



MEMORANDUM

To: Planning Commission

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

Date: February 21, 2008

Subject: Kirkland's Shoreline Master Program Update

I. RECOMMENDATION

Staff recommends that the Planning Commission complete the following:

1. Receive a presentation and discuss the Shoreline Master Program (SMP) Update process, including steps taken and future work. Please see Section II of this memo (starting on this page) for background information. The State Guidelines referenced are contained in Attachment 1. Attachment 16 includes an information sheet produced by the Department of Ecology providing background on the Shoreline Management Act. Joe Burcar from the Department of Ecology will be attending the meeting to overview the Ecology's role in the development and approval of the SMP. Amy Summe of the Watershed Company will also be present to answer any questions you may have about the shoreline inventory and characterization work that has been completed.
2. Consider and provide feedback on the proposed work program of the Shoreline Master Program. Please see Section III of this memo, starting on page 6 for background information on this item. Attachment 5 provides a copy of the draft work program for your review.
3. Review and provide feedback on the plan format and preliminary outline for the Shoreline Master Program. Please see Section IV of this memo, starting on page 7 for background information on this issue. Attachment 6 provides a draft outline of the Shoreline Master Program for your review.
4. Consider draft policy language for the Land Use section of the new Shoreline Chapter. Please see Section V starting on page 10 for background information on this issue. Attachment 7 provides a copy of the draft policy language for the Land Use section of the new Shoreline Chapter.
5. Review the preliminary shoreline environments and accompanying map. Please see Section VI of this memo, starting on page 17, for background information. Attachment 8 provides a copy of the draft Shoreline Environment Designations report, which provides additional background information

on how the shoreline environments were derived, as well as a description of the shoreline environment and management policies. Please note that we will not be reviewing the Environment Designation Regulations, starting in Section 4.0 of this report, at this meeting. Attachment 10 provides a preliminary map of the Shoreline Environment Designations. For comparison, Attachment 9 provides a copy of the current Comprehensive Plan Land Use Designation map with the shoreline management area depicted on it. Amy Summe of the Watershed Company will be present to address how the existing land use and ecological findings from the inventory work have been used to characterize the shoreline into discrete management areas.

6. Provide input on a public participation event to be scheduled for spring. See Section VII starting on page 21 for more information on this issue.

It is recognized that this list of issues is quite large and we may not be able to get through all of these items on the 28th. If we are not able to make it through all of the issues, we will continue the discussion at the March 13, 2008 meeting. We will also be presenting the same information to the Houghton Community Council on February 25, 2008.

II. SHORELINE MASTER PROGRAM UPDATE PROCESS

State Requirements

The City of Kirkland is in the process of updating its Shoreline Master Program (SMP). As part of this process, the City must implement the principles established in the Shoreline Management Act (RCW 90.58).

Washington's Shoreline Management Act (SMA) was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The goal of the SMA is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines." The Act establishes a broad policy giving preference to uses that:

- protect the quality of water and the natural environment,
- depend on proximity to the shoreline ("water-dependent uses"), and
- preserve and enhance public access or increase recreational opportunities for the public along shorelines.

Under this statute, local governments, in amending their SMPs, are required to:

- Designate preferred uses on the shoreline;
- Protect shoreline natural resources;
- Promote public access;
- Manage Shorelines of Statewide Significance (which includes Lake Washington) for the long-term benefit of all citizens of the state.

To assist in the update effort, the state has adopted Shoreline Master Program (SMP) Guidelines (WAC 173-26) which are standards that Kirkland must follow in drafting our master program. A copy of these guidelines is included for your reference in Attachment 1. (Please be sure to keep the guidelines for reference at future meetings). The Guidelines translate the broad policies of RCW 90.58.020 into standards for regulation of shoreline uses. The update must also be consistent with our local planning under the Growth Management Act, including providing a level of protection equal or greater than critical areas regulations. While the program must be based on these state guidelines, it can be tailored to the specific needs of Kirkland.

Local shoreline master programs combine both plans and regulations. The plans are a comprehensive vision of how shoreline areas will be used and developed over time. Regulations are the standards that shoreline projects and uses must meet. The Shoreline Master Program applies to land within 200 feet of Lake Washington's high water mark and within wetlands connected to Juanita Bay and Yarrow Bay.

The SMA establishes a balance of authority between local and state government. Cities and counties are the primary regulators but the state (*through the Department of Ecology*) has authority to review local programs and permit decisions. Ecology provides technical assistance to all local governments undertaking master program amendments. Master program amendments are effective after **Ecology's approval**. In reviewing master programs, Ecology makes a decision on whether or not the proposed changes are consistent with the policy and provisions of the Act and state master program guidelines.

Objectives for Updating the Shoreline Master Program

These objectives were outlined at the beginning of the process. As previously discussed, the primary objectives are to:

- Provide a healthy environment along the shoreline to enable current and future generations to enjoy using it.
- Provide a healthy environment along the shoreline to preserve fish and wildlife and their habitats.
- Protect the City's investments as well as those of property owners along and near the shoreline.
- Produce an updated Shoreline Master Program (SMP) that is supported by Kirkland's elected officials, citizens, property owners and businesses, the State of Washington, and other key interest groups with an interest in the shoreline.
- Efficiently achieve the SMP mandates of the State.

Public participation in this process is also a key component. To help keep track of public comments that are submitted and the actions taken to respond, we have prepared a table tracking public comments (see Attachment 2). This table will continue to be updated as the SMP process continues. Please provide any feedback on requested changes or additions to this table that you would like to see. In addition, I want to provide you copies of some specific letters that have been received covering topics on this evening's agenda (see Attachment 3.a-e).

