



## EXHIBIT 2

# SMP Update Responses to September 3, 2019 City Council Questions

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The following responds to City Council questions/comments raised at the September 3, 2019 Shoreline Master Program (SMP) Update public hearing.

**1. What is the Shoreline Management Act (SMA) height limitation?**

The SMA requires that any new building or structure shall not exceed 35 feet in height above average grade level, *if it will obstruct the view of a substantial number of residences on areas adjoining such shorelines.*

Specifically, Revised Code of Washington (RCW) 90.58.320 states,

**“RCW 90.58.320 Height limitation respecting permits.**

No permit shall be issued pursuant to this chapter for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.”

This height limitation does not apply to essential public facilities (EPFs) such as the Washington State Ferry terminal nor to the NOAA development (see Question 2).

**2. Is NOAA subject to the 25 foot height limitation?**

Being on Federally owned land, NOAA is not required to meet local development regulations. NOAA’s most recent development drawings for its new facility show a proposed height of approximately 35 feet.

**3. Which properties are impacted by the height restriction of 25 feet?**

Properties in the “Urban Waterfront” shoreline environment designation that are also in the “Waterfront Mixed Use” (WMU) zoning district have a 25 foot maximum height requirement and cannot exceed two stories. This area is located east of Park

Avenue and north of First Street, extending to the east City limits, and includes property owned by the Tulalip Tribes, City of Mukilteo and WSDOT.

The WSDOT Mukilteo Ferry Terminal is an essential public facility (EPF). EPF’s may exceed the height limit of the underlying zone as discussed in Question 1. The Federal government (NOAA site) also owns property in this area and, as noted in Question 2, is not subject to local development regulations.

The maximum height requirement for this area was amended from 35 feet to 25 feet during the 2011 Shoreline Master Program and development regulations update.

Properties in the “Urban Waterfront” shoreline environment designation that are zoned Downtown Business District (“DB”) have a 35 foot maximum height requirement. This includes properties west of Park Avenue extending westerly to the Losvar Condominiums.

A summary of building heights for properties within the “Urban Waterfront” shoreline environment designation is as follows:

**Table 1: "Urban Waterfront" Shoreline Environment Designation, Height Limits (West to East)**

PROPERTY	BUILDING HEIGHT	NOTES
<i>Downtown Business Zone, 35 Foot Height Limit (West of Park Avenue)</i>		
Losvar Condominiums	37 feet	Losvar Condominiums was constructed in the early 1970s prior to Washington State’s adoption of the Shoreline Management Act. The height variance was granted from zoning code requirements; not shoreline requirements.
Ivar’s Restaurant	30 feet	---
Silver Cloud Inn	Water Side: 41 feet Front Street: 31 feet	Building height is calculated from “mean ground level,” or the average ground level of the four corners of the smallest rectangle that can surround a structure. Silver Cloud Inn meets the 35 foot height requirement and was not granted a height variance.
<i>Waterfront Mixed Use Zone, 25 Foot Height Limit (East of Park Avenue)</i>		
NOAA	Existing: 35 feet Proposed: 35 feet	NOAA is not subject to local development regulations.

PROPERTY	BUILDING HEIGHT	NOTES
Future Central Waterfront Park	Undeveloped	---
(Future) WSDOT Mukilteo Ferry Terminal	Ferry Terminal: 46.85 feet Maintenance: 15.97 feet Toll Booths: 21.92 feet	EPFs of any kind may exceed the height limit of the underlying zone.
Japanese Gulch Daylighting Property	Undeveloped	---
Tulalip Tribes	Undeveloped	---

**4. Can new mitigation measures be imposed on previously approved projects?**

Mitigation measures are commonly applied through SEPA and through project permit conditions. Once a project has been approved and the appeal period has ended, new conditions cannot be imposed.

In the case of the Washington State Ferries, the Mukilteo Multimodal project went through the SEPA environmental review process with the issuance of a Final Environmental Impact Statement (FEIS) in 2013. The project also was subject to a Hearing Examiner public hearing that addressed the review criteria for Essential Public Facilities and shoreline development permits.

The Mukilteo Multimodal project must therefore comply with the 2013 FEIS mitigation measures and Hearing Examiner conditions. However, new mitigation measures at this point in time would not be allowed.

**5. What are view corridors and how does the SMP minimize view impacts?**

The SMP and shoreline development regulations contain provisions to protect “view corridors.” MMC 17.08.020 defines a view corridor/vista as “a distant view through or along a street or openings between structures.”

MMC 17B.25.120 (entitled “Design guidelines”) contains several design guidelines for shoreline development. Guideline 19 (MMC 17B.25.120(S)) and Guideline 20 (MMC 17B.25.120(T)) specifically address the need to provide open space and to protect view corridors.

Guideline 19 (“Parks and Open Space”) requires parks and open space to be incorporated into mixed use developments. Guideline 20 (“View Corridors”) requires the consideration and protection of view corridors along shorelines. Guideline 20 further identifies Park Avenue, SR 525 and Front Street as having important view

corridors and requires that buildings configure their roof ridge lines to be perpendicular north and south, to the shore, or to the significant view.

Guideline 19 (MMC 17B.25.120(S)) and Guideline 20 (MMC 17B.25.120(T)) state:

**17B.25.120 Design guidelines.**

...

