

May 31, 2011  
Margaret Glowacki  
Department of Planning and Development  
700 5th Avenue, Suite 2000  
Seattle, WA 98124-4019  
Subject: Proposed changes to Shoreline Master Program

Dear Ms. Glowacki,

These are my comments in regards to the process of drafting a new Shoreline Master Program (SMP) as mandated by the State of Washington's Department of Ecology. In particular, I am troubled by proposed changes in the Conservancy Management (CM) environment that appear in the draft version of the City of Seattle's SMP. The CM environment is the area extending onto land up to 200 feet from the shoreline. The purpose of the CM environment is to ensure water-dependent infrastructure, such as water recreation facilities in marinas or parks. Developments in the CM zone should be managed to preserve their ecological function and guarantee public access and uses at the water.

At issue is your revision to Section 23.60.224.D of the SMP which reads:

“Office use and institutional uses are prohibited, except these uses are allowed in existing buildings within designated historic districts as a special use if located on the second floor for child care uses, which can be located on the first or second floor of the existing building and other uses allowed or allowed as special uses are not practical, because of the building design or because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition” [emphasis added] Public records indicate that this section has been specifically modified for a proposed use in Building 11 at Magnuson Park at the request of a developer. This use exemption is contrary to the intent of the Shoreline Management Act (SMA) and specifically allows a prohibited use in a CM zone in a park. There is no reason that this new use needs to go into the CM zone other than to do so maximize the profits for the developer of this building. Exemptions to the SMP and the SMA for reasons of profit seem highly irregular and DPD's willingness to accommodate this request is most troubling.

This proposed language is also at odds with the Shoreline Management Act because it would allow uses which have previously been prohibited and you are now proposing to allow this as a special use in the CM environment. This is a piecemeal approach to shoreline planning and smacks of cronyism at its worst.

The intent of the SMA is to eradicate non-conforming uses in the conservation zones. This language subverts that effort by allowing special dispensation for a single project. The intent of the SMA is to allow access to the shoreline, increase recreational opportunities in the shoreline area and to emphasize preferred uses. The proposed medical facility for which this change is targeted does not meet any of these criteria. I request that the City of Seattle Department of Planning and Development remove the

exemption language from 23.60.224.D in the Draft Shoreline Master Program which creates this carve out for an individual future project. Shoreline preservation and recreational uses should not be compromised to maximize the profits for a single project.

Sincerely,  
William Bradburd  
1642 S Lane Street  
Seattle WA 98144-2810

## Review of the Draft Shoreline Master Program

36 [Signatures](#) 



Published by Dirk on May 26, 2011

**Target:** Margaret Glowacki City of Seattle Department of Planning and Development

**Region:** United States of America

**Web site:** <http://www.building11.org>

**Tweet this petition:**

**Background (Preamble):**

The City of Seattle is in the process of drafting a new Shoreline Master Program (SMP) as part of a mandate by the State of Washington's Department of Ecology.

The SMP constitutes the policies and regulations governing development and use on and adjacent to marine and freshwater shorelines. This includes the waters of Puget Sound, Lake Washington, Lake Union / Ship Canal, Duwamish River, Green Lake, as well as associated wetlands and flood plains. The SMP has not been updated since 1972 the goal is to both comply with the WA States new Shoreline Management Act (2003) and better implement citizens' vision for Seattle Shorelines.

The shoreline environment is separated into distinct geographic area based on environmental conditions, land use patterns, and zoning. The SMP contains five conservancy environments, Conservancy management, Conservancy Navigation, Conservancy Preservation, Conservancy Recreation and Conservancy Waterway.

This petition is in reference to the proposed changes in the Conservancy Management (CM) environment that appear in the draft version of the City of Seattle's SMP. The CM environment is the area extending 200 feet from a shoreline onto land. The purpose of the CM environment is to provide for water-dependent infrastructure, such as locks and recreation facilities such as marinas or parks. Developments in the CM zone should be managed to preserve their ecological function and provide public access.

Uses in the CM environment are either allowed, are a conditional use, are a special use or are prohibited. Allowed uses are as uses that meet the requirement and are explicitly allowed. Conditional Uses are allowed only if the City and State approve of the use and there may be a public hearing. Special Use only requires the approval of the Director of the DPD.

