MEMORANDUM

TO: Thurston County Planning Commission
FROM: Cynthia Wilson, Senior Planner
DATE: March 21, 2012
SUBJECT: Critical Areas Ordinance (CAO) Update – Marine Riparian Areas

Comments were submitted during the public comment period on the Draft CAO that recommended re-evaluating Marine Riparian Habitat Areas (MRHA) and the buffers associated with them. In particular, the recommendation is to make the Marine Riparian Habitat Area buffers consistent with the Freshwater Riparian Habitat Areas (FRHA) by making them both buffers of 250 feet.

When the draft CAO ordinance was in process in 2005, there was significant science on freshwater riparian habitat areas and the functions they provide, including water quality protection, wildlife habitat areas for multiple species, shading of water bodies and food source contributions. Marine riparian habitat areas were considered to have similar functions to freshwater riparian habitat areas, however, there was limited science that specifically made the connection. Since that time, several scientific reports have been prepared that address the issue of marine riparian habitat area functions. The science shows that the science for freshwater riparian areas carries over to the marine shoreline. Additionally, there are potentially greater benefits for forage fish habitat and salmon, including migration along the near shore in the Marine riparian habitat areas. Please refer to the digital Fish and Wildlife Habitat Conservation Areas (FWHCA) BAS collections prepared in advance of December’s public hearing for specific reports relating to MRHAs and FRHAs.

Currently setbacks from marine areas are regulated under the Shoreline Master Program. The current SMP setbacks are 100 feet for Conservancy and Natural shorelines, and 50 feet for Rural shorelines.

A separate but associated issue is the management zone. The management zone is the area outside the buffer where development may occur but clearing and grading is limited to 35% and retention of native vegetation is encouraged. Note that the current language limits clearing and
grading to 35% but does not address impervious areas or development areas. Additional discussion is recommended regarding this issue.

**Definitions (from proposed Chapter 24.03 TCC Definitions):**
“Riparian habitat areas” are areas that include both freshwater and marine riparian habitat areas.

“Riparian habitat areas, freshwater” are areas adjacent to streams containing elements of both aquatic and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the aquatic ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. For the purposes of these regulations riparian habitat areas are as specified in chapter 24.25 TCC.

“Riparian habitat areas, marine” means areas adjacent to marine waters containing elements of both marine and terrestrial ecosystems that mutually influence each other. The width of these areas extends to that portion of the terrestrial landscape that directly influences the marine ecosystem by providing shade, fine or large woody material, nutrients, organic and inorganic debris, terrestrial insects, or habitat for riparian-associated wildlife. For the purposes of these regulations riparian habitat areas are as specified in chapter 24.25 TCC.

The current draft CAO sets the marine riparian area buffer at 150 feet. The management zone is currently proposed to be 100 feet landward from the edge of the buffer, with any reduction in the buffer included in the management zone.

**Proposed changes:**

Suggested changes to the riparian buffer include the recommendation to extend the buffer out to 250 feet to make it consistent with the science on freshwater and marine riparian habitat areas. The science for both freshwater and marine habitat areas supports the proposal for 250 feet although exceptions and reductions are made for specific circumstances. The current buffers in the areas in question are 100 feet, administered under the Shoreline Master Program. However, many of these areas contain marine bluffs, geologic hazard areas, floodplains, streams or wetlands that have overlapped the SMP regulations since 1996. Therefore, setbacks greater than 100 feet may have been required and may also be effected in the future when critical areas overlap.

Within the MRHA, new development, including subdivision, must occur outside the buffer (TCC 24.55, 24.25). For existing lots that are completely encumbered, TCC 24.50 applies to allow up to 5,000 square feet of development area. This can occur in the outer 25% of the buffer for riparian areas. For the buffers currently under discussion, these are the potential reductions:

- 150 foot buffer may be reduced to 112.5 feet
- 200 foot buffer may be reduced to 150 feet
- 250 foot buffer may be reduced to 187.5 feet
Draft language for all Riparian Habitat Areas sets specific widths and allows them to be altered under the following criteria: These standard widths may be reduced pursuant to section 24.25.025 TCC, increased pursuant to section 24.25.030 TCC, or reconfigured pursuant to section 24.25.035 TCC.

These lots would fall under the 24.50 Non-conforming Chapter for development, potentially allowing a 5000 square foot area or development under a Reasonable Use Exception. However, if these lots propose development within the 100 foot Shoreline buffer, a Shoreline Variance would be required. If you look at the Thurston County Geodata aerial, you will see that most of these lots are already developed. Staff is proposing to allow the 500 square foot of new impervious area the same as the freshwater riparian habitat areas.

**Consistency with SMP**

The proposed MRHA buffers and uses are consistent with the existing SMP. The CAO will overlap with the SMP criteria with the most restrictive criteria applying to setbacks and uses. The new SMP must be consistent with the CAO and once the SMP has been updated and adopted it will become the regulatory document for activities within the Shoreline Jurisdiction. Most jurisdictions have therefore incorporated and adopted any critical area regulations that may apply within the SMP jurisdiction, into the SMP updated regulations; or specific references to the CAO has been included in the SMP. The County will be working on the SMP updates once the CAO has been completed. These two documents must be consistent once the SMP update is complete.

The current SMP setbacks are 100 feet for Conservancy and Natural shorelines, and 50 feet for Rural shorelines.

This proposal for the CAO Marine Riparian Habitat Area is proposed to apply only to marine shoreline designated as Conservancy and Natural. The current CAO draft does not propose a marine buffer for Rural shorelines primarily because the current SMP 50 foot setback applies and almost without exception, these lots are completely encumbered by a 150 foot buffer and completely developed outside the 50 feet setback. A MRHA buffer could be applied to the Rural shoreline, should the Planning Commission determine it is necessary and would provide additional protection from impacts to the MRHA.

**Staff Recommendation**

1. Consider increasing the marine riparian buffer to 250 feet, and setting the management zone to 50 feet. This is consistent with the freshwater riparian buffers and management zones.

2. Revisit the criteria and activities allowed in the management areas to include impervious surfaces, clearing and grading and/or development area.

3. Review and consider amending proposed section 24.25.020 TCC to clarify that it applies to freshwater riparian areas.
The following is proposed as a housekeeping measure to discern between freshwater and marine where appropriate.

24.25.015 Fish and Wildlife Habitat Conservation Areas – Riparian habitat areas.  
*Freshwater* Riparian habitat areas shall be established along all streams pursuant to this section. Section 24.25.020 TCC specifies the standard *freshwater* riparian habitat area widths. These standard widths may be reduced pursuant to section 24.25.025 TCC, increased pursuant to section 24.25.030 TCC, or reconfigured pursuant to section 24.25.035 TCC. Riparian habitat areas shall be retained in their existing condition except as explicitly authorized by this chapter.

24.25.020 Fish and Wildlife Habitat Conservation Areas – Standard *freshwater* riparian habitat area width.  
*Table* 24.25-1 identifies the standard *freshwater* riparian habitat area widths.