



5309 Shilshole Avenue NW
Suite 200
Seattle, WA 98107
206.789.9658 **phone**
206.789.9684 **fax**

www.esassoc.com

memorandum

date December 14, 2012
to Keith Stahley and Cari Hornbein, City of Olympia
from Alex Cohen, Reema Shakra and Margaret Clancy, ESA
subject Olympia SMP Update: Narrative Evaluation of Current and Proposed Regulations

Introduction

The City of Olympia is currently undergoing a comprehensive update of its Shoreline Master Program (SMP) to improve protection of the shoreline environments and ensure their continued use and enjoyment. The City has developed a draft SMP that is currently undergoing City Council review as part of the final phase of the comprehensive update process.

This memorandum compares the City's current regulations with regulations proposed in the draft SMP (version provided by the City on November 21, 2012) and identifies key differences that would affect a typical shoreline development proposal. The focus of this memo is on Reach Budd 3A, a stretch of shoreline in West Bay, Budd Inlet that has historically supported industrial uses. Based on the Thurston Regional Planning Council Cumulative Impacts Assessment (2009), development that is reasonably expected to occur in Reach Budd 3A includes the following:

- Redevelopment to office, residential and/or mixed-use;
- Condominiums;
- Offices;
- Retail space;
- Marinas;
- Waterfront trail;
- Public access points; and
- Road improvements (sidewalks, bike lanes, repaving).

The following regulations were reviewed for the purposes of this memo:

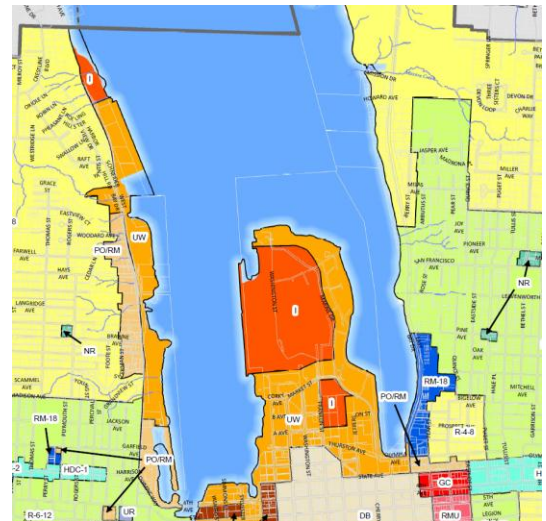
1. Shoreline Master Program for the Thurston Region (1990), including Olympic Special Area Management Plan (SAMP)
2. Olympia Municipal Code (OMC) Chapter 18.06 Commercial Districts
3. OMC Chapter 18.32 Critical Areas

Please note that this memo is based on how we interpret the regulations listed above but there may be certain nuances on how the code is administered by the City of Olympia.

Current Zoning District and Shoreline Environment Designation

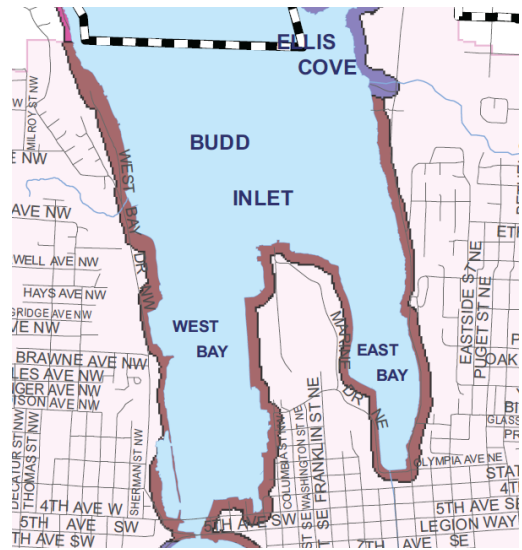
Reach Budd 3A is currently zoned Urban Waterfront (medium-shade orange layer), a zoning district intended to:

- Integrate multiple land uses in the waterfront area of downtown and the West Bay.
- Encourage high-amenity recreation, tourist-oriented and commercial development.
- Encourage development that protects views and preserves a sense of openness on the waterfront.
- Encourage water-dependent and water-related development on shoreline properties and permit light manufacturing uses.
- Provide shoreline public access to significant numbers of the population.



