Staff Report #3 SMP Update

TO: TOWN COUNCIL AND MAYOR SOOING MOODY
FROM: SARAH SCHROCK, ASSOCIATE PLANNER, HIGHLANDS ASSOCIATES
SUBJECT: SHORELINE MASTER PROGRAM UPDATE AND ADOPTION
DATE: 3/31/2011
CC: JACKIE MORIAKTY, JANE SURFACE

Background

The Department of Ecology adopted new guidelines for local Shoreline Master Programs in 2003. The Legislature accepted guidelines, established compliance date of 2014 and has been providing biennial budget allocations for an "early adopter" grant program.

Okanogan County and cities of Pateros, Brewster, Okanogan and Omak made application for "early adopter" grants in second funding round (2005). The applications were made with the belief that it is better to be proactive and address important issues while there are 100% grant funds available. County and cities awarded $750,000 in grant funds to prepare a coordinated Regional Shoreline Master Program. Twisp joined into an inter-local agreement with the County for SMP adoption in 2010.

Work on the updated Shoreline Master Program (SMP) began in 2006 as a regional effort coordinated by Okanogan County. From 2006 through early 2010, the Twisp Planning Commission received briefings on the process and had opportunities to discuss the efforts at nearly every monthly meeting. In February 2010, the Commission began a chapter-by-chapter review, hosted two public information sessions which resulted in modifications to the original draft presented to the public. The information session input concluded with a recommendation to Council for adoption at the May 26th Planning Commission Meeting with approved changes.

The Commission recommended that Council adopt a resolution of intent to adopt so that the document may be submitted for Ecology. Upon submittal, the SEPA process had not been completed and Ecology sent the document back for compliance with SEPA. At that time Ecology began an "unofficial" review and provided substantial comments and changes that resulted in edits to critical areas and flood zones regulations as well as setbacks and designations. Those changes area summarized below. The Council Passed a resolution of intent (RES 10-470) to adopt the document, contingent on required changes provided by DOE.
Mayor Moody directed consultants to cease work on the document and directed that the planning commission and staff make final edits under the supervision of Highlands Staff. The Commission and consulting planners have addressed comments received as part of the hearing and SEPA process. Changes to the SMP goals and policies were amended per recommendations by Department of Ecology. Ecology staff made substantial effort to visit Twisp and work towards regulations that were fitting for our community. In addition, regulations and policies to protect critical areas and flood areas were amended and are included in Appendix C. The final submittal includes these changes.

Traci Day, former Planning Commissioner, and current Council member spend countless hours editing the final document. Jackie Moriarty and Jane Surface also contributed to final formatting to prepare the document for submittal.

Proposal

The updated SMP is basically a comprehensive plan and zoning ordinance for those lands within shoreline jurisdiction (see response question 12). The SMP is authorized and mandated by the Shoreline Management Act which requires the City to provide for water dependent uses, ensure public access and protect the interests of the people of the state of Washington in the natural resources and ecology of the shorelines of the state.

The SMP contains goals and policies to guide shoreline development and protection; shoreline designations with specific criteria for where there are applied; general regulations and use and designation specific regulations intended to insure not net loss in shoreline ecological functions; an inventory and characterization of the shoreline area and resources; cumulative impact analysis designed to provide data on whether the regulations will protect shoreline ecological functions; definitions, a restoration plan and a thorough description of how the SMP is administered.

Recommendation

The Town has diligently addressed comments from Department of Ecology and has forwarded the final document to their staff for final submittal.

Findings of Fact

1. That the updated SMP is the result of an extensive public process to guide development tailored for Twisp in the shoreline jurisdiction.

2. That the Twisp Planning Commission reviewed and discussed the updated SMP during the Planning Commissions regular monthly meetings on the 2nd and 4th Wednesday of each month since its newly established membership in late 2009.
3. That the Planning Commission held open meetings that were well attended to provide opportunity for public testimony on updated SMP, including two public information sessions on May 12th and May 19th and will be subject to further public review and a hearing before the Town Council at a future date.

