewhere since the road alignment and its surrounding land uses have long been established in their current location.

2. *When transportation facilities are located over water or on shorelines, they should be designed and constructed to minimize their impacts on shoreline resources and natural systems. See also, Section 5.13, regulation #3.*

As previously mentioned, the proposed project improvements will occur within the limits of the existing Pioneer Way street improvements. Pioneer Way is one of the oldest right-of-ways in Oak Harbor and existed prior to the adoption of the Shoreline Management Act by the State of Washington. While the proposed improvements will occur within the City's regulated shoreline, there is no other feasible location for the roadway since the roadway and surrounding land uses have long been in existence. Within the proposed limits of work, the improvements will not degrade or affect shoreline resources and natural systems since no such resources or systems now exist within the project area.

3. Rights of way and other facilities that provide scenic views or access to the water should be retained in public ownership and kept open whenever possible.

Pioneer Way is an existing public right-of-way and will remain public with the proposed improvements. Therefore, this criterion is met.

4. Transportation facilities and utilities should be installed in the same rights of way when the effect will be to reduce adverse impacts of installation on shorelines.

All proposed improvements will be installed in the existing area of improvements for Pioneer Way. Therefore, this criteria is met.

4. Trails and bicycle routes along shorelines should be provided in conformance with the Oak Harbor Comprehensive Parks and Recreation Plan.

The Oak Harbor Comprehensive Parks and Recreation Plan calls for a bicycle route along Pioneer Way. In conformance with the Class III Bicycle/Multiuse Trail design guidelines from the Parks Plan, the applicant is being conditioned to provide signage indicating that Pioneer Way is a bicycle route. This criterion is met with the provision of signage along the project corridor.

5.19 Transportation Facilities – Regulations

1. New arterial or collector roads shall be located outside the shoreline area if an upland location is feasible and practical.

The proposed street improvements do not constitute a "new" arterial or collector road since all improvements will be contained within the existing Pioneer Way road prism. It is not feasible, therefore, to locate improvements outside the shoreline area.

2. New transportation facilities shall be located and designed to minimize need for landfill, vegetation removal, bank stabilization and grading.

All proposed improvements will occur within the existing improvement area of Pioneer Way which was graded, filled and removed of vegetation with previous road improvements. This requirement does not apply.

3. Graded areas and slopes altered during construction shall be stabilized and where appropriate, planted with native vegetation.

All site improvements will occur within the existing Pioneer Way street improvements and within previously graded areas. No slopes will be altered during construction. Therefore, this provision is not applicable.

4. Provisions for pedestrian access where appropriate shall be included in new public transportation facilities to and along the shoreline.

The project will include 8 to 10-foot wide sidewalks which will provide access to the regulated shoreline area. These sidewalks will, in turn, connect with the waterfront trail system. Therefore, this requirement is met.

5.19 Transportation Facilities – Regulations by Environment (Urban, Urban Residential)

Transportation facilities shall be permitted in the urban or urban residential environment subject to the policies and regulations of this Master Program.

As a transportation facility, the proposed improvements are permitted in the "urban" environment subject to the conditional use permit criteria in section 7.03 of the City's Shoreline Master Program.

5.20 Utilities – Policies

These policies generally apply to installation of new and improved utilities, including sanitary and stormwater facilities with the shoreline area. Many of these policies are directed toward the placement of new utilities within the shoreline and therefore, do not apply to this project.

1. Utilities and transportation facilities should be installed in the same rights of way when the effect will be to reduce adverse impacts on the shoreline.

Nearly all of the proposed project improvements, including improvements to sewer and stormwater utilities will occur in the same right-of-way as the existing Pioneer Way street improvements. The City is in the process of acquiring small portions of property from adjacent property owners to ensure that all street improvements will occur within the public right-of-way. Furthermore, since all improvements will occur within the existing improved area, no additional adverse impacts to the shoreline are anticipated.

2. Disturbance of the shoreline resulting from installation and/or maintenance of utilities should be minimized.

New sewer, stormwater, and electric utilities will be installed as part of the Pioneer Way improvement project. These utilities will be installed within the existing roadway prism and thus will not negatively impact the shoreline environment in any way.

3. New utility facilities should be located underground to prevent adverse effects on scenic views.

All new utility lines and facilities will be located underground. Existing overhead utilities will be relocated underground. Therefore, this criterion is met.

5.20 Utilities - Regulations

1. *Immediately upon completion of utilities installation or maintenance projects, shoreline areas disturbed shall be restored to pre-project configurations, replanting with local vegetation and the vegetation maintained until it is firmly established.*

Although the eastern portion of this project within the regulated shoreline of Oak Harbor, no restoration or replanting is necessary since the project will occur entirely within the existing area of improvements.

2. Utility lines, pipes, stations, plants and other apparatus shall not be installed in shoreline areas unless there is no feasible alternative.

Pioneer Way is a long established thoroughfare in downtown Oak Harbor. The proposed street improvements will require the installation of new sewer, stormwater and electric utilities beneath the street section. Since this is a street improvement project and relocation and/or realignment of the street to be out of the shoreline is not possible, it is not feasible to locate utility facilities outside of the shoreline area.

3. Utility lines shall be installed underground.

All new utility facilities and the existing overhead utility wires will be placed underground. Therefore, the provision is met.

4. Underwater cables and utility structures which must cross shorelines shall be installed underground from the OHWM mark to a point landward which allows for unimpeded public access.

No underwater cables or utility structures are required as proposed as part of this project. The requirement does not apply.

5. Where utility installation on shoreline areas is approved, clearing shall be confined to the minimum necessary for installation and to prevent interference of operation by vegetation.

Clearing of the shoreline will not be necessary since all utilities will be placed underground in the area of existing improvements for Pioneer Way. Therefore, this requirement is met.

6. Where utility lines or similar apparatus must cross shorelines they shall be located within the route which will cause the least ecological and aesthetic damage to the shoreline.

All new utilities will be installed within the existing Pioneer Way limit of improvements. Locating utilities in this area is not only the most cost effective placement but will not further impact shoreline ecology in any way.

7.03 Criteria for Conditional Uses

Conditional uses shall be approved only when the applicant can demonstrate that all of the following criteria are met:

1. That the proposed use is consistent with the policies of RCW 90.58.020 and the policies of this Master Program.

RCW 90.58.020 says the following about proposed uses within the shoreline:

> "…uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to the shorelines of the state, industrial and commercial developments which are particularly dependent on

their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state."

The proposed improvements for Pioneer Way will occur entirely within the existing road section and will not occur on previously undeveloped land. For this reason, the improvements will largely leave the shoreline environment unaffected from its existing condition. The stormwater system improvements proposed as part of the project will help control pollution from the project. The street improvements will help facilitate public access to the shoreline area through the provision of wider sidewalks. Therefore, the proposed project meets the policies of RCW 90.58.020.

Consistency with the policies of this Master Program is demonstrated by the applicant's submittal and this staff report.

2. That the proposed use will not interfere with the normal public use of public shorelines or water.

Since Pioneer Way is an existing street and the proposed project improvements will remain entirely within the existing area of improvements, the proposed improvements will in no way affect the normal public use of the shorelines or water. In fact, the construction of the project will enhance the normal public use of the shoreline. Residents and visitors of Oak Harbor will continue to be able to use the waterfront trail system, Windjammer Park, Flintstone Park, Hal Ramaley Park, Smith Park and the shoreline itself. Eastbound vehicle traffic going to the Navy Sea Plane Base or the Marina can continue to use Pioneer Way to reach their destination or can use Bayshore Drive as an alternative route.

3. That the proposed use of the site and design of the project is compatible with other permitted uses within the area.

Pioneer Way is a long-established public right-of-way which provides access to the adjacent land uses. Because the proposed use of Pioneer Way as a public right-of-way will not change with this project, the use of Pioneer Way will continue to be compatible with the adjacent and permitted uses in the area.

Since the proposed use of the site will remain a public right-of-way, compatibility with surrounding uses should be viewed in terms of the primary purpose of the street to facilitate access to adjacent businesses. Whereas the existing use of the street emphasizes vehicle travel through downtown to the Navy Seaplane Base and to Highway 20, the Comprehensive Plan, zoning code, and Windjammer Plan all envision Pioneer Way to be a pedestrian-oriented district in the future, rather than a thoroughfare for cars.

Due to the historic nature of the downtown district, properties and storefronts along Pioneer Way are narrow, generally ranging in size from 30-70 feet in width. The downtown came into existence before cars, and thus was designed primarily for pedestrians as reflected by the narrow storefronts and lot widths, in contrast to auto-dominated areas like Highway 20. The Comprehensive Plan, zoning code, and Windjammer Plan all point toward the need to bring the pedestrian-oriented character back to downtown. The new design of Pioneer Way with wider sidewalks, street trees, public art and bicycle travel areas will help make this pedestrian oriented atmosphere a reality. Angled parking will offer convenient access for vehicles, and encourage people to get out of their cars and walk between businesses. Therefore, the proposed use of the site,

is compatible not only with the City's visions for the district, but also with the historic character of the district.

4. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located.

Because the street improvements will occur within the existing area of improvements for Pioneer Way, staff does not anticipate additional adverse environmental impacts. Although the eastern portion of the street improvements will be within the regulated Shoreline area, Pioneer Way is physically separated from the water's edge. The street improvements will not encroach further into the regulated Shoreline area, or further impact plant and animal communities along the Shoreline. The newly proposed stormwater infrastructure in Pioneer Way will better capture these pollutants than the existing stormwater infrastructure, reducing the existing negative stormwater impacts to the shoreline. Therefore, the proposed project will not cause unreasonably adverse effects to the shoreline environment and will, in fact, reduce these impacts.

5. That the public interest suffers no substantial, detrimental effect.

The Shoreline Management Act and implementing regulations (WAC 173-27-030) define public interest in the following way:

> 'Public interest' means the interest shared by the citizens of the state or community at large in the affairs of government, or some interest by which their rights or liabilities are affected including, but not limited to, an effect on public property or on health, safety, or general welfare resulting from a use or development.

The public health and safety will not be negatively impacted by this project. The new stormwater infrastructure, wider sidewalks, and one-way street configuration will all positively impact public health and safety by resulting in cleaner stormwater, better pedestrian infrastructure and a slowing of vehicles along Pioneer Way reducing the chance of traffic accidents.

Pioneer Way serves several public purposes including (in no order of priority): (1) as the primary form of access to businesses, offices, and residences along Pioneer Way (2) as a vehicle/pedestrian traffic conductor to areas east and west of downtown (3) as a way of accessing the City's shoreline and waterfront trail system which connects to Pioneer Way (4) As a way of connecting to streets, land uses, and recreational opportunities north and south of Pioneer Way.

Access to Pioneer Way businesses will continue to be provided and even be enhanced in some aspects. Pedestrian access will be enhanced through the provision of wider sidewalks. Vehicle access will be enhanced through the provision of more convenient angled parking which will allow vehicles to more quickly pull-into a parking spot. Pioneer Way will continue to be a traffic conductor for areas east of downtown. Although westbound traffic will no longer be allowed, westbound traffic can find redundant access along SE Bayshore Street and the Midway/Barrington corridor, therefore this critical public purpose will not be lost. Access to streets, land uses, and recreational opportunities north and south of Pioneer Way will continue to be provided. All of these critical public functions will remain intact after the proposed improvements are complete. For these reasons, staff believes that the public interest, as defined by WAC 173-27-030 will suffer no detrimental effect,

6. *With respect to uses which are not classified or set forth in this Master Program the applicant must demonstrate, in addition to the criteria set forth in 1 through 5 above, that extraordinary circumstances preclude reasonable use of the property in a manner consistent with the use regulations of the Master Program.*

As a public road, Pioneer Way is classified and set forth as a "transportation facility" in the Shoreline Master Program and is listed as a conditional use in "Table of Uses" in Section 5.01 of that document. Therefore, the use is classified and set forth in the Master Program and the criteria is not applicable.

SUMMARY

The above discussion indicates that the portion of the Pioneer Way Street Improvement Project which is within the regulated shoreline is consistent with the Shoreline Master Program and specifically the conditional use permit criteria. Conditions of approval are attached in the Findings of Fact. Because the proposed improvements will occur within the existing area of improvements, staff does not expect negative impacts from the project on the shoreline ecology or environment. Existing deficiencies with the street, such as the malfunctioning stormwater system will be remedied with this project, leading to less environmental impacts.

The proposed project is also consistent with the City's Transportation Element of the Comprehensive Plan and the Capital Improvement Plan. It is in the second highest priority project identified by the Capital Improvement Plan.

RECOMMENDATIONS

1. Conduct the public hearing.
2. Recommend that the City Council approve the Shoreline Substantial Development Conditional Use Permit
3. Adopt the "Findings of Fact" (Attachment 5)

ATTACHMENTS

Attachment 1 -	Shoreline Substantial Development Conditional Use Permit Narrative
Attachment 2	JARPA Application
Attachment 3 -	Existing Conditions Plan, Proposed Conditions Plan, and Roadway Plan
Attachment 4 -	MDNS and SEPA checklist
Attachment 5 -	Findings of Fact

RECEIVED

JUN 11 2010

CITY OF OAK HARBOR
Development Services Department

Perteet Inc.

MEMORANDUM

Oak Harbor, Washington
SE Pioneer Way Improvement Project

TO: City of Oak Harbor – Planning Division

FROM: Stephanie Hansen, AICP, Senior Community Planner

CC: Russ Pabarcus, PE, City of Oak Harbor Public Works

DATE: May 28, 2010

RE: Shoreline Conditional Use Permit Application – SE Pioneer Way Improvement Project

PROJECT DESCRIPTION

The City of Oak Harbor proposes to improve SE Pioneer Way in Downtown Oak Harbor. The proposed project will add multi-modal and pedestrian friendly street improvements and streetscape enhancements. The project includes the removal and replacement of the entire surface street cross section, storm drainage conveyance system, and sanitary sewer system within the limits of the existing infrastructure. In addition, streetscape improvements include widening sidewalks, providing on-street parking, and adding social gathering spaces. Existing overhead utilities may be relocated underground if funding permits.

Only the eastern portion of the project (approximately 200' of improvements including the Midway Boulevard intersection) is within the shoreline jurisdiction. Information in this memorandum and the Shoreline permit application apply only to the improvements within the shoreline jurisdiction. These improvements are documented by the following attachments:

- JARPA
- Plans
- SEPA Checklist

This memorandum contains the written application submittal requirements for a Shoreline Conditional Use Permit and addresses the conditional use criteria contained in the Oak Harbor Shoreline Master Program (December, 1998). Please refer to the documents noted above for the shoreline plans and application materials, which also address the application submittal requirements.

SHORELINE APPLICATION SUBMITTAL INFORMATION

WAC 173-27-180 sets application requirements for Shoreline Conditional Use Permits. The City of Oak Harbor utilizes the JARPA for its permit application form, and many of the submittal requirements are addressed on the JARPA. Other items, such as distance to the Ordinary High Water Mark (OHWM) are shown on the plans accompanying this application. The items in WAC 173-27-180 that are not shown on the JARPA or on the plan set are addressed below.

(1) through (5): Please see JARPA.

(6) A general description of the proposed project that includes the proposed use or uses and the activities necessary to accomplish the project.

See "Project Description" above.

(7) A general description of the property as it now exists including its physical characteristics and improvements and structures.

The property is city-owned public right-of-way, and is currently utilized as a main street through downtown Oak Harbor. It is currently developed with asphalt streets, sidewalks, parking, and some landscaping.

(8) A general description of the vicinity of the proposed project including identification of the adjacent uses, structures and improvements, intensity of development and physical characteristics.

SE Pioneer Way is located within the historic downtown of Oak Harbor. Adjacent uses include small one- and two-story commercial structures that house local businesses and restaurants and associated parking lots.

