

Shoreline Master Program (SMP)
August 27, 2013
City Council Deliberations
Consideration of Revision to July 9, 2013 Draft

Council received public comment from 45 people at the July 9, 2013 public hearing. Many of these comments pertained to maintaining or increasing flexibility around setbacks and the treatment of nonconforming uses and structures. In addition, concerns were expressed about zero foot setbacks and the impact of sea level rise from multiple speakers. Council left the public record open on the July 9, 2013 draft of the Shoreline Master Program until July 23, 2013 and comments were received from 102 people. Staff has provided a summary of these comments at: [Comments Summary Table](#). The majority of these comments requested that City Council not allow zero foot setbacks and suggested a variety of alternatives. Concerns were also expressed about the impact of the proposed regulations on existing uses and structures (nonconformities), the impact of sea level rise and protection of the environment among other issues. Nearly all public comments and testimony related to the marine shoreline and to Reaches 3A (West Bay from Reliable North to Tug Boat Annie's), 4 (Isthmus), 5A (Percival Landing from the Kissing Couple north to the Port Plaza) and 5C (Northpoint, Swantown Marina to the Boatworks) in particular. Reaches 3B (West Bay south of Reliable Steel), 5B (Marine Terminal) and 6A (East Bay south of Boatworks) received some mention. All public comment may be reviewed at [Public Comments](#).

The City Council has considered the SMP 28 times from the beginning of April 2012 until August 27th. Prior to that the Planning Commission engaged in over 100 work sessions, deliberations, public meetings and public hearings. The update process was initiated in 2007 with city staff working in collaboration with TRPC and a group of technical experts to develop the initial proposal that was presented to the Planning Commission in 2010. In addition to these efforts staff responded to over 170 questions submitted in advance of two staff led workshops held on June 19th and June 20th of this year.

There were a number of parties who provided written recommendations regarding specific changes to the July 9th draft that they thought would make the draft more readable or would address a specific issue or concern (see list below). These parties submitted specific proposed text amendments for Council's consideration. Staff has attempted to address their proposals in the attached summary of revisions where they did not substantially deviate from Council's prior direction or require a wholesale revision of the draft. Staff believes that these revisions will help to facilitate Council's decision making process.

Please refer to correspondence from the following commenters at the links provided above for the full text of their comments:

Lea Mitchell, Sara Smyth representing Smyth Landing, Hardel Mutual Plywood Corporation, West Bay Marina and Dunlap Towing, Port of Olympia, Walt Jorgensen, Bonnie Jacobs representing Friends of the Waterfront (FOW), and Deanna Gonzalez of Phillips, Wesch, Burgess (PWB) representing Olympia Yacht Club, West Bay Marina Associates, Stormans, Inc., LABAS 612 (Image Source) and the Thurston County Chamber.

In addition, Chrissy Bailey with the Washington Department of Ecology (DOE) provided comments. Each of her comments has been addressed in the attached summary.

The attached summary of revisions will lay out these requests and recommendations as they relate to specific proposed text amendments and will provide Council with options to refine the SMP and provide direction to staff in preparation of a final draft. Where appropriate staff has provided “staff clarification” to help to focus Council’s deliberations. This is not an FSEIS comment and response document and therefore not every comment has been addressed. It is an attempt to use the specific recommendations that were received to help City Council finalize the SMP. There will be many comments that are not specifically addressed and Council is encouraged to review the record in full to take all perspectives into consideration.

Many of these revisions are straight forward and are in direct response to DOE’s comments. Significant policy questions are highlighted below and will need Council’s direction before a final draft can be prepared. These issues include:

Page	SMP Section	Issue	Clarification
Page 6	2.4 D.	Add Sea Level Rise Policy	Suggested policy to address SLR
Page 7	2.11 B.	Urban Intensity Management Policies	Clarify the Purpose and Intent of the Urban Intensity Shoreline Designation
Page 9	2.24 B.	Commercial Use Policies non-water oriented setbacks	Clarify policy intent regarding commercial setbacks for non-water oriented uses
Page 15	18.34.410 I.3.	Type and Location of Mitigation	Clarify that offsite mitigation should be allowed in UI, PMI, MR designations
Page 16	18.34.410 K.	Mitigation effect on OHWM	Clarify that mitigation efforts that alter the OHWM do not create nonconforming buildings.
Page 17	18.34.492	General Vegetation Conservation Regulations proposed amendments	Amendments proposed to clarify the use of VCAs
Page 17	18.34.492	General Vegetation Conservation Regulations	Are VCAs necessary in Reaches 3A, 4, 5A, 5B and 5C
Page 18	18.34.492	General Vegetation Conservation Regulations	DOE’s concern about linking height bonus with mitigation incentives.
Page 21	18.34.620	Use and Development Standards Tables.	DOE expressed concerns about the use of offsite mitigation in relationship to the use of setback reduction incentives. Four options are provided for Council Consideration.
Page 21-24	18.34.620 D. and E.	West Bay Drive Amendments	Proposed amendments to Use and Development Standards Tables to address concerns about the impact of SMP on West Bay Drive properties.
Page 25-29	Table 6.1	Uses and Activities	Numerous changes were proposed to Table 6.1 Uses and Activities by the Port and FOW.
Page 30-31	Table 6.2	Development Standards	Amendments proposed to address

		(Heights)	concerns about SMP on West Bay Drive property related to building height.
Page 31 - 38	Table 6.3	Setbacks and Incentives	Numerous revisions proposed.
Page 39	18.34.654	Marinas	Differing setback proposals for marinas.
Page 40	18.34.680	Recreation.	Trail setbacks 10 feet in UI and 25 feet in other SEDs.
Page 45	18.34.900	Existing Buildings and Structures	Several amendments proposed to provide clarification regarding the SMP's impact on nonconforming uses and structures.
Page 47	18.34.920	Existing Shoreline Uses.	Several amendments proposed to provide clarification regarding the SMP's impact on nonconforming uses and structures.
Page 50	Map	Shoreline Environmental Designation	Establish a parallel designation along West Bay Drive in Reach 3B with Waterfront Recreation applying to that area east of West Bay Drive and not developed and that lands west of West Bay Drive and those developed for residential purpose east of West Bay Drive be designated as Urban Intensity.

There were many other suggestions and concerns that would benefit the SMP and make it more readable such as an introduction that provides an overview of the City's role in implementing the SMP, describes how to use the document and provides a strong purpose and intent statement. Staff may be able to address these improvements following input and direction from City Council on the issues contained here.

Finally at the end of the document you will find attached additional staff suggested amendments to the Shoreline Master Program. These amendments are the result of continuing conversations. As suggested at above the SMP could benefit from an introduction that describes the purpose and intent of the document and provides greater clarity around how the document works. That introduction has been provided - see **1.1. Introduction** below.

This additional language also clarifies the other regulations that come together to form the complete regulatory scheme for the shoreline - see **1.2 Other Regulations** below. In addition there were requests to provide more clarity around the intent to collaborate with property owners, business owners and the community in the implementation of the plan. There were also requests to strengthen the policy intent for use of low impact development stormwater techniques, to provide for the repair and replacement of Percival Landing and to encourage shoreline softening, trails and other shoreline amenities - see 2.4 D. - K. in the **Shoreline Use and Development Policies**.

Section 2.9 Marine Recreation Management Policies G. and H. was also added that addresses the City's interest in seeing a stabilization and restoration plan be developed for the western and southern shores of East Bay in partnership with the Port of Olympia. Following development of this plan the City would commit to initiating a formal amendment to the SMP.

And finally, staff proposes two amendments to 3.49 18.34.660 Commercial Use and Development - General to ensure consistency with other amended language of the SMP.

1. Limiting new paving and reducing existing paving.
2. Incorporating low impact design stormwater design standards and approaches.
3. Restoring natural hydrology.
4. Encouraging innovative science based approaches to stormwater management and treatment that exceed the minimum requirements of the City's Stormwater Manual.

The following revisions relate to specific sections of the SMP as noted:

Note to reader: Several parties note that there is no page 88 in the document.

- **Option:** Staff recommends that this sentence of the first paragraph referencing the set of SMP related code amendments be deleted.

Table of Contents: DOE recommends that the City include the full Critical Areas Ordinance (CAO) as Appendix B or otherwise clarify the relationship to the CAO and the SMP.

Option: Amend the document to clarify which CAO is being adopted. Specifically, add with a specific date of adoption as requested by DOE.

- Section 1.4, "Therefore, Olympia Municipal Code Chapter 18.32 as described above and as codified on October 1, 2013, is hereby readopted in its entirety as an element of Olympia's Shoreline Master Program."

Section 1 General Provisions

1.1 A. B. and C. Mr. Jorgensen recommends that Council make this section stronger.

1.1. Purpose and Intent

The purpose of Olympia's Shoreline Master Program is:

- A. To guide the future development of shorelines in the City of Olympia in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (Act) as amended (RCW 90.58);
- B. To promote the public health, safety, and general welfare of the community by providing long-range, comprehensive policies and effective, reasonable regulations for development and use of Olympia's shorelines; and

C. To ensure, at a minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the policy contained in RCW 90.58.020, Legislative Findings for shorelines of the state.

- Option: See proposed revisions to introduction at the end of this document.

1.2 FOW note that there is no page 88 in the document.

- Option: remove reference to page 88.

1.3 DOE recommends that the adoption date of the ordinance be included in the reference to city's Critical Areas Regulations.

- Option: Amend the document to clarify which CAO is being adopted.

1.4 Critical Areas Regulations Adopted by Reference

The Critical Areas regulations adopted on October 1, 2013 contained in the Olympia Municipal Code (OMC) Chapter 18.32 ~~on January 1, 2013~~, are integral and applicable to this Shoreline Program, and are hereby adopted by reference; provided that the reasonable use provisions set forth in OMC 18.66.040 shall not be available within the shoreline jurisdiction. Instead, applicants may apply for a shoreline variance when seeking relief from critical areas regulations within shorelines.

Section 2 Goals and Policies

2.1 A 5 and 6 (page 3) Ms. Mitchell recommends that 5 and 6 be combined and read "Increase public access to the shoreline."

A. The interest of all of the people shall be paramount in the management of those areas of Puget Sound lying seaward from the line of extreme low tide. Within this area the City will give preference to uses in the following order of preference which:

1. Recognize and protect the state-wide interest over local interest;
2. Preserve the natural character of the shoreline;
3. Result in long-term over short-term benefit;
4. Protect the resources and ecology of the shoreline;
5. Increase public access to publicly owned areas of the shorelines;
6. Increase recreational opportunities for the public in the shoreline;
7. Provide for any other element as defined in RCW 90.58.100 as deemed appropriate or necessary.

- Option: Combine 5 and 6 to read:

5. Increase public access to the shoreline.

- Staff Clarification: The language included in the proposed SMP comes directly out of the WAC 17 26 251 and may more appropriately reflect the intent of the SMA.

2.3 H. Mr. Jorgensen recommends that offsite mitigation not be allowed.

- **Option:** strike this section.
 - ~~Allow offsite mitigation when doing so would serve to better accomplish the goals and objectives of the Shoreline Management Act to protect and preserve ecological functions, or provide public access, or promote preferred shoreline uses, provide for appropriate development incentives and/or alternative mitigation options.~~
 - Staff Clarification: Offsite mitigation can be a more effective means of achieving mitigation and restoration goals than onsite mitigation. As noted later in this document, the mitigation sequencing process encourages onsite mitigation and will always be considered first before offsite mitigation is approved.

2.3 I. (page 5) DOE recommends that the word “restoration” in this section be replaced with “mitigation.”

- **Option:** Amend this text.
 - I. The City should encourage innovative ~~restoration~~ mitigation strategies to provide for comprehensive and coordinated approaches to mitigating cumulative impacts and restoration rather than piecemeal mitigation.

2.4 Shoreline Use and Development Policies

2.4 D. New section. Numerous commenters expressed concerns about the City’s approach to sea level rise (SLR) and the need to include regulations that address sea level rise.

- Staff Clarification: The proposed SMP does not directly address sea level rise and is not required to address sea level rise by the Shoreline Management Act or the Washington Administrative Code.

Sea level rise is an issue that will have impacts well beyond the shoreline and will need to be addressed in a planned and systematic manner and not on a parcel-by-parcel basis. The City has initiated planning around sea level rise and is working to understand the impacts of and potential solutions to rising seas. 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, for example, 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 also 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 and revisions to the storm water infrastructure. Our plans and regulations are updated on a regular basis (SMP every 8 years - next update due 2019) and should respond to new information and changing circumstances as they emerge.

As the City redevelops Percival Landing and other public improvements, it should be designed to provide a reasonable amount of sea level rise consistent with the best available science and the life cycle of the improvements.

