

City of Medical Lake  
124 S. Lefevre Street – City Council Chambers  
**Planning Commission Meeting and Public Hearing**  
**November 17, 2022, Minutes**

**NOTE: This is not a verbatim transcript. Minutes contain only a summary of the discussion. A recording of the meeting is on file and available from City Hall.**

**1) CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL**

- a) Commissioner Hudson called the meeting to order at 5:05 pm, led the Pledge of Allegiance, and conducted roll call.
  - i) Commissioners Mayulianos, Hudson, and Jorgenson were present in person. Commissioners Munson and Mark attended via Zoom.
- b) Additions to Agenda - none

**2) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS**

- a) Tammy Roberson 424 W Brooks – shared comments regarding Oct 27 draft minutes discrepancies. See attached. Commented on CAO and her requested changes from the last meeting.
  - i) Motion to extend speaking time for Ms. Roberson made by commissioner Mayulianos, seconded by commissioner Jorgenson, carried 3-2 with commissioners Munson and Mark abstaining.
  - ii) Scott Holbrook 424 W Brooks - shared information on wetlands. See attached.

**3) APPROVAL OF MINUTES**

- a) **September 22, 2022**, Regular Meeting and Public Hearing
  - i) Correct community member Benson’s address to Martin Street. Motion to make correction made by commissioner Mayulianos, seconded by commissioner Jorgenson, motion carried 5-0. Motion to approve minutes as amended made by commissioner Mayulianos, seconded by commissioner Jorgenson. Motion carried 5-0.
- b) **October 27, 2022**, Regular Meeting and Public Hearing
  - i) Correct to reflect that commissioner Jorgenson’s absence was excused. Motion to make correction made by commissioner Mayulianos, seconded by commissioner Jorgenson, motion carried 5-0. Motion to approve minutes as amended made by commissioner Mayulianos, seconded by commissioner Mark. Motion carried 5-0.

**4) STAFF REPORTS**

- a) Elisa Rodriguez, City Planner
  - i) Shared that staff and the Planning Commission are working on rules of procedure. Reminded the commission and public that she is a resource, not the final say and that a subject can always be tabled if the commission is not ready to move forward. Thanked the commission for their work.
  - ii) Shared that an application for a text amendment to the municipal code regarding shipping containers was received. A public hearing will be held at the next meeting scheduled for December 15, 2022.

**5) SCHEDULED ITEMS**

- a) Critical Areas Ordinance
  - i) Commissioner Mayulianos motioned to reconsider the motion made at the October 27, 2022, planning commission meeting to send the CAO to City Council. She would like the commission to take another look at it before presenting it to City Council. Motion seconded by commissioner Jorgenson and carried 3-2 with commissioners Hudson and Mark voting nay.
  - ii) Commissioner Mayulianos motioned to change the wording in the November 8, 2022, CAO revision, page 19, section 17.10.090, subsection (F)(1)(a)(i) to read that the city cannot build a road through a designated wetlands area under any circumstances. Motion seconded by commissioner Jorgenson. Commissioner Mark made point of inquiry to have the City Planner, Elisa Rodriguez give further explanation on the referenced section. Ms. Rodriguez read the entirety of the section in question and explained the reason the wording is in

there. After further clarification, commissioner Mayulianos withdrew her motion to make the change in wording.

- iii) Commissioner Mayulianos asked commissioner Munson for further clarification on the topics he had brought before the commission at the last meeting. Commissioner Munson responded.
  - (1) Commissioner Mayulianos motioned to table the CAO discussion until the December 15, 2022, meeting, to allow time to review the information that commissioner Munson will provide. Motion seconded by commissioner Munson. Point of inquiry made by commissioner Mark to the City Planner asking if she would be able to address the issues in question between now and the next meeting. Ms. Rodriguez replied in the affirmative. Motion carried 4-1 with commissioner Hudson voting nay.

