



## **MEMORANDUM**

**To:** Planning Commission

**From:** Stacy Clauson, Contract Planner  
Teresa Swan, Senior Planner  
Paul Stewart, Deputy Director of Planning

**Date:** November 13, 2008

**Subject:** Kirkland's Shoreline Master Program Update (SMP)  
File No. ZON06-00017

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### **I. RECOMMENDATION**

- Continue discussion from October 9, 2008 meeting on shoreline stabilization.
- Review and provide direction on policy options for shoreline stabilization.
- Review and provide direction on concept options for addressing cumulative impacts.
- Review and provide direction on policy options for shoreline setbacks.
- Provide input on meeting format.

## II. **INTRODUCTION**

On October 9, 2008 the Commission continued its review of initial drafts of the regulations associated with the Shoreline Master Program. One of the key topics of concern as voiced by members of the public and discussed by the Planning Commission at that meeting included shoreline stabilization measures. At the November 20, 2008 meeting, we will continue working through the issues related to **shoreline stabilization**, including: 1) new bulkheads, 2) replacement of existing bulkheads, and 3) repair of existing bulkheads. In addition, we will also address issues related to **shoreline vegetation, shoreline setbacks, cumulative impacts and shoreline restoration** since these issues also factor into issues of shoreline stabilization.

## III. **SHORELINE STABILIZATION.**

- A. **Introduction.** Shoreline modifications and near shore structures have altered Lake Washington's aquatic ecosystem. Over the past several decades property owners typically constructed bulkheads and armoring in an effort to protect upland uses and development. During that time, little was known about the impact on the ecological function of the shoreline. As a result, there has been a significant degradation of the shoreline conditions including a reduction in riparian vegetation, the elimination of shallow water habitat, a loss of woody debris and the alteration of lakebed materials. All of these conditions reduced the habitat quality of juvenile Chinook salmon. At the same time, property owners along the shoreline desire to protect their property from wind and wave action and erosion and to be able to use their property and have access to the lake.

Staff has identified some approaches to this for the Commission to review and provide direction on. The challenge will be balancing a number of objectives outlined below, including protecting property while improving ecological function. As we work through these options, we will examine new and creative shoreline designs that do we hope will accomplish both of these goals.

- B. **Purpose.** With the updated regulations we need to address several different objectives, including the following:
- Ensuring protection of property from erosion.
  - Improving shoreline ecological functions.
  - Enhancing habitat for migrating juvenile Chinook salmon.
  - Responding to new State requirements.
  - Providing consistency with state and federal permitting, particularly streamlined permitting for fish friendly designs.

The presence of bulkheads along the shoreline has become an increasing area of concern for a number of reasons:

1. To respond to the Endangered Species Act listing of Chinook salmon and the subsequent scientific understanding of bulkhead affects on Chinook habitat,
2. To respond to increased understanding of how bulkheads and other shoreline stabilization interfere with ecological functions and alter ecosystem-wide processes (see WAC 173-26-231(2) and (3a), pages 71-74 of [http://www.ecy.wa.gov/programs/sea/sma/laws\\_rules/173-](http://www.ecy.wa.gov/programs/sea/sma/laws_rules/173-)

[26/SMP\\_Guidelines\\_Final.pdf](#) for outline of general shoreline stabilization impacts) (included as Attachment 1),

3. To comply with specific State requirements that establish provisions for new, enlarged, and replacement bulkheads which need to be included in the updated SMP (see WAC 173-26-231(3)(a)(iii), pages 74-77 of [http://www.ecy.wa.gov/programs/sea/sma/laws\\_rules/173-26/SMP\\_Guidelines\\_Final.pdf](http://www.ecy.wa.gov/programs/sea/sma/laws_rules/173-26/SMP_Guidelines_Final.pdf) (for outline of general shoreline stabilization impacts and Ecology requirements) (included as Attachment 1).

C. **Overview.** The following is an overview of the key policy issues affecting shoreline stabilization. For the purpose of this discussion, staff has presented general policy options, with no specific code language, so that we can focus on the policy issues prior to the review of any specific draft regulation language. Once these general principles are established, staff will come back to the Planning Commission with specific code language for your review.

As a quick reference to the following discussion of policy options for shoreline stabilization, the following is an **overview of the State requirements:**

<b>State Guideline Requirements</b>			
<b>Shoreline Stabilization Action</b>	<b>Submittal Information</b>	<b>Impact Minimization Techniques</b>	<b>Mitigation</b>
New or Enlarged Hard Structural Shoreline Stabilization Structure	<b>Requires Geotechnical Report<sup>i</sup></b> , and demonstration that non-structural measures are not feasible or not sufficient <sup>ii</sup> .	<b>Required<sup>iii</sup></b> . Could include:  Limiting the size of the stabilization measure to the minimum necessary.  Using soft approaches unless demonstrated to not be sufficient to protect primary structures, dwellings, and businesses.  Construction timing restrictions, locating the structure as landward as possible, sloping the bulkhead landward as shallow as possible, material choice, etc.	<b>Required<sup>iv</sup></b> . In the case of a hard structural shoreline stabilization measure, potential adverse impacts that need to be addressed would include: disruption to lakebed sediments, loss of shoreline vegetation and large woody debris, exacerbation of erosion, and hydraulic impacts. Could include installation of shoreline vegetation, placement of gravel fill for habitat enhancement, and other mitigation measures.
Replacement Shoreline Stabilization Structure	Requires evidence of a <b><i>demonstrated need</i></b> to protect principle uses or	<b>Required<sup>iii</sup></b> . Could include:	<b>Not required by State Guidelines</b> , other than as may be needed to

<b>State Guideline Requirements</b>			
<b>Shoreline Stabilization Action</b>	<b>Submittal Information</b>	<b>Impact Minimization Techniques</b>	<b>Mitigation</b>
	structures from erosion caused by currents, tidal action, or waves <sup>v</sup> .	<p>Limiting the size of the stabilization measure to the minimum necessary.</p> <p>Using soft approaches unless demonstrated to not be sufficient to protect primary structures, dwellings, and businesses.</p> <p>Construction timing restrictions, locating the structure as landward as possible, sloping the bulkhead landward as shallow as possible, material choice, etc.</p>	<p>assure no net loss of ecological functions.</p> <p>Other state and federal permitting agencies require mitigation for replacement structures.</p>
Repair of Shoreline Stabilization Structure	<p><b>Depends.</b> If proposal would involve the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer serve its purpose, it may be considered replacement, which requires demonstration of need.<sup>vi</sup></p>	<p>Some impact minimization measures addressing construction timing and practices, such as erosion control, would be required of all repairs.</p> <p>If proposal would involve the construction of a new structure to perform a shoreline stabilization function of an existing structure which can no longer serve its purpose, it may be considered replacement, which requires additional impact minimization measures (see above).<sup>vi</sup></p>	<b>Not Required</b>

<sup>i</sup> WAC 173-26-231(3)(a)(iii)(B) requires submittal of “conclusive evidence, documented by a **geotechnical analysis**, that the [existing primary structure] is in danger from shoreline erosion caused by tidal action, currents or waves.”

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WAC 173-26-231(3)(a)(iii)(D) notes that “geotechnical reports pursuant to this section that address the need to prevent potential damage to a primary structures shall **address the necessity for shoreline stabilization** by estimating time frames and rates of erosion and report on the urgency of the situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts to ecological functions.

<sup>ii</sup> WAC 173-26-231(3)(a)(iii)(B) requires that the applicant demonstrate that nonstructural measures are not feasible or not sufficient. A geotechnical report is also needed in order to demonstrate the need to protect the primary structure from damage due to erosion.

<sup>iii</sup> Under WAC 173-26-231(3)(a)(iii)(E), if a structural shoreline stabilization measure is demonstrated to be necessary, then the structure should be designed to minimize impacts, such as:

- Limiting the size of the stabilization measure to the minimum necessary.
- Using soft approaches unless demonstrated to not be sufficient to protect primary structures, dwellings, and businesses.

<sup>iv</sup> Under the principles of environmental impact minimization established under WAC 173-26-201(2)(e), the master program 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 (e.g. by restricting the occurrence of the development) or minimized (e.g. by the use of the impact minimization measures described above).

<sup>v</sup> WAC 173-26-231(3)(a)(iii)(E) state: “An existing structure may be replaced with a similar structure if there is a demonstrated need to protect principle uses or structures from erosion caused by currents, tidal action, or waves.”

<sup>vi</sup> WAC 173-26-231(3)(a)(iii)(C)

**D. New and Enlarged Bulkheads.** Given the degree of existing shoreline armoring along the single family, multifamily, and commercial areas along Kirkland's shoreline, the incidence of new bulkheads is anticipated to be rare.

1. **State Requirements/Guidance.** With respect to new bulkheads, the State Guidelines focus on:

- Avoiding the need for structural stabilization measures by appropriately locating new development,
- Demonstrating that there is a need for the bulkhead,
- Demonstrating that nonstructural measures are not feasible,
- Incorporating impact minimization measures to lessen the impacts of the new bulkhead, and
- Completing mitigation to offset impacts that could not be avoided or minimized.

2. **Policy Options.**

a. Permit Process.

WAC 173-27-040 provides specific exemptions for: Construction of the normal protective bulkhead common to single-family residences. A "normal protective" bulkhead includes those structural and nonstructural developments installed at or near, and parallel to, the ordinary high water mark ***for the sole purpose of protecting an existing single-family residence and appurtenant structures from loss or damage by erosion*** [emphasis added]. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land.

WAC 173-26-211 establishes management policies for different shoreline uses. Generally, shoreline modifications such as hard structural shoreline stabilization measures within the Natural and Urban Conservancy environments should be limited or not allowed, as these would degrade the ecological functions or natural character of these sensitive or intact shoreline areas.

The draft Shoreline Uses Table that was previously presented to you at the September 11 and October 9 meetings, showed a Conditional Use Process (CUP) being required for hard structural shoreline stabilization measures. This is not required under the State Guidelines. The requirement of a **CUP is commonly used when greater protection of ecological resources is needed**, typically within either Natural or Conservancy designated shoreline areas. (Note: A CUP has a longer review process, higher application fees, additional review criteria, and must also be approved by the Department of Ecology, as compared to Substantial Development Permit (SDP). See Attachment 2 for more information on permitting requirements).

Staff proposed the CUP process for the Residential and Urban Mixed environments in order to allow City permitting of **soft structural shoreline stabilization measures to have a lower level of review** than hard structural stabilization measures, thereby

encouraging use of soft structural shoreline stabilization by applicants. In some cases, the soft structural shoreline stabilization may qualify as a restoration project and only require a Shoreline Exemption. The federal agencies have also created a process for streamlining review and approval of soft structural shoreline stabilization, which saves applicants time and money (see Attachment 2 for overview of the local, state, and federal shoreline permitting process for shoreline stabilization).

It is important to note that the State regulations currently provide an exemption for new bulkheads to protect single family residences, provided that the bulkhead is needed to protect the structure from damage from erosion. If a CUP process was required, however, a permit process would be required, despite this existing exemption listing.

**Option 1:** Retain the CUP process for new bulkheads in the residential and urban mixed shoreline environments.

**Option 2:** Establish an SDP permit review for new bulkheads in the Residential L and M/H and Urban Mixed shoreline environments. Retain the CUP process for the Urban Conservancy shoreline environment. Retain the limitation on new bulkheads in the Natural shoreline environment.

**Staff Analysis:** Staff recommends Option 2 however, either option would be appropriate, though there may be concern among property owners about a more strenuous review process for bulkheads. If Option 1 is chosen, staff would recommend making a refinement to this provision to clarify that replacement and repair activities are not included.

- b. Mitigation – Mitigation would only apply to **new bulkheads**, which would introduce new shoreline impacts that would need to be addressed. Mitigation for the impacts to shoreline functions could include a number of different options, such as installing shoreline plantings, placing fill material at the toe of the bulkhead, setting back a portion of the bulkhead on the property where structures are not located, etc. The key policy issue to determine here is whether the regulations should specify required mitigation (a prescriptive approach) or whether the applicant should be provided a menu of choices (a performance approach).

**Option 1:** Provide a prescriptive approach that outlines required mitigation standards such as a 10-foot landscape strip along the shoreline edge.

**Option 2:** Provide a performance approach that allows applicants to select among a menu of mitigation approaches, which could include the addition of shoreline vegetation, placement of gravel fill for habitat enhancement, or other measures.

**Staff Analysis:** Each of these options has merit. Option 1 would likely be more straightforward to administer, but Option 2 could provide greater flexibility to respond to individual preferences.

- E. **Replacement of Existing Bulkheads.** In reviewing the City's past permitting for new bulkheads and bulkhead replacements, we have not had a large number of requests for new bulkhead construction or bulkhead replacement. (Note: Since 1990, City records show no requests for new bulkheads, 1 replacement and 6 repairs.) There may be some projects that are not accounted for in this summary. For instance, bulkheads may have been repaired or added as part of pier work; this work may not have been independently tracked as a bulkhead repair or addition. In addition in some cases repair work may have been done without permits.

After contacting a shoreline contracting firm with extensive experience working on bulkheads in Lake Washington and along Kirkland's shoreline, it is projected that there **will be additional requests for bulkhead repairs** in the future, particularly because the City has not received many requests over the last 15 years. This is because over time, wave, wake and storm activity cause bottom scouring and washout to occur. The natural effect is for bulkhead rock to move or pull out, causing a sloughing over time that can lead to failure of the bulkhead.

Staff has made inquiries with this contracting firm to try to determine under what circumstances full replacement is generally needed if part of a bulkhead is starting to fail. Staff learned that, generally, **most non-rock bulkheads will need total replacement** because of how they are built and tied together and the consistency in material deterioration. This includes concrete, timber, soldier piles, sheet pile, etc. **Rip rap bulkheads, on the other hand, are more likely to include repairs or maintenance activities** such as toe protection (fill), new top course rocks, holes plugged, backfill added behind, etc. Most major structural problems with rock bulkheads arise from destabilization of the lake bottom and the result is requiring a total replacement because the base layers must be reconstructed and the bulkhead must be built higher to compensate for the loss of lake bottom.

The contractor stressed the **need to conduct maintenance inspections regularly** in order to detect scouring at the toe of a bulkhead before damage occurs. Scouring could be addressed in earlier stages by installing suitable fill, thereby minimizing the need for bulkhead replacement. It should be noted that the City is proposing to **allow placement of fill material for purposes of habitat enhancement waterward of the ordinary high water mark.** As noted, maintenance issues can also be addressed through this activity.

**Policy Options for Submittal Requirements.** In response to comments made by the public and the Planning Commission members attending the October 9 meeting, staff has consulted with the Department of Ecology to determine whether there is any flexibility on how "demonstrated need" is reviewed by the City. DOE has responded that "*demonstrated need*" in most cases should be evaluated through a geotechnical report to show that the "*principle use or structure*" needs on-going protection. However, DOE has indicated that the City could have additional criteria that would waive the requirement for geotechnical report for replacement of an existing bulkhead in certain circumstances. These criteria would need to certify the "*demonstrated need*" for protection, consistent with the Guideline geotechnical requirement citing anticipated damage to an existing structure within three years (WAC 173-26-231(3)(a)(iii)(D)). Based on this input, staff has identified the following two potential approaches for addressing submittal requirements:

**Option 1:** Require a geotechnical report for all hard shoreline stabilization structure replacement proposals.

**Option 2:** Create additional criteria to waive geotechnical reports, based upon specific thresholds that are grounded in sound geotechnical principles. As an example, a geotechnical report may be waived for residences that are within 15 feet or less from a bulkhead (note: actual dimensions have not been determined at this time). Another scenario in which the report could be waived would be replacement of hard structural with soft structural measures.

**Staff Analysis:** Staff would recommend the use of **Option 2** to avoid the need for a professional study when there is no doubt that a bulkhead must be used.

F. **Repair of Existing Bulkheads.** Repair activities, like replacement, are also anticipated to be **more common in the future**. Under the provisions of [WAC 173-27-040\(2\)\(b\)](#), normal maintenance or repair of existing structures or developments (including damage by accident, fire or elements) can be exempt from the requirements of an SDP application. "Normal repair" means to restore a development to a 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 shoreline stabilization structure can be authorized under this provision as repair where such replacement is the common method of repair for the type of structure. Further, the replacement structure would need to be comparable to the original structure including, but not limited to, its size, shape, configuration, location and external appearance. Finally, the replacement could not cause substantial adverse effects to shoreline resources or environment.

As noted, replacement can, in certain circumstances, be authorized as a type of repair. Since the State has established requirements for replacement shoreline stabilization structures, one of the key issues that needs to be determined is **how much repair can occur until the activity functions as replacement**.

**Policy Options for Replacement versus Repair**. As noted above, repair activities can include toe protection (fill), new top course rocks, holes plugged, backfill added behind, etc. Key questions to consider include what portion of the bulkhead is being repaired (the top course or the toe), whether the bulkhead is still functional (has the bulkhead collapsed, eroded away or demonstrated a loss of structural integrity), and how much of the bulkhead is being impacted (linear feet or percent of bulkhead).

Based on these factors, staff is recommending the following thresholds be used to determine major repair activities:

- If a section of an existing bulkhead to be repaired/replaced is greater than 15 feet in continuous linear length, then that portion of the bulkhead (not the full bulkhead length) should be considered replacement and be considered for impact minimization measures (e.g. creation of a coved area, sloped bulkhead, fill to create shallow water, if feasible).
- If more than 75% of the linear length of the existing bulkhead is repaired, the bulkhead shall be considered a replacement bulkhead.

Staff would like feedback on this issue to determine whether these are appropriate thresholds to use in order to clarify repair versus replacement activities.

#### IV. **ADDRESSING INDIVIDUAL AND CUMULATIVE IMPACTS AND SHORELINE RESTORATION**

A. **Purpose.** With the updated regulations we need to address several different objectives, including the following:

1. Achieving new State requirements for no net loss.
2. Improving shoreline ecological functions to enhance habitat for migrating juvenile Chinook salmon.

**B. State Requirements.** One of the key issues that the City will need to evaluate as part of the SMP Update is the **no net loss** standard established by the State. Simply stated, the no net loss standard is designed to halt the introduction of new impacts to shoreline ecological functions resulting from planned for and permitted new development (including exempt development). This means that through implementation of the updated SMP, the **existing condition of shoreline ecological functions must remain the same or be improved over time.**

[WAC 173-26-186](#) *Governing principles of the guidelines*, provides a mandate in (8)(d) to evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the Shoreline Management Act. To ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, master programs need to contain policies, programs, and regulations that **address adverse cumulative impacts** and **fairly allocate the responsibility of addressing cumulative impacts.**

Restoration of impaired ecological functions is appropriate to include in the evaluation of cumulative impacts in the context of no net loss to help offset impacts introduced from new planned shoreline development allowed in the updated SMP; restoration in this sense is used as a mitigation technique to offset impacts from new development. The State does not provide specific guidance on how and to what extent to include restoration, but rather leaves these issues to individual jurisdictions to resolve as they complete their no net loss assessment. In the recently issued guidance provided by DOE (see Attachment 3), it was noted that for jurisdictions with highly developed shorelines, such as Kirkland, Dept of Ecology suggests that local governments “clearly describe redevelopment perimeters to encourage partial shoreline restoration”.

**What does this mean for Kirkland?** While Kirkland is highly developed, it does have potential for new development and redevelopment at increased intensity (e.g. a larger residence with more lot coverage or built closer to the lake, longer piers to provide access to deeper waters, etc.). Further, for those properties without existing docks or bulkheads, the property owners may seek to add these shoreline modifications to their property. These uses and

developments are likely to introduce new impacts that affect our ability to maintain or improve the shoreline over time. While updated standards can be framed in a way that tries to minimize impacts, there will still be adverse impacts resulting from new development and redevelopment that needs to be mitigated. In order to offset these adverse impacts, our standards need to identify appropriate opportunities to enhance existing functions.

The more flexible our standards for new or redevelopment are compared to our existing conditions, the more that needs to be done to mitigate for these impacts to ensure that there is no net loss. It is important here to **distinguish existing conditions from existing standards**. In many cases our existing conditions (e.g. actual setback of structures from the lake, actual lot coverage, etc.) are more conservative than our existing standards. For example, the average setback from the shoreline in the Residential –L area is greater than the minimum setback standard. Similarly, the actual lot coverage is less than that allowed under current standards. This will likely mean that the standards will need to be amended to better reflect existing conditions. In addition, mitigation will still be needed to address anticipated new impacts.

The key issues to be decided are **how much to change our existing regulations to reflect existing conditions** and **what standards should be used to mitigate for new impacts**. Department of Ecology has not prescribed how our regulations should change so the City has broad discretion, provided in the end we can show that our plan can result in no net loss.

**C. Additional Information.** At the October 9, 2008 Planning Commission meeting, the Planning Commission requested some additional information to assist in our review of this topic. Below is additional review compiled by staff:

1. Street Improvements. The Planning Commission was interested in determining how restoration costs and requirements might compare to half-street improvements that are typically required with new development or significant redevelopment.
  - a. Costs of half-street improvements: The approximate cost of 1/2 street improvements, per lineal foot, ranges between \$200 and \$300/ft. For a 60-foot-wide lot, this would range from \$12,000 to \$18,000, much less than the estimates for shoreline restoration projects, which are roughly estimated to be between \$66,650 - \$100,250 for a 'full beach restoration' on a 60-foot-wide lot.
  - b. Areas where street improvements are required. In general, the existing improvements along Lake Ave W, Lake St S, 10<sup>th</sup> St W, and Rose Point Lane do not meet current street improvement standards and therefore would likely need to be upgraded as part of any significant development activity on the property. Improvements along Lake Washington Blvd. may be adequate and would need to be reviewed on a project-by-project basis.
  - c. Waiver of street improvements. These improvements are typically needed to improve pedestrian safety and mobility within the City. As a result, any waiver of

these requirements to allow for shoreline restoration would need to be carefully considered.

2. Restoration Feasibility. Before trying to determine what policy options to explore, the Planning Commission wanted more information on the feasibility of using soft structural shoreline measures in lieu of traditional hard structural shoreline measures. There has been great concern expressed by a number of property owners that softer approaches to shoreline stabilization are not well-suited to Kirkland's shoreline conditions. The term '**soft structural shoreline stabilization**' is somewhat imprecise, since it does not reflect the fact that **these designs use large boulders, log and other features to attenuate wave energy and stabilize the shoreline**. The City's environmental consultant, The Watershed Company, has extensive experience working with property owners to install these designs in similar situations as are presented along Kirkland's shoreline. **Monitoring has shown these installations have been successful in stabilizing the shoreline when installed properly**. Further, a review of shoreline existing conditions shows the presence of some stable natural areas along Kirkland's waterfront (outside of the natural open spaces owned by the City) as well as beach coves, that have not been armored, indicating that hard structural stabilization is not necessary along Kirkland's entire waterfront.

However, **not all properties may be viable for a softer shoreline design**. As a result, it was important to take a closer look at Kirkland's shoreline to determine whether these designs would be potentially viable.

The Watershed Company has evaluated Kirkland's shoreline characteristics at a general level to determine potential opportunities for restoration. This assessment considered existing primary structure setback, current armored condition, shoreline morphology, shoreline topography to the extent known or observable on aerial photographs, and neighboring shoreline conditions. There are some limitations to this assessment (e.g. in many cases the actual water depth or existing bulkhead height at water's edge is unknown so assumptions were made based on aerial photography; and the extent of underground utilities are not known). "Restoration" opportunities assessed included replacement with soft structural stabilization or some other alternative shoreline improvement, but the assessment was not limited to replacement of the bulkhead with only non-structural measures. The results of this assessment are as follows:

Environment Designation	Natural*	Restoration Potential			TOTAL
		High	Moderate	Low	
# of Properties with Restoration Potential					
Natural	7	0	0	0	N/A
Residential - Low	8	53	19	16	96
Residential - Medium/High	7	7	10	33	57
Urban Conservancy	4	6	2	0	12
Urban Mixed	2	0	4	8	14
<b>TOTAL</b>	<b>28</b>	<b>66</b>	<b>35</b>	<b>57</b>	<b>179</b>

\*Natural – no restoration required, already in a semi-natural condition (no shoreline armoring at water’s edge)

This preliminary landscape-scale review **suggests that there is restoration potential along Kirkland’s shoreline, both within public parks (designated as Urban Conservancy) and along privately-owned stretches.**

3. Other Jurisdiction Approaches. At this time, it is difficult to gauge entirely how other cities will address these issues, because so many are just in the beginning stages and have not drafted regulations. The closest jurisdictions to the City which have draft or adopted plans in place are: 1) Redmond, 2) Sammamish, and 3) Lake Forest Park, but it is important to recognize that our community has different characteristics than these communities, which may lead to different choices. In addition, Bellevue, as part of its CAO update, tackled many shoreline issues at a preliminary scale and will be reviewing these during their update process. Attachment 4 provides an overview of the approaches taken within these Cities.

**Jurisdictions are taking varied approaches**, with the following general trends: 1) using native vegetation in the shoreline setback (Redmond: minimum % required, increasing if setback reduction was pursued), 2) requiring restoration in association with expansions to or reconstruction of nonconforming development (Sammamish), 3) requiring shoreline restoration as part of setback reduction provisions (Sammamish and Lake Forest Park), and 4) focusing on softer approaches to shoreline stabilization with new and replacement structures (all).

