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May 30, 2011

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

Ms. Glowacki:

I am writing with regard to the proposed code changes in the SMP. As a marina owner and a manager over 100 recreational slips in Lake Union, I have a keen interest in the latest proposed revision of the SMP. Similar to all the other marina owners I know, there certainly is a common interest in preserving (and promoting) shoreline use and overall enjoyment of the water around the Seattle area. After all, we all benefit when there is an increased interest in the water and when the ecological systems are functioning properly. In support of this, I just completed a very costly rehabilitation of my property to improve the safety and experience of tenants, to reduce the environmental impact (new grated decking) and to improve the general aesthetics of my immediate shoreline community. I am generally proactive when it comes to doing the right thing for the community—especially the environment—but feel the latest round of proposals is far too prohibitive and will stunt (at least “deincentivise”) positive development (both for the community and environment) along the waterfront. There are several issues contained in this most recent draft I want to bring to your attention:

Generally speaking,

- a. This draft is overly complex and wordy. While I understand the author’s intent to be as complete as possible, this document is excessively wordy. There are several sections that I had to read repeatedly to understand what the objective/intent was, and some I still don’t feel I really understand. Examples include 23.60.187 (length of piers) and 23.60.020 (permits and exemptions). There are several other instances where the authors could work with the impacted parties on developing clear and concise language to convey the same intent.
- b. This draft has a very negative tone toward property owners. The overall tone of this draft is very discouraging as a business and active member of the waterfront community. Generally, I am very open to working with the City on doing what is best for our great City, but this draft is very one-sided and overly burdensome to property owners in the Shoreline districts. While I understand that is not the general intent, the whole document addresses new restrictions on how businesses can operate, without consideration of their financial viability, while also paying for public access and benefits at the expense of the property owners who have owned their properties for generations. The waterfront community, in my experience, has always been very open to working with the City and this draft looks to undermine that relationship and really undermine the City’s over-arching goals of having this SMP in the first place. In order for the SMP to achieve its goals of restoring ecological functions, encouraging water dependent use, maximizing public access, and preserving and/or enhancing public views, the City needs to work with shoreline owners and come up with a reasonable plan. Placing this solely on the back of property owners will not be successful and will not produce the desired outcome. In fact, it will destroy the vibrancy of the waterfront by discouraging investment and overall cooperation with the City.
- c. The SMP in many cases drifts off of what are the core objectives. The SMP is clear in the beginning about what its mission is: “to protect and restore the ecological functions of the shoreline areas; to encourage water-dependent uses; provide for maximum public access and enjoyment of the shorelines of the City; and preserve, enhance, and increase the views of the water.” The SMP then goes into what kind of restrooms marinas have, registering liveaboards, lengths of vessels and rafting, and several topics that generally undermine the City’s partners in this—the property owners. If property owners are not successful and cannot maintain viable businesses, this SMP will not be successful. The City must realize this and work with property owners to come up with an achievable plan.

That said, I also have several specific concerns as a marina owner/operator in what will be the Urban Maritime (UM) classification.

- d. **23.60.016 Significant Development.** How was \$5,718 derived? Anyone familiar with marine construction understands that the cost is generally higher than typical “commercial” construction due to additional bonding requirements because of the overwater nature of the work. This overcomplicates the permitting process and discourages owners from seeking permits because of the complexity and duration of the permitting process. Adding 4 new electrical dockheads would constitute “significant development”. Additionally, if you refer to the SMP study *Comparison of Land Supply and Demand for Water-Dependent and Water-Related Uses*, one of the key conclusions is that the permitting process should be streamlined, not made more burdensome. What this ultimately will result in is more exemption requests and more delays in projects, which not in anyone’s best interest. I think it would be appropriate for the City to statistically evaluate permit applications annually to come up with a reasonable threshold for “significant development” projects. Looking at the distribution of data (and standard deviations) should be a sound method for deriving this threshold.
- e. **23.60.027 Ecological restoration and mitigation program.** While well-intentioned, I think there needs to be more clarity around this. Where will the credits specifically be applied? I think there needs to be better boundaries about how the credits are “spent” and should benefit that immediate area, where possible. For example, payment-in-lieu of physical mitigation earned on the north end of Lake Union (where I own property) should be used for parks or other restoration in that area and not on other areas of the shoreline (i.e. south end of Lake Washington). Simply putting money into a discretionary “fund” I do not believe is in the best interest of anyone involved and undermines the credibility of what-could-be a very effective program.
- f. **23.60.122 Nonconforming uses.** When calculating the reduction in over water coverage, grated decking and translucent roofing shall not be included? Why? Covered moorage serves a valuable purpose and is very highly regulated already and supports the vibrancy of the maritime community. “Classic” boats, that generally require covered moorage, are a very significant part of the maritime culture and regularly partake in the numerous celebrations that bring people down to enjoy the waterways. By ultimately requiring the reduction of covered moorage, we discourage this type of vessel from locating in this area and vessels that do stay require more maintenance due to the exposure to the elements—which is ultimately what we want to minimize. I think the City needs to re-evaluate what their true objective is here because adding grated decking to a dock will have a significant impact to the marine environment (by always letting light through) whereas the benefits of removing covered moorage is negligible (the light cannot pass through the boats).
- g. **23.60.152 General development.** There is surely a lot of focus on the use of building materials, especially in terms of maintenance and repairs. While “durable, non-toxic components” are the preferred materials, they simply don’t hold up in many marine environments and ultimately will have a far more adverse impact on the environment than using ACZA treated lumber that follows AWP standards. These products are not engineered to last and usually are far more costly to use. Additionally, the environment is not best served by continually having to repair repairs because the materials do not last. ACZA has been studied by the EPA and has been generally accepted as safe to use in marine environments. As the safety in and around marine environment has been proven, there is no reason why ACZA should not be permissible.
- h. **23.60.170. View corridors.** My lot is approximately 120’ wide and currently does not have any buildings at the street level or above. Under the proposed requirements, what options do I have around development? Similar to a lot of Lake Union property owners, the upland portion of the property is very minimal. The vast majority of my property is submerged. I would love to be able to develop the property in a tasteful manner to contribute to quality of the shoreline while also contributing to the viability of my business. For small property owners, this requirement just seems overly burdensome. There should be some alternative standards around size or proximity of other view corridors. There is a waterway about 50 yards down from me that offers unobstructed views of the water and Seattle skyline. Imposing view corridor requirements could significantly impair the value of my property.
- i. **23.60.187 Walkways/piers.** No walkway is allowed to exceed 4’ for piers that are not shared. This is simply not safe. I have a 5’ walkway today that extends about 300’ into Lake Union. Between dock carts, tenants passing each other, power pedestals with cords protruding, anything less than 5’ is creating an unsafe situation. In the winter when winds pick up, that could be particularly unsafe if only 4’. I encourage City representatives to walk down my dock and evaluate how truly safe 4’ might be in these types of conditions. We cannot compromise the safety of marina tenants in this case.

- j. **23.60.187.D Slip-side maintenance.** The formula for “scraping, sanding, or cutting” does not make practical sense. “One person per 10 lineal feet of one side...”? The language needs to be worked on to something that is more practical and or feasible. I don’t disagree with the intent here, but how is anyone supposed to regulate if this is not easily quantifiable?
- k. **23.60.200.B.3 Restrooms.** Again, I have a small marina (<40 slips) with very few liveaboards. I have a very nice unisex restroom that I just built this year and have had no complaints about accessibility or availability by either sex. Putting in a second bathroom facility is a needless expense and a waste of space—space I don’t have. I don’t understand what the true intent is here and how this aligns with the goals of the SMP? This should be removed from the SMP.
- l. **23.60.200.B.4 Waste.** Again, as a small marina with boats larger than 20 feet, I would be required to provide “1) sewage pump-out facilities or the best available method of disposing of sewage wastes, AND 2) disposal facilities for removal of bilge waste...” This is not at all practical or feasible for small marinas. Have such facilities is extremely cost-prohibitive as small property owners likely do not have the capital to install and maintain such a device. Not only that, the mobile pump out services are a viable niche business that has worked well for decades... and we should help these businesses grow, not compete with them. My understanding is that the goal of the SMP is to encourage water-dependent uses? As such, this requirement should be removed or altered such that owners/operators are required to provide tenants information on the nearest available services.
- m. **23.60.200.E.1 Liveaboards.** Liveaboards without a doubt contribute to the overall vibrancy of the waterfront. They provide security and peace during the off hours. Liveaboards follow the same marina rules as other tenants and follow the marina best practices. They are required to dispose of waste using a pump out facility or boat-side service. There is no reason to restrict the liveaboard occupancy or instituting a registration program that is ridiculously burdensome, hard to manage and provide oversight, and serves no apparent purpose. Again, one of the core objectives is “provide the maximum public access and enjoyment of the City.” Liveaboards provide life and culture to the shorelines and provide owners with self-policing after hours and this should be encouraged, not discouraged.
- n. **23.60.502.A Commercial use restrictions.** The City sanctioned a study *Comparison of Land Supply and Demand for Water-Dependent and Water-Related Uses* that appeared to indicate that the demand around the Lake Union area would be in the area of recreational moorage—which, incidentally, is completely discouraged in this draft. That aside, the study seemed to indicate the demand for commercial space actually was declining. By establishing quotas/restrictions based on water-dependent uses, the City is undermining the financial viability of the property owner. Vacancy is at a high point. Owners can’t afford to sit with office suites vacant chasing a diminishing sector. This would result in one of two things: 1) the property owner going bankrupt due to lack of revenue because of the vacant property, or 2) the property owner having to make significant concessions to attract the few businesses looking for space to meet the City’s requirement—which could ultimately lead to insolvency or meager profit potential.
- o. **23.60.510 Shoreline setbacks.** Again, similar to many of the property owners around Lake Union, the upland side the property is very minimal. The vast majority of the land is submerged. The setback guidelines basically would prohibit any development on my site.
- p. **23.60.514 Public access.** The majority of my property is submerged and the property that isn’t submerged is private parking—which I am required by City Municipal Code to provide. I cannot give up any space to “public access” without giving up parking and not meeting my minimum requirement for spots dedicated to tenant use. Additionally, it is completely unreasonable for the City to force the liability on to the property owner to provide public access on private property or to give up land just for the right to improve my property to improve safety for economic viability. In the case that this were to happen, the City should be required to manage the liability (i.e. someone trips and falls, drownings, etc). This is not a reasonable request and would be akin to the City requiring that I allow the public to camp out in my backyard. Additionally, the tenants of the marina have a right to have secure moorage 24/7 without the general public walking up and down the docks for the same reason apartment tenants have the right to have secure entry in and out of their buildings. Additionally, our tenants adhere to strict marina rules to protect themselves, their neighbors, and the environment. It would be impossible to enforce that upon the public making use of the property, creating potentially unsafe conditions (i.e. simply smoking on the docks where it is strictly prohibited). There are several great City-owned parks around Lake Union and Lake Washington that are safe and designed for public use. Private property should remain just that, private, whereas the City can promote the wonderful parks we already have for public use. Residential waterfront homes are not required to provide public access in their yards, why would it be reasonable for private marina owners to have to?

In conclusion, as I mentioned earlier, for the SMP to achieve its goals, it is imperative that this draft be revised to incorporate the needs and concerns of those impacted most significantly by these changes. I don't know of a single other owner that does not want to work with the City on coming up with a sustainable plan for the next 20 or so years this will be in effect. We are all partners in this. We all succeed or fail. The result will depend largely on our ability to work together and address some of the main issues. I appreciate your time and consideration and look forward to the continued opportunity to provide feedback on this very important process.

Regards,

David Pitt
Manager
Affinity Marina

info@affinitymarina.com

cc: Diane Sugimura
Marshall Foster

**Association of Independent Moorages
2370 Fairview Ave. E
Seattle Wa. 98102**

May 31, 2011

Maggie Glowacki
Senior Land Use Planner
Department of Planning and Development
City of Seattle
700 5th Avenue, Suite 2000
PO Box 34019
Seattle, WA 98124-4019

Re: Comments on the first draft of the 2011 Seattle Shoreline Management Program (SMP)

Dear Ms. Glowacki,

The Association of Independent Moorages (AIM) is an organization established on behalf of Private Marinas and Moorages who share critical information concerning their industry. We appreciate the opportunity to comment on the draft SMP being proposed by the City of Seattle and welcome the opportunity to make a difference in how our waters and businesses will survive over the next decades.

Although AIM is not strictly limited to the Seattle area, a majority of the private moorages being represented are located within Seattle's boundaries.

Marina Land use and re-configuration:

The survival of Moorages and Marinas depends on how economic use of moorage uplands and submerged lands are utilized and configured. Some moorages are able to utilize their uplands for uses that are not necessarily "water related or water dependant". Those uses, especially during economic down turns may be the only way that the marinas are able to exist. During economic down turns, many of the "normal boating tenants" eliminate the discretionary income uses. Unfortunately, pleasure craft fits into the discretionary definition. Greater flexibility on uplands will be necessary in the future in order for marinas and moorages to survive. Additionally as times change, the marinas must change. The City of Seattle's own research indicates a future need for boat moorage and marinas that will need to cater to their clients by re-configuring their existing facilities. No penalties as a loss of moorage or operational function or additional habitat costs should exist for trying to reconfigure their facilities in order to fulfill the need indicated by the City of Seattle research.

Loss of Income to Washington State Agencies:

If exceptional limitations are placed on uplands, then adverse effects for funding State of Washington agencies result. Monetary value of uplands is dependant on what the uplands can be used for. Washington State Department of Natural Resources (DNR) submerged lands are valued by direction from WAC's and RCW statute. Those statutes use upland values as a basis for submerged land leases and permits. As the decrease in upland land value occurs (submerged or otherwise), a decrease in rents and permit fees to the State of Washington results. This is also true in the County tax assessor's office. An increase in restrictions and/or maintenance costs of the upland land and improvements will adversely affect how the State of Washington receives funding as a result of driving down the property values and real estate tax basis.

Over regulation for repairs:

In addition to the usability of the land is the ability to make repairs to structures. The SMP is creating an onerous situation that could possibly destroy the marina and moorage business due to over regulation of repair methods and materials. All language within the SMP, revised or otherwise, should have a reasonableness test for economic benefit and environmental benefit. If "feasible" becomes the standard then Marinas and Moorages will not survive due to economic strife.

Commerce and Navigation of the Ship Canal:

The Ship Canal was created by an act of the United States Congress in 1894 for the benefit of the people on behalf of Navigation and Commerce. The benefits of the Ship Canal include the elimination of total flooding of the Duwamish River Basin as well as enhancing navigation via commercial and recreational vessels. (Commercial and recreational vessels transport under Federal Navigation guidelines of Admiralty law.) Commerce is how trade is executed on dry land. The City does not have jurisdiction over Admiralty law.

Issues of Different Geographical Areas:

Different issues arise within the City of Seattle due to their geographical characteristics. The Duwamish River Basin and its industrial climate are different than that of the Lake Washington Ship Canal / Lake Union. Green Lake and other areas of Lake Washington are different than Elliott Bay. Each area has similarities as well as dramatic differences. The SMP unfortunately tries to put all of the issues into one wrapper with pointers and exceptions with various code changes depending upon overlying or underlying zones. The SMP becomes counter productive using over regulation and micro management. A simpler method must be developed. This method may be a more common sense method of less regulation.

Update the SMP – More or Less Stringent?

The directive by the State of Washington is to update the existing SMP. Updating does not mean to create greater regulation or more stringent

guidelines. Updating should also mean deregulation and minimizing preconceived notions that the original SMP was accurate. It appears that the "old SMP" had significant regulations and restrictions and that the drafters of the "New SMP" are using the "old SMP" as a minimal position when, in fact, some of the restrictions should be eliminated. Several of the current limitations have already proven detrimental to the City of Seattle economy such as the 200' limit and the over protectionist view as to what can or cannot be permitted outright within that zone. Trying to establish a conditional use for submerged land that really should not need conditional use requirements due to its intrinsic nature should not be questioned. (A marina is a conditional use for a water oriented / water dependant activity? As an association for Boat Marinas and Moorages, we can truthfully state that most boats float. If your boat is floating in a marina, a marina should be considered an allowed use and not a conditional use).

Promised Changes in the New SMP:

We realize that much of the original draft SMP proposal has had significant input with promised changes to various stakeholders. Several of our members have submitted input and we therefore will wait for the second round of draft to expand the critique of the SMP.

Request a Drafting Committee:

We respectfully request that those of us who have a first hand interest in the lands and adjacent waters be part of a drafting committee with the intent to add greater relevance to the SMP due to the relationship of economic importance in concert with environmental desires. A drafting committee of actual stakeholders may avert significant misconceptions assumed by city planners who are unfamiliar with the operations of marinas and moorages.

In addition to the aforementioned issues, we have had an opportunity to review some of the documentation from the Lake Union Association (LUA SMP Comments 5-30-11) and concur with their analysis.

Sincerely,

Charles Draper Jr.
President, Association of Independent Moorages.

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cc: only via email Diane Sugimura, Director DPD
cc: only via email Marshall Foster, Planning Director DPD
cc: also via email Margaret Glowacki, Senior Land Use Planner DPD

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May 25, 2011

Margaret Glowacki
Department of Planning and Development
City of Seattle
700 5th Avenue, Suite 2000
P.O. Box 34019
Seattle, WA 98124-4019

Re: Comments on 2011 Draft Shoreline Master Program

Dear Ms. Glowacki:

Ballard Canal Company is the owner of 12 acres on Salmon Bay, including a 145-slip live-aboard marina. Since the marina's inception in 1975, we have spent substantial sums to provide restroom, shower, and laundry facilities sufficient for the live-aboard population of about 50 slips. In addition, we provide holding tank pump-out facilities, adequate on-site parking and a small private park.

We are concerned about the provisions of the draft Seattle Shoreline Master Program (SMP) distributed February 8 in regard to live-aboard marinas, particularly the limit of live-aboard slips to 25% of total moorage slips and associated registration requirements. In addition, we have concerns about impractical mitigation standards.

Live-aboard Moorage Regulation

We have had a vibrant live-aboard community for 36 years using about 35% of our slips for live-aboard purposes without any known environmental degradation. Over the years, we developed a self-imposed live-aboard limit based on the capacities of our shoreside facilities, rather than a random arbitrary number

While a percentage limit is desirable due to WAC 332-30-171 and is appropriate to regulate new uses, we believe the grandfather provisions should apply to moorage slips rather than to particular vessels. The SMP is a land-use ordinance that should not have its applicability changed when a vessel is moved, rather than when a residential use is abandoned.

Live-aboard vessel communities have been part of Seattle's character for most of its history. A limitation on long existing live-aboard communities is a fundamental prohibition of existing use usually reserved for situations posing an immediate threat to public health or safety.

The SMA requires protections for shoreline natural resources to ensure no net loss of environmental function. We believe that live-aboard regulations requiring toilet facilities, sewage waste disposal facilities for boats, and shower facilities connected to a sanitary sewer are appropriate to carry out the policy goals the Shoreline Management Act (SMA) has set for SMPs. A limit that reduces the number of long-established live-aboard uses goes well beyond the goal of "no net loss", however.

Draft SMP regulations do not conform to proposed Shoreline Comprehensive Plan Goals. Proposed goal LU235 reads: "Allow live-aboards on vessels in moorage areas and provide *standards that mitigate* the impacts of live-aboard uses on the shoreline environment" (emphasis added). We believe this is an appropriate goal, and that standards mitigating any impacts of live-aboard uses are appropriate. A percentage limitation on existing live-aboard slips is not "a standard mitigating impacts", but rather a flat out limitation on existing live-aboard uses.

Additionally, we find the annual registration and fee requirement for live-aboard use to be unnecessarily burdensome. This is equivalent to requiring apartment building owners to register their apartments and pay a fee annually. If live-aboard uses are limited at a facility, they should be limited in the same manner as the number of living units are limited in an apartment complex – by designation or one-time registration only.

We respectfully request the grandfathering of existing moorage slips used for live-aboard purposes, and the removal of the annual registration and fee imposed on live-aboard uses, from the draft Seattle Shoreline Master Program.

Impractical Mitigation Standards

Proposed SMC 23.60.162(E) requires that additional parking or reconfigured parking "remove to the maximum extent *feasible* contaminants from surface water runoff" (emphasis added). The standard of "to the extent feasible" as defined in proposed SMC 23.60.039 does not allow for considerations of cost or practicality. This standard would require extremely expensive active filtering systems utilizing large tanks and pumped filtration similar to that used in boatyards to remove pollutants (often resulting in water with less copper content that

Seattle tap water!). By contrast the standard of “reasonable” as set forth in proposed SMC 23.60.040 allows the consideration of costs and alternatives.

We request that the standard for filtration of water runoff from parking facilities be changed to “remove to the extent *reasonable*...” Preferably, any standard for filtration of water runoff from parking areas in shoreline districts should be no more stringent than that applied to any other parking facility in the city whose surface waters run directly to bodies of water; they both have the same effect on the marine environment.

Similarly, under proposed SMC 23.60.152, light transmitting features are required to be installed for all replaced piers, floats and similar structures to the maximum extent *feasible*. Under the “to the extent feasible” standard, our heavy cargo handling wharves would be required to be replaced with light transmitting material irrespective of cost or practicality, which would make their replacement prohibitive. Likewise, our floating docks, which contain utility chases in the center section, would need to have these utility chases constructed out of light transmitting material – an impractical requirement.

We request that the standard for light transmission in piers, floats and similar structures be changed to “the extent *reasonable*.”

In a related provision, proposed SMC 23.60.200 would require marina piers and floats to be “grated to the maximum extent feasible taking into account the structural and use requirements of the pier...” It is difficult to understand what the qualifier – “taking into account the structural and use requirements of the pier” – means when the standard is one of feasibility (i.e., can be accomplished without regard to cost or practicality).

This standard would prohibit the replacement of our floating concrete docks with the same. These are narrow docks for which floatation consumes the entire surface area of the dock. Grating the deck of these narrow floats would accomplish no light transmission purpose whatsoever, and anything spilled on the float (a not infrequent experience) would immediately fall into and pollute the water rather than pooling on the surface for clean up.

We respectfully request that the requirement for grating marina floats be removed in order to prevent increased pollution. If the requirement is not removed, the standard should at least be changed to, “marina piers and floats shall be grated to the maximum extent *reasonable* taking into account the structural and use requirements of the pier *or float*.”

Margaret Glowacki
May 25, 2011
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Please contact me directly at 425-455-4543 or lyle.gregory@gmail.com if you have any questions about these comments.

Thank you for your consideration.

Sincerely,

Gregory Lyle
President

From: Elliot Strong [mailto:elliott@coastaltransportation.com]
Sent: Tuesday, May 31, 2011 4:59 PM
To: Glowacki, Margaret
Cc: Wasserman, Eugene; Danysh.Terry@dorsey.com
Subject: Seattle Shoreline code update

Dear Maggie,

I am writing to voice Coastal Transportation's concerns about the proposed shoreline master program in its current form.

For some background on Coastal Transportation, we have been in business since 1984, and we are a locally owned and managed marine transportation company that runs a fleet of six ships between our Ballard terminal and the Western Alaska Peninsula and the Aleutian Islands. We have been involved with the proposed shoreline code updates since the process started over three years ago, and what we see as the end result is unnecessarily restrictive and does not encourage maritime industrial uses such as ourselves.

Specifically restrictive provisions that we see in the proposed updates to the SMP are:

- Prohibited repair of treated wooden pilings
 - Pulling and replacing wooden pilings under warehouses or docks is financially prohibitive and unrealistic
- Public access in industrial areas
 - This is an unwarranted additional requirement in industrial areas which poses a safety and security risk to maritime terminals
- No new recreational marinas or expansion
 - The property that Coastal Transportation resides on is home to a variety of other businesses, including wooden boat repair shops, yacht sales, and boat houses
 - Limiting the expansion of these businesses impacts their economic viability as well as the ability of the landlord to adapt to tenants' needs
- View corridors
 - This is also an unreasonable new requirement for the UI overlay

What we see is a proposed set of rules and regulations that unduly impact the core industrial and maritime users of Seattle's working waterfront. The City of Seattle had every opportunity to listen to industry but chose to take a unilateral approach to the proposed SMP updates.

Sincerely,

Elliot Strong
Operations Manager
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[206-282-9979](tel:206-282-9979)



May 31, 2011

*MIC
Executive
Committee*

John Odland
MacMillan-Piper
Chair

Warren Aakervik
Ballard Oil
Treasurer

Rob Adamson
Salvin Manufacturing

Johnny Bianchi
B&G Machine

Jeff Darling
Washington Lifttruck

John Huey
Viking Bank

David Hutchhausen
Somerset Properties

Mike Kelly
ASKO Processing

Matt Lyons
NUCOR Steel

Pat McGarry
Manson Construction

Mike Peringer
Process Heating &
SODO Business Assoc

Terry Seaman
Seidelhuber Ironworks

Linda Styrk
Port of Seattle

Kim Suelzle
CityIce Cold Storage

Bob Viggers
Charlie's Produce

Elizabeth Warman
The Boeing Company

Diane Sugimura, Director
Department of Planning and Development
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Seattle, WA. 98124-4019

RE: Draft Shoreline Master Plan

Dear Ms. Sugimura:

Thank you for agreeing to accept more public input on another draft of the proposed update to the Shoreline Master Plan. We look forward to working with DPD to create an update that best responds to the environmental and economic needs of our city.