One approach to addressing the concern about SLR is to include a policy pertaining to the issue in Section 2.

- **Option:** Include a policy addressing SLR. Such as:

2.4 D. The City should continue to develop information about the impacts of sea level rise on the shoreline and the surrounding properties; the City should develop plans to address the impacts of sea level rise in collaboration with impacted property owners, the community and the Department of Ecology. These plans should include at minimum flood prevention approaches, shoreline environment impact considerations and financing approaches. The City should amend the Shoreline Master Program in the future as necessary to implement these plans.

2.4 E. The City should consider the impacts of sea level rise as it plans for the rebuild of Percival Landing and other shoreline improvements and it should be designed to provide a reasonable amount of sea level rise consistent with the best available science and the life cycle of the improvements.

Section 2.8 Waterfront Recreation Management Policies

2.8 A. DOE asks what about non-recreation and non-open space lands?

- Staff recommends that the proposed policy be clarified as follows:

The *Waterfront Recreation* environment designation should be assigned to shoreline areas that are or are planned to be used for recreation, or where the most appropriate use is for recreation, or associated open space or habitat conservation and the City seeks preservation of open space or gradual conversion of such lands to recreation and open space.

2.11 Urban Intensity Management Policies

2.11 B. FOW asks that water oriented uses be replaced with water dependent and water enjoyment.

- **Option:** Amend this text.
B. Olympia's shoreline is characterized by a wide variety of "urban" uses and activities, including commercial, industrial, marine, residential, and recreational uses. Together, these uses and activities create a vibrant shoreline that is a key component of Olympia's character and quality of life. These types of uses should be allowed within the *Urban Intensity* environment, with preference given to ~~water-oriented uses~~ Water Dependent and Water Enjoyment uses.

Staff Clarification --The majority of debate and discussion around the SMP has involved properties that are designated Urban Intensity - Reaches 3A, 4 and 5A. Providing greater

clarity about the purpose and intent of this shoreline environmental designation (SED) may be helpful as Council considers its shoreline regulations for this SED in Section 3.

- **Option:** Amend text.

B. Olympia's shoreline is characterized by a wide variety of "urban" uses and activities, including commercial, industrial, marine, residential, and recreational uses. Together, these uses and activities create a vibrant shoreline that is a key component of Olympia's character and quality of life. These types of uses should be allowed within the *Urban Intensity* environment, with preference given to ~~water-oriented uses~~ Water Dependent and Water Enjoyment uses. Shorelines in this SED are highly altered and restoration opportunities are limited. The City's own Percival Landing is a good example of how the immediate shoreline in the Urban Intensity SED should be redeveloped with a focus on public access and enjoyment, sea level rise protection and restoration of shoreline environmental function where feasible.

2.15 Public Access

2.15 B FOW asks that this paragraph be amended.

- **Option:** Amend text.
 - B. Incorporate public access into all new development or redevelopment ~~if it creates or increases a demand for public access~~. Public access should also be required if the proposed use or development impairs existing legal access or rights.
- Staff Clarification: Public access is not always feasible or legally justified.

2.15 G FOW asks that this paragraph be amended.

- **Option:** Amend text.
 - G. Public access should be designed to provide for public safety and comfort, and to ~~minimize~~ limit potential impacts to private property.

2.19 View Protection Policies

2.19 A and B FOW asks that these paragraphs be amended.

- **Option:** Amend text.
 - A. Preserve views and vistas to and from the water, by public and private entities, to ensure that the public may continue to enjoy the physical and aesthetic qualities of the shoreline, including views of the water and views of shoreline areas from the water and the iconic views of the State Capitol and Olympic Mountains.
 - B. Development should be designed to preserve and enhance the visual quality of the shoreline, including views over and through the development from the upland side

of the subject property, and views ~~of the development~~ over and through the development from the water.

2.24 Commercial Policies

2.24 B. The DOE notes that this policy appears to be in conflict with the regulations that allow non-water-oriented uses to be within 100 feet of the shoreline if they receive a conditional use permit and that they may get as close as 30 feet through the provision of various setback reduction incentives.

- **Option:** Amend text.

B. The preferred location for non-water-oriented commercial uses is in commercial areas ~~as far from the shoreline as feasible~~ no closer than 30 feet from the shoreline.

2.25 Industrial Policies

2.25 B The DOE notes that this policy appears to be in conflict with the regulations that allow non-water-dependent industrial uses to be within 75 feet of the shoreline and that they may get as close as 50 feet in Reach 5C through the provision of various setback reduction incentives and 0 feet in Reach 5B as a matter of right.

- **Option:** Amend text.

B. The preferred location for non-water-dependent industrial uses is in industrial areas ~~as far from the shoreline as feasible~~ no closer than 50 feet from the shoreline except in the Port Marine Industrial SED where no setback shall be required.

2.26 Recreation Policies

2.26 I. DOE notes that this policy does not have a corresponding implementing regulation.

I. Commercial recreation facilities should be consistent with the provisions for commercial development (see commercial policies above).

- **Option:** amend code to add implementing regulations, such as:

18.34.680 E. All commercial recreation facilities shall conform to this section and OMC sections 18.34.660, 18.34.663 and 18.34.667.

2.27 Residential Policies

2.27 C. DOE recommends that the policy be amended to be clear that residential development be designed so that flood hazard reduction measures will not be needed.

- **Option:** amend text.
- C. Residential development, including the division of land and the construction of residential units, should be designed and located so that shoreline armoring and flood hazard measures will not be necessary to protect land or structures.

2.30 Shoreline Modification Policies

2.30 C. DOE recommends that policy be amended to recognize the mitigation sequence within the SMP.

- **Option:** Amend text.
- E. Plan for the enhancement of impaired ecological functions while accommodating permitted uses. Incorporate all feasible measures to protect ecological functions and ecosystem-wide processes in the placement and design of shoreline modifications. To avoid and reduce ecological impacts, use mitigation sequencing set forth in WAC 173-26-201(2)(e) and Section 3.21 of the SMP.

2.32 Fill Policies

2.32 A and C DOE notes a conflict between these two paragraphs.

- **Option:** Amend text as follows:
 - A. Fill should be located, designed, and constructed to protect shoreline ecological functions and system-wide processes. The quantity and extent of fill should be the minimum necessary to accommodate a permitted shoreline use or development.
 - C. Fill should be allowed to accommodate berms or other structures to prevent flooding caused by sea level rise. Any such fill should include mitigation assuring no net loss of ecological functions and system-wide processes.

2.34 Restoration and Enhancement Policies

2.34 I. DOE encourages that any incentives offered in section 3.41 for setback reductions be aligned with the restoration plan and priorities and projects contain therein.

- **Option:** Amend text.
- See proposed amendments associated with section 3.41.

2.35 Shoreline Stabilization Policies

2.35 D and E. The DOE recommends that these policies be amended to include reference to primary structures as required by the WAC and that E be amended to reference public as well as private property.

- D. The reconstruction or expansion of existing hard armoring should only be permitted where necessary to protect an existing primary structure that is in danger of loss or substantial damage, and where mitigation of impacts is sufficient to assure no net loss of shoreline ecological functions and processes.
- E. Encourage the removal of bulkheads and other hard armoring and restore the shoreline to a more natural condition. Where stabilization is necessary for the protection of private or public property, alternative measures that are less harmful to shoreline ecological functions should be employed.

SECTION 3 REGULATIONS

3.3 18.34.120 - Interpretations and Definitions

18.34.120 B & C. DOE recommends that the following definitions be added accessory, aquaculture, floating home, in-stream structure, primary structure and should.

FOW recommended that definitions be added for physical access, public access, and direct access. They note that mixed use is not defined.

- **Option:** Amend proposed OMC 18.34.120(B) to include the terms “Should” and “In-stream structure,” and to add one or more of the following new definitions to OMC 18.34.120(C):

Access, direct: Physical access that is convenient, of relatively short distance, and does not require extraordinary physical dexterity.

Access, physical: The right and facilities needed to enter upon shoreline areas, such as that access provided by a trail, float, dock, promenade, bridge or boat ramp.

Access, public: The opportunity for the general public to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.

Accessory: Customarily incidental and subordinate.

Floating home: A building on a float used in whole or in part for human habitation as a single-family dwelling, which is not designed for self-propulsion by wind or mechanical means.

Mixed use: The use of a parcel or structure with two or more different land uses, such as a combination of residential, office, manufacturing, retail, public, or entertainment in a single or physically integrated group of structures.

Primary structure: The structure on a lot or parcel occupied by the principal use.

And delete:

~~Vessel: A floating structure that is designed primarily for navigation, is normally capable of self-propulsion and use as a means of transportation, and meets all~~

~~applicable laws and regulations pertaining to navigation and safety equipment on vessels, including, but not limited to, registration as a vessel by an appropriate government agency.~~

- Staff clarification: Chapter 18.02 of the Municipal Code provides definitions and interpretation guidance that would encompass proposed new chapter 18.34 shoreline regulations. Chapter 18.02 is not a part of the SMP subject to Ecology approval. The definitions of 18.34.120(C) would be specific to Olympia's SMP regulations and not apply to other parts of the development code. Proposed section 18.34.120(B) of the SMP would also adopt many of the State's definitions for purposes of chapter 18.34. Per Ecology's comment, for clarity subsection (B) should also reference WAC 173-26-020 and WAC 173-26-241.

3.3 18.34.120 - Interpretations and Definitions

18.34.120 B. FOW recommends that the definition of water-enjoyment be amended to delete reference to public golf courses.

- **Option:** Amend text.

Water-enjoyment use: Defined by WAC 173-26-020; such as but not limited to aquariums with direct water intake, restaurants, ~~public golf courses~~, museums, shared use paths and trails, boardwalks (overwater structures generally parallel to the shoreline for public pedestrian access) and viewing towers.

18.34.120 C. Mr. Jorgensen recommends that a definition of water-oriented be added to the City code. (Note: proposed 18.34.120(B) adopts State's definition.)

- **Option:** Amend text to insert copy of definition from State shoreline rule:
Water-oriented use: a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.

3.8 18.34.240 - Shoreline Variances

18.34.240 G. DOE recommends that this paragraph be amended to strike conditional use permits and replace with variance.

- G. In the granting of any shoreline variance, consideration shall be given to the cumulative impact of additional requests for like actions in the area. In other words, if shoreline ~~conditional use permits~~ variances were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

3.10 18.34.260 Submittal Requirements

18.34.260 Ms. Mitchell requests that specific applications be developed for shoreline processes so that it is clear what is required.

All development proposals under the jurisdiction of this Chapter shall satisfy the application submittal requirements set forth in OMC Titles 16, 17 and 18.

- **Option:** Amend SMP to include specific applications as an appendix.

3.12 18.34.280 Shoreline Substantial Development, Conditional Use and Variance Permits

18.34.280 C FOW recommends that “by an interested party” be struck from this paragraph and be replaced by anyone.

- **Option:** Amend text.
 - C. Applications for those shoreline development permits that are exempt from the State Environmental Policy Act and entirely upland of the ordinary high water mark may be decided by the Site Plan Review Committee if a public hearing is not requested by ~~an interested party~~ anyone. The Hearing Examiner shall hold a public hearing and render a decision regarding other applications identified in subsection A of this section.
- **Staff Clarification:** This language was used because it is consistent with other aspects of the City’s development regulations. If we do change this provision we should change other comparable references.

18.34.280 D. staff recommends amending paragraph to provide public notice at least 15 days before the hearing.

- D. Pursuant to WAC [173-27-110](#), notice of the application and hearing shall be published in the manner prescribed therein, and mailed to the latest recorded real property owners as shown by the records of the county assessor within at least three hundred feet of the boundary of the subject property, at least fifteen (15) days before the hearing. In addition, the planning department, in its discretion, may give notice in any other manner deemed appropriate.

3.13 18.34.285 Amendments

18.34.285 A. The DOE recommends that the reference to Chapter 173 - 19 of the WAC be changed to 173 26 100 of the WAC and that all amendments to this SMP must be approved by the DOE.

- **Option:** Amend text.
 - A. Amendments to the Shoreline Master Program, including changes in mapped environmental designations, shall be processed pursuant to Chapter ~~173-19~~ 173 26 100 WAC as now or hereafter amended, and as provided below. All such amendments are required to be approved by the DOE.

18.34.285 C. The DOE recommends that the reference to board at the end of the paragraph be struck and changed to Council.

- C. The City Council shall hold the public hearing prescribed by WAC 173-19-062(1). At any time, the council may refer a proposed amendment to the planning commission for a recommendation. If the planning commission elects to hold a public hearing, a notice of the hearing shall be given in the same manner as the hearing held by the ~~board~~ Council.

