

CULTURAL RESOURCES WORKGROUP - OCTOBER 2013 REPORT
WASHINGTON DEPARTMENT OF ECOLOGY

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Executive Summary

This report summarizes the work of the 2013 Cultural Resources Workgroup. The group was formed by the Department of Ecology and met from April to August 2013. The workgroup met five times to examine opportunities to improve notice to tribes and other parties during development project review; and ensure that cultural resource protection measures are incorporated into development permitting.

Three key outcomes of Workgroup dialogue:

- **We have opportunities to improve the effectiveness of efforts to protect cultural resources.** At this time, procedures and outcomes on cultural resource protection are inconsistent. We have uneven performance in providing notice: Some local governments communicate well with affected tribes, others do not. The best information available is not being consistently deployed in protecting these resources: Data and tools developed by the Department of Archeology and Historic Preservation (DAHP) are utilized by some but not all local and state agencies. In workgroup discussions, there was a sense that we may be at a point where cultural resources protection could move to the new level of consistency and effectiveness – if we can define a workable path forward.
- **SEPA has long been relied upon, but is not an optimal framework for achieving cultural resources protection.** Many times, SEPA checklists are filled out without rigorous analysis. “Not applicable” or “not known” is too often the answer to checklist questions. Detailed information on the proposed project and relevant technical information is often not provided in SEPA documents. And projects that could affect cultural resources may be exempt from SEPA.
- **To move cultural resource protection to the next level of sophistication and effectiveness, we may need statutory amendments.** Our State’s laws require an *outcome of* cultural resources protection, but generally do not define a clear path to achieve this objective. Our statutory frameworks for planning and development project review may need revision to improve our protection of cultural and historic resources.

Two different proposals were discussed that would amend the process for *development proposal* review through the Local Project Review Act RCW 36.70B.

- City representatives proposed amendment to RCW 36.70B to ensure early notice to tribes and others (at “determination of completeness” stage.)
- Tribal representatives proposed additional RCW 36.70B details on timeframes for tribal comment; and stipulating that tribal comments must be considered in permit conditions.

A broader and more challenging issue discussed by the group: Elevating cultural resource protection as a specific planning requirement under the Growth Management Act. The Shoreline Management Act already requires protection of “historic, archaeological and cultural features” within shoreline areas. One option could be expansion of this requirement to the broader landscape.

Background

2012 Senate Bill 6406

In 2012, the Washington State Legislature adopted Senate Bill 6406 directing the Department of Ecology to update the rules guiding local and state agencies in implementing the State Environmental Policy Act (SEPA). SEPA provides a process for local and state governments to consider the impacts of proposed actions on the natural and built environment.

SB 6406 directed Ecology to form an advisory committee to assist with the SEPA rule update. Tribal and historic/cultural resource interests were included in the required membership of the committee.

The importance of SEPA in providing notice to tribes and other parties was reflected in the requirements of SB 6406. The bill directed that Ecology and the advisory committee:

- “...(ii) Ensure that state agencies and other interested parties can receive notice about projects of interest through notice under chapter 43.21C RCW and means other than chapter 43.21C RCW; and
- (iii) Ensure that federally recognized tribes receive notice about projects that impact tribal interests through notice under chapter 43.21C RCW and means other than chapter 43.21C RCW...”

Ecology formed the Advisory Committee and initiated work to implement SB 6406 in August 2012. An initial round of SEPA rule amendments were adopted by Ecology in December 2012. These amendments increased the level of development that local governments may choose to exempt from SEPA review through a local ordinance. These exempted projects are no longer subject to SEPA notification and review procedures.

Tribal concerns and 2013 HB 1809

In early 2013, tribes and cultural resources interests were expressing concern at the loss of SEPA notice for the newly-exempt development projects. These concerns led Rep. John McCoy to sponsor House Bill 1809 in the 2013 legislature. The bill requires notice for all projects subject to SEPA in 2012 (even those now exempt from SEPA by the 2012 rule update), unless specified protections for cultural resources are provided.

The 2013 legislation proposed by Rep. McCoy led to dialogue with stakeholders, Governor’s office and Ecology. This dialogue resulted in an agreement that Ecology would convene a Cultural Resources Workgroup. This group was distinct but related to the SEPA Rule Update Advisory Committee; the workgroup was intended to complement the efforts of the Rule Update Advisory Committee in achieving the cultural resource protection objectives that were included in 2012 SB 6406.

