



DATE: July 17, 2014

TO: Stakeholders Interested in the Shoreline Master Program Update

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SUBJECT: Public Hearing on Shoreline Master Program Update
File No. 07-122342-AC, 11-103227-AD, 11-103228-AD

INTRODUCTION

On August 4, 2014, the City Council will hold its second public hearing to consider amendments to the Bellevue Land Use Code (LUC) and Comprehensive Plan to update the City's Shoreline Master Program (SMP). The updated master program will reside as a stand-alone SMP codified within Chapter 20.25E LUC, and will apply to all areas of the City within the shoreline jurisdiction. The SMP Update amendments are intended to supplant the City's existing SMP in its entirety. The proposal also includes conformance amendments to other land use code sections, including the Critical Areas Overlay District Part 20.25H LUC to ensure internal consistency with the SMP as required under the Growth Management Act, Chapter 36.70A RCW. The proposed amendments are needed to comply with the statutory deadline for comprehensive update of the local Shoreline Master Program pursuant to RCW 90.58.080.

The focus of the August 4, 2014 public hearing is to provide an opportunity for the public to make written and oral comments regarding variations that are being considered by the City Council to the Planning Commission's recommended Draft SMP. The Planning Commission recommendation was the subject of a prior public hearing that was held on May 5, 2014. Refer to the project web page for more information regarding the Planning Commission recommendation. <http://www.bellevuewa.gov/10600.htm> The Council-requested variations to the Planning Commission recommendation are described below.

BACKGROUND

During its first meeting on the SMP topic, the City Council endorsed an SMP Update Completion Process for use in finalizing the Planning Commission work for submittal to the Department of Ecology for review and approval. Topics identified as important to the Planning Commission in the development of its recommendation, and additional

topics identified as important to the Council, were subjected to in-depth review. The chronology of the City Council's in-depth review is depicted below:

✓ May 12	Public Access and Park Development Determination of Ordinary High Water Mark Nonconforming Residential Development
✓ May 27	Setbacks/Buffers
✓ June 9	Vegetation Conservation
✓ June 23	Critical Areas including floodplains Docks Shoreline Stabilization

During the July 14 Study Session, staff presented additional information requested by the Council during the course of its in-depth review. This additional information was used by the Council to identify variations to the Planning Commission Recommendation that they wished to be considered during the second Public Hearing, and prior to development of the Final SMP Update package for submittal to the Department of Ecology. Variations requested by the Council for consideration by the public are described below.

1. Public Access. The Council-requested variation to the Planning Commission recommendation would require public access (either physical or visual) to be provided as a component of new or expanded private recreation uses (such as yacht clubs, marinas and community clubs). This variation would build on the Planning Commission-recommended requirement to provide public access to public uses (including parks, and transportation and utility infrastructure). A description of the Public Access variation under consideration by the City Council is included in Attachment A.
2. Park Development. The Council-requested variation to the Planning Commission recommendation would permit all beach parks to be developed through an administrative permit approval process when a Master Plan had been previously adopted by the City Council. Under this variation, Meydenbauer Bay Park would be permitted in the same manner as other parks with Master Plans. A description of the Park Development variation under consideration by the City Council is presented in Attachment B.
3. Determination of Ordinary High Water Mark. The Council-requested variation to the Planning Commission recommendation would allow for the measurement of setbacks from a fixed elevation as a default, with the ability for applicants to obtain a site-specific determination if desired. The fixed elevation would be

based on a lake study such as the one conducted for Lake Sammamish in 2004. This variation would also include clarification that the fixed elevations would not be used for the purpose of establishing shoreline jurisdiction or determining the location of ordinary high water mark (OHWM) for the purpose of properly locating a new dock or bulkhead. A description of the variation under consideration by the City Council for Determination of OHWM is presented in Attachment C.