D. **Conceptual Policy Options for Shoreline Restoration.**

<b>Concept Approach</b>	<b>Description</b>	<b>Staff Discussion</b>
<p>1) Shoreline restoration with new development or redevelopment of property.</p>	<p>Require an evaluation of the opportunities available to enhance the shoreline, taking into account a number of variables, including:</p> <ul style="list-style-type: none"> <li>• wave fetch and boat-driven wave patterns,</li> <li>• bathymetry (shallow or steep slope below the water line),</li> <li>• topography (shallow or steep slope above the water line),</li> <li>• depth of water at shoreline face, and</li> <li>• location of residence, utilities, or other built structures relative to the shoreline edge.</li> </ul> <p>Depending on these findings, different shoreline restoration alternatives would be explored, including:</p> <ul style="list-style-type: none"> <li>• Installation of shoreline plantings within the shoreline setback.</li> <li>• Placing fill material for purposes of habitat enhancement waterward of the ordinary high water mark.</li> <li>• Setting back bulkheads or portions of bulkheads.</li> <li>• Creating beach coves, or</li> <li>• Installing full beaches.</li> </ul>	<p>Shoreline property owners have expressed significant concerns with requiring bulkhead removal and shoreline plantings because of : 1) unfair restriction on property rights, 2) impact ability to protect property and structures from erosion concerns, 3) costs, and 4) effect on property values.</p> <p>After further review of public comments and investigation of the issues, staff has also identified significant concerns with this option, particularly related to the potential costs that could be involved, depending on the shoreline restoration alternative. Staff is also concerned about equity issues, as some properties may be subject to more expensive and involved changes than other property owners, due to the varying site characteristics.</p> <p>Staff would note that the shoreline restoration concepts are feasible along portions of Kirkland’s shoreline (see analysis above). One approach may be to get voluntary restoration projects through public education and encouragement.</p> <p>Smaller components of these shoreline restoration alternatives (e.g. planting or placing fill material for purposes of habitat enhancement) may be appropriate for consideration to mitigate impacts of new or more intensive redevelopment or as a component to a voluntary approach (see Concept Option 4).</p>

<b>Concept Approach</b>	<b>Description</b>	<b>Staff Discussion</b>
<p>2) Allow minor increases in nonconformance for nonconforming structures in exchange for shoreline restoration.</p>	<p>Allow applicants to enlarge structures that otherwise would not conform with setback standards, in exchange for shoreline restoration.</p> <p>Once a certain threshold of enlargement was achieved, applicants would be required to comply with new standards.</p>	<p>As a general rule, nonconforming development may be continued, provided that it is not enlarged, intensified, increased or altered in any way which increases its nonconformity.</p> <p>Under this option, additional flexibility would be provided for applicants to enlarge structures that otherwise would not conform with setback standards, in exchange for shoreline restoration. Staff would recommend that if this option is pursued, that structures not be allowed to encroach closer to the lake than where existing impervious areas already exist, but that additions could occur to the north, south, or east, or where there were previous impervious encroachments such as patios west of the residence.</p> <p>This option, unlike the Concept #1, focuses on improvements for those properties that do not conform to the new shoreline development standards (e.g. lot coverage, setbacks, etc.). An owner could have the opportunity to comply with the new standards or, alternatively, complete restoration in lieu of compliance.</p> <p>Based on staff review of existing setback nonconformances, it is estimated that approximately 16 properties in the Residential-L and 27 properties in the Residential – M/H are nonconforming to current standards. If current standards are increased to be more reflective of existing conditions, these numbers will very likely increase. This option could provide greater flexibility for property owners with nonconforming improvements to make additions or modifications, in exchange for improvement in the existing shoreline conditions.</p>
<p>3) Native plant requirement with new development or redevelopment of property.</p>	<p>Establish a native plant requirement to apply within the shoreline setback area.</p>	<p>Native vegetation along the shoreline provides many different functions, including but not limited to:</p> <ul style="list-style-type: none"> <li>• Providing organic inputs critical for aquatic life.</li> <li>• Providing a source of food.</li> <li>• Stabilizing banks and minimizing erosion.</li> <li>• Filtering and vegetative uptake of nutrients and pollutants from ground and surface water.</li> <li>• Providing a source of large woody debris into the aquatic system.</li> </ul>

<b>Concept Approach</b>	<b>Description</b>	<b>Staff Discussion</b>
		<ul style="list-style-type: none"> <li>• Providing shade or physical overwater cover.</li> <li>• Providing habitat area usable by a wider range of species.</li> </ul> <p>Except within the City’s large natural parks, the City does not contain significant areas of native vegetation along the shoreline. This approach would result in an increase in the quantity and quality of vegetation within the shoreline jurisdiction as a whole, which could help to mitigate the impacts of new development and redevelopment. In general, this requirement would not add significant cost to a project, since vegetation would likely be established as part of any new development. If this option is pursued, a threshold for when to trigger this approach will need to be established. While this option may impose a new standard for landscaping on privately owned shoreline property, the City has pursued this type of requirement for wetlands, streams, and their associated buffers. These areas, similar to the shoreline, have unique functions and values that need to be protected and restored where possible.</p> <p>However, shoreline property owners generally have not expressed support for this type of approach, as it limits individual choice on private property. Many residents want lawns between their homes and the shoreline, want access to the shoreline within the entire shoreline setback and are concerned about view blockage of the vegetation.</p> <p>Presently, the City does not regulate the type of landscaping on private residential property, with the exception of the Prohibited Plant List or where the property is encumbered by a sensitive area such as a wetland or stream. This would impose a new requirement on shoreline property owners.</p>

<b>Concept Approach</b>	<b>Description</b>	<b>Staff Discussion</b>
4) Incentive for reduced shoreline setbacks with new development or redevelopment of property.	Provide an incentive system that encourages removal of bulkheads and the installation of native plants, in exchange for a shoreline setback reduction. The amount of setback reduction could be scaled to the level and type of restoration proposed, allowing for flexibility in proposed designs.	<p>This approach, coupled with shoreline setback standards that are increased to be more reflective of existing shoreline conditions, is likely to ensure that the existing functions are maintained and potentially increased over time as new construction either rebuilds in a manner that is consistent with existing conditions or, if development is proposed to occur closer to the shoreline, it is accompanied by appropriate mitigation. Generally, shoreline restoration of varying degrees would be part of a suite of options (e.g. lawn reduction, bulkhead removal, use of green roof, impervious surface reduction, etc.) that can be selected by applicants to reduce a shoreline setback – flexibility that may be well received by shoreline property owners.</p> <p>However, under this approach, for those sites where a development does not intrude into the shoreline setback, shoreline conditions will not improve. Also, allowing development to encroach into the shoreline setback would effectively result in permanent loss of opportunity to restore the area to vegetation.</p>
5) Performance-based standard	Establish a performance-based option that requires improvement of shoreline functions as part of any new development or redevelopment. Burden would be on the applicant to develop and present a site plan that increases site ecological function over existing condition.	This approach provides greater flexibility to applicants and encourages creative solutions for difficult sites. However, since this would require knowledge and expertise with biological systems, it would necessitate that a qualified professional review the proposal to determine that the objectives have been met, similar to our current system for wetland and stream modifications. This can add significant expense and uncertainty to an applicant.

Some of these options are used to varying degrees in the discussion of shoreline setbacks below, as an example of how these options could be incorporated into new regulations.

## **SHORELINE SETBACKS**

- A. Purpose.** Shoreline setbacks serve several different functions, including, but not limited to:
1. Protecting existing shoreline functions and shoreline habitat or preventing permanent preclusion of restoration of shoreline functions and habitat, with the overall goal of achieving new State requirements for no net loss.
  2. Avoiding damage from flooding and erosion.
  3. Ensuring that new development is adequately sited to avoid and minimize need for new shoreline stabilization features.
  4. Preserving and enhancing views of the water.
  5. Maintaining existing character and the scenic quality of Kirkland's shorelines.

In general terms, a **minimum of 20-25' is needed to provide an appropriate transition area** between the water and improvements in order to provide appropriate shoreline vegetation and protection from erosion. A shoreline planted area of 10 to 15 feet wide, planted in native groundcover, shrubs, and some smaller trees can function to intercept sediments, chemicals, and nutrients carried by runoff, as well as provide food sources for shoreline wildlife. **Access should be provided through this area** in order for property owners to reach the lake and piers. Use of native vegetation will also help to reduce application of chemicals normally used in lawn care close to the shoreline area. An additional area of 5-10' within the 20-25' could function for maintenance of the primary structure and for typical encroachments, such as pervious decks, eaves and bay windows.

- B. State Requirements.** Under the State Guidelines, environment-specific regulations will typically include building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and site development standards to account for different shoreline conditions. These standards need to be established in such a way as to assure no net loss of shoreline ecological functions.

With regard to no net loss and setbacks, as properties develop or redevelop at increased intensity, (e.g. a larger residence built closer to the lake), that activity is likely to introduce new impacts that then need to be mitigated in some manner. For instance, if a residence is constructed closer to the shoreline than existing development, the impact of shifting the residence closer to the shoreline can include increased activity, noise, and light transmission near the water, as well as a reduction in area to moderate runoff volume and remove waterborne contaminants and further fragmentation of open space area for wildlife habitat. Essentially, **a reduction in the setback shifts many of the impacts associated with development closer to the shoreline interface, impacting shoreline functions.**

- C. Existing Standards and Conditions.**

1. Existing standards. The existing setback standards are as follows:
  - a. Residential – L: 15', 15% of average parcel depth, or average of adjoining lots, whichever is greater

- b.** Residential – M/H: 15' or 15% of average parcel depth, whichever is greater
- c.** Urban Conservancy: Case-by-case
- d.** Urban Mixed:
  - Urban Mixed 1: 15' or 15% of average parcel depth, whichever is greater
  - Urban Mixed 2: 15' or 15% of average parcel depth, whichever is greater; or for mixed-use developments determined on a case-by-case basis based on the compatibility of the development with adjacent uses and the degree to which public access, use and views are provided.

**2. Existing Conditions:** The following is a summary of existing conditions. This information has been gathered by an examination of current aerial photographs. Existing setbacks and location of existing improvements have been estimated for each waterfront parcel. Average lot depths have been estimated by the average, minimum and maximum lot depths on a property.

<b>Shoreline Environment</b>	<b>Measurement</b>	<b>Existing Conditions</b>
<b>Residential – L</b>	Approximate Average Structure Setback	53 feet
	Approximate Average Improvement Setback (e.g. to edge of decks and patios or other similar improvements)	38.5 feet
	Approximate number of lots with existing nonconforming setbacks	8 lots have setback of <15'; 16 lots have setback of <15% of the lot depth
	Approximate Average Structure Setback without existing nonconformances	59.7 feet
	Setback Modal Peak	30-40 feet
	Median Setbacks by Lot Depth	Lots <100': 27.5' Lots >100 and <175': 34' Lots >175: 53.9'
	Approximate Median Total Lot Depth	184.1 feet
	Approximate Average Lot Depth, with Lot Depth measured to base of slope for slopes greater than 40%	135.2 feet
<b>Residential – M/H</b>	Approximate Average Structure Setback	26.6 feet
	Approximate Average Improvement Setback	19.9 feet
	Approximate number of lots with existing nonconforming setbacks	20 lots have setback of <15'; 27 lots have setback of <15% of the lot depth
	Approximate Average Structure Setback without existing nonconformances	40.6 feet

<b>Shoreline Environment</b>	<b>Measurement</b>	<b>Existing Conditions</b>
	Setback Modal Peak	<15' (nonconforming); otherwise 20-30'
	Approximate Median Total Lot Depth	166.5 feet
	Median Setbacks by Lot Depth	Lots <100': 17' Lots >100 and <175': 25' Lots >175: 42.5'
	Approximate Average Lot Depth, with Lot Depth measured to base of slope for slopes greater than 40%	141.9 feet
<b>Urban Mixed</b>	Approximate Average Structure Setback	32.2 feet
	Approximate Average Improvement Setback (e.g. to edge of decks and patios or other similar improvements)	12.8 feet
	Approximate number of lots with existing nonconforming setbacks	4 lots have setback of <15'; 7 lots have setback of <15% of the lot depth
	Setback Modal Peak	20-30 feet
	Approximate Median Total Lot Depth	223.1

**D. Conceptual Options.** The following are some initial concepts for establishing new setback standards. Many of these options use the concepts from Option #4 above in order to provide greater flexibility.

- 1. Residential – L.** The Residential – L environment contains low-density residential development located in the Market Neighborhood. For this discussion, there are a couple of important concepts to keep in mind: 1) single-family development is one of the preferred uses in the Shoreline area, 2) single-family development is not subject to specific landscaping standards under either the zoning or shoreline regulations (with the exception of tree regulations), and 3) this area of development contains pockets of properties with steep slopes and access that limit effective buildable area, despite the depth of the lot (e.g. 5<sup>th</sup> Ave West).

<b>Shoreline Environment</b>	<b>Conceptual Approach</b>	<b>Staff Discussion</b>

<b>Shoreline Environment</b>	<b>Conceptual Approach</b>	<b>Staff Discussion</b>
<b>Residential – L</b>	<b>Option 1:</b> Establish a base setback that would apply to all properties, similar to the existing average structure setback, in this case approximately 50 feet.	Kirkland lots are quite variable in depth and this one-size fits all approach does not respond well to existing conditions. For instance, there are a number of lots that are less than 100 feet in depth; this setback combined with a front yard would significantly restrict the buildable areas of these lots.

<b>Shoreline Environment</b>	<b>Conceptual Approach</b>	<b>Staff Discussion</b>
	<p><b>Option 2.</b> Establish base setbacks for lots of varying depths, based on median existing setback. Allow voluntary reductions in these standards in exchange for shoreline restoration commensurate with proposed reduction.</p> <p><u>Example:</u></p> <p>Lots &lt;100': Base setback of 30', can be reduced to a minimum setback of 20' with restoration.</p> <p>Lots &gt;100 and &lt;175': Base setback of 35', can be reduced to a minimum of 25' with restoration.</p> <p>Lots &gt;175: Base setback of 55', can be reduced to 25' with restoration.</p>	<p>Generally, shoreline restoration of varying degrees would be part of a suite of options (such as creation of beach coves, use of green roofs, impervious surface reduction, etc.) that can be selected by applicants to reduce a shoreline setback – flexibility that may be well received by shoreline property owners.</p> <p>While setbacks are larger on deeper lots, property owners would have the option of reducing these setbacks to a more similar location as shallower lots, with additional mitigation.</p> <p>It is uncertain whether this option will meet the 'no net loss' standard and additional review will be needed if this option is selected. This is because existing development that is located farther landward than the base setback will be allowed to shift development closer to the shoreline, whereas existing structures located within the setback would likely not shift backward without a further incentive, resulting in a potential reduction of overall setback over time.</p> <p>For those sites where a development does not intrude into the shoreline setback, shoreline conditions will not improve. Also, allowing development to encroach into the shoreline setback would effectively result in permanent loss of opportunity to restore the area to vegetation. There may also be concerns about the long-term maintenance and success of shoreline restoration activities (e.g. will native vegetation be replaced over time, etc.).</p>

<b>Shoreline Environment</b>	<b>Conceptual Approach</b>	<b>Staff Discussion</b>
	<p><b>Option 3:</b> Establish setbacks of varying depths that are less than the existing median and combine with required minimum shoreline vegetation enhancement standards.</p> <p>Example:</p> <p>Lots &lt;100': Base setback of 25'.</p> <p>Lots &gt;100 and &lt;175': Base setback of 30'.</p> <p>Lots &gt;175': Base setback of 45'.</p>	<p>This option relies on vegetation enhancement on new development and redevelopment in order to offset impacts from development occurring closer to the shoreline than existing average conditions.</p> <p>This option does not provide as much flexibility for property owners as Option 2, which would allow a suite of options for enhancement that would best meet property owner's plans for their property.</p> <p>This option could potentially pose concerns about views. Given the City's irregular lot depths, property owners with deeper lots would need to set back farther than those with shallower lots, with no option to reduce this setback except through a Variance.</p> <p>Further, allowing development to encroach closer than existing conditions would effectively result in permanent loss of the area for shoreline functions. It will therefore need further examination to determine whether this option will meet the no net loss standard.</p>

Shoreline Environment	Conceptual Approach	Staff Discussion
	<p><b>Option 4:</b> Establish setbacks of varying depths that are less than the existing median, combine with required minimum shoreline vegetation enhancement standards, and allow further encroachment for enhanced mitigation.</p> <p>Example:</p> <p>Lots &lt;100': Base setback of 25', can be reduced to a minimum setback of 20' with enhanced mitigation.</p> <p>Lots &gt;100 and &lt;175': Base setback of 30', can be reduced to a minimum setback of 20' with enhanced mitigation.</p> <p>Lots &gt;175': Base setback of 45', can be reduced to a minimum setback of 20' with enhanced mitigation. (Alternate variation: allow 50' setback for these deep lots with no vegetation component, 45' with vegetation component, and 20' with enhanced mitigation).</p>	<p>This option relies on vegetation enhancement on new development and redevelopment in order to offset impacts from development occurring closer to the shoreline than existing average conditions.</p> <p>This option provide similar flexibility as Option 2, allowing the applicant to pursue enhanced mitigation (such as creation of beach coves or other options) that would best meet property owner's plans for their property.</p> <p>This option responds to the view issues raised in Option 3, since it would allow for further reduction with enhanced mitigation.</p> <p>However, similar to the previous options, allowing development to encroach into the shoreline setback would effectively result in permanent loss of the area for shoreline functions. There is also concern about the long-term maintenance of the improvements that were made. Similar to previous options, more review would need to be completed to determine whether this could meet the no net loss standard.</p>

2. **Residential – M/H.** The Residential – M/H environment contains medium and high density residential development primarily in the area located south of the CBD. For this discussion, there are a couple of important concepts to keep in mind: 1) under the principles of the Shoreline Management Act multi-family development is not a preferred use in the Shoreline area, 2) multi-family development is already subject to specific landscaping standards under the zoning regulations, and 3) these properties are subject to the public access walkway standards.

Shoreline Environment	Conceptual Approach	Staff Discussion
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Shoreline Environment	Conceptual Approach	Staff Discussion
Residential – M/H	<p><b>Option 1:</b> Establish a base setback that would apply to all properties, similar to the existing median structure setback, in this case approximately 30 feet (median excluding overwater structures).</p>	<p>Under this option, there is concern about whether this will effectively address ongoing impacts to shoreline functions. There are a significant number of structures located very close to the shoreline (note: it is estimated that 27 out of 56 properties do not presently conform to setback standards), resulting in a lower median setback. Significant loss of existing shoreline functions could occur if redevelopment on deeper lots would occur closer to the shoreline, since many of the nonconforming improvements close to the shoreline (or over the water) are unlikely to change over time to offset this impact.</p>
	<p><b>Option 2:</b> Establish base setbacks for lots of varying depths, based on median existing setback. Include standards for use of native vegetation as part of required landscaping for multifamily or commercial projects.</p> <p>Example:</p> <p>Lots &lt;100': Base setback of 20'.</p> <p>Lots &gt;100 and &lt;175': Base setback of 25'.</p> <p>Lots &gt;175': Base setback of 40'.</p>	<p>This option relies on vegetation enhancement on new development and redevelopment in order to offset impacts from on-going development and any shifts that might occur for some development to move closer to the shoreline than current conditions.</p> <p>This option does not provide flexibility to adjust setbacks with increased shoreline restoration.</p>

Shoreline Environment	Conceptual Approach	Staff Discussion
	<p><b>Option 3.</b> Establish base setbacks for lots of varying depths, based on median existing setback. Include standards for use of native vegetation as part of required landscaping for multifamily or commercial projects. Allow voluntary reductions in the setback standards in exchange for additional shoreline restoration commensurate with proposed reduction.</p> <p>Example:</p> <p>Lots &lt;100': Base setback of 20' (no further reduction permitted).</p> <p>Lots &gt;100 and &lt;175': Base setback of 25', can be reduced to a minimum of 20' with restoration.</p> <p>Lots &gt;175: Base setback of 40', can be reduced to 25' with restoration.</p>	<p>Generally, shoreline restoration of varying degrees would be part of a suite of options (such as creation of beach coves, use of green roof, impervious surface reduction, etc.) that can be selected by applicants to reduce a shoreline setback – flexibility that may be well received by shoreline property owners.</p> <p>While setbacks are larger on deeper lots, property owners would have the option of reducing these setbacks to a more similar location as shallower lots, with additional mitigation.</p> <p>In this case, vegetation standards would be included as part of the standard development regulations.</p>

**3. Urban Mixed.** The Urban Mixed environment contains business districts located along the lake, including the CBD, JBD, and Carillon Point. For this discussion, there are a couple of important concepts to keep in mind: 1) there is an established preference in the Shoreline Management Act for water-oriented uses, 2) commercial development located within business districts are already subject to specific landscaping standards under the design or zoning regulations, and 3) these properties are subject to the public access walkway standards.

Shoreline Environment	Conceptual Approach	Staff Discussion
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Shoreline Environment	Conceptual Approach	Staff Discussion
Urban Mixed	<p><b>Option 1:</b> Establish a base setback that would apply to all properties, similar to the existing median structure setback, in this case approximately 30 feet. Include standards for use of native vegetation as part of required landscaping.</p>	<p>Kirkland lots within shoreline business districts are quite variable in depth and this one-size fits all approach does not respond well to existing conditions. For instance, within the Urban Mixed zone, there are a number of lots that are greater than 200 feet in depth, but there are also lots less than 100 feet in depth. Increasing development closer to the shoreline may not appropriately reserve sufficient areas closer to the shoreline for water-dependent uses.</p>
	<p><b>Option 2:</b> Establish different setbacks based on the land use, to promote water-oriented uses along shoreline. Include standards for use of native vegetation as part of required landscaping.</p> <p>Example:</p> <p>Water-dependent uses: 0 – 16’</p> <p>Water-related use: 20’</p> <p>Water-enjoyment use: 30’</p> <p>Other uses: 50’</p>	<p>This option establishes a priority for water-dependent uses to locate closer to the shoreline.</p>
	<p><b>Option 3:</b> Establish different setbacks by commercial district, reflective of existing conditions. Include standards for use of native vegetation as part of required landscaping.</p> <p>Example:</p> <p>CBD: 20’</p> <p>Carillon: 50’</p> <p>Juanita: 30’</p>	<p>This option provides no priorities for water-dependent uses.</p>

4. **Urban Conservancy.** The Urban Conservancy environment contains mostly publicly owned park properties. For this discussion, there are a couple of important concepts to keep in mind: 1) there is an established preference in the Shoreline Management Act for water-oriented uses,

2) public access is an important concept for development of public properties, 3) vegetation is a common component of development of public properties.

<b>Shoreline Environment</b>	<b>Conceptual Approach</b>	<b>Staff Discussion</b>
<b>Urban Conservancy</b>	<p><b>Option 1:</b> Establish different setbacks based on the land use, to promote water-oriented uses along shoreline. Include standards for use of native vegetation as part of landscaping.</p> <p>Example:</p> <p>Water-dependent uses: 0 – 16'</p> <p>Water-related use: 20'</p> <p>Water-enjoyment use: 30'</p> <p>Other uses: Outside of shoreline area, if possible, otherwise 50'</p>	<p>This option establishes a priority for water-dependent uses to locate closer to the shoreline.</p>

E. **Nonconformances.** Depending on the option chosen, there may be a greater need to identify incentives or other options that will initiate nonconforming improvements to start to come into compliance or make improvements.

It should be noted that due to the variability of existing setbacks along the shoreline, any increase in setback will result in additional nonconforming structures. As a general rule, nonconforming development may be continued provided that it is not enlarged, intensified, increased or altered in any way which increases its nonconformity.

As noted in Sammamish's example and Concept Option 2 in Section II above, there may be opportunities to craft special standards to address nonconforming development that allows for expansions and alterations that may increase nonconformity to a limited degree, if these impacts are offset by appropriate mitigation. This may be an important concept to include in order providing some flexibility to property owners with nonconforming improvements, while at the same time making potential improvements to the existing conditions of these nonconforming properties.

## **VI. PUBLIC INVOLVEMENT**

**A. Public Comments.** A summary of the public comments received to date is included in Attachment 5. This memo includes 13 written comment letters (see Attachments 6-18). The public comment letters dated October 9, 2008 and before were distributed at the Planning Commission meeting of October 9, 2008 and are now being attached to this memo so that they can be posted up on the web along with the staff memo and so that we have a formal record of distributing the comments.

**B. Neighborhood Meetings.** Over the next coming week, staff will be attending the Moss Bay and Market Neighborhood Association meetings to provide an overview of the Shoreline Master Plan process, key issues that might change, and opportunities for public involvement. At the Planning Commission meeting, we will share any comments or suggestions that come out of these meetings with the Planning Commission.

**C. Meeting with Shoreline Property Owners.** There has been interest expressed among property owners to meet and discuss new shoreline regulations that will impact their property. Staff welcomes this opportunity as a way to better understand the issues and concerns, the State requirements and the process. There are a number of potential options for meeting formats, and staff is seeking Planning Commission input into the organization of this meeting.

1. Small group working session. In this format, staff would meet with a smaller group of shoreline property owners in a working session format to exchange ideas and identify potential options that may better respond to property owner concerns while still meeting the State requirements. Staff believes that this format could have several benefits: staff could learn much valuable from shoreline property owners about shoreline living, staff could better share some of the legal requirements that we need to meet with the new plan, and the group can come together and identify potential new alternatives. This type of session could be done fairly quickly.
2. Large group format with shoreline property owners. In this format, staff would work to engage all shoreline property owners in a facilitated meeting format. This format would provide an opportunity to engage more property owners in the process. However, with a larger group format, the opportunities for direct exchange and brainstorming will be more limited and it would take more time to set up and organize.
3. Large group format with varied representatives. This arrangement would be similar to a focus group or stakeholders meeting. In this format, staff would work to engage a broader audience, including shoreline property owners, in a facilitated meeting format. This format would provide an opportunity to engage a broad range of individuals representing different interests. However, with a larger group format, the opportunities for direct exchange and brainstorming will be more limited. This would also take additional time to arrange.

