

SUMMARY of OUTSTANDING ISSUES

1. Shoreline Environment Designations – Issues pertain to appropriate reach designations along West Bay, Percival Landing and East Bay (between *Urban Conservancy* and *Urban Industrial*).
2. Setbacks – Issues revolve around desired setbacks along West Bay, Downtown and East Bay for commercial, residential and recreation uses and whether they should be: a) increased for greater protection/restoration of the shoreline and for passive recreation/open space, or b) as recommended in the 10/20/2010 draft to encourage economic development.
3. Building Heights – Issues pertain to whether heights should be reduced to protect views along West Bay, Downtown and East Bay or to encourage economic development.
4. Sea Level Rise – Issues revolved around whether sea level rise should be addressed as part of the SMP update or as part of other City initiatives.
5. Mixed Use Development – Mixed use development was not addressed prior to completion of the Planning Commission’s deliberations.
6. Vegetation Conservation – Standards for residential development were not addressed prior to completion of the Planning Commission’s deliberations.

Also see Commissioner Leveen’s summary of “Tension Point and Unresolved Issues” (attached) for further elaboration of these and other issues.

April 16, 2012

Shoreline Master Program Update "Tension Points" & Unresolved Issues

The Planning Commission's deliberations on the Shoreline Master Program (SMP) were long and difficult. Much of this work resulted in creating clear recommendations, which will be evident in the draft the City Council receives. Occasionally, however, the Commission either could not reach consensus or even strong majorities on various issues in its deliberations, and in a few instances, no formal motion passed. Even in such "failures", we can provide helpful guidance to the Council, however, by drawing out what issues and topics we struggled with *and why*, so that the Council might understand potential pitfalls, and overall, have a "flatter learning curve" for its deliberations. Towards the end our two-year SMP review process, we began to catalog the various issues which that we struggled with in our deliberations. We refer to these as "Tension Points" and have prepared this document for Council's consideration.

The Tension Points have been organized from a macro-to-micro fashion. First are over-arching issues related to shoreline regulation policy that were problematic for the Commission, from planning time-horizon to integration with other City regulations and plans. Following that are issues dealing with specific draft SMP approaches and content that we felt were problematic.

Additionally, we have also provided comments regarding "Unresolved Issues". Due to the March deadline the Commission faced for concluding its deliberations, we were not able to provide clear recommendations on *specific policy language in a few key areas*. These are not "Tension Points" as we have traditionally thought of them, but, rather, "other issues" that, due to time constraints, could not receive as complete an iterative review and formal adoption process as the rest of the document. We thought it was important to include them in a transmittal to Council, however, and the Commission did accept this approach in light of the need to conclude our deliberations. These issues are included at the end of this document.

It is important to note that while the *need* for this document's was agreed upon by the Commission, its *content* did not receive formal review and adoption by the "committee of the whole". Rather, it is a primarily the work of the Planning Commission Vice Chair, with review by the Chair. Effort has been made to convey the "tension points" in a neutral manner, noting simply where the committee encountered trouble in its deliberations. We are hopeful that it will prove useful, and will try to provide any clarification Council members need regarding its content.

SMP "Timeframe of perspective": As a regulatory document, should the SMP be oriented to what the waterfront *is like* today or what it could be *in the future*? If the latter, should it use a time-horizon of 20 years, fifty years, one hundred years? Without clear direction from the outset, the Commission experienced a consistent tension between contemporary uses, built forms and activities, and what some considered a community desire for a more visionary document focused on shoreline preservation and restoration. This presented constant challenges for us in recommending shoreline designations, setbacks and heights, and resulted in several failed motions, and many split votes (some with absolutely no majority, and others with very slim majorities).

The lack of an adopted vision for the shoreline, especially in the downtown area. Additionally, a clear, foundational mandate for view protections throughout the City was lacking: The Commission struggled with the competing desires to protect views and protect property rights resulting in several split votes for shoreline designations (e.g. BUDD-3A West Bay , BUDD-4 Percival Landing).

Recommendations on shoreline setbacks and heights were likewise affected, resulting in many split votes and even some instances of "no recommendation" due to the failure of (m)any motion(s) to receive a majority. A discussion of these issues resulting in a clear and agreed upon statement of "guiding principles" could be a very useful tool for Council, even if just for its own deliberations on these matters. Based on our understanding of the Department of Ecology's review of the SMP, inclusion of the guiding principles, as well as the policy underpinnings for that approach *within the SMP itself* is advisable as it "shows our homework" and makes it more defensible (when Ecology staff review the Plan). It also would serve to make the document more accessible to the public, which was a goal often referred to by Commissioners regardless of how they voted on specific issues.

