

City of Kenmore



City of Kenmore - 18120 68th Avenue NE - Kenmore, WA 98028
Phone: 425-398-8900 - Fax: 425-481-3236 - E-mail: cityhall@kenmorewa.gov

City of Kenmore Planning Commission Meeting Agenda

Tuesday, August 7, 2018 @ 7:00 p.m.

**Kenmore City Hall
18120 68th Ave. NE, Kenmore, WA 98028**

If you have any questions or to confirm agenda items prior to the meeting, or if you require special accommodations, please call Bridgit Baker at 425-398-8900. You may also stop by City Hall at 18120 68th Avenue NE, Kenmore. Planning Commission agendas are also available on our website at www.kenmorewa.gov.

- 1. CALL TO ORDER**
- 2. CITIZEN COMMENTS**
- 3. APPROVAL OF MINUTES**

[July 24 Planning Commission Meeting Minutes](#)
- 4. AGENDA ITEMS**

[Critical Areas and Shoreline Update Memo](#)
- 5. ADJOURNMENT**
- 6. UPCOMING MEETINGS:**
August 21, 2018, 7:00 p.m. (tentative)

**City of Kenmore
Planning Commission Meeting
July 24, 2018 @ 7:00 p.m.**

Planning Commission Members – In Attendance

Douglas Nugent, Chair
Mark Ohrenschall, Vice Chair
Carol Baker
Scott McDonald
Mike Mulcare
Mike Vanderlinde

Consultants & Staff

Debbie Bent, Community Development Director
Lauri Anderson, Senior Planner
Bridgit Baker, Admin Assistant
Dave Cline, Shannon & Wilson
Lisa Grueter, Berk
Bill Laprade, Shannon & Wilson
Amy Summe, Shannon & Wilson

1. CALL TO ORDER

The meeting was called to order by Chair Nugent at 7:00 p.m.

2. CITIZEN COMMENTS

No citizens rendered comments.

3. APPROVAL OF MINUTES

Commissioner Baker motioned to approve the July 17, 2018 minutes which was seconded by Commissioner Mulcare. The motion passed 4-0 with 1 abstention. Commissioner McDonald arrived after the minutes were approved.

4. PUBLIC HEARING

Lauri Anderson briefly explained the Comprehensive Plan Capital Facilities Element Amendments to be discussed during the Public Hearing. No citizens present rendered comments.

5. AGENDA ITEMS:

Commissioner Vanderlinde moved to approve the Comprehensive Plan Capital Facilities Element Amendments, which was seconded by Commissioner McDonald.

The motion passed 5-0 with 1 abstention. Commission McDonald motioned to have Staff present the Amendments to the City Council which was seconded by Commissioner Mulcare. The motion passed 6-0 with no abstentions.

Amy Summe with Shannon & Wilson introduced consultants Bill Laprade, Dave Cline and Lisa Grueter. Amy began with a brief review of the Gap Analysis. Then Bill Laprade presented geohazards such as landslides, erosion and seismic events and the recommended changes to the City of Kenmore's code regarding these geohazards. Lisa Grueter discussed the density in geologically hazardous areas. At the next meeting she will bring back more information on the transfer of density and some examples of how this works. Dave Cline then presented information on flood damage and prevention. His recommendation was to align Kenmore's code with the federal regulations which limits the risk to public and increases the benefits of habitat. Lastly, both Lisa Grueter and Amy Summe presented recommended changes to the Shoreline Management Plan.

Three focus groups are being planned with various stakeholders. These meetings will be held in August or early September covering several topics. At the August 7th meeting, Lauri Anderson will have a list of follow up answers to policy questions. She conveyed the need for the Planning Commission to give policy direction then or on August 21st. From this direction, Staff will develop code amendments.

5. ADJOURNMENT

Chair Nugent adjourned the meeting at 9:06 p.m.

Planning Commission

Approved by Planning Commission on: _____



18120 68TH AVENUE NE
KENMORE, WASHINGTON 98028

MEMO

TO: Planning Commission

FROM: Debbie Bent, Community Development Director *DB*
Lauri Anderson, Senior Planner *WPK*
Amy Summe, Consultant, Shannon & Wilson, Inc.