Progress to Date and Next Steps

The Planning Commission last saw this project in July 2007, for an update on the project status and upcoming steps. The chart on the following page and text that follows reiterates the tasks that have been completed and those that are yet to do. The Planning Commission's tasks are indicated by PC in bold type. Timing estimates for remaining items are approximate. Implementation of the Public Participation Plan and coordination with other jurisdictions, agencies, and stakeholders occur continuously throughout the process. Copies of the Public Participation Plan and Shoreline Inventory, Analysis and Characterization have been previously provided to you. Please be sure to bring your copies of both of these documents to the meeting. If you are unable to locate these documents, please contact me so that I can provide you with a copy. See Attachment 4 for a more detailed chart that was prepared by the State to depict the steps involved in updating a Shoreline Master Program.

UPDATING KIRKLAND'S SHORELINE MASTER PROGRAM (SMP)

PHASE	TASKS	STATUS/TIMING*	BY
1	A. Secure grant from Dept. of Ecology (DOE) B. Identify and map areas subject to the SMP C. Prepare Public Participation Plan D. Planning Commission, Houghton Community Council, City Council, and Dept. of Ecology (DOE) review and approve Public Participation Plan	A. Done (Mar. 2005 - Jan. 2006) B. Done (Jan. - Mar. 2006) C. Done (Feb. - Mar. 2006) D. Done (Apr. - May 2006)	A. Staff, DOE B. Consultant C. Staff D. PC , HCC, CC, DOE
2	A. Prepare a draft shoreline inventory, analysis, and characterization B. Notify all parties with potential interest about the project, events, & public comment opportunity via SMP website, email, mail, signs, newspaper, TV, and meetings. C. Distribute the draft inventory, analysis, and characterization for review and comment by DOE and all parties with potential interest D. Introduce project and present data at public forums and shoreline tour E. Submit the final version to DOE for review	A. Done (Mar. – Jul. 2006) B. Ongoing (Began Sept. 1, 2006) C. Done (Sept. 1 - Oct. 15, 2006) D. Done (Sept. 18 & 30, 2006) E. Done (Dec. 2006)	A. Consultant & staff B. Staff C. Staff D. Staff and speakers E. Staff
3	A. Staff brief PC, HCC, and CC on project purpose, process, and status B. Develop goals and policies C. Designate Shoreline Environments D. Public Participation Event E. Develop regulations	A. Done (July 12, July 23 and Aug. 7, 2007) B. <i>February – April 2008</i> C. <i>May 2008</i> D. <i>February – April 2008</i> E. <i>July – August 2008</i>	A. PC , HCC and CC B. PC and HCC C. Staff D. PC and HCC E. PC and HCC
4	A. Conduct cumulative impacts analysis (to confirm that policies and regulations would prevent net loss of ecological functions) B. Revisit environment designations, policies and regulations if necessary C. Staff brief CC on draft goals, policies, and regulations D. Prepare restoration plan	A. <i>On-going as regulations are adopted; present September 2008</i> B. <i>September - October 2008</i> C. <i>November 2008</i> D. <i>October 2008</i>	A. PC and HCC B. PC and HCC C. CC D. PC and HCC
5	A. Ecology informal review of complete draft SMP B. Public workshop C. SEPA D. Staff brief CC on the draft SMP	A. <i>On-going, last element sent for review in November 2008</i> B. <i>November 2008</i> C. <i>November 2008</i>	A. DOE B. Staff C. Staff D. HCC

	E. Public hearing F. CC study session(s) and local adoption of SMP	<i>D. January - February 2009</i> <i>E. June - July 2009</i> <i>F. Apr. - May 2009</i>	E. HCC, PC F. CC
6	A. State conducts another comment period on the SMP B. State works with Kirkland to finalize the SMP	<i>A. To be determined (TBD)</i> <i>B. TBD</i>	A. DOE B. DOE, CC, HCC
<i>* Estimates of timing for remaining tasks are approximate and are subject to change</i>			

III. WORK PROGRAM

Phases Three through Five

The detailed work program for consideration of these items is set forth in Attachment 5. Please review this work program and provide comments at the meeting.

The following is a brief description of each of the key remaining components (in addition to the Public Participation Plan and Shoreline Inventory, Analysis and Characterization) that will be transmitted to the Department of Ecology for their review.

Goals, Policies, and Regulations

Now that the Inventory, Analysis and Characterization work has been completed, it is time to move forward with work on the goals, policies and regulations of the SMP. It is important to note that the inventory and analysis work will be used to write master program policies and regulations designed to achieve no net loss of ecological functions, and will form the basis for the shoreline restoration plan. The goals, policies, and regulations are to be based on the data and analysis given in the Shoreline Analysis Report.

The Planning Commission has a prominent role in the remaining phases of the project. At the meeting on February 28th, we will begin to review general goals and policies relating to Land Use. At the March 27th meeting, we will continue this work and look at goals, policies and regulations specific to the Natural Environment, Circulation, Utilities and Design.

Shoreline Environment Designations

Each segment of the shoreline is designated as one of several types of shoreline environments that are described in the new State Guidelines, e.g. Urban Residential, Urban Mixed, Conservancy, etc. Within the areas subject to the Shoreline Master Program, Environment Designations function much like zones do throughout the City.

The State requires the Shoreline Environment Designations to be based on the data and analysis provided in the Shoreline Analysis Report. To facilitate the designation process, draft preliminary designations have been prepared by The Watershed Company, the consulting firm that prepared the technical portions of the Shoreline Analysis Report. Tonight we are going to begin review of the environment designations proposed for the City and begin review of the Shoreline Environment Designation Map.

At later meetings, we will be drafting Shoreline Environment-specific policies and regulations for your review to determine what uses, activities, and development standards will apply within each type of Shoreline Environment.

