

GORST CREEK WATERSHED FRAMEWORK PLAN AND GORST SUBAREA PLAN AND PLANNED ACTION EIS

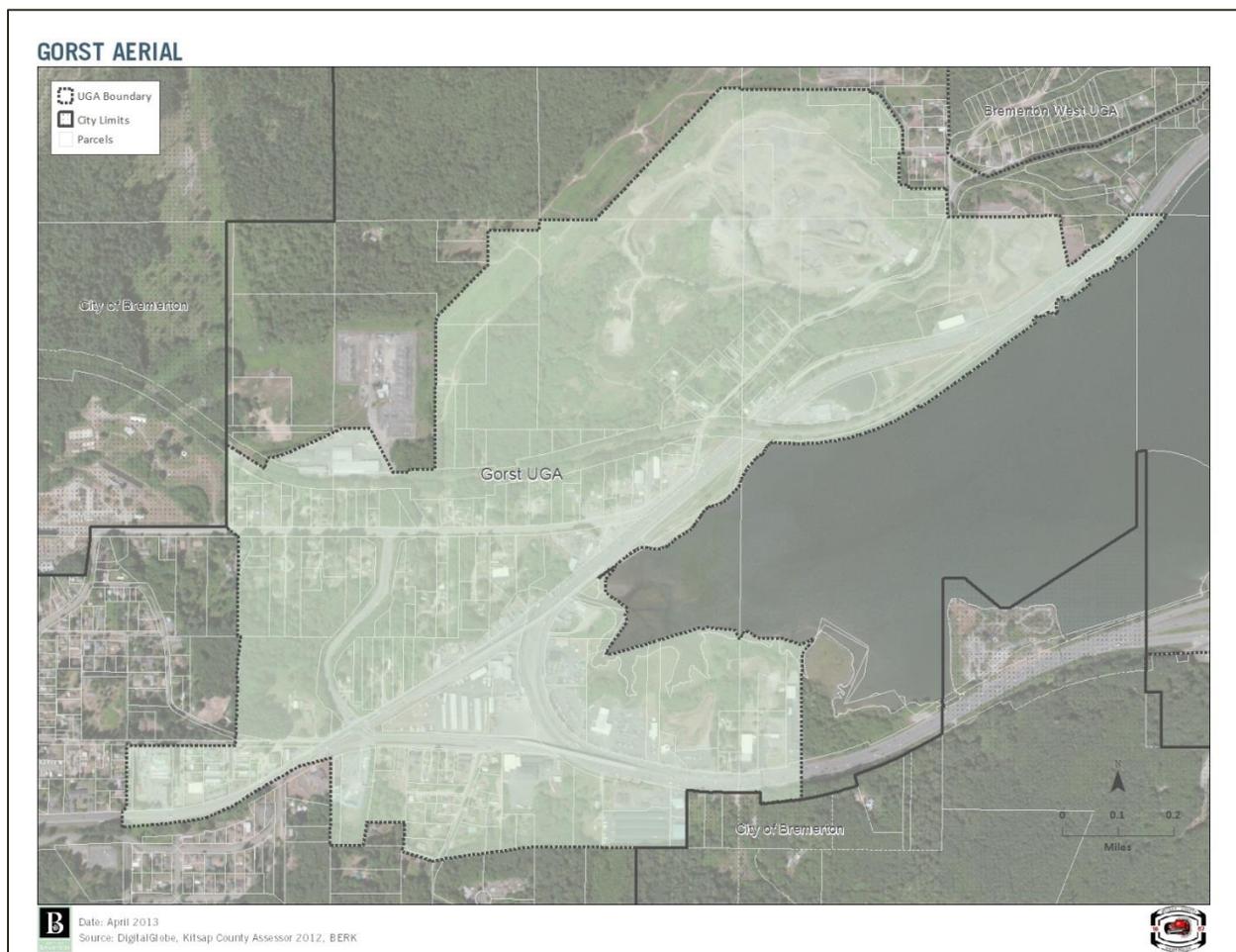
Technology Transfer: Planned Action Ordinance

1.0 INTRODUCTION

The City of Bremerton and Kitsap County, in partnership with other state, federal, and tribal agencies, have developed a 20-year plan for the future of Gorst. The purpose of this cooperative planning effort has been to develop a land use plan that is based on the ecological values and functions of the Gorst Creek Watershed in southeast Kitsap County. The City and County have adopted the Gorst Creek Watershed Characterization & Framework Plan and the Gorst Subarea Plan in December 2013.