(9) A site development plan consisting of maps and elevation drawings, drawn to an appropriate scale to depict clearly all required information, photographs and text which shall include:

Please see site plan.

SHORELINE MASTER PROGRAM COMPLIANCE

The SE Pioneer Way Improvement Project is located within 200 feet of the Puget Sound shoreline, specifically, the protected harbor known also as Oak Harbor. Shorelines within the project area are designated as Urban (U) in the City's Shoreline Master Program (SMP). Transportation Facilities are allowed as a Conditional Use within the Urban Area. In order to be approved, the project must meet the conditional use criteria contained in Section 7.03 of the SMP, specifically:

1. That the proposed use is consistent with the policies of RCW 90.58.020 and the policies of this Master Program.
2. That the proposed use will not interfere with the normal public use of public shorelines or water.
3. That the proposed use of the site and design of the project is compatible with other permitted uses within the area.
4. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located.
5. That the public interest suffers no substantial, detrimental effect.

Criteria 6 does not apply, as the proposed use is set forth within the SMP.

SHORELINE CONDITIONAL USE CRITERIA

The applicable criteria are addressed below:

1. That the proposed use is consistent with the policies of RCW 90.58.020 and the policies of this Master Program.

The policies of RCW 90.58.020 present a priority structure for use of shorelines of the state. Preferences for shoreline uses include:

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

SE Pioneer Way is located within the shoreline jurisdiction, but as an existing east-west right-of-way, it is parallel to the shoreline area and largely provides access via cross-streets that connect to the actual shoreline and surrounding properties. Pioneer Way is an existing use within an existing right-of-way. Its role in providing access is critical to shoreline users, but its improvement will not impair the shoreline or access in any way.

Oak Harbor's SMP contains policies that address uses within shoreline areas. Policies that are specific to transportation facilities are located in Section 5.19 and include the following:

1. Transportation facilities should not be located over water or on shorelines if they could feasibly and practically be located elsewhere.

2. When transportation facilities are located over water or on shorelines, they should be designed and constructed to minimize their impacts on shoreline resources and natural systems.
3. Rights or way and other facilities that provide scenic views or access to the water should be retained in public ownership and kept open whenever possible.
4. Transportation facilities and utilities should be installed in the same rights of way when the effect will be to reduce adverse impacts of installation on shorelines.
5. Trails and bicycle routes along shorelines should be provided in conformance with the Oak Harbor Comprehensive Parks and Recreation Plan.

SE Pioneer Way is not located over water (Policies 1 and 2). Pioneer Way will remain a public street and views will not be altered or will be improved with the project (Policy 3). Pioneer Way will remain in the existing street footprint (Policy 4). The Oak Harbor Comprehensive Parks and Recreation Plan calls for a waterfront trail system located along the shoreline to the south of Pioneer Way. Improvements on Pioneer Way will be consistent with providing access to the Waterfront Trail system.

2. That the proposed use will not interfere with the normal public use of public shorelines or water.

The proposed improvements will enhance public access to the shoreline and will not interfere in any manner with access or use of the shoreline.

3. That the proposed use of the site and design of the project is compatible with other permitted uses within the area.

The proposed project is within an existing street right-of-way. The purpose of both the existing street and the future street will be to facilitate access to downtown properties. The redesign of the street includes wider sidewalks than are currently available, facilitating pedestrian access and activity in the downtown, which is consistent with the city's vision for the area. This goal is further enhanced by a redesign of traffic circulation from two-way to one-way, and by retention of angled on-street parking. In addition, the replacement of utility lines and the undergrounding of overhead power lines will further the safety, provision of public services, and the aesthetic goals of the city.

4. That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located.

The proposed project is not adjacent to the water and is not expected to negatively impact the shoreline, habitat, or natural systems in any way.

5. That the public interest suffers no substantial, detrimental effect.

The redesign and construction of Pioneer Way serves the public interest of Oak Harbor residents, businesses, and visitors. The enhancement of the pedestrian facilities in downtown Oak Harbor and within easy access of the shoreline will contribute to the overall experience of the public in both downtown and along the shoreline.

REQUEST

This memorandum contains supplemental information required for the issuance of a Conditional Use Permit (CUP) under the City's SMP. If additional information is required, please contact Russ Pabarcus, PE, in the City's Public Works Department or Perteet Inc. at 425-252-7700 or by email at shansen@perteet.com.

2010
WASHINGTON STATE
Joint Aquatic Resources Permit Application (JARPA) Form[1]

USE BLACK OR BLUE INK TO ENTER ANSWERS IN WHITE SPACES BELOW.

US Army Corps of Engineers Seattle District

AGENCY USE ONLY

Date received:

Agency reference #: _____

Tax Parcel #(s): _____

Part 1–Project Identification

1. Project Name (A name for your project that you create. Examples: Smith's Dock or Seabrook Lane Development) [help][2]
SE Pioneer Way Improvement Project

Part 2–Applicant

The person or organization responsible for the project. [help]

2a. Name (Last, First, Middle) and Organization (if applicable)			
Russ Pabarcus, PE, City of Oak Harbor			
2b. Mailing Address (Street or PO Box)			
865 SE Barrington Drive			
2c. City, State, Zip			
Oak Harbor, WA 98277			
2d. Phone (1)	2e. Phone (2)	2f. Fax	2g. E-mail
(360) 279-4520	( )	(360) 279-4507	rpabarcus@oakharbor.org

Part 3–Authorized Agent or Contact

Person authorized to represent the applicant about the project. (Note: Authorized agent(s) must sign 11b. of this application.) [help]

3a. Name (Last, First, Middle) and Organization (if applicable)
Dan Hansen, PE, Perteet Inc.
3b. Mailing Address (Street or PO Box)
2707 Colby Ave, Suite 900

[1] Additional forms may be required for the following permits:

- If your project may qualify for Department of the Army authorization through a Regional General Permit (RGP), contact the U.S. Army Corps of Engineers for application information (206) 764-3495.
- If your project might affect species listed under the Endangered Species Act, you will need to fill out a Specific Project Information Form (SPIF) or prepare a Biological Evaluation. Forms can be found at http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=mainpage_ESA
- If you are applying for an Aquatic Resources Use Authorization you will need to fill out and submit an Application for Authorization to Use State-Owned Aquatic Lands form to DNR, which can be found at http://www.dnr.wa.gov/Publications/aqr_use_auth_app.doc
- Not all cities and counties accept the JARPA for their local Shoreline permits. If you think you will need a Shoreline permit, contact the appropriate city or county government to make sure they will accept the JARPA.

[2] To access an online JARPA form with [help] screens, go to http://www.epermitting.wa.gov/site/alias__resourcecenter/jarpa_jarpa_form/9984/jarpa_form.aspx .
For other help, contact the Governor's Office of Regulatory Assistance at 1-800-917-0043 or help@ora.wa.gov.

3c. City, State, Zip			
Everett, WA. 98201			
3d. Phone (1)	**3e.** Phone (2)	**3f.** Fax	**3g.** E-mail
(425) 252-7700	( )	(425) 339-6018	danh@perteet.com

Part 4–Property Owner(s)

Contact information for people or organizations owning the property(ies) where the project will occur. [help]

☐ Same as applicant. (Skip to Part 5.) This is better described as repair and maintenance activities

☒ Repair or maintenance activities on existing rights-of-way or easements. (Skip to Part 5.)

☐ There are multiple property owners. Complete the section below and fill out JARPA Attachment A for each additional property owner.

4a. Name (Last, First, Middle) and Organization (if applicable)			
4b. Mailing Address (Street or PO Box)			
4c. City, State, Zip			
4d. Phone (1)	**4e.** Phone (2)	**4f.** Fax	**4g.** E-mail
( )	( )	( )	

Part 5–Project Location(s)

Identifying information about the property or properties where the project will occur. [help]

☐ There are multiple project locations (e.g., linear projects). Complete the section below and use JARPA Attachment B for each additional project location.

5a. Indicate the type of ownership of the property. (Check all that apply.) [help]
☐ State Owned Aquatic Land (If yes or maybe, contact the Department of Natural Resources (DNR) at (360) 902-1100) ☐ Federal ☒ Other publicly owned (state, county, city, special districts like schools, ports, etc.) ☐ Tribal ☐ Private
5b. Street Address (Cannot be a PO Box. If there is no address, provide other location information in 5p.) [help]
NA (City right-of-way)
5c. City, State, Zip (If the project is not in a city or town, provide the name of the nearest city or town.) [help]
Oak Harbor, WA 98277
5d. County [help]
Island County

5e. Provide the section, township, and range for the project location. [help]

¼ Section	Section	Township	Range
SW & SE	38 & 39	32N	1E

5f. Provide the latitude and longitude of the project location. [help]

- Example: 47.03922 N lat. / -122.89142 W long. (NAD 83)

48.28805 N lat to 48.289583 N lat, 122.652453 W long to 122.660661 W long

5g. List the tax parcel number(s) for the project location. [help]

- The local county assessor's office can provide this information.

NA – project location is within City right-of-way

5h. Contact information for all adjoining property owners. (If you need more space, use JARPA Attachment C.) [help]

Name	Mailing Address	Tax Parcel # (if known)
SAAR PROPERTIES II	32199 STATE ROUTE 20 OAK HARBOR, WA 98277	S6565-00-00A03-0
OLYMPIC BANK C/O DELOITTE TAX LLP	PO BOX 2609 CARLSBAD, CA 92018	S6565-00-00B17-0
ALVIN B KOETJE ET AL	775 NE MIDWAY BLVD OAK HARBOR, WA 98277	S6565-00-00B06-0
PARAM JIT SINGH, HARMEET KAUR	3617 E BROADWAY MOUNT VERNON, WA 98274	R13202-230-1520 R13202-230-1650

5i. List all wetlands on or adjacent to the project location. [help]

None.

5j. List all waterbodies (other than wetlands) on or adjacent to the project location. [help]

Puget Sound is located approximately 88 feet to the south, at the east end of the project alignment

5k. Is any part of the project area within a 100-year flood plain? [help]

☐ Yes ☒ No ☐ Don't know

5l. Briefly describe the vegetation and habitat conditions on the property. [help]

The project site is existing street and sidewalk, which has some trees (approximately 30) and shrubs along the sidewalks. Any habitat would be for song birds in the trees.

5m. Describe how the property is currently used. [help]

The property is currently improved as street and sidewalk used by local businesses, traffic and pedestrians. It also contains public utilities including water, sewer, storm drainage, electrical, and communications services.

5n. Describe how the adjacent properties are currently used. [help]

The adjacent properties are predominately small businesses, which consist of retail stores, personal services, art galleries, professional services, photography, restaurants and taverns, one hotel, residential uses, as well as some vacant lots.

5o. Describe the structures (above and below ground) on the property, including their purpose(s). [help]

Site is developed as street and sidewalk. Above ground structures include street lights, traffic signals and overhead power and communication lines. Underground structures include water, sewer, storm sewer and telephone utilities.

5p. Provide driving directions from the closest highway to the project location, and attach a map. [help]

From SR 20 northbound, turn right onto SE Pioneer Way; continue east to SE City Beach St and project start location. See attached map.

Part 6–Project Description

6a. Summarize the overall project. You can provide more detail in 6d. [help]

The project includes the removal and replacement of the entire street surface, storm drainage conveyance system and sanitary sewer system within the limits of the existing infrastructure. Streetscape improvements include widening the sidewalks, providing on-street parking and adding public gathering areas. Overhead utilities may be relocated underground.

6b. Indicate the project category. (Check all that apply) [help]

- ☐ Commercial
- ☐ Residential
- ☐ Institutional
- ☒ Transportation
- ☐ Recreational
- ☐ Maintenance
- ☐ Environmental Enhancement

6c. Indicate the major elements of your project. (Check all that apply) [help]

☐ Aquaculture	☐ Culvert	☐ Float	☒ Road
☐ Bank Stabilization	☐ Dam / Weir	☐ Geotechnical Survey	☐ Scientific Measurement Device
☐ Boat House	☐ Dike / Levee / Jetty	☐ Land Clearing	☐ Stairs
☐ Boat Launch	☐ Ditch	☐ Marina / Moorage	☐ Stormwater facility
☐ Boat Lift	☐ Dock / Pier	☐ Mining	☐ Swimming Pool
☐ Bridge	☐ Dredging	☐ Outfall Structure	☒ Utility Line
☐ Bulkhead	☐ Fence	☐ Piling	
☐ Buoy	☐ Ferry Terminal	☐ Retaining Wall (upland)	
☐ Channel Modification	☐ Fishway		

☐ Other:

6d. Describe how you plan to construct each project element checked in 6c. Include specific construction methods and equipment to be used. [help]

- Identify where each element will occur in relation to the nearest waterbody.
- Indicate which activities are within the 100-year flood plain.

The existing roadway, curb, gutter, sidewalk, and pavement, is expected to be removed in its entirety, including removal of sections of the existing storm system and the entire sanitary sewer system. A new roadway structural section will be installed with replacement storm and sanitary sewer systems placed within the existing roadway prism. If undergrounding placement of overhead utilities is included, this system placement is anticipated to occur within the existing roadway prism.

Removal of the existing storm and sanitary systems represent the extent of excavation necessary to complete the project. Cut depths will range from approximately 4' for the storm drain removal and approximately 8' for the sanitary sewer. If undergrounding of overhead utilities occurs, cut depths will be between 4' to 6'. Any other cut and fill activities within the project area are expected to produce negligible quantities of fill material.

Excavation will be completed using standard construction and will take place within approximately 88 feet of Puget Sound, at the east end of the roadway alignment, to the south of the project location.

Standard construction equipment will be used to construct the project. Examples of equipment to be used include backhoes, compactors, concrete trucks, dozers, concrete saw, dump trucks, excavator, generators, graders, pneumatic tools, and similar equipment. No blasting or pile driving will be required.

6e. What are the start and end dates for project construction? (month/year) [help]

- If the project will be constructed in phases or stages, use JARPA Attachment D to list the start and end dates of each phase or stage.

Start date: January 2011 End date: Sept. 2011 ☐ See JARPA Attachment D

6f. Describe the purpose of the project and why you want or need to perform it. [help]

The project's objectives are to enhance pedestrian and vehicle safety, restore the condition of the infrastructure, and enhance the downtown visitor experience.

6g. Fair market value of the project, including materials, labor, machine rentals, etc. [help]

$8,350,000

6h. Will any portion of the project receive federal funding? [help]

- If yes, list each agency providing funds.

☐ Yes ☒ No ☐ Don't know

Part 7–Wetlands: Impacts and Mitigation

☐ Check here if there are wetlands or wetland buffers on or adjacent to the project area.
(If there are none, skip to Part 8.) [help]

7a. Describe how the project has been designed to avoid and minimize adverse impacts to wetlands. [help]

☒ Not applicable

7b. Will the project impact wetlands? [help]

☐ Yes ☒ No ☐ Don't know

7c. Will the project impact wetland buffers? [help]

☐ Yes ☒ No ☐ Don't know

7d. Has a wetland delineation report been prepared? [help]

- If yes, submit the report, including data sheets, with the JARPA package.

☐ Yes ☒ No

7e. Have the wetlands been rated using the Western Washington or Eastern Washington Wetland Rating System? [help]

- **If yes,** submit the wetland rating forms and figures with the JARPA package.

☐ Yes ☒ No ☐ Don't know

7f. Have you prepared a mitigation plan to compensate for any adverse impacts to wetlands? [help]

- **If yes,** submit the plan with the JARPA package and answer 7g.
- **If No, or Not applicable,** explain below why a mitigation plan should not be required.

☐ Yes ☐ No ☒ Not applicable

7g. Summarize what the mitigation plan is meant to accomplish, and describe how a watershed approach was used to design the plan. [help]

Does not apply.

