

Seattle's Shorelines Today and Tomorrow: Updating Seattle's Shoreline Master Program

Citizens Advisory Committee Report Appendix

September 2009



APPENDIX A

**Seattle SMP Citizen Advisory Committee
Visioning**



Seattle's Shorelines Today and Tomorrow:
Updating Seattle's Shoreline Master Program
Citizens Advisory Committee Visioning Exercise
Thursday, June 26, 2008

Background

At its June 2008 meeting, the Seattle Shoreline Master Program (SMP) Citizens Advisory Committee (Committee) participated in an interactive visioning exercise. Each Committee member was provided three cards on which to write answers to the following question: "Imagine that it is 25 years into the future and we have been successful in managing Seattle's shorelines. How will you know? What will you see (or not see)? What will be happening (or not happening)? What will be the same (or different)?"

Committee members worked together to group their responses to this question into related categories, and to create names for the categories. They also held a facilitated discussion comparing their results to the results of the spring 2008 Seattle Shoreline Community Visioning Workshops (at which community members were asked the above question, among others) and a city-wide shoreline vision survey (see SMP Update website for a Vision Report summarizing the results of the workshops and survey). The Committee also asked the SMP Project Team to create a vision statement, summarizing the results of the Committee's visioning exercise. The Committee adopted this vision statement by consensus. Presented below are:

1. The vision statement
2. Key points made during the Committee's discussion (these do not necessarily represent the consensus position of the Committee)
3. The measures of success provided by individual Committee members during the exercise, grouped and categorized by the Committee.

Vision Statement

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.

Key Points

- The Committee's visioning responses and categories reflect the three goals of the Shoreline Management Act.
- However, the exercise also identified areas where differences are likely to arise among Committee members.
- It looks like there is greater emphasis on this Committee on water-oriented businesses than among the general public. Many on the Committee see as a basic value the need to make these industries thrive.
- There is also greater concern on the Committee regarding achieving balance among the three goals, and interest in developing a common vision.



- There is recognition that this will be hard to achieve and require diligence. It is a challenge to this group.
- We clearly “want it all”—recreational access, thriving marine businesses, healthy habitat.
- We shouldn’t feel that we have to “trade-off” one goal for another. We can seek sustainability, where all three are addressed.
- It is clear that everyone on this Committee both loves the water and has extensive expertise. For these reasons, we should lend more credibility to this group than the general public.
- Water quality transcends other issues; stormwater destroys fish health.
- It would be interesting and educational to do an exercise where we each have a fixed amount of money to spend on various shoreline priorities. How would we “vote” with those dollars?
- It would be helpful to have the SMP Project Team transcribe and categorize the Committee’s ideas, including taking a stab at creating a balanced vision statement to guide the Committee’s deliberations.
- The Committee would like DPD to clarify several questions relating to the city-wide public opinion survey:
 - o Time of day interviews were conducted,
 - o Accommodation of non-English speakers, and
 - o Statistical geographic reach of interviews.

Measures of Success

Economic Activity

- Protect water-dependent uses
- #1: No net loss of direct marine industrial jobs (22,000 in 2008); #2: Enhanced environment; #3: The city shoreline remains a working waterfront
- Industrial area – strong Ship Canal
- Water dependent business can maintain their assets and expand for growth
- Historic uses are maintained
- Lake Union/Portage Bay – active, diverse, retain historic uses
- Thriving commercial sea port and fishing, industry, all green
- Duwamish/Salmon Bay marine industry strong

Public Access

- Cultural activities are safe and enjoyed
- Increase public access while respecting existing business
- Public access expanded
- Equity of access and improvements in different sub-areas
- Public beaches and moorage facilities
- Diverse range of recreational public activities
- Development of public access where feasible
- Shoreline access available on all waterways
- Dock for boaters in Andrews Bay (Seward Park)
- Mixture of docks, private beaches

Environmental Health

- Prevent pollution
- Residential shorelines: more naturalized shoreline edge through improved dock design and replacement of bulkheads and lawn with natural shoreline stabilization and vegetation



- Stormwater runoff is clean and mimics predevelopment hydrologic flows
- Protect Foster Island and Arboretum
- Lake Washington shallow water habitat restored
- Increase habitat functionality
- Water quality and habitat are maintained or improved
- Salmon are not threatened
- Salmon have recovered and are no longer on the endangered species list
- You can eat as much local fish as you want without getting sick
- Natural plantings chemical-free in all nearshore areas
- Native vegetation along shoreline, bioengineered shore protection when appropriate
- Vibrant wetlands all around the city
- Marine shorelines and beaches are healthy, not degraded
- Healthy fisheries
- Salmon can migrate safely
- No CSO (combined sewer overflows) in Seattle

Balance: Access, Environment, Water-Oriented Uses, Sustainable Development

- Downtown: “world class” harbor front with naturalized sections, historic docks, water-dependent businesses and amenities
- Ecologically responsible business in various areas
- Objective ecology measurement
- Reduces conflict of adjacent property use
- Seattle remains a “Mecca” because of its shoreline
- Shoreline population density increase is equally distributed and small
- Portage Bay - promote house boats and marinas
- Lake Union - promote house boats and commercial operations
- Water quality is good (no toxins, no flammable), whales
- Private property is sacrosanct
- Balance of habitat preservation and economic activity
- Thriving habitat patches are interspersed with thriving marine businesses
- Lake Washington – emphasize single family residences, stabilized shorelines utilize parks and street ends
- Duwamish –historic floodplain is transformed with an integrated mix of water dependent uses, restored shorelines, public access elements, and support new development
- Sustainable tourism industry driving economic stability
- Recreation and commercial uses operate side by side

APPENDIX B

**Seattle SMP Citizen Advisory Committee
Biosketches**



Bob Allison is a member of the Seaview Neighborhood Association as well as the Ballard District Council. He has lived along the Seattle shoreline for over 40 years and serves as spokesperson for his community. Bob has worked in the maritime industry for most of his life, before retiring. On the Committee, Bob represents Residential Shoreline Property Owners.

Jan Arntz is environmental planner with 30 years of experience. She is responsible for SMP compliance at the University of Washington and for State Environmental Policy Act (SEPA), National Environmental Policy Act (NEPA), Shorelines, Critical Areas, Endangered Species Act (ESA) and campus master planning for all three campuses, as well as grant applications. On the Committee, Jan represents the University of Washington.

Gregory W. Ashley has worked for over 15 years on shoreline permitting for private homes and contractors. He is a member of the Northwest Marine Trade Association (Government Affairs Subcommittee). On the Committee, Greg represents Aquatic Permittees/Contractors.

Bob Bowman is on the board of the Floating Homes Association and is Chair of its Environmental Committee. He is retired from the Washington State Office of Financial Management. On the Committee, Bob represents the Floating Homes community.

Jim Ferguson has worked in the maritime and fishing industries for 40 years, owning several large companies, before semi-retirement in 2002. He currently owns and operates Ferguson Terminal in Salmon Bay and has presided over many trade groups. He is often called upon to speak on behalf of marine industries. On the Committee, Jim represents Marine Industrial Businesses within Lake Union and the Ship Canal.

Eric Hanson is a Project Management & Facilities Planner for the Port of Seattle. On the Committee, Eric represents the Port of Seattle.

Mark Johnson is a Senior Planner at ESA Adolfson and serves on the Seattle Planning Commission. Prior to joining ESA Adolfson, he worked in permitting for the Seattle Department of Construction and Land Use. On the Committee, Mark represents the Seattle Planning Commission.

John W. Lockwood is the Marketing and Business Development Director for Todd Pacific Shipyards. John spent 35 years in the Coast Guard, where he served as its top official in Puget Sound. Since 2001, he has served as a maritime consultant and on the Coast Guard's Puget Sound Area Maritime Security Committee. On the Committee, John represents Marine Industrial Businesses in the Duwamish.

Jack McCullough is a land use attorney with 25 years of experience. He chairs the Downtown Seattle Association's Land Use Committee and has sat on a number of committees for the City of Seattle, dealing with SEPA, the Mayor's Task Force on Comprehensive Planning and on the Department of Planning and Development (DPD) Advisory Committee for Downtown and Commercial Zoning. On the Committee, Jack represents Businesses on the Central Waterfront.

Kitty Nelson is a retired National Oceanic and Atmospheric Administration (NOAA) employee. Prior to NOAA, she was with King County Transportation, where she worked on permitting and basin planning. Before that, she spent 13 years as a biologist for the Seattle Aquarium. On the Committee, Kitty represents Environmental Interests in Lake Washington and the Ship Canal.



Martin O. Nelson, Jr. owns Marina Mart Moorings and two shoreline office buildings on Lake Union. He served for four years as chair of the Fred Hutchinson Cancer Research Center Board of Trustees. In the 1990s, he served on the Environmental Quality Committee for Lake Forest Park. On the Committee, Martin represents Commercial interests.

Vince O'Halloran works for the Sailor's Union of the Pacific. On the Committee, Vince represents Labor interests.

Martin Oppenheimer has over 15 years of involvement on shoreline issues. He is on the Steering Committee of the group Friends of Street Ends. On the Committee, Martin represents Recreation and Public Access interests.

John W. Owen is a consultant in architecture and urban planning for MAKERS, Inc. and helped draft the Washington State Shoreline Management Act. He has led or been involved in numerous SMP updates and has served six years on the Seattle Planning Commission, including two years as chair. John sits on the Committee as a Citizen At-Large.

Sarah Preisler is Landscape Designer at SvR Design Company. Sarah sits on the Committee as a Citizen At-Large.

James Rasmussen serves on the Steering Committee for WRIA 9 and is involved in Green-Duwamish Watershed Council, and with the Duwamish Cleanup Coalition. He is a Duwamish Tribe council member. On the Committee, James represents Environmental interests within the Duwamish.

Brooke Stabbert owns the Salmon Bay Marine Center. He has permitted multiple overwater projects and has a long family history in maritime industry. On the Committee, Brooke represents Non-Residential Shoreline Property Owners.

Heather Trim works for People for Puget Sound on toxic issues Puget Sound-wide and a range of environmental issues related to Seattle, including shoreline and nearshore environmental health. On the Committee, Heather represents Environmental interests within the Puget Sound Basin.

Trang Tu is an urban planner with significant policy experience in Seattle city government. She now operates as a consultant who works often with underserved populations. Trang sits on the Committee as a Citizen At-Large.

Greg Whittaker owns Alki Kayak Tours and manages Seacrest Marina. He has six years experience as a consultant in environmental cleanup work. On the Committee, Greg represents Recreation and Public Access interests.

APPENDIX C

Seattle SMP Citizen Advisory Committee Policy and Response Papers



Shoreline Master Program Key Definitions

"Ecological functions" or **"shoreline functions"** means the work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. See WAC [173-26-020](#) (2)(c).

"Ecosystem-wide processes" means the suite of naturally occurring physical and geologic processes of erosion, transport, and deposition; and specific chemical processes that shape landforms within a specific shoreline ecosystem and determine both the types of habitat and the associated ecological functions.

"Feasible" means, for the purpose of this chapter, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions:

- a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;
- b) The action provides a reasonable likelihood of achieving its intended purpose; and
- c) The action does not physically preclude achieving the project's primary intended legal use.

In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant.

In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

"Restore," "restoration" or "ecological restoration" means the reestablishment or upgrading of impaired ecological shoreline processes or functions. This may be accomplished through measures including, but not limited to, revegetation, removal of intrusive shoreline structures and removal or treatment of toxic materials. Restoration does not imply a requirement for returning the shoreline area to aboriginal or pre-European settlement conditions.

"Shoreline modifications" means those actions that modify the physical configuration or qualities of the shoreline area, usually through the construction of a physical element such as a dike, breakwater, pier, weir, dredged basin, fill, bulkhead, or other shoreline structure. They can include other actions, such as clearing, grading, or application of chemicals.

"Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.



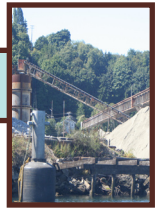
"Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:

(a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or

(b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

"Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

"Water-oriented use" means a use that is water-dependent, water-related, or water-enjoyment, or a combination of such uses.



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Purpose and Location for Environment Designations

(Changes called out by underline for additions and strike-through for deletions.)

SMC 23.60.220 Environments established.

A. The following shoreline environments and the boundaries of these environments are established on the Official Land Use Map as authorized in Chapter 23.32.

B. For the purpose of this chapter, the Shoreline District is divided into ~~eleven (11)~~ environments designated below.

Environment Designation

1. ~~Conservancy Navigation~~ CN
2. ~~Conservancy Preservation~~ CP
3. ~~Conservancy Recreation~~ CR
4. ~~Conservancy Management~~ CM
5. ~~Conservancy Waterway~~ CW
6. ~~Urban Residential~~ UR
7. ~~Urban ((Stable-~~US~~))~~ Mixed Use UMX
8. ~~Urban Harborfront~~ UH
9. ~~Urban Maritime~~ UM
10. ~~Urban General~~ UG
11. ~~Urban Industrial~~ UI

C. The purpose and locational criteria for each shoreline environment ~~designation~~ are described below.

1. Conservancy Navigation (CN) Environment.

a. Purpose. The purpose of the CN Environment is to preserve open water for navigation.~~;~~

b. Locational Criteria.

(1) Submerged lands used as a fairway for vessel navigation,

(2)e. Submerged lands seaward of the Outer Harbor Line, Construction Limit Line or other navigational boundary which are not specifically designated or shown on the Official and Use Map shall be designated Conservancy_Navigation.~~;~~

2. Conservancy Preservation (CP) Environment.



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a. Purpose. The purpose of the CP Environment is to preserve, protect, restore, or enhance ~~certain-shoreline~~ areas ~~which that have are~~ intact or mostly intact ecological functions and areas that are particularly biologically or geologically fragile, ~~and to encourage the e~~Enjoyment of these areas by the public is encouraged to the extent that sensitive or fragile-ecological functions are not threatened. ~~Protection of such areas is in the public interest.~~

b. Locational Criteria.

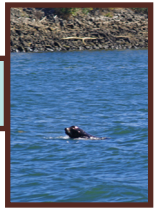
- ~~(1) Dry or submerged lands~~ with significant ecological functions owned by a public agency, and
- ~~(2) Shorelines possessing~~ particularly fragile biological, geological ~~processes or other~~ containing ecological functions ~~natural resources which that may~~ warrant preservation or restoration;
- ~~(3) Shorelines unable to support development or uses without adverse ecological impacts or safety risks.~~

3. Conservancy Recreation (CR) Environment.

a. Purpose. The purpose of the CR shoreline environment is to provide public access and recreational use of shorelines while protecting ecological functions. ~~protect areas for environmentally related purposes, such as public and private parks, aquaculture areas, residential piers, underwater recreational sites, fishing grounds, and migratory fish routes. While the natural environment is not maintained in a pure state, the activities to be carried on provided minimal adverse impact. The intent of the CR environment is to use the natural ecological system for production of food, for recreation, and to provide access by the public for recreational use of the shorelines. Maximum effort to preserve, enhance or restore the existing natural ecological, biological, or hydrological conditions shall be made in designing, developing, operating and maintaining recreational facilities.~~

b. Locational Criteria.

- ~~(1) Dry or submerged lands generally owned by a public agency and developed as a park.~~
- ~~(2) Areas;~~ where ~~the shoreline possesses~~ biological, geological or other natural resources ~~that~~ can be maintained by limiting development,



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~~(23) Residentially zoned s~~Submerged lands ~~adjacent in private or public ownership located adjacent~~ to dry lands designated Urban Residential where the ~~shoreline possesses~~ biological, geological or other natural resources ~~that~~ can be maintained by limiting development.;

4. Conservancy Management (CM) Environment.

a. The purpose of the CM shoreline environment is to ~~provide for water dependent infrastructure such as navigational locks that provide a substantial public benefit and recreational facilities, such as marinas and parks. The types of development allowed in the CM environment can be managed to preserve ecological functions and typically provide public access. conserve and manage areas for public purposes, recreational activities and fish migration routes. While the natural environment need not be maintained in a pure state, developments shall be designed to minimize adverse impacts to natural beaches, migratory fish routes and the surrounding community.~~

b. Locational Criteria.

(1) Dry or submerged land ~~that in sensitive areas~~ generally owned by a public agency, ~~and~~ developed with a major ~~public infrastructure or recreational~~ facility, including navigation locks, ~~and sewage treatment plants, ferry terminals, marinas, and~~

~~(2) p~~Public and private parks containing active recreation areas.;

~~(23) Waterfront lots containing natural beaches or a natural resource such as fish migration routes or fish feeding. Areas of medium to high intensity development that are surrounded by areas of less intense development such which that they may require active management to protect ecological functions. but which are compatible with recreational development.;~~

5. Conservancy Waterway (CW) Environment.

a. Purpose. The purpose of the CW Environment is to preserve the City waterways for navigation and commerce, ~~including while allowing~~ public access ~~to and from of the~~ water areas. ~~Since the waterways are public ways~~



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~~for water transport, they are designated CW to provide navigational access to adjacent properties, access to and from land for the loading and unloading of watercraft and temporary moorage.~~

b. Locational Criteria. Waterways on Lake Union and Portage Bay;

6. Urban Residential (UR) Environment.

a. Purpose. The purpose of the UR environment is to ~~protect residential areas provide for single family residential development and accessory structures.~~

b. Locational Criteria.

(1) Areas where the underlying zoning is Single-family or Multifamily residential~~;~~

~~(2) Areas where the predominant development is Single-family or Multifamily residential;~~

~~(3) Areas where steep slopes, shallow water, poor wave protection, poor/limited vehicular or water access or limited water access make water-dependent uses impractical~~;~~~~

~~(4) Areas with sufficient dry land lot area to allow for residential development totally/entirely on dry land without over-water coverage~~;~~~~

7. Urban Stable-Mixed Use (UMXS) Environment.

a. Purpose.

The purpose of the UMX Environment is to provide for a mix of water-oriented ~~dependent, water-related, and water-enjoyment~~ uses and to allow limited non-water-oriented development where it does not displace water-oriented uses to meet the needs of waterborne commerce, provide opportunities for public access and recreational enjoyment of the shoreline. Provide opportunities for substantial numbers of people to enjoy the shorelines by encouraging water-dependent recreational uses and by permitting nonwater dependent commercial uses if they provide substantial public access and other public benefits.~~(2) Preserve and enhance views of the water from adjacent streets and upland residential areas, and (3) Support water-dependent uses by providing services such as marine-related retail and moorage.~~

b. Locational Criteria.



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- (1) Areas where the underlying zoning is Commercial, ~~Neighborhood Commercial~~ or ~~LowriseIndustrial~~;
- (2) Areas with ~~small~~minimal amounts of dry land between the shoreline and the first parallel street, with steep slopes, limited truck and rail access, or other features making the area unsuitable for water-dependent or water-related industrial uses, but that may be suitable for water-oriented commercial uses;
- (3) Areas with large amounts of submerged land in relation to dry land and sufficient wave protection for water-dependent recreation;
- ~~4) Areas where the predominant land use is water-dependent recreational or non-water-dependent commercial;~~

8. Urban Harborfront (UH) Environment.

a. Purpose. The purpose of the UH Environment is to encourage economically viable water-dependent uses to meet the needs of waterborne commerce, facilitate the revitalization of Downtown's waterfront, provide opportunities for public access and recreational enjoyment of the shoreline, preserve ~~and enhance~~ elements of historic and cultural significance that does not interfere with ecological functions, and preserve views of Elliott Bay and the land forms beyond.

b. Locational Criteria.

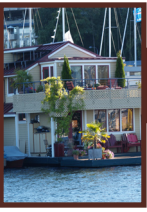
- (1) Areas where the underlying zoning is a Downtown zone;
- ~~(2) Areas in or adjacent to a State Harbor Area;~~
- ~~(3) Areas where the water area is developed with finger piers and transit sheds;~~

9. Urban Maritime (UM) Environment.

a. Purpose. The purpose of the UM environment is to ~~preserve~~ areaprovide for efficient use of industrial and commercial shorelines by water-dependent and water-related ~~uses while still providing some views of the water from adjacent streets and upland residential streets.~~ Public access shall be second in priority to water-dependent uses unless provided on street ends, parks or other public lands.

b. Locational Criteria.

- (1) Areas where the underlying zoning is ~~i~~Industrial or Commercial ~~2,~~ with sufficient dry land for industrial uses but generally in smaller parcels than in UI environments



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~~(2) Areas with sufficient dry land for industrial uses but generally in smaller parcels than in UI environments;~~

~~(3) Areas developed predominantly with water-dependent manufacturing or commercial uses or a combination of manufacturing-commercial and recreational water-dependent uses;~~

~~(4) Areas with concentrations of state waterways for use by commerce and navigation;~~

~~(5) Areas near, but not necessarily adjacent to residential or neighborhood commercial zones which that require preservation of views and protection from the impacts of heavy industrialization and therefore inappropriate for a UI shoreline environment designation;~~

10. Urban General (UG) Environment.

a. Purpose. The purpose of the UG environment is to provide for economic use of commercial and ~~manufacturing industrial~~ areas which are not suited for ~~full~~-use by water-dependent ~~businesses~~uses due to limited ~~or no water access.~~

~~. Public access or viewing areas shall be provided by nonwater dependent uses where feasible.~~

b. Locational Criteria.

(1) Areas with little or no ~~direct~~ water access, which makes the development of water-dependent uses impractical ~~or infeasible;~~

(2) Areas where the underlying zoning is Commercial ~~2~~-or Industrial;

(3) Areas developed with nonwater-dependent manufacturing, warehouses, or offices ~~uses;~~

11. Urban Industrial (UI) Environment.

a. Purpose. The purpose of the Urban Industrial environment is to provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. ~~Views shall be secondary to industrial development and p~~Public access ~~shall~~should be ~~provided mainly accommodated only to the extent that it can be accomplished effectively~~ on public lands or ~~in conformance with an area-wide Public Access Plan on marinas or lots containing non-water-dependent uses.~~



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b. Locational Criteria.

(1) Areas where the underlying zoning is industrial,

~~(2) Areas with large amounts of level dry land in large parcels suitable for industrial use;~~

~~(3) Areas with good rail and truck access;~~

(42) Areas adjacent to or part of major industrial centers which provide support services for water-dependent and other industry,

(53) Areas where predominant uses are manufacturing warehousing, major port cargo facilities or other similar uses.

D. Submerged Lands.

~~1. On Puget Sound, Lake Washington and Green Lake submerged lands shall be designated to preserve them for ecological function and public or recreational purposes.~~

~~2. On Elliot Bay, Lake Union, the Ship Canal, and the Duwamish River, submerged lands shall be designated to balance preservation of ecological function and a mix of public, recreational, industrial, and commercial purposes. In these areas; ~~the~~ the environmental designation given to waterfront dry land shall be extended to the outer Harbor Line, Construction Limit Line, or other navigational boundary ~~on Lake Union, on Portage Bay, in industrially zoned areas, and in the Urban Harborfront area. On Puget Sound, Lake Washington and Green Lake submerged lands shall be designated to preserve them for public or recreational purposes.~~~~

~~4. Where the shoreline environment designation on submerged land is different than the shoreline environment designation of the adjacent dry land the environment boundary is ordinary high water (OHW) in fresh water environments and mean higher high water (MHHW) in salt water environments.~~

~~(Ord. 120691 Section 19, 2001; Ord. 118408 Section 9, 1996; Ord. 113466 Section 2(part), 1987.)~~



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Shoreline Environment Designations Purpose and Location Policy Paper

Proposals for SMP update

Proposed Goals & Policies

Proposed changes to existing purpose and location criteria for each shoreline designation are included in a separate document entitled “Purpose and Location Language for Environment Designations,” dated August 20, 2008.

In addition to other changes, the Urban Stable environment is proposed to be renamed the Urban Mixed Use (UMX) environment to better clarify the purpose of this zone.

Proposed Location Changes

Proposed changes to the location of existing shoreline environments are described below. The location of specific proposals is shown on the map entitled “Proposed Changes to Shoreline Environment Designations.”

General

Note: See following revised proposal and map.

- Based on the characterization report, apply the most appropriate environmental designations to publicly-owned land with high quality habitat or high potential for restoration. The proposed changes include re-designating areas 1, 8, 9, 14, 18, 19, 20, 21 to Conservation Preservation.
- Re-designate certain areas in the former Urban Stable environment (now Urban Mixed Use) based on current uses and site characteristics. The proposed changes include areas 4 and 6.
- Expand the shoreline jurisdiction to include shoreline-associated wetlands, as authorized by WAC 173-26. Designate newly-added wetland areas as Conservation Preservation (2, 10, 13).
- Change dry and submerged land at marinas to Conservancy Management for consistency with the rest of Seattle’s marinas (3, 15).
- To more clearly differentiate between Conservancy Management and Conservancy Recreation, change parks with boat ramps and no major overwater boat storage from CM to CR (10, 11, 12).



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- Change Elliott Bay parks from Conservancy Management to Conservancy Recreation in recognition of new waterfront trails and restored ecological function (16, 17).
- Clean up slivers where overlying shoreline environments conflict with or unnecessarily complicate underlying zoning (5, 7).

Specific Proposals:

Note: See following revised proposal and map.

1. Change designation from CN to CP for submerged lands between Golden Gardens and the northern city limit.
2. Expand shoreline jurisdiction upstream to capture the associated wetlands of Pipers Creek (CP).
3. Change dry and submerged land at Shilshole Bay Marina from US to CM for consistency with other marinas.
4. Change the Environment Designation from US to UR and the underlying zoning to single-family residential in the predominantly residential area along north Salmon Bay.
5. South of the locks, change a sliver of UR to UM where a conflict exists between the shoreline environment and the underlying zoning.
6. Change the south side of the Fremont cut from US to UG for consistency with the north side, and to reflect the impracticality of water-related uses along this shoreline.
7. Clean up several slivers in Eastlake where underlying zoning and overlying shoreline environments don't line up.
8. Change Matthews Beach Park dry and submerged land from CR to CP to protect creek mouth and high quality shallow-water habitat.
9. East of NOAA's pier, change submerged land from CM to CP.
10. At the Magnuson boat ramp area, change dry and submerged land from CM to CR for consistency with other recreation areas. Extend shoreline jurisdiction upland to capture associated Magnuson's wetlands and designate these new areas as CP.
11. Change Windermere Park from CM to CR for consistency with other recreation areas.



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12. Change Laurelhurst Beach Club from CM to CR for consistency with other recreation areas.
13. Extend shoreline jurisdiction upland to capture the associated wetlands on UW property and designate these new areas as CP.
14. On submerged land northwest of Elliott Bay Marina, change high quality habitat reach from CR to CP.
15. At Elliott Bay Marina, change upland area from UR to CM for consistency with other marinas.
16. On submerged land adjacent to Myrtle Edwards (south of grain elevators), convert CM to CR in recognition of multiple beach restoration areas and waterfront trail.
17. On dry and submerged land at Seacrest Park, change CM to CR.
18. Change dry and submerged land at Herring's House Park from CR and CN to CP to protect the recently restored intertidal habitat area.
19. Change submerged land at Madrona Park from CR to CP to better protect undeveloped shoreline.
20. Change submerged public land along Lake Washington Blvd from CR to CP.
21. Change dry and submerged land at Beer Sheva from CR to CP to protect high quality habitat.

State Guidelines

WAC 173-26-191 (1) (d) summarizes the general purpose of shoreline environment designations and WAC 173-26-221, Environment Designation System, provides detailed guidance on the process of creating these designations as well as specific standards for different types of designations.

Seattle Municipal Code 23.60.220 summarizes the purpose and location criteria for each of the 11 shoreline designations (Conservancy Navigation, Conservancy Preservation, Conservancy Recreation, Conservancy Management, Conservancy Waterway, Urban Residential, Urban Stable, Urban Harborfront, Urban Maritime, Urban General, and Urban Industrial). Seattle Municipal Code 23.60.240 through 23.60.882 provides specific use and development standards for each environment.



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Revised Proposed Changes to Seattle's Shoreline Environment Designations

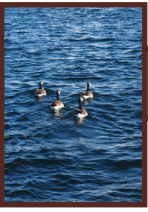
(See associated map for locations of specific proposals)

General

- Based on the characterization report, apply the most appropriate environmental designations to publicly-owned land with high quality habitat or high potential for restoration. The proposed changes include re-designating areas 1, 8, 9, 14, 18, 19, 20, 21 to Conservation Preservation.
- Rename the Urban Stable environment to Urban Mixed Use (UMX) environment for greater clarity.
- Re-designate certain areas in the former Urban Stable environment (now Urban Mixed Use) based on current uses and site characteristics. The proposed changes include areas 4 and 6.
- Expand the shoreline jurisdiction to include shoreline-associated wetlands, as authorized by WAC 173-26. Designate newly-added wetland areas as Conservation Preservation (2, 10, 13).
- Change dry land at Elliott Bay Marina to Conservancy Management for consistency with other marinas (15).
- To more clearly differentiate between Conservancy Management and Conservancy Recreation, change parks with boat ramps and no major overwater boat storage from CM to CR (10, 11, 12).
- Change Elliott Bay parks from Conservancy Management to Conservancy Recreation in recognition of new waterfront trails and restored ecological function (16, 17).
- Clean up slivers where overlying shoreline environments conflict with or unnecessarily complicate underlying zoning (5, 7).

Specific Proposals

1. Change designation from CN to CP for submerged lands between Golden Gardens and the northern city limit.



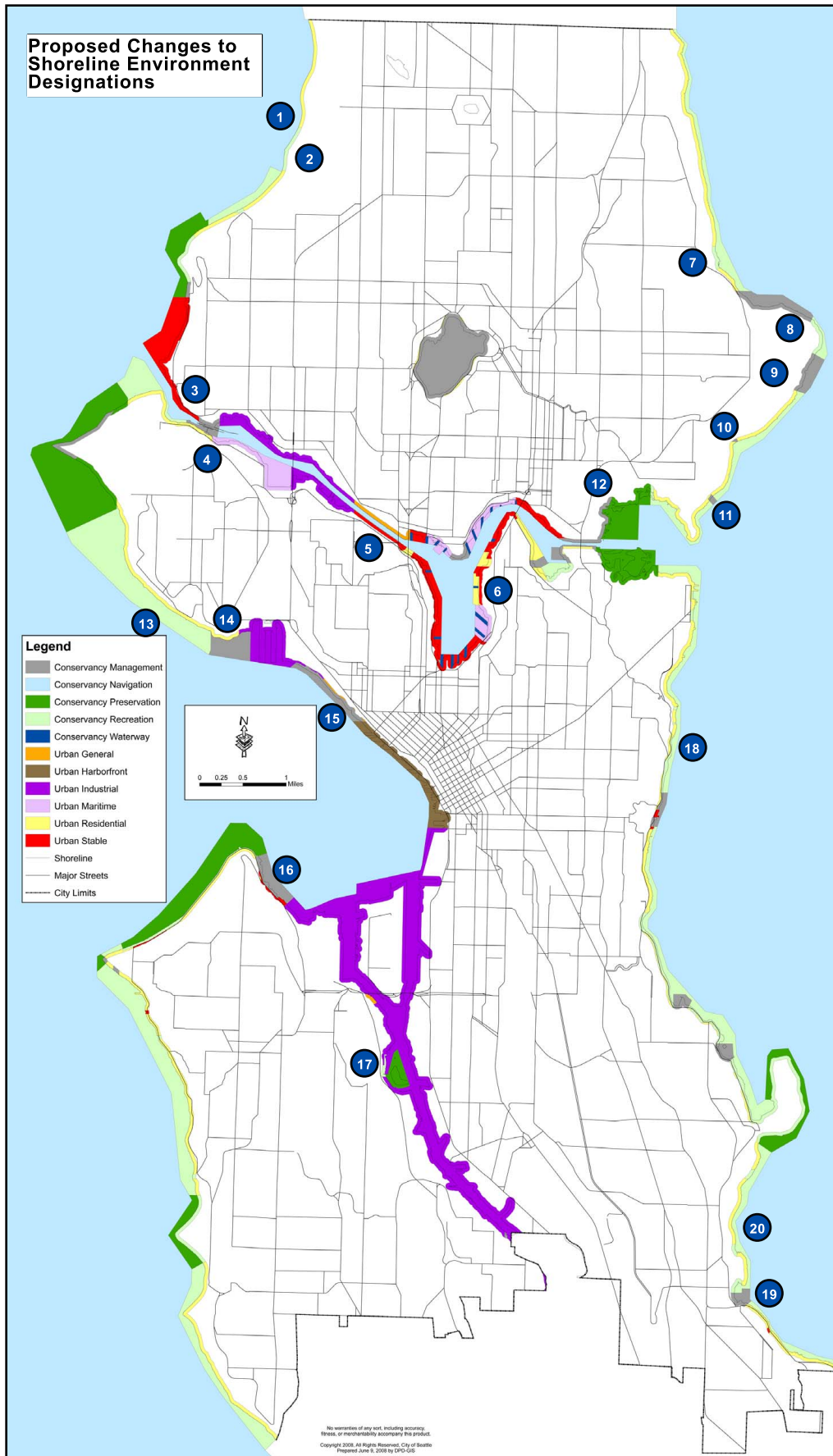
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2. Expand shoreline jurisdiction upstream to capture the associated wetlands of Pipers Creek (CP).
3. Change the Environment Designation from US to UR and the underlying zoning to single-family residential in the predominantly residential area along north Salmon Bay.
4. South of the locks, change a sliver of UR to UM where a conflict exists between the shoreline environment and the underlying zoning.
5. Change the south side of the Fremont cut from US to UG for consistency with the north side, and to reflect the impracticality of water-related uses along this shoreline.
6. Clean up several slivers in Eastlake where underlying zoning and overlying shoreline environments don't line up.
7. Change Matthews Beach Park dry and submerged land from CR to CP to protect creek mouth and high quality shallow-water habitat.
8. East of NOAA's pier, change submerged land from CM to CP.
9. At the Magnuson boat ramp area, change dry and submerged land from CM to CR for consistency with other recreation areas. Extend shoreline jurisdiction upland to capture associated Magnuson's wetlands and designate these new areas as CP.
10. Change dry land at Laurelhurst Country Club from CM to CR for consistency with other recreation areas.
11. Change dry and submerged land at Laurelhurst Beach Club from CM to CR for consistency with other recreation areas.
12. Extend shoreline jurisdiction upland to capture the associated wetlands on UW property and designate these new areas as CP.
13. On submerged land northwest of Elliott Bay Marina, change high quality habitat reach from CR to CP.
14. At Elliott Bay Marina, change upland area from UR to CM for consistency with other marinas.
15. On submerged land adjacent to Myrtle Edwards (south of grain elevators), convert CM to CR in recognition of multiple beach restoration areas and waterfront trail.
16. On dry and submerged land at Seacrest Park, change CM to CR.



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17. Change dry land at Herring's House Park from UI to CR to protect the recently restored intertidal habitat area. Change submerged land at T-107 Park and Herring's House Park from UI to CP.
18. Change submerged land at Madrona Park from CR to CP to better protect undeveloped shoreline.
19. Change wetlands at Beer Sheva from CR to CP to protect high-quality habitat. Change land containing marinas and condos from CM to UR or US.
20. Add associated wetlands at Pritchard Island as CP.





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Shoreline Environment Designations Purpose and Location Response Paper

This document contains proposals presented to the Citizens Advisory Committee (CAC) members, a summary of the views expressed by CAC members, and DPD's responses to these comments in italics. Discussion of the original proposal presented by DPD can be found in the document entitled Shoreline Environment Designations Policy Paper, dated December 12, 2008. These following summaries are arranged by subject in the following order: Overall Comments, Purpose Statements, Location and Locational Criteria

Overall Comments

- DPD received several comments that many of the management policies stated for individual environments, such as seeking to “achieve no net loss of ecological function” and “prevent degradation of water quality and alteration of hydrology”, were applicable to all environments and should be combined into a new section for overall policies.

DPD is proposing to move all the management policies from the SMP code to the shoreline section of Seattle's Comprehensive Plan. This change will allow us to combine overarching policies together as recommended and to integrate these policies with other existing shoreline goals and policies. No net loss of ecological function and water quality standards will specifically be included as over-arching policies for all shoreline environments.

- Concern was also voiced that there were many terms used throughout the goals, policies, and location criteria with similar, but ambiguous meanings that should be reevaluated for clarity. Examples include significant/substantial or minimize/avoid/prevent/protect/maintain/restore. Additionally, the term “where feasible” was used in multiple places and was felt to be vague.

DPD will revisit this language in order to provide additional definition to these terms and remove redundant language. DPD will also consider adding these words to the definition section of the code.

- Under the existing code, parcels frequently had different shoreline environments for dry and submerged portions of their property. Several comments were received relating to whether less or more aquatic environments should be utilized to differentiate between regulations applying to dry and submerged lands. No consensus emerged as to whether these divisions would be beneficial.

DPD feels that minimizing the number of environments applicable to a property will provide greater clarity overall and is not proposing to create additional aquatic environments. We are, however, currently proposing to retain many areas of split



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zoning between dry and submerged land where aquatic conditions warrant different levels of protection based on existing environmental function and land uses.

- A comment was received that the following goal, which appears in several of the designations, is confusing: “Where applicable... development shall include clean up and restoration required by law”. The commenter felt that the policy was unnecessary if the law already required clean up and restoration.

This policy is proposed to be removed.

Purpose Statements

In addition to general comments, a number of specific comments were received relating to language used in purpose statements. The comments and proposed changes are listed below:

Conservancy Management environment

The statement “The types of development allowed in the CM environment can be managed to preserve ecological functions and typically provide public access” was felt to be unclear.

DPD recommends the following new language: “The types of development allowed in the CM environment are such that they are able to be managed to preserve ecological functions and provide public access”

Urban Maritime environment

The word “efficient” was found to be too subjective in the statement “The purpose of the UM environment is to provide for efficient use of industrial and commercial shorelines by water-dependent and water-related uses.”

DPD recommends the removal of this word.

Urban Industrial environment

Comments were received that the purpose statement for the Urban Industrial environment shown below inadequately summarized our vision for public access in these areas:

“The purpose of the Urban Industrial environment is to provide for efficient use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Public access should be accommodated only to the extent that it can be accomplished effectively on public lands or on marinas or lots containing non-water-dependent uses.”

DPD recommends the following new language:

“The purpose of the Urban Industrial environment is to provide for use of industrial shorelines by major cargo facilities and other water-dependent and water-related industrial uses. Public access should be accommodated on public



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lands to the extent that it is feasible and compatible with the safety, security and impact to the shoreline environment, or where the port district or other public entity has identified and incorporated public access in its master plans. Public access should also be provided at marinas or lots containing non-water-dependent uses.”

Location and Locational Criteria

A number of specific comments were received relating to the location of certain environments. These comments and proposed changes are listed below:

Lake Union/Ship Canal

Multiple comments were received that DPD should consider making substantial changes to the UM, UI, and US environments in recognition of changed needs and conditions within the Lake Union/Ship Canal area. In particular, some members suggested that the demand for water-dependent and water-related business has decreased and that limitations on non-water-dependent/water-related uses in the US, UM, and UI environments were causing economic hardship for property owners. Additionally, some members felt that the US zone should be expanded to more areas to allow a greater mix of commercial and residential uses.

The City of Seattle is conducting economic research to understand the needs of water-dependent businesses throughout the City and will use this data to inform our decision about the need for continued limitations on non-water-dependent/water-related uses. Potential rezones from UM and UI to US are not being proposed as part of the SMP update as DPD feels that substantial rezones of industrial land should be addressed on a city-wide basis rather than as part of shoreline regulations. Potential rezones of industrial area are being considered as part of the City's Industrial Lands initiative; however, rezones of industrial land to allow more commercial and residential development as is allowed in US must be undertaken with caution so as to meet the goal of supporting water-dependent and water-related uses.

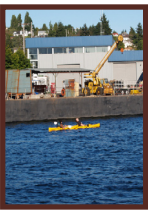
Duwamish

A comment was received that the Urban Industrial designation seems too broad and oversimplified, particularly in the Duwamish.

DPD feels that the Urban Industrial designation allows for a broad array of water-dependent and water-related industrial uses throughout Seattle's industrial waterfront. Creating additional designations that recognize the existing character of additional areas would likely serve to limit the flexibility for water-dependent and water-related uses in these areas based on existing conditions rather than providing additional benefits. DPD is not at this time proposing to create additional Urban Industrial designations.

Parks

Currently, some parks such as Green Lake are designated Conservancy Management while others are designated Conservancy Recreation. DPD's original proposal sought to more clearly differentiate between Conservancy Management and Conservancy



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Recreation by changing parks with boat ramps and no major overwater boat storage from CM to CR. It was suggested that additional parks could be designated Conservancy Recreation if boat ramps were allowed in these zones.

DPD continues to support its original proposal in which Green Lake and marinas within parks would continue to be zoned CM. Green Lake is proposed to remain CM because the unique managed nature of this waterbody (city-controlled water levels, lack of natural discharge point, highly managed fish populations, etc.) make the management challenges of this area unique. Marinas within parks would continue to be CM because they accommodate a level of development and overwater coverage that would be inappropriate in a CR environment.

Shilshole Bay Marina

A proposed rezone of the area containing Shilshole Bay Marina was felt by some members to be inappropriate as it could make non-conforming a number of existing uses, such as an eating and drinking establishment, that were deemed to be appropriate and would substantially limit what is allowed by the underlying zoning.

DPD proposes to retain the US designation for this area based on these comments.

North Shilshole Residential Area

Concern was also raised regarding the proposed rezone of the area on Seaview Avenue Northwest between 34th Avenue Northwest and Northwest 60th Street from Urban Stable to Urban Residential. Specifically, commenters felt that this change might preclude some existing commercial uses in the area.

DPD proposes to maintain this rezone proposal, but will modify UR standards to allow limited commercial development on upland lots where it is allowed in the underlying zone. DPD's analysis of 1987 and 2007 land use inventories indicates that despite broad zoning allowances for the past 30 years, the area has maintained a residential character with little commercial development. Currently, only two small commercial developments exist and only one appears to be conforming to existing standards. A UR designation is more appropriate given the existing conditions and the lack of demand for commercial space in the area. In particular, this area is unsuitable for the types of water-dependent development envisioned for the US environment due to the lack of available dry and submerged land.

Locational Criteria in Urban Residential environment

It was suggested that we add the following additional location criteria in the UR environment: "Areas with existing floating home moorage."

DPD is proposing to adopt this proposed language with limited clarification as follows: "Areas with substantial existing floating home moorage adjacent to residential zoning". The purpose of this change is to differentiate large houseboat communities from areas that have small clusters of houseboats which are proposed to remain Urban Stable due to the mix of uses.



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Residential Development Standards Policy Paper

Summary

The Department of Ecology's SMP guidelines as stated in Chapter 173-26 WAC requires each jurisdiction to include development standards for residential development along the shoreline. Ecology acknowledges that single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment.

Ecology also states that without proper management, single family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Shoreline Master Programs are required to include policies and regulations for residential development that assure no net loss of shoreline ecological functions. Additionally, provisions that include specific shoreline setbacks requirements for residential structures, buffer areas, density requirements, standards for shoreline armoring and vegetation conservation are required. Finally residential development, including appurtenant structures and uses, are to be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. (See RCW 90.58.100(6).)

Seattle's current Shoreline Master Program regulations do not include setback requirements, specific vegetation conservation measures, buffer areas, or density requirements. The current SMP regulations do contain standards for shoreline armoring; however, these standards are in need of an update. Therefore, DPD is proposing the following changes to the SMP regulations to meet the new SMP 173-26 WAC Guidelines:

- Adding new goals and policies, or revisions to existing goals and policies, to better meet the legislative intent and guidelines of the SMA.
- Updating the General Development Standards to include more specific information regarding potential impacts and required mitigation standards to assure no net loss of ecological functions.
- Including specific development standards for structure set back requirements, specific vegetation conservation measures, buffer areas, density requirements and updating stormwater management pending review of the proposed new stormwater code.
- Including additional standards for shoreline armoring.

Note: The updated Environmentally Critical Areas regulations include structure setback requirements and mitigation requirements for the removal of vegetation and the increase of impervious surface.



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Key Issues

- How should existing overwater residences be regulated?
- What structure setbacks are appropriate?
- How should we encourage and/or require vegetated buffers and low impact development practices?

Proposed Changes to the SMP

Intent

Seattle's current Shoreline Master Program regulates residential development mainly through the current General Development Standards (SMC 23.60.152). These standards are very general. The existing regulations do not require structure setback to protect shoreline ecological processes and functions. Additionally, there are no specific vegetation conservation requirements, buffer requirements, density requirements and the existing shoreline armoring section is twenty years old and is in need of revisions. Therefore the changes to the SMP that DPD proposes are intended to provide the required additional protection of the shoreline.

Changes to Comprehensive Plan Goals

The following changes to comprehensive plan policy LU231 are proposed (*strikeouts indicate deletions*):

Water-dependent uses: all uses that cannot exist in any other location and are dependent on the water by reason of the intrinsic nature of their operations. ~~However, b~~ Because of their historic role and legal recognition by the City, floating home moorage ~~are designated as a water dependent use~~ is an allowed use; however, an increase in the number of floating homes and/or floating home moorage is not supported. ~~Such designation does not imply support for increase of floating home moorage.~~ The intent of this policy is to recognize the existing floating home community in Lake Union and Portage Bay, while protecting ~~natural areas~~ shoreline ecological function, preserving public access to the shoreline, and preventing the displacement of water-dependent commercial and manufacturing uses by floating homes. Areas with substantial concentrations of existing floating homes shall be given a designation that preserves residential uses.

The following goal is proposed to be added to Seattle's Comprehensive Plan:

Include development standards for residential development that protects shoreline ecological processes.

