



INFORMATIONAL MEMORANDUM

TO: Community Development and Neighborhoods

FROM: Jack Pace, DCD Director

BY: Nora Gierloff, Deputy DCD Director

CC: Mayor Ekberg

DATE: June 11, 2019

SUBJECT: Shoreline Master Program Update

ISSUE

The City of Tukwila is required to periodically update its Shoreline Master Program and associated regulations for compliance with changes to the Shoreline Management Act, Department of Ecology guidelines, and legislative rules.

BACKGROUND

The Green/Duwamish River flows over 93 miles from the Cascade Mountains to Elliott Bay. Approximately 13 miles of the river meanders through Tukwila's industrial district, urban center and residential neighborhoods. The river system has undergone extensive changes over the years as the population has increased dramatically, forests have been logged, levees have been built, streams and rivers rerouted, and freeways, homes, shopping and manufacturing centers constructed. As the impacts of human development have been recognized, State and Federal agencies have developed regulations that require local jurisdictions to provide better protection for remaining habitat, to control the collected storm water flowing directly into the river, and to identify and restore areas where habitat restoration can succeed. This took on new urgency when salmon were listed under the Federal Endangered Species Act in 1999.

The Green/Duwamish River in Tukwila is categorized as a Shoreline of the State. In response to the State Shoreline Management Act (SMA) and Federal requirements, Tukwila has adopted three documents related to the river – the Shoreline Master Program (SMP), Shoreline Element in the City's Comprehensive Plan, and zoning regulations in TMC Chapter 18.44 Shoreline Overlay.

Most construction, grading or clearing within 200 feet landward of the ordinary high water mark (OHWM) requires a Shoreline Substantial Development Permit which is reviewed by the Washington State Department of Ecology after issuance by the City. The City's shoreline development regulations balance economic interests, flood control, and residential development with enhancement and stewardship of the ecological functions of the river.

The City of Tukwila completed a comprehensive update to its Shoreline Master Program in 2009, with additional revisions made in 2011. Washington state law requires jurisdictions to periodically review and update their SMPs every eight years for compliance with changes to the

SMA and Department of Ecology guidelines and legislative rules. The current update is due on June 30, 2019.

SHORELINE MASTER PROGRAM PERIODIC UPDATE

This update process is being undertaken jointly with the Department of Ecology using the joint review process. By coordinating closely with DOE from the start we will streamline the review timeline and ensure that we are addressing all required topics. The current update will focus on:

- Reviewing relevant legislative updates since 2009 and incorporating any applicable amendments per the Gap Analysis Report (available on the Shoreline Management page of the City website).
- Ensuring consistency with recently adopted regulations for critical areas and flood hazard areas.
- Streamlining and eliminating duplication in the documents.
- Addressing a limited number of policy questions.

This periodic update will not:

- Re-evaluate the ecological baseline which was established as part of the 2009 comprehensive update.
- Extensively assess no net loss criteria other than to ensure that proposed amendments do not result in degradation of the baseline condition.
- Change shoreline jurisdiction or environment designations.

PUBLIC OUTREACH

Staff began implementing the Public Outreach Plan with an all-city mailing advertising an open house last October in addition to mentions in the citywide Stormwater mailer, the September 2018 eHazelnut newsletter, and on the City's web site. The PC hearing was advertised through an additional postcard to property owners and tenants within the shoreline jurisdiction and email notices to interested parties and agencies with jurisdiction.

Staff developed a set of proposed edits to the SMP and TMC Chapter 18.44 and released them as public review drafts on the City's web site. The changes include the mandatory consistency updates, housekeeping changes to streamline the document, and staff's recommended policy changes. The PC reviewed these, held a public hearing, considered the public comments and forwarded their recommended versions on to the City Council. Staff then conducted SEPA environmental review and issued a Determination of Non-Significance for the update. These materials are available on the Shoreline Management page of the City's website, <https://www.tukwilawa.gov/departments/community-development/shoreline-management/>.

DISCUSSION

The main areas of change are listed below.

Consistency with State Regulations

As documented in the Gap Analysis report there are areas where the City's regulations do not reflect recent changes to State law. These include updates to definitions, new shoreline exemptions, and updated references to RCW and WAC sections. These changes are mandatory for consistency across jurisdictions. The proposal also includes language for revisions and time extensions for issued shoreline permits in accordance with State requirements.

