

## STAFF REPORT

TO: Planning Commission

PREPARED BY: MillieAnne VanDevender, AICP &  
Nicole Stickney, AICP  
AHBL, Inc. – Contract Planners

FILE NO.: CA2020-104

MEETING DATE: October 25, 2023

### **GENERAL INFORMATION**

APPLICANT: City of Richland

REQUEST: Text and map amendments to the Shoreline Master Program (SMP) and RMC Title 26 – Shoreline Management are proposed to fulfill requirements of the SMP Periodic Update Process.

LOCATION: Citywide: Shoreline Jurisdiction

### **EXHIBITS**

1. Draft Amendments to Title 26 – Shoreline Management
2. Public Comment Response Matrix
3. Meeting Minutes from 06/09/2021 Planning Commission Public Hearing
4. Draft Periodic Review Checklist (for future submittal to Ecology)
5. SMP Shoreline Regulatory Reaches Map and SMP Shoreline Environment Designations
6. FEMA Letter of Map Revision Determination

### **REASON FOR REQUEST**

The City of Richland is undertaking a periodic review of its Shoreline Master Program (SMP), as required by the Washington State Shoreline Management Act (SMA), RCW 90.58.080(4). The SMA requires each SMP be reviewed and revised, if needed, on an eight-year schedule established by the Legislature. The review ensures the SMP stays current with changes in laws and rules, remains consistent with other City of Richland plans and regulations, and is responsive to changed circumstances, new information and improved data.

### **PROCESS TIMELINE**

- On October 6, 2020, the Richland City Council passed Resolution 135-20 adopting Richland's 2021 *Shoreline Master Program Periodic Review Public Participation and Work Plan* outlining the anticipated public involvement process for the SMP update.
- On November 18, 2020, the Planning Commission hosted an open-house event to initiate the process and to answer any preliminary questions from the public.
- On March 8, 2021, the City issued the required 60-day notice to the WA Department of Commerce for the proposed amendment to development regulations; thereby fulfilling the requirements of 36.70A.106 (1) RCW.
- The City issued a State Environmental Policy Act (SEPA) Determination of Non-Significance (DNS) on March 15, 2021, on the proposed update.

- On March 24, 2021, the Richland Planning Commission conducted a workshop meeting to discuss the SMP update.
- The City and the state Department of Ecology (Ecology) issued a joint notice advertising an open public comment period from May 10 to June 8, 2021. The City received many comments from the public and did not receive any comments from State and local agencies.
- On June 9, 2021, the Planning Commission held a public hearing to discuss the SMP update. Two members of the public made comments and Chelsea Benner explained her role as a representative of the Department of Ecology. The Planning Commission decided to postpone action on the SMP update to allow City and State officials time to respond to written and oral comments received on the update. The minutes from the public hearing are included as Exhibit 3.

## **BACKGROUND**

Prior to the public hearing which took place on June 9, 2021, the Richland Planning Department coordinated with the Department of Ecology on public notification of comment periods and hearings to take advantage of Ecology's optional SMP amendment process that allows for a combined state-local comment period (WAC 173-26-104), as noted above in the timeline. The City received many extensive comments on the SMP update during the time between the Planning Commission workshop (March 24, 2021) and the public hearing. City staff compiled all the comments the City received into a comment and response matrix. At the time of the public hearing in June of 2021, staff had not addressed all the comments and the Planning Commission ultimately decided to postpone action on the SMP to allow City and State officials time to respond to written and oral comments received on the update. The City received another set with additional comments from the public after the initial joint public hearing in June of 2021 (but there were no comments from any public agencies). In accordance with RCW 90.58.080(4), the update was on track to conclude on or before June 30, 2021, however, staffing issues caused unforeseen delays to the process and many of the commenters' responses remained unaddressed.

The City asked AHBL to provide responses to the collected comments. AHBL had previously provided contract services to the City early in the SMP update process by reviewing the adopted SMP through the lens of Ecology's Update Checklist and ultimately made many suggestions and recommendations on items to update.

