

AGENDA PLANNING COMMISSION REGULAR MEETING



Thursday, December 2, 2010
7:00 p.m.

Shoreline City Hall
Council Chamber
17500 Midvale Ave N.

	<u>Estimated Time</u>
1. CALL TO ORDER	7:00 p.m.
2. ROLL CALL	7:01 p.m.
3. APPROVAL OF AGENDA	7:02 p.m.
4. DIRECTOR'S COMMENTS	7:03 p.m.
5. APPROVAL OF MINUTES	7:08 p.m.
a. November 4 Regular Meeting	
6. GENERAL PUBLIC COMMENT	7:10 p.m.
<i>During the General Public Comment period, the Planning Commission will take public comment on any subject which is not of a quasi-judicial nature or specifically scheduled later on the agenda. Each member of the public may comment for up to two minutes. However, the General Public Comment period will generally be limited to twenty minutes. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak. Speakers are asked to come to the front of the room to have their comments recorded and must clearly state their first and last name, and city of residence.</i>	
7. STAFF REPORTS	
a. Updated Town Center Subarea Plan	7:15 p.m.
b. Study Session: Shoreline Master Program	7:30 p.m.
8. PUBLIC COMMENT	9:45 p.m.
9. DIRECTOR'S REPORT	9:50 p.m.
10. UNFINISHED BUSINESS	9:52 p.m.
11. NEW BUSINESS	9:54 p.m.
12. REPORTS OF COMMITTEES & COMMISSONERS/ANNOUNCEMENTS	9:56 p.m.
13. AGENDA FOR December 16	9:59 p.m.
14. ADJOURNMENT	10:00 p.m.

The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 801-2230 in advance for more information. For TTY telephone service call 546-0457. For up-to-date information on future agendas call 801-2236.

WHO WE ARE

The Shoreline Planning Commission is a 7-member volunteer advisory body to the City Council. The purpose of the Planning Commission is to provide guidance and direction for Shoreline's future growth through continued review and improvement to the City's Comprehensive Plan, Development Code, shoreline management, environmental protection and related land use documents. The Planning Commission members are appointed by the City Council and serve a four year term.

WHAT IS HAPPENING TONIGHT

Planning Commission meetings may have several items on the agenda. The items may be study sessions or public hearings.

Study Sessions

Study sessions provide an opportunity for the Commissioners to learn about particular items and to have informal discussion with staff prior to holding a public hearing. The Commission schedules time on its agenda to hear from the public; however, the Chair has discretion to limit or extend time limitations and the number of people permitted to speak. The public is encouraged to provide written comment to the Commission; however, since Commissioners are volunteers and may not have time to check email every day, if written comments are not included in the agenda packet and are offered during a study session, they may not have time to read them until after the meeting.

Public Hearing

The main purpose of a public hearing is for the Commission to obtain public testimony. There are two types of public hearings, legislative and quasi-judicial. Legislative hearings are on matters of policy that affect a wide range of citizens or perhaps the entire jurisdiction and quasi-judicial hearings are on matters affecting the legal rights of specific, private parties in a contested setting. The hearing procedures are listed on the agenda. Public testimony will happen after the staff presentation. Individuals will be required to sign up if they wish to testify and will be called upon to speak generally in the order in which they have signed. Each person will be allowed 2 minutes to speak. In addition, attendees may want to provide written testimony to the Commission. Speakers may hand the Clerk their written materials prior to speaking and they will be distributed. For those not speaking, written materials should be handed to the Clerk prior to the meeting. The Clerk will stamp written materials with an exhibit number so it can be referred to during the meeting. Spoken comments and written materials presented at public hearings become part of the record.

CONTACTING THE PLANNING COMMISSION

Written comments can be emailed to plancom@shorelinewa.gov or mailed to Shoreline Planning Commission, 17500 Midvale Avenue N, Shoreline WA 98133.

www.shorelinewa.gov/plancom

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

November 4, 2010
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

Chair Wagner
Commissioner Behrens
Commissioner Broili
Commissioner Esselman
Commissioner Kaje
Commissioner Moss

Staff Present

Steve Cohn, Senior Planner, Planning & Development Services
Steve Szafran, Planner, Planning and Development Services
Jeff Forry, Permit Services Manager, Planning and Development Services
Danielle Angiono, Development Review Engineer, Planning and Development Services
Jessica Simulcik Smith, Planning Commission Clerk

Commissioners Absent

Vice Chair Perkowski

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:04 p.m.

ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Wagner, and Commissioners Behrens, Broili, Esselman, Kaje and Moss. Vice Chair Perkowski was absent.

APPROVAL OF AGENDA

The agenda was accepted as presented.

DIRECTOR'S COMMENTS

Mr. Cohn reminded the Commission of their joint dinner meeting with the City Council on November 8th from 5:45 to 7:00 p.m. to discuss next year's work program. He referred to the current draft of the 2011 Work Program, as well as a matrix showing how staff anticipates the Comprehensive Plan discussion would play out.

Mr. Cohn announced that the Town Center Open House that was originally planned for November has been rescheduled for January 12, 2011. More information will be provided as the meeting gets closer.

APPROVAL OF MINUTES

There were no minutes to approve.

GENERAL PUBLIC COMMENT

No one signed up to provide comments to the Commission during this portion of the meeting.

LEGISLATIVE PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS (FILE NUMBERS 301642 AND 301650)

Chair Wagner reviewed the rules and procedures for the public hearing and then opened the public hearing.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Forry provided a short staff presentation. He reviewed that the Commission conducted a public hearing on September 16th on the proposed development code amendments. At the end of the hearing, there was no definitive date for which the hearing would be continued. Also, additional items were brought up that may have affected the way the amendments were drafted. Instead of continuing the hearing, the Commission opted to reschedule. Mr. Forry reviewed the three components of the proposed amendments as follows:

1. Modify Chapter 20.30 regarding certain aspects of the State Environmental Policy Act (SEPA). The amendments include removing the automatic requirement for environmental review of otherwise categorically exempt items when the activity is within a critical area or a critical area buffer and modifying the appeal section to correct an inconsistency in the Development Code versus the Washington Administrative Code (WAC) regarding SEPA rules. This would eliminate administrative appeals of Type C permits. As proposed, Type C permits would be appealed to Superior Court.
2. Rewrite Chapter 20.70, which includes removing technical standards and modifying provisions for single-family residential frontage improvements.
3. Add a new section 20.30.340(c), which would formalize the process to create an annual docket of Comprehensive Plan amendments for City Council review.

Mr. Forry recalled that at their last hearing, Commissioner Moss suggested the reference to the "Enterprise" newspaper should be deleted from the 8th footnote below Table 20.30.060 since it is no longer being published. He explained that when staff reviewed this change, they found numerous

noticing provisions appended to the table, and it would make more sense to move them to the notice of application provisions (Sections 20.30.120.C and 20.30.180). No standards were changed.

Mr. Forry advised that in response to Commissioner Kaje's comments, the City Attorney prepared a summary of the results of her investigation into the question of separating the different types of SEPA appeals (*See Attachment 5 of the Staff Report*).

Mr. Forry said he and Vice Chair Perkowski had a discussion regarding critical areas and exemptions. However, this discussion took place after the hearing was closed. He suggested the issue was a result of confusion that was caused by some of the public testimony versus what staff was trying to convey. He felt the issue was clarified at the last meeting.

Mr. Forry advised that Commissioner Behrens submitted two emails to the Commission and staff related to the public review of SEPA processes and bringing environmental issues forward and making them very evident in the public hearing process before the Commission. As was discussed at the last meeting, part of the review process should include the evaluation of environmental issues, and staff must make a concerted effort to discuss and outline the environmental procedures that were employed and the outcomes of their analysis. This information should be available to the Commission at the hearing.

Mr. Cohn entered the following items into the record:

- Exhibit 1 November 4, 2010 Staff Report "Public Hearing on Proposed Amendments to the Development Code."
- Exhibit 2 Amendments to 20.30, Subchapter 8 – Environmental Procedures (*Attachment 1 to Staff Report*)
- Exhibit 3 Amendments to Chapter 20.70 – Engineering and Utilities Development Standards (*Attachment 2 of the Staff Report*)
- Exhibit 4 Amendments to Chapter 20.30.340 – Amendments and Review of the Comprehensive Plan (*Attachment 3 of the Staff Report*)
- Exhibit 5 Administrative amendments support issues 1 and 2 (*Attachment 4 of the Staff Report*)
- Exhibit 6 City Attorney Analysis of options on the appeal process (*Attachment 5 of the Staff Report*)
- Exhibit 7 Minutes from September 16, 2010 public hearing (*Attachment 6 of the Staff Report*)
- Exhibit 8 Public comment letter from Debbie Kellogg dated November 2, 2010. (*Included in the Commission's desk packet.*)

Questions by Commission to Staff

Commissioner Behrens observed that the proposed amendments are intended to create a permit process that is clear, timely and predictable. He said he finds it troubling that it could take a long time for the municipal court to resolve a SEPA appeal, which seems to run contrary to what they are trying to accomplish. He feels uncomfortable about removing the public's right to appeal. In his email to staff he suggested that if there is a SEPA appeal on an issue that would normally come before the Commission for a public hearing, the application could be sent to the Hearing Examiner for a hearing on both the

SEPA appeal and the land use action. He felt this approach would offer a good compromise and allow for the public to file appeals and have the process go quickly. Commissioner Behrens pointed out that when the Hearing Examiner makes a decision on the SEPA appeal, a person would still have a right to take the appeal to Superior Court. However, the issues would be clearly defined based on the facts collected during the open hearing before the Hearing Examiner.

Commissioner Behrens said staff reminded him that the City Council has decided the Planning Commission is to hear specific types of land use actions rather than sending them to the Hearing Examiner. They concluded that his proposal would undermine the direction the City Council previously gave the Commission. He suggested the Planning Commission discuss this option further. Perhaps they could ask the City Council to reconsider their previous decision. Chair Wagner recalled that the Planning Commission's work load was so busy with other projects that hearing regular quasi-judicial matters was not deemed the best use of their time. They agreed to also focus their efforts in reviewing quasi-judicial applications related to the more significant long-term vision of the City (subarea plans and master development plans). She emphasized this change was intended to be temporary.

Commissioner Behrens pointed out that he is not so concerned about the SEPA review of the Town Center Subarea Plan and other subarea plans because there are numerous opportunities for public comments throughout the process and any future changes within the subarea would be subject to the SEPA decision issued as part of the subarea planning process. However, master development plans are more challenging because they involve a 20-year projection and quite a lot of speculation. The master development plan process should include a very thorough SEPA review.

Chair Wagner suggested the Commission make their decision based on what is best for right now. Their recommendation could include a request that the City Council reevaluate the issue at some point in the future. However, they should leave the path open so the change could be implemented at some point in the future without causing the adopted language to be inconsistent.

Chair Wagner recalled that she previously asked staff to provide information regarding the numbers and types of appeals that have been filed in the recent past. She also asked that staff share how the proposed amendments would have impacted these appeals. Mr. Forry said staff previously identified nine appeals that have been filed in the past 15 years. The majority were ultimately appealed to the Superior Court level. None of the decisions were overturned, but several were remanded back for additional analysis or completion of the permit process before a final decision was made. He emphasized that the majority of permits and actions taken by the City allow for an administrative appeal, and this process would not be changed by the proposed amendments. Mr. Cohn reiterated the proposed amendments would only impact a very small number of actions. Under the current situation, which is an interim ordinance, the Hearing Examiner hears almost every Type C action. The only quasi-judicial applications the Planning Commission hears are related to master development plans and rezones associated with subarea plans. He said he anticipates that SEPA appeals for rezone proposals associated with subarea plans will be very rare because rezones must be consistent with the comprehensive plan. That leaves only applications associated with master development plans. He reminded the Commission that when reviewing master development plan proposals, the Commission will have an opportunity to look at the environmental record and discuss appropriate conditions.

Chair Wagner asked if additional conditions were placed on those applications that the Superior Court remanded back to the City. Mr. Forry answered that additional conditions were placed on the applications, but there were no changes to the underlying environmental determination.

Commissioner Kaje reminded the Commission that while the City Council made the decision to have the Planning Commission review just a few types of quasi-judicial actions, at a future date they could decide to place more Type C actions back on the Commission's plate. Therefore, all Type C actions could potentially be impacted by the proposed amendments, which means there would be no administrative appeal. Mr. Cohn agreed that could be the case.

Commissioner Kaje pointed out that the current draft proposal would remove administrative appeals for all Type C and Type L (legislative) actions. However, the previous iterations of the proposed amendments did not include Type L actions. Mr. Cohn clarified that, as per the current code, there is no administrative appeal for Type L actions. Commissioner Kaje emphasized that the Commission has not discussed the implications of the proposed amendments on Type L actions. While staff has stated that there would be no administrative appeal on Type L actions, the language actually states that for decisions of the City Council there are no appeals of legislative actions. It is silent on appeals to SEPA determinations. Mr. Cohn pointed out that, currently, Section 20.30.680.A.5 states that for actions not classified as Type A, B, or C, no administrative appeal is permitted. The current language defaults to Type L actions being the only ones that have no administrative appeal. He said the City Attorney reworded the language to make it clearer. Mr. Forry agreed with Commissioner Kaje that for clarity and to maintain continuity, it would be appropriate to change "Type L" to "legislative."

Commissioner Kaje emphasized that the Commission does not make the final decision on Type C actions that come before them. Hence, what they are really talking about is the public's ability to appeal SEPA determinations related to Type C actions that come before the Commission. He expressed concern that the proposed amendments appear to set up two very different processes. For Type C applications that are heard by the Hearing Examiner, Determinations of Non-Significance (DNS) and substantive decisions can be appealed administratively. However, there would be no administrative appeal for actions heard by the Planning Commission and City Council. He summarized that while the Planning Commission will be asked to review and make recommendations on actions where it is important to get a lot of community input and to have citizens weigh the merits carefully, they do not have the ability to determine that staff did not carry out their duties when issuing the DNS. Mr. Forry explained that as a project comes forward for Commission review, they have an obligation to consider the environmental decisions made by staff. They can pose questions as to how mitigations were arrived at, how the environmental decision was made, what criteria were used, etc. If during their evaluation and hearing process, the Commission determines there is insufficient environmental information for them to make a recommendation, they can request additional information and/or defer action until the information is made available.

Commissioner Kaje agreed that the Commission would have the ability to request additional information regarding the SEPA determination, but they would not actually have the ability to remand the determination back to staff or require an applicant prepare a full Environmental Impact Statement (EIS).

He summarized that having the ability to request more environmental information is not the same as being able to determine that staff erred in their reasoning. That leaves the Commission having to compel an applicant to provide the level of information they need to make a recommendation. The Commission agreed to continue their discussion regarding this issue after the public portion of the hearing.

Commissioner Kaje requested clarification of the statement on Page 5 of the Staff Report that reads, “The regulations provide optimum levels of mitigation for categorically exempt projects.” He suggested the Commission and public are somewhat confused about the difference between categorical exemptions under SEPA and exemptions under the critical areas ordinance. Mr. Forry explained that categorical exempt actions are defined under SEPA. A project is required to be evaluated under SEPA if it exceeds the thresholds for categorical exemptions (i.e. more than 4,000 square feet in size, more than 4 dwelling units, more than 500 cubic yards of fill, etc.). In addition to the categorical exemptions under SEPA, the City’s Critical Areas Ordinance provides a list of items that are exempt from complying with the Critical Areas Ordinance.

Mr. Forry explained that the proposed language is intended to say that there are adequate and acceptable mitigations already in place in the Critical Areas Ordinance for those activities that are required to obtain a permit [that are below the categorically exempt threshold of SEPA]. For example, the Critical Areas Ordinance requires a professional evaluation and professional recommendations for mitigation for any development that is proposed within a critical area, even if it falls below the SEPA thresholds. He summarized that the Critical Areas Ordinance provides all the tools the City needs to evaluate projects in critical areas that would otherwise be categorically exempt from SEPA. Therefore, staff believes that SEPA is redundant because it would only consider the impacts on the critical areas and determine if there is sufficient mitigation in place to address them. Staff believes the necessary tools are already in place. He noted that the existing language was written before the Development Code was amended in 2005 to beef up the Critical Areas Ordinance, and it is no longer necessary.

Commissioner Kaje pointed out that the Staff Report is supposed to inform the public of what is being proposed. He suggested this issue should have been clearer, which would have eliminated some of the public and Commission confusion about the possibility of some projects “going through both doughnut holes at once.”

Public Testimony

Debbie Kellogg, Shoreline, mentioned that the City Clerk has posted all of the historical Hearing Examiner decisions and appeals. She noted that most of them were related to disputes over conditional use permits or Type B actions. One of the appeals went to the Washington State Division I Appeals Court, which set a precedent on critical areas in Washington State. This decision was applied in Shoreline, and a King County Superior Court Justice put an injunction on the continued construction of the Aegis development. Nevertheless, the developer continued to build and they received a certificate of occupancy in spite of being in contempt of court. She noted that the City Clerk’s summary is inaccurate regarding this one case. She agreed to email the location of where this information could be found.

Ms. Kellogg referred to Table 20.30.060 and noted there is not a lot of consistency in how the Type C actions were assigned. She suggested they use the criteria of being SEPA exempt or not. She referred the Commission to her written comments, which were submitted prior to the hearing.

Chair Wagner asked if Ms. Kellogg is concerned about Type B actions, as well. She noted that they are only talking about changing a small subset of Type C actions, and Type B actions would not be impacted. Ms. Kellogg said in her comment letter she suggested that the approach is two-pronged, in that procedural SEPA would be tossed with substantive SEPA. She explained that substantive SEPA is really hard because it involves questions related to the law. However, procedural SEPA involves yes and no questions such as did they send out the notice, post the site, etc.

Chair Wagner referred to concerns previously raised that judicial appeals are costly. While Ms. Kellogg may disagree with some of the facts about how a particularly case ultimately was decided, staff has commented that many of the cases that caused significant public concern ended up at Superior Court anyway and were not solved by having an administrative level appeal. She asked if Ms. Kellogg could identify a large subset of appeals that were resolved within the City based on an administrative appeal.

Ms. Kellogg said staff has made two arguments. First, they want to solve a problem in the code, which she agrees is appropriate. Second, they have expressed a concern that administrative appeals hold up the application process. She said she researched and found it takes about eight extra weeks to file an administrative appeal, and appeals to Superior Court took much longer. Most of the administrative appeals were related to procedural concerns, particularly those in which the City prevailed. Chair Wagner noted that appeals that ended up in court went through the administrative appeal process first. If they only have an administrative appeal process, the projects the public has been most concerned with would have ultimately gone through an administrative appeal and ended up in court anyway. Chair Wagner noted that administrative reviews have not been able to resolve problems quickly in these cases.

Ms. Kellogg said that some of the issues that went to court were related to code enforcement violations rather than SEPA. Again, Chair Wagner asked Ms. Kellogg to provide a sample of how many problems would have been solved by retaining the administrative appeal process. Ms. Kellogg said there have only been about 24 appeals. Many people feel they had a fair shot at the administrative level and do not pursue the issue through the courts. She agreed that substantive appeals should go to Superior Court, but the Planning Commission and staff have the capability to make decisions regarding procedural appeals.

David Pyle, Shoreline, agreed with staff that the critical area buffer should not require SEPA. However, critical areas are sensitive enough that when there's an impact to the actual resource, itself, there should be an additional layer of scrutiny applied. He said he respects the work of staff, and it is evident through the passing of Proposition 1 that the community feels the same. He expressed his belief that the proposed amendment to eliminate administrative appeals for Type C actions would alienate and isolate the community from the process. The proposed amendment would eliminate the local appeal route for the community under a community planning action. He said he does not believe this change would serve anyone. What ends up happening is the people who are writing the plans and doing the

planning are actually telling people they have to file an appeal in Superior Court. He suggested that this is not really responsive to the people who are voting in favor of supporting the City.

Mr. Pyle said Shoreline is not complicated. Very few SEPA actions actually happen in the City. Therefore, he questioned why staff is so afraid of actually being under the scrutiny of an appeal. He said where he works they have two or three appeals every few months, and it's not a big deal. Instead of being schizophrenic about how SEPA is applied across the board, he suggested assigning SEPA as a Type B action so a process could be uniformly applied in all cases when SEPA is required.

