

SMP Questions Received by 5:00 PM on Friday June 14, 2013

Thank you for taking the time to consider the July 9, 2013 Draft of the SMP and to provide us with your feedback. Your questions were helpful in considering how staff may interpret these regulations and pointed out areas where additional clarification is needed. Each of the questions received prior to 5:00 PM on Friday June 14, 2013 is included below with the staff response highlighted in red.

The questions submitted are in relationship to the July 9, 2013 draft of the SMP and this draft forms the basis of Staff's response below. This is the draft that will be the subject of a public hearing on July 9, 2013. It is only a draft and may be revised by City Council following the July 9, 2013 public hearing and may be further revised by the State of Washington Department of Ecology when it reviews the draft over the course of the next six to twelve months.

The comments contained herein are staff's best attempt to provide a complete and accurate response to the questions submitted. These responses are made within the limitations of time, understanding of the questions being asked and information available. They do not represent a response to any specific set of circumstances, they are not an approval in any sense of the word or a guarantee that the City staff and its Hearing Examiner would interpret these regulations in the same manner at some point in the future. Questions that were deemed to be rhetorical or statements of opinion were not responded to. Please plan to attend the public hearing on July 9, 2013 to convey your opinions about the draft directly to the City Council.

Rachel Newman:

Map of area and reaches color-coded by publicly and privately owned reaches. **Complete and will be part of the presentation on the 19th and 20th.** Description of properties by name as well as reach designation (ie, Smyth, Hardel's, Storman's, port loading dock, port peninsula, marinas, etc) with pictures of each reach. **Please see the SMP Web page and the Excel file SMP Setbacks May 2013.** Identification of "controversial" reaches. **3A, 4/5A, and 5C.**

How does the SMP draft addresses four major goals

1. Development:

- a. What is maximum height allowed and the minimum setback allowed for the reaches with pictures or drawing. **See table 6.2 and 6.3. The PowerPoint presentation from June 19th and 20th includes some illustrations of these setbacks for reaches 3A, 4/5A and 5C.**
- b. What are the mitigations that allow the maximum height and minimum setback? **See section 3.41 18.34.620 D and E 1 - 8 of the July 9, 2013 Draft of the SMP.**
- c. What exactly is meant by 2 to one off site mitigation? **For each square foot of impacted area within the Setback/VCA 2 square feet of mitigation shall be provided.** Give examples.
- d. Mention grandfathering in current nonconforming uses. **Existing structures and uses are grandfathered.**

2. Environmental:
 - a. How does SMP address need for healthy shoreline, water quality of Budd Bay and fish habitat? The SMP is based on the concept of no net loss of environmental function, the SMP includes a Restoration Plan, the SMP includes vegetation conservation areas, the SMP requires vegetation management plans, the SMP requires mitigation for project impacts and for encroachment into setbacks and VCAs.
3. Public access:
 - a. Big W, how wide and what can this width accommodate - two mothers with strollers, bikers, runners, roller blading? Will it have the look and feel of Heritage Park, Green Lake or Ruston Way or other well-known urban shoreline walkways? How will it be accommodated in areas with zero setback? (include pictures); What will it look like with 30 foot setback and maximum height allowed; The minimum width of the trail is 12 feet. This is our urban commuter standard and accommodates multiple users including bicycles, joggers and walkers. The visualization prepared by Mithun clearly illustrates the relationship between the shoreline and adjoining 30 foot and 65 foot tall buildings. The SMP web page for access to these materials.
4. Long Range Planning:
 - a. How does SMP address predicted sea level rise? The proposed SMP does not directly address sea level rise. Sea level rise is an issue that will have impacts well beyond the shoreline and will need to be addressed in a programmatic, systematic and comprehensive manner. The City has initiated planning around sea level rise and is working to understand the impacts and potential solutions. Given the number of existing overwater structures and structures within 30 feet of the shoreline there will need to be a plan developed and partnerships with other public and private property owners to fully address the issue. Sea level rise will also have different impacts on different properties and will demand different responses. Properties along West Bay Drive may be able to be constructed to avoid the effects of sea level rise where properties downtown, given their location, cannot simply be constructed to avoid impacts. Downtown is the site of significant public infrastructure including the Port of Olympia, the LOTT Clean Water Alliance, City Hall, Heritage Park and numerous other public investments that will need to be protected from the effects of sea level rise. The downtown will need to be protected from sea level rise through the construction of a shoreline barrier that may include berms, sea walls and other engineered solutions. The [National Academy of Science's](#) recent report on the projected rate of sea level rise on California, Oregon and Washington predicts that sea level rise will advance between -2" and 9" by 2030, -1" to 19" by 2050 and 4" to 56" by 2100. The report states that they have a high degree of confidence in their 2030 and 2050 projects and much less in the their 2100 projections. Our plans and regulations are updated on a regular basis (SMP every 8 years) and should respond to new information and changing circumstances as they emerge.

John DeMeyer, Olympia Yacht Club

1. Table 6.3 Waterfront Recreation - Cap 6: Water dependent uses have an opportunity to reduce the 30/30 setback/VCA to 0'. Are water oriented uses and water related uses excluded from this opportunity? Yes, in Cap 6 only water dependent uses would be allowed within 30 feet or less of the shoreline.

2. Table 6.3 Urban Intensity Budd 3A seems to allow a Water Oriented use to reduce the 30'/30' setback/VCA to 0' but a Water Dependent Use would be excluded from this opportunity. Is this correct? Water oriented uses are all uses that are either water dependent, water related, or water oriented. Definitions of these uses are posted on the SMP Web page.
3. Table 6.3 Urban Intensity Budd 4 has a VCA/Setback of 50'/30'. Water oriented uses seem to have the opportunity to reduce the 50' VCA to 0'. Again, are water dependent uses excluded from this opportunity? What is the rationale for a 30' VCA in Budd 3A and a 50' (67% larger) VCA for Budd 4? The VCA for Budd 4 is actually 30 feet and the setback is 50 feet. The definition of water oriented includes water dependent, water related and water enjoyment. (see the SMP web page for definitions) The VCA for Budd 3A and Budd 4 are the same. The setbacks are different with Budd 3A having a 30' setback and Budd 4 having a 50' setback. City Council felt that a larger setback was justified along the Budd 4 Reach because of the need for greater public access, greater openness and to allow sufficient space for mitigation and restoration to occur. New water dependent uses such as a marina can encroach into the setback subject to the provision of mitigation measures as provided in section 3.34 18.34.620.
4. Table 6.3 - Urban Intensity Budd 6A has a 0' VCA/Setback. What is the rationale? The Urban Intensity portion of Budd 6A is a parallel designation with that portion of the reach that is east of Marine Drive being designated Urban Conservancy and that portion that is westerly of Marine Drive being designated Urban Intensity. By virtue of the intervening roadway a 50 foot or greater setback is maintained.
5. The SMP is designed to project the existing ecological functions of the shoreline. Measurement of ecological function is based on science. What science was utilized when establishing the various VCA/Setback standards? An extensive inventory and characterization was prepared for use in the development of the Shoreline Master Program along with other scientific and non-scientific information. This characterization and the other information and extensive public input was used in creating the shoreline environmental designations (SED), setbacks and building heights. Ultimately it is City Council's prerogative to interpret this information and recommend a Shoreline Master Program including SEDs, setbacks, building heights and other regulations to the Department of Ecology. The Department of Ecology will also use this same inventory and characterization and other information from the record to develop the final Shoreline Master Program.

Anne Holm and Jeffrey J. Jaksich (Same comments as Ms. Holm's)

I am writing in response to your request for questions for the upcoming informational meeting describing this draft. There are many things that make the draft difficult to read and understand, but the most significant is that nowhere is all of the information about a reach displayed in one place; a reader has to keep paging back and forth to compile it.

Therefore, my main request for your presentation is for you to:

1. Prepare and explain one chart per Budd Bay reach with all of the relevant draft information, including but not limited to:

- Outline and identification of reach
- Setbacks and stepbacks required
- Building heights allowed
- Identification of buildings already present

I will try and provide this level of information for reaches 3A, 4/5A and 5C. See PowerPoint Presentations from June 19th, 2013 on the SMP web page.