The following framework for the workgroup was identified:

- Objective is to accomplish protection of cultural/historic resources. This protection is required by state and federal statutes, and is the right thing to do.
- We need to understand how cultural resources are currently protected, so the effectiveness of the current process can be assessed in formulating ideas for improvement.
- All options for improvement are on the table, but none are presumed (ex. the workgroup may go beyond SEPA and identify the potential for new cultural resources legislation.)

Key strengths and challenges identified in workgroup discussions

Key issues gleaned from workgroup discussions regarding current procedures and statutes, and potential revisions to improve cultural resource protection:

1. State cultural resource laws

a. Strength:

- WA statutes clearly require *protection* of cultural resources on public and private land.
- Inadvertent discovery provisions are being included in some permits; local governments seem open to including these more consistently for development projects.

b. Challenge:

- The State cultural resource protection statutes do not include a complete project review *process* to accomplish protection.
- Statutes do not provide explicit authority and responsibility for local governments to protect cultural resources during permit review. This has led to reliance on the general substantive authority provided in SEPA.

2. Cultural resource protection information and tools

a. Strength:

- DAHP has developed data and a predictive model that can assist in identifying areas with likely cultural resources.
- 37 cities, counties and PUDs have Data Sharing Agreements with DAHP (i.e. are using the available information in decision making.)
- A few jurisdictions (ex. Clark County) have adopted local procedures that ensure cultural resource review is a routine part of development project reviews.

b. Challenges:

- This best available information is not being consistently used during long-range planning and development project review. This fails to meet the spirit of state planning statutes.
- There is concern regarding extra time and cost for cultural resource technical reviews; particularly, concern whether the added time and expense will result in significant improvements to protecting these resources.
- Many cities and counties are avoiding DAHP Data Sharing Agreements due to legal liability concerns related to public records requests. The Archaeological sites exemption in RCW 42.56.300 provides an exemption for the “location” of archaeological sites, and some cities interpret that to be narrower than the output of the DAHP predictive model. The Public Records Act has stiff daily penalties for failure to disclose records that were not covered by an exemption, and cities are very sensitive to not running afoul of the act. Some cities may not prefer to test whether DAHPs interpretation of the exemption will stand up in court.
- The confidentiality agreement requires the naming of a specific staff person who is authorized to access and use the predictive model. There are concerns about ability to process permits in a timely manner if that staff person leaves and there is a delay in getting new people authorized to use the system.
- There are also generalized liability concerns about whether a city is opening themselves up to potential liability if permits are issued based upon the predicted level of archaeological sensitivity, and then the developer does disturb an archaeological site. Will a developer then turn to the city to share in the cost of any fines or penalties because we provided them “bad information.”

3. SEPA procedures

a. Strengths:

- SEPA provides the “backstop” process for notice to tribes and others.
- SEPA includes “substantive authority” to address identified impacts – thus providing authority to address cultural resource issues, even when State and local regulations may lack specific authority.

b. Challenges:

- SEPA notice often lacks details on proposals that are vital to effective review and comment.
- There is no notice of projects exempt from SEPA review.
- It is not always clear what happens to comments that are provided.

4. Local Project Review Act, RCW 36.70B

a. Strengths:

- The Legislature intended that 36.70B would provide an integrated process for project review, including review under SEPA (from Findings from 1995 legislation in Notes for 36.70B.030):

“(4) When an applicant applies for a project permit, consistency between the proposed project and applicable regulations or plan should be determined through a project review process that integrates land use and environmental impact analysis, so that governmental and public review of the proposed project as required by this chapter, by development regulations under chapter [36.70A](#) RCW, and by the environmental process under chapter [43.21C](#) RCW run concurrently and not separately.”

- Some local governments have adopted integrated procedures.
- The “determination of completeness” could be used to trigger notice to Tribes and others; this would result in earlier notice and more complete information, encompassing a broader set of development applications, than SEPA notice.

b. Challenges:

- Statutes may not provide clear authority for local governments to require action from project applicants to protect cultural resources.
- Local government performance in notifying tribes is very uneven; some do a good job, others do a poor job.
- RCW 36.70B applies only to “fully planning” counties and cities. Legislation to add tribal notification to 36.70B procedures and expand to non-fully planning governments could be viewed as a new unfunded mandate.

