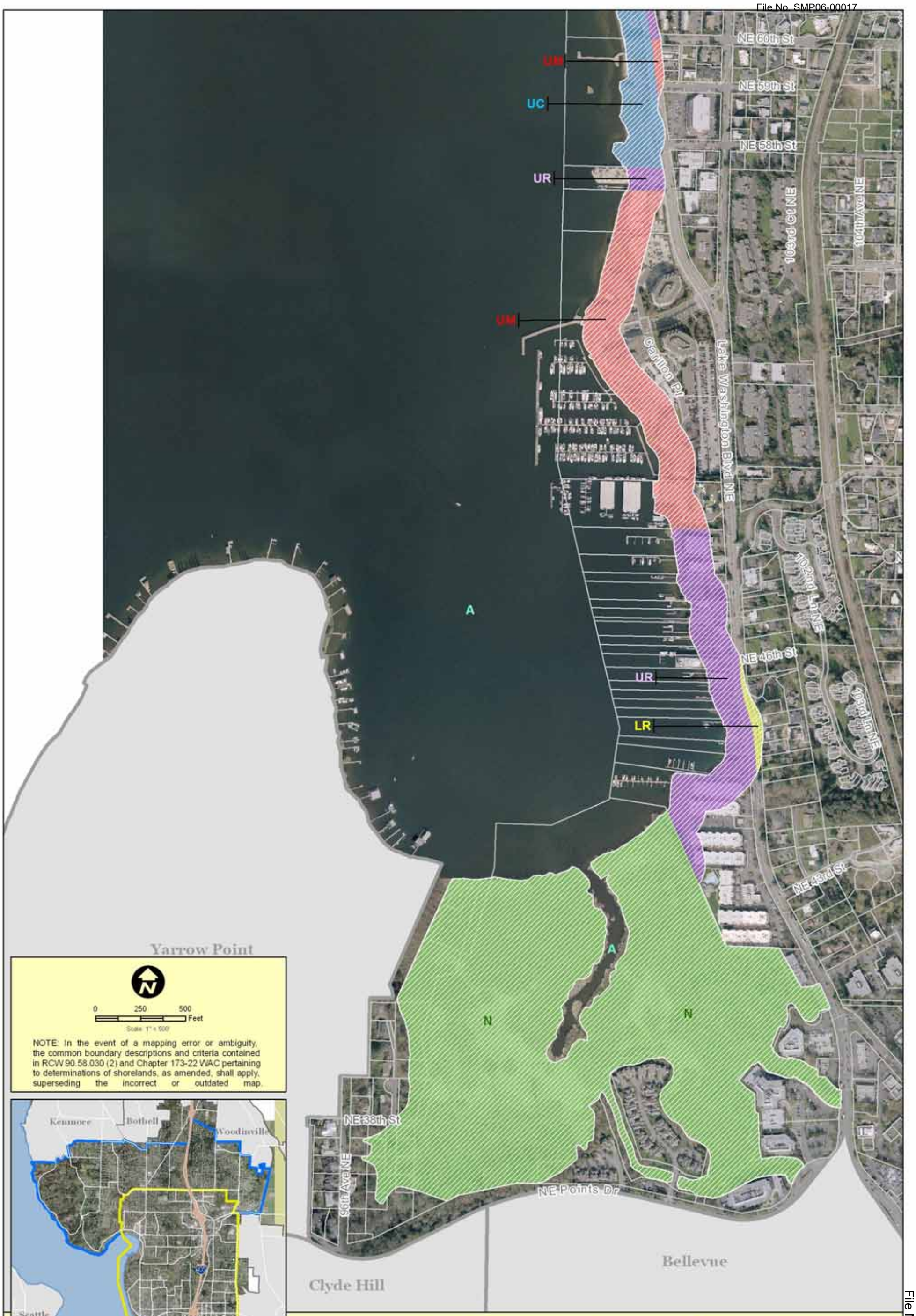
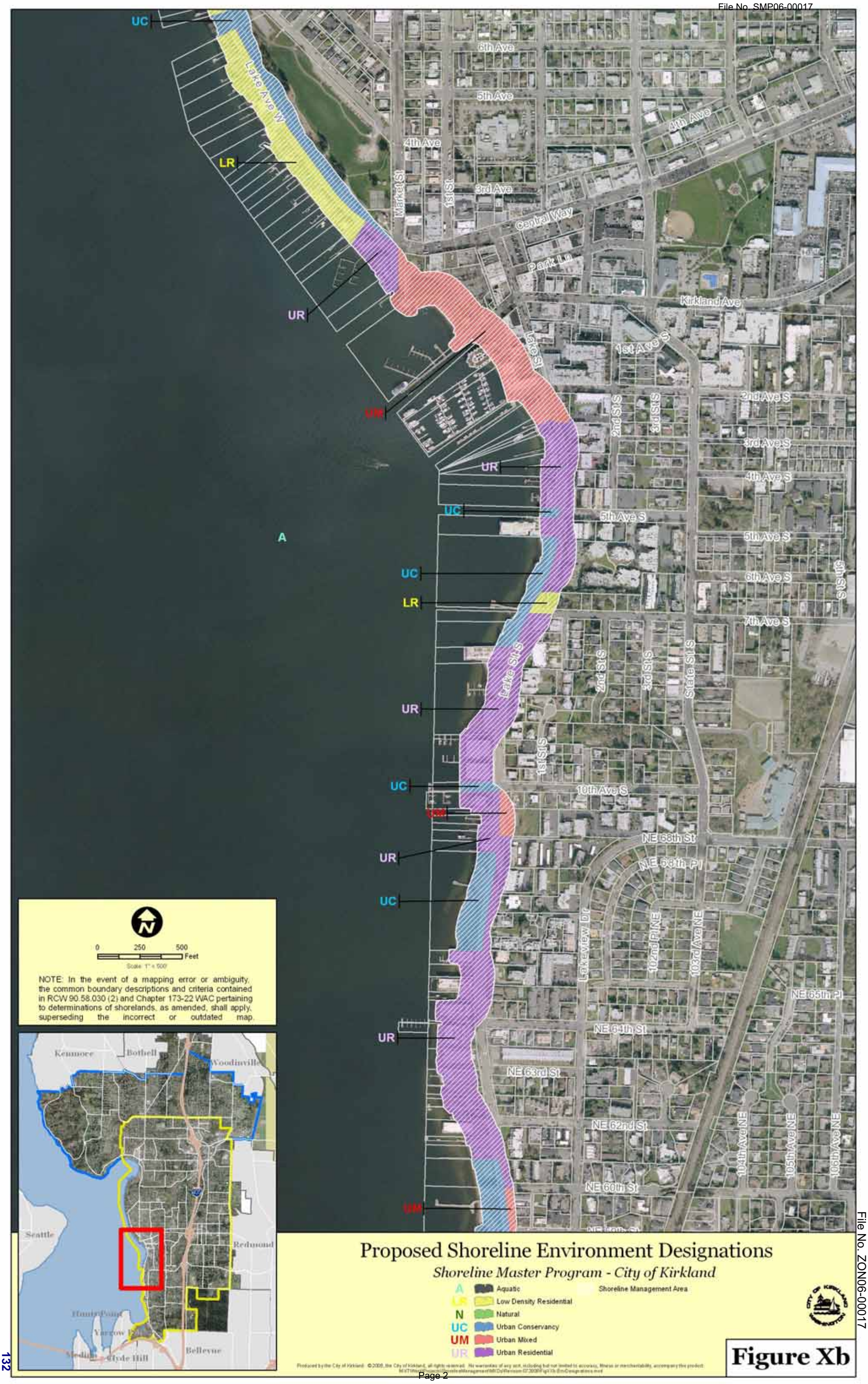
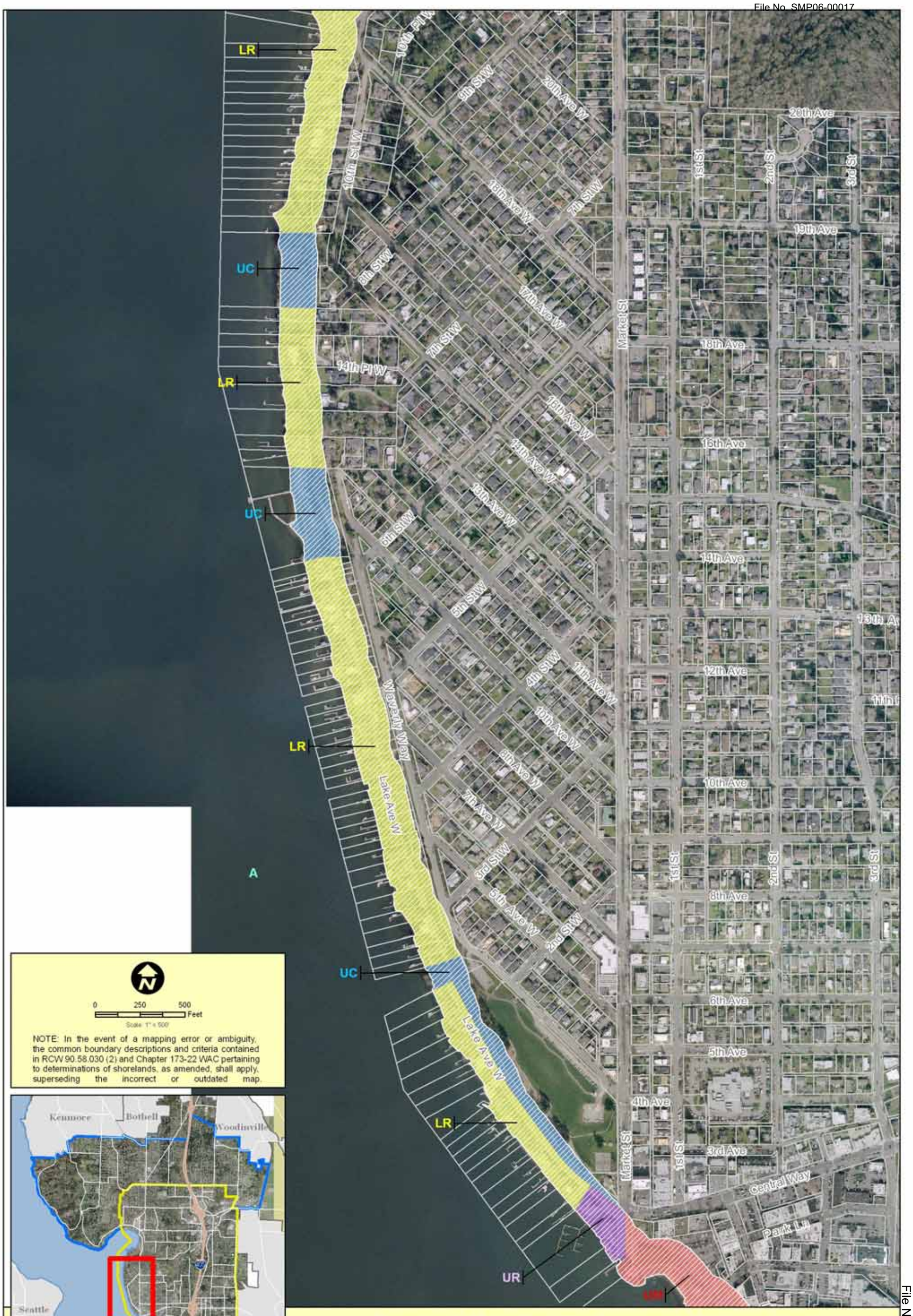
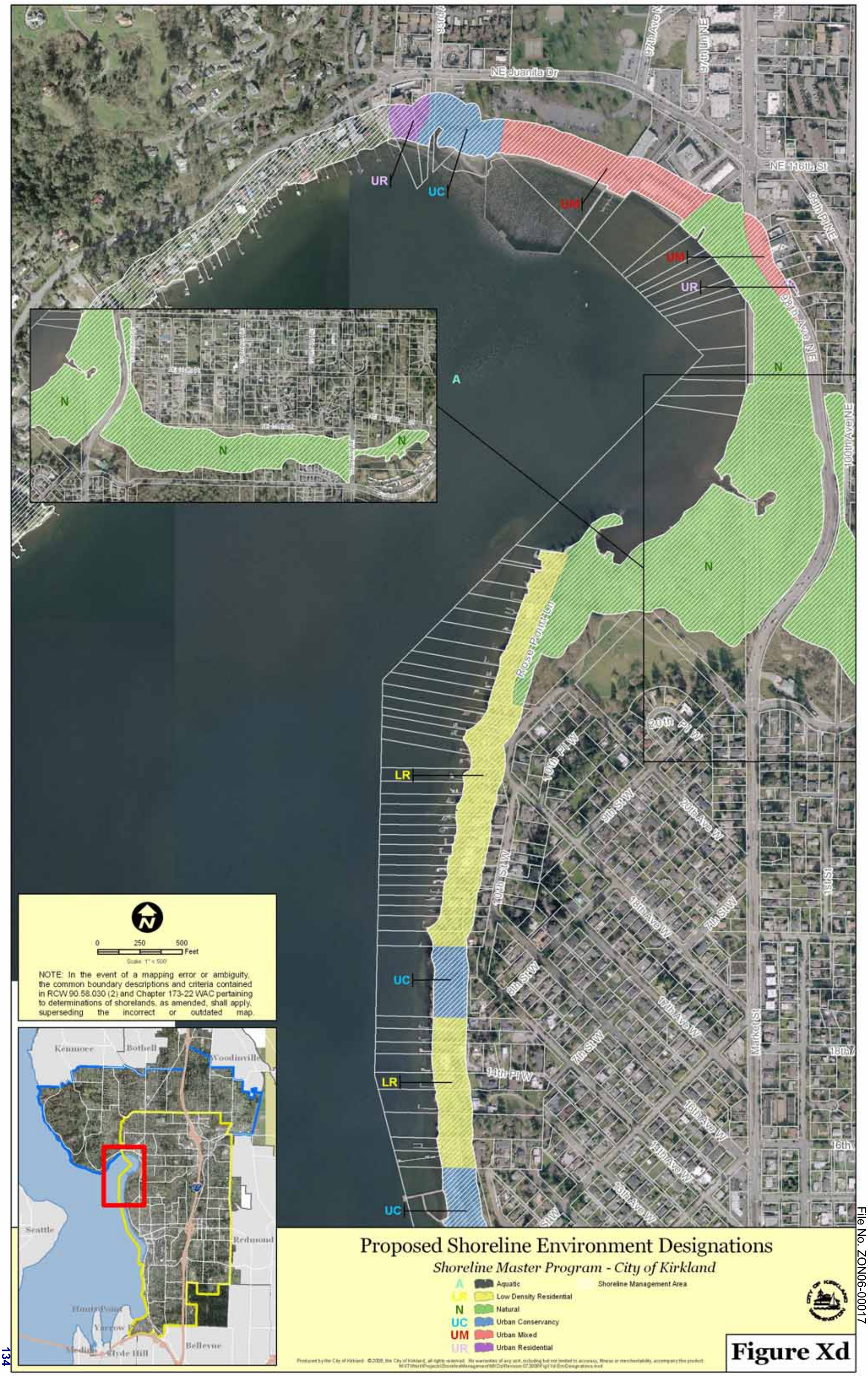

UM
UC
UR
UM
A
UR
LR
A
N
N
NE 60th St
NE 59th St
NE 58th St
108th Ct NE
104th Ave NE
Carillon Pl
Lake Washington Blvd NE
102nd Ln NE
NE 46th St
103rd Ln NE
NE 43rd St
Yarrow Point
NE 38th St
96th Ave NE
NE Points Dr
Bellevue
Clyde Hill
NOTE: In the event of a mapping error or ambiguity, the common boundary 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Chapter 173-22 WAC pertaining to determinations of shorelands, as amended, shall apply, superseding the incorrect or outdated map.
0 250 500 Feet
Kenmore
Bothell
Woodinville
Seattle
Redmond
Bellevue
Clyde Hill
Proposed Shoreline Environment Designations
Shoreline Master Program - City of Kirkland
A Aquatic
UR Low Density Residential
N Natural
UC Urban Conservancy
UM Urban Mixed
UR Urban Residential
Shoreline Management Area
Figure Xa


UC
LR
UR
UM
A
Lake Ave W
6th Ave
5th Ave
4th Ave
3rd Ave
Market St
1st St
Central Way
Park Ln
Kirkland Ave
Lake St
1st Ave S
2nd Ave S
3rd Ave S
4th Ave S
5th Ave S
6th Ave S
7th Ave S
10th Ave S
Lake St S
2nd St S
3rd St S
4th St S
State St S
5th St S
1st St S
NE 68th St
NE 66th Pl
Lakeview Dr
102nd Pl NE
103rd Ave NE
NE 65th Pl
NE 64th St
NE 63rd St
NE 62nd St
NE 60th St
104th Ave NE
105th Ave NE
106th Ave NE
0 250 500 Feet
Scale 1" = 500'
NOTE: In the event of a mapping error or ambiguity, the common boundary descriptions and criteria contained in RCW 90.58.030 (2) and Chapter 173-22 WAC pertaining to determinations of shorelands, as amended, shall apply, superseding the incorrect or outdated map.
Kenmore
Bothell
Woodinville
Seattle
Redmond
Bellevue
Hunts Point
Yarrow Point
Medina
Clyde Hill
Proposed Shoreline Environment Designations
Shoreline Master Program - City of Kirkland
A Aquatic
LR Low Density Residential
N Natural
UC Urban Conservancy
UM Urban Mixed
UR Urban Residential
Shoreline Management Area
Figure Xb


LR
UC
LR
UC
LR
UC
LR
UR
UM
A
Lake Ave W
Waverly Way
Market St
1st St
2nd St
3rd St
20th Ave
19th Ave
18th Ave
16th Ave
14th Ave
12th Ave
10th Ave
8th Ave
6th Ave
5th Ave
4th Ave
3rd Ave
Central Way
Park Ln
10th Pl W
9th St W
20th Ave W
10th St W
18th Ave W
7th St W
8th St W
17th Ave W
14th Pl W
16th Ave W
15th Ave W
13th Ave W
6th St W
5th St W
4th St W
11th Ave W
10th Ave W
9th Ave W
7th Ave W
3rd St W
5th Ave W
2nd St W
0 250 500 Feet
Scale 1" = 500'
NOTE: In the event of a mapping error or ambiguity, the common boundary descriptions and criteria contained in RCW 90.58.030 (2) and Chapter 173-22 WAC pertaining to determinations of shorelands, as amended, shall apply, superseding the incorrect or outdated map.
Kenmore
Bothell
Woodinville
Seattle
Redmond
Bellevue
Medina
Clyde Hill
Proposed Shoreline Environment Designations
Shoreline Master Program - City of Kirkland
A Aquatic
LR Low Density Residential
N Natural
UC Urban Conservancy
UM Urban Mixed
UR Urban Residential
Shoreline Management Area
Figure Xc



Attachment 7
File No. ZON06-00017

WORKING DRAFT – FOR DISCUSSION ONLY

ENVIRONMENT DESIGNATIONS REPORT

Project: Comprehensive Shoreline Master Program Update

- **Task 7: Environment Designations**

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The views expressed herein are those of the authors and do not necessarily reflect the views of NOAA or any of its subagencies.

August 2008

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CITY OF KIRKLAND
SHORELINE MASTER PROGRAM UPDATE
ENVIRONMENT DESIGNATIONS

1.0 INTRODUCTION

The Shoreline Management Act (SMA) Guidelines [WAC 173-26-211(2)(a)] require local shoreline master programs (SMPs) to "classify shoreline areas into specific environment designations. This classification system shall be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in [WAC 173-26-211]".

The Guidelines also stipulate that an "up-to-date and accurate" map should be prepared that clearly illustrates the boundaries of the appropriate environment designations, by parcel if feasible. Common boundary descriptions must be prepared that also identify the location and extent of each environment designation. The common boundary descriptions and the criteria in RCW 90.58.030(2) and WAC 173-26-211 supersede the map when there are conflicts [WAC 173-26-211(2)(b)].

In the event that a jurisdictional area is not mapped or included in the common boundary descriptions for each environment designation, it will automatically be assigned an "Urban Conservancy" designation. That designation will apply until an SMP amendment is approved that assigns the appropriate designation to that area [WAC 173-26-211(2)(e)].

The City's Comprehensive Plan and SMP are required to be consistent [WAC 173-26-211(3)]. For example, an area planned for commercial development in the Comprehensive Plan should not be assigned a Shoreline Residential environment designation that would preclude commercial development. So although the SMA directs designations to be assigned based on a number of variables, including biological character, in practice the first level of environment designation assignments will be based on planned land use. Secondarily, assignment of environment designations such as Natural or Urban Conservancy to parks and other open space may be more rooted in biological and physical characteristics. Not only must the overall uses allowed be consistent between the Comprehensive Plan and the SMP, but also the restrictive provisions of each should not combine such that the use is effectively precluded on any parcel.

2.0 ASSIGNMENT OF ENVIRONMENT DESIGNATIONS

The Guidelines recommend use of six environment designations: High Intensity, Shoreline Residential, Urban Conservancy, Rural Conservancy, Natural and Aquatic. Only "Rural Conservancy" is not an appropriate designation for the City of Kirkland's shoreline jurisdiction. Under the Guidelines, the City has the option of establishing additional shoreline environments provided they are consistent with the Guidelines. In recognition of clear differences in density and condition, the City has elected to establish two distinct residential environments. The City will re-title its "High Intensity" equivalent as "Urban Mixed" and its Shoreline Residential environment will be divided into "Low Density Residential" and "Urban Residential." The "Aquatic" designation applies to all areas waterward of the ordinary high water mark. The

following table provides the Guideline's criteria for each of the four remaining standard environment designations and the additional residential environment, and a discussion of how each shoreline inventory segment falls within those criteria. Four inventory segments were originally evaluated (A through D). However, the City is not including the Potential Annexation Area (Segment A) in this update of its SMP.

Table 1. Analysis of Consistency of Each Inventory Segment with Environment Designation Criteria.

Environment Designation Criteria (WAC 173-26-211)	**Supporting Shoreline Inventory Information**		
	Segment B	**Segment C**	**Segment D**
A "**Natural**" environment designation should be assigned to shoreline areas if any of the following characteristics apply:			
(A) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;	✓ Yarrow Bay in particular is virtually ecologically intact. Juanita Bay is less so, in some areas, although much of Juanita Bay Park and extending up the Forbes Creek corridor have high ecological value. The segment's shoreline has been altered very little: 7% armored, 1.5 ft^2 over-water cover/linear foot, and approximately 3% impervious surface. See Tables 6-8, Section 4.2 of *Final Analysis Report.* Table 19 shows Moderate and High levels of function for 15 indicators.	**NO.** The shoreline is heavily altered: 83% armored, 9 ft^2 over-water cover/foot, and approximately 29% impervious surface. See Tables 6-8, Section 4.3 of *Final Analysis Report.* Table 18 shows Low and Low-Moderate levels of function for 15 indicators.	**NO.** The shoreline is heavily altered: 90% armored, 24.1 ft^2 over-water cover/foot, and approximately 55% impervious surface. See Tables 6-8, Section 4.4 of *Final Analysis Report.* Table 18 shows Low and Low-Moderate levels of function for 15 indicators.
(B) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or	✓ Both Yarrow and Juanita Bay portions contain large wetland areas. Yarrow Bay is a unique lakeshore habitat in Kirkland, and is uncommon in Lake Washington. In particular, Juanita Bay Park is utilized for educational purposes. See Section 4.2.3 of *Final Analysis Report*	**NO**	**NO**
(C) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.	✓ Yarrow Bay in particular is very sensitive to alteration, as are the undeveloped wetland areas of Juanita Bay Park and associated wetlands continuing to the east of the Park.	**NO.** Segment C could support additional upland development without degrading the baseline condition further.	**NO.** Segment D could support additional upland development without degrading the baseline condition further.

Environment Designation Criteria (WAC 173-26-211)	Supporting Shoreline Inventory Information		
	Segment B	**Segment C**	**Segment D**
Assign a "**High-Intensity [Urban Mixed]**" environment designation to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "rural areas of more intense development," as described by RCW 36.70A.070, if they:			
currently support high-intensity uses related to commerce, transportation or navigation; or	✓ A small area (3%) of Segment B in the northeast corner of Juanita Bay is zoned Commercial, Office and Office/Multi-Family. Actual uses in these zones include some office space, Michael's parking area, vet clinic, condominium, and undeveloped wetland areas	**NO**	✓ 29% of the segment is zoned Commercial, and includes private marinas, hotels, restaurants, and office space. In addition, Marina Park hosts high-intensity commerce and transportation-related facilities and activities, such as a public marina, public boat launch, and Argosy Cruises. Other high-intensity uses in Marina Park include the summer concert series, and special events at the rentable Pavilion.
are suitable and planned for high-intensity water-oriented uses	✓ Portions of Juanita Beach Park (outside of Juanita Creek and its associated buffer) are suitable and planned for high-intensity water-oriented uses as part of development of the approved Master Plan, including short-term moorage, a boat rental float, a bathhouse with concessions and boat rental activities, a lakefront promenade, a community commons that can be used for community events, including a Farmer's Market, movie nights, as well as potential future urban amenities including restaurants, etc.	**NO**	✓ Low probability for additional high-intensity water-oriented uses – segment largely built out. Marina Park has the greatest potential for additional development of water-oriented uses.

Environment Designation Criteria (WAC 173-26-211)	Supporting Shoreline Inventory Information		
	Segment B	**Segment C**	**Segment D**
Assign an "**Urban Conservancy**" environment designation to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "rural areas of more intense development" if any of the following characteristics apply:			
(A) They are suitable for water-related or water-enjoyment uses;	✓ The park areas of Juanita Bay are suitable for and experience a mix of water-related and water-enjoyment uses, including boating, swimming, and birding, among others. Yarrow Bay is suitable for and experiences passive water-enjoyment uses, such as non-motorized boating, wildlife observation, etc.	✓ Segment C contains three public parks comprising 24% of the shoreline that provide a mix of water-related and water enjoyment uses.	✓ Segment D contains six public parks comprising 18% of the shoreline that provide a mix of water-related and water enjoyment uses.
(B) They are open space, flood plain or other sensitive areas that should not be more intensively developed;	✓ Both Yarrow and Juanita Bays contain large wetland and floodplain areas. See Section 4.2.3 and Figures 10 and 11 of *Final Analysis Report*.	✓ Parks in this segment total 24% of the area. The parks generally do not contain sensitive areas.	✓ Parks in this segment total 18% of the area. The parks generally do not contain sensitive areas.
(C) They have potential for ecological restoration;	✓ All segments have potential for ecological restoration, although the probability of restoration occurring is highest on publicly owned lands. Segment B has the highest percentage of parks/open space. Segments C and D also contain a number of developed parks, many of which have shoreline armoring and limited shoreline vegetation that could benefit from enhancement.		
(D) They retain important ecological functions, even though partially developed; or	✓ The slightly developed sections of Segment B, primarily Juanita Beach Park and the immediate surrounding property to the west, as well as the nearshore portions of Juanita Bay Park retain substantial ecological function. Both areas have shallow-water habitat, no shoreline armoring, and Juanita Bay Park contains substantial aquatic and riparian vegetation.	**NO**. The shoreline is heavily altered: 83% armored, 9 ft^2 over-water cover/foot, and approximately 29% impervious surface. See Tables 6-8, Section 4.3 of Final Analysis Report. Table 18 shows Low and Low-Moderate levels of function for 15 indicators.	**NO**. The shoreline is heavily altered: 90% armored, 24.1 ft^2 over-water cover/foot, and approximately 55% impervious surface. See Tables 6-8, Section 4.4 of Final Analysis Report. Table 18 shows Low and Low-Moderate levels of function for 15 indicators.

Table 1. Analysis of Consistency of Each Inventory Segment with Environment Designation Criteria.

Environment Designation Criteria (WAC 173-26-211)	**Supporting Shoreline Inventory Information**		
	Segment B	**Segment C**	**Segment D**
A "**Natural**" environment designation should be assigned to shoreline areas if any of the following characteristics apply:			
(A) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;	✓ Yarrow Bay in particular is virtually ecologically intact. Juanita Bay is less so, in some areas, although much of Juanita Bay Park and extending up the Forbes Creek corridor have high ecological value. The segment's shoreline has been altered very little: 7% armored, 1.5 ft^2 over-water cover/linear foot, and approximately 3% impervious surface. See Tables 6-8, Section 4.2 of *Final Analysis Report.* Table 19 shows Moderate and High levels of function for 15 indicators.	**NO.** The shoreline is heavily altered: 83% armored, 9 ft^2 over-water cover/foot, and approximately 29% impervious surface. See Tables 6-8, Section 4.3 of *Final Analysis Report.* Table 18 shows Low and Low-Moderate levels of function for 15 indicators.	**NO.** The shoreline is heavily altered: 90% armored, 24.1 ft^2 over-water cover/foot, and approximately 55% impervious surface. See Tables 6-8, Section 4.4 of *Final Analysis Report.* Table 18 shows Low and Low-Moderate levels of function for 15 indicators.
(B) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or	✓ Both Yarrow and Juanita Bay portions contain large wetland areas. Yarrow Bay is a unique lakeshore habitat in Kirkland, and is uncommon in Lake Washington. In particular, Juanita Bay Park is utilized for educational purposes. See Section 4.2.3 of *Final Analysis Report*	**NO**	**NO**
(C) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.	✓ Yarrow Bay in particular is very sensitive to alteration, as are the undeveloped wetland areas of Juanita Bay Park and associated wetlands continuing to the east of the Park.	**NO.** Segment C could support additional upland development without degrading the baseline condition further.	**NO.** Segment D could support additional upland development without degrading the baseline condition further.

Environment Designation Criteria (WAC 173-26-211)	Supporting Shoreline Inventory Information		
	Segment B	**Segment C**	**Segment D**
Assign a "**High-Intensity [Urban Mixed]**" environment designation to shoreline areas within incorporated municipalities, urban growth areas, and industrial or commercial "rural areas of more intense development," as described by RCW 36.70A.070, if they:			
currently support high-intensity uses related to commerce, transportation or navigation; or	✓ A small area (3%) of Segment B in the northeast corner of Juanita Bay is zoned Commercial, Office and Office/Multi-Family. Actual uses in these zones include some office space, Michael's parking area, vet clinic, condominium, and undeveloped wetland areas	**NO**	✓ 29% of the segment is zoned Commercial, and includes private marinas, hotels, restaurants, and office space. In addition, Marina Park hosts high-intensity commerce and transportation-related facilities and activities, such as a public marina, public boat launch, and Argosy Cruises. Other high-intensity uses in Marina Park include the summer concert series, and special events at the rentable Pavilion.
are suitable and planned for high-intensity water-oriented uses	✓ Portions of Juanita Beach Park (outside of Juanita Creek and its associated buffer) are suitable and planned for high-intensity water-oriented uses as part of development of the approved Master Plan, including short-term moorage, a boat rental float, a bathhouse with concessions and boat rental activities, a lakefront promenade, a community commons that can be used for community events, including a Farmer's Market, movie nights, as well as potential future urban amenities including restaurants, etc.	**NO**	✓ Low probability for additional high-intensity water-oriented uses – segment largely built out. Marina Park has the greatest potential for additional development of water-oriented uses.

Environment Designation Criteria (WAC 173-26-211)	Supporting Shoreline Inventory Information		
	Segment B	**Segment C**	**Segment D**
Assign an "**Urban Conservancy**" environment designation to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "rural areas of more intense development" if any of the following characteristics apply:			
(A) They are suitable for water-related or water-enjoyment uses;	✓ The park areas of Juanita Bay are suitable for and experience a mix of water-related and water-enjoyment uses, including boating, swimming, and birding, among others. Yarrow Bay is suitable for and experiences passive water-enjoyment uses, such as non-motorized boating, wildlife observation, etc.	✓ Segment C contains three public parks comprising 24% of the shoreline that provide a mix of water-related and water enjoyment uses.	✓ Segment D contains six public parks comprising 18% of the shoreline that provide a mix of water-related and water enjoyment uses.
(B) They are open space, flood plain or other sensitive areas that should not be more intensively developed;	✓ Both Yarrow and Juanita Bays contain large wetland and floodplain areas. See Section 4.2.3 and Figures 10 and 11 of *Final Analysis Report*.	✓ Parks in this segment total 24% of the area. The parks generally do not contain sensitive areas.	✓ Parks in this segment total 18% of the area. The parks generally do not contain sensitive areas.
(C) They have potential for ecological restoration;	✓ All segments have potential for ecological restoration, although the probability of restoration occurring is highest on publicly owned lands. Segment B has the highest percentage of parks/open space. Segments C and D also contain a number of developed parks, many of which have shoreline armoring and limited shoreline vegetation that could benefit from enhancement.		
(D) They retain important ecological functions, even though partially developed; or	✓ The slightly developed sections of Segment B, primarily Juanita Beach Park and the immediate surrounding property to the west, as well as the nearshore portions of Juanita Bay Park retain substantial ecological function. Both areas have shallow-water habitat, no shoreline armoring, and Juanita Bay Park contains substantial aquatic and riparian vegetation.	**NO**. The shoreline is heavily altered: 83% armored, 9 ft^2 over-water cover/foot, and approximately 29% impervious surface. See Tables 6-8, Section 4.3 of Final Analysis Report. Table 18 shows Low and Low-Moderate levels of function for 15 indicators.	**NO**. The shoreline is heavily altered: 90% armored, 24.1 ft^2 over-water cover/foot, and approximately 55% impervious surface. See Tables 6-8, Section 4.4 of Final Analysis Report. Table 18 shows Low and Low-Moderate levels of function for 15 indicators.

Environment Designation Criteria (WAC 173-26-211)	Supporting Shoreline Inventory Information		
	Segment B	**Segment C**	**Segment D**
(E) They have the potential for development that is compatible with ecological restoration.	✓ Juanita Beach Park and the more developed portions of Juanita Bay Park could accommodate additional development that, when coupled with appropriate restoration, could result in net improvements to ecological functions. However, it is likely that any development of the Yarrow Bay Wetlands and contiguous wetland areas could not be off-set by restoration.	✓ Entire segment has potential for ecological restoration, although the probability of restoration occurring is highest on publicly owned lands.	✓ Entire segment has potential for ecological restoration, although the probability of restoration occurring is highest on publicly owned lands. Segment contains a number of developed parks, many of which have shoreline armoring and limited shoreline vegetation that could benefit from enhancement.
Assign a "**Shoreline Residential [Low Density Residential]**" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are:			
predominantly single-family residential development or	**NO**. Only 10% of the segment is zoned for residential use. Currently, small areas of Segment B at the north end of Juanita Bay contain condominiums.	✓ 76% of the segment is zoned for low-density residential uses.	**NO**. Segment is predominately zoned for high or moderate density residential, commercial, or mixed-use development.
planned and platted for low-density residential development	**NO**. As identified in Section 4.2.1 of the *Final Analysis Report*, several properties along the west edge of the Yarrow Bay Wetlands are planned for low density residential development, but are mapped as wetland, floodplain, medium landslide hazard area, seismic hazard area, hydric soils, and/or are protected critical area buffers, and as such are likely undevelopable unless a shoreline variance is obtained. Assignment of a Shoreline Residential environment to these areas would be inconsistent with the biological and physical character.	✓ Residential capacity in this segment would allow for an additional 13 single-family units.	✓Segment contains a small area of property developed and planned for low-density residential development.
[New designation not included in WAC] Assign an "**Urban Residential**" environment designation to shoreline areas inside urban growth areas,			

Environment Designation Criteria (WAC 173-26-211)	Supporting Shoreline Inventory Information		
	Segment B	**Segment C**	**Segment D**
as defined in RCW 36.70A.110, and incorporated municipalities if they are:			
predominantly multifamily residential development or	**NO**. Only 10% of the segment is zoned for residential use. Currently, small areas of Segment B at the north end of Juanita Bay and west of Juanita Beach Park contain condominiums.	**NO**. 76% of the segment is zoned for and developed with low-density residential uses.	✓ 53% of the segment is zoned for and developed with medium-density residential uses.
planned for medium or high-density residential development	✓ Existing high-density residential development and/or zoning is present in the following areas: 1) at northwest edge of Juanita Bay, 2) west of Juanita Beach Park, and 3) on the east side of 98th Avenue NE.	**NO**. Residential capacity in this segment would allow for an additional 13 single-family units.	✓ Residential capacity in this segment would allow for an additional 401 multi-family units
PRELIMINARY DESIGNATIONS	• **Natural** • **Urban Conservancy** • **Urban Mixed** • **Urban Residential**	• **Low Density Residential** • **Urban Residential** • **Urban Conservancy**	• **Urban Mixed** • **Urban Conservancy** • **Urban Residential** • **Low-Density Residential**

As indicated in Table 1 above, none of the inventory segments fall strictly within one shoreline environment designation based on the above criteria. In the division of designations within the shoreline environment as a whole and the segments, the over-riding criteria is that the environment designations "be based on the existing use pattern, the biological and physical character of the shoreline, and the goals and aspirations of the community as expressed through comprehensive plans as well as the criteria in this section" (WAC 173-26-211(2)(a)). This is further elaborated in WAC 173-26-211(3) as follows:

> The following criteria are intended to assist local governments in evaluating the consistency between master program environment designation provisions and the corresponding comprehensive plan elements and development regulations. In order for shoreline designation provisions, local comprehensive plan land use designations, and development regulations to be internally consistent, all three of the conditions below should be met:
>
> (a) **Provisions not precluding one another.** The comprehensive plan provisions and shoreline environment designation provisions should not preclude one another. To meet this criteria, the provisions of both the comprehensive plan and the master program must be able to be met. Further, when considered together and applied to any one piece of property, the master program use policies and regulations and the local zoning or other use regulations should not conflict in a manner that all viable uses of the property are precluded.
>
> (b) **Use compatibility.** Land use policies and regulations should protect preferred shoreline uses from being impacted by incompatible uses. The intent is to prevent water-oriented uses, especially water-dependent uses, from being restricted on shoreline areas because of impacts to nearby nonwater-oriented uses. To be consistent, master programs, comprehensive plans, and development regulations should prevent new uses that are not compatible with preferred uses from locating where they may restrict preferred uses or development.
>
> (c) **Sufficient infrastructure.** Infrastructure and services provided in the comprehensive plan should be sufficient to support allowed shoreline uses. Shoreline uses should not be allowed where the comprehensive plan does not provide sufficient roads, utilities, and other services to support them. Infrastructure plans must also be mutually consistent with shoreline designations. Where they do exist, utility services routed through shoreline areas shall not be a sole justification for more intense development.

As a result, the comprehensive plan largely drives the assignment of designations. In the City of Kirkland, the existing biological character of the shoreline primarily plays a role in distinguishing between the Natural and Urban Conservancy environment designation assignments. In less developed areas outside of city limits, the actual shoreline conditions may not yet reflect the level of alteration allowed by the zoning. However, this situation is not common in Kirkland, and is only found at the west edge of the Yarrow Bay Wetlands where undeveloped wetlands and buffers are located in an area designated for residential development. Figure 1 in Appendix A illustrates the existing environment designations (seven categories) and

Figures 2a and 2b in Appendix A illustrate the proposed environment designations (four categories, plus new Aquatic and Urban Residential designations). Table 2 outlines the relationship between the current comprehensive plan land use classifications, existing environment designations, and proposed environment designations.[1] In general, the City's Urban Mixed designations correlate with Ecology's High-Intensity designation [the City elects to retain the name "Urban Mixed" for this environment], the City's Conservancy 1 designation correlates with Ecology's Urban Conservancy designation, the City's Conservancy 2 designation correlates with Ecology's Natural designation, and the City's Urban Residential and Suburban Residential designations correlate with Ecology's Shoreline Residential designation (broken into Low Density Residential and Urban Residential).

Table 2. Summary of Comprehensive Plan Designations, Existing Shoreline Environment Designations, and Proposed Environment Designations by Segment.

Segment	Comprehensive Plan Classification	Existing Shoreline Environment Designation	Proposed Shoreline Environment Designation
Segment B	Commercial	Urban Residential 1 Urban Mixed 1 Conservancy 1	Urban Mixed Natural[1]
	Low Density Residential	Conservancy 2	Natural[2]
	Medium Density Residential	Conservancy 2 Urban Mixed 1	Natural[2] Urban Residential
	High Density Residential	Urban Residential 1	Urban Residential and Urban Conservancy[3]
	Office	Urban Mixed 1	Urban Mixed
	Office/Multi-Family	Conservancy 2	Natural[2]
	Park/Open Space	Conservancy 1 & 2 Urban Residential 1	Natural Urban Conservancy and Urban Mixed
Segment C	Low Density Residential	Suburban Residential	Low Density Residential
	Park/Open Space		Urban Conservancy
	Medium Density Residential	Urban Residential 1	Urban Residential
Segment D	Commercial	Urban Mixed 1 / 2 Urban Residential 1	Urban Mixed
	Park/Open Space	Urban Mixed 1 Urban Residential 1	Urban Mixed Urban Conservancy
	Low Density Residential	Urban Residential 1 Urban Residential 2	Low Density Residential
	Medium Density Residential	Urban Residential 1 / 2	Urban Residential
	High Density Residential	Urban Residential 1	Urban Residential

[1] This table is for comparison purposes only. The existing environment designations were not part of the City's decision-making for establishing the boundaries of new environment designations. The Comprehensive Plan classifications were only part of the elements considered in assigning the new environment designations.

Segment	Comprehensive Plan Classification	Existing Shoreline Environment Designation	Proposed Shoreline Environment Designation
	Office / Multi-Family		Urban Mixed

[1] Inconsistency between Comprehensive Plan and proposed environment designation – Natural designation assigned to undeveloped portion of property along northeast corner of Juanita Bay that contain wetlands that are contiguous with the Juanita Bay Park wetland complex.
[2] Inconsistency between Comprehensive Plan and proposed environment designation – Natural designation assigned to entire undeveloped parcels and undeveloped portions of parcels at northwest and southwest ends of Yarrow Bay Wetlands that contain wetlands and are contiguous with the Yarrow Bay Wetlands.
[3] Inconsistency between Comprehensive Plan and proposed environment designations - Urban Conservancy is assigned to portion of an undeveloped parcel that is encumbered by the stream buffer for Juanita Creek and is undeveloped and functioning as open space. Property is a common Tract created as part of the plat of the Juanita Beach Camps and is owned in common by the property owners of lots within this plat.

The following table (Table 3) provides additional information regarding the City's existing environment designation system and how it relates to the proposed environment designation system.[2]

Table 3. Definitions of and Correlations between Existing and Proposed Environment Designation Systems.

Existing Shoreline Environment Designation (KMC 24.05.095)	Proposed Shoreline Environment Designation
Conservancy: These are characteristically large undeveloped or sparsely developed areas exhibiting some natural constraints such as wetland conditions, frequently containing a variety of flora and fauna and in a natural or seminatural state.	Natural: shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Includes largely undisturbed portions of shoreline areas such as wetlands and ecologically intact shoreline habitats Urban Conservancy: open space, floodplain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses
Suburban Residential: These are areas typified by single-family residential development on medium sized or larger lots in areas where topography, transportation systems and development patterns make it extremely unlikely that more intensive use would be appropriate.	Low Density Residential: predominantly single-family residential development or are planned and platted for low-density residential development

[2] This table is for comparison purposes only. The existing environment designations were not part of the City's decision-making for establishing the boundaries of new environment designations.

Existing Shoreline Environment Designation (KMC 24.05.095)	Proposed Shoreline Environment Designation
Urban Residential: These are areas containing, for the most part, single-family residential uses on small lots and multifamily residential developments, with some land being used for restaurants, marinas, and other commercial uses which depend on or benefit from a shoreline location.	Urban Residential: predominantly multifamily residential development or are planned and platted for medium or high-density residential development
Urban Mixed: The two types of areas which are appropriate for this classification are as follows: (A) Areas which have been intensively developed with a mix of residential and commercial uses; (B) Large mostly undeveloped areas without serious environmental constraint and with good access which will allow for more intensive mixed use development.	Urban Mixed: shoreline areas that currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

3.0 ENVIRONMENT DESIGNATION PURPOSE, CRITERIA AND POLICIES

The Shoreline Master Program Guidelines requires each jurisdiction's SMP to contain for each of its proposed environment designations a statement of purpose, designation criteria, and management policies (WAC 173-26-211(4)(a)(i-iii)). Because the City will be using Ecology's recommended environment designation categories (with the exception of a name change from High Intensity to Urban Mixed and a division of Shoreline Residential into Urban Residential and Low Density Residential), it is appropriate to begin development of Kirkland's environment designation purposes, criteria, and policies from Ecology's recommended language, as provided with some revisions below. These are just a starting point, and can be further amended and supplemented as the City and the public see fit, provided that amendment and supplementation do not undermine or contradict Ecology's guidance, do not conflict with the Comprehensive Plan, are consistent with the purpose of that environment, and are appropriately reflective of ecological and land use conditions in that environment. Any areas within shoreline jurisdiction that are not mapped and/or designated are automatically assigned an Urban Conservancy designation until the shoreline can be re-designated through a master program amendment.

3.1 Natural

3.1.1 Purpose

The purpose of the "Natural" environment is to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. These systems require that only very low intensity uses be allowed in order to maintain the ecological functions and ecosystem-wide processes. Consistent with the policies of the designation, local government should include planning for restoration of degraded shorelines within this environment.

3.1.2 Designation Criteria

A "Natural" environment designation should be assigned to shoreline areas if any of the following characteristics apply:

(A) The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;

(B) The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or

(C) The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

Such shoreline areas include largely undisturbed portions of shoreline areas such as wetlands, estuaries, unstable bluffs, coastal dunes, spits, and ecologically intact shoreline habitats. Shorelines inside or outside urban growth areas may be designated as "Natural."

Ecologically intact shorelines, as used here, means those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses. In forested areas, they generally include native vegetation with diverse plant communities, multiple canopy layers, and the presence of large woody debris available for recruitment to adjacent water bodies. Recognizing that there is a continuum of ecological conditions ranging from near natural conditions to totally degraded and contaminated sites, this term is intended to delineate those shoreline areas that provide valuable functions for the larger aquatic and terrestrial environments which could be lost or significantly reduced by human development. Whether or not a shoreline is ecologically intact is determined on a case-by-case basis.

The term "ecologically intact shorelines" applies to all shoreline areas meeting the above criteria ranging from larger reaches that may include multiple properties to small areas located within a single property.

Areas with significant existing agriculture lands should not be included in the "Natural" designation, except where the existing agricultural operations involve very low intensity uses where there is no significant impact on natural ecological functions, and where the intensity or impacts associated with such agriculture activities is unlikely to expand in a manner inconsistent with the "Natural" designation.

In the City of Kirkland, the following shoreline areas are designated Natural.

- Areas in Juanita Bay Park within 200 feet of the Lake Washington ordinary high water mark.

- Associated wetlands in and adjacent to Juanita Bay Park, extending east up the Forbes Creek corridor to 11th Court NE and north up to the north boundary of parcel 1791500315.
- Associated wetlands in and adjacent to the Yarrow Bay Wetlands complex, including all or portions of parcels classified in the Comprehensive Plan as Low Density Residential, Medium Density Residential, and Office/Multi-Family that contain associated wetlands.

3.1.3 Management Policies

a. Any use or development activity that would potentially degrade the ecological functions or significantly alter the natural character of the shoreline area should be severely limited or prohibited, as follows:
   1) Residential uses should be prohibited, except limited single-family residential development may be allowed as a conditional use if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.
   2) Subdivision of the subject property as regulated under the provisions of Title 22 should be prohibited.
   3) Commercial and industrial uses should be prohibited.
   4) Nonwater-oriented recreation should be prohibited.
   5) Roads, utility corridors, and parking areas that can be located outside of Natural designated shorelines should be prohibited unless no other feasible alternative exists. Roads, bridges and utilities that must cross a Natural designated shoreline should be processed through a Shoreline Conditional Use.

b. Development activity in the natural environment should only be permitted when no suitable alternative site is available on the subject property outside of shoreline jurisdiction.

c. Development, when feasible, should be designed and located to preclude the need for shoreline stabilization, flood control measures, native vegetation removal, or other shoreline modifications.

d. Development activity or land surface modification that would reduce the capability of vegetation to perform normal ecological functions should be prohibited.

e. Limited access may be permitted for scientific, historical, cultural, educational and low-intensity water-oriented recreational purposes, provided there are no significant adverse ecological impacts.

3.2 Urban Conservancy

3.2.1 Purpose

The purpose of the "Urban Conservancy" environment is to protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

3.2.2 Designation Criteria

Assign an "Urban Conservancy" environment designation to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological

functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities or urban growth areas if any of the following characteristics apply:

(A) They are suitable for water-related or water-enjoyment uses;

(B) .They are open space, flood plain or other sensitive areas that should not be more intensively developed;

(C) They have potential for ecological restoration;

(D) They retain important ecological functions, even though partially developed; or

(E) They have the potential for development that is compatible with ecological restoration.

In the City of Kirkland, the following shoreline areas are designated Urban Conservancy.

