
To: Ryan Cochoit, Project Manager, Seattle Branch USACE

From: Andrea Bachman, PWS, Senior Environmental Scientist, Perteet

Date: February 11, 2024

Re: No Effect Determination for Section 404 Permit Application - Marysville Riverwalk

The overall Riverwalk project is intended to meet the City's vision for its downtown as presented in the 2019 Downtown Master Plan, which is a key component of the City's revitalization efforts and growth management planning vision. It is a catalyst project connecting nearby Marysville Town Center, Ebey Park, Historical 3rd Street commercial area, Marysville Civic Center and Comeford Park. It a mixture of multi-family housing, hotel, and youth sports complex, along with improved public access to the waterfront, open space amenities, restaurants, and a family entertainment center.

The project would permanently impact wetlands and associated wetland buffers and reroute a jurisdictional ditch/stream east of the project area. The City will seek to obtain credits in the adjacent Qwuloolt Estuary mitigation bank to mitigate the permanent loss of stream habitat.

These actions require approval under Clean Water Act Section 404 from the US Army Corps of Engineers (USACE) and Section 401 Certification from the Washington State Department of Ecology (Ecology). This No Effect Letter supports the Joint Aquatic Resources Permit Application (JARPA), prepared by Perteet on behalf of the City of Maryville, in accordance with state and federal rulings and policies and documents compliance with the Endangered Species Act (ESA) and the Magnuson Stevens Fishery Conservation and Management Act (Magnuson Stevens Act).

Project Location

The project (Site) covers approximately 26 acres located in downtown Marysville, Washington, at 80 Columbia Avenue and 60 State Avenue, and includes portions of 13 residential parcels the City acquired as part of the 1st Street bypass project in 2019. The Public Land Survey System (PLSS) locator is NW 1/4 of Section 33 of Township 30N, Range 05E, W.M. The Site is within U.S. Geological Survey Hydrological Unit Code (HUC) 171100110203 (Snohomish River-Frontal Possession Sound), part of the Snohomish Watershed, Water Resources Inventory Area (WRIA) 7. (Figure 1. Vicinity Map).

Setting and Site Description

Land uses and disturbances in the area include industrial activities, land reclamation, the city of Marysville public works buildings, the operations and maintenance center, and the city wastewater treatment facility. Surrounding land uses include a mix of residential, commercial, and recreational areas. The waterfront has a paved, publicly accessible trail known as the Ebey Waterfront Trail. (Figure 2. Existing Conditions Map).

Historical aerial images dating back from 1933 to the present day display the progression of industrialization in the area, which has significantly and permanently altered the natural landscape and hydrologic processes in the area. Such changes have eliminated available habitat on-site for listed species. The water from the stream historically flowed in a meandering channel between off-site Wetland 1 and Ebey Slough in an area now

comprised of a filled sewage lagoon and associated access roads. Over the decades, industrial uses on and near the subject site prompted stream modifications. To our knowledge, no efforts have been made to restore the channel because of current and future plans for the

The watercourse that historically flowed between off-site Wetland 1 and Ebey Slough has been redirected and piped through the subject property to accommodate the site's industrial uses and eventually make way for the adjacent sewage lagoon (now partially filled). Its outfall to Ebey Slough is a 32-inch welded steel pipe with a Tideflex® Series TF-1 check valve (backflow prevention) that is a total barrier to salmonids. The City's public works department manages the outfall as part of its storm sewer system.

ESA-Listed Species and Critical Habitats

The nearest habitat containing threatened or endangered species is within Ebey Slough, which borders the subject site to the south. As part of the greater Snohomish River delta leading to Puget Sound, Ebey Slough provides habitat for various species. Important fish include Steelhead Trout, Sockeye Salmon, Pink Salmon, Bull Trout, Coho Salmon, Chinook Salmon, Chum Salmon, and Cutthroat Trout. Listed species under the Endangered Species Act (ESA) documented within Ebey Slough and nearshore waters of Puget Sound include Puget Sound Chinook salmon, Puget Sound steelhead, and Bull Trout. Other ESA-listed species potentially present in Puget Sound are Stellar sea lion, humpback whale, leatherback sea turtle, marbled murrelet, and Southern Resident killer whale. Of these latter species, only Southern Resident killer whale is likely to be present in the nearshore or estuarine waters of Ebey Slough.