As requested, AHBL conducted a thorough review of the SMP and the public comments and incorporated suggested changes where appropriate into Title 26 of the Municipal Code and the SMP. The proposed updates are included as Exhibit 1 and the changes are indicated through the use of Tracked Changes standards: proposed additions are shown in underlined blue font, and anything deleted is shown in red font with a strikethrough. The Response Matrix (Exhibit 2) now provides a record of who commented, the date of the comment, the comment, and the City's response or action taken due to the comment.

To move the SMP update forward, the Planning Commission must make a recommendation to the City Council. Following that step, staff would present the proposed amendments to City Council. Ecology is processing a large number of SMP reviews currently and would likely not be able to review the City's proposed SMP updates for several months. As a result, the joint review process is no longer being used and the City is using the standard review process (following advisement by Chelsea Benner at Ecology). Accordingly, the Planning Commission public hearing is not a joint public hearing.

Once the recommendation of the Planning Commission is given to the City Council the City Council may **adopt** the SMP and associated documents by Ordinance. However, the ordinance will not take immediate effect, because the Department of Ecology will have its own review (including its own comment period) of the SMP.

Unlike other local regulations, Ecology has final review and **approval** authority over the City's SMP, including the ability to require changes.

## **SUMMARY OF AMENDMENTS**

The policy sections of Richland's Shoreline Management Program (SMP) are codified as Title 26 of the Municipal Code. Staff (as supported by the consultant team) proposes several text changes to the various sections of Title 26 – Shoreline Management largely based on a checklist provided by Ecology that details the changes to state laws / rules / guidance that necessitated the need for SMP amendments. Many other updates are based on suggestions from the public.

An inventory of required and proposed SMP amendments is provided in the Department of Ecology Periodic Review Checklist (Exhibit 4). The checklist indicates code sections where the change can be found in the draft code amendments (Exhibit 1). The Response Matrix (Exhibit 2) also provides an inventory of proposed SMP amendments based on comments from the public.

The following is a summary of proposed amendments:

- Edits made throughout to correct typographical and/or grammatical errors and to ensure references to various code sections are correct.
- Updates to specific terms and nomenclature throughout.
- Updates to many sections of Chapter 26.60 to align the critical areas provisions of the SMP with the City's Critical Areas Ordinance (22.10 RMC).
- Additions, deletes, or revisions to various term definitions.
- Revisions to section RMC 26.60.042 to better explain riparian buffers and other required buffers and simplification of RMC 26.60.045.J so that it refers to the section that explains riparian buffers.
- Updates made to comply with recently adopted Washington State policies and laws and/or Ecology's clarifications:
  - Changes to the language that allows an exemption from Shoreline Substantial Development Permits for new construction that is under a certain cost threshold so that it now refers to RCWs and WACs instead of listing a specific amount that must be perpetually updated.
  - The definition of "development" was updated to add the suggested Ecology language: "Development does not include dismantling or removing structures if there is no other associated development or re-development."
  - There were small changes to the list of exemptions found in RMC 26.50.020.B and Section 26.50.021 was added to list exceptions to local review that would not require a shoreline exemption. These include exceptions like remedial hazardous substance cleanup actions, boatyard improvements to meet NPDES requirements, and certain WSDOT maintenance and safety projects and activities.
    - This also moved areas and uses in federal jurisdiction from an exemption to an exception.
    - A new exemption was created to include certain projects that are for ADA retrofitting.
  - Non-conforming uses or development were addressed by adding certain requirements and a definition.
  - RMC 26.01.040 added clarifications on future updates to the SMP.
  - To eliminate issues arising from future updates to the federal /local wetlands delineation manual, RMC 26.60.024.B was updated to refer to the approved federal wetland delineation manual and applicable regional supplements.

## **PUBLIC NOTICE/ COMMENTS**

The SMP periodic update process integrates multiple opportunities for interested parties, including the public, to provide comments or any general feedback on the proposed changes to the SMP.

## **MAP AMENDMENTS**

Staff has proposed a few minor amendments to the maps to depict the approximate SMP jurisdiction more accurately and improve the legibility of the maps. The proposed changes affect the map showing the regulatory reaches and the map showing the shoreline environments (Exhibit 5). The proposed map amendments do not propose substantive changes but are intended to clarify the information provided. As always, the SMP maps are intended to be a guide only and information is subject to field verification; however, there were a few items that were not depicted correctly and needed to be revised.