The physical footprint of Seattle's industrial waterfront community is small, but its economic and social benefits stretch far and wide. Shoreline companies in Seattle are essential to interstate commerce between Washington and Alaska. They support U.S. trade with Asia. They are indispensable to the Alaska seafood industry, which now accounts for the bulk of U.S. seafood exports. Many are critical in meeting the freight and commodity needs of domestic consumers.

These companies also take extraordinary steps to protect local marine animal and plant life while complying with federal, state, regional and local environmental regulations that are sometimes bewildering.

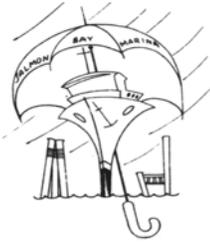
For all these reasons, these companies are prioritized for public policy support by the Washington State Growth Management Act, the Countywide Planning Policies of King County and the City of Seattle Comprehensive Plan. The proposed shoreline update needs to fit into the context of these other policies and regulations. Thank you again for taking the time to get it right.

Sincerely,

Dave Gering, MIC Executive Director

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May 27, 2011

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Re: Comments to the SMP - Proposed Code

I represent Draper Machine Works d.b.a. Salmon Bay Marina in Seattle. Draper has been in the marina business since 1945.

- We have a recreational_boat moorage for 168_boats. The majority of our tenants live in the Seattle area and frequent the local repair facilities and suppliers.
- We have approx 2.25 acres of dry uplands (most of which is within 200 ft of the water, approx 2.1 acres of submerged uplands and approximately .67 acres of tidelands. In addition, we control 1.79 acres with a long term permit through the Washington State Department of Natural Resources. All located in the Lake Washington Federal Shipcanal.
- We currently have four buildings on our dry uplands property, the largest of which is 3000 sq ft. We have three covered piers on pile plus 5 floating docks and a bulkhead that supports the parking lot.
- We are concerned about numerous provisions of the draft Shoreline Management Program that will dramatically reduce the usability of our property. We are regulated by the IG1 - UM (Urban Maritime) environment with an Archeological overlay.
- The draft attempts to encourage water dependant and water related uses without providing flexibility to property owners in terms of allowed uses. The SMP discourages continued investment by property owners.
- The draft does not take into consideration the financial burdens attached to complying with a "no net loss of ecological function" resulting in a no net gain, or an actual loss of economic function.
- The existing SMP overreaches the potential economic benefits that could be realized on properties adjacent to waters, as well as the additional financial support that could benefit the recovery of Chinook Salmon if a carrot were supplied rather than a stick.
- No consideration has been made within the proposed SMP for regional economy of any scale and the detrimental affect to the City of Seattle caused by the environmental directives being created by its drafters.

1. **Problem:** The inability in the future to use treated wood for our float and pier decking AND the requirement to completely replace any treated pilings.
 - a. Plastic (Trex™) decking has no structural strength; non-treated wood deteriorates rapidly in marine environments; aluminum or steel grating is cost prohibitive.
 - b. Piling with creosote treatment are still 98% solid below the waterline. To remove the pile and replace it with a non-creosote pile will be cost prohibitive. We have over 1000 pile. Generally when repairs are made they must be made in groups. This is because the cost to mobilize a crane and materials is high. Three years ago our annual cost to maintain our marina was 70% of our income when we were full. Due to the economy, we are currently 23% vacant. For the past few years this relates to a negative cash flow.
 - c. The cost of repair versus replacement is huge. A report from KPFF Consulting Engineers dated September 24, 2010 for pile replacement at Harron Island was approximately \$21,000 / pile. Using this as a guideline, it would cost over \$50,000,000 for our marina to comply and this excludes the refit of the existing structures to the replaced pile.
 - d. Disturbing the sediments during replacement of a piling can be more detrimental to the environment than capping a piling.

Solution:

- a. Defer to the American Wood Preserver Association on both a state and local level that will allow us to use practical marine approved treated wood. (Example: Bad CCA versus good ACZA)
 - b. Deterioration of a fresh water piling is almost always at the top portion of the wood that succumbs to dry rot. The ability to cap, splice or sleeve a piling is of paramount importance in maritime industries. Do not require the removal of existing pile (creosote or otherwise), nor should there be penalty in environmental habitat credit costs for continued use of the existing pile unless the City pays for the change. The private sector already paid permit fees for its installation and the City did not object to its installation. The city therefore has ownership in part of the problem in its original acceptance of the designs.
2. **Problem:** In the Urban Maritime (UM) environment, there are nine uses allowed outright, on waterfront lots. Of the nine, only three deal with non-public entities that include Parks, Utilities, bridges and tunnels or streets. We can either; start a tugboat company, have dry boat storage or start a light sales or service of marine parts.
 - a. Any other uses are tied to confusing and irritatingly hard to fathom sections of the code that is so laced with double negatives that it is impossible to comprehend.

Solution: The UM environment should be expanded. Flexibility of uses on waterfront properties must be encouraged.

3. **Problem:** The draft SMP and strict adherence to it has the unintended consequence of making most all of the structures and a number of land uses in the area from the Locks to Webster Point 'non-conforming'.

A 'non-conforming' use designation has created and will continue to create a stagnant business environment in which property owners stop investing in their assets. Any attempt to upgrade a property will be met by an expensive and time consuming maze of Special Use, Shoreline Conditional Use permits or Variances. Expecting a reasonable economic rate of return will be impossible due to its financial burden of requirements.

Solution: Recognize that property owners built in good faith and included sanctioned uses that made economic sense and should be able to continue to do both into the future without being held hostage to pay exorbitant fees for the privilege of changing the use.

4. **Problem:** Public Access on private property. The SMP shifts the requirement of providing public access onto the backs of private property owners.

- a. Public Access is being required for commercial or recreational marinas – which are preferred water dependent uses and are inherently being used for the public.
- b. The requirement for Public Access is being tied to the percentage of water dependent uses on the property without being able to count the submerged property – which is our water dependent use, all be it under an existing conditional use.
- c. Public access requirements are being tied to any future permitting application which creates a forfeiture of private property ownership rights.
- d. Liability and insurance issues and the hardships created for businesses is not addressed.
- e. Forced Public access on IG1 (zoned Heavy Industrial Land) with UM overlay should not be required.

Solution:

- a. If the City wants public access it should fund the purchase of waterfront property with good access or upgrade existing public property to take advantage of views and direct water access.
 - b. Incentives for allowing public access should be given to property owners.
 - c. Adhere to the Advisory Memorandum by the State Attorney General to avoid the unconstitutional takings of private property.
 - d. All private land or land under control of upland property including permitted land that is used, submerged or otherwise, should be used in all calculations.
 - e. Recognize existing moorage is already providing public access to the water.
5. **Problem:** The draft code requires payment of Habitat Credits or Pay-in-Lieu for numerous permit submissions. However upgrades to meet code are not recognized in any manner. Every time a permit is requested, more upgrades or payment is required. Bringing in a new tenant without a change of use will still trigger costly Habitat Credit fees.

Solution:

- a. Eliminate the Habitat Credit or Pay-in-Lieu provisions for change of use applications with an existing building footprint.
 - b. The code should be giving credit to the property to ‘bank’ for requirements already met in like manner as they do for requirements needed to be done.
 - c. Eliminate all Habitat Credit charges and use a flat rate fee.
6. **Problem: View corridors, Lot coverage**
- a. The View Corridor requirement of 35% of the width of the property is excessive especially on Marinas that have doglegs in the piers to accommodate existing lot lines. The doglegs unfortunately limit the straight view to the center of the channel. The improvements are a result of leases or permits with the State or Washington and permitted by the City of Seattle. The property owners should not be penalized for upgrading their properties by having to eliminate previously permitted structures in order to improve their properties.
 - b. The Lot Coverage requirement of 80%_for Water related /water Dependiant use on an industrial zoned property defeats the purpose of industrial zoned property. Even the most recent study made by the City of Seattle indicates that there is three times more property available in the ship canal than can be filled with water related businesses in the next 20 years. Industrial Property should allow outright the existing limitations for the underlying zone and not be hindered by overlaying UM zoning.
 - c. The Waterward requirement for docks or piers is 15’ from the shoreline or a depth of 8’ of water. This will severely restrict the ability to hand launch watercraft or moor small boats in the near shore, sheltered areas and discourages water dependent uses.
 - d. The combined overall requirements become excessive exactions.

Solution: Work with property owners on the code language and requirements to achieve SMA compliance while ensuring the long-term economic viability of the UM community.

7. **Problem:** The draft code is requiring landscaping to screen both boats and trailers. This is contrary to the goal of encouraging water dependent/water related uses. Land is scarce and dealers and service providers must be able to showcase their products.

Solution: Delete this language.

8. **Problem:** Micromanagement of current business practices by SMP code greatly restricts private property owners' ability to conduct day-to-day business. This is especially clear in 23.60.200, Standards for marinas, commercial and recreational. Examples of this:

- a. Genders for bathrooms
- b. Hours of operation for bathrooms
- c. Number of live-aboards; definition of live-aboards
- d. Best Management Practices that exceed anything physically capable.
- e. Number of people working on a boat
- f. Amount of transient moorage in a private facility
- g. Amount of commercial moorage in a recreational marina and vice versa.
- h. Uses onboard vessels
- i. Creation of a new registration form and criteria for live-aboards with penalties for violations

Solution: Work with the marina owners to amend and delete as necessary.

9. **Problem:** In many cases, the language of the draft SMP is unclear, inconsistent and difficult to follow to a conclusion, especially in the UM_section. Often the requirements are overreaching, unclear relative to Federal and State regulations and not practical.

Solution: Work with business and property owners on the language and intent in order to create a more workable document for all.

10. **Problem:** The City of Seattle is overreaching its directive from the State of Washington. The City is attempting to exercise its authority fostering a clear undertaking of over exuberance and control contrary to what is reasonable for the city and businesses to survive during next twenty years.

Solution: Examine what exactly is being required and not read into the directive more restrictive language. Interpret the directive in a corporative business friendly environment that will enhance economic development rather than restrict it. The DPD should partner with property owners and businesses around the affected waters to draft appropriate language that works for all parties who know the issues first hand rather than trying to train city planners in the intricacies of business management of marinas or the economics of doing business in the City of Seattle. The different water bodies should be treated differently due to their inherent differences. The Duwamish industrial area has significant different characteristics than the Lake Washington Federal Ship Canal. One shoe will not fit all in our Seattle boundaries. Legal issues are also apparent due to the Federal nature of Admiralty Law and the fact that the Lake Washington Federal Ship Canal incorporates Federal Waters transferred back to the Federal Government from the States original receipt by the equal footing doctrine as a result of the Congressional Act of 1894.

I respectfully reserve additional comments to be continually submitted after May 31, 2011.

Sincerely,

Charles Draper
VP / Sec.
Draper Machine Works
d.b.a. Salmon Bay Marina

FERGUSON TERMINAL

4207 9th Ave NW • Seattle WA 98107-4542
(206) 789-8700 • Fax (206) 297-9545

May 31, 2011

Margaret Glowacki
Senior Land Use Planner
Department of Planning and Development
City of Seattle
700 5th Avenue, Suite 2000
Seattle WA 98124-4019

Dear Margaret Glowacki:

Thank you for the opportunity to comment on the Shoreline Master Program Update Draft.

I am very concerned about the Shoreline Master Program Update Draft. I feel that many of the changes in the shoreline code far exceed what is necessary and called for by DOE to provide a safe environment in the shoreline zone of Seattle. (please see City of Anacortes SMP) In fact, I feel that many of the suggested draft changes result in “taking an excessive amount of property owners’ rights”. The fortuitous changes are going to result in growth stagnation in the entire Ship Canal shoreline. Without growth, industry jobs, as well as, the entire Ship Canal working waterfront that DPD has been charged to protect will in fact deteriorate over a short period of time. It is important for the city to know that there are two important waterfront business losses on the Ship Canal this year. Seaview East Co., one of the largest full-service vessel repairs services in Seattle, closed their doors May 31, 2011. In addition, The Divers Institute left the Ship Canal for another location. In fact, there has been only one large, new construction project on the Ship Canal in 10+ years, and that operation only has taken the place of a major vessel construction and repair shipyard that was no longer profitable in the Ship Canal area.

There are still more than 22 acres of the Ship Canal shoreline that is currently underutilized. There are a number of large and small Ship Canal waterfront property owners that have been marketing their property for more than 10 years without success.

The city may or may not know that these are the very good times for many in the local seafood industry. The fishing industry is the major economic driver in the Ship Canal. The Oregon and Washington coast Hake fishery quota has increased by 50% from 200,000 metric tons to 300,000 metric tons. The pollock quota in Alaska has increased 40% to 1.2 million metric tons. Alaska harvest of Cod fish has increased to 281,300 metric tons. The 2010 local sockeye harvest was expected to be a little over 2 million fish in the Fraser River (US shares 50%) with the run final count over 22 million fish. The total Alaska salmon harvest projected this year at 203 million fish will be the largest salmon harvest since statehood. I go into this review because even with high fish prices and huge runs, there are NO new fishing boats being built or new support buildings being built on the Ship Canal or Lake Union to support the fishing industry. The fishing industry is important to the Ship Canal, but it is not the economic driver it was 10 – 20 years ago. We only have one seafood processing plant, one

maritime freight line, three tow boat companies and no shipyard buildings 100 ft+ fishing boats. The demographics in the Ship Canal have changed dramatically. I do think we must try hard to keep the current marine industry. The local seafood industry spends tens of millions of dollars every year in labor, maintenance and new equipment. The city needs to realize that the industry has changed and, therefore, the land requirements for the fishing industry are different than in the past. Fishing operations are larger, but fewer in number. Many of the properties in the Ship Canal and Lake Union are in smaller in size and would not be able to support the modern fishing operation. The land use codes must allow for a mix of WD/WR as well as non WD/WR in order for there to be growth in the Ship Canal area.

Ferguson Terminal Company is located in the Urban Industrial environment. It is a 6-acre marine terminal with a large warehouse. Vessels to 400 feet moor at the terminal for off loading/ loading and repair. The proposed draft presents many changes to our current and future operations:

Vessel maintenance Suggest no new shore side over water regulations for maintenance

Regulations of uses on vessels while moored We must allow crew to stay on board large seafood processing and other vessels in the harbor

Offices in the UI and UM We should have additional options

Ship Canal UI needs different rules than Duwamish River UI Through the use of additional caveats?

Caretaker on property in UI This is most important for security

Additional options in the 20 % non WD/WR List of allowed uses must be expanded

Height restrictions should be 60 ft Allows for future dry stack marinas and warehouse options (Ferguson Terminal warehouse is 60 ft in height) (How else are we going to come up with the 315,866 sq ft of moorage?)

Recreational moorage in the UI According to your "Comparison of Land Supply and Demand for Water Dependent and Water Related Uses" (12/09), recreational moorage in the Ship Canal will have a future growth of 315,866 sq ft or 66% of total Ship Canal growth by 2030. Why make this use a conditional use and force future operators to go through the City Council? The conditional use process is very expensive, and may require 1 to 2 years for approval. There are 10 recreational moorages in the Ship Canal UI at this time, including one of the largest covered moorages in Puget Sound. A new recreational moorage would not be a new industry. Boating clubs are a major factor in making industry grow. If we are going to have the amount of moorage in the Ship Canal and Lake Union as proposed in your study, we should allow yacht and boat clubs. The industry often says to sell boats, sell boating.

Public access not needed on private property in UI The city should not force industry to provide public access in the UI or force payment for an alternative location. This will only reduce future growth and present serious security problems. I have been advised by an attorney that public access is not required by DOE.

View corridor restrictions Why no wet moorage, storage of boats under repair, open storage or parking? Most of the Ship Canal is at the bottom of a hill and very little, if any, of the view would change by allowing the above. These restrictions would not be acceptable for a cargo operation.

No wood piling repair This requirement is not acceptable. Do you have any studies that show how much of a problem a 25-year old wood piling is compared to removing the piling and roof as well as a floor of a building to drive a new steel piling? I understand no new wood piling, but a 25-year old piling may not leach an amount that could be considered a threat to the environment.

In addition to the above I support the following letters sent to DPD:

Port of Seattle	5/16/11	Stephanie J. Stebbins
Lake Union Association	5/30/11	Margie Freeman
North Seattle Industrial Association	5/31/11	Eugene Wasserman
Lake Union Shipyard		Jim Francis
Salmon Bay Marina	5/27/11	Charles Draper
CalPortland	5/25/11	Peter Stoltz
Commercial Marine Construction		Suzanne Dills

I look forward to working with you and your staff with the industry groups as outline in the North Seattle Industrial Association letter.

Sincerely,

J G Ferguson, President
Ferguson Terminal Co.

Cc: Diane.Sugimura@seattle.gov (Director, DPD)

Cc: Marshall.Foster@seattle.gov (Director of Planning, DPD)

From: Ferguson, Jim
Sent: Wednesday, March 09, 2011 12:45 PM
To: Glowacki, Margaret
Subject: Recreatinal moorage - offices

Maggie: Good Meeting last night.

I think the SMP update should include the following:

New "boat moorage, recreational marina and vessel upland storage" In UI (ship canal), UC and UM. This is where your study showed the growth. Boat Clubs and community yacht clubs as well as eating establishments are a part of the boating industry. These items make the marina property attractive. This will result in a large number of new jobs. This is important with the loss of fishing, shipyard, tug boat and other maritime jobs we have seen in the past 10 years I see no reason not to allow.

Thank you for your consideration on the above request.

Jim Ferguson, President
Ferguson Terminal

May 30, 2011

Margaret Glowacki
City of Seattle
Senior Land Use Planner
Department of Planning and Development
700 5th Avenue, Suite 2000
PO Box 34019
Seattle, WA 98124-4019

Re: Comments on First Draft of 2011 Seattle Shoreline Master Program (SMP)

Dear Ms. Glowacki:

Fremont Boat Co., Inc. is both a recreational and commercial (tugboats) marina that has been in business since 1916. Built because of the boom in business fostered by the creation of Locks, the Freeman family bought the business in 1928 and moved it to its present location in 1938. We've had a DNR lease since that point in time.

At present we employ eight people all living in Seattle neighborhoods. We've had a high point of 120 boats – since we have a lot of side-tie moorage, it's a variable number. Most of our customers live nearby but all tend to repair and buy supplies in the area. We have always had live-aboards and usually a caretaker to help us. For 50 years we had a 'caretaker' unit that was the family apartment where two children were raised, two grandparents were cared for and all of us helped out in the family business below us.

We also have a building, situated mostly over water that got its start as a marine retail store. In 2000, we breathed new life into it, have water dependent uses on the lowest floor, had a software start-up get bought out and take its 60 employees to Bellevue and at the beginning of the recession were able to refill it with 26 different businesses – some of which have grown from 2 employees to 20. All told, they employ more than 85 people, almost all living in Seattle.

So, as we fast approach 100 years in business, we're wondering what our son, grandchild and other family members will be able to do to carry on and how they will be able to use the property – which is C2/US-30 (soon UC).

The presently drafted SMP is daunting in its complexity and while we have a great respect for those having to walk the line between the SMA and regulated properties, we really do look forward to necessary changes in both the substance and the language in the first draft.

There are organizations we belong to that will speak to chapter and verse of problem areas, we would concentrate on how some of these things affect us individually.

1. Treated wood. Our marina facility is built on non-treated logs with non-treated piling (except for the City bulkhead holding up Northlake Way) however some of the piling the building rest on are creosoted.

We don't like cutting trees down unnecessarily to replace untreated wood and use treated ACZA treated planks. We do check to see that the vendor uses BMP's so the leaching amount is negligible when it rains.

We'd like to continue doing that and not get into trouble with State or local regulators – please get everyone on the same page.

Now as to the building piling – there is just no physical way to pull those piling out without taking down the building. It would be of enormous help to include capping as an alternative to the language in the draft code.

2. Use of the property. If we didn't have the ability to put in those very different 26 businesses starting in 2009, we would have depleted our reserves and not been able to pay our real estate taxes. That's not a good situation for the owner or the City. We see no difference in our marina office using a copier or computer than the Green house builder does upstairs. It's an office. Trying to pin folks down to a narrow use is fairly backward thinking and does nothing for the innovation the City is known for.

Inside the Locks is the most unique waterfront in the Pacific Northwest. Visitors marvel – especially when the fishing fleet is in town. This was accomplished because we had a tie to the water, loved it and knew how to do business. We've got floating homes near dry-docks and marinas, house barges near sand and gravel barges and the most vibrant fishing fleet all mixed in with office use and universities over flown by seaplanes and looked on by restaurant patrons. We

agree with the goals – do no harm, fix it if you do. But, within reason, leave us to our own business decisions.

By the way, have you tried to work yourself through the code wearing a UC user hat and wanting to put in office use? How about any use at all? Daunting; we can do better by the cutting back the complexity in the draft code.

3. Public Access. This is a bit of a sore point. We ‘had’ to put in public access because we changed the use inside a building! Still doesn’t make sense to us. We received no acknowledgment that we bring hundreds onto the water (dozens & dozens on each Tuesday duck dodge alone) with our water dependent marina. The whole property wasn’t looked at – just the fact that we had non-water dependent on the upper floors. Okay, fine water under the bridge. However, if we need a permit in the future, what will our public access requirements be? There’s no room (literally) because we’ve done what we could. So do we have to ‘pay’ (via Habitat Units) again because we built way back when? Where will anyone in UC be able to physically put the required access?

Now we have MARSEC (U.S. Coast Guard Marine Safety Levels) rules - because of our tugboat company - to abide by and it’s a fine line we walk every time someone goes past our “end of access sign”.

Now it seems we’re trying to connect the dots on a map between marinas creating a path that impossible to put in. How does that protect our water dependent uses or our private property rights?

4. Setbacks, corridors and lot coverage. Wow, that’s a lot of land not being used. And it’s a sure thing no one would have paid the price for the land with those restrictions in place back in the day. So, what’s the intent? That is unclear.

We think the code needs to be pretty clear that those that built can replicate – if destroyed by elements or if torn down for rebuilding. Because if that’s not in the code, everyone will want to hang on to what they’ve got and Seattle doesn’t need slum buildings or falling in marinas.

Give credits or incentives of some nature for those that want to give extra views or access and stop the restrictive way of thinking.

5. Marina standards. What's needed here is a minimalist approach and a need to step away from running someone else's business.
 - a. Reference the Marina Best Management Practices well known to the industry (DOE, Puget Soundkeepers, DNR, etc.) that have been in existence since the late 1980's and built upon. Require that they be part of the moorage agreement. These deal with most of the problems.
 - b. Use the existing language for lavatory facilities.
 - c. Use sewage pump-outs or third party providers.
 - d. Recognize that marinas already do provide public access and a valuable water dependent use.
 - e. Allow businesses to make the financial and operational decisions surrounding live-aboards and the type of vessel allowed.

We very much appreciate the opportunity to comment and appreciate the willingness of DPD to work with our various organizations to complete the task on a more specific level. We look forward to favorably commenting on the second draft.

Sincerely,

Mark Freeman
President

cc: via email Diane Sugimura, Director of DPD
via email Marshall Foster, Director of Planning, DPD
also via email Margaret Glowacki, Senior Land Use Planner, DPD

May 31, 2011

VIA EMAIL &
U.S. Mail

Ms. Diane Sugimura
Ms. Margaret Glowacki
City of Seattle
Department of Planning & Development
700 5th Avenue, Suite 2000
P.O. Box 34019
Seattle, WA 98124

Re: Comments on Draft 2011 Shoreline Master Plan

Dear Ms. Sugimura and Ms. Glowacki:

We respectfully submit the following comments on the draft Shoreline Management Plan code revisions. The comments on submitted on behalf of Fremont Dock Company and Nautical Landing. We have some general comments as well as specific section by section comments.

As a preliminary matter, we want to express our appreciation for the time Ms. Glowacki and the rest of the DPD staff have invested in the preparation of the draft SMP and in meeting with my clients and other concerned stakeholders. Undertaking a comprehensive revision of the SMP is a complex task with many competing interests.

Your recent announcement of the second round review and comment period was greatly appreciated and we believe an overall good decision given the complexity and impact of the SMP revisions. It is imperative the second round include a systematic and robust participation process to review and evaluate the proposed policy changes, regulatory fixes and most importantly the actual SMP language. We reiterate our request for the formation of a "drafting committee" comprised of representatives of the interested stakeholder groups to work on actual drafting of the SMP language.

WHO ARE FREMONT DOCK COMPANY AND NAUTICAL LANDING?

