



MEMORANDUM

DATE: January 14, 2013

TO: Chairman Carlson and Members of the Planning Commission

FROM: Paul Inghram, AICP
Planning and Community Development

SUBJECT: Shoreline Master Program
This version has been revised to include a draft revised Code section as Attachment C.

At the previous Planning Commission meeting December 12, the Commission completed review of the draft Shoreline Master Program, including recent edits to code sections LUC 20.25E.080, .065, and .280, and re-reviewing the draft policies to ensure that they remained consistent with the direction of the overall SMP.

Prior to making a recommendation to Council, the Commission identified a small number of outstanding issues, including the shoreline setback and vegetation protection provisions. Commissioners Tebelius, Ferris and Laing were charged with looking at those standards and determining whether they could identify an alternative proposal for setbacks and vegetation protection that might have broader acceptance among commissioner. Commissioners Tebelius, Ferris and Laing talked several times over the holidays and developed a concept for applying the City's existing greenscape standard to the shoreline area. The commissioners saw this as a way to prevent unintended outcomes of shoreline setback areas from becoming entirely paved with hardscape and as a way to help preserve areas of vegetation.

A summary of the proposal developed by the commissioners is shown in Attachment A. This summary helps provide an opportunity to understand the proposal. A revised SMP code section for the Commission's consideration is included as Attachment C.

Recommendation and Transmittal Content Framework

Attachment B includes a framework document that lists key actions that the Planning Commission should consider in making its recommendation on the Shoreline Master Program, and directing staff to prepare a transmittal to the City Council. This is similar to what the Commission reviewed in December. Consistent with past practice, staff will use the Planning Commission direction to prepare a draft transmittal and circulate it to Commission members electronically for feedback prior to finalization. While the Commission commented on the content appropriate for the transmittal at the previous meeting, the framework document may still be helpful in crafting a recommendation.

When the Commission chooses to take action to make a recommendation to Council, the Recommendation and Transmittal Content Framework includes draft motion language to use as a guide.

Attachments

- A. Greenscape Proposal Summary
- B. Recommendation and Transmittal Content Framework
- C. Draft Revised Code Section

ATTACHMENT A

Greenscape Proposal Summary

Definitions: Revise definition of hardscape to exclude shoreline stabilization.

Triggers:

1. The addition of any structure within in the area located between OHWM and a line located 50 feet landward of OHWM outside the footprint of any legally created structure in existence when the SMP is adopted. This trigger would include:
 - a. New structure waterward of 50 foot mark on previously undeveloped lots
 - b. Expanded structure waterward of 50 foot mark that is outside an existing structure footprint
 - c. Reconfigured structure waterward of 50 foot mark that is outside an existing structure footprint (even if net new structure area is not increased).
2. The addition of any hardscape within the shoreline setback (area located between OHWM and a line located 25 feet landward of OHWM) outside the footprint of any legally created hardscape area in existence when the SMP is adopted. This trigger would include:
 - a. New hardscape in a 25 foot shoreline setback that was previously lawn or other landscaping
 - b. Expanded hardscape in the 25 foot shoreline setback that is outside an existing hardscape footprint
 - c. Reconfigured hardscape in the 25 foot shoreline setback that is outside an existing hardscape footprint (even if net new hardscape area is not increased).

Standards:

1. When new structure meets the above-described trigger:
 - a. A minimum of 50% of the shoreline setback shall be preserved or restored to “greenscape,” and no more than 15% of the allowed hardscape shall be placed within the first 10 feet of area located adjacent to the OHWM, and
 - b. Preservation or restoration of greenscape is required at a 1:1 ratio that is equal to the new or expanded structure to be located waterward of the 50 foot mark
2. When new hardscape meets the above-described trigger:
 - a. Hardscape area under the 50% limit may not be increased above 50%
 - b. Hardscape area over the 50% limit may not be increased above the percentage that is in existence when the SMP is adopted
 - c. Hardscape shall be reconfigured so that no more than 15% of the allowed hardscape shall be placed within the first 10 feet of area located adjacent to the OHWM

Relationship to LUC 20.25E.065.E.2: When structure is added within the shoreline setback as allowed by this section, the native vegetation requirement must be met. The native vegetation can be used to meet the 50% greenscape requirement in the shoreline setback, but the 1:1

ratio equal to the expanded structure area must be met independently consistent with the terms of standard 1.b above.