**6) PUBLIC HEARING (continued from October 27, 2022)**

- a) Comprehensive Plan Amendment – Urban Growth Area Change
  - i) No conflicts of interest.
  - ii) Commissioner Hudson reviewed the rules of a public hearing.
  - iii) City Planner, Elisa Rodriguez shared the following:
    - (1) Provided update on UGA change. Explained that the UGA is required by the state to accommodate 20 years of growth. City currently has approximately 400 acres of UGA outside the city limits. Spokane County approves changes to the UGA. City of Cheney is applying for a UGA “exchange” and Medical Lake is interested in doing the same. Original UGA was approved in the 1997 Comprehensive Plan. It included an area to the SW of the city for a potential juvenile rehabilitation center and an area to the north of the city for a golf course. In 2013 the norther area of the UGA was changed to reflect the 65 dB line of the FAFB overlay. Since these areas have never developed, the city is looking at a better direction for growth. The area to the east of the city can be easily served by water, sewer, and roads. Most recently, the state has said we cannot change our UGA until 2026 due to a change adopted by the state legislature [SB 5593 amending RCW 36.70A.130]. The original mailing for UGA included approximately 50 landowners. The most recent mailing included 150 landowners. The city is interested in finding out if these landowners are interested in becoming part of Medical Lake. Ms. Rodriguez explained the difference between being in the UGA and annexation. She would like to see annexation policies developed. Some of the concerns brought to the city’s attention are working farms that don’t want to develop, landowners with new septic systems and/or wells, that don’t want to be forced to hookup to city services, disturbance of wetlands, current hunting on private property that would not be allowed in the city, and increased taxes. Commissioner Mayulianos inquired about how a UGA is determined. Ms. Rodriguez responded that in 1997, it was likely that the city just tried to get as much as they could. When we started this process, we were told we could do a swap, keeping the same acreage. Now we must justify any land we want in the UGA by examining our housing, density, transportation and other services. She added, that due to the current housing climate on the West Plains, if we annex land, it will likely be developed. Commissioner Hudson asked the State UGA requirement to be explained. Ms. Rodriguez explained that a UGA is required per the Growth Management Act which mandates that urban development be planned rather than haphazard.
    - (2) Commissioner Hudson called the continuation of the public hearing to order at 6:08 pm.
      - (a) Tammy Roberson 424 W Brooks – shared her comments on SEPA for UGA. See attached.
      - (b) Scott Holbrook 424 W Brooks – shared comments on UGA regarding building on wetlands and forested lands.
      - (c) Chris Munoz 8112 S. Brayton Road – shared his concerns regarding the proposed UGA and its impact on the city.
      - (d) Christine Van Winkle 1225 W Lake St – shared her concerns about the notification process of the UGA.
      - (e) Point of inquiry from commissioner Hudson for clarification on the process of notification. Ms. Rodriguez answered and explained.
      - (f) Scott Sonneborn 9213 S Freeman Drive – asked for clarification on the exact proposed area and how it relates to him. Also shared his preference for growth within city limits rather than outside limits.
      - (g) Carly Holtzclaw 7310 S Bartholomew – shared concerns about the notification process. Shared concerns about the proposed UGA why she lives outside of city limits and does not desire growth.

- (h) Sonya Sievers 9105 S Freeman Dr. – shared information about UGA and earlier plan to add Silver Lake Drive into the previous UGA. Shared that they were told in 2013 that they could NOT be added to city sewer and water even though they would like to be.
  - (i) Trevor Oestreich 9102 S Freeman Drive – shared comments on the proposed UGA and concerns for his property.
  - (j) Bree Oestreich 9004 S Freeman Drive – asked what the next steps are now that the UGA process is being pushed out for an undetermined time. Ms. Rodriguez explained that it is an annual process with the county to review the UGA, therefore, there is a similar deadline for next year. A public hearing will be held again in six to nine months at the earliest. Ms. Rodriguez also explained that although we cannot move forward at this time, it could possibly change depending on information from Spokane County.
    - (i) Ms. Oestreich also shared her concerns about the notification process.
- iv) No commissioner comments or questions.
- v) Commissioner Jorgenson motioned to close the public hearing, seconded by commissioner Mayulianos and carried 5-0. Public hearing closed at 6:35 pm.

**7) COMMISSION MEMBERS' COMMENTS OR CONCERNS**

- a) Commissioner Hudson made a motion to change the wording in the Planning Commission Rules of Procedure section 5.4 to align with Robert's Rules of Order. Change wording to "A motion to reconsider must be made by a person who voted with the majority on the principal question and must be made at the same meeting unless the Planning Commission is in session and then the motion can be made on the next succeeding day within the session on which a business meeting is held." Motion seconded by commissioner Mark. Motion carried 5-0.