Cumulative Impacts Analysis

The new State guidelines require that new Shoreline Master Programs ensure no net loss of ecological functions. For example, SMP regulations would need to include standards that would require future shoreline development or redevelopment to avoid or mitigate any further degradation of fish habitat beyond what is recorded in the recent shoreline inventory (which appears in the Shoreline Analysis Report). After the goals, policies, and regulations have been drafted, they will be tested as the City conducts a Cumulative Impacts Analysis to determine if Kirkland's updated SMP will meet the 'no net loss' requirement. The Cumulative Impacts Analysis will identify which, if any, goals/policies/regulations need to be revised to meet the "no net loss" requirement.

Restoration Plan

Apart from preventing net loss of shoreline ecological functions, the new SMP is also required to include a Restoration Plan. No one, including DOE, expects the Kirkland shoreline to be restored to pre-settlement conditions. So, in this case, the State guidelines use the term "restoration" generally to describe actions ranging from complete rehabilitation, e.g. replacing a bulkhead with a softened, natural edge (some gently-sloping beach and some native vegetation), to any ecologically helpful action, e. g. removing some invasive non-native plants, planting some native plants, or making the portion of the dock closest to land narrower to reduce shade in the near-shore (where juvenile Chinook salmon are attacked by predator fish in shady areas). Unlike the 'no net loss' requirement that will be addressed through regulations, the restoration plan will rely on some combination of incentives, public projects, volunteers, and non-profit programs for implementation.

IV. PLAN FORMAT

Contents of SMP

Every SMP is somewhat unique, and they may vary depending upon the degree of integration of the SMP into local comprehensive plans and development regulations. However, most SMPs usually include the following:

1. Introduction information on the relationship of the SMP to other regulatory programs, description of the legal framework and applicability of the SMP, and orientation on how to use the document.
2. Goals that serve as broad expressions of community desires relative to SMP "elements": shoreline use, economic development, public access, circulation, recreation, conservation and historical/cultural values. Goals provide the basis for, and are intended to help implement, SMP policies and regulations. The shoreline elements are required by the SMA at [RCW 90.58.100\(2\)](#).
3. General policies and regulations that apply to shoreline uses and modification activities irrespective of environment designations. Policies are the bridge between goals and regulations, translating the general into the specific. Shoreline policies are legally enforceable. Regulations are more specific, enforceable controls and standards for shoreline development.
4. Policies and regulations for shoreline uses such as agriculture, aquaculture, mining, commercial,

industrial, recreation and boating facilities. A shoreline "use" is defined as the "end" to which a land or water area is ultimately employed. Regulations in SMPs are often referred to as "use requirements."

5. Policies and regulations for shoreline modification activities including dredging, piers, construction of bulkheads, and other actions undertaken in preparation for, or in support of, a shoreline use. Regulations for shoreline modification activities generally deal with construction impacts whereas "use" regulations pertain to long term management as well.

6. Environment designations: shorelines are classified into specific "environment designations" based on their physical, biological and development characteristics. New state guidelines recommend six designations: "natural," "rural-conservancy," "urban conservancy," "high-intensity," "shoreline residential," and "aquatic." Local governments may modify state recommended classifications to better accommodate shoreline areas with unique characteristics. Policies and regulations are developed for each designation, reflecting the specific purpose and intent of each environment and responding to its specific conditions.

7. Administrative regulations for permit and enforcement, and for making amendments to the shoreline master program.

8. Technical appendices such as maps of the environment designations and boundary descriptions for environment designations are usually incorporated into SMPs.

Proposed Plan Format

One of the key initial questions that should be made concerns the plan format for the SMP. In essence, there are two different approaches to program format, as follows:

Option 1:

Integrate all or portions of the program into other plans and regulations (e.g. the Comprehensive Plan and Zoning Code). Under this option, the SMP provisions that are integrated need to be clearly identified so that Ecology can review these provisions for approval and evaluate development proposals for compliance and so that interested persons and entities can be involved in the master program preparation and amendment process. Kirkland would be required to submit a listing and copies of all provisions that constitute the master program to the Department of Ecology. The master program would also need to be sufficiently complete and defined to provide:

- Clear directions to applicants applying for shoreline permits and exemptions; and
- Clear evaluation criteria and standards to the Department of Ecology, other agencies and the public for reviewing permit applications with respect to state and local shoreline management provisions.

As an example of this approach, the City of Redmond has integrated their SMP into their Comprehensive Plan and Development Guide

(<http://www.redmond.gov/intheworks/shorelineprogram/pdfs/20CRegulations2007e.pdf>) using the following approach:

1. Redmond has established a new Chapter in their Comprehensive Plan which contains many of the key goals and policies related to the shoreline. Where portions of their existing Comprehensive Plan already address issues (such as protection of critical areas) Redmond has referenced these sections in the new Shoreline Chapter (to be discussed in more detail below). If the Comprehensive Plan already contained a relevant chapter addressing an issue (such as Parks and Recreation), Redmond added policies to this Chapter that addressed specific shoreline provisions and added an SMP footnote to these to specifically note that these policies were a component of their SMP.
2. Redmond established a new Section in their Development Guide containing Shoreline Regulations. This new chapter contained the following:
 - a. Establish the shoreline jurisdiction.
 - b. Establish what policies and regulations constitute their Shoreline Master Program (which is required with an integrated plan).
 - c. Establish general regulations and provides a use table outlining uses and activities within the shoreline environment.
 - d. Includes specific use regulations for allowed uses and activities.
 - e. Contains shoreline development standards (density, setbacks, impervious surface coverage, lot frontage, and building height) for each shoreline environment.
3. In other chapters that could apply within the shoreline area, Redmond has included references to the regulations contained in the Shoreline Regulations chapter.
4. Where components of the SMP regulations have been integrated into an existing Chapter in the Development Guide (e.g. definitions), Redmond has added an SMP footnote to these to specifically note that these policies were a component of their SMP.

