TECHNICAL COMMITTEE REPORT

To: Planning Commission

From: Technical Committee

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Date: August 21, 2019

Project File Number: LAND-2018-00214

Project Name: Development of Redmond Cultural Resources Management Plan (CRMP)

Related File Numbers: SEPA-2019-00608

Applicant: City of Redmond

Applicant’s Representative: Kimberly Dietz, Senior Planner
425-556-2415

Tom Hardy, Senior Planner
425-556-2762
Reason for Proposal
Adoption:

The proposal should be adopted because:

• Development of the Cultural Resources Management Plan (CRMP) is a stipulation of the Memorandum of Agreement (MOA) Among the U.S. Army Corps of Engineers, the Federal Highway Administration, the Washington State Department of Archaeology & Historic Preservation, the City of Redmond, and the Washington State Department of Transportation Regarding Treatment of Adverse Effects to the Bear Creek Site (Exhibit A); and

• The CRMP and the associated recommended amendments to Comprehensive Plan policies and Zoning Code regulations will implement standards, procedures, and protocols directing the City to continue administering permits consistent with federal, state, and local laws.

I. APPLICANT PROPOSAL

The City of Redmond proposes to amend portions of the Redmond Comprehensive Plan and Zoning Code addressing the protection, preservation, and management of cultural resources within the City’s jurisdiction.

BACKGROUND AND REASON FOR PROPOSAL:

Phase 1 of the Bear Creek Rehabilitation Project was constructed in 2013. The purpose of this City capital project was to rehabilitate the lower, channelized part of Bear Creek — starting at the Sammamish River going upstream on Bear Creek — to the previously completed Bear Creek enhancement work. The project construction scope included recovery of archaeological artifacts based on permit conditions issued by the U.S. Army Corp of Engineers, Seattle District Regulatory Branch (Corps) in response to a 2008 archaeological discovery at Bear Creek. The permit is subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C. and its implementing regulations — 36 CFR Part 800 and 33 CFR 325, Appendix C.

During project construction, there was inadvertent damage to the resource area by the construction contractor and archaeological contractor, resulting in a permit violation. The Corps initiated a formal consultation process, having obtained a determination of the Bear Creek site’s eligibility for listing in National Register of Historic Places from the Washington State Historic Preservation Officer. The
consultation process included communication with other federal, state, and local agencies and with the following affected Indian tribes:

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The Snoqualmie Indian Tribe, Muckleshoot Indian Tribe, Tulalip Tribes, and Stillaguamish Tribe of Indians indicated their interest in participating as concurring parties through the Section 106 process. The Samish Indian Tribe, Suquamish Tribe, Confederated Tribes and Band of the Yakama Nation, and the Suquamish Tribe requested to remain informed about the Bear Creek project and its progress. In addition, the Federal Highway Administration, Washington State Department of Archaeology and Historic Preservation, Washington State Department of Transportation, and the City of Redmond served as signatories and the King County Office of Historic Preservation served as a concurring party through the Section 106 process.

The Section 106 process involved the parties establishing an agreement to resolve adverse effects of undertakings at the Bear Creek site. The outcome of this work was the Memorandum of Agreement (MOA) among the U.S. Army Corps of Engineers, the Federal Highway Administration, the Washington State Department of Archaeology & Historic Preservation, the City of Redmond, and the Washington State Department of Transportation Regarding Treatment of Adverse Effects to the Bear Creek Site (Exhibit A), approved by the City Council in August 2014. Amendment 1 to the MOA (Exhibit B) requires the City to use the services of a qualified archaeological consultant to develop a comprehensive, citywide Cultural Resource Management Plan (CRMP) within 3 years of the agreement and to integrate the Plan with the City’s existing professional cultural resource services and agreements. In May 2016, the City Council approved a contract with DOWL (Consultant) for these services.
Stipulation 6 of the August 2014 amendment to the Memorandum of Agreement (MOA) for the Bear Creek Rehabilitation Project establishes a primary purpose of Redmond’s Cultural Resource Management Plan to include though not be limited to the following:

- Identification of high site probability areas within the city utilizing existing materials, DAHP data, KCHPP data, and any additional information provided by the Muckleshoot, Snoqualmie, Stillaguamish, and Tulalip Tribes.
- Protocols for identifying, investigating, and treating cultural resources, including how to address high-site probability areas.
- Protocols for coordinating cultural resource review between the city's departments.
- A cultural resource training plan and schedule for Redmond employees.
- Procedures to improve existing tribal consultation protocols.
- Inadvertent Discovery Procedures, including provisions for the discovery of human remains.
- Emergency response protocols.
- Monitoring protocols.