4. That notice of public information sessions and meetings for the SMP update was posted in the Methow Valley News by the Planning Commission May 5th and May 12th and May 19th. Notice of SMP hearing was given for Aug. 10th and postponed for Aug. 24th. Notice was given via Methow Valley News and posted at Town Hall regarding the postponement.

5. That all interested persons were given the opportunity to comment on the proposed amendments and map during the public review process.

6. SEPA comments were sent to agencies and Notice was given in the Methow Valley News. SEPA ended Aug. 9th. Comments were received by the Town Attorney Scott Detro, and Department of Ecology. Responses to comments are found below.

7. The SMP was filed with CTED on July 19, beginning a 60 period of review for agencies.

8. That all comments received during the public review process were considered and revisions made as appropriate during open public meetings held before the Planning Commission.

9. The planning commission met with Department of Ecology SMP staff, Clynda Case, to review setback requirements and amended the setbacks as per the site visit discussions and planned land uses. Amended setbacks can be found in revised Chapter 8 Table. 8.01 (attached).

Comments Received on SEPA

SEPA comments were sent to agencies and Notice was given in the Methow Valley News. SEPA comment period ended Aug. 9th. Comments were received by the Town Attorney Scott Detro, and Department of Ecology. Responses to comments are found below. A final Determination of Significance of Non-Significance was issued by staff on September 22, 2010.

Comments:
From Scott Detro, of Callaway and DeTro PLLC (Town Attorney)

(Detro, 9-27-10, Comment 1): Section 3.05, public process section is incomplete
Response: this section of the plan will be completed prior to final adoption and a synopsis of the public process.
(Detro, 9-27-10, Comment 3): Section 11.10.A.4, suggest to be changed to TMC 15.05.060(10)(a)(iv).
Response: Document has been changed to reflect comment

(Detro, 9-27-10, Comment 4): Section 11.15.B1, bring section into compliance with RCW 90.58.140 (6).
Response: the change has been made as per comment.

(Detro, 9-27-10, Comment 5): suggested change to general penalty outlined in RCW. 90.58.220.
Response: the change has been made as per comment

From Department of Ecology

Please see the attached comments from Department of Ecology. Department comments can be summarized into the following areas:

- Review of Development Standards Table 8.1
- Buffer requirements (Chapter 8 Vegetation conservation)
- Critical Areas Goals and Policies (Chapter 6)
- Public Access Goals and Policies (Chapter 6) Public Access Plan (Chapter 8).

Summary of Updates

- The updated SMP limits the jurisdictional boundaries for the shoreline from 200' from the Ordinary High Water Mark (OHWM) and the 100-year floodplain, to strictly 200' from the OHWM.
- The updated SMP includes requirements for buffers that restrict activities and uses between the building setback and the OHWM. They include two buffer zones, Zone 1 or the Vegetation Buffer & Zone 2 the Use Buffer. Vegetation alteration, impervious surfaces, grading and clearing, as well as water dependent, water-oriented and non-water oriented uses are explicitly controlled for in these zones.
- The SMP changes some setbacks in commercial and residential areas, and adds new shoreline designations (or zones) that are based on both comprehensive planning goals and zoning and the scientific inventory and analysis.
- Provisions for public access are included in all zones and development scenarios.
- The SMP ties in directly with the updated Comprehensive Plan, Critical Areas regulations, Zoning ordinance, and Parks and Recreation Plan.
- Critical Areas regulations and Flood Hazard Prevention regulations are incorporated as Appendix C.
- Policies in Chapter 6 have been amended per Ecology's recommendations along with regulations in Chapter 8 Regulations for activities within Critical Areas and Flood zones.
- Setbacks have been changed to the following:
  - High Intensity (CI Zone) 50' from the OWHWM
  - High Intensity (CR Zone) 30' from the Top of the Bank (TOB)
Shoreline Residential (Areas with High Banks) 30' from TOB
Shoreline Residential (Areas with Low Bank) 50' from OHWM