Changes to Comprehensive Plan Policies



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The following policy is proposed to be added to Seattle's Comprehensive Plan: "Shoreline residential development should control pollution and prevent damage to the shoreline environment including shoreline ecological functions."

Changes to Land Use Code

The following changes to current regulations are proposed:

- Prohibit construction of new overwater residences including houseboats and prohibit overwater expansion of existing non-houseboat residences.
- Increase residential structure setback based on best available science. Evaluate additional setbacks near steep slope areas and critical habitat such as eel grass beds and forage fish spawning areas.
- In consolidating ECA and SMP regulations, apply management area regulations in ECA to whole 200' shoreline jurisdiction. Refer to shoreline structure setback as the shoreline buffer.
- Include more specific standards for mitigation as laid out in the December 16, 2008 Mitigation Policy Paper.
- Multifamily units are not a preferred use; establish policy limiting multifamily uses to where they are currently allowed.
- Consider options for implementing new WAC guideline that "new multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter".
- Consider new stormwater and Low Impact Development (LID) standards.
- Consider impervious surface limitations or other specific standards.
- Incorporate standards from clean marina program for large areas of moorage.
- Add milfoil as listed noxious weed to facilitate management.
- Include provisions regarding subdividing land.

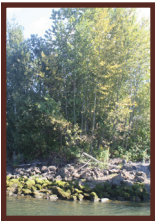
Background Information

As discussed above, staff review of the current regulations of the SMP determined that the existing regulations do not provide the appropriate development standards for residential development to meet Department of Ecology's new WAC/SMP update requirements. The existing regulations and the new state guidelines are included here as a reference for your review and consideration of the proposed changes.

Existing Shoreline Master Program Regulations

Seattle Municipal Code 23.60.220 summarizes the purpose and location criteria for each of Urban Residential shoreline environments. Seattle Municipal Code 23.60.540 through 23.60.578 provides specific use and development standards for this environment. Other applicable code sections are detailed below.

SMC 23.60.152 General development.



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(Provides general standards for all development in shoreline jurisdiction including residential development)

Environmental Critical Areas Regulations

25.09.200 B. Development Standards for Shoreline Habitat.

1. The provisions of this subsection B apply to all parcels with shoreline habitat defined in subsection 25.09.020 D6 or its buffer.
2. In addition, the provisions of subsection C below apply to parcels with shoreline habitat or its buffer, except subsection C2 with respect to fish. In the event of an irreconcilable conflict between the provisions of this subsection B and subsection C, the provision most protective of wildlife habitat applies.
3. Development is prohibited in shoreline habitat, except when all of the following criteria are met:
 - a. The development is allowed under Title 23, including chapter 23.60, the Shoreline Master Program; and
 - b. Mitigation is provided for all impacts to the ecological functions of fish habitat on the parcel resulting from any permitted increase in or alteration of existing overwater coverage.
4. Buffers.
 - a. Shoreline habitat has a one hundred foot (100') buffer from the ordinary high water mark.
 - b. Bioengineered solutions, such as using plants or other approved natural material, to stabilize the shoreline are allowed in the buffer, provided they are allowed under Title 23, including chapter 23.60, the Shoreline Master Program.
 - c. Other development for water dependent and water related uses is prohibited in the buffer, except when:
 - (1) The development is allowed under Title 23, including chapter 23.60, the Shoreline Master Program; and
 - (2) no vegetation is removed, the amount of impervious surface is not increased, and no surface that is permeable by water at the time of the application will be covered with an impervious surface so that impervious surface will be closer to the ordinary high water mark; or
 - (3) if any of the actions described in subsection c(2) above occur and that action impacts the ecologic function of the shoreline, those impacts are mitigated as set out in subsection below.If the standards in subsections c(1) and (2) are met, then the application is not subject to the application submittal requirements in Section 25.09.330. and the general development standards in Section 25.09.060.
 - d. Other development for non-water dependent and non-water related uses is prohibited in the buffer, except when:



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- (1) The development is allowed under Title 23, including chapter 23.60, the Shoreline Master Program; and
 - (2) for non-residential uses
 - (a) the lot was in existence before the effective date of Ordinance 122050¹; and
 - (b) the development is twenty five feet (25') or more from the ordinary high water mark unless the development is allowed in the shoreline habitat under Title 23, including chapter 23.60, the Shoreline Master Program; and
 - (c) (i) no vegetation is removed, impervious surface is not increased and no net loss of ecological function of the critical area or buffer from other actions occurs; or
 - (ii) if any of the actions described in subsection d(2)(c)(i) above occur, all impacts on the ecological function are mitigated as set out in subsection e below; or
 - (3) for residential uses the residence is twenty five feet (25') or more from the ordinary high water mark
 - (a) and no vegetation is removed, impervious surface is not increased and no net loss of ecological function of the critical area or buffer from other actions occurs; or
 - (b) if any of the actions described in subsection d(3)(a) above occur, all impacts on the ecological function are mitigated as set out in subsection e below.
7. The following provisions apply to all parcels containing shoreline habitat and buffers to prevent impacts to the habitat and buffer:
- a. Any increases in surface runoff from development shall be kept to a minimum, and surface water run off shall be controlled, treated and released so that receiving water quality and any shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers. Allowable means to achieve this include bioswales, catch basin filters, and other methods prescribed in Title 22, Subtitle VIII, the Stormwater, Grading and Drainage Control Code.
 - b. Pavement in the habitat and buffer shall be kept to a minimum and permeable surfacing, where practicable, shall be used to keep surface water accumulation and runoff into the habitat and buffer to a minimum. Recommended methods are found in Title 22, Subtitle VIII, Stormwater, Grading and Drainage Control Code. Permeable surfaces include, but are not limited to, porous asphalt, concrete, brick, or pavers; or plastic confinement systems with grass or gravel filler.
 - c. Best management practices shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water. Direct runoff of these materials is prohibited. Best management practices shall be employed for prompt and effective clean-up of any spills that do occur. A spill prevention and response plan may be required by the Director.



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d. Any cleaning or resurfacing operation occurring over water that may result in the entry of debris, such as paint chips, shall employ tarpaulins securely affixed above the water line to prevent material from entering the water. Prior to removing the tarpaulins, the accumulated contents shall be removed by vacuuming or an equivalent method that prevents material from entering the water.

e. No over-water application of paint, preservative treatment, or other chemical compounds is permitted, except in accordance with best management practices.

f. Wooden components that will be in contact with standing water or floodwaters shall not contain polycyclic aromatic hydrocarbons (PAH), creosote, pentachlorophenol, or similar toxic substances. Durable, non-toxic components are the preferred material for in-water and over-water structures. Where treated wood is considered necessary, it shall be applied and used in accordance with the American Wood Preserver Association (AWPA) standards for aquatic use.

g. For projects involving concrete, a concrete truck chute cleanout area shall be established to contain wet concrete. No concrete or clean out shall be allowed to enter the water body. This does not prohibit piers or other concrete structures authorized by a valid permit.

h. All inlets and catch basins shall be protected from fresh concrete, paving, paint stripping and other high-risk pollution generating activities during construction.

i. Construction staging areas shall be as far from the ordinary high water mark as practicable.

j. Planting native vegetation may be required to mitigate impacts of development on the shoreline habitat or buffer.

k. If at any time project-related activities cause a fish kill to occur, the permittee shall stop all work relating to the fish kill and immediately notify the Department of Planning and Development, Washington Department of Fish and Wildlife, and the Washington Department of Ecology.

l. In- and over-water structures shall be designed and located to keep impacts from shading of any bank and shallow water habitat to a minimum.

8. Removal of, clearing, or any action detrimental to habitat, trees or vegetation in shoreline habitat or its buffer is prohibited, except as authorized under subsections 1-6 above and section 25.09.320.

State Guidelines

WAC 173-26-211 (5) (f), "Shoreline residential" environments, provides management policies for shoreline residential environments and is detailed below.

173.26.211 (5) (f) Shoreline Residential environment purpose

(f) "Shoreline residential" environment.

(i) Purpose.



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The purpose of the "shoreline residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

(ii) Management policies

(A) Standards for density or minimum frontage width, setbacks, lot coverage limitations, buffers, shoreline stabilization, vegetation conservation, critical area protection, and water quality shall be set to assure no net loss of shoreline ecological functions, taking into account the environmental limitations and sensitivity of the shoreline area, the level of infrastructure and services available, and other comprehensive planning considerations.

Local governments may establish two or more different "shoreline residential" environments to accommodate different shoreline densities or conditions, provided both environments adhere to the provisions in this chapter.

(B) Multifamily and multi-lot residential and recreational developments should provide public access and joint use for community recreational facilities.

(C) Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.

(D) Commercial development should be limited to water-oriented uses.

(iii) Designation Criteria

Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.

WAC 173-26-221 (5) and (6) provide guidelines for shoreline vegetation conservation and water quality that must be considered as well in determining use and development standards. Overall, these standards can be summarized as follows:

- No new overwater houses should be allowed. Accommodate current floating homes and expansions of these uses without impinging on legal rights of property owners.
- Make sure all development meets no net loss of ecological function.
- Prevent need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.

WAC 173.26.241 (3) (j) provides the use standards for residential development and is detailed below:

173.26.241 (3) (j) Shoreline Use Standards

(j) Residential development.

Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of



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pollutants, and vegetation modification and removal. Residential development also includes multifamily development and the creation of new residential lots through land division.

Master programs shall include policies and regulations that assure no net loss of shoreline ecological functions will result from residential development. Such provisions should include specific regulations for setbacks and buffer areas, density, shoreline armoring, vegetation conservation requirements, and, where applicable, on-site sewage system standards for all residential development and uses and applicable to divisions of land in shoreline jurisdiction.

Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. (See RCW 90.58.100(6).)

New over-water residences, including floating homes, are not a preferred use and should be prohibited. 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.

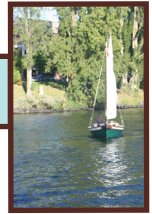
New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter.

Master programs shall include standards for the creation of new residential lots through land division that accomplish the following:

- (i) Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.
- (ii) Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.
- (iii) Implement the provisions of WAC 173-26-211 and 173-26-221.

173.26.201 2(d) Preferred Uses

- (iv) Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.



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Residential Development Standards Response Paper

This document contains proposals presented to the Citizens Advisory Committee (CAC) members, a summary of the views expressed by CAC members, and DPD’s responses to these comments in italics. The original proposals presented by DPD to the CAC can be found in the document entitled “Residential Development Standards Policy Paper,” dated December 9, 2008.

Of the various proposals put forward by DPD in the residential development standards policy paper and presentation, the topics below are the ones that were addressed directly by the CAC.

1. Overwater residences

To protect ecological functions, the Shoreline Master Program update is focusing stronger limits on overwater coverage in general, with overwater residences being one topic of concern. Specifically, the new SMP would prohibit construction of new overwater residences and expansion of existing overwater residences. *Note: floating homes are not included in this discussion, and will be addressed separately.*

Pros	Cons	General Comments
<ul style="list-style-type: none"> • <i>Proposals would cap non-water-dependent overwater coverage, reducing future degradation of ecological function</i> 	<ul style="list-style-type: none"> • Limits to overwater residences should only occur after the City has produced detailed information on the cumulative impacts they are trying to address. • WAC guidelines only say that jurisdictions “should” limit overwater residences, not “shall.” • Limitations on overwater residences will be difficult for lots with small amounts of dry land. • <i>Allowing existing overwater coverage to remain causes ongoing impacts to salmon habitat.</i> 	

DPD continues to support prohibiting the creation or expansion of overwater residences. While the cumulative impact of overwater residences hasn’t been quantified, it is clearly documented that overwater structures have substantial impacts to ecological function due to displacement of habitat, shading, light, noise, heat, and physical pollution resulting from habitation in or above water. WAC 173.26.241 (3) (j) states that “New over-water residences, including floating homes, are not a preferred use and should be prohibited.”



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DPD intends to allow ongoing repair and maintenance of existing overwater residences. For replacement, overwater structures need to meet development standards as feasible while allowing for reasonable use. See “Policy Paper: Non-conforming Structures and Uses” for more detail.

2. Residential Structure Setbacks

DPD proposes increasing the structure setback based on best available science. Additional setbacks may be appropriate near steep slopes or critical habitats such as eel grass beds and forage fish spawning areas.

Pros	Cons	General Comments
<ul style="list-style-type: none"> • <i>Setbacks will be based on best available science, and will result in increased ecological benefit.</i> • <i>Setbacks help protect views from neighboring structures.</i> 	<ul style="list-style-type: none"> • Existing setbacks work well – no need to change them. • <i>Setbacks reduce flexibility for homeowners to develop or redevelop their property</i> • <i>Historic development pattern has resulted in the creation of properties with very little land – these properties would be impacted.</i> • <i>Setback would make more homes be considered non-conforming.</i> 	<ul style="list-style-type: none"> • If increased setbacks are based on projections of rising sea level, these setbacks should only apply below the locks.

DPD proposes a setback of 35 feet for all structures with specific landscaping requirements for new development or redevelopment. This setback proposal is based on a survey of best available science. Existing vegetation in the setback area must be maintained, and if disturbed, must be replaced.



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3. Stormwater and Impervious Surface Controls

DPD proposed considering new stormwater and Low Impact Development (LID) standards, as well as limits to impervious surface.

Pros	Cons
<ul style="list-style-type: none"> Stormwater has one of the biggest negative impacts on shorelines and water quality. Low Impact Development practices at the shoreline would be a step toward addressing the problem 	<ul style="list-style-type: none"> Stormwater is already regulated by numerous city, state, and federal agencies, and new SMP requirements would cause additional regulatory burden. Because stormwater and shorelines regulations are reviewed separately by DOE, trying to address one in the other will lead to very complicated revisions in the future. Stormwater problems are a city-wide issue, and shoreline property owners would be disproportionately burdened by stormwater regulations in the SMP even though upland properties outside the shoreline jurisdiction may have equal impacts.

DPD finds that the proposed stormwater code makes significant progress toward improving water quality. Among other provisions, the code requires that single-family residential uses must meet stormwater requirements through use of green stormwater infrastructure to the maximum extent feasible. We are continuing to evaluate how the new stormwater code will or will not meet state SMP guidelines.

4. Other Comments

A committee member requested that DPD clarify that single family homes are exempt from public access and view corridor requirements.

There is no proposal to apply public access or view corridor requirements to single-family residential uses. DPD will continue to require view corridors and public access for multifamily residential structures with four units or more.

A member of the public requested that the proposed changes include a list of preferred uses of aquatic weed control methods, prioritizing manual removal over the use of herbicides.

DPD will prioritize methods used for aquatic weed control with the methods that will cause the least impact preferred and required, unless the applicant demonstrates that these methods are not feasible.



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Commercial/Industrial Use & Development Standards Policy Paper

Summary

The new WAC/SMP update requirements require that water-dependent uses are given priority to use the shoreline before non-water dependent uses are allowed. Local jurisdictions are instructed to evaluate the demand for water-dependent businesses on the shoreline. If it is determined that there is a surplus of land then updated regulations can allow non-water dependent uses on the shoreline.

DPD evaluated existing development and use standards for the Urban Maritime (UM) and Urban Industrial (UI) shoreline areas and has proposed the following changes to meet the WAC/SMP update requirements.

Key Issues and Questions:

- Should **recreational marinas and/or yacht**, boat and beach clubs be allowed in the Urban Industrial or the Urban Maritime shoreline environments?
- Should **water-related museums** be allowed on waterfront and upland lots or just upland lots?
- What type of **institutional uses** should be allowed on upland lots?
- Should **caretaker units** be further limited to help avoid conflicts between residential developments in areas intended for industrial uses? If so, should we limit the uses they may be accessory to, the size of lots they may be accessory to, or their total size?
- Are there opportunities for requiring or incentivizing **waterfront vegetation and building setbacks**? Could development bonuses be used to achieve more vegetation or building setbacks on a site?
- Are there opportunities for requiring or incentivizing **sustainability practices and green infrastructure** such as green roofs, permeable paving, green stormwater infrastructure, and rainwater harvesting?

Proposed Changes to the SMP

Proposed Goals & Policies

Proposed changes to existing purpose and location criteria for each shoreline designation are discussed in the document titled Shoreline Environment Designations Purpose and Location Policy Paper.

Proposed Regulatory Changes



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Proposed changes to uses allowed in Commercial and Industrial areas are listed separately in proposed land use tables. In general, the changes are intended to maintain the requirement for water-dependent and water-related uses on waterfront lots, but to allow greater flexibility on upland lots. The City is currently undertaking analysis of the demand by water-dependent and water-related uses for waterfront locations and will re-evaluate our original proposal once results are finalized to determine if additional flexibility is needed on waterfront lots. In addition, the following issues are being considered to inform our proposal

- Should **recreational marinas and/or yacht**, boat and beach clubs be allowed in the Urban Industrial or the Urban Maritime shoreline environments?
- Should **water-related museums** be allowed on waterfront and upland lots or just upland lots?
- What type of **institutional uses** should be allowed on upland lots?

The following issues relating to development standards in Commercial and Industrial areas are also being considered:

- Should **caretaker units** be further limited to help avoid conflicts between residential developments in areas intended for industrial uses? If so, should we limit the uses they may be accessory to, the size of lots they may be accessory to, or their total size?
- Are there opportunities for requiring or incentivizing **waterfront vegetation and building setbacks**? Could development bonuses be used to achieve more vegetation or building setbacks on a site?
- Are there opportunities for requiring or incentivizing **sustainability practices and green infrastructure** such as green roofs, permeable paving, green stormwater infrastructure, and rainwater harvesting?

State Guidelines

WAC 173-26-221 (5) (d), “High-intensity” Environments, provides management policies for commercial/industrial environments. WAC 173-26-221 (5) and (6) provide guidelines for shoreline vegetation conservation and water quality that must be considered as well in determining use and development standards.

Existing Regulations

Seattle Municipal Code 23.60.220 summarizes the purpose and location criteria for each of the commercial and industrial shoreline environments (Urban Stable, Urban Harborfront, Urban Maritime, Urban General, and Urban Industrial). Seattle Municipal Code 23.60.240 through 23.60.882 provides specific use and development standards for each environment.



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Commercial/Industrial Development Standards Response Paper

This document contains proposals presented to the Citizens Advisory Committee (CAC) members, a summary of the views expressed by CAC members, and DPD’s responses to these comments in italics. A full description of the original proposal presented by DPD to the CAC can be found in the document entitled Commercial/Industrial Development Standards Policy Paper, dated October 2009.

General Information: DPD, with input from the Shoreline Master Program (SMP) CAC, recognizes that water-related businesses are essential to the economic health of water-dependent businesses and we do not believe that there should be a large distinction between these two types of uses. However, a clear definition of both “water-dependent” businesses and “water-related” businesses is needed to meet the Department of Ecology’s SMP update requirements (WAC 173-26). Therefore DPD will clearly define water-dependent and water-related and proposes to allow water-related uses on waterfront parcels in the Urban Industrial and Urban Maritime shoreline environments.

1. Caretaker units. Residential uses are limited or prohibited in UM and UI environments to protect water depended and water-related business in the shoreline jurisdiction. Caretaker units present potential conflicts.

- a. Which uses typically require 24-hour caretakers?
- b. For water-dependent and water-related business, is the need for caretaker units linked to uses or parcel size? If so, how big does a parcel need to be require a 24-hour caretaker? What is the appropriate maximum size for caretaker units that will allow necessary caretakers (Current code allows 800 square feet)?
- c. Other suggestions for how the code can be more specific about when and where caretaker units are allowed so that we can avoid conflict between industrial uses and residential uses?

Pros	Cons	General Comments
<ul style="list-style-type: none"> • Allow if they meet general criteria that minimize potential conflicts, or only if they meet strict, prescriptive criteria • Should be the property owners decision as to whether a caretaker unit is needed • Why are regulations needed – worse case scenario is that there is a penthouse existing in the UI or UM environment 	<ul style="list-style-type: none"> • Potential concern for industry due to potential conflicts between industrial and residential uses including noise complaints, traffic, and displacement of industrial uses. 	<ul style="list-style-type: none"> • Current code too ambiguous – provide clear language as to when a caretaker unit is allowed and what a caretaker unit is. • Question as to whether there really is a problem with noise complaints from occupants of caretaker units? • “Slippage” could be a problem, i.e. caretaker units could be rented or expanded in the future,



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<ul style="list-style-type: none"> • Potential benefit industrial properties as they could provide additional security and income. • <i>Question: The purpose of a caretaker unit is to provide a service to the property owner; therefore, why would a caretaker unit provide income?</i> 		<p>introducing residential uses where they aren't appropriate. The property owner should have to demonstrate their need, then continue to demonstrate the original need throughout future uses.</p> <ul style="list-style-type: none"> • Find the spot between being specific enough to allow a clear interpretation, but general enough not to be overly complicated and restrictive.
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Overall, comments suggested that caretakers units should be allowed under limited circumstances and that use criteria should be carefully written to avoid confusion and balance diverging opinions.

DPD recommends that caretaker units should be allowed as an accessory use with a clear definition of a caretaker unit and clear development standards.

2. Vegetated buffer setbacks. Best available science suggests that at minimum, a 50' vegetated buffer along all shorelines is needed to protect ecological functions. Plants and trees provide shade to shallow-water areas, can improve water quality, and provide habitat for birds and beneficial insects. Even our most heavily impacted shorelines are migratory routes for salmon, and could benefit from more vegetation.

That said, a 50-ft buffer isn't compatible with many shoreline uses, especially in industrial areas. A DPD aerial photo analysis of UM and UI environments suggests that in Lake Washington and the Ship Canal, approximately 10-25% of waterfront parcels could accommodate some amount of shoreline vegetation and approximately 50% of the parcels along the Duwamish could accommodate some shoreline vegetation.

What incentives or bonuses could DPD use to encourage building setbacks and increase the amount of vegetation along the shoreline?

Pros	Cons	Comments
<ul style="list-style-type: none"> • Reducing existing regulatory requirements, such as reduced view corridors, public access, and optional height bonus, in exchange for desired buffers easier for industry. • Provide money incentives, tax benefits for vegetated buffers, such as King County's Public Benefit Rating System (PBRs). • Consider a lease easement to the City or State, like the Conservation Reserve 	<ul style="list-style-type: none"> • Do not consider the above reductions – view corridors and public access must be protected on all shorelines, including industrial areas. • Tradeoffs with other requirements represent compromise on other important goals such as views or public access for ecological benefit. 	<ul style="list-style-type: none"> • Connect to the Restoration Plan, coordinate with all habitat planning • Expedited regulatory review and extra incentives for multiple side-by-side properties is another option. • Clarify the ways in which projects with buffers



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<p>Enhancement Program (CREP) that is available for farms.</p> <ul style="list-style-type: none"> • Yes, need regulatory requirements. 		<p>already face an easier regulatory process</p>
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As described in the above table, no consensus emerged over the degree to which vegetation and setbacks should be achieved through regulatory means versus incentives.

DPD will propose building setback for all uses in commercial and industrial. We are currently in the process of evaluating best available science on the subject to determine a standard that appropriately balances ecological and economic goals and takes into account existing development patterns. We will continue to seek revegetation as part of mitigation plans to increase vegetation in these areas. DPD will also evaluate other options for encouraging additional setbacks and vegetation, where appropriate. In doing so, we will prioritize approaches that do not compromise other goals such as public access and seek to utilize existing programs such as the PBR system.

3. Green infrastructure. Industrial zones contain the most intense land uses in terms of lot coverage and impervious surfaces. Landscaping, which can provide stormwater benefits, mitigation of the urban heat island effects, wildlife habitat, and improved air quality, is usually constrained on industrial sites. Trees and other plantings are often not compatible with moving large equipment. Innovative stormwater technologies that encourage infiltration, like permeable paving and bioswales, are limited by the presence or possible presence of soil and groundwater contamination.

Where are trees and other plantings feasible, and how could DPD effectively encourage them in these locations? What incentives or bonuses could be used to encourage green roofs and vegetated walls on buildings in industrial zones? How else could the City encourage innovative stormwater management on industrial sites, taking into consideration the challenges presented by potentially contaminated soils?

Pros	Cons	Comments
<ul style="list-style-type: none"> • Coordinate with the City's green building efforts and tie to mitigation if possible. • Consider trading off with view corridors, allow more upland development. • Look at Marysville downtown master plan for good examples of low impact development practices. 	<ul style="list-style-type: none"> • SMP might not be an appropriate place to address low impact development provisions as it requires review by the State Department of Ecology and these provisions can be fairly complicated. This should be handled in a different part of the code. Keep the SMP simple. • Do not trade off with view corridors; views must be protected on all shorelines including industrial areas. • Think about this for all industrial areas – they all contribute stormwater to the same system, so shoreline properties shouldn't be singled out differently. 	<ul style="list-style-type: none"> • If green infrastructure is addressed in the SMP, it was suggested that it be closely coordinated with the City's green building efforts and the mitigation process generally.
<ul style="list-style-type: none"> • Water quantity isn't a big issue on 	<ul style="list-style-type: none"> • Unfair to create additional 	<ul style="list-style-type: none"> • Should focus on water



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<p>these shorelines (but water quality is). Any low impact development provisions should be designed accordingly.</p> <ul style="list-style-type: none"> • Water quality should be specifically addressed as part of the Shoreline Alternative Mitigation Program (SAMP). 	<p>stormwater requirements for shoreline properties when all properties discharge to a sewer system.</p>	<p>quality rather than water quantity as quantity is not an issue for shorelines</p>
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Additional Questions:
How would this relate to buffers?

DPD will be working with SPU to determine if the proposed revised Seattle stormwater regulations will meet the state’s SMP update requirements (WAC 173-26). If DPD determines that they will meet the requirements then the revised stormwater regulations will be required under the new Shoreline Master Program. If DPD determines that they do not then DPD will evaluate what additions to the stormwater regulations will be required to meet the WAC guidelines. Buffers are a separate issue that will be addressed through development standards.

4. Allowing non-water-dependent or non-water-related uses on waterfront lots.

New SMP guidelines allow for mixed use development on sites when it has been determined through an economic study that there is no demand for water dependent or water-related uses. The Office of Economic Development is currently doing a study that will help us answer this question. If mixed use is allowed, what types of non-water dependent uses should be allowed and what types of limitations should be put on non-water dependent uses?

Pros	Cons	Comments
<ul style="list-style-type: none"> • Allowing non-WDWR uses in commercial and industrial areas as demand by WDWR business was not very high and that a mix of uses helps to keep these properties viable when demand is low would improve conditions for industry. Industrial property owners do not want to lose options for the uses allowed on their property. • Support museums that are truly water dependent or water-related on both waterfront and upland lots. • It was also commented that the primary purpose of setting allowed uses and conditions should be industrial preservation. • Some commercial uses are more compatible/complimentary than others. For example, boat storage racks should be allowed, cabarets should not. 	<ul style="list-style-type: none"> • Other uses, particularly commercial would push out existing industrial uses • Primary purpose of setting allowed uses and conditions should be industrial preservation • Non-water-dependent museums should not be allowed • Allowing mixed uses could snowball and push out industrial uses • Concern about increasing the number of uses that were prohibited outright as they felt the conditional use requirements was sufficiently stringent to prevent uses that could cause a conflict with existing uses. Keep existing code language that allows some non-WD/WR uses as conditional uses. • Proposed prohibitions (“X’s”) of 	<ul style="list-style-type: none"> • Term “water-related” should capture any use that benefits from proximity to water • Some people felt that the conditions for being allowed (i.e. potential conflicts with other uses) were more important than specific use. • Little discussion was given to the types of WDWR uses that should be allowed; however, some members felt that the conditions for being allowed (i.e. potential conflicts with other uses) were more important than specific use. • Conditions in Duwamish are different than those in



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<ul style="list-style-type: none"> • Conditions are more important than the specific use. 	<p>many existing uses will make maintenance and upkeep more difficult.</p>	<p>the Ship Canal.</p>
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DPD has updated the original Use Tables for the UI and UM environments to reflect discussions and to include information regarding which non-water dependent uses may be allowed based on the economic study to determine the demand for water-dependent and water-related uses.

5. Are there other limitations or requirements that should be included if non-water dependent uses are allowed on waterfront lots? Should **recreational marinas and/or yacht**, boat and beach clubs be allowed in the UI or the UM shoreline environments? Should **water-related museums** be allowed on waterfront and upland lots, or just upland lots? What type of **institutional uses** should be allowed on upland lots?

Recreational marinas and yacht, boat and beach clubs in the UI and UM environments
 Members were divided over the degree or circumstance under which they should be allowed in UI and UM environments.

Pros	Cons	Comments
<ul style="list-style-type: none"> • Recreational marinas do not represent a major use conflict and should be allowed in the UI and UM environment 	<ul style="list-style-type: none"> • Yacht, boat, and beach clubs might generate more traffic and noise complaints • Recreational marinas could cause displacement of existing industrial uses 	

DPD has modified the original proposal to permit existing recreational marinas and yacht boat and beach clubs. Therefore non-conforming uses will not be created from this proposal. New recreational marinas would not be allowed, in order to prevent conflict between recreational and industrial uses. Note that recreational moorage will continue to be allowed in commercial marinas.

Institutions

There was little discussion of this topic; however, water-related museums were generally considered to be compatible if they were truly water-related.

Pros	Cons	• Comments
<ul style="list-style-type: none"> • Water-related museums are generally considered to be compatible if they were truly water-related such as the Aquarium 		

Water-related institutions including water-related museums will be allowed in the UI and UM environments.

7. Uses and Development Standards in Urban Harborfront Environments



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Bus parking

A prohibition on bus bases was supported broadly as these uses are big polluters and not an appropriate or effective use of land in the shoreline area.

DPD will change the proposed use table consistent with these comments.

Proposal to prohibit overwater parking

Pros	Cons	• Coments
<ul style="list-style-type: none"> • Support the concept – overwater parking is not an appropriate use for finite shoreline parcels 	<ul style="list-style-type: none"> • Could result in substantial constrains on any future development or changes in use • City should be especially flexible when it came to allowing continued use of existing overwater parking (potentially through a conditional use review) as strict standards could prevent people from undertaking any modifications. 	

DPD is reevaluating these standards.

Interface between SMP and waterfront planning

The committee broadly expressed concern that changes relating to the viaduct removal and redevelopment of the waterfront raise land use issues that the City and the Committee could not predict at this time. It was advised that the City revisit this designation after the waterfront planning process had progressed further. Some people expressed a concern that proposals currently being considered could narrow the broader planning process and should be tabled entirely.

DPD will revisit the UH environment in a year; however, the timeline of the SMP update process may make it difficult to consider significant changes beyond this point.



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Urban Industrial Use Table, Revised				
P =	Permitted	Please see "Shoreline Environments Use Chart Caveats" for		
X =	Prohibited	explanations of numbers.		
CU =	Conditional Use	Highlighted cells indicate proposed changes.		
CCU =	Council Conditional Use	? Use by non-water dependent uses TBD based on economic study		
SU =	Special Use			
		UI Existing	UI Proposed	
		Waterfront	Waterfront	
				UI Existing
				Upland
				UI Proposed
				Upland
Agricultural				
	Aquaculture	P	P	P
	Other Agriculture Use	X	X	P
Commercial				
	Animal shelters and kennels,	X	X	P
	Eating and drinking establishments;	CU 31 34, X 33	?	P
	Entertainment uses,	X	X	P
	Food processing and craft work uses.	P 40, CU 43	P 40, ?	P
	Laboratories, research and development	P	P 40, ?	P
	Lodging	X	X	P
	Medical services,	X	X	P
	Offices	CU 31 43	X	P
	Sales and service uses, automotive	X	X	P
	Sales and services, General	CU 31 43	P 40, ?	P
	Sales and service uses, heavy	CU 31 38 43	P 40, ?	P
	Commercial services, heavy	X	?	P
	Commercial laundry		?	P
	Major durables retail sales		?	P
	Wholesale showroom	P	P 40, ?	P
	Sales and services, marine			
	Marine service station	P	P	P
	Sale or rental of small boats, boat parts, or accessories	CU 31 43	P	P
	Sale or rental of large boats,	P	P	P
	Vessel repair, major,	P	P	P
	Vessel repair, minor,	P	P	P
High-impact Uses				
	High-impact uses	P 40, X 43	P 40, X 43	P 40, X 43
Institutional				
	Institutional uses		P 40 54, X	P 40 54, X
	Yacht, boat and beach clubs		P 54, X	P 54, X
Manufacturing				
	Light manufacturing	P	P 40, ?	P
	General manufacturing	P	P 40, ?	P
	Heavy manufacturing	P	P 40, ?	P
Parks and Open Space				
	Parks and Open space uses		P	P



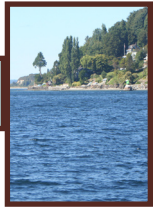
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	UI Existing Waterfront	UI Proposed Waterfront	UI Existing Upland	UI Proposed Upland
Residential				
Accessory Dwelling Unit	P 54, X	P 54, X	P 54, X	P 54, X
Adult Family Homes	P 54, X	P 54, X	P 54, X	P 54, X
Artist studio/dwelling.	P 54, X	P 54, X	P 54, X	P 54, X
Assisted Living Facilities	P 54, X	P 54, X	P 54, X	P 54, X
Caretaker Quarters	P 54, X	P 54, X	P 54, X	P 54, X
Congregate residences	P 54, X	P 54, X	P 54, X	P 54, X
Detached Accessory Dwelling Unit	P 54, X	P 54, X	P 54, X	P 54, X
Domestic Violence Shelter	P 54, X	P 54, X	P 54, X	P 54, X
Floating home moorage	P 54, X	P 54, X	P 54, X	P 54, X
Mobile Park Home	P 54, X	P 54, X	P 54, X	P 54, X
Multifamily residences	P 54, X	P 54, X	P 54, X	P 54, X
Nursing homes	P 54, X	P 54, X	P 54, X	P 54, X
Single-family dwelling units	P 54, X	P 54, X	P 54, X	P 54, X
Storage Uses				
Mini-warehouses	CU 31 34 43, X 33	?	X 33	P
Warehouses	P	P 54, ?	P	P
Outdoor storage	P	P 54, ?	P	P
Transportation Facilities				
Bridges	P	P	P	P
Cargo terminals,	P 40, X 43	P 40, ?	P 40, X 43	P
Parking and moorage				
Boat moorage				
Commercial moorage	P	P	P	P
Recreational marina	CU 51	P 54, X		X
Dry boat storage,	P	P	P	P
Parking, principal use,	X	X	X	X
Passenger terminal	P 40, X 43	P 40, X 43	P 40, X 43	P 40, X 43
Rail Transit Facilities		P		P
Transportation Facilities, Air				
Airports, land-based;		X		X
Airports, water-based	SU	CU	SU	CU
Heliports,	X	X	X	X
Helistops,	X	X	X	X
Vehicle storage and maintenance		X		X
Tugboat services	P	P	P	P
Railroads	P	P	P	P
Streets	P	P	P	P
Utilities				
Communication utilities, minor		P		P
Communication utilities, major	X	X	X	X
Power plants	X	X	X	X
Recycling	P 40, X 43	P 40, X 43	P	P
Sewage treatment plants	CCU 59, X 58	CCU 59, X 58		CCU 59, X58
Solid waste management	P 40, X 43	P 40, X 43	P	P



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Urban Maritime Use Table, Revised					
P =	Permitted	Please see "Shoreline Environments Use Chart Caveats" for			
X =	Prohibited	explanations of numbers.			
CU =	Conditional Use	Highlighted cells indicate proposed changes.			
CCU =	Council Conditional Use	? Use by non-water dependent uses TBD based on economic study			
SU =	Special Use				
		UM Existing	UM Proposed	UM Existing	UM Proposed
		Waterfront	Waterfront	Upland	Upland
Agricultural		P	P	P	P
	Aquaculture	X	X	X	X
	Other Agriculture Use				
Commercial					
	Animal shelters and kennels	X	X	P	P
	Eating and drinking establishments	CU 43 70	?	P	P
	Entertainment uses,	X	X	X	X
	Food processing and craft work uses	P 40, CU 43	P 40, ?		
	Laboratories, research and development	CU 71, X	P 40, ?	P	P
	Lodging	X	X	X	X
	Medical services	X	X	P	P
	Offices	CU 43 70	X	P 47, CU 72	P
	Sales and service uses, automotive	X	X	P	P
	Sales and services, General	CU 43 70	P 40, ?	P	P
	Sales and service uses, heavy			P	P
	Commercial services, heavy	CU 43 70	P 40, ?	P	P
	Major durables retail sales	CU 43 70	P 40, ?	P	P
	Wholesale showroom	P 40, CU 43 70	P 40, ?	P	P
	Sales and services, marine				
	Marine service station	P	P	P	P
	Sale or rental of small boats, boat parts, or accessories	CU 42 70	P	P	P
	Sale or rental of large boats	P	P	P	P
	Vessel repair, major	P	P	P	P
	Vessel repair, minor	P	P	P	P
High-impact Uses					
	High-impact uses	X	X	X	X
Institutional					
	Institutional uses;		P 40 54, X		P 40 54, X
	Yacht, boat and beach clubs		P 54, X		P 40 54, X
Manufacturing					
	Light manufacturing	P 40, CU 43 70	P 40, ?	P	P
	General manufacturing	P 40, CU 43 70	P 40, ?	P	P
	Heavy manufacturing	SU 40, CU 43 70	P 40, ?	SU	SU
Parks and Open Space					
	Parks and Open space uses;		P		P
Residential					
	Accessory Dwelling Unit	X	X	CU 72	CU 72



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	UM Existing	UM Proposed	UM Existing	UM Proposed
Adult Family Homes	X	X	CU 72	CU 72
Artist studio/dwelling.	X	X	CU 72	CU 72
Assisted Living Facilities	X	X	CU 72	CU 72
Caretaker Quarters	X	X	CU 72	CU 72
Congregate residences	X	X	CU 72	CU 72
Detached Accessory Dwelling Unit	X	X	CU 72	CU 72
Domestic Violence Shelter	X	X	CU 72	CU 72
Floating home moorage	X	X	CU 72	CU 72
Mobile Park Home	X	X	CU 72	CU 72
Multifamily residences	CU 71	P 54	CU 72	CU 72
Nursing homes	X	X	CU 72	CU 72
Single-family dwelling units	X	X	CU 72	CU 72
Storage Uses				
Mini-warehouses	CU 43 70	CU 43 70*	P	P
Warehouses	P 40, CU 43 70	P 40, CU 43 70*	P	P
Outdoor storage	P 40, CU 43 70	P 40, CU 43 70*	P	P
Transportation Facilities				
Bridges	P	P	P	P
Cargo terminals	P 40, X 43	P 40, X 43	P	P
Parking and moorage				
Boat moorage				
Commercial moorage	P 76	P 76	P 76	P 76
Recreational marina	CU 76	P 54	CU 76	CU 76
Dry boat storage,	P	P	P	P
Parking, principal use,	X	X	X	X
Passenger terminal	P 41, X 43	P 41, X 43	P	P
Rail Transit Facilities		P		P
Transportation Facilities, Air				
Airports, land-based	X	X	X	X
Airports, water-based	SU	SU	SU	SU
Heliports,	X	X	CCU	CCU
Helistops,	X	X	CCU	CCU
Vehicle storage and maintenance		X		P
Tugboat services	P	P	P	P
Railroads	P	P	P	P
Streets	P	P	P	P
Utilities				
Utilities lines	P	P	P	P
Communication utilities, minor		P		P
Communication utilities, major	X	X	X	X
Power plants	X	X	X	X
Recycling	X	P 40, X 43	P	P
Sewage treatment plants	X	X	X	X
Solid waste management	X	P 40, X 43	X	P



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DREDGING AND FILLING POLICY PAPER

PROPOSALS FOR SMP UPDATE

Proposed Goals & Policies

Below are the proposed comprehensive plan goals and policies relating to dredging and filling:

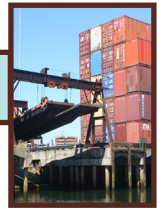
Dredging should only be permitted where necessary for access to water-dependent or water-related uses, environmental mitigation or enhancement, clean-up of contaminated materials, and installation of utilities and bridges. Projects should be designed to minimize impacts to ecological function and should incorporate mitigation for dredging impacts to ensure no net loss of ecological function. Dredging and disposal of dredge materials shall be conducted in a manner that minimizes short and long-term environmental damage. (LU249)

Landfill on submerged land that does not create dry land should only be permitted where necessary for the operation of a water-dependent or water-related use, transportation projects of state-wide significance, installation of a bridge or utility line, disposal of dredged material in accordance with the Dredged Material Management Program, beach nourishment or environmental mitigation or enhancement. Landfill that creates dry land should only be permitted where necessary for transportation projects of statewide significance, repair of pocket erosion, beach nourishment, or environmental mitigation or enhancement. Projects should be designed to minimize impacts to ecological function and should incorporate mitigation for dredging impacts to ensure no net loss of ecological function. Fills shall be constructed in a manner that minimizes short and long-term environmental damage. (LU250)

Proposed Regulatory Changes

We are currently considering the following changes to the locational standards in the Shoreline Environment section for dredging and filling:

- Prohibit dredging accessory to residential docks and piers in Conservancy Recreation and Urban Residential
- Limit landfill which creates dry land to minor projects that re-establish a previously existing ordinary high water mark or that provide environmental mitigation or enhancement
- Clarify that dredging for environmental mitigation or enhancement including beach nourishment is allowed in all environments



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Overall, we are proposing to maintain the current general development standards for filling and dredging with the exception of the following changes that are intended clarify or make minor edits to existing regulations:

- Clarify that best management practices must be employed to deal with the following issues: dredged material containment, turbidity generation, dewatering of dredge materials, identification of contaminated materials. (These best management practices are generally required already through general development standards, but additional clarity is needed).
- Clarify potential impacts of dredging and fill as well as options for mitigation
- Clarify provision relating to landfill on dry land
- Limit allowance for landfill related to the repair of pocket erosion to repairs that are necessary for continued operation of a water-dependent or water-related use or where the erosion pocket does not exceed a specified width (likely twenty feet) as measured between adjacent revetments.

STATE GUIDELINES

WAC 173-26-231

(c) **Fill.** Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

Fills waterward of the ordinary high-water mark shall be allowed only when necessary to support: Water-dependent use, public access, cleanup and disposal of contaminated sediments as part of an interagency environmental clean-up plan, disposal of dredged material considered suitable under, and conducted in accordance with the dredged material management program of the department of natural resources, expansion or alteration of transportation facilities of statewide significance currently located on the shoreline and then only upon a demonstration that alternatives to fill are not feasible, mitigation action, environmental restoration, beach nourishment or enhancement project. Fills waterward of the ordinary high-water mark for any use except ecological restoration should require a conditional use permit.

(f) **Dredging and dredge material disposal.** Dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts and impacts which cannot be avoided should be mitigated in a manner that assures no net loss of shoreline ecological functions.

New development should be sited and designed to avoid or, if that is not possible, to minimize the need for new and maintenance dredging. Dredging for the purpose of establishing, expanding, or relocating or reconfiguring navigation channels and basins should be allowed where necessary for assuring safe and efficient accommodation of existing navigational uses and then only when significant ecological impacts are minimized and when mitigation is provided. Maintenance dredging of established navigation channels and basins should be restricted to maintaining previously dredged and/or existing authorized location, depth, and width.



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Dredging waterward of the ordinary high-water mark for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the ordinary high-water mark. The project must be either associated with a MTCA or CERCLA habitat restoration project or, if approved through a shoreline conditional use permit, any other significant habitat enhancement project. Master programs should include provisions for uses of suitable dredge material that benefit shoreline resources. Where applicable, master programs should provide for the implementation of adopted regional interagency dredge material management plans or watershed management planning.

Disposal of dredge material on shorelands or wetlands within a river's channel migration zone shall be discouraged. In the limited instances where it is allowed, such disposal shall require a conditional use permit. This provision is not intended to address discharge of dredge material into the flowing current of the river or in deep water within the channel where it does not substantially affect the geohydrologic character of the channel migration zone.

EXISTING REGULATIONS

Dredging and filling is regulated through 1) Shoreline Environment section which establish where dredging and filling is allowed and for what reasons and 2) Development Standards section which establish development standards for dredging and filling where it is allowed. The requirements of the Shoreline Environment section are summarized in Document 3A. The three subsections of the Development Standards section relating to dredging and filling are below.

SMC 23.60.152 General development.

K. Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not to be developed shall be replanted. Surface drainage systems or substantial earth modifications shall be professionally designed to prevent maintenance problems or adverse impacts on shoreline features.

L. All shoreline development shall be located, constructed and operated so as not to be a hazard to public health and safety.

M. All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades.

23.60.182 Dredging standards.

A. Dredging and dredged material disposal shall be designed to include reasonable mitigating measures to protect aquatic habitats and to minimize adverse impacts such as



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turbidity, release of nutrients, heavy metals, sulfides, organic materials or toxic substances, dissolved oxygen depletion, disruption of food chains, loss of benthic productivity and disturbance of fish runs and important biological communities.

B. Dredging shall be timed so that it does not interfere with migrating aquatic life, as prescribed by state and federal requirements.

C. Open-water disposal of dredged material shall be permitted only at designated disposal sites.

D. Stockpiling of dredged material in or under water is prohibited.

E. Dredging of material that does not meet the Environmental Protection Agency and Department of Ecology criteria for open-water disposal shall be permitted only if:

1. The dredging would not cause long-term adverse impacts to water sediment quality, aquatic life or human health in adjacent areas; and
2. A dry land or contained submerged disposal site has been approved by the Environmental Protection Agency (EPA) and the Director of the Seattle/King County Department of Public Health, or any successor agency.