Option 2:

Prepare a discrete master program in a single document. The existing SMP is organized in this way, with the goals, policies, and regulations contained within Chapter 24.05 of the Kirkland Municipal Code and the shoreline administration and procedures contained within Chapter 24.06 of the Kirkland Municipal Code. The City of Lake Forest Park has also organized their new SMP in this manner (http://www.cityofflp.com/news/2006pr/final_smp95_20060302.pdf).

Staff Recommendation: Integrate the plan in a similar approach to that used in the City of Redmond. A draft outline of this approach is provided in Attachment 6. Managing growth along shorelines is one of the goals of the Growth Management Act (GMA). The GMA requires integrating shoreline protection with land use planning, as required by the Shoreline Management Act (Chapter 90.58 RCW), and under this GMA planning goal. Staff believes that the best way to ensure that shoreline protection is integrated is to incorporate relevant sections into the Comprehensive Plan and Zoning Regulations. In this way, we can better assure policy uniformity (particularly with updates) since the relevant regulations would be contained in one coordinated document. Further, when it comes time to implement these regulations, all items would be found and cross-referenced within the Zoning Code allowing for easier identification of applicable provisions. Conflicts between regulations may also be easier to identify and correct.

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Adoption of Existing Policies and Regulations

Kirkland may also include other adopted policies and regulations within our master program. For example, many jurisdictions have recently updated their critical area ordinance and have been able to include these ordinances in response to the requirements contained in the SMA to provide protection for critical areas (RCW 90.58.090(4)). If Kirkland decides to rely on an existing policy or regulation to meet the requirements of the SMA, it is important to note that we must reference a specific, dated edition. If the development regulation is later amended, the edition referenced within the master program will still be the operative regulation in the master program, unless the amended referenced regulations are approved as part of a master program amendment. That may mean that to change the referenced regulation when we apply it within the shoreline area, we will need to seek approval from the Department of Ecology through an official amendment process, which can be an extensive and time consuming process.

Staff Recommendation: In general, staff would recommend that we avoid adoption of existing policies and regulations to meet the requirements of the SMA. This may result in repetition of some regulations, which is not ideal, since repetition can lead to problems in the future as codes are updated. There may be certain cases where adoption is appropriate and we will try to identify those as we present different provisions for your review. Please note that if the policy or regulation referenced is not used to meet the requirements of the SMA and therefore is not adopted as part of the adopted SMP, this same restriction would not apply.

V. GOALS AND POLICIES

Background Information on State Requirements

As noted previously, policies are a required component of our SMP. One of the primary purposes of the goals and policies is to translate the broad statewide policy goals set forth in WAC 173-26-176 and 181 into local directives that respond to our community vision. Policies also serve to:

- Provide direction or authorize a course of action;
- Specify criteria for regulatory and non-regulatory actions;
- Provide a comprehensive foundation for the shoreline master program regulations, which are more specific, standards used to evaluate shoreline development
- Provide guidance for public investment and other non-regulatory initiatives to assure consistency with the overall goals of the master program.

Under the State's Guidelines, shoreline master program policies are required to:

- Be consistent with state shoreline management policy goals and specific policies listed in WAC 173-26 and the policies of the Shoreline Management Act;
- Address the master program elements of RCW 90.58.100; and
- Include policies for environment designations as described in WAC 173-26-211. The policies shall be accompanied by a map or physical description of the schematic environment designation boundaries in sufficient detail to compare with comprehensive plan land use designations.

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- Be designed and implemented in a manner consistent with all relevant constitutional and other legal limitations on the regulation of private property.

In crafting the shoreline policies, it is important to keep the following language construction requirements in mind:

- The terms "shall," "must," and "are required" and the imperative voice, mean a mandate; the action is required;
- The term "should" means that the particular action is required unless there is a demonstrated, sufficient reason, based on a policy of the Shoreline Management Act and this chapter, for not taking the action; and
- The term "may" indicates that the action is within discretion and authority, provided it satisfies all other provisions in this chapter.

It should be noted that the SMA and state SMP guidelines do not require the inclusion of Goal Statements in an SMP. Goal statements have been included in this draft in order to focus on mutually desired outcomes before beginning to decide how to best achieve those outcomes. Goals are the broadest expression of the community's desires consistent with the Shoreline Management Act (SMA). Goals are statements of intent that are intended to provide the policy foundation for the entire SMP.

While DOE recommends that policies and regulations be included together in each of the general use, modification activity and environment designation sections of an SMP, in this draft, the goals and policies are included together to form the umbrella framework under which the regulations are developed and so that they can be used to help interpret, give support to or explain the regulations. If the Planning Commission would like policies and regulations to be included together, we should discuss the program formatting in more detail.

Proposed Language for New Chapter in Comprehensive Plan

Introduction

The draft language before you (see Attachment 7) includes an introduction section to provide information on the SMA, the relationship of the SMP to other provisions, including the Comprehensive Plan, a brief description of the legal framework and applicability of the SMP, and some information on the need for the update at this time.

Shoreline Land Use

This section should address the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, natural resources, recreation, and other categories of public and private uses of the land. The following describes some of the key requirements from the State Guidelines addressing Land Use:

Preferred uses.

The SMA gives preference to uses that are unique to or dependent upon a shoreline location (WAC [173-26-176](#)). Consistent with this policy, the guidelines use the terms "water-dependent," "water-related," and "water-enjoyment," as defined in WAC [173-26-020](#), when discussing appropriate uses for various shoreline areas.