The proposed map changes include the following:

1. An update to the location of the shoreline environment located along the Marina at Columbia Point to reflect the accurate location of the ordinary high-water mark. The existing map titled *Shoreline Reaches* depicted the shoreline environment along the edge of the marina, and in the water, rather than along the shoreline. The image below (Figure 1) shows the existing (“Removed”) and proposed (“Added”) locations for the shoreline jurisdiction. Note that the shorelands that are present waterward of the marina are still shown as being in shoreline jurisdiction.

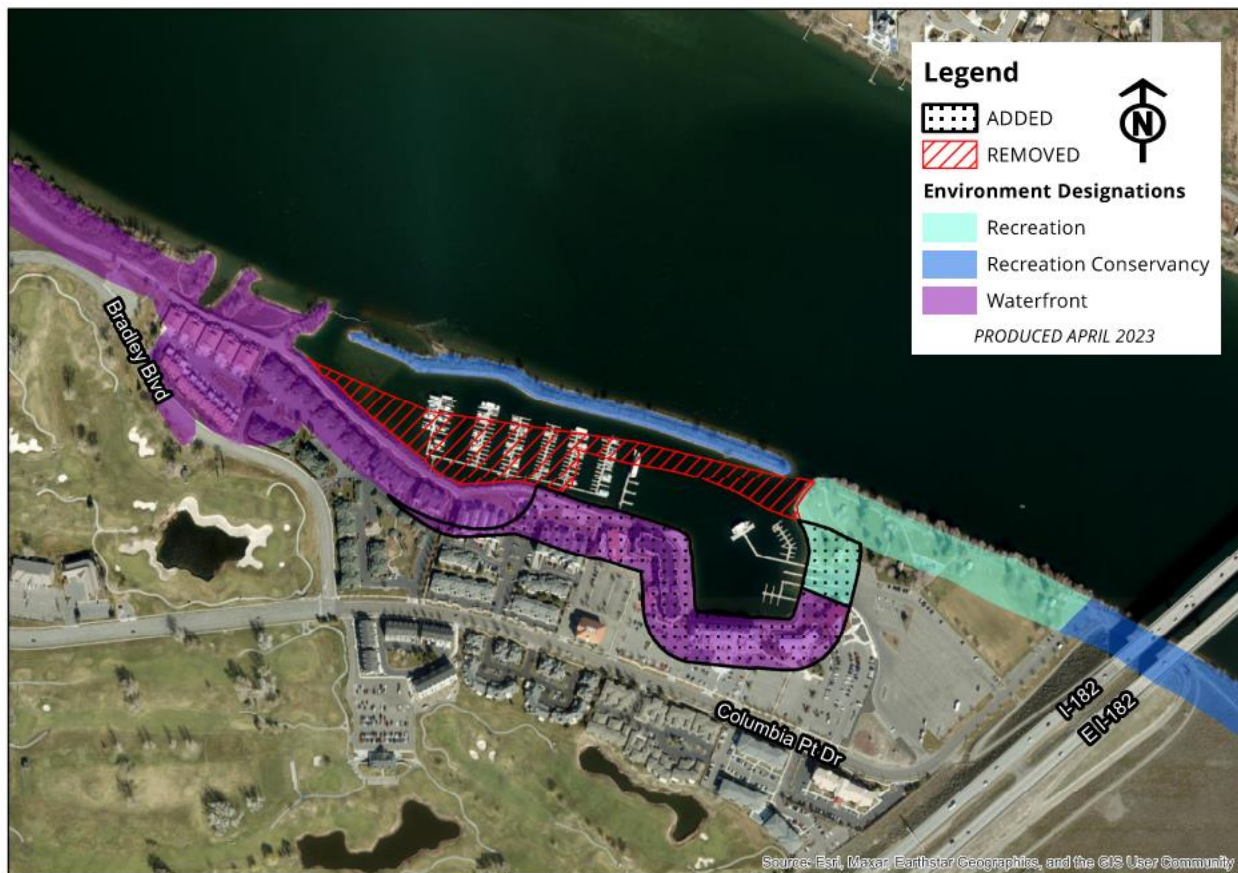


Figure 1

- The SMP maps should accurately depict city limits. Staff proposes an update to accurately represent the current extent of the city limits, the UGA, and the location of the shoreline environment to reflect where the City annexed land on the east side of Stevens (and adjusted the boundaries of the UGA north of the City limits). Figure 2 shows the proposed adjustments to the adopted city limits and UGA and also shows that two islands in the Columbia River, Susan, and Barb Islands, are not part of the City of Richland SMP jurisdiction. These islands are technically within the boundaries of Franklin County. Although the islands are not technically being removed from Richland SMP jurisdiction (because they were never a part of it), staff has included the islands in this proposed change because some maps include the islands, and some do not.