1. Mitigations allowed for requested variances from the SMP? (The devil is in the details.)
See 3.41 18.34.620 D and E.
2. What mitigations could be allowed and how would they affect the public's views and access? Impacts on views and access is part of the mitigation sequencing process and would be considered as part of a substantial development permit process.
3. Under what circumstances would they come into play?
3. Would mitigations have to be done in the relevant reach or could they be allowed elsewhere? The proposed SMP allows mitigation to occur both on and off site.
4. Who determines what mitigation is commensurate with the requested change and on what basis? All development with 200 feet of the shoreline requires a Substantial Development Permit (SDP). SDPs require a public hearing in front of the City's Hearing Examiner and demonstration that the proposed development complies with the City's regulations and addresses the issues raised through the State Environmental Policy Act review process. Additionally, some uses require a Conditional Use Permit that requires review and approval from the Department of Ecology.
5. Will the city council be directly involved in approving mitigations? City Council establishes the policies and regulations and delegates enforcement to its staff and the hearing examiner.
6. How much change would a builder be allowed for a particular fee-in-lieu; for instance, how much would have to be paid for an additional floor on a building? The details of the fee in lieu program have not been established. The proposed SMP includes the fee in lieu program conceptually, however, the details of the program would need to be developed and approved through a public review process.

These charts do not have to be fancy (Large paper and markers are OK.) but they should be clear, comprehensive and readable for all.

7. My next request is for you to give precise definitions of and compare and contrast the terms water-dependent, water-related, water-enjoyment, and water-oriented, with examples of each. **Definitions of these terms will be included in the presentation. See the SMP web page.**
8. Please explain if the draft was written so that each term has that precise meaning in each instance it is used or if it is sometimes used only in a general sense. Is one of these an all-encompassing term for all the others? **As noted previously, water oriented includes all uses that are characterized as water dependent, water related and water enjoyment.**
9. My last request is for all of the possible visuals you can supply, since the draft is sadly lacking in most of these. Please include relevant photos and drawings of how various setbacks and stepbacks could or do look, whether in Olympia, in some other city, or as a possibility. **I have assembled a number of photos showing different building heights and setbacks from throughout our region**

Alex Smith, Port of Olympia

1. Where specifically are offsite mitigation areas that the City contemplates permittees will use to fulfill offsite mitigation requirements, and is there a potential that offsite mitigation areas and opportunities within City limits will be limited or become quickly exhausted? **The City of Olympia's Restoration Plan identifies a number of restoration projects in Budd Inlet that could be offsite mitigation areas. The Port of Olympia also owns significant stretches of marine shoreline along West Bay Drive and along Marine Drive that could be potential off site mitigation areas. There are presently no plans or funding for restoration within these areas. It seems unlikely that mitigation areas and opportunities would be quickly exhausted given the scale and complexity of possible projects.**
2. What does the City envision would qualify as "shoreline softening" in an area that has no bulkheads? **Removal of rip rap, establishment of contoured shorelines, introduction of aquatic vegetation, introduction of woody debris, etc.**
3. Explain the relationship between Vegetation Conservation Areas (VCA) and setbacks. For example, is it possible to reduce a setback to 15' if a 30' VCA is required? **Minimum setbacks are established for non-water oriented uses. A non-water oriented use is not allowed to encroach the VCA. Depending on the reach water dependent, water related and water enjoyment uses may encroach into the VCA subject to the provision of certain setback reduction incentives as described in Section 3.41 18.34. 620.**
4. In the area designated Port Maritime Industrial, where the "shoreline" in the area is located well under the Port's Marine Terminal pier, and any development will be upland of any functioning shoreline habitat, why is mitigation a requirement? **Mitigation is only required to the extent that there are impacts.**
5. Why is there a 75' setback and more restrictions on even water-dependent development in the Marine Recreation designated areas than in those designated Urban Intensity? **The setbacks associated with Marine Recreation Reach 5C were a point of a lengthy discussion by City Council. They concluded that an additional setback was necessary in this reach to protect public access, provide sufficient area for shoreline softening and create a sense of openness along the shoreline.**
6. What is the justification under the Shoreline Management Act and its guidelines for the concept that Port-owned property in the area designated Marine Recreation should be "held to a higher standard" that requires more public access and larger setbacks? **The setbacks associated with Marine Recreation Reach 5C were a point of a lengthy**

discussion by City Council. They concluded that an additional setback was necessary in this reach to protect public access, provide sufficient area for shoreline softening and create a sense of openness along the shoreline. The City imposed a 150 foot setback on its own West Bay Park and a 200 foot setback on its Priest Point Park.

7. What is the scientific basis for setbacks larger than 30'? Has the City made those scientific analyses and conclusions available for public review during the SMP process? Setbacks are intended to provide many different functions including helping to ensure no net loss of environmental function, protection of public access and the creation of a sense of open space along the shoreline.

Sarah Smyth

OMC 18.34.620(E)5. Vegetation restoration shall be planting of native shoreline vegetation in excess of that required to achieve no net loss of environmental function and shall substantially mimic undisturbed native shorelines in the South Puget Sound in plant species, species mixture and plant density. Vegetation restoration shall be accomplished through an approved Vegetation Management Plan. Uses may encroach the required setback area as described above so long as they provide for mitigation of the encroachment at a ratio determined to offset the impacts of the encroachment and in no case less than a 2 square feet of mitigation for every 1 square foot of encroachment within the required setback area and demonstrate no net loss of environmental function. Such areas shall be no less than 25 feet in depth measured from the ordinary high water mark and shall be no less than one acre in area.

The area highlighted in red is new and seems to be in direct conflict with the statement above about a 2:1 restoration to setback reduction area. FYI one acre of land is 43,560 SF, and if divided by 25 feet the linear SF of restoration area would be 1,742.40 linear SF of waterfront which is equivalent to the length of Smyth Landing waterfront area (or almost one third of the waterfront of West Bay area). Now the area could be deeper than 25 feet from OHWM, but can't be less than 25 feet in depth, but a minimum of one acre in restoration is a lot of restoration, compared to a small setback reduction that may be requested granting a smaller amount of area restoration at a 2:1 ratio of setback reduction.

1. Why set a minimum amount of area to be restored? And a minimum depth when the restoration area has to be 2 times the area of the setback reduction? Why not encourage any restoration small or large as long as it is in a 2:1 relationship of shoreline restoration to setback reduction? Otherwise there may be no incentive to provide the restoration? The 25 feet and 1 acre minimum were standards suggested by Councilmember Jones and included in the July 9, 2013 Draft SMP by City Council in relationship to Budd 5C. It is unclear if council would agree with their application to reach 3A. There is always a delicate balance between incentives that are effective in achieving the desired outcomes and those that are out of balance with the economic realities of site development.

As we have discussed, I am concerned by what appears to be a drafting error that has had an inadvertent impact on the underlying West Bay development regulations with the most recent change in the July 9th SMP draft in sections OMC 18.34.620(D) and (E).

I would suggest that an easy fix to be consistent with the Council direction to not undermine or rewrite the West Bay Development Regulations (18.06.100.A.2.c) but to simply add a 30"setback under the SMP, is to add a reference to the West Bay regulations in the SMP Table 6.2 on development regulations and in Table 6.3 for setback reduction. See attached Tables marked up with West Bay development regulations reference.

The inclusion of the language In addition to items 1 - 7 in item 8 in Section 3.41 18.34.620 E. creates the potential for confusion in how items 1 - 7 would apply to Reach 3A. Table 6.3 proposes that items 1 - 7 would apply to developments that propose to reduce the required setback, in the case of Reach 4 or 5A for example, from 50 to 30 (the landward edge of the VCA) be required to provide a combination of incentives that would combine for at least a 20 foot setback reduction. Reach 3A has a required setback of 30 feet and a VCA width of 30 feet therefore items 1 - 7 relating to setback reductions outside the VCA would not apply. Water oriented uses in this reach would be required to comply with item 8 in order to encroach into the VCA buffer.

The existing regulations along West Bay Drive allow for a 0 foot rear yard setback for all uses. Council would need to confirm that is their intention.

The West Bay development regulations attached, already provide for height bonuses and distinguishes between the narrower areas with less view blockage from Smyth Landing north from the West Bay areas to the South, and balances view blockage with height incentives of providing a trail and or park or both. These regulations also provide the legal balance of nexus and proportionality to the impacts of the particular project.

Existing zoning regulations along West Bay Drive establish two distinct height regulation schemes. The zoning for the area north of Smith Landing presently allows for buildings up to 65 feet in height with no limitations or incentives. The zoning for the area south of Smyth Landing allows for buildings between 42' and 65' based on the extent of nonresidential floor area included in the building, the degree of view blockage the development creates along West Bay Drive and the provision of a trail or park space.

The challenge with trying to add a requirement for bulkhead removal, or some form of shoreline restoration, for a height bonus is that with a setback reduction you are getting a reduced area that is measurable to be offset by a 2 to 1 restoration of shoreline elsewhere on site or offsite. In attempting to tie shoreline restoration to a height bonus you have no way of measuring how much area of shoreline restoration for the height bonus. In other words it works for setback reductions, which are measurable area for area restored, but not for height bonuses.

