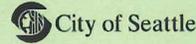
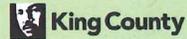
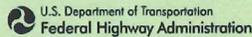


Alaskan Way Viaduct & Seawall Replacement Program



December 7, 2011

Maggie Glowacki
City of Seattle Department of Planning and Development
700 Fifth Avenue, Suite 2000
Seattle, WA 98124-4019

Re: Shoreline Master Program Update – Draft Shoreline Master Program Update Review

Dear Ms. Glowacki:

The Washington State Department of Transportation (WSDOT) appreciates the opportunity to review the second draft of the Shoreline Master Program (SMP) update, which was released by the City of Seattle Department of Planning and Development (DPD) on October 25, 2011. This letter includes comments from WSDOT's Alaskan Way Viaduct Replacement Program, Washington State Ferries Division, and Northwest Region office.

WSDOT has reviewed the second draft SMP update and DPD's response to WSDOT's comments on the first draft SMP update (dated March 21, 2011). Please see the attached tables for the results of WSDOT's latest review:

- Table 1 is based upon WSDOT's comments on the first draft SMP update, but it now has two columns added on the right to show DPD's response and a request from WSDOT for further evaluation or clarifications.
- Table 2 shows new comments that WSDOT has on the second draft SMP update.

WSDOT would appreciate receiving DPD's response to our comments to ensure that they are adequately addressed. We look forward to coordinating with you further on the development of the SMP update. If you have any questions, please contact me at (206) 805-2880 or hanson@wsdot.wa.gov.

Sincerely,

A handwritten signature in black ink that reads "Allison Hanson".

Allison Hanson
Director of Environmental Services, ESO Mega Projects (AWV and SR 520)

cc: Kimberly Farley, WSDOT
Kojo Fordjour, WSDOT/WSF
Terry Drochak, WSDOT
Heather Page, Anchor QEA, LLC

Attachments:

Table 1. Comments on First Draft SMP Update and Request for Additional Evaluation or Clarification

Table 2. New Comments on the Second Draft SMP Update

ATTACHMENTS

**TABLE 1.
COMMENTS ON FEBRUARY 2011 DRAFT SMP UPDATE AND REQUEST FOR ADDITIONAL EVALUATION OR CLARIFICATION**

Comment #	Seattle Municipal Code (SMC) Section	Comments	Requested Action	City Response	Additional Evaluation or Clarification Requested
15	23.60.154.A	SMC 23.60.154.A mentions archaeological "significance." How is "significance" being defined? Does this mean eligible for the National Register of Historic Places?	Please revise for more specificity. It is important to have this clarified and tied to pre-existing criteria of "significance" to ensure consistency with existing federal and state laws and regulations.	To clarify "as defined by the Washington State Department of Archaeology and Historic Preservation" after "significance" and before "shall" was added.	To WSDOT's knowledge, the Department of Archaeology and Historic Preservation (DAHP) does not define "significance." DPD's response may be in reference to "significance" as defined by the National Register criteria (36 CFR 63). However, archaeological "resources" are defined differently under state law (see RCW 27.53). Please clarify.
16	23.60.154.B	SMC 23.60.154.B states that the City is given "approval" over archaeological reporting. WSDOT understands that there is currently no individual on City of Seattle staff that meets Secretary of Interior (SOI) Standards for archaeology and is qualified to review the technical document adequately. How will the City of Seattle review a technical document requiring SOI qualifications without qualified individuals currently on City of Seattle staff?	Please clarify how the archaeological reporting will be reviewed and approved by the City of Seattle.	DPD is working with DON, Ecology and Washington State Department of Archaeology and Historic Preservation to clarify.	How will this be clarified? To WSDOT's knowledge, Department of Neighborhoods (DON) and the Washington State Department of Ecology (Ecology) do not have staff that meets the SOI standards for archaeology; however, DAHP does have staff that meets the SOI standards. Is it the City's intent to have DAHP approve archaeological reporting? The approval of archaeological reporting must be given by an individual who meets SOI Standards to ensure that the reporting is adequate, accurate, and follows accepted practice. Please clarify.
17	23.60.154.B	SMC 23.60.154.B references "a site inspection and a draft written report." This requirement does not fit within the current structure of reporting for archaeology. This is further confused by the phrase "a final report that includes any recommendations from affected tribes and the State Office of Archaeology and Historic Preservation." It is not clear what is being required. In addition, such reports seldom include the recommendations of tribes and other agencies.	Please revise this section for clarity and ensure consistency with existing federal and state laws and regulations.	See response to comment #16.	How will this be clarified? Is DAHP going to clarify? What is the resolution to this?
19	23.60.154.B	SMC 23.60.154.B currently requires Department of Archaeology and Historic Preservation/State Historic Preservation Officer (DAHP/SHPO) involvement, but it is not necessarily tied to Section 106 of the National Historic Preservation Act (NHPA) or Executive Order (EO) 05-05. Unless this is tied to Section 106 of the NHPA or Executive Order 05-05, DAHP/SHPO is not likely to provide comment, as it is outside of their purview as an agency.	Please revise this section for clarity and ensure that the process is consistent with existing federal and state laws and regulations.	See response to comment #16.	Will DAHP agree to review outside of the Section 106 or EO 05-05 process? Please describe how this is going to be resolved.
20	23.60.154.B	Given that "the Director" is likely to not meet SOI standards for archaeology, this section should be more specific as to how the permit will be conditioned.	Please revise for clarity.	See response to comment #16.	See WSDOT response to City Response #16.

