



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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July 19, 2011

Jennifer Haro, Associate Planner
City of Port Orchard, Planning Department
216 Prospect
Port Orchard, WA

Re: Draft SMP Chapters 5,6,7,8 and 13 Review Comments

Dear Jennifer Haro:

Thank you for the opportunity to review the draft Port Orchard Chapters completed to date. You have done an admirable job on a very complex document. This letter presents comments on the Policies and Regulations, Chapters 5, 6, 7, 8 and 13 of the ongoing draft Shoreline Master Program update completed to date. These comments and suggestions are intended to help the City achieve an approved SMP. The SMP is to be a document tailored to your community. However, there are state SMA requirements that must be met with each individual SMP.

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they updated their wetland regulations and embedded those new regulations for wetlands associated with shorelines into the SMP update.

Chapter 5

Chapter 5, which reflects your existing SMP can either be folded into Chapter 6 or continue as a stand-alone chapter.

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- 7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

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6.1 Applicability The statement of applicability needs to include the geographical extent such as: approximately 3 miles of shoreline along Blackjack Creek and six miles of marine shoreline along Sinclair Inlet, extending out to the middle of Sinclair Inlet, out to the east and west limits, and 200 feet landward of OHWM. This Program applies to all parcels or portions of parcels located within 200 feet from OHWM. These provisions address certain elements as required by RCW 90.58.100(2) and implement the governing principles of the Guidelines as established in WAC 173-26-186 to ensure the achievement of no net loss of ecological function, enhance public access to publicly owned shorelines.

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Chapter 7 The statement in the last paragraph following “please note” is unclear and needs to be replaced with: “Please note, shoreline use and development within shoreline jurisdiction is regulated under one or more of the following applicable sections.” Also continue with the addition of the following: Shoreline uses and activities not specifically identified, and for which policies and specific regulations have not been developed, shall be evaluated on a case-by-case basis and are required to: 1) meet the intent of the goals and objectives of this SMP; 2) comply with the SMA of 1971, as amended; 3) be consistent with management policies and character of the shoreline environment in which they propose to locate; and 4) secure a Shoreline Conditional Use Permit.

Any shoreline planning areas within the City that have not been mapped and designated within Figure 7-1 shall be designated Urban Conservancy and will be managed and regulated under the identified goals, policies, and regulations of the Urban Conservancy designation.

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of proposals for what appears to be very small buffers or setbacks, a land use analysis is key to understanding the limitations in lot size or other factors. The existing land use respective to lot size and the potential for new development or redevelopment would be key pieces in developing meaningful buffers and setbacks.

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7.6 Commercial Development Add SMP-SU-14 Commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources and values, to include navigation, recreation and public access.

7.8 SU-DR-24 Over-water construction of non-water dependent industrial uses is prohibited.

7.10 Mining Does the city anticipate mining as a use? If not, they could prohibit the use.

7.11 Moorage: Docks, Piers and Mooring Buoys. Need to have width and materials specifications (i.e. grating), width limitation and square footage requirements per ACOE standards in RGP 6.

SU-DR-46 Development Standards for new Piers and Docks

Length Docks, piers, and floats should be designed, located and operated to minimize interference with adjacent water uses. The maximum length of a pier or dock should be the minimum necessary to accomplish moorage. Moorage facilities should not exceed sixty (60) feet in length or fifteen (15) feet beyond the minus five foot tidal elevation from the mean lower low tide, whichever is least necessary to accomplish moorage.

Width

1. The maximum width of a pier is six (6) feet.
2. The maximum width of a ramp is four (4) feet
3. The maximum width of ellis and floats is six (6) feet.

Any additional fingers must be no wider than two (2) feet.

Area. Surface coverage of private residential piers, including all floats, ramps, ells and fingers, shall be limited to the following:

- 1 Ramp. Total surface area is 180 sq feet
- 2 Four hundred and eight (480) square feet for a single-family structure
- 3 Six hundred and sixty (660) square feet for a joint-use structure utilized by two residential property owners; or
- 4 Seven hundred and forty (740) square feet for a joint-use structure utilized by three or more residential property owners.

Decking

1. If pier is over four feet wide, decking is required to 30% functional grating on the pier.
2. Ramps are required to be fully grated.
 - a. Option 1: A float with a width of 6 feet or less must have functional grating installed on at least 30 percent of the surface area of the float.
 - b. Option 2: A float with a width greater than 6 feet (up to 8 feet) must have functional grating installed on at least 50 percent of the surface area of the float.

