



## City Council

### Shoreline Master Program (SMP) Deliberations - May 14, 2013 Draft SMP

**Agenda Date:** 5/14/2013  
**Agenda Item Number:**  
**File Number:** 13-0380

---

**Type:** discussion **Version:** 1 **Status:** Filed

---

**Agenda Item:**

Shoreline Master Program (SMP) Deliberations - May 14, 2013 Draft SMP

**Issue:**

Provide staff feedback and direction on the May 14, 2013 Draft of the Shoreline Master Program (Attachment 1) and, if appropriate, open the record for written comment.

**Committee Recommendation:**

None.

**City Manager's Recommendation:**

Provide feedback and direction to City Staff to finalize the draft Shoreline Master Program prior to public hearing.

**Staff Contact:**

Keith Stahley, Community Planning and Development Director, 360.753.8227

**Presenter(s):**

Keith Stahley, Community Planning and Development Director

**Background and Analysis:**

This SMP update started in 2007 with the Department of Ecology awarding a grant to the City to participate in a region-wide update process. This process has involved hundreds of meetings and thousands of hours of review by the Planning Commission, the public and professionals from the City, Thurston Regional Planning Council, the Department of Ecology, and Washington Department of Fish and Wildlife.

The existing SMP has served the community well for many years, however, it is time to move forward. The updated SMP does that by:

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

shoreline enhancement/restoration.

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

This has been a robust public process and has allowed for a healthy debate to occur. City Council has been considering the draft Shoreline Master Program since June of 2012. Over the past year the City Council has held special meetings, workshops, deliberations and a public hearing. Council has met on 21 separate occasions to consider the SMP and has 6 more opportunities for continued consideration scheduled between May and August. A second public hearing is scheduled for June 18, 2013.

#### **Council Consideration of the Shoreline Master Program -- April 2012 - May 2013:**

1. April 4, 2012: LUEC -- Shoreline Master Program Update
2. May 1, 2012: CC -- Joint Meeting with the Olympia Planning Commission
3. May 8, 2012: CC -- SMP/Comprehensive Plan Scheduling
4. June 19, 2012: CC -- Joint Meeting with Olympia Planning Commission
5. July 10, 2012: CC -- Consideration of City Council's SMP public participation and deliberation process.
6. July 28, 2012: CC -- SMP Workshop and Roundtable Discussion
7. August 21, 2012: CC -- Next Steps
8. August 23, 2012: LUEC -- SMP Process and Schedule
9. September 11, 2012: CC - Workshop with the Department of Ecology
10. September 25, 2012: CC -- Workshop with Non-Governmental Agencies and Organizations
11. October 2, 2012: CC -- Workshop with Government Agencies
12. October 9, 2012: CC -- Initial SMP Deliberations -- Questions and Information Needs
13. October 16, 2012: CC -- Initial SMP Deliberations
14. October 23, 2012: CC -- SMP Discussions on Setbacks, Building Heights, Vegetative Buffers and other Shoreline Regulations.
15. December 18, 2012: CC - Review draft concepts and process
16. January 22, 2013: CC - **Public Hearing**
17. February 12, 2013: CC - Receive public hearing record
18. February 26, 2013: CC - Continuing SMP deliberations
19. March 5, 2013: CC - Continuing SMP deliberations
20. March 12, 2013: CC - Continuing SMP deliberations
21. March 26, 2013: CC - Continuing SMP deliberations

Minutes and video of these meetings are available for review on the City's web site at [www.Olympiawa.gov](http://www.Olympiawa.gov) <<http://www.Olympiawa.gov>>

#### **Council Consideration of the Shoreline Master Program May 2013 - August 2013:**

22. May 14, 2013: CC - Continuing SMP deliberations

23. May 28, 2013: CC - Final SMP deliberations prior to public hearing
24. June 18, 2013: CC - **Public Hearing**
25. July 9, 2013: CC - Council consideration of public hearing record
26. July 23, 2013: CC - Council final deliberations
27. August 13, 2013: CC - Approve SMP and transmit to DOE

CC - City Council

LUEC - Land Use and Environment Committee

Through this review process City Council has made significant revisions and modifications to the SMP and provided staff with direction to return with a draft SMP that responds to this input. Staff has worked hard to accurately respond to council input and we think that we have been true to that direction. Given the volume and duration of this input, however, it is possible that staff may have misinterpreted Council's direction. Staff looks forward to hearing your feedback and receiving Council's direction on preparing a final draft for public hearing on June 18, 2013.