In addition to adopting a subarea plan for the Gorst Urban Growth Area (UGA), the City of Bremerton adopted a Planned Action Ordinance for the UGA consistent with RCW 43.21C.440 and WAC 197-11-164 to 172; Kitsap County is considering the adoption of a Planned Action Ordinance in spring 2013. A map of the UGA is included below in Exhibit 1.

Exhibit 1. Gorst Urban Growth Area – Planned Action Boundary



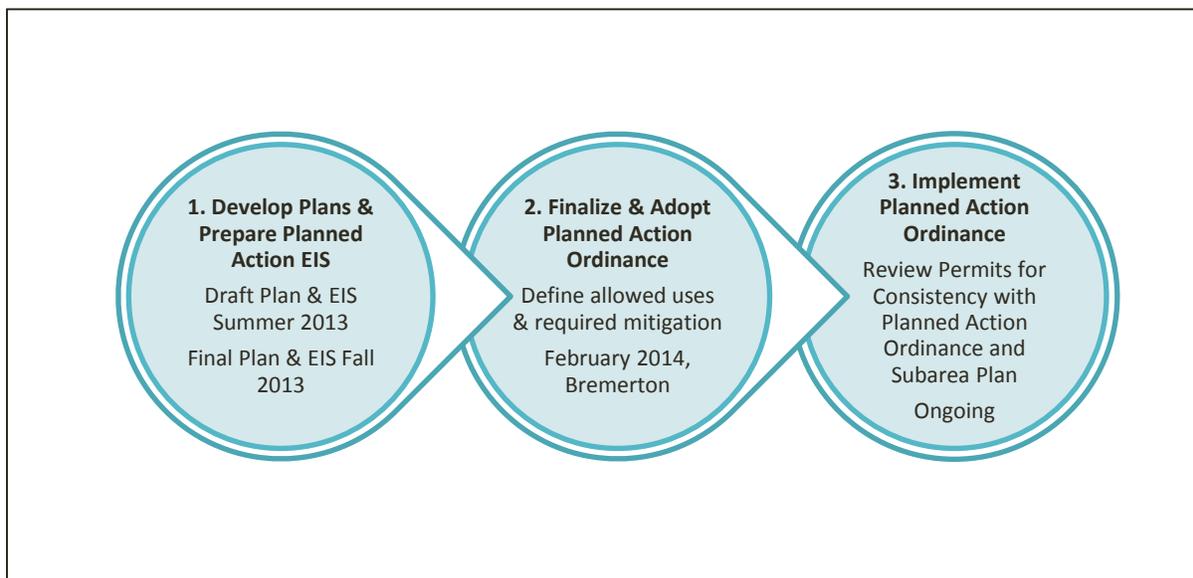
Source: Kitsap County, BERK Consulting 2012

A planned action:

- Is allowed by the State Environmental Policy Act (SEPA).
- Studies the environmental impact of proposed development in the UGA in an Environmental Impact Statement (EIS).
- Identifies the type and amount of development (e.g., housing units, vehicle trips).
- Shifts environmental review from the permit review stage to the planning stage.
- Means future proposals would not need additional SEPA review when consistent with the Planned Action EIS assumptions and mitigation measures. However, proposals still go through permit review.
- Can help facilitate private and public investment in the study area.