5. Shoreline Management Act

a. Strengths:

- The SMA and Shoreline rules (WAC 173-26-221) require all Shoreline Master Programs to incorporate provisions to “...protect historic, archaeological, and cultural features and qualities of shorelines...” including specific standards for review and protection.
- Many important cultural sites are located along shorelines.

b. Challenges:

- Extending this SMA provision to all areas, through amendment to the GMA or other statutes, could be viewed by local governments and legislators as an “unfunded” expansion of planning obligations.

Statutory Amendment Concepts

Two specific proposals emerged from Work Group dialogue. Cities propose a simple but significant amendment, requiring notice to tribes and others at a very early stage in development review – the “determination of completeness.” Tribal interests propose amending the same section, providing more detail on the procedures of tribal engagement in development review.

1. City proposal – Amendments to RCW 36.70B

RCW 36.70B.070

Project permit applications — Determination of completeness — Notice to applicant.

- (1) Within twenty-eight days after receiving a project permit application, a local government planning pursuant to RCW 36.70A.040 shall mail or email ~~or provide in person~~ a written determination to the applicant, any persons requesting such notification, the Department of Archaeology and Historic Preservation, and any affected tribes that request ongoing notice, stating either:
 - (a) That the application is complete; or
 - (b) That the application is incomplete and what is necessary to make the application complete.
- (2) To the extent known by the local government, the local government shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.
- (3) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.
- (4) The determination of completeness may include the following as optional information:
 - (a) A preliminary determination of those development regulations that will be used for project mitigation;
 - (b) A preliminary determination of consistency, as provided under RCW 36.70B.040; or
 - (c) Other information the local government chooses to include.
- (4)
 - (a) An application shall be deemed complete under this section if the local government does not provide a written determination to the applicant that the application is incomplete as provided in subsection (1)(b) of this section.
 - (b) Within fourteen days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete

application, the local government shall notify the applicant whether the application is complete or what additional information is necessary.

RCW 36.70B.140

Project permits that may be excluded from review.

- (1) A local government by ordinance or resolution may exclude the following project permits from the provisions of RCW 36.70B.060, RCW 36.70B.080, through *36.70B.090 and 36.70B.110 through 36.70B.130: Landmark designations, street vacations, or other approvals relating to the use of public areas or facilities, or other project permits, whether administrative or quasi-judicial, that the local government by ordinance or resolution has determined present special circumstances that warrant a review process different from that provided in RCW 36.70B.060, RCW 36.70.B.080, through *36.70B.090 and 36.70B.110 through 36.70B.130.
- (2) A local government by ordinance or resolution also may exclude the following project permits from the provisions of RCW 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

RCW 36.70B.150

Local governments not planning under the growth management act ~~may use provisions.~~

- (1) A local government not planning under RCW 36.70A.040 may incorporate some or all of the provisions of RCW 36.70B.060, 36.70B.080, through *36.70B.090 and 36.70B.110, and RCW 36.70B.120 through 36.70B.130 into its procedures for review of project permits or other project actions.
- (2) A local government not planning under RCW 36.70A.040 shall incorporate of the provisions of RCW 36.70B.070 and 36.70B.130 into its procedures for review of project permits or other project actions.

2. Proposal from Dawn Vyvyan – Alternative amendments to RCW 36.70B

RCW 36.70B.070

Project permit applications — Determination of completeness — Notice to applicant.

- (1) Within twenty-eight days after receiving a project permit application, a local government planning pursuant to RCW 36.70A.040 shall mail ~~or provide in person~~ a written determination to the applicant, stating either:
 - (a) That the application is complete; or
 - (b) That the application is incomplete and what is necessary to make the application complete.
- (2) Prior to making a determination of completion and within twenty-eight days after receiving a project permit application,, a local government planning pursuant to RCW 36.70A.040 or not planning under the growth management act shall mail or e-mail the Department of Archeology and Historic Preservation, (“Department”) and any Federally Recognized Tribe that requests ongoing notice, that a project permit application has been received by the local government. Such notice shall include an identification of the project permit application and a website on which project application documents can be viewed. If the local government does not maintain such records, the local government shall provide such records with its notice or provide a contact by which such records can be obtained via e-mail. The Department and Tribe may comment on the application as to the proposed project’s impact on historic, archeological and cultural resources.
 - (a) When a local government receives comment from the Department or a Federally Recognized Tribe, such comments shall be considered by the local government and a determination made as to the proposed project’s impact to historic, archeological and cultural resources. The Department and the Federally recognized Tribe shall receive the local government’s determination within twenty days of the local government’s receipt of comment.
 - (b) If there is a determination of significant impact, and the project is exempt from the State Environmental Protection Act, the site for the proposed development shall be surveyed by a professional archeologist and monitored during site disturbance for potential impacts to the historic, archeological and cultural resource. Mitigation of the impacts to historic, archaeological, and cultural resources shall be agreed upon by the local government, Department and affected Federally Recognized Tribe.
- (3) To the extent known by the local government, the local government shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.
- (4) A project permit application is complete for purposes of this section when it meets the procedural submission requirements of the local government and is sufficient for continued processing even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness

shall not preclude the local government from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.