4. Setbacks and Vegetation Conservation. The Council-requested variation to the Planning Commission setback recommendation would include a 50-foot structure setback with the flexibility to reduce the setback and move toward the water through a series of menu options (or incentives). Existing structures on the site receive the benefit of a footprint exception to legally retain setbacks established by existing residential structures. A string test, allowing for setbacks to be reduced based on the location of structures on abutting properties, would also be included. Mitigation for potential loss of vegetation and vegetation retention would also be required. A description of the Setback and Vegetation Conservation variation under consideration by the City Council is presented in Attachment D.
5. Residential Moorage. The Council-requested variation to the Planning Commission residential moorage recommendation would increase the allowed moorage walkway width from four feet to five feet in the first 30 feet waterward of OHWM. Variations to the balance of the Planning Commission recommendation on this topic were not considered.

Remaining Process Steps

Amendments to the Land Use Code and Comprehensive Plan are legislative non-project decisions made by the City Council under its authority to establish regulations regarding future private and public development. These legislative actions are defined as Process IV decisions in the Land Use Code (LUC 20.35.015.E). After holding the public hearing on August 4th, the City Council is anticipated to provide direction to staff on September 8th to guide development of a final SMP Update Package and environmental review under the State Environmental Policy Act. Because this is an update to the Shoreline Master Program, Department of Ecology approval will be required on the final SMP Update Package before it becomes effective.

Any person may participate in the public hearing by submitting written comments to the City Council in care of Myrna Basich, City Clerk, P.O. Box 90012, Bellevue, WA 98009, or to Carol Helland, Land Use Director, Development Services Department, City of Bellevue, P.O. Box 90012, Bellevue, Washington, 98009-9012 or by e-mail to chelland@bellevuewa.gov . Comments must be received by 5:00 pm. on August 4, 2014. All written comments received by the City Clerk or Land Use Director will be transmitted to the City Council no later than the date of the public hearing.

ATTACHMENTS

- A. Public Access – Council Public Hearing Variation
- B. Parks Development - Council Public Hearing Variation
- C. Determination of Ordinary High Water Mark – Council Public Hearing Variation
- D. Setbacks and Vegetation Conservation – Council Public Hearing Variation

PUBLIC ACCESS – COUNCIL PUBLIC HEARING VARIATION

<p align="center">Public Access required for all new and expanded public and recreation uses</p>
<p><u>Use Regulations:</u> Public access is a required component of public uses and private shoreline recreation uses.</p>
<p><u>Applicability:</u> Transportation, utility and park projects and private marinas, yacht clubs and community clubs. Not applicable to residential uses.</p>
<p><u>When Required:</u> New development, and expansions of recreation facilities (both public and private) and utility facilities that exceed 20 percent or transportation facilities that exceed the limits of existing right-of-way.</p>
<p><u>What is Required:</u> Physical access unless the use is buried (i.e., utility pipe), or when physical access not feasible due to safety hazard, security issue, disproportionate cost, impacts that cannot be mitigated, or constitutional limitations. Visual access is acceptable when physical access poses a safety hazard, security issue, disproportionate cost, impacts that cannot be mitigated, or violates constitutional limitations on regulations. Physical or visual access may be limited to one or more specific locations on a site subject to the public access requirements, and may be limited by reasonable time, place and manner restrictions.</p>

PARK DEVELOPMENT - COUNCIL PUBLIC HEARING VARIATION

Meydenbauer Bay Park regulated the same as other parks with Council-Adopted Master Plans

Permitting for beach park development: Determined by whether there is a Council-adopted Master Plan or no Council-adopted Master Plan.

Parks with Council-Adopted Master Plan:

- Public outreach would occur as a component of master plan approval.
- Park development would require administrative shoreline permit approval (Shoreline Substantial Development Permit) with the following process steps:
 - Public notice of application
 - Public meeting (optional)
 - Decision by the DSD director
 - Opportunity for appeal to Shoreline Hearings Board
- Park development must be undertaken consistent with the adopted plan.
- Mitigation associated with development would be approved through the administrative permit.
- Meydenbauer Bay Park would be regulated the same as other parks with Council-Adopted Master Plans.

Parks without Council-Adopted Master Plan:

- Park development would require a single General CUP applicable to shoreline and upland areas with the following process steps:
 - Public notice of application
 - Recommendation by the DSD director
 - Public hearing and decision by the Hearing Examiner
 - Opportunity for appeal to City Council
- Public outreach would occur as a component of the CUP approval.
- Park development must be undertaken consistent with the adopted plan.
- Mitigation associated with development would be approved through the CUP.