"Handoff" between SMP , the Comprehensive Plan and others parts of our zoning and development codes: Development is regulated as a whole, yet updated or amended incrementally, which can lead to inconsistencies in the approach of "the overall code". For example, preservation of views within the 200-foot SMP jurisdiction do not automatically cause updates in relevant plans and codes to ensure consistency upland. Specific direction to staff to carry forward draft changes in the Comprehensive Plan and Development Code to ensure consistency is advisable. View preservation is not necessarily the only aspect of development regulation that deserves such attention.

The Commission struggled with some regulatory issues, such as solar access/shade impacts of tall buildings, because it was not clear if there was truly a nexus for addressing them in the SMP. These issues have merit, though, and often can be dealt with in specific in other areas of the code. Council should consider making a list of such issues to carry over to the Comprehensive Plan and Development Code updates.

Sea Level Rise (SLR): The SMP update we have prepared is not comprehensively grounded in best available science regarding how SLR will affect Olympia's shorelines. This is a serious omission, and a significant topic for the Council to discuss and provide over-arching policy direction and specific regulatory language for in the update.

Reach-by-reach approach for consideration of setbacks, heights, etc.: Staff's original draft SMP utilized a "designation-wide approach" to uses, setbacks and heights. We felt this was too "broad-brush" an approach, resulting in unsatisfactory regulatory results. Instead, the Commission favored a reach-by-reach approach, so that we could tailor our recommendations for each area *within* a given designation. This allowed us to consider context-specific issues of each reach, such as topography. This resulted in more work for the Commission but, we believe, a superior product, by allowing us to have recommendations that were tailored to the areas in question. We found that we were not alone in this approach; Bellingham used a reach-by-reach approach in their SMP update as well. With an eye towards easing administering this approach, we were able to recognize patterns in our deliberations and "collapse down" certain groups of reaches with the same shoreline designations when they also shared similar recommendations regarding allowed uses, setbacks, heights, etc. This resulted in more compact tables in the document for Council's consideration.

Use categories within the draft SMP were difficult and somewhat "unsatisfying":

The "All Others" category was awkward to work with, but we did not specifically object to including it since we cannot always envision all future uses. For the purposes of our deliberations, however, the All Others category was vague and challenging to regulate (would a warehouse or church fall into that category?) A lack of specific examples made it challenging for the Commission, and we encouraged staff to provide them for Council to aid them in their deliberations.

SMP treatment of mixed-use developments: The draft SMP does not make it clear if mixed-use development would be considered commercial or residential for the purposes of regulation. This was particularly problematic for the downtown area, where mixed use is more likely (as opposed to the

shorelines of Capitol Lake basins). Several Commissioners favored incentivizing mixed-use and and/or preventing all-office development. There was no easy way to do this without a clear approach to how the SMP handles mixed-use or directs staff to consider mixed-use when administering the Program.

Furthermore, there was **confusion regarding height limitations and mixed-use**: Are SMP height limits for a given use category absolute *for the building itself*, or are they to be considered a "maximum altitude" that a given use may occur *within* a mixed-use building. The two can result in very different shoreline development scenarios. It would benefit the community if Council would make these issues very clear in the final adopted SMP.

Roof heights dealt with differently in SMP: In our development code, height limits are not absolute roof heights. Rather, they are calculated as the *average height* of a roof, so that a sloped roof's height would be at its mid-point. The SMP, however, with its emphasis on physical and view access, treats roof heights as an absolute maximum limit. This approach required some readjustment for the Commission, especially in the downtown/Port Peninsula area. Under the "absolute height" approach of the SMP, the Commission had difficulty knowing how many floors a 35-foot structure could contain. Building Official Tom Hill provided some helpful feedback:

"Generally speaking, it would be very feasible to design a structure 35-foot in height, measured from the average grade on the site to the highest peak and still incorporate 3-full stories within. Many alternate approaches for the manner in which the designer approaches the use of and for each story should provide for a myriad of possible occupancy types.(including mixed uses).

This method would allow for pitched roofs of at least 3:12 and possibly even greater depending on the design."