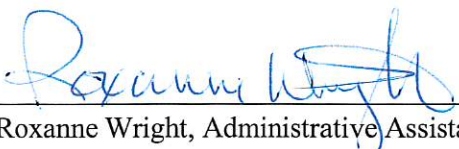
**8) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS**

- a) Tammy Roberson 424 W Brooks – shared source of information regarding her earlier comments.
- b) Larry Wilcox 12310 S Andrus Rd Cheney on behalf of Wilcox family properties – questioned about whether the public hearing is closed and what is next. Ms. Rodriguez responded.
- c) Scott Holbrook 424 W Brooks – shared that he would like to see verbiage in the CAO that would require wetlands reports to be done by a neutral wetlands specialist. He would also like to see plume areas included in the map boundaries.

**9) CONCLUSION**

- a) Motion to conclude meeting made by commissioner Mayulianos, seconded by commissioner Munson and carried 5-0. Meeting concluded at 6:46 pm.

Date: 12/22/22

  
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Roxanne Wright, Administrative Assistant

**November 17, 2022**

Dear City Officials and Members of the Planning Commission,

I am writing you regarding the Medical Lake Critical Areas Ordinance update process. Specifically, this letter is in response to the document titled, "Critical Areas Ordinance 2022 Update Final Draft from Planning Commission Includes all changes adopted at 10/27/22 meeting." As I am sure you are well aware, I have been paying close attention to the ordinance update process because I am eager to see the City make improvements to the CAO that will benefit our community and its precious natural resources for years to come. I understand that the City is getting close to finalizing the new version of the CAO. Therefore, it is my goal to provide a few more comments to try and help improve the final draft.

I understand that the City planning department has suggested that some of the text changes proposed by Commissioner Munson and me are redundant or unnecessary in light of the latest draft ordinance. With a few exceptions, I strongly disagree with that assessment. Therefore, I am writing to reiterate my support for some of the proposed changes that Commissioner Munson and I previously presented. Where the newest draft has obviated the need for certain proposed changes, I have eliminated those proposals. For ease of reading, I have numbered and boxed the remaining proposed changes. The comments that apply to each proposed change is beneath the boxed proposal.

Thank you once again for your time and attention to this important matter.

Respectfully,

Tammy Roberson.

# Handout – Medical Lake Planning Commission Meeting - 17 Nov 2022

As a retired Architect with a career spanning 40+ years I wish to share my thoughts about the subject of our environment to include wetlands. To me our wetlands, forestlands, and farmlands are resources that should not be lost to development. I also worked approx 16 yrs for the AirForce (both active duty and civilian) in the Plans and Programming department where we handled planning for future projects, AICUZ (noise contours) in relation to the runway noise and neighboring communities and Wetlands all across the base (two different bases) and where you could and couldn't build.

## 1- Why does Mother Nature create wetlands and forestlands?

We can all agree that Mother Nature plays a vital role in the formation of the surface of our planet. All bodies of water to include lakes, streams, wetlands and just below the surface subsurface pockets of water are there to moderate temperature or balance our temperatures. If we did not have these surface and low subsurface waters our planet would be much hotter and colder depending on the seasons and we would be living in dust bowls and frozen waste lands. So we owe much to Mother Nature and Her quite wisdom to provide us humans and wildlife and life at all scales (fauna) with a habitable planet. Why? So you and I can go about our lives in peace and happiness. Through OUR thoughtful actions we can give back to show gratitude for Her kindness of providing us with a planet that works to sustain life.

## 2- What do surface and shallow subsurface waters provide?

The earth's crust is made up of many layers of rock and gravel with layers of dirt and topsoil which has been created by many different activities on the surface so that vegetation would grow and flourish which feeds us and fauna and provides a home for all. Q-Why are trees of all kinds and bushes, (the whole gambit of flora) in general, growing year to year and looks alive and happy almost everywhere we go? No one waters these areas and yet they grow. And in our area we do not get much rain during late spring, summer and early fall months so the waters received in late fall, winter and early spring must last during the dry months.

