

Public Comment Summary: City of Anacortes SMP Periodic Update

2nd Draft Public Comment Period, February 16, 2022 – March 9, 2022

WRITTEN COMMENTS RECEIVED

Comment Number	Comment Topic and Section Number (Citation)	Commenter	Comment	Local Government Response and Rationale
1	2.4 and 2.5 – exemptions for existing development, 9.4, 9.6, 9.8	Anchor Cove Marina Condominium Association Board of Directors	<p>1. Concerned about costs and length of time it takes for regulatory agencies to process permits for in-water structures. Requests wording to define what permitting agencies “must” and “will” do in terms of interagency cooperation, cost efficient, timely processing of applications.</p> <p>2. Comments state that the existing wording of Section 9.4 (Docks), 9.6 (Dredging) and 9.8 (Jetties) does not recognize the inter-related and essential functions of existing breakwaters. The specifications regarding steel pilings and treated wood do not align with the evolving options available as technology evolves. The commenter suggests consultation by COA/DOE with local marina design companies and operators to help clarify issues of importance and to update wording to reflect local conditions and operating environments.</p>	<p>1. Consistent with RCW 36.70B.080, the City has established in its development regulations time periods for city actions on each type of project permit application, not to exceed 120 days, unless written findings are made that additional time is needed. The City does not have influence on State or Federal agencies that may also have jurisdiction over in-water work.</p> <p>2. The City recognizes improvements in material treatment methods in the future resulting in no pollution generating surfaces. The City will consider removing language regarding the minimization of treated wood, so long as it is a documented non-polluting generating alternative. This amends Policy 6.3.4 under Impacts, Mitigation, and Bonding, (removing the minimization of treated wood reference) and DR-9.5.5 regarding docks, piers and floats, as follows:</p> <p style="text-align: center;"><i>D. Piers, docks and floats must be constructed of materials that comply with requirements of federal and state regulations. Treated wood materials may be utilized on pilings in repair projects for timber structures, provided the</i></p>

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				<p><i>BMPs for the use of Treated Wood in Aquatic and Sensitive Environments, Western Wood Preservers Institute/Wood Preservation Canada/Southern Pressure Treaters' Association/Timer Piling Council, are specified and met. The conditions found in An Agreement Concerning the Use of Treated Wood in Aquatic Areas between Ecology and Department of State Fish & Wildlife dated August, 1995, also fulfill this requirement. However, use of treated wood should be minimized wherever practicable.</i></p>
			<p>3. Comments relay recent examples of permitting processes for repair of storm damage to an existing breakwater and maintenance dredging where mitigation and vegetation surveys were required. Comments request that the SMP be updated to better reflect the realities of existing marina operations and resolve ongoing competing interests and conflicting objectives of multiple agencies with jurisdiction.</p>	<p>3. The SMP addresses no net loss from a variety of impacts, including new, replacement, and repair projects. While the SMP contains policies supporting a more streamlined permit process, an in-depth analysis of whether these streamlined methodologies meet no net loss of shoreline functions must also be considered before waiving additional permit requirements. Additional coordination between state and federal entities is also needed to address a waiver from permit requirements. Demonstrating this project type meets no net loss of shoreline functions without fully documenting impacts would need further analysis than this periodic update provides.</p>