F. Dredging for the purpose of obtaining fill or construction material, or otherwise mining submerged land is prohibited except where the applicant can show that:

1. The existing benthos is sterile or largely degraded and shows no sign of regeneration; and
2. The dredging will have only mitigatable impact on water quality and aquatic life.

G. Incidental dredged material resulting from the installation of a utility line or intake or outfall may remain under water if:

1. It can be placed without long-term adverse impacts to water quality, sediment quality, aquatic life or human health; and
2. The environmental impacts of removing the material and relocating it to an open-water disposal site are greater than the impacts of leaving the material at the original site.

23.60.184 Standards for landfill and creation of dry land.

A. Solid waste, refuse, and debris shall not be placed in the shoreline.

B. Shoreline fills or cuts shall be designed and located so that:

1. No significant damage to ecological values or natural resources shall occur; and
2. No alteration of local currents nor littoral drift creating a hazard to adjacent life, property or natural resources systems shall occur.

C. All perimeters of fills shall be provided with vegetation, retaining walls, or other mechanisms for erosion prevention.

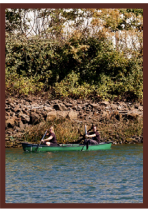
D. Fill materials shall be of a quality that will not cause problems of water quality.

E. Shoreline fills shall not be considered for sanitary landfills or the disposal of solid waste except for the disposal of dredged material permitted in subsection I below.

F. In evaluating fill projects and in designating areas appropriate for fill, such factors as total water surface reduction, navigation restriction, impediment to water flow and circulation, reduction of water quality and destruction of habitat shall be considered.

G. Deposit of fill material including dredged material shall not be permitted on lands which contain unique, fragile or ecologically valuable resources.

H. The final location and slope of fill material on submerged lands shall meet the criteria of the State Fisheries and Game Hydraulic Code.



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I. Dredged material not meeting the Environmental Protection Agency and Department of Ecology criteria for open-water disposal may be used for landfill in the shoreline only if:

1. The landfill is designed to be used for future water-dependent or water-related development;
2. The landfill meets the criteria for landfill in the environment in which it is located;
3. Either the area in which the material is placed has similar levels of the same contaminants or the material is placed in a manner that it will not be a source of contaminants in an area cleaner than the proposed fill material;
4. The landfill can be placed in the water or on the land without long-term adverse impacts to water quality, sediment quality, aquatic life, or human health; and
5. If classified as problem waste, any required EPA or DOE approval is obtained.

J. Incidental landfill which does not create dry land and is necessary for the installation of a utility line intake or outfall may be placed on submerged land if it will not have long-term adverse impacts to water quality, sediment quality, aquatic life or human health.

K. Landfill which creates dry land which is necessary to repair pocket erosion between adjacent revetments shall meet the following standards in addition to those in subsections A through J above:

1. The erosion pocket does not exceed one hundred feet (100') in width as measured between adjacent revetments;
2. The erosion pocket is in an area characterized by continuous revetments abutting and extending in both directions along the shoreline away from the erosion pocket;
3. The fill will not appreciably increase interference with a system of beach accretion and erosion; and
4. The fill does not extend beyond a line subtended between the adjacent revetments.

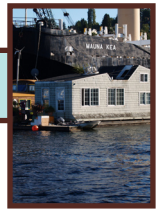
Other Regulatory Authorities

Typical dredging projects require the following permits in addition to a Shoreline Substantial Development Permit or Exemption Letter from the City:

- U.S. Army Corps of Engineers Permit (through Dredged Material Management Program, DMMP)
- Washington Department of Ecology Water Quality Certification
- Washington Department of Fish and Wildlife Hydraulic Project Approval

Additionally, a disposal site use authorization (SUA) must be obtained from Washington State Department of Natural Resources (DNR) prior to disposal of dredged material in any Puget Sound disposal site.

Each agency has a separate and limited regulatory authority, but overall they are directed to look primarily at navigation, water quality, sediment quality, and endangered species impacts. Review under the Shoreline Master Program is intended to look comprehensively at the project to ensure no net loss of environmental function.



Meeting: March 24, 2009

Dredging and Filling Response Paper

This document contains proposals presented to the Citizens Advisory Committee (CAC) members, a summary of the views expressed by CAC members, and DPD's responses to these comments in italics. Discussion of the original proposal presented by DPD can be found in the document entitled "Dredging and Filling Policy Paper," dated November 12, 2008.

Various changes were proposed for Comprehensive Plan goals and policies, but general development standards for filling and dredging would be largely maintained. Minor edits and clarifications to existing regulations include:

- Changes to the locational standards in the Shoreline Environment section for dredging and filling;
- Clarification of when best management practices must be employed;
- Clarification of potential impacts of dredging and fill and options for mitigation;
- Clarification relating to grading and filling activities on dry land – no longer to be considered landfill.

Overall, committee felt that the proposed changes did not represent a substantial change from existing regulations; however, there were a number of important comments where are summarized below:

One commenter was concerned that DPD was moving away from the maintenance and repair exemptions that exist today which could make repairs of structures harder.

DPD is not currently proposing to modify the language of the maintenance and repair exemption. However, it is possible that some proposed standards will impact projects that receive exemptions and may result in additional conditions. As it relates to dredging, maintenance dredging is currently exempt from a substantial development permit and is proposed to continue to be exempt under the current proposal. DPD is proposing to condition maintenance projects for ongoing impacts through the exemption process, but we are pursuing options to allow non-maintenance dredging projects to include mitigation to address all impacts including future maintenance dredging in order to prevent the need for conditioning during the maintenance dredging activities.

Another commenter recommended consideration of a provision to encourage the transfer of sediment and debris to the beach to allow for beach nourishment where railroads currently prevent the natural supply of sediment.

DPD will include this provision in the updated code to allow such beach nourishment. Currently there are a number of outstanding issues that must be resolved at the state level with the Clean Water Act regarding this activity.

Committee members also registered support for DPD's proposal to stop considering grading and filling activities on dry land as landfill.



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SHORELINE STABILIZATION POLICY PAPER

PROPOSALS FOR SMP UPDATE

Proposed goals and policies

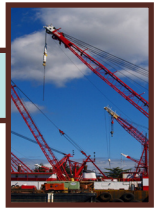
- 1) Future shoreline stabilization projects shall result in no net loss of ecological function.
- 2) Allow new or expanded bulkheads and other hard engineering only when a demonstrated need exists.
- 3) Require soft engineering wherever feasible for new shoreline stabilization projects.
- 4) Encourage replacement of bulkheads with soft engineering through a clearer permitting process for construction and maintenance.

Proposed regulatory changes

Existing regulations relating to shoreline stabilization will remain, except as described in the following proposed changes.

The first group of proposals would allow new “hard engineering” only where it is demonstrated that principal structures are threatened, and to allow replacement of existing “hard engineering” only where it is demonstrated that principal uses or structures are threatened. To comply with WAC guidelines, a provision is also included allowing bulkheads to protect single family residential principal structures.

- Allow new or enlarged structural shoreline stabilization only where a geotechnical study shows it is necessary to protect the primary structure or use.
- Clarify and add specificity to protocol for demonstrating the need for hard engineering through geotechnical study, pursuant to WAC 173.26.231D.
- Provide a list describing the spectrum of soft to hard engineering approaches. If a project proposes elements more intensive than gravel placement, the geotechnical study must address why softer solutions are not feasible. The following list comes from the WAC, with explanations inserted by DPD:
 - Vegetation enhancement (using plant material to hold soil in place with roots and other biomass)



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- Upland drainage control (draining upland property to reduce hydraulic pressure on shoreline slope)
 - Biotechnical measures (use of cuttings to stabilize slopes and establish vegetation)
 - Beach enhancement (use of rocks and other materials to stabilize an existing beach)
 - Anchor trees (use of logs secured in place to stabilize slopes)
 - Gravel placement (deposition of gravel material to build or reinforce a stable slope)
 - Rock revetments (use of riprap)
 - Gabions (wire baskets filled with riprap)
 - Concrete groins
 - Retaining walls and bluff walls
 - Bulkheads
 - Seawalls
- Clarify that new bulkheads must be placed at or above ordinary high water.
 - Allow replacement of shoreline stabilization structures with similar structures if the replacement structure is designed and constructed to assure no net loss of ecological function.
 - Define bulkhead replacement as new construction if the repairs make the bulkhead taller or longer (pursuant to WAC 173-26-231).
 - Revise ECA language to allow bulkheads protecting primary structures in single-family residential development.
 - Only provide bulkhead exemption to protect primary structures in single-family residential development – do not exempt bulkheads to protect “appurtenant structures” as in the current code language.

The remaining proposals focus on ways to make permitting for the construction and maintenance of natural shoreline stabilization projects easier. Existing code language already states that natural shorelines are preferred and encouraged, but doesn't provide specifics.



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- Clarify that beach nourishment and bioengineering are exempt from substantial development permits, regardless of associated use (i.e., not just single family residential). The City can already grant these through the fish and wildlife exemption, but it would help applicants and permit reviewers to include this explicitly in the shoreline regulations.
- Clarify that construction of natural shorelines may extend waterward of the ordinary high water line to create stable shoreline slopes and increase shallow-water habitat. In this type of project, existing ordinary high water line shall remain in place. This is currently allowed, but not clearly stated in the code.
- Establish a checklist for “green shorelines,” and consider an expedited permitting to projects that qualify.
- Provide an ongoing shoreline exemption for beach nourishment associated with natural shoreline stabilization. This exemption would approve an appropriate maintenance schedule for natural shorelines (for example, allowing ten cubic yards of beach gravel every five years), as well as permission to return the natural shoreline to its permitted design if blown out by an act of nature.

STATE GUIDELINES

WAC 173-26-231 General principles for shoreline modifications

(Read WAC pp. 71-77 for full guidelines – the summary below contains key points but does not include all supporting details)

- Distinguish between shoreline modifications and shoreline uses.
- Allow structural shoreline modification only where it is necessary to support or protect an allowed primary structure or legally existing shoreline use.
- Reduce adverse effects of modifications, limit their number and extent
- Allow modifications only when they are appropriate to the shoreline conditions in the proposed area
- Assure that modifications individually and cumulatively do not result in net loss of ecological functions. Give preference to shoreline modifications that have a lesser impact on ecological functions, and require mitigation for any impacts.
- Plan for enhancement of impaired ecological functions where feasible and appropriate.



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WAC 173-26-231 Shoreline stabilization principles

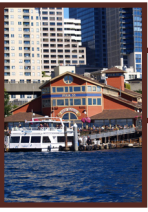
Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and contribute to sustaining the natural resource and ecology of the shoreline. Human use of the shoreline has typically led to hardening of the shoreline for various reasons including reduction of erosion or providing useful space at the shore or providing access to docks and piers. The impacts of hardening any one property may be minimal but cumulatively the impact of this shoreline modification is significant. See WAC pp 72-73 for details on the following list of ecological impacts resulting from shoreline stabilization:

- Beach starvation
- Habitat degradation
- Sediment impoundment
- Exacerbation of erosion
- Ground water impacts
- Hydraulic impacts
- Loss of shoreline vegetation
- Loss of large woody debris
- Restriction of channel movement and creation of side channels
- Localized erosion at the footings of bulkheads

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on less rigid materials, such as biotechnical vegetation measures or beach enhancement. **“Soft” measures typically have smaller ecological impacts, and are preferred over “hard” techniques.** There is a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining walls and bluff walls;
- Bulkheads; and
- Seawalls.

Master program shoreline stabilization provisions shall also be consistent with vegetation conservation provisions in WAC 173-26-221(5), and where applicable, protection of critical freshwater and saltwater habitat pursuant to WAC 173-26-221(2).



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Stabilization should be allowed where necessary to protect primary structures in single-family residential areas, and master programs should include standards stating when stabilization is permitted, and what types and designs are acceptable.

WAC 173-26-231 Shoreline stabilization standards

(A) New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. New development that would require shoreline stabilization which causes significant impacts should not be allowed.

(B) New structural stabilization measures shall not be allowed except when necessity is demonstrated in the following manner:

1. To protect existing primary structures:

- **New or enlarged structural shoreline stabilization measures for an existing primary structure, including residences, should not be allowed unless there is conclusive evidence, documented by a geotechnical analysis, that the structure is in danger from shoreline erosion.** Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need.
- The erosion control structure will not result in a net loss of shoreline ecological functions.

2. In support of new non-water-dependent development, including single-family residences, when all of the conditions below apply:

- The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
- Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
- **The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.** The damage must be caused by natural processes, such as tidal action, currents, and waves.
- The erosion control structure will not result in a net loss of shoreline ecological functions.

3. In support of new water-dependent development when all of the conditions below apply:

- The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
- Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.



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- **The need to protect primary structures from damage due to erosion is demonstrated through a geotechnical report.**

- The erosion control structure will not result in a net loss of shoreline ecological functions.

4. To protect projects for the restoration of ecological functions or hazardous substance remediation projects pursuant to chapter 70.105D RCW when all of the conditions below apply:

- Nonstructural measures, planting vegetation, or installing on-site drainage improvements, are not feasible or not sufficient.
- The erosion control structure will not result in a net loss of shoreline ecological functions.

(C) An existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect principal uses or structures from erosion caused by currents, tidal action, or waves.

- **The replacement structure should be designed, located, sized, and constructed to assure no net loss of ecological functions.**

- Replacement walls or bulkheads shall not encroach waterward of the ordinary high-water mark or existing structure unless the residence was occupied prior to January 1, 1992, and there are overriding safety or environmental concerns. In such cases, the replacement structure shall abut the existing shoreline stabilization structure.
- Where a net loss of ecological functions associated with critical saltwater habitats would occur by leaving the existing structure, remove it as part of the replacement measure.
- **Soft shoreline stabilization measures that provide restoration of shoreline ecological functions may be permitted waterward of the ordinary high-water mark.**
- **For purposes of this section standards on shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer adequately serve its purpose. Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.**

(D) Geotechnical reports that address the need to prevent potential damage to a primary structure shall address the necessity for shoreline stabilization by estimating time frames and rates of erosion. **Hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that a primary structure will be damaged within three years as a result of shoreline erosion, or where waiting**



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until the need is that immediate would foreclose the opportunity to use measures that would avoid ecological impacts, i.e., ‘softer’ engineering.

(E) When any structural shoreline stabilization measures are demonstrated to be necessary, pursuant to above provisions,

- **limit the size of stabilization measures to the minimum necessary.**

Use measures designed to assure no net loss of shoreline ecological functions. Soft approaches shall be used unless demonstrated not to be sufficient to protect primary structures, dwellings, and businesses.

- **Ensure that publicly financed or subsidized shoreline erosion control measures do not restrict appropriate public access** to the shoreline except where such access is determined to be infeasible because of incompatible uses, safety, security, or harm to ecological functions. See public access provisions; WAC 173-26-221(4). Where feasible, incorporate ecological restoration and public access improvements into the project.

- Mitigate new erosion control measures, including replacement structures, on feeder bluffs or other actions that affect beach sediment-producing areas to avoid and, if that is not possible, to minimize adverse impacts to sediment conveyance systems. Where sediment conveyance systems cross jurisdictional boundaries, local governments should coordinate shoreline management efforts. If beach erosion is threatening existing development, local governments should adopt master program provisions for a beach management district or other institutional mechanism to provide comprehensive mitigation for the adverse impacts of erosion control measures.

(F) For erosion or mass wasting due to upland conditions, refer to guidelines for geologically hazardous areas in WAC 173-26-221(2)(c)(ii).

EXISTING REGULATIONS

All development shall be located and designed to minimize the need for protective structures and shoreline stabilization. Where adverse impacts cannot be avoided, mitigation to protect species and habitat functions may be approved. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion (23.60.152).

Environmentally Critical Areas regulations prohibit new bulkheads, except when the bulkhead is necessary for the continued operation of a water-dependent or water-related use. Also, major repair of a bulkhead is prohibited unless it is necessary for the continued use or expansion of a water-dependent/water-related use, or if a bioengineered solution will not achieve the same level of protection as the existing structure



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(25.09.200). These regulations conflict with WAC guidelines and provisions in the Land Use Code, which allow bulkheads for single-family uses and repair/replacement of existing bulkheads.

The Land Use Code states that natural beach protection is encouraged and preferred over bulkheads and other structures, but no specific provisions are given. Natural beach protection shall not interrupt shoreline processes, result in groin-like structures, or extend waterward more than necessary (23.60.186).

Additional Land Use Code provisions relating to bulkheads and shoreline stabilization are summarized below.

Permitting

New bulkheads require a substantial development permit unless they are built to protect a single-family residence (23.60.020.C2). Beach nourishment or bioengineered controls may also be exempted when used to protect single-family residential properties.

Normal maintenance and repairs of existing structures are also exempted from substantial development permits. When a bulkhead deteriorates to the point that the ordinary high water line moves behind it, the replacement must be built at or above the new water line. Projects involving emergency construction or remediation of hazardous materials are also exempt.

Standards for Bulkheads

Nonresidential bulkheads (23.60.188 B):

- Shall not interrupt shoreline processes
- Shall comply with landfill standards for any dry land that is created
- Shall be adjacent to a navigable channel, necessary for WDWR uses, and needed to prevent “extraordinary erosion.”
- Can be used only when natural beach protection isn’t a viable option.

Residential bulkheads (23.60.188 C):

- Shall only be built when necessary to maintain land and protect from extraordinary erosion, when natural beach protection is not an option
- Shall not create dry land or extend waterward unless necessary to protect the toe of a cliff.
- Shall not extend waterward beyond adjacent bulkheads.

In general, riprap shall be preferred over vertical walls or slabs, except in UM, UG, and UI. Breakwaters and jetties are only allowed for protection of water-dependent uses where “design modifications can eliminate potentially detrimental effects on the movement of sand and circulation of water” (23.60.190). Where practical, floating breakwaters shall be constructed rather than solid landfill breakwaters and jetties.



Meeting: March 24, 2009

Shoreline Stabilization Response Paper

This document contains proposals presented to the Citizens Advisory Committee (CAC) members, a summary of the views expressed by CAC members, and DPD’s responses to these comments. The original proposals presented by DPD to the CAC can be found in the document entitled “Shoreline Stabilization,” dated November 12, 2008.

Of the various proposals put forward by DPD in the shoreline stabilization policy paper and presentation, CAC comments focused on three topics: requiring green shorelines where feasible, demonstrating the need for armoring, and thresholds for substantial repairs.

1. Requiring “green shorelines” where feasible.

DPD is proposing several policy changes to encourage green shorelines, including ongoing exemptions for beach nourishment. In addition to these incentives, DPD proposes that bulkheads will only be allowed in places where the applicant can demonstrate that soft engineering techniques will not work.

Pros	Cons	General Comments
<ul style="list-style-type: none"> • <i>Soft engineering offers substantial ecological benefits, including improved habitat and water quality.</i> • <i>Proposal would be designed to require bulkhead removal only where other options are feasible – this would help eliminate unnecessary armoring, while allowing bulkheads to remain as needed.</i> 	<ul style="list-style-type: none"> • <i>Removing bulkheads may move the waterline further inland – this could translate to a loss of property and an extension of the shoreline jurisdiction.</i> • <i>City does not yet have clear guidelines demonstrating where soft engineering is and isn’t feasible.</i> 	<ul style="list-style-type: none"> • <i>Consider ways to encourage revetments (buried structures that provide armoring while allowing a beach)</i> • <i>Revetments may work in coastal areas but not freshwater</i>

Numerous examples on Seattle’s shorelines demonstrate that beach restoration and other soft engineering practices, where appropriate, generally do not require moving the high water mark or loss of dry land. The new code will clarify that adding appropriate material below the water line will be allowed wherever it is necessary to create a stable slope for restored shorelines. Additionally, DPD’s proposals include provisions to allow beach nourishment to offset erosion; this would serve as an additional safeguard against losing land.

DPD continues to propose requiring green shorelines wherever feasible, and will continue to develop detailed guidance to help determine feasibility for a given site.

2. Requiring demonstrated need for shoreline armoring.

To comply with new state guidelines, DPD proposed to allow new or enlarged bulkheads where the need for that armoring can be demonstrated through a geotechnical study. The geotechnical study must establish that either:



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- a) A primary structure is threatened within three years and soft engineering isn't sufficient to avert the threat; or
- b) Waiting until the situation described in (a) will require a solution in the future that results in a larger ecological impact.

Pros	Cons	General Comments
<ul style="list-style-type: none"> • Meets state guidelines • Provides two paths to demonstrate whether or not a bulkhead is necessary. 	<ul style="list-style-type: none"> • If it must be demonstrated that a primary structure is in peril before a bulkhead is allowed, property owners could lose significant property if buildings are set back from the shoreline. • The City should continue to allow replacement bulkheads, without requiring demonstrated need. • Option (b) above is confusing and difficult to document. 	<ul style="list-style-type: none"> • Proactive policies should be adopted to make sure that single-family residences can't build "fortresses" in the future to fend off rising sea level.

DPD continues to propose that applicants must submit a geotechnical report demonstrating the need for new or enlarged bulkheads. A closer reading of the WAC suggests that replacement bulkheads, as long as they are not larger than the existing structure, only need to have a "demonstrated need to protect principal uses or structures" – a geotechnical report may not be required. DPD is continuing to evaluate what an acceptable alternate pathway to "demonstrated need" might be.

Ecology's standard of threatened damage within three years is unusual and would be difficult to credibly document. If approved by Ecology, DPD would change criterion (a) of the geotechnical report to require that there is a significant risk to primary structures (eliminating the three year provision).

As described in the initial proposal, the code would provide a list of shoreline stabilization techniques ranging from soft to hard. To justify armoring for non-water-dependent uses, the geotechnical report must demonstrate not only that stabilization is needed, but that it cannot be achieved using less intensive practices.

Note: feeder bluffs will be addressed as a separate issue.

With regard to rising sea level, DPD will continue to analyze the best available data regarding climate change models and plan policies accordingly. This may result in different requirements for saltwater and freshwater shorelines.

3. Bulkhead repair/replacement

Pursuant to WAC guidelines, DPD proposed that replacement bulkheads must demonstrate need (imminent threat and that soft engineering won't work). A given project will be considered replacement if it repairs 49% or more of the existing bulkhead. This requirement would not impact the standards determining when bulkheads are exempted from a substantial development permit.



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Pros	Cons	General Comments
<ul style="list-style-type: none">• <i>This would allow smaller repairs for pocket erosion, etc.</i>• <i>A large number of residential bulkheads are used to maximize lawn area, but are not needed to protect structures or property. The proposal would help direct these sites toward more sustainable options.</i>	<ul style="list-style-type: none">• Standard practice for bulkhead repairs is to replace the whole bulkhead. If an existing bulkhead needs repair, you should only need to demonstrate whether or not soft engineering will work (not that there is an imminent threat)	

See discussion in section 2.



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OVERWATER STRUCTURES POLICY PAPER

PROPOSALS FOR SMP UPDATE

Proposed goals and policies

1. Allow new and expansion of overwater structures only for water dependent and water-related uses or public access.
2. The new or expanded overwater structure should be the minimum necessary.
3. No new residential or commercial buildings over water (provisions for lots with little dry land to be discussed)
4. Avoid critical marine and fresh water habitat when building or expanding overwater structures.

Proposed regulatory changes

General Provisions

We are currently considering keeping the following regulations from the current code:

- Maximum overwater coverage via the lot coverage standards for each shoreline environment as shown in Table 1.

We are currently considering the following changes to the current regulations regarding overwater coverage for all shoreline environments:

- Limit overwater structures to water-dependent and water-related uses and public access only.
- Allow only the minimum necessary for the water-dependent and water-related use

Residential Piers

Specific development standards for residential piers have been developed by the Army Corps of Engineers with input from NOAA Fisheries. These standards are part of Army Corps of Engineers' Regional General Permit 3 (RGP3). Table 2 explains these development standards.

DPD's proposal is to require RGP 3 standards for new piers but allow for flexibility when rebuilding existing residential pier structures that do not meet the RGP 3 standards.

When replacing piers that are larger than the size permitted under the Army Corps' RGP 3 permit, the size of the replacement pier may 80% of the original pier or the maximum size allowed by RGP 3 standards, whichever is greater.

The current code does not have a threshold to determine when the ongoing incremental repair of a pier actually constitutes replacement. DPD is proposing to define repair of more than 50% of a dock or pier over a five year period as replacement. This change



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means that when 50% or more of a pier is replaced within a five year period then the pier is considered to be a replacement and the regulations for replaced piers apply.

Clarifications

Additionally, we are proposing to make the following changes clarifying existing regulations:

1. Current code requires mitigation of impacts from overwater structures. DPD intends to add additional language that explicitly states the need to achieve no net loss of ecological function for proposed projects.
2. Clarify what impacts are associated with overwater coverage and what the appropriate mitigation is for the impacts.
3. Add development standards to keep the bulk of the overwater structure out of the shallow water habitat and the first 30 feet from the shoreline in order to provide specificity regarding the requirement to prevent impacts to migration routes.

BACKGROUND

State Guidelines

WAC 173-26-231 Shoreline modifications.

(1) Applicability.

Local governments are encouraged to prepare master program provisions that distinguish between shoreline modifications and shoreline uses. Shoreline modifications are generally related to construction of a physical element such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal. Shoreline modifications usually are undertaken in support of or in preparation for a shoreline use; for example, fill (shoreline modification) required for a cargo terminal (industrial use) or dredging (shoreline modification) to allow for a marina (boating facility use).

The provisions in this section apply to all shoreline modifications within shoreline jurisdiction.

(2) General principles applicable to all shoreline modifications.

Master programs shall implement the following principles:

- (a) Allow structural shoreline modifications only where they are demonstrated to be necessary to support or protect an allowed primary structure or a legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
- (b) Reduce the adverse effects of shoreline modifications and, as much as possible, limit shoreline modifications in number and extent.
- (c) Allow only shoreline modifications that are appropriate to the specific type of shoreline and environmental conditions for which they are proposed.
- (d) Assure that shoreline modifications individually and cumulatively do not result in a net loss of ecological functions. This is to be achieved by giving preference to those types of shoreline modifications that have a lesser impact on ecological functions and requiring mitigation of identified impacts resulting from shoreline modifications.



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(e) Where applicable, base provisions on scientific and technical information and a comprehensive analysis of drift cells for marine waters or reach conditions for river and stream systems. Contact the department for available drift cell characterizations.

(f) Plan for the enhancement of impaired ecological functions where feasible and appropriate while accommodating permitted uses. As shoreline modifications occur, incorporate all feasible measures to protect ecological shoreline functions and ecosystem-wide processes.

(g) Avoid and reduce significant ecological impacts according to the mitigation sequence in WAC 173-26-201(2)(e).

(3) (b) Piers and docks.

New piers and docks shall be allowed only for water-dependent uses or public access. As used here, a dock associated with a single family residence is a water dependent use provided that it is designed and intended as a facility for access to watercraft and otherwise complies with the provisions of this section. Pier and dock construction shall be restricted to the minimum size necessary to meet the needs of the proposed water-dependent use. Water-related and water-enjoyment uses may be allowed as part of mixed-use development on over-water structures where they are clearly auxiliary to and in support of water-dependent uses, provided the minimum size requirement needed to meet the water-dependent use is not violated.

New pier or dock construction, excluding docks accessory to single-family residences, should be permitted only when the applicant has demonstrated that a specific need exists to support the intended water-dependent uses. If a port district or other public or commercial entity involving water-dependent uses has performed a needs analysis or comprehensive master plan projecting the future needs for pier or dock space, and if the plan or analysis is approved by the local government and consistent with these guidelines, it may serve as the necessary justification for pier design, size, and construction. The intent of this provision is to allow ports and other entities the flexibility necessary to provide for existing and future water-dependent uses.

Where new piers or docks are allowed, master programs should contain provisions to require new residential development of two or more dwellings to provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence.

Piers and docks, including those accessory to single-family residences, shall be designed and constructed to avoid or, if that is not possible, to minimize and mitigate the impacts to ecological functions, critical areas resources such as eelgrass beds and fish habitats and processes such as currents and littoral drift. See WAC 173-26-221 (2)(c)(iii) and (iv). Master programs should require that structures be made of materials that have been approved by applicable state agencies.

EXISTING REGULATIONS

SMC 23.60.020 Substantial development permit required.

Docks accessory to a single family residence that are less than \$2,500 in salt water or less than \$10,000 in fresh water are exempted from obtaining a shoreline substantial



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development permit. Mitigation is still required per SMC 23.60.030 (B), 23.60.064 (E) and 23.60.152 (H) (I) and (J)

SMC 23.60.030 Criteria for substantial development permits.

B. Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

SMC 23.60.064 Procedures for obtaining substantial development permits, shoreline variance permits, shoreline conditional use permits and special use authorizations.

E. In addition to other requirements provided in this chapter, the Director may attach to the permit or authorization any conditions necessary to carry out the spirit and purpose of and assure compliance with this chapter and RCW 90.58.020. Such conditions may include changes in the location, design, and operating characteristics of the development or use. Performance bonds not to exceed a term of five years may be required to ensure compliance with the conditions.

SMC 23.60.152 General development.

H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.

I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.

J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.

SMC 23.60.204 Piers and floats accessory to residential development.

Only Piers and Floats accessory to residential piers have specific development standards per SMC 23.60.204 (Table 3.)

For other overwater structures and dock, piers and floats that are not accessory to residential development the size of these overwater structures are governed by the lot coverage on submerged lands for all the specific shoreline environments (Table 1).



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Table 1. Current Regulations for Lot Coverage in each Shoreline Environment

	Code	Exceptions
UR	<p>SMC 23.60.574</p> <p>Structures including floats and piers shall not occupy more than 35 percent of a waterfront lot or an upland lot.</p>	<p>Floating home moorages shall meet the lot coverage provisions in Section 23.60.196, Floating homes.</p> <p>On single-family zoned lots, the maximum lot coverage permitted for principal and accessory structures shall not exceed 35 percent of the lot area or 1,750 square feet, whichever is greater.</p> <p>On multifamily zoned lots, the lot coverage percentage of the underlying zone shall apply.</p>
US	<p>SMC 23.60.634</p> <p>Structures, including floats and piers, shall not occupy more than 50 percent of the submerged land of any lot.</p>	<p>On waterfront lots with less than an average of 50 feet of dry land between the ordinary high water mark and the street right-of-way, a maximum lot coverage of 65 percent is permitted on the dry-land portion of the lot.</p> <p>On single-family zoned lots the maximum lot coverage permitted for principal and accessory structures shall not exceed 35 percent of the lot area or 1,750 square feet, whichever is greater.</p>
UH	<p>SMC 23.60.694</p> <p>Structures, including floats and piers, shall not occupy more than 50 percent of the submerged land of any lot.</p>	<p>Piers may exceed permitted lot coverage by the addition of floats for open wet moorage. Maximum float size above existing lot coverage or the lot coverage limit, whichever is greater, is 3,600 square feet or an area equivalent to 12 feet times the length of the pier, whichever is greater. An additional 400 square feet of coverage shall be permitted for an access ramp. Existing floats may be increased in size up to this limit.</p> <p>Developments which include major water-dependent uses may be permitted to increase lot coverage and to depart from the other development standards under the Water-dependent Incentive provision as a Council conditional use.</p>
UM	<p>SMC 23.60.754</p> <p>Structures, including floats and piers, shall not occupy more than 50 percent of the submerged portion of a waterfront lot.</p>	<p>Structures, including floats and piers, may occupy up to 65 percent of the submerged portion of a waterfront lot which has a depth of less than 50 feet of dry land.</p>



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Table 1. Current Regulations for Lot Coverage in each Shoreline Environment

<p>UI</p>	<p>SMC 23.60.874</p> <p>Structures may occupy up to 100 percent of both submerged and dry-land lot area of a waterfront lot.</p>	
<p>CN CP UG</p>	<p>No lot coverage standards for submerged land</p>	
<p>CR</p>	<p>SMC 23.60.396</p> <p>Structures, including floats and piers, shall not occupy more than 35 percent of a waterfront lot. (overwater coverage for residential piers is primarily limited by Pier & Dock standards in Table 1)</p>	<p>On single-family zoned lots, the maximum lot coverage permitted for principal and accessory structures shall not exceed 35 percent of the lot area or 1,750 square feet, whichever is greater.</p>
<p>CM</p>	<p>SMC 23.60.456</p> <p>Structures, including floats and piers, shall not occupy more than thirty-five (35) percent of a waterfront lot or an upland lot. (overwater coverage for residential piers is primarily limited by Pier & Dock standards in Table 1)</p>	<p>On single-family zoned lots, the maximum lot coverage permitted for principal and accessory structures shall not exceed 35 percent of the lot area or 1,750 square feet, whichever is greater.</p>
<p>CW</p>	<p>SMC 23.60.516</p> <p>Structures shall not occupy more than 35 percent of the entire waterway nor more than 40 percent of the width of the waterway.</p>	



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Table 2. Army Corps of Engineers Regional General Permit (RGP) 3 Regulations for Residential Piers

	Proposed Army Corp Rules for Residential Overwater Structures (RGP3)
General Approach	The Army Corp regulates total area of the pier as well as width, length, configuration of the main pier and any attached floats, ramps, and ells.
Where Allowed	No structure can be installed within 100 feet of the mouth of a river, stream or creek.
General Configuration	Only piers and ramps are allowed within the first 30 feet from shore. All floats and ells must be 30 feet waterward of OHW. No skirting is allowed on any structure.
Overall Size	Total Allowed Surface Coverage (includes all floats, ramps, and ells) is as follows: <ul style="list-style-type: none"> • Single property owner: 480 sq. ft. • Two property owners (residential): 700 sq ft. • Three or more residential property owners: 1000 sq. ft.
Length	There are no direct regulations of length except through maximum area requirements. Any proposed pier that extends further waterward than adjacent piers is reviewed on a case-by-case basis. Piers determined to have an adverse effect on navigation will not be authorized.
Width	Piers can not exceed a width of 4 feet.
Height	The bottom of all structures except floats must be at least 1.5 feet above OHW.
Extensions, Floats, Ells and Ramps	As mentioned previously, all floats and ells must be 30 feet waterward of OHW. No skirting is allowed on any structure. Floats must be in water with depths of 10 feet or more at the landward end of the float. They may be up to 6' wide by 20' long and must contain a minimum of 2 feet of grating down the center. Ells must be in water with depths of 9 feet or greater at the landward end of the ell and may be built in the following manners: (Currently problematic as some docks are limited to 8 foot depth under current Seattle regs.) <ul style="list-style-type: none"> a) Up to 6' wide by 20' long with a 2-foot strip of grating down the center. b) Up to 6' wide by 26' long with grating providing 60% open area over the entire ell. c) One 2' wide by 20' long, fully grated finger ell is allowed. Ramps must not exceed a width of 3 feet and must be fully grated.



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Table 2. Army Corps of Engineers Regional General Permit (RGP) 3 Regulations for Residential Piers

Pier Grating	<p>Piers must be fully grated with at least 60% open area.</p> <p>Other grating rules are outline in Extension, Floats, Ells and Ramps above.</p>
Mitigation	<p>Existing habitat features such as woody debris or substrate material can not be removed.</p> <p>Plantings for 10 feet on either side of OHW are required for entire length of property if site is appropriate. If pier is shared, all co-owners must execute plantings.</p> <ul style="list-style-type: none"> • No chemical fertilizers, herbicides and pesticides can be used in the planting area. • A 6 foot path without vegetation is allowed for access to the pier. • A minimum of 2 trees and 3 willow plants is required; otherwise there appears to be a lot of flexibility in the planting plan. • The plantings must be maintained for the life of pier with a 100% survival rate required in first and second year and a 100% survival rate for tree and an 80% survival rate for remaining plants in years 3-5. • Monitoring reports for planting due annually for 5 years <p>Status reports on impact reduction construction must be submitted 12 months after permit is issued. They are due annually until the Corp accepts as-build drawings.</p> <p>Construction must abide by work windows for bald eagles and listed fish species.</p> <p>Work disturbing soil in substrate, bank or riparian area must occur in the dry whenever practical.</p> <p>Equipment should be operated out of water whenever possible, should minimize disturbance of soils and should be maintained in clean condition. Proper sediment control must also be used.</p> <p>Disturbance of bank vegetation should be limited. When disturbed, it must be replaced with native vegetation.</p> <p>Structures within 100 feet of a wetland must avoid impacts to the wetland to the maximum extent possible.</p>
Existing Piers	<p>Existing structures within 30 feet of OHW may need to be removed to receive a permit unless they facilitate water access.</p>
Other	<p>Regulations regarding spacing of pilings, treatment of materials, mooring piles and maintenance are also detailed.</p>



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Table 3. Summary of Current Regulations for Piers and Floats Accessory to Residential Development

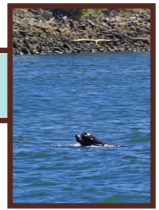
	Current Regulations for Piers & Docks Accessory to Residences
General Approach	Seattle regulates residential pier size by establishing a maximum length and width of the central pier and allowing extensions of a maximum area dependent on the number of dwelling units on the properties involved.
Where Allowed	<p>No single family lot can have more than one pier or float.</p> <p>A single-owner pier or float may only be built on lots with width of not less than 45 ft. Shared piers may be built if the combined width of lots sharing the pier or float is not less than 60 ft.</p> <p>No pier shall be located within fifteen 15 feet of a side lot line unless the pier is shared with the owner of the adjacent lot. If a pier is already in existence on the adjacent lot and located less than five 5 feet from the common side lot line, the minimum distance may be reduced to not less than 5 feet.</p> <p>Extensions from the pier accessory to single-family, duplex and triplex residences may not be closer than 5 feet to a lot line.</p>
General Configuration	Piers and floats must be “generally” parallel to side lot lines and perpendicular to coastline. If either line is irregular, Director can decide the orientation that is appropriate.
Overall Size	Total size is not regulated except by length and width regulations. Maximum size for the largest pier allowed for a single family residence based on site conditions is 700 square feet.
Length	<p>No pier shall extend more than 100 feet except through a variance.</p> <p>Outside of Lake Union, no pier shall extend beyond the Harbor or Pierhead lines.</p> <p>In Lake Union, no pier shall extend beyond the Construction Limit Line. Structures located between the Pierhead Line and the Construction Limit Line shall be limited to piers and floats without accessory buildings, drydocks and existing floating homes at existing floating home moorages.</p> <p>Additionally, pier length can not go farther than the greatest of:</p> <ol style="list-style-type: none"> A line subtended by the ends of adjacent piers on both sides of the proposed pier, if both piers are within 200 yards of the proposed pier. A line subtended by the end of an adjacent pier within 200 yards of the proposed pier and any existing pier within 100 yards of the proposed pier on the opposite side. A point where the depth at the end of the pier is more than 8 feet below ordinary high water in fresh water or mean lower low water in tidal water.



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Table 3. Summary of Current Regulations for Piers and Floats Accessory to Residential Development

Height	Pier can not exceed 5 feet in height above OHW.
Extensions, Floats, Ells and Ramps	<p>In addition to the main pier, individual extensions are allowed as described below for the following properties:</p> <p><i>Single-family, duplex and triplex</i> One extension of no more than 100 sq ft per dwelling unit</p> <p><i>Multifamily residences of 4 or more units</i> One extension of no more than 100 sq. ft. per each 2 dwelling units.</p> <p><i>Shared Piers</i> One extension of no more than 150 sq. ft. per dwelling unit.</p>
Pier Grating	Grating may be required per general mitigation analysis. No prescriptive standards exist.
Mitigation	Mitigation is required per SMC 23.60.030 (B), 23.60.064 (E) and 23.60.152 (H) (I) and (J)
Other	Preference shall be given to shared piers or moorage facilities for residential development. Shared facilities may be located adjacent to or on both sides of a property line upon agreement of two (2) or more adjacent shoreline property owners. (23.60.204)



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Overwater Structures Response Paper

This document contains proposals presented to the Citizens Advisory Committee (CAC) members, a summary of the views expressed by CAC members, and DPD’s responses to these comments in italics. A full description of the original proposal presented by DPD to the CAC can be found in the document entitled Overwater Structures Policy Paper, presented at the November 18, 2008 CAC meeting. Additionally the following three documents contain supplemental information also included with the November 18th CAC meeting material: Table 1. Current Regulations for Lot Coverage in each Shoreline Environment, Table 2. Army Corps of Engineers Regional General Permit (RGP) 3 Regulations for Residential Piers and Table 3. Summary of Current Regulations for Piers and Floats Accessory to Residential Development.

1. Overwater Structures – Piers and Docks Accessory to Residences. Under current regulations, residential uses are allowed to have pier structures on their parcels; single family lots are limited to one structure per lot, multifamily lots are allowed multiple fingers on a pier structure dependent on the number of units on the lot. Pier length and width are limited to 6-ft wide and length is limited to the length to reach a depth of 8-ft but not greater than 100-ft. Larger piers are allowed to be maintained and replaced (see Summary of current regulations for piers and floats accessory to residential development document).

DPD proposed to reduce the allowed size of piers to the current guidelines developed by the US Army Corps of general (see Current RPG3 Regulations document), but allow non-conforming docks to remain larger than standards if their total size is reduced by a specific percentage (20% was proposed)

Pros	Cons	General Comments
<ul style="list-style-type: none"> • The public wants to see the permitting process become more regular and consistent. Residential piers should be aligned with RGP3, as this would help streamline the permitting process. Many people just want a dock so they can sell their property. If they really need something bigger, they can go through the variance process. • The RGP3 is a good baseline model because it is designed to expedite a clear path for small property owners to comply with a wide range of regulations without having to do a lot of extra environmental regulation. In recognition of the goals for reducing ecological impact, there should be some flexibility, such as specific criteria about a degree of restoration. This could be in place of the 20% standard and might be 	<ul style="list-style-type: none"> • All current piers are greater than the RGP3. Adopting RGP3 guidelines limits the flexibility homeowners have for building a pier. Do not use the 20% guideline DPD is proposing. The goal is to increase ecological function and not to reduce the size of piers. If you are rebuilding an existing pier, you should have to show no net loss of ecological function. New piers should be allowed to be built larger than the RGP3 allows without having to go through a variance, which is time consuming and costly for homeowners. • A 20% reduction in pier size may not be enough, because of the impact docks have on salmon and the fact that we have built too many docks as is. 	<ul style="list-style-type: none"> • Approximately two years ago, a bill was placed before the State legislature to increase the threshold value dollar amount for single family docks and piers. The bill did not pass and so the dollar amounts (\$2,500 for piers built in saltwater and \$10,000 for piers built in freshwater) have not increased. For general exemption values for any shoreline project, the \$5,713 is adjusted annually for inflation and will be readjusted in June 2009.



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<p>better than the RGP3. This could be written as a special use consideration with criteria written around it, rather than just one formula like the RGP3. Encouraging people to build shared docks, escaping RGP3 standards, may be an incentive to homeowners who could reduce their construction costs and allow for a larger dock.</p>		
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Additional discussion included the suggestion that one or more Committee members provide DPD with specific alternative language for a proposed shared dock incentive and an alternative to following the RGP 3 standard for the construction or retrofitting of a dock. Committee members Mark Johnson and Greg Ashley also provided alternative approaches to the RGP3 standard for the redevelopment of existing docks (See memo from Mark Johnson dated November 19, 2008 and e-mail from Greg Ashley dated December 16, 2008 for details).

DPD reviewed the proposals from CAC members and discussed this topic with both the Department of Ecology and the Army Corps of Engineers.

Regarding using the Army Corps of Engineers RGP 3 standards for residential piers the Army Corps frequently permits docks that do not meet these standards. The most frequent standard that is modified is the size of the ells. Therefore DPD is withdrawing the original proposal and will not be using the RGP3 standards for new piers.

*Using less prescriptive standards and relying on the review by the Army Corps of Engineers for residential piers as suggested by committee members was analyzed and based on our discussions with the Department of Ecology, this approach will not meet the state requirements and DPD believes that this will lead to a less clear permit process for DPD. Therefore DPD's new proposal is to have development standards for new docks based on Best Available Science: **These new standards are described in Table 1, below.***

Existing docks may be maintained and repaired except that if they are replaced or undergoing "substantial improvement" they must come into conformity or meet the following alternative standards:

- a. Meet standards for minimum distance, maximum distance, height, boat lifts, grating and materials*
- b. Reduce total area by 20%*

2. Overwater Structures for Water-dependent and Water-related Uses and Public Access:

(This proposal does not include residential pier standards, see above for discussion on residential piers.) DPD proposed to only allow expansion of overwater coverage for water-dependent and water-related structures and in limited situations for public access. (Provisions for lots with little dry land will be based on reasonable use of the site.) The size of the overwater structures would be regulated in the same way that they are currently regulated, by the allowed lot coverage per shoreline environment. Current overwater structure regulations regarding lot coverage are found in the *Lot Coverage Table* document.



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We are currently considering the following changes to the current regulations regarding overwater coverage for all shoreline environments:

- Limit overwater structures to water-dependent and water-related uses and public access only.
- Allow only the minimum necessary for the water-dependent and water-related use. Minimum necessary would be demonstrated by the applicant for the type of use proposed.

Pros	Cons	Comments
	<ul style="list-style-type: none"> • New regulations should comply with state requirements (WAC 173-26), only "water-dependent uses" should be allowed on piers. 	

DPD will modify the proposal to match the WAC and only allow additional overwater coverage for water-dependent uses and in limited circumstances for public access.

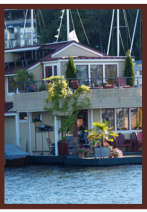
3. Other Issues:

DPD proposed to make the following changes clarifying existing regulations:

1. Current code requires mitigation of impacts from overwater structures. DPD intends to add additional language that explicitly states the need to achieve no net loss of ecological function for proposed projects.
2. Clarify what impacts are associated with overwater coverage and what the appropriate mitigation is for the impacts.
3. Add development standards to keep the bulk of the overwater structure out of the shallow water habitat in the first 30 feet from the shoreline in order to provide specificity regarding the requirement to prevent impacts to migration routes.

