



MEMORANDUM

To: Planning Commission

From: Teresa Swan, Senior Planner
Paul Stewart, Deputy Director of Planning

Date: August 18, 2010

Subject: **Amendments to the Kirkland's Shoreline Master Program (SMP) and Zoning Code for the Annexation Area, File No. ZON06-00017**

TABLE OF CONTENTS

Section	Topic	Page #
I.	Recommendation	1
II	Introduction	2-5
III.	Schedule	5-6
IV.	SMP Components and Regulations that Need or May Need Amending	6-13
V.	SMP Components or Regulations that Do Not Need Amending	13-16
VI	Miscellaneous Zoning Code Amendments	17-18
VII	Attachments	18

I. RECOMMENDATION

Staff recommends that the Planning Commission review the recommendations in this staff memo and provide staff with direction.

II. INTRODUCTION

BACKGROUND

A. City's Shoreline Master Program

In 2005, the City began its Shoreline Master Program (SMP) update project, starting with the Shoreline Analysis Report, a tour of the shoreline, an open house and a public outreach survey. Over the course of several more years, the Planning Commission held study sessions and hearings on new goals and policies, shoreline regulations, a Shoreline Restoration Plan and a Cumulative Impact Analysis along with additional open houses, a workshop with property owners and a study session with a focus group of interested parties. Following public hearings both the Planning Commission and Houghton Community Council recommended approval. On December 1, 2009, the City Council adopted a resolution of intent to approve the SMP update and subsequently the SMP update was transmitted to the Department of Ecology for approval.

Following a 7-month process, on July 26, 2010, DOE approved the City's SMP update with a few required minor changes to the shoreline regulations (see Attachments 1 through 4). The changes included minor corrections and clarifications recommended by City staff, assigning numbers to the new plate graphics, and minor changes to the shoreline permitting procedures to reflect a recent house bill passed by the State legislature in June 2010. The changes did not involve any policy issues. DOE agreed with the City's proposed standards for shoreline setbacks, shoreline vegetation planting and tree retention, piers and docks, shoreline stabilization and critical areas.

On August 3, 2010, the City Council approved [Ordinance 4251](#) codifying the SMP update and authorized the Mayor to sign a letter on behalf of the City Council agreeing to the minor changes to the SMP required by DOE. Ordinance 4251 included the changes to the shoreline regulations (see Attachment 5). The effective date of the SMP is August 5, 2010, the date in which we received confirmation from DOE of receipt of the letter from the City agreeing to the changes.

Ordinance 4251 included the following SMP update components:

- **Goals and policies in the Shoreline Chapter** in the Comprehensive Plan
- **Chapter 83** (shoreline regulations) and **Chapter 141** (shoreline administration) in the Zoning Code
- **Shoreline Environment Designations Map** that functions like a zoning map
- **Shoreline Analysis Report** dated December 1, 2006 (existing shoreline conditions, including shoreline hardening/bulkheads, piers, structure setbacks, vegetation, and paved areas used as a baseline to measure future improvements to the ecological function of the shoreline)
- **Restoration Plan** (public and private programs and projects that will improve the shoreline over the next 20 years)

B. SMP Update and Annexation Area

The City will annex the neighborhoods of Finn Hill, Juanita and Kingsgate on June 1, 2011. The City needs to amend its SMP to incorporate the annexation shoreline area into the SMP documents (see Attachment 6). The needed changes to the SMP include:

- Determining the appropriate shoreline environment designations for the area
- Considering the annexation shoreline area in the Cumulative Impact Analysis and in the Restoration Plan
- Evaluating the shoreline regulations to determine if any amendments are needed to address existing conditions and future development potential in the annexation area.

In addition, Zoning Code amendments are needed to the use zone charts for the annexation area to be consistent with the new shoreline regulations. These Zoning Code amendments are not under the jurisdiction of the Department of Ecology.

The annexation area was included in the City's 2006 Shoreline Analysis Report so this document does not need to be updated.

DOE must approve any amendments to the SMP update. Once the City approves the amendments, the changes are transmitted to Ecology for final approval. Their review process takes 7 to 8 months, although City staff hopes that the process will take less time since the changes will not be significant and it is anticipated that only a few changes to the regulations will be necessary.

C. King County's SMP Update Process

King County is currently in the process of preparing its SMP update that includes the annexation area. In fact, King County has been working on the SMP update for several years and sent a draft to the County Council in November 2009. However, with the change in County Executive, County staff decided to hold off further review until the new County Executive was in office. They anticipate transmitting their SMP update to Ecology by fall 2010 and think that they will have approval by spring 2011 or early summer. King County has held open houses and workshops on their SMP update and indicated that they had sent out notices to shoreline property owners.

If Kirkland's SMP is not amended and receive DOE approval by June 1, 2011, the date of annexation, the City must implement the County's SMP. The City has several reasons for not wanting to implement the County's SMP, including that the County shoreline regulations would not be consistent with the City's Zoning Code, the City would be enforcing shoreline regulations that it did not review and approve, and City staff would have to become familiar with and determine how to apply the County regulations.

One of the most significant concerns about the County SMP is that the County uses a critical area buffer for a lake of 115' as its shoreline setback that does not reflect existing conditions. The buffer can be reduced through various provisions with required mitigation, both of which

are determined on a case-by-case basis for individual properties. This approach gives property owners no assurance up front as to what their shoreline setback and native vegetation requirement would be, and will be difficult and time consuming for staff to implement.

DESCRIPTION OF ANNEXATION AREA

The current city limits has almost twice the shoreline linear miles as the annexation area, but the annexation area has more individual lots because Kirkland has extensive shoreline areas in public shoreline parks. The following is a comparison of statistics from the 2006 Shoreline Inventory for Kirkland as compared to the annexation area:

Comparison	Existing Kirkland	Annexation Area
Linear miles of shoreline	6.1 linear miles	3.9 linear miles
Acres of shoreline	233.7 acres	88.4 acres
Number of lots	336 lots	344 lots
Acres of shoreline parks	132.7 acres	7 acres
Shoreline armoring (bulkheads)	60% armored (lower because of the parks)	76% armored

The annexation area is composed almost entirely of single-family homes with only 3 multi-family lots in the southeastern end of the annexation area adjacent to Juanita Beach Park. There is one public park slightly south of center along the shoreline: O. O. Denny Park has approximately 1,000 linear feet of waterfront along Lake Washington. The park is owned by the City of Seattle and is managed by the Finn Hill Park District. It does not have a pier, but does have a bulkhead, and lawn and picnic areas.

Due to the location of public roads, topography and the history of land platting, there is great variation in lot depth (approximately 80’ to 800’ in depth) and in structure setbacks (0’ to over 200’). Long private roads serve many of the lots (see Attachments 7-9).

In terms of future development in the annexation area that may impact the shoreline, many homes are older and are likely to be rebuilt. This will have implications in meeting the No Net Loss standard, a provision in the 2003 State Guidelines for the Shoreline Management Act to prevent further degradation of the shoreline’s ecological function. The impacts would be from reduced shoreline setbacks and vegetation, and increased impervious surface and possibly lighting.

Only a few new shoreline lots will be created through future subdivisions that would abut the lake because existing lots tend to be narrow and deep. Most of the new lots created by future subdivisions will be upland lots that do not have the degree of impact to the ecological function of the lake as new lots that abut the shoreline (see Attachment 10). Thus, the greatest impact to the lake in the annexation shoreline area will be redevelopment of existing homes rather than newly created shoreline lots.

Below is a summary of future development potential in the annexation area:

- 12 vacant lots that abut the lake

- 5 new lots through subdivisions that would abut the lake (must have shared piers)
- 99 homes likely to redevelop over the next 20 years based on the age of the home and the values of the home to value of the lot ratio (used same threshold for the SMP update)
- 11 new piers (existing lots or redevelopable lots do not have a pier)

Limited public views are available from adjacent public rights-of-way due to topography, many deep lots, existing vegetation and the location of public roads. Public access is only available at O. O. Denny Park and at a couple of street ends north of the park. King County does not require public pedestrian access for new developments south of the CBD as does the City.

The annexation area has some differences in its overwater structures compared to the City. Unlike Kirkland, there are many boat houses, boat carports and boat canopies, some shared piers and a few properties with more than one pier. The annexation area has no overwater residences as Kirkland has south of its Downtown area.

There are no major wetland systems along the annexation's shoreline area like Kirkland's Juanita Bay and Yarrow Bay. However, several streams in the annexation area outlet at Lake Washington and contain fish.

III. SCHEDULE OF SMP AMENDMENT PROCESS

Due to the pending annexation on June 1, 2011 and DOE's 7-8 month review process for SMPs, we will have limited time to consider any needed changes. However based on staff's analysis at this point, it appears that there may only be a few policy decisions that need to be made. Most of the important and complex policy decisions were made with the City's SMP update that still will apply to the annexation area.

Here is the proposed schedule of meetings and topics:

- August 26, 2010 – shoreline environment designation map, initial shoreline setback discussion, piers/docks, stream buffers, views and public access, shoreline stabilization, non-conformances, shoreline native plantings and tree removal standards, general shoreline regulations, goals and policies, revised Restoration Plan, and miscellaneous Zoning Code Amendments. Most of these topics do not require amendments to the SMP.
- September 23, 2010 – shoreline setback recommendation, private float planes, minor amendments to Chapter 83 for corrections and clarifications, revised Cumulative Impact Analysis, and follow-up from August 26th meeting.
- October 14, 2010 – public hearing and any follow-up from the September 23rd meeting.
- October 28, 2010 – final recommendation unless done after the October 14, 2010 hearing.
- November 18, 2010 – City Council Intent to Adopt. SMP amendments would then be

transmitted to DOE for final approval.

Staff proposes an open house from 6-7pm before the study meeting on September 23rd and the public hearing on October 14th. The City sent a postcard notice in mid July to all property owners within the shoreline jurisdiction of the annexation area that included the dates of the upcoming Planning Commission meetings and open houses, and information about the amendment process. Since King County already has had open houses and workshops for the property owners and only a few changes to the City SMP are likely, staff believes that two open houses are appropriate and adequate.

IV. SMP COMPONENTS AND REGULATIONS THAT NEED OR MAY NEED AMENDING

After review of the City's SMP components and study of the annexation area, staff has concluded that the following SMP components will need to be or may need to be amended to incorporate the annexation area. In addition, now that staff is reviewing development proposals using the new shoreline regulations, staff is identifying some minor corrections and clarification that should be made to Chapter 83. This would be the appropriate time to make minor follow-up amendments to the shoreline regulations in Chapter 83 as part of the SMP annexation update.

A. Shoreline Environment Designations Map

The Shoreline Environment Designations Map is the graphic representation of the City's shoreline regulated by Chapter 83 and relates to the management policies and regulations in the Shoreline Area Chapter of the Comprehensive Plan.

The 2003 State Guidelines, adopted a few years ago to further implement the 1971 Shoreline Management Act and to work towards achieving the directive of the 2005 Puget Sound Salmon Recovery Plan, describe the characteristics of each shoreline environment. Section 83.90 of the new shoreline regulations lists these characteristics by environment that includes Natural, Urban Conservancy, Residential-Low, Residential-Medium/High, Urban Mixed and Aquatic (lake).

The single-family and multi-family lots in the annexation have the same shoreline environmental characteristics as the single and multifamily lots in the City. O. O. Denny Park matches the shoreline environment designation for Urban Conservancy which is the same designation for similar shoreline parks in Kirkland's. O. O. Denny Park does not meet the characteristics for either Natural or Urban Mixed shoreline environment designations.

Staff Recommendation: Staff recommends the Shoreline Environment Designations Map in Attachment 6 for the annexation area.

- **The single-family area would be designated as Residential-L.**
- **The 3 multi-family lots would be designated as Residential-M/H.**
- **O. O. Denny Park would be designated as Urban Conservancy.**

B. Shoreline Setback Regulations

1. **Shoreline Setback Standards in City SMP**

During the SMP update, the Planning Commission and staff spent more time discussing appropriate shoreline setbacks for each shoreline environment designation area than any other policy topic. The City's goal was to have the least number of non-conformances resulting from the new shoreline setback standard while still meeting the State's provision of No Net Loss of ecological function both on a site by site basis and overall along the Kirkland shoreline over the next 20 years and receiving DOE approval.

The final shoreline setback regulations had to balance the following issues. These same issues also apply to the annexation area:

- Receiving approval from DOE on the setback standard: DOE gave direction that generally, at least a **25' setback is needed** to provide adequate area for mitigating impacts to water quality and fish and wildlife and for native vegetation.
- Considering Existing Conditions: The approximate existing primary structure setback and the average parcel depth and width of every lot were measured. We found a range in all factors and by area of the city. Due to the considerable range in lot depth, an **average parcel depth percentage** was used as part of the proposed setback standard. A **minimum setback** was the other part of the setback standard.
- Providing a Setback Reduction Option: The shoreline setback regulations include an option to **reduce the shoreline setback** when done in conjunction with shoreline mitigation. A list of specific options is provided and the amount of shoreline setback reduction allowed (Section 83.390). The greatest reduction is provided when a bulkhead is removed and the least reduction is when additional lawn area is removed for native plantings.
- Meeting No Net Loss of Ecological Function: Many homes are located far back from the shoreline and will be able to move forward closer to the shoreline while many homes are located very close to the shoreline. As homes move forward, impacts will occur and the **No Net Loss** standard would not be met. The challenge was finding a setback standard that allows some homes to move towards the lake and require some homes to move back while trying to minimize the number of homes that become non-conforming by being in the required setback area. Staff referred to it as finding the "sweet spot."

The Cumulative Impact Analysis considered the existing and proposed setbacks, including the setback reduction option, the number of lots likely to redevelop based on age and values of the home, the ability to subdivide, the number of vacant lots and the offset of requiring native vegetation, new lighting standards, porous pavement and other mitigation, and the City proposed Restoration Plan to see if No Net Loss would be met. The analysis did determine that No Net Loss would be met over the next 20 years given the setback standards done in conjunction with new vegetation, lighting and other standards.

The shoreline setback standards in the City's SMP are as follows

- **Single-family (WDII zone):**
 - Area north of Lake Ave West St End Park: 30% of average parcel depth with 30' minimum and 60' maximum
 - Area north of CBD and south of Lake Ave West St End Park: Average setback of existing adjacent homes but no less than 15'. This is single family area of 19 lots with shallow lots and homes close to the water
- **Multi-family and Commercial (WDI, WDII, CBD, PLA 2 and 3, and JBD zones):** 15% of average parcel depth, but at least 25' (PLA 15A follows the Carillon Point Master Plan setbacks)
- **Setback can be reduced** down to 25' by implementing one or more measures from the setback reduction option list that improve the function of the shoreline (Section 83.380)

2. Shoreline Setback in Annexation Area

a. Preliminary Analysis

In considering the shoreline setback for the annexation area, it would be preferable to have the same setback standards as have been established in the City for ease of administration. However, it may be the case that the existing conditions in the annexation area are different enough to warrant a different set of setback standards.

Using orthophotos (aerial mapping) from the City's GIS files (Geographic Information System), GIS staff measured the approximate **existing setbacks for the primary structures and other improvements** from the shoreline and colored coded the setbacks into five groupings: less than 30 feet, 30-60 feet, 60-115 feet, 115-200 feet and greater than 200 feet. The maps reflect the wide range in setbacks, particular in the areas south of the park and in the northern portion of the annexation shoreline (see Attachments 7 and 8).

The next information needed to consider in determining an appropriate shoreline setback is the **average parcel depth**. Staff will not have the exact information until mid to late August because the City had to hire a consulting firm to correct the County parcel information in the annexation area. The County information has many errors with property lines shown in the middle of homes or in the right-of-way.

