Overwater Structures
Response Paper

This document contains proposals presented to the Citizens Advisory Committee (CAC) members, a summary of the views expressed by CAC members, and DPD's responses to these comments in italics. A full description of the original proposal presented by DPD to the CAC can be found in the document entitled Overwater Structures, dated November 12, 2008. Additionally the following three documents contain supplemental information: Summary of current regulations for piers and floats accessory to residential development, Lot Coverage Table and Current RGP3 Regulations.

1. Overwater Structures – Piers and Docks Accessory to Residences. Under current regulations, residential uses are allowed to have pier structures on their parcels; single family lots are limited to one structure per lot, multifamily lots are allowed multiple fingers on a pier structure dependent on the number of units on the lot. Pier length and width are limited to 6-ft wide and length is limited to the length to reach a depth of 8-ft but not greater than 100-ft. Larger piers are allowed to be maintained and replaced (see Summary of current regulations for piers and floats accessory to residential development document).

DPD proposed to reduce the allowed size of piers to the current guidelines developed by the US Army Corps of general (see Current RPG3 Regulations document), but allow non-conforming docks to remain larger than standards if their total size is reduced by a specific percentage (20% was proposed)

Pros	Cons	General Comments
• The public wants to see the permitting process become more regular and consistent. Residential piers should be aligned with RGP3, as this would help streamline the permitting process. Many people just want a dock so they can sell their property. If they really need something bigger, they can go through the variance process. • The RGP3 is a good baseline model because it is designed to expedite a clear path for small property owners to comply with a wide range of regulations without having to do a lot of extra environmental regulation. In recognition of the goals for reducing ecological impact, there should be some flexibility, such as specific criteria about a degree of restoration. This could be in place of the 20% standard and might be better than the RGP3. This could be written as a special use consideration with criteria written	• All current piers are greater than the RGP3. Adopting RGP3 guidelines limits the flexibility homeowners have for building a pier. Do not use the 20% guideline DPD is proposing. The goal is to increase ecological function and not to reduce the size of piers. If you are rebuilding an existing pier, you should have to show no net loss of ecological function. New piers should be allowed to be built larger than the RGP3 allows without having to go through a variance, which is time consuming and costly for homeowners. • A 20% reduction in pier size may not be enough, because of the impact docks have on salmon and the fact that we have built too many docks as is.	• Approximately two years ago, a bill was placed before the State legislature to increase the threshold value dollar amount for single family docks and piers. The bill did not pass and so the dollar amounts ($2,500 for piers built in saltwater and $10,000 for piers built in freshwater) have not increased. For general exemption values for any shoreline project, the $5,713 is adjusted annually for inflation and will be readjusted in June 2009.

around it, rather than just one formula like the RGP3. Encouraging people to build shared docks, escaping RGP3 standards, may be an incentive to homeowners who could reduce their construction costs and allow for a larger dock.		

Additional discussion included the suggestion that one or more Committee members provide DPD with specific alternative language for a proposed shared dock incentive and an alternative to following the RGP 3 standard for the construction or retrofitting of a dock. Committee members Mark Johnson and Greg Ashley also provided alternative approaches to the RGP3 standard for the redevelopment of existing docks (See memo from Mark Johnson dated November 19, 2008 and e-mail from Greg Ashley dated December 16, 2008 for details).

DPD reviewed the proposals from CAC members and discussed this topic with both the Department of Ecology and the Army Corps of Engineers.

Regarding using the Army Corps of Engineers RGP 3 standards for residential piers the Army Corps frequently permits docks that do not meet these standards. The most frequent standard that is modified is the size of the ells. Therefore DPD is withdrawing the original proposal and will not be using the RGP3 standards for new piers.

