



City of Seattle

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**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR OF  
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Applicant Name:** City of Seattle Department of Planning and Development  
**Address of Proposal:** All parcels in Seattle within Shoreline District.  
**Lead Agency:** City of Seattle Department of Planning and Development

**SUMMARY OF PROPOSED ACTION**

This is a non-project action that is proposing legislative action to amend the Shoreline Master Program, by amending the Comprehensive Plan policies and goals for the Shoreline District, the regulations for the Shoreline Master Program (SMC 23.60), and the Official Land Use Map to show locations of the shoreline environments and by adopting a new Shoreline Restoration and Enhancement Plan to meet the requirements of the Shoreline Management Act (chapter 90.58 RCW) and WAC 173-26 as required by the state Legislature.

It is expected that the City Council will act on the proposed non-project legislation in Fall 2012.

The following approvals are required:

**SEPA – Environmental Determination** (Chapter 25.05, SMC)

Legislative Decision – City Council Action

Washington State Department of Ecology Approval

**SEPA DETERMINATION:**  Exempt  DNS  EIS

DNS with conditions

## **BACKGROUND DATA**

### **Proposal Description**

The goal of the update process is to amend provisions of the City of Seattle's existing Shoreline Master Program (SMP) in order to comply with the new Shoreline Management Act (SMA) statutes and the guidelines developed by the Washington State Department of Ecology (Ecology) in 2003 and better implement citizens' vision for Seattle's shorelines.

The SMP includes the Comprehensive Plan policies and goals for the Shoreline District, the regulations for the Shoreline Master Program (SMC 23.60), and the Official Land Use Map showing locations of the shoreline environments and a new Shoreline Restoration and Enhancement Plan. The Comprehensive Plan and regulations constitute the policies and regulations governing development and uses on and adjacent to marine and freshwater shorelines within the City of Seattle. This includes the waters of Puget Sound, Lake Washington, Lake Union/Ship Canal, Duwamish River, Green Lake, as well as associated wetlands and floodplains. These policies and regulations affect land uses and activities, including those over water and on vessels, building bulk, scale and setbacks, public access requirements, bulkheads, docks, piers and other shoreline modifications and construction practices. The Restoration Plan is a non-regulatory plan that guides the City's actions in restoring the shoreline environment to achieve no net loss of ecological function.

The jurisdictional boundaries of the Shoreline Management Act (SMA) are defined in Revised Code of Washington (RCW) 90.58.030(2) the Shorelines of the State and Shorelines of Statewide Significance. Shorelines of the State are defined as:

- All marine waters
- Streams with greater than 20 cubic feet per second (cfs) mean annual flow
- Lakes 20 acres or larger
- Shoreland areas that extend 200 feet landward from the edge of these waters

The following areas when they are associated with one of the above:

- Biological wetlands and river deltas
- Some or all of the 100-year floodplain including all wetlands within the 100-year floodplain

Updating the SMP is a state mandated requirement under the State of Washington's SMA, which was created by citizen referendum in 1972. The SMA establishes policy goals for the management of shorelines, and the state's SMP guidelines establish the requirements on how to achieve the policy goals, with flexibility to acknowledge local concerns and conditions. The SMA establishes three major policy goals for SMPs:

- *Preferred Shoreline Uses*: The SMA establishes a preference for uses that are water-oriented and that are appropriate for the environmental context (such as port facilities, shoreline recreational uses, and water-dependent businesses). Single-family residences are also identified as a preferred use when developed in a manner consistent with protection of the natural environment.

- *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.
- *Public Access:* The Act promotes public access to shorelines, including view protection, by mandating inclusion of a public access element in local SMPs and requiring provisions to ensure that new development maintains public access features.

Ecology's 2003 SMP Guidelines require that local jurisdictions comprehensively update their SMPs. The main components of the update action include:

1. **Shoreline Inventory and Characterization.** DPD inventoried the shoreline ecological environment and assessed the ecological conditions of the shoreline. A Shoreline Characterization report was produced that rated the ecological condition with five ratings from least impaired to most impaired. The information on the ecological condition of the shorelines will serve as the baseline conditions by which DPD measures impacts and restoration on the shoreline after the new regulations are implemented.