DATE: August 1, 2018

SUBJECT: Critical Areas/Shoreline Update

At your meeting on August 7, the Planning Commission should be ready to give very preliminary direction on the more substantive code amendments recommended in the gap analysis. We also hope the Commission will identify three focus group topics for which additional insight would be useful. The focus group meetings would be held in September.

This memo is organized into three parts:

- **Part 1** - A summary of the highlighted yellow questions from the *Gap Analysis and Recommendations* which did not generate significant discussion, questions, or indications of opposition are included in Table 1 below. Unless the Planning Commission indicates otherwise, staff will move forward with making all of the changes suggested.
- **Part 2** - *Gap Analysis and Recommendations* questions which generated more conversation and requests for follow-up information, or triggered additional recommendations, are discussed in Part 2 and Table 2. The Planning Commission's direction on these individual questions and topics will be used to amend the *Gap Analysis and Recommendations*, and then staff will move forward with making the changes and engaging with Focus Groups.
- **Part 3** – This final part provides background and a recommendation for Focus Group topics and organization.

PART 1

Table 1. Potential consent items based on the Gap Analysis and Recommendations report and Planning Commission discussion.

QUESTION		STAFF RECOMMENDATION
Critical Areas Regulations		
Introductory Provisions		
1.	Should the City eliminate the firm requirement for a fence marking the edge of a wetland or stream buffer?	Yes.
2.	Should the City consider including an option for a vegetative barrier (with standards) in lieu of a split rail fence when some kind of fence is required?	Yes.
3.	Should the City develop updated Public Agency and Utility Exception language that responds to the Growth Management Hearings Board findings, and is supported by information about the City's conditions and best available science?	Yes. Refine further after input from the Focus Group.
Wetlands		
4.	Should the City switch to Ecology's 2014 rating system and update the wetland buffers accordingly based on the wetland rating and the habitat score?	Yes
5.	Does it make sense to reduce wetland buffer widths if the buffer is bisected by a road or other development that is a barrier to function?	Yes.
6.	Should wetland or wetland buffer modifications be permitted for limited public/quasi-public boardwalks/trails based on existing conditions rather than a set distance from the wetland?	Yes.
7.	Should options to address wetland mitigation be expanded to in-lieu fee, advance mitigation, or other alternative options?	Yes.
Streams		
8.	Should the City switch to the DNR stream typing system and related stream buffers?	Yes
9.	Should stream buffer modifications be allowed near roads and other preexisting development that bisects the buffer?	Yes.
10.	Should stream buffer modifications be permitted for limited public/quasi-public boardwalks/trails based on existing conditions rather than a set distance from the stream?	Yes.
11.	Should stream relocation be allowed as part of restoration/mitigation?	Yes.
Geologically Hazardous Areas		
12.	Should the City add a mechanism to allow it to require an applicant to pay for a third-party review (by mutually acceptable consultant) of geotechnical reports?	Yes.
Frequently Flooded Areas/Flood Damage Prevention		
13.	Should the recommendations in the July 12, 2018 supplement to the <i>Gap Analysis and Recommendations</i> report be incorporated into the regulations?	Yes.
14.	Should the City continue to explore consolidation of the two separate code sections?	Yes.