7h. Use the table below to list the type and rating of each wetland impacted; the extent and duration of the impact; and the type and amount of mitigation proposed. Or if you are submitting a mitigation plan with a similar table, you can state (below) where we can find this information in the plan. [help]

Activity (fill, drain, excavate, flood, etc.)	Wetland Name[1]	Wetland type and rating category[2]	Impact area (sq. ft. or Acres)	Duration of impact[3]	Proposed mitigation type[4]	Wetland mitigation area (sq. ft. or acres)

[1] If no official name for the wetland exists, create a unique name (such as "Wetland 1"). The name should be consistent with other project documents, such as a wetland delineation report.
[2] Ecology wetland category based on current Western Washington or Eastern Washington Wetland Rating System. Provide the wetland rating forms with the JARPA package.
[3] Indicate the days, months or years the wetland will be measurably impacted by the activity. Enter "permanent" if applicable.
[4] Creation (C), Re-establishment/Rehabilitation (R), Enhancement (E), Preservation (P), Mitigation Bank/In-lieu fee (B)

Page number(s) for similar information in the mitigation plan, if available: NA

7i. For all filling activities identified in 7h., describe the source and nature of the fill material, the amount in cubic yards that will be used, and how and where it will be placed into the wetland. [help]

Does not apply.

7j. For all excavating activities identified in 7h., describe the excavation method, type and amount of material in cubic yards you will remove, and where the material will be disposed. [help]

Does not apply.

Part 8–Waterbodies (other than wetlands): Impacts and Mitigation

In Part 8, "waterbodies" refers to non-wetland waterbodies. (See Part 7 for information related to wetlands.) [help]

☒ Check here if there are waterbodies on or adjacent to the project area. (If there are none, skip to Part 9.)

8a. Describe how the project is designed to avoid and minimize adverse impacts to the aquatic environment. [help]

☒ Not applicable

The entire project will be constructed within the existing developed road prism only, which is located a minimum of 88 feet away from the Puget Sound (located to the south of the project). A Temporary Erosion and Sediment Control (TESC) and Spill Prevention plan will be prepared for the project, which will include, at a minimum, catch- basin protection and filter-fabric fencing. Storm and erosion control best management practices (BMPs) will be used during construction.

8b. Will your project impact a waterbody or the area around a waterbody? [help]

☐ Yes ☒ No

8c. Have you prepared a mitigation plan to compensate for the project's adverse impacts to non-wetland waterbodies? [help]

- **If yes**, submit the plan with the JARPA package and answer 8d.
- **If No, or Not applicable**, explain below why a mitigation plan should not be required.

☐ Yes ☐ No ☒ Not applicable

The project has no effects on non-wetland waterbodies.

8d. Summarize what the mitigation plan is meant to accomplish. Describe how a watershed approach was used to design the plan.

- If you already completed 7g., you do not need to restate your answer here. [help]

Does not apply.

8e. Summarize impact(s) to each waterbody in the table below. [help]

Activity (clear, dredge, fill, pile drive, etc.)	Waterbody name[1]	Impact location[2]	Duration of impact[3]	Amount of material to be placed in or removed from waterbody	Area (sq. ft. or linear ft.) of waterbody directly affected

[1] If no official name for the waterbody exists, create a unique name (such as "Stream 1") The name should be consistent with other documents provided.
[2] Indicate whether the impact will occur in or adjacent to the waterbody. If adjacent, provide the distance between the impact and the waterbody and indicate whether the impact will occur within the 100-year flood plain.
[3] Indicate the days, months or years the waterbody will be measurably impacted by the work. Enter "permanent" if applicable.

8f. For all activities identified in 8e., describe the source and nature of the fill material, amount (in cubic yards) you will use, and how and where it will be placed into the waterbody. [help]

Does not apply.

8g. For all excavating or dredging activities identified in 8e., describe the method for excavating or dredging, type and amount of material you will remove, and where the material will be disposed. [help]

Does not apply.

Part 9–Additional Information

Any additional information you can provide helps the reviewer(s) understand your project. Complete as much of this section as you can. It is ok if you cannot answer a question.

9a. If you have already worked with any government agencies on this project, list them below. [help]

Agency Name	Contact Name	Phone	Most Recent Date of Contact
		( )	
		( )	
		( )	

9b. Are any of the wetlands or waterbodies identified in Part 7 or Part 8 on the Washington Department of Ecology's 303(d) List? [help]

- If yes, list the parameter(s) below.
- If you don't know, use Washington Department of Ecology's Water Quality Assessment tools at: http://www.ecy.wa.gov/programs/wq/303d/.

☐ Yes ☒ No

9c. What U.S. Geological Survey Hydrological Unit Code (HUC) is the project in? [help]

- Go to http://cfpub.epa.gov/surf/locate/index.cfm to help identify the HUC.

17110019

9d. What Water Resource Inventory Area Number (WRIA #) is the project in? [help]

- Go to http://www.ecy.wa.gov/services/gis/maps/wria/wria.htm to find the WRIA #.

WRIA 6

9e. Will the in-water construction work comply with the State of Washington water quality standards for turbidity? [help]

- Go to http://www.ecy.wa.gov/programs/wq/swqs/criteria.html for the standards.

☐ Yes ☐ No ☒ Not applicable

9f. If the project is within the jurisdiction of the Shoreline Management Act, what is the local shoreline environment designation? [help]

- If you don't know, contact the local planning department.
- For more information, go to: http://www.ecy.wa.gov/programs/sea/sma/laws_rules/173-26/211_designations.html.

☐ Rural ☒ Urban ☐ Natural ☐ Aquatic ☐ Conservancy ☐ Other _____

9g. What is the Washington Department of Natural Resources Water Type? [help]

- Go to http://www.dnr.wa.gov/BusinessPermits/Topics/ForestPracticesApplications/Pages/fp_watertyping.aspx for the Forest Practices Water Typing System.

☒ Shoreline ☐ Fish ☐ Non-Fish Perennial ☐ Non-Fish Seasonal

9h. Will this project be designed to meet the Washington Department of Ecology's most current stormwater manual? [help]

- **If no,** provide the name of the manual your project is designed to meet.

☒ Yes ☐ No

Name of manual:

9i. If you know what the property was used for in the past, describe below. [help]

Pioneer Way has been used as a public thoroughfare since the late 1800s.

9j. Has a cultural resource (archaeological) survey been performed on the project area? [help]

- **If yes,** attach it to your JARPA package.

☐ Yes ☒ No Is there a survey?

9k. Name each species listed under the federal Endangered Species Act that occurs in the vicinity of the project area or might be affected by the proposed work. [help]

Some listed species known to be present within Puget Sound, including the following threatened and endangered species:

- Chinook Salmon (threatened)
- Coho Salmon (species of concern)
- Steelhead (threatened)
- Southern Resident Killer Whale (endangered)
- Humpback Whale (endangered)
- Steller Sea Lion (threatened)

Impacts to ESA-listed species are not expected.

9l. Name each species or habitat on the Washington Department of Fish and Wildlife's Priority Habitats and Species List that might be affected by the proposed work. [help]

Per the Washington Department of Fish and Wildlife, the Puget Sound shoreline to the south of the project area is an estuary zone, which provides habitat for many shoreline species. There are also wetlands and oak stands within .75 miles of the project area that are considered priority habitat or species. There are no known eagle's nests or heron rookeries within the immediate project area, though there are noted nests located to the southeast and southwest of the project area, approximately one mile away in each direction. Impacts to priority species or habitat are not expected.

Part 10–SEPA Compliance and Permits

Use the resources and checklist below to identify the permits you are applying for.

- Online Project Questionnaire at http://apps.ecy.wa.gov/opas/.
- Governor's Office of Regulatory Assistance at (800) 917-0043 or help@ora.wa.gov.

- For a list of agency addresses to send your application, click on the "where to send your completed JARPA" at http://www.epermitting.wa.gov.

10a. Compliance with the State Environmental Policy Act (SEPA). (Check all that apply.) [help]

- For more information about SEPA, go to www.ecy.wa.gov/programs/sea/sepa/e-review.html.

☐ A copy of the SEPA determination or letter of exemption is included with this application.

☒ A SEPA determination is pending with City of Oak Harbor (lead agency). The expected decision date is July, 2010.

☐ I am applying for a Fish Habitat Enhancement Exemption. (Check the box below in 10b.) [help]

☐ This project is exempt (choose type of exemption below).

☐ Categorical Exemption. Under what section of the SEPA administrative code (WAC) is it exempt? _____

☐ Other: _____

☐ SEPA is pre-empted by federal law.

10b. Indicate the permits you are applying for. (Check all that apply.) [help]

LOCAL GOVERNMENT

Local Government Shoreline permits:

☐ Substantial Development ☒ Conditional Use ☐ Variance

☐ Shoreline Exemption Type (explain): _____

Other city/county permits:

☐ Floodplain Development Permit ☐ Critical Areas Ordinance

STATE GOVERNMENT

Washington Department of Fish and Wildlife:

☐ Hydraulic Project Approval (HPA) ☐ Fish Habitat Enhancement Exemption

Washington Department of Ecology:

☐ Section 401 Water Quality Certification

Washington Department of Natural Resources:

☐ Aquatic Resources Use Authorization

FEDERAL GOVERNMENT

United States Department of the Army permits (U.S. Army Corps of Engineers):

☐ Section 404 (discharges into waters of the U.S.) ☐ Section 10 (work in navigable waters)

United States Coast Guard permits:

☐ General Bridge Act Permit ☐ Private Aids to Navigation (for non-bridge projects)

Part 11–Authorizing Signatures

Signatures are required before submitting the JARPA package. The JARPA package includes the JARPA form, project plans, photos, etc. [help]

11a. Applicant Signature (required) [help]

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities, and I agree to start work only after I have received all necessary permits.

I hereby authorize the agent named in Part 3 of this application to act on my behalf in matters related to this application. _____ (initial)

By initialing here, I state that I have the authority to grant access to the property. I also give my consent to the permitting agencies entering the property where the project is located to inspect the project site or any work related to the project. _____ (initial)

J. R. MARCUS		6/11/2010
Applicant Printed Name	Applicant Signature	Date

11b. Authorized Agent Signature [help]

I certify that to the best of my knowledge and belief, the information provided in this application is true, complete, and accurate. I also certify that I have the authority to carry out the proposed activities and I agree to start work only after all necessary permits have been issued.

Dan Hansen, PE Perteet Inc		May 20, 2010
Authorized Agent Printed Name	Authorized Agent Signature	Date

11c. Property Owner Signature (if not applicant). [help]
Not required if project is on existing rights-of-way or easements.

I consent to the permitting agencies entering the property where the project is located to inspect the project site or any work. These inspections shall occur at reasonable times and, if practical, with prior notice to the landowner.

Property Owner Printed Name	Property Owner Signature	Date

18 U.S.C §1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years or both.

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.
ORA publication number: ENV-019-09

2009
WASHINGTON STATE
Joint Aquatic Resources Permit Application (JARPA) Form [help]

US Army Corps of Engineers Seattle District

AGENCY USE ONLY

Date received:

Agency reference #: _____

Tax Parcel #(s): _____

JARPA Attachment C: Contact information for adjoining property owners, lessees, etc. [help]

Use this attachment only if you have more than four adjoining property owners.

TO BE COMPLETED BY APPLICANT [help]

UPI #: NA

Project Name: SE Pioneer Way Improvement Project

Use black or blue ink to enter answers in white spaces below or fill in electronically by clicking on fields.

5h. Contact information for all adjoining property owners, lessees, etc. [help]

Name	Mailing Address	Tax Parcel # (if known)
The King Company	7337 50TH Ave NE Seattle, WA 98115	S6565-00-00B21-0
John Dunning	PO Box 488 Friday Harbor, WA. 98250	
Prosperity Investments, Inc	1582 Scenic Heights Rd Oak Harbor, WA 98277	R13202-230-1700
Edward C Beeksma, William Massey, Robert Sebo & June Haig	41 NE Midway Blvd Ste. 101 Oak Harbor, WA 98277	S6565-00-00B22-0
James & Dana Cho	2812 12TH Ave S Seattle, WA 98144	R13202-235-2140
Stanley & Josefa J Groszek	650 SE Pioneer Way Oak Harbor, WA 98277	R13202-227-2160
Armed Services YMCA	6359 Walker Lane, Suite 200 Alexandria, VA. 22310	R13202-232-1770
John M Allgire, Trustee, Myrtle Allgire	2675 W Beach Rd Oak Harbor, WA. 98277	R13202-236-2210 R13202-230-2320

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.
ORA publication number: ENV-022-09

2009

WASHINGTON STATE

Joint Aquatic Resources Permit Application (JARPA) Form [help]

US Army Corps of Engineers Seattle District

AGENCY USE ONLY

Date received:

Agency reference #: _____

Tax Parcel #(s): _____

JARPA Attachment C:

Contact information for adjoining property owners, lessees, etc. [help]

Use this attachment only if you have more than four adjoining property owners.

TO BE COMPLETED BY APPLICANT [help]

UPI #: NA

Project Name: SE Pioneer Improvement Project

Use black or blue ink to enter answers in white spaces below or fill in electronically by clicking on fields.

5h. Contact information for all adjoining property owners, lessees, etc. [help]

Name	Mailing Address	Tax Parcel # (if known)
Christon C & Deborah Skinner	740 SE Pioneer Way Oak Harbor, WA. 98277	R13202-231-2400 R13202-230-2500
Kristi J Jensen	1380 SE 8th Ave Oak Harbor, WA. 98277	S6565-00-00B19-0
Jensen Commercial Properties, LLC	32785 SR 20, Suite 40 Oak Harbor, WA. 98277	S6565-00-00029-0 S7585-00-00026-0
Chris H & Helen Pantoleon	2390 SW Freund St Oak harbor, WA. 98277	S6565-00-00008-0
Ed Fakkema Fakkema, KA &E	2571 SE Petes Lane Oak Harbor, WA. 98277	S6565-00-00009-0
Old Town Mall, LLC	PO Box 2249 Oak Harbor, WA. 98277	R13202-239-2750 R13202-241-2700 S6565-00-00010-0
Christopher Saxman, Oak Harbor Properties	PO Box 87 Hanover, NM 88041	R13202-229-2750 S6565-00-00001-0
Fir Grove Partnership	41 NE Midway Blvd, Ste 101 Oak Harbor, WA. 98277	R13202-231-2800

2009
WASHINGTON STATE
Joint Aquatic Resources Permit Application (JARPA) Form [help]

US Army Corps of Engineers Seattle District

AGENCY USE ONLY

Date received:

Agency reference #: _____

Tax Parcel #(s): _____

_____

_____

JARPA Attachment C: Contact information for adjoining property owners, lessees, etc. [help]

Use this attachment only if you have more than four adjoining property owners.

TO BE COMPLETED BY APPLICANT [help]

UPI #: NA

Project Name: SE Pioneer Improvement Project

Use black or blue ink to enter answers in white spaces below or fill in electronically by clicking on fields.

5h. Contact information for all adjoining property owners, lessees, etc. [help]

Name	Mailing Address	Tax Parcel # (if known)
Chana & Natchanok Sritong	17070 Kokanee Ct Mount Vernon, WA. 98274	S8180-00-000-30-0
Terry Smith	PO Box 86 Freeland, WA. 98249	S8180-00-00031-0
Daniel D Dillard	513 SE Neil St Oak Harbor, WA. 98277	S8180-00-00004-0
Atlas Venture Capital LLC	5306 154th Ave SE Bellevue, WA. 98006	S8180-00-00002-0
Kelly Hoing & Clifford J Beedle	1581 NE 1st Ave Oak Harbor, WA. 98277	S8180-00-00001-0
Gilbert & Suzanne Villareal	15681 Deception Shore Dr Anacortes, WA. 98221	S8180-00-0035-0 S7585-00-00058-0
Coffee Ground, LLC	PO Box 309 Clinton, WA. 98236	S7585-00-00051-0
George L Fortner	1701 SE 6TH AVE Oak Harbor, WA. 98277	S7585-00-00024-1

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.
ORA publication number: ENV-022-09

2009

WASHINGTON STATE

Joint Aquatic Resources Permit Application (JARPA) Form [help]

US Army Corps of Engineers Seattle District

AGENCY USE ONLY

Date received:

Agency reference #: _____

Tax Parcel #(s): _____

JARPA Attachment C: Contact information for adjoining property owners, lessees, etc. [help]

Use this attachment only if you have more than four adjoining property owners.