Fremont Dock Company is a local, family owned company that owns and manages real property within the Shoreline Zone in the Fremont neighborhood. As you may know, FDC owns the real estate comprising the Quadrant Lake Union Center as well as additional upland properties along N. Northlake Way and a small marina adjacent to Waterway 23 in the shadow of the Aurora Bridge. FDC's properties are located in the UG, UC and UM environments.

Nautical Landing is located at 2500 Westlake Avenue N. Nautical Landing's property is 100% submerged. The property is improved with a 30,000 square foot 2 story building built entirely overwater on pilings. The property is used for large and small boat sales, large yacht moorage and repairs and includes a 345 foot concrete dock and 1,900 linear feet of moorage. The south side of the concrete pier is adjacent to a Conservation Waterway (Halladay St. street end). Nautical Landing is located in the UC Environment.

GENERAL COMMENTS¹

1. The Draft SMP is Too Burdensome and Potentially Damages the very Maritime Industries it is intended to Preserve and Protect.

The draft SMP is a very complex and intricate piece of legislation. It is rife with double negatives, exceptions, cross references and multiple over-lapping, intertwined provisions. A more simple code structure would be more effective especially as it relates to existing structures and buildings.

We are concerned that the complexity of the draft SMP will only add to the permitting cost and delay for both small and large properties and projects. The overall perception of the draft SMP is that it is intrusive and burdensome. The fear, whether justified or not, is that the draft SMP if enacted would wreak substantial economic hardship resulting in job loss, reduced business revenues and correspondingly reduced taxes and other City revenue.

The "great recession" has not loosened its grip on the Pacific Northwest and on the maritime industry in Seattle in particular. One need only drive along Westlake,

¹ The Port of Seattle comment letter dated May 16, 2011 and CalPortland's comment letter dated May 25, 2011 addressed key issues regarding compliance and conflict with the GMA and SMA and other key economic and policy concerns. We believe that the Port's and CalPortland's comments, on balance, provide an excellent starting point for revision and restructuring of the draft SMP. We strongly urge DPD to closely review and consider the Port's and CalPortland's general and specific comments.

Ms. Sugimura
Ms. Glowacki
5/31/2011
Page 3

Nickerson or Fisherman's Terminal to see that the maritime industry has been hard hit by the current economic conditions. Unfavorable Washington State tax treatment on large pleasure vessels has caused an exodus of boats from Seattle's Lake Union economy to more favorable harbor in Vancouver, Victoria and Sidney B.C. For Lease signs dot many locations that just a few years ago were occupied by vibrant boat sales, repair and ship yard operations.

According to the Northwest Marine Trade Association, 5 years ago there were 120 boatyards in the Puget Sound area, a year ago there were 92, today there are 66. Eleven boat brokerages on Lake Union have disappeared in the last 24 months and approximately 20 related businesses have shuttered their doors. Now is not the time to saddle the Seattle maritime economy with yet more regulations.

The Shoreline Management Act is intended to help the maritime industry prosper and protect private property rights while encouraging the use and development of shoreline. The draft SMP as currently proposed, however, creates the risk of burdensome and intrusive permitting requirements, expansive yet unquantifiable restoration requirements, and reduced value and vibrancy of shoreline properties.

The added complexity and limitation on the use of shoreline properties, whether perceived or actual, will discourage redevelopment and improvement of the shoreline environment – the very projects that would be needed to improve existing habitat and ecological function may not be proposed, let alone built. The implication of “no net loss” as interpreted and implemented in the current draft SMP will likely result in “no net economic or ecological gain” and sharply reduced incentive to undertake substantial projects within the shoreline environment.

We strongly urge DPD to impose the least restrictive regulatory regime as possible under the Shoreline Management Act. There is no need to add additional layers of regulatory requirements when there are existing robust programs and protections in place (e.g. dredging regulations and SEPA mitigation requirements). There is substantial discretion in how Seattle implements the policies and goals of the Shoreline Management Act and we are requesting that DPD use that discretion to provide least restrictive, most flexible SMP as possible.

2. The Draft SMP is Too Complex – Simplicity Brings Regulatory Certainty – Regulatory Certainty Brings Vibrancy to the Maritime Industry.

As mentioned above, the draft SMP is very complex and, at times, utterly confusing piece of legislation that stymies all but the most diligent “code readers.” Simplifying the code should be DPD’s highest priority.

For example, the draft SMP could be simplified by establishing a clear and unequivocal “safe harbor” for existing buildings and structures. Rather than pages of code describing the instances in which existing structures can be or may, if numerous conditions are satisfied, be substantially improved, rebuilt or maintained, the draft SMP could simply establish its enactment date as the “baseline condition.” All structures within the Shoreline Zone upon passage of the SMP would be deemed in compliance – including buildings, piers, wharves, bulkheads or shoreline armoring – not “non-conforming.” Thereafter, any substantial improvement, renovation, repair or maintenance for such “baseline structures” -- so long as the footprint is not expanded -- would be subject to a simple, “fast-track” shoreline permit process.

If I have a building on my waterfront lot, the SMP should simply state it can be substantially improved, repaired or replaced within the current footprint without conditions, without a conditional use approval or otherwise. If there is a hard armored shoreline in place, it should be able to be repaired or replaced in its same footprint and configuration without condition and without proving that replacement with soft armoring is “infeasible.”

If “no net loss” is the standard, then all existing structures should be allowed to continue because they are part of the “baseline condition.” Requiring mitigation for existing structures converts “no net loss” into mandatory ecological restoration. That is not the purpose or intent of the Shoreline Management Act.

3. UC, UM and UG Setbacks

The shoreline in the UC, UG and UM environment is highly altered or “degraded” from its pre-urbanization condition. The “no net loss” requirement is not a mandate to return developed shoreline to its “prehistoric” state. Rather, “no net loss” is intended to preserve current conditions. The imposition of buffers and new set back requirements, especially in highly altered shoreline environments such as the ship canal, amounts to enhancement of current ecological function and is contrary to the Shoreline Management Act policies and requirements.

For example, in the UG environment, the draft SMP establishes a 15 foot buffer shoreward from the ordinary high water mark (“OHW”) and an additional 20 foot set back from that 15 foot buffer. As you know, the Ship Canal is a man-made waterway with highly engineered shorelines necessary for the continued navigation of commercial and recreational vessels. Mandating increased buffers on the theory that riparian upland is needed to support near shore salmon habitat in a man-made canal is not a “no net loss” proposition. To the contrary, the increased buffers along a man-made canal imposes an environmental “enhancement” requirement above existing baseline which beyond the requirements of the SMA.

FDC believes that the additional 20 foot buffer is not warranted, nor authorized under the SMA, in the UG environment in and along the Ship Canal. FDC’s Quadrant Lake Union Center (“QLUC”) is the only UG property on the north side of the Ship Canal. The property FDC owns is entirely upland because it is separated from the ship canal waters by land owned by the Army Corps of Engineers. On and adjacent to the Army Corps of Engineer’s property is the Burke Gilman trail easement which is approximately 18 feet wide and runs along the waterside length of the QLUC. Pursuant to the trail easement proposed by the City, buildings cannot be located within the area of the Burke Gilman trail without the City’s prior review and approval. As such, there is already existing limitation on the building area in the UG environment along the ship canal...the Burke Gilman Trail.

Moreover, the City’s easement requires the Burke Gilman to be located along the ship canal. The draft SMP, on the contrary, prohibits a use such as the Burke Gilman Trail within the proposed 15 foot set-back and upon passage would deem the Burke Gilman Trail a “non-conforming use.”

The setback requirements in the UG environment should be eliminated or at most limited to the 15 foot buffer with park or open space uses allowed outright within the buffers.

4. UC Around Lake Union – The Missed Opportunity for a Vibrant, Growing Mixed Use Shoreline Environment

The Urban Commercial environment around Lake Union contemplated under the draft SMP is a lost opportunity. Rather than embrace the flexibility afforded under the Shoreline Act for mixed use development in the shoreline environment, the proposed UC environment places substantial limits on the ability to incorporate office, restaurants and general sales and services into UC developments. As stated at numerous public

meetings, it is the mix of these critical uses that **ALLOWS** and **SUBSIDIZES** the water dependent and water related uses. The incorporation of these critical uses should be encouraged and not limited by the draft SMP.

For example, the UC provisions actually prohibit sales and service of small and large boats on submerged lands unless: (a) it is an existing structure; (b) a conditional use permit is obtained; and (c) 14 habitat units are paid for each square foot of the area used. See, Section 23.60.382.B.4. It is hard to imagine how prohibiting and limiting sales and service of large and small boats fosters and protects the maritime industry in Seattle, and Lake Union in particular.

If Nautical Landing sought a change in use to rent its showroom facility to a boat sales tenant, it could have to seek a conditional use permit approval which would vest the Director under Section 23.60.064 with the authority to impose:

“any conditions necessary to carry out the spirit and purpose of and assure compliance with this Chapter...Such conditions may include changes in the location, design, and operating characteristics of the development or use.”

There is no limit to the conditions that can be imposed or guidance on what is necessary to assure compliance with the “spirit and purpose” of the SMP. Could habitat mitigation be required? Could a reduction in the overwater coverage be mandated? Could limitations on the number of boats that could be moored or sold be imposed? Perhaps limitations on the hours the business can operate? Enhanced public access?

In addition to the uncertainty and added cost of securing a conditional use permit – for simply re-tenanting an **EXISTING BUILDING**, Nautical Landing would be required to pay 14 “habitat units” for each gross square foot of the leased premises – even though there is no actual adverse impact on ecological function – it is an existing overwater building that has had boat sales operations for decades. And, the draft SMP provides no clear statement how much a “habitat unit” will cost.

The draft SMP is devoid of a stated value for a “habitat unit”. A draft Director’s Rule is available detailing the Shoreline Permit Mitigation Procedures but the monetary estimates of 26 cents per habitat unit for in-water projects is specifically limited to water-dependent development fee in lieu projects for the following impacts:

1. Increase in overwater coverage;
2. Loss of shallow water;
3. New Shoreline Armoring;

4. Loss of Shoreline Vegetation;
5. Changes in topography of submerged portions of shoreline parcels;
6. Changes in substrate composition.

Other projects, such as re-tenanting an existing building are to be determined on a “case by case” basis according to that draft Director’s Rule. As such, it is unknown whether the monetary value of a “habitat unit” will be \$.24 cents, \$.05 cents, a Dollar or a Hundred Dollars.

The Shoreline Alternative Mitigation Program, however, provides the most concerning description of setting the value for “habitat units.” The Shoreline Alternative Mitigation Plan states in Section 3.5.3.:

“the cost of a habitat unit will include all aspects of developing a shoreline restoration project including property acquisition, project design, construction, contingency and maintenance over an initial period.”

Given this definition and the lack of any data or reference to assess the calculation of the monetary value of a habitat unit, we cannot understand or evaluate the impact of the habitat unit method of mitigation. We can only assume that price will substantially increase over time.

Even using the currently proposed value of \$.26 cents per habitat unit for the “in water” work as a place-holder, under Section 23.60.382.B.4. re-tenanting Nautical Landing’s existing 30,000 square feet with large boat sales -- without any attendant impact to ecological function -- would require a “habitat unit payment” of: \$109,200.00 (30,000 sq.ft. x 14 HU/sq.ft. x .26 cents per HU). **If the habitat unit value increases to \$1 per unit, then the cost to re-tenant that same 30,000 square foot space will skyrocket to an unbelievable and unsustainable \$420,000.00.**

This permitting scheme will be economically devastating. UC provisions such as these will result in more vacant space, reduced maintenance on buildings and general disrepair of waterfront properties. It seems that these regulations run the risk of starting a self-fulfilling prophecy of a dilapidated shoreline district devoid of any uses, let alone water-dependent and water-related uses. These ecological impact fees will discourage the necessary mixed-use tenants that are critical to survival of these properties. Moreover, the imposition of these impact fees may violate State law with respect to exaction of fees for impacts that are not the direct result of the project.

The Shoreline Management Act provides ample flexibility to allow non-water dependent uses that support water-dependent uses and address specific conditions that affect water-dependent uses. WAC 173-26-201(2)(E)(ii). The UC provisions, especially as they relate to the Lake Union area, should maximize the ability for mixed use development. The restrictions on office, restaurants and general sales and service and sales of large and small boats should be eliminated or greatly reduced. Lake Union has a vibrant marina and maritime business mix which could continue to flourish if limitations on mixed-use developments were substantially reduced.

We encourage DPD to consider a sub-category in the UC for Lake Union with no limitations on non-water dependent and non-water related uses (except residential). The current economic conditions and deterioration in the maritime industry requires more flexibility if these property owners and business are to survive and compete with the increased pressures from South Lake Union renewal and re-development. The habitat unit payment requirement should be eliminated for existing structures.

5. No Net Loss of Ecological Function

The “no net loss of ecological function” concept as articulated and applied in the draft SMP appears to significantly exceed the mandate of the Shoreline Management Act.

First, the draft SMP requires mitigation of “all adverse impacts to adverse effects to ecological functions...” This “mitigate all” standard is more stringent and burdensome than that required by the SMA. As noted in the Port of Seattle comment letter, this “mitigate all” standard appears to impose ecological restoration obligations of existing impacts rather than mitigation of the impacts directly associated with a new project triggering the shoreline permit requirement. In short, it appears to transform “no net loss” into a mandatory restoration and ecological “net gain” obligation. We do not believe that is the intent of the ‘no net loss’ policy and exceeds the authority of the SMA.

Second, the SMA policies provide that restoration and enhancement of ecological function are to be accomplished by means of existing non-regulatory programs and incentives – NOT through development regulation. The interpretation and application of the “no net loss” policy in the draft SMP appears to mandate restoration and enhancement of existing ecological function through development regulation and at the expense of the shoreline use by water-dependent and water-related uses.

We believe this favoritism or bias towards enhancement of current ecological function is inconsistent with the goals and policies of the SMA which gives equal value

to development of the shoreline for water dependent uses and requires that ecological enhancement be achieved through non-regulatory avenues.

6. Marina Standards

The Draft SMP imposes new, detailed standards and best management practices which intrude upon the day to day business operations of commercial and recreational marinas. The provisions are potentially inconsistent with existing BMPs.

For example, the draft SMP calls for the Director of DPD to set the hours of bathroom operations at marinas and requires that marina owners monitor their customers to determine how many days a week they sleep on their boats. Managing bathroom hours and mandating boat owner bed-checks simply does not belong in the SMP.

The marina standards could be greatly simplified by incorporating by reference the industry's BMPs for marina operations.

7. Habitat Unit Banking and Trading

Using "habitat units" as a metric may provide a more simple and calculable method to determine appropriate mitigation payments. As drafted, however, it is unclear whether a project proponent will be able to "bank" or "sell" habitat credits. For example, if a project to remove existing hard armoring on a shoreline is proposed, it does not appear that the ecological function gain would be converted into habitat units – rather habitat units are only used to exact a debit or payment for projects.

The Shoreline Alternative Management Plan briefly references the concept of "banking" excess credits created in a project but that concept is notably absent from the draft SMP. We request that the habitat unit banking and trading provisions is specifically included in the text of the draft SMP which would expressly allow for the banking, trading, transfer and sale of habitat units. The ability to generate credits that may have some value beyond just the cost of compliance would incentivize mitigation projects and the corresponding increase in net ecological function.

8. Treated Wood Standards

The prohibition on certain treated wood in marine applications is simply not workable. A creosote treated piling in existence now should be able to be repaired in order to extend its operational life. In many instances, the creosote pilings are beneath buildings or piers and replacement is simply not an option. Moreover, existing creosote

pilings should be included in the “baseline” for “no net less” purposes. Repairing that piling does not affect the baseline ecological function.

Existing pilings should be able to be repaired in accordance with current best management practices. The use of treated lumber should not be prohibited. Rather use of treated lumber should be allowed if it is installed and managed in accordance with the American Wood Preserver Association standards for aquatic uses.

9. Over Water Structures, Uses and Submerged Properties

The draft SMP fails to adequately consider the unique attributes of properties in the UC environment that are comprised of solely submerged property. Nautical Landing is for all intents and purposes comprised only of submerged land. The draft SMP use charts and associated conditions need to be revised to include a specific category for submerged properties (i.e. no dry land portions).

SECTION SPECIFIC COMMENTS

SECTION 23.60.039: CRITERIA FOR DETERMINATION OF FEASIBLE AND INFEASIBLE ACTIONS.

- The determination of “feasible” does not expressly include cost or economic considerations.
- In discussions with Ms. Glowacki, it was indicated that cost was to be considered in “feasibility” determinations. This section should be specifically revised to include “cost” or “economic” consideration in determining whether an action is “feasible” or “infeasible.” For example, use of grating in docks may be eliminated if it is shown that the use of such grating is “infeasible.” In the absence of cost considerations, then it is likely “feasible” for any dock or pier no matter what the weight of trucks and cargo it supports, could have grating...but it would be substantially, if not prohibitively, more expensive.

SECTION 23.60.090: IDENTIFICATION OF PRINCIPAL AND ACCESSORY USES

- Subsection A.3. is duplicative of the language in Subsection A and should be deleted.
- Subsection C. should be revised to allow accessory uses over water. Limiting accessory uses to the “dry land” portion of the lot unnecessarily penalizes property with little or no dry land (e.g. Nautical Landing).

- Subsection D should be revised to allow accessory uses on adjoining lots especially where structures may cover more than one specific tax parcel.

SECTION 23.60.122: NON-CONFORMING USES

- The proposed restrictions on non-conforming uses simply are not workable in the current maritime waterfront economy.
- Subsection A.2. should be revised to provide a minimum 24 month period of non-use before non-confirming use status is extinguished which could be extended based on economic conditions.
- Subsections B.1. and 2. should be revised to apply to non-conforming structures as well. As written, it appears that maintenance and repair of a non-conforming structure with a non-conforming use is prohibited.
- Subsection D.2. should be deleted. A switch from one non-conforming use to another (e.g. general office to general sales and service) in an over-water structure does not impose any adverse impact on the baseline ecological function. Exacting 36 habitat units per square foot bears no relationship to actual impact of the non-conforming use. This imposition of impact fees to address impacts that are unrelated to the use does not comply with Washington law.

SECTION 23.60.124: NON CONFORMING STRUCTURES

- Subsection D.2. should be revised to delete the requirement to mitigate impact to ecological function. Rebuilding an existing structure does not result in a “net loss” of ecological function. The existing structure is already included in the ecological function baseline – as such rebuilding the structure does not impose a net loss.
- Subsection D.2.c. should be revised to delete the language “to the extent reasonable” relating to overwater structures. Overwater structures on lots with little or no dry land should be allowed to rebuild to their existing footprint without a determination of “reasonableness”.
- Subsection H.1. should be revised to be consistent with SEPA requirements re substantial, adverse environmental impacts. As written, even minor or inconsequently adverse impacts would trigger mitigation and if such minor impacts were not capable if mitigation then the application **MUST BE DENIED**. This standard creates the risk that any permit to rebuild, substantially improve or replace “nonconforming development” would be denied. In addition, the term “nonconforming development” is a not a defined term which creates uncertainty as to the application of this subsection (e.g. does it apply to non-conforming structures? Overall projects with a small portion that is non-conforming?).

- Subsection H.2. should be deleted. Existing overwater structures on lots with little to no dry land should be allowed to be replaced without mitigation of ecological impacts especially where the replacement is due to loss of the structure to an act of nature. The existing structure is already included in the ecological function baseline. Replacement of the structure does not create a net loss of that baseline ecological function requiring mitigation.

SECTION 23.60.152: GENERAL DEVELOPMENT STANDARDS

- The general developments standards articulated and the associated standards of addressing any adverse impact may contravene or conflict with SEPA mitigation standards. The general development standards should be revised to incorporate the SEPA standard of substantial adverse environmental impact.
- With respect to mitigation sequencing, please see Port of Seattle comment letter.
- Subsection D. should be deleted. First, the language is not limited to uses within the Shoreline Zone and is therefore beyond the authority of the SMP. Second, the term “compatible” is not defined and would allow great discretion in determining if an allowed use is “managed” in way that is compatible with the surrounding area. Finally, the language seems to allow DPD to impose management requirements on uses (i.e. businesses) if the business has an adverse impact on surrounding “land or water uses” (i.e. other businesses). The Shoreline Management Act does not provide DPD with authority to impose management requirements on businesses.
- Subsection H should be deleted. It imposes best management practices and “other control measures” without any link to whether there are substantial adverse environmental impacts or any “net loss of ecological function.” The “other control measures” include bioretention, permeable paving, rainwater harvesting, unspecified “filters” (air filters? water filters? sediment filters? or fences?). These “control measures” are potentially cost prohibitive and may contradict or conflict with other development requirements.
- Subsection J should be revised to allow use of treated wood if it complies with the AWPA standards without any determination of whether such treated wooden components are “necessary.”
- Subsection K must be deleted. Repair of existing creosote pilings does not result in “net loss” of ecological function. The existing pilings are already part of the baseline condition. Repair or capping of existing pilings does not result in a net loss. There is no legal basis within the Shoreline Management Act or the “no net loss of ecological function” policy that requires the removal of creosote pilings.
- Subsection L should be revised to delete the language “the maximum extent feasible”. As set forth above, the feasible/infeasible determination currently

excludes any consideration of cost. This Subsection should be revised to incorporate a “to the extent reasonable” standard.

- Subsections M., N. and O. should be deleted because they overlap, conflict or may be inconsistent with other federal, state and local laws concerning hazardous substance release and response obligations. There is a comprehensive and robust federal and state regulatory regime in place governing the hazardous substance release and response especially with respect to release and response activities on the water. The draft SMP does not need to add additional duplicative or conflicting regulatory requirements.

SECTION 23.60.160: STANDARDS FOR PRIORITY HABITAT PROTECTION

- Subsection 1.c. should be revised to specifically define the “hyporehic zones” that are critical habitat and provide a map designating “hyporehic zones” in the Seattle Shoreline environment. As written and defined in the draft SMP, any groundwater to surface water interface or mixing zone could be considered a “hyporehic zone.”

SECTION 23.60.162: STANDARDS FOR PARKING REQUIREMENTS

- Subsection C should be revised to allow existing over-water parking to be restriped, reconfigured or relocated in or on overwater structures. For properties with little to no dry land, the ability to reconfigure and restripe their existing parking overtime is critical to their continued economic survival and flexibility.
- Subsections D and F should be deleted because they may conflict with other development requirements (e.g. landscape code, stormwater management code). Moreover, for overwater structures it simply may not be possible to achieve the screen requirements.

SECTION 23.60.187: STANDARDS FOR PIERS, FLOATS & OVERWATER STRUCTURES

- Subsection C.1. should be revised to establish that piers and floats are outright allowed accessory uses without requiring that the applicant “demonstrate” that they are “necessary” for moorage, boat repair, or loading or off-loading goods or materials to and from vessels.
- Subsection C.2. should be revised to allow covered moorage, subject to mitigation if there is a net loss of ecological function.
- Overwater work sheds should not be prohibited nor relegated to the UI and UM environments. For example, work sheds should be allowed in the UC environment for water dependent uses (e.g. Lake Union Dry Dock).

- Subsection C.3. prohibiting the use of certain treated lumber for decking or piling should be deleted because it is duplicative or revised to allow use of treated lumber in accordance with AWWPA management practices.
- Subsection D. concerning slip-side vessel maintenance should be deleted in its entirety. The section is too limiting in its description of allowed slip-side vessel activities and intrudes on the day to day business operations of boat owner, marina owners and numerous marine service providers. If the provision will not be deleted, then the language should be revised to simply prohibit bottom paint removal or scraping and adherence to industry best practices to minimize deposition of materials into the water during maintenance activities.

SECTION 23.60.188 STANDARDS FOR SHORELINE STABILIZATION

- Subsections D and E concerning new and replacement hard engineered shoreline stabilization are clearly designed to prohibit new and replacement hard engineered shoreline stabilization regardless of whether the hard engineering results in a “net loss of ecological function.”
- It does not appear that any geotechnical report could meet the requirements to “conclusively demonstrate” the enumerated criteria. For example, could any report ever conclusively demonstrate that non-structural or soft engineering methods are “infeasible” when the standard for “feasibility” is devoid of any cost considerations?
- The provisions should be revised to:
 - Allow new hard engineered shoreline stabilization where it is reasonable for protection of land, property or shoreline uses, and that mitigation be required where there is a “net loss of ecological function”.
 - Replacement hard engineered shoreline stabilization should be allowed outright as long as it does not increase the footprint of the pre-existing hard engineered structures.

SECTION 23.60.190: VEGITATION AND IMPERVIOUS SURFACE MANAGEMENT IN THE SHORELINE ENVIRONMENT

- The regulatory regime articulated in this section would likely require permits for routine landscape maintenance and replacement especially on larger upland properties.
- The provisions are overly complex and burdensome.
- The provisions should be simplified and substantially reduced especially for the UC, UM, UG and UH and UI environments.