Section 3.41 18.34.620 D could be amended to clarify the extent of the restoration that would be required. These incentives are intended to offset the impacts of the building's height on the shoreline, I would therefore recommend that if council wishes to clarify them that they

relate to the square footage of the building coverage in regards to the application of E 5 (vegetation restoration) and the length of the building as it is measured parallel with the shoreline for E 6 or E 7 (shoreline softening). This restoration can occur on site or offsite.

Also, West Bay already has put into place a balance of height bonuses and view corridors for park and trail or both, which also takes into consideration the differing topography along west bay. We could also add a setback reduction incentive of shoreline restoration in a 2 to 1 ratio to allow a setback reduction from 30 to 0 feet, that would work to interface with existing West Bay development regulations and avoid further confusion.

Kelly Wood

Per the attached correspondence, I am still in need of accessing the “Shoreline Environmental Designations for the City of Olympia” document referenced in the current, and past, drafts of the SMP. To cut to the chase on this, we represent the owners of the 1107 West Bay Drive building. By the depictions on the Shoreline map, this building appears to be just barely within the Waterfront Recreation SED. If it is not, our client is basically fine with the current draft. But, if it is in Waterfront Recreation, our client still has some concerns even though the current draft has come a long way in terms of clarity over previous drafts. Specifically, while the new draft cuts off the VCA and setback provisions at West Bay Drive, the use limitations for this SED are extremely restrictive and still reach across the road to potentially impact this property and at least one other similarly situated.

In short, I don’t want to spend our client’s money (and waste the City’s time) on additional public participation if there’s no need to do so, which is why I was seeking the clarification. As soon as possible, could you please either: 1) release the SED document for public review; 2) provide me with the lat./long. coordinates for the shoreline reaches in this area; or 3) make it easy on me and just confirm whether this building is in Waterfront Recreation or Urban Intensity. I know you guys are slammed, but help in this regard would be greatly appreciated.

1107 West Bay Drive remains in the Waterfront Recreation environment and as you note the setback and VCA requirements only extend to the eastern right of way line of West Bay Drive. All other provisions of that shoreline environmental designation would apply to the property.

Jeanette Dickison

Regarding 3.41 18.34.620 - Use and Development Standards Tables - p.49-50

D. OMC 18.34.620(D). Upon provision of setback reduction incentives as described in E.5 and E.6 or 7, to the extent that they apply an applicant may obtain approval of a development including an increased maximum building height (‘VCA bonus’) as set forth in Table 6.2. Incentives may be provided on the same property or offsite as described herein.

Questions:

1. Wasn't this section and Table 6.2 originally meant to apply to height increases for 30' Vegetation Conservation Area ("VCA bonus") only and not setback reductions? **The January public hearing draft included, upon demonstration of adequate provisions for protection or creation of the minimum required vegetation conservation area on the same property, an applicant may obtain approval of a development incorporating an increased maximum building height ('VCA bonus') or as set forth in the Marine Recreation environment, a reduced minimum principal building setback. Council's deliberations indicated that more detail was necessary in regards to incentives associated with setbacks and a separate section E was created.**
2. How can you tie height increases to setback reductions when there is no relationship to the West Bay Plan Development regulations (18.06.100.A.2.c) which already ties trail and park incentives to height bonus and view blockage? **The referenced zoning provisions do not apply to the UW - 65 area, north of Smyth landing. Each of these regulations has a different objective and intent. The developer would need to consider all of these regulations in determining how to proceed with a development proposal.**
3. Was this intended for West Bay area or not? If so, is this requirement consistent with the Comprehensive Plan and development regulations for West Bay? **This would function in addition to any other regulations related to West Bay. If adopted the more restrictive would apply.**
4. Does the new reference to setback reductions incentives and to the extent that "they" apply, mean to the extent the setback reduction incentives E.1-8 apply or just section E.6 (bulkhead removal) or E.7 (rip rap removal) apply? **The latter and to be clear, in regards to Reach 3A staff believes that only section 8 applies since there is no setback reduction outside the VCA allowed.**

Table 6.2 - Development Regulations - Urban Intensity Designations - Heights

Questions:

1. What is the interrelationship between West Bay Development Regulations (18.06.100.1.2.c) and the SMP Table 6.2 and 6.3 as well as new proposed regulations 18.34.620(D) and (E)? **These would function in addition to any other regulations related to West Bay. If adopted the more restrictive would apply.**
2. Must property owner create VCA to achieve 65' height otherwise the maximum height is 42'? **Yes, as written in table 6.2, this would require the provision of a VCA either on site or off in order to achieve the maximum height of 65 feet.**
3. Can one no longer build to 65' in West Bay Budd 3A without doing all the mitigations required for a reduction in setback in E.1-8 or is it just section E.8 that applies based on the Table 6.3? **In regards to Reach 3A only section 8 applies since there is no setback reduction outside the VCA allowed.**
4. Shouldn't the Maximum Standard Building Height for Budd 3A be 42-65', not 42' on Table 6.2, based on the unanimous support of the Council for the West Bay Plan and its waterfront trail? **Yes. There is an error in the maximum standard building height column in Table 6.2. It should range from 42' to 65' for those Urban Water Front parcels north of Smyth Landing as that is what is currently allowed.**
5. Did the Council/Staff intend to impact the current West Bay Development Regulations or just add an incentive for shoreline restoration in exchange for setback reduction in addition to the current regulations? **The public understood that it was the latter directive according to Council minutes, Page 4, of March 19, 2013 in which it states "- Don't want to undo what's been done already with the West Bay Drive planning process and policies: Council direction for Reach 3A should be consistent with that**

work.”? Council asked for clearer requirements for achieving additional height. The revisions to 18.34.620 D as proposed in the July 9, 2013 draft are staff’s response to that direction. City Council has not taken final action on this language.

Table 6.3 Setbacks and Incentives- Urban Intensity - Budd 3A- West Bay

Questions:

6. The Table refers to setback reductions for West Bay Budd 3A, for water oriented uses from 30’ to 0’ and references OMC 18.34.620.E.8. This section E.8 then references “In addition to E.1-7”. Does this mean cumulatively or where 1-7 apply as noted on Table 6.3? **In regards to Reach 3A only section 8 applies since there is no setback reduction outside the VCA allowed.**
7. Wouldn’t it make more sense to reference the existing West Bay development regulations in OMC 18.06.100.A.2.c which are already in place? ----

E. Reductions shall be allowed as provided in Table 6.3 and subject to the following:

E.1. Incentives for setback reductions noted herein are cumulative up to the maximum reduction allowed. Incentive **eligible** restoration projects may be completed in association with, or in addition to, required mitigation projects, however, no setback reductions shall be allowed for required mitigation projects.

1. Which mitigation projects are “eligible”, but not required? Define. **Any of the work noted in Table 6.3 items 1 - 8 Column Incentive Eligible Provisions would apply.**
2. Will shoreline restoration become the sole responsibility of private property owners and no longer an opportunity for partnership? **No. The proposed SMP creates many opportunities for offsite mitigation and these will require partnership between public and private interests.**
3. How can a 0’ setback ever be achieved if a 12’ trail easement must be designated for an onsite trail? **A second floor of a building or deck could extend over the trail or the trail could be routed around a shoreline building in a publicly dedicated easement.**

E.2. Physical access shall be access to the marine shoreline from the public right- of- way via a sidewalk or paved trail on a publicly dedicated easement no less than 6 feet in width and constructed to City standards as included in the City’s Engineering Design and Development Standards. Other forms of indirect access such as viewing towers and platforms may be considered where direct access to the shoreline is deemed dangerous due to the nature of the use of the property or the conditions at the shoreline. Existing access meeting the standards described herein may be used to meet setback incentive provisions.

1. Does this section apply to West Bay Budd 3A? **No. As the regulations are proposed they do not require the provision of access or other incentives to achieve a reduced setback. The only section that applies is 18.34.620 E. 8. This section relates to reductions in the width of the VCA for water oriented uses.**
2. What happens at the end of the trail? **I’m unclear what the question is. The intent is to provide access to the shoreline. It could connect to a trail that parallels the shoreline, connect to a park or merely provide access to the shoreline, tidelands and the water.**

E.3. Water Related Recreation shall be an open space accessible to the public providing direct access to the shoreline. The water related recreation area of the park shall be no less than the area of the shoreline reduction and in no case shall the area be less than 1,000 square feet. Such areas shall include active playgrounds, significant art installations,

performance space or interpretive features. Existing park space meeting the requirements described herein may be used to meet setback incentive provisions.