A planned action provides more detailed environmental analysis during an areawide planning stage rather than at the project permit review stage. Designating a planned action streamlines environmental review for development proposals consistent with EIS mitigation measures that are adopted in a planned action ordinance. Planned actions would be allowed if they meet or exceed proposed land use and environmental performance standards. This tool has been used elsewhere by local governments in Washington State, including Bremerton in the South Kitsap Industrial Area. A conceptual diagram of the Planned Action process is included in Exhibit 2.

Exhibit 2. Gorst UGA Planned Action Process



Source: BERK Consulting 2014

Section 2.0 provides more information about the SEPA Requirements for planned actions. Section 3.0 provides a step by step approach to developing and implementing a Planned Action Ordinance, including lessons learned in the Gorst process that may be applicable to other jurisdictions considering a planned action process in the future. Section 4.0 provides a summary schedule of the first two steps in the process, to prepare and adopt the plans, EIS and Planned Action Ordinance; implementation in Step 3 would be ongoing.

2.0 SEPA REQUIREMENTS FOR PLANNED ACTIONS

According to the State Environmental Policy Act (SEPA) at RCW 43.21C.440 and Washington Administrative Code (WAC) 197-11-164, a planned action is defined as a project that has the following characteristics:

1. is designated a planned action by ordinance or resolution adopted by a Growth Management Act (GMA) county/city;
2. has had significant environmental impacts addressed in an EIS unless the impacts are specifically deferred for consideration at the project level pursuant to certain criteria specified in the law;
3. has been prepared in conjunction with a comprehensive plan, subarea plan, a fully contained community, a master planned resort, master planned development, a phased project, or with subsequent or implementing projects of any of these categories;
4. is located within a UGA;
5. is not an essential public facility unless an essential public facility is accessory to or part of a residential, office, school, commercial, recreational, service, or industrial development that is designated a planned action; and
6. is consistent with an adopted comprehensive plan or subarea plan adopted under GMA.

The county/city must include a definition of the types of development covered, but has options to limit the boundaries to be less extensive than the county/city boundaries, and to establish a time period.

Review of a planned action is intended to be simpler and more focused than for other projects. If the planned action ordinance is adopted, the county/city would follow the applicable procedures contained in the ordinance to determine if the proposed project impacts are consistent with the planned action EIS. When a permit application and environmental checklist are submitted for a project that is being proposed as a planned action project, the jurisdiction must first verify the following:

- The project meets the description of any project(s) designated as a planned action by ordinance or resolution.
- The probable significant adverse environmental impacts were adequately addressed in the EIS.
- The project includes any conditions or mitigation measures outlined in the ordinance or resolution.

If the project meets the above requirements, the project qualifies as a planned action project and a SEPA threshold determination is not required. However, the following county/city actions are still applicable:

- The project must continue through the county/city permit process pursuant to any notices and other requirements contained in the applicable local development regulations.
- The project must still be analyzed for consistency with county/city zoning and development regulations.
- Designation of a planned action project does not limit the county/city from using other authority (e.g., a conditional use permit) to place conditions on a project. The local government may still use applicable laws or regulations to impose conditions on a project qualifying as a planned action project.
- Public notice for a planned action project is tied to the underlying permit. If notice is otherwise required for the underlying permit, then the notice will indicate that the project qualifies as a planned action.