Pros	Cons	Comments
<ul style="list-style-type: none"> • Where the proposal says "Adding development standards to keep the bulk of the overwater structures out of the shallow water habitat and the first 30 feet from the shoreline..." should also say "on a case by case basis." This is specifically important for gang plank access in areas like the Colman Dock and Pier 92. 	<ul style="list-style-type: none"> • The provision that states, "adding development standards to keep the bulk of the overwater structures out of the shallow water habitat and the first 30 feet from the shoreline..." is a concern for industry. It would be limiting, restrictive, and detrimental to industrial facilities. The bulk of the overwater structure being seaward of the first 30 feet of the shoreline could pose an increased risk of environmental hazards, such as oil and hazardous materials spills due to containment issues arising from piers constructed at least 30 feet from the shoreline with trestle-type access at each end. Also, this could be in conflict with the City of Seattle fire code with respect to hook and ladder trucks and other emergency vehicle access to overwater structures. 	

DPD will clarify that the proposal to limit overwater coverage within the first 30 feet of water applies primarily to recreational and commercial moorage and does not apply to boat repair

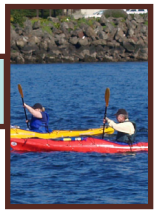


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facilities, dry docks, or other similar facilities and will not be required where it would conflict with other regulations.

Table 1. Proposed Residential Pier Structure Regulations

General Approach	Provide clear development standards that can be interpreted consistently.
Overall Size	No limit
Ell location and boat parking requirements	Required to be located in a water depth of 9 feet or greater, with the following exceptions: Minimum distance - 30 feet from the shoreline Maximum distance - 100 feet from shoreline; except when the depth of water at 100-ft is less than 9-ft in which case the maximum distance is the depth at which the water is 6-ft deep.
Width	4-feet for single resident piers 6-ft for shared piers
Height	The bottom of all structures except floats must be at least 1.5 feet above OHW.
Ell size	Ells can be no greater than 100 sq ft.
Boat Lifts	No more than one boat lift may be allowed except on shared docks where the number of boat lifts may not exceed the number of units sharing the dock.
Grating	Piers and ramps must be fully grated with at least 60% light permeability. Floats must contain the maximum grating allowed per engineering requirements.
Materials	No treated wood shall be used for decking or piling.



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Shoreline Mitigation Policy Paper

Executive Summary

The Department of Ecology's SMP guidelines as stated in Chapter 173-26 WAC requires mitigation to insure that no net loss of ecological function is achieved during shoreline development.

Seattle's current Shoreline Master Program regulations require mitigation: However, the code is very general regarding what the impacts are that need to be mitigated; and what the appropriate mitigation standards for these impacts should be.

Proposed changes to the existing Shoreline Master Program include:

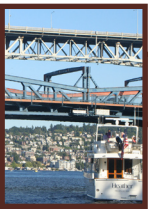
- Adding new goals and policies, or revisions to existing goals and policies, to better meet the legislative intent and guidelines of the SMA.
- Updating the General Development Standards to include more specific information regarding potential impacts and required mitigation standards to assure no net loss of ecological functions.
- Using the Shoreline Mitigation Plan (SAMP) as a tool to help measure potential impacts from a development and to employ appropriate mitigation measures to achieve no net loss.

The SAMP provides for two approaches to mitigation of shoreline impacts: on-site mitigation and, for water dependent uses only, off-site mitigation. On-site mitigation is mitigation that occurs at the site of a project impact. Off-site mitigation is mitigation that occurs at a site other than the site of project impact.

Proposed Changes to the SMP

Intent

Seattle's current Shoreline Master Program Regulations require mitigation of impacts caused to shoreline habitat from urban development. However, there is no clear method used to determine the impacts from a proposed development and as a result no clear mitigation requirements. This ambiguity lends itself to permit delays and the potential to under mitigate the impacts from shoreline develop. Additionally, since the last update of Seattle's SMP the knowledge regarding the types of impacts that urban develop causes to Puget Sound and other water bodies has greatly increased. Low Impact Development (LID) methods have proven to be a good way to mitigate impacts of increased impervious surface. A reduction in overwater coverage is also seen as a way to protect the shoreline environment and the associated ecological processes. We know that shallow water habitat



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is important to certain salmon species and therefore the impacts from dredging and shoreline armoring is better understood.

Therefore the proposed changes to Seattle's current SMP regulations are intended to provide clarity to the types and quantity of mitigation that will be required for impacts to the shoreline habitat and ecological function.

The Shoreline Alternative Mitigation Plan (SAMP) is one way that DPD can add clarity to the mitigation requirements of the SMP. SAMP is a program that was developed using a model that can be used to measure impacts from a proposed project and then determine the appropriate mitigation for the proposed impacts. DPD proposes to use SAMP as a model that will be used for the rest of the city to measure impacts from projects and determine the appropriate information. Information about SAMP can be found at: http://www.seattle.gov/DPD/Planning/Shoreline_Alternative_Mitigation_Plan/Overview/

As described below, proposed changes to the existing SMP will include new goals, policies and development standards. In addition, DPD is proposing to use the impact and mitigation methods described in the Shoreline Alternative Mitigation Plan (SAMP) to measure impacts and determine the appropriate mitigation standards.

Changes to Comprehensive Plan Goals

Highlighted sections are the changes/additions to the current shoreline goals.

- LUG48 Provide standards to achieve no net loss of ecological function when development occurs in the shoreline environment through the development of methods to measure impacts and mitigation so that all shoreline impacts are mitigated. (SAMP is intended to achieve this goal.)
- LUG49 Preserve, protect and restore areas such as those necessary for the support of wild and aquatic life or those identified as having geological or biological significance.
- LUG50 Preserve and protect environmental systems, including wild and aquatic life when planning for future shoreline uses.
- LUG51 Support continuing scientific study of Seattle shoreline ecosystems. Scientific study should focus on contribution to the knowledge regarding the appropriate mitigation methods that should be used to offset the impacts from development.

Changes to Comprehensive Plan Policies

- LU246 Protect the natural environment through use and development standards governing shoreline activities including best management practices and mitigation requirements. The methods developed for the Shoreline Alternative Mitigation Plan (SAMP) or a similar method should guide mitigation requirements



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- LU247 Areas identified as special wildlife or fisheries habitat should be developed only if no reasonable alternative locations exist and then only if the project is designed to minimize and mitigate habitat damage.
- LU253 Support the study of the shoreline systems that will provide a continuously updated baseline against which to judge the impact of any action.

Changes to Land Use Code

General Development Standards

Note: DPD is proposing to add the following standards to the current general development standards of the SMP found in SMC 23.60.152: These additional general development standards are intended to add specific information regarding impacts and mitigation to the more common impacts caused by shoreline development.

- A. Any increases in surface runoff from development shall be kept to a minimum, and surface water run off shall be controlled, treated and released so that receiving water quality and any shore properties and features are not adversely affected. Control measures may include, but are not limited to, dikes, catch basins or settling ponds, interceptor drains and planted buffers. Allowable means to achieve this include bioswales, catch basin filters, and other methods prescribed in Title 22, Subtitle VIII, the Stormwater, Grading and Drainage Control Code.
- B. Pavement shall be kept to a minimum and permeable surfacing, where practicable, shall be used to keep surface water accumulation and runoff to a minimum. Recommended methods are found in Title 22, Subtitle VIII, Stormwater, Grading and Drainage Control Code. Permeable surfaces include, but are not limited to, porous asphalt, concrete, brick, or pavers; or plastic confinement systems with grass or gravel filler.
- C. Best management practices shall be employed for the safe handling of fuels and toxic or hazardous materials to prevent them from entering the water. Direct runoff of these materials is prohibited. Best management practices shall be employed for prompt and effective clean-up of any spills that do occur. A spill prevention and response plan may be required by the Director.
- D. Any cleaning or resurfacing operation including the application of paint, preservative treatment and other chemical compounds occurring over water that may result in the entry of debris (such as paint chips) or toxins (such as paint) into the water shall employ tarpaulins securely affixed above the water line to prevent material from entering the water. Prior to removing the tarpaulins, the accumulated contents shall be removed by vacuuming or an equivalent method that prevents material from entering the water.
- E. Wooden components that will be in contact with standing water or floodwaters shall not contain polycyclic aromatic hydrocarbons (PAH), creosote,



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pentachlorophenol, or similar toxic substances. Durable, non-toxic components are the preferred material for in-water and over-water structures. Where treated wood is considered necessary, it shall be applied and used in accordance with the American Wood Preserver Association (AWPA) standards for aquatic use.

- F. For projects involving concrete, a concrete truck chute cleanout area shall be established to contain wet concrete. No concrete or clean out shall be allowed to enter the water body. This does not prohibit piers or other concrete structures authorized by a valid permit.
- G. All inlets and catch basins shall be protected from fresh concrete, paving, paint stripping and other high-risk pollution generating activities during construction.
- H. Construction staging areas shall be as far from the ordinary high water mark as practicable.
- I. If at any time project-related activities cause a fish kill to occur, the permittee shall stop all work relating to the fish kill and immediately notify the Department of Planning and Development, Washington Department of Fish and Wildlife, and the Washington Department of Ecology.
- J. In- and over-water structures shall be designed and located to keep impacts from shading of any bank and shallow water habitat to a minimum.

Shoreline Alternative Mitigation Plan (SAMP)

Note: DPD is currently considering adding the SAMP by reference to the SMP to better measure impacts and determine the appropriate mitigation for the affected shoreline properties identified in the SAMP.

New development projects within the SAMP boundaries remain subject to the review procedures of the SMP (see goals, policies and standards above) and the City's SEPA policies. However, within the boundaries of the SAMP, the City will base its project review and evaluation of project impacts and appropriate mitigation based on the SAMP Habitat Equivalency Table.

Information about SAMP can be found at:

http://www.seattle.gov/DPD/Planning/Shoreline_Alternative_Mitigation_Plan/Overview/



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Background Information

Note: As discussed above, staff review of the current regulations of the SMP determined that the existing regulations do not provide enough specificity to meet the intent and direction of the new SMA guidelines to achieve no net loss. The existing regulations and the new state guidelines are included here as a reference for your review and consideration of the proposed changes.

Existing Regulations

SMC 23.60.030 Criteria for substantial development permits

B. Conditions may be attached to the approval of a permit as necessary to assure consistency of the proposed development with the Seattle Shoreline Master Program and the Shoreline Management Act.

SMC 23.60.064 Procedures for obtaining substantial development permits, shoreline variance permits, shoreline conditional use permits and special use authorizations.

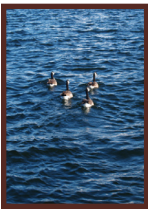
E. In addition to other requirements provided in this chapter, the Director may attach to the permit or authorization any conditions necessary to carry out the spirit and purpose of and assure compliance with this chapter and RCW 90.58.020. Such conditions may include changes in the location, design, and operating characteristics of the development or use. Performance bonds not to exceed a term of five years may be required to ensure compliance with the conditions.

SMC 23.60.152 General development.

H. All shoreline developments and uses shall be located, designed, constructed and managed to avoid disturbance, minimize adverse impacts and protect fish and wildlife habitat conservation areas including, but not limited to, spawning, nesting, rearing and habitat areas, commercial and recreational shellfish areas, kelp and eel grass beds, and migratory routes. Where avoidance of adverse impacts is not practicable, project mitigation measures relating the type, quantity and extent of mitigation to the protection of species and habitat functions may be approved by the Director in consultation with state resource management agencies and federally recognized tribes.

I. All shoreline developments and uses shall be located, designed, constructed and managed to minimize interference with or adverse impacts to beneficial natural shoreline processes such as water circulation, littoral drift, sand movement, erosion and accretion.

J. All shoreline developments and uses shall be located, designed, constructed and managed in a manner that minimizes adverse impacts to surrounding land and water uses and is compatible with the affected area.



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State Guidelines

WAC 173-26-186 Governing Principles of the Guidelines

(8) Through numerous references to and emphasis on the maintenance, protection, restoration, and preservation of "fragile" shoreline "natural resources," "public health," "the land and its vegetation and wildlife," "the waters and their aquatic life," "ecology," and "environment," the Act makes protection of the shoreline environment an essential statewide policy goal consistent with the other policy goals of the Act. It is recognized that shoreline ecological functions may be impaired not only by shoreline development subject to the substantial development permit requirement of the Act but also by past actions, unregulated activities, and development that is exempt from the Act's permit requirements. The principle regarding protecting shoreline ecological systems is accomplished by these guidelines in several ways, and in the context of related principles. These include:

(a) Local government is guided in its review and amendment of local master programs so that it uses a process that identifies, inventories, and ensures meaningful understanding of current and potential ecological functions provided by affected shorelines.

(b) Local master programs shall include policies and regulations designed to achieve no net loss of those ecological functions.

(i) Local master programs shall include regulations and mitigation standards ensuring that each permitted development will not cause a net loss of ecological functions of the shoreline; local government shall design and implement such regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

(ii) Local master programs shall include regulations ensuring that exempt development in the aggregate will not cause a net loss of ecological functions of the shoreline.

WAC 173-26-191 Master program contents

173-26-191 2(a)(ii) (D) Design and implement regulations and mitigation standards in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

WAC 173-26-201 Comprehensive process to prepare or amend shoreline master programs

173-26-201 (2) (c) Protection of ecological functions of the shorelines

This chapter implements the Act's policy on protection of shoreline natural resources through protection and restoration of ecological functions necessary to sustain these natural resources. The concept of ecological functions recognizes that any ecological system is composed of a wide variety of interacting physical, chemical and biological components, that are interdependent in varying degrees and scales, and that produce the landscape and habitats as they exist at any time. Ecological functions are the work performed or role played individually or collectively within ecosystems by these components.

As established in WAC 173-26-186(8) these guidelines are designed to assure, at minimum, no net loss of ecological functions necessary to sustain shoreline natural



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resources and to plan for restoration of ecological functions where they have been impaired. Managing shorelines for protection of their natural resources depends on sustaining the functions provided by:

- Ecosystem-wide processes such as those associated with the flow and movement of water, sediment and organic materials; the presence and movement of fish and wildlife and the maintenance of water quality.
- Individual components and localized processes such as those associated with shoreline vegetation, soils, water movement through the soil and across the land surface and the composition and configuration of the beds and banks of water bodies.

The loss or degradation of the functions associated with ecosystem-wide processes, individual components and localized processes can significantly impact shoreline natural resources and may also adversely impact human health and safety. Shoreline master programs shall address ecological functions associated with applicable ecosystem-wide processes, individual components and localized processes identified in the ecological systems analysis described in WAC 173-26-201(3)(d)(i).

Nearly all shoreline areas, even substantially developed or degraded areas, retain important ecological functions. For example, an intensely developed harbor area may also serve as a fish migration corridor and feeding area critical to species survival. Also, ecosystems are interconnected. For example, the life cycle of anadromous fish depends upon the viability of freshwater, marine, and terrestrial shoreline ecosystems, and many wildlife species associated with the shoreline depend on the health of both terrestrial and aquatic environments. Therefore, the policies for protecting and restoring ecological functions generally apply to all shoreline areas, not just those that remain relatively unaltered.

Master programs shall contain policies and regulations that assure at minimum, no net loss of ecological functions necessary to sustain shoreline natural resources. To achieve this standard while accommodating appropriate and necessary shoreline uses and development, master programs should establish and apply:

- Environment designations with appropriate use and development standards, and
- Provisions to address the impacts of specific common shoreline uses, development activities and modification actions, and
- Provisions for the protection of critical areas within the shoreline, and
- Provisions for mitigation measures and methods to address unanticipated impacts.



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When based on the inventory and analysis requirements and completed consistent with the specific provisions of these guidelines, the master program should ensure that development will be protective of ecological functions necessary to sustain existing shoreline natural resources and meet the standard. The concept of “net” as used herein, recognizes that any development has potential or actual, short term or long term impacts and that through application of appropriate development standards and employment of mitigation measures in accordance with the mitigation sequence, those impacts will be addressed in a manner necessary to assure that the end result will not diminish the shoreline resources and values as they currently exist. Where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.

173-26-201 (2) (e) Environmental impact mitigation

(i) To assure no net loss of shoreline ecological functions, master programs shall include provisions that require proposed individual uses and developments to analyze environmental impacts of the proposal and include measures to mitigate environmental impacts not otherwise avoided or mitigated by compliance with the master program and other applicable regulations. To the extent Washington's State Environmental Policy Act of 1971 (SEPA), chapter 43.21C RCW, is applicable, the analysis of such environmental impacts shall be conducted consistent with the rules implementing SEPA, which also address environmental impact mitigation in WAC 197-11-660 and define mitigation in WAC 197-11-768. Master programs shall indicate that, where required, mitigation measures shall be applied in the following sequence of steps listed in order of priority, with (a) of this subsection being top priority.

- (A) Avoiding the impact altogether by not taking a certain action or parts of an action;
- (B) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking affirmative steps to avoid or reduce impacts;
- (C) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- (D) Reducing or eliminating the impact over time by preservation and maintenance operations;
- (E) Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and
- (F) Monitoring the impact and the compensation projects and taking appropriate corrective measures.

(ii) In determining appropriate mitigation measures applicable to shoreline development, lower priority measures shall be applied only where higher priority measures are determined to be infeasible or inapplicable.

Consistent with the WAC 173-26-186 (5) and (8), master programs shall also provide direction with regard to mitigation for the impact of the development so that:

- A) Application of the mitigation sequence achieves no net loss of ecological functions for each new development and does not result in required mitigation in excess of that necessary to assure that development will result in no net loss of shoreline ecological



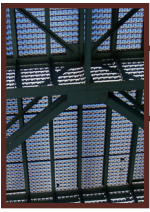
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functions and not have a significant adverse impact on other shoreline functions fostered by the policy of the act.

(B) When compensatory measures are appropriate pursuant to the mitigation priority sequence above, preferential consideration shall be given to measures that replace the impacted functions directly and in the immediate vicinity of the impact. However, alternative compensatory mitigation within the watershed that address limiting factors or identified critical needs for shoreline resource conservation based on watershed or comprehensive resource management plans applicable to the area of impact may be authorized. Authorization of compensatory mitigation measures may require appropriate safeguards, terms or conditions as necessary to ensure no net loss of ecological functions.

173-26-201 (2) (f) Environmental impact mitigation

For development projects that may have un-anticipatable or uncommon impacts that cannot be reasonably identified at the time of master program development, the master program policies and regulations should use the permitting or conditional use permitting processes to ensure that all impacts are addressed and that there is no net loss of ecological function of the shoreline after mitigation.



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Shoreline Mitigation Response Paper

This document contains a summary of proposals presented to the Citizens Advisory Committee (CAC) members, views expressed by CAC members, and DPD’s responses to these comments in italics. A full description of the original proposal presented by DPD to the CAC can be found in the document entitled Shoreline Mitigation Policy Paper, dated December 2008.

Proposed changes to the existing Shoreline Master Program include:

- 1. Adding new goals and policies, or revisions to existing goals and policies, to better meet the legislative intent and guidelines of the SMA. See original Mitigation Policy Paper, December 2008.**

No comments were received from CAC.

- 2. Updating the General Development Standards to include more specific information regarding potential impacts and required mitigation standards to assure no net loss of ecological functions. (See December 2008 Mitigation Policy Paper for specific proposal.)**

Pros	Cons
<ul style="list-style-type: none"> DPD should regulate stormwater on smaller projects that fall below the stormwater code thresholds in the shoreline environment because of the cumulative stormwater effects that the combined smaller projects have on water quality. 	<ul style="list-style-type: none"> Regulate stormwater in stormwater code not in the SMP. Suggestions A and B of the December 2008 policy paper seem to duplicate stormwater regulations

- 3. Using the Shoreline Mitigation Plan (SAMP) as a tool to help measure potential impacts from a development and to employ appropriate mitigation measures to achieve no net loss.**

The SAMP provides for two approaches to mitigation of shoreline impacts: on-site mitigation and for water dependent uses only, off-site mitigation. On-site mitigation is mitigation that occurs at the site of a project impact. Off-site mitigation is mitigation that occurs at a site other than the site of project impact.

Measuring Impacts/Mitigation

Pros	Cons
<ul style="list-style-type: none"> There should be a way to take the proposed SAMP concepts and put them into regulations. 	<ul style="list-style-type: none"> Any mitigation that allows for one function to be replaced by another function does not seem to meet Ecology’s



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<ul style="list-style-type: none"> • The SAMP model seems like a good project for an urban area. Can't get pristine wilderness back so SAMP model seems like a good compromise and a practical way of fitting in our urban functions while emphasizing growth management. • The approach and ambitiousness is impressive 	<p>requirement of "no net loss" even though the City is trying to rehabilitate public land the best it can. Suggest a different term b/c it sends the wrong message to the general public.</p> <ul style="list-style-type: none"> • This effort may not meet a strict interpretation of no net loss, if one looks at it function-by-function. • "No net loss" may not actually be achievable. • The timeline of five years for restoration is inappropriate. • If a mature habitat is being removed, no net loss needs to include more habitats, to compensate for the time that it will take for the habitat to mature and come back online. • All habitat impacts may not be as interchangeable as the SAMP suggests.
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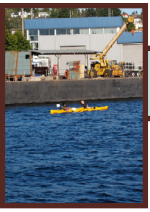
General Comments

- Update SAMP tables to make them more user friendly

DPD continues to support the use of a SAMP-like tool to measure impacts and to determine the appropriate mitigation to meet the "no net loss" requirement. Both impacts and mitigation in the past have not been measured so the amount of mitigation that a project needed to provide did not always match the impacts. DPD views this as a valuable tool in demonstrating that impacts are being mitigated in the appropriate amount.

Offsite Mitigation

Pros	Cons
	<ul style="list-style-type: none"> • The mitigation multiplier ratios may be insufficient • Costs do not seem sufficient enough to cover all the costs of restoration, such as monitoring, managing, and long-term maintenance. • Mitigation banking has a poor history in the State and nation. • Multiplier is not high enough and the cost of the restoration seems like a "black hole". • It appears that restoration under SAMP will only occur on public land, but it needs to



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	<p>happen on private land as well.</p> <ul style="list-style-type: none"> • Habitat and industrial use is desired in the same location; it seems that SAMP is pushing away from this.
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General Comments:

- The structure of the language needs to be revisited, since some of the tables are hard to follow.
- SAMP should be viewed as an experiment to see if the hypothesis about replacement ratios really works.
- There needs to be a monitoring program that demonstrates SAMP has achieved what it set out to do.
- Mitigation banking may be a good idea in term of selling credits and documenting the functions that are created, perhaps eliminating the need for the offsite multiplier.
- Unless SAMP includes a mechanism for providing advance mitigation credits such as through a memorandum of understanding with WDFW, the concept may not be helpful to project proponents, because of state and federal mitigation policies.
- When SAMP is developed and modified for other shoreline areas, be sure that the science and the tables are compatible with other agencies such as King County, the Army Corps of Engineers, and tribes, especially if these other entities are doing similar work under a federal review.
- The goals seem to be set at “how do we facilitate construction and development?” when they could be set as “how do we facilitate restoration of habitat and improvement of ecology of the lakes and waterways?” The latter is a higher goal that the Committee should address. The Committee needs to set a higher standard for restoring ecological functions on private property and not enter into a trading system.
- There is concern that the habitat of public lands will improve, which we have the capability to do, but that it will be seen as mitigation for people making the situation worse on private lands.

DPD supports the use of offsite mitigation for water dependent maritime businesses. For all projects the mitigation sequence listed below is required to occur through the project planning and implementation process:

1. *Avoid the impacts*
2. *Minimize the impacts*



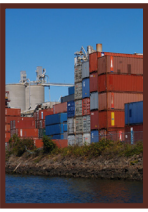
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3. *Apply best management practices (BMPs) for construction impacts and for known impacts (i.e. use of non-treated wood in pier material, use of grating for pier decks).*
4. *Mitigate remaining impacts*

Offsite mitigation for non-water dependent businesses need to be explored and possibly allowed for large projects such as the 520 bridge replacement project where all impacts will not be able to be mitigated on site.

For other projects where there is insufficient space available on site for mitigation such as in some areas of the Urban Stable/Urban Mixed Use shoreline environments all possible mitigation will need to be achieved on site prior to looking for the opportunity to mitigate offsite. DPD will also explore the possibility of having a larger offsite mitigation ratio for non-water dependent businesses.

DPD will also consider ways to monitor offsite mitigation so that it achieves the “no net loss requirement”.



Meeting: January 21, 2009

Public Access Policy Paper

Executive Summary:

Public access to shorelines is one of the three major goals of the state's Shoreline Management Act. WAC 173-26 requires local jurisdictions to enact or maintain public access requirements for private development and to enhance public access wherever possible on public lands.

Seattle provides public access to shorelines through a combination of parks, trails, bikeways, street ends, and easements on private property. Generally, the City's goals for improving public access are to add new public access where possible and to improve the connections between existing amenities to create a more integrated network of access points.

The existing SMP requires public access easements for public property, utilities, marinas, piers along the central waterfront, and most non-water-dependent/water-related uses excluding single family homes. General standards for these easements are illustrated in Figures 1-4, although specific variations occur in different environment designations.

A variety of changes are proposed including provisions to improve tracking and enforcement, establish development standards for required public access, and modify requirements for the Urban Stable/Urban Mixed Use and UH environments. An overarching change would be to require public access for water-related uses (which are currently excepted from the requirement along with water-dependent uses).

Finally, DPD has conducted an inventory of existing public access features, and compiled a list of concurrent public access planning efforts involving shorelines. This list is provided to help the CAC consider the feasibility of a City-wide Public Access Plan.

Key Issues

- Do the City's requirements for public access on private land result in meaningful public access? Would the proposals outlined here improve these requirements?
- What is the best approach to public access for public and private shorelines in industrial areas, where safety, security, and impacts to the shoreline environment may complicate access?
- What role should the SMP update play in city-wide public access planning efforts?



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Proposed Changes to the SMP

Intent

Access to extensive and varied shorelines is an important benefit of living in Seattle. Heavy recreational use of local shorelines confirms that Seattleites value access to the water. Availability of public access is generally good; in most places in Seattle's shoreline jurisdiction, you are within a quarter-mile of one or more public access points. Public opinion and the mandate provided by the state's Shoreline Management Act mandate both make it clear that the Shoreline Master Program needs to protect and improve shoreline access.

DPD believes that existing SMP regulations on public access are generally effective, but that revisions are needed to clarify and better enforce current requirements for public access easements on private property. Others are needed to comply with new state standards and to simplify the Land Use Code.

The proposals outlined below would help to further implement the following existing Comprehensive Plan goals and policies:

LUG44 Provide for the optimum amount of public access—both physical and visual—to the shorelines of Seattle.

LU235 Increase opportunities for substantial numbers of people to enjoy the shorelines, by permitting non-water-dependent uses providing public access to locate in waterfront areas less suited for water-dependent uses, and by requiring public access on public property.

LU236 Promote public enjoyment of the shorelines through public access standards by requiring improvements that are safe, well designed, and offer adequate access to the water.

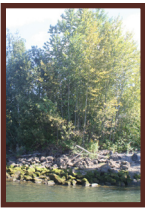
LU237 Except for single-family residences, maintain standards and criteria for public access and private use of publicly owned or controlled shorelines to achieve the following:

1. Provide linkages between shoreline public facilities via trails, paths, etc., to connect with terminal boating and other recreational facilities.
2. Indicate by use of signs and graphics all publicly owned or controlled shoreline.
3. If appropriate, offer bonuses for the provision of public access in private property.
4. Require public agencies such as the City, Port of Seattle, and King County Metro, etc., to provide public access opportunities at new shorelines facilities and encourage these agencies to provide similar opportunities in existing facilities.
5. Provide standards and criteria for view and visual access from upland and shoreline areas.
6. Give priority to the operating requirements of the water-dependent and water-related uses over preservation of views in those environments where water-dependent uses are encouraged.
7. Limit off-premise signs and regulate other signs to enhance and protect views.

LUG53 Manage publicly owned shorelines that are suitable for public recreation to optimize their potential.

LUG54 Increase the amount of shorelines dedicated to public recreation and open space.

LU258 Allow for increased opportunity for the public to enjoy water-dependent recreation including boating, fishing, swimming, diving and enjoyment of views.



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Changes to Land Use Code***Tracking, Enforcement, and Development Standards for Public Access***

DPD proposes new actions to improve the accessibility and enforcement of public access easements required on private property:

- Inventory existing public access easements and set up a system to track new ones.
- Provide a continually updated list to the public, both to encourage use and enjoyment of the sites and to allow citizens to file complaints where property owners are blocking required access points.
- Provide list to DPD's shoreline inspector to implement randomized annual site checks.

A second set of proposals would establish development standards for public access amenities. These standards would apply to required public access on private as well as improvements on public land, and would result in higher-quality amenities as well as a clearer permitting process for applicants and reviewers. Standards include:

- Public access easements must be separated from private uses through landscaping or other appropriate screening unless the private spaces include uses that are open to the public.
- Required public access must provide connections to trails, parks, and other public amenities wherever feasible.
- New overwater coverage for public access is prohibited except for limited circumstances (such as public fishing piers or hand-carried boat launches).
- Paths and other public access features must avoid disturbance of mature trees and established native vegetation.
- Signs for public access features on private property must share certain standardized elements: signs must be weatherproof, say "Shoreline public access point," be clearly readable from the right-of-way, use a consistent logo, and be approved by the Director.

Location & Scale of Public Access

One overarching proposal is driven by the new state guidelines. Currently, Seattle provides exceptions for both water-dependent and water-related uses from public access requirements. The WAC, however, specifically calls for public access requirements to be applied to water-related uses. Accordingly, it is proposed to only provide an exception for water-dependent uses. Because of the safety and compatibility issues that are frequently present with industrial uses in UM and UI environments, DPD is considering allowing the following alternatives for public access on non-water-dependent industrial uses:



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- Payment-in-lieu toward regional public access plans on the Duwamish and Lake Union/Ship Canal, or
- Ecological restoration requirements beyond standard mitigation (to be provided as an alternative public benefit). In this scenario, public access goals would be met through City projects in parks and street ends.

Another set of proposals would modify requirements for Urban Mixed Use areas on Lake Union:

- DPD is exploring options to allow development projects to meet part of their public access requirements through payment-in-lieu to help fund the Cheshiahud Loop around the lake.
- Remove the exception from public access requirements for parcels less than 100' wide when they are adjacent to street end access points. There is no specific problem associated with parcels adjacent to street ends, so the exception appears to unfairly favor these parcels – the real concern should be whether easements can be accommodated on narrow parcels. DPD proposes to remove the exception as it relates to street ends, and is considering a general exception for parcels below a certain width.

Also in the Urban Stable environment, sites are currently required to provide additional public access features if less than 40% of the dry land portion contains water-dependent uses (see details in “Background” section below). DPD proposes to modify the additional public access requirements as follows:

- Require major open space including a waterfront walkway instead of other public access options, unless it is infeasible due to parcel size or incompatibility with water-dependent uses.
- Allow counting of vegetated shoreline buffer square footage in determining size of public access; this would prevent conflicts with restoration goals/requirements.
- Provide development standards for public access to prevent excessive paving of shoreline & encourage useable public space

Format of Public Access Section

Public access requirements are spread throughout the shoreline environment development standards. Because they are generally consistent with each other, DPD proposes to consolidate these requirements into general development standards. This would shorten and simplify the code. Specific variations would still be included in shoreline environment sections as needed.

Public Access Inventory and Planning



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DPD has conducted an inventory of existing public access amenities to fulfill the state's inventory and characterization requirements. This inventory will be provided to the public to help individuals find, enjoy, and track public access features over time.

Additionally, DPD has compiled a list of existing public access planning initiatives. This list will help in determining the most effective role of the SMP update in coordinating and/or prioritizing public projects which include shoreline access improvements. The following city planning initiatives were reviewed in determining our policy approach and will be considered in future planning:

- Street End plan - http://www.seattle.gov/transportation/stuse_stends.htm
- Open Space 2100 - <http://depts.washington.edu/open2100/>
- Blue Ring - http://www.seattle.gov/dpd/Planning/CityDesign/What_We_Do/UrbanDesignProjects/default.asp
- Bands of Green - http://www.seattleparksfoundation.org/project_BandsOfGreen.html
- Central Waterfront Plan - http://www.seattle.gov/dpd/Planning/Central_Waterfront/Overview/
- Light Rail Planning
- Port Public Access Plan - <http://www.portseattle.org/community/resources/publicaccess.shtml>
- Water Trails - <http://www.wwta.org/trails/L2L/>
- Trust for Public Land Puget Sound Shoreline Strategy Report and Map - http://www.tpl.org/tier3_cd.cfm?content_item_id=19979&folder_id=262
- Bicycle Master Plan - <http://www.seattle.gov/transportation/bikemaster.htm>

DPD is considering development of a Shoreline Public Access Plan in late 2009. A Shoreline Public Access Plan might accomplish the following:

- Identify opportunities for integrating existing city public access plans
- Identify priority areas for future improvement of public open space
- Assess opportunities for allowing contribution to off-site public access in lieu of on-site requirements
- Develop detailed plans for public access opportunities in industrial areas

Background Information

Existing Regulations

Regulations describing where public access is required are listed in the shoreline environment sections (Seattle Municipal Code 23.60.240 through 23.60.784). Generally, public access is required on waterfront properties containing any of the following:

- Public Property



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- Utilities
- Multifamily residences with more than 4 units
- Other non-water-dependent/water-related uses (excluding single-family residential)
- Marinas
- Yacht, boat and beach clubs with non-water-dependent facilities over water in the US, UI, and UM environments.
- All waterfront lots in the UH environment.

Public access consists of a “physical improvement in the form of any one or combination of the following: Walkway, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat-launching ramp, transient moorage, or other areas serving as a means of view and/or physical approach to public waters for the public” and shall at a minimum consist of an “improved walkway at least 5 feet wide on an easement 10 feet wide, leading from the street or from a public walkway directly to a waterfront use area or to an area on the property from which the water and water activities can be observed”. Specific standards for design, maintenance, hours of access, and signage are also provided. See Figure 1 for an illustrated summary.

Public access in the UH environment consists, at minimum, of a 10 foot wide public access walkway along one side and the seaward end of the pier. This access must equal at least 15% of the developed lot area or 5,000 sq ft, whichever is greater. See Figure 4.

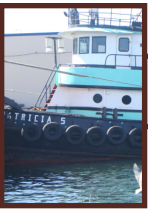
In the Urban Stable environment, additional public access is required when a lot contains non-water-dependent commercial uses and water-dependent uses occupy less than 40% of the dry land portion of the lot. These developments must provide public access in addition to the minimum pathway through one of the following: facilities for a historic vessel; terminal facilities for cruise ships, tour boats, or ferries; facilities for maritime museum or interpretive center; substantial saltwater recreational moorage; a major open space occupying at least one-third of the dry-land area; or other facilities that provide a similar opportunity for public access.

Public access for marinas varies by size. Marinas with less than 2,000 linear feet of moorage space have no requirement. Marina with 2,000-9,000 linear feet must provide a 10 foot easement to the water and at least 10 feet of water frontage for every 100 feet of the marinas total frontage (10%). Marinas with more than 9,000 linear feet must provide a 10 foot easement along the entire of the marina waterfront. See Figures 2 and 3.

Specific code language is listed below.

SMC 23.60.160 Standards for regulated public access.

A. 1. Regulated public access shall be a physical improvement in the form of any one (1) or combination of the following: Walkway, bikeway, corridor, viewpoint, park, deck, observation tower, pier, boat-launching ramp, transient moorage, or other areas serving as a means of view and/or physical approach to public waters for the public. Public access



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may also include, but not be limited to, interpretive centers and displays explaining maritime history and industry.

2. The minimum regulated public access shall consist of an improved walkway at least five (5) feet wide on an easement ten (10) feet wide, leading from the street or from a public walkway directly to a waterfront use area or to an area on the property from which the water and water activities can be observed. There shall be no significant obstruction of the view from this viewpoint.

3. Maintenance of the public access shall be the responsibility of the owner or developer.

B. The Director shall review the type, design, and location of public access to insure development of a public place meeting the intent of the Shoreline Master Program. The Director shall consider the following criteria in determining what constitutes adequate public access on a specific site:

1. The location of the access on the lot shall be chosen to:

a. Maximize the public nature of the access by locating adjacent to other public areas including street-ends, waterways, parks, other public access and connecting trails;

b. Maximize views of the water and sun exposure; and

c. Minimize intrusions of privacy for both site users and public access users by avoiding locations adjacent to windows and/or outdoor private open spaces or by screening or other separation techniques.

2. Public amenities appropriate to the usage of the public access space such as benches, picnic tables, public docks and sufficient public parking to serve the users shall be selected and placed to ensure a usable and comfortable public area.

3. Public access shall be located to avoid interference with the use of the site by water-dependent businesses located on the site.

C. Regulated public access may be limited as to hours of availability and types of activities permitted. However, twenty-four (24) hour availability is preferable and the access must be available to the public on a regularly scheduled basis.

D. Regulated public access shall be open to the public no later than the time of the Director's final inspection of the proposed development which requires public access.

E. Regulated public access and related parking shall be indicated by signs provided by the applicant, of standard design and materials prescribed by the Director. The signs shall be located for maximum public visibility.



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F. All public access points shall be provided through an easement, covenant or similar legal agreement recorded with the King County Department of Records and Elections.

G. For shoreline development requiring more than one (1) substantial development permit or extending for more than one thousand (1,000) lineal feet of shoreline, regulated public access shall be required in the context of the entire project as follows:

1. A shoreline development which requires more than one (1) substantial development permit need not provide separate regulated public access for each permit, but public access shall be provided in the context of the entire development.
2. A comprehensive development plan for the entire project shall be submitted with the first shoreline permit application. The plan shall include all project components intended, plans for the public access and a development schedule. The level of detail of the plans for the public access shall be equal to that of the project proposal.
3. If a public access area for the development has previously been agreed upon during a street vacation process, then the Director shall not require a greater land area for access, but may require development of physical improvements.
4. A minimum of one (1) public access site shall be provided for each three thousand five hundred (3,500) lineal feet of shoreline unless public access standards are met elsewhere as part of a public access plan approved by the City Council or public access is not required for the development.

H. General Exceptions.

1. The requirement for one (1) public access site for each major terminal or facility shall be waived if the terminal or facility is included in a public access plan approved by the Council and the applicant complies with the plan.
2. In lieu of development of public access on the lot, an applicant may choose to meet the requirement for public access through payment or by development of public property when the applicant's lot is located in an area included in a public access plan approved by the Council. To be permitted, payment in lieu or development off-site must be permitted by the approved public access plan.
3. Regulated public access shall not be required where:
 - a. The cost of providing public access is unreasonably disproportionate to the total cost of the proposed development; or
 - b. The site is not located in an area covered by a public access plan approved by the Council and one (1) of the following conditions exists:
 - (1) Unavoidable hazards to the public in gaining access exist,



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- (2) Inherent security requirements of the use cannot be satisfied,
- (3) Unavoidable interference with the use would occur, or
- (4) Public access at the particular location cannot be developed to satisfy the public interest in providing a recreational, historical, cultural, scientific or educational opportunity or view.

The exceptions in subsection H3b above apply only if the Director has reviewed all reasonable alternatives for public access. The alternatives shall include the provision of access which is physically separated from the potential hazard or interference through barriers such as fencing and landscaping and provision of access at a site geographically separated from the development site but under the control of the applicant.

4. Access to a shoreline may be denied to any person who creates a nuisance or engages in illegal conduct on the property. The Director may authorize regulated public access to be temporarily or permanently closed if it is found that offensive conduct cannot otherwise be reasonably controlled.

SMC 23.60.200 Recreational marinas

E. Public access shall be provided as follows:

1. The minimum public access for a marina providing less than nine thousand (9,000) feet of moorage space shall consist of an improved walkway at least five (5) feet wide on an easement at least ten (10) feet wide leading to an area located at the water's edge, which area shall be at least ten (10) feet wide and shall provide at least ten (10) feet of water frontage for every one hundred (100) feet of the marina's water frontage.
2. The minimum public access for a marina providing nine thousand (9,000) or more feet of moorage space shall consist of an improved walkway at least five (5) feet wide on an easement at least ten (10) feet wide leading to a public walkway at least five (5) feet wide on an easement at least ten (10) feet wide located along the entire length of the marina's water frontage.
3. Marinas which provide less than two thousand (2,000) lineal feet of moorage space and which contain only water-dependent or water-related principal uses are exempt from this public access requirement.

SMC 23.60.400 Regulated public access in the CR Environment.

A. Public Property. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on all publicly owned and publicly controlled waterfront property whether leased to private lessees or not, except where the property is submerged land which does not abut dry land.



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B. Private Property.

1. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on privately owned waterfront lots for the following developments:

a. Multifamily residential developments containing more than four (4) units with more than one hundred (100) feet of shoreline, except when located on salt water shorelines where public access from a street is available within six hundred (600) feet of the proposed development; and

b. Other nonresidential non-water-dependent developments.

2. Water-dependent uses and water-related uses located on private property are not required to provide public access.

C. Utilities. Regulated public access shall be provided on utility-owned or controlled property within the Shoreline District.

SMC 23.60.460 Regulated public access in the CM Environment.

A. Public Property. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on all publicly owned and publicly controlled waterfront whether leased to private lessees or not, except when the property is submerged land which does not abut dry land.

B. Private Property.

1. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on privately owned waterfront lots for the following developments:

a. Marinas, except as exempted in Section 23.60.200 E;

b. Non-water-dependent uses, except those located on private lots in Lake Union which have a front lot line of less than one hundred (100) feet in length measured at the upland street frontage generally parallel to the water edge and which abut upon a street or waterway providing public access.

2. Water-dependent uses other than marinas and water-related uses located on private property are not required to provide public access.

C. Utilities. Regulated public access shall be provided on utility-owned or controlled property within the Shoreline District.

SMC 23.60.578 Regulated public access. (UR)



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A. Public Property. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on all publicly owned and publicly controlled waterfront whether leased to private lessees or not, except harbor areas, shorelands, tidelands, and beds of navigable waters not abutting dry land.

B. Private Property.

1. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on privately owned waterfront lots for the following developments:

a. Multifamily residential developments of more than four (4) units with more than seventy-five (75) feet of shoreline, except when located on salt water shorelines where public access from a street is available within six hundred (600) feet of the proposed development;

b. Other nonwater-dependent uses except those located on private lots in the Lake Union area with a front lot line of less than one hundred (100) feet in length, measured at the upland street frontage generally parallel to the water edge, that abut a street and/or waterway provides public access; and

c. Marinas, except as exempted by Section 23.60.200 E.

2. The following uses are not required to provide public access on private lots:

a. Water-dependent uses other than marinas and water-related uses; and

b. Residential uses of fewer than five (5) units.

C. Utilities. Regulated public access shall be provided on utility-owned or controlled property within the Shoreline District.

SMC 23.60.638 Regulated public access. (US)

A. Public Property. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained for all publicly owned and publicly controlled waterfront whether leased to private lessees or not, except harbor areas, shorelands, tidelands, and beds of navigable waters not abutting dry land.

B. Private Property.

1. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on privately owned waterfront lots for the following developments:

a. Multifamily residential developments of more than four (4) units with more than one hundred (100) feet of shoreline, except when uses located on salt water shorelines where



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public access from a street is available within six hundred (600) feet of the proposed development;

b. Developments containing non-water-dependent offices in the Lake Union area;

c. Other non-water-dependent uses, except those on private lots in the Lake Union area with a front lot line of less than one hundred (100) feet in length, measured at the upland street frontage generally parallel to the water edge, that abut a street or waterway providing public access;

d. Marinas, except as exempted by Section 23.60.200 E; and

e. Yacht, boat and beach clubs which have non-water-dependent facilities over water.

2. The following uses are not required to provide public access on private lots:

a. Water-dependent and water-related uses, except yacht, boat and beach clubs which have non-water-dependent facilities over water, and marinas; and

b. Residential uses of fewer than five (5) units.

C. Utilities. Regulated public access shall be provided on utility owned or controlled property within the Shoreline District.

SMC 23.60.702 Regulated public access in the UH Environment.

A. Waterfront Lots. The following standards shall apply to waterfront lots except as provided in subsection C below:

1. Public access meeting the criteria of Section 23.60.160 shall be provided for all developments. The amount of public access shall be not less than fifteen (15) percent of the developed lot area or five thousand (5,000) square feet, whichever is greater.

2. Developments shall provide at least a ten (10) foot wide public access walkway along two (2) edges of the pier or wharf, including as one (1) edge the seaward end of the pier or wharf. The required walkways may be located on the required eighteen (18) foot pier apron.

B. Upland Lots. Public access is not required.

C. Public Access Exceptions. Developments which are wholly water-dependent may receive a full or partial waiver of the public access requirement from the Director if:

1. The applicant can show that the provision of public access could prevent effective operation of the water-dependent use and/or present a potential safety hazard for the public; and



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2. Alternative access criteria of Section 23.60.160 cannot be satisfied.

SMC 23.60.758 Regulated public access in the UM Environment.

A. Public Property. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained for all publicly owned and publicly controlled waterfront, whether leased to private lessees or not, except harbor areas, shorelands, tidelands, and beds of navigable waters not abutting dry land.