Staff would suggest that Option 1 be an initial step. This could occur either the first or second week of December.

## **VII. ATTACHMENTS**

1. WAC 173-26-231
2. Summary of Permitting Requirements for Shoreline Stabilization
3. Department of Ecology Fall 2008 Lake Washington/Sammamish SMP Guidance
4. Summary of City Approaches

5. Summary Table of Public Comments
6. September 3, 2008 letter from Dave Douglas
7. September 9, 2008 letter from Bob Style
8. October 3, 2008 letter from Dave Douglas
9. October 9, 2008 letter from Tony Fassbind
10. October 9, 2008 letter from Jack Rogers
11. October 9, 2008 letter from Barry Powell
12. October 11, 2008 letter from Katherine Curry
13. October 13, 2008 letter from Bob Style
14. October 13, 2008 letter from Bob Style
15. October 15 and 21, 2008 letter from Bob Style
16. October 22, 2008 letter from Dave Douglas
17. October 22, 2008 letter from Dave Douglas
18. October 22, 2008 letter from Dr. Craig Smith
19. Maps showing shoreline jurisdiction

cc: File No. ZON06-00017, Sub-file #1

173-26-221 &lt;&lt; 173-26-231 &gt;&gt; 173-26-241

**WAC 173-26-231**  
**Shoreline modifications.**

Agency filings affecting this section

(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.

(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) **Provisions for specific shoreline modifications.**

**(a) Shoreline stabilization.**

(i) **Applicability.** Shoreline stabilization includes actions taken to address erosion impacts to property and dwellings, businesses, or structures caused by natural processes, such as current, flood, tides, wind, or wave action. These actions include structural and nonstructural methods.

Nonstructural methods include building setbacks, relocation of the structure to be protected, ground water management, planning and regulatory measures to avoid the need for structural stabilization.

(ii) **Principles.** Shorelines are by nature unstable, although in varying degrees. Erosion and accretion are natural processes that provide ecological functions and thereby 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.

Shoreline hardening typically results in adverse impacts to shoreline ecological functions such as:

- Beach starvation. Sediment supply to nearby beaches is cut off, leading to "starvation" of the beaches for the gravel, sand, and other fine-grained materials that typically constitute a beach.

- Habitat degradation. Vegetation that shades the upper beach or bank is eliminated, thus degrading the value of the shoreline for many ecological functions, including spawning habitat for salmonids and forage fish.

- Sediment impoundment. As a result of shoreline hardening, the sources of sediment on beaches (eroding "feeder" bluffs) are progressively lost and longshore transport is diminished. This leads to lowering of down-drift beaches, the narrowing of the high tide beach, and the coarsening of beach sediment. As beaches become more coarse, less prey for juvenile fish is produced. Sediment starvation may lead to accelerated erosion in down-drift areas.

- Exacerbation of erosion. The hard face of shoreline armoring, particularly concrete bulkheads, reflects wave energy back onto the beach, exacerbating erosion.

- Ground water impacts. Erosion control structures often raise the water table on the landward side, which leads to higher pore pressures in the beach itself. In some cases, this may lead to accelerated erosion of sand-sized material from the beach.

- Hydraulic impacts. Shoreline armoring generally increases the reflectivity of the shoreline and redirects wave energy back onto the beach. This leads to scouring and lowering of the beach, to coarsening of the beach, and to ultimate failure of the structure.

- Loss of shoreline vegetation. Vegetation provides important "softer" erosion control functions. Vegetation is also critical in maintaining ecological functions.

- Loss of large woody debris. Changed hydraulic regimes and the loss of the high tide beach, along with the prevention of natural erosion of vegetated shorelines, lead to the loss of beached organic material. This material can increase biological diversity, can serve as a stabilizing influence on natural shorelines, and is habitat for many aquatic-based organisms, which are, in turn, important prey for larger organisms.

- Restriction of channel movement and creation of side channels. Hardened shorelines along rivers slow the movement of channels, which, in turn, prevents the input of larger woody debris, gravels for spawning, and the creation of side channels important for juvenile salmon rearing, and can result in increased floods and scour.

Additionally, hard structures, especially vertical walls, often create conditions that lead to failure of the structure. In time, the substrate of the beach coarsens and scours down to bedrock or a hard clay. The footings of bulkheads are exposed, leading to undermining and failure. This process is exacerbated when the original cause of the erosion and "need" for the bulkhead was from upland water drainage problems. Failed bulkheads and walls adversely impact beach aesthetics, may be a safety or navigational hazard, and may adversely impact shoreline ecological functions.

"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. 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.

Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions.

Structural shoreline stabilization often results in vegetation removal and damage to near-shore habitat and shoreline corridors. Therefore, master program shoreline stabilization provisions shall also be consistent with WAC 173-26-221(5), vegetation conservation, and where applicable, WAC 173-26-221(2), critical areas.

In order to implement RCW 90.58.100(6) and avoid or mitigate adverse impacts to shoreline ecological functions where shoreline alterations are necessary to protect single-family residences and principal appurtenant structures in danger from active shoreline erosion, master programs should include standards setting forth the circumstances under which alteration of the shoreline is permitted, and for the design and type of protective measures and devices.

(iii) **Standards.** In order to avoid the individual and cumulative net loss of ecological functions attributable to shoreline stabilization, master programs shall implement the above principles and apply the following standards:

(A) New development should be located and designed to avoid the need for future shoreline stabilization to the extent feasible. Subdivision of land must be regulated to assure that the lots created will not require shoreline stabilization in order for reasonable development to occur using geotechnical analysis of the site and shoreline characteristics. New development on steep slopes or bluffs shall be set back sufficiently to ensure that shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical analysis. New development that would require shoreline stabilization which causes significant impacts to adjacent or down-current properties and shoreline areas should not be allowed.

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

(I) 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 caused by tidal action, currents, or waves. Normal sloughing, erosion of steep bluffs, or shoreline erosion itself, without a scientific or geotechnical analysis, is not demonstration of need. The geotechnical analysis should evaluate on-site drainage issues and address drainage problems away from the shoreline edge before considering structural shoreline stabilization.

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

(II) In support of new nonwater-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.

(III) In support of 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.

- 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.

(IV) 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 pursuant to this section 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 and report on the urgency associated with the specific situation. As a general matter, hard armoring solutions should not be authorized except when a report confirms that there is a significant possibility that such a structure will be damaged within three years as a result of shoreline erosion in the absence of such hard armoring measures, or where waiting until the need is that immediate, would foreclose the opportunity to use measures that avoid impacts on ecological functions. Thus, where the geotechnical report confirms a need to prevent potential damage to a primary structure, but the need is not as immediate as the three years, that report may still be used to justify more immediate authorization to protect against erosion using soft measures.

(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, see WAC 173-26-221 (2)(c)(ii).

(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.

(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.

(d) **Breakwaters, jetties, groins, and weirs.** Breakwaters, jetties, groins, and weirs located waterward of the ordinary high-water mark shall be allowed only where necessary to support water-dependent uses, public access, shoreline stabilization, or other specific public purpose. Breakwaters, jetties, groins, weirs, and similar structures should require a conditional use permit, except for those structures installed to protect or restore ecological functions, such as woody debris installed in streams. Breakwaters, jetties, groins, and weirs shall be designed to protect critical areas and shall provide for mitigation according to the sequence defined in WAC 173-26-201 (2)(e).

(e) **Beach and dunes management.** Washington's beaches and their associated dunes lie along the Pacific Ocean coast between Point Grenville and Cape Disappointment, and as shorelines of statewide significance are mandated to be managed from a statewide perspective by the act. Beaches and dunes within shoreline jurisdiction shall be managed to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beaches. Beaches and dunes should also be managed to reduce the hazard to human life and property from natural or human-induced actions associated with these areas.

Shoreline master programs in coastal marine areas shall provide for diverse and appropriate use of beach and dune areas consistent with their ecological, recreational, aesthetic, and economic values, and consistent with the natural limitations of beaches, dunes, and dune vegetation for development. Coastal master programs shall institute development setbacks from the shoreline to prevent impacts to the natural, functional, ecological, and aesthetic qualities of the dune.

"Dune modification" is the removal or addition of material to a dune, the reforming or reconfiguration of a dune, or the removal or addition of vegetation that will alter the dune's shape or sediment migration. Dune modification may be proposed for a number of purposes, including protection of property, flood and storm hazard reduction, erosion prevention, and ecological restoration.

Coastal dune modification shall be allowed only consistent with state and federal flood protection standards and when it will not result in a net loss of shoreline ecological functions or significant adverse impacts to other shoreline resources and values.

Dune modification to protect views of the water shall be allowed only on properties subdivided and developed prior to the adoption of the master program and where the view is completely obstructed for residences or water-enjoyment uses and where it can be demonstrated that the dunes did not obstruct views at the time of original occupancy, and then only in conformance with the above provisions.

(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.

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.

**(g) Shoreline habitat and natural systems enhancement projects.** Shoreline habitat and natural systems enhancement projects include those activities proposed and conducted specifically for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines.

Master programs should include provisions fostering habitat and natural system enhancement projects. Such projects may include shoreline modification actions such as modification of vegetation, removal of nonnative or invasive plants, shoreline stabilization, dredging, and filling, provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline. Master program provisions should assure that the projects address legitimate restoration needs and priorities and facilitate implementation of the restoration plan developed pursuant to WAC 173-26-201 (2)(f).

[Statutory Authority: RCW 90.58.060 and 90.58.200. 04-01-117 (Order 03-02), § 173-26-231, filed 12/17/03, effective 1/17/04.]

### Shoreline Stabilization

The following is an overview of the permitting agencies and permit requirements that are involved with construction of a new or replacement bulkhead. The permit complexity varies with the project; both state and federal agencies provide a streamlined permitting process for shoreline stabilization techniques that rely upon soft structural shoreline alternatives.

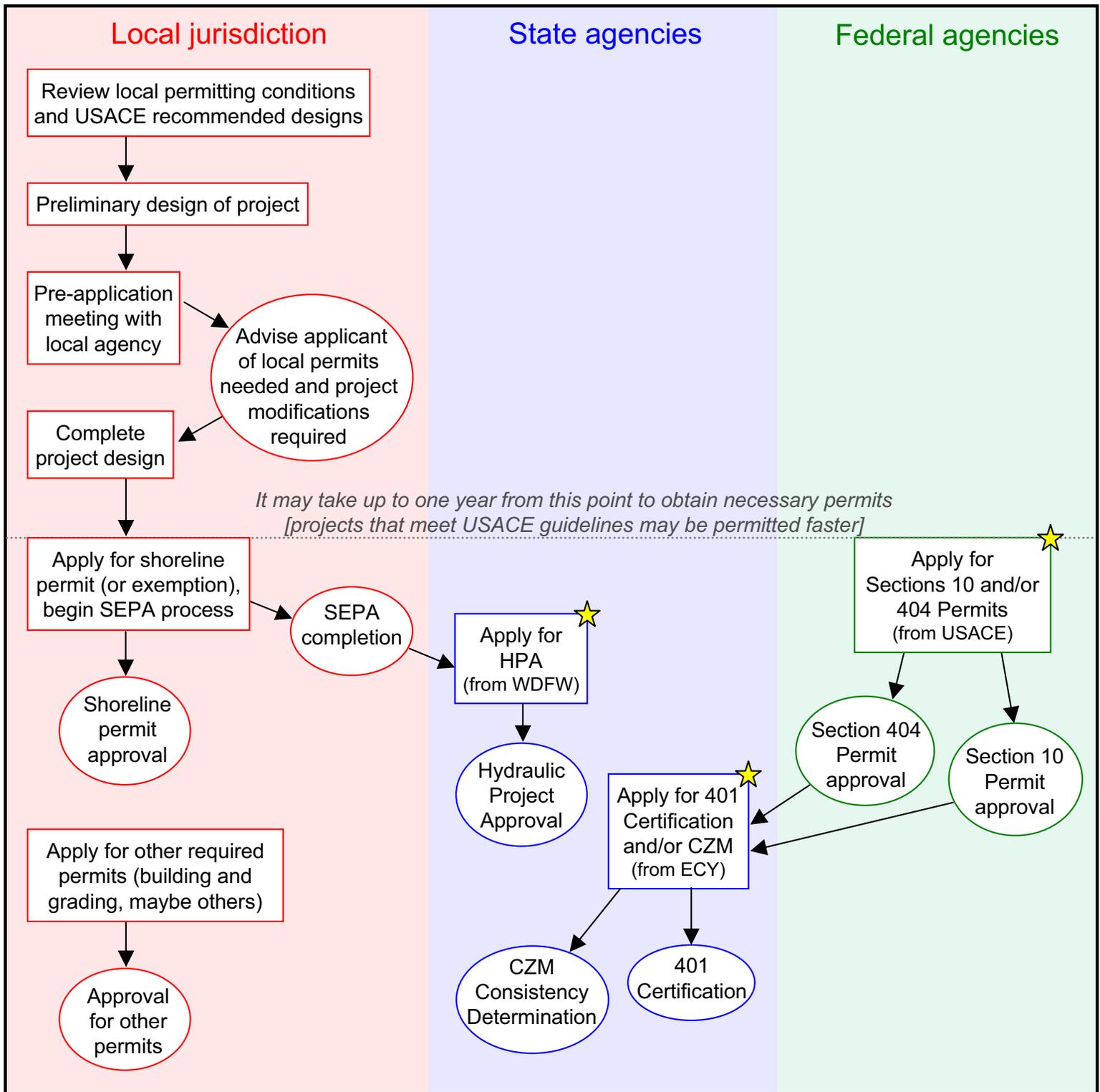
Responsible Agency	Permit	Purpose	Trigger Activity	Costs	Timeframe	Internal Review Process	Permit Dependency	Special Notes
City of Kirkland	Letter of Exemption	Generally, if developments meet precise terms of at least one exemption listed in WAC 173-27-040, they may be granted exemption from substantial development permit requirements.	Examples of exempt activities: normal maintenance or repair of existing structures, construction of normal protective bulkhead common to a single family home. (WAC has complete list).	None.	Highly dependant on proposal; average timeframe ranges four to six weeks	If federal permits are required, local govt prepares a letter of exemption, addressed to the applicant and Ecology indicating specific exemption provision.	If federal permits are required (especially Corps 404 and Section 10), applicant may need to provide proof of compliance with state laws (see internal process column).	<p>WAC 173-27-040 provides specific exemptions for:</p> <ul style="list-style-type: none"> <li>Construction of a normal protective bulkhead to protect a single-family residence. A normal protective bulkhead is not exempt if constructed for the purpose of creating dry land.</li> <li>Normal maintenance or repair of existing structures or developments</li> </ul> <p>An exemption from the substantial development process is not an exemption from compliance with act or the local master program, nor any other regulatory requirements.</p>
	Shoreline Substantial Development Permit	To provide public involvement in the permit process and to foster appropriate uses and protection of the shorelines of the state.	Interfering with normal public use of water/shorelines of the state, or developing or conducting an activity valued at \$2500 (adjusted annually for inflation) or more on the water or shoreline area.	\$4,212.00	Highly dependent on proposal; average timeframe ranges from three to four months.	Application submitted to local government; upon final decision by local government, permit is filed with Department of Ecology.	SEPA compliance must be met prior to local permit decisions.	

Responsible Agency	Permit	Purpose	Trigger Activity	Costs	Timeframe	Internal Review Process	Permit Dependency	Special Notes
	Shoreline Conditional Use Permit or Variance Review Process	To provide a system within the Master Program which allows flexibility in the application of use regulations.	Projects requiring a Shoreline Permit. Projects meeting specific criteria identified in the Master Program or unclassified uses need a Conditional Use Permit; a Variance is an exception or waiver of specific size standards.	\$6,877.00	Highly dependent on proposal; average timeframe ranges from four to six months. After receipt of Local Government permit decision, the Department of Ecology may take up to 30 days to approve, condition, or deny the permit.	After local govt approves conditional use or variance permit, they submit it to Ecology for review. Ecology notifies local govt of its decision and does an official filing.	SEPA requirements must be completed prior to local permit decisions.	Applicants burden of proof is very important in variance applications. Variance criteria are very closely scrutinized and must all be fulfilled for the permit to be approved at the state level.
	State Environmental Policy Act (SEPA) Determination	SEPA requires that state and local agencies review proposals to identify environmental impacts.	Projects located within lands covered by water.	\$520.00	Highly dependent on proposal; average timeframe ranges four to six weeks	Application submitted to local government; upon final decision by local government, permit is filed with Department of Ecology.	SEPA process is one of the first steps in permitting. All applicable agency review is under one SEPA process.	
<b>Washington State Department of Fish and Wildlife</b>	Hydraulic Project Approval (HPA)	To provide protection for fish, shellfish, and their habitats.	Work that uses, diverts, obstructs, or changes the natural flow or bed of state waters.	No charges for HPA.	For a standard HPA, max. of 45 calendar days after receipt of a complete app. and SEPA compliance; max of 15 days for an expedited HPA; immediately for emergency HPA.	Applications are sent and logged in at Headquarters and then reviewed and acted on by biologists in the regional offices.	SEPA compliance must be complete prior to issuance of the HPA.	Streamlined HPAs are available for qualifying fish habitat enhancement projects.

Responsible Agency	Permit	Purpose	Trigger Activity	Costs	Timeframe	Internal Review Process	Permit Dependency	Special Notes
<p><b>U.S. Army Corps of Engineers, Seattle District Regulatory Branch</b></p>	<p>U.S. Army Corps of Engineers 404 &amp; Section 10 Nationwide Permits (NAP) (Programmatic Consultation)</p>	<p>Provides authorization on a nationwide level for activities with minimal environmental impacts which do not require individual permits as long as they comply with the NWP conditions.</p> <p>Programmatic Consultation is a process where the required Section 7 (Endangered Species Act) consultation is conducted by the Corps of Engineers for certain types of work activities. Through the programmatic process, the Section 7 consultation is done "ahead of time" so that when an application for a programmatic work activity is received, the consultation part of the Nationwide Permit evaluation process has already been completed, thus streamlining the permit process.</p>	<p>Section 404: discharges of dredged or fill material into waters of the U.S., including special aquatic sites such as wetlands.</p> <p>Section 10: any work in, over or under navigable waters of the U.S., or which affects the course, location, condition or capacity of such waters. Includes construction and maintenance of piers, pilings, wharfs, and bulkheads in Lake Washington.</p>	<p>No charges for Corps permit.</p>	<p>Some Nationwide permits must be issued by the Corps within 30 to 45 days of the Corps' receipt of a complete application. This timeline does not apply for those projects that must go through ESA consultation.</p>	<p>Varies depending on which NWPs, RGPs or Programmatics are used.</p>	<p>Water Quality Certification (401) and Coastal Zone Management (CZM) are often pre-approved. It is necessary to check each Nationwide Permit or RGP for the requirements.</p>	<p>Three potential scenarios for bulkhead replacement are covered under a Programmatic Consultation:</p> <ul style="list-style-type: none"> <li>• <a href="#">Cut Beach, Place Gravel Fill and Re-vegetate</a></li> <li>• <a href="#">Gravel Fill Beach and Re-vegetate</a></li> <li>• <a href="#">Re-vegetated Armored Banks (only for bulkheads within 25 feet of residence)</a></li> </ul> <p>If bulkhead replacement projects do not meet this guidance then a project specific ESA consultation with the Corps of Engineers and the Services will be necessary.</p> <p>A project specific ESA consultation requires the project proponent to submit some form of documentation to the Corps. This information is reviewed by the Corps and formally submitted to the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service (Services) for their review and concurrence. The document submitted under an individual ESA consultation is call a Biological Evaluation (BE).</p> <p>Proposed projects will be evaluated based on a combination of site-specific conditions, the effects of the project, and measures proposed to reduce impacts and improve habitat. For a given project, measures should be chosen to reduce the potential impacts of shoreline pier and bulkhead structures and to provide a diverse shallow water and riparian environment to benefit aquatic species. For most proposed shoreline stabilization and overwater structures, both structural and</p>

Responsible Agency	Permit	Purpose	Trigger Activity	Costs	Timeframe	Internal Review Process	Permit Dependency	Special Notes
Department of Ecology	Coastal Zone Management Certification (CZM)	To ensure compliance with state and federal Clean Water Act, Clean Air Act, Wa. State Env. Policy Act, Shoreline Management Act & Energy Facility Site Evaluation Criteria.	Conducting projects authorized by the federal agencies and/or applying for certain federal permits or funding.	None	CZM decision must be made within six months of Corps of Engineers public notice.	Ecology Headquarters, Shorelines and Environmental Assistance Program.	Water Quality Certification, SEPA compliance, Shoreline permit, Air permits & compliance with Energy Facility Site Evaluation Criteria if applicable.	
	Water Quality Certification (401)	Verifies project will comply with state water quality standards and other aquatic resource protection. Reviews both project construction and operation activities.	Application for federal license or permit that could affect water quality. Under the Clean Water Act, states have authority to approve, deny, or condition any project in wetlands or other state waters.		Typically 3 months but for complex projects, up to 1 year.		SEPA. State review occurs after receipt of federal notification.	

# Schematic of the Permitting Process for Residential Shoreline Projects on Lake Washington



- = Applicant's responsibility
- = Permitting agency's responsibility
- ★ = use JARPA as application form

CZM – Coastal Zone Management  
 ECY – WA Department of Ecology  
 HPA – Hydraulic Project Approval  
 JARPA – Joint Aquatic Resources Permit Application  
 SEPA – WA State Environmental Policy Act  
 WDFW – WA Department of Fish & Wildlife  
 USACE – U.S. Army Corps of Engineers

For assistance or answers to questions about permitting, visit the Washington State Office of Regulatory Assistance (ORA) website: [www.ora.wa.gov](http://www.ora.wa.gov)

## Lake Washington Shoreline Permitting Process Schematic

### ***Schematic Design:***

This schematic provides a broad overview of the permitting process for construction and restoration work for private residences along Lake Washington shorelines. The permitting process for shoreline work is project dependent and can be complex. It is often difficult to determine what information and permits are required. As a result, homeowners tend to hire consultants or contractors to manage permitting for them. The involvement of professionals is helpful, especially in providing the required plans and evaluations. However, it is important for property owners to understand the overall process and be involved in the permitting of their shoreline projects. Improved understanding and communication between property owners and permitting agencies often facilitates a faster, smoother permitting process, which will save time and money.

### ***Permitting Process:***

The shoreline permitting process involves federal, state, and local agencies. Since there are many local jurisdictions around Lake Washington, the local permitting process varies depending on the location of the residence. Some of the state and federal permits require prior approval of other permits or certifications. In addition, the projects proposed by property owners and/or their contractors or consultants will vary. For these reasons, it is difficult to identify a single, step-by-step process of obtaining the required permits for a shoreline project.

Agencies at all levels of government are required to issue permits based on existing laws. For instance, the U.S. Army Corps of Engineers (USACE) must consider how a proposed project will affect habitat for juvenile Chinook salmon in Lake Washington because they are protected under the Endangered Species Act (ESA). Local jurisdictions look to their Shoreline Master Plans, which establish regulations to protect the health and usability of water bodies. Since each agency is responsible to carry out related but different regulations, it is important for applicants to work with agencies to develop a shoreline project design that meets the needs of the property owner and can be permitted by the agencies.

Agencies are generally able to approve more eco-friendly shoreline projects faster and with fewer revisions than more traditional projects. Nevertheless, the process can be slow; to avoid hassle and expense, the applicant should start

the permitting process early to help ensure that the necessary permits and approvals are obtained in time for work to occur within the approved work window. Shoreline work is allowed during work windows that are set to minimize disturbance to wildlife. Generally work is done during the summer, but the dates of work windows can vary by the type of work being done. The USACE permits often take the longest amount of time to be approved (up to one year), but this time can be significantly shortened by proposing a shoreline design that fits USACE guidelines. The project design phase, which should include a pre-application meeting with the local jurisdiction planning office, provides the best opportunity for applicants to increase the speed and ease of the overall permitting process. Discussions with the local permitting agency can help applicants understand the shoreline design principles that are encouraged by all of the agencies.

### ***Directions for Using the Schematic:***

While the schematic does not walk applicants through every permutation of the permitting process, it provides a general overview of the major permits needed, the agencies issuing the permits, and the time required. Property owners can use the schematic as a guide because it directs them to the appropriate agencies and informs them what the agencies expect and require. The schematic does not include every single form, evaluation, and permit that is required for a specific project. It provides enough guidance to ensure that the appropriate agencies will be contacted. Discussions between the applicant and the agencies should fill in the details.

To use the schematic as a guide to the permitting process, first review it as a whole, using the key to understand the significance of the symbols and acronyms. Rectangles show tasks for which applicants are responsible, while ovals show what the agencies will do. Arrows point from an activity that must be completed before another activity can begin; note that some of these chains involve information passing back and forth between applicants and agencies. Along the way, agencies will inform the applicant if additional information is needed and which permits are required for the specific project proposed. Keeping the lines of communication open between the applicant and the agencies will help avoid delays.

# Lake Washington/Sammamish SMP Guidance:

**Fall  
2008**

**To:** Lake Washington/Sammamish Local Government; staff, planning commissions, citizen advisory committee and elected officials working on updating Shoreline Master Programs

**From:** Washington State Department of Ecology – Shorelands & Environmental Assistance Program

**Subject:** On-going guidance on Shoreline Master Program updates

Ecology is aware of recent letters and emails raising questions related to updates of local Shoreline Master Programs (SMP) within Lake Washington and Lake Sammamish. In an effort to offset any miscommunication and ensure broad understanding of the SMP Guidelines (WAC 173-26), Ecology has attempted to synthesize many of the comments voiced and provide some guidance to these questions for your consideration.