3.0 STEPS IN PREPARING A PLANNED ACTION ORDINANCE

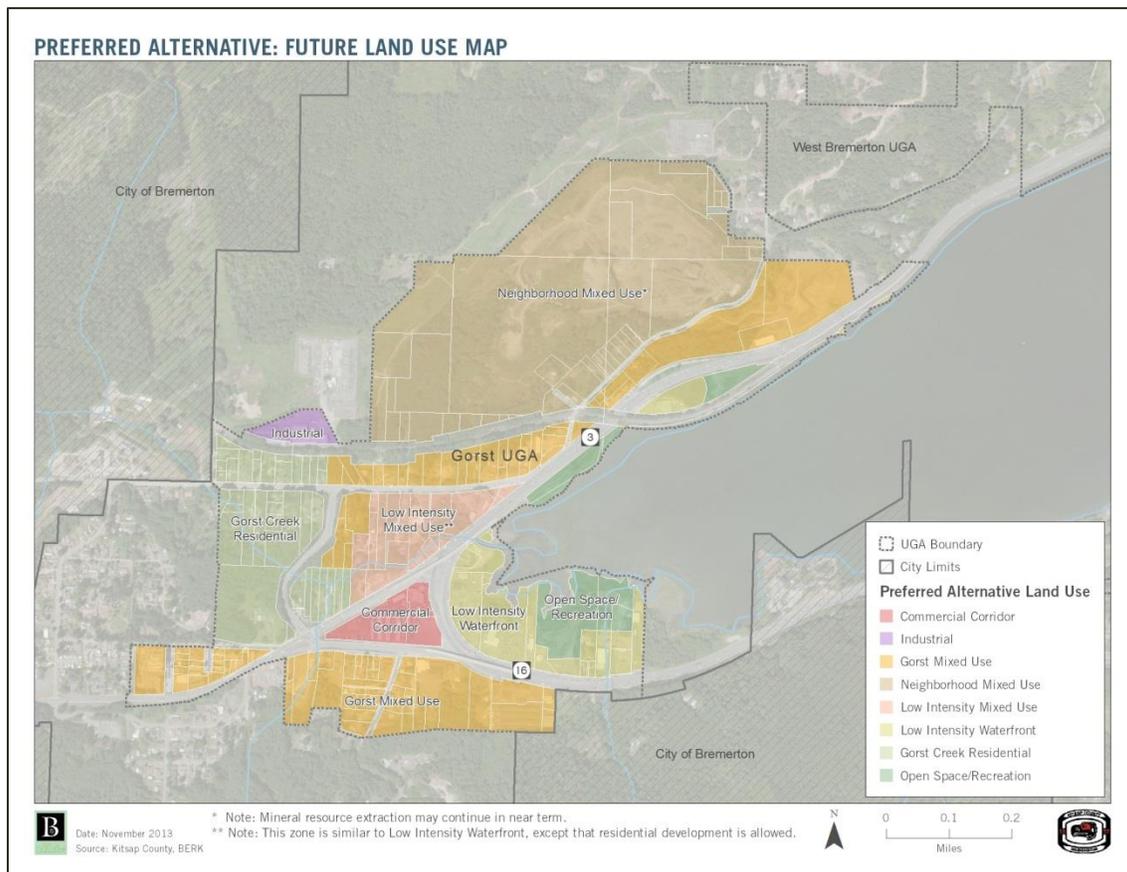
Step 1. Develop Plans & Prepare Planned Action EIS

In Step 1, a county/city develops the plan for the study area, i.e. a comprehensive plan, subarea plan, a fully contained community, a master planned resort, master planned development, a phased project, or with subsequent or implementing projects. For the purposes of this paper, it is assumed that the typical plan would be a subarea plan, as was the case for Gorst. The county/city would also prepare the EIS according to SEPA rules in WAC 197-11. Individual steps are listed below with recommendations and lessons learned in the Gorst process.