In preparing the May 14, 2013 Draft staff recommends deviating from Council's direction in two areas:

1. In addressing water dependent uses and allowing for reductions in building setbacks. Staff has included the definitions for water dependent, water related, water enjoyment and water oriented uses (Attachment 2) as an attachment to the staff report. Staff thinks that new water dependent uses are unlikely to be develop along reaches 3A, 4 and 5A and recommends using the more permissive water oriented use for these reaches. This would be consistent with the direction provided by the Department of Ecology in their February 5, 2013 letter (Attachment 3). Staff has developed a series of incentives that would need to be achieved in order for these uses to encroach the required setback areas. Water dependent, Water Related, Water Oriented and Listed Uses (associated with Reach 3B only) may encroach the required setback and vegetation conservation area as described in Table 6.3 so long as they:
  - a. Provide for mitigation of the encroachment at a ratio determined to offset the impacts of the encroachment and in no case less than a 2 square feet of mitigation for every 1 square foot of encroachment within the required vegetation conservation area and demonstrate no net loss of environmental function. Required mitigation shall meet the vegetation restoration standards noted in 5 above.
  - b. 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.
  - c. Projects proposing setbacks less than 20 feet shall also meet the shoreline bulkhead removal or hardening replacement requirements of 5 or 6 above for each linear foot of shoreline impacted.
  - d. Mitigation required may take place on site or off site.
2. Sea level rise. Staff recommends that sea level rise not be one of the incentives for setback reductions. Staff thinks that sea level rise along Reaches 4, 5 and 6 will need to be responded to in a systematic, coordinated and planned manner and that individual solutions on individual parcels may be uncoordinated and ineffective in these areas.

Please also note that Section 18.37 dealing with nonconforming buildings and uses has been rewritten to be more explicit regarding the effect of the new regulations on existing buildings and uses. We have attempted to be clear that buildings not meeting the standards contained in the regulations can continue to exist and if destroyed can be rebuilt in their entirety. Buildings not meeting the standards can also be expanded both

vertically and horizontally away from the shoreline.

Staff was not able to find another word to replace the word nonconforming without rewriting significant portions of the City's existing regulations and potentially creating an undue amount of confusion in the administration of the code.

Council will find changes to the SMP are highlighted in the draft using underlines for new text and strikethrough for text that has been deleted. Please note that all proposed changes will be shown in bill-format in the attachment, except that staff simply removed all of the nonconforming sections that were edits of existing code and replaced them with new 'special to SMP' nonconforming section.

#### Summary of revisions:

The primary areas of revisions include how existing buildings are treated, building setbacks and heights and incentives for achieving shoreline restoration objectives as well as consideration of further administrative flexibility.

1. General policies and regulations were revised and improved flexibility by encouraging alternative mitigation approaches when appropriate. New sections were added on advance mitigation and fee in-lieu programs.
2. The Urban Intensity, Port Marine Industrial and Marine Recreation Designations were specifically identified as designations where "preference should be given 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."
3. In general, the policies are revised to highlight the City's willingness to consider incentives, alternative approaches, innovative restorations strategies, and comprehensive and coordinated approaches to mitigation and restoration that might require looking at off-site mitigation to be successful.
4. Water-related & water-dependent industry changed from prohibited to conditional use in Waterfront Recreation and Marine Recreation environment.
5. Minimum width of averaged VCA (buffer) reduced from 75% of standard width to 50% of standard width and the maximum percentage of VCA not used for vegetation conservation increased from 25% to 33%.
6. Table 6.2 was revised to remove setback requirements.
7. Table 6.3 was inserted to include setback and incentive requirements and as noted previously to allow reductions in setbacks for water dependent, water related and water enjoyment uses. A 30 foot vegetation conservation area was proposed in the reaches where greater flexibility is proposed (3A, 4, 5A, 5C and CAP 6).
8. Section 3.41 18.34.620 - Use and Development Standards Tables has been amended to add section E that defines required shoreline improvements to achieve setback reductions.
9. Substantial revisions to Section 18.37 dealing with nonconforming buildings and uses providing clarity about the effects of the regulations on existing buildings and uses.

There were also numerous changes responding to the Department of Ecology's comments (a few not made due to citywide substantive implications - such as changing maximum width and length of all piers and docks or size of 'small building' allowed in VCA - these could lead to post-submittal discussion with the Department of Ecology); most changes per the Department of Ecology were editorial clarifications or resolution of inconsistencies between our proposal and specific requirements of the SMA guidelines. Some substantive highlights of changes responsive to the Department of Ecology's recommendations include:

1. Floating homes specifically prohibited citywide; live-aboard vessels may be approved at marinas.

2. Changed so neither recreational use nor maintenance are reasons for filling aquatic areas;
3. Fill for shoreline protection changed from permitted to conditional use.
4. Clarified that SMA jurisdiction extends 200 from any floodways (normally from OHWM)
5. Clarification that OMC 18.32 (critical areas) is to be made part of SMA - and small wetland exemption not applicable if SMA applies.
6. Clarified that trails are a form of transportation facility, but standards for roads and trails differ.
7. Public recreational floats limited to 200 square feet each.

**Neighborhood/Community Interests:**

See public testimony, written comment and the record generated to date - copy in Council office.

**Options:**

1. Provide staff feedback and direction on the May 14, 2013 Draft SMP and open the record to accept written comments until June 25, 2013.
2. Provide staff feedback and direction on the May 14, 2013 Draft SMP and continue deliberations to May 28, 2013.
3. Provide staff feedback and direction on the May 14, 2013 Draft SMP and continue deliberations at a future date.

**Financial Impact:**

None.