3.21 18.34.410 No Net Loss and Mitigation

18.34.410 E. Ms. Mitchell requests that a clause be added to the paragraph that reads or demonstrates that avoidance is not feasible.

- **Option:** Amend text.

- E. The City may require applicants to prepare special reports as necessary to address the impacts of proposed development on shoreline ecological functions or to demonstrate that avoidance is not feasible.

18.34.410 I. DOE recommends that this section be amended to clarify who has decision making responsibility and that references to critical areas be replaced with references to the shoreline environment.

- **Option:** Amend text.

I. Type and Location of Mitigation:

1. The Administrator shall give preference ~~shall be given~~ to mitigation projects that are located within the City of Olympia. Prior to mitigating for impacts outside City of Olympia jurisdiction, applicants must demonstrate to the Administrator that the preferences herein cannot be met within City boundaries
2. Natural, Shoreline Residential, Urban Conservancy, Waterfront Recreation, and Aquatic Environments: Compensatory mitigation for ecological functions shall first be either in-kind and on-site, or second in-kind and within the same reach, sub-basin, or drift cell, except when all of the following apply:
 - a. It is demonstrated to the satisfaction of the Administrator that there are no reasonable onsite or in sub-basin opportunities (e.g., onsite options would require elimination of high functioning upland habitat), or onsite and in sub-basin opportunities do not have a high likelihood of success based on a determination of the natural capacity of the site to compensate for impacts. Considerations should include: anticipated marine shoreline/wetland/stream mitigation ratios, buffer conditions and proposed widths, available water to maintain anticipated hydrogeomorphic classes of wetlands, or streams when restored, proposed flood storage capacity, potential to mitigate riparian fish and wildlife impacts (such as connectivity); and
 - b. Offsite mitigation has a greater likelihood of providing equal or improved shoreline ecological functions than the impacted ~~critical area~~ shoreline.

3. Urban Intensity, Marine Recreation and Port Marine Industrial Environments:

- a. The preference for compensatory mitigation is for innovative approaches that would enable the concentration of mitigation into larger habitat sites in areas that will provide greater critical area or shoreline function.
- b. The Administrator may approve innovative mitigation projects including but not limited to activities such as advance mitigation, fee in-lieu, mitigation banking and preferred environmental alternatives. Innovative mitigation proposals must offer an equivalent or better level of protection of ~~critical area~~ shoreline ecological functions and values than would be provided by a strict application of onsite and in-kind mitigation. The Administrator shall consider the following for approval of an innovative mitigation proposal:

18.34.410 I.3. Type and Location of Mitigation. FOW requests that this section be amended to apply to only the Port Marine Industrial Environment.

3. Urban Intensity, Marine Recreation and Port Marine Industrial Environments:

- **Option: Amend text.**

3. ~~Urban Intensity, Marine Recreation and~~ Port Marine Industrial Environments:

- a. The preference for compensatory mitigation is for innovative approaches that would enable the concentration of mitigation into larger habitat sites in areas that will provide greater critical area or shoreline function.
- b. The Administrator may approve innovative mitigation projects including but not limited to activities such as advance mitigation, fee in-lieu, mitigation banking and preferred environmental alternatives. Innovative mitigation proposals must offer an equivalent or better level of protection of critical area functions and values than would be provided by a strict application of onsite and in-kind mitigation. The Administrator shall consider the following for approval of an innovative mitigation proposal:
 1. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual habitat areas;
 2. Consistency with Goals and Objectives of the Shoreline Restoration Plan and the Goals and Objectives of this Program;
 3. The applicant demonstrates that long-term management and protection of the habitat area will be provided;
 4. There is clear potential for success of the proposed mitigation at the proposed mitigation site;
 5. Restoration of marine shoreline functions or critical areas of a different type is justified based on regional needs or functions and processes;
 6. Voluntary restoration projects.

- **Staff Clarification:** Staff believes that it is appropriate to include the Urban Intensity, and Marine Recreation SEDs in this section and not to limit to only the Port Marine Industrial.

18.34.410 J. DOE requests that this section be amended to reorder paragraphs 1 and 2 and to replace references to critical areas with references to shorelines.

- **Option:** Amend text.

J. Fee In-lieu:

1. To aid in the implementation of offsite mitigation, the City may develop a formal program which prioritizes ~~wetland and/or other critical areas~~ shoreline areas included in the Restoration Plan for use as mitigation and/or allows payment in-lieu of providing mitigation on a development site. This program shall be developed and approved through a public process and be consistent with state and federal rules. The program should address:
 - a. The identification of sites within the City that are suitable for use as offsite mitigation and are consistent with the Shoreline Restoration Plan. Site suitability shall take into account ~~critical area~~ shoreline ecological functions, potential for degradation, and potential for urban growth and service expansion; and
 - b. The use of fees for mitigation on available sites that have been identified as suitable and prioritized for restoration and/or enhancement
 - c. Any offsite mitigation would have to be consistent with the goals and objectives of the Shoreline Restoration Plan.
2. If a fee in-lieu program is approved by the City then in cases where mitigation pursuant to this section is not possible, or where the maximum possible onsite mitigation will not wholly mitigate for anticipated impacts, or where an alternative location, identified in an adopted restoration plan, would provide greater ecological function, the Administrator may approve a payment of a fee-in-lieu of mitigation. The fee shall be reserved for use in high value restoration actions identified through the Shoreline Restoration Plan.

K. Effect on Building Setbacks

Staff Clarification: Questions were directed to staff regarding the potential changes in the OHWM and the measurement of setbacks following mitigation or restoration efforts. In order to encourage mitigation and restoration efforts the SMP should be clear that buildings will not be rendered non-conforming due to changes in setback from the OHWM created by onsite restoration or mitigation efforts.

Option: Amend text.

K. Effect on Building Setbacks

No building shall be rendered nonconforming with respect to building setbacks as a result of shoreline restoration or mitigation conducted in accordance with this SMP.

3.26 18.34.460 Design of Public Access

18.34.460 B. The DOE recommends that this section be clarified to address informal trails.

- **Option:** Amend text.
 - A. The design and layout of public access shall conform to applicable City design standards and procedures, such as the width of public access easements or dedications for trails and share-use paths and trail classification and corresponding corridor widths set forth in the Olympia Engineering Design and Development Standards (EDDS). Any deviation shall be the minimum necessary to achieve the intended purpose of such deviation. It is not the intent of the City to authorize informal trails and the standards contained herein are not intended to address them.

FOW questioned what the total width of a trail would be as required in Section 3.41.E.4.

- **Option:** Amend text.
 4. Trail shall be a commuter multi-use trail on a public easement no less than ~~42~~ 22 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.
- Staff clarification: The trail width was intentionally limited to 12 feet in width to minimize the impacts on the shoreline and to provide greater flexibility in its design and placement. A wider easement may be more consistent with commuter trails such as the City's Woodland Trail or Chehalis Western Trail. The intention was that the trail would be constructed to the same standards, but in a smaller easement.

3.30 18.34.492 General Vegetation Conservation Regulations

- PWB recommends that this section be amended to read:

3.30 18.34.492 - General Vegetation Conservation Regulations

- A. Vegetation conservation provisions apply to all shoreline ~~uses and~~ developments. All vegetation conservation in these areas shall conform to the regulations and standards below.
- B. ~~Parcels fronting on lakes, marine waters, streams or wetlands shall preserve or provide native vegetation within vegetation conservation areas, also known as VCAs or buffers, upland of and adjacent to the ordinary high water mark.~~
- BC. Except as provided herein, applicants for new development, expansion, or redevelopment shall protect and preserve existing native vegetation within the vegetation conservation area.

CD. ~~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 OMC 18.34.410(B). Further, an applicant may propose such restoration consistent with the building height bonuses of OMC 18.34.620(D) or for reductions in required setbacks or for encroachments into required vegetation conservation areas for water oriented uses as provided in Table 6.3.

DE. Where applicable, Nonconforming and water dependent uses that cannot provide a vegetation conservation area due to the nature of the use or activity shall provide comparable mitigation. For example, if it is not feasible to provide vegetation on-site due to constraints such as lot size, topography, or existing site improvements, vegetation may be provided offsite in accordance with the provisions of OMC 18.34.410(H).

E. Like other Master Program provisions, native vegetation management standards do not apply retroactively to existing uses and structures.

- Staff clarification: This section has been reviewed by the DOE with minor comments, however, it could be improved and made more consistent with other regulations contained in the program.
- Staff Clarification -- While vegetation conservation areas are a laudable goal for our shoreline, the shorelines in the Urban Intensity, Port Marine Industrial and Marine Recreation SEDs are considered to be highly altered, generally not supportive of existing native shoreline vegetation and planned for urban, industrial and marine related development. Given these circumstances it may indicate that inclusion of a VCA in these SEDs may be unnecessary and potentially contrary to other objectives such as public access or support of water oriented uses.

3.30 18.34.492 - General Vegetation Conservation Regulations

- A. Vegetation conservation provisions apply to all shoreline ~~uses and~~ developments as required in Table 6.3. All vegetation conservation in these areas shall conform to the regulations and standards below.
- B. Parcels fronting on lakes, marine waters, streams or wetlands shall preserve or provide native vegetation within vegetation conservation areas, also known as VCAs or buffers, upland of and adjacent to the ordinary high water mark developments as required in Table 6.3.
- C. Except as provided herein, applicants for new development, expansion, or redevelopment shall protect and preserve existing native vegetation within the vegetation conservation area.
- D. ~~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 OMC 18.34.410(B). Further, an

applicant may propose such restoration consistent with the building height bonuses of OMC 18.34.620(D) or for reductions in required setbacks or for encroachments into required vegetation conservation areas for water oriented uses as provided in Table 6.3. Note This section would change if council revises Table 6.3. (Note that DOE questions the use of restoration incentives related to height increases).

- E. Where applicable, nonconforming and water dependent uses that cannot provide a vegetation conservation area due to the nature of the use or activity shall provide comparable mitigation. For example, if it is not feasible to provide vegetation on-site due to constraints such as lot size, topography, or existing site improvements, vegetation may be provided offsite in accordance with the provisions of OMC 18.34.410(H).

3.31 18.34.493 Permitted Uses and Activities within Vegetation Conservation Areas

The DOE asks whether it is the City's intent to allow these uses and activities within the VCA without a variance.

- Staff clarification: Yes, the intent is to allow such encroachments, uses and activities as a matter of right and not require a variance.
- Option to amend.

3.31 18.34.493 - Permitted Uses and Activities within Vegetation Conservation Areas

- A. Subject to other limitations of this Chapter and if also allowed within the applicable shoreline environment designation, the following uses and activities are permitted within vegetation conservation areas without a variance:

The DOE also recommends that this section be amended to include all uses that are allowed to encroach into the VCA so that the list is comprehensive.

Staff Clarification: Staff will work with DOE to identify any inconsistencies. The intent is to not allow other uses or structures in the VCA.

3.32 18.34.494 Single Family Alterations

The DOE questions why this provision would apply to only single family development and not all uses.

- Option to amend.

3.32 18.34.494 - ~~Single Family~~ Alterations to Existing Development

Alterations to existing ~~single-family residences~~ development, including accessory structures, decks, patios, sport courts, and walkways shall protect existing native vegetation within the vegetation conservation area. If the minimum vegetation conservation area is not present when a ~~single-family~~ site alteration is proposed, the Administrator may require establishment of such vegetation conservation area where required by Table 6.3 that is necessary to prevent adverse impacts to the shoreline ecological functions that may result from any proposed alterations.

3.33 18.34.495 Vegetation Conservation Area Standards

18.34.495 C. DOE. The DOE notes that reductions to a dimensional standard would require a shoreline variance. Buffer widths may, however, be averaged. The FOW request that Council consider whether the 33% and 25% percent reductions are not overly permissive.

- Staff clarification: It is important for council to carefully consider where to require VCAs and how wide they should be because the grant of a shoreline variance is generally considered to be a difficult option.
- Option: Amend text.

C. In general, protected and restored vegetation conservation areas shall be composed of native vegetation comparable in species density and diversity to an ecologically similar undisturbed area. Such species density and diversity shall be determined by the Administrator based on best available science. Provided, however, that up to 33% (one-third) of the vegetation conservation area may be utilized for authorized uses and activities described in OMC 18.34.493 provided that impervious surfaces shall not exceed 25% of the VCA. ~~If an Encroachment of an authorized use or activity requires more than 33% of the VCA, such as transportation facilities, utilities, and public recreation trails, the applicant shall provide~~ shall require an equivalent area elsewhere on-site ~~be set aside as a VCA~~ and shall ensure that the proposed use or activity will not result in a net loss to shoreline ecological functions.