- A. Identify Scope & Alternatives:** To initiate an EIS, a scoping process is required per WAC 197-11-408 allowing for written comments over 21 days at a minimum; the City of Bremerton and Kitsap County elected to do more than the minimum scoping activities to help kick off the public engagement process for Gorst. The City, in consultation with the County, issued a scoping notice and a written scoping period was held from October 15 to November 5, 2012. The City and County also held a well-attended public scoping meeting for Gorst at a local square dance hall on October 29, 2012 to ask about the vision for Gorst and about the EIS scope. This meeting allowed for interactive small group discussions where members of the public could weigh in on guiding principles and participate in a Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis. Additionally, the City met with the Suquamish Tribe to invite their participation on an Advisory Committee together with City and County representatives. Business interviews were also held one on one.
- B. Prepare Draft Subarea Plan:** Bremerton and Kitsap County developed a Draft Subarea Plan addressing three alternative growth plans and issued it in June 2013. The three alternative growth plans were developed with the community at a public meeting in February 2013 as well as through Advisory Committee and Project Partners (federal, state, and local agencies and stakeholders who provided technical advice) input. Meetings with Planning Commissions at the County and City were also held. These growth alternatives provided the basis of the Planned Action EIS analysis testing different mixes of land uses and their effect on habitat, roads, and public services as well as other natural and built environment features.
- C. Prepare Early Draft Planned Action Ordinance:** While not required to be included early in the process, a framework of the planned action ordinance was developed and included in the Draft EIS in Step D. This framework was intended to provide agencies and the public an idea of how the future ordinance could work. The details of the ordinance were not developed until after the comment period in Step E and a preferred plan was developed in Step F.
- D. Prepare Draft EIS:** The Planned Action EIS should be prepared at a level of detail that allows impacts to be defined and mitigation measures to be formulated for inclusion in the Planned Action Ordinance, giving a local government assurances that no further SEPA analysis would be needed in the future for projects that qualify as planned actions. It is appropriate to consider regulations in place that help to minimize impacts. Recent changes to SEPA also allow for some analysis to be deferred to the project level. In the case of Gorst, the level of detail was fairly high for a subarea plan EIS. However, it was recognized that the City and County critical areas ordinances, transportation concurrency ordinances, and stormwater manuals would be applied to projects that would confirm the EIS areawide analysis. A particular success of the Gorst Creek Watershed Characterization Study, Gorst Subarea Plan, and EIS was defining particular locations of concern where added standards or incentives would be appropriate to reduce future impacts of planned actions on habitat and stormwater. These standards and incentives were built into the Gorst Subarea Plan regulations and assumed to be applied along with the EIS mitigation measures.

- E. Comment Period:** SEPA requires a minimum 30-day comment period on a Draft EIS. To facilitate public review, the City, in conjunction with the County, issued the Draft Watershed Plan, Draft Subarea Plan and the Draft EIS together. The City and County also provided a longer 45-day comment period than the minimum. Although optional under SEPA, the City and County also held five public meetings during the comment period to introduce the documents, obtain comments, and develop a preferred alternative. One of the five meetings was a community workshop involving a map-based dot voting exercises and small group discussions about the pros and cons of the three studied land use alternatives. Advisory Committee and Project Partners meetings were also held. This broad approach to soliciting comments helped facilitate the planning process and engage the community and agencies.
- F. Develop Preferred Subarea Plan:** The City and County used the public input in Step E to create a Preferred Alternative. SEPA does not require that a preferred alternative be selected for the Final EIS, nor that the Planned Action Ordinance focus on one alternative versus a range of alternatives. However, in order to create a refined subarea plan reflecting public input and each agency’s own plan and code format, the County and City elected to develop a Preferred Plan with common chapters and jurisdiction-specific chapters. The Preferred Subarea Plan land use concept was drawn from one of the Draft EIS alternatives (Alternative 3). The Preferred Alternative extended Alternative 3’s low intensity development pattern from the Sinclair Inlet waterfront to the Gorst Creek floodplain. The Preferred Plan is anticipated to reduce impacts to the natural environment (shorelines and floodplains) and the mixed use pattern would reduce traffic compared to the “no action” current plan. The Preferred Land Use Plan is shown in Exhibit 3 below.

Exhibit 3. Preferred Subarea Plan Land Use Concept



Source: City of Bremerton, Kitsap County, BERK Consulting 2013

- G. Prepare Final EIS:** Based on the Preferred Subarea Plan a Final EIS was developed.¹ While a more complete draft Planned Action Ordinance was not included in this document, the mitigation measures associated with the Preferred Alternative formed the basis for the complete ordinance in Step J below. It is an option to include a more fully formed Planned Action Ordinance in a Final EIS to facilitate public understanding, and an approach that other local governments have taken.
- H. Develop Preliminary Planned Action Ordinance:** The City developed a Planned Action Ordinance based on the Preferred Alternative studied in the Final EIS (and folded into the Subarea Plan). The land use and trip thresholds were based on the Preferred Subarea Plan and the mitigation measures were based on the Final EIS. The preliminary Planned Action Ordinance included a Gorst-specific environmental checklist. That allowed the checklist questions and mitigation measures to more tightly match the Gorst EIS and facilitate future permit reviews versus the standard SEPA checklist in WAC 197-11-960. The preliminary Planned Action Ordinance was made available at a Bremerton-hosted community meeting (where agencies are principally invited per the SEPA law), and at a Planning Commission meeting.

