

POULSBO SHORELINE MASTER PROGRAM UPDATE CITY COUNCIL REVIEW

* FREQUENTLY ASKED QUESTIONS *

2/14/12

- **“Why does the City have a 125-foot shoreline buffer and setback, and what options are there for reducing them?”**

The 125-foot buffer and setback currently applicable to the City’s shoreline jurisdiction was established in the City’s 2007 Critical Areas Ordinance (CAO). The buffers were required to be based on “best available science” as defined by the state Growth Management Act. In 2009, at the start of the SMP update, staff were directed by City Council to maintain this buffer and setback, since no public or agency concerns had been raised about them – i.e., “if it ain’t broke, don’t fix it”.

In order to reduce the buffer and setback, the City would have to present the Department of Ecology with scientific evidence that smaller buffers would (1) result in “no net loss” of shoreline habitat functions and values; and (2) would provide equivalent or better protection than the CAO’s existing critical areas buffers. Critical areas include wetlands, streams, other fish and wildlife habitat conservation areas (for listed species), geologically hazardous areas, frequently flooded areas, and aquifer recharge areas.

Although both standards must be met, the standard to determine “no net loss” is a higher standard than the “best available science” requirement. Ecology will not allow administrative buffer reductions that are not in the SMP, such as interrupted buffers or buffer averaging based on individual proposals. Buffers must comply with an adopted standard and must show how no net loss will be obtained through their implementation.

At this time (February 2012), it is probably not feasible revise the 125-foot buffer and setback in the 2012 SMP update. In addition to commissioning new scientific analysis, the City would also have to revise all of the evaluation, maps and planning documents that have been prepared for the SMP to date. The City’s Ecology grant allocation does not accommodate such major revisions to the contract, and the remaining funds are not sufficient to hire a new scientific consultant and revise the existing plan components.

The City does have options for the future, however, if the Council wants to explore buffer reduction. WAC 173-26-201(3)(d)(ii) allows the City to do a “special area plan” that addresses the needs and features of specific areas such as the downtown waterfront, and can include alternative standards that are supported by science. The City can also prepare a general SMP amendment that proposes reduced buffers in any or all of the City’s shoreline environments and locations as supported by science.

- **“What uses are allowed in the shoreline buffer and setback?”**

PMC 16.08.190. A (the shoreline use table) provides that new water-dependent and water-related uses - marinas, bait shop, boat supplies, kayak rental, etc - may be located within the shoreline buffer and setback. Public access and recreation facilities may also be located here. In addition, all existing uses that have been legally permitted but that are nonconforming to the new SMP may continue - they are not required to be phased out.

- **“Do all new uses and development within the shoreline jurisdiction (0-200 feet from the shoreline) have to be water-oriented?”**

No, they don't.

Outside the buffer and setback, a variety of non-water-oriented uses are allowable. These include single-family and multi-family residences, commercial development (retail, office, etc.), public and private recreation facilities, or any combination of these uses.

New commercial and mixed-use development and expansions outside the buffer and setback are required to have a minimum of 25% of the new square footage in water-dependent, water-related and/or water-enjoyment uses, depending on the site location. In other words - 75% of new development or expansions outside the buffer and setback do not have to be water-oriented. See **PMC 16.08.240 and 16.08.250**.

There is no water-oriented requirement for any residential development, or for recreational facilities located outside of the shoreline buffer and setback. Also, there is no requirement that existing non-water-oriented development must convert to water-oriented uses.

- **“What is a nonconforming structure? Will the new SMP require nonconforming structures to be removed?”**

PMC 16.08.040 defines a nonconforming structure as: “an in-water, over-water or upland structure which was lawfully constructed or placed prior to the effective date of the applicable Shoreline Master Program, or amendments thereto, but which does not conform to present shoreline development regulations or standards of the program.”

This means that such a nonconforming structure is legal, although it wouldn't be allowed to be developed in its current location and/or it has certain aspects such as height, signage, etc. that don't meet new SMP standards.

The SMP does not require nonconforming structures to be removed. **PMC 16.08.460.E** includes provisions for maintenance, repair and even expansion of nonconforming structures, and allows them to be rebuilt in the case of an unforeseen disaster such as fire or flood.