ATTACHMENT B

Recommendation and Transmittal Content Framework

This framework document lists the key steps for the Planning Commission to make its recommendation on the Shoreline Master Program and prepare a transmittal to the City Council.

- Vote to recommend approval of the draft Shoreline Master Program as has been prepared. Sample motion language:

Move to recommend to the City Council approval of the updated Bellevue Shoreline Master Program, including:

- *Amendments to the Shoreline Element of the Comprehensive Plan,*
- *Amendments to the "Shoreline Overlay District," part 20.25E of the Land Use Code,*
- *The City of Bellevue Shoreline Restoration Plan, and*
- *Shoreline Environment Maps*

- Vote to recommend City Council consideration of those issues that have been discussed during the SMP update process, but fall outside of the above document or require additional efforts beyond that directed by the SMP. These include:

- Phantom Lake management, including weir operation, beaver dams and other aspects that result in flooding of the lake
- Lake Sammamish flooding, including management of the Sammamish River weir and outlet, coordination with King County, floodplain regulation, and mapping of the floodplain
- Regulatory enforcement philosophy to ensure that regulations are enforced in a fair and consistent manner
- Watershed and stormwater impacts on shoreline property and shoreline functions and values
- Other issues that the Commission wishes to include in the transmittal

This recommendation could be combined with the primary recommendation to approve the SMP.

- Direct staff to prepare a transmittal to the City Council. At the Commission's direction, staff will prepare a draft transmittal to the City Council that communicates the Commission's recommendation. The transmittal is a vehicle for the Planning Commission to relay its full recommendation and statement to the Council, including the outstanding issues noted above. It's also a place for the Commission to document the extensive process of the update, the results of the public hearing, and the nature of

the Commission's deliberations. The transmittal will review and respond to the code and plan amendment criteria. The transmittal is also a place for the Commission to highlight major themes and issues. Major themes of the SMP update that have been discussed by the Planning Commission and could be captured in the transmittal include:

- Setbacks and vegetation protection
- OHWM
- Bulkhead replacements
- Docks
- Nonconforming uses
- Restoration plan
- Meydenbauer Bay and park uses
- Other elements of the recommendation that the Commission wishes to highlight in the transmittal

The transmittal would also note that other supplementary Code amendments are required to fully implement the SMP, including changes to the Critical Areas regulations to adjust them to be consistent with the new SMP.

Staff will prepare the draft transmittal and circulate it with the full Commission for review. Final review of the transmittal will be coordination with Chairman Carlson.

ATTACHMENT C

Draft Revised Code Section

Chart 20.25E.065.C – Notes: Shoreline Dimensional Requirements for Residential Uses

(6) The greenscape requirements of 20.20.010 do not apply within the shoreline overlay district. Refer to the provisions of LUC 20.25E.065.F for Shoreline Greenscape Conservation provisions. ~~This section shall be imposed any time a permit, approval, or review, including land alteration or land development for Single-Family Land Use Districts, is required by the Bellevue City Code or Land Use Code. Existing structure setbacks prior to [Insert Effective Date of Ordinance], which do not meet the minimum greenscape requirements set forth in Chart 20.25E.060.C shall not be considered nonconforming. The City shall not, however, approve proposals to decrease the greenscape percentage set forth in Chart where a site already falls below the minimum greenscape requirements. Where an existing site falls below the minimum requirements, the removal of greenscape shall not be approved unless an equal amount of existing impervious surface, pervious surface, or hardscape is removed, such that the net amount of greenscape is unchanged. The Director may modify the requirement for nonconforming lots, or lots with unique sizes and shapes. See LUC 20.50.022 for the definition of greenscape.~~

20.25E.280 – Definitions Specific to the Shoreline Overlay District.