Using the aerial maps with property boundaries, staff has done an analysis of the setbacks and preliminary estimates of parcel depths to look for a pattern of development that may lead to a direction for the shoreline setback standards (see Attachment 9). Based on this analysis, staff has divided the shoreline into 4 study areas:

RM STUDY AREA: The 3 multi-family lots west of Juanita Beach have similar lot depths. Two of the lots have setbacks of about 45' while the third lot is for sale,

contains several older single-family homes that are vacant and will likely redevelop as multifamily.

Staff consideration: Staff is considering the existing 45' setback as the setback standard recommendation for these 3 lots with no average parcel depth percentage standard since the lots are similar in depth.

RS-1 and RS-4 STUDY AREAS: Single family areas south of O.O. Denny Park and in the northern section of the shoreline have a wide variety of lot depths and setbacks. Many lots have lot depths over 200 feet and many at 100 feet. Setbacks range from 6.4' to well over 200'. This is a greater variety of setbacks and lot depths than in the City. Only in the southern portion of RS-1 study area is the shoreline area adjacent to a major arterial. Private roads or minor neighborhood access streets serve most of the lots in these areas similar to the City's single-family waterfront area north of the downtown.

Staff consideration: Staff will look at both a 30' (same as the new City standard) and a 35' minimum setback for this area as we did with the analysis done for the SMP update. Due to the many deep lots, the maximum setback standard of 60' in the City for the single-family area may need to be increased to 80'. This will be determined with the final lot depth information and doing the Cumulative Impact Analysis.

Staff will do an analysis of the following setback options for the RS-1 and RS-4 study areas:

- 30' minimum and 60' maximum setback with 30% average parcel depth (City standard)
- 30' minimum and 60' maximum setback with 35% average parcel depth
- 30' minimum and 80' maximum setback with 30% average parcel depth
- 30' minimum and 80' maximum setback with 35% average parcel depth

RS-2 STUDY AREA: The single family area just north of the O.O. Denny Park containing 32 lots has a small range in lot depths at 110' to 150' and in setback at 4.5' to 48.9'. These lots abut Holmes Point Drive directly to the east, similar to the Lake Ave West area.

Staff consideration: Staff is considering a minimum setback of 30'. Staff may recommend an average parcel depth % standard once we have the average parcel depth information.

RS-3 STUDY AREA: The single family area north of the RS-2 study area contains 9 lots, 8 of which are small, narrow lots ranging in approximate size from 3,760 sq. ft. to 5,490 sq. ft. and setbacks ranging from 11.10' to 27.7'. One lot in the middle of the group is larger at 9500 sq. ft. but has a setback of 26.7 sq. ft. The lots in this study area are smaller in size and width than the single family area directly north of Kirkland's downtown and south of the Lake Ave West Street Park that has a special setback standard of a 15' minimum due to the close proximity of the homes to the shoreline and the shallow configuration of the lots.

Staff consideration: Staff is considering a minimum of 15' setback with no average parcel depth % standard.

Staff Recommendation: Staff will provide a recommendation on shoreline setbacks at the September 23, 2010 study session.

C. Stream Buffer Regulations

With the SMP update, the City incorporated the stream buffer width standards used in the City's current critical area ordinance of Chapter 90 in the Zoning Code. These standards were adopted before DOE required buffers to be based on "best available science" standards that result in greater stream buffer standards. DOE accepted the City's smaller stream buffer standards for the SMP update because all but one stream along the City's shoreline area are contained within wetlands and wetlands require a much wider buffer width than streams, and thus greater protection. Buildings at the Carillon Point Master Plan site surround the one stream not located in a wetland system. The site is fully developed and wider stream buffer standards could not be provided given existing site conditions.

The annexation shoreline area contains streams, but none of the streams are located in wetland systems. The County currently uses stream buffer standards based on the "best available science standards." The City's stream standards in Section 83.510 need to be amended to reflect the "best available science" standards. The stream buffer standards and classification system (Type F, N and O) adopted by King County and other jurisdictions should be used for streams in the annexation shoreline area (see Attachment 11). For wetland buffers, the City's SMP update did use the "best available science" standards adopted by King County and other jurisdictions.

The stream buffers in Chapter 90 KZC compared to those under the "best available science" standards would be as follows:

SMP stream buffers for existing SMP and Chapter 90 KZC	Amended SMP stream buffers for annexation area
<ul style="list-style-type: none"> • Class A buffer is 75' in primary basin • Class B buffer is 60' in primary basin and 50' in secondary basin • Class C buffer is 35' in primary basin and 25' in secondary basin <p>The shoreline streams are mostly Class A streams with a 75' buffer</p> <p>1/3 buffer reductions may be allowed</p>	<ul style="list-style-type: none"> • Type F stream is 115' • Type N stream is 65' • Type O stream is 25' <p>The shoreline streams are most likely Type F with a 115' buffer</p> <p>1/4 buffer reductions may be allowed</p>

Staff Recommendation: Revise Section 83.510 KZC to provide stream buffer width standards applicable to the annexation area that meet the "best

available science” standards found in the King County critical area ordinance and other jurisdiction (see Attachment 11).

D. Pier/Dock and Non-Conformance Regulations

The annexation has some non-conformances that are not found in the City that should be addressed in the pier/dock and non-conformance regulations of Section 83.270-280 and 83.550.

1. Boathouses, Boat Storage Structures and More than One Pier

The annexation area has many **boathouses and other types of covered moorage attached to piers or are on separate pier structures** starting at the ordinary high water mark (OHWM). These structures are large and have extensive overwater coverage that impacts the ecology of the lake and fish habitat. Based on GIS aerial maps, there appear to be approximately 28 boathouses and other similar covered structures.

Under the new SMP update, the City permits boat canopies of translucent material that provide boat and boat user’s protection. These canopies are acceptable to both the state and federal agencies and provide an alternative to boat house structures.

Some of the homes appear to have **boat storage structures in the shoreline setback**. Section 83.550.5.4) under *Certain Nonconformances Specifically Regulated* requires an accessory structure in the shoreline setback to be removed when a home is replaced or work is done that exceed 50% of the replacement cost of the primary structures. Since these boatsheds support and are related to the moorage facility, they should be removed either with major redevelopment of the home or when major work is done to the pier or dock.

A few lots appear in the annexation area to have **more than one pier**. They have a straight pier and an L-shaped pier. Within the existing Kirkland city limits there are no lots with more than one pier. Again, overwater coverage is a significant concern for the ecological function of the lake and wildlife habitat.

The existing pier/dock standards of Section 83.270 KZC require the removal of “in-water structures and over water structures located within 30 feet of the OHWM, except for existing and authorized shoreline stabilization measures.” To be clear that lots with more than one pier or dock should be removed, additional text should be added to the shoreline regulations for multiple piers on a lot. Boat houses and other similar covered structures should be removed with replacement or major repair of existing piers or docks both within 30 feet and beyond 30 feet of the OHWM. Removal of boat storage structures in the shoreline setback should be expanded beyond changes to the home to include expansion, new or major repair of docks and piers.

Staff recommendation: Under Sections 83.270-83.280, boathouses and

other similar covered structures waterward of the OHWM and under Sections 83.270-83.280 and Section 550 boat storage structures in the shoreline setback should be removed when a pier or dock is being replaced, expanded, or involves a major repair. Also, clarify that each lot may only contain one pier (see Attachments 12 and 13).

2. Private Float Planes

At least one homeowner has a float plane on their property. GIS aerials show the plane parked in the shoreline setback. Private float planes are not permitted under Kirkland shoreline regulations, but are permitted currently in King County as moorage in the water similar to a boat. Staff will consider a possible regulation that addresses existing private float planes in the annexation area and will discuss this issue at the September 23rd meeting.

E. Public View Corridors

The annexation area has limited public views to the lake due to the location of the public rights-of-way, topography, many deep lots served by private roads and existing vegetation (see Attachment 14). Public views are available from NE Juanita Drive across some properties in the southern part of the annexation area because the topography slopes down from the public road to the lake. Views are also available across O. O. Denny Park and at several street ends north of the park.

The City's shoreline regulations require that **new multi-family developments** provide view corridors of 30% of the average parcel width across properties from the adjacent right-of-ways (Section 83.410). This view corridor regulation was also in the City's past SMP. The County does not have view corridor regulations for multi-family uses under its current SMP. Thus, the existing multifamily developments in the annexation area do not have view corridors across their properties. As these multifamily sites redevelop in the future, particularly the one underdeveloped property, a view corridor across the property would be feasible with the topography and the location of the abutting public right-of-way.

Section 83.410 concerning view corridors states that developments located west of Lake Washington Blvd and Lake Street South shall include a public view corridor. This text needs to be revised to add NE Juanita Drive to make the requirement applicable to the multifamily developments in the annexation area (see Attachment 15).

Public views across the **single family area** are very limited due to the long parcel depths (many lots exceed 200 feet in depth and would not be subject to the shoreline regulations), the location of the public rights-of-way and the narrow configuration of the lots.

Staff recommendation: Revise Section 83.410 for view corridors to include NE Juanita Drive so that view corridors can be required for the multifamily developments in the annexation area (see Attachment 15).

F. Miscellaneous Amendments to Chapter 83

Planning staff is finding some needed minor corrections to the shoreline regulations in Chapter 83 as staff reviews development proposals under the new shoreline regulations. These amendments have no policy implications. Staff will provide these amendments to the Planning Commission over the next few meetings with a final list at the public hearing on October 14, 2010.

Attachment 16 contains a few such minor amendments as described below:

- The definition of **moorage facility** should have been included to Section 83.80. The definition proposed is similar to the definition found in Chapter 5 of the Zoning Code.
- The **maximum density for the Neighborhood Business (BN) zone** should have been noted in Section 83.180, Development Standard chart, as "None" which is the same as the Central Business District (CBD) zone and not as 1800 square feet. The current density for the BN zone is "None" found in Section 40.10 of the Zoning Code. The SMP density standard should be consistent with the zoning standard. This was an oversight.

Staff recommendation: Make minor corrections to Chapter 83 as needed and done in conjunction with the SMP annexation update. Staff will provide a few more amendments at future meetings in addition to those listed in Attachment 16.

G. Restoration Plan

As required by the State Guidelines, the City prepared a Shoreline Restoration Plan that contains projects and programs that will improve the ecological function of the shoreline over the next 20 years. Most of the projects are improvements to the shoreline at city parks that consist of replacing the boards at city piers with open grating, removing bulkheads and installing soft shoreline stabilization, removal of invasive vegetation and the planting of native vegetation in lieu of lawn.

O. O. Denny Park contains a bulkhead and invasive plants that should be removed in the future. The long range plan for the park includes removal of the bulkhead and the invasive vegetation. The Restoration Plan needs to be revised to include these future improvements to O. O. Denny Park.

Staff recommendation: Revise the Restoration Plan to include improvements to the shoreline at O. O. Denny Park (see Attachment 17).

H. Cumulative Impact Analysis (CIA)

The Cumulative Impact Analysis (CIA) will need to be revised to incorporate the annexation area and determine if the City's shoreline regulations, policies and Restoration Plan, and any subsequent amendments to the SMP will result in the City meeting the State's No Net Loss of shoreline ecological function standard over the next 20 year.

Staff recommendation: Revise the CIA to incorporate the annexation area and determine if the City will still meet the No Net Loss provisions given the current City regulations and policies and any subsequent revisions as part of this amendment project. A revised CIA will be provided at the September 23, 2010 meeting.

V. SMP COMPONENTS AND REGULATIONS THAT DO NOT NEED AMENDING

Staff has reviewed the following SMP components and determined that amendments are likely not necessary:

A. Shoreline Goals and Policies in the Comprehensive Plan

The goals and policies in the Shoreline Area Chapter of the Comprehensive Plan are general in nature and cover a broad range of topics. Both single family and multifamily uses and their impacts to the shoreline are addressed in the Shoreline Area Chapter.

The Shoreline Area Chapter contains the Shoreline Environment Designations Map that will need to be revised.

Staff recommendation: Preliminary recommendation is that changes are not needed to the Shoreline Area Chapter of the Comprehensive Plan, except to replace Figure SA-1, the Shoreline Environment Designations Map, with the map that will amended to include the annexation area.

B. Shoreline Regulations in Chapter 83 KZC

1. Use listings: All uses allowed and not allowed in single family and multifamily areas are adequately addressed in Section 83.170 KZC. See discussion above about private float planes.
2. Piers and docks: The pier and docks regulations in Section 83.270-280 reflect the Army Corps of Engineers standards for their Regional General Permit (RGP-3). The regulations are appropriate for the annexation area. As discussed above in Section IV.D., staff does recommend some additional text in Section 83.270-280 clarifying that each property is limited to one pier or dock and that boathouses must be removed for replacement piers or major work on piers (See Attachment 12).

For revised the Cumulative Impact Analysis (CIA), The Watershed Company has assessed the future potential of new piers and additions to existing piers in the annexation area against the replacement of solid boards with open grated material, reduction in width of piers when replaced and removal of boathouses in certain situations. It has been determined that the No Net Loss provision will be met when the annexation is included in the revised CIA. This means that the current pier/dock regulation that permits replacement of existing structures with the same total pier/dock area can apply to the annexation area and still meet No Net Loss (although in many cases for replacement piers, the same

pier/dock square foot area will not occur in order to meet the other dimensional standards of maximum pier width and length).

3. Hard and Soft Shoreline Stabilization: The regulations for shoreline stabilization (i.e. bulkheads and rip rap versus coves, beaches and other soft approaches) in Section 83.300 reflect the specific standards in the State Guidelines. The shoreline stabilization standards in Section 83.300 are appropriate for the annexation area and No Net Loss would be met when the regulations are applied to the annexation area.

4. Native Plantings and Existing Tree Removal in the Shoreline Setback:

For the SMP update, new or redevelopment of sites or major additions require the following **shoreline native plantings** (Section 83.400):

- Uses except multifamily: 10' deep along 75% of the shoreline edge
- Multi-family: 15' deep along 75% of the shoreline edge
- In both cases, the planting depth can be varied down to 5' in depth provided that the total square footage of native planting is provided

For the SMP update, **removal of existing trees** within the shoreline setback area can occur as follows:

- Up to 24" in diameter: replacement at 1:1 ratio. Trees 12"-24" removed must also be replaced with 80 sq. ft. of shrubs and ground cover
- Greater than 24" in diameter: cannot be removed unless diseased or nuisance trees as approved by the City. If approved for removal, then replacement at 2:1 ratio.

The County regulates the area between the shoreline and structures as a critical area buffer, whereas the City regulates the area as a setback. Both the City and the County use required native shoreline vegetation as mitigation of impacts to the lake. Since the County treats the area next to the shoreline as a critical area buffer, it only allows limited tree removal and does not have specific standards for native plantings. Instead, the County determines the required shoreline native plantings on a site by site basis, whereas the City has specific standards applicable by use.

Native vegetation conditions in the annexation are similar to those in Kirkland with most lots improved with lawn and native ornamental landscaping. The requirements in Section 83.400 for native plantings and tree removal are also appropriate for the annexation area and will likely be adequate to meet No Net Loss of ecological function given the proposed shoreline setbacks for the annexation area and other provisions in Chapter 83 that reduce impacts, such as the lighting and impervious surface standards.

5. Public Pedestrian Access: The public pedestrian access in the annexation area is only available at O. O. Denny Park and at the street ends north of the park.

The City's shoreline regulations require that **new multi-family developments** provide public pedestrian access to and along the lake from the abutting right-of-way. The County does not require public pedestrian access for new multi-family developments under its

current SMP. Thus, the existing multifamily developments do not provide pedestrian access. Pedestrian access could be provided with redevelopment on the three multifamily developments given the topography and the location of the abutting public right-of-way.