(e-mail March 22, 2012 3:09:47 PM PDT)

Regulation of uses atop a flat roof in a stepped building: In a building with "stepped-back" roof heights, would a terrace or outdoor dining be allowed atop the lower roof height(s)? Specificity on this would benefit the community as such views are highly-prized features of potential waterfront development. Clarity regarding this would create predictability for developers and the citizenry at large.

Height limit overlays along West Bay Drive were confusing: Along some sections of the water-side of West Bay Drive, building heights are limited to five feet above the roadway. It was not clear to us why they should be allowed to extend above the roadway *at all*, nor where exactly the extents of any such limits are. Council should be provided with such sub-area zoning and development code "overlays".

Inequity in Chapter 5.9.5.A.1-5: The draft regulations require restoration of impacted vegetative buffer based on the percentage of increase in development footprint. This approach favors additions to large structures over small ones (as any addition is a more significant percentage of a smaller structure's footprint). Several Commissioners noted a discomfort with this, but the Commission did not have enough time in its deliberation to draft recommended policy language. A discussion at Council to determine the desired policy direction and appropriate regulatory language is needed.

Concerns with View Protection (Chapter 5.10): The Commission struggled with the overall approach of all of Chapter 5.10 and specifically "5.10.2 Regulations" and "5.10.3 Regulations – Visual Impact Assessment". Again, we lacked the necessary time to recommend a framework and content that we could agree upon. We communicated some of our concerns to staff, but are addressing some those concerns here as we did not have the opportunity to see how our feedback would be used by staff in preparing an updated draft for Council consideration. Specific concerns with this chapter are as follows:

- We found that inclusion of 5.10.2.B as a Regulation was somewhat inappropriate, and felt that it might be better to have that language in the overarching policies of 5.10.1 (as perhaps 5.10.1.C).
- Regarding 5.10.2.C, we found the following phrase to be unnecessary: "To the extent that overwater structures impact views protected under OMC 18.110.060, applicants of such structures shall consider the impact their proposal will have on such views." The language is vague and lacks any meaningful regulatory power; there is no "threshold of satisfaction" through which one could tell that an adequate job of view impacts were considered, nor how any "consideration" would be used to address impacts.
- We found 5.10.2.D and 5.10.2.F to be vague. Neither adequately describe how or when such approaches are needed, nor how much each approach should be utilized in order to consider the regulations to be satisfied. There was some speculation on the Commission that other parts of the development code might better speak to inclusion of specific architectural features than the draft language in these sections does.
- The draft language of 5.10.3 (i.e. the remaining language after all proposed additions and deletions) is vague and unsatisfying. It does not provide specific guidance on how an applicant is supposed to determine view impacts. Furthermore, it leaves the analysis of such impacts up to the applicant, who is not an impartial party regarding view impact of their project.
- Other jurisdictions, such as Friday Harbor, provide more specific guidance regarding view preservation. Council should familiarize itself with some of the approaches used and consider what approach is most appropriate for our SMP.

Since the draft SMP refers to OMC 18.110.060, we include the citation below:

"18.110.060 View Preservation"

- A. **REQUIREMENT:** In order to protect the existing outstanding scenic views which significant numbers of the general public have from public rights-of-way, applicants for development must consider the impact their proposal will have on views of Mt. Rainier, the Olympic Mountains, Budd Inlet, the Black Hills, the Capitol Building, and Capitol Lake or its surrounding hillsides. All development must reserve a reasonable portion of such territorial and immediate views of these features for significant numbers of people from public rights-of-way, and shall provide lookouts, viewpoints, or view corridors so that visual access to existing outstanding scenic vistas is maintained.

Refer to the Scenic Vista overlay zoning maps available at the Community Planning and Development Department.

(Ord. 6306 §3, 2004)."

Integrated Pest Management Not Adequately Addressed in Chapter 5.11: The City has some sort of Integrated Pest Management (IPM) policies for its operations. This SMP chapter did not adequately address IPM in the policies (5.11.1) and/or regulations (5.11.2) sections. There was concern on the Commission that this was inconsistent with City policy.

Restoration Plan's Project List Lacks Adequate Context: The Plan's text did not sufficiently address the *intent* of the list — guidance about how prescriptive or how general the project descriptions are — nor how it feeds back into system plans and the Capital Facilities Plan. Additionally, the methodology for how projects did/did not make the list was not apparent from the text of the Plan.