

BELLINGHAM PLANNING COMMISSION FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS SHORELINE MASTER PROGRAM - MINOR AMENDMENTS

JULY 11, 2013

SUMMARY OF RECOMMENDATIONS

Following an open public comment period, a public hearing and review of the proposed Shoreline Master Program (SMP) amendments, the Bellingham Planning Commission has determined that the proposal is consistent with the amendment criteria and procedures specified in RCW 90.58 and WAC 173-26 and should be approved.

I. Findings of Fact

I. Project Summary

On June 6, 2013 the Bellingham Planning Commission approved Findings of Fact, Conclusions of Law and a Recommendation of approval of the Draft Waterfront District Sub-Area Plan, development regulations (WD) as well as design standards. If these recommendations are adopted by the City Council, the allowed uses in the SMP will be inconsistent with the allowed uses in certain portions of the WD.

This is amplified in Department of Ecology's May 23, 2013 letter to the City of Bellingham in which they recommended several changes to either the WD or the SMP in order to make them consistent with one another.

In addition, the Port issued an EIS Addendum to the Waterfront District Redevelopment Project in December 2012. This Addendum was issued because a new preferred alternative emerged in which use ratios and total square footages changed within the 5 sub-areas of the Waterfront District.

The proposed amendments intend to address these inconsistencies.

The City proposes minor amendments to its SMP in order to make it consistent with the WD. The two proposed amendments include:

- Re-designate the "Recreational Uses" sub-area in the Waterfront District shoreline designation to "Shoreline Mixed Use"; and
- Clarify which portions of the "Shoreline Mixed Use" sub-areas allow residential uses.

The Recreational Use sub-area within the Waterfront District shoreline designation is generally located within the "Log Pond" sub-area of the Waterfront District. It is the only one of three total Recreational Use sub-areas in the Waterfront District shoreline designation proposed for amendment.

Re-designation of this sub-area to "Shoreline Mixed-Use" and creating a "Use Exception Area" that would allow stand-alone non-water-oriented uses would make the SMP consistent with the 'industrial mixed-uses' allowed in the Log Pond sub-area of the Waterfront District. Essentially,

the shoreline mixed-use sub-area would be extended from Laurel Street south to the southern corner of the Log Pond.

The height limit would be increased from 25-feet to 35-feet. A 50-foot maximum would be allowed if demonstrated to be consistent with the Waterfront District design standards in terms of preserving view corridors. The buffer width in the Use Exception Area would be maintained at 50-feet.

Removing the phrase "including residential uses" from the text of the SMP within the text of the allowed uses section of the Shoreline Mixed Use sub-area would clarify where residential uses may be permitted. This would also make the text consistent with the accompanying permitted uses table for the Shoreline Mixed Use sub-area.

The Planning Commission was provided with the following documents in order to perform their review, consideration and recommendation:

Staff Report and Attachments that included:

- Site map and "Use Exception Area";
- Development regulation / use table and SMP text showing amendments in legislative format;
- Photographs of existing condition of subject shoreline;
- Waterfront District land use map (Figure .410-A);
- Land Use Classification (Table .420-A);
- Waterfront District Height Limits (View corridors);
- SEPA DNS #SEP2013-00020 and supporting documentation including shoreline characterization and analysis sheets for marine reaches 5-7;
- Use Exception Area buffer / setback / usable lands'
- Public comments;
- WAC 173-26 compliance;
- Draft Findings, Conclusions and Recommendation

II. Background Information

The City of Bellingham approved the SMP in December 2009. The Department of Ecology issued FINAL approval of the City's SMP in February of 2013.

In December, 2012 the WD documents were released to the general public for review and were based upon the Port of Bellingham's issuance of the Addendum to the Waterfront District EIS, also in December 2012.

Prior to DOE's approval of the SMP, the City indicated verbally to DOE that the Waterfront District documents presented inconsistencies with the SMP. The City also indicated verbally to DOE that it would be seeking a future amendment to the SMP after it was approved to address these inconsistencies. DOE verbally acknowledged that approach.

On May 23, 2013, the Department of Ecology's Bellingham Field Office issued a "Letter of Consistency Review" between the Waterfront District Master Plan and the SMP. (SMP Section 22.03.30.F.6.f required this specific review by DOE.) This letter is neither a mandate nor a set of requirements but rather was an opportunity for DOE to *review* the two documents simultaneously and provide recommendations. To summarize, the letter specified inconsistencies between the two plans. These are:

- The SMP is more restrictive than the WD (in terms of allowed uses) in the Log Pond and Cornwall Beach sub-areas and therefore it would be appropriate to amend the WD.
- The SMP allows a broader range of uses, including residential uses, than the WD in the Marine Trades sub-areas unless the SMP is amended.

