

Memorandum

To: City Council

From: Keith Stahley, Director Community Planning and Development Department

Date: December 10, 2012

Re: Shoreline Master Program (SMP) Update

The draft SMP attached to this agenda item is intended to assist City Council in its ongoing consideration of the SMP update by responding to direction provided at City Council's two prior deliberation sessions on October 16th and October 23rd. Staff hopes to hear from City Council if the revisions adequately reflect this input and direction. In addition to the revisions directed by City Council, staff has also continued to respond to input from the Department of Ecology (DOE) and to generally improve the draft in terms of readability, ease of administration and elimination of redundancy. Revisions are noted in the draft in legislative format with new text underlined and removed text ~~struck through~~. Staff has also included annotation indicating the source of the revision - City Council, Department of Ecology or Administrative.

Staff anticipates receiving final input and direction from City Council on this draft and will then prepare the public hearing draft for review by the community. Staff anticipates that the public hearing draft will be in final form and ready for transmittal to the DOE. Staff hopes to release this draft on Friday January 4, 2013 and this draft will be the subject of the public hearing that is tentatively scheduled for January 22, 2013.

Summary of Revisions:

There are numerous minor text changes and revisions included throughout the document. The summary below directs City Council's attention to some of the highlights and key changes that have a substantive impact or provide further clarity to the SMP.

Chapter One - General Provisions

Page 5. 1.2 The goals and policies of the Program are located in and consistent with the Olympia Comprehensive Plan. The goals of the Shoreline Management Act are hereby adopted by reference as Shoreline Master Program goals of the City of Olympia.

Page 8. 1.7

Chapter 2: Definitions

Page 23. Added beach recreation and swimming to the list of water dependent uses.

Chapter 3: Administration

Page 28. 3.7 Nonconforming and Conforming Buildings and Uses.

Substantial revisions to this section based on City Council direction to limit the impact of the proposed SMP on existing uses and structures to the greatest extent possible.

A. .

- A. All structures and uses including single-family homes, appurtenances and other accessory structures that were legally established prior to the effective date of the Shoreline Program (OMC Chapter 18.34) are considered conforming buildings and uses with respect to Chapter 18.34 and may be continued, remodeled and restored; provided that any change of use or enlargement of such structure must conform with the provisions of this Chapter (18.37) and Chapter 18.34.
- B. Any additions, expansions or reconstruction exceeding the provisions of RCW 90.58.030(3)(e) shall conform with the Shoreline Program and all other applicable development regulations; provided that subject to the limitations of Section 3.7.3 the Administrator is authorized to approve structural additions above or landward of existing structures upon finding that such addition is consistent with the Shoreline policies of the City and will not result in a net loss of shoreline function.
- C. Retention of the conforming use status described above is subject to the discontinuation of nonconforming use provisions of OMC 18.37.060(E). Further, in the event that any such conforming structure is destroyed, a building permit for restoration shall be secured within twelve (12) months from the date of destruction for the restoration of such structure.
- D. Existing roads, trails, utility lines and similar linear facilities, together with any associated facilities such as pump stations or stormwater treatment ponds, which do not conform with the provisions of this Program may expand within existing easements and rights-of-ways. Modification or expansion outside of existing easements or rights-of-way which would otherwise be prohibited may be authorized by the decision-maker upon finding there is no feasible alternative, the development is necessary for the public welfare, and as proposed and designed including appropriate mitigation the development is not likely to result in a net loss of shoreline ecological functions.

3.7.3 Alteration of Shoreline Structures

- A. Upland Structures - The following regulations apply to all structures located landward of the Ordinary High Water Mark:
 - 1. Alteration of structures located landward of the ordinary high water mark within a required shoreline setback is limited to:
 - a) For structures located partially within the shoreline setback, alterations shall be limited to the area outside the shoreline setback (see Figure 3.1);
 - b) For structures located entirely within the shoreline setbacks, alterations shall be allowed only above or on the upland side of the structure or both (see Figure 3.1); and

- c) The addition of upper stories is permitted subject to the building height regulations in Section 6.2. Such additions shall not extend beyond the existing or approved building footprint.
- d) Alterations shall comply with applicable development regulations in the Olympia Municipal Code.

Figure to be inserted

- 1. Overwater Structures - Alteration of structures located waterward of the Ordinary High Water Mark is prohibited except:
 - a. Alterations that do not increase or expand the building footprint are permitted; and
 - b. The addition of upper stories within the existing building footprint is permitted for water-oriented uses only.
 - c. Existing covered moorage may be maintained, repaired or replaced pursuant to WAC 173-27-040. Except for modifications required by the Washington Department of Natural Resource for light penetration, alterations to the footprint or building envelope are prohibited.

Chapter 4. Shoreline Jurisdiction and Designations

Page 34. 4.1 Shoreline Jurisdiction

Olympia’s shorelands include floodways and contiguous floodplain areas landward from such floodways, and all wetlands and river deltas associated with the following bodies of water; but no other ‘optional’ shorelands as described in RCW 90.58.030. Within its municipal boundaries, the City of Olympia shall have authority over the shorelands of Budd Inlet, Bigelow Lake, Capitol Lake, Chambers Lake, Grass Lake, Ken Lake, Ward Lake, Black Lake Ditch and Percival Creek, including those water of Budd Inlet seaward of extreme low tide which are shorelines of statewide significance.

