Comments on Proposed Shoreline Rule 23.60.202.D. Standards for Floating Homes

Date: May 27, 2011

To: Department of Planning and Development
ATTN: Public Resource Center
700 Fifth Ave, Ste 2000 P.O. Box 34019 Seattle, WA 98124-4019
prc@seattle.gov

From: Bloxom Houseboat Replacement Project Team

Subject: Comments on Proposed City of Seattle Shoreline Rules – 1st Draft
Floating Homes - New Living and Storage Spaces Located Below Water Level

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The Bloxom Houseboat Replacement Project Team is very supportive of the intent of the City of Seattle to improve shoreline conditions with the 1st draft of the new shoreline rules. However, we would like to suggest that one of the new restrictions on floating homes appears to limit how much we improve ecological functions in the future. The restriction we would like the city to re-consider is the following:

23.60.202 D. Standards for Floating Homes

5. A floating home may be rebuilt, replaced, repaired, or remodeled consistent with the following standards:

f. No new living or storage spaces are located below water level. Existing living or storage spaces below water level may be remodeled, replaced, or rebuilt, but may not be expanded.

Two of the Shoreline Management Act's stated priorities are:

> Environmental Protection: The Act requires protections for shoreline natural resources, including "… the land and its vegetation and wildlife, and the water of the state and their aquatic life …" to ensure no net loss of ecological function.
>
> Single-family residences are also identified as a priority use under the Act when developed in a manner consistent with protection of the natural environment.

The single-family residences included as a priority use have changed greatly over the past 25 years. As the original and older structures have continued to age, many have reached the point that replacement is more cost-effective than remodel, particularly for those floating on rafts of waterlogged logs kept afloat with barrel and foam supplements. To retain any of their original character, the new houseboats should preserve deck size and sightlines, and avoid complete footprint coverage. They are limited in height to eighteen feet above the waterline.

The practicality of new construction with living space able to accommodate more than two people on house floats originally built with less than 1,000 square feet of living space means basements for many of us.

In cases where the water depth limits light for aquatic macrophytes and habitat for fish and other aquatic life is very limited, the addition of a houseboat basement has little affect on the aquatic environment. For example, the Bloxom houseboat is located where the water depth is 44 feet and the distance to the shoreline is more than 300 feet. On

March 1, 2011 when contacted by the project team about possible impacts to fish from a houseboat basement at this location, the Washington State Department of Fish and Wildlife Biologist for Lake Union, Laura Arber only asked that any decking be grated to allow more sunlight to reach the water surface and she wanted to learn more about the floating, vegetated island design we are pursuing.

The outright basement ban found in 23.60.202. D.5.f. does not always hold up to ecological scrutiny and is inflexible enough that it may eliminate opportunities for innovative ecological design and creation of additional shoreline wetland habitat. New houseboat foundations can be designed to insure no net loss of ecological function, and they can be made to help restore aquatic life.

There is no reason innovative hull designs cannot increase shoreline habitat by minimizing overwater structure, maximizing deck space that allows sunlight to reach the surface and encouraging plant and microbial life that will improve water quality and provide native habitat. Currently in design, the Bloxom replacement houseboat is anticipated to provide native wetland habitat to Lake Union by using a matrix made by Floating Islands West and a diversity of native, emergent plantings. In terms of ecological restoration, this is a large step in the right direction in a lake that is so severely lacking in native shoreline vegetation. In addition, the microbial life that colonizes floating islands is known to improve water quality. Figures and photos showing existing habitat in Lake Union and the type of habitat that will be provided by the floating island matrix are attached.

The Bloxom project team requests that the City of Seattle consider making the new shoreline rules flexible enough to allow innovative designs that improve ecological functions, rather than adopting an outright ban on any new houseboat basements, especially where their presence has little to no effect on the aquatic environment.

Thank you very much for considering our comments. Please feel free to contact any of us for more information regarding our comments.

Sincerely,

The Bloxom Houseboat Replacement Project Team
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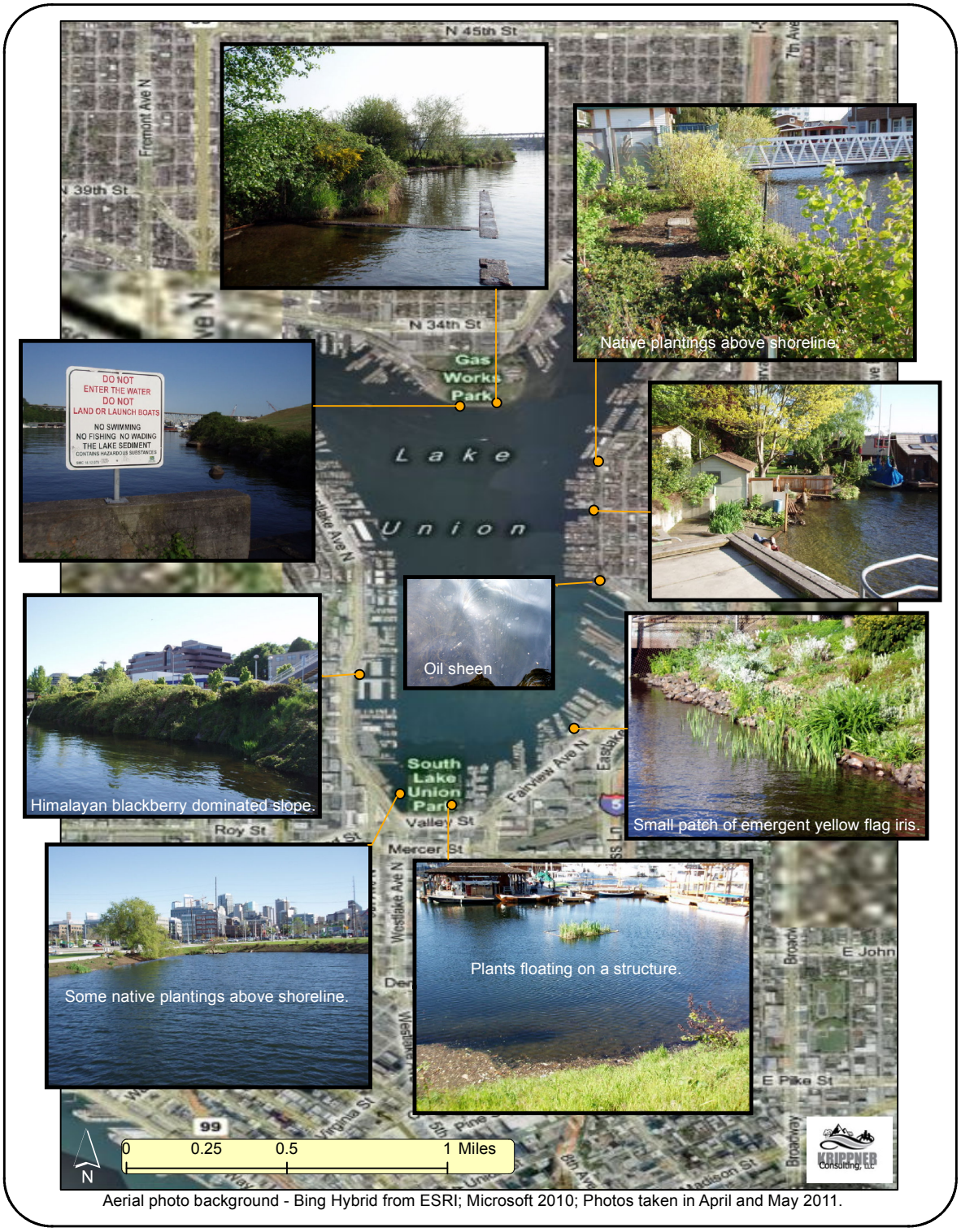
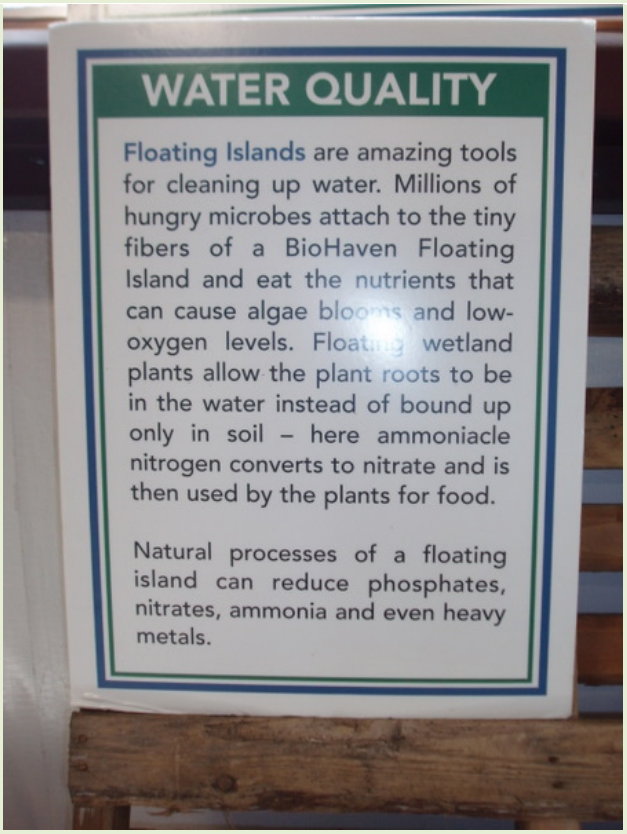
Lake Union is very disturbed. Most shoreline areas are highly developed, containing concrete bulkheads and non-native, invasive plants. Lake sediments are contaminated, and oil spills commonly occur. Shallow, vegetated shoreline areas are limited to a few small patches of yellow flag iris and soft rush. Some photos of Lake Union shoreline vegetation are below.

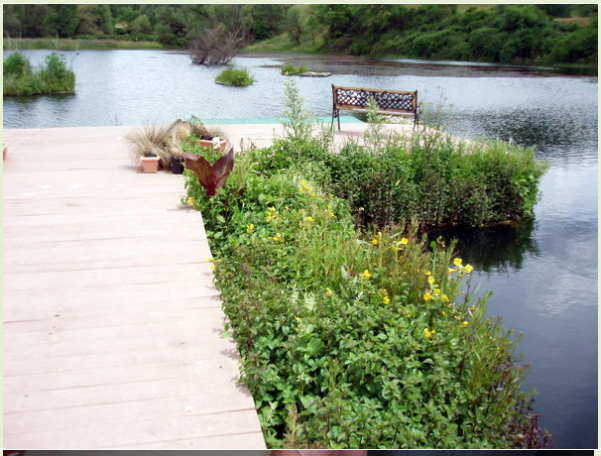


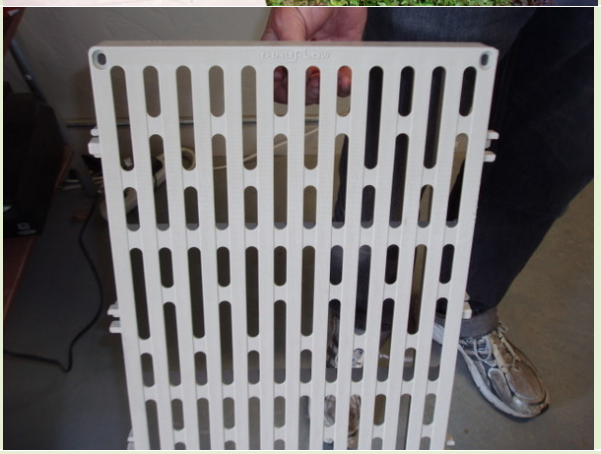
Aerial photo background - Bing Hybrid from ESRI; Microsoft 2010; Photos taken in April and May 2011.

Floating Islands improve habitat conditions and water quality, more information about how the floating island matrix works is found at: http://www.floatingislandinternational.com/

This pond located near Mokelumne Hill in California is fed by agricultural runoff. It used to be covered by an algal scum for most of the year until a few small floating islands were installed in it.
Photos are from the Floating Islands West production facility in California, May 16, 2011.







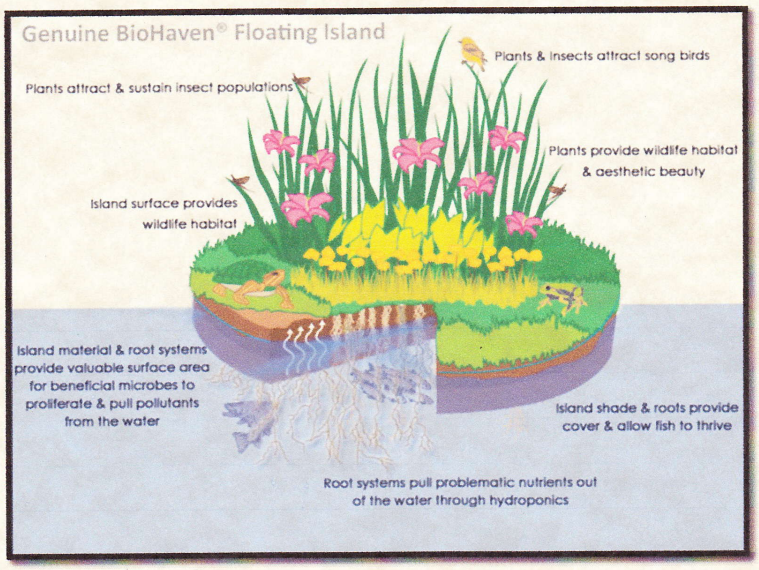
Grated decking like that shown above can be used to increase light transmission to the surface. Grated decking can also be placed above a vegetated, floating island matrix

More examples of floating islands and a newly installed floating island kayak dock can be viewed at http://www.facebook.com/pages/Clarks-Island-Sustainability-Initiative/131571996892818

This kayak dock was planted on Earth Day, April 23, 2011 in Clear Lake near Clarks Island, California. It is part of the Clarks Island Sustainability Initiative to improve the water quality of Clear Lake, the largest natural freshwater lake in California. Local tribes are conducting monthly water quality sampling to measure the benefits of floating islands in this lake.

Floating IslandsWest LLC

...for solutions above & below the waterline



What are BioHaven Floating Islands®?

Floating Islands are made from recycled PET plastic and designed to mimic Mother Nature's floating wetlands. They are designed to improve water quality and beautify any waterway and can be planted with a variety of plants, not just the water loving ones! Islands provide habitat for butterflies, birds of all kinds, dragonflies, turtles and more. Islands are available in any size, shape, and with any level of buoyancy. We also make Living Walkways© and Living Docks© that have all the same benefits of our Floating Islands. Ask us how to design your island today!

Visit us on the web at www.floatingislandswest.com for more information, including case studies, as well as stunning pictures. We are also on Facebook, just search for Floating Islands West.

For all questions about the islands please contact us at (866)798 – 7086 or through email at *info@floatingislandswest.com*

FLOATING HOMES ASSOCIATION

206 325-1132 2329 Fairview Avenue East Seattle WA 98102 USA seattlefloatinghomes.org

May 28, 2011

Ms. Margaret Glowacki
City of Seattle
700 Fifth Avenue, Suite 2000
Seattle, WA 98124-4019

Sent via email to margaret.glowacki@seattle.gov

RE: Floating Homes Association's Comments on Proposed Shoreline Master Program

Dear Ms. Glowacki:

Thank you for the opportunity to review and comment on the City's February 2011 Proposed Shoreline Master Program.

The Floating Homes Association (FHA) is pleased with many elements of the proposed code changes and recognizes that the Department of Planning and Development addressed a number of issues that were discussed in prior meetings.

We would like to thank DPD for revising the public review process to include an additional round of public review after the comments received through May 31, 2011 are addressed. This second comment period is greatly appreciated as these issues are complex and will impact our community for many generations.

The FHA, however, still has serious concerns about several proposed regulatory changes and some specific language in the Proposed Shoreline Master Program. A major issue for the FHA is honoring the spirit of "Safe Harbor," which is an integral part of preserving our historic community. Shoreline management regulations that support the concept of Safe Harbor have the added potential of preventing an increase in overwater coverage by reducing the number of new floating homes moorages. Please see our specific comments below.

Thank you.

Sincerely,

Marty Greer
President, Seattle Floating Homes Association

Floating Homes Association's Response to Proposed Revisions to Section 23.60.202 of the Seattle Municipal Code, Standards for Floating Homes and Floating Home Moorages

Clarification of Terms Used in Proposed Revisions:

We find the use of the word "site" to be confusing, as it is not clear whether "site" refers to an entire dock or only the space in which a single floating home is moored. We suggest the use of the word "slip" when referring to the space where a single floating home is moored.

Similarly, it is unclear to us if the word "moorage" refers to a single dock, a grouping of docks under the same ownership or merely the slip where a single floating home is moored. Eliminating the word "site" may help to eliminate this confusion but we believe a definition of "moorage" may also be necessary. "Floating home moorage" should be defined as a dock or grouping of docks under the same ownership where floating homes are moored.

The proposed regulations make reference in a number of instances to a "float." Given that float materials differ greatly and that the dimensions of a "float" are different when measured from varying levels above and below the water line, we feel that each specific instance of the word "float" requires its own detailed definition.

Section B.1.c
"Floating homes may not relocate to that portion of a floating home moorage occupying public waters."

Floating homes moored in public waters at an established moorage should have the flexibility to move to different slips within that moorage. In the interest of reducing overwater coverage, a floating home that loses a slip elsewhere in Lake Union or Portage Bay should be permitted to relocate to a moorage occupying public waters when this relocation negates the need for a new moorage to be built.

Section B.3.a
a. Total water coverage of floating home moorages, including all piers, shall not be increased above 45% of the submerged area or the currently existing coverage, whichever is greater, including the floating home;"

This section should be rewritten to ensure accommodation for Safe Harbor situations in which a floating home loses its slip or a floating home moorage loses its DNR lease, street end or other previous location. To ensure Safe Harbor accommodation, this section should read, "Total water coverage of floating home moorages, including all piers, shall not be increased above 45% of the submerged area or the currently existing coverage, whichever is greater, unless the additional coverage is caused by the accommodation of a displaced floating home or homes."

We find the words "including the floating home" to be confusing as it makes it unclear whether this section addresses a single slip or an entire moorage.

Section B.3.c

"c. Existing floating home sites shall not be expanded in a manner that could result in the blockage of the view corridor from the waterward end of a pier."

Using the language "could result" when referring to "blockage of the view corridor" would result in arbitrary and subjective regulation of expansion of floating homes and is an unreasonable condition. This standard is vague, overly broad and should not be a basis upon which to condition remodels or expansions of floating homes.

Section B.3.d

d. Existing floating home moorages shall not be reconfigured and existing floating homes shall not be relocated within a floating home moorage site unless the standards of this Section 23.60.202 are met or the Director determines that the standards cannot be met at the site and the reconfiguration or relocation will result in improved ecological functions."

There should be no restrictions on reconfiguring or relocating floating homes within a particular moorage, especially when there is no net increase in overwater coverage. Reconfiguring or relocating within a moorage may be necessary in situations where leases or permits are not renewed (e.g., DNR, street-ends).

Section B.3.4

4. Floating home moorages shall not provide moorage to floating homes that do not display a registration number issued under subsection 23.60.202.G."

This section should read as follows: "Floating home moorages shall only provide moorage to floating homes that are allowed under subsection 23.60.202.A.1." Please see our comments under Section G regarding registration numbers for floating homes.

Section C.1

1. Height

a. Both floating homes are the same height;

b. The relocation will not result in a floating home that is over 18 feet in height and higher than the replaced floating home being located waterward of floating homes that are 18 feet or less in height; or

c. No floating home greater than 18 feet in height shall be relocated except to replace a floating home of equal or greater height.

2. The minimum distance between adjacent floating home walls and between any floating home wall and any floating home site line will meet the requirements of the applicable moorage standards in subsection B or D of this Section 23.60.202; and

3. The requirements of Chapter 7.20 of the Seattle Municipal Code, Floating Home Moorages, have been met.

This section should be removed in its entirety. Outside of those imposed by the moorages themselves, there should be no limitations restricting a moorage's right to relocate homes as they see fit, or as may be necessary. Reconfiguring or relocating within a moorage may be necessary in situations where leases or permits are not renewed (e.g., DNR, street-ends).

Section D.1
"1. Floating homes are required to be moored at sites established as floating home moorages."

For clarity, this section should be rewritten as follows, "Floating homes are required to be moored at slips located on legally established floating homes moorages."

Section D.5.c.1
1) The minimum distance between adjacent floating home floats or walls is not reduced below 10 feet or the existing distance, whichever is less, and shall not be less than 6 feet if the floating home is being replaced."

Given that no satisfactory definition of "float" exists, this section should be rewritten without the use of the word float and should read, "1) The minimum distance between adjacent floating home walls is not reduced below 10 feet or the existing distance, whichever is less, and shall not be less than 6 feet if the floating home is being replaced unless this would result in the overall footprint of the home being reduced below 1200 square feet." The addition of language regarding the reduction of the overall footprint is necessary because, without it, some footprints would be reduced to such a long, narrow shape that they would be impossible to build on, thus rendering the action impracticable.

Section D.5.c.2
"2) The minimum distance between any floating home float or wall and the boundary of any floating home moorage site is not reduced below 5 feet or the existing distance, whichever is less, and shall not be less than 3 feet when the floating home is replaced or rebuilt. No minimum distance is required between a floating home float or wall and a moorage lot line when the lot line is adjacent to a public street right-of-way, a waterway, or the fairway."

Given that no satisfactory definition of "float" exists, this section should be rewritten without the use of the word float. The word "rebuilt" should also be eliminated as this language has the potential to preclude the remodeling of an existing floating home by rendering the action impracticable. Thus, the section should read, "2) The minimum distance between any floating home wall and the boundary of any floating home moorage site is not reduced below 5 feet or the existing distance, whichever is less, and shall not be less than 3 feet when the floating home is replaced unless this would result in the overall footprint of the home being reduced below 1200 square feet. No minimum distance is required between a floating home float or wall and a moorage lot line when the lot line is adjacent to a public street right-of-way, a waterway, or the fairway." The addition of language regarding the reduction of the overall footprint is necessary because, without it, some footprints would be reduced to such a long, narrow shape that they would be impossible to build on, thus rendering the action impracticable.

Section D.5.d
“d. No new accessory floating structures are allowed. Accessory floating structures that have been continously in use since March 1, 1977, may be maintained or replaced or relocated with the associated floating home but not expanded or transferred.”

This section should be rewritten as follows to allow transfers of accessory floats within moorages per historic practices, “d. No new accessory floating structures are allowed. Accessory floating structures that have been continuously in use since March 1, 1977, may be maintained or replaced or relocated with the associated floating home but not expanded. Accessory floating structures that have been continuously in use since March 1, 1977 may be transferred only within the associated moorage.”

Section D.5.e
“e. The design of the floating home does not block the view from the waterward end of a pier, more than any existing view blockage.”

View blockage should be regulated by the moorage owner or owners. The language in this section would result in arbitrary regulation that has the potential to preclude the rebuilding, replacement, repair or remodel of a floating home by making it impracticable. This section should be removed.

Section D.5.g
“g. Unenclosed Styrofoam or similar material that has the potential to break apart is prohibited in floats.”

Given that any number of types of flotation, including traditional old growth cedar logs, could be construed as being similar to unenclosed Styrofoam and having the potential to break apart, this section should be rewritten as follows, “g. Unenclosed Styrofoam may not be added to existing floats or used in new floats.”

Section D.5.h
“h. Floats shall be maintained and repaired using the minimum amount of structure below OHW necessary to maintain floatation. At the time of replacement of the float and/or floating home, any structure below OHW and outside the primary float structure that provides minimal or no floatation shall be removed.”

The word “replacement” as regards the floating home is ambiguous in this context. This section should be triggered only when a floating home is completely demolished, leaving only the existing float. As new floats by definition would not include materials that provide minimal or no flotation, it is not necessary that they be referenced in this section.

Section D.5.i
“i. Moorage Plan. Any proposal to replace, remodel, rebuild, or relocate a floating home shall be accompanied by an accurate, fully dimensioned moorage site plan, at a scale of not less than 1 inch to 20 feet, unless such plan is already on file with the Department.”

Due to the costliness of creating such a moorage plan, this section should only go into effect when a floating home is replaced, completely rebuilt or relocated. Clarification is necessary as to whether “moorage site plan” refers to the individual slip, the dock or a grouping of docks under the same ownership.

Section D.6.b
"the replacement is performed within 12 months of any removal or demolition"

Though aware of Director's Rule 16-99, we are concerned that the twelve month limitation on replacement would make certain replacements impossible to complete. For example, a home that burns, thus requiring the homeowner to work for months or even years with an insurance company in order to access the funds to replace their home, could not be replaced within twelve months. Permits also often take years to obtain. These are just two examples of why the twelve month limitation needs to be removed or extended significantly.

The use of the word "performed" is vague in this context and should be replaced with the word "commenced."

Section E. Owners and tenants of floating homes shall use the best management practices to minimize impacts on the aquatic environment.

The Floating Homes Association has developed and published best management practices for the floating home community (See attached BMPs or find them on the internet at, http://www.seattlefloatinghomes.org/bmps). We believe that our voluntary commitment to environmental principles will lead to a higher level of compliance than mandated regulations. We recommend that, in place of the specific examples provided in DPD's draft language, DPD reference the Floating Homes Association's BMPs in the regulations with the understanding that the Floating Homes Association and its members are dedicated to complying with our own, community developed best management practices.

Section F.
The Director may establish appropriate best management practices to implement the requirements of sub-section 23.60.202.E by Director's Rule."

We recommend that DPD work with the Floating Homes Association to develop and implement any additional best management practices as may be necessary in the future. This section should be rewritten as follows, "The Director may establish additional best management practices to implement the requirements of sub-section 23.60.202.E after reasonable public involvement and comment period." Mandatory community involvement will ensure that residents are invested in compliance and that regulations are both practical for the community and protective of the environment.