- All areas classified as Park/Open Space in the Comprehensive Plan, unless designated as Natural or Urban Mixed.
- A portion of High Density Residential property in the Comprehensive Plan located within 75 feet west of the ordinary high water mark of Juanita Creek.

3.2.3 Management Policies

a. Allowed uses should be those that preserve the natural character of the area and/or promote preservation and restoration within critical areas and public open spaces either directly or over the long term.
b. Restoration of shoreline ecological functions should be a priority.
c. Development, when feasible, should be designed and located to preclude the need for shoreline stabilization, flood control measures, native vegetation removal, or other shoreline modifications.
d. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
e. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
f. Commercial and industrial uses, other than limited commercial activities conducted accessory to a public park, should be prohibited.3.3

3.3 Low Density Residential

3.3.1 Purpose

The purpose of the “Low Density Residential” environment is to accommodate low-density residential development and appurtenant structures that are consistent with this chapter.

3.3.2 Designation Criteria

Assign a “Low Density Residential” environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, and incorporated municipalities if they are predominantly single-family residential development or are planned and platted for low-density

residential development, unless these areas meet the designation criteria for the Natural shoreline environment designation.

In the City of Kirkland, the following shoreline areas are designated Low Density Residential.

- All areas classified as Low Density Residential in the Comprehensive Plan, except for those parcels containing associated wetlands contiguous with the Yarrow Bay Wetlands as described in Section 3.1.2.

3.3.3 Management Policies

a. Standards for density, setbacks, lot coverage limitations, shoreline setbacks, shoreline stabilization, vegetation conservation, critical area protection, and water quality should mitigate adverse impacts to maintain shoreline ecological functions, taking into account the following:
   1) The environmental limitations and sensitivity of the shoreline area,
   2) The level of infrastructure and services available, and
   3) Other comprehensive plan considerations.
b. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
c. Industrial, commercial, multifamily and institutional uses, except for government facilities, should be prohibited.

3.4 Urban Residential

3.4.1 Purpose

The purpose of the "Urban Residential" environment is to accommodate moderate density residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses, as well as limited water-oriented commercial uses which depend on or benefit from a shoreline location.

3.4.2 Designation Criteria

Assign an "Urban Residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, and incorporated municipalities if they are predominantly multifamily residential development or are planned and platted for medium or high-density residential development, unless these properties meet the designation criteria for the Natural or Urban Conservancy shoreline environment designation.

In the City of Kirkland, the following shoreline areas are designated Urban Residential.

a. All areas classified as High Density Residential and Medium Density Residential in the Comprehensive Plan, except the following:

   (a) A portion of high-density residential property located within 75 feet west of the ordinary high water mark of Juanita Creek, which

is contained within the Urban Conservancy shoreline environment as described in Section 3.2.2.

(b) A portion of medium-density property which is comprised of associated wetlands in and adjacent to the Yarrow Bay Wetlands complex. These properties are contained within the Natural shoreline environment as described in Section 3.1.

3.4.3 Management Policies

a. Standards for density, setbacks, lot coverage limitations, shoreline setbacks, shoreline stabilization, vegetation conservation, critical area protection, and water quality should mitigate adverse impacts to maintain shoreline ecological functions, taking into account the following:
   1) The environmental limitations and sensitivity of the shoreline area,
   2) The level of infrastructure and services available, and
   3) Other comprehensive plan considerations.
b. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
c. Visual and physical access should be implemented whenever feasible and adverse ecological impacts can be avoided. Continuous public access along the shoreline should be provided, preserved or enhanced.
d. Industrial uses should be prohibited.
e. Water-dependent recreational uses should be permitted.
f. Limited water-oriented commercial uses which depend on or benefit from a shoreline location should also be permitted.
g. Non water-oriented commercial uses should be prohibited, except for small-scale retail and service uses that provide primarily convenience retail sales and service to the surrounding residential neighborhood should be permitted along portions of the east side of Lake Washington Blvd. NE/Lake Street S.
h. Institutional uses may be permitted in limited locations.

3.5 Urban Mixed

3.5.1 Purpose

The purpose of the "Urban Mixed" environment is to provide for high-intensity water-oriented commercial, transportation, and industrial uses while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.

3.5.2 Designation Criteria

Assign an "Urban Mixed" environment designation to shoreline areas within incorporated municipalities and urban growth areas if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

In the City of Kirkland, the following shoreline areas are designated Urban Mixed.

- All areas classified as Commercial, Office or Office/Multi-Family in the Comprehensive Plan, except for the following:

    a. A portion of Commercial property which is comprised of associated wetlands adjacent to Juanita Bay Park. These properties are contained within the Natural shoreline environment as described in Section 3.1

    b. A portion of Office/Multi-family property which is comprised of associated wetlands in and adjacent to the Yarrow Bay Wetlands complex. These properties are contained within the Natural shoreline environment as described in Section 3.1.

- The following areas classified as Park/Open Space in the Comprehensive Plan:

    a. Marina Park, and

    b. Juanita Beach Park, except that portion located within 75 feet of the ordinary high water mark of Juanita Creek, which is contained within the Urban Conservancy shoreline environment as described in Section 3.2.2.

3.5.3 Management Policies

a. Manage development so that it enhances and maintains the shorelines for a variety of urban uses, with priority given to water-dependent, water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments, or in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.
b. Visual and physical access should be implemented whenever feasible and adverse ecological impacts can be avoided. Continuous public access along the shoreline should be provided, preserved or enhanced.
c. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

3.6 Aquatic

3.5.1 Purpose

The purpose of the "Aquatic" environment is to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high-water mark.

3.6.2 Designation Criteria

Assign an "Aquatic" environment designation to lands waterward of the ordinary high-water mark.

In the City of Kirkland, the following shoreline areas are designated Aquatic.

- Lake Washington, landward of the ordinary high water mark.

3.6.3 Management Policies

a. Provisions for the management of the Aquatic environment should be directed towards maintaining and restoring shoreline ecological functions.
b. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
c. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to minimize adverse visual impacts, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
d. Development within the Aquatic environment should be compatible with the adjoining upland development.
e. New overwater structures for water-dependent uses and public access are permitted, provided they will not preclude attainment of ecological restoration.
f. Public recreational uses of the water should be protected against competing uses that would interfere with these activities.
g. Underwater pipelines and cables should not be permitted unless demonstrated that there is no feasible alternative location based on an analysis of technology and system efficiency, and that the adverse environmental impacts are not significant or can be shown to be less than the impact of upland alternatives.
h. Existing residential uses located over the water and in the Aquatic environment may continue, but should not be enlarged or expanded.

4.0 ENVIRONMENT DESIGNATION REGULATIONS

The Shoreline Master Program Guidelines requires each jurisdiction's SMP to contain environment-specific regulations (WAC 173-26-211(4)(a)(iv)). The environment-specific regulations must include a list of uses and modifications that may be approved through a Substantial Development Permit (SDP) or Conditional Use Permit (CUP) or which are prohibited, and numerical standards for building or structure height and bulk limits, setbacks, maximum density or minimum frontage requirements, and other site development standards.

4.1 Shoreline Use and Modification Matrix

Table 4 indicates which uses and modifications may be allowed or are prohibited. Where there is a conflict between the chart and the written provisions in Chapters X-X of the Shoreline Master Program, the written provisions shall apply. Any use, development or substantial development not classified elsewhere in the Shoreline Master Program or listed below shall require a CUP. If a particular activity is not considered a Substantial Development, as outlined in the definition of *Substantial Development* included in Section 5.0, then it is exempt from a requirement to obtain a SDP. It is not exempt, however, from the Shoreline Management Act or this Master Program, and must be consistent with the applicable policies and provisions. If any part of a proposed development is not eligible for exemption, then a Substantial Development Permit is required for the entire proposed development project. A development or use that is listed as a Conditional Use pursuant to this Master Program or is an unlisted use, must obtain a CUP even though the development or use does not require a SDP. When a development or use is proposed that does not comply with the bulk, dimensional and performance standards of this Master Program, such development or use can only be authorized by approval of a Variance.

Table 4. Shoreline Use and Modification Matrix. **[WORKING DRAFT]**

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
SHORELINE USE						
Resource Land Uses						
Agriculture	X	X	X	X	X	X
Aquaculture	X	X	X	X	X	X
Forest practices	X	X	X	X	X	X
Mining	X	X	X	X	X	X
Commercial Uses						
Water-dependent uses						
Float plane landing and mooring facilities[1]	X	X	X	X	CU	See adjacent upland environments
Water-related, water-enjoyment commercial uses						
Any water-oriented Retail Establishment other than those specifically listed in this chart, selling goods or providing services.	X	SD[2]	X	X	SD	X

[1] Limited to water-based aircraft facilities for air charter operations.

[2] Permitted as an accessory use to a Public Park.

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
Retail Establishment providing new or used Boat Sales or Rental	X	SD[2]	X	CU[3, 5]	SD[4]	See adjacent upland environments
Retail establishment providing gas and oil sale for boats	X	X	X	CU[3,5]	CU[5]	See adjacent upland environments
Retail establishment providing boat and motor repair and service	X	X	X	CU[3,5]	CU[5]	X
Restaurant or Tavern[6]	X	X	X	CU[3]	SD	X
Concession Stand	X	SD[2]	X	X	SD[2]	X
Entertainment or cultural facility	X	CU[7]	X	X	SD	X
Hotel or Motel	X	X	X	CU[8]/ X	SD	X
Nonwater-oriented, nonwater-dependent uses						
Any Retail Establishment other than those specifically listed in this chart, selling goods, or providing services including banking and related services	X	X	X	X	SD[9]	X
Office Uses	X	X	X	X	SD[9]	X
Neighborhood-oriented Retail Establishment	X	X	X	CU[10]	SD[9]	X

[3] Permitted if located on the west side of Lake Washington Lake Blvd NE/Lake St S south of Lake Avenue West and north of NE 52nd Street.

[4] Permitted in the Juanita Business District or as an accessory use to a marina.

[5] Accessory to a marina only.

[6] Drive-in or drive-through facilities are prohibited.

[7] Use must be open to the general public.

[8] Permitted in Planned Area 3B established in the Lakeview Neighborhood Plan only.

[9] Permitted as part of mixed-use development containing water-oriented uses, where there is intervening development between the shoreline and the use, or if located on the east side of Lake Washington Blvd NE/Lake St S or the east side of 98th Avenue NE.

[10] Permitted if located on the east side of Lake Washington Blvd NE between NE 60th Street and 7th Ave S.

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
Private Lodge or Club	X	X	X	X	SD[9]	X
Vehicle Service Station	X	X	X	X	X	X
Automotive Service Center	X	X	X	X	X	X
Dry land boat storage	X	X	X	X	X	X
Industrial Uses						
Water-dependent uses	X	X	X	X	CU	See adjacent upland environments
Water-related uses	X	X	X	X	X	X
Nonwater-oriented uses	X	X	X	X	X	X
Recreational Uses						
Water-dependent uses						
Marina[11]	X	CU	X	SD	SD	See adjacent upland environments
Piers, docks, boat lifts and canopies serving Detached Dwelling Unit[11]	X	X	SD	SD	SD[16]	
Piers, docks, boat lifts and canopies serving Detached, Attached or Stacked Dwelling Units [11]	X	X	X	SD	SD	
Float	X	SD[2]	X	X	SD[2]	
Tour Boat Facility	X	X	X	X	SD[12]	
Moorage buoy[11]	X	SD	SD	SD	SD	
Public Access Pier or Boardwalk	CU	SD	SD	SD	SD	
Boat launch (for motorized boats)	X	X	X	X	CU	
Boat launch (for non-motorized boats)	SD	SD	SD	SD	SD	
Boat houses or other covered moorage not specifically listed	X	X	X	X	X	

[11] No boat moored in or off the shoreline of Kirkland shall be used as a place of habitation.

[12] Permitted as an accessory use to a Marina or Public Park only.

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
Water-related, water-enjoyment uses						
Any water-oriented recreational development other than those specifically listed in this chart	X	CU	CU	CU	SD	X
Public Park[13]	CU[14]	SD	SD	SD	SD	X
Public Access Facility	SD[15]	SD	SD	SD	SD	See adjacent upland environments
Nonwater-oriented uses						
Nonwater-oriented recreational development.	X	X	X	X	SD[9]	X
Residential Uses						
Detached dwelling unit	CU	X	SD	SD	SD[16]	X
Accessory dwelling unit[17]	X	X	SD	SD	SD[16]	X
Detached, Attached or Stacked Dwelling Units	X	X	X	SD	SD	X
Houseboats	X	X	X	X	X	X
Assisted Living Facility[18]	X	X	X	CU	SD	X
Convalescent Center or Nursing Home	X	X	X	CU[19]	SD[20]	X
Land division	SD[21]	SD[21]	SD	SD	SD	X
Institutional Uses						

[13] This use does not include other public recreational uses or facilities specifically listed in this chart

[14] Recreational developments may be allowed as a Conditional Use if they are passive and low-impact.

[15] Limited to trails, viewpoints, interpretative signage and similar passive and low-impact facilities.

[16] Permitted if located south of NE 60th Street only.

[17] One accessory dwelling unit (ADU) is permitted as subordinate to a single-family dwelling

[18] A nursing home use may be permitted as part of an assisted living facility use.

[19] Permitted if located on the east side of Lake Washington Blvd NE/Lake St S, or the east side of 98th Avenue NE.

[20] Not permitted in the Central Business District. Otherwise, permitted if located on the east side of Lake Washington Blvd NE/Lake St S, the east side of 98th Avenue NE or on the south side of NE Juanita Drive.

[21] May not create any new lot that would be wholly contained within shoreland area in this shoreline environment.

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
Government Facility	X	SD	SD	SD	SD	X
Community Facility	X	X	X	X	SD	X
Church	X	X	X	CU[19]	SD[20]	X
School or Day-Care Center	X	X	X	CU[19]	SD[9]	X
Mini-School or Mini-Day-Care Center	X	X	X	SD[19]	SD[9]	X
Transportation						
Water-dependent						
Bridges	CU	CU	SD	SD	SD	See adjacent upland environments
Passenger-only Ferry terminal	X	X	X	X	CU	
Water Taxi	X	SD[22]	SD[22]	SD[22]	SD[22]	
Nonwater-oriented						
Arterials, Collectors, and neighborhood access streets	CU	SD[23] /CU	SD	SD	SD	X
Helipad	X	X	X	X	X	X
Utilities						
Utility production and processing facilities	X	CU[24]	CU[24]	CU[24]	CU[24]	X
Utility transmission facilities	CU[24]	SD[24]	SD[24]	SD[24]	SD[24]	CU[24]
Personal Wireless Service Facilities[25]	X	SD	SD	SD	SD	X
Radio Towers	X	X	X	X	X	X
SHORELINE MODIFICATIONS						
Breakwaters/jetties/rock weirs/groins	X	X	X	SD[26] /CU	SD[26/] CU	See adjacent upland environments
Dredging and dredge materials disposal	SD[26]/ CU	SD[26]/ CU	SD[26]/ CU	SD[26]/ CU	SD[26]/ CU	
Fill waterward of the ordinary high water mark	SD[26]/ CU	SD[26]/ CU	SD[26]/ CU	SD[26]/ CU	SD[26]/ CU	

[22] Permitted as an accessory use to a marina or a public park.

[23] Construction of pedestrian and bicycle facilities only.

[24] This use may be allowed provided there is no other feasible route or location.

[25] New towers are not permitted.

[26] Permitted under a substantial development permit when associated with a restoration or enhancement project.

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
Land surface modification	SD[26]/ CU	SD	SD	SD	SD	
Shoreline habitat and natural systems enhancement projects	SD	SD	SD	SD	SD	
Hard Structural Shoreline Stabilization	X	CU	CU	CU	CU	
Soft Shoreline Stabilization Measures	X	SD	SD	SD	SD	

5.0 KEY DEFINITIONS

Act: The Washington State Shoreline Management Act, chapter 90.58 RCW.

Agriculture: Agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation

Aquaculture: The cultivation of fish, shellfish, and/or other aquatic animals or plants, including the incidental preparation of these products for human use.

Aquatic: Those areas waterward of the ordinary high water mark.

Appurtenance: Uses typically associated with single family residences, such as decks, driveways, utilities, fences, grading which does not exceed five hundred cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark, and accessory structures such as a tool shed, greenhouse, private garage, or accessory dwelling unit. An appurtenance is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland.

Average parcel width: The average of the distance from the north to the south property lines as measured along the ordinary high water mark and the front property line, or along the east and west property lines if the parcel does not abut Lake Washington.

Bioengineering: Project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

Boat: Any contrivance used or capable or being used as a means of transportation on water, except for cribs or piles, shinglebolts, booms or logs, rafts of logs, and rafts of lumber.

Boat house: An overwater structure designed for the storage of boats, but not including boat lift canopies.

Boat Launch: Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat Lift: Lifts for motorized boats, kayaks, canoes and jet skis. Includes floating lifts, which are designed to not contact the substrate of the Lake; ground-based lifts, which are designed to be in contact with or supported by the substrate of the Lake; and suspended lifts, which are designed to be affixed to the existing overwater structure with no parts contacting the substrate.

Breakwater: Protective structures which are normally built offshore to provide protection from wave action.

Bulkhead: A vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

Canopy: A cover installed as a component of a boat lift.

Concession Stand: A permanent or semi-permanent structure for the sale and consumption of food and beverages and water-related products such as sunscreen, sunglasses, and other similar products. A concession stand may include outdoor seating areas. Indoor seating and associated circulation areas shall not exceed more than 10 percent of the gross floor area of the use, and it must be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded.

Conditional Uses: A use, development, or substantial development which is classified as a conditional use in section 83.165 or which is not classified within the SMP. Those activities identified as conditional uses or not classified in this Master Program must be treated according to the review criteria established in WAC 173-27-160.

Development: A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to RCW 90.58 at any state of water level.

Dock: A structure that floats on the surface of the water, without piling supports, but which is attached to land. Typically used for boat moorage, swimming, public access, and other activities that require access to deep water.

Dredging: The removal, displacement, or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials, from the bottom of water bodies, ditches, or natural wetlands; maintenance dredging and/or support activities are included in this definition.

Dry land boat storage: A commercial service providing storage of boats and other boat on the upland portion of a property.

Ecological Functions: The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Ecological Restoration: See Restore.

Ecologically Intact Shoreline: Those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses.

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

Feasible: An action, such as a development project, mitigation, or preservation requirement, which meets all of the following conditions:

(a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

(b) The action provides a reasonable likelihood of achieving its intended purpose; and

(c) The action does not physically preclude achieving the project's primary intended legal use.

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

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

Ferry terminal, passenger-only: A docking facility used in the transport of passengers across a body of water. A ferry terminal may include accessory parking facilities, ticketing booth, and other accessory uses or structures necessary for its operation. A passenger-only ferry terminal does not include provisions for the ferrying of vehicles.

Fill: The addition of soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the ordinary high water mark, in wetland, or on shorelands in a manner that raises the elevation or creates dry land.

Float: A structure that floats on the surface of the water, which is not attached to the shore but that may be anchored to submerged land. Floats are typically used for swimming, diving and similar recreational activities.

Float plane landing and moorage facility: A place where commercially operated water-based passenger aircraft arrive and depart. May include accessory facilities such as waiting rooms, ticketing booths and similar facilities.

Floodplain: Synonymous with the one hundred year floodplain and means the land susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulations maps or a reasonable method which meets the objectives of the Shoreline Management Act.

Gabions: Structures composed of masses of rocks or rubble held tightly together by wire mesh (typically) so as to form upright blocks or walls. Often constructed as a series of overlapping blocks or walls. Used primarily in retaining earth, steep slopes or embankments, to retard erosion or wave action, or as foundations for breakwaters or jetties.

Geotechnical Analysis: See Geotechnical Report.

Geotechnical Report: A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts on the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers (or geologists) who have professional expertise about the regional and local shoreline geology and processes.

Grading: The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

Hard Structural Shoreline Stabilization: Shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion. These include bulkheads, rip-rap, groins, and similar structures.

Helipad: A takeoff and landing area for helicopters.

Houseboat: A structure designed and operated substantially as a permanently based overwater residence. Houseboats are not vessels and lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semipermanent anchorage/moorage facilities.

Joint-use: Piers and floats that are constructed by more than one contiguous waterfront property owner or by a homeowner's association or similar group.

Land Division: The division or redivision of land into lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

Land Surface Modification: The clearing or removal of trees, shrubs, groundcover and other vegetation, and all grading, excavation and filling of materials. The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 KMC shall not be deemed to be land surface modifications.

Marina: A private or public facility providing the purchase and or lease of a slip for storing, berthing and securing motorized boats or watercraft, including both long-term or transient moorage. Marinas may include accessory facilities for providing incidental services to users of the marina, such as waste collection, boat sales or rental activities, and retail establishments providing fuel service, repair or service of boats.

May: Means the action is acceptable, provided it conforms to the provisions of the Shoreline Management Act, with the decision-maker having or using the ability to act or decide according to their own discretion or judgment.

Moorage buoy: A float, sometimes carrying a signal or signals, anchored to provide a mooring place away from the shore.

Must: means a mandate; the action is required.

Neighborhood-oriented retail establishment: Small scale retail and service uses that provide primarily convenience retail sales and service to the surrounding residential neighborhood. The following is a nonexclusive list of neighborhood-oriented retail uses: small grocery store, drug store, hair salon, coffee shop, dry cleaner or similar retail or service uses.

Non-Water-Oriented Use: Those uses that are not water-dependent, water-related, or water-enjoyment.

Ordinary High Water Mark (OHWM): The mark that will be found on all lakes and streams by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. For Lake Washington, the ordinary high water mark corresponds with a lake elevation of 21.8 feet. Further, in those instances where the OHWM moved further upland in accordance with permits involving a shoreline habitat and natural systems enhancement project approved by a local government or the department, the OHWM shall be measured from the point that existing immediately prior to the enhancement project.

Outfall: A structure used for the discharge of a stormwater or sewer system into a receiving water.

Permitted Uses: Uses which are allowed within the applicable shoreline environment, provided that they must meet the policies, use requirements, and regulations of this Chapter 83 KZC and any other applicable regulations of the City or state.

Pier: A structure supported by pilings that projects over, and is raised above the water but is attached to land, and that is used for boat moorage, swimming, fishing, public access, float plane moorage, or similar activities requiring access to deep water.

Piling: The structural supports for piers, usually below the pier decking and anchored in the water.

Public Access: The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline.

Public Access Facility: A water-oriented structure, such as a trail, pier, pedestrian bridge, boat launch, viewing platform, or fishing pier that provides access for the public to or along the shoreline.

Public Access Pier or Boardwalk: An elevated structure which is constructed waterward of the ordinary high water mark and intended for public use.

Public Pedestrian Walkway: A portion of private property subject to an easement giving the public the right to stand on or traverse this portion of the property.

Public Use Area: A portion of private property that is dedicated to public use and which contains one or more of the following elements: benches, tables, lawns, gardens, piers, exercise or play equipment or similar improvements or features. These elements are to provide the public with recreational opportunities in addition to the right to traverse or stand in this area.

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

Restoration: See Restore.

Revetment: A shoreline protective structure constructed on a slope, and used to prevent erosion.

Shall: Means a mandate; the action must be taken.

Shorelands: Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of the Shoreline Management Act; the same to be designated as to location by the Department of Ecology.

Shoreland Areas: See Shorelands.

Shoreline Functions: See Ecological Functions.

Shoreline habitat and natural systems enhancement projects: Activities conducted for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. The following is a nonexclusive list of shoreline habitat and natural systems enhancement projects: modification of vegetation, removal of non-native of invasive plants, shoreline stabilization, dredging and filling - provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

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

Shoreline Stabilization: Means for protecting shoreline upland areas and shoreline uses from the effects of shoreline wave action, flooding or erosion. Shoreline stabilization includes structural and non-structural methods, riprap, bulkheads, gabions, jetties, dikes and levees, flood control weirs, and bioengineered walls or embankments.

Shorelines: All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them: except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

Shorelines of Statewide Significance: Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark and

those natural rivers or segments thereof where the mean annual flow is measured at one thousand cubic feet per second or more. Definition is limited to freshwater areas in Western Washington.

Should: Means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and the Shoreline Rules, against taking the action.

Sign, Interpretive: A permanent sign without commercial message, located on a publicly-accessible site, that provides public educational and interpretive information related to the site on which the sign is located, such as information on natural processes, habitat restoration programs, or cultural history, or that is associated with an adopt-a-stream, adopt-a-park or similar agency-sponsored program.

Significant vegetation removal: The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Soft Shoreline Stabilization Measures: Shore erosion control and restoration practices using only plantings or organic materials to restore, protect or enhance the natural shoreline environment. These include vegetation plantings, logs, beach enhancement, and similar measures.

Substantial Development: Any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the Office of Financial Management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. The following shall not be considered substantial developments for the purpose of this chapter:

a. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;
b. Construction of the normal protective bulkhead common to single family residences;
c. Emergency construction necessary to protect property from damage by the elements;
d. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
e. Construction or modification of navigational aids such as channel markers and anchor buoys;
f. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;
g. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the

subsequent construction shall be considered a substantial development for the purpose of this chapter;

h. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

i. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;

j. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;

k. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
   i. The activity does not interfere with the normal public use of the surface waters; The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
   ii. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
   iii. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
   iv. The activity is not subject to the permit requirements of RCW 90.58.550;

l. The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW.

Tour Boat Facility: A moorage pier designed for commercial tour boat usage.

Upland: Generally described as the dry land area above and landward of the ordinary high water mark.

Utilities: Services, facilities and infrastructure that produce, transmit, carry, store, process or dispose of electric power, gas, water, sewage, communications, oil, storm water, and similar services and facilities.

Utility Production and Processing Facilities: Facilities for the making or treatment of a utility, such as power plants and sewage treatment plants or parts of those facilities.

Utility Transmission Facilities: Infrastructure and facilities for the conveyance of services, such as power lines, cables, and pipelines.

View Corridor: An open area that provides an unobstructed public view across the subject property to and beyond Lake Washington from the adjacent right-of-way.

Water-Dependent Use: A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operation.

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

Water-Oriented Use: A use that is water-dependent, water-related, or water-enjoyment or a combination of such uses.

Water Quality: The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

Water-Related Use: A use or portion of a use which is not intrinsically dependent on a waterfront location, but whose economic viability is dependent upon a waterfront location because:

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

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

Water Taxi: A boat used to provide public transport for passengers, with service scheduled with multiple stops or on demand to many locations. A water taxi would not include accessory facilities such as ticketing booths and would not include the transport of vehicles.

Shoreline Environment Designations

83.90 Shoreline Jurisdiction and Official Shoreline Map

1. Shoreline Map -
   a. The adopted Shoreline Environment Designations Map is the graphic representation of the City's shorelines that are regulated by this program. The map, or set of maps, entitled City of Kirkland Shoreline Environment Designation Map and adopted by ordinance is hereby adopted as part of this code. See Chapter 141 KZC for information regarding amending this map.
   b. The adopted shoreline map identifies shoreline environment designations as well as the extent of shoreline jurisdiction.
      1) Extent of Shoreline Jurisdiction - The shoreline jurisdiction as depicted on the adopted Shoreline Environment Designations Map is intended to depict the *approximate* location and extent of known shorelands. In determining the exact location of shoreline jurisdiction, the criteria contained in RCW 90.58.030(2) shall be used. For Lake Washington, the ordinary high water mark corresponds with a lake elevation of 21.8 feet. The extent of shoreline jurisdiction on any individual lot, parcel or tract is to be determined by a field investigation and a survey and is the sole responsibility of the applicant. The location of the ordinary high water mark shall be included in shoreline permit application submittals to determine the extent of shoreline jurisdiction for review and approval by the Planning Official.
      2) Interpretation of Shoreline Environment Designations - The following shall be used to interpret the boundary of shoreline environment designations:
         a) Following Property Lines – Where a shoreline environment designation boundary is indicated as approximately following a property line, the property line is the shoreline environment designation boundary.
         b) Following Streets – Where a shoreline environment designation boundary is indicated as following a street, the midpoint of the street right-of-way is the shoreline environment designation boundary, except as follows:
            i) The portion of the public right-of-way known as 98th Avenue NE located within 200 feet of the Ordinary High Water Mark is designated wholly as Urban Mixed.
            ii) Waterfront street ends, where the public right-of-way is designated wholly under one shoreline environment.
         c) Wetlands – Where an associated wetland boundary extends beyond the area depicted on the Shoreline Environment Designation Map, the additional wetland area shall be designated the same shoreline environment as the adjoining wetland area.
         d) Lakes – The Aquatic environment designation boundary extends into Lake Washington to the full limit and territorial extent of the police power, jurisdiction and control of the City of Kirkland.
         e) Other Cases – Where a shoreline environment designation boundary is not indicated to follow a property line or street, the boundary line is as follows:
            i) The transition of the shoreline environment designation from Urban Conservancy to Urban Mixed at Juanita Beach Park occurs at a point measured 75 feet east of the ordinary high water mark of Juanita Creek.
            ii) The transition of the shoreline environment designation from Urban Conservancy to Urban Residential west of Juanita Beach Park occurs at a point measured 75 feet west of the ordinary high water mark of Juanita Creek.
         f) Classification of Vacated Rights-of-Way – Where a right-of-way is vacated, the area comprising the vacated right-of-way will acquire the classification of the property to which it reverts.
         g) Undesignated Properties - Any shoreline areas not mapped and/or designated shall be assigned an Urban Conservancy designation, except wetlands as noted in subsection 2)c) above.

2. Shoreline Environment Designations -
   a. Sections 83.100 through 83.150 establish the six shoreline environment designations used in the City of Kirkland and their respective purposes, designation criteria, and management policies. Sections 83.180 through 83.330 then establish the different regulations that apply in these different environmental designations.
   b. The management policies contained in the Shoreline Chapter of the Comprehensive Plan shall be used to assist in the interpretation of these regulations.

83.100 Natural
1. Purpose - To protect and restore those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions intolerant of human use. The natural environment also protects shoreline areas possessing natural characteristics with scientific and educational interest. These systems require restrictions on the intensities and types of land uses permitted in order to maintain the integrity of the ecological functions and ecosystem-wide processes of the shoreline environment.
2. Designation Criteria – A Natural environment designation should be assigned to shoreline areas if any of the following characteristics apply:
   a. The shoreline is ecologically intact and therefore currently performing an important, irreplaceable function or ecosystem-wide process that would be damaged by human activity;
   b. The shoreline is considered to represent ecosystems and geologic types that are of particular scientific and educational interest; or
   c. The shoreline is unable to support new development or uses without significant adverse impacts to ecological functions or risk to human safety.

83.110 Urban Conservancy
1. Purpose - To protect and restore ecological functions of open space, flood plain and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.
2. Designation Criteria - An Urban Conservancy environment designation should be assigned to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities or urban growth areas if any of the following characteristics apply:
   a. They are suitable for water-related or water-enjoyment uses;
   b. They are open space, flood plain or other sensitive areas that should not be more intensively developed;
   c. They have potential for ecological restoration;
   d. They retain important ecological functions, even though partially developed; or
   e. They have the potential for development that is compatible with ecological restoration.

83.120 Low Density Residential
1. Purpose - To accommodate low-density residential development and appurtenant structures that are consistent with this chapter.
2. Designation Criteria - A Low Density Residential environment designation should be assigned to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, and incorporated municipalities if they are predominantly single-family residential development or are planned and platted for low-density residential development, unless these areas meet the designation criteria for the Natural shoreline environment designation.

83.130 Urban Residential
1. Purpose - To accommodate medium and high-density residential development and appurtenant structures that are consistent with this chapter. An additional purpose is to provide appropriate public access and recreational uses, as well as limited water-oriented commercial uses which depend on or benefit from a shoreline location.

3. Designation Criteria - An Urban Residential environment designation should be assigned to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, and incorporated municipalities if they are predominantly multifamily residential development or are planned and platted for medium or high-density residential development, unless these properties meet the designation criteria for the Natural or Urban Conservancy shoreline environment designation.

83.140 Urban Mixed

1. Purpose - To provide for high-intensity land uses, including residential, commercial, recreational, transportation and mixed-used developments. The purpose of this environment is to ensure active use of shoreline areas that are presently urbanized or planned for intense urbanization, while protecting existing ecological functions and restoring ecological functions in areas that have been previously degraded.
2. Designation Criteria - An Urban Mixed environment designation should be assigned to shoreline areas within incorporated municipalities and urban growth areas if they currently support high-intensity uses related to commerce, transportation or navigation; or are suitable and planned for high-intensity water-oriented uses.

83.150 Aquatic

1. Purpose - To protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.
2. Designation Criteria - An Aquatic environment designation should be assigned to lands waterward of the ordinary high-water mark.

Shoreline Environment Designations

Goal SMP-1: Provide a comprehensive shoreline environment designation system to categorize Kirkland's shorelines into similar shoreline areas to guide the use and management of these areas.

Environment designations are analogous to zoning designations for areas under SMP jurisdiction. Their intent is to encourage uses that will protect or enhance the current or desired character of a shoreline based on their physical, biological and development characteristics.

Policy SMP-2.1: Designate properties as Natural in order to protect and restore those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions that are sensitive to potential impacts from human use.

This type of designation would be appropriate for associated wetlands in and adjacent to Juanita Bay Park, the Yarrow Bay wetlands complex, and the portion of Juanita Bay Park located within shoreline jurisdiction. The following management policies should guide development within these areas:

a. Any use or development activity that would potentially degrade the ecological functions or significantly alter the natural character of the shoreline area should be severely limited or prohibited, as follows:
    1) Residential uses should be prohibited, except limited single-family residential development may be allowed as a conditional use if the density and intensity of such use is limited as necessary to protect ecological functions and be consistent with the purpose of the environment.
    2) Subdivision of the subject property as regulated under the provisions of Title 22 should be prohibited.
    3) Commercial and industrial uses should be prohibited.
    4) Nonwater-oriented recreation should be prohibited.
    5) Roads, utility corridors, and parking areas that can be located outside of Natural designated shorelines should be prohibited unless no other feasible alternative exists. Roads, bridges and utilities that must cross a Natural designated shoreline should be processed through a Shoreline Conditional Use.
b. Development activity in the natural environment should only be permitted when no suitable alternative site is available on the subject property outside of shoreline jurisdiction.
c. Development, when feasible, should be designed and located to preclude the need for shoreline stabilization, flood control measures, native vegetation removal, or other shoreline modifications.
d. Development activity or land surface modification that would reduce the capability of vegetation to perform normal ecological functions should be prohibited.

e. Limited access may be permitted for scientific, historical, cultural, educational and low-intensity water-oriented recreational purposes, provided there are no significant adverse ecological impacts.

Policy SMP-2.2: Designate properties as Urban Conservancy to protect and restore ecological functions of open space, flood plain and other sensitive lands, while allowing a variety of compatible uses.

This type of designation would be appropriate for many of the City's waterfront parks. The following management policies should guide development within these areas:

a. Allowed uses should be those that preserve the natural character of the area and/or promote preservation and restoration within critical areas and public open spaces either directly or over the long term.
b. Restoration of shoreline ecological functions should be a priority.
c. Development, when feasible, should be designed and located to preclude the need for shoreline stabilization, flood control measures, native vegetation removal, or other shoreline modifications.
d. Public access and public recreation objectives should be implemented whenever feasible and significant ecological impacts can be mitigated.
e. Water-oriented uses should be given priority over nonwater-oriented uses. For shoreline areas adjacent to commercially navigable waters, water-dependent uses should be given highest priority.
f. Commercial and industrial uses, other than limited commercial activities conducted accessory to a public park, should be prohibited.

Policy SMP-2.3: Designate properties as Low-Density Residential to accommodate low-density residential development.

This type of designation would be appropriate for single-family residential uses from one to nine dwelling units per acre for detached residential structures and one to seven dwelling units per acre for attached residential structures. The following management policies should guide development within these areas:

a. Standards for density, setbacks, lot coverage limitations, shoreline setbacks, shoreline stabilization, vegetation conservation, critical area protection, and water quality should mitigate adverse impacts to maintain shoreline ecological functions, taking into account the following:
   1) The environmental limitations and sensitivity of the shoreline area,
   2) The level of infrastructure and services available, and
   3) Other comprehensive plan considerations.
b. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
c. Industrial, commercial, multifamily and institutional uses, except for government facilities, should be prohibited.

Policy SMP-2.4: Designate properties as Urban Residential to accommodate medium and high-density residential development.

This type of designation would be appropriate for detached, attached, or stacked residential uses of up to 15 or more dwelling units per acre. The following management policies should guide development within these areas:

a. Standards for density, setbacks, lot coverage limitations, shoreline setbacks, shoreline stabilization, vegetation conservation, critical area protection, and water quality should mitigate adverse impacts to maintain shoreline ecological functions, taking into account the following:
   1) The environmental limitations and sensitivity of the shoreline area,
   2) The level of infrastructure and services available, and
   3) Other comprehensive plan considerations.
b. Access, utilities, and public services should be available and adequate to serve existing needs and/or planned future development.
c. Visual and physical access should be implemented whenever feasible and adverse ecological impacts can be avoided. Continuous public access along the shoreline should be provided, preserved or enhanced.
d. Industrial uses should be prohibited.
e. Water-dependent recreational uses should be permitted.
f. Limited water-oriented commercial uses which depend on or benefit from a shoreline location should also be permitted.
g. Non water-oriented commercial uses should be prohibited, except for small-scale retail and service uses that provide primarily convenience retail sales and service to the surrounding residential neighborhood should be permitted along portions of the east side of Lake Washington Blvd. NE/Lake Street S.
h. Institutional uses may be permitted in limited locations.

Policy SMP-2.5: Designate properties as Urban Mixed to provide for high-intensity land uses, including residential, commercial, recreational, transportation and mixed-used developments.

This type of designation would be appropriate for areas which include or are planned for retail, office, and/or multifamily uses,. The following management policies should guide development within these areas:

a. Manage development so that it enhances and maintains the shorelines for a variety of urban uses, with priority given to water-dependent, water-related and water-enjoyment uses. Nonwater-oriented uses should not be allowed except as part of mixed-use developments, or in limited situations where they do not conflict with or limit opportunities for water-oriented uses or on sites where there is no direct access to the shoreline.

b. Visual and physical access should be implemented whenever feasible and adverse ecological impacts can be avoided. Continuous public access along the shoreline should be provided, preserved or enhanced.
c. Aesthetic objectives should be implemented by means such as sign control regulations, appropriate development siting, screening and architectural standards, and maintenance of natural vegetative buffers.

Policy SMP-2.6: Designate properties as Aquatic to protect, restore, and manage the unique characteristics and resources of the areas waterward of the ordinary high water mark.

This type of designation would be appropriate for lands waterward of the ordinary high-water mark. The following management policies should guide development within these areas:

a. Provisions for the management of the Aquatic environment should be directed towards maintaining and restoring shoreline ecological functions.
b. Shoreline uses and modifications should be designed and managed to prevent degradation of water quality and alteration of natural hydrographic conditions.
c. All developments and uses on navigable waters or their beds should be located and designed to minimize interference with surface navigation, to minimize adverse visual impacts, and to allow for the safe, unobstructed passage of fish and wildlife, particularly those species dependent on migration.
d. Development within the Aquatic environment should be compatible with the adjoining upland development.
e. New overwater structures for water-dependent uses and public access are permitted, provided they will not preclude attainment of ecological restoration.
f. Public recreational uses of the water should be protected against competing uses that would interfere with these activities.
g. Underwater pipelines and cables should not be permitted unless demonstrated that there is no feasible alternative location based on an analysis of technology and system efficiency, and that the adverse environmental impacts are not significant or can be shown to be less than the impact of upland alternatives.
h. Existing residential uses located over the water and in the Aquatic environment may continue, but should not be enlarged or expanded.

83.160 User Guide

1. Explanation of Uses Table
   a. The table contained in KZC 83.165 identifies uses and activities and defines whether those uses are prohibited, permitted by application for Exemption or Shoreline Substantial Development Permit, or permitted by a Shoreline Conditional Use Permit. The following symbols apply:
      1) "X" means that the use or activity is prohibited in the identified Shoreline Environment. Shoreline uses, activities, or conditions listed as prohibited shall not be authorized through a variance, conditional use permit, or any other permit or approval.
      2) "SD" means that the use or activity may be permitted by approval by the Planning Official through a Letter of Shoreline Exemption (see KZC Chapter 141) or through a Shoreline Substantial Development Permit (see KZC Chapter 141).
      3) "CU" means that the use or activity may be permitted by approval of the Planning Official and Department of Ecology through a Shoreline Conditional Use Permit (see KZC Chapter 141). Uses that are not specifically prohibited under KZC 83.165 may be authorized through a Shoreline Conditional Use Permit.
      4) Shoreline Variances (see Chapter 141) are intended only to grant relief from specific bulk, dimensional or performance standards in the Shoreline Master Program, NOT to authorize shoreline uses and activities. They are therefore not included in KZC 83.170.

83.170 Shoreline Environments, Permitted Uses and Activities Chart

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
SHORELINE USE						
Resource Land Uses						
Agriculture	X	X	X	X	X	X
Aquaculture	X	X	X	X	X	X
Forest practices	X	X	X	X	X	X
Mining	X	X	X	X	X	X
Commercial Uses						
Water-dependent uses						
Float plane landing and mooring facilities[1]	X	X	X	X	CU	See adjacent upland environments
Water-related, water-enjoyment commercial uses						
Any water-oriented Retail Establishment other than those specifically listed in this chart, selling goods or providing services.	X	SD[2]	X	X	SD	X

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
Retail Establishment providing new or used Boat Sales or Rental	X	SD[2]	X	CU[3,5]	SD[4]	See adjacent upland environments
Retail establishment providing gas and oil sale for boats	X	X	X	CU[3,5]	CU[5]	See adjacent upland environments
Retail establishment providing boat and motor repair and service	X	X	X	CU[3,5]	CU[5]	X
Restaurant or Tavern[6]	X	X	X	CU[3]	SD	X
Concession Stand	X	SD[2]	X	X	SD[2]	X
Entertainment or cultural facility	X	CU[7]	X	X	SD	X
Hotel or Motel	X	X	X	CU[8]/X	SD	X
Nonwater-oriented, nonwater-dependent uses						
Any Retail Establishment other than those specifically listed in this chart, selling goods, or providing services including banking and related services	X	X	X	X	SD[9]	X
Office Uses	X	X	X	X	SD[9]	X
Neighborhood-oriented Retail Establishment	X	X	X	CU[10]	SD[9]	X
Private Lodge or Club	X	X	X	X	SD[9]	X
Vehicle Service Station	X	X	X	X	X	X
Automotive Service Center	X	X	X	X	X	X
Dry land boat storage	X	X	X	X	X	X
Industrial Uses						
Water-dependent uses	X	X	X	X	CU	See adjacent upland environments
Water-related uses	X	X	X	X	X	X
Nonwater-oriented uses	X	X	X	X	X	X
Recreational Uses						
Water-dependent uses						

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
Marina[11]	X	CU	X	SD	SD	See adjacent upland environments
Piers, docks, boat lifts and canopies serving Detached Dwelling Unit[11]	X	X	SD	SD	SD[16]	
Piers, docks, boat lifts and canopies serving Detached, Attached or Stacked Dwelling Units [11]	X	X	X	SD	SD	
Float	X	SD[2]	X	X	SD[2]	
Tour Boat Facility	X	X	X	X	SD[12]	
Moorage buoy[11]	X	SD	SD	SD	SD	
Public Access Pier or Boardwalk	CU	SD	SD	SD	SD	
Boat launch (for motorized boats)	X	X	X	X	CU	
Boat launch (for non-motorized boats)	SD	SD	SD	SD	SD	
Boat houses or other covered moorage not specifically listed	X	X	X	X	X	
Water-related, water-enjoyment uses						
Any water-oriented recreational development other than those specifically listed in this chart	X	CU	CU	CU	SD	X
Public Park[13]	CU[14]	SD	SD	SD	SD	X
Public Access Facility	SD[15]	SD	SD	SD	SD	See adjacent upland environments
Nonwater-oriented uses						
Nonwater-oriented recreational development.	X	X	X	X	SD[9]	X
Residential Uses						
Detached dwelling unit	CU	X	SD	SD	SD[16]	X
Accessory dwelling unit[17]	X	X	SD	SD	SD[16]	X
Detached, Attached or Stacked Dwelling Units	X	X	X	SD	SD	X
Houseboats	X	X	X	X	X	X
Assisted Living Facility[18]	X	X	X	CU	SD	X
Convalescent Center or Nursing Home	X	X	X	CU[19]	SD[20]	X
Land division	SD[21]	SD[21]	SD	SD	SD	X
Institutional Uses						
Government Facility	X	SD	SD	SD	SD	X
Community Facility	X	X	X	X	SD	X
Church	X	X	X	CU[19]	SD[20]	X

The chart is coded according to the following legend. SD = Substantial Development CU = Conditional Use X = Prohibited; the use is not eligible for a Variance or Conditional Use Permit	**Natural**	**Urban Conservancy**	**Low-Density Residential**	**Urban Residential**	**Urban Mixed**	**Aquatic**
School or Day-Care Center	X	X	X	CU[19]	SD[9]	X
Mini-School or Mini-Day-Care Center	X	X	X	SD[19]	SD[9]	X
Transportation						
Water-dependent						
Bridges	CU	CU	SD	SD	SD	See adjacent upland environments
Passenger-only Ferry terminal	X	X	X	X	CU	
Water Taxi	X	SD[22]	SD[22]	SD[22]	SD[22]	
Nonwater-oriented						
Arterials, Collectors, and neighborhood access streets	CU	SD[23]/CU	SD	SD	SD	X
Helipad	X	X	X	X	X	X
Utilities						
Utility production and processing facilities	X	CU[24]	CU[24]	CU[24]	CU[24]	X
Utility transmission facilities	CU[24]	SD[24]	SD[24]	SD[24]	SD[24]	CU[24]
Personal Wireless Service Facilities[25]	X	SD	SD	SD	SD	X
Radio Towers	X	X	X	X	X	X
SHORELINE MODIFICATIONS						
Breakwaters/jetties/rock weirs/groins	X	X	X	SD[26]/CU	SD[26/]CU	See adjacent upland environments
Dredging and dredge materials disposal	SD[26]/CU	SD[26]/CU	SD[26]/CU	SD[26]/CU	SD[26]/CU	
Fill waterward of the ordinary high water mark	SD[26]/CU	SD[26]/CU	SD[26]/CU	SD[26]/CU	SD[26]/CU	
Land surface modification	SD[26]/CU	SD	SD	SD	SD	
Shoreline habitat and natural systems enhancement projects	SD	SD	SD	SD	SD	
Hard Structural Shoreline Stabilization	X	CU	CU	CU	CU	
Soft Shoreline Stabilization Measures	X	SD	SD	SD	SD	

Notes to Matrix:

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[1] Limited to water-based aircraft facilities for air charter operations.
[2] Permitted as an accessory use to a Public Park.
[3] Permitted if located on the west side of Lake Washington Lake Blvd NE/Lake St S south of Lake Avenue West and north of NE 52nd Street.
[4] Permitted in the Juanita Business District or as an accessory use to a marina.
[5] Accessory to a marina only.
[6] Drive-in or drive-through facilities are prohibited.
[7] Use must be open to the general public.
[8] Permitted in Planned Area 3B established in the Lakeview Neighborhood Plan only.

[9] Permitted as part of mixed-use development containing water-oriented uses, where there is intervening development between the shoreline and the use, or if located on the east side of Lake Washington Blvd NE/Lake St S or the east side of 98th Avenue NE.
[10] Permitted if located on the east side of Lake Washington Blvd NE between NE 60th Street and 7th Ave S.
[11] No boat moored in or off the shoreline of Kirkland shall be used as a place of habitation.
[12] Permitted as an accessory use to a Marina or Public Park only.
[13] This use does not include other public recreational uses or facilities specifically listed in this chart
[14] Recreational developments may be allowed as a Conditional Use if they are passive and low-impact.
[15] Limited to trails, viewpoints, interpretative signage and similar passive and low-impact facilities.
[16] Permitted if located south of NE 60th Street only.
[17] One accessory dwelling unit (ADU) is permitted as subordinate to a single-family dwelling
[18] A nursing home use may be permitted as part of an assisted living facility use.
[19] Permitted if located on the east side of Lake Washington Blvd NE/Lake St S, or the east side of 98th Avenue NE.
[20] Not permitted in the Central Business District. Otherwise, permitted if located on the east side of Lake Washington Blvd NE/Lake St S, the east side of 98th Avenue NE or on the south side of NE Juanita Drive.
[21] May not create any new lot that would be wholly contained within shoreland area in this shoreline environment.
[22] Permitted as an accessory use to a marina or a public park.
[23] Construction of pedestrian and bicycle facilities only.
[24] This use may be allowed provided there is no other feasible route or location.
[25] New towers are not permitted.
[26] Permitted under a substantial development permit when associated with a restoration or enhancement project.

Definitions

83.80 Definitions

Refer to the definitions in this Chapter for terms that are specific to the Shoreline Master Program as well as the definitions contained in Chapter 5 KZC.

Act: The Washington State Shoreline Management Act, chapter 90.58 RCW.

Agriculture: Agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation

Aquaculture: The cultivation of fish, shellfish, and/or other aquatic animals or plants, including the incidental preparation of these products for human use.

Aquatic: Those areas waterward of the ordinary high water mark.

Appurtenance: Uses typically associated with single family residences, such as decks, driveways, utilities, fences, grading which does not exceed five hundred cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark, and accessory structures such as a tool shed, greenhouse, private garage, or accessory dwelling unit. An appurtenance is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland.

Average parcel width: The average of the distance from the north to the south property lines as measured along the ordinary high water mark and the front property line, or along the east and west property lines if the parcel does not abut Lake Washington.

Bioengineering: Project designs or construction methods which use live woody vegetation or a combination of live woody vegetation and specially developed natural or synthetic materials to establish a complex root grid within the existing bank which is resistant to erosion, provides bank stability, and maintains a healthy riparian environment with habitat features important to fish life. Use of wood structures or limited use of clean angular rock may be allowable to provide stability for establishment of the vegetation.

Boat: Any contrivance used or capable or being used as a means of transportation on water, except for cribs or piles, shinglebolts, booms or logs, rafts of logs, and rafts of lumber.

Boat house: An overwater structure designed for the storage of boats, but not including boat lift canopies.

Boat Launch: Graded slopes, slabs, pads, planks, or rails used for launching boats by means of a trailer, hand, or mechanical device.

Boat Lift: Lifts for motorized boats, kayaks, canoes and jet skis. Includes floating lifts, which are designed to not contact the substrate of the Lake; ground-based lifts, which are designed to be in contact with or supported by the substrate of the Lake; and suspended lifts, which are designed to be affixed to the existing overwater structure with no parts contacting the substrate.

Breakwater: Protective structures which are normally built offshore to provide protection from wave action.

Bulkhead: A vertical or nearly vertical erosion protection structure placed parallel to the shoreline consisting of concrete, timber, steel, rock, or other permanent material not readily subject to erosion.

Canopy: A cover installed as a component of a boat lift.

Concession Stand: A permanent or semi-permanent structure for the sale and consumption of food and beverages and water-related products such as sunscreen, sunglasses, and other similar products. A concession stand may include outdoor seating areas. Indoor seating and associated circulation areas shall not exceed more than 10 percent of the gross floor area of the use, and it must be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded.

Conditional Uses: A use, development, or substantial development which is classified as a conditional use in section 83.165 or which is not classified within the SMP. Those activities identified as conditional uses or not classified in this Master Program must be treated according to the review criteria established in WAC 173-27-160.

Development: A use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to RCW 90.58 at any state of water level.

Dock: A structure that floats on the surface of the water, without piling supports, but which is attached to land. Typically used for boat moorage, swimming, public access, and other activities that require access to deep water.

Dredging: The removal, displacement, or disposal of unconsolidated earth material such as sand, silt, gravel, or other submerged materials, from the bottom of water bodies, ditches, or natural wetlands; maintenance dredging and/or support activities are included in this definition.

Dry land boat storage: A commercial service providing storage of boats and other boat on the upland portion of a property.

Ecological Functions: The work performed or role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem.

Ecological Restoration: See Restore.

Ecologically Intact Shoreline: Those shoreline areas that retain the majority of their natural shoreline functions, as evidenced by the shoreline configuration and the presence of native vegetation. Generally, but not necessarily, ecologically intact shorelines are free of structural shoreline modifications, structures, and intensive human uses.

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

Feasible: An action, such as a development project, mitigation, or preservation requirement, which meets all of the following conditions:

(a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results;

(b) The action provides a reasonable likelihood of achieving its intended purpose; and

(c) The action does not physically preclude achieving the project's primary intended legal use.

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

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

Ferry terminal, passenger-only: A docking facility used in the transport of passengers across a body of water. A ferry terminal may include accessory parking facilities, ticketing booth, and other accessory uses or structures necessary for its operation. A passenger-only ferry terminal does not include provisions for the ferrying of vehicles.

Fill: The addition of soil, sand, rock, gravel, sediment, earth-retaining structure, or other material to an area waterward of the ordinary high water mark, in wetland, or on shorelands in a manner that raises the elevation or creates dry land.

Float: A structure that floats on the surface of the water, which is not attached to the shore but that may be anchored to submerged land. Floats are typically used for swimming, diving and similar recreational activities.

Float plane landing and moorage facility: A place where commercially operated water-based passenger aircraft arrive and depart. May include accessory facilities such as waiting rooms, ticketing booths and similar facilities.

Floodplain: Synonymous with the one hundred year floodplain and means the land susceptible to inundation with a one percent chance of being equaled or exceeded in any given year. The limit of this area shall be based upon flood ordinance regulations maps or a reasonable method which meets the objectives of the Shoreline Management Act.

Gabions: Structures composed of masses of rocks or rubble held tightly together by wire mesh (typically) so as to form upright blocks or walls. Often constructed as a series of overlapping blocks or walls. Used primarily in retaining earth, steep slopes or embankments, to retard erosion or wave action, or as foundations for breakwaters or jetties.

Geotechnical Analysis: See Geotechnical Report.

Geotechnical Report: A scientific study or evaluation conducted by a qualified expert that includes a description of the ground and surface hydrology and geology, the affected land form and its susceptibility to mass wasting, erosion, and other geologic hazards or processes, conclusions and recommendations regarding the effect of the proposed development on geologic conditions, the adequacy of the site to be developed, the impacts of the proposed development, alternative approaches to the proposed development, and measures to mitigate potential site-specific and cumulative geological and hydrological impacts on the proposed development, including the potential adverse impacts to adjacent and down-current properties. Geotechnical reports shall conform to accepted technical standards and must be prepared by qualified professional engineers (or geologists) who have professional expertise about the regional and local shoreline geology and processes.

Grading: The movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.

Hard Structural Shoreline Stabilization: Shore erosion control practices using hardened structures that armor and stabilize the shoreline landward of the structure from further erosion. These include bulkheads, rip-rap, groins, and similar structures.

Helipad: A takeoff and landing area for helicopters.

Houseboat: A structure designed and operated substantially as a permanently based overwater residence. Houseboats are not vessels and lack adequate self-propulsion and steering equipment to operate as a vessel. They are typically served by permanent utilities and semipermanent anchorage/moorage facilities.

Joint-use: Piers and floats that are constructed by more than one contiguous waterfront property owner or by a homeowner's association or similar group.

Land Division: The division or redivision of land into lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership.

Land Surface Modification: The clearing or removal of trees, shrubs, groundcover and other vegetation, and all grading, excavation and filling of materials. The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 KMC shall not be deemed to be land surface modifications.

Marina: A private or public facility providing the purchase and or lease of a slip for storing, berthing and securing motorized boats or watercraft, including both long-term or transient moorage. Marinas may include accessory facilities for providing incidental services to users of the marina, such as waste collection, boat sales or rental activities, and retail establishments providing fuel service, repair or service of boats.

May: Means the action is acceptable, provided it conforms to the provisions of the Shoreline Management Act, with the decision-maker having or using the ability to act or decide according to their own discretion or judgment.

Moorage buoy: A float, sometimes carrying a signal or signals, anchored to provide a mooring place away from the shore.

Must: means a mandate; the action is required.

Neighborhood-oriented retail establishment: Small scale retail and service uses that provide primarily convenience retail sales and service to the surrounding residential neighborhood. The following is a nonexclusive list of neighborhood-oriented retail uses: small grocery store, drug store, hair salon, coffee shop, dry cleaner or similar retail or service uses.

Non-Water-Oriented Use: Those uses that are not water-dependent, water-related, or water-enjoyment.

Ordinary High Water Mark (OHWM): The mark that will be found on all lakes and streams by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department; provided, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining fresh water shall be the line of mean high water. For Lake Washington, the ordinary high water mark corresponds with a lake elevation of 21.8 feet. Further, in those instances where the OHWM moved further upland in accordance with permits involving a shoreline habitat and natural systems enhancement project approved by a local government or the department, the OHWM shall be measured from the point that existing immediately prior to the enhancement project.

Outfall: A structure used for the discharge of a stormwater or sewer system into a receiving water.

Permitted Uses: Uses which are allowed within the applicable shoreline environment, provided that they must meet the policies, use requirements, and regulations of this Chapter 83 KZC and any other applicable regulations of the City or state.

Pier: A structure supported by pilings that projects over, and is raised above the water but is attached to land, and that is used for boat moorage, swimming, fishing, public access, float plane moorage, or similar activities requiring access to deep water.

Piling: The structural supports for piers, usually below the pier decking and anchored in the water.

Public Access: The ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline.

Public Access Facility: A water-oriented structure, such as a trail, pier, pedestrian bridge, boat launch, viewing platform, or fishing pier that provides access for the public to or along the shoreline.

Public Access Pier or Boardwalk: An elevated structure which is constructed waterward of the ordinary high water mark and intended for public use.

Public Pedestrian Walkway: A portion of private property subject to an easement giving the public the right to stand on or traverse this portion of the property.

Public Use Area: A portion of private property that is dedicated to public use and which contains one or more of the following elements: benches, tables, lawns, gardens, piers, exercise or play equipment or similar improvements or features. These elements are to provide the public with recreational opportunities in addition to the right to traverse or stand in this area.

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

Restoration: See Restore.

Revetment: A shoreline protective structure constructed on a slope, and used to prevent erosion.

Shall: Means a mandate; the action must be taken.

Shorelands: Those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; floodways and contiguous floodplain areas landward two hundred feet from such floodways; and all wetlands and river deltas associated with the streams, lakes, and tidal waters which are subject to the provisions of the Shoreline Management Act; the same to be designated as to location by the Department of Ecology.

Shoreland Areas: See Shorelands.

Shoreline Functions: See Ecological Functions.

Shoreline habitat and natural systems enhancement projects: Activities conducted for the purpose of establishing, restoring, or enhancing habitat for priority species in shorelines. The following is a nonexclusive list of shoreline habitat and natural systems enhancement projects: modification of vegetation, removal of non-native of invasive plants, shoreline stabilization, dredging and filling - provided that the primary purpose of such actions is clearly restoration of the natural character and ecological functions of the shoreline.

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

Shoreline Setback: The distance measured in feet that a structure or improvement must be located from the ordinary high water mark.

Shoreline Stabilization: Means for protecting shoreline upland areas and shoreline uses from the effects of shoreline wave action, flooding or erosion. Shoreline stabilization includes structural and non-structural methods, riprap, bulkheads, gabions, jetties, dikes and levees, flood control weirs, and bioengineered walls or embankments.

Shorelines: All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them: except (i) shorelines of statewide significance; (ii) shorelines on segments of streams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

Shorelines of Statewide Significance: Those lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark and those natural rivers or segments thereof where the mean annual flow is measured at one thousand cubic feet per second or more. Definition is limited to freshwater areas in Western Washington.

Should: Means that the particular action is required unless there is a demonstrated, compelling reason, based on policy of the Shoreline Management Act and the Shoreline Rules, against taking the action.

Sign, Interpretive: A permanent sign without commercial message, located on a publicly-accessible site, that provides public educational and interpretive information related to the site on which the sign is

located, such as information on natural processes, habitat restoration programs, or cultural history, or that is associated with an adopt-a-stream, adopt-a-park or similar agency-sponsored program.

Significant vegetation removal: The removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Soft Shoreline Stabilization Measures: Shore erosion control and restoration practices using only plantings or organic materials to restore, protect or enhance the natural shoreline environment. These include vegetation plantings, logs, beach enhancement, and similar measures.

Substantial Development: Any development of which the total cost or fair market value exceeds five thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state. The dollar threshold established in this subsection (3)(e) must be adjusted for inflation by the Office of Financial Management every five years, beginning July 1, 2007, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the Bureau of Labor and Statistics, United States Department of Labor. The Office of Financial Management must calculate the new dollar threshold and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect. The following shall not be considered substantial developments for the purpose of this chapter:

a. Normal maintenance or repair of existing structures or developments, including damage by accident, fire, or elements;
b. Construction of the normal protective bulkhead common to single family residences;
c. Emergency construction necessary to protect property from damage by the elements;
d. Construction and practices normal or necessary for farming, irrigation, and ranching activities, including agricultural service roads and utilities on shorelands, and the construction and maintenance of irrigation structures including but not limited to head gates, pumping facilities, and irrigation channels. A feedlot of any size, all processing plants, other activities of a commercial nature, alteration of the contour of the shorelands by leveling or filling other than that which results from normal cultivation, shall not be considered normal or necessary farming or ranching activities. A feedlot shall be an enclosure or facility used or capable of being used for feeding livestock hay, grain, silage, or other livestock feed, but shall not include land for growing crops or vegetation for livestock feeding and/or grazing, nor shall it include normal livestock wintering operations;
e. Construction or modification of navigational aids such as channel markers and anchor buoys;
f. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his own use or for the use of his or her family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter;
g. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of single and multiple family residences. This exception applies if the fair market value of the dock does not exceed ten thousand dollars, but if subsequent construction having a fair market value exceeding two thousand five hundred dollars occurs within five years of completion of the prior construction, the subsequent construction shall be considered a substantial development for the purpose of this chapter;
h. Operation, maintenance, or construction of canals, waterways, drains, reservoirs, or other facilities that now exist or are hereafter created or developed as a part of an irrigation system for the primary purpose of making use of system waters, including return flow and artificially stored ground water for the irrigation of lands;

i. The marking of property lines or corners on state owned lands, when such marking does not significantly interfere with normal public use of the surface of the water;
j. Operation and maintenance of any system of dikes, ditches, drains, or other facilities existing on September 8, 1975, which were created, developed, or utilized primarily as a part of an agricultural drainage or diking system;
k. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
   i. The activity does not interfere with the normal public use of the surface waters;
   The activity will have no significant adverse impact on the environment including, but not limited to, fish, wildlife, fish or wildlife habitat, water quality, and aesthetic values;
   ii. The activity does not involve the installation of a structure, and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity;
   iii. A private entity seeking development authorization under this section first posts a performance bond or provides other evidence of financial responsibility to the local jurisdiction to ensure that the site is restored to preexisting conditions; and
   iv. The activity is not subject to the permit requirements of RCW 90.58.550;
l. The process of removing or controlling an aquatic noxious weed, as defined in RCW 17.26.020, through the use of an herbicide or other treatment methods applicable to weed control that are recommended by a final environmental impact statement published by the Department of Agriculture or the Department of Ecology jointly with other state agencies under chapter 43.21C RCW.

Tour Boat Facility: A moorage pier designed for commercial tour boat usage.

Upland: Generally described as the dry land area above and landward of the ordinary high water mark.

Utilities: Services, facilities and infrastructure that produce, transmit, carry, store, process or dispose of electric power, gas, water, sewage, communications, oil, storm water, and similar services and facilities.

Utility Production and Processing Facilities: Facilities for the making or treatment of a utility, such as power plants and sewage treatment plants or parts of those facilities.

Utility Transmission Facilities: Infrastructure and facilities for the conveyance of services, such as power lines, cables, and pipelines.

View Corridor: An open area that provides an unobstructed public view across the subject property to and beyond Lake Washington from the adjacent right-of-way.

Water-Dependent Use: A use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operation.

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

Water-Oriented Use: A use that is water-dependent, water-related, or water-enjoyment or a combination of such uses.

Water Quality: The physical characteristics of water within shoreline jurisdiction, including water quantity, hydrological, physical, chemical, aesthetic, recreation-related, and biological characteristics. Where used in this chapter, the term "water quantity" refers only to development and uses regulated under this chapter and affecting water quantity, such as impermeable surfaces and storm water handling practices. Water

quantity, for purposes of this chapter, does not mean the withdrawal of ground water or diversion of surface water pursuant to RCW 90.03.250 through 90.03.340.

Water-Related Use: A use or portion of a use which is not intrinsically dependent on a waterfront location, but whose economic viability is dependent upon a waterfront location because:

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

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

Water Taxi: A boat used to provide public transport for passengers, with service scheduled with multiple stops or on demand to many locations. A water taxi would not include accessory facilities such as ticketing booths and would not include the transport of vehicles.

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Summary Table of Key Use Changes

The following describes some of the **key changes** from the existing SMP:

- General
  - The Shoreline Uses are proposed to more closely be based on the same use classification scheme that is used in the Use Zone Charts in order to provide better consistency. In order to evaluate implications for shoreline preferred uses, the listed uses have also been categorized as water-dependent, water-related/water-enjoyment, or non-water oriented. This is different than the current SMP scheme, and may result in some uses having more restrictions on their location if they are not a shoreline preferred use.
  - Urban Mixed (UM). The UM designation contains properties within the CBD 1 and 2 zones, JBD 2, 4 and 5 zones, BN zone, and PR 3.6 zone.
  - Urban Residential (UR). The UR designation contains properties within the RM, WD I, WD III, and PLA 3B zones, as well as small portions of properties in the PLA 6A, 6I, and 6H zones.

Shoreline Environment Uses	**Existing Zoning Regulations**	**Existing SMP Regulations**	**Proposed SMP Regulations**
Resource Land Uses	Not Listed	Not Listed	Listed to be consistent with WACs – not permitted
Float plane landing and mooring facilities	Float plane moorage is prohibited	Float plane moorage is prohibited	Permitted under a CU process in the UM Shoreline Environment. Limited to air charter operations (no regularly scheduled flights). (Note: This listing requires Planning Commission discussion).
Any water-oriented Retail Establishment other than those specifically listed in this chart, selling	Park facilities established through Master Plan.	Not permitted in waterfront parks, except Marina Park	Proposed as accessory to public park to allow for limited retail sales that would be supportive of park operations and public use and enjoyment of the waterfront.

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Shoreline Environment Uses	Existing Zoning Regulations	Existing SMP Regulations	Proposed SMP Regulations
goods or providing services.			
Retail Establishment providing new or used Boat Sales or Rental	Process IIB for use as accessory to general moorage facility in CBD 2, JBD 5, and PLA 15A. Permitted as a stand-alone use in JBD 2, 4 and 5. The WD I standards allow for accessory uses typical to a commercial marina (e.g. fuel sales, repair, sales, etc.), but the remaining zones do not allow these commercial activities.	Permitted as accessory to a moorage facility, except in low-density residential areas.	Proposal is for SDP, instead of a Process IIB that is currently required under existing zoning standards, in recognition of the role of these water-related uses in commercial areas. Permitted as accessory to a marina in the UM Shoreline Environment, except in the Juanita Business District, where it is permitted as a stand-alone use. Proposed to require CU process to permit as accessory use to a marina in the UR Shoreline Environment, but prohibited south of Carillon Point due to access limitations.
Retail establishment providing gas and oil sale for boats	Process IIB for use as accessory to general moorage facility in CBD 2, JBD 5, and PLA 15A. The WD I standards allow for accessory uses typical to a commercial marina (e.g. fuel sales, repair, sales, etc.), but the remaining zones do not allow these commercial activities.	Permitted as accessory to a moorage facility, except in SR	Requires a CU process to permit as accessory to a marina in the UM Shoreline Environment. Proposed to require CU process to permit as accessory use to a marina in the UR Shoreline Environment, but prohibited south of Carillon Point due to access limitations (consistent with zoning).
Retail establishment	Process IIB for use as accessory to	Permitted as accessory to a moorage	Requires a CU process to permit

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Shoreline Environment Uses	Existing Zoning Regulations	Existing SMP Regulations	Proposed SMP Regulations
providing boat and motor repair and service	general moorage facility in CBD 2, JBD 5, and PLA 15A. The WD I standards allow for accessory uses typical to a commercial marina (e.g. fuel sales, repair, sales, etc.), but the remaining zones do not allow these commercial activities.	facility, except in SR	as accessory to a marina in the UM Shoreline Environment. Proposed to require CU process to permit as accessory use to a marina in the UR Shoreline Environment, but prohibited south of Carillon Point due to access limitations (consistent with zoning).
Restaurant or Tavern	WD I allows the development of restaurants and marinas, subject to a Process IIA permit and certain standards	Permitted in UM 1/2 and UR 1	Requires a CU process instead of permitted in the UR shoreline environment.
Concession Stand	Not listed	Not listed	New use listing created to address concession stand facilities which are located most predominately in waterfront parks to support park operations and public use and enjoyment of the waterfront.
Entertainment or cultural facility	Permitted in CBD zones. Not permitted in BN or PR zones.	Not listed	Requires a CU process in the UC shoreline environment. Permitted in the UM environment (in BN and PR zones, zoning would still limit these uses).
Hotel or Motel	Permitted in CBD and JBD zones. Permitted in PLA 15A as part of mixed use development. Not permitted in BN or PR zones.	Not listed.	Permitted as a CU in the PLA 3B area to be consistent with the Comprehensive Plan language for this area, which addresses the PLA 3B area. Otherwise, not

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Shoreline Environment Uses	Existing Zoning Regulations	Existing SMP Regulations	Proposed SMP Regulations
	Permitted in PLA 3B.		permitted in the UR shoreline environment. Permitted in the UM shoreline environment (in BN and PR zones, zoning would still limit these uses).
Office Use	Permitted in CBD (with limitations), PLA 15A, JBD, PR, and BN zones.	Permitted in UM environments	Permitted in UM environments, subject to locational standards, which limit this non-water oriented use in order to reflect shoreline preferred uses
Neighborhood-oriented Retail Establishment	Presently listed as grocery store, drug store, Laundromat, dry cleaners, barber shop, beauty shop, or shoe repair shop. Not permitted in the PLA 6 zones that make up part of the UR shoreline environment, but are permitted in the RM zone.	Retail uses are not permitted in the urban residential shoreline environments (UR 1 and 2)	Designed to be consistent with zoning, except that use listing has been revised and redefined to be more general in character. Limited retail sales permitted in certain locations on the east side of Lake Street/Lake Washington Blvd to provide small-scale shops and services close to residential neighborhoods and waterfront parks.
Private Lodge or Club	Permitted in CBD and JBD zones and BN zone.	Not listed	Permitted in UM zones.
Vehicle Service Station	Permitted in JBD 2 and BN (as a Process IIA in BN)	Permitted in UM shoreline environments (UM 1 and 2)	Not permitted as this is a non-water oriented shoreline use which can have significant impacts to the shoreline ecology.
Automotive Service Center	Permitted in JBD 2 but no other zones comprising UM.	Permitted in UM shoreline environments (UM 1 and 2)	Not permitted as this is a non-water oriented shoreline use

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Shoreline Environment Uses	Existing Zoning Regulations	Existing SMP Regulations	Proposed SMP Regulations
			which can have significant impacts to the shoreline ecology.
Dry land storage	Process IIB for use as accessory to general moorage facility in CBD 2, JBD 5, and PLA 15A. The WD I standards allow for accessory uses typical to a commercial marina (e.g. fuel sales, repair, sales, etc.), but the remaining zones do not allow these commercial activities.	Permitted as accessory to a moorage facility, except in SR	Not permitted.
Industrial Uses	Not permitted.	Not listed	Water-dependent industrial uses are permitted as a CU in the UM shoreline environments, in order to provide some flexibility for industrial uses that may depend upon a water location, consistent with direction provided in WAC to reserve lands for uses that may depend on shoreline locations.

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Shoreline Environment Uses	Existing Zoning Regulations	Existing SMP Regulations	Proposed SMP Regulations
Marina	The WD III and RM zones require that moorage be for the exclusive use of the residents of the subject property. Renting moorage space is not permitted The WD I and PLA 3B zones do not limit general moorage facilities for residents only. Not permitted in JBD 4. Permitted in CBD 2, JBD 4 and PLA 15A.	Permitted in all environments, but limited to slips accessory to a detached dwelling unit in the SR shoreline environment. Permitted as a CU if accessory to a public park in the Conversancy shoreline environment.	Proposed to prohibit within the N shoreline environment and require a CU process in the UC shoreline environment because of potential for ecological impacts in these areas. Proposing to allow sale or leasing of slips in UR shoreline environment, in keeping with concept of allowing water-dependent uses.
Piers, docks, boat lifts and canopies serving Detached Dwelling Unit	Canopies are not pemitted.	Canopies are not pemitted. Permitted as a CU if accessory to a public park in the Conversancy shoreline environment.	Proposing to allow canopies. Proposed to prohibit within the N shoreline environment because of potential for ecological impacts in these areas. Not needed in UC environment, which do not contain single family residences.
Piers, docks, boat lifts and canopies serving Detached, Attached or Stacked Dwelling Units	Canopies are not permitted.	Canopies are not permitted. Permitted as a CU if accessory to a public park in the Conversancy shoreline environment.	Proposing to allow canopies. Proposed to prohibit within the N shoreline environment because of potential for ecological impacts in these areas.
Tour Boat Facility	Not listed.	Not listed	Permit in UM zones accessory to a public park
Moorage buoy	Not listed.	Not listed	Permit in all shoreline environments, except Natural to allow for moorage which would

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Shoreline Environment Uses	Existing Zoning Regulations	Existing SMP Regulations	Proposed SMP Regulations
			not require an overwater structure such as a pier to be installed
Public Access Pier or Boardwalk	Permitted in all commercial districts except JBD 4. No permitted in WD II. Permitted under varying processes in medium-density and high-density residential zones.	Not permitted in SR shoreline environment. Permitted as a CU in Conservancy environments if accessory to a public park.	Permitted in all shoreline environments, except that in Natural it will require a CU
Boat launch (for motorized)	Process IIB for use as accessory to general moorage facility in WD I and PLA 15A.	Permitted as accessory to a moorage facility, except in SR	Requires CU in UM zones.
Public Park	Permitted.	Permitted in all Shoreline Environments	Requires CU in Natural shoreline environment and facilities must be passive and low-impact
Nonwater-oriented recreational development.	Recreational facilities permitted in CBD and JBD zones.	Not listed.	Permitted in UM shoreline environment, with limitations to reflect that this is not a preferred shoreline use
Accessory dwelling unit	Permitted as accessory to a detached dwelling unit.	Not listed	Permitted as an accessory use to a single-family residence in the UR, SR, and UM shoreline environments (except in CBD and JBD where single family residences are not permitted)
Assisted Living Facility	There are different permit processes throughout the zones that compromise the UR shoreline environment for this use (e.g.	Not listed	Permitted as a CU in the UR shoreline environment. Permitted in the UM environment.

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Shoreline Environment Uses	Existing Zoning Regulations	Existing SMP Regulations	Proposed SMP Regulations
	Process I in WD zones, Process IIA in PLA 6 zones, Process IIB in PLA 3B zone). These are permitted in all zones compromising the UM zone except the CBD and PLA 15A.		
Convalescent Center or Nursing Home	These are permitted in all zones compromising the UM zone except the CBD and PLA 15A.	Not listed.	Designed to reflect zoning. Not permitted in CBD. Permitted as a CU in the UR shoreline environment if located on east side of roadway. Permitted in the UM Environment.
Land Division	Permitted.	Not listed	Permitted in SR, UR and UM environments.
Government Facility	Permitted.	Permitted in all environments.	Permitted in all environments, except for Natural.
Community Facility	Permitted.	Not listed	Permitted in the UM shoreline environment
Church	The JBD zones, BN, and PR zones all permit churches, but the other areas in the UM Shoreline Environment (CBD and PLA 15A) do not. Not permitted in WD or PLA 3B zones, but permitted in other medium-density or high-density residential zones.	Not listed	Designed to reflect zoning restrictions. Permitted in the UM environment if on east side of roadway, except not permitted in CBD. Permitted in UR if on east side of street or on south side of Juanita Drive.
School or Day-Care Center	Permitted in CBD, JBD, BN and PR zones. Permitted as part of mixed-use development in PLA 15A.	Not listed	Permitted in the UM environment with limitations on location. Permitted as a CU in UR if on east side of street or on south side of

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Shoreline Environment Uses	Existing Zoning Regulations	Existing SMP Regulations	Proposed SMP Regulations
	Permitted in all medium/high density residential zones except WD I, WD III and PLA 3B.		Juanita Drive.
Mini School or Mini Day-Care Center	Permitted in CBD, JBD, BN and PR zones. Permitted as part of mixed-use development in PLA 15A. Permitted in all medium/high density residential zones except WD I, WD III and PLA 3B.	Not listed	Permitted in the UM environment with limitations on location. Permitted in UR if on east side of street or on south side of Juanita Drive.
Bridges	N/A	Permitted in all environments.	Requires a CU process in the Natural and Urban Conservancy environments, due to potential ecological impacts.
Passenger-only ferry terminal	Not listed.	Not listed	Requires a CU in the UM environment
Water Taxi	Not listed.	Not listed	Permitted in all environments except Natural if operated out of a public park or marina
Arterials, collectors, and neighborhood access streets	Not listed.	Permitted in all environments.	Permitted in SR, UR, and UM environments. Pedestrian/bicycle facilities permitted in UC, otherwise, a CU process is required.
Utility production and processing facilities	Permitted under varying processes.	Permitted in all environments.	Requires CU process, except prohibited in Natural and Aquatic
Utility transmission facilities	Permitted under varying processes.	Permitted in all environments.	Requires CU in Natural and Aquatic; otherwise permitted.
Personal Wireless	Permitted, with varying processes depending upon facility type and	Not Listed	Permitted, except prohibited in Natural and Aquatic

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Shoreline Environment Uses	Existing Zoning Regulations	Existing SMP Regulations	Proposed SMP Regulations
	location.		
Breakwaters	Not listed.	Permitted in UM environments. Requires CU in UR environments. Permitted under CU process in Conservancy environments as accessory to a public park. Not permitted in SR environment.	Prohibited in Natural, UC and SR environments. Permitted in UR and UM if part of enhancement project; otherwise requires a CU.
Fill waterward of the OHWM	Permitted as Process IIB in WDI, II and III zones.	Requires a CU process in all environments. Only permitted in Conservancy if accessory to a public park.	Permitted if part of enhancement project; otherwise requires a CU.
Shoreline habitat and natural systems enhancement projects	Not listed.	Not listed	Permitted in all environments.
Hard Shoreline Stabilization	Permitted in WD I, II and III zones.	Permitted in all environments except Conservancy, where it requires a CU and is only permitted if accessory to a public park.	Requires CU; prohibited in Natural
Soft Shoreline Stabilization	Not listed.	Dependent upon proposal, but could be treated as Fill requiring a CU process	Permitted in all shoreline environments, except Natural

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Critical Areas – General Standards

83.440 Critical Areas – General Standards

1. The provisions of this Chapter do not extend the shoreline jurisdiction beyond the limits specified in this SMP. For regulations addressing critical area buffers that are outside of the shoreline jurisdiction, see KZC Chapter 85 and 90.

2. Avoiding impacts to critical areas.

   a. An applicant for a land surface modification or development activity within a critical area or its associated buffer shall utilize the following mitigation sequencing guidelines, which appear in order of preference, during design of the proposed project:

      1) Avoiding the impact or hazard by not taking a certain action, or redesigning the proposal to eliminate the impact. The applicant shall consider reasonable, affirmative steps and make best efforts to avoid critical area impacts. If impacts cannot be avoided through redesign, or because of site conditions or project requirements, the applicant shall then proceed with the sequence of steps in subsection (2)(a)(2) through (7) of this section.

      2) Minimizing the impact or hazard by limiting the degree or magnitude of the action or impact with appropriate technology or by changing the timing of the action.

      3) Restoring the impacted critical areas by repairing, rehabilitating or restoring the affected critical area or its buffer.

      4) Minimizing or eliminating the hazard by restoring or stabilizing the hazard area through plantings, engineering or other methods.

      5) Reducing or eliminating the impact or hazard over time by preservation or maintenance operations during the life of the development proposal, activity or alteration.

      6) Compensating for the adverse impact by enhancing critical areas and their buffers or creating substitute critical areas and their buffers as required in the KZC.

      7) Monitoring the impact, hazard or success of required mitigation and taking remedial action based upon findings over time.

      In the required critical areas study, the applicant shall include a discussion of how the proposed project utilized mitigation sequencing to avoid, minimize, and mitigate impacts to critical areas and associated buffers. The applicant should seek to avoid, minimize and mitigate overall impacts based on the functions and values of all of the relevant critical areas.

   b. In addition to the above steps, the specific development standards, permitted alteration requirements, and mitigation requirements of this chapter and elsewhere in the KZC apply.

   c. In determining the extent to which the proposal should be further redesigned to avoid and minimize the impact, the City may consider the purpose, effectiveness, engineering feasibility, commercial availability of technology, best management practices, safety and cost of the proposal and identified modifications to the proposal. The City may also consider the extent to which the avoidance of one type or location of a critical area could require or lead to impacts to other types or locations of nearby or adjacent critical areas. The City shall document the decision-making process used under this section as a part of the critical areas review conducted pursuant to KZC XXX.

3. Trees in Critical Areas or Critical Area Buffers

   a. General - The intent of preserving vegetation in and near streams and wetlands and in geologically hazardous areas is to support the functions of healthy sensitive areas and sensitive area buffers and/or avoid disturbance of geologically hazardous areas.

b. Submittal Requirements – When proposing to trim or remove any tree located within critical areas or critical area buffers, the property owner must submit a reportto the City containing the following:

1) A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of structures, driveways, access ways and easements.

2) An arborist report explaining how the tree(s) fit the criteria for a nuisance or hazard tree. This requirement may be waived by the Planning Official if it is determined that the nuisance or hazard condition is obvious.

3) A proposal detailing how the trees will be made into a snag or wildlife tree, including access and equipment, snag height, and placement of woody debris.

4) For required replacement trees, a planting plan showing location, size and species of the new trees.

c. Tree Removal Standards

1) If a tree is considered a nuisance or hazard in a critical area or its buffer, the priority action is to create a "snag" or wildlife tree with the subject tree. If creation of a snag is not feasible, then the felled tree shall be left in place unless the Planning Official permits its removal in writing.

a) Hazard Tree Criteria. A hazard tree must meet the following criteria:

i) The tree must have a combination of structural defects and/or disease which makes it subject to a high probability of failure and is in proximity to moderate-high frequency of persons or property; and

ii) The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices nor can the target be removed.

b) Nuisance Tree Criteria. A nuisance tree must meet the following criteria:

i) Tree is causing obvious, physical damage to private or public structures, including but not limited to: sidewalk, curb, road, driveway, parking lot, building foundation, roof;

ii) Tree has been damaged by past maintenance practices, that cannot be corrected with proper arboricultural practices; or

iii) The problems associated with the tree must be such that they cannot be corrected by any other reasonable practice. Including but not limited to the following:

1. Pruning of the crown or roots of the tree and/or small modifications to the site including but not limited to a driveway, parking lot, patio or sidewalk to alleviate the problem.

2. Pruning, bracing, or cabling to reconstruct a healthy crown.

2) The removal of any tree will require the planting of a native tree of a minimum of six feet in height in close proximity to where the removed tree was located. Selection of native species and timing of installation shall be coordinated with the Planning Official.

4. Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers.

a. Plants intended to mitigate for the loss of natural resource values are subject to the following requirements.

1) Plant Source. Plant materials must be native and selected from the Kirkland Plant List. Seed source must be as local as possible, and plants must be nursery propagated unless

transplanted from on-site areas approved for disturbance. These requirements must be included in the Mitigation Plan specifications.

2) Installation. Plant materials must be supported only when necessary due to extreme winds at the planting site. Where support is necessary, stakes, guy wires, or other measures must be removed as soon as the plant can support itself, usually after the first growing season. All fertilizer applications to turf or trees and shrubs shall follow Washington State University, National Arborist Association or other accepted agronomic or horticultural standards.

3) Fertilizer Applications. Fertilizers shall be applied in such a manner as to prevent its entry into waterways and wetlands and minimize its entry into storm drains. No applications shall be made within 50 feet of a waterway or wetland, or a required buffer, whichever is greater, unless specifically authorized in an approved mitigation plan or otherwise authorized in writing by the Planning Official.

Note: Much of the provisions of 83.450 and 83.460 below is taken from the City's existing critical area ordinance of Chapter 90. The subsections with highlighting to reflect new provisions of significant revisions to the text from Chapter 90 after it were copied into the new section. Staff recommends that the Planning Commission focus on the new subsections and on the overall application of Chapter 90 to the shoreline critical areas.

83.450 Wetlands

1. Applicability – The following provisions shall apply to wetlands and wetland buffers located within the shoreline jurisdiction, in replace of provisions contained in Chapter 90 KZC. Provisions contained in Chapter 90 KZC that are not addressed in this section continue to apply, with the exception of the following subsections, which shall not apply within the shoreline jurisdiction:

   a. KZC 90.20 – General Exceptions

   b. KZC 90.30 – Definitions

   c. KZC 90.75 – Minor Lakes

   d. KZC 90.140 – Reasonable Use Exception

   e. KZC 90.160 – Appeals

   f. KZC 90.170 – Planning/Public Works Official Decisions – Lapse of Approval

2. Wetland Determinations, Delineations, Regulations, Criteria, and Procedures - All determinations and delineations of wetlands shall be made using the criteria and procedures contained in the Washington State Wetlands Identification and Delineation Manual (Washington Department of Ecology, 1997). All determinations, delineations, and regulations of wetlands shall be based on the entire extent of the wetland, irrespective of property lines, ownership patterns, or other factors.

3. Wetland Determinations - Either prior to or during review of a development application, the Planning Official shall determine whether a wetland or its buffer is present on the subject property using the following provisions:

   a. During or immediately following a site inspection, the Planning Official shall make an initial assessment as to whether any portion of the subject property or surrounding area (which shall be the area within 250 feet of the subject property) meets the definition of a wetland. If this initial site inspection does not indicate the presence of a wetland on the subject property or surrounding area, no additional wetland studies will be required. However, if the initial site inspection or information subsequently obtained indicates the presence of a wetland on the subject property or surrounding area, then the applicant shall follow the procedure in subsection (2) of this section.

   b. If the initial site inspection or information subsequently obtained indicates that a wetland may exist on or near the subject property or surrounding area, the applicant shall either (a) fund a study and report prepared by the City's wetland consultant; or (b) submit a report prepared by a qualified professional approved by the City, and fund a review of this report by the City's wetland consultant.

   c. If a wetlands study and report are required, at a minimum the report shall include the following:

      1) A summary of the methodology used to conduct the study;

2) A professional survey which is based on the KCAS or plat-bearing system and tied to a known monument, depicting the wetland boundary on a map of the surrounding area which shows the wetland and its buffer;

3) A description of the wetland habitat(s) found throughout the entire wetland (not just on the subject property) using the U.S. Fish & Wildlife Service classification system (Classification of Wetlands and Deepwater Habitats in the U.S., Cowardin et al., 1979);

4) A description of nesting, denning, and breeding areas found in the wetland or its surrounding area;

5) A description of the surrounding area, including any drainage systems entering and leaving the wetland, and a list of observed or documented plant and wildlife species;

6) A description of historical, hydrologic, vegetative, topographic, and soil modifications, if any;

7) A proposed classification of the wetland as Category I, II, III, or IV wetland; and

8) A completed rating form using the *Washington State Wetland Rating System for Western Washington – Revised* (Washington State Department of Ecology Publication # 04-06-025, or latest version). [Note: When a wetland buffer outside of shoreline jurisdiction is proposed to be modified, the wetland in shoreline jurisdiction must be rated using the methodology required by KZC 90.40 to determine the appropriate buffer width. Ecology's rating system and the corresponding buffers only apply to those wetlands and buffers which are located in shoreline jurisdiction.]

d. Formal determination of whether a wetland exists on the subject property, as well as its boundaries and rating, shall be made by the Planning Official after preparation and review of the report, if applicable, by the City's wetland consultant. The Planning Official's decision under this section shall be used for review of any development activity proposed on the subject property for which an application is received within two (2) years of the decision; provided, that the Planning Official may modify any decision whenever physical circumstances have markedly and demonstrably changed on the subject property or the surrounding area as a result of natural processes or human activity.

4. Wetland Buffers and Setbacks

a. No land surface modification shall occur and no improvement may be located in a wetland or its buffer, except as provided in KZC 83.450.4 through 83.460.10. See also KZC 83.440, Trees in Critical Areas or Critical Area Buffers; and KZC 83.440, Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Required, or standard, buffers for wetlands are as follows, and are measured from the outer edge of the wetland boundary:

Wetland Buffers

WETLAND CATEGORY AND CHARACTERISTICS	BUFFER
Category I	
Natural Heritage Wetlands	215 feet
Bog	215 feet
Habitat score[1] from 29 to 36 points	225 feet
Habitat score from 20 to 28 points	150 feet
Other Category I wetlands	125 feet
Category II	
Habitat score from 29 to 36 points	200 feet
Habitat score from 20 to 28 points	125 feet
Other Category II wetlands	100 feet
Category III	
Habitat score from 20 to 28 points	125 feet
Other Category III wetlands	75 feet

Category IV	50 feet

[1] Habitat score is one of three elements of the rating form.

Where a legally established, improved road right-of-way or structure divides a wetland buffer, the Planning Official may approve a modification of the required buffer in that portion of the buffer isolated from the wetland by the road or structure, provided the isolated portion of the buffer:

1) Does not provide additional protection of the wetland from the proposed development; and

2) Provides insignificant biological, geological or hydrological buffer functions relating to the portion of the buffer adjacent to the wetland.

b. Buffer Setback – Structures shall be set back at least 10 feet from the designated or modified wetland buffer. The City may allow within this setback minor improvements which would clearly have no adverse effect during their construction, installation, use, or maintenance, on fish, wildlife, or their habitat or any vegetation in the buffer or adjacent wetland.

c. Storm Water Outfalls – Necessary surface discharges of storm water through wetland buffers and buffer setbacks may be allowed on the surface, but piped system discharges are prohibited unless approved pursuant to this section. Storm water outfalls (piped systems) may be located within the buffer setback specified in subsection (b) of this section and within the buffers specified in subsection (a) of this section only when the City determines, based on a report prepared by a qualified professional under contract to the City and paid for by the applicant, that surface discharge of storm water through the buffer would clearly pose a threat to slope stability, and if the storm water outfall will not:

1) Adversely affect water quality;

2) Adversely affect fish, wildlife, or their habitat;

3) Adversely affect drainage or storm water detention capabilities;

4) Lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and

5) Be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas.

Storm water facilities shall minimize potential impacts to the wetland or wetland buffer by meeting the following design standards:

6) Catch basins must be installed as far as feasible from the buffer boundary.

7) Outfalls must be designed to reduce the chance of adverse impacts as a result of concentrated discharges from pipe systems. This may include:

a) Installation of the discharge end as far as feasible from the sensitive area; and

b) Use of appropriate energy dissipation at the discharge end.

d. Water Quality Facilities – Detention and water quality treatment devices, and other similar facilities as determined by the City, shall not be located within the wetland buffers or buffer setbacks of this section except as provided below. Water quality facilities, as determined by the City, may be located within the wetland buffers of subsection 85.450.4 of this section. The City may only approve a proposal to install a water quality facility within the outer one-half (1/2) of a wetland buffer if a suitable location outside of the buffer is not available and only if:

1) It will not adversely affect water quality;

2) It will not adversely affect fish, wildlife, or their habitat;

3) It will not adversely affect drainage or storm water detention capabilities;

4) It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;

5) It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas;

6) The existing buffer is already degraded as determined by a qualified professional;

7) Its installation would be followed immediately by enhancement of an area equal in size and immediately adjacent to the affected portion of the buffer; and

8) Once installed, it would not require any further disturbance or intrusion into the buffer.

The City may only approve a proposal by a public agency to install a water quality facility elsewhere in a wetland buffer if criteria 9 – 12 (below) are met in addition to 1 – 8 (above):

9) The project includes enhancement of the entire buffer;

10) The project would provide an exceptional ecological benefit off-site;

11) The water quality facility, once installed, would not require any further disturbance or intrusion into the buffer; and

12) There is no practicable or feasible alternative proposal that results in less impact to the buffer.

e. Utilities and Rights-of-Way – Provided that activities will not increase the impervious area or reduce flood storage capacity, the following work may only be allowed in critical areas and their buffers subject to City review after appropriate mitigation sequencing per KZC 83.440.2 has been considered and implemented:

1) All utility work in improved City rights-of-way;

2) All normal and routine maintenance, operation and reconstruction of existing roads, streets, and associated rights-of-way and structures; and

3) Construction of sewer or water lines that connect to existing lines in a sensitive area or buffer where no feasible alternative location exists based on an analysis of technology and system efficiency.

4) All affected critical areas and buffers will be expeditiously restored to their pre-project condition or better. For purposes of this subsection only, “improved City rights-of-way” include those rights-of-way that have improvements only underground, as well as those with surface improvements.

f. Minor Improvements – Minor improvements may be located within the sensitive area buffers specified in subsection (a) of this section. These minor improvements shall be located within the outer one-half of the sensitive area buffer, except where approved stream crossings are made. The City may only approve a proposal to construct a minor improvement within an environmentally sensitive area buffer if:

1) It will not adversely affect water quality;

2) It will not adversely affect fish, wildlife, or their habitat;

3) It will not adversely affect drainage or storm water detention capabilities;

4) It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;

5) It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas; and

6) It supports public or private shoreline access.

The City may require the applicant to submit a report prepared by a qualified professional which describes how the proposal will or will not comply with the criteria for approving a minor improvement.

5. Wetland Buffer Fence or Barrier - Prior to beginning development activities, the applicant shall install a six (6) foot high construction-phase chain link fence or equivalent fence, as approved by the Planning Official and consistent with City standards, along the upland boundary of the entire wetland buffer with silt screen fabric. The construction-phase fence shall remain upright in the approved location for the duration of development activities.

   Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either (1) a permanent three-(3) to four (4)-foot-tall split rail fence; or (2) equivalent barrier, as approved by the Planning Official. Installation of the permanent fence or equivalent barrier must be done by hand where necessary to prevent machinery from entering the wetland or its buffer.

6. Permit Process -

   a. The City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal with the shoreline permit required for the proposed development activity, except as noted in subsection b.

   b. All Wetland Modification or Wetland Buffer Modification affecting > 25% of the standard buffer, except for development activity or land surface modification approved under subsection 4 above (Wetland Buffers and Setbacks) or subsection 10 (Wetland Restoration) below, require a Shoreline Variance pursuant to Process IIA, described in Chapter 141.

7. Modification of Wetlands – No land surface modification shall occur and no improvement shall be located in a wetland, except as provided in this subsection. Furthermore, all modifications of a wetland shall be consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998).

   As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's wetland consultant. The report shall contain all information specified in KZC 83.450(c) as well as an assessment of the habitat, water quality, storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the wetland and its buffer. The report shall also assess the effects of the proposed modification on those functions. The City may only approve an improvement or land surface modification in a wetland if:

   a. The project demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.440.2;

   b. It will not adversely affect water quality;

   c. It will not adversely affect fish, wildlife, or their habitat;

   d. It will not have an adverse effect on drainage and/or storm water detention capabilities;

   e. It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;

   f. It will not be materially detrimental to any other property or the City as a whole;

   g. Compensatory mitigation is provided in accordance with the table in subsection (c) of this section;

h. Fill material does not contain organic or inorganic material that would be detrimental to water quality or fish and wildlife habitat;

i. All exposed areas are stabilized with vegetation normally associated with native wetlands and/or buffers, as appropriate; and

j. There is no practicable or feasible alternative development proposal that results in less impact to the wetland and its buffer.

8. Compensatory Mitigation – A modification may only be approved after the applicant has demonstrated consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.85.2. All approved impacts to regulated wetlands require compensatory mitigation so that the goal of no net loss of wetland function, value, and acreage is achieved. A mitigation proposal must utilize the mitigation ratios specified below as excerpted from: Washington State Department of Ecology, U.S. Army Corps of Engineers Seattle District, and U.S. Environmental Protection Agency Region 10. March 2006. *Wetland Mitigation in Washington State – Part 1: Agency Policies and Guidance (Version 1)*. Washington State Department of Ecology Publication #06-06-011a. Olympia, WA.

Compensatory Mitigation

Category and Type of Wetland Impacts	Re-establishment or Creation	Rehabilitation Only[1]	Re-establishment or Creation (R/C) and Rehabilitation (RH)[1]	Re-establishment or Creation (R/C) and Enhancement (E)[1]	Enhancement Only[1]
All Category IV	1.5:1	3:1	1:1 R/C and 1:1RH	1:1 R/C and 2:1 E	6:1
All Category III	2:1	4:1	1:1 R/C and 2:1 RH	1:1 R/C and 4:1 E	8:1
Category II	3:1	6:1	1:1 R/C and 4:1 RH	1:1 R/C and 8:1 E	12:1
Category I Forested	6:1	12:1	1:1 R/C and 10:1 RH	1:1 R/C and 20:1 E	24:1
Category I - based on score for functions	4:1	8:1	1:1 R/C and 6:1 RH	1:1 R/C and 12:1 E	16:1
Category I Natural Heritage site	Not allowed	6:1 Rehabilitation of a Natural Heritage site	Not allowed	Not allowed	Case-by-case
Category I Bog	Not allowed	6:1 Rehabilitation of a bog	Not allowed	Not allowed	Case-by-case

[1] These ratios are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement

On-site mitigation is presumed to be preferable to off-site mitigation. The City may approve a plan to implement all or a portion of the required mitigation off-site, if the off-site mitigation is within the same drainage basin as the property that will be impacted by the project. The applicant shall demonstrate that the off-site mitigation will result in higher wetland functions, values, and/or acreage than on-site mitigation. Required compensatory mitigation ratios shall be the same for on-site or off-site mitigation, or a combination of both.

If the proposed on-site or off-site mitigation plan will result in the creation or expansion of a wetland or its buffer on any property other than the subject property, the plan shall not be approved until the applicant submits to the City a copy of a statement signed by the owners of all affected properties, in a form approved by the City Attorney and recorded in the King County Department of Elections and Records, consenting to the wetland and/or buffer creation or increase on such property and to the required maintenance and monitoring that may follow the creation or expansion of a wetland or its buffer.

Applicants proposing to alter wetlands or their buffers shall submit a mitigation plan prepared by a qualified professional. The mitigation plan shall consist of a description of the existing functions and values of the wetlands and buffers affected by the proposed project, the nature and extent of impacts to those areas, and the mitigation measures to offset those impacts. The mitigation plan shall also contain a drawing that illustrates the compensatory mitigation elements. The plan and/or drawing shall list plant materials and other habitat features to be installed.

To ensure success of the mitigation plan, the applicant shall submit a monitoring and maintenance program prepared by a qualified professional. At a minimum, the monitoring and maintenance plan shall include the following:

1) The goals and objectives for the mitigation plan;
2) Success criteria by which the mitigation will be assessed;
3) Plans for a five (5) year monitoring and maintenance program;
4) A contingency plan in case of failure; and
5) Proof of a written contract with a qualified professional who will perform the monitoring program.

The monitoring program shall consist of at least two site visits per year by a qualified professional, with annual progress reports submitted to the City and all other agencies with jurisdiction.

The cost of producing and implementing the mitigation plan, the monitoring and maintenance program, reports, and drawing, as well as the review of each component by the City's wetland consultant, shall be borne by the applicant.

9. Wetland Buffer Modification

a. Departures from the standard buffer requirements shall be approved only after the applicant has demonstrated consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.440.2.

b. Approved departures from the standard buffer requirements of KZC 83.450.4(a) allow applicants to modify the physical and biological conditions of portions of the standard buffer for the duration of the approved project. These approved departures from the standard buffer requirements do not permanently establish a new regulatory buffer edge. Future development activities on the subject property may be required to reestablish the physical and biological conditions of the standard buffer.

c. Modification of Wetland Buffers when Wetland Is Also To Be Modified – Wetland buffer impact is assumed to occur when wetland fill or modification is proposed. Any proposal for wetland fill/modification shall include provisions for establishing a new wetland buffer to be

located around the compensatory mitigation sites and to be equal in width to its standard buffer specified in KZC 83.450.4(a) or a buffer reduced in accordance with this section by no more than twenty-five percent (25%) of the standard buffer width in all cases, regardless of wetland category or basin type.

d. Modification of Wetland Buffers when Wetland Is Not To Be Modified – No land surface modification may occur and no improvement may be located in a wetland buffer, except as provided for in this subsection. Buffer widths may be decreased if an applicant receives a modification request approval.

1) Types of Buffer Modifications – Buffers may be reduced through one of two means, either (a) buffer averaging, or (b) buffer reduction with enhancement. A combination of these two buffer reduction approaches shall not be used:

a) Buffer averaging requires that the area of the buffer resulting from the buffer averaging is equal in size and quality to the buffer area calculated by the standards specified in KZC 83.450.4(a). Buffers may not be reduced at any point by more than twenty-five percent (25%) of the standards specified in KZC 83.450.(a). Buffer averaging calculations shall only consider the subject property.

b) Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means), the reduced buffer will function at a higher level than the existing standard buffer. The reduced on-site buffer area must be planted and maintained as needed to yield over time a reduced buffer that is equivalent to undisturbed Puget Lowland forests in density and species composition. At a minimum, a buffer enhancement plan shall provide the following: (a) a map locating the specific area of enhancement; (b) a planting plan that uses native species, including groundcover, shrubs, and trees; and (c) a monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in KZC 83.90.5(d). Buffers may not be reduced at any point by more than twenty-five (25) percent of the standards in KZC 83.450.3(a). Buffer reductions of more than twenty-five (25) percent approved through a Shoreline Variance will be assumed to have direct wetland impacts that must be compensated for as described above under KZC 83.450.8.

2) Decisional Criteria – An improvement or land surface modification may only be approved in a wetland buffer only if:

a) The development activity or buffer modification demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.440.2.

b) It is consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998);

c) It will not adversely affect water quality;

d) It will not adversely affect fish, wildlife, or their habitat;

e) It will not have an adverse effect on drainage and/or storm water detention capabilities;

f) It will not lead to unstable earth conditions or create an erosion hazard;

g) It will not be materially detrimental to any other property or the City as a whole;

h) Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;

i) All exposed areas are stabilized with vegetation normally associated with native wetland buffers, as appropriate; and

j) There is no practicable or feasible alternative development proposal that results in less impact to the buffer.

As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's wetland consultant. The report shall assess the habitat, water quality, storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the ten (10) criteria listed in this subsection (d)(2) of this section.

10. Wetland Restoration - City approval is required prior to wetland restoration. The City may permit or require the applicant or property owner to restore and maintain a wetland and/or its buffer by removing material detrimental to the area, such as debris, sediment, or vegetation. The City may also permit or require the applicant to restore a wetland or its buffer through the addition of native plants and other habitat features. See also KZC 83.440, Trees in Critical Areas or Critical Area Buffers; and KZC 83.440, Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Restoration may be required whenever a condition detrimental to water quality or habitat exists. When wetland restoration is required by the City, the requirements of KZC 83.450.8, Compensatory Mitigation, shall apply.

11. Wetland Access - The City may develop access through a wetland and its buffer in conjunction with a public park, provided the purpose supports education or passive recreation, and is designed to minimize environmental impacts during construction and operation.

83.460 Streams

1. 1. Applicability – The following provisions shall apply to streams and stream buffers located within the shoreline jurisdiction, in replace of provisions contained in Chapter 90 KZC. Provisions contained in Chapter 90 KZC that are not addressed in this Section continue to apply, with the exception of the following subsections, which shall not apply within the shoreline jurisdiction:

   a. KZC 90.20 – General Exceptions

   b. KZC 90.30 – Definitions

   c. KZC 90.75 – Minor Lakes

   d. KZC 90.140 – Reasonable Use Exception

   e. KZC 90.160 – Appeals

   f. KZC 90.170 – Planning/Public Works Official Decisions – Lapse of Approval

2. Activities in or Near Streams - No land surface modification may occur and no improvements may be located in a stream or its buffer except as provided in KZC 83.460.3 through 83.460.11.

3. Stream Determinations - The Planning Official shall determine whether a stream or stream buffer is present on the subject property using the following provisions. During or immediately following a site inspection, the Planning Official shall make an initial assessment as to whether a stream exists on any portion of the subject property or surrounding area (which shall be the area within approximately 100 feet of the subject property).

   If the initial site inspection indicates the presence of a stream, the Planning Official shall determine, based on the definitions contained in this chapter and after a review of all information available to the City, the classification of the stream.

   If this initial site inspection does not indicate the presence of a stream on or near the subject property, no additional stream study will be required.

   If an applicant disagrees with the Planning Official's determination that a stream exists on or near the subject property or the Planning Official's classification of a stream, the applicant shall submit a report prepared by a qualified professional approved by the Planning Official that independently evaluates the presence of a stream or the classification of the stream, based on the definitions contained in this chapter.

   The Planning Official shall make final determinations regarding the existence of a stream and the proper classification of that stream. The Planning Official's decision under this section shall be used for review of any development activity proposed on the subject property for which an application is received within two years of the decision; provided, that the Planning Official may modify any decision whenever physical circumstances have markedly and demonstrably changed on the subject property or the surrounding area as a result of natural processes or human activity.

4. Stream Buffers and Setbacks

   a. Stream Buffers – No land surface modification shall occur and no improvement may be located in a stream or its buffer, except as provided in this section. See also KZC 83.85(1), Trees in Critical Areas or Critical Area Buffers; and KZC 83.85(2), Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Required, or standard, buffers for streams are as follows:

   Stream Buffers

Stream Class	Primary Basins	Secondary Basins
A	75 feet	N/A
B	60 feet	50 feet
C	35 feet	25 feet

Stream buffers shall be measured from each side of the ordinary high water mark of the stream except that where streams enter or exit pipes, the buffer shall be measured in all directions from the pipe opening. Essential improvements to accommodate required vehicular, pedestrian, or utility access to the subject property may be located within those portions of stream buffers which are measured toward culverts from culvert openings.

Where a legally established, improved road right-of-way or structure divides a stream buffer, the Planning Official may approve a modification of the required buffer in that portion of the buffer isolated from the stream by the road or structure, provided the isolated portion of the buffer:

1) Does not provide additional protection of the wetland from the proposed development; and

2) Provides insignificant biological, geological or hydrological buffer functions relating to the portion of the buffer adjacent to the wetland.

b. Buffer Setback – Structures shall be set back at least 10 feet from the designated or modified stream buffer. The City may allow within this setback minor improvements which would have no potential adverse effect during their construction, installation, use, or maintenance to fish, wildlife, or their habitat or to any vegetation in the buffer or adjacent stream.

c. Storm Water Outfalls – Necessary discharge of storm water through stream buffers and buffer setbacks may be allowed on the surface, but a piped system discharge is prohibited unless approved pursuant to this section. Storm water outfalls (piped systems) may be located within the buffer setback specified in subsection (b) of this section and within the buffers specified in subsection (a) of this section only when the Public Works and Planning Officials both determine, based on a report prepared by a qualified professional under contract to the City and paid for by the applicant, that surface discharge of storm water through the buffer would clearly pose a threat to slope stability; and if the storm water outfall will not:

1) Adversely affect water quality;

2) Adversely affect fish, wildlife, or their habitat;

3) Adversely affect drainage or storm water detention capabilities;

4) Lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;

5) Be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas.

Storm water facilities shall minimize potential impacts to the wetland or wetland buffer by meeting the following design standards:

6) Catch basins must be installed as far as feasible from the buffer boundary.

7) Outfalls must be designed to reduce the chance of adverse impacts as a result of concentrated discharges from pipe systems. This may include:

a) Installation of the discharge end as far as feasible from the sensitive area, and

b) Use of appropriate energy dissipation at the discharge end.

d. Water Quality Facilities – Detention and water quality treatment devices, and other similar facilities as determined by the City, shall not be located within the stream buffers or buffer setbacks of this section except as provided below. The City may only approve a proposal to install a water quality facility within the outer one-half (1/2) of a stream buffer if a suitable location outside of the buffer is not available and only if:

1) It will not adversely affect water quality;
2) It will not adversely affect fish, wildlife, or their habitat;
3) It will not adversely affect drainage or storm water detention capabilities;
4) It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;
5) It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas;
6) The existing buffer is already degraded as determined by a qualified professional;
7) Its installation of the water quality facility would be followed immediately by enhancement of an area equal in size and immediately adjacent to the affected portion of the buffer; and
8) Once installed, it would not require any further disturbance or intrusion into the buffer.

The City may only approve a proposal by a public agency to install a water quality facility elsewhere in a stream buffer if Criteria 9 – 12 (below) are met in addition to 1 – 8 (above):

9) The project includes enhancement of the entire on-site buffer;
10) The project would provide an exceptional ecological benefit off-site;
11) The water quality facility, once installed, would not require any further disturbance or intrusion into the buffer; and
12) There is no practicable or feasible alternative proposal that results in less impact to the buffer.

e. Utilities and Rights-of-Way – Provided that activities will not increase the impervious area or reduce flood storage capacity, the following work shall be allowed in critical areas and their buffers subject to City review after appropriate mitigation sequencing per KZC 83.440.2 has been considered and implemented:

1) All utility work in improved City rights-of-way;
2) All normal and routine maintenance, operation and reconstruction of existing roads, streets, and associated rights-of-way and structures; and
3) Construction of sewer or water lines that connect to existing lines in a sensitive area or buffer where no feasible alternative location exists based on an analysis of technology and system efficiency.

All affected critical areas and buffers will be expeditiously restored to their pre-project condition or better. For purposes of this subsection only, “improved City rights-of-way” include those rights-of-way that have improvements only underground, as well as those with surface improvements.

f. Minor Improvements – Minor improvements may be located within the sensitive area buffers specified in subsection 83.460.4. These minor improvements shall be located within the outer one-half of the sensitive area buffer, except where approved stream crossings are made. The City may only approve a proposal to construct a minor improvement within a sensitive area buffer if:

1) It will not adversely affect water quality;
2) It will not adversely affect fish, wildlife, or their habitat;
3) It will not adversely affect drainage or storm water detention capabilities;

4) It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;

5) It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas; and

6) It supports public or private shoreline access.

The City may require the applicant to submit a report prepared by a qualified professional which describes how the proposal will or will not comply with the criteria for approving a minor improvement.

5. Stream Buffer Fence or Barrier - Prior to beginning development activities, the applicant shall install a six-foot-high construction-phase chain link fence or equivalent fence, as approved by the Planning Official and consistent with City standards, along the upland boundary of the entire stream buffer with silt screen fabric. The construction-phase fence shall remain upright in the approved location for the duration of development activities.

   Upon project completion, the applicant shall install between the upland boundary of all stream buffers and the developed portion of the site, either (1) a permanent three- to four-foot-tall split rail fence; or (2) equivalent barrier, as approved by the Planning Official. Installation of the permanent fence or equivalent barrier must be done by hand where necessary to prevent machinery from entering the stream or its buffer.

6. Permit Process -

   a. The City shall consolidate and integrate the review and processing of the critical areas aspects of the proposal with the shoreline permit required for the proposed development activity, except as noted under subsection b.

   b. All Stream Relocation or Modification or Stream Buffer Modification affecting > one-third (1/3) of the standard buffer, except for development activity or land surface modification approved under subsection 4 above (Stream Buffer and Setback) or subsection 10 (Stream Crossings) and 11 (Stream Rehabilitation) below, require a Shoreline Variance pursuant to Process IIA, described in Chapter 141.

7. Stream Buffer Modification

   a. Approved departures from the standard buffer requirements of KZC 83.460.4(a) allow applicants to modify the physical and biological conditions of portions of the standard buffer for the duration of the approved project. These approved departures from the standard buffer requirements do not permanently establish a new regulatory buffer edge. Future development activity on the subject property may be required to reestablish the physical and biological conditions of the standard buffer.

   b. Types of Buffer Modification – Buffers may be reduced through one of two means, either (1) buffer averaging; or (2) buffer reduction with enhancement. A combination of these two buffer reduction approaches shall not be used.

      1) Buffer averaging requires that the area of the buffer resulting from the buffer averaging be equal in size and quality to the buffer area calculated by the standards specified in KZC 83.460.4(a). Buffers may not be reduced at any point by more than one-third (1/3) of the standards in KZC 83.460.4(a). Buffer averaging calculations shall only consider the subject property.

      2) Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) the reduced buffer will function at a higher level than the standard existing buffer. The reduced on-site buffer area must be planted and maintained as needed to yield over time a reduced buffer that is equivalent to an undisturbed Puget Lowland forests in density

and species composition. A buffer enhancement plan shall at a minimum provide the following: (1) a map locating the specific area of enhancement; (2) a planting plan that uses native species, including groundcover, shrubs, and trees; and (3) a monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in KZC 83.450.8. Buffers may not be reduced at any point by more than one-third (1/3) of the standards in KZC 83.460.4(a).

a. Decisional Criteria – An improvement or land surface modification may only be approved in a stream buffer only if:

1) The project demonstrates consideration and implementation of appropriate mitigation sequencing as outlined in KZC 83.440.2.

2) It is consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998);

3) It will not adversely affect water quality;

4) It will not adversely affect fish, wildlife, or their habitat;

5) It will not have an adverse effect on drainage and/or storm water detention capabilities;

6) It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;

7) It will not be materially detrimental to any other property or the City as a whole;

8) Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;

9) All exposed areas are stabilized with vegetation normally associated with native stream buffers, as appropriate; and

10) There is no practicable or feasible alternative development proposal that results in less impact to the buffer.

As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's wetland consultant. The report shall assess the habitat, water quality, storm water detention, ground water recharge, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the ten criteria listed in this subsection.

8. Stream Relocation or Modification - The City may only permit a stream to be relocated or modified if water quality, conveyance, fish and wildlife habitat, wetland recharge (if hydrologically connected to a wetland), and storm water detention capabilities of the stream will be significantly improved by the relocation or modification. Convenience to the applicant in order to facilitate general site design may not be considered.

A proposal to relocate or modify a Class A stream may only be approved only if the Washington Department of Fish and Wildlife issues a Hydraulic Project Approval for the project. Furthermore, all modifications shall be consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998).

If the proposed stream activity will result in the creation or expansion of a stream or its buffer on any property other than the subject property, the City shall not approve the plan until the applicant submits to the City a copy of a statement signed by the owners of all affected properties, in a form approved by the City Attorney and recorded in the King County Department of Elections and Records, consenting to the sensitive area and/or buffer creation or increase on such property.

Prior to the City's approval of a stream relocation or modification, the applicant shall submit a stream relocation/modification plan prepared by a qualified professional approved by the City.

The cost of producing, implementing, and monitoring the stream relocation/modification plan, and the cost of review of that plan by the City's stream consultant shall be borne by the applicant. This plan shall contain or demonstrate the following:

a. A topographic survey showing existing and proposed topography and improvements;

b. The filling and revegetation of the existing stream channel;

c. A proposed phasing plan specifying time of year for all project phases;

d. The ability of the new stream channel to accommodate flow and velocity of 100-year storm events; and

e. The design and implementation features and techniques listed below, unless clearly and demonstrably inappropriate for the proposed relocation or modification:

1) The creation of natural meander patterns;

2) The formation of gentle and stable side slopes, no steeper than two feet horizontal to one-foot vertical, and the installation of both temporary and permanent erosion-control features (the use of native vegetation on stream banks shall be emphasized);

3) The creation of a narrow sub-channel (thalweg) against the south or west stream bank;

4) The utilization of native materials;

5) The installation of vegetation normally associated with streams, emphasizing native plants with high food and cover value for fish and wildlife;

6) The creation of spawning areas, as appropriate;

7) The re-establishment of fish population, as appropriate;

8) The restoration of water flow characteristics compatible with fish habitat areas;

9) Demonstration that the flow and velocity of the stream after relocation or modification shall not be increased or decreased at the points where the stream enters and leaves the subject property, unless the change has been approved by the City to improve fish and wildlife habitat or to improve storm water management;

10) A written description of how the proposed relocation or modification of the stream will significantly improve water quality, conveyance, fish and wildlife habitat, wetland recharge (if hydrologically connected to a wetland), and storm water detention capabilities of the stream; and

11) A monitoring and maintenance plan consistent with KZC 83.450.8.

Prior to diverting water into a new stream channel, a qualified professional approved by the City shall inspect the completed new channel and issue a written report to the City stating that the new stream channel complies with the requirements of this section. The cost for this inspection and report shall be borne by the applicant.

9. Bulkheads in Streams - Bulkheads are not permitted along a stream, except as provided in this subsection. The City shall allow a bulkhead to be constructed only if:

a. It is not located within a wetland or between a wetland and a stream;

b. It is needed to prevent significant erosion;

c. The use of vegetation and/or other biological materials would not sufficiently stabilize the stream bank to prevent significant erosion;

d. The applicant submits a plan prepared by a qualified professional approved by the City that shows a bulkhead and implementation techniques that meet the following criteria:

1) There will be no adverse impact to water quality;

2) There will be no adverse impact to fish, wildlife, and their habitat;

3) There will be no increase in the velocity of stream flow, unless approved by the City to improve fish habitat;

4) There will be no decrease in flood storage volumes;

5) Neither the installation, existence, nor operation of the bulkhead will lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and

6) Neither the installation, existence, nor operation of the bulkhead will be detrimental to any other property or the City as a whole; and

e. The Washington Department of Fish and Wildlife issues a Hydraulic Project Approval for the project.

The bulkhead shall be designed consistent with Washington Department of Fish and Wildlife's *Integrated Streambank Protection Guidelines* (2003, or as revised). The bulkhead shall be designed and constructed to minimize the transmittal of water current and energy to other properties. Changes in the horizontal or vertical configuration of the land shall be kept to a minimum. Fill material used in construction of a bulkhead shall be non-dissolving and non-decomposing. The applicant shall also stabilize all exposed soils by planting native riparian vegetation with high food and cover value for fish and wildlife.

10. Stream Crossings - Stream crossings are not permitted ,except as specified in this section. The City shall review and decide upon an application to cross a stream with an access drive, driveway, or street. A stream crossing shall be allowed only if:

a. The stream crossing is necessary to provide required vehicular, pedestrian, or utility access to the subject property. Convenience to the applicant in order to facilitate general site design shall not be considered;

b. The Washington Department of Fish and Wildlife issues a Hydraulic Project Approval for the project; and

c. The applicant submits a plan prepared by a qualified professional approved by the City that shows the crossing and implementation techniques that meet the following criteria:

1) There will be no adverse impact to water quality;

2) There will be no adverse impact to fish, wildlife, and their habitat;

3) There will be no increase in the velocity of stream flow, unless approved by the City to improve fish habitat;

4) There will be no decrease in flood storage volumes;

5) Neither the installation, existence, nor operation of the stream crossing will lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and

6) Neither the installation, existence, nor operation of the stream crossing will be detrimental to any other property or to the City as a whole.

The stream crossing shall be designed and constructed to allow passage of fish inhabiting the stream or which may inhabit the stream in the future. The stream crossing shall be designed to accommodate a 100-year storm event. The applicant shall at all times maintain the crossing so that debris and sediment do not interfere with free passage of water, wood and fish. The City shall require a security or perpetual culvert maintenance agreement under KZC 90.145 for continued maintenance of the stream crossing.

A bridge is the preferred stream crossing method. If a bridge is not economically or technologically feasible, or would result in greater environmental impacts than a culvert, a proposal for a culvert may be approved if the culvert complies with the above criteria and the following additional criteria:

7) The culvert must be designed consistent with Washington Department of Fish and Wildlife's *Design of Road Culverts for Fish Passage* (2003, or as revised).

If a proposed project requires approval through a Shoreline Conditional Use, the City may require that any stream in a culvert on the subject property be opened, relocated, and restored, consistent with the provisions of this subsection.

11. Stream Rehabilitation - City approval is required prior to stream rehabilitation. The City may permit or require the applicant or property owner to restore and maintain a stream and/or its buffer by removing material detrimental to the stream and its surrounding area such as debris, sediment, or vegetation. The City may also permit or require the applicant to restore a stream or its buffer through the addition of native plants and other habitat features. See also KZC 83.440, Trees in Critical Areas or Critical Area Buffers; and KZC 83.440, Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Restoration may be required at any time that a condition detrimental to water quality or habitat exists. When stream rehabilitation is required by the City, the mitigation plan and monitoring requirements of KZC 83.450.8, shall apply.

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

July 8, 2008

City of Kirkland
Planning & Community Development
Attn: Paul Stewart
123 Fifth Avenue
Kirkland, WA 98033

Dear Paul:

The City of Kirkland has asked Ecology if their current wetland regulations within the existing Critical Areas Ordinance (CAO) contain adequate protection to be applied within the updated Shoreline Master Program (SMP). It is our understanding that the City adopted their current CAO in 2003. This predates the issuance of the final version of Ecology's Washington State Wetland Rating System (August 2004) and of Ecology's extensive synthesis of scientific literature on wetlands and of the guidance based on that synthesis (Wetlands in Washington State, Vol. 1 and 2 [March & April 2005]). Both the rating system and the synthesis of wetland science meet the criteria for Best Available Science (BAS) as defined in WAC 365-195-905. As you know, the Growth Management Act was amended in 1995 to require that cities and counties include BAS in developing regulations to protect critical areas (RCW 36.70.172).

Although the City has not adopted Ecology's wetland rating system, the City does have a unique wetland rating system based on a regionally specific analysis (Adolfson, 1998). The City's rating system provides added protection to wetlands adjacent to Lake Washington. The City asked its consultant (The Watershed Company) to rate the five major wetland complexes[1] within the City's shoreline jurisdiction using both Ecology's and the City's current wetland rating systems and provide a comparison of the results.

We have reviewed the following documents provided by the City analyzing wetland protections within the current CAO:

- City of Kirkland wetland rating reports for Forbes Creek, Forbes Creek #2, Juanita Creek Park, South Juanita Slope, and Yarrow Bay wetlands.
- Ecology wetland rating reports for Forbes Creek, Forbes Creek #2, Juanita Creek Park, South Juanita Slope, and Yarrow Bay wetlands.
- Memo prepared by the Watershed Company dated April 9, 2008, comparing the Ecology wetland rating system with the City of Kirkland's wetland rating system.

[1] Forbes Creek, Forbes Creek #2, Juanita Creek Park, South Juanita Slope, and Yarrow Bay wetlands

- Report prepared for the City by Adolfson Associates, Inc., dated August 31, 1998. Under the Shoreline Guidelines (WAC 173-26-221) wetland regulations within the updated SMP shall address potential wetland modification activities to achieve *no net loss of wetland area and function*. Generally, the Ecology wetland rating system categorizes wetland quality (rating) through identification of wetland functions. Wetland buffer widths as well as mitigation requirements are then based on the potential functions a wetland offers (i.e. the higher the function rating, the higher the degree of protection needed). The Watershed Company's comparison of the two wetland rating systems states, "*Due to inherent differences between the rating systems, the Ecology and Kirkland ratings are not directly comparable.*" The comparison also notes, "*The Ecology rating provides a detailed functions analysis that itemizes water quality, hydrologic, and habitat functions*" and that "*[t]he Kirkland rating system does not assess water quality or hydrologic functions.*"

Because the Kirkland rating system does not assess wetland functions other than habitat, we cannot support use of the Kirkland rating system in the updated SMP. However, since the Watershed Company has rated all of the known wetlands within shoreline jurisdiction using Ecology's rating system, for the five major wetlands within shoreline jurisdiction, Ecology could support the City's using those ratings to establish appropriate buffer widths under Buffer Alternative 3, as recommended in Appendix 8C of Volume 2, *Wetlands in Washington State*. Acceptance of this approach would be subject to the following provisions:

1. If impacts of adjacent land use are to be considered "moderate" rather than "high" for the purpose of establishing buffer widths, all applicable and practicable measures to minimize the impact of the adjacent land use shall be employed (see Table 8C-8 in Appendix 8-C of Volume 2, *Wetlands in Washington State*).

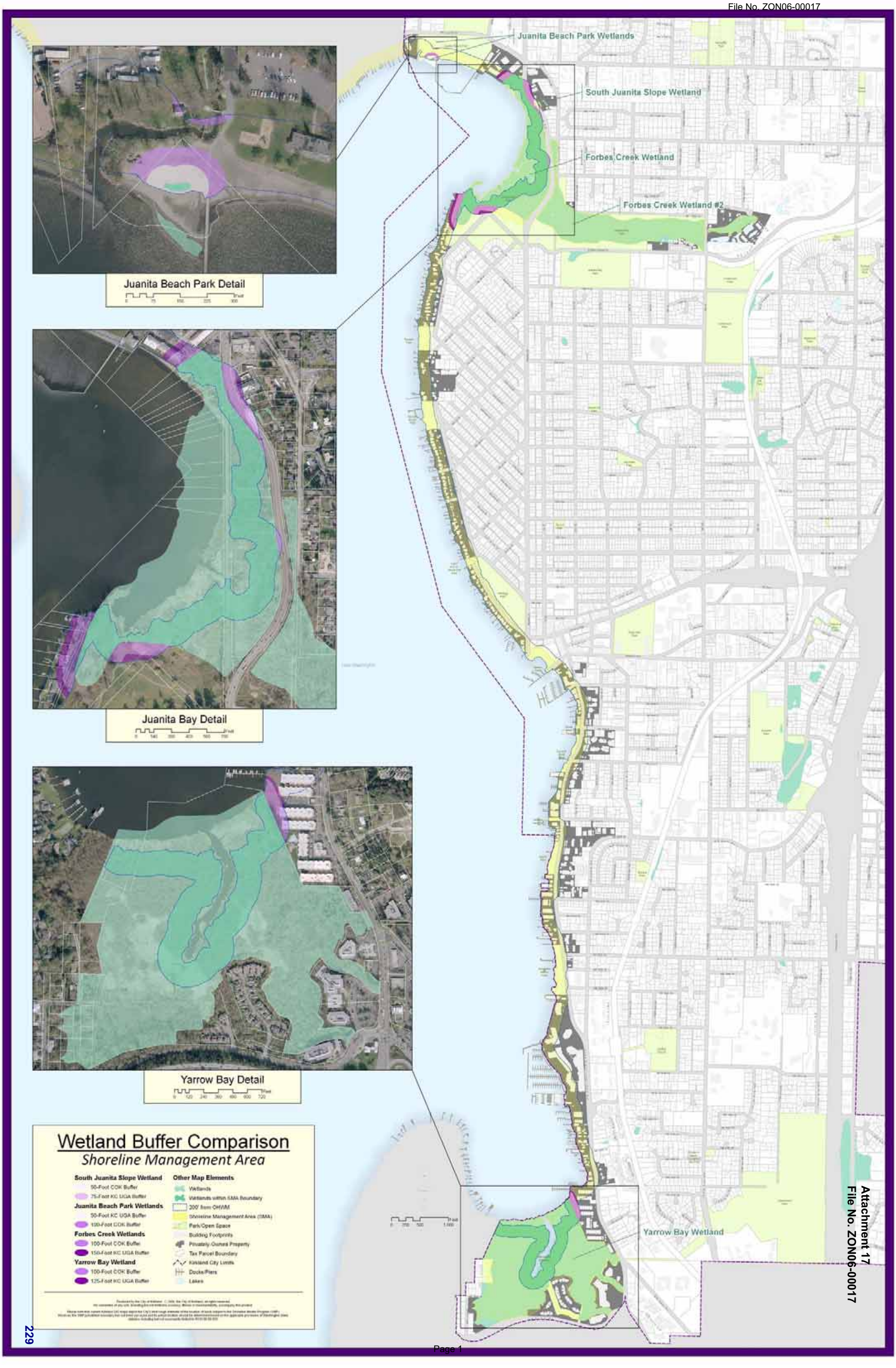
2. Any unmapped buffers outside of the five wetlands identified in the Watershed Company report shall be rated based on the 2004 Ecology wetland rating system and protected by buffers of the appropriate widths as recommended in Ecology's guidance.

Alternatively, the City would need to adopt a revised wetland rating system that considers wetland functions consistent with the Ecology rating system. We appreciate the City's request for Ecology assistance in resolving this issue. Please do not hesitate to contact us if we can be of any further assistance.

Thank you,

Joe Burcar - Shoreline Planner, Ecology NWRO

cc: Stacy Clauson
Richard Robohm, Geoff Tallent, Peter Skowlund – Ecology
Amy Summe – The Watershed Company



Attachment 17
File No. ZON06-00017

Geologically hazardous areas.

83.470

1. The City of Kirkland Geologically Hazardous Area Regulations, as codified in Chapter 85 KZC (dated XX, Ordinance # XX), are herein incorporated into this master program.
2. In addition to the required information contained in KZC 85.15.3, the geotechnical report shall also contain any additional information specified under the definition of Geotechnical Report contained in KZC Section 83.80.

Archaeological and Historic Resources

83.490 Archaeological and Historic Resources

1. General - Uses, developments and activities on sites of historic or archeological significance or sites containing things of historic or archeological significance must not unreasonably disrupt or destroy the historic or archeological resource.

2. Standards -

   a. Permits submitted for land surface modification or development activity in areas documented by the Washington State Office of Archaeology and Historic Preservation to contain archaeological resources shall include a site inspection and a draft written report prepared by a qualified professional archaeologist, approved by the City, prior to the issuance of a permit. In addition, the archaeologist will provide copies of the draft report to the affected tribe(s) and the State Office of Archaeology and Historic Preservation. After consultation with these agencies, the archaeologist shall provide a final report that includes any recommendations from the affected tribe(s) and the State Office of Archaeology and Historic Preservation on avoidance or mitigation of the proposed project's impacts. The Planning Official will condition project approval, based on the final report from the archaeologist, to ensure that impacts to the site are avoided or minimized consistent with federal and state law.

   b. Shoreline permits shall contain provisions that require developers to immediately stop work and notify the City if any potential archaeological resources are uncovered during land surface modification or development activity. In such cases, the developer shall be required to provide for a site inspection and evaluation by a qualified professional archaeologist, approved by the City, to ensure that all possible valuable archaeological data is properly handled. The City shall subsequently notify the affected tribe and the State Office of Archaeology and Historic Preservation. Failure to comply with this requirement shall be considered a violation of the shoreline permit.

   c. If identified historical or archaeological resources are present, site planning and access to such areas shall be designed and managed to give maximum protection to the resource and surrounding environment.

   d. Interpretative signs, historical markers and other similar exhibits providing information about historical and archaeological features and natural areas shall be provided when appropriate.

   e. In the event that unforeseen factors constituting an emergency as defined in RCW 90.58.030 that necessitate rapid action to retrieve or preserve artifacts or data identified above, the project may be exempted from the permit requirement of these regulations. The City shall notify the State Department of Ecology, the State Attorney General's Office and the State Historic Preservation Office of such a waiver in a timely manner.

   f. Archaeological sites are subject to RCW 2744 (Indian Graves and Records) and RCW 2753 (Archaeological Sites and Records) and shall comply with WAC 25-48 or its successor as well as the provisions of this chapter.

   g. Proposed changes to historical properties which are registered on the State or National Historic Register are subject to review under the National and State Registers' review process.

Flood Hazard Reduction.

83.480

1. The City of Kirkland Flood Damage Regulations, as codified in Chapter 21.56 KMC (dated XX, Ordinance # XX), are herein incorporated into this master program.

Public Access

83.370 Public Access

1. General – Promoting a waterfront pedestrian corridor is an important goal within the City. Providing pedestrian access along Lake Washington enables the public to view and enjoy the scenic beauty, natural resources, and recreational activities that are found along the shoreline. This pedestrian corridor provides opportunities for physical recreation and leisure and serves as a movement corridor. Connections between the waterfront walkway and the public right-of-way serve to link the walkway with the larger pedestrian network.

   The applicant shall comply with the following pedestrian access requirements with new development for all uses and land divisions under KMC Chapter 22, pursuant to the standards of this section:

   a. Pedestrian Access Along the Water's Edge – Provide public pedestrian walkways along the water's edge.

   b. Pedestrian Access From Water's Edge to Right-of-Way – Provide public pedestrian walkways designed to connect the waterfront pedestrian corridor to the abutting right-of-way.

2. Public Pedestrian Walkway Location – The applicant shall locate public pedestrian walkways pursuant to the following standards:

   a. The walkways shall be designed and sited to minimize the amount of native vegetation removal, impact to existing significant trees, soil disturbance, and disruption to existing habitat corridor structures and functions.

   b. The walkways shall be located along the water's edge between the development and the shoreline at an average of 10 feet but no closer than 5 feet landward of the ordinary high water mark so that the walkway may meander and not be a straight line.

   c. The public nature of the access shall be maximized by locating the walkways adjacent to other public areas including street-ends, waterways, parks, other public access and connecting trails.

   d. The walkways shall maximize views of the water and sun exposure.

   e. The walkways shall be located along pedestrian-oriented facades, as defined in KZC Chapter 92, where applicable and if feasible.

   f. The walkways shall be situated so as to minimize significant grade changes and the need for stairways.

   g. The walkways shall minimize intrusions of privacy for occupants and residents of the site by avoiding locations directly adjacent to residential windows and outdoor private open spaces, or by screening or other separation techniques.

   h. The walkways shall be located so as to avoid undue interference with the use of the site by water-dependent businesses.

   i. The Planning Official shall determine the appropriate location of the walkway on the subject property when planning for the connection of a future waterfront walkway on an adjoining property.

3. Development Standards Required for Pedestrian Improvements - The applicant shall install pedestrian walkways pursuant to the following standards:

a. The walkways shall be at least six feet wide, and contain a permeable paved walking surface, such as unit pavers, grid systems, porous concrete, or equivalent material approved by the Planning Official.

b. The walkways shall be distinguishable from traffic lanes by pavement material, texture, or change in elevation.

c. The walkways shall not be included with other impervious surfaces for lot coverage calculations.

d. Permanent barriers which limit future extension of pedestrian access between the subject property and adjacent properties are not permitted.

e. Regulated public access shall be indicated by signs installed at the entrance of the public pedestrian walkway on the abutting right-of-way and along the public pedestrian pathway. The signs shall be located for maximum public visibility. Design, materials and location of the signage shall meet City specifications.

f. All public pedestrian walkways shall be provided through a minimum 6-foot wide easement or similar legal agreement, in a form acceptable to the City Attorney, and recorded with the King County Department of Records and Elections. Land survey information shall be provided by the applicant for this purpose in a format approved by the Planning Official.

4. Operation and Maintenance Requirements for Pedestrian Improvements – The following operation and maintenance requirements apply to all public pedestrian walkways required under this section:

a. Hours of operation and limitations on accessibility – All required pedestrian walkways shall be open to the public between the hours of 10 am to 8 pm, from March 21st to September 21st`. Otherwise the pedestrian walkway shall be open between the hours of 10 am to 5 pm.

b. The applicant is permitted to secure the subject property outside of the hours of operation noted in subsection 4.a above by a security gate, subject to the following provisions:

1) The gate shall remain in an open position during hours of permitted public access; and

2) Signage shall be included noting the hours of permitted public access.

c. The Planning Official is authorized to approve a temporary closure when hazardous conditions are present that would affect public safety.

d. Performance and maintenance.

1) No certificate of occupancy or final inspection shall be issued until all required public access improvements are completed, except under special circumstances approved by the Planning Official and after submittal of an approved performance security.

2) The owner, its successor or assigns, shall be responsible for the completion and maintenance of all required waterfront public access areas and signage on the subject property.

5. Exceptions and Modifications

a. General – The provisions of this subsection establish under what circumstances the requirements of this section do not apply or may be modified.

b. Exception

1) The requirement for the dedication and improvement of public access does not apply to:

a) Development located within the Low-Density Residential shoreline environment, except as follows:

i) Public entities, such as a government facility or public park, located within the Low-Density Residential shoreline environment are required to provide public access pursuant to the provisions of this section.

b) Development located within the Natural shoreline environment.

c) Individual single-family residences and normal appurtenances associated with a single-family residence that is not part of a land division. For development involving land division, public pedestrian access is required.

c. Modifications

1) The Planning Official may require or grant a modification to the nature or extent of any required improvement for any of the following reasons:

a) If the presence of critical areas such as wetlands, streams, or geologically hazardous areas preclude the construction of the improvements as required.

b) To avoid interference with the operations of water-dependant uses, such as marinas.

c) If the access would create unavoidable health or safety hazards to the public.

2) If a modification is granted, the Planning Official may require that an alternate method of providing public access, such as a public use area or viewing platform, be provided.

3) Access from the right-of-way to the waterfront walkway may be waived by the Planning Official if the following applies:

a) If public access along the waterfront of the subject property can be reached from an adjoining property, and

b) If the adjoining property providing access to the waterfront contains an existing public access walkway connecting with the public right-of-way and the maximum separation between public access entry points along the public right-of-way is 300 feet; and

c) If the subject property does not contain a public use area required as a condition of development by the Planning Official under the provisions of this Chapter.

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Last Saved: Tuesday, September 02, 2008

City of Kirkland: Shoreline Vegetation Conservation Analysis

WAC SMP Guidelines **173-26-221 (5) Shoreline Vegetation Conservation**
Master programs shall include: Planning provisions that address vegetation conservation and restoration, and regulatory provisions that address conservation of vegetation; as necessary to assure no net loss of shoreline ecological functions and ecosystem-wide processes, to avoid adverse impacts to soil hydrology, and to reduce the hazard of slope failures or accelerated erosion. Local governments should identify which ecological processes and functions are important to the local aquatic and terrestrial ecology and conserve sufficient vegetation to maintain them. Such vegetation conservation areas are not necessarily intended to be closed to use and development but should provide for management of vegetation in a manner adequate to assure no net loss of shoreline ecological functions. Establish vegetation conservation standards that implement the principles in WAC 173-26-221(5)(b). Methods to do this may include setback or buffer requirements, clearing and grading standards, regulatory incentives, environment designation standards, or other master program provisions. Selective pruning of trees for safety and view protection may be allowed and the removal of noxious weeds should be authorized. Consistent with principle WAC 173-26-186(8)(c), master programs shall include goals, policies and actions for restoration of impaired shoreline ecological functions. These master program provisions should be designed to achieve overall improvements in shoreline ecological functions over time, when compared to the status upon adoption of the master program.

City of Redmond **20D.150.170-020 Vegetation Management Within Shorelines**	**Lake Forest Park** **General Regulations – Chapter 6: Vegetation Management**
Tree Protection	
(1) Tree Protection Requirements. To maintain the ecological functions that trees provide to the shoreline environment, including air quality, wildlife habitat, temperature and glare attenuation, and aquifer recharge, significant trees shall be retained as follows: (a) Consistent with 20D.180.20-070, Tree Protection Standards, a minimum of 35% of the existing significant trees shall be preserved on site. (b) Within the waterfront building setback, significant trees shall be retained, except where the tree is dead, diseased, dying or	Tree pruning for view maintenance or other purposes shall be done in accordance with accepted arboricultural practices.

Attachment 22
File No. ZON06-00017

City of Redmond 20D.150.170-020 Vegetation Management Within Shorelines	Lake Forest Park General Regulations – Chapter 6: Vegetation Management
hazardous. (c) Within the shoreline buffer, trees shall be removed only where allowed under RCDG 20D.140.10-160, Buffer Areas, and 20D.140.20-020, Stream Buffers. (d) Within the shoreline jurisdiction, significant trees shall not be removed or topped for the purpose of creating views. Non-destructive thinning of lateral branches to enhance views is allowed.	
Tree Replacement	
(2) Tree Replacement. Significant trees that are removed, or significant trees designated for protection that are irreparably damaged or destroyed, shall be replaced. Replacement trees shall be planted as follows: (a) Each existing significant tree shall be replaced with two new trees. (b) For each additional three inches d.b.h. above six inches d.b.h., one additional replacement tree shall be planted, up to six trees. (c) Where on-site tree replacement is not feasible, the Administrator may allow up to 60% of the required replacement trees to be planted off-site, pursuant to RCDG 20D.80.20.080, Tree Replacement. Replacement trees shall be planted within or adjacent to the shoreline jurisdiction. Trees planted in proposed landscaping of the site perimeter, vehicle use areas, shoreline buffers and other areas of the site may be counted as replacement trees. (d) See RCDG 20D.80.20-080(5) for size, species and condition of replacement trees. (3) Trees planted within shoreline public open space areas and public trail corridors shall be maintained only under the supervision of Redmond Parks Department.	Not addressed

Attachment 22
File No. ZON06-00017

City of Redmond 20D.150.170-020 Vegetation Management Within Shorelines	Lake Forest Park General Regulations – Chapter 6: Vegetation Management
Landscaping within Shoreline	
(1) Landscaping Within Shoreline Buffers and Waterfront Building Setbacks. Within shoreline buffers, landscaping shall meet the additional requirements of RCDG 20D.140.30-040, Wetlands Performance/Design Standards in RCDG 20D.140.20-060, Riparian Stream Corridor Performance Standards. (2) Landscape Area Requirements. In Business (CO, CB, NC & GC) zones, 25% of the site shall be landscaped. In the Business Park Zone, 22% of the site shall be landscaped if the site is less than one acre and 20% of the site shall be landscaped if the site is one acre or larger in size. In Industrial (MP & I) zones, 20% of the site shall be landscaped if the site is less than one acre and 18% of the site shall be landscaped if the site is one acre or larger in size. In multi-family residential zones (R12, R18, R20 & R30), 50% of the site shall be landscaped. Vegetated buffers may be used to meet the site area landscaping requirements. (3) Screening of Storage and Service Areas. (a) All outdoor storage areas shall be screened on all sides, pursuant to 20D.120.10-040, Screening. (b) All vehicle use areas located adjacent to, or visible from public parks or open space, the water body, or shoreline trails or public access features shall be screened from the water body, shoreline trails and public access features. Screening is intended to create a visual separation that is not necessarily 100% sight-obscuring. Plantings shall be evergreen or a mixture of deciduous trees with large shrubs and groundcover interspersed with trees and/or a decorative wall or fence. Plantings shall include a minimum of 60% evergreen trees and shrubs. (c) Rooftop mechanical equipment shall be screened from the water body, shoreline trails and public access features. Rooftop	Preservation of existing natural shoreline conditions (e.g., no bulkhead or other unnatural shoreline features such as upland impervious surfaces or other structural alterations) within 5 feet of the OHWM, including preservation of existing native vegetation. [in exchange for a 10-foot buffer reduction] Preservation of existing trees and native vegetation and restoration of native vegetation, as necessary in at least 75 percent of the remaining Lake Washington setback area. Up to 25 percent of the setback area can be comprised of existing non-invasive, non-native vegetation. Up to 25 percent of the lake frontage may be used for improved shoreline access, provided in no case shall access be restricted to less than 15 feet of frontage and access areas are located to avoid areas of greater sensitivity and habitat value. (Note: this incentive cannot be used by any properties that currently have native vegetation in 75% of the remaining setback area. The reduction would only be granted if ecological functions would be improved relative to the existing condition.) [in exchange for a 10-foot buffer reduction]

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City of Redmond 20D.150.170-020 Vegetation Management Within Shorelines	Lake Forest Park General Regulations – Chapter 6: Vegetation Management
screening shall be at least as high as the equipment being screened, shall be of a material and design compatible with the building, and shall surround the building. Screening shall comply with the additional standards of 20D.120.20-010, Rooftop Mechanical Equipment Screening. (d) Garbage and trash receptacles shall be screened from the water body, shoreline trails and public access features. Screening shall be of a material and design compatible with the associated structure and shall be at least as high as the receptacle. Screening shall meet the standards of 20D.120.20-030, Garbage and Trash Receptacle Screening.	
Native Plants	
(4) Use of Native Plants. Landscaping within the shoreline jurisdiction shall incorporate a minimum of 50% native plants. All plantings within the shoreline buffer shall consist of native plant material. Native plantings are encouraged to be placed closest to the waterbody.	Restoration of any shoreline or streambank that has been disturbed or degraded shall use native plant materials, unless such restoration occurs within a developed and maintained ornamental landscape, in which case noninvasive plant materials similar to that which most recently occurred on-site may be used. In all cases where clearing is followed by revegetation, native plants shall be preferred. Extensive lawns are discouraged due to their limited erosion control value, limited water retention capacity, and associated chemical and fertilizer applications.
Aquatic Vegetation Removal	
(3) Aquatic Vegetation Removal Prohibited. (a) Removal of aquatic vegetation within the Aquatic, Natural or Urban Conservancy Shoreline Environments is prohibited, except where (i) authorized under an approved habitat enhancement plan, adopted basin plan, or authorized aquatic weed management	Aquatic vegetation control shall only occur when native plant communities and associated habitats are threatened or where an existing water dependent use is restricted by the presence of weeds. Aquatic vegetation control shall occur in compliance with all other applicable laws and standards, including Washington Department of Fish and Wildlife requirements.

City of Redmond 20D.150.170-020 Vegetation Management Within Shorelines	Lake Forest Park General Regulations – Chapter 6: Vegetation Management
program; and where (ii) native plant communities and habitats are threatened or an existing water-dependent use is threatened by the presence of aquatic weeds. (b) The removal of native aquatic plants is prohibited, except where (i) an existing water-dependent use is threatened; or where (ii) the overabundance of the native plant threatens fish and wildlife habitat. (c) The use of herbicides to control aquatic vegetation is prohibited, except where: (i) no reasonable alterative exists; (ii) the use of herbicides has been approved through a comprehensive vegetation management and monitoring plan; and where (iii) authorized by the City or other agency through the environmental review process pursuant to WAC 197-11, the State Environmental Policy Act. (d) Where aquatic vegetation removal becomes necessary, it shall be the minimum area and duration necessary to accomplish the stated objectives of the removal program, and shall minimize negative impacts on wildlife, fish and shoreline habitat. (e) Aquatic vegetation management programs shall include preventive measures and monitoring recommendations. (f) Aquatic vegetation removal activities within the shoreline jurisdiction shall comply with the requirements of the responsible agencies (i.e. Washington State Departments of Agriculture, Fish and Wildlife, or Ecology, or the Federal Environmental Protection Agency.) (4) Vegetation Removal Restricted.	The control of aquatic vegetation by hand pulling or placement of aquascreens, if proposed to maintain existing water depth for navigation, shall be considered normal maintenance and repair and therefore exempt from the requirement to obtain a shoreline substantial development permit. Control of aquatic vegetation by mechanical methods is exempt from the requirement to obtain a shoreline substantial development permit only if the bottom sediment or benthos is not disturbed in the process. It is assumed that mechanical removal of accumulated vegetation at a level closer than two (2) feet to the root level will disturb the bottom sediment and benthos layer. The control of aquatic vegetation by derooting, rotovating or other methods which disturb the bottom sediment or benthos shall be considered development for which a shoreline substantial development permit is required.

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(a) Normal pruning and trimming of landscape plants within the shoreline jurisdiction are exempt from the requirements of this subsection. (b) Vegetation removal within shoreline buffers and waterfront building setbacks shall be allowed only for the purposes of maintaining established landscaping, maintaining public safety, maintaining an allowed shoreline use or improvement, or to enhance fish or wildlife habitat; provided that: (i) removal shall not be by mechanical means unless no feasible alternative exists; (ii) the extent of removal is the minimum necessary to achieve the above purposes; (iii) native plants are not removed for the purpose of establishing non-native plants; and (iv) the timing and duration of such removal is demonstrated to not have long-term adverse impacts on wildlife or fish.	
Herbicides, Pesticides, Fertilizers	
(5) Application of Herbicides, Pesticides and Fertilizers. (a) The application of pesticides, herbicides or fertilizers within shoreline buffers or waterfront building setbacks is discouraged and shall be the minimum necessary for the long-term maintenance or restoration of fish or wildlife habitat, restoration or maintenance of native plants, or maintenance of existing landscaping. (b) Herbicides and other agricultural and landscape chemicals shall be applied in a manner that minimizes their transmittal to adjacent water bodies. The direct runoff of chemical-laden waters into adjacent water bodies is prohibited. Aerial spraying of herbicides, pesticides and fertilizers within 500 feet of the o.h.w.m. of the adjacent water body is prohibited.	The application of herbicides or pesticides in lakes, rivers, streams, wetlands, or ditches requires a permit from the Washington Department of Ecology and may require preparation of a SEPA checklist for review by other agencies. The individual(s) involved must obtain a pesticide applicator license from the Washington State Department of Agriculture.

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(c) Within 20 feet of the shoreline buffer or waterfront building setback, broad spectrum herbicides shall be used only for spot application with wicking or small spray equipment on noxious weeds. (d) The use of time-release fertilizers and herbicides shall be preferred over liquid or concentrate application on turf within the shoreline jurisdiction. (e) The use of pesticides, herbicides or fertilizers within the shoreline jurisdiction shall comply with regulations of responsible agencies (i.e. Washington State Departments of Agriculture, Fish and Wildlife, or Ecology, or the Federal Environmental Protection Agency.) (f) Sports fields, parks, golf courses and other outdoor recreational uses that require maintenance of extensive areas of turf shall provide a chemical management plan or integrated turf management program designed to ensure that existing water quality of adjacent water bodies and aquifers is maintained. The chemical management plan or integrated turf management program shall incorporate facilities and management methods sufficient to maintain water quality, including stormwater treatment facilities adequate to remove a minimum of 50% of excess phosphorous and nitrogen, and up to 25% additional shoreline and shoreline tributary buffers where necessary to protect water quality.	
Landscape Maintenance	
(6) Landscape Maintenance Required. (a) All landscaped areas within the shoreline jurisdiction, shoreline buffers and shoreline setbacks shall be managed and maintained to prevent the excessive growth of noxious weeds. (b) Areas disturbed by removal of noxious or invasive plants	Not addressed

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shall be replanted in a timely manner with native vegetation. (7) Where large quantities of plants are removed by vegetation control activities, plant debris shall be collected and disposed of in an appropriate upland location outside of shoreline buffers and waterfront building setbacks.	
Vegetation Removal	
(4) Vegetation Removal Restricted. (a) Normal pruning and trimming of landscape plants within the shoreline jurisdiction are exempt from the requirements of this subsection. (b) Vegetation removal within shoreline buffers and waterfront building setbacks shall be allowed only for the purposes of maintaining established landscaping, maintaining public safety, maintaining an allowed shoreline use or improvement, or to enhance fish or wildlife habitat; provided that: (i) removal shall not be by mechanical means unless no feasible alternative exists; (ii) the extent of removal is the minimum necessary to achieve the above purposes; (iii) native plants are not removed for the purpose of establishing non-native plants; and (iv) the timing and duration of such removal is demonstrated to not have long-term adverse impacts on wildlife or fish.	Land clearing, grading, filling and alteration of natural drainage features and landforms shall be limited to the minimum necessary for development. Surfaces cleared of vegetation and not developed must be replanted with native species or other species as approved by the City within one (1) year. Replanted areas shall be planned and maintained such that, within three (3) years time, the vegetation is at least ninety (90) percent reestablished. Normal nondestructive pruning and trimming of vegetation for maintenance purposes shall not be subject to these clearing and grading regulations. In addition, clearing by hand-held equipment of invasive nonnative shoreline vegetation or plants listed on the State Noxious Weed List is permitted in shoreline locations. Alteration of the natural landscape shall only be allowed in association with a permitted shoreline use or development with limited exceptions as set forth below: 1. Removal of noxious weeds as listed by the state in Chapter 16-750 WAC, provided such activity shall be conducted in a manner consistent with best management practices and the City of Lake Forest Park's engineering design standards and native vegetation is promptly reestablished in the disturbed area. 2. Modification of vegetation in association with a legal, non-conforming use or development provided that said modification is conducted in a manner consistent with this Master Program and

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	results in no net loss to ecological functions or critical fish and wildlife habitats. 3. Maintenance or restoration of view sheds situated on public lands provided that said activity is conducted in a manner consistent with this Master Program and results in no net loss to ecological functions or critical fish and wildlife habitat areas.
Vegetation Conservation	
(1) Preservation of Shoreline Vegetation. Trees and other vegetation within the shoreline shall be preserved consistent with 20D.150.110, Tree Protection, Landscaping and Screening Within Shorelines, 20D.150.60-010, Shoreline Buffers, and 20D.150.60-020, Lake Sammamish Setback.	Not addressed

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

1. Single Family Residence Setbacks

   a. A fifty (50)-foot standard setback shall be established from the ordinary high water mark of Lake Washington for all lots that are greater than or equal to one hundred (100) feet in depth. A forty (40)-foot standard setback shall be established from the ordinary high water mark of Lake Washington for all lots that are less than one hundred (100) feet in depth.

   b. The Lake Washington setback may be reduced down to a minimum of twenty (20) feet, when setback reduction impacts are mitigated using a combination of the mitigation options provided in the table below to achieve an equal or greater protection of lake ecological functions. At least one Water Related Action must be undertaken in order to achieve the full setback reduction allowed.

      1) For lots less than one hundred (100) feet in depth, a maximum of 10 feet in cumulative setback reduction may be achieved under Upland Related Actions; or

      2) for lots greater than or equal to one hundred (100) feet in depth, a maximum of 15 feet in cumulative setback reduction may be achieved under Upland Related Actions.

   c. All property owners who obtain approval for a reduction in the setback must record the final approved setback and corresponding conditions in a Notice on Title, and provide a copy of the Notice on Title to the Shoreline Administrator.

   d. All property owners who obtain approval for a reduction in the setback must prepare, and agree to adhere to, a shoreline vegetation management plan prepared by a qualified professional and approved by the Shoreline Administrator that includes appropriate limitations on the use of fertilizer, herbicides and pesticides as needed to protect lake water quality. This plan shall be added to a Notice on Title, and a copy of the Notice on Title provided to the Shoreline Administrator;

   e. Restoration of native vegetation as discussed below shall consist of a mixture of trees, shrubs and groundcover and be designed to improve habitat functions. Preparation of a revegetation plan shall be completed by a qualified professional and include a monitoring and maintenance program that shall, at a minimum, include the following:

      1) The goals and objectives for the mitigation plan;

2) The criteria for assessing the mitigation;

3) A monitoring plan that includes annual progress reports submitted to the Shoreline Administrator and that lasts for a period sufficient to establish that performance standards have been met as determined by the Shoreline Administrator, but no less than five years; and

4) A contingency plan.

f. Whenever the Shoreline Administrator determines that monitoring has established a significant adverse deviation from predicted impacts, or that mitigation or maintenance measures have failed, the applicant or the property owner shall be required to institute correction action, which shall also be subject to further monitoring as provided in this section.

g. The Shoreline Administrator may require a performance bond(s) or other security in an amount sufficient to guarantee that all required mitigation measures will be completed in a manner that complies with conditions of approval and to guarantee satisfactory workmanship and materials for a period not to exceed five years. The Shoreline Administrator shall establish the conditions of the bond or other security according to the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures.

h. All costs associated with the mitigation/monitoring and planning therefore, including city expenses, shall be the responsibility of the applicant.

i. The Lake Washington setback may be reduced by the following:

Shoreline Setback Reduction Alternatives

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

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

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

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

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

Water Quality, Stormwater, and Nonpoint Pollution

83.430 Water Quality, Stormwater, and Nonpoint Pollution

1. General - Shoreline development and use shall incorporate all known, available, and reasonable methods of prevention, control, and treatment to protect and maintain surface and/or ground water quantity and quality in accordance with KMC 15.52 and other applicable laws.
2. Submittal Requirements - All proposals for development activity or land surface modification located within the shoreline jurisdiction shall submit for approval a storm water plan with their application and/or request, unless exempted by the Public Works Official. The storm water plan shall include the following:
   a. Provisions for temporary erosion control measure; and
   b. Provisions for storm water detention, water quality treatment and storm water conveyance facilities, in accordance with the City's adopted surface water design manual in effect at the time of permit application.
3. Standards -
   a. Shoreline development shall, at minimum, comply with the standards established in the City's adopted surface water design manual in effect at the time of permit application.
   b. Shoreline uses and activities shall utilize Best Management Practices (BMPs) to minimize any increase in surface runoff and to control, treat and release surface water runoff so that receiving properties, wetlands or streams, and Lake Washington are not adversely affected. All types of BMPs require regular maintenance to continue to function as intended.
   c. Low Impact Development (LID) techniques shall be considered and implemented to the greatest extent practicable. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water that allows water to soak into the ground closer to its source. The development shall meet one or more of the following objectives:
      1) Preservation of natural hydrology.
      2) Reduction of impervious surfaces.
      3) Treatment of stormwater in numerous small, decentralized structures.
      4) Use of natural topography for drainageways and storage areas.
      5) Preservation of portions of the site in undisturbed, natural conditions.
      6) Reduction of the use of piped systems. Whenever possible, site design should use multifunctional open drainage systems such as vegetated swales or filter strips which also help to fulfill landscaping and open space requirements.
      7) Use of environmentally sensitive site design and green building construction that reduces runoff from structures, such as green roofs.
      8) Other low impact development techniques as approved by the Public Works Official.
   d. New outfalls or discharge pipes to Lake Washington shall be avoided, where possible. If a new outfall or discharge pipe is demonstrated to be necessary, it shall be designed so that the outfall and energy dissipation pad is installed above the ordinary high water mark.
   e. In addition to providing storm water quality treatment facilities as required in this section and the City's Surface Water Master Plan, the developer and/or property owner shall provide source control BMPs such as structures and/or a manual of practices designed to treat or prevent storm water pollution arising from specific activities expected to occur on the site. Examples of such specific activities include, but are not limited to, carwashing at multifamily residential sites and oil storage at marinas providing service and repair. Criteria for

development and submittal of designs and plans for such BMPs are included in the standard plans.

f. No release of oils, hydraulic fluids, fuels, paints, solvents or other hazardous materials shall be permitted into Lake Washington. If water quality problems occur, including equipment leaks or spills, work operations shall cease immediately and the City of Kirkland's Public Works Storm/Surface Water Division and other agencies with jurisdiction shall be contacted immediately to coordinate spill containment and cleanup plans. It shall be the responsibility of property owner to fund and implement the approved spill containment and cleanup plans and to complete the work by the deadline established in the plans.

g. All materials that come into contact with water shall be constructed of untreated wood, cured concrete, steel or other approved non-toxic materials. Materials used for over-water decking or other structural components that may come into contact with water shall comply with regulations of responsible agencies (i.e. Washington State Department of Fish and Wildlife or Department of Ecology) to avoid discharge of pollutants.

h. The application of pesticides, herbicides, or fertilizers shall comply with the following standards:

   1) Within the shoreline setback, application of pesticides, herbicides, or fertilizers shall be prohibited, unless specifically authorized in an approved mitigation plan or otherwise authorized in writing by the Planning Official.

   2) Pesticides, herbicides, or fertilizers used outside of the shoreline setback shall be applied in a manner as to prevent their transmittal into Lake Washington. The direct runoff of chemical-laden waters into Lake Washington is prohibited.

   3) The use of pesticides, herbicides or fertilizers within the shoreline jurisdiction, including applications of herbicides to control noxious aquatic vegetation, shall comply with regulations of responsible agencies, including the Washington State Department of Agriculture, Department of Ecology, Department of Fish and Wildlife or the Federal Environmental Protection Agency.

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Attachment 24
File ZON06-00017

Pesticides in Lakes

Lake Washington

The Problems

Lake Washington is the state's largest lake, bordering on many cities and communities and containing vital salmon runs and many other important aquatic species. Because of the major loopholes in the state permit concerning the use of aquatic pesticides, any individual on Lake Washington has the ability to apply to put herbicides into the lake along their property without consulting with their neighbors or any other lake users.

At the most basic level, there are many questions about the long-term impacts of these herbicides on lake ecosystems, including impacts to the hundreds of thousands of people that live around or recreate on Lake Washington. Lake Washington is also the migration path for several salmon runs, including listed endangered Chinook runs. Juvenile Chinook salmon migrating out of Lake Washington during the summer are put at risk by any herbicide applications to the lake, and we should weigh on the side of caution when it comes to protecting this endangered species.

The reality of a lake as large as Lake Washington is that invasive weeds like milfoil are not going to be eradicated. The lake is too large and there are too many boats going in and out of it to hope to eradicate already-established invasive plants like milfoil within the lake. If weed eradication is not a possibility, any attempt at controlling the weeds is just an annual knock-back. This means that aquatic herbicides basically are just a type of "chemical mowing" – one that might reduce the quantity of vegetation in an area for that year, but one that puts at risk our health and the health of our lake.

In addition, the state permit is not written for lakes as large as Lake Washington, where dozens of individual herbicide applications may occur. In 2004, upwards of 70 individual and uncoordinated herbicide applications happened in Lake Washington alone. People living directly adjacent to a property that chooses to use aquatic herbicides may only have 10 days prior notice of a herbicide use, well after any public comment period regarding the granting of the permit for the herbicide application has expired.

As the Department of Ecology website does not include actual permit applications or the exact location of applications that are not lake-wide, it seems impossible for a citizen to determine what applications may be occurring in their community. This is particularly true for Lake Washington, where thousands of individual properties line the banks. This is another reason why this permit and Ecology's implementation of it are not appropriate for Lake Washington.

The Solutions

Lake Washington needs a separate permit regarding control of aquatic vegetation — one that requires available non-toxic alternatives to be utilized, one that takes into account an increased need for community dialogue before permits are granted, and one that includes more notification of planned herbicide uses.

Our state and local governments should also initiate a lake-wide group — including the many stakeholders and communities around the lake — that can work to address invasive vegetation problems and find healthier, coordinated, long-term management options for Lake Washington.

83.360 View Corridors

1. General - Development within the shoreline area located west of Lake Washington Boulevard and Lake Street South shall include public view corridors which provides the public an unobstructed view of the water.

2. Standards -

   a. For properties lying waterward of Lake Washington Boulevard and Lake Street South, a minimum view corridor of thirty percent of the average parcel width must be maintained. The intent of the corridor is to provide an unobstructed view from the adjacent public right-of-way to Lake Washington and beyond.

   b. Properties located in the UM Shoreline Environment where view corridors have been previously established under an approved Master Plan or zoning permit approved under the provisions of Chapter 152 KZC shall comply with the view corridor requirements as approved. Modifications to the proposed view corridor shall be considered under the standards established in the Master Plan or approved zoning permit.

3. Exceptions - The requirement for a view corridor does not apply to the following:

   a. The following water-dependent uses:

      1) Marina, but only piers, docks, and floats and temporary storage of boats undergoing service or repair

      2) Piers, docks, floats, boatlifts and canopies

      3) Tour Boat Facility, ferry terminal or water taxi, but not including permanent structures greater than 200 square feet in size housing commercial uses ancillary to the facility

      4) Moorage buoy

      5) Public Access Pier or Boardwalk

      6) Boat launch

   b. Public Parks

   c. Properties located in the UM Shoreline Environment within the Central Business District

4. View corridor location - The location of the view corridor shall be designed to meet the following location standards, and must be approved by the Planning Official.

   a. If the subject property does not directly abut the shoreline, the view corridor shall be designed to coincide with the view corridor of the property to the west.

   b. The view corridor must be adjacent to either the north or south property line of the subject property, whichever will result in the widest view corridor, considering the following, in order of priority:

      1) Location of existing view corridors.

      2) Existing development or potential development on adjacent properties, given the topography, access and likely location of future improvements.

      3) The availability of actual views of the water and the potential of the lot for providing those views from the street.

      4) Location of existing sight-obscuring structures, parking areas or landscaping that are likely to remain in place in the foreseeable future.

   c. The view corridor must be in one continuous piece.

   d. For land divisions, the view corridor shall be established as part of the land division and shall be located to create the largest view corridor on the subject property.

5. Permitted encroachments -

   a. The following shall be permitted within a view corridor:

      1) Areas provided for public access, such as public pedestrian walkways, public use areas, or viewing platforms.

      2) Parking lots and subsurface parking structures, provided that the parking does not obstruct the view from the public right-of-way to and beyond Lake Washington.

      3) Structures may be located in view corridors if the slope of the subject property permits full, unobstructed views of Lake Washington over the structures from the public right-of-way.

      4) Shoreline restoration plantings and existing specimen trees and native shoreline vegetation.

      5) Landscaping, provided it is designed not to obscure the view from the public right-of-way to and beyond Lake Washington at the time of planting or upon future growth. The Planning Official shall determine appropriate landscaping in the event of a conflict between required site screening and view preservation.

      6) Open fencing that is designed not to obscure the view from the public right-of-way to and beyond Lake Washington.

   b. The following shall not be permitted within a view corridor:

      1) Structures, except as noted in subsection 5.a above.

      2) Sight obscurring fences.

      3) Landscaping that would screen the view of the shoreline at the time of planting or upon future growth.

6. Dedication - The applicant shall grant an easement or similar legal agreement, in a form acceptable to the City Attorney, and recorded with the King County Department of Records and Elections to protect the view corridor. Land survey information shall be provided by the applicant for this purpose in a format approved by the Planning Official.

Parking

83.400 Parking in the Shoreline

1. General -
   a. Only parking associated with a permitted or conditional shoreline use shall be allowed, except that within the UM Shoreline Environment, surface or structured parking facilities may accommodate parking for surrounding uses and for-pay parking is allowed.
   b. Parking as a primary use on a subject property is prohibited.
2. Number of Parking Spaces -
   a. All uses must provide sufficient off-street parking spaces. The required number of parking stalls established in KZC Chapter 105, KZC 50.60 and in the applicable use zone charts shall be met.
3. Parking Location -
   a. Intent – To reduce the negative impacts of parking and circulation facilities on visible public spaces within the shoreline, such as shoreline public pedestrian walkways, public use areas, and view corridors along public rights-of-way.
   b. Standards - The applicant shall locate parking areas on the subject property according to the following requirements:
      1) Parking is prohibited in the shoreline setback established in KZC 83.180, except as follows:
         a) Subsurface parking is allowed, provided that:
            i) The structure is designed to avoid the need for future shoreline stabilization as documented in a geotechnical report, prepared by a qualified geotechnical engineer or engineering geologist.
            ii) The structure is designed to comply with shoreline vegetation standards established in KZC 83.350. As part of any proposal to install subsurface parking within the shoreline setback, the applicant shall submit site-specific documentation prepared by a qualified expert to establish that the design will adequately support the long-term viability of the required landscaping.
            iii) The structure is designed to minimize impacts to public access and views to Lake Washington from the public right-of-way.
            iv) Public access over subsurface parking structures shall be designed to minimize significant changes in grade.
         b) The parking is designed as a short-term loading area to support a water-dependent use.
      2) Parking is prohibited on structures located over water.
      3) Parking, loading, and service areas for a permitted use activity shall not extend closer to the shoreline than a permitted structure unless:
         a) The parking is incorporated within a structure, subject to the following standards:
            i) The parking is subsurface, or

ii) The design of any above-grade structured parking incorporates landscaping and/or building surface treatment to provide an appearance comparable to the rest of the building not used for parking.

b) The parking is accessory to a Public Park.

c) The parking is designed as a short-term loading area to support a water-dependent use.

4. Design of Parking Areas -

a. General

1) Parking areas shall be designed to contain pedestrian connections to public pedestrian walkways and building entrances. Pedestrian connections shall either be a raised sidewalk, or, minimally, composed of a different material from the parking lot.

2) Pedestrian connections must be at least five feet wide, excluding vehicular overhang.

b. Design of Surface Parking Lots – In addition to the perimeter buffering and internal parking lot landscaping provisions established in KZC Chapter 95, the applicant shall buffer all parking areas and driveways from required public pedestrian pathways or public use areas with appropriate landscaping screening.

c. Design of Structured Parking Facilities - Each facade of a garage or a building containing above-grade structured parking that is visible from a required view corridor, or is facing a public pedestrian walkway, public use area, or public park must incorporate landscaping and/or building surface treatment to mitigate the visual impacts of the structured parking.

Miscellaneous Standards

83.390 Miscellaneous Standards -

1. Screening of Storage and Service Areas

   a. Outdoor Use, Activity and Storage. Outdoor Use, Activity and Storage areas must comply with the following:

      1) Comply with the shoreline setback established for the use with which they are associated.

      2) Be located to minimize visibility from any street, Lake Washington, required public pedestrian walkway, public use area or public park.

      3) Be screened from view from the street, adjacent properties, Lake Washington, required public pedestrian walkways, and other public use areas by a solid screening enclosure or within a building.

      4) Outdoor dining areas and temporary storage for boats undergoing service or repair that are accessory to a marina are exempt from the placement and screening requirements of subsection (2) and (3) above.

   b. Mechanical and similar equipment or appurtenances.

      1) At-grade mechanical and similar equipment or appurtenances are not permitted within the shoreline setback.

      2) Rooftop appurtenances and at or below grade appurtenances shall be screened with landscaping or a solid screening enclosure or located in such a manner as to not be visible from Lake Washington, required public pedestrian walkways, or public use areas.

   c. Garbage and trash receptacles. Garbage and recycling receptacles must comply with the following:

      1) Comply with the shoreline setback established for the use with which they are associated.

      2) Be located to minimize visibility from any street, Lake Washington, required public pedestrian walkway, public use area or public parks.

      3) Be screened from view from Lake Washington, required public pedestrian walkways, and other public use areas by a solid screening enclosure or within a building.

      4) Exemptions – Garbage receptacles for detached dwelling units, duplexes, moorage facilities, parks, and construction sites, but not including dumpsters or other containers larger than a typical individual trash receptable, are exempt from the placement and screening requirements of this section.

2. Design Standards -

   a. Water-enjoyment and non-water oriented commercial and recreational uses shall contain the following design features to provide for the ability to enjoy the physical and aesthetic qualities of the shoreline:

      1) Buildings are designed with windows that orient toward the shoreline.

      2) Buildings are designed to incorporate outdoor areas such as decks, patios, or viewing platforms that orient toward the shoreline.

      3) Buildings are designed with entrances along the waterfront façade and with connections between the building and required public pedestrian walkways.

      4) Service areas are located away from the shoreline.

5) Site planning includes public use areas along waterfront public pedestrian walkways, if required under the provisions established in KZC 83.370, which will encourage pedestrian activity, including but not limited to:

   i) Permanent seating areas;

   ii) Landscaping, including trees to provide shade cover; and

   iii) Trash receptacles.

6) Exemptions – The following are exempt from the requirements of subsection 2.a:

   a) Non-water oriented commercial and recreational uses which are located on the east side of Lake Washington Blvd. NE/Lake Street or on the east side of 98th Avenue NE.

   b) Non-water oriented commercial and recreational uses where there is an intervening development between the shoreline and the subject property are exempt from the requirements of subsection (3) and (5) above.

b. Buildings located along the shoreline shall not incorporate materials which are reflective or mirrored.

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83.420 Lighting

1. General - Exterior lighting shall be controlled using limits on height, light levels of fixtures, lights shields, time restrictions and other mechanisms in order to:
   a. Prevent glare or other adverse effects that could infringe upon public enjoyment of the shoreline;
   b. Protect residential uses from adverse impacts that can be associated with light trespass from higher-intensity uses; and
   c. Prevent adverse effects on fish and wildlife species and their habitats.
2. Exceptions –
   a. The following development activities are exempt from the submission and lighting standards established in this section:
      1) Development of a detached dwelling unit or associated appurtenances;
      2) Emergency lighting required for public safety;
      3) Lighting for public rights-of-way;
      4) Outdoor lighting for temporary or periodic events (e.g. community events at public parks);
      5) Seasonal decoration lighting; and
      6) Sign lighting, which is governed by KZC 83.410.
   b. The following development activities are exempt from the submission standards established in this section:
      1) Piers, docks, floats, boatlifts and canopies;
      2) Public Access Pier or Boardwalk; and
      3) Moorage buoy.
3. Submission Requirements - All development proposed within the shoreline jurisdiction shall submit a lighting plan and photometric site plan for approval by the Planning Official. The plan shall contain the following:
   a. A brief written narrative, with accompanying plan or sketch, which demonstrates the objectives of the lighting.
   b. The location, fixture type, mounting height, and wattage of all outdoor lighting and building security lighting, including exterior lighting mounted on piers or illuminating piers.
   c. A detailed description of the fixtures, lamps, supports, reflectors, and other devices. The description shall include manufacturer's catalog specifications and drawings, including sections when requested.
   d. If building elevations are proposed for illumination, drawings shall be provided for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, and the illuminance levels of the elevations.
   e. Photometric data, such as that furnished by manufacturers, showing the angle of light emissions.
   f. Computer generated photometric grid showing footcandle readings every 20 feet within the property or site, and 15 feet beyond the property lines, including Lake Washington, if applicable. Iso-footcandle contour line style plans are also acceptable.
4. Standards –

a. Direction and Shielding –

1) All exterior building-mounted and ground-mounted light fixtures shall be directed downward and use “fully shielded cut off” fixtures as defined by the Illuminating Engineering Society of North America (IESNA), or other appropriate measure to conceal the light source from adjoining uses and direct the light toward the ground.

2) Exterior lighting mounted on piers or illuminating piers and water-dependent uses located at the shoreline edge shall be at ground or dock level, and be directed away from adjacent properties and the water.

3) For properties located within the Natural shoreline environment, exterior lighting installations shall incorporate motion-sensitive lighting and lighting shall be limited to those areas where it is needed for safety, security, and operational purposes.

b. Lighting Levels –

1) Exterior lighting installations shall be designed to avoid harsh contrasts in lighting levels.

2) For properties located adjacent to a Natural shoreline environment, exterior lighting fixtures shall produce a maximum initial luminance value of 0.1 foot-candles (as measured at three feet above grade) at the site or environment boundary.

3) For properties in the Urban Mixed shoreline environment located adjacent to residential uses in another shoreline environment or for commercial uses located adjacent to residential uses in the Urban Residential environment, exterior lighting fixtures shall produce a maximum initial luminance value of 0.6 horizontal and vertical foot-candles (as measured at three feet above grade) at the site boundary, and drop to 0.1 foot-candles onto the abutting property as measured within 15 feet of the property line.

4) Exterior lighting shall not exceed a strength of 1 foot-candles at the water surface of Lake Washington, as measured waterward of the ordinary high water mark.

c. Height of Light Fixtures - The maximum mounting height of ground-mounted light fixtures shall be 12 feet. Height of light fixtures shall be measured from the finished floor or the finished grade of the parking surface, to the bottom of the light bulb fixture.

d. Other –

1) Illuminance of a building façade to enhance architectural features is not permitted.

2) Where practical, exterior lighting installations shall include timers, dimmers, sensors, or photocell controllers that turn the lights off during daylight hours or hours when lighting is not needed, to reduce overall energy consumption and eliminate unneeded lighting.

5. Compliance – Exterior lighting in shoreline jurisdiction must be brought into compliance with the requirements of this section in any of the following situations:

a. Replacement – The shielding requirements of subsection (4)(a)(1) of this section shall be complied with when any nonconforming light fixture is replaced or moved.

b. Full Compliance – All other requirements of subsection (4) of this section shall be complied with when there is an increase in gross floor area of more than 50 percent to any structure on the subject property.

83.410 Signage

1. Standards – The following standards shall apply to signs within the shoreline jurisdiction:
   a. Signage shall not interfere or block designated view corridors within the shoreline jurisdiction.
   b. Signage shall not be permitted to be constructed over water, except as follows:
      1) For retail establishments providing gas and oil sales for boats, where the facility is accessible from the water, provided that:
         a) Internally-illuminated signs are not permitted. Low-wattage external light sources that are not directed towards neighboring properties or Lake Washington are permitted, subject to approval by the Planning Official.
         b) One sign, not exceeding 20 square feet per sign face, is permitted. The sign area for the water-oriented sign shall be counted towards the maximum sign are permitted in KZC Chapter 100.
         c) The sign shall be affixed to a pier or wall-mounted. The maximum permitted height of a freestanding sign is five feet above the surface of the pier. A wall-mounted sign shall not project above the roofline of the building to which they are attached.
      2) Boat traffic signs, directional signs and signs displaying a public service message installed by a governmental agency.
      3) Interpretative signs in coordination with public access and recreation amenities.
      4) Building addresses mounted flush to the end of a pier, with letters and numbers at least 4 inches high.
   c. Signs shall comply with the shoreline setback standards contained in KZC 83.180.

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83.380 Standards for In-Water Work

1. Standards – The following standards shall apply to in-water work, including, but not limited to, installation of new structures, repair of existing structures, restoration projects, and aquatic vegetation removal:

   a. In-water structures and activities shall be sited and designed to avoid the need for future shoreline stabilization activities and dredging, giving due consideration to watershed functions and processes, with special emphasis on protecting and restoring priority habitat and species.

   b. In-water structures and activities are not subject to the shoreline setbacks established in KZC 83.80.

   c. Projects involving in-water work must obtain all applicable state and federal permits, including those from the U.S. Army Corps of Engineers, Washington Department of Ecology, and Washington Department of Fish and Wildlife.

   d. Projects involving in-water work shall comply with timing restrictions as set forth by state and federal project approvals.

   e. Removal of existing structures shall be accomplished so the structure and associated material does not re-enter the lake.

   f. Waste material such as construction debris, silt, excess dirt or overburden resulting from in-water structure installaion shall be deposited above the ordinary high water mark in an approved upland disposal site.

   g. Extreme care shall be taken to ensure that no petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into the lake during in-water activities. Appropriate spill clean-up materials must be on-site at all times, and any spills must be contained and cleaned immediately after discovery.

   h. In-water work shall be conducted in a manner that causes little or no siltation to adajcent areas. A sediment control curtain shall be deployed in those instances where siltation is expected. The curtain shall be maintained in a functional manner that contains suspended sediments during project installation.

   i. Any trenches, depressions, or holes created below the ordinary high water mark shall be backfilled prior to inundation by high water or wave action.

   j. Fresh concrete or concrete by-products shall not be allowed to enter the lake at any time during in-water installation. All forms used for concrete shall be completely sealed to prevent the possibility of fresh concrete from entering the lake.

   k. Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to perform the in-water work. All disturbed areas shall be protected from erosion using vegetation or other means.

   l. All trash and unauthorized fill, including concrete blocks or pieces, bricks, asphalt, metal, treated wood, glass, and paper, below the ordinary high water mark shall be removed and deposited above the ordinary high water mark in an approved upland disposal location.

   m. If at any time, as a result of in-water work, fish are observed to be in distress or killed, or water quality problems develop, immediate notification shall be made to the Washington Department of Ecology.

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

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

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

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

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Citizen	3.6	Shoreline Research	Storm Water	Are there any studies on storm water runoff (within the Watershed Co. report)?	A representative from the Watershed Co. answered: Storm water runoff is addressed in their report, and will continue to be addressed. However, most storm water-related issues are outside of the Shoreline Master Program's jurisdiction.	*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
Citizen	3.1	Shoreline Redevelopment/ Restoration/ Regulation	Shoreline Stabilization	Property owners should be able to push shoreline portion of their property farther into the Lake as an incentive to remove bulkheads.		*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
Citizen/NGO (SPOCA)	3.3	Shoreline Regulation	Shoreline Stabilization	Felt that the city had made many improvements to the shoreline as a result of the Shoreline Management Act. These included a low number of bulkheads (relative to its urban setting) and a high amount of access.		*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
Citizen	3.2; 4.6	Species/Habitat		In favor of improving environment for both wildlife and humans. However, emphasis may vary (i.e. favor human activities if sustainable; encourage environmental stewardship).		*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
NGO	3.4	Shoreline Master Program Process		Stated that central goal of the tour was for neighbors to learn from each other.		*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
Citizen	3.5	Shoreline Regulation	Incentives	Inquired whether any incentive existed for restoring commercial/mixed uses along the shoreline.	City of Kirkland Senior Planner responded: No incentives currently exist, but the idea is being explored.	*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
Citizen	3.1	Shoreline Redevelopment/ Restoration	Incentives	City could streamline/mitigate permitting process for private property owners by creating local improvement districts and partnering with private owners to Redevelopment large swath of shoreline at once.		*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
Citizen	2.3; 3.1	Shoreline Pollution/Trash		Concerned over garbage dumped into the Lake by boaters.	Unfortunately, because boaters may come from outside Kirkland, it is a regional issue. However, an effort is needed to educate boaters on this issue.	*Report on the Tour of Innovative Shoreline Design (30 September 2006) ; Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
Citizen	3.1	Shoreline Pollution/Trash		Raccoons using nearby storm water pipe		*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
Citizen/NGO (SPOCA)	3.3	Shoreline Recreation		Valued the water quality of and access to Lake Washington. Also felt that the City offered particularly good shoreline access.	The update to the SMP contains regulations addressing public access and water quality.	*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*
Citizen	3.1	Shoreline Regulation		What constitutes the near shore zone?	Generally, the near shore comprises the first 30' of shoreline at a depth of 9'. However, recent research may change these benchmarks.	*Kirkland Public Forum: Updating Kirkland's Shoreline Master Plan (18 September, 2006)*

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

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Citizen	1.8	Shoreline Redevelopment/ Restoration		Does a property owner need permits for property redevelopments below the ordinary high water mark?	Yes, an owner would need to obtain a permit.	*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	1.9	Shoreline Redevelopment/ Restoration	Shoreline Stabilization	Should property owners' use large boulders/stones when redeveloping shoreline property? If so, do they need to obtain a permit for this?	Property owners should always consult with the city first (as some boulder/stones may not be beneficial). Permits would be required.	*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen/NGO (SPOCA)	1.10	Shoreline Redevelopment/ Restoration		(Referring to the tour's overall comments) Why is there so much emphasis on salmon, rather than other species?	The salmon are officially listed as threatened; as such, governments are required to protect them.	*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	1.11	Species/Habitat	Invasive Species	Do invasive predators (e.g. bass) prefer non-native plant species?	Yes, non-native predators do associate with non-native plants.	*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	2.1	Shoreline Research		Regarding shoreline restoration efforts, how much study had gone into offshore areas (of Lake Washington), and its topography, and water depth (as well as the best available science to account for these factors)?	Restoration will likely be constrained by what can be done, and will be informed by other local efforts.	*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	2.2	Shoreline Master Program Process		Asked to have the Shoreline Master Program's timeline clarified?	The City is farther along in the process than other Lake Washington jurisdictions.	*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizens	2.3; 2.4	Species/Habitat	Invasive Species	Milfoil is an issue--there was too much of it and it smelled foul.	Best way to remove it is by pulling it from the roots. Moreover, milfoil removal is addressed in a recent Dept. of Fish and Wildlife publication.	*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	2.5	Species/Habitat		A comment was made about the balance between salmon (a native species) and bass and sculpin (non-native)		*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	2.6	Shoreline Regulation	Incentives	Reduce street setbacks for new homes, so as to keep homes farther away from the shoreline.		*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	2.6	Shoreline Regulation	Boating practices	Could moorage rates be increased?		*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	2.6	Shoreline Redevelopment/ Restoration	Shoreline Vegetation	Could native trees be planted that support eagles and osprey?		*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	2.7	Shoreline Recreation	Boating practices	Could boaters could be directed toward the free pump station (at Yarrow Bay)?		*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Citizen	2.8	Shoreline Redevelopment/ Restoration	Shoreline Stabilization	How can the shoreline be softened (i.e. remove bulkheads)--particularly since most of the shoreline is privately owned?	Cost-effective opportunities exist, such as through official certification courses, which in turn can be used for community outreach/education.	*Report on the Tour of Innovative Shoreline Design (30 September 2006)*
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Permitting		There are regulations in place to address impacts through both the state and federal processes. It is important that local governments are careful not to impose overly rigid restrictions that force property owners to pursue Shoreline Variances or Conditional Use Permits. Local communities should retain their autonomy while cooperating with state and federal agencies in order to make decisions that best serve their own citizens and do not weaken their responsibility to local interests.		*Official correspondence and Houghton Community Council Meeting (February 25, 2008 and May 1, 2008)*

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Citizen/Shoreline Permit Coordinator and Contractor	4.6, 5.1	Shoreline Permitting		Need to ensure that SMP regulations for overwater structures are flexible, practical and reasonable to enable property owners to meet their needs while exercising responsible stewardship toward the valuable resources of our region.		*Official correspondence and Houghton Community Council Meeting (February 25, 2008)*
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Shoreline Stabilization	Carefully consider regulations addressing bulkheads. Restoring natural shorelines will not work in all locations and in many cases depending on the water depth at the face of the existing bulkhead a property owner will need to shift their shoreline landward quite a bit, which can impact setback and the amount of impervious area.		*Official correspondence and Houghton Community Council Meeting (February 25, 2008)*
Citizen/NGO (SPOCA)	3.6, 5.1	Shoreline Master Program Process	Public participation	Need for public participation. Make property owners understand implications of changes early on in process.	Staff has developed a Public Participation Plan for this project. Staff is continuing to conduct public outreach through various outlets, including list-servs, e-mail, web-sites, notice boards, newspapers, and the City's cable station.	*Houghton Community Council Meeting (February 25, 2008)*
Citizen	3.6	Shoreline Regulation		Kirkland, as largest property owner along shoreline, has biggest impact and needs to consider how regulations would impact their activities as well as those of private property owners.		*Houghton Community Council Meeting (February 25, 2008)*
Citizen/NGO (SPOCA)	3.6, 5.1	Shoreline Regulation		Need for clarity and consistency in shoreline regulations.		*Houghton Community Council Meeting (February 25, 2008)*
Citizen	4.9	Shoreline Recreation		Would like to see more big toys, and other recreational facilities available (e.g. waterslides, diving boards, big inflatable)	Comment forwarded to Parks and Community Services Dept.	*Web comment (March 14, 2008)*
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Piers and Docks	Kirkland needs to revise regulations to allow for greater height above Ordinary High Water in order to be consistent with state and federal requirements for pier height above the water		*Planning Commission Meeting (March 13, 2008)*
Citizen	5	Shoreline Goals and Policies		Include language protecting rights of private property owners.	See Goal SMP-5	*Planning Commission Meeting (March 13, 2008)*
Citizen	5	Shoreline Regulation	Public access	Concerned about public access and pathways along the shoreline. Want to ensure that these are not required for single family lots.		*Planning Commission Meeting (March 13, 2008)*
Citizen	5	Shoreline Regulation	Piers and Docks	Concerned that minimum width for docks as required by RGP-3 is too narrow		*Planning Commission Meeting (March 13, 2008)*
Citizen	5	Shoreline Regulation	Shoreline Stabilization	Concerned that removal of existing bulkheads may adversely impact neighboring properties.		*Planning Commission Meeting (March 13, 2008)*
Citizen	5	Shoreline Regulation	Shoreline Stabilization	Concerned that removal of existing bulkheads will affect lot area.		*Planning Commission Meeting (March 13, 2008)*
Citizen	3.3	Shoreline Goals and Policies	Storm Water	Linking the SMP to the implementation of the City's Surface Water Master Plan provides an opportunity for a systematic comprehensive approach to deal with the pollution impacts of storm water on Lake Washington.	Regulations addressing water quality are contained in the updated SMP. City-wide impacts from Surface Water are addressed through the City's Surface Water Master Plan, as well as through implementation of the NPDES Phase II Municipal Stormwater permit requirements. Thejurisdiction of the Shoreline Master Program is limited to areas within 200 feet of the ordinary high water mark and associated wetlands.	*Letter (March 24, 2008)*
Citizen	3.3	Shoreline Goals and Policies	Shoreline Vegetation	Getting to a position depicted in the shoreline vegetation goal - stumps, root wads, overhanging vegetation, beaches - is not going to happen. A realistic and implementable approach is one that should be identified in this goal.		*Letter (March 24, 2008)*
Citizen	3.3	Shoreline Goals and Policies	Invasive Species	Change policies to reflect the reality of safe and effective use of herbicides to control invasive weeds.	Proposed regulations would generally prohibit use of herbicides, except where other alternatives are not successful.	*Letter (March 24, 2008)*

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Citizen	3.3	Shoreline Goals and Policies	Shoreline Stabilization	Have not experienced scouring of shoreline area as a result of bulkhead. Policies for retrofitting should incorporate several factors: 1) reasons for their installation, unintended consequences, cost benefit analysis. Need to address practicality of bulkhead retrofitting. Bulkhead removal when meeting specific and well-founded criteria could best be attained when redevelopment occurs with property consolidation and structure knockdowns.		*Letter (March 24, 2008)*
Citizen	3.3	Shoreline Goals and Policies	Shoreline Stabilization	Appears to be conflict between desire to eliminate bulkheads and provide overhanging vegetation, which is most effectively planted on a bulkhead.		*Letter (March 24, 2008)*
Citizen	3.3	Shoreline Goals and Policies	Boating practices	Many of the impacts depicted in this policy are either illegal or prohibited.		*Letter (March 24, 2008)*
Citizen	3.3	Shoreline Goals and Policies	Shoreline Vegetation	Policies addressing shoreline vegetation are not feasible or practicable. Shoreline vegetation will not provide shading on the water because of the direction of the sun. Planting of vegetation would not last due to impact of winter waves and boat wakes. Wildlife will not likely inhabit shoreline because of urban setting of Kirkland, which has human and pet activity.	Section III of memorandum for May 8, 2008 Planning Commission meeting	*Letter (April 10 2008)*
Citizen	3.3	Shoreline Goals and Policies	Best Available Science	Subjective conclusions appear in a number of policies. Scientific basis for policy recommendations should be referenced so that the Planning Commission, City Council, and the public know if personal viewpoints or scientific basis drive the policies.	Revisions to policies now contain references to scientific studies.	*Letter (April 10 2008)*
Citizen	3.3	Shoreline Goals and Policies	Shoreline Stabilization	Concern about expectations for shoreline restoration activities. Public should be made ware of the exact description of restoration projects so as to ensure understanding and acceptance of these policies before adoption.	Section III of memorandum for May 8, 2008 Planning Commission meeting	*Letter (April 10 2008)*
Citizen	3.3	Shoreline Goals and Policies	Invasive Species	Concern about policies addressing control of aquatic noxious weeds. Permitted and controlled use of herbicides has been the only effective method with no adverse environmental impacts as document by soil samples and laboratory tests. Clear and cooler water has resulted and schools of native fish have returned.	Proposed regulations would still permit use of herbicides if other removal techniques are not sucessful.	*Letter (April 10 2008)*
Citizen	3.3	Shoreline Goals and Policies		When comparisons are made with other cities, all jurisdictions on Lake Washington should be included for comparison.	Jurisdictions are in different stages of their SMP update process and some have addressed SMP issues in their CAO updates. Staff will try to incorporate as many other pertinent examples as it can.	*Letter (April 10 2008)*
Citizen	3.3	Shoreline Goals and Policies	Shoreline Stabilization	Examples of bioengineered shoreline stabilization and restoration provided in response to comments in Attachment 16, Enclosure 1 of the May 8, 2008 Planning Commission package are not representative of Kirkland's shoreline. Still believes that removal of bulkheads is not a viable option.		*Letter (May 8, 2008)*
Citizen	3.3	Shoreline Goals and Policies	Shoreline Vegetation	Geometry of Kirkland's shoreline is such that vegetation does not provide shading.	Section III of memorandum for May 8, 2008 Planning Commission meeting	*Letter (May 8, 2008)*
Citizen	3.3	Shoreline Goals and Policies	Invasive Species	The impacts of harvesting and cutting milfoil should include that of fragments re-growing and spreading, negating the intended control. Herbicide use has proven to be effectively and safe. Example: 10-year program in Portage Bay which has utilized all known methods of invasive weed control and have found that the use of herbicides under a DOE permit to be the only effective method.	Staff concurs that mechanical means of removal can have impacts and has therefore limited removal of aquatic vegetation in the proposed regulations. Proposed regulations would still permit use of herbicides if other removal techniques are not sucessful.	*Letter (May 8, 2008)*

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Citizen	3.3	Shoreline Master Program Process	Public Involvement	Public process has not been well attended. Policies will set forth extensive expenditures of public and private money in the coming years as implementation occurs. Urge that city taxpayers and city park users have input on whether they would support the level of expenditures necessary or the changes to City parks contemplated. Urge the public event to provide complete information on the transformation of the shoreline that the policies will dictate, the cost associated with that, and with a depiction of the real environmental benefits. Information should also be provided about the implementation status of the City's Surface Water Master Plan, its estimated costs, and the resulting environmental benefits.	Staff has developed a Public Participation Plan for this project. Staff is continuing to conduct public outreach through various outlets, including list-servs, e-mail, web-sites, notice boards, newspapers, and the City's cable station.	*Letter (May 8, 2008)*
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Piers and Docks	Advocates that the City not adopt the Regional General Permit 3 guidelines into our regulations for piers and docks. Advocates for a separate process for redevelopment of existing structures to be adopted which allows property owners making improvements without complying with the RGP-3 guidelines. Include a process to evaluate the properties that have existing structures being replaced or modified differently than those who have undeveloped shorelines. Encouraging property owners to decrease the size or modify the configuration of their current structure by proposing a more environmentally pier or bulkhead, even if it does not align with newly proposed structures, will benefit everyone and the environment. Having a single standard and process for everyone will deter many property owners from even considering changes if there are no incentives to respect and recognize their good faith efforts.		*Letter (May 1, 2008)*
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Best Available Science	Encourage policy makers to research and review the White Papers and scientific studies used to regulate and implement rules and guidelines for piers and bulkheads.		*Letter (may 1, 2008)*
	4.6	Shoreline Regulation	Shoreline Stabilization	It is vital that local councils and commissions review all available information on the push to have waterfront property owners remove and/or replace/repair existing bulkheads with bioengineered solutions. Restoring natural shorelines will not work in all locations and in many cases depending on the water depth at the face of the existing bulkhead a property owner will need to shift their shoreline landward quite a bit. Changes in the location of the Ordinary High Water Mark can impact both the shoreline setback and amount of impervious surface for the parcel and push the upland development into a nonconforming status impacting existing and future development for property owners.		*Letter (May 1, 2008)*
	4.3		Invasive Species	Continuing concerns with Eurasian Milfoil. Questions whether there are any plans for City to do anything about this.		*On-line comment (May 21, 2008)*
	5.3		Dredging	Requests City dredge Juanita Bay because it is too shallow.		*On-line comment (May 21, 2008)*
	5.4		Shoreline Stabilization	Should include provisions for property owners to protect their properties from storm damage and/or erosion, as ruled by federal courts. Property owners should be allowed to reduce the wave action in order to protect their property.		*E-mail (May 23, 2008)*
	5.4		Piers and Docks	Inconcsistencies between public and private applications in what fish need to be protected and how to do it. Conveyed concerns with previous permitting for dock extension (time, cost, requirements, effectiveness of requirements, etc.)		*E-mail (May 23, 2008)*

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	5.4		Shoreline Vegetation	Restoring vegetation on residential shorelines should not be a requirement and would be inconsistent with residential land use.		*E-mail (May 23, 2008)*
	5.4	Shoreline Regulation	Public access	Suggest limiting public access in order to protect shorelines. If access is to be regulated by Kirkland, it should be done to protect the interest of the citizens who live in Kirkland. Public use of the shoreline should require mitigation measures on upland development and multifamily units. Fees should be required for non-residents to help pay for the impacts of people who use regional parks and shoreline facilities.	Proposed regulations allow modification to public access standards if it would impact critical areas. New standards also contain a setback from the ordinary high water mark to provide additional separation from this improvement and the shoreline edge.	*E-mail (May 23, 2008)*
	5.5	Shoreline Regulation		Recognize the recreational aspect of the lake. Regulations must provide for the needs of homeowners to allow reasonable installation and repair of bulkheads, docks, and covered moorages without excessive costs and difficulty. Simplify permitting process.		*E-mail (May 23, 2008)*
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation		Implementing the RGP-3 Guidelines as requirements in a SMP would damage the progress made toward decreasing the size of new and replacement piers and the planting of native vegetation. The RGP "requirements" have been used merely as flexible guidelines by the Corps and the federal services.		*On-line comment (June 20, 2008)*
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Master Program Process		All information on the SMP update process should be easily accessible and readable on all local websites. Spell things out clearly on your government website and do not busy it up with needless reports that people will not read. Place the information in a clear, easy-to-read, honest and understandable format so people know what is going on. Encourage involvement from waterfront property owners and others within the 200 foot shoreline areas.	Staff has developed a Public Participation Plan for this project. Staff is continuing to conduct public outreach through various outlets, including list-servs, e-mail, web-sites, notice boards, newspapers, and the City's cable station.	*On-line comment (July 2, 2008)*
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Piers and Docks	Requests that City rejects adopting the Corps of Engineers RGP-3 guidelines in part or whole into the SMP and allows less restrictive but reasonable and responsible standards for new development and redevelopment of piers, dock and bulkheads. If local governments yield to pressure from DOE to adopt the RGP-3 guidelines as development standards, it may result in people not replacing older, larger piers with smaller and better environmental structures.		*On-line comment (July 2, 2008)*
Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Piers and Docks	This is a follow up of ongoing issues regarding the SMP Update process. DOE and Biological Consultants are clearly presenting or at least strongly impressing upon local planning staffs, councils, commissions and meeting attendees that the restrictive RGP-3 “guidelines” as “requirements” to achieve a “no net loss of misleading characterization and unattainable goal in the case of new piers and some redevelopment ecological functions”. If believed and embraced, this misleading characterization and unattainable goal in the case of new piers and some redevelopment projects may lead local governments on Lakes Washington and Sammamish to place overly restrictive, “everyone fit inside the box” type of regulations or standards in their updated SMP. Even if this position were to apply only to new structures it is problematic. Local governments who adopt the Corps RGP-3 guidelines or any overly restrictive development standards for piers under their SMP will complicate their review process, refer more projects for shoreline variances to DOE that will likely be disapproved, face unnecessary criticism from residents who are impacted by the changes, and cause an undue burden and		*On-line comment (July 31, 2008)*

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Shoreline Permit Coordinator and Contractor	4.6	Shoreline Regulation	Private property owner rights	Forwarded copy of letter concerning shoreline propery owners experiences in Bainbridge Island. States that one of the main goals should be to assure that the SMP Updates protect individual property rights (a priority of the legislature) so no property owner has a legal basis to challenge and win subsequently overturning all local government SMP's on which you have worked so diligently.		*Letter (August 22, 2008)*
	4.3		Invasive Species	Eurasian Milfoil continues to be a problem in Yarrow Bay. When the lake lowers and the Milfoil is cut by power boats, it floats to the surface and is blown to shore by the prevailing winds. This collects on the shore and can promote the growth of alge and other problems including smell as it rots. Is there any plan by the City to try and do anything about this? We are told that communities in the other finger bays have been able to obtain grants to try and rid or reduce the growth of Milfoil. This subject deserves the attention of studies and activities within the Master Program.		*On-Line Comment (May 21, 2008)*

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Attachment 32

From: Daved [Daved@waterfrontconstruction.com]
Sent: Friday, June 20, 2008 11:47 AM
To: Cathy Beam; MPaine@bellevuewa.gov; Stacy Clauson; peterr@ci.issaquah.wa.us; jding@ci.kenmore.wa.us; rgrumbach@ci.medina.wa.us; Matt.torpey@mercergov.org; EConkling@ci.renton.wa.us; mvannostrand@ci.sammamish.wa.us; Margaret.glowacki@seattle.gov; mhgreen@comcast.net; Harry.reinert@kingcounty.gov; Michelle Whitfield; SBennett@ci.lake-forest-park.wa.us
Cc: eride@msn.com; donovan@donovantracy.com
Subject: SHORELINE MASTER PROGRAM UPDATE CONCERNS AND MISINFORMATION
Attachments: RGP 3 Final Text _6-13-05_.pdf; SMP Update Ltr.doc

Dear Current and/or Future SMP Update Point of Contact,

I am contacting you regarding your current or future Shoreline Master Program update. I have attended several local meetings thus far including King County, Houghton, Kirkland, Sammamish, Renton, Seattle, and Lake Forest Park and there are troubling trends surfacing. I am concerned that those property owners most impacted by the sweeping changes the Department of Ecology (DOE) is trying to invoke on local jurisdictions, especially along the shorelines of Lakes Washington and Sammamish, are not being informed of how their lives and properties will be affected. In reviewing a couple of the SMP's that are well along their way to approval, it appears that there has been no effort to protect waterfront property owners who would like new piers or to redevelop existing piers with a new configuration that will not comply with the proposed development standards. It appears that DOE and their biological consulting firms (hired by local governments) are placing additional restrictions on property owners along Lakes Washington and Sammamish due to the large amount of development along these highly urbanized lakes. They are presenting the Regional General Permit 3 (RGP3) guidelines from the Corps of Engineers designed to arrive at a "may affect, not likely to adversely affect" listed species and or critical habitat to also arrive at a "no net loss of ecological functions" determination. The RGP3 "guidelines" are developed to evaluate impacts on species and critical habitat and not "requirements" but local governments appear to be using them to develop their SMP's based on information from DOE. Even though the RGP-3 text itself uses the term "requirements" for the standards listed in the document, those at the agency and anyone involved closely with the

federal permit process understand that these have been merely used as flexible guidelines or recommendations by the Corps and the federal services. The flexibility exercised by the Corps has resulted in a cooperative effort between agency and applicant to design new and replacement piers in a more fish friendly and environmentally responsible manner. Each project approved for redevelopment has resulted in a measurable improvement over previous conditions. It is trusted this is what local planning departments and state environmental agencies would like to see continue. These same "requirements", "guidelines" or "development standards" in a SMP would seriously damage the progress made in decreasing the size of new and replacement piers and the installation of native vegetation planting plans on Lake Washington and Lake Sammamish.

Attendance at public, council and commission meetings, especially by waterfront property owners, has been poor and there is limited "above and beyond" effort being made to reach out to these individual citizens that you are supposed to serve. If you were a waterfront property owner and your rights regarding shoreline protection and overwater structures were being restricted or taken away you would want to know that your community leaders went above and beyond "average" notification methods to reach you and make sure you were given an opportunity to respond. This is simply not being done.

It seems no permitting agents or marine contractors were consulted prior to writing up the SMP's because there are several standards, for example in the Redmond SMP that cannot be met structurally. This means every project that does not meet these overly strict guidelines will need to apply for a shoreline variance to DOE because there is no alternative method for local approval. There is no consideration whatsoever taken into account for property owners who want to replace a large pier with a smaller more environmentally friendly pier if it exceeds the standards listed in the SMP. This is true for Lake Forest Park and Redmond thus far and in the past Bellevue adopted similar guidelines and placed them under their Critical Areas Ordinance. As soon as they are adopted as a part of their SMP, unless a procedure is established they will also need to be reviewed and approved by DOE. A disservice and injustice is taking place and your waterfront property owners are being targeted. You have the authority and responsibility to see this doesn't happen to your citizens. Something I have heard very little mention of at meetings or seen little to no mention of in text is the directive by our state legislature regarding the protection of private property rights.

Many planners and most council and commission members have never seen or reviewed the Corps of Engineers Regional General Permit 3 DOE is using as the baseline document for evaluating a "no net loss of ecological functions" determination. The RGP is only one of several processes used to permit projects

in Lakes Washington and Sammamish. There are also Nationwide Permits, Letters of Permission, Individual Permits and Non-Complying RGP-3 Permits. Only a small percentage of projects are approved using the RGP-3 process but it is being presented by DOE as the only streamlined process and the only one arriving at a "no net loss of ecological functions" determination. This is simply not true and the Corps has been very flexible in evaluating and approving projects which well exceed the guidelines of the RGP-3 as needed and give a lot of consideration to the removal of existing structures being replaced with less impacting ones. In the case of WA Dept of Fish and Wildlife, they give property owners removing an existing structure a 1:1 credit as long as 100% grating is installed in the proposed structure. The RGP-3 came out in 2005 and I can provide copies of many projects with piers in excess of 480sqft and up to 1600sqft, with 8ft wide walkways and 10ft wide platforms with less than 50% open area grating approved since that time. Assuming DOE's position and standards on "no net loss" are true it could be argued that these projects would be viewed by any responsible regulator as "adversely affecting listed species and/or critical habitat" or a "net loss of ecological functions" and would not have been approved.

I have attached a copy of the RGP-3 and the latest update of a letter I have written for local planners, councils and commissions, many of whom have no idea regarding shoreline permitting at the local, state and federal levels of government. It is designed to better equip local governments to make a more informed decision regarding any changes to their SMP. It is written from a "person on the street" perspective since we work very closely with your citizens and understand the atmosphere on the waterfront. Please make this information available to your council and commission members and anyone else influencing changes in your SMP.

Thank you for your time as I know it is valuable. This is a very important issue so I hope you invest the time into giving it the attention it deserves. Once your Shoreline Master Program is changed we all understand how difficult it is to reverse it.

If you have any questions or would like to meet with me to review some recently approved projects please let me know. I will have more information and comments in the future as they become available and as time permits. This will include a recommended and separate process for redevelopment of existing structures which for the most part could become legally non-conforming if SMP development standards for piers and docks are drastically changed.

On behalf of waterfront property owners, marine permitting and construction companies, and as a private citizen of the State of Washington.

Respectfully,
Dave Douglas
Permit Coordinator
Waterfront Construction, Inc.

WATERFRONT

June 20, 2008

To: Local Government Elected and Appointed Leaders
Local Government Planning and Land Use Staff
Interested Citizens

While this letter was originally written to address the City of Kirkland's Shoreline Master Program (SMP) update required by the WA Department of Ecology and was originally presented to the Houghton Community Council on February 25, 2008, it is applicable to each and every waterfront community in the Puget Sound Region, especially those on Lakes Washington and Sammamish who are receiving additional scrutiny for meeting DOE requirements for their SMP Updates..

I am a Permit Coordinator with Waterfront Construction; a business started out of a garage in Kirkland by Paul Wilcox nearly 40 years ago and has since grown to be a highly experienced and preferred marine contractor and permitting agent for residential and commercial property owners living on Lake Washington and around the Puget Sound. Our company has a respected reputation for integrity and craftsmanship in constructing legal and fully permitted environmentally responsible projects for our clients. We are regarded as a strong proponent for waterfront property owners and the preservation of property rights, especially for those living along the beautiful shorelines of our state and region. We have also received calls from many local governments over the years to answer questions regarding permitting issues, construction techniques and Shoreline Master Programs. We work closely with local, state and federal agencies on hundreds of projects each year.

While respecting the efforts of local, state and federal agencies to protect and regulate impacts to natural resources, we are requesting careful consideration be placed on changes made to local SMPs as mandated by the Washington State Department of Ecology (DOE). Much of the drive behind these changes is based on Best Available Science (BAS) and not conclusive science through studies funded and directed by the various agencies responsible for regulating based on the results of the studies. In reviewing some of the documents regulatory agencies have used to address piers, bulkheads or other overwater and shoreline structures the studies and results are inconclusive and do not provide a clear determination of their impacts on water quality or fish life. For projects requiring a Biological Evaluation (BE) to address impacts to listed species and/or critical habitat, the same documents used by regulatory agencies to declare adverse impacts of piers on water, fish and habitat are also used by independent biological firms to discount the impact as insignificant and not having an adverse impact. Although the biological firms are hired by the property owner they evaluate and make their determination remaining faithful to their profession under the same guidelines used by regulatory agencies. If they are unable to make a favorable determination design changes are made prior to an application to local, state and federal agencies so we are taking proactive steps in submitting projects that are environmentally responsible. The white papers utilized to regulate overwater structures contain mixed information and the number one impact to water quality and fish life is not piers but surface runoff from upland

development, most of which is associated with roads. There is so much controversial and inconclusive literature on the subject of piers and bulkheads that one cannot keep pace unless employed full time to review such information.

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I encourage each of you to research and review the White Papers and other scientific studies used to regulate and implement rules and guidelines for piers and bulkheads. I can provide excerpts from some of the these studies although the full text and origin may need to be provided by regulatory agencies such as Washington State Department of Fish and Wildlife (WDFW), DOE, U. S. Army Corps of Engineers (COE), U. S. Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS). There is a recent study completed by NMFS directly relating to shading from piers, but it does nothing more than confirm grating is more effective than prisms and references previous inconclusive studies. It is important to keep a balanced perspective when reviewing such literature since, as stated above, funding and objectives are driven by the agencies which regulate shoreline activity. As discussed later in this letter, much of the policy is being made through correlation and not direct supporting evidence.

In working with all waterfront communities along Lake Washington and nearly all in the Puget Sound Region, we have found that while SMPs can vary greatly between jurisdictions, all are doing an exceptional job of evaluating, monitoring and controlling the unique needs of their residents in a highly responsible manner. **It is important that local communities retain their autonomy while cooperating with state and federal agencies in order to make decisions that best serve their own citizens and do not weaken their responsibility to local interests. It is healthy and responsible for local leaders to question state and federal agencies and not simply take mandates at face value without solid data to support requested changes which reach beyond local government and directly touch property owners themselves.**

Many local government leaders may not understand the system of checks and balances in place to regulate shoreline development, especially for projects at or beyond the Ordinary High Water Line (OHWL). This can result in making decisions and changes based on limited knowledge that may not be made if more were known. Under the State Environmental Policy Act (SEPA), WAC 197-11-660(e), Substantive Authority and Mitigation points out that "Before requiring mitigation measures, agencies shall consider whether local, state, or federal requirements and enforcement would mitigate an identified significant impact." The current process can require various and overlapping mitigation at each level of government review. When we initially meet with property owners they are overwhelmed at the number of permits amount of mitigation they will need for their inwater project when the process for residential construction is relatively simple.

In order to construct a new pier or do bulkhead work, projects need the following permits and/or approvals at a minimum:
Local Government:

- Shoreline Substantial Development Permit (SSDP)
- State Environmental Policy Act Determination (SEPA)
- Building Permit (BP)
- Clearing & Grading/Drainage Permit

State:

- Hydraulic Project Approval (HPA)- WDFW
- Water Quality Certification/Coastal Zone Management Letter- DOE

Federal:

- *Section 10/404 Permit (U. S. Army Corp of Engineers)

*This includes consultation and concurrence by NMFS and USFWS under Section 7 of the Endangered Species Act (ESA).

Under the current system for the above permitting processes, there are overlapping responsibilities and reviews between state, local and federal agencies that make changes to most SMPs a matter of routine rather than a need for change. There are regulations in place to address impacts to the environment and fish and wildlife through both the

state and federal processes so it important that local governments are careful not to impose overly rigid restrictions on piers and other waterfront structures that residential or commercial property owners are forced to pursue Shoreline Variances or Conditional Use Permits (CUP) in many more instances. This not only results in additional permitting costs to some of the highest tax paying property owners in your jurisdiction and additional burden on staff reviewers but also relinquishes control and approval of your resident's projects to the state. The current City of Kirkland SMP does a thorough and effective job of reviewing and addressing impacts from projects that come before its experienced land use staff as evidenced by recently received shoreline permits. While some changes to the SMP may be needed, a total overhaul impacting every project by limiting individual elements or total pier size should be carefully scrutinized and pressure from the state or federal government should not be the driving factor. It is important that the city does not place all projects in a box due to the needs of individual property owners and existing and unique conditions of each site.

A local community recently adopted COE guidelines on overwater structures and it has caused many problems due to inflexibility in the local code. While intentions were good it was unnecessary because federal guidelines were already in place and are designed to accommodate flexibility and ways to mitigate for projects that do not align exactly with the regulations. The separation of regulatory powers is a win-win for everyone, especially in cases where owners are being equitably credited for the removal of existing structures resulting in improvements over existing conditions. Most importantly it encourages property owners to remove large, older piers with a lot of treated piles and replace them with smaller, fully grated piers with long spans between piles using modern construction techniques. Unlike the federal process, a SMP has very limited flexibility so your citizens are forced into seeking approval from the state for making environmental improvements. In the case of the neighboring community, projects failing to align perfectly with their rigid Development Standards are required to receive a Critical Areas Land Use Permit. If the Development Standards, currently in the Critical Areas Regulations (CAO) are adopted into their SMP then it will mean each of these projects must seek approval from DOE where their property owners will face additional scrutiny, delays, expense and a good chance of denial. As mentioned above, with state and federal regulatory guidelines designed to work with property owners already in place this is unnecessary and reflects overregulation. WE understand the state disagrees with this position.

WDFW is charged with protecting all fish and wildlife of the state, including those listed as Species of Concern along with sport fish. The grueling COE permit process includes a complex review to address all federal listed species and/or critical habitat. The two federal agencies charged with protecting federally listed species and critical habitat are NMFS and USFWS. Under the COE federal permit program, permit applications must be reviewed for the potential impact on threatened and endangered species pursuant to Section 7 of the ESA. The Corps, through informal and formal consultation procedures with the NMFS and USFWS, must evaluate information on the presence of listed species (including timing and life stages), habitat for such species and their prey sources, and other parameters. The Corps permit process along with the local process also includes reviews and comment by the applicable tribal agency under federal agreement.

For residential overwater structures on Lakes Washington and Sammamish, a Regional General Permit 3 (RGP-3) has been established to streamline the federal permitting process. For boatlifts and canopies, a Regional General

Permit 1 (RGP-1) has been instituted. Even though the RGP-3 text itself uses the term "requirements" for the standards listed in the document, those at the agency and anyone involved closely with the federal permit process understand that these have been merely used as flexible guidelines or recommendations by the Corps and the federal services. The flexibility exercised by the Corps has resulted in a cooperative effort between agency and applicant to design new and replacement piers in a more fish friendly and environmentally responsible manner. Each project approved for redevelopment has resulted in a measurable improvement over previous conditions. It is trusted this is what local planning departments and state environmental agencies would like to see continue. These same "requirements", "guidelines" or "development standards" in a SMP would seriously damage the progress made in decreasing the size of new and replacement piers and the installation of native vegetation planting plans on Lake Washington and Lake Sammamish. For property owners who choose to meet or come close to meeting the guidelines a BE is not required and the process can be completed in a matter of several months. For those who cannot or choose not to meet the guidelines the more traditional Letter of Permission (LOP) process is still available but takes longer. We have found that most pier projects do not align with the RGP-3 so the LOP process is used. Each process leads to a permit being issued but those going through the LOP process must be sent to federal services for consultation and concurrence. Each of the Regional General Permits (RGP) were issued in 2005 and were updated as late as 2007 meaning they address current listings for federally protected species.

We have local, state and federal approvals for many projects in Lake Washington in a variety of shapes, sizes and elements. Two of my recent projects involve approval by the City of Kirkland and have received the Hydraulic Project Approvals from WDFW and Corps of Engineers Permits. One project is for a 772sqft pier replacing a smaller pier and the other is for a new 622sqft pier with a boatlift. The first was approved under the LOP process and the second under the RGP-3 and RGP-1 processes. Even though the preferred limit for single family residential piers on Lake Washington is 480sqft, we were able to work within the federal and state permitting process to have projects far exceeding the guidelines approved. Every project reviewed by WFDW, COE, USFWS, and NMFS are evaluated by fully qualified biologists. It is unknown if projects sent to DOE are reviewed by qualified biologists or if they simply receive an administrative review to ensure they align with a local SMP. These projects were professionally evaluated by Kirkland's planning staff under the city's existing Shoreline Master Program and by federal regulators under the Endangered Species Acts and determined to have a "Not Likely to Adversely Affect" listed species or critical habitat. The approval of these projects at each level, especially by those agencies responsible for protecting species and critical habitat at the state and federal levels, is an indication that the City of Kirkland is doing an effective job of reviewing and issuing shoreline permits and rendering SEPA determinations at the local level.

I also had a project for an 876sqft pier, 360sqft solid moorage cover (1,236sqft total), 2 mooring piles and a boatlift approved and recently constructed on Lake Washington. The standard wording on the Corps permit is as follows; "The U. S. Army Corps of Engineers' (Corps) regulatory program provides for the authorization of certain work that is minor in nature, would not have significant individual or cumulative impacts on the environment, and should encounter no appreciable opposition by a type of permit known as a Letter of Permission (LOP). We have determined that the construction of the pier and moorage cover and the installation of the boatlift and mooring piles meets these requirements and is authorized by this LOP. The project also include the removal of a small amount of bulkhead and a rock groin and construction of a rockery and plantings included in the shoreline and SEPA but landward of federal authority This project was approved by a local government and each of the agencies previously listed in this letter and is provided to show that large, environmentally responsible projects are still receiving approval. This was declared an improvement over existing conditions.

I also have a project recently approved just southwest of Kirkland for a 924sqft pier and 448sqft moorage cover (1,372sqft total), 748 lineal foot replacement bulkhead, 3 beach coves, 2,000sqft planting plan of native riparian vegetation, and the creation of 7,000sqft of shallow nearshore fish habitat. The property owner received full credit from WDFW and consideration from COE, USFWS and NMFS for the removal of existing structures and the project was actually declared an improvement over existing conditions, despite the size of the pier and moorage cover.

These are several of many projects approved and constructed on Lake Washington where a flexible, practical and reasonable SMP permitted property owners to have a pier which meets their individual and personal needs while exercising responsible stewardship toward the valuable resources of our region. If the local SMP were written in any other way it is likely that these and many other projects would not have received approval and solid piers and structures with large amounts of overwater coverage, especially in the most critical nearshore area, would remain in place for many years into the future. It is the responsibility of local, state and federal regulatory agencies to recognize and offer incentives for those property owners removing highly impacting existing structures when they are replaced by more environmentally responsible projects, whether or not they do not fit ideally into the "regulatory box". Each of these projects, along with all others over the past few years, have resulted in limited overwater coverage in the nearshore area and shifted the vast majority of boating and aquatic activities to deeper water where impacts are non-significant. Responsible regulating must reflect a give and take from government and property owners to respect those who participate in the regulatory process and limit the number of renegade property owners and contractors who construct projects without permits.

In each of the cases above, had the SMP for each of these waterfront communities contained overly restrictive regulations they would have required Shoreline Variances and approval from DOE. The criteria listed in the WAC to meet the requirements and justify issuance of a Shoreline Variance are written in such a manner that it is difficult if not impossible for a project to receive approval. In all likelihood, none of the projects would have received approval and existing impacts would continue.

It is strongly suggested that local SMPs include a process to evaluate those property owner who have existing structures being replaced or modified differently than those who have undeveloped shorelines. Encouraging property owners to decrease the size or modify the configuration of their current structure by proposing a more environmentally friendly pier or bulkhead, even if it does not align with newly proposed structures, will benefit everyone and the environment. Having a single standard and process for everyone will deter many property owners from even considering changes if there are no incentives to respect and recognize their "good faith" efforts.

CITY OF LAKE FOREST PARK SMP UPDATE

We were told at one city council meeting that the City of Lake Forest Park (LFP) has already approved and adopted their updated SMP but it appears it is still being reviewed. Today, I had the opportunity to review LFP's development standards for overwater structures under consideration. It appears the city is close to adopting the Corps of Engineers Regional General Permit 3 (RGP-3) guidelines, which as stated earlier, are only guidelines. Should LFP adopt these guidelines as their local standards, any deviation outside this very small "box" will require a Shoreline Variance to be reviewed and approved by DOE unless an alternate process for local approval has been established. This will deter waterfront property owners from replacing larger, older overwater structures with more environmentally friendly piers unless it can be done through a Shoreline Variance and approved by DOE.

The above scenario also places a larger percentage of projects for LFP's waterfront owners in the hands of the state and removes local control. One must wonder if the City Council, Planning Commission, Planning Department and residents of LFP who participated in the SMP update process fully understood this would happen. If these governing bodies knew, then their adoption of the Corps RGP-3 guidelines as LFP's development standards is an informed decision. But, if DOE and the Biological Consultant contracted by LFP through funding from DOE presented the RGP-3 as strict requirements and the only way to have projects approved at the federal level and not as guidelines then those participating in the process were misinformed. Had those participating known that many projects in Lake Washington much larger than the figures listed in the RGP-3 and the proposed Chapter 8 of the LFP draft SMP have been approved at every local, state and federal regulatory level would a different conclusion or set of standards be up for consideration by LFP at this time?

Additionally, do the people participating in the LFP update process know there is an alternate process for obtaining a permit from the Corps of Engineers known as a Letter of Permission (LOP) for projects that do not align with the standards? This is one of the most common methods used for applying and receiving federal permits. If DOE convinces local governments to adopt overly stringent guidelines through their SMP then projects that would typically be approved through the LOP process will all but disappear because they will be closed down at the local or state DOE level. These are all projects that would meet standards for the protection of listed species and critical habitat under Section 7 of the Endangered Species Act.

CITY OF RENTON SMP UPDATE

On April 30, 2008, I attended the City of Renton SMP Update Public Kick Off. Renton's Planning and Land Use staff is excellent to work with and have served the residents within the shoreline areas well over the years. Upon walking into the City Council Chambers for the meeting I noted that the Corps RGP-3 Guidelines were displayed on a static display board as "Requirements". This is a misleading characterization of federal recommendations for Lakes Washington and Sammamish projects to achieve a "may affect, not likely to adversely affect" determination on listed species and/or critical habitat. This led to spirited discussion prior to, during and following the presentation. Had I not been present to point out the difference and that none of our hundreds of projects approved since the introduction of the RGP-3 meets these guidelines both the city staff and those stakeholders in attendance would have believed meeting these requirements is the only way to receive approval from state and federal regulatory agencies. Local governments and property owners for the most part, and rightfully so, believe the information they are being provided by the state and the planning consultant they have hired to work on their behalf are providing concise and honest information. As a result they do not tend to question it.

The "no net loss of ecological functions" goal was repeated throughout the presentation and the need for the City of Renton to fit into the larger watershed picture was emphasized. No net loss of ecological functions was not clearly explained by the planning consultant hired by the city and how redevelopment or replacement of existing structures which do not align with the "Requirements" should be handled was not mentioned. The presentation failed to state that such projects are encouraged, make valuable and measurable improvements over existing conditions, can be handled individually through a different process, and achieve a "gain in ecological functions" whereby exceeding the goal of "no net loss" at specific sites and over time resulting in cumulative improvements.

I reviewed a survey sent to approximately 500 property owners living within the areas regulated by the local Shoreline Master Program. I questioned the biological consultant on the following survey question, "Large docks have been identified as a possible contributor to declines in salmon due to predators that prey on juvenile salmon. Do you think docks should be restricted?" I asked if there was hard data to support such a statement and showing how many salmon were consumed by predator fish in Lake Washington and Lake Sammamish and was told no but the statement was made using a correlation of data collected showing that shading under piers aided predators. During the course of our conversation I nearly accepted the authoritative manner in which it was impressed upon me that correlation is an acceptable scientific practice used to draw conclusions and therefore apply best available science.

Phraseology such as "possible contributor" allows the state and biological consultants to make such statements and pose leading questions that make average people think that large docks are major contributors to the decline in salmon even though there are many factors. It appears that overwater structures and waterfront property owners are an easy audience not only to blame and require a "no net loss of ecological functions" but result in "restoration of ecological functions" existing prior to the lake being lowered by the Army Corps of Engineers and urbanization took place. No net loss and restoration of ecological functions are apparently highly attainable goals when someone else is being told how to reach them and covering the cost to that end. In this case, it is primarily aimed at property owners.

Additionally, there was no reference to single family residential piers or docks being a water dependent use. The only water dependent uses referred to in the presentation were "non residential". Please note that WAC 173-26-176 supports statements from the legislature outlined in RCW 90.58.020 (h) Recognizing and protecting private property rights in that, "The legislature finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership;… and, therefore coordinated planning is necessary… while, at the same time, recognizing and protecting private rights consistence with public interest." The aforementioned survey did not ask if they felt the rights of private property owners should be protected or if waterfront property owners should be allowed to have overwater structures that suit their quality of life and needs within reason.

Recalling the conversation on correlation, on May 1, 2008 I spoke with a biologist about using correlation to draw any conclusions, let alone those which will touch thousands of citizens in the towns, cities and counties impacted by updates to their SMP, especially those living along Lakes Washington and Sammamish. I was told that correlation is not an acceptable method for arriving at conclusions or imposing change based on the phrase "Correlation does not imply causation."

Wikipedia defines it as following:
Correlation does not imply causation is a phrase used in the sciences and statistics to emphasize that correlation between two variables does not imply that one causes the other. Its negation, *correlation proves causation*, is a logical fallacy by which two events that occur together are claimed to have a cause-and-effect relationship.

We will continue to follow the Renton SMP Update in hopes that there will be a balanced, practical and common sense approach taken and that a separate process will be created to process applications for redevelopment of existing structures not resulting in a need for a Conditional Use or Shoreline Variance that will need to be approved by DOE. Our impression is that the Senior Planner leading the SMP Update is insightful, highly qualified and sensitive to what is at stake for all parties and that she is genuinely interested in the city's responsibility to its citizens and the ability to balance it with a SMP meeting state requirements.

CITY OF SAMMAMISH SMP UPDATE
I attended the City of Sammamish SMP Update before the Planning Commission on May 15, 2008. The information for the most part was identical to those in other jurisdictions with the RGP-3 guidelines once again being presented as requirements. The biological consultants appeared less familiar with shoreline permitting issues and requirements than consultants used by other local governments and during public comment I was able to correct several bits of misinformation and confusion. There were only a handful of people in attendance in a city that has several freshwater lakes and quite a few waterfront property owners. This may be an indication that people are not being reached or they do not understand the far reaching changes being proposed.

CITY OF KIRKLAND SMP OPEN HOUSE
On June 9, 2008, I attended the City of Kirkland SMP Open House. I applaud Stacy Clauson and the city for their efforts in trying to reach as many interested parties as possible. Kirkland is the envy of most communities because of their diverse waterfront and how well they have worked to provide public access while respecting private property rights. The forum was attended by 20 to 30 folks with about 8 to 10 waterfront property owners making it the best attended gathering thus far. There was a nice mix of people and some good questions asked. It appeared that some of the responses did not provide complete and clear answers. The literature available was published for the most part by WRIA 8 and addressed a variety of issues. There was a chart on "No net loss" that made it look as though cumulative impacts or gains from one property were to be evaluated in conjunction with the overall impacts throughout the community. I have requested a copy of the chart from Stacy because it is the first time I have seen it. I also mentioned to Stacy

that a change in the SMP to make development standards for piers stricter would move a lot of existing piers into a legally non-conforming status and when the time comes for repair or modification their could be complications since these are viewed differently than conforming structures.

On June 11, 2008 I received and reviewed a copy of the requested "No Net Loss and Restoration Opportunities" display chart. "No Net Loss" is described as "The Shoreline Master Program should preserve the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state and protect the functions of shorelines so that, at a minimum, the City achieves a 'no net loss' of ecological functions, as evaluated under the Final Shoreline Analysis Report issued in December 2006. This seems to apply more to public access areas rather than private property but it should be noted that any project that results in 'no net loss of ecological functions', a 'net gain in ecological functions' or what may even be viewed as 'restoration of ecological functions' when occurring on private property would further assist the city in meeting this goal. This is a primary reason for having an alternative process for redevelopment of existing piers where measurable improvements over existing conditions would occur.

<u>LAKE FOREST PARK SMP UPDATE PUBLIC MEETING</u>

On June 11, I attended the Lake Forest Park (LFP) SMP Update Public Meeting. It was well attended with a large percentage of waterfront property owners. Several waterfront property owners are on the City Council and the Citizen Advisory Board so this may heighten the interest in LFP since these citizens will be most impacted by any changes. The Biological Consultant, Dan Nickel, from The Watershed Company, gave the most informative, relatively balanced and polished presentation to date. He addressed many questions and concerns and requested my input on several issues related to 'no net loss of ecological functions', bulkhead removal and replacement, shoreline restoration, and redevelopment of existing piers.

Redevelopment is a major concern and issue in LFP because there are only 6 lots without piers, 4 of which may be candidates for new piers in the future. The attendees and those on the council and advisory board seemed very interested in an alternative process for redevelopment that may exceed the development standards for new piers. In conversation following the meeting it seems that LFP is tentative at being the first community on Lake Washington to submit and have their SMP approved by DOE since they understand others will use it as a guideline. Several people, including myself, stressed that the less restrictive the SMP is in reference to size, width or length the better since each project is unique. Although DOE would like to see strict development standards identified (which would push a lot more projects into the stringent Variance process), I stressed that the separation of responsibilities between local, state (WDFW) and federal (Corps of Engineers, NOAA- Fisheries, and USFWS) have served the lake communities well because combined they address all elements of ecological and marine environment protection. Aerial photos of Lake Washington and Lake Sammamish will likely reveal that the size of piers being built today compared to as little as 5 years ago are much smaller and many large structures, including large platforms and boathouses have been removed and not replaced or replaced with smaller structures.

A review of the draft LFP SMP standards for piers will place a large percentage of structures into what is classified as legally non-conforming. This means that modification, expansion, or relocation of any distance, even when it results in an improvement over existing conditions, must be brought into conformity with the existing SMP standards. Unless an alternative process for reasonable redevelopment is established it will essentially deter any incentive for a property owner to remove or modify an existing pier with a more environmentally friendly structure.

Discussion on bioengineered alternatives to bulkheads and decrease of shoreline setbacks tied to removal of an existing bulkhead and restoration of the natural shoreline and native plantings was spirited and received pretty well. The ability to decrease the proposed 40 or 50 foot setbacks to as little as 20 feet through mitigation offset seemed to be received well with the understanding that the number of developed lots would mean that owners would in most cases be able to rebuild within the existing footprint and not be impacted

by the changes to the SMP. People seemed very responsive to the fact that state and federal agencies are more open to installing nearshore fill in the lake so the OHWL is not relocated landward resulting in a loss of property. Many of the lots are pretty deep in LFP and therefore eligible for shoreline restoration and native plantings that would improve lake access and promote better nearshore habitat.

LFP is a prime example where an alternative process for redevelopment of existing overwater structures is vital if the SMP update is to have the greatest impact on improving habitat. Avoiding the Variance process and handing over control of projects for waterfront property owners who are making improvements over existing conditions but not meeting development standards the city is considering as a result of the RGP-3 guidelines being promoted as requirements and used by DOE as a baseline for 'no net loss' should be a major concern. It seems LFP is open to this option and one advisory board member requested I provide him with a possible method to be use.

I also requested that the biological consultant and the city consider providing a real life example from an existing property with a pier in place. Showing what currently exists versus what can be approved through redevelopment if a separate process is not established will be most telling.

I get the sense that with continued involvement and strong input from citizens and concerned council, commission and committee members, and a responsive staff that LFP may be the proper community to prepare the way for others. The citizens of this community are concerned and a close knit group committed to protecting private property rights and presents a much different scenario than other communities where there is little or no waterfront property owner communication or involvement in the process. Even though this may be due to the smaller number of waterfront property owners it reflects how each local government should approach this issue by considering those most impacted and asking "What changes are really necessary and is our existing program effective when state and federal reviews are also involved in the process?"

Many waterfront communities did not receive funding from DOE and/or are not due to have their SMP updated until on or after 2013. These communities will continue to review and approve projects under existing development standards which will also be approved by state and federal regulatory agencies charged with protecting listed species and critical habitat. This means that local governments choosing to adopt RGP-3 guidelines as their development standards are placing unfair and inequitable restrictions on their residents and essentially preventing them from constructing overwater structures that others on Lake Washington will have approved for years to come. This is why less restrictive development standards and regulations at the local level makes sense and will allow for projects designed to meet local, state and federal guidelines to be approved for the region's waterfront property owners to be approved.

Please exercise balanced and practical judgment and consideration as you evaluate changes to the SMP because once local control and regulatory authority is relinquished to any degree the opportunity of having it returned is remote at best. Waterfront property owners in the City of Redmond have reportedly challenged some of the early changes by their City Council and had them overturned. The City Council may have made decisions based on a lack of understanding or misinformation as to what the SMP updates need to address.

We are not against regulations designed to protect the environment and serve in the best interest of property owners, local, state and federal governments. We do ask that regulatory agencies apply a balanced approach and pass valid, accurate and complete information on to local governments so they can make informed decisions on what is and is not required or necessary. Anything short of that result would undermine the process and the role of government in the lives of its citizens. **There is no room for personal or extreme agendas on an issue like this that will impact so many people.**

While this letter has been geared mainly toward overwater structures, it is vital that local councils and commissions also review all available information on the push to have waterfront property owners remove and/or replace/repair existing bulkheads with bioengineered solutions. While this may be viewed as positive for the marine environment the impacts on property need to be carefully weighed. Restoring natural shorelines will not work in all locations and in many cases depending on the water depth at the face of the existing bulkhead a property owner will need to shift their shoreline landward quite a bit. When a bulkhead is removed the Ordinary High Water Line is naturally moved landward. This can impact both the shoreline setback and amount of impervious surface for the parcel and push the upland development into a nonconforming status impacting existing and future development for property owners. In cases where adjacent properties have bulkheads it can cause accelerated erosion to the site of the natural shoreline. The primary way to prevent this is to elevate the lake bottom causing wave energy to dissipate further from the property. This means installing a large amount of fill into the nearshore area, including the lake, in order to cause the upland and shoreward grades to naturally meet at an elevation somewhere at or near Lake Washington's Ordinary High Water Level of 21.80' which is when wave and wake activity would be most damaging.

In winter months when storm activity is at its peak the lake is lowered to around 20.00' so the threat of erosion is not as real unless a major event was to take occur. While I am not an expert and we have no biologist on staff, we have constructed hundreds of fresh and salt water bulkheads and shoreline restoration projects and understand what does and doesn't work. Marine contractors are rarely contacted to share their experience on these issues when changes are being considered or implemented. This results in guidelines that are impractical, unreasonable or too costly for the average property owner to accomplish. Companies like ours benefit from all types of shoreline work, whether bulkheads or natural shoreline restoration, so our main incentive is the protection of property rights for our valuable and hard-working client base.

Please excuse the length of this letter but it was the only way to provide a complete picture of what your waterfront property owners and government are facing. It will also impact the number of projects and fees collected by the city or county and future revenue generated through tax dollars based on property values. Thank you for your time and consideration on this very important issue for your residents. One important question to ask yourself is, "Is our SMP broken and in need of repair or does it work effectively for our city or county and our citizens?"

If anyone receiving this would like some examples of the hundreds of projects that have been approved throughout the Puget Sound and specifically in Lakes Washington and Sammamish since the introduction of the Corps RGP guidelines please contact me at the Everett office at 425-357-0312.

Respectfully,

David Douglas
Permit Coordinator
Waterfront Construction, Inc.

US Army Corps of Engineers
Seattle District

Proposed Department of the Army Regional General Permit

RGP-3
Construction of New or Modification of Existing Residential Overwater Structures and Installation of Moorage Piling in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, Including the Lake Washington Ship Canal

Effective Date: March 7, 2005 **Expiration Date:** March 7, 2010

Permit Number: RGP-3

Permit Title: Residential Overwater Structures in Lake Washington, Lake Sammamish, Lake Union and Lake Washington Ship Canal

Authority: In accordance with 33 CFR 325.2(e)(2), the U.S. Army Corps of Engineers (Corps) is issuing this Regional General Permit 3 (RGP 3) that would authorize certain activities in or affecting waters of the United States, including navigable waters of the United States, upon the recommendation of the Chief of Engineers, pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

Issuing Office: U.S. Army Corps of Engineers, Seattle District
Regulatory Branch, CENWS-OD-RG
Post Office Box 3755
Seattle, Washington 98124-3755
Telephone: (206) 764-3495

Purpose: The purpose of RGP 3 is to authorize the construction of new or modification of existing residential overwater structures and installation of moorage piling in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, including the Lake Washington Ship Canal.

Use of RGP-3: To use RGP 3, a prospective permittee must first notify the Corps of the proposed work in accordance with the application procedures (see page 2). ***A proposed project is not authorized under this RGP, and work may not commence, until the District Engineer or his designee has issued written notification that the proposed project meets the requirements of this RGP and is authorized.*** The permittee and all contractors performing work are responsible for ensuring that the authorized work complies with all applicable provisions of RGP 3, including any project-specific special conditions that may be added by the District Engineer. Failure to abide by the requirements of RGP 3 may constitute a violation of the Rivers and Harbors Act or the Clean Water Act. For purposes of this RGP, the term "permittee" shall include all successors in interest.

RGP-3 contains provisions intended to protect the environment, endangered species, and cultural resources. Work that will not comply with these provisions is not authorized by this RGP and may require Department of the Army authorization by a standard individual permit. Moreover, compliance with the provisions of RGP-3 does not itself guarantee that the work is authorized by this RGP.

Activities that appear to comply with the provisions of RGP 3 but would have an unacceptable adverse impact on the public interest are not authorized.

Location of Authorized Activities: RGP 3 is applicable in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, including the Lake Washington Ship Canal.

Activities Authorized by this RGP: Work authorized by RGP-3 is limited to the construction of new or modification of existing residential overwater structures including piers, floats, ramps and other similar structures and/or installation of moorage piling and future maintenance of authorized facilities. Once the work is authorized by RGP-3, any proposed modifications beyond the limitations of RGP-3 must be approved by a Department of the Army Individual Permit. This RGP only authorizes one pier/ramp/float structure per property. There are further limitations for joint use piers (see Application Procedures section below). Definitions of terms used in this RGP are located in Appendix F of this document.

This permit authorizes fill material placed for the purposes of fish habitat enhancement, as required by the Hydraulic Project Approval (HPA) from the Washington Department of Fish and Wildlife. Also, any Corps required mitigation measures for the overwater structures are also authorized by this RGP.

Application Procedure: Authorization under RGP 3 requires that a prospective permittee notify the Corps of the proposed work in accordance with the application procedures described in this section and not proceed with the proposed work until the District Engineer or his designee issues written notification that the proposed project meets the requirements of this RGP and is authorized. To notify the Corps of a proposed project that may qualify for authorization under this RGP, the prospective permittee must submit the following information:

1. A complete ***Specific Project Information Form (SPIF)*** for RGP 3 (see Appendix A). Submittal of a completed *SPIF* for RGP 3 constitutes the applicant's voluntary agreement to meet all of the requirements of this RGP.

2. A "complete application" including appropriate vicinity map, plan, profile, and cross-section drawings of the proposed work and structures and overwater structures on adjacent properties, as well as estimates of the volume of each type of material that would be discharged (temporarily or permanently) into waters of the United States (for assistance with preparation of the drawings, please refer to Appendix B, *Drawing Checklist*). A complete application must also incorporate appropriate impact reduction measures as discussed in the *Construction Specifications and Conservation Measures* section below (see paragraph 10).

3. A drawing showing the planting plan and species list (see Appendix C) must be included with the project drawings discussed above.

4. If the structure will be "joint use" you must:
   a. List all property owners using the joint use pier as co-applicants and they must sign the application form.
   b. Provide a joint use agreement signed by all involved property owners; the agreement must state that each property owner voluntarily agrees to build no overwater structures on their property except for the authorized joint use overwater structure.
   c. Show on a drawing the location of all properties involved in the joint use agreement.

5. For activities that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places, the notification must include a description of each historic property that may be affected by the proposed work and a map indicating the location of the property.

6. Any other relevant information, such as photographs of the project area, a description of any offsite borrow site that would be used, and a copy of the HPA.

Upon receipt of a complete application, the Corps will forward a copy of the SPIF and any relevant information, including the HPA, to NOAA's National Marine Fisheries Service and the U.S. Fish and Wildlife Service (Services), and the Muckleshoot Indian Tribe. The Services and the Tribe will have 21 calendar days to provide comments on the application. If no comments are received, the Corps will complete its review, and if appropriate, issue written notification to the applicant that the proposed work meets the requirements of the RGP provided all other terms and conditions of the RGP are met.

If the Services or the Tribe raise any issues relating to the project, resolution of these issues must occur prior to the Corps confirming that the project meets the requirements of the RGP. If a resolution cannot be reached, the project may require additional information or may need to be processed using the Corps' individual permit procedures.

Construction Specifications and Conservation Measures: The following construction specifications and conservation measures must be implemented for the work to be authorized by this RGP:

1. Number of Overwater Structures. This permit authorizes the construction, expansion or modification of only one non-commercial, residential moorage facility per upland residential waterfront property owner or one joint-use moorage facility for two or more adjacent waterfront property owners.

2. Existing In-Water Structures. Any existing in-water and overwater structures within 30 feet of the ordinary high water (OHW) line (with the exception of bulkheads), except for those facilitating access as authorized by this permit, shall be removed and no additional in- or over-water structures shall be constructed in this nearshore area over the entire length of the property without notifying the Corps.

3. Pier, Ramp, Float, and Ell Specification Options. Note that only piers and ramps can be within the first 30 feet from shore. All floats and ells must be at least 30 feet waterward of OHW. No skirting is allowed on any structure.

   a. Surface Coverage (includes all floats, ramps, and ells):
      (1) Single property owner: 480 square feet
      (2) Two property owners (residential): 700 square feet
      (3) Three or more residential property owners: 1000 square feet.

   b. Height above the water surface: except for floats, the bottom of all structures must be at least 1.5 feet above OHW.

   c. Widths and lengths:
      (1) Piers - must not exceed a width of 4 feet and must be fully grated with at least 60% open area.
      (2) Ramps - must not exceed a width of 3 feet and must be fully grated.
      (3) Ells - must be in water with depths of 9 feet or greater at the landward end of the ell.
         a. Up to 6-feet wide by 20-foot long with a 2-foot strip of grating down the center.
         b. Up to 6-feet wide by 26-foot long with grating providing 60% open area over the entire ell.
         c. One 2-foot wide by 20-foot long, fully grated finger ell is allowed.

(4) Floats- must be in water with depths of 10 feet or more at the landward end of the float. Floats can be up to 6 feet wide and 20 feet long, but must contain a minimum of 2 feet of grating down the center of the entire float.

4. Length of Structures compared to Adjacent Structures. The length of a pier is limited by the maximum square footage allowed (see item no. 3 above). Any proposed pier that extends further waterward than adjacent piers will be reviewed on a case-by-case basis to assess impacts on navigation. Piers determined by the Corps to have an adverse effect on navigation are not authorized by this permit.

5. Piling Specifications. The first in-water (nearest shore) set of pilings shall be steel, 4" piling and at least 18' from the OHW. Piling sets beyond the first shall also be spaced at least 18 feet apart and shall not be greater than 12" in diameter. Piles shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds. If ACZA piling are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers. All piling sizes are in nominal diameter.

   Steel piles will be installed using approved sound attenuation measures. These measures can be found on the Corps website: *http://www.nws.usace.army.mil/reg.html*.

6. Treatment of Overwater Structural Materials. Any paint, stain or preservative applied to components of the overwater structure must be leach resistant, completely dried or cured prior to installation. Materials shall not be treated with pentachlorophenol, creosote, CCA or comparably toxic compounds.

7. Existing Habitat Features. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall not be removed from the riparian or aquatic environment. If invasive weeds (e.g., milfoil) are present and applicant wishes to remove them, removal shall occur by non-chemical means only with authorization from the Washington State Department of Fish and Wildlife.

8. Mooring Piles. This permit allows for no more than 2 mooring piles installed per structure authorized by this RGP. Joint-use structures can have up to 4 mooring piles. The 2-pile limit for individuals and 4-pile limit for joint-users shall include all existing mooring piles. Moorage piling shall not be installed within 30 feet of the OHW line; shall not be placed any further waterward than the end of the pier; and shall not be placed more than 12 feet from the pier. These piles shall be as far offshore as possible.

9. Future Maintenance of Facilities. Future maintenance of facilities authorized by this RGP are authorized provided there is no change in size, configuration, or use of the facility; that all maintenance is conducted in accordance with all conditions contained herein and in the RGP verification letter; and as long as no new species have been listed under the Endangered Species Act. Before doing any overwater or in-water maintenance, applicants must contact the Corps to determine whether a separate permit is necessary.

10. Impact Reduction Measures. The above-described construction measures will minimize impacts of these structures to the aquatic environment. However, because of cumulative impacts of numerous floating and stationary structures to be authorized under this RGP, impact reduction measures must be implemented. Impact reduction measures consist of planting emergent vegetation waterward of OHW (if site appropriate) and a zone of riparian vegetation a minimum of 10-feet wide along the entire length of the shoreline immediately landward of OHW. Joint-

use piers will require a planting plan covering all properties sharing the pier. A path 6-feet wide or less is allowed through the zone of riparian vegetation for access to the pier. Chemical fertilizers, herbicides and pesticides shall not be applied to the riparian zone.

The purpose of this zone is to establish a riparian plant community and associated food web that can be used by migrating salmonids as they pass through the project area. The vegetation will provide food, organic matter, and root structure for protection of juvenile fish in the near shore area. Woody debris from the buffer that enters the water will provide nutrients to the lake ecosystem. Therefore, woody debris shall not be removed from the water or shoreline.

A permittee is required to establish and preserve impact reduction plantings at the project site for the duration that the overwater structure is in place. The intent of the shoreline planting should be to provide a continuous native plant community along the shoreline. The impact reduction planting will consist of native shrubs and trees and, when possible, emergent vegetation. At least two native trees and three willow plants (See Appendix D) shall be included in the planting plan. Planting density and spacing should be commensurate with spacing recommended for each individual species. Prior to issuance of an RGP, the Corps must approve the prospective permittee's planting plan and species list and numbers. The impact reduction planting must be completed within 12 months of the Corps' issuance of an RGP to the permittee.

Other impact reduction measures may be proposed by the applicant, particularly if riparian plantings are not feasible, due to lack of space. These will be reviewed and approved by the Corps, the U.S. Fish and Wildlife Service and NOAA's National Marine Fisheries Service on a case-by-case basis.

11. Impact Reduction Planting Performance Standards. One hundred percent survival of all planted native trees and shrubs is required during the first and second years after planting. During the third through fifth years after planting 100 percent of the trees must survive and 80 percent survival of the remaining native plants is required. Individual plants that die must be replaced with native shrubs and trees taken from the approved species list (see Appendix C).

12. Impact Reduction Reports. Impact reduction reports must be submitted to the Corps for all projects as follows:

    a. A status report on impact reduction construction, including as-built drawings, must be submitted to the Corps 12 months from the date the Corps issues an RGP to the permittee. Status reports on impact reduction construction will be due annually to the Corps until the Corps accepts the as-built drawings. The permittee can meet this reporting requirement by submitting to the Corps a completed *Status Report for Impact Reduction Construction*, found in Appendix D.

    b. For impact reduction planting, monitoring reports will be due annually for 5 years from the date the Corps accepts the as-built drawings. The impact reduction monitoring report will include written and photographic documentation on tree and shrub mortality and replanting efforts. The permittee can meet this reporting requirement by submitting to the Corps a completed *Impact Reduction Monitoring Report*, found in Appendix E.

13. Allowable Work Windows for Bald Eagles. The prospective permittee agrees to abide by the work window established by the Corps (please refer to the Corps, Seattle District, Regulatory Branch Internet homepage, *http://www.nws.usace.army.mil/reg.html* for the current listing of approved work windows). Adherence to these timing windows is necessary, in most cases, to maintain a not likely to adversely affect (NLAA) determination if all other measures have

reduced the project impacts to this level. Variations in this work window are based on the distance of the proposed project to the nearest bald eagle nest and wintering concentration. The Corps will coordinate with the U.S. Fish and Wildlife Service to determine the appropriate work window once an application is submitted.

14. Allowable Work Windows for Listed Fish Species. In addition to the work windows for bald eagles listed above, work must comply with established fish work windows for the corresponding portion of Lake Washington, Lake Sammamish, the Sammamish River or Lake Union, including the Lake Washington Ship Canal. (Please refer to the Corps, Seattle District, Regulatory Branch Internet homepage, *http://www.nws.usace.army.mil/reg.html* for the current listing of approved work windows.)

15. Work in the Dry. Work that disturbs the substrate, bank, or shore of a water of the United States shall occur in the dry whenever practicable.

16. Operation of Equipment. Equipment shall be operated from the top of the bank, dry gravel bar, work platform, or similar out-of-water location whenever possible. Equipment shall be operated in a manner that minimizes the suspension of particulates. All equipment used in or around waters shall be clean and inspected daily prior to use to ensure that the equipment has no fluid leaks. Should a leak develop during use, the leaking equipment shall be removed from the site immediately and not used again until it has been adequately repaired. Equipment should be stored and/or fueled at least 100 feet from any surface water where possible.

17. Disturbance of Vegetation. Disturbance of bank vegetation shall be limited to the minimum amount necessary to accomplish the project. Disturbed bank vegetation shall be replaced with native, locally adapted herbaceous and/or woody vegetation. Herbaceous plantings shall occur within 48 hours of the completion of construction. Woody vegetation components shall be planted in the fall or early winter, whichever occurs first. The applicant shall take appropriate measures to ensure revegetation success.

18. Isolation of Work Area. In-water work areas shall be isolated from the surrounding waterbody by properly installed silt screen or similar sediment containment device whenever practicable. The permittee shall remove these temporary sediment containment devices as soon as the devices are no longer necessary to protect the surrounding waterbody.

19. Proximity to Wetlands. No structure permitted herein shall be installed in or within 100-feet of a of either side of the mouth of any river, stream, or creek. Structures in or within 100-feet of a wetland must avoid impacts to the wetland to the maximum extent possible. "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

20. Navigation and Access to Adjacent Structures and Property. The permitted activity must not interfere with the public's right to free navigation on navigable waters of the United States, including ingress and egress to adjacent waterfront structures and property.

Water Quality Certification: The Corps requested that the Washington Department of Ecology (Ecology), pursuant to Section 401 of the CWA and Chapters 173-225 of the Washington Administrative Code (WAC) and the requirements of the U.S. Coastal Zone Management Act (16 U.S.C. 1452 et seq.) and its implementing regulations (15 CFR 923-930), certify that those activities authorized by this RGP for which Ecology is responsible will not violate established State of Washington water quality standards

and will be consistent with the requirements of the State of Washington's Coastal Zone Management (CZM) program. On August 7, 2003, Ecology provided the required 401Water Quality Certification. By not acting on the Corps request for Certification of Consistency with the Washington Coastal Zone Management Program, state agency concurrence is presumed.

Endangered Species: The Endangered Species Act of 1973 (ESA), as amended, requires all Federal agencies to consult with NOAA's National Marine Fisheries Service and/or the U.S. Fish and Wildlife Service (USFWS), pursuant to Section 7 of the ESA, on any action, or proposed action, permitted, funded, or undertaken by the agency that may affect a species listed as threatened or endangered under the ESA, or its designated critical habitat. The Corps has completed consultation and received concurrence.

Essential Fish Habitat: The Magnuson-Stevens Fishery Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996, requires all Federal agencies to consult with NOAA's National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely affect Essential Fish Habitat (EFH). The Corps has determined that issuance of this RGP may adversely affect EFH for federally managed fisheries in Washington waters, the Corps has completed consultation with NOAA's National Marine Fisheries Service.

Permit Conditions: Department of the Army authorization under this RGP is subject to the following general conditions:

GENERAL CONDITIONS

1. Reliance on Permittee's Information. In verifying a permittee's authorization under this RGP, the Department of the Army has relied, in part, on the information provided by the permittee. If this information proves to be false, incomplete, or inaccurate, the permittee's authorization may be modified, suspended, or revoked, in whole or in part.

2. Compliance with Terms and Conditions. Projects authorized by this RGP shall comply with all terms and conditions herein and any case-specific conditions added by the Corps, State, or Environmental Protection Agency or a tribe as a result of a water quality certification. Failure to abide by these terms and conditions invalidates this authorization and may result in a violation of Federal law, which may require that the permittee restore the site or take other remedial action. Activities requiring Department of the Army authorization that are not specifically authorized by this RGP are prohibited unless authorized by another Department of the Army permit.

3. Contractor's Copy of Permit. The permittee shall provide complete copies of this permit and the Corps verification letter for the authorized project to each contractor involved in the project and keep copies of this permit and Corps verification letter available for inspection at the project site.

4. Compliance Certification. Every permittee shall submit to the Corps, within 30 days of completing the authorized work, certification that the work, including any required impact reduction, was conducted in accordance with the provisions of this RGP, including case-specific special conditions. The permittee must use the *Statement of Compliance Form* (Appendix D) of this RGP.

5. Access for Inspection. The permittee shall allow the District Engineer or his authorized representative to inspect the project whenever deemed necessary to ensure that the activity is in compliance with the terms and conditions prescribed herein.

6. Limits of Authorization. This permit does *not*:

   a. Obviate the requirement to obtain all other Federal, State, or local authorizations required by law for the activity authorized herein, including any authorization required from Congress.

   b. Convey any property rights, either in real estate or material, or any exclusive privileges.

   c. Authorize any injury to property, invasion of rights, or any infringement of Federal, State, or local laws or regulations.

   d. Authorize the interference with any existing or proposed Federal project.

7. Limits of Federal Liability. This permit is not an approval of the design features of any authorized project or an implication that such project is adequate for the intended purpose; a Department of the Army permit merely expresses the consent of the Federal Government to conduct the proposed work insofar as public rights are concerned. In issuing this RGP, the Federal Government does not assume any liability for the following:

   a. Design or construction deficiencies associated with the authorized work.

   b. Damages to the permitted project or uses thereof as a result of other permitted activities or from natural causes, such as flooding.

   c. Damages to persons, property, or to other permitted or unauthorized activities or structures caused by the activity authorized by this permit.

   d. Damages associated with any future modification, suspension, or revocation of this permit.

   e. The removal, relocation, or alteration of any structure or work in navigable waters of the United States ordered by the Secretary of the Army or his authorized representative.

   f. Damage to the permitted project or uses thereof as a result of current or future activities undertaken by, or on behalf of, the United States in the public interest.

8. Tribal Rights. No activity may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

9. Corps Coordination. Permittees shall coordinate with the appropriate office of the Corps prior to commencing any construction activity in a federally maintained channel and/or waterway

10. Obstruction of Navigation. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration of the work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work unreasonably obstructs the full and free use of navigable waters of the United States, the permittee shall, upon due notice from the Corps, remove, relocate, or alter the obstructions caused thereby, without expense to the United States. If the permittee fails to comply with the direction of the Corps, the District Engineer may restore the navigable capacity of the waterway, by contract or otherwise, and recover the cost thereof from the permittee.

11. Stability. The permittee shall design projects to be stable against the forces of flowing water, wave action, and the wake of passing vessels.

12. Maintenance. The permittee shall properly maintain all authorized structures, including maintenance necessary to ensure public safety.

13. Marking Structures. The permittee shall install and maintain any lights, signals, or other appropriate markers necessary to clearly designate the location of structures or work that might pose a hazard to public safety. Permittees shall abide by U.S. Coast Guard requirements concerning the marking of structures and work in navigable waters of the United States.

14. Endangered Species. This RGP does not authorize any activity that is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the ESA.

15. Essential Fish Habitat. This RGP does not authorize any activity that may adversely affect designated Essential Fish Habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act.

16. Historic Properties. This RGP does not authorize any activity that may affect historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) until the provisions of 33 CFR 325, Appendix C, have been satisfied. Historic properties include prehistoric and historic archeological sites, and areas or structures of cultural interest. A prospective permittee must notify the District Engineer if the proposed activity may affect a historic property that is listed, eligible for listing, or may be eligible for listing in the NRHP, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. If a previously unknown historic property is encountered during work authorized by this RGP, the permittee shall immediately cease all ground activities in the immediate area, notify the Corps within 1 business day of discovery. The permittee shall perform any work required by the Corps in accordance with Section 106 of the National Historic Preservation Act and Corps regulations and avoid any further impact to the property until the District Engineer verifies that the requirements of 33 CFR Part 325, Appendix C, have been satisfied.

17. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status unless the appropriate federal agency (e.g. National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service), with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

18. Water Quality Standards. All activities authorized herein that involve a discharge of dredged or fill material into waters of the United States shall, at all times, remain consistent with all applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards, and management practices established pursuant to the Clean Water Act (P.L. 92-500; 86 Stat. 816) or pursuant to applicable State and local law.

19. Minimization of Environmental Impact. The permittee shall make every reasonable effort to conduct the authorized activities in a manner that minimizes the adverse impact of the work on water quality, fish and wildlife, and the natural environment, including adverse impacts to migratory waterfowl breeding areas, spawning areas, shellfish beds, and aquatic resource buffer zones.

20. Soil Erosion and Sediment Controls. The permittee shall use and maintain appropriate erosion and sediment controls in effective operating condition and permanently stabilize all exposed soil and

other fills, including any work below the ordinary high water mark or high tide line, at the earliest practicable date using native vegetation to the maximum extent practicable. The permittee shall remove all installed controls as soon as they are no longer needed to control erosion or sediment.

21. Equipment. The permittee shall place heavy equipment working in wetlands on mats, or take other appropriate measures to minimize soil disturbance.

22. Aquatic Life Movements. The permittee shall not substantially disrupt the necessary life-cycle movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the primary purpose of the activity is to temporarily impound water.

23. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain downstream flow conditions. Furthermore, the activity shall not permanently restrict or impede the passage of normal or expected high flows. The permittee should limit the work conducted in waters of the United States to low- or no-flow periods.

24. Water Supply Intakes. The permittee shall ensure that activities authorized by this RGP have no more than a minimal adverse impact on public water supply intakes.

25. Practicable Alternatives. Activities authorized by this RGP shall be designed and constructed to avoid and minimize adverse impacts to waters of the United States to the extent practicable through the use of practicable alternatives.

26. Suitable Material. Any material or structure placed in waters of the United States, whether temporary or permanent, shall be free of toxic pollutants in toxic amounts.

27. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected area returned to pre-construction contours.

28. Disposal of Excess Material. All construction debris and any other material not authorized by the Corps for permanent placement into waters of the United States shall be disposed of in an upland location in a manner that precludes it from entering waters of the United States.

Modification, suspension, or revocation of the RGP: This RGP may be modified or suspended in whole or in part if the Secretary of the Army or his authorized representative determines that the individual or cumulative impacts of work that would be authorized using this procedure are contrary to the public interest. Any such modification, suspension, or revocation shall become effective 30 days after the issuance of a public notice announcing such action. The final decision whether to modify, suspend, or revoke this permit, in whole or in part, shall be made pursuant to procedures prescribed by the Chief of Engineers. Following such revocation, any future activities heretofore authorized by this RGP will require alternate Department of the Army authorization.

The authorization of an individual project under this RGP may also be summarily modified, suspended, or revoked, in whole or in part, if the permittee either fails to abide by the terms and conditions of this permit or provides information that proves to be false, incomplete, or inaccurate, or upon a finding by the District Engineer that such action would be in the public interest. If a permittee's authorization is revoked, the permittee shall, upon notice of such revocation, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former condition. If the permittee fails to comply with the direction of the Secretary

of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

Expiration of the RGP: This permit shall become effective on the date of the signature of the District Engineer or his authorized representative and will automatically expire 5 years from that date unless the permit is modified, revoked, or extended prior to that date. Activities that have commenced (e.g., are under construction) or are under contract to commence in reliance upon this permit will remain authorized provided that the activity is completed within 1 year of the date of this permit's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

7 March 2005
Date

Michelle Walker for
DEBRA M. LEWIS
Colonel, Corps of Engineers
District Engineer

APPENDIX A

US Army Corps of Engineers ®
Seattle District

REGIONAL GENERAL PERMIT 3
APPLICATION FORM
For Construction of New or Modification of Existing Residential Overwater Structures and Drive Moorage Piling in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, Including the Lake Washington Ship Canal, in the State of Washington

Version March 7, 2005

TO BE COMPLETED BY THE CORPS
Corps Reference Number _____
☐ The proposed work meets all of the conditions of RGP 3.
☐ The proposed work does not meet all of the conditions of RGP 3. This form constitutes a Reference Biological Evaluation.
USFWS Reference: 1-3-04-PI-00560 NMFS Reference: 2004/00175

1. **Biological Evaluation:**
   Biological Evaluation for Construction of New or Modification of Existing Residential Overwater Structures and Installation of Moorage Piling in Lake Washington, Lake Sammamish, the Sammamish River and Lake Union, Including the Lake Washington Ship Canal, in the State of Washington June 26, 2003. U.S. Army Corps of Engineers, Seattle District, Regulatory Branch.
2. **Date**: _____
3. **Applicant' Name**: _____
   Address: _____
   City: _____ State: _____ Zip: _____
4. **Agent' Name:** _____
   Address: _____
   City: _____ State: _____ Zip: _____
5. **Location(s) of Activity:**
   Quarter Section: _____ Section: _____ Township: _____ Range: _____
   Latitude: _____ Longitude: _____
   Street address: _____
   Waterbody: _____ County: _____
   Names and Addresses of Adjacent Property Owners:
   _____
   _____
6. **Use type:** ☐ Private non-commercial ☐ Private Joint-use[a] non-commercial

[a] Joint use requires at least two contiguous residential waterfront property owners.

Name and address of joint-use property owner(s):

_____

_____

7. **Project description:** _____

_____

_____

_____

8. **Construction techniques:**

a. Describe how the piling will be installed. Include the type of equipment, tools, and machinery to be used:

_____

_____

b. Describe how the pier, ramp, and float will be constructed, transported, and installed. Include the type of equipment, tools, and machinery to be used:

_____

_____

_____

_____

_____

_____

c. The number of days it will take to complete the project: _____

d. Describe the methods proposed to prevent construction debris from entering the water or causing water quality degradation: _____

_____

_____

_____

_____

Endangered Species Act (ESA) Information: Specific Project Information

Conservation Measures and Construction Specifications: In order to meet all ESA requirements for authorization under this Regional General Permit (RGP), all applicable Conservation Measures and Construction Specifications summarized below must be implemented. The entire text of the Conservation Measures and Construction Specifications are listed in the RGP document. Check each item that you agree to implement. Check each item "not applicable" if they do not apply to your project. For example, if you will not install piling, check "not applicable" next to the item listing the piling requirements. You must also complete the column on the right with your specific project information.

I (We) Will Implement	I (We) Will Not Implement	Not Applicable	Conservation Measure and Construction Specification	Specific Project Information
☐	☐	☐	Existing in-water and over-water structures (with the exception of bulkheads) with 30 feet of OHW, except for those facilitating access, shall be removed and no additional in-water structures shall be	Existing in-water and over-water structures that will be removed: _____

I (We) Will Implement	I (We) Will Not Implement	Not Applicable	Conservation Measure and Construction Specification	Specific Project Information
			constructed in this nearshore area over the entire length of the property.	
☐	☐	☐	Only piers and ramps can be within 30 feet of shore. All floats and ells must be at least 30 feet waterward of OHW.	
☐	☐	☐	Skirting: Skirting is not authorized by this RGP and any existing skirting must be removed.	
☐	☐	☐	New Piers: Surface coverage of pier must not exceed the following: a. Single property owner- 480 square feet b. Two property owners- 700 square feet c. Three or more property owners- 1000 square feet	size of proposed pier: _____ square feet
☐	☐	☐	Except for floats, the bottom of all structures must be at least 1.5 feet above OHW.	distance of bottom of pier from OHW
☐	☐	☐	Pier/walkway must be fully grated.	_____ % open area
☐	☐	☐	Pier/walkway must be no wider than 4 feet.	width of proposed pier: _____ feet
☐	☐	☐	Ramps must not exceed 3 feet in width and be fully grated.	width of proposed ramp: _____ feet
☐	☐	☐	Ells must not exceed than 6-foot wide by 20-foot long with a 2-foot wide strip of grating down the center OR 6-foot wide by 26-foot long and fully grated.	length of ell: _____ feet width of ell: _____ feet
☐	☐	☐	Finger ell must be no wider than 2-foot wide and no longer than 20-foot long and fully-grated.	length of ell: _____ feet width of ell: _____ feet
☐	☐	☐	Float width must not exceed 6 feet and the length cannot exceed 20 feet.	width of proposed float: _____ feet length of proposed float: _____ feet
☐	☐	☐	Floats must contain at least a two foot strip of grating down the center	
☐	☐	☐	All grating must have at least 60% open area.	Proposed grating has _____ % open area
☐	☐	☐	Piling: The first in-water set of piles shall be steel, 4-inch and at least 18-feet from OHW.	Type of material and size of first set of piling;
☐	☐	☐	Beyond the first set of piles, piles for a new pier must be spaced no closer than 20 feet apart and no greater than 12-inces in diameter.	Number of proposed piling supporting the new pier: _____ Size of piling beyond the first set: _____
☐	☐	☐	Piling beyond the first set: Replacement or proposed new piling can be steel, concrete, plastic or untreated or treated wood.	Type of material for piling: _____
☐	☐	☐	A maximum of 2 (two) moorage piling (or 4 for joint-use) may be	Number of proposed

I (We) Will Implement	I (We) Will Not Implement	Not Applicable	Conservation Measure and Construction Specification	Specific Project Information
			installed to accommodate the moorage of boats exceeding the length of the floats.	mooring piling: _____
☐	☐	☐	Moorage piling shall be at least 30-feet waterward of OHW and no further than 12 feet from the end of the pier.	Distance of piling from OHW:_____ Distance of piling from pier: _____
☐	☐	☐	If an impact hammer pile driver for steel piling is utilized, a sound attenuation device or system must be implemented during pile driving. Steel piling cannot exceed a 12-inch diameter.	Diameter of steel piling: _____ feet
☐	☐	☐	1. Piling with diameter of 10 inches or less – one Corps approved sound attenuation device is required	Type of sound attenuation device: _____
☐	☐	☐	2. For piling with a diameter greater than 10 inches, up to 12 inches, two Corps approved sound attenuation devices are required	Type of sound attenuation devices: _____
☐	☐	☐	Treated Wood: No creosote, pentachlorophenol, CCA, or comparably toxic compounds not approved for marine use, shall be used for any portion of the over water structure. ACZA treated wood must meet Post-Treatment Procedures.	If treated wood will be used, list type of treatment: _____ You must also submit certification that the wood was treated by the appropriate and approved Post Treatment Procedures before authorized work can commence.
☐	☐	☐	Invasive aquatic weeds are present and applicant will remove by non-chemical means.	
☐	☐	☐	Impact Reduction Measures: Applicant will plant emergent vegetation.	
☐	☐	☐	Impact Reduction Measures: Applicant will plant a ten-foot wide strip of vegetation along the entire of the shoreline (including shorelines of any joint-use applicants). A six-foot wide path through the vegetation is allowed for access to the pier.	
☐	☐	☐	Impact Reduction Plantings: The authorized species, number of plants, and correct spacing of plants will be utilized.	Attach planting plan.
☐	☐	☐	Impact Reduction Planting Performance Standards- The required performance standards will be met for the 5-year monitoring period: a. 100% survival of all trees and shrubs for the first two years. b. 100% of trees and 80% of shrubs must survive years 3-5.	
☐	☐	☐	Impact Reduction Reports: A status report on the project and mitigation, including as-built drawings, must be submitted to the Corps within 12 months from the date the Corps issues an RGP to the permittee. **P**lanting monitoring reports will be due annually for 5 years from the date.	
☐	☐	☐	Fish Work Windows: The required RGP fish work window will be met. Note: The RGP fish work window may be different than the HPA work window. For the work to be authorized by this RGP, the RGP fish work window must be met.	Fish work window at this project location is (per Corps' website): _____
☐	☐	☐	Bald Eagle Work Window: Required bald eagle work windows will be met, if applicable to the project location. General work prohibition times: January 1 through August 15 (nesting areas) November 1 through March 31 (wintering areas)	The required bald eagle work window at this project location will be determined by the Corps

I (We) Will Implement	I (We) Will Not Implement	Not Applicable	Conservation Measure and Construction Specification	Specific Project Information
☐	☐	☐	Work in the Dry: Work that disturbs the substrate, bank, or shore shall occur in the dry whenever practicable.	
☐	☐	☐	Operation of Equipment: Equipment shall be operated from the top of the bank, dry gravel bar, temporary work platform, barge, or similar out-of-water location.	
☐	☐	☐	Equipment shall be operated in a manner that minimizes suspended particulates from entering the water column.	
☐	☐	☐	All equipment used in or around waters shall be clean and inspected daily prior to use to ensure that the equipment has not fluid leaks. Any equipment that develops a leak shall be removed from the site immediately and not used again until it has been adequately repaired.	
☐	☐	☐	All General Conditions will be met.	
☐	☐	☐	A copy of this permit, permit drawings, mitigation planting plan, and final authorization letter shall be recorded with the Registrar of Deeds, within 60 days after final Corps authorization, to ensure that subsequent property owners are aware of the construction, use, and mitigation requirements. Proof of this must be provided to the Corps within 65 days after the date of the Corps' RGP verification letter to the permittee. **If the pier is joint use**, all co-applicants must voluntarily agree to build no additional overwater structures on their property, except for the maintenance or modification of the proposed joint use overwater structure. This voluntary agreement and the documentation described above must be recorded on the deeds of all involved properties. (General Condition 3)	

9. **Essential Fish Habitat, area affected (square footage of pier, ramp, and float):** _____

10. **Drawings:** Attach a vicinity map and project drawings (plan and elevation views required). Photographs are recommended.

11. **Planting plan:** Attach copy of planting, monitoring, and contingency plan for riparian area.

If the applicant has <u>checked "will not implement" for any of the above items</u>, then the following items must be completed by the applicant:

☐ You must attach a completed Coastal Zone Management form.

Note: This form can be found on the Corps' web page: www.nws.usace.army.mil/reg.html

☐ Based on the existing environmental conditions and the proposed work, the applicant is proposing additional impact reduction measures (beyond the requirements of Construction Specification 10) as described below: _____

List those Conservation Measures that will not be met by this project. Describe why they won't be met:

_____

_____

_____

_____

_____

APPLICATION IS HEREBY MADE FOR A PERMIT OR PERMITS TO AUTHORIZE THE ACTIVITIES DESCRIBED HEREIN. I CERTIFY THAT I AM FAMILIAR WITH THE INFORMATION CONTAINED IN THIS APPLICATION, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, SUCH INFORMATION IS TRUE, COMPLETE, AND ACCURATE. I FURTHER CERTIFY THAT I POSSESS THE AUTHORITY TO UNDERTAKE THE PROPOSED ACTIVITIES. I HEREBY GRANT TO THE AGENCIES TO WHICH THIS APPLICATION IS MADE, THE RIGHT TO ENTER THE ABOVE-DESCRIBED LOCATION TO INSPECT THE PROPOSED, IN-PROGRESS, OR COMPLETED WORK. I VOLUNTARILY AGREE TO MEET ALL REQUIREMENTS OF THIS RGP. I AGREE TO START WORK ONLY AFTER ALL NECESSARY PERMITS HAVE BEEN RECEIVED.

Signature of Applicant	Date
Signature of Authorized Agent	Date
Signature of Contractor (if Contractor is known)	Date

APPENDIX B

Drawing Checklist

1. GENERAL

- ☐ Use clear black lettering and fewest number of sheets possible; use 8 ½- by 11-inch sheets
- ☐ State the purpose of the proposed or existing work
- ☐ List property owners and indicate number by number on plan view drawing
- ☐ Show datum used in plan and elevation drawings
- ☐ Use a graphic scale on all drawings
- ☐ Use a north arrow; prepare drawing with north being directed to the top of the page
- ☐ Label all proposed and existing work as such (e.g., Proposed Pier, Proposed Fill…)

2. TITLE BLOCK

☐ A completed title block (first example) must be on every sheet; for subsequent sheets you can use the abbreviated form (second example). All sheets will include the date and/or revision date.

PURPOSE: DATUM: ADJACENT PROPERTY OWNERS: 1. 2.	APPLICANT 2002- LOCATION ADDRESS	PROPOSED: IN: NEAR/AT: COUNTY: STATE: WA SHEET * OF * DATE:

Reference: 2002- Applicant: Proposed: At Washington Sheet * of * Date

3. VICINITY MAP

- ☐ Clearly show location of project (e.g., arrow, circle, etc.)
- ☐ List latitude, longitude, section, township, and range
- ☐ Name waterways
- ☐ Show roads, streets, and/or mileage to nearest town or city limits

4. PLAN VIEW

- ☐ Show shorelines:
  - Tidal: Show mean high water (MHW) line, mean higher high water (MHHW) line
  - Lakes or streams: Show the ordinary high water (OHW) line
- ☐ Show dimensions of proposed structures/fills; distance to property lines; encroachment beyond applicable shoreline; show wetland boundaries and specific impacts to wetlands
- ☐ Indicate location, quantity, and type of fill, if any
- ☐ Show all existing structures or fills on subject and adjacent properties
- ☐ Show direction of currents such as tidal ebb and flood
- ☐ Indicate adjacent property ownership

5. ELEVATION AND/OR SECTION VIEW

- ☐ Show shorelines, MHW line, MHHW line, OHW line, wetland boundary
- ☐ Show original and proposed elevations, water depths, dimensions of proposed structures or fills, and pertinent vertical dimensions to top and base of structure/fill; use the same vertical and horizontal scale, if possible
- ☐ Use equal horizontal and vertical scales on Section View. Do not skew vertical scale.

For Example Drawings: http://www.nws.usace.army.mil/PublicMenu/Menu.cfm?sitename=REG&pagename=Drawing_Samples

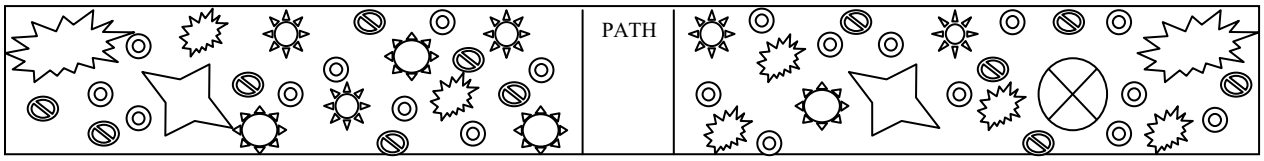
APPENDIX C

Below is a list of approved plant species and a sample planting plan. The applicant can suggest other species but the Corps must approve the species before work commences. Updates to this list may be found on the Corps website: http://www.nws.usace.army.mil/reg.html.

Common Name	Scientific Name
Willow spp.	
Sitka willow	*Salix sitchensis*
Souler willow	*S. scouleriana*
Sandbar willow	*S. exigua*
Pacific willow	*S. lasiandra*
Hooker willow	*S. hookeriana*
Conifers	
Douglas fir	*Pseudotsuga menzeisii*
Sitka spruce	*Picea sitchensis*
Shore pine or Lodgepole pine	*Pinus contorta*
Ponderosa pine	*Pinus ponderosa*
Grand fir	*Abies grandes*
Western hemlock	*Tsuga heterophylla*
Western red cedar	*Thuja plicata*
Other Trees	
Black cottonwood	*Populus trichocarpa*
Cascara	*Rhamnus purshiana*
Big leaf maple	*Acer macrophyllum*
Alnus rubra	*Red alder*
Birch species	*Betula spp.*
Pacific dogwood	*Cornus nuttalii*
Bitter cherry	*Prunus emarginata*
Large shrubs	
Red osier dogwood	*Cornus stolonifera*
Red flowering currant	*Ribes sanguineum*
Nootka rose	*Rosa nutkana*
Baldhip rose	*Rosa gymnocarpa*
Thimbleberry	*Rubus parviflorus*
Red elderberry	*Sambucus racemosa*
Vine maple	*Acer circinatum*
Western serviceberry	*Amelanchier alnifolia*
Ocean spray	*Holodiscus discolor*
Hazelnut	*Corylus americana*
Sweet gale	*Myrica gale*
Small shrubs/groundcover	
Salal	*Gaultheria shallon*
Oregon grape	*Berberis nervosa*
Black twinberry	*Lonicera involucrata*
Sword fern	*Polystichum munitum*
Snowberry	*Symphoricarpos albus*
Deer fern	*Blechnum spicant*
Emergent vegetation	
Hardstem bulrush	*Scirpus acutus*
Daggerleaf rush	*Juncus ensifolius*
Small fruited bulrush	*Scirpus microcarpus*

SAMPLE PLANTING PLAN

PLAN VIEW
Scale:
1 inch = 10 feet
10-foot wide by 65-foot long



LEGEND

TREE SPECIES

willow species, generally on 10-foot centers

conifer, generally on 10-foot centers

other tree, generally on 10-foot centers

SHRUB SPECIES

large shrub, generally on 4 to 7-foot centers

large shrub, generally on 4 to 7-foot centers

large shrub, generally on 4 to 7-foot centers

small shrub, generally on 1 to 4-foot centers

small shrub, generally on 1 to 4-foot centers

APPENDIX D

Status Report for Impact Reduction Construction - RGP-3

Within one (1) year of the date your permit was issued, submit this completed form to: U.S. Army Corps of Engineers, Regulatory Branch, Post Office Box 3755, Seattle, Washington 98124-3755.

Corps' Reference Number: _____

Date the Corps Issued Your Permit: _____

Date this Report is Due: _____

Date Work was Completed: _____

Your Name: _____

Your Address: _____

Your City/State/Zip Code: _____

Your Phone Number: _____

You must attach to this form: ☒ As-built drawing(s) of planting areas (if installed), and
☒ Photographs of the mitigation area.

Describe impact reduction construction performed: _____

_____

If plantings were installed:

Conditions of your Corps permit require at least two trees be planted in each planting plot. The vegetation you plant must be taken from this list of native species found in Appendix C or you can suggest other species but the Corps must approve the species before planting commences. Shrubs should be planted at 3-feet-on-center intervals and trees should be planted at 10-feet-on-center intervals. Be sure to protect your plantings—fencing is recommended.

Name of Species You Planted	Number Planted
Total Planted:	

Native tree list: Populus trichocarpa, Pseudotsuga menziesii, Picea sitchensis, Pinus contorta
Native shrub list: Salix sitchensis, S. scouleriana, S. exigua, S. hookeriana, S. lasiandra, Cornus stolonifera
(See Appendix C for a more complete list of acceptable species)

I hereby certify that I have completed the work in compliance with the terms and conditions of this permit, including any project-specific conditions required by the District Engineer to ensure that this work would have no more than minimal adverse impact on the aquatic environment.

_____ _____
Signature of Permittee Date

_____ _____
Signature of Contractor Date

APPENDIX E

Mitigation Planting Monitoring Report for RGP - 3

Submit this completed form to: U.S. Army Corps of Engineers, Regulatory Branch, P.O. Box 3755, Seattle, WA 98124-3755. A completed form must be submitted 1, 2, 3, 4 and 5 years after the Corps accepts your as-built drawing of the mitigation planting area.

Corps' Verification Reference Number: _____

Date Your As-Builts Were Accepted by the Corps _____

Date This Report Is Due: _____

Your Name: _____

Your Address: _____

Your City/State/Zip Code: _____

Your Phone Number: _____

You must attach to this form: ☒ Photographs of the mitigation area taken within the last month.

Conditions of your Corps permit require 100% survival of all planted trees and shrubs during the first and second years after planting. During the third through fifth years after planting, 80% survival is required. Individual plants that die must be replaced with a species from the list below or you can suggest other species but the Corps must approve the species before planting commences. At least two trees must be planted in your mitigation area. You must protect your mitigation area—fencing is recommended.

Date of Inspection	Species name of Dead Plants	Number of Dead Plants	Name of Species Replanted	Number Replanted

Native tree list: *Populus trichocarpa, Pseudotsuga menziesii, Picea sitchensis, Pinus contorta*
Native shrub list: *Salix sitchensis, S. scouleriana, S. exigua, S. hookeriana, S. lasiandra, Cornus stolonifera*

APPENDIX F

Definitions

"Joint-use" piers, floats, and ramps are constructed by more than one contiguous residential waterfront property owner or by a homeowner's association.

"In-water structures" include wharves, walkways, piles, swim steps associated with a pier, boatlifts, and boathouses.

"Overwater structures" include piers, ramps, floats, and their associated structures. Associated structures include piling, chain and anchors for floats, ladders, steps, and swim steps.

"Skirting" is vertical boards along the edge of a pier extending downward.

The *"Ordinary High Water"* (OHW) mark or line is at an elevation of 21.8 feet for Lake Washington, Lake Union, and the Lake Washington Ship Canal (Corps of Engineers datum) and 27.0 for Lake Sammamish (National Geodetic Vertical Datum). For the Sammamish River connecting Lake Sammamish and Lake Washington, it is the visible line on the banks where the presence and action of waters are so common as to leave a mark upon the soil or vegetation. (Note: The State of Washington has a different definition of OHW).

The *footprint* of an overwater structure is the total surface area (square feet) of all the structure's components (e.g., pier, ramp and/or floats).

Heavy equipment includes but is not limited to bulldozers, pile drivers, aquatic construction equipment**,** back-end loaders, barges, jackhammers, and cement mixers.

A *Spill Prevention Control and Countermeasures Plan* (SPCC plan) is a comprehensive description of containment and countermeasures that would prevent an oil spill from occurring as well as procedures to respond to and clean up an oil spill that does occur. The Clean Water Act requires preparation of a SPCC plan by any facility that stores, transports, or handles oil and could reasonably be expected to discharge oil in a harmful quantity to navigable water.

Attachment 33

From: Crusingal4@aol.com
Sent: Wednesday, May 21, 2008 2:30 PM
To: Stacy Clauson
Subject: Can't find the "comment form" online

I couldn't find where to go to get the online comment form per your postcard I received today.

I would like to say, PLEASE DREDGE Juanita Bay before we can walk all the way to Rose Point and beyond!!! It is sooo shallow.

Thank you,
Charlotte Jordan
9201 NE Juanita Dr
Kirkland, WA 98034

Get trade secrets for amazing burgers. Watch "Cooking with Tyler Florence" on AOL Food.

Attachment 34

Shoreline Master Program Comments (response #5)From: City Webmaster [ironpointadmin@ci.kirkland.wa.us]
Sent: Friday, May 23, 2008 11:21 AM
To: Stacy Clauson
Subject: Shoreline Master Program Comments (response #5)

Shoreline Master Program Comments (response #5)
Survey Information
Site:City Website
Page Title:Shoreline Master Program Comments
URL:http://www.ci.kirkland.wa.us/dynamic/CM/WebUI/PageTypes/Survey/Survey.aspx?PageID=2403&PageMode=Preview
Submission Time/Date:5/23/2008 11:19:50 AM

Survey Response
Your contact information:
First Name:Doug
Last Name:Pascoe
Phone Number:
Email Address:pascoe.jd@verizon.net
Group (if any):
Address:1619 10th Street West
City:Kirkland
State:WA
Zip Code:98033
Your Comments
Comments:Recognize that LW is primarily a recreational lake and that it can never revert to 19C conditions without a moratorium on all development. Recognize the recreational aspect of the lake and adjust regulations accordingly. Recognize that bass fishing (predator fish) is an important activity and that providing further safe havens for salmonids (prey) will reduce that fishery. Regulations must provide for the needs of homeowners to allow reasonable installation and repair of bulkheads, docks and covered moorages (canopies) without excessive cost and difficulty. Simplify the permitting process. Costs now are exorbitant and time consuming. Grandfather existing shoreline structures (docks, moorages, canopies, etc.) and bulkheads to allow repair in-kind without excessive permitting. Establish and enforce noise levels on the lake. Loud stereos with booming base from boats, particularly in Juanita Bay are disturbing. Provide for clean and unpolluted water. Allow economical harvesting of milfoil. Think people first, fish second.

Attachment 35

From: RLSTYLE [rlstyle@aol.com]
Sent: Friday, May 23, 2008 3:48 AM
To: Stacy Clauson
Subject: Shoreline suggestions

1. Why does the city's plans "need" to be changed? Who's decision was it?

2. The federal courts have ruled that property owners can protect their properties from storm damage and/or erosion. Has that provision been included in the proposed changes? If so, what is the permit process? It is not likely that erosion prevention can be accomplished during a storm. What justification will the city need to proactively prevent storm damage?

3. I extended my dock about 50 feet to accommodate my new boat. It took two years to get the permits and cost twice as much as the cost of construction. Many of the requirements could have been satisfied by using the information from other adjacent projects that were already approved. Many new inspections/requirements were unnecessary.

4. There are inconsistencies between public and private applications in what fish need to be protected and how to do it? How much shadow area is allowed from docks and how far from shore? The requirement of reducing or eliminating the shadow area close to shore was not required for public projects. When I moved here 22 years ago, there were plenty of fish under my dock. DOE required me to remove some of my dock to reduce the shadow area and install grating to allow more sunlight. Now, there are fewer fish. I'm not sure what they were trying to achieve. Reducing the shadow area generated by my dock was more of a negative impact than a positive one.

5. Almost all of Kirkland's shoreline is residential. Restoring vegetation on residential shorelines should not be a requirement and would be inconsistent with the land use.

6. Wave action erodes beaches whether generated by wind or boats. Property owners should be allowed to reduce the wave action in order to protect their property. If the city and marinas can do it, so should the citizens.

7. Which does more damage to shorelines, public access or private homes. I would suggest that if you want to protect shorelines, you limit public access. I may be wrong but if Lake Tahoe is an example, individual homes on properties

zoned residential have fewer negative impacts on the environment than filling the shores with thousands of people.

8. Many jurisdictions control access to shorelines. Kirkland is not the only one. If access to the lake is to be regulated by Kirkland, I suggest it be done to protect the interest of the citizens who live in Kirkland. Drawing everyone to Kirkland's shorelines is not good for Kirkland's environment.

9. Public use of the shoreline should require mitigation measures on upland development and multifamily units. Fees should be required for non-residents to help pay for the impacts of all those people who use regional parks and shoreline facilities.

Sincerely,

Bob Style

Stay informed, get connected and more with AOL on your phone.

Attachment 36

Shoreline Master Program Comments (response #4)From: City Webmaster
[ironpointadmin@ci.kirkland.wa.us]
Sent: Wednesday, May 21, 2008 3:53 PM
To: Stacy Clauson
Subject: Shoreline Master Program Comments (response #4)

Shoreline Master Program Comments (response #4)
Survey Information
Site:City Website
Page Title:Shoreline Master Program Comments
URL:http://www.ci.kirkland.wa.us/dynamic/CM/WebUI/PageTypes/Survey/Survey.aspx?PageID=2403&PageMode=Preview
Submission Time/Date:5/21/2008 3:53:08 PM

Survey Response
Your contact information:
First Name:Harold
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Email Address:hforsen@aol.com
Group (if any):Yarrow Shores Homeowners Association
Address:4427 Lake Washington Blvd. Unit 201
City:Kirkland
State:WA
Zip Code:98033
Your Comments
Comments:Eurasian Milfoil continues to be a problem in Yarrow Bay. When the lake lowers and the Milfoil is cut by power boats, it floats to the surface and is blown to shore by the prevailing winds. This collects on the shore and can promote the growth of alge and other problems including smell as it rots. Is there any plan by the City to try and do anything about this? We are told that communities in the other finger bays have been able to obtain grants to try and rid or reduce the growth of Milfoil. This subject deserves the attention of studies and activities within the Master Program.

Attachment 37

From: Daved [Daved@waterfrontconstruction.com]
Sent: Wednesday, July 02, 2008 10:51 AM
To: Cathy Beam; MPaine@bellevuewa.gov; Stacy Clauson; peterr@ci.issaquah.wa.us; jding@ci.kenmore.wa.us; rgrumbach@ci.medina.wa.us; EConkling@ci.renton.wa.us; mvannostrand@ci.sammamish.wa.us; Margaret.glowacki@seattle.gov; mhgreen@comcast.net; Harry.reinert@kingcounty.gov; Michelle Whitfield; SBennett@ci.lake-forest-park.wa.us; Paul Stewart; travis.saunders@mercergov.org; White, Jean; george.steirer@mercergov.org; Burcar, Joe (ECY)
Cc: eride@msn.com; donovan@donovantracy.com; raa@vnf.com
Subject: EASY TO ACCESS AND UNDERSTAND INFORMATION FOR CITIZENS IMPACTED BY THE SMP UPDATE PROCESS ON ALL GOVERNMENT WEBSITES

Categories: Red Category

Hi Mr. Paine, Mr. Reinert, SMP Update Points of Contact and Other Interested Parties,

Please forward this as official correspondence to all Boards, Commissions, Councils, Local Leaders, Planning and Land Use Staff, Community Citizens, and others involved in your SMP Update process.

All information on the SMP update process should be easily accessible and readable on all local websites. I was researching the King County and Bellevue websites regarding the SMP update process and discovered navigating to get information is overwhelming for the average person. The opportunity and encouragement for public attendance and involvement in the process is confusing, unclear or altogether missing. With all that is going on and the many meetings I have attended so far in about 8 communities it is clear that the vast majority of waterfront property owners are not being reached and the general public knows very little about the SMP updates and their impacts on any of the communities around Lakes Washington and Sammamish.

I ENCOURAGE EACH OF YOU TO ACCESS ANOTHER JURISDICTIONAL WEBSITE (OR MAYBE EVEN YOUR OWN) AND RESEARCH THE SAME SMP UPDATE INFORMATION THE PUBLIC IS EXPECTED TO FIND AND EVALUATE WHETHER IT IS EASY, UNDERSTANDABLE, AND REALLY SHOWS HOW PEOPLE WILL BE IMPACTED. YOU MAY WANT TO PLAN IT TOWARD THE END OF YOU WORK DAY.

The Corps RGP-3 is being presented as requirements rather than guidelines and local planning

staffs and DOE may not realize that with the flexibility of the Corps permit process it was recently reported fact that less than 5% of projects submitted to and approved by the Corps for project on Lakes Washington and Sammamish met the Corps RGP-3 guidelines. This means that if the same development standards are adopted by local governments they will for all intents and purposes restrict or remove reasonable and flexible land use rights from many property owners. This means that approximately 95% of the projects approved by the Corps since March 2005, many for redevelopment of existing structures resulting in vast improvements, will need to be referred to a Hearing Examiner and DOE through the variance process. This means more work, expense, and time for everyone, especially your staff and citizens.

This will be most devastating in the area of redevelopment and as we have learned through Bellevue's sliding development standards in on waterfront property owners through their CAO a couple years ago it meant that even when a person was making improvements they needed to jump through extra hoops and expense in the form a Critical Areas Land Use Permit. We have handled a few of these projects since this change and it had a negative and costly impact. It was adopted despite heavy attendance and strong comments in opposition at Planning Commission Meetings. If local governments yield to pressure from DOE to adopt the RGP-3 guidelines as development standards directly into their SMP it may result in people not replacing older, larger piers with smaller and better environmental structures or that a lot of projects will need to go through the Variance process only to be denied by DOE. It must be emphasized that this is even for projects with obvious and vast improvements over existing conditions, something that happens for all redevelopments we do. A successful SMP update should not result in additional variances or projects that cannot be approved through standard SDP or Shoreline Exemption processes or a handing over of your property owner's development rights to state or federal regulatory agencies. The current system of checks and balances has worked well, just check the numbers.

One strong point DOE is using and local communities are buying into is to make it look as though standardization is a good deal for property owners around the lakes by saying it results in a more streamlined permitting process. This is very misleading since the projects we have submitted through the nonconforming RGP-3 or the Letter of Permission processes, many of which exceed the guidelines of the RGP-3 or RGP-1, have been approved in the same or just a little longer amount of time. Many did not require Biological Evaluation but if that were a determining factor property owners would opt to pay and have it done in order to get their project approved.

I am asking all waterfront community staffs, boards, councils, commissions, and leaders to be as open and transparent as possible regarding their SMP updates and how it will impact their citizens' property rights and quality of life if the changes recommended by DOE are adopted. Waterfront property owners and others within the 200 foot shoreline areas should be encouraged by their local government to get involved, even if this means challenging the process and refuting the methods and best but inconclusive science being used to drive these changes. Lake Washington and Lake Sammamish property owners should know that they are being specifically targeted because of where they have chosen to live and that these restrictions do not apply to property owners in other areas.

I have yet to see a local government website that approaches this from the position of the property owners they serve by making it user friendly. They are hard to navigate and find out information and the standards for piers and bulkheads are buried in a much larger document that people will probably not read, and there is little effort at changing this. While it is understood that people serving at the state and federal levels tend to be more disconnected from the people, I think most of our citizens feel people working with local governments have a sense of commitment, loyalty, protection and pride toward the local community and their citizens. It is much more personal at the local level.

Please make the information on the SMP Update, especially on your websites, clearer for people to understand. Spell it out for those who are going to be most impacted by any changes that may take place. I suggest the following approach on the city's website if you want to serve the public and make it look as though the city is actually reaching out to its citizens:

PLEASE SPELL THINGS OUT CLEARLY ON YOUR GOVERNMENT WEBSITE AND DO NOT BUSY IT UP WITH NEEDLESS REPORTS THAT PEOPLE WILL NOT READ. PLACE THE INFORMATION IN A CLEAR, EASY-TO-READ, HONEST AND UNDERSTANDABLE FORMAT SO PEOPLE KNOW WHAT IS GOING ON. PLACE FULL PAGE ADS IN LOCAL OR REGIONAL MEDIA TO REACH THE WIDEST NUMBER OF PEOPLE AS POSSIBLE. MOST SMP'S ARE 30 OR MORE YEARS OLD AND WHEN SOMETHING HAPPENS ONCE IN 30 OR MORE YEARS IT SHOULD BE GIVEN THE ATTENTION IT DESERVES. PEOPLE NEED TO KNOW THEIR LOCAL GOVERNMENT IS CONCERNED ABOUT THEM AND PROPERTY RIGHTS NEED TO BE PROTECTED. PLEASE SET YOURSELF APART FROM THE STATUS QUO AND STAND ON BEHALF OF YOUR CITIZENS.

An honest approach on your websites could be as simple as the following type of statements:
If you live within 200 feet or along the shorelines of Lake Washington or Lake Sammamish you will be impacted by upcoming changes to our city's Shoreline Master Program (SMP) as required by the WA Department of Ecology! Although SMP's must be updated throughout the state, those of you living along Lake Washington and Lake Sammamish will be impacted more than others. The following changes to new, replacement or the repair to residential docks and bulkheads are being recommended by DOE and considered by our local government. Then:

* List the RGP-3 guidelines for piers with a design of what a pier meeting those standards looks like (but also let people know they are flexible at the federal level and there are other permit processes available for those who don't align but if adopted by the local government they can only be approved by DOE through the very restrictive variance process)
* List the RGP-1 guidelines for boatlifts (but also let people know they are flexible at the federal level and there are other permit processes available for those who don't align but if adopted by the local government they can only be approved by DOE through the very restrictive variance process)
* Let citizens know that for replacement piers WA Department of Fish and Wildlife gives a 1:1 credit as long as the new pier is fully grated.
* List the recent position taken on bulkheads, the push for natural shorelines, what this

means to people, and the costs associated with reports required to justify constructing a new or replacement bulkhead.

* Provide a few real life scenarios for people with existing piers who want to do extensive repairs, modification. You may want to overlay a new design over a few of the larger existing piers in your jurisdiction so people will understand what will happen if they want to modify, relocate, or in some cases replace their dock). Giving people a visual example will help them understand what is happening.

I am asking your local government consider the impact this will have on your waterfront property owners, do some exhaustive research to see if the local, state and federal permit processes already in place have worked to improve the shoreline environment and decrease the size of overwater structures along Lake Washington and Lake Sammamish. I believe you will see that the results have been measurable and as a result I am requesting that you reject adopting the Corps of Engineers RGP-3 guidelines in part or whole into your SMP and allow for less restrictive but reasonable and responsible standards for new development and redevelopment of piers, docks and bulkheads in Lakes Washington and Sammamish. Combined with state and federal regulatory oversight, I believe existing SMP's have accomplished this while allowing your property owners to have individually designed to meet their specific moorage and lifestyle needs.

Thank you for your valuable time and attention to this very important matter.

On behalf of waterfront property owners, marine permitting and construction companies, and as a private citizen of the State of Washington,

Dave Douglas

P.S.- At the request of several local planners, planning commission, city council, and citizens advisory group members (to remain unnamed) who feel there should be flexible standards and reviews, I have almost completed preparing a multiple-tiered process that you should at least review, and hopefully consider to cover any type of project that may come your way. I will forward it when it is completed over the next week or so.

THE IMPORTANCE OF THIS ISSUE CANNOT BE OVERCOMMUNICATED

Attachment 38

From: Daved [Daved@waterfrontconstruction.com]
Sent: Thursday, July 31, 2008 9:30 AM
To: Cathy Beam; MPaine@bellevuewa.gov; Stacy Clauson; peterr@ci.issaquah.wa.us; jding@ci.kenmore.wa.us; rgrumbach@ci.medina.wa.us; EConkling@ci.renton.wa.us; mvannostrand@ci.sammamish.wa.us; Margaret.glowacki@seattle.gov; mhgreen@comcast.net; Harry.reinert@kingcounty.gov; Michelle Whitfield; SBennett@ci.lake-forest-park.wa.us; Paul Stewart; travis.saunders@mercergov.org; White, Jean; george.steirer@mercergov.org; Burcar, Joe (ECY); Matt.torpey@mercergov.org; Teresa Swan
Cc: eride@msn.com; donovan@donovantracy.com; raa@vnf.com; Dennis Reynolds
Subject: ONGOING SHORELINE MASTER PROGRAM UPDATE PROCESS ISSUES, INFORMATION, CONCERNS AND CONSIDERATIONS

To Local Planners, SMP Update Points of Contact, Boards, Councils, Commissions, WA DOE, and Other Interested Parties,

Please take time to read this entire e-mail and provide it to anyone involved with of having influence over your local SMP update. A recommended process to consider for SDP, Shoreline Variance, and Redevelopment Processes is outlined below. Please make it a part of your public record and available to your residents.

As the preliminaries finish up and the time for most local governments to develop specific development standards for piers, bulkheads and other overwater structures quickly approaches, it is also time for serious consideration of how the changes and restrictions you decide to place on those most affected by your SMP Update will impact your community and your staff. Several of you have expressed a desire to meet with those of us who do marine permitting and construction to discuss practical and reasonable development standards and I hope this is still followed through on behalf of your citizens. If after meeting with DOE over recent months you are considering adopting the Corps RGP-3 guidelines or something similar I would urge against it. DOE has handsomely crafted and steered the SMP update process by providing local governments on Lake Washington and Lake Sammamish with limited and subjective information designed to force changes to your Shoreline Master Programs, which combined with regulations from WDFW and the Corps of Engineers are already working to limit the size of residential accessory structures. If you invest the time to check recent projects approved with those approved, 5, 10, or 20 years ago you will see with very few exceptions that structures are much smaller.

On April, 7, 2008, I sent an e-mail to Joe Burcar from DOE asking questions and requesting

clarification on "no net loss of ecological functions", which DOE is using as a basic goal of the updated SMP's although the Biological Evaluation for the RGP-3 was not completed to arrive at such a determination. Mr. Burcar referred the e-mail to his supervisor, Geoff Tallent, who said the questions would be referred to DOE's Legislative Department for a reply. I have sent several follow up messages to Mr. Tallent requesting an update and reply and have not received a response of the information although I was told I a couple months ago they were working on it. Each of you has received a copy of the e-mail so you can see the questions are reasonable and pertinent to the SMP update process.

If the basis for DOE requiring local governments to meet a "no net loss of ecological functions" is well researched and supported shouldn't this information be readily available at the office responsible for implementing the SMP update for the local governments on Lakes Washington and Sammamish? Why is it taking months for DOE to provide (and still waiting) the information to questions that the department must have anticipated would be brought up as they push sweeping changes specifically targeting the citizens of our state who have chosen to live along the shorelines in your communities? Is it possible DOE simply expected everyone to accept their agenda without question? An even better question is, "If we (a private company) were not asking DOE these questions would anyone from local planning or land use departments, city councils, boards, commissions, or private citizens ask"? Responsibility cannot be placed on the citizens who are paying local government staff to protect their interests and property rights and who should be asking DOE the tough questions. Your citizens justifiably expect you to question and challenge state and federal regulatory agencies overstepping their authority under the separation of powers and the self-governing authority given to local government.

This is a follow up of ongoing issues regarding the SMP Update process. DOE and Biological Consultants are clearly presenting or at least strongly impressing upon local planning staffs, councils, commissions and meeting attendees that the restrictive RGP-3 "guidelines" as "requirements" to achieve a "no net loss of ecological functions". If believed and embraced, this misleading characterization and unattainable goal in the case of new piers and some redevelopment projects may lead local governments on Lakes Washington and Sammamish to place overly restrictive, "everyone fit inside the box" type of regulations or standards in their updated SMP. Even if this position were to apply only to new structures it is problematic.

As I have tried to communicate at meetings, via e-mail and phone conversations, once these restrictive standards become a part of a SMP they are "law" and there is no flexibility for local governments to avoid forwarding them to DOE for what is likely to be denial through the variance process. Let's face it, how would it look for DOE to approve projects they have told local governments not to allow? Most variance referrals would be due to overly restrictive regulations based on misinformation and best but inconclusive science targeting overwater structures and bulkheads. Local governments only have one shot at getting this right because there is no turning back. Local governments also have to balance their primary obligation to serving their residents and protecting the rights of their property owners with the pressure placed on them to satisfy DOE and avoid perceived lawsuits from the state. They are also placed in the vulnerable position of trusting that the information provided to them from the state is solid, truthful and conclusive.

Although Mr. Burcar and Mr. Tallent have stated DOE does not want to see more shoreline variance applications, the way in which DOE is going about steering the SMP update process sends a different message. The existence and numbers of regulatory agencies are dependent upon as much regulatory control as possible. State government isn't getting smaller and numbers are important for any business, including government. This reflects the opinion of the mainstream public and all the people I have worked for during the last 6+ years. Companies like ours bridge the gap between property owner and government agencies in laying out the permit process and explaining the reason for it. We are often placed on the defensive because of the over-regulating taking place but are successful at winning people's confidence as strong advocates with a balanced perspective. We do not need to agree with all of the policies or agencies to responsibly operate within and under the laws in place.

Geoff Tallent (DOE), who I appreciate receiving a phone call from, also stated that people want a streamlined permitting process with predictable reviews and standards. While we would agree in part, there was no information on what data if any was used to arrive at this conclusion, who the people are, or if it was presented in an objective manner. The real question is, "What will a streamlined permitting process based on standardization cost waterfront owners in the area of a loss of property rights"? This is rarely a concern from many government agencies but I recall one of the primary concerns from the legislature was protecting private property rights. If property owners are told they can have a streamlined permitting process but are not told what it will cost them in terms of pier size and design and restricted property rights then they are only being given half the story and far short of the truth.

Our position remains:
Local governments who adopt the Corps RGP-3 guidelines or any overly restrictive development standards for piers under their SMP will complicate their review process, refer more projects for shoreline variances to DOE that will likely be disapproved, face unnecessary criticism from residents who are impacted by the changes, and cause an undue burden and greatly restrict or take property rights from their waterfront property owners. Based on local, state and federal reviews already in place by regulatory agencies the need for sweeping changes to local SMP's are unwarranted.

I have attached a copy of a Shoreline Regulations by Jurisdiction matrix that we use as a quick reference when prospective clients call. Because there are state and federal review processes in place to balance things out, the local regulations have worked work very well on behalf of waterfront property owners and local governments. The days of irresponsible development and huge piers and platforms have been long gone even under the current SMP's due to the ESA and separation of regulatory powers at the local, state and federal levels. While each agency has a distinct role to play, it is accepted that WA Department of Fish and Wildlife, U. S. Army Corps of Engineers, U.S. Fish and Wildlife, and NOAA-Fisheries, who employ a high percentage of biologists in their regulatory departments, tend to exercise more flexibility and understanding than the very rigid and inflexible reviewers at the WA Department of Ecology. Sweeping changes to local SMPs will likely send additional projects to the Shoreline Hearings Board requiring more local, state and federal staff

time (at taxpayer expense), not to mention cost to property owners for lawyers, biologists and consultants. This is unfair to property owners (expense and property rights), local staff (time and expense), and all taxpayers (expense) who will cover the cost for local, state or federal employees to conduct additional reviews and attend more meetings and hearings. Most government agencies operate on tight budgets and several are short staffed so overly restrictive development standards in a local SMP will only exacerbate the problem and delay reviews. Additionally, Lake Washington and Lake Sammamish property owners appear to be facing restrictions not placed on any other property owners in the state. Is this legal??

In a March 26, 2008 e-mail from Mr. Burcar (DOE), the following was written:
With respect to your concern about the use of standards such as the RGP applying to overwater structures. We appreciate and acknowledge the need for allowing some flexibility in design. However, we also have an obligation to meet no net loss and hear a very strong call for clear standards, consistency between agencies, and streamlined permitting. These do not have to be incompatible ideas. We see a way for SMP's to provide a streamlined path following specific standards and a more flexible path when the standards don't fit the situation. It is important to note that with flexibility comes a potential requirement for additional review criteria, standards or reports to ensuring no net loss. I also can appreciate your concerns related to potential barriers for redevelopment of existing docks. Our goal would be to encourage a well crafted set of regulations channeling the desire for the redevelopment of docks and piers into configurations that better serve the interests of the property owners and cause less environmental impacts when compared to existing structures. Again, the challenge is allowing enough flexibility to make this concept attractive to property owners, while still identifying clear limits to inform analysis of both the environmental benefits and impacts to ensuring no net loss.
End of excerpt.

The above statement clearly shows that a hard and fast set of development standards is not necessary but flexibility is a must. It is unknown where "a very strong call for clear standards, consistency between agencies, and streamlined permitting" is coming from. It may be coming from the agency itself. Most local governments have spoken proudly in defending their autonomy and control and in protecting the interests and rights of their citizens prior to the SMP updates and I haven't witnessed a change in this posture from the smaller communities around the lakes. Larger city and county governments are separated, distant and impersonal and tend to lean more toward state and federal control over their citizens.

At this point, we should recall the following from a June 2004 DOE Publication entitled, "What Does No Net Loss Mean in the 2003 SMA Guidelines?" where it says the guidelines establish that the foundation of the "no net loss" requirement is the policy of the SMA. This publication states, "Thereby, to address all of these interests, the reasonable policy is that use and development that is appropriate and necessary is planned for and accommodated by assuring that the impacts of establishing uses or conducting development are identified and mitigated with a final result that is no worse than maintaining the current level of environmental resource productivity or "no net loss". (Redevelopment or replacement of a

pier with a more environmentally friendly structure, regardless of whether or not it meets a set of development standards would fulfill the policy requirement of the SMA and therefore should be an option available to property owners in protecting their individual rights.)

If local governments are considering any use of the RGP-3 guidelines as a part of their updates SMP, it is recommended they be used only as a measuring tool for new development and not a set of hard and fast standards on new and redevelopment projects. Even though it may seem a little more complicated at first, maybe the best way to handle pier projects would be to have varying types of project specific reviews at the local level such as:

PIERS AND OVERWATER STRUCTURES

Type I Shoreline Substantial Development Permit:
New development (or redevelopment not qualifying under Type V below) meeting the guidelines of the RGP-3. These would receive a more "streamlined" review process at all levels of government. Although a very small (less than 5%) of Corps projects currently fall into this category, it may encourage additional property owners to do so. A copy of the RGP-3 application submitted to the Corps could be provided as reference to the local government (I do this currently). These projects would require a SDP, SEPA, HPA, CORPS RGP-3, and BLDG permits. These projects would not be referred to DOE for a shoreline variance.

Note 1: A Biological Evaluation would not be required for these projects since the Corps does not require one. A Reference Biological Evaluation completed by Jones & Stokes for such projects complying with the RGP-3 is available on the Corps website.

Note 2: RGP-3 permits from the Corps are actually classified as Letters of Permission but are reviewed under the guidelines of the RGP-3 so they are standard permits but with a more streamlined review and do not require Biological Evaluations.

Note 3: In the case of redevelopment a property owner would receive credit for the inwater (piles) and overwater (pier) structures being removed. This could be accomplished through a less extensive planting plan or lower review fees in recognition of the improvement. The Corps of Engineers and WDFW both work with property owners to agree on a planting plan that suits everyone and although DOE has recommended a 10' wide planting strip for several years now it has always been a flexible policy. Removing this flexibility would only complicate the permit process, place undue burden on property owners and push many projects into a shoreline variance process. Most people are willing to install a reasonable native planting plan so having a requirement for a 10' wide planting strip should not make or break a project or push it into the variance process.

Type II Shoreline Substantial Development Permit:
New development (or redevelopment not qualifying under Type 5 below) not meeting the guidelines of the RGP-3 but accepted and reviewed by the Corps as a nonconforming RGP-3. These would be reviewed locally on an individual basis for design, needs of the property owner, or other

circumstances such as water depth, size of boat(s) needing moorage, access for disabled in wheelchairs (4 feet is not wide enough), or other things. If needed, additional but reasonable on site or other mitigation could be used to offset any additional impacts similar to what the Corps requests. The local government should be open to accepting the additional mitigation required by the state or federal regulatory agencies so there is not an overlapping of mitigation requirements. These could also be handled in a more streamlined manner. A copy of the RGP-3 application submitted to the Corps could be provided as reference to the local government. These projects would require a SDP, SEPA, HPA, CORPS RGP-3 (nonconforming), and BLDG permits. These projects would not be referred to DOE for a shoreline variance.

Note 1: A Biological Evaluation would not be required for these projects since the Corps does not require one. A Reference Biological Evaluation completed by Jones & Stokes for such projects is available on the Corps website.

Note 2: RGP-3 permits from the Corps are actually classified as Letters of Permission but are reviewed under the guidelines of the RGP-3 so they are standard permit but with a more streamlined review and do not require Biological Evaluations. The wording on the Corps permit for nonconforming RGP-3 projects reads the same as the Letter of Permission for a project that meets RGP-3 guidelines. The difference between the 2 (RGP-3 and Nonconforming RGP-3) is that the Corps has exercised its regulatory flexibility to individually evaluate the project against the guidelines and was required to forward the project to the federal services (NOAA-Fisheries and U. S. Fish and Wildlife Service) for concurrence under the requirements of the ESA Section 7 Consultation. This means the project takes a little longer (but not in all case) but is still much more streamlined than a project that is much larger or complex than the RGP-3 guidelines recommend and must have a Biological Evaluation prepared and be sent to the federal services for review in all cases. I have received project approval in as little as 2 months and in 3 recent projects had the federal permits before the local permit was received.

Note 3: In the case of redevelopment a property owner would receive credit for the inwater (piles) and overwater (pier) structures being removed. This could be accomplished through a less extensive planting plan or lower review fees in recognition of the improvement. The Corps of Engineers and WDFW both work with property owners to agree on a planting plan that suits everyone and although DOE has recommended a 10’ wide planting strip for several years now it has always been a flexible policy. Removing this flexibility would only complicate the permit process, place undue burden on property owners and push many projects into a shoreline variance process. Most people are willing to install a reasonable native planting plan so having a requirement for a 10’ wide planting strip should not make or break a project or push it into the variance process.

This would be the most common type of application since the vast majority of projects do not meet the RGP-3 guidelines for a few common reasons. They are:

1) Size of single family pier exceeds 480s/f
This is a very restrictive size, especially when water depth is an issue or large boat moorage is needed. It also does not consider size of the property so a person with 50

feet of waterfront can get the same size pier as someone with 200 feet of waterfront but the one with 200 feet would need to offer more mitigation even though the impact is proportionately less.

2) Grating does not have 60% open area

This is not practical because there are no residential grating products available meeting this requirement. The best we can do is 43% for Thruflow and 50% for the more expensive and less comfortable IPE (iron wood).

3) First set of inwater piles are not 4" diameter.

In order to provide longer span between piles, 4" piles are not typically suitable to provide adequate support (lateral and sometimes horizontal) so we typically install a set of 6" diameter. In some case we are able to install a single 8" pile but only if the conditions are right. Often overlooked or not considered by regulatory agencies is that piers need to meet building code requirements for load capacity and often require engineering. The 6" or 8" piles helps us meet this requirement so we do not need to go back to the local government, Corps or WDFW to amend a project to increase pile size or number of piles after a project has been through the extensive permitting process. This also helps us limit the number of piles in the nearshore area.

4) A 10' planting strip of native vegetation.

While most applicants are willing to plant some, even quite a lot of native vegetation, very few are willing to agree on a 10' wide planting strip across their entire property. This is often inequitable for those with larger properties and on smaller properties with a compressed shoreline it can eliminate a lot of yard.

Typically, under the flexibility of the Corps RGP-3 review process and the WDFW HPA review we are able to offer an acceptable planting plan approved by state and federal agencies. If a 10' wide planting strip was to become required under a local SMP it would introduce a new element of review at the local level that is currently being administered effectively at the local and state level. There is no need to duplicate the process.

Note 4: A condition of the SDP and SEPA could require that copies of the HPA from WDFW and Section 10/404 Permit from the Corps of Engineers be required as part of the Building Permit application. Medina and a couple other local governments require this already. When the Building Permit application is back routed to Planning and Land Use to make sure the project aligns with what was approved by the SDP and SEPA review, the Planner would have proof in hand that those agencies responsible for protecting state and federally listed species and critical habitat under the Endangered Species Act have approved the project.

Type III Shoreline Substantial Development Permit:

New development (or redevelopment not qualifying under Type V below) that must be submitted to the Corps under the Letter of Permission or Individual Permit process due to it being larger or more complex to a point that it cannot be considered under the RGP-3 or nonconforming RGP-3. These would be reviewed locally on an individual basis for design, needs of the property owner, or other circumstances such as water depth, size of boat(s) needing moorage, access for

disabled in wheelchairs (4 feet is not wide enough), or other issues. If needed, additional but reasonable on site or other mitigation could be used to offset any additional impacts similar to what the Corps requests. A Biological Evaluation would be required. These projects would require a SDP, SEPA, HPA, CORPS LOP, and BLDG permit. These projects would not be referred to DOE for a shoreline variance.

Note 1: A Biological Evaluation would be required for these projects since the Corps requires one. These projects must all be forwarded to the federal services (NOAA-Fisheries and U. S. Fish and Wildlife Service) for concurrence under the requirements of the ESA Section 7 Consultation. These projects take longer and in many cases involve back and forth negotiation between applicant and agency to offset assumed impacts.

Note 2: In the case of redevelopment a property owner would receive credit for the inwater (piles) and overwater (pier) structures being removed. This could be accomplished through a less extensive planting plan or lower review fees in recognition of the improvement. The Corps of Engineers and WDFW both work with property owners to agree on a planting plan that suits everyone and although DOE has recommended a 10' wide planting strip for several years now it has always been a flexible policy. Removing this flexibility would only complicate the permit process, place undue burden on property owners and push many projects into a shoreline variance process. Most people are willing to install a reasonable native planting plan so having a requirement for a 10' wide planting strip should not make or break a project or push it into the variance process.

Note 3: A condition of the SDP and SEPA could require that copies of the HPA from WDFW and Section 10/404 Permit from the Corps of Engineers be required as
part of the Building Permit application. Medina and a couple other local governments require this already. When the Building Permit application is back routed to
Planning and Land Use to make sure the project aligns with what was approved by the SDP and SEPA review, the Planner would have proof in hand that those
agencies responsible for protecting state and federally listed species and critical habitat under the Endangered Species Act, have approved the project.

Type IV Shoreline Variance Permit:
New Development considered much larger than average projects within a jurisdiction and required due to a specific need or restriction that will qualify it under the variance criteria. This type of project and process would have specific issues and/or restrictions such as pier size, width or other elements that are greater than 2 times the Corps RGP-3 guidelines, and/or which exceed local limits on size, length or other zoning or code issues as currently done. All of these projects would be referred to WA Dept of Ecology for a Variance.

The most common triggers for such projects would be:

1) Residential piers (1 owner) larger than 1,160s/f (2 times 480s/f)
2) Residential Joint-Use Piers (2 owners) larger than 1,400sf (2 times 700s/f)
3) Residential Joint-Use Piers (3 or more owners) larger than 2,000s/f (2 times

1,000s/f)
4) Walkways wider than 6' (1.5 times 4')
5) "ELLS" wider than 9' (1.5 times 6')
6) Piers that extend farther or in deeper water than what is allowed in the SMP or any other element that would historically trigger a variance

These projects would require a SDP (WITH SHORELINE VARIANCE), SEPA, HPA, CORPS LOP, and BLDG permit. If needed, additional but reasonable on site or other mitigation could be used to offset any additional impacts similar to what the Corps requests. A Biological Evaluation would be required. These projects would be referred to DOE for a shoreline variance.

Note 1: A condition of the SDP and SEPA could require that copies of the HPA from WDFW and Section 10/404 Permit from the Corps of Engineers be required as
part of the Building Permit application. Medina and a couple other local governments require this already. When the Building Permit application is back routed to
Planning and Land Use to make sure the project aligns with what was approved by the SDP and SEPA review, the Planner would have proof in hand that those
agencies responsible for protecting state and federally listed species and critical habitat under the Endangered Species Act, have approved the project.

TOTALLY SEPARATE PROCESS FOR REDEVELOPMENT OF
STRUCTURES THAT MAKE ENVIRONMENTAL IMPROVEMENTS

Type V Redevelopment Shoreline Substantial Development Permit:
Replacement or Redevelopment of Existing Structures resulting in improvements over existing conditions. With the number of existing piers on Lakes Washington and Sammamish this will likely encompass the largest percentage of projects and the area where the most environmental improvements can be made. These would be reviewed under totally separate criteria as the strongest incentive for applicants to repair, replace or redevelop existing piers with more environmentally friendly structures. I can't think of a single repair, replacement or redevelopment project we have done over the past 5+ years that did not result in measurable improvements over the pre-existing conditions. Because DOE has stated that the baseline for each project to assure a 'no net loss' of ecological functions should be site specific, this would give local reviewers the flexibility to evaluate a proposed project using the existing structures as the review criteria without coming under judgment from DOE. When improvements are made on a private property with each project, it will contribute to the cumulative improvements throughout the local shoreline and the entire lake system and serve as a win-win for everyone.

This review would be the most streamlined and if it does not result in an improvement using the existing structure as the review criteria it would be classified under one of the review types listed above. The chances of a redevelopment project not qualifying under this would be rare and would only happen if someone wants to replace an existing structure with a larger structure.

Note 1: Because total replacement of an existing pier structure within the same footprint is considered a common method of repair, many of these projects will qualify as exempt from SDP and oftentimes SEPA. Because many of these will result in a decrease in overwater coverage, local governments may want to consider exempting these projects from SDP and SEPA even if they are relocated or reconfigured since neither a change in use nor a material expansion will actually occur. Although some of the proposed structure may be located over new area it does not represent a material expansion.

Note 2: A process like this would serve as the primary incentive for a person to replace or redevelop their existing structure with a more environmentally friendly design and express a local government's commitment to protecting property rights and serving their residents while meeting the goals of the SMA. This will also preserve local control and limit the number of projects being referred to DOE for review under the overly stringent and impersonal variance process.

Note 3: Because sweeping changes to a SMP will push many existing legally conforming structures into a legally non-conforming status, projects that qualify for SDP exemption or the Type 5 process, and which result in clear improvements over existing conditions should also be exempted from complying with WAC 173-27-080. This section requires that:

(7) A nonconforming structure which is moved any distance must be brought into conformance with the applicable master program and the act.

(8) If a nonconforming development is damaged to an extent not exceeding seventy-five percent of the replacement cost of the original development, it may be reconstructed to those configurations existing immediately prior to the time the development was damaged, provided that application is made for the permits necessary to restore the development within six months of the date the damage occurred, all permits are obtained and the restoration is completed within two years of permit issuance.

Because redevelopment may involve relocation of a structure, compliance with these 2 stipulations would deter redevelopment because it would require total conformity to the SMP and fail to consider the improvements being made. In the case of total redevelopment, while it is reasonable that setbacks and other zoning elements be considered, requiring full conformity similar to new development would be unreasonable and discourage applicants. Total replacement or extensive repair of an existing pier is considered a common method of repair for a dock in the marine construction industry. This being the case, if most or all of an existing legally nonconforming pier is being replaced a requirement for conformity could be placed on the property owner even though it would not be relocated and would take place within the same footprint. These would normally fall under the exemption process but when a structure is considered nonconforming an exemption could be challenged or even denied.

Note 4: A condition of the SDP and SEPA could require that copies of the HPA from WDFW and Section 10/404 Permit from the Corps of Engineers be required as

part of the Building Permit application. Medina and a couple other local governments require this already. When the Building Permit application is back routed to
Planning and Land Use to make sure the project aligns with what was approved by the SDP and SEPA review, the Planner would have proof in hand that those
agencies responsible for protecting state and federally listed species and critical habitat under the Endangered Species Act, have approved the project.

EVALUATING AND CONSIDERING THE ABOVE PROCESS OR ONE SIMILAR WILL ALLOW EACH GOVERNMENT TO:
* TAILOR THEIR LOCAL SMP IN A WAY THAT WILL ADDRESS NEARLY EVERY SITUATION WHILE MEETING DOE SMP UPDATE REQUIREMENTS,
* RETAIN LOCAL CONTROL, AUTONOMY AND A SEPARATION OF POWERS,
* ENCOURAGE RESIDENTS TO MAKE IMPROVEMENTS OVER EXISTING CONDITIONS BY HAVING A FLEXIBLE REVIEW PROCESS
* PREVENT DOE FROM OVEREXTENDING ITS AUTHORITY,
* RESPECT THOSE WDFW AND ARMY CORPS OF ENGINEERS REVIEW PROCESSES FOR THE PROTECTION OF STATE AND FEDERALLY LISTED SPECIES ALREADY IN PLACE AND WORKING EFFECTIVELY,
* AVOID DENIAL OR THE VARIANCE PROCESS FOR PROJECTS THAT HAVE DISCOUNTABLE OR INSIGNIFICANT IMPACTS OR RESULTING IN IMPROVEMENTS, AND MOST IMPORTANTLY,
* RESPECT THE RIGHTS AND OPPORTUNITIES OF PROPERTY OWNERS AND TAXPAYERS LIVING IN AREAS IMPACTED BY THE SMP UPDATE.

ALL OF THIS CAN BE ACCOMPLISHED WITH NO DETRIMENTAL IMPACTS ON THE RESOURCES OF THE STATE, NO IMPACT ON THE PUBLIC AND MEETING THE “NO NET LOSS OF ECOLOGICAL FUNCTIONS” GOAL OF THE SMA.

BULKHEADS
Because the redevelopment, replacement, repair or reconfiguration of many existing bulkheads can meet DOE’s definition of ‘no net loss of ecological functions’, disallowing bulkheads except in those rare circumstances where a geotechnical engineer has determined that one is absolutely necessary, should be seriously examined. Because there is a trend toward allowing fill to be installed in the lake, there are many instances where softer battered (laid back) bulkheads can be installed in combination with nearshore fill and native plantings to provide excellent shallow nearshore habitat. Shifting bulkheads slightly landward, installing coved beaches with a portion of the shoreline, or total replacement of a bulkhead with a natural shoreline where possible are all improvements to the environment and likely meet DOE’s goals. Although replacement of existing bulkheads with a natural shoreline are favored, failing to consider total or partial bulkhead replacements incorporated with other environmental improvements such as nearshore fill and planting plans would be a mistake and deter a lot of property owners from considering removal of a highly impacting structure.

Although the position and push of regulatory agencies and other environmentalists is for no new

bulkheads and a demonstrated need for a replacement bulkhead (as listed in Lake Forest Park draft SMP), the opportunity to remove existing vertical, poorly constructed bulkheads and replace them with a battered (laid back), softer bulkhead will be missed. Referring to the DOE definition of 'no net loss of ecological functions', a vertical rock or concrete bulkhead replaced with a softer "laid back' rock bulkhead would clearly qualify, and could even be viewed as a 'net gain in ecological functions' with the installation of fill to provide ideal nearshore shallow habitat. For properties that have the right conditions, installation of a replacement bulkhead behind the footprint of the existing bulkhead and then removal of the existing bulkhead with installation of nearshore fill reflects improvement. Even though there is still a bulkhead in place, with agencies recently promoting the installation of nearshore fill as a positive environmental action, if the OHWL remains in its pre-construction location then the presence of a bulkhead behind that point would be discountable or insignificant. Depending upon the location, the same could be said if a bulkhead is replaced in its existing footprint but fill is installed to a point where the lake bottom is elevated to the OHWL waterward of the bulkhead. This solution, recommended by regulatory agencies themselves, brings the criticism of major repair or replacement of existing bulkhead and the construction of new bulkheads into question. Are bulkheads being unfairly targeted just because regulatory agencies and environmental groups do not like them? Can the solution for environmental concerns be addressed by placing equal or greater emphasis on the nearshore area waterward of bulkheads and the OHWL in many areas around the lakes? Is anyone in local government questioning the characterization of bulkheads being the main cause of impacts on fish and the lake's nearshore area or has this information been accepted without challenge for fear of reprisal from other agencies of peers and without alternate and less costly solutions?

Note 1: Similar to the multi-level process for piers above, a process for the replacement of bulkheads could also be established to recognize partial removal and redevelopment of existing bulkheads. This would encourage many property owners to consider partial or full coved beaches and reestablishment of natural shorelines.

Note 2: On projects where a portion of an existing bulkhead is being retained or partially replaced in conjunction with a new coved beach or natural shoreline, because the improvement over existing conditions is obvious, a geotechnical report should be waived. A geotechnical report, which in many cases includes soil borings using specialized equipment, can cost 3 to 5 thousand dollars or more. This alone may discourage prospective applicants from considering improvements to their shorelines and removal of portions of their bulkheads.

DREDGE AND FILL

Dredging
Making dredging a permitted use and not a conditional use should be strongly considered. Because moorage slips in many areas can fill up with sediment and eliminate moorage, if dredging is difficult to have approved, or even denied, the only alternative is to extend a pier to deeper water resulting in additional overwater coverage. Making the dredging process more streamlined could be a great benefit in people using what they already have rather than asking for more.

Fill
Because every bulkhead replacement or modification project involves the installation of nearshore fill waterward of the OHWL, and the fact that the recent PBE from the Army Corps for Shoreline Stabilization promotes and encourages nearshore fill waterward of the OHWL, making fill a permitted use rather than a conditional use should be strongly considered. There may be some properties where the installation of nearshore fill in and of itself will result in a 'net gain in ecological functions' so making this process streamlined and simple would be beneficial.

As mentioned above, I am still waiting to receive a reply from an April 7, 2008 e-mail sent to DOE regarding 'no net loss of ecological functions' and if it provides any additional information beneficial to this process I will forward it to interested parties.

Thank you for your time and consideration on this very important and impacting issue. I believe practical development standards, protection of property rights, a reasonable permitting process, mutual respect and cooperation between property owners, contractors, permitting agents, local, state and federal government agencies, and environmentally responsible construction design and practices will benefit each of us while preserving those natural resources that benefit of us all.
I also believe this is an attainable goal if all parties are committed to working toward this end.

Sincerely,
Dave Douglas
Private Citizen and Permit Coordinator, Waterfront Construction, Inc.

Attachment 39

From: Daved [Daved@waterfrontconstruction.com]
Sent: Friday, August 22, 2008 7:57 AM
To: Cathy Beam; MPaine@bellevuewa.gov; Stacy Clauson; peterr@ci.issaquah.wa.us; jding@ci.kenmore.wa.us; EConkling@ci.renton.wa.us; mvannostrand@ci.sammamish.wa.us; Margaret.glowacki@seattle.gov; mhgreen@comcast.net; Harry.reinert@kingcounty.gov; Michelle Whitfield; SBennett@ci.lake-forest-park.wa.us; Paul Stewart; travis.saunders@mercergov.org; White, Jean; george.steirer@mercergov.org; Burcar, Joe (ECY); Matt.torpey@mercergov.org; Teresa Swan; Robert Grumbach
Subject: SMP UPDATES FOR LAKE WASHINGTON AND LAKE SAMMAMISH COMMUNITIES

Dear Local Planners, SMP Update Points of Contact, Boards, Councils, Commissions, WA DOE, and Other Interested Parties,

In an effort to keep the SMP Update process transparent and balanced and to distribute as much information to local governments as possible so they are fully aware of the many checks and balances already in place to protect the environment, listed species, and critical habitat, I am forwarding the e-mail below for your review. It was generated by some of the issues Bainbridge Island Shoreline Homeowners are experiencing with their local government and DOE. The Washington Supreme Court recently ruled against Bainbridge Island for trying to include shoreline areas in their Critical Areas Ordinance (under the GMA) rather than in their SMP
(under the SMA).

Please note the list of improvements in number 5 below that neither DOE nor any of the biological consultants have discussed or credited to property owners and regulators. The combination of existing local SMP's along with state and federal guidelines work well and have resulted in vast improvements during recent years.

Thank you for using as many accurate and "real life" resources as possible in making crucial decisions for your SMP Updates. This will be even more important as you decide upon the actual development standards for docks, piers, boatlifts, moorage covers, and bulkheads. One of the main goals should be to assure that the SMP Updates protect individual property rights (a priority of the legislature) so no property owner has a legal basis to

challenge and win subsequently overturning all local
government SMP's on which you have worked so diligently.

We are available to meet with any local government regarding pier and bulkhead development standards and to provide examples of projects permitted on Lake Washington and Lake Sammamish since the RGP3 was implemented in 2005 and revised in 2007. Please contact me at
425-357-0312 if you are interested.

Below is the e-mail:

Hi All,

I have been trying to follow this issue pretty closely and have been in touch with Attorney Dennis Reynolds regarding what DOE is trying to force on local governments along Lake Washington (LW) and Lake Sammamish (LS). It appears Bainbridge Island is getting a lot of attention for one reason; They are not sitting back and taking it and many of the waterfront property owners are involved and speaking out against DOE's attempt at restricting or taking of property rights.

One important issue we must remember is although Whatcom County is a lot different in population, lifestyle, affluence, and boating preferences, if DOE can place their approved SMP in front of other jurisdictions hoping to win approval of their own update, it could help DOE to further push the Corps RGP3 guidelines on to local governments. Although we are making some progress and local governments along LW and LS are dialoguing and asking questions I still have deep concerns over the manner in which DOE is presenting several of the issues regarding 'no net loss of ecological functions' and the Corps RGP3 guidelines as requirements or standards that must be met in order to achieve the 'no net loss' goal.

Waterfront Construction has worked hard to become a highly regarded Marine Construction and Permitting Company. Local governments for the most part appreciate our knowledge of local, state and federal permitting guidelines and strong advocacy for their waterfront property owners. We work well within the guidelines and some land use and planning supervisors feel we have a better understanding than many of their planners and appreciate our diligence in design and project presentation. Local governments often refer people to us to address permitting questions beyond the local level and we enjoy a solid and respectful relationship. We are blessed to enjoy such a status so it is important that we continue our tradition of supporting waterfront property owners and local governments by making sure the SMP Update process is as

transparent as possible and local governments are provided with as much information as possible before making crucial decisions and changes.

We have not received negative feedback from any local government or citizen as a result of our involvement in the SMP update process. We have received quite a few thanks and several have contacted us for further information and asked for help on the development standards for their SMP Update. As this important step draws closer we will find out how many seek our input. Unfortunately, DOE has not been as receptive but I was recently contacted by Mr. Peter Skowlund for a meeting with 3 DOE staff members to address my concerns outlined in an e-mail sent 4 months earlier on April 7, 2008. On August 12, 2008 I responded to Mr.
Skowlund requesting answers in writing on such an important issue and I have yet to receive acknowledgment or a reply to the e-mail or my questions regarding "no net loss of ecological functions'.

The main problems as I have witnessed over the past year of monitoring the process, attending SMP update meetings and communicating with local planners, councils, commissions, residents, contractors, environmentalists, and DOE are:

1) Although DOE has agreed there should be, there has been no talk of an alternative process for redevelopment of existing structures resulting in a 'net gain of ecological functions' over existing conditions if they do not align with the standards being pushed. The alternative process could encourage many property owners to replace huge piers with more smaller environmentally friendly piers that exceed RGP3 guidelines but would be approved by the Corps and WDFW as they have done routinely since early 2005 when the RGP3 was implemented.

2) If local LW and LS governments, at the urging of DOE, adopt the RGP3 guidelines as development standards under their updated SMP's it will place everyone in a box without consideration of individual needs or local government autonomy to manage their own shorelines. Nearly all projects that meet current SMP development standards for LW and LS local governments will need to go through a Variance process and be reviewed and approved by DOE. Local governments will be turning control of their shorelines and waterfront property owners within 200 feet of the shoreline over to the state. If you have been through the Variance process you know it is very hard to get approval. DOE has said they do not want to see more Variances but their actions speak differently.

3) The RGP3 guidelines were established to arrive at a determination of "may affect, not likely to adversely affect" listed species and/or their critical habitat under the ESA. The Biological Evaluation (BE) completed to support the RGP3 was not designed to address or arrive at a 'no net loss of ecological functions' but the RGP3 is being used as a baseline to arrive at this conclusion. The RGP3 is a flexible, measuring tool for evaluating projects and impacts without the need to submit an Individual BE resulting in a more streamline process and saving the applicant costs. Unknown to local government is that since the RGP3 (and RGP6 for salt water projects) has been implemented, projects that have been submitted using the RGP3 Application but not complying with one or more of the guidelines (over 95% of projects according to the Corps) have been approved in nearly the same amount of time. Most of these projects exceeded several of the guidelines including pier width, ell width and length, total pier size, pile size, or other elements. Many of these were approved because they were replacement structures with vast improvements over the existing conditions and with few exceptions improved the shoreline through riparian plantings, nearshore fill for fish habitat, stepping back a bulkhead, or other means. In every case, and even in those instances where the Corps Letter of Permission or Individual Permit was used to permit larger projects, a "may affect, not likely to adversely affect listed species and/or their critical habitat" was declared. If DOE is trying to use the same guidelines to arrive at a 'no net loss of ecological functions', unless the Corps is approving projects that result in a "net loss of ecological functions' then each of the projects approved by the Corps would meet this same criteria.

4) Thus far, attendance at SMP Update, City Council and Planning Commission meetings has been sparse to say the least. With the exceptions of Lake Forest Park and one Seattle's and Kirkland's meetings there has been less than 15 people (including local staff, DOE and the biological consultant(s) in attendance, with an average of 1 or 2 property owners living in the 200 foot area impacted by the SMP update. This means that local SMP's under the direction of DOE will for the most part be discussed, formulated, drafted, reviewed and approved with little or no public input, especially from those who will be impacted most. In most cases this is not the fault of the local government but several contributing factors including, people are busy, one of many local issues, notification methods,

not considered urgent, difficulty accessing SMP on local website and reading through multiple pages of material to try and find pier and bulkhead standards) , no real-life examples provided with proposed standards over existing structures so people can see the difference, and no threshold or requirement from DOE for measuring what is considered successful community involvement in the process.

5) There has also been no attempt by DOE to compare and contrast the LW and LS shorelines over recent years, particularly since 1998 and 2005 and present this information to local governments and the general public. They are pointing out what may be wrong rather than what has gone right and failed to credit property owners and local governments for the many improvements that have been made along their shorelines. As a result, it is unknown whether or not there have been improvements since the ESA and RGP3 have been in effect and combined with additional requirements from WDFW. DOE is using inconclusive "best available science" to make it appear that all local SMPs are outdated and not working and are contributing to impacts on LW and LS.

A close look at current local SMP development standards combined with state and federal development guidelines for overwater structures and bulkheads permitted shows that:

a. Piers are generally smaller
b. There are less moorage covers
c. Light passing material is being installed on every deck surface
d. Smaller diameter steel piles with longer spans have replaced treated timber piles 10' apart
e. Mooring piles are used more often for large boat moorage rather than additional fingers or walkways
g. The bottom of piers are 18" above the OHWL to promote light g. Walkways and ELLS are narrower
h. Boatlifts keep watercraft out of the water and limit shading
i. Riparian vegetation has been planted in mass
j. Bulkheads have been replaced in a fish friendly "laid back" design
k. Bulkheads have voluntarily been removed or relocated landward and replaced with partial or fully natural shorelines and coved beaches

l. Thousands of cubic yards of nearhore fill has been installed to provide shallow nearshore fish habitat along the

shoreline of hundreds of properties

It is doubtful that these undocumented improvements will be seen or heard in any literature from DOE or environmental arm of our government but hopefully some local governments or citizens will ask the right questions. It would be difficult for DOE after beginning the update
process in 2003, to step back and take this into consideration.

Issues surrounding bulkheads are equally important but time does not permit comment.

I reviewed the Whatcom County Draft SMP and noted on their website that DOE recommended some changes so I reviewed what appears to be the final approved SMP. It should be noted that the article in the Bainbridge Shoreline Homeowners newsletter and probably in the Bellingham Herald makes the following statement:

"New recreation piers along Lake Whatcom and other affected shores would have a maximum width of four feet instead of the current eight feet".

The statement may be misleading in that this may only apply to the main walkway. It is unclear what is meant by "pier" since some separate the meanings of float and pier. I have a call in to Whatcom County to clarify this because Section 23.100.09B(8)(a) states:

The width of piers, docks and floats shall be the minimum necessary and shall not exceed 4 feet in width, except where specific information on use patterns justifies a greater width. Marine floats shall not exceed 8 feet in width nor 40 feet in length and freshwater floats shall not exceed 6 feet in width and 20 feet in length unless authorized by a variance.

This means that a pier (float) may actually be 8 foot wide in saltwater and 6 foot wide in freshwater. The question is whether or not a fixed pile pier in a fresh water lake with very little fluctuation can have a 6' x 20' ELL or if they must have a float to get the additional overwatwer coverage. Since floats result in more shading than a fully grated fixed pile pier it would make sense to allow this.

Let's keep the communication lines open and hope the right people listen, local communities stand strong and ask questions on behalf of their citizens and unnecessary changes are not made based on inconclusive science and a failure to recognize improvements already made through a process that already works.

Thanks,

Dave Douglas
Permit Coordinator
Waterfront Construction, Inc.

-----Original Message-----
From: Keith
Sent: Wednesday, August 20, 2008 1:54 PM
To: Steve; Daved; Derek Jennings
Subject: FW: Bainbridge Shoreline Homeowners

The link below is quite interesting. If an error shows up, you can still click
on the items on the side bar to the right and view the documents.
Keith

-----Original Message-----
From: Richard Agnew [mailto:raa@vnf.com]
Sent: Tuesday, August 05, 2008 5:09 PM
To: Mary Lyn Kappert; David King; Greg Piantanida; Richard Sandaas; Marina
Hench; Greg Ashley; Ramona Monroe; Sean O'Neill; Eric Van; Keith
Subject: Re: Bainbridge Shoreline Homeowners

This is very well done, and well stated.

>>> "Richard Sandaas" <eride@msn.com> 8/1/2008 1:31:06 PM >>>
Greetings:
Below is a link which has extensive information about what is going on at
Bainbridge Island. Within this site there are numerous links which provide
additional background. All of it is worth reading.
Dick S.

http://bainbridgeshorelinehomeowners.wordpress.com/<http://bainbridgesho
relinehomeowners.wordpress.com/>

FW: Shoreline Master Programs & mechanical vs. chemical control of aquatic weedsFrom: Burcar, Joe (ECY) [jobu461@ECY.WA.GOV]
Sent: Friday, June 06, 2008 4:17 PM
To: Stacy Clauson
Subject: FW: Shoreline Master Programs & mechanical vs. chemical control of aquatic weeds

Attachments: RE: Shoreline Master Programs & mechanical vs. chemical control of aquatic weeds; Policy of current Kirkland SMP with draft proposed changes.doc; Robohm, Richard (ECY).vcf

Hi Stacy,
Richard has reviewed your policy for aquatic weed control and solicited some additional input from Kathy Hamel from our Water Quality program (see attached email). Kathy essentially agreed with your draft policy, but emphasized that both mechanical and chemical methods have their pro's and con's and the preferred method is site specific. Generally, we (Ecology) would endorse your preference for mechanical methods, but this seems like an areas were continued consultation with Ecology on the appropriate method maybe the best protocol. I wish I had more conclusive information to provide to you, but there just doesn't appear to be complete agreement on the appropriate method.
I also noticed on the Puget Sound Partnership website this staff link:
Kevin Anderson
Aquatic Nuisance Species Coordinator
360.725.5452 | kevin.anderson@psp.wa.gov
Perhaps it would also be good to check with WDFW?
<<RE: Shoreline Master Programs & mechanical vs. chemical control of aquatic weeds>>
Joe Burcar, Shoreline Planner
425.649.7145

From: Robohm, Richard (ECY)
Sent: Thursday, May 15, 2008 12:56 PM
To: Hamel, Kathy (ECY)
Cc: Burcar, Joe (ECY)
Subject: FW: Shoreline Master Programs & mechanical vs. chemical control of aquatic weeds
<<Policy of current Kirkland SMP with draft proposed changes.doc>>
Kathy,

Attached FYI is the current policy in the Kirkland Shoreline Master Program with tracked changes of proposed revisions, followed by a comment by a citizen who favors chemical-first weed control. We're trying to determine what, if any, revisions to the policy are called for.
rr
Richard K. Robohm
Wetland Specialist
Department of Ecology
425-649-4447

From: Robohm, Richard (ECY)
Sent: Thursday, May 15, 2008 12:34 PM
To: Hamel, Kathy (ECY)
Cc: Burcar, Joe (ECY)
Subject: Shoreline Master Programs & mechanical vs. chemical control of aquatic weeds
Hi Kathy,
During a meeting yesterday with planners from Kirkland, which includes almost 6 miles of Lake Washington Shoreline, they noted that their regulations prefer mechanical over chemical means of aquatic weed removal. A property owner is allowed to use chemicals only after demonstrating that mechanical methods are impractical or ineffective. This does not sit well with some citizens who favor chemicals and would rather not have to make a case for using them whenever the weeds grow thick.

Is there any basis for establishing criteria that would help determine when one method should be preferred over another?
Are some species of aquatic weeds more susceptible to mechanical control than others?
Are there some species for which chemical controls alone are practical?
When should one consider factors like the location and extent of an infestation, and what are the thresholds?

I looked quickly at "A Citizen's Guide for Developing Integrated Aquatic Vegetation Management Plans" and "Freshwater Noxious Emergent Integrated Pest Management Plan" but didn't find ready answers to these questions. Will I find the answers I seek if I read these more carefully, should I consult other sources, or am I asking questions for which we have no good answers?
Thanks for your help.
Regards,
rr

Richard K. Robohm
Wetland Specialist
Shorelands & Environmental Assistance Program
Department of Ecology - NW Regional Office
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http://www.ecy.wa.gov/programs/sea/wetlands/index.html
<<Robohm, Richard (ECY).vcf>>