The existing shoreline environment designation is Urban (brown layer). The stated purpose of the Urban environment to obtain optimum utilization of the shorelines by providing for intensive public and private urban uses and by managing development of affected natural resources.

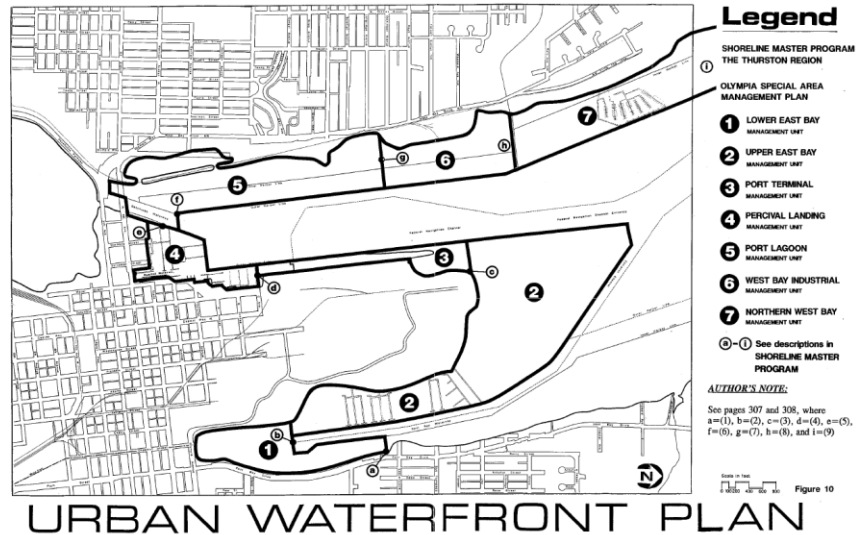
Reach Budd 3A is also located within 2 management units regulated under the Olympia Special Area Management Plan (SAMP) as part of the current SMP: West Bay Industrial Management Unit (see “6” in figure on next page) and Northern West Bay Management Unit (see “7” in figure on next page). The purpose of the SAMP is to allow limited over-the-water development in a manner compatible with the vision, needs, and



values of the community, and which does not degrade the marine habitat of Budd Inlet. The figure shown here is included in both the Olympia Urban Waterfront Plan and the SAMP and shows the locations of Units 6 and 7.

The West Bay Industrial Management Unit places priority on the continued health and viability of salmonid habitat, encourages the continued viability of existing industry and provides for water-dependent industrial development.

The Northern West Bay Management Unit is similar to the West Bay Industrial Management Unit except that it also provides for water-dependent and water-enjoyment commercial development and non-commercial public access.



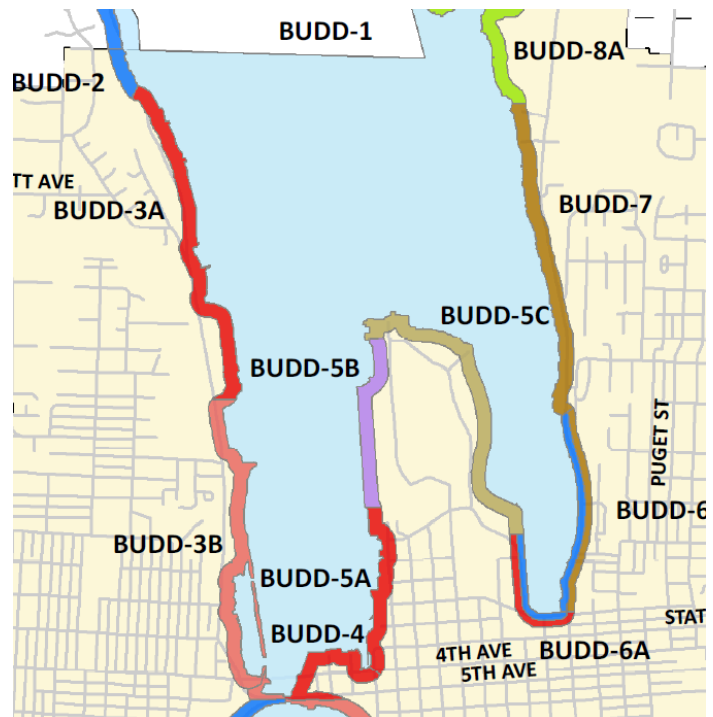
Proposed Zoning District and Shoreline Environment Designation