**TABLE 1.
COMMENTS ON FEBRUARY 2011 DRAFT SMP UPDATE AND REQUEST FOR ADDITIONAL EVALUATION OR CLARIFICATION**

Comment #	Seattle Municipal Code (SMC) Section	Comments	Requested Action	City Response	Additional Evaluation or Clarification Requested
21	23.60.154.C	23.60.154.C references "a site inspection and a draft written report." This requirement does not fit within the current structure of reporting for archaeology.	Please revise this section for clarity and ensure consistency with existing federal and state laws and regulations.	See response to comment #16.	See WSDOT response to City Response #17.
22	23.60.154.C	23.60.154.C references "all possible valuable archaeological data." This language is not clear and can include a large range of possibilities.	In order to ensure consistency with existing laws and regulations, please revise text to use pre-existing criteria of significance as required by Section 106 of the NHPA.	See response to comment #16.	See WSDOT response to City Response #15.
23	23.60.154.C	23.60.154.C references "how to handle the data properly." This language is not clear.	In order to ensure consistency with existing laws and regulations, please revise text to use pre-existing criteria of significance as required by Section 106 of the NHPA.	See response to comment #16.	See WSDOT response to City Response #15.
24	23.60.154.D	23.60.154.D references "identified historical or archaeological resources" and needs to be clarified. It is not just that these are present, but that they are significant.	In order to ensure consistency with existing laws and regulations, please revise text to use pre-existing criteria of significance as required by Section 106 of the NHPA.	See response to comment #16.	See WSDOT response to City Response #15.
25	23.60.154.D	SMC 23.60.154.D states "maximum protection," which is vague and not consistent with federal and state regulations. For archaeology, data recovery rather than preservation in place may be the most appropriate treatment, and this is not necessarily captured by a phrase like "maximum protection."	Please clarify to stress that the characteristics that make the resource significant should not be altered.	See response to comment #16.	How will this be clarified? Will DAHP clarify? What is the resolution to this comment?
26	23.60.154.E	SMC 23.60.154.E states: "retrieve or preserve artifacts or data." Is the intention to "preserve in place" or "curate?"	Suggest revising for clarity.	See response to comment #16.	How will this be clarified? Will DAHP clarify? What is the resolution to this comment?
30	23.60.162.C.4.c	This section states that loading zones are allowed to be located over water on existing structures if the applicant demonstrates that there would be no increase in overwater coverage. This will make it difficult to improve capacity at Colman Dock. Since Colman Dock is a water-dependent essential public facility (highway of statewide significance), Washington State Ferries proposes that this provision be struck out, or allow increased overwater coverage with mitigation. The condition also contradicts 23.60.162.C.4.a and 23.60.162.C.4.b.	Recommend deleting 23.60.162.C.4.c.	Do not see the conflict with other provisions. An increase in overwater is allowed for water-dependent uses. And this provision allows for additional overwater coverage if the equivalent amount of overwater coverage is removed.	DPD response is not adequate. DPD should establish policy to allow off-site-in-kind, off-site-off-kind, and fee in lieu mitigation for expanded overwater coverage for water-dependent uses. Washington State Ferries (WSF) does not have any other overwater structures that can be removed to offset increase in overwater coverage at Colman dock or Fauntleroy Ferry Terminal in West Seattle. The proposed Colman dock project will remove more than 2,000 creosote-treated timber piles, which would improve the water quality in the area. To find an equivalent amount of overwater structure to remove will be expensive and probably will require condemnation of private property. Even if overwater structure could be found, it might not be available within City of Seattle jurisdiction. Using the Puget Sound Partnership action plan can help identify other habitat enhancement projects or water quality improvement projects.

**TABLE 1.
COMMENTS ON FEBRUARY 2011 DRAFT SMP UPDATE AND REQUEST FOR ADDITIONAL EVALUATION OR CLARIFICATION**

Comment #	Seattle Municipal Code (SMC) Section	Comments	Requested Action	City Response	Additional Evaluation or Clarification Requested
31	23.60.212.B.2	The WSDOT Alaskan Way Viaduct and Seawall Replacement Program proposes to expand a section of the eastern side of Alaskan Way S. within the Shoreline District approximately 10 feet to the east to accommodate ferry traffic during construction. It is likely the temporary roadway widening will be returned to the pre-project condition following construction; however, in coordination with the City of Seattle, the temporary roadway widening may remain in effect to support the City of Seattle Central Waterfront construction and likely exceed the 4-year timeframe described in this section. What is the rationale for the 4-year limit?	Consider adding language that will allow extension of the temporary relocation or expansion beyond 4 years.	Additional language added to this section to allow an additional 2 years if the re-location is accommodating 2 projects.	Why limit this extension to an additional 2 years. Why not, instead, allow additional time as needed if the project can demonstrate consistency with the intent of the SMP?

**TABLE 2.
NEW COMMENTS ON THE OCTOBER 2011 SECOND DRAFT SMP UPDATE**

Comment #	Seattle Municipal Code (SMC) Section	Comments	Requested Action
1	23.60.164(B)	Colman Dock is regulated by U.S. Homeland Security laws, and public access may not be allowed at the terminal. Federal law takes precedence over State and local laws.	Please clarify how this development standard would be implemented for the example cited. If there are exemptions, exceptions, or other discretionary review by DPD that would apply, please indicate what those are. If necessary, amend the performance standard text to clarify.