The State of Washington Department of Ecology (DOE) has mandated that all cities and towns with shorelines in the State of Washington come up with their own SMP to meet the requirement of the States Shoreline Management Act (SMA). The SMA outlines the criteria by

which the city SMP need to meet. State policy (RCW 90.58.020) identifies the shoreline as being among the most valuable and fragile natural resources and that there is a concern relating to their utilization and preservation. Much of the shoreline both publicly and privately owned requires coordinated planning to protect the public interest at the same time recognizing private property right.

To do so would require a concerted effort so that uncoordinated and piecemeal developments do not happen. The state legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

**Petition:**

At issue is Section 23.60.224.D which reads:

“Office use and institutional uses are prohibited, except these uses are allowed in existing buildings within designated historic districts as a special use if located on the second floor for child care uses, which can be located on the first or second floor of the existing building and other uses allowed or allowed as special uses are not practical, because of the building design or because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition”

This section seems at odds with the SMA because it is allowing uses which have previously been prohibited and now allowed, as a special uses, in the CM environment. This is a piecemeal approach to shoreline planning to allow these types of office and institutional uses in the shoreline environment. This section should not be in the SMP and if allowed in the CM environment should be at minimum, a conditional use, if not prohibited outright.

The intent is to eradicate non-conforming uses in the SMA but this section seems to be swapping one nonconforming use for another when the State of Washington has long adhered to a policy of phasing out nonconforming uses.

It is unclear how non-water-related activities somehow seem to be a majority of institutional uses that are allowed in the CM environment. The intent of the SMA is to allow access to the shoreline and increase recreational opportunities in the shoreline area. It is difficult to see how child care meets this criteria.

It is interesting to note that historic ships are considered a conditional use while historic buildings are a special use. Why is there a differentiation?

This section has been specifically written into the SMP for a Building 11 at Magnuson Park and this approach to planning and development is contrary to what a reasonable person would consider fair and equitable. It is highly preemptive to have a section in the SMP for a situation that currently does not exist. If for that reason alone this section should be revoked.

The undersigned have read and agree with the statements in this petition and request that the City of Seattle Department of Planning and Development remove section 23.60.224.D from the Draft Shoreline Master Program and revise the Conservancy Management environment requirement to better reflect the intent of the SMA by reducing the number of Special Uses

that do not offer broad “public” benefit or water related or water dependent activities in public shoreline environments.

See above link to “Signatures” to view who signed this petition.



**From:** Goran [mailto:goran46@comcast.net]  
**Sent:** Monday, May 30, 2011 8:30 PM  
**To:** Glowacki, Margaret  
**Cc:** Bradburd, Bill; Gail Chiarello; Goran  
**Subject:** Comments on Draft Shoreline Master Plan

On behalf of Friends of Magnuson Park and other Community Organizations.

This petition is to remove Section 23.60.224.D and remove Institutional uses in Table A in Section 23.60.224 that do not meet the requirements of the Shoreline Management Act, from the Draft Shoreline Master Program.

We request that the City of Seattle Department of Planning and Development remove section 23.60.224.D from the Draft Shoreline Master Program (DSMP) and revise the Conservancy Management environment requirement to better reflect the intent of the Shoreline Management Act (SMA) by reducing the number of Special Uses that do not offer broad “public” benefit or water related or water dependent activities in public shoreline environments.

At issue is Section 23.60.224.D which reads:

*“Office use and institutional uses are prohibited, except these uses are allowed in existing buildings within designated historic districts as a special use if located on the second floor for child care uses, which can be located on the first or second floor of the existing building and other uses allowed or allowed as special uses are not practical, because of the building design or because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition”*

This section has been specifically written into the DSMP for Building 11 at Magnuson Park and this approach to planning and development is contrary to the public interest. It is highly preemptive to have a section in the SMP for a situation that currently does not exist. If for that reason alone this section should be removed.

This section seems at odds with the Shoreline Management Act because it’s allowing uses which have previously been prohibited and are now allowed, as special uses, in the Conservancy Management environment. This is a piecemeal approach to shoreline planning to allow these types of office and institutional uses in the shoreline environment. This section should not be in the SMP and if allowed in the CM environment should be at minimum, a conditional use, if not prohibited outright.

The intent of the SMA is to eradicate non-conforming uses. Section 23.60.224.D is written to allow swapping one nonconforming use for another when the State of Washington has long adhered to a policy of phasing out nonconforming uses.