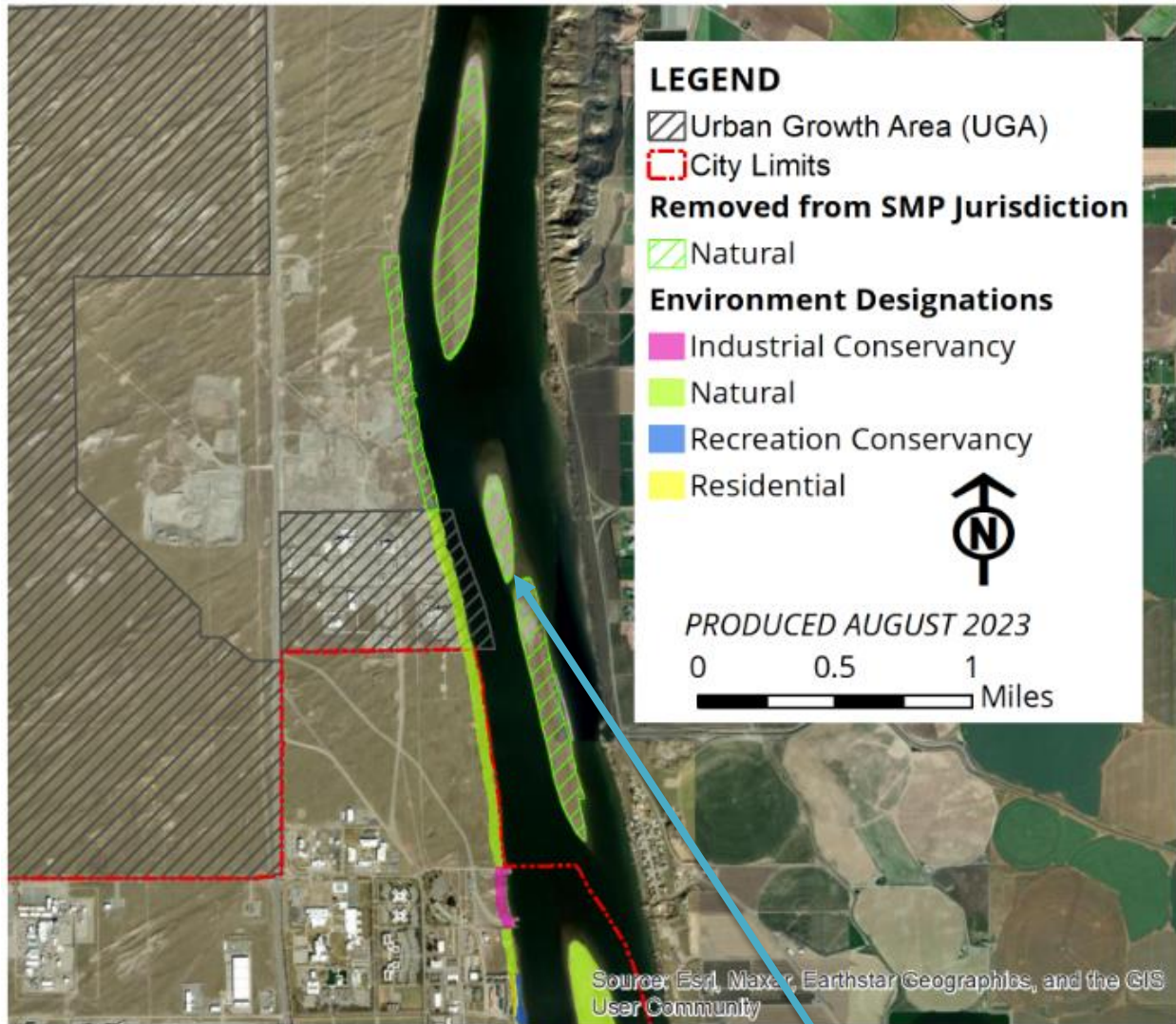


Figure 2

SUSAN & BARB ISLANDS

3. A change to the map is proposed to reflect some regulatory changes to the area near the Duportail Bridge. The Federal Emergency Management Agency (FEMA) issued a Letter of Map Revision (LOMR) with an effective date of January 12, 2023 (Exhibit 6). Figure 3 shows proposed map changes to match the refined locations of the regulatory floodway and floodplain per the LOMR.