3.34 18.34.496 Vegetation Management Plan

This section describes the content of Vegetation Management Plans. However, as DOE comment 18 notes, the proposed SMP regulations also refers to optional “restoration” and “mitigation” plans which are not defined or described in detail.

- Option - Add definitions to OMC 18.34.120(C) as follows:

Restoration plan: A plan to reestablish or upgrade impaired ecological shoreline processes or functions. Such plan may be to restore a site or shoreline area to a specific condition, or to reestablish functional characteristic and processes which have been lost due to alterations, activities or catastrophic events. Restoration plans should identify the degraded site or area or impaired ecological function(s); establish specific restoration goals and priorities; describe the timing, elements, benchmarks, and other details of proposed restoration activities; include mechanisms or strategies to ensure successful implementation; and provide for monitoring and evaluation of the success of the restoration. Note: the term “Restoration Plan” may also refer to the shoreline Restoration Plan (Appendix A) that is a part Olympia’s Shoreline Master Program.

Mitigation plan: A plan for alleviating or lessening the adverse impacts of an activity or development, including measures such as avoiding, minimizing or compensating for impacts. Mitigation plans should include a description and evaluation of existing environmental conditions, functions and values; be prepared by a qualified person; list proposed and any alternative mitigation measures including any continuing activities and long-term performance assurance; evaluate the likelihood of success of those

measures; and include a proposed means of monitoring and evaluating the success of the mitigation.

- Staff clarification: In contrast with required vegetation management plans, project restoration and mitigation plans will vary with the context of each project. To provide flexibility general definitions are proposed, rather than specific content details, to guide applicants and decision-makers.

3.41 18.34.620 Use and Development Standards Tables

18.34.620 C. FOW. The FOW request that structures not be allowed in the VCA. All structures should be sited landward of the VCA.

- Option to amend.
 - C. Upon finding that such structures will not result in a net loss of shoreline functions and is otherwise consistent with Olympia’s Shoreline Program, the Administrator may authorize small buildings and other structures 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 30 feet to the ordinary high water mark or the width of the VCA whichever is greater, 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.

3.41 18.34.620 Use and Development Standards Tables

18.34.620 D. DOE. The DOE expresses concerns about achieving [incentives](#) offsite. DOE notes that this approach [may](#) circumvent -the requirements to comply with [the](#) mitigation sequence at a site level and will not be acceptable to DOE.

Staff clarification -- In further talks with DOE staff they clarified their statement saying that in order for them to consider this approach it would need to incorporate language about the mitigation sequencing process, be clear that [avoidance and minimization are required for any project on every site, that](#) if on site mitigation was feasible it [should](#) be required, and [that offsite restoration should be](#) tied to the restoration plan and specific projects contained there. [Generally, such a plan or approach would need further and more formal development for Ecology to accept it as standard in the City’s SMP.](#)

There are several ways to approach this concern. The first may be to eliminate the allowance for offsite incentives. The second may be to eliminate the VCA requirement along Reaches 3A, 4, 5A and 5C and develop other approaches to achieve the incentive objectives contained in this section such as those found in the West Bay Master Plan and put into effect through the city’s development regulations. A third approach would be to amend the section to provide a clear requirement that prior to any setback reductions being granted the mitigation sequencing process would be used and only after finding that onsite mitigation is not feasible would a reduced setback be granted. [In addition, the applicant must demonstrate that a reduced setback would not result in the need for future shoreline stabilization.](#) The section would also need to be amended to articulate the relationship between offsite setback

reduction incentives and the Restoration Plan. A fourth approach would be to simply eliminate the VCA for Reaches 3A, 4, 5A and 5C.

Option 1: Eliminate Offsite Allowance

- C. 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.~~
- D. Reductions shall be allowed as provided in Table 6.3 and subject to the following:
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.
 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.
 3. Water Related Recreation shall be an open space accessible to the public providing direct access to the shoreline. The water related recreation area shall be no less than the area of the shoreline setback 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.
 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.
 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~~ restoration 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~~ restoration 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.

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.
7. Replacement of a hardened shoreline shall be the physical removal of rip rap or other non-vertical shoreline protection 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.
8. In addition to items 1-7 above, Water Dependent, Water Related, and Water Oriented uses may encroach the required setback and vegetation conservation area as described in Table 6.3 so long as they provide restoration in exchange 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~~ restoration 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 and the applicant shall demonstrate that a reduced setback would not result in the need for future shoreline stabilization. ~~Mitigation required may take place onsite or offsite.~~
9. No setback shall be required in the Port Marine Industrial shoreline environmental designation, however, mitigation shall be required to offset any impacts determined through the mitigation sequencing process to ensure no net loss of environmental function and to mitigate for loss of public access.

Option 2: Strike this section in its entirety and establish setback reduction incentives in the zoning regulations.

Option 3: Amend section to clarify mitigation sequencing, etc...

- 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~~ in Section E. 1. below.

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

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. Prior to the Administrator approving any offsite setback reduction incentives proposed to be achieved offsite, the applicant shall demonstrate compliance with the mitigation sequencing at a site level as provided in Section 18.34.410 of the SMP. Only after the Administrator concludes that impacts have been avoided and minimized to the extent feasible and that onsite restoration mitigation is not feasible or would have significantly less ecological benefit will offsite restoration mitigation be approved. Offsite restoration mitigation areas shall be within the city limits and shall be projects included in the Restoration Plan and located within the shoreline jurisdiction. All requirements of Section 18.34.410 shall apply to offsite restoration mitigation. Should no offsite restoration mitigation project be available, onsite mitigation shall be required.

Option 4: Strike this section completely and eliminate setback reduction incentives from Table 6.3.

There were numerous comments received from the public on this section as well. PWB submitted a revised Tables 6.2 and 6.3 that deal with heights and setbacks. Sarah Smyth submitted comments that address concerns related to the impact of this Section on West Bay Drive.

Ms. Smyth requested that an additional language be added to Section 18.34.620 D. and E. as follows:

- C. 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. On West Bay Reach 3A the height and view corridor blockage limits contained in the West Bay development regulations, OMC18.06.100.A.2.c, shall apply.
- D. 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. Where the required mitigation for setback reduction results in less than a ¼ of an acre or 10,890 SF the preference is to cumulate mitigation offsite in areas already designated for off-site restoration

where possible. Such areas shall be no less than 25 feet in depth measured from the ordinary highwater mark and shall be no less than one acre in area.

10. Setback reductions for West Bay Reach 3A are allowed and may encroach the required setback and vegetation conservation areas as described in Table 6.3 so long as they provide for restoration of the encroachment to offset the impacts at a ratio of 1 square feet of restoration for every 1 square foot of encroachment and demonstration of no net loss of environmental function. Restoration required may take place on or offsite.

- Staff clarification: Ms. Smyth’s amendment would work in tandem with amendments that she proposed for Table 6.2 and Table 6.3.

Table 6.1 Uses and Activities

The FOW commented that Industrial Uses in the Urban Intensity SED seem unlikely and that water related uses should not be allowed.

- **Option:** Amend Table 6.1 to make water related uses X = prohibited in the Urban Intensity Shoreline Designation.

The Port of Olympia requests that non-water Oriented uses be permitted (P) or allowed as a conditional use permit (C) or as a conditional use permit if within 100 feet of the water (C/P) within the Marine Recreation SED. The table currently prohibits them in this SED.

- **Option:** Amend table to make non-water Oriented uses be permitted or allowed as a conditional use permit or as a conditional use permit if within 100 feet of the water with the Marine Recreation SED.

The Port of Olympia requests that water dependent and water related industrial uses be a permitted use in the Marine Recreation SED. The table currently requires a conditional use permit for these uses.

- **Option** amend the table to allow water dependent and water related uses within the Marine Recreation SED.
- Staff clarification: Water-related industry includes uses such as boat building, and seafood and log processing. These uses are allowed on a limited basis by the zoning of the proposed Marine Recreation and Urban Intensity environments. Proposed policies for these environments favor water-oriented uses over non-water-oriented uses. See proposed sections 2.10 and 2.11. Note that changing a use classification from conditional shoreline use to permitted shoreline use shifts approval authority from the Ecology to the City.

The FOW asks that Table 6.1 be clarified that parking as a primary use not be allowed within the shoreline jurisdiction.

- **Option:** Amend Table 6.1 to clarify that parking as a primary (standalone) use is not allowed.

- Staff clarification: Parking as a primary use is prohibited within 200 feet of the shoreline per Section 3.24 18.34.440 Parking.

Table 6.1 - Uses and Activities

LEGEND: P = Permitted C = Shoreline Conditional Use Permit X = Prohibited

C/P = A Shoreline Conditional Use Permit is required if wholly or partially located within 100 feet of the OHWM; uses and activities located more than 100 feet from the OHWM are permitted.

Primary Use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic ¹
Agriculture								
Agriculture	X	X	X	X	X	X	X	X
Aquaculture								
Restoration and Recovery of Native Populations	P	P	P	P	P	P	P	P
Commercial Aquaculture	C	C	C	C	C	C	X	C
Boating Facilities								
Marinas	P	P	X	X	X	P	X	C
Launch Ramps	P	P	P	P	P	P	X	P
Boathouses & Storage Structures	P	P	P	P	P	P	X	X
Overwater Covered Moorage	X	X	X	X	X	X	X	X
Commercial								
Water Dependent	P* *Seems unlikely here FOW	P	C	X	C	P	X	C
Water Related and Enjoyment	P* *Seems unlikely here FOW	P	C	X	C	P	X	X
Non-water Oriented	C/P	C	X	X	X	X* *Port requests C	X	X
For Industrial/Light								
Water Dependent	P	P	X	X	X	C* Port asks	X	P

Primary Use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic ¹
						to allow water related dependent industrial uses		
Water Related	P	P	X	X	X	C* *Port asks to allow water related dependent industrial uses	X	X
Nonwater Oriented	C	C	X	X	X	C* *Port asks to allow water related dependent industrial uses	X	X
Recreation								
Water Dependent & Enjoyment, and All Other Water Related, e.g., viewing platforms, wildlife blinds, interpretive areas	P	X	P	P	P	P	C	C
Non-water Oriented	C/P	X	C/P	X	C	X	X	X
Residential								
Residential	P	X	P	P	X	X	X	X
Transportation								
Roads/Railroads	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C

Primary Use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic ¹
Trails and Shared Use Paths	P	P	P	C/P	P	P	C/P	P
Parking as an Accessory Use	P	P	P	C/P	C/P	P	C/P	X
Utilities								
Utility Lines, Buildings and Facilities	C/P	C/P	C/P	C/P	C/P	C/P	C/P	C
Other								
All Other Uses Not Listed Above	C	C	C	C	C	C	X	C
Mixed Use	C/P	C	C	C	C	C/P	X	X

¹ Uses listed as permitted or conditional in the Aquatic designation are allowed only if permitted in the adjacent upland shoreline designation.

Table 6.2 Development Standards (Heights)

The FOW recommend that the maximum building height be 15 feet within the Natural SED. The table currently reflects a maximum building height of 20 foot.

- **Option:** Amend the table 6.2 to reflect a maximum building height of 15 feet.

FOW and others recommend using Reaches for clarity.

- The final version will reflect Reach designations.

Ms. Smyth notes that the Maximum standard height for Urban Intensity is a range from 42 feet to 65 feet.

- **Option:** Amend the table to clarify that the maximum building height is 42 - 65 feet in Reach 3A.

Ms. Smyth requests that height incentives for properties within along West Bay Drive be controlled by Section 18.06.100.A.2.C of the Unified Development Code.

- **Option:** Amend Table 6.2 to note that properties in the SED 3A will be subject to the height restrictions in Section 18.06.100.A.2.C of the Unified Development Code. Table 6.2 with requested revisions.

Shoreline Environment	Shoreline Segment	Maximum Standard Building Height	Maximum Building Height with 'VCA' Bonus*
Aquatic	All	20 feet <u>15 feet</u>	N/A
Natural	All	20 feet	N/A
Waterfront Recreation	Budd Inlet	42 feet	65 feet
	Capitol Lake	35 feet	N/A
Urban Conservancy	All	35 feet	N/A
Shoreline Residential	Ward Lake	35 feet	N/A
	Ken Lake & Budd Inlet	35 feet	N/A
Marine Recreation	Budd Inlet	40 feet; 25 feet within 75 feet of OHWM	N/A

Shoreline Environment	Shoreline Segment	Maximum Standard Building Height	Maximum Building Height with 'VCA' Bonus*
Urban Intensity	BUDD-3A & Cap-3B	42 feet to <u>65'</u>	65 feet**
	All others	35 feet waterward of streets; 90 feet remainder	N/A
Port Marine Industrial	All	65 feet	N/A

** See West Bay Drive Development Regulations for height incentives, 18.06.100 A.2.C.

Table 6.3 Setbacks and Incentives

- **Staff clarification:** There were numerous comments on Table 6.3. Many of these comments related to building setbacks and in particular being able to achieve a 0 foot setback for water oriented buildings. Limiting 0 foot setbacks to water dependent uses only would address at least in part these concerns.
- **Option:** Amend Table to limit zero foot setbacks to water dependent uses only.

