

Mike Ruby	Issue and Comment
Section 23.60.124	<p>Non-conforming use provision The pre-existing, non-conforming use provision refers back to the provision in the building code for non-conforming buildings. It is not clear to me that this is appropriate to non-conforming structures and uses other than land side buildings. I would urge some careful thought be given to how this applies to things like docks, barge homes, changed use, etc.</p>
	<p>Example. The former Hiram's at the Locks was issued its permit for a deck in the shoreline zone with the understanding that it gave public access to a portion of the shoreline that would otherwise have been difficult because of the then existing overgrowth of vegetation along the top of the vertical bank. As long as it was a restaurant it was possible to enjoy the passing parade for the price of a beer, which was as close to public access as we were going to get. Now that it is no longer a restaurant but a catering facility for private parties the raison d'etre for the permit issuance no longer exists. What should be done about this? I don't know but I think it should be discussed.</p>
	<p>Another example: The barge off Ivar's in Lake Union. It is still providing public access without even needing to buy anything. But today we would rather have a deck (that can let light through) built out over the water than to have that barge there. With the proposed SMP it is not clear that Ivar's could get a permit for either the barge or a deck. So if we wanted Ivar's to replace the barge is there any way to write in an incentive to improve the situation even though it might not come up to the full snuff of what the proposed plan wants to accomplish?</p>
	<p>In general, I think it would be useful to go back through all the permits that have been issued since 1972 and determine if they would be issued today and if they are actually following what their original permit had to say. Many public access requirements are not marked nor are they advertised to the public (as is required for floor area ratio adjustment public areas) and some have just gone away. I think this would be an excellent task for some interns from the UW environmental planning program. This would also inform you as to how to write permit provisions that are more likely to continue to be honored in the future.</p>
<b>DPD Response</b>	
	<p>DPD appreciates the issues raised in these comments and we are working on the public access issue. DPD has inventoried where public access exists. The next step however is to review past permits and determine all the locations where public access is required to exist. After the completion of the SMP update DPD will be focusing staff time on public access issues and we will add the idea of hiring an intern to review past permits as suggested.</p>
	<p>Regarding the example of Ivar's DPD has include some exceptions similar to the request but is not encouraging non-conforming uses to be rebuilt over the water.</p>