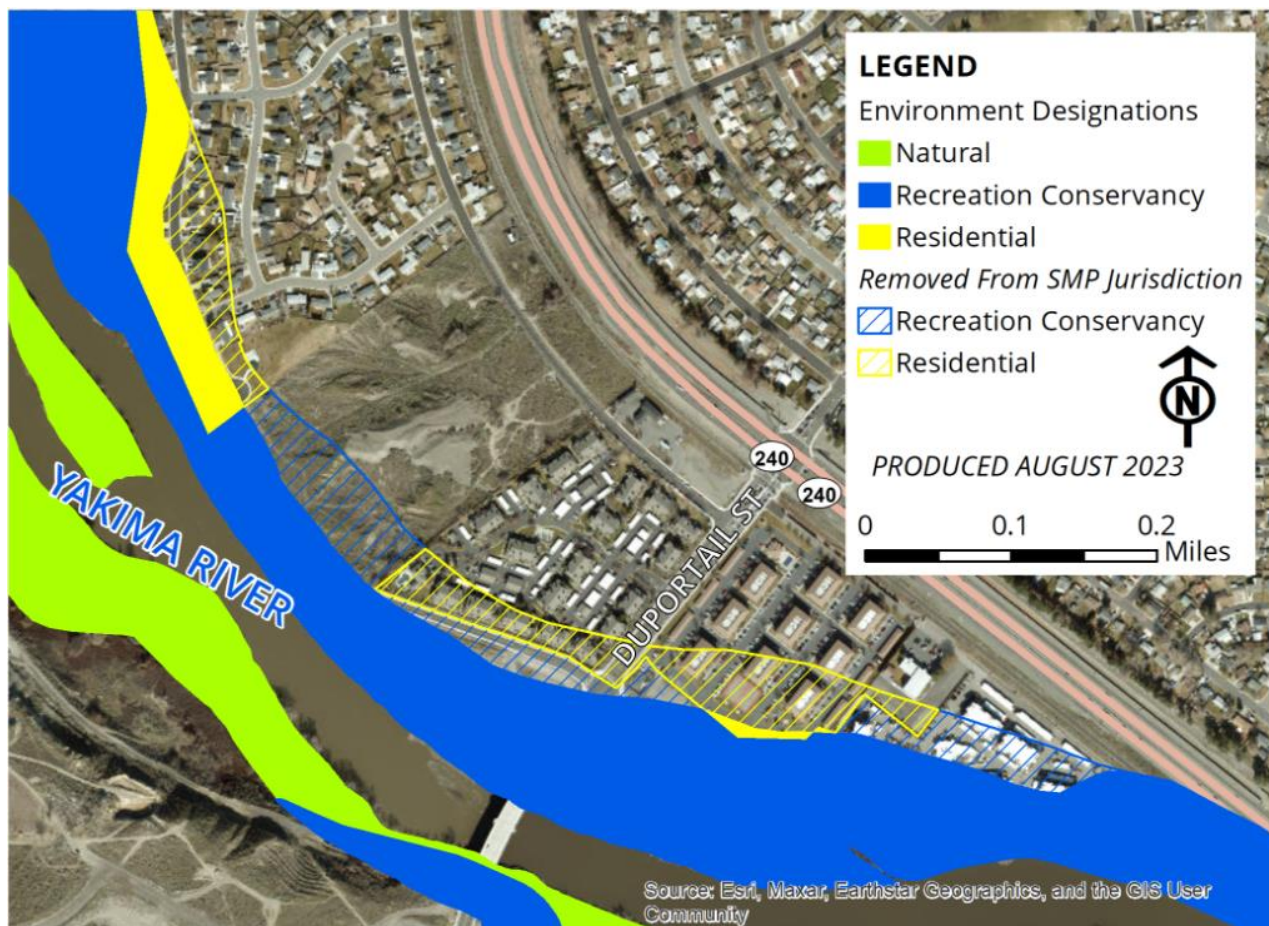


Figure 3

### **SEPA**

The City of Richland followed the Optional DNS Process as outlined in WAC 197-11-355. A Determination of Non-Significance (DNS) was issued on March 15, 2021.

### **FINDINGS OF FACT**

1. Over time, laws and plans governing shoreline environments change. Anticipating this, the Shoreline Management Act integrates the requirement for periodic updates to each jurisdiction's shoreline management program every ten years [RCW 90.58.080(4)].
2. On October 6, 2020, the Richland City Council passed Resolution 135-20 adopting Richland's 2021 Shoreline Master Program Periodic Review Public Participation and Work Plan outlining the anticipated public involvement process.

3. On November 18, 2020, the City held an open-house event to generally advise the Planning Commission and the public of the SMP update process.
4. On March 8, 2021, the City issued the required 60-day notice to the WA Department of Commerce of the proposed amendment to development regulations; thereby fulfilling the requirements of 36.70A.106 (1) RCW.
5. The City issued a SEPA Threshold Determination of Non-Significance on March 15, 2021.
6. On March 24, 2021, the Richland Planning Commission conducted a workshop meeting to discuss the SMP update.
7. The joint public comment period for the proposed code amendments was held for thirty days and ended on Tuesday, June 8, 2021.
8. On June 9, 2021, the Planning Commission held a public hearing to discuss the SMP update and decided to postpone action on the SMP update to allow City and State officials time to respond to written and oral comments received on the update.
9. Amendments proposed to 26.60 RMC create consistency between the City's Shoreline Master Program and the City's Critical Areas provisions (22.10 RMC).