1. Does this section apply to West Bay Budd 3A? **No. As the regulations are proposed they do not require the provision of access or other incentives to achieve a reduced setback. The only section that applies is 18.34.620 E. 8. This section relates to reductions in the width of the VCA for water oriented uses.**
2. To build to 65' with a 30' setback (no reduction) on West Bay Budd 3A, is property owner now required to create a trail (22') or park (water related recreation? 1000 SF? Or more?) and a 30' VCA? **To reach a 65 foot building height along West Bay Drive in the UW 42 - 65 foot zoning district a property owner would have to comply with the zoning regulations as they relate to the use of the building (20% dedicated to residential uses), the restrictions relating to view blockage from West Bay Drive and the provision of a trail. The property owner would have to meet the requirements of the SMP through vegetation restoration and shoreline softening as described in 18.34.620 D. In those areas of Budd 3A shoreline, that are zoned UW - 65, the property owner would only have to comply with the standards of 18.34.620 D.**

E.4. Trail shall be a commuter multi-use trail on a public easement no less than 12 feet in width providing continuous public access across the site and shall be placed upland of the Ordinary High Water Mark and constructed to commuter multi-use trail standards as included in the City's Engineering Design and Development Standards. Existing trails meeting the requirements described herein may be used to meet setback incentive provisions. To receive setback reduction credit the trail must be built on the site.

While a trail is required under circumstances in the zoning regulations affecting the UW 42 -65 Zoning District, incentive E.4 does not apply to Budd 3A.

1. Does the trail have to be built along the water or across the site to the water if a park with shoreline restoration is to be built elsewhere on site or offsite? **To take advantage of this incentive the trail must be built across the site.**
2. Trail standards (Table 13 in EDDS) dictate 22' width, so is the 12' requirement an exception or will the standards be revised? **The trail must be constructed to the standards of the EDDS for pavement width, depth of asphalt, and base materials. The other dimensional standards in the EDDS would not apply.**
3. Does this mean that the trail doesn't have to be along the water but there has to be access to the water across the site from a public right of way? For example, if you are getting a setback reduction to zero in some areas of the site because you are providing a larger park and access across the site to a larger park area does that comply with this requirement? **There is flexibility in the placement of the trail across the site.**
4. How can the 0' setback ever be achieved if a 12' trail width must be designated for an ONSITE trail? **The second story of a two story building could extend over the trail or the trail could be designed to veer away from the shoreline and around the building. What if a park is provided under West Bay development regulations, how does this requirement interface with providing a park and restoring shoreline area of park? Different regulations. Does a 12 foot wide trail providing access across the site to the park with access to the waterfront meet the requirements of sections 4 and 8?**
5. If you add 12' (trail) + 4" (shoulders) + 6' = 22', to achieve the required corridor width described on Table 13 chart of Olympia's Engineering Design and Development Standards (EDDS) + 30' VCA, doesn't that equal 52' of setback, unless the 6' above is used to accommodate the VCA, thus prescribing a 46' setback? **The trail must be**

constructed to the standards of the EDDS for pavement width, depth of asphalt, and base materials. The other dimensional standards in the EDDS would not apply.

6. Is the minimum setback along West Bay, when the Trail and VCA calculations are overlapped really 46' or 52', not 30'? Table 6.3 is thus misleading when it refers to a 30' setback? **No. Setbacks are measured from the OHWM and would include the width of the trail.**

E.5. Vegetation restoration shall be planting of native shoreline vegetation in excess of that required to achieve no net loss of environmental function and shall substantially mimic undisturbed native shorelines in the South Puget Sound in plant species, species mixture and plant density. Vegetation restoration shall be accomplished through an approved Vegetation Management Plan. Uses may encroach the required setback area as described above so long as they provide for mitigation of the encroachment at a ratio determined to offset the impacts of the encroachment and in no case less than a 2 square feet of mitigation for every 1 square foot of encroachment within the required setback area and demonstrate no net loss of environmental function. Such areas shall be no less than 25 feet in depth measured from the ordinary high water mark and shall be no less than one acre in area.

1. How is VCA bonus defined? Table 6.2 references VCA bonus with an * to 18.34.620(D), but (D) doesn't define the term and if you go to definitions around p. 20 there is not a definition for VCA bonus requirements. **The VCA Bonus language should be removed and replaced with incentives. See 18.34.620 (D).**
2. Where is the native vegetation defined? No definition is provided in the proposed SMP. **A planting plan would be required to be prepared by a qualified professional and would be reviewed through the substantial development permit review process.**
3. Where equivalent environmental values can be obtained can non-native vegetation with "comparable" benefits be substituted where more appropriate to a public area landscape? **No. The proposed SMP requires native vegetation.**
4. If 1 acre equals 1742' of shoreline with a 25' setback, how is this requirement met if development is one acre or less? **The SMP includes provisions for offsite and fee in lieu of mitigation.**
5. Has any calculation been done as to the value of one acre of restoration? Or 2-1 ratio for any property for that matter? Added to trail, park, art costs? **No cost evaluation has been performed.**

E.6. Removal of bulkhead shall be the physical removal of a vertical structure and replacement with a softened shoreline treatment. Measures may include use of shoreline contouring, gravels, cobbles, limited use boulders, logs, and vegetation in a manner that promotes native aquatic species and protects the shoreline from erosion.

Questions:

1. If bulkhead/rip rap removal is a requirement for a height bonus, how much bulkhead removal is required in relationship to height increase gained? **Section 3.41 18.34.620 D should be amended to clarify the extent of the restoration that would be required. Given that it is intended that these incentives offset the impacts of the building's height on the shoreline, I would recommend that they be clarified that they relate to the area of the building in regards to the application of E.5 and the length of the building as it is measured parallel with the shoreline for E.6 or E.7.**
2. What proportional relationship can be established between height and bulkhead/rip rap removal that makes sense? **The area of the building in regards to the application of**

E.5 and the length of the building as it is measured parallel with the shoreline for E 6 or E 7.

3. If a property includes bulkhead removal as part of a site park, how does that bulkhead removal relate to the ability to retain existing bulkheads on the remainder of the property (1 foot of existing bulkhead can be retained in front of developed property for every foot of linear waterfront park made available to the public? **Yes, the proposed SMP has provisions for offsite bulkhead removal.**
4. Does the removal have to include the entire site or only where the setback may be reduced? **Removal should be proportionate to the impacts of the development.**
5. Does Bulkhead removal have to be done in addition to a minimum of one acre of vegetation restoration, or can a softened shoreline or bulkhead removal be counted as part of the minimum one acre of vegetation restoration? **The regulations as drafted require both vegetation restoration and shoreline softening to encroach into the VCA.**
6. Are there clear design standards for a softened shoreline, and will it support development? **No. There are no design standards. This would be part of the site design process and part of the substantial development permit review process. Each site is going to have unique conditions and constraints that are going to need to be considered in this process.**
7. On West Bay Drive, there are vertical bulkheads up to 20 feet protecting unconsolidated fill, if a “softened shoreline” is provided, what is the slope of such shoreline protective structure? (3-1 seems to be standard for state highway projects requiring rip rap fill) **A softened shoreline may not be feasible in all locations and therefore setback reductions may not be available in all locations. There may be other approaches to shoreline softening that would not entail a 3:1 slope.**
8. We assume that the slope cannot be achieved by covering new tidelands, is this correct? **Yes.**
9. If the 3-1 slope comes inland, does the line of ordinary high water move inland from the existing bulkhead to the new OHWM? **There is a provision in the SMA for regulatory relief with the shift of a shoreline, if it is associated with a restoration activity. This is a fairly new provision, and one we don’t have much experience with yet. See RCW 90.58.580 - <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.58.580>.**
10. Does RCW 90.58.020 require WDOE to acknowledge all shoreline modifications and that the shoreline moves with the modification? **This question will require input from DOE.**
11. Does the softened shoreline count in the square footage to achieve the acre required for the vegetation management zone? **No.**
12. Can the trail be located in the vegetation management zone above ordinary high water mark? **Yes.**
13. Can the trail be located on the berm in the vegetation management zone? **It is unclear what berm is being referred to here. The SMP currently establishes a setback for the trail of 10 feet in the Urban Intensity SED. Trail setbacks are an issue that needs further consideration in the Urban Intensity SED and perhaps the Marine Recreation SED.**
14. If the trail is on the berm, is the statement that with slopes the berm must be 48 feet correct? **This question is unclear.**

E.7. Replacement of a hardened shoreline shall be the physical removal of rip rap or other non-vertical shoreline protection with a softened shoreline treatment. Measures

may include use of shoreline contouring, gravels, cobbles, limited use boulders, logs, and vegetation in a manner that promotes native aquatic species and protects the shoreline from erosion.

