

2009 City of Olympia SMP - Isthmus Height Amendment
ATTACHMENT A – Evaluation of WAC 173-26-201(1)(a-g) criteria

(1)(a) The master program amendments being considered represent a significant modification to shoreline management practices within the local jurisdiction, they modify more than one environment designation boundary, or significantly add, change, or delete use regulations.

This does apply because proposed SMP changes doubling the allowable building height in the downtown Olympia Urban Waterfront Housing district from 35 ft. to 70 ft. represent a significant modification to local shoreline management practices and significantly change existing regulations. In addition, the shoreline areas and adjacent lands that would be affected by the proposed changes are located between Capitol Lake and Budd Inlet of Puget Sound. This area has been a focus of concern regarding diminished public views of Puget Sound and the Olympic Mountains from the State Capitol Campus and other public waters and places. The city's adopting Resolution and Ordinance both note the significance of the subject shoreline area.

(b) Physical shoreline conditions have changed significantly, such as substantial changes in shoreline use or priority habitat integrity, since the last comprehensive master program amendment;

This does not apply because the last comprehensive SMP amendment was in 1989, and physical conditions within the affected shoreline area exhibit little change.

(c) The master program amendments being considered contain provisions that will affect a substantial portion of the local government's shoreline areas;

This does not apply.

(d) There are substantive issues that must be addressed on a comprehensive basis. This may include issues such as salmon recovery, major use conflicts, or public access;

This does apply because of public concern about diminished shoreline public access and views from the State Capitol and public places around downtown Olympia and views of the land from the water. Other concerns raised are traffic congestion and physical access to the shorelines. There may be other shorelines within Olympia that are better suited and do not have historic and prominent public views to consider like this shoreline area. This would be determined through the RCW 90.58.100(2) and the community-wide analyses that are part of the comprehensive SMP amendment process currently underway and described below.

(e) The current master program and the comprehensive plan are not mutually consistent;

This does apply. Resolution 1721 indicates the Olympia SMP needs to be changed to become consistent with the zoning code/comprehensive plan standards for greater heights on the

downtown Isthmus, but actually the SMA at RCW 90.58.340 requires that other local plans, regulations, administrative and management policies, and ordinances for land adjacent to SMA shoreline jurisdiction be assessed to make sure use policies for that land are consistent with the SMA policy (RCW 90.58.020), SMP Guidelines (Chapter 173-26 WAC, Part III), and the local SMP, not the other way around.

The existing SMP General Regulations for Commercial Uses has a maximum height of 35 ft. unless proposed buildings would not obstruct the view of substantial numbers of residences or upland properties, but the local zoning code now allows 65 ft. for shoreline jurisdiction and 90 ft. for adjacent lands and has raised concerns about view blockage from upland properties. This conflict between local codes and the existing SMP should be resolved during the comprehensive shoreline master program update.

Regarding uses, the existing Olympia/Thurston Region SMP- Policies and Regulations for XVI. Residential Development, states, (6)"Residential development should be consistent with the environmental designation in which it is located as well as the local jurisdiction's land use plans and ordinances. If a conflict arises between the regulations of the Master Program and some other regulation of the local jurisdiction, then the most restrictive standard or density shall prevail."

Changes to local plans and codes like those recently established may be appropriate for the subject shorelines, but a more comprehensive analysis is needed to justify and reconcile those changes with the policy of the SMA that favors visual and physical public access to and from public shorelines.

(f) There has been no previous comprehensive master program amendment since the original master program adoption;

This does not apply since Olympia comprehensively amended its SMP in July 25, 1989.

(g) Monitoring and adaptive management indicate that changes are necessary to avoid loss of ecological functions.

This does not apply.

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Attachment B – Evaluation of WAC 173-26-100 and 110 Minimum Procedural Requirements:

WAC 173-26-100 requirements (excerpts). Conclusions follow each subsection in parentheses:

At a minimum, local government shall:

(1) Conduct at least one public hearing to consider the draft proposal;

The city held at least two public hearings regarding the draft proposal. (Compliant)

(2) Publish notice of the hearing in one or more newspapers of general circulation in the area in which the hearing is to be held. The notice shall include:

(a) Reference to the authority(s) under which the action(s) is proposed;

Published in the Olympian Newspaper on Friday, May 30, 2008. Although the hearing was advertised as comprehensive plan amendments and urban waterfront zone changes with no direct reference to amendment of the City SMP, a “Summary of Proposed 2008 Comprehensive Plan Amendments” was included with the submittal with reference to “amend the SMP for the Thurston Region to specify maximum allowable heights within newly rezoned sections of the UW-H district”. The city has indicated that the amendment was advertized correctly.

