

September 11, 2026

City of Walla Walla Planning Commission
Walla Walla City Council
c/o Development Services Department
55 E. Moore Street
Walla Walla, WA 99362

**Re: File PLN5-26-0001, 2026 Critical Areas Ordinance Amendments
Proposed 100-foot riparian buffers, WWMC 21.04.650 and Table 6**

Dear Commissioners and Council Members:

I am writing on behalf of Tarragon NW, a Walla Walla based real estate investment and development company. I am submitting this letter for the September 14th Planning Commission hearing and ask that it be entered into the record and carried forward to the City Council workshop and to the Council's eventual action on this ordinance.

I understand that the required comprehensive plan update is a broad process involving review and consideration of numerous elements under the Growth Management Act (GMA), and that it will result in several changes to the City's plans and development regulations. My comments concern the proposed changes to the City's critical area ordinance, and more specifically the increase of the minimum riparian buffer for the City's creeks, including intermittent open channels (other than Mill Creek) from 35 or 50 feet to 100 feet on each side, together with the increase of the building setback from the buffer from 5 feet to 15 feet. I ask the Commission and Council to consider two things. First, I believe the City Council has meaningful discretion in how it incorporates best available science into its critical areas regulations. The GMA requires the City to include and meaningfully consider that science, but it does not require the City to simply adopt a state agency's recommended buffer without considering its local applicability and weighing other relevant factors. Second, if the City does move toward larger buffers, the ordinance itself should have more detail and flexibility.

I want to be clear at the outset that none of this is a criticism of Development Services staff or the City's consultant. They are carrying a large 2046 workload on a statutory clock, and the draft reflects the recommendation the City received from the state agencies. My concern is with that recommendation and with the policy choice in front of you, which is the Commission's and the Council's to make.

The City has discretion in applying the state guidance. The staff report categorizes the buffer increase as "State Mandated, RCW 36.70A.172." I read the statute more narrowly than that label suggests. It says the City "shall include the best available science in developing policies and development regulations to protect the functions and values of critical areas." That is a substantive obligation, but it does not require the City to adopt a particular buffer width recommended by a state agency. In fact, the implementing regulations expressly contemplate weighing best available science with other relevant factors and require state agency scientific information to be reviewed for local applicability.

The Department of Commerce rule that implements this statute says so directly. WAC 365-195-915(1)(c) contemplates that a city may adopt critical areas regulations that depart from science-based recommendations on the basis of "legal, social, cultural, economic, and political information," provided it identifies the information in the record that supports the decision, explains its rationale, and identifies the risks to critical area functions



and any measures chosen to limit those risks. That is a recognized path under the Growth Management Act, not a violation of it.

WDFW's own guidance reinforces this distinction. Its August 28, 2026 comment letter in this packet describes WDFW's role as "that of technical advisor." Its Riparian Ecosystems, Volume 2 states that the document "is not, in and of itself, science. Rather, it consists of policy recommendations," and acknowledges that "considerations other than fish and wildlife will be incorporated into land use decision making." Even on the specific question of Table 6, WDFW's letter describes a 100-foot buffer as one that "may be compliant" with its guidance. That is materially different from saying a uniform 100-foot buffer is required by state law. WDFW is providing technical guidance for the City's consideration, not imposing a legislatively mandated buffer width.

The GMA also does not put one goal above the others. RCW 36.70A.020 directs the City to balance urban growth, reduced sprawl, housing, economic development, property rights and the environment, and RCW 36.70A.3201 tells the Growth Management Hearings Board to defer to local choices about how to do that balancing. The Legislature reinforced the housing side of that balance with HB 1220 and the housing element planning requirements now in RCW 36.70A.070(2), which the 2046 Comprehensive Plan is built around.

Scale and impact of proposed change.