- "Water-dependent use" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations. Examples include swimming beaches, boat launches, boat docks, and marinas.
- "Water-related use" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because:
 - 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
 - The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

Examples include boat sales and outfitters and manufacturers that transport goods by water.

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

When determining allowable uses and resolving use conflicts on shorelines, we need to apply the following preferences and priorities in the order listed below:

1. Reserve appropriate areas for protecting and restoring ecological functions to control pollution and prevent damage to the natural environment and public health
2. Reserve shoreline areas for water-dependent and associated water-related uses.
3. Reserve shoreline areas for other water-related and water-enjoyment uses that are compatible with ecological protection and restoration objectives.
4. Locate single-family residential uses where they are appropriate and can be developed without significant impact to ecological functions or displacement of water-dependent uses.
5. Limit nonwater-oriented uses to those locations where the above described uses are inappropriate or where nonwater-oriented uses demonstrably contribute to the objectives of the Shoreline Management Act.

Since Lake Washington is designated as a shoreline of statewide significance, the following preferences also apply (WAC [173-26-251\(2\)](#)):

1. Recognize and protect the statewide interest over local interest;
2. Preserve the natural character of the shoreline;

3. Result in long term over short term benefit;
4. Protect the resources and ecology of the shoreline;
5. Increase public access to publicly owned areas of the shorelines;
6. Increase recreational opportunities for the public in the shoreline;
7. Provide for any other element as defined in RCW [90.58.100](#) deemed appropriate or necessary.

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 non-water oriented uses.

Kirkland may determine that other uses are necessary and appropriate (based upon local economic and land use conditions), but we need to ensure that the preferred uses are reasonably provided for.

Staff Analysis: The City's current development pattern along the shoreline is generally consistent with these principles. As part of the shoreline inventory work, we established four segments, based upon existing land use and degree of shoreline modification, as follows:

- *Segment A is the northernmost segment, comprising the Potential Annexation Area. Since this area is still located within the King County jurisdiction, Kirkland will not be including this area in the policy work currently being developed.*
- *Segment B consists of the Juanita Bay and Yarrow Bay wetlands, two high-functioning natural area that are primarily zoned Park/Open Space.*
- *Segment C consists of the primarily single-family residential areas within the City limits and also includes several waterfront parks.*
- *Segment D consists of the more urban areas within the City limits, including the Central Business District, areas zoned from medium to high density residential and commercial uses, and a few developed parks.*

In general, land uses within the City shoreline area are fully developed. Land uses are also largely consistent with planned land uses contemplated in the City's Comprehensive Plan. These two factors contribute to a relatively stable land use pattern within the shoreline area.

In keeping with the preferred uses noted above, significant land has been designed for parks or open space. Approximately 57% of the area (expressed in acreage) within the shoreline jurisdiction, or a total of 132.7 acres of the shoreline, are within areas designated as park or open space. Except for a few anomalies, the high-functioning portions of the shoreline (Juanita Bay and the Yarrow Wetlands) have been appropriately designated and preserved within these areas.

The City contains several water-dependent uses, mostly commercial recreational uses such as marinas or public recreational facilities such as the Kirkland Public Dock and the boat launch facility at Marina Park. At this time, given the degree of existing development and area available, there is limited potential for significant new shoreline water-dependent uses, though it is not unforeseeable that smaller commercial marinas could be established along the shoreline. As an example, there is currently study underway for commuter ferries to operate out of Kirkland's waterfront – we will need to study this issue further and

include appropriate policies with regard to this use as more information becomes known. There is also potential that the existing facilities could be expanded, though not likely in the near term. Both Kirkland Yacht Club and Yarrow Bay Marina have recently or in the process of modifying their existing facilities, with Yarrow Bay Marina expanding its capacity by 6 slips and the Kirkland Yacht Club constructing new marina facilities. One of the key considerations will be retention of these water-dependent uses.

Single-family residential development is a significant land use along the City's shoreline, comprising much of the area designated as Segment C (30.85 acres or approximately 13 percent of Kirkland's shoreline, minus shoreline parks within Segment C).

The City, while it contains several existing overwater condominiums which are non-water oriented uses, has had policies in place for many years prohibiting new overwater structures for non-water oriented uses. This policy would be expected to continue. One of the key issues is going to be how to address these existing overwater condominiums if the owners want to remodel over the coming years. Two overwater residential projects are currently in the process of substantial maintenance and repairs, including replacement of the exterior siding of these buildings.

During the public forums held in September 2006, attendees articulated several interests and goals that apply to the management of land uses, including the following:

- *Provide education, incentives and outreach to motivate or enable homeowners, property owners to be partners in implementing the updated SMP.*
- *The City should proactively take actions to facilitate substantial changes for ecological improvement along the Kirkland waterfront, rather than wait for a few owners to voluntarily make improvements in a piecemeal fashion. Consider working with a group of owners of contiguous properties to facilitate efforts to ecologically improve a section of shoreline.*
- *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.*
- *Work with the State to find the funding for public education.*

As you review the proposed language, please consider the following questions:

- *Do the policies reinforce and support our objectives for the SMP update outlined on page 3 of this memo?*
- *Are the policies consistent with existing land use policies contained in the Comprehensive Plan (see Attachment 15)?*
- *Have the requirements for shoreline preferred uses contained in the guidelines been sufficiently addressed?*
- *Do the proposed policies effectively respond to the public input that we have received?*
- *Are there any other uses that you consider necessary or appropriate, based upon local economic and land use conditions? If so, what policies should be included that address these uses?*
- *Are there other policy provisions that you feel are important to include in this section?*
- *Do you need additional analysis on any particular issues?*

Residential Development.

