

# Appendix E

## Critical Areas Ordinance Compliance

## Appendix E

### Compliance with Critical Areas Regulations in LCC Chapter 17.35A

#### **Article IV(A) Wetlands**

*17.35A.621 Wetland review and reporting requirements.*

*17.35A.580 Identification.*

**Response:** A wetland field investigation was conducted by Parametrix on March 5, 2019, and the methods specified in the U.S. Army Corps of Engineers (Corps) Wetlands Delineation Manual (Corps 1987) and indicators specified in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region were used to delineate onsite wetlands. See Appendix B of the SCUP.

*17.35A.590 Classification*

**Response:** Wetlands A and C are associated with the Cowlitz River and are considered Category II wetlands. Wetland B is not hydrologically connected to the Cowlitz River and is considered a Category III wetland.

*17.35A.591 Exemptions.*

**Response:** The delineated wetlands do not meet the requirements to be exempt from these regulations.

*17.35A.600 Allowed Activities in wetlands and buffers.*

**Response:** LCC 17.35A.600(1)(d) allows for maintenance, repair, or operation of existing structures, facilities, or improved areas, including minor modification of existing serviceable structures within a buffer zone where modification does not adversely impact wetland functions. Existing structures and gravel areas are present within the buffer zones of all three wetlands delineated on site. Maintenance, repair, and operation of these improvements would not adversely impact wetland functions.

*17.35A.605 Use intensity.*

**Response:** The existing and proposed use is an RV campground with small accessory structures that does not have extensive open areas and is forested. Member lots are not landscaped, and members have a limited duration of allowed occupancy per year. This use most closely matches the Moderate Intensity uses described in LCC 17.35A.605.

*17.35A.610 Protection.*

**Response:** The wetland report in Appendix B of the SCUP identifies the wetland buffers for wetlands A, B, and C. As part of this Shoreline Conditional Use Permit application, only those lots within or partially within the SMP jurisdiction that are also within a wetland buffer within the SMP are being considered. Those lots include Block 12, lots 68, 68 and 70.

These lots have existing structures and graveled areas that are proposed to remain in place. There is potential for additional structures to be added in the future based on the information in

## Appendix E

### Compliance with Critical Areas Regulations in LCC Chapter 17.35A

Table 1, Appendix C of the SCUP. Tot total remaining buildable area of these lots is 7,356 square feet. Any additional structures would be developed with the buffer area of Wetland A.

#### *17.35A.612 Averaging buffer widths.*

**Response:** This application does not propose to utilize buffer averaging for wetland buffer impacts.

#### *17.35A.620 Mitigation.*

**Response:** No impacts within delineated wetland boundaries are proposed.

*17.35A.620 (3) Buffer Mitigation. Compensation for wetland buffer impacts, other than buffer averaging, shall occur at the following minimum ratios: Category II – ratio of 1.5:1. Compensatory mitigation for buffer impacts may include enhancement of degraded buffers by planting native species, removing structures and impervious surfaces within buffers, and other measures.*

**Response:** Future development on Block 12, Lots 68, 69, and 70 could total 7,356 square feet of buffer disturbance, which would require compensatory mitigation for buffer impacts of 11,034 square feet based on the mitigation ratio. Because and the buffer regulations affect only these three lots, and there is no certainty any future development will occur, CTTA is proposing to designate the necessary mitigation area within this application but is not proposing to create the wetland buffer mitigation plan or implement the wetland buffer mitigation plan until such time as specific development is proposed on Block 12, Lots 68, 69, and/or 70.

The area proposed for this future mitigation is shown on Figure 3 of Appendix B to the SCUP. It is located in an area of degraded Wetland A buffer that has been previously disturbed by human activities and is dominated by a near-monoculture of reed canarygrass, with little to no existing woody vegetation.

### **Article IV(B) Aquatic Habitat**

#### *17.35A.660 Classification.*

**Response:** The Cowlitz River is a Type S water under Chapter 90.58 RCW. The buffer width per 17.35A.680 and SMP Table 4-1 is 150 feet from the OWHM.

#### *17.35A.670 Allowed activities in waters and buffers.*

**Response:** This proposal includes two activities, (1) development of new structures accessory to a non-water-oriented RV campground that would occur within the buffer, and (2) restoration of riparian channel margin habitat below the OHWM.

This section allows for restoration within the aquatic area as long as restoration will not significantly degrade water quality, fish or wildlife habitat, or aquifer recharge and the plan meets the requirement of subsection (3)B(b)-(h). No degradation of water quality, habitat, or recharge would occur from the mitigation work as described in Appendix D of the SCUP mitigation plan. No in-water work would occur outside of approved in-water work periods.