QUESTION		STAFF RECOMMENDATION
Shoreline Master Program		
15.	Should the City use its zoning definitions to further subdivide the different categories of uses and modifications in the shoreline use/modification matrices to provide a little more specificity, without abandoning flexibility?	Yes.
16.	Should the City make the proposed, or similar, extensive changes to the pier and dock use matrix that are intended to reduce the number of unnecessary conditional uses, and provide a greater distinction between different modifications which have different degrees of impact and desirability in different designations?	Yes. Refine further after input from the Focus Group.
17.	Should the City make the proposed, or similar, extensive changes to the filling/dredging/grading use matrix section that are intended to reduce the number of unnecessary conditional uses, and provide a greater distinction between different modifications which have different degrees of impact and desirability in different designations and within uplands vs aquatic, floodplain or non-floodplain, and in or out of the channel migration zone?	Yes.
18.	Extensive changes to the pier and dock regulations are proposed in Appendix F of the <i>Gap Analysis and Recommendations</i> report. Should the City move forward with those suggestions, or similar, which are intended to provide Sammamish River-specific dock standards; add clear design standards for non-residential docks and piers; add clear standards for boat launches (distinguishing between motorized and nonmotorized); and add general guidance on mitigation that applies to all new or expanded structures (not just commercial).	Yes. Refine further after input from the Focus Group.
19.	Should staff add regulations that allow for implementation of approved public access plans and recreation maintenance plans?	Yes.
20.	Should the vegetation management provisions be modified to allow removal for permitted shoreline restoration or enhancement projects, an allowed water-dependent or water-enjoyment use or modification, and public access or recreation maintenance plan implementation in all environment designations, with appropriate minimization and mitigation?	Yes.
21.	Should Sammamish River- and Swamp Creek-specific buffers be developed, similar to those recommended in the <i>Gap Analysis and Recommendations</i> report, based on existing conditions and following the model provided for Lake Washington.	Yes. Refine further after input from the Focus Group.

PART 2

Question 1: What types of projects should be eligible for consideration under the Public Agency and Utility Exception process?

Staff Recommendation: Given the unique urban conditions, public purposes, and variety of critical areas affected, it is recommended that the City consider a process that appropriately reviews and conditions all types of facilities and utilities that serve the public at large, such as: roads, water/sewer/stormwater utilities, schools, parks, and power and telecommunications. Similar to King County, some performance standards for linear and non-linear facilities could be developed to help avoid or minimize impacts to critical areas while allowing agencies to recognize existing facilities, approved system plans, duties to serve, and public benefits.

Question 2: Should the City consider expanding its incentives to encourage restoration and look for ways to remove disincentives? If so, what might that look like?

Staff Recommendation: There was some discussion during the July 24 and July 31 Planning Commission meetings of mechanisms to eliminate disincentives to restoration, and the addition of incentives to encourage restoration. Some examples include:

- Fast-track permitting for projects that include restoration above the minimum required to mitigate for impacts.
- Permit fee reductions for projects that include restoration above the minimum required to mitigate for impacts.
- Simple processes to allow for increased heights, density, or some other desirable development standard to offset voluntary restoration.
- Adjustments to buffer requirements when a restoration action would otherwise increase buffer encumbrances on a site.
- Educate property owners about the use of King County's Public Benefit Rating System, which provides some tax benefits for preservation of on-site resources.

Question 3: How should the City modify its designation of fish and wildlife habitats of importance? Which species or habitats should be dropped from or added to the current list?

Background: From WAC 365-190-130, Fish and wildlife habitat conservation areas

- (1) "Fish and wildlife habitat conservation" means land management for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat available is sufficient to support viable populations over the long term and isolated subpopulations are not created. This does not mean maintaining all individuals of all species at all times, but it does mean not degrading or reducing populations or habitats so that they are no longer viable over the long term. Counties and cities should engage in cooperative planning and coordination to help assure long term population viability.

Fish and wildlife habitat conservation areas contribute to the state's biodiversity and occur on both publicly and privately owned lands. Designating these areas is an important part of land use planning for appropriate development densities, urban growth area boundaries, open space corridors, and incentive-based land conservation and stewardship programs.

