



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

March 29, 2007

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Depoe Bay Plan Amendment
DLCD File Number 001-04 A



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: April 12, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Laren Woolley, DLCD Regional Representative
Larry Lewis, City of Depoe Bay

<paa> ya/

FORM 2

DLCD

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

☐ In person ☐ electronic ☐ mailed

DEPT OF

MAR 23 2007

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: **City of Depoe Bay**

Local file number: **None**

Date of Adoption: **3/21/2007**

Date Mailed: **3/22/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 5/19/2004

☒ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

An ordinance amending the Depoe Bay Zoning Ordinance and Inventory relating to the Natural Resources Local Wetlands and Riparian Inventory and Maps

Does the Adoption differ from proposal? Yes, Please explain below:

The adoption excludes draft amendments to the Comprehensive Plan Goals and Policies.

Plan Map Changed from: **No change**

to:

Zone Map Changed from: **No change**

to:

Location: **UGB/Citywide**

Acres Involved:

Specify Density: Previous: **No change**

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment..

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD # 001-04 (13661) [12811]
A

ORDINANCE NO. 278
CITY OF DEPOE BAY

AN ORDINANCE AMENDING ORDINANCE NO. 24 (ZONING ORDINANCE), AS AMENDED; AMENDING THE INVENTORY INFORMATION, AS AMENDED; RELATING TO THE NATURAL RESOURCES LOCAL WETLANDS AND RIPARIAN INVENTORY AND MAPS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Depoe Bay contracted services (Pacific Habitat Services, Inc.) and conducted a Natural Resources Inventory and Assessment in 2003, funded in part by an Oregon Dept. of Land Conservation and Development Ocean and Coastal Management Program Technical Assistance Grant; and

WHEREAS, the Depoe Bay Planning Commission held public hearings on July 21, 2004 and August 18, 2004 to obtain public comment on proposed revisions to the Inventory and Zoning Ordinance to implement the Natural Resources Local Wetlands Inventory; and

WHEREAS, the Depoe Bay Planning Commission, after considering public testimony approved certain changes to the Inventory and Zoning Ordinance and has recommended those changes to the Depoe Bay City Council; and

WHEREAS, the Depoe Bay City Council held public hearing meetings on November 2, 2004, December 7, 2004, February 1, 2005 and February 6, 2007 and has concluded deliberations on the recommended changes to the Zoning Ordinance and Inventory, including considering public testimony and staff recommendations;

NOW, THEREFORE, the City Council of the City of Depoe Bay ordains as follows:

1. Section 1.030 Definitions of Ordinance No. 24, as amended, is hereby amended as follows:
 - a. **Section 1.030.46 Drainage Ways is amended to read:**
"46. Drainage Ways: The streams, channels, springs, lakes, ponds, reservoirs, ponding areas, and wetlands indicated in the LWI and the Depoe Bay Storm Water Master Plan maps of existing facilities."
 - b. **Section 1.030.150 Riparian Corridor Boundary is amended to read:**
"150. Riparian Corridor Boundary: An imaginary line that lies 50 feet inland (or upland), measured on the horizontal, from the top of the bank of an inland stream, or where no bank is discernible, that lies 50 feet inland from the outer edge of non-aquatic vegetation.

Where a wetland or pond is contiguous to a stream, the riparian area shall be measured 50' inland (or upland) from the upland edge of the wetland or pond. Where a wetland or pond is not contiguous to a stream, the riparian area shall be measured 25' inland (or upland) from the upland edge of the wetland or pond."
2. Section 4.800 Protection of Streams, Ponds, Wetlands and Riparian Areas of Ordinance No. 24, as amended, is hereby amended in the following particulars:
 - a. **Section 4.800.1 Purpose is amended to read:**

1. Purpose: The purpose of this Section is to provide procedures necessary to secure the desirable attributes of the city from depletion by recognizing the value of streams, ponds, wetlands, and riparian vegetation for fish and wildlife habitat, maintenance of water quality and quantity, alleviation of flooding hazards, storm water control, recreation and aesthetics, and to provide for open space. Protection of the natural drainage ways as an integral part of the City environment in accordance with the Depoe Bay Local Wetlands and Riparian Inventory (2004) (LWI) is also important in order to manage stormwater drainage, minimize maintenance costs, and protect properties adjacent to drainage ways.