Section G. Registration numbers for floating homes

As all floating homes in Seattle have been previously assigned a personal property tax account number by the King County Assessor's office, it is not necessary to spend City funds or administrative time to create a duplicate system. Surely the City can use the current County registration system for their purposes, making additional registration unnecessary. Avoiding a duplicate system would benefit both the City and any floating homes residents who may not be able to afford the extra registration fee or who may be confused about how to comply with a new, yet nearly identical system.

Floating Homes Association
2329 Fairview Ave. E.
Seattle, WA 98102
206.325.1132

Take care of our lake!

A floating community can potentially contribute to water pollution with both liquid and solid wastes. To help bring the water quality and sediments of Lake Union to a cleaner level, these floating home Best Management Practices (BMPs) are recommended. Remember, under Washington State Law, Chapter 90.48.080 RCW, it is illegal to discharge or allow to be discharged any pollutant into the water. With a little forethought and common sense, we can stop pollutants from falling into Lake Union, thus creating a safer and cleaner "water yard" for outdoor recreational pleasure.

Best Practices for Floating Home Owners

Best Practices

Garbage and Recycling

1) Dispose of garbage on shore in your garbage dumpsters. Recycle paper, glass, cans in the recycle bins. Keep area around dumpsters and bins neat and debris-free.
2) Do not dispose the following in the dumpsters: paints, solvents, fuel, oil, batteries, anti-freeze, wet rags. Take these to the King County Household Hazardous Waste Station.
3) Do not dispose of any item from your floating home or dock into the water.

House, Deck and Dock Maintenance

1) When prepping the house or deck for paint, stain or varnish, tarp your work area to trap any paint chips or dust, thus preventing anything from falling into the lake.
2) Vacuum or sweep up frequently.
3) Keep the paint in small containers, bringing out only what you need.
4) Use a drip pan or tarp to mix or transfer paint or solvents. Keep the containers in a drip pan while working.
5) Paint and solvent spills need to be contained and cleaned up immediately.

Sub-Contractors

1) Inform your contractors, subcontractors, and any employees about these water quality Best Management Practices (BMPs).
2) You will be responsible for the actions of your contractors, subcontractors, and any employees regarding adherence to all water quality rules and regulations.

General Housekeeping

1) Secure all household items and outdoor furnishings located near the edge of the structures in a manner which will keep them from blowing or falling overboard into the lake.
2) Consider vacuuming decks instead of sweeping to minimize dirt from entering the lake.

Gardening

1) Tarp your work area when planting or repotting plants to avoid anything from falling into the water.
2) If using fertilizers on your plants, do not overwater so that the toxins spill over into the lake.

Boat Maintenance

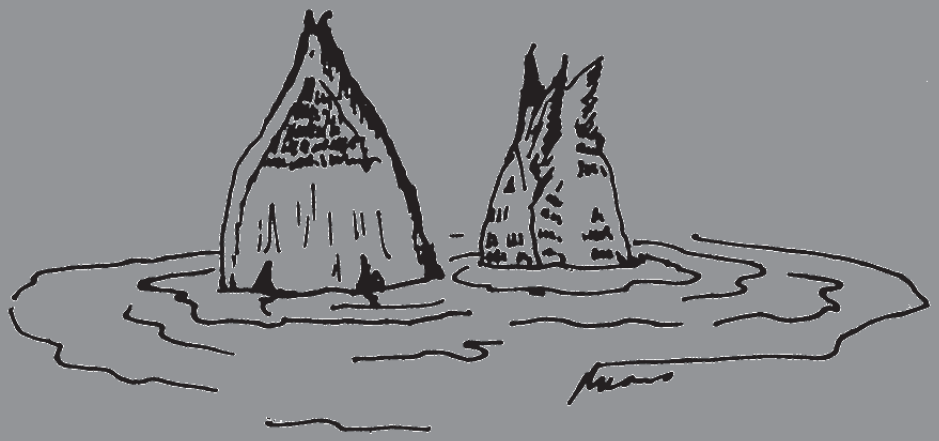
1) Engine Work
   - Use absorbent pads under engine or in bilge when changing oil.
   - Recycle waste oil and oil filters at an automotive store or at the household hazardous waste station. Recycle batteries when you buy new ones.
   - Dispose of antifreeze and transmission fluid at the household hazardous waste station.
2) Painting and Varnishing
   - Tarp the area between the boat and the floating home to trap any sanding dust or debris.
   - Vacuum and sweep up frequently. Use a sander with a collection bag.
   - Keep paint and varnish in small containers and inside a secondary drip pan.
   - Use a tarp or drip pan under your materials when mixing or transferring paint, varnish or solvents.
   - Paint, varnish and solvent spills should be treated as oil spills.
   - Do not leave any containers of fuel, oil, solvents, fluids, paint, batteries or debris of any nature on the dock or out in the open on your deck or access ramp.

Accidental Spills

1) In case of a fuel, oil, paint, solvent or dangerous material spill, STOP the source of the spill and begin to clean up immediately.
2) DO NOT pour liquid detergent onto the spill.
3) Keep absorbent pads available to throw onto the surface of the water to sop up the spill.
4) Double bag the dirty absorbent pads and dispose of them in your garbage dumpster.
5) For a large and uncontrolled spill, call the U.S. Coast Guard at 1-800-OILS-911.

Pets

1) Scoop and discard pet poop via the home sewer system or bag it and place in the garbage.



It's common sense.
Don't throw or drop
anything in the water.

GENDLER
& MANN LLP

ATTORNEYS-AT-LAW

www.gendlermann.com

Michael W. Gendler* | David S. Mann | Brendan W. Donckers | Erica A. Doctor
*also admitted in Oregon

May 31, 2011

Ms. Margaret Glowacki
City of Seattle
Department of Planning and Development
700 Fifth Avenue, Ste. 2000
P.O. Box 34019
Seattle, WA 98124-4019

RE: Proposed Updates to Shoreline Master Plan

Dear Ms. Glowacki:

This letter follows up on our phone conversation on April 26, 2011 and is submitted in response to the City's proposed updates to the Shoreline Master Plan ("SMP"). We represent a client who owns a houseboat on the north shore of Lake Union classified under the current code as a "vessel."

We write in opposition to proposed amendments which, if enacted, would prohibit using houseboats in Seattle waters. We request that the Department of Planning and Development amend the draft SMP to exclude these unnecessary changes, or at a minimum, either apply these regulations prospectively or authorize as a nonconforming use vessels whose primary purpose and use is residential prior to the effective date of the updated SMP.

The City's current SMP distinguishes between houseboats which have a means of propulsion and floating structures without a means of propulsion. A "house barge" is presently defined as a "vessel that is designed or used as a place of residence without a means of self-propulsion and steering equipment or capability", SMC 23.60.916, and is regulated pursuant to SMC 23.60.090. Under SMC 23.60.090(G)(1), "house barges shall only be permitted" where a "permit for the house barge…has been secured from the Department of Planning and Development verifying that the house barge existed and was used for residential purposes within the City of Seattle in June 1990[.]"

Our client's houseboat was built in 1998 with an electric motor and full navigation equipment. Because it contains a means of self-propulsion it does not fall within the definition of "house barge" under the current Code. The house boat is thus not presently subject to the permitting requirements discussed in SMC 23.60.090(G). Instead, consistent with the broad definition of a "vessel" under SMC 23.60.942, which includes "ships, boats, barges, or any other floating craft

which are designed and used for navigation and do not interfere with the normal public use of the water", our client is not required to obtain any permit from the City of Seattle to use the vessel as a residence.

The proposed SMP expands the definition of "house barge" to include houseboats *with* a means of self-propulsion, *see* SMC 23.60.916 (Draft), but then prohibits the use of such structures unless the vessel was in existence and used for residential purposes within the City of Seattle as of June 1990. *See* SMC 23.60.204(B).

Since our client's houseboat was not constructed until 1998, he – and anyone else owning a houseboat constructed after June of 1990 – will henceforth be in violation of the Code and without any authority under the Code to permit it.

There are no environmental benefits to the proposed change. The draft SMP will not ban powerboats from being used as residences. Numerous powerboats – including massive yachts – are moored in Seattle's waters and used as residences. Powerboats are designed primarily for travel and speed and do not have many of the environmental protections (such as electric motors and sealed septic systems) of houseboats.

DPD's proposed policy will have the effect of depriving houseboat owners from using their houseboats. There are few, if any, alternate mooring locations in Washington for houseboats. The draft SMP would be financially disastrous for houseboat owners without any benefit. We believe the proposal is arbitrary and capricious and request that DPD amend the current version of the updated SMP to either eliminate this unnecessary change, or, at a minimum, either apply these regulations prospectively or authorize as a nonconforming use those vessels whose primary purpose and use is residential prior to the effective date of the updated SMP.

Very truly yours,

GENDLER & MANN, LLP

David S. Mann
Brendan W. Donckers

DSM/BWD:dab

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1783

Chapter 212, Laws of 2011

62nd Legislature
2011 Regular Session

FLOATING HOMES

EFFECTIVE DATE: 07/22/11

Passed by the House April 14, 2011
Yeas 65 Nays 32

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 7, 2011
Yeas 47 Nays 2

BRAD OWEN

President of the Senate

Approved April 29, 2011, 4:10 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1783** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 29, 2011

Secretary of State
State of Washington

SUBSTITUTE HOUSE BILL 1783

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By House Local Government (originally sponsored by Representatives Pedersen, Upthegrove, Takko, Blake, Rodne, Smith, Carlyle, Fitzgibbon, Springer, Angel, and Kenney)

READ FIRST TIME 02/17/11.

AN ACT Relating to houseboats and houseboat moorages; amending RCW 90.58.270; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The legislature recognizes that existing floating homes, as part of our state's existing houseboat communities, are an important cultural amenity and element of our maritime history. These surviving floating home communities are a linkage to the past, when our waterways were the focus of commerce, transport, and development. In order to ensure the vitality and long-term survival of these existing floating home communities, consistent with the legislature's goal of allowing their continued use, improvement, and replacement without undue burden, the legislature finds that it is necessary to clarify their legal status.

Sec. 2. RCW 90.58.270 and 1971 ex.s. c 286 s 27 are each amended to read as follows:

(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, docks, fills or developments are hereby granted: PROVIDED, That the consent herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters 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 in subsection (1) hereof.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971 relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights.

(5)(a) A floating home permitted or legally established prior to January 1, 2011, must be classified as a conforming preferred use.

(b) For the purposes of this subsection:

(i) "Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

(ii) "Floating home" means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

Passed by the House April 14, 2011.
Passed by the Senate April 7, 2011.
Approved by the Governor April 29, 2011.
Filed in Office of Secretary of State April 29, 2011.

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5451

Chapter 323, Laws of 2011

62nd Legislature
2011 Regular Session

SHORELINE MASTER PROGRAMS

EFFECTIVE DATE: 07/22/11

Passed by the Senate April 18, 2011
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 5, 2011
YEAS 77 NAYS 19

FRANK CHOPP

Speaker of the House of Representatives

Approved May 12, 2011, 1:51 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5451** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 13, 2011

Secretary of State
State of Washington

SUBSTITUTE SENATE BILL 5451

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By Senate Natural Resources & Marine Waters (originally sponsored by Senators Ranker, Ericksen, Pridemore, Harper, Carrell, Hobbs, Rockefeller, Tom, White, and Shin)

READ FIRST TIME 02/21/11.

AN ACT Relating to shoreline structures in a master program adopted under the shoreline management act; adding a new section to chapter 90.58 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** (1) The legislature recognizes that there is concern from property owners regarding legal status of existing legally developed shoreline structures under updated shoreline master programs. Significant concern has been expressed by residential property owners during shoreline master program updates regarding the legal status of existing shoreline structures that may not meet current standards for new development.

(2) Engrossed House Bill No. 1653, enacted as chapter 107, Laws of 2010 clarified the status of existing structures in the shoreline area under the growth management act prior to the update of shoreline regulations. It is in the public interest to clarify the legal status of these structures that will apply after shoreline regulations are updated.

(3) Updated shoreline master programs must include provisions to ensure that expansion, redevelopment, and replacement of existing

structures will result in no net loss of the ecological function of the shoreline. Classifying existing structures as legally conforming will not create a risk of degrading shoreline natural resources.

NEW SECTION. **Sec. 2.** A new section is added to chapter 90.58 RCW to read as follows:

(1) New or amended master programs approved by the department on or after September 1, 2011, may include provisions authorizing:

(a) Residential structures and appurtenant structures that were legally established and are used for a conforming use, but that do not meet standards for the following to be considered a conforming structure: Setbacks, buffers, or yards; area; bulk; height; or density; and

(b) Redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure if it is consistent with the master program, including requirements for no net loss of shoreline ecological functions.

(2) For purposes of this section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.

(3) Nothing in this section: (a) Restricts the ability of a master program to limit redevelopment, expansion, or replacement of over-water structures located in hazardous areas, such as floodplains and geologically hazardous areas; or (b) affects the application of other federal, state, or local government requirements to residential structures.

Passed by the Senate April 18, 2011.
Passed by the House April 5, 2011.
Approved by the Governor May 12, 2011.
Filed in Office of Secretary of State May 13, 2011.

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May 31, 2011

Mr. Marshall Foster
City of Seattle
Planning Director, Department
of Planning and Development
700 5th Avenue, Suite 2000
P.O. Box 34019
Seattle, WA 98124-4019

Re: Comments on 2011 Draft Shoreline Master Program

Dear Mr. Foster:

I am writing to you on behalf of Wards Cove On Lake Union ("WCLU"), to offer our comments on the 2011 Draft Shoreline Master Program document. WCLU is a water dependent shoreline development that was approved by the City in 2006 (MUP# 3003444) and began construction in that same year. Existing WCLU approvals include establishment of use for 12 new floating home moorages and a new marina for 10 vessels; demolition of marine office, boat shed and docks; renovation of two remaining structures for use as an office; and creation of parking proposed for a total of 59 spaces. The WCLU project also included a sizable Green Street improvement, shoreline public access and habitat mitigation in the near-shore area. This project and the substantial project-specific mitigation was the result of collaborative efforts of the neighborhood, WCLU, the Muckleshoot Tribe, the City, and several State and Federal Agencies with jurisdiction. WCLU has installed all of the required mitigation and has constructed the floating home moorages. As of this writing, WCLU has not completed sales of all of the floating home moorages and, as such, some of the new moorages are currently vacant. The draft shoreline regulations (SMC 23.60.202 in particular) not only unlawfully undermine the existing WCLU approvals, but as important, conflict with recently adopted state law related to the regulation of floating homes.

Serious Conflicts with State Statute.

Most importantly, the proposed language at SMC 23.60.202, Standards for Floating Homes, conflicts with recently enacted State Law. This section includes a number of restrictions and new regulations that attempt to preclude new floating homes in an existing moorage for which a MUP has already been granted. This section is in direct conflict with newly adopted state law[1] that determines floating homes to be conforming and preferred uses—not uses to be precluded.

[1] House Bill 1783 was signed by Governor Gregoire on April 29, 2011. A copy is attached for ease of reference.

As described above, the WCLU development established 12 floating homes site on the WCLU property in 2006. To be consistent with HB 1783, the draft regulations need to be revised to clarify that existing moorages for which a MUP has already been granted, such as WCLU, are conforming and preferred uses and that new floating homes within an existing moorage are permitted. As currently drafted, the regulations appear to require WCLU to moor (relocate) only existing floating homes and to not permit new floating homes at the new WCLU moorage. This is not in keeping with the new statutory amendment, undermines the substantial mitigation commitments that WCLU has already installed and would constitute an unlawful taking of WCLU's property interests by regulation inconsistent with this recent statutory amendment.

Specifically the draft regulations fail to take into account the specific conditioning of the WCLU Shoreline Permit that limits the depth of the float in individual slips within the WCLU floating homes moorage. Because of this condition, nearly all the WCLU floating homes slips require floats that are specifically designed to meet this unique depth limitation. Existing floating homes within Lake Union that might not be able to moor at WCLU because they have not been engineered to meet this specific depth limitation. To our knowledge, WCLU is the only floating home moorage with such a condition. The draft requirement that limits moorage to relocated existing homes will cause an unworkable limitation.

In addition to this conflict with floating homes and floating home moorages specifically, there are other provisions of the draft shoreline amendments that apply more generally in the shoreline and to the UC zone that are overly onerous or poorly crafted and, therefore, should be eliminated or revised. A brief summary of those items is described in the next section of this letter.

General Standards and UC Zone.

The draft regulations appear to impose overly stringent standards on existing developed sites. For example, these new regulations will render many developments in the Lake Union Area nonconforming and the proposed regulations for existing nonconforming uses would limit the ability of property owners to maintain their property. This represents a serious impact to the continued economic viability of many of Seattle's developed shorelines. SSB 5451[2], adopted in the 2011 Legislature, specifically acknowledges that "classifying existing structures as legally conforming will not create a risk of degrading shoreline natural resources." Thus, the City does not need to impose such stringent nonconforming use provisions to satisfy the "no net loss of ecological function" requirements of the SMA. Provided below are specific examples of draft language that would unacceptably hinder waterfront properties like WCLU.

Section 23.60.040 – Criteria for determination of reasonable. The term "feasible" is applied in many critical sections of the revisions and should be replaced with "practicable." The standard of "to the extent feasible" is one of the most stringent. The concept typically does not allow for considerations of cost or practicality. The "practicable" standard is more

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[2] Copy attached.

flexible and retains the realistic potential for incorporating additional factors, including public costs and benefits considerations, consistent with the WAC definition (173-26-020(13)).

Section 23.60.122 – Nonconforming uses. Sub B.2. This section includes a new requirement that a *conforming* structure which contains non-conforming uses, may not be substantially improved or rebuilt. Sub C goes on to disallow substantial improvement or reconstruction of conforming structures or development containing non conforming uses when they are destroyed by the normal deterioration of structures constructed in or over water. This section could have the effect of amortizing nonconforming uses by disallowing maintenance and repair of building constructed over water or in the water. This would affect portions of the WCLU property which are built partially over water.

Section 23.60.124 – Nonconforming structures. Sub B addresses structures located over water or within the required shoreline setback and precludes those structures from being substantially improved unless it is to improve access for the elderly and disabled or to provide regulated public access. This standard severely constrain the ability of WCLU to maintain a commercial viable development in the UC zone.

Section 23.60.124 excludes the normal deterioration of structures constructed in or over water as an *act of nature* that would allow their reconstruction. Where this could have the greatest impact is in on the bulkhead and filled areas of the WCLU property which support a mix of water dependent and non water dependent uses. Maintenance of the those areas against deterioration is critical to the continued use of the WCLU property.

Section 23.60.200 – Standards for Marinas, Commercial and Recreational. New standards in this section may render the commercial marinas owned by WCLU nonconforming. Sub B includes standards for the new operation of those marinas and best management practices, many of which may conflict with the practices already approved for the WCLU development.

Section 23.60.382 – Uses in the UC Environment. Sub A, table section E9, only allows water dependent uses on waterfront lots. This would render some WCLU uses nonconforming.

Section 23.60.384 – Shoreline Modifications in the UC Environment. Subsection B – breakwaters, jetties, groins, and weirs, including Sub 1 and 2, only allows those structures to support a shoreline conditional use. This could undermine the ability of WCLU to maintain it's existing bullheaded and fill that supports uses rendered nonconforming by preceding sections.

Conclusion.

The City and WCLU have worked well together in establishing a development on Lake Union that is an asset to the floating home community and the surrounding uplands. WCLU has satisfied all of its mitigation commitments and constructed new floating home moorage in reliance on this cooperative effort. These draft amendments should be revised to honor those

commitments. We ask that the City revise the provisions described above in order to preserve the vibrant Lake Union that we all enjoy and avoid lengthy appeals of the Seattle Shoreline Master Program.

Very truly yours,

David Van Skike
Land Use Planner

cc: Joel Blair, Wards Cove

Shilshole Liveaboard Association

Shilshole Bay Marina
7001 Seaview Avenue NW
Seattle, WA 98117

May 31, 2011

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

Re: Comments on the City of Seattle 2011 Shoreline Master Program Revisions

Dear Ms. Glowacki:

As the President of the Shilshole Liveaboard Association – the representative body of approximately 600 Seattle residents who make their homes at Shilshole Bay Marina – I am pleased that we have been given the opportunity to provide the Association's comments on the City of Seattle's 2011 Draft Shoreline Master Program ("SMP"). In summary, we recommend: (1) a different definition of "liveaboard;" (2) modifications to the 25% proposed liveaboard cap at recreational marinas; (3) restoration of "home moorage" to the definition of "Water-dependent use;" and (4) requiring marina operators to make training available to all marina tenants in the use of Best Management Practices ("BMPs").

Background

In preparing these comments to the proposed SMP revisions, a committee of Shilshole Liveaboard Association ("SLA") representatives met on approximately ten separate occasions (separately and with other liveaboard groups identified below). SLA representatives reviewed the documents identified on the Shoreline Master Program Update webpage as "Supporting Materials," communicated via email and other means to discuss these matters informally, and conducted many additional hours of independent research and investigation into the issues affecting liveaboards that were raised by the draft SMP.

Mailing Address:
124 Warren Avenue N
Suite 110
Seattle, WA 98109-4929
Fax: (206) 569-0071

Since there were no liveaboards on the Citizens Advisory Committee ("CAC"), we found the following materials particularly helpful:

- Shoreline CAC Report and Appendix
- CAC Meeting notes, presentations and summaries
- ECA: Best Available Science Review (August 2005)
- Draft Shoreline Characterization Report

SLA representatives attended two public meetings where you discussed the draft SMP, on March 8th and March 9th. You were also kind enough to attend two additional meetings with representatives of the SLA, the Washington Liveaboard Association ("WLA"), Lake Union Liveaboard Association ("LULA"), and interested members of the business community.

These meetings and materials were useful in understanding the Department's goals and objectives, but we are concerned that the liveaboard perspective has not been explored, considered, or fully understood by the Department of Planning & Development (the "Department"). An analysis of the materials listed above leads to the inevitable conclusion that authorized liveaboards residing on recreational vessels, properly moored in saltwater slips, have been treated as indistinguishable from other liveaboard communities in the draft SMP. We believe this has led to unnecessary regulation and a potential reduction of the number of responsible liveaboards.

In a review of the work of the CAC, we find little in the way of discussion of liveaboards on recreational vessels. For example, a review of the CAC meeting agendas, presentations, and notes of proceedings discloses that the topic of recreational vessels was addressed on only one occasion, October 28, 2008. Then, the CAC was asked whether recreational marinas, vessels and yacht club facilities should be allowed in Urban Industrial and Urban Marine environments. The CAC feedback reflected that its members believed such uses should be allowed. The topic of living aboard recreational vessels was never raised with the CAC, nor was the topic of grey water discharge or the role of recreational vessels (liveaboard or otherwise) in relation to promoting diversity of use.

Based upon the work of the SLA representatives described above, the SLA joins in and supports the comments submitted by the Washington Liveaboard Association. Because we believe there are concerns unique to liveaboards at Shilshole Bay Marina, we provide the following discussion.

Definition of "Liveaboard"

"Liveaboard" is not defined in the glossary to the SMP, but is used in three subsections and inferentially defined as a vessel that is used as a liveaboard vessel four or more days in any seven day period, a vessel used as a dwelling unit for one household for four or more nights per week, and/or a vessel that is used as a dwelling unit for any period of time. The SLA believes these various definitions capture too many non-liveaboard vessels, imposes unnecessary administrative burdens on marina managers, and could result in denial of liveaboard moorage.

For these and other reasons, the SLA proposes the following definition, which is modified from WAC 332-30-106(62)(i) and is slightly modified from that proposed by the Washington Liveaboard Association to reflect that a vessel is moored in a marina:

> "Liveaboard." Any person or succession of different persons residing on a vessel in a marina where such occupancy is permitted for more than a total of thirty days in any forty-five day period or more than a total of ninety days in any three hundred sixty-five-day period; or the occupant or occupants identify the vessel or the facility where it is moored as their residence for voting, mail, tax, or similar purposes. Marinas may define "residential use" more narrowly than the above definition, but not more broadly.

Limiting the Liveaboard Population

Several new provisions have been proposed in the draft SMP that limit the number of liveaboard vessels to 25% of all slips at each marina in the SMP jurisdiction. Despite the SMP's expressed intention to "grandfather" vessels at marinas that have a higher occupancy level, a 25% cap is to be achieved through attrition.

Given waiting lists for liveaboard slips, at least at Shilshole Bay Marina, we believe the market has already limited the number of liveaboard slips. The SLA believes any cap will drive up the cost of available moorage as more marinas come into line with the cap and the availability of liveaboard slips declines, allowing marinas to charge excessive rates for liveaboard slips.

The SLA agrees with the Washington Liveaboard Association that marinas should be allowed to set their own caps for liveaboard slips. This is consistent with the SMP's provision that existing liveaboard levels will be unaffected. Rather than adopt an attrition-based goal of 25% total liveaboard slips, the SLA believes that vessels that are "grey water neutral" should not be subject to the 25% count and should be permitted in marinas that set caps over 25%. The SLA joins the WLA in proposing the following language:

> Marinas set their own caps based on their individual business models, and their documented ability to meet the applicable facilities requirements elsewhere in the SMP. The marina is responsible for maintaining quarterly documentation that all liveaboard vessels in the marina are properly handling black water and are aware of and using BMP's regarding all environmental issues. However, if the percentage of liveaboards at a marina is in excess of 25% of its available moorage slips, the count of liveaboard vessels above the 25% number shall demonstrate and document existing on board equipment and procedures that attain or approximate grey water handling to have the least impact to ecological functions in reasonable consideration of the costs and contemporary alternatives. Documentation maintained by the marina to be available upon written request of the Director not more frequently than two times per calendar year.

In short, if a vessel can demonstrate that it does not discharge grey water, it is not included in the cap. This also incentivizes liveaboards to identify ways to reduce and/or eliminate untreated grey water discharges. If these steps do not result in improved ecological function in areas where marinas are located, the SLA strongly urges the City to eliminate the cap. The SLA hopes that, in the meantime, the City makes a good faith effort to collect and develop data that will drive any future regulations that may further limit liveaboard opportunities in Seattle.