Step 2. Finalize & Adopt Planned Action Ordinance

- I. Consider Adoption of Subarea Plan:** The County and City vetted the Preferred Subarea Plan (and Watershed Plan) with their Planning Commissions at meetings and hearings and made changes accordingly in fall 2013. The Planning Commission recommendations were provided to the City Council and Board of County Commissioners. The two legislative bodies adopted generally identical plans; though some chapters (regulations) are County-specific and City-specific in format, they are similar in intent to facilitate an environmentally and economically sensitive plan meeting the community vision. This step was completed in December 2013.
- J. Consider Adoption of Planned Action Ordinance:** It is possible to adopt a planned action at the same time as the plan which it is based upon, and most jurisdictions do so. The City and County elected to consider the Planned Action Ordinance after adopting the Subarea Plan for the Gorst UGA. The City made this choice to consider the results of some best management practices for stormwater while the County considered this follow on process to allow its decision makers more time to consider the Planned Action tool, the first in the County's history. The City of Bremerton adopted the Planned Action Ordinance in February 2014. Kitsap County is still considering this tool as of spring 2014. The City's ordinance will be effective when the area is annexed, and at the moment could be considered an incentive for annexation until the County adopts a parallel ordinance.

¹ The EIS also responded to comments. A significant comment in the Gorst Draft EIS process included the boundary of the watershed on the north and the potential effect it would have on some of the watershed characterization measures that flowed down to the subarea plan; however, in this case, an area was added that did not fundamentally change the watershed characterization results and this was documented in the Final EIS. A lesson learned was to further vet "known" watershed boundaries that were mapped since 1995 when undertaking a more specific watershed study.

Step 3. Implement Planned Action Ordinance

K. For each development project submitted the City or County would apply the ordinance answering the following types of questions:

- Is it within the Planned Action area?
- Is the development project within the scope of the Planned Action Ordinance?
- Are environmental impacts within the scope of the Planned Action EIS?
- Does it include mitigation measures or conditions outlined in Planned Action Ordinance?
 - Yes? Proceed with local Permit process
 - No? Additional Environmental Review Required