The following describes some of the key requirements from the State Guidelines addressing Residential Development:

1. Residential development includes single-family residences, multifamily development and the creation of new residential lots through land division.
2. The SMP regulations will need to include provisions addressing setbacks and buffer areas, density, shoreline armoring, and vegetation conservation.
3. Master programs need to include policies and regulations that assure no net loss of shoreline ecological functions will result from residential development.
4. New over-water residences are not a preferred use and should be prohibited.
5. New multiunit residential development, including the subdivision of land for more than four parcels, should provide public access in conformance to the local government's public access planning and the guidelines.
6. Master programs must include standards for the creation of new residential lots through land division that accomplish the following:
 - Plats and subdivisions must be designed, configured and developed in a manner that assures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.
 - Prevent the need for new shoreline stabilization or flood hazard reduction measures that would cause significant impacts to other properties or public improvements or a net loss of shoreline ecological functions.
 - Implement the provisions of WAC 173-26-211 (shoreline environment designations, to be discussed later in this memo) and 173-26-221 (critical areas, archaeological resources, flood hazard reduction, public access, vegetation conservation, and stormwater).

Staff Analysis:

Residential development (both single-family and multifamily) comprise a significant portion of the City's shoreline and are found in both Segment C (predominately single-family residential) and Segment D (contains multifamily residential uses). There are also some residential lots located within Segment B that are encumbered with critical areas. Based upon a residential capacity analysis, Segment B has the potential capacity for 25 single family and 48 multifamily units, though in actuality this may be difficult to accommodate given the degree of encumbrance of some properties in this area.

Segment C has capacity for approximately 13 new single family units. Segment D has the capacity for approximately 401 new multifamily units. As redevelopment does occur, new lots created by division of land or multifamily development should be required to provide public pedestrian access along the waterfront. With single family residential development, the City will need to explore what other tools may be available if there are any needed connections identified. This issue will be addressed in more detail at future meetings as we consider public access.

During the public forums held in September 2006, attendees articulated several interests and goals that apply to residential development, including the following:

- *Consider reducing setbacks from the street to increase the setback from the lake. Assess the City's zoning requirements, such as those pertaining to how far from the street a house must be, to ensure that we are not inhibiting efforts to restore shorelines on private property.*
- *Recognize differences in the shoreline to ensure that solutions are tailored to individual and unique circumstances and conditions.*
- *With redevelopment or new construction, require a "softer front" on the shoreline.*

There were additional comments made about bulkheads that staff plans to discuss at later meetings in another section of the policies that will address this type of improvement more directly.

As you review the proposed language found in Attachment 7, please consider the following questions:

- *Do the policies reinforce and support our objectives for the SMP update outlined on page 3 of this memo?*
- *Are the policies consistent with existing land use policies contained in the Comprehensive Plan (see Attachment 15)?*
- *Have the requirements for residential development contained in the guidelines been sufficiently addressed? (Note: Staff will present specific policies addressing critical areas, archaeological resources, flood hazard reduction, public access, vegetation conservation, and stormwater as we consider these topics in more detail, either later in this memo or at future meetings).*
- *Do the proposed policies effectively respond to the public input that we have received?*
- *Are there any other issues that you would like to address through this section?*

Commercial Development.

The following describes some of the key requirements from the State Guidelines addressing Commercial Development:

1. Master programs shall first give preference to water-dependent commercial uses over non-water-dependent commercial uses; and second, give preference to water-related and water-enjoyment commercial uses over non-water-oriented commercial uses.
2. Master programs shall assure that commercial uses that may be authorized as water related or water enjoyment uses are required to incorporate appropriate design and operational elements so that they meet the definition of water related or water enjoyment uses.
3. Master programs should require that public access and ecological restoration be considered as potential mitigation of impacts to shoreline resources and values for all water-related or water-dependent commercial development unless such improvements are demonstrated to be infeasible or inappropriate.
4. Master programs should prohibit non-water-oriented commercial uses on the shoreline unless they meet the following criteria:

- The use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration; or
 - Navigability is severely limited at the proposed site; and the commercial use provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration.
5. In areas designated for commercial use, non-water-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.
 6. Non-water-dependent commercial uses should not be allowed over water except in existing structures or in the limited instances where they are auxiliary to and necessary in support of water-dependent uses.
 7. Commercial development will not result in a net loss of shoreline ecological functions or have significant adverse impact to other shoreline uses, resources and values provided for in 90.58.020RCW such as navigation, recreation and public access .

Staff Analysis: Most of the private commercial development is located within Segment D. It is projected that there is additional capacity for 58,236 square feet of new retail space and 95,867 square feet of office space within this Segment.

It will be important to ensure that as new space is provided or remodel work occurs, that the project be designed to be water-oriented and to connect people to the waterfront. This can be accomplished through a variety of means, including direct public access, view corridors, or design elements, such as viewing decks that can be incorporated into development. Another key issue that we will need to consider is how to ensure that projects in the Downtown Commercial area provide opportunities for visual access to the water. Development within the downtown is planned to have greater heights and within this area view corridors would not be practicable to implement given the existing segregation of properties and desire for compact, urban development. Other tools, such as public access trails and design elements, should be considered.