SECTION 23.60.200: STANDARDS APPLICABLE TO MARINAS

- The marina standards as proposed reveal that DPD has a complete misunderstanding of the operational practices and needs of commercial and recreational marinas.
- The imposition of BMPs through the SMP is not needed and may conflict with existing BMPs.
- The commercial and recreational marinas already have comprehensive BMPs developed in conjunction with the Department of Ecology. At most, the Marina standards in the draft SMP should incorporate by reference the existing BMPs, not impose additional, duplicative and potentially conflicting BMPs.
- Section B.3. mandating separate “upland” restrooms for men and women and vesting the Director with the power to regulate the hours of operation of such restrooms and the ability to require more restrooms should be deleted. For marinas with little to no dry land, it may simply be impossible to provide “upland” restrooms. Moreover, the term upland is confusing. Does it mean on dry land or is it intended to actually mean “upland” as defined in the SMP i.e. locate the bathrooms on property which is separated from the water by a street?
- Section B.6. concerning slip side maintenance should be deleted or substantially reduced in its application by solely prohibiting slip side bottom paint removal and mandating compliance with industry BMPs re vessel maintenance.
- Section B.9. should be revised to delete the “to the maximum extent feasible” language for grating in piers and floats. Either the standard for “feasible/infeasible” must be revised to include cost consideration or this section should be revised to require grating only where reasonable and practicable.
- Section C.1. exemption from the public access requirement for recreational marinas should be expanded to apply to marinas with less than 5,000 linear feet of moorage space.
- Section E. imposing additional standards on marinas providing slips to live aboard vessels requires substantial review and revision in conjunction with the marina industry.
 - The definition of live aboard (4 or more days out of any seven day period) is so broad that almost every marina would be classified as providing live-aboard moorage. A holiday weekend stay on a boat just once a year would render it a “live aboard” vessel.
 - The limitation of 25% live-aboard vessels in a marina is arbitrary and capricious and must be deleted.
 - The Registration Requirement is overly broad and simply a new tax on marina operations. A single boat used for a holiday weekend sleep over

would require that the marina owner register and pay an undisclosed “fee.”
This is simply not workable and must be deleted.

SECTION 23.60.204: STANDARDS APPLICABLE TO HOUSE BARGES

- This section should be deleted in its entirety.
- These new provisions governing “house barges” appear to infringe upon and violate federal maritime jurisdiction because they specifically apply to U.S. Coast Guard licensed vessels. Please explain the legal authority to prohibit a licensed vessel from navigating or otherwise using the waters of the United States.
- Sub-Section A “prohibits” any new House Barges. The section is vague and ambiguous. Does the City intend to prohibit House Barges in any area of the Shoreline Environments? Does the City mean that House Barges are prohibited from navigating the waters of the United States within the Shoreline Environment?
- Existing house barges with permits that date to June 1990 are allowed. Please explain the significance of June 1990. Does the City intend that house barges that were constructed post-1990 are also prohibited? Are they a non-conforming use?

SECTION 23.60.214: STANADARDS FOR USES ON VESSELS

- Please explain the legal authority that allows the City to regulate “dwelling uses” on licensed vessels navigating on the waters of the United States.
- It appears that these standards violate federal maritime law and exceed the statutory authority of the Shoreline Management Act.
- What uses are “customary” for a moored vessel? What uses are not customary such that they are prohibited? How is “customary” determined and by whom? The director? The DPD compliance inspector?
- This section should be deleted in its entirety.

SECTION 23.60.216: STANDARDS FOR VESSEL MOORAGE

- Please explain the legal authority under the Shoreline Management Act that allows the City to regulate uses on vessels.
- This section should be deleted in its entirety.

SECTION 23.60.310 USES IN CONSERVANCY WATERWAY ENVIRONMENT

- Subsection K should be deleted. The limitation on moorage of vessels in the CW to 7 days for repairs and 24 hours in all other instances is inconsistent with the regular and customary usage of the Waterways and will impose substantial economic hardship on the water-dependent and water-related uses currently utilizing the Waterways in their businesses.
- Any limitation on the moorage of vessels in the CW should be constrained to moorage that unreasonably obstructs navigation and commerce which are the intended and dedicated purposes of the waterways.
- Please provide clarification on whether existing permits to use and occupy street ends / waterways will be terminated or superseded by the SMP if it is adopted as currently proposed.

Urban General Environment

SECTION 23.60.402A: USE CHART

- Boat moorage should be changed to an allowed use.
- Piers and Floats should be an allowed use if accessory to another allowed use.

SECTION 23.60.404.C.2.: BREAKWATERS, JETTIES, GROINS AND WEIRS

- Breakwaters should be an allowed use – not a conditional use – when accessory to a water-dependent use.

SECTION 23.60.404.H.: PIERS AND FLOATS

- Piers and floats should be an allowed use – not a conditional use – when accessory to an allowed use in the UG environment especially boat moorages.

SECTION 23.60.406.D. ROOFTOP FEATURES

- Subsection 1.c. should be deleted or revised to limit obstruction of nearby residential views to those residences located within the shoreline zone. As drafted it is vague and could be interpreted to mean any residence that has a view of the water no matter how far away from the shoreline zone the residence is located.

SECTION 23.60.410: SET BACKS

- As set forth above in the general comments, shoreline setback should be limited to 15ft landward of OHW.
- 35ft setback for non-water-dependent and non-water-related uses should be deleted.
- The ship canal is a man-made navigational canal which will remain a highly modified artificial shoreline environment. Increasing set-backs will not provide for continuous, connected habitat because the shallow and near-shore habitats will, as a matter of federal navigational requirements remain in their current armored condition.

SECTION 23.60.412: VIEW CORRIDORS

- Please provide the map referenced to determine which upland properties are required to have view corridors.

SECTION 23.60.414: PUBLIC ACCESS

- Delete public access requirement for marinas.

Urban Maritime Environment

SECTION 23.60.502H.: NEW RECREATIONAL MARINAS

- New recreational marinas should not be prohibited. The City's own economic study evidences a growing demand for recreational marinas in the Lake Union area. The combination of this prohibition and the new operational limitations imposed on marinas under section 23.60.200 will substantially adversely impact this growing segment of the maritime industry. Recreational marinas and the boat ownership that accompany them support the maritime industry in Seattle. Marinas should be encouraged and incentivized in the UM, especially in the Lake Union area -- not prohibited.

SECTION 23.60.502.H: EXISTING RECREATIONAL MARINAS

- Existing recreational marinas should not be prohibited from expanding. If expansion is to be limited, then "expansion" should not include larger boats or "additional boats." The SMP as drafted will slowly but surely cause the failure of the recreational marina businesses in the UM environment.

- For example, if a 50 foot boat leaves a recreational marina, then it appears the SMP would prohibit replacement of that lost moorage tenant with two 20 foot boats because of an increase in the number of boats even though the net overwater coverage would be reduced.

Urban Commercial Environment

SECTION 23.60.382: USE CHART

- No uses are enumerated for submerged lots. To simplify the provisions, a third column should be added for submerged lots. Maximum flexibility in uses should be afforded submerged lots.

SECTIONS 23.60.382.B. AND D: USE LIMITATIONS

- Limitations and conditions on the following uses should be eliminated to encourage vibrant, mixed use developments in the UC environment:
 - Office;
 - Eating and drinking establishments;
 - Entertainment;
 - General Sales and Services; and
 - Small and Large Boat Sales, Rentals and boat parts and accessories.
- Habitat Unit monetary value needs to be defined or a set formula developed that is reasonable, calculable and certain.
- Habitat Unit payments for uses in existing structures should be deleted.
- Prohibition of office over water should be eliminated or at least clarified to apply only to office as a primary use. Overwater office as an accessory use to any other allowed, condition or special use should be an allowed use.

SECTION 23.60.384.C.2.: BREAKWATERS, JETTIES, GROINS and WEIRS

- Breakwaters should be an allowed use – not a conditional use – when accessory to a water-dependent use.

SECTION 23.60.384.G.: PIERS AND FLOATS

- Piers and floats should be an allowed use – not a conditional use – when accessory to an allowed use in the UC environment especially boat moorages.

SECTION 23.60.384.H.2.: HARD SHORELINE STABILIZATION

- Hard shoreline stabilization should be an allowed use – not a special use -- if it is repair, replacement or maintenance of existing hard stabilization.

SECTION 23.60.386: HEIGHT IN THE UC

- Subsection D.2. should be deleted or revised to limit obstruction of nearby residential views to those residences located within the shoreline zone. As drafted it is vague and could be interpreted to mean any residence that has a view of the water no matter how far away from the shoreline zone the residence is located.

SECTION 23.60.388 LOT COVERAGE IN THE UC ENVIRONMENT

- Subsection A.1. should be revised to increase the lot coverage to at least 75% for lots with little to no dry land.

SECTION 23.60.392: PUBLIC ACCESS IN THE UC ENVIRONMENT

- Public access on private property should not be required. The public safety and liability implications and exposure are absolutely untenable for marina owners.
- If DPD retains public access requirements, then a complete exemption from public access requirements should be made for lots with little or no dry land or wholly submerged lots. Requiring public access to such lots would likely entail requiring public access to the privately owned structures themselves and not the “shoreline.”

CONCLUSION

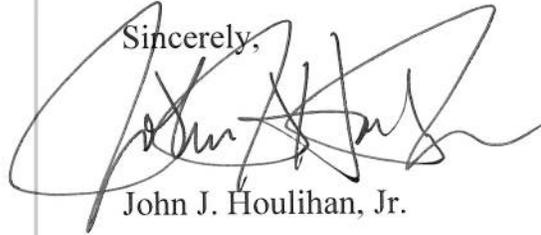
We appreciate the opportunity to provide these comments and look forward to the second round review and comment process. It is critical that the second round review and comment period include robust stakeholder input and communication with full and ample participation by industry, property owners and maritime business. We believe that the draft SMP needs substantial revision and restructuring not only to comply with and

Ms. Sugimura
Ms. Glowacki
5/31/2011
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promote the goals of the SMP but also to preserve, protect, enhance and encourage the economic use of the Seattle Shorelines.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "John J. Houlihan, Jr.", written over the word "Sincerely,".

John J. Houlihan, Jr.

cc: Suzanne M. Burke, Fremont Dock Company
Kevin Wold, Nautical Landing



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Seattle DPD
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Seattle, WA 98124

May 31, 2011

Re: Seattle Shorelines Master Program Update Draft February 2011

Dear Maggie,

Thank you for extending the comment period for this complex draft ordinance. We found it difficult to read and understand due to complexity in many sections, and beyond understanding due to vagueness in others. We are still a very long way from understanding the impacts of this proposed ordinance. Thankfully, there will be a second draft which will give property owners and business owners a chance to review an improved version.

This shipyard has been here for over 90 years serving a vital maritime industry and providing family wage jobs for well over 100 direct employees as well as many subcontractor and supplier employees. We have tried to lead the way to environmental responsibility, being the first shipyard in Washington with a NPDES permit and having developed the first decent treatment plant for high pressure hull wash water. We want to stay in business here, and we want to protect the environment, but we need flexibility in use of our property in order to manage our business profitably and stay competitive.

In general, the state Shorelines Program directs the city to propose an ordinance that will result in no net loss of ecological function. Instead the city proposed an ordinance that not only requires each new development to result in no net loss of ecological function, but it exceeds the state mandate in requiring other actions, such as repair or reconfiguration of existing facilities to result in a net gain of ecological function by reducing over water coverage, etc. The city goes even further by controlling the alternative mitigation program in a way that allows huge projects for habitat enhancements that can greatly exceed the minor impacts of issues the city claims need mitigation. The city should work for a more balanced approach to allow for economic use of the shorelines.

In general, one of the purposes of the state shorelines program that mandates this ordinance is to encourage development in urban areas in order to eliminate pressure for expansion of industry and development in more rural and remote areas. Unfortunately, this

proposed ordinance restricts activity in the city and encourages industry and development to find locations outside the city.

Further, the proposed ordinance is very restrictive as to uses allowed in any specific area. This proposed ordinance impedes progress by making strict regulations with little basis or reasoning, which ties the hands of people who would invest in development beneficial to the city and its citizens.

Generally, the fish are unaffected by the use in a structure. That is not an ecological consideration. The zoning codes control uses in shorelines areas for the same reasons they control uses in non-shoreline areas. The reasons for the shorelines code to control uses are limited. They favor water dependent and water related uses to assure that such uses are not crowded out by non water related uses. The problem with the Seattle proposed code is that it micromanages property uses to the point of strangulation of the principal uses it should be trying to encourage and enhance. Business needs flexibility to have mixed uses and to change uses depending on business conditions. The shorelines code is only rarely amended, so it needs to provide reasonable flexibility in order to not interfere with desirable development.

Specific sections that appear to have the greatest potential impact on our property are as follows:

23.60.036.B.3 (Pg.25) *Variations on uses or shoreline modifications may only be granted by the Director if the applicant demonstrates there is no reasonable use of the property without the variance.* This standard is too strict. If the Director determines that the use is in the public interest (as well as meeting other standards for variances), the variance should be granted, even though someone could argue that there may be some other possible, reasonable use of the property. In the next few years before another revision of these regulations, many unforeseen good reasons for variance are likely to develop, and there is no good reason to eliminate choices now. Variances on use should be granted if the Director determines that the use is not conflicting with other allowed uses and is in the public interest.

23.60.038. (Pg.25) *The City Council may only grant conditional use approval if the use meets the Comprehensive Plan and the broad Shoreline Goals and Policies.* The Council should be able to make exceptions to the Comprehensive Plan and the Shoreline Goals and Policies. These very broad planning documents cannot anticipate every possible situation that may be a desirable exception to the rules. They were rules originally passed by the City Council, so the City Council should have authority to change them or grant exceptions.

23.60.039 (Pg.26) *The determination of "feasible" only considers what is technologically possible, likely to achieve the intended purpose, and does not preclude the project's primary intended legal use.* There currently is no economic consideration. This could lead to impossibly high costs of meeting requirements that are deemed feasible, but

which are not really feasible in the ordinary sense of the word. Feasible must take economics into consideration.

23.60.090.C (Pg.48) *“Uses prohibited as principal uses but customarily incidental to a use allowed, allowed as a special use, a shoreline conditional use or a Council Conditional use..... may be authorized **on dry land** as accessory uses using the same process as the principal use if clearly incidental to **and necessary for** the operation of that principal use, unless expressly allowed or prohibited as accessory uses.”* The same rule should apply over water. There is no good reason for the city shoreline rules to prohibit a customary incidental accessory use (like an office for example) just because it is located over water. Total water coverage should be the only regulation applicable to that decision. Also, the standard should not require this customary accessory use to be necessary for operation of the principal use, only that it enhances the principal use or is desirable. There is no legitimate reason for this restriction, and it could easily kill a business plan. The bold underlined words need to be deleted.

Q: 23.60.090.D (pg.49) *Accessory use must be located on the same lot as the principal use.* There is no definition of “lot” to clarify the meaning of this provision, whether it applies to lots on a plat or tax lots, but it makes no sense either way. There is no good reason for this requirement, no matter how it is interpreted. Business should be granted maximum flexibility consistent with legitimate regulation for the public good. This is another provision that doesn’t meet that standard, and should therefore be deleted.

23.60.122.E (Pg.56) *A non-conforming moorage (such as a pleasure craft moorage in a UM zone) that is lost to fire may only be reconfigured if (among other requirements) :*

- *E.1 a. “The Director determines that the goals of this chapter (SMP), including limiting location of structures over water would be better served.” and*
- *E.2 Unless a conditional use permit is obtained, the total area of overwater coverage is reduced by 20 percent, not including any credit for translucent or grated decking.*

A nonconforming moorage that has suffered a fire should be able to rebuild without reducing its size. It is unlikely that the Director would determine that rebuilding the nonconforming moorage would better serve the goals of the chapter, particularly since the chapter prohibits it. That effectively prevents rebuilding. The principles of grandfathering should be preserved, and fire or other disasters should not force a change in use or configuration of property. Such provisions encourage arson, giving an arsonist the power to permanently change the use of property.

A moorage does not necessarily cover an entire property. It may be only an incidental use that fills in otherwise unused property, like a place to park the business owner’s boat and maybe another boat or two. With this provision, a fire could wipe out the owner’s right to moor boats on his own property. That is unreasonable.

There are no conditions prescribed for the conditional use permit to allow rebuilding without a 20% reduction. No reduction in the moorage should be required under any conditions.

The city's economic study shows clearly a major demand for recreational marinas. The city should provide for this need to be concentrated in urban areas, not limit and reduce it in the city where the demand exists. This runs counter to the goals of the state shorelines program which encourages growth to occur in urban shorelines instead of pristine shorelines outside the city. The Urban Maritime zone includes a lot of pleasure craft moorage, and that is a very legitimate and strictly water dependent use that should not be made nonconforming.

Boating is one of the best features of Seattle, and it is part of our history and heritage. The city should encourage and foster its growth, not restrict and gradually eliminate it.

The argument that we need to protect and save UM zoned property for future UM uses is ignoring the fact that the few uses allowed on UM property are likely to avoid locating in Seattle because of the highly restrictive, inflexible regulations.

23.60.124.C (Pg.59) *Nonconforming structures over water are prohibited from being substantially improved, replaced or expanded in ways that increase nonconformity "except as provided in 23.60.124.D.2 and 23.60.122.E", but 23.60.124.D.2 and 23.60.122.E don't provide for any increase in nonconformity at all. Those provisions are simply further restrictions on any rebuilding, maintenance or reconfiguration. Improvement or replacement should be allowed unless it "substantially" increases nonconformity.*

23.60.124.D.2 (Pg.59) *Rebuilding or substantial improvement of a nonconforming structure is allowed if it mitigates impacts to ecological function AND may have to be moved to dry land, if available.*

It should be clarified that existing structures that are nonconforming to the mitigation development standard are not nonconforming structures for the purpose of 23.60.124.

Rebuilding, substantial improvement or reconfiguration of nonconforming structures should base mitigation requirements on the **net** effects of the current development (change). i.e. credit should be given for the loss of ecological function due to the structure being replaced. Mitigation of the new structure should not be required as if the old structure was not there. Most people familiar with this legislation believe that the intent is to evaluate developments on a standard of "no **net** loss of ecological function." If the intent is to require mitigation as if the old development was not there, this intent should be made plain and clear in the proposed ordinance so people reviewing it will understand, and city staff should not use the terms "no net loss of ecological function" in describing the mitigation goals.

23.60.152.A (Pg.63) *A general development standard says that, "All shoreline developments and uses shall be located and constructed to achieve no net loss of ecological function." Since virtually every structure, certainly every over water structure*

impacts ecological function, then this provision makes them all nonconforming just on that basis. It should be clarified that existing structures that are nonconforming to the mitigation development standard are not nonconforming structures.

23.60.122.67.L (Pg.67) *Light transmitting features are to be installed for ALL replaced piers, floats, over water boat repair facilities and similar structures to the maximum extent feasible.* This would be very expensive and impractical in most structures, particularly heavy built structures, and it would result in more spillage and debris falling through gratings. With regard to shading the water, the impact of a narrow pier in deep water is minimal compared to a wide pier in shallow water, yet this provision makes no distinction. There has been no cost/benefit analysis conducted, only careless disregard for the firms and people who want to improve the shoreline and do business here. In most cases the requirement for light transmitting surfaces will be very impractical. The requirements for light transmitting piers and floats should be confined to new construction where the configuration and use makes it practical.

Replacement of structures should not require changing of the structures. Such requirements will tend to encourage, and in some cases dictate, that structures remain unimproved for many years, leading to run down structures in disrepair.

In general, where changes are made that do not affect ecological function, such as replacement of piers or change of use, there should be no requirement to increase ecological function. If, and to the extent that a new action increases ecological function, the property should receive a credit for increased ecological function. Maybe in the future, a different action will reduce ecological function, and the credit could be applied or sold to a different developer as habitat units.

23.60.158 (Pg.78) Mitigation sequencing is ill-defined and not understandable. It is subject to abuse by DPD interpreting requirements and costs, so that the developer is at DPD's mercy. There is no process for oversight of alternative mitigation projects. There is no limit to the demands DPD can place on developers based on subjective determinations of impact. The alternative mitigation program details should be made public and be subject to public review and comment. The process here is hidden from public view, is based on subjective views with little to no science, and is unfair and unjust. The alternative mitigation plan needs to be fully disclosed. Nobody could understand the impact of the mitigation provisions by reading this code. Certainly this code does not explain the differences in habitat units in different geographical areas or how they will be determined, equated with dollars or equated with specific project features such as water coverage, placement of impervious surface, etc. The entire alternative mitigation plan needs to be stricken or must be fully developed and subject to public review and comment prior to inclusion.

23.60.162.C Pg.85) *New over-water parking is prohibited. Existing over-water parking shall not be expanded, and if relocated, must be reduced by 20 percent.* More flexibility is desperately needed for businesses that operate entirely over water. The requirement for reduction of parking because of moving it must be deleted. Business cannot function

without parking, and on-street parking is diminishing to the point of jeopardizing business operations. Our lot is entirely submerged, yet to stay in business we need parking. In the long run, we estimate that lack of parking will eventually drive us out of the city or put us out of business. This provision is insensitive to our needs. For example, sometimes the Coast Guard includes in their specification that the shipyard must provide a certain number of parking spaces in a lighted, fenced area with roving security within ¼ mile of the ship. If we qualify our bid and say we can only provide a lesser number or at a greater distance, our bid will be disqualified automatically. We could move some lumber storage or change or move something else to make room for temporary increased parking. We can't afford to miss an opportunity for a multimillion dollar job because of inflexible shorelines rules that prevent reasonable use of our property. This has nothing to do with building more structure over water. This has nothing to do with habitat. This is merely a change of accessory use to accommodate specific business needs.

Q: 23.60.187.C.2 (pg.116) *Over water work sheds are not allowed in Lake Union.* There is no definition of over-water work sheds. There are two shipyards in UM, and they have work sheds, some floating, some portable and some fixed, some with floors and some you could drive a boat into. It would be very damaging to our business to require that all work accomplished on submerged land be done out in the weather without benefit of any work sheds, notwithstanding that a significant amount of work requires protection from the elements while in progress. This prohibition should be deleted.

23.60.187.D.2 (pg.117) *Slip-side vessel exterior scraping, sanding or cutting is limited to ten linear feet of a vessel per person working on the project.* Presumably this provision has been inserted because city planners think they know better than Dept of Ecology how to design Best Management Practices for boat and ship repair. The fact is that they know nothing about shipyards. (For example their definition of dry dock in this legislation does not describe a dry dock at all. They describe a graving dock. There are no dry docks in Seattle that operate as described in this code.) One person per ten lineal feet of a boat has no correlation to the level of effort needed to prevent dust or contaminants from entering the water. The city should leave best management practices for ship and boat repair to people already charged with regulating that activity. For example they do not distinguish from scraping on the hull over water and scraping on the house over a 20 foot wide deck, nor between a 20 foot boat and a 300 foot boat. Clearly the DPD does not have the expertise to regulate such issues. DPD should leave such Best Management Practices issues to other regulatory authorities that already have more comprehensive regulations in place.

23.60.310 (Pg.231) *Uses in CW Environment* The waterways around Lake Union, according to state law are reserved for the convenience of commerce and navigation. Our shipyard abuts waterways, and we conduct commerce there adjacent to our pier. The draft ordinance prohibits sales and service uses, vessel repair, marine service station and other uses that are routinely conducted for the convenience of commerce and navigation. This draft appears to be contrary to state law.

23.60.502.A (Pg.323) UM Use table.

Incredibly the ONLY uses allowed outright on waterfront lots are as follows:

- *Commercial uses:*
 1. *Sales & services, marine* (But note: Heavy commercial services are prohibited)
- *Parks & open space uses:*
 1. *Shoreline*
- *Transportation Facility Uses:*
 1. *Bridges & tunnels*
 2. *Dry Boat storage*
 3. *Rail transit facilities*
 4. *services*
 5. *Tugboat Railroads*
 6. *Streets*
- *Utility Lines*

These are the ONLY uses allowed outright on Urban Maritime waterfront lots.

This is not reasonable. This is our prime maritime business property that we should be putting to its highest and best use. We should expand the allowable uses. At the very least, uses allowed outright in UM should include:

- *Heavy Commercial Uses* (There are two major shipyards in the UM zone) These should not be nonconforming uses. There should be no worry that someone will locate a new shipyard here in UM zoned property. Seattle's restrictive shorelines regulations as well as general bad business climate will prevent that. Heavy Commercial Uses should be allowed outright or shipyards should not be considered Heavy Commercial Uses.
- *Recreational Marina* (There is a lot of UM property that has at least some recreational marina use.) Recreational marina use is flexible in the sense that it can be expanded and contracted easily by simply moving floating docks around. Therefore, it can be used as an interim use and provide much needed revenue while allowing room for expansion of another principal use. Or properties could switch between recreational and commercial moorage based on seasonal factors.

Besides what is allowed outright, there are some very narrow exceptions:

- *General sales & services, warehouse storage, light and general manufacturing are allowed if they are water related.* They should be allowed as incidental accessory uses even if not water related. A percentage limitation may be appropriate for non water related uses as accessory uses, but non water related accessory uses should not be outright banned.
- *General sales & services, craft work, light & general manufacturing uses that are not water related are allowed as conditional uses if they occupy no more than 20% of the dry land area of the lot.* We don't have any dry land, but we have been doing business here for over 90 years, and we steadfastly defend our right to perform craft work that is not water related. That work does not displace water dependent work; it enhances it and makes it possible, and uses essentially the same facilities as our water dependent use.