b. Section 4.800.2 Application is amended to read:

2. Application: The provisions of Section 4.800 shall apply to the streams, significant wetlands, ponds, and riparian areas identified in the Comprehensive Plan's LWI. The provisions of Section 4.800 shall also apply to existing streams, significant wetlands, and riparian areas that are not yet identified in the LWI. The provisions of Section 4.800 are to be applied in conjunction with the provisions of the underlying zone and are also subject to the applicable provisions of Articles 6, 7, 8, 9, 10, 13 and Sections 3.360, 3.370, and 4.900. Where the provisions of Section 4.800 and the underlying zone conflict, the more restrictive regulations shall apply. Forestry activities subject to the riparian regulations of the Oregon Forest Practices Act are exempt from regulation under Section 4.800. Forestry activities not subject to the riparian regulations of the Oregon Forest Practices Act are subject to regulation under Section 4.800.

c. Section 4.800.3 Procedure for Development Applications is amended to read:

3. Procedure for Development Applications: Applicants requesting approval for any development permit in an area which contains a designated resource identified in Section 4.800(4) below shall submit, along with any application, a detailed site plan and written statement demonstrating how the proposed activities will conform to each of the applicable standards of Section 4.800. The Planning Commission shall review the application in a public hearing and determine if all of the applicable criteria are met.

d. Subsections (a) and (f) in Section 4.800.4 Definitions are revised as follows:

"a. Drainage Ways: The streams, channels, springs, lakes, ponds, reservoirs, ponding areas, and wetlands indicated in the LWI and the Depoe Bay Storm Water Master Plan maps of existing facilities."

"f. Riparian Corridor Boundary: An imaginary line that lies 50 feet inland (or upland), measured on the horizontal, from the top of the bank of an inland stream, or where no bank is discernible, that lies 50 feet inland from the outer edge of non-aquatic vegetation.

Where a wetland or pond is contiguous to a stream, the riparian area shall be measured 50' inland (or upland) from the upland edge of the wetland or pond. Where a wetland or pond is not contiguous to a stream, the riparian area shall be measured 25' inland (or upland) from the upland edge of the wetland or pond."

e. Section 4.800.5 Stream Protection Standards and Section 4.800.6 Wetland Protection Standards are replaced in their entirety as follows:

5. Riparian Corridor Protection Standards:

- a. The actual location of streams, wetlands, ponds, and riparian areas, shall be delineated in the field by a person qualified to do such a delineation, following procedures accepted by the State

of Oregon. A report and map shall be submitted which documents the boundaries of the resource and its buffer.

- b. The outer boundaries of the riparian corridor shall be clearly marked in the field, and such markings shall remain visible for inspection until all development on the site is complete.
- c. No filling, grading, excavating, or draining is permitted in a wetland area unless such is performed for restoration purposes. Valid permits from the US Army Corps of Engineers and from the Oregon Department of State Lands, or written proof of exemption from these permit programs must be obtained and presented to the City prior to any such work.
- d. The flow from springs, drainages, streams, and other features providing the water necessary to maintain wetlands hydrology, shall not be diminished or substantially increased.
- e. Within the riparian corridor boundary, no grading shall occur, no impermeable surfaces or structures shall be placed, and no vegetation shall be removed or destroyed, except that the following are allowed, provided they are designed and constructed to minimize intrusion into the riparian area:
 - (1) Removal of riparian vegetation necessary for a use that requires direct access to the water.
 - (2) Placement of utilities, drainage facilities, and irrigation pumps.
 - (3) Replacement or enlargement of existing structures with structures in the same location that do not disturb additional riparian surface area.
 - (4) The placement of walking paths and road crossings.
 - (5) Removal of non-native noxious vegetation such as scotch broom, blackberries, and ivy, and replacement with native plant species.
 - (6) Fish and habitat restoration activities approved by Oregon Department of Fish and Wildlife.
 - (7) Removal of vegetation necessary for the development of water related and water dependent uses.
- f. Before any development activity occurs within a riparian corridor, there must be a review and report prepared by a licensed, certified arborist. The arborist's report must be submitted to the City before any development activity occurs. The responsibility for this review lies with the applicant.
- g. Valid permits from the US Army Corps of Engineers and from the Oregon Division of State Lands, or written proof of exemption from these permit programs, must be obtained and presented to the City before commencement of any of the activities associated with allowed uses which will impact the streams, ponds, wetlands, and riparian areas.
- h. Development activities shall not change the natural drainage or substantially increase the water flow.
- i. Development activities shall not create erosion into the stream, wetland, pond, or riparian area.
- f. **Section 4.800.7 Drainage Way Protection Standards is renumbered as Section 4.800.6**