2. **Public Participation Plan.** DPD produced a public participation plan that included a website, an open house, a public survey of Seattle citizens and seven visioning workshops, a Visioning Report that summarized the public survey and visioning workshops and the formation of a Citizen Advisory Committee (CAC) with a report that summarized the work of the CAC.

3. **Shoreline Environments.** DPD evaluated existing shoreline environment designations and compared these designations with Ecology's new requirements for protection of shoreline ecological functions while providing for the preferred uses and public access of the shoreline. See Maps A and B in Exhibit 1 of the proposed ordinance, which revise the current map for the Shoreline District.

4. **Shoreline goals, policies and regulations.** DPD has proposed updated shoreline goals and policies in the Comprehensive Plan and implementing them in shoreline regulations in Chapter 23.60 of the Seattle Municipal Code to:

- a. Protect areas of the shoreline that have higher ecological functions based on the results of the Shoreline Characterization report.
- b. Require that all uses on waterfront parcels be water dependent unless a study shows that the demand by water-dependent uses is less than the supply of available land for such uses. Single family residential use is also a preferred use and therefore can be allowed on waterfront parcels if developed in a manner consistent with protection of the natural environment.
- c. Require that all impacts to the shoreline environment meet "no net loss" of ecological functions.
- d. Incorporate the City's regulations for environmentally critical areas, currently in SMC ch. 25.09.

5. **Cumulative Impact Analysis.** DPD analyzed the draft regulations to determine if the regulations, when implemented, meet "no net loss" of ecological functions. A Cumulative Impact Analysis report detailing the findings of this analysis was completed in April of 2012.

6. Shoreline Restoration and Enhancement Plan. DPD prepared a draft Restoration and Enhancement Plan. The Plan identifies the type of restoration that will increase ecological functions along Seattle's shorelines. The shoreline is divided into reaches and within each reach, specific actions are identified that will increase ecological functions along the reach. This restoration plan is non-regulatory and plans for the improvement of ecological functions of the shoreline over time, when compared to the status upon the adoption of the amendment.

All SMP update documents may be accessed on DPD's website under the SMP draft and supporting materials page at:

<http://www.seattle.gov/dpd/Planning/ShorelineMasterProgramUpdate/Overview/default.asp>.

### Public Participation

The SMA requires that local governments actively encourage participation by the public. To this end DPD has implemented the following to engage and inform the public on the SMP update:

### Website and ListServ

DPD established a website and a ListServ in the fall of 2007. The website provides information on the shoreline update process, announces dates and times of public meetings, including CAC meetings, and posts all documents that have been prepared for the SMP update.

Information regarding public meetings and the release of documents are sent to the Listserv so that constituents requesting specific notice are kept informed of the SMP update progress.

### Public Meetings

Table 1 in the Director's Report lists the public meetings, including the purpose of the meetings held in 2007 – 2012 for the SMP update.

### Visioning Process

As part of the Visioning element required by the SMP guidelines, DPD undertook a community visioning process to develop an overall vision for Seattle shorelines and to establish the intent of future shoreline policy. This Visioning process identified a range of visions and views for the city as a whole, as well as each of six shoreline sub-regions (Elliott Bay, Duwamish River, Lake Union/Ship Canal, Lake Washington, Puget Sound and Green Lake).

The community visioning process consisted of: 1) a telephone survey conducted by Elway Research, Inc.; 2) a series of seven visioning workshops in the shoreline sub-regions attended by 117 participants; and 3) comments provided online via the city's SMP Update web site (<http://www.seattle.gov/dpd/Planning/ShorelineMasterProgramUpdate>).

The telephone survey was designed to quantify general public opinion about Seattle's shorelines. 400 randomly selected Seattle residents were asked fourteen questions. The results of the survey are statistically valid, with a 95% probability that the results are within 5% of what would have been obtained by interviewing all city residents.

The community visioning workshops were designed to generate more in-depth conversation about shorelines and competing values. Workshops were structured around the following questions:

What do we want our shorelines to be like in the future?

What are the different visions for shoreline management that exist within each community?

How well are competing uses being balanced?

What unique conditions exist in each section of shoreline?