- (2) Fish and wildlife habitat conservation areas that must be considered for classification and designation include:
 - (a) Areas where endangered, threatened, and sensitive species have a primary association;
 - (b) Habitats and species of local importance, as determined locally;
 - (c) Commercial and recreational shellfish areas;
 - (d) Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;
 - (e) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;
 - (f) Waters of the state;
 - (g) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and
 - (h) State natural area preserves, natural resource conservation areas, and state wildlife areas.
- (3) When classifying and designating these areas, counties and cities must include the best available science, as described in chapter 365-195 WAC.
 - (a) Counties and cities should consider the following:
 - (i) Creating a system of fish and wildlife habitat with connections between larger habitat blocks and open spaces, integrating with open space corridor planning where appropriate;
 - (ii) Level of human activity in such areas including presence of roads and level of recreation type (passive or active recreation may be appropriate for certain areas and habitats);
 - (iii) Protecting riparian ecosystems including salmonid habitat, which also includes marine nearshore areas;
 - (iv) Evaluating land uses surrounding ponds and fish and wildlife habitat conservation areas that may negatively impact these areas, or conversely, that may contribute positively to their function;
 - (v) Establishing buffer zones around these areas to separate incompatible uses from habitat areas;
 - (b) Counties and cities may also consider the following:
 - (i) Potential for restoring lost and impaired salmonid habitat;
 - (ii) Potential for designating areas important for local and ecoregional biodiversity; and
 - (iii) Establishing or enhancing nonregulatory approaches in addition to regulatory methods to protect fish and wildlife habitat conservation areas.

Table 2. Assessment of State Requirements for Consideration of Fish and Wildlife Habitats of Importance

Areas to be Considered	Kenmore-specific Assessment	Staff Recommendation
(a) Areas where endangered, threatened, and sensitive species have a primary association;	KMC 18.55.500.A.1 already designates: “Documented presence of species listed by the federal government or the State of Washington as endangered or threatened.” The KMC and WAC 365-190-130 do not include the term “primary association,” but other WAC definitions suggest that the term incorporates the concept that it’s those areas “which, if altered, may reduce the likelihood that a species will maintain its population and reproduce over the long term.” There are numerous scientific resources which identify the importance of functioning floodplains in supporting anadromous fish habitat (including threatened and endangered species – Chinook salmon, bull trout, and steelhead).	Retain KMC 18.55.500.A.1. Add explicit statement that floodplains are considered an area of primary association. This would provide an important linkage between the National Marine Fisheries Service’s Biological Opinion and the resulting requirements of the Federal Emergency Management Agency for consideration of project impacts on floodplains and the listed species that they support.
(b) Habitats and species of local importance, as determined locally;	Of note, KMC 18.55.500 is written to address habitats of species, but only the species themselves indirectly. WAC 365-190-130 says “Counties and cities should consult current information on priority habitats and species identified by the Washington state department of fish and wildlife. Priority habitat and species information includes endangered, threatened and sensitive species, but also includes candidate species and other vulnerable and unique species and habitats. While these priorities are those of the Washington state	Add or retain the following species habitats: • Great blue heron rookeries and active nesting trees (retain KMC 18.55.500.A.2): In spite of their presence in an urban area, herons are still highly sensitive to disturbance. They are also a priority species, as well as having clear value to the community (noting the use of the heron in the City’s formal logo, its designation as the official city bird, its graphic mascot, the number of local and as an advertised Eastside Audubon birding trip, and even a number of apartment complexes bearing the bird’s name). • Anadromous fish (add): There are already three species of anadromous fish that are federally listed (bull trout, Chinook and steelhead), but other anadromous fish are

Areas to be Considered	Kenmore-specific Assessment	Staff Recommendation
	department of fish and wildlife, they should be considered by counties and cities as they include the best available science.” WDFW PHS on the Web indicates that priority species and habitats found in Kenmore include: • great blue heron rookeries and active nesting trees (currently designated in KMC 18.55.500.A.2) • purple martin • freshwater wetlands (Class 1 wetlands currently designated in KMC 18.55.500.A.3) • freshwater ponds • anadromous fish (only federally listed species currently designated in KMC 18.55.500.A.1) • biodiversity areas and corridor¹ • pileated woodpecker.	also found in City streams (e.g., coho, sockeye). RCW 36.70A.172.1 requires the City to “give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.” • Pileated woodpecker (add): The only area in Kenmore mapped as priority breeding habitat by WDFW is the St. Edwards State Park forest. However, this species is also found in “lightly and moderately urbanized areas” with suitable large trees.² WDFW’s Management Recommendations include specific measures for urban and suburban areas with an emphasis on retention of remaining larger patches of trees that contain large trees and snags. These habitat types not only provide habitat for the woodpecker, but the woodpecker’s activity on those trees creates habitat and foraging opportunities for a wide variety of wildlife. Some of these tree retention objectives are met by regulations in KMC 18.57 (Tree Management and Protection), however there are gaps in its applicability and there is no mention of snag retention. If pileated woodpecker is not included as a specific habitat of importance, then KMC 18.57 should be reviewed and modified to provide the same outcome.

