

Attachment D - Responsiveness Summary: City of Woodland Locally Adopted Shoreline Master Program (SMP)

Ecology Public Comment Period: September 1, 2015 through 5:00 pm on October 1, 2015

Comment Number	Comment Topic and/or SMP Citation	Commenter(s)	Comment (Summary)	Local Government Response
1.	SMP in general	Consolidated Diking Improvement District No. 2 of Cowlitz County (CDID No. 2)	CDID No. 2 believes that the Shoreline Master Program places the existing flood protection works in a position of being a nonconforming use, thereby hampering CDID No. 2's ability to maintain the system and limiting future improvements to the levee system.	Please refer to Appendix E which includes WAC 173-27-040(2)(b) for normal maintenance and repair of existing structures to prevent decline from a lawfully established condition. New or expanded flood control structures are subject to the SMP.
2.	Vegetation control requirements	CDID No. 2	CDID No. 2 is required to operate and maintain the levee in accordance with the US Army Corps of Engineers' (USACE) standards. These standards require the removal of all vegetation except for grass within 15 feet of the flood protection works. This is in direct violation of the proposed Shoreline Master Program vegetation conservation requirements.	The definition of significant vegetation removal is not a trigger for a Shoreline Substantial Development Permit (SSDP), so no changes were made to the definition. We understand the District's concern and need to continue vegetation maintenance. Section 4.5.2.D provides a policy supporting continued maintenance. Appendix E provides the full text of Exemptions from an SSDP, which includes WAC 173-27-040(2)(b) for normal maintenance and repair of existing structures to prevent decline from a lawfully established condition.
3.	Public access	CDID No. 2	<p>CDID No. 2's ability to provide public access to the shoreline is limited by its need to meet the USACE's maintenance requirements. Public access can cause erosion trails down the face of the levee degrading its structural stability.</p> <p><i>Public access can create problems on levee systems because people do not stay on marked paths. People accessing the shoreline down the face of the levee create erosion pathways that have the potential to decrease the structural stability of the levee. The current public access requirements require that all levee improvement projects provide on-site public access to the shorelines. CDID No. 3 and DID No. 1 would like the ability to participate in alternate public access projects in order to protect the integrity of the levee or be able to place restrictions on public access points.</i></p>	<p>Comment noted. In accordance with the provisions of the Washington State Shoreline Management Act, the updated Woodland Shoreline Master Plan (SMP) includes the following public access goal and policy that recognizes that there are limitations to public access as noted by DID #1 and CDID #3:</p> <p><i>"4.6.1 Goal Promote safe, convenient and diversified access to publicly owned shorelines of the City of Woodland that recognizes the rights of private property owners.</i></p> <p>4.6.2 Policies</p> <p><i>A. Public access should be provided in consideration of opportunities and constraints for physical and visual access, existing and planned future uses, as well as consideration of ecological functions and public safety."</i></p> <p>In addition, the regulations to implement the updated SMP includes the following provisions for alternative public access projects as noted by DID #1 and CDID #3:</p> <p><i>"The City may approve alternatives to on-site, physical access to the shoreline if the applicant can demonstrate with substantial evidence that at least one of the following conditions exist:</i></p> <p><i>a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any reasonable means;</i></p> <p><i>b. Inherent security requirements of the use cannot be satisfied through the application of alternative design features or other solutions;</i></p> <p><i>c. The cost of providing the access, easement, or an alternative amenity, is unreasonably disproportionate to the total long-term cost of the proposed development;</i></p> <p><i>d. Environmental impacts that cannot be mitigated, such as damage to spawning areas or nesting areas, would result from public access on-site;</i></p> <p><i>e. Significant undue and unavoidable conflict between access provisions and the proposed use and/or adjacent uses would occur and cannot be mitigated; and/or</i></p> <p><i>f. More effective public access can be provided off-site by focusing public access improvements at sites within shoreline jurisdiction identified in the adopted Public Access Plan, the Woodland Parks and Recreation Plan, the Cowlitz County Regional Trail Plan, and/or the Woodland Comprehensive Plan. "</i></p>

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				Given these provisions, no revisions to the SMP as submitted are proposed and the City stands ready to work in partnership with DID #1 and CDID #3 during the design of future improvements to their facilities to identify public access opportunities that would not compromise the integrity of levees or adversely impact the shoreline environment.
4.	Public access	CDID No. 2	Portions of the flood protection system are located on easements that were acquired for diking purposes only. If public access was required for a CDID No. 2 diking project where the dike is located on an easement, CDID No. 2 would be required to acquire a public access easement or fee title from the property owner.	Comment noted. See previous response.
5.	Design standards	CDID No. 2	Vegetation conservation and no net loss of ecological function standards will be difficult, if not impossible, to achieve if CDID No.2 is to meet USACE standards when flood protection works are modified or expanded.	Comment noted.
6.	Design standards	CDID No. 2	<p>Maximum design height will be difficult and potentially costly to comply with because river modeling is not an exact science. For example as data is collected and models are refined, what was originally modeled as a 100-year event may be revised to a 90-year event, which increases the height required for flood protection works. CDID No.2 is required by FEMA to maintain a minimum flood protection level of 100-years or flood insurance requirements go into effect. The 100-year flood level and flood protection height must be verified when the system is recertified. If held to a maximum height, CDID No. 2 could be required to raise the flood protection works at every recertification increasing the cost and disturbances to the ecosystem.</p> <p><i>The requirement for new or altered dikes and levees to be designed to 'no greater than the minimum height required' restricts CDID No. 3 and DID No. 1's abilities to design and construct new or improved facilities. Minimum heights needed are dependent on the flow model of the associated river; models are recalibrated as new data is collected. For example the 100-year event in 2005 might only be an 80-year event in 2015. If a levee were raised to meet the minimum height required in 2005, it would need to be raised again in 2015. This places CDID No. 3 and DID No. 1 in the position of having to complete small projects every 5 to 10 years due to minor changes in flood elevation. This could cause more ecological disturbance and cost to property owners than completing one project constructed higher than the 'minimum height required' in anticipation of future changes.</i></p>	<p>Comment noted. This concern was brought to the City's attention during the local adoption process and the applicable design standards were modified to read as follows:</p> <p><i>"To the maximum extent feasible, new or altered dikes and levees shall be designed to be:</i></p> <p><i>a. No greater than the minimum height required to protect adjacent lands from the predicted flood stage as identified in the applicable comprehensive flood control management plan or as required by the U.S. Army Corps of Engineers for dike certification.(emphasis added)"</i></p> <p>The City recognizes the challenges associated with anticipating or responding to changes in flow models and shares the concerns regarding the potential for increased ecological disturbances and costs associated with numerous improvements to the dikes and levees protecting the community. The highlighted revision was included by the City in consultation with DOE in an effort to provide a bounded mechanism to strike an appropriate balance among the various public interests. No further revisions are proposed at this time.</p>