STAFF REPORT NO. 071-12

TO: Mayor and City Council
FROM: Eric Holmes, City Manager
DATE: 08/13/12
08/20/12

Subject: PRJ2011-01255/CPZ2011-00030/SEP2011-00026: Comprehensive Shoreline Master Program (SMP) Amendment; Zoning Ordinance Text Amendment to VMC 20.760; Comprehensive Plan Amendment

Objectives: Secure Washington State Department of Ecology (Ecology) final approval of the comprehensively updated City of Vancouver Shoreline Master Program (SMP) by amending the SMP and its Administration & Enforcement Chapter adopted November 21, 2011, to incorporate Ecology’s mandatory and recommended revisions.

Present Situation: The State of Washington adopted new shoreline management guidelines in 2003. Clark County and its cities were required to comprehensively update their Shoreline Master Programs to comply with the new guidelines by December 1, 2011. The City of Vancouver adopted a comprehensively updated SMP on November 21, 2011 and staff submitted the SMP and supporting materials to the state Department of Ecology (Ecology) on January 3, 2012. Ecology held a public comment period on Vancouver’s SMP from February 27 – March 28, 2012. Two individuals and one agency commented. The City submitted responses to the comments to Ecology.

On July 24, 2012, Ecology issued a letter of conditional approval identifying mandatory and recommended revisions to the SMP. The mandatory revisions are:
- Include a list of Vancouver’s shorelines;
- Adopt definitions of Agricultural Equipment and Agricultural Facilities and Agricultural Products; and
- Adopt revised Shoreline Designation Maps to conform to changes in mapped floodplains.

The recommended revisions incorporate items identified by staff, and are primarily for clarity and consistency. They include incorporating revisions required by FEMA for continued participation in the National Flood Insurance Program.

Also on July 24, 2012, the Planning Commission held a public hearing to consider the mandatory and recommended revisions including the revised Shoreline Designation maps and recommended approval.

Advantage(s):
1. Adopting the mandatory revisions would enable Ecology to approve the SMP.
2. Adopting the recommended revisions would improve the SMP’s internal consistency and consistency with other statutes, codes, and ordinances and facilitate use of the SMP by staff, applicants, developers, and the public.
Disadvantage(s): There are no disadvantages to adopting the mandatory and recommended SMP revisions. Delaying adoption or not adopting the mandatory revisions would complicate and extend the state approval process and delay implementation of the science-based, coordinated plan expected to maintain current shoreline ecological functions while fostering all reasonable and appropriate uses of the shoreline and providing public access to the shoreline.

Budget Impact: Neutral.

Prior Council Review:
1. Memorandum dated April 14, 2009
2. Workshop held January 24, 2011
3. Workshop held March 7, 2011
4. First Reading held November 14, 2011
5. Public Hearing Held November 21, 2011

Action Requested:
2. On August 20, 2012, subject to second reading and public hearing, approve the ordinance.

Attachment(s):
1. Ordinance with Exhibits
   a. SMP adopted November 21, 2011 with revisions proposed July 2012
   b. Official Shoreline Designation Map (East), City of Vancouver Washington (electronic)
   c. Official Shoreline Designation Map (West), City of Vancouver Washington (electronic)
4. Staff Report and Recommendation to the Planning Commission with Exhibits

This staff report references the terms and conditions of the request for approval. Any document referred to herein and that is not attached may be reviewed prior to the City Council meeting in the office of the City Manager. Documents may be reviewed following scheduled Council meetings in the office of Central Records, 415 West 6th Street, Vancouver, WA. Office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.
ORDINANCE NO. M-4021

AN ORDINANCE relating to the City of Vancouver’s implementation of shoreline management as required by Revised Code of Washington (RCW) Chapter 90.58, the Shoreline Management Act; amending the City of Vancouver Shoreline Master Program (SMP) except Chapter 7, Administration and Enforcement adopted by Ordinance M-3995, Section 2 on November 21, 2012, subject to approval by the Washington State Department of Ecology (Ecology); amending the Official Shoreline Designation Map, City of Vancouver, Washington adopted by Ordinance M-3995, Section 2 on November 21, 2012, subject to approval by Ecology; amending the City of Vancouver SMP Chapter 7, Administration and Enforcement provisions adopted by Ordinance M-3995, Section 3 on November 21, 2012, not subject to approval by Ecology; providing for severability; and providing for an effective date.

