

City of Duvall Revised Draft Shoreline Master Program Update, Dated September 18, 2012

Ecology Recommended and Required Changes – October 31, 2012

CITY OF DUVAL PROPOSED RESPONSE APPROACH – November 14, 2012

The following changes are required to comply with the SMA (RCW 90.58) and the SMP guidelines (WAC 173-26, Part III):

ITEM	Draft SMP Provision (Cite)	TOPIC	RECOMMENDED AND REQUIRED FORMAT CHANGES	DISCUSSION/RATIONALE	CITY COMMENT / RESPONSE APPROACH (11/14 meeting)	Addressed at 11/14/12 meeting with Ecology and Advisory Committee?
1	Shoreline Inventory & Analysis 1.4	Shoreline Planning Segments	Recommended: The first paragraph references the Environment Segments as shown on Map 2, but Map 2 is the Shoreline Planning Areas, which does not include the Segments. The map showing the Environment Segments is not numbered, please include this map into the Map Folio and ensure all references are correct throughout all SMP documents. Page 5	Clarification and Consistency	No change needed. Map 2 was previously revised to show the segments; included with green lines and text. [AMB to bring Inventory and Characterization Map #2 to 11/14 meeting]]	Y
2	Shoreline Inventory & Analysis	Shoreline Planning Segments	Required: The document only references three Shoreline Planning Segments, however, there are five addressed in the SMP and shown on the Shoreline Environment Designations map: <ul style="list-style-type: none"> - Taylor’s Landing - Riverside Village - North McCormick Park - South McCormick Park - Aquatic Please revise the document to include the five Environmental Segments, or provide additional discussion that clearly explains why only three Segments.	Clarification and Consistency	City does not agree with this required change. It appears that the comment is confusing reaches (or ‘planning segments’) used within the I&C effort with the SEDs established within the Draft SMP. These do not need to be the same, and usually aren’t for most jurisdictions.	Y – agreement that no change needed
3	Shoreline Inventory & Analysis	Ecosystem-wide Characterization	Recommended: Appendix B is referenced, throughout the document, but there is no Appendix B included.	Clarification	Was provided via ESA DeliverIt on September 20 th . Will ensure that this existing document is attached in the final submittal.	Y
4	Shoreline Inventory & Analysis	Chapter 6	Recommended: The Restoration Plan has now been submitted. Please revise the document accordingly. Pages 53, 59, etc.	Consistency	City will address recommended change if updated version of the I&C is prepared.	Y
5	Shoreline Inventory & Analysis	Table 6-1	Recommended: Under the water quality causes of impairment to ecosystem processes, “pond” should be revised.	Typo	Pond is key WQ concern – likely cause of increased temperature. City will address recommended change, as needed, if updated version of the I&C is prepared.	Y
6	No Net Loss	Report	Required: It is not clear how the No Net Loss Report meets the requirements of RCW 90.58 and the applicable guidelines list in WAC 173-26. We encourage having the document be separate from the CIA. In general, the NNL Report should provide a summary of the Inventory and Characterization Report, and show how the findings of the Cumulative Impacts Report are integrated into the policies	Compliance with RCW 90.58 and WAC 173-26	Further discussion needed on this. City’s preferred approach is to keep this as one document. If separate NNL document is required, City would like verification that example brief ‘memo’ approach will meet requirement [AMB to bring City of Sumner No Net Loss Summary memorandum]	YES – see NNL Summary Memo