## **SMP QUESTIONS SENT TO LOCAL GOVERNMENTS:**

### **What is the definition of “No Net Loss of Ecological Functions”? Is “no net loss” applied state-wide, by jurisdiction or on a project-by-project basis?**

**What is No Net Loss of Ecological Functions?** Simply stated, the no net loss standard is designed to halt the introduction of new impacts to shoreline ecological functions resulting from planned for and permitted new development. This means that through implementation of the updated SMP, the existing condition of shoreline ecological functions should remain the same or be improved over time. The Shoreline Master Program Guidelines (Guidelines) set forth the obligation to assure that no net loss of ecological functions will be achieved within the SMP’s planning horizon by implementing updated SMP policies and regulations. No net loss of ecological function is a jurisdiction specific determination that is based on anticipated future uses and associated ecological risks from allowed uses within shoreline areas. SMA policy and the Guidelines recognize the need to balance both *use* and *protection* of shoreline resources. Thus, SMPs must provide for preferred shoreline uses set forth in the SMA (RCW 90.58.020). These include water-dependent uses like port development, public access facilities, and owner occupied single-family residences. Impacts resulting from these preferred shoreline uses, when they cannot be avoided, must be reduced by other SMP environment designations and regulations which follow the required mitigation sequence. Achieving no net loss of ecological function relies on consistent application of mitigation sequencing. Mitigation sequencing sets a priority to first avoid, then minimize, rectify, reduce or compensate for impacts

The no net loss analysis is intended to inform the SMP planning process by describing both the presence and potential risks to existing shoreline ecological functions. The analysis should evaluate the intensity of future uses that are appropriate for segments of shorelines to ensure no overall or net loss of ecological functions. A no net loss of ecological functions determination will need to be justified by local governments through a Cumulative Impact Analysis, which essentially anticipates build-out of shoreline areas pursuant to the intensity of development allowed through the updated SMP. This determination must conclude that build-out of the local shoreline will not further threaten existing shoreline ecological functions. In sum, the no net loss

# Lake Washington/Sammamish SMP Guidance:

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standard applies to each local jurisdiction as it updates its SMP. Consistent with the no net loss standard, the required mitigation sequence is also applied as the SMP is implemented over time and individual shoreline projects are reviewed and approved by local government. Mitigation sequencing and/or alternative project specific monitoring for no net loss, should provide clear linkage to jurisdiction-wide not net loss goals.

## **The Department of Ecology (DOE) is overstepping its authority. DOE has an agenda. DOE is over regulating Piers/Docks and Bulkheads without conclusive evidence of their affect on shoreline resources (i.e. overlapping regulations unwarranted changes)**

By way of example, recent studies focusing on the affects of shoreline alterations to salmon migration in the littoral environment of lakes (Tabor et al, 2002)<sup>1</sup> (Kahler et al, 2000)<sup>2</sup> have raised concern pertaining to both the physical barrier of a dock/pier as well as affects to aquatic habitat for both migrating and rearing salmon species. In addition to environmental concerns, increased pier/dock density along shorelines can also negatively affect “normal public use” of the shoreline for recreation and navigation uses upon waters of the state. The state legislature, in RCW 90.58.020 policy, lists Environmental Protection and Public Access as fundamental policy goals/preferred uses within the Shoreline Management Act. In order to provide environmental protection to shorelines, local jurisdictions are required to document existing ecological functions within a shoreline Inventory/Characterization (WAC 173-26-201). The Guidelines (WAC 173-26, Part III) require local governments to address cumulative impacts by considering commonly occurring shoreline development and foreseeable impacts caused or avoided by proposed SMP policies and regulations. Ultimately, SMP policy and regulations must ensure no net loss of ecological functions with reference to the baseline shoreline conditions described within the locally prepared Inventory/Characterization.

In preparing shoreline regulations, local governments are also required to implement a precautionary principle. At WAC 173-26-201(3)(g) the guidelines state “*As a general rule, the less known about existing resources, the more protective shoreline master program provisions should be to avoid unanticipated impacts to shoreline resources*”. If there is a question about the extent or condition of an existing ecological resource, then the master program provisions shall be sufficient to reasonably assure that the resource is protected in a manner consistent with the policies of these guidelines.

Local governments are required to regulate Piers/Docks through the following sections of the SMP Guidelines (WAC 173-27-211):

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<sup>1</sup> Tabor, R.A., and R.M Piaskowski, 2002. Nearshore habitat use by juvenile Chinook salmon to lentic systems of the Lake Washington Basin. Annual Report, 2001. U.S. Fish and Wildlife Service, Lacey, WA.

<sup>2</sup> Kahler, T.,M. Grassley and David Beauchamp. 2000. A summary of the effects of bulkheads, pier and other artificial structures and Shorezone development on ESA-listed salmonids in lakes. City of Bellevue

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- WAC 173-26-211(5)(c)(ii)(D) states: *“All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation ... and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.”*
- WAC 173-26-231(b) *“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...”*
- 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.”*

## **Flexibility versus specific standards for Piers/Docks? Redevelopment standards versus new Piers/Docks standards?**

In order to meet the no net loss requirement, jurisdictions updating their SMP's must consider the cumulative impacts of future allowed shoreline uses. Specific to Piers/Docks, jurisdictions will need to refer to specific development standards as a basis for evaluating the build-out potential allowed through future implementation of the updated SMP. This analysis of cumulative impacts must consider the potential risks to shoreline ecological functions if the shoreline were to be fully developed to the maximum intensity allowed through the updated SMP. Therefore, specific to new Piers/Docks, dimensional standards must be proposed as part of the updated SMP. Without specific standards, there would be no certainty in local projections of future (planned) shoreline uses and their impacts and hence no justification that the no net loss standard will be achieved.

The Army Corps of Engineers Regional General Permit (RGP) #3 consist of regionally specific, science based Pier/Dock development standards. These standards reflect completed consultation for Endangered Species Act (ESA) Section 7 and essential fish habitat (EFH) review from federal resource agencies. Pursuant to the SMP Guidelines, updated SMP's are required to be based on objective use of relevant scientific information, for which the RGP standards provide an opportunity for local jurisdictions to incorporate existing minimizing Pier/Dock standards. Local jurisdictions have the option to come up with different standards, but they will need to supply sufficient science based analysis illustrating potential risks to shoreline ecologic functions. Regardless, if jurisdictions decide to utilize the RGP standards or create their own Pier/Dock standards consideration of cumulative impacts as well as a determination of no net loss (risk) of shoreline ecological functions must be concluded.

Existing Pier/Dock redevelopment strategies will need to be jurisdiction specific. These standards should be based on the jurisdictions SMP Inventory/Characterization, with appropriate sideboards identified to ensure that expanded or reconstructed Piers/Docks will not result in net loss of ecological functions. For example, a shoreline with a high density of existing Piers/Docks, may be able to define redevelopment standards that allow some flexibility in the size or orientation of the redeveloped overwater footprint or structures, while also incorporating some degree of restoration. This management strategy must acknowledge existing shoreline resources and maintain or restore shoreline ecological functions through

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redevelopment. Restoration of impaired ecological functions should be included in the evaluation of no net loss to help offset impacts introduced from new planned shoreline development allowed in the updated SMP. Alternatively, with less developed shorelines, Ecology suggests that local governments clearly distinguish between new and re-development standards to ensure adequate protection of existing ecological functions.

## **Streamlined permitting process at what cost to property rights?**

It is anticipated that any identified streamlined process would not be the only option available to shoreline property owners. For certain uses, local governments do have an opportunity through updating of their SMP to pre-analyze impacts of certain minimal impact activities and provide a streamlined review process for those limited uses. In general, the scope of projects fitting within a streamlined permitting process must be more specific and potentially restrictive to ensure certainty and broad consistency with SMP goals and policies. For example, Pier/Dock proposals consistent with federally established guidelines could be streamlined through a local shoreline permit process for some shoreline areas where shoreline ecological functions can be shown to not be negatively impacted.

## **Restrictive Pier/Dock standards are thwarting of shoreline property owner's property rights.**

Under Washington State law a private dock is not a shoreline property right associated with ownership of shorelines of the state. Construction of a dock or pier is a privilege that may be allowed under certain circumstances when consistent with Shoreline Management Act policy (RCW 90.58.020), the local government Shoreline Master Program and the Public Trust Doctrine.

The Public Trust Doctrine is a legal principle derived from English Common Law. The essence of the doctrine is that the waters of the state are a public resource owned by and available to all citizens equally for the purposes of navigation, conducting commerce, fishing, recreation and similar uses and that this trust is not invalidated by private ownership of the underlying land. The doctrine limits public and private use of tidelands and other shorelands to protect the public's right to use the waters of the state. (See State Supreme Court case *Caminiti v. Boyle*, 107 Wn. 2d 662, 732 P.2d 1989). The Public Trust Doctrine does not allow the public to trespass over privately owned uplands to access the tidelands. It does, however, protect public use of navigable water bodies below the ordinary high water mark. Protection of the trust is a duty of the State, and the Shoreline Management Act is one of the primary means by which that duty is carried out. The doctrine requires a careful evaluation of the public interest served by any action proposed. This requirement is fulfilled, in major part, by the planning and permitting requirements of the Shoreline Management Act and locally approved SMPs.

In any case, local governments do have the authority to regulate the size and require mitigation for potential impacts associated with docks to protect the public interest.

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## **QUESTIONS DIRECTED TO ECOLOGY:**

### **What baseline is used for each individual property based on the SMP Guideline no net loss of ecological function requirement?**

The baseline for SMP updates is derived from the individual shoreline Inventory and Characterization prepared for each jurisdiction during the initial stages of their shoreline program update. This analysis is intended to inform the SMP planning process through description of both the presence and potential risks to existing shoreline ecological functions as described within WAC 173-26-201(3)(c) and (d). The Inventory/Characterization is not necessarily intended to evaluate individual properties. Rather, the analysis should describe what intensity of future shoreline uses and activities should be planned and anticipated for each segment of shoreline to ensure that the end result is no overall or net loss of ecological functions. In other words, it is understood (and should be evaluated) that some projects will have minimal negative impacts and some projects will improve ecologic conditions, as long as a jurisdiction can illustrate overall maintenance or improvement to ecological conditions, then they are meeting the no net loss requirement. The no net loss determination will need to be justified through a Cumulative Impacts Analysis, which essentially anticipates build-out of shoreline areas pursuant to the intensity of development allowed through the updated SMP. With this information, the impacts to existing shoreline ecological functions resulting from future development can be anticipated and where appropriate avoided. It is important to understand that this analysis will vary by jurisdiction and is fundamentally based upon the characteristics of each individual jurisdiction's shoreline.

Specific to implementation of an updated SMP, individual project review should consider no net loss as a governing principal (WAC 173-26-186), So, in summary, the baseline for each individual property is the ecological conditions that existed at the time a local SMP is comprehensively updated per SMP Guidelines requirements.

### **Will new piers or bulkheads replacing existing structures be evaluated against existing site conditions?**

Yes, existing site conditions are one consideration, but also the specific planning policies and regulations contained in the SMP that apply to new piers and bulkhead replacements and the particular shoreline site will need to be considered as well. SMP updates are two-dimensional, requiring jurisdiction-wide planning for future uses as well as implementation over time of the SMP on an individual project-by-project basis. From a jurisdiction-wide planning perspective, the shoreline Inventory and Characterization documents shoreline modifications that may or may not impair existing shoreline ecological functions. Regardless of the degree of existing modifications, the bottom line is that updated SMP's need to adequately protect existing shoreline ecological functions. For example, within heavily developed shorelines, redevelopment strategies that account for improvements to existing site conditions might be an appropriate approach. Whereas, within unaltered (natural) shorelines, emphasis should be placed on protection measures for which existing structures should be phased out overtime as existing non-conforming uses.

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## **Example Question: How is DOE suggesting local governments view a scenario where an applicant is pulling a full length bulkhead and replacing with transitional bulkheads at either end and a cove beach in the middle?**

Ecology would be in support of partial restoration of shorelines as described within the scenario above, because it represents an improvement in existing conditions when compared to the existing full length bulkhead. For jurisdictions with highly developed shorelines, Ecology would suggest that local governments clearly describe redevelopment perimeters to encourage partial shoreline restoration.

## **What is DOE doing to encourage local governments to have a process acknowledging individual improvements associated with shoreline redevelopment?**

As previously stated, redevelopment strategies should be jurisdiction specific with appropriate sideboards to ensure no net loss. Also, as part of the comprehensive SMP update, jurisdictions are creating individually customized shoreline restoration plans, where non-regulatory shoreline improvements would be prioritized and encouraged for each stretch of shoreline. In implementing a local restoration plan, all jurisdictions should be encouraged to maintain a list of *"individual improvements associated with shoreline redevelopment"*, so that in the future progress can be identified and evaluated.

## **Does DOE have a responsibility to protect local governments from vulnerability to thwarting private property rights of shoreline property owners?**

Both local governments and the department have the responsibility to ensure private property rights in shoreline areas are not thwarted. There are multiple references both in the SMA itself (starting at RCW 90.58.020) and again in the SMP Guidelines (starting at WAC 173-26-176(3)(h)) ensuring private property rights are protected.

Local governments are directed to consider private property rights in the preparation of all local SMPs as is Ecology and the Attorney General's Office (AGO) when approving the SMPs. Specifically, the AGO is directed by state law to advise state agencies and local governments in an orderly, consistent process to evaluate proposed regulatory or administrative actions to assure that these actions do not result in unconstitutional takings of private property. The AGO does in fact review SMP submittals to ensure private property rights are protected before the SMPs are approved by Ecology. Following is a link to this guidance posted on our shorelines management web site:

[http://www.atg.wa.gov/uploadedFiles/Home/About\\_the\\_Office/Takings/2006%20AGO%20Takings%20Guidance\(1\).pdf](http://www.atg.wa.gov/uploadedFiles/Home/About_the_Office/Takings/2006%20AGO%20Takings%20Guidance(1).pdf)

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### **How is DOE addressing the apparent conflict with biological consulting firms assisting local governments in their SMP update in fairly evaluating and applying SMP standards in a reasonable and practical manner?**

Biological consulting firms when involved in SMP updates are only one source of available information. Local governments are required to use all available technical and scientific information in the development of their SMP. This includes contacting all *“relevant state agencies, universities, affected Indian tribes, port districts and private parties for available information.... The requirement to use scientific and technical information in these guidelines does not limit a local jurisdiction's authority to solicit and incorporate information, experience, and anecdotal evidence provided by interested parties as part of the master program amendment process. Such information should be solicited through the public participation process...”* (WAC 173-26-201(2)(a)).

It is not clear how any conflict exists if there is no limitation on sources of available information. Ultimately, local government elected officials must consider all of the information put before them, including opposing views and opinions, judge their credibility and decide what standards best achieve SMP guidelines requirements, given local circumstances.



City of Kirkland: Shoreline Restoration Analysis

City of Redmond	Lake Forest Park	City of Sammamish	City of Bellevue
<b>Development Standard Nonconformances (e.g. setbacks, lot coverage, etc.)</b>			
Provisions do not address restoration.	Provisions do not address restoration.	<p>(c) Voluntary remodel, reconstruction, or renovation of an existing, legally established non-conforming structure is allowed provided that the remodel, reconstruction, or renovation does not increase the degree of non-conformity subject to the following criteria:</p> <p>(i) If the total area proposed for voluntary remodel, reconstruction, or renovation is less than fifty percent (50%) of the original structure area (total square feet), property owner(s) would need to restore an equivalent portion of the shoreline buffer to offset the impact, such that the area of the reconstruction and/or addition is equal to the area of shoreline buffer restoration and/or enhancement.</p> <p>(ii) If the total area of modification is greater than fifty one percent (51%) of the existing structure and is less than or equal to seventy-five percent (75%) of the existing structure, the property owner(s) would be required to restore and/or enhance all available shoreline buffer area to offset the impact.</p> <p>(iii) If the total area of modification is greater than seventy-five percent (75%) of the existing structure, the property owner(s) would need to relocate the structure to conform with the required buffer and setback provisions.</p>	Provisions do not address restoration.
<b>Setback/Buffer Flexibility</b>			
The waterfront-building setback along	1. Single Family Residence	45 Foot Standard Buffer from	Removal of bulkheads is a

City of Redmond	Lake Forest Park	City of Sammamish	City of Bellevue
<p>Lake Sammamish shall be a minimum of 35 feet. The building setback can be reduced to 20 feet if the setback area is revegetated with primarily native vegetation. Establishment of a tree canopy is encouraged. No constructed structures other than those required for waterfront access/docks are allowed within the 20-foot setback. New development adhering to the 35-foot setback and/or reconstruction that involves greater than 50% the value of existing improvements shall be required to plant 50% of the area in the minimum 20 foot building setback with native vegetation.</p>	<p>Setbacks</p> <p>a. A fifty (50)-foot standard setback shall be established from the ordinary high water mark of Lake Washington for all lots that are greater than or equal to one hundred (100) feet in depth. A forty (40)-foot standard setback shall be established from the ordinary high water mark of Lake Washington for all lots that are less than one hundred (100) feet in depth.</p> <p>b. The Lake Washington setback may be reduced down to a minimum of twenty (20) feet, when setback reduction impacts are mitigated using a combination of the mitigation options provided in the table below to achieve an equal or greater protection of lake ecological functions. At least one Water Related Action must be undertaken in order to achieve the full setback reduction allowed.</p> <p>1) For lots less than one hundred (100) feet in depth, a maximum of 10 feet in cumulative setback reduction may be achieved under Upland Related Actions; or</p> <p>2) for lots greater than or equal to one hundred (100) feet in depth, a maximum of 15 feet in cumulative setback reduction may be achieved under Upland Related Actions.</p>	<p>OHWL</p> <p>Buffer Can be No Less Than 15 Feet.</p> <p>Buffer Reduction Only When Mitigation Results in Equal or Greater Protection of Lake Functions.</p> <p>Variety of reduction alternatives, including removal of existing bulhead, preservation or restoration of native vegetation, preparation of vegetation management plan that limits applications of herbicides, pesticides, and fertilizers, and limiting lawn cover.</p>	<p>preferred mitigation for dock installation and buffer encroachment.</p>
<b>Landscaping within Shoreline</b>			
<p>(1) Landscaping Within Shoreline Buffers and Waterfront Building Setbacks. Within shoreline buffers, landscaping shall meet the additional requirements of RCDG 20D.140.30-040, Wetlands</p>	<p>Preservation of existing natural shoreline conditions (e.g., no bulkhead or other unnatural shoreline features such as upland impervious surfaces or other structural alterations) within 5</p>	<p>See setback reduction provisions.</p>	<p>Provisions do not address restoration, except as needed to restore vegetation impacted by development activities.</p>

City of Redmond	Lake Forest Park	City of Sammamish	City of Bellevue
<p>Performance/Design Standards in RCDG 20D.140.20-060, Riparian Stream Corridor Performance Standards.</p> <p>(2) Landscape Area Requirements. In Business (CO, CB, NC &amp; GC) zones, 25% of the site shall be landscaped. In the Business Park Zone, 22% of the site shall be landscaped if the site is less than one acre and 20% of the site shall be landscaped if the site is one acre or larger in size. In Industrial (MP &amp; I) zones, 20% of the site shall be landscaped if the site is less than one acre and 18% of the site shall be landscaped if the site is one acre or larger in size. In multi-family residential zones (R12, R18, R20 &amp; R30), 50% of the site shall be landscaped. Vegetated buffers may be used to meet the site area landscaping requirements.</p> <p>(3) Screening of Storage and Service Areas.</p> <p>(a) All outdoor storage areas shall be screened on all sides, pursuant to 20D.120.10-040, Screening.</p> <p>(b) All vehicle use areas located adjacent to, or visible from public parks or open space, the water body, or shoreline trails or public access features shall be screened from the water body, shoreline trails and public access features. Screening is intended to create a visual separation that is not necessarily 100% sight-obscuring. Plantings shall be evergreen or a mixture of deciduous trees with large shrubs and groundcover interspersed with trees and/or a decorative wall or fence. Plantings shall include a minimum of 60% evergreen trees and shrubs.</p> <p>(c) Rooftop mechanical equipment shall be screened from the water body, shoreline trails and public access</p>	<p>feet of the OHWM, including preservation of existing native vegetation. [in exchange for a 10-foot buffer reduction]</p> <p>Preservation of existing trees and native vegetation and restoration of native vegetation, as necessary in at least 75 percent of the remaining Lake Washington setback area. Up to 25 percent of the setback area can be comprised of existing non-invasive, non-native vegetation. Up to 25 percent of the lake frontage may be used for improved shoreline access, provided in no case shall access be restricted to less than 15 feet of frontage and access areas are located to avoid areas of greater sensitivity and habitat value. (Note: this incentive cannot be used by any properties that currently have native vegetation in 75% of the remaining setback area. The reduction would only be granted if ecological functions would be improved relative to the existing condition.) [in exchange for a 10-foot buffer reduction]</p>		

City of Redmond	Lake Forest Park	City of Sammamish	City of Bellevue
<p>features. Rooftop screening shall be at least as high as the equipment being screened, shall be of a material and design compatible with the building, and shall surround the building. Screening shall comply with the additional standards of 20D.120.20-010, Rooftop Mechanical Equipment Screening.</p> <p>(d) Garbage and trash receptacles shall be screened from the water body, shoreline trails and public access features. Screening shall be of a material and design compatible with the associated structure and shall be at least as high as the receptacle. Screening shall meet the standards of 20D.120.20-030, Garbage and Trash Receptacle Screening.</p>			
<b>Native Plants</b>			
<p>(4) Use of Native Plants. Landscaping within the shoreline jurisdiction shall incorporate a minimum of 50% native plants. All plantings within the shoreline buffer shall consist of native plant material. Native plantings are encouraged to be placed closest to the waterbody.</p>	<p>Restoration of any shoreline or streambank that has been disturbed or degraded shall use native plant materials, unless such restoration occurs within a developed and maintained ornamental landscape, in which case noninvasive plant materials similar to that which most recently occurred on-site may be used.</p> <p>In all cases where clearing is followed by revegetation, native plants shall be preferred. Extensive lawns are discouraged due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.</p>	<p>See setback reduction provisions.</p>	<p>Provisions do not address restoration, except as needed to restore vegetation impacted by development activities.</p>

**Lake Forest Park Example – confluence of vegetation conservation with shoreline setbacks in single-family residential areas.**

1. Single Family Residence Setbacks
  - a. A fifty (50)-foot standard setback shall be established from the ordinary high water mark of Lake Washington for all lots that are greater than or equal to one hundred (100) feet in depth. A forty (40)-foot standard setback shall be established from the ordinary high water mark of Lake Washington for all lots that are less than one hundred (100) feet in depth.
  - b. The Lake Washington setback may be reduced down to a minimum of twenty (20) feet, when setback reduction impacts are mitigated using a combination of the mitigation options provided in the table below to achieve an equal or greater protection of lake ecological functions. At least one Water Related Action must be undertaken in order to achieve the full setback reduction allowed.
    - 1) For lots less than one hundred (100) feet in depth, a maximum of 10 feet in cumulative setback reduction may be achieved under Upland Related Actions; or
    - 2) for lots greater than or equal to one hundred (100) feet in depth, a maximum of 15 feet in cumulative setback reduction may be achieved under Upland Related Actions.
  - c. All property owners who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator.
  - d. All property owners who obtain approval for a reduction in the setback must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality. This plan shall be added to a Notice on Title, and a copy of the Notice on Title provided to the Shoreline Administrator;
  - e. Restoration of native vegetation as discussed below shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. Preparation of a revegetation plan shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:
    - 1) The goals and objectives for the mitigation plan;

- 2) The criteria for assessing the mitigation;
  - 3) A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator and that lasts for a period sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but no less than five years; and
  - 4) A contingency plan.
- f. Whenever the Shoreline Administrator determines that monitoring has established a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the applicant or the property owner shall be required to institute correction action, which shall also be subject to further monitoring as provided in this section.
- g. The Shoreline Administrator may require a performance bond(s) or other security in an amount sufficient to guarantee that all required mitigation measures will be completed in a manner that complies with conditions of approval and to guarantee satisfactory workmanship and materials for a period not to exceed five years. The Shoreline Administrator shall establish the conditions of the bond or other security according to the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.
- h. All costs associated with the mitigation/monitoring and planning therefore, including city expenses, shall be the responsibility of the applicant.
- i. The Lake Washington setback may be reduced by the following:

### Shoreline Setback Reduction Alternatives

Reduction Mechanism		Reduction Allowance for Lots < 100 feet in depth	Reduction Allowance for Lots ≥ 100 feet in depth
<b>Water Related Actions</b>			
1	Removal of an existing bulkhead covering at least 75 percent of the lake frontage which is located at, below, or within 5 feet landward of the lake's ordinary high water mark (OHWM) and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, and beach/substrate composition;	15 feet	20 feet
2	Removal of an existing bulkhead covering at least 25	10 feet	15 feet

<b>Reduction Mechanism</b>		<b>Reduction Allowance for Lots &lt; 100 feet in depth</b>	<b>Reduction Allowance for Lots ≥ 100 feet in depth</b>
	percent of the lake frontage which is located at, below, or within 5 feet landward of the lake's OHWM and subsequent restoration of the shoreline to a natural or semi-natural state, including restoration of topography, beach/substrate composition, and vegetation;		
3	Opening of previously piped on-site watercourse to allow potential rearing opportunities for anadromous fish;	10 feet	10 feet
4	Preservation of existing natural shoreline conditions (e.g., no bulkhead or other unnatural shoreline features such as upland impervious surfaces or other structural alterations) within 5 feet of the OHWM, including preservation of existing native vegetation.	10 feet	15 feet
5	Preservation of existing trees and native vegetation and restoration of native vegetation, as necessary in at least 75 percent of the remaining Lake Washington setback area. Up to 25 percent of the setback area can be comprised of existing non-invasive, non-native vegetation. Up to 25 percent of the lake frontage may be used for improved shoreline access, provided in no case shall access be restricted to less than 15 feet of frontage and access areas are located to avoid areas of greater sensitivity and habitat value. (Note: this incentive cannot be used by any properties that currently have native vegetation in 75% of the remaining setback area. The reduction would only be granted if ecological functions would be improved relative to the existing condition.)	10 feet	15 feet
6	Preservation of existing trees and native vegetation and restoration of native vegetation in at least 25 percent of the remaining Lake Washington setback area. Up to 25 percent of the lake frontage may be used for improved shoreline access, provided in no case shall access be restricted to less than 15 feet of frontage and access areas are located to avoid areas of greater sensitivity and habitat value. (Note: this incentive cannot be used by any properties that currently have native vegetation in 25% of the remaining setback area. The reduction would only be granted if ecological functions would be improved relative to the existing condition.)	5 feet	10 feet
<b>Upland Related Actions</b>			
7	Installation of biofiltration/infiltration mechanisms such as bioswales, created and/or enhanced wetlands, or ponds that exceed standard stormwater requirements.	10 feet	10 feet
8	Installation of a "green" roof in accordance with the standards of the LEED Green Building Rating System.	10 feet	10 feet
9	Installation of pervious material for driveway or road construction.	5 feet	5 feet
10	Limiting total impervious surface in the reduced	5 feet	5 feet

Reduction Mechanism		Reduction Allowance for Lots < 100 feet in depth	Reduction Allowance for Lots ≥ 100 feet in depth
	setback area to less than 5 percent.		
11	Preserving or restoring at least 20 percent of the total lot area outside of the reduced setback as native vegetation. No more than 20 percent of the total lot area can be lawn.	5 feet	5 feet

c. Any further setback reduction beyond that allotted in this Section shall require approval of a shoreline variance application.