Using less prescriptive standards and relying on the review by the Army Corps of Engineers for residential piers as suggested by committee members was analyzed and based on our discussions with the Department of Ecology, this approach will not meet the state requirements and DPD believes that this will lead to a less clear permit process for DPD. Therefore DPD's new proposal is to have development standards for new docks based on Best Available Science: ***These new standards are described in Table 1, below****.*

Existing docks may be maintained and repaired except that if they are replaced or undergoing "substantial improvement" they must come into conformity or meet the following alternative standards:

a. *Meet standards for minimum distance, maximum distance, height, boat lifts, grating and materials*
b. *Reduce total area by 20%*

2. Overwater Structures for Water-dependent and Water-related Uses and Public Access: (This proposal does not include residential pier standards, see above for discussion on residential piers.) DPD proposed to only allow expansion of overwater coverage for water-dependent and water-related structures and in limited situations for public access. (Provisions for lots with little dry land will be based on reasonable use of the site.) The size of the overwater structures would be regulated in the same way that they are currently regulated, by the allowed lot coverage per shoreline environment. Current overwater structure regulations regarding lot coverage are found in the *Lot Coverage Table* document.

We are currently considering the following changes to the current regulations regarding overwater coverage for all shoreline environments:

- Limit overwater structures to water-dependent and water-related uses and public access only.
- Allow only the minimum necessary for the water-dependent and water-related use. Minimum necessary would be demonstrated by the applicant for the type of use proposed.

Pros	Cons	Comments
	• New regulations should comply with state requirements (WAC 173-26), only "water-dependent uses" should be allowed on piers.	

DPD will modify the proposal to match the WAC and only allow additional overwater coverage for water-dependent uses and in limited circumstances for public access.

3. Other Issues:

DPD proposed to make the following changes clarifying existing regulations:

1. Current code requires mitigation of impacts from overwater structures. DPD intends to add additional language that explicitly states the need to achieve no net loss of ecological function for proposed projects.
2. Clarify what impacts are associated with overwater coverage and what the appropriate mitigation is for the impacts.
3. Add development standards to keep the bulk of the overwater structure out of the shallow water habitat in the first 30 feet from the shoreline in order to provide specificity regarding the requirement to prevent impacts to migration routes.

Pros	Cons	Comments
• Where the proposal says "Adding development standards to keep the bulk of the overwater structures out of the shallow water habitat and the first 30 feet from the shoreline…" should also say "on a case by case basis." This is specifically important for gang plank access in areas like the Colman Dock and Pier 92.	• The provision that states, "adding development standards to keep the bulk of the overwater structures out of the shallow water habitat and the first 30 feet from the shoreline…" is a concern for industry. It -would be limiting, restrictive, and detrimental to industrial facilities. The bulk of the overwater structure being seaward of the first 30 feet of the shoreline could pose an increased risk of environmental hazards, such as oil and hazardous materials spills due to containment issues arising from piers constructed at least 30 feet from the shoreline with trestle-type access at each end. Also, this could be in conflict with the City of Seattle fire code with respect to hook and ladder trucks and other emergency vehicle access to overwater structures.	

DPD will clarify that the proposal to limit overwater coverage within the first 30 feet of water applies primarily to recreational and commercial moorage and does not apply to boat repair facilities, dry docks, or other similar facilities and will not be required where it would conflict with other regulations.

Table 1. Proposed Residential Pier Structure Regulations

General Approach	Provide clear development standards that can be interpreted consistently.
Overall Size	No limit
Ell location and boat parking requirements	Required to be located in a water depth of 9 feet or greater, with the following exceptions: Minimum distance - 30 feet from the shoreline Maximum distance - 100 feet from shoreline; except when the depth of water at 100-ft is less then 9-ft in which case the maximum distance is the depth at which the water is 6-ft deep.
Width	4-feet for single resident piers 6-ft for shared piers
Height	The bottom of all structures except floats must be at least 1.5 feet above OHW.
Ell size	Ells can be no greater than 100 sq ft.
Boat Lifts	No more than one boat lift may be allowed except on shared docks where the number of boat lifts may not exceed the number of units sharing the dock.
Grating	Piers and ramps must be fully grated with at least 60% light permeability. Floats must contain the maximum grating allowed per engineering requirements.
Materials	No treated wood shall be used for decking or piling.