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2	<p data-bbox="281 298 443 431">4.8 Restoration and Adaptive Management</p> <p data-bbox="281 548 443 716">Chapter 6 Environmental Protection and General Regulations</p> <p data-bbox="281 833 443 966">SMP 5.12.B Shoreline Development Standards</p> <p data-bbox="281 1083 443 1216">SMP 9.11 Shoreline Stabilization Measures</p>	Skagit Land Trust	<p data-bbox="680 298 1358 646">1. Commenter encourages the city to adapt local planning documents and procedures to take climate change into account. Provides references and links to case files and guidance on incorporating sea level rise into SMPs and Comprehensive Plans. Commends the City on beginning the process of planning for sea level rise and climate change through integrating sea level change data into recommended updates to the frequently flooded areas regulations.</p>	<p data-bbox="1383 298 1881 358">1. Thank you for your comment and this information.</p>
			<p data-bbox="680 717 1358 985">2. State law does not explicitly require Anacortes to address sea level rise in the SMP update, but it is encouraged, and the language of RCW 90.58.020 about preferred shoreline uses supports its inclusion. Also, RCW 90.58.100(E) urges those preparing SMPs to use all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data.</p>	<p data-bbox="1383 717 1969 885">2. The City agrees with addressing sea level rise at a policy level with this update, in addition to parallel work reviewing the City's Frequently Flooded Areas Chapter AMC 19.74.</p>
			<p data-bbox="680 1005 1358 1312">3. Recommends that Anacortes use same sea level rise and climate change calculations for all planning documents and regulations and use an integrated approach and plan for when each document or policy will be updated. Commenter also notes that sea level rise is mentioned in the Comprehensive Plan and Municipal Code; however, sea level rise and climate change are missing from the SMP and other planning documents.</p>	<p data-bbox="1383 1005 1969 1172">3. The City will add policy language within SMP Section 4.8, Restoration and Adaptive Management Element, recognizing the use and development of consistent Sea Level Rise projections, with periodic reassessment.</p>
			<p data-bbox="680 1326 1358 1416">4. FEMA's mean sea level and base flood level are based on historic conditions and currently local maps do not take into account sea level rise. FEMA</p>	<p data-bbox="1383 1326 1969 1416">4. FEMA flood mapping for Anacortes was last released in 2003. Current efforts by FEMA to revise these maps are on indefinite hold due</p>

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			<p>flood maps are decades out of date and static and provide a false sense of security. The reality with sea level rise and climate change is that FEMAs 100 year floods will happen much more regularly.</p>	<p>to difficulties in mapping Skagit River levees (new FIRM maps will not have separate maps for cities).</p> <p>Preliminary City flood mapping indicates the main areas of concern assuming two feet of sea level rise in the next 80 years are Skyline area and Lovric’s marina, per coordination with NOAA and preliminary inundation models provided by Coastal Geologic Services, Inc in their October 19, 2021 Memorandum titled City of Anacortes Critical Areas Ordinance Update: Frequently Flooded areas – Draft Update.</p>
			<p>5. Suggests determining how much sea level has risen since the date of the last FEMA map; deciding what metric the City will use for predicted sea level rise for the next 30, 50 and 80 years. Strongly recommends planning for at least the lifespan of a typical structure that will be placed on the shoreline (50 years).</p>	<p>5. The metric, as recently presented to the Planning Commission and per the City of Anacortes Critical Areas Ordinance Update: Frequently Flooded areas – Draft Update, prepared Coastal Geologic Services, Inc, Dated October 19, 2021, is that new structures be built two feet above base flood elevation instead of one foot to account for sea level rise over the next 50 years. The proposed two feet of freeboard (elevation of a building’s lowest floor to a height above the minimum base flood elevation) would protect structures with a 50% or greater probability of inundation. We have a 90% chance of seeing one feet in rise, a 50% chance of two feet, and a 10% chance of three feet over the next 80 years. This potential change is</p>

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				<p>anticipated to be reflected within AMC Chapter 19.74 Floodplain Management, as referenced by the SMP.</p>
			<p>6 The City should acknowledge the need to plan for sea level rise and climate change in the goals, objectives, and policies of the SMP as a first step.</p>	<p>7. The SMP will add policies under SMP Section 4.8, Restoration and Adaptive Management, eventually migrating all SMP policies to the Shoreline Element of the Comprehensive Plan. Policies to consider include:</p> <ul style="list-style-type: none"> • <u>Choose a sea level rise projection that is appropriate for the City, considering all best available science and potential unknowns.</u> • <u>Revisit sea level rise projections every eight years and revise if necessary.</u> • <u>Recognize and monitor the potential effects of climate change as additional scientific information becomes available and encourage shoreline development and redevelopment which will deal with sea level rise in the following order: avoid, retreat protect and accommodate.</u> • <u>City should develop plans to address the impacts of sea level rise and climate change in collaboration with impacted property owners, the community, and the Department of Ecology.</u>