¹ Biodiversity area: The area is within a city or an urban growth area (UGA) and contains habitat that is valuable to fish or wildlife and is mostly comprised of native vegetation. Relative to other vegetated areas in the same city or UGA, the mapped area is vertically diverse (e.g., multiple canopy layers, snags, or downed wood), horizontally diverse (e.g., contains a mosaic of native habitats), or supports a diverse community of species as identified by a qualified professional who has a degree in biology or closely related field and professional experience related to the habitats or species occurring in the biodiversity area. These areas may have more limited wildlife functions than other priority habitat areas due to the general nature and constraints of these sites in that they are often isolated or surrounded by highly urbanized lands.

Corridor: Corridors are areas of relatively undisturbed and unbroken tracts of vegetation that connect fish and wildlife habitat conservation areas, priority habitats, ...or valuable habitats within a city or UGA...

² Tomasevic, J and J. Marzluff, 2018, Use of suburban landscapes by the Pileated Woodpecker (*Dryocopus pileatus*). The Condor. 120. 10.1650/CONDOR-17-171.1

Areas to be Considered	Kenmore-specific Assessment	Staff Recommendation
		King County, Kirkland, and Bellevue have included the pileated woodpecker as a species of local importance in their regulations. Biodiversity areas and corridor (add): The WDFW-mapped biodiversity area and corridor in Kenmore is limited to St. Edwards State Park. WDFW's PHS on the Web application states that the area contains "old second growth stands with remnant old growth. Excellent forest habitat in an urban area."³ The Swamp Creek stream/wetland complex along the river and farther upstream also meets the WDFW definition of a biodiversity area/corridor, although it's not mapped. For ease of implementation, and because the potential biodiversity areas and corridors outside of the WDFW-mapped lands are already protected by other regulations, limiting the designation to those features mapped by WDFW is recommended. St. Edward State Park is managed by the Washington State Parks and Recreation Commission per its 2008 Saint Edward State Park Management Plan. This plan includes a specific strategy for forest management that preserves the tree canopy and "guides the forest toward and enhances old growth characteristics and increases biodiversity..."⁴ If the State reliably and closely implements its own plan, there would be little benefit to adding WDFW's mapped biodiversity area/corridor and pileated woodpecker habitat to the list of Kenmore's Fish and Wildlife Habitats of Importance. However, adding these elements to the list would provide the City with additional assurances and mechanisms to prevent

³ Washington Department of Fish and Wildlife, 2018, PHS on the Web. Available: <http://apps.wdfw.wa.gov/phsontheweb/> Accessed 30 July 2018.

⁴ Washington State Parks and Recreation Commission, 2008, Saint Edward State Park Management Plan. Available: <https://parks.state.wa.us/DocumentCenter/View/1554/Saint-Edward-State-Park-Management-Plan?bidId=> October 20.

Areas to be Considered	Kenmore-specific Assessment	Staff Recommendation
		departures from the plan, or unexpected changes in ownership, priorities, or management of the land. The Swamp Creek stream/wetland complex area is already substantially protected by its wetland condition, stream and wetland buffers, and to some degree the regulations protecting the heron rookery. Other upland forest corridors that are not otherwise protected by stream, wetland or geohazard buffers and regulations would remain unprotected. Do not add the following: • Purple martin: Although there is a PHS on the Web record (dating from 2005) of a purple martin breeding site in Kenmore, no purple martin nest structures were observed during a site visit on July 30, 2018, at or near the location shown on PHS on the Web. No other purple martin locations are mapped by WDFW. Unless future installations of martin nest boxes are anticipated, there is no reason to include the martin on the City's list. • Wetlands: these are already sufficiently covered by the wetlands regulations, which include an emphasis on the habitat values of wetlands. Class 1 (Category I) wetlands are currently identified as a fish and wildlife habitat of importance (KMC 18.55.500.A.3) and should be removed. Designation of any category of wetland specifically as a "fish and wildlife habitat of importance" does not seem to add any value. • Freshwater ponds: the natural occurring ponds known in Kenmore appear to be fringed by wetlands or contained within larger wetland complexes. Designation specifically as a "fish and wildlife habitat of importance" does not seem to add any value.