"Home Moorage" as a "Water-Dependent Use"

The draft SMP retains "marinas, [and] legally established floating homes" as "water-dependent" uses, but removes "home moorage" from the definition. Accordingly, mooring a boat at a marina is "water-dependent" unless it is used as a residence. This does not appear to be a logical distinction, nor does it appear to advance a legitimate governmental purpose.

WAC 332-30-106(75) defines "water-dependent use" as "use which cannot logically exist in any location but on the water" such as "moorage." As noted above, recent legislation provides that houseboats and houseboat moorages are water-dependent uses for purposes of the Shoreline Management Act. This raises the legitimate question of whether a houseboat – a vessel primarily designed for residential purposes – can be a water-dependent use while a vessel that is primarily designed for navigation and is only secondarily designed for residential purposes is not. Absent some compelling justification for treating liveaboards on recreational vessels less favorably than houseboats and floating homes, "home moorage" should be restored to the SMP's definition of a "water-dependent use" and affected SMP provisions revised to reflect this status.

Living aboard a conventional vessel has been categorized as a water dependent use by the nature of the vessel involved. Changing that status would also have the unintended consequence of driving the issue underground with the concomitant loss of control over BMPs and other positive efforts. The recent change in state law regarding floating homes complicates the issue both by conflating the terms floating home and houseboat, and by granting a more favorable status to over water residences than that accorded to lower-impact liveaboard vessels.

Best Available Science and Liveaboard Stereotypes

The draft SMP seems to have accepted, without scientific support, a stereotypical view of liveaboards. This view includes the perception that liveaboards impose a greater burden on the ecological function of Washington's waters than non-liveaboards or upland residents.

Despite these implicit assumptions, no additional impairment of ecological function has been documented from the use of already-moored recreational vessels that are also used as residences. Based on the ECA and Draft Shoreline Characterization Reports, the primary causes of impairment to Shilshole Bay Marina (Reach 17) are armored shorelines, leaking septic tanks,[1] upland run-off,

[1] The assumption that boat holding tanks "may leak" defies science, in that any breach of a hull that allows leakage into the water would ultimately result in the vessel taking on water instead.

proximity to the Carkeek CSO treatment plant/CSO overflow, and proximity to a park that allows pets. Interestingly, the presence of recreational vessels as causes of impairment is not attributed to any scientific source and, in at least two instances, the addition of marinas and boats as impairment scoring criteria (B-1.6.4 and B-1.7.4) was made without attribution to any expert source.

More to the point, although not identified in any of the materials cited in support of the draft SMP, liveaboards seem to have been charged with independently finding a solution to "the grey water problem." Inherent in this charge is the perception that the discharge of grey water is a "problem" and that liveaboards are its cause. Until there is better science, though, the SLA recommends that the City and Department follow through with the draft requirements for use of BMPs and the SLA's proposal that a training component be included. Additional regulation intended to reduce the discharge of grey water from recreational vessels should then track efforts already underway at the federal level (see attached Appendix).

Conclusion

Rather than regulating a lifestyle choice, the City should seek to regulate actions to protect the aquatic environment. This is accomplished by requiring BMPs for all recreational boaters, requiring documentation of proper black water handling procedures, and providing incentives for improving grey water containment and disposal. Trying to achieve these goals by reducing the number of vessels used for residential purposes will only serve to push the problem underground.

In closing, the SLA urges the Department to make the following revisions to the draft 2011 Shoreline Master Program for the City of Seattle:

- Adopt a definition of "liveaboard" describing a lifestyle decision to reside on the water;
- Modify the 25% proposed liveaboard cap to permit marinas to set caps which, if exceeding 25% liveaboard occupancy, excludes vessels that manage their grey water;
- Restore "home moorage" to the definition of "water-dependent use;" and
- Require marina operators to offer BMP training to all marina tenants once per year.

Please feel free to contact the SLA if you have any questions regarding its comments, or to schedule a meeting if you believe it would be productive.

Sincerely,

SHILSHOLE LIVEABOARD ASSOCIATION

By: Gail M. Lunn, President

GML:ms
Enclosures

APPENDIX

053°(T)/037°(M) and Kenai, AK, 239°(T)/220°(M) radials; Kenai; Anchorage, AK; Big Lake, AK; Fairbanks, AK; Chandalar, AK, NDB; to Deadhorse, AK.

* * * * *

J–124 [Amended]

From Big Lake, AK, via Gulkana, AK; to Northway, AK.

J–125 [Amended]

From Kodiak, AK, via Anchorage, AK; INT Anchorage 335°(T)/316°(M) and Talkeetna, AK, 195°(T)/176°(M) radials; Talkeetna; to Nenana, AK.

* * * * *

J–127 [Amended]

From King Salmon, AK; to INT King Salmon 042°(T)/026°(M) and Anchorage, AK, 247°(T)/228°(M) radials.

* * * * *

J–133 [Amended]

From Galena, AK, via Anchorage, AK; Johnstone Point, AK; Orca Bay, AK NDB; via INT Orca Bay NDB 114°(T)/091°(M) and Sitka, AK NDB 308°(T)/285°(M) bearings, to Sitka, AK NDB.

* * * * *

J–511 [Amended]

From Dillingham, AK; via INT Dillingham 059°(T)/044°(M) and Anchorage, AK 247°(T)/228(M) radials, to Anchorage, AK; Gulkana, AK; to Burwash Landing, YT, Canada, NDB, excluding the portion which lies over Canadian territory.

* * * * *

Paragraph 2005 Alaska Area Navigation Routes.

* * * * *

J804R ANCHORAGE, AK, TO FRIED [AMENDED]

Waypoint name	Location	Reference facility
Anchorage, AK	61°10′04″ N. 149°57′37″ W.	Anchorage, AK.
NOWEL	60°29′02″ N. 148°28′31″ W.	Middleton Island, AK.
Middleton Island, AK	59°25′19″ N. 146°21′00″ W.	Middleton Island, AK.
SNOUT	57°53′26″ N. 141°45′19″ W.	Yakutat, AK.
EEDEN	55°53′59″ N. 137°00′06″ W.	Biorka Island, AK.
FRIED	54°13′19″ N. 133°37′57″ W.	Annette Island, AK.

* * * * *

J–889R NOWEL TO LAIRE [AMENDED]

Waypoint name	Location	Reference facility
NOWEL	60°29′02″ N., 148°28′31″ W.	Anchorage, AK.
ARISE	60°00′00″ N., 146°09′13″ W.	Middleton Island, AK.
KONKS	59°33′02″ N., 144°00′07″ W.	Middleton Island, AK.
LAIRE	58°48′15″ N., 140°31′43″ W.	Yakutat, AK.

* * * * *

Paragraph 2006 Alaska area navigation routes (Q-routes).

* * * * *

Q–8 GAL to TED [Amended]

GAL VORTAC
(Lat. 64°44′17″ N., long. 156°46′38″ W.)
TED VOR/DME
(Lat. 61°10′04″ N., long. 149°57′37″ W.)

* * * * *

Q–43 TED to FAI [Amended]

TED VOR/DME
(Lat. 61°10′04″ N., long. 149°57′37″ W.)
BGQ VORTAC
(Lat. 61°34′10″ N., long. 149°58′02″ W.)
FAI VORTAC
(Lat. 64°48′00″ N., long. 148°00′43″ W.)

Q–44 OME to TED [Amended]

OME VOR/DME
(Lat. 64°29′06″ N., long. 165°15′11″ W.)
TED VOR/DME
(Lat. 61°10′04″ N., long. 149°57′37″ W.)

Q–45 DLG to AMOTT [Amended]

DLG VOR/DME
(Lat. 58°59′39″ N., long. 158°33′08″ W.)
AMOTT Fix
(Lat. 60°52′27″ N., long. 151°22′24″ W.)

* * * * *

Q–47 AKN to AMOTT [Amended]

AKN VORTAC
(Lat. 58°43′29″ N., long. 156°45′08″ W.)
AMOTT Fix
(Lat. 60°52′27″ N., long. 151°22′24″ W.)

* * * * *

Q–49 ODK to AMOTT [Amended]

ODK VOR/DME
(Lat. 57°46′30″ N., long. 152°20′23″ W.)
AMOTT Fix
(Lat. 60°52′27″ N., long. 151°22′24″ W.)

Issued in Washington, DC, on February 28, 2011.

Edith V. Parish,

Manager, Airspace, Regulation and ATC Procedure Group.

[FR Doc. 2011–4937 Filed 3–3–11; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[Docket EPA–HQ–OW–2011–0119; FRL–9275–4]

Stakeholder Input: Listening Session to Provide Information and Solicit Suggestions for Regulations Forthcoming Under the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of listening sessions.

SUMMARY: The EPA is today announcing plans to hold "listening sessions" on March 18 and April 29, 2011, to provide information about the Clean Boating Act (CBA), and to gather recommendations from the public for forthcoming regulation of recreational vessels under the Clean Water Act (CWA) Section 312(o). The listening sessions will be held in Annapolis, MD. EPA may hold additional listening sessions in other locations if there is sufficient interest. The CBA, which was passed by

Congress and signed into law in 2008, directs EPA to promulgate regulations to establish management practices and associated standards of performance for discharges incidental to the normal operation of recreational vessels (*e.g.*, bilgewater, ballast water, and graywater). Because these regulations will affect the owners and operators of approximately 17 million recreational vessels, EPA seeks to inform the general public and regulated community of its plans for development of the regulations, and to hear the views of the general public, the recreational boating community, State agencies, and other interested stakeholders.

DATES: The listening sessions will be held at 210 Holiday Court, Annapolis, Maryland 21401, on March 18 and April 29, 2011, at 7 p.m. EST. Any additional listening sessions that are scheduled will be published in a forthcoming **Federal Register** document. If you would prefer to provide written comments, EPA is asking for comments or relevant information from the interested public to be submitted to the docket on or before June 2, 2011.

ADDRESSES: Submit your statements or input, identified by Docket ID No. EPA–HQ–OW–2011–0119 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ow-docket@epa.gov.* Attention Docket ID No. EPA–HQ–OW–2011–0119.
- *Mail:* Water Docket, Environmental Protection Agency, Mail Code: 2822–1T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OW–2011–0119.
- *Hand Delivery:* Water Docket, EPA Docket Center, EPA West Building Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460, ID No. EPA–HQ–OW–2011–0119. Such deliveries are only accepted during the Docket's normal hours of operation (*see* below), and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2011–0119. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI (or otherwise protected) through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment, as well as with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Public Listening Session: EPA intends to hold public listening sessions to provide information to and gather information from the public to assist EPA in the development of regulations for recreational vessels. Written and oral statements will be accepted at the public listening sessions. Input generated from the public listening sessions will be compiled and archived in Docket ID No. EPA–HQ–OW–2011–0119, found at *http://www.regulations.gov.* The public listening session will include an EPA discussion of the background of the CBA, a discussion of the intent of the proposed regulation, and EPA's general approach to the regulatory process.

FOR FURTHER INFORMATION CONTACT: For further information about the CBA or on the listening sessions, contact Brian Rappoli at 202–566–1548, or e-mail *cleanboatingact-hq@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Today's document does not contain or establish any regulatory requirements. Rather, it announces public listening sessions and seeks public input for use in developing proposed regulations under the CWA Section 312(o).

Today's document will be of interest to the general public, State regulatory agencies, other Federal agencies, environmental groups, and owners or operators of recreational vessels.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the document by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
- Follow directions.
- Describe any assumptions and provide any technical information and/or data that you used.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible and provide reasons to support your views.

Make sure to submit your comments by the comment period deadline identified. You may submit your comments electronically, by mail, through hand delivery/courier, or in person by

attending the public listening sessions being held on March 18 and April 22, 2011.

II. Background

The potential environmental impacts from discharges incidental to the normal operation of recreational vessels are broad. Recreational boating activities can introduce non-indigenous invasive species to new aquatic environments through the discharge of encrusting organisms from boat hulls, boat trailers, fishing gear, and through water retained by live wells and fishing buckets, recreational gear, ballast water, and bilge water. Boating activities can also introduce toxic chemicals and other pollutants. For example, graywater discharges from the vessel galley, sinks, or showers can contribute to eutrophication, enhanced turbidity, and introduce pathogenic organisms to the surrounding water. Coatings used to deter organism growth on vessel hulls can release heavy metals and/or other biocides, which can lead to acute or chronic toxicity in non-targeted organisms. Bilgewater can contain oils, dissolved heavy metals, and other chemical constituents that can result in toxic effects on aquatic organisms, contribute to eutrophication, and have negative aesthetic impacts.

The CBA creates a new section 402(r) of the CWA to exclude recreational vessels from National Pollutant Discharge Elimination System permitting requirements. In addition, it adds a new CWA section 312(o) directing EPA to develop regulations that identify the discharges incidental to the normal operation of recreational vessels (other than a discharge of sewage), for which it is reasonable and practicable to develop management practices to mitigate adverse impacts on waters of the United States. Those regulations need to include management practices, as well as performance standards for each such practice. Following promulgation of the EPA performance standards, new CWA section 312(o) directs the United States Coast Guard (USCG) to promulgate regulations governing the design, construction, installation, and use of the management practices. Following promulgation of the USCG regulations, new CWA section 312(o)(6) prohibits the operation of a recreational vessel or any discharge incidental to their normal operation in waters of the United States and waters of the contiguous zone (i.e., 12 miles into the ocean), unless the vessel owner or operator is using an applicable management practice meeting the EPA-developed performance standards.

To be successful, the management practices and performance standards to be developed under the Act will need to be technically effective in reducing or controlling discharges, but also will need to be readily implemented by the recreational boat owner.

To help the public prepare for the listening session, the following background information is provided. Please note that the information presented in this section is in summary form; for more detail, please refer to the information available at *http://water.epa.gov/lawsregs/lawsguidance/cwa/vessel/CBA/about.cfm.*

A. Why is EPA developing proposed regulations for operational discharges from recreational vessels?

In July of 2008, Congress passed the Clean Boating Act of 2008 (Pub. L. 110–288). The CBA directs EPA to promulgate regulations to establish management practices and associated standards of performance for discharges incidental to the normal operation of recreational vessels.

B. What vessels are subject to the CBA?

The CBA defines recreational vessels as vessels: (1) Manufactured primarily for pleasure, (2) used primarily for pleasure, or (3) vessels leased, rented, or chartered for pleasure (CWA section 502(25)). The definition specifically excludes vessels that are subject to USCG inspection and either engaged in commercial use or carry paying passengers. EPA anticipates that the proposed regulation will apply to recreational vessels including, but not limited to: personal watercraft, canoes, kayaks, recreational fishing boats, sail boats, ski boats, power boats and large yachts.

C. What are "Management Practices" (MPs) and who will they apply to?

EPA anticipates the proposed regulation will consist of a number of MPs that will describe practices to reduce environmental pollution from recreational vessels. Each vessel owner/operator would be responsible for implementing the MPs applicable to the types of discharges their vessel creates. The owner/operator is not responsible for those MPs for discharges that their vessel does not create (for example, a sailboat owner is not responsible for the engine maintenance MPs if the sailboat does not have an engine).

D. If I own a recreational vessel, what will I need to do?

At this time, we are only seeking public input to assist us in developing the regulations. Under the CBA, the regulations are to be developed in three phases: Phase 1, EPA develops MPs for incidental discharges from recreational vessels; Phase 2, EPA develops performance standards for the MPs; and Phase 3, USCG develops regulations requiring use of the MPs. Following promulgation of the USCG Phase 3 regulations, discharges incidental to the normal operation of recreational vessels into waters of the United States or the contiguous zone that are not in accordance with the management practices and performance standards will be prohibited. Violations of the CWA section 312(o) regulations will be subject to fines under the CWA.

E. When will this regulation be enforced and who will be enforcing it?

The regulations will be enforceable upon finalization of the Phase 3 regulations by the USCG. The USCG will be the Federal agency enforcing MPs and performance standards. Relevant State agencies can, at their discretion, also enforce these practices and standards under CWA section 312(j) and 312(k).

III. Request for Public Input and Comment

Today's document is being issued to inform the public that EPA is in the process of developing regulations under the CWA section 312(o) and to solicit input from the public. EPA is accepting information during the listening sessions scheduled for March 18 and April 29, 2011, and/or by submission of written comments or relevant information to gain early public input on development of the MPs. Additionally, EPA will be conducting a series of weekly "webinars" to facilitate public participation. More information about the webinar series can be found at *http://water.epa.gov/lawsregs/lawsguidance/cwa/vessel/CBA/.* EPA is also seeking input from the public on whether to hold additional listening sessions in other locations (*e.g.,* Gulf of Mexico, Great Lakes region, and West Coast).

In addition to requesting recommendations for MPs that should be considered for inclusion in the forthcoming proposed rule, EPA is specifically requesting comment on the following:

(1) Are there any guidances, supporting documentation, or communication strategies that you would recommend EPA develop to help vessel owner/operators better understand and comply with the MPs being developed by EPA? If so, please suggest your approaches.

(2) Are there specific discharges (*e.g.,* ballast water) or broad categories of discharges (*e.g.,* oily wastes) for which EPA should consider developing MPs?

(3) Are there specific effluent limitations or best management practices that EPA should consider incorporating into the forthcoming regulations? If so, please provide the recommendation and any supporting information.

(4) Are there relevant Federal, State, or international permits, rules, or guidances EPA should consider using to inform decisions being made for the CWA section 312(o)? If so, please identify the specific sections of the permits, rules, or guidances you believe EPA should consider.

Dated: February 24, 2011.

Denise Keehner,

Director, Office of Wetlands, Oceans and Watersheds.

[FR Doc. 2011–4989 Filed 3–3–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2011–0063; FRL–9275–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adoption of Control Techniques Guidelines for Paper, Film, and Foil Surface Coating Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania (Pennsylvania). This SIP revision includes amendments to Chapter 121—General Provisions and Chapter 129—Standards for Sources of Title 25 of the Pennsylvania Code. Pennsylvania's SIP revision meets the requirement to adopt Reasonably Available Control Technology (RACT) for sources covered by EPA's Control Techniques Guidelines (CTG) standards for paper, film, and foil surface coating processes, and will help Pennsylvania attain and maintain the National Ambient Air Quality Standard (NAAQS) for ozone. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before April 4, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2011–0063 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2011–0063, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2011–0063. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by e-mail at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 4, 2011, the Pennsylvania Department of Environmental Protection (PADEP) submitted to EPA a SIP revision concerning the adoption of the CTG for paper, film, and foil surface coating processes.

I. Background

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including RACT for sources of emissions. Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIPs to include RACT for sources of volatile organic compounds (VOC) emissions covered by a CTG document issued after November 15, 1990 and prior to the area's date of attainment.

CTGs are intended to provide state and local air pollution control authorities information that should assist them in determining RACT for VOCs from various sources, including paper, film, and foil coatings. In developing these CTGs, EPA, among other things, evaluated the sources of VOC emissions from this industry and the available control approaches for addressing these emissions, including the costs of such approaches. Based on available information and data, EPA provided recommendations for RACT for VOCs from paper, film, and foil coatings.

In December 1977, EPA published a CTG for surface coating of paper (EPA–450/2–77–008). This CTG discusses the nature of VOC emissions from this industry, available control technologies for addressing such emissions, the costs of available control options, and other items. EPA promulgated national standards of performance for new stationary sources (NSPS) for the paper, foil, and film industry and EPA also published a national emission standard

*****RECREATIONAL BOATING ASSOCIATION OF WASHINGTON - MESSAGE RELAY*****

EPA REPORT AND ACTION REQUEST FROM NATIONAL BOATING FEDERATION

(Please read below report from NBF Legislative Director, and message from NBF President at the end of report.)

The Environmental Protection Agency (EPA) held its 2nd Listening session in Annapolis, MD, on proposed regulations to mitigate adverse effects from bilge water, gray water and deck runoff from recreational vessels as required by the Clean Boating Act. The format was the same as first session; opening remarks, followed by comments and then a question period. There were similar comments to the first Session, with many citing practices already in place to eliminate or at least mitigate any effects from gray water discharge. Some cited State practices already in place (Maryland brochures"Clean Boating Tips" were on the sign in table).

A significant question to the EPA was "has there been any published study on the effect of gray water discharge on water quality?" The answer was "no".

The EPA stated by the summer of 2012 it will release the "proposed rulemaking." There will be a comment period and then in the summer of 2013 will be the "final Phase1 rules." Not until the final CG regulations are out, which will be enforced by the CG, will there be any effect. The EPA further stated that it is "not looking at hardware solutions" and "no retrofit or expensive installations" will be required. Further they will tell us the cost, provide the rationale and cost analysis of their proposed rulings. These statements were essentially confirmed by Director Denise Keenher, EPA Office of Wetlands, Oceans and Watersheds, at the 4 May American Boating Congress held in Washington DC.

There was also a webinar held on May 5 and May 10; EPA.gov/cleanboatingact.

Earl Waesche,
Legislative Director,
National Boating Federation

"Morrow, Donna" <DMORROW@dnr.state.md.us>
03/21/2011 11:22 AM

To OW-Docket@EPA
cc "Gutierrez, Lisa" <LGUTIERREZ@dnr.state.md.us>, "Schultz, Gwynne" <GSCHULTZ@dnr.state.md.us>, "Gaudette, Bob" <BGAUDETTE@dnr.state.md.us>
bcc
Subject Attention Docket ID No. EPA--HQ--OW-2011-0119

Hello,

I administer Maryland's Clean Marina, Clean Boating, and Clean Vessel Act Grant Programs. I attended the listening session on March 18th. Below are my comments with regard to development of regulations under the Clean Boating Act.

1. To move from recommendations to regulations, boaters deserve some hard science to explain why they are being forced to do things differently. All the clean boating tips that MD and other Clean Marina programs have promoted are based on what makes sense intuitively but there is no data that show the impact of the recreational boaters on the overall environmental problems. To *require* boaters to undertake these practices, they want to know it will make a difference and address a scientifically identified problem. This will be very difficult (if not impossible) because I imagine the impacts from recreational boats are miniscule to overall water quality problems. Therefore, I encourage EPA to avoid regulating grey water, wash water, and cooling water. If you must (by law) regulate these discharges, then go with the least stringent regulations possible and do not impose effluent limits.

2. If at all possible, EPA should hold listening sessions in a few other places. Consider the West coast, Great Lakes, and Gulf Coast. Boating seasons and practices are quite different in each of these areas. And nuisance/invasive species concerns vary regionally as well.

3. Building on these thoughts, I recommend that CBA regulations/rules focus on preventing the spread of invasive/nuisance species. This problem was the impetus of the CBA and should be the primary focus of regulations. Issues and solutions can focus around bottom paints, ballast water, and properly cleaning trailered boats and fishing gear to prevent spreading ANS. However—a strong caution not to require expensive solutions such as washing stations unless EPA can provide financial assistance to install them.

4. One speaker at the March 18 listening session, who identified herself as a regulation writer by profession, had some excellent ideas on building water quality "triggers" into the regulations, rather than blanket prescriptions for all areas at all times. I urge EPA to consider this wise approach.

If you have any questions or require clarification on any of these comments/thoughts, I would be glad to speak with you directly.
Thank you,

Donna Morrow, Administrator
MD Department of Natural Resources
Boating Services
580 Taylor Avenue, E-4
Annapolis, MD 21401
p: 410-260-8773 ***New Fax****: 410-260-8453*
http://www.dnr.state.md.us/boating/cleanmarina/

RECREATIONAL BOATING ASSOCIATION *of* WASHINGTON

Voice of Northwest Boating

Mailing Address - P.O. Box 23601 • Federal Way, WA 98093-0601

May 22, 2011

Water Docket
Environmental Protection Agency
Mail Code: 2822-1T
1200 Pennsylvania Ave.
Washington, D.C. 20460

Att.: Docket No. EPA-HQ-QW-2011-0119

On behalf of the 265,000 members of the Recreational Boating Association of Washington, I am writing to express our very strong concern and opposition to the efforts underway to restrict the discharge of 'grey water' from recreational vessels which is being considered by the EPA..

There is no marine user group that is more supportive of clean water than the recreational boating community. It is the place where we spend our leisure time and our discretionary income so we have a vested interest in preserving our marine environment. However, there is no evidence or peer-reviewed study that supports the contention that 'grey water' is harmful and, therefore, should be regulated.

The recreational boating community and the environment does not need further questionable regulations to solve a problem that does not exist. From an economic viewpoint, it is impossible to refit most existing vessels with grey water holding tanks without compromising vessel integrity and seaworthiness. Likewise, adding grey water holding tanks to new vessels will substantially increase costs of production which will be passed on to the consumer, again with no benefit to the environment. From a practical point of view, I would contend that more pollutants enter Puget Sound and other bodies of water in one rainstorm than pollutants from recreational boaters in decades. If the intent of the EPA is to improve water quality, I would suggest they start with storm water runoff.

We encourage and support the efforts of NBF and other recreational boating groups to stop this needless regulation.

Sincerely,

Edward J. Jennerich
President

WASHINGTON LIVEABOARD ASSOCIATION

May 31, 2011

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

Dear Ms. Glowacki,

The Washington Liveaboard Association, WLA, is a statewide organization in support of legal and responsible liveaboards. Incorporated as a non-profit in the State of Washington, it is made up of several regional chapters as well as individual liveaboards not associated with locally defined chapters.

In the discussion points relative to the Shoreline Master Plan issues below i*talics* represent explanatory notes.

From a precedence setting standpoint creating a "registered list" of liveaboards for any regulatory agency could have negative consequences outside Seattle in other waters both in Washington and other states. Therefore the WLA cannot support solutions that require this. Spot checks with existing liveaboards indicate that this is a serious issue and would have an unintended consequence of driving things underground, reducing the desired compliance to BMPs, etc.