Final Questions by the Commission

Commissioner Broili requested clarification on Commissioner Kaje's earlier statement regarding the Commission's ability to alter a SEPA determination that is made by the Planning Director. Commissioner Kaje explained that if the Planning Director issues a DNS, an applicant would not be required to do an EIS and there would be no administrative appeal process. The Commission does not have the ability to determine that a DNS is incorrect and compel an applicant to prepare an EIS. They only have the ability to ask for additional environmental information. Mr. Forry agreed that the Planning Director is assigned as the responsible official under SEPA and is responsible for issuing SEPA Threshold Determinations. A hearing body cannot change a threshold determination, but they can indicate they do not have enough information to make a recommendation on a project.

Commissioner Behrens observed that a DNS has typically been issued months before a proposal comes before the Commission for a public hearing. Granting the Commission the authority to question or challenge a DNS could put the City in a legal bind if they have to retract the Planning Director's decision. He referred back to his previous recommendation that appeals should be filed within 7 to 15 days after a SEPA determination has been issued. At that point, the application could be sent to the Hearing Examiner to issue a determination on both the SEPA appeal and the land use action. Using this approach, there would be no reason for the Commission to second guess what has already happened.

Deliberations

Commissioner Esselman summarized that the City is in the position of needing to make a change to be compliant with the Washington Administrative Code (WAC). However, philosophically, they are also changing the original intent of the appeal process. She said she is in favor of maintaining a certain level of public involvement. She questioned if it is possible to identify a process that is consistent with the WAC yet still maintains the public's ability to participate in the process. Chair Wagner suggested that a perfect solution may not exist. The Commission must balance the desire to have as much public input as possible with addressing inconsistencies in the code. In addition, there is a need to clarify and streamline the code language.

Chair Wagner summarized that the most significant issue on the table is which body should hear SEPA appeals for Type C actions that come before the Planning Commission. The Commission should also provide direction about whether or not the set of Type C actions that currently comes before the Commission for review is appropriate for the future. She reminded the Commission that, at this time,

they are only talking about a very small number of action items (master development plans and rezones associated with subarea plans). Unless the City Council reverses their previous decision to send most Type C actions to the Hearing Examiner, it is unlikely there would be an issue related to appeals in the future except those related to master development plans. In her opinion, an administrative appeal would not likely be the best route for these situations. She suggested they keep in mind that only a small number of people would be impacted by the proposed amendments.

Commissioner Behrens underscored that the Commission is currently operating under a temporary order from the City Council. Under their current operating procedures, the proposed amendments would impact only a very small number of applications. However, if the City Council decides to send all Type C actions back to the Commission for public hearing, the proposed amendments could effectively waive the appeal rights for all Type C actions. Chair Wagner noted that the SEPA appeal rights would not be waived, but would be transferred to Superior Court. Commissioner Behrens summarized that all Type C appeals would be sent to Superior Court. He agreed with Mr. Pyle that this would send a message to the public that could be construed as saying, "Sue the City if they don't like what happens." He concluded that perceptions are important. Chair Wagner suggested that if the Commission forwards a recommendation of approval to the City Council, it should be accompanied by a recommendation that they consider making the current assignments for Type C actions permanent.

Commissioner Moss asked staff to clarify how supporting Commissioner Kaje's suggestion for dividing the SEPA appeal authority would favor those who are well skilled in land use permitting and appeal processes and disfavor those who are inexperienced and unskilled with land use appeals. Mr. Forry said this information was provided by the City's risk pool attorneys who reviewed the proposal at the City Attorney's request. Usually cases that reach the level of an appeal are presented by people with a high level of experience.

Commissioner Moss referred to Page 42 of the Staff Report, where staff suggests a better approach is to reevaluate weaknesses and discrepancies in the Critical Areas Ordinance if appropriate as a separate issue. She questioned if this reevaluation should take place before the Commission makes a recommendation on the proposed amendments. She expressed concern about what could happen if there is a gap between the time the amendments are adopted and the Critical Areas Ordinance is reevaluated. Mr. Forry recalled that this comment was intended to convey that evaluating the Critical Areas Ordinance exemptions should be done in a different forum. The exemptions were created in 2005 through a public process, and the Commission could choose to revisit them at some point in the future. However, the exemptions in the Critical Areas Ordinance would not be impacted by whether or not the Commission chooses to act on the proposed amendment that eliminates review of categorical exempt actions within a critical area. He noted that some elements of the Critical Areas Ordinance are already on staff's radar screen to look at.

Commissioner Kaje referred to the opening paragraph of Section 20.30.560 (Page 13 of the Staff Report), and suggested the language should be changed to read, "The following types of construction shall be exempt, except: 1) when undertaken wholly or partly on lands covered by water, 2) a rezone, or 3) any license governing emissions to the air or discharges to water is required." Mr. Forry advised that the language was taken directly from the WAC, but he agreed it could be cleaned up.

COMMISSIONER KAJE MOVED TO RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO 20.30.550, 20.30.560 AND 20.30.680 – ENVIRONMENTAL PROCEDURES (EXHIBIT 2). COMMISSIONER BEHRENS SECONDED THE MOTION.

Chair Wagner offered a friendly amendment to update the wording to Section 20.30.560 as previously discussed. The remainder of the Commission concurred. Commissioner Esselman also offered a friendly amendment to Section 20.30.680.A.5 to change “Type L” to “Legislative.” Commissioners Kaje and Behrens accepted the friendly amendment.

Chair Wagner expressed her belief that staff has done a lot of work to consider the different concerns that have been raised by the public and the Commissioners. They have responded with appropriate language, given the scenario that the amendments primarily relate to risk management. The appeal process is not something to take lightly. She very much agreed that there might be more cause for concern if they were talking about other types of quasi-judicial actions the Commission has historical done. On the other hand, they have heard from a variety of staff and some members of the public that the appeal process is being utilized and that people are taking appeals to Superior Court. She said she has not yet heard that they would be hindering a large number of people from being able to appropriately appeal something given the narrow scope of the amendment's application.

Chair Wagner said she believes that public involvement is very important. She reviewed that the Comprehensive Plan was required to go through a SEPA evaluation process, which in theory, sets the stage for rezones and quasi-judicial hearings. Any rezone or quasi-judicial application would require a second SEPA review, and one criterion is that it must be consistent with the Comprehensive Plan. If the process is done right, there should not be any problems because the City has already gone through two separate SEPA processes that include opportunities for the public to comment prior to a decision being made and to appeal a decision. She said she is troubled that the Commission's discussion appears to be predicated on the assumption that staff is going to make mistakes each and every single time and that appellants will have to go to court to battle out every decision the Planning Director makes. There is evidence to the contrary. They have hired competent people to complete these reviews, and evidence suggests that mistakes are few and far between. Even when a mistake occurs, it gets resolved typically without a significant deviation from the initial review process. She said there is not a lot of evidence to support the idea of establishing a process that allows the Commission to more directly remediate incompetent staff actions. She said she also doesn't support the argument that perhaps future staff might not be as competent. She does not think they should plan that the City will hire incompetent staff in the future. She summarized that there is no evidence that the City has had a significant number of problems where an issue hasn't ultimately gone to Superior Court anyway. Requiring two full appeal processes can end up doing a disservice to the appellant, the applicant, the City and the taxpayers.

Commissioner Kaje said he supports the concept of amending the code to be consistent with State law, and there is a reason for having some laws that are consistent community to community. However, he is also concerned about protecting the public's ability to have a say in the decisions that shape their community. He said he also appreciates staff's attempt to vet the idea he put forth at the last hearing, and he will just have to take their word for it since he is not knowledgably enough to say whether or not

it is fraught with risk. He summarized they are trying to balance some very important issues. If the Commission recommends approval of the proposed amendments to Section 20.30, he cautioned that it will be incumbent upon the current and future Planning Commissions to take the environmental evaluation very seriously and determine whether sufficient information was provided and considered properly by staff. If staff has not requested the pertinent information, the Commission must do so. In addition, they should encourage citizens to attend hearings and point out deficiencies in the environmental process.

Commissioner Kaje said he does not particularly like the proposed amendments to Section 20.30, but he appreciates the procedural pickle the City is currently in. If the Commission chooses to support this set of amendments, he asked that they consider the following two recommendations to the City Council:

1. That the City Council direct the Planning Commission to take a very close look at the information that has been provided by staff and the information used by the Planning Director to make a SEPA determination. The Commission should actively seek to fill gaps in information, even if it means sending an application back and delaying a decision by months. They should not consider it an inappropriate burden to place on the applicant.
2. That the City Council direct the Planning Director to go through a process of defining or reviewing performance standards for what goes into making a determination so that staff does their work and gets the applicant to do their work in a timely fashion so there is a better product in the end.

While he agreed with Chair Wagner that staff does a good job a lot of the time, he has found that staff has made decisions in the past based on SEPA checklists that were inadequate.

Commissioner Behrens said he does not see this issue as an opportunity to pass judgment on the work of the Planning staff. He said he understands the current legal requirements and the need for the code to be consistent with the WAC. He said he also wholeheartedly agrees with the need to have a very thorough process for reviewing environmental issues as part of the permit process. However, it is important to understand that once a SEPA determination has been made, it is not possible for the City to revoke the determination based on concerns raised by the Planning Commission. The only choice left to the Commission in these cases is to choose not to take action, which he believes would be a failure. Again, he suggested the best approach is to send applications for which an appeal has been filed directly to the Hearing Examiner. Although the Hearing Examiner currently hears most Type C actions, the City Council could decide at some point in the future to send all Type C actions to the Planning Commission. If this happens, the proposed amendment would basically eliminate the opportunity for administrative appeals for all Type C actions, leaving the only appeal opportunity to Superior Court.

Chair Wagner said that, in her mind, she suggested the Commission should be most concerned about situations where the Planning Director actually makes an error in judgment. She is not as concerned about appeals where staff has come to the right conclusion. Commissioner Behrens questioned who would be responsible to for deciding if an error has been made. He said he would like the City Council to provide clear direction as to exactly which Type C actions will fall within the Commission's purview and thus be impacted by the proposed amendments. If most Type C actions are heard by the Hearing

Examiner, the impacts of the proposed amendments would be limited. But he is not comfortable with eliminating the ability for administrative appeal for all Type C actions.

Commissioner Esselman recognized that the proposed amendments are not perfect, and they do not fit neatly within the City's current processes. However, they must make changes to comply with State law. She expressed her support for the proposed amendments, with the inclusion of Commissioner Kaje's additional recommendations to the City Council.

Commissioner Kaje noted the Commission is not suggesting that only actions that are conditioned or denied can be appealed. **He offered a friendly amendment that the second sentence of Section 20.30.680.A.1. be amended to read, "Procedural appeals shall be consolidated in all cases with substantive SEPA appeals, if any, involving decisions to approve, condition or deny an action pursuant to RCW 43.21C.060 . . ." Commissioner Behrens accepted the friendly amendment as proposed.**

Chair Wagner suggested that rather than including the two recommendations to City Council as outlined earlier by Commissioner Kaje as part of the proposed amendments, they could be forwarded to the City Council as a separate recommendation. She suggested they discuss which Type C actions the City Council would like the Commission to hear in the future at the joint meeting on November 8th.

COMMISSIONER KAJE MOVED TO AMEND THE MAIN MOTION TO UNSTRIKE THE FOLLOWING TEXT IN SECTION 20.30.560. THE LANGUAGE WOULD READ, "THE FOLLOWING TYPES OF CONSTRUCTION SHALL BE EXEMPT, EXCEPT: 1) WHEN UNDERTAKEN WHOLLY OR PARTLY ON LANDS COVERED BY WATER; 2) THE PROPOSAL WOULD ALTER THE EXISTING CONDITIONS WITHIN A CRITICAL AREA; 3) A REZONE IS REQUESTED; OR 4) ANY LICENSE GOVERNING EMISSIONS TO THE AIR OR DISCHARGE TO WATER IS REQUIRED." COMMISSIONER BEHRENS SECONDED THE AMENDMENT.

Commissioner Kaje said he understands the desire to avoid duplication. However, critical areas are places with tremendous ecological value, and they are becoming few. He said he does not believe it would be too burdensome to not have the exemptions apply to critical areas, but he could support an exemption for the buffer areas. He suggested this change would certainly compel an action to be rerouted through a buffer whenever possible instead of a critical area. Mr. Cohn explained that this change would require a SEPA checklist for actions within a critical area. It would not necessarily require an EIS.

THE MOTION TO AMEND THE MAIN MOTION WAS APPROVED UNANIMOUSLY.

Commissioner Kaje asked staff to clarify the first sentence in Section 20.30.680.A.1, which states that only one administrative appeal of each threshold determination shall be allowed on a proposal. Mr. Forry said there cannot be numerous separate administrative appeals on a single proposal. If there are multiple appeals on varying issues, the hearing body would combine the appeals into a single hearing. As proposed, subsequent administrative appeals would not be allowed.

COMMISSIONER BEHRENS MOVED TO AMEND THE MAIN MOTION TO ADD A NEW SECTION 20.30.680.A.6 TO READ, “IN THE EVENT OF A DNS APPEAL ON A TYPE C ACTION HEARD BY THE PLANNING COMMISSION, THE APPEAL AND UNDERLYING ACTION WOULD BE HEARD BY THE HEARING EXAMINER.” COMMISSIONER KAJE SECONDED THE MOTION.

Mr. Forry explained that, as proposed by Commissioner Behrens, the SEPA appeal would have to be heard at the same time as the action. Therefore, the Planning Commission would not be involved in the hearing process at all.

Commissioner Kaje suggested this is an option to keep in mind, depending on how things go over time. He reminded the Commission that things can be changed in the future if they recognize a problem. He said they must weigh the tradeoff between assuring the ability to appeal a DNS and the ability for a committee of citizens to weigh an action. Instead, appeals would go to a Hearing Examiner. While he is confident the Hearing Examiner would do a good job, it is a very different body.

Chair Wagner reminded the Commission that they have been asked to hear master development plan proposals. However, the current motion would eliminate the Commission’s ability to review a master development plan proposal if an appeal is filed. That means that one of the recent master development plans would not have come before the Commission at all. Instead, these issues would be resolved by just one person. While the current proposal would satisfy one component very nicely, it would detract specifically from the more complex items that would benefit from a larger body having the ability to weigh in.

Commissioner Behrens pointed out that this would only apply to hearings where a SEPA appeal is filed. He also pointed out that the Commission has been charged with identifying a system that is speedy and organized and results in a product with certainty. He suggested these things are contraindicated by sending appeals to Superior Court. He agreed there is a tradeoff and potentially the Commission could lose the ability to hear some Type C actions, but only when an appeal is filed. The benefit is that the developer would not have to go through a period of uncertainty while waiting for the case to be heard in Superior Court. He emphasized that the Hearing Examiner would hold a public hearing, so the public would have the ability to become involved in the process.

Commissioner Broili said he understands what Commissioner Behrens is trying to accomplish, but he is concerned that some master development plan proposals would not come before the Commission for review if a SEPA appeal is filed. Master development plans impact a much greater area and have the potential of a much greater impact on the environment and neighborhoods. Because of that, they are probably the most likely to garner an appeal action over the SEPA determination. He does not want these actions taken out of the Commission’s hands, since they are the most important for the Commission to hear and weigh in on.

THE MOTION TO AMEND THE MAIN MOTION FAILED 1-5, WITH COMMISSIONER BEHRENS VOTING IN FAVOR.

THE MAIN MOTION WAS APPROVED BY A VOTE OF 5-0-1 (COMMISSIONER BROILI ABSTAINED) TO RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO 20.30.550, 20.30.560 AND 20.30.680 – ENVIRONMENTAL PROCEDURES (EXHIBIT 2), WITH TWO ADDITIONAL COMMISSION AMENDMENTS AND TWO FRIENDLY AMENDMENTS.

Commissioner Kaje reviewed his earlier suggestion that the Commission recommend the City Council direct the Planning Director and staff to review current SEPA determination processes and ensure there are appropriate standards in place. He explained that while the Commission recognizes and agrees that in most cases the SEPA determination is done quite well, it is good management practice to define standards for the level of information required of the applicant to support a determination. He also suggested that when reviewing Type C actions, the Commission should pay particular attention to whether or not there is substantial evidence presented to support the determination, which is one of the criteria used for challenging a DNS. While he understands that they cannot actually reverse a determination, they should give careful thought to make sure there is substantial evidence to support their ability to make a decision. While he has confidence that the current Commissioners will take this responsibility very seriously, he would like some assurance that future Commissioners will do the same. The Commission agreed to recommend the City Council:

1. Direct the Planning Director and staff to review current SEPA determination processes and ensure there are appropriate standards in place.
2. Encourage the Planning Commission to make sure they evaluate the adequacy of the environmental information and request additional information as needed.

The Commission agreed that at the joint meeting with the City Council on November 8th, they could invite the City Council to share their thoughts on the moratorium on Type C actions and what changes they anticipate in the future. Chair Wagner recommended the Commission ask the City Council to move forward with memorializing the current split of responsibility for Type C actions. Commissioner Behrens expressed concern that the Commission voted to recommend approval of the proposed amendments to Sections 20.30.550, 20.30.560 and 20.30.680 without having clarity of its impacts. Mr. Cohn said the forwarding remarks that accompany the Commission's recommendation will point out the Commission's issues of concern.

Chair Wagner reviewed that the Commission has had an opportunity to ask questions, and they have heard no specific public comments on the proposed amendments to Section 20.70.

COMMISSIONER KAJE MOVED THE COMMISSION RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO SECTION 20.70 – ENGINEERING UTILITIES DEVELOPMENT STANDARDS (EXHIBIT 3) AS DRAFTED BY STAFF. COMMISSIONER ESSELMAN SECONDED THE MOTION.

Commissioner Kaje said he supports the proposed amendment to modify the provisions for single-family frontage improvements because there is currently a lack of nexus related to new or additional

impacts. The remaining amendments represent a clearly articulated reformulation of the code, which is an improvement to the existing language.

Commissioner Moss noted that the original language included a number of specific site references, which were removed in the new proposed language. She requested more information to support this change. Mr. Forry explained that as sections of the code were amended over the years, the amendments were noted at the end of each section. Since this chapter is being rewritten in its entirety, these notes are no longer necessary.

Commissioner Moss agreed that the proposed language is appropriate. However, she asked why “truck routes” were deleted. Mr. Forry answered that these are actually considered standard technical right-of-way issues, which are reviewed under a different set of standards than those found in the Development Code. Typically, the Development Code applies to activity within private property and not within the right-of-way. The truck routes are managed through a manual on traffic movements. They are also controlled under traffic studies. Commissioner Moss said this explanation also addresses her question about why site clearance at intersections was removed.

Chair Wagner requested clarification of Section 20.70.120.B.3. Mr. Forry explained that before the City would accept maintenance of those facilities listed, they would have to be dedicated to the public as opposed to being private facilities.

Chair Wagner suggested Section 20.70.150.A.2 be changed to read, “The dedicated area would provide passive and active recreation opportunities and nonmotorized linkages.” Another option would be to remove the word “passive.” Commissioner Kaje pointed out that this section refers to dedications of open space and critical areas that have been identified and are required to be protected as a condition of development (See Section 20.70.150.A). While some passive recreation may be appropriate in a critical area active recreation uses are not. Commissioner Broili questioned why the language should define either passive or active recreation spaces. Mr. Forry agreed that the word “passive” could be eliminated because the Critical Areas Ordinance defines what types of recreation areas are appropriate within critical areas.

The Commission accepted a friendly amendment to eliminate the word “passive” from Section 20.70.150.A.2)

Chair Wagner asked if Section 20.70.150.A is intended to be an exclusive list of conditions in which a dedication of open space and critical areas could occur. Mr. Forry answered affirmatively. Chair Wagner referenced Section 20.70.160.A, which uses the words “may,” “shall” and “should.” Mr. Forry explained that the intent is to review the level of importance.

Chair Wagner referenced Section 20.70.430.B.2, which makes the assumption that a new accessory structure would involve the siting or location of a new service connection. She asked if it would be possible to construct an accessory unit by building out an interior remodel. Mr. Forry noted that the qualifier in this section is “new.” The language would not be applicable to an addition or remodel of an existing structure.

Commissioner Moss said she found the new language particularly complex to follow because it used the same numbers as those that were used before. She noted that some information remains in cyberspace for perpetuity, so using the same numbers could result in problems when people try to google certain code sections. She emphasized that she is not asking staff to change the numbering at this time, but they should keep this in mind for future changes.

Commissioner Moss suggested a friendly amendment to change Section 20.70.250.B by replacing all references to “streets” with “roads.” She noted that using the term “streets” is inconsistent with the prior section, which indicates that north/south roadways are actually called avenues. Mr. Forry explained that in this section, the word “street” is used generically to include streets, avenues, places, boulevards, etc. However, he agreed that the language could be changed to provide consistency. Commissioner Kaje observed that streets are labeled by staff and not private property owners. Therefore, he is less concerned about changing the language to make it clearer for the general public to understand. Commissioner Moss withdrew her recommended change.