The proposed SMP would not affect the Urban Waterfront zoning standards. However, under the proposed SMP, the shoreline environment designation would change from Urban to Urban Intensity (see red in Figure 5). The Urban Intensity designation provides for high-intensity water-oriented commercial, transportation, industrial, recreation, and high density residential uses while protecting existing ecological functions and where feasible/possible restoring ecological functions in areas that have been previously degraded. An additional purpose is to provide public access and recreational uses oriented toward the waterfront. The proposed Draft SMP does not incorporate the SAMP or its corresponding management units. Development waterward of the ordinary high water mark would instead be regulated under an Aquatic shoreline environment designation. The purpose of the Aquatic environment is to protect, restore and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark. Upon adoption of the proposed SMP, the SAMP would be rescinded.

Existing and Proposed Allowed

Uses

The table below highlights the major differences between the current and proposed SMP. Since the zoning designation is not changing, allowed uses under the zoning district are not included in the table. All future likely uses would be allowed under



existing zoning.

Table 1. Existing and Proposed Allowed Uses

Potential Uses and Activities in Reach Budd 3A	Existing SMP (1990)	Proposed SMP (2012)
Residential (multi-family condominiums)	Allowed	Allowed
Non-water-oriented Commercial (office and retail)	Allowed	Allowed
Boating facilities (marinas)	Not allowed in West Bay Industrial Management Unit Allowed in Northern West Bay Management Unit	Allowed
Water-related Recreation (waterfront trail, public access points)	Allowed	Allowed
Transportation (roadways)	Allowed	New roads allowed as conditional use. Existing roads may be improved or expanded when consistent with an adopted plan
Parking	Allowed	Allowed except that commercial parking lots as a primary use are prohibited
Dredging	Dredging to clean up toxic sediments is allowed in West Bay Industrial Management Unit Dredging to accomplish over-the-water development is prohibited in the Northern West Bay Management Unit until a Habitat Advisory Committee is established	Dredging is permitted for specific uses (except in the Natural designation): <ol style="list-style-type: none"> 1. Water-dependent use; 2. Bridge, navigational structure, wastewater treatment facility; 3. Maintenance of irrigation reservoirs, drains, canals or ditches for agricultural and stormwater purposes; 4. Establishing, expanding, relocating, reconfiguring navigation channels and basins where necessary to assure accommodation of existing navigational uses; 5. Maintenance dredging 6. Restoration 7. Public access and public water-oriented recreational development; 8. Minor trenching for underground pipes or cables.
Fill	Landfill to create new dry land is allowed for any use. Landfill associated with dock/pier is allowed only when needed to protect shoreside abutments. The SMP does not address fill on existing shoreland areas.	Fill waterward of the ordinary high water mark is restricted to: <ol style="list-style-type: none"> 1. Port development 2. Expansion or alteration of transportation facilities 3. Restoration or enhancement 4. Construction of protective berms 5. Public access 6. Cleanup of contaminated sites
Shoreline Stabilization	Allowed	Allowed as conditional use only where needed to protect or support existing or approved development and only when soft structural stabilization measures (vegetation) or non-structural measures (increased setbacks) are not feasible.

The major shoreline use changes that would occur under the proposed Draft SMP include:

1. Allowance of marinas in the southern portion of Reach Budd 3A (where West Bay Industrial Management Unit is currently located);
2. A broader allowance for dredging; and
3. New roadways are allowed by conditional use permit only.

Since West Bay Drive NW currently serves Reach Budd 3A, new roadways outside of existing rights-of-way are not anticipated to be necessary to serve existing or proposed development.

Allowing more uses to dredge in Budd Inlet may result in an increase of shoreline permit applications; however, the requirements by state and federal permitting agencies will be extensive and serve to limit environmental impacts typically associated with dredging.