- The 20% rule should not relate only to dry land. The best solution would be to remove the words “dry land” from this provision. Alternatively, a separate rule could apply to property that has no significant dry land available. The dry land may not be the most logical place to locate the non water related use, particularly if the entire property is not being rebuilt. Instead of conditional uses, this provision should allow these non water related uses outright as accessory uses.

23.60.502.H (Pg.330) *In UM zones, existing recreational marinas are not allowed to expand by adding piers or floats or adding vessels or mooring larger vessels. New recreational marinas are prohibited.* This section should be deleted. The economic study commissioned by the city shows little demand for water dependent use on submerged land except recreational marinas. Recreational marinas are desirable and should be permitted in UM zones. For the reasons mentioned above, UM properties need the flexibility to expand and contract, and recreational marinas are an ideal way to do that. If the regulations prohibit expansion, then what is the baseline if they contract? If boats leave, can they come back? The city should not be trying to micro-manage our marine businesses, and limit their reasonable use of property.

23.60.512 (Pg.338) *View corridor requirements are reduced to 15% if water dependent uses occupy more than 40% of the dry land.* This is unfair to a company that has no dry land and could have up to 100% of water dependent use. A clause should be added to this provision so it reads, “View corridor requirements are reduced to 15% if water dependent uses occupy more than 40% of the dry land or if there is no dry land being used for non water related use.”

We look forward to having our comments addressed and incorporated into a revised draft this summer.

Yours truly,

Jim Francis
Vice President, Finance

Cc via email: Diane Sugimura, Director, DPD
Marshall Foster, Planning Director

Date: May 29, 2011

To: Margaret Glowacki
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Via: margaret.glowacki@seattle.gov

From: Lynne Reister
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Via: LodestarMarine@aol.com

I have been involved with boating in the Northwest Since 1978, 33 years. I have lived, and served in the Northwest (Seattle) since 1993. I am a resident living aboard my houseboat, vessel owner, and business owner.

In my daily work, surveying and inspecting vessels, there is an immediate economic impact to minimally four to five business in five to six hours, not including those collaterally affected directly on the fringes within days: financial institutions, banks, insurance companies, boatyards, Boat and boat product manufactures, titling agencies, state and local licensing agencies and businesses, marinas, towing and diving companies, local restaurants, city paid parking facilities, marine stores, brokerages, dealers and the ongoing income to our city.

I work daily in the UC (Urban Commercial) environment, the UM (Urban Maritime) and. the UI (Urban Industrial) environment referenced in the SMP Draft.

On a personal basis, I am friends and neighbors with many home and business owners along the waterfront who are not in direct water related business but who are tax paying citizens and property owner.

Although I am only one person, I interact daily with many, many of our concerned citizens in marine interests being affected by proposed changes to the SMP and support their concerns too. Each of us is responsible for our contribution.

I am INVOLVED. This is my COMMUNITY. This is my HOME.

What experience I bring to the table:

- On a DAILY basis I am on the waterfront in our Cities Vessels
- City of Seattle Resident
- Concerned and involved citizen
- Vessel owner (four boats in two marinas)
- Live~Aboard Resident,(I work in a home office)
- Business Owner
- Safety Engineer
- Internationally Accredited Marine Surveyor and Consultant
- Internationally Certified Marine Investigator
- Charter Member LULA (Lake Union Live~Aboard Association)
- Security Clearance (TSA-TWIC to Ports)
- Advocate for Boatowners
- Specialist in Wood structure, and intimate ith Corrosion Issues
- Mariner, Captain, Tall Ship Sail Trainer
- Concerned Environmentalist
- Work with and refer to the International, Federal and State Laws (CFR's, US Code, ISO, Clear Air Act, State Boating Laws, WAC, BMP, etc) and use International, and National Standards on a Daily Basis

- Teach and Provide Presentations on Vessel Systems and Safety
- Member - City of Seattle Dept. of Transportation Stakeholders Committee (WLA North Parking Project)

I Serve and Work closely with:

- Boat Yards and Boat Repair facilities
- Waterfront and Construction Companies
- Vessel Educational Groups (Center for Wooden Boats, Sea Scouts, etc.)
- Underwater Repair and Maintenance Companies
- Shipwrights, Custom Woodworkers and Artisans
- Boat Owners, Buyers and Seller
- Insurance Companies for (Coverage and Claims)
- USCG
- Law Enforcement
- Boat Dealers and Brokers
- Historical Ship Societies and Preservationists
- Boat Owners (ALL VESSELS and Floating Properties)

I understand:

- The task you have and the complexity it encompasses
- You believe you are trying to serve the better good of our environment, citizens, business' and property owners
- You may not enjoy the privilege of knowing and truly caring about the target citizens, business owners and land owners and all you are affecting, and you should
- You are simply trying to do your job so you can retain that job

I am Concerned:

- The City of Seattle is to failing to enforce existing Laws and Regulations choosing to impose Financial, Economic and Basic Freedom Issues of our Citizens on their properties and in their homes – before they take any necessary steps
- That the extremely knowledgeable, educated, credentialed and concerned stakeholders were not involved from the beginning on this project (SMP)
- The City of Seattle is overreaching Laws and Regulations which are in place and not being enforced to the Cities financial gain (this has happened before)
- That people, like myself, only heard of the SMP within this calendar year.
- That outreach was not made to each citizen – but a perceived penalizing approach is being taken (economically – business' will close – the water front that makes Seattle~Seattle will change (it may be your hidden intent remove all waterfront business and have condos surround a pristine boat-less lake supported by one of our wealthy citizens)
- Seattle's improper defining houseboats and house barge has caused havoc in the Banking and Insurance Business (when in fact many of the barges vs houseboats are identical in nearly every detail, designed by the same builders, used for the same purpose) These definitions should be re addressed, if not eliminated.
- The result of the SMP as is will negatively affect ALL INVOLVED
- That in this fragile economic time that our tax dollars are being spent on concerns like this rather than using the Laws and Regulations we have in place.
- That where the City has had an opportunity to provide Lake Access and View Access at places like street ends, that there is no tru access to the water, and that the plantings around these areas prevent anyone other than a path walker to take a look.

- That efforts to protect the environment of Lake Union and the Ships Canals to Lake Washington will continue to be negatively impacted by ALL the uplands run off from Industries, farms and homes from the waters edge to the top of the Cascades – START THERE! The word “thimble” comes to mind!

I believe:

- The waterfront business, property owners, users, boat owners, work force, etc. are being singled out as the Perceived Offenders of the shoreline
- That attempts are being made the focus of control measures unduly on these entities (above) where the bulk and true troubles (run-off, waste products, toxins, etc.) are emanating from the entire Citizenry of Seattle on their lawns, gardens, yards, garbage, cars, etc.
- That there are Laws, and Regulations IN PLACE which if enforced, and abided by would curtail the issues the SMP holds out.
- That the old statement: A giraffe is an animal created by a committee” is the trouble here.
- It is VERY CLEAR that the committee does not have enough knowledge, experience or scientific support to make these decisions; evidenced by the clear misunderstanding of;
 - ~ vessel definitions (the USCG makes these decisions):
 - the differences in vessels vs floating homes vs barge vs boathouse vs houseboat vs House barge vs work barge vs work platform vs floating offices and shops.....
 - ~ wood and corrosion issues
 - ~Piers vs Pilings
 - ~Repairing, Maintaining, and Replacing buildings and supporting piling
 - ~salt water vs fresh water affects on wood and other products
 - ~economic and practicality and viability of suggested option
 - ~safety issues for private property owners (land, marina, boats, and residences)
 - ~durability of products / economic life
 - ~feasibility of and practicality of demands
 - ~regular workings of water related economic endeavors which will be hindered
 - ~IRS Use as a second home (residence)
 - ~environmental impact of recreational vessels vs Residents/Live~Aboard
 - ~National Security, water access vs gates, etc
 - ~AND Many other things to extensive to list

The City would benefit from working with the business and property owners on the language and intent in order to create a more workable document for all.

- That houseboat owners are being unfairly targeted vs all other vessel on the affected waters being use in the same manner
- That the focus on houseboats is unwarranted and that the whole picture (all vessels) should be addressed as weekend users are generally not as environmentally conscientious as Live~Aboards and those who work around the water who know it is their HOME and livelihood
- *Residents should not have to register to live in their homes any more than a land home owner should have a special permit to live in their house!*
- That Marina Owners should be free to protect, properly maintain and develop their property and protect their long term investments.
- That a marina (Private business) should choose how and to whom they rent, whether or not they have a shower or toilet facility and how they label it (Minutia!) *This smack of coming into one’s home and telling them they need to add bath, label it and not mingle sexes – this is America!*

I would offer:

- A Conference of City Managers was held in Seattle around a year ago. One of the attendees (from Florida) uses an excellent and workable process for city management. He has the citizens form their own community groups, supplies a representative (one) to them from his office, the group prepares their needs or addresses their challenges in THEIR community, and the City Manager supports it. Our City could put our best foot forward and ASK the Citizens and Stake Holders to help to make this plan. (Yes, I understand that you believe you did do that) *The City of Seattle would be well served to take this approach in THIS and many other challenges.*
- There is an opportunity for Grouping Entities to make acceptable controls to meet the goals (Boat Yards, Marinas, Combined use, Residence)
- There is no one single solution for all manner of entities involved and that each type could be addressed by a representative Community Groupings
- That taking advantage the hundreds of years of experience and care represented by those whom this SMP affects, and using it for the good of all would be the MOST PRUDENT APPROACH: Start with them! Learning that the stakeholders bring to the table would be to the benefit of the CITY, they have made mistakes and learned from them~ they are the ones. To have this Collective Resource and NOT USE IT is sinful.
- That given a task to solve, our Citizens will do it! You can trust them!!!

Now, Margaret, I can tell you that I have not addressed any single issue specifically, but I can only to those that I am especially knowledgeable about and those I am most concerned about which affect me and those I serve. ***I personally know more about the Houseboat, House Barge, Floating Home, Recreational Vessels, Boat Houses, Floating platforms and Work Barges, than any other Marine Surveyor in the Northwest and am offering my services to share what I know. I am intimately familiar with tankage needs, limitations, and capacity issues for Black, Fresh and Gray Water and the concerns of Bilge Water Discharge. You can look to me too, for wood issues and corrosion issues. These specific issues are what I offer my expertise; please feel free to contact me, I want to help.***

I am also willing and supportive of those who would willing step forward and contribute as well, to a Citizen Based approach to the task of addressing the SMP challenges which have been pointed out so clearly by the responses you have received. And that although this letter of concern could sound like ravings, please READ it, do not respond to it with a CANNED REPLY, and know this, I have read the letters I have been copied that have been sent to you. I support their concerns and understandably do not fully agree with all of their solutions ~ but they are on the right track!

I work with concerned folks who have and are meeting with you on these issues of great concern and they are generally very pleased with your receptiveness to the concerns and willing to adjust and amend the SMP Draft to a truly workable document, although I cannot eliminate that fact that in ways they do feel threatened for their livelihoods, and investments are at high risk by certain aspects of the SMP. A citizen should not feel that way, they should be sought out to be part of the solution to problem and their experience and knowledge honored! We are a very lucky city to have such valuable resources to us – OUR Citizens!!! Let's get back on track and show America how we do it!

Without repeating them here, I will reference those submissions you have in hand and have promised to read and respond to, so that you will know that I have “Hay-Hay’d” them and they will double in weight if you are truly listening and are truly concerned, which I hope and trust you are. From the comments in these letters you can clearly see there is a wealth of knowledge and a true concern for the nearly impossible and cost prohibitive position the SMP Draft is presenting – it is not SERVING THE PEOPLE. (I fear it is political busywork, costing excessive tax dollars, where alternative resources and solutions are available)

LULA – Lake Union Live Aboard Association
Draper_-_DPD-SMP_Letter_5-27-2011
seattle_shoreline_letter_5-25-2011[1] Susan Dills
SMP_Comments_5-25-11.

Jim Francis Comments SMP Draft Submitted May 2011.doc with Margie Freeman’s answers
SMP-ResponseLetter-05.26.11.pdf

SMP.Comment.ChinookMoorage.doc.docx

And others not referenced here which I know are/will be submitted

Margaret, in my perception, the Maritime Community is the last true community we have; those citizens and sailors whose lives depend upon the resources provided by and to them bonds them together. Never is a truer, tighter community found. The Maritime Laws and the strength of our community as citizens of the world come from centuries old tradition focused on the Protection and Safety of those at Sea. Although it may look like a bunch of boats and boatyards, it is far greater cause for a far greater need! No group is more concerned, more connected, and more protective of the environment than mariners and those who support them.

I appreciate your willingness to have arranged these critical time extensions and hope that should additional time be needed to do the very best for all concerned, that it too will be arranged. Thank you Margaret for the attention you have given to us all, and continue to give. I trust that a friendly conclusion will be accomplished which supports and not penalize or threaten those who have been the Seattle Maritime Community, making it what it is today through years of experience and commitment to those they serve.

CALL TO ACTION:

I would invite the City to continue to take more time to work on the proposed SMP and to take a whole new approach to doing so using TRUE Citizen Involvement! To read carefully and listen to what the input is saying, head it, and incorporate it.

We have time, we can Make Time to do the RIGHT THING!

Most Respectfully Submitted;

Lynne H. Reister

Cc: Diane Sugimura: diane.sugimura@seattle.gov (Director, DPD)

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May 30, 2011

Maggie Glowacki
Senior Land Use Planner
Department of Planning and Development
City of Seattle
700 5th Avenue, Suite 2000
PO Box 34019
Seattle, WA 98124-4019

Re: Comments on the first draft of the 2011 Seattle Shoreline Management Program (SMP)

Dear Ms. Glowacki,

The Lake Union Association appreciates the opportunity to comment on the draft SMP and very much welcomes the ability to see the results of these comments in the second draft. The Department's willingness to create a second round of public comment is not taken lightly and we do look forward to working with staff in the coming months.

The Lake Union Association (LUA) represents private property owners who have bought land and run their businesses from inside the Locks to Webster Point, the fresh water area generally known as the Lake Washington Ship Canal (the Ship Canal). This particular region is a melting pot to a wide variety of economic uses that include industrial, commercial and residential. It is also blessed with parks, trails, views and the water itself that is a magnet for passive and active users and thus contains many of the environmental designations in the draft SMP.

The Ship Canal is a man-made creation that lowered one body of water, raised another, required substantial amounts of bulkheads and armoring and created the hub of activity that we cherish today. There is very little, if any, original shoreline because the installation of the Locks helped to foster dense urban development; however we have built one of the most unique areas in the Pacific Northwest that commands local, national and international recognition.

It has been a challenge to digest both the SMP as it is proposed, how that translates to its intent and to meld that with the guidelines of both the WAC (173-26), the RCW (90.58) and the Seattle Comprehensive Plan. We have great respect for the task of balancing economic and environmental resources; however we believe that it is not a one or the other scenario and both goals should be weighed equally.

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Property owners are extremely interested in two things: keeping property viable for use and being good stewards of the environment we depend upon.

We have attached a matrix that includes specific concerns and suggestions for resolution. We also have an attached letter that outlines general observations, comments and legal questions that deal with goals and policies.

The direction given to landowners regarding shoreline development will shape both the economy and the environment for decades. We would ask that the City staff review in detail the standards, uses, BMP's and definitions with the affected industry, property owner, or end user for use in the second draft.

We appreciate being able to participate to produce a workable, predictable program.

Sincerely,

Margaret Freeman
President, Lake Union Association

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General comments regarding the draft Seattle SMP in the Lake Washington Ship Canal (the Ship Canal) which is an area between the Locks and Webster Point:

- The SMP is inconsistent with goals of the Shoreline Management Act (SMA), Growth Management Act (GMA) and the policies of the Seattle Comprehensive Plan in enough areas to be of concern.
- The SMP document is unnecessarily complex and inflexible.
- The fact that economic use of the shoreline does not automatically mean a loss to the environment has not been considered.
- Uses on property need to be flexible; businesses need to be encouraged – this is not readily apparent in the SMP
- Historic use of the Ship Canal has been “industrial”, “ a working lake” with very dense development. It has produced an outstanding economic engine that needs to be fostered.
- The same environmental designations will have different effects in different geographical areas and should not be ‘painted with the same brush’.
- Reference to other regulatory laws, requirements and Best Management Practices will go far in streamlining the document and creating less confusion.
- There is a concern that the draft forces owners into a ‘no new construction, no expansion, no upgrade’ frame of mind with resulting denigration of facilities.
- Definitions need to be reviewed in detail with users.
- There is not a clear delineation between requirements or permits needed for new construction and when changes in use in an existing structure require new standards.
- Just as there are ending dates for issued permits, there should be completion dates for the issuance of permits. An exploration of this concept should be held during the second draft in order to include it in the code.
- There is heavy reliance on Director’s rulings throughout the draft.
- We urge collaboration between staff, landowners and waterfront businesses in crafting the second draft.

Shifting of responsibilities [SMC 23.60.002 B.]

*“It is the purpose of this chapter to implement the policy and provision of the SMA and the Shoreline Goals and Policies of the Seattle Comprehensive Plan by regulating development uses and shoreline modifications of the shorelines of the City in order to: 1) protect **and restore** the ecological functions of the shoreline areas.*

The City appears to inappropriately shift all responsibility for restoration of ecological functions of shoreline areas to private property owners, specifically by regulating development.

In contrast, the Shoreline Guidelines (WAC 173-26-176(3)(a) and RCW 90.58.020) acknowledge that “alterations of the natural conditions of shorelines of the state, in those limited circumstances when authorized, shall be given priority for industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state...”

In other words, one of the State goals is the utilization of shorelines for economically productive uses and in .002 the City’s Policy does not recognize that ‘restoration’ may be achieved by a number of means and should be pursued through the regulation of development or on private

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property only to the extent that it is consistent with all relevant constitutional and legal limitations. [WAC 173-26-186 (4)(5)] It should not be a burden imposed solely on private property and must be commensurate with actual impacts and limitations on overreaching and unlawful exactions.

We would request recognition that there are urban areas that are densely used and highly altered from their historic states. Current and future land use practices would make them unlikely candidates for full ecological restoration.

Legal limitations of area [SMC 23.60.004]

*“The Shoreline Goals and Policies and the purpose and locational criteria for each shoreline environmental designation contained in **and adjacent to** the Shoreline District where the intent of the Land Use Code is a criterion and the proposal may have an adverse impact on the Shoreline District.”*

The proposed language must be changed to reflect the legal limitations set forth in WAC 173-26-186(6). The regulatory function is limited to the territorial limits of shorelines of the State and cannot be extended as set forth by the City.

Submerged Land Calculations [SMC 23.60.016(5)]

Within the Shoreline District submerged lands are not calculated in counting lot coverage.

This is a new measurement technique would limit the ability of shoreline leaseholders or fee owners to count submerged land when calculating lot area. It is inconsistent with the Guidelines Policy Goal of utilization of shoreline for economically productive uses that are particularly dependent on shoreline location or use. [WAC 173-26-176(3)] and is also inconsistent with SMC 23.60.958 which allows submerged areas to be counted. From a landowner's viewpoint, full price was paid and real estate taxes continue for the entire parcel.

We would request this provision to be deleted.

Ecological restoration and mitigation program (SAMP) [23.60.027]

This section could be extremely successful in placing money where restoration efforts would do the most good.

We would request clarification of the section: when it would be required, where it would be applied and the costs to the user associated with pay-in-lieu or habitat credits.

Shoreline Conditional Use Process [SMC 23.60.034(B)(4)]

*“Can mitigate **all** adverse effects to ecological functions.”*

This provision also has to be met for Shoreline Substantial Development Permits [23.60.029 (C)]; Special Use Permits [23.60.032(D)] and Shoreline Variance Permits [23.60.036(A)(4)]

This criterion is all inclusive, can be used to deny a permit on its own merits, places unnecessary restrictions on development and becomes physically impossible to fulfill.

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We would recommend working with landowners and users to revise the need for a conditional use permit and to revise the language concerning adverse effects.

View Protection [SMC 23.60.124(D)]

“Nonconforming structures – Portions of existing principal structures on dry land may be reconfigured as part of a repair or replacement if... (b) views from neighboring residences are not affected;”

It would appear that this standard is inconsistent with Washington law concerning protection of private views. Private residences are not entitled to view protection and preference over water-dependent industrial and commercial uses under the Guidelines. [WAC 173-26-176(3) and RCW 90.58.20]

We would request any reference to protection of views from neighboring residences be stricken.

Reconfigured nonconforming structures [SMC 23.60.124(I)]

“Nonconforming structures that are destroyed by fire can be rebuilt, but if the structure is reconfigured, it must result in reduced impacts on ecological functions as compared to the configuration immediately prior to the time the structure was destroyed.”

The proposed code appears to change most, if not all, of the commercial and industrial buildings in the Ship Canal into non-conforming structures. It also renders a huge number of uses into non-conforming uses. This provision then necessarily becomes more critical for those wanting to use the shoreline for economic reasons.

There appears to be an arbitrary assumption that any reconfiguration will merit the need for a net reduction in ecological impacts. Both the Guidelines and the Code acknowledge that ‘alterations of the natural conditions of shorelines...shall be given priority...’ [WAC 173-26-173(3)(a) and RCW 90.58.020].

We would request removal of this standard and a revision of the Table of uses to prevent existing buildings and uses from becoming nonconforming.

Public Access [SMC 23.60.164(I)(3)]

“Public access shall be provided – (with General exceptions).”

There now appears to be a requirement to prove that there exists ‘inherent security requirements’ or that ‘unavoidable interference with the use would occur’. Again, this is inconsistent with the Guidelines Policy Goal of utilization of the shorelines for economically productive uses that are particularly dependent on shoreline location or use. [WAC 173-26-176(3)]

We would request deletion of this provision.

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Standards for Piers – non residential [SMC 23.60.187(C)]

*“Piers and floats allowed if the applicant **demonstrates** they are necessary to accommodate boat repair, or off-loading of goods or materials to and from vessel uses...”*

*“Covered moorage is prohibited. Over water work sheds are allowed if they are located in UI and UM outside of Lake Union and Portage Bay, accessory to a **legitimate** vessel repair use and maintain the maximum light permeability feasible.”*

This proposed change is inconsistent with the Guidelines Policy Goal of utilization of shorelines for economically productive uses that are particularly dependent on shoreline location or use. [WAC 173-26-176(3)]

A show of necessity is a very burdensome policy to all waterfront businesses seeking to reconstruct, build or site piers, floats or sheds and should be eliminated. Covered moorage rules are similarly inconsistent with the Guidelines. Not allowing work sheds inside of Lake Union and Portage Bay creates an arbitrary and inconsistent standard for uses in the same designation.

We would recommend eliminating the provision.

Slip-side Vessel maintenance [SMC 23.60.187(D)]

“Slip-side vessel maintenance is limited to interior vessel repair and cleaning, replacement of running gear and other cleaning and repair activities, excluding hull scraping, which is prohibited. Exterior scraping, sanding or cutting is limited to an area that can be contained by the number of people working on the vessel calculated at one person per 10 linear feet of one side of the vessel during any period when material may escape into the water.”

These are industry standards that are arbitrary and unpractical as well as being inconsistent with the Guidelines Policy Goal of shoreline utilization.

We recommend deferring to the Best Management Practices for the industry.

Standards for Shoreline Stabilization [SMC 23.60.188.(D)]

*New hard engineering – is prohibited (sheet pile, rock, concrete) unless a geotech report conclusively demonstrates that **all** of the following conditions exist: Erosion is not caused by upland conditions, an existing principal structure or access to an existing principal structure is in imminent danger or erosion damage, non-structural or soft-engineering is infeasible, the proposed hard engineering would prevent or reduce structural damage, and installation would result in no net loss of ecological functions and will not result in adverse impacts to adjacent properties.”*

These standards are fairly impossible to meet (especially the requirement for imminent danger), are arbitrary and inconsistent with the SMA Guidelines.

In particular, the Ship Canal is armored to hold up streets, canals (cuts) and fill.

We would recommend revision of the language by working with the users of the Ship Canal.

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Uses in Conservation Waterway [SMC 23.60.310] Table A
C.12d&e Sales and Service, Marine (Vessel Repair, Major and Minor – Prohibited.)

This standard is inconsistent with existing Code which allows such uses to extend into Waterways, adjacent to vessel repair shoreline uses.
It is inconsistent with the Guidelines Policy Goal of utilization of shorelines for economically productive uses [WAC 173-26-176(3)] and RCW 90.58.020.

We would recommend revising this Table of uses as well as tables in the UC, UG, UM, & UI designations to allow a broader number of uses consistent with the built environment. In particular, we find it extremely difficult to site office use – maritime or otherwise. The provisions ignore that businesses need office space to operate and that non-maritime office use of buildings is often necessary to complete the economics of the property.