The State Guidelines do not require pedestrian public access or public views across **single family homes**, except in the case of a subdivision of 5 or more lots in the shoreline jurisdiction area (Section 83.420). However, Section 83.420 does have modification provisions that would waive or limit the requirement if certain site conditions exist.

6. General Regulations

The City's shoreline regulations in Chapter 83 KZC contain many general regulations. These regulations cover such topics as parking, lighting, in water construction and site design. The single family and multifamily uses in the annexation have the same impacts on the lake as do the uses in the City. The general regulations are appropriate for the annexation and do not need to be amended.

Based on the information that the City has at this time, there are no known wetlands along the annexation shoreline. However, if any wetlands do exist, the wetland regulations in Section 83.500 meet DOE's "best available science" standard. No changes are needed to the shoreline wetland regulations.

Staff Recommendation: Staff's preliminary recommendation is that the shoreline regulations in Chapter 83 concerning use, piers/docks, hard and soft shoreline stabilization, native tree plantings and tree removal in the shoreline setback, views corridors, public access, wetlands and the general topics should apply to the annexation with no amendments, except the amendments discussed above in Section IV concerning piers/docks for lots that contain more than one pier, boathouses and boat equipment sheds.

VI. MISCELLANEOUS ZONING CODE AMENDMENTS

The SMP update included amendments to the existing Zoning Code to change the north and front property line setbacks to help offset the new shoreline setback requirements, to revise or delete some definitions, to make the existing code and the new shoreline regulations internally consistent and to reference the new shoreline regulations in various sections of the code.

Staff recommends the following code amendments:

A. RSA and RMA Use Zone Charts

As with the SMP update, some minor Zoning Code Amendments are needed to the annexation use zone charts of RSA (single family) and RMA (multifamily) to be **consistent with the new shoreline regulations**. The adopted RSA and RMA use zone charts that will be in effect next June 2011 with annexation do not reference the new shoreline regulations and/or do not reflect the new terminology for shoreline setback. The proposed amendments will be provided at the September 23, 2010 meeting.

With the SMP update, the City reduced the **front yard setback** in the shoreline area for the single-family area from 20' to 10' provided that the required shoreline setback is provided. For the multi-family area, the front yard requirement can be reduced 1 foot for each 1 foot that the existing shoreline setback area is increased to meet the new setback standard. The multifamily area has a setback requirement of 30' along Lake Washington Blvd.

The front yard setback in the annexation area is 20' for both single family and multifamily.

Also with the SMP update, the **maximum allowable height** from single family was increased from 25' to 30' if the shoreline setback is provided. No change was made to multi-family since the allowable height is already 30'. The allowable height in the annexation zones of RSA and RMA is 30'.

Lastly, the SMP update replaced the **north property line and north sun angle setbacks** with the standard side yard setback. The RSA and RMA charts do not have either of these setbacks, but have a standard side yard setbacks of 5' on each side for both the RSA (single-family) and RMA (multi-family) zones.

Staff Recommendation: Staff will provide the revise RSA and RMA use zone charts at the September 23, 2010 meeting to reflect the shoreline regulations and a front yard setback of 10'. The change to the front yard setback is appropriate for the annexation area. Staff does not recommend any change to the maximum allowable height since the allowable height in the annexation area is already 30.

B. Heron Habitat Protection Area

The City adopted annexation zoning prior to the November 2009 vote on annexation. The vote on annexation included approval of the zoning for the area. Included in the annexation zoning was the County's heron habitat protection area regulations placed in 90.127 KZC and a map labeled as Plate 39 in Chapter 180 (see Attachments 18 and 19). However, City staff was never able to verify with County staff if there are actual heron nests or heron sightings in the annexation or able to obtain any documentation from the County confirming the need for the regulations.

While working on the SMP update, staff found a map in the 2006 Shoreline Inventory called "WDFW Priority Habitats" (Figure 13 of the inventory) that covers both the City and the annexation area. The information is from Washington Department of Fish and Wildlife (WDFW) showing known habitats for bald eagles, great blue herons and pileated woodpecker. As of 2006, there is no heron nest noted in the annexation area.

WDFW reviews and provides standards for development that occurs near these priority habitats. Currently, the City has a known bald eagle nest near Waverly Beach Park. The Planning Department has mapped the nest location and noted it in the City's permit tracking system. Permit applicants are required to contact WDFW and follow the WDFW management plan. The City enforces the plan with the help of WDFW as part of the permit. Thus, the best approach is to not have an overlay map and standards in the Zoning Code, but to follow WDFW's review process for the most up to date location of priority habitat nests and standards for development.

Staff Recommendation: Delete the standards in 90.127 KZC and Plate 39 concerning heron protection in the annexation area since WDFW does not indicate any known heron nests in the annexation area. Should any nest be located in Kirkland in the future, WDFW will manage development near the nest through their authority.

VII. ATTACHMENTS

1. Letter from Department of Ecology (DOE) approving the SMP update, dated July 26, 2010
2. Required minor changes to the City's SMP update from DOE
3. DOE's Findings and Conclusions for the City's SMP update
4. DOE's internal staff memo in support of the City's SMP update
5. SMP Ordinance 4251 adopted by City Council on August 3, 2010
6. Revised Shoreline Environment Designations Map for annexation area
7. Existing primary structure setbacks map in annexation area
8. Existing improvement (decks, patios, sheds, etc) structure setbacks map in annexation area
9. General analysis of existing setback and lot depth map
10. Redevelopable and vacant parcels map for annexation area
11. Proposed amendments to Section 83.510 (stream buffers)
12. Proposed amendments to Section 83.270-280 (piers/docks)
13. Proposed amendments to Section 83.550 (non-conformances)
14. View analysis map
15. Proposed amendments to Section 83.410 (view corridors)
16. Miscellaneous follow-up amendments to Chapter 83
17. Revised Restoration Plan (amended pages only)
18. Proposed deletion of Section 90.127 (heron habitat protection area regulations)
19. Proposed deletion Plate 39 in Chapter 180 (heron habitat protection overlay map)

cc: File No. ZON06-00017, Sub-file #12



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

July 26, 2010

The Honorable Joan McBride, Mayor
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

**Re: City of Kirkland's Shoreline Master Program Comprehensive Update
Resolution R-4786**

Dear Mayor McBride:

I would like to take this opportunity to commend the City of Kirkland (City) for its efforts in developing the proposed Shoreline Master Program (SMP) Update. It is consistent not only with the needs of the City, but also with the policy and procedural requirements of the Shoreline Management Act and the Shoreline Master Program Guidelines.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) approves the proposed amendment, **subject to the City's agreement to the required changes detailed in Attachment C**. The findings and conclusions that support Ecology's decision are also enclosed (Attachment B).

Because a change is required, the amendment will not become effective until Ecology receives written notice that the City agrees to the changes¹. The effective date of the SMP update will be the date on which Ecology receives written notice of your agreement.

As a reminder, shoreline procedural rules² require the City to publish a notice that Ecology has taken final action on this SMP update. Therefore, once Ecology acknowledges receipt of your written agreement, the City should publish a public notice.

Finally, the City must forward two hard copies and one digital copy of the final complete package of SMP amendments to Ecology.

¹ WAC 173-26-120(7)(b)(i)

² WAC 173-26-120(9)

The Honorable Joan McBride
July 26, 2010
Page 2

To summarize, if the City agrees with the required changes, it must:

1. Notify Ecology in writing.
2. Wait to hear from Ecology that we received your notice of agreement.
3. Publish a notice that Ecology has taken final action.
4. Forward two hard copies and one digital copy of the final amendment package to Ecology.

Thank you again for your efforts. If you have any questions, please contact our regional planner Joe Burcar at joe.burcar@ecy.wa.gov/ (425)-649-7145.

Sincerely,



Ted Sturdevant
Director

Enclosures

By certified mail [7003 1010 0005 0569 1390]

cc: . Joe Burcar, Ecology Northwest Regional Office
Peter Skowlund, Ecology HQ
Paul Stewart, City of Kirkland
Teresa Swan, City of Kirkland
Geoff Tallent, Northwest Regional Office
Interested Parties

Attachment C: Amendments to Resolution 4786 – City of Kirkland Shoreline Master Program

NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

The following text consists of amendments to Resolution #4786 the locally adopted version of the City of Kirkland’s Shoreline Master Program. These amendments have been determined by the Department of Ecology to be included as part of the final approval of the City’s Shoreline Master Program as described in Attachment B (Findings/Conclusions).

Section 83.190 Lot Size or Density, Shoreline Setback, Lot Coverage and Height [page 44-45 of 138, R-4786 – Attachment 6A]

2. Shoreline Setback –

b. Measurement of Shoreline Setback –

- 1) The shoreline setback shall be measured landward from the OHWM on the horizontal plane and in the direction that results in the greatest dimension from the OHWM (see Plate ~~XX~~ 41).

d. Structures and Improvements – The following improvements or structures may be located in the shoreline setback, except within the Natural shoreline environment, provided that they are constructed and maintained in a manner that meets KZC 83.360 for avoiding or at least minimizing adverse impacts to shoreline ecological functions:

- 1) For public pedestrian access required under KZC 83.420, walkways, benches, and similar features, as approved by the Planning Official.
- 2) For private pedestrian access to the shoreline, walkways within the shoreline setback are permitted, subject to the following standards:
 - a) The maximum width of the walkway corridor area shall be no more than 25 percent of the property’s shoreline frontage, except in no case shall the corridor area required be less than 15 feet in width (see Plate ~~XX~~ 42).

Section 83.270 Piers, Docks, Moorage Buoys and Piles, Boatlifts and Canopies Serving a Detached Dwelling Unit Use (Single-family) [page 57-58 of 138, R-4786 – Attachment 6A]

4. New Pier or Dock Dimensional Standards –

- a. New piers or docks may be permitted, subject to the following regulations:

New Pier, Dock or Moorage Piles for Detached Dwelling Unit (single family)	Dimensional and Design Standards
<p>Maximum Area: surface coverage, including all attached float decking, ramps, ells and fingers</p>	<p>480 sq. ft. for single property owner</p> <p>700 sq. ft. for joint-use facility used by 2 residential property owners</p> <p>1000 sq. ft. for joint-use facility used by 3 or more residential property owners</p> <p>These area limitations shall include platform lifts.</p> <p>Where a pier cannot reasonably be constructed under the area limitation above to obtain a moorage depth of 10 ft. measured</p>

	<p>above <u>below</u> ordinary high water, an additional 4 sq. ft. of area may be added for each additional foot of pier length needed to reach 10 ft. of water depth at the landward end of the pier, provided that all other area dimensions, such as maximum width and length, have been minimized.</p>
<p>Pilings, Moorage Piles, and Buoys</p>	<p>Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds.</p> <p>First set of piles <u>pilings for piers or docks</u> located no closer than 18 ft from OHWM. <u>Moorage piles or buoys shall not be closer than 30 ft. from OHWM or any farther waterward than the end of the pier or dock.</u></p> <p>Maximum 2 moorage piles or buoys per detached dwelling unit, including existing piles</p> <p>Maximum 4 moorage piles or buoys for joint use piers or docks, including existing piles</p>

83.280 Piers, Docks, Boat lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units (Multi-family) [page 65-66 of 138, R-4786 – Attachment 6A]

5) New Pier or Dock Dimensional Standards –

- b. Piers and docks shall be the minimum size necessary to meet the needs of the proposed water-dependent use and shall observe the following standards:

<p>New Pier, Dock or Moorage Piles for Detached, Attached or Stacked Dwelling Units (multi-family)</p>	<p>Dimensional and Design Standards</p>
<p>Pilings and Moorage Piles</p>	<p>First set of piles <u>pilings for piers or docks</u> located no closer than 18 ft from OHWM. <u>Moorage piles shall not be closer than 30 ft. from OHWM or any farther waterward than the end of the pier or dock.</u></p> <p>Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate (CCA) or comparably toxic compounds.</p>

83.300: Submittal Requirements for New or Enlarged Structural Stabilization Measures [page 77-78 of 138, R-4786 - Attachment 6A]

3. Submittal Requirements for New or Enlarged Structural Stabilization Measures -

In addition to the requirements described in KZC 83.300.2 above, the following shall be submitted to the City for an existing primary structure more than 10 feet from the OHWM or for a new primary structure:

NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

- a. For a hard structural shoreline stabilization measure, a geotechnical report prepared by a qualified professional with an engineering degree. The report shall include the following:
 - 1) An assessment of the necessity for hard structural stabilization by estimating time frames and rates of erosion and documenting the urgency associated with the specific situation.
 - 2) An assessment of the cause of erosion, looking at processes occurring both waterward and landward of the OHWM including on-site drainage.
 - b. An assessment prepared by a qualified professional (e.g., shoreline designer or other consultant familiar with lakeshore processes and shore stabilization), containing the following:
 - 1) For a hard structural shoreline stabilization measure, an evaluation of the feasibility of using nonstructural or soft shoreline stabilization measures in lieu of hard structural shoreline stabilization measures. The evaluation shall address the feasibility of implementing options presented in Plate ~~XX~~ 43 based on an assessment of the subject property's characteristics.
5. Submittal Requirements for Major Repairs or Replacements of Hard Stabilization Measures -
The following shall be submitted to the City when the primary structure is located more than 10 feet landward of the OHWM or for a use with no primary structure:
- a. Written narrative that provides a demonstration of need shall be submitted. A qualified professional (e.g., shoreline designer or other consultant familiar with lakeshore processes and shore stabilization), but not necessarily a licensed geotechnical engineer shall prepare a written narrative. The written narrative shall consist of the following:
 - 1) An assessment of the necessity for hard structural stabilization, considering site-specific conditions such as water depth, orientation of the shoreline, wave fetch, and location of the nearest structure. The evaluation shall address the feasibility of implementing options presented in Plate ~~XX~~ 43, given an assessment of the subject property's characteristics.

83.550 Nonconformances [page 134-135 of 138, R-4786 - Attachment 6A]

(5.) Certain Nonconformances Specifically Regulated

(b.) Non-conforming structures –

- 5) Non-conforming structures that are expanded or enlarged within the shoreline setback must obtain a shoreline variance; provided that, a non-conforming detached dwelling unit use may be enlarged without a shoreline variance where the following provisions apply:
 - 5) The enlargement shall not extend further waterward than the existing primary residential structure. For purposes of this subsection, the improvements allowed within the shoreline setback as established in KZC 83.180, such as bay windows, chimneys, greenhouse windows, eaves, cornices, awnings and canopies shall not be used in determining the most waterward location of the building (see Plate ~~XX~~ 44).
- 6) A nonconforming detached dwelling unit that is located on a lot that has less than 3,000 square feet of building area lying landward of the required shoreline setback and upland of required wetland or stream buffers, may be rebuilt or otherwise replaced within the

NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

shoreline setback and required wetland or stream buffer without a shoreline variance, provided the following standards are met:

- 2) The size of the building footprint shall not be increased and the reconstructed structure shall not extend further waterward than the existing primary residential structure. For purposes of this subsection, the improvements allowed within the shoreline setback as established in KZC 83.180, such as bay windows, chimneys, greenhouse windows, eaves, cornices, awnings and canopies shall not be used in determining the most waterward location of the building (see Plate ~~XX 44~~).
- 7) A primary structure that does not conform to the required shoreline setback and is located on a lot that has less than 3,000 square feet of building area lying landward of the shoreline setback, not including the area located within the required side yard setbacks and up to 10 feet of a required front yard, may be rebuilt or otherwise replaced in its current location within the shoreline setback, provided the following standards are met:
- 2) The size of the building footprint shall not be increased and the reconstructed structure shall not extend further waterward than the existing primary structure. For purposes of this subsection, the improvements allowed within the shoreline setback as established in KZC 83.180, such as bay windows, chimneys, greenhouse windows, eaves, cornices, awnings and canopies shall not be used in determining the most waterward location of the building (see Plate ~~XX 43~~).

NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

Attachment Plates [Attachment D – R-4786]

The following new plates should be considered part of the approved SMP:

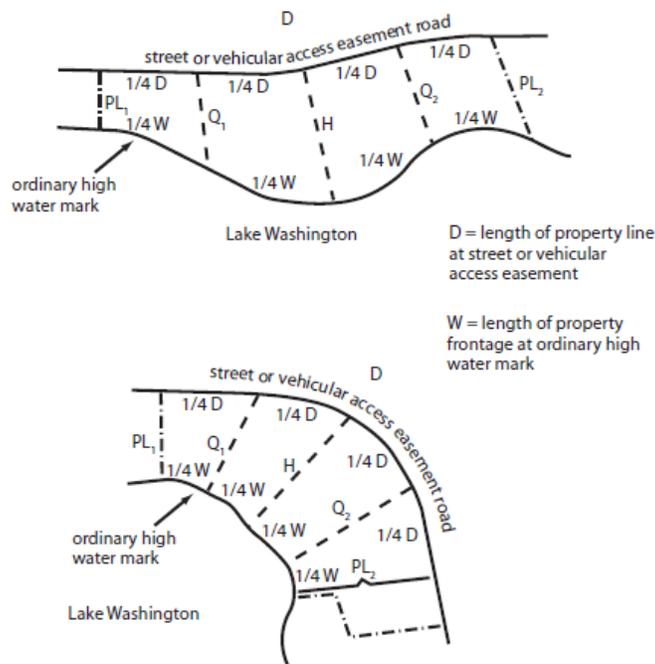
- **Plate 19 - Average Parcel Depth** referenced in 83.80.7 definition of average parcel depth.
- **Plate 41 - Measuring Shoreline Setback** referenced in 83.190.2.b in shoreline setback section.
- **Plate 42 - Maximum Shoreline Walkway Corridor** referenced in Section 83.190.2.d.2 in shoreline setback section.
- **Plate 43 - Options for Shoreline Stabilization Measures** referenced in Section 83.300.5 for submittal of major repair of hard stabilization measures.
- **Plate 44 - Addition to Nonconforming Detached Dwelling Unit** referenced in Section 83.550.5.b.5 in nonconformance section.

Plate 19 – Average Parcel Depth

Attachment 6_C

Plate XX Calculating Average Parcel Depth

$$\text{Average Parcel Depth} = \frac{PL_1 + Q_1 + H + Q_2 + PL_2}{5}$$



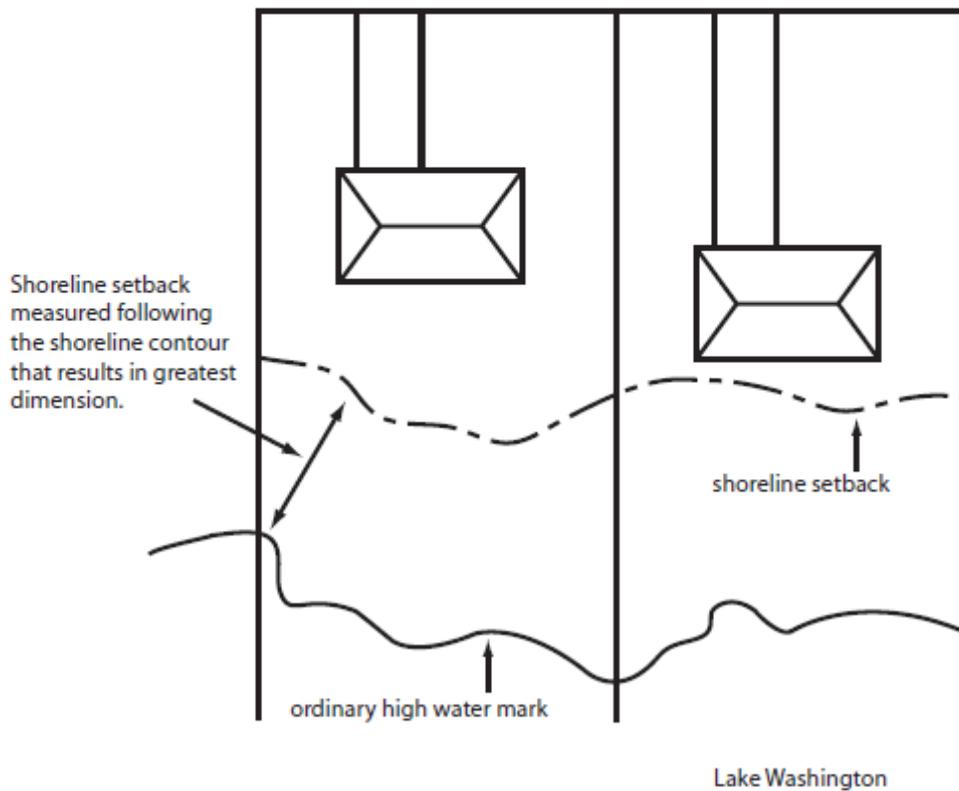
NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

Plate 41 – Measuring Shoreline Setback

Attachment 6_C

Plate XX

Measuring Shoreline Setback

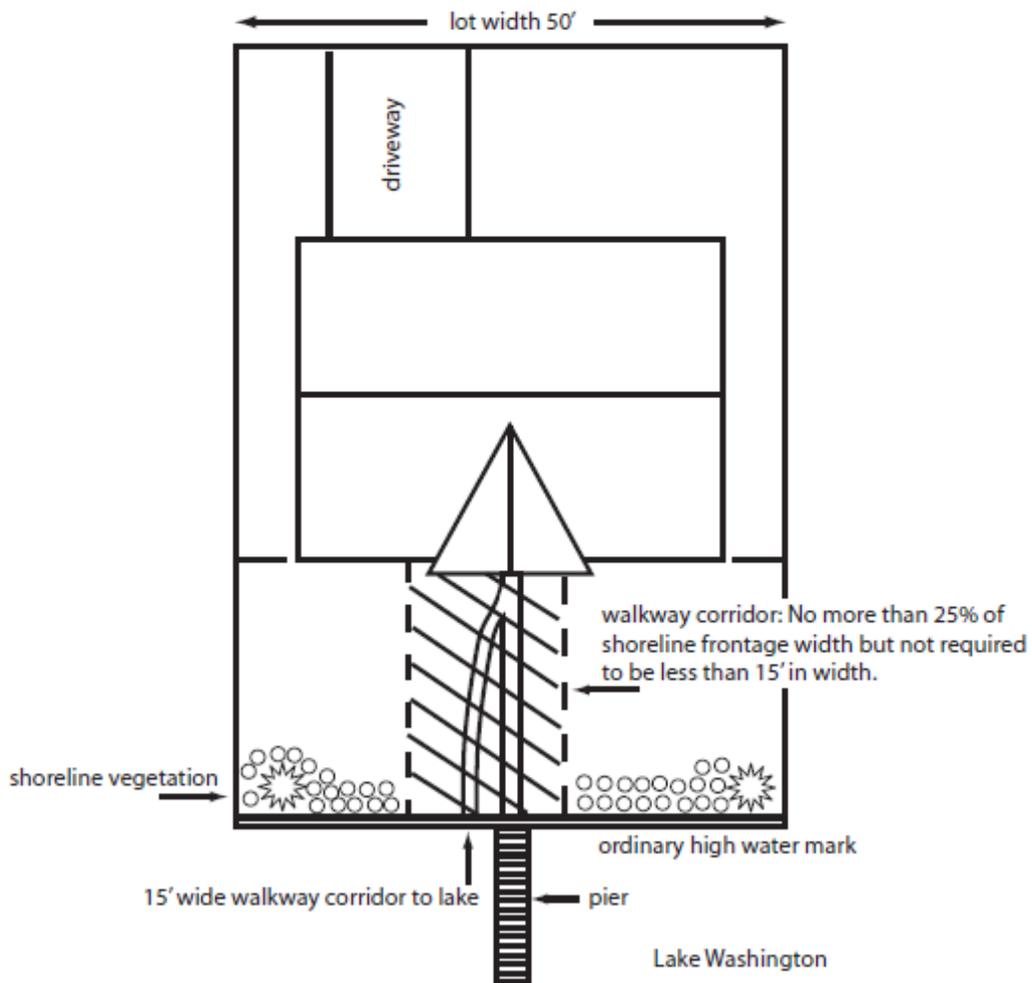


NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

Plate 42 – Maximum Shoreline Walkway Corridor

Attachment 6_C

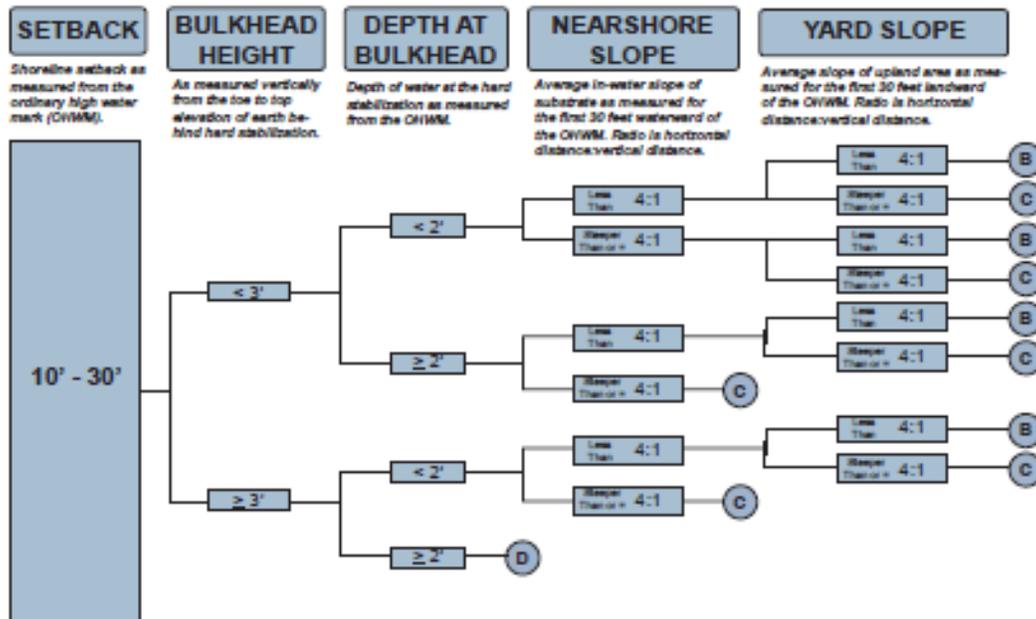
Plate XX
 Maximum Shoreline Walkway Corridor



NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

Plate 43 – Options for Shoreline Stabilization Measures (pages 1 of 2)

**Plate XXA
Options for Shoreline Stabilization Measures
Building Setback 10' - 30'**



Typical Options:

- (A) Full beach, beach cove, pullback, bioengineering, enhancement, gradient improvement
- (B) Beach cove, pullback, bioengineering, enhancement, gradient improvement
- (C) Pullback, bioengineering, enhancement, gradient improvement
- (D) Bioengineering, enhancement, gradient improvement

Definitions: (In Order of Restoration Preference)

Full beach: hard stabilization removal and beach restoration

Beach cove: partial hard stabilization removal and pullback to create beach cove

Hard stabilization pullback: repositioning of hard stabilization landward of existing location to improve shoreline gradient and possibly form a beach

Slope bioengineering: shoreline stabilization using plant material and other biodegradable materials to hold upland soils in place

Hard stabilization enhancement: hard stabilization may stay in same general location, but modifications may include sloping back existing hard structure and/or modifying material type and layout to create potential beach cove areas

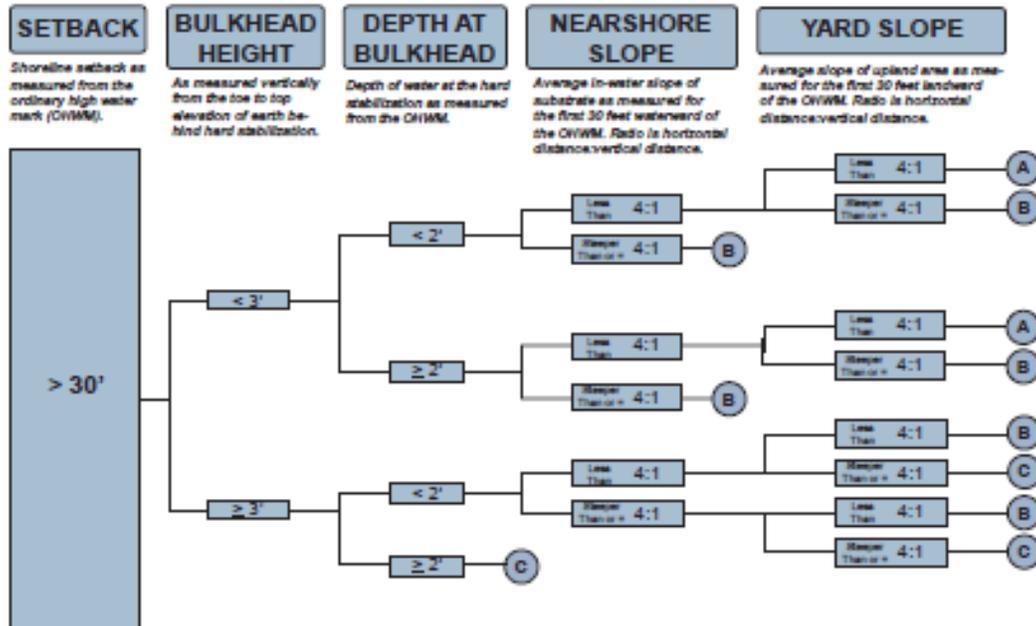
Nearshore gradient improvement: installation of gravel/cobble substrate wedge for the purposes of improving nearshore gradients

Notes: Sites with less than a 10' shoreline setback are not included with this decision tree as those sites will likely require some form of hard stabilization. However, those sites may still benefit from the addition of an in-water gravel/cobble wedge to improve shoreline gradient along with a native plant buffer.

NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

Plate 43 – Options for Shoreline Stabilization Measures (pages 2 of 2)

Plate XXB
Options for Shoreline Stabilization Measures
 Building Setback > 30'



Typical Options:

- (A) Full beach, beach cove, pullback, bioengineering, enhancement, gradient improvement
- (B) Beach cove, pullback, bioengineering, enhancement, gradient improvement
- (C) Pullback, bioengineering, enhancement, gradient improvement
- (D) Bioengineering, enhancement, gradient improvement

Definitions: (In Order of Restoration Preference)

Full beach: hard stabilization removal and beach restoration

Beach cove: partial hard stabilization removal and pullback to create beach cove

Hard stabilization pullback: repositioning of hard stabilization landward of existing location to improve shoreline gradient and possibly form a beach

Slope bioengineering: shoreline stabilization using plant material and other biodegradable materials to hold upland soils in place

Hard stabilization enhancement: hard stabilization may stay in same general location, but modifications may include sloping back existing hard structure and/or modifying material type and layout to create potential beach cove areas

Nearshore gradient improvement: installation of gravel/cobble substrate wedge for the purposes of improving nearshore gradients

Notes: Sites with less than a 10' shoreline setback are not included with this decision tree as those sites will likely require some form of hard stabilization. However, those sites may still benefit from the addition of an in-water gravel/cobble wedge to improve shoreline gradient along with a native plant buffer.