A-As rock layers have been formed in a variety of ways there are many locations that have been created in curved and cupping shapes. Over time top soil, dust, dirt and silt has filtered down and clog up those rock layers, forming surfaces underground that do not percolate water, like a series of saucers spread out all over the surface of the earth. Of course as water does filter past these pockets it goes to recharge aquifers (underground lakes and gravel pits of immense size) that man can access with wells for drinking water for all. The earth is a wonderful filter. The many pockets of shallow subsurface water is used to water the vegetation on the surface as mentioned above.

There is a place down about 10 to 15 feet that stays at a constant temperature of about 50 degrees F. This is where the water pockets are. So water down at this depth and at a relatively constant temperature creates the perfect environment to keep the water for vegetation not to evaporate. If it were hotter at those levels it would evaporate up through the earth and into the sky and be unusable for vegetation and wildlife until the rains would come.

Pretty much all surface waters and shallow subsurface waters work together to moderate or balance our temperature above the ground. Without these surface waters and waters just below the surface we would be a dust bowl or a frozen waste land and life would struggle. Mother Nature has created a way for all surface vegetation (flora) to get water to grow and flourish and for wild life, insect life like honeybees and other pollinators (fauna) to also have plenty of water to drink to sustain life.

## 3-What is water body plume? (ground water, water table)

The area around a lake, stream, river, wetland pond, wetland lake etc. is saturated with water from that water body creating a plume or extension of underground water. You can see it on the map of Medical Lake Wetlands created by SCJ Alliance and on Google maps showing the wetlands in and around Medical Lake. A wetland boundary is not the same every year, it fluctuates based on the amount of moisture received every wet season. The boundary of a wetland pond may follow the pencil line of the water line but this alone does not define the wetland. The wetland is also defined by the extended subsurface water and associated wetland soils that accompany it. Look at the map and you see a brownish green area defining the actual wetland pond boundary for that particular space in time and also you will see a lighter green surrounding it. This is the plume or ground water from that wetland. Some go out only a few feet and some go out several hundred feet depending on the type of material surrounding that particular wetland pond. I call it a wetland plume others may call it ground water, or water table. The water is the same water that is in the pond and the soils are the same specific wetland soils that are found in wetlands. Those wetland specialists (biologists) who do the wetland reports to determine category 1, 2, 3, or 4 usually draw a line on a map showing

where the water boundary is at the time of the making of the map. If you have a low water year the map will show a smaller area and when you have a larger water year the map will show a larger area of the wetland. So a wetland specialist can fudge a wetland boundary by choosing the time of year to do the report. One can usually see if the wetland specialist is pro-saving wetlands or pro giving developers what they want especially if a wetland specialist works for the design teams hired by the developer.

**REQUEST:** I would like to see each survey map show BOTH the wetland boundary by a solid line AND the wetland plume shown with a dashed line. This plume generally can be seen from a Google map or be shown by drilling some test core samples. These core samples also show you the amount of moisture in the soils and the specific wetland soils in question.

This is why the Stanley Project excavated 5700 CY of unsuitable soil and removed it from the site or repositioned it to other locations and brought in 7200 CY of fill suitable for bearing foundations to replace that which was excavated. There is a simple small chart on the project drawings which was easy to overlook and almost no one would question it. We asked many times what the 5700 CY of excavated cut was for and what the 7200 CY of fill was to be used for and never got an answer. What was the water content and make up of the plume soils excavated?

#### **4-Why was all civil engineering and wetland specialist site analysis done by one firm?**

The fact that the civil engineering was done by the same company who worked with the owner to accomplish the project of the cut and fill and had a member of the team do the wetland report appears to be a conflict of interest.

**REQUEST:** I would like to see verbiage on our newly modified ordinance that would require the wetland specialist report be done by a neutral third party. Handling this function all in house would be tempting to make all wetland reports category 4 instead of 3 (as the state ecology department may suggest) that it could be to assure the developer can maximize the site for maximum profits.

#### **5-Does the balance of our eco system effect the quality of life on this planet?**

The uneducated and unconcerned think and say **NO**. The educated and concerned say **YES**. The wildlife says **YES**, the plants, trees, bushes flowers say **YES**. The honeybees and other pollinators that do so much pollinating of the food we eat say **YES**. Butterflies say **YES**. Fish, water fowl, and birds of all kinds say **YES**. Kids in all levels of school say **YES**. What happens when this balanced system gets out of balance? According to Dr Dasher at the last meeting, she says that world wide we have lost approximately 50% of wetlands. How much of our wetlands have been build on. A quick glance shows it to be near that figure.