B. Private Property.

1. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on privately owned waterfront lots for the following developments:

a. Marinas, except as exempted in Section 23.60.200 E,

b. Yacht, boat and beach clubs that have non-water-dependent facilities over water,

c. Non-water-dependent uses, except those located on private lots in Lake Union which have a front lot line of less than one hundred (100) feet in length, measured at the upland street frontage generally parallel to the water edge, and which abut a street and/or waterway providing public access;

2. Water-dependent uses other than marinas and water-related uses located on private lots, except yacht, boat and beach clubs which have non-water-dependent facilities over water are not required to provide public access.

C. Utilities. Regulated public access shall be provided on utility-owned or controlled property within the Shoreline District.

SMC 23.60.818 Regulated public access in the UG Environment.

A. Public Property. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained for all publicly owned and publicly controlled waterfront, whether leased to private lessees or not, except harbor areas, shorelands, tidelands, and beds of navigable waters not abutting dry land.

B. Private Property.

1. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on privately owned waterfront lots for the following developments:

a. Marinas, except as exempted in Section 23.60.200 E;



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b. Non-water-dependent developments except those located on private lots in the Lake Union area with a front lot line of less than one hundred (100) feet in length, measured at the upland street frontage generally parallel to the water edge, that abut a street and/or waterway providing public access.

2. Water-dependent uses other than marinas and water-related uses on private lots are not required to provide public access.

C. Utilities. Regulated public access shall be provided to utility-owned or controlled property within the Shoreline District.

SMC 23.60.882 Regulated public access in the UI Environment.

A. Public Property. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained for all publicly owned and publicly controlled waterfront, whether leased to private lessees or not, except harbor areas, shorelands, tidelands and beds of navigable waters not abutting dry land.

B. Private Property.

1. Public access meeting the criteria of Section 23.60.160 shall be provided and maintained on privately owned waterfront lots for the following developments:

a. Marinas, except as exempted in Section 23.60.200 E;

b. Yacht, boat and beach clubs that have nonwater-dependent facilities over water;

c. Nonwater-dependent developments except those located on private lots in the Lake Union area which have a front lot line of less than one hundred (100) feet in length, measured at the upland street frontage generally parallel to the water edge, and which abut a street and/or waterway providing public access.

2. Water-dependent uses other than marinas and water-related uses on private property, except for yacht and boat clubs which have nonwater-dependent facilities over water and marinas, are not required to provide public access.

3. Utilities. Regulated public access shall be provided to utility-owned or controlled property within the Shoreline District.

Seattle Comprehensive Plan

Shoreline access goals

LUG44 Provide for the optimum amount of public access—both physical and visual—to the shorelines of Seattle.



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LUG45 Preserve and enhance views of the shoreline and water from upland areas where appropriate.

Shoreline access policies

LU235 Increase opportunities for substantial numbers of people to enjoy the shorelines, by permitting non-water-dependent uses providing public access to locate in waterfront areas less suited for water-dependent uses, and by requiring public access on public property.

LU236 Promote public enjoyment of the shorelines through public access standards by requiring improvements that are safe, well designed, and offer adequate access to the water.

LU237 Except for single-family residences, maintain standards and criteria for public access and private use of publicly owned or controlled shorelines to achieve the following:

1. Provide linkages between shoreline public facilities via trails, paths, etc., to connect with terminal boating and other recreational facilities.
2. Indicate by use of signs and graphics all publicly owned or controlled shoreline.
3. If appropriate, offer bonuses for the provision of public access in private property.
4. Require public agencies such as the City, Port of Seattle, and King County Metro, etc., to provide public access opportunities at new shorelines facilities and encourage these agencies to provide similar opportunities in existing facilities.
5. Provide standards and criteria for view and visual access from upland and shoreline areas.
6. Give priority to the operating requirements of the water-dependent and water-related uses over preservation of views in those environments where water-dependent uses are encouraged.
7. Limit off-premise signs and regulate other signs to enhance and protect views.

LU238 Waterways in Lake Union and Portage Bay are for public navigation access and commerce and, in general, the City shall not request that the designation be removed from waterways. The City may request that waterways be vacated only when the city reclaims the area as street right of way or for public park purposes. The City may request that the dry land portion of a waterway be redesignated for the additional purpose of providing permanent public access improvements.

Recreation goals

LUG53 Manage publicly owned shorelines that are suitable for public recreation to optimize their potential.

LUG54 Increase the amount of shorelines dedicated to public recreation and open space.

LUG55 Identify, protect and reserve for public use and/or enjoyment those areas containing special shoreline qualities that cannot be easily duplicated. recreation policies



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LU258 Allow for increased opportunity for the public to enjoy water-dependent recreation including boating, fishing, swimming, diving and enjoyment of views.

LU259 Designate as suited for water-dependent recreation areas having natural beaches, large amounts of submerged land for moorage or sheltered waters and the absence of heavy ship traffic and incompatible heavy industry.

LU260 Provide for recreational boating facilities including terminals, moorage and service facilities on publicly-owned land and encourage the provision of such facilities on private property, if the environmental impact is acceptable.

LU261 Increase publicly-owned shorelines, giving priority to those areas that lack recreational facilities.

LU262 Explore alternative means (other than acquisition) to provide public recreation at the shoreline and on the water.

LU263 Use submerged lands for underwater parks when feasible.

State Guidelines

WAC 173-26-221 (4), Public access.

(4) Public access.

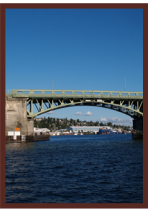
(a) Applicability.

Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) Principles.

Local master programs shall:

- (i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.
- (ii) Protect the rights of navigation and space necessary for water-dependent uses.
- (iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.



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- (iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

(c) Planning process to address public access.

Local governments should plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Such a system can often be more effective and economical than applying uniform public access requirements to all development. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and recreation. The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights.

Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that plan may serve as a portion of the local government's public access planning, provided it meets the provisions of this chapter. The planning may also justify more flexible off-site or special area public access provisions in the master program. Public participation requirements in WAC 173-26-201(3)(b)(i) apply to public access planning.

At a minimum, the public access planning should result in public access requirements for shoreline permits, recommended projects, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variety of shoreline access opportunities and circulation for pedestrians-including disabled persons-bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

(d) Standards.

Shoreline master programs should implement the following standards:

- (i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.
- (ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-221(4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions



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for public access based on that approach in lieu of uniform site-by-site public access requirements.

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and non-water-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-221 (4)(c).

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Assure that public access improvements do not result in a net loss of shoreline ecological functions.

WAC 173-26-211, Environment Designation Systems

"Aquatic" environment management policies.

(A) Allow new over-water structures only for water-dependent uses, public access, or ecological restoration.

"High-intensity" environment management policies.

(D) Where feasible, visual and physical public access should be required as provided for in WAC [173-26-221](#) (4)(d).



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"Urban conservancy" environment management policies.

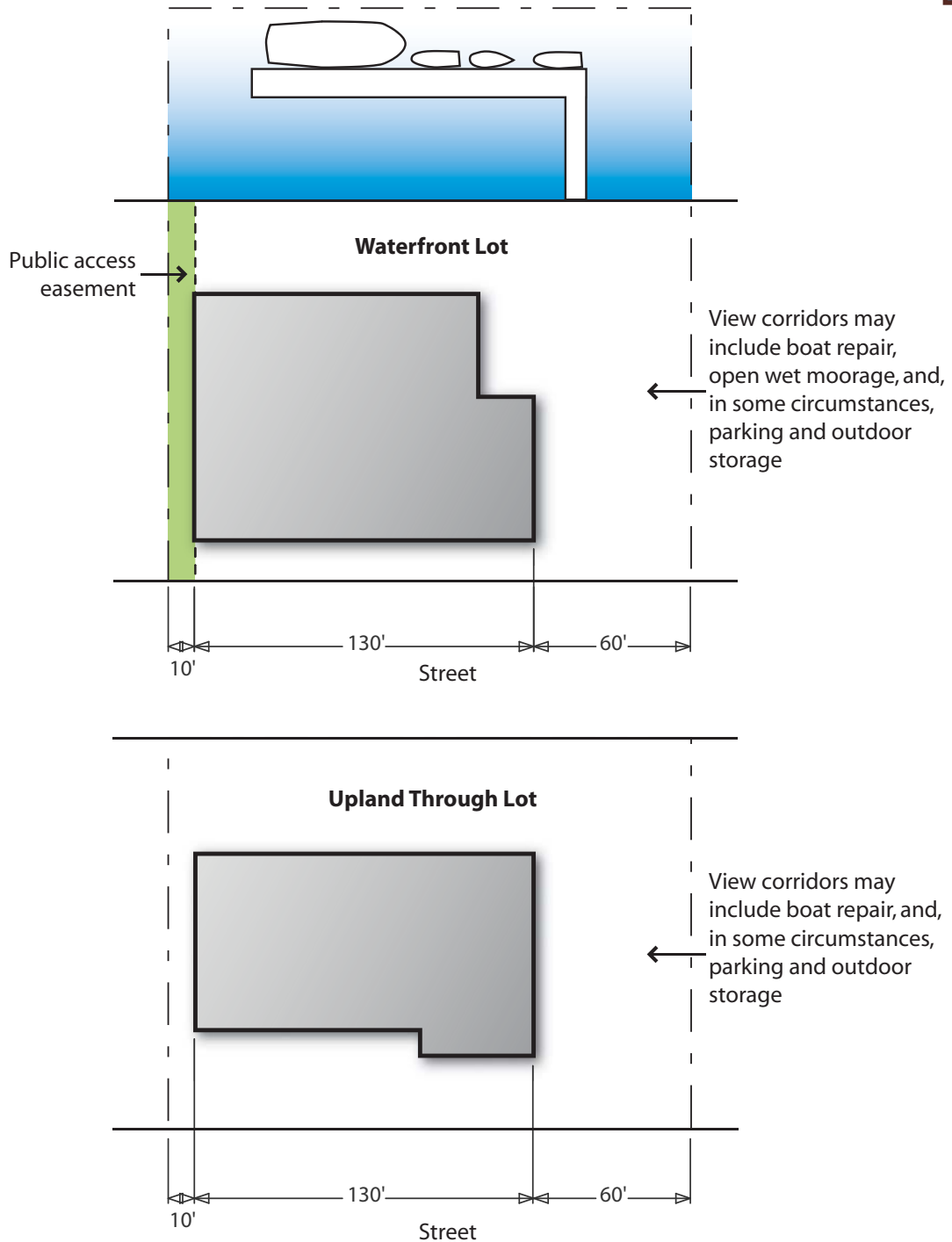
(C) Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.

"Shoreline residential" environment purpose.

The purpose of the "shoreline residential" environment is to accommodate residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses.

"Shoreline residential" environment management policies.

(B) Multifamily and multilot residential and recreational developments should provide public access and joint use for community recreational facilities.



**Figure 1:
Standard public access and view corridors**

Shoreline lots that contain predominantly non-water-dependent/water-oriented uses are typically required to provide public access and view corridors. Waterfront lots must provide a 10' easement and a 5' path to the water, and must leave 35% of lot width open as a view corridor. Upland through lots have the same view corridor requirement without the public access requirement.

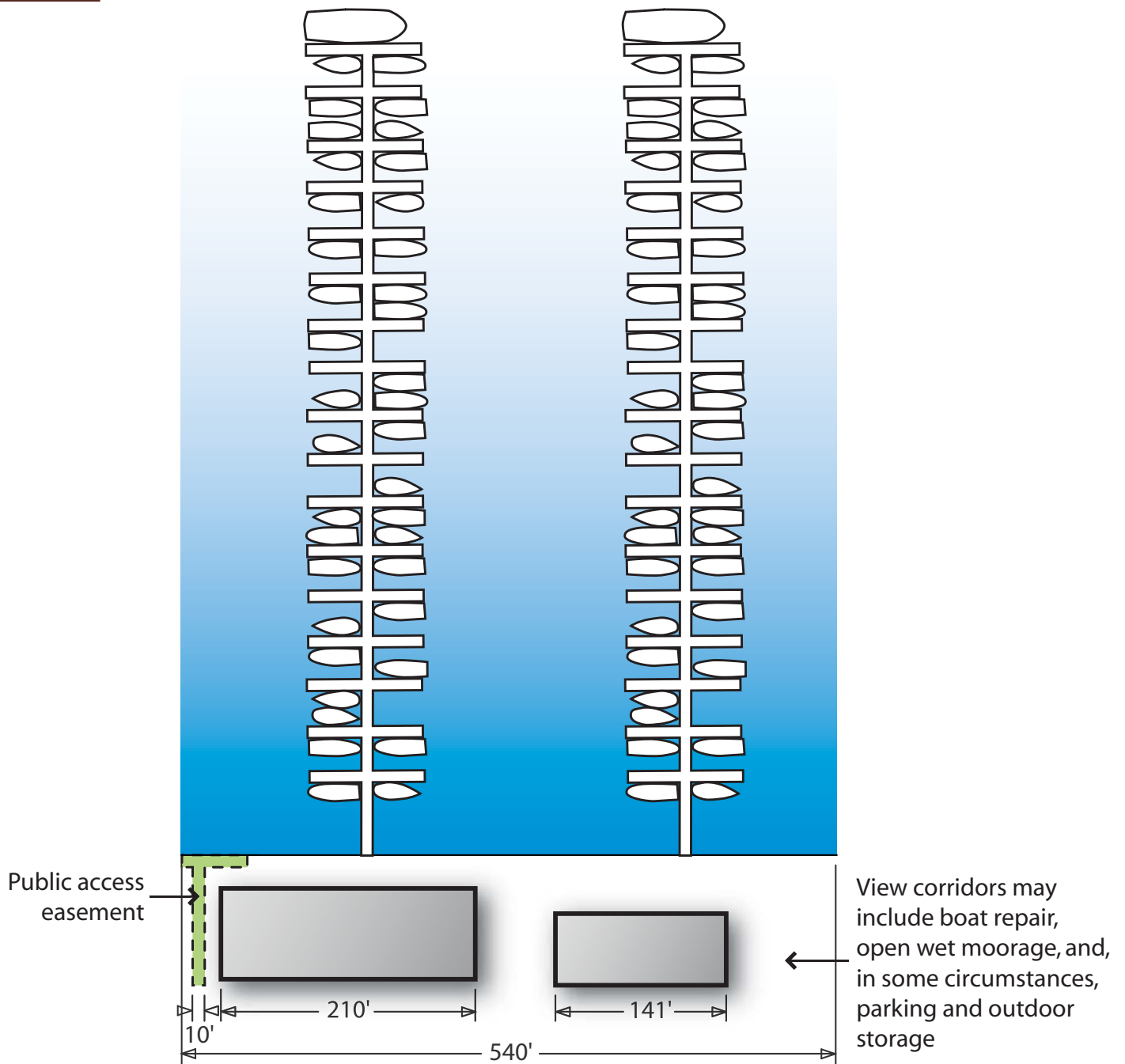


Figure 2:
Marina with 6,000 linear feet of moorage

Recreational marinas with moorage between 2,000 and 9,000 linear feet are required to provide a walkway at least 5' wide on a 10' public access easement, leading to an 10' easement along 10% of the marina's water frontage. View corridors totalling 35% of lot width are typically required.



Figure 3: Marina with 14,000 linear feet of moorage

Recreational marinas 9,000 linear feet of moorage or more are required to provide a walkway at least 5' wide on a 10' public access easement, leading to an 10' easement along the entire length of the marina's water frontage. View corridors totalling 35% of lot width are typically required, except for Shilshole Marina which is required to provide view corridors for 65% of lot width.

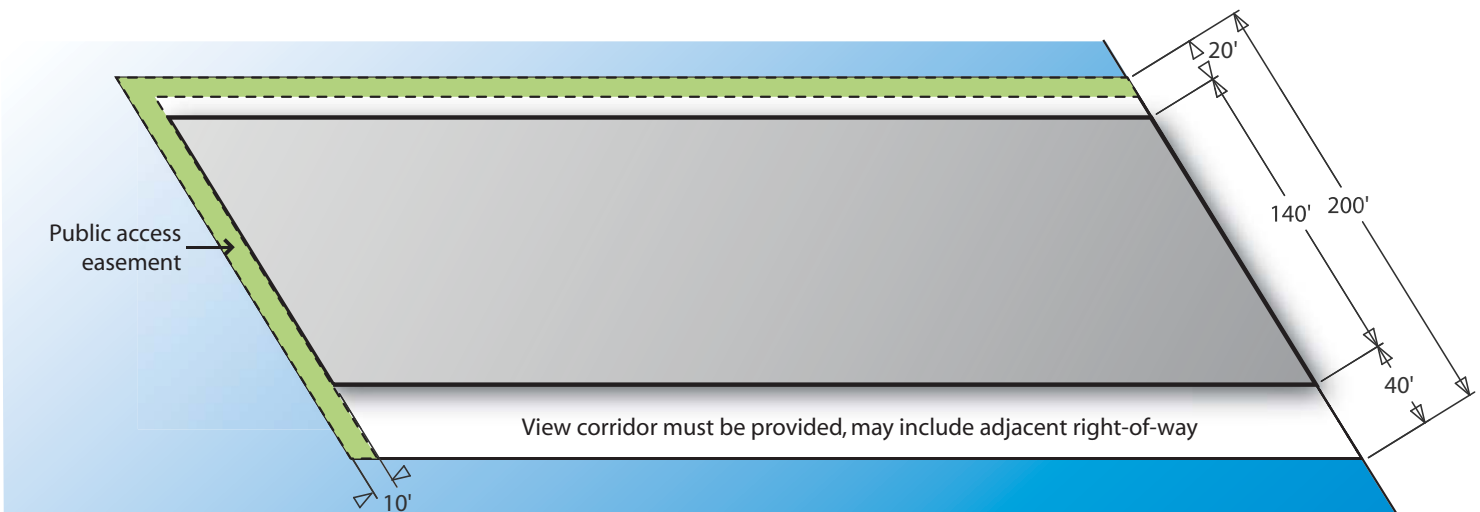
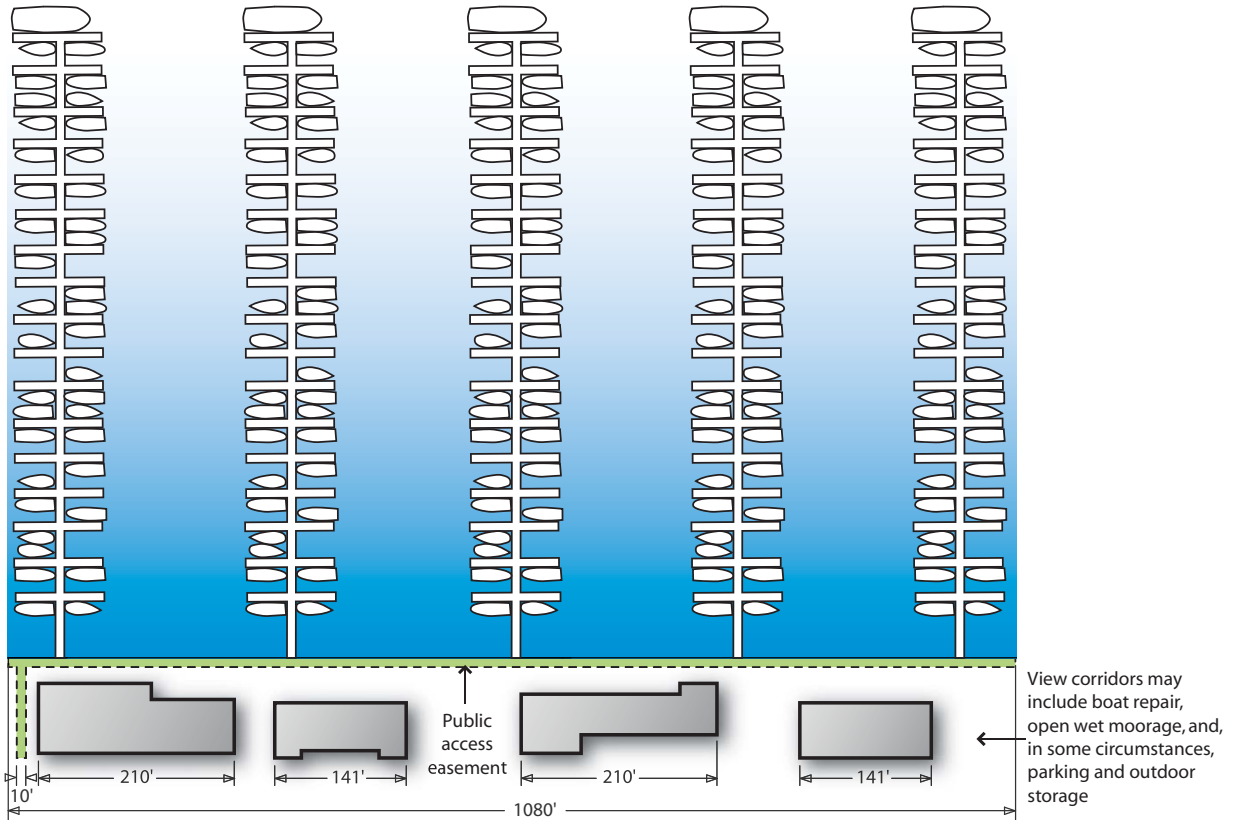


Figure 4: Pier in Urban Harborfront environment

Piers in the UH environment are required to provide a public access easement along two sides (including the western edge). Also, 30% of lot width along Alaskan Way must be left open as a view corridor, although half of adjacent submerged rights-of-way can be used toward this requirement



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Views Policy Paper

Executive Summary

Views of the shorelines and water are a crucial part of Seattle's urban character. Accordingly, Seattle's SMP requires view corridors for most waterfront lots other than single-family residential lots. Generally the corridors take up 35% of a lot, although there is some variation between shoreline environment designations as well as reductions for lots with water-dependent and water-related uses. General requirements are illustrated in Figures 1-4 of the Public Access Policy Paper.

DPD recommends continuing the general approach used under the current SMP, while making changes such as removing existing view corridor reductions for water-related uses and simplifying the code by consolidating view corridor requirements in the general development standards section.

Key Issues

- Do current and proposed view corridor regulations adequately balance the need for water views with use of waterfront property?

Proposed Changes to the SMP

Goals and Policies

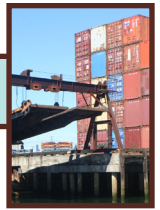
Existing goals and policies are listed below. No changes are proposed.

LUG45 Preserve and enhance views of the shoreline and water from upland areas where appropriate.

LUG60 Recognize the unique opportunities in different areas of our shorelines to protect and restore ecological function, accommodate different types of water-dependent businesses and shoreline recreation, and to open views of the water.

LU237 Except for single-family residences, maintain standards and criteria for public access and private use of publicly owned or controlled shorelines to achieve the following:

1. Provide linkages between shoreline public facilities via trails, paths, etc., to connect with terminal boating and other recreational facilities.
2. Indicate by use of signs and graphics all publicly owned or controlled shoreline and all required public access on private property.
3. If appropriate, offer bonuses for the provision of public access on private property.
4. Require public agencies such as the City, Port of Seattle, and King County Metro, etc., to provide public access opportunities at new shoreline facilities



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- and encourage these agencies to provide similar opportunities in existing facilities.
5. Provide standards and criteria for view and visual access from upland and shoreline areas.
 6. Give priority to the operating requirements of the water-dependent and water-related uses over preservation of views in those environments where water-dependent uses are encouraged.
 7. Limit off-premise signs and regulate other signs to enhance and protect views.

LU258 Allow for increased opportunity for the public to enjoy water-dependent recreation including boating, fishing, swimming, diving and enjoyment of views.

Intent

The intent of the proposals below is to clarify existing requirements, comply with state guidelines, and simplify the code where possible.

Changes to Land Use Code

- 1) Clarify the definition of “view corridor.” The following language is proposed: “A view corridor means an area of a lot that provides views unobstructed by structures through the lot from the street to the water.”
- 2) Remove view corridor reductions for water-related uses. Currently, exceptions or reductions from the view requirement are provided for both water-dependent and water-related uses. Under WAC guidelines, the definition of water-related has been substantially broadened to the point that it is no longer appropriate to give a blanket reduction for water-related uses.
- 3) Consolidate common view requirements into one section of the code rather than having them in each shoreline environment. This will shorten and simplify the code. Specific variations would still be included in shoreline environment sections as needed.
- 4) Expand existing view corridor requirement for upland through lots separated from a waterfront lot designated CM, CR, CP or CN to include additional lots that are only separated from the water by public property or right-of-ways where unobstructed views of the water may be possible. This would better meet the intent of the requirement by providing view corridors along areas in the Ship Canal where UG parcels are separated from the water by a thin strip of CN.

Background Information

Existing Regulations

A view corridor is a portion of land running generally perpendicular to the shoreline that contains no structures, but may contain landscaping and, in limited circumstances,



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parking. General standards for view corridors are listed in SMC 23.60.162, while measurement techniques are described in SMC 23.60.954 and shoreline environment specific regulations are located in the shoreline environment sections (Seattle Municipal Code 23.60.240 through 23.60.784). View corridors are generally required on waterfront properties, and also on upland through lots separated from a waterfront lot designated CM, CR, CP or CN by a street or railroad right-of-way. Lots with single family dwellings are generally exempted as well as lots in the Urban Industrial environment where water-dependent or water-related uses occupy more than 50% of the lot. Conservancy Waterway and Conservancy Preservation environments don't have view corridor requirements; however, development is generally very limited in these zones.

Limited activities are allowed in view corridors and include open wet moorage, storage of boats under repair, and outdoor storage of items accessory to water-dependent or water-related uses are generally allowed in a view corridor. A view corridor of 35% of the lot width is required in most areas, except in the Urban Harborfront (30%), North Shilshole (65%), and lots occupied by water-dependent or water-related uses in the Urban Maritime environment (15%) and the Urban Stable environment (25%).

Specific code language is listed below.

SMC 23.60.162 View corridors.

A. View corridors shall be provided for uses and developments in the Shoreline District as required in the development standards of the environment in which the use or development is located.

B. When a view corridor is required the following provisions shall apply:

1. A view corridor or corridors of not less than the percentage of the width of the lot indicated in the development standards for the applicable shoreline environment shall be provided and maintained.

2. Structures may be located in view corridors if the slope of the lot permits full, unobstructed view of the water over the structures.

3. Unless provided otherwise in this chapter, parking for motor vehicles shall not be located in view corridors except when:

a. The parking is required parking for a water-dependent or a water-related use and no reasonable alternative exists; or

b. The area of the lot where the parking would be located is four (4) or more feet below street level.

4. Removal of existing landscaping shall not be required.



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C. The Director may waive or modify the view corridor requirements if it is determined that the intent to preserve views cannot be met by a strict application of the requirements or one (1) of the following conditions applies:

1. There is no available clear view of the water from the street;
2. Existing development or topography effectively blocks any possible views from the street; or
3. The shape of the lot or topography is unusual or irregular.

D. In making the determination of whether to modify the requirement, the Director shall consider the following factors:

1. The direction of predominant views of the water;
2. The extent of existing public view corridors, such as parks or street ends in the immediate vicinity;
3. The availability of actual views of the water and the potential of the lot for providing those views from the street;
4. The percent of the lot which would be devoted to view corridor if the requirements were strictly applied;
5. Extreme irregularity in the shape of the lot or the shoreline topography which precludes effective application of the requirements; and
6. The purpose of the shoreline environment in which the development is located, to determine whether the primary objective of the environment is water-dependent uses or public access views.

SMC 23.60.954 View corridors.

When a view corridor is required, it shall be provided according to the development standards set forth in Section 23.60.162 using the following measurement techniques:

- A. The width of the view corridor or corridors shall be determined by calculating the required percent of the width of the lot at the street or upland lot line;
- B. The view corridor or corridors shall be in the direction of the predominant view of the water and, when topographically possible, generally parallel to existing view corridors;
- C. When a lot is bounded by more than one (1) street, the Director shall determine which street front shall be used for the view corridor calculation; the determination shall be based on consideration of the relative amounts of traffic on each of the streets, the



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direction of the predominant view of the water and the availability of actual views of the water.

SMC 23.60.398 View corridors in the CR Environment.

A view corridor or corridors of not less than thirty-five (35) percent of the width of the lot shall be provided and maintained on all waterfront lots except those developed with single-family dwellings.

SMC 23.60.458 View corridors in the CM Environment.

A. A view corridor or corridors of not less than thirty-five (35) percent of the width of the lot shall be provided and maintained on all waterfront lots and on any upland through lot separated from a waterfront lot designated CM, CR, CP or CN by a street or railroad right-of-way.

B. The following uses may be located in a required view corridor:

1. Open wet moorage;
2. Storage of boats undergoing repair; and
3. Parking which meets the criteria of subsection B3 of Section 23.60.162, View corridors.

SMC 23.60.518 View corridors. (CW)

A view corridor or corridors of not less than fifty (50) percent of the width of the waterway shall be provided and maintained for all developments.

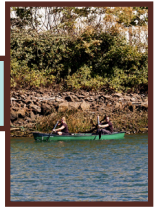
SMC 23.60.576 View corridors in the UR Environment.

A. A view corridor or corridors of not less than thirty-five (35) percent of the width of the lot shall be provided and maintained on all waterfront lots and on any upland through lot separated from a waterfront lot designated CM, CR, CP or CH by a street or railroad right-of-way.

B. View corridors are not required for single-family dwelling units.

C. The following may be located in a required view corridor:

1. Open wet moorage;
2. Storage of boats undergoing repair;
3. Parking which meets the criteria of subsection B3 of Section 23.60.162, View corridors.



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SMC 23.60.636 View corridors in the US Environment.

A. A view corridor or corridors of not less than thirty-five (35) percent of the width of the lot shall be provided and maintained on all waterfront lots and on any upland through lot separated from a waterfront lot designated CM, CR, CP or CN, by a street or railroad right-of-way.

B. View corridors are not required for single-family residential development.

C. The following may be located in a required view corridor:

1. Open wet moorage;
2. Storage of boats undergoing repair; and
3. Parking which meets the criteria of subsection B3 of Section 23.60.162, View corridors.

D. The required view corridor width shall be reduced to twenty-five (25) percent of the width of the lot when water-dependent or water-related uses occupy more than forty (40) percent of the dry land area of the lot.

E. A view corridor or corridors of not less than sixty-five (65) percent of the width of the lot shall be provided on the waterfront lots fronting on Seaview Avenue Northwest between the north boundary of 38th Avenue Northwest and the south boundary of vacated Northwest 80th Street.

The following may be located in the required view corridors:

1. Open wet moorage;
2. Dry storage of boats; and
3. Parking for both water-dependent and non-water-dependent uses.

SMC 23.60.666 Council conditional uses permitted on waterfront lots in the UH Environment.

Water-dependent Incentive.

f. View Corridors. View corridors shall be provided equivalent to thirty (30) percent of the street frontage of the lot. The following conditions for view corridors shall be met:

- (1) View corridors shall allow views of the water from the street. View corridors shall maintain and enhance pedestrian views from Alaskan Way along traditional view corridors established by submerged street rights-of-way, as well as views from upland areas along east/west rights-of-way. View corridors shall provide views past pier development out into the open water of Elliott Bay and to the Olympic Mountains where possible;
- (2) View corridors shall maximize opportunities for views of the bay and waterfront activity along Alaskan Way to enhance public open space and public access areas;



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- (3) View corridors through a development site shall be encouraged to assist in relieving the overall sense of bulk of development over water; and
- (4) Overhead weather protection, arcades or other architectural features may extend into the view corridor only if they do not obstruct views from pedestrian areas at Alaskan Way or on upland streets.

SMC 23.60.698 View corridors in the UH Environment.

A. Waterfront Lots.

- 1. The following standards shall apply to waterfront lots:
 - a. A view corridor with a width of not less than thirty (30) percent of the width of the lot, measured at Alaskan Way, shall be provided and maintained;
 - b. The view corridor may be provided at two (2) locations, provided that each location has a minimum width of twenty (20) feet.
- 2. The following may be located in a required view corridor:
 - a. Storage of boats undergoing repair,
 - b. Open wet moorage, and
 - c. Outdoor storage of items accessory to water-dependent or water-related use.
- 3. One-half (1/2) of an adjacent submerged street right-of-way may be used in meeting view corridor requirements.

B. Upland Lots. No view corridors are required.

SMC 23.60.756 View corridors in the UM Environment.

- A. A view corridor or corridors of not less than fifteen (15) percent of the width of the lot shall be provided and maintained on all waterfront lots occupied by a water-dependent or water-related use.
- B. A view corridor or corridors of not less than thirty-five (35) percent of the width of the lot shall be provided and maintained on all waterfront lots occupied by a non-water-dependent use.
- C. The following may be located in a required view corridor:
 - 1. Open wet moorage;
 - 2. Storage of boats undergoing repair;
 - 3. Parking which meets the criteria of subsection B3 of Section 23.60.162, View corridors; and
 - 4. Open storage accessory to a water-dependent or water-related use.



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D. View Corridor Reductions. The required percent of the width of the lot may be reduced by five (5) percent for each of the following conditions provided that such reduction does not result in a view corridor of less than fifteen (15) feet:

1. The required view corridor is provided entirely in one (1) location;
2. A view corridor of at least half (1/2) the required width abuts a lot line which separates the lot from a street, waterway, or public park;
3. A view corridor of at least half (1/2) the required width abuts a view corridor provided on the adjacent property.

E. Viewing Area Substitution. In lieu of the required view corridor, developments which are not required to provide public access may provide a public viewing area as follows:

1. The viewing area shall be either an observation tower or a designated portion of the lot which is easily accessible;
2. The viewing area shall provide a clear view of the activities on the lot and the water;
3. The viewing area shall have a minimum dimension of one hundred fifty (150) square feet; and
4. The conditions of Section 23.60.160 for public access relating to accessibility, signs, and availability shall apply.

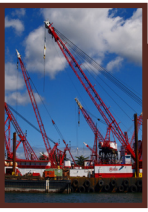
SMC 23.60.816 View corridors in the UG Environment.

A. A view corridor or corridors of not less than thirty-five (35) percent of the width of the lot shall be provided and maintained on all waterfront lots.

B. A view corridor or corridors of not less than thirty-five (35) percent of the width of the lot shall be provided and maintained on all upland through lots separated from a waterfront lot designated CM, CR, CP or CN by a street or railroad right-of-way.

C. The following may be located in a required view corridor:

1. Open wet moorage;
2. Storage of boats undergoing repair; and
3. Parking, which meets the criteria in subsection B3 of Section 23.60.162, View corridors.



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SMC 23.60.876 View corridors in the UI Environment.

A. A view corridor or corridors of not less than thirty-five (35) percent of the width of the lot shall be provided and maintained on all waterfront lots developed with a non-water-dependent use or a mix of water-dependent or water-related uses and non-water-dependent uses if the water-dependent or water-related use occupies less than fifty (50) percent of the dry-land portion of the lot.

B. A view corridor or corridors of not less than thirty-five (35) percent of the width of the lot shall be provided and maintained on all upland through lots which are adjacent to waterfront lots designated CM, CR, CP or CN.

C. The following may be located in a required view corridor:

1. Open wet moorage;
2. Storage of boats undergoing repair;
3. Parking which meets the criteria in subsection B3 of Section 23.60.162; and
4. Open storage accessory to a water-dependent or water-related use.

WAC SMP Guidelines

Guidance for Public Access, located in WAC 173-26-221 (4), directs local jurisdictions to “protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water” and to adopt view corridors “to minimize the impacts to existing views from public property or substantial numbers of residences”. However, no specific guidance on how these directives should be encouraged is given. Relevant WAC language is given below.

(4) *Public access.*

(a) **Applicability.** Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

(b) **Principles.** Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and space necessary for water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.



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(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.



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Public Access and Views Response Paper

This document contains proposals presented to the Citizens Advisory Committee (CAC) members, a summary of the views expressed by CAC members, and DPD’s responses to these comments. The original proposals presented by DPD to the CAC can be found in the documents entitled “Public Access Policy Paper” and “Views Policy Paper,” dated January 14, 2009.

Of the various proposals put forward by DPD in these policy papers, CAC comments focused on public access easements on private property, security and liability issues, comprehensive public access planning, and enforcement of public access/view standards.

1. Public access easements on private land

The existing Land Use Code requires public access easements as a use provision for non-water-dependent and non-water-related uses on waterfront parcels in most environment designations. Specific requirements vary, but these are generally 10’ pathways from the street to the water. DPD proposed continuing to require easements with the same dimensions, with the following updates:

- Add new development standards that would improve safety, visibility, and aesthetics of easements;
- Where water-dependent and water-related uses were formerly exempt from the public access requirement, water-related uses would no longer be exempt. This proposal is for compliance with new state requirements;
- Certain Lake Union parcels did not have to provide public access if they were adjacent to street ends. DPD proposed that minimum lot width would be a more appropriate criterion than proximity to street ends.

Pros	Cons	General Comments
<ul style="list-style-type: none"> • Heavy use of small public access sites in industrial areas supports their existence and maintenance. • The Public Trust Doctrine and Washington’s Shoreline Management Act both require public access to the water, through private uses in some cases. 	<ul style="list-style-type: none"> • Requiring public access and view corridors sounds like DPD is taking private property without paying for it – eliminates owner’s ability to use property to its “highest and best use.” • The City should generate more tax revenue and buy any land it wants to open for public access. 	<ul style="list-style-type: none"> • City already owns 140+ street ends, including many that are leased to private property owners. There’s an opportunity to open public access at the currently leased street ends. • There’s insufficient consideration of public access from the water – broader thinking about public access could create exciting recreational opportunities, including water-based trails. • Restoration and public access are related – healthy shorelines improve the quality of public access experience.



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DPD continues to propose that non-preferred shoreline uses should provide public access amenities in most scenarios – these easements are one of the fundamental reasons we can allow non-water-related/non-water-dependent uses on waterfront parcels.

However, based on concerns expressed by CAC members, DPD retracts its earlier proposal to require public access for water-related uses in the Urban Industrial and Urban Maritime shoreline environments. Additionally, we propose to remove existing public access requirements for any allowed industrial uses in the UM and UI environments. Water-related uses and non-water-dependent industrial uses can play an important role in supporting the marine industrial cluster, and required easements may reduce the viability of these uses. Public access is more appropriately provided on public land in the UM/UI environments, both because these environments have low densities of residents and visitors, and because of potential use conflicts and safety concerns on private property. WAC 173-26 states that public access should not be required “Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment...”

Preservation and restoration of ecological function designed to be compatible with maritime and industrial uses remains a high priority, standards for ecological shoreline management for non-water-dependent/non-water-related uses will be applied accordingly.

2. Public access and security/liability

The Committee spent much of their discussion on issues relating to security and liability in the context of public access.

Pros	Cons	General Comments
<ul style="list-style-type: none"> • Property owners should have to provide public access, and should be liable for safety and security. 	<ul style="list-style-type: none"> • Where public access is provided adjacent to a maritime industrial facility, there are potential security threats if visitors can observe/photograph activities. Federal law requires some shipyards to have security plans – complicated by public access. • Property owners should not have to take on all liability – City should absolve them from certain situations. • Burke-Gilman has presented problems for some BINMIC industrial users – adjacent property owners are having difficulty finding insurance. 	<ul style="list-style-type: none"> • City can’t “absolve” property owners from liability, as it would open the City up to lawsuits.



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Regarding liability comments please note: Under the Recreational Use Law, RCW 4.24.200 and 4.24.210 owners who allow members of the public to use their lands or waters for outdoor recreation without charging a fee are not liable for unintentional injuries to others. RCW 4.24.210 (1). They may be liable for injury caused by a "known dangerous artificial latent [not obvious] condition for which warning signs have not been conspicuously posted." RCW 4.24.210 (4). Recreation "includes but is not limited to" a wide variety of activities, including "viewing or enjoying historical, architectural, scenic, or scientific sites." RCW 24.4.210 (1).

See response for issue #1, above. Removing public access requirements for water-related and all industrial uses in the UI and UM environments should alleviate many of the Committee's concerns relating to security and liability.

Public access will continue to be provided (and potentially expanded) on public property including street ends. The City will evaluate conflicts relating to federal security issues on a case-by-case basis, but screening and security will otherwise be the responsibility of the property owner.

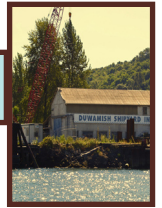
3. Public access planning

DPD proposed undertaking comprehensive public access plans for Seattle's shoreline areas. This type of planning effort is encouraged in the state SMP requirements, and could support payment-in-lieu programs and other coordinated public access improvements. While a city-wide access plan may not be within the scope of our SMP regulatory update, we propose to include support for this planning process as a policy goal.

Pros	Cons	General Comments
<ul style="list-style-type: none"> • It's important to understand the demand for public access and what kinds of uses are in greatest demand – this information should define criteria and development standards. • DPD should develop comprehensive Public Access Plan for shorelines, and should defer or relax onsite access requirements for improvements contributing to the larger access plan 	<ul style="list-style-type: none"> • Payment-in-lieu is a great option to increase flexibility in industrial zones; however, clear and well-developed formula is needed. 	<ul style="list-style-type: none"> • Port of Seattle has a Seaport Shoreline Plan that was developed in part to communicate proposals for new public access areas on Port property. • Public access should connect to transit goals via bike/walk trails, encouraging people to get out of cars.

DPD heard clear support for a Shoreline Public Access Plan from diverse interests represented in the Citizens Advisory Committee.

This planning effort would build on the SMP shoreline public access inventory, the Parks Dept. comprehensive plan, and other recent planning/visioning reports listed in the



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Public Access Policy Paper. It would analyze where key demand for shoreline access occurs as well as areas with shortages. Further, it would look at quality and type of access provided in different parts of Seattle, and take into account growth projections for different neighborhoods. Finally, it would identify strategies for funding improvements, possibly including payment-in-lieu programs.

4. Enforcement

DPD suggested various measures to improve enforcement of view corridor and public access requirements. The SMP public access inventory looked only at access points on public land, but an inventory of required public access on private property would be a key tool for future enforcement.

Pros	Cons	General Comments
<ul style="list-style-type: none"> Required access on central waterfront piers has eroded over time – need better enforcement. 	<ul style="list-style-type: none"> Views are a big concern in Seattle. Development is blocking visual connections to the water, and DPD needs to make more efforts to preserve view corridors, including regulation of ornaments and signage. 	

DPD continues to propose improved enforcement of existing regulations as an important part of improving public access to shorelines. In addition to our initial proposals, we will work with DPD inspectors to see whether view corridor violations are a significant problem and identify better enforcement strategies.



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FLOATING HOMES POLICY PAPER

PROPOSALS FOR SMP UPDATE

Proposed goals and policies

It is our goal to preserve existing floating home communities by allowing repair and replacement of existing houseboats but prevent new houseboats or expansion of overwater coverage. The SMA explicitly states that “overwater residences, including houseboats, are not a preferred use and should be prohibited” (WAC 173-26-241j). While existing floating home communities are an important part of the historic character of Seattle and should be protected, new floating homes should not be allowed.

Specific language that will be included in the Comprehensive plan is as follows:

“Existing floating home communities represent an important cultural resource because of their historic role in providing affordable housing for Seattle’s working class and their unique contribution to Seattle’s maritime culture. Existing communities should be allowed to remain; however, new houseboats should be prohibited since overwater residences are not a preferred use of Seattle’s shorelines.”

Proposed regulatory changes

- Prohibit new floating homes
- Combine the standards for conforming and non-conforming houseboat moorage as shown in table 1 (the existing conforming/non-conforming dichotomy is difficult to interpret as it involves analysis of historic records and existing building dimensions); these changes will not create any new non-conforming structures nor will it result in substantial losses of development potential
- Prohibit new basements, but allow repair and replacement of existing basements
- Prohibit additional floor area unless total float area is 1,200 sq ft or less

COMMENTS FROM FLOATING HOME ASSOCIATION

DPD met twice with representatives of the Floating Home Association regarding potential changes to floating home regulations. A summary of comments raised by the FHA and DPD’s responses are summarized below:

1. Consolidation of “non-conforming” and “conforming” standards – FHA did not support requiring houseboats to meet existing “conforming” standards as they felt that this would lead to the reduction in size or outright elimination of floating homes. In particular, there was a concern that floating home owners could force other floating homes to move further away to meet required setbacks, resulting in



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some homes being bumped off the end of the moorage.

DPD recognizes that requiring many existing homes to meet existing “conforming” floating home standards when they redevelop would cause considerable burden. DPD is currently proposing to consolidate the “non-conforming” and “conforming” standards into one standard that will not require floating home owners to reduce their lot coverage when they redevelop. This new standard would not result in any floating homes being non-conforming. The intent of this policy is to allow floating homes to maintain, repair, and replace their structures, but limit expansion of existing homes.

2. Depth of floats – FHA views any proposal to limit the depth of floats as a burden and explained that it isn’t easy to reduce the floatation material under a floating home

Wooden, plastic, and styrofoam floats typically become less buoyant over time and require replacement or addition of new materials to maintain buoyancy. Common practice in these circumstances is continue to place new materials under existing floats rather than replace existing floats as it is cheaper and faster. These floats however can become very deep (often as much as 10-12 ft in depth) which can result in significant constriction of migration areas, loss of underwater habitat and an increase in bass and pikeminnow habitat, which are predators of Chinook salmon. DPD had considered limiting the allowed depth of floats to minimize this disturbance. Based on conversations with the FHA we have decided not to create standards to regulate the maintenance of floats; however, we continue to consider methods to ensure reduced float depth when floating homes are rebuilt or replaced.

3. Limitations on basements - FHA members did not comment specifically on this issue.
4. Prohibition on new floating homes – FHA feels that a prohibition on new floating homes would de-legitimizes the floating home community in general.