Without a "registered list" capping liveaboards within the city at an aggregate 25% becomes logistically impossible and the need returns to percentages within individual marinas. The proposed 25% may be generally acceptable but for marinas who have or would like to have a larger number. Early on there was discussion that numbers in excess of 25% could be accommodated if they were subject to more stringent gray water handling, as an incentive to reduce gray water pollution, and provided the marina's infrastructure could support the greater use.

Alternatively, a "registered list" of grandfathered houseboats/barges may be the only viable solution to that issue. In the past that has been the vessel rather than the liveaboard. This is an issue that the houseboat/barge community should work out directly with the city.

In order to define the population a consistent definition of liveaboard is required. Based on the State's definition, slightly modified, the proposal below may be an acceptable solution. This suggestion has previously been discussed and generally accepted. (The State definition was created to deal with anchored out vessels, probably in response to Eagle Harbor but it does appear to cover most of the points.)

Liveaboard Definition

"Residential use" as set forth in WAC 332-30-106(62) (i) as "any person or succession of different persons residing on a vessel in a specific location, and/or in the same area on more than a total of thirty days in any forty-day period or on more than a total of ninety days in any three hundred sixty-five-day period;" or the occupant or occupants identify the vessel or the facility where it is moored as their residence for voting, mail, tax, or similar purposes. Marinas may define "residential use" more narrowly than the above definition, but not more broadly.

Proposed Cap suggested approach

Marinas set their own caps based on their individual business models, and their documented ability to meet the applicable facilities requirements elsewhere in the SMP. The marina is responsible for maintaining quarterly documentation that all liveaboard vessels in the marina are properly handling black water and are aware of and using BMP's regarding all environmental issues. However, if the percentage of liveaboards at a marina is in excess of 25% of its available moorage slips, the count of liveaboard vessels above the 25% number shall demonstrate and document that they have on board equipment and execute procedures to attain or approximate the objectives of gray water handling to have the least impact to ecological functions in reasonable consideration of the costs and contemporary alternatives. Documentation maintained by the marina to be available upon written request of the Director not more frequently than two times per calendar year.

Terms and wording are patterned after various other parts of the proposed SMP. The objective is to get away from complicated cap administration and at the same time insist on documented handling of pollutants. It hopefully becomes a method to reduce non point pollution and still allow marinas to set appropriate limitations based on their own plans and infrastructure. It also offers a solution for marinas that currently have a greater than 25% liveaboard count.

Houseboat or Barge Home definition

The WLA does not take a position on the type of vessel. Its focus is supporting legal and responsible liveaboards. The city, under pressure from the State and from public input, may have a need to define and regulate house vessels. It will be critical to work out an improved definition to potentially gain grandfathered acceptance of the existing vessels created to get around the 1990 proscription. Again this is best worked out directly between the city and the houseboat/barge community. However out of the discussions over the last many weeks one suggested definition that seems to hold up well is the following, presented here as a suggestion:

"House barge (houseboat, dwelling unit vessel, ...?)" means a vessel, with or without means of self propulsion and steering equipment or capability, that in its current configuration is principally designed for and obtains the greatest part of its fair market value as a place of long term residence.

Looking at the design intent's contribution to the fair market value is an attempt to get away from opinions regarding appearance or construction. Adding the design intent of the current configuration picks up substantially modified vessels or others such as conventional vessels with engines removed or non-functional. As suggested by others, a marine surveyor could be engaged to clarify the financial intent of an indeterminate vessel. Since there will always be market pressure for liveaboard vessels with accommodations greater than similar size and value vessels intended for longer range use, as that market is restricted by regulation, design solutions skirting the regulations will be devised. The long term best solution is to focus on methods to reduce pollution from all vessels.

Limitations on House Barges

Limitations on houseboats/barges should be worked out directly between the City and that community. Based on the history of the existing barge home grandfathered permits, the logistics of maintaining and enforcement of even a simple system is a tall order for a city strapped for man hours and funding. Coming up with a simple system will be a challenge and essential to an acceptable solution.

Water Dependent Status

Historically, living aboard a conventional vessel has been categorized as a water dependent use by the nature of the vessel involved. Changing that status would also have the the unintended consequence of driving the issue underground with the previously mentioned loss of control over best practices and other positive efforts. The recent change in state law regarding the floating home community complicates the issue both by conflating the terms floating home and houseboat, and by granting a more favorable status for over water residences than would be accorded to liveaboards on properly moored recreational vessels.

Gray Water

Because gray water regulation will affect all vessels and the most cost effective immediate reduction in pollution is achieved through BMP's, the WLA position is to encourage all liveaboards to:

Demonstrate and document the existing on board equipment and procedures that attain or approximate the objectives of gray water handling to have the least impact to ecological functions in reasonable consideration of the costs and contemporary alternatives for their specific vessel.

Regulations or restrictions that encourage and reward those efforts by individuals are a positive environmental influence. In contrast, a one-size-fits-all mandate may be counterproductive. Other organizations in support of wider marine industries have and are doing credible work in these areas at both the state and national levels and the WLA position is to defer to these larger efforts as a long term solution for all vessels.

The most effective immediate effort will be in education and outreach areas. The draft SMPs provide that marina operators are required to develop a best management practices document for marina tenants that address the requirements of subsection 23.60.200.B.2 – 23.60.200.B.6. It also indicates that moorage agreements shall include the BMPs document and a section that states that by signing the moorage agreement the tenant has read and agrees to comply with the BMPs.

The WLA recommends adding a seventh subsection that reads:

Marina operators to offer training in BMPs for all marina tenants at least once each year. Documentation of training made available to tenants is to be maintained by the marina and provided upon written request of the Director not more frequently than annually. Marina operators are encouraged to utilize the services of qualified volunteer organizations such as liveaboard associations or other environmentally concerned maritime groups to provide this training to marina tenants.

Thank you for your consideration of these comments and the hours you have devoted to fair resolutions of the many issues.

Sincerely,

Michael Humpston, President

Washington Liveaboard Association

brava@clearwire.net

From: patti bishop [mailto:pattixbishop@gmail.com]
Sent: Tuesday, May 31, 2011 4:57 PM
To: Glowacki, Margaret
Subject: SMP revision

Dear Maggie,
I wish to make three points about the SMP in regards to live-aboards and Lake Union.

First and foremost, we join you in considering ourselves stewards of the Lake and environment. I was raised on a ranch; my family is very much marked by the place we lived and being stewards of the range land. My father was the Wild Horse and Burro Advocate for the BLM Western region. When living on the Lake...I hold these same values and I find that I am joined in that by other live-aboards. Just like you would not throw garbage in your backyard and would resent anyone who did...I can tell you, the Live-aboard community cleans the Lake, picks up floating debris, takes care not to pollute...EVERYDAY. Its not just a once a year clean-up. We care deeply about our place and home. Just like you do. The live-aboard community supports and cares for the Lake.

A second stated goal of the SMP is lower "coverage" of the Lake.
The over-water coverage will not change with the decrease in live-Aboards. The moorage will be filled by other boats. Coverage will be at least as much.

I am very concerned that limit the number of live-aboards per marina gives absolute power to the marina owner/managers. This level will be quickly met or is already exceeded by most marinas who allow livea-aboards and once enacted, gives the managers absolute power to raise moorage rates to unreasonable heights. Most leases are one year at best or month to month. There will be no place else to go...so no matter how modern the boat, how well it handles its grey water...the criteria of remaining on the Lake is kowtowing to marina owners. This does NOT address the issue of grey water...one of the stated goals of the new SMP.

Grey water can be addressed by issuing permits as proposed by the Lake Union Live-board Association. I hope you will give consideration to their proposal.

Regards,
Patti Bishop
206-419-4749

From: Erlin L [mailto:ventured@gmail.com]
Sent: Tuesday, May 31, 2011 4:18 PM
To: Glowacki, Margaret
Subject: Liveaboard input

Margaret-

I am writing to give you my opinion on Lake Union liveaboards. I have lived on Lake Union since 1996, originally in a houseboat I built, and currently on a sailboat. I am sailing south this fall, so it is doubtful any decisions made will effect me, but I feel strongly enough about these issues to write in to give you my input.

When I first contemplated building a houseboat, I walked the docks and spoke with some of the residents. The quote that still stands out in my mind is the woman that told me living aboard was "like a vacation ever day." I spoke with someone who worked for the city and was told if I built a boat, with a motor and running lights, that would be legal in the city. While it was not designed for open water, it could be driven around the lake. Having lived on the lake for 15 years, I have noticed that many boats manufactured by boat companies don't leave the dock, whether liveaboard or recreational use boats. Aren't all boats with a bed, galley and head in some way designed to be lived on? Who is going to inspect and judge each vessel to determine the primary designed use? Sailboats designed for offshore sailing are designed for people to live on them while cruising the world, would they be banned from a stay in Seattle?

Having to find moorage for a liveaboard vessel several times, I can say from first hand experience it is not easy. Many marinas will not acccept liveaboards, and the ones that do limit the amount of slips that can have liveaboard status. I think any fears of liveaboards taking over the lake and occupying all of the slips are unfounded. In addition, if a limit, or ban, is put in place, who is going to enforce it? The marina managers typically are around at most from 9-5 Monday thru Friday and would be here to observe who is coming and going in the morning, evening and weekend. Is the city going to hire people to watch the marinas, or pay the managers additional money for expanded office hours (assuming the managers even wanted to stay late or work weekends)? My belief is restricting liveaboards would be very difficult to enforce, and doing so would cost the city additional money, while costing the city tax dollars from the marina's reduced income from not collecting liveaboard fees.

As a liveaboard, I take great pride in keeping the lake clean, and watching out for other boats. I have retied the mooring lines on boats near me when a non liveaboard owner hasn't visited often enough to adjust their lines based on the lakes varying level, called 911 for a domestic disturbance that stopped a woman on my dock from suffering more than the already serious cuts and fractured bones in her face and helped more than one boater make a landing on the dock in windy conditions that were challenging their boat handling ability.

My question about these proposed changes in housebarge definition and restriction of liveaboards is this: What problem are you trying to solve? I've been involved in this community for over a quarter of my life, love living aboard, have a very low environmental impact in that I am not filling a house with consumable goods and am in the process of adding wind and solar power generating capabilities to my boat which will reduce my need for city provided electricity. On my houseboat I could not even put water from the houseboat in the lake, my holding tanks could only be emptied by a pump out service. While I did not pay property tax, I'm sure part of my moorage went to pay taxes on the marina property, and I've payed plenty of sales tax to eating and drinking establishments in Fremont, which I walked to from my dock. I have not seen the lake fill with liveaboards, and our docks stayed in better shape then several I've been on with no liveaboards. So again, what harm are liveaboards doing? Why is there an effort to control, reduce or eliminate them? Do you think tourists will come to Seattle to tour a lake for what one of my friends referred to as PWBs (Plain White Boats)? I have had many more kayakers look in the window of my houseboat then paddle up to my rather generic looking white fiberglass sailboat. In my experience, the

liveaboards are helpful and care about the lake, and are limited by the choice of the marina owners. And having owned a homemade houseboat, they are VERY difficult to find moorage for, as many marinas that allow liveaboards will not allow houseboats, or the registered housebarges.

I believe adding regulations will cost the city money in enforcement, result in reduced income for the city in both marina taxes, tourist dollars, and sales tax from liveaboards that move out of the city, while taking away a unique and vibrant party of the city. And in doing so, what problem will be solved? Certainly not one I've experienced in my 15 years of living on Lake Union.

Erlin Loving

From: Katherine Bragdon [mailto:kbragdon@seanet.com]
Sent: Tuesday, May 31, 2011 3:00 PM
To: Glowacki, Margaret
Cc: tmlockery@seattleschools.org
Subject: Draft Shoreline Master Program
Importance: High

May 31, 2011

Katherine Bragdon & Ted Lockery
3530 Ashworth Avenue N
Seattle, WA 98103

Margaret Glowacki
Department of Planning and Development
700 Fifth Ave, Suite 2000
PO Box 34019
Seattle, WA 98124-4019

Re: Draft Shoreline Master Program regarding liveaboards

Dear Margaret,

My husband and I lived in Gas Works Marina, a unique tight-knit community, for a number of years. We now live on land but we do still own a slip at Gas Works Marina.

While we respect and support the city's effort to protect our shorelines, we are extremely anxious about any regulations that would restrict the number of liveaboards at Gas Works Marina. It would be financially devastating to our family. We purchased our slip for $75,000 which we have finally paid off. We have kept the slip as an investment for our son's college education. It's the only substantial financial nest egg that we have.

We purchased the slip as a live-board slip. To be able to get our money back, we must be able to sell it as a live-aboard slip.

We are willing to take responsibility by paying a reasonable amount to address grey water issues, but no single family should lose their savings due to a regulation change. Please make sure that all SMP decision makers understand the potential consequences these proposed regulations could have on families' homes and investments.

We look forward to working with the city on a fair and effective approach to protecting our shorelines.

Thank you for your time,

Katherine Bragdon & Ted Lockery

From: Bill Cirino [mailto:newbflat@yahoo.com]
Sent: Tuesday, May 31, 2011 2:40 PM
To: Glowacki, Margaret
Subject: A letter from a liveaboard.

To.... Margaret Glowacki or whom it may concern.

My name is Bill Cirino and I am a houseboat owner and live aboard on Lake Union. This is my home and life. I am a Marine Carpenter by trade and use my boat as a home, an office as well as were i keep my tools.

I have lived here for 3 years and have invested everything i have into the house boat. If for some reason i was unable to live aboard it would be like taking my house away from me and i would have lost my entire investment. 15 years worth of savings would be down the drain and i would essentially be destitute. This is my home.... my only home.

I do everything i can to be a steward of the lake. I pick up trash, take care of the marina during storms. I keep a constant eye on the lake as this is my home and feel a duty to keep it in good shape. In my time as a live aboard i have kept 3 boats from sinking and there in keeping untold gallons of gas, diesel and oil from entering the lake.

Despite what some people think it is not a slackers lifestyle. It costs a fare bit to live aboard. Maintenance on my houseboat can be in the thousands a year, as well as moorage fees and taxes given to the DNR threw moorage fees, vehicle registration, sales tax when buying the houseboat.... Anyone who says we don't pay taxes is just plain wrong.

It has always been my view and MANY others that houseboats are an asset to Seattle. They add color to the city and are a very significant tourist draw. Dozens of people cruse by my houseboat every day in kayaks, powerboats, electric launches, rowboats, canoes and sailboats and often have conversations with them. The vast majority are tourists and the conversation often turns to how much they like the house boats and floating homes in Seattle and love boating on the lake to see them when they come to town.

This type of tourism supports a lot of business around the lake. Restaurants, boat and kayak rentals and town centers (Fremont, East and West lake, and South lake union and the U-distric waterfront) all benefit from lake union tourism as well as the rest of the city

Getting rid of houseboats and liveaboards in seattle would be a sad day in Seattle history. It is just this sort of thing that has made Seattle a wonderful place to live and a destination for tourists for years. It is a cities colorful, unique and eclectic nature that sets one apart from another and makes it a destination. When stripped of these things they loose there soul and no one wants to go to a soulless city.

If the issue is gray water, then lets deal with that. If its another issue is something else the lets deal with that. But to getting rid of liveaboard's altogether is unfair. What is the difference between a floating home and a houseboat besides gray water?... Nothing ..... so lets deal with gray water issues and let people live aboard.

On my boat i use NOTHING except olive oil or coconut oil soaps... nothing. I don't scrub my house with detergent based fiberglass cleaning soaps like so many thousands of powerboaters do all around the lake. I don't use ANY pesticide, herbicide or fertilizer so i don't have any runoff of these dangerous chemicals going in to the lake unlike the tens of thousands of houses around Seattle. No pet runoff ether which is significant in this city.. My "toxic footprint" is very small compared to most land based houses. Every liveaboard i know is extremely conscious of this, doing there best to minimize there footprint. I would bet as a group were among the very best in the city in terms of "toxic footprint"

To single out houseboats for these things things is just not fare. Banning houseboats or liveaboards would be bad for tourism, bad for business around the lake, bad for the lake as it would be loosing some of its most stanch and vigilant keepers.... and just not fare. Hundreds of people would loose there homes and there investments with no compensation.

Thank you for reading this letter and considering my comments above.

Bill Cirino.
Aboard "Northern lights" .....Lake union.
(newbflat@yahoo.com)
206-290-6628

Kevin Bagley
President
Lake Union Liveaboard Association
2401 N. Northlake Way #2
Seattle, WA 98103

Linda Bagley
Secretary
Lake Union Liveaboard Association

May 31st, 2011

Margaret Glowacki
Department of Planning and Development
700 Fifth Ave., Suite 2000
PO Box 34019
Seattle, WA 98124-4019

Re: Comments on the Shoreline Master Program regarding liveaboards

Dear Margaret,

My wife and have lived aboard the KevLin, one of a few paddle-wheelers on Lake Union, for five years. I am the current president of the ***Lake Union Liveaboard Association***, and in this position I have been receiving a great deal of concern expressed from the liveaboards on Lake Union in regards to the proposed changes to the Shoreline Master Program. These concerns are heartfelt and bring great anxiety to the community of liveaboards that live on Seattle's Lake Union shorelines and who have a deep appreciation and concern for this wonderful urban lake.

These concerns primarily fall into three areas:

1. **The definition of a House Barge and the associated prohibition of these.**
2. **The regulation of the percentage of liveaboards.**
3. **The definition of Liveaboard status.**

Background

***Lake Union Liveaboard Association* is a subchapter of the *Washington Liveaboard Association*. Our tagline is "Guardians of the Lake" and is indicative of our beliefs. With Lake Union as our back yard, the members have a vested interest in cleaning up the lake, keeping it clean, and preventing damage. Houseboat owners and liveaboards play a vital role in protecting the lake, property, marinas, boats, and even human lives on Lake Union. As liveaboards, we are in the marinas at all times and almost invariably, liveaboards are the first responders to a variety of emergencies. Most of the problems we fix, or the properties we save, go unnoticed, but in our absence, these events would likely grow to be serious if not life-threatening issues.**

In a recent storm, I know of 4 boats (owned by non-liveaboards) in our marina alone which were saved by liveaboards from serious damage. One 65 foot yacht was improperly tied and was crashing into a post that was supporting a marina roof. We have a part time marina manager, who is usually at the marina only 2 or 3 days per week. Left unattended, this would likely have resulted in serious damage to the million dollar yacht, potentially collapsing the

roof on the marina and further damaging a number of other boats. Luckily, a Liveaboard solved the problem. This is a frequent occurrence and a direct benefit of having liveaboards.

Our group offers membership to liveaboards and in turn, we provide Best Management Practices, education on lake stewardship, and participation in events such as the Clean Sweep, where we picked up tons of trash from the lake (by the way, most of this trash comes from cars, roads, land homes, and recreational boaters, NOT LIVEABOARDS).

The Liveaboard community consists of wide variety of vessels and housebarges. These range from small sailboats to large houseboats. We are a significant part of the Seattle scene and are part of what makes Seattle, Seattle. When people are asked "What makes Seattle unique?", 3 things are typically brought to mind.

1. The Space Needle, 2. Pike Place Market, and 3. The houseboats on Lake Union

We are as much a part of Seattle's history as any historical house, and are recognized more frequently. Our character and color are a boon to Seattle and eliminating houseboats, housebarges, and floating homes is akin to removing Pike Place Market because open air markets are not safe. While the argument could be made, the loss is not worth the gain.

House Barge Definition Issue

Within the Shoreline Master Plan proposed update, the definition of a house barge has been changed, effectively re-classifying an unknown number of vessels. In addition, the current proposal would ELIMINATE houseboats & housebarges through attrition. This is a direction that is contrary to public opinion, damaging to the Seattle economy, would likely HARM the lake rather than improve it, and create a sterile - non diverse lake environment full of recreational boats, commercial boats, and yachts. It will be a sad day when the last houseboat leaves Seattle.

Unclear, Arbitrary, & ECO unfriendly
It is our view that the original definition was well considered and consisted of a clear delineation between House Barges, Floating Homes, and Vessels. The DPD CAM 229 clearly describes the Residential Use of a Floating Home, House Barge or Vessel. On the other hand, the proposed definition of a House Barge is very ambiguous, subject to interpretation, and basically flawed. It is also unclear as to why there is an ecological need to move in this direction. Arguments have been made as to their "ability to navigate" but this is arbitrary and navigation does **not** improve the environment (you are then burning fossil fuels, putting petroleum based products into the lake, and contributing to MORE pollution!)

Diversity
Arguments have also been made that it is important to keep diversity in the lake environment, but the proposed change would eliminate (through attrition), one of the key attractions of Lake Union. Keep in mind that people who visit lake union and take the tours are NOT doing this to see the recreational boats, but rather to see the unique design, flavor, color, and character of the floating homes and houseboats. These are the most photographed, talked about items on the Lake.

Current Definition of House Barge:

"House barge" means a vessel that is designed or used as a place of residence without a means of self-propulsion and steering equipment or capability.

Proposed Definition of a House Barge:

"House Barge" means a vessel, with or without means of self propulsion and steering equipment or capability, that is principally designed as a place of residence.

Under the previous definition, it is clear what constitutes a house barge. Under the new definition, almost any vessel with bedrooms, bathrooms, and kitchens could be interpreted as being "*principally designed as a place of residence*." Yachts, cruise-a homes, corsairs, houseboats, etc. would all meet this criteria. **This is a significant change and is unwarranted.**

I do not believe there is any way to accurately describe something that is "*principally designed as a place of residence*?" I believe this would be legally challenged. Why create something that is obviously not going to work?

In other parts of the proposed SMP, it indicates "*New house barges are prohibited*." This is the eventual demise of a very important cultural part of Seattle.

What's next? - Ban the "Ride the Ducks" because they pollute more than cars?

Which of the following would be classified as a "House Barge" and would be prohibited?

How would this be determined? Who would inspect and certify vessels vs. housebarges?

It currently states in the proposed SMP... "*House barges that are established by a permit issued by the department prior to the effective date of this ordinance are allowed as non-conforming uses pursuant to Section 23.60.122, subject to the provisions of subsection 23.60.204.E.* ***A qualifying permit must verify that the house barge existed and was used for residential purposes within The City of Seattle as of June 1990*****."**

Does this mean that everything after 1990 is now banned? The wording of this appears to indicate that. The effect of this could be the elimination of hundreds of houseboats and vessels that are currently permitted under the existing rules. This would clearly be a case of "Taking" of personal property without compensation.

As a result of the ambiguity of this definition, it is likely that this would lead to legal actions by those affected. I believe that most people would feel the loss of property or the prevention of use of the property in a manner consistent with its design as a result of these regulations would be constructive condemnation and the state would likely be required to compensate the owners for their loss.

It is our position that the current definitions as described in the City of Seattle CAM 229 are correct, appropriate, and measurable. Those definitions are working and there is no need for the proposed change.

Additionally, it is indicated that housbarges and vessels are non-water dependent. **This defies logic.** What objects could be MORE water dependent than a housebarge or vessel? Declaring these as non-conforming does not make any sense and cannot be reasonably defended.

Kevin and Linda Bagley support the following definitions:

Floating Home: (sometimes referred to as houseboat) means a floating residence that is permanently attached to land and connected to city sewer system.

House Barge: A vessel which can be used as a place of residence (having sleeping areas, bathrooms, and cooking facilities) which lacks a means of propulsion and has a means of safely disposing of overboard waste. (See CAM 229)

Vessels: Boats, ships, barges or other floating crafts that have a means of propulsion and appropriate navigation lights, and except when undergoing maintenance and repairs, are typically capable of getting underway.

House Barges and Vessels would be subject to Liveaboard regulations.

Regulating the number of Liveaboards issue

Our position is that Liveaboards do not need to be regulated through City regulation. Marina owners have self regulated this for many years and the addition of government regulation in this area is simply not needed. The question arises... **"Why is the city trying to limit the number of liveaboards?"**

If the reason is that it is presumed that liveaboards are somehow significant contributors to pollution of the lake, then it makes more sense to limit the number of automobiles, or busses, or roads, or houses all of whom are known to be greater contributors to lake pollution. Houseboats have an extremely small carbon footprint, consuming much less energy and contributing much less pollution to the environment than most homes. People that have moved from homes on land to Liveaboard status have typically reduced their environmental impact significantly.

It was indicated in the meeting on March 8th that there were no statistics or scientific evidence showing that liveaboards contributed to the pollution and that this was a "Presumed" issue based on the fact that liveaboards use grey water more than non liveaboards. This leads to the question that if liveaboards comprise 10% of the slips and issue grey water 100% of the time, what are the consequences of non-liveaboards comprising 90% of the slips and issuing grey water 25% of the time? With out scientific basis or factual statistics for this assumption, it appears that **liveaboards are being singled out unfairly**.

If the reason is that it is presumed that liveaboards are somehow derelicts of society, then the city needs to be educated in the population of liveaboards. Liveaboards comprise a microcosm of the regular population, including doctors, attorneys, electricians, engineers, project managers, executives, self employed, etc. etc.

If the reason is that it is presumed that liveaboards do not pay taxes, then the same would apply for apartment dwellers. Most boat owners pay **MORE** than their fair share of taxes. We pay taxes as part of our slip fees (taxes paid by marina owners). We pay sales tax when we buy our boats. We pay licensing fees every year. We pay fuel taxes when we fuel our boats.

Compromise
If the city insists on adopting an unnecessary limitation on liveaboards, then we feel it would be more practical to make this limitation non marina specific. It would make more sense to limit the growth of liveaboards based on a current census and allowing a reasonable amount of growth that the lake would support. Liveaboard permits should be transferrable, and moveable. Of course, marinas could impose their own limitations as well. A method for encouraging environmental stewardship should be built into the system and allow for exceptions based on size, and eco-friendliness of the vessel.

As many marinas do not allow any liveaboards and some are more Liveaboard oriented, this would permit this variance to continue while limiting the overall number of liveaboards. Marinas such as Gasworks Marina and China Harbor Marina are a community oriented marina and this plan would allow those marinas to continue to foster this Liveaboard community.