- (5) The determination of completeness may include the following as optional information:
 - (a) A preliminary determination of those development regulations that will be used for project mitigation;
 - (b) A preliminary determination of consistency, as provided under RCW 36.70B.040; or
 - (c) Other information the local government chooses to include.
- (6)
 - (a) An application shall be deemed complete under this section if the local government does not provide a written determination to the applicant that the application is incomplete as provided in subsection (1)(b) of this section.
 - (b) Within fourteen days after an applicant has submitted to a local government additional information identified by the local government as being necessary for a complete application, the local government shall notify the applicant whether the application is complete or what additional information is necessary.

RCW 36.70B.140

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DRAFT

Attachments:

2012
SEPA Rule Making Advisory Committee
List of Members and Alternates

Interest	Name	Affiliation
<i>City - Member</i>	Carol Helland	City of Bellevue
Alternate	Mike Podowski	City of Seattle
Alternate	Scott Kuhta	City of Spokane Valley
Alternate	Kamuron Gurol	City of Sammamish
<i>Counties - Member</i>	Harry Reinert	King County
Alternate	Jeff Wilson	Chelan County
Alternate	Clay White	Snohomish County
<i>Business Interests - Member</i>	Richard (Dick) Settle	Foster Pepper
Alternate	Andy Lane	Cairncross and Hempelmann
Alternate	Pat Schneider	Foster Pepper
Alternate	G. Richard Hill	McCullough Hill Leary, PS
<i>Environmental Interests – Member</i>	Claudia Newman	Bricklin and Newman LLP
Alternate	Gerald Steel	Private Practice - Olympia
Alternate	Ann Aagaard	League of Women Voters
<i>Agricultural Interests – Member</i>	Allen Rozema	Skagitonians to Preserve Farmland
Alternate	Steven Rowe	Darigold
<i>Cultural Resources – Member</i>	Mary Rossi	Applied Preservation Technologies
Alternate	Mary Thompson	Former Office of Arch & Historic Pres
Alternate	Chris Moore	WA Trust for Historical Preservation
<i>State Agencies – Member</i>	Pamela Krueger	DNR
Alternate	Carol Lee Roalkvam	WSDOT
Alternate	Leonard Bauer	COMM
<i>Tribal Governments - Member</i>	John Marvin	Yakama Nation Fisheries
Alternate	Darryl Williams	Tulalip Tribes Natural Resources

Sample Decision Tree for SEPA Officials Cultural Resources Interest Group

February 14, 2013

***For Above-Ground Cultural Resources (e.g. historic buildings):**

- 1) Consult **WISAARD**¹ (DAHP's online searchable database for cultural resources; an award-winning online GIS map tool)
- 2) Determine appropriate action as follows
 - a. Project **exempt** if *both* are met:
 1. Resource is less than 45 years old *and*
 2. Resource ineligible for/not listed in any historic register or database**Note:** if property information on WISAARD does not indicate eligibility, contact DAHP for confirmation.
 - b. If project is **not exempt** (i.e. does not meet the two criteria in "a") and resource is identified in database
 1. DAHP determines significance
 2. If **significant**, Avoid resource or determine Mitigation strategy
 3. Condition permit with decision

***For Below-Ground Cultural Resources (e.g. archaeological sites):**

- 1) Consult **Statewide Predictive Model** (obtained via data-sharing agreement with DAHP)
- 2) Determine appropriate action as follows
 - a. Project **exempt** if *any* are met:
 1. Prior negative archaeological survey on file
 2. No ground disturbance will occur
 3. Project in 100% culturally-sterile fill
 - b. If **no known** cultural resources are present, apply the DAHP Predictive Model and follow the survey recommendations according to the associated risk identified.
Note: In *all cases*, *regardless* of risk, condition permit with standard inadvertent discovery language (SIDL)
 - c. If cultural resources **are** present and ground-disturbance is proposed
 1. Notify and consult with DAHP and tribes
 2. Avoid resource or determine Mitigation strategy
 3. Condition permit with decision
- 3) For **all** ground-disturbing projects
 - a. Include SIDL language consistent with RCW 27.53 and 27.44 protecting sites, graves, and Indian burials on public and private lands
 - b. Provide tribal notification (adjust per tribe's instruction)