A Visioning Report provided a summary of the rich and diverse input provided through this visioning process and concluded that Seattle's shorelines play an important role in how we work and recreate, and they are one of the features that make Seattle a world-class city. The public survey and visioning process demonstrated that citizens of Seattle place a high value on shorelines and that water-dependent businesses, public access, and environmental protection are all priorities for the future. Through this public visioning process, the public helped DPD review and update the City's SMP.

Responses to the telephone survey, the visioning workshops, and via the online comment form are available on the City's SMP Update web site.

### **Citizen Advisory Committee**

DPD convened a Citizens Advisory Committee (CAC). The CAC's charge was to review, discuss and make recommendations to influence and guide DPD in its consideration of revisions, additions and other changes during the development of an updated SMP. DPD developed a list of potential stakeholders to serve on the CAC, asked for and received nominations from the public. Nominees were interviewed by Triangle Associates (which also provided meeting facilitation for the CAC and the Community Visioning Workshops). Triangle worked with DPD to develop and present recommendations to the DPD Director, who made final selection as to who would sit on the CAC. The objective was to provide a wide range of perspectives, not a proportionately representational group (a list and biosketches of CAC members are included as an appendix to the final CAC report).

The CAC members also participated in an interactive visioning exercise. The result was a consensus vision statement to guide the CAC's deliberations as they discussed, debated and expressed their viewpoints on the issues. The full record of the CAC's visioning exercise is attached to the final CAC report as an appendix. The vision statement reads as follows:

*The SMP Update Citizens Advisory Committee envisions a future for Seattle's shorelines in which the Shoreline Management Act's three major co-equal policy goals (protecting preferred uses, providing environmental protection, and promoting public access) are truly balanced. This means that the opportunity for citizens to experience and interact with the shoreline in a wide variety of ways will not be limited by a lack of public access points or views. It means that the shoreline's ability to sustain diverse plants and animals will be both protected and restored. It means that existing historic, diverse and active uses of Seattle's shorelines will be maintained. And it means ensuring that Seattle remains a place where marine businesses thrive and make an important contribution to both the economy and our unique character.*

The major issue areas that were discussed at the CAC meetings were:

- Shoreline Environmental Designations
- Residential Development Standards
- Commercial and Industrial Development Standards
- Shoreline Modifications (including dredging, shoreline stabilization and overwater structures)
- Shoreline Mitigation
- Public Access and Views
- Floating Homes
- Urban Stable/Urban Mixed Use Development and Use Standards
- Non-Conforming Structures and Uses

Three documents were prepared for each of the issue areas identified above, to document the CAC's review and discussion. Prior to each meeting, DPD prepared a policy paper that outlined existing standards and explained how the state's guidelines in the Washington Administrative Code (WAC) applied to the subject at hand, as well as a list of issues that needed to be addressed under that specific issue area.

CAC members discussed each policy paper at the meetings, and were asked to identify areas of agreement, as well as provide statements of support or concern where there was not broad agreement. CAC members were also encouraged to provide written comments on the issue areas between meetings. After each meeting, a summary was prepared by Triangle Associates, to describe areas of agreement and disagreement, clarify where and why there was disagreement and to state points of view fairly and clearly.

DPD then developed response papers for each issue, containing a summary of the proposals DPD presented to the CAC, views expressed by CAC members, and DPD's responses to these comments. All of these documents are provided as appendices to the final CAC report.

### **Boat Tour**

In September of 2008 DPD organized a boat tour of Seattle's shorelines to provide the members of the CAC and the public an opportunity to view the shorelines from the water and to hear about the history of Seattle's shorelines from Dr. Lorraine McConaghy, the historian at the Museum of History and Industry. Additionally, the boat tour provided the opportunity for broad discussions regarding the ecological functions and the industrial, commercial, residential and recreational uses of the shoreline. Judith Noble, a Strategic Advisor for Seattle Public Utilities, provided information on the environmental and industrial aspects of the shoreline focusing on the Duwamish River and Elliott Bay, and Eric Hanson, the manager of Seaport Planning for the Port of Seattle, provided information regarding the Port's role in providing both economic and environmental benefits to Seattle.