Ebey Slough is designated a critical habitat for Puget Sound Chinook salmon and steelhead trout, and the outer part of the Snohomish River delta, 0.3 miles west of the site, is a critical habitat for southern resident killer whales.

The USFWS and NMFS species lists were accessed on their websites on December 11, 2023. These indicated the potential presence of the species and critical habitat(s) shown in Table 1.

Table 1. USFWS and NMFS listed species and critical habitats potentially present in the vicinity of Marysville Riverwalk.

Species	Federal Status	Designated Critical Habitat
Bull Trout	Threatened	Yes
Steelhead trout Puget Sound DPS	Threatened	Yes
Chinook Salmon Puget Sound ESU	Threatened	Yes
Killer Whale Southern Resident PDS	Endangered	Yes

Essential Fish Habitat (EFH)

The Magnuson-Stevens Act mandates that NMFS must identify EFH for federally managed marine fish. Federal agencies are required to consult with NMFS on all activities or proposed activities authorized, funded, or undertaken by the agency that may adversely affect EFH. The Pacific Fishery Management Council (PFMC) has designated EFH for the Pacific salmon fishery, federally managed ground fishes, and coastal pelagic fisheries (NOAA Fisheries, 1999; PFMC 1999).

The nearest designated marine EFH for salmon is Ebey Slough, which includes pink, coho, sockeye, chum, and Chinook salmon. The Federal Register defines an adverse effect on EFH to include any impact that reduces the quality and/or quantity of EFH.

Project Description

The future site development will convert city lands from light industrial purposes into a water-dependent mixed-use development comprised of multi-family luxury apartments, a hotel, restaurants, a sports facility, a public plaza, and open space connections to the Ebey Waterfront trail and connecting commercial uses. The project is intended to meet the City's vision for its downtown as presented in the 2019 Downtown Master Plan.

Site preparations for future construction require adding a significant amount of fill (187,500 CY) to bring elevations above the base flood elevation. As a result, a portion of Wetland 2 (Category III) will be filled, and Stream 1 (Type F) will be rerouted into a pipe east of the project area. The grading work is anticipated to begin in June 2024 upon receipt of applicable permits. The impacts to aquatic resources are summarized below.

- Wetland impact—Fill approximately 2,000 square feet (0.05 acre) of Category III wetland (WL2) and 16,400 square feet (0.36 acre) of its associated buffer located in the southeastern corner of the site, where the project overlaps these areas.
- Stream impact—Place approximately 6,800 square feet (0.16 acre) / 566 linear feet of a ditch/Type F stream (Stream 1) into an appropriately sized pipe where it flows through the southeastern quadrant of the site.

The City proposes to replace impacted functions through the use of available credits from the Qwuloolt Estuary Mitigation Bank . A separate Bank Use Proposal and Critical Area Report with a Conceptual Mitigation Plan have been drafted to accompany the JARPA.

Project Area and Action Area

The project area is defined as the area where the project activities would occur, including temporary and permanent project impacts. On this site, the defined project area is the extent of the grading limits.

On-site habitat areas include a small area of wetland that overlaps the southeast portion and a jurisdictional ditch/stream. Abutting the project site to the south is the shoreline environment of Ebey Slough; to the east are city-managed sewage lagoons and emergent wetlands, and to all other directions are urban residential, commercial, and city parklands.

The action area is defined as all areas to be affected directly or indirectly by the project activities, including those associated with clearing, grading, construction noise, or release of environmental contaminants.

The project will likely result in a temporary increase in terrestrial noise above the background noise levels. The site is located in the downtown high-intensity urban and industrialized area of Marysville, where the estimated background sound level is 55 dBA. Project-related noise is estimated at 92 dBA for construction equipment (WSDOT 2011), including excavating machinery, paving equipment, and dump trucks. Using WSDOT's Construction Noise Impact Assessment calculator, the distance for construction noise to attenuate to background noise is 3,540 feet or 0.67 miles.

In addition, construction activities are not expected to impact water quality because Best Management Practices (BMPs) will prevent or minimize temporary increases in turbidity during the grading activities. While piping, the ditched stream will be done in a de-watered state, and there might be a brief, temporary rise in turbidity within the

off-site wetland and the remaining 200+ feet of channel during the re-watering process. No rise in turbidity is expected within Ebey Slough, as suspended solids will settle out of the water column before entering the slough. For this project, the defined action area boundary is consistent with the project area boundary and grading limits. (Figure 3. Action Area map). This defined action area is based on the following rationale:

- No pile-driving or underwater work that causes vibratory impacts on killer whales is proposed.
- Work will be conducted during the summer dry months.
- BMP measures will keep the action contained on-site.
- No critical habitat for Marbled murrelet occurs within 15 miles of the site.