23.60.002 THRU 23.60.199		Comments from LUA	
SECTION	LANGUAGE	PROBLEM	SOLUTION
23.0.020			
A.3.	Shoreline Substantial Development Permit	CU requires SCU permit even if no SSD Permit is needed If no SSD permit is needed, then the project is less than \$5,000. and should not require any permit.	Consider deletion of this section.
23.60.090 Uses Standards			
C.	Principal/Accessory Uses	Unclear language	Work with industry to revise.
23.60.092 Temporary Dev. & Use			
A.	Dev. limited to floats & uses < 4 weeks	Floats are an allowed WD use. Does this mean floats not in dev. use cannot be in the water?	Work with industry to revise and clarify intent.
23.60.122 Non-Conforming (NC) Uses			
B. 2.	Conforming structure with NC use	Can't be rebuilt.	Replication of a conforming structure should always be allowed.
E. 1.& 2.	Reconfiguration of NC moorage	Creation of NC moorages has occurred in the new Table of uses creating confusion and undue permit requirements.	Work with industry to include uses in our built environment. There is great concern that all structures and most uses will be NC under this section. Language as to when it is allowed to rebuild is confusing & may be inconsistent with RCW 90.58.030, SMA Guideline Policy and WAC's.

23.60.124	Nonconforming Structures		
C.	Rebuild o.k except over water then: D.2	No grandfathering provisions with whole page of subsection requirement.	Replication should always be allowed. Choose 23.60.124 B language for overwater structures
D.2 a,b,c.	Limits portion of lot	We are awaiting GIS details, but believe that in UC most dryland areas are under 50'. To require 30' of setback in a 65' lot depth is unreasonable.	Give incentives to lower the footprint Those that are in UM/UI should have zero setback Views from waterfront residences should not be considered D.2.c.
I	If rebuilt, NC structures must result in reduced ecological impacts	Arbitrary to conclude that reconfiguration will merit need for net reduction in impacts	Remove standard.
23.60.150	Development Standards		
A.	No net loss of ecological functions	Throughout the draft does not recognize existing uses i.e. If a dry dock is moved from one location to another, there is no net loss of functions, but the code operates as if there is.	Work with industry to revise and clarify .
C.	All shoreline developments ...to prevent need for shoreline defense and stabilization measures...	Does not recognize an artificial canal that mostly requires hard stabilization.	Amend the language to recognize unique requirements for stabilization.
I.	All in-and over-water structures shall be... located...to keep adverse impacts.. due to shading, to a minimum	Language does not recognize WD uses nor structures that cannot be moved w/o shoreline penalties.	Amend the language to speak to "new development" and release what will become non-conforming structures from mitigation or penalties.

K.	Pilings treated with creosote shall not be repaired to extend the life of the piling...	Language does not recognize situations where it is physically impossible to replace piling nor the associated economic costs.	Work with the the industry and property owners to revise the language.
N.	Facilities, equipment and established procedures for the containment, recovery and mitigation of spilled petroleum products shall be provided at recreational marinas, commercial moorage...	Businesses can have boom & oil spill pads available, but it is unclear how to mitigate. This provision leaves no room for use of third party providers	Work with the the industry and property owners to revise the language.
P.	...projects involving concrete, a concrete truck chute..	Leaves no room for small concrete projects	Amend language
T.	Discharge of water... including heating or cooling systems shall not discharge water that is warmer than the ambient freshwater temperature...	Systems on board vessels can include heat pumps	Amend language
23.60.158	Standards for mitigation sequencing.	It is unclear when mitigation would be required and how it differs from current SEPA requirements.	Work with the the industry and property owners to clarify and revise the language.
23.60.162	Standards for parking requirements	This section is problematic with narrow depth lots and in UM, UI zones. Landscaping may not be possible. Reduction of parking by 20% may make a property non-compliant	Work with property owners to revise the language.

23.60.164	Public Access		
		Requiring public access on private property may destroy a fundamental attribute of property ownership in the ability to exclude others.	Work with property owners and land use attorneys to assure that the SMA Guidelines are being correctly interpreted. Work with property owners and land use attorneys to assure that the requirement to grant an easement is not a taking. It is suggested that the granting of public access have incentives rather than requirements attached to it.
A.2.	The minimum regulated public access shall consist of an improved walkway at least 5' wide on an easement 10' wide, leading from the street..directly to a waterfront use area or to an area on the property...	In many areas of the waterfront, there are no physical means of meeting these requirements. Also, there is no provision that additional public access will not be required each time a permit is requested.	Work with property owners to revise the language.
23.60.164	View Corridors		
B.3.	Structures, including but not limited to...may not be located in view corridors	It is not clear that these structures would include covered moorage or not.	Work with property owners to revise the language.
23.60.182	Standards for Dredging		
C.	Dredging...is necessary for assuring safe and efficient accomodation of existing navigational uses.	Existing navigational uses may be restricted because of the depth of the water.	Delete the word "existing".
23.60.187	Standards for Piers & Floats & overwater structures		
C.	Non-residential development	What is feasible and what is practical have two different meanings.	
C.2.c.	maintain the maxium light permeability feasible.		Work with property owners to revise the language.

C.3.	Wood treated with ... or comparable toxic compounds is prohibited for decking or piling.	The marina industry is being given contradictory information on what is an allowed treatment for wood.	Defer to the standards set by the American Wood Preserver Association should treated wood be necessary to use.
MARINA STANDARDS - COMMERCIAL & RECREATIONAL			
23.60.200			
B.1 -10	BMP's, waste, maint.	BMP's are already written & required by DOE/DNR	B.1 Defer to DOE guidelines and reference them as needing to be included in moorage agreements. B.2 Defer to DOE guidelines
B.3	Upland restrooms	# of restrooms & hours of operation are overreaching. & interfere with management & business decisions.	B.3 'Lavatory facilities connected to a sanitary sewer or and adequate to serve the marina shall be provided.' Eliminate word "upland".
B.4.	All types of waste	No upland may be available to handle bilge & fuel waste.	B.4 Waste: Signage as to how to handle sewage, bilge, fuels should be posted. (DOE requirements). Keep "facilities can be on/off site."
B.4.a.	Sewage & Bilge waste	>3,500 l.f. OR slips > 20' Boats greater than 20' would include any marina.	B.4.a. Increase l.f. to 6,000 l.f. and B.4.a. Eliminate > 20' part of sentence which would include all marinas.
B.4.a.2	Bilge	Bilge water can be hazardous waste	B.4 a. 2. & b - Signage to handle all waste materials. Allow third party providers to handle waste.
	Garbage	Mixes bigger & smaller marinas with above	All marinas should provide garbage disposal facilities; not all can provide rest of section requirements. We would suggest a new draft of section B.4.

B.5.	Marinas shall have equipment and post procedures on-site for the containment, recovery & mitigation of spilled petroleum, sewage and other hazardous materials.	Mixing of recovery equipment for petroleum products along with sewage, gas, etc. makes it unclear what is required. Unknown how to recover sewage or gas and many other hazardous materials.	Work with the the industry and property owners to clarify and revise the language.
B.6. a.	Slip-side maintenance of vessels is limited to... interiorexcluding hull scraping...	Mixing of interior work with hull scraping language.	
B.6.b.	Exterior scraping, sanding.. is limited to an area that can be contained by the number of people working on the vessel calculated...	The number of people working on a vessel is not relevant and limits how, when and where the # of people are employed.	Work with the the industry and property owners to clarify and revise the language.
B.7.	All buildings and open areas used for boat and/or trailer storage are required to be screened with natural existing vegetated buffers or planted landscaped areas.	Unclear purpose for WD use. Too broad a statement. May not be achievable in many areas.	Delete language
B.8	Overwater projections lifts & moorage restrictions	Eliminates WD uses. Eliminates hand launched boats, use of cranes, view platforms and economic use of large portions of property.	Delete language.

B.9.	Piers & floats shall be grated ...maximum extent feasible...	Use of the word 'feasible' does not take into account economic factors.	Work with the the industry and property owners to clarify and revise the language.
C.	Additional Standards for Recreational Marinas		
23.60.200	Public Access is required as follows:	Public access via marina customers is inherent. In the UC, virtually every waterfront property has some form of a marina. This section appears then to create a series of paths on private property that really should be burden born by the general public.	Delete the requirement. Add incentives to property owners for additional public access they wish to include.
C.1.a.	...providing <2,000 lf of moorage and containing only WD/WR uses are exempt	If the calculation is for moorage, then the use is 100% WD.	C.1.a. Change to < 6,000 l.f. in public marinas and eliminate rest of WD/WR use in sentence.
C.1.b	The minimum public access for a marine providing less than 9,000 lf of moorage.. walkway 5' wide on an easement 10' wide... leading to an area located at the water's edge.	Physically impossible in most UC areas; should not be required in UM or UI zones.	Limit public access to public property.
C.2.	Transient Moorage	Eliminates WD moorage	C.2. In public marinas; Restaurant should pay for any transient space.
C.2.a.2.	...required at .40 lf ...for each 1,000 lf of moorage space	income all year long	C.2. Eliminate "or other use not WDWR operates during eve/weekend.
C.2.c.	Transient for Commercial	the limit of greater than 9,000 lf affects 2 known marinas and	Add the word "public"
D.	Transient for Recreational	should be a business decision.	Add the word "public"

E.	Additional Standards for live-aboards		
E.1.a.	The live-aboard vessel is the type of vessel allowed...	Definition of allowed vessel? Is this a business decision?	Eliminate language
E.1.b.	If moorage is provided for a vessel that is used as a live-aboard vessel for 4 or more days in any 7 day period:	Definition makes virtually all 4-day weekenders live-aboards.	E. 1.b. Create a better definition of live-aboard
E.1.b.1	Shower facilities	Are existing marinas grandfathered?	Clarify intent.
E.1.b.2	Vessels with live-aboard use are limited to 25% of the.. slips..and liveaboard use of a commercial fishing vessel	Micromanaging a business decision. This is private property & the City is not our landlord. Commercial vessels may require staffing.	Delete.
E.2	Non-compliance	Liveaboard buys new boat can't use if it over 25% or can use it?	Re-write so that it's clear new vessel is allowed.
E.3.	Registration	Annual registration creates an after the fact process, unclear to purpose and interferes with a WD business decision. It creates unnecessary costs and red-tape.	Delete registration process.

E.3.b	Violations	Process is 23.90	Delete along with the registration.
		Unclear as what fines are, how determined or where to find them in 23.90.	
23.60.204	Standards for house barges		
A.	New house barges are prohibited.	The definition of house barges would include all vessels. It is also unclear why a vessel would be prohibited.	Work with the the industry and property owners to clarify and revise the language.
B.	Permit not transferable	Does not allow owner to buy a new house barge replacement.	Consider amending this sentence to allow junk vessels to be replaced.
D.	Overboard Discharge	Prohibited	Amend language to black water discharges. would require marina to add sewer connections.
E	BMP's	BMP's for marinas are in existence	Defer to DOE guidelines
H.2.	Enforcement	Chapter 23.90 is unclear	Enforcement and fines need to be clearly stated.
23.60.382	URBAN COMMERCIAL (UC)		This is mostly a Ship Canal environment designation. We are waiting for the GIS maps to determine the amount of dry land available to most properties inside the Locks.
A.	TABLES	Only 5 outright allowed commercial uses plus accessory parking on waterfront lots.	Allow other uses without penalties or requiring habitat units. Work with property owners and industry to identify needs.

B.1.	Prohibited Uses are: Eating/drinking establishments, Entertainment uses, Custom & craft work, Sales & service, general and Offices	Forbids most commercial uses.	Recognize and foster the already built commercial environment without penalties. Clarify to encourage business uses; work with landowners create language fostering a 'mix of uses'.
B.2.	Requirements to meet office use.	Most buildings in UC are built over the water with less than 50' in lot depth - making them nonconforming structures.	Revise the language so nonconforming structures are not created.
		Most UC buildings require non WD/WR uses to fill an economic reality.	Recognize that offices above the lowest floor help keep an economy vibrant.
	Example:	It is unclear that an office for a tugboat use would be allowed.	Revise the Table to allow more uses and recognize WD/WR office use for allowed businesses.
B.3.a,c,d	Requirements to allow prohibited uses	Uses are tied to a long list of interrelated benchmarks and requirements which include public access, habitat units, historic vessels,	Work with landowners to streamline and clarify need.
	Requirements to provide:		
B.3.d.4.	Moorage marked as being exclusively for commercial fishing vessels at rates equivalent to that charged at public moorage facilities of 500 l.f. or greater	First, the need for moorage for fishing vessels can be seasonal with no economic return when unoccupied. Second: setting rates for private moorage is considered price fixing.	Work with moorage owners to clarify intent. Work with moorage owners to amend the language.
B.3.d.5.	Saltwater moorage of 1,500 l.f. or greater	In the UC designation, this eliminates most of the users.	Include the term freshwater; or eliminate the term saltwater.

B.4.	Prohibited uses on submerged land, except allowed in existing structures as a SCU if lot depth is less than 35'... and 23.60.382B.3.c. are met which states: 14 habitat units per square foot of gross floor area of a new use are provided within the same Geographic Area as proposed project.	Generally changing the use inside an existing building does not affect the zero net loss of ecological functions. Shoreline Conditional Use (SCU) is a difficult permit to obtain	Work with the landowners and property users to streamline the change of use process and requirements. Consider changing the definition of Urban Commercial to reflect the built environment.
D.	Prohibits Offices over the water.	A confusing provision considering the other sections just quoted.	Recognize that the UC designation is a vibrant mixed use area.
F.2.	Calculation of Steet Level	Most buildings in the UC zone have a lower floor than the street level which WD/WR uses depend upon.	Change the language to 'lowest floor' or 'floor closest to OHW'.
23.60.384 Shoreline Modifications			
H.2.	Hard shoreline stabilization is allowed as a special use.	A large amount of the shoreland inside the Locks necessarily uses hard stabilization and the SU permit is a difficult one to obtain.	Work with the landowners to amend the language.
23.60.386 Height			
A.	Maximum Height is 30' with exceptions	There are four separate height zones and the reasons are unclear. Height should be a minimum of 35' to allow for construction of commercial ceiling heights.	Work with the landowners to clarify and amend the language.

23.60.388	Lot Coverage		
A.1	50% of submerged including structures, floats & piers	Overreaching; is at odds with fostering WD/WR uses.	Work with the landowners to clarify and amend the language.
A.2	50% of dry land	Overreaching exaction especially	Work with the landowners to amend the language to address
C.1	65% of dry land	in conjunction with other	a legitimate public problem without being oppressive.
C.2.	Single Family	lot setbacks & requirements.	
23.60.390	Setbacks		
A.	15' setback for WD/WR use	Does not recognize narrow lot	Work with landowners to amend the language.
B.	35' setback for non WD/WR uses	depth in most UC areas.	
23.60.392	Public Access		
B.1.	On private property	Inconsistent with SMA Guidelines Policy for WD uses.	Work with the landowners to amend the language to use incentives for providing public access.
B.1.b.	In development and uses that are not WD	Most properties in UC have a component with non-WD uses; this provision becomes contradictory when non-WD is allowed on upper floors.	Work with the landowners & industry to amend the language to use incentives for providing public access.
B.1.c.	Marinas, with exceptions	Inconsistent with SMA Guidelines Policy for WD uses Marinas are a WD use and have not created a public evil.	Recognize that the SMA has Governing Principles that it is not solely imposed on private property and must be commensurate with actual impacts and constitutional limitations on overreaching and unlawful exactions.
B.1.d.	Existing yacht, boat and beach clubs that have facilities that are not WD over water	Retroactive requirements in an already built environment.	Amend the language to recognize grandfathered uses and structures.

B.3	If a lot contains a mix of uses that require public access and uses that are exempt, public access shall be provided unless the percentage of the dry lot that is covered by uses that are exempt from public access is more than 75%	All together, the provisions require public access on virtually every piece of UC property. This is a burden that should be born on public property.	Amend the language to include submerged land in the lot area and use calculations.
23.60.394	View Corridors		
A.	...35% of the width of the lot shall be ...	Overreaching. Most UC lots have less than 50' in depth and must give up 70' on a 200' width.	Work with the landowners to revise the provision.
D.	...65% of the width of the lot shall be... Seaview Ave.	Overreaching. A 200' wide lot would give up 130' to views.	Work with the landowners to revise the provision.
E.	...shall be reduced to 25% of the width of the lot if WD uses occupy more than 40% of the dry land area of the lot.	Does not recognize submerged land.	Use total lot coverage in all calculations.
23.60.402	URBAN GENERAL (UG)		
A.	Table for Uses	Good flexibility for different uses; however boat moorage becomes a CU	Revise table to include moorage as an allowed WD use.
23.60.404	Shoreline Modifications		
H.	Piers and floats are allowed as a Shoreline Conditional Use if accessory...or water dependent use that is allowed...	Boat moorage is by definition a water dependent use. Piers and floats should be an allowed use.	Revise the language to allow boat moorage outright.

23.60.408	Setbacks		
B.	A shoreline setback of 35' from the OHW mark is required for uses that are not WD/WR.	Given that this zone has minor access to the water, requiring a setback unless WD/WR uses are in place is contradictory.	Work with the landowners to revise the provision.
23.60.412	View Corridors		
	.35% of the width of the lot	Overreaching.	Work with the landowners to revise the provision.
23.60.414	Public Access		
B. 1 & 2.	Marinas and non WD development must provide public access	It is unclear how private property on a steep bank or a college soccer field will provide public access. The Burke Gilman trail already provides access.	Work with the landowners to revise the provision.
23.60.480	Urban Industrial		
A.	Table of Uses	Only 4 outright allowed industrial/commercial uses allowed outright on waterfront lots.	Work with landowners and the regulated tenants to amend the table of uses and revise the provisions.
		1. Protecting industrial uses needs to include flexibility to conduct business.	
		2. UI uses on the Duwamish will be necessarily different from UI uses in the Ship Canal as most waterfront lots do not have the same owner as the upland lot; and the range of uses are limited by the Locks.	
		3. Uses should be allowed outright, especially those relating to manufacturing, warehousing & storage and general sales & service.	

		4. Remember that all businesses need a place to conduct their business in an office.	
		5. Making a business use CU or SU creates a hardship to establish, maintain or expand industrial uses.	
23.60.486	Height		
A.	35'	35' is too strict for support of the industrial uses.	Work with landowners and the regulated businesses to revise the language.
C.	55' for WD/WR authorized by Director if residential views not ...blocked...	Prevents height increases due to view protection for others.	Work with landowners and the regulated businesses to revise the language.
23.60.490	Shoreline Setbacks		
A.	15' setback for WD/WR uses	In an industrial zone no setbacks should be required.	Work with landowners and the regulated businesses to revise the language.
B.	35' setback for open space		
C.	50' setback for non WD/WR		
	Between the two setbacks are development criteria.		
23.60.492	View Corridors	35% of the lot width is excessive. Submerged land is not counted in the equation.	Work with landowners and the regulated businesses to revise the language.
23.60.494	Public Access	Should not be required in industrial areas. Urban Industrial areas are set aside to be the most intensely used, this provision undermines that use.	Work with landowners and the regulated businesses to revise the language.
23.60.502	Urban Maritime		
A.	Table of Uses	Only 3 industrial or commercial uses allowed outright on waterfront lots.	Work with landowners and the regulated tenants to amend the table of uses and revise the provisions. See restriction comments on UI.

B.1.2.b	..non WD/WR commercial uses can occupy no more than 10% of the dry-land area of the lot; except if the lot provides more than 9,000 lf of commercial moorage,...it may occupy up to 20%	Submerged water dependent land not calculated. Only one facility in Ship Canal provides more than 9,000 lf of commercial moorage.	Work with landowners and the regulated businesses to revise the language.
C.	Heavy commercial services are prohibited on waterfront lots.	Most of the water dependent uses occur on waterfront lots in the Ship Canal.	Work with landowners and the regulated businesses to revise the language.
G.	Covered moorage in Lake Union & Portage Bay is prohibited and is otherwise allowed.	Puts UM users at a disadvantage in this geographical split.	Work with landowners and the regulated businesses to revise the language.
H.	Existing recreational marinas on waterfront lots are allowed to reconfigure ...but may not expand. Expansion includes additional over water coverage due to piers, floats, larger vessels, housebarges, or floating homes or additional vessels or housebarges. New recreational marinas are prohibited.	1. Recreational marinas are located in the UM zone because of historic use. Most could not accommodate commercial vessels due to vessel size or configuration of the marina. 2. It really should be a business decision as to whether recreational vessels are allowed. 3. There is enough confusion about commercial businesses doing work on recreational vessels.	Delete this provision.

23.60.506	Height		
A.	...35'	This is too strict for the support of maritime businesses.	Work with landowners and the regulated businesses to revise the language.
C.	...up to 55' with exceptions		
C.1	Not more than 25% of the lot area would be covered by a structure with the increased height.	It is unclear why a WD/WR use is being so restricted.	Work with landowners and the regulated businesses to revise the language.
C.2	Views of upland residents would not be substantially blocked.	1. This is inconsistent with the SMA Guidelines on territory. 2. An upland residential use should not be given preference.	Delete.
23.60.508	Lot Coverage		
A.	Waterfront lots..the following requirements apply:		
A.1	Structures, including floats and piers, shall not occupy more than 50% of the submerged portion of a waterfront lot, with exceptions.	If a property in UM has no dry land, this deeply limits what can be done with a business.	Work with landowners and the regulated businesses to revise the language.
C.1	...up to 65%..that has a depth of less than 50' of dry land.	If a property in UM has no dry land, this deeply limits what can be done with a business.	Work with landowners and the regulated businesses to revise the language.
23.60.510	Setbacks		
A.	...15' for minimum	None of the requirements encourage a urban maritime business.	Work with landowners and the regulated businesses to revise the language.
B.	...35' for open space		
C.	...50' for non-WD/WR uses		

23.60.512	View Corridors		
A.	...35% of the width of the lot... with exceptions and reductions in B - D	None of the requirements encourage a urban maritime business.	Work with landowners and the regulated businesses to revise the language.
23.60.514	Public Access		
B.	Private Property Public access ...shall be provided and maintained... in:	Urban Maritime areas are set aside to be more intensely used, this provision undermines that use.	
B.1.	Marinas	This may result in public access into unsafe conditions.	Work with landowners and the regulated businesses to revise the language.
B.3.	Developments and uses that are not WD...	Any non-WD use triggers the public access condition into areas where the public may not be safe.	Work with landowners and the regulated businesses to revise the language.

Nickerson Marina LLC

Margaret Glowacki
Department of Planning and Development
City of Seattle
700 5th Avenue, Suite 2000
Seattle, Washington 98124-4019

Re: Comments on 2011 Draft Shoreline Master Program

Dear Ms. Glowacki:

Nickerson Marina is located on the Lake Washington Ship Canal, east of the Ballard Bridge. It has approx. 75 slips. It is a fully developed marina, built in 1965, and has always been open to live-aboards. Nickerson Marina has shower and restroom facilities, and on site parking. We feel that the SMP should not arbitrarily try to limit the number of live-aboards or require an annual registration and fee. These new proposed requirements are not only not necessary, they take away the ability of the marina owners to keep marinas fully occupied. Income from live-aboards has always been a necessary source of income to most marinas.

We respectfully request the grandfathering of existing moorage slips used for live-aboard purposes, and the removal of the annual registration and fee for live-aboards.

Proposed SMC 23.60.162(E) requires that additional parking or reconfigured parking "remove to the maximum extent FEASIBLE contaminants from surface water". We request that the wording be changed to REASONABLE.

Proposed SMC 23.60.152, requires that light transmitting features are required to be installed for all replaced piers, floats and similar structures to the maximum extent FEASIBLE. We request that the wording be changed to REASONABLE.

Proposed SMC 23.60.200 would require marina piers and floats be grated to the maximum extent FEASIBLE. We request that the wording be changed to REASONABLE.

The 2011 Draft Shoreline Master Program is long and far reaching. We don't agree that it should be as restrictive and strict as the first Draft is written. The survival of waterfront business will be severely impacted if the SMP is adopted in its present form.

Sincerely,
Sam LeClercq, Manager
Nickerson Marina, LLC

North Seattle Industrial Association

P. O. Box 70328
Seattle, WA 98127-0328

Eugene Wasserman, President 206-440-2660 eugene@ecwassociates.com
Suzanne Burke, Secretary 206-632-0124

May 31, 2011

Margaret Glowacki
City of Seattle
Department of Planning and Development
700 5th Avenue, Suite 2000
Seattle, WA 98124-4019

Dear Margaret Glowacki

Re: The North Seattle Industrial Association Comments on the 2011 Draft Shoreline Master Code Update.

The North Seattle Industrial Association (NSIA) would like to work with DPD over the next year to provide the Mayor and City Council with the best possible Shoreline Master Code Update.

