



**MEMORANDUM**

**To:** Planning Commission

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

**Date:** May 1, 2008

**Subject:** Kirkland's Shoreline Master Program Update

**I. RECOMMENDATION**

Staff recommends that the Planning Commission complete the following:

1. Consider the revised draft policy language for the **Introduction, Shoreline Land Use, Shoreline Environment** and **Shoreline Parks, Recreation and Open Space** sections of the new Shoreline Chapter. These sections are found in Attachments 1 through 4. Please see Section II.1 of this memo, starting on page 2 for a summary of proposed changes since these policies were last reviewed by the Planning Commission.
2. Consider the new policies for **Shoreline Transportation, Shoreline Utilities, Shoreline Design**, and **Archaeological, Historic and Cultural Resources**. Please see Section II.2 through 5 of this memo, starting on page 3 for background information. These sections are found in Attachments 5 through 8.
3. Review the Public Comments and responses provided to specific inquiries or comments addressing shoreline stabilization and shoreline vegetation contained in Section III starting on page 8 of this memo, together with Attachments 15-18.
4. Consider the additional information presented under Section IV, Items for further discussion, starting on page 9.
5. Review and provide feedback on the upcoming Public Open House. The Public Open House is scheduled for Monday, June 9th. Commission members are encouraged to attend this open house. Please see Section V of this memo, starting on page 10 and Attachments 19 for further information.

## **II. GOALS AND POLICIES**

### **1. Introduction and Land Use, Shoreline Environment, Shoreline Parks, Recreation and Open Space**

The Planning Commission has completed a thorough review of these draft policies at earlier meetings. Attachment 1 includes the most recent draft, with the following changes made by staff in response to the Planning Commission direction provided at the April 10th meeting. The revised draft also includes changes suggested by staff, either as a result of additional staff review of the policy language or to clarify any concerns brought up in the public comments on the policies, as follows:

- A. General.
  - a. Some of the public comments received have requested that the scientific basis for the policy direction provided be included. In response, staff has included annotations to specific scientific studies. Please note that these studies are also referenced in the Shoreline Analysis report, upon which these policies have been based.
  - b. There has also been concern expressed that subjective conclusions appear in a number of policies (SMP-3.3, SMP-17.3). Staff has proposed revisions to these policies in an attempt to respond to this issue and clarify the policy intent.
  - c. Revised goals and policies to correct the use of the term pier, as requested by the Planning Commission.
- B. Goal SMP-1. Paragraph 4 of supporting language has been revised per Planning Commission direction.
- C. Policy SMP-1.3. Bullet 4 has been revised per Planning Commission direction.
- D. Policy SMP-3.3. Public comments have expressed concern about the functions and value of shoreline vegetation. Staff has added information from the WRIA 8 Conservation Strategy, which provides additional scientific basis for this policy recommendation. Please see Section III for more detailed information on this issue.
- E. Policy SMP-3.5 and 3.6. Added new policies addressing parking in response to requirements in the Washington State Guidelines. Please note that the Guidelines state that parking facilities in shorelines are not a preferred use and shall be allowed only as necessary to support an authorized use. The City's SMP is required to include policies and regulations to minimize the environmental and visual impacts of parking facilities.
- F. Policy SMP-3.7. Added new policy addressing lighting in the shoreline area.
- G. Policy SMP-7.2. After additional review, staff is proposing revisions to this section to simplify the intent of the policy and ensure that the supporting language is more clearly tied to the policy intent.
- H. Policy SMP-7.3. Revised per Planning Commission direction.
- I. Goal SMP-9. Significantly revised. Planning Commission had requested changes to clarify the direction of the policy. Public comments received had expressed concern that the activities noted were already regulated. As a result of this input, staff has simplified the supporting language in this policy.