DPD feels that this proposal will meet the WAC requirements and that it will not de-legitimize floating homes because it is stated in the Comprehensive Plan that existing floating homes are allowed because of their historic value. The SMA explicitly states that “overwater residences, including houseboats, are not a preferred use and should be prohibited” (WAC 173-26-241j). “Should” is further defined to mean “that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action”. While DPD proposes to allow existing houseboats because we feel they meet the goal of protecting “buildings and sites having historic, cultural and educational value” (WAC 173 - 26 -176), the SMA does not provide justification for allowing new houseboats.

5. Comprehensive Plan language – FHA was concerned that changing floating homes



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from a “water-dependent use” to an “allowed use” would be a potential erosion of legitimacy for the floating home community

DPD continues to propose that floating homes not be considered water-dependent. In general, residential uses are not water-dependent even if they are in an overwater structure. Furthermore, the WAC draws clear lines between water-dependent uses and overwater residences, including floating homes, which make it inconsistent to consider overwater residences water-dependent.

BACKGROUND

STATE GUIDELINES

WAC 173-26-241 Shoreline uses.

(j) Residential development. Single-family residences are the most common form of shoreline development and are identified as a priority use when developed in a manner consistent with control of pollution and prevention of damage to the natural environment. Without proper management, single-family residential use can cause significant damage to the shoreline area through cumulative impacts from shoreline armoring, storm water runoff, septic systems, introduction of pollutants, and vegetation modification and removal. Residential development also includes multifamily development and the creation of new residential lots through land division.

Master programs shall include policies and regulations that assure no net loss of shoreline ecological functions will result from residential development. Such provisions should include specific regulations for setbacks and buffer areas, density, shoreline armoring, vegetation conservation requirements, and, where applicable, on-site sewage system standards for all residential development and uses and applicable to divisions of land in shoreline jurisdiction.

Residential development, including appurtenant structures and uses, should be sufficiently set back from steep slopes and shorelines vulnerable to erosion so that structural improvements, including bluff walls and other stabilization structures, are not required to protect such structures and uses. (See RCW [90.58.100\(6\)](#).)

New over-water residences, including floating homes, are not a preferred use and should be prohibited. 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.

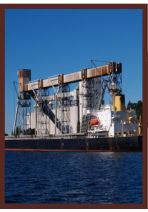
EXISTING REGULATIONS

Existing regulations for houseboats are contained in 23.60.196.



Table 1: Comparison of Current and Proposed Floating Home Regulations

	Nonconforming Floating Home		Conforming Floating Home		Proposed
	Code Provision	Required	Code Provision	Required	
Float Area	23.60.196.C1.a	Float area shall not be increased.	23.60.196.B1.b	1,200 sq. ft.	Float area shall not be increased
Height	23.60.196.C1.b	18 feet max height from water level	23.60.196.B1.a	21 feet at highest point measured from water level	No expansion of existing structures shall be allowed above 18 ft.
Setback	23.60.196.C1.c	6 feet min distance (wall to wall) between floating homes	23.60.196.B1.e1	8 – ft minimum distance between floats or walls	Setbacks may not be reduced below existing conforming requirements or current setback and must meet existing non-conforming minimums if rebuilt or replaced
Setback		N/A	23.60.196.B1.e2	10-ft min. distance (wall to wall) between floating homes on opposite sides of moorage walkway.	
Setback	23.60.196.C1.d	3 feet min. distance between subject wall and site line	23.60.196.B1.e3	5-ft min distance between floating home float or wall and any floating home moorage lot line except when the lot line is adjacent to a public street row, a waterway or fairway.	
Open Water	23.60.196.C1.e	No part of home may be further extended over water, beyond float edge.	23.60.196.B1.g.	Each floating home shall abut open water at least 20-ft wide open navigable water.	No part of a home may be further extended overwater, beyond float edge. No standard for abutting navigable water
Walkway Access		N/A	23.60.196.B1.f	Each FM shall have direct access to 5-ft wide walkway	No walkway access standards
Accessory Float	23.60.196.C1.f	Floats existing prior to 3/1/1977 maintained & replaced but not expanded or transferred.		none	No new accessory structures. Floats existing prior to 3/1/1977 may be maintained & replaced not expanded or transferred.
Minimum site area		N/A	23.60.196.B1.c	2,000 w/exception	The total site area shall not be reduced below 2,000 sq ft or current site area
Total Water Coverage		N/A	23.60.196.B1.d	45% the submerged portion of the moorage lot area	Total water coverage shall not be increased beyond 45% of the submerged portion of the moorage lot area or current water coverage
View Corridor	23.60.196.C1.g	Cannot increase view corridor non-conformity			Cannot increase view corridor non-conformity
Floor area					The total floor area of a structure may not be increased unless total float area is 1,200 sq ft or less
Basements					No new living or storage spaces may be located below water level. Existing living or storage spaces below w. l. may be remodeled, replaced, or rebuilt, but may not be expanded.



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Urban Stable/Mixed-Use Environment Policy Paper

Key Issues

- How to accommodate a reasonable mix of uses without precluding water-dependent uses?
- Are requirements for lots with substantial non-water-dependent uses achieving our public access goals?
- How should ecological goals be included?

Proposed Changes to the SMP

Changes to Goals and Policies

The purpose of the UMX Environment is proposed to be revised to the following: “to provide for a mix of water-oriented uses and to allow limited non-water-oriented development where it does not displace water-oriented uses and where it provides opportunities for public access, ecological function, and recreational enjoyment of the shoreline.”

Changes to Regulations

- Continue to allow residential, office, and mixed non-water-dependent commercial on the dry land portion of waterfront lots in limited quantity or where substantial public access or amenities are provided; use existing provision with following changes:
 - Make “major public access occupying 1/3 of site” the first priority and only allow alternative on smaller sites or where it would interfere with a water-dependent use
 - Allow counting of vegetated buffer toward major public access requirement
 - Apply existing FAR & parking limits for office to residential uses as well
 - Increase minimum percent water dependent to avoid public access requirements from 40% to 50%
- Allow certain “water-enjoyment uses” over water in existing buildings. In these areas, we would continue to allow non-water-dependent marine retail sales and service and restaurants, but limit general sales and service, custom craft, and entertainment uses to water-related uses only.
- Allow residential, office, and non-water-dependent commercial outright on upland lots
- Establish 15ft buffer (with landscaping standards) plus additional building setback of 20 ft



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- development in buffer would be prohibited excluding water access
- no buildings would be allowed in setback, but limited development would be allowed for low-intensity uses; reduction of building setback would be allowed on small lots with mitigation
- Change major durable retail sales from a conditional use to a prohibited use on waterfront lots
- Define Lake Union as areas between Fremont Bridge and University Bridge

Existing Regulations

Seattle Municipal Code

Seattle Municipal Code 23.60.220 summarizes the purpose and location criteria for each of Urban Stable shoreline environments. Seattle Municipal Code 23.60.600 through 23.60.642 provides specific use and development standards for this environment.

WAC Guidelines

The WAC does not provide specific guidelines on the Urban Stable/Mixed Use environment; however, guidelines for “High-intensity” environments are located in WAC 173-26-211 (5)(d).

WAC 173-26-201 (2)(d) also provides guidance on preferred uses, which is particularly relevant to the Urban Stable/Mixed Use environment. This section directs SMPs to “limit non-water-oriented uses to those locations where [water-oriented and single family residential] uses are inappropriate or where non-water-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act”.



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Urban Stable/Mixed-Use Environment Response Paper

This document contains proposals presented to the Citizens Advisory Committee (CAC) members, a summary of the views expressed by CAC members, and DPD’s responses to these comments. The original proposals presented by DPD to the CAC can be found in the document entitled “Urban Stable/Mixed-Use Environment Policy Paper,” dated February 12, 2009.

Of the various proposals put forward by DPD in the US/UMX Environment policy paper and presentation, CAC comments focused on three topics: shoreline setback & buffer, public access, and land uses.

1. Shoreline Setback & Buffer

DPD proposed a buffer of 15’ in which no development would be allowed except as needed for access to the water, plus an addition 20’ setback, in which no buildings would be allowed. Reduction of the setback would be allowed outright on small lots and allowance would be available to allow a reasonable level of development on lots with little or no dry land. The area of the setback could still accommodate low intensity uses such as public access and could be reduced on small lots.

Pros	Cons	General Comments
<ul style="list-style-type: none"> • Environmental benefit 	<ul style="list-style-type: none"> • Vegetated buffers can accumulate trash unless they are regularly maintained • New setback & buffer will create non-conforming structures • Much of setback and buffer will still be paved for industrial uses • Protecting areas outside of city may provide greater benefit for same cost • Reduces ability of people to walk right on water’s edge 	<ul style="list-style-type: none"> • Conflict between vegetated buffer and public access which needs to be addressed • Need to balance benefits with burden put on the property owner as they replace their existing buildings or property for a marginal gain

DPD acknowledges that the original proposal cannot be accommodated on all parcels but it is possible to achieve on a number of parcels. Therefore DPD is providing flexibility in the application of these standards to alleviate considerable hardship for parcels with little or no dry land. We are currently in the process of assessing different approaches for implementation. These include:

1. *Dividing the UMX zone into separate subcategories (UMX1, UMX2, and perhaps an UMX3) that would allow different standards for parcels with different amounts of dry land. UMX1, for example, might include parcels with sufficient space to accommodate the setback and buffer, while UMX2 might include parcels with insufficient space*
2. *Varying the setback based on the average depth of the parcel*



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3. *Writing an exemption that a limited amount of development potential shall always be allowed. The amount of development potential allowed could be based on a formula such as minimum area = 30 ft x width of parcel.*
4. *Allow existing overwater buildings in UMX outright (so it doesn't become non-conforming) provided it is not expanded.*

DPD is also in the process analyzing potential incentives for encouraging reduction of overwater buildings. One option would be to develop a Transfer of Development Rights program that would allow additional development outside of setbacks for reducing the amount of development in setbacks or overwater.

2. Public Access

DPD proposed to maintain existing public access requirements, but make changes to the public access requirements for office, residential, and non-water-dependent retail. These changes include:

1. Allow counting of vegetated buffer toward major public access requirement.

DPD is also evaluating the potential to allow contribution to the Cheshiahud Loop in lieu of onsite public access.

Pros	Cons	General Comments
<ul style="list-style-type: none"> • Increased public access • Fee in lieu option provides more flexibility for property owners 	<ul style="list-style-type: none"> ▪ Allowing people to pay into a fund for trails allows offsite mitigation which is not as favorable as onsite mitigation ▪ Requiring public access for multi-family houses on the shoreline punishes density, which the City is trying to promote in other initiatives. 	<ul style="list-style-type: none"> • DPD should write the code in such a way that owners of small lots in US/UMX do not have to request a variance in order to avoid the public access requirement.

DPD continues to support our original proposal for public access. We will maintain an exemption from public access requirements for small lots to address concerns raised about these properties. Based on interest in the approach, we will continue to analyze the potential to allow contribution to the Cheshiahud Loop in lieu of onsite public access.

3. Land Uses

DPD is currently undertaking an analysis of demand of water-dependent and water-related uses which inform our final recommendations. Prior to this data becoming available, DPD has presented the following framework for consideration by the committee:

- Continue to allow non-water-dependent marine retail sales and service and restaurants, but limit general sales and service, custom craft, and entertainment uses to water-related uses only.
- Allow residential, office, and non-water-dependent commercial outright on upland lots.



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- Change major durable retail sales from a conditional use to a prohibited use on waterfront lots.
- Increase minimum percent water dependent to avoid public access requirements from 40% to 50%
- Provide an option to either provide public access or shoreline environmental improvement when permitting a non-water dependent commercial use in either of the following ways:
 - A major open space including a waterfront walkway instead of other public access options, unless it is infeasible due to parcel size or incompatibility with water-dependent uses.
 - An environmental improvement project that substantially improves the shoreline condition – require a certain amount of habit units to be provided based on the size of the lot.
- Apply existing commercial use floor area ratio (FAR) & parking limits to residential uses as well.

	Pros	Cons	General Comments
		<ul style="list-style-type: none"> • Limitations on non-water-dependent uses has negative financial impact on shoreline property owners 	<ul style="list-style-type: none"> • Consider adding lodging as an overwater conditional use • Consider making existing building exempt from limitations on office, residential, and non-WD retail • Proposals should not address short-term economics • More clarity is needed on definitions of water-dependent and water-related

DPD is in the process of undertaking an analysis of demand for water-dependent and water related uses which we hope to have completed in August 2009. Final recommendations will be based on the outcome of this analysis as well as the input of the committee.

DPD will also investigate allowing certain uses, such as office or non-water-dependent retail, in overwater structures in exchange for shoreline restoration.



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Non-conforming Uses and Structures Policy Paper

Key Issues

- How can we seek additional conformity over time for structures without precluding maintenance or reasonable use of property?
- Can we prioritize high impact situations such as structures that are overwater or in structure setback?
- How should regulations address lots containing little or no dry land?

Background

A non-conforming use is a use occurring on a property that is not allowed under code such as a residential use in an industrial zone. A non-conforming structure is a structure that is non-conforming to specific development standards such as height, lot coverage, setback, or parking. A property may be non-conforming to use standards, structure development standards, or both.

Non-conforming uses can also be divided into legal and illegal nonconforming uses. A legal non-conforming use or structure is a use or structure that was legally built under previous regulations but does not meet existing standards. An illegal non-conforming use or structure is a use or structure that was created in violation of the regulations at the time it was created. Illegal non-conforming uses or structures are violations and do not have the same rights as legal non-conforming uses. For the purposes of this discussion, we are talking about legal non-conforming use and structures, only.

The WAC provides little guidance on non-conforming uses and structures except to acknowledge that “In some circumstances existing uses and properties may become nonconforming with regard to the regulations and master programs should include provisions to address these situations in a manner consistent with achievement of the policy of the act and consistent with constitutional and other legal limitations.” (WAC 173-26-91)



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Proposed Changes to the SMP

Goals & Policies

There are no existing or proposed comprehensive plan policies referencing non-conforming uses and structures; however the general policies informing our update are as follows:

Non-conforming Structures

- Allow maintenance of existing non-conforming structures where no expansion, redevelopment, or replacement is proposed (i.e. no sunset provisions)
- Seek increasing conformity, particularly for overwater structures and high impact activities when replacement or substantial redevelopment occur
- Allow reasonable use of property in all cases

Non-conforming Uses

- Allow maintenance of existing non-conforming uses where no expansion, redevelopment, or replacement is proposed (i.e. no sunset provisions)
- On dry land outside of structure setback, allow replacement of non-conforming uses with other non-conforming uses as long as it doesn't increase non-conformity
- On submerged land and within structure setback, don't allow replacement of non-conforming uses with other non-conforming uses

Regulations

Non-conforming Structures

- For structures landward of OHW and outside of habitat buffer, make non-conformity language consistent with Chapter 23 generally (i.e. no increase in non-conformity allowed, redevelopment to same size and location allowed);
- For structures waterward of OHW or within habitat buffer, allow maintenance, renovations, repairs or structural alterations only to the extent these actions do not constitute a substantial improvement and continue to prohibit expansion. "Substantial improvements" includes the following
 - Replacement of any habitable space
 - Maintenance, renovations, repairs or alterations with a value of more than 40% of the value of the non-conforming portion of the structure in any 5 year period
 - Extensive structural repair or alteration of creosote pilings excluding replacement with pilings of a different material
- Allow "substantial improvements" to non-conforming buildings waterward of OHW or within setback as conditional use only on properties with less than 50 feet of dry land and only to the extent necessary to allow reasonable use of property
 - Considering providing guidance for what constitutes "reasonable use"; for example "to accommodate an enclosed structure with footprint equal to X



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ft times the width of the lot, up to a maximum of X sq ft” for each shoreline environment

Non-conforming Uses

- Prevent new non-conforming uses where a non-conforming use currently exists within buildings located over submerged land and/or in buffers
- Allow additional flexibility to accommodate non-conforming uses in Landmark Buildings

Other Changes

- Modify “act of nature” definition to make it more consistent with the land use code generally. Change from “destroyed by fire or other act of nature, including normal deterioration of structures constructed in or over the water” to “destroyed by fire, act of nature, or other causes beyond the control of the owner, excluding normal deterioration of structures constructed in or over the water”
- Make period after which a use is considered to be discontinued 12 months consistent with nonconforming uses generally

Existing Regulations

SMC 25.09.045 Exemptions. (ECA code)

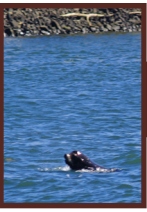
F. Maintenance, repair, renovation, or structural alteration of an existing structure that does not increase the impact to, or encroach further within, or further alter an environmentally critical area or buffer is exempt from the provisions of this chapter.

G. Rebuilding or replacing structures that are destroyed by an act of nature is exempt from the provisions of this chapter, provided that action toward the rebuilding or replacement is commenced within one (1) year of the act of nature, that the rebuilding or replacement is diligently pursued, and that the new construction or related activity does not further encroach into, or increase the impact to, or further alter an environmentally critical area or buffer and complies with restrictions on flood hazard areas reconstruction.

SMC 23.60.020 Substantial development permit required.

C. Exemptions. The following developments or activities shall not be considered substantial development and are exempt from obtaining a substantial development permit from the Director.

1. Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements. "Normal maintenance" means those usual acts to prevent a decline, lapse or cessation from a lawfully established state comparable to its original condition, including but not limited to its size, shape, configuration, location, and external appearance, within a reasonable period after decay or partial destruction, except where repair causes substantial adverse effects to shoreline resources or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and



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the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance and the replacement does not cause substantial adverse effects to shoreline resources or environment;

2. Construction of the normal protective bulkhead common to single-family residences.

6. Construction on shorelands by an owner, lessee or contract purchaser of a single-family residence, including those structures and developments within a contiguous ownership which are a normal appurtenance, for his or her own use or for the use of his or her family, which residence does not exceed a height of thirty-five (35) feet above average grade level and which meets all requirements of the City other than requirements imposed pursuant to this chapter. A normal appurtenance is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include, but are not limited to, a garage, deck, driveway, utilities, fences, installation of a septic tank and drainfield, and grading which does not exceed two hundred fifty (250) cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark;

SMC 23.60.122 Nonconforming uses.

- Existing nonconforming use may be continued where no changes are proposed.
- Nonconforming uses that are discontinued for more than 12 consecutive months in the CN, CP, CR, CM, CW, UR, UH and US Environments or more than 24 consecutive months in the UM, UG or UI Environments shall not be reestablished or recommenced.
- A structure or development containing a nonconforming use or uses may be maintained, repaired, renovated or structurally altered but shall not be expanded or extended beyond its existing external dimensions except
 - to improve access for the elderly and disabled
 - to provide regulated public access
 - to allow reconfiguration of a non-conforming moorage
- A nonconforming use which is destroyed by fire or other act of nature, including normal deterioration of structures in or over the water, may be resumed provided that any structure occupied by the nonconforming use may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed and action toward replacement is to be commenced within twelve (12) months after demolition or destruction in the CN, CP, CR, CM, CW, UR, UH and US Environments or within twenty-four (24) months after demolition or destruction in the UM, UG or UI Environments.
- The change of one nonconforming use to another use not permitted in the shoreline environment may be authorized as a conditional use when it is determined that the new use is no more detrimental to the property in the shoreline environment and vicinity than the existing use and the existing development is unsuited for a use permitted in the environment



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- Reconfiguration of an existing nonconforming moorage may be authorized as a conditional use if the Director determines that the goals of this chapter relating to views, limiting location of structures over water, and providing public access, would be better served and area of moorage is not increased.

SMC 23.60.124 Nonconforming structures.

- A nonconforming structure may be maintained, renovated, repaired or structurally altered but shall be prohibited from expanding or extending in any manner which increases the extent of nonconformity, or creates additional nonconformity, except as otherwise required by law, as necessary to improve access for the elderly and disabled or to provide regulated public access. When the development is nonconforming as to lot coverage, existing lot coverage may not be transferred from the dry-land portion of the site to the water.
- A nonconforming structure or development which is destroyed by fire or other act of nature, including normal deterioration of structures constructed in or over the water, may be rebuilt to the same or smaller configuration existing immediately prior to the time the structure was destroyed; provided that action toward replacement must be commenced within 12 months after demolition or destruction of a structure in the CN, CP, CR, CM, CW, UR, UH and US Environments or within 24 months after demolition or destruction of a structure in the UM, UG, or UI Environments.
- The Director may require compliance with the standards of Section 23.60.152, General development, for part or all of a lot as a condition for new development of part of a lot if it is found that continued nonconformity will cause adverse impacts to air quality, water quality, sediment quality, aquatic life, or human health.
- The Director may require compliance with Section 23.60.160, Standards for regulated public access, as a condition of a substantial development permit for expansion or alteration of a development nonconforming as to public access requirements.



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Non-conforming Uses and Structures Response Paper

This document summarizes DPD’s staff proposal regarding nonconforming uses and structures in the shoreline environment as it was presented to the Citizens Advisory Committee (CAC) members. In addition, it summarizes the views expressed by CAC members regarding the proposals, and DPD staff’s response to the CAC’s comments in italics. A description of the original proposal presented to the CAC can be found in the document entitled Non-conforming Uses and Structures Policy Paper, dated February 2009.

1. Non-conforming Structures. DPD proposed the following provisions to address non-conforming structures:

- Continue to allow maintenance and repair of existing non-conforming structures where no expansion, or replacement is proposed (i.e. no sunset provisions);
- Encourage conformance with regulations, particularly for overwater structures and high impact activities, when replacement or substantial redevelopment occurs;
- Allow reasonable use of property in all cases.

Pros	Cons	General Comments
<ul style="list-style-type: none"> • Many nonconforming structures are being grandfathered into the new code. A lot is already being allowed under these proposals that wouldn't be allowed in a less built environment. • Not providing setbacks and buffers could also lead to legal issues. • DPD should be applauded for proposals that steer away from hurting water dependent jobs, while still seeking to improve ecological function. It is the aggregate of all these structures that currently exist that may prevent salmon from being around for our grandchildren. 	<ul style="list-style-type: none"> • DPD should provide incentives for the removal of creosote piles by allowing the repair and replacement of a non-conforming structure if all piles are removed. • People who redevelop their use or structure should be required to come into conformity, but if one maintains what is currently there, and at the same time improves the ecological function, he or she should be able to keep it as is. • DPD is setting up a negative incentive for improving structures over the water, other than piers, by requiring conformity for existing non-conforming structures. • People will “limp along” when it comes to replacement under these proposals. Are we better off trying to move people into partial conformity by pulling pilings and/or creating public access/view corridors, or should we just watch these existing buildings sit unrenovated for another 100 years? 	<ul style="list-style-type: none"> • DPD should try to estimate the amount of non-conformity that exists today, and how much there would be under these proposals.



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Pros	Cons	General Comments
	<ul style="list-style-type: none"> • These proposals should be based on incentives and not be so prescriptive. Most people want to do the right thing without being penalized by having to have a smaller structure. There should be a more positive and proactive approach to these proposals that focuses on what the City wants to achieve, rather than just dictating what a shoreline property owner cannot do. • Almost the entire US/UMX area will become non-conforming under these new proposals, because nothing there currently has vegetated buffers and many of the buildings are not 35' from the bulkheads. • Making these structures non-conforming makes it harder to maintain and replace them, and is counter-productive to other City initiatives to preserve industrial jobs. 	

DPD is clarifying the development standards of the Urban Stable/Mixed Use shoreline environments to reduce the number of non-conforming structures that will exist as a result of the updated regulations.

For non-conforming structures in other shoreline environments, DPD continues to propose that an increase in conformity occurs during redevelopment of a site.

2. Non-conforming Uses - DPD proposed the following for non-conforming uses:

- Continue to allow maintenance of existing non-conforming uses where no expansion, redevelopment, or replacement is proposed (i.e. no sunset provisions);
- On dry land outside of a structure setback area, allow replacement of non-conforming uses with other non-conforming uses as long as it doesn't increase non-conformity;
- On submerged land and within a structure setback area, continue to prohibit replacement of non-conforming uses with other non-conforming uses.

Pros	Cons	General Comments
	<ul style="list-style-type: none"> • The cost of replacing pilings for big overwater structures is so high, it is only going to happen if there is enough economic value created in the use of the structure above. This won't happen for many of the existing buildings if they are limited to water dependent uses. • DPD's proposals for this and other elements of the SMP update are incrementally leading to a situation where many current conforming shoreline uses will become non-conforming. This includes DPD's proposal to turn marinas on the Duwamish (a water dependent use) 	<ul style="list-style-type: none"> • DPD should try to estimate the amount of non-conformity that exists today, and how much there would be under these proposals.



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Pros	Cons	General Comments
	into non-conforming structures. • DPD's proposals from October relating to allowable uses in the UM environment will mean that just about everything on dry land at Fisherman's Terminal will become non-conforming. There are various uses that are not allowed under these proposals that are not strictly water dependent or water related, but still affect the maritime industry. The code should have flexibility to allow for these uses.	

Most of the comments regarding non-conforming uses focused on which uses would be considered non-conforming rather than on the standards that would be applied to non-conforming uses. DPD has clarified the proposal regarding what uses will be allowed in the UI and UM environments as part of the Commercial and Industrial Response Paper and will be evaluating the supply of land versus the demand for water dependent uses before creating new proposals regarding uses allowed in these two environments.

DPD is also exploring the idea that certain non-water-dependent uses could be allowed in areas where water-dependent businesses are not in high demand such as the western shores of Lake Union when they provide ecological restoration in order to meet another goals of the Shoreline Master Program.

3. General Comments:

There should be creative avenues (similar to the design review process) that allow departures from strict code definitions, in order to accomplish clearly laid out policy objectives.

It is critical to keep water dependent businesses on the water. At the same time, we have to increase ecological function.

Fisherman's Terminal needs to be protected as a historic district.

DPD should exclude sea-level rise from "acts of nature" that allow one to replace a non-conforming use.

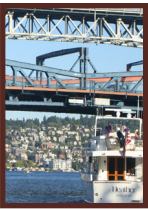
DPD has done a great job at trying to get back environmental integrity in this trashed environment.

Public Comment

Many shoreline residents care about the environment, but may feel forced into undertaking developments that negatively impacts the environment where the code does not provide flexibility to meet environment goals and allow the development they envision. DPD should try to avoid inflexible regulations that may create an adverse incentive to go around the spirit of what the Committee and DPD are trying to accomplish.

APPENDIX D

Seattle SMP Citizen Advisory Committee Meeting Summaries



Seattle's Shorelines Today and Tomorrow: Updating Seattle's Shoreline Master Program

Citizens Advisory Committee

Thursday, May 27, 2008, 6:00 pm - 9:00 pm

Conference Room 4060, Seattle Municipal Tower, Fifth and Columbia

MEETING SUMMARY

Prepared by Triangle Associates, Inc.

Attendance

Seattle Shoreline Master Program Update Citizen Advisory Committee			
Last	First	Seat	In Attendance?
Allison	Bob	Residential Shoreline Property Owner	✓
Arntz	Jan	University of Washington	<input type="checkbox"/>
Ashley	Gregory	Aquatic Permittees/Contractors	✓
Bowman	Bob	Floating Homes	✓
Ferguson	Jim	Marine Indust. Bus.: Lake Union/Ship Canal	✓
Hanson	Eric	Port of Seattle	✓
Johnson	Mark	Seattle Planning Commission	✓
Lockwood, USCG, Ret	John W.	Marine Industrial Business: Duwamish	✓
McCullough	Jack	Business: Central Waterfront	✓
Nelson	Kitty	Environmental: Lk WA and Ship Canal	✓
Nelson, Jr.	Martin O.	Commercial	✓
Oppenheimer	Martin	Recreation/Public Access	✓
Owen	John W.	Citizen At-Large	✓
Preisler	Sarah	Citizen At-Large	✓
Rasmussen	James	Environmental: Duwamish	<input type="checkbox"/>
Stabbert	Brooke	Non-Residential Shoreline Property Owners	✓
Trim	Heather	Environmental: Puget Sound	✓
Tu	Trang	Citizen At-Large	✓
Whittaker	Gregory	Recreation/Public Access	✓

Project Team			
Last	First	Organization	In Attendance?
Gainer	Cole	Triangle Associates	<input type="checkbox"/>
Glowacki	Maggie	Seattle DPD	✓
Kern	Michael	Triangle Associates	✓
LaClergue	Dave	Seattle DPD	✓
Robison	Dave	Cascadia Community Planning Services	<input type="checkbox"/>
Staley	Brennon	Seattle DPD	✓
Stern	Renee	Triangle Associates	✓



Seattle Shoreline Master Program Update Citizen Advisory Committee Meeting Summary, May 27, 2008

Meeting Purpose

The purpose of this meeting was to convene the City of Seattle Shoreline Master Program (SMP) Update Citizen Advisory Committee in the first of a series of meetings to discuss shoreline management issues, provide input on policy, technical work and regulations, and promote communication with the general public concerning shoreline management issues. The meeting included an overview of the Shoreline Master Program update process, including Department of Ecology requirements and progress to date; review and revision of the Committee's work plan and charter; and scheduling of future tasks and meetings.

Welcome and Introductions

Diane Sugimura, Director of the Department of Planning and Development (DPD) for the City of Seattle, thanked the Committee members for their willingness to serve and provide input to the SMP update process. She expressed her desire for Seattle to make good use of its shoreline and continue to be known as a "shoreline city." Facilitator Michael Kern of Triangle Associates then reviewed the agenda and led introductions. He explained that there will be time set aside at each meeting for public comment. No members of the public signed up to provide comment at this meeting.

SMP Update Overview

Maggie Glowacki, who is leading DPD's SMP update process, provided an overview of Washington State's Shoreline Management Act (SMA), the Washington Department of Ecology's (Ecology) SMP guidelines, Seattle's current SMP, the SMP update process, public participation in the update process, the role of the citizen advisory committee, and key themes from interviews Triangle Associates conducted with Committee members prior to the group being convened (for more detail, please see the presentation from this overview, available from the Committee's website).

In discussing the information provided in the presentation, the Committee asked whether private development is defined as an impact. Maggie explained that private development is an identified impact and mitigation is required for identified impacts. Committee members also asked whether the Committee could go beyond Ecology's guidelines in making its recommendations. Maggie responded that the Committee is free to consider this option, but that DPD has to be sure that any approach it proposes does not exceed its legal authority. Committee members were encouraged to contact Maggie if they are interested in more detailed information (a "short course") on SMA, SMP and other key background issues.

Review of Committee Charter

The Committee reviewed and edited a draft charter that DPD and Triangle had developed containing ground rules and operating procedures to guide the Committee's deliberations, interactions and work products. The Committee asked that a new section be added to the charter providing more specific guidance on the roles and responsibilities of the Committee. The Committee indicated a desire to gather all its recommendations into a final report, in addition to publishing memoranda and/or advice papers on individual topics. The Committee also agreed that consideration of whether or not to appoint a chair would be best deferred to a future meeting, when Committee members have a better sense of



**Seattle Shoreline Master Program Update Citizen Advisory Committee
Meeting Summary, May 27, 2008**

each other and the Committee's needs. The Committee asked DPD and Triangle to incorporate the revisions indicated and circulate the charter for final review, after which it will be considered adopted.

Review and Discussion of Committee Work Plan

The Committee reviewed and edited a draft work plan, schedule and timeline developed by DPD and Triangle. The Committee agreed to the following dates for meetings through 2008 (meetings for January and/or February 2009 remain to be scheduled). All meetings will be held from 6-9pm at the Seattle Municipal Tower, conference room 4060.

- Thursday, June 26, 2008
- Tuesday, July 29, 2008
- Tuesday, August 26, 2008
- Tuesday, October 28, 2008
- Tuesday, November 18, 2008
- Tuesday, December, 16, 2008

The Committee requested that the following changes be made to the work plan:

- Devote more time to permitting issues. Future meeting agendas should include time to address the permitting implications of each topic.
- Provide an overview and discussion of ecological function as part of the July and August meetings, so that the group can have a common understanding of key environmental issues.
- Include a review of economic impacts and costs of changes to the SMP.
- The topic "overwater structures" is more properly titled "shoreline modifications" and should include discussion of dredging and bulkheads.
- It will be important to include discussion of property rights, either as its own topic or as part of the consideration of each topic in the work plan.

A Committee member asked if data was available on the number of shoreline variances granted since the SMA was adopted. DPD agreed to determine the feasibility of assessing this information. Another Committee member asked about including discussion of archaeological standards in the work plan. It was decided that there would likely not be enough time to cover that topic. Maggie asked Committee members to inform her if they are interested in a summer field tour of Seattle's shorelines. The Committee agreed to provide feedback on its level of interest and suggested sites to visit before the June meeting.

Final Thoughts/Next Steps

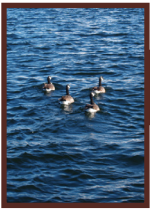
Michael explained that a list of decisions/action items will be produced and emailed to the group shortly after each meeting. A draft meeting summary will also be sent for review and approval by the Committee and DPD. Once approved, the meeting summary will be posted to the SMP Update website along with any presentations or support materials from the meeting. Committee members were encouraged to contact Maggie with any questions, comments or edits to documents.



**Seattle Shoreline Master Program Update Citizen Advisory Committee
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DPD agreed to explore opportunities for using technology (for example, list serves, discussion forums and an FTP site) and offline/between meeting work sessions (for example, subcommittees) to support the Committee meetings and decision-making process. Committee members expressed interest in using these tools, but emphasized that all Committee decisions need to be made by the full Committee, not in subcommittees. The Committee emphasized its desire to conduct its work in an open and transparent manner.

The next meeting will be held on June 26, 2008. Meeting materials will be provided at least a week ahead of time. Michael thanked the parties for their participation and adjourned the meeting.



**Seattle's Shorelines Today and Tomorrow:
Updating Seattle's Shoreline Master Program
Citizens Advisory Committee**

Thursday, June 26, 2008, 6:00 pm - 9:00 pm
Conference Room 4060, Seattle Municipal Tower, Fifth and Columbia

MEETING SUMMARY
Prepared by Triangle Associates, Inc.

Attendance

Seattle Shoreline Master Program Update Citizen Advisory Committee			
Last	First	Seat	In Attendance?
Allison	Bob	Residential Shoreline Property Owner	✓
Arntz	Jan	University of Washington	✓
Ashley	Gregory	Aquatic Permittees/Contractors	✓
Bowman	Bob	Floating Homes	✓
Ferguson	Jim	Marine Indust. Bus.: Lake Union/Ship Canal	✓
Hanson	Eric	Port of Seattle	✓
Johnson	Mark	Seattle Planning Commission	✓
Lockwood, USCG, Ret	John W.	Marine Industrial Business: Duwamish	✓
McCullough	Jack	Business: Central Waterfront	☐
Nelson	Kitty	Environmental: Lk WA and Ship Canal	☐
Nelson, Jr.	Martin O.	Commercial	✓
O'Halleran	Vince	Labor	✓
Oppenheimer	Martin	Recreation/Public Access	✓
Owen	John W.	Citizen At-Large	✓
Preisler	Sarah	Citizen At-Large	✓
Rasmussen	James	Environmental: Duwamish	✓
Stabbert	Brooke	Non-Residential Shoreline Property Owners	☐
Trim	Heather	Environmental: Puget Sound	Cyrilla Cook
Tu	Trang	Citizen At-Large	✓
Whittaker	Gregory	Recreation/Public Access	✓

Project Team			
Last	First	Organization	In Attendance?
Gainer	Cole	Triangle Associates	✓
Glowacki	Maggie	Seattle DPD	✓
Kern	Michael	Triangle Associates	✓
LaClergue	Dave	Seattle DPD	✓
Robison	Dave	Cascadia Community Planning Services	☐
Staley	Brennon	Seattle DPD	✓

General Public			
Last	First	Organization	In Attendance?
Farr	Ann	Port of Seattle, Consultant	✓



**Seattle Shoreline Master Program Update Citizen Advisory Committee
Meeting Summary, June 26, 2008**

Keasler	Bill	Floating Homes Association	✓
Page	Heather	WSDOT, Consultant (Anchor Environmental)	✓

Meeting Purpose

This was the second meeting of the City of Seattle’s Shoreline Master Program (SMP) Update Citizen Advisory Committee (Committee). The meeting included a Committee Shoreline Visioning Exercise, a presentation of the public Shoreline Vision report and outreach, a presentation on Shoreline Management Law and Policy, a presentation on Shoreline Environmental Designations, and scheduling of future tasks and meetings.

Welcome and Introductions

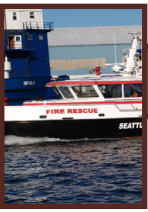
Facilitator Michael Kern of Triangle Associates welcomed the Committee and introduced members of the Committee/Project Team who were absent at the previous meeting. He reviewed the agenda, pointing out intervals for public comment, and discussed the materials provided to Committee members. Michael also mentioned that the Committee email group list is up and running. Michael then introduced the idea of convening all Committee meetings 30 minutes earlier and/or using the “meet and greet” time to present a topic of interest, like the history of Seattle’s shoreline. The Committee discussed the options and agreed to continue beginning meetings at 5:30 PM. 5:30–6:00 will normally be an optional “meet and greet” period, perhaps including a presenter. It is possible that the formal meeting agenda will start at 5:30 from time to time, depending on the amount of time needed to address agenda items.

The Committee also approved its charter, May meeting summary, work plan and schedule (available from the Committee’s website), with the understanding that the latter two will likely continue to evolve as the process moves along. Maggie Glowacki of DPD provided updates on several topics discussed at the May meeting. She will work with Committee members to schedule one or more shoreline field tours and a short course on shoreline issues for those who would like a “refresher.” She is also in the process of finalizing a report on the number of shoreline variances granted since 1984.

Shoreline Vision Exercise and Report

Michael led the Committee in an interactive visioning exercise where members described their vision for the future for Seattle’s shorelines; how they would know that Seattle has been successful in managing its shorelines 25 years into the future. The results of the activity will be used to help the Committee craft its own vision statement (focusing on balancing public access, environmental protection/restoration and water-oriented uses), for guidance throughout the update process.

Dave LaClergue of DPD provided a report on the spring 2008 Community Visioning Workshops and city-wide survey (see presentation on the website). He noted that the results of this outreach, as summarized in the Vision Report (available in draft for comment on the website), will serve as a guidance for DPD and the Committee in conjunction with analysis, science, and the Committee’s recommendations. Maggie clarified that the Vision Report is a deliverable in the City’s grant agreement with the Washington Department of Ecology and part of the required public involvement



**Seattle Shoreline Master Program Update Citizen Advisory Committee
Meeting Summary, June 26, 2008**

portion of the SMP update. Regarding the outreach, members of the Committee asked DPD to clarify several questions relating to the city-wide survey, including:

- Time of day interviews were conducted,
- Accommodation of non-English speakers, and
- Statistical geographic reach of interviews.

Heather Page, Anchor Environmental, provided public comment that the Committee should balance its reliance on its own vision statement with the opinion of the public as represented in the Vision Report.

Shoreline Management Law and Policy

Eleanore Baxendale of the City of Seattle Legal Department presented on shoreline management law and policy, including the legal and policy “sidebars” governing the SMP update process. She cited Act 173-26-186 section 5 of the Washington Administrative Code and focused on the issue of regulatory “takings.” Eleanore explained that these takings are not the same as “proportionate share analysis,” “impact fees” or “substantive due process.” In response to a question from a Committee members, she further clarified that regulatory takings are not the same as the concept of an unlawful taking of an endangered species under the federal Endangered Species Act. Eleanore said that takings, in this situation, refer to a concept from the US Constitution’s Fifth Amendment and the Washington State Constitution, which define regulatory takings as:

- Physical invasion of private property,
- Deprivation of complete economic use of property (unless the government shows very strong background principles, such as nuisance),
- Destruction of fundamental attribute of property ownership, and

Eleanore also stated that the Shoreline Management Act (SMA) directs the City of Seattle to protect and restore the shorelines and shoreline natural resources. She said that the SMA has no definitions of what “protect” means, but that the Washington State Supreme Court has defined “protect” (in a Growth Management Act case) as looking at what existing conditions are and protecting against harm to them. She clarified that this is different from the concept of “enhancement” and that existing conditions are defined as when a permit is first requested; not when the regulations were promulgated. Eleanore suggested that the Committee focus on the science required for protecting existing habitat function, the SMA objectives, how to balance these, and reasonable ways of achieving SMA’s requirement for “no net loss of ecological function.”

Discussion of this subject led to a request by the Committee for supporting documents on the City’s and Ecology’s definitions of the “no net loss” concept, as well as the Attorney General’s Manual on the SMA guidelines. Maggie clarified that Eleanore’s presentation was intended to lay a legal work base for no net loss and takings and that it was the Committees task to look at the science to analyze how best to achieve no net loss. Eleanore concluded her presentation by saying she wants the Committee to be aware that not all SMA objectives will be achieved through regulation, and that the City can do numerous other things to achieve restoration.



Seattle Shoreline Master Program Update Citizen Advisory Committee Meeting Summary, June 26, 2008

Maggie made a presentation on shoreline environmental designations (see on the Committee's website). She summarized that the purpose of environmental designations (shoreline zoning) is to provide a framework for effective shoreline management. She said that DPD has not decided whether it will continue to use its existing shoreline designations, the new designations suggested by Ecology or some alternative set of designations. The City has a great deal of leeway in determining what designations to use, as long as they meet the goals of the SMA guidelines.

Committee members discussed the rationale for the City creating its own designations in the last SMP update, realizing that the need to further define shoreline areas more broadly categorized elsewhere in the State was because of the uniqueness of Seattle's shorelines. DPD hopes and expects the Committee will provide advice on shoreline designations when DPD has proposed changes to the current designations ready for review and comment. The Committee asked how other port cities, like Tacoma, have handled environmental designations. DPD will investigate this issue and get back to the Committee.

The Committee discussed the City's current "urban general" designation and examples of water-oriented and water-dependent business that may fit under that designation. The Committee requested that DPD develop proposed designations for the Committee to review and comment on (perhaps first requesting a Committee sub-group to examine the issue). The Committee also requested that DPD provide a map showing all shoreline designations, along with definitions and characterizations, prior to the next meeting. The Committee asked why Ecology is not represented on the Committee nor attending Committee meetings. DPD replied that Ecology is invited to attend the meetings and did participate in the community workshops. However, Seattle's Ecology representative for the SMP update is leaving Ecology, so there may be a gap in coverage for a while.

Final Thoughts/Next Steps

Michael wrapped up the meeting, indicating that a meeting summary will be sent for review and approval by the Committee and DPD; the prior meeting summary and all materials from this meeting will be posted to the web, and materials for the July meeting will be provided a week ahead of time. Michael said he would be in touch with Committee members between meetings, as issues are identified and needs arise. He encouraged Committee members to contact him (and/or Maggie) with any process questions, comments, etc.

Michael thanked the parties for their participation and adjourned the meeting. The next meeting will be held on July 29, 2008 from 6:00 PM (5:30 PM meet and greet) to 9:00 PM. (*note: the Committee and DPD have since decided to skip the July meeting and instead schedule an additional meeting in February or March 2009*).



Seattle's Shorelines Today and Tomorrow: Updating Seattle's Shoreline Master Program

Citizens Advisory Committee

Tuesday, August 26, 2008, 6:00 pm - 9:00 pm

Conference Room 4060, Seattle Municipal Tower, Fifth and Columbia

MEETING SUMMARY

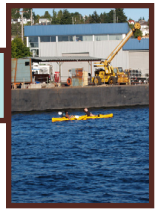
Prepared by Triangle Associates, Inc.

Attendance

Seattle Shoreline Master Program Update Citizen Advisory Committee			
Last	First	Seat	In Attendance?
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Ferguson	Jim	Marine Indust. Bus.: Lake Union/Ship Canal	✓
Hanson	Eric	Port of Seattle	✓
Johnson	Mark	Seattle Planning Commission	✓
Lockwood, USCG, Ret	John W.	Marine Industrial Business: Duwamish	✓
McCullough	Jack	Business: Central Waterfront	✓
Nelson	Kitty	Environmental: Lk WA and Ship Canal	✓
Nelson, Jr.	Martin O.	Commercial	✓
O'Halloran	Vince	Labor	✓
Oppenheimer	Martin	Recreation/Public Access	✓
Owen	John W.	Citizen At-Large	✓
Preisler	Sarah	Citizen At-Large	<input type="checkbox"/>
Rasmussen	James	Environmental: Duwamish	<input type="checkbox"/>
Stabbert	Brooke	Non-Residential Shoreline Property Owners	✓
Trim	Heather	Environmental: Puget Sound	<input type="checkbox"/>
Tu	Trang	Citizen At-Large	<input type="checkbox"/>
Whittaker	Gregory	Recreation/Public Access	✓

Project Team			
Last	First	Organization	In Attendance?
Gainer	Cole	Triangle Associates	✓
Glowacki	Maggie	Seattle DPD	✓
Kern	Michael	Triangle Associates	✓
LaClergue	Dave	Seattle DPD	✓
Robison	Dave	Cascadia Community Planning Services	<input type="checkbox"/>
Skelton	John	Seattle DPD	✓
Staley	Brennon	Seattle DPD	✓

General Public			
Last	First	Organization	In Attendance?



**Seattle Shoreline Master Program Update Citizen Advisory Committee
Meeting Summary, August 26, 2008**

Farr	Ann	Port of Seattle, Consultant	✓
Forman	Diana	Houseboat Resident	✓
Keasler	Bill	Floating Homes Association	✓
Kenworthy	Lise	Attorney	✓
Lagerberg	Eric	Shoreline Resident	✓
Neville	Patrick	King County Labor Council, AFL/CIO	✓
Page	Heather	WSDOT, Consultant (Anchor Environmental)	✓

Meeting Purpose

This was the third meeting of the City of Seattle's Shoreline Master Program (SMP) Update Citizen Advisory Committee (CAC). The meeting included presentations on a Shoreline Environmental Inventory and Characterization process and report, existing and proposed Shoreline Environmental Designations, and existing and proposed Shoreline Residential Development Standards.