ITEM	Draft SMP Provision (Cite)	TOPIC	RECOMMENDED AND REQUIRED FORMAT CHANGES	DISCUSSION/RATIONALE	CITY COMMENT / RESPONSE APPROACH (11/14 meeting)	Addressed at 11/14/12 meeting with Ecology and Advisory Committee?
			and regulations of the SMP. More information can be found online in Chapter 4 of the Shoreline Master Program Handbook, and through local examples. I am happy to provide further information and relevant examples.			
7	SMP Chapter 1.8	Shoreline Jurisdiction	Required: Because you are using a preliminary FEMA FIRM map, you must reference the specific date of the map you are using to ensure that Duvall intends to apply the newer (dated) preliminary map and not use the older effective FEMA maps.		This comment creates potential future inconsistency (reference to flood regulations is ‘cleaner’). If required, City will address and do this in a way that will work –see attached for potential new text.	YES – new text added to SMP Shoreline Jurisdiction section
8	SMP Chapter 3	Policies	Required: Environment Designation policies shall be included in sufficient detail to assist in the interpretation of the environment designation regulations and, for jurisdiction planning under chapter 36.70A RCW, to evaluate consistency with the local comprehensive plan.	Compliance with WAC 173-26-211(4)(a)(iii)	City has developed simple and clear management policies for each shoreline environment – see updated version of Chpt 3, attached.	YES
9	SMP Chapter 3	Legal limitations	Required: Please include specific language provided in WAC 173-26-191(2)(a)(i)	Compliance with WAC 173-26-191(2)(a)(i)	Additional information needed from Ecology Generally, the City has reviewed WAC 173-26-191(2)(a)(i) and believes the Draft SMP is consistent. Cited WAC is very broad; additional clarification of potential inconsistency is needed if changes are required.	YES (no change needed per agreement with Ecology)
10	SMP Chapter 3	South McCormick Environment Designation	Required: Nonwater-oriented recreation is listed as a prohibited use in Environment Designations similar to the South McCormick Park Passive Recreation and Conservancy as listed in WAC 173-26-211(5)(a)(ii)(B). Please revise accordingly to ensure the purpose of the Designation is fulfilled.	Compliance with WAC 173-26-211(5)	This suggests that the ‘Passive Recreation and Conservancy’ designation is the same as WAC’s ‘Natural’ designation, which is not the intent of proposed SED. While Duvall does not propose a ‘Natural’ designation, this is appropriate given the urban characteristic of adjacent uses along Main Street and the City’s current uses and intended future uses of shoreline jurisdiction. The proposed ‘Passive Recreation and Conservancy’ environment is the most protective of all proposed SEDs for ecological conditions (200 foot required buffer, maximum 10% impervious surface coverage, highly limited uses – especially west of the Snoqualmie Valley Trail). Along with these protections, the City must maintain ability to develop this environment, and others, with appropriate recreational and utility uses (including maintaining the potential for non-water-oriented recreational use).	YES, per agreement at 11/14 meeting; • Shoreline environment management policies added for each shoreline environment
11	SMP Chapter 3	South McCormick Environment Designation	Required: Commercial development is listed as a prohibited use in Environment Designations similar to the South McCormick Park Passive Recreation and Conservancy as listed in WAC 173-26-211(5)(a)(ii)(B). Please revise accordingly to ensure the purpose of the Designation is fulfilled.	Compliance with WAC 173-26-211(5)	This suggests that the ‘Passive Recreation and Conservancy’ designation is the same as WAC’s ‘Natural’ designation, which is not the intent of proposed SED; see response above for additional detail. Any allowed commercial uses would occur to the east of the Snoqualmie Valley Trail –outside of areas of potential channel migration and the floodway. Critical areas protections would additionally provide protections for associated wetlands and tributary stream areas. The City disagrees with this change.	YES, per agreement at 11/14 meeting; • Shoreline environment management policies added for each shoreline environment
12	SMP Chapter 3	South	Required: Single-family development is listed as a	Compliance with	This suggests that the ‘Passive Recreation and Conservancy’	YES, per agreement at

