

SMP Comments

Judy Pickens

sent: Friday, March 11, 2011 7:43 AM

To: Glowacki, Margaret;

Following are comments approved 3/10/11 by the Fauntleroy Watershed Council:

**COMMENTS ON PROPOSED UPDATES
SEATTLE SHORELINE MASTER PROGRAM
FAUNTLEROY WATERSHED COUNCIL, MARCH 10, 2011**

New Section 23.60.027: Ecological restoration and mitigation program

The Fauntleroy Watershed Council supports inclusion of this new section. With it, the Shoreline Master Program finally recognizes the substantial differences between restoration and development. Had these provisions for simplified permitting been in place a few years ago, we would likely have been able to move forward on a beach project at the mouth of Fauntleroy Creek in Fauntleroy Cove, supporting permitted restoration of the reach-to-the-beach portion of the creek.

Section 23.60.152. L: General development

We support the addition of this provision requiring replacement piers to have light-transmitting features. The Fauntleroy Ferry Terminal does not. According to Washington State Ferries' own study, the resulting long expanse of shaded nearshore habitat impairs juvenile salmon's ability to see food and predators.

Section 23.60.160.B: Standards for priority habitat protection

We support the addition of kelp beds, eelgrass beds, and spawning and holding areas for forage fish as priority saltwater habitat. Over the years, Fauntleroy Cove has lost all or nearly all of its kelp beds, and its eelgrass beds have been severely reduced. The watershed council has strongly challenged repeated placement of sand and gravel on the steep south beach at Lincoln Park because of its probable negative impact on eelgrass beds, because of longshore transport. These new provisions give "teeth" to our advocacy for preservation and enhancement of these critical features in nearshore habitat here.

**Section 23.60.254.F.1: Shoreline modifications in the Conservancy
Preservation environment**

We note what appears to be a dissonance between the above provision about protection of nearshore habitat and this provision to allow fill as part of a beach nourishment project. We recommend, based on our experience with such projects in the nearshore habitat in Fauntleroy Cove, that use of sand and gravel for "soft" shoreline stabilization not be given ongoing exemption but rather be examined on a case-by-case basis.

**Section 23.60.284.A: Shoreline modifications in the Conservancy
Recreation environment**

We support the new provision that allows noxious weed control. With reed canary grass present in Fauntleroy Cove, its control is an ongoing concern.

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RE: Draft Shoreline Master Program Update

Dear Ms. Glowacki,

At its April 7 meeting, the Northeast District Council (NEDC), representing 16 community and business organizations, voted unanimously to support changes to the Shoreline Master Program that protect and enhance our shorelines and ensure public access. Any development within our shorelines should scrupulously adhere to the state's Shoreline Management Act in recognizing that shorelines are among the most valuable and fragile of its natural resources. Any development must protect and enhance the public interest. NEDC finds that the proposed changes to the Shoreline Master Program fall short in meeting this state mandate.

Two proposed changes are of particular concern. Section 23.60.224 C and D, addressing uses in the CM Environment state:

C. Eating and drinking establishments and entertainment 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. [Emphasis added.]

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. [Emphasis added]

The proposed changes above are inconsistent with the State Shoreline Management Act, RCW 90.58.020 and the implementing regulations, WAC 173-27-160. If adopted, they would strip Seattle's Shoreline Master Program of protection for water-dependent and water-related uses. There is nothing in state law that allows prohibited uses to be authorized, even as conditional or special uses, to provide financial benefit to the developer or entrepreneur.

This loophole is the death knell to many of our public properties that would suddenly find private partners to develop eating and drinking establishments or to develop office space or institutional use in our fragile shoreline environment that are not accessory to a water-dependent or water-related use. It is inconsistent with the state policy that the public's opportunity to enjoy the physical and aesthetic qualities of the natural shorelines is paramount. The purpose of the state law is to preserve the natural character of the shoreline, protect the resources and ecology, increase public access and increase recreational opportunities.

Such uses are permitted outright in Urban Maritime and Urban Industrial areas—not in Conservancy Management areas—and for good reason. It would seem that these uses and the proposed changes cited above are specific only to Warren G. Magnuson Park because of the recent designation as an historic district. This is documented in a letter of June 1, 2010 from DPD Director Diane Sugimura to developer Darrell Vange which states:

“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.”

Special interests should not be able to dictate provisions in Seattle's shoreline master program. Without the protections of Seattle Shoreline regulations and strict adherence to state law, our parks and historic districts will be lost and recognition of the value of our shorelines diminished.

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).

The NEDC also recommends one change to Section 23.60.224B as follows:

Eating and drinking establishments and general sales and services are prohibited, except eating and drinking establishments and general retail sales and services, limited to retail

sales accessory to a water-related use, are allowed as a shoreline conditional uses if located:

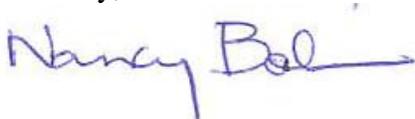
1. in a public park; or
 2. on an historic ship if...
- (Underlining added.)

This change reflects the goals of the Shoreline Management Act and the priority of water-related uses and it provides flexibility for appropriate uses without unduly commercializing Seattle's parks.

Please consider that the exceptions created under Section 23.60.224.C and 23.60.224.D are not good for the goals of the Shoreline Master Plan and are removed from the proposal and that our recommended amendment to Section 23.60.224B is incorporated.

Thank you for considering the views of the Northeast District Council.

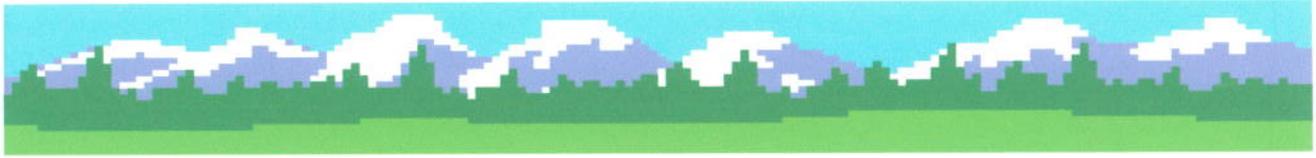
Sincerely,



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HAWTHORNE HILLS COMMUNITY COUNCIL

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April 28, 2011

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RE: Comments on the Draft City of Seattle Shoreline Master Program Update

Dear Ms. Glowacki,

The Hawthorne Hills Community Council supports the improvements in the protection of the shoreline's natural resources and improvements in public access so as to be compatible with protecting and improving native vegetation, habitat, wildlife and a natural shoreline. We laud the establishment of the three major policy goals for Shoreline Master Programs.

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 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

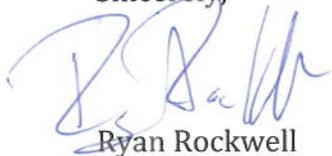
much financial incentive as would eating and drinking establishments and entertainment uses or office and institutional users. It would seem that these uses and this subsection are specific to Warren G. Magnuson Park since the park recently became a designated historic district.

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 not good for the goals of the SMP and are removed from the proposed Shoreline Master Program Update.

Sincerely,



Ryan Rockwell
President