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Attachments: 1. Agenda Memo No. 19-147, 2. Attachment A: Cultural Resources Management Plan Components

Date	Ver.	Action By	Action	Result
10/1/2019	1	City Council	presented	

MEMO TO: Mayor and Members of the City Council

FROM: Erika Vandenbrande, Director of Planning and Community Development

SUBJECT:

Development of Redmond Cultural Resources Management Plan (CRMP)

I. RECOMMENDED ACTION

Identify City Council preferred discussion topics for amendments to the Redmond Comprehensive Plan and Zoning Code for protection, preservation, and management of cultural resources within the City for Council action anticipated on December 3, 2019.

II. DEPARTMENT CONTACTS

Erika Vandenbrande, Director	425-556-2457
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III. DESCRIPTION/BACKGROUND

Phase 1 of the Bear Creek Rehabilitation Project was constructed in 2013. The purpose of this City

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

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

Chehalis Tribe

Cowlitz Indian Tribe

Lower Elwha Klallam Tribe

Lummi Nation

Muckleshoot Indian Tribe

Nisqually Tribe

Nooksack Tribe

Port Gamble S'Klallam Tribe

Puyallup Tribe

Samish Tribe

Sauk-Suiattle Indian Tribe

Skokomish Tribe

Snoqualmie Indian Tribe

Squaxin Island Tribe

Stillaguamish Tribe of Indians

Suquamish Tribe

Swinomish Indian Tribal Community

Tulalip Tribes

Upper Skagit Indian Tribes

Confederated Tribes and Bands of the Yakama Nation

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

The Section 106 process involved the parties establishing an agreement to resolve adverse effects of undertakings at the Bear Creek site. The outcome of this work was the Memorandum of Agreement (MOA) among the U.S. Army Corps of Engineers, the Federal Highway Administration, the Washington State Department of Archaeology & Historic Preservation, the City of Redmond, and the Washington State Department of Transportation Regarding Treatment of Adverse Effects to the Bear Creek Site (Exhibit A), approved by the City Council in August 2014. Amendment 1 to the MOA (Exhibit B) requires the City to use the services of a qualified archaeological consultant to develop a comprehensive, citywide Cultural Resource Management Plan (CRMP) within 3 years of the agreement and to integrate the Plan with the City's existing professional cultural resource services and agreements. In May 2016, the City Council approved a contract with DOWL (Consultant) for these services.

Stipulation 6 of the August 2014 amendment to the Memorandum of Agreement (MOA) for the Bear Creek Rehabilitation Project establishes a primary purpose of Redmond's Cultural Resource Management Plan to include though not be limited to the following:

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

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

Term #15 of the DAHP Case No. 2014-3-KI-839 Stipulation and Settlement Regarding Notice of Violation also calls for incorporating the recommendations of the investigator (Exhibit D) in the CRMP

and site review process, developed under Stipulation 6. The Investigator's recommendations emphasize enhancement to three main categories of cultural resources management for work performed at known archaeological sites:

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

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

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

IV. PREVIOUS DISCUSSIONS HELD

The City Council previously discussed this item during the following:

City Council Planning and Public Works Committee of the Whole (Planning and Public Works Committee)	November 10, 2015	Briefing
Planning and Public Works Committee	May 10, 2016	Briefing
City Council	May 17, 2016	Contract Approval
Planning and Public Works Committee	October 11, 2016	Briefing
Planning and Public Works Committee	June 13, 2017	Briefing
City Council	September 5, 2017	Study Session
Planning and Public Works Committee	September 10, 2019	Briefing

V. IMPACT

A. **Service/Delivery:**

Staff suggests the following review schedule to support a recommended date for City Council action on at its December 3, 2019 business meeting:

City Council Planning and Public Works Committee	September 10, 2019	Briefing and identification of primary discussion topics
<i>Planning Commission</i>	<i>September 11, 2019</i>	<i>Public hearing and study session</i>
City Council	October 1, 2019	Staff report
<i>Planning Commission</i>	<i>October 2, 2019</i>	<i>Recommendation and report approval</i>
City Council	October 8, 2019	Study session
City Council	December 3, 2019	Action

B. Fiscal Note:

The implementation of this program creates predictability by supporting advanced planning and reduces associated project costs on behalf of customers. The CRMP was drafted to align as closely as possible with current business practices and therefore, is anticipated to have minimal impacts on budgets.

VI. ALTERNATIVES TO STAFF RECOMMENDATION

Staff is requesting the City Council to identify preferred discussion topics to facilitate its review of amendments to the Redmond Comprehensive Plan and Zoning Code for protection, preservation, and management of cultural resources within the City. This direction will facilitate Council review of the CRMP package concurrent with the Planning Commission review and development of a recommendation.

Councilmembers may elect to postpone review of the CRMP until the Planning Commission has completed its recommendation, but this alternative would impact the schedule and foreclose the Council from taking action on the amendments on December 3, 2019. Refer to the time constraints section below for additional details.

VII. TIME CONSTRAINTS

Development of the CRMP had been originally stipulated for completion within three years of execution of Amendment 1 to the MOA (eff. Sept. 29, 2014). Subsequently, the signatories to the MOA agreed to an extension, allowing for completion by September 29, 2018. With the Mayor and signatories' approval, staff has continued work toward the CRMP's completion and is recommending City Council's action on December 3, 2019

VIII. LIST OF ATTACHMENTS

A. Cultural Resources Management Plan Components

B. For Reference - Link to the Technical Committee Recommendation to the Redmond Planning Commission (*Under Review by the Planning Commission from September 11 to October 2, 2019*)