MEMORANDUM

TO:       Thurston County Planning Commission
FROM:    Andrew Deffobis, Associate Planner
DATE:     March 7, 2011
SUBJECT: Critical Areas Ordinance (CAO) Update – Clearing and Grading, Second Discussion

On February 15, the Planning Commission discussed draft clearing and grading standards during its CAO work session. Testimony at the Planning Commission’s CAO public hearing requested that clearing and grading be regulated more tightly in riparian areas and riparian management zones. Staff reviewed how clearing and grading is listed in the land use tables of each critical area category, presented public testimony on the draft standards, and provided issues for discussion. The Planning Commission provided the following direction:

1. For all tables, clarify which uses are a) allowed subject to standards but without a permit; b) allowed subject to standards and a critical area permit; or c) prohibited within critical areas and their buffers.

2. Correct language in the proposed subsection 24.25.140(B) that incorrectly stated that clearing limits on parcels containing riparian management zones could extend into the lot outside of management zones.

3. Require that clearing and grading in riparian management zones only be permitted in conjunction with an approved use, similar to language for other critical areas and buffers.

Staff have completed items 2 and 3 above, and are currently undertaking revision of the critical areas land use tables to provide clarity.

Items for Discussion
Staff are asking the Planning Commission to consider whether to apply acreage and percentage limits on clearing and grading to all freshwater riparian management zones, not just those adjacent to documented channel migration hazard areas. (Clearing and grading in marine riparian management zones is already limited to 35% of a given lot).
A. It was lawfully established;

B. There is not another alternative available that has less adverse impact on the important habitat or other critical areas;

C. The bridge or culvert is designed to avoid or, where that is not possible, minimize impacts to the important habitat and it is in compliance, to the greatest extent possible, with section 24.25.280 TCC;

D. In the case of culverts in a Type F or S stream, the culvert is made passable for fish in accordance with the WDFW Fish Passage Design at Road Culverts, 2003, as amended, and the National Marine Fisheries Service Guidelines for Salmonid Passage at Stream Crossings, 2000, as amended;

E. If the culvert involves a ditch, the ditch is not increased in width at the culvert site unless it is narrower at that point than the rest of the ditch and would otherwise impede the flow of water. In that case, it may be widened to the minimum extent the approval authority deems necessary; and

F. Flood hazards are avoided and the proposal is consistent with chapter 24.20 TCC and other applicable regulations.

24.25.140 Fish and Wildlife Habitat Conservation Areas – Clearing and grading.

Also see chapter 14.347 TCC regarding grading requirements and chapter 15.05 TCC regarding stormwater and erosion control.

A. Important habitats. Clearing and grading within important fish and wildlife habitat conservation areas and associated buffers is only allowed to the minimum extent necessary to accommodate a use permitted pursuant to this chapter, as determined by the approval authority.

Clearing and grading shall not occur within an area where a locally important or priority species has a primary association (e.g. nest sites and foraging and roosting areas), based on WDFW Management Recommendations and related information.

B. Clearing in riparian and marine management zones. Clearing on lots or tracts larger than one-acre in riparian management zone within 100 feet landward of a documented 100-year channel migration hazard area (see subsections 24.20.045 and .055 TCC) shall not exceed thirty-five percent of the portion of the lot or tract within the riparian management zone. Clearing in marine riparian management zones shall be limited to 35 percent of the portion of the lot or tract within the management zone. Priority shall be given to preserving forested areas contiguous to the marine riparian habitat area and riparian habitat areas.

C. Fencing the clearing limits. The clearing limits within the important habitat area shall be marked with temporary fencing. Signage shall be placed on the fence indicating that the area
beyond is protected as a critical area. The fencing/signage is subject to inspection by the approval authority prior to the commencement of permitted activities. The temporary fencing/signage shall be maintained throughout construction and shall not be removed until permanent signs, if required pursuant to chapter 24.60 TCC, are in place.

D. Timing. Clearing and grading in important wildlife habitats shall only occur between May 1 and October 1, except as provided for in subsection 24.25.090(C) TCC. The county may temporarily suspend grading during this period if excessive rainfall might cause erosion and sedimentation that could affect a stream or marine waters, or dependent fish or wildlife. The county may allow clearing and grading outside of this period if all drainage will flow away from streams, lakes, ponds, and marine waters.

E. Preservation of the infiltration capacity of the site. The soil duff layer in the buffer shall remain undisturbed to the maximum extent practicable. The moisture-holding and infiltration capacity of the topsoil disturbed by permitted development shall be maintained in areas not approved for impervious surfaces by minimizing soil compaction or by stripping, stockpiling, and reapplying topsoil at predevelopment levels.

24.25.150 Fish and Wildlife Habitat Conservation Areas – Drainage ditches – Maintenance. Lawfully established drainage ditches that flow to a Type F or S stream, Puget Sound, or a pond shall be maintained consistent with BMPs as follows.

A. Maintenance of lawfully established drainage ditches (e.g., agricultural drainage ditches) created prior to February 1, 1994 or ditches under the management of Drainage Districts shall be consistent with NRCS standards, or as otherwise specified in a farm management plan approved by the WSU Cooperative Extension Office, USDA, the NRCS, or the Thurston County Conservation District and accepted by the county. Spraying of herbicide for ditch maintenance is prohibited. Ditch maintenance shall not involve enlarging the ditch lengthwise, in depth, or in width.

B. If a ditch has not been in active use and maintained for the last five consecutive years (e.g., as evidenced by aerial photographs or the maturity of vegetation in the ditch), it shall be considered abandoned.

C. Road side ditches. See section 24.25.325 TCC.

24.25.160 Fish and Wildlife Habitat Conservation Areas – Drilling.

A. Drilling with human powered, non-motorized, hand-held equipment. Gauge installation and non-motorized site exploration, excavation for data collection or research and accomplished by human powered, hand-held equipment in accordance with state-approved sampling protocols is allowed. The associated spoils shall be contained and the disturbed area shall be restored upon completion of the activity.

B. Motorized drilling and boring. Motorized augering under the direction of a Professional Engineer licensed in the State of Washington, well drilling allowed pursuant to section 24.25 - 23.