Areas to be Considered	Kenmore-specific Assessment	Staff Recommendation
		Remove the following: Bald eagle (18.55.500.A.5): As noted in the <i>Gap Analysis and Recommendations</i> report and Planning Commission meeting on July 24, the bald eagle is no longer listed as a threatened or endangered species under the federal Endangered Species Act, nor is it designated or managed by the State as a priority species. Bald eagles in the Lake Washington watershed are a thriving population, and have adapted well to urban areas.
(c) Commercial and recreational shellfish areas;	Not applicable in Kenmore.	Not applicable; do not add.
(d) Kelp and eelgrass beds; herring, smelt, and other forage fish spawning areas;	Not applicable in Kenmore.	Not applicable; do not add.
(e) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;	Except for ponds/lakes that are greater than 20 acres (in which case they are shorelines), or ponds with a wetland fringe, these features are not protected as a critical area in the City's current code, unless they are also considered wetland. Examination of aerial photos suggest that the few naturally occurring small ponds within the City are associated with and fringed by wetlands and are thus buffered. However, the pond itself might not have any special protections even though it provides fish and/or wildlife habitat.	Do not add protection provisions since in all cases considered, ponds would likely have protection under the wetland code.
(f) Waters of the state;	Per RCW 90.48.020, "lakes, rivers, ponds, streams, inland waters,	Do not add "waters of the state" as a designated fish and wildlife habitat of importance.

Areas to be Considered	Kenmore-specific Assessment	Staff Recommendation
	underground waters, salt waters and all other surface waters and watercourses within the jurisdiction of the state of Washington” are waters of the state. This term is all-encompassing and would add underground waters and ponds to the list already protected features. Lakes and rivers are already protected under the City’s SMP, and streams are protected under KMC 18.55.400-430. Ponds are discussed above, and not recommended for specific inclusion in the City’s list of habitats of importance. Underground waters are pervasive, but at varying depths in the landscape.	Remove Type 1 (Type S) streams from the list (KMC 18.55.500.A.4) as they are covered by the SMP, and are also redundant with the designation of habitats containing listed species. Regulations protecting underground waters could be added if the City has any development that is still using septic systems, and those systems are failing or could fail. King County Department of Health regulates septic systems, but regulation is triggered by certain events and may not help the City address problems from existing legal facilities. There are an increasing number of stormwater management techniques that utilize groundwater as a receiving water; these are already regulated by the State.
(g) Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity; and	Not applicable in Kenmore.	Not applicable; do not add.
(h) State natural area preserves, natural resource conservation areas, and state wildlife areas.	Not applicable in Kenmore.	Not applicable; do not add.

Question 4: What should the fish and wildlife habitats of importance nomination process regulations include?

Background: The City's current code allows nomination of habitats of local importance, but does not fully specify the criteria or process, only that it is determined administratively by the City Manager.

Staff Recommendation: A nomination process is recommended to be added to the code that allows the City to consider:

- Rationale for nomination based on best available science, including the viability of the population in Kenmore and contribution to biodiversity;
- What regulatory gaps there may be in regulations regarding protection of the habitat or species;
- Proposed geographic boundaries, specific list of species, specific list of functions, etc.;
- Causes for vulnerability, including a description of activities that compromise these areas, as well as a list of proposed management and protection measures; and
- Environmental and non-environmental impacts (e.g. legal, cultural, recreational, and economic significance).

Question 5: Would adding a specific regulation to govern potential uses that may damage or harm groundwater provide anything beneficial to the City that is not already covered by state or federal regulations?

Background: According to Ecology's *Critical Aquifer Recharge Areas Guidance Document*:⁵

"Federal and state laws and rules do not replace local planning, ordinances, and programs. Local jurisdictions should maintain the ability to protect ground water under their own authority. Local government can focus on local conditions in a way that the state cannot.