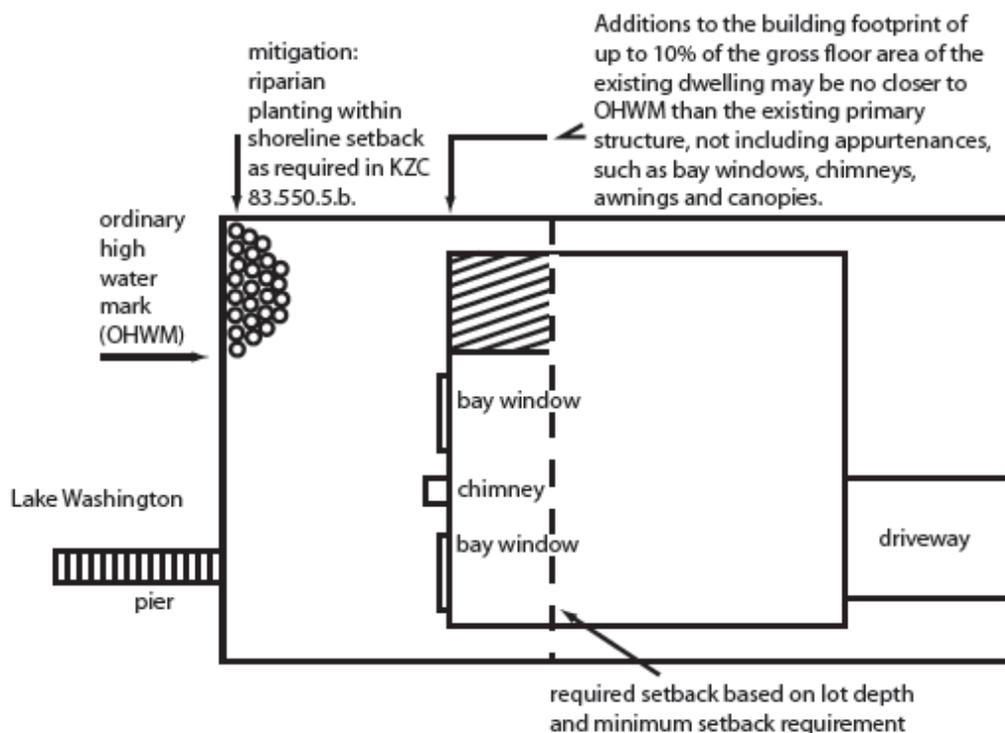
NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

Plate 44 – Additions to Nonconforming Detached Dwelling Units

Attachment 6_C

Plate XX

Addition to Nonconforming Detached Dwelling Unit



The following plates should not be considered part of the approved SMP:

- **Plate 22** – WD 11 North Property Line Yard and Height of Structure.
- **Plate 27A, 27B, 27C** – Shoreline View Corridor.
- **Plate 28** – North Property Line – Waterfront District (WD) Zones.

NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

Plate 22 – WD 11 North Property Line Yard and Height of Structure.

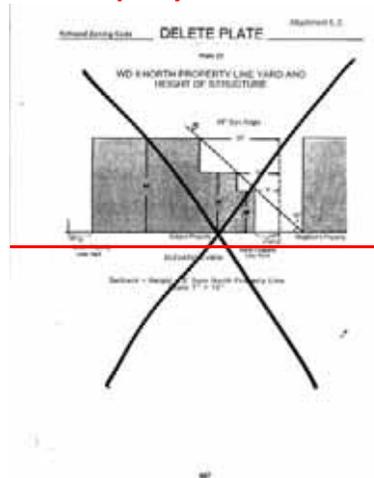


Plate 27A, 27B, 27C – Shoreline View Corridor.

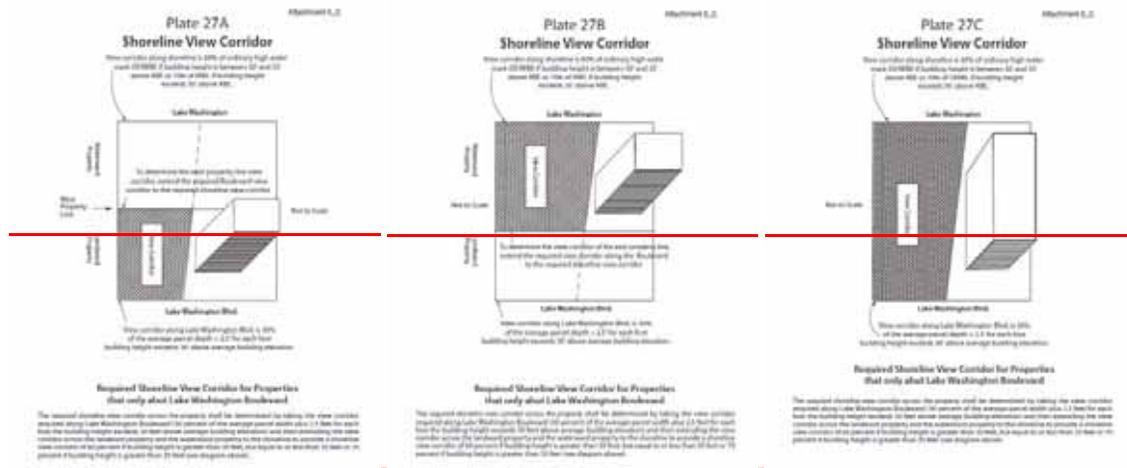
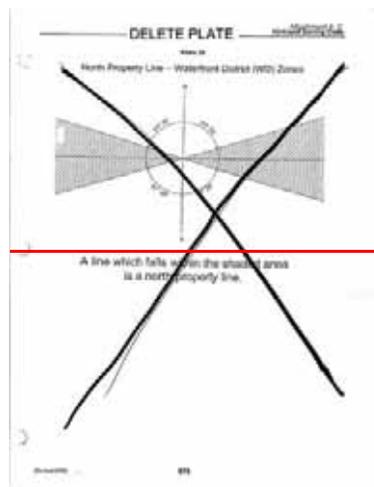


Plate 28 – North Property Line – Waterfront District (WD) Zones.



NOTE: Strike-out text indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

141.40: Exemption from Permit Requirements [page 1 of 6, R-4786 - Attachment 6B]

2. Special Provisions – The following provides additional clarification on the application of the exemptions listed in WAC 173-27-040:
 - b. Residential Appurtenances - ,
 - 1) Normal appurtenances to a single-family residence, referred to in Chapter 83 KZC as a detached dwelling unit on one lot, are included in the permit exemption provided in WAC 173-27-040(2)(g). For the purposes of interpreting this provision, normal appurtenances shall include those listed under WAC 173-14-040(2)(g) as well as tool sheds, greenhouses, swimming pools, spas, accessory dwelling units and other accessory structures common to a single family residence located landward of the OHWM and the perimeter of a wetland.
 - 2) Normal appurtenant structures to a single-family residence, referred to in Chapter 83 KZC as a detached dwelling unit on one lot, are included in the permit exemption provided in WAC 173-27-040(2)(~~b~~) **(c) for structural and non structural shoreline stabilization measures**. For the purposes of interpreting this provision, normal appurtenant shall be limited to the following structures listed under WAC 173-14-040(2)(g): a garage; deck; driveway; and utilities.

141.70: Procedures [page 3-5 of 6, R-4786 - Attachment 6B]**1. Substantial development permits.**d. Decision -

- 1) At the time of a final decision, the Planning Official shall mail a copy of the decision, staff advisory report, transmittal sheet and shoreline checklist to the applicant, Department of Ecology, and the Washington State Attorney General’s Office, pursuant to RCW 90.58.140 and WAC 173-27-130. The permit shall state that construction pursuant to a permit shall not begin or be authorized until twenty-one (21) days from the date the permit decision **was filed is received by the permit applicant** as provided in RCW 90.58.140(6); or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of **filing receipt** as defined in RCW 90.58.140(5) and (6). “Date of **Filing Receipt**” is that date that the **permit applicant receives written notice from the** Department of Ecology **received a copy of the decision notifying the applicant of receipt of the decision**.
 - 2) An appeal of a shoreline substantial development permit shall be to the State Shorelines Hearings Board and shall be filed within twenty-one (21) days of the receipt of the **City’s decision by** the Department of Ecology’s **permit action letter** as set forth in RCW 90.58.180.
- e. Effect of Decision – For shoreline substantial development permits, no final action or construction shall be taken until the termination of all review proceedings initiated within twenty-one (21) days after notice of the final action taken by the City is **filed received by the permit applicant from** the Department of Ecology.

2. Conditional use permits.e. Decision -

- 1) Once the City has approved a conditional use permit it will be forwarded to the State Department of Ecology for its review and approval/disapproval jurisdiction under WAC 173-27-200.

NOTE: **Strike-out text** indicates existing text/sections that need to be removed from the SMP. **Underlined text indicates text/sections that need to be inserted into the SMP.**

- 2) ~~At the time of a final decision by the State Department of Ecology for a shoreline conditional use permit, the Planning Official shall, pursuant to RCW 90.58.140 and WAC 173-27-130, mail a copy of the decision, staff advisory report, transmittal sheet, and Shoreline Checklist to the applicant, Department of Ecology, and the State of Washington's Office of the Attorney General.~~ The permit shall state that construction pursuant to a permit shall not begin or be authorized until twenty-one (21) days from the date the permit decision **was filed is received** as provided in RCW 90.58.140(6); or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of **filing receipt** as defined in RCW 90.58.140(5) and (6). ~~“Date of Filing” is that date that the Department of Ecology received a copy of the decision.~~
- 3) Appeals of a shoreline conditional use permit or shall be to the State Shoreline Hearings Board and shall be filed within twenty-one (21) days of the receipt of the **City's decision by** the Department of Ecology's **permit action letter**, as set forth in RCW 90.58.180.

3. Variances.

e. Decision -

- 1) Approval by Department of Ecology. Once the City has approved a variance permit it will be forwarded to the State Department of Ecology for its review and approval/disapproval jurisdiction under WAC 173-27-200.
- 2) ~~At the time of a final decision for a shoreline variance permit, the Planning Official shall, pursuant to RCW 90.58.140 and WAC 173-27-130, mail a copy of the decision, staff advisory report, transmittal sheet, and Shoreline Checklist to the applicant, Department of Ecology, and the State of Washington's Office of the Attorney General.~~ The permit shall state that construction pursuant to a permit shall not begin or be authorized until twenty-one (21) days from the date the permit decision **was filed is received** as provided in RCW 90.58.140(6); or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of **filing receipt** as defined in RCW 90.58.140(5) and (6). ~~“Date of Filing” is that date that the Department of Ecology received a copy of the decision.~~
- 3) Appeals of a Shoreline Variance Permit shall be to the State Shoreline Hearings Board and shall be filed within twenty-one (21) days of the receipt of the **City's decision by** the Department of Ecology's **permit action letter**, as set forth in RCW 90.58.180.

NOTE: ~~Strike-out text~~ indicates existing text/sections that need to be removed from the SMP. Underlined text indicates text/sections that need to be inserted into the SMP.

**ATTACHMENT B
FINDINGS AND CONCLUSIONS
FOR PROPOSED AMENDMENTS TO THE CITY OF KIRKLAND
SHORELINE MASTER PROGRAM**

SMP Submittal January 6, 2010, *Resolution R-4786*
Prepared by Joe Burcar, on June 27, 2010

Brief Description of Proposed Amendments:

The City of Kirkland (City) has submitted to Ecology for review a comprehensive amendment to their Shoreline Master Program (SMP). The updated master program will reside as a 'stand-alone' SMP codified within Chapter 83 and 141 of the City of Kirkland Municipal Code, these elements including changes required by this approval (**Attachment C**) constitutes the City's complete Shoreline Master Program.

FINDINGS OF FACT

Need for Amendment: The proposed amendments are needed to comply with the statutory deadline for comprehensive update of the local Shoreline Master Program pursuant to RCW 90.58.100.

SMP Provisions to be changed by the Amendment as proposed: This comprehensive SMP amendment is intended to replace the City's existing SMP in entirety.

Amendment History (Timeline summary): The City initiated the comprehensive SMP update consistent with a scope of work described within *SMA Grant No. GO600236*, the original grant was subsidized through additional grant funding (*GO900254*) in 2009. The City's statutory deadline pursuant to RCW 90.58.080 is December 1, 2009, however, the City applied for grant funding as an 'early adaptor', starting their comprehensive SMP update prior to their scheduled (RCW 90.58.100) grant cycle. The grant agreement originally provided \$68,000 to be allocated to the City over two years between July 1, 2005 and June 30, 2007. The grant agreement was signed by both parties on February 6th, 2006, initiating the two-year update process. Pursuant to a legislative amendment to RCW 90.58, a third year was provided for jurisdictions determined to be making "progress toward completing their SMP-update", thus extending the City's grant deadline to July 1, 2008. In addition, the City formally requested an additional \$9600 of grant funding to finalize the local SMP update process in the spring of 2009. Ecology awarded to the City the additional funding, increasing the total grant allocation to \$77,600 spread out over 4-years between 2005 - 2009.

The City committed to locally adopt a SMP on December 1, 2009 through *Resolution #4786*, for which a formal submittal including supporting materials was provided to Ecology on December 17, 2009. In a letter dated January 6, 2010, Ecology acknowledged a complete SMP submittal initiating the formal State review process. Ecology held a public hearing related to the updated SMP on February 9, 2010, also accepting written comment from February 1st, 2010 through March 5, 2010. After completion of the comment period, Ecology summarized in a letter dated March 19, 2010 all of the comments received along with a request that the City provide a final

response to these comments. The City provided Ecology with the requested final response in a letter dated May 11, 2010.

Amendment History (Local Review Process) The City produced a *draft Inventory/Characterization Report* requesting public and agency comment on the analysis in October of 2006. Ecology provided the City with specific written comments on the report in a letter dated October 4th, 2006. After consideration of public and agency comments, the City produced a revised final *Inventory/Characterization Report* dated December 2006, which served as a basis of existing conditions, restoration and protection opportunities for the remainder of the update.

The City produced a *draft SMP Designation/General Policy Report* in June 2007, which served as a starting point for the final draft SMP produced in June 2009. During this timeframe the City continually refined multiple SMP drafts based on citizen input, agency comment, planning commission discussion and community council input. Ecology provided three sets of comments on the draft SMP, generally dated July, September and December 2009. City staff produced a final draft in October 2009, which served as the Planning Commission/Staff recommendation to the City Council for local adoption. The City Council was joined in three separate staff session meetings with the Planning Commission, key City Staff, Ecology and the City's consultant. The Council generally endorsed the work done by the Planning Commission inserting a few minor changes into the City's local adoption.

On December 1, 2009, following timely and effective notice, the City of Kirkland Council held a public hearing on local adoption of the Shoreline Master Program Amendment through adoption of *Resolution #4786*.

With passage of *Resolution #4786* on December 17, 2010, the City authorized staff to forward the proposed amendments to Ecology for formal review of: "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE PROPOSED KIRKLAND SHORELINE MASTER PROGRAM UPDATE AND THE ACCOMPANYING GOALS AND POLICIES, ENVIRONMENT DESIGNATIONS, REGULATIONS, RESTORATION PLAN AND CUMULATIVE IMPACTS ANALYSIS"

Ecology verified the proposed SMP amendment as complete on January 6, 2010. Notice of the State (Ecology) comment period was distributed on January 20, 2010 to state task force members and interested parties identified by the City in compliance with the requirements of WAC 173-26 and as follows: The State Department of Ecology comment period began on February 1, 2010 and continued through March 5, 2010 including a public hearing held at Kirkland City Hall on the evening of February 9, 2010. Notice of the comment period and public hearing including: a description of the proposed amendment, a link to copies of the amendment and deadlines for public comment were provided in the January 18, 2010 edition of the *Seattle Times Newspaper*.