Page 38. 4.3.4 Waterfront Recreation Environment

New shoreline environmental designation as envisioned by City Council.

A. Purpose - The purpose of the *Waterfront Recreation* environment is to provide recreational and public access opportunities and to maintain and restore shoreline ecological functions and preserve open space within the City. This designation is generally intended for appropriate public parks.

A. Designation Criteria - The *Waterfront Recreation* environment designation should be assigned to shoreline areas that are or are planned to be used for recreation.

B. Management Policies

- 1. Development standards should take into account existing improvements and character of park areas, allow for development of low-intensity recreational uses, and restoration of shorelines.

2. Trails, interpretive sites, viewing platforms and passive recreation areas should be allowed within setbacks and vegetation buffers when significant ecological impacts can be mitigated.
3. Preferred uses include trails, open lawn areas, play equipment, shelters, picnic areas, launch ramps, viewing platforms and accessory uses. Special events may take place.
4. Shoreline restoration should be a priority. All development should ensure no net loss of shoreline ecological functions.

Page 38. 4.3.5 Marine Recreation Environment

New shoreline environmental designation as envisioned by City Council.

Purpose - The purpose of the *Marine Recreation* environment is to establish provisions for boating facilities and water-oriented recreational and commercial uses and to restore shoreline ecological functions and preserve open space.

A. Designation Criteria - The *Marine Recreation* environment designation should be assigned to areas on the Port Peninsula that are used or planned to be used for boating facilities, water-oriented recreation and commercial uses.

B. Management Policies

1. Preferred uses include:
 - a) Boating facilities including marinas, launch ramps, boat moorage, maintenance and repair, and upland boat storage; together with offices and other associated facilities;
 - b) Water-oriented recreation such as trails and viewing areas; and
 - c) Water-oriented commercial uses.
2. Operation and management of the *Marine Recreation* environment should be directed towards maintaining and enhancing water-oriented services, while ensuring that existing and future activity does not degrade ecological functions
3. All development should ensure no net loss of shoreline ecological functions.

Chapter 5. General Policies and Regulations

Page 51. 5.8

Section 5.8 was removed because it is redundant with section 7.6 Restoration and Enhancement.

Page 53. 5.9.3 Regulations General

A. If native vegetation within the vegetation conservation area did not exist, or has been destroyed or significantly degraded, 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 Section 5.7.3.B. Further, an applicant

may propose such restoration consistent with the building height bonuses of Section _____.

Page 54. 5.9.4 Regulations - Permitted Uses and Activities within Vegetation Conservation (Public View Corridors)

1. Removal and thinning of trees and vegetation on public property to maintain public view corridors identified in Section 5.10;

Page 55. 5.9.6 Vegetation Conservation Areas Standards

- A. The minimum width of vegetation conservation areas is set forth in Table 6.2 and measured perpendicular to the ordinary high water mark along the entire shoreline of the property. To account for site conditions and to create a more natural vegetation conservation area, the minimum widths may be reduced by 25% by the Administrator upon finding that the total VCA of the parcel is equivalent to the minimum area and such reduction will not result in adverse impacts to the shoreline functions. Vegetation conservation areas exceeding minimums may be proposed or required if necessary to ensure no net loss of shoreline ecological functions will result from proposed shoreline development.

Page 59. 5.10.3 Regulations (Public Views)

- A. Where on-going maintenance of vegetation to protect public views is necessary, a vegetation management plan shall be approved by the Administrator prior to any work. At a minimum, the vegetation management plan shall identify the viewshed to be preserved, the areas where vegetation will be maintained (including tree removal), and percent of vegetation to be retained. If trees are removed, they shall be replaced per OMC 16.54.

Chapter 6 Shoreline Use Policies and Regulations

Page 63. 6.3 Allowed Uses and Development Standards including setbacks, heights, densities and vegetation conservation areas.

- A. Table 6.1 identifies allowed uses and activities by shoreline environment designation. Table 6.2 establishes development standards by shoreline environment designation including shoreline setbacks, building heights, residential densities, and vegetation conservation areas. These tables shall be used in conjunction with the written provisions for each use. Footnotes provide additional clarification or conditions applicable to the associated uses or development regulation.
- C. Upon finding that such structures will not result in a net loss of shoreline functions and is otherwise consistent with this Program, the Administrator may authorize small buildings and other structures exceeding a height of thirty inches within the “building setback” area. Any such structures shall not exceed a total 800 square feet within each development, shall not be located closer than 20 feet to the ordinary high water mark, and shall not exceed a height of 20 feet. To ensure protection of shoreline functions, the Administrator may require appropriate measures including enhancement of any associated vegetation conservation area.

- D. 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.

Table 6.2 has been substantially revised and reformatted based on City Council’s direction.