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				<ul style="list-style-type: none"> • <u>Consider sea level rise impacts as it plans for new development as well as other public and private shoreline projects, consistent with the best available science and the life cycle of the improvements.</u>
			7 Suggests reviewing the SMP regulations with an eye towards sea level rising at least the 50% likely range in the next 50 years – using Coastal Geologic Services memo.	7. See response 2.5 above.
			8 Suggests adding mention of sea level rise due to climate change or other climate change impacts to Chapter 6.	8. City agrees that the mention of sea level rise due to climate change will be added to Chapter 6 – Environmental Protection General Regulations.
			9 In section 8.5.4, suggests adding indication that the ordinary high water mark will move landward with sea level rise.	9. The City will consider adding an introductory statement acknowledging that the OHWM may move landward with sea level rise.
			10 In section 8.11.3, suggest adding language regarding avoiding construction in tidal and storm surge areas at elevations projected as reasonably likely to be impacted for some specified period into the future. For example: to “avoid SLR and storm surge impacts for the next 50 years” or alternatively, “for the lifetime of the planned structure”.	10. The City will consider strategies to address concerns in tidal and storm surge areas
			11. In chapters 8 and 9, add stronger mitigation language to meet the requirements of no net loss. Any new or expanded hard armoring installed should be fully mitigated through the removal of another existing hard armor section on the shoreline or by other specific habitat restoration actions sufficient to provide for no net loss of shoreline values and ecological functions. Limiting new hard	11. SMP 9.11 Shoreline Stabilization Measures, specifically DR-9.11.4, requires applicants to demonstrate alternatives to hard armoring isn’t feasible, addressing the first suggested language. As a result, no change to the SMP will occur.

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			<p>armoring in the face of climate change and sea level rise is critical. Suggest language to this effect:</p> <p>“Use of hard armoring is prohibited except where there is no reasonable alternative to protect an existing structure” as of adoption of this Shoreline Master Program update.</p> <p>“New development must be located/designed to avoid the need for future shoreline stabilization to the extent feasible, during the lifetime of the structure considering best available science including projections of sea level rise.</p>	<p>In review of the 2nd suggested language, the City agrees to add to existing regulation DR-9.11.6: <i>New development, including creation of new parcels, that would require future shoreline stabilization during the life of the structure <u>considering sea level rise projections</u> is prohibited except where no alternative locations are available and no net loss of ecological functions will result as demonstrated through a geotechnical analysis.</i></p>
3	5.9 Shoreline Residential	Kathleen Lorence-Flanagan	<ol style="list-style-type: none"> 1. Replacing the word “shall” with “will” or “must” makes for a stronger SMP. 2. Using consistent wording that the Planning, Community & Economic Development Director IS the Shoreline Administrator is helpful. 3. P. 21, 3.1B “Application Requirements and Procedures”. Recommend providing a direct link to Table 19.20.030-1, or including the table in this location. 4. Concern about notice requirements, length of comment periods, and appeal processes. Critical area and shoreline exemptions require NO notice of application – therefore potential affected people will not even be aware of the request. 	<ol style="list-style-type: none"> 1. Thank you for your comment acknowledging this plain language change. 2. Thank you for your comment. 3. With this update, the SMP development regulations will be integrated into Title 19 – Specifically Chapter 19.72, Shorelines. As such, hyperlinks between provisions will be possible. 4. In shoreline jurisdiction, any activities that are exempt from critical areas regulations will still need to go through a shoreline permit process. Exemptions from shoreline substantial development permits are