TO BE COMPLETED BY APPLICANT [help]

UPI #: NA

Project Name: SE Pioneer Improvement Project

Use black or blue ink to enter answers in white spaces below or fill in electronically by clicking on fields.

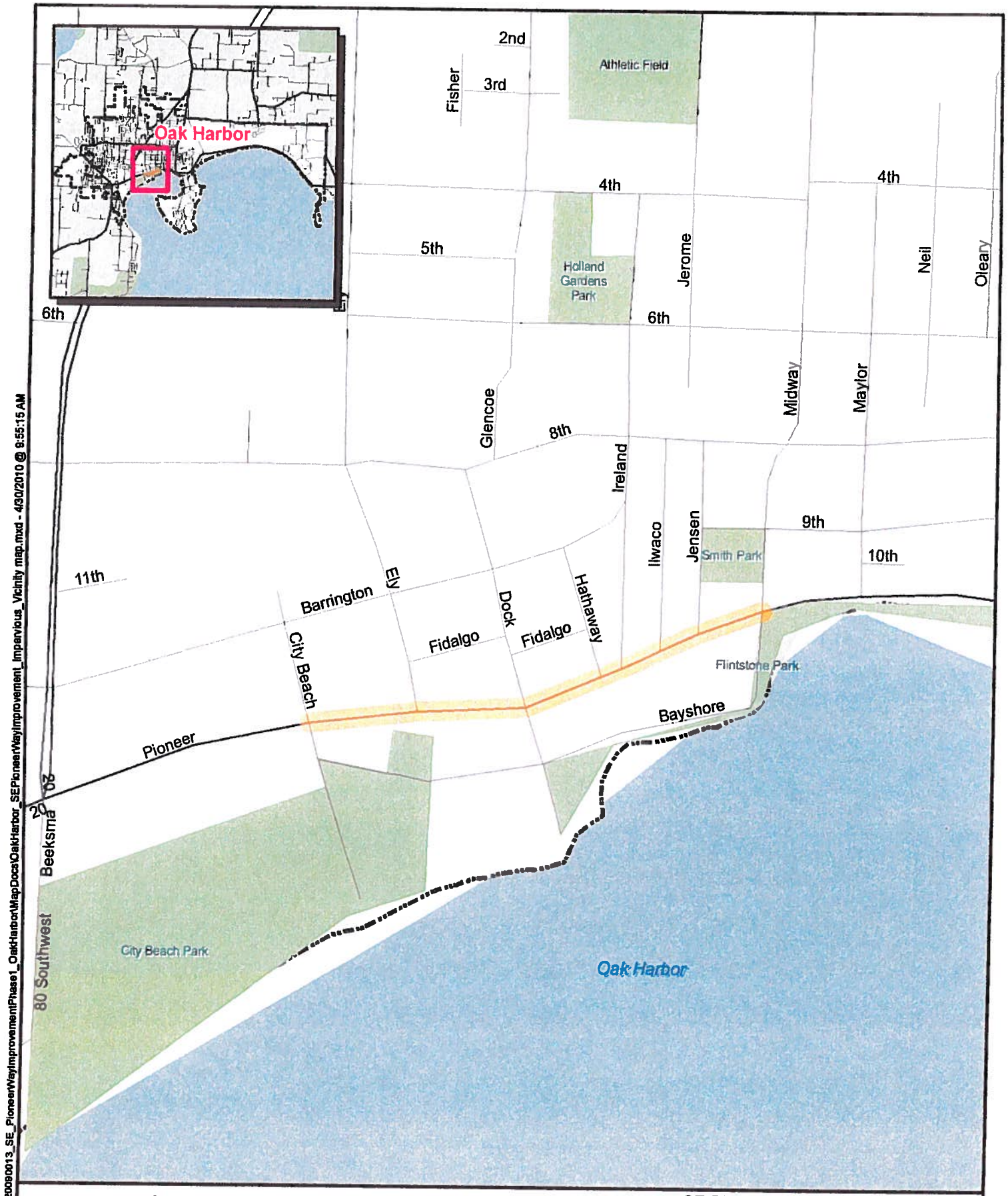
5h. Contact information for all adjoining property owners, lessees, etc. [help]

Name	Mailing Address	Tax Parcel # (if known)
Donald E & Angelina L Bettner	998 Ridgeway Dr Oak Harbor, WA 98277	R13202-229-1900
Tom Cockrell PR Cockrell, Youngsman & Rae	PO Box 733 Oak Harbor, WA. 98277	S8180-00-00028-0
HJW Properties	PO Box 80769 Portland, OR. 97280	S7585-00-00053-0
Robert Tull c/0 Patricia Cohick	1365 Chatham Lane Oak Harbor, WA. 98277	S7585-00-00026-3

If you require this document in another format, contact The Governor's Office of Regulatory Assistance (ORA). People with hearing loss can call 711 for Washington Relay Service. People with a speech disability can call (877) 833-6341.

ORA publication number: ENV-022-09

JARPA 2009 Attachment C: Contact information for adjoining property owners, lessees, etc. (see JARPA question 5h)



Perteet

0 300 600
Feet

Legend

Project Site

SE Pioneer Way Improvement Project
Vicinity Map

Source: ESRI (2008)

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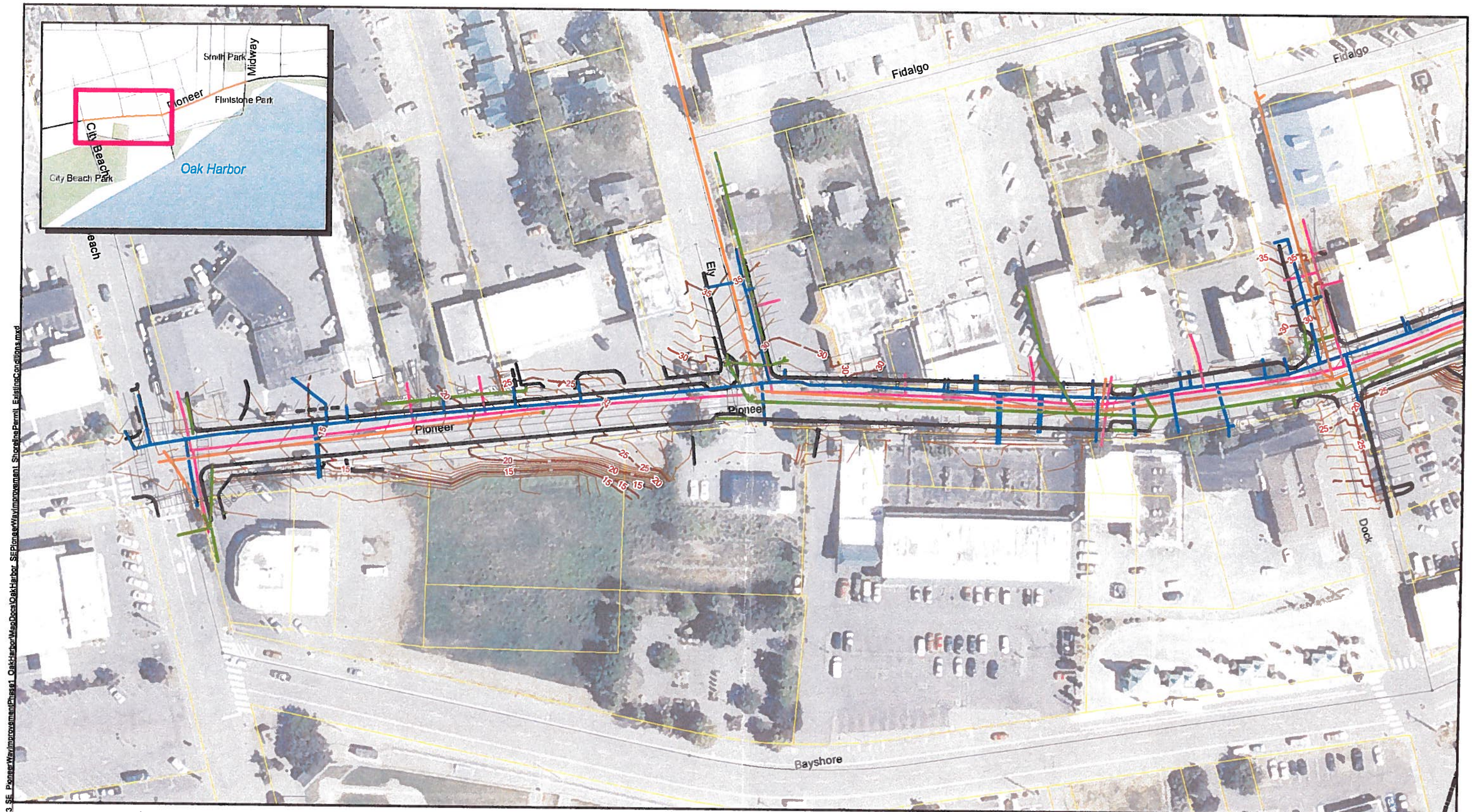
ATTACHMENT 2



Perteet

0 40 80
Feet

Legend

- Shoreline Jurisdiction
- Mean Higher High Water Mark (9.28 ft)
- 5ft Interval Contour
- 1ft Interval Contour
- Gas
- Stormwater
- Curb
- Sewer
- Water
- Parcels
- Waterbody (NWI)

SE Pioneer Way Improvement Project
Existing Conditions

Sheet 1 of 4

Source: USGS Aerial (2009)

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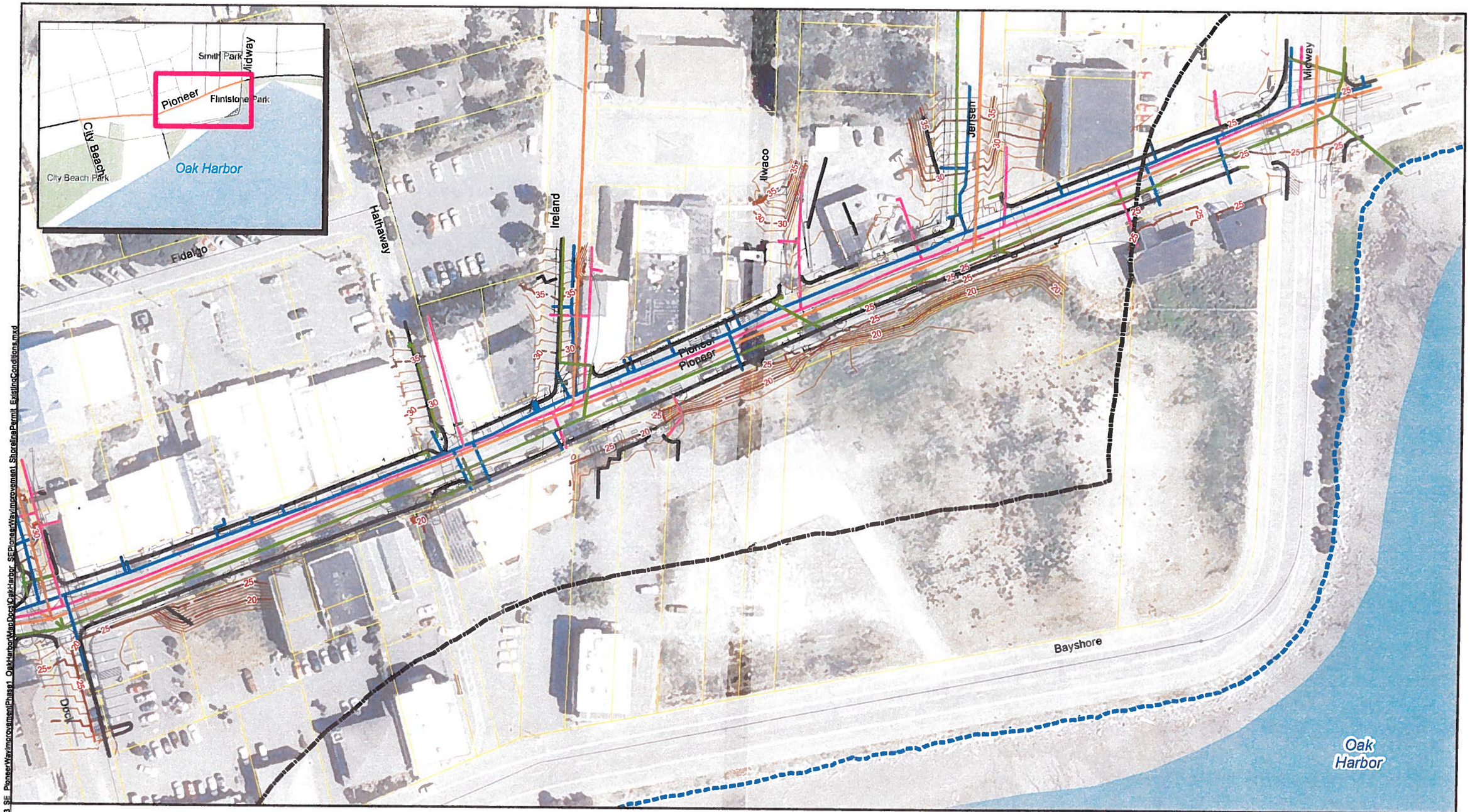
ATTACHMENT 3



Perteet

0 40 80
Feet

Legend

- Shoreline Jurisdiction
- Mean Higher High Water Mark (9.28 ft)
- 5ft Interval Contour
- 1ft Interval Contour
- Gas
- Stormwater
- Curb
- Sewer
- Water
- Parcels
- Waterbody (NWI)

SE Pioneer Way Improvement Project
Existing Conditions

Sheet 2 of 4

Source: USGS Aerial (2009)