Commissioner Moss noted that the language was updated to indicate that basis for establishing a home’s value would be “assessed value.” She suggested this same change also be made in Section 20.70.320.B.2. Mr. Forry explained that the City tries to stay away from assessed value in this particular case because it’s strictly talking about the structure. Using the generic term “value” allows the City the option of using the assessed value or appraised value to determine a building’s value. Commissioner Moss withdrew her request.

THE COMMISSION UNANIMOUSLY APPROVED THE MOTION TO RECOMMEND APPROVAL OF PROPOSED AMENDMENTS TO CHAPTER 20.70 – ENGINEERING AND UTILITIES DEVELOPMENT STANDARDS (EXHIBIT 3), INCLUDING ONE FRIENDLY AMENDMENT.

COMMISSIONER BEHRENS MOVED TO RECOMMEND APPROVAL OF STAFF’S PROPOSED AMENDMENTS TO 20.30.340 – AMENDMENT AND REVIEW OF THE COMPREHENSIVE PLAN (EXHIBIT 4). COMMISSIONER MOSS SECONDED THE MOTION.

Commissioner Behrens noted that the Commission has discussed this proposed amendment on numerous occasions, and he is comfortable with the intent of the proposed new language.

Commissioner Kaje referred to Section 20.30.340.E and asked if the Commission would actually send a revised draft docket to the City Council after their review. Mr. Cohn answered affirmatively. Commissioner Kaje recalled a previous Commission discussion and asked if the Commission would have the option of deciding not to move certain proposals forward to the City Council. **He suggested a friendly amendment to change Section 20.30.340.E to read, “The revised draft docket may include commission recommendations that reflect modifications or deletion of elements of the originally-submitted proposal.”**

Commissioner Behrens noted that the Commission could also decide to forward a proposal to the City Council that was not included on the original docket. Commissioner Kaje questioned if it would be possible for them to add an additional amendment that was not part of the docket as of December 31st of the previous year. Mr. Cohn said that, in the past, there have been situations where the Commission has expanded a proposal to include additional properties. However, he felt they should only consider proposals that are submitted before the December 31st deadline rather than adding new amendments.

Commissioner Kaje said the point of his proposed amendment is to be more transparent with the public about the discretion the Commission might exercise in formulating their recommendation. He summarized that, as proposed, items that are deleted from the docket by the Planning Board, would no longer be included in the draft docket that is forwarded to the City Council. He recognized that the City Council would still have access to all of the original proposals.

The Commission agreed to accept the friendly amended.

Chair Wagner expressed her belief that the proposed amendments indicate that the Commission has listened to the public and attempted to address their concerns about bringing some predictability to the process. Staff has done a great job of setting up an appropriate, reasonable and concise process for moving Comprehensive Plan amendment proposals forward.

THE COMMISSION UNANIMOUSLY APPROVED THE MOTION TO RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO 20.30.340 – AMENDMENT AND REVIEW OF THE COMPREHENSIVE PLAN (EXHIBIT 4), INCLUDING A FRIENDLY AMEMNDMENT.

Mr. Cohn recalled that, in the past, the Commission has discussed the option of using *CURRENTS* to provide information about upcoming Commission topics. However, since it is not always possible to publish information in *CURRENTS*, staff deliberately decided not to include the concept as part of the draft amendment. He suggested the Commission remind the City Council of their desire to publish information in *CURRENTS* when they meet jointly on November 8th.

COMMISSIONER MOSS MOVED THE COMMISSION RECOMMEND APPROVAL OF STAFF'S PROPOSED AMENDMENTS TO EXHIBIT 5 (ATTACHMENT 4 IN STAFF REPORT). COMMISSIONER KAJE SECONDED THE MOTION.

Commissioner Moss recalled the Commission had a previous discussions about the definition of “root mat width” (See Section 20.50.520), which is assumed to be the same width as the canopy unless otherwise documented in a credible print source. She requested feedback from her fellow Commissioners regarding the appropriateness of this definition. Commissioner Broili recalled that rather than using canopy, there is an actual arboreal method for defining the outer perimeter of a root mat. While he can't remember the exact formula, he did forward this information to staff previously.

Mr. Forry pointed out that the only amendment proposed for this section is editorial. The reference to Section 20.70.170 would be deleted and replaced with a reference to the Engineering Development Guide. Mr. Cohn said he suspects that this issue was addressed in another section, but was not carried

over to Section 20.50.520. Mr. Forry said that if the Commission desires, staff could bring back an additional amendment to clarify the term “root mat width.” Commissioner Broili observed that the term “root mat width” is used correctly in all cases except the third sentence of Section 20.50.520. He agreed to forward his information to staff again. The Commission agreed it would be appropriate to recommend approval of the staff’s proposed amendments, with the understanding that Section 20.50.520 would be brought back to the Commission at some point in the future to address the issue of “root mat width.”

Commissioner Esselman pointed out that in the last sentence in Section 20.50.520, the word “site” should be replaced with “sight.”

THE MOTION TO RECOMMEND APPROVAL OF STAFF’S PROPOSED AMENDMENTS TO EXHIBIT 5 (ATTACHMENT 4 IN STAFF REPORT) WAS APPROVED UNANIMOUSLY.

Closure of Public Hearing

The public hearing was closed.

LEGISLATIVE PUBLIC HEARING ON COMPREHENSIVE PLAN AMENDMENTS

Chair Wagner referred to the rules and procedures for the public hearing and noted that there was no one in the audience to participate. The hearing was opened and staff was invited to present the Staff Report.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Cohn referred the Commission to the five proposed Comprehensive Plan amendments. He noted that staff agrees with the Commission’s recommendation that they not propose any changes to the appropriate zoning designations. However, they would like to discuss the concept again as part of the overall Comprehensive Plan update. He reminded the Commission that the proposed amendments are considered minor. Mr. Szafran noted that the word “may” was added to each of the proposed zoning designations to make it clear that just because a zoning designation is included on the list does not mean a rezone to one of the designations on the list would be automatically approved. This decision would be based on the individual circumstances of a property.

Questions by Commission to Staff

For clarification, Mr. Cohn advised that Mixed-Use (MUZ) is a zoning designation, and Regional Business (RB) is a Comprehensive Plan designation. He noted that this would be made clearer when the Comprehensive Plan is updated in the near future. Commissioner Moss noted that Regional Business is identified as a potential appropriate zone in Land Use (LU) Policies LU-17, LU-18 and LU-19. Mr. Cohn agreed it would be appropriate to replace RB with MUZ.

Public Testimony

There was no one in the audience to participate in the public portion of the hearing.

Deliberations

COMMISSIONER MOSS MOVED TO RECOMMEND APPROVAL OF STAFF'S PROPOSED COMPREHENSIVE PLAN AMENDMENTS LISTED IN EXHIBIT 1 (NOVEMBER 4TH PUBLIC HEARING STAFF REPORT). COMMISSIONER KAJE SECONDED THE MOTION.

The Commission continued to discuss the proposed amendments to LU-17, LU-18 and LU-19 and agreed upon a friendly amendment to change them as follows:

- **Replace all references to Regional Business with Mixed-Use (MUZ).**
- **Change the last sentence of LU-17, LU-18 and LU-19 to read, "Depending on the circumstances, appropriate zoning for the area may include . . ."**
- **Separate the last sentence in LU-18 and LU-19 into a stand-alone paragraph, similar to LU-17.**
- **In LU-18, change the word "might" to "may."**

Commissioner Moss observed that staff made a change to LU-43 to identify the correct acreage for the Fircrest Campus. However, the Public Health Lab Campus size should be updated, as well. Mr. Cohn noted that this change was made as part of the recent Comprehensive Plan change related to the Public Health Lab Campus.

Commissioner Esselman observed that LU-17 is about using mixed uses as a transition between lower and higher densities; therefore, the words "mixed-use site" in the third sentence appears to be redundant. She suggested the third sentence be changed to read, "This designation should be reflected in zoning standards that achieve transition between the intensity of uses between sites." Chair Wagner questioned how this would be applied to a situation of Mixed-Use next to Community Business, where no transition would be necessary. The intent is to provide a transition between commercial and solely residential functions. Mr. Cohn said there could also be a need for transition between varying intensities of residential uses. He suggested that the generic language proposed by Commissioner Esselman would be appropriate.

The Commission agreed upon a friendly amendment to change the third sentence in LU-17 to read, "This designation should be reflected in zoning standards that achieve transition between adjoining uses of different intensities."

Commissioner Kaje again referred to LU-17 and questioned if "zoning standards" should be changed to "zoning and development standards." He noted the code language talks about transition via zoning and via physical development standards. Mr. Cohn said the intention is to include both. **The Commission agreed to a friendly amendment to add "and development" between "zoning" and "standards."**

Commissioner Esselman referred to the section titled, “Mixed Use and Commercial Areas” (Page 56 of Staff Report) and questioned if the language in the 4th sentence should be made more specific by changing “Hillwood/Richmond Beach commercial area” to “Hillwood/Richmond Highlands commercial area.” She noted that Richmond Beach is to the west and has its own commercial area on 15th and Richmond Beach Road. Mr. Cohn explained the intent was to be generic. However, he would support the proposed change, as well. Commissioner Esselman recommended that the Richmond Beach commercial area also be added to this section. Mr. Szafran noted that in the 4th sentence, the reference to “Northwest 185th Street” should be changed to “Richmond Beach Road.”

The Commission agreed upon a friendly amendment to change the 4th sentence to read, “The Hillwood/Richmond Highlands commercial area is located on Richmond Beach Road and 8th Avenue Northwest. An additional sentence would be added to read, “Richmond Beach commercial area is located at 15th Avenue Northwest and Richmond Beach Road.” The 5th sentence should be changed by replacing “it serves” with “they serve.” They also agreed to remove the “italic” formatting.

Commissioner Behrens recommended that the 4th sentence in the “Mixed Use and Commercial Areas” section (Page 56 of the Staff Report) should also be amended by placing the words “mixed use and” before “commercial.” He also recommended that the first sentence of LU-17 be amended by adding the words “and commercial” after “mixed use” so it is consistent with the title. Mr. Szafran noted that the title is generic and applies to Mixed Use (LU-17), Community Business (LU-18) and Regional Business (LU-19). The Commission indicated they did not support the proposed change to LU-17.

The Commission approved a friendly amendment to change the last sentence in the “Mixed Use and Commercial Areas” section (Page 56 of the Staff Report) to read, “The diverse mix of businesses in the district serves not only the local neighborhood in Shoreline, but also the residents in the neighboring cities of Mountlake Terrace and Lake Forest Park.”

THE COMMISSION UNANIMOUSLY APPROVED THE MOTION TO RECOMMEND APPROVAL OF STAFF’S PROPOSED COMPREHENSIVE PLAN AMENDMENTS LISTED IN EXHIBIT 1 (NOVEMBER 4TH PUBLIC HEARING STAFF REPORT), INCLUDING SEVERAL FRIENDLY AMENDMENTS.

Closure of Public Hearing

The public hearing was closed.

DIRECTOR’S REPORT

Mr. Cohn did not have additional items to report.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Commissioner Esselman advised that she was not present at the October 21st meeting, but she did listen to the audio recording and read through all the materials to prepare for tonight's discussions.

AGENDA FOR NEXT MEETING

Mr. Cohn advised that study sessions on the Southeast Neighborhood Plan Implementation and Shoreline Master Program are scheduled for November 18th and December 2nd.

ADJOURNMENT

The meeting was adjourned at 10:28 P.M.

Michelle Linders Wagner
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

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Shoreline Town Center Subarea Plan

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Introduction

Located on the middle mile of the City’s three mile long Aurora corridor, Town Center is the geographic center of the City of Shoreline. It is at the crossroads of its three most heavily traveled roads, N. 175th St, N. 185th St., and Aurora/SR 99 and serves as the civic and symbolic center of the community. See Fig. 1. Early in the life of the new City of Shoreline, a citizen survey identified this area as the “Heart of Shoreline.”

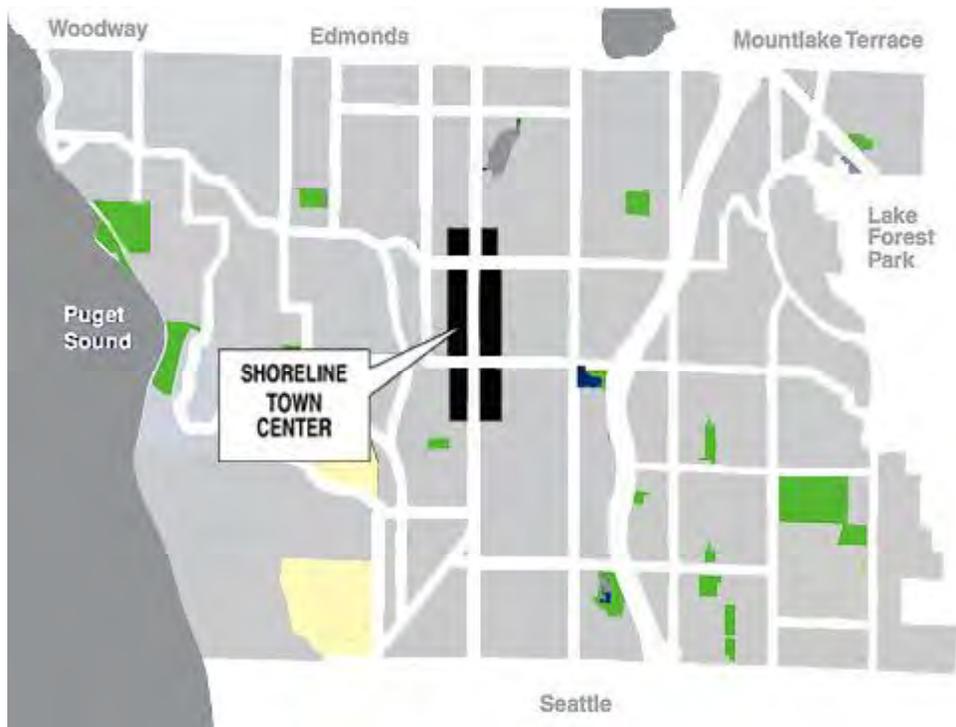


Fig. 1 – *Shoreline Town Center is the Heart of Shoreline*

Shoreline’s settlement began in the early 20th century in this area around Judge Ronald’s original homestead and the Ronald schoolhouse. In the early 1900’s, the North Trunk (red brick) Road and Interurban electric railway traversed this area, linking it to Seattle and Everett. The “Ronald Station” was located in the vicinity of the proposed Park at Town Center.

Growing dramatically after World War II, Shoreline became an auto-oriented suburb characterized by large areas of relatively low residential density, that lacked urban amenities and services such as parks and sidewalks. During the post-war decades, the Aurora/SR 99 corridor developed as a strip commercial highway, with a tremendous diversity of businesses. While these businesses

largely met local and regional needs, the highway itself became congested, chaotic, unattractive and unsafe.

Several of the civic facilities typically found in traditional downtowns began to locate in and around the Town Center area in the 1960's. These include the Shorewood High School, the Shoreline Fire Department Headquarters, and the Ronald Sewer District Office and Yard. Commercial and apartment uses also began to locate in this area, including grocery, drug store and other retail stores and personal services. These still co-exist with businesses serving a larger market area, such as auto dealerships.

The emergence of regional shopping malls at Alderwood and Northgate in the 1970's began to erode Shoreline's primary market for certain retail goods and services. With the City's incorporation in 1995, additional civic pieces of an emerging Town Center came into being. The Interurban Trail through Town Center was completed in 2005 and the new City Hall opened in 2009. In 2011, the re-built Aurora Boulevard through Town Center was completed, design work began on a new Park at Town Center and construction began on an updated Shorewood High School, with new buildings located immediately adjacent to the Town Center.

In 2009, the City adopted a city-wide Vision Statement which articulated the community's preferred future for the year 2030. The Vision integrated many of the major policy objectives of the City's adopted strategies for Economic Development, Housing, and Environmental Sustainability. The Vision identifies Town Center as a focal point for much of the City's future growth accommodation, and many of its framework goals provide a broad outline for much of the content of the Town Center Subarea Plan.

Achieving the City's Vision and the objectives of the Town Center Subarea Plan will be influenced both economic market factors, individual investment decisions, and state and regional growth management policies. High capacity transit service will arrive on Aurora by 2013 in the form of bus rapid transit service, while regional light rail service is scheduled for 2023, linking Shoreline to the broader region.

The 2040 regional development strategy, Vision 2040, forecasts adding 1.7 million people and 1.4 million jobs with only a negligible increase in the size of the region's urban growth area. See Fig. 2. These factors, combined with state climate change targets to reduce greenhouse gas emissions and vehicle miles traveled, will place market and public policy pressures on close-in cities to accommodate growth.



Fig. 2 – Shoreline’s place within the Vision 2040 Urban Growth Area

Shoreline’s ability to accommodate these pressures while maintaining the community’s reputation as one of America’s best places to live, will be a major challenge. Implementation of a clearly articulated Town Center Subarea Plan will be one important strategy to help Shoreline meet that challenge.

Town Center Vision Statement

Shoreline Town Center in 2030 is the vibrant cultural and civic heart of the City with a rich mix of housing and shopping options, thriving businesses, and public spaces for gatherings and events. People of diverse cultures, ages, and incomes enjoy living, working and interacting in this safe, healthy, and walkable urban place.

Once a crossroads on the Interurban electric railway that connected Seattle and Everett, Shoreline’s Town Center has evolved into a signature part of the City. The Center stands out as a unique and inviting regional destination while gracefully fitting in with its surrounding landscape and neighborhoods. Connections to neighborhoods and the region are convenient and accessible through a system of paths, roads and public transit. Citizens, business owners and city officials are justifiably proud of the many years of effort to create a special and livable place that exemplifies the best of Shoreline past, present and future.

Town Center is anchored on one end by the City Hall complex, Shorewood High School, and other public facilities. The linear Park at Town Center provides a green thread through the center of the area. City Hall not only is the seat of government, but also provides an active venue for many other civic functions. On the other end, the revitalized historic five-point interchange again attracts people from throughout the community.

Town Center is a physically and visually attractive, inviting and interesting place where form and function come together to promote a thriving environment for residents, businesses, and visitors. Notable features include a number of green open spaces both large and intimate, enclosed plazas, storefronts opening onto parks and wide sidewalks, underground and rear parking, numerous ground-floor and corner retail options within mixed-use buildings, and internal streets within large blocks and other pathways that provide safe, walkable connections throughout the Center area both east and west and north and south.

Building heights range from one to three stories within transition areas adjacent to single-family residential areas such as Linden and Stone avenues, up to six stories in mixed-use buildings along sections of Aurora Boulevard, while buildings in the Midvale and Firlands areas are generally four to five-story mixed-use structures. Building materials, facades, designs, landscaped setbacks as well as public art and green infrastructure features represent a wide variety of styles and functions while maintaining a harmonious look and feel.

The City of Shoreline has long been committed to the realization of the three E's of sustainability -- environmental quality, economic vitality and social equity -- and Town Center has successfully integrated these values to achieve sustainable development.



Fig. 3

Environmental Quality

While respecting elements of its historic character, Town Center has become a model of environmentally sound building and development practices. The buildings themselves are state-of-the-art energy efficient and sustainable structures with zero carbon impacts. Town Center's tree canopy and native vegetation are all part of a strategic system for capturing and treating stormwater on site and protecting and enhancing overall environmental quality. Major transit stops along the mature Aurora Boulevard provide quick and convenient connections to major centers elsewhere in the region. Civic spaces and parks have been designed for daily use and special events.

Economic Vitality

Town Center attracts a robust mix of office, service and retail development. The boulevard boasts an exciting choice of shops, restaurants, entertainment, and nightlife. The Center is a model of green industry and economic sustainability that generates the financial resources that help support excellent city services, with the highest health and living standards. As a result, Town Center's success helps to make Shoreline one of the most fiscally sound and efficiently run cities on the West Coast.

Social Equity:

Town Center offers a broad range of job opportunities and housing choices that attract a diversity of household types, ages and incomes. Attention to design allows the public gathering places to be accessible to all. People feel safe here day and night. Festivals, exhibits and performances attract people of all ages and cultural backgrounds.

Summary:

Town Center is thoughtfully planned and built, yet all the choices feel organic and natural as if each feature and building is meant to be here. Town Center is a place people want to be in Shoreline in 2030 and is positioned to continue to grow gracefully and sustainably for decades.