ITEM	Draft SMP Provision (Cite)	TOPIC	RECOMMENDED AND REQUIRED FORMAT CHANGES	DISCUSSION/ RATIONALE	CITY COMMENT / RESPONSE APPROACH (11/14 meeting)	Addressed at 11/14/12 meeting with Ecology and Advisory Committee?
		McCormick Environment Designation	conditional use in Environment Designations similar to the South McCormick Park Passive Recreation and Conservancy as listed in WAC 173-26-211(5)(a)(ii)(c). Please revise accordingly to ensure the purpose of the Designation is fulfilled.	WAC 173-26-211(5)	designation is the same as WAC's 'Natural' designation, which is not the intent of proposed SED; see responses above for additional detail. Any allowed single-family residential uses would occur to the east of the Snoqualmie Valley Trail –outside of areas of potential channel migration and the floodway. Critical areas protections would additionally provide protections for associated wetlands and tributary stream areas. The City disagrees with this change.	11/14 meeting; • Shoreline environment management policies added for each shoreline environment
13	SMP Chapter 3	South McCormick Environment Designation	Recommended: Scientific, historical, cultural, educational research uses, and low-intensity water-oriented recreational access uses may be allowed provided that no significant ecological impact on the area will result. Ecology encourages these uses in Environment Designations similar to the South McCormick Park Passive Recreation and Conservancy as listed in WAC 173-26-211(5)(a)(ii)(f).	Compliance with WAC 173-26-211(5)(a)(ii)(f)	No change. There is no intent to prohibit these sorts of uses – are commonly covered through Recreation, Ecological Restoration / Enhancement allowances, and most research activities (data collection, sampling) would not be considered 'development' and would not require a shoreline permit. Any uses or activities falling outside of these allowances would require a CUP, but still could be permitted.	YES (no change needed per agreement with Ecology)
14	SMP Chapter 3	Aquatic Environment Designation	Required: Similar to the other Environment Designations, the Aquatic Environment needs to be included in the SMP. Language must comply with WAC 173-26-211(5)(c)(ii)(B).	Compliance with WAC 173-26-211(5)(c)(ii)(B)	Management policies for Aquatic designation added. The City's Draft SMP includes an Aquatic designation. Policies have been added consistent with WAC (see attached updated version of Chapter 3).	YES
15	SMP Chapter 3	Use Table	Recommended: Low-intensity is ambiguous if not defined in the SMP, a footnote defining or characterizing low-intensity that is consistent with the SMA and associated WACs would be helpful when interpreting this standard.		Proposed new definition: <i>Low intensity land use means a land use that has limited impact upon the land, resources and adjoining properties in terms of the scale of development, and frequency, amount, or concentration of use. Low intensity uses are mostly passive uses that do not substantially consume resources or leave noticeable or lasting adverse effects.</i>	YES
16	SMP Chapter 4		Required: Language from WAC 173-26-191(2)(a)(ii) needs to be included in the SMP.	Compliance with WAC 173-26-191(2)(a)(ii)	Additional information needed from Ecology Generally, the City has reviewed WAC 173-26-191(2)(a)(ii) and believes the Draft SMP is consistent. Cited WAC is very broad; additional clarification of potential inconsistency is needed if changes are required.	YES, language added per guidance from Ecology at 11/14 meeting
17	SMP Chapter 4.1.3	Maintenance and Repair	Recommended: This section of the SMP may be more appropriate under other sections of the SMP. While the maintenance standards for existing uses are intended to preserve recreational use, they might be better addressed through management policies in the associated Environment Designation. This would allow the City to provide guided flexibility under broad goal statements that support intended uses. This is one reason why policies in Environment Designations are important in SMPs.		Additional discussion with Ecology on intent of this comment is needed; initial response is to make no changes to Section 4.1.3. Through review of the Draft SMP by City Public Works Department (as part of the Shoreline Advisory Committee), the City developed the detailed Maintenance and Repair standards of this section. Intent was to define clear lines of what will be allowed as maintenance and repair, and what sorts of activities would require a permit or letter of exemption.	YES – revisions made consistent with discussion with Ecology; however the Section was not removed or substantially changed

ITEM	Draft SMP Provision (Cite)	TOPIC	RECOMMENDED AND REQUIRED FORMAT CHANGES	DISCUSSION/ RATIONALE	CITY COMMENT / RESPONSE APPROACH (11/14 meeting)	Addressed at 11/14/12 meeting with Ecology and Advisory Committee?
			<p>If you do wish to include more prescriptive regulations for maintenance of existing uses, I would recommend including them into the existing regulatory sections of the SMP. For example, routine landscaping could be included into the shoreline vegetation conservation. This would alleviate redundancy and inconsistency between sections of the SMP.</p> <p>Lastly, if you do wish to continue with this section of the SMP, I would recommend double checking the regulations with other sections of the SMP, nonconforming uses, and shoreline exemptions for consistency and necessity. For example, mobile homes are considered Residential Development under Chapter 3 of the SMP, and therefore, replacement would be an exemption under WAC 173-27-040. So, it appears the intent of this regulation is to limit the expansion of mobile homes, which might be better addressed in Chapter 6 under mobile home park use regulations.</p>		<p>Similarly, the allowance for replacement of mobile homes, while exempt from Shoreline Substantial Development Permit, still must comply with local SMP standards. The City's intent here is to regulate an existing use that, while allowed as an ongoing existing use, is inconsistent with City Zoning and future intended use of the Riverside Village designation.</p>	
18	SMP Chapter 4.8.2.1	Restoration	<p>Recommended: The language "in a manner that <u>observes</u> the critical area regulations," is unclear and may be more effective with more prescriptive wording (e.g. compliant with...).</p>	Clarification	<p>Recommended change will be made.</p> <p>4.8.2.1. Restoration of ecological functions and processes shall be allowed on all shorelines and shall be located, designed and used in a manner that observes the <u>compliant</u> with critical area regulations of DMC 14.42 and assures compatibility with other shoreline uses.</p>	YES
19	SMP Chapter 4.8.2.2	Restoration	<p>Recommended: Please specifically reference the appropriate Restoration Plan</p>	Compliance with WAC 173-26-221(2)(c)(iv)(C)(III)	<p>Recommended change will be made.</p> <p>4.8.2.2. Ecological restoration projects shall be carried out in accordance with <u>the City of Duvall Shoreline Restoration Plan (INSERT DATE)</u> and other City-, County-, Tribal- or resource agency-approved restoration plans, and in accordance with the policies and regulations of this Program.</p>	YES
20	SMP Chapter 5.1	Impacts to Sediment Transport	<p>Recommended: Although the regulations meet the requirements of the WAC, it may be helpful to include language that addresses impacts to sediment transport from shoreline stabilization.</p>	Compliance with WAC 173-26-231(3)(a)(iii)(E)	Will consider revision during finalization of Draft SMP.	YES
21	SMP Chapter 3/6	Aquaculture	<p>Required: As referenced in WAC 173-26-241, this activity is of statewide interest. Although current technology does not allow for aquaculture in riverine environments such as the Snoqualmie River, it is a preferred water dependent use that should not be prohibited. Change the use in the Use Table to</p>	Compliance with WAC 173-26-241	The current approach within the Draft SMP is consistent with the latter of the two Ecology required approaches. Unless there is some specific additional changed needed, the City's intent is to not address Aquaculture use at all within the SMP (as it is not anticipated for Duvall), with any unexpected future aquaculture	YES