Allowing marinas in an area where marinas had not previously been allowed may have visual and in-water habitat implications. Environmental protective language in the draft SMP and state and federal permitting agency standards for over-water development will limit environmental impacts. The visual implications of new marinas should be considered; however, the prohibition on new covered moorage (describe in sections below) would help to limit view impacts.

Existing and Proposed Bulk and Dimensional Standards

Existing bulk and dimensional standards established by the Urban Waterfront zoning district are described in Table 2. These standards will not be changing under the proposed Draft SMP.

Table 2. Existing Zoning Standards

Zoning Standard (OMC 18.06)	Urban Waterfront
Front, rear, side yards	No minimum; however, see Chapter 18.100 for design guidelines for pedestrian access and view corridors.
Maximum Building Heights	Reach Budd 3A is located in the UW-42-65 and UW-65 height areas. <ul style="list-style-type: none"> • UW-42-65: Maximum height is 42 feet. The height limit may be raised up to 65 feet depending on amenities provided (such as waterfront trail) • UW-65: Two additional stories for residential use may be built under certain circumstances
Maximum building coverage	60%
Maximum development coverage	100%

The zoning standards allow for buildings to be 3-5 stories tall (commercial buildings usually have 10 foot high office or residential floors and 15 foot high retail floors). The building(s) can cover up to 60 percent of the lot. Associated parking lots, driveways and other impervious surfaces can cover the remainder of the property minus any required landscaping. Since there are no front, rear or side yards, buildings can be located immediately adjacent to the road.

The existing SMP and the proposed Draft SMP also establish bulk and dimensional standards. The table below highlights the major differences between the two. The design and site layout of proposed development would have to be consistent with both SMP and zoning standards.

Table 3. Existing and Proposed Bulk and Dimensional Standards

Bulk and Dimensional Standards	Existing SMP (1990)	Proposed SMP (2012)
Minimum Vegetation Buffer	Residential structures: 20 feet	30 feet
Minimum Shoreline Setback	None specified	30 feet
Maximum Building Heights	<u>Landward of the OHWM</u> Commercial buildings: 35 feet. Can go higher if residential views are not obstructed Residential buildings: 35 feet. <u>Waterward of the OHWM</u> West Bay Industrial Management Unit: 35 feet Northern West Bay Management Unit: 20 feet	<u>Landward of the OHWM</u> Viewing platforms, wildlife blinds, interpretative areas: 25 feet Structures accessory to marinas: 16 feet Upland boathouses: 20 feet All other uses: 42-65 feet or 65 feet consistent with zoning standards <u>Waterward of the OHWM</u> 20 feet for overwater structures

The major bulk and dimensional changes that would occur under the proposed Draft SMP include:

1. Establishing a minimum vegetation buffer and a minimum shoreline setback for most developments (for a list of developments that would be allowed in the buffer and setback, see Attachment A, Table 3, Vegetation Conservation Area). The existing SMP only requires a 20 foot vegetation buffer for residential structures (meaning residential structures must be at least 20 feet landward of the water’s edge). Under the proposed Draft SMP, most new developments will be required to locate structures 30-60 feet from the water’s edge¹.
2. Establishes a 20-foot height limit for overwater development when allowed.
3. Allowing residential buildings to be taller than 35 feet.

Under the proposed Draft SMP, residential structures that were restricted to 35 feet in height would be allowed to go up to 65 feet in height. Structures that are not exempt from buffer and setback standards would be located farther landward from the water’s edge than currently allowed. Although height limits for over-water-

¹ It is not clear in the proposed Draft SMP whether the buffer and setback are both measured from the ordinary high water mark, or the buffer is measured from the ordinary high water mark and the setback is measured from the landward edge of the buffer (30 feet plus 30 feet = 60 feet).

development would no longer be established under the proposed Draft SMP, existing design guidelines and Draft SMP view protection standards should help limit visual impacts.