FOW submitted comments that recommended a minimum setback of 50 feet be maintained for all marine reaches except 5B which they recommend remain at 0 feet. They also recommend a 30 foot setback for the Urban Intensity portion of Reach 6A that has a parallel designation (Urban Conservancy adjacent to the water and Urban Intensity south and west of the adjoining rights of way).

As previously noted, the Port of Olympia expressed concerns about impacts of requiring soft stabilization in order to pursue any other setback reduction incentives. The Port also notes a concern about the VCA along Reach 5C and its potential to interfere with Port operations. The Port requests revisions to the minimum setbacks and to the setback reduction incentives. Their proposal (revised table included below) eliminates the provision of a trail and the mandatory shoreline softening and includes provision for stormwater retrofit and low impact development incentives and revises setbacks and reduces the setback in 5C from 75 feet to 50 feet with an opportunity to get to 30 feet through the provision of certain incentives.

- **Staff Clarification:** regarding PWB proposal: Given that the SMP and the City's Stormwater Manual already require stormwater retrofits and low impact development requirements it is unclear what additional benefit these provisions may provide.

- **Option.** Amend Table to clarify that only stormwater and LID improvements above and beyond those required by the Stormwater Manual would be eligible to incentive reductions.
- **Staff Clarification:** Given the concerns expressed by the DOE about this section and the potential for lack of clarity and predictability regarding the administration of this Table, the most viable option may be for council to choose a fixed setback (30 feet) or setback/VCA (30 feet/30 feet) for the Urban Intensity SED and 50 feet for the Marine Recreation SED. Given the character of the Urban Intensity (Reaches 3A, 4 and 5A), Marine Industrial (Reach 5B) and Marine Recreation (Reach 5C) SEDs it is unlikely that significant levels of mitigation will be required to offset impacts and that the VCA will not result in significant mitigation beyond what would be achieved through normal mitigation sequencing.
- **Staff Clarification:** Questions were directed to staff regarding the potential changes in the OHWM and the measurement of setbacks following mitigation or restoration efforts. In order to encourage mitigation and restoration efforts the SMP should be clear that buildings will not be rendered non-conforming due to changes in setback from the OHWM created by onsite restoration or mitigation efforts.
- **Option:** See 3.21 18.34.410 L. - No-Net-Loss and Mitigation for proposed text revisions.

Existing Table 6.3 with minor scrivener’s errors corrected included for reference.

Shoreline Environment	Setback/VCA	Setback with maximum reduction-Non-water Oriented	Incentive eligible provisions - See 18.34.620.E. 1	Setback reduction	Required Standards
Aquatic	N/A	N/A	N/A	N/A	N/A
Natural	200’/200’	N/A	N/A	N/A	N/A
Urban Conservancy	100’/50’	N/A	N/A	N/A	N/A
Shoreline Residential - Ward Lake	75’/20’	N/A	N/A	N/A	N/A
Shoreline Residential - Ken Lake, Budd Inlet	30’/20’	N/A	N/A	N/A	N/A
Marine Recreation - Budd 5C	75’/30’	50’	Physical Access	28% (7’)	See 18.34.620.E. 2
			Trail	28% (7’)	See 18.34.620 E.

Shoreline Environment	Setback/VCA	Setback with maximum reduction-Non-water Oriented	Incentive eligible provisions - See 18.34.620.E. 1	Setback reduction	Required Standards
					4
			Restoration of vegetation	Up to 28% (7')	See 18.34.620.E. 5
			Bulkhead Removal >50% frontage	40% (10')	See 18.34.620.E. 6
			Bulkhead Removal <50% frontage	20% (5')	See 18.34.620.E. 6
			Replacement of hardened shoreline with soft structural stabilization measures waterward of OHWM. This measure must be provided in order to receive any setback reduction and may be used in conjunction with other measures to achieve a maximum setback reduction of 25 feet.	50% (12.5')	See 18.34.620.E. 7
*Water Dependent and Water Related Uses Reduce from 50'-0'			Water Dependent/Related Use	100% (50')	See 18.34.620.E. 8-1-8
Waterfront Recreation - Budd 3B	150' or the east side of West Bay Drive whichever is less.	150'	None <u>N/A</u>	None <u>N/A</u>	None <u>N/A</u>
Waterfront Recreation - Cap 6	30' /30'	30'	Restoration of vegetation <u>N/A</u>	50% (12.5') <u>N/A</u>	See 18.34.620.E. 5

Shoreline Environment	Setback/VCA	Setback with maximum reduction-Non-water Oriented	Incentive eligible provisions - See 18.34.620.E. 1	Setback reduction	Required Standards
Water Dependent Uses	Reduce from 30'-0'		Water Dependent Use	100% (30')	See 18.34.620.E. 1-8
Urban Intensity -Budd 3A	30'/30'	30'	N/A	N/A	N/A
Water Oriented Uses	Reduce from 30'-0'		Water Oriented Use	100% (30')	See 18.34.620.E. 1-8
Urban Intensity -Budd 4	50'/30'	30'	Trail	100% (20')	See 18.34.620.E.4
			Water Related Recreation	Up to 50% (10')	See 18.34.620.E.3
			Physical Access	25% (5')	See 18.34.620.E.2
			Restoration of vegetation.	Up to 50% (10')	See 18.34.620.E.5
			Bulkhead Removal >50% frontage	50% (10')	See 18.34.620.E.6
			Bulkhead Removal <50% frontage	25% (5')	See 18.34.620.E.6
			Replacement of hardened shoreline with soft structural stabilization measures waterward of OHWM.	25% (5')	See 18.34.620.E.7
Water Oriented Uses	Reduce from 50'-0'		Water Oriented Use	100% (50')	See 18.34.620.E. 1-8
Urban Intensity - Budd 5A	50'/30'	30'	Trail	100% (20')	See 18.34.620.E.4
			Physical Access	50% (10')	See 18.34.620.E.2
			Water Related Recreation	Up to 25% (5')	See 18.34.620.E.3
			Restoration of vegetation.	Up to 50%	See 18.34.620.E.5
			Bulkhead Removal >50% frontage	50% (10')	See 18.34.620.E.6
			Bulkhead Removal <50% frontage	25% (5')	See 18.34.620.E.6
			Replacement of hardened shoreline	50% (10')	See 18.34.620.E.7

Shoreline Environment	Setback/VCA	Setback with maximum reduction-Non-water Oriented	Incentive eligible provisions - See 18.34.620.E. 1	Setback reduction	Required Standards
			with soft structural stabilization measures waterward of OHWM.		
Water Oriented Uses Reduce from 50'-0'			Water Oriented Use	100% (50')	See 18.34.620.E. 1-8
Urban Intensity -Budd 6A	0'	0'	N/A	N/A	N/A
Port Marine Industrial - Budd 5B	0'	0'	Offsite mitigation	100% (0')	See 18.34.620.E. 9

• Option Table 6.3 as proposed by Burgess, the Port of Olympia, et. al.

Table 6.3 - Setbacks and Setback Reduction Incentives

NO CHANGE IS PROPOSED TO AQUATIC, NATURAL, URBAN CONSERVANCY, AND SHORELINE RESIDENTIAL SETBACKS FROM JULY 9, 2013 DRAFT. NO SETBACK REDUCTION INCENTIVES ARE AVAILABLE FOR THESE DESIGNATIONS.

Shoreline Environment	Maximum Setback/VCA ¹	Minimum Setback	Setback Reductions
Marine Recreation - Budd 5C	Water-Dependent ² : 0' / none Water-Enjoyment/ Water-Related/ Shoreline Mixed Uses: 50' / 30' Non-Water-Oriented: 75' / 30'	Water-Dependent: 0' Water-Enjoyment/ Water-Related/ Shoreline Mixed Uses In a structure: 30' On land ³ : 15' Non-Water-Oriented: 50'	Vegetation Restoration: 10' OMC 18.34.620(E)(4) Shoreline Softening: 10' OMC 18.34.620(E)(5) Shoreline Stabilization Reconstruction: 10' OMC 18.34.620(E)(6) Stormwater Retrofit: 10' OMC 18.34.620(E)(7) Low Impact Development: 10' OMC 18.34.620(E)(8)
Waterfront Recreation - Budd 3B and Cap 6	Water-Dependent: 0' / none Water-Enjoyment/ Water-Related/ 30' / 30'	Water-Dependent: 0' Water-Enjoyment/ Water-Related/ 30' / 30'	N/A
Urban Intensity - Budd 3A and Budd 3B Dual Designation Area	Water-Dependent: 0' / none Water-Enjoyment/ Water-Related/ Shoreline Mixed Uses: 30' / 30'	Water-Dependent: 0' Water-Enjoyment/ Water-Related/ Shoreline Mixed Uses In a structure: 30'	Vegetation Restoration: 10' OMC 18.34.620(E)(4) Shoreline Softening: 10' OMC 18.34.620(E)(5) Shoreline Stabilization

¹ In Reaches Budd 4, Budd 5A, and Budd 5C, VCAs apply only to areas of existing native vegetation, or vegetation areas created pursuant to mitigation sequencing and/or the vegetation restoration setback reduction incentive provisions.

² As used herein, "water dependent" includes water-dependent accessory structures. "Water-dependent accessory structure" is a detached building or other structure that is accessory to and associated with the primary water-dependent use.

³ As used herein, "On land" means non-structural amenities such as plazas, outdoor seating areas, and parks.

Shoreline Environment	Maximum Setback/VCA ¹	Minimum Setback	Setback Reductions
	Non-Water-Oriented: 50'/30'	On land: 15' Non-Water-Oriented: 30'	Reconstruction: 10' OMC 18.34.620(E)(6) Stormwater Retrofit: 10' OMC 18.34.620(E)(7) Low Impact Development: 10' OMC 18.34.620(E)(8)
Urban Intensity - Budd 4 and 5A	Water-Dependent: 0'/none Water-Enjoyment/ Water-Related/ Shoreline Mixed Uses: 50'/30' Non-Water-Oriented: 100'/30'	Water-Dependent: 0' Water-Enjoyment/ Water-Related/ Shoreline Mixed Uses In a structure: 30' On land: 15' Non-Water-Oriented: 50'	Vegetation Restoration: 10' OMC 18.34.620(E)(4) Shoreline Softening: 10' OMC 18.34.620(E)(5) Shoreline Stabilization Reconstruction: 10' OMC 18.34.620(E)(6) Stormwater Retrofit: 10' OMC 18.34.620(E)(7) Low Impact Development: 10' OMC 18.34.620(E)(8)
Urban Intensity - Budd 6A (Dual Designation Area)	All uses - 0'/0'	0'	N/A
Port Marine Industrial - 5B	All uses - 0'/0'	0'	N/A

- Staff clarification:

- This approach simplifies Table 6.3 by removing reference to percentages and it also differentiates between setbacks for uses in a structure (30') and on land (15'). This is an approach that other jurisdictions have used.
- This proposal also includes a parallel designation for Reach 3B with Waterfront Recreation remaining along the shoreline and a parallel Urban Intensity designation being established for the upland areas generally west of West Bay Drive.
- As noted previously, it is unclear what benefit would be achieved by inclusion of LID and Stormwater Retrofit incentives beyond the City's existing regulations.
- The inclusion of mixed use development in the table also helps to provide some additional clarity for future users.

- Footnote 1 will generally eliminate the provision of a VCA given the nature of Reaches 3A, 4 and 5A as “highly altered” shorelines with limited ecological function.
- This proposal eliminates the zero foot (0’) setback except for water dependent uses and proposes a minimum setback of 15 feet for some water oriented uses on land and 30 feet for some water oriented uses in buildings.

• **Option Table 6.3 proposed by Ms. Smyth recommends that Table 6.3 be amended to:**

Urban Intensity -Budd 3A	30’/30’	30’	N/A	N/A	N/A
Water Oriented <u>Enjoyment</u> Uses Reduce from 30’-0’-15’			Water Oriented Use	4050% (15’)	See 18.34.620.E. 8-10**
Water Dependent Uses Reduce from 30’ - 0’			Water Dependent Use		See 18.34.620.E. 8-10**

** Reference a new Section 18.34.620 E. 10. for West Bay Drive.

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. On West Bay Reach 3A, the height and view corridor blockage limits contained in the West Bay development regulations, OMC18.06.100.A.2.c, shall apply.