Town Center Goals

Goal TC-1 Create a Town Center that embodies the sustainability values of environmental quality, economic vitality and social equity.

Goal TC-2 Create a Town Center that is complete, compact and connected to its neighborhoods and the region.

Goal TC-3 Create a “sense of place” in Town Center that provides a focal point for Shoreline’s civic life and community-wide identity.

Goal TC-4 Create an economically and culturally thriving Town Center through the coordinated efforts of the City, the School District, business organizations, community non-profits, and neighborhood associations.

Town Center Policies

Policy TC-1 Create an urban form, mix of land uses, and walkability in Town Center that distinguishes it from the more commercially dominated and auto-oriented portions of the Aurora Corridor to the north and south.



Fig.4

Policy TC-2 Publicize innovative “green” public projects like City Hall, the middle mile of the Aurora project and Shorewood High School, as models for private projects in Town Center.



Fig. 5

Policy TC-3 Promote a blend of civic, commercial and residential uses in Town Center.

Policy TC-4 Increase the variety of housing choices in Town Center and increase opportunities for moderate cost housing.

Policy TC-5 Encourage additional retail, service, grocery, and restaurant uses to serve people who live or work in Town Center or within walking distance of it.

Policy TC-6 Leverage federal, state and other investments with local investments and programs, and market Town Center as a high value location for private investment decisions and new business starts.



Fig. 6 The Interurban Trail, Aurora Project and Bus Rapid Transit represent federal, state, and county investments in Shoreline

Policy TC-7 Provide amenities, uses, linkages and protections to make Town Center a viable residential area for new multifamily and mixed uses.

Policy TC-8 Give clear visual indication of Town Center’s boundaries with gateway treatments, such as signs and landscaping.



Fig. 7 Examples of town center entry signs

Policy TC-9 Create a hierarchy of Boulevard, Storefront, and Greenlink streets to serve different mobility and access roles within Town Center and a corresponding hierarchy of building form, parking, walkway and site design.

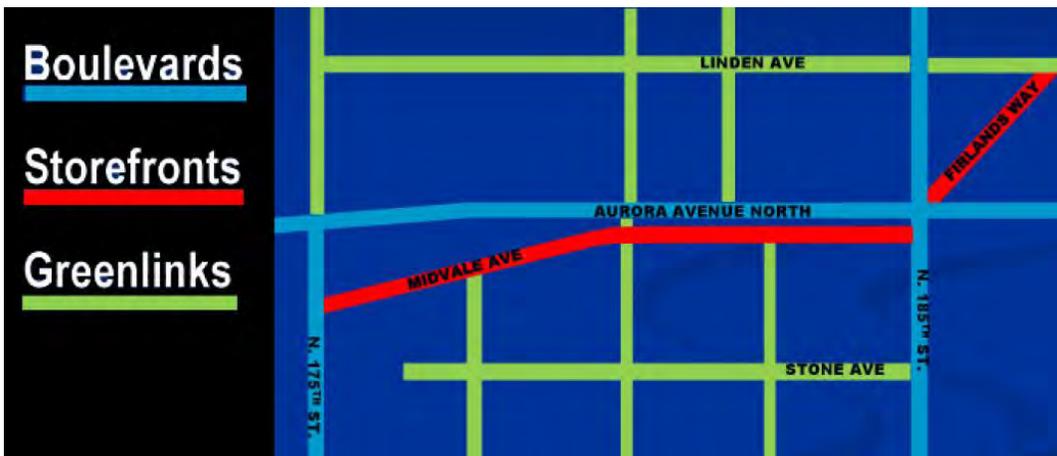


Fig. 8

Policy TC-10 Post public “wayfinding” signs to direct motorists and bicyclists to public destinations within and near Town Center.



Fig 9.

Policy TC-11 Create a seamless network of safe, convenient, and attractive walkway improvements within Town Center that also connects to all streets, the Interurban Trail, high capacity transit in Aurora, and adjacent neighborhoods.

Policy TC-12 Connect Town Center to other parts of Shoreline and the region by promoting multi-modal transportation choices including high capacity transit on Aurora, circulator buses, bicycle paths, and improved pedestrian walkways.

Policy TC-13 Create safe and attractive pedestrian crossings of Aurora, walkways to better link uses within Town Center, and more direct and attractive walkways from adjacent neighborhoods.

Policy TC-14 Reduce the noise, visual and safety impacts of traffic on Aurora Avenue as it passes through the Town Center.

Policy TC- 15 Encourage the removal of the partial intersection at N. 182th and Aurora if re-development of lands at N. 180th and Aurora enables the installation of a fully signalized mid-block intersection at that location.

Policy TC-16 Consider the creation of new rights of way or the vacation of other rights of way in order to facilitate better vehicular and pedestrian circulation as well as enhance parcel aggregation and more comprehensive site development designs.

Policy TC-17 Protect adjacent residential areas from impacts generated by developments in Town Center.

Policy TC-18 Reconfigure Midvale Avenue N. between N. 175th St. and N. 182nd St. as a low speed, pedestrian-friendly lane with back-in angle parking to support mixed use development on the east side and public uses in the Park at Town Center.



Fig. 10

Policy TC-19 Recognize the environmental and aesthetic value of native vegetation, particularly groves or individual prominent trees, and seek to incorporate green building methods in Town Center buildings.

Policy TC-20 Develop the Park at Town Center as a memorable, green, open space and link it to the City Hall Civic Center, and program both of these spaces for celebrations, public gatherings and informal “third places.”



Fig. 11 *Farmer's markets, parades, lawn sports, and wi-fi access are several possible park uses*

Policy TC-21 Enhance the sustainability of adjacent residential neighborhoods and connect them to opportunities for services, transit and civic amenities in Town Center.

Policy TC-22 Encourage structured parking for commercial, multifamily and mixed use developments, and explore opportunities to reduce parking requirements due to the availability of transit, on-street parking, walkability, and housing types.

Policy TC-23 Where feasible, minimize surface parking lots and locate them in rear or side yards and screen them with landscaping, low walls or fences, arbors and other treatments to soften visual impacts.

Policy TC-24 Celebrate the heritage of the community through preservation, education and interpretation of historical artifacts and places in Town Center.



Fig. 12 Interpretive signs can orient and educate about Red Brick Road, Historical Museum, Interurban Station

Policy TC-25 Abate the remaining billboards, or re-locate them out of the Town Center, and craft a form-based sign code that orients and sizes commercial signage based on the function and speed of serving streets and walkways.

Policy TC-26 Increase context-appropriate private project designs, predictability and flexibility in the permit process by crafting a form-based development code, a design review process, illustrated design standards, and a menu of options.

Policy TC-27 Adopt Town Center design standards and a design review process to encourage new projects to respect existing architectural patterns (e.g., building forms, roof shapes, fenestration, materials, etc.) that provide context, create human scale and visual interest, and evoke the residential character of Shoreline.



Fig. 13 Town Center roof shapes of various pitches, materials, colors



Memorandum

DATE: December 2, 2010

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, FAICP, Planning and Development Services Director
Steve Cohn, Project Manager, Senior Planner
Miranda Redinger, Project Manager, Associate Planner *MR*

SUBJECT: Shoreline Master Program, Background and Introduction of Preliminary Draft Regulations

Purpose

The goals of tonight's meeting include:

- Informing Commissioners and interested parties on progress of development of the Shoreline Master Program (SMP) since the last update;
- Introducing newly-appointed Commissioners to the process and background documents;
- Introducing and discussing preliminary draft policies and regulations

Background

In 2003, the state legislature established funding, timelines, and guidelines requiring all cities and counties to update their local SMP. The update must be prepared consistent with the Shoreline Management Act (SMA) and its implementing guidelines. In response to the state legislature, the City of Shoreline began updating its existing SMP (adopted in 1995) with the help of a grant from the State Department of Ecology in 2007. The 2003 guidelines require the City to look at shoreline functions and processes during its SMP update.

The City's SMP provides goals, policies, development regulations, and permitting procedures for "shorelines of the state." The "shoreline of the state" that is located in the city and its Potential Annexation Area (Point Wells) is the Puget Sound.

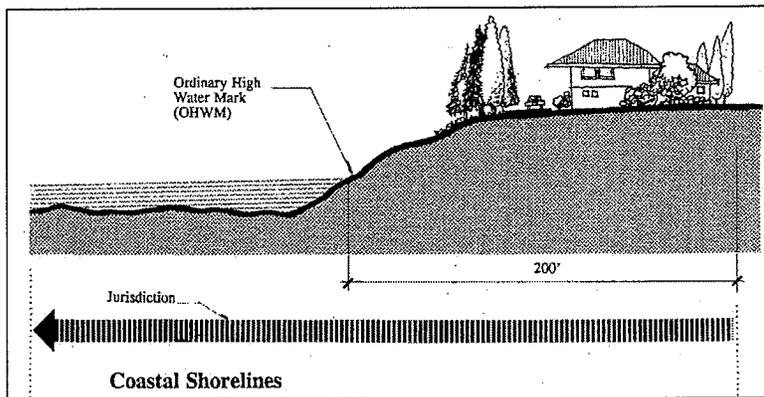
What is the Shoreline Management Act?

The Washington SMA was adopted by the public in a 1972 referendum “to prevent the inherent harm in an uncoordinated and piecemeal development of the state’s shorelines.” The SMA has three broad policies:

1. **Encourage water-dependent and water-oriented uses:** "uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the states' shorelines...."
2. **Promote public access:** "the public’s opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible consistent with the overall best interest of the state and the people generally."
3. **Protect shoreline natural resources,** including "...the land and its vegetation and wildlife, and the water of the state and their aquatic life...."

Where does the Shoreline Management Act apply?

The SMA applies to marine coastal areas, all rivers and streams having a mean annual flow of 20 cubic feet per second or greater, and lakes over 20 acres in size within the State of Washington. In the City of Shoreline, the SMA applies only to the Puget Sound coastline.



The SMA also applies to adjacent “shorelands” located 200 feet from the ordinary high water mark (measured on a horizontal plane) and all associated wetlands. The SMA jurisdiction can be expanded to include

the entire contiguous floodplain associated with “shorelines of the state.”

What does the SMP regulate?

All land use activities within the shoreline jurisdiction must meet the goals, policies, and regulations in the SMP regardless of the type of shoreline permit required. This includes over-water structures, new buildings and structures, and land development activities such as clearing, grading, or filling.

What are the steps in the SMP update process?

The following must be prepared during the SMP update process:

1. Shoreline inventory and characterization
2. Shoreline environment designations
3. Goals, policies and regulations
4. Restoration plan
5. Cumulative Impacts Analysis

The community is involved throughout the update process to make sure the plan reflects the broad public interest in the Puget Sound. The City prepared a Public Participation Plan as part of the update process, identified interested parties, created a distribution list, and held multiple Open Houses as an opportunity for the public to be informed about and provide comments on the SMP update.

Why prepare a Shoreline Inventory and Characterization report?

The inventory and characterization report describes current shoreline conditions. It provides a basis for updating the City's SMP goals, policies, and regulations. The report identifies existing conditions and evaluates existing functions and values of shoreline resources. It also describes opportunities for conservation and restoration of ecological functions. This report helps the City make sound decisions on policies and regulations. It also provides a baseline for determining the success of the SMP with meeting its objectives. The report is available online on the City's website, along with the other background documents.

What are the findings of the Shoreline Inventory and Characterization Report?

The City's shoreline jurisdiction includes approximately 4 miles of Puget Sound coastline within the city limits and in its Potential Annexation Area (Point Wells). Similar to other cities along the Puget Sound, existing development and infrastructure has affected the shoreline environment within the City of Shoreline. The following ecosystem-wide processes and ecological functions in the marine shoreline have been altered by past development:

- Sediment processes
- Large woody and organic debris recruitment and transport
- Water quality
- Riparian vegetation
- Habitat conditions

Activities that could restore and preserve ecological functions and ecosystem-wide processes in the marine shoreline include the following:

- Reduce stormwater runoff to landslide prone areas.

- Re-plant riparian areas to provide shade to cool water temperatures and filter runoff. Replanting also provides a source of large woody debris and organic material.
- Limit shoreline armoring to allow for continued sediment delivery and to protect nearshore habitat.
- Improve water quality in adjacent upland areas.

What are shoreline environment designations?

Shoreline environment designations are similar to zoning overlays. Each designation permits certain uses and developments, if allowed by the underlying zoning district. The purpose of shoreline environment designations is to provide a uniform basis for applying policies and regulations within distinctly different shoreline areas. The shoreline environment designations established in the existing SMP (adopted in 1995) will be amended as part of this SMP update process, and are detailed in the Environment Designations Memo.

What is a Shoreline Restoration Plan?

The SMA guidelines require that local governments develop SMP policies that promote “restoration” of damaged shoreline ecological functions. A “real and meaningful” strategy to implement restoration objectives must also be developed. Planning for shoreline restoration includes:

- Identifying opportunities (both programmatic and site-specific),
- Establishing goals and policies,
- Working cooperatively with other regional entities, and
- Supporting restoration through other regulatory and non-regulatory programs.

What are other background documents and where can you find further information?

In addition to the Inventory and Characterization Report, the Environment Designations Memo, and the Restoration Plan, the City and its consultants have also prepared a Recommendations Report, a Land Use and Public Access Analysis, a Public Participation Plan, general policy guidance, and maps. The last deliverable is a Cumulative Impacts Analysis, which is currently in draft form. All finished documents can be found on the web page devoted to the project at <http://shorelinewa.gov/index.aspx?page=410>. The Department of Ecology’s Shoreline Master Program website is <http://www.ecy.wa.gov/programs/sea/sma/guidelines/index.html>, and has further background about the legislative guidelines and process.

The final SMP will consist of a table of contents and definitions, environmental designations, goals, regulations, administrative procedures, and a summary of the Inventory and Characterization Report. Appendices will include the

Cumulative Impacts Analysis, the Restoration Plan, the Critical Areas Ordinance, and maps.

How will the new SMP be different from the old one and what will it regulate?

The SMP is a local, long range plan that implements the SMA. The SMP includes goals, policies, development standards, use regulations and a permitting process for activities located within the shoreline jurisdiction. The City's current SMP was developed by King County and adopted when Shoreline was incorporated in 1995.

This is Shoreline's first opportunity to develop shoreline policies unique to the city and consistent with Ecology's implementing guidelines. The SMP will be integrated with other City plans and regulations, such as the Comprehensive Plan, zoning code, and critical areas regulations. All local SMPs must be reviewed and approved by Ecology.

The new SMP will be a significant enhancement over the original regulations and is capable of filling gaps found in the original guidelines that allowed continued degradation of coastal environments. The original regulations did not incorporate new scientific information on resource management, provisions of new laws dealing with rapid growth management, new growth patterns, economic expansion, and land use changes. Policies and regulations developed under the shoreline SMA guidelines (once approved by WDOE) will be designed to achieve the following:

- Achieve no net loss of ecological functions necessary to sustain shoreline natural resources;
- Use the most current, accurate, and complete scientific and technical information for development of policies and regulations;
- Ensure that each permitted development causes no net loss of ecological functions;
- Ensure that exempt development in the aggregate causes no net loss of ecological functions;
- Address and fairly allocate the burden of mitigating cumulative impacts of development among development opportunities;
- Plan for restoration of ecological functions where they have been impaired;
- Promote restoration of ecological functions through a combination of regulatory and nonregulatory programs by a combination of public and private actions;
- Prioritize reservation of areas for protecting and restoring ecological functions over provision for water-dependent uses and other uses, and limit non-water-oriented uses in the shoreline;
- Require mitigation of adverse impacts of individual developments in accordance with the following sequence:

- Avoidance of impact
- Minimization of impact
- Rectification of impact
- Reduction or elimination of impact over time
- Compensation with substitute resources
- Monitoring
- Require mitigation in proportion to and not in excess of that necessary to ensure no net loss of ecological functions;
- Provide preference for compensatory mitigation, when mitigation is required, to be located within the immediate vicinity of the impact;
- Ensure that new development meets vegetation conservation objectives; and
- When there is uncertainty about the extent or condition of an existing ecological resource, ensure that the resource is protected.

As a land use plan, the SMP contain both a planning element and specific development regulations (minimum standards). The planning element specifies how the City plans for future development and uses of particular shorelines (e.g., natural, residential, commercial). This has potential for long-term environmental consequences as it relates to protection and development potential. The regulatory elements provide implementing regulations that limit development and define uses consistent with the plan for the area. The regulations also take into consideration the maintenance of existing conforming and nonconforming uses and structures.

Next Steps

Once the Planning Commission is comfortable with the regulations, they will hold a public hearing on the Shoreline Master Program and make a recommendation to City Council.

Attachments:

Attachment 1: Preliminary draft Goals, Policies and Regulations



**SHORELINE MASTER PROGRAM
*GOALS, POLICIES AND REGULATIONS***

Adopted by City Council on _____

Submitted for Review and Approval to the
Washington Department of Ecology on _____

PROPOSED REVISIONS TO TITLE 20 OF THE
CITY OF SHORELINE MUNICIPAL CODE

DEPARTMENT OF ECOLOGY GRANT #G0800171

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NEW SECTIONS IN DEVELOPMENT CODE ERROR! BOOKMARK NOT DEFINED.

20.200 Shoreline Master Plan

20.200.010 Title.

This chapter shall be known as the City's Shoreline Master Program, hereafter referred to as the Master Program.

20.200.020 Authority.

The Master Program is adopted in accordance with the Shoreline Management Act (Chapter 90.58 RCW) and the state Shoreline Guidelines (Chapter 173-26 WAC).

Where these regulations require that public access be provided, the requirement shall be construed to be limited to the extent of the lawful and constitutional authority of the City to require public access or to require the easement, fee ownership or interest requested.

Subchapter 1. Goals and Objectives

20.200.030 Purpose.

The purpose of this Master Program is to:

- Promote the public health, safety, and general welfare of the community;
- Manage shorelines in a positive, effective, and equitable manner;
- Achieve no net loss to the ecological functions of the City's shorelines;
- Assume and carry out the responsibilities established by the Shoreline Management Act; and
- Adopt and foster the policies contained in the Revised Code of Washington (RCW) 90.58, the State Shoreline Management Act, for shorelines of the State.

20.200.040 Shoreline Elements.

The following elements have been considered in the preparation of this Master Program for the City of Shoreline. The goals and objectives established for these elements provide the basis for policies and regulations included under the general use requirements of this Master Program.

ECONOMIC DEVELOPMENT ELEMENT

Goal Provide for economically productive uses that are particularly dependent on their shoreline location or use.

Objective Plan for economic activity that is water-dependent, water-related, or that provides an opportunity for a substantial number of people to enjoy the shoreline and water.

PUBLIC ACCESS ELEMENT

Goal Increase public access to publicly-owned areas of the shoreline.

Objective To provide for public access to publicly owned shoreline areas, except where deemed inappropriate due to safety hazards, inherent security problems, environmental impacts, or conflicts with adjacent uses.

RECREATIONAL ELEMENT

- Goal** Provide for the preservation and enlargement of public and private recreational opportunities and recreational facilities along the shoreline, including but not limited to, parks and recreational areas, wherever appropriate.
- Objective** To develop public and private recreation opportunities that are compatible with adjacent uses and that protect the shoreline environments.

CIRCULATION ELEMENT

- Goal** Provide for a safe and adequate circulation system including existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities within the shoreline jurisdiction that benefit permitted uses without degrading the environment or aesthetic values of the area.
- Objective** To ensure that uses permitted in shorelines areas are designed and conducted in such a manner that any interference with the public’s use of the water and shoreline is minimized, as much as is practical.

SHORELINE USE ELEMENT

- Goal** Ensure that the overall design of land use patterns will locate activity and development in areas of the shoreline that will be compatible with adjacent uses and will be sensitive to existing shoreline environments, habitat, and ecological systems.
- Objective** To promote the best possible pattern of land and water uses consistent with the Shoreline Management Act of 1971, the City of Shoreline Comprehensive Plan, and the Shoreline Development Code.

CONSERVATION ELEMENT

- Goal** Conserve and protect the natural resources of the shoreline, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection.
- Objective** Through the use of best available science develop and implement siting criteria, design standards, and best management practices that will ensure the long term enhancement of unique shoreline features, natural resources, and fish and wildlife habitat.
- Objective** To designate and develop areas where there is an opportunity to restore and enhance the natural shoreline for the benefit of fish and wildlife habitat.