Piles

1. Piling diameter cannot exceed 12 inches.
2. Piling materials. No creosote, pentachlorophenol, CCA, or comparably toxic compounds not approved for marine use, shall be used for any portion of the overwater structure. For any ACZA treated wood, the wood must be treated by the manufacturer per the Post Treatment Procedures outlined in "BMP Amendment #1 - Amendment to the Best Management Practices (BMPs) for the Use of Treated Wood in Aquatic Environments; USA Version -Revised July 1996", by the Western Wood Preservers Institute, as amended April 17, 2002 or the most current BMPs.

7.12 Recreation Need to add protective measures to recreational policies. *SMP-SU-52* Shoreline recreational areas should enhance environmental qualities with minimal adverse effect on the natural resources.

7.13 Residential Development. (Note: language to be added is underlined.)

Need to add language acknowledging that without appropriate management, residential development can have adverse effects. Suggested language: Although single family residential use is a priority use, under the state Shoreline Management Act, without proper management to control cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants and vegetation modification, single family residential use can cause significant damage to the shoreline area. The following policies and regulations are designed to assure no net loss of shoreline ecological function from new or redeveloped residential development.

SMP-SU-60. Management policies also need to qualify the SMP SU-60 policies by adding: Plats and subdivisions must be designed, configured and developed in a manner that assures no net loss of ecological functions from full build-out of all lots.

SMP-SU-64 New residential development should be planned and built to minimize the need for shoreline stabilization and flood hazard reduction measures and assures no net loss of ecological functions.

SU-DR-57 Single-family homes are exempt from the Shoreline Substantial Development Permit process, as well as clearing and grading associated with the construction of a single-family home, if it is consistent with the PO CAO for clearing and grading and meets the setback requirement of this Program.

7.15 Add Parking to read: 7.15 Transportation and Parking

8.6.2 Criteria for Granting Shoreline Conditional Use Permits

Add the following two additional criteria to the list:

6. That consideration of cumulative impacts of additional requests for like actions in the area For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

7. Other uses which are not classified or set forth in this Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in this Program. Uses which are specifically prohibited by this Program may not be authorized pursuant to this section.

8.7.2 In the following statement replace permitted with prohibited.

Any variance request must meet the requirements noted below. Variances for ~~permitted~~ prohibited uses are not allowed.

Chapter 13 Definitions

Add the following definitions:

Amendment- A revision, update, addition, deletion and/or reenactment to the Port Orchard SMP.

Approval - An official action by the City of Port Orchard agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to the SMA.

Ecological functions - Work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Feasible – An action such as a development project, mitigation, or preservation requirement, that meets all of the following conditions: a) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; b)

the action provides a reasonable likelihood of achieving its intended purpose; and c) the action does not physically preclude achieving the project's primary intended legal use.

Fill – The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Fish and Wildlife Habitat Conservation Areas. This should be consistent with the city's CAO definition.

Guidelines- those standards adopted by the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

May – means the action is acceptable, provided it conforms to the provisions of WAC 173-26.

Must – means a mandate; the action is required.

Priority habitat – per WAC 173-26-020 definitions

Priority species – per WAC 173-26-020 definitions

Provisions – means policies, regulations, standards, guideline criteria or environment designations.

Again, thank you for the opportunity to review this document. Any sections not mentioned, appear to be compliant by this reviewer. I realize that some chapters are not yet completed. Therefore, some of these comments may be covered in those chapters not yet completed. If you have any questions on this, please feel free to contact me at 425-649-4309.

Sincerely,

Barbara Nightingale, Regional Shoreline Planner
Department of Ecology, Northwest Regional Office
3190 160th Street SE
Bellevue, WA 98368

Attachments: CAO Compliance Comment Letter from Patrick McGraner
Renton Example of Wetland Regulations embedded into SMP
Des Moines Examples of Shoreline Stabilization and Mitigation Sequencing Language

Cc: James Weaver, Planning Director, Port Orchard
Geoff Tallent, ECY
Patrick McGraner, ECY
Joe Burcar, ECY
Peter Skowlund, ECY

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Piles

1. Piling diameter cannot exceed 12 inches.
2. Piling materials. No creosote, pentachlorophenol, CCA, or comparably toxic compounds not approved for marine use, shall be used for any portion of the overwater structure. For any ACZA treated wood, the wood must be treated by the manufacturer per the Post Treatment Procedures outlined in "BMP Amendment #1 - Amendment to the Best Management Practices (BMPs) for the Use of Treated Wood in Aquatic Environments; USA Version -Revised July 1996", by the Western Wood Preservers Institute, as amended April 17, 2002 or the most current BMPs.