ITEM	Draft SMP Provision (Cite)	TOPIC	RECOMMENDED AND REQUIRED FORMAT CHANGES	DISCUSSION/RATIONALE	CITY COMMENT / RESPONSE APPROACH (11/14 meeting)	Addressed at 11/14/12 meeting with Ecology and Advisory Committee?
			<p>allow aquaculture in the Aquatic Environment, with a Conditional Use Permit (CUP) required for geoduck aquaculture. You may choose to require a Conditional Use Permit for all other types of aquaculture, but geoduck aquaculture is the only required Conditional Use. Adding the following footnote (numbered as appropriate) will provide further clarification: "A conditional use permit is required for new geoduck aquaculture." For more information and guidance please reference the Aquaculture Interim Guidance section of the Shoreline Master Program online Handbook.</p> <p>-OR-</p> <p>The City may chose not to include Aquaculture in the SMP, in which case pursuant to WAC 173-27-160(3), "other uses which are not classified or set forth in the applicable master 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 the master program."</p>		proposals reviewed as a CUP.	
22	SMP Chapter 3/6	Industry	Required: In accordance with WAC 173-26-211 & -241, Industry should be addressed in the SMP. Similar to Agriculture in Duvall, if Industry is not applicable to the community, please prohibit the use in the Use Table located in Chapter 3.	Compliance with WAC 173-26-211 & -241	<p>The area zoned for industrial use is to the east of the Snoqualmie Valley Trail within the South McCormick environment. <i>(AMB to bring Zoning figure to 11/14 meeting)</i></p> <p>Two options here:</p> <ol style="list-style-type: none"> 1. No Change: SMP could remain silent, in which case any Industrial use would require a CUP 2. SMP could regulate industrial use consistent with standards for commercial use (permitted E of SVT where associated with uses along Main Street and consistent with zoning). 	YES (option 2)
23	SMP Chapter 3/6	Mining	Required: In accordance with WAC 173-26-211 & -241, Mining should be addressed in the SMP. Similar to Agriculture in Duvall, if Mining is not applicable to the community, please prohibit the use in the Use Table located in Chapter 3.	Compliance with WAC 173-26-211 & -241	No change needed. Section 6.1 (Prohibited Uses) already prohibits mining.	YES
24	SMP Chapter 3/6	Forest Practices	Required: In accordance with WAC 173-26-211 & -241, Forest Practices should be addressed in the SMP. Similar to Agriculture in Duvall, if Forest Practices are not applicable to the community, please prohibit the use in the Use Table located in Chapter 3.	Compliance with WAC 173-26-211 & -241	<p>Will make change.</p> <p>Section 6.1 (Prohibited Uses) will be updated to prohibit Forest Practices. Prohibited uses also added to Use Table</p>	YES
25	SMP Chapter 6.3	Commercial Use	Recommended: This section of the SMP uses acronyms for the Environment Designations, which has not been a common assurance in the document as a whole. I would recommend using the full title. If you are going to use acronyms, however, please ensure they accurately represent the designation.		Will update to remove all use of SED acronyms in final draft SMP.	YES
26	SMP Chapter	Recreation	Recommended: The second sentence in the regulation	Typo	Although I don't believe this was a typo, City agrees that the	YES – consistent with