B. Accessory structures greater than one hundred fifty (150) square feet that are not water-dependent or water-related are prohibited within the residential setback from the OHWM. Accessory structures shall not exceed a maximum height of twelve (12) feet.

Commenter	Identifier	Subject	Sub-Topic	Summary of Comment	Follow-up/ Response	Context
Citizen/NGO (SPOCA) <sup>1</sup>	3.3	Shoreline Redevelopment/ Restoration	Shoreline Stabilization	The Shoreline Master Plan's restoration component should include criteria regarding the installation of shoreline bulkheads, as well as the net-benefits of removing bulkheads.	Emphasis that the City was not attempting to return Lake Washington to predevelopment conditions, but rather limit the negative impacts of future development on Lake Washington.	<i>Correspondence (5-17 November 2007)</i>
Citizen/NGO (SPOCA)	3.3	Species/Habitat	Invasive Species	Urged the city to continue its current emphasis on removing and controlling invasive species		<i>Correspondence (5-17 November 2007)</i>
Citizen/NGO (SPOCA)	3.3	Shoreline Regulation	Storm Water	Advocated expanding the Shoreline Master Plan study area to include additional sources of non-point pollution for Lake Washington.	Regarding the issue of run-off, the City was engaged in on-going efforts, including education and incentives, to help shoreline property owners address these concerns.	<i>Correspondence (5-17 November 2007)</i>
Citizen/NGO (SPOCA)	3.3	Shoreline Regulation	Boating practices	Expressed concern over Appendix F of the Shoreline Master Plan Draft Inventory, stating that it misrepresented the negative impacts of marina and recreational boats on the shoreline, since the causes of these impacts were already illegal.	Marina regulations references use of Best Management Practices.	<i>Correspondence (5-17 November 2007)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Research	Best Available Science	Requesting careful consideration be placed on changes made to local SMP. Science being used to drive changes are inconclusive and do not provide a clear determination of impacts on water quality of fish life.		<i>Correspondence (2-28-2008 and May 1, 2008)</i>
Citizen/NGO (SPOCA)	2.6; 2.8; 3.3	Shoreline Regulation	Boating practices	Power/pump-out stations could be offered boaters to encourage them from dumping raw sewage (such as Marina Park).	Comment forwarded to Parks and Community Services Dept.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006) ; Correspondence (5-17 November 2007)</i>
Citizen/NGO (SPOCA)	3.3	Shoreline Regulation	Storm Water	Referred the City to a recent study concerning efforts by the Denny Park Neighborhood Assoc. to address storm water run-off.	These suggestions and references are being considered.	<i>Correspondence (5-17 November 2007)</i>
Citizen/Shoreline Permitting and Contractor	4.6, 3.6	Shoreline Regulation	Storm Water	City needs to consider impact of surface runoff from upland development on water quality and fish life.	Impacts from Surface Water are addressed through the City's Surface Water Master Plan, as well as through implementation of the NPDES Phase II Municipal Stormwater permit requirements. The jurisdiction of the Shoreline Master Program is limited to areas within 200 feet of the ordinary high water mark and associated wetlands.	<i>Official Correspondence and Houghton Community Council Meeting and letter dated May 1, 2008</i>
Citizens/ Property Owners	4.8	Shoreline Master Program Process		Appreciated the City of Kirkland's recent shoreline presentation, and stated that they will attempt to involve other homeowners in future meetings.	The City continues to provide notice of public meetings and encourages the active involvement of citizens in this process.	<i>Correspondence (25 September 2007)</i>
Citizens/ Property Owners	4.8	Shoreline Master Program Process	Growth	Expressed concern that Kirkland was changing "rapidly".		<i>Correspondence (25 September 2007)</i>
Citizens/ Property Owners	4.8	Shoreline Redevelopment/ Restoration	Storm Water	Encouraged use of sand filters (e.g., treat run-off).	Proposed water quality regulations require use of low-impact development practices within the shoreline.	<i>Kirkland Public Forum: Updating Shoreline Master Program (September 2006)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Piers and Docks	Warned of the dangers inherent in incorporating the Army Corps' of Engineers design standards into a critical area ordinance (which could cause a backlash from affected property owners).	The respondent's suggestions would be forwarded to the City of Kirkland Deputy Director of Planning and Community Dev.	<i>Official Correspondence (7-10 September 2007)</i>

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Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation		Lauded the efforts of the Senior Planner within whom he was communicating, stating that the Planner was effective in listening to the concerns of private property owners, and was not unduly burdening them with federal and state shoreline and ecological requirements.	Although the WA State Dept. of Ecology's guidelines for local Shoreline Master Plan updates are ambiguous, they do provide considerable flexibility for how local governments respond	<i>Official Correspondence (7-10 September 2007)</i>
Local Gov. (Kirkland)	4.5	Shoreline Regulation		Person commented on specific language in Sections 4.2.1 and 4.2.2 regarding land uses and the presence of condominium piers. Also suggested changes to Figure 8.	The specific comments and suggestions had been implemented.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline (August 2006)</i>
Citizen	2.6; 4.4	Shoreline Redevelopment/Restoration	Shoreline Vegetation	Expressed concern over the removal of trees from Heritage Park.	Referred to <i>City of Kirkland Natural Resource Management Plan</i> . Document identifies criteria for retaining trees.	Report on the Tour of Innovative Shoreline Design (30 September 2006) ; Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline (August 2006)</i>
Citizen	4.4, 5.0	Shoreline Redevelopment/Restoration	Storm Water	Alarmed about recent street flooding that had resulted from breakdowns within the municipal water pipe system. Concern about water quality.		Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline (August 2006)</i> ; Planning Commission Meeting (March 13, 2008)
Citizen	2.4; 3.1; 3.3; 3.6; 4.4;	Shoreline Redevelopment/Restoration	Storm Water	Concerned over the amount of storm water run-off that empties into Lake Washington from non-point pollution sources.	Storm water being addressed in Section 3.3.2 ( <i>Storm water Utilities</i> ) and the <i>Surface Water Master Plan</i> .	Report on the Tour of Innovative Shoreline Design (30 September 2006) ; Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline (August 2006)</i>
Citizen	4.4	Shoreline Redevelopment/Restoration		Dismayed that on a recent public tour of de-armored shoreline homes, no examples from Kirkland were used, and was doubtful whether the examples that were used were applicable to Kirkland shoreline property owners.	Either completely removing or softening the portion of Kirkland's shoreline located along private property is unlikely to be accomplished on a grand scale. As a result, the Shoreline Master Plan is designed to be site-specific.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline (August 2006)</i>

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Citizen	3.3; 4.4	Shoreline Regulation	Public access	How is public access being addressed in Shoreline Master Plan? Also, will city require public access through waterfront single-family properties?	City has no intention of requiring or promoting access through single-family neighborhoods. For more information of existing possible future public access sites, refer to Juanita Beach Park Master Plan.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen	4.4	Shoreline Regulation	Boating practices	What are the established speed limits within Lake Washington?	King County only limits boating speeds within 100 yards of shoreline. Otherwise, a boat operator allowed to exercise judgment, but must be able to bring a "watercraft to a stop within the assured clear distance ahead."	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen	4.4	Shoreline Regulation	Piers and Docks	What new regulations may be developed concerning docks?	City considering requiring consistency with state/federal regulations. Also, would likely allow some flexibility in enforcement.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen	3.6	Shoreline Redevelopment/Restoration		Asked whether Lake Washington's historic pre-development condition was considered in the recent Draft Shoreline Master Program Inventory?	Although historic conditions were considered, the present conditions constituted the baseline from which all potential impacts are assessed.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen	3.3; 3.6	Shoreline Master Program Process		How do the shoreline inventories specifically related to shoreline habitat restoration and specie health, and what measures were being used to address this issue?	Inventories would serve as indicators for addressing habitat restoration and specie health, particularly as a result of piers, bulkheads, and storm water discharges. City departments will coordinate to address these issues.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen	3.6	Shoreline Master Program Process	Best Available Science	Questioned the accuracy and best available science regarding statements in the report.	Some statements based on conjecture removed from the report. Other speculative statements remain since they are supported by best available science.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen	3.3; 3.6	Shoreline Master Program Process		What positive changes had occurred since the adoption of the original Shoreline Master Plan? What about future improvements to shoreline ecological conditions?	Text has been added to the document that addresses past positive shoreline changes. Specifically, refer to sections 2.1 and 3.3.1. Future improvements will be addressed in the future Restoration Plan.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Local Gov. (Kirkland)	4.5	Shoreline Regulation		Commented on specific language in Sections 4.2.1 and 4.2.2 regarding land uses and the presence of condominium piers. Also suggested changes to Figure 8.	The specific comments and suggestions had been implemented.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)

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Citizen/NGO (SPOCA)	3.3	Shoreline Redevelopment/Restoration	Sedimentation	How is the Shoreline Master Plan addressing sediment flow into Juanita Creek and Juanita Bay?	City has added a section to the Shoreline Master Plan that addresses Juanita Creek: Section 4.2.4.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen/NGO (SPOCA)	3.3	Shoreline Redevelopment/Restoration		What specific opportunities exist for improving the shoreline's ecological functions?	Potential for replacing solid decking with grating on boardwalk over Forbes Creek; in Denny Creek, Also, further discussion of ecological improvements on residential properties. Refer to sections 3.11; 4.3.4; and 4.4.4.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen	4.2	Species/Habitat		Expressed concern over maintaining wildlife habitat (especially for birds) in Juanita Bay.	Shoreline wildlife habitat was being addressed in the <i>Final Shoreline Analysis Report</i>	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen	4.1	Shoreline Regulation	Piers and Docks	Asked that inhabitants of Lake Washington (e.g. their dwelling is a boat) be allowed to temporarily use boat moorage covers.	Proposed regulations would not permit the use of a boat as a dwelling unit.	<i>Correspondence (8 February 1999)</i>
Citizen	4.3	Shoreline Regulation		Referenced 'Figure 7a' concerning boatlifts	Two additional boatlifts were included in Figure 7a.	Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Citizen	3.2; 3.3; 4.3	Species/Habitat	Invasive Species	Inquired about invasive species along the shoreline. For example, how severe are invasive species?	Referred to the Final Shoreline Analysis Report section 3.10.3 and 4.2.5, where the subject of invasive species is discussed in-depth. Invasive species include water lily and milfoil. However, unsure as to the full extent to which invasive species impact shoreline 9but will be addressed in future reports).	Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006); Public Comments provided on the <i>Draft Shoreline Master Program Inventory and Characterization for the City of Kirkland's Lake Washington Shoreline</i> (August 2006)
Local Gov. (Kirkland)	3.8	Shoreline Master Program Process	Public participation	How do we communicate this process to more people, in order to get them involved?	Staff has developed a Public Participation Plan for this project. Staff is continuing to conduct public outreach through various outlets, including list-servs, e-mail, web-sites, notice boards, newspapers, and the City's cable station.	<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	3.6	Shoreline Master Program Process		Since Port Townsend's Shoreline Master Plan close to completion, has it been analyzed as a comparison?	State Dept. of Ecology official answered: Not yet, but it may inform Kirkland's future process.	<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	3.7	Shoreline Master Program Process	Public participation	Will the city use advisory committees to help inform the Shoreline Master Program process?	City of Kirkland Senior Planner responded: Because of the restrictive timeline, advisory committees are not feasible. Instead, public meetings will be used as substitutes.	<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	3.1	Shoreline Permitting		Although most property owners would be open to changes that improve Lake Washington, felt that the permitting process needs to be more conducive toward accommodating residents/property owners.		<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>

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Citizen	3.6	Shoreline Research	Storm Water	Are there any studies on storm water runoff (within the Watershed Co. report)?	A representative from the Watershed Co. answered: Storm water runoff is addressed in their report, and will continue to be addressed. However, most storm water related issues are outside of the Shoreline Master Program's jurisdiction.	<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	3.1	Shoreline Redevelopment/ Restoration/ Regulation	Shoreline Stabilization	Property owners should be able to push shoreline portion of their property farther into the Lake as an incentive to remove bulkheads.	To enable shoreline property owners to implement soft shoreline stabilization approaches in Kirkland, the proposed regulations allow placement of fill material for purposes of habitat enhancement waterward of the ordinary high water mark. This will allow property owners who are not able to remove their hard structural stabilization to improve shoreline function, and increases design flexibility for those who can remove their hard structural stabilization.	<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen/NGO (SPOCA)	3.3	Shoreline Regulation	Shoreline Stabilization	Felt that the city had made many improvements to the shoreline as a result of the Shoreline Management Act. These included a low number of bulkheads (relative to its urban setting) and a high amount of access.	Draft regulations continue practice of requiring public access. Regulations also address construction of new bulkheads, limiting those where possible.	<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	3.2; 4.6	Species/Habitat		In favor of improving environment for both wildlife and humans. However, emphasis may vary (i.e. favor human activities if sustainable; encourage environmental stewardship).		<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
NGO	3.4	Shoreline Master Program Process		Stated that central goal of the tour was for neighbors to learn from each other.		<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	3.5	Shoreline Regulation	Incentives	Inquired whether any incentive existed for restoring commercial/mixed uses along the shoreline.	City of Kirkland Senior Planner responded: No incentives currently exist, but the idea is being explored.	<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	3.1	Shoreline Redevelopment/ Restoration	Incentives	City could streamline/mitigate permitting process for private property owners by creating local improvement districts and partnering with private owners to Redevelopment large swath of shoreline at once.		<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	2.3; 3.1	Shoreline Pollution/Trash		Concerned over garbage dumped into the Lake by boaters.	Unfortunately, because boaters may come from outside Kirkland, it is a regional issue. However, an effort is needed to educate boaters on this issue.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006) ; Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	3.1	Shoreline Pollution/Trash		Raccoons using nearby storm water pipe		<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen/NGO (SPOCA)	3.3	Shoreline Recreation		Valued the water quality of and access to Lake Washington. Also felt that the City offered particularly good shoreline access.	The update to the SMP contains regulations addressing public access and water quality.	<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>

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Citizen	3.1	Shoreline Regulation		What constitutes the near shore zone?	Generally, the near shore comprises the first 30' of shoreline at a depth of 9'. However, recent research may change these benchmarks.	<i>Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)</i>
Citizen	2.13	Shoreline Master Program Process	Public participation	The city should engage the press, in order to highlight positive changes that have occurred with Kirkland's shoreline.	The City has been sending notification to the local newspapers of public events associated with the SMP update process. There have been several special stories appearing in the Kirkland Reporter about the SMP.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.14	Shoreline Master Program Process		(Regarding the tour component) will the bus tour be videotaped?	City of Kirkland Senior Planner responded: The bus tour will be videotaped, and made available to the public.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.15	Shoreline Master Program Process		How can one give further input after the meeting?	Any additional comments should be made by e-mail, mail, or writing.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.11; 2.12	Shoreline Redevelopment/Restoration		City should be as site-specific as possible when addressing shoreline conditions on private property.		<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Local Gov. (Kirkland)	2.9	Shoreline Regulation		How can the permit process be streamlined for applicants that use the correct approach?	Opportunities exist, but it requires coordination.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.10	Shoreline Regulation	Consistency	Do all Lake Washington cities require the same criteria for permits?	Jurisdictions do have the same permit criteria, and there is an effort to bring these criteria more closely in-line.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen/ Property Owner	1.1	Shoreline Redevelopment/Restoration	Shoreline Stabilization	How much did it cost to Redevelopment and de-arm a double lot located along the shoreline?	The cost was \$ 200,000-250,000. Meeting attendees felt that this was "a very good deal."	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	1.2	Shoreline Redevelopment/Restoration	Shoreline Stabilization	How well did a double-lot along the shoreline that had recently been de-armored survive storm/erosion damage?	Property owner responded: So far no evidence of any weather-related damage.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen/Property Owner	1.3	Shoreline Redevelopment/Restoration	Shoreline Stabilization	Regarding a recently de-armored shoreline property, would the owners have done anything differently (concerning the de-armoring process)?	Only change would have been to orient the fireplace differently	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Federal Gov. (NOAA)	1.4	Shoreline Redevelopment/Restoration	Shoreline Stabilization	Would the owners of a recently de-armored shoreline property have preferred a contiguous beach (than what was built)?	Initially the owners would have preferred a contiguous beach, but this would have required sacrificing trees.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen/NGO (SPOCA)	1.5	Shoreline Redevelopment/Restoration	Shoreline Stabilization	Regarding a recently de-armored shoreline property, how are the environmental benefits of de-armoring a shoreline property quantified?	Tour coordinators answered: The benefits are realized through the increase or restoration of endangered species habitat.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	1.6	Shoreline Redevelopment/Restoration	Shoreline Stabilization	How does one go about planning for shoreline design?	One must decide upfront what the needs and priorities are, and clearly articulate goals.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	1.6	Shoreline Master Program Process	Piers and Docks	How does one avoid being overwhelmed by the extant of decisions required for planning Kirkland's shoreline?	One must decide upfront what the needs and priorities are, and clearly articulate goals.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	1.7	Shoreline Redevelopment/Restoration	Piers and Docks	Should docks be constructed of aluminum (in order to minimize impact)?	Not per se. Rather how the material will impact species habitat should be main concern.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>

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Citizen	1.7	Shoreline Redevelopment/Restoration		When importing new soils (as part of shoreline restoration), do the supporting geotextile fabrics prevent sinkholes? Are they muskrat proof?	Usually fabrics are, but they may require an additional metal mesh	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	1.8	Shoreline Redevelopment/Restoration		Does a property owner need permits for property redevelopments below the ordinary high water mark?	Yes, an owner would need to obtain a permit.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	1.9	Shoreline Redevelopment/Restoration	Shoreline Stabilization	Should property owners' use large boulders/stones when redeveloping shoreline property? If so, do they need to obtain a permit for this?	Property owners should always consult with the city first (as some boulder/stones may not be beneficial). Permits would be required.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen/NGO (SPOCA)	1.10	Shoreline Redevelopment/Restoration		(Referring to the tour's overall comments) Why is there so much emphasis on salmon, rather than other species?	The salmon are officially listed as threatened; as such, governments are required to protect them.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	1.11	Species/Habitat	Invasive Species	Do invasive predators (e.g. bass) prefer non-native plant species?	Yes, non-native predators do associate with non-native plants.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.1	Shoreline Research		Regarding shoreline restoration efforts, how much study had gone into offshore areas (of Lake Washington), and its topography, and water depth (as well as the best available science to account for these factors)?	Restoration will likely be constrained by what can be done, and will be informed by other local efforts.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.2	Shoreline Master Program Process		Asked to have the Shoreline Master Program's timeline clarified?	The City is farther along in the process than other Lake Washington jurisdictions.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizens	2.3; 2.4	Species/Habitat	Invasive Species	Milfoil is an issue--there was too much of it and it smelled foul.	Best way to remove it is by pulling it from the roots. Moreover, milfoil removal is addressed in a recent Dept. of Fish and Wildlife publication.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.5	Species/Habitat		A comment was made about the balance between salmon (a native species) and bass and sculpin (non-native)		<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.6	Shoreline Regulation	Incentives	Reduce street setbacks for new homes, so as to keep homes farther away from the shoreline.		<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.6	Shoreline Regulation	Boating practices	Could moorage rates be increased?		<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.6	Shoreline Redevelopment/Restoration	Shoreline Vegetation	Could native trees be planted that support eagles and osprey?		<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.7	Shoreline Recreation	Boating practices	Could boaters could be directed toward the free pump station (at Yarrow Bay)?		<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>
Citizen	2.8	Shoreline Redevelopment/Restoration	Shoreline Stabilization	How can the shoreline be softened (i.e. remove bulkheads)--particularly since most of the shoreline is privately owned?	Cost-effective opportunities exist, such as through official certification courses, which in turn can be used for community outreach/education.	<i>Report on the Tour of Innovative Shoreline Design (30 September 2006)</i>

Shoreline Permit Coordinator and Contractor	4.6	Shoreline Permitting		There are regulations in place to address impacts through both the state and federal processes. It is important that local governments are careful not to impose overly rigid restrictions that force property owners to pursue Shoreline Variances or Conditional Use Permits. Local communities should retain their autonomy while cooperating with state and federal agencies in order to make decisions that best serve their own citizens and do not weaken their responsibility to local interests.		<i>Official correspondence and Houghton Community Council Meeting (February 25, 2008 and May 1, 2008)</i>
Citizen/Shoreline Permit Coordinator and Contractor	4.6, 5.1	Shoreline Permitting		Need to ensure that SMP regulations for overwater structures are flexible, practical and reasonable to enable property owners to meet their needs while exercising responsible stewardship toward the valuable resources of our region.		<i>Official correspondence and Houghton Community Council Meeting (February 25, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Shoreline Stabilization	Carefully consider regulations addressing bulkheads. Restoring natural shorelines will not work in all locations and in many cases depending on the water depth at the face of the existing bulkhead a property owner will need to shift their shoreline landward quite a bit, which can impact setback and the amount of impervious area.	Encourage to attend meetings and review draft regulations.	<i>Official correspondence and Houghton Community Council Meeting (February 25, 2008)</i>
Citizen/NGO (SPOCA)	3.6, 5.1	Shoreline Master Program Process	Public participation	Need for public participation. Make property owners understand implications of changes early on in process.	Staff has developed a Public Participation Plan for this project. Staff is continuing to conduct public outreach through various outlets, including list-servs, e-mail, web-sites, notice boards, newspapers, and the City's cable station.	<i>Houghton Community Council Meeting (February 25, 2008)</i>
Citizen	3.6	Shoreline Regulation		Kirkland, as largest property owner along shoreline, has biggest impact and needs to consider how regulations would impact their activities as well as those of private property owners.		<i>Houghton Community Council Meeting (February 25, 2008)</i>
Citizen/NGO (SPOCA)	3.6, 5.1	Shoreline Regulation		Need for clarity and consistency in shoreline regulations.		<i>Houghton Community Council Meeting (February 25, 2008)</i>
Citizen	4.9	Shoreline Recreation		Would like to see more big toys, and other recreational facilities available (e.g. waterslides, diving boards, big inflatable)	Comment forwarded to Parks and Community Services Dept.	<i>Web comment (March 14, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Piers and Docks	Kirkland needs to revise regulations to allow for greater height above Ordinary High Water in order to be consistent with state and federal requirements for pier height above the water		<i>Planning Commission Meeting (March 13, 2008)</i>
Citizen	5	Shoreline Goals and Policies		Include language protecting rights of private property owners.	See Goal SMP-5	<i>Planning Commission Meeting (March 13, 2008)</i>
Citizen	5	Shoreline Regulation	Public access	Concerned about public access and pathways along the shoreline. Want to ensure that these are not required for single family lots.	Proposed regulations do not require dedication and development of public access for detached dwelling units.	<i>Planning Commission Meeting (March 13, 2008)</i>
Citizen	5	Shoreline Regulation	Piers and Docks	Concerned that minimum width for docks as required by RGP-3 is too narrow		<i>Planning Commission Meeting (March 13, 2008)</i>
Citizen	5	Shoreline Regulation	Shoreline Stabilization	Concerned that removal of existing bulkheads may adversely impact neighboring properties.	Proposed regulations allow bulkheads to be tied into existing bulkheads on other side to minimize impacts.	<i>Planning Commission Meeting (March 13, 2008)</i>
Citizen	5	Shoreline Regulation	Shoreline Stabilization	Concerned that removal of existing bulkheads will affect lot area.	Proposed regulations permit the applicant to identify the previous location of ordinary high water mark and use the pre-restoration location for purposes of calculating lot coverage and setbacks.	<i>Planning Commission Meeting (March 13, 2008)</i>