The city has also indicated they can supply additional evidence that the requirement for notice of the authority under which the action is proposed has been satisfied. (Compliant, with submittal of affidavit of publication and related information demonstrating notice requirements were satisfied).

(b) A statement or summary of the proposed changes to the master program;

Notice does not appear to include a summary of the proposed changes to the master program. The city indicates they can provide additional evidence this requirement has been satisfied (Compliant, subject to provision of additional information, see item #2a above).

(c) The date, time, and location of the hearing, and the manner in which interested persons may present their views; and

The city did in the notice specify the date, time and location of the PH. They did explain the manner in which interested parties may present their views (Compliant).

(d) Reference to the availability of the draft proposal for public inspection at the local government office or upon request;

No reference made to the availability of the draft proposal for public inspection at local government offices or upon request (Non-compliant, but city is investigating).

(3) Consult with and solicit the comments of any persons, groups, federal, state, regional, or local agency, and tribes, having interests or responsibilities relating to the subject shorelines or any special expertise with respect to any environmental impact. The consultation process should include adjacent local governments with jurisdiction over common shorelines of the state;

The city did solicit comment from interested parties. (Compliant)

(4) Where amendments are proposed to a county or regional master program which has been adopted by cities or towns, the county shall coordinate with those jurisdictions and verify concurrence with or denial of the proposal. For concurring jurisdictions, the amendments should be packaged and processed together. The procedural requirements of this section may be consolidated for concurring jurisdictions;

N/A-the proposal is part of a regional SMP, but the requirement only applies specifically to a county, not the city as in this case.

(5) Solicit comments on the draft proposal from the department prior to local approval. For local governments planning under the Growth Management Act, the local government shall notify both the department and the department of community, trade, and economic development of its intent to adopt shoreline policies or regulations, at least sixty days prior to final local approval, pursuant to RCW [36.70A.106](#);

The city has provided Ecology with copies of the resolution approving the actual amendment language in underline and strikeout format. Sixty day notice was provided to CTED on the comprehensive plan and zoning amendments, together with SMP height amendments. (Compliant).

(6) Comply with chapter [43.21C](#) RCW, the State Environmental Policy Act.

Preliminary and final Supplemental Environmental Impact Statements were clearly prepared for proposed comprehensive plan and zoning related amendments with reference to amending “the SMP to specify maximum allowable heights within the newly rezoned sections of the UW-H district”. (Compliant).

(7) Approve the proposal.

This was satisfied with passage of City Resolution No. 1721, which included SMP amendment language (Compliant)

WAC 173-26-201(3)(a) and (3)(h) requirement for an SMP Submittal Checklist.

The city has indicated that an SMP submittal checklist was provided to Ecology. (Compliant, subject to city providing checklist)

WAC 173-26-110 (excerpts):

A master program or amendment proposed by local government shall be submitted to the department for its review and formal action. A complete submittal shall include two copies of the following, where applicable:

(1) Documentation (i.e., signed resolution or ordinance) that the proposal has been approved by the local government;

Documentation provided with signed resolution (No. 1721). (Compliant)

(2) If the proposal includes text amending a master program document of record, it shall be submitted in a form that can replace or be easily incorporated within the existing document. Amended text shall show strikeouts for deleted text and underlining for new text, clearly identifying the proposed changes. At the discretion of the department, strikeouts and underlined text may not be required provided the new or deleted portions of the master program are clearly identifiable;

Actual SMP replacement language was provided (underline/strikeout language). (Compliant).

(3) Amended environment designation map(s), showing both existing and proposed designations, together with corresponding boundaries described in text for each change of environment. Environment designation maps shall include a scale and north arrow and shall be of standard size using distinct reproducible noncolor patterns. All proposals for changes in

environment designation and redesignation shall provide written justification for such based on existing development patterns, the biophysical capabilities and limitations of the shoreline being considered, and the goals and aspirations of the local citizenry as reflected in the locally adopted comprehensive land use plan;

No SMP environment designations are proposed for change. Everything is in the Urban ED. (Compliant).

(4) A summary of proposed amendments together with explanatory text indicating the scope and intent of the proposal, staff reports, records of the hearing, and/or other materials which document the necessity for the proposed changes to the master program;

Summaries are provided. (Compliant).

(5) Evidence of compliance with chapter [43.21C](#) RCW, the State Environmental Policy Act, specific to the proposal;

Evidence of SEPA analysis “specific to the proposal” was provided. (Compliant).

(6) Copies of all public, agency and tribal comments received, including a record of names and addresses of interested parties involved in the local government review process or, where no comments have been received, a comment to that effect.

Copies of all public comments received. (Compliant).