DAHP Case No. 2014-3-KI-839 Stipulation Settlement Regarding Notice of Violation (Exhibit C) also requires several actions as settlement for the inadvertent damages to the Bear Creek archaeological site including payment of fines, completion of certain staff trainings, development of the CRMP to include certain information, and continued compliance with state and federal laws. Exhibit D, Damage Assessment for the Bear Creek Site 45KI839 King County, Washington provides the recommendations of an independent investigator responding to the inadvertent damages to the Bear Creek site. The report addresses the incidents involving unauthorized digging or excavation through the use of mechanical equipment, prohibited by RCW 27.53.060 and subject to the requirements of WAC 25-48-043 (Procedure for Selecting a Mutually Agreed Upon Independent Professional Archaeologist Investigator and for Determining Site Restoration Costs).

Term #15 of the DAHP Case No. 2014-3-KI-839 Stipulation and Settlement Regarding Notice of Violation also calls for incorporating the recommendations of the investigator (Exhibit D) in the CRMP and site review process, developed under Stipulation 6. The Investigator’s recommendations emphasize enhancement to three main categories of cultural resources management for work performed at known archaeological sites:

- Integrating cultural resources management protocols into the CRMP;
- Improving processes for discussion among the City’s construction management team, project contractors including project archaeologists, other governmental agencies, and the affected Indian tribes; and
Improving collaborative and frequent engagement and communication procedures.

Development of the CRMP has involved an interactive process in collaboration and consultation with the MOA signatories, concurring parties, and the affected and interested Indian tribes. Over the course of three 30-day periods in June 2017, February 2018, and May – June 2019 these parties reviewed drafts of the CRMP and the proposed amendments to Comprehensive Plan policies and Zoning Code regulations for accuracy, completeness, and consistency with Amendment 1 to the MOA, Stipulation #6 as described above and other related stipulations and terms. The parties and Tribes were also included in the SEPA review process during July 22 to August 19, 2019.

In December 2016 and again in June 2019, participants of a stakeholder focus group provided preliminary questions and feedback regarding the development and use of the CRMP at a citywide scale. Staff provided periodic updates to this group including notification of the SEPA review and comment period. In addition, staff provided briefings to the Landmark Commission on August 1, 2019, Planning Commission on December 9, 2015 and August 14, 2019 and to the City Council on November 10, 2015, May 10, 17, and October 11, 2016, and June 13, 2017.

II. RECOMMENDATION

The Technical Committee recommends adopting amended policies and regulations as shown in Exhibits E, F, and G. Key elements of the updates include:

- **Policies**
  - Including new narrative and policies in the Community Character and Historic Preservation Element that define cultural resources and associated compliance with federal, state, and local laws regarding the protection and management of cultural resources.

- **Zoning Regulations**
  - Refining and including new regulations for considering and evaluating, protecting, and managing cultural resources in the context of permitting actions that have the potential to disturb archaeological resources and known archaeological sites, and other features, lands, site, and structures identified by other agencies or by Indian tribes to have cultural significance.
  - Establishing new appendices to the Redmond Zoning Code including protocols and procedures consistent with federal, state, and local laws regarding permitting activities that have potential to affect cultural resources.
• Cultural Resources Management
  o Establishing standard operational procedures in compliance with federal, state, and local laws and regulations that direct governmental bodies from the federal and state level to the local level to manage the cultural resources within the respective jurisdiction.
  o Setting forth actions through which the City works closely with agencies, affected Indian tribes, and members of the community to comply with these laws and regulations and to ensure good stewardship for the resources under the City’s protection.
  o Develop a staff training plan and schedule regarding implementation of the CRMP policies, regulations, and procedures.

III. PRIMARY ISSUES CONSIDERED

A. ISSUES CONSIDERED AND ALTERNATIVES

This section of the report describes key recommended amendments to the Comprehensive Plan and Zoning Code, and alternatives that were considered for each.