Welcome and Introductions

Facilitator Michael Kern of Triangle Associates welcomed the Committee and reviewed the meeting materials. He asked Committee members if any of them would prefer not to have hard copies of the materials mailed to them, in an effort to reduce paper consumption. He also confirmed that meeting materials are to be emailed to the Committee and posted to the website one week in advance of meetings (there was some delay in posting materials online this month due to website revisions). DPD will also add a new link to make it easier to find the meeting materials on the website. Michael reviewed the agenda, pointing out intervals for public comment after each discussion topic. He told the Committee that Triangle will send out an email for scheduling Committee meetings in January through March 2009.

The group then took a look at the revised Committee work plan. Committee members had no issues with their availability and the meeting topics to be discussed as scheduled. DPD will distribute the revised work plan to the Committee. After brief discussion, the Committee decided that it will not appoint one of its members to serve as a chair, but rather will consider appointing a spokesperson later in the process, when the Committee has developed recommendations and/or other products for presentation.

Shoreline Environmental Inventory and Characterization

Maggie Glowacki of DPD made a presentation on DPD's Shoreline Environmental Inventory and Characterization process (the PowerPoint presentation and a related Excel file are available on the SMP update website). Maggie explained that gathering all existing data for a shoreline inventory is a requirement of the update process and is the basis for producing the characterization report, which includes the map distributed in the Committee's materials. In response to Committee questions and discussion, Maggie made the following points/clarifications:

- DPD is very happy with the results of the inventory and characterization, and will post them online once the technical consultant has completed a methodology and summary of results.
- The unit of measurement on the map provided is a pixel, 25 feet by 25 feet.
- The map provides a composite habitat score derived from the modified model developed by King County.



**Seattle Shoreline Master Program Update Citizen Advisory Committee
Meeting Summary, August 26, 2008**

- The inventory could theoretically provide information on a specific property, but is based on the model, which is not “user friendly” in this regard.
- The results will not be used to judge “no net loss of ecological function” for individual properties, but instead for reaches and the entire shoreline area.
- This work is the baseline for the subsequent SMP update components. The inventory and maps will be used as a planning level tool, not a regulatory one.
- Freshwater and marine environment habitat scores are based on two different models and so cannot be directly compared on the map by color .
- DPD is confident that the feeder bluff data took into account all factors, including time of year, in developing scores in categories such as sediment.

Shoreline Environmental Designations

Dave LaClergue of DPD made a presentation on DPD’s proposed changes to shoreline environmental designations (PowerPoint available from the website). The Committee had an active discussion about the proposed changes (see attached summary of Committee questions, comments and recommendations and DPD responses). The Committee agreed to provide further input on this topic via the group email list during the month of September. In addition to more comments on the proposed changes, Committee members will focus on providing comments on the proposed management policies, since these will help guide the development of allowed uses.

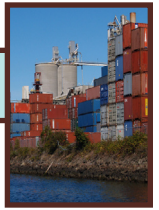
During the first public comment period, Patrick Neville of the King County Labor Council, AFL/CIO voiced support for Committee member Vince O’Halloran and organized labor. He said that when industrial zones are undermined, they are permanently undermined and industry will never return to that the zone.

Heather Page, Anchor Environmental, asked about the timeline for public comments during the SMP update process. Maggie replied that comments are being accepted throughout the process. Heather also offered support for the suggestion of a Committee member that DPD provide a matrix showing what uses are allowed under current environmental designations. Heather also asked why the Urban Mixed Use designation is lumped into the Conservancy designation which was clarified by DPD as Urban Mixed Use is a designation that straddles high intensity and Conservancy.

Attorney Lise Kenworthy praised the Committee for its comments to DPD on the environmental designations, saying they reflect a strong understanding of the City and its water related jobs. Lise requested a clear, written statement containing the premise for each proposed change, and advised the Committee and DPD to consider the future impacts of these proposed changes,. She also concurred with the need for a uses and designations matrix.

Shoreline Residential Development Standards

Maggie walked the Committee through a one-page document summarizing DPD’s proposed changes to shoreline residential development standards, as well as a more detailed spreadsheet outlining those proposed changes. The Committee then discussed the proposals and provided feedback (see attached summary of Committee questions, comments and recommendations, and DPD responses). As with the



**Seattle Shoreline Master Program Update Citizen Advisory Committee
Meeting Summary, August 26, 2008**

environmental designations, the Committee agreed to continue commenting via email during the month of September.

During the second public comment period, houseboat resident Diana Forman said she is delighted that the proposed changes include a list of preferred uses of aquatic weed control, prioritizing manual removal over the use of herbicides. She said that prior to 1997, pesticides and chemicals were never allowed on the shoreline and she hopes Seattle can either go back to that era or institute an integrated pest management approach that is effective, environmentally sensitive and uses common sense. She also said it might be worthwhile to extend buffers in appropriate areas of the water. The Committee requested that DPD explore the reasons behind the 1997 code change that allowed the use of pesticides.

Final Thoughts/Next Steps

Michael wrapped up the meeting, indicating that a meeting summary will be sent for review and approval by the Committee and DPD; the prior meeting summary and all materials from this meeting would be posted to the web, and materials for the October meeting will be provided a week ahead of time. He reminded people of the upcoming Seattle SMP Update Shoreline Field Tour and a TBA September deadline for submitting comments on this meeting's discussion topics. Michael said he and/or DPD would be in touch with individual Committee members between meetings, as issues are identified and needs arise. He encouraged Committee members to contact him (and/or Maggie) with any process questions, comments, etc.

Michael thanked members for their participation and adjourned the meeting. The next meeting will be held on Tuesday, October 28, 2008 from 6:00 PM (5:30 PM "meet and greet") to 9 PM.



Seattle's Shorelines Today and Tomorrow: Updating Seattle's Shoreline Master Program

Citizens Advisory Committee

Tuesday, October 28, 2008, 6:00 pm - 9:00 pm

Conference Room 4080, Seattle Municipal Tower, Fifth and Columbia

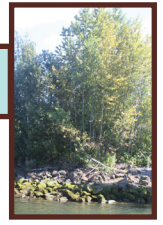
MEETING SUMMARY

Prepared by Triangle Associates, Inc.

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McCullough	Jack	Business: Central Waterfront	✓
Nelson	Kitty	Environmental: Lk WA and Ship Canal	✓
Nelson, Jr.	Martin O.	Commercial	✓
O'Halloran	Vince	Labor	✓
Oppenheimer	Martin	Recreation/Public Access	<input type="checkbox"/>
Owen	John W.	Citizen At-Large	✓
Preisler	Sarah	Citizen At-Large	<input type="checkbox"/>
Rasmussen	James	Environmental: Duwamish	<input type="checkbox"/>
Stabbert	Brooke	Non-Residential Shoreline Property Owners	✓
Trim	Heather	Environmental: Puget Sound	✓
Tu	Trang	Citizen At-Large	✓
Whittaker	Gregory	Recreation/Public Access	✓

Project Team/Presenters/Other DPD			
Last	First	Organization	In Attendance?
Gainer	Cole	Triangle Associates	✓
Glowacki	Maggie	Seattle DPD	✓
Hauger	Tom	Seattle DPD	✓
Kern	Michael	Triangle Associates	✓
LaClergue	Dave	Seattle DPD	✓
Robison	Dave	Cascadia Community Planning Services	<input type="checkbox"/>
Skelton	John	Seattle DPD	✓
Staley	Brennon	Seattle DPD	✓
Suratt	Brian	Seattle Office of Economic Development	✓



**Seattle Shoreline Master Program Update Citizen Advisory Committee
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General Public			
Last	First	Organization	In Attendance?
Farr	Ann	Port of Seattle Consultant	✓
Forman	Diana	Houseboat Resident	✓
McCullough	Cole	Interested Citizen	✓
Page	Heather	WSDOT, Consultant (Anchor Environmental)	✓

Meeting Purpose

This was the fourth meeting of the City of Seattle's Shoreline Master Program (SMP) Update Citizen Advisory Committee (Committee). The meeting included presentations and discussion on: 1) Seattle's Industrial Lands Policy, 2) Use and Development Standards in Urban Industrial, Urban Maritime, and Urban Harborfront Environments, and 3) updates on previous Committee discussion topics.

Welcome and Introductions

Facilitator Michael Kern of Triangle Associates welcomed the Committee to the meeting. Michael reviewed the agenda and pointed out intervals for public comment after each discussion topic. He also announced the selected dates for Committee meetings in January, February and March of 2009. Those dates are the following:

- *Wednesday, January 21st, 2009*
- *Tuesday, February 24th, 2009*
- *Tuesday, March 24th, 2009*

Seattle Industrial Lands Policy

Michael introduced Tom Hauger of DPD and Brian Suratt of Seattle's Office of Economic Development (OED). Brian provided an overview of the Maritime Industry Sector Economic Impact Analysis update currently underway. He distributed a document detailing the scope of work for this update (available on the Committee's website) and told the Committee that the study should be completed by the end of November or early December. The scope of work is focused on five subsectors including: 1) marine construction, 2) fishing, 3) marine transportation (domestic), 4) marine transportation (international), and 5) seafood processing. The focus of the study is primary jobs that are generally export-related and bring income into the community. Preliminary data indicates a rise in seafood processing and maritime construction activity. The notion that manufacturing industrial activity has declined will likely be challenged by the study. Committee questions, comments and clarifications included:

- A Committee member requested that a tourism subsector be added to the study, including transportation such as cruises and food supplies for cruise ships. Brian said that tourism is included in several subsectors, such as fishing and transportation.
- A Committee member requested that the analysis look at property and land taxes and property values, as they have a huge effect on businesses.
- A Committee member suggested that recreational boating be separated from marine construction because it is a element of tourism. Brian said yachts are included in the described



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subsectors, under “marine construction.” He said vessel insurances and licensing transactions are also included in the analysis.

- A Committee member suggested that not including marinas in the study is a data gap. There is a high demand for marina berths.

Tom Hauger presented to the Committee maps of industrial waterfront zones requested of DPD by City Council as part of last year’s work program. He said DPD is looking at physical development and the land issues related to industrial zones throughout the City. The City Council asked DPD to look at technical zoning issues and the definitions of certain types of industrial uses to see if they should be amended. These include floor area ratio, measurement of density, the possibility of using transfer of development rights in industrial zones, and other topics.

The maps Tom presented show colored bands designating industrial zones along the water and in upland lots. Tom said that DPD hired graduate student interns from the University of Washington to review every industrially-zoned parcel in the City of Seattle and determine how that land is being used. The maps show 15-20 different uses found on industrially-zoned parcels. In some cases, individual parcels had 6-8 different uses. These maps are still draft and are being circulated in the community for review. In response to a question from a Committee member, Tom clarified that the maps identified parcels in the Ship Canal where land is not being used for active industrial purposes as outdoor storage and/or parking.

Maggie Glowacki of DPD said that the information provided by the economic study and the maps will be used in the SMP update. Under the SMA guidelines, DPD is required to only allow water-dependent or water-related uses on waterfront lots, unless an economic study demonstrates that there is more land available than demand for these uses. In that case, DPD can allow a mix of water-dependent, water-related and non water-dependent uses on those waterfront lots. The information presented by Brian and John will be used to guide DPD on what uses and standards should be allowed on these lots. Tom and Brian agreed to return to the Committee with the results of their findings when the studies are complete.

Uses and Development Standards in Urban Industrial and Urban Maritime Environments

Maggie provided an overview on DPD’s proposed uses and development standards in Urban Industrial (UI) and Urban Maritime (UM) environments (PowerPoint presentation and related handouts available from the Committee’s website). The Committee then split into two small groups to discuss and provide input on several key issues related to UI and UM environments: 1) caretaker units, 2) vegetation and building setbacks, 3) sustainability practices/green infrastructure, and 4) non-water-dependent/related uses on waterfront lots. Each small group appointed a spokesperson to report back to the full group (see attached summary of small group report back, comments and recommendations).

Uses and Development Standards in Urban Harborfront Environments

Maggie presented to the Committee a document summarizing the proposed changes to Urban Harborfront (UH) development standards (available from the Committee’s website). Committee member questions and concerns included:



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- Why are bus bases being proposed? They are big polluters and not an appropriate or effective waterfront use.
- Prohibiting overwater parking constrains any future change in use. Leaving overwater parking makes sense and does not preclude development; it should remain as a conditional use, to allow for development.
- The proposed changes seem to encroach all of the other City proposals for the “magic mile” that include the Viaduct, tunnel, surface option and/or mass transit.
- Big changes are coming to the UH environment, bringing with them land use issues that the City and this Committee cannot predict at this time. The City should as part of this SMP update agree to revisit uses in the UH as waterfront transportation and other decisions are made.

Public Comment

Heather Page of Anchor Environmental told the Committee that she is currently involved in an attempt to coordinate UH uses and development standards with DPD, so that future transportation and development projects are not prohibited by the approach adopted by the SMP update. She also asked: 1) how green building and green infrastructure are being integrated with the shoreline code, 2) if water quality and quantity are being regulated consistent with the Department of Ecology’s guidelines, 3) if proposed changes to UH and other waterfront areas are consistent with Endangered Species Act requirements, 4) if the UH, UI and UM tables account for utilities such as water, gas and electric, and 5) why rail transit facilities are a permitted use at the waterfront, but not in the upland areas.

Ann Farr, consultant for the Port of Seattle, requested that the Committee review the definitions of “water-dependent,” “water-oriented” and “water-related” in the WAC, so there will be no uncertainty as to how each of the terms are characterized and defined in law, regulation and Committee discussion. This prompted a request from the Committee for a “cheat sheet”/glossary of terms that the Committee can reference easily. DPD agreed to provide such a glossary.

Cole McCullough, son of Committee member Jack McCullough, told the Committee that though he did not understand every topic vetted by the Committee, he found the discussions interesting.

Updates on Previous Committee Discussion Topics

Maggie presented a document (available from the Committee’s website) that summarizes changes to the SMP update proposed by DPD on topics previously discussed by the Committee. These changes are in response to comments provided by Committee members at and between meetings. She stated that a central concern she heard from the Committee was regarding DPD’s proposal to extend the 100’ buffer for managing stormwater and vegetation to the entire 200’ stretch of the shoreline. This means that any removed vegetation would need to be made up on site, closest to the water, if possible, on a one-for-one basis. This can include any number of solutions such as bio-filtration, planting vegetation, removing an impervious surface on another part of the property, and/or installing a green roof.

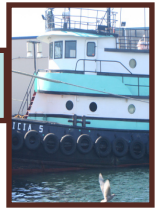


**Seattle Shoreline Master Program Update Citizen Advisory Committee
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Final Thoughts/Next Steps

Michael wrapped up the meeting, indicating that a meeting summary will be sent for review and approval by the Committee and DPD; the prior meeting summary and all materials from this meeting will be posted to the web, and materials for the November meeting will be provided a week ahead of time. Michael said he and/or DPD would be in touch with individual Committee members between meetings, as issues are identified and needs arise. He encouraged Committee members to contact him (and/or Maggie) with any process questions, comments, etc.

Michael thanked members for their participation and adjourned the meeting. The next meeting will be held on Tuesday, November 18, 2008 from 5:30 PM (5:00 PM “meet and greet”) to 9 PM.



Seattle's Shorelines Today and Tomorrow: Updating Seattle's Shoreline Master Program

Citizens Advisory Committee

Tuesday, December 16, 2008, 5:00 pm - 9:00 pm

Conference Room 4080, Seattle Municipal Tower, Fifth and Columbia

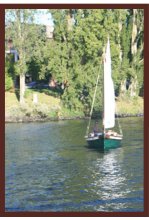
MEETING SUMMARY

Prepared by Triangle Associates, Inc.

Attendance

Seattle Shoreline Master Program Update Citizen Advisory Committee			
Last	First	Seat	In Attendance?
Allison	Bob	Residential Shoreline Property Owner	✓
Arntz	Jan	University of Washington	✓
Ashley	Gregory	Aquatic Permittes/Contractors	✓
Bowman	Bob	Floating Homes	✓
Ferguson	Jim	Marine Indust. Bus.: Lake Union/Ship Canal	✓
Hanson	Eric	Port of Seattle	✓
Johnson	Mark	Seattle Planning Commission	✓
Lockwood, USCG, Ret	John W.	Marine Industrial Business: Duwamish	✓
McCullough	Jack	Business: Central Waterfront	✓
Nelson	Kitty	Environmental: Lk WA and Ship Canal	✓
Nelson, Jr.	Martin O.	Commercial	✓
O'Halloran	Vince	Labor	✓
Oppenheimer	Martin	Recreation/Public Access	✓
Owen	John W.	Citizen At-Large	✓
Preisler	Sarah	Citizen At-Large	✓
Rasmussen	James	Environmental: Duwamish	<input type="checkbox"/>
Stabbert	Brooke	Non-Residential Shoreline Property Owners	✓
Trim	Heather	Environmental: Puget Sound	✓
Tu	Trang	Citizen At-Large	✓
Whittaker	Gregory	Recreation/Public Access	<input type="checkbox"/>

Project Team/Presenters/Other DPD			
Last	First	Organization	In Attendance?
Gainer	Cole	Triangle Associates	✓
Glowacki	Maggie	Seattle DPD	✓
Holmes	Jim	Seattle DPD	✓
Kern	Michael	Triangle Associates	✓
LaClergue	Dave	Seattle DPD	✓
Robison	Dave	Cascadia Community Planning Services	✓
Staley	Brennon	Seattle DPD	✓



**Seattle Shoreline Master Program Update Citizen Advisory Committee
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General Public			
Last	First	Organization	In Attendance?
Burcar	Joe	Department of Ecology	✓
Doran	Chad	Citizen	✓
Farr	Ann	Port of Seattle Consultant	✓
Forman	Diana	Houseboat Resident	✓
Page	Heather	WSDOT, Consultant (Anchor Environmental)	✓
Keisler	Bill	Resident	✓

Meeting Purpose

This was the sixth meeting of the City of Seattle's Shoreline Master Program (SMP) Update Citizen Advisory Committee (Committee). The meeting included presentations and discussion on: 1) Shoreline Stabilization, 2) Shoreline Dredging and Filling, 3) Shoreline Mitigation, and 4) updates to the Committee work plan and process.

Welcome and Introductions

Facilitator Michael Kern of Triangle Associates welcomed the Committee to the meeting and led a round of introductions. Michael reviewed the meeting materials and agenda and pointed out intervals for public comment. He asked the Committee for comments on November's meeting summary, which was then approved by the Committee for posting to DPD's SMP Update website. Michael then mentioned mid-point check-in calls he has conducted to discuss what each member of the Committee thinks has been working well in the Committee process and what could be improved. Michael said he would present the key themes from those check-in calls later in the meeting, but passed on several process-related ideas at this point.

Shoreline Stabilization

Dave LaClergue of DPD provided an overview on DPD's proposed regulatory changes relating to shoreline stabilization, which includes bulkheads, armoring, and soft engineering (see PowerPoint presentation and related handouts available from the Committee's website). Dave mentioned that the environmental impacts of soft engineering are considerably less than those of hard engineering and that according to both state guidelines and the city's goals, soft engineering is to be encouraged or required wherever practical. He reviewed existing regulations and mentioned that the new state guidelines task DPD with combining the Environmentally Critical Areas (ECA) ordinance along with the SMP, as well as the following proposed goals and polices:

- Ensure future shoreline stabilization projects result in no net loss of ecological function.
- Allow new, expanded or replacement of bulkheads and other hard engineering only when need is demonstrated by a geotechnical engineer or coastal geomorphologist.
- Require soft engineering wherever feasible for new shoreline stabilization projects.
- Require replacement of bulkheads with soft engineering for non-water dependent uses and where feasible
- Encourage bulkhead replacement with improved environmental designs for water-dependent uses.

Committee member comments and concerns, and DPD clarifications, included:



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Clarification: Single family residences are considered a preferred use under the Shoreline Management Act (SMA) and bulkheads are exempt from needing a full shoreline substantial development permit. However, exempt projects are still required to meet all development regulations of a local jurisdiction's Shoreline Master Program (demonstrating the need for the structure and meeting other standards).

Clarification: New or replacement bulkheads for single family residences would only be allowed after demonstrating that soft engineering wouldn't sufficiently protect a primary structure.

Comment: Other states are using revetments, a buried structure or wall that comes in at a slope and adds beach. This may be useful in DPD's SMP update.

Comment: Revetments may work well in coastal areas; they may not work as well in Lake Washington, where there is not as much sediment.

Comment: What happens if there is five feet of erosion a year and the primary structure will be in danger soon? Can a property owner build/replace their bulkhead in this case?

Clarification: Yes – if the primary structure will eventually be threatened and waiting will reduce the options for shoreline stabilization, a bulkhead would be allowed. It should be noted that

Comment: If erosion was occurring at five feet a year, something extraordinary would be the cause; therefore, a cumulative impact analysis of neighboring structures should be undertaken to figure out why this is occurring.

Comment: There should also be stop-gap measures implemented into the proposed language that prevent single family residences from creating "fortresses" around the shorelines as climate change and other impacts affect this extreme erosion.

Comment: Standard practice for repairing a bulkhead is to replace the whole bulkhead, not just a certain percentage of the structure. If there is an existing bulkhead that needs repair, you should only need to demonstrate that soft engineering will or will not work. If it is demonstrated that soft engineering will not work, one should be allowed to replace the bulkhead in full. One should not have to demonstrate "imminent threat" for repairing an existing bulkhead.

Clarification: According to state guidelines, a geotechnical report can demonstrate need for hard engineering in one of two ways. It must be documented that either 1) a primary structure is in imminent danger, or 2) waiting until imminent danger will reduce future options for shoreline stabilization.

Concern: Instituting a setback may change the location of the shoreline and may be disincentive to a landowner.



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Clarification: Beach coves and beach restorations do not have to decrease the dimensions of a site. When natural shoreline stabilization is designed correctly and used on appropriate sites, the water line doesn't move so there is no loss of dry land. The 2009 Green Shorelines Guidebook will contain examples of projects where removing a bulkhead has not altered the property line.

Comment: DPD should use the definition of "where feasible" that is in the WAC.

DPD will:

- Continue developing the "green shorelines" checklist and will look into having its regulations tie into the Corps programmatic for bank stabilization.
- Consider different approaches for the marine and lake environments.
- Continue working on a spectrum in the code for soft and hard engineering that defines what is considered a bulkhead.
- Provide a specific definition for "demonstrated need"
- Address other and new types of breakwaters.
- Consider incentives for property owners to implement more natural shorelines.
- Investigate SPU's policy on liability for Combined Sewer Overflows (CSOs) located on private property.
- Prepare specific provisions that separate residential from commercial standards.
- Consider standardizing SMP dock and bank stabilization regulations with those in the Puget Sound Action Agenda and WRIA 7 and 8 plans.
- Further define what constitutes bulkhead "repair" versus "replacement."
- Look into public access and bulkheads within the SMA guidelines to see how this may affect recreational bulkheads like the one at Alki Beach.

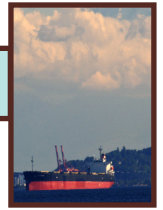
Shoreline Dredging & Filling

Brennon Staley of DPD provided an overview on DPD's proposed regulatory changes to Dredging and Filling (see the PowerPoint presentation and related handouts available from the Committee's website). DPD is proposing the following changes to the locational standards in the Shoreline Environment section for dredging and filling:

- Prohibit dredging accessory to residential docks and piers in the Conservancy Recreation and Urban Residential environments.
- Limit landfill that creates dry land to minor projects that reestablish a previously existing ordinary high water mark or that provide environmental mitigation or enhancement.
- Clarify that dredging for environmental mitigation or enhancement (including beach nourishment) is allowed in all environments.

DPD also proposed exception changes that are intended clarify or make minor edits to existing regulations. Committee member comments and concerns, and DPD clarifications, included:

Clarification: For residential piers, it is better (ecologically speaking) to build longer piers than to dredge the shallow water habitat.



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Clarification: DPD's best management practices for dredging and filling are currently very general, but are getting more specific to provide clarity and reflect current best management practices.

Clarification: Maintenance dredging will be address separately.

Comment: DPD is moving away from the maintenance and repair exemptions that exist today. DPD is making repairs of structures much harder.

Comment: Natural material, sediment, and debris that would normally reach the beach is prevented by structures alongside the beach, especially the train tracks that parallel the shoreline along Seattle's northern marine shorelines. The Committee should consider recommending to DPD a provision that encourages the transfer of sediment and debris to the beach to allow for beach nourishment.

Comment: DPD's suggested approach, compared to the Army Corps and other regulatory agencies, does not seem to represent a large change to the existing regulatory structure.

Comment: It is a very good thing that DPD is no longer considering grading and filling activities on dry land as landfill.

DPD will:

- Clarify potential conflicts between protecting statewide transportation projects and dredging.
- Clarify pocket erosion provisions.
- Continue to define "best management practices" for clarity.
- Clarify that beach nourishment will not be subject to the same standards as landfill generally, and will be allowed where appropriate.

Shoreline Mitigation

Maggie Glowacki of DPD provided an overview of DPD's current shoreline mitigation regulations and proposed changes (see PowerPoint presentation and related handouts available from the Committee's website). Maggie said currently, mitigation is mainly achieved through general development standards that allow for different interpretations to exist among DPD land use planners. Proposed changes to the SMP include:

- Adding new goals and policies, or revisions to existing goals and policies, to better meet the legislative intent and guidelines of the SMA.
- Updating the General Development Standards to include more specific information regarding potential impacts and required mitigation standards, to assure no net loss of ecological function.
- Modifying and adapt the Shoreline Alternative Mitigation Plan (SAMP) currently being developed for the Lake Union/Ship Canal shoreline for use throughout Seattle's shoreline as a tool to help measure potential impacts from a development and employ appropriate mitigation measures to achieve no net loss.

Maggie said that SAMP is being proposed because it provides a way to measure both the impacts of development and the mitigation requirements. She added that it is a transparent method that would be



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consistent on a project-to-project and reviewer-to-reviewer basis, and that it is very predictable and it ensures consistency and real mitigation.

Maggie then introduced Jim Holmes of DPD, who is leading the development of SAMP. Jim said that SAMP was born from two initiatives in the Mayor's office—the Maritime and Manufacturing Initiative and the Restore Our Waters Initiative. At its core, SAMP is a standardized approach to measuring shoreline impacts and mitigation options that provides an optional offsite program for water-dependent and water-related uses. SAMP is not yet being implemented, but is being developed and is undergoing a stakeholder process.

Committee member comments and concerns, and DPD clarifications, included:

Clarification: The director's rule on SAMP is a more refined explanation of what is published on the SAMP website (see Committee website for these documents/links).

Clarification: The multiplier for the amount of mitigation required included in SAMP is intended to account for the additional uncertainty involved in offsite mitigation.

Comment: The structure of the language needs to be revisited, since some of the tables are hard to follow.

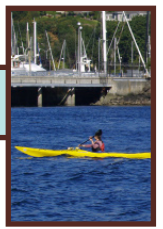
Comment: The mitigation multiplier ratios may be insufficient; all habitat impacts may not be as interchangeable as the SAMP suggests. Also, the costs do not seem sufficient enough to cover all the costs of restoration, such as monitoring, managing, and long-term maintenance.

Comment: There should be a way to take the proposed SAMP concepts and put them into regulations.

Comment: The approach and ambitiousness is impressive. But SAMP should be viewed as an experiment to see if the hypothesis about replacement ratios really works. There needs to be a monitoring program that demonstrates SAMP has achieved what it set out to do. Mitigation banking may also be a good idea in terms of selling credits and documenting the functions that are created, perhaps eliminating the need for the offsite multiplier.

Comment: Mitigation banking has a poor history in the State and nation. SAMP allows "function swapping" and this does not lead to true "no net loss." Therefore, the multiplier is not high enough and the cost of the restoration seems like a "black hole". It appears that restoration under SAMP will only occur on public land, but it needs to happen on private land as well.

Comment: The term "no net loss" sends the wrong message to the general public and should be reworded to accurately capture that the City is trying to rehabilitate public land the best it can. This effort may not meet a strict interpretation of no net loss, if one looks at it function-by-function. "No net loss" may not actually be achievable and the concept is a sticking point for many Committee members.



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Clarification: SAMP is allowing offsite mitigation payment (payment in lieu) for water-dependent uses only.

Clarification: Regarding function swapping, the idea of no net loss is a composite measure of shoreline function based on all variables that would be replicated in mitigation sites for offsite restoration.

Clarification: SAMP is being proposed as a quantifiable method of measuring impacts and mitigation requirements.

Comment: When SAMP is developed and modified for other shoreline areas, be sure that the science and the tables are compatible with other agencies such as King County, the Army Corps of Engineers, and tribes, especially if these other entities are doing similar work under a federal review.

Comment: The SAMP model seems like a good project for an urban area. Seattle is not the place where we can get restore pristine wilderness again; the SAMP model sounds like a good compromise and a practical way of fitting in all of our urban functions while emphasizing growth management.

Comment: The goals seem to be set at “how do we facilitate construction and development?” when they could be set as “how do we facilitate restoration of habitat and improvement of ecology of the lakes and waterways?” The latter is a higher goal that the Committee should address. The Committee needs to set a higher standard for restoring ecological functions on private property and not enter into a trading system. There is concern that the habitat of public lands will improve, which we have the capability to do, but that it will be seen as mitigation for people making the situation worse on private lands.

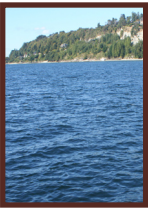
Clarification: Within SAMP you cannot mitigate from one table to another. In-water can only be mitigated with other in-water impacts.

Comment: The timeline of five years for restoration is inappropriate. If a mature habitat is being removed, no net loss needs to include more habitats, to compensate for the time that it will take for the habitat to mature and come back online.

Comment: Habitat and industrial use is desired in the same location; it seems that SAMP is pushing away from this.

Clarification: Mitigation sequencing is required before any off-site or payment in lieu mitigation is allowed. Meaning that first the development needs to avoid and minimize any impacts. Also best management practices are required to mitigate for construction impacts.

Comment: Proposed regulatory changes, “A” and “B”, relating to surface runoff and permeable surfacing, on page three of DPD’s Mitigation Policy Paper should be removed, as they seem to



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duplicate existing regulations. Please do not make the SMP update more complex. If DPD is proposing changes to stormwater regulations, make them in the stormwater regulations and not in the SMP.

Comment: Without advocating complicated regulations, DPD should continue to try to capture incremental cumulative effects of stormwater throughout Seattle. DPD should regulate stormwater on smaller projects that fall below the stormwater code thresholds in the shoreline environment because of the cumulative stormwater effects that the combined smaller projects have on water quality.

DPD will:

- Clarify construction impacts and project impacts versus short-term and long-term impacts.
- Continue to work to ensure that mitigation process meets “no net loss” function where out-of-kind or offsite mitigation is allowed.
- Investigate opportunities for encouraging restoration beyond “no net loss” standard.
- Consider an internal review of proposed regulatory changes, so as to minimize duplicative regulations.

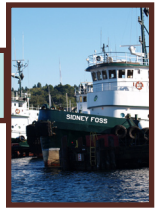
Public Comment

Ann Farr suggested that as a practical exercise prior to adopting SAMP, the City meet with other resource agencies (and particularly the federal fisheries agencies and the Washington State Department of Fish and Wildlife) to walk through the mitigation concept to see if it would work for a typical shoreline development. There is a mechanism under state law (RCW 90.74) that provides for offsite mitigation within the same watershed. This law has been used as the basis for several innovative and successful mitigation projects in the North Sound. Unless SAMP includes a mechanism for providing advance mitigation credits such as through a memorandum of understanding with WDFW, the concept may not be helpful to project proponents, because of state and federal mitigation policies.

Michael concluded the discussion by reminding the Committee that they are encouraged to send additional questions, comments and concerns on this and other topics after the meeting.

Committee Work Plan and Process

Michael reported back to the Committee on the key themes emerging from the mid-point check in calls. In short, Committee members feel that the process is going well and is worth their time and effort. They believe that the Committee is truly diverse and representative of the full spectrum of interests, and that all members are good, thoughtful people with much of interest to say. However, they recognize that there are distinct “camps” to which most members gravitate, and the group is unlikely to reach consensus on many recommendations (they are not clear whether that is “OK” or not; whether they need to be in consensus to provide DPD with the advice it needs). They also feel that the Committee has been covering too much material in too short a period of time. Also, it has not been clear when/whether they will revisit earlier topics of discussion or whether their input is having any effect on DPD’s proposals. Michael encouraged members of the Committee that he has not heard from to call him if they have additional thoughts and comments on the Committees process and progress.



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Maggie emphasized that DPD is definitely getting what it needs from the Committee. The information provided by the Committee is very helpful and is changing DPD's thinking. Also, the Committee does not need to be in consensus around the issues and in fact is not expected to be in consensus on many issues because of the diversity of the stakeholder groups the Committee members represent. She said that DPD's process is to put out a proposal, hear Committee input, decide upon changes to the proposal based upon Committee influence, and then develop a response paper detailing how DPD has heard the Committee and how it has responded. It is DPD's hope that the Committee will then take these response papers and use them to craft advice papers containing both consensus advice and areas where there are differences of opinion among Committee members. DPD will use those advice papers in making its final decisions and will get back to the Committee with answers as to why they made the decisions that were made and the reasons for making them. DPD's final decisions and recommendations will then go to the Mayors Office and City Council for review, alongside the advice papers provided by the Committee. When DPD receives a draft copy of the new code, DPD will provide it to the Committee before the general public.

To address the feeling that the Committee is going through too much material too fast, Maggie proposed two additional Committee meetings, ending in May, so that the Committee has time to revisit each area of discussion and consider advice papers.

Final Thoughts/Next Steps

Michael wrapped up the meeting, indicating that a meeting summary will be sent for review and approval by the Committee and DPD; the prior meeting summary and all materials from this meeting will be posted to the web, and materials for the January meeting will be provided at least a week ahead of time. He encouraged Committee members to contact him and/or Maggie with any process questions, comments, etc.

Michael thanked members for their participation and adjourned the meeting. The next meeting will be held on Wednesday, January 21, 2008 from 5:30 PM (5:00 PM "meet and greet") to 9 PM.



**Seattle's Shorelines Today and Tomorrow:
Updating Seattle's Shoreline Master Program
Citizens Advisory Committee**

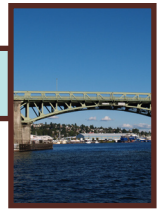
**Wednesday, January 21, 2009, 5:30 pm - 9:00 pm
Conference Room 4080, Seattle Municipal Tower, Fifth and Columbia**

MEETING SUMMARY
Prepared by Triangle Associates, Inc.

Attendance

Seattle Shoreline Master Program Update Citizen Advisory Committee			
Last	First	Seat	In Attendance?
Allison	Bob	Residential Shoreline Property Owner	✓
Arntz	Jan	University of Washington	✓
Ashley	Gregory	Aquatic Permittes/Contractors	✓
Bowman	Bob	Floating Homes	✓
Ferguson	Jim	Marine Indust. Bus.: Lake Union/Ship Canal	<input type="checkbox"/>
Hanson	Eric	Port of Seattle	✓
Johnson	Mark	Seattle Planning Commission	<input type="checkbox"/>
Lockwood, USCG, Ret	John W.	Marine Industrial Business: Duwamish	✓
McCullough	Jack	Business: Central Waterfront	<input type="checkbox"/>
Nelson	Kitty	Environmental: Lk WA and Ship Canal	✓
Nelson, Jr.	Martin O.	Commercial	✓
O'Halloran	Vince	Labor	<input type="checkbox"/>
Oppenheimer	Martin	Recreation/Public Access	✓
Owen	John W.	Citizen At-Large	✓
Preisler	Sarah	Citizen At-Large	✓
Rasmussen	James	Environmental: Duwamish	<input type="checkbox"/>
Stabbert	Brooke	Non-Residential Shoreline Property Owners	✓
Trim	Heather	Environmental: Puget Sound	✓
Tu	Trang	Citizen At-Large	✓
Whittaker	Gregory	Recreation/Public Access	✓

Project Team/Presenters/Other Department of Planning and Development (DPD)			
Last	First	Organization	In Attendance?
Gainer	Cole	Triangle Associates	✓
Glowacki	Maggie	Seattle DPD	<input type="checkbox"/>
Kern	Michael	Triangle Associates	✓
LaClergue	Dave	Seattle DPD	✓
Robison	Dave	Cascadia Community Planning Services	✓
Skelton	John	Seattle DPD	✓
Staley	Brennon	Seattle DPD	✓



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General Public			
Last	First	Organization	In Attendance?
Durand	Chad	520 Bridge Project	✓
Farr	Ann	Port of Seattle Consultant	✓
Mazzella	Tony	Seattle Department of Transportation	✓
McChellan	Kerry	Land Manager	✓
Meyer	Paul	Port of Seattle	✓
Page	Heather	WSDOT Consultant (Anchor Environmental)	✓
Quirk	Patti	Seattle Department of Transportation	✓

Meeting Purpose

This was the seventh meeting of the City of Seattle's Shoreline Master Program (SMP) Update Citizens Advisory Committee (Committee). The meeting included presentations and discussion on: 1) Public Access and Views, 2) Shoreline Permitting, and 3) updates to the Committee work plan, process and options for writing the Committee report.

Welcome and Introductions

Facilitator Michael Kern of Triangle Associates welcomed the Committee to the meeting and led a round of introductions. Michael reviewed the meeting materials and agenda and pointed out intervals for public comment. He asked the Committee for comments on December's meeting summary, which was then approved by the Committee for posting to DPD's SMP Update website. Michael then reviewed possible dates for the Committee's two additional meetings in April and May. The Committee decided that, pending major conflicts from absent members, the following dates would be selected for April and May:

- Tuesday, April 28th
- Wednesday, May 20th

Public Access and Views

Dave LaClergue of DPD announced that DPD's Green Shorelines Guidebook is now available. Copies were provided to all meeting attendees. Dave offered to field any questions Committee members might have about the book, as well as suggestions for its distribution. Dave then presented an overview on DPD's current regulations and proposed changes to public access and views, (see PowerPoint presentation and related handouts available from the Committee's website). He said that DPD's goals are to improve the quality and extent of access, increase connectivity, and maximize compatibility between public access, ecological function, and preferred shoreline uses. DPD is proposing the following changes to regulations around public access and views:

- Create a public access easement inventory and tracking system, for public information and inspections.
- Implement additional development standards for public access features.
- Provide public access exceptions and view corridor reductions only for water-dependent uses, not water-related uses.
- Consider alternatives to onsite access for non-water-dependent industrial such as payment in-



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lieu and ecological restoration beyond standard mitigation.

- Eliminate public access/view corridor exceptions for narrow Lake Union lots adjacent to street ends.
- Modify non-water-dependent requirements within Urban Stable lots.
- Clarify the definition of “view corridor” to allow vegetation.
- Consolidate public access view requirements into one section each.
- Require view corridors along the Ship Canal for parcels separated from the water by a thin band of Conservancy Navigation.
- Broader public access planning and additional development standards for public access.
- Consider developing a Shoreline Public Access Plan in late 2009.

Multiple Committee members encouraged the proposed Public Access Plan. They also supported defining “meaningful public access” by engaging the public and understanding its demands for it.

DPD made the following clarifications:

- Currently, water-dependent and water-related uses are not required to provide public access. In most environments, they also have reduced view corridor requirements.
- Additional development standards would not be retroactive. DPD is not proposing any retroactivity, as the land use code is for new and future development.
- The intent in providing uniform standards for signs and placement and requiring a clear separation between public and private land is to ensure that public access is evident and inviting, especially in cases where public access is provided but it may appear to be part of a private use.
- All commercial lots on Lake Union would be required to provide public access to the water if they are not water-dependent or if they meet a threshold for width to be determined by DPD.
- DPD’s proposed Shoreline Public Access Plan would be a broader planning effort separate from the regulatory update.
- As written in State guidelines, public access and view corridor requirements will not apply to single-family residential uses.
- State guidelines encourage both connected systems of trails and parks, as well as public access on non-water-dependent sites. The intent of public access is to allow people to view the water and water-related activities, and to have physical access to the water wherever feasible.
- There are significant barriers to pooling funds from multiple small projects into large joining public access features. City parks are typically the best way to provide large access areas, but smaller access areas spread along the shoreline also have an important value. Many other jurisdictions seek connectivity between small public access areas. This does not happen overnight but over 30 years, they may all become connected.
- State guidelines say that shorelines constitute a limited resource and should be managed to provide public access, ecological function, or space for water-dependent uses. Non-water-dependent uses preclude use of this finite resource by water-dependent uses and should seek to more fully achieve other goals of the SMP including public access and ecological function. Non-water-dependent uses are subject to more substantial public access requirements because



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they displace priority uses.

- The requirements for public access are based on two provisions. 1) The public should have access to public property, the water, which is publicly owned under the Public Trust Doctrine, and 2) because the SMA gives preference to certain uses. Public access requirements are a way to allow non-preferred uses on the shoreline.
- Floating homes would be considered single-family residential in this case, and not be required to provide public access.
- The City tracked the current amount of public access land available via an inventory and catalogue of all the City's shoreline areas. Gathering this data is required by the SMP update guidelines and will continue to be used after the update to make sure there has been no loss of public access land.
- DPD still needs to conduct an inventory of easements on private land.

Committee member comments and concerns included:

Comment: There are approximately 140 street ends around the City. Some of them are open for public access and some are inaccessible because they are overgrown. There are also a number of others that are inaccessible because they have been leased to industrial or residential property owners. There is an opportunity to open public access areas in the leased street ends because they are already owned by the City.

Comment: Public access is largely defined as access from the land with little consideration of access from the water. Considering public access from the water could create exciting recreational opportunities including water based trails.

Comment: It is important to understand the public's demand for public access and what kind of uses are in greatest demand. This should define opportunities for development standards on all sizes of parcels.

Concern: Requiring view access and water access sounds like DPD is proposing to take private property without paying for it. View access corridors, without a City payment for it or tax benefit, eliminate the ability for the property owner to use the property to its "highest and best use."

Comment: The City should generate more tax revenue and buy parcels for opening up for public access.

Comment: The flexibility allowed by the "payment in lieu of" as an alternative for allowing non-water dependent uses in the industrial zone proposal is a great concept; however, a clear and well developed formula is needed.

Comment: The Port of Seattle has a Seaport Shoreline Plan that was developed in part to communicate to the City the Port's proposals for new public access areas on its own property.



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Comment: Small public access sites in industrial areas are heavily used by workers and locals who may be on their way home from work and or enjoying the site on their break. The documented heavy use of these areas strongly supports the existence and maintenance of little public access areas within industrial zones.

Concern: The central waterfront piers that were rehabilitated in the 1970s came with a requirement for public access. Over time, many of the restaurants and business grew their dividers out, reducing the opportunities for public access. There has been no enforcement against this.

Concern: How do we prioritize habitat restoration and tie it in as a requirement? While it isn't strictly a public access issue, it speaks to the quality of public access.

Concern: When there is adjacent public access to the perimeter boundaries of a maritime industrial facility, there are potential security threats if visitors are able to observe and/or photograph certain activities. Many shipyards are required by federal law to have a security plan, and public access can complicate this effort.

Comment: As properties develop or redevelop, public access and view corridors will be required. New development in industrial zones may not be very susceptible to security concerns because of new technologies and security regulations.

Comment: Property owners should have to provide public access, and should be liable for maintaining the safety and security.

Comment: DPD needs to consider the feasibility and practicality of a business protecting its property from what irresponsible and unsafe things people may do naturally in public access areas. It is unfair to throw all the liability on an industrial property owner. The City should come up with a balance between these concerns; it can absolve property owners from liability for certain situations. Beyond reasonable precautions, property owners should not have to take all the responsibility, however, just because a property owner has pre-existing operations doesn't mean they shouldn't have to make any security or protection changes. The Burke-Gilman Trail presents problems for some industrial users in the BINMIC area – adjacent property owners are now having difficulty finding insurance.

Comment: The City will not “absolve” property owners from liability, because it opens them (the City) up to liability problems.

Concern: There is a big concern about views in Seattle. As development occurs throughout the City, people are becoming less connected visually to the water, which affects the quality of life. DPD should make efforts to preserve view corridors and not let post-development ornamenting or signage go unregulated.



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Comment: The SMP should have a provision that allows one to easily defer or relax the specific onsite dimensional standards in return for something that can be part of the proposed Public Access Plan. DPD can also do lots of things with policies on a staff level to encourage the development of the Public Access Plan idea.

Comment: As DPD promotes connectivity within public access areas, they should also seek to address transit goals through the development of bike/walk trails, encouraging people to get out of their cars.

Public Comment

Patti Quirk, street end manager for Seattle Department of Transportations (SDOT), reminded the Committee that street ends are a part of Seattle's transportation network and belong to SDOT. She said even though they have been set aside as special pieces of property, SDOT still struggles with balancing industrial needs, public access needs, and transportation needs.

Paul Meyer, Port of Seattle, said the proposed vegetation preservation development standard should be written specifically to improve habitat, not to preserve any existing vegetation (including blackberries or other weeds).

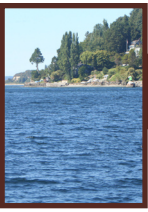
Committee Work Plan/Report

Michael mentioned that updates made to the Committee's work plan included addressing "parking lot" issues that arose at the Committee's December meeting. He also said the Committee's March and April meetings would include review of approximately 12 response papers from DPD that refine DPD's proposals via input the Committee has given throughout its process. Brennon Staley of DPD reminded the Committee these response papers will reflect the Committee's opinions, as well as DPD's responses to those opinions. The Committee will then provide an advice paper to DPD in its final report, which DPD will take into account when drafting the new shoreline code. DPD will show the Committee where its comments informed the draft code, where DPD agreed, and where DPD varied and why. It will also ensure the Committee has the opportunity to review the draft code when it is ready.