We feel that it should not be the burden of the Marina Managers to issue and manage this, and that this should be the responsibility (for the most part) of the Liveaboards. Marina managers should only need to verify the possession of a Liveaboard permit. Fees would be paid for directly by the Liveaboards. This reduces the marina's management requirements. A simple website could be set up to verify the validity of a Liveaboard permit.

Definition of Live-aboard Vessel issue

The SMP's proposed definition of a Liveaboard vessel is

"Live-aboard vessel" means a vessel that is used as a dwelling unit for any period of time

It is our position that this is not a realistic definition of a Liveaboard and essentially means that someone using their boat over a weekend could be interpreted as being a Liveaboard vessel. Would this mean that vessel owners that use their vessel overnight would need to register as liveaboards? Again, this is an unclear definition and does realistically describe a live-aboard vessel.

In considering a definition of a Liveaboard vessel we need to ask the following:

How does the environmental impact of a part time Liveaboard (i.e. vacationer) compare to a non-liveaboard? It is clear that Vessels are frequently used as vacation destinations and often for longer periods, but in the true sense of the word, they are not liveaboards and their impact on the environment is more comparable to a non-liveaboard. It is our position that *a vessel should only be defined as a Liveaboard vessel if they use their vessel as their primary residence.* In other words, a **Liveaboard** is someone who **Lives Aboard Their Vessel**.

A Liveaboard Vessel means a vessel used a primary residence as defined by the IRS guidelines.

Compromise Position Statement

We ARE in support of keeping the environment of Lake Union clean, safe, and in character with the city of Seattle. Although we believe it is unnecessary to modify the regulations limiting Liveaboards, modifying the definition of liveaboards, and modifying the definition of a house barge, in the spirit of compromise, we suggest the following compromise recommendations:

1. Retain the current definition of Floating Homes, House Barges, and vessels as described in the City of Seattle CAM 229
2. Restrict liveaboards to a number based on a census of liveaboards (in the Shorline management area) plus a reasonable amount of growth. Liveaboards would be required to register and pay a registration fee sufficient to cover the cost of the registration program (incentives could be built in for ECO friendly vessels and demonstrated knowledge of BMP's). Marina managers would be required to verify the Liveaboard registration. Liveaboard registrations would be moveable from marina to marina and would be transferrable (updated registration required).
3. Define a liveaboard vessel as "***a vessel used as the primary residence as defined by IRS guidelines.***"
4. House barges and vessels would be subject to the Liveaboard restrictions.
5. House barges and vessels need to be defined as "**conforming Water Dependent uses.**"

Conclusion

It is our hope that the Planning department seriously considers these issues and balances the gains against the losses. It is our feeling that liveaboards are a significant stakeholder but were not represented during the process. Regulations should be implemented ONLY when proven to be necessary, and perceived issues should not motivate these changes. Documentation of the issues should be provided showing the need for these changes, and then a balanced approach should be taken that fosters the Seattle community, enhances our environment, and preserves the character and history of a truly unique Seattle environment.

Seattle houseboats and the Liveaboard community are a boon to the Lake, help preserve its environment, and promote clean green practices. Our Liveaboard associations promote best practices, educate both the Liveaboard and non-liveaboard community, and participate in activities that improve the Lake environment. Our ***Compromise Position*** provides a realistic balance of environmental concerns, and a preservation of a way of life that enhances the city of Seattle.

Please remember that Liveaboards:

- Live, work and raise families in our community
- Pay taxes, vote, and participate in community affairs
- Patronize local restaurants, stores and other businesses
- Enhance marina and community safety
- Are responsible stewards of Seattle's marine environment
- Are an essential part of the character of Seattle
- Care deeply about the Lake and work diligently to preserve it for all.

Sincerely,

Kevin Bagley
President
Lake Union Liveaboard Association

Linda Bagley
Secretary
Lake Union Liveaboard Association

Sincerely,

Kevin and Linda Bagley
The KevLin

This letter represents the views and opinions of Kevin & Linda Bagley and is not intended to represent the views of the Lake Union Liveaboard Association. An official "Lake Union Living Association" response will be crafted by the board of directors for the second round of comments.

From: Reid/Saaris [mailto:garcar@gmail.com]
Sent: Tuesday, May 31, 2011 1:32 PM
To: Glowacki, Margaret
Subject: Houseboat regulations

Dear Maggie,

I want to express my very serious concern about what I understand to be the changes in the shoreline regulations which affect the houseboats or housebarges. Most importantly, it appears that the city would be completely taking away the value of the home newly acquired (by dint of careful money management and planning) by my son and his fiancee.

They believed they were buying a "house boat", but the regulations seem to only speak of "floating homes" and "house barges." I have not located a definition of the terms in the proposed regulations; probably his home is now considered a "house barge"? The regulations seem to prohibit any house barges which did not exist before June, 1990. Their home was completed in 1994, and has been at the same Lake Union site since then. They moved to this area in 2010 searched for a home to invest in, pooled their resources, purchased this home, moved in, and have invested in improvements. They faithfully follow the best management practices listed in the regulations, including using pump-out services, recycling, and non-toxic materials, etc.

It is unclear to me what concerns are driving the apparent belief that house boats/barges should be eliminated from Seattle. Are there studies that show that they are causing environmental damage? In fact, is there not considerably more likelihood of damage being done by the transient boating population, with the use of fuel, possible fuel leakage, and the more casual attitude of visitors? The permanent residents who own their house boats/barges and know they will continue to use their environment (including, in my son's case, sharing it with beaver and otter and bird friends) are invested in keeping the environment clean and healthy. If there is a specific concern, such as disposal of gray water, two questions come to mind: (1) what evidence is there if damage being done (and perhaps comparison to the damage from runoff and air pollution from all the cars crossing bridges, etc.) and (2) how can the potential damage be mitigated (other than outlawing the house boats/barges)?

Does Seattle really need to, or even have the right to, take away homes that have existed for up to 20 years, by simply changing regulations? Certainly, this is unfair to Seattle citizens.

Carolyn Reid

From: Dan Peterson [mailto:dan.peterson@gmail.com]
Sent: Tuesday, May 31, 2011 1:31 PM
To: Glowacki, Margaret
Subject: Shoreline Management Program

Dear Margaret,

I strongly encourage you to rework the proposed definition of 'housebarge' as outlined in the new Shoreline Management Program Master Plan. The current definition provides far too much room for the potential eventual elimination of one of Seattle's signature features: our houseboat communities.

I've been living aboard a housebarge for the last two years, and can tell you that from an environmental perspective, marina-dwellers are the best stewards of Lake Union that the city has. It literally is our backyard (and front yard) and we treat it as such - cleaning garbage out of it, and making sure we use minimal resources while living on it (unlike yachters or other petrol-fueled lake users).

I hope you will revise the master plan to ensure that your legacy is not the removal of one of the most colorful features of our city.

Sincerely,

Dan Peterson
Gasworks Park Marina #28

-----Original Message-----
From: Janet Stannard [mailto:stannaj@hotmail.com]
Sent: Tuesday, May 31, 2011 9:15 AM
To: Glowacki, Margaret
Subject: VOTE NO on the Seattle SMP

Dear Ms. Glowacki and City of Seattle

I DO NOT SUPPORT THE SHORELINE MASTER PLAN AS CURRENTLY WRITTEN. PLEASE VOTE IT DOWN. THE LACK OF SCIENCE BASED MEASURABLE OUTCOMES IS APPALLING.

Included in the plan is an attack on a very small group of boat owners. It denies the use of property (a legal boat, frequently valued higher than the average Seattle home) in a legal marina for a certain period of time each month.

Fact: The number of hours a boat is used during the week does not have a direct relationship to the amount of grey water created.

Fact: The number of hours a boat is used during the week does not have a direct relationship to the number of fish swimming beneath it.

Fact: Restricting the hours a person can be on his/her boat is not going to improve Puget Sound.

Fact: The attack on live-aboards will require marinas to file more paperwork. Who receives the paperwork? I know - we will create more bureacracy at the taxpayers expense.

In these years of tough budget decisions, no city representative should go on record for voting for more bureacracy.

Please vote no on the Shorelines Plan.

Thank you.

Registered Voter

Janet Stannard
2226 Eastlake Ave E
Seattle, WA 98102

From: Cody Spanner [mailto:spanners@charter.net]
Sent: Monday, May 30, 2011 5:40 PM
To: Glowacki, Margaret
Subject: comment on the draft shoreline master program regulations as released on 2/8/11

Ms. Glowacki

I am writing to comment on the draft Shoreline Master Program regulations as released on 2/8/11. But first, thank you for taking the time to speak to me in March while you were preparing for one of the public meetings about the draft regulations. Our discussion was most helpful.

Specifically, I am writing to comment on the draft regulations pertaining to liveaboards and houseboats. As context, my wife and I purchased a houseboat in 2005 and moored it in Lake Union. We wanted to purchase a boat sooner than that, but we waited until the uncertainty caused by changing houseboat and liveaboard regulations during that period was settled. Accordingly, we purchased a houseboat that is self-propelled and contains all of the safety equipment required for vessels of its size by the U.S. Coast Guard. We do not use the houseboat as a liveaboard as currently defined (less than 90 days per year). We are dismayed that after following all of the pertinent regulations, we find that the regulations are changing again, and that our houseboat may be determined to be prohibited.

One of the biggest concerns with the draft regulations is the ambiguity regarding house barges moored on the Lake Union after 1990 (23.60.204). House barges moored prior to 1990 are allowed, and new house barges are prohibited, but what of house barges moored after 1990 and before the new regulations take effect? I feel that any vessel that met the rules in effect when the vessel was moored (as is ours) should be allowed to stay. It's just not fair to retroactively apply new rules to compliant vessels.

I also object to the definition of a house barge, or even the need for such a definition, in the draft regulations (23.60.916). If a vessel is self-propelled and otherwise meets federal regulations as a vessel, then it should be considered to be a boat. Decreeing that any vessel "that is primarily designed as a place of residence" is a house barge is too arbitrary, ambiguous, and unworkable. One could argue that any boat with a bed, kitchen, and head meets that definition of a house barge. In particular, what about pontoon houseboats? They are certainly designed as a place of residence, but are they to be prohibited?

Regarding the need to define a house barge, I just don't see one. If the objective is to reduce stress on the environment, then how vessels are used should be regulated, not how vessels look. Living aboard 50-foot SeaRay and discharging kitchen gray water into the lake has far greater environmental impact than the occasional afternoon spent on a house barge with a gray water filter. The draft regulations that limit the number of liveaboards per marina adequately protect the environment without the need for subjective rules about what constitutes a boat versus a barge. If further protection is deemed necessary, the most beneficial, least cost, regulation I can think of is to require solids filters for gray water discharges.

In fact, I feel that the houseboats add much character, charm, and tourism appeal to Lake Union, as opposed to acres of white fiberglass vessels. We overhear many more favorable remarks about our houseboat from kayakers than we ever hear about the sailboat or trawler in the slips on either side. I would argue that allowing houseboats and house barges on Lake Union increases public use of the water rather than inhibits it, because the variety of vessels draws the public to the lake. Using the regulations to try to define what is not a boat just seems vindictive, with no value for society or the environment. Different boats for different folks.

In summary, I feel that it is appropriate to regulate how boats are used in Seattle's waters, for both safety and environmental protection. However, ambiguous and vindictive definitions serve no beneficial purpose and should not be part of the regulations. That said, any vessel that meets the present regulations should be allowed to stay.

Thank you for your consideration.

Sincerely,

Gary E. Spanner

From: Reid Saaris [mailto:saaris@gmail.com]
Sent: Friday, May 27, 2011 10:25 PM
To: Glowacki, Margaret
Cc: Sugimura, Diane; Clark, Sally; McGinn, Mike; brower@tmbjw.com
Subject: Maggie: Are you kidding?

Hi Maggie,

Are you kidding with these revised regulations for the Shoreline Master Program? What in the world happened to the feedback that we provided earlier that you were going to put into these revisions?! Our boat has been used for liveaboard since the mid-1990s, and as I read your document, we would be re-defined as a housebarge (23.60.916) and summarily outlawed (23.60.204B). I'm sure it is not your intention to take families -- long legal residents of Seattle, long residing legally in their homes -- and make their property worthless, leaving them without a place to live or the resources, even, to procure another house. So, can you fix this provision? Why not outlaw new ones rather than picking the arbitrary date of 1990, which we missed by a few years? I cannot imagine the politicians on City Council will be comfortable outlawing our long-standing homes and making them worthless; are you?

And if my lonely signature at the bottom of this email is not enough to warrant your and your colleagues' immediate attention to this issue, please just tell me how many signatures you would need to see in order to make the right choice for Seattle's proudly water-loving, water-protecting citizens.

Sincerely,
Reid

From: Natalie Potok [mailto:npotok@gmail.com]
Sent: Friday, May 27, 2011 9:51 PM
To: Glowacki, Margaret
Subject: Response to SMP

Dear Ms. Glowacki,

I am writing in response to the MSP, in particular the regulations involving house barges. What concerns me most in the proposals made by the DPD is the prohibition of house barges in use after 1990. This clause puts my family at risk of losing our recently-acquired home.

When buying our house barge, we made sure that it was located at a long-standing and reliable marina. The house barge has been at the Fremont Dock since 1996. We spoke with the dock owners to confirm that we would be able to keep our barge there in the coming years. We were not looking to buy a second home or a recreational boat - we were investing all our savings in a long-term home, our first in Seattle.

I understand the city's concerns with the cleanliness of the water. My family and I care deeply about the quality of the water - we swim in it, we pull out debris and garbage that we find floating near our home, and we have been taking the precautions listed in "best practices" since we moved in. You will not find any toxic chemicals in our home. Our cleaning products are limited to baking soda, vinegar, and soaps that are environmentally friendly. We would not want anything going into the water that we could not swim through. On walks with my dog along the lake's edge, I pick up garbage I find on the ground. I am not just someone who is passing through this area, I see it as my home and I care for it. We use a pump-out system for our black water, and if there were an affordable means of filtering our grey water, we would be the first to invest in that system. We are not unique in this outlook - our brokers informed us of all these practices when we first moved in, and it was expected that we follow suit as responsible members of the houseboat community.

Our care for the water is contagious - everyone who comes to visit our home learns about the beaver living in the backyard, observes the birds swimming outside our window, and realizes that our desire to minimize our impact on the water permeates our lifestyle. We always consider our environment before making decisions regarding the paint we use on our walls, the appliances we acquire, and even what sort of flea repellent we put on our dog. Compared to any regular household, we go above and beyond in terms of considering our ecological impact and minimizing our footprint.

I feel that it is unreasonable to uproot many members of the houseboat community - to strip them of homes that they have worked hard for (and pushing them out of Seattle waters or making it impossible for them to find moorage in limited marina spots means stripping them of their homes). Can you imagine if your own home were suddenly deemed "ecologically unsound" and you were forced to relocate? If your investment were suddenly reduced to no value, with nothing within your own power to avoid it? Why can't the same grandfather clause that applies to floating homes: "floating homes that are legally established on the effective date of this ordinance are allowed", also apply to our own home?

I agree with the best management practices, and I support the city's effort to encourage them not only in the houseboat community but on land as well. What I cannot accept is being threatened with the loss of my home and an environment that I care deeply about. I hope the DPD will reconsider its unfair targeting of house barges and realize how thoughtful and invested in the quality of the water this community really is.

Sincerely,
Natalie Potok

Draft of revisions to Proposed SMP changes affecting liveaboards

Abstract

1. **Root issues are:**
    a. Limiting the overall number of residences over water
    b. Reduce greywater discharge by these residences.
2. **Definition of "Over Water Residence "**
   Any vessel that is a Primary Residence as defined by the IRS guidelines or is used as an over-water residential rental (minimum 3 month term)
3. **Vessel Occupancy Permits (VOP)**
   Any vessel meeting the above Over Water Residence is required to obtain a Vessel Occupancy Permit (subject to Phase In period).
4. **Permit Types "Addresses <u>Greywater</u>"**
   Type 1 = Compliant – little or no discharge
   Type 2 = Proven competency in BMP & green boating practices
   Type 3 = Non-Compliant
5. **Permit Fees (Price to be determined)**
   Type 1 (FREE (<u>may not be increased beyond this amount</u>))
   Type 2 ($40/Year (<u>May not be increased beyond this amount</u>))
   Type 3 ($40/Year years 1-2 years, $100 per year thereafter – <u>May not be increased beyond this amount</u>)
6. **Limitation of VOP – "Addresses <u>The Cap</u>"**
   After establishing a baseline (over 2 year period), limit VOPs to 125% of Baseline
   Additional Type 1 permits are allowed until all permits reach 150% of Baseline
7. **Phase in of Permitting Process**
   Years 1 & 2 Establishment of Baseline
   Year 3 & beyond - Permits Required, late comers allowed with proof of residency
   End of Year 5 – Late comer period ends
8. **Miscellaneous details**
    - Marina managers validate VOP with city website
    - Permits are transferrable
    - Permits are moveable
    - Housebarge definition remains the same (No Redefinition)
    - Vessels used as primary residence must be able to get underway
    - Liveaboard definition goes away

Rationale Behind Proposed Revisions to Regulations

Identification of issues:
The current SMP proposal contains 3 issues of concern:

1. Limitation of Liveaboards (25% Cap)
2. Re-definition of House Barge
3. Re-definition of Liveaboard

Re-Identification of issues (root cause):
In discussions with Margaret Glowacki, she indicated the above SMP changes were created to address two primary issues:

1. Limiting the overall number of residences over water
2. Reducing greywater discharge by these residences.

Based on these conversations, it was accepted as reasonable to try to approach the root problems (greywater and the number of over water residences).

What is an over water residence?
To address these issues it is first necessary to define what an "Over Water Residence" is.

Complications of defining Over Water Residence include:
Overall percentage of time used as a residence.

- Some people visit their boat for 1 month vacations. Their percentage of occupancy is less than 10%.
- Some people do not stay aboard overnight, but spend every day on their vessel.
- Some people spend random amounts of time on their boat 16 days one month, 5 days in another month, etc.

To create a definition based on a rule such as "16 days in a month" or "4 days in a week", does not address the overall usage of the boat as a residence. In each of these proposed definitions, it appears to be trying to identify an over-water residence as one that is used for more than 50% of the time. To be easily distinguishable, and consistent, the IRS has defined Primary residences. We believe this rule is the best way to determine the residential usage as greater than 50%.

> (From the IRS guidelines…)
>
> PRINCIPAL RESIDENCE.
> In the case of a taxpayer using more than one property as a residence, whether property is used by the taxpayer as the taxpayer's principal residence depends upon all the facts and circumstances.
>
> If a taxpayer alternates between 2 properties, using each as a residence for successive periods of time, the property that the taxpayer uses a majority of the time during the year ordinarily will be considered the taxpayer's principal residence.

We propose that if the vessel is the Primary Residence, it should be considered an over-water residence and subject to the regulations of the SMP. In addition, vessels used as over water residential rentals would also be considered over-water residences. Other vessels would be exempt.

The following proposals meet and exceed the city's proposed guidelines, address all of the issues identified, and are a good balance of environmental stewardship and protecting the rights and privileges of citizens living on the water.

Definition of Over Water Residence

Any vessel that is a Primary Residence as defined by IRS guidelines or any vessel used as an over water residential rental.

Vessel Occupancy Permits (VOP)

Long duration occupancy permits for vessels:

To prevent/reduce greywater discharge, and to limit the overall number of residences over water, vessels and housebarges, occupied as a principal residence (as defined by IRS guidelines), are required to obtain a Vessel Occupancy Permit through the city.

Three Permit Types would be available;

Permitting Process:

3 types of ***Vessel Occupancy Permits*** **(VOP)** are available:

Type 1 Permit:

1. Vessel has proven method for capturing and disposing of grey water, or
2. vessel has proven method for filtering grey water for discharging overboard, or
3. vessel is connected to a sewer connection for disposing greywater.

Type 2 Permit:

1. Owner of vessel has attended an approved Best Management Practices course for handling of greywater and green boating practices and has passed a test indicating competency in this area.

Type 3 Permit:

1. Vessel does NOT have any greywater capture / disposal method or filtering system, and owner of vessel has not completed an approved Best Management Practices course.

Exceptions from Vessel Occupancy Permit:

1. Vessel has no method for discharging greywater overboard (i.e. no sink, shower, port-a-pottie). This type of vessel would have minimal or no environmental impact.
2. Vessel is less than 30 feet in Length without washer/dryer or dishwasher. These generally have significantly less greywater discharge than larger vessels

Limitation of number of Vessel Occupancy Permits (The CAP)

The SMP revisions proposed a 25% per Marina cap on liveaboards. This proposal create the following issues:

- Some marinas foster a liveaboard community, while others do not. The imposition of a 25% cap per marina would eliminate or restrict these liveaboard communities, which some people find preferable because of added security, and a more social environment.
- The "per marina" cap would require marina managers to oversee this limitation and effectively become the "policemen" of liveaboards. We believe that some marina managers will simply choose to eliminate liveaboards as a result of this.
- Limiting per marina may reduce competition amongst marinas and may artificially increases prices to liveaboards.
- Some marinas are very small, and a per marina cap would unfairly target those smaller marinas.

An alternative was suggested that would cap the overall number of liveaboards based on a system wide percentage rather than a per marina limitation. This proposal was met by Margaret with some approval.

It was originally proposed that the CAP on the overall number of Vessel Occupancy Permits (VOP's) would be based on 25% of the total slips in the SMP region, however, without know the actual number of over-water residence and the total number of system wide slips, this number is too uncertain.

The long term plan should allow for a limited increase in the total number of VOP's from the current number. We suggest limiting the total number of VOP's to 125% of the baseline of over-water residences, while permitting an increased number of Type 1 permits (greywater compliant vessels). This methodology addresses both the issue of 1) limiting the overall number of over-water residences and 2) reducing the amount of greywater discharge.

In the absence of numbers for VOP's & total slips, our proposal will be based on 125% / 150% of the existing number of VOP's (**the baseline**) to allow for the limited increase. The process for determining the baseline should be clearly defined and allow for a sufficient notification period and grace period. It should also allow for someone to demonstrate that they were missed in the baseline count and that they can be included and the baseline count would be adjusted for these late-comers.

Phase in of Permitting Process

The permitting process should be phased in and should allow for establishing **the baseline** and providing ample time for people to make changes to their vessels to become more compliant. The following table proposes how this could work.

Fees paid in the table below will be used to cover administration costs and the cost to issue and manage permits. Fees in excess of administration and management costs will be paid to the ********** and will be used to provide Best Management Classes or develop grey water filtration systems or to mitigate environmental issues in the SMP region.

The "% avail" represents the total number of VOP's issued (the Cap) and this addresses the overall ratio of long term occupancy

2012
Permits available, but not required

	Annual Fee	% avail
Type 1 Permit	FREE	
Type 2 Permit	$40	100%
Type 3 Permit	$40	

2013
Baseline Established by end of year
Permit available, but not required

Type 1 Permit	FREE	
Type 2 Permit	$40	100%
Type 3 Permit	$40	

2014 - Permits Required

Type 1 Permit	FREE	150% of baseline
Type 2 Permit	$40	125% of baseline
Type 3 Permit	$100	125% of baseline

2015 - Permits Required

Type 1 Permit	FREE	150% of baseline
Type 2 Permit	$40	125% of baseline
Type 3 Permit	$100	125% of baseline

2016 and beyond - Permits Required
Late-comer period ends

Type 1 Permit	FREE	150% of baseline
Type 2 Permit	$40	125% of baseline
Type 3 Permit	$100	125% of baseline

To avoid the perception of unreasonable taxation and increases in fees for liveaboards, these fees should be fixed and cannot be changed.

Validating Vessel Occupancy Permits
Prior to renting, leasing, or selling a slip, the marina will ask the potential tenant if the moored vessel will be used as a primary residence as defined in these regulations *(Sign an affidavit?)*. If so, the Marina manager will validate the Vessel Occupancy Permit and will only rent/lease/sell to valid permit holders. Marinas are not prevented from imposing their own restrictions regarding the number of Over-Water Residences.

Transferring Vessel Occupancy Permits
Vessel occupancy permits may be, but are not required to be, transferred to a new owner by demonstrating the sale of the vessel and registering the new owner with the city. Transferred VOP's do not affect the total number of available permits. If the Seller of a vessel chooses to take the VOP with them, the seller must re-register the new vessel to determine the type of permit allowed. The buyer of the old vessel would be required to provide or obtain a new VOP.

Relinquishing of Vessel Occupancy Permits
An owner of a Vessel Occupancy Permit may relinquish their permit by informing the city (through the website). The VOP then becomes available in the pool of VOP's.

Redefinition of House-Barge

Per the meeting on the 3/23, Margaret indicated the **redefinition of a housebarge would not be needed if the CAP provided limitations on the total number of "liveaboards."** The following comments support the removal of the re-definition of a "Housebarge"

- The re-definition of a housebarge implies that these houseboat style vessels are by definition somehow a more negative impact on the environment than a vessel that is more "recreational" style. This is not the case.
- Driving a Liveaboard vessel around does not make them better ecologically. Many Recreational style liveaboard vessels are never moved. Therefore, the frequency that a vessel is "driven" should not be regulated.
- The proposed re-definition of a housebarge is the first step of a "slippery slope" wherein the city decides which vessels are "primarily designed as a residence." Any vessel occupied as a primary residence could be deemed as principally designed as a residence.
- The issues of limiting over-water residences is addressed, therefore, the housebarge re-definition is an additional, unnecessary regulation addressing the same issue.
- Grey water issues are addressed herein therefore re-definition is an additional, unnecessary regulation addressing the same issue
- Personal choice is a freedom that is cherished by people and the right to choose the style of liveaboard should not be regulated by the city, unless it can be shown that a particular style is detrimental to the environment.