¹**WISAARD** – Washington Information System for Architectural and Archaeological Records Data (<https://fortress.wa.gov/dahp/wisaard/>)

Local Jurisdictions holding Data Sharing Agreements with DAHP

Anacortes	City
Camas	City
Chelan	County PUD
Clark	County
Coupeville	Town
Cowlitz Wahkiakum	Council of Govts (Counties)
Douglas	County PUD
Ferry	County
Gig Harbor	City
Grant	County
Grant	County PUD
Island	County
Island	County Public Works
Jefferson	County
King	County Landmarks & Heritage
Kitsap	County
Klickitat	County
Lacey	City
Langley	City
Lewis	County Public Works
Millwood	City
Oak Harbor	City
Okanogan	County Planning Dept
Okanogan	County Public Works
Pend Oreille	County
Pierce	County Public Works & Utilities
Port Angeles	City
Port Townsend	City
San Juan	County
Seattle	City
Skamania	County
Snohomish	Conservation Dist.
Snohomish	County
Snohomish	County Public Utility Dist. No. 1
Tacoma	City
Thurston	County
Whatcom	County

37 Total

Jurisdictions participating in the Certified Local Government (CLG) Program*

Aberdeen	City
Anacortes	City
Bainbridge Island	City
Bellingham	City
Bothell	City
Centralia	City
Chehalis	City
Cheney	City
Clark	County
Cle Elum	City
Colfax	City
Concrete	Town
Dayton	City
Edmonds	City
Ellensburg	City
Everett	City
Gig Harbor	City
Harrington	City
Hoquiam	City
Kennewick	City
Kettle Falls	City
King	County
Lacey	City
Lakewood	City

Langley	City
Longview	City
Mason	County
Olympia	City
Pierce	County
Pomeroy	City
Port Townsend	City
Pullman	City
Puyallup	City
Ritzville	City
Roslyn	City
Seattle	City
Shelton	City
Snohomish	County
Spokane	City/County
Steilacoom	Town
Tacoma	City
Thurston	County
Tumwater	City
Vancouver	City
Walla Walla	City
Wenatchee	City
Yakima	City
Yelm	Town

48 Total

Jurisdictions under an interlocal agreement with King County

Auburn	City		
Black Diamond	City		
Carnation	City	<i>Pending with King County</i>	
Des Moines	City	Burien	City
Issaquah	City	Tukwila	City
Kenmore	City		
Kent	City		
Kirkland	City		
Maple Valley	City		
Newcastle	City		
North Bend	City		
Redmond	City		
Sammamish	City		
Shoreline	City		
Skykomish	City		
Snoqualmie	City		
Woodinville	City		

17 Total

Jurisdictions under an interlocal agreement with Clark County

Battleground	City
Camas	City
La Center	City
Ridgefield	City
Washougal	City
Yacolt	City

6 Total

71 Overall

*A CLG is a local government with an established preservation program meeting federal and state standards.

Summary highlights of the City of Spokane's historic preservation ordinance (SMC 17D.040)

Section 17D.040.090 Historic Landmark and Historic District – Designation

Generally a building, structure, object, site or district which is more than fifty years old may be designated an historic landmark or historic district if it has significant character, interest, or value as a part of the development, heritage or cultural characteristics of the city, county, state or nation. The property must also possess integrity of location, design, materials, workmanship and association and must fall into one or more of the following categories:

- A. Property is associated with events that have made a significant contribution to the broad patterns of the history of the city, county, state or nation; or
- B. Property is associated with the lives of persons significant in the history of the city, county, state or nation; or
- C. Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction; or
- D. Property has yielded, or is likely to yield, information important in prehistory or history.

Section 17D.040.110 Historic Landmark and Historic District – Submittal Process

The historic preservation officer provides a nomination form to the applicant. **The application must bear the signature of the property owner(s)**, or in the case of historic districts, a majority of the owners. When the historic preservation officer is satisfied as to the completeness and accuracy of the information, the nomination is referred within one month to the commission for a hearing. Once the nomination is scheduled for a hearing, the historic preservation officer notifies the owner(s) of the nominated property of the date of the hearing and of the benefits and conditions which may result from designation. Fourteen days prior to the commission hearing, the historic preservation officer transmits to commission members copies of the nominations of properties to be considered for designation.