#### **6-What tells us we have a balanced system?**

All of the things we have discussed are a part of our ecosystem. When you hear frogs you know that you have a balanced, healthy and happy eco system. When you don't hear frogs in a wetland or around other bodies of water there may be something wrong. Sound silly but it is a very simple way to gauge.

#### **7-Other questions to consider:**

-Why is it some years homes that were built too close to wetlands have mold problems in their crawl spaces?

-Have we seen any cracked foundation that were built on or near wetlands?

-A few years ago why did so many homes down Minnie and Howard have water in their crawl spaces?

-Why do we cater to developers with big bucks by allowing them to change our zoning? Should we allow outside interests with big money come into our city and ask for zoning changes that when done they get to walk away from and we get to live with forever? They don't live amongst us and yet we allow them to do what they want and leave local people to live with the mess. **REQUEST:** I would like to see verbiage in our ordinance that does not allow a back door approach (hearing examiner) to getting a zoning change when the planning commission had already voted down such an action.

**Scott Holbrook, retired architect** / 424 W Brooks Rd, Medical Lake / 509-842-8698 / earthsun51@gmail.com

**NOTE ON THE UGA:** It would be a travesty to build on wetlands, forestlands and farmlands. All of these should be protected from building projects by big money interests that tend to deforest an area, scrub it surgically and sell all forested trees for sale to lumber mills and sell all scrapped topsoil as well. Wetlands, forestlands and farmlands frame the areas where our local wildlife call home. We don't even know why we have a required area for the UGA the size that it is and why we need the same size somewhere else. If we don't have space for expansion tell them that we have no where to expand.

**Proposed Change # 1 — Alter 17.10.020 and 17.10.130**

**Add a new subsection, 17.10.020(H):**

H. Written Findings Required. All permitting decisions (as defined in Section 17.10.130 - Definitions) made by the City Administrator or other City Officials and regulated by this chapter shall be supported by written findings stating:

- a. The decision;
- b. The information considered;
- c. The information relied upon; and
- d. The basis for decision;

These written findings shall be a City of Medical Lake public record and included 1) in any public notice required under this Chapter as well as 2) an addendum to the City Council meeting agenda next following the decision. When the City Administrator or other City Official makes multiple permitting decisions pursuant to a single permit requested by a single applicant, those decisions may be consolidated into a single document for ratification as a whole.

**Add a new definition to 17.10.130:**

*Permitting Decision* – Any discretionary decision made by the City Administrator or other City officials, pursuant to the terms of Chapter 17.10, in connection with a permitting process where the applicant is required to show or prove some fact upon which the decision is contingent.

The goal of this change is to require City officials to leave a clear written record of the decisionmaking process that underlies actions on applications. This protects both citizens and applicants—everyone involved in the process will know what decisions are being made and what information the decision is based on. This is not redundant. The code currently does require City Officials to clearly document this information. The closest the current draft comes to addressing this concerns is in 17.10.040(15), which requires a “notice of a decision.” I am proposing something better, a notice of the decision *and the information it is based on*. Government is not accountable without records.

**Proposed Change # 2 — Alter 17.10.120**

**Add the following Section to the end of 17.10.120:**

F. *Penalties* - The exemptions and exceptions provided in this ordinance should be construed narrowly, and the enforcement mechanisms contained in this Code, including the power to issue fines, shall apply to violations of this ordinance, including wrongfully claimed exemptions and exceptions.”

Exceptions are necessary part of writing a law that is reactive to the needs of the community. On the other hand, exceptions create enforcement risks. Every exception is a potential point of abuse. The City needs to speak clearly about its ability to enforce the critical areas ordinance. Right now the proposed text makes reference to enforcement for unauthorized alternations (in 17.10.120), but it does not attach any enforcement authority to the exceptions and exemptions in the code. I believe it is prudent for the City to make it clear that the MLMC’s enforcement powers clearly apply to the CAO.

**Proposed Change # 3 — Alter 17.10.050(E)**

**Modify the final sentence of 17.10.050(E) to read:**

"The planning official may also initiate a modification to the required report contents by requiring additional information when determined to be necessary to the review of the proposed activity in accordance with this chapter."