ITEM	Draft SMP Provision (Cite)	TOPIC	RECOMMENDED AND REQUIRED FORMAT CHANGES	DISCUSSION/RATIONALE	CITY COMMENT / RESPONSE APPROACH (11/14 meeting)	Addressed at 11/14/12 meeting with Ecology and Advisory Committee?
	6.4.2.7	Regulations	should read, “[w]here non water-oriented recreational development is proposed in the shoreline areas, it is presumed that no alternative development location exists...”		current language is a bit confusing. City proposed revision is just to delete this language altogether: 2. Non water-oriented recreational development shall require a shoreline conditional use permit. Where non-water-oriented recreational development is proposed in the shoreline area, it is presumed that alternative development location exists; Activities and uses shall not be approved as a conditional use unless the applicant can demonstrate that: a. The basic project purpose cannot reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact to shoreline functions; and b. All on-site alternative designs that would avoid or result in less adverse impact to shoreline functions, such as a reduction in the size, scope, or configuration o of the project, are not feasible.	City’s response approach and agreement from Ecology at 11/14 meeting
27	SMP Chapter 6.4.2.7.b	Recreation Regulations	Recommended: Typo: “...size, scope, or configuration o of the...”	Typo	Typo will be fixed in final draft SMP.	YES
28	SMP Chapter 7	Administrative Provisions	Required: Please include the exact language from WAC 173-26-191(2)(a)(iii)(A).	Compliance with WAC 173-26-191(2)(a)(iii)(A)	Minor changes to Section 1.4 (Applicability) to make fully consistent with WAC language: <u>Except when specifically exempted from the Shoreline Management Act and this Program by statute, all proposed uses and development occurring within shoreline jurisdiction must conform to chapter 90.58 RCW, the Shoreline Management Act and this Program.</u>	YES
29	SMP Chapter 7.3.3	Exemptions	Required: Some of the exemptions listed in this section are not consistent with WAC 173-27-040. Please revise	Compliance with WAC 173-27-040	Reviewed for consistency by City, with no issues identified. Additional discussion with Ecology on specifics of this comment is needed. Exemptions in WAC excluded from Duvall SMP [(including: (c) Construction of the normal protective bulkhead common to single-family residences. (e) Construction and practices normal or necessary for farming, irrigation, and ranching (h) Construction of a dock, including a community dock, designed for pleasure craft only, (i), (j), (k)] are integrated by reference.	YES – removed all listing of exemptions, revised to incorporate from WAC by reference
30	SMP Chapter 7	Administrative Interpretation	Required: Please include language that is compliant with RCW 36.70B.110(11) and WAC 173-26-140.	Compliance with RCW 36.70B.110(11) and WAC 173-26-140	Suggested new section: 7.2.2 Interpretation 1. Interpretation of the policies and regulations of this Program shall be consistent with DMC 14.04.060 (Unified Development Regulations – Interpretation – General) and 14.04.070 (Unified Development	YES

ITEM	Draft SMP Provision (Cite)	TOPIC	RECOMMENDED AND REQUIRED FORMAT CHANGES	DISCUSSION/ RATIONALE	CITY COMMENT / RESPONSE APPROACH (11/14 meeting)	Addressed at 11/14/12 meeting with Ecology and Advisory Committee?
					Regulations – Interpretation), except that the word “shall” is mandatory, the word “may” is discretionary, and the word “should” is generally used in polices and is interpreted to define the conditions under which shoreline development or use is allowed or not allowed. The City shall consult with Ecology as needed to insure that any formal written interpretation are consistent with the purpose and intent of chapter 90.58 RCW and this Program.	
31	SMP Chapter 7.2.1	Federal Permits	Required: Please include a specific reference to WAC 173-27-060.	Compliance with WAC 173-27-060	City approach is to reference these broad (and minimally applicable) standards by reference. City would prefer make no change.	YES
32	SMP Chapter 7.2.2.4	Permit Processing	Required: This provision is not consistent with WAC 173-27-130(6), please revise	Compliance with WAC 173-27-130(6)z	City will make change to create consistency – change will clarify that the date of filing is the date of receipt by the Department of Ecology.	YES
33	SMP Chapter 7.3.9	Non-conforming Uses	Required: Please include a specific reference to WAC 173-27-080.	Compliance with WAC 173-27-080	Suggested revised section to address required change: 7.3.9 Non-conforming Shoreline Uses 1. Legally established uses and developments that are nonconforming with regard to the use regulations of this Program may continue as legal nonconforming uses, <u>consistent with the requirements of this section and WAC 173-27-080.</u>	YES
34	SMP Chapter 8	Shoreline Jurisdiction Definition	Recommended: “Sensitive Areas” is out of alphabetical order. Definition #24	Consistency	Will be revised in final draft SMP.	YES