The intent of the SMA is to allow access to the shoreline and increase recreational opportunities in shoreline areas. It is difficult to see how the following uses, as listed in Table A Section 23.60.224, meets the criteria: Adult Care, Child Care, Colleges, Family Support Centers, Hospitals, Institutes for Advanced Study, Libraries, Major Institutions, Museums, Other Private Clubs, Schools Elementary or Secondary, Religious Facilities, and Vocational or Fine Arts Schools, as special uses within the Conservancy Management environment. It is unclear how these uses that are non-recreational or water-related would meet the intent of the Shoreline Management Act as far as protecting the shoreline for recreational use or increasing public access.

We believe that the DPD has the responsibility for preserving the public shoreline for the public good. Long term benefits should be considered foremost in protecting public resources, not short term commercial interests. Increase access and recreational opportunities should be a paramount consideration when planning shoreline developments as stated in RCW 90.58.020. So therefore we ask that section 23.60.224.D removed from, and Table A in Section 23.60.224 be updated, in the Draft Shoreline Master Program.

Thank you  
Goran Zivkovic  
206-915-4305

**Shoreline Master Program loophole for developer of Bldg.11 LLC  
lynnferguson65@comcast.net**

**sent:** Saturday, April 09, 2011 3:36 PM

**To:** Glowacki, Margaret; Bagshaw, Sally;

**Cc:** Rasmussen, Tom; McGinn, Mike; Clark, Sally;

I am concerned that the Shoreline Master Program revision is being changed to favor one developer. Of particular concern is the new Section 23.60.224 of the Seattle Municipal Code addressing the Uses in the Conservancy Management environment. Within this new Section are subsections C and D which state that (subsection C) "Eating and drinking establishments and entertainment uses are prohibited" and that (subsection D) "Office uses and institutional uses are prohibited except these uses are allowed in existing buildings within designated historic districts as a special use if other uses allowed or allowed as special uses are not practical, because of building design or because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition.

Stripping the Shoreline Master Program of protection for water-related uses of existing buildings within designated historic districts now within the existing regulations is a bad thing to do. The loop hole provided by the proposed rule ("are not **practical** or **because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition)**" is providing a specific loophole for a specific developer in our Shoreline Master Program.

**In a letter dated June 1, 2010 to developer Darrell Vange, Director Sugimura promises to make an exception for his development to have non water related activities within 100 feet of the shoreline.**

**This exception should not be allowed. The waterfront should be protected for water related uses. Laws made should apply to everyone.**

**Lynn S. Ferguson  
6422 NE 60th St.  
Seattle, WA 98115  
Seattle's Shoreline Rules Comments  
Bonnie Miller**

sent: Monday, March 28, 2011 7:24 PM  
To: Glowacki, Margaret;

Dear Ms. Glowacki,

Please consider my comments during the decision making process for the City of Seattle Shoreline Master Program Update.

Of particular concern is the new Section 23.60.224 of the Seattle Municipal Code addressing the Uses in the Conservancy Management environment. Within this new Section are subsections C and D which state that (subsection C) "Eating and drinking establishments and entertainment uses are prohibited..." and that (subsection D) "Office uses and institutional uses are prohibited except these uses are allowed in existing buildings within designated historic districts as a special use if other uses allowed or allowed as special uses are not practical, because of building design or because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition.

Stripping the Shoreline Master Program of protection for water-related uses of existing buildings within designated historic districts now within the existing regulations is a bad thing to do. The loop hole provided by the proposed rule ("are not **practical** or **because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition**) is the death

Bonnie Miller, Vice Chair  
Magnuson Environmental Stewardship Alliance

knell to many of our public properties that would suddenly find private partnerships who would site this proposed subsection since many of our water-related uses are likely not able to provide as much financial incentive as would eating and drinking establishments and entertainment uses or office and institutional users!

An example is as easy to find as apple pie. The water-related users of Building 11 at Magnuson Park WERE kayak, hobie craft, and sail boats. Faced with the "new" leases from a private developer, one is gone and the other two water-related users are facing leases which may be untenable. Now a designated historic site and highly valued waterfront property, Building 11 produces much less income relative to the shoreline restaurants, bars, and high-end office buildings that sport expansive (and private)

shoreline views and access. Of course, these uses are for profit-making developers and renters. Without the protections of Seattle Shoreline Rules, even our parks and historic districts will be lost.

What will be lost even more than the protections that should exist in Seattle Shoreline Rules is the complete obliteration of the first major policy goal for SMP that the SMP establish 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).

Please consider that the exceptions created under Section 23.60.224.C and 23.60.224.D are removed from the proposed Shoreline Master Program Update.

