

**ATTACHMENT A: FINDINGS AND CONCLUSIONS - ADDENDUM
FOR THE PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF OLYMPIA
SHORELINE MASTER PROGRAM**

SMP changes accepted as outlined in letter dated August 21, 2015
Prepared by Chrissy Bailey on August 27, 2015

Brief Description of Proposed Amendment: The City of Olympia (City) has submitted to the Department of Ecology (Ecology) for review and approval a comprehensive update to its Shoreline Master Program (SMP). The City locally adopted the updated SMP by Resolution No. M1797 on October 1, 2013. Ecology accepted the City's submittal as complete on April 25, 2014. On April 22, 2015, Ecology Director Maia Bellon sent a letter to Mayor Stephen Buxbaum, approving the SMP with conditions. The City responded in a letter dated August 21, 2015.

In its August 21, 2015 letter, the City outlined an alternative proposal as is authorized under RCW 90.58.090 (2)(e)(ii). The City proposed alternative language that would affect five of Ecology's conditions (2 required and 3 recommended changes) and would further clarify two other provisions in the conditionally approved SMP.

Proposed Alternatives – Ecology Required Changes

The City proposed alternative language that would affect required changes TT and UU.¹ The City agreed with and accepted Ecology's required changes to these two provisions, and proposed alternative language that would further refine these provisions.

Ecology's item TT made clear that the references to 'effective dates' in the nonconforming use and structure sections of the SMP related to the effective date of the SMP, not of the City's nonconforming zoning provisions. The City's alternative language clarifies that these provisions apply to lawfully existing uses, lots or structures made nonconforming by the SMP, but not those made nonconforming by zoning or other non-shoreline provisions. Ecology's item UU clarified the intent to prohibit expansion of the building footprint of nonconforming structures within required Vegetation Conservation Areas (VCAs). The City's alternative language emphasizes this prohibition, and adds a subsection title so this provision is formatted like the other subsections of this chapter.

Proposed Alternatives – Ecology Recommended Changes

The City proposed alternative language that would affect recommended changes W, OOO and PPP.² Ecology's item W struck reference to coordinates that were no longer accurate and existed in a dated document developed in support of the SMP. The City rejected this recommendation and instead proposed to retain the language and provide an updated table with accurate coordinates.

Ecology's item OOO clarified provisions regulating the alteration of nonconforming structures in shoreline jurisdiction. The City's alternative accepts Ecology's recommended changes, and adds refinements that restructure the chapter and include minor clarifying edits. Ecology's item PPP recommended referencing a section of the City's zoning code rather than repeating it in the SMP, and moving a provision from another chapter of the SMP into this chapter in reference to resuming and expanding nonconforming uses. The City's proposal generally incorporates Ecology's

¹ In Attachment B to Director of Ecology's April 22, 2015 conditional approval letter.

² In Attachment C to Director of Ecology's April 22, 2015 conditional approval letter.

recommendations, with clarifying edits to remove redundant language. The City's proposal also inserts language specific to nonconforming lots within shoreline jurisdiction as an alternative to Ecology's recommendation that the SMP reference the City's zoning code for this information.

Additional Proposed Alternatives

The City proposed alternative language that affects two additional provisions in the conditionally approved SMP. These provisions were not originally the subject of Ecology required or recommended changes. The first alternative adds a phrase to the beginning of section 3.80 (B) of the SMP, which applies to existing buildings and uses within shorelines. The phrase states that the provisions in that section are an exception by which existing nonconforming roads, trails, utility lines and similar linear facilities can expand within existing easements and rights of way. The phrase clarifies that this exception applies in addition to and independent of other exceptions in the next section of the SMP, which apply to alteration of nonconforming structures in shoreline jurisdiction. The City's second alternative strikes language in the alteration of nonconforming structures subsection that related to nonconforming uses and not nonconforming structures; nonconforming uses are regulated under a different subsection of the SMP.

FINDINGS OF FACT

The Olympia City Council accepted all of Ecology's required changes, and proposed to further refine two provisions subject to Ecology required changes with alternative, clarifying language. The Olympia City Council accepted all but one of Ecology's recommended changes, also subject to proposed alternatives. The Ecology recommended change that the City rejected related to removing reference to an outdated document; the City's proposed alternative is to keep this reference and instead update the document. The City proposed alternative language for two of Ecology's recommended changes, as well as for two provisions that were not the subject of Ecology required or recommended changes.

Six of the City's seven proposed alternatives are for language in sections of the SMP relating to nonconforming uses and structures in shoreline jurisdiction. When evaluating the locally adopted SMP Ecology staff noted clarity and consistency issues in sections 3.80, 3.81 and 3.82, which also are the sections relating to nonconforming uses and structures in shoreline jurisdiction.

Ecology had two required and two recommended changes to provisions in sections 3.80-3.82 as a condition of approval of the locally adopted SMP. Ecology's changes focused on improving the internal accuracy and consistency of each of these sections, between these sections and other sections of the SMP, and between the SMP and the City's nonconforming zoning provisions (which were the basis for some of the provisions in the SMP). The City's proposed language continues and improves on Ecology's efforts to clarify the provisions in these three sections, and Ecology supports the City's alternatives. The nonconforming use and development provisions were a common subject of public comment gathered during Ecology's review of the locally adopted SMP, and generally commenters were in support of the City's approach. None of Ecology's changes or the City's proposed alternative language substantively affects the intention or scope of the nonconforming use and structure provisions in the locally adopted SMP.

The City's seventh alternative language proposal relates to coordinates referenced in the SMP. These coordinates identify the start and end points of each shoreline reach in each shoreline environment

designation, and were outdated because the shoreline reaches and environment designation boundaries were revised during development of the SMP. Ecology had recommended striking this reference, and the City proposed instead to update the coordinates. Preparing updated coordinates will provide a clear basis for identifying the shoreline environment designation boundaries, and Ecology supports the City's alternative.

Ecology finds that the City's proposed alternative language relating to nonconforming uses and structures in shoreline jurisdiction furthers the intent of Ecology's required and recommended changes to the locally adopted SMP. Ecology's changes were intended to ensure that regulations in the SMP are sufficient in scope and detail to ensure implementation of the Shoreline Management Act, the SMP Guidelines, and policies in the locally adopted SMP (WAC 173-26-191 (2)(a)(ii)(A)).

Ecology finds the City's proposed alternative to striking reference to inaccurate coordinates in the SMP (and instead updating the outdated coordinates) provides a clear basis for identifying environment designation boundaries. Implementation of this alternative will ensure each shoreline environment can be accurately defined and distinguished on the ground (WAC 173-26-211 (2)(b)).

CONCLUSIONS OF LAW

The alternative language as proposed by the City of Olympia in its August 21, 2015 response letter remains consistent with WAC 173-26, the Shoreline Management Act, and the scope of the City's original submittal.

Ecology concludes that consistent with RCW 90.58.090(2)(e)(ii), Olympia's proposed alternative language discussed herein and described in the addendums to attachments B and C is consistent with the Shoreline Management Act, the SMP Guidelines (WAC 173-26) and does not conflict with the purpose or intent of Ecology's original changes identified in Director Bellon's letter, including all attachments, of April 22, 2015.

Ecology concludes that the alternative/clarifying language is not likely to result in a net loss of shoreline ecological functions when considering implementation of the new updated master program as a whole - WAC 173-26-201(2)(c).

DECISION AND EFFECTIVE DATE

Ecology approval of Olympia's comprehensively updated SMP is effective fourteen (14) days from the date of the Ecology Director's letter accepting the City's alternative language.