10. Notice of the proposed amendment was provided to local and state agencies. Notice was also published in the Tri-Cities Herald, posted at the official posting places and on the city's official website.
11. Local parties and groups known to be interested in the SMP update process were directly notified of the opportunities to comment as they periodically occurred.
12. Several public comments were received wherein additional changes to Title 26 are proposed.
13. The joint review process is no longer being used and the City is using the standard review process (following advisement by Chelsea Benner at Ecology).

### **CONCLUSIONS OF LAW**

1. The Planning Commission has jurisdiction to hold an open record public hearing and issue a recommendation on the proposed ordinance amendment to the City Council.
2. The proposed code amendments are consistent with the goals and policies of the City's Comprehensive Plan.
3. As proposed, revised code language achieves minimal compliance with all updates required by Shoreline Management Act and the Growth Management Act.
4. Comments by the public may be further considered after the Planning Commission public hearing.
5. Ecology has final approval authority of the SMP.

**RECOMMENDATION**

Staff recommends the Planning Commission concur with the findings and conclusions set forth in Staff Report (CA2020-104) and recommend the City Council adopt the proposed code amendments to RMC Title 26 as proposed or as further modified by the Department of Ecology.

**ALTERNATIVES**

1. Recommend approval of the amendment as proposed;
2. Recommend approval of the amendment, as modified by the Planning Commission;
3. Recommend denial of the amendment.

**RECOMMENDED MOTION**

I move that the Planning Commission recommend approval of the proposed amendment to RMC Title 26 based upon the Findings of Fact and Conclusions of Law as provided in the written staff report.