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Citizen	3.3	Shoreline Goals and Policies	Storm Water	Linking the SMP to the implementation of the City's Surface Water Master Plan provides an opportunity for a systematic comprehensive approach to deal with the pollution impacts of storm water on Lake Washington.	Regulations addressing water quality are contained in the updated SMP. City-wide impacts from Surface Water are addressed through the City's Surface Water Master Plan, as well as through implementation of the NPDES Phase II Municipal Stormwater permit requirements. The jurisdiction of the Shoreline Master Program is limited to areas within 200 feet of the ordinary high water mark and associated wetlands.	<i>Letter (March 24, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Shoreline Vegetation	Getting to a position depicted in the shoreline vegetation goal - stumps, root wads, overhanging vegetation, beaches - is not going to happen. A realistic and implementable approach is one that should be identified in this goal.		<i>Letter (March 24, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Invasive Species	Change policies to reflect the reality of safe and effective use of herbicides to control invasive weeds.	Proposed regulations would generally prohibit use of herbicides, except where other alternatives are not successful.	<i>Letter (March 24, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Shoreline Stabilization	Have not experienced scouring of shoreline area as a result of bulkhead. Policies for retrofitting should incorporate several factors: 1) reasons for their installation, unintended consequences, cost benefit analysis. Need to address practicality of bulkhead retrofitting. Bulkhead removal when meeting specific and well-founded criteria could best be attained when redevelopment occurs with property consolidation and structure knockdowns.		<i>Letter (March 24, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Shoreline Stabilization	Appears to be conflict between desire to eliminate bulkheads and provide overhanging vegetation, which is most effectively planted on a bulkhead.		<i>Letter (March 24, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Boating practices	Many of the impacts depicted in this policy are either illegal or prohibited.		<i>Letter (March 24, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Shoreline Vegetation	Policies addressing shoreline vegetation are not feasible or practicable. Shoreline vegetation will not provide shading on the water because of the direction of the sun. Planting of vegetation would not last due to impact of winter waves and boat wakes. Wildlife will not likely inhabit shoreline because of urban setting of Kirkland, which has human and pet activity.	Section III of memorandum for May 8, 2008 Planning Commission meeting	<i>Letter (April 10 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Best Available Science	Subjective conclusions appear in a number of policies. Scientific basis for policy recommendations should be referenced so that the Planning Commission, City Council, and the public know if personal viewpoints or scientific basis drive the policies.	Revisions to policies now contain references to scientific studies.	<i>Letter (April 10 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Shoreline Stabilization	Concern about expectations for shoreline restoration activities. Public should be made ware of the exact description of restoration projects so as to ensure understanding and acceptance of these policies before adoption.	Section III of memorandum for May 8, 2008 Planning Commission meeting	<i>Letter (April 10 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Invasive Species	Concern about policies addressing control of aquatic noxious weeds. Permitted and controlled use of herbicides has been the only effective method with no adverse environmental impacts as document by soil samples and laboratory tests. Clear and cooler water has resulted and schools of native fish have returned.	Proposed regulations would still permit use of herbicides if other removal techniques are not successful.	<i>Letter (April 10 2008)</i>

1 - NGO = Nongovernmental Organization  
 SPOCA = Shoreline Property Owners and Contractor's Association

Citizen	3.3	Shoreline Goals and Policies		When comparisons are made with other cities, all jurisdictions on Lake Washington should be included for comparison.	Jurisdictions are in different stages of their SMP update process and some have addressed SMP issues in their CAO updates. Staff will try to incorporate as many other pertinent examples as it can.	<i>Letter (April 10 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Shoreline Stabilization	Examples of bioengineered shoreline stabilization and restoration provided in response to comments in Attachment 16, Enclosure 1 of the May 8, 2008 Planning Commission package are not representative of Kirkland's shoreline. Still believes that removal of bulkheads is not a viable option.		<i>Letter (May 8, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Shoreline Vegetation	Geometry of Kirkland's shoreline is such that vegetation does not provide shading.	Section III of memorandum for May 8, 2008 Planning Commission meeting	<i>Letter (May 8, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Invasive Species	The impacts of harvesting and cutting milfoil should include that of fragments re-growing and spreading, negating the intended control. Herbicide use has proven to be effectively and safe. Example: 10-year program in Portage Bay which has utilized all known methods of invasive weed control and have found that the use of herbicides under a DOE permit to be the only effective method.	Staff concurs that mechanical means of removal can have impacts and has therefore limited removal of aquatic vegetation in the proposed regulations. Proposed regulations would still permit use of herbicides if other removal techniques are not successful.	<i>Letter (May 8, 2008)</i>
Citizen	3.3	Shoreline Master Program Process	Public Involvement	Public process has not been well attended. Policies will set forth extensive expenditures of public and private money in the coming years as implementation occurs. Urge that city taxpayers and city park users have input on whether they would support the level of expenditures necessary or the changes to City parks contemplated. Urge the public event to provide complete information on the transformation of the shoreline that the policies will dictate, the cost associated with that, and with a depiction of the real environmental benefits. Information should also be provided about the implementation status of the City's Surface Water Master Plan, its estimated costs, and the resulting environmental benefits.	Staff has developed a Public Participation Plan for this project. Staff is continuing to conduct public outreach through various outlets, including list-servs, e-mail, web-sites, notice boards, newspapers, and the City's cable station.	<i>Letter (May 8, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Piers and Docks	Advocates that the City not adopt the Regional General Permit 3 guidelines into our regulations for piers and docks. Advocates for a separate process for redevelopment of existing structures to be adopted which allows property owners making improvements without complying with the RGP-3 guidelines. Include a process to evaluate the properties that have existing structures being replaced or modified differently than those who have undeveloped shorelines. Encouraging property owners to decrease the size or modify the configuration of their current structure by proposing a more environmentally pier or bulkhead, even if it does not align with newly proposed structures, will benefit everyone and the environment. Having a single standard and process for everyone will deter many property owners from even considering changes if there are no incentives to respect and recognize their good faith efforts.		<i>Letter (May 1, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Best Available Science	Encourage policy makers to research and review the White Papers and scientific studies used to regulate and implement rules and guidelines for piers and bulkheads.		<i>Letter (may 1, 2008)</i>

Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Shoreline Stabilization	It is vital that local councils and commissions review all available information on the push to have waterfront property owners remove and/or replace/repair existing bulkheads with bioengineered solutions. Restoring natural shorelines will not work in all locations and in many cases depending on the water depth at the face of the existing bulkhead a property owner will need to shift their shoreline landward quite a bit. Changes in the location of the Ordinary High Water Mark can impact both the shoreline setback and amount of impervious surface for the parcel and push the upland development into a nonconforming status impacting existing and future development for property owners.	Staff concurs that removal of bulkheads is not a viable solution in all circumstances. The individual site characteristics need to be evaluated in determining the appropriate method of shoreline stabilization.	<i>Letter (May 1, 2008)</i>
Citizen	4.3	Species/Habitat	Invasive Species	Continuing concerns with Eurasian Milfoil. Questions whether there are any plans for City to do anything about this.		<i>On-line comment (May 21, 2008)</i>
Citizen	5.3		Dredging	Requests City dredge Juanita Bay because it is too shallow.	The City has CIP projects to address upstream erosion and sediment along Juanita Creek that is going into Juanita Bay. The Parks Department is addressing water flow at Juanita Beach Park with the City's park master plan. No current plans to dredge the bay.	<i>On-line comment (May 21, 2008)</i>
Citizen	5.4	Shoreline Regulation	Shoreline Stabilization	Should include provisions for property owners to protect their properties from storm damage and/or erosion, as ruled by federal courts. Property owners should be allowed to reduce the wave action in order to protect their property. Draft regulations would be expensive, an intrusion on property rights, more than what is necessary to comply with the law and will not achieve the goal of "no net loss." Proposal is a piecemeal approach and the downtown area is a large obstacle to restoration.		<i>E-mail (May 23, 2008)</i>
Citizen	5.4	Shoreline Regulation	Piers and Docks	Inconsistencies between public and private applications in what fish need to be protected and how to do it. Conveyed concerns with previous permitting for dock extension (time, cost, requirements, effectiveness of requirements, etc.)		<i>E-mail (May 23, 2008)</i>
Citizen	5.4	Shoreline Redevelopment/Restoration	Shoreline Vegetation	Restoring vegetation on residential shorelines should not be a requirement and would be inconsistent with residential land use.		<i>E-mail (May 23, 2008)</i>
Citizen	5.4	Shoreline Regulation	Public Access	Suggest limiting public access in order to protect shorelines. If access is to be regulated by Kirkland, it should be done to protect the interest of the citizens who live in Kirkland. Public use of the shoreline should require mitigation measures on upland development and multifamily units. Fees should be required for non-residents to help pay for the impacts of people who use regional parks and shoreline facilities.	Proposed regulations allow modification to public access standards if it would impact critical areas. New standards also contain a setback from the ordinary high water mark to provide additional separation from this improvement and the shoreline edge.	<i>E-mail (May 23, 2008)</i>
Citizen	5.5	Shoreline Regulation		Recognize the recreational aspect of the lake. Regulations must provide for the needs of homeowners to allow reasonable installation and repair of bulkheads, docks, and covered moorages without excessive costs and difficulty. Simplify permitting process.		<i>E-mail (May 23, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation		Implementing the RGP-3 Guidelines as requirements in a SMP would damage the progress made toward decreasing the size of new and replacement piers and the planting of native vegetation. The RGP "requirements" have been used merely as flexible guidelines by the Corps and the federal services.		<i>E-mail (June 20, 2008)</i>

Shoreline Permit Coordinator and Contractor	4.6	Shoreline Master Program Process		All information on the SMP update process should be easily accessible and readable on all local websites. Spell things out clearly on your government website and do not busy it up with needless reports that people will not read. Place the information in a clear, easy-to-read, honest and understandable format so people know what is going on. Encourage involvement from waterfront property owners and others within the 200 foot shoreline areas.	Staff has developed a Public Participation Plan for this project. Staff is continuing to conduct public outreach through various outlets, including list-servs, e-mail, web-sites, notice boards, newspapers, and the City's cable station.	<i>E-mail (July 2, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Piers and Docks	Requests that City rejects adopting the Corps of Engineers RGP-3 guidelines in part or whole into the SMP and allows less restrictive but reasonable and responsible standards for new development and redevelopment of piers, dock and bulkheads. If local governments yield to pressure from DOE to adopt the RGP-3 guidelines as development standards, it may result in people not replacing older, larger piers with smaller and better environmental structures.		<i>E-mail (July 2, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Piers and Docks	This is a follow up of ongoing issues regarding the SMP Update process. DOE and Biological Consultants are clearly presenting or at least strongly impressing upon local planning staffs, councils, commissions and meeting attendees that the restrictive RGP-3 "guidelines" as "requirements" to achieve a "no net loss of ecological functions" is a misleading characterization and unattainable goal in the case of new piers and some redevelopment projects. If believed and embraced, this misleading characterization and unattainable goal in the case of new piers and some redevelopment projects may lead local governments on Lakes Washington and Sammamish to place overly restrictive, "everyone fit inside the box" type of regulations or standards in their updated SMP. Even if this position were to apply only to new structures it is problematic. Local governments who adopt the Corps RGP-3 guidelines or any overly restrictive development standards for piers under their SMP will complicate their review process, refer more projects for shoreline variances to DOE that will likely be disapproved, face unnecessary criticism from residents who are impacted by the changes, and cause an undue burden and greatly restrict or take		<i>E-mail (July 31, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6			completed by UW Keystone Project team. Challenges many of the conclusions drawn by the team as a result of their interviews with permitting agencies, who don't have the level of "working on the street" experience as those heavily involved with the system day in and day out at all levels. The report and the information relayed at the symposium reflect a lack of knowledge and real life experience that a marine permitting agency or contractor has from years of working within the system.		<i>E-mail (August 7, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Private Property Owner Rights	Forwarded copy of letter concerning shoreline property owners experiences in Bainbridge Island. States that one of the main goals should be to assure that the SMP Updates protect individual property rights (a priority of the legislature) so no property owner has a legal basis to challenge and win subsequently overturning all local government SMP's on which you have worked so diligently.		<i>Letter (August 22, 2008)</i>

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Citizen	4.3	Species/Habitat	Invasive Species	Eurasian Milfoil continues to be a problem in Yarrow Bay. When the lake lowers and the Milfoil is cut by power boats, it floats to the surface and is blown to shore by the prevailing winds. This collects on the shore and can promote the growth of algae and other problems including smell as it rots. Is there any plan by the City to try and do anything about this? We are told that communities in the other finger bays have been able to obtain grants to try and rid or reduce the growth of Milfoil. This subject deserves the attention of studies and activities within the Master Program.		<i>On-Line Comment (May 21, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6			Asks to be notified of when future meetings about SMP development standards are going to be held		<i>E-mail (September 3, 2008)</i>
Citizen	5.4			Expresses concern about the vague terms and expressions being used in the SMP, like "desire", should seek", and "should encourage". Questions whether waterfront parks provide environmental protection as stated in SMP 1.1. Says that SMP 5, which states "ensure property owner rights are <u>respected</u> ", should instead say "ensure property owner rights are <u>protected</u> ." The language in SMP 1.3 should be strengthened to ensure that docks serving private property remain. The SMP as presented is invasive of property rights, and assumes that public interest is greater than private interest, which is probably constitutionally wrong.		<i>E-mail (September 8, 2008)</i>
Shoreline Permit Coordinator and Contractor	4.6			Forwards address of Bainbridge Shoreline Homeowners website		<i>E-mail (September 8, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Cost Benefit	Cost and benefit needs to be studied. Implementation of goals and policies will be costly to the public and private. The City, as largest shoreline property owner, must also finance projects to meet the new regulations even though facing deficits. Shoreline property values would be reduced when purchasers take into account removal of bulkhead, lawn removal and shoreline landscaping costs.		<i>Letter (September 15, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Public access	Shoreline landscaping and removal of lawn will alter access and use of parks.		<i>Letter (September 15, 2008)</i>
Citizen	3.3	Shoreline Regulation	Shoreline Stabilization	Shoreline in Market Street Neighborhood has shallow lots and exposure to wind and boat wake that make removal of bulkhead not practical. Shoreline vegetation will not provide shade and will reduce the recreational use of lots. Shoreline erosion is a major concern, including for the City's sewer interceptors. The City's examples of shoreline restoration shown at an earlier open house were in other cities and do not reflect the restricted conditions along Kirkland's shoreline.		<i>Letter (September 15, 2008)</i>
Citizen	3.3	Shoreline Pollution/Trash	Lake Contamination	Stopping contamination of the lake from increased storm runoff is as significant as bulkhead removal for improved shoreline habitat and should be addressed. Shoreline property owners are unfairly targeted while upland sources of pollution are not being addressed.		<i>Letter (September 15, 2008)</i>
Citizen	3.3	Shoreline Goals and Policies	Consistency	City's goals and policies do not reflect State requirement to protect single family homes from damage and loss due to shoreline erosion.		<i>Letter (September 15, 2008)</i>

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Citizen	3.3	Shoreline Regulation	Shoreline Stabilization	Regulation requiring removal of bulkhead and re-landscaping shoreline setback back will cause significant financial burden and change to configuration and use of shoreline yard.		Letter (September 15, 2008)	
Citizen	3.3	Shoreline Regulation	Invasive Species	Herbicides have been demonstrated to be effective, but would be prohibited under the proposed policies. Washington Toxic Coalition literature against herbicides is misleading. Harvesting milfoil caused increased growth of milfoil.		Letter (September 15, 2008)	
Citizen	3.3	Shoreline Regulation	Environmental Designations	Conservancy Environment and Natural Environment apply to Kirkland's urban shoreline.		Letter (September 15, 2008)	
Citizen	3.3	Shoreline Master Program Process	Public Participation	Shoreline property owners have not been well represented in the SMP process. A workshop should be provided for them along with more time to speak at the public meetings.		Letter (September 15, 2008)	
Citizen	5.6		Dredging	Juanita Bay is less than 10 feet deep now allowing sunlight to penetrate to the bottom of the bay and stimulating growth of aquatic plants and noxious weeds. Juanita Bay is turning into a stagnant fish and wildlife zone. What are the plans to remove the sand and gravel and restore water flow and depth for the bay? What will be done to stop erosion coming from development in King County?	The City has CIP projects to address upstream erosion and sediment along Juanita Creek that is going into Juanita Bay. The Parks Department is addressing water flow at Juanita Beach Park with the City's park master plan. No current plans to dredge the bay.	Email (September 18, 2008)	
Citizen	5.7	Shoreline Regulations	Setbacks and Shoreline Stabilization	New stringent restrictions for bulkhead removal and greater shoreline setbacks are unfair and would be a taking. Many lots in Kirkland have shallow depth and the additional shoreline setback requirement would severely diminish the value of those properties.	City in early discussion on bulkhead removal and shoreline setback regulations. Will consider lot depth when drafting setback regulation. Will consider the high cost of removing bulkheads and in some cases the lack of feasibility to remove bulkheads when drafting the shoreline stabilization regulations. Likley that a high threshold for bulkhead removable will be in the regulations, such as for new development or major redevelopment.		
Citizen	5.8	Shoreline Regulations	Shoreline Stabilization	Regulations that require removal of bulkheads is a taking and not respectful of property rights. Citizen poses several questions about bulkheads and shoreline restoration..			
Citizen	5.9	Shoreline policies and regulations	Street Trees and Views	Street trees along the shoreline should be limited in canopy size and height to maintain views of the lake. Vegetation along the shoreline should be limited to protect property values which also maintain tax revenue to the City.			Proposed regulations would limit size of street trees to maintain public views. Private views are not protected, except in very limited situations.
Citizen	6.1	Shoreline Regulations	Shoreline Stabilization	Concerned about potential requirement to modify bulkhead with other permits.			
Citizen	5.4	Shoreline Update	Process	Question why we must update SMP. Thinks that we already meet DOE Guideliness			

Emails (Oct 13 and Nov 4, 2008)

Neighborhood meetings next Monday and Wednesday

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## Teresa Swan

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**From:** Teresa Swan  
**Sent:** Monday, September 08, 2008 10:44 AM  
**To:** Greg Brey  
**Subject:** FW: SMP UPDATE MEETINGS INVOLVING ANY DISCUSSION ON DEVELOPMENT STANDARDS FOR PIERS AND BULKHEADS ON LAKE WAHSINGTON

Here is the letter. Please save to the folder and add to log. Thanks!!

Teresa Swan  
Senior Planner  
(425) 587-3258 Fax (425) 587-3232  
[tswan@ci.kirkland.wa.us](mailto:tswan@ci.kirkland.wa.us)  
City of Kirkland  
123-5th Ave  
Kirkland, WA 98033



Please don't print this e-mail unless you really need to. Reduce, Reuse, Recycle.

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**From:** Daved [mailto:Daved@waterfrontconstruction.com]  
**Sent:** Wednesday, September 03, 2008 1:48 PM  
**To:** Cathy Beam; MPaine@bellevuewa.gov; Peter Rosen; jding@ci.kenmore.wa.us; Robert Grumbach; EConkling@ci.renton.wa.us; mvannostrand@ci.sammamish.wa.us; Margaret.glowacki@seattle.gov; mhgreen@comcast.net; Harry.reinert@kingcounty.gov; SBennett@ci.lake-forest-park.wa.us; Paul Stewart; travis.saunders@mercergov.org; White, Jean; george.steierer@mercergov.org; Burcar, Joe (ECY); Matt.torpey@mercergov.org; Teresa Swan  
**Cc:** eride@msn.com; donovan@donovantracy.com; raa@vnf.com; Dennis Reynolds  
**Subject:** SMP UPDATE MEETINGS INVOLVING ANY DISCUSSION ON DEVELOPMENT STANDARDS FOR PIERS AND BULKHEADS ON LAKE WAHSINGTON

Dear Local Government SMP Update Point of Contact,

Hope all of you are well.

As we approach the point where the actual development standards for piers and bulkheads are discussed and put in writing to become your local law, it is also the time when local governments will need to decide if they are going to consider adopting the Corps RGP-3 guidelines being pushed by DOE or what best serves local property owners for projects that have an insignificant impact on ecological functions, listed species and critical habitat according to recent project approvals and reviews.

I hope everyone had the opportunity to review the last couple e-mails I forwarded since they pointed out a possible system to use in evaluating future projects without sending everything to DOE for a variance to be denied and other valuable information. I am also waiting to hear back from DOE on the e-mail sent on 4/7/2008 regarding 'no net loss of ecological' functions.

Last week I met with a local planner and biological consultant and had the opportunity to present a slide show of recently constructed projects on Lakes Washington and Sammamish, bulkheads and natural shoreline projects, and also presented drawings on projects approved by local, state and federal agencies, each of which exceeded or far exceeded the guidelines listed in the RGP-3. All of the projects went through the local SMP and SEPA process (which is forwarded to DOE for comment or appeal), WDFW Hydraulic Project Approval Process, the Corps Section 10 Process and the local Building Permit process. Each one, and many others stacked too high to bring to the meeting, received approval based on

current regulatory standards and without any question represented an improvement over previously existing conditions for each of these properties along the shorelines for which you are responsible. Each project at one point or another went before every local, state and federal agency for review and comment prior to being approved.

The e-mail sent to you on 8/22/2008 contained a list of environmental improvements that have resulted through the responsible application of existing local Shoreline Master Programs combined with strict but flexible state and federal guidelines for nearshore and overwater development. We will not see nor hear of such a list from state regulators nor will there be any studies done to support this easily verifiable information. We will hear the number of piers and bulkheads on the lakes compared to 10, 20 or 50 years ago but we will not be told how regulations currently in place combined with modern design standards have made a measurable improvement over the gargantuan solid-decked piers of old. We will be told how much of the shoreline has bulkheads but will not be told how much has been restored to natural shoreline or that the simple installation of nearshore fill without removal of a bulkhead can provide excellent shallow nearshore habitat for migrating and spawning. Simply placed, there is no balanced perspective to be found.

**Can each of you please let me know when future meetings of councils, boards or commissions where the SMP development standards for piers and bulkheads will be discussed will be held? It is very time consuming trying to go through each local website to hunt down the information. Thank you for your help.**

**We want to be a part of the process and provide "first hand" information on what has recently been approved along the shorelines of Lake Washington and Sammamish. I am available to meet with anyone who would like to review a slide show of projects approved over the past few years (since the RGP-3 was implemented) and review drawings on projects that do not align with the RGP-3 but were approved because they reflected an improvement over existing conditions.**

We welcome the opportunity to assist local governments in making informed decisions based on factual information that will protect property rights, win the respect of your citizens and exercise responsible stewardship of the environment. We believe each of these can be accomplished through the SMP update process.

Thank you for your time. If you would like to discuss anything or schedule a meeting please contact me via e-mail or at 425-357-0312.

Have a great week.

Dave Douglas  
Permit Coordinator  
Waterfront Construction, Inc.

**From:** RLSTYLE [mailto:rlstyle@aol.com]  
**Sent:** Monday, September 08, 2008 4:52 AM  
**To:** Teresa Swan  
**Cc:** KirklandCouncil; kirklandviews@gmail.com; Robin Jenkinson  
**Subject:** Shoreline updates

RE: Shoreline Master Plan Revisions

Ms. Swan:

The Shoreline Master Plan being developed is filled with vague expressions, meaningless terms, and contains far from equal opinions as to the course of action needed to comply with the Shoreline Management Act. At great expense to taxpayers, it creates more problems than it solves. In short, the rather lengthy document is useless in providing certainty toward meeting its goals.

Vague expressions using words like “desire”, “should seek”, and “should encourage” are terms that almost guarantee full employment for attorneys and confrontational public meetings. The expressions also allow council to arbitrarily select how much homeowners and taxpayers will have to sacrifice in order to achieve socialistic goals instead of protecting the rights of property owners. Before such words are introduced into our building and zoning codes, they should be more accurately defined to allow staff and citizens an understanding of what is allowed and what’s not. Else, the potential conflict between citizen’s concerns will prevail and grow.

To restore, enhance, and protect our shorelines, the vague expressions are nothing more than meaningless terms until those terms are codified. In SMP-1.1, just how do our waterfront parks provide environmental protection? Most of them allow greater public use and have been developed at the expense of the environment. SMP-5 states, “Ensure that private property owners rights are **respected**.” It should read, “Ensure that private property owners rights are **protected**.” Just how are you going to respect the rights of property owners? Until you know how, then and only then can each of the goals of the Shoreline Management Act receive equal attention and understanding by staff and citizens.

The Shoreline Master Plan as presented is invasive on property owner’s rights. Statements are made that are biased. In regard to “protecting the public interest”, the goal states, “...coordinated planning efforts (are needed) to protect the public interest associated with the shorelines of the State while, at the same time, recognizing and protecting private property rights consistent with the public interest.” Being “consistent with public interest” assumes public interest is greater than private interest. That is probably constitutionally wrong.

SMP-1.3 should include stronger language to insure that docks serving private property remain. Water-related uses and water-enjoyment uses should include private property owners when it comes to enjoyment of the water. Also, the increased urban use of the water by boaters would be enhanced even more if they didn’t have to worry about woody vegetation or debris along the shoreline that interferes with docking or boating.

Public policy should help prevent damage to private property instead of exasperating it.  
This is especially true when preventing damage due to wave action.