Section 17D.040.120 Procedure – Preliminary Designation

- A. Public hearings of the commission are publicly advertised. Staff causes notice, containing the time, place and date of the hearing and a description of the location of the property in nonlegal language, to be mailed to all property owners of record and to be advertised in the legal newspaper of the board or council, as appropriate, at least ten days prior to the hearing.
- B. At a publicly advertised hearing, the commission takes testimony concerning the nomination and formulates a recommendation as to the designation. The commission may decide to:
 1. recommend approval of designation of the property to the council or board as appropriate; or
 2. recommend denial of designation of the property to the council or board as appropriate; or
 3. defer the consideration of the nomination to a continued public hearing, if necessary.

Section 17D.040.200 Certificates of Appropriateness – When Required

- A. The owner(s) must first obtain a certificate of appropriateness for:

1. demolition;
 2. relocation;
 3. change in use; or
 4. any work that affects the exterior appearance of an historic landmark or property within an historic district.
- B. A person must first obtain a certificate of appropriateness for development or new construction within an historic district.
- C. The historic preservation officer may exempt ordinary repairs and maintenance if the work does not involve a change in design, material or exterior treatment or otherwise affect the exterior appearance.

[Section 17D.040.220](#) Certificates of Appropriateness – Demolition of Structures Listed on the Spokane Register or Contributing Structures in Local Historic Districts

Upon receipt of an application for the demolition of an historic structure listed on the Local Spokane Register or a contributing structure within a local historic district, the applicant is required to apply for a certificate of appropriateness for the proposed action. The application for and subsequent issuance of a demolition permit by the building official for a historic structure listed on the Local Register or a contributing structure within a local historic district shall be subject to the following provisions:

- A. The applicant shall apply for a certificate of appropriateness with the historic landmarks commission.
- B. The demolition permit may not be issued until ninety days from the date of the application for the certificate of appropriateness, except with the concurrence of the historic landmarks commission.
- C. Within forty-five days of the application for a certificate of appropriateness, the applicant and the historic landmarks commission shall meet to determine if there are feasible alternatives to demolition. The attempt to find feasible alternatives may continue beyond forty-five days if both parties agree to an extension.
- D. If no feasible alternative to demolition has been agreed to, the historic landmarks commission may either grant the certificate of appropriateness, thereby permitting the subsequent issuance of a demolition permit, or deny the certificate of appropriateness.
- E. If the historic landmarks commission denies the certificate of appropriateness, the demolition permit may not be issued for an additional forty-five days in order to permit the historic landmarks commission to develop non-binding mitigation measures to encourage the landowner to salvage significant architectural features of the structure and to require the landowner to provide documentation of the building before the issuance of the demolition permit.

In summary, a property owner may be permitted to demolish a resource listed in the Spokane Register of Historic Places, provided the procedures noted above are followed.

Archaeological Review

What is the purpose of an archaeological review?

The purpose of a review is to determine if cultural resources are present on a property. If they are discovered to be present, the review will also serve to identify and protect them from development impacts.

How does the county determine if archaeological artifacts exist?

The county has a series of three steps to determine if and to what extent resources may exist on a parcel of land.

Step #1: Predictive Mapping Model: This computer model is designed to predict what areas are likely to contain archaeological and cultural resources.

Step #2: Archaeological Predetermination: If the county determines that an archaeological site is likely to be affected by a proposed activity, based upon the predictive model above, an archaeological predetermination is required.

The predetermination is a tool used to determine whether cultural resources exist on a particular site without the cost or time expenditure of a full Archaeological Survey. In cases where resources are found, a survey may be needed. If no resources are found, no additional work will be needed and the review will be complete.

Step #3: Archaeological Survey: A survey is an in-depth professional study of a resource site. They include the analysis of potential impacts from a proposed activity.

When is an Archaeological Predetermination required?

An archaeological predetermination is required for all development applications that are subject to the State Environmental Protection Act (SEPA) review and:

- f Have sites within a “20-100% predictive probability area” as defined on the Clark County Archaeological Predictive Model Map, and have a moderate to high impact of ground disturbance; and/or,
- f Have sites that are within 1320’ of a registered archaeological site or 500’ of a known but not registered archaeological site.