The Department of Ecology through RCWs, WACs, and permits, sets minimum operating standards for many types of potentially polluting facilities. If a permitted facility is poorly managed or experiences some sort of engineering failure (which may happen even with good management), contamination may be released into the environment.

Local government planning can influence the types of future developments that occur in various areas and may be able to encourage potentially contaminating facilities to locate in areas where the aquifer has a lower susceptibility if contaminants are released. In this way, the potential for aquifer pollution is lowered and the public is protected. Land use planning at the local level is the most effective way to influence where facilities choose to locate.

- Counties and cities.
 - Regulate land use through comprehensive planning, zoning, and ordinances.
 - Have authority to ensure a landowner does not pollute the public drinking water supply.

⁵ <https://fortress.wa.gov/ecy/publications/documents/0510028.pdf>

- Are more able to track conditions and adapt to local concerns much more readily than the state.
- Federal and state laws, rules, and programs are often targeted toward larger facilities. For example, pollution prevention plans are required by the state if a facility generates 2,640 pounds of hazardous waste a year. A much smaller quantity of hazardous chemicals can cause contamination, especially if improper disposal into a septic system or a dry well occurs. The local jurisdiction should consider requiring pollution prevention plans where needed and not already required.
- Compliance depends on state resources to enforce. The state covers a large area and a large number of facilities, and therefore illegal activities may occur that are not detected by the state until contamination has occurred. Local attention can prevent the creation of new cleanup sites.”

Staff Recommendation: In addition to or in lieu of regulations that provide the City with tools to consider a development’s potential for groundwater contamination, the City could also evaluate its zoning and allowed uses overlaid on groundwater susceptibility maps.

Question 6: If the City were to add “just-in-case” regulations to address groundwater protection, what might be required and what could it cost applicants?

Response: Tiered hydrogeologic assessments that are typically required for CARAs, with appropriate modifications, could be required in specified circumstances. Generally, a simple Level 1 assessment would be adequate because of the lack of CARAs and wellhead protection areas within the City. A Level 1 Assessment could cost between \$2,000 and \$4,000 (highly dependent on the project complexity, site-specific conditions, etc.). Level 1 assessments typically include the following items:

- Available information regarding geology and hydrogeology of the site, including permeability of the unsaturated zone;
- Groundwater depth, flow direction, and gradient based on available information;
- Available data on any wells and springs within 1,300 feet;
- Location of other critical areas, including surface waters, within 1,300 feet; and
- Best management practices proposed to be utilized.

Higher risk facilities (e.g. fuel or chemical storage/production facility) or other facility that could affect groundwater could require a Level 2 assessment. A Level 2 assessment could cost around \$5,000, and typically includes the following:

- Historic water quality data for the area to be affected by the proposed development;
- Groundwater monitoring plan;
- Potential effects on water quality and quantity of nearby wells and waterbodies; and
- Analysis of equipment or structures that could fail and regular inspection, repair, and replacement necessary to prevent failure.

*Question 7: Should the City increase the **reduced** buffer width allowed from landslide hazard areas from 10 feet to 25 feet?*

Background: The City’s current standard requires a buffer measured from all edges of a landslide hazard area equal to the “height of the slope, as measured from the toe to the

top, or 50 feet, whichever is greater.” The purpose of having a reduced buffer is to recognize local conditions that may vary from those the standard buffer addresses.

Staff Recommendation: The top-of-slope buffer should be increased from 10 feet to 25 feet because experience over the past several decades has shown that unanticipated instability can engulf the slope by 25 to 50 feet. If a reduction to something less than 25 feet is necessary, it could still be pursued through a Variance process.

Question 8: The gap analysis considers a range of approaches that address development standards in geologically hazardous areas using example cities (e.g. Cities of Woodinville and Chelan, and Marin County). Some of these approaches address density transfer, clearing limits, and lot size ranges as slopes increase. The Planning Commission is open to considering approaches such as onsite density transfer and the other tools, but asked if offsite density transfer from critical areas should be allowed? How do other agencies handle offsite density transfer (e.g. King County)?