I continue to believe the City should not have the power to require less information from applicants before an application is ever submitted. This just risks regulatory capture. This change removes the phrase “or less” from the text to make it clear that the City can require more information, but *not less*.



Proposed Change # 4 — Alter 17.10.050(F)(1)

**Alter 17.10.050(F)(1) to add the following subparagraphs:**

- f. Assessment of existing conditions;
- g. Surface and subsurface hydrological conditions;

This proposed change brings the text of this section into closer alignment with the Department of Ecology’s guidance. A mitigation plan should include baseline information to help the reviewing official evaluate what that mitigation plan is designed to preserve or restore. These requirements are logical because they help the City get a “before and after” view of the proposal. A mitigation plan cannot be reasonably evaluated unless City Officials know what is being lost as a result of the proposed alterations and what will replace it. Without this information the reviewing official will not be able to evaluate whether the mitigation is adequately compensating for the effects of the project.

Proposed Change # 5 — Alter 17.10.090(F)(1)

**Replace 17.10.090(F)(1) with the following:**

a. Activities allowed in wetlands. These activities do not require submission of a critical area report, except where such activities have the potential to result in a loss of the functions, values or area of a wetland or wetland buffer. These allowed activities include but are not strictly limited to:

- i. Existing and ongoing agricultural activities, provided they implement applicable Best Management Practices.
- ii. Normal and routine maintenance and repair of any existing, legally established public or private facilities within an existing right-of-way, provided that the maintenance or repair does not expand the footprint of the facility or right-of-way and has no adverse effect on the wetland or buffer.
- iii. Those activities and uses conducted pursuant to the Washington State Forest Practices Act and its rules and regulations, WAC 222-12-030.
- iv. Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing wetland.
- v. The harvesting of wild crops in a manner that is not injurious to natural reproduction of such crops and provided the harvesting does not require tilling of soil, planting of crops, chemical applications, or alteration of the wetland by changing existing topography, water conditions, or water sources.
- vi. Drilling for utilities/utility corridors under a wetland, with entrance/exit portals located completely outside of the wetland buffer, provided that the drilling does not alter the ground water connection to the wetland or percolation of surface water down through the soil column. Specific studies by a hydrologist are necessary to determine whether the ground water connection to the wetland or percolation of surface water down through the soil column will be altered.
- vii. Educational and scientific research activities that do not result in altering the structure or functions of the wetland.
- viii. Enhancement of a wetland through the removal of non-native, invasive plant species. Removal shall be restricted to hand removal unless permits from the appropriate regulatory agencies have been obtained for approved biological or chemical treatments or mechanical methods. All removed plant material shall be taken away from the site and disposed of properly.

b. Activities allowed in buffers. The following uses may be allowed within a wetland buffer in accordance with the review procedures of this Chapter, provided they are not prohibited by any other applicable law, and are conducted in a manner minimizing impacts to the buffer and adjacent wetland:

- i. All activities described in subparagraph (a) above.
- ii. Passive recreation facilities including wildlife viewing structures and walkways and trails, provided that they are limited to minor crossings having no adverse impact on water quality. They should be generally parallel to the perimeter of the wetland, located in the outer wetland buffer area, and located to avoid removal of trees. Walkways and trails should be limited to pervious surfaces no more than five (5) feet in width and designed for pedestrian use only.
- iii. Repair and maintenance of legally established non-conforming uses or structures, provided they do not increase the degree of nonconformity.

I have made numerous comments regarding the City's scheme for 17.10.090(F)(1). Unfortunately, I continue to think the way the City has designed this section of the code is misguided. Because of State Agencies' regulatory authority, the City will never have authority to authorize a road to run through a category I wetland. Nevertheless, this is precisely what the current draft proposes that the City can do. The City should not approve a law that is "dead on arrival" because it conflicts with state regulatory authority. The City's plan to use this text is especially misguided when there is already a model statute written by the Department of Ecology available. I urge the City to replace 17.10.090(F)(1) with the proposed text above, which is directly adapted from expert guidance.

