

-Walla Walla Coalition SMP Update - Comments received during State public comment period

Topic/ Jurisdiction	Name of Commenter	Specific Comment	Local Government Response and Rationale	Ecology Response
Public Access/ City of Walla Walla	Steven Pao	<p>My first concern is section 5.6 Public Access – Regulations –L, which states: "When all other provisions of this Section are met, shoreline development adjacent to the Mill Creek levee shall require the creation of an easement or dedication providing for a trail identified in an adopted City plan."</p> <p>It states in section 5.6 Public Access – Regulations –J-Standards for Public Access - #1 that "Physical access to the shoreline shall be preferred over solely visual access." It does not preclude the use of solely visual access.</p> <p>Section 5.6 Public Access – Regulations – L as stated, would prevent the use of visual access as a public access requirement. Section 5.6 Public Access – Regulations –J- Standards for Public Access - #1 also states that: "Physical access <i>may</i> consist of solutions such as, <i>but not limited to</i> a dedication of land or easement or physical improvements in the form of a trail, park or other area where the shoreline may be physically accessed."</p> <p>Section 5.6 Public Access - Regulations –L as stated, would <u>require</u> the creation of an easement or dedication providing for a trail identified in an adopted City plan. I believe that this would constitute an implicit "taking" of private property to create such an easement along Mill Creek which the City of Walla Walla does not currently have, so a trail could then be built upon private property. It also dictates what kind of public access would be required, when another form of public access may be acceptable .</p> <p>The Mill Creek levy from 9th Ave. to Gose St. is partially fenced and gated for public safety reasons and to prevent criminal trespass and the theft and vandalism of property. I believe that Regulations - L is a thinly veiled attempt to force a public trail onto and through</p>	<p>The development of Regulation L under Section 5.6 – Public Access was the result of other public comments provided during the public hearing process on the draft Shoreline Master Plan update.</p> <p>Regulation L comes into play if all other provisions of this section (Section 5.6) are met [emphasis added]. It applies only after all other provisions of Section 5.6 are met. Before Regulation L is applied to a shoreline substantial development permit, Regulation A is reviewed. Regulation A states, "Implementation of the public access provision in this SMP shall be consistent with constitutional and legal limitations on the regulation of private property. Public access required for individual developments shall be</p>	

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		<p>private property. In several sections of the Shoreline Master Program it clearly states the rights of private property owners should be respected.</p> <p>I believe that due to the details listed above that section 5.6 Public access – Regulations –L: should be removed from the City of Walla Walla Shoreline Master Program.</p>	<p>related and proportionate to the level of demand for public access generated by the development.” It is the opinion of the City of Walla Walla that Regulation L is not a taking of private property and is not a veiled attempt to force a public trail.</p>	
Public Access/ City of Walla Walla and Walla Walla Co.	Steven Pao	<p>Section 5.6 –Public Access- Regulations –B states: "For the purpose of this SMP, public access shall not be construed to include the right to enter or cross private property, <u>except through the use of a dedicated public right-of-way through an easement that allows public access.</u>"</p> <p>I feel that the phrase "<u>except through the use of a dedicated public right-of-way through an easement that allows public access</u>" should be deleted. I believe that the phrase could give government agencies or citizens groups "carte blanche" to demand public access be given through private properties depending on how the terms "public right-of-way" and "public access" are defined.</p> <p>For example; is "public access" the general population at large? Could "public access" be defined as a public agency, such as the U.S. Army Corps of Engineers operating a Mill Creek levy repair crew? Or could possibly a publicly owned water line which has an easement along a shoreline be considered "public access"? It is open for interpretation and therefore I think this phrase should be eliminated from both Shoreline Master Programs.</p>	<p>Regulation B under Section 5.6 protects the private owner which is what Mr. Pao is concerned with. If public access is required of a new shoreline use (see Regulation G) and is related and proportionate to the proposed use [emphasis added], then Regulation B requires that the public access needs to be implemented through an easement or right-of-way. If Regulation B were not part of the SMP, the public could construe public access to mean public access anywhere across public or private</p>	