WHEREAS, the State of Washington Shoreline Management Act of 1971 (Chapter 90.58 Revised Code of Washington (RCW)) requires that counties and cities incur certain duties, obligations and responsibilities with regard to implementation of said Act; and

WHEREAS, in 2003 Ecology adopted revised Washington Administrative Code chapters containing state rules (commonly referred to as the “2003 Guidelines” or “Guidelines”) for developing and approving local shoreline master programs; and

ORDINANCE - 1
WHEREAS, pursuant to 90.58.080 RCW, Clark County and its municipalities with shorelines-of-the-state as defined by 90.58.030 RCW are required to review and update their shoreline master programs for consistency with the required elements of the 2003 Guidelines; and

WHEREAS, the City of Vancouver entered into an interlocal agreement with Clark County, the cities of Battle Ground, Camas, La Center, Ridgefield, Washougal and the Town of Yacolt ("Coalition") to cooperatively and collaboratively update existing shoreline master programs and pre-plan for shorelines in their urban growth areas; and

WHEREAS, through the Coalition’s Shoreline Master Program (SMP) update process, the City of Vancouver developed a revised Vancouver SMP including a revised Official Shoreline Designation Map comprised of two maps, “Official Shoreline Designation Map (East), City of Vancouver, Washington” and “Official Shoreline Designation Map (West), City of Vancouver, Washington,” both of which are official in electronic format; and

WHEREAS, pursuant to 36.70A.480 RCW, all portions of the revised Vancouver SMP other than its goals and policies upon approval by Ecology shall be considered a part of the City’s development regulations and shall be implemented under Vancouver Municipal Code (VMC) Chapter 20.760; and

WHEREAS, pursuant to a first reading on November 14, 2011 and public hearing on November 21, 2011 the City Council adopted the Vancouver SMP; and

WHEREAS, on January 3, 2012, the City of Vancouver submitted the SMP adopted on November 21, 2011 with supporting documentation to Ecology for review and approval; and

WHEREAS, by letter dated January 23, 2012, Ecology informed the City of Vancouver that the submittal was determined to be complete; and

ORDINANCE - 2
WHEREAS, Ecology notified all interested parties via mailed and e-mailed notices, a media release, and website postings that public comments on the Vancouver SMP would be accepted from February 27, 2012 – March 28, 2012; and

WHEREAS, all comments received during Ecology’s public comment period were duly considered and responses provided; and

WHEREAS, by letter dated July 24, 2012, Ecology officially notified the City of Vancouver of mandatory and recommended revisions to the Vancouver SMP; and

WHEREAS, the SEPA Addendum prepared on August 6, 2012 finds that the proposed revisions do not substantially change the analysis of significant impacts and alternatives in the existing Determination of Nonsignificance (DNS) dated September 6, 2011; and

WHEREAS, the proposed revisions are consistent with the policy of the Shoreline Management Act as they: (1) foster all reasonable and appropriate uses of the shoreline; (2) provide for public access to the shoreline; and (3) protect shoreline ecological functions; and

WHEREAS, because the proposed revisions protect shoreline ecological functions they are expected to result in no net loss of shoreline ecological functions; and

WHEREAS, the proposed revisions are consistent with Ecology’s 2003 Guidelines; and

WHEREAS, the proposed revisions would advance achievement of Growth Management Act (GMA) Goal 9 by allowing connections for physical public access to the water; and

WHEREAS, the proposed revisions would advance achievement of GMA Goal 10 by incorporating the final Federal Emergency Management Agency’s (FEMA’s) Flood Insurance Rate Maps (FIRM) in the Official Shoreline Designation Map and FEMA’s required text amendments to SMP Chapter 5A, VMC 20.740, Critical Areas Protection; regulating floating homes; clarifying applicability of standards for docks; requiring a Statement of Exemption, ORDINANCE - 3
mitigation and restoration after an emergency is abated; and limiting covered moorages and requiring light penetration through them; and

WHEREAS, the state review and approval process advanced achievement of GMA Goal 11 because Ecology solicited public comments through mailed and e-mailed notices, a media release, and website postings, providing another opportunity for public involvement; and

WHEREAS, the proposed revisions are therefore consistent with the Growth Management Act; and

WHEREAS, the proposed revisions would advance Comprehensive Plan Policy EN-4 by incorporating the final FEMA FIRM in the Official Shoreline Designation Maps and FEMA’s required text amendments to SMP Chapter 5A, VMC 20.740, Critical Areas Protection; and

WHEREAS, the proposed revisions would advance achievement of Comprehensive Plan Policy PFS-3 by allowing connections for physical public access to the water; and