(found here: <https://apps.ecology.wa.gov/publications/documents/2206005.pdf>)

I understand that there is some concern that the proposed text is redundant with 17.10.030(B). In my view, the solution is to remove 17.10.030 or to add its exemptions to 17.10.090(F)(1) to resolve the flaws in that section.

**Proposed Change # 6 — Alter 17.10.090(F)(2)**

**Add the following Paragraph to 17.10.090(F)(2):**

j. Buffer Setback. A minimum building setback of fifteen (15) feet is required from the edge of a wetland buffer. The City Planner may allow intrusions into this setback on a case-by-case basis if it can be demonstrated by clear and convincing evidence that impacts will be satisfactorily mitigated. This building setback from the buffer shall be identified on the site plan.

I continue to believe that this is a prudent rule. The existing Critical Areas Ordinance requires a small building setback from a buffer. There is no reason to remove that protection from the code. If the code passes as written, we will end up with a *less protection* in our CAO than we had in previous version. That, in my view, would be a tragedy.

**Proposed Change # 7 — Alter 17.10.090(C)(2)**

**Alter 17.10.090(C) to Read:**

C. Delineation. Wetland delineations are valid for five years; after such date a qualified professional must determine and inform the City on the applicant's behalf (in writing) whether a revision or additional assessment is necessary.

The present text of this section fails to require the applicant to inform the city of the need for a new delineation. This is a small change, but would add helpful clarity to the text.

Proposed Change # 8 — Alter 17.10.110

Append the following sentence to **17.10.110**:

Where the applicant seeks an exception to any requirement imposed by this code, justification in support of an exception must be clear and convincing. Grant of an exception, on the other hand, must not be unreasonably withheld.

This change makes the relative evidentiary burdens on the applicants and the City clear.

## Clarification Meaning Requested on Paragraph in Latest Draft CAO (dated 8 Nov 2022)

**Pg 19, Para F,1, a, i (bottom of page):** I have a verbiage meaning clarification question for ONLY the Chair:

If I am reading this para correctly, a road, railroad, etc that cannot feasibly be located outside of the wetland (in this case, a Category I), then this activity (i.e., building a road, railroad, etc) may be allowed by the City of Medical Lake if it minimizes the impact, and mitigates for any unavoidable impact to functions (since it will be stated (if approved) in Medical Lake's Critical Areas Ordinance)? In simpler terms, the City of Medical Lake therefore, has regulatory power over the wetlands themselves based on this verbiage.

Chair Hudson, am I understanding the text correctly as it is currently written?

Does the City also have regulatory power over the wetland buffers?

- ❖ If the statement is incorrect, then why is it stated this way in the draft CAO?
- ❖ If the statement is correct, please give me the regulation (to include chapter and page/para #s or a letter) whereby the Dept of Ecology has given over their regulatory power to the City of Medical Lake in regards to wetlands.

**Source: Dept of Ecology's website:**

"We are charged with protecting, restoring, and managing wetlands because of their key role in watershed health."

### **Our role protecting, restoring & managing wetlands**

The state's [Water Pollution Control Act](#) and the [Shoreline Management Act](#), give us the authority to regulate wetlands. We also use the [State Environmental Policy Act \(SEPA\) process](#) to identify potential wetland-related concerns early in the permitting process. [Our wetland staff](#) review applications for projects that have the potential to affect wetlands and other state waters.

We provide [technical assistance to local governments under the Growth Management Act](#). This includes assistance in developing comprehensive plan policies and development regulations, and implementing local wetland regulations.

Commissioners and City officials,

I noticed three discrepancies on the October 27<sup>th</sup> Planning Commission draft Minutes:

**#5), b), iii):**

1) Nothing was stated in the draft Minutes that the CAO proposed recommendations worked on by Commissioner Munson and I were mostly “redundant” as clearly stated by the City Planner.

Supplemental Information:

- ❖ This means that these proposed recommendations appeared else where in the draft CAO.
- ❖ I do not think that these proposed recommendations were discussed in length since the City Planner had stated that she and Commissioner Munson had only spoken less than five minutes on the phone.

**#8), d):** Not entirely correct...

2) Commissioner Munson had responded to his understanding of the process, not to the content of the changes as Commissioner Mayulianos had requested.