The Archaeological Predictive Model Map is available for viewing at www.clark.wa.gov. Click on the Maps button. Find the property you are interested in, then use the Layers tab and select Archaeological Predictability on the pull down menu. On the left side of the page, you have to choose which of the layers you want shown.

Registered archaeological sites are protected. Therefore, only certain county staff has access to this information. The applicant will be notified, at the Pre-Application Conference, if an Archaeological Predetermination is required for their project. If a Pre-Application Conference is not required for a project, the applicant will be notified as soon as it is discovered that an Archaeological Predetermination will be required. In such cases, the processing associated permits could be delayed or ceased.



Vancouver, Washington Phone: (360) 397-2375 Fax: (360) 397-2011
www.clark.wa.gov/development



For an alternate format,
contact the Clark County
ADA Compliance Office.
Phone: (360)397-2322
Relay: 711 or (800) 833-6384
E-mail: ADA@clark.wa.gov

DRAFT

What happens if artifacts are found on my property during the predetermination study?

If artifacts are found during an archaeological predetermination, further archaeological study will be required.

When does archaeological work need to be done?

If a predetermination is required, applicants must hire a private, professional archaeologist to complete the work.

The Washington State Department of Archaeology & Historic Preservation (DAHP) has the technical expertise and regulatory authority to review predeterminations and surveys completed within Clark County. DAHP reviews those reports to ensure they meet technical and regulatory standards. When finished, DAHP will document the completion of the review and in some cases outline necessary steps that need to be taken prior to completion of the project.

If a predetermination is deemed necessary, proof must be provided indicating the predetermination and/or survey have been submitted to DAHP for review. Proof can be via an email confirmation or other conclusive method of proof that DAHP has received the site-specific document for review.

What do I need to know about choosing an archaeologist?

As specified under state law, archaeologists conducting archaeological work within the state of Washington must meet certain educational/training requirements as well as documented experience in the field of archaeology. DAHP provides an up-to-date list of professional archaeologists on their website at www.dahp.wa.gov.

COMPREHENSIVE PLAN

SECTION B, ELEMENT 9

HISTORIC AND ARCHAEOLOGICAL PRESERVATION

December 20, 1998

"Our community is enriched by a strong sense of identity, tradition, legacy, and continuity, where past and present freely mingle. We recognize the contributions to our rural and maritime heritage made by indigenous peoples, explorers, and island pioneers, and encourage the preservation of that heritage. We encourage preservation of historic sites, structures, and traditions for the enjoyment of all."

9.1 INTRODUCTION

San Juan County has a rich and unique heritage from its founding through its development over time. Historical and archaeological sites and pioneer structures still remain which represent prehistoric settlements by indigenous peoples, the westernizing influence of 19th century pioneers, and a heritage of significant agriculture, fishing, limestone mining, and lumber economies of regional stature and importance.

In order to effectively preserve historical resources, an evaluation must first determine which structures and sites are worthy of preservation. A method of encouraging preservation of these structures and sites and regulating the demolition of historic structures or degradation of historic sites is then necessary to protect them. This element provides goals and policies to achieve this.

9.2 GOALS AND POLICIES

Goal: To protect, preserve, and enhance the rich history and cultural resources of San Juan County; more particularly its significant places, traditions, artifacts, stories, family histories, and other important historical and archaeological items.

Policies (9 2 1 5):

1. The County should work with local historical societies to prepare a comprehensive inventory of San Juan County historic and cultural sites, resources, buildings, and structures. The inventory should include the location, quantity, quality and significance of these resources using state, federal, and locally defined criteria.
2. The County should work with local historical societies to prepare an historic preservation plan to be incorporated into this element which includes:
 - a. a detailed description of the County's historical background including Native American presence, an overview of local history, and identification of historical trends;
 - b. an assessment of local historic preservation needs including an assessment of existing data, the status of any local historic preservation efforts, and a discussion of issues affecting local historic properties in the future; and
 - c. specific goals and policies for preservation and implementation measures, incorporating the goals and policies of this element. Implementation measures should focus on voluntary efforts and incentives.
3. The inventory and historic preservation plan should be coordinated with similar programs of the Town of Friday Harbor and other public and private agencies within the county to ensure the county-wide comprehensiveness of the inventory.
4. Develop policies and programs to encourage the preservation of historic and archaeological resources and minimize conflicts with competing land uses. The following programs should be considered:
 - a. Allow segregation of parcels which contain significant historic or archaeological resources through an exemption from plat requirements when the creation of such parcels is to transfer historic properties for special resource management;
 - b. Pursue private and public sources of funding for use by property owners in the renovation and maintenance of significant historic properties;