As you review the proposed language, please consider the following questions:

- *Do the policies reinforce and support our objectives for the SMP update outlined on page 3 of this memo?*
- *Are the policies consistent with existing land use policies contained in the Comprehensive Plan (see Attachment 15)?*
- *Are the policies consistent with the State Guidelines?*
- *Are there any other issues that you would like to address through this section?*

VI. SHORELINE ENVIRONMENT DESIGNATIONS

The Watershed Company has begun the process of establishing shoreline environment designations (see Attachment 8). Each segment of the shoreline is designated as one of several types of shoreline environments that are described in WAC 173-26-211 of the new State Guidelines, e.g. Urban Residential, Urban Mixed, Conservancy, etc. Within the areas subject to the Shoreline Master Program, Environment Designations function much like zones do throughout the City. The following are a couple of key requirements to keep in mind as we review this draft:

1. The shoreline environment designations should be consistent with the Land Use depicted in the Comprehensive Plan. I am including a copy of Figure 3a-3c, (see Attachment 9) which depicts the Comprehensive Land Use Designations that apply within the shoreline area.
2. Keep in mind the idea of use compatibility. We need to ensure that preferred shoreline uses are not impacted by incompatible uses. As a result, as you review the enclosed Shoreline Environment Maps (see Attachment 10) consider areas of transition between different shoreline environments.
3. The classification of any specific property should take into account both the existing use pattern as well as the biological and physical character of the shoreline. The City has addressed this as follows:
 - a. As part of the original shoreline inventory and analysis, the shoreline was broken up into different study segments (segments A-D), based upon existing land use.
 - b. In Table 1 of the report, the Watershed Company has noted each of the management policies described in WAC 173-26-211(4)(a)(i-iii) and analyzes each of the shoreline segments established in our inventory for consistency with these principles. In this way, the biological and physical characteristics of each area have been considered in applying the appropriate environment designation.

The following are some of the key initial decisions that we need to make with regard to the shoreline environment designations:

1. Classification System. The State Guidelines establish a recommended classification system, which is the system currently used in the draft. Local governments do have the option of establishing a different system or we can retain our existing designations, provided it meets the requirements of the guidelines.

Staff Recommendation: Use the recommended classification system. The system contains clear distinctions and the different environments that can readily be applied to Kirkland's shoreline.

2. Shoreline Residential Environment. Under the State Guidelines, we do have the option of establishing two or more different shoreline residential environments to accommodate different densities or conditions, provided that both environments adhere to the guidelines. Presently, our existing classification distinguishes between predominately single-family residential development on medium sized or larger designated (Suburban Residential) and those areas with single residential uses on small lots and multi-family residential developments (designated Urban Residential 1 and 2). The draft designation system, in contrast, only includes one shoreline environment encompassing residential development.

Staff Recommendation: This item may need further study. If the management policies are similar, there may be no need for more than one environment. However, if the management policies and regulations vary between areas of single family and areas of higher density, we may need to develop an additional classification. The discussion below addressing commercial uses in the shoreline area (see item 3.f and g) also may impact this issue.

3. Specific areas needing further study (see Attachment 11):

- a. *Classification for roadways.* Under the City's current land use and zoning maps, in situations where there are two zones located on opposite sides of a street, the zone boundary typically will go to the center of a right-of-way. This concept is reiterated in the Zoning Code under KZC 10.35.2, which states that where a zone boundary is indicated as following a street, the midpoint of the street is the zone boundary. With the shoreline environment designations, we will need to consider whether to adopt this same practice, or, if not, we will need to address how to delineate the environment boundary with respect to public right-of-ways.

The draft shoreline environment maps before you show the environment boundary extending to the midpoint of the street. In areas where the City has a shoreline park that is located within the Urban Conservancy environment across the street from Shoreline Residential (e.g. along David E. Brink Park or other shoreline parks), the western half of the right-of-way is shown as Urban Conservancy. We will need to consider which designation criteria and management policies more appropriately address the functions and use of the roadway (Urban Conservancy or Shoreline Residential). In considering this issue, please keep in mind that the shoreline policies and regulations will apply to transportation and utility improvements within the right-of-way.

- b. *Marina Park.* Marina Park serves as a vital connector between the pedestrian-oriented compact urban development of the Downtown and Lake Washington. The park is used for many civic activities and events and there has been much discussion over the years as to how to capitalize on the park and enhance the orientation in this area of the downtown to the Lake ("bring Downtown to the Lake - bring the Lake to Downtown"). As an example, the Downtown Plan contained within the Comprehensive Plan contains a policy statement noting the desire to construct a large public plaza over structured parking west of the buildings on Lake Street to enhance the Downtown's lake front setting. Given the existing design and functions of this park, together with likely planned improvements in the future to extend the park with an activated plaza, we need to evaluate which of the shoreline environments would be most appropriate at this site. The current proposal before you shows the designations split; the surface parking and associated circulation area is shown to be designed as Urban Mixed, while the open space portion of the park is shown to be designed as Urban Conservancy. Staff has been evaluating whether it would be more appropriate to designate all of the park as Urban Mixed, given the current use of the site (boat launch, public marina, civic center, etc.) and potential future improved integration/connection to the downtown, if the Lakeshore Plaza project were to proceed.

- c. *Street ends.* The City has developed three street ends for the public's use and enjoyment. They are located along Lake Washington Boulevard at 10th Avenue South (Settler's Landing), 5th Avenue South (Street End's Park). As part of the Heritage Park Master Plan, there was also discussion of improvements to the Lake Avenue West Street End Park. These street ends have all been proposed to be designated as Urban Conservancy. In addition to these street ends, there are also several additional street ends in the Market Neighborhood, at 4th St W and 5th St W. These street ends have not been improved for the public's use and enjoyment and there may be existing agreements in place allowing for some private use of the area. These street ends are currently designated as Shoreline Residential, the same as the adjoining property. Further evaluation on the future anticipated use of these areas may be warranted to determine if this classification should remain or whether these street ends should be classified as Urban Conservancy to be consistent with the other street ends within the City.
- d. *Kiwanis Park.* Kiwanis Park is a 1.8 acre undeveloped waterfront park located in the northern portion of the Market Neighborhood. The park has 450 lineal feet of waterfront on Lake Washington and a trail. The site is presently heavily wooded with a variety of deciduous and evergreen trees. In the proposal before you, this park is shown to be designated as Urban Conservancy. Staff is discussing this classification and future plans for this park with the Parks Department to determine whether this classification is the most appropriate for this site.
- e. *Villaggio Apartments.* This site, located in the Lakeview Neighborhood, is designated in the Comprehensive Plan as Medium Density Residential. The policy language also notes that the area is suitable for hotel/motel and limited marina use. This policy language was added as part of a previous Comprehensive Plan amendment process in the late 1980s that was considered by the Houghton Community Council and Planning Commission. As part of this process, the owner requested to use some of the multifamily units for short term stay lodging. The proposal was approved, with significant limitations on this use (see Attachment 12). In exchange, the owner has installed a waterfront access trail at this development. Please note that this use is continuing to occur at this site.