HISTORICAL/CULTURAL ELEMENT

- Goal** Identify, preserve, protect, and restore shoreline areas, buildings, and sites having historical, cultural, educational, or scientific values.
- Objective** To ensure the recognition, protection, and restoration of shoreline areas that have historical and or cultural value to the City of Shoreline and create a unique “sense of place” for public facilities, recreation areas in the shoreline jurisdiction.
- Objective** To ensure the recognition, protection, and restoration of shoreline areas that have educational or scientific values to the City of Shoreline.

FLOOD HAZARD MANAGEMENT

Goal Protect the City of Shoreline from losses and damage created by flooding along the coast.

Objective To seek regional solutions to flooding problems through coordinated planning with state and federal agencies, other appropriate interests, and the public.

Objective To ensure that flood hazard protection projects have a positive environmental benefit that emphasizes long-term solutions over short-term solutions.

RESTORATION ELEMENT

Goal To improve water quality, reduce the impacts of flooding events; and restore natural areas, vegetation, and habitat functions.

Objective The degraded processes of the shoreline will be restored to the extent that a net improvement to the shoreline ecosystem is obtained to benefit water quality, vegetation, and the residents of Shoreline.

Subchapter 2. General Provisions

20.200.050 Purpose₂

This chapter defines requirements for implementation of the Master Program and sets an orderly process for project review and permitting. The development regulations in the Master Program are intended to make shoreline development responsive to specific design needs and opportunities along the City's shorelines, and to protect the public's interest in the shorelines' recreational and aesthetic values.

20.200.060 Administrator₂

The Planning and Development Services Director or designee is the Shoreline Administrator, herein after known as the Director, and is vested with authority to:

- Administer the Master Program;
- Approve, approve with conditions, or deny Shoreline Substantial Development Permits;
- Grant exemptions from Shoreline Substantial Development Permits;
- Determine compliance with RCW43.21C, the State Environmental Policy Act; and
- Adopt rules that are necessary and appropriate to carry out the provisions of this chapter.

The Director's duties and responsibilities include:

- Making administrative decisions and interpretations of the policies and regulations of this program and the Shoreline Management Act;
- Developing and proposing amendments to this Master Program to more effectively and equitably achieve its goals and policies;
- Seeking remedies for violations of this Master Program, the provisions of the Shoreline Management Act, or the conditions of Substantial Development Permits issued by the City; and
- Forwarding shoreline permits to Washington State Department of Ecology for Ecology action.

20.200.070 Applicability

- A. The regulations of this Title apply to all shorelines of Statewide Significance within the City and to the waters and underlying land of the Puget Sound extending to the middle of Puget Sound from the shoreline of the City between the northern and southern limits of the City and 200 feet landward of such waters.
- B. All proposed uses and development, as defined in this chapter, occurring within the shoreline jurisdiction shall comply with this Master Program and RCW 90.58.
- C.. Uses and development regulated by this Program are subject to applicable provisions of the SMC, the Comprehensive Plan, the Washington State Shoreline Management Act (RCW 90.58), Growth Management Act (RCW 36.70), Environmental Policy Act (RCW 43.21C and WAC 197-11), and other local, state and federal laws. Project proponents are responsible for complying with all applicable laws prior to commencing any use, development, or activity.
- D. The Master Program policies and regulations shall apply in addition to other city regulations. Where the regulations of the Master Program conflict with other regulations, the regulations that provide more shoreland and shoreline protection, as determined by the City, shall apply.
- E. Non-conforming uses and improvements within the shoreline jurisdiction shall be subject to this Program and SMC 20.220.150.

- F. The City's Critical Areas Ordinance SMC 20.80 is adopted as a part of the Master Program. The provisions of SMC 20.80 shall apply to any use, alteration or development within the shoreline jurisdiction whether or not a shoreline permit or written statement of exemption is required.
- G. Uses and developments within the shoreline jurisdiction that meet the Reasonable Use Exception provisions of SMC 20.30.336 require a Shoreline Variance in accordance with this chapter.
- H. The exemptions and partial exemptions listed in sections SMC 20.80.030 and 20.80.040 shall not apply within the shoreline jurisdiction. Such activities may require a Shoreline Substantial Development Permit, Shoreline Variance, or Shoreline Conditional Use Permit unless the Master Program and RCW 90.58.030(3)(e) specifically indicates the activity is exempt from the Shoreline Substantial Development Permit requirements.

20.200.080 Master Program Review and Update.

This Master Program shall be periodically reviewed as necessary to reflect changing local circumstances, new information or improved data, and changes in State statutes and regulations.

20.200.090 Amendments to Master Program.

Any of the provisions of this Master Program may be amended as provided for in RCW 90.58.120 and .200 and Chapter 173.26 WAC. Amendments to the Master Program do not become effective until approved by the Department of Ecology.

Proposals for shoreline environment redesignation, for example amendments to the shoreline maps and descriptions, must demonstrate consistency with the criteria set forth in WAC 173-16-040 (4).

Subchapter 3. Definitions

20.210.010 Definitions.

The Master Program shall be implemented according to the definitions contained in SMC chapter 20.20, RCW 90.58, and WAC 173-26-020. Where definitions contained in SMC chapter 20.20 conflict or differ from definitions contained in the Shoreline Act the definitions in RCW 90.58, and WAC 173-26-020 shall prevail.

Accretion. May be either natural or artificial. Natural accretion is the buildup of land, solely by the action of the forces of nature, on a beach by deposition of water- or airborne material. Artificial accretion is a similar buildup of land by reason of an act of man, such as the accretion formed by a GROIN, BREAKWATER, or beach fill deposited by mechanical means.

Activity. An occurrence associated with a use; the use of energy toward a specific action or pursuit. Examples of shoreline activities include, but are not limited to, fishing, swimming, boating, dredging, fish spawning, or wildlife nesting.

Adjacent Lands. Lands adjacent to the lands within the shoreline jurisdiction. The SMA directs local governments to develop land use controls (i.e., zoning, comprehensive planning) for such lands consistent with the policies of the SMA, related rules and the local shoreline master program (Refer to RCW 90.58.340).

Associated Wetlands. Those wetlands that are in proximity to and either influence, or are influenced by tidal waters or a lake or stream subject to the Shoreline Management Act. Refer to WAC 173-22-030(1).

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

Building Setback. The building setback shall be equal to the depth of the required native vegetation conservation area.

Bulkheads. Walls usually constructed parallel to the shore whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are used to protect banks by retaining soil at the toe of the slope, or by protecting the toe of the bank from erosion and undercutting.

Conditional Use, Shoreline. A use, development, or substantial development that is classified as a conditional use or is not classified within the Master Program. Refer to WAC 173-27-030(4).

Development, Shoreline. Development means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level. RCW 90.58-030 3(d).

Dredging. Dredging is the removal or displacement of earth such as gravel, sand, mud, or silt from lands covered by water. Lands covered by water include stream beds and wetlands. Dredging is normally done for specific purposes or uses such as maintaining navigation channels, constructing bridge footings, or laying submarine pipelines or cable.

Dredge spoil is the material removed by dredging.

Dredge spoil disposal is the depositing of dredged materials on land or into water bodies for the purpose of either creating new or additional lands or for disposing of the material in an acceptable manner.

Ecological Functions, Shoreline or Shoreline Functions. The work performed or the role played by the physical, chemical, and biological processes that contribute to the maintenance of the aquatic and terrestrial environments that constitute the shoreline's natural ecosystem. (See WAC 173-26-201(c))

Enhancement. Alteration of an existing resource to improve or increase its characteristics and processes without degrading other existing functions. Enhancements are to be distinguished from resource creation or restoration projects.

Exemption. Certain specific developments as listed in WAC 173-27-040 are exempt from the definition of substantial developments and are therefore exempt from the Substantial Development Permit process of the SMA.

Fair Market Value. "Fair market value" of a development is the open market bid price for conducting the work, using the equipment and facilities, and purchase of the goods, services and materials necessary to accomplish the development. This would normally equate to the cost of hiring a contractor to undertake the development from start to finish, including the cost of labor, materials, equipment and facility usage, transportation and contractor overhead and profit. The fair market value of the development shall include the fair market value of any donated, contributed or found labor, equipment, or materials.

Flood Control. Any undertaking for the conveyance, control, and dispersal of floodwaters caused by abnormally high direct precipitation or stream overflow.

Hydric Soil. Hydric soil means soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper soil horizon(s), thereby influencing the growth of plants.

Landfilling. The placement of soil, rock, existing sediment or other approved material (excluding solid waste) to create new land, tideland or bottom land area along the shoreline below the OHWM, or on wetland or upland areas in order to raise the elevation.

Native Vegetation. Vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to naturally occur on the site. Examples include trees such as Douglas Fir, western hemlock, western red cedar, alder, big-leaf maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed.

Native Vegetation Conservation Area. Vegetated area between the Native Vegetation Setback Line and the OHWM.

Native Vegetation Setback Line. Unless otherwise indicated within this Master Program, the line which establishes the limits of all buildings, fencing and impervious surfaces along the shoreline.

Nonwater-oriented Uses. Those uses that are not water-dependent, water-related, or water-enjoyment.

Normal maintenance. Normal maintenance includes interior and exterior repairs and incidental alterations. Normal maintenance and repair may include, but is not limited to, painting, roof repair and replacement, plumbing, wiring and electrical systems, mechanical equipment replacement and weatherization. Incidental alterations may include construction of nonbearing walls or partitions.

Normal protective bulkhead common to single-family residences. Normal protective bulkhead common to single-family residences means a bulkhead constructed on a building site zoned to permit one single-family residence and containing one single-family residence.

Ordinary High Water Mark (OHWM) on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971, as it may naturally change thereafter, or as it may change thereafter in accordance with permits issued by a local government or the department: PROVIDED, that in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water.

Public Access. Public access is 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. Refer to WAC 173-26-221(4).

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

Revetment. Facing of stone, concrete, etc., built to protect a scarp, embankment, or shore structure against erosion by waves or currents. The principal features of a revetment are: 1) heavy armor layer, 2) filter layer, and 3) toe protection.

Sediment. The fine-grained material deposited by water or wind.

Shorelands or shoreland areas means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; contiguous floodplain areas landward two hundred feet; and all wetlands and deltas associated with the streams, lakes, and tidal waters that are subject to the provisions of this chapter; the same to be designated as to location by the Department of Ecology.

Shoreline Jurisdiction means all "shorelines of the state" and "shorelands" as defined in RCW 90.58.030.

Shoreline Master Program or Master Program. The comprehensive plan for the use of a described area, and the regulations for use of the area including maps, diagrams, charts, or other descriptive material and text, a statement of desired goals, and standards developed in accordance with the policies enunciated in RCW 90.58.020. As provided in RCW 36.70A.480, the goals and policies of a shoreline master program for a county or city approved under chapter 90.58 RCW shall be considered an element of the county or city's Comprehensive Plan. All other portions of the Shoreline Master Program for a county or city adopted under chapter 90.58 RCW, including use regulations, shall be considered a part of the county or city's development regulations.

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

Shorelines. All of the water areas of the state, including reservoirs, and their associated shorelands, together with the lands underlying them; except (i) shorelines of statewide significance; and (ii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes.

Shorelines of Statewide Significance. “Shorelines of the State” that meet the criteria for “Shorelines of Statewide Significance” contained in RCW 90.58.030(f). As it applies to the City of Shoreline, shorelines of statewide significance include those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide.

Shorelines of the State. This term includes both “shorelines” and “shorelines of statewide significance.”

Substantial Development. Substantial development means any development with a total cost or fair market value of five-thousand seven hundred and eighteen dollars (\$5,718.00) or more that requires a Shoreline Substantial Development Permit. The threshold total cost or fair market value of \$5,718.00 is set by the State Office of Financial Management and may be adjusted in the future pursuant to the SMA requirements, as defined in RCW 90.58.030(3)(e) as now or hereafter amended.

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

Water-enjoyment Use. A recreational 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.

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

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

Water-related Use. A use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because: (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

20.220 Administrative Procedures

Subchapter 1. Permits

20.220.010 Permit Requirements - General

- A. Based on the provisions of this Master Program, the Director shall determine if a Substantial Development Permit, a Shoreline Conditional Use Permit and/or a Shoreline Variance is required.
- B. A permit is required for substantial development within the shoreline jurisdiction.
- C. A Substantial Development Permit is not required for exempt development. An exempt development requires a statement of exemption pursuant to 20.220.030 and may require a Shoreline Variance from Master Program provisions and/or a Shoreline Conditional Use Permit.
- D. All uses and development shall be carried out in a manner consistent with the SMC and the Master Program regardless of whether a Substantial Development Permit, Statement of Exemption, Shoreline Variance, or Shoreline Conditional Use Permit is required.
- E. When a development or use is proposed that does not comply with the bulk, dimensional and/or performance standards of this Program, such development or use may only be authorized by approval of a Shoreline Variance, even if the development or use does not require a Substantial Development Permit.
- F. A development or use listed as a Shoreline Conditional Use pursuant to this chapter, or is an unlisted use, must obtain a Shoreline Conditional Use Permit even if the development or use does not require a Substantial Development Permit.
- G. Issuance of a Statement of Exemption, Shoreline Substantial Development Permit, Shoreline Variance, or Shoreline Conditional Use Permit does not constitute approval of any other City, state, or federal laws or regulations.
- H. All shoreline permits or statements of exemption issued for development or use within the shoreline jurisdiction shall include written findings prepared by the Director, documenting compliance with bulk and dimensional policies and regulations of the Master Program. The Director may attach conditions to the approval as necessary to assure consistency with the Master Program and RCW 90.58. The conditions may include a requirement to post a performance financial guarantee assuring compliance with permit requirements, terms and conditions.

20.220.020 Substantial Development Permit

- A. Substantial development as defined by RCW 90.58.030 shall not be undertaken by any person on the shorelines of the state without first obtaining a Substantial Development Permit from the Director, unless the use or development is specifically identified as exempt.
- B. A Substantial Development Permit shall only be granted by the Director when the development proposed is consistent with the policies and procedures of RCW.90.58; the provisions of WAC 173-27; and the Master Program.
- C. An exemption from the Substantial Development Permit requirements does not constitute an exemption from the policies and use regulations of the Shoreline Management Act, the provisions of this Master Program or other applicable city, state, or federal requirements. A formal Statement of Shoreline Exemption is required pursuant to 20.220.030.

20.220.030 Shoreline Exemption.

- A. The Director is hereby authorized to approve or deny requests for statements of exemption from the Shoreline Substantial Development Permit requirement for uses and developments within shorelines

that are specifically listed in RCW 90.58.030 and WAC 173-27-040. The statement shall be in writing and shall indicate the specific exemption of the Master Program that is being applied to the development, and shall provide a summary of the Director's analysis of the consistency of the project with this Master Program and the Act. A complete list of exemptions is provided in WAC 173-27-040.

Exempt developments include:

1. Any development of which the total construction cost or fair market value, whichever is higher, does not exceed five thousand seven hundred and eighteen (\$5,718) dollars, and does not materially interfere with public use of the water or shorelines of the state. For purposes of determining whether or not a permit is required, the total cost or fair market value shall be based on the value of development that is occurring on shorelines of the state;
2. Normal maintenance or normal repair of existing structures or developments, including damage by accident, fire, or elements. "Normal maintenance" includes those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition. "Normal repair" means to restore a development to a state comparable to its original condition within a reasonable period after decay or partial destruction except where repair causes substantial adverse effects to the shoreline resource or environment. Replacement of a structure or development may be authorized as repair where such replacement is the common method of repair for the type of structure or development and the replacement structure or development is comparable to the original structure or development including but not limited to its size, shape, configuration, location and external appearance, and the replacement does not cause substantial adverse effects to shoreline resources or environment;
3. Construction of a normal protective bulkhead common to single family residences. A "normal protective bulkhead" is constructed at or near the ordinary high water mark to protect a single family residence and is for protecting land from erosion, not for the purpose of creating dry land. Where an existing bulkhead is being replaced, it shall be constructed no further waterward of the existing bulkhead than is necessary for construction of new footings;
4. Emergency construction necessary to protect property from damage by the elements. Flooding or other seasonal events that can be anticipated and may occur but that are not imminent are not an emergency;
5. Construction, installation, or modification of navigational aids such as channel markers and anchor buoys;
6. Construction on shorelands by an owner, lessee, or contract purchaser of a single family residence for his/her own use or for the use of his/her family, which residence does not have a building height that exceeds 35 feet and meets all requirements of the Shoreline Municipal Code (SMC) and this chapter;
7. Construction of a dock, including a community dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of one or more single and multi-family residences. A dock is a landing and moorage facility for watercraft and does not include recreational decks, storage facilities or other appurtenances. This exception applies if the fair market value of the dock does not exceed \$2,500;
8. The marking of property lines or corners, when such marking does not significantly interfere with the normal public use of the surface waters;
9. Any project with certification from the Governor pursuant to Chapter 80.50 RCW;
10. Watershed restoration projects as defined in WAC 173-27-040. The City shall review the projects for consistency with the Master Program in an expeditious manner and shall issue its

decision along with any conditions within forty-five (45) days of receiving all materials necessary to review the request for exemption from the applicant. No fee may be charged for accepting and processing requests for exemption for watershed restoration;

11. Site exploration and investigation activities that are prerequisite to preparation of an application for development authorization under this chapter, if:
 - a. The activity does not interfere with the public use of the surface waters;
 - b. The activity will have no significant adverse impact on the environment including but not limited to fish, wildlife, fish or wildlife habitat, water quality and aesthetic values; and
 - c. The activity does not involve the installation of any structure and upon completion of the activity the vegetation and land configuration of the site are restored to conditions existing before the activity.
 12. When a development meets the exemption criteria listed in this section and WAC 173-27-040, and is subject to a U.S. Army Corps of Engineers Section 10 or Section 404 Permit, a copy of the Shoreline Exemption shall be sent to the Department of Ecology.
- C. Before issuing a Shoreline Exemption, the Director shall review the Master Program to determine if the proposed development requires a Shoreline Variance and/or a Shoreline Conditional Use Permit.

20.220.040 Shoreline Variance

The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in the Master Program where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant or diminish the policies set forth in RCW 90.58.020.

- A. The Director is authorized to approve a Shoreline Variance from the performance standards of this Master Program only when all of the criteria enumerated in WAC 173-27-170 are met.
- B. A Shoreline Variance should be granted in circumstances where denial of the permit would thwart the policies enumerated in RCW 90.58.020.
- C. In all instances, the applicant must demonstrate that extraordinary circumstances exist and the public interest will not suffer substantial detrimental effect.
- D. The applicant for a Shoreline Variance must demonstrate that the variance meets the criteria in WAC 173-27-170.
- E. Proposals that require a Critical Area Reasonable Use Permit pursuant to SMC 20.30.336 shall also require a Shoreline Variance.
- F. Prior to approval of any Shoreline Variance, the Director shall consider the cumulative environmental impacts of previous, existing, and possible future requests for like actions in the area. The total effects of approved Shoreline Variances should remain consistent with the policies of RCW 90.58.020 and shall not produce significant adverse effects to the shoreline ecological functions, processes, or other users.
- G. Before making a determination to approve a Shoreline Variance, the Director shall consider issues related to the conservation of valuable natural resources and the protection of views from public lands.
- H. Shoreline Variance requests based on the applicant's/proponent's desire to enhance the view from the subject development may be granted where there are no likely detrimental effects to existing or future users, critical areas, other features or shoreline ecological functions and/or processes, and where reasonable alternatives of equal or greater consistency with this Program are not available.

- I. A Shoreline Variance shall not be granted when it would allow a greater height or lesser shoreline setback than what is typical for the area immediately surrounding the development site.
- J. A variance issued per SMC 20.30.310 shall not be construed to mean approval of a Shoreline Variance from Shoreline Master Program use regulations.
- K. An issued Shoreline Variance does not provide relief from the variance requirements under SMC 20.30.310.

20.220.050 Shoreline Conditional Use Permit

The purpose of a Shoreline Conditional Use Permit is to allow greater flexibility in the application of the use regulations of the Master Program in a manner consistent with the policies of RCW 90.58.020.

- A. The Director is authorized to issue Shoreline Conditional Use Permits only when all the criteria enumerated in WAC 173-27-160 are met.
- B. Shoreline Conditional Use Permits should be granted in a circumstance where denial of the permit would result in a conflict with the policies enumerated in RCW 90.58.020.
- C. In authorizing a Shoreline Conditional Use, special conditions may be attached to the permit by the Director or by the Department of Ecology to minimize the effects of the proposed use. Uses that are specifically prohibited by the Master Program may not be authorized with the approval of a Shoreline Conditional Use Permit.
- D. Proposals that require a Critical Area Reasonable Use Permit pursuant to SMC 20.30.336 shall also require a Shoreline Variance.