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

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. Where the required mitigation for setback reduction results in less than a ¼ of an acre or 10,890 SF the preference is to cumulate mitigation offsite in areas already designated for off-site restoration where possible. Such areas shall be no less than 25 feet in depth measured from the ordinary highwater mark and shall be no less than one acre in area.

10. Setback reductions for West Bay Reach 3A are allowed and may encroach the required setback and vegetation conservation areas as described in Table 6.3 so long as they provide for restoration of the encroachment to offset the impacts at a ratio of 1 square feet of restoration for every 1 square foot of encroachment and demonstration of no net loss of environmental function. Restoration required may take place on or offsite.

- **Staff Clarification: Ms. Smyth’s proposal recognizes the existence of the West Bay Master Plan and uses it to control the height of buildings and the incentives for private property owners to provide a public trail along the shoreline.**

3.46 18.34.654 Marinas

18.34.654 B. 11. FOW requests that the setback be increased to 50 feet for marina buildings, while the representatives of the Yacht Club ask why 30 feet.

- **Option:** Amend to:

11. Marina buildings shall be setback at least 30-feet (50 feet or 0 feet?) from the OHWM.

Staff Clarification: Marina building should be subject to the setback provisions of the SEDs as described in Table 6.3.

11. Marina buildings shall ~~be~~ conform to the setbacks established in Table 6.3. ~~be setback at least 30 feet from the OHWM.~~

3.48 18.34.658 Covered Moorage

18.34.658 B. FOW requests clarification regarding covered moorage above the elevation of the ordinary high water mark. This refers to boat houses.

- **Option:** Amend to:

B. Covered moorage (boat houses/boat storage buildings) above and landward of the elevation of the ordinary high water mark is permitted for commercial purposes only, and must comply with all the following:

- **Staff Clarification:** it may be advisable to strike the word commercial from this clause as restricting the use of garages and other structures within 200 feet of the water may be problematic.

3.51 18.34.667 Non-Water Oriented Commercial Use and Development.

Mr. Stormans’ request that the Use Table 6.1 be amended to address mixed use developments.

- **Option:** Amend Table 6.1 to include mixed use development and amend Section 18.34.120 Interpretations and Definitions to include a definition of mixed use development.

•

Primary use of Building or Structure	Urban Intensity	Port Marine Industrial	Shoreline Residential	Urban Conservancy	Waterfront Recreation	Marine Recreation	Natural	Aquatic ¹
Other								
All Other Uses Not Listed Above	C	C	C	C	C	C	X	C
Mixed Use	C/P	C	C	C	C	C/P	X	X

3.53 18.34.680 Recreation

18.34.680 D Staff asks whether to require a 10 foot setback trails and shared use paths. This could have an impact on the rebuild of Percival Landing. Trails are a permitted use in the Aquatic SED.

- **Option:** Amend text:

~~D. Except where providing direct access to the water, water enjoyment recreation including viewing platforms, wildlife blinds, interpretive areas, trails and shared use paths shall be setback at least 10 feet from the OHWM in the Urban Intensity Environment and at least 25 feet in all other locations. The construction of new trails or the expansion of existing trails shall be subject to the mitigation sequencing process and shall be designed to minimize impacts to the ecological functions of the shoreline while providing access and waterfront enjoyment to the public.~~

~~E.~~

3.55 18.34.700 Transportation and Trail Facilities

18.34.700 A. DOE asks if this section only applies to trail, road or railway expansions.

- **Option:** Amend to:

A.

B. The following provisions apply to trail, road and railroad expansions and new construction:

18.34.700 E. DOE asks how the mitigation sequence process relates to whether trails are closer to shorelines than roads.

- **Option:** Amend to:

E. Trails and shared use paths are considered transportation facilities and are allowed within the shoreline setback, vegetation buffer, and overwater. As such, they are subject to the provisions herein including OMC 18.34.410(B), ~~except that for recreation opportunities and private and public access they may be located closer to the shoreline than roads.~~ Where feasible new public trails and shared use paths shall use abandoned rail corridors to minimize disturbance of the shoreline.

3.62.18.34.837 Fill Waterward of Ordinary High Water Mark

18.34.837 A. 4. DOE states that it can't support construction of berms or other structures waterward of the OHWM to prevent inundation of water resulting from sea level rise.

- F. **Option:** Amend to:

4. Construction of protective berms or other structures to prevent the inundation of water resulting from sea level rise;

G. Staff clarification: Consider amending section 3.61 18.34.833 Shoreline Fill to clarify that fill for the creation of flood protection measures along the marine shoreline may be allowed.

- L. Fill within the shoreline jurisdiction shall be allowed in response to increases in sea level subject to all other provisions of this section and the mitigation sequencing process.

DOE submitted a series of comments (nos. 24 through 27) addressing in-water structures and shoreline modification limitations. In general Ecology proposes slightly more restrictive measures. The following options would address each of these comments:

18.34.840 General Moorage (Piers, Docks, Floats, and Buoys) Provisions

- H. New subsection -- L. Any expansion, alteration, or modification of any moorage structure which results in more than a 10% increase in horizontal area of the facility shall conform to all requirements of this chapter.

18.34.846 Marine Docks and Piers

- I. New subsection - D. No combination of docks and piers on any one property shall exceed 100,000 square feet.

2.34 Restoration and Enhancement Policies

- J. New subsection - L. No permanent structures should be permitted within streams except for restoration and enhancement structures, and road and utility crossings as described elsewhere in this Program. All such structures should provide for the protection and preservation of ecosystem-wide processes, ecological functions, and cultural resources. The location and planning of in-stream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.

Shoreline Stabilization regulations options: Amend Sections 3.72 through 3.75 as follows:

3.72 18.34.860 - Shoreline Stabilization - Intent

Shoreline stabilization includes actions taken to address erosion impacts to property, dwellings, businesses, or structures caused by natural processes such as current, flood, tides, wind, or wave action.

These include structural and nonstructural methods. Nonstructural methods include building setbacks, relocation of the structure to be protected, erosion and groundwater management, and planning and regulatory measures to avoid the need for structural stabilization. Structural methods include ‘hard’ and ‘soft’ measures, defined as:

- K. Hard structural shoreline stabilization (also referred to as ‘hard’ armoring) means erosion control measures using hardened structures that armor and stabilize the shoreline from further erosion. Examples of hard armoring include concrete, boulders, dimensional lumber or other materials to construct linear, ~~near-vertical~~ sometimes vertical or ~~near-vertical~~ faces. These include bulkhead, rip-rap, groins, revetments, and similar structures.

- L. Soft structural shoreline stabilization (also referred to as ‘soft’ armoring) means erosion control and ~~restoration~~ practices that contribute to restoration, protection or enhancement of shoreline ecological functions. Examples of soft armoring include a mix of gravel, cobbles, boulders, logs and native vegetation placed to provide stability in a non-linear, sloping arrangement.

3.73 18.34.862 - Shoreline Stabilization - New Development

- A. New shoreline use and development including new lots shall be located and designed to eliminate the need for concurrent or future shoreline stabilization. If this is not feasible based upon a geotechnical analysis, soft structural protection measures shall be given preference over hard structural protection measures. The use of hard structural stabilization measures will only be allowed when it is demonstrated that soft structural measures are not feasible and that they will not result in significant impacts to adjacent or down current properties.
- B. Structural stabilization shall be located, designed, and constructed in accordance with mitigation sequencing in OMC 18.34.410(B) to minimize adverse impacts to shoreline ecological functions and processes. Protection of adjacent property and existing development shall also be considered in the design and location of structural stabilization measures.
- C. New non-water-dependent development, including single family residences, that includes structural shoreline stabilization will not be allowed unless all of the conditions below can be met:
 - 1. The need to protect the ~~principal use~~ primary structure from damage due to erosion caused by natural or manmade processes is demonstrated through a geotechnical report. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself without such analysis is not a demonstration of need;
 - 2. The erosion is not being caused by upland conditions such as loss of vegetation and drainage;
 - 3. Nonstructural measures such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements are not feasible or sufficient;
 - 4. The erosion control structure will not result in a net loss of shoreline ecological functions or processes;
 - 5. Impacts to sediment transport shall be avoided or minimized; and
 - 6. The structure will not cause adverse impacts to adjacent or down-current properties and shoreline areas.
- D. New development on steep slopes or bluffs shall be set back so that shoreline stabilization will not be needed.

3.74 18.34.864 - New or Expanded Shoreline Stabilization Measures

- A. New or enlarged structural stabilization measures are prohibited except where necessary to protect or support legally existing primary structures or shoreline uses, for human safety, for restoration or enhancement activities, or remediation of contaminated sites.
- B. Structural shoreline armoring for the sole purpose of leveling or extending property or creating or preserving residential lawns, yards, or landscaping shall be prohibited. Where hard shoreline armoring already exists, property owners are encouraged to remove it and replace with soft armoring, or if conditions allow, return the shoreline to a natural condition.
- C. New or enlarged structural shoreline stabilization measures to protect for legally existing primary structures or shoreline uses ~~development or residence~~ are prohibited unless there is conclusive evidence, documented by a geotechnical analysis that the structure is in danger from shoreline erosion caused by tidal action, currents, waves, or boat wakes. ~~In addition, all of the following provisions shall apply:~~ Further:
 - 1. Normal sloughing, erosion of steep bluffs, shoreline erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis that demonstrates a danger exists to an existing development or residence, is not a demonstration of need;
 - 2. The geotechnical analysis shall evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization; ~~and~~
 - 3. The design of the stabilization structure shall take into consideration erosion rates, on-site drainage issues, vegetation enhancement, and low-impact development measures as a means of reducing erosion;
 - 4. The analysis must demonstrate that nonstructural measures, planting vegetation, or installing on-site drainage improvements are not feasible or not likely to be sufficient; and
 - 5. The erosion control structure shall not result in a net loss of shoreline ecological functions.
- D. The use of hard structural stabilization measures such as bulkheads are prohibited unless demonstrated in a geotechnical analysis that soft structural stabilization measures (bioengineering) or non-structural measures (increased setbacks) are not feasible.
- E. Where structural shoreline stabilization measures are necessary, the size of the stabilization structure shall be the minimum necessary. The Administrator may require that the size and design of the structure be modified to reduce impacts to ecological functions ~~upon shoreline ecology~~.

- F. Where adverse impacts to shoreline ecological functions cannot be avoided, mitigation shall be required in accordance with mitigation sequence priorities set forth in OMC 18.34.410(B).
- G. In order to determine appropriate mitigation measures, the Administrator may require environmental information and analysis, including documentation of existing conditions, ecological functions and anticipated impacts, along with a restoration plan outlining how proposed mitigation measures would result in no net loss of shoreline ecological functions.
- H. Shoreline stabilization measures that incorporate ecological restoration or enhancement through the placement of rocks, sand or gravel, and native shoreline vegetation are ~~is~~ strongly encouraged. Soft shoreline stabilization that restores ecological functions may be permitted waterward of the ordinary high water mark.
- I. Following completion of shoreline modification activities, disturbed areas shall be restored using native vegetation (see OMC 18.34.495 for specific provisions).
- J. Publicly financed or subsidized erosion control measures shall not restrict public access except where such access is inappropriate or infeasible, and shall incorporate public access and ecological restoration to the extent feasible.

3.75 18.34.866 - Shoreline Stabilization - Replacement and Repair

- A. For purposes of this section, “replacement” means the construction of a new structure to perform a shoreline stabilization function to replace an existing structure which no longer adequately serves its purpose. Additions to or increase in size of existing shoreline stabilization measures shall be considered new structures.
- B. An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves. The Administrator may waive the requirement for a geotechnical analysis if the applicant demonstrates through the use of photographs, site or grading plans, or other evidence that nonstructural measures are not feasible.
- C. The replacement structure shall be designed, located, sized, and constructed to assure no net loss of shoreline ecological functions.
- D. Replacement walls or bulkheads shall not encroach waterward of the ordinary high water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing stabilization structure. Where a net loss of ecological functions associated with critical saltwater habitat would occur by leaving the existing structure, it must be removed as part of the replacement measure.
- E. Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high water mark.