Through our NSIA meetings and the letters you have or will receive DPD will know the major concerns of maritime/industrial members of the North Seattle Industrial Association. Our members feel strongly that the current code is a threat to their ability to maintain or expand their water dependent/water related businesses in Seattle's UI and UM zones. These businesses provide family wage jobs and are largely represented by unions. The draft code provisions NSIA feels is contrary to Washington state law and the City's own Comprehensive Plan.

The members of our organization are willing to work with your Department and you to develop a much better code. At the last North Seattle Industrial Association meeting our members, the Office of Economic Development and you agree to establish several working groups on various issues. We would like to continue these collaborative efforts over the next year.

1. NSIA feels strongly that there is plenty of time to work on the Code. DPD should adjust its schedule so that the Mayor transmits the suggested Code to City Council in January 2012.

Our vast experience with City Council suggests that the Council would not pass the Shoreline Master Code Update until May, 2012 approximately one year from now.

Given the complexity of the Code it is unlikely that DPD will be able to finish its work on the Code by mid-September. Between mid-September and November 30 the Council only works on the budget. In December the Council will be wrapping up a few small items they will not start on a controversial major update to the Shoreline Master Code.

Since this is an election year, the City Council will be spending January 2012 in reorganizing their committees. So at the earliest the City Council "land use committee" will be able to start the review of the Shoreline Master Code Update will be in February. Given the complexity of the Code it would probably take the Council two to three months to review and approve the revised Code. Council members we have discussed this with agree with our analysis of the time schedule.

Therefore May 2012 one year from now is a reasonable time frame for the City Council to pass the Shoreline Master Code Update.

2. NSIA believes there needs to be two additional drafts before the Mayor submits the Shoreline Master Code Update to City Council. The Update by its nature is a complex document. The number of problems cited by just our members suggests that it would be almost impossible to get the next draft to the level it should be to submit to City Council. If the Code Update sent to City Council is incomplete the City Council will merely ask that DPD fix it before City Council will work on it. Our members are committed to work with DPD through two drafts of the code.
3. NSIA wants to work with DPD to establish focus groups around the major maritime/industrial businesses sectors. Shipyards, Concrete manufacturers, shippers are examples of the sectors focus groups that we would like to set up with you. These focus groups would improve DPD's knowledge of these sectors and with this knowledge DPD can improve the code.
4. At the last NSIA meeting; our members, OED staff and you agreed to setup several working groups on topic area such as drainage, piers and bulkheads. NSIA wants to continue this working group process on other topic areas such as conditional uses, water dependent businesses, etc.
5. NSIA has questions as to what the "Best Available Science" really means. Our members have trained environmental practitioners reviewing the "studies" that you have mentioned to us. They do not feel that these studies are strong

enough to be used as justification for many of the requirements of the draft Shoreline Master Code Update. We will be glad to work with you to review these studies.

6. NSIA wants to learn more about the Alternative Mitigation Program. It has been a while since our members worked with DPD staff on this program. We would like to learn from DPD more of the program details. Much of the Shoreline Master Code Update depends on this program.
7. NSIA wants to work with DPD to see if language already developed by other cities can be used in Seattle's Shoreline Master Code Update.

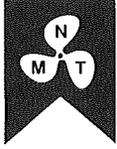
In conclusion the North Seattle Industrial Association views this draft of the Shoreline Master Code Update as a very preliminary draft that needs much work. NSIA members and other maritime/industrial businesses are willing to work with DPD and OED staff on greatly improving this draft and on future drafts.

NSIA looks forward to working with you in the future on the Shoreline Master Code Update.

Yours sincerely,

Eugene Wasserman

**NORTHWEST
MARINE TRADE
ASSOCIATION**



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Dunato's Boatyard

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John Wedeberg & Associates

Bob Walker
Lake Union Sea Ray

*Promoting the
Recreational Boating
Industry in the
Pacific Northwest*

May 31, 2011

Maggie Glowacki
Senior Land Use Planner
Department of Planning and Development
City of Seattle
700 5th Avenue, Suite 2000
PO Box 34019
Seattle, WA 98124-4019

**Re: Comments on the first draft of the 2011 Seattle Shoreline
Management Program (SMP)**

Dear Ms. Glowacki:

Thank you for the opportunity to comment on the first draft of the update to the Shoreline Master Plan. I appreciate your willingness to meet with us and extend the timeline for public comments. As you may know, I work for the Northwest Marine Trade Association, which not only produces the Seattle Boat Show but also is the voice for the recreational boating industry in Washington state. Our 650+ members include boatyards, marinas, boat dealers, boat manufacturers and any other business that is associated with recreational boating. A disproportionate number of our members reside in Seattle. Consequently, we are watching this update closely.

Also, you should know that we are no stranger to responsible regulation. Two key examples come to mind. First, NMTA pushed for mandatory boater education, which is now required for all boaters under 35 in Washington state. Second, NMTA was the driving force to phase-out non-copper paint for recreational boats (Senate Bill 5436). This bill recently passed in Olympia and makes us the first state in the nation to remove this pollutant from the bottom of recreational boats. We are keenly aware that Puget Sound is a special place and have gone to great lengths to protect this national treasure.

You should also be aware just how the Great Recession has decimated the \$3.9 billion recreational boating industry in Washington state. Possibly the best example has to do with boatyards. Last year at this time, there were 92 boatyards. Now, there are 65 with more closing all the time.

I'm confident that you will be receiving comments from the small businesses affected. It's my hope that you will incorporate their

In the Shoreline Management Goals, section LU G57 stresses the need to "encourage economic activity and development (of water-dependent uses) by supporting the retention and expansion of existing water-dependent and water-related businesses on waterfront lots." We implore you to return to this goal.

Seattle is such a unique spot because of the myriad of waterfront businesses, access and life. Please provide an update that respects our region's maritime heritage.

Sincerely,

A handwritten signature in cursive script, appearing to read "Peter Schrapen".

Peter Schrapen, Director of Government Affairs

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May 18, 2011

Department of Planning and Development
700 5th Avenue, Suite 2000
Seattle, WA 98124-1234
Maggie Glowack, Senior Land Use Planner
Diane Sugimura, Director, DPD
Marshall Foster, Director of Planning. DPD

Dear Margaret Glowacki,

We are a shipyard on the Ship Canal just inside the Government Locks employing 63 people in living wage industrial jobs. We are also a ships chandlery. We have three dry docks plus docks where we perform water dependent vessel repair. Two are Marine Railways and one is a Screwlift (syncro-lift) style dry dock. We have owned this property since 1946. This property has been continuously used as a shipyard since the 1890s. We have an NPDES permit and totally impervious lot surface as required by our NPDES permit.

Thank you for this opportunity to comment on the proposed revisions to the Seattle Shoreline Master Plan (SMP); Chapter 23.60 of the Seattle Municipal Code.

We greatly appreciate the recent announcement of a second draft and a second public comment period. We are willing to meet with DPD and work on a refined version that will be created in the coming months. Our suggestion is would be that meetings be scheduled with interested groups who would bring to the table suggestions unified by zone such as UI, UC, UM or by industry. Some natural large Industry groups would be:

- Vessel Repair which would include shipyards, boatyards and in water repair facilities w/shoreline
- Freight which includes all properties where freight moves across their docks
- Moorage all property owners that provide moorage from private to commercial vessels
- Fueling Facilities

A review of the draft SMP has raised a number of questions in our minds that we think need to be addressed which are summarized in this letter.

The draft SMP is written as a retrospective document requiring mitigation retroactively. This does not conform to clear legislative intent. In **Section 23.60.152 General development** it states that **All developments, shoreline modifications, land disturbing activities and uses are subject to the following general development standards:** This wording implies that the standards in the draft apply retroactively to all previous human activity on the shoreline. We suggest the work future be inserted to read **All future developments.** This is just one example where the draft failure to detail legally

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The draft SMP is written as a retrospective document requiring mitigation retroactively. This does not conform to clear legislative intent. In **Section 23.60.152 General development it states that *All developments, shoreline modifications, land disturbing activities and uses are subject to the following general development standards:*** This wording implies that the standards in the draft apply retroactively to all previous human activity on the shoreline. We suggest the work future be inserted to read *All future developments*. This is just one example where the draft failure to detail legally required exemptions and limitations creates a retrospective Code that will probably fail court challenges. The use of the phrase ***no net loss of ecological functions*** without qualifying limitations as to future or past results in retrospective law creation.

- In **WAC 173-26-191 Master program policies and regulation.....**states that ***Some master program policies may not be fully attainable by regulatory means due to the constitutional and other legal limitations on the regulation of private property.*** We believe that this basic principal has been forgotten or ignored in the writing of this draft.
- There appears to be a definitive shift of all responsibility for restoration of ecological function of shoreline from the City or public to private property owners which in method and form we believe constitute an uncompensated public taking of private property rights.
- We also note that the draft wording appears to require mitigation by the property owner for legally permitted existing development the City now declares as damaging to the environment requiring mitigation.
- Essentially the draft deems all structures within the shoreline as nonconforming. The City appears to believe that all human activity within 200 feet of the water is bad, wrong and must be banned wherever possible and otherwise mitigated if allowed even retroactively. This does not conform to the Legislature's documented intent. **RCW 90.58.270(1) "Nothing in this statute shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, dock, fills or developments are hereby granted: PROVIDED That the consent hereinshall not relate to any structures,.....which are in trespass or in violation of state statutes. (2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to the subsection (1) hereof.**
- **WAC 173-26-241 Shoreline uses. under (d) Commercial development. Master programs shall first give preference to water dependent commercial uses over nonwater-dependent commercial uses;** Despite the above and despite making the effort to define vessel repair, major and minor the draft SMP does not allow vessel repair in zones UC, UM or UI. The definition of vessel repair is also at odds with the Department of Ecology. They define vessel repair as Boat yards and Shipyards. DOE's definition separates Boat yards as dealing primarily with vessels under 65 feet in length and Shipyards as dealing

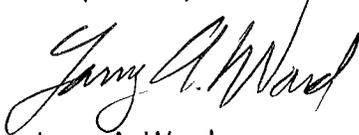
primarily with vessels 65 feet and longer. It appears that the draft is intended to not allow what we do as a shipyard. We would politely disagree.

- **WAC 173-26-201 (d)(ii) Reserve shoreline areas for water-dependent and associated water-related uses.** Harbor areas, established pursuant to Article XV of the state Constitution and other areas that have reasonable commercial navigational accessibility and necessary support facilities such as transportation and utilities should be reserved for water-dependent and water-related uses that are associated with commercial navigation..... The draft language shows no effective effort to address the above WAC and we agree with the comment letter from CALPORTLAND Co. regarding this and ignoring the GMA requirements in the City's Comprehensive Code.
- **WAC 173-26-201 (F)(ii)(A) Application of the mitigation sequence achieves no net loss of ecological functions for each new development and does not result in required mitigation in excess of that necessary to assure significant adverse impact on other shoreline functions fostered by the policy of the act.** Shoreline functions include economic industrial uses by society. This has not been done in the draft SMP.

We believe that the draft SMP needs to be substantially revised or completely rewritten do to the mentioned problems of tone and law.

Attached you will find a 7 page list of specific comments and a 4 pages of additional definitions and corrections to the draft definitions.

Respectfully Submitted



Larry A. Ward
Facilities Manager
Cell 206 335-2979
Tel. 206 784-2562 Ext. 335
Fax 206 784-1986

Draft SMP Section	Draft Language with Highlight	Comments	Suggested Edit
23.60.002 (B)	Protect and restore the ((ecosystems))ecological functions of the shoreline areas.....	This whole section is inconsistent with WAC and RCW. Language is overly broad, redundant to other sections and perscriptive language	Revise
23.60.020 B	a. "Normal maintenance" means those usual acts to prevent a decline, lapse or cessation from a lawfully established state comparable to its original condition, including but not limited to its size shape, configuration, location, and external appearance, within a reasonable period after decay or partial distruction , except where repair causes substantial adverse effects to shoreline resources of environment. b. Replacement of a structure or development ((may be authorized as))is repair ((where)) if such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the originalstructure or development including but not limited to its size, shape, configuration, location and external appearance, and the replacement does not cause adverse effects to shoreline resources or environment;	Reasonable period is not defined and implies a potential loss by property owner of the right to maintain a structure if the City decides that repair was not done in a reasonable period . That would be a <i>taking of a property right</i> . Common method of repair is undefined. This is overly broad and puts the City in the position of determining methods of repair without having any relevance to ecological effect. Use of the term sustantial adverse effects to shoreline with out any qualifying limitations is unclear. Are these new effects or temporary effects or greater than the previous effects or is this talking about any and all negative effects? Why is SMP concerned with external appearance? The relevant WAC and RCWs address the ability to see the water not what a structure looks like. This is clearly over reaching on the part of the City.	Serious work on definitions and limiting qualifiers is needed here for clarity. Wording needs to be proactive not retroactive.
23.60.020 C. 4.	results from normal cultivation, ((shall))are not((be)) considered normal and necessary farming or ranching activities.	You are making all of #4. not allowed?	this is unclear.Please explain. What is the intent and why? If you are making farming and ranching illegal in the City, say so and find out if anyone cares.

Draft SMP Section	Draft Language with Highlight	Comments	Suggested Edit
23.60.039 A.	feasible.....infeasibility	There is no limitation in the draft on what is feasible . This means that anything a reviewer views as feasible regardless of physical or economic practicality becomes required. This term is used many places in the draft and we strongly disagree with its use. Many things are feasible (as in possible) but not many are practical both physically and economically. Many things get tried once but are never done again because they are impractical. The wording requires a property owner do what the reviewer determines to be feasible regardless of cost or other factors. Cost is only considered in feasibility if it is public money involved. There is an inherent unfairness in application here of public versus private.	Change feasible to practical in all places in the draft SMP
23.60.090 A.	A.....1. Boat moorage, off-loading goods from boats, dry-docks , swimming platforms....	This is the only place in all of the draft that says dry-docks are an allowed use. Dry-docks are not identified as allowed in any zone. They should be allowed in UI and UM zones.	Add Dry-docks to UI, and UM zones.
23.60.122 A. & B.	2. Any nonconforming use ((which))that has been discontinued for more than ((twelve)12((()consecutive months ((in the CN, CP, CR, CM, CW,UR, UH, and US Environments or more than twentyfour (24) consecutive months in the UM, UG or UI Environments))shall not be reestablished or recommened. A use((shall be)) is considered discontinued ((when))if:	This is not consistent withWAC 117-27-080(9)	This should be changed to reflect the WAC. (tweleve month during a two year period) There is also no reason to believe this time limit applies to structures or uses or developments existing prior to December 4, 1969 per RCW 90.58.270 and this applies to Conforming and nonconforming uses and structures.

Draft SMP Section	Draft Language with Highlight	Comments	Suggested Edit
23.60.122.C.1. a.	replacement must be commence within twelve (12)months after demolition or destruction	DPD has told me that it takes 12 months to process a shorelines permit. From experience I have seen that it takes someone inside DPD to push shoreline exemption permits thru the process in less time.	Change to 24 months to be consistent with UM, UG or UI environments. There needs to be a definition of action toward replacement . There is also no reason to believe this time limit applies to structures or uses or developments existing prior to December 4, 1969 per RCW 90.58.270.
23.60.150	All development, shoreline modifications....are subject to....	This is retroactive law without limiting qualifiers.	Insert new in front of development.
23.60.152 General Development		This is retroactive law without limiting qualifiers. This implies that all the general development rules apply retroactively up on adoption of code.	Insert new in front of development or rewrite this section completely. Change the word managed to the work maintained . The SMP is not intended to apply to facility operations.
23.60.152 F.	All shoreline developments and uses shall utilize permiable surfacing where practicable to minimize surface water accumulation and runoff.))	This conflicts with NPDES permits that all shipyards are required to have which require impervious surfaces in all areas of our facility. We are not permitted to have any vegetation.	Insert qualifications in the beginning of the SMP that states that this SMP does not overrule existing State or Federal rules such as NPDES Permits.
23.60.152.K	K. Pilings treated with creasote shall not be repaired to extend the life of the piling. Such pilings in need of repair shall be replaced and comply with subsection 23.60.152J	This would prohibit the sleeving damaged or rotten piles or reheading.	Add this: Creosote piling may be repaired by sleeving or reheading to increase life if the method reduces chemical preservative exposure to the environment and or reduces disturbance of contaminated mud.

Draft SMP Section	Draft Language with Highlight	Comments	Suggested Edit
23.60.152.L	L. Light transmitting features are required to be installed for all replaced covered moorage, piers and floats, over-water boat repair facilities and similar structures to the maximum extent feasible.	Impractical for decking on docks exposed to vehicals or heavy equipment. Decking of repair structures and floats need solid decking to prevent tools & fasteners from entering State Waters.	Delete as covered by mitigation sequencing. Eliminate retrospective wording.
23.60.160 B. 3.	3. No structure, including but not limited to new piers, bulkheads, bridges, fill, floats,shall be located within priority freshwater habitat....into or over saltwater habitat....	The draft prohibition does not allow for repair or upgradingof existing marine required uses which require the prohibited structures. This violates legislative intent as shown in RCW 90.58.100 (2) (a) and RCW 36.70A.020 (5)	This section should be revised to show allowed exceptions
23.60.182C & Dfor assuring safe and efficient accommodation of existing navagational uses.	It should be noted that our facility utilizes navigational uses outside of existing maintained channels and sediment is reducing water draft particularly during Lake Washington low water periods to where some vessels are getting close to the bottom accessing our dry docks. This will require maintenance dredging both under our synchro-lift dock so that the platform can be lowered sufficiently and for the area between the currently maintained channel and our dock.	The term existing navagational uses and established navigation channels implies that maintenance dredging could be prohibited. Delete the words existing and established .
23.60.187 C.3.	Wood treated with Or comparably toxic compounds is prohibited for decking or piling.	There are situations where treated wood is appropriate. We eliminate it as much as possible replacing wood piling, pile caps and stringers with steel but the wear deck needs to be wood. We prefer to use untreated wood for decking because it is more durable (not as soft) to the mechanical wear of a working dock. The cost of installing a concrete deck and its lack of flex in an earthquake precludes its use.	Allow wood treated to American wood Preserver Association (AWPA) standards for aquatic use.
23.60.188 E.1	Standards for Shoreline Stabalization	Wording is unclear	Revise

Draft SMP Section	Draft Language with Highlight	Comments	Suggested Edit
23.60.187 E	Standards for piers and floats and overwater structures subsection E. In applying mitigation sequencing pursuant to Section 23.60.1158, adverse impacts to ecological functions to be addressed include, but are not limited to, shading of habitat and vegetation, adverse impacts to migration corridors, creation of habitat for non-native or abundant predator species.	The wording allows for unlimited retroactive application of mitigation for all previous development. Retrospective regulation if generally not allowed.	Revise to affect prospective activities only.
23.60.188 A.	A. Bulkheads accessory to nonresidential uses may be authorized when: 1.3. The bulkheads are: a. Adjacent to a navigable channel, b. Necessary for waterdependent or waterrelated use, or c. Necessary to prevent extraordinary erosion, but only when natural beach protection is not a practical alternative.	The wording of this subsection creates a list of undefined conditions for the authorization of bulkheads. Navigable channel is undefined as is extraordinary erosion . If navigable channel is defined as an Army Corps authorized and maintained channel then a great deal of bulkheads in Seattle are not on a channel but in many cases some distance from the channel. Our bulkheads are hundreds of feet from the channel because we are on an embayment to one side of the channel	Replace navigable channel with the phrase navigable waters . Delete the word extraordinary . All erosion when it goes on long enough becomes extraordinary. This subsection as written with all the concurrent requirements gives the impression that the City is unwilling to allow bulkheads even for water dependent uses. This violates legislative intent.
23.60.188 D.	In the draft SMP for all freshwater locations where the term OHW is used	Away from tides we need a definition	Define for freshwater.
Define.23.60.188 D	New hard engineering	The wording taken as a whole seems to not understand that in UI and UM working marine docks bulkheads are used for a reason. All other shoreline structures to support the bank for the purpose of loading/unloading vessels or access to vessels for construction or repair services while in the water would require overwater structures that shade the water. The angle of repose of riprap is not vertical enough to allow vessels close proximity to the dock unless the dock extends over water supported by piles. Bulkheads are not thoughtlessly used structures by industry. They provide a means of putting shoreline immediately next to water deep enough to moor and load vessels.	Revise to allow for legitimate water dependent use of hard engineering. The existing rules do not.

Draft SMP Section	Draft Language with Highlight	Comments	Suggested Edit
23.60.200	Standards for marinas, commercial and recreational marinas	Commercial marinas is not defined sufficiently. Shipyards may a times provide temporary moorage (less than all year) to vessels. Crew members may reside on board said vessels for 4 or more days in a seven day period. This happens while the vessel is waiting to be worked on or preparing to leave. Moorage in not the primary business of shipyards but happens ancillary to our business. We should not have to register as a marina if a tug boat crew are living on the boat while it is worked on.	Insert a specific exemption from registration for shipyards.
23.60.216	Standards for utility lines E. Pipelines , except gravity sewers and ...shall have shutoff facilities	Gravity sewers should be required to have shutoff facilities where they cross throught the shoreline. Broken pipes need to be shut off to facilitate repair. This is just basic good engineering and should be required.	Delete exemption for gravity sewers.
23.60.220	9. Urban Industrial (UI) Environment	The definition does not specifically allow for shipyards which repair/service and build vessels. The definition is primarily aimed at cargo facilities and unspecified industrial uses.	Please include shipyards and drydocks as a specifically allowed use in UI .
23.60.480	Subchapter XIII((V)): The Urban Industrial Environment Table A Uses in the UI Environment	The use table does not specifically allow dry docks and shipyards which repair/service and build vessels. Are you eliminating shipyards and vessel repair as an allowed use in UI????	Specifically allow dry docks and shipyards in the UI environment
23.60.484	Shoreline modifications in the UI Environment	Bulkheads are not allowed in C. 1.,2., or 3. Bulkheads are a essential part of UI and UM Enviroment for water dependent uses as previously explained in our comment on 23.60.188D	Please include bulkheads as a special use in the UI environment
23.60.486	Heigth in the UI Environment	For structures existing prior to December 4, 1969 are grandfathered in size shape location and use on the shoreline or overwater per RCW 90.58.270	This should be at the beginning of the draft SMP as a universal qualifier of the SMP.

Draft SMP Section	Draft Language with Highlight	Comments	Suggested Edit
23.60.900	Definitions	Have a section that is just word or abbreviation definition in alphabetical order as one section. Make another section as a definition of Environmental zones in alphabetical order. The draft defined WAC but did not define RCW.	See our definitions document for additional definitions and corrections to definitions.
23.60.916	Definition of " Habitat unit " means a measurement of ecological function within a specific geographic area of the Seattle's shorelines.	The definition defines nothing. There is no description of how it is defined or even what is being defined.	Tightly define in terms of Shading in sq feet times per cent shade, lineal feet of Bulkhead, square feet of Riprap, cubic yards of dredged material with different values for degree of contamination of the material dredged and specific values for different types of piles . This would create a " value list " of ecological effect of developments.
23.60.916 continued			The values would be negative for putting in the development and positive for taking out a development. The owner must be able to bank, sell or buy habitat units from other owners as well as to or from the City. A "habitate unit price book or value book would promote consistency and dependability in reviews of projects and developments. The City already has a pre- application site visit and a permit completion inspection. The only addition activity would be an addition to an existing land database or property title of positive and negative habitat units that belong to the property owner of record.

Pacific Fishermen Shipyard and Electric

Suggested Definitions

SMP Draft (February 6)

Certain definitions in the draft are unclear or inaccurate in relation to our industry. Please find the following definitions which we think would be of greater utility in the SMP.

“Dry dock” means a structure forming a basin from which water can be pumped out for the purpose of building ships or for repairing a ship below its waterline.

Draft use of the above definition means there are no dry docks in the city of Seattle. This is the definition of a Graving dock which is a trench into the shoreline into which a vessel can be floated which can be closed off from water access by means of a floatable caisson or fixed gates. The closed trench can be pumped out thus “dry docking” the vessel. Duwamish Shipyard filled in the last graving dock in Seattle when they closed down.

Other types of dry docks are:

1. Marine Railway Dry Dock where a vessel is tied to a carriage which is then pulled out of the water on an inclined railway usually with winches. The rails are spaced far enough apart to provide stability of the carriage with a vessel on it.
2. Floating Dry Docks which are essentially strong decked barges which are submerged by filling with water. A vessel is floated over the submerged barge which is then pumped out to lift the barge deck clear of the water with the vessel sitting high and dry. The wing walls provide enough flotation to prevent sinking all the way to the bottom.
3. Synchro-lift Dry Dock which consists of a stiffened deck or barge like structure that is lifted out of water by lifting mechanisms such as winches or jacks operating synchronously
4. Travel-Lift a motorized device like a lumber carrier which drives over water on two adjacent docks straddling water. A boat in the water between the two docks is raised out of the water by straps attached to winches. The travel lift then drives to an upland site to set the boat down on blocks on land.

A better definition of a dry dock for the purpose of the draft SMP would be:

Any method or mechanism by which a vessel can be removed from the water for the purpose of viewing, working on or painting the underwater portions of the vessel.