Conclusion and Recommended No Effect Determination

ESA-listed species will not be susceptible to impacts related to project activities because:

- The listed species cannot access the project area.
- Placing Stream 1 in a closed pipe system will result in long-term improvement to water quality as mobilized sediments and pollutants from site stormwater runoff will no longer enter into this system.
- The project footprint will largely occur over degraded surfaces and paved and built areas.
- Vegetation removal will be limited to herbaceous and weed vegetated surrounding the site, and a few scattered deciduous trees and scrub-shrub vegetation within the designated buffer fill area.
- Stormwater measures will comply with the 2019 Washington Department of Ecology Stormwater Manual and implement low impact development (LID) strategies where possible.
- Construction impacts will be minimized to the greatest extent possible, as best management practices (BMPs) will be implemented to prevent the mobilization of sediments and ensure that site disturbances remain on-site.

Therefore, we have determined that this project will have “no effect” (NE) on listed species. Additionally, the project will have “no effect” on designated critical habitats for these species.

Table 2 summarizes the potential listed species, their nearest known occurrence, the effect determination, and the rationale for the determination.

Table 2. Effect determinations and rationale.

Listed Species/ Critical Habitat	Jurisdictional Agency	Nearest Suitable Habitat	Effect Determination	Effect Determination Rationale
Steelhead trout	NMFS	70 feet, within Ebey Slough	NE	Species cannot access the project area
Puget Sound Chinook	NMFS	70 feet, within Ebey Slough	NE	Species cannot access the project area
Bull Trout	USFWS	70 feet, within Ebey Slough	NE	Species cannot access the project area
Southern Resident Killer Whale	NMFS	0.3 miles west of the site, Snohomish River delta	NE	Species cannot access the project area

Essential Fish Habitat (EFH) will not be susceptible to impacts related to project activities because:

- There is no EFH within the project area, as salmon cannot access the project area.
- Placing Stream 1 in a closed pipe system will result in long-term improvement to water quality as mobilized sediments and pollutants from site stormwater runoff will no longer enter into this system.
- The project footprint will largely occur over degraded surfaces and paved and built areas.
- Vegetation removal will be limited to herbaceous and weed vegetated surrounding the site, and a few scattered deciduous trees and scrub-shrub vegetation within the designated buffer fill area.
- Stormwater measures will comply with the 2019 Washington Department of Ecology Stormwater Manual and implement low impact development (LID) strategies where possible.
- Construction impacts will be minimized to the greatest extent possible, as best management practices (BMPs) will be implemented to prevent the mobilization of sediments and ensure that site disturbances remain on-site.

This assessment satisfies the US Army Corps of Engineers' responsibilities under Section 7(c) of the Endangered Species Act and the Magnuson-Stevens Act at this time. We are sending you this copy of our assessment for your files. We will continue to remain aware of any change in the status of these species and will be prepared to reevaluate potential project impacts if necessary.