1. What happens to the measurement of the ordinary high water mark used for building setback measurements if the bulkhead is removed or the shoreline softened? Will it cause the ordinary high water mark to move landward, further narrowing the buildable area of the site? **There is a provision in the SMA for regulatory relief with the shift of a shoreline, if it is associated with a restoration activity. This is a fairly new provision, and one we don't have much experience with yet. See RCW 90.58.580 - <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.58.580>.**
2. Where sound engineering demonstrates that the existing bulkhead structure is required to avoid serious erosion, risk to existing public and private structures, and turbidity in the bay, can the bulkhead removal requirement be waived? **Yes, however, no additional building height would be provided for.**
3. When will the measurement of the OHWM take place to determine the setback reduction? Before or after the 'softening'? **There is a provision in the SMA for regulatory relief with the shift of a shoreline, if it is associated with a restoration activity. This is a fairly new provision, and one we don't have much experience with yet. See RCW 90.58.580 - <http://apps.leg.wa.gov/RCW/default.aspx?cite=90.58.580>.**
4. Does RCW 90.58.020 require WDOE to acknowledge all shoreline modifications and the shoreline moves with the modification? **This is a question that DOE needs to respond to.**

E.8. In addition to items 1-7 above, Water Dependent, Water Related, and Water Oriented and uses may encroach the required setback and vegetation conservation area as described in Table 6.3 so long as they provide for mitigation of the encroachment at a ratio determined to offset the impacts of the encroachment and in no case less than a 2 square feet of mitigation for every 1 square foot of encroachment within the required vegetation conservation area and demonstrate no net loss of environmental function. Required mitigation shall meet the vegetation restoration standards noted in 5 above. Reductions to less than a 20 foot setback shall only be allowed where alternative public access has been provided sufficient to mitigate the loss of direct public access to the shoreline and in no case shall public access be less than 12 feet as described in paragraph 4 above. Projects proposing setbacks less than 20 feet shall also meet the shoreline bulkhead removal or hardening replacement requirements of 6 or 7 above for each linear foot of shoreline impacted. Mitigation required may take place onsite or offsite.

1. Does this mean that to get a setback reduction to 0' you have to restore the shoreline area by removing bulkhead or riprap for every linear foot of shoreline setback reduced area? **Yes, either on site or for an equivalent distance off site.**
2. Or is it a 2:1 ratio of restoration area to setback area reduced? **No, the restoration area is not reduced.**
3. Is it linear feet where the setback reduction is or the SF of the area of setback reduction in relationship to the area restored? **It is square feet of area impacted.**
4. How is this interpreted for the area of restoration required in exchange for height increase? **Area of building footprint.**
5. Do you mean 'water enjoyment' instead of 'water oriented' above because water oriented use are defined as water dependent, water related or water enjoyment uses (water enjoyment uses are those that provide significant public

access to the shoreline)? No. Water oriented was used to provide a high degree of flexibility.

6. What is the difference between the terms Public Access, Physical Access and Direct Access (because in E.2, E 4 and E 8 the terms are confused)? Need to review for clarity.
7. Which mitigation(s) under E. 8 take place onsite and/or offsite? All mitigations except for the trail can take place off site.
8. Does Budd 3A have to do all the mitigations #'s 1 - 7, plus #8 or do you mean In addition to items 1-7 above... "where applicable as noted on Table 6.3 for a particular Reach"? No, since no setback reductions are provided for 3A 1 - 7 do not apply to this reach.

Gary Ball, Olympia Yacht Club member

1. Under the SMP draft, can existing over-water structures be expanded so long as the expansion occurs landward of OHWM? Only vertical expansions of overwater buildings are only allowed. Buildings and portions of buildings located landward of the OHWM can be expanded vertically and horizontally away from the shoreline.

Judy Bardin

I would like to submit several questions related to the draft SMP. In certain reaches, it will be possible to do two for one (2:1) mitigation to obtain a decreased amount of set-back from the ordinary high water mark. In some instances, a zero set-back may be possible with mitigation.

1. Where will the 2:1 mitigation be done? Will it be at the shoreline or in some other area of Olympia? Mitigation can take place on site or off site with preference given for sites located within close proximity of the affected area.
2. How will the mitigation be measured or quantified? What will be the metric? What will a square foot of shoreline be worth? The metric is a function of the area impacted by the development and the standards of 18.34.620.
3. How will the mitigation be enforced? Who will be responsible to oversee that the mitigation is carried out as proposed? How will it be evaluated? Mitigation measures are enforced through the development review and permitting process. Section 18.34.410 - No-Net-Loss and Mitigation provides details about how mitigation is monitor (10 years) and guaranteed (a bond for 125% of the costs).
4. Has the City done this type of mitigation in the past? Can some examples of past mitigation programs/instances be supplied? This specific type of mitigation would be new in Olympia since this provision would be new. We do have some experience with similar ratio-based impacts mitigation - primarily in the context of wetland and buffer creation and restoration through the Critical Areas regulations. For example, LOTT's pump station on Deschutes Parkway used this approach many years ago. Heritage Park is probably the extraordinary example in Olympia, with a large mitigation area constructed near the interpretive center in Tumwater. Note that due to inter-agency nature of that project Ecology staff monitored compliance, instead of Olympia staff. The 4th Avenue bridge project included some shoreline replanting and creation of the freshwater wetland at the north end of the lagoon. It was not a direct-ratio mitigation, though. It was negotiated mitigation with multiple agencies and the Tribe. We've had other projects with similar mitigation - Harrison widening adjacent to Grass Lake system, new stormwater system at Fones & 18th on North end of Chambers lake,

DOT's Highway 101 & Cooper Point Road interchange expansion, etc. However, I'm not sure they'd be classified as 'of same type' as described in that section of the proposed SMP.

Jeanette Dickison

When mentioning "views" in this plan numerous times, why are 'views' only qualified as 'views of the water' occasionally, not always? The SMP should only deal with residential views of the water or views of the water from public viewing spaces, but not 'views' in general or of other objects, which causes confusion by the public about what/which views are protected in this plan. Yes, the word 'view' is used differently in different parts of the program. Generally this is a carryover from the current SMP, flows from the SMP guidelines, and is a result of OPC and OCC's decisions. The view protection policy at 2.19 is very inclusive. The SMA and SMP guidelines similarly use the term broadly to encompass views in general, and only sometimes limit to "public views," 'views of the water and shoreline,' "view corridors," etc. So it's not surprising that some of the other policies and implementing regulations in the draft have similar variations.

Vida Zvirzdys-Farler

My family has been a long time property owner and member of the Olympia downtown community since the mid-1960's so our roots are deep in Olympia. I am submitting my questions on the proposed SMP based on concerns raised due to the hardships that will be caused by the current SMP draft to our property located at 612 5th Avenue.

1. Are the VCA and setback provisions in Table 6.3 intended to run concurrently or are they cumulative? The Council deliberations and Staff representations appear to indicate that they run concurrently, but it is unclear from the draft. Table 6.3 includes a 50 foot setback measured from the OHWM and a 30 foot VCA measured from the OHWM. They overlap. Table 6.1 also requires that non-water oriented uses sited within 100 feet of shoreline require a conditional use permit.
2. What is the City's intent with regard to the application of Section 3.30? Does the City take the position that existing property owners must "provide" native vegetation even in the absence of new or expanded development and even where native vegetation "did not exist, or has been destroyed or significantly degraded." If so, what is the scientific or technical basis establishing that such a requirement is necessary to ensure no-net-loss of shoreline ecological function? No. Mitigation in the form of restoration or creation of vegetation conservation area may be required as a condition of development approval consistent with mitigation sequencing priorities in OMC 18.34.410(B).
3. Will mixed use developments be allowed within 100' of OHWM in the Urban Intensity areas? Yes. The minimum setback in the Urban Intensity Designation is 50 feet.
4. Regarding Use Limitations. The current draft makes non-water oriented uses (like our building on 612 5th Avenue which houses Image Source) from being within 100' of the shoreline unless a conditional use permit is sought and granted. Yes.
5. This virtually eliminates the building envelope for our property and is inconsistent with other provisions in the current draft, including the development tables. Were you considering our property when you proposed this new regulation? Your building would

be considered nonconforming. While limiting the ability to expand the building towards the water the SMP allows for expansions landward and upward.