Shoreline Greenscape. All living plant, tree, hedge, and shrub material located in the shoreline structure setback required by LUC Chart 20.25.E.065.CF. Beach area, soft shoreline stabilization and angled rock revetments installed as replacement for vertical shoreline stabilization shall be considered Shoreline Greenscape. Hardscape materials, whether pervious or impervious by design, shall not be considered greenscape, except that shoreline stabilization that was legally established before [INSERT EFFECTIVE DATE of ordinance] shall not be considered hardscape.

20.25E.065.F Vegetation Conservation and Shoreline Greenscape Conservation.

1. Applicability. Vegetation conservation in the Shoreline Overlay District shall be regulated pursuant to the city-wide tree preservation standards in LUC 20.20.900 (as set forth in the Land Use Code on [INSERT EFFECTIVE DATE of ordinance-~~adoption~~]), which is incorporated by this reference into the SMP. Additional standards may apply for critical areas; refer to Part 20.25H LUC (Critical Areas Overlay District).

2. Shoreline Greenscape Conservation Thresholds and Standards. In addition to complying with the requirements of Chart 20.25E.065.C and F.1 of this paragraph, all development meeting the thresholds set forth in paragraphs F.2.a and F.2.b below shall comply with the applicable shoreline greenscape conservation standards set forth in F.3 and F.4 of this paragraph.

- a. Structure Threshold. Compliance with the shoreline greenscape conservation standards set forth in F.3 and F.4 of this paragraph is required when any structure is placed waterward of a horizontal line located 50-feet landward of the ordinary high water mark, and the placed structure is located outside of the footprint of an existing structure that was legally established before [INSERT EFFECTIVE DATE of ordinance]. Placement of structure includes any new structure, reconstructed structure, reconfigured structure, and additions to an existing structure outside of the footprint of an existing legally established structure.
- b. Hardscape Threshold. Compliance with the shoreline greenscape conservation performance standard set forth in F.3.b of this paragraph is required when any hardscape is placed within the shoreline setback, and the placed hardscape is located outside of the footprint of the existing hardscape area that was legally established before [INSERT EFFECTIVE DATE of ordinance]. Placement of hardscape includes any new hardscape, reconstructed hardscape, reconfigured hardscape, or additions to existing hardscape area outside of the footprint of an existing legally established hardscape area.

3. Greenscape Conservation Standards.

- a. Structure placement meeting the threshold described in paragraph F.2.a above shall comply with the following greenscape conservation standards:
 - i. Preservation and Restoration of the Shoreline Setback. A minimum of 50 percent of the shoreline setback shall be preserved or restored to greenscape; provided further, that the allowed hardscape shall be reconfigured so that no more than 15 percent of the first 10 feet of area located adjacent to the OHWM shall be hardscape.
 - ii. Preservation/Restoration Ratio. Greenscape preservation or restoration is required at a ratio of 1:1 that is equal to the square footage of the placed structure, and greenscape shall be preserved or restored in the area waterward of a horizontal line located 50-feet landward of the ordinary high water mark.

b. Hardscape.

- i. Existing hardscape that was legally established before [INSERT EFFECTIVE DATE of ordinance] and exceeds 50 percent of the shoreline setback area is not considered nonconforming. Such hardscape may remain, and it may be maintained and/or replaced in the same footprint area. Under the terms of this paragraph, existing hardscape that exceeds 50 percent of the shoreline setback shall not be expanded.
- ii. Hardscape placement meeting the threshold described in paragraph F.2.b shall not exceed 50 percent of the area located in the shoreline setback, and the allowed hardscape shall be configured and/or reconfigured so that no more than 15 percent of the first 10 feet of area located adjacent to the OHWM shall be hardscape.

4. Relationship to LUC 20.25E.065.E.2 – Residential structure setback allowance. When structure is added within the shoreline setback as allowed by this section, in addition to the performance standards set forth in paragraph F.3, the native vegetation requirements of LUC 20.25E.065.E.2 of this section shall be met. The native vegetation requirements may be used to meet the 50 percent greenscape requirement in the shoreline setback, but the 1:1 ratio equal to the placed structure area outside of the footprint of an existing legally established structure shall be met independently in compliance with the provisions of F.3.a.ii of this paragraph.