## Appendix E

### Compliance with Critical Areas Regulations in LCC Chapter 17.35A

The development of new non-water-oriented structures for recreational use within the 150-foot buffer is not an allowed activity. This application proposes to use buffer averaging through 17.35A.681, below.

#### *17.35A.680 Protection.*

**Response:** The standard buffer width for Type S waters (and per Table 4-1 of the SMP) is 150 feet from the OWHM.

#### *17.35A.681 Averaging buffer width.*

*17.35A.681(1) Averaging to allow reasonable use of a parcel may be permitted when all of the following are met: ...*

**Response:** The proposed buffer averaging is not specifically intended to improve aquatic habitat. These standards do not apply.

#### *17.35A.681(2) Averging to allow reasonable use.*

*17.35A.681(2)(a) Buffer averaging is necessary to accommodate existing conditions, such as topography, existing roads, or other public facilities, or similar features that prevent reasonable development in compliance with standard buffers.*

**Response:** The proposed buffer averaging is necessary because existing RV camping lots and infrastructure are present within the 150-foot buffer and users of the lots intend to add small accessory structures for the use and enjoyment of the lots within the 150-foot buffer. The existing lots are currently used for temporary location of RVs, and many have small accessory structures. Existing roads and utilities associated with the lots are currently maintained within the buffer. No trees or vegetation would be cleared for additional structures.

*17.35A.681(2)(b) There are no feasible alternatives to the site design that could be accomplished without buffer averaging.*

**Response:** The CTTA lots located within and adjacent to the SMP jurisdiction area are constrained by topography, the presence of wetlands, and an existing private roadway network and are already established as generally shown on Figure E.1. The lots requesting approval for additional structure development are situated between either a steep slope leading up to the remainder of the CTTA development and/or wetlands at the base of the slope and the shore of the Cowlitz River. Members can only construct the small accessory structures within their specific lots as this is the only location where the use of such structures for their purposes would be feasible. The accessory structures are necessary for the on-going, recurrent, but temporary recreational use that occurs at this site that provides access to and enjoyment of the shoreline. There are no other locations available to CTTA to develop that would have less impact to the ecological functions of the shoreline.

## Appendix E

### Compliance with Critical Areas Regulations in LCC Chapter 17.35A

#### *17.35A.681(3) Buffer Averaging Criteria*

*17.35A.681(3)(a) The total area of the buffer on the subject property is not less than the buffer which would be required if averaging was not allowed and all increases in buffer dimension for averaging must be generally parallel to the edge of the water body to avoid creating buffer panhandles.*

**Response:** Approximately 21 acres of 150-foot wide buffer exist over the partially developed RV camping lots within the SMP at CTTA. The proposed area of buffer averaging is shown on Figure E.2 and is equal to approximately 22.25 acres. It is formed by expanding the remaining shoreline protected area along the Cowlitz River owned by CTTA by 150 feet to provide equal area of protection to that being reduced, and an additional 10 feet to compensate for 1.25 acres of area for potential gravel placement within each of the lots.

*17.35A.681(3)(b) No part of the width of the buffer is less than 75 percent of the required width or as specified in the table below, or if the criteria in subsection 2(b) of this section are met, whichever results in a greater buffer.*

**Response:** The proposed buffer averaging requests that approximately 6,110 linear feet of shoreline (the length of the existing lot area) be reduced to a 0-foot shoreline/aquatic resource buffer. This section allows a maximum 25% reduction by standard, unless the criteria in (2)(b) can be met. Please see the response to (2)(b), above.

*17.35A.681(3)(c) Enhancement of reduced buffer areas may be required as necessary to ensure a vegetation community that fully performs buffer function and to ensure that no net loss of buffer functions results from width averaging.*

**Response:** Mitigation within and adjacent to the proposed buffer area is proposed in the form of upland and wetland restoration plantings (see Appendix D of the SCUP).

*17.35A.681(3)(d) No part of the width of the buffer is less than 75 percent for Type S and F-A waters or 50 percent for Type F-B, Type NP and Type Ns waters, except if the criteria in subsection (2)(b) of this section are met. If the provisions for alternative buffer standards for single-family development on parcels of five acres or greater in LCC 17.35A.680(2) are used, averaging may take place only in compliance with subsection (2) of this section.*

**Response:** See the response to (3)(b) and (2)(b), above.

#### **Article IV(C) Wildlife Habitat**

##### *17.35A.720 Identification*

**Response:** Washington Department of Fish and Wildlife (WDFW) identifies the site area on its Priority Habitat Species (PHS) maps as a general management buffer area for northern spotted owl (*Strix occidentalis*) and a Regular Concentration area for Rocky Mountain elk (*Cervus elaphus nelsoni*). It does not identify the site as a priority habitat for any endangered, threatened, or sensitive species.