6. Since there is no scientific support in the record for large setbacks and vegetative buffers in the Urban Intensity areas, what is the city's intent for pushing the planning commission's original proposal of 100' setbacks along the Urban Intensity waterfront areas? The July draft proposes a 50 foot setback and a 30 foot vegetation conservation area for water oriented uses.
7. What is the city proposing in the draft SMP that will contribute to more public-private partnerships necessary to transform the downtown waterfront core? I'm having a difficult time finding any such proposed items. -----
8. Regarding Nonconforming and Conditional Uses, will the city make the draft crystal clear that current property owners can maintain their operations, even following accidental destruction, without having to jump through hurdles? If yes, please address how it will be written. The non-conforming section has been substantially revised. See sections 3.80, 3.81 and 3.82 for further information about the treatment of nonconforming uses and structures. If a nonconforming use destroyed or otherwise ceases it may be reestablished within a year with no conditional use approval. Thereafter reestablishing a nonconforming use requires approval of a conditional use permit.
9. Specifically what are water-oriented uses? (Boating clothing stores? Yacht sales office? Real estate office that sells waterfront properties? Ice cream parlors? Restaurants? Coffee houses? Gift shops?) The term is too general. Who is it who decides what is a water-oriented use? How is personal opinion on each situation regulated, i.e., is a tomato a fruit or vegetable? How will you address these issues? Water oriented uses is a catchall term that includes water dependent uses, water related and water enjoyment uses.

Examples of these uses include:

Water-dependent Use. A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

Water-dependent uses include, but are not limited to:

- A. Aquaculture,
- B. Boat launch facilities,
- C. Ferry terminals,
- D. Hydroelectric power plants,
- E. Marinas,
- F. Marine construction, dismantling and repair,
- G. Marine and limnological research and education,
- H. Private and public docks for public moorage,
- I. Terminal and transfer facilities for marine commerce and industry,
- J. Water intakes and outfalls,
- K. Log booming, and
- L. Tug and barge facilities.

Water-enjoyment Use. A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

Water-enjoyment uses include but are not limited to:

- A. Aquarium, with direct water intake
- B. Restaurants,
- C. Public golf courses,
- D. Museums,
- E. Shared use paths
- F. Boardwalks, and
- G. Viewing towers.

Water-oriented Use. A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

Water-related Use. A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Water-related uses include, but are not limited to:

- A. Warehousing or storage facilities,
- B. Support services for fish hatcheries,
- C. Seafood processing plants,
- D. Wood products manufacturing,
- E. Log storage,
- F. Watercraft sales, and
- G. Boating supplies.

10. If you own less than 12' of property along the water (as we do) how will you qualify for the 12' walkway requirement for redevelopment or change of use? **Your building is a nonconforming building and may be expanded upwards and away from the shoreline.**
11. Our property physically has no direct access to the water, then what would be our water-oriented uses? Specifically what are water-oriented uses? What is not allowed specifically? **See above for a list of water oriented uses.**
12. Under Section 18:34.620 Use and Developments Standards. Item E - The property at 612 5th Avenue cannot use any of the eight items because it does not qualify. How will this be addressed? **Your building is a nonconforming building and may be expanded upwards and away from the shoreline.**
13. If our property at 612 5th Avenue wanted to convert to conforming mixed use there are no provisions allowing this to happen. Currently it would have to stay its current use and exterior look forever. How will this be addressed? **It could convert to a conforming (water oriented use) at any time. Again the building can be expanded vertically and horizontally away from the shoreline.**
14. Regarding shoreline conditional use permit, why is the council giving away all its authority and decision making processes to the state? All these decision should be made locally first and use the variance as a last resort to let the state make the decision for them? -----
15. We request that the items that were taken from conditional use permit and put into variance requirements be put back into conditional use and let the local authorities make those decisions. So again, why is the council giving away all its authority and decision making processes to the state? The state portion should be extremely limited in scope and only a last resort for the developer/property owner. -----
16. We need to repair dry-rotted siding on our structure that is within the 200', within the 50', within the 20', and within the 10' setbacks. All we want to do is repair the siding to stop water intrusion. With the proposed SMP, what will be the permitting process and city requirements to do the repairs? **A building permit.**
17. What if it is a Drivitt siding and the repairs will require over 50% of the area to be replaced, what will be the permit requirements to do the repairs under the proposed SMP? **A building permit.**
18. What if during this repair process or even during the permitting application discovery of structural repairs are needed. How will the current proposed SMP regulate it? **A building permit.**

Bob Jacobs

1. How can the "Big W Trail" promised by the Parks Plan be provided under the proposed "zero setback" scenario? In the same manner that it is being provided today. **In some areas the trail could extend over the water and in some areas it could go beneath a second story and in some cases it could be routed around a building entirely.**
2. Why would the City of Olympia allow any new construction on lands in the area that will liquefy during a major earthquake, which includes most of the Budd Inlet shoreline? **The fill property along the shoreline is not unique to downtown. Nearly the entire downtown is built upon unconsolidated fill. Modern construction techniques allow for buildings in these situations to be built and comply with the building code.**
3. What is the city council's vision for the future of our waterfront area, and how would this draft SMP, if adopted, help to achieve this vision? ----

4. What is the difference between the Goals and Policies sections of the SMP and the Regulations sections? [Section 2 Goals and Policies: This section of the Shoreline Master Program is proposed as an amendment to and would be added to the Environment Chapter of the “Comprehensive Plan for Olympia and the Olympia Growth Area.” Upon incorporation, the goals and policies would be numbered consistent with the form and content of the Plan.]

[Section 3 Regulations: This Section of the Olympia Shoreline Master Program amends and is to be adopted as part of the Olympia Municipal Code, including a new Chapter 18.34.]

5. What is the effective, as distinguished from the nominal zero setback, in the current SMP, i.e., the actual required building setback from the OHWM when all current regulations are applied? Not sure what is being asked here?
6. What would be the effect of this draft SMP on properties which would become wholly or partially noncompliant with its provisions, e.g., setbacks. The impact of the SMP on existing buildings and uses is dealt with in section 3.80, 3.81 and 3.82.
7. How would this draft SMP deal with sea level rise, which is projected to inundate part of downtown Olympia within this century, and the projections of which are rapidly worsening? The proposed SMP does not directly address sea level rise. Sea level rise is an issue that will have impacts well beyond the shoreline and will need to be addressed in a programmatic, systematic and comprehensive manner. The City has initiated planning around sea level rise and is working to understand the impacts and potential solutions. Given the number of existing overwater structures and structures within 30 feet of the shoreline there will need to be a plan developed and partnerships with other public and private property owners to fully address the issue. Sea level rise will also have different impacts on different properties and will demand different responses. Properties along West Bay Drive may be able to be constructed to avoid the effects of sea level rise where properties downtown, given their location, cannot simply be constructed to avoid impacts. Downtown is the site of significant public infrastructure including the Port of Olympia, the LOTT Clean Water Alliance, City Hall, Heritage Park and numerous other public investments that will need to be protected from the effects of sea level rise. The downtown will need to be protected from sea level rise through the construction of a shoreline barrier that may include berms, sea walls and other engineered solutions. The [National Academy of Science’s](#) recent report on the projected rate of sea level rise on California, Oregon and Washington predicts that sea level rise will advance between -2” and 9” by 2030, -1” to 19” by 2050 and 4” to 56” by 2100. The report states that they have a high degree of confidence in their 2030 and 2050 projects and much less in their 2100 projections. Our plans and regulations are updated on a regular basis (SMP every 8 years) and should respond to new information and changing circumstances as they emerge.
8. What provisions of this SMP or other city policies will assure compliance with RCW 90.58.340, which requires that lands adjacent to the shoreline area be used in a way that is consistent with the SMP? Conformance with the SMP is assured through a variety of means: OMC 18.02.120 would require that all lands, structures, and uses be ‘in

accordance' with the new SMP regulations; the city's code enforcement staff are authorized to enforce the SMP regulations; and the Department of Ecology has its own enforcement authority. In addition, the goals and policies of the SMP are part of the Comprehensive Plan and thus subject to the 'city shall perform its activities in conformity with its comprehensive plan' clause of the Growth Management Act.