Michael introduced Dave Robison, Cascadia Community Planning Services, who is serving on the facilitation team and suggested Committee members consider using Dave as a valuable resource in drafting their final report. Dave described his background to the Committee, mentioning he has worn many of the "hats" present which, combined with his shoreline planning experience, puts him in a unique position to help the Committee draft a balanced report. The Committee agreed by consensus to request that Dave write a first draft of the Committee's report, perhaps with help from a subgroup of the Committee.

Shoreline Permitting

Brennon provided an overview of the different types of existing shoreline permits including variances, exceptions, exemptions, and Master Use Permits (MUP) (see the PowerPoint presentation and related handouts available from the Committee's website). Brennon clarified that DPD is not currently



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proposing any changes to the permitting process, but that the purpose of the Committee's discussion is to voice what is working and what isn't, via the following questions:

- What aspects of the shoreline permitting process are working effectively?
- What aspects of the shoreline permitting process are causing the greatest frustration or concern?
- What specific steps could the City take to address your concerns?

Committee responses and DPD clarifications included:

Clarification: The term "substantial development permit" refers to specific State language that is uniform across all SMPs throughout Washington cities. Within Seattle, it also referred to as a type of Master Use Permit (MUP).

Comment: The Port of Seattle has a list of operational needs related to administrative procedures and permitting located on page seven of its 2007 Seaport Shoreline Plan.

Clarification: The dollar threshold for small projects (\$5,374) is based upon a state mandated number plus cost of living increases.

What aspects of the shoreline permitting process are working effectively?

Comment: DPD's *Green Shorelines* publication has some great information on permits. The City is doing the right thing when it creates pamphlets like this.

Comment: The type of review currently expended for a maintenance project should remain the same.

Comment: The substantial development process works, but takes too long.

Comment: DPD planners are dedicated and there are good experiences to be had.

What aspects of the shoreline permitting process are causing the greatest frustration or concern?

Concern: The City does not always enforce its own policies, specifically regarding signage and the posting of white and yellow boards on a project site.

Comment: The process is exceptionally bureaucratic and cumbersome. It is nearly impossible to get a land use question answered over the phone. There also seems to be a lack of understanding about existing industrial facilities and their requirements and challenges.

Comment: Permit review is generally billed at a \$260 an hour planner review rate. Typical fees for a permit are \$150-\$500 for exemptions, a high end of \$5,000 for a single-family residence permit, and upwards of tens of thousands of dollars for large projects. The cost of the permit is also not so much the issue as is the length of time it takes to receive the permit and the associated costs that grow during



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that time.

Comment: Some people would pay more money to get their permit approved faster.

Comment: Exemption codes should take one hour to complete, not ten weeks.

Comment: The review process can be redundant and overlaps with other agencies. The City does not need to go in depth on issues that the Army Corps of Engineers already covers.

Comment: The City needs to be fair. It has a history of approving projects for the Parks department and not for private entities. One should not have to dig around to find out why and how the City or a department received approval.

Comment: The City should not hinder creative solutions to development that they are not familiar with. For example, the use of logs to stabilize the beach around the University of Washington.

Concern: Planners are sometimes afraid of making decisions because of all the “grey area” that exists around their interpretations. This leads to a lengthy process as plans are sent up the bureaucratic ladder to a confident decision maker. Permits will also get kicked back to the permittee because of unclear clarifications requested inconsistently by various reviewers.

Comment: The process needs consistency, which can be found through coordination between the state and the federal agencies.

What specific steps could the City take to address your concerns?

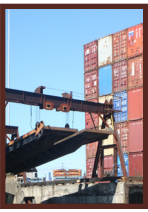
Concern: There is an inconsistency issue between the planners and their interpretations. Consistency is needed throughout the entire process and between the planners. There needs to be a list that outlines what is exempt and what next steps are.

Comment: The state and federal agencies send emails about new projects; Seattle should do this as well. There should be an email list for shoreline projects, as well as projects by neighborhood.

Comment: Variances need to be tracked by specific topic, as well as critical areas ordinances.

Comment: Provide more clarity to the process by developing presentations and simple step-by-step plans for what a citizen/developer needs to do, and when, to build along the shoreline.

Comment: The SMP update is the perfect opportunity for permitting agencies at every level of government to get in alignment. It would be helpful to establish an order to when permits are granted and received, and to have this order published so that people know what to expect.



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Comment: Perhaps DPD needs more staff.

Comment: DPD should use the Joint Aquatic Resources Permit Application (JARPA).

Comment: The Puget Sound Partnership wants to expand conditional use permits for maintenance projects and exemptions. Do not add these unnecessary regulations.

Comment: Make sure SEPA policies are consistent with City polices and shoreline exemptions. The definitions of “maintenance and repair” should overlap.

Comment: DPD should recognize that certain projects and construction proposals are ongoing and may benefit from a programmatic approach to maintenance and repair.

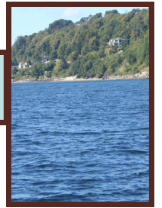
Clarification: The problem with the subjectivity of decisions is not entirely the City’s fault. Subjective decisions sometimes exist because the problems are ill defined, for example “no-net-loss of ecological function.” The Shoreline Management Act (SMA) is purposefully written vaguely so that planners can have room for interpretation. The problem is that the SMA is too vague. The City should define some of the vague terms like “may be allowed,” “shall” and “may” within the SMP to make it clearer.

Brennon reminded the Committee that Seattle has experienced unprecedented growth over the past few years, which has affected the number of permits coming in and the staff available to handle them. He encouraged the Committee to continue thinking of specific frustration or praises that may help DPD. He also mentioned that the City is currently undergoing a process for receiving feedback on the permitting process, has a new training coordinator, is developing a green permitting expediting program, and is working on code simplification in order to make the permitting process more simple and predictable.

Public Comment

Ann Farr said that, as a citizen who has applied for permits dozens of times, it is far more difficult to obtain shoreline approval in Seattle than in any other jurisdiction around Puget Sound. She said that Seattle asks for different information than other cities and even though one gets rated as an applicant for coming in routinely, a 100% rating has done nothing to speed up the process. She mentioned frustrations with the office not regularly being open, that she would like to see incentives for the City to speed up its process, and that opportunities should exist for applicants to make on-the-spot corrections and for DPD to accept packages that are 90% correct. Ann suggested different pipelines for simple projects versus more complicated ones, since easily-processed applications can be hung up for months behind larger ones.

Chad Durand, a consultant for WSDOT, suggested that a planner be assigned to a specific project to help champion it through the process. This would create internal DPD incentives for processing projects in a timely manner.



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Heather Page, Anchor Environmental and WSDOT consultant, praised the individual working on shoreline exemptions who has been instrumental at quick processing. She also suggested that a permittee work with one planner throughout the entire process, specifically a planner that is familiar with similar projects. She said the SMP update should be helpful in creating consistency, that the permitting process should align with the land use process in terms of submitting electronic notifications, she echoed the Committee's frustrations, and recommended that DPD use a case study she would provide for streamlining the permitting process.

Final Thoughts/Next Steps

Michael wrapped up the meeting, indicating that a meeting summary will be sent for review and approval by the Committee and DPD; the prior meeting summary and all materials from this meeting will be posted to the web, and materials for the February meeting will be provided at least a week ahead of time. He encouraged Committee members to contact him and/or DPD with any process questions, comments, etc.

Michael thanked members for their participation and adjourned the meeting. The next meeting will be held on Tuesday, February 24, 2008 from 5:30 PM (5:00 PM "meet and greet") to 9 PM.



**Seattle's Shorelines Today and Tomorrow:
Updating Seattle's Shoreline Master Program
Citizens Advisory Committee**

**Tuesday, February 24, 2009; 6:00 pm - 9:00 pm
Conference Room 4080, Seattle Municipal Tower, Fifth and Columbia**

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Prepared by Triangle Associates, Inc.

Attendance

Seattle Shoreline Master Program Update Citizen Advisory Committee			
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Owen	John W.	Citizen At-Large	<input type="checkbox"/>
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Trim	Heather	Environmental: Puget Sound	✓
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Whittaker	Gregory	Recreation/Public Access	<input type="checkbox"/>

Project Team/Presenters/Other Department of Planning and Development (DPD)			
Last	First	Organization	In Attendance?
Gainer	Cole	Triangle Associates	✓
Glowacki	Maggie	Seattle DPD	✓
Kern	Michael	Triangle Associates	✓
LaClergue	Dave	Seattle DPD	✓
Robison	Dave	Cascadia Community Planning Services	<input type="checkbox"/>
Skelton	John	Seattle DPD	✓
Staley	Brennon	Seattle DPD	✓



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General Public			
Last	First	Organization	In Attendance?
Burcar	Joe	Department of Ecology	✓
Dufour	Roxie	Homeowner	✓
Durand	Chad	Durand Environmental	✓
Farr	Ann	Port of Seattle Consultant	✓
Forman	Diana	Portage Bay Coalition for Clean Water	✓
Keasler	Bill	Floating Homes	✓
Lagerberg	Eric	Homeowner	✓
Page	Heather	WSDOT Consultant (Anchor Environmental)	✓

Meeting Purpose

This was the eighth meeting of the City of Seattle's Shoreline Master Program (SMP) Update Citizens Advisory Committee (Committee). The meeting included presentations and discussion on: 1) Urban Stable Environment, 2) Non-Conforming Structures and Uses, and 3) the Committee work plan, process and options for writing the Committee report.

Welcome and Introductions

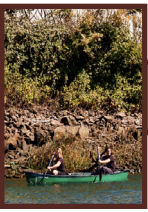
Facilitator Michael Kern of Triangle Associates welcomed the Committee and public to the meeting and led a round of introductions. Michael reviewed the meeting materials and agenda and pointed out intervals for public comment. He asked the Committee for comments on January's meeting summary, which was then approved by the Committee for posting to DPD's SMP Update website. The Committee then agreed to the posting of future meeting summaries via email, if no comments are received by a given deadline, prior to a following meeting.

Urban Stable/Mixed-Use Environment

Brennon Staley of DPD presented an overview on DPD's current regulations and proposed changes to the Urban Stable (US) environment, which DPD proposes to rename as the Urban Mixed-Use (UMX) environment (see PowerPoint presentation and related handouts for the August 26, 2008 meeting, available from the Committee's website). Brennon said that DPD is proposing a revision to the US/UMX purpose statement that would read as follows: *"to provide for a mix of water-oriented uses and to allow limited non-water-oriented development where it does not displace water-oriented uses and where it provides opportunities for public access, ecological function, and recreational enjoyment of the shoreline."*

DPD is proposing the following changes to regulations in the US/UMX environment:

- Continue to allow residential, office, and mixed non-water-dependent commercial on the dry land portion of waterfront lots in limited quantity or where substantial public access or amenities are provided; use existing provision with following changes:
 - a. Make "major public access occupying 1/3 of site" the first priority and only allow alternative on smaller sites or where it would interfere with a water-dependent use.
 - b. Allow counting of vegetated buffer toward major public access requirement.



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- c. Apply existing commercial use floor area ratio (FAR) & parking limits to residential uses as well.
- d. Increase minimum percent water dependent use on a lot from 40% to 50%, to avoid public access requirements.
- Allow certain “water-enjoyment uses” over water in existing buildings. Continue to allow non-water-dependent marine retail sales and service and restaurants, but limit general sales and service, custom craft, and entertainment uses to water-related uses only.
- Allow residential, office, and non-water-dependent commercial outright on upland lots.
- Establish a 15’ buffer (with landscaping standards), plus an additional building setback of 20’.
 - a. Development in the buffer would be prohibited, excluding water access.
 - b. No buildings would be allowed in setback, but limited development would be allowed for low-intensity uses;
- For small lots where reasonable use would be denied if a property owner was required to accommodate setbacks a reduction of building setback would be allowed.
- Change major durable retail sales from a conditional use to a prohibited use on waterfront lots.
- Define Lake Union as areas between Fremont Bridge and University Bridge.

Key questions that DPD provided for discussion included:

- How can we accommodate a reasonable mix of uses without precluding water-dependent uses?
- Are requirements for lots with substantial non-water-dependent uses achieving our public access goals?
- How should ecological goals be included?
- Is the approach proposed by DPD and/or the Committee consistent with the Committee’s and community’s vision for Seattle’s shorelines?

Committee member comments and concerns are identified as “*Comment*” or “*Concern*” while DPD clarifications are identified as “*DPD*”, below:

DPD: Examples of over-water uses that would no longer be allowed under these proposals are hair salons, jewelry stands and pinball arcades. Restaurants would be allowed, because they facilitate the enjoyment of the water.

Comment: In today’s economic environment, requiring water dependent uses along the shoreline is restricting and hurting shoreline property owners.

DPD: Existing overwater non-water dependent uses could be continued but not expanded.

DPD: An upland lot is one within 200’ of the water and on the other side of the road.

DPD: The Cheshiaud trail is a mixed, multi-purpose trail being developed around Lake Union. DPD is considering allowing property owners the option of paying for development of the trail, rather than accommodating public access on their site. DPD still has to develop the list of potential projects one



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could pay into.

Comment: Allowing people to pay into a fund for a trail is allowing offsite mitigation, which is not as favorable as onsite mitigation.

DPD: The buffer and setback would be measured from the ordinary high water mark and would end where the overhang of a building begins.

DPD: A structure that is on the bulkhead today would become a non-conforming structure.

DPD: A small lot (where the setback could be reduced) might be defined as a lot with a depth of less than 50' of dry land, but this still needs to be determined.

DPD: Allowing ecological improvement for non-water dependent uses in the US/UMX environment would be a trade off for the non-water dependent uses, not for public access.

Comment: DPD should write the code in such a way that owners of small lots in US/UMX do not have to request a variance in order to avoid the public access requirement.

Concern: Requiring public access for multi-family houses on the shoreline punishes density, which the City is trying to promote in other initiatives.

DPD: Single family homes are listed as a preferred use on the shoreline under the Shoreline Management Act (SMA). Multi-family homes are not.

DPD: Mixed use projects have been successful in the South Lake Union area.

DPD: The increase to 50% of a water dependent use on a dry land waterfront lot is not retroactive. It would only apply if an applicant changed use or redeveloped a project site.

Comment: Consider making existing buildings exempt from the requirement of 50% of a water related use, especially in these economic times. Some existing buildings are multilevel with more space than 10,000' and should be able to host non-water dependent uses without becoming a non-conforming structure.

Comment: These proposals are not trying to hurt property owners. Economic times go up and down; land use code should not be written only to address short-term economics. Most of the US/UMX shoreline is already built out. Property owners should be able to change the use without a lot of renovation.

DPD: What constitutes "reasonable use" of a property is determined by DPD via a economic and zoning analysis.



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Comment: Consider adding lodging as an overwater conditional use.

Concern: DPD needs a way to ensure that a property stays the way a project proponent claims it will be used.

DPD: Compliance to use standards is complaint based; DPD's action occurs upon receiving a complaint.

Comment: There should be a safeguard, penalties and a timeline for enforcing uses.

DPD: For the vegetated buffer requirement, DPD envisions a vegetated strip (landscaping) behind the bulkhead, which would not require removal of the bulkhead. This requirement would be for mitigation for site redevelopment. DPD has not developed specific landscaping requirements for this buffer, but intends to.

DPD: DPD is trying to provide opportunities to accommodate improved ecological function where it is compatible with water dependent uses. The setback would still allow water dependent activities that are necessary for access to the water such as access ways, repair areas, loading equipment, etc.

DPD: DPD's proposed buffer and setback are based on the Best Available Science document assembled for the 2006 Environmentally Critical Areas Ordinance, which DPD will provide to the Committee.

Comment: Using the 35' setback area for industrial water dependent uses within the US/UMX usually means that the area will be paved. Paving the area is not an ecological improvement and the building should be allowed to rest against the shoreline rather than be setback against pavement.

DPD: The state legislature is currently addressing how to handle buffer and setback requirements where the shoreline changes so that property owners who create coves as part of restoration projects are not penalized for doing so. This bill is HB 2199.

DPD: "Major public access occupying 1/3 of a site" refers to 1/3 of the dry land portion of the site.

Concern: Requiring vegetated buffers next to the shoreline as an environmental benefit would result in a substantial change from the existing situation. When accessing the shoreline, most people want to be right on the bulkhead, not 15' away from it.

Comment: There is always tension between a habitat restoration buffer and public access. They can be compatible, but the language/development standards needs to be written to reduce conflict between the two

Comment: Vegetated buffers are usually the first places to get trashed, since they are not regularly



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maintained by the City.

Comment: The City should set aside money for protecting and restoring large sites in rural areas, rather than restoring expensive little patches of shoreline in an urban area that has already lost ecological function.

Concern: DPD's proposed changes will make many existing conforming structures non-conforming. This will create problems down the line.

Comment: DPD needs to provide more clarity as to what is water dependent, what is water related, where you can really do ecological improvement, and what it means for a water dependent use to try to be improve ecological function.

Concern: DPD needs to think about the cost and burden put on the property owner as they replace their existing buildings or property for a marginal gain. The cost/benefit needs to be looked at closely this heavily-built environment.

Public Comment

Erik Lagerberg, a homeowner within the US/UMX environment, worries about the cost of developing his property and the uncertainty around what he sees as subjectivity in DPD's proposals. Erik said most of the sites within the US/UMX zone are non-conforming and/or small. DPD's proposals seem to treat these sites as an anomaly, when they are the norm.

Committee Work Plan/Report

After discussion, the Committee agreed to move its final meeting from Tuesday, May 20th to Tuesday, June 2nd, to allow more time for Dave Robison of Cascadia Community Planning Services to develop a draft Committee report, and for the Committee to review it via email. The Committee also agreed to request that Committee members John Owen and Mark Johnson assist Dave with the first draft of the report, to the degree that their schedules allow. Mark and John's task will be to offer their experience and expertise in the SMP process, and to help describe areas of consensus and areas where opinions differ. They will not make decisions, or state their own opinions. Michael also reported that the Committee's January discussion on shoreline permitting is being provided to the project manager for the City's Master User Permit (MUP) improvement process.

Maggie Glowacki of DPD reported that policy and response papers for the SMP elements the Committee addressed through November 2008 will be sent to the Committee within one week of the February meeting. DPD is requesting that Committee members look over each paper and email to DPD a list of any issues relating to these elements they feel the Committee has not fully addressed and/or would benefit from further discussion. The March meeting agenda will be built around these issues. Michael said that Committee members are being asked to focus on issues previously un-vetted by the Committee and/or where further discussion would be productive, rather than issues that, while of importance to Committee members, have already been fully discussed by the Committee and would



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likely lead to a rehashing of the previous discussion.

Maggie reported to the Committee on her communications with Committee members between the January and February CAC meetings. She said DPD has met with the Floating Homes Association, to speak about the issue of overwater coverage and that DPD will develop a policy paper on floating homes for the Committee to review. She also said DPD attended a meeting of the North Seattle Industrial Association (NSIA), to discuss public access proposals in response to a memo written by Committee member Jim Ferguson. Jim will be revising his memo based on that discussion and providing it to the full Committee. DPD also went on a walking tour with Committee member Jack McCullough, to look at and discuss non-conforming structures around Lake Union, and DPD will be meeting with Margie Freeman and other Lake Union Association members to discuss the US/UMX environment. Maggie concluded by reminding the Committee that anyone is welcome to contact DPD with questions, comments, or a request for a call or meeting. Maggie will continue to report back to the Committee on such meetings.

Non-Conforming Structures and Uses

Maggie provided an overview of non-conforming structures and uses (see the PowerPoint presentation and related handouts available from the Committee's website), explaining that there is no existing or proposed comprehensive plan or policy specifically referencing non-conforming uses and structures. She said that general policies relating to non-conforming structures and uses that will inform DPD's update include:

Non-conforming structures

- Allow maintenance of existing non-conforming structures where no expansion, redevelopment or replacement is proposed (no "sunset" provisions).
- Seek increasing conformity, particularly for overwater structures and structures in the setback, when replacement or substantial redevelopment occurs.
- Allow reasonable use of property in all cases.

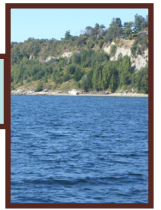
Non-conforming uses

- Allow maintenance of existing non-conforming uses where no expansion, redevelopment or replacement is proposed (no "sunset" provisions).
- Allow replacement of non-conforming uses with other non-conforming uses on dry land outside of the structure setback, as long as this does not increase nonconformity.
- Do not allow replacement of non-conforming uses with other non-conforming uses on submerged land and/or within the structure setback.

Regulations include:

Non-conforming structures

- For structures landward of the ordinary high water mark (OHW) and outside of the habitat buffer, make non-conformity language consistent with Chapter 23 of the Seattle Municipal



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- Code (redevelopment to same size and location allowed with no increase in non-conformity).
- For structures waterward of OHW or within the habitat buffer, allow maintenance, renovations, repairs or structural alterations only to the extent these actions do not constitute a substantial improvement and continue to prohibit expansion. “Substantial improvements” include:
 - a. Replacement of any habitable space.
 - b. Maintenance, renovations, repairs or alterations with a value of more than 40% of the value of the non-conforming portion of the structure in any five year period.
 - c. Extensive structural repair or alteration of creosote pilings excluding replacement with pilings of a different material.
 - Allow “substantial improvements” to non-conforming buildings waterward of OHW or within setback as a conditional use only on properties with less than 50’ of dry land and only to the extent necessary to allow reasonable use of property.
 - a. Considering providing guidance for what constitutes “reasonable use;” for example “to accommodate an enclosed structure with footprint equal to X feet times the width of the lot, up to a maximum of X square feet” for each shoreline environment.

Non-conforming uses

- Prevent new non-conforming uses where a non-conforming use currently exists within buildings located over submerged land and/or in buffers.
- Allow additional flexibility to accommodate non-conforming uses in buildings designated as historic landmarks.

Other Changes

- Modify “act of nature” definition to make it more consistent with the land use code generally. Change from “destroyed by fire or other act of nature, including normal deterioration of structures constructed in or over the water” to “destroyed by fire, act of nature, or other causes beyond the control of the owner, excluding normal deterioration of structures constructed in or over the water.”
- Make period after which a use is considered to be discontinued 12 months, consistent with non-conforming use regulations in the Chapter 23 of the Seattle Municipal Code.

Key questions that DPD provided for discussion included:

- How can we seek additional conformity over time for structures, without precluding maintenance or reasonable use of property?
- Can we prioritize high impact situations such as structures that are overwater or in the structure setback?
- How should regulations address lots containing little dry land?
- Is the approach proposed by DPD and/or the Committee consistent with the Committee’s and community’s vision for Seattle’s shorelines?

Committee member comments and concerns are identified as “*Comment*” or “*Concern*” while DPD clarifications are identified as “*DPD*”, below:



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DPD: All creosote piles must eventually be replaced from existing piers as redevelopment occurs.

Comment: DPD should incentivize the removal of creosote piles by allowing the repair and replacement of a non-conforming structure if all piles are removed.

Committee: People who redevelop their use or structure should be required to come into conformity, but if one maintains what is currently there, and at the same time improves the ecological function, he or she should be able to keep it as is.

Concern: DPD is setting up a negative incentive for improving structures over the water, other than piers, by requiring conformity for existing non-conforming structures.

Concern: People will “limp along” when it comes to replacement under these proposals. Are we better off trying to move people into partial conformity by pulling pilings and/or creating public access/view corridors, or should we just watch these existing buildings sit unrenovated for another 100 years?

Concern: These proposals should be based on incentives and not be so prescriptive. Most people want to do the right thing without being penalized by having to have a smaller structure. There should be a more positive and proactive approach to these proposals that focuses on what the City wants to achieve, rather than just dictating what a shoreline property owner cannot do.

Comment: The cost of replacing pilings for big overwater structures is so high, it is only going to happen if there is enough economic value created in the use of the structure above. This won't happen for many of the existing buildings if they are limited to water dependent uses.

DPD: Structures exempt under the requirements of a substantial development permit will continue to be exempt. DPD is not changing the permitting process, just the requirements for it. If you have a non-conforming structure, you follow the non-conforming development standards, but you still go through the exemption permitting process.

DPD: If a proposed project overwater or in a setback exceeds the threshold of “substantial improvement,” then the project is required to meet the current development standards (i.e. come into conformity) unless there is insufficient dry land to accommodate reasonable use.

DPD: These proposals apply to overwater buildings; docks are handled separately, as discussed at a previous Committee meeting.

DPD: The Seattle Municipal Code defines the term non-conforming houseboat moorage which is different than a houseboat that is defined under non-conforming development standards. This term will be removed during the update to prevent confusion.



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DPD: The Department of Ecology's new Shoreline Master Program regulations (WAC 173-26) direct DPD to favor water dependent uses on waterfront sites, especially in Urban Maritime (UM) and Urban Industrial (UI) zones.

DPD: On dry land outside of a buffer, one could replace an existing non-conforming use with another non-conforming use.

Concern: DPD's proposals for this and other elements of the SMP update are incrementally leading to a situation where many current conforming shoreline uses will become non-conforming. This includes DPD's proposal to turn marinas on the Duwamish (a water dependent use) into non-conforming structures. DPD's proposals from October relating to allowable uses in the UM environment will mean that just about everything on dry land at Fisherman's Terminal will become non-conforming. Almost the entire US/UMX area will become non-conforming under these new proposals, because nothing there currently has vegetated buffers and many of the buildings are not 35' from the bulkheads.

Concern: Making these structures non-conforming makes it harder to maintain and replace them, and is counter-productive to other City initiatives to preserve industrial jobs. If DPD is not careful, there may be legal issues with these proposals.

Comment: Many of these structures are being grandfathered into the new code. Seattle has a built up shoreline. A lot is already being allowed under these proposals that wouldn't be allowed in a less built environment. Not providing setbacks and buffers could also lead to legal issues.

Comment: DPD should be applauded for proposals that steer away from hurting water dependent jobs, while still seeking to improve ecological function. It is the aggregate of all these structures that currently exist that may prevent salmon from being around for our grandchildren.

Comment: DPD should try to estimate the amount of non-conformity that exists today, and how much there would be under these proposals.

DPD: DPD will consider how much non-conformity would be created by these proposals. Issues regarding non-conforming structures and uses are complex and not easy to balance.

Comment: There are various uses that are not allowed under these proposals that are not strictly water dependent or water related, but still affect the maritime industry. The code should have flexibility to allow for these uses.

DPD: DPD recognizes that water related uses are necessary for water dependent uses to thrive.

DPD: DPD's task is to achieve the SMA's mandate for balance among water dependent uses on waterfront lots, public access, and ecological function of the shorelines. DPD is looking to the



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Committee to help it balance and achieve all three.

Comment: There should be creative avenues (similar to the design review process) that allow departures from strict code definitions, in order to accomplish clearly laid out policy objectives.

Comment: It is critical to keep water dependent businesses on the water. At the same time, we have to increase ecological function. Fisherman's Terminal also needs to be protected as a historic district.

Comment: DPD should exclude sea-level rise from "acts of nature" that allow one to replace a non-conforming use.

Comment: DPD has done a great job at trying to get back environmental integrity in this trashed environment.

Public Comment

Erick Lagerberg said that many shoreline residents care a lot about the environment and are good stewards who do not want to have an adverse incentive and challenges to development that go around the spirit of what the Committee and DPD are trying to accomplish.

Final Thoughts/Next Steps

Michael wrapped up the meeting, indicating that a meeting summary will be sent for review and approval by the Committee and DPD. The prior meeting summary and all materials from this meeting will be posted to the web. Materials for the March meeting will be provided within one week of the February meeting. Michael encouraged Committee members to contact him and/or DPD with any questions, comments, etc. Michael thanked members for their participation and adjourned the meeting. The next meeting will be held on Tuesday, March 24th, 2009 from 5:30 PM (5:00 PM "meet and greet") to 9:00 PM.



Seattle's Shorelines Today and Tomorrow: Updating Seattle's Shoreline Master Program

Citizens Advisory Committee

Tuesday, March 24, 2009; 6:00 pm - 9:00 pm

Conference Room 4080, Seattle Municipal Tower, Fifth and Columbia

MEETING SUMMARY

Prepared by Triangle Associates, Inc.

Attendance

Seattle Shoreline Master Program Update Citizen Advisory Committee			
Last	First	Seat	In Attendance?
Allison	Bob	Residential Shoreline Property Owner	✓
Arntz	Jan	University of Washington	✓
Ashley	Gregory	Aquatic Permittees/Contractors	✓
Bowman	Bob	Floating Homes	✓
Ferguson	Jim	Marine Indust. Bus.: Lake Union/Ship Canal	✓
Hanson	Eric	Port of Seattle	✓
Johnson	Mark	Seattle Planning Commission	✓
Lockwood, USCG, Ret	John W.	Marine Industrial Business: Duwamish	☐
McCullough	Jack	Business: Central Waterfront	✓
Nelson	Kitty	Environmental: Lk WA and Ship Canal	✓
Nelson, Jr.	Martin O.	Commercial	✓
O'Halloran	Vince	Labor	✓
Oppenheimer	Martin	Recreation/Public Access	✓
Owen	John W.	Citizen At-Large	✓
Preisler	Sarah	Citizen At-Large	☐
Rasmussen	James	Environmental: Duwamish	☐
Stabbert	Brooke	Non-Residential Shoreline Property Owner	✓
Trim	Heather	Environmental: Puget Sound	✓
Tu	Trang	Citizen At-Large	☐
Whittaker	Gregory	Recreation/Public Access	✓

Project Team/Presenters/Other Department of Planning and Development (DPD)			
Last	First	Organization	In Attendance?
Gainer	Cole	Triangle Associates	✓
Glowacki	Maggie	Seattle DPD	✓
Kern	Michael	Triangle Associates	✓
LaClergue	Dave	Seattle DPD	✓
Robison	Dave	Cascadia Community Planning Services	✓
Staley	Brennon	Seattle DPD	✓

General Public			
Last	First	Organization	In Attendance?



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Bagley	Kevin	Interested Citizen	✓
Bagley	Linda	Interested Citizen	✓
Burcar	Joe	Department of Ecology	✓
Durand	Chad	Durand Environmental	✓
Farr	Ann	Port of Seattle Consultant	✓
Forman	Diana	Portage Bay Coalition for Clean Water	✓
Keasler	Bill	Floating Homes	✓

Meeting Purpose

This was the ninth meeting of the City of Seattle’s Shoreline Master Program (SMP) Update Citizens Advisory Committee (Committee). The meeting included presentations and discussion on DPD’s revised proposed changes to the SMP on: 1) shoreline environmental designations, 2) residential development standards, and 3) shoreline modifications including dredging, stabilizations and overwater structures.

Welcome and Introductions

Facilitator Michael Kern of Triangle Associates welcomed the Committee and public to the meeting and led a round of introductions. Michael reviewed the meeting materials and agenda, and pointed out intervals for public comment. He explained that the purpose of this meeting was to: 1) summarize how DPD has revised its proposed changes to the SMP based on Committee input at previous meetings; 2) summarize the comments that DPD has received from Committee members on those revised proposals; and 3) identify additional thoughts and ideas in support/in favor of or opposing/concerned about the proposals, so that subconsultant Dave Robison (with assistance from Committee members John Owen and Mark Johnson) has what he needs to take a first cut at a report documenting the Committee’s discussions and conclusions, for the Committee to review and revise in advance of the June meeting. In response to a comment from a Committee member, DPD agreed to revise the response papers it is preparing for each element of the SMP so that they are not structured in terms of “pros” and “cons,” and so it is clear that member opinions included in the response papers are not to be read as statements of fact.

Maggie Glowacki of DPD reported to the Committee on her between-meeting communications with individual and small groups of Committee members, and other stakeholder groups. She said DPD has met with:

- The Lake Union Association, to present DPD’s proposals for the Urban Stable (US)/Urban Mixed Use (UMX) environment.
- Four Committee members (Heather Trim, Greg Whitaker, Kitty Nelson and Marty Oppenheimer), to discuss DPD’s proposed SMP revisions and have specific discussions on offsite mitigation and the concept of no net loss of ecological function.
- The North Seattle Industrial Association (NSIA), to present information on DPD’s recently released Shoreline Characterization Report.,
- Committee members John Owen and Mark Johnson, to discuss different approaches for dealing with non-conforming structures and uses in the shoreline environment.



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Shoreline Environmental Designations

Brennon Staley of DPD presented an overview of DPD's revised proposals and Committee comments received prior to the meeting regarding Shoreline Environmental Designations (see response papers and PowerPoint presentation for the March 24, 2009 meeting, available from the Committee's website). The Committee then held a discussion on the topic. Committee member comments and concerns are identified below as "*Comment*" or "*Concern*;" DPD clarifications are identified as "*DPD*."

Comment: It is difficult to distinguish between the Conservancy Management and Conservancy Recreation designations. DPD should look into minimizing the differences between the two and consolidating environmental designations, where possible.

Comment: Most jurisdictions get by with a smaller and simpler set of uses. Being simpler about Seattle's environmental designation structure will help minimize other complications.

DPD: The City of Seattle Office of Economic Development's (OED) "Seattle's Maritime Cluster" economic study should be available within weeks. DPD needs to review that study when it comes out, but expects that it will need to do its own maritime cluster economic study, to add a forecasting element. DPD's study should be completed by August.

Comment: The Governor recently stated that there will be a two-third increase in cargo volumes throughout Washington ports by 2030, greatly improving commerce related to maritime industry uses.

Comment: The 2009 Marine Cargo Forecast is a joint study developed every five years by the Washington State Department of Transportation (WSDOT) and Washington Public Boards Association (WPBA). It is an official cargo forecast used as a valid study tool for presenting to State Legislature. It should be of use to DPD.

Comment: Every industrial operation located in Lake Union that helps the Seattle Maritime Cluster is critical to the operation of major container ports. These Lake Union businesses cannot move anywhere else.

Comment: The locational criteria for Urban Residential should reflect the inclusion of the North Shilshole area which is zoned neighborhood commercial.

Comment: The City should look at developing a comprehensive plan for the Duwamish. Ideally, this would occur before the SMP update, but the Committee should at least recommend that the SMP update include a policy for the City to develop this plan. The plan would look at shoreline use, upland use, industrial needs, recreation, ecology, sustainability, etc. The Duwamish Cleanup Coalition (DCC) would be important to this potential Duwamish Comprehensive Plan, since the DCC has already done



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extensive public outreach, generated multiple great ideas, and is very community oriented.

Concern: Residents of Georgetown use downstream slips in the Duwamish for recreational use; these should be kept in mind when developing a comprehensive plan.

Comment: The SMP update needs to acknowledge that we are hitting, at minimum, the bottom recovery standards for salmon. This update should tie into the WRIA 8 salmon recovery plan.

Public Comment

There was no public comment on this topic.

Residential Development Standards

Dave LaClergue of DPD presented an overview of DPD's revised proposals and Committee comments received regarding Residential Development Standards (see response papers and PowerPoint presentation for the March 24, 2009 meeting, available from the Committee's website). The Committee then held a discussion on the topic. Committee member comments and concerns are identified below as "*Comment*" or "*Concern*," DPD clarifications are identified as "*DPD*."

DPD: For the purposes of the stormwater code, "Undeveloped property" is defined as forested area that doesn't have structures or impervious surfaces, and may contain shrubs.

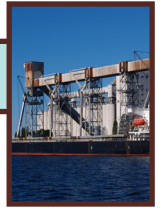
DPD: DPD is not currently intending to include separate stormwater regulations in the SMP update, but rather to rely on the stormwater regulations currently being developed by Seattle Public Utilities. It is DPD's opinion that SPU's guidelines will meet the Shoreline Management Act (SMA) regulations.

DPD: There are only two undeveloped properties on the shoreline in the City of Seattle that are potentially too small to build a house on without building overwater. DPD is continuing to support prohibiting new overwater residences and expansion of existing overwater residences because of their ecological impacts, and because SMA regulations state that new overwater residences should be prohibited. If you own a residentially-zoned parcel that is all overwater and you have no land to build on, you will be allowed to build overwater.

Concern: DPD's proposed 35' setback could limit the ability of homeowners along the north shore of Lake Washington to rebuild.

DPD: Those homes are all mostly less than the 25' setback currently in place and are therefore already non-conforming. However, if a homeowner has no ability to build outside the setback, he or she would be able to rebuild a house in the setback (keeping the same foot print) without having to go through a variance process.

Comment: I support the setback increase. Most of the houses can accommodate this; the land is already there and DPD is not taking anything substantial away. DPD is trying, in a reasonable way, to



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get more ecological function and improve the environment, which is the whole point of the SMP update.

Comment: DPD should buy the land from property owners if it wants to create a setback.

Public Comment

There was no public comment on this topic.

Commercial and Industrial Development Standards

Maggie presented an overview of DPD's revised proposals and Committee comments received regarding Commercial and Industrial Development Standards (see response papers and PowerPoint presentation for the March 24, 2009 meeting, available from the Committee's website). The Committee then held a discussion on the topic. Committee member comments and concerns are identified below as "*Comment*" or "*Concern*;" DPD clarifications are identified as "*DPD*."

Concern: Not allowing caretaker units to generate income is a significant issue for owners of sites who need these units for people conducting business on site and/or for owners/crew of boats that are being worked on around the clock. It is purely an industrial use that should be provided as an amenity to the companies and business that use and rent the site.

Comment: If a caretaker unit is a waterfront apartment, it's not really a caretaker unit. There are, however, historic places that have an apartment above the yard. It is important to keep places like this functioning, since they have been there a long time and are important to our shoreline culture.

Comment: The use of caretaker units is a common practice in ship yards around the country. Huge yachts are coming in, bringing in millions of dollars a year into this community. These crews need the industry standard of proper accommodations. We need to support this.

Comment: There could be a narrow standard written around boat repair facilities, referred to as something like "Captain's quarters," which would be defined differently than a caretaker unit, but allowed for similar purposes. A similar narrow standard could be written for recreational marinas in industrial areas that could have upper limits on size, boat numbers, etc.

Comment: Caretaker units are part of a new industry that is bringing in new jobs; but we need to be careful about the gentrification of the waterfront and the blur between rented apartments and residential with industrial. But from Committee conversations, it seems DPD can accommodate both sides here and have a "win-win."

Comment: There must be a way to write the caretaker unit provision that precludes the rental for other than caretaking or as accessory to what is happening at the property.

DPD: Caretaker units are prohibited as a principal use, but allowed as an accessory use, in the UM



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environment. The original definition of a caretaker unit is for someone who is living on the property and taking care of it. There is a new model for a caretaker unit being suggested. DPD will look evaluate this new model to understand how it can accommodate this new business.

Comment: DPD has an opportunity to create policies within the environmental designations that address these issues. This way, when the Shorelines Hearings Board has to make a decision, they can use the policies to help them interpret their decisions. Regarding auxiliary uses, the issue is greater than caretaker units, for example, hotels can be a very important auxiliary use if you are trying to set up a cruise terminal. There needs to be some flexibility that a policy could address.

Comment: Until we get the economic information from OED's and DPD's studies about what is happening in Lake Washington, Lake Union and the Ship Canal, we should be careful about what we do not allow.

DPD: DPD does not believe that the use of marinas and/or beach clubs along the Duwamish, Elliot Bay and along the locks is compatible with areas designated as Urban Industrial (UI) and Urban Maritime (UM) environments. DPD wants to balance the goals of the SMP update by reducing potential conflict in areas where the marine industry functions heavily. Recreational marinas, such as yacht boat and beach clubs, are not a good use of industrial sites. Commercial marinas are allowed on industrial sites and can have recreational moorages at their sites, as long as the primary moorage is commercial. DPD wants to preserve marine industry in UI and UM environments.

Comment: Residential, commercial and industrial should all be mixed, as they have been in certain neighborhoods for the past 100 years.

Comment: Where it is possible, there should be incentives written into the SMP that marina boats be stored on land. Removing structures (dock and piers) from the shoreline provides ecological improvement.

Concern: Do not add any new regulations regarding stormwater to this update. There are enough regulations already in place.

DPD: DPD's current proposal is to use the City's stormwater standards and not apply additional ones.

Comment: DPD should ensure that the City's overall stormwater management regulations are fully protective of the shoreline management zone. There may need to be additional regulations that protect water quality. For example, how will this SMP update address the use of chemicals in the water for noxious plants and lawns?

Comment: We have talked about water quality, setbacks and vegetation on the shoreline for industrial and commercial areas. We need to be pushing for vegetation during the development/updating of residential properties and setbacks of lawn areas. This will be a bigger impact than trying to get shrubs



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put in on industrial sites.

DPD: DPD will propose building setbacks for all *structures* in Commercial and Industrial environments. The proposed distances will be shown to the Committee soon.

Public Comment

Chad Doran, a WSDOT consultant, mentioned performance-based standards for best management practices that have been used in permitting in the last five to six years. He said there are examples of polices where jurisdictions have gone from trying to write a line of code to cover every possible thing that could come up and instead going to a strong policy that states what one is trying to get out of the code, with a possible list of tools or suggestions for how to get there (such as the Green Shorelines Guide).

Kevin Bagley expressed concern that the proposed regulations sound like a prohibition of shoreline offices. People work in offices near the water because they want to do business with water views.

Shoreline Modifications—Dredging, Stabilization and Overwater Structures

Maggie, Dave and Brennon presented overviews of DPD's revised proposals and Committee comments received regarding Shoreline Modifications (see response papers and PowerPoint presentation for the March 24, 2009 meeting, available from the Committee's website). The Committee then held a discussion on these topics. Committee member comments and concerns are identified below as "*Comment*" or "*Concern*;" DPD clarifications are identified as "*DPD*."

Dredging

Comment: There are fine lines and distinctions between maintenance dredging and new dredging. DPD needs to nail down the specific code for dredging, so that it is crystal clear and doesn't conflict with the SMA or State Environmental Policy Act (SEPA).

DPD: Mitigation has been and will continue to be required for dredging impacts. DPD will clarify when and the type of mitigation required for dredging.

Shoreline Stabilization

Comment: A rock bulkhead is replaced all at once and not in percentages. For new bulkheads, geotechnical reports should be required. But the replacement of an existing bulkhead should be allowed without a geotechnical report. DPD has the opportunity to set some standards for the type of replacement bulkheads allowed, especially since there are new environmentally-friendly designs.

Comment: DPD could pre-qualify geotechnical engineers via a request for qualifications (RFQ) process that asks for demonstration of ability to design soft/green shoreline bulkheads.

Comment: DPD should look into how green bulkheads have been used around the globe.



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DPD: Other jurisdictions are using green bulkheads and requiring them, but they aren't any further along the process than we are, in terms of providing criteria for a site as a good candidate.

DPD: DPD still needs to determine what a "demonstrated need" is without a geotechnical approach. There is an "act of nature" provision that would allow for replacement in the event of a 100-year storm or earthquake. The "demonstrated need" for replacement of the bulkhead should tie into how the bulkhead is necessary to protect the residence, which can be a very complicated matrix.

Comment: The Department of Ecology should look at revetments (bulkheads that come in at a slope allowing for the beach to be built up) as a soft alternative and viable option for replacing bulkheads.

Comment: The State should allow 50% of a revetment to lay in public water/land. Revetments do, however, take a lot of property to be successful, since they extend a long way out and into State waters.

Comment: Lincoln Park is a great example of a revetment that turned out to be a great improvement. Where feasible and geologically appropriate, this could be done around Lake Washington, so as to get rid of rock bulkheads.

Comment: We need to incentivize the removal of bulkheads where it can be done. Perhaps the public benefit rating system for land owners could provide this incentive through tax breaks.

Overwater Structures

DPD: DPD talked to the Army Corps of Engineers and learned that of the 300 permits they reviewed for residential piers, only five meet the RGP3 standard DPD was considering adopting. The main diversion from the RGP3 standard was the ell size.

DPD: There is no pier height restriction built into this proposal. There may be some built into the building code and its restrictions.

DPD: Overwater coverage is governed by the shoreline environment; DPD has put in a provision to get the mass of a structure out 30' from the shoreline.

DPD: There are current provisions that do not allow anything to be stored on the grated surface of the dock.

Ecology: The City is proposing specific dimensional standards, but they still need to go through an impact assessment to see how these play out. These standards may change based on this impact assessment.

Comment: There should be a performance standard for overwater structures. If someone comes in with an unusual situation, but proves they are not causing an impact by what they are doing, we should let them do it.



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Comment: Large boats that need larger docks should, perhaps, be moored in larger marinas and not peppered throughout the lake. DPD is working to remove the structures around the lake, so 20% seems like a very reasonable amount to help remove that trend.

Comment: If it is the first 30' of water that is Ecology's main concern, then this should be the focus of the regulation. Where is the science that demonstrates detrimental environmental affects from overwater coverage in areas past 30' from the shoreline?

Comment: Reducing the amount of structures offshore gives fish an opportunity to move. This relates directly to the cumulative impact on fish habitat of dock after dock along the shoreline.

Final Thoughts/Next Steps

Michael wrapped up the meeting, indicating that a meeting summary will be sent for review and approval by the Committee and DPD. The prior meeting summary and all materials from this meeting will be posted to the web. Materials for the April meeting will be provided within one week of the March meeting. Michael encouraged Committee members to contact him and/or DPD with any questions, comments, etc. Michael thanked members for their participation and adjourned the meeting. The next meeting will be held on Tuesday, April 28th, 2009 from 5:30 PM (5:00 PM "meet and greet") to 9:00 PM.