- J. Policy SMP-10.6. Significantly revised. There has been concern expressed that this policy is based on subjective conclusions. Staff has added background information to describe the issue in more detail.
- K. Policy SMP-10.7. Staff has proposed some changes to this policy section.
- L. Policy SMP-10.9. Significantly revised to include additional background information and issues to be considered when designing enhancement plans.
- M. Policy SMP-10.10. Staff has suggested some changes to provide additional background information and clarify the intent of the policy.
- N. Policy SMP-10.11. Significantly revised by staff to clarify policy intent.
- O. Policy SMP-13.1. Revised per Planning Commission direction.
- P. Goal SMP-18. Revised per Planning Commission direction.
- Q. Policy SMP-18.4. Added policy addressing unopened street ends.
- R. Policy SMP-20.3. Eliminated language in response to public comments. Language was not important to policy intent.
- S. Policy SMP-20.5. Revised per Planning Commission direction.

## **2. Shoreline Circulation**

### ***Shoreline Transportation***

Under the State Guidelines, the City's SMP is required to include policies and regulations to provide safe, reasonable, and adequate circulation systems to, and through or over shorelines where necessary and otherwise consistent with these guidelines. Circulation system planning shall include systems for pedestrian, bicycle, and public transportation where appropriate. Draft goal SMP-22 and its related policies address streets, while Goal SMP-23 and its related policies address pedestrian and bicycle circulation. Draft goal SMP-24 and its related policies have also been included to address transportation alternatives, including access via air and water.

*Staff Analysis: There are a couple of key policy issues in this section that staff would recommend discussing, including proposed policies on helicopters and floatplanes, as well as policies on pedestrian circulation.*

### **Helicopter and Floatplane Use**

*Under the City's current Shoreline Master Program, aircraft moorage is prohibited (KMC 24.05.165(i)) The City's codes do not address the operation of floatplanes within the City, except within KMC 14.44.020, which states that "All vessels or watercraft shall keep clear of aircraft landing within any area now or hereafter set aside by law for such purpose. Aircraft on the water shall keep clear of all vessels and watercraft and avoid impeding their navigation." As a result, the commercial operation of floatplanes for air charter and scheduled air operations is not specifically addressed and should be clarified with the SMP Update. At this time, staff is requesting that the Planning Commission make a policy recommendation on the following issues:*

- *Should commercial floatplane operations, such as air charter and scheduled air operations, be permitted? If so, should the operators be permitted to moor the floatplane at the facility?*
- *Should private residential property owners be permitted to moor a floatplane at their residential property?*

*The primary issue to consider is one of community character. Potential noise impacts are likely to be a concern, and staff could evaluate standards as part of the development of regulations that would address operations in order to minimize these types of impacts. In reviewing this issue with the Parks Department, the Department has indicated that it would like the flexibility in the future to explore operation of commercial floatplane facilities out of the City's marina.*

*The following jurisdictions have specifically addressed these facilities:*

- *In its current SMP, the City of Seattle allows water-based aircraft facilities in the Urban Maritime Environment by the Director as either principal or accessory uses if approved under a Special Use Approval, after consideration of the following:*
  - *That the proposed use will be consistent with the policies of RCW 90.58.020 and the Shoreline Policies;*
  - *That the proposed use will not interfere with the normal public use of public shorelines;*
  - *That the proposed use of the site and design of the project will be compatible with other permitted uses within the area;*
  - *That the proposed use will cause no unreasonably adverse effects to the shoreline environment in which it is to be located; and*
  - *That the public interest suffers no substantial detrimental effect.*
- *In their draft SMP, the City of Redmond is proposing to allow private non-commercial float plane landing and mooring facilities on Lake Sammamish, with restrictions on the proximity to critical areas and public swimming beaches.*
- *In contrast, the City of Des Moines currently prohibits the operation of aircraft on the waters of the marina except under emergency conditions.*

*At this time, staff is recommending that the City continue to prohibit floatplane moorage within residential areas, but expand the current provisions to allow for floatplane moorage for limited commercial floatplane operations. Staff is recommending this approach to respond to a future potential demand for air access to Kirkland business districts, while limiting the overall area where moorage could occur due to potential noise and other community character impacts. The draft policies on this issue are contained in Attachment 5, Policy SMP-24.2.*