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090.

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and -020 definitions). This includes review of a SMP Submittal Checklist. The checklist was originally completed by the City and submitted to Ecology with the City’s initial draft SMP on June 22, 2009. Working with City Staff, Ecology reviewed three updated versions of both the SMP and Checklist including the final SMP checklist listing all previous changes to the draft SMP as completed as of June 2010.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance as part of their final submittal to Ecology in December 2009. Ecology did not provide comments on the City’s DNS threshold determination.

Other Studies or Analyses supporting the SMP update: Ecology reviewed the following reports, studies, map portfolios and data prepared by the City in support of the SMP amendment:

- *City of Kirkland Shoreline Inventory & Characterization (draft) October 2006, (final) December 2006;*
- *City of Kirkland Shoreline Environment Designations Summary (draft) June 2007, (final) June 2009;*
- *City of Kirkland Restoration Plan dated June 2009;*
- *City of Kirkland, SMP Update – Cumulative Impacts dated June 2009;*
- *Final SMP-checklist dated December 2009.*

Summary of issues raised during the Public Review Process:

Throughout Ecology’s 33-day comment period (February 1 – March 5, 2010) and formal testimony provided during the February 9, 2010 public hearing a range of issues, questions and comments were provided to Ecology related to the City’s SMP update. Below is a list of SMP topics referenced throughout the Ecology comment period:

- 3-testimon’s focused on the following issues: **SMP Update Process** (Use of Science, Public Involvement), **SMP Protections** (Marina Use/Wildlife Protection, Shoreline Armoring, Vegetation Management, Setback/Buffer standards).
- 7-written comments submitted on the following issues: **SMP Update Process** (Public Involvement, Analysis: Use of Science, Effectiveness of Regulations, No-Net-Loss, Restoration), **SMP Protections** (Setback/Buffers, Vegetation Management Standards, Aquatic Invasive Species), **Shoreline Modifications** (Piers/Docks, Shoreline Armoring Boating Facilities, Dredging), **Shorelines of State-Wide-Significance**, **Shoreline Uses** (Priority-Water-Oriented, Transportation, Utility), **Non-Conforming Uses**, **Public Access** and **Shoreline Administration**.

Pursuant to SMP Guidelines, Ecology summarized all comments received during the public comment period and then provided the summary to the City for a response. The City provided a final response to Ecology on May 11, 2010, for which Ecology has provided a final conclusion in consideration of the original comment, the City’s response and application of the SMP

Guidelines (WAC 172-26). The complete record of Ecology's comment summary, the City's response and Ecology's final conclusion are provided in **Attachment D**.

Summary of Issues Identified by Ecology as Relevant To Its Decision:

Based on on-going coordination throughout the SMP update with City Staff, Ecology comments on draft SMP deliverables and review, response and conclusion of public comments (**Attachment D**), the following provides a general summary of issues relevant to Ecology's final decision on the City of Kirkland's SMP:

Shoreline Update Process: The City spent more than 4-years working on this SMP update. During this time they provided significant local contributions necessary to supplement grant funding provided by the State. The extra time, staff resources and funding required of this update can largely be contributed to the City's commitment to actively involve interested parties in the City's SMP update, beyond the minimal Public Involvement requirements of the Guidelines. This extra effort has helped produce some innovative solutions as part of this SMP update. As stated in the City's response to a citizen comment related to public involvement, the City held 16-study sessions with their Planning Commission, 9-study sessions before the Houghton Community Council, 4-study sessions before the City Council, 2-open houses, 1-public forum, 1-property owner workshop, 1-shoreline tour, and a separate boat tour. All of these events were advertized and open to the general public. In addition, the City held numerous meetings with specific interest groups including neighborhood associations and other advocacy groups. Despite this dedicated effort by the City, comments critical of the City's outreach were still voiced throughout the City's SMP update process. It is important to note that the City did incorporate public input into the Shoreline Master Program as evidence by the many master program amendments between the initial draft SMP release in June 2009 through the final program adoption by the Council under Resolution #4786 in December of 2009.

Ecology also provided an additional public hearing and public comment period after local adoption of the updated SMP. As described within the *Findings/Conclusion* (Attachment B) at Ecology's Public Hearing 3-people provided public testimony followed by 7-written comments submitted throughout the 33-day Ecology public comment period. Pursuant to WAC 173-26-120, the City provided a response to these comments, which are included in Attachment D.

Shoreline Protections: The City faced a challenge at the onset of this update in creating shoreline **Setback/Buffer** and **Vegetation Management** standards that could satisfy no net loss and be administered equitably within the urbanized shoreline environment. Further complicating this task was the existing SMP's (standard) 15-foot building setback, which was not anticipated to provide neither adequate critical area protection nor satisfy the no net loss Guideline requirement related to future development. Existing development patterns generally established upland structures located at the minimum (15-foot) setback in the urban core of the City, contrasted by large variation throughout the City's residential shoreline segments, ranging from a median 43-foot setback in the low density residential segment to a 25-feet (median) setback in the medium/high residential shoreline segment.

With the exception of both the Juanita and Yarrow Bay wetland areas, past shoreline development resulted in characterization of a majority of the City's shoreline as moderate to highly impaired. However, within residential shoreline segments, future redevelopment potential was not consistent, indicating lot-by-lot variation, largely as a result of variation in lot depth or overall parcel size and the ability to accommodate future expansion. Therefore, the City proposed a variable shoreline **Setback/Buffer** of 30% of the lot depth within a range of a minimum of 30-feet and a maximum of 60-feet. As illustrated within the City's Cumulative Impact Analysis and based on the existing residential development pattern and variation in redevelopment potential the 30% (lot depth) setback was determined to be the minimum **Setback/Buffer** to satisfy no net loss¹ of shoreline habitat requirement for the variable residential shoreline parcels. By contrast, both the City's urban and natural shorelines exhibited more consistent development patterns, not showing significant opportunity for future physical expansion through redevelopment. Therefore, SMP standards related to these areas were more or less upgraded to ensure on-going consistency with the Guidelines.

Shoreline Modifications: SMP regulations related to both **Piers/Docks** and **Shoreline Armoring** modifications received a lot of attention during the City's update. Because of the urban/developed condition of a majority of the City's residential shoreline, many property owners voiced concerns related to maintaining existing **Piers/Docks** and bulkheads structures. The City proposed **Shoreline Armoring** regulations consistent with the standards provided in Guidelines, allowing for repairs of existing hard armoring structures, but limiting new and replacement hard armoring to those situations where a primary structure is shown to be in need or dependent on a hard armored bulkhead to protect the upland structure from erosion.

For **Pier/Dock** standards, the City's obligation under the update was to maintain or improve aquatic ecological functions by minimizing or reducing (overall) overwater structure. Again, because of the urban/developed nature of the City's shoreline, a majority of the existing residential lots are already developed with private **Pier/Docks**, for which property owners voiced concern related to maintenance and redevelopment potential of these structure. Further, most of the existing **Pier/Dock** structures were developed prior to current State or Federal standards specifying construction material and orientation/dimension of these overwater structures to minimize impacts to aquatic species. Through regional coordination with neighboring Lake Washington jurisdictions, the City incorporated impact minimizing residential **Pier/Dock** standards based on Regional General Permit standards developed by the Army Corps of Engineers (ACOE) with input from Washington Department of Fish and Wildlife (WDFW) and NOAA-Fisheries. These **Pier/Dock** standards are intended to address Endangered Species Act (ESA) fish habitat concerns, for which individual ESA

¹ In other words, a setback buffer based on a lower % of lot depth would increase overall redevelopment potential resulting in a larger net loss of shoreline habitat (upland buffer area), which would then have to be offset with some type of restoration. Alternatively, establishment of a **Setback/Buffer** based on a higher lot percentage would further restrict redevelopment to locations further away from the shoreline edge, increasing overall (potential) shoreline habitat area above existing conditions

consultation is waived for proposals that are consistent with these standards. By including the Regional General Permit standards into the City's SMP, property owners are provided with an incentive to upgrade their **Pier/Dock** structures to comply with these standards, thus avoiding expensive, unpredictable and time consuming individual ESA consultation.

Finally, the City spend a significant amount of time creating **Vegetation Management** standards that their residential property owners could accept while also satisfying their no net loss obligation under the Guidelines. The central issue was related to tree planting mitigation standards and concerns associated with view impacts. Along these same lines, the City also developed tree retention standards, defining significant tree characteristics and establishing replacement standards for both volunteer and involuntary removal.

Changes to the locally adopted SMP: Attachment C provides an itemized list of amendments to the December 1, 2009 (*Resolution #4786*) locally adopted SMP. These changes are required as part of Ecology's approval of the updated SMP pursuant to WAC 173-26-120. Specifically, the required changes will ensure that the updated SMP is consistent with WAC 173-26 (SMP Guidelines).

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's SMP proposal, subject to and including Ecology's required changes (itemized in **Attachment C**), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions that is anticipated to result from implementation of the new master program amendments (WAC 173-26-201(2)(c)).

Consistent with RCW 90.58.090(4), Ecology concludes that those SMP segments relating to critical areas within Shoreline Management Act jurisdiction provide a level of protection at least equal to that provided by the City's existing critical areas ordinance.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City's SMP amendment was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in WAC 173-26-120.

Ecology concludes that the City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(f)(ii) to increase shoreline jurisdiction to include buffer areas of all critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments are consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules, once changes set forth in **Attachment C** are acknowledged by the City. Ecology approval of the proposed amendments with changes (**Attachment C**) will become effective on the date at which Ecology receives written notice that the City has agreed to all of the changes listed in **Attachment C**.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action on the amendment.

MEMORANDUM

TO: GORDON WHITE, SEA-PROGRAM MANAGER
FROM: JOE BURCAR, SEA-PROGRAM SHORELINE PLANNER
SUBJECT: CITY OF KIRKLAND COMPREHENSIVE SHORELINE MASTER PROGRAM UPDATE
DATE: 8/19/2010
CC: GEOFF TALLENT, NWRO SEA-PROGRAM SECTION MANAGER

A. OVERVIEW:

Introduce the local setting and context (type and complexity of shoreline issues address, local impetus for the update, etc.) for the SMP update.

The City of Kirkland is proposing a comprehensive update of its Shoreline Master Program (SMP). The proposed amendment is necessary to update the SMP's environment designations, policies and regulations to comply with SMP Guidelines (WAC 173-26). The City's current SMP was originally adopted in 1974 and updated in 1986 (The Watershed Company, 2006). The City completed a Critical Areas Update in 2003 consistent with the Growth Management Act (GMA) Critical Areas requirements, but where not required through this GMA update to include habitat buffers on Lakes as a Fish & Wildlife Habitat Conservation Critical Area. Therefore, the updated SMP will serve as the primary local environmental ordinance regulating redevelopment adjacent to Lake Washington. Kirkland applied for and received grant funds from Ecology as an 'early adopter' agreeing to work on their SMP update during the 2006-7 biennium, prior to the December 1st, 2010 SMP update deadline as listed in RCW 90.58.100.

Shorelines of the State within the jurisdictional boundaries of the City of Kirkland consist of: 5.75-miles of Lake Washington shoreline. The City characterized shorelines outside of the existing City boundary including 6.96-miles of additional Lake Washington shoreline within King County jurisdiction, for which the City Council decided in 2009¹ to annex this area. However, the City will not formally manage land-uses within the annexation area until June 1, 2011. Therefore, the City decided not to "Pre-Designate" these shorelines as part of this SMP update. The City is planning to instigate a formal amendment to this SMP next winter to include the annexation area, which they hope to complete around the same time (June 2011) as they transition into administering regulatory authority over the annexation area

Similar to many of neighboring Lake Washington jurisdictions, Kirkland's existing shoreline is predominately urban, characterized by a limited number of non-conforming overwater condo's, upland multi-family residential and recreational based water dependent uses (marinas) within

¹ City of Kirkland: Resolution #4791 (notice of intent to accept annexation), Ordinance #4229 (formal acceptance of annexation).

the urban core of the City surrounded by single-family residential and public park land-uses. The City also prides themselves on the establishment of a continuous lineal public access trail parallel to the lake edge throughout the central core of the City.

According to the City of Kirkland SMP-Shoreline Inventory/Characterization (The Watershed Company, 2006), shoreline areas can be distinguished by the following four main segments:

1. **Segment A:** Future Annexation Area consisting 3.9-miles of Lake Washington shoreline with predominately residential existing land-uses.
2. **Segment B:** Juanita Bay and Yarrow Bay Park Wetlands consisting of 2.0-miles of Lake Washington Shoreline and 139.5-acres or upland jurisdictional area (including associated wetlands) with multifamily residential, park and residential land-uses.
3. **Segment C:** Residential consisting of 1.8-miles of Lake Washington shoreline dominated by existing residential uses.
4. **Segment D:** Urban consisting of 2.3-miles of Lake Washington shoreline characterized by urban commercial (water-oriented and non-water oriented) upland uses, parks, municipal marina, and private docks in aquatic areas.

In summary, the City's Cumulative Impact Analysis (The Watershed Company, 2009) characterize existing development patterns within Kirkland's shoreline areas as well established, anticipating future development in the form of re-construction of existing residential uses within segments A and C. The City does not anticipate significant expansion of existing uses in segments B or D. According to the City, additional development potential in segment B is constrained by critical areas regulations related to two large wetland complexes within this shoreline segment. Finally, the City anticipates on-going changes to uses within the Urban downtown (Segment D), but do not foresee significant physical expansion as a part of future redevelopment in this segment. Finally, the City foresees opportunity to incorporate meaningful ecological restoration into municipal shoreline park improvements mainly in the form of minimizing on-going impacts from existing shoreline modifications such as private bulkheads (conversion to soft armoring) and pier/docks (reduction overwater coverage).

Updated SMP regulations will provide additional protection for shoreline ecological functions and may result in some enhancement of existing shoreline riparian areas in exchange for future development/ redevelopment of upland shoreline areas.

Describe the level of local citizen/elected official involvement in the update process, and to what degree early drafts were revised in response to comment.

As stated in the City's response to a citizen comment related to public involvement, the City held 16-study sessions with their Planning Commission, 9-study sessions before the Houghton Community Council, 4-study sessions before the City Council, 2-open houses, 1-public forum, 1-property owner workshop, 1-shoreline tour, and a separate boat tour. All of these events were advertized and open to the general public. In addition, the City held numerous meetings with specific interest groups ranging from neighborhood associations to other advocacy groups. Despite this overwhelming effort by the City, comments critical of the City's outreach where still voiced throughout the City's SMP update process. It is important to note that the City did incorporate public input into the Shoreline Master Program as evidence by the many master

program amendments between the initial draft SMP release in June 2009 through the final program adoption by the Council under Resolution #4786 in December of 2009.

Ecology also provided an additional public hearing and public comment period after local adoption of the updated SMP. As described within the *Findings/Conclusion* (Attachment B) at Ecology's Public Hearing 3-people provided public testimony followed by 7-written comments submitted throughout the 33-day Ecology public comment period. Pursuant to WAC 173-26-120, the City provided a response to these comments, which are included in Attachment D.

Identify and remaining unresolved issues

All issues have been resolved; Ecology regional staff recommends that the Ecology Director approve the SMP subject to the required changes described within Attachment C.