- Options - Amend 3.76 18.34.868 - Design of Shoreline Stabilization Measures, as follows:
 - G. The use of ~~gabions~~ and revetments shall be prohibited for shoreline stabilization structures.
 - H. Where hard armoring is approved, materials shall be used in the following order of priority:
 1. Large stones, with vegetation planted in the gaps. Stone should not be stacked any steeper than a ~~2~~3:1 slope;
 2. Timbers or logs that have not been treated with toxic materials;
 3. Stacked masonry block;
 4. Cast-in-place reinforced concrete.
 - I. Bioengineering is a preferred method of protecting upland property and structures or to maintain access to an authorized shoreline use. Bioengineering combines structural, biological and ecological concepts to construct living structures that stabilize the soil to control erosion using live plan materials as a main, but not only, structural component.

3.80 18.34.900 Existing Buildings and Structures

Numerous comments were heard at the public hearing and in the written testimony regarding the potential effects of proposed regulations on existing buildings and uses. PWB submitted comments addressing these concerns and suggesting specific amendments to this section (included below). FOW noted a concern about the ability of existing overwater structures to add additional upper stories.

- Option: Amend to:

3.80 18.34.900 - Existing Buildings and Uses within Shorelines

- A. Subject to the provisions of this Chapter, a use, lot, or structure lawfully existing prior to the effective date of that chapter or any amendment thereto, which is rendered nonconforming may continue and may also be repaired, remodeled, and/or restored in the manner and to the extent that it existed upon the effective date of the relevant ordinance.
- B. 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 to the provisions of Chapter 18.34 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, as proposed and designed including appropriate mitigation, and the development is not likely to result in a net loss of shoreline ecological functions.

3.81 18.34.910 - Alteration of Structures in the Shoreline

- A. Shoreline Structures-The following regulations apply to structures located in the shoreline:
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 addition of height and the area outside the shoreline setback.
 - b. For structures located entirely within the shoreline setbacks, alterations shall be allowed for the addition of height or on the upland side of the structure or both.
 - c. Interior and exterior remodels and the addition of upper stories ~~is~~are permitted. Except as provided above, 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.
 2. 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 or additional height 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.
 - d. Except for modifications required by the Washington Department of Natural Resources for light penetration, alternations to the footprint or building envelop are prohibited.
 3. Other Regulations applicable to OMC 18.374.092910(A)(1) and (2).
 - a. Actions shall not result in a net loss of shoreline ecological functions and processes;
 - ~~b. As a condition of approval, the Administrator may require planting with a Vegetation Conservation Areas pursuant to OMC 18.34.492;~~
 - eb. The applicant shall obtain all required permits or approvals prior to construction;

///

~~d. Alteration of structures or uses within critical areas or critical area buffers shall comply with the provisions of OMC 18.37.070; and~~

ec. Structures that are damaged and house a nonconforming use may be re-established in accordance with OMC 18.37.092920.

B. Unintentionally damaged or destroyed structures.

1. In the event that a structure or building that does not conform to the shoreline setback is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, the structure may be restored within the existing footprint.
2. 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.

3.82 18.34.920 - Existing Shoreline Uses

A. Conversions

1. A nonconforming use may be changed to a permitted use at any time.
2. The Hearing Examiner may grant a conditional use permit ~~permit for a period of not more than ten (10) years~~ that allows a nonconforming use to change to another nonconforming use that would not normally be allowed in the district in which it is located; provided, that the following can be clearly demonstrated by the applicant:
 - a. The structure that houses the existing nonconforming use cannot be used for any permitted uses because of its particular design; and
 - b. The proposed use will be more compatible with the permitted uses of the use district than the existing use; and
 - c. Provisions have been made to safeguard the adjoining properties against any detrimental effects that might result from allowing the proposed use.
3. Historic properties. The Hearing Examiner also may grant a conditional use permit ~~for ten years~~ to allow the following uses to change to another residential or commercial use that is not typically allowed in the district in which it is located:
 - a. An existing commercial or institutional structure in a residential zone when such structure is on the National, State or Olympia Heritage Register; or
 - b. An existing commercial or institutional structure within a National, State or Olympia Historic District, excluding the South Capital Historic Register; or

- c. An existing commercial or institutional structure conditioned on restoration of a structure to achieve Register status; provided, that the following can clearly be demonstrated by the applicant:
 - 1) The structure cannot be utilized for any of the uses normally permitted within that district; and
 - 2) The proposed use will not alter the historic features documented at the time of Register placement; and
 - 3) Provisions have been made to safeguard the adjoining properties and the neighborhood against any detrimental effects that might result from allowing the proposed use, subject to the requirements in 18.48.040, Additional Conditions.
- ~~d. A conditional use permit under OMC 18.37.094(A)(2) and (3) may be renewed by the Hearing Examiner for a period of not more than ten (10) years if it can be clearly demonstrated that:~~
 - ~~1) The continued use of the premises in the manner allowed by the permit will not have any detrimental effect upon the property values of the surrounding properties;~~
 - ~~2) That such use has minimal adverse effect upon the people living or working in the vicinity of such use; and~~
 - ~~3) That it will create a hardship for the owner of the structure if the conditional use permit is not renewed.~~

B. Discontinuation

- 1. Except as provided by OMC 18.34.9420(A), a nonconforming use, when abandoned or discontinued, shall not be resumed. Discontinuation or abandonment occurs under any of the following:
 - a. When land used for a nonconforming use shall cease to be used for that particular use for twelve (12) consecutive months; or
 - b. When a building designed or arranged for a nonconforming use shall cease to be used for that particular use for twelve (12) consecutive months; or
 - c. When a building designed or arranged for a conforming use but used for a nonconforming use shall cease to be used for such nonconforming use for twelve (12) consecutive months.
- 2. The Hearing Examiner may, by conditional use permit, allow a discontinued or abandoned use to resume operations if it can be proven that all of the following conditions exist:

- a. That discontinuation or abandonment was caused by a condition over which the owner and operator of such use had no control; and
 - b. That it is impossible for the owner to change the use of the premises to a permitted use without causing a hardship to himself; and
 - c. That resumption of the nonconforming use will not have a detrimental effect on surrounding properties.
- C. Unintentionally damaged or destroyed structures housing nonconforming or conditional uses.

1. In the event that a structure or building housing a nonconforming use is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, such damage or destruction shall not constitute a discontinuation of the nonconforming use.

2. In the event that a structure or building housing an existing use considered a “conditional” use is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, such use may be re-established without obtaining a conditional use permit.

3. In order to take advantage of this subsection, a complete application for a building permit must be submitted within one year of the unintended event that caused the destruction of the structure housing the use. The applicant loses their rights under this subsection if the building permit lapses without construction of the structure proposed under the building permit.

- **Staff clarification:** The proposed amendments to the nonconforming section generally address the issues and concerns that were voiced in the public hearing and through the written testimony. In order to further simplify this language staff recommends that paragraph 18.34.920 C. above be struck and replaced with an amended version of paragraph 18.34.910 B. as follows:

Unintentionally damaged or destroyed structures. In the event that a structure or building that does not conform to the shoreline setback is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, the structure may be restored within the existing footprint.

In the event that a structure or building housing a nonconforming use is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, such damage or destruction shall not constitute a discontinuation of the nonconforming use.

In the event that a structure or building housing an existing use considered a “conditional” use is damaged or destroyed by fire, explosion, act of nature, or act of public enemy, such use may be re-established without obtaining a conditional use 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.

FOW requests that the expansion of overwater structures not be allowed.

3.81 18.34.910 - Alteration of Structures in the Shoreline

18.34.910 2. B. The addition of upper stories or additional height within the existing building footprint is not permitted ~~for water-oriented uses only~~.

Staff clarification: This revision would generally be inconsistent with Council's prior direction regarding treatment of non-conforming structures.

A. Figure 4.1 (Shoreline Master Program SEDs)

1. Comments were received in regards to the scale of the map included in the July 9th Draft. A larger 11" X 17" map will be included in the next edition.
 2. Comments suggested that Council establish a parallel designation along West Bay Drive along Reach 3B with Waterfront Recreation applying to that area east of West Bay Drive and not developed and that lands west of West Bay Drive and those developed for residential purpose east of West Bay Drive be designated as Urban Intensity.
- **Option:** Direct staff to amend Figure 4.1 to establish a parallel designation along West Bay Drive.

[This section of the Shoreline Master Program is applicable to the entirety of the Program including the goals, policies and regulations.]

- 1.1 Introduction
- 1.2 Other Policy and Regulatory Tools
- 1.3 Purpose and Intent
- 1.4 Title
- 1.5 Adoption Authority
- 1.6 Critical Areas Adopted by Reference
- 1.7 Severability
- 1.8 Effective Date

1.1. Introduction

The shorelines of Olympia have great social, ecological, recreational, cultural, economic and aesthetic value. Grass Lake, Capitol Lake, Ward Lake, Ken Lake, Percival Creek, and Olympia’s marine shoreline areas provide citizens and the community with clean water; a deepwater port and industrial sites; habitat for a variety of fish and wildlife including salmon, shellfish, forage fish, and waterfowl; archaeological and historical sites; open space; and areas for boating, fishing, and other forms of recreation. However, Olympia’s shoreline resources are limited and irreplaceable. Use and development of shoreline areas must be carefully planned and regulated to ensure that these values are maintained over time.

The City of Olympia Shoreline Master Program (SMP or the Program) is a result of Washington State legislation requiring all jurisdictions to adequately manage and protect shorelines of the state.

Washington’s Shoreline Management Act (SMA or Act) (Revised Code of Washington [RCW] 90.48) was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is "to prevent the inherent harm of uncoordinated and piecemeal development of the state’s shorelines." The Act specifically states:

“It is the policy of the State to provide for the management of the shorelines of the State by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner, which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the State and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.”

The City of Olympia prepared this SMP to meet the requirements of the Washington State SMA. This SMP provides goals, policies, and regulations for shoreline use and protection and establishes a permit system for administering the Program. The goals, policies, and regulations contained herein are tailored to the specific geographic, economic, and environmental needs of the City of Olympia and its varied shorelines.

The Shoreline Management Act and its implementing legislation (Washington Administrative Code [WAC] 173-26 or Shoreline Guidelines) establish a broad policy giving preference to shoreline uses that:

- Depend on proximity to the shoreline ("water-dependent uses"),
- Protect biological and ecological resources, water quality and the natural environment, and
- Preserve and enhance public access or increase recreational opportunities for the public along shorelines.

The overall goal of this SMP is to:

Develop the full potential of Olympia's shoreline in accord with the unusual opportunities presented by its relation to the City and surrounding area, its natural resource values, and its unique aesthetic qualities offered by water, topography, views, and maritime character; and to develop a physical environment which is both ordered and diversified and which integrates water, shipping activities, and other shoreline uses with the structure of the City while achieving a net gain of ecological function.

In implementing this Program, the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the State shall be preserved to the greatest extent feasible. Implementing the SMP must protect the ecological functions of shorelines and, at a minimum, achieve 'no net loss' of ecological functions. Single-family residences; ports; shoreline recreational uses (including but not limited to parks, marinas, piers, and other improvements); water-dependent industrial and commercial developments; and other developments that depend on a shoreline location shall be given priority. Permitted shoreline uses shall be designed and conducted to minimize damage to the ecology of the shoreline and/or interference with the public's use of the water and, where consistent with public access planning, provide opportunities for the general public to have access to the shorelines.

The City of Olympia last updated its SMP in 1994. Since that time, there have been substantial changes in the way shorelines are regulated. New scientific data and research methods have improved our understanding of shoreline ecological functions and their value in terms of fish and wildlife, water quality and human health. This information also helps us understand how development in these sensitive areas impacts these functions and values. The new Shoreline Guidelines, upon which this SMP is based, reflect this improved understanding and place a priority on protection and restoration of shoreline ecological functions.

In order to protect the public interest in the preservation and reasonable use of the shorelines of the state, the Shoreline Management Act establishes a planning program coordinated between the state and local jurisdictions to address the types and effects of development occurring along the state's shorelines. By law, the City is responsible for the following:

The City of Olympia's Role in Implementing the Shoreline Management Act

A. Development of an inventory of the natural characteristics and land use patterns along "shorelines of the state" within the City's territorial limits. This inventory provides the foundation for development of a system that classifies the shoreline into

distinct “environments”. These environments provide the framework for implementing shoreline policies and regulatory measures.

B. Preparation of a “Shoreline Master Program” to determine the future of the shorelines. This future is defined through the goals developed for the following land and water use elements: economic development, public access, circulation, recreation, shoreline use, conservation, historical/cultural protection, and floodplain management. Local government is encouraged to adopt goals for any other elements, which, because of present uses or future needs, are deemed appropriate and necessary to implement the intent of the Shoreline Management Act. In addition, policy statements are developed to provide a bridge between the goals of the Master Program and the use activity regulations developed to address different types of development along the shoreline.