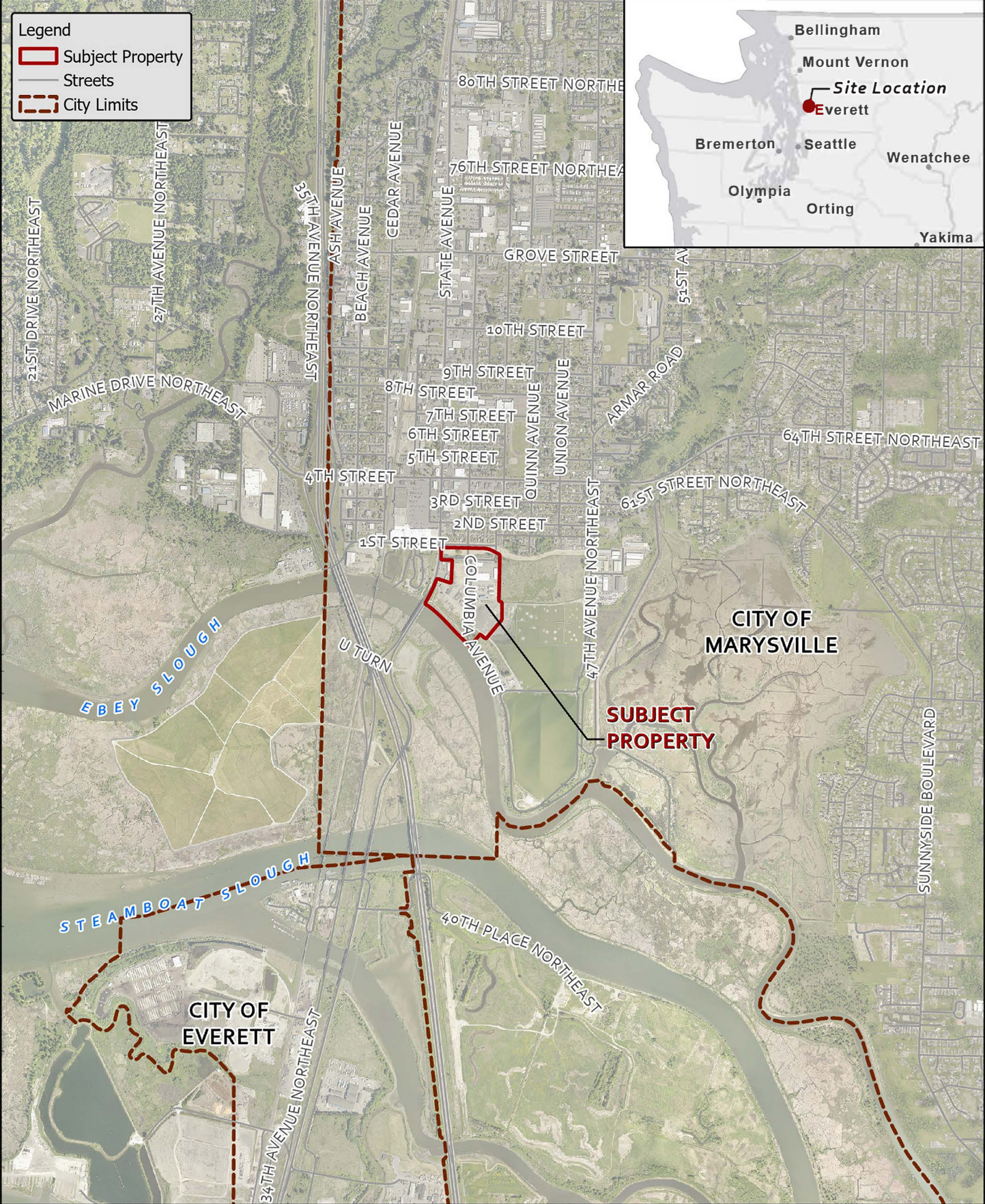
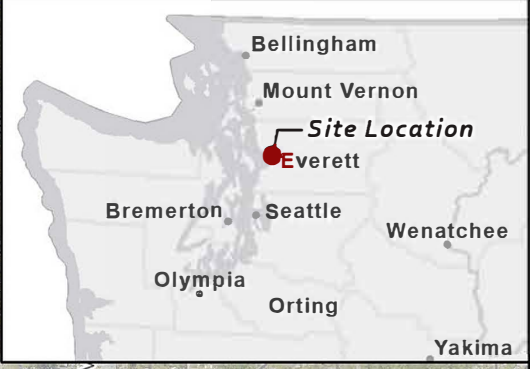
If you require additional information or clarification regarding this project, please contact Andrea Bachman, Perteet Senior Environmental Scientist, at 425-426-3817.

Attachments:

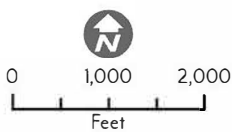
- Figure 1. Vicinity map
- Figure 2. Critical Areas Map
- Figure 3. Action Area Map