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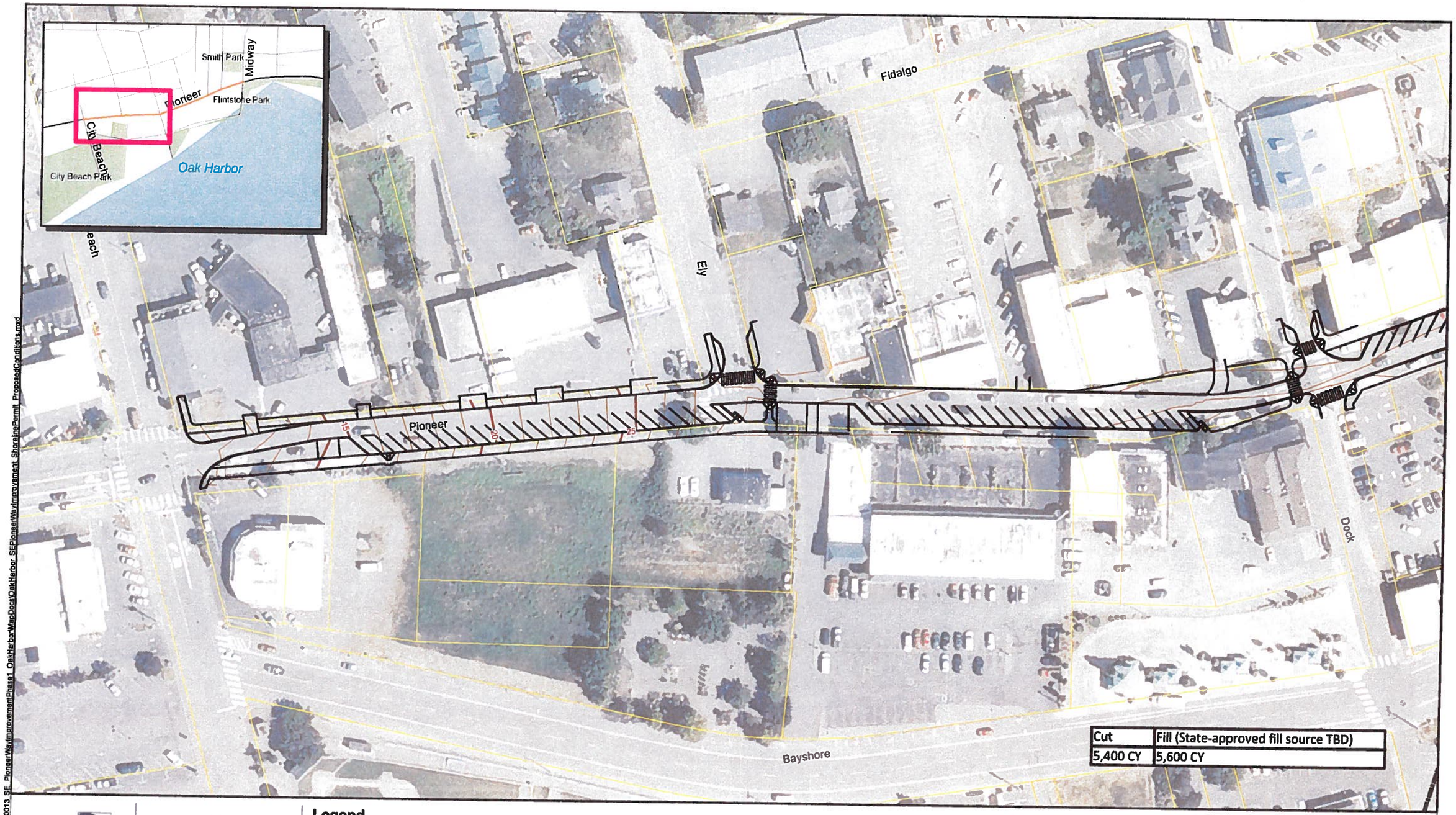
ATTACHMENT 3



Cut	Fill (State-approved fill source TBD)
5,400 CY	5,600 CY

Perteet

0 40 80
Feet

Legend

- Proposed Base
- Shoreline Jurisdiction Line
- Mean Higher High Water Mark (9.28 ft)
- 5ft Interval Contour
- 1ft Interval Contour
- Parcels
- Waterbody (NWI)

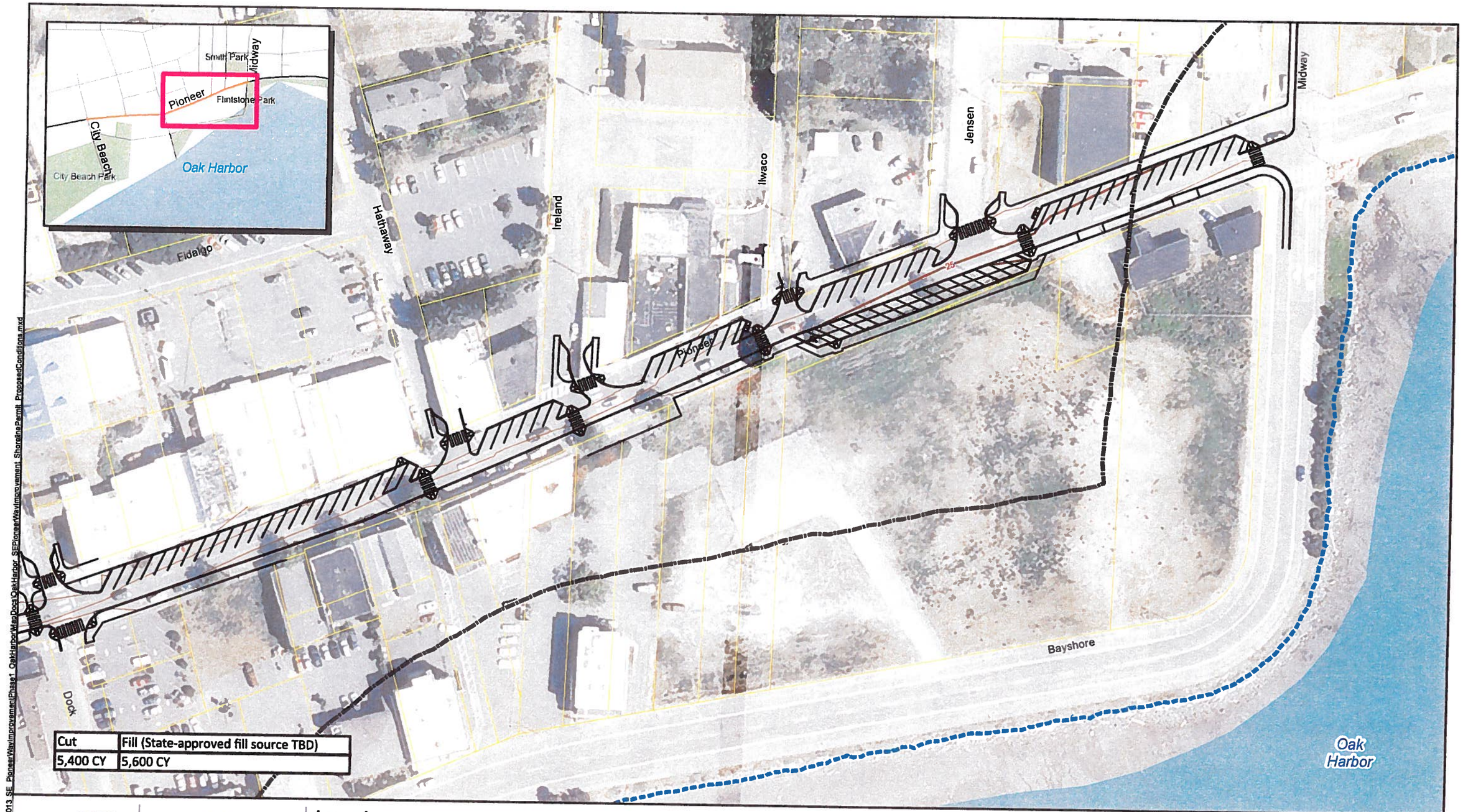
SE Pioneer Way Improvement Project
Proposed Conditions

Sheet 3 of 4

J:\GIS\GIS_Projects\20090013_SE_PioneerWayImprovementPhase1_OakHarbor\MapDocs\OakHarbor_SEPioneerWayimprovement_ShorelinePermit_ProposedConditions.mxd

Source: USGS Aerial (2009)

ATTACHMENT 3



Cut	Fill (State-approved fill source TBD)
5,400 CY	5,600 CY

Perteet

0 40 80
Feet

Legend

- Proposed Base
- Shoreline Jurisdiction Line
- Mean Higher High Water Mark (9.28 ft)
- 5ft Interval Contour
- 1ft Interval Contour
- Parcels
- Waterbody (NWI)

SE Pioneer Way Improvement Project
Proposed Conditions

Sheet 4 of 4

Source: USGS Aerial (2009)

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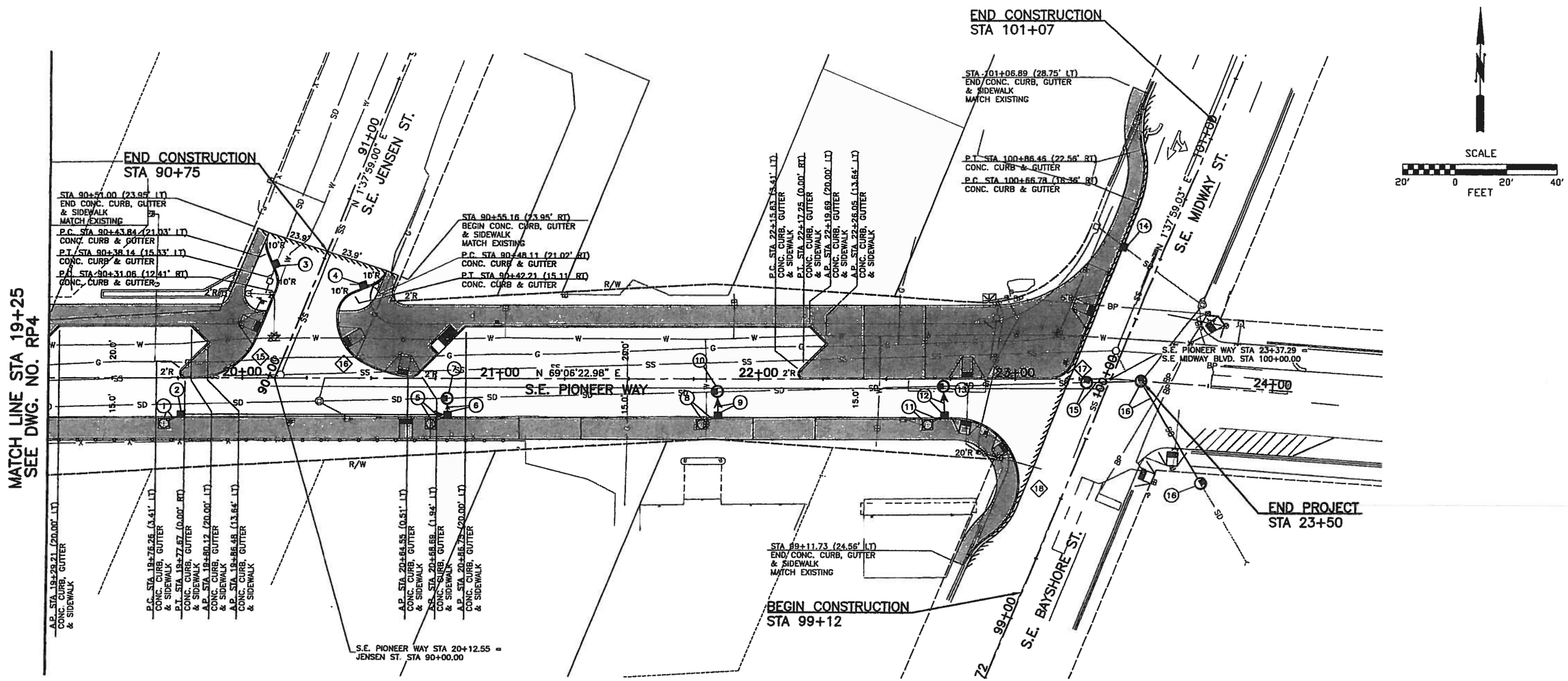
ATTACHMENT 3

SEC 2, T 32 N, R 1 E, W.M. ISLAND COUNTY, WASHINGTON



15 S.E. JENSEN ST. – NW CORNER

CURB RETURN ELEVATIONS	FLOW LINE
PC STA 19+82.40 (0.00' LT))	25.15
1/4 STA 19+89.65 (1.07' LT)	25.16
1/2 STA 19+96.28 (4.21' LT)	25.22
3/4 STA 20+01.71 (9.12' LT)	25.32
PT STA 90+11.52 (12.42' LT)	25.43

Δ= 67.4300
R= 25'
T= 16.68'
L= 29.42'

17 S.E. MIDWAY ST. – NW CORNER

CURB RETURN ELEVATIONS	FLOW LINE
PC STA 23+13.31 (0.00' LT)	XXX
1/4 STA 23+16.23 (0.43' LT)	XXX
1/2 STA 23+18.89 (1.70' LT)	XXX
3/4 STA 23+21.07 (3.69' LT)	XXX
PT STA 23+22.57 (6.22' LT)	XXX

Δ= 67.8022
R= 10'
T= 6.72'
L= 11.83'

**FLOW LINES TO BE DETERMINED AT 90% SUBMITTAL.

16 S.E. JENSEN ST. – NE CORNER

CURB RETURN ELEVATIONS	FLOW LINE
PC STA 90+31.78 (12.75' RT)	25.65
1/4 STA 90+26.62 (15.49' RT)	25.37
1/2 STA 20+39.27 (13.25' LT)	25.23
3/4 STA 20+42.95 (8.71' LT)	25.13
PT STA 20+47.78 (5.43' LT)	25.05

Δ= 67.1989
R= 20'
T= 13.29'
L= 23.46'

18 S.E. BAYSHORE ST. – SW CORNER

CURB RETURN ELEVATIONS	FLOW LINE
PC STA 22+76.71 (15.00' RT)	XXX
1/4 STA 22+91.70 (19.99' RT)	XXX
1/2 STA 99+55.53 (21.17' LT)	XXX
3/4 STA 99+40.74 (15.65' LT)	XXX
PT STA 99+25.23 (20.10' LT)	XXX

Δ= 147.3011
R= 25'
T= 85.22'
L= 64.27'

**FLOW LINES TO BE DETERMINED AT 90% SUBMITTAL.

DRIVEWAY APPROACH SCHEDULE

DRIVEWAY CL STATION	WIDTH	LENGTH FROM CURB	MATERIAL
21+20 (RT)	24.0'	8.0'	X
22+10 (RT)	24.0'	8.0'	X
22+53 (LT)	25.0'	28.5'	X

LEGEND:

- PAVING LIMITS
- PROPOSED WALL
- PROPOSED HANDRAIL

60% SUBMITTAL
NOT FOR CONSTRUCTION

No.	Date	Revision	By	Appr.

Perteet Inc.
425-252-7700 | 1-800-615-8900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

City of Oak Harbor

Drawn By KMB	Date 7/16/10	SCALE	
Designed By GSS	7/16/10	Horiz. X	
Checked By DJH	7/23/10	Vert. X	
Approved By		Project Number 20090013	

CITY OF OAK HARBOR

S.E. PIONEER WAY RECONSTRUCTION
STA 19+25.00 TO STA 24+00.00
ROADWAY PLAN

Drawing No. RP5

ATTACHMENT 3

CITY OF OAK HARBOR
MITIGATED DETERMINATION OF NONSIGNIFICANCE

Description of proposal: *The City of Oak Harbor proposes to improve SE Pioneer Way in Downtown Oak Harbor. The proposed project will add-multi-modal and pedestrian-friendly street improvements and streetscape enhancements. The project includes the removal and replacement of the entire surface cross section, storm drainage conveyance system, and sanitary sewer system within the limits of the existing infrastructure. In addition, streetscape improvements include widening sidewalks, providing on-street parking, and adding social gathering spaces. Existing overhead utilities will be relocated underground.*

Proponent *City of Oak Harbor*

Location of proposal *SE Pioneer Way in downtown Oak Harbor between the intersections of City Beach Street and Midway Boulevard, Section 2, Township 32 North, Range 1 East.*

Lead Agency *City of Oak Harbor*

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

X This mitigated DNS is issued under WAC 197-11-340(2), with a fourteen day comment period ending on August 23, 2010; provided there are no substantive comments submitted the MDNS will become final on that date. There will be a 15 day appeal period ending September 6, 2010.

MITIGATION MEASURES:

1. The City or its contractor shall follow all structural recommendations, if any, in the geotechnical report with regard to potential soil liquefaction areas within the project area.

2. The City shall maintain appropriate, temporary erosion control best management practices (BMPs) during construction according to the temporary erosion and sedimentation control (TESC) plan, so as to prevent erosion or construction materials from impacting the regulated Shoreline area to the southeast of the Pioneer Way and Midway Boulevard intersection.

3. The City or its contractor shall maintain a spill response plan for the purposes of addressing hazardous spills during construction.

4. The City should provide prior notice to adjacent property owners when and if construction work is proposed during nighttime hours. Notice should include signs posted on the

construction site and should occur two weeks in advance of the proposed construction when possible.