B. BRIEFLY DESCRIBE WHAT 'IMPROVEMENTS' ARE CONTAINED IN THE NEW UPDATED PROGRAM WHEN COMPARED TO THE OLD SMP?

Generally speaking, the updated SMP is based on a jurisdiction specific analysis of existing shoreline ecological resource and built environment conditions. This comprehensive shoreline baseline provides an appropriate foundation serving as a basis for SMP policies, regulations as well as informing future restoration opportunities. The major improvements to the City's updated SMP can be attributed to single-family **Residential Vegetation Management**, shoreline **Setback/Buffer** standards and **Shoreline Modifications** (piers/dock, shoreline stabilization, dredging) regulations to be applied to redevelopment of segments A and C of the City's shoreline area.

The City's existing SMP required a uniform 15-foot shoreline setback from Ordinary High Water Mark (OHWM), which the City found to be inadequate to protect even impaired shoreline ecological functions in this urban environment (The Watershed Company, 2009). The updated SMP requires a range of setback/buffer widths depending on the lot depth and proposed shoreline use. With the exception of one isolate 15-lot section² of the City's residential shoreline segments, the updated SMP require a shoreline setback/buffer of 30% of lot depth at a minimum of 30-feet upland of OHWM to a maximum of 60-feet on larger lots. New structures within the Urban Conservancy designation are to be located outside (+200-feet upland) of shoreline jurisdiction, unless unfeasible for which structure cannot be located closer than 50-feet to the shoreline edge. A majority of existing lots within the Natural environment will be subject to the SMP's wetland standards with buffers ranging from 50 to 215-feet depending on wetland functions. The City's previous wetland standards (2003 GMA-update) did not reference Ecology's Wetland Rating System, nor were the buffers intended to protect all wetland functions. The City and Ecology worked together in identification of a gap in the City's existing wetland standards related to specific wetland functions and/or mitigation ratios necessary to adequately protect wetlands consistent with the SMP Guidelines. Based on this analysis the City

² The City has isolated a specific area described as "Lake Avenue West" located south of the Lake Avenue West Street end park. This area is characterized by existing developed residential lots physically constrained by existing road and topography limiting any opportunity for structural setback/buffer retreat. According to the City these lots have already reached development capacity, for which the SMP provides a unique structure averaging setback standard to no less than 15-feet upland of OHWM.

choose to integrate Ecology’s Wetland Rating System and update wetland buffer requirements consistent with King County’s Urban Growth Areas Best Available Science requirements. Therefore, the City will implement the new wetland standards as part of updated SMP, but will also continue to implement their existing wetland standards within their existing critical areas ordinance for areas outside of shoreline jurisdiction.

Consistent with SMP Guideline requirements related to **Shoreline Stabilization**, the City’s updated SMP requires consideration of alternative (non-structural) stabilization options prior to authorization for replacement or construction of new shoreline (hard) stabilization treatments. The City have also specified **Pier/Dock** dimensional development standards, which are consistent with Federal Endangered Species Act (ESA) minimization standards and are intended to maintain no net loss of shoreline ecological functions throughout the City’s shoreline areas into the future. The City’s previous SMP did not specify **Pier/Dock** dimensional standards for which the size of overwater structures was only restricted by a subjective standard in reference to “minimum size necessary” to support the private moorage use of the structure.

C. SPECIFICALLY, DOES THE SUBMITTAL PROVIDE ANY “GOOD EXAMPLES” THAT OTHERS CAN USE AS “MODELS” SUCH AS:

The City of Kirkland is the first of many neighboring Lake Washington jurisdictions to locally adopt a comprehensive SMP. The City’s SMP incorporates many innovative approaches to managing different elements of their shoreline area. Some of these innovative approaches are unique to Kirkland, however many of these approaches are a result of on-going regional coordination throughout the SMP update with Ecology and neighboring local jurisdictions. As Kirkland is the first jurisdiction to reach this final stage of completing their SMP-update, Ecology is hopeful that the other Lake Washington jurisdictions will ‘follow-in-the-footsteps’ of Kirkland in also incorporating similar innovative approaches to the following SMP elements:

- **Shoreline Setback/Buffers:** Based on a variety of existing structure setbacks, the City created new standards for residential redevelopment based on individual lot depth including additional flexibility incorporated for street-side setbacks and height limitations to soften the regulatory impact on property owners and encourage compliance with SMP requirements. The City’s approach to shoreline **Setback/Buffers** results in increased protection of shoreline ecological functions through proportional **Setback/Buffers** based on lot size and the potential scale of future development, while also not increasing non-conforming setback status of existing shoreline structures. Finally, regulatory incentives are also incorporated into the SMP to encourage restoration on private shorelines such as volunteer removal of an existing bulkhead in exchange for an administrative setback reduction.
- **Shoreline Modifications:** As previously mentioned the City has incorporated specific **Pier/Dock** dimensional standards consistent with ACOE/NMFS Regional General Permit standards as a potential incentive through permit streamlining of impact minimizing dock standards. Consistency with these standards, allows the City to point applicants to a standard design that if acceptable to the applicant is essentially pre-approved by the ACOE and NMFS and will not require ESA consultation. Also related to **Pier/Dock** standards, the City has distinguished between “repair” and “replacement” through identification of

development thresholds that dictate when new SMP standards apply (replacement) vs. maintenance (repair) of an existing structure. The City have also clarified appropriate placement of **Fill** waterward of OHWM in support of regional restoration priorities consistent with local salmon recovery efforts. Finally in addition to inclusion of new **Shoreline Stabilization** standards consistent with the Guidelines, the City has also gone an extra step in producing a feasibility analysis of different shoreline stabilization alternatives to assist in implementation of their updated shoreline armoring requirements. This analysis is anticipated to serve as a valuable resource to both City staff (informing armoring alternative to be considered) as well as providing additional predictability to property owners as to the general expectations of the City in consideration of appropriate armoring treatment alternatives based on key physical site characteristics.

- **Vegetation Management:** The City has provided specific tree retention and mitigation standards with compliance triggered through either “development” or even “non-development” scenarios like removal of a hazard tree.

D. WHAT SIGNIFICANT CHALLENGES AND/OR SHORTCOMINGS IN SHORELINE MANAGEMENT EMERGED AND WERE RESOLVED IN THE LOCAL SMP UPDATE PROCESS?

Based on coordination throughout the SMP update with City Staff, Ecology comments on draft SMP deliverables and review, response and conclusion of public comments (**Attachment D**), the following provides a general summary of issues relevant to Ecology’s final decision on the City of Kirkland’s SMP:

Shoreline Update Process: See summary provided above (page 2) describing citizen, interest group and elected officials involvement in the SMP update.

Shoreline Protections: The City faced a challenge at the onset of this update in creating shoreline **Setback/Buffer** and **Vegetation Management** standards that could satisfy no net loss and be administered equitably within the urbanized shoreline environment. Further complicating this task was the existing SMP’s (standard) 15-foot building setback, which was not anticipated to provide neither adequate critical area protection nor satisfy the no net loss Guideline requirement related to future development. Existing development patterns generally established upland structures located at the minimum (15-foot) setback in the urban core of the City, contrasted by large variation throughout the City’s residential shoreline segments, ranging from a median 43-foot setback in the low density residential segment to a 25-foot (median) setback in the medium/high residential shoreline segment. With the exception of both the Juanita and Yarrow Bay wetland areas, past shoreline development resulted in characterization of a majority of the City’s shoreline as moderate to highly impaired. However, within residential shoreline segments, future redevelopment potential was not consistent, indicating lot-by-lot variation, largely as a result of variation in lot depth or overall parcel size and the ability to accommodate future expansion. Therefore, the City proposed a variable shoreline **Setback/Buffer** of 30% of the lot depth within a range of a minimum of 30-feet and a maximum of 60-feet. As illustrated within the City’s Cumulative Impact

Analysis and based on the existing residential development pattern and variation in redevelopment potential the 30% (lot depth) setback was determined to be the minimum **Setback/Buffer** to satisfy no net loss³ of shoreline habitat requirement for the variable residential shoreline parcels. By contrast, both the City's urban and natural shorelines exhibited more consistent development patterns, not showing significant opportunity for future physical expansion through redevelopment. Therefore, SMP standards related to these areas were more or less upgraded to ensure on-going consistency with the Guidelines.

Shoreline Modifications: SMP regulations related to both **Piers/Docks** and **Shoreline Armoring** modifications received a lot of attention during the City's update. Because of the urban/developed condition of a majority of the City's residential shoreline, many property owners voiced concerns related to maintaining existing **Piers/Docks** and bulkheads structures. The City proposed **Shoreline Armoring** regulations consistent with the standards provided in Guidelines, allowing for repairs of existing hard armoring structures, but limiting new and replacement hard armoring to those situations where a primary structure is shown to be in need or dependent on a hard armored bulkhead to protect the upland structure from erosion.

For **Pier/Dock** standards, the City's obligation under the update was to maintain or improve aquatic ecological functions by minimizing or reducing (overall) overwater structure. Again, because of the urban/developed nature of the City's shoreline, a majority of the existing residential lots are already developed with private **Pier/Docks**, for which property owners voiced concern related to maintenance and redevelopment potential of these structure. Further, most of the existing **Pier/Dock** structures were developed prior to current State or Federal standards specifying construction material and orientation/dimension of these overwater structures to minimize impacts to aquatic species. Through regional coordination with neighboring Lake Washington jurisdictions, the City incorporated impact minimizing residential **Pier/Dock** standards based on Regional General Permit standards developed by the Army Corps of Engineers (ACOE) with input from Washington Department of Fish and Wildlife (WDFW) and NOAA-Fisheries. These **Pier/Dock** standards are intended to address Endangered Species Act (ESA) fish habitat concerns, for which individual ESA consultation is waived for proposals that are consistent with these standards. By including the Regional General Permit standards into the City's SMP, property owners are provided with an incentive to upgrade their **Pier/Dock** structures to comply with these standards, thus avoiding expensive, unpredictable and time consuming individual ESA consultation.

Finally, the City spend a significant amount of time creating **Vegetation Management** standards that their residential property owners could accept while also satisfying their no net loss obligation under the Guidelines. The central issue was related to tree planting mitigation standards and concerns associated with view impacts. Along these same lines, the City also developed tree retention standards, defining significant tree characteristics and establishing replacement standards for both volunteer and involuntary removal.

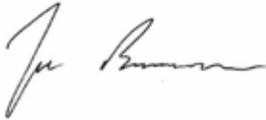
³ In other words, a setback buffer based on a lower % of lot depth would increase overall redevelopment potential resulting in a larger net loss of shoreline habitat (upland buffer area), which would then have to be offset with some type of restoration. Alternatively, establishment of a **Setback/Buffer** based on a higher lot percentage would further restrict redevelopment to locations further away from the shoreline edge, increasing overall (potential) shoreline habitat area above existing conditions

E. NEXT STEPS:

Review and discuss with lead Shoreline Planner. **Regional Staff Recommendation:** Recommend approval of the SMP as submitted with required changes listed in Attachment C. This recommendation is based on close collaboration with City staff for which all changes to multiple drafts of the SMP are well documented within the final copy of the attached SMP-checklist.

Please feel free to contact me with any specific questions on this SMP update.

Thank you,



Joe Burcar, SEA-Program Shoreline Planner, NWRO

SMP Update Review Router consisting of:

- Attachment B – SMP Findings & Conclusions
- Attachment C – SMP Required Changes
- Attachment D – Response, Conclusion of Public Comments received
- City of Kirkland Resolution R-4786 (Local SMP Adoption)
- City of Kirkland SEPA determination
- Final SMP Checklist dated June 2010
- Ecology *Draft* Director's Approval letter
- Interested Parties list

References:

- The Watershed Company. (2006). *Final Shoreline Analysis Report - Including Shoreline Inventory and Characterization for the city of Kirkland's Lake Washington Shoreline*. Shoreline Master Program Inventory & Characterization Report, Prepared for the City of Kirkland, Kirkland, WA.
- The Watershed Company. (2009). *Shoreline Cumulative Impact Analysis for City of Kirkland Shoreline Master Program*. Shoreline Master Program Cumulative Impact Analysis, Prepared for the City of Kirkland, Kirkland, WA.
- The Watershed Company. (2009). *Shoreline Restoration Plan Component of the Shoreline Master Program for the City of Kirkland*. Shoreline Master Program Restoration Plan, Prepared for the City of Kirkland, Kirkland, WA.

ORDINANCE NO. 4251

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ADOPTING THE DEPARTMENT OF ECOLOGY APPROVED KIRKLAND SHORELINE MASTER PROGRAM UPDATE, INCLUDING THE NEW SHORELINE ENVIRONMENT DESIGNATIONS MAP, COMPREHENSIVE PLAN AMENDMENTS, ZONING CODE AMENDMENTS, AND THE NEW RESTORATION PLAN, AND REPEALING THE EXISTING SHORELINE MASTER PROGRAM, CHAPTERS 24.05 AND 24.06 OF THE KIRKLAND MUNICIPAL CODE. FILE ZON06-00017.

WHEREAS, the Washington Shoreline Management Act (RCW 90.58, referred to herein as "SMA") recognizes that shorelines are among the most valuable and fragile resources of the state, and that state and local government must establish a coordinated planning program to address the types and effects of development occurring along shorelines of state-wide significance; and

WHEREAS, the City of Kirkland ("City") is required to update its Shoreline Master Program ("SMP") pursuant to the SMA and WAC 173-26; and

WHEREAS, on July 16, 2009, the City's State Environmental Policy Act responsible official issued an Environmental Impact Statement Addendum to the 2004 Environmental Impact Statement for the 2004 City of Kirkland Comprehensive Plan 10-Year Update; and

WHEREAS, there was extensive public participation with respect to the SMP Update, including but not limited to the following: public meetings before the Houghton Community Council and the Kirkland Planning Commission, shoreline tours, public forums, open houses, meetings with property owners and neighborhood meetings; and

WHEREAS, the Kirkland Planning Commission, after numerous study sessions and public meetings and hearings, recommended approval of the SMP Update at its September 10, 2009 meeting; and

WHEREAS, the Kirkland City Council considered the SMP at study sessions dated October 22, 2009, November 2, 2009 and November 23, 2009; and

WHEREAS, the Kirkland City Council adopted Resolution R-4786, a Resolution of Intent to adopt the SMP Update at its December 1, 2009 meeting, and transmitted the SMP Update to the State Department of Ecology for review; and

WHEREAS, the State Department of Ecology approved the SMP Update on July 21, 2010, with certain modifications; and

WHEREAS, the Kirkland City Council would like to adopt the SMP Update, as approved by the State Department of Ecology.

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. The City Council hereby adopts the new Kirkland Shoreline Environment Designations Map, a copy of which is attached to this Ordinance as Attachment A and incorporated herein by this reference.

Section 2. Comprehensive Plan amended: The Kirkland Comprehensive Plan is hereby amended to read as follows:

As set forth in Attachment B attached to this Ordinance and incorporated herein by this reference.

Section 3. Zoning Ordinance amended: The text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, is hereby amended to read as follows:

As set forth in Attachment C attached to this Ordinance and incorporated herein by this reference.

Section 4. The City Council hereby adopts the new Kirkland Shoreline Restoration Plan, a copy of which is attached hereto as Attachment D and incorporated herein by this reference.

Section 5. Kirkland Municipal Code amended: The Kirkland Municipal Code is hereby amended to read as follows:

As set forth in Attachment E attached to this Ordinance and incorporated herein by this reference.

Section 6. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. This Ordinance shall be in full force and effect on August 4, 2010 after its passage by the Kirkland City Council and shall be published pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 8. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this 3rd day of August, 2010.

Signed in authentication thereof this 3rd day of August, 2010.