Subchapter 2. Permit Procedures

20.220.060 General.

- A. Permits required under this chapter shall be processed consistent with the provisions of chapter 20.30 SMC and the criteria in this subchapter.
- B. No permit shall be approved unless the proposed development is consistent with the provisions of this Master Program, the Shoreline Management Act of 1971 and the rules and regulations adopted by the Department of Ecology.
- C. Applications for shoreline permits shall also demonstrate compliance with the provisions of this subchapter.

20.220.070 Application Review.

- A. Applications for shoreline permits shall comply with the submittal requirements developed pursuant to 20.30.100 and shall provide the information the Director determines necessary for an application to be complete.
- B. Burden of Proof. It is the applicant's responsibility to provide proof that the proposed development is consistent with the permit criteria requirements.
- C. Approval. The Director may approve, approve with conditions, or deny any application that does not substantially comply with criteria imposed by the Master Program and the Shoreline Management Act.
- D. Conditions. The Director may attach to a permit any suitable and reasonable terms or conditions necessary to ensure the purpose and objectives of this Master Program and the Shoreline Management Act.
- E. Financial Guarantees. The Director may require a financial guarantee to assure full compliance with the terms and conditions of any Substantial Development Permit, Shoreline Variance or Shoreline Conditional Use. The guarantee shall be in an amount to reasonably assure the City that permitted improvements will be completed within the time stipulated.

20.220.080 Permit Process.

- A. **Application submittal.** Complete applications for a Substantial Development Permit, Shoreline Variance, and a Shoreline Conditional Use Permit are Type B actions. The applications will be processed pursuant to the procedures identified in SMC 20.30.010 through 20.30.270 and Table 20.30.050.
- B. **Decision.** The Director shall provide Notice of Final Decision per SMC 20.30.150. Pursuant to RCW 90.58.140(6) the Director shall send the final decision, including findings and conclusions to the following State agencies:
 - 1. Department of Ecology.
 - 2. Attorney General.
- C. **Department of Ecology Review of permits.**
 - 1. After the Director has approved a Shoreline Variance or Shoreline Conditional Use Permit, the Director shall file the permit with the Department of Ecology for its approval, approval with conditions, or denial.
 - 2. When a Substantial Development Permit and a Shoreline Variance or Shoreline Conditional Use Permit are required for a development, the filing on local government's rulings on the permits shall be made simultaneously with Ecology.

3. The Department of Ecology will issue its decision on a Shoreline Variance or Shoreline Conditional Use Permit within thirty (30) days of filing.
4. Upon receipt of the Department of Ecology's decision, the Director shall notify those interested persons having requested notification of such decision.

20.220.090 Local Appeals.

There are no administrative appeals for shoreline permit decisions made by the Director.

20.220.110 Appeals to State Shoreline Hearings Board.

- A. Appeals of the final decision of the City with regard to shoreline management shall be governed by the provisions of RCW 90.58.180.
- B. Appeals to the Shoreline Hearings Board of a decision on a Shoreline Substantial Development Permit, Shoreline Variance or Shoreline Conditional Use Permit may be filed by the applicant/proponent or any aggrieved party pursuant to RCW 90.58.180.
- C. The effective date of the City's decision shall be the date of filing with the Department of Ecology as defined in RCW 90.58.140.

20.220.120 Initiation of Development.

- A. Development pursuant to a Shoreline Substantial Development Permit shall not be authorized until twenty one (21) days after the "date of filing" of the Director's decision with the Department of Ecology;
- B. Development for which a Shoreline Variance or Shoreline Conditional Use is required shall not begin and shall not be authorized until twenty one (21) days after the "date of filing" of the Department of Ecology's decision with the Director; or
- C. All appeal proceedings before the Shoreline Hearings Board have terminated.

20.220.130 Expiration of Permits.

The City of Shoreline may specify the length of time a shoreline permit will be effective based on the specific requirements of the development proposal. If a permit does not specify an expiration date, the following requirements apply, consistent with WAC 173-14-060:

- A. **Time Limit for Substantial Progress.** Construction, or substantial progress toward completion, must begin within two (2) years after approval of the permits.
- B. **Extension for Substantial Progress.** The City of Shoreline may at its discretion, with prior notice to parties of record and the Department of Ecology, extend the two-year time period for the substantial progress for a reasonable time up to one year based on factors, including the inability to expeditiously obtain other governmental permits which are required prior to the commencement of construction.
- C. **Five-Year Permit Authorization.** If construction has not been completed within five (5) years of approval by the City of Shoreline, the City will review the permit and, upon showing of good cause, either extend the permit for one year, or terminate the permit.
- D. Prior to the City authorizing any permit extensions, it shall notify any parties of record and the Department of Ecology. Note: Only one extension is permitted.

20.220.140 Revision to Permits.

- A. A permit revision is required whenever the applicant proposes substantive changes to the design, terms or conditions of a project from that which is approved in the permit. Changes are substantive if

they materially alter the project in a manner that relates to its conformance to the terms and conditions of the permit, this Program or the Act. Changes that are not substantive in effect do not require a permit revision.

- B. An application for a revision to a shoreline permit shall be submitted to the Director. The application shall include detailed plans and text describing the proposed changes. The City shall review and process the request in accordance with the requirements of WAC 173-27-100.

20.220.150 Nonconforming Use and Development.

- A. Structures that were legally established and are used for a conforming use but which are nonconforming with regard to setbacks, buffers or yards, area, bulk, height, or density may be maintained and repaired and may be enlarged or expanded provided that said enlargement does not increase the extent of nonconformity by further encroaching upon or extending into areas where construction or use would not be allowed for new development or uses.
- B. Uses and developments that were legally established and are nonconforming with regard to the use regulations of the Master Program may continue as legal nonconforming uses. Such uses shall not be enlarged or expanded, except that nonconforming single-family residences that are located landward of the ordinary high water mark may be enlarged or expanded in conformance with applicable bulk and dimensional standards by the addition of space to the main structure or by the addition of normal appurtenances as defined in WAC 173-27-040 (2)(g) upon approval of a Shoreline Conditional Use permit.
- C. A use which is listed as a conditional use but which existed prior to adoption of the Master Program or any relevant amendment and for which a conditional use permit has not been obtained shall be considered a nonconforming use. A use which is listed as a conditional use in table 20.230.081 but which existed prior to the applicability of the Master Program to the site and for which a Shoreline Conditional Use permit has not been obtained shall be considered a nonconforming use.
- D. A structure for which a Shoreline Variance has been issued shall be considered a legal nonconforming structure and the requirements of this section shall apply as they apply to preexisting nonconformities.
- E. A structure which is being or has been used for a nonconforming use may be used for a different nonconforming use only upon the approval of a Shoreline Conditional Use permit. A Shoreline Conditional Use permit may be approved only upon a finding that:
 - a. No reasonable alternative conforming use is practical; and
 - b. The proposed use will be at least as consistent with the policies and provisions of the act and the Master Program and as compatible with the uses in the area as the preexisting use.
 - c. Conditions may be attached to the permit as are deemed necessary to assure compliance with the above findings, the requirements of the Master Program and the Shoreline Management Act and to assure that the use will not become a nuisance or a hazard.
- F. Any structure nonconforming as to height or setback standards that becomes damaged may be repaired or reconstructed; provided, that:
 - a. The extent of the previously existing nonconformance is not increased; and
 - b. The building permit application for repair or reconstruction is submitted within 12 months of the occurrence of damage or destruction.
- G. If a nonconforming use is abandoned for twelve consecutive months or for twelve months during any two-year period, the nonconforming rights shall expire and any subsequent use shall be conforming. A use authorized pursuant to subsection 20.220.150(E) shall be considered a conforming use for purposes of this section.

- H. An undeveloped lot, tract, parcel, site, or division of land located landward of the ordinary high water mark which was established in accordance with SMC 20.30, subchapter 7 and state subdivision requirements prior to the effective date of the act or the applicable Master Program but which does not conform to the present lot size standards may be developed if permitted by other land use regulations of the local government and so long as such development conforms to all other requirements of the applicable master program and the act.

20.220.160 Enforcement.

- A. The Director is authorized to enforce the provisions of this chapter and any rules and regulations promulgated hereunder pursuant to the enforcement and penalty provisions of WAC 173-27.
- B. This Program will be enforced by the means and procedures set forth in SMC 20.30, Subchapter 9.

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20.230 Shoreline Policies and Regulations

Subchapter 1. General Policies and Regulations

20.230.010 General.

The General Policies and Regulations apply to all uses and activities that may occur within the City's shoreline jurisdiction regardless of the Shoreline Master Program environment designation. These policies and regulations provide the overall framework for the management of the shoreline. Use these general regulations in conjunction with the 20.230, subchapter 2, Specific Use and Modification Policies and Regulations.

20.230.020 Environmental.

The Shoreline Management Act (SMA) is concerned with the environmental impacts that both development and use or activity may have on the fragile shorelines of the state. Development and certain uses or activities within the regulated shoreline may degrade the shoreline and its waters. Developments and certain uses or activities may damage or inhibit important species and their habitat.

A. General Environmental Policies and Regulations

Policies:

1. The adverse impacts of shoreline developments and activities on the natural environment, including critical areas and properly functioning conditions for proposed, threatened, and endangered species, and on the built environment should be minimized during all phases of development (e.g., design, construction, operation, and management).
2. Shoreline developments that protect and/or contribute to the long-term restoration of habitat for proposed, threatened, and endangered species are consistent with the fundamental goals of this Master Program. Shoreline developments that propose to enhance critical areas, other natural characteristics, resources of the shoreline, and provide public access and recreational opportunities to the shoreline are also consistent with the fundamental goals of this Master Program, and should be encouraged.

Regulations

1. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that mitigates adverse impacts to the environment. The preferred mitigation sequence (avoid, minimize, mitigate, compensate) shall follow that listed in WAC 173-26-201 (2)(e).
2. All shoreline development and activity shall be located, designed, constructed and managed in a manner that assures no net loss.
3. All shoreline development shall be located, designed, constructed, and managed to protect the functions and values of critical areas consistent with the Shoreline Critical Area Regulations (Appendix A).
4. All shoreline development shall be located and designed to avoid or minimize the need for shoreline stabilization measures and flood protection works, such as bulkheads, revetments, dikes, levees, or substantial site regrading and dredging. Where measures and works are demonstrated to be necessary, biostabilization techniques shall be the preferred design option unless demonstrated to be infeasible, or where other alternatives will provide less impact to the shoreline environment.

5. All shoreline development and activity shall be located, designed, constructed, operated, and managed to minimize interference with beneficial natural shoreline processes, such as water circulation, sand and gravel movement, erosion, and accretion to create no net loss of shoreline ecological function.
6. In approving shoreline developments, the City of Shoreline shall ensure that the development will maintain, enhance, or restore desirable shoreline features, as well as ensure no net loss of ecological functions. To this end, the City may adjust and/or prescribe project dimensions, location of project components on the site, intensity of use, screening, and mitigation as deemed appropriate.
7. In approving shoreline developments, the City of Shoreline shall consider short and long term adverse environmental impacts. In addition, the City of Shoreline shall consider the cumulative adverse impacts of the development, particularly the precedence effect of allowing one development, which could generate or attract additional development. Identified significant short term, long term, and cumulative adverse environmental impacts lacking appropriate mitigation shall be sufficient reason for permit denial.
8. As a condition of approval, the City may require periodic monitoring for up to ten years from the date of completed development to ensure the success of required mitigation. Mitigation plans shall include at a minimum:
 - a. Inventory of the existing shoreline environment including the physical, chemical, and biological elements and provide an assessment of their condition.
 - b. A discussion of the project's impacts and their effect on the ecological functions necessary to support existing shoreline resources.
 - c. A discussion of any federal, state, or local special management recommendations that have been developed for wetland or species or habitats located on the site.
 - d. An assessment of habitat recommendations proposed by resource agencies and their applicability to the proposal.
 - e. A discussion of measures to preserve existing habitats and opportunities to restore habitats that were degraded prior to the proposed land use activity. Mitigation plans shall include at a minimum: planting and soil specifications; success standards; and contingency plans.
 - f. A discussion of proposed measures that mitigate the impacts of the project and established success criteria.
 - g. An evaluation of the anticipated effectiveness of the proposed mitigation measures.
 - h. A discussion of proposed management practices which will protect fish and wildlife habitat after the project site has been fully developed, including proposed monitoring and maintenance programs.
 - i. A monitoring plan including scientific procedures to be used to establish success or failure of the project, sampling points, success criteria, and monitoring schedule.
 - j. Any additional information necessary to determine the impacts of a proposal and mitigation impacts.
9. Shoreline development shall not be permitted if it significantly impacts the natural character of the shoreline, natural resources, or public recreational use of the shoreline. "Significant" is used as defined in SEPA (WAC 197-11-794).
10. Where provisions of this Master Program conflict with each other or with other laws, ordinances or programs, the more restrictive of the provisions shall apply.

B. Earth**Policies**

1. Accretion shoreforms are valued for recreation and in some cases may provide fish spawning substrate. Development that could disrupt these shoreforms may be allowed:
 - a. When the accreted shoreform is private property;
 - b. When such disruption would not reduce shoreline ecological function;
 - c. Where there is a demonstrated public benefit; and
 - d. Where the Department of Fish and Wildlife determines there would be no significant impact to the fisheries resource.

Regulations

1. Developments that alter the shoreline topography may be approved if:
 - a. Flood events will not increase in frequency or severity resulting from the alteration;
 - b. The alteration would not impact natural habitat forming processes and would not reduce ecological functions. Mitigation is required for projects that would reduce ecological functions to ensure no net loss of function.
2. The applicant shall incorporate all known, available and reasonable methods of prevention, control and treatment measures into erosion prevention and sediment control.
3. All debris and other waste materials from construction shall be disposed of in such a manner as to prevent their entry into the water body.
4. All disposal sites for soils and materials resulting from the shoreline development shall be identified and approved before permit issuance.

D. Water**Policies**

1. Shoreline development and activities shall maintain no net loss of ecological functions.
2. Development and regulated activities shall minimize impacts to geohydraulic processes, surface water drainage, and groundwater recharge.
3. Measures shall be incorporated into the development, use, or activity to protect water bodies and wetlands from all sources of pollution, including, but not limited to sediment and silt, petrochemicals, and wastes and spoils.
4. Adequate provisions to prevent water runoff from contaminating surface and groundwater shall be included in development design. The Director may specify the method of surface water control and maintenance programs. Surface water control must comply with the Department of Ecology *Stormwater Management Manual for Western Washington*.
5. All measures for the treatment of surface water runoff for the purpose of maintaining and/or enhancing water quality shall be conducted onsite. Off-site treatment facilities may be considered if onsite treatment is not feasible.

Regulations

1. For lawns and other vegetation maintained within the regulated shoreline, alternatives to the use of chemical fertilizers, herbicides, and pesticides shall be a preferred BMP. Where chemical fertilizer, herbicide, or pesticide use is necessary for protecting existing natural vegetation or establishing new vegetation as part of an erosion control or mitigation plan, the use of time release fertilizer and herbicides shall be preferred over liquid or concentrate application except as used in targeted hand applications.
2. The release of oil, chemical, or hazardous materials onto or into the water is prohibited. Equipment for the transportation, storage, handling, or application of such materials shall be

maintained in a safe and leak-proof condition. If there is evidence of leakage, the further use of such equipment shall be suspended until the deficiency has been satisfactorily corrected. During construction, vehicle refueling and vehicle maintenance shall occur outside of regulated shoreline areas.

3. The bulk storage of oil, fuel, chemical, or hazardous materials, on either a temporary or a permanent basis, is prohibited, except for uses allowed by the zoning classification.

E. Plants and Animals

Policies

1. In general, this Master Program shall strive to protect and restore anadromous fish resources in the Puget Sound and its tributaries within the City of Shoreline.
2. Shoreline development, uses and activities shall be:
 - a. Located and conducted in a manner that minimizes impacts to existing ecological values and natural resources of the area, conserves properly functioning conditions, and insures no net loss of shoreline ecological functions;
 - b. Scheduled to protect biological productivity and to minimize interference with fish resources including anadromous fish migration, spawning, and rearing activity;
 - c. Designed to avoid the removal of trees in shorelines, wherever practicable and to minimize the removal of other woody vegetation. Where riparian vegetation is removed, measures to mitigate the loss of vegetation shall be implemented to assure no net loss; and
 - d. Designed to minimize impacts to the natural feature of the shoreline as much as possible.

Regulations

1. Mitigation shall be required of the applicant for the loss of fish and wildlife resources, natural systems, including riparian vegetation, wetlands and sensitive areas. The mitigation required shall be commensurate to the value and type of resource or system impacted by development and activity in the shoreline. On-site compensatory mitigation shall be the preferred mitigation option, except where off-site mitigation can be demonstrated to be more beneficial to fish and wildlife resources, natural systems, including riparian vegetation, wetlands and sensitive areas. If on-site compensatory mitigation is not feasible or if off-site mitigation is demonstrated to be more beneficial to the shoreline environment, the applicant shall participate in a publicly-sponsored restoration or enhancement program.
2. Enhancement, restoration, and/or creation of coniferous riparian forest or forested riparian wetland shall be the preferred mitigation for impacts to riparian vegetation and wetlands when avoidance is not possible.
3. Alterations to fish and wildlife habitat conservation areas should be avoided. If they cannot be avoided mitigation is required and a Habitat Management Plan shall be prepared as required in SMC 20.80.290-20.80.300.
4. Habitat management plans shall be forwarded to the appropriate state and/or federal resource agencies for review and comment.
5. Based on the habitat management plan, and comments from other agencies, the Director may require mitigating measures to reduce the impacts of the proposal on the wildlife habitat conservation areas. Mitigating measures may include, but are not limited to:
 - a. Increased buffers;
 - b. Setbacks for permanent and temporary structures;
 - c. Enhanced buffers;
 - d. Reduced project scope;
 - e. Limitations on construction hours;

- f. Limitations on hours of operation; and
 - g. Relocation of access.
6. Mitigation activities shall be monitored to determine effectiveness of the habitat mitigation plan. Monitoring shall be accomplished by a third party, subject to the approval by the Director, and shall have the concurrence of the U.S. Fish and Wildlife Service, NOAA - Fisheries, Washington Department of Fish and Wildlife, and, where applicable, the Washington Department of Ecology. Monitoring shall occur for up to ten (10) years following implementation of the plan. Results of the monitoring shall be publicly available and reported to the U.S. Fish and Wildlife Service and National Marine Fisheries Service. Reports shall contain the following information:
 - a. A list of parcels subject to this requirement and a map;
 - b. The implementation status of the habitat management plans;
 - c. Status of the improvements (e.g., update if success standards are being met, what types of remedial actions have been implemented); and
 - d. Recommendations for corrective measures if necessary.
 7. If proposed mitigation is found to be inadequate or if adequate mitigation is determined to be impossible, the application shall be denied.
 8. Timing of in-water construction, development, or activity shall be determined by Washington Department of Fish and Wildlife.

**F. Noise
Policy**

1. Noise levels shall not interfere with the quiet enjoyment of the shoreline.

Regulations

1. Any noise emanating from a shoreline use or activity shall be muffled so as to not interfere with the designated use of adjoining properties. This determination shall take into consideration ambient noise levels, intermittent beat, frequency, and shrillness.
2. Ambient noise levels shall be a factor in evaluating a shoreline permit application. Shoreline developments that would increase noise levels to the extent that the designated use of the shoreline would be disrupted shall be prohibited. Specific maximum environment noise levels can be found in WAC 173-60-040.

**G. Public Health
Policy**

1. All development within the regulated shoreline shall be located, constructed, and operated so as not to be a hazard to public health and safety.

Regulations

1. Development shall be designed to conform to the codes and ordinances adopted by the City.

**H. Land Use
Policy**

1. The size of the shoreline development and the intensity of the use shall be compatible with the surrounding environment and uses. The City of Shoreline may prescribe operation intensity, landscaping, and screening standards to ensure compatibility with the character and features of the surrounding area.
2. Shoreline developments shall minimize land use conflicts to properties adjacent to, upstream, and downstream of the proposed site.

Regulations

1. In reviewing permit applications, the City shall consider potential and current public use of the shoreline, total water surface reduction, and restriction to navigation.
2. Development within the designated shoreline shall comply with the development and uses standards for the underlying zoning.