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				statutorily set and all development still must comply with shoreline regulations.
			5. P.22, 3.3.B Reference is made to Table 5.1 – since it does not appear until page 78, is there a way to provide a link?	5. Please see public comment response 3.3.
			6. P. 26, 3.7.1 This was an issue with the GCT and it is good to see the expectations clearly stated here.	6. Thank you for your comment.
			7. P. 29, 3.94 nonconforming uses and structures. The way this reads, it seems that if a home is destroyed by flooding it can be rebuilt to the same or smaller size, on the same site as the old structure. With sea level rise an ongoing issue, why allow a rebuild under such circumstances. Of course, this brings to mind an overriding issue with the SMP: where is there mention of Sea Level Rise, and regulations based on its inevitability? It is unfortunate that Anacortes, being a coastal marine town, is not taking the lead on inclusion of this in their SMP.	7. Please see responses 2.2 – 2.11 above regarding similar issues Skagit Land Trust raises regarding sea level rise.
			8. P.30, 3.5.3. It is said the shoreline administrator will determine the replacement cost of a structure. Is this a reasonable expectation?	8. Yes, the Shoreline Administrator determines a structure’s replacement cost through either the Skagit County Assessor’s assessed value of the structure or professional bid (cost breakdown of labor and materials) used to determine the replacement cost of a structure.
			9. P. 30, 3.5.6 (and P. 38, Policy 4.5.13) Cooperation between public agencies occupying waterfront lands mentioned several times in relation to protecting shoreline ecological functions. Will the hillside walking paths and slope on the eastern slope of Ferry Terminal ever be appropriately structured and vegetation?	9. Further coordination between the City Parks Department and WSDOT is identified within the City’s 2022-2027 Capital Facilities Plan: https://www.anacorteswa.gov/DocumentCenter/View/20747/Final-2022---2027-CFP - specifically on page 55 of the document, identifying funds in 2026 to complete the

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				Ship Harbor Wetland Interpretive Trail and its connection to the ferry landing.
			10. P. 36 Policy 4.4.2 "Located land transportation routes should be located as far as reasonably possible from waters' edge, with the least environmental impact to the shoreline except where needed to access water dependent uses.	10. Thank you for your comment.
			11. P. 36 Policy 4.5.14 GCT: to-date, this protection and/or enhancement has not been accomplished in the parts of the GCT already built. With no plan for the GCT yet shared with the public, it is difficult to know how will this policy be achieved on future parts. (Policy 4.6.8 pertains to what has happened to-date with the GCT).	11. Future plans for the Guemes Channel Trail will undergo public review and input prior to trail development.
			12. P. 50, DR-5.6.4 In Re-Use of Historic Over-Water structures, multiple allowances are made for what can be done. Except to say that access provisions must be completed and available for public use upon completions of the first component, there are inadequate references to access and parking, both of which have been issues in the past with use of the former wharfs.	12. Developments within shoreline jurisdiction are subject to Parking requirements, which are outlined in AMC 19.64.
			13. P. 66, DR-5.9.7. It is hoped that deviations from required setbacks are granted with considerable discrimination. Is there a system, in place and available to the Public, for tracking these?	13. This section describes shoreline variances beyond what is specifically allowed in DR-5.9.6 above. Shoreline Variances under DR-5.9.7 must be approved by the Department of Ecology and are noticed to the public. There is no system currently setup that tracks shoreline variances.
			14. Re: Vegetation Conservation regulations - It's sad to see slides and downed trees on the landward side of the GCT due to what is assumed has been view	14. The applicant is responsible for tracking plant monitoring performance standards in annual monitoring reports provided to the City,

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			<p>creation. The updated regulations seem so much stronger and one can only hope there will be better enforcement of them. There are stipulations for 5-year survival rates of vegetation, and as always, my question is about how that is enforced. Whose responsibility is it to verify that has been achieved. Is there a tracking system?</p>	<p>meeting criteria outlined within DR-6.5.8. The City was recently awarded a Department of Ecology competitive grant to fund a shoreline permit tracking system, reviewing the success of the system in documenting no net loss of shoreline ecological functions. As such, the status and mitigation success may be tracked with this future effort.</p>