Sincerely,  
Bonnie Miller  
6057 Ann Arbor Ave NE  
Seattle, WA 98115

May 31, 2011

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

Subject: Proposed changes to Shoreline Master Program

Dear Ms. Glowacki,

These are my comments in regards to the process of drafting a new Shoreline Master Program (SMP) as mandated by the State of Washington's Department of Ecology.

In particular, I am troubled by proposed changes in the Conservancy Management (CM) environment that appear in the draft version of the City of Seattle's SMP. The CM environment is the area extending onto land up to 200 feet from the shoreline. The purpose of the CM environment is to ensure water-dependent infrastructure, such as water recreation facilities in marinas or parks. Developments in the CM zone should be managed to preserve their ecological function and guarantee public access and uses at the water.

At issue is your revision to Section 23.60.224.D of the SMP which reads:

“Office use and institutional uses are prohibited, except these uses are allowed in existing buildings within designated historic districts as a special use if located on the second floor for child care uses, which can be located on the first or second floor of the existing building and other uses allowed or allowed as special uses are not practical, because of the building design or because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition”  
[emphasis added]

Public records indicate that this section has been specifically modified for a proposed use in Building 11 at Magnuson Park at the request of a developer. This use exemption is contrary to the intent of the Shoreline Management Act (SMA) and specifically allows a prohibited use in a CM zone in a park. There is no reason that this new use needs to go into the CM zone other than to do so maximize the profits for the developer of this building. Exemptions to the SMP and the SMA for reasons of profit seem highly irregular and DPD's willingness to accommodate this request is most troubling.

This proposed language is also at odds with the Shoreline Management Act because it would allow uses which have previously been prohibited and you are now proposing to allow this as a

special use in the CM environment. This is a piecemeal approach to shoreline planning and smacks of cronyism at its worst.

The intent of the SMA is to eradicate non-conforming uses in the conservation zones. This language subverts that effort by allowing special dispensation for a single project. The intent of the SMA is to allow access to the shoreline, increase recreational opportunities in the shoreline area and to emphasize preferred uses. The proposed medical facility for which this change is targeted does not meet any of these criteria.

I request that the City of Seattle Department of Planning and Development remove the exemption language from 23.60.224.D in the Draft Shoreline Master Program which creates this carve out for an individual future project. Shoreline preservation and recreational uses should not be compromised to maximize the profits for a single project.

Sincerely,

William Bradburd

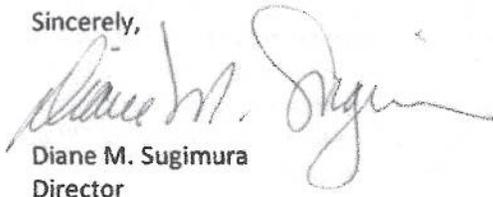
1642 S Lane Street  
Seattle WA 98144-2810

designated historic districts. Department recommendations on Shoreline Master Program updates are subject to approval by the City Council and the State Department of Ecology. You must agree to use reasonable efforts to locate the water-related uses mandated by the lease at the north end of the building, generally within the shoreline district, and to locate other uses outside of the shoreline. In addition, you will need to show that uses allowed as special uses are not practical for the entire shoreline environment portion of the building because of the building design, location or because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition.

As we have discussed before, one of your current tenants, Sail Sand Point, which is located within the CM environment, may be categorized as a "yacht, boat and beach club" for purposes of our shoreline code. Existing yacht, boat and beach clubs are permitted in the CM environment, according to Seattle Municipal Code Section 23.60.420.B. It is our understanding that Sail Sand Point was already a tenant in Building 11 by the time the area was acquired by the City and came under our zoning jurisdiction. If that is correct, it would be considered an "existing" use for the purpose of this code section.

In addition, I understand you are negotiating with two prospective commercial tenants that include sale or rental of large boats as part of their business. Sale or rental of large boats, i.e. boats that are 16 feet in length or more, is a special use permitted on waterfront lots in the CM environment if approved by the Director. On the other hand, sale and rental of boats that are smaller than that generally is not permitted in the CM environment, with some exceptions that do not appear to apply to this property. If a significant part of the tenants' business is the sale or rental of boats 16' or more in length, and if the uses meet with criteria listed in SMC 23.60.032 for shoreline special uses, I will approve or conditionally approve their use. We rely on applicants to accurately describe their proposed uses. If the space is subsequently used in a way that is inconsistent with the application and approval, it may be subject to enforcement action.