The staff report and the SEPA addendum contain no estimate of how much developable land, how many housing units, or how much assessed value is removed by the buffer increase. The SEPA determination rests on the 2018 Comprehensive Plan FEIS, which never analyzed a 100-foot buffer, and concludes there is no significant impact. The housing capacity assumptions in the 2046 plan were built on today's 35 and 50-foot buffers. If the City adopts 100 feet, the land supply that plan counts on is smaller than the plan says it is, and that gap has not yet been measured.

I have attempted to put the scale of this change into simple terms. A 100-foot buffer on each side of a creek creates a 200-foot-wide corridor. One acre is 43,560 square feet, meaning every 218 lineal feet of creek places approximately one acre within the buffer. Add the proposed 15-foot building setback on each side and the total corridor grows to 230 feet, or roughly one acre for every 189 lineal feet of creek. Compared to the current 35-foot standard, the increase alone adds approximately one acre of buffer for every 335 lineal feet of channel. For waterways currently subject to a 35-foot buffer, moving to 100 feet represents approximately a 186% increase in buffered land area. Even compared to the current 50-foot standard applicable to portions of Yellowhawk Creek, moving to 100 feet doubles the buffered land area, a 100% increase.

Walla Walla's indigenous name means "place of many waters," and the ordinance applies corridors of Yellowhawk, Russell, Reser, Caldwell, Stone, Garrison, Bryant and Titus Creeks and to "others within city limits/UGA including intermittent open channels between piped sections." Few cities in the state have as many miles of regulated channel running through their developable core as Walla Walla. Before it adopts this standard, the City should measure the lineal feet of regulated channel inside the city limits and UGA, translate it into acres and housing units, and put that number in the record.

The consequence of removing otherwise developable land inside the existing UGA is a reduction in the City's capacity to accommodate its share of projected growth. That places additional pressure on the remaining land supply and makes the City's own goals for infill, efficient land use, and housing production more difficult to achieve. At a minimum, a regulation with this magnitude of impact should be evaluated against those competing GMA objectives, rather than considered solely through the lens of critical areas protection.



How this applies to the creeks of Walla Walla.

WDFW's 100-foot figure is a floor it applies when the site-potential tree height or the riparian vegetative community is narrower than 100 feet. The site-potential tree height model comes from forested ecosystems. WDFW's own Volume 2 acknowledges that in dryland ecoregions like ours the riparian community is "often comprised of shrubs, sedges, grasses, and forbs," and in that setting it recommends protecting the existing riparian vegetative community. The 100-foot line is a default that stands in for site science, not a measurement of anything on the ground in Walla Walla.

The City's own Table 6, which is being struck, shows what is on the ground: existing riparian averages of 14 feet on Bryant Creek, 20 feet on Stone Creek, 21 feet on Russell Creek, 24 feet on Garrison Creek, 25 feet on Titus Creek and 31 feet on Yellowhawk Creek. Inside the city limits these streams have been piped, relocated, straightened and channelized. Streets and bridges cross them. Along most of their length there are homes, garages, commercial buildings and parking lots within 100 feet of the water, a great many within 50 feet, and many built right up to the bank, because they went in decades before any buffer standard existed. That is the condition the ordinance would regulate.

So the question the Commission and Council should ask is a plain one: what, specifically, is a 100-foot buffer protecting inside the city limits of Walla Walla? Does moving the line from 35 or 50 feet to 100 feet produce a material gain in ecological function, or does it simply remove the remaining opportunity for growth in the one place the Comprehensive Plan says growth should go? For example, placing a 100-foot buffer over a 20-foot functional corridor does not protect a function that exists. It is a restoration program, paid for by whichever landowners happen to own the property, and there is no science in this record showing that those scattered infill parcels will ever deliver the riparian function the buffer width assumes.

The current tiered, reach-by-reach approach in Table 6 was itself adopted on a best available science basis in 2010, with widths matched to the targeted function of each reach. That is closer to what WDFW's guidance actually describes for dryland streams than a single citywide number is. It is also worth noting that Mill Creek, the main stem, carries a 35-foot buffer under the Shoreline Master Program while its tributaries would carry 100 feet under this ordinance.