*With regard to helicopters, the following is an article from the Seattle Times about a situation that has arisen in Renton involving a helipad on private residential property along the shoreline:*  
[http://seattletimes.nwsources.com/html/localnews/2004315720\\_helipad30m.html](http://seattletimes.nwsources.com/html/localnews/2004315720_helipad30m.html) (see Attachment 9).  
*Staff is proposing a policy about helicopter use in the SMP, so that we clearly address whether or not helicopter landing facilities would be permitted within the shoreline area. In the draft policy (see Attachment 5, Policy SMP-24.3) staff is recommending that helicopter facilities not be permitted within the shoreline area.*

### Pedestrian Circulation

The map included in Attachment 10 shows proposed pedestrian walkways or sidewalks. This map has been compiled from the Neighborhood Plans for those neighborhoods located in the shoreline (Lakeview, Moss Bay, Market, and Juanita Neighborhoods) as well as the 2001 Non-Motorized Transportation, with the exception of the following:

- The 2001 Non-Motorized Transportation Plan depicts a new waterfront trail located along the shoreline within the Yarrow Bay Wetlands. Staff is recommending very limited access in this area, because of the high value and uniqueness of the habitat in the Yarrow Bay wetland.

Staff is requesting that the Planning Commission review this preliminary map to determine whether any additional connections should be included or whether any connections should be eliminated. Based on an initial review, staff does want to discuss whether the following connection should be included in the final map:

- A pathway is shown extending to Juanita Bay from the causeway. This pedestrian connection would need to cross through wetlands, and there does not appear to be significant additional educational or scientific benefits that would justify another connection through the wetlands in this area. Because of these issues, staff is recommending that this connection be deleted from the map provided in Attachment 10.

### **Public Access**

The Shoreline Management Act requires SMPs to provide for public access to publicly-owned shorelines [RCW 90.58.100(2)(b)]. Public access to public shorelines is also a preferred use on shorelines of statewide significance owned by the public [RCW 90.58.020(5)]. Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. The intent is for local governments to plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Under the State Guidelines, Kirkland's SMP is required to:

- Establish policies and regulations that protect and enhance both physical and visual public access. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.
- Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and nonwater-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required except:
  - Where the local government provides more effective public access through a public access planning process described in WAC [173-26-221](#) (4)(c).

- Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.
- For individual single-family residences not part of a development planned for more than four parcels.

Draft Goal SMP-23 and related policies SMP-23.1 through SMP-23.4 in Attachment 5 include policies addressing public access.

*Staff Analysis: Under the City's current SMP, all uses, developments and activities must provide public pedestrian access from the right-of-way to and along the entire waterfront of the subject property at or close to the high waterline, except for the following:*

- *The construction, repair, remodeling and use of one detached dwelling unit, as well as the construction, remodeling, repair and use of bulkheads, docks, and other uses, developments and activities incidental to the use of the subject property as habitation for one family.*
- *All uses, development and activity in conservancy environments, or environmentally sensitive areas where the city determines that access would create distinct and unavoidable hazards to human safety or be contrary to city policies regarding the protection of unique and fragile environments.*

*The citizens who attended the two September, 2006 forums said that they most value the great public access to the lake. The proposed policies on shoreline public access are a continuation of the policy goals for public access contained in the current SMP (see Attachment 11), which have been successful in establishing an extensive waterfront public access trail system in Kirkland.*

*A shoreline property owner testified at the March 13th Planning Commission meeting about public access, and wanted to ensure that public access trails not be required for single family lots. Both the current and proposed policy would not require public access for construction or one detached dwelling unit.*

### **3. Shoreline Utilities**

Under the State Guidelines, the City's SMP is required to include provisions to assure that:

- All utility facilities are designed and located to assure no net loss of shoreline ecological functions, preserve the natural landscape, and minimize conflicts with present and planned land and shoreline uses while meeting the needs of future populations in areas planned to accommodate growth.
- Utility production and processing facilities, such as power plants and sewage treatment plants, or parts of those facilities that are nonwater-oriented, shall not be allowed in shoreline areas unless it can be demonstrated that no other feasible option is available.
- Transmission facilities for the conveyance of services, such as power lines, cables, and pipelines, shall be located outside of the shoreline area where feasible and when necessarily located within the shoreline area shall assure no net loss of shoreline ecological functions.
- Utilities should be located in existing rights of way and corridors whenever possible.