Attendees on the tour included Councilmember Jean Godden, ten CAC members, 29 community members, DPD consultants and staff from the Seattle Department of Transportation (SDOT), Office of Economic Development (OED), Seattle Public Utilities (SPU) and DPD.

## **Public Comment**

DPD has released two drafts of the proposed SMP regulations and received numerous letters and e-mail comments. All comment letters and e-mails are posted on DPD's website.

The Mayor will submit legislation to amend the SMP, Chapter 23.60, of the Seattle Municipal Code, to City Council when the SEPA process is complete. The expected date is Summer/Fall 2012. City Council will provide additional opportunities for public participation and will review and adopt the legislation.

After City Council enacts the new SMP, DPD will submit the SMP to Ecology for final review and approval. Ecology will review the SMP for consistency with WAC 173-26 and the SMA. If Ecology determines that Seattle's SMP is consistent with WAC 173-26, the SMP will be effective. If Ecology determines that Seattle's SMP is inconsistent with WAC 173-26 or the SMA, Ecology will require changes to the SMP, and these changes will need to be approved by City Council before the final document is approved by Ecology and the SMP regulations are effective.

## **ANALYSIS – SEPA**

This proposal is an adoption of legislation and is defined as a non-project action. The disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by Seattle DPD planning staff, dated May 18, 2012. The information on the checklist, a copy of the proposed code changes, the Director's Report (dated June 2012), the Cumulative Impacts Analysis, the Best Available Science report accompanying the City's 2006 adoption of SMC ch. 25.09, the environmentally critical areas regulations, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

This is a substantive change to the Land Use Code, to ensure that the City's SMP is updated consistent with requirements in state law. These proposed changes to the SMP may result in potential impacts and warrants further discussion.

## **ELEMENTS OF THE ENVIRONMENT**

### **Natural Environment**

#### **Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Environmentally Sensitive Areas, Noise, Releases of Toxic or Hazardous Materials**

The proposed changes to the SMP, as compared to the existing SMP, require greater protection of plants and priority freshwater and salt water habitat, and include more specific requirements to mitigate adverse impacts to plants, animals, fish and marine life. Proposed regulations include specific standards for vegetation protection and removal, land disturbing activity, habitat protection, and wetland and water protection, as well as a requirement to use mitigation sequencing, starting with avoiding impacts, to achieve no net loss of ecological functions. A summary of proposed changes is found in the Director's Report.

The proposal would not directly increase discharges to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise. The goals, policies, and regulations of the proposed SMP discourage future projects in the shoreline from discharging untreated pollutants and emissions. The updated development standards and regulation of shoreline modifications provides the same or more protection for shoreline processes. These updated standards are also more restrictive of activities that would result in adverse impacts to the shoreline environment.

Development of specific projects on individual sites would be subject to applicable local, state, and federal regulatory requirements, including building code; fire code; noise ordinance; surface water design standards; stormwater, and grading and drainage ordinance.

In addition, specific projects will be subject to SEPA (if they meet or exceed thresholds for environmental review) and Shoreline review and so would afford the opportunity for the City to identify and mitigate any site-specific impacts, as anticipated in SMC 25.05.300 and in the proposed SMP's development standards sections and mitigation sequencing provisions. This project-specific review will ensure that all projects meet the SMA's standard of no net loss of ecological functions (see Director's Report for further details of mitigation sequencing).

The proposed changes would result in no direct impacts, and are unlikely to result in significant indirect or cumulative adverse impacts related to earth, air, water, plants/animals, fisheries, energy, natural resources, sensitive areas, noise, or releases of toxic/hazardous substances. Additionally, the implementation of the non-regulatory Restoration and Enhancement Plan will result in improved ecological functions over time.

### **Built Environment**

#### **Land & Shoreline Use, Height/Bulk/Scale, Transportation, Public Services and Utilities**

Proposed changes to use and development standards affecting land in the Shoreline District are summarized in the Director's Report (June 2012). These policies and regulations affect land uses and activities, including bulk, scale and setbacks, public access requirements, bulkheads, docks, piers, and other shoreline modifications and construction practices.