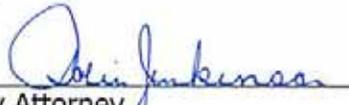
Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

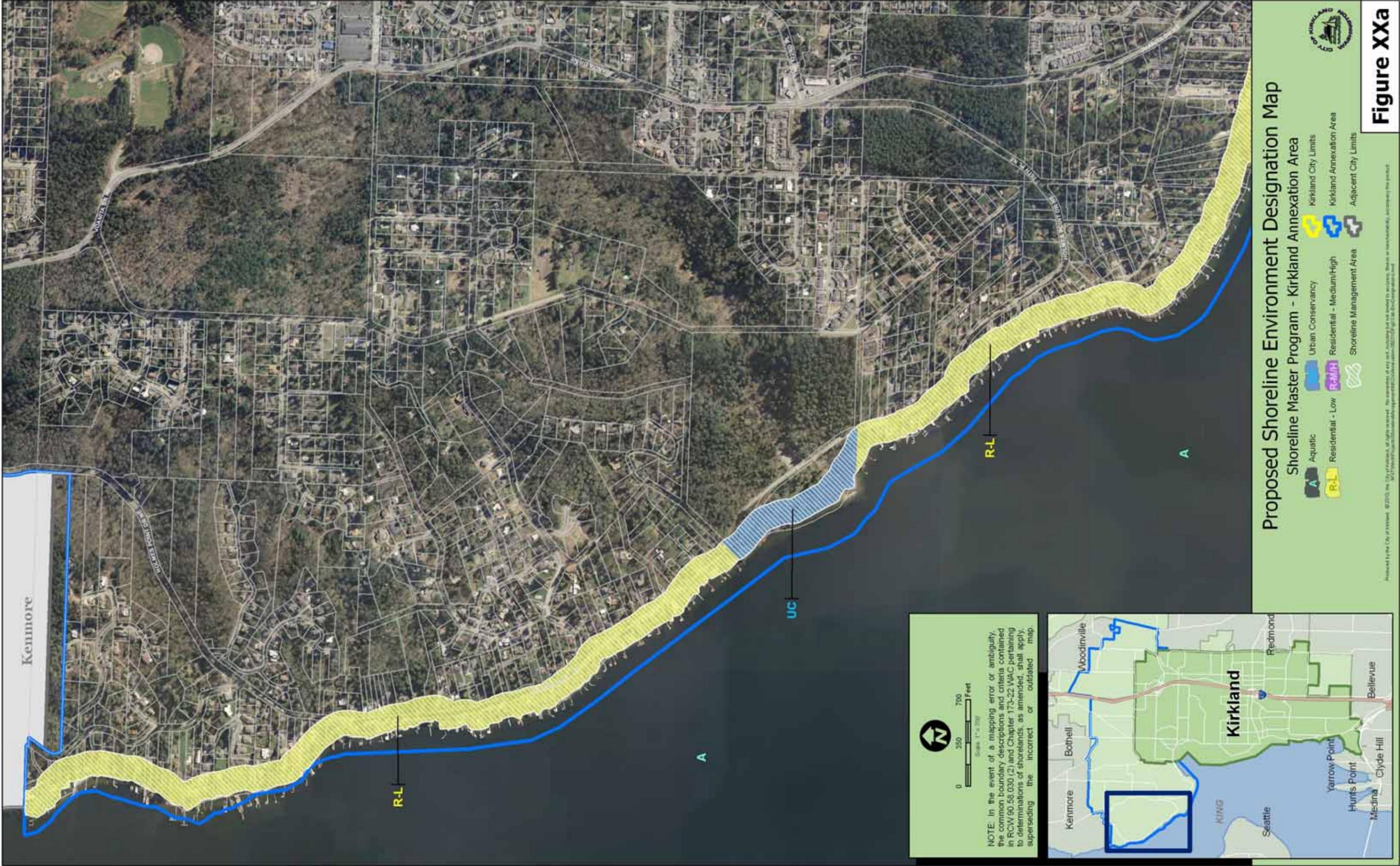
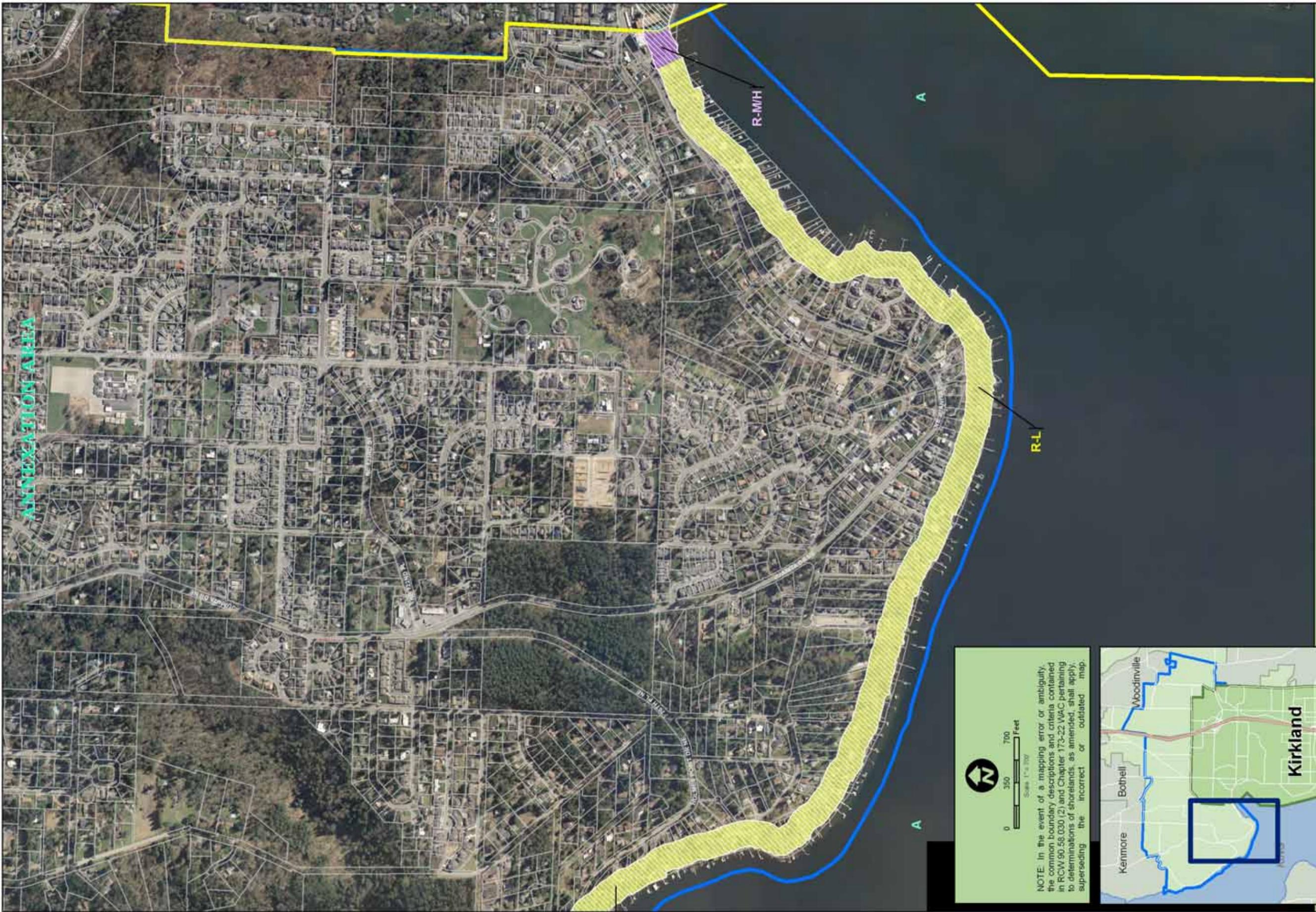


Figure XXa



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.

Scale: 1" = 700'
 0 350 700 Feet



Proposed Shoreline Environment Designation Map

Shoreline Master Program - Kirkland Annexation Area

- Aquatic
- Urban Conservancy
- Residential - Low
- Residential - Medium/High
- Shoreline Management Area
- Kirkland City Limits
- Kirkland Annexation Area
- Adjacent City Limits



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Figure XXb

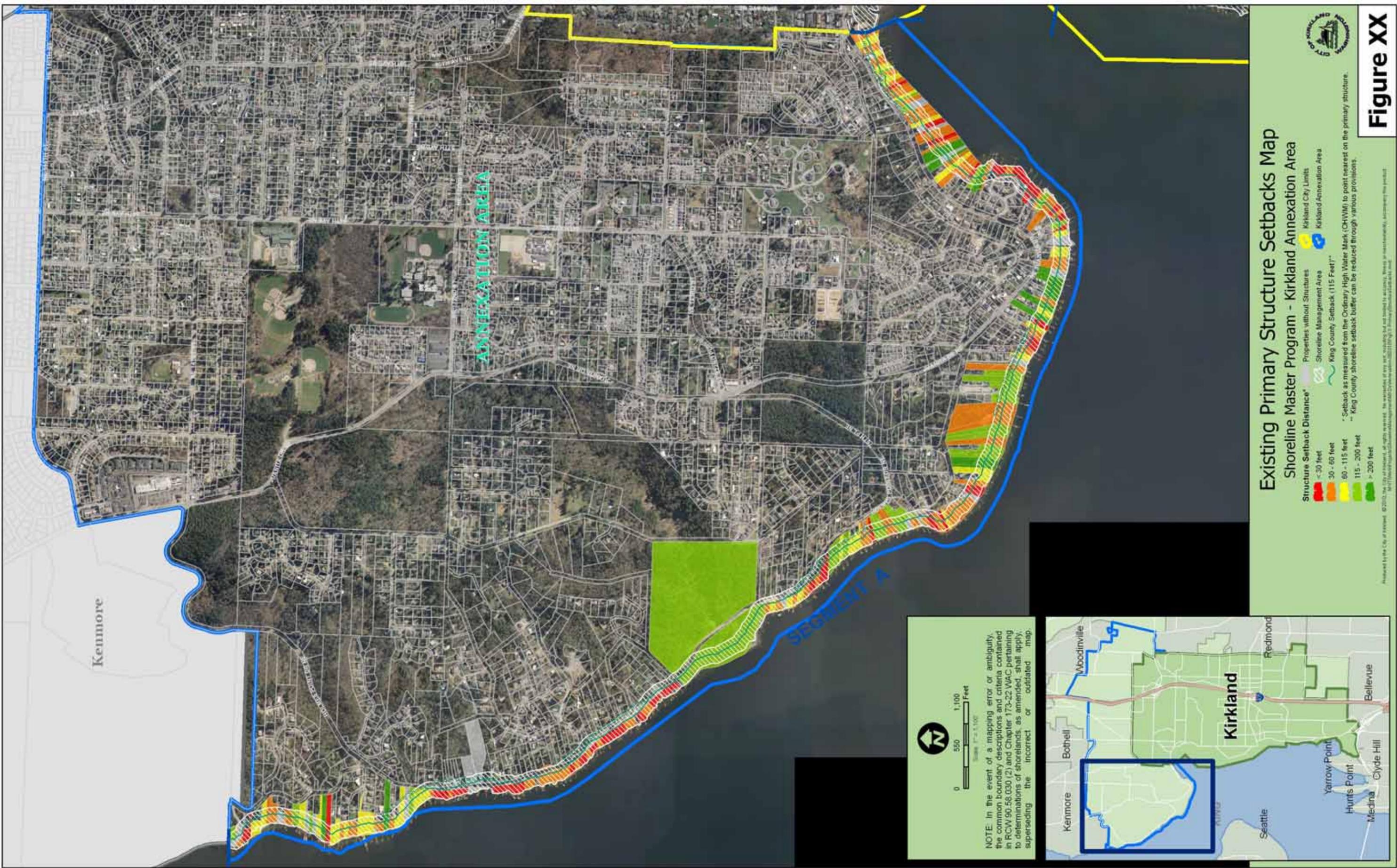
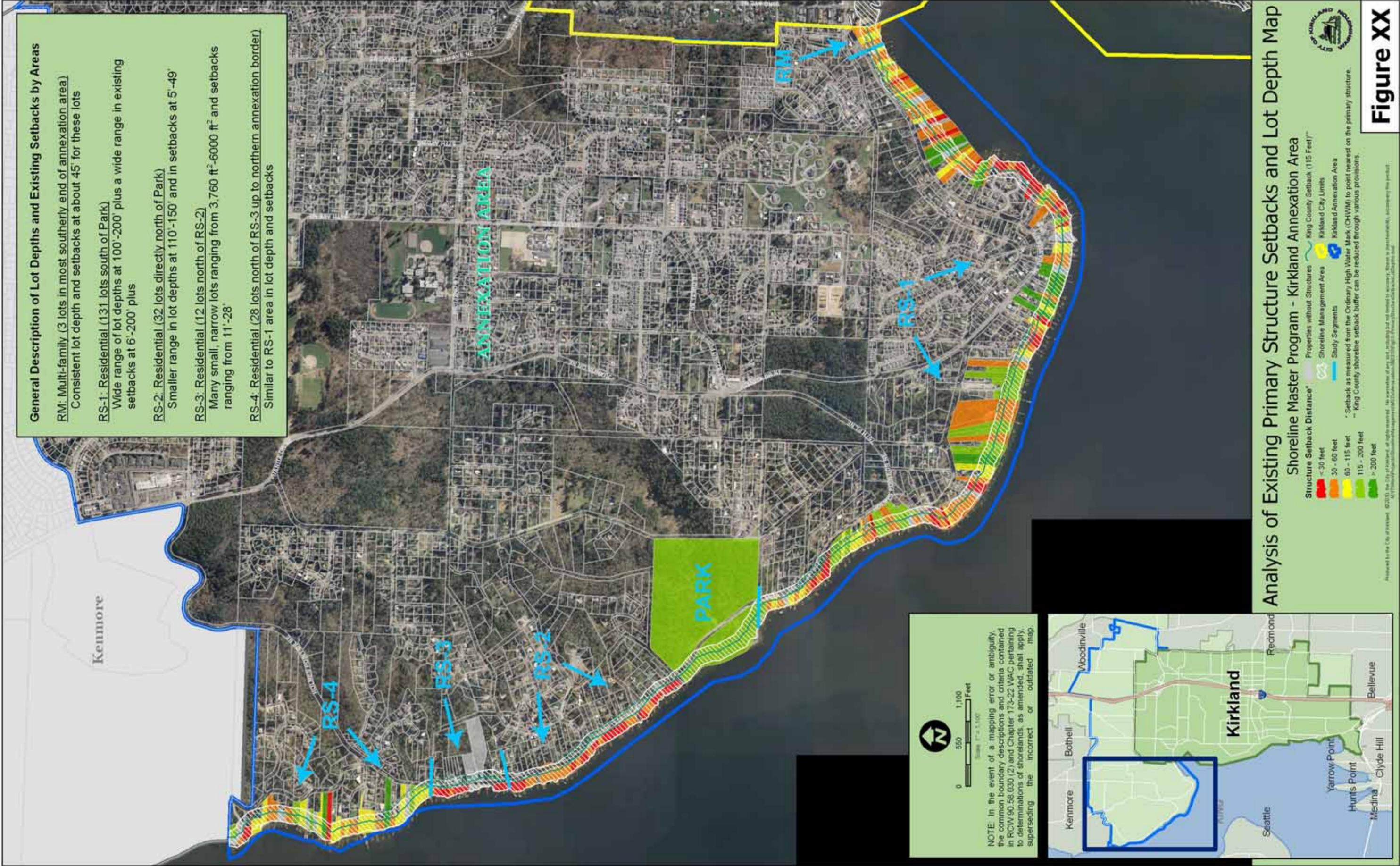


Figure XX



Analysis of Existing Primary Structure Setbacks and Lot Depth Map

Figure XX