3) No discussion was done by the Commissioners until I personally informed the Planning Commission and City Officials that a “Motion to Reconsider” would be possible IAW City of Medical Lake Planning Commission Rules of Procedure, dated 17 Nov 2015. The Commissioners were totally unaware that the motion to reconsider must be made by a Commissioner who voted with the majority on the principal question and must be made at the same or succeeding meeting.

Please correct the October 27<sup>th</sup> draft Minutes to reflect these statements.

Tammy Roberson  
424 W Brooks Rd

Dear City Officials and Planning Commission,

I would like to submit the following comments to the proposed SEPA Environmental Checklist (Revised) and UGA Amendment issues that are set for hearing today, November 17<sup>th</sup>, 2022.

**Issues of Law and Procedure:**

The City's November 3rd, 2022 "SEPA ENVIRONMENTAL CHECKLIST (Revised)" (page 2, #8) for the Comprehensive Plan Amendment – Urban Growth Area Land Exchange does not state the WA Dept of Natural Resources for environmental information directly related to this proposal. "Forested lands" come directly under the regulatory power of the DNR. The environmental checklist needs to be revised and reissued.

Secondly, as stated during the October 27<sup>th</sup> Public Hearing, RCW § 36.70A.130(3)(c)(ii) sets the requirements for amendments to a UGA. It requires that:

"The urban growth area or areas may be revised to accommodate identified patterns of development and likely future development pressure for the succeeding 20-year period if the following requirements are met: ...

(ii) The areas added to the urban growth area are not or have not been designated as agricultural, forest, or mineral resource lands of long-term commercial significance.

(iii) Less than 15 percent of the areas added to the urban growth area are critical areas; . . .

(viii) The revised urban growth area is contiguous, does not include holes or gaps, and will not increase pressures to urbanize rural or natural resource lands." RCW 36.70A.130(3).

As of right now, there is no evidence that these issues have been adequately analyzed or whether all agencies with authority (namely, the Department of Natural Resources) have been properly notified.

Thank you for your attention to this important matter.

Best,

Tammy M. Roberson, 424 W Brooks Rd

## Paper for November 17, 2022 Planning Commission Meeting Minutes

Dear Planning Commissioners and City Officials,

I understand that the City planning department has suggested that some of the text changes proposed by Commissioner Munson and I are redundant or unnecessary in light of the latest draft ordinance. With a few exceptions, I strongly disagree with that assessment. I have taken three of my proposed changes from the handout you will be receiving shortly in order to explain more in depth why these are not considered redundant.

**Proposed Change #1:** Add a new subsection “Written Findings Required” and also add a new definition “Permitting Decision”. (Alter 17.10.020 and 17.10.130)

- ❖ The goal of this change is to require City officials to leave a clear written record of the decisionmaking process that underlies actions on applications.
- ❖ This protects both citizens and applicants—everyone involved in the process will know what decisions are being made and what information the decision is based on.
- ❖ This is not redundant.
- ❖ I am proposing something better, a notice of the decision *and the information it is based on*.
- ❖ Government is not accountable without records.

### **\* Request verbiage meaning clarification from the Chair only.**

**Proposed Change #5** — Activities allowed in wetlands and activities allowed in buffers. (Alter 17.10.090(F)(1) and replace)

- ❖ I have made numerous comments regarding the City’s scheme for this particular paragraph.
- ❖ Unfortunately, I continue to think the way the City has designed this section of the code is misguided.
- ❖ Because of State Agencies’ regulatory authority, the City will never have authority to authorize a road to run through a category I wetland.
- ❖ Nevertheless, this is precisely what the current draft proposes that the City can do.
- ❖ The City should not approve a law that is “dead on arrival” because it conflicts with state regulatory authority.
- ❖ The City’s plan to use this text is especially misguided when there is already a model statute written by the Department of Ecology available.

**Proposed Change #6** — add new paragraph for building setback from buffer (Alter 17.10.090(F)(2))

- ❖ I continue to believe that this is a prudent rule.
- ❖ The existing Critical Areas Ordinance requires a small building setback from a buffer.
- ❖ There is no reason to remove that protection from the Code.
- ❖ If the code passes as written, we will end up with a *less protection* in our CAO than we had in the previous version.
- ❖ That, in my view, would be an extremely serious tragedy.

Thank you once again for your time and attention to this serious matter. Tammy M. Roberson, 424 W Brooks