Shoreline Master Program Update  
Planning Commission Study Session  
May 1, 2008

- Development of pipelines and cables on tidelands, particularly those running roughly parallel to the shoreline, and development of facilities that may require periodic maintenance which disrupt shoreline ecological functions should be discouraged except where no other feasible alternative exists. When permitted, provisions shall assure that the facilities do not result in a net loss of shoreline ecological functions or significant impacts to other shoreline resources and values.

Draft Goal SMP-25 and related policies in Attachment 6 include policies addressing utilities.

#### **4. Shoreline Design**

Under the State Guidelines, the City's SMP is required to include provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Under the public access provisions, the City should also ensure that it is accommodating the ability of the general public to view the water and the shoreline from adjacent locations. Draft goal SMP-26 and related policies in Attachment 7 include policies addressing shoreline design. Attachment 12 also includes a map depicting existing areas of public views.

*Staff Analysis: The map included in Attachment 12 depicts existing public views to the Lake. This map has been compiled from the Neighborhood Plans contained in the Comprehensive Plan, with additions made by staff in several locations (e.g new parks added since the Neighborhood Plan was developed). Staff is requesting that the Planning Commission review this preliminary map to determine whether any additional public viewscapes should be included or whether any public views shown should be eliminated from the map. Based on an initial review, staff does want to discuss whether the following view should continue to be emphasized with new policies and in the view map:*

- *The existing Juanita Neighborhood places emphasis on establishing view corridors to the lake through new development in the business district, including through the JBD 4 zone (see Attachment 13). This concept has been included in the proposed SMP policies, under Policy SMP-7.4 in Attachment 2. The existing policy has been applied in this area with Zoning Regulations requiring a view corridor to be maintained across 30 percent of the average parcel width of the properties in the JBD 4 and 5 zones. The view corridor must be in one continuous piece. Within the view corridor, structures, parking areas, and landscaping are allowed, provided they do not obscure the view from Juanita Drive or 98th Avenue NE to and beyond Lake Washington. This corridor must be adjacent to either of the side property lines, whichever results in the widest view corridor, given development on adjacent properties to the east and west*

Staff is concerned that the potential to create viable view corridors in this area is limited, both by the existing land use development and ownership pattern (see Attachment 13) and by existing development restrictions on properties in the JBD 4 zone, given the neighboring wetlands and buffer protection that will be applied in this area. Current regulations limit height in this area to 26 feet above average building elevation. No setbacks from property lines are required. The view in the JBD 4 area is largely to the wetland and trees; in some seasons, a filtered view of the Lake may also be possible. Since the policies in the Neighborhood Plan were originally drafted, Juanita Village has redeveloped and view lines have been preserved through the street network to Juanita

Beach Park. The view to the south from 100th Avenue and through the causeway also frames a view to the Lake and wetlands (primarily in winter). Given these existing circumstances, staff would like to confirm with the Planning Commission whether or not the establishment of view corridors is still an important policy direction for the shoreline properties in JBD 4 and 5 zones. Photographs have been included in Attachment 14 to depict current views available through this area. If view corridors are not required, staff would recommend exploring alternative measures to address building separation and massing (e.g. setbacks or height standards) as part of the development of regulations in this area.

## **5. Shoreline Archaeological, Historic and Cultural Resources**

Under the State Guidelines, the City's SMP is required to include policies and regulations to protect historic, archaeological, and cultural features and qualities of shorelines. Draft goal SMP-27 and policies SMP-27.1 through SMP-27.2 in Attachment 8 include policies addressing Shoreline Archaeological, Historic and Cultural Resources.

### **III. PUBLIC COMMENTS ON POLICIES**

A summary of the public comments received to date is included in Attachment 15.

Some of the public comments provided have expressed concern that the Kirkland shoreline is not well suited for the shoreline enhancement projects contemplated in the policy language because of the high wave fetch and boat waves. To ensure that bioengineered shoreline stabilization and enhancement are a viable option, staff has requested the City's consulting environmental firm, the Watershed Company, to address and respond to this issue. Their response is included in Attachment 16. The information provided in this letter has also been used to provide additional policy background to SMP-11.9 in Attachment 2.