g. Section 4.800.8 Hardship Variances is renumbered as Section 4.800.7 and is amended to read:

a. Applicability: This section applies to lots existing prior to January 1, 1982 in the Coastal Shorelands Overlay Zone or along North and South Depoe Bay Creeks, or prior to January 1, 2001 in other areas of Depoe Bay.

b. Where a minimum building footprint of less than 800 square feet would result from application of the rules of this section, reduction or removal of the restrictions under this section can be granted to allow the building of a structure within such a building footprint through the variance procedure. Applicants for variance from this section should demonstrate, in addition to the criteria found in the variance ordinance (Article 8), that intrusion into the required riparian corridor, wetland, or drainage way protection areas has been minimized by maximizing setback variances on property line boundaries away from these resources. Applicants shall consult with a fish biologist regarding impacts to the riparian corridor and stream, and provide that documentation to the City, when requesting intrusion into the required riparian corridor associated with North Depoe Bay Creek or South Depoe Bay Creek.

h. Section 4.800.9 Map Error is renumbered as Section 4.800.8 and Subsection (d) is amended to read as follows:

d. When the extent of the resource area cannot be determined by the City, the applicant shall seek prompt assistance from a natural resource agency in making that determination, or provide a written report from a properly-qualified specialist describing the boundaries of the resource area in relationship to the property boundaries.

3. The Inventory Information adopted as part of the adoption process for the Depoe Bay Comprehensive Plan, as amended, is hereby amended to include the 2004 Depoe Bay Local Wetlands and Riparian Inventory.


WHEREAS, the adoption of this ordinance is necessary to preserve the peace, health, safety and welfare of the citizens of the City of Depoe Bay, an emergency is hereby declared to exist and this ordinance shall be in full force and effective immediately upon its adoption by the City Council of the City of Depoe Bay and approved by the Mayor.

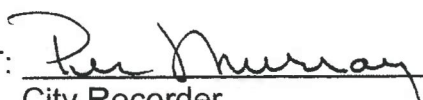
Introduced and passed the first reading in a regular meeting of the City Council of the City of Depoe Bay, Oregon, on this 6th day of March, 2007.