5. The City shall provide sufficient notice to Island Transit of the construction phasing plan for the Pioneer Way improvements so that Island Transit can anticipate the effect of construction impacts on transit services.

Responsible Official: Steve Powers, AICP

Position/Title: Development Services Director

Phone: (360) 279-4511

Address 865 SE Barrington Drive, Oak Harbor, WA 98277 Date August 6, 2010

Signature _____

This mitigated determination of nonsignificance shall be considered final unless subsequently modified by a major amendment to the proposed project or as a result of comments received by August 23, 2010. You may appeal this determination at Oak Harbor City Hall, 865 SE Barrington Drive, Oak Harbor, WA, 98277 within fifteen days of the date set out above, or no later than close of business September 6, 2010.

ENVIRONMENTAL CHECKLIST

CITY OF OAK HARBOR
865 SE Barrington Drive
Oak Harbor, Washington 98277
Phone: (360) 279-4510

Purpose of Checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the information to help you and the City identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the City decide whether an EIS is required.

Instructions for Applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information know, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply". Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems the City can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The City may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." In addition, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable: SE Pioneer Way Improvement Project

2. Name of Applicant: City of Oak Harbor

3. Address: 865 SE Barrington Drive

   City Oak Harbor Phone No. 360-279-4520

   Contact Person: Russ Pabarcus, PE

4. Date checklist prepared: May 28, 2010

5. Agency requesting checklist: City of Oak Harbor

6. Proposed timing or schedule (including phasing, if applicable):

   The project is scheduled to begin in 2011 and is expected to last six to eight months.

7. Do you have any plans for future additions, expansion, or future additions, expansion, or further activity related to or connected with this proposal: If yes, explain.

   None.

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

   SEPA Checklist, Perteet Inc. (May, 2010)

   Geotechnical Report, GeoEngineers (January, 2010)

   Oak Harbor Downtown Circulation Study (April, 2001)

   Historic and Cultural Resources Review Sheet and APE Letter, Perteet Inc. (April-May, 2009)

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal: If yes explain:

   None known.

10. List any government approvals or permits that will be needed for your proposal, if known.

Shoreline Conditional Use Permit and Grading Permit. The one-way conceptual design for Pioneer Way was approved at an Oak Harbor City Council meeting in December, 2009, after several years of planning and studies, many public city council meetings, and meetings with community groups and committees. Outreach continues with a downtown business survey, and an upcoming design workshop.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

The proposed project will add multi-modal and pedestrian-friendly streetscape enhancements and street improvements to Pioneer Way in downtown Oak Harbor. The project includes the removal and replacement of the entire surface street cross section, storm drainage conveyance system, and sanitary sewer system within the limits of the existing infrastructure. In addition, streetscape improvements include widening sidewalks, providing on-street parking, converting Pioneer way from a two-way to a one-way street, and adding social gathering spaces. Existing overhead utilities may be relocated underground. The formation of a Local Improvement District or Special Assessment District is not proposed.

12. **LOCATION OF THE PROPOSAL.** Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The project is located in downtown Oak Harbor between City Beach Street and Midway Boulevard (Sections 38 and 39; Township 32N; Range 01E). Please see the vicinity map on the next page.

Oak Harbor
2nd
3rd
Fisher
Athletic Field
4th
4th
5th
Holland Gardens Park
Jerome
Neil
Olea
6th
6th
Glencoe
8th
Midway
Ma lor
Ireland
Iiwaco
Jensen
9th
10th
11th
Barrington
Ely
Dock
Fidalgo
Fidalgo
Hathawa
City Beach
Bayshore
Pioneer
20
20
Beeksma
80 Southwest
Harbor
Perteet
0 300 600
Feet
Legend
Project Site
SE Pioneer Way Improvement Project
Vicinity Map
Source: ESRI (2008)
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TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

B. ENVIRONMENTAL ELEMENTS

1. EARTH

a. General description of the site (circle one): **Flat, rolling,** hilly, steep slopes, mountainous, other _____

b. What is the steepest slope on the site (Approximate percent slope)?

Approximately 0-5 percent slope.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.

Soil types are noted as predominantly Whidbey-Hoypus complex and Sholander, cool-Spieden complex. Whidbey soils contain gravelly loam to gravelly sandy loam. Hoypus soils are sandy loam to extremely gravelly sand. Sholander is gravelly loam to loam. Spieden soils range from Mucky silt loam to coarse sand (source: National Resources Conservation Service 2010).

d. Are there surface indications or history of unstable soils in the immediate vicinity: If so, describe.

This section of Pioneer Way is located in an area noted as a "High Potential Liquefaction Area" on the City's critical areas map.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.

Approximately 5,400 cubic yards of excavation and 5,600 cubic yards of fill, including pavement and sidewalks, are anticipated. Fill will be from a state-approved source.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

Some temporary erosion may occur during construction as a result of excavation activities.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

The existing project site is completely covered by a combination of impervious asphalt and concrete surfaces. Proposed improvements will not result in additional impervious surface areas.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

Standard Best Management Practices (BMPs) will be used, including inlet protection and the placement of a silt fence on the project's perimeter. In addition, recommendations included in the Geotechnical Report, prepared by GeoEngineers (January, 2010), will be incorporated into the temporary erosion and sedimentation control (TESC) plans.

2. AIR

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

Construction traffic may cause congestion, which would temporarily increase emissions from idling vehicles. In the completed project, no increases in emissions are projected.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.

None.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

c. Proposed measures to reduce or control emissions or other impacts to air, if any:

The overall project will include typical mitigation measures to minimize short-term air quality effects caused by dust and heavy equipment emissions during construction. Mitigation measures include the following actions:

- Require all City construction crews and contractors to comply with Northwest Clean Air Agency regulations for dust control during construction.
- Maintain the engines of construction equipment according to manufacturers' specifications.
- Minimize idling equipment while not in use.

The final project includes wider sidewalks, which encourages pedestrian activity and reduces the need for vehicle travel.

3. WATER

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names on a site map of the project indicating all water bodies which are on the site, including lakes, streams, drainages, and areas that are known to be or thought to be wetlands. If appropriate, state what stream or river it flows into.

The harbor, part of Puget Sound and a Shoreline of Statewide Significance, is located 75 feet to the south of the project site.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach a site map of the project indicating all water bodies which are on the site, including lakes, streams, drainages, and areas that are known to be or thought to be wetlands.

The eastern portion of the project is within 200 feet of the shoreline. Approximately 200 linear feet of roadway replacement, sidewalk reconstruction, and utility work, along with intersection improvements at Midway Boulevard, will occur in this area.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill materials.

No fill material will be placed into or dredged from the water.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

No surface water withdrawals are proposed.

5) Does the proposal lie within a 100-year flood-plain? If so, note location on the site plan.

According to FEMA's flood insurance maps, the project area lies outside the 100-year flood plain.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

No discharges are proposed.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

b. Ground:

1) Will groundwater be withdrawn, or will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

No withdrawals or discharges are proposed.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

No waste materials will be discharged to groundwater.

c. Water Runoff (including storm water):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow: Will this water flow into other waters? If so, describe.

Stormwater is collected within the existing stormwater system. Some stormwater ponding has been noted, indicating the need for the improvements that are included in the project design. The system is proposed to be rebuilt with new catch basins, conveyance pipe (12"), and storm filters to treat all stormwater generated by the project.

During construction, stormwater runoff will be captured on site, filtered through inlet protection to remove sediment, and discharged to the storm conveyance system.

2) Could waste materials enter ground or surface waters? If so, generally describe.

No waste materials will enter ground or surface waters.

Staff notes that there will be a spill response plan during construction to prevent hazardous materials from entering surface waters.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:

Best Management Practices (BMPs) will be used to contain stormwater during construction. The project will likely include Low Impact Development stormwater treatment techniques.

4. PLANTS:

a. Check or circle types of vegetation found on the site:

__X__ deciduous tree: alder, **maple,** aspen, other
_____ evergreen tree: fir, cedar, pine, other
__X__ shrubs
_____ grass
_____ pasture
_____ crop or grain
_____ wet soil plants: cattail, buttercup, bulrush, skunk cabbage, other
_____ other types of vegetation

b. What kind and amount of vegetation will be removed or altered?

All street trees will be removed (approximately 30) and new street trees and landscaping will be replaced in accordance with the City's street frontage standards.

c. List threatened or endangered species known to be on or near the site.

No listed or vegetative species of concern are on the site. A protected Oak Stand is located to the east of the project, but will not be impacted by the project actions.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:

The proposed project will include street trees, low growing shrubs, and groundcover in landscape strips throughout the project.

5. ANIMALS

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:

X **hawk, heron, eagle, songbirds,** other
____ deer, bear, elk, beaver, other
X bass, **salmon, trout,** herring, shellfish, other

b. List any threatened or endangered species known to be on or near the site.

No threatened or endangered species are on the site or in the immediate vicinity of the site. Some threatened and endangered species are known to be in the Puget Sound, including:

- Chinook Salmon (threatened)
- Coho Salmon (species of concern)
- Steelhead (threatened)
- Southern Resident Killer Whale (endangered)
- Humpback Whale (endangered)
- Steller Sea Lion (threatened)

No eagle nests are located near enough to the site to be impacted by construction activities.

The shoreline area to the south is shown as an estuary zone on Priority Habitat and Species (PHS) data maintained by the State Department of Fish and Wildlife.

Staff notes that the nearest bald eagle nest is located nearly one (1) mile away from the project site on Maylor Point. There are two nests on Maylor Point designated as numbers 1099:1 and 1099:2 by the Washington Department of Fish and Wildlife (WDFW).

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

c. Is the site part of a migration route? If so, explain.

The project area is located within the Pacific Coast Flyway. This intercontinental migration corridor includes Puget Sound and supports a variety of species.

d. Proposed measures to preserve or enhance wildlife, if any:

None necessary.

6. ENERGY AND NATURAL RESOURCES

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.

Electricity will be used to operate the new street light components. Gasoline will be utilized for the operation of street maintenance vehicles.

No buildings are proposed that would block solar access.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:

Street trees will counteract heat islands caused by buildings, sidewalks, and pavement. The project will incorporate GreenRoads features and potentially be certified as a "GreenRoad" (a LEED-type rating for sustainably built roads). LED street lights will also be incorporated. In addition, the City has a "no idling" policy for maintenance vehicles.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

7. ENVIRONMENTAL HEALTH

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

It is not unusual to encounter contamination of sites in historic downtowns due to the presence of defunct and no-longer existing gas stations and uses that required fuel tanks. The Geotechnical Report prepared by GeoEngineers (January, 2010) confirms the presence of contaminated sites located on parcels adjacent to the project and/or within the right-of-way. These sites include four former gas station sites, a dry cleaning site, and another site with underground storage tanks. At least one of these locations has contaminated soils per Ecology's Confirmed and Suspected Contaminated Sites.

In addition, there is a gas line within the right-of-way, which will require protection during construction.

1) Describe special emergency services that might be required.

None.

Staff note that during construction and upon completion of the street improvements, the potential exists for fires, accidents, hazardous material spills, rescues, and medical emergencies. All such situations require the services of the fire department.

2) Proposed measures to reduce or control environmental health hazards, if any:

Recommendations for handling toxic soils are included in the geotechnical report prepared for the project (GeoEngineers, 2010). If contaminated soils are encountered, they require special handling and disposal to a suitable facility. Excavations will be monitored and screened by professionals as appropriate. Tanks that are encountered may be removed or closed in place, according to the UST Closure and Petroleum Remedial Action

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

Plan developed for the project. Any groundwater encountered will also need to be analyzed.

The gas line within the right-of-way will be located by the gas utility prior to construction in order to avoid any rupture of the line.

b. Noise:

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other):

Noise in the area is generated by trucks and automobile traffic, and by air traffic associated with the Whidbey Island Naval Base. No impacts to the project are expected.

Staff note that this is a road project. Therefore, ambient noise will have no adverse impacts on the project.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other): Indicate what hours noise would come from the site.

Construction vehicles and equipment will generate temporary noise throughout the duration of construction, which could last six to eight months. Typical construction activities that generate noise include jackhammers, dump trucks, paving trucks, etc. Construction will occur during the hours permitted by the Oak Harbor Municipal Code for construction noise, but could include both daytime and nighttime hours.

After construction, the completed project will generate the same level of noise as experienced under current conditions.

Staff note that there will be a construction phasing plan for the project. Public input will be taken into consideration in the development of the construction phasing plan so as to minimize adverse impacts to Pioneer Way businesses from construction noise, to the greatest degree possible.

3) Proposed measures to reduce or control noise impacts, if any:

Project construction hours will be limited to those allowed in noise requirements in the Oak Harbor Municipal Code.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

8. LAND AND SHORELINE USE

a) What is the current use of the site and adjacent properties?

The site is City-owned right-of-way and is currently used as a primary street through downtown. Adjacent properties are devoted to commercial uses with some vacant properties.

b. Has the site been used for agriculture? If so, describe.

No.

c. Describe any structures on the site.

No structures are on site, aside from typical utility poles and utilities located under the roadway.

d. Will any structures be demolished? If so, what?

No structures will be demolished.

e. What is the current zoning classification of the site?

The site is right-of-way. The surrounding properties are zoned Central Business District I and II (CBD).

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

f. What is the current comprehensive plan designation of the site?

The site is right-of-way. The surrounding properties are designated Central Business District (CBD) on the City of Oak Harbor's Land Use Map.

g. If applicable, what is the current shoreline master program designation of the site?

The portions of the site that are within the 200' shoreline jurisdiction are designated Urban (U) in the City's Shoreline Master Program.

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.

This section of Pioneer Way is located in an area noted as a "High Potential Liquefaction Area" on the City's critical areas map.

i. Approximately how many people would reside or work in the completed project?

None.

j. Approximately how many people would the completed project displace?

No displacement, as defined by Section 104(d) of the Housing and Community Development Act, will occur.

k. Proposed measures to avoid or reduce displacement impacts, if any:

None necessary.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: .

None necessary. The proposal is consistent with the City's Comprehensive Plan and vision for downtown Oak Harbor. Specifically, the project is consistent with the following Comprehensive Plan goals and policies: Land Use (LU) Policy 1f; LU Policy 7a; LU Policy 14e; Urban Design (UD) Goal 6; UD Policy 6a; and Utilities Policy 7d. The City will need to address some right-of-way boundaries, access, and easement discrepancies prior to construction of this project.

9. HOUSING

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

None.

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low income housing.

None will be eliminated.

c. Proposed measures to reduce or control housing impacts, if any:

None necessary.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

10. AESTHETICS

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

No buildings are proposed. The tallest structures will be typical street lights.

b. What views in the immediate vicinity would be altered or obstructed?

None.

c. Proposed measures to reduce or control aesthetic impacts, if any:

None necessary. The project itself will contribute to improvement of the urban environment. Pedestrian-oriented improvements, which will include wider sidewalks and other amenities, will enhance the downtown area's function and appearance. Complete streetscape improvements, including street trees, will add to the aesthetic quality of the street.

11. LIGHT AND GLARE

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Street lights and signals will be visible during the nighttime hours.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

b. Could light or glare from the finished project be a safety hazard or interfere with views?

No. Street lights contribute to the safety of the urban environment.

c. What existing off-site sources of light or glare may affect your proposal?

None.

d. Proposed measures to reduce or control light and glare impacts, if any:

None necessary. Street lighting will be downward-directed, so as not to impose glare on second-story uses.

12. RECREATION

a. What designated and informal recreational opportunities are in the immediate vicinity?

Several city parks are located in the area, including Beach Park, Windjammer Park, Flintstone Park, Hal Ramaley Park, and Smith Park. The shoreline area also offers a waterfront trail system and docks for boating recreation.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

b. Would the proposed project displace any existing recreational uses? If so, describe.