Table 6.2					
Shoreline Environment	Shoreline Reaches	Minimum Shoreline OHWM Building Setback*	Minimum Width Vegetation Conservation Area	Maximum Standard Building Height	Maximum Building Height with ‘VCA’ Bonus**
Aquatic	All	N/A	N/A	20 feet	N/A
Natural	Budd 8 (Priest Point) & Bigelow Lake	200 feet	200 feet	20 feet	N/A
Waterfront Recreation	Budd 3B	150 feet	100 feet	42 feet	65 feet
	Capitol Lake 6	30 feet	30 feet	35 feet	N/A
Urban Conservancy	Capitol Lake Reaches 1, 3A, 4, 5, 7, Budd 2, Grass & Chambers Lakes, Black Lake Ditch, Percival Creek,	100 feet	50 feet	35 feet	N/A
Shoreline Residential	Ward Lake	75 feet	20 feet	35 feet	N/A
	Ken Lake & Budd 6B & 7	30 feet	20 feet	35 feet	N/A
Marine Recreation	Budd 5C	50 feet; 30 feet with VCA**	30 feet	40 feet; 25 feet within 75 feet of OHWM	N/A
Urban Intensity	Budd 3A & Capitol Lake 3B [steam plant]	30 feet	30 feet	42 feet	65 feet
	Budd 4, 5A & 6A	30 feet	None on West Bay; 20 feet on East Bay	35 feet waterward of streets; 90 feet remainder	N/A
Port Marine Industrial	Budd 5B	None	None	65 feet	N/A

* See Section 6.3(C) regarding reduced setbacks for small structures.

** See Section 6.3(D) regarding vegetation conservation area incentives.

Page 80. 6.10.2 Regulations

A.

Page 80. 6.11 Transportation

A. New roads or road expansions should not be built within the shoreline jurisdiction. Where this is not possible, such improvements should be located and designed to have the least possible adverse effect on the shoreline, will not result in a net loss of shoreline ecological functions, or adversely impact existing or planned water-oriented uses, public access, and habitat restoration/enhancement projects.

1. The following provisions apply to road expansions: The improvements are located as far landward as possible;

Page 82. 6.11.2 Trails

Trails and shared use paths are considered transportation facilities and are allowed within the shoreline setback, vegetation buffer, and over-water. As such, they are subject to the provisions herein, except that they may be located closer to the shoreline for recreation opportunities and public access. New trails and shared use paths should use abandoned rail corridors to minimize disturbance of the shoreline.

Page 84. 6.12.2 Regulations

Stormwater facilities are prohibited where alternatives are feasible. Any stormwater facility located within a minimum width vegetation conservation area shall be landscaped consistent with 'VCA' requirements.

Chapter 7. Shoreline Modifications

Page 87. **Table 7.1 - Shoreline Modifications**

The only substantive change to this table is the elimination of conditional use review for single family docks.

Page 93. Covered Moorage

A. New overwater covered moorage is prohibited

Other Highlights and Notes

Appendix A Restoration Plan is unchanged. Ecology requested changes, but Critical Areas Ordinance has not been revised. Revision of the CAO is a 2013 work plan item.

Adopting Shoreline Management Act goals by reference.

Shoreline jurisdiction - remains minimum required.

Not pre-designating UGA; intend to wait for County SMP update then adopt - could lead to some revisions at edges, such as Bigelow Lake.

The proposed SMA treats “ Existing as Conforming” clause to go into Title 18 and will allow all lawfully constructed buildings and structures to be grandfathered.

West Bay Park: Propose more flexible rules in Waterfront Recreation. Council proposed 150-foot VCA at West Bay - draft has 100-foot VCA which can be ‘averaged’ with 25% reduction and 25% non VCA use; i.e., in places ½ of what council proposed.

Repeal of the Urban Waterfront Plan (Overwater Plan) eliminates Views Map.

Dock size rules are based on State draft regulations and probably will be changed by Ecology.

Cap Lake 3B (steam plant) - proposed 30-foot setback instead of 50-feet to allow the plant to retain conforming status.

Heights - generally uses the lower of zoning, with ‘regain’ incentive via 30 feet of VCA restoration.

Continuing Work:

- Additional edits suggested by Ecology.
- Continue to reduce redundancy and include clear writing.
- Further non-substantive editing and formatting including revisions to definitions.
- Converting this draft SMP to a hearing format - for example, clearly identifying that parts will be in the new SMP chapter, and that parts go into the Comp Plan.

Possible Future Council Workshops, Deliberations and Public Hearings:

- January 4, 2013 (Friday) ---Final Draft SMP: Based on all information to-date, staff issues Proposed Final Draft SMP* for Council’s consideration.
- January 8, 2013 (Tuesday) Review visualization tool (Mithun) and shoreline restoration/mitigation examples.
- January 22, 2013 - Council Public Hearing: Council conducts public hearing and provides further direction to staff.
- February 19, 2013 - Council adopts Final Draft of the SMP.

Following adoption by City Council, staff will prepare transmittal documents and submit transmittal package to Ecology by March 22, 2013. DOE review will take between 6 months and 12 months.