C. Development of a permit system to further the goals and policies of both the Act and the local Master Program.

Local governments have the primary responsibility for initiating the planning program and administering the regulatory requirements. The City of Olympia Shoreline Master Program must be consistent with the policies and requirements of the Shoreline Management Act and the State Shoreline Guidelines. The role of the Department of Ecology is to provide support and review of the Shoreline Master Program and subsequent shoreline development permits and approvals.

The Shoreline Management Act defines a Master Program as a “comprehensive use plan for a described area.” The shoreline planning process differs from the more traditional planning process in that the emphasis is on protecting the shoreline environment through management of uses. The purposes of this Master Program are:

The following summary provides an overview of the Olympia Shoreline Master Program (SMP or Program) contents with a brief explanation of its general format and procedures.

How to Use This Document

The City of Olympia SMP includes goals, policies and regulations. The SMP is a comprehensive plan for how shorelines should be used and developed over time. Goals, policies and regulations provide direction for shoreline users and developers on issues such as use compatibility, setbacks, public access, building height, parking locations, mitigation, and the like.

SMP Section 1 introduces the purposes and intent of the Program, explains the City’s authority to regulate shorelines and explain the Program’s relationship to other ordinances and laws. Chapter 1 also explains the types of development the Program has jurisdiction over.

Section 2 provides goals and policies for the SMP. These goals and policies will become part of the City of Olympia’s Comprehensive Plan.

Section 3 provides general policies and regulations that apply throughout the shoreline, in all shoreline districts and environment designations. Some of the key provisions of this section address shoreline use, site planning, building heights and setbacks, marine shoreline and

critical areas protection, public access, vegetation conservation, views and aesthetics, water quality and the effect of the SMP on existing uses and structures.

If you intend to develop or use lands adjacent to a shoreline, consult first with the City of Olympia’s Community Planning and Development Department to determine if you need a shoreline permit; they will also tell you about other necessary government approvals.

Initial Procedures

Although your proposal may be permitted by Program regulations or even exempt from specific permit requirements, all proposals must comply with all relevant policies and regulations of the entire Program as well as the general purpose and intent of the SMP.

For development and uses allowed under this Program, the City must find that the proposal is generally consistent with the applicable policies and regulations, unless a variance is to be granted. When your proposal requires a Letter of exemption, submit the proper application to the City’s Community Planning and Development Department.

1.2 Other Regulations

The SMP is one of many regulatory tools that the City of Olympia uses to manage development along its shoreline. While not explicitly part of the SMP, these regulations work in concert with the SMP to form the City’s policy and regulatory environment for the shoreline and the rest of the city. The table below provides a list of these regulations and a summary of some of the key issues they address. In addition to the policy and regulatory tools noted below the City also has a series of master plans such as the Parks, Arts and Recreation Plan and the Utility Plan that help to shape policy and regulations.

<u>Summary of Regulatory and Policy Tools that Impact Development Along the Shoreline and Throughout the City</u>										
<u>Issue</u>	<u>SMP</u>	<u>Comp Plan</u>	<u>Zoning Code</u>	<u>EDDS</u>	<u>Storm Water Manual</u>	<u>CAO</u>	<u>Flood Plain</u>	<u>SEPA</u>	<u>CFP</u>	<u>Bldg. Codes</u>
<u>Shoreline Uses</u>	<u>X</u>	<u>X</u>	<u>X</u>			<u>X⁴</u>				
<u>Setbacks</u>	<u>X</u>		<u>X</u>							
<u>Heights</u>	<u>X</u>	<u>X</u>	<u>X</u>							
<u>View Protection</u>	<u>X</u>	<u>X</u>	<u>X</u>					<u>X</u>		
<u>Sea Level Rise</u>		<u>X</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>	<u>X</u>	
<u>No Net Loss</u>	<u>X</u>	<u>X</u>			<u>X</u>	<u>X</u>		<u>X</u>		
<u>Vegetation Preservation</u>	<u>X</u>	<u>X</u>	<u>X⁵</u>			<u>X</u>				
<u>Liquefaction</u>										<u>X</u>
<u>Development Review Process</u>	<u>X</u>		<u>X</u>					<u>X</u>		

⁴ CAO presently applies to the shoreline and is a separate regulatory document, however, following adoption the CAO will be incorporated into the SMP by reference.

⁵ Technically the Tree Code

<u>Nonconformities</u>	<u>X</u>		<u>X</u>							
<u>Vision</u>	<u>X</u>	<u>X</u>								
<u>Public Access</u>	<u>X</u>	<u>X</u>	<u>X</u>					<u>X</u>		
<u>Trails</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>						
<p>SMP = Shoreline Master Program EDDS = Engineering Development & Design Standards CAO = Critical Areas Ordinance SEPA = State Environmental Policy Act CFP = City’s Capital Facilities Plan X = Primary Function</p> <p>See table below for additional information on Shoreline Issues and other regulatory approaches to addressing those issues.</p>										

1.3 Purpose and Intent

The purpose of Olympia’s Shoreline Master Program is:

- D. To guide the future development of shorelines in the City of Olympia in a positive, effective, and equitable manner consistent with the Washington State Shoreline Management Act of 1971 (Act) as amended (RCW 90.58);
- E. To promote the public health, safety, and general welfare of the community by providing long-range, comprehensive policies and effective, reasonable regulations for development and use of Olympia’s shorelines; and
- F. To ensure, at a minimum, no net loss of shoreline ecological functions and processes and to plan for restoring shorelines that have been impaired or degraded by adopting and fostering the policy contained in RCW 90.58.020, Legislative Findings for shorelines of the state.

1.4 Title

This document together with the Restoration Plan (Appendix A) shall be known as the Olympia Shoreline Master Program or Shoreline Program. ~~[Note: SMP-Related Code Amendments (Page 88) below are NOT to be part of the Shoreline Program. The proposed code amendments are included because they are being concurrently considered and reviewed by the public and the City Council.]~~

2.4 Shoreline Use and Development Policies

- A. The City should give preference to those uses that are consistent with the control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon uses of the state's shoreline areas.
- B. The City should ensure that all proposed shoreline development will not diminish the public's health, safety, and welfare, as well as the land or its vegetation and wildlife, and should endeavor to protect property rights while implementing the policies of the Shoreline Management Act.
- C. The City should reduce use conflicts by prohibiting or applying special conditions to those uses which are not consistent with the control of pollution and prevention of damage to the natural environment or are not unique to or dependent upon use of the state's

shoreline. In implementing this provision, preference should be given first to water-dependent uses, then to water-related uses and water-enjoyment uses.

- D. The City should collaborate with private property owners, business owners and citizens in the implementation of the Shoreline Master Program to explore creative ways to reduce ecological impacts when new development or redevelopment is proposed. This objective may best be accomplished by developing flexible approaches to shoreline development where the total environmental benefit is enhanced through such measures.
- E. The City should encourage advanced stormwater management and treatment within the shoreline.
- F. The City should provide for the restoration, repair and replacement of Percival Landing where appropriate.
- G. The City should provide direct physical access to the water where appropriate.
- H. The City should provide a shoreline trail where feasible and consistent with applicable laws.
- I. The City should encourage native vegetation preservation and restoration where appropriate.
- J. The City should encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM where appropriate.
- K. The City should encourage water related recreation, active playgrounds, and significant art installations, performance space, or interpretive features where appropriate.

2.8 Waterfront Recreation Management Policies

- A. The *Waterfront Recreation* environment designation should be assigned to shoreline areas that are or are planned to be used for recreation, or where the most appropriate use is for recreation or associated open space.
- B. 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. Low intensity recreation should be non-motorized and not significantly alter the landscape, such as running and walking, bicycling, wildlife viewing, picnicking, nature study, and quiet contemplation and relaxation. Associated facilities might include trails, open fields and lawn areas, picnic shelters, public art, interpretive exhibits and supporting parking and restrooms.
- C. Trails, water access, interpretive sites, viewing platforms and passive recreation areas should be allowed within setbacks and vegetation buffers when significant ecological impacts can be mitigated.
- D. Preferred uses include trails, water related recreation, active playgrounds, and significant art installations, performance space, interpretive features, open lawn areas, play equipment, shelters, picnic areas, launch ramps, viewing platforms and accessory uses. Special events may take place.
- E. Shoreline restoration should be a priority. All development should ensure no net loss of shoreline ecological functions.

2.9 Marine Recreation Management Policies

- A. 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. Preferred uses include:
 1. Boating facilities including marinas, launch ramps, boat moorage, maintenance and repair, and upland boat storage; together with offices and other associated facilities;
 2. Water-oriented recreation such as trails and viewing areas, water access, water related recreation, active playgrounds, and significant art installations, performance space, or interpretive features; and
 3. Water-oriented commercial uses.
- C. 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.
- D. All development should ensure no net loss of shoreline ecological functions.
- E. Innovative approaches to restoration and mitigation should be encouraged, including incentive and alternative mitigation programs such as Advance Mitigation and Fee In-lieu.
- F. Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.
- G. The City recognizes the Port's responsibility to operate its marine facilities and to plan for this area's future use through the development and implementation of its Comprehensive Scheme of Harbor Improvements.
- H. The City recognizes that the Marine Recreation shoreline (Reach 5C) and the adjoining Urban Conservancy shoreline in Reach 6A provide a variety of benefits to the community including, boat moorage, utility transmission, transportation, public access, water enjoyment, recreation, wildlife habitat and opportunities for economic development. These benefits are put at risk by continued shoreline erosion. The City recognizes that there exists a need to develop a detailed plan for shoreline restoration and stabilization for Reaches 5C and 6A and encourages the Port to partner in this effort.
 1. This plan may include:
 - i. Measures to enhance shoreline stabilization through the introduction of bioengineered solutions.
 - ii. Measures to incorporate habitat restoration waterward of the OHWM.
 - iii. Measures to incorporate public access and use through trails, public art, parks and other pedestrian amenities.
 - iv. Measures to incorporate sea level rise protection.
 - v. Setbacks, building heights and building design considerations.
 2. Upon completion of a jointly developed shoreline restoration and stabilization plan for Reaches 5C and 6A the City will initiate an SMP amendment process to implement this plan.

2.10 Shoreline Residential Management Policies

- A. The *Shoreline Residential* environment designation should be applied to shoreline areas if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.
- B. Establish standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.
- C. Multi-family development and subdivisions of land into more than nine (9) parcels should provide public access.
- D. Commercial development should be limited to water-oriented uses and not conflict with the character in the *Shoreline Residential* environment.
- E. Water-oriented recreational uses should be allowed.
- F. Encourage restoration of degraded shorelines in residential areas and preservation of existing vegetation.
- G. Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.

2.11 Urban Intensity Management Policies

- A. The *Urban Intensity* environment should be assigned to shoreline areas if they currently support high intensity uses related to commerce, industry, transportation or navigation, and high-density housing; or are suitable and planned for high-intensity water-oriented uses.
- B. Olympia's shoreline is characterized by a wide variety of "urban" uses and activities, including commercial, industrial, marine, residential, and recreational uses. Together, these uses and activities create a vibrant shoreline that is a key component of Olympia's character and quality of life. These types of uses should be allowed within the *Urban Intensity* environment, with preference given to water-oriented uses.
- C. Nonwater-oriented uses may be allowed where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.
- D. Water-oriented recreation such as trails and viewing areas, water access, water related recreation, active playgrounds, and significant art installations, performance space, or interpretive features; and
- E. Provide for the restoration, repair and replacement of Percival Landing including consideration of sea level rise protection; and
- F. Policies and regulations should assure no net loss of shoreline ecological functions as a result of new development. Where applicable, new development should include environmental cleanup and restoration of the shoreline to comply with any relevant state and federal law.
- G. Where feasible visual and physical public access should be required as provided for in WAC 173-26-221(4)(d) and this shoreline program.

- H. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and vegetation conservation measures.
- I. Innovative approaches to restoration and mitigation should be encouraged, including incentive and alternative mitigation programs such as Advance Mitigation and Fee In-lieu.
- J. Encourage bulkhead removal and replacement of hardened shoreline with soft structural stabilization measures water-ward of OHWM.

3.49 18.34.660 Commercial Use and Development - General

- A. The construction of new and the expansion of existing overwater commercial buildings is prohibited, except as otherwise provided for herein.
- B. Public access shall be provided for all commercial use and development pursuant to OMC 18.34.450.
- C. Vegetation conservation areas, as required per Table 6.3, shall be provided and planted per Table 6.2 and pursuant to the provisions in Section 18.34.492.
- D. Commercial development shall not impact the rights of navigation.
- E. Home occupations are not considered to be commercial uses.