DPD has proposed updated shoreline goals and polices in the Comprehensive Plan and proposed implementing them in updated shoreline regulations in Chapter 23.60 of the Seattle Municipal Code to:

- a. Protect areas of the shoreline that have higher ecological functions based on the results of the Shoreline Characterization report.
- b. Require that all uses on waterfront parcels be water dependent unless a study shows that the demand by water-dependent uses is less than the supply of available land for such uses. Single family residential use is also a preferred use and therefore can be allowed on waterfront parcels if developed in a manner consistent with protection of the natural environment.
- c. Require that all impacts to the shoreline environment meet "no net loss" of ecological functions.

DPD has analyzed the draft regulations in a Cumulative Impacts Analysis and has determined that the regulations, when implemented, will meet the SMA's standard for "no net loss" of ecological functions.

DPD commissioned a study by Easton and Associates to determine the demand and availability of waterfront land for water-dependent uses in order to understand whether the current inventory of land is adequate. Results of the study indicated that the demand for use of shoreline property by water dependent businesses is not less than the supply of shoreline property; however, the location and size of the shoreline property does not always meet the needs of the water-dependent businesses. Additionally, the study identified non-water dependent businesses that support water-dependent and water-related businesses that could help the economic viability of water-dependent and water-related uses if they were allowed to be located on the shoreline property.

Based on this information and with the goal of ensuring an adequate supply of land for water-dependent and water-related uses while accommodating the efficient and profitable use of shoreline property, the following change to the uses is proposed:

- Allow for 20% of a waterfront shoreline property to be used for the uses identified in the Seattle Shoreline Market study, if the project also includes water-dependent uses and a public benefit, such as habitat enhancement, when the uses are non-water-oriented. The identified uses include material suppliers, offices, eating and drinking establishments, grocery suppliers, hardware stores and machine shops.
- Allow for some uses that are not water-dependent or water-related to be located in existing buildings so allow reasonable use of such existing structures. The uses allowed in these existing buildings include offices, eating and drinking establishments and daycare.

The vast majority of the City's shoreline areas are already developed. Approximately 2.5 percent of the land area in the Shoreline District is vacant, according to an analysis completed in 2006. Most major new construction in the shoreline is likely to be redevelopment. The City's Comprehensive Plan established an overall growth strategy that places emphasis on concentrating expected growth toward urban centers and urban villages, as summarized in the Comprehensive Plan as the Urban Village Strategy. The proposed SMP shoreline environment designations are consistent with the goals and policies of the Shoreline Management Act and land use vision expressed in the Comprehensive Plan. Based on the developed nature of the City's shoreline areas, the lack of vacant land, and consistency among land use regulations and long-range plans, reasonable foreseeable development will likely be redevelopment of property that would not likely result in significant changes in land use in the shoreline areas. Specific proposed changes to Shoreline Environment designations, maps and use and development standards are summarized in the Director's Report.

Development of specific projects on individual sites would be subject to applicable local, state, and federal regulatory requirements, including building code; fire code; noise ordinance; surface water design standards; stormwater, and grading and drainage ordinance.

In addition, specific projects will be subject to SEPA (if they meet or exceed thresholds for environmental review) and Shoreline review and so would afford the opportunity for the City to identify and mitigate any site-specific impacts, as anticipated in SMC 25.05.300 and in the proposed SMP's development standards sections and mitigation sequencing provisions. This project-specific review will ensure that all projects meet the SMA's standard of no net loss of ecological functions (see Director's Report for further details of mitigation sequencing).

No significant adverse impacts to the built environment are anticipated as a result of the proposed changes to the City's SMP.

### Conclusion

The proposed update of the Shoreline Master Program will result in no significant adverse impacts to the environment and are intended to maintain or increase current protections of the Shoreline District. The proposed amendments will promote the public interest by protecting habitat areas in the Shoreline District areas and allowing reasonable development. As such, there is no mitigation necessary or warranted by the application of the City's adopted SEPA policies. Additionally, the implementation of the non-regulatory Restoration and Enhancement Plan will result in improved ecological functions over time.

### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- (X) Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.0302c.
- ( ) Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.0302c.

### **RECOMMENDED CONDITIONS - SEPA**

None.

Signature: \_\_\_\_\_ (signature on file)  
Ben Perkowski, Senior Land Use Planner  
Department of Planning and Development

Date: June 28, 2012