Legend

- Subject Property
- Streets
- City Limits



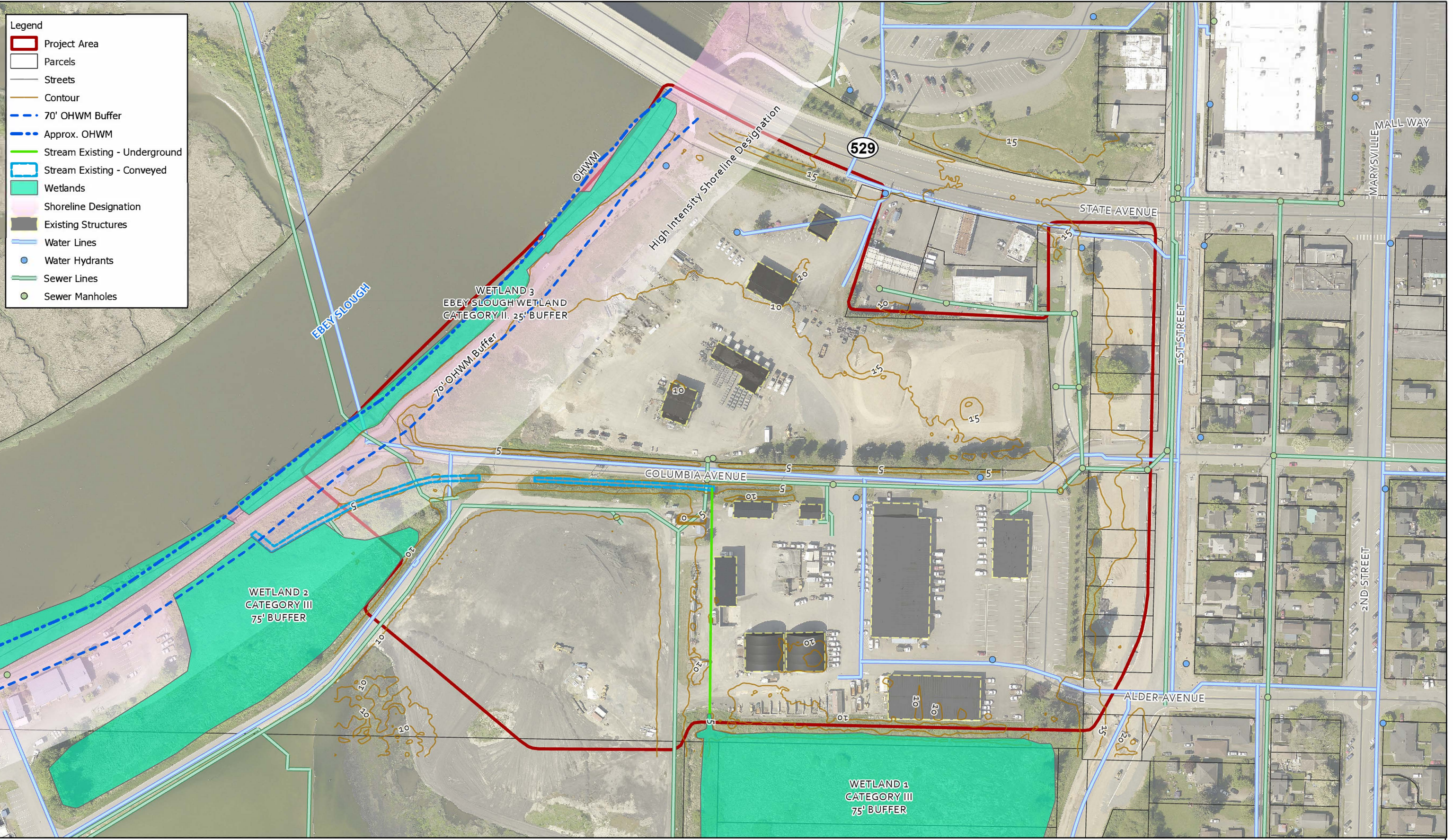
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Parcel ID:
30053300200100

Marysville Riverwalk
Shoreline Permit - Public Works Property
80 Columbia Ave, Marysville WA
Figure 1. Vicinity Map