The City is proposing the subject amendments to address these inconsistencies. DOE will conduct their formal review of the amendments, if approved locally, via the process specified in RCW 90.58.090.

III. Procedural History

The Planning and Community Development Department's Director / SEPA Official issued a non-project SEPA Determination of Non-Significance on June 7, 2013 for the subject proposal. (Supporting documents - Attachments 1-6 - were included.) The comment period expired on June 21, 2013.

On June 20th, 2013 the SEPA Official extended the public comment period to July 3, 2013 in response to public comment requesting an extension. This was posted on the city's "Notices" web-page and circulated to agencies with jurisdiction, other interested parties and citizens including the Waterfront Advisory Group and the Bellingham Bay Action Team.

The Planning and Community Development Department issued a Notice of Public Hearing on June 9, 2013. The public hearing occurred on July 11, 2013. Said notice was published in the Bellingham Herald, posted on the city's "Notices" web-page, circulated to agencies with jurisdiction, other interested parties and citizens including the Waterfront Advisory Group and the Bellingham Bay Action Team.

The Planning Commission conducted their review process at the July 11, 2013 public hearing. The Commission subsequently reviewed and considered the proposal to develop these findings, conclusions and recommendations.

IV. Public Comment

The Commission held one public and heard testimony. All written comments were provided to the Commissioners and posted on the project web site. Public comment was tracked throughout the Commission's review process, and staff provided responses to the comments where appropriate.

V. Environmental Review

A non-project SEPA Determination of Non-Significance was issued for the proposed amendments. The determination was based upon the supporting materials provided and referenced in Attachment 7 of the staff report. Other environmental information considered included:

- ✔ Draft environmental impact statement (EIS) - 2008;
- ✔ Supplemental draft EIS - 2008;
- ✔ Addendum to supplemental draft EIS - 2010;
- ✔ Final EIS - 2010; and
- ✔ EIS addendum - 2012.
- ✔ Phase I of the Whatcom Waterway Cleanup Action Plan

VI. Consistency with RCW and WAC Procedures and Criteria

Revised Code of Washington 90.58 specifies criteria and procedures by which the Department of Ecology reviews and approves SMP amendments.

Washington Administrative Code 173-26-201 (Guidelines) specifies criteria that local governments must satisfy in order for the Department of Ecology to approve SMP amendments.

(Attachment 10 will be included as part of these findings - in the meantime please reference Attachment 10 as part of the staff report.)

II. Conclusions

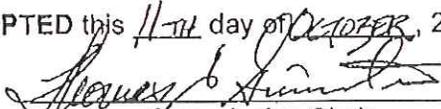
Based upon the staff report and Attachments 1-11, these Findings, information presented at the public hearing and during our review of the proposed SMP amendments the Planning Commission concludes:

1. The City has followed the procedures regarding noticing and environmental review pursuant to BMC 21.10.
2. The proposed amendments have been shown to be consistent with the applicable review criteria for limited SMP amendments as specified in RCW 90.58.080 and WAC 173-26-201.
3. The proposed amendments do not thwart the policy enumerated in the Shoreline Management Act, RCW 90.58.020.
4. The proposed amendments will not result in a net loss of existing shoreline ecological function.
5. The proposed amendments should be approved.

III. Recommendation

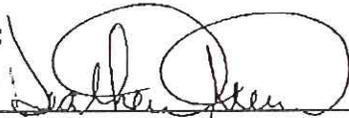
Approve these Findings of Fact, Conclusions and Recommendation included in the July 11, 2013 staff report, with the condition that the Waterfront Plan adopted by City Council is consistent with the proposed Shoreline Management Program amendment regarding the Log Pond area.

ADOPTED this 11TH day of OCTOBER, 2013.



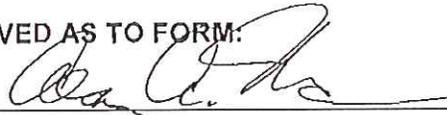
Planning Commission Chair

ATTEST:



Recording Secretary

APPROVED AS TO FORM:



City Attorney