Streamlining/Eliminating Duplication

The current SMP includes policies and regulations that were subsequently also adopted into the Comprehensive Plan and Zoning Code. This duplication has given rise to inconsistencies and requires duplicate amendments whenever changes are made. The proposal is to create a multi-part SMP that spans these documents and includes the Shoreline Element and Chapter 18.44 by reference without repeating policy or regulation language.

The current Chapter 18.44 Shoreline Overlay duplicates the environmental regulations found in Chapter 18.45 Sensitive Area Ordinance for sensitive areas within the shoreline jurisdiction. After discussion with our DOE reviewer the proposal is to eliminate this duplication, reference the regulations in 18.45 that are currently being updated, and add additional language about applicability and limitations of that chapter. This does mean that adoption of the environmental regulation update will need to occur concurrently with the adoption of the shoreline update.

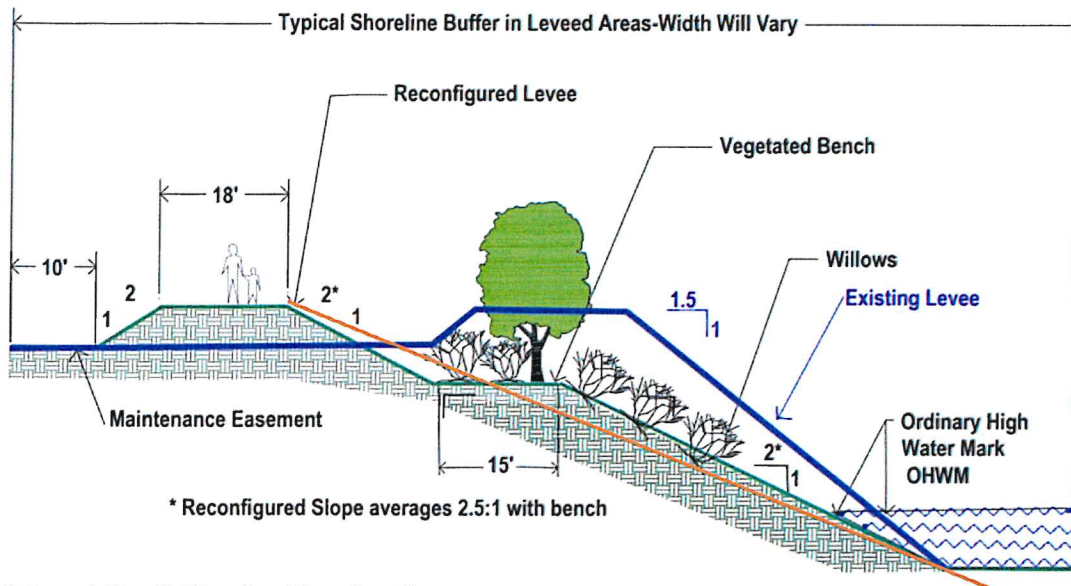
Another proposal is to combine the shoreline use matrix and narrative list of uses into a single table for clarity. Similarly, the narrative discussion of shoreline buffers has been put into a table. Tree protection standards and penalties for tree unauthorized removal are proposed to be updated to match the standards required outside of the shoreline under the new Tree Ordinance. During review of the Critical Areas update the PC recommended some additional consistency edits to how trees and vegetation are regulated under shoreline, critical areas, landscape and tree chapters. Staff is proposing some additional edits to the PC recommended SMP in section 18.44.060 to address that issue.

Renumbering

Some of the code sections in TMC 18.44 are quite long and therefore code citations can be 4 or 5 layers deep. This can be confusing and hard to use. Staff proposes to break up some of these long sections and renumber in the final ordinance format after the policy work is completed on the ~~strikeout~~/underline version.

Additional Flexibility for Levee Profile

The current SMP contains a minimum levee profile with a mid-slope bench that is required throughout the City. In practice this has not always been the chosen solution for a given location and has required a shoreline variance even for designs with better environmental performance. The proposal is to retain the minimum levee profile as an example but allow flexibility to address site conditions and environmental opportunities without the variance process as long as criteria such as an overall 2.5:1 river bank slope (red line below) and native plantings are met.



Additional Flexibility for Floodwalls

This update is happening alongside a discussion about flood protection measures in the Lower Green River Corridor Flood Hazard Management Plan. There are multiple alternatives under consideration including the question of whether future levees should be built to protect against 500 year rather than 100 year flood events. This could require levees to be between 3.5 and 5.5 feet higher, which requires between 20 and 30 additional feet of width with a front and back slope of at least 2.5:1 or adding 3.5 to 5.5 feet of height to a flood wall configuration without the need for an additional 20 to 30 feet of width.