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			<p>property.</p> <p>“Public access” does not mean “public property”. It is defined in Chapter 2.0 Definitions of the city’s and county’s SMPs as: “The ability of the general public to reach, touch, and enjoy the water’s edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations.”</p>	
<p>Agriculture/ City of Walla Walla</p>	<p>Steven Pao</p>	<p>Sections 6.4 Agriculture - Policies - Policy-#1 states:"New or expanded agricultural activities should not be allowed within shoreline jurisdiction to comply with the City's Comprehensive Plan."and also 6.4 Agriculture - Regulations-A which states: "New or expanded agricultural activities are prohibited within shoreline jurisdiction."</p> <p>I feel that these two policies do not belong in the City of Walla Walla Shoreline Management Plan considering the fact that the City of Walla Walla was primarily built upon the agricultural industry, and it still contributes to its economy today. Shortly after the Walla Walla City Council adopted the Shoreline Management Program, the City of Walla Walla annexed a working farm into its boundaries. This farm borders (sic) Mill Creek and is now subject to the City of Walla Walla's Shoreline Management (Master) Program, not Walla Walla County's. It is possible that this could occur again with future annexations.</p> <p>I believe that new or expanded agricultural activities should not be prohibited within shoreline jurisdiction, but in fact should be promoted. I</p>	<p>The SMP applies to the first 200 feet landward of the ordinary high water mark of Mill Creek. New or expanded agricultural activities could happen outside the shoreline jurisdiction.</p> <p>The City of Walla Walla is an urban environment and within the urban growth area for Walla Walla County. When Walla Walla County opted into planning under the Growth Management Act, policies and regulations to</p>	

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		<p>think that open land along a shoreline is much preferred over concrete and asphalt. Therefore, I propose that section 6.4 Agriculture -Policies -Policy #1 be replaced with: "Promote the continued economic viability of agriculture within the City of Walla Walla and support its continued practice on existing and expanded agricultural lands." And add Policy#2; "Preserve and maintain productive agricultural lands in shoreline jurisdiction."</p>	<p>preserve agricultural lands that were not already characterized by urban development were established. The Pao's property was incorporated into the Urban Growth Area when that boundary was established in 1995 as the area was characterized more urban. It is not appropriate to preserve agricultural within the urban growth area or city limits. The Pao's property is now within the city limits with the recent annexation approved by City Council August 2016.</p>	
<p>Yellowhawk Creek, Buffers and Flood Control</p>	<p>Renee Hadley – Walla Walla Conservation District</p>	<p>Regarding buffers, development and flood control, the SMP does not appear to be different from the existing municipal codes. The City of Walla Walla does not include Yellowhawk Creek as a SMP waterway but the County does. This uneven approach to regulation is adversarial as the City annexes more and more areas along Yellowhawk Creek. Previous areas under County jurisdiction that may be annexed then do not have to comply with SMP.</p> <p>The WW Co. SMP 4.10(D) defers to FEMA 100 yr flood mapping or the most current technical information available. Local FEMA flood maps are</p>	<p>As determined by additional research and analyses conducted, reviewed, and discussed during the process of preparing the regional SMP, only the portion of Yellowhawk Creek from Cottonwood Creek to the confluence with the Walla</p>	

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		<p>from the early 1980's with inaccurate topography (floodplain extent lines bisecting houses and not following terraces). Section 5.1(E.9) references "changes in grading or fill that reduce floodplain capacity" as an adverse impact to critical areas. Development within floodplain/floodway areas are bound by dated maps and mitigation efforts are currently insufficient to accommodate for fill/grading activities within floodplains. Buffer widths along major floodways such as Mill Creek, Yellowhawk Creek, Russell Creek and others are currently only sufficient for hold 20-40 year flood events but not an 80 year flood event such as 1996 or a 100 year flood event.</p> <p>We recommend buffer widths be expanded to 1.5 the existing buffer width for all new development. We also recommend floodplain/floodway delineation be updates based on documented past flood events, updated FEMA maps, surveys, and/or LiDAR data.</p>	<p>Walla River meets the 20 cfs annual average flow standard for SMP waters. That portion of Yellowhawk Creek lies entirely within Walla Walla County so it is not within the City of Walla Walla's Urban Growth Area so is not eligible for annexation to the City.</p> <p>The appropriate buffer width for the SMP portion of Yellowhawk Creek was part of the research, analysis, review, and discussion process mentioned above. It is supported by the scientific analysis and not by an arbitrary imposition of a 1.5 factor.</p> <p>"Past flood events, updated FEMA maps, surveys, and/or LIDAR data" would fall under the "the most current technical information available" provision in the "Official Shoreline Maps</p>	

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			and Unmapped or Undesignated Shorelines” chapter of each Jurisdiction’s SMP.	