Confirmation of the CRMP Meeting Stipulations and Laws
The CRMP was developed based on a specific list of stipulations and ensures compliance with federal, state, and local laws. The Washington Department of Archaeology and Historic Preservation (DAHP) is authorized by RCW 27.53 to administer standards and requirements regarding cultural resources protection and management. Though few municipalities had adopted their own CRMP by 2015 — when Redmond initiated the development of its CRMP, the DAHP had already established its standards. These were being implemented by federal and state agencies and by cities in the event of an unanticipated discovery. Oak Harbor was one of the jurisdictions implementing a CRMP, also in response to a significant find. Lessons learned from Oak Harbor were translated into the stipulations enacted through the City’s agreement regarding Bear Creek. In addition to the primary stipulation mentioned earlier in this report, additional stipulations called for the following:

• Coordinate public and tribal outreach efforts developed as part of the City's CRM Plan developed;
• Incorporate the recommendations of the Investigator in the CRMP and site review process; and
Amendment to Cultural Resources Management Plan and Associated Comprehensive Plan Policies and Zoning Code Regulations
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- Comply with RCW 27.53 and other state or federal law protecting archaeological and historical sites and resources, historic graves and cemeteries, and Indian graves and records.

Staff from Planning, Parks and Recreation, Public Works, Executive, and Communications reviewed the draft CRMP and compared its contents to all the respective stipulations and to the recommendations of the independent Investigator of the Bear Creek site. In addition, the parties to the Memorandum of Agreement (MOA) among the U.S. Army Corps of Engineers, the Federal Highway Administration, the Washington State Department of Archaeology & Historic Preservation, the City of Redmond, and the Washington State Department of Transportation Regarding Treatment of Adverse Effects to the Bear Creek Site reviewed the draft CRMP over four separate periods to ensure that the draft would meet the stipulations as well as the laws.

For additional assurance that the CRMP will continue to function as intended, staff will provide periodic assessments of the plan’s implementation to the parties during the first three years following the CRMP’s adoption. Thereafter, staff will survey federal, state, and local laws to ensure the appropriateness and compliance of the plan.

The Technical Committee is recommended as the authorizing body for the operational portions of the plan located within the appendices of the Redmond Zoning Code. The Planning Commission will continue to review proposed amendments to policies and codes and make recommendation to the City Council for action.

B. COMPARISON WITH OTHER COMMUNITIES, APPROACHES (as applicable)

Oak Harbor
In 2011, the City of Oak Harbor experienced an archaeological discovery of high significance to federal and state agencies, Indian tribes, and the community. Resulting from the discovery and per a Section 106 memorandum of agreement, the City of Oak Harbor established a permanent position for a staff archaeologist.

The archaeologist subsequently coordinated with agencies, affected Indian tribes, and its Historic Commission to incorporate archaeological sites and resources protection and management into the City’s critical areas, historic preservation, and other portions of Oak Harbor’s zoning regulations. Using the regulatory framework, the archaeologist coordinates with public and private development proponents to:
• Determine the proximity of ground disturbing activities in relationship to known archaeological sites;
• Provide an Inadvertent Discovery Plan for signature and implementation at the development site; and
• When appropriate to the site, condition permits for archaeological surveying and reporting.

The City of Oak Harbor has also entered into an interlocal agreement with the Swinomish Indian Tribal Community for certain cultural resources management activities.

There are similarities between the approach Oak Harbor took and the one the City has developed. Some examples of similarities are, establishing consistency with federal and state regulations regarding the protection and preservation of cultural resources. These include involving the Section 106 and Executive Order 05-05 processes for capital improvements supported in some measure respectively by federal or state funds.

The City does not propose to establish a position for a staff archaeologist, such as provided by Oak Harbor. Instead, the draft CRMP recommends continued consultation and engagement with the Washington Department of Archaeology and Historic Preservation and with affected Indian tribes to seek recommended cultural resources management actions based on site-specific conditions and proposed ground disturbing activities. In addition, the CRMP recommends establishing annual on-call agreements with several archaeological firms that meet the federal Secretary of the Interior’s standards for qualifications of Professional Archaeologist (RCW 27.53.030 and 36 CFR Appendix A to Part 61) for consultation and assistance during planning, design, and construction of the City’s capital projects. Following the City Council’s action on the CRMP, staff will continue consultation and engagement and begin implementation of recommended on-call agreements.

IV. SUPPORTING ANALYSIS

A. EXISTING CONDITIONS

The Consultant evaluated the City’s Comprehensive Plan, Zoning Code, and operating procedures per the stipulations of the Bear Creek MOA. Exhibit I, provided October 2016, provides preliminary recommendations toward developing the CRMP, particularly regarding archaeological and cultural resources.
B. COMPLIANCE WITH CRITERIA FOR PLAN AMENDMENTS

Redmond Zoning Code 21.76.070.J Comprehensive Plan Map and/or Policy Amendment directs the City to take several considerations, as applicable, into account as part of decisions on proposed amendments to the Comprehensive Plan.