DETERMINATION OF ORDINARY HIGH WATER MARK – COUNCIL PUBLIC HEARING VARIATION

Static Elevation for measurement of setback based on a Lake Study
Approach established in 2004 with endorsement by Department of Ecology.
Static elevation was adopted for measurement of shoreline setback on Lake Sammamish in response to request by Rosemont Beach residents.
Static elevation of 31.76 NAVD 88 for Lake Sammamish was based on a statistically valid lake study that identified an elevation approximating OHWM in 2004.
Static elevation based on lake study provides safe harbor, with opportunity for property owners to obtain site specific determination by qualified professional.
No lake studies conducted to support static elevation on Lake Washington or Phantom Lake. In practice, Hiram Chittenden locks elevation used as guidance on Lake Washington together with site-specific verification.

RESIDENTIAL SETBACKS AND VEGETATION CONSERVATION – COUNCIL PUBLIC HEARING VARIATION

Flexible Setbacks with String Test and Menu Option

Dimensions:

- Shoreline Residential: 50 feet
- Shoreline Residential Canal: 25 feet
- Phantom Lake: regulated pursuant to substantive wetland requirements (SMP setback does not apply)



Could consider automatic setback reductions for shallow lots (Lake Forest Park approach)

Alternatives to Requirement:

- Footprint Exception for existing primary structures establishes permanently reduced setback within 50 feet of Ordinary High Water Mark (OHWM).
- Development between 25-50 feet from OHWM allowed in compliance with String Test or Menu Options.
- Variance required for setback reductions (not associated with the footprint exception) within 25 feet of OHWM.

String Test

- Reduction in 50 foot setback allowed (to a minimum of 25 feet) with addition of native landscaping within 25 feet of OHWM in a quantity equal to the area of expansion into the setback. Reduction distance based on location of structures on abutting properties.

Menu Option

The overall 50 foot setback in the Shoreline Residential environment may be reduced to a minimum of 25 feet when setback reduction impacts are mitigated using a combination of prescribed menu options (or incentives); for example:

- Largest setback reduction allowed for actions with greatest environmental benefit (i.e., retention of unmodified shorelines or use of soft stabilization where necessary). Cities of Sammamish, Renton and Lake Forest Park all utilize this approach.
- Medium reduction allowed for actions with medium environmental benefit (i.e., opening a piped stream, installing pervious paving material, removing two single use docks and replacing with a joint use dock, use of a 3:1 or greater sloped hard bulkhead when soft approaches are infeasible, or planting of native vegetation).
- Small setback reduction allowed for actions with small environmental benefit (i.e., increased vegetation retention over the minimum required, replacement of dock decking with grating in first 30 feet of moorage facility, limit on the total site impervious coverage below the maximum allowed or environmental benefit outside setback).

Property owners would be given these reductions for new proposed actions or existing conditions that meet the criteria for environmental benefit.

Flexible Setbacks with String Test and Menu OptionVegetation Conservation

- Citywide Tree Retention and Replacement requirements apply, and require retention of 30 percent of diameter inches of significant trees on-site when new development, or 20 percent increase in impervious surface area, is proposed.
- Shoreline Specific retention requirements apply as follows when land disturbing activity is proposed within 25' of OHWM:
 - Shoreline Residential Environment - Vegetation retention required on 60 percent of area within 25 feet of OHWM.
 - Shoreline Canal Environment - Vegetation retention required on 35 percent of area within 25 feet of OHWM.

Landscape Development Standard

Installation of additional landscaping required for new, replacement and expanded residential structures.

Shoreline Residential Requirements: Installation of landscaping in 60 percent of the shoreline setback (within 25 feet of OHWM). Expansions less than 500 sf limited to proportionate replacement.

Shoreline Canal Requirements:

Installation of landscaping in 35 percent of the shoreline setback (within 25 feet of OHWM).

Other relevant provisions:

- Hazard tree removal allowed