Sincerely,



Diane M. Sugimura  
Director

May 19, 2011

Margaret Glowacki  
Department of Planning & Development  
700 Fifth Avenue #2000  
Seattle, WA 98124-4019

VIA HAND DELIVERY MAY 19, 2011

Dear Maggie,

I am writing in opposition to the exception proposed in Section 23.60.224(D) of the pending Shoreline Master Plan, in which medical facilities would be allowed within a Conservancy Management Zone "as a special use if located on the second floor except for child care uses, which can be located on the first or second floor of the existing building ... [because] other uses .... are not practical ... because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition."

I object to this carve-out designed expressly for Darrell M. Vange and essentially written by him. His intention to place a Virginia Mason Medical Clinic on the second floor of the north end of Building 11 at Magnuson Park is a unique use which benefits only Mr. Vange and his LLC. There is no reason whatsoever to bend or amend the City and State shoreline code to the pleasure, and financial benefit, of a single individual, no matter how well connected that person is with the City's decision makers.

That the Director of DPD cooperated with this request, from a single individual, for an exemption which only benefits him financially, and impairs rightful public enjoyment of the shorelines designated by the Conservancy Management zone is not only offensive, but may possibly be subject to legal action on the part of the citizens.

Thank you for your attention to this, and I look forward to seeing this exemption removed in the next draft of the proposed shoreline legislation. I am attaching a copy of the June 1, 2010 letter from Ms. Sugimura to Mr. Vange as corroboration that the exclusion was written at the request and to the benefit of a single individual, and I ask that it be included in the public record..

Sincerely,



Gail Chiarello  
4048 NE 58th Street  
Seattle, WA 98105  
Tel 206-523-0715  
E-mail: GailChiarello@comcast.net

Attachment: Letter from Diane Sugimura to Darrell M. Vance, re: 7700 Sand Point Way NE Building 11, dated June 1, 2010



# City of Seattle

## Department of Planning and Development

Diane M. Sugimura, Director

June 1, 2010

Darrell M. Vange  
Building 11 LLC  
7727 63<sup>rd</sup> Avenue NE, Mailbox B-8  
Seattle, WA 98115

**RE: 7700 Sand Point Way NE, Building 11**

Dear Mr. Vange:

I understand your investors for Building 11 LLC are seeking assurances as to permitted uses within the portion of your building (Building 11) that is in the Conservancy Management (CM) shoreline environment. This building is in Warren G. Magnuson Park, within the Sand Point Overlay District.

The City Council and Mayor approved Ordinance 122814, effective November 7, 2008, which authorized the Superintendent of the Department of Parks and Recreation to enter into a lease agreement with you for the purpose of renovating Building 11 and offering multiple uses and recreational opportunities. Section 2.5.4 of the Lease Agreement says, in part:

*Consistent with the Sand Point Physical Development Plan's vision for a small watercraft center in the Northshore area, at all times during the Lease Term and any Extended Terms, Lessee shall reserve a minimum of eight thousand (8,000) square feet of the ground floor space for water-related uses, such as recreational sailing, rowing, kayaking, sailboard and surfing programs, dry storage of boats, sales and rentals of small boats, boating equipment and supplies, and for-profit or non-profit organizations dedicated to the preservation, education, safety or enhancement of the marine environment ("Water Related Uses")... Lessee will retain the current tenant, Sail Sand Point, and all of its operations as a sub-lessee of Building 11 as the focal point of the Water-Related Uses....*

The lease also allows a portion of the building to be used for child care, artist studios and workshops, and food and beverage services for the benefit of visitors and users of the park.

In the upcoming Shoreline Master Program update, the Department will recommend an exception that allows some or all of the uses permitted under the Building 11 lease agreement to take place in the shoreline zone. I do not know exactly what approach the Department will recommend for this exception, but we will look at an exception for existing buildings within

See pending Shoreline Master Program p. 93 Table A C.7 Medical services are prohibited excepted as Sec. 23.60.224(D): "Office uses and institutional uses are prohibited, except these uses are allowed in existing buildings within designated historic districts as a special use if located on the second floor except for child care uses, which can be located on the first or second floor of the existing building and other uses allowed or allowed as special uses are not practical, because of building design or because such uses cannot provide adequate financial support necessary to sustain the building in a reasonably good physical condition. [Italics added; this exception carved for Darrell M. Vange as per Diane M. Sugimura's letter to him dated June 1, 2010. Mr. Vange intends to place a Virginia Mason Medical Clinic on the second floor of the north end of Building 11.]