Existing Critical Area Standards

The City’s development standards and use regulations for environmentally critical areas are established in OMC Chapter 18.32. The proposed Draft SMP would adopt Chapter 18.32 by reference, designate the same areas as critical areas under the proposed SMP, and generally impose the same regulations. The existing SMP requires proposals for filling wetland areas to be consistent with replacement and enhancement requirements of the City’s critical area ordinance. There is no other mention of the critical areas ordinance in the existing SMP; however, the City has been implementing the critical area ordinance in conjunction with the SMP standards within shoreline jurisdiction.

Critical Area standards are described in Table 4. These standards will not be changing under the proposed Draft SMP.

Table 4. Existing Critical Area Standards

Critical Areas Standard (OMC 18.32)	Urban Waterfront
Drinking Water (Wellhead) Protection Areas	Uses that are prohibited within designated drinking water (wellhead) protection areas are not expected to be developed in Reach Budd 3A. Uses not considered exempt from the review requirements will have to submit hazardous materials management (spill) plan, landscaping and irrigation plans, well inventory report, a grant to the Department, and groundwater monitoring well.
Important Habitats and Species	Since Budd Inlet is associated with endangered/threatened species, new development will have to submit a Management Plan. Buffers, restrictions on uses and activities and minimum performance standards may be imposed based on the Management Plan.
Streams and Important Riparian Areas	Bank stabilization, shoreline access, docks, floats, roads, trail construction and utility lines are allowed in streams, important riparian areas, and their associated buffers. Other proposed uses may have to comply with the following stream buffers which range from 50-250 feet in width, depending on stream type. Buffers can be reduced, increased or averaged under certain circumstances.
Wetlands and small lakes	Wetland buffers range from 50 – 300 feet. Impacts to wetlands and buffers must provide compensatory mitigation.
Landslide Hazard Areas	A buffer equal to the greater of the following must be established: <ul style="list-style-type: none"> • Minimum distance recommended by the engineering geologist or geotechnical engineer • 1/3 the height of the slope at the top of the landslide HA • 1/2 the height of the slope at the bottom of the landslide HA • 50 feet in all directions from a seep Buffers may be reduced under certain circumstances when supported by a geotechnical report.

Development proposals are anticipated to be required to submit Management Plans to identify mitigation for potential impacts to Budd Inlet. Mitigation is determined on a case-by-case basis. Geotechnical reports will also

be required for development proposed near landslide hazard areas which are mapped in certain places along Reach Budd 3A. Landslide hazard area buffers will be determined on a case-by-case basis.

Existing and Proposed Regulations

The major regulatory changes between the existing and proposed Draft SMP are described below and are focused on likely future development.

Table 5. Existing and Proposed Regulations

Development/Use (SMP term in parenthesis)	Difference between Existing SMP (1990) and Proposed Draft SMP (2012)	Implications on Development
Concept of no net loss of shoreline ecological functions	<p>The existing SMP required over-water development to ensure no net loss of habitat function, value and acreage of fish and wildlife habitat.</p> <p>The proposed SMP requires all shoreline uses and developments, whether over-water or on land, to maintain existing ecological functions and processes.</p>	Development impacts will be required to be mitigated, minimized or avoided more extensively to ensure no net loss of existing shoreline ecological functions and processes.
Public Access	The requirement to establish public access would be expanded to include all uses under the proposed Draft SMP, except for residential development that have less than 9 units.	There will likely be an increase in public access as development and redevelopment occurs.
Vegetation Conservation	Significantly more robust protective standards for existing native vegetation would be established under the proposed Draft SMP. A new requirement to mitigate for impacts associated with new development by installing native plants would be added under the proposed Draft SMP.	The implications of having to protect existing native vegetation will not be significant for Reach Budd 3A since vegetation is limited, especially along the water's edge. However, there will likely be an increase in new native plantings as mitigation for new development impacts. New plantings will probably be placed as close to the shoreline's edge as feasible.
Multi-family Condominiums (Residential)	One new standard specific to multi-family residential development would be established under the proposed Draft SMP: docks are limited to one single joint-use dock for the entire multi-family development.	Condominiums are allowed to install only one dock.
Office and Retail (non-water-oriented commercial)	The proposed Draft SMP would require the following in addition to the current requirement to provide public access: must be part of mixed use developments that include water-oriented uses (e.g., marina, bait shop, restaurant) and provide shoreline enhancement/restoration.	It will be more challenging and costly for office and retail developments to be located along the shoreline.
Marinas (boating facilities)	New marinas would no longer be allowed to be covered and existing marinas would not be allowed to expand their covered moorage under the proposed Draft SMP. Standards intended to protect in-water habitats would be added under the proposed Draft SMP.	<p>Visual impacts associated with covered moorage will stay the same or decrease over time.</p> <p>Marina standards included in the proposed Draft SMP would likely be required by federal and state permitting agencies. Such standards make for more challenging and costly developments but result in fewer impacts on in-water habitat.</p>