The current Flood Control District access road standard is 15', not the 10' built into our current buffer calculation so the total width of the levee footprint could increase by up to 35 feet. Allowing an alternative flood wall configuration to substitute for the back slope, especially where site constraints exist, would reduce the width needed and lessen the impact on adjacent property owners. Levees are so expensive to build and the consequences of a levee failure are so significant that the need to allow site specific design solutions may be desirable to reach life safety and economic goals.

Increased Height Incentives

The proposal is to provide increased building height incentives for property owners who provide shoreline restoration or shoreline public access above that required by code. The PC opted to increase the current shoreline foot height limit from 45 to 65 feet and allow another 15 foot increase on properties that restore shoreline buffers or build shoreline public access amenities. These incentives would not allow heights greater than that permitted by the underlying zoning district.

Non-Conforming Structures

In response to a public comments the PC recommends removing the cost limitation on alterations or improvements to non-conforming structures within the shoreline buffer if the buffer covers most of the parcel. If a non-conforming structure is demolished the footprint may be incorporated into an adjacent parking lot.

FINANCIAL IMPACT

No direct impacts are expected due to these changes. The Department of Ecology has provided Tukwila with a \$20,000 grant to offset the cost of hiring a consultant to assist with the update.

RECOMMENDATION

The Council is being asked to hold a public hearing on the proposed changes at the June 24th Committee of the Whole meeting. Staff will then return with a comment matrix for the City Council to review at the July 8 Committee of the Whole and revised ordinances at the July 15 Regular Meeting.

ATTACHMENT

- A. Summary of Recommended Shoreline Edits

The separately distributed binders also contain:

1. An annotated, strikeout/underline version of Chapter 18.44 showing the bulk of the proposed changes
2. A clean version of Chapter 18.44
3. A clean version of the SMP (strikeout/underline is available on the City's Shoreline Management website) containing an explanation of where the goals, policies and regulations for the shoreline are located
4. A matrix showing the PC's responses to the public comments on the SMP and TMC 18.44
5. Initial Determination letter from DOE

PC Recommended Shoreline Master Program (SMP) Edits

Topic	Description
Consistency Updates	Update dollar thresholds, update State Code references, update definitions (development, floodway), reference new exemptions in WAC, update history of SMP, reference rather than repeat Comprehensive Plan policies
Critical Areas	Replace with a reference to the City-wide critical area regulations in 18.45 which will be updated to reference 2014 wetland rating system, 2011 federal delineation manual and buffers to meet Dept. of Ecology guidance, wetland mitigation banking
Levee Profile	Allow flexibility in the City's preferred levee profile including use of floodwalls to allow for varying site conditions and 500-year flood protection.

PC Recommended Shoreline Overlay Edits - Zoning Code Chapter 18.44

Topic	Description
Housekeeping	Add a purpose and applicability section to the Chapter, streamline for usability, remove duplication
Permitted Uses	Remove the use list and replace it with a use matrix for greater consistency between shoreline environments
Recreational Structures	Remove 15' height and 25 SF area limit to allow more flexibility, greater usability
Commercial Fences	Increase allowed height in shoreline from 4 to 6 feet for safety and security
Shoreline Buffers	Place written standards into a table for ease of use
Consistency Updates	Add references to the Shoreline Design Guidelines, updated tree protection regulations, updated tree removal penalties, align inconsistent definitions, clarify that consistency with the SMA and WAC is required
Mitigation Monitoring	Require 5 years of maintenance and monitoring for plant survival in mitigation projects, 3 years survival for tree replacement
Vegetation Management	Clarify that removal of invasive species or noxious weeds is exempt from permitting, limit pruning and topping
Trail Width	Standard for 14' trail with 2' shoulders is inconsistent with County and City Park standards which require 12' with 2' shoulders
Overwater Structures	Require proof of submittal rather than approval for state and federal permits and a demonstrated need for any new docks.
Bridges	Clarify that bridges are regulated as overwater structures
Shoreline Redesignation	Include a process to change a shoreline environment designation
Permit Revisions	Include a process to review changes to shoreline permits
Permit Timelines	Amend to include a reference to WAC 173-27-090 for time extensions
Non-conformities	Clarify use regulations per new WAC section, no limit on repairs to non-conforming buildings where most of site is within shoreline buffer
Height Incentives	Increase building height limit from 45' to 65' and increase incentive for shoreline restoration or public access from 15% to 15'