Decision criteria 1 through 6 apply to all proposed amendments. Items 7 through 9 apply when proposed amendments concern allowed land uses or densities, such as proposed amendments to the Land Use Plan Map, land use designations, allowed land uses, or zoning map. Decision criteria 7 through 9 are not applicable to the proposed Comprehensive Plan amendments herein.

Redmond Zoning Code RZC 21.76.070.AE Zoning Code Amendment - Text directs the City to take consideration into account as part of decisions on proposed amendments to the text, maps, charts of the RZC, exclusive of the Zoning Map, and to ensure that the amendments are consistent with the goals and policies of the Comprehensive Plan.

The following is an analysis of how this proposal complies with the requirements for amendments to the Comprehensive Plan and Redmond Zoning Code.

1. Consistency with Growth Management Act (GMA), State of Washington Department of Commerce Procedural Criteria, VISION 2040 or its successor, and the King County Countywide Planning Policies.

This proposal, involving amendment to policies, regulations, and procedures concerning the protection and management of cultural resources, is consistent with the Growth Management goal for historic preservation — identify and encourage the preservation of lands, sites, and structures, that have historical or archaeological significance. Also, Vision 2040 Regional Design Goal MPP-DP-34 calls for preserving significant regional historic, visual and cultural resources including public views, landmarks, archaeological sites, historic and cultural landscapes, and areas of special character. Similarly, King County Countywide Planning Policy EN-4 calls for the preservation of ecologically sensitive, scenic, or cultural resources as part of regionally significant open space networks in urban and rural areas.

Staff provided notice to the Department of Commerce on March 12, 2018 with an update provided on July 24, 2019, consistent with the required notification procedures.
2. **Consistency with Redmond’s Comprehensive Plan, including the following sections as applicable:**

   a. **Consistency with the goals contained in the Goals, Vision and Framework Policy Element.**

      The goals of the Goals, Vision, and Framework Policy Element address enhancing the quality of the natural environment and sustaining the City’s natural resources in the context of accommodating growth. The goals also address celebrating diverse cultural opportunities and working with others in the region to implement a common vision for the City’s sustainable future. Though none of these are directly oriented toward cultural resource protection and management, this proposal would complement these aspects.

      The proposed Comprehensive Plan definition for Cultural Resources, is “An aspect of a cultural system that is valued by or significantly representative of a culture, or that contains significant information about a culture. A cultural resource may be a tangible entity or a cultural practice. Tangible cultural resources are categorized as districts, sites, buildings, structures, and objects for the National Register of Historic Places”. These are of significance to Indian tribes and represent an opportunity for people to learn from and celebrate a variety of current and past traditional aspects and activities.

   b. **Consistency with the preferred land use pattern as described in the Land Use Element.**

      The proposal is a non-project action and does not propose changes to or changes that could potentially alter or impact the preferred land use pattern.

   c. **Consistency with Redmond’s community character objectives as described in the Community Character/Historic Preservation Element or elsewhere in the Comprehensive Plan.**

      The Community Character and Historic Preservation Element addresses historic and archaeological resources. The proposal involves clarifying archaeological resources through additional terminology and identifying the City’s Cultural Resources Management Plan as a guiding collection of policies, regulations, and procedures for the protection and management of cultural resources.
d. Consistency with other sections as applicable including the Natural Environment; Economic Vitality; Transportation; Parks, Arts, Recreation, Culture and Conservation Elements.

The proposal supports the goals, vision, and policies within these elements. Cultural resources may be present in a variety of locations throughout the City. The proposed policies, code, and procedural amendments would work in tandem with existing operations to guide the appropriate measures for protecting resources while also supporting the intent of the respective project-based action.

3. Potential general impacts to the natural environment, such as impacts to critical areas and other natural resources, including whether development will be directed away from environmentally critical areas and other natural resources.

The proposal includes measures that would protect, preserve, and manage cultural resources. This is often performed in similar manner to the protection of natural resources. Additionally, cultural resources are more likely to be located in close proximity to historic waterbodies, therefore working in tandem to protect natural and culturally-sensitive resource areas.

4. Potential general impacts to the capacity of public facilities and services. For land use related amendments, whether public facilities and services can be provided cost-effectively and adequately at the proposed density/intensity.

As a non-project action, the proposal does not include modifications to land use, facilities, or services. The proposed policies, regulations, and procedures for the protection of cultural resources would work within the context of improvements to utilities, facilities, and services. Operational procedures would address specific measures through which standard operating and maintenance efforts would continue.