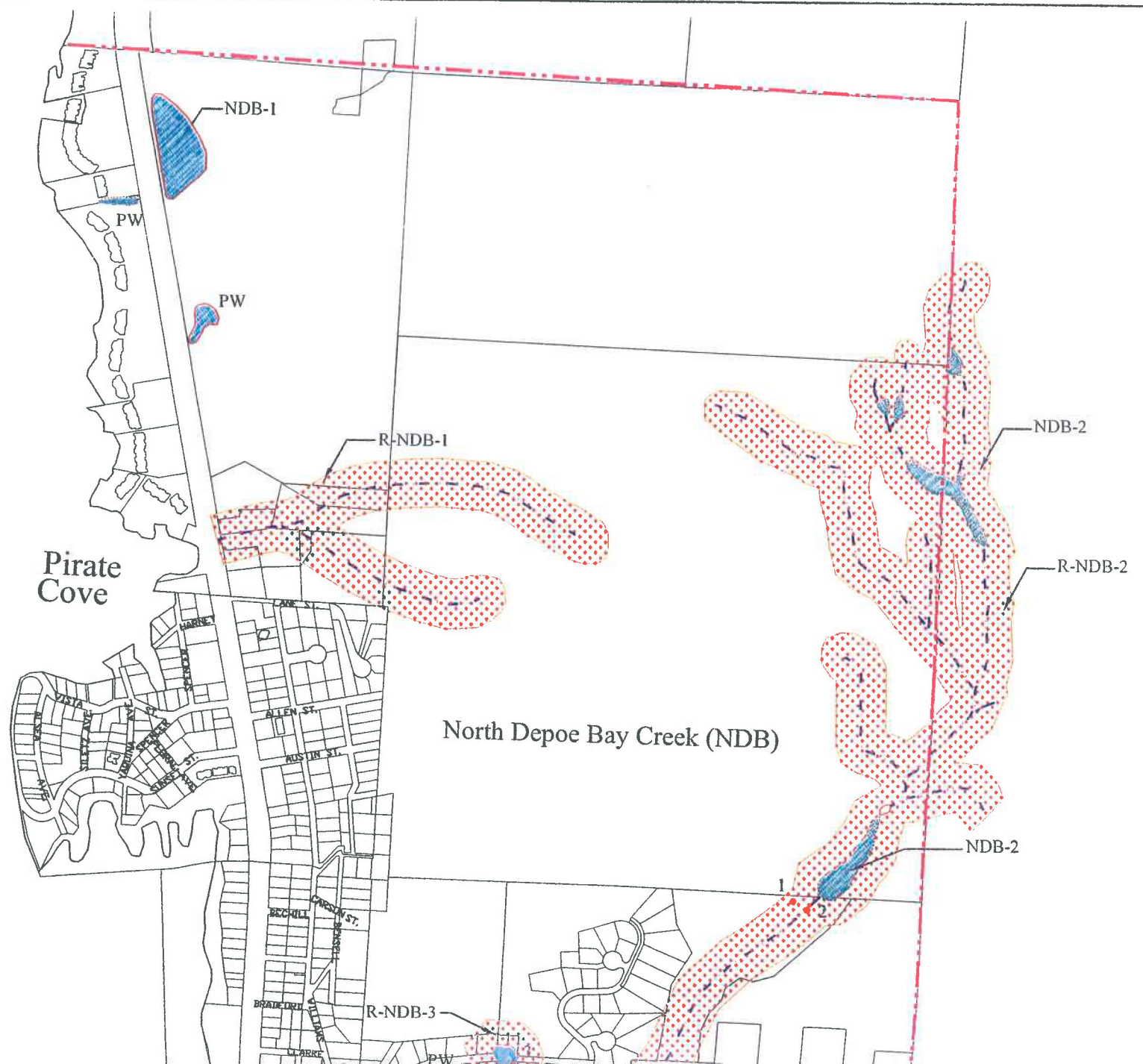
Passed at the second reading, placed on final passage, and adopted by the City Council of the City of Depoe Bay, Oregon, on this 20th day of March, 2007.