Some of the public comments have also brought up concerns about the feasibility and practicality of installing vegetation along the shoreline. Staff requested the City's consulting environmental firm, the Watershed Company, to provide information on the value of riparian vegetation. Their response is included in Attachment 16. As noted in this letter, riparian vegetation installation can occur across the enhancement continuum, even in situations where there is limited depth from an existing structure to a bulkhead.

As part of the September, 2006 shoreline forums, there was discussion on these topics, with attendees encouraging the update to the SMP to address issues of shoreline stabilization and vegetation, with specific feedback as follows:

- Provide a healthy environment along the shoreline to preserve fish and wildlife and their habitats.
- Provide a wider range of incentives for people to restore their shorelines or engage in other activities which help achieve the City's goals for preserving and protecting the shoreline.
- With redevelopment or new construction, require a "softer front" on the shoreline.

Also, it is important to note that the scientific basis for these regulations is also based on recommendations stemming from the WRIA 8 Chinook Salmon Conservation Plan. Attachment 15 contains a list of Land Use Actions from the WRIA 8 Chinook Salmon Conservation Plan for North Lake Washington. The recommendations provided in Attachment 17 specifically apply to Kirkland and surrounding areas. A key recommendation from this Plan is to reduce bank hardening, restore overhanging riparian vegetation, and replace bulkheads and rip-rap with sandy beaches and gentle slopes. The City has been involved in the preparation of this Plan and has adopted a Resolution ratifying the WRIA 8 Chinook Salmon Conservation Plan (see Attachment 18 containing R-4510). One of the concepts within this adopted Resolution is to use the scientific foundation and the conservation strategy as the basis for local actions recommended in the plan and as one source of best available science for future projects, ordinances, and other appropriate local government activities. It was also noted that the comprehensive list of actions, and other actions consistent with the Plan, should be used as a source of potential site specific projects and land use and public outreach recommendations. Staff has been incorporating relevant recommendations from this Plan as part of the updated SMP. The Final WRIA 8 Chinook Salmon Conservation Plan can be accessed via the following link: <http://dnr.metrokc.gov/WRIAS/8/chinook-conservation-plan.htm>.

Staff would continue to recommend that the City provide strong guidance to reduce bank hardening and establish shoreline riparian vegetation. Based on the scientific findings communicated in the WRIA 8 Chinook Salmon Conservation Plan, these actions are needed as part of the overall conservation strategy for Chinook Salmon recovery. Staff believes that the direction provided in the draft policies (see Policy SMP-3.3 in Attachment 2, and Goal SMP-16 and related policies in Attachment 3 for shoreline vegetation; see Policies SMP-10.6 through 10.11 in Attachment 2 for shoreline stabilization) respond to the objectives established for the SMP Update, which in part noted the desire to protect the quality of water and shoreline natural resources to preserve fish and wildlife and their habitat.

#### **IV. ITEMS FOR FURTHER DISCUSSION**

##### **1. Watercraft Noise**

At the April 10th meeting, the Planning Commission requested additional information on existing standards in place to address noise from watercraft on Lake Washington. The following summarizes some of the key standards related to regulation of watercraft noise. These ordinances are currently enforced by the King County Sheriff's Office Marine Patrol, which is contracted by the City for marine service, including regular patrols, law enforcement, emergency response, and boater safety education.

- At this time, the Kirkland Municipal Code does not contain an ordinance regulating watercraft audio equipment. If this is an issue of concern, staff could explore an amendment to the Kirkland Municipal Code to create a watercraft provision similar to the one for motor vehicles in KMC 11.84A.070(5), which limits the sound from any motor vehicle audio sound systems, such as tape players, radios and compact disc players, operated at a volumes so as to be audible greater than fifty feet from the vehicle itself. Staff would recommend consulting with King County Marine Patrol, which would be responsible for compliance issues.
- RCW 79A.60.130(3) limits the operation of a vessel to a limit of 75 decibels from any point on the shoreline. This noise level is enforceable by the King County Marine Patrol, which can request to

Shoreline Master Program Update  
Planning Commission Study Session  
May 1, 2008

measure the noise level and can require the operator to take immediate and reasonable measures to correct the violation.