Development/Use (SMP term in parenthesis)	Difference between Existing SMP (1990) and Proposed Draft SMP (2012)	Implications on Development
Waterfront trail, public access points (water-oriented recreation)	Trails must be buffered from sensitive ecological features and must be consistent with Olympia Engineering Design and Development Standards under the proposed Draft SMP. The existing SMPs establishes no trail standards.	New trail development would avoid impacts to sensitive natural features.
Roadways (transportation)	More robust standards for roadways would be established under the proposed Draft SMP so that impacts to the shoreline are limited in scale.	
Parking	A new requirement would be added under the proposed Draft SMP for using low impact development best management practices to the extent feasible.	Parking lots may be required to install swales, pervious pavement or similar features to limit their impacts on water quality.
Dredging	Dredging standards are not significantly different under the proposed Draft SMP, except that in-kind habitat creation or rehabilitation of degraded habitat is required for projects that create significant unavoidable adverse impacts.	The proposed Draft SMP standards are not anticipated to have much implication for Reach Budd 3A. Federal and state permitting agencies have extensive and robust standards for dredging proposals that will limit dredging impacts and result in costly and substantial mitigation requirements.
Fill	Fill waterward of the ordinary high water mark will no longer be allowed for any shoreline use but limited to a specific list of uses under the proposed Draft SMP. New standards for fill on shorelands will be added.	Fill waterward of the ordinary high water mark, like dredging and other in-water work, is extensively regulated by federal and state agencies. This means that fill proposals will be infrequent and associated with extensive mitigation.
Bulkheads (shoreline stabilization)	The proposed Draft SMP establishes more robust shoreline stabilization standards to ensure that new or replacement of existing armoring is allowed only when there is a demonstrated need and erosion is not caused by upland conditions.	Replacement of existing hard shoreline stabilization will undergo more extensive review and will require more study and analysis. New hard shoreline stabilization will have to demonstrate that soft stabilization approaches are not feasible.

The biggest change from the existing SMP to the proposed Draft SMP would be the establishment of vegetation conservation area standards establishing protective standards for existing native vegetation and requiring installation of native vegetation when mitigation is necessary to offset impacts. Other major changes would include:

1. Requiring all shoreline uses and developments to meet the concept of no net loss of shoreline ecological functions and processes not just developments located over-water that are impacted fish and wildlife habitat.
2. Limiting public access requirements to residential developments of more than 9 lots or dwelling units.
3. Adding two more requirements for non-water-oriented uses. In addition to providing public access, they must be part of mixed use developments that includes a water-oriented uses and provide shoreline enhancement/restoration.

4. Prohibition of new over-water covered moorage and covered moorage expansion.
5. Restricting the creation of dry land to a specific list of uses and establishing standards for shoreland fill.
6. Establishment of robust shoreline stabilization measures to ensure that there is a demonstrated need and that erosion is not caused by upland conditions.

New development including redevelopment along the shoreline would also be subject to existing state and federal regulations. State and federal permits are typically triggered when in- or over-water work or wetland fill is proposed.

Conclusion

The most significant changes between the existing SMP and proposed Draft SMP that would affect the type and design of future development located in Reach Budd 3A include:

1. A new requirement for a vegetation buffer and setback, pushing shoreline development 30 feet (or more depending on the VCA) landward of the water's edge;
2. New requirements to protect existing native trees and shrubs. New requirements to install new native plantings as part of development.
3. Allowing marinas where they were previously prohibited. No longer allowing covered marinas; and
4. Allowing dredging for a wider range of uses.