I. Aesthetics

Policy

1. Development should be designed to minimize the visual affect structures have on the shoreline, minimize visual clutter, avoid placement of service areas, parking lots, view blocking structures adjacent to the shoreline.

Regulations

1. Development shall be designed to comply with the development standards required in the underlying zone.
2. If the zone and use require landscaping or if planting is required for mitigation by the Director, the property owner shall provide a landscape plan that provides suitable screening that does not block public views.
3. Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties and adjoining waters.
4. Development on the water shall be constructed of non-reflective materials that are compatible in terms of color and texture with the surrounding area.
5. Lighting shall be properly directed and shielded to avoid off-site glare and impacts to fisheries.

J. Historical/Cultural

Policy

1. Development should strive to preserve historic or culturally significant resources.

Regulations

1. Developments that propose to alter historic or culturally significant resources identified by the National Trust for Historic Preservation, the State Department of Archeology and Historic Preservation, the King County Historic Preservation Program, or the City of Shoreline Historic Resource Inventory or resources that could potentially be designated as historically or culturally significant, shall follow the applicable Federal, State, County or local review process(es).
2. All shoreline permits issued by the City require immediate work stoppage and City notification when any items of archaeological interest are uncovered during excavation. The applicant or project owner shall notify the State Department of Archeology and Historic Preservation Office, affected Indian tribes and the City.
3. Where archaeological or historic sites have been identified, access may be required consistent with section 20.230.040, the provisions for public access, and it is determined that public access to the site will not damage or reduce the cultural value of the site.

20.230.030 Environmentally Sensitive Areas Within the Shoreline.

A. Critical Areas

General Policy

1. Unique, rare, and fragile natural and man-made features and wildlife habitats should be preserved and protected.

2. The diversity of aquatic life, wildlife, and habitat within the shoreline should be enhanced.
3. Conserve and maintain designated open spaces for ecological reasons and for educational and recreational purposes.
4. Recognize that the interest and concern of the public is essential to the improvement of the environment and sponsor and support public information programs to that end.
5. The level of public access should be appropriate to the degree of uniqueness or fragility of the geological and biological characteristics of the shoreline (e.g., wetlands, spawning areas).
6. Intensive development of shorelines areas that are identified as hazardous or environmentally sensitive to development should be discouraged.

General Regulations

1. The City's Critical Areas Ordinance, SMC 20.80 adopted _____, Ordinance number _____ is hereby incorporated into this Shoreline Master Program by reference and shall regulate critical areas within shoreline jurisdiction.
2. The provisions of Chapter 20.80, Critical Areas must be factored into decisions regarding development within the regulated shoreline and associated critical areas.
3. All shoreline uses and activities shall be located, designed, constructed and managed to protect and/or not adversely affect those natural features which are valuable, fragile or unique in the region, and to facilitate the appropriate intensity of human use of such features, including but not limited to:
 - a. Wetlands, including but not limited to marshes, bogs, and swamps;
 - b. Fish and wildlife habitats, including streams and wetlands, nesting areas and migratory routes, spawning areas, and the presence of proposed or listed species;
 - c. Natural or man-made vistas or features;
 - d. Flood hazard areas;
 - e. Geologically hazardous areas, including erosion, landslide, and seismic hazard areas; and
4. The standards of the City of Shoreline's Critical Area Regulations shall apply within areas landward of the ordinary high water mark (OHWM) and within the shoreline jurisdiction, where critical areas are present. If there are any conflicts or unclear distinctions between the Master Program and the City's Critical Areas Regulations, the most restrictive requirements apply as determined by the City.

B. Floodplain Management

The following policies and regulations must be factored into decisions regarding all flood management planning and development within that portion of the 100-year floodplain that falls within Shoreline's shoreline jurisdiction (within 200 feet of OHWM).

Floodplain management involves actions taken with the primary purpose of preventing or mitigating damage due to flooding. Floodplain management can involve planning and zoning to control development, either to reduce risks to human life and property or to prevent development from contributing to the severity of flooding. Floodplain management can also address the design of developments to reduce flood damage and the construction of flood controls, such as dikes, dams, engineered floodways, and bioengineering.

Policy

1. Flood management planning should be undertaken in a coordinated manner among affected property owners and public agencies and should consider the entire coastal system. This

planning should consider off-site impacts such as erosion, accretion, and/or flood damage that might occur if shore protection structures are constructed.

2. Non-structural control solutions are preferred over structural flood control devices, and should be used wherever possible when control devices are needed. Non-structural controls include such actions as prohibiting or limiting development in areas that are historically flooded or limiting increases in peak flow runoff from new upland development. Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that non-structural solutions would not be able to reduce the damage.
3. Substantial stream channel modification, realignment, and straightening should be discouraged as a means of flood protection.
4. Where possible, public access should be integrated into the design of publicly financed flood management facilities.
5. The City supports the protection and preservation of the aquatic environment and the habitats it provides, and advocates balancing these interests with the City's intention to ensure protection of life and property from damage caused by flooding.
6. Development should avoid potential channel migration impacts.

Regulations

1. The City shall require and utilize the following information as appropriate during its review of shoreline flood management projects and programs.
 - a. Stream channel hydraulics and floodway characteristics up and downstream from the project area.
 - b. Existing shoreline stabilization and flood protection works within the area.
 - c. Physical, geological, and soil characteristics of the area.
 - d. Biological resources and predicted impact to coastal ecology, including fish, vegetation, and animal habitat.
 - e. Predicted impact upon area shore and hydraulic processes, adjacent properties, and shoreline and water uses; and,
 - f. Analysis of alternative flood protection measures, both non-structural and structural.
2. The City shall require engineered design of flood protection works where such projects may cause interference with normal geohydraulic processes, off-site impacts, or adverse effects to shoreline resources and uses. Non-structural methods of flood protection shall be preferred over structural solutions, when the relocation of existing shoreline development is not feasible.

C. Wetlands

The following policies and regulations must be factored into decisions regarding all development within wetlands that fall within the City's shoreline jurisdiction.

Policy

1. Wetland ecosystems serve many important ecological and environmental functions, which are beneficial to the public welfare. Such functions include flood storage and conveyance, erosion control, sediment control, fish production, fish and wildlife habitat, recreation, water quality protection, water supply, education, and scientific research. Wetland ecosystems should be preserved and protected to prevent their continued loss and degradation.

2. Wetland areas should be identified according to established identification and delineation procedures and provided appropriate protection consistent with the policies and regulations of this Master Program and Chapter 20.80, Critical Areas.
3. The greatest protection should be provided to wetlands of exceptional resource value, which are defined as those wetlands that include rare, sensitive, or irreplaceable systems such as:
 - a. Documented or potential habitat for an endangered, threatened, or sensitive species.
 - b. High quality native wetland systems as determined by the Washington State Natural Heritage Program.
 - c. Significant habitat for fish or aquatic species as determined by the appropriate state resource agency.
 - d. Diverse wetlands exhibiting a high mixture of wetland classes and subclasses as defined in the US Fish and Wildlife Service classification system.
 - e. Mature forested swamp communities.
 - f. Sphagnum bogs or fens.
4. A wetland buffer of adequate width should be maintained between a wetland and the adjacent development to protect the functions and integrity of the wetland.
5. The width of the established buffer zone should be based upon the functions and sensitivity of the wetland, the characteristics of the existing buffer, and the potential impacts associated with the adjacent land use.
6. All activities that could potentially affect wetland ecosystems should be controlled both within the wetland and the buffer zone to prevent adverse impacts to the wetland functions.
7. No wetland alteration should be authorized unless it can be shown that the impact is both unavoidable and necessary and that resultant impacts are offset through the deliberate restoration, creation, or enhancement of wetlands.
8. Wetland restoration, creation, and enhancement projects should result in no net loss of wetland acreage and functions. Where feasible, wetland quality should be improved.
9. Wetlands that are impacted by activities of a temporary nature should be restored immediately upon project completion.
10. In-kind replacement of functional wetland values is preferred. Where in-kind replacement is not feasible or practical due to the characteristics of the existing wetland, substitute ecological resources of equal or greater value should be provided.
11. On-site replacement of wetlands is preferred. Where on-site replacement of a wetland is not feasible or practical due to characteristics of the existing location, replacement should occur within the same watershed and in as close proximity to the original wetland as possible.
12. Where possible, wetland restoration, creation, and enhancement projects should be completed prior to wetland alteration. In all other cases, replacement should be completed prior to use or occupancy of the activity or development.
13. Applicants should develop comprehensive mitigation plans to ensure long-term success of the wetland restoration, creation, or enhancement project. Such plans should provide for sufficient monitoring and contingencies to ensure wetland persistence.
14. Applicants should demonstrate sufficient scientific expertise, supervisory capability, and financial resources to complete and monitor the mitigation project.
15. Proposals for restoration, creation, or enhancement should be coordinated with appropriate resource agencies to ensure adequate design and consistency with other regulatory requirements.
16. Activities should be prevented in wetland buffer zones except where such activities have no adverse impacts on wetland ecosystem functions.

17. Wetland buffer zones should be retained in their natural condition unless revegetation is necessary to improve or restore the buffer.

Regulations

1. If a wetland of exceptional value is adjacent to a public access trail required under the provisions of this Master Program, then interpretive signage is required. The interpretive signage shall explain why the wetland is considered valuable. The Director shall determine the type and extent of interpretive signage required.
2. Wetland mitigation sequencing shall be done in accordance with Chapter 20.80, Critical Areas.

20.230.040 Public Access

Public access to the shoreline is the physical ability of the general public to reach and touch the water's edge and/or the ability to have a view of the water and the shoreline from upland locations. There are a variety of types of public access, such as picnic areas, pathways and trails, promenades, bridges, street ends, ingress and egress, and parking.

A. Public Access Policies

1. Public access provisions should be incorporated into all private and public developments. Exceptions may be considered for the following types of uses:
 - a. A single family residence.
 - b. An individual multi-family structure containing four (4) or fewer dwelling units; and
 - c. Where deemed inappropriate by the Director.
2. Development uses and activities on or near the shoreline should not impair or detract from the public's visual or physical access to the water.
3. Public access to the shoreline should be sensitive to the unique characteristics of the shoreline and should preserve the natural character and quality of the environment and adjacent wetlands, public access should assure no net loss of ecological functions.
4. Where appropriate, public access should be provided as close as possible to the water's edge without adversely affecting a sensitive environment.
5. Except for access to the water, the preferred location for placement of public access trails is as close to the furthest landward edge of the riparian management zone as practical. Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and should be designed for accessibility by handicapped and physically impaired persons. Publicly owned shorelines should be limited to water-dependent or public recreation uses, otherwise such shorelines should remain protected open space.
6. Shoreline areas that hold unique value for public enjoyment should be purchased for public use, and public access area should be of sufficient size to allow passage and allow the visitor to stop, linger, and contemplate the setting.
7. Public access afforded by shoreline street ends should be preserved, maintained, and enhanced.
8. Public access should be designed to provide for public safety and to minimize potential impacts to private property and individual privacy. This may include providing a physical separation to reinforce the distinction between public and private space, achieved by providing adequate space, through screening with landscape planting or fences, or other means.
9. Public views from the shoreline upland areas should be enhanced and preserved. Enhancement of views should not be construed to mean excess removal of vegetation that partially impairs views.

10. Public access facilities should be constructed of environmentally friendly materials and support healthy natural processes, whenever financially feasible and possible.
11. Public access facilities should be maintained to provide a clean and safe experience and protect the environment.

B. Public Access Regulations

1. Public access shall be required for all shoreline development and uses, except for a single family residence or residential projects containing four (4) or fewer dwelling units.
2. Requirement of public access to shorelines does not confer the right to enter upon or cross private property, except for dedicated and marked public easements.
3. A shoreline development or use that does not provide public access may be authorized provided it is demonstrated by the applicant and the Director determines that one or more of the following provisions apply:
 - a. Unavoidable health or safety hazards to the public exist which cannot be prevented by any feasible means;
 - b. Security requirements cannot be satisfied through the application of alternative design features or other solutions;
 - c. The cost of providing the access, easement, or an alternative amenity is unreasonably disproportionate to the total long-term cost of the proposed development;
 - d. Unacceptable environmental harm, such as damage to fish spawning areas will result from the public access that cannot be mitigated; or
 - e. Significant conflict between the proposed access and adjacent uses would occur and cannot be mitigated.
 - f. The applicant must also demonstrate that all reasonable means to public access have been exhausted, including but not limited to:
 - i. Regulating access by such means as limiting hours of use to daylight hours;
 - ii. Designing separation of uses and activities, with such means as fences, terracing, hedges, or landscaping; and
 - iii. Providing access that is physically separated from the proposal, such as a nearby street end, an offsite viewpoint, or a trail system.
4. Public access sites shall be made barrier free for the physically disabled where feasible.
5. Public access sites shall be connected directly to the nearest public street.
6. Required public access sites shall be fully developed and available for public use at the time of occupancy or use of the development or activity.
7. Public access easements and permit conditions shall be recorded on the deed where applicable or on the face of a plat or short plat as a condition running with the land. Said recording with the King County Recorder's office shall occur at the time of permit approval (RCW 58.17.110).
8. The standard state approved logo and other approved signs that indicate the public's right of access and hour of access shall be constructed, installed, and maintained by the applicant in conspicuous locations at public access sites. Signs controlling or restricting public access may be approved as a condition of permit approval.
9. Development on or over the water shall be constructed as far landward as possible to avoid interference with views from surrounding properties to the shoreline and adjoining waters.
10. Physical public access shall be designed to prevent significant impacts to natural systems by employing Low Impact Development techniques.

Subchapter 2. Specific Shoreline Use Policies and Regulations

20.230.070 General.

Specific shoreline use provisions are more detailed than those listed in General Policies and Regulations. These use policies and regulations apply to the identified use categories and provide a greater level of detail for uses and their impacts. The policies establish the shoreline management principles that apply to each use category and serve as a bridge between the various elements listed in section 20.200.020 of this Master Program and the use regulations that follow.

This subchapter also includes those activities that modify the configuration or qualities of the shoreline area. Shoreline modification activities are, by definition, undertaken in support of or in preparation for a permitted shoreline use. Typically, shoreline modification activities relate to construction of a physical element such as a breakwater, dredged basins, landfilling, etc., but they can include other actions such as clearing, grading, application of chemicals, etc.

Shoreline modification policies and regulations are intended to prevent, reduce, and mitigate the negative environmental impacts of proposed shoreline modifications consistent with the goals of the Shoreline Management Act. A proposed development must meet all of the regulations for both applicable uses and activities as well as the general and environment designation regulations.

The following policies and regulations apply to specific types of development that may be proposed in the shoreline jurisdiction of the City. A proposal can consist of more than one type of development. In addition, all specific shoreline development must be consistent with the following Shoreline Environmental Designations; the goals and objectives of SMC 20.200, subchapter 1; and the general policies and regulations contained in SMC 20.230, subchapter 1.

20.230.080 Shoreline Environmental Designations

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

Urban Conservancy Environment (UC). The purpose of the „Urban Conservancy’ environment is to protect and restore relatively undeveloped or unaltered shorelines to maintain open space, floodplains, or habitat, while allowing a variety of compatible uses. This designation shall apply to shorelines that retain important ecological functions, even if partially altered. These shorelines are suitable for low intensity development, uses that are a combination of water related or water-enjoyment uses, or uses that allow substantial numbers of people access to the shoreline.

Shoreline Residential Environment (SR). The purpose of the „Shoreline Residential’ environment is to accommodate residential development and accessory structures that are consistent with this Shoreline Master Program. This designation shall apply to shorelines that do not meet the criteria for Urban Conservancy and that are characterized by single-family or multifamily residential development or are planned and platted for residential development.

Waterfront Residential Environment (WR). The purpose of the „Waterfront Residential’ environment is to distinguish between the residential portions of the coastline where natural and manmade features

preclude building within the shoreline jurisdiction and the section along 27th Avenue NW where residential properties directly abut the Puget Sound. Unique circumstances and considerations will warrant different regulations for each area.

Point Wells Urban Environment (PW). The purpose of the „Point Wells Urban’ is to accommodate higher density uses while protecting existing ecological functions and restoring ecological functions that have been degraded.

Point Wells Urban Conservancy Environment (PWC). The purpose of the “Point Wells Urban Conservancy” is to provide a specific designation unique to an industrial use or mix of uses that can be developed. Existing and planned uses require a different set of policies and regulations than a general Urban Conservancy designation.

Table 20.230.081 Permitted Uses and Modifications Within the Shorelines

Uses that are allowed in tables 20.40.120 through 20.40.150 are permitted uses in accordance with the underlying zone, this chapter, and the provisions of the Shoreline Master Program.

- P** = Permitted - Permitted uses may require Shoreline Substantial Development Permits and any other permits required by the Shoreline Municipal Code and/or other regulatory agencies.
- C** = Conditional Use - Conditional uses require Shoreline Conditional Use Permit and may require other permits required by the Shoreline Municipal Code and/or other regulatory agencies.
- X** = Prohibited

	Shoreline Environments					
Shoreline Use	Aquatic	Urban Conservancy	Shoreline Residential	Waterfront Residential	PW Urban Conservancy	PW Urban
Agriculture	X	X	X	X	X	X
Aquaculture	X	X	X	X	X	X
Boating Facilities (marinas and boat launching ramps)	P ¹	P: Boat launching ramps open to the public	P: Boat launching ramps	P: Boat launching ramps	X	P
Nonresidential Development	X	X	X	X	P	P
Forest Practices	X	X	X	X	X	X
Industrial Development	X	X	X	X	P: Existing	P: Existing C: Expansion
In-stream Structures	P ¹	P: Part of a fish habitat enhancement or a watershed restoration project	P: Part of a fish habitat enhancement or a watershed restoration project	P: Part of a fish habitat enhancement or a watershed restoration project	P: Part of a fish habitat enhancement or a watershed restoration project	P: Part of a fish habitat enhancement or a watershed restoration project
Mining	X	X	X	X	X	X
Mooring, etc.	P	X	P	P	P	P
Recreation (water-related)	C: Water-dependent only	P	P	P	P: Limit to low intensity uses, passive uses	P
Recreation Facilities	See 20.230.150	P	P	P	P: Limit to low intensity uses, passive uses	p
Residential Developments	X	P	P	P	P	P
Signs	X	P	P	P	P	P
Permanent Solid Waste Storage or Transfer Facilities	X	X	X	X	X	X
Transportation Facilities (Roads and Bridges)	X	C	P	P	C	P
Transportation Facilities ³ (Railroads)	P	P	P	P	P	P
Utilities	C	P: Underground facilities C: Aboveground facilities				
Unclassified Uses	C	C	C	C	C	C

Shoreline Modifications	Aquatic	Urban Conservancy	Shoreline Residential	Waterfront Residential	PW Urban Conservancy	PW Urban
Breakwaters, Jetties, Groins, and Weirs	C ¹	X	X	X	X	C
Dredging	P ⁵ C: Related to navigation for PWU	P ⁵	P ⁵	P ⁵	P ⁵	P ⁵
Dredging Material Disposal	P ¹	P ⁶	P ⁶	P ⁶	P ⁶	P ⁶
Dune Modification	X	X	X	X	X	X
Piers and Docks	P ¹	P: Public	P: Community	P: Community	X	P: Existing associated w/ industrial use P: Public piers or docks C: Expansion of existing with water-oriented industrial use
Structural Flood Hazard Reduction (Dikes and Levees)	X	X	X	X	X	X
Shoreline Stabilization Bulkheads and Revetments						
Soft-shore Stabilization	P ²	P	P	P	P: w/ Utilities	P
Maintenance of existing	P	P	P	P	X	P
Hard shoreline armoring	X	C	C	C	X	C
Clearing and Grading	X	P ^{1,4}	P ^{1,4}	P ^{1,4}	P ^{1,4}	P ^{1,4}
Landfilling	P ⁵	P ⁴	P ¹	P ¹	P ⁴	P ⁴
Shoreline Habitat and Natural Systems Enhancement Projects	P	P	P	P	P	P

¹ Subject to the use limitations and permit requirements of the abutting upland shoreline environment designation.

² Allowed only if permitted in the abutting upland shoreline environment designation.

³ The City recognizes the Federal preemption for local permitting per the ICC Termination Act of 1995, 49 U.S.C. § 10501(b); however, for the purposes of Coastal Zone Management consistency the railroad company would be required to comply with the policies of the City of Shoreline’s SMP.

⁴ For activities associated with shoreline restoration or remediation; or limited if associated with public access improvement and allowed shoreline development.

⁵ For activities associated with shoreline or aquatic restoration or remediation

⁶ For shoreline habitat and natural systems enhancement, fish habitat enhancement, or watershed restoration project.