Sincerely,

Robert L. Style  
6735 Lake Washington Blvd, NE  
Kirkland, WA 98033  
425-827-0216  
[rlstyle@aol.com](mailto:rlstyle@aol.com)

**From:** Daved [Daved@waterfrontconstruction.com]  
**Sent:** Wednesday, September 03, 2008 1:48 PM  
**To:** Cathy Beam; MPaine@bellevuewa.gov; Peter Rosen; jding@ci.kenmore.wa.us;  
Robert Grumbach; EConkling@ci.renton.wa.us;  
mvannostrand@ci.sammamish.wa.us; Margaret.glowacki@seattle.gov;  
mhgreen@comcast.net; Harry.reinert@kingcounty.gov; SBennett@ci.lake-forest-park.wa.us; Paul Stewart; travis.saunders@mercergov.org; White, Jean;  
george.steierer@mercergov.org; Burcar, Joe (ECY);  
Matt.torpey@mercergov.org; Teresa Swan  
**Cc:** eride@msn.com; donovan@donovantracy.com; raa@vnf.com; Dennis Reynolds  
**Subject:** SMP UPDATE MEETINGS INVOLVING ANY DISCUSSION ON DEVELOPMENT STANDARDS FOR PIERS AND BULKHEADS ON LAKE WAHSINGTON

Dear Local Government SMP Update Point of Contact,

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I hope everyone had the opportunity to review the last couple e-mails I forwarded since they pointed out a possible system to use in evaluating future projects without sending everything to DOE for a variance to be denied and other valuable information. I am also waiting to hear back from DOE on the e-mail sent on 4/7/2008 regarding 'no net loss of ecological' functions.

Last week I met with a local planner and biological consultant and had the opportunity to present a slide show of recently constructed projects on Lakes Washington and Sammamish, bulkheads and natural shoreline projects, and also presented drawings on projects approved by local, state and federal agencies, each of which exceeded or far exceeded the guidelines listed in the RGP-3. All of the projects went through the local SMP and SEPA process (which is forwarded to DOE for comment or appeal), WDFW Hydraulic Project Approval Process, the Corps Section 10 Process and the local Building Permit process. Each one, and many others stacked too high to bring to the meeting, received approval based on current regulatory standards and without any question represented an improvement over previously existing conditions for each of these properties along the shorelines for which you are responsible. Each project at one point or another went before every local, state and federal agency for review and comment prior to being approved.

The e-mail sent to you on 8/22/2008 contained a list of environmental improvements that have resulted through the responsible application of existing local Shoreline Master Programs combined with strict but flexible state and federal guidelines for nearshore and overwater development. We will not see nor hear of such a list from state regulators nor will there be any studies done to support this easily verifiable information. We will hear the number of piers and bulkheads on the lakes compared to 10, 20 or 50 years ago but we will not be told how regulations currently in place combined with modern design standards have made a measurable improvement over the gargantuan solid-decked piers of old. We will be told how much of the shoreline has bulkheads but will not be told how much has been restored to natural shoreline or that the simple installation of nearshore fill without removal of a bulkhead can provide excellent shallow nearshore habitat for migrating and spawning. Simply placed, there is no balanced perspective to be found.

**Can each of you please let me know when future meetings of councils, boards or commissions where the SMP development standards for piers and bulkheads will be discussed will be held? It is very time consuming trying to go through each local website to hunt down the information. Thank you for your help.**

**We want to be a part of the process and provide "first hand" information on what has recently been approved along the shorelines of Lake Washington and Sammamish. I am available to meet with anyone**

**who would like to review a slide show of projects approved over the past few years (since the RGP-3 was implemented) and review drawings on projects that do not align with the RGP-3 but were approved because they reflected an improvement over existing conditions.**

We welcome the opportunity to assist local governments in making informed decisions based on factual information that will protect property rights, win the respect of your citizens and exercise responsible stewardship of the environment. We believe each of these can be accomplished through the SMP update process.

Thank you for your time. If you would like to discuss anything or schedule a meeting please contact me via e-mail or at 425-357-0312.

Have a great week.

Dave Douglas  
Permit Coordinator  
Waterfront Construction, Inc.

From: Tony Fassbind  
Re: Proposed shoreline management changes  
October 9, 2008

The proposed changes to Kirkland's Shoreline Management are flawed in many ways. Many of the proposed changes are based on aesthetic prejudices concerning what the lake should be like, not on hard science or studies. The fact is that there is no scientific basis behind most of the proposals. The proposed changes significantly impact the lake shore residents and users, with no reasonable expectation of any improvement to salmon survival or water quality.

The city council should reject most of the controversial aspects of the proposed act, and encourage more detailed study to identify any real problems, and to insure that changes have the desired impact. The city should adopt a softer approach to improving lake shore quality, by encouraging residents to do the right thing, rather than rely on the heavy hand of overreaching regulation.

From the Executive Summary of *Final WRIA 8 Chinook Salmon Conservation Plan*

- It has not been determined which actions provide the most habitat benefits per dollar spent, and how far suites of actions will get us toward Chinook recovery. The treatment phase, the "T" of the EDT model, to be completed during 2005, will provide additional analysis and direction. Risk of not taking specific actions has not been determined.

Negative Points:

1. Most Kirkland lots are too shallow, too steep, or too exposed to heavy seas to allow establishment of sand beaches. As noted in the proposal, sand beaches require the continual erosion of the shoreline to replenish the beach; this is obviously not practical in the city, as it would require the removal of all structures and roads along the shore. This is mostly an aesthetic issue. While it can be argued that a soft shoreline looks better and may provide better bird and waterfowl habitat, there is no science to support the proposal that a soft shoreline would somehow improve salmon survival. The city should tread lightly with this issue, and if a soft shore is desired, incentive approaches should be tried first.
2. The entire city watershed currently drains into lake Washington via the storm drain system, which directs all yard and road runoff directly into the lake. Restricting fertilizer and yard chemical use to only a small strip along the lake would have no measurable effect on water quality. Further, lake water quality is currently good, even with the existing unrestricted runoff. There is no indication that a problem with fertilizers and other yard chemicals exist. Far more would be accomplished via a city wide program to educate all city residents about the effects of overuse of yard chemicals, rather than singling out lake shore residents for punishment.

3. The Kirkland waterfront is exposed directly to the South and West, resulting in long hours of intense summer sun. There is no science behind the recommendation for establishing overhanging vegetation along the shore. The small amount of shade provided would be an extremely small proportion of the lake surface, with no measurable change in lake temperature. If shading is desired, then why are docks being shrunk and light transmissive dock surfaces being proposed? It is entirely feasible that the manmade docks, marinas, and overlake structures actually reduce lake temperature. This again is an aesthetic issue. If the city wants natural shade plants along the lake, which would look nice, it could start with its own parks as demonstration projects. The city could establish an outreach program from the parks department to encourage residents to plant different plants on the shore. This would likely have a more immediate impact than the proposals.
4. To my knowledge, there have been no studies to directly link any of the proposed changes to Lake Washington to juvenile salmon survival. There have been no studies to show how any proposed changes would affect any of the other animal and fish populations. There has never been a census of animal and fish populations of the lake. All the proposals in the shoreline management draft and WRIA 8 are based on conjecture, not fact. It is entirely possible all the expensive and disruptive changes proposed would have no impact on salmon, or could even reduce survival.

Positive Points:

1. The staff's recommendation in section V of the Sept. 30, 2008 memorandum to the council, allowing waterward filling from the OHWM for the purpose of creating a soft shoreline is encouraging. This will allow owners of shallow lots to leave their existing bulkheads in place and create a soft shore at relatively low cost.

Tony Fassbind  
Kirkland lakeshore homeowner  
149 Lake Ave. W.  
tonyfassbind@verizon.net

To City of Kirkland Planning Commission members

From Jack Rogers 1025 Lake St S. Kirkland Wa.

Dear Commission Members:

Thank you for this opportunity to speak to you about our concerns. Let me start by saying I believe that most folks are pleased that the city and state are doing something about protecting fish and the environment. It's how you appear to be going about this that concerns us. The city has declared that the removal of bulkheads, armoring, lawns, installation of shoreline vegetation and pier modification are paramount. As you read these proposals it is clear that the lakefront homeowners will bear the brunt of them. I ask you now: Is it true that the permitting process will or could be used to trigger a bulkhead removal at the homeowner's cost? Has the city considered that some lots are too shallow to accommodate a beachfront? Has it factored in the extremely rough water conditions on the east side of the lake that may erode shores that literally hold up homes, that may jeopardize roadways if bulkheads are removed? Is the city really going to remove lawns from public parks? Have these proposals that the city would also have to comply with been studied and expensed? My opinion is that proposals which demand homeowners pay for removal or armoring to accommodate the city amounts to a taking. SMP goal #5 says it will "ensure property rights are respected" This doesn't sound like respect to me if the foregoing is true This is my third visit to a planning commission meeting. I have asked questions each time. Richars Sandaas submitted a six page letter at your last

meeting. One of three he has sent. The silence is deafening. I believe it is time for a spokesman from this commission to begin answering these questions.

**From:** Barry Powell [bjpow6@gte.net]  
**Sent:** Thursday, October 09, 2008 3:17 PM  
**To:** Teresa Swan  
**Subject:** Fw: Shoreline Management Master Guidelines for Kirkland Waterfront  
ADDENDUM

----- Original Message -----

**From:** [Barry Powell](#)  
**To:** [TSwan@ci.kirkland.wa.us](mailto:TSwan@ci.kirkland.wa.us)  
**Sent:** Friday, September 26, 2008 3:33 PM  
**Subject:** Shoreline Management Master Guidelines for Kirkland Waterfront

Dear Teresa:

I own the waterfront properties located at 191 and 195 Lake Avenue West in Kirkland, just north of the downtown area. I am concerned about the potential negative effect that the proposed new Shoreline Master guidelines might have on our waterfront properties and on other parcels on our street as well.

Each of our parcels has a home improvement on it. Both were built before 1965, and the 195 parcel, our home, is actually within 10 feet of the water's edge. Both properties have substantial rock bulkheads protecting them on the water's edge.

There were virtually no restrictions upon how close a home could be built near the water's edge back in the 1950s and 1960s.

From what I understand, the proposed new Shoreline guidelines that the City of Kirkland would follow would require deeper setbacks for new construction, and that for new construction or remodeling of an existing home that the existing rock bulkheads be removed.

I feel that these new stringent restrictions would be unfair for the following reasons:

1. These improvements have been in place for many years, and therefore should be protected under the doctrine of vested rights.
2. Requiring the removal of existing improvements with any new remodeling or structure modification would constitute a taking of our property without just compensation.
3. The existing rockeries are now the home of marine wildlife, which are provided a safe haven and shelter from the elements and predators. For example we have a family of lake otters currently living in our rockeries. Removing the rockeries would destroy their marine habitat.
4. The existing rockeries provide protection from soil erosion from the many winter storms that churn up large waves that pound our shores. Without them, we would lose a substantial amount of our shoreline to the water, analogous to what would happen in the Netherlands if their dikes were removed.
5. Like a number of waterfront lots on Lake Avenue, our lot depth is not great--- our home at 195 Lake Avenue West, for example, is only 76 feet deep on our north side, and 90 feet deep on the south side. Requiring a new home on the lot to be set back nearer the street would leave relatively little room left to build a decent sized home. That limitation would severely diminish the value of the subject properties.

For these reasons, special consideration should be given to lakefront properties in Kirkland such as ours. The proposed new Shoreline guidelines should not be applied blindly without due regard to the topography, lot size, and existing improvements that are already in place there. There should be some form of vesting as to these existing improvements for those that have already built there. Rules as to new construction should not be so stringent as to severely limit new homes that might in the future be built there. In fact, many new large homes have been built on our street in the last few years that are much larger than the ones that we currently have. Everyone should have a right to be treated fairly and equally in this regard.

6. Before 1961, there were no rock bulkheads, but the water's edge was 15 - 20 feet further into the property as a result. This becomes significant where new restrictions would require a deeper setback from the water on any new construction or remodeling that may occur in the future.

7. In the last 30 years, winter storms have increased in severity, perhaps in part to global warming. We have, at times, suffered serious shore erosion even with the rock bulkheads in place.

8. We have added fill in the past at our shoreline and our observation has been that the fill has been carried out into the water and scattered in severe storms.

Our shoreline is a straight line in our location, as opposed to Juanita Bay, which has a semicircular, concave shaped shoreline-----that shape is much better able to collect and retain fill, and should therefore not be used as a determining factor as to how fill will or will not remain intact over time in a shoreline such as ours which is more of a straight line.

Respectfully submitted,  
Barry Powell

**From:** Katherine Curry [currymom@hotmail.com]  
**Sent:** Saturday, October 11, 2008 11:51 AM  
**To:** Teresa Swan  
**Subject:** Shoreline Master Plan Revision  
October 10, 2008

Dear Ms Swan and Planning Board,

I am writing as a member of the Shumway Condominium Landscape Committee. The Shoreline Master Plan is a comprehensive and complex document, somewhat difficult for laymen to fully comprehend. It is our interpretation that the plan includes provisions for planting fast growing, tall trees, with wide growth spans, as street trees along Lake Street South at David Brink park and other walkways between Carillon Point and Downtown.

We ask that the board reconsider planting tall trees with wide growth spans as street trees along David Brink Park. Planting smaller vegetation with short narrow canopies and foliage, with appropriate spacing, would preserve access and views for pedestrians, visitors and property owners without eroding the tax base.

Public access and views need to be preserved for the multitude of pedestrians that utilize David Brink Park and the surrounding areas, including but not limited to Lake Street S and the parallel and perpendicular walkways and streets in the area. Impaired views and minimized access will reduce pedestrian usage. This will translate into fewer pedestrian dollars being spent at downtown businesses, negatively impacting city revenues.

Private views from properties along Lake St. S and the surrounding parallel and perpendicular streets need to be preserved to protect real estate values. Loss of views and access will reduce property values, minimizing tax revenues for the city of Kirkland.

We appreciate your consideration of this recommendation. Please advise of your decision.

Katherine Curry  
510 Lake Street S. #B102  
Kirkland, WA 98033

425-890-5354  
[Currymom@hotmail.com](mailto:Currymom@hotmail.com)



**From:** RLSTYLE [rlstyle@aol.com]  
**Sent:** Monday, October 13, 2008 9:52 AM  
**To:** kirklandviews@gmail.com  
**Cc:** KirklandCouncil; Teresa Swan  
**Subject:** Corrected letter to the editor

The correction: The next meeting will be November 24th with the Houghton Community Council. Also, I added my name and address. I would encourage staff to include the public comments on their shoreline Internet page. The corrected letter to the editor is as follows.

What happened at the Planning Commission's October 9<sup>th</sup> meeting was clearly the result of staff's overzealous approach to adopting more regulations than what is necessary to comply with the new Shoreline Master Program "guidelines." It was a contentious meeting with a very upset audience who were outspoken against what staff is trying to do.

The guidelines clearly state that shoreline repairs and construction of bulkheads for single-family homes are exempted from being subject to a substantial development permit. They also state that property should be protected. Bulkheads (armoring) are necessary and should not be removed.

A citizen printed and distributed the following questions. My comments follow in *(parentheses)*.

1. **Is the city using the permitting process to remove bulkheads (armoring) at the owner's expense?** *(Yes even though the requirement to restore or enhance the environment is a state law and should be financed by the state. If not by them, at lease by all the citizens who enjoy the lake.)*
2. **Will lakefront property owners be required to have a professional study done on their property in order to retain bulkheads?** *(So far, yes even though most of the properties in Kirkland are subject to the same wave action from wind and boats. The need for bulkheads is well documented. A citywide hydraulic study would be appropriate..)*
3. **Have any studies been commissioned to determine what damage may occur as a result of the city removing all armoring from its parks and other properties?** *(No)*
4. **How will the city, as the largest waterfront property owner, pay for the compliance with its own policies?** *(The city will make changes when they repair or upgrade their properties. Until then, nothing if anything, will be done by the city to improve the restoration of the shoreline environment. After all, the city has a \$17 million dollar budget shortfall already with more being considered.)*
5. **Are we proposing to remove all lawns from our public parks?** *(Probably not.)*
6. **How do you plan to deal with polluted and toxic runoff into Lake Washington?** *(The city has required property owners to install water quality improvement devises but has not applied the same requirements to city projects, the most glaring being oil-silt separators in storm drains. It should be noted that storm water quality from Kirkland is already better than most cities.)*
7. **What is being done to improve the permeability of the watershed to prevent runoff into Lake Washington?** *(Some but not enough. It will be difficult to improve permeability on properties east of H-405 because of poor soil conditions and a high water table. Those properties have septic tank problems and need sewer lines as well as a good storm drainage system, hopefully with oil-silt separators. The city also is allowing larger homes on smaller lots.)*

There are more shoreline meetings to come the next one being November 24<sup>th</sup>.

Whatever is done to save what's left of our shoreline ecological functions, attorneys should review the commission's recommendations before submitting them to council. First and foremost, individual rights need to be protected, and the city needs to be sheltered from any more lawsuits.

Sincerely,

Robert L. Style  
6734 Lake Washington Blvd, NE  
Kirkland, WA 98033  
425-827-0216

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**From:** RLSTYLE [mailto:rlstyle@aol.com]  
**Sent:** Monday, October 13, 2008 2:24 PM  
**To:** Kirkland Courier Reporter  
**Cc:** KirklandCouncil  
**Subject:** The shoreline update

Protecting the shoreline.

The piecemeal approach to require individual property owners to comply with what staff suggest will not do what is intended, “no net loss of shoreline ecological functions”. The distance between single-family homes that are not subject to the substantial development process south of Kirkland is too long. The fish are vulnerable and will not be able to find havens soon enough in the small parcels of land that are modified and few and far between in south Kirkland.

North of the city center where single-family homes are prevalent, it’s a different issue. If someone improves his or her property more than the exemption allowed by law, it becomes subject to the substantial development process. It would trigger shoreline and bulkhead reviews with possible removal of existing bulkheads. If they complied and their neighbor did not because they did not need or desire to improve their property, it would be like what the city did with concomitant agreements to provide sidewalks, a piecemeal approach and loss of revenues that resulted in no sidewalks. Of course the city could condemn the shoreline between ecology-approved parcels and use adverse possession to force improvements, but that would be expensive and political suicide.

The downtown business area is a large obstacle to what staff recommends. The area is huge and full of environmental incorrect structures that would be difficult and very expensive to correct. According to the staff report, the area impedes the migration of fish; however, the Shoreline Management Program allows for commercial development.

In conclusion, what staff has proposed is expensive, an intrusion on property rights, more than what’s necessary to comply with the law, and will not achieve the goal of “no net loss of shoreline ecological functions,” that exist today in Kirkland. The bald eagles still hover over Kirkland, the fingerlings still linger along our shoreline, and the people can enjoy the way Kirkland is now.

There will be a hearing at city hall with Houghton Community Council on November 24<sup>th</sup>.

Sincerely,

Robert L. Style  
6735 Lake Washington Blvd, NE  
Kirkland, WA 98033  
425-827-0216



**From:** Eric Shields  
**Sent:** Tuesday, October 21, 2008 3:15 PM  
**To:** 'RLSTYLE'  
**Cc:** Teresa Swan; Paul Stewart  
**Subject:** RE: Response to the reasons for the Shoreline update

Thanks Bob. Your comments speak to the importance of applying the regulations in a reasonable manner with respect for existing improvements and property rights. We'll make sure your comments are forwarded to the Planning Commission as they review and guide the SMP update.

[Eric Shields](#)

Director  
Kirkland Dept. of Planning & Community Development

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**From:** RLSTYLE [mailto:rlstyle@aol.com]  
**Sent:** Tuesday, October 21, 2008 11:13 AM  
**To:** Eric Shields  
**Cc:** Teresa Swan  
**Subject:** Response to the reasons for the Shoreline update

Thank you very much for the information. I think the city is overdoing what is required. We are spending too much time and money on the small changes (many of them could be administrative) needed to comply with the state. What will appease the state requires much less than what you're doing. Even if it doesn't, we could go years before the issues are resolved so there's little reason to eagerly pursue making a mountain out of a mole hill.

Here are my comments (in red) to the reasons for the update you've sent. Again, thanks.

### **Why the City must prepare a New Shoreline Master Program**

Below is an explanation of the 4 key reasons why the City needs to prepare a new Shoreline Master Program:

#### **1. New State Guidelines**

In 2003 the State issued a comprehensive set of guidelines addressing requirements for local Shoreline Master Programs, which are contained in Chapter 173-26 of the Washington Administrative Codes.

The City's SMP must meet the new State Guidelines and the Department of Ecology must approve the City's updated SMP. After review of the City's SMP and the new State Guidelines, the City has determined that the current SMP is not consistent with many key requirements of the new Guidelines. Therefore, the City will be amending sections and adding new sections to make the City's SMP consistent with the State Guidelines.

The following describes some of the key new requirements found in the Guidelines:

- **Shoreline Environmental Designations.** The Guidelines establishes a new system of classifying the shoreline areas based on physical, biological and development characteristics. Each shoreline environment has a different level of protection and the allowed uses, activities and improvements must be appropriate for **protecting existing and proposed** ~~that~~ level(s) of protection. The City's current shoreline designations need to be modified to meet the new classification system. **(The city has failed to justify what needs to be changed and how it plans to protect existing uses.)**
- **No Net Loss.** The Guidelines require that the impacts of new uses, activities and improvements be identified and mitigated with a final result "no net loss" of ~~the~~ **existing** shoreline ecological function. The

benchmark for the 'no net loss' starts with the City's 2006 Final Shoreline Analysis completed for the SMP update. Since most types of shoreline development result in at least some degree of impact to ecological functions, the 'no net loss' standard means that the SMP must contain provisions for avoiding, minimizing or mitigating these unavoidable impacts. In evaluating 'no net loss', the City must consider the aggregate effect of future development allowed through implementation of the updated SMP that includes both the individual impact of each development and the cumulative impact of all of the development that is likely to occur. (Much of the previous shoreline ecological functions have already been lost so the meaning of what constitutes "no net loss" for Kirkland needs to be defined. Just what shoreline ecological functions should be restored while protecting existing uses need to be identified? Many shoreline ecological functions cannot and should not be restored if it destroys buildings or modifies existing land uses to become usable even for single-family homes. The city's marina and the multiple condominiums along the shoreline cannot be favorably modified to a shoreline environment that allows for migrating fish to be protected from docks. If the city could develop a new shoreline by constructing a breakwater 300 feet off shore, it would do much to restore the desired ecological functions while protecting what's already built. It also would distribute the cost to everyone who enjoys the lake instead of putting the entire cost on shoreline property owners. However, given the current budget shortfall, I don't think it's economically feasible.)

- **Restoration Plan.** The Guidelines also require jurisdictions to identify, prioritize and plan for restoration of ecological functions where the functions have been impaired. (The word "impaired" infers that some of the ecological functions still exist. It does not define what already has been lost.) Restoration plans are to be done through a combination of public and private programs and actions. (Before requiring property owners to comply with any new rules, the city should comply first.) The goal is to improve the overall condition of habitat and resources within the shoreline area over time compared to the existing conditions as documented in the 2006 Final Shoreline Analysis. Actions could include planting shoreline vegetation, replacing part or all of bulkheads with soft shoreline stabilization and adding fill and vegetation waterward of existing bulkhead. (Both the RCW's and WAC's emphasize shoreline land uses for single-family homes; however, the Shoreline Analysis appears to lessen those priorities as well as benefits of water usage and commercial development. There is a conflict between adding vegetation waterward and water usage. Limbs, branches, roots, milfoil, lily pads, and reeds are not conducive to water usage. There is also a conflict with how much shading is required and how close to shore it should be not to mention that much of the vegetation suggested would block views of neighboring properties as wells as the subject property.)
- **Shoreline Stabilization.** The Guidelines contain specific standards addressing shoreline stabilization. The Guidelines make clear distinctions between hard structural shoreline stabilization (not preferred), such as a bulkhead or concrete wall and soft shoreline stabilization (preferred), such as a mix of gravels, cobbles, boulders, logs and native vegetation. New hard structured shoreline stabilization is only to be allowed if soft shoreline stabilization is not feasible for adequate protection of existing adjacent (upland) structures. (I've already expressed my opinion about trying to prevent "no net loss" with piecemeal-patchwork approaches. Since new regulations can only be applied if the property becomes subject to the shoreline development process that already exempts single-family homes, property repairs, docks and bulkheads, total shoreline restoration is almost impossible. Many property owners are satisfied with what they have. So to put the onus on only those who fail to qualify for one of the exemptions is not realistic and will not achieve "no net loss." It will go by the wayside just like what happened with concomitant agreements.)

## 2. Critical Areas Regulations

Under WAC 173-26-221(2), the City's SMP must provide for management of critical areas. The City's current SMP contains no critical area management standards. The City's city-wide critical area ordinance (CAO) was adopted in 2003 which predates the issuance of the Department of Ecology's Western Washington Wetland Rating System and DOE's issued guidance for management of wetlands. Critical area ordinances must also meet the Best Available Science (BAS) as defined in WAC 365-195-905 when amending the critical area regulations.

Critical area regulations need to be added to the new SMP that reflect an updated rating system and BAS. (No problem. Just do it or tell the state you will include critical area protections at a date set in the future. It's not like we don't protect the critical areas now.)

### 3. Puget Sound Salmon Recovery Plan

In 2005, 27 local governments, including Kirkland, ratified the Lake Washington/Cedar/Sammamish Watershed (WRIA 8) Chinook Salmon Conservation Plan. This plan, together with other plans prepared throughout the Puget Sound region, became part of the official Puget Sound Salmon Recovery Plan approved by NOAA Fisheries Service in 2007. WRIA 8's efforts at the local jurisdiction level focus on the conservation and restoration of salmon habitat. For Lake Washington nearshore areas, the WRIA 8 key recommendations are to reduce bank hardening, restore overhanging riparian vegetation, replace bulkheads and rip-rap with sandy beaches and gentle slopes, use plastic mesh rather than solid wood dock surfaces and reduce the number of docks for more shared docks. The SMP needs to reflect the commitment that the City has made to regional Salmon recovery efforts. (Just inform the state Kirkland will comply with the recovery plan as necessary.)