As a result, we propose the following definitions. NOTE additional clarification of vessels has been added.

Floating Home: means a single family dwelling constructed on a float that is moored, anchored, or otherwise secured in approved floating home moorages and have direct connections to sewer and water utilities. (*definition unchanged)*

House Barge: means a vessel that is both:

1. designed and used for navigation but lacks a means of self-propulsion and steering equipment or capability (for example, it is designed and used for navigation by towing); and
2. designed or used as a place of residence.

Only house barges that have been continuously moored and used for residential purposes within the City of Seattle since June 1990 are allowed. No new house barges are allowed.

House Barges are required to obtain ***Vessel Occupancy Permits***.

Vessels: Boats, ships, barges, or other floating craft that are both designed and used for navigation and that do not interfere with the normal public use of the water are classified as vessels. Vessels used as a Primary Residence should be able, except when undergoing maintenance and repairs, to reasonably demonstrate the ability to get underway. ***Vessel Occupancy Permits*** are required for vessels being used as a Primary Residence or as an overwater residential rental.

(Note: In the interest of fairness and non-discrimination, the city should apply this rule equally to ALL vessels being used as a Primary Residence, and should not single out a particular style or shape of vessel. Only a random selection of permits should be used to verify this rule.)

The City of Seattle's ***Client Assistance Memo 229*** should remain as the guideline for defining and clarifying these definitions and should be updated accordingly.

Redefinition of Liveaboard

With the addition of the Vessel Occupancy Permit, the need for a "Liveaboard" definition is not needed. Any vessel being used as a primary residence or as a rental is required to have a Vessel Occupancy Permit, therefore, it is proposed that the definition of Liveaboard be removed from the SMP and that reference to liveaboards and Liveaboard slips be removed.

> From: dick schwartz [cruzahome@yahoo.com]
> Sent: Wednesday, March 30, 2011 11:59 AM
> To: Glowacki, Margaret
> Subject: Liveaboard regulations
>
> Dear Margaret,
>
> Thank you for taking the time to meet with the representatives of
> Seattle's liveaboard community on March 23. It was refreshing to find
> that, as a representative of the city, you have a genuine interest in
> working with us to write reasonable, workable regulations relating to
> this difficult issue. That being said, there was one position you
> took that I have to take strong exception to.
>
> You stated quite emphatically that you would not get into a discussion
> involving comparisons between the environmental impacts of liveaboards
> versus land based residents. I think I fully understand your reasons
> for wanting to avoid that can of worms. However, as much as city
> might wish to avoid this discussion, the issue is a real element in
> the big picture. It really isn't appropriate, as a matter of
> fairness, for the city to pretend that it isn't a legitimate factor
> that needs to be given weight during the policy writing process. I
> appreciate your taking taking the time to give consideration to this
> point of view.
>
> A crucial requirement for a healthy, functioning society is the sense
> that by and large everyone is being treated fairly and equitably.
> Failure to recognize and ACT on that understanding inevitably leads to
> counterproductive societal turbulance and a mistrust of and disdain
> for government. Racial discrimination has been the most prominent
> example of a societal sense of "unfairness" in recent times. Other
> examples are gender pay discrepancy and tax policy to name just a few.
> Currently in our society there is a strong sense that corporate and
> monied interests are operating under a separate set of rules allowing
> them to largely do what they want without fear of significant
> consequence. This perception is not healthy for our society.
>
> The city is aware of the following:
> 1) Thousands of homes in the city have single pane windows and
> inadequate insulation.
> 2) The city's roads and parking areas are covered with oil that drips
> off of cars.
> 3) Thousands of homeowners apply herbicides, pesticides and
> fertilizers to their yards.
> 4) Some liveaboards are discharging graywater into local waters.

>
> Although there is extensive research that items 1-3 have significant
> environmental impacts, there is little if any research at the local
> level relating to the impact of item 4.
>
> So the fundamental question becomes, is the city addressing the
> environmental problems (which are known for items 1-3 but only
> suspected for item 4) created by these two groups of citizens in an
> equitable manner? There are no mandates that people MUST replace
> their windows, upgrade their insulation, or eliminate all fluids drips
> from their vehicles. Rather, the city "encourages" such actions
> through education and financial incentives. Those who can't afford or
> find it impractical to do so are not required to stop living in their
> homes or stop driving their cars.
>
> The city understands that the environmental impacts resulting from
> items 1-3 are massively more significant than those resulting from
> item 4. Given that, policy directed towards rectifying the impacts of
> item 4 should, at the very least, be no more onerous than those
> directed toward addressing items 1-3. That is, of course, if treating
> all citizens equitably is part of the city's core belief system.
>
> In writing regulations relating to liveaboards the city should feel a
> responsibility to ensure that its policy approach be in line with its
> approach to the environmental issues related to land based residents.
> That model is clear. It is based on working towards a gradual
> reduction of the problems through voluntary, education/incentive based
> policy mechanisms. If no land based citizen is COMPELLED by law to
> address the environmental impacts of his/her lifestyle how can the
> city justify compelling liveaboards to do so?
>
> Please don't conclude that I am so naive that I don't understand that
> what this all comes down to is politics, that I don't understand that
> compelling the hundreds of thousands of homeowners in the city to do
> these things would be political suicide for elected officials whereas
> doing so to a handfull of liveaboards would result in little political
> consequence. But does that make treating the two groups differently
> right? Applying different standards to different groups of citizens
> (i.e., as in, "You have to sit in the back of the bus") is
> discrimination and no amount of rhetorical manuevering can change that
> fact. The question becomes, does the city care?
>
> I hope you don't feel I am being harsh in how I have framed this
> issue. The point of my letter is to encourage you, your staff, the
> Mayor, and the City Council to put this process in context, not just
> charge ahead so fast that it becomes easy to ignore the issue I have

> raised. It is important that you ask yourselves if the policies you
> are developing treat all citizens equitably. When immersed in the
> details of writing policy it is easy to forget that what you are doing
> will affect REAL people's lives.
> Policy writng can easily become a tunnel vision process in which the
> misplaced objective becomes moving forward and checking off the
> required boxes while completely losing sight of the effect on people.
>
> The policies the city applies to liveaboards should be directly in
> line with those it applies to land based residents. That established
> policy approach is based on encouraging people to voluntarily reduce
> their environmental impact through programs of education and
> incentives. It does not involve punitary actions. It does not
> require people to tear the interior of their homes apart for
> retrofitting purposes. It does not require people to move out of
> their homes or stop driving their cars if, for whatever reasons, they
> are unable to take the suggested actions. At some point we all have
> to decide whether "fairness" is a genuine personal value or simply a
> bothersome philosphical concept.
>
> Again, I appreciate your open-minded approach to this situation. I
> hope that you will take the issue I have raised to heart and, as you
> work with city personnel, endeavor to make it a fundamental part of
> the discussion and process. I would also appreciate it if you would
> let me know that you received this email so I don't have to wonder if
> it got lost in the shuffle. Thank you.
>
> Dick Schwartz

From: Heida Brenneke [mailto:heidab7@yahoo.com]
Sent: Sunday, March 20, 2011 8:52 PM
To: Heida Brenneke
Subject: Live-aboard

Dear Shoreline Master Plan participant.

I moor my boat at Gas Works Park Marina and was shocked to hear that the live aboard status is threatened. This will clearly greatly devalue our property and will also remove one of the most attractive attributes of Seattle living and tourism.

I am retired and plan on using my property for future living expenses. If the changes you propose come about, it would make a significant difference in my standard of living. I don't believe it is the City's intent to reduce the value of property for its citizens.

I am also aware of the fact, that the live aboard community has never been a part of the discussion. I think it would look very different to you had you heard from us. We are extremely environmentally aware and follow all rules about black water pump outs and using only environmentally friendly products.

The underlying reason for the proposal might the fact that grey water from the boats goes directly into Lake Union. I agree that this could be an environmental problem, but I also know that the grey water could be pumped out and hence be eliminated from going into the lake. I am totally in favor of that.

If studies about the water quality around the marina are available, I would love to see them. The water around our marina supports a great number of wild life in spite of the fact that the old Gasworks plant is a great polluter. We have an area right across from our boats that is cordoned off because of toxins in the ground.

Fish apparently thrive from being able to be in the shadow of moored boats, so I imagine that is not an issue.

Please consider our good citizenship, our willingness to pump the grey water out, and the fact that our property values would plummet before making any major decisions. And please invite us to participate in making decisions that affect us so deeply.

Sincerely,
Heida Brenneke
What we speak becomes the house we live in. Hafiz

Proposed Shoreline Master Plan Changes
Gary Peterson
sent:
Sunday, March 27, 2011 10:34 AM
To:
Glowacki, Margaret; gwpm_mgr@yahoo.com;

Attachments:
testlaunch.JPG

Hello,

I'm writing to give some input from the perspective of a Lake Union liveaboard who has dedicated several years of his life for his love of living on the water.

Living aboard a small sailboat (18 feet!) in Gasworks Park Marina allowed me to afford to complete my education at the Art Institute of Seattle. $1400 for the boat and $250 a month let me have a safe place to live after I moved here to attend school. Knowing no one and having modest means gave me few options and boarding houses with heroine addicts were my reality.
This experience also allowed me to fall in love with living on the water. As I graduated to a $400 26' foot, wooden, ex-crab boat, I personally reported several oil slicks on the water from transient commercial vessels in Lake Union and was a very active fixture on Lake Washington, Lake Union and Puget Sound from Anacortes to Harbor Island as I towed sailboats, powerboats and houseboats for not much more than gas money and to have a hobby on the water.

After starting my career I decided to design and build a houseboat to live on as many friends of mine had designed and built sailboats and power catamarans to live on. For many boaters, including fishermen, the boat is their home and primary residence and is designed and set up as such.

I designed it myself and spent three years of my life living in a tent in an Everett boat yard just to build the steel hull. The wooden superstructure and hybrid propulsion system was completed in a year. It has a clean burning, propane fueled generator powering four electric motors generating 600 pounds of thrust, plenty for navigating inland lakes.

After launch, my first trip was thirty miles in Puget Sound from the Port of Everett to Lake Union. I've been as far inland as Lake Washington with the boat.

It has 16,000 lbs. of lead ballast and draws 5 feet of water for stability in all conditions. It has a steel hull, excellent maneuverability, reliability and range.

To suggest that my boat is not a 'real' boat and simply a thinly disguised housebarge would be wrong, considering as much of the design was committed to the propulsion system as to

the liveaboard features

I also designed it with space allocated to add gray water tanks as soon as that becomes a regulatory requirement. For now, it has black water tanks and biodegradable products are used in the overboard gray water. Nontoxic. Unlike most homes' lawn fertilizer!

I still live at Gasworks Park Marina where the 'Architeuthis" is moored. Gasworks is the unique, liveaboard, floating village consisting of a wide range of characters from young professionals to aging hippies that made me fall in love with and want to continue to protect Lake Union.

It has always been a liveaboard neighborhood and I insist that is the most productive, positive use for it with the best overall effect on the surrounding community.

Gary L. Peterson Jr.
2143 N. Northlake Way #12
Seattle, WA. 98103
206-778-6762


TRAVELIFT
2830 LB
PORT of EVERETT MARINA

a protest
dkruzich@earthlink.net
sent: Friday, March 25, 2011 12:10 PM
To: Glowacki, Margaret;
Cc: mike@washingtonliveaboard.net; president@shilshole-liveaboard.com; Kevin@TheKevLin.com;

March 20, 2011
Margaret Glowacki
c/o Department of Planning and Development
City of Seattle
Dan Kruzich
P.O. Box 17352
Seattle, Wa. 98127
Dear Ms. Glowacki:
This letter is to oppose the City's proposed update to the Shoreline Master Plan to be filed with the State's Ecology Department. My objections fall into three categories. They are evidentiary burden, changes in definition, and reduction in housing stock.
Evidentiary Burden.
First it is necessary to establish that the City has a obligation to satisfy a burden of proof that the existing system of building codes, definitions, setbacks, regulations, and restrictions are inadequate or deficient in some way and that the status quo needs to be changed. From the evidence the Department of Planning and Development has put forward I don't believe the City has fulfilled that obligation.
At the public meeting on March 8, 2011 you stated that the City was trying to establish a baseline from which to measure future improvements to the shoreline ecology. This suggest to me that the Planning Department doesn't have a standard to judge that the current system is not a improvement of the conditions that existed before. It would therefor be equally correct to say that the current system has made improvements to the conditions that existed previously.
In my experience, equally valid to what evidence you offer, there has been marked improvement I have lived in the greater Seattle area for about thirty years. Much of that on the water. before Metro put in the sewer system around Lake Washington I have seen where the water was so contaminated that visibility was less than two feet below the surface. There were occasions in the summer especially that public beaches were closed for weeks at a time due to fecal contamination. When the sewer pipe was laid offshore and pump stations built a dramatic improvement came about. In fact a opposite problem arose. Now the water was so clear that sunlight would penetrate to the bottom and Milflow weeds could grow. Then Milflow became the problem. It would entangle boat props, and come ashore were it would rot and spoil beaches.
How then can you support a need for a change in the existing situation? A change to achieve "no further harm" I would contend has already occurred. A existing standard is in place. Your baseline exist. The update to the Shoreline Management Plan simply needs to identify the conditions that exist and satisfy the Ecology Departments mandate. The changes you propose are a push to supposably make a further improvement not to do no further harm and you haven't justified a change that would offset the disruption, cost, and negative consequences your purposed update would cause. This burden is ruinous to necessary and desirable development.
Changes in Definition.

To establish clear communication we need to begin with a definition of terms. Your Shoreline Master Plan Update introduces terms that have not previously been defined but that apply to classes of boats and barges that have distinct definitions in other context.

A letter sent to you by Kevin and Linda Bagley of Seattle disputes these terms and contrast them with the common, accepted, and legal meanings. I will quote their remarks. "Within the Shoreline Master Plan proposed update, the definition of house barge has been changed, effectively re-classifying an unknown number of vessels.

"It is our view that the original definition was well considered and consisted of a clear delineation between House Barges, Floating Homes, and Vessels. The DPD CAM 229 clearly describes the Residential Use of a Floating Home, House Barge or Vessel. On the other hand, the proposed definition of a House Barge is very ambiguous, subject to interpretation and basically flawed."

"Current definition of House Barge:

"House Barge" means a vessel that is designed or used as a place of residence without means of self-propulsion and steering equipment or capability."

Proposed definition of a House Barge:

"House Barge" means a vessel, with or without means of self propulsion and steering equipment or capability, that is principally designed as a place of residence."

Under the previous definition, it is clear what constitutes a house barge. Under the new definition, almost any vessel with bedrooms, bathrooms, and kitchens could be interpreted as being "principally designed as a place of residence." Yachts, cruise-a-homes, corsairs, houseboats, etc. would all meet this criteria. This is a significant change and is unwarranted.

Further the Bagleys say: "In other parts of the proposed SMP, it indicates "New house barges are prohibited." Additionally "House barges that are established by a permit issued by the department prior to the effective date of this ordinance are allowed as non-conforming uses pursuant to Section 23.60.122, subject to the provisions of subsection 23.60.204.E. A qualifying permit must verify that the house barge existed and was used for residential purposes within The City of Seattle as of June 1990."

"The effect of this could be the elimination of hundreds of houseboats and vessels that are currently permitted under the existing rules. Our way of life is at risk and this appears to be an attempt to end a beautiful part of the Seattle tradition."

"As a result of the ambiguity of this definition, it is likely that this would lead to legal actions by those affected. I believe that most people would feel the loss of property or the prevention of use of the property in a manner consistent with its design as a result of these regulations would be constructive condemnation and the state would likely be required to compensate the owners for their loss."

"I think the correct thing to do is to retain the current definitions. those definitions are working and there is no need for the proposed change."

"Floating Home: (sometimes referred to as houseboat) a floating residence that is permanently attached to land and connected to city sewer system.

House Barge: A vessel which can be used as a place of residence (having sleeping areas, bathrooms, and cooking facilities) which lacks a means of propulsion and has a means of safely disposing of overboard waste.

Vessels: Boats, ships, barges or other floating crafts that have a means of propulsion and appropriate navigation lights, and except when undergoing maintenance and repairs, are typically capable of getting underway."

"House barges and Vessels are (sic) would be subject to Liveaboard regulations."

I would add that your proposal summary dated January 2011 says the Washington Shoreline Management act establishes single-family residences as a preferred use. Conversely WAC 332-30-171 liveaboard boats and houseboats. (1) Application. This section applies only to house boats and liveaboard boats...on Department of Natural Resources land. (2) Live-aboard boats, Moorage of a live-aboard boat is a water-dependent use. (3) Houseboats, moorage of a houseboat is a water-oriented use.

If you are going to change a legal definition you need a public hearing and process. Water-related and Water-enjoyment have no legal definition. You are trying to establish a stricter standard usurping state law. The presumption lies in favor of the state definition.

Reduction in Housing Stock

The City has a long standing commitment to protecting, promoting, and enhancing low and moderately priced housing in Seattle. The proposed changes to the Shoreline Management Act would be to eliminated a significant number of affordable homes. Some of the Cites housing initiatives are a tax exemption program for property owners who make a portion of their properties affordable for moderate wage workers.

The City allows extra nonresidential floor area exemptions to commercial property owners who make contributions towards affordable housing for moderate wage workers.

Commercial residential builders can exceed building heights restrictions if they make a portion of their properties affordable for moderate wage workers.

The city contributes up to $45,000.00 towards the downpayment of residence for low income home buyers.

The City promotes the protection and enhancement of the cites stock of affordable housing through a sustainability and conservation program.

The City has awarded $23 million dollars to create and rehabilitate low and moderate income housing.

All of these initiatives are wasted by eliminating a portion of the housing stock through the Shoreline Master Plan update.

In conclusion, the city should completely reevaluate the proposed plan to take into consideration the lack of justification with the scientific knowledge that exist. The Department of Planning and Development has a decided prejudice against economic viability and access. They have acted precipitously and without regard to due process and public input or guidance. It appears there is a culture of resistance and rebellion in the staff of the Department. I am reminded of a similar campaign of destructive intervention by a previous Department of Public Lands Commissioner Jennifer Belcher. A public revolt forced her from office and her successor restored sanity with the liveaboard community. I hope the Department and the City Council will recognize the radical misdirection this Shoreline Management plan is taking.

Thank You. Sincerely,

Dan Kruzich.

proposed shoreline changes
Jeff Reiter
sent: Wednesday, March 09, 2011 5:07 PM
To: Glowacki, Margaret;

Hello Ms. Glowacki, I emailed you a few days ago, but am sending this additional email after the meeting held last night to discuss the proposed shoreline regulation changes. I unfortunately was not able to attend the meeting, but have looked over the proposed changes and talked with others who attended.

I am writing because if the proposed changes, as I understand them, are enacted, it will bankrupt me and my neighbors. I assume you know that in Gas Works Park Marina, where I live, slips are privately owned. This places us in a very different position than those in other marinas, or marina owners. I live in a permitted housebarge, which apparently under the proposed regulations I would be able to sell in the future. However, I happen to own two slips in the marina now, because last year I moved to a different slip in the marina and have not been able to sell the slip I used to reside in (because of the poor real estate situation). I have since rented it out for the year (though I am losing money on it already each month because rent doesn't cover the mortgage and homeowner dues on it). If I cannot resell that slip because of these new regulations, I will lose about $120,000. Many of my neighbors, if they cannot resell their slip and vessel because of these changes, will lose even more. You will, with the stroke of a pen, be forcing most of the residents of Gas Works Park Marina into a foreclosure or bankruptcy situation.

Thus, I am writing to suggest that you consider exempting Gas Works Park Marina, and other privately owned slips, from the proposed changes. I don't think the changes would affect a normal marina owner like they will affect us. A normal marina owner gets the same amount of rent for his/her slips, whether renting to a live-aboard or not. Reducing the number of live-aboards in a marina doesn't seem like it would harm that marina's property value. But in Gas Works, the effects will be devastating, because we will not be able to resell these slips (and, in some cases, vessels) which most of us have large mortgages on. This really seems unconscionable to me.

I hope you will consider this request. I intend to also be working with others, and with the city council, to help them better understand how we at Gas Works will be uniquely affected. I and the other good people I know as neighbors should not have to lose our life savings because of these changes.

Sincerely,

Jeff Reiter

Reconsider the SMP
Amanda Irtz
sent: Monday, March 21, 2011 6:04 PM
To: Glowacki, Margaret;
Cc: Sugimura, Diane; McGinn, Mike;

Dear Margaret Glowacki:

Four years ago my husband and I bought our first house barge together. Our American dream came true. We saved every penny. We worked two jobs each. We did everything we could to make our dream a reality.

The feeling of finally owning our first place – well, that is something magical.

My husband, Wayne Summers, and I, Amanda Irtz, are obviously concerned about the recent push to approve the Shoreline Master Plan. While this plan has the best intentions for our environment, our city, and our lake, it disrupts our American dream and jeopardizes our financial future.

To begin, as house barge owners we are vigilant about what goes into out lake. Neither my husband nor I put any waste or food products down the disposal. All of our waste is either compostable or recycled or trashed. Any soaps or detergents are free of phosphates and other damaging chemicals. Our lake is our backyard. We cherish it. We take care of it. We want it to flourish so that one-day our children can enjoy it, too. Why would we jeopardize the health of the lake?

As a barge owner, we have become more "green" since living on the water. We have read numerous books on how to be green (clean with vinegar and water, use lemon to deodorize, etc). We also have learned to embrace the beauty of nature; thus, taking more walks and driving less. If anything, we are just a fraction of what other community members of Gas Works Park Marina do on a daily basis. In fact, I believe we are more protective of our precious habitat than many community members in the greater Seattle area.

Our house barge is moored in a slip that we own – it is private property. We hope the Shoreline Master Plan doesn't anticipate taking what is rightfully ours. In fact, the City of Seattle insured our property per the House Barge Permit #0020.

The development of the Shoreline Master Plan excludes members of the Gasworks Park Marina. It is seems unjust to create a plan for someone without including his/her input and opinion. It just makes sense to get the input of the persons who live and thrive in Gas Works Park, right? Our hope, is that the members of the Shoreline Master Planning Committee and council members will take advantage our knowledge of the lake, our community, and what we think is best for the future of everyone.

We want nothing more than to live our American Dream: to own our house barge. We want to be involved in the decision making process. We want to share our thoughts about what is best for Lake Union. We want to nourish the dream we worked so hard to create.

Thank you for taking time to read this letter. Your open mind and transparent communication is greatly appreciated.
Your Concerned Citizens,
Amanda Irtz & Wayne Summers
House-barge Owners in Gas Works Park Marina
Slip 63
206.930.098
Amanda

Shoreline management.
dick schwartz
sent: Monday, March 21, 2011 12:26 PM
To: Glowacki, Margaret;

I am confused by some of the proposed regulations regarding liveaboard vessels. They state no use of herbicides, pesticides or fertilizers. Do city/state regulations place this restriction on homeowners? If not isn't it discriminatory to single out liveaboards? We all know that the vast majority of pollution that goes into our waters comes from land based activities. These proposed shoreline management regulations would be a lot more credible if the same regulatory heavy handedness was being applied to homeowners. Clearly, since much more oil pollutants get into our waters from land based vehicles than from water based vessels, all vehicle owners should be required to maintain a drip pan under their vehicle and be able to document that they disposed of what collected in the pan in a specified manner. Of course that isn't being considered because of the uproar such a requirement would generate. These proposed new regulations seem to have an odor of trying to be environmentally/politically correct by picking on some low hanging fruit (liveaboards), rather than confronting the real problem which is land based pollution.
Dick Schwartz

Live aboards
Heida Brenneke
sent: Sunday, March 20, 2011 8:46 PM
To: Glowacki, Margaret;

Dear Ms Glowacki.
I moor my boat at Gas Works Park Marina and was shocked to hear that the live aboard status is threatened. This will clearly greatly devalue our property and will also remove one of the most attractive attributes of Seattle living and tourism.

I am retired and plan on using my property for future living expenses. If the changes you propose come about, it would make a significant difference in my standard of living. I don't believe it is the City's intent to reduce the value of property for its citizens.

I am also aware of the fact, that the live aboard community has never been a part of the discussion. I think it would look very different to you had you heard from us. We are extremely environmentally aware and follow all rules about black water pump outs and using only environmentally friendly products.

The underlying reason for the proposal might the fact that grey water from the boats goes directly into Lake Union. I agree that this could be an environmental problem, but I also know that the grey water could be pumped out and hence be eliminated from going into the lake. I am totally in favor of that.

If studies about the water quality around the marina are available, I would love to see them. The water around our marina supports a great number of wild life in spite of the fact that the old Gasworks plant is a great polluter. We have an area right across from our boats that is cordoned off because of toxins in the ground.

Fish apparently thrive from being able to be in the shadow of moored boats, so I imagine that is not an issue.

Please consider our good citizenship, our willingness to pump the grey water out, and the fact that our property values would plummet before making any major decisions. And please invite us to participate in making decisions that affect us so deeply.

Sincerely,

Heida Brenneke

What we speak becomes the house we live in. Hafiz

SMP--house barge issue
Sharon Ann
sent: Thursday, March 17, 2011 4:54 PM
To: Glowacki, Margaret;
Cc: Sugimura, Diane;

Dear Margaret,

As a property owner of 7 years at Gasworks Park Marina Condominium, I was dismayed to review the proposed SMP and discover a very prejudicial view of the current population of housebarges on Lake Union. Specifically, section 23.60.204 would prohibit any new housebarges on Lake Union, severely limit the population of liveaboard dwellers, yet it simultaneously and ironically favors the current population of floating homes. Such restrictions would amount to an illegal taking of property rights of Gasworks Park Marina Condominium, would wreak devastating property devaluation on all our members,and imperil the future of a vibrant community that has been vested in preserving the health of Lake Union since our incorporation in 1984. We are aunique marina that exemplifies the type of truly dense and diverse community that is so actively promoted in the City of Seattle Master Plan. GWPM acts as active stewards of the unique ecosystem we occupy that encompasses an upland region, bulkhead, and two piers that define our 70 slip marina. To impose such stringent restrictions on both housebarges and the liveaboard community is to strangle one of the few constant caretakers and monitors of the very ecology the SMP proposes to protect. To do this at a time when the Seattle real estate market is so depressed only enhances the selectively putative nature of this proposal.