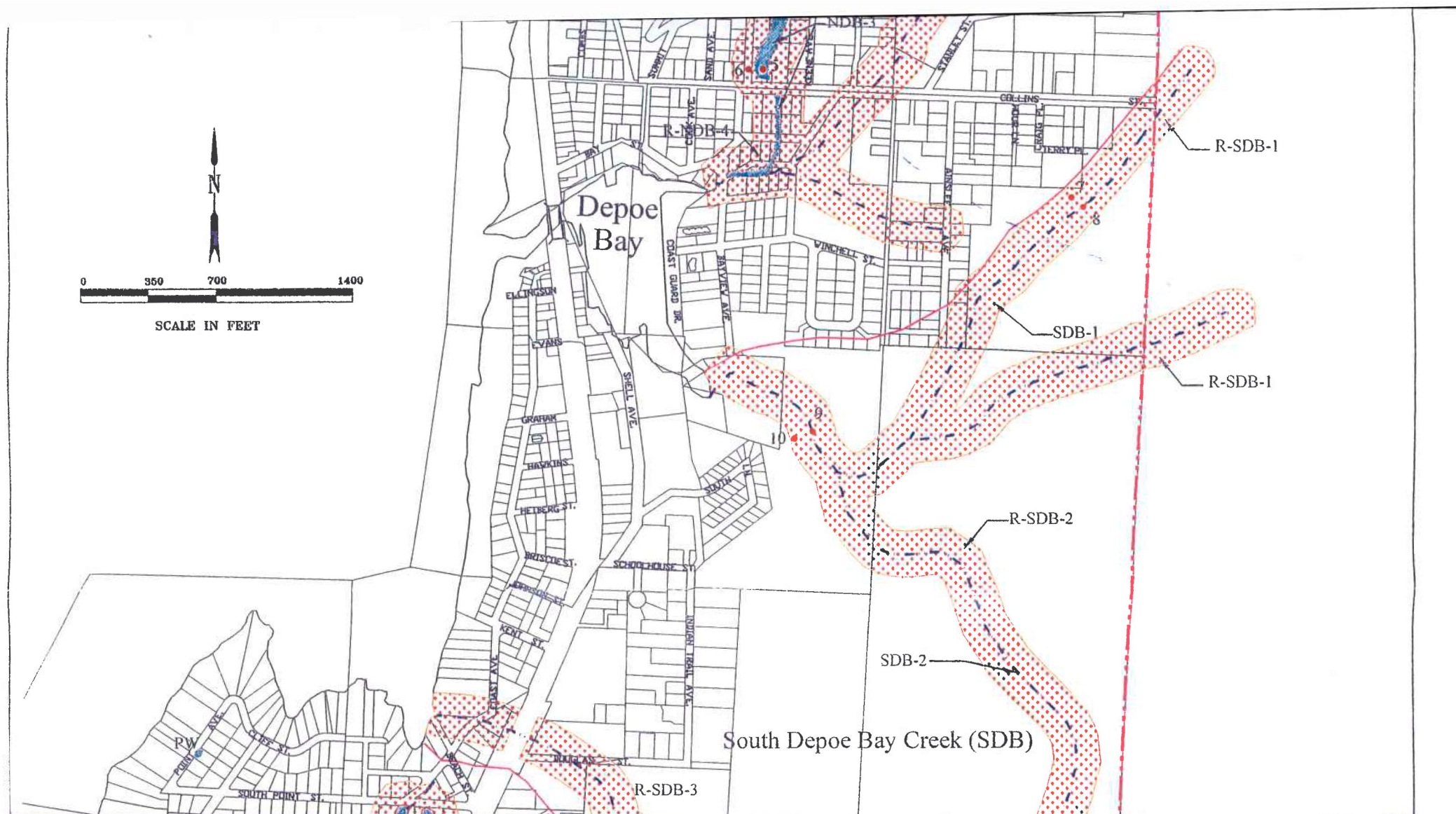
Approved by the Mayor of the City of Depoe Bay, Oregon, this 21st day of March, 2007.