Background: Several residential and commercial zones in Kenmore allow base and maximum densities that may be achieved through a variety of criteria such as application of residential density incentives, transfers of density credits, or zone-specific standards (e.g. mixed-use development). This includes lower density areas with mapped geologic hazards (e.g. R-4 and R-6 zones).

The Planning Commission noted that they had been considering density incentives elsewhere in the community, and staff indicated that the City does not have a formal transfer of density rights (TDR) program where a developer can buy credits. There could be private transactions though none are known to have been accomplished in Kenmore.

King County's TDR program allows private to public and private to private transactions. Most of the eligible sending zones are rural or resource and receiving areas are within the UGA and cities. One urban sending area is the R-1 zone that acts as an urban separator. The sending sites should have some public benefit such as habitat, open space, or be a working land (agriculture, forestry), or serve as an urban separator.

Private market TDRs in urban areas between 1999 and spring 2018 included the purchase of credits to build 215 dwelling units. The program has also protected 141,500 acres of rural/resource land. The County's TDR exchange program has a template for a purchase and sale agreement and allows property owners and developers to register to offer credits for sale and indicate interest in purchase of TDR credits. See this website for more information:

<https://www.kingcounty.gov/services/environment/stewardship/sustainable-building/transfer-development-rights.aspx>.

Staff Recommendation: Staff can bring back a range of options that address density implications in geologic hazard areas, including improving the code that addresses onsite and offsite density transfers, clearing limits, and lot size ranges. Staff can identify pros/cons at a high level, including how well the different approaches address the objective of critical area protection, administrative costs, long-term maintenance, etc.

Question 9: During discussion on July 24, the Planning Commission agreed with distinguishing repair and maintenance of existing facilities from construction of new facilities (using roads as

an example). However, there was interest in hearing more about what criteria could govern allowed roadway (or other use) expansions that would not require a Conditional Use Permit?

Staff Recommendation: The City could consider criteria that are similar to the following to allow roadway expansions with a substantial development permit and without a conditional use permit, such as:

1. The expansion is included in the Transportation Element of the Comprehensive Plan, Neighborhood Transportation Plan, Transportation Improvement Program, ADA Compliance Plan, or Target Zero strategy implementation.
2. The expansion does not require acquisition of private property that was unanticipated in the plans under #1.
3. The expansion is located within existing right-of-way or other City-managed land.
4. Minimum alteration and/or fill is needed to construct such facilities to meet established safety standards and all applicable SMP standards can be met. Disturbed areas are restored during and immediately after the use of construction equipment.

PART 3

Question: What are the top three recommended focus group topics, and who should be invited to participate in each?

Response: Up to three focus groups are included in the project scope. Focus groups are appropriate where there are complex topics and other persons with expertise who could help review different approaches. To date, two topics appear that would benefit from a focus group approach. A third topic may be identified later.

1. Sammamish River custom regulations (buffers, docks): This group could consist of selected contractors, residential and commercial waterfront property owners, state agencies with expertise or jurisdiction (WDFW, DNR), tribes (Muckleshoot), and City Parks. To date, the only public attendee of the Planning Commission meetings on this critical areas and shoreline master program update has been a representative of the contractor community who assists property owners with design and permitting of shoreline improvements. He has twice mentioned interest in being on a focus group for this topic.
2. Public Facility and Utility Review and Performance Standards: This group could consist of public agencies and utilities with property in Kenmore or who have sought local permits (e.g., Washington State Department of Transportation, Northshore Utility District, Washington State Parks and Recreation Commission, Kenmore Public Works and Community Development, franchise utilities), state agencies with expertise or jurisdiction (Washington Department of Fish and Wildlife, Department of Natural Resources), tribes (Muckleshoot Indian Tribe), neighboring jurisdictions with common conditions (e.g., Bothell, Seattle, King County), and academic experts if appropriate (UW Bothell or UW Seattle professors).

For each session, an agenda and materials would include the following:

- A statement of the focus group purpose and topics,
- transmittal of background documents on the subject (e.g. gap analysis, example approaches from other jurisdictions, relevant studies if needed), and
- a list of discussion questions.