Also of note, the owner has expressed interest in using the existing buildings to contain a mix of housing types, including: senior housing, assisted living, and a nursing facility for residents (allowed uses in the zone) along with a communal dining area. The idea is that residents can live on the same property as their needs change.

Given this potential planned use for this area, staff believes further study about the appropriate shoreline environment is needed.

- f. *Fioreute Restaurant (formerly Foghorn) and Segment D located between Downtown and Planned Area 15.* In the Comprehensive Plan, the land use for this property is shown as medium density residential (except for the shoreline parks) As a result, the draft Shoreline Environment applied to the property is Shoreline Residential. In further review, the

Lakeview Neighborhood of the Comprehensive Plan specifically discusses commercial uses along the shoreline, stating that north of Planned Area 15 (Carillon Point), commercial activities should be permitted if public access to and use of the shoreline is enhanced (see Attachment 12). No similar statement is made within the Moss Bay Neighborhood Plan. The current Zoning applied to this area (WD I) allows the development of restaurants and marinas, subject to a Process IIA permit and certain standards (see Attachment 13). This zoning extends through the Moss Bay Neighborhood portion of the shoreline. The current Shoreline Master Program also distinguishes this area from the residential area south of Carillon Point, allowing for restaurants in the area north of Carillon Point, but not south of that area. Given the planned uses in this area might include either water-dependent or water-enjoyment uses, further study of the designation of this area should be completed to determine whether a different classification would be more appropriate.

g. *Commercial Uses on East Side of Lake Washington Blvd/Lake Street S*

- i. Super 24 Store – a convenience grocery store located on Lake Washington Blvd and NE 64th Street serves a localized need by providing limited grocery service to the surrounding neighborhood and park users. The Lakeview Neighborhood of the Comprehensive Plan notes that this use should be allowed to remain at this site and improvements should be encouraged to enhance its compatibility with surrounding residential uses and the scenic character of Lake Washington Blvd. No further development of retail uses in this area was recommended. A portion of this site is located within the shoreline jurisdiction. The site is currently shown as Shoreline Residential to be consistent with the land use noted in the Comprehensive Plan (medium density residential). Given the policy statement in the Comprehensive Plan that addresses retention of this use, staff is now recommending that the site be re-designated to Urban Mixed.
- ii. Within Segment D, much of the area on the east side of Lake Washington Blvd is designated for medium density residential development and the resulting zoning is RM 3.6. As a result, the Shoreline Residential classification was placed on this property. However, please note that the RM 3.6 zoning permits small-scale neighborhood scale commercial uses, subject to a Process IIA permit and certain standards (see Attachment 14). In the Moss Bay Neighborhood, it is noted that most of the land on the east side of Lake Street South would appear to be unsuitable for commercial use because of steep slope conditions, as well as problems concerning vehicular ingress and egress. Further review of this area may be needed to determine the appropriate shoreline environment classification.

Staff Recommendation: Staff would like to complete additional study of these areas and come back at the next meeting to discuss classification in these areas. At this time, staff would like to solicit any initial comments or recommendations from the Commission on these areas.

VII. PUBLIC PARTICIPATION

As part of the proposed work program (see Attachment 5), we have tentatively scheduled a public participation event to be held in May or June. If we proceed through the preliminary tasks as currently planned in the work program, this event would occur after initial policy development but before shoreline regulations are drafted and presented to the Planning Commission. Staff is considering whether this event could be used to focus input on several key shoreline regulations, including shoreline vegetation, setbacks from the Lake, and shoreline protective structures. Staff is seeking your input on this event including:

- Does the timing of this event seem appropriate?
- What should be the focus of this event and the role for the public (e.g. should we inform the public of our progress, solicit input from the public, try to build consensus on particular topic, etc)?
- Who do we want to involve (e.g. the public at large, more specific working groups, etc.)

VIII. ATTACHMENTS

1. Shoreline Master Program (SMP) Guidelines (WAC 173-26)
2. Table Summarizing Public Comments
3. Public Correspondence
 - a. E-mail from Paul Berton Birkeland dated July 10, 2007
 - b. Email from Richard Sandaas dated November 17, 2007
 - c. Letter from Richard Sandaas dated November 5, 2007
 - d. E-mail from David Douglas dated September 7, 2007
4. Shoreline Master Program Planning Process (chart prepared by DOE)
5. Proposed Work Program
6. Draft SMP Outline
7. Draft SMP Goal and Policy Language for Introduction and Land Use Sections
8. Draft Environment Designations Report dated August 2007
9. Comprehensive Land Use Designations
10. Draft Shoreline Environment Maps
11. Draft Shoreline Environment Maps denoting areas recommended for further study
12. PLA 3B Use Zone Chart
13. WD I Use Zone Chart for Restaurant and General Moorage Facility Uses
14. RM 3.6 Use Zone Chart for Commercial Uses
15. Existing Comprehensive Plan Goals/Policies related to Land Use
16. Introduction to Washington's Shoreline Management Act

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