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Legend

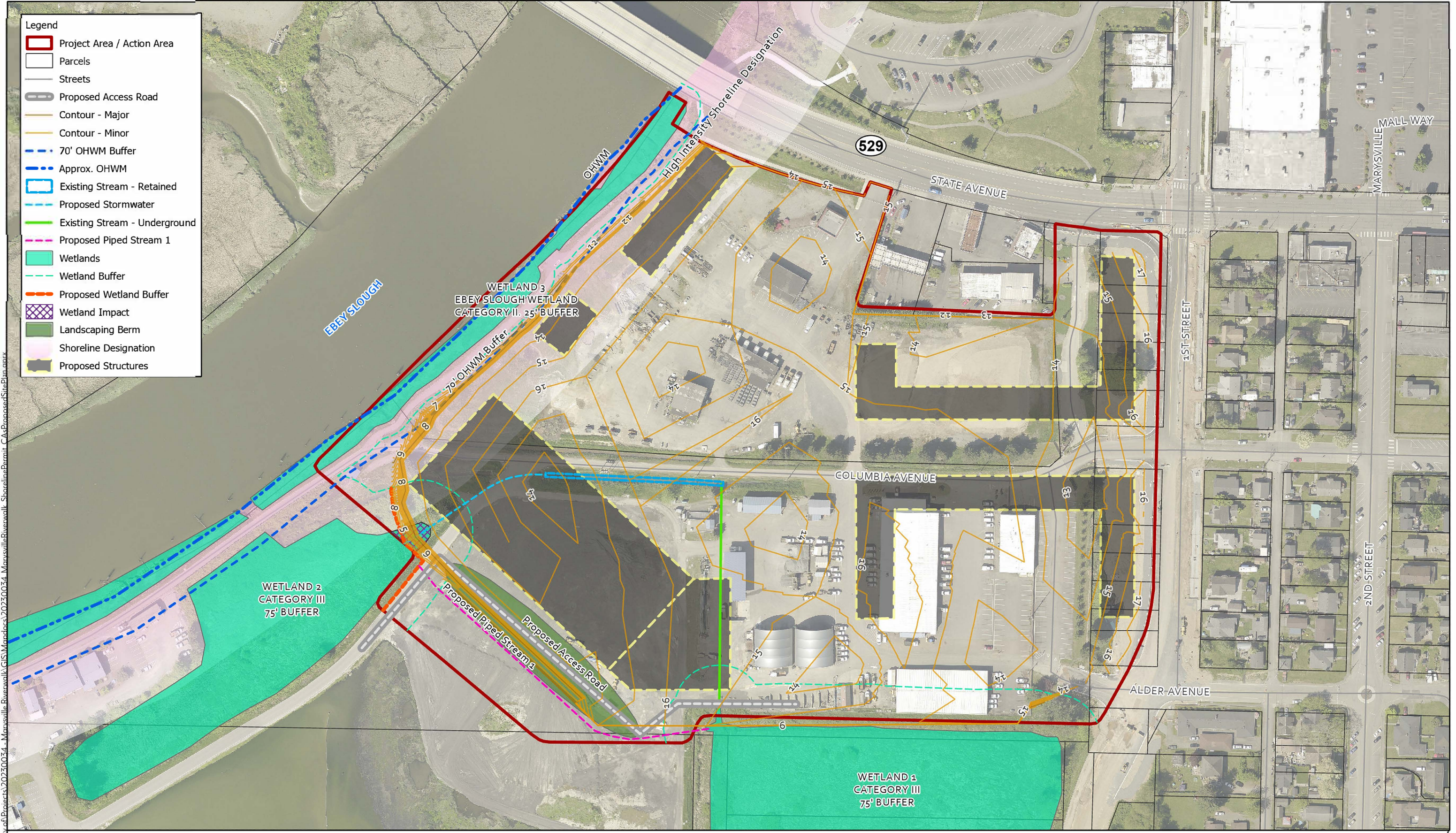
- Project Area
- Parcels
- Streets
- Contour
- 70' OHWM Buffer
- Approx. OHWM
- Stream Existing - Underground
- Stream Existing - Conveyed
- Wetlands
- Shoreline Designation
- Existing Structures
- Water Lines
- Water Hydrants
- Sewer Lines
- Sewer Manholes

PERTEET

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Feet

North arrow pointing up.

Marysville Riverwalk
 Shoreline Permit- Public Works Property
 80 Columbia Ave, Marysville WA
 Figure 2. Existing Critical Areas Map



- Legend**
- Project Area / Action Area
 - Parcels
 - Streets
 - Proposed Access Road
 - Contour - Major
 - Contour - Minor
 - 70' OHWM Buffer
 - Approx. OHWM
 - Existing Stream - Retained
 - Proposed Stormwater
 - Existing Stream - Underground
 - Proposed Piped Stream 1
 - Wetlands
 - Wetland Buffer
 - Proposed Wetland Buffer
 - Wetland Impact
 - Landscaping Berm
 - Shoreline Designation
 - Proposed Structures

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Marysville Riverwalk
Shoreline Permit- Public Works Property 80
Columbia Ave, Marysville WA
Figure 3. Action Area