A stated objective of the SMP is to encourage water dependent uses of the lake. As a community of house barges we are completely water dependent for the flotation of our homes. This dependency allows liveaboard communities to achieve high densities with a necessarily small footprint per home and mandates the conservation of energy as our home power allocation amounts to only 30-50 amps per dwelling. This paring down of space and energy naturally lends itself to a more spare, green lifestyle that is the current model for sustainability. As our existence is indeed water-dependent, our community acts jointly and cohesively to protect our vested interest in maintaining the integrity of the waters of our immediate marina and the surrounding expanse of Lake Union. The Declaration and Bylaws of GWPM Condominium mandates all owners and residents of our community will observe best management practices to protect the marina property and our surrounding waters as recommended by the Washington State Department of Ecology.

The SMP states that single family residences are identified as a priority use when developed in a manner consistent with the protection of the natural environment. GWPM Condominium exemplifies this very type of single family residence that manages to combine residential density and stewardship of our surroundings (while simultaneously coexisting with a Superfund clean-up site that to date renders the shoreline surrounding Gasworks Park off-limits to swimmers and waders).

Another stated objective of the SMP is to protect ecological functions of the lake. Above and beyond our bylaws, GWPM residents act as stewards of Lake Union. From both our inner and outer waters we continually harvest hazardous floating debris (planks, styrofoam chunks, garbage and gear washed from recreational boats, loose ropes, etc) that would otherwise occupy the lake's navigational channels. We are a 24-hour witnesses to oil

and fuel spills that occur on the Lake and assist in the immediate notification and swift response of containment and clean-up crews. Housebarge dwellers are especially sensitive to speeding high-displacement vessels which create turbulent wakes that erode sensitive shoreline areas. Our community is quick to identify violators to Harbor Patrol to mitigate damage to piers and shoreline alike. GWPM has on several occasions provided a staging area for dry training exercises of the Seattle Fire Department working in conjunction with Harbor Patrol. This increases preparedness for any type of lake emergency requiring rescue crews. GWPM stages an annual clean-up day for our marina which always includes tasks of manually removing invasive plant species (purple loosestrife, blackberry vines, bindweed) from our property shoreline and maintaining our protective riparian buffer planted with native shoreline species (iris, cattails, willow). A reliable indicator of the ecological health of our site is evident in the consistent presence of otters, herons, beaver, mallards, and fingerling salmon that occupy our inner marina and outer waters. As a sidenote, we see no evidence of shoreline-tunneling nutria that are so evident in more secluded shoreline areas such as the Arboretum; apparently density may discourage certain detrimental species.

Since the 1970's the Lake Union house barge community has undergone a great evolution towards becoming a self-managed model of affordability, sustainability, and ecological hygiene. Long gone are the fishing shacks that used the lake as their personal garbage disposal but the outdated prejudice and stigma still remains as evidenced by the proposals put forth in the current version of the SMP. As a member of the house barge community, I encourage you and the SMP policy writers to take a closer look at those communities you seek to abolish. The SMP should be written based on solid scientific data and a current understanding of the dynamics of house barge communities that are clearly in line with the SMP objectives. To arbitrarily disregard the rights of lake-dependent homeowners and dwellers based on outdated notions and lingering prejudices negates the legitimacy and credibility of the entire process of formulating the SMP.

Sharon Creason, owner
Gasworks Park Marina Condominium, slip #24
(206)713-3061

Proposed changes to house barge definition
Arlyn Kerr
sent: Saturday, March 19, 2011 5:11 PM
To: Glowacki, Margaret;

I'm writing about the proposed changes to the Shoreline Master Program. I'm particularly concerned about the definition of house barges. I have a boat (bought new four years ago) which, under the new definition, might be considered a housebarge. I don't know why you're thinking of changing the definition, and I'm worried about the effects this might have on keeping my boat moored on Lake Union, and on the effects if I ever want to sell the boat. If the new definition might mean that I wouldn't be allowed to moor my boat on Lake Union (much more convenient for me than Lake Washington or Puget Sound, say), or that I or some future owner wouldn't be allowed to occasionally sleep onboard while it's moored in Lake Union, then that seems very unfair. You shouldn't change the rules mid-stream and cause anxiety to people who bought boats under one set of rules, by changing to a new set of rules.

Thank you for your consideration of these views while making your changes.

-- Arlyn Kerr

Current Definition of House Barge:
"House barge" means a vessel that is designed or used as a place of residence without a means of self-propulsion and steering equipment or capability.

Proposed Definition of a House Barge:
"House Barge" means a vessel, with or without means of self propulsion and steering equipment or capability, that is principally designed as a place of residence.

Shoreline Masterplan Update
Barbara Engram
sent: Thursday, March 17, 2011 12:19 PM
To: Glowacki, Margaret;
Cc: Barbara Engram;

Dear Ms.Glowacki;
I live aboard a houseboat at Gasworks Park Marina and have done so for the last 6 years. This is my primary and indeed, only residence. I also own a second slip which I rent, currently to a live-aboard, the value of which represents a significant part of my financial security in my retirement
I urge you and the city of Seattle to reconsider your plan to limit live-aboards to 25% of the slips in a given marina. That is an unnecessarily severe solution to a problem that has other solutions. If the problem is gray water, it would make much more sense to mandate solutions that address gray water rather than ones which destroy a way of life. After all, the 25% limit only eliminates 75% of the gray water. A good cooperative plan could eliminate 100%.
Though we are very seriously affected by the proposed regulations, live-aboards were not included in the process of their development. In addition, although I understand that the City is committed to social equality, it appears that properties belonging to the wealthy have been spared. Proposed changes affecting single family homes and floating homes are not nearly as radical as those proposed for live-aboards.
Under the law, we are protected from having the value of their property taken from them, but the proposed regulations would do just that.
Why not limit the number of live-aboards to their present levels and give us a period of time within which to effectively address the gray water issue? Why assume that the only way to deal with it is to get rid of us?
Seattle's colorful waterfront is a major attraction. Our marina is a regular attraction on the duck boat tours during the tourist season. We have been members of our community for years. We live in very small spaces (probably none of us have more than 600 sq ft), and have a much smaller carbon footprint than when we lived on land. We are not squatters; my neighbors are doctors and lawyers, university professors, business owners, teachers, retired people. We are not anti-environment. We float in the lake; we want it to be clean and are committed to its care.
Please take these things into consideration and amend the proposed regulations to allow us to participate in a cooperative effort to protect the lake.
Thank you,
Barbara Engram

Housebarge regulations
Les Kerr
sent: Wednesday, March 16, 2011 3:35 PM
To: Glowacki, Margaret;

Dear Margaret,

I understand the City is considering new regulations that would potentially affect liveaboard boat owners.
I'm not a liveaboard myself, but I do keep my boat at a marina on Lake Union. Several of the boats at that
marina are occupied by liveaboard boat owners, and knowing they're there gives me great peace of mind
concerning the safety of my vessel. As an example, during a recent cold snap, one of them called me at my residence and offered to do anything necessary to prevent the pipes on my boat from freezing. On another
occasion, during a wind storm one of the cleats broke off from my dock. If I hadn't been there to secure the
boat myself, I know one of my liveaboard neighbors would have handled the situation for me in my absence.

I hope the City will not do anything that would restrict the number of liveaboards in any of the marinas.
From my point of view, they're a real asset to the City's waterfront.

—Les Kerr

Fwd: Shoreline Master Plan (SMP) and My Home...
shelli beaver
sent: Monday, March 14, 2011 5:43 PM
To: Glowacki, Margaret;

Apologies for misspelling your last name in a previous non-deliverable email....
---------- Forwarded message ----------
From: **shelli beaver** <shelli.beaver@gmail.com>
Date: Mon, Mar 14, 2011 at 5:42 PM
Subject: Shoreline Master Plan (SMP) and My Home...
To: margaret.giowacki@seattle.gov
Cc: diane.sugimura@seattle.gov, shelli.beaver@gmail.com

Dear Margaret...

My name is Shelli Beaver and I am a houseboat/slip owner at Gas Works Park Marina. I would like to take this opportunity to share with you how some of the new provisions in the SMP would impact our dock-side community and my beloved home. But first I want you to know that I do understand and appreciate your efforts to protect and preserve the beauty of our Lake Union and the fish-species that reside or migrate through it.

Gas Works Park Marina is a unique community of slip owners that have decided to forgo the typical land-based house with oft-times impersonal neighborhoods and invest in a liveaboard lifestyle that provides for close neighbor relationships, a tranquil water setting, and a closeness to nature that invigorates the soul. I sold my condo 3.5 years ago after deciding I wanted to live on the water in a close knit community during my retirement years. Gas Works Park Marina was (and still is) a perfect fit for me.

In terms of discharging of greywater--I swim in Waterway 19 during the summer and am extremely vigilant in the discharge of any greywater into the lake. I shower at the cabana and use nothing but biodegradable products in water that will be released overboard. **However, I would have no qualms whatsoever and even be happy to install an on-board greywater collection system on my boat to prevent any release of greywater in the lake.** Perhaps this could be made a requirement for all liveaboards on Lake Union and Portage Bay?

In terms of shade that is produced by the structure of my houseboat--it is far less than most floating homes and rusty ships seemingly permanently-moored in various areas of Lake Union. Is there any data available that would indicate that shadows cast by liveaboards are more damaging to eel grass than other vessels permanently-moored in the lake?

I really and truly do not know what I will do if I am evicted. It feels like a I have been living a nightmare ever since I was made aware of some drastic changes within the SMP. My mortgaged slip and houseboat are really all I have to show for 25 years of working as an epidemiologist for the federal government and I can't believe it could all be taken away from me in the blink of an eye.

I am hopeful that our condominium-owned marina will be exempt from the 25% liveaboard threshold upon further consideration of the devastating impact it would have on our close-knit community and the many lives of residential stewards of north Lake Union.

Respectfully submitted,

shelli beaver, slip #40
Gas Works Park Marina

Comments on proposed shoreline plan
Faith Fogarty
sent: Sunday, March 13, 2011 8:36 PM
To: Glowacki, Margaret;

Dear Maggie -

I attended the March 8th meeting and want to thank you for having that meeting and keeping your cool with all the questions, including mine, which were a bit challenging at times.

COMMENTS:
1. A major problem, I feel, is that the City of Seattle doesn't understand or know much about liveaboards, and, worse, did not include them in the process. The city has no idea how much we liveaboards CARE about the water and the environment. Lake Union is our front, side and back yards, and when it's really hot in the summer, we swim in the lake. So we are willing stewards of that wonderful resource. I can safely say I speak for everyone in this marina.

The City has a valuable resource of intelligent and ecologically savvy and concerned people in the liveaboard communities. We are not down-and-outters, who live on rickety boats because we can't afford an apt. or house -- *au contraire*, we have given up apts and houses in order to live in an environment we love to interact with -- the water, the kayaking, the water fowl, the water animals, falling asleep with the gentle rocking of the boat.

2. Setting a quota (the 25%) for liveaboards is NOT the intelligent way to approach the liveaboard community. There need to be studies on what exactly are the problems, how much documented harm is caused in each marina and what mitigating measures can be taken by us to reverse the problem. A blanket quota doesn't raise consciousness and support for water quality and stewardship of the water. It doesn't address whatever the problems are because no one knows what the impacts of liveaboards really are. Gray-water holding tanks, not a quota, are an obvious place to start, if a study shows that the gray water put in the lake by liveaboards is disproportionately harmful to the ecology (that is, disproportionate compared to what other entities on the lake put in the water, such as from lawns and industries and boatyards...and pleasure boaters who don't even have blackwater holding tanks sometimes).
3. I have spoken to many of my fellow liveaboards and we are all interested in doing what is necessary to ensure "no net loss" of ecological function. We can be educated and educate others who choose to live on the water.

4. I won't even address the financial impact the 25% quota would have on those of us who own our slips (costing over $100K). We bought them knowing they would always have value if we needed to quit living on the water (as people do, when they get too old). If new slip buyers couldn't liveaboard, there goes the value of the slip. This is our only real estate in many cases.

I want you to know there are many of us who don't put gray water that we can capture in the lake -- such as water from our dishwashing pans, leftover coffee in a mug -- but maintain a "slop bucket" in our kitchens which we empty daily in the sewer system when we got to the on-shore facility to shower or do our laundry/

Again, thank you for listening. I am hopeful that you will work with us along with the other water-related and -dependent entities on the lake to come up with a rational approach to preserving our environment.

Best regards,
Faith Fogarty
Gas Works Park Marina #53

Gas Works Park Marina
Virginia Powers
sent: Thursday, March 10, 2011 11:19 AM
To: Glowacki, Margaret;

Hi Margaret

Thanks for holding the meeting on Tuesday to publicly inform about the upcoming proposed changes to the Shoreline Master Plan. As a resident of the Gas Works Marina I am very interested in proposed changes. Because I live on the water I am very conscience of the fact that clean water and shoreline quality are of great importance. The liveaboard community is an valued sector to be included in the writing of new standards. I am saddened that we were somehow overlooked during the last two years of this process.

Here are things that I/we would like to have time to discuss and modify before the final writing of these new regulations.

1) The code provision is a problem --- the 25% live aboard limit per marina. Perhaps we can revise this to have it stated as a 25% for the whole SMP district. As currently proposed this would have impact on our Condo moorage at Gas Works that would be an "Illegal taking"; this action would remove value from real property.

2) I dispute the allegation that living aboard is environmentally damaging. I believe that we are stewards of the water and shoreline and work to keep the waters clean and pure, being that we don't want to fowl our very lifestyles we love. There appears to be no real data from studies to show that live aboards are more polluting that shore side dwellers and industries.

3) The public process was flawed; at no time did DPD ever communicate with anyone at GWPM marina, even though they knew about the condo arrangement and ownership of property here, and therefore should have been aware of the disproportional harm the proposal would do.

I look forward to future meetings so we can resolve this issues.
Virginia Powers

Shoreline management proposals.
dick schwartz
sent: Wednesday, March 09, 2011 10:24 PM
To: Glowacki, Margaret;

Dear Ms. Glowacki,
Not being a lawyer, I'm not sure if we liveabords are over reacting to these proposals or if the city actually is trying to eliminate liveaboards from the Seattle scene. To be honest with you it's hard not to be paranoid about it because we liveaboards seem to have to fight this battle every ten years or so. I simply don't understand why there are people out there who want to make our lives miserable. We are just normal people trying to live our lives and who love the lake and do our best to keep it a Seattle icon that the city can be proud of. Why can't we just be left alone?
If the city IS trying to make living aboard frustratingly difficult or impossible I want to make sure you understand on personal level what you would you would be doing to a couple such as my wife and myself. I am a retired Seattle Public School teacher (Garfield, Meany, Ranier Beach) and my wife is a retired nurse. I believe we have made significant contributions to the Seattle community and deserve the city's respect for having done so. We made a choice back in 1972 when we first got married to liveaboard and have done so ever since. This was a legal thing to do and there was no reason not to make this choice for housing. If we were forced to move off our boat we could not afford to buy a house in Seattle given the inflated price of housing in the city. If the city wants to do that to people such as ourselves then so be it. But to do so would be meanspirited to say the least.
Sincerely,
Dick Schwartz

From: Dan Iverson [mailto:dan.iverson1@gmail.com]
Sent: Tuesday, March 08, 2011 10:26 PM
To: Glowacki, Margaret; Signa Moe
Subject: Public Comment to revised Shoreline Masterplan RE: 23.60.200 (p 70)

Code Section if Known: 23.60.200
1) Commercial and recreational marinas may provide moorage for vessels used as live-aboard vessels if the marina meets the following standards, in addition to the standards in subsection 23.60.200 A-D:
(...) 2) vessels with live-aboard use are limited to 25% of the available moorage slips not including transient moorage and live-aboard use of a commercial fishing vessel...

I live with my family on board a vessel at Gas Works Park Marina on Lake Union. I have lived here for three years, my wife has lived here for five. Gas works Parks Marina has existed in its current form for decades; we are law abiding citizens who pay vehicle taxes on the boat, and property taxes on the slip, which under RCW is defined as real property, being on the location of a former sawmill submerged when the Montlake cut was made. We are in compliance with all existing state, federal, county and city ordinances. Our marina is organized as a condo association, with each slip held as property by my neighbors and myself. I was shocked to discover this week that for two years the City has been working on revisions to the shoreline master plan, a process which no one at the marina was ever informed of. This is particularly injurious in that the proposed section of code above would render in a single stroke, my family's home and only major asset worthless, with the same damage done to all of my friends and neighbors in the marina. In reading further into the proposed revision, DPD proposes to allow current live-aboards to continue to inhabit their slips, but stipulates that marinas will not be allowed to fill their space with new live-aboards if the marina exceeds 25% live aboard use. In essence, if this proposal becomes law it will be illegal for me to ever sell my home to anyone else to live in, and our property will therefore be worth only a tiny fraction of what we paid for it. Such an unconstitutional taking compromises the well being of all the families that live here, and will create a financial burden that many of us will quite simply never be able to recover from. Our marina is populated by working families and retirees; our homes represent investments worth hundreds of thousands of dollars to each owner; again, the major asset of everyone who is here. I noticed with chagrin that elsewhere in the proposed revisions that the wealthier owners of floating homes were spared this unconstitutional taking of property; the value of their assets is actually enhanced by the new cap created on the number of floating homes. Why should millionaire citizens of Seattle be given an such an enhancement to their property value while working class citizens are robbed of their all the equity in their tiny, modest homes?
As much as I would like to see environmental improvements made to the Lakes, Sound, and shorelines, this proposed rule change is unacceptable, and must be removed from the proposed ordinance.

Furthermore, throughout the suggested revisions, there is a presumption that people living on board vessels are environmentally deleterious, but nowhere is any actual evidence of this cited in your literature. The revised code speaks of "best available science", but then nowhere provides any link to that science. I feel confidant in saying that my lifestyle on the boat is significant more ecologically friendly and represents a much smaller environmental impact than my former lifestyle on land. During the public meeting tonight (3/8/11) your spokeswomen referred to concerns about gray water, but had no evidence and could not cite any other specific concern. I would submit that there are many other ways to deal with gray water concerns, which I am certain that myself, my family, and my neighbors would gladly accept.

Thank you in advance for all of your hard work.

Dan Iverson,
GasWork Park Marina
2143 N. Northlake Way #47
Seattle, WA. 98103
(206) 261-7762

-----Original Message-----
From: Tim Hutchinson [mailto:timphutchinson@gmail.com]
Sent: Tuesday, March 08, 2011 7:40 PM
To: Glowacki, Margaret
Subject: Gasworks park marina livaboards...

I was unfortunately unable to attend the informational meeting this evening, but would like to weigh in about this issue. It is unclear how gasworks park marina "fits in" to the current dpd plan, as it is a different kind of marina from shilshole, and thus I feel it is unfair to apply livaboard standards of those who live at shilshole vs. those who live at gasworks park marina. Gwpm is a unique community of livaboards that has a higher concentration of houseboats and liveaboards than anywhere else in the Seattle area. It is a diverse and vibrant and ultimately, necessary part of the Seattle waterfront. Livaboards are more aware of their environmental impact than any other segment of Seattle society, because we accutely understand what it means to live simply, and that there is no such thing as "out of sight, out if mind" or NIMBYISM as our lives revolve around the water around us. Living on a boat teaches you to treat the earth like an island, and to value it's resources. Do not make the mistake other cities have made to treat liveaboards as polluters, or some sort of societal nuisance in the way of your yacht. Houseboats are just as much of the fabric and maritime history that puget sound has as ferries or fishingboats. It would be a cultural and societal loss to whitewash us away like they have done on bainbridge island or in Kirkland. People from around the world know Seattle as the place from the movie that was set on a houseboat. What does it say about us (as a city and society) if we start limiting the myriad of ways that people express themselves through the ways they choose to live? Why throw out those who live closest to the resources we all love and use to up hold what we think an environment should "look" like. Let gasworks park marina stay the way it is, a community that loves and cherishes lake union.
Sincerely,
Timothy Hutchinson
Dock A slip #8
The Ina Mae

From: Jeff Reiter [mailto:jeffreiter2@gmail.com]
Sent: Friday, March 04, 2011 11:54 PM
To: Glowacki, Margaret
Subject: new liveaboard regulation

Hello, I am writing to express my concern regarding the proposed new restrictions on the percentage of liveaboard vessels to be allowed in marinas. I currently own two slips in Gas Works Park Marina (I live in a housebarge in one of the slips, and rent the other slip). As you likely know, Gas Works Park Marina has long been almost entirely composed of liveaboards. Would the proposed limit of 25% liveaboards apply to places like Gas Work Park Marina and the other marinas on Lake Union that have privately owned slips? I obviously would be very concerned if that were the case, as would many others residing on Lake Union. Not only would it be a potentially devastating financial hit to the many people who own slips, it also would eliminate a unique and historic part of the Seattle landscape.

Many thanks, in advance, for your reply.

Jeff Reiter

From: Charles/Sally Weems [mailto:stillafloat@comcast.net]
Sent: Monday, February 28, 2011 9:19 PM
To: Glowacki, Margaret
Subject: Clarification of equity between all living spaces floating in the water

Ms. Glowacki,

As a member of the Floating Homes Association I wonder if the regulations imposed on us should perhaps equally apply to the many new homes appearing in Lake Union which are variously called vessels, houseboats, and housebarges. Clearly none adhere to the strict environmental protections we already have in place for floating homes such as sewage connection and no dumping of anything much less gray water into the lake.

Our own city regulations as quoted below have in the past clearly been circumvented by some. I am also aware that the environmental impact of ship repair dry docks, and other major vessel work can never be controlled as closely as the floating homes, but what regulations are being worked out under the below guidelines for these new "homes as vessels"?

I would greatly appreciate a reply to this question.

Sincerely,

Charles E. Weems
stillafloat@comcast.net

"In addition, vessels must be used for navigation in a manner consistent with the type of vessel. Finally, vessels must be registered with federal, state, or county agencies. *(**NOTE:** Being registered alone does not mean that something will be classified as a vessel for the purposes of the City's Codes—a vessel must be designed and used for navigation.) A structure on the water lacking any of these features does not qualify as a vessel and is subject to the SSMP and other City codes as a structure and as an obstruction."*

From: Elke Rolfes [mailto:efrolfes@socal.rr.com]
Sent: Friday, February 18, 2011 5:39 PM
To: Glowacki, Margaret
Subject: New shoreline regulations.

I don't understand why living aboard should be limited to 25% of a marina's slips if the liveaboard boats are not discharging blackwater into the water. It is an arbitrary regulation. Would you propose that only 25% of waterfront lots can be lived on? Only 25% of boats can have (polluting) engines in them, the rest have to operate in a non-motorized manner? Only 25% of your department's employees can drive their car to work on any given day? Etc., etc.

Many marinas allow no liveaboards so by setting the limit by marina rather than by the total number of boats in the area of jurisdiction you would actually be setting the number of liveaboards as a percent of the total number of slips at a much lower level than 25%.

The cost of housing in Seattle has already made living in the city unaffordable for middle and lower income people. Living aboard is one of the few remaining options for such people to live in the city. Do you really want to make Seattle a city where only high income people can live? Instead of trying to make life difficult for middle and lower income people it's already difficult enough) why not put your efforts into making housing options such as this environmentally sound rather than just banning it (the easy solution)?

From: kelly jensen slemko [mailto:kelly.m.jensen@gmail.com]
Sent: Sunday, February 27, 2011 6:07 PM
To: Glowacki, Margaret
Subject: Condominium Style Marinas and the Seattle Shoreline Master Plan

Hi Maggie,

I appreciate your time in gathering the public responses to the Seattle Shoreline Master Plan. I tried to call a couple times last week but had a hard time connecting, so decided I should just send my questions in email form. It would be great to hear back from you. The text from the relevant sections of the proposed law is pasted below the questions.

1. Is the intention that a boat with live-aboard will need a registration number? If not, why does section 23.60.200.E.3.a talk about administrating costs?

2. I live in a marina which operates as a condominium. There is no one owner of the Marina - rather, each slip is owned individually. Most of the slips are being used as live-aboards at any given time, and were purchased under the impression that they could be used or sold as live-aboards. I have a concern that the new law outlined in 23.60.200.E.2 is not clear on how it would apply to such a situation, given how it talks about boats and owners of boats, and not about the owners of individual slips. Is that section of the law intended to apply to the situation of condominium style marinas? If not, where in the proposed law can I find specifics about why not? Also, since there is no one owner of the marina, there is no one to decide which slips are live-aboard. Could it be interpreted that each separately owned slip is its own marina as it pertains to this part of the law?

Thanks for your time!
-Kelly Slemko

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Referenced sections:

23.60.200.E.2

Marinas not complying with standards. If a marina has more than 25% of its permitted slips occupied by vessels that are used as live-aboard vessels for four or more days out of any seven day period, the marina owner shall reduce the percentage of such slips to 25 percent by not replacing any such vessel with a new live-aboard vessel if such vessel permanently leaves the marina. This provision does not apply if a live-aboard vessel owner at the marina buys a new vessel to immediately replace an existing live-aboard vessel.

23.60.200.E.3.a

The owner of a commercial or recreational marina that provides moorage for vessels that are used as live-aboard vessels four or more days in a seven day period is required to register with the Department annually starting within 6 months of the effective date of this ordinance and to pay the fee established by the Director to recover the costs of issuing registration numbers. The registration form shall state the date the marina first provided moorage for vessels used as live-aboard vessels, the total number of permitted moorage slips, and the number of moorage slips used by vessels for single family residential purposes four or more days in a week.