23.60.908 Definitions -- “F’..... “Float” means a floating platform similar to a pier that is anchored or attached to pilings. A float attached to a pier shall be considered part of the pier. “Float” when it is used in connection with a floating home means platform, decking, and materials used to keep a floating home above the water.

An additional shipyard definition of Float is: **a floating platform used as a work platform to work on a vessel, dock or pier.**

Pacific Fishermen Shipyard and Electric Suggested Definitions SMP Draft (February 6)

The following definitions clarify what is done on a pier, dock, wharf or quay as defined by the New Webster's Dictionary:

- **PIER:** Wharf or quay resting on columns or piles, projecting from shore into a body of water to serve as a docking place.
- **WHARF:** Structure on a shore or river bank built on the shore or projecting out into a harbor, river or stream for the purpose of mooring to load and unload.
- **Quay:** A landing place on a coast or river bank or harbor at which vessels are loaded and unloaded. Most often context I have seen quay used in referred
- **DOCK:** Artificial- Side of harbor or bank of river for mooring ships, also described as a Shipping or loading platform

A **PIER** is used for moorage of vessels.

DOCKS, WHARFS and QUAYS are for mooring for the purpose of loading and unloading.

The predominant use of the term pier in the SMC would indicate a structure for walking on for moorage in marinas.

The draft does not have a definition of a shipyard, Boat yard or dockside repair facility. The following are suggested definitions:

- **Shipyard:** A facility with an NPDES permit in which ships (vessels) are built dry docked painted and/or repaired. As defined by the Washington State Department of Ecology a shipyard deals primarily with vessels 65 feet or longer.
- **Boat Yard:** A facility with a General NPDES permit in which boats are built dry docked, painted and/or repaired and according to DOE and deals primarily with vessels under 65 feet in length.
- **Dockside Repair Facility:** A facility unregulated except for fire permits in which boats are repaired while in the water at dock side.

The draft SMP's *vessel repair-major and minor* divided by vessel length of 120 feet and type of hull material does not define the world of vessel repair as we know it.

23.60.908 Definitions -- "F"..... "Float" means a floating platform similar to a pier that is anchored or attached to pilings. A float attached to a pier shall be considered part of the pier. "Float" when it is used in connection with a floating home means platform, decking, and materials used to keep a floating home above the water.

An additional shipyard definition of Float is: a floating platform used as a work platform to work on a vessel, dock or pier.

Pacific Fishermen Shipyard and Electric

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- **Dockside Repair Facility:** A facility unregulated except for fire permits in which boats are repaired while in the water at dock side.

The draft SMP definition of vessel repair-major and minor divided by vessel length of 120 feet and type of hull material does not describe in defining the world of vessel repair we are familiar with.

23.60.908 Definitions -- "F'..... "Float" means a floating platform similar to a pier that is anchored or attached to pilings. A float attached to a pier shall be considered part of the pier. "Float" when it is used in connection with a floating home means platform, decking, and materials used to keep a floating home above the water.

An additional shipyard definition of Float is: a floating platform used as a work platform to work on a vessel, dock or pier.

Pacific Fishermen Shipyard and Electric

Suggested Definitions

SMP Draft (February 6)

The following definitions clarify what is done on a pier, dock, wharf or quay sourced from the New Webster's Dictionary:

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- **Dockside Repair Facility:** A facility unregulated except for in which boats are repaired while in the water at dock side.

The draft SMP definition of vessel repair-major and minor divided by vessel length of 120 feet and type of hull material is not a definition of the world of vessel repair we are familiar with.



May 31, 2011

Maggie Glowacki
Senior Land Use Planner
Department of Planning and Development
City of Seattle
700 5th Avenue, Suite 2000
PO Box 34019
Seattle, WA 98124-4019

Re: Comments on First Draft 2011 Seattle Shoreline Master Program (SMP)

Dear Ms. Glowacki,

Salmon Bay Sand & Gravel appreciates the opportunity to comment on the draft SMP. We have identified some of our concerns, which are addressed in this letter. It is our understanding that this is the first round of comments, and other opportunities to provide comment and input will be available.

Best Available Scientific Information

Since the Seattle Shoreline Master Program is based on the Best Available Scientific Information, we reviewed the document titled "*Environmentally Critical Areas Best Available Science Review*" dated August 2005, issued by the City of Seattle Department of Planning and Development (DPD), and provided on the city's DPD webpage. The first sentence in the Purpose & Background section of the report states "*The purpose of this report is to provide a compilation and review of the best available scientific information that is applicable to Seattle*". However, the last sentence in this section states "*An exhaustive review of all relevant and applicable scientific information is beyond the scope of this project and literally would take years to complete.*" This last sentence greatly concerns us, clearly stating that this document is being used for the best available scientific information, but by admission, does not include all relevant and available scientific information.

By our count, in the References *Section 3-1 Fish & Wildlife Habitat Conservation Areas: Aquatic Habitat*, there are no references regarding Salmon Bay, and there is one reference from 1999 regarding juvenile salmon in Lake Washington, Lake Sammamish and the Ship Canal (Warner, 1999). In References Section 3-1, there are a total of 346 documents listed; one from 1931, 1 from 1943, 6 in the 1950s, 8 in the 1960s, 26 in the 1970s, 69 in the 1980s, 115 in the 1990s and 120 in the 2000s. There are no

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documents listed from 2005. We are very concerned that policy is being made with old information, with very few (or none) scientific aquatic studies completed in Salmon Bay or the Ship Canal for over six years and more.

Washington Administrative Code (WAC) Best Available Science Rule

The WAC Best Available Science Rule **WAC 365-195-905 (2) Criteria for determining which information is the “best available science”** states *“The department will make available a list of resources that state agencies have identified as meeting the criteria for best available science pursuant to this chapter. Such information should be reviewed for local applicability.”* Based on our review, there is no information that has local applicability sufficient to reach the conclusions made in the report.

Furthermore, **WAC 365-195-905 (5a) Characteristics of a valid scientific process** provides a list of the characteristics expected in a valid scientific process. We have addressed our concerns below for each characteristic listed in 365-195-905 905 (5a):

- 1. Peer review.** Section 3-2 of the report states that the lead author was one person from a local consulting company and two employees from the City of Seattle. There was no representative of the maritime industry who provided peer review.
- 2. Methods.** The apparent method provided was that the documents were “reviewed” *with pertinent information developed in recent years that identifies the effects of urban development on the aquatic habitat and those actions appropriate to protect and restore natural functions to this habitat.* No such document(s) is listed in the references for Section 3 for Salmon Bay and the Ship Canal.
- 3. Logical conclusions and reasonable inferences.** Gaps in data are written off as taking too long to gather, as stated in the Purpose & Background section of the report.
- 4. Quantitative analysis.** There is no discussion regarding the quantitative methods or appropriate statistical data analysis. We believe this is the case since there is very little or no data available for Salmon Bay or the Ship Canal.

5. Context. Since there is very little or no data, the conclusions drawn in the report are not representative of aquatic habitat in Salmon Bay or the Ship Canal.

6. References. As previously stated, the majority of the documents referenced have no direct references to or discussion of Salmon Bay or the Ship Canal.

Based on our review, the best available scientific information is weak to non-existent for Salmon Bay and the Ship Canal. Since this is the basis for policy making by the City of Seattle for the Shoreline Master Program, we believe that many of the conclusions regarding aquatic habitat made in the report are not valid for Salmon Bay and the Ship Canal.

Part 3 Development Standards

Provisions in Section 23.60.152 C are too restrictive for operating businesses that require bulkheads to conduct daily business operations. Barges, ships and other watercraft require bulkheads to load and unload raw materials, products and other materials. The City of Bellingham SMP has no buffer (0 feet) for vertical features including sheet piling for water-oriented uses. The City of Seattle should consider the same for our vertical features.

Habitat Credits & Mitigation Alternative Selection using Disproportionate Cost Analysis

The City should evaluate the economic incentives of the purchase and sale of habitat credits for mitigation banking. Mitigation credits for projects conducted in Salmon Bay and the Ship Canal may be better suited for mitigation in other parts of the city. Cost should be an important consideration for the determination of mitigation projects. We request that DPD consider using Disproportionate Cost Analysis (DCA) when considering mitigation alternatives, where costs are disproportionate to benefits if the incremental costs of an alternative exceed the incremental degree of benefit achieved.

Dredging and Fill

Section 23.60.182 Standards for dredging and Section 23.60.184 Standards for fill should be deleted. Dredging and fill are already highly regulated by the Corps of Engineers, Washington State Department of Ecology, and other agencies. Dredging and Fill rules promulgated by the City are over-reaching and unnecessary.

Previous Planning Efforts

We are concerned that the proposed SMP has direct conflict with the City of Seattle Comprehensive Plan to preserve industrial uses, especially those that rely on the shoreline and are water-dependent. Furthermore, there is no discussion of the Ballard Interbay Northend Manufacturing and Industrial Center Plan (BINMIC Plan), which was completed as a requirement of the Growth Management Act (GMA) and the City of Seattle Neighborhood Planning to retain and attract employment in Seattle. The BINMIC Plan is available on the City of Seattle Department of Neighborhood webpage.

Industrial Advisory Committee

In conclusion, we have identified a number of concerns regarding the SMP, and although we do appreciate the responsiveness of Ms. Glowacki to attend meetings to discuss the SMP, a serious consideration should be made by DPD to include representatives of maritime industrial property owners and maritime industry to provide input into the SMP provisions on a more consistent basis. We recommend formation of an industry advisory committee that meets on a regular basis with DPD staff to work through in detail the SMP, to ensure that protection of the environment does not lead to economic loss.

Thank you for the opportunity to comment on the SMP update.

Sincerely,
SALMON BAY SAND & GRAVEL



Paul Nerdrum
Vice President

cc: email Diane Sugimura, Director DPD
cc: email Marshall Foster, Planning Director DPD

Seattle Marina, Inc.

(206) 632-9427

2401 N. NORTHLAKE WAY

SEATTLE, WASHINGTON 98103

Margaret Glowacki
Department of Planning and Development
City of Seattle
700 5th Avenue, Suite 2000
Seattle, Washington 98124-4019

Re: Comments on 2011 Draft Shoreline Master Program

Dear Ms. Glowacki:

Seattle Marina is located on Northlake Avenue on Lake Union. It has approx. 145 slips. It is a fully developed marina, built in 1950, and has always been open to live-aboards. Seattle Marina has shower and restroom facilities, and on site parking. We feel that the SMP should not arbitrarily try to limit the number of live-aboards or require an annual registration and fee. These new proposed requirements are not only not necessary, they take away the ability of the marina owners to keep marinas fully occupied. Income from live-aboards has always been a necessary source of income to most marinas.

We respectfully request the grandfathering of existing moorage slips used for live-aboard purposes, and the removal of the annual registration and fee for live-aboards.

Proposed SMC 23.60.162(E) requires that additional parking or reconfigured parking "remove to the maximum extent FEASIBLE contaminants from surface water". We request that the wording be changed to REASONABLE.

Proposed SMC 23.60.152, requires that light transmitting features are required to be installed for all replaced piers, floats and similar structures to the maximum extent FEASIBLE. We request that the wording be changed to REASONABLE.

Proposed SMC 23.60.200 would require marina piers and floats be grated to the maximum extent FEASIBLE. We request that the wording be changed to REASONABLE.

The 2011 Draft Shoreline Master Program is long and far reaching. We don't agree that it should be as restrictive and strict as the first Draft is written. The survival of waterfront business will be severely impacted if the SMP is adopted in it's present form.

Sincerely,
Sam LeClercq, President
Seattle Marina, Inc.

COMMERCIAL MARINE CONSTRUCTION CO.
2540 WESTLAKE AVE. NORTH
SEATTLE, WA 98109
206 779 3654

Margaret Glowacki
City of Seattle
Senior Land Use Planner
700 5th Avenue, Suite 2000
Seattle, WA 98124-4019

Re: Comments on First Draft of 2011 Seattle Shoreline Master Program

Dear Ms. Glowacki,

Commercial Marine Construction has two properties affected by the Seattle Shoreline Master Program Draft. The first one is a marina for primarily sailboats and small pleasure craft and it is in the Urban Commercial Zone. The marina has been operating and serving the public for 50 years. The property is 100% submerged so the office is built over the water on pilings. Not allowing boat sales in this building is very restrictive and eliminates an activity that has been a big part of the Lake Union waterfront for many years.

IMPACT ON BUSINESSES OF ALLOWING PUBLIC ACCESS - We cannot allow public access on our property as it is completely submerged. It would simply be dangerous to have the public allowed to walk the docks. The boat tenants would certainly not like it. Our liability insurance would not cover the extra liability from the proposed public access. Lake Union can be viewed from the Westlake walking and bike trail.

IMPACT ON BUSINESS OF PROHIBITING OVER WATER WORK SHEDS - Over water work sheds are currently located in Lake Union and have been repairing boats from nearby marinas for many years. These were permitted structures, many costing the owners many thousands of dollars for construction. These small businesses now find themselves out of compliance with the proposed regulations by only allowing over water work shed in UI or UM designations. This is arbitrary, burdensome and unnecessary.

Our second property is in the Urban Industrial Zone. We have 5 businesses located on the uplands ranging from a manufacturer of marine generators (been there 50 years) to support offices for commercial fishing vessels that come down to Seattle every year from Alaska. At least 200 people are employed in these businesses.

INABILITY TO ADD MORE BOATS TO MARINA. The number of vessels at our docks depends on the size of each vessel. We are limited by the dock length as to how many vessels will fit. The size of vessel is determined by the type of fishery in the Alaska waters. Crab boats, seiners, processors are all different lengths and have different seasons in the Alaska waters. These vessels come to Seattle, where they can be refurbished, repaired, re-powered, etc. Once they come through the Locks, the fresh

water provides a better environment where this work can be done. **INABILITY TO USE TREATED WOOD FOR DOCK REPAIR** - Docks are in constant need of repair. They need to be in good repair at all times to withstand the beating from the large vessels that are moored there. Docks are accessed by forklifts, trucks with cranes for engine removal, etc. By not allowing treated wood, repairs would need to occur much more frequently which would disrupt ongoing business and become prohibitively expensive. When a dock is being repaired, parts of it become unusable. If we were required to replace treated wood with metal pilings or non-treated material, we would consider removing the docks and ending our lease with the DNR.

ALLOWING PUBLIC ACCESS - The City of Seattle has many opportunities to provide public access on their many properties. Businesses and property owners need to be protected from this burdensome liability.

20% WATER DEPENDENT USE - In order to remain economically productive, we have docks on submerged lands leased from the DNR. There may be a time in the future when we decide not to lease these submerged lands and remove our docks. since almost 100% of our fee-simple land is uplands, we would not be able to provide water dependent uses if we are unable to use the adjacent waterway. This proposal in the Draft unduly restricts use of our property.

Thank you for this opportunity to comment on the First Draft of the SMP. I can be contacted at cmccmarina@msn.com and look forward to ongoing dialogue as the Second Draft is prepared.

Sincerely,

Suzanne Dills, President
Commercial Marine Construction Co.

From: Steve Hall [mailto:shall@seattleyachtclub.org]
Sent: Tuesday, May 31, 2011 6:24 PM
To: margaret.glowacki@seattle.gov
Cc: Jack McCullough
Subject: Shoreline Master Program

Dear Ms. Glowacki,

It is our understanding that the comment period regarding the Draft Shoreline Master Program is coming to a close today, May 31, 2011.

We are an organization that has resided on the shorelines of Seattle for more than 100 years. As a yacht club, we are by our definition a water dependant entity. As such, we are most interested in participating in the future planning and programming of the water front areas within our community.

During the last few months we have been actively engaged in the planning process for the 520 Bridge Project. Most recently, we have completed our hosting roll in the Opening Day of Boating Season. As a result, we have been unable to fully develop our comments for inclusion at this time.

We understand that there will be additional comment periods and we plan to take advantage of those opportunities.

Regards,

Steve Hall

General Manager
Seattle Yacht Club
1807 E Hamlin St.
Seattle, WA 98112
206.325.1000
206.926.1010 - direct

Draft SMP
Barry Gehl

sent:

Wednesday, March 23, 2011 5:18 PM

To:

Glowacki, Margaret;

Hi Margaret,

I'd like to voice one concern over the draft SMP that I've seen for the Lake Union area: the mandate for a 35' shoreline setback for any structure. I think that is an extremely impractical mandate, given the existing dense infrastructure around the lake, and would eventually destroy the urban fabric that makes this area so unique.

I work in the area; our offices are located on the lake, and I love the vitality and diversity that one can see around here. The 35' setback would accomplish - what? A more parklike setting around the shores of the lake? At what economic cost?

I'd like to see regulations that actually help the Lake Union area maintain the character and charm that it has.

Sincerely,

Barry Gehl, AIA

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206-633-5454

Margaret Glowacki
City of Seattle
Senior Land Use Planner
700 5th Avenue, Suite 2000
Seattle, WA 98124-4019

May 27, 2011

Re: Comments on First Draft of 2011 Seattle Shoreline Master Program

Dear Ms. Glowacki:

I'm writing you to voice some concerns I have regarding the new Shoreline Master Program (SMP). I operate a small, family-owned marina, and like many of my friends in the marina community, I feel that the proposed SMP will seriously restrict my ability to maintain my facility, which is located in the Urban Maritime environment.

Tillicum Marina has been here in one form or another since 1928, beginning its life as a coal dock. Since then, it has hosted many boat dealerships, boat outfitters, and countless recreational boats. We've always strived to provide a nice setting for our community of water lovers--my tenants and I do love Lake Union, and we want to protect it. As such, it is very important to me to be a good steward of the environment. However, in order for me to do that, I need to ensure that my business remains viable. I appreciate the time you take in reviewing my comments (as well as the comments of my friends in the maritime industry).

My approach to the proposed SMP is that of a small business owner. I am not a wealthy real-estate magnate--this marina is the primary source of my family's income--and it plays host to the very use that the SMP purports to protect. The more restrictions that are placed upon my small business, the more difficult it becomes to maintain it in a safe and attractive condition. A list of some of my general concerns follows:

- As I'm sure you're aware, the maritime industry in Seattle has taken a beating in recent years, and many water-dependent businesses have had to close their doors. As such, it is more difficult than ever to attain the required mix of office to water-dependent/water related use. If I have vacancies because I cannot find a water-dependent/water related tenant, I will eventually run through my reserves and be unable to maintain the moorage aspect of my marina (or pay my property taxes, for that matter), which I'm sure is counter to what the SMP is trying to achieve. Further, in "Comparison of Land Supply and Demand for Water-Dependent and Water-Related Uses," a study commissioned by the DPD, one of the findings is:

"While the vacant land supply appears adequate in total, it falls well short of projected demand in Duwamish, Lake Union, Portage Bay, and Ship Canal. The

increased demand in Portage Bay and Lake Union is primarily related to recreational moorage.” (p. 42)

If I am reading this information correctly, the study is projecting that the primary source of increased water-dependent demand in Lake Union relates to recreational marinas. Yet in the UM zone, the development of future marinas, or the expansion of existing ones, is prohibited. While I find this to be a contradiction, it does seem that my small marina is doing its part to satisfy the demand in Lake Union for recreational moorage, and as such, it is important for my marina to remain economically viable.

- The setbacks, view corridors, and lot coverage restrictions are difficult to swallow. If my facility burns down or otherwise needs to be rebuilt, I would like to know in no uncertain terms that I will be able to occupy the same footprint as before. I want to be able to maintain an attractive property, not one that detracts from the neighborhood because I can't get approval to fix it up.
- Bathroom facilities used to be only “adequate to serve the marina;” now, men's and women's rooms are required. Under the new SMP, the Director of DPD would have the power to dictate hours and number of facilities based on providing “reasonable hygiene.” (23.60.200.B.3). Many smaller marinas really only need one bathroom. Space on the uplands at these small marinas is already at a premium, and giving the Director power over minutiae like hours and numbers of restrooms seems overly intrusive. I'm also concerned about the potential added cost of having to add a restroom as a stipulation for completing a marina renovation. I suggest setting a threshold below which it is acceptable to have only one restroom.
- The proposed SMP places increased restrictions on moorage (23.60.200.B.8): Puget Sound, Lake Washington—8' from OHW. Lake Union and Portage Bay—15' from OHW. This is too restrictive to our ability to moor small boats, thus reducing our ability to generate water-dependent income. I would hope that this regulation could be relaxed, at least so that Lake Union, Portage Bay, Lake Washington, and Puget Sound all have the 8' rule.
- Under the proposed SMP, Chemonite-treated lumber will no longer be allowed (23.60.187.B.13). Eliminating this product for use in dock repair will increase the frequency of repairs dramatically. Durable products do not exist as a practical substitute for replacing caps and stringers on existing docks. If operators are forced to use non-treated wood for these repairs, maintenance costs will increase dramatically, and the environmental impact of having to make the same repairs to the same section of dock will unnecessarily increase, as well—not to mention the waste created by using more wood products over time.

I suggest that Chemonite-treated products continue to be permitted. BMPs employed by the industry make the product resistant to leaching, and the product has been approved by EPA for use in marine environments.

- All marinas (unless under 2,000 of moorage and 100% WDWR) must provide public access (23.60.514). This is problematic on many levels: liability, operations, and logistics, to name a few. I imagine that many of us will have difficulty getting insurance coverage for this stipulation, and smaller marinas simply do not have space for the

requirements outlined in 23.60.164. I suggest setting a higher threshold based on the upland characteristics of an individual lot, assessing whether public access is practical on a case-by-case basis.

- The proposed SMP limits live-aboards to 25% of the marina (23.60.200.E1.b.2.). In addition, we must register with the Department annually and pay a fee “to recover the cost of issuing registration numbers.” This clause makes us subject to fines if we don’t manage this to the satisfaction of the DPD, and subjects us to potential “fee inflation” over time.
- Additionally, a live-aboard vessel is defined as a “...vessel that is used as a live-aboard vessel for four or more days in any seven day period.” (23.60.200.E.1.b) However, in the definitions section, it is defined as “...a vessel that is used as a dwelling unit for any period of time.” Live-aboard usage can be difficult to identify and enforce. The potential for additional fees and fines is concerning, and these definitions will be very difficult to observe on a day-to-day basis. Many boat owners might stay on their boats for a few days during one given week. This does not make them live-aboards in the practical sense of the word. I suggest striking both definitions with language based on number of days in a given month, like the DNR does. This would be much easier to observe and comply with.
- 23.60.724 allowed beach clubs and yacht clubs, but has now been deleted. (Table A, 23.60.502). This further reduces the options for operators trying to comply with Water-related/Water-dependent language, increasing the potential for prolonged vacancies, and endangering economic viability of the operation as a whole. I suggest continuing to allow for conditional approval of yacht clubs.
- Existing recreational marinas may not expand (23.60.502.H), including over-water coverage due to “piers, floats, larger vessels, house barges, or floating homes, or additional vessels or house barges. New recreational marinas are prohibited.” This is a huge issue in terms of reconfiguration. What if the square foot coverage of water is the same, but many small vessels are replaced by fewer large ones? Is that permitted?

Further, this language might prevent an operator from having a boat dealer or other water-dependent business as a tenant. Many water-dependent businesses need the option of rafting boats when necessary. Moorage is a fluid thing; this regulation seems overly burdensome to day-to-day operations of marinas, and could make it increasingly difficult to survive financially.

This is by no means an exhaustive list, but it touches on many of the topics that I’m most concerned with. I know you’ll be hearing from a few different organizations whose members are affected by the proposed SMP as well, and I appreciate your willingness to hear us out.

Sincerely,

Mark Nelson
Tillicum Marina



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shoreline comment.doc

To: Margaret.Glowacki@seattle.gov
Re: Comment Form

March 9, 2011

Dear Maggie;

Yes the meeting was informative and you held up well.

Concerning J13 in table A for section 23.60.402

I am requesting that existing dwelling units, on upland lots in the UG environment be permitted outright as they are in the existing shoreline code (23.60.780. A.) . This will affect only about 5 houses which were all built as residences in 1900-1915 in the only UG Environment in Seattle.

Under the new code, they would be turned into non-conforming uses and non-conforming structures (J13 in table A for section 23.60.402). Please note that Part 2, 23.60.122 B1.A. has provisions that are even more strict than the underlying zoning for non-conforming uses.

I could find no support in the Citizen Advisory Committee Report for making existing SF residences on upland lots in UG environments not permitted. Indeed, on page 37 the CAC expressed concern that proposed changes , " appear to create widespread structural and use non-conformities"

Under the existing shoreline regulations, an owner would be governed by underlying zoning which allows these structures to have new dormers and decks and balconies.

Under the new rules, an owner could make no changes to the building exterior that increase bulk in any way as they would be governed by shoreline nonconformities.

I can find no net ecological benefit in making this change.

As a fall back provision if the proposed change must be made, then match your nonconforming standards with underlying zoning language as is present in 23.42.106 A which gives homeowners more flexibility.

Thanks for your consideration and can you confirm receipt?

Skip Satterwhite