## Appendix E

### Compliance with Critical Areas Regulations in LCC Chapter 17.35A

On behalf of CTTA, Parametrix discussed potential habitat at the site with Scott Bromer of WDFW on 7/3/2019. Mr. Bromer noted that for Rocky Mountain elk, WDFW is looking primarily at movement corridors and calving areas, and there are no restrictions on development that would apply at CTTA. With respect to northern spotted owl, Mr. Bromer stated that because the application specifically does not allow tree removal for the purposes of future structures or gravel, WDFW has no concerns.

#### *17.35A.730 Classification.*

**Response:** Based on PHS mapping, historical observations at the site, coordinating with WDFW, and the on-site natural resources assessment (see Appendix B of the SCUP), CTTA does not believe that wildlife critical habitat is present on the site. As such, these standards do not need to be addressed.

#### *17.35A.740 Allowed activities in critical wildlife areas and buffers.*

**Response:** Based on PHS mapping, historical observations at the site, coordinating with WDFW, and the on-site natural resources assessment (see Appendix B of the SCUP), CTTA does not believe that wildlife critical habitat is present on the site. As such, these standards do not need to be addressed.

#### *17.35A.750 Protection.*

**Response:** Based on discussions with WDFW, outlined in our response to 17.35A.720, above, CTTA does not believe any specific protection measures are required and understands additional comment from WDFW may be provided as part of this application review.

#### *17.35A.751 Habitat assessment report.*

**Response:** See Appendix B of the SCUP for the on-site natural resources assessment.

#### *17.35A.760 Mitigation conditions.*

**Response:** On site mitigation is proposed as part of this application to achieve no net loss of shoreline ecological functions. Mitigation is described in Appendix D of the SCUP.

### **Article IV(E) Aquifer Recharge Areas**

#### *17.35A.860 Designation.*

**Response:** The subject site is designated with both Category I and Category II Critical Aquifer Recharge Areas (CARAs) as shown on Figure E.3.

#### *17.35A.870 Allowed activities.*

**Response:** The proposed continuance of the recreation RV campground use and construction of additional accessory buildings at the CTTA site is not identified as one of the allowed activities in LCC 17.35A.870.

## Appendix E

### Compliance with Critical Areas Regulations in LCC Chapter 17.35A

#### *17.35A.880 Protection.*

##### *17.35A.880(1) Low Intensity Uses.*

**Response:** Recreation/camping uses are not identified as a high intensity use; thus, the primary use is a low intensity use. However, some components of the use are identified as high intensity uses, such as underground storage tanks (number 17 in Table 2). Those requirements are discussed below.

##### *17.35A.880(1)(b) Underground Storage Tanks and Vaults.*

**Response:** Underground double-walled refuse tanks are allowed by CTTA for each lot and are monitored and pumped out regularly according to manufacturer and health department requirements. This application doesn't specifically propose any new underground storage tanks for new approval but does include the potential for new tanks for overall SMP and Critical Area Ordinance approval. When individual lot members want to install any new tanks, they would be subject to all applicable Lewis County Health Department approvals and standards.

#### ***Article IV(F) Geologically Hazardous Areas***

**Response:** The subject site development area is not within erosion hazard areas, landslide areas, volcanic hazard areas, or mine hazard areas. Additionally, the area is not within a mapped channel migration zone as designated by Lewis County. As such, those sections are not addressed in this application. The development area is partially within a moderate to high liquefaction susceptibility area as shown on Figure E.3. Section 17.35A.941 is addressed below.

##### *17.35A.941(3) Subsection of development Standards for seismic hazard areas.*

**Response:** The proposed buildings are not dwelling units or used as places of employment or public assembly and they do not increase the occupancy or significantly affect the risk of structural damage or injury. The structure types are either canopies, RV covers, or storage shed type buildings. CTTA requests that no engineer study be required for this seismic hazard area.

#### ***Article IV(D) Frequently Flooded Areas***

##### *17.35A.1010 Standards for permit decisions.*

*Development within designated frequently flooded areas shall be in compliance with Chapter 15.35. LCC, as now or hereafter amended, and/or the Lewis County shoreline master program, as now or hereafter amended.*

**Response:** See the accompanying Floodplain Development Permit (Appendix F of the SCUP) for demonstration that the proposed development is in compliance with Chapter 15.35 LLC.