CITY OF DEPOE BAY


Mayor James White

ATTEST: 
City Recorder

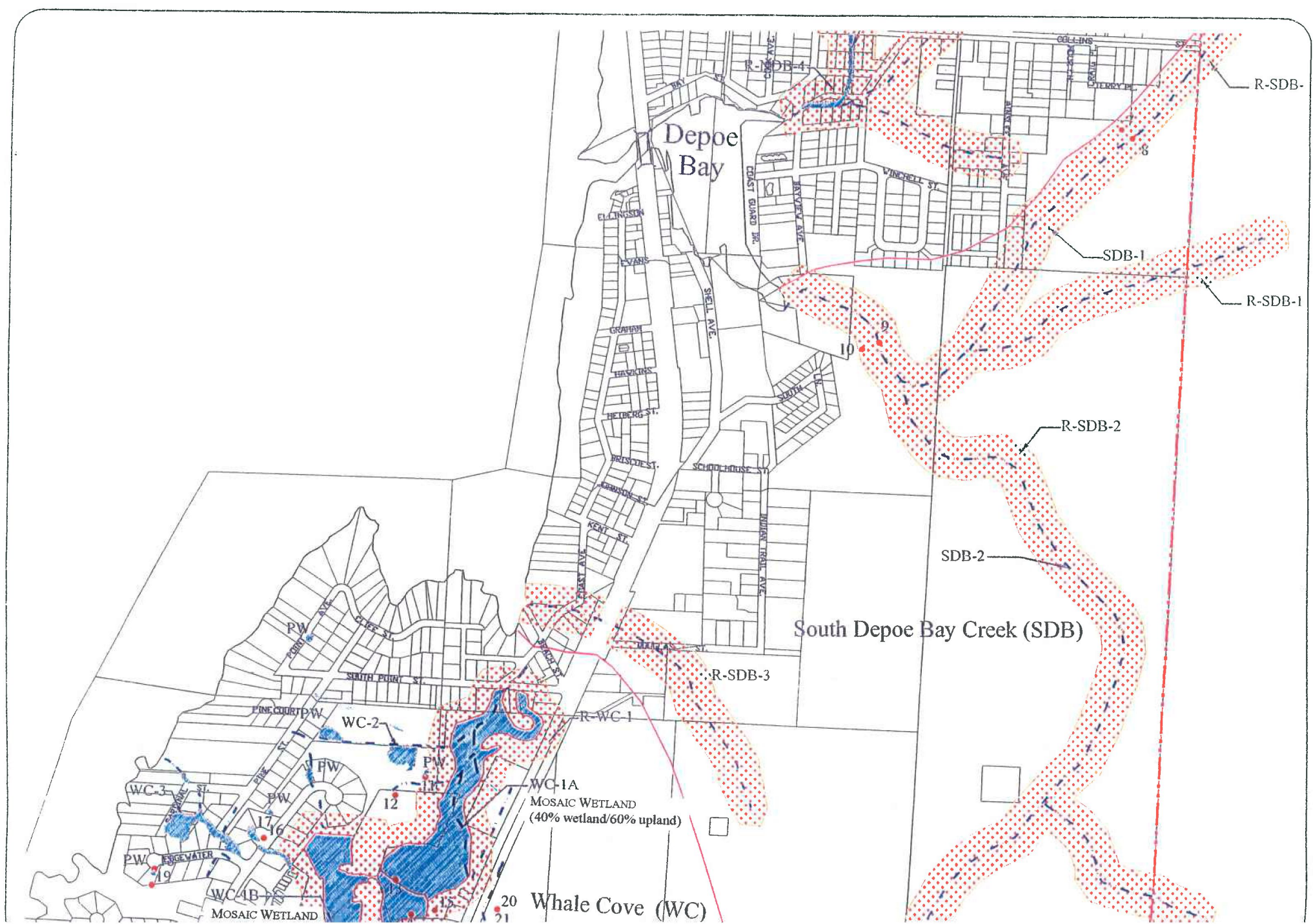


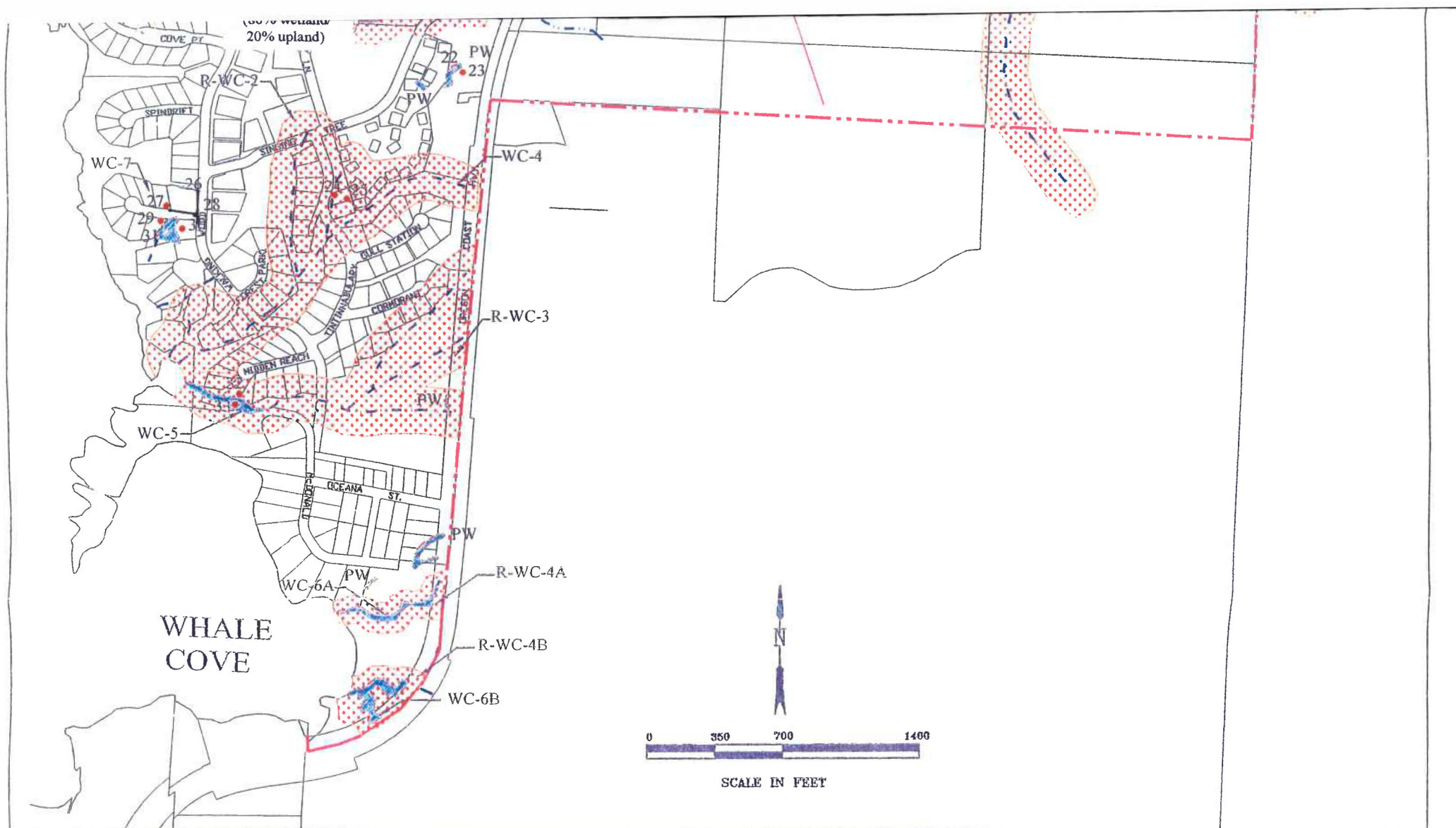


WETLANDS AND RIPARIAN AREAS

Depoe Bay

Local Wetlands and Riparian Inventory





Funding for this project was provided by a grant from the Oregon Department of Land Conservation and Development

Watershed Boundary ———
 Project Boundary/UGB/City Limits - - - - -
 Riparian Area [Red Dotted Pattern]
 Wetland Area [Blue Pattern] PW = Probable Wetland

WETLANDS AND RIPARIAN AREAS

THIS MAP IS FOR PLANNING PURPOSES ONLY
 WETLAND BOUNDARIES ARE APPROXIMATE
 AND SUBJECT TO CHANGE

Information shown on this map is for planning purposes only and wetland information is subject to change. There may be unmapped wetlands subject to regulation and all wetland boundary mapping is approximate. In all cases, actual field conditions determine wetland boundaries. You are advised to contact the Division of State Lands and the U.S. Army Corps of Engineers with any regulatory questions.

DATE: DECEMBER, 2003

BASE MAP INFO: Supplied by City of Depoe Bay

JOB NO.: 2853

Depoe Bay

Local Wetlands and Riparian Inventory

Pacific Habitat Services, Inc.
 6450 SW Commerce Circle, Suite 180
 Wilsonville, Oregon 97070
 Phone: (503) 670-0800



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