Bonnie Jacobs

1. What does Water Oriented mean, Exactly? Please be specific.
That term is used several times in the document but Water Oriented is not in the list of definitions. **Water-oriented Use. A use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.**
2. Mitigations: Who & How are "mitigations" monitored? Is there a time limit to comply with the mitigation agreement? How far "off site" are mitigations offered? **Mitigation measures are enforced through the development review and permitting process. Section 18.34.410 - No-Net-Loss and Mitigation provides details about how mitigation is monitor (10 years) and guaranteed (a bond for 125% of the costs). The SMP provides for offsite mitigation when circumstances dictate that it will provide greater environmental benefit. Such mitigation will generally occur within the City limits.**
3. What does 2:1 mitigation mean specifically? How is it measured? **2 square feet for each one square foot of impacted area.**

Walt Jorgensen

1. If zoning isn't directly embedded in the SMP, but instead is provided by the City through its conventional zoning specification process, what is the affect on the subsequent change process for the area traditionally controlled by the SMP, i.e., from the Ordinary High Water Mark (OHWM) to 200 feet landward? **The process does not change. For decades the shoreline regulations have been a 'State-overlay' of local zoning regulations.**
2. Can zoning be changed by actions of staff alone? **No.**
3. Does the Council have to approve? **Yes.**
4. Is the Planning Commission consulted? **Generally yes, state law requires review and recommendation by the Commission or, in a few instances, the Olympia Hearing Examiner may be substituted for the Commission.**
5. Is the public notified and given an opportunity to comment? **Yes, the specific public process varies with the issues, but at minimum at least one public hearing is held with notice to potentially interested parties. The Planning Commission usually holds this hearing.**
6. How often can these zoning code and development regulation changes be made? **There is no legal limit. In general the development regulations are amended up to a half dozen times each year.**

Pages 16 & 17, 2.31 Dredging Policies

7. Are there no provisions for the affect of dredging on human health, e.g., disturbance of dioxin deposits in sediment? **Those concerns would be dealt with by Department of**

Ecology or the Army Corps of Engineers or Department of Natural Resources depending on which of those entities have jurisdiction.

Page 12, 2.19 View Protection Policies

8. Was the new Mithun technology used to inform this policy? Is it going to be used in the future? Was the concept of a "view plane" used? **No.**

Emily Ray

Various incentives are offered in return for bonus heights and reductions in setbacks. These incentives include direct and indirect access to the shoreline and restoration of native vegetation. When bonus heights and reduction in setbacks have been granted to a development, will the related requirements be recorded on property deeds? **Yes, the trail, the physical access and water related recreation area would be required to be dedicated to the city through an easement, deed or other recorded instrument.**

John Newman

Why has the high-tide setback been moved from a previous 200 foot setback to a much lower setback of 0 feet to 30 feet for buildings? **The only area where a 200 foot shoreline was contemplated was in the Natural Shoreline Environmental Designation. All other areas have been proposed as lower setbacks ranging from 30 feet to 150 feet. Only some water oriented uses would be allowed to go below 30 feet in certain Urban Intensity and Marine Recreation SEDs.**

David Schaffert, Thurston County Chamber

Please find the following question from the Thurston County Chamber on the current SMP. We very much appreciate the opportunity to provide feedback and be engaged in your deliberations. The Chamber believes that our community's urban waterfront (shoreline) is an invaluable resource for all; Including public access, port operations, re-investment, redevelopment, and the protection of private property. We also believe that the viability of or willingness to allow investment in the waterfront properties is directly related to Olympia's current focus on the health and re-investment of its downtown and renewed interest in looking at being a "friendlier" place to do business. We look forward to responses on the following.

1. The January draft included an exemption from VCA requirements for "West Bay." Why was this exemption removed? **Council indicated a desire to provide greater clarity around the relationship of setbacks and building heights along West Bay Drive and incentives. The revised language is an attempt to respond to Council's interest.**
2. In the Waterfront Recreation areas along West Bay, the new draft terminates VCA and setback requirements at West Bay Drive. However, the use limitations in these areas still apply severely restricting permitted uses of upland areas. For example, all residential and non-water-oriented commercial uses are expressly prohibited. Is this an oversight on the City's part, or does the City intend the development limitations reflected in the current draft to apply to those areas upland of West Bay Drive? **Council considered a parallel designation for this Reach 3B and chose to keep the Water Front Recreation designation for the entire width of the reach.**
3. The May 2013 draft of the Comprehensive Plan "Future Land Use" map includes the shoreline area along West Bay Drive and south of Madison Ave (extended) as

“Professional Office & Multifamily Housing.” Areas north of Madison Ave and upland of West Bay Drive are depicted similarly, while waterfront areas in this stretch are “Urban Waterfront.” Does the City intend to reconcile the conflict between the Comprehensive Plan and the SED for this area in the current SMP draft? If so, how? **There are no changes in zoning contemplated along West Bay Drive. The reference was for purposes of orientation not zoning. The shoreline map and the zoning map would control.**

4. Section 3.53(D) requires water enjoyment recreation, such as trails and shared use paths, to be set back at least 10 feet from OHWM. The current draft of the SMP purports to allow water oriented uses to achieve a setback reduction to 0 feet in some areas provided significant incentives are provided as part of the development proposal, including public access along a trail that is at least 12 feet wide. Does the 10-foot requirement apply to the setback incentive provisions? If so, how does the City reconcile the “0-foot” setback concept with the reality that any given proposal, in reality, must be at least 22 feet from OHWM? **This is an inconsistency that will need to be addressed in the final draft of the SMP.**

George Smith, OYC

Section 3.46(11) requires marina building to be setback at least 30 feet from OHWM. Does the City intend marinas to be excluded from the setback reduction provisions? If so, what is the scientific or technical justification of treating marina facilities differently from other water-oriented uses? **Marina buildings may encroach into the 30 foot VCA subject to the provisions of Section 3.41. The current draft SMP allows water oriented uses to be located as close as 0’ feet from the OHWM. This is an inconsistency that council may wish to clarify in the final draft.**

Kevin Stormans, Bayview Thriftway

1. Previous analyses have identified that no-net-loss of shoreline ecological function will be achieved even with a proposed 30’ setback along the Urban Intensity waterfront areas. Is there a scientific basis for extending setbacks in these areas to 50’? If so, what is the basis? Setbacks may be established for a variety of reasons. **Council has indicated a desire to protect the ecology of the shoreline, a desire to maintain access to the shoreline, to provide an area to address sea level rise and create a sense of openness. They are also considering allowing water oriented uses to encroach this setback subject to the provision of certain incentives.**
2. The Goals and Policies section encourages mixed use commercial, but this does not seem to be reflected in the regulations that follow, which generally require all non-water oriented commercial to be located 100’ from OHWM while water oriented uses can be substantially closer. Are non-water oriented developments allowed to utilize the setback/VCA reduction incentives when appropriately paired with water oriented uses and included as part of a mixed use development? If so, which provision in the SMP permits such mixed uses? **The proposed SMP states that non-water-oriented uses may be allowed only if they are part of a mixed use development that include water-oriented uses, provide public access, and shoreline enhancement/restoration. The applicant shall demonstrate that the project will result in no net loss to shoreline ecological functions or processes.**

Bob Van Schoorl

1. How does the Shoreline Management Plan encourage mixed use of the waterfront within the city limits? Is there a clear vision of what mixed use means? How does it encourage the use by all citizens of the community? Walkers? Boaters - sail, power, human-powered? People who want to just relax? Water oriented businesses? Water dependent businesses? Marinas? **The proposed SMP states that non-water-oriented uses may be allowed only if they are part of a mixed use development that include water-oriented uses, provide public access, and shoreline enhancement/restoration. The applicant shall demonstrate that the project will result in no net loss to shoreline ecological functions or processes.**
2. By your very definition, water-dependent uses require immediate and unimpeded access to the water. How does the City plan to square the absolute requirement for water dependent uses in Urban Intensity areas to also provide at least a 12-foot trail (that itself must be set back at least 10 feet from OHWM in Urban Intensity areas and 25 feet everywhere else) with the need for unimpeded access to the shoreline for these uses? How does the effectively 22-foot wide trail/public access requirement mesh with the SMA command to give preference to and foster water-dependent uses? **The 10 foot setback for trails is an inconsistency that may need to be clarified in the final draft, however, the requirement for a trail doesn't mean that the trail has to be immediately adjacent to the shoreline. In some instances it may be allowable to bring the trail landward around the building to avoid conflicts. Boat Works, however, along West Bay drive has a 12 foot trail that works in conjunction with the adjoining water related use.**
3. How does the plan encourage voluntary support and partnerships for improving the waterfront? The plan seems punitive rather than cooperative. -----
4. Has City Council published a clear vision of what a mixed use, community friendly water front should look like? There are plenty of examples such as Granville Island and other waterfronts in Vancouver,BC. **City Council has considered many different examples of shoreline development as it considers this update to the shoreline master program.**

Tom Zvirzdys

As a long time property owner at 612 5th Avenue and member of the downtown community, my questions are based on concerns raised due to the hardships that will be caused by the SMP as it is currently written. It is our intention to remain involved in the entire process. I look forward to your written response to my concerns.

Section 3.80(A) says that an existing nonconforming use, lot, structure lawfully existing prior to the effective date of that chapter which is rendered nonconforming may continue in the manner and to the extent that it existed upon the effective date of the relative ordinance.