If the goal is anadromous fish, the places where a 100-foot buffer protects an intact function are the undeveloped reaches in the County, not the reaches inside the city where the Comprehensive Plan is asking for infill. The City should direct its effort there and work with the County and the Conservation District on those reaches, rather than spend its own housing supply on buffers that will not perform.

Effect on existing property owners.

The buffer increase is usually discussed as if it only affects new development but there are broader implications. There are thousands of homes and structures in this city that sit within 100 feet of a creek. Many of them comply with the current 35 or 50-foot standard but many are even closer. The day this ordinance takes effect, every one of those homes becomes a nonconforming improvement inside a buffer in which, under 21.04.650(C), "all structures and activities shall be located outside of the riparian habitat buffers."

The draft does not yet address what that means for those owners. The only relief in the code is 21.04.085(B)(2), which allows maintenance and repair of existing buildings "provided that the activity does not further alter, impact, or encroach upon" the buffer. That leaves a lot of questions unanswered. If a house that is now inside the 100-foot buffer burns down, can the owner rebuild it on the same foundation? Can an owner add a



bedroom, a garage or a second story? Can they pour a patio, build a deck or replace a shed? Does a lender or insurer treat a nonconforming structure in a critical area buffer the same way it treats a conforming one? Does a nonconforming label follow the property through a sale, and what does it do to the value and the marketability of the home? A large number of people in this community will find themselves inside a line they had no reason to expect would move, and I do not believe the full effect on them has been weighed yet.

Consider alternatives.

I am not asking the Commission or Council to adopt a particular alternative. I am asking you to look critically at whether the proposed language, and particularly the uniform 100-foot minimum, is the right answer for Walla Walla. The existing reach-based Table 6 has been in place for years. Before replacing it with a standard that represents such a significant increase, I encourage you to ask what is not working with the current approach, whether an increase of this magnitude is necessary, and whether retaining the existing standards or considering a more modest change would better balance the many objectives you are charged with weighing. The ultimate policy decision belongs to you, and I encourage you to exercise that judgment carefully before adopting a change of this magnitude.

Clarity in the Ordinance.

At the August 3 workshop, staff stated that projects already underway would not be subject to the new standards and that existing structures would be grandfathered with no retroactive enforcement. I appreciate that statement and feel it should be reflected in the ordinance, not in the minutes. I know many property owners who are left scrambling trying to figure out what this means for their ability to use or develop their property. To provide clarity, I ask that the ordinance include the following:

1. A transition and vesting section stating that any application that is complete before the effective date of December 31, 2026 is reviewed under the critical areas regulations in effect on the date it was complete. This is consistent with RCW 58.17.033 and RCW 19.27.095.
2. A lots-of-record provision stating that building permits on lots within a recorded final plat or approved binding site plan, where the plat or its critical areas review identified the building areas and the creek, are reviewed under the buffer standard in effect when the final plat was approved. Those lots were sized, priced and sold on that standard.
3. Strengthening and adding of the flexibility tools like the functionally disconnected buffer provision, buffer averaging, and the Director's authority to reduce buffers with enhancement under Table 7. Are there more tools that can provide greater flexibility?
4. Language about treatment of non-conforming structures that answer the questions above. Provisions to allow existing lawful structures within a buffer to be maintained, repaired, rebuilt after casualty, and reasonably expanded on the landward side or within the existing disturbed area, without a critical area report, and how accessory improvements such as decks, patios, pools and outbuildings on already-developed lots are treated.
5. A reasonable use exception in 21.04.090 that works for small infill lots, where the buffer would otherwise consume the entire buildable area, without requiring a variance.



This is a legislative decision, and it will shape where Walla Walla is able to grow. I ask the Commission and the Council to take it seriously and to remember that the state has handed you a recommendation and a process for weighing it, not an order.

Thank you for your consideration.

Sincerely,

Drew Davis

President, Tarragon NW

cc: Emily Arteche, Deputy Director, Development Services
Preston Frederickson, Deputy City Manager
Jon Maland, AICP, Senior Planner