No.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

None needed. The project will contribute to the experience of recreation users by improving access to recreation opportunities and by enhancing the urban downtown experience for visitors to the area.

13. HISTORIC AND CULTURAL PRESERVATION

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

According to records maintained by the State Department of Archaeology and Historic Preservation (DAHP), the project area does not contain, and is not adjacent to, historic properties listed on the National Register of Historic Places or the Washington Heritage Register.

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

Research conducted at the Washington State DAHP indicates there is one recorded archaeology site adjacent to the project area. The site is believed to be the location of an early Skwadbsh settlement. The DAHP site inventory form indicates that there were traces of reworked/re-deposited shell and charcoal reported throughout much of the site, although the area has been fully developed since the first documented discovery.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

c. Proposed measures to reduce or control impacts, if any:

Consultation with the DAHP has resulted in a recommendation that an archaeologist be on-site to report on monitoring and ground disturbance, with further consultation.

14. TRANSPORTATION

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

Pioneer Way, Bayshore Drive and Barrington Drive are major east-west connectors through downtown Oak Harbor. Several side streets connect these roadways to each other. SR 20, the major state route that runs through Whidbey Island, is located a quarter mile to the west of the project area. Please see vicinity map.

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

Oak Harbor is served by Island Transit. The Harbor Station Transit Center is located at Dock Street and Bayshore Drive, a block south of the project area. Routes that serve the station include Routes 1, 2, 3, 6, 9, 10, and 411W.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

c.How many parking spaces would the completed project have? How many would the project eliminate?

There will be an overall increase in parking spaces available. The completed project will have between 120 and 130 parking spaces. Pioneer Way currently has 83 parking spaces.

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

The proposal improves circulation on the street system and enhances facilities for pedestrians. Traffic flow will be altered with the redesign of the street to one-way and intersections with side streets will be improved to facilitate traffic and turning movements. The project does not require the improvement of additional streets.

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

Yes. Water transportation facilities are located within the harbor, but will not be impacted by the project.

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

The proposal itself does not generate vehicular trips, but is designed to accommodate 15,000 average daily trips in the twenty-year planning horizon.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

g. Proposed measures to reduce or control transportation impacts, if any:

The project itself improves the street system, increases parking opportunities in the downtown area, and encourages pedestrians to park their cars and walk around downtown. The City continues to engage the public and business owners in public meetings to address transportation and access concerns.

During construction, special attention will be given to street closures, parking needs, and continued pedestrian and vehicular access to local businesses. The City will work closely with Island Transit to reroute buses that cross Pioneer Way.

15. PUBLIC SERVICES

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

No increase is anticipated.

b. Proposed measures to reduce or control direct impacts on public services, if any.

None needed.

16. UTILITIES

a. Circle utilities currently available at the site: **electricity**, **natural gas**, **water, refuse service, telephone, sanitary sewer,** septic system, other.

TO BE COMPLETED BY APPLICANT

EVALUATION FOR AGENCY USE ONLY

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

The utilities on the site include the following:

- **Overhead power (provided by Puget Sound Energy)**
- **Underground telephone (provided by Verizon)**
- **Water (provided by the City of Oak Harbor)**
- **Sewer (provided by the City of Oak Harbor)**

Existing overhead power lines may be relocated below ground if and where possible. If they are undergrounded, property owners will be required to pay to reconnect to the newly undergrounded utilities.

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: [illegible]

Date Submitted: 8/6/2010

BEFORE THE CITY OF OAK HARBOR PLANNING COMMISSION
STATE OF WASHINGTON

In Re Application No. PLN 10-00007	)	FINDINGS OF FACT
	)	CONCLUSIONS OF LAW
	)	AND RECOMMENDATION OF
	)	PLANNING COMMISSION

City of Oak Harbor Pioneer Way Street Improvements Project Shoreline Substantial Development Conditional Use Permit.

THIS MATTER came before the Planning Commission upon the application of City of Oak Harbor for a Shoreline Substantial Development Conditional Use Permit. Having considered the evidence in the record, heard the arguments of the parties and any public comment, and being fully advised in the premises, the Planning Commission hereby enters the following findings of fact, conclusions of law, and recommendation:

Findings of Fact

1. An application for a Shoreline Substantial Development Conditional Use Permit was filed with the Department of Development Services and deemed complete by the Director on July 6, 2010.

2. The permit sought by applicant is for improvements to SE Pioneer Way within the City's regulated shoreline area which is located within 200 feet of the ordinary high water mark of the waters of Oak Harbor Bay.

3. A Notice of Application was published in the Whidbey News Times, the newspaper of local circulation on July 10, 2010.

4. The applicant submitted an environmental checklist pursuant to the State Environmental Policy Act on June 11, 2010.

5. Based upon the information submitted by the applicant, the SEPA official for the City issued a mitigated determination of non-significance on August 6, 2010.

6. The mitigated determination of non-significance was published in the Whidbey News Times on August 7, 2010.

Conclusions of Law

A. The Planning Commission has jurisdiction to make a recommendation on this project permit pursuant to the City's Shoreline Master Program.
B. Proper notice of all hearings, comment periods and appeal periods was given.
C. A single open record hearing on the permit application was held before the Planning Commission.
D. No appeal of the mitigated determination of non-significance was timely filed.
E. The Planning Commission recommendation regarding the permit application was reached after a single open record public hearing.
F. The permit application meets the goals, policies, and regulations of the City's Shoreline Master Program.

Recommendation

Based upon the foregoing findings of fact and conclusions of law, the Planning Commission hereby recommends approval of the Shoreline Substantial Development Conditional Use Permit based upon the following conditions:

1. The design and development of the proposed street improvements must conform to all conditions and mitigation measures defined in the SEPA Checklist and MDNS dated August 6, 2010.

2. The applicant is required to install signage at two locations designating Pioneer Way as a bicycle route in compliance with the Class III Bicycle /Multiuse Trails design specified in the adopted Parks, Recreation and Open Space Plan.

3. The design and development of the proposed street improvements must conform to all applicable regulations within the Shoreline Master Program.

This order is advisory to the City Council and may be accepted by the City Council, remanded to the Planning Commission for reconsideration, or rejected by the City Council after public hearing.

RECOMMENDED TO THE CITY COUNCIL THE 28th DAY OF SEPTEMBER, 2010.

PLANNING COMMISSION
CITY OF OAK HARBOR, WASHINGTON

_____
Chair

Attest:

_____
Kathy Gifford
Clerk to the Planning Commission

Adult Entertainment Ordinance

Public Hearing

PLANNING COMMISSION

TO: CITY OF OAK HARBOR PLANNING COMMISSIONERS

FROM: CAC KAMAK, AICP, SENIOR PLANNER

SUBJECT: ADULT ENTERTAINMENT FACILITIES OVERLAY DISTRICT – PUBLIC HEARING

DATE: 9/23/2010

CC: STEVE POWERS, AICP, DEVELOPMENT SERVICES DIRECTOR

The City Council approved the work plan for the extension of the interim Adult Entertainment Facilities Overlay District on September 7, 2010. Staff is continuing to research and work on the tasks approved in the work plan. More information will be available at the October 26, 2010 meeting. Therefore, staff recommends continuing the public hearing to the October 26, 2010 meeting.

Permit Extension for Adult Day Care Conditional Use Permit

Public Hearing

Agenda Item No. 5 – Adult Day Care Facility:
Extension of modular building permit

Project Information

Property Owners:	City of Oak Harbor
Location:	917 E. Whidbey Avenue
Zoning:	PF Public Facilities
Comprehensive Plan:	Public Facilities
Site Area:	0.6095 Acres
Adjacent Uses:	Public Facilities, Residential Office

Request

Mr. Mike McIntyre, Senior Services Director, requests a permit extension for the existing Daybreak Adult Care Facility. The extension would allow for the continued use of an existing modular structure within the Public Facilities (PF) zone.

In a memo addressed to the Development Services Department Director (please see Exhibit A), Mr. McIntyre notes the existing use of the building for senior services related programs and events. He also notes that plans for development of a senior center replacement facility have been suspended due to the deterioration of economic conditions.

History

The adult daycare program cares for disabled or elderly individuals for periods of time during the day by providing activities and attending to specific needs, offering assistance to caretakers of the individuals. The adult daycare program was relocated to city-owned property, with Public Facilities zoning, in 2001 and was housed in a modular home. The use of a modular home for this type of activity is specifically allowed by the standards of the Public Facilities zoning district. The initial approval of a modular structure is good for a period of five years; two year extensions of the use are available subject to Planning Commission approval.

Application Review

Oak Harbor Municipal Code (OHMC) 19.20.792 authorizes a manufactured home to be placed within the Public Facilities district to serve non-residential uses listed in the permitted and conditional uses of the Public Facilities zoning district. OHMC 19.20.775 (3) provides for senior centers and adult day care centers as a primary permitted use within the Public Facilities zoning district. The modular may be placed in this zoning district for a period not to exceed five years. The building permit for this modular (BLD-01-353) was approved in August 2001. Two-year extensions may be approved by the Planning Commission.

Analysis
When first proposed, project was reviewed by staff and found to be consistent with the intent of the Oak Harbor Comprehensive Plan and the provisions of the Oak Harbor Municipal Code. Specifically, the Comprehensive Plan Government Service Element (Goal 7) outlines the need to continue to provide senior citizens with recreational, social, educational, and health maintenance services designed to meet their needs. All applicable provisions of the Municipal Code were met. Accordingly, staff supported the original request and the subsequent time extensions.

There have been no significant changes in land use or changes in area conditions such either the original approval or the time extension. Staff supports the continuation of this land use at this location. Staff believes that the additional two-year extension to the modular structure will allow the City to continue to provide building space for important senior-related services. Staff finds the proposed project to be in conformance with the Oak Harbor Municipal Code and the Oak Harbor Comprehensive Plan.

Conclusion
Based on the above analysis, staff finds that the two year extension for the Oak Harbor Adult Day Care Modular has met the requirements and development regulations of the Oak Harbor Municipal Code and the Comprehensive Plan and as such the public interest will be served by the extension.

Therefore, staff recommends **APPROVAL** of the two-year extension for the use of an existing modular structure in the Public Facilities zoning district.

Recommendation
1. Conduct the public hearing.
2. Adopt Findings, Conclusions and Record of Decision and approve the two-year extension for the use of an existing modular structure in the Public Facilities zoning district.

Attachments:
A. Memo from Mr. Mike McIntyre, Senior Services Director, dated August 16, 2010.
B. Findings, Conclusion and Record of Decision dated September 28, 2010

INTEROFFICE MEMORANDUM

DATE: August 16, 2010

FROM: Mike McIntyre, OH Senior Services Administrator

TO: Steve Powers, Development Services Director

SUBJECT: Request for Permit Extension ICO OH Adult Day Care Building

Oak Harbor Adult Day Care Building Permit (BLD01-OO353)

Background

In October of 2001, a building permit was issued for a modular unit designated to house the City's adult day care program, located on Public Facilities (PF) zoned property adjacent to the City's Senior Center. In addition, a Variance request (relating to chapter 19.44.100) was approved permitting driveway and parking areas to be gravel, with the exception of the parking area near the building which was paved for disabled accessibility.

The modular unit has been used to conduct adult day care services since the beginning of 2002. The City's current contract with the non-profit group Island Thrift (modular facility owners) permits use of the building for "senior services related programs and events." The facility now houses a 501(c)3 non-profit group, North Whidbey Caregivers' Cove (NWCC), which has contracted with the City to provide caregivers' resource center support for local citizens. In addition to offering 5 day a week adult care, information and assistance for caregivers, the facility is used for Washington State certification training of in-home caregiver workers (200 people certified to date) and as a Foot Care clinic for older adults.

In 2008, the Planning Commission was shown preliminary plans for development of a senior center replacement facility which would include spaces designed to support caregiver needs. While we continue to hope that such a facility will eventually house local caregiver support programs and services, further development of those plans has been held in abeyance due to the deterioration of economic conditions.

In 2006 and 2008, 2 year permit extensions were granted by the Planning Commission for subject facility. At those times Development Services found no land use issues to exist or likely to be created to preclude approval. An additional two year extension may be considered under the provisions of OMHC code 19.20.792 (Manufactured home structures).

OH Senior Services wishes to continue its use of the modular unit. The building's current permit extension will expire in October 2010.

Recommendation

Recommend placing request for an additional 2 year permit extension for the adult day care building on September's Planning Commission agenda for Board consideration/approval.

ATTACHMENT A

BEFORE THE CITY OF OAK HARBOR PLANNING COMMISSION
STATE OF WASHINGTON

In Re Permit Application No. BLD01-0035	)	FINDINGS OF FACT
Modular Building Permit	)	CONCLUSIONS OF LAW
On Public Facilities Zoned Property	)	AND DECISION OF
	)	PLANNING COMMISSION

THIS MATTER came before the Oak Harbor Planning Commission upon the application of Mike McIntyre, Oak Harbor Senior Services Administrator, for a two-year time extension of a modular building permit on Public Facilities zoned property. Having considered the evidence in the record, heard arguments of the parties and any public comment, and being fully advised in the premises, the Planning Commission hereby enters the following findings of fact, conclusions of law and decision:

Findings of Fact

1. A memorandum seeking the two-year extension of the existing modular building permit on Public Facilities zoned property was filed with the Department of Development Services and deemed complete by the Director on August 16, 2010.

2. The two-year extension sought by the applicant is for the Oak Harbor Adult Day Care Facility, a an existing facility located at 917 E. Whidbey Avenue, located within the City boundaries, and more specifically encompassing Island County parcel number S7600-00-02504-0.

3. The requested two-year extension is exempt from the SEPA process.

Conclusions of Law

A. The Planning Commission has jurisdiction to determine whether to extend this permit pursuant to Oak Harbor Municipal Code Section 19.20.792.

B. Proper notice of the public hearing was given.

C. A single open record hearing on the permit application was held before the Planning Commission on September 28, 2010.

D. The permit application meets the requirements of Oak Harbor Municipal Code Section 19.20.792.

Decision

Based upon the foregoing findings of fact and conclusions of law, the Planning Commission hereby grants the application for the permit herein.

APPROVED AND ADOPTED THE 28th DAY OF SEPTEMBER 2010.

PLANNING COMMISSION
CITY OF OAK HARBOR, WASHINGTON

_____
Chair

Attest:

_____
Kathy Gifford
Clerk to the Planning Commission

2010

Comprehensive Plan

Amendments

Public Hearing

PLANNING COMMISSION

TO: CITY OF OAK HARBOR PLANNING COMMISSIONERS

FROM: CAC KAMAK, AICP, SENIOR PLANNER

SUBJECT: 2010 COMPREHENSIVE PLAN AMENDMENTS – PUBLIC HEARING

DATE: 9/23/2010

CC: STEVE POWERS, AICP, DEVELOPMENT SERVICES DIRECTOR

Due to some delays in compiling some financial information for the completion of the update to the Capital Improvements Plan, Staff recommends rescheduling the public hearing to the October 26, 2010 meeting.

Code Amendments:

Development Application Vesting

Administrative Appeals of Final EIS

Public Hearing

PLANNING COMMISSION

TO: CITY OF OAK HARBOR PLANNING COMMISSIONERS

FROM: STEVE POWERS, AICP, DEVELOPMENT SERVICES DIRECTOR

SUBJECT: PUBLIC HEARING – CODE AMENDMENTS:
DEVELOPMENT APPLICATION VESTING
ADMINISTRATIVE APPEALS OF FINAL EIS

DATE: 9/23/2010

Attached for your consideration is the City Council agenda bill which summarizes the purpose and background information for the code amendments. Two draft ordinances amending the appropriate Municipal Code sections are also attached.