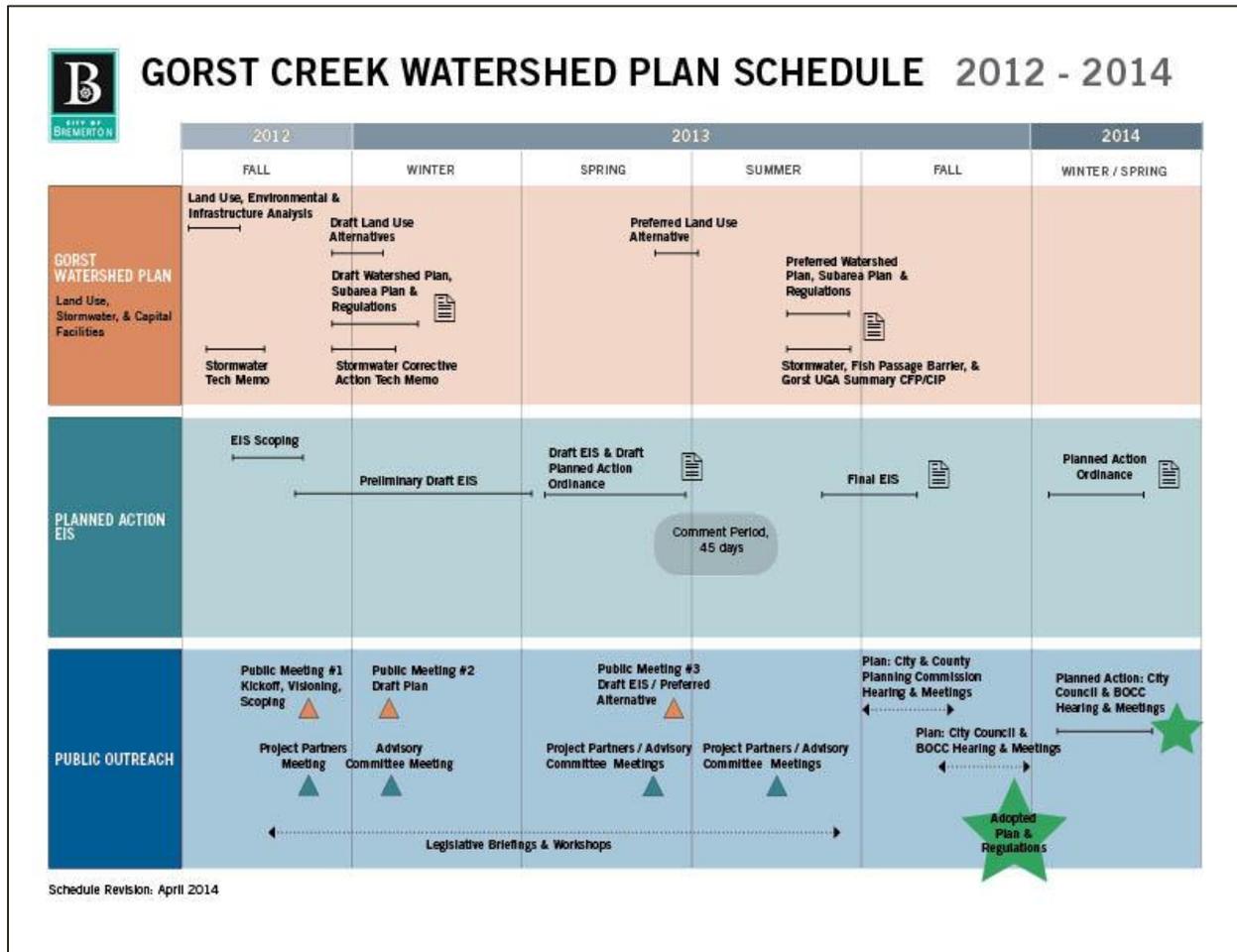
Upon annexation the City will apply the Planned Action Ordinance for projects covered by the Planned Action. When the County adopts the ordinance, it can apply it immediately. The Planned Action process will be documented in permit decisions under either agency.

As described in Section 2.0, the project must continue through the county/city permit process pursuant to any notices and other requirements contained in the applicable local development regulations. The project must still be analyzed for consistency with City or County zoning and development regulations. The City or County may still use applicable laws or regulations to impose conditions on a project qualifying as a planned action project. Public notice for a planned action project is tied to the underlying permit. If notice is otherwise required for the underlying permit, then the notice will indicate that the project qualifies as a planned action. The Planned Action Ordinance indicates that notice of the determination that the project is a planned action would be mailed to federally recognized tribal governments and to agencies with jurisdiction over the planned action project, consistent with RCW 43.21C.440.

Summary Schedule

The steps described in this document took approximately eighteen months from fall 2012 to spring 2014. The steps described in this white paper are reflected in Exhibit 4 below. The schedule reflects the first two steps in the process, to prepare and adopt the plans, EIS and Planned Action Ordinance; implementation in the third step described in Section 3.0 would be ongoing.

Exhibit 4. Schedule Schematic



Source: BERK Consulting 2014

The City of Bremerton and Kitsap County developed a SEPA Planned Action EIS and Ordinance that will help facilitate permitting consistent with a community and science based plan intended to create a more sustainable Gorst. Other agencies can benefit from the City-County joint planning example, and the example integration of the subarea planning, EIS, and public engagement activities.