5. Potential general economic impacts, such as impacts for business, residents, property owners, or City Government.

The proposal was developed through strong consideration of these aspects. For example, permitting and operating procedures addressing the protection of cultural resources were carefully designed for efficiency and to mitigate significant impacts on the City’s customers, its provision of services, and on the continued growth of the City’s economy. Proposed regulations and procedures encourage a variety of educational components that would support property owner and developers’ consideration of
cultural resources at the earliest and most cost-efficient phase of project development and provide predictability and consistency through customer services.

6. **For issues that have been considered within the last four annual updates, whether there has been a change in circumstances that makes the proposed amendment appropriate or whether the amendment is needed to remedy a mistake.**

The proposal involves developing the City’s first Cultural Resources Management Plan and has not been previously considered.

V. **AUTHORITY AND ENVIRONMENTAL, PUBLIC AND AGENCY REVIEW**

A. **AMENDMENT PROCESS**

RZC 21.76.070.J, 21.76.070.AE and 21.76.050.K require that amendments to the Comprehensive Plan or Zoning Code (except zoning map amendments consistent with the Comprehensive Plan) be reviewed under the Type VI process. Under this process, the Planning Commission conducts a study session(s), an open record hearing(s) on the proposed amendment, and makes a recommendation to the City Council. The City Council is the decision-making body for this process.

B. **SUBJECT MATTER JURISDICTION**

The Redmond Planning Commission and the Redmond City Council have subject matter jurisdiction to hear testimony and decide whether to adopt the proposed amendment.

C. **WASHINGTON STATE ENVIRONMENTAL POLICY ACT (SEPA)**

A SEPA threshold determination was issued on July 22, 2019 and is attached as Exhibit J.

D. **60-DAY STATE AGENCY REVIEW**

State agencies were sent 60-day notice of this proposed amendment on March 12, 2018 with an update provided on July 24, 2019.

E. **PUBLIC INVOLVEMENT**

The public has opportunities to comment on the proposed amendment through the Planning Commission review process and public hearing. A public hearing is scheduled for September 11, 2019. The hearing notice is attached as Exhibit K.
During development of the recommended policy, code, and procedural amendments, a stakeholder focus group including organizations, property owners, developers, and interested parties provided feedback. This group specifically included representatives of properties and development projects located within portions of the City identified as having high probability for cultural resources.

F. APPEALS
RZC 21.76.070.J and 21.76.070.AE identify Comprehensive Plan and Zoning Code Amendments as a Type VI reviews. Final action is held by the City Council. The action of the City Council on a Type VI proposal may be appealed by filing a petition with the Growth Management Hearing Board pursuant to the requirements.

VI. LIST OF EXHIBITS
Exhibit A: Memorandum of Agreement (MOA) Among the U.S. Army Corps of Engineers, the Federal Highway Administration, the Washington State Department of Archaeology & Historic Preservation, the City of Redmond, and the Washington State Department of Transportation Regarding Treatment of Adverse Effects to the Bear Creek Site
Exhibit B: Addenda to MOA
Exhibit C: Washington Department of Archaeology and Historic Preservation Settlement Agreement
Exhibit D: Cultural Resources Management Recommendations by the Bear Creek Project’s Independent Investigator
Exhibit E: Cultural Resources Management Plan Context
Exhibit F: Recommended Comprehensive Plan Amendments
   Exhibit F1: Introduction Chapter
   Exhibit F2: Goals, Vision and Framework Element
   Exhibit F3: Community Character and Historic Preservation Element
   Exhibit F4: Natural Environment Element
   Exhibit F5: Glossary
Exhibit G: Recommended Zoning Code Amendments
   Exhibit G1: RZC 21.30 Historic and Archaeological Resources
   Exhibit G2: RZC 21.78 Definitions
Exhibit G3: RZC Appendix 9, Cultural Resources Management Procedures
Exhibit H: Procedural Recommendations
Exhibit I: Consultant’s Review and Recommendations to the City of Redmond Comprehensive Plan and Zoning Code for Cultural Resources Management (2016)
Exhibit J: SEPA Threshold Determination
Exhibit K: Public Hearing Notice for September 11, 2019 Hearing

**Conclusion in Support of Recommendation:** The Technical Committee has found the proposal to be in compliance with the Redmond Zoning Code, Redmond Comprehensive Plan, Redmond Municipal Code, and State Environmental Policy Act (SEPA).

ERIKA VANDENBRANDE  DAVID JUAREZ,
Planning Director  Public Works Director
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Department