WHEREAS, the proposed revisions are therefore consistent with the policies of the Comprehensive Plan; and

WHEREAS, the proposed revisions are consistent with the City’s development regulations; and

WHEREAS, based on the findings of the proposed revisions’ consistency with the policies and requirements of the Act and the Guidelines; its consistency with the Growth Management Act and the City’s Comprehensive Plan and development regulations; and the expectation that it will result in no net loss of shoreline ecological functions, the proposed revisions would further the public interest based on present needs and conditions; and

WHEREAS, the Planning Commission held a public workshop on June 12, 2012 to discuss Ecology’s the proposed revisions; and

ORDINANCE - 4
WHEREAS, the City Council received an update via memorandum dated July 2, 2012 about the proposed revisions; and

WHEREAS, the Planning Commission held a duly advertised public hearing on July 24, 2012 to consider the proposed revisions including the Official Shoreline Designation Map; and

WHEREAS, following the public hearing the Planning Commission recommended adoption of the proposed revisions including the Official Shoreline Designation Map; and

WHEREAS, this ordinance was considered by the Vancouver City Council on first reading at a duly advertised public meeting on August 13, 2012; and

WHEREAS, this ordinance was considered by the Vancouver City Council on second reading at a duly advertised public meeting and public hearing on August 20, 2012.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. Legislative Findings. The recitals set forth above are adopted as the legislative findings of the City Council of the City of Vancouver in support of adoption of this ordinance.

Section 2. Amending the Vancouver Shoreline Master Program. The Vancouver Shoreline Master Program (SMP) except Chapter 7, Administration and Enforcement is hereby amended as shown in Exhibit A attached hereto, subject to approval by the Washington State Department of Ecology.

Designation Map (West), City of Vancouver, Washington," adopted by Section 2 of Ordinance
No. M-3995 on November 21, 2011 is official in electronic format and is hereby amended as
shown in Exhibits B and C respectively, subject to approval by the Washington State Department
of Ecology.

Section 4. **Amending the Vancouver Shoreline Master Program Administration and
Enforcement Provisions.** The Vancouver SMP, Chapter 7, Administration and Enforcement,
adopted by Section 3 of Ordinance M-3995 on November 21, 2011 is hereby amended as shown
in Exhibit A attached hereto, not subject to approval by the Washington State Department of
Ecology.

Section 5. **Severability – Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is
declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such
decision shall not affect the validity of the remaining portions of this ordinance.

(2) If the provisions of this ordinance are found to be inconsistent with other
provisions of the Vancouver Municipal Code, this ordinance is deemed to control.

Section 6. **Effective Date.** This ordinance shall take effect and be in full force
fourteen (14) days from the date of Ecology’s written notice of final action in accordance with
law.

Read first time: **August 13, 2012**

Ayes: Councilmembers **Turnay, Hansen, Bunneman, Smith, Stuart, Harris, Mayor Leavitt**

Nayes: Councilmembers

Absent: Councilmembers

ORDINANCE - 6
Read second time: August 20, 2012

PASSED by the following vote: 7-0

Ayes: Councilmembers Tunay, Hansen, Buneman, Smith, Stewart, Harris, Mayor Leavitt

Nayes: Councilmembers

Absent: Councilmembers

SIGNED this 20th day of August, 2012.

Timothy D. Leavitt, Mayor

Attest:

R. Lloyd Tyler, City Clerk
By Carrie Lewellen, Deputy City Clerk

Approved as to form:

Ted H. Gathe, City Attorney
SUMMARY

ORDINANCE NO. M-4621

AN ORDINANCE relating to the City of Vancouver’s implementation of shoreline management as required by Revised Code of Washington (RCW) Chapter 90.58, the Shoreline Management Act; amending the City of Vancouver Shoreline Master Program (SMP) except Chapter 7, Administration and Enforcement adopted by Ordinance M-3995, Section 2 on November 21, 2012, subject to approval by the Washington State Department of Ecology (Ecology); amending the Official Shoreline Designation Map, City of Vancouver, Washington adopted by Ordinance M-3995, Section 2 on November 21, 2012, subject to approval by Ecology; amending the City of Vancouver SMP Chapter 7, Administration and Enforcement provisions adopted by Ordinance M-3995, Section 3 on November 21, 2012, not subject to approval by Ecology; providing for severability; and providing for an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 360-487-8799, or via www.cityofvancouver.us (Go to City Government and Public Records).