Table 20.230.082 Native Conservation Area / Building Setbacks

Shoreline Environmental Designation	Minimum Native Vegetation Conservation Area	Bulk Standards
Urban Conservancy	150 feet or 50 feet from the top of a landslide hazard area, whichever is greater	See development standards for underlying zone classification.
Shoreline Residential	115 feet	See development standards for underlying zone classification.
Waterfront Residential	20 feet	See development standards for underlying zone classification.
Point Wells Urban	50 feet (restoration required as part of development)	See development standards for underlying zone classification.
Point Wells Urban conservancy	115	See development standards for underlying zone classification.

20.230.090 Boating Facilities

Boating facilities generally include boat launch ramps (public and private), wet and dry boat storage, related sales and service for pleasure and commercial watercraft.

A. Boating Facilities Policies

1. Boating facilities can have a significant impact on habitat. The impacts of boating facilities should be reviewed thoroughly before boating facilities are permitted in the shoreline jurisdiction.
2. Public and community boating facilities are preferred. Individual private facilities are prohibited.
3. New nonresidential boating facilities may be allowed as a conditional use within the regulated shoreline. When allowed, such facilities should be designed to accommodate public access and enjoyment of the shoreline location. Depending on the scale of the facility, public access should include walkways, viewpoints, restroom facilities, and other recreational uses.
4. Dry boat storage should not be considered a water-oriented use. Only boat hoists, boat launch ramps, and access routes associated with a dry boat storage facility should be considered a water-oriented use.

B. Boating Facilities Regulations

1. Boating facilities may be permitted only if:
 - a. It can be demonstrated that the facility will not adversely impact fish or wildlife habitat areas or associated wetlands; and
 - b. Adequate mitigation measures ensure that there is no net loss of the functions or values of the shoreline and habitat as a result of the facility.

C. Boat Launch Ramps

1. Boat launch ramps shall be located on stable shorelines where water depths are adequate to eliminate or minimize the need for channel maintenance activities.
2. Boat launch ramps may be permitted on accretion shoreforms provided any necessary grading is not harmful to affected resources..
3. Where boat ramps are permitted, parking, and shuttle areas shall not be located on accretion shoreforms.
4. Boat launch ramps may be permitted on stable, non-eroding banks where the need for shore stabilization structures is minimized.
5. Ramp structures shall be placed near flush with the foreshore slope to minimize the interruption of geohydraulic processes.
6. Boat launch sites that are open to the public shall have adequate restroom facilities operated and maintained in compliance with King County Health District regulations.

D. Dry Boat Storage

1. Dry boat storage shall not be considered a water-oriented use and must comply with the required shoreline environment setback.
2. Only water-dependent aspects of dry-boat storage, such as boat hoists and boat launch ramps may be permitted within shoreline environment setbacks.
3. Boat launch ramps associated with dry boat storage shall be consistent with applicable requirements in this section.

E. Marinas

1. Must be public.

2. Must include public amenities: parking, restrooms, open space, art.
3. Must include commercial uses.
4. Marinas shall be operated in a manner to preserve water quality and protect the public health and safety. An operational plan shall be submitted with the shoreline application and shall, at a minimum, plan to provide:
 - a. Adequate facilities and operational procedures for fuel handling and storage to prevent accidental spillage;
 - b. Facilities, equipment, and procedures for the containment, recovery, and mitigation of spilled sewage, petroleum, and other hazardous materials;
 - c. Signs located in areas easily visible to marina users; addressing the following:
 - i. Regulations on handling and disposing of waste, sewage, or other toxic materials;
 - ii. Regulations prohibiting the disposal of fish or shellfish wastes, scrapfish, viscera, or unused bait in or near the marina; and
 - iii. The location of all public access facilities and pump out devices.
 - d. Garbage or litter receptacles shall be located and sized to be convenient to marina users/visitor dock, including provisions for recycling waste;
 - e. Safety equipment located on dock and pier facilities (e.g., life rings, hooks, and ropes);
 - f. All pipes, plumbing, wires, and cables at or below ground and dock levels at the marina site;
 - g. Adequate upland restrooms, available 24 hours per day, for use by any patron of the marina facility. The number and type of restrooms shall be determined based on the number of permanent and transient moorage slips within the marina.
5. Marine facilities shall be designed and constructed in conformance with the policies and regulations contained in the Master Program.
6. Marine facilities shall conform to height limitations contained in the Master Program and shoreline environment, and structures shall be limited to office, restroom, waste disposal and fueling facilities.
6. Boat maintenance activities shall only include routine repairs done by boat owners to keep their own boats in good repair.
7. Boat launching may occur in conjunction with a marina development and sufficient parking is provided for launch vehicles.

20.230.100 Nonresidential Development.

A. Nonresidential Development Policies

1. Priority of any nonresidential development should be given to water-dependent and water-enjoyment uses. Allowed uses include restaurants that provide a view of the sound to customers; motels and hotels that provide walking areas for the public along the shoreline; office buildings; and retail sales buildings that have a waterfront theme with public access to the beach or water views.
2. Over-the-water nonresidential development shall be prohibited.
3. Nonresidential development should be required to provide on-site physical or visual access to the shoreline or other opportunities for the public to enjoy shorelines of statewide significance. If on-site access cannot be provided, offsite access should be required. Off site access could be procured through the purchase of land or an easement at a location appropriate to provide the access deemed necessary. Nonresidential developments should include multiple use concepts such as open space and recreation.

4. Nonresidential development in the shoreline jurisdiction should include landscaping to enhance the shoreline area.

B. Nonresidential Development Regulations

1. Over-water construction of nonresidential uses is prohibited, provided this prohibition does not preclude the development of boat facilities necessary for the operation of an associated nonresidential use.
2. All nonresidential development within the shoreline area shall provide for public visual and/or physical access to the shoreline. Where on-site public access is feasible, nonresidential development shall dedicate, improve, and provide maintenance for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for the general public. Public access easements shall be a minimum of 25 feet in width and shall comply with the public access standards contained in the Public Access section of this Shoreline Master Program.
3. All nonresidential loading and service areas shall be located on the upland side of the nonresidential activity or provisions shall be made to screen the loading and service areas from the shoreline.
4. All nonresidential development within shoreline jurisdiction shall assure no net loss of shoreline ecological functions.
5. A shoreline setback is not required to be maintained for water-dependant nonresidential development.
6. Water-related, nonresidential development shall maintain a shoreline setback of either 25 feet from the OHWM or 10 feet from the edge of the base flood elevation, whichever is greater. If public access is provided to the shoreline the setback may be reduced to 10 feet from the OHWM or the edge of the base flood elevation, whichever is greater.
7. Nonwater-related nonresidential development shall maintain a minimum setback from the OHWM consistent with Table 20.230.082.

20.230.140 Parking Areas.

A. Parking Area Policies

1. Parking in shoreline areas should be minimized.
2. Parking within shoreline areas should directly serve a permitted use on the property.
3. Parking in shoreline areas should be located and designed to minimize adverse impacts including those related to stormwater runoff, water quality, visual qualities, public access, and vegetation and habitat maintenance.
4. Landscaping should consist of native vegetation in order to enhance the habitat opportunities within the shorelines area.

B. Parking Regulations

Parking for specific land use activities within the City of Shoreline is subject to the requirements and standards set forth in SMC 20.50 Subchapter 6. Parking, Access, and Circulation. In addition, the following parking requirements shall apply to all developments within shorelands.

1. The location of parking areas in or near shoreland areas shall be located outside of the minimum setbacks listed in Table 20.230.082 for the shoreline designation.
2. Parking in the shorelands must directly serve an approved shoreline use.
3. Parking shall be located on the landward side of the development unless parking is contained within a permitted structure. Where there is no available land area on the landward side of the development, parking shall extend no closer to the shoreline than a permitted structure.

4. Landscape screening is required between the parking area and all adjacent shorelines and properties.
5. The landscape screening for parking areas located within the shoreline areas shall consist of native vegetation, to be planted prior to final approval of project and provide an effective screening three (3) years after planting. Adequate screening or landscaping for parking lots shall consist of one or more of the following:
 - a. A strip five (5) feet wide landscaped with trees, shrubs, and groundcover;
 - b. A building or enclosed structure; and/or
 - c. A strip of land not less than two and one half (2.5) feet in width that is occupied by a continuous wall, fence, plant material, or combination of both; which shall be at least three and one half (3.5) feet high at time of installation. The plant material shall be evergreen and spaced not more than one and one half (1.5) feet on center if pyramidal in shape, or not more than three (3) feet if wider in branching habit. If the plant material is used in conjunction with a wall or fence meeting the minimum height requirements then said material may be of any kind and spacing. More restrictive screening may be required 20.50 SMC, Subchapters 6 and 7.
6. The requirement for screening may be waived by the Director, where screening would obstruct a significant view from public property or public roadway.
7. Parking areas shall not be permitted over the water.
8. Parking as a primary use shall be prohibited within all shoreline environments.
9. Parking or storage of recreational vehicles or travel trailers as a primary use shall be prohibited in all shoreline environments.

20.230.150 Recreational Facilities.

Recreational development provides for low impact activities, such as hiking, photography, viewing, and fishing; or more intensive uses such as parks, campgrounds, and golf courses. This section applies to both publicly- and privately-owned shoreline facilities intended for use by the public or a private club, group, association, or individuals.

A. Recreational Facilities Policies

1. The coordination of local, state, and federal recreation planning should be encouraged so as to mutually satisfy recreational needs. Shoreline recreational developments should be consistent with all adopted parks, recreation, and open space plans.
2. Parks, recreation areas, and public access points, such as hiking paths, bicycle paths, and scenic drives should be linked.
3. Recreational developments should be located and designed to preserve, enhance, or create scenic views and vistas.
4. The use of jet-skis and similar recreational equipment should be restricted to special areas. This type of activity should be allowed only where no conflict exists with other uses and wildlife habitat.
5. All recreational developments should make adequate provisions for:
 - a. Vehicular and pedestrian access, both on-site and off-site;
 - b. Proper water, solid waste, and sewage disposal methods;
 - c. Security and fire protection for the use itself and for any use-related impacts to adjacent private property;
 - d. The prevention of overflow and trespass onto adjacent properties; and
 - e. Buffering of such development from adjacent private property or natural areas.

B. Recreational Facilities Regulations

1. Valuable shoreline resources and fragile or unique areas, such as wetlands and accretion shore forms, shall be used only for low impact and nonstructural recreation activities.
2. For recreation developments such as golf courses and playfields that require the use of fertilizers, pesticides, or other chemicals, the property owner shall submit plans demonstrating the methods to be used to prevent these chemical applications and resultant leachate from entering adjacent water bodies. The property owner shall be required to maintain a chemical-free swath at least one hundred (100) feet in width next to water bodies.
3. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to prevent overflow onto adjacent private properties.
4. No recreational buildings or structures shall be built waterward of the OHWM, , except water-dependent and/or water-enjoyment structures such as bridges and viewing platforms. Such uses may be permitted as a Shoreline Conditional Use.
5. Proposals for recreational development shall include adequate facilities for water supply, sewage, and garbage disposal.

20.230.160 Residential Development.

1. Residential development does not include hotels, motels, or any other type of overnight or transient housing or camping facilities.
2. A Shoreline Substantial Development Permit is not required for construction of a single family residence by an owner, lessee, or contract purchaser for their own use or the use of their family. Single family residential construction and accessory structures must otherwise conform to this Shoreline Master Program.
3. A Shoreline Variance or Shoreline Conditional Use Permit may be required for residential development for situations specified in the Shoreline Master Program.
4. Uses and facilities associated with residential development, which are identified as separate use activities in this Shoreline Master Program, such as land disturbing activities are subject to the regulations established for those uses in this section. Land disturbing activities may be exempted from the Shoreline Substantial Development Permit requirement, provided it is associated with an exempted single family residence and the activity is confined to the construction site and grading does not exceed 250 cubic yards, including grading for structures.

A. Residential Policies

1. In accordance with the Public Access requirements in 20.230.060, residential developments of more than four (4) dwelling units should provide dedicated and improved public access to the shoreline.
2. Residential development and accessory uses should be prohibited over the water.
3. New subdivisions should be encouraged to cluster dwelling units in order to preserve natural features, minimize physical impacts, and provide for public access to the shoreline.
4. In all new subdivisions and detached single family development with more than four (4) dwelling units, joint-use shoreline facilities should be encouraged.
5. Accessory uses and structures should be designed and located to blend into the site as much as possible. Accessory uses and structures should be located landward of the principal residence when feasible.

B. Residential Regulations

1. Residential development is prohibited waterward of the OHWM and within setbacks defined for each shoreline environment designation.
2. Residential development shall assure no net loss of shoreline ecological functions.
3. Residential development shall not be approved if geotechnical analysis demonstrates that flood control or shoreline protection measures are necessary to create a residential lot or site area. Residential development shall be located and designed to avoid the need for structural shore defense and flood protection works.
4. If wetlands or other critical areas are located on the development site, clustering of residential units shall be required in order to avoid impacts to these areas.
5. Storm drainage facilities shall include provisions to prevent the direct entry of uncontrolled and untreated surface water runoff into receiving waters as specified in the Stormwater Manual.
6. Subdivisions and planned unit developments of more than four (4) waterfront lots/units shall dedicate, improve, and provide maintenance provisions for a pedestrian easement that provides area sufficient to ensure usable access to and along the shoreline for all residents of the development and the general public. When required, public access easements shall be a minimum of 25 feet in width and shall comply with the Public Access standards in 20.230.060. The design shall conform to the standards in the Engineering Development Guide.
7. Single family residential development shall maintain a minimum setback from the OHWM consistent with Table 20.230.082.
8. Multifamily residential development shall maintain a minimum setback from the OHWM consistent with Table 20.230.082.
9. One (1) accessory structures to the residence may be placed within the required shoreline setback provided:
 - a. No accessory structure shall cover more than 200 square feet.

Subchapter 3. Shoreline Modification Policies and Regulations

20.230.170 General

Shoreline modification involves developments that provide bank stabilization or flood control. The purpose of the modification is to reduce adverse impacts caused by natural processes, such as current, flood, tides, wind, or wave action. Shoreline modification includes all structural and nonstructural means to reduce flooding and/or erosion of banks.

Nonstructural methods include setbacks of permanent and temporary structures, relocation of the structure to be protected, ground water management, planning, bioengineering or "soft" engineered solutions, and regulatory measures to avoid the need for structural stabilization.

"Hard" structural stabilization measures refer to those with solid, hard surfaces, such as concrete bulkheads, while "soft" structural measures rely on softer materials, such as biotechnical vegetation measures or beach enhancement. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. Structural shoreline stabilization also often results in vegetation removal and damage to nearshore habitat and shoreline corridors. There are a range of measures varying from soft to hard that include:

- Vegetation enhancement;
- Upland drainage control;
- Biotechnical measures;
- Beach enhancement;
- Anchor trees;
- Gravel placement;
- Rock revetments;
- Gabions;
- Concrete groins;
- Retaining walls and bluff walls; and
- Bulkheads.

Note: As applied to shoreline stabilization measures, "normal repair" and "normal maintenance" include the patching, sealing, or refinishing of existing structures, the replenishment of sand or other material that has been washed away, and the replacement of less than twenty percent (20%) of the structure. Normal maintenance and normal repair are limited to those actions that are typically done on a periodic basis. Construction that causes significant ecological impacts is not considered normal maintenance and repair.

As applied to shoreline stabilization measures, "replacement" means the construction of a new structure to perform a shoreline stabilization function of an existing structure that can no longer adequately serve its purpose.

Additions to or increases in size of existing shoreline stabilization measures shall be considered new structures.

The following policies and regulations apply to all actions and developments that modify the shoreline for the purposes of preventing erosion or flooding. Following these general requirements, specific policies and regulations are provided for bulkheads, revetments, dikes, and levees.

A. Shoreline Modification Policies - General

1. Biostabilization and other bank stabilization measures should be located, designed, and constructed primarily to prevent damage to the existing primary structure.
2. All new development should be located and designed to prevent or minimize the need for shoreline stabilization measures and flood protection works. New development requiring shoreline stabilization should be discouraged.
3. Shoreline modifications are only allowed when and where there is a demonstrated necessity to support or protect an allowed primary structure or legally existing shoreline use that is in danger of loss or substantial damage or are necessary for reconfiguration of the shoreline for mitigation or enhancement purposes.
4. Proposals for shoreline modifications should be designed to protect life and property without impacting shoreline resources.
5. Shoreline modifications which are natural in appearance, compatible with ongoing shoreline processes, and provide flexibility for long term management such as protective berms or vegetative stabilization should be encouraged over structural means such as concrete bulkheads or extensive revetments, where feasible.
6. Structural solutions to reduce shoreline damage should be allowed only after it is demonstrated that nonstructural solutions would not be able to withstand the erosive forces of the current and waves.
7. The design of bank stabilization or protection works should provide for the long-term, multiple-use of shoreline resources and public access to public shorelines.
8. In the design of publicly financed or subsidized works, consideration should be given to providing pedestrian access to shorelines for low impact outdoor recreation.
9. All flood protection measures should be placed landward of the natural flood boundary, including wetlands that are directly interrelated and inter-dependent with water bodies.
10. If through construction and/or maintenance of shoreline modification developments, the loss of vegetation and wildlife habitat will occur, mitigation should be required.

B. Shoreline Modification Regulations - General

1. All new development, uses or activities within the shoreline area shall be located and designed to prevent or minimize the need for bank stabilization and flood protection works.
2. Where allowed, bank stabilization or protection works shall contemplate and provide for the long term, multiple-use of shoreline resources and public access to public shorelines.
3. Permitted and Shoreline Conditional Use requirements for bulkheads and revetments, are specified under the headings below. All other forms of shoreline modification must be approved as a Shoreline Conditional Use within all of the shoreline environments.
4. All shoreline stabilization proposals require a geotechnical analysis.
5. All shoreline development and activity shall be located, designed, constructed, and managed in a manner that mitigates impacts to the environment. The preferred mitigation sequence (avoid, minimize, mitigate, compensate) shall follow that listed in WAC 173-26-201 (2)(e).
6. New nonwater-dependent development, including single-family residences, that includes structural shoreline stabilization shall not be allowed unless all of the conditions below apply, otherwise new stabilization measures are limited to protecting only existing developments:

- a. The need to protect the development from destruction due to erosion caused by natural processes, such as currents and waves, is demonstrated through a geotechnical/hydro-geological report prepared by a City-approved qualified professional.
 - b. The erosion is not being caused by upland conditions, such as the loss of vegetation and drainage.
 - c. There will be no net loss of shoreline ecological functions or impacts to adjacent or down current properties.
 - d. Nonstructural measures, such as placing the development further from the shoreline, planting vegetation, or installing on-site drainage improvements and soft structural solutions such as bioengineering, are not feasible or not sufficient.
 - e. The structure will not cause impacts to the functions and values of critical areas or properly functioning conditions for proposed, threatened, and endangered species.
 - f. Other mitigation/restoration measures are included in the proposal.
7. Upon project completion, all disturbed shoreline areas shall be restored to as near pre-project configuration as possible and replanted with appropriate vegetation. All losses in riparian vegetation or wildlife habitat shall be mitigated at a ratio of 1:1.25 (habitat lost to habitat replaced).
 8. Shoreline stabilization and flood protection works are prohibited in wetlands and on point and channel bars. They are also prohibited in salmon or trout spawning areas.
 9. Developments shall not reduce the volume and storage capacity of streams and adjacent wetlands or flood plains.
 10. Use of refuse for the stabilization of shorelines is prohibited.

20.230.180 Dredging and Disposal of Dredging Spoils

A. Dredging and Dredge Spoil Policies

1. Dredging waterward of the ordinary high water mark for the primary purpose of obtaining fill material is prohibited.
2. Dredging operations should be planned and conducted to minimize interference with navigation; avoid creating adverse impacts on other shoreline uses, properties, and ecological shoreline functions and values; and avoid adverse impacts to habitat areas and fish species.
3. Dredge spoil disposal in water bodies should be prohibited except for habitat improvement.
4. Dredge spoil disposal on land should occur in areas where environmental impacts will not be significant.

B. Dredging and Dredge Spoil Regulations

1. Dredging and dredge spoil disposal shall be permitted only where it is demonstrated that the proposed actions will not:
 - a. Result in significant damage to water quality, fish, and other essential biological elements, and will not adversely alter natural drainage and circulation patterns, currents, or reduce floodwater capacities, or adversely impact properly functioning conditions for proposed, threatened