S. Guideline 19: Parks and Open Space. Mixed-use developments will provide twenty percent in parks and open space. Plazas, play areas, landscape buffers and open space (sensitive areas) can be included in the open space requirement. Ten percent of the area will be in useable parks, plazas and play areas. Pedestrian and bicycle paths and connections are required within the development, and shall be provided to the closest activity area (i.e., schools, business area, park, major arterial, etc.).

T. Guideline 20: View Corridor. View corridors shall be considered and protected in the waterfront areas. The view corridors created by Park Street and SR 525 running north and south in Mukilteo provide important view corridors. Front Street also provides another view corridor to the water. To help protect view corridors and allow for buildings and public areas to share and retain access to these views, buildings shall configure their ridge lines to be perpendicular north and south, or to the shore, or to the significant view. The basic structure and pitched roof shall be located to provide maximum view corridors between structures.

The 2017 Waterfront Light Detection and Ranging (LiDAR) maps (**See Exhibit 4**) show the bluff properties on the east side of Park Avenue are, on average, 76 - 100 feet above sea level.

**6. What are the requirements for parking in areas designated as shorelines?**

Washington Administrative Code (WAC) 173-26-241(2)(k) states:

“...parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use. Shoreline master programs shall include policies and regulations to minimize the environmental and visual impacts of parking facilities.”

Parking is to support the permitted use. Parking must also be located landward of the permitted use (away from the shoreline). The City’s SMP provides that stand alone parking is permitted as part of the multi-modal transit center.

The City’s current shoreline development regulations require parking to be located a minimum of 75 feet from the ordinary high water mark (OHWM). The proposed shoreline master program update retains the 75 foot setback requirement based on comments the City received from the Department of Ecology.

MMC 17B.16.070 and MMC 17B.25.090 contain additional design standards for parking intended to minimize the visual impact of parking.

**7. Where did the projects listed in Chapter 6 of the SMP come from and how can we move it up the priority list in the Capital Facilities Element of the Comprehensive Plan?**

Chapter 6 of the SMP is the City's Shoreline Restoration Plan. A shoreline restoration plan is a required component of the Shoreline Master Program (WAC 173-26-201(1)(f)).

Shoreline restoration plans identify degraded areas, areas with impaired ecological functions, and sites with potential for ecological restoration. The shoreline restoration plan also includes implementation strategies identifying prospective funding sources for restoration projects and programs.

The restoration projects listed in the SMP were identified during the City's 2011 SMP update based on information provided by the Snohomish County Marine Resources Advisory Committee (MRC). The MRC identified and prioritized potential nearshore enhancement / restoration sites within Snohomish County as part of their 2011-2016 MRC Strategic Plan.

One of the projects identified in MRC Strategic Plan for potential restoration is the "Upper and Lower Chennault Beach Creeks, and Possession View Park and Tidelands." This project proposes to provide access to the beach using a pedestrian overpass/underpass near Lower Chennault Beach while creating an upland beach area through beach enhancement.

This project is also included in the City of Mukilteo 2035 Comprehensive Plan 20-Year Capital Facilities List. The project is identified as HM9: Chennault Beach Tidelands Enhancement and HM10: Possession View Waterfront Access (see Table I-4, below). No funding has been identified for these projects.

TABLE I-4: 2015-2035 CAPITAL FACILITIES LIST - PROJECTS MORE THAN \$200,000						
TRANSPORTATION						
ROADWAY	PEDESTRIAN FACILITIES	BIKEWAY	STORMWATER	PARKS	CITY BUILDINGS	SHORELINE & HABITAT MANAGEMENT
*TR11: Downtown Waterfront Parking Facility	TS8: 5th Street Sidewalks from Lincoln Avenue to City Limits		SW9: Smuggler's Gulch Drainage Analysis	P18: Waterfront Promenade		HM8: Big Gulch Beach Enhancement
TR12: 2nd St. Pedestrian Improvements	TS9: 2nd Street Sidewalks from SR525 to Loveland Avenue		SW10: Marine View Place - Flow Control	P19: Big Gulch Pedestrian Access to Shoreline		HM9: Chennault Beach Tidelands Enhancement
*TR13: SR525 Bridge	TS10: Park Avenue Sidewalks from 2nd Street to 3rd Street		SW11: <u>46th/88th Detention Pond Improvement/Relocation</u>	P20: Shoreline Trail		HM10: Possession View Waterfront Access

The Mukilteo Comprehensive Plan has two capital facilities lists:

- 1) A 6-year list; and,
- 2) A 20-year list.

Projects on the 6-year list are identified for near-term construction and require construction costs, financing requirements, and identification of specific funding sources. Projects on the 20-year list should include estimated costs, however since the projects will are not slated for near term construction, identification of specific funding sources and detailed cost estimates are not required.

In order to move Project HM9 (Chennault Beach Tidelands Enhancement) and HM10 (Possession View Waterfront Access) from the 20-year list to the 6-year list, the City would need to identify project costs, funding sources and amend the Mukilteo Comprehensive Plan Capital Facilities Plan.

**8. How often can the SMP be amended?**

RCW 90.58.080(4)(a) establishes the minimum eight (8) year time period for a local government to review and, if necessary, amend its SMP and shoreline development regulations.

Shoreline master programs and shoreline development regulations may be amended more frequently than every eight (8) years. Any amendments, even minor ones, must meet the same rigorous public participation, environmental review and Ecology review requirements. That reason alone discourages frequent updates to a Shoreline Master Program.

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