1. What studies or consideration has been given to the hardship created when nonconformance is legislated by the city upon property owners that results in increased to already high insurance costs? **Council worked to limit the impact of the nonconforming designation to the minimum. No member of the public has submitted**

actual data showing increased insurance costs, though some anecdotal statements have been made.

2. If consideration or a study has been performed, please provide a copy of this study with your response. **No study has been performed.**
3. What studies do you have that show how high insurance rates will rise and what effect it will have on ownership and rental rates and in turn creating a financial disincentive for businesses and/or ruin the viability of existing firms? **No study has been performed. No member of the public has submitted actual data showing increased insurance costs.**
4. How many businesses will be financially forced out because the cost of doing business in Olympia makes it no longer viable due to the increased costs created by nonconformity? Please include documentation, if any, to support the number of firms negatively affected by this proposal. **No study has been performed. No member of the public has submitted clear and specific information demonstrating that this will occur.**
5. Has the hardship on owners been considered or studies been performed that show when legislated nonconformity makes financing for improvements (i.e., remodel, mitigation efforts, etc.) so exorbitantly high due to the “risk of uncertainty” that a bank will not loan funds and the property cannot be renovated or updated? Please provide a copy of this study with your response. **No study has been performed. No member of the public has submitted specific data and numbers showing difficulty in financing.**
6. Please comment on how the city can expect property owners to improve their properties when the cost of mitigation makes the endeavor unfeasible, especially when financing is not available due to the regulation the city itself would impose? **There are no constraints on maintaining the building imposed by the SMP. Nonconforming buildings can be expanded vertically and horizontally away from the shoreline. They can also be reestablished if destroyed. The City has not been provided clear information from a bank or other financial institution that financing is not available.**
7. Has access to capital improvement funds for property owners been considered? Will the city provide low interest capital for improvements (some of which are mandated by the city) when it is not available to firms due to mitigation taking away the profit and legislated nonconformance makes borrowing money impossible? Will the city guarantee the loans, or even possibly loan the money to the firms at market rate or a lower rate? **This is outside the scope of the SMP.**
8. Has staff considered and conducted studies of the hardship on owners when legislated nonconformity makes selling their property impossible because banks will not lend money to a buyer due to the nonconformity? if yes, please provide a copy with your response. If no, why has a study not been conducted? **No study has been performed.**
9. Has staff considered how deep of a negative effect this will have on the property owner? Has there been a study? If yes, please provide a copy with your response. If no, why has a study not been conducted? **No study has been performed.**
10. Has consideration been given to responsibility being put on one individual property owner to pay for all of the public’s benefit? If no, why not. ----

11. Has staff considered the “risk of uncertainty” the current proposed plan creates; and the cost barrier associated with it to demise economic growth? Please also explain the logic behind your answer. **No study has been performed.**
12. Is this section (3.8) of the SMP or any other part of the SMP a methodology to reduce property values so the city can purchase at a lesser price or “take” the property now or sometime in the future? If no, please explain the basis of your answer, and explain how property values were taken into consideration when decisions were being made in writing the SMP? **No study has been performed.**

Section 3.82(A)(1) talks about “a nonconforming use may be changed to a permitted use at any time.” The imposition of the setbacks and height restrictions on our building (612 Fifth Avenue) will make it nonconforming.

1. How can our building be made conforming at any time as suggested in this section when it is in the proposed set back? This sounds contradictory, please provide your analysis and logic behind this statement. **Building can be nonconforming from a structural perspective for such things such as setbacks and heights and they can be considered nonconforming with respect to use. If a nonconforming use moves out a conforming use could move in and the use of the building would no long be nonconforming.**

Section 3.82(A)(2) talks about a “Hearing Examiner”.

1. Who is this person employed by or chosen by? **The Hearing Examiner is employed by the City and appointed by City Council.**
2. What other powers do they have to impose their will upon the applicant? **Hearing examiners must operate within the laws and regulations established by the City including the SMP.**
3. What time limitations do they have for review, as the applicant only has one year? **The hearing examiner can render a decision in as little as two weeks.**
4. Will the applicant still be penalized if the review takes over a year and the permit expires? **No, as long as the applicant is diligently pursuing the permit. In order to take advantage of this section, a complete application for a building permit must be submitted within one year of the unintended event that caused the destruction of the structure. The applicant loses their rights under this subsection if the building permit lapses without construction of the structure proposed under the building permit.**

Also section 3.82 says that the change from non-conforming **to another non**conforming can be done if three criteria are met (see 3.82(A)(2)). Specifically in regard to (b) it states that the applicant must “clearly demonstrate:” “The proposed use will be more compatible with the permitted uses of the use district than the existing use”.

1. A logical interpretation to this is that once you change the use, you cannot change it back to meet with demographic, market and/or other external forces and demands necessary to retain the viability of the structure or business; as the authors of the proposed SMP is this interpretation accurate, if not, please explain how it is not

accurate. This section doesn't say that you cannot change the use back. It does require a demonstration that the proposed use will be more compatible.

Also, if flexibility is the goal in the SMP, how does this demonstrate flexibility?

1. Please define "clearly demonstrate". The city is attempting to include reasonable flexibility while conforming to the requirements of the Shoreline Management Act and the Department of Ecology Guidelines.

Section 3.82(B)(1) states that "a non-conforming use, when abandoned or discontinued, shall not be resumed. Discontinuation or abandonment occurs under any of the following:

When land used for a nonconforming use shall cease to be used for that particular use for twelve (12) consecutive months.

1. Has the city considered vacancy rates in the core and how long it takes to find tenants for commercial buildings when coming up with a 12 month time limit?
2. Is it the city's intention with this section to make a hardship caused by market demands even worse for those willing to put in the hard work and to take the risk to invest in the local downtown economy? If no, please provide an explanation and logic how this will help the economy and who will benefit and who will receive the hardships. The city is attempting to include reasonable flexibility while conforming to the requirements of the Shoreline Management Act and the Department of Ecology Guidelines.

Is this a legislated methodology to: i. provide disincentives to investment; ii. reduce values of properties to make them easier for the city to purchase or "take"; iii. create such financial hardship on a building owner that they are no longer able financially to maintain a building and then it can be classified "blight" by the city and be "taken"? ----

Section 3.82(B)(2) As mentioned through the recent SMP draft, decisions are left to be made by a Hearing Examiner; this section again references a "Hearing Examiner".

1. Who is the Hearing examiner? See above.
2. What guarantee does the applicant have that this person's personal agenda or political agenda will not cloud decisions that affect the financial viability of a business? Decisions of the Hearing Examiner are appealable to superior court.
3. Nowhere in the SMP is an appeal process mentioned; will there be an appeal process or will final decisions need to be settled through litigation? Decisions of the Hearing Examiner are appealable to superior court.
4. Does the 12 month clock go on hold during periods of "Hearing Examiner" review and during litigation? Yes, as noted above.
5. What criteria will be examined to determine "nonconforming use will not have a detrimental effect on surrounding properties"? Evidence provided by the applicant.

Is there a science to determining what a detrimental effect on surrounding properties is? Who will pay for this study? In addition to taxes, impact fees, expensive mitigation plans, will the city expect this hardship to also be carried by the property owner also?

Section 3.82 (B)(3)(d) talks about conditional use permits that expire and have to go thru another review process.

1. Who will pay for this review process? Will this hardship also be passed on to the property owner? **The applicant bears the expense of the permit process.**
2. Will there be an appeal process for this or will this have to be resolved through litigation? **Decisions of the Hearing Examiner are appealable to superior court.**
3. Again, whose opinion will be used to determine “the permit will not have any detrimental effect upon the property values of the surrounding properties”? and how will this determination (studies / research) be arrived at? **Evidence provided by the applicant.**
4. Has staff considered the detrimental effect the SMP and the anticipation of the SMP is already having financially on the surrounding properties and also the level of disinvestment in downtown and surrounding areas? ----
5. Who will determine “That such use has minimal adverse effect upon the people living or working in the vicinity of such use”? And how will this determination be made. Please provide the logic behind your answer. **The Hearing Examiner based on evidence provided by the applicant.**
6. Please provide for me what your definition of a “Hardship for the owner of the structure is”. **Evidence provided by the applicant.**
7. Please tell me how the city will determine how “a hardship for the owner of the structure if the conditional use permit is not renewed”? How will the value of that hardship be determined? Has staff determined what science will be used to determine hardship? Will financial accounting or mental anguish be considered when determining hardship? Will the hardship determination include the cost of potential or actual litigation? **Evidence provided by the applicant.**
8. Has consideration or studies been performed to the hardship the SMP process and its ramification has already caused property owners? If yes, please explain what was considered. If no, please explain why not. **No study has been conducted.**