



proud past, promising future

CLARK COUNTY
WASHINGTON

COMMUNITY PLANNING

Planning Commission Recommendations to the Board of Clark County Councilors

FROM: Steve Morasch, Chair
Clark County Planning Commission

PREPARED BY: Gary Albrecht, Planner III, AICP

DATE: October 24, 2017

SUBJECT: CPZ2017-00005 Shoreline Master Program Limited Amendment

RECOMMENDATION: **Approval** of a SHORELINE MASTER PROGRAM LIMITED AMENDMENT to improve the consistency between the county's shoreline program and the state standards. The amendment would revise the Shoreline Management Committee, add new state required SMP language for dock construction, floating homes, and creating a substantial development permit exemption for retrofit existing structures are exempt from obtaining shoreline substantial development permits.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission heard this matter on April 20, 2017 and voted **7-0** to recommend approval of the proposal. The Planning Commission recommends that the Board of Clark County Commissioners **APPROVE** the actions below.

BACKGROUND:

Clark County adopted an updated shoreline master program (SMP) in July 2012. It was approved by the Department of Ecology (Ecology) in August 2012 and took effect in September 2012. SMP policies are included in Chapter 13 of the comprehensive plan. SMP regulations are included in Clark County Code Chapter 40.460. Local governments may periodically amend their shoreline programs when there is a change in law, zoning or other local conditions (WAC 173-26-090). Below are brief summaries of changes made by each of the three laws.

[ESHB 1090](#) - Dock Construction

This bill, which was enacted in 2014, amended the provisions of [RCW 90.58.030](#) that exempt certain dock construction from the definition of "substantial development." It increased the threshold dollar amount for the fair market value of a replacement dock eligible for an exemption from \$10,000 to \$20,000. The proposed code amendment would increase the exemption threshold to match the new statutory exemption.

ESSB 6450 - On-Water Dwellings

This bill, which was enacted in 2014, amended the provisions of [RCW 90.58.270](#) to create a new class of “floating on-water residences.” The bill requires to treat as a conforming use a floating on-water residence which meets the new definition and was legally established before July 1, 2014. It further requires that these uses be accommodated through reasonable shoreline master program regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages. The proposed amendments are designed to implement these new statutory requirements.

[SHB 2847](#) - Created a Substantial Development Permit Exemption for Retrofit of Existing Structures for Disabled Access.

This bill was enacted and effective in 2016. Projects in Shoreline jurisdiction that provide access for disabled persons to existing structures are exempt from obtaining Shoreline Substantial Development permits. Retrofitting an existing structure is removed from the definition of "substantial development" in [RCW 90.58.030](#) if the project is undertaken with the exclusive purpose of complying with the Americans with Disabilities Act or to otherwise provide physical access to a structure by individuals with disabilities. The proposed amendment is designed to implement the statutory exemption.

SUMMARY:

The proposed limited amendments to the Clark County SMP are necessary to reflect changing local circumstances and new information. These proposed changes comply with RCW 90.58.

This proposed limited amendment would also improve the consistency between the county’s shoreline program and the state standards. The proposed amendments would revise the Shoreline Management Committee, add new state requirements for dock construction, floating homes, and create a substantial development permit exemption for retrofit existing structures are exempt from obtaining shoreline substantial development permits.

ANALYSIS:

The proposed amendments to the SMP (Exhibit 1) are intended to comply with state mandates. Ecology must ultimately approve the amendments to the SMP; after the county’s final decision is rendered per RCW 90.58.090 of the Shoreline Management Act (SMA). Washington Administrative Codes (WAC) Section 173.26.100 (1)(c), describes the process, and subsection 201, requires that the county provide evidence that the amendments will result in no net loss of ecological functions. The state code is in italics below.

WAC 173.26.201(1)(c) Master program amendments may be approved by the department provided the department concludes:

- (i) The proposed amendment will not foster uncoordinated and piecemeal development of the state's shorelines;*
- (ii) The amendment is consistent with all applicable policies and standards of the act;*
- (iii) All procedural rule requirements for public notice and consultation have been satisfied; and*
- (iv) Master program guidelines analytical requirements and substantive standards have been satisfied, where they reasonably apply to the amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions.*

(i) The proposed amendment will not foster uncoordinated and piecemeal development of the state's shorelines;

Findings: The current Clark County SMP is compliant with the overarching goal of the Act “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” These proposed amendments to the SMP, Exhibit 1, will not foster uncoordinated and piecemeal development of the state’s shorelines.

(ii) The amendment is consistent with all applicable policies and standards of the act;

Findings: The proposed amendments to the SMP, Exhibit 1, are intended to comply with state and federal laws. It is consistent with the SMA goals and policies.

(iii) All procedural rule requirements for public notice and consultation have been satisfied; and

Findings: A public notice was sent and will be published on April 4, 2017, prior to the public hearing on April 20, 2017. A public notice was sent and published for the Board of Clark County Councilor’s hearing on October 9, 2017. A 60-day notice was sent to the Department of Commerce on February 14, 2017. The county issued a SEPA DNS on March 27, 2017, and distributed it to the applicable agencies. Email notification sent to Shoreline Stakeholder Advisory Committee Members from the 2012 SMP update, and interested parties; updated August 2015.

(iv) Master program guidelines analytical requirements and substantive standards have been satisfied, where they reasonably apply to the amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions.

Findings: The 2012 Shoreline Inventory and Characterization Report that described existing conditions of shorelines of the state in Clark County, Washington was used to compare the proposed amendments to current conditions. This comparison satisfies the Master program guidelines analytical requirements and substantive standards were reasonably applied to these proposed amendments. The existing regulatory framework, i.e., the Land Use Code, the Shoreline Master Program, Environmentally Critical Areas Ordinance, and the County’s SEPA ordinance, will address impacts during review of development proposals on a project specific basis to ensure that these proposed amendments will not result in a net loss of shoreline ecological functions.

RECOMMENDATION

The Planning Commission heard this matter on April 20, 2017 and voted **7-0** to recommend approval of the proposal. The Planning Commission recommends that the Board of Clark County Commissioners **APPROVE** the following actions:

1. Revise 40.460.230. (B) (8)
2. Revise 40.460.230 (B) (19)
3. Revise Table 40.460.620-1 to include Floating on-water residence.
4. Revise 40.460.630 (K) (13)
5. Revise 40.460.710 (A) (2)
6. Revise 40.460.800 to include a definition of Floating on-water residence.

Attachments:

Exhibit 1: 40.460 text changes

Change	Reason for change
40.460.230 (B) (8), page 2	ESHB 1090
40.460.230 (B) (19), page 3	SHB 2847
Table 40.460.620-1 Floating on-water residence, page 7 & 8	ESSB 6450
40.460.630 K (13) floating on-water residence, page 23	ESSB 6450
40.460.710 A (2), page 26	Clark County Environmental Services Department no longer exists
40.460.800 Definitions, page 32	ESSB 6450

PROPOSED ACTION:

Based upon the information and the findings presented in this report and Exhibit 1, staff recommends that the Planning Commission forward to the Board of Clark County Councilors a recommendation of APPROVAL of the limited amendment to the SMP.