### 4. Consistency with the Zoning Code and State and Federal regulations

The current SMP was adopted in 1974 and has rarely been amended because of the comprehensive amendment process established by DOE. The current SMP contains a combination of goals, policies and shoreline regulations. There are inconsistencies between the current SMP and regulations found in the Zoning Code that need to be resolved. Also, the SMP does not reflect the new standards for dock construction and hard structural shoreline stabilization from the Washington State Department of Fish and Wildlife and the US Army Corps of Engineers that have jurisdiction over shoreline development, and the Puget Sound Salmon Recovery Plan as discussed above. (With all the requirements the city and other agencies have required of me in the past, it's hard for me to comprehend the conclusion of this statement. Zoning code or not, I had to comply. Changing the zoning code to comply with Federal, State, County, and City requirements seems unnecessary other than to prevent a conflict that is easily fixed. Who knows, it may also prevent contentious meetings and possible lawsuits.)

In a message dated 10/20/08 15:45:00 Pacific Daylight Time, [EShields@ci.kirkland.wa.us](mailto:EShields@ci.kirkland.wa.us) writes:

Bob,

Attached is a document that provides a general explanation of why the City must update our Shoreline Master Program. The City has been preparing background information and new shoreline policies for a number of months. We are now working on the more difficult and controversial task to preparing new shoreline regulations. The final document must of course meet state statutes and administrative codes. However, it is our intent to create a document that recognizes the largely built-out nature of Kirkland and does not make unreasonable demands on property owners. At the same time, it is likely that significant new development/ redevelopment will be encouraged or required to retrofit shoreline improvements, such as bulkheads, with more natural improvements. There's lots more work to do before we figure this all out. Finding the proper balance will be a major challenge of the work ahead. I appreciate your concerns, but ask that you stay involved in the process and work and help the Planning Commission find that balance

**Eric Shields**

Director  
Kirkland Dept. of Planning & Community Development

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**From:** RLSTYLE [mailto:rlstyle@aol.com]  
**Sent:** Wednesday, October 15, 2008 1:39 PM  
**To:** Eric Shields  
**Cc:** KirklandCouncil; Teresa Swan; Robin Jenkinson  
**Subject:** Shoreline update

Eric:

Using myself as an example, as someone who lives on the shoreline who's been hit with great expenses for three projects in order to comply with federal, state, county, and city codes under the Shoreline Management Program in the past 22 years, I don't see much difference between current rules and what is required by RCW and WAC regulations. Some other jurisdictions may not have kept up with the shoreline changes but Kirkland has.

My last effort to extend my dock cost me \$36,000 of which \$24,000. \$12,000 was in construction. The expense included new hydraulic study that was unnecessary because neighboring studies could have been used.

There are so many exemptions to the Substantial Development Permit requirements including bulkheads, docks, single-family homes improvements, and improvements that enhance fish habitat all of which are reviewed by a multitude of agencies, what the city is doing to "update" their Shoreline Management Program is a waste of time and money. We are already in compliance. All the city is doing is using a blanket request by DOE to impose new regulations that are not necessary.

You will eventually have to put your name on the memos to the Planning Commission and to the Council. It's time you to step in and put an end to unnecessary staff reports, meetings, and costs. Using previous historical data from projects reviewed by the city, you need cite them and stop avoiding your responsibilities as Planning and Community Development Director. You need to recommend to council that the city sends DOE a response that shows Kirkland is already in compliance with federal and state laws.

Sincerely,

Robert L. Style  
6735 Lake Washington Blvd, NE  
Kirkland, WA 98033

**From:** Daved [Daved@waterfrontconstruction.com]  
**Sent:** Wednesday, October 22, 2008 9:23 AM  
**To:** Cathy Beam; MPaine@bellevuewa.gov; Peter Rosen; jding@ci.kenmore.wa.us; EConkling@ci.renton.wa.us; mvannostrand@ci.sammamish.wa.us; Margaret.glowacki@seattle.gov; mhgreen@comcast.net; Harry.reinert@kingcounty.gov; SBennett@ci.lake-forest-park.wa.us; Paul Stewart; travis.saunders@mercergov.org; Jean.White@kingcounty.gov; george.steirer@mercergov.org; Burcar, Joe (ECY); Matt.torpey@mercergov.org; Teresa Swan; Stacy Clauson; Robert Grumbach; Skowlund, Peter (ECY)  
**Cc:** becky@marinellc.com; eride@msn.com; raa@vnf.com; Mark Nelson; donovan@donovantracy.com; vanskamok@verizon.net; Steve; Alan Foltz; Derek Jennings; Phil  
**Subject:** RESULTS OF MEETING WITH DEPT OF ECOLOGY ON 10/17/2008 REGARDING SMP UPDATES

Dear Local Planner, SMP Point of Contact and Other Interested Parties,

We (Waterfront Construction Permit Department) had a very productive and cordial meeting with Mr. Peter Skowlund and Mr. Joe Burcar from the WA Department of Ecology (DOE) on 10/17/2008 to discuss concerns on the direction and implementation of SMP Updates for Lake Washington and Lake Sammamish communities. We were presented with a draft of a 7 page letter that DOE has or will be distributed to each local government to address questions and concerns received by DOE over the past several months. We want to express our thanks to Mr. Skowlund and Mr. Burcar for listening to our concerns and acknowledging that there may have been some misunderstanding in that pier and bulkhead projects permitted and constructed over the past 5 to 10 years have actually resulted in improvements over previously existing conditions and impacts on listed species, critical habitat and ecological functions. The meeting was very cordial with some healthy discussion at times but DOE was very open to our thoughts and ideas and pleased to hear that positive changes had already been implemented. We also want to acknowledge and thank Becky Henderson of Marine Restoration for attending the meeting and providing valuable insight.

Below are the most important items discussed at the meeting and provide a quick review. Essentially, DOE agrees that local governments should provide an alternative process for redevelopment as long as they can support a "no net loss of ecological functions". The information below is provided based on our meeting with DOE and review of their letter addressing questions and concerns. This is written from my recall of the meeting and if you have any questions you should consult with Mr. Skowlund or Mr. Burcar or review the Fall 2008 Guidance letter regarding validity of the information. I am also forwarding this to Mr. Skowlund and Mr. Burcar so the process remains as transparent as possible.

It is vital that those jurisdictions further along in the process (Redmond and Lake Forest Park) reconsider their development standards, especially for redevelopment of existing structures in light of the fact that projects can likely exceed previously promoted RGP-3 or other standards and still arrive at a "no net loss" outcome. Choosing no to do so will result in a local SMP falling well short of serving the best interests of your property owners living within 200 feet of the shoreline while still meeting the intent of "the act".

- In the letter from DOE to local governments "no net loss" is defined as, "through implementation of the updated SMP, the existing condition of shoreline ecological functions should remain the same or be improved over time". This goal is not solely based on guidelines contained in the RGP-3 for piers or in any type of literature targeting the removal or prohibition of bulkheads. For piers, this opens the way for new structures and more importantly the redevelopment of existing structures, regardless of size, as long as "no net loss" can be proven. For bulkheads, the same is true as long as a new bulkhead or repair or replacement of an existing bulkhead can prove "no net loss". As a result, we believe "no net loss" can be established for nearly every redevelopment project and some new development projects by evaluating them at face value and without the need for costly consultation being placed on the local government or property owners. This is great news for everyone and should alleviate the need for a costly geotechnical analysis borne by a property owner to justify a bulkhead repair or replacement.

The management strategy discussed at the bottom of page 3 of the Fall 2008 Guidance is and will be met on nearly all recent and future redevelopment projects and will actually result in a “net gain” or “restoration” of ecological functions at a specific site and therefore contribute positively to the ecological functions of the entire jurisdiction. Redevelopment meeting such a strategy should be encouraged both by local government and DOE as a means of meeting goals. At the top of page 4 the Guidance states, “Ecology suggests that local governments clearly distinguish between new and redevelopment standards to ensure adequate protection of existing ecological functions”. Redevelopment with reasonable and flexible site specific standards offers the best opportunity to do such a thing. \_\_

#### RESULTING ACTION/RECOMMENDATION:

We can provide drawings for projects on Lake Washington and Lake Sammamish that have been approved at local, state and federal regulatory levels which exceed the guidelines of the RGP-3 but received the same effects determination of the RGP-3; “may affect, not likely to adversely affect” listed species and/or their critical habitat. There are projects that were approved through the RGP-3 (complying and non-complying), Letter of Permission, and Individual Permit processes at the Corps with all rendering the same result. Some of these have had Biological Evaluations completed to meet Section 7 Consultation requirements under the ESA. We also have drawings for bulkhead replacement projects approved by local, state and federal regulatory agencies where in each and every case a “no net loss” declaration would be met. We are willing to provide local governments with examples of such projects if requested.

If each redevelopment project is an improvement over existing conditions, because Lake Washington and Lake Sammamish are highly developed and “built out”, the goal of a Cumulative Impact Analysis to assure “no net loss” will be naturally attained, whether the project involves replacement of a pier or bulkhead with a more environmentally friendly design.

The only way for local governments to accurately inventory the existing conditions would be to attain the existing amount of overwater coverage for docks in each zone and total them. This would serve as a baseline for future development and redevelopment. Short of doing such, the burden would be unfairly placed on property owners to prove their project has “no net loss”. This would hold true for bulkheads also and would support the redevelopment of such structures, especially where they are being replaced with a fish friendly design, shifted landward, involve a partial coved area or full removal, or include fill to provide shallow nearshore fish habitat and erosion protection at the base of the structure. Many bulkheads are not candidate for removal and very few property owners are willing to do a total removal but many are open to considering a combination of elements resulting in improvements that meet the “no net loss” goal. The requirement for any type of geotechnical analysis to justify a repair or replacement of an existing bulkhead places an undue and costly burden on the property owner. If a bulkhead repair or replacement shows that “the existing shoreline ecological functions” it should be accepted and encouraged at face value through consultation with a local planner who understands the intent of the SMP.

Local SMP Updates, regardless of how far along in the SMP update process they are, should implement a process for redevelopment and new development by understanding the system of checks and balances in place at the state and federal regulatory levels. Although these responsibilities cannot be handed over to other regulatory agencies, reviewing and acknowledging the most problematic issues and elements in order to avoid the same mistakes should be a primary goal of local government and DOE. A strong example are the planting plans required for offsetting impacts from nearshore and overwater development which are reviewed by qualified state and federal biologists at 4 agencies (WDFW, Corps of Engineers, NOAA- Fisheries and U. S. Fish and Wildlife) familiar with the most productive riparian and emergent plant species to benefit fish life. Placing a blanket requirement in the SMP for a 10’ strip of riparian plantings across the entire width of a property is counterproductive, overly restrictive and unnecessary. If a planting plan is required for a project then the plan approved by state and federal agencies should be accepted by local government. This will establish consistent planting plans over a wide area and have the most effect.

- One point of disagreement at the meeting is the need for specific development standards. We believe standards may tend to be overly restrictive as already witnessed and force applicants to go through a shoreline variance process or avoid making improvements that would otherwise be made. DOE does not want the SMP Update process to result in additional variances and during our discussion the agency understood how this would be the natural fallout of overly restrictive standards. They have asked us to provide them with a list of items that will most commonly push a project into a variance process and they will work with local governments to assess and try to avoid such.

There are only a couple local governments who currently have a maximum pier size; Bellevue through their CAO, Redmond and King County. There are others that have maximum pier widths; Bellevue, Kirkland, Medina, Mercer Island, Renton, and Seattle. There are a several who have a maximum "ELL" size or width; Bellevue, Mercer Island, Renton, and Seattle.

Based on projects permitted and built over the last 5 to 10 years, whether new development or redevelopment, structures approved in those jurisdictions having the least restrictive guidelines are not much larger and no more impacting than those built in other jurisdictions due to state and federal regulatory oversight through permitting processes at the Corps of Engineers and WDFW. With very few exceptions, because improvements were made at each site through mitigation, a determination of "may affect, not likely to adversely affect", the same determination being used by DOE to support a "no net loss of ecological functions" was established. This means that local governments do not need to be overly restrictive and the standards in their existing SMP's are already working.

Changes, including more restrictive pier sizes, lengths or widths of walkways or "ELLS" would be counterproductive. A good example is the City of Sammamish which is not limiting pier size, but is trying to limit pier length to the average of the 2 adjacent piers. This is problematic in and of itself. A better solution is to place a maximum pier length or water depth, whichever is reached first, in order to respect the conditions specific to each site and limit shoreline variance opportunities. Similar to Mercer Island, if adequate water depth is not reached there is a caveat to allow the pier to extend further to reach that point. This type of development standard is flexible and avoids shoreline variances with rare exceptions; the goal of the variance process. It also promotes the "no net loss" requirement.

#### RESULTING ACTION/RECOMMENDATION:

The goal of "no net loss" can be met without overly restrictive development standards as a part of your SMP update. The City of Sammamish, although containing a couple of standards that are problematic and we hope to discuss and work out a solution, has the right idea and during their presentation the biological consultant stated something to the effect of "with the state and federal regulations in place they did not see a need to be overly restrictive on pier sizes in their SMP". This is a healthy approach although we do not know how it will be received by DOE.

- DOE expressed a lack of knowledge of how the Building Code and other zoning regulations must be met in a coordinated effort for each project and displayed a willingness to take this into consideration. Building load requirements preclude some of the design standards included in the RGP-3 and some of the proposed SMP updates from being met and are problematic. Although not discussed at the meeting, this includes a recommendation from the biological consultant to the City of Sammamish Planning Commission to require untreated materials to be used in the aquatic environment and on materials exposed to weather in the case of new and replacement piers. This includes all materials associated with pier construction but under the Building Code wood exposed to weather is required to be treated with a preservative. Aquatic wood preservatives are approved by state and federal regulatory agencies, fully cured before installed, and result in extended life to minimize impacts from additional construction over a longer time period. As a result, I spoke with the Executive Director of Western Wood Preservers Institute in Vancouver WA (responsible for research, testing and standards for treated wood) and based on conditions for Lake Washington and Lake Sammamish he said untreated wood will be structurally sound for 4 to 7 years versus 30+ years for treated wood and for natural treated wood like cedar it is closer to 8 to 10 years versus 30+ years. This alone supports the use of wood that is treated professionally and according to conditions from state and federal regulatory agencies.
- Although there was limited discussion on bulkheads due to time restraints, but page 6 of the Guidance letter states DOE would be in support of partial restoration of shorelines where improvements over existing conditions are achieved.

Our company would be very interested in meeting with any planners or SMP contacts to discuss the positive direction DOE has moved in as stated in the Fall 2008 Publication regarding SMP Issues Sent to Local Governments. We believe this was generated in response to many seeing a problem with how things were being done and the reality of restricting or taking of property rights. We believe this document also gives local planners and SMP update personnel more latitude and breathing room to establish a less restrictive and more flexible SMP in regard to piers and bulkheads. Waterfront property owners will be better served by this new approach.

Our goal is to support the rights of property owners, sustain the health of the marine permitting and construction industry, work in a spirit of cooperation with local governments by sharing our 40+ years of permitting and construction experience with local, state and federal regulatory agencies, respect the goals of DOE through the

SMP update process, protect the marine environment, and achieve a winning outcome for all interested parties. Our closest relationships are with individual property owners and local governments but through the recent meeting with DOE we hope to establish a much closer working relationship with the agency. It is through mutual respect and understanding that we can work as a team on this sensitive and important issue and serve the citizens of our state.

Our thanks to Mr. Skowlund and Mr. Burcar and those local governments who have already made us a part of their update process. Please contact me if you would like to discuss SMP issues for permitting or construction. My office number is 425-357-0312 or cell is 206-786-6470.

Sincerely,

Dave Douglas  
Permit Coordinator  
Waterfront Construction, Inc.

**From:** Daved [Daved@waterfrontconstruction.com]  
**Sent:** Wednesday, October 22, 2008 2:56 PM  
**To:** Daved; Cathy Beam; MPaine@bellevuewa.gov; Peter Rosen; jding@ci.kenmore.wa.us; EConkling@ci.renton.wa.us; mvannostrand@ci.sammamish.wa.us; Margaret.glowacki@seattle.gov; mhgreen@comcast.net; Harry.reinert@kingcounty.gov; SBennett@ci.lake-forest-park.wa.us; Paul Stewart; travis.saunders@mercergov.org; Jean.White@kingcounty.gov; george.steierer@mercergov.org; Burcar, Joe (ECY); Matt.torpey@mercergov.org; Teresa Swan; Stacy Clauson; Robert Grumbach; Skowlund, Peter (ECY)  
**Cc:** becky@marinellc.com; eride@msn.com; raa@vnf.com; Mark Nelson; donovan@donovantracy.com; vanskamok@verizon.net; Steve; Alan Foltz; Derek Jennings; Phil  
**Subject:** ADDITIONAL NOTE ON RESULTS OF MEETING WITH DEPT OF ECOLOGY ON 10/17/2008 REGARDING SMP UPDATES  
**Attachments:** Corps of Engineers RGP-6 Mitigation Offset Section and Table 003.jpg; Corps of Engineers RGP-6 Mitigation Offset Section and Table 004.jpg; Corps of Engineers RGP-6 Mitigation Offset Section and Table 005.jpg; Corps of Engineers RGP-6 Mitigation Offset Section and Table 006.jpg

Hi Everyone,

I failed to mention an important item we discussed during the meeting with DOE.

We discussed a Mitigation Offset Schedule to credit property owners with removal or modification of existing structures similar to what is offered in the Corps RGP-6 for Overwater Structures in Marine Waters. The Corps did not provide this same opportunity to applicants in the RGP-3 but consider the removal of existing structures although there is no method or documentation for how this is done. It also calculates the amount of mitigation points required to offset impacts from new structures. This chart could be modified in some way to fit projects specific to Lakes Washington and Sammamish.

A Mitigation Offset Schedule would provide a tangible and documented way for local planners and DOE to compare existing with proposed structures and proof that a project results in no net loss.

I have scanned and attached the pages from the Corps RGP-6 for your review.

Thanks,  
Dave Douglas

---

**From:** Daved  
**Sent:** Wednesday, October 22, 2008 9:16 AM  
**To:** 'Cathy Beam'; 'MPaine@bellevuewa.gov'; 'Peter Rosen'; 'jding@ci.kenmore.wa.us'; 'EConkling@ci.renton.wa.us'; 'mvannostrand@ci.sammamish.wa.us'; 'Margaret.glowacki@seattle.gov'; 'mhgreen@comcast.net'; 'Harry.reinert@kingcounty.gov'; 'SBennett@ci.lake-forest-park.wa.us'; 'Pstewart@ci.kirkland.wa.us'; 'travis.saunders@mercergov.org'; 'Jean.White@kingcounty.gov'; 'george.steierer@mercergov.org'; 'Burcar, Joe (ECY)'; 'Matt.torpey@mercergov.org'; 'tswan@ci.kirkland.wa.us'; 'Stacy Clauson'; 'Robert Grumbach'; 'Skowlund, Peter (ECY)'  
**Cc:** 'becky@marinellc.com'; 'eride@msn.com'; 'Mark Nelson'; 'donovan@donovantracy.com'; 'vanskamok@verizon.net'; Steve; Alan Foltz; Derek Jennings; Phil  
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**RESULTING ACTION/RECOMMENDATION:**

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Sincerely,

Dave Douglas  
Permit Coordinator  
Waterfront Construction, Inc.

**From:** Paul Stewart  
**Sent:** Tuesday, November 04, 2008 8:41 AM  
**To:** Teresa Swan; 'CLAUSON Stacy A'  
**Subject:** FW: Kirkland Shoreline Master Plan

---

**From:** Mark Nelson [mailto:nelsonmb@gte.net]  
**Sent:** Monday, November 03, 2008 8:44 PM  
**To:** drsmithortho@aol.com  
**Cc:** Paul Stewart  
**Subject:** RE: Kirkland Shoreline Master Plan

Dr. Smith, thanks for letting me know.

The person to direct your comments to is Paul Stewart, City of Kirkland Deputy Planning Director.

I have copied Mr. Stewart on this e-mail.

---

**From:** drsmithortho@aol.com [mailto:drsmithortho@aol.com]  
**Sent:** Wednesday, October 22, 2008 5:03 PM  
**To:** nelsonmb@gte.net  
**Subject:** Kirkland Shoreline Master Plan

I own waterfront property in Kirkland, and I am VERY concerned about the proposed Shoreline Master Plan Update. Specifically the provision that would allow the City of Kirkland to REQUIRE modifications to EXISTING bulkheads before granting many building permits.

This is an UNACCEPTABLE provision, unnecessary and excessive.

I ask that it be stricken from the final form of the plan.

Thank you.

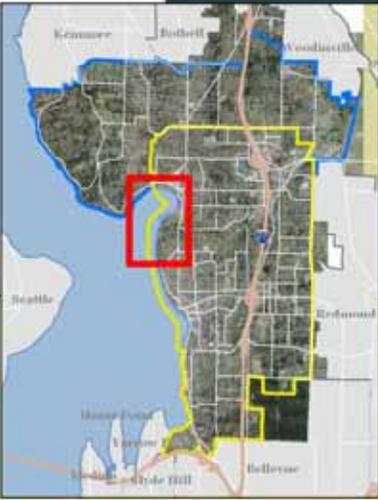
Dr. Craig Smith  
535 5th Ave W.  
Kirkland, WA 98033





  
 0 250 500  
 Feet  
 Scale 1" = 500'

NOTE: In the event of a mapping error or ambiguity, the common boundary descriptions and criteria contained in RCW 90.58.030 (2) and Chapter 173-22 WAC pertaining to determinations of shorelands, as amended, shall apply, superseding the incorrect or outdated map.



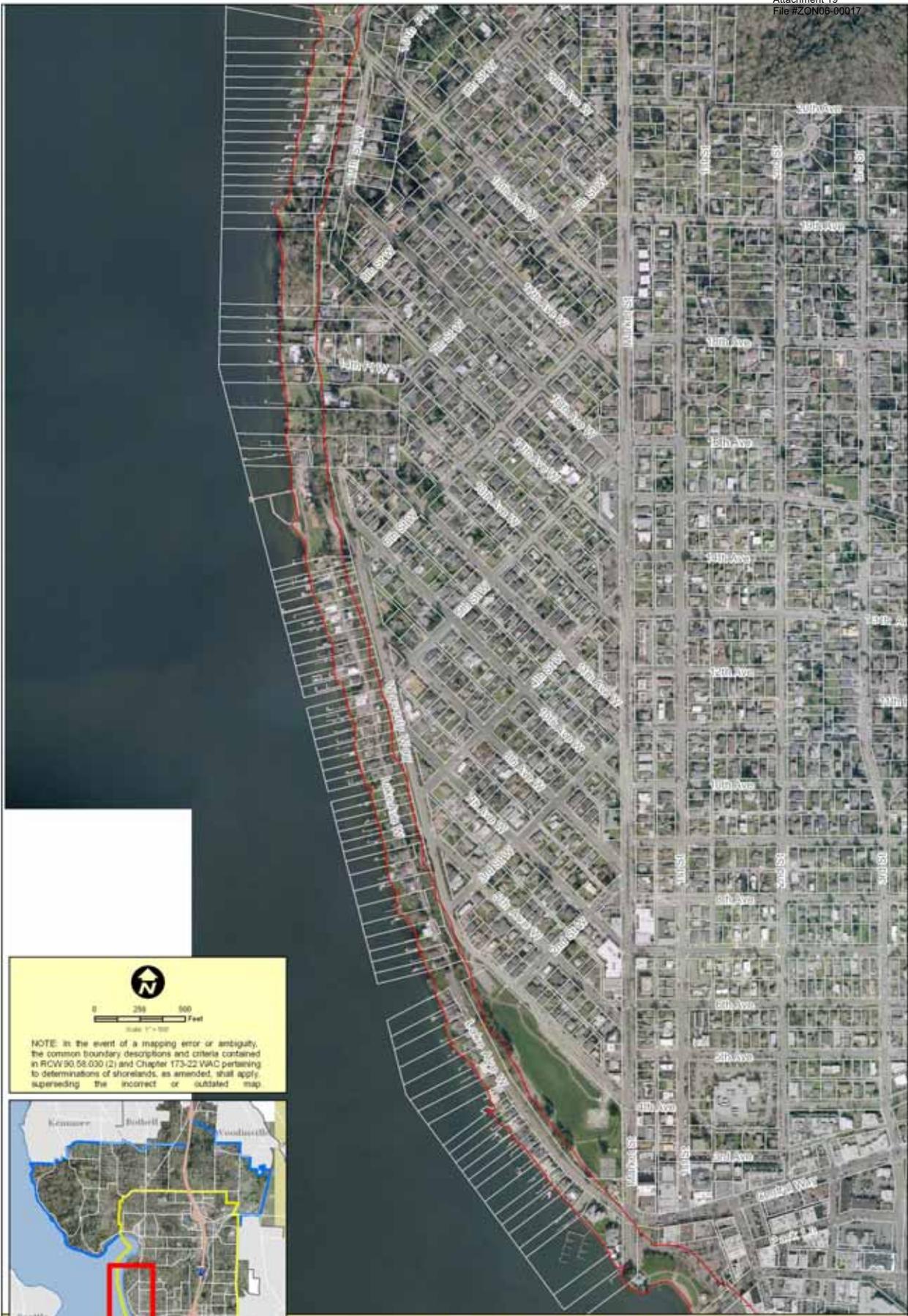
**Shoreline Jurisdiction Determination**  
*Shoreline Master Program - City of Kirkland*

 Shoreline Management Area  
 Tax Parcels



Figure Xa

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 0 250 500  
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**Shoreline Jurisdiction Determination**  
*Shoreline Master Program - City of Kirkland*

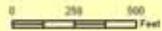
 Shoreline Management Area  
 Tax Parcels



**Figure Xb**

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 Scale: 1" = 500'

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**Shoreline Jurisdiction Determination**  
*Shoreline Master Program - City of Kirkland*

 Shoreline Management Area  
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**Figure Xc**

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