- c. Coordinate and integrate preservation efforts for lands adjacent to significant historic properties;
 - d. Pursue options and incentives to allow productive, reasonable use, and adaptive re-use of historic properties;
 - e. Special valuation and open space taxation programs for rehabilitation and current use assessment;
 - f. Amend the SJC Building Code to exempt historic buildings from compliance with the energy and building codes to the extent permitted by law;
 - g. Accelerate permit processing time for relocation of historic structures; and
 - h. Require a demolition permit for historical structures listed on the National Register of Historical Places.
5. Appoint an Historic Review Board composed of but not limited to, representatives from each local historical society. The Board may do the following:
- a. Conduct, monitor, and update the historic resources inventory;
 - b. Prepare a San Juan County Historic Landmarks document which would include individual descriptions and maps of items in the resource inventory;
 - c. Review proposed demolition of historic resources not less than 30 days prior to demolition; recommend alternatives, coordinate relocation or other preservation efforts;
 - d. Provide technical assistance and conduct workshops to provide educational programs regarding historic and archaeological resources in order to raise public awareness of the value of maintaining these resources and retaining community identity, heritage, and quality of life;
 - e. Make recommendations for designation of sites on the State or National Register of Historic Places;
 - f. Promote a mutually supportive relationship between historic preservation and economic development; and
 - g. Pursue sources of public and private funding to cover costs incurred by this element.

Proposed revisions to SEPA Checklist – Section B., Question #13

#13a. Current question:

Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

Revised question:

Are there any buildings or structures over 45 years old listed on or eligible for listing in national, state, or local preservation registers on or near to the site? If so, please record below. (Check DAHP website and with local historical societies or commissions).

#13b. Current question:

Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site?

Revised question:

Is there any evidence of Indian or historic use or occupation, human burials or old cemeteries on or next to the site? Is there any material evidence, artifacts, or areas of cultural importance on or next to the site? Please list any professional studies conducted at the site to identify such resources.

#13c. Current question:

Proposed measures to reduce or control impacts, if any:

Revised question:

Proposed measures to avoid, mitigate, or minimize disturbance to resources. Please include plans for the above and any permits that may be required. (Please see RCW 27.44, 27.53, RCW 68.50 and 68.60 to see if permits may be required).

Amendatory Section – proposed language revisions to categorical exemptions

In the amendatory section for Categorical Exemptions (WAC 197-11-800), Section 1(c)(i) allows jurisdictions to raise the exempt levels to the newly established maximums provided that:

“Documentation that the requirements for environmental analysis, protection and mitigation for impacts to elements of the environment (listed in WAC [197-11-444](#)) have been adequately addressed for the development exempted. The requirements may be addressed in specific adopted development regulations, and applicable state and federal regulations.”

To adequately address historic and cultural preservation (identified as elements of the environment under WAC 197-11-444), we continue to call for the following documentation to be present:

Exempt for archaeology if *any*:

- 1) Prior negative survey on file.
- 2) No ground disturbance proposed.
- 3) Project in 100% culturally-sterile fill.

Exempt for built environment if *both*:

- 1) Less than 45 years old; and
- 2) Not eligible for or listed in any historic register or historic survey.

Exempt for archaeology *and* built environment if:

- 1) Cultural resource management plan is incorporated into Comp Plan, or
- 1) Local ordinance or development regulations address pre-project review and standard inadvertent discovery language (SIDL), and
- 2) Data-sharing agreement is in place.

For *all* projects, exempt or not:

Include SIDL on all related permits (compliance with RCW 27.53, 27.44)

In the amendatory section WAC 197-11-800 Section (2)(f), other minor new construction exempted includes “The demolition of any structure or facility, the construction of which would be exempted by subsections (1) and (2) of this section, **except for structures or facilities with recognized historical significance.**”

DAHP defines “recognized historical significance” as “a property listed in the State or National Register of Historic Places, or listed in a local register of historic properties.”

Currently, it is standard in the field to include properties determined ‘eligible’ for listing in a national, state, or local register as having ‘recognized historic significance.’ Including ‘eligibility’ as part of the definition is consistent with our other recommendations presented. DAHP can update the agency SEPA guidelines to reflect the revised definition.