From: GWPM Manager [mailto:gwpm_mgr@yahoo.com]
Sent: Friday, February 25, 2011 2:06 PM
To: Glowacki, Margaret
Subject: Shoreline Master Plan Questions

Dear Ms. Glowacki,

I am the on-site manager for the Gas Works Park Marina on Lake Union. Our marina is a private Homeowner's Association with 72 units. 71 units are single slips that are each owned by a different individual who may choose to moor a boat or rent the slip. We have not limit on the number of slips that may be liveaboard as they are each owned privately.

In reviewing the new Shoreline Master Plan I am unclear about how it will impact our particular marina as we are part marina and part condo association. Most of the slips are being used as liveaboards at any given time and were purchased under the impression that they could be used or sold as liveaboards. I am unclear about whether the new law outlined in 23.50.200.E.2 would apply to such a situation as it refers to boats and their owners and not about the owners of individual slips. Can you help to clarify how this might impact our Association? As each slip is owned independently, limiting the number of liveaboards in the marina would greatly impact the property value for a large number of owners, if not all of them.

I am also a bit confused by 23.50.200.E.3a and the registration fee. Would you comment about how this might apply to our marina?

Thank you, in advance, for your time and attention in replying to these questions.

Emma Levitt
On-site Manager
Gas Works Park Marina
781 354 2301
gwpm_mgr@yahoo.com
www.gasworksparkmarina.com

Excerpts from the Plan:

23.60.200.E.2

Marinas not complying with standards. If a marina has more than 25% of its permitted slips occupied by vessels that are used as live-aboard vessels for four or more days out of any seven day period, the marina owner shall reduce the percentage of such slips to 25 percent by not replacing any such vessel with a new live-aboard vessel if such vessel permanently leaves the marina. This provision does not apply if a live-aboard vessel owner at the marina buys a new vessel to immediately replace an existing live-aboard vessel.

23.60.200.E.3.a

The owner of a commercial or recreational marina that provides moorage for vessels that are used as live-aboard vessels four or more days in a seven day period is required to register with the Department annually starting within 6 months of the effective date of this ordinance and to pay the fee established by the Director to recover the costs of issuing registration numbers. The registration form shall state the date the marina first provided moorage for vessels used as live-aboard vessels, the total number of permitted moorage slips, and the number of moorage slips used by vessels for single family residential purposes four or more days in a week.

-----Original Message-----
From: dick schwartz [mailto:cruzahome@yahoo.com]
Sent: Saturday, February 19, 2011 9:32 AM
To: Glowacki, Margaret
Subject: Shoreline regulations.

Below please find my public comment on the shoreline regulations update.

I don't understand why liveaboards should be limited to 25% as long as they are not dumping blackwater into the waterways. 25% is a totally arbitrary figure pulled out of the air for no fact based reason. Would you think it reasonable if a regulatory agency arbitrarily decided that only 25% of your agency's employees could drive their car to work?

The 25% figure is also deceptive. Many marinas already don't allow any liveaboards, so setting a "per marina" limit actually results in a much lower percentage of liveaboards when figured based on the total number of slips in the area of jusridiction.

Seattle has become a city in which middle and lower income people cannot afford housing. Living aboard is one of the few remaining options for such people to live in the city. This action is just another of many that government has implemented that make Seattle a city only for upper income citizens. There is lots of talk about making low income housing available but there is little action to actually support that rhetoric. This is another example of that hypocrisy.

Dick Schwartz

From: Beverly Anderson [mailto:bja@u.washington.edu]
Sent: Tuesday, May 31, 2011 12:43 PM
To: Glowacki, Margaret
Subject: draft SMP comments

I am writing to officially submit my comments regarding the draft SMP regulations and proposed amendments to the City's Comprehensive Plan. I am a property owner and resident of the Seaview pier homes community, located along north Salmon Bay on Seaview Ave NW between 34th Ave NW and NW 57th Street. This unique neighborhood has much in common with the floating homes community….colorful and valuable history, issues of lot coverage, setbacks, submerged property, restricted access, and increasing values and tax base, to name a few. I am concerned that the SMP language as it stands is punitive for our neighborhood because it does not specifically protect our homes and our neighborhood. In contrast, floating homes are specifically protected. We need to be allowed to maintain and repair and replace and expand as circumstances dictate, with some "credit" for mitigation. These homes deserve the same consideration as floating homes. Otherwise this document will have the effect of reducing the fair market value of each property.

Beverly Anderson

From: Daniel Allison [mailto:da5619@yahoo.com]
Sent: Friday, May 27, 2011 2:42 PM
To: Glowacki, Margaret
Subject: Seattle SMP comments

May 26, 2011

Margaret Glowacki

City of Seattle - Department of Planning and Development

700 Fifth Ave., Suite 2000

P.O. Box 34019

Seattle, WA 98124-4019

Dan Allison and Lorna Allison Seamans

5608 Seaview Ave NW Suite 2

Seattle, WA 98107

Dear Margaret,

Our father was Bob Allison who you likely remember from the Shoreline Advisory Board. Unfortunately he passed away in March. He spent countless hours working with the council to help craft a document that was fair and just to the shoreline landowners. We believe that the Shoreline Master Program (SMP) in its current form is neither of those things with regard to his/our property and the other homeowners around us. We are very concerned that the language in the SMP does not fairly recognize and accommodate this type of property (overwater houses) while treating many other shoreline areas (floating homes) as reasonable uses. Crafting the SMP took untold hours and is still vague and unreasonable in some areas.

Questions:

How will the SMP affect future development, maintenance and repair of our over water homes at 5619, 5619 ½ and 5621 Seaview Ave NW?

On what basis are over water houses being treated differently than floating homes? (Please provide the specific legal basis which would support less than equivalent treatment under SMP.)

What were the reasons the SMP was resubmitted for comments a second time?

Why are over water houses not a Preferred Shoreline Use, which was identified as a major policy goal that all SMPs are required to achieve? (As indicated in the overview of the SMP update “Single-family residences are also identified as a priority use under the Act when developed in a manner consistent with protection of the natural environment “)

We appreciate your time and energy and look forward to your response and changes to the SMP.

Sincerely Yours,

Dan Allison and Lorna Allison Seaman

From: roxiedufour@comcast.net [mailto:roxiedufour@comcast.net]
Sent: Friday, May 27, 2011 11:00 AM
To: Glowacki, Margaret
Subject: SMP SEAVIEW AVE NW

Margaret Glowacki
City of Seattle-Department of Planning & Development
700 Fifth Ave., Suite 2000
P.O. Box 34019
Seattle, WA 98124-4019

May 27, 2011

Dear Margaret:

I am the property owner and resident on Salmon Bay at 5631 Seaview Ave NW, Seattle. The Ballard neighborhood over-water homes are located on Seaview Ave NW, between 34th Ave NW and NW 57th Street. This is a unique neighborhood where home ownership is passed through family generations. Before my purchase, the last time my property sold was in the 1920's. This property supported boat building, rentals and repairs. As property owners in this close-knit community, we have passionate concerns involving the current form of the Shoreline Master Program.

I met you through Bob Allison, accompanying him to your committee meetings regarding this document. The document does not recognize and accommodate existing over-water homes such as those in my Seaview neighborhood. In reviewing the current form of the Shoreline Master Program, I find our over-water homes are not included with the same language given for floating homes.

I request that the Shoreline Master Program conform to WA173-26-241 so that you include my Seaview neighborhood of over-water homes at every mention of floating homes. I want over-water homes to be categorized in equal status with floating homes throughout the Shoreline Master Program.

I strongly encourage changing the language everywhere "floating homes" appear, to include "and/or over-water homes." Clearing the language ambiguities will allow over-water homes to be maintained, repaired and replaced.

Please feel free to contact me if you have any questions or concerns.

Thank you,

Roxie Dufour

Roxie Dufour
5631 Seaview Ave NW
Seattle, WA 98107
Email: RoxieDufour@comcast.net
Phone: 206.281.8226

From: Ivar Michelsons [mailto:imichelsons@popcap.com]
Sent: Thursday, May 26, 2011 4:56 PM
To: Glowacki, Margaret
Cc: ivar.michelsons@earthlink.net
Subject: Comments regarding draft SMP

May 25, 2011

Ivar Michelsons
5615 Seaview Ave NW
Seattle, WA 98107

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

Dear Margaret,

I am writing to officially submit my comments (via email and USPS mail) regarding the draft Shoreline Master Program (SMP) regulations and proposed amendments to the City's Comprehensive Plan.

I am a property owner and resident of the Seaview pier homes community, located along north Salmon Bay on Seaview Ave NW. This unique neighborhood was established in the 1920's, and has significant historical and cultural relevance to Seattle/Ballard's maritime and Scandinavian heritage. The community consists of existing over-water single-family residences constructed on piers. The Seaview pier homes community is located on Seaview Ave NW between 34th Ave NW and NW 57th Street.

I am concerned that the draft SMP is at best ambiguous and potentially unfairly punitive to this existing over-water community, especially in comparison to SMP's accommodation of similar floating home communities. WAC 173-26-241 (Shoreline Uses), item (3)(j) Residential Development states that "It is recognized that certain existing communities of floating and/or over-water homes exist and should be reasonably accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property".

While the draft SMP does recognize and accommodate existing floating homes, it does not do so for existing over-water homes, such as those in my Seaview community. Thus the draft SMP does not meet the requirements of WAC 172-26 above. The intent of WAC 172-26-241 (3)(j) with respect to floating homes is reflected in answers #4 and 5 in the Seattle Revised Shoreline Regulations FAQ 3/9/11 (http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@shorelinemasterprog/documents/web_informational/dpdp020616.pdf) as follows:

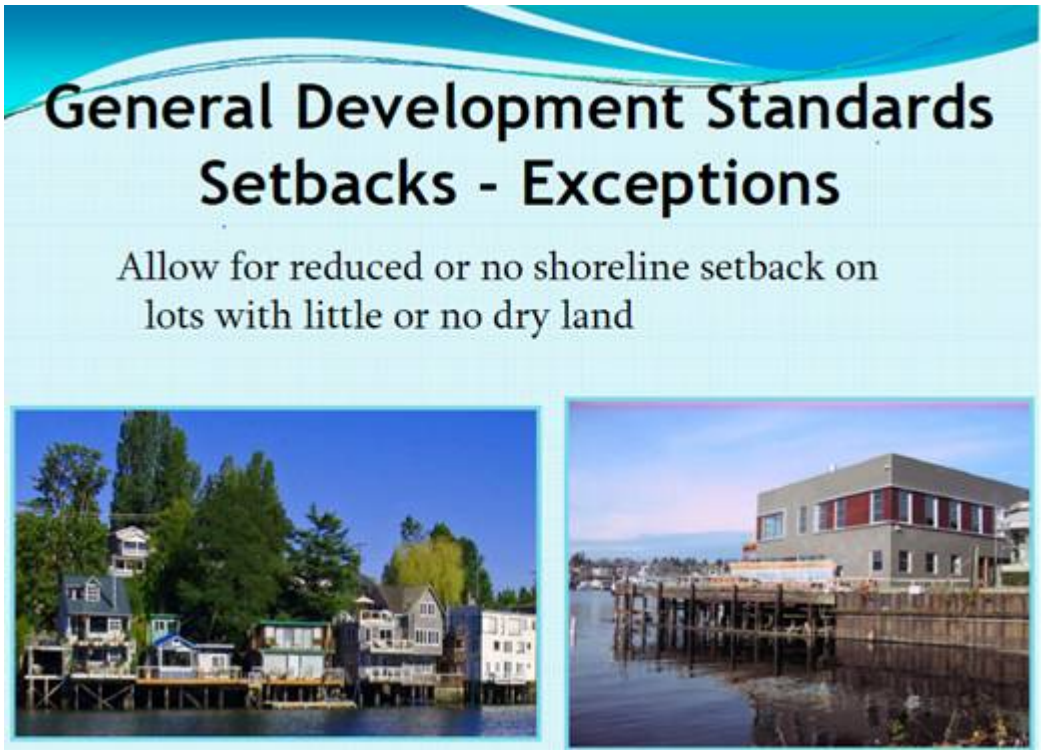
"All existing floating homes will remain conforming uses and these floating homes can be maintained, repaired, replaced and expanded within the development standards". And "The replacement of an existing floating home is not considered a new floating home".

Thus SMP should accommodate existing over-water homes along Seaview Ave NW in an analogous manner to the above, but the draft does not do so (specific examples and suggested changes will be discussed below). Floating and over-water homes share similar characteristics and impacts as residential uses over water – the only difference being that one is floating while the other is on piers. Their similarity is also reinforced by floating and over-water homes being addressed together in the same section of WAC 173-26

above. Furthermore, the Floating Homes Association (FHA) has stated that lots with no dry land (such as those along Seaview Ave) “deserve the same consideration as floating homes” (see page 32 of Seattle SMP Citizens Advisory Committee Report Sept 2009). And the CAC report (page 30) also noted that “existing overwater residences in the City’s Seaview Ave NW area face similar issues as floating home owners”. Thus treating existing over-water homes along Seaview in a manner that is inconsistent, and less accommodating, than that for existing floating homes, would be grossly unfair, inconsistent with WAC 173-26, and invite legal challenges to SMP.

The intent to accommodate existing over-water homes such as those in my Seaview community is also expressed in the SMP Director’s Report (City of Seattle Shoreline Master Program Update Proposal Summary January 2011) (http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@shorelinemasterprog/documents/web_informational/dpdp020617.pdf). Section B.2 of the report recognizes my community as “current Urban Stable environment is located in… areas along Seaview Avenue NW… These areas represent a unique environment within Seattle that accommodates… residential uses… Many of the lots have only small areas of dry land, with the majority of each parcel comprised of submerged lands. These lots support buildings that extend over-water on piers…”. The report proposes (in A.1) to ”re-designate certain areas in the former US environment based on current uses and site characteristics”, and specifically (per A.2) to “change the Environment Designation from US to UR and the underlying zone to single-family residential in the predominantly residential area along north Salmon Bay”. Furthermore, the report recommends (in B.1) that “redevelopment on lots with little or no dry land would be allowed as follows… If the dry land portion of the lot from OHW to the landward lot line is less than 30 feet, the replacement structure can be rebuilt… overwater to the extent reasonable and no larger than the existing footprint of the structure”.

The intent to accommodate existing over-water homes is further supported by the presentation materials from the meeting with Ballard District Council (Seattle Shoreline Master Program Update Ballard District Council) on March 9, 2011 (http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@shorelinemasterprog/documents/web_informational/dpdp020849.pdf). Not only did the presentation propose setback exceptions for “lots with little or no dry land” (see slide image below), but the slide (page 25 of presentation) also specifically used a photograph of my actual home and the Seaview pier homes community as viewed from Salmon Bay as the example of the need for such setback exceptions (my home is on the far left of photo on left). The same slide was also used in the most recent SMP Citizen Advisory Committee Meeting, on March 16, 2011.



The following is a discussion of the parts of the draft SMP that are not consistent with the above goals and intent, along with specific changes, and suggested language, to address my concerns as well as align the SMP with WAC and the issues above.

The key issue/principle that needs to be addressed in SMP is that existing over-water homes along Seaview and existing floating homes should be treated and regulated in an equivalent manner at a conceptual level. By that I mean that the SMP FAQ answer to the question "how do these SMP changes affect existing over-water homes along Seaview Ave NW between 34th Ave NW and NW 57th Street?" should be analogous to the answer for floating homes (see above), i.e., existing over-water homes along Seaview Ave NW will be conforming uses and these over-water homes can be maintained, repaired, replaced and expanded within the Urban Residential development standards. For clarity, the replacement of an existing over-water home along Seaview Ave NW is not considered a new over-water home.

Thus SMP needs to explicitly acknowledge that existing over-water homes in the community along Seaview Ave NW between 34th Ave NW and NW 57th Street are an allowed use, just as it does for existing floating homes (23.60.202 A.1). This is also consistent with WAC 173-26-241(3)(j). Specifically, the suggested revision would be in 23.60.540 (Uses in the UR Environment), to add:

23.60.540.F. "Over-water homes along Seaview Avenue NW between 34th Ave NW and NW 57th Street that are legally established on the effective date of this ordinance are allowed".

Note that this proposed revision to 23.60.540 is simply a modified version of 23.60.202 A.1 for existing floating homes.

In addition, the section for Lot coverage in the UR Environment (23.60.574) should be revised as well, in order to accommodate the fact that lots containing these existing over-water homes along Seaview Ave NW are on small lots and have little or no areas of dry land, with the majority (or entirety) of each parcel comprised of submerged lands. This again is analogous to floating homes, which have their own lot coverage provisions in 23.60.202. This is also consistent with B.2 of the SMP Director's Report and WAC

173-26-241(3)(j) discussed above. Specifically, the suggested revision would be to modify 23.60.574.B.2 as follows:

23.60.574.B.2 “On single-family zoned lots the maximum lot coverage allowed for principal and accessory structures on dry land, (or on submerged land for over-water homes along Seaview Avenue NW between 34th Ave NW and NW 57th Street that are legally established on the effective date of this ordinance), is as follows…”.

Similarly, the section for Shoreline setbacks in UR Environment (23.60.575) should be revised to accommodate the fact that lots containing these existing over-water homes along Seaview Ave NW are on small lots and have little or no areas of dry land, with the majority (or entirety) of each parcel comprised of submerged lands. This also is consistent with B.1 of the SMP Director’s Report and WAC 173-26-241(3)(j) discussed above. Specifically, the suggested revision would add:

23.60.575.G “Rebuilding or substantial improvement of a structure is allowed if it mitigates impacts to ecological function pursuant to Section 23.60.158 and complies with the following standards:
1. If the dry land portion of the lot from OHW to the landward lot line is at least 65 feet, the replacement structure shall be landward of the shoreline setback;
2. If the dry land portion of the lot from OHW to the landward lot line is less than 65 feet but at least 30 feet, the replacement structure shall be no further waterward from the landward lot line than 30 feet and shall be located outside of the shoreline setback to the extent reasonable; and
3. If the dry land portion of the lot from OHW to the landward lot line is less than 30 feet, the replacement structure can be rebuilt within the shoreline setback to the existing footprint of the structure or overwater to the extent reasonable and no larger than the existing footprint of the structure”.

Note that this proposed revision to 23.60.575 is simply adding (unmodified) language that already exists in 23.60.124.D.2.

The Comprehensive Plan should also be updated to recognize the need to preserve the historic Seaview pier homes community of existing over-water homes in addition to already recognizing the floating home community. Specifically, the Comprehensive Plan language as proposed in the Seattle SMP CAC Report (page 30) should be modified as follows:

“Existing floating home and pier home communities represent an important cultural resource because of their historic and unique contribution to Seattle’s maritime culture. Existing floating home communities, moorages and homes, as well as the Seaview pier homes community, should be preserved, including allowance for repair, replacement and relocation as necessary. Because current regulations treat floating homes and pier homes as overwater residences, not a preferred shoreline use, extension of floating home and pier home communities (as distinct from repair, replacement and relocation) would be allowed only if developed in a manner that provides a better environmental alternative than other allowed uses”.

The photograph below of the unique and historic Seaview pier homes community was included in the Seattle SMP CAC Report (page 30) to illustrate its similarity to floating home communities:

In addition to the primary issues discussed above, another concern is the apparent conflict in the draft SMP related to maintaining/repairing over-water structures vs. replacing them if destroyed. In SMP 23.60.124, item C states "structure or development that is over water… may be maintained, repaired and structurally altered", item D.1 states that over water "structures may be maintained and repaired", item D.2 indicates "rebuilding or substantial improvement of a structure is allowed", and item D.2.c states "replacement structure can be rebuilt… overwater". Yet item I.A excludes structures destroyed by "normal deterioration of structures constructed in or over the water" from being rebuilt. Thus section 23.60.124 is internally inconsistent with respect to I.A and each of C, D.1, D.2, and D.2.c. How can you be allowed to maintain and repair a structure (i.e., prevent or repair deterioration) yet not be allowed to rebuild a structure destroyed by deterioration? Of even greater concern is whether the exclusion of normal deterioration precludes the right to perform maintenance and repair entirely? Furthermore, the existing SMP (see strikethrough text on page 55 of draft SMP) had the opposite language – normal deterioration was specifically included (along with fire and other acts of nature) as causes of destruction that would allow rebuilding. Thus the suggested revision to SMP 23.60.124.I.A should be as follows:

"structure or development that is destroyed by fire, act of nature, or other causes beyond the control of the owner, <u>including</u> normal deterioration of structures constructed in or over the water, may be rebuilt…"

Please answer the following questions with respect to the draft SMP:

1) How do these SMP changes affect existing historic community of over-water homes along Seaview Ave NW between 34th Ave NW and NW 57th Street?
2) How can existing floating homes be an allowed use, but existing over-water homes in the community along Seaview Ave NW are not an allowed use? How is this disparity in compliance with WAC 173-26-241 (3)(j)?
3) How can two fundamentally identical residential uses over water (floating and pier homes are both over water, and differ only in the former being floating and the latter on piers) not be required to be accommodated in an equivalent manner under SMP? Please provide the specific legal basis which supports the less than equivalent treatment by SMP of existing floating homes and existing over-water homes along Seaview Ave NW between 34th Ave NW and NW 57th Street?
4) Please explain why the Seaview pier homes community is not recognized as historic despite having existed along Seattle's Salmon Bay waterway for 90 years and representing an important cultural resource because of its historic and unique contribution to Seattle's maritime culture and Scandinavian heritage? On what basis are floating home communities considered historic (and thus worthy of preservation), but the similarly long-standing community of existing over-water homes along Seaview is not (despite its similarly unique contribution to Seattle's maritime culture)?
5) If the Seaview pier homes community is indeed considered historic and worth preserving, then why is it not accommodated in a manner equivalent to floating home communities under SMP and not recognized as such in the Comprehensive Plan?

Please provide the results of the economic review that CAC requested to be conducted by the City (see Seattle SMP CAC Report, page 33) with respect to 15 lots with no dry land in the Lake Union area to "determine if the new regulations will result in a reduction in the fair market value of each parcel". Furthermore, I request that a similar economic review be conducted with respect to parcels with little or no dry land (and the existing over-water homes constructed on the lots) along Seaview Ave NW between 34th Ave NW and NW 57th Street.

Thank you for the opportunity to present my comments and concerns regarding the draft SMP. In your responses, please address the issues raised and changes suggested above, including (but not limited to) specific and complete responses to each of the following:

If my changes in language as specified above are not incorporated into SMP in the form proposed, please explain how your alternative language would be equivalent in substance.

If subsequent revisions to SMP are not equivalent in substance to those proposed above, please explain why the substance of the proposals above are not being incorporated in SMP, including how SMP is consistent with the WAC 173-26-241 (3)(j) requirement to recognize and accommodate existing communities of over-water homes.

If you disagree with intent and goals as discussed above, please provide a detailed justification and explanation as to how and why your alternative interpretation(s) are more accurate.

If existing over-water homes along Seaview Ave NW and existing floating homes are not being accommodated in SMP in an equivalent manner (as defined above), please explain and justify (including the specific legal basis) why these two essentially equivalent residential uses over water are being accommodated in a less than equivalent manner. If you assert that such existing over-water and floating homes are indeed being accommodated in an equivalent manner in SMP, please explain in detail and specifically address the contentions of lack of equivalent accommodation as discussed above.

Please add my email and/or street address to your mailing list for any and all future correspondence regarding SMP.

Respectfully,
Ivar Michelsons

From: Judith Sanderman [mailto:judyden@gmail.com]
Sent: Thursday, May 26, 2011 4:22 PM
To: Glowacki, Margaret
Subject: comment on SMP draft

5623 Seaview Ave NW
Seattle, WA 98107

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

Re: Specific inclusion of over-water homes and specificity about their status in the Shoreline Master Program.

I am an owner of a home over water on Salmon Bay at 5623 Seaview Ave NW.

I am distressed to find that the over-water homes on piers are not included with the same language given for floating homes in the Shoreline Master Program (SMP) draft.

WAC 173-26-241 (Shoreline Uses), item (3)(j) Residential Development states that "It is recognized that certain existing communities of floating and/or over-water homes exist and should be reasonably accommodated to allow improvements associated with life safety matters and property rights to be addressed provided that any expansion of existing communities is the minimum necessary to assure consistency with constitutional and other legal limitations that protect private property."

I request that the SMP conform to WAC173-26-241 so that you include my neighbourhood of over-water homes on piers at every mention of floating homes. I want over-water homes to be placed in equal status with floating homes as suggested by the WAC173-26-241 phrase "communities of floating and/or over-water homes exist and should be reasonably accommodated".

I suggest that everywhere "floating homes" appear, you add "and/or over-water homes".

I look forward to seeing my single family residence and the other residences in my neighbourhood designated as reasonable uses in the SMP.

Judith Sanderman
judyden@gmail.com
206-784-3208

-----Original Message-----
From: Geiger, Debbie [mailto:Debbie.Geiger@wreco1.com]
Sent: Tuesday, May 10, 2011 7:59 AM
To: Glowacki, Margaret
Subject: SMP Changes and Comments

Hello Margaret, I had met you on March 8th, 2011 at City Hall regarding the proposed changes to the Seattle Shoreline Master Program. I had mentioned about providing clarification regarding changing the existing verbiage to allow homes over water to be built to exceed their current vertical size but within their current footprint. For example, I would like to remove the creosote, wood pilings and replace with steel -- which I believe is better for the environment. This is very costly and to only be limited to replacing with the "same or smaller configuration" wouldn't be cost effective. Therefore, I was proposing that section 23.60.122 Nonconforming uses be rewritten to allow property owners with structures over water be allowed to rebuild to exceed or expand beyond the existing vertical height/dimensions (not the footprint).

I'm unclear on the process for submitting this request, can you please provide clarity and/or if I need to formally submit. Also, what is the timeframe (June/July?) for presenting this to the City Council. Thank you. Debbie Geiger 253-670-0292 cell