City of Oak Harbor
City Council Agenda Bill

Bill No. _____
Date: October 19, 2010
Subject: Municipal Code Amendments: Application Vesting and SEPA Appeals

FROM: Steve Powers
Development Services Director

INITIALED AS APPROVED FOR SUBMITTAL TO THE COUNCIL BY:

_____ Jim Slowik, Mayor
_____ Paul Schmidt, City Administrator
_____ Doug Merriman, Finance Director
_____ Margery Hite, City Attorney, as to form

PURPOSE
The agenda bill presents amendments to the Oak Harbor Municipal Code intended to clarify when development applications vest and to clarify the City's SEPA appeal procedures.

AUTHORITY
Vested rights doctrine is codified in RCW 19.27.095, RCW 58.17.033 and RCW 36.70B.180. Administrative appeals of SEPA determinations are addressed in RCW 43.21.060, 43.21C.075 and 43.21C.080 and in WAC 197-11-680.

SUMMARY STATEMENT
The City's insurance provider, the Washington Cities Insurance Authority (WCIA) conducts annual audits of their member cities. Each audit focuses on a particular city function. The 2009 audit reviewed the City's land use procedures. Staff is pleased to report that the City's land use review and approval procedures are substantially in line with WCIA's recommendations. Only four minor areas required additional attention by the City. Two of these items are administrative in nature and are nearly complete. Two require minor code amendments: one addressing the vesting rights of development applications and the other addressing administrative appeals of Final Environmental Impact Statements (part of the SEPA process). The City is required to incorporate these recommendations into our procedures by October 31, 2010.

DISCUSSION
Staff has reviewed the existing Municipal Code to determine where to best incorporate the required code amendments. The "vested rights" amendment should be included in OHMC Chapter 18.20, Permit Processing, while the SEPA appeal procedures should be incorporated in Chapter 18.20 and Chapter 20.04, State Environmental Policy Act.

Two separate ordinances have been prepared for the City Council's consideration. The one pertaining to vesting amends OHMC Chapter 18.20 by adding a new subsection: 18.20.355, Vesting. This new subsection describes when an application vests in a particular set of development regulations, which applications are not subject to vesting, how partial vesting might apply and defines what is meant by the term 'development regulations.'

The ordinance providing for administrative appeals of Final Environmental Impact Statements proposes amending existing language found in OHMC Chapters 18.20 and 20.04. In this ordinance the existing appeals section of the SEPA code (OHMC 20.04.215) is deleted and replaced by language which clearly states which administrative appeals are permitted and outlines the appeal process. Amendments are also proposed to OHMC Chapter 18.20 to simplify the language (and increase the readability) of the consolidated appeals process. The amendment addresses how permit and environmental decisions are combined in a single public hearing and states which body (hearing examiner or city council) conducts the hearing. Another amendment, deleting reference to SEPA determinations as a review process II, is necessary to help implement the changes noted above. Finally, one housekeeping amendment is proposed (related to when appellants must file their appeal memorandums).

PLANNING COMMISSION RECOMMENDATION

The Planning Commission conducted a public hearing on the proposed amendments on September 28, 2010. The Commission recommended _____ of the draft ordinances.

STANDING COMMITTEE REPORT

The proposed code amendments were to the Governmental Services Standing Committee on October 12, 2010.

RECOMMENDED ACTION

1. Conduct public hearing on ordinances
2. Adopt ordinance amending OHMC Chapter 18.20 and providing vesting regulations
3. Adopt ordinance amending OHMC Chapters 18.20 and 20.04, clarifying the SEPA appeal process

ATTACHMENTS

1. Draft ordinances

MAYOR'S COMMENTS

ORDINANCE NO. _____

AN ORDINANCE AMENDING OAK HARBOR MUNICIPAL CODE CHAPTER 18.20, PERMIT PROCESSING, LAST AMENDED BY ORDINANCE 1376 IN 2004, BY ADDING A NEW SUBSECTION 18.20.355, VESTING.

WHEREAS, a clear understanding of the regulations in effect during the processing of a development permit is important to the applicant, the community and the City, and;

WHEREAS, in order to determine the regulations to be applied to a development permit the City Municipal Code should clearly state when an application vests in a particular set of development regulations, and;

WHEREAS, the processing of development permits in the City of Oak Harbor is largely regulated by Oak Harbor Municipal Code Chapter 18.20, Permit Process, and;

WHEREAS, by policy the Oak Harbor Planning Commission reviews and forms a recommendation on all amendments to the Municipal Code relating to land use and permit processing; and

WHEREAS, the Planning Commission did conduct a public hearing on September 28, 2010 and forwarded a recommendation to the City Council of approval and;

WHEREAS, the proposed amendment is procedural in nature and is itself not a development regulation and so is exempt from SEPA review and review by the Department of Commerce; and

WHEREAS, on October 5, 2010, the Oak Harbor City Council did conduct a public hearing and consider amending Oak Harbor Municipal Code Chapter 18.20, Permit Process;

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. There is hereby added a new Section 18.20.355 entitled "Vesting" to Title 18 of the Oak Harbor Municipal Code to read as follows:

18.20.355 Vesting.

A. An application for a development permit, to be processed under the city development regulations or the Shoreline Master Program, vests at such time as a complete application is filed with the development services department and all required permit fees are paid. An application is "complete" on the date a complete application is filed, as subsequently determined in the letter of completeness issued pursuant to Section 18.20.350. An application vested under this subsection is not subject to any laws or regulations which become effective after the date of vesting, except as provided below.

B. If a permit application vested under subsection A of this section is approved, and that permit approval contemplates one or more future uses or permits on the property that are subject to that permit approval, then:

1. If the permit approval contains a detailed description of the uses, including a detailed site plan drawn to scale, specifying the location of all buildings and improvements to be constructed in conjunction with the use(s), and such site plan is consistent with all laws and regulations in effect at the time the original application vested, then all permit applications in connection with the future use(s) are vested to the laws and regulations in effect at the time of the vesting of the original permit application, and laws and regulations enacted after that vesting date shall not apply to the future use(s) or any permit applications filed in connection therewith;

2. If the development approval does not describe in detail all future uses or does not contain a detailed site plan, drawn to scale, specifying the location of all buildings and improvements to be constructed in conjunction with the future use(s), then the future use(s) shall be subject to all later enacted laws and regulations in effect at the time of the vesting of any required application for permits in connection with the future use(s). Subject to the provisions of this section, it is the intention of this subsection that, consistent with other federal, state, and county regulatory requirements, an applicant be able to vest his future development rights to the level of detail the applicant chooses to show in the application documents.

C. Nothing herein shall be construed to restrict the city from imposing conditions on development permits pursuant to the State Environmental Policy Act, Chapter 43.21C RCW, Chapter 197-11 WAC and Chapter 14.12 SCC, as long as such conditions do not change any of the requirements of the underlying code section pertinent to the particular development permit.

D. Nothing herein shall be construed to prevent the city from imposing new regulations necessary to protect the public health and safety, including, but not limited to, the requirements of the building, health, and fire codes, as now adopted or as subsequently amended.

E. Applications for site plan reviews, rezones, and comprehensive plan amendments are not subject to the vesting rules in this section. These rules also do not apply to the application of impact fees or system development charges.

Section Two: Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Three. Effective Date. This Ordinance shall be in full force and effect five days following publication.

PASSED by the City Council this 5th day of October, 2010.

( ) APPROVED by its Mayor this _____ day of _____, 2010.
( ) Vetoed

THE CITY OF OAK HARBOR

_____

_____

Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING OAK HARBOR MUNICIPAL CODE CHAPTERS 18.20, PERMIT PROCESSING, LAST AMENDED BY ORDINANCE 1376 IN 2004, AND CHAPTER 20.04, STATE ENVIRONMENTAL POLICY ACT, LAST AMENDED BY ORDINANCE 1141 IN 1998, BY PROVIDING FOR A SEPA ADMINISTRATIVE APPEALS PROCEDURE FOR FINAL EIS DETERMINATIONS.

WHEREAS, having clearly articulated review and appeals procedures is an important part of the permit and environmental review process, and

WHEREAS, it is necessary to specify which SEPA decisions are administratively appealable; and

WHEREAS, it is the City of Oak Harbor's intention to provide a procedure for administrative appeals of final environmental impact statement determinations, and;

WHEREAS, by policy the Oak Harbor Planning Commission reviews and forms a recommendation on all amendments to the Municipal Code relating to land use and permit processing; and

WHEREAS, the Planning Commission did conduct a public hearing on September 28, 2010 and forwarded a recommendation to the City Council of approval and;

WHEREAS, the proposed amendment is procedural in nature and is itself not a development regulation and so is exempt from SEPA review and review by the Department of Commerce; and

WHEREAS, on October 5, 2010, the Oak Harbor City Council did conduct a public hearing and considered amending Oak Harbor Municipal Code Chapters 18.20, Permit Process and 20.02, State Environmental Policy Act;

THE CITY COUNCIL OF THE CITY OF OAK HARBOR do ordain as follows:

Section One. Oak Harbor Municipal Code Section 20.04.215, Appeal, last amended by Ordinance 1141 § 24 in 1998, is hereby amended to read as follows:

~~20.04.215 Appeal.~~

~~(1) The following decisions are subject to administrative appeal:~~

~~(a) A final determination of DNS.~~

~~(b) When any proposal or action not requiring a decision of the city council is conditioned or denied on the basis of SEPA by a nonelected official.~~

~~(c) When both administrative appeal of the final DNS and the substantive determination by a nonelected official are allowed, the appeals must be consolidated.~~

~~(2) Such appeal shall be in accordance with Chapter 1.24 OHMC and shall lie before the city council. Appeal must be perfected by giving notice within 15 days of the effective date of the decision of the responsible official.~~

~~(3) The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding.~~

~~(4) The city shall give official notice under WAC 197-11-680(5) whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.~~

20.04.215 Appeals.

(1) Any interested person may appeal a threshold determination, adequacy of a final EIS and the conditions or denials of a requested action made by a non-elected city official pursuant to the procedures set forth in this section. No other SEPA appeal shall be allowed.

(2) All appeals filed pursuant to this section must be filed in writing with the director within 14 calendar days of the date of the decision appealed from.

(3) On receipt of a timely written notice of appeal, the director shall advise the hearing examiner of the pendency of the appeal and request that a date for considering the appeal be established. The decision of the hearing examiner shall be final and shall not be appealable to the city council.

(4) Appeals shall be governed by the procedures specified in OHMC Chapter 18.20 and 18.40.

(5) All relevant evidence shall be received during the hearing of the appeal. The procedural determination by the city's responsible official shall carry substantial weight in any appeal proceeding.

(6) For any appeal under this section, the city shall provide for a record that shall consist of the following:

(a) Findings and conclusions;

(b) Testimony under oath; and

(c) A taped or written transcript.

(7) The city shall give official notice whenever it issues a permit or approval for which a statute or ordinance establishes a time limit for commencing judicial appeal.

Section Two: Oak Harbor Municipal Code Section 18.20.240, Review process II, last amended by Ordinance 1376 § 13 in 2004, is hereby amended to read as follows:

18.20.240 Review process II.

(1) Review process II applies to all permit applications that involve administrative decisions wherein significant discretion is involved or there is significant impact to other properties.

(2) All review process II administrative decisions made by the reviewing authority shall be issued in writing. The reviewing authority may attach to any permit approval such conditions as may be necessary to assure compliance with this title, other applicable city ordinances and regulations, or any other regulations administered by federal or state agencies.

(3) Review process II applications include the following administrative decisions:

(a) Short subdivision approvals of nine lots or less;

(b) Short subdivision alteration or vacation approvals;

(c) Subdivision or short subdivision variances;

(d) Binding site plan and site plan approval where a public hearing is not required prior to decision (see Chapter 19.48 OHMC);

(e) Binding site plan variances;

(f) Administrative shoreline permits (less than one acre);

~~(g) SEPA determinations~~;

~~(h)~~(g) Wetland permit decision under Chapter 20.20 OHMC by the director of development services;

~~(i)~~(h) Expansion of an existing nonconforming property use;

~~(j)~~(i) Other review processes listed in the Oak Harbor Municipal Code as a review process II;

~~(k)~~(j) Those review processes designated by the director;

~~(l)~~(k) Dedication in lieu of park impact fee;

~~(m)~~(l) Landscape approval;

~~(n)~~(m) Land clearing permit;

~~(o)~~(n) Wireless communication facilities;

~~(p)~~(o) Sidewalk deferral;

~~(q)~~(p) Water system development charge;

~~(r)~~(q) Floodplain development permit;

~~(s)~~(r) Floodplain variance;

~~(t)~~(s) Landscape – alternative compliance;

~~(u)~~(t) Site plan – administrative (see Chapter 19.48 OHMC);

~~(v)~~(u) Sewer system development charge;

~~(w)~~(v) Joint use agreement for parking;

~~(x)~~(w) Accessory dwelling permit;

~~(y)~~(x) Pump station requirements under sewer code or water code.
Review process II decisions are appealable to the hearing examiner.

Section Three: Oak Harbor Municipal Code Section 18.20.520, Consolidated appeals – Concurrent review process, last amended by Ordinance 1376 § 34 in 2004, is hereby amended to read as follows:

18.20.520 Consolidated appeals – Concurrent review process.

(1) No more than one consolidated open record hearing shall be provided.

(2) All appeals of review process I or II project permit decisions, and any appeal of environmental determinations other than an appeal of a determination of significance (DS) under SEPA, shall be considered together in a single consolidated open record appeal hearing before the ~~highest level body designated for public review of a permit applied for under this code~~ hearing examiner.

(3) Any appeal of a SEPA determination (other than a DS) for a review process IV land use permit decision shall be considered in a single consolidated open record hearing before the ~~highest level body designated for public review of a permit~~

~~applied for under this code~~ city council (the decision maker for review process IV permits as provided for in OHMC 18.20.260). The ~~reviewing authority~~ city council shall hold a single consolidated hearing on the SEPA appeal and the land use permit application. The ~~reviewing authority~~ city council's decision on both the SEPA appeal and the land use application shall be final.

(4) An appeal of a determination of significance, if filed within 14 calendar days of its issuance in accordance with OHMC 18.20.530 shall be heard by the hearing examiner in a separate open record hearing, prior to the further processing of the land use permit application or issuance of a decision.

Section Four: Oak Harbor Municipal Code Section 18.20.550, Reports by city staff and applicant/appellant, last amended by Ordinance 1376 § 37 in 2004, is hereby amended to read as follows:

18.20.550 Reports by city staff and applicant/appellant.

(1) For any appeal heard pursuant to this title, the following procedure shall apply:

(a) ~~Within 10 calendar days of filing the appeal and at~~ At least 20 calendar days prior to the date of the scheduled hearing on the appeal, the appellant shall file with the reviewing authority a memorandum setting forth the appellant's arguments and authority. Such arguments and authority shall be restricted to those issues set forth in the appellant's written appeal statement;

(b) At least 10 calendar days prior to the date of the scheduled hearing, city staff shall file with the office of the reviewing authority and provide the appellant with a staff report responding to the appellant's memorandum concerning the appeal; and

(c) At least five calendar days prior to the date of the scheduled hearing, the appellant shall file with the office of the reviewing authority any reply memorandum which the appellant desires to file. The scope of the reply memorandum shall be restricted to responding to issues raised in the staff report.

(2) Failure to comply with the requirements of this title may result in the reviewing authority taking such action in regard to the failure as is appropriate including, but not limited to, continuing the hearing, postponing the hearing or limiting testimony at the hearing. (Ord. 1376 § 37, 2004; Ord. 1278 § 35, 2001).

Section Five: Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected.

Section Six. Effective Date. This Ordinance shall be in full force and effect five days following publication.

PASSED by the City Council this 5th day of October, 2010.

( ) APPROVED by its Mayor this _____ day of _____, 2010.
( ) Vetoed

THE CITY OF OAK HARBOR

_____

_____

Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Published: _____