Walla Walla Coalition SMP Update - Comments received after close of State public comment period (September 27)

Cultural Resources – All jurisdictions	Gretchen Kaehler – DAHP (Dept. of Archaeology & Historic Preservation)	<p>In general the language lacks specificity of process and timelines. We have attached DAHP’s model shoreline language for examples of process and timelines that may provide more clarity and specificity when dealing with cultural resources.</p> <p>(Commenter provided an attachment entitled “Archaeol model SMP language(updated 2013)”; provided to Coalition along with this matrix)</p>	<p>Chapter 7.0 Administration, Permits and Enforcements in each jurisdiction’s draft SMP contains regulations regarding the specific process and timeline for shoreline applications, permits, variances, and nonconforming uses, structures, and lots.</p> <p>Where a process or timeline is specified in the RCW or WAC, the process or timeline and/or the RCW or WAC citation are contained in the SMP. Except in section 7.6 Shoreline Substantial Development Permits of Chapter 7, where a process or timeline is specified in a municipal or county code, the code chapter or section is referenced in the SMP.</p>	
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			<p>Section 7.6 will be revised to reference the specific city and county code sections consistent with the approach taken for Shoreline Conditional Use Permits and Shoreline Variances in Chapter 7 of each jurisdiction’s SMP.</p> <p>Not repeating specific processes and timelines contained in other documents was done to ensure consistency between provisions in the SMP and those in the RCW, WAC, and the city or county code, in the event those documents change over time.</p>	
	Gretchen Kaehler - DAHP	<p>In regard to management policy C. 5. on page 29, we recommend the following revised language: The protection and preservation of scientific, historical, cultural, and educational resources, and low-intensity water-oriented...on the area will result.</p>	<p>The management policy (Management Policy C.5 in Section 4.2) referred to in this comment is located in the Natural Shoreline Environment Designation of all four SMPs and provides that scientific, historical, cultural, and educational research uses “may be allowed provided</p>	

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			<p>that no significant ecological impact on the area will result.” During the development of the draft regional SMP, it was discussed and determined that scientific, historical, cultural, and educational research uses could be appropriate uses in publicly-owned shoreline areas that otherwise should be relatively free of human influence.</p> <p>The protection and preservation of scientific, historical, cultural, and educational research uses referred to in the comment is specifically supported in two locations in all four SMPs: Chapter 3.0 Shoreline Vision and Goals, Section 3.9 Historic and Cultural Resources, Goal 15: “To identify, protect, and preserve shoreline sites that have historic, cultural, educational or scientific significance or value”; and</p>	

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			<p>Chapter 5 General Policies and Regulations, Section 5.4 Archeological and Historic Resources, Policy 1: “Ensure that shoreline development provides for protection and restoration of areas and sites on shorelines that have historic, cultural, archaeological, educational, or scientific value, in compliance with State and Federal laws.”</p> <p>The concerns in the comment are sufficiently addressed in the Goals and Policies in the SMPs.</p>	
	Gretchen Kaehler - DAHP	In the Rural Conservancy Section 4.3 B. 4. We recommend that the word “unique” be changed to “significant.”	Agreed.	
	Gretchen Kaehler - DAHP	Thank you for including regulation 6.22 B. under policies and regulations for Utilities.	Comment noted.	
	Gretchen Kaehler - DAHP	In Section 2.0 Definitions, we recommend including language that defines cultural resource management related terms such as “Professional Archaeologist,” “cultural resources,” and others that would be useful.	<p>The following definitions will be added to provide clarity; each will be cross-referenced to the indicated section of the RCW or WAC:</p> <p>1. Professional</p>	

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			<p>Archaeologist [RCW 27.53.030(11)]</p> <p>2. Historic Archaeological Resources, [RCW 27.53.030(9)]</p> <p>3. Archaeological Resource [WAC 25-48-020(10)]</p> <p>4. Archaeological Value, [WAC 25-48-020(124)]</p>	
	Gretchen Kaehler - DAHP	In regard to Regulation (5.4) B 1c. We recommend you this exemption be removed since it is difficult to determine whether fill is "culturally sterile."	Agreed; Subsection 5.4.B.1.c of Chapter 5.0 will be deleted.	