7.12 Recreation Need to add protective measures to recreational policies. SMP-SU-52 Shoreline recreational areas should enhance environmental qualities with minimal adverse effect on the natural resources.

7.13 Residential Development. (Note: language to be added is underlined.)

Need to add language acknowledging that without appropriate management, residential development can have adverse effects. Suggested language: Although single family residential use is a priority use, under the state Shoreline Management Act, without proper management to control cumulative impacts

from shoreline armoring, storm water runoff, septic systems, introduction of pollutants and vegetation modification, single family residential use can cause significant damage to the shoreline area. The following policies and regulations are designed to assure no net loss of shoreline ecological function from new or redeveloped residential development.

SMP-SU-60. Management policies also need to qualify the SMP SU-60 policies by adding: Plats and subdivisions must be designed, configured and developed in a manner that assures no net loss of ecological functions from full build-out of all lots;

SMP-SU-64 New residential development should be planned and built to minimize the need for shoreline stabilization and flood hazard reduction measures and assures no net loss of ecological functions.

SU-DR-57 Single-family homes are exempt from the Shoreline Substantial Development Permit process, as well as clearing and grading associated with the construction of a single-family home, if it is consistent with the PO CAO for clearing and grading and meets the setback requirement of this Program.

7.15 Add Parking to read: 7.15 Transportation and Parking

8.6.2 Criteria for Granting Shoreline Conditional Use Permits

Add the following two additional criteria to the list:

6. That consideration of cumulative impacts of additional requests for like actions in the area For example, if conditional use permits were granted for other developments in the area where similar circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

7. Other uses which are not classified or set forth in this Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in this Program. Uses which are specifically prohibited by this Program may not be authorized pursuant to this section.

8.7.2 In the following statement replace permitted with prohibited.

Any variance request must meet the requirements noted below. Variances for ~~permitted~~ prohibited uses are not allowed.

Chapter 13 Definitions

Add the following definitions:

Amendment- A revision, update, addition, deletion and/or reenactment to the Port Orchard SMP.

Approval - An official action by the City of Port Orchard agreeing to submit a proposed SMP or amendments to the Department of Ecology for review and official action pursuant to the SMA.

Ecological functions - Work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Feasible – An action such as a development project, mitigation, or preservation requirement, that meets all of the following conditions: a) the action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; b) the action provides a reasonable likelihood of achieving its intended purpose; and c) the action does not physically preclude achieving the project's primary intended legal use.

Fill – The addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land. Fish and Wildlife Habitat Conservation Areas. This should be consistent with the city's CAO definition.

Guidelines- those standards adopted by the state prior to adoption of master programs. Such standards shall also provide criteria for local governments and the department in developing and amending master programs.

May – means the action is acceptable, provided it conforms to the provisions of WAC 173-26.

Must – means a mandate; the action is required.

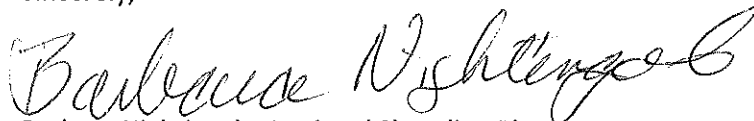
Priority habitat – per WAC 173-26-020 definitions

Priority species – per WAC 173-26-020 definitions

Provisions – means policies, regulations, standards, guideline criteria or environment designations.

Again, thank you for the opportunity to review this document. Any sections not mentioned, appear to be compliant by this reviewer. I realize that some chapters are not yet completed. Therefore, some of these comments may be covered in those chapters not yet completed. If you have any questions on this, please feel free to contact me at 425-649-4309.

Sincerely,



Barbara Nightingale, Regional Shoreline Planner
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Attachments: CAO Compliance Comment Letter from Patrick McGraner
Renton Example of Wetland Regulations embedded into SMP
Des Moines Examples of Shoreline Stabilization and Mitigation Sequencing Language

Cc: Geoff Tallent, ECY
Patrick McGraner, ECY
Joe Burcar, ECY
Peter Skowlund, ECY