- KMC 14.28.020 states “It is unlawful to use or operate any engine in or on Kirkland Harbor unless the engine is operated with and connected to a muffler or silencer of sufficient size and capacity effectually to muffle and prevent excessive or unusual noise from the exhaust of the engine”.
- KMC 14.28.030 states that “It is unlawful for the master, owner or any other person in charge of the watercraft or vessel, while lying at any pier, or while navigating in Kirkland Harbor, unnecessarily to cause any whistle or siren to be blown or sounded, nor shall any person flash the rays of a searchlight or other blinding light onto the bridge or into the pilot house of any vessel or watercraft under way for any purpose other than those authorized by law”.

King Country Marine Patrol indicates that they do receive complaints about noise on Kirkland waters, particularly at Juanita Bay, though last year there were fewer complaints.

This issue was originally brought up as part of the discussion on whether to include new policies addressing operation of motorized watercraft near the City’s natural park areas, including Juanita Bay and Yarrow Bay Wetlands. Staff has brought this question to you for input as a result of a recommendation made in the WRIA 8 Conservation Strategy, which notes that within the North Lake Washington migratory area, jurisdictions should explore the need for regulation and/or education related to impacts of power boat speed near shorelines on bulkheads and shoreline vegetation. Since power boats are getting bigger, there was a recommendation in the WRIA 8 Conservation Plan to determine if there is a need to set guidance for boat speed within a certain distance of the shoreline, depending on the location in the lake. In particular, staff was concerned about potential impacts from watercraft operation to the natural areas found along Kirkland’s shoreline.

It should be noted that the City does already address this issue, both with speed limits along the shoreline (maximum 7 nautical m.p.h. within 100 yards of any shoreline pier or restricted area) and with installation of buoys approximately 300 feet from the shore within Yarrow and Juanita Bays to discourage boaters from entering these bays.

At this time, staff would recommend no additional action on the issue of watercraft noise. Policy SMP-19.1 in Attachment 3 provides policy guidance about the need for managing watercraft access to the City’s natural areas. Additional measures may be difficult to enforce and the SMP Update process may not be the best forum to review these issues.

## **V. OPEN HOUSE**

Staff has scheduled a Public Open House on the SMP Update for Monday, June 9th. Commission members are encouraged to attend this open house. Attachment 19 contains a draft of the public notice that will be distributed for the Open House, as well as a preliminary outline of the activities planned as part of the Open House. Notice will be provided to all property owners and residents within the shoreline jurisdiction, members of the Shoreline listserv, local and state agencies and non-governmental organizations, as well as a broader notice to the public in media outlets, to Neighborhood Associations, on

public notice boards, and other venues. Please review these items and provide input to staff on this public event.

## **VI. ATTACHMENTS**

1. Draft SMP Goal and Policy Language for the Introduction
2. Draft SMP Goal and Policy Language for the Shoreline Land Use Section
3. Draft SMP Goal and Policy Language for the Shoreline Environment Section
4. Draft SMP Goal and Policy Language for the Shoreline Parks, Recreation and Open Space Section
5. Draft SMP Goal and Policy Language for the Shoreline Transportation Section
6. Draft SMP Goal and Policy Language for the Shoreline Utilities Section
7. Draft SMP Goal and Policy Language for the Shoreline Design Section
8. Draft SMP Goal and Policy Language for the Archaeological, Historic and Cultural Resources Section
9. "Helicopter use divides neighborhood in Renton", Seattle Times, March 30, 2008
10. Map of Shoreline Pedestrian System
11. KMC 24.05.065 Public access element goal and policies
12. Map of Shoreline Public Views
13. Copy of Zoning Map for Juanita Business District
14. Photographs of Juanita Business District
15. Table Summarizing Public Comments
16. Letter from the Watershed Company "Response to Issues Raised..."
17. Comprehensive Action List for North Lake Washington Tributaries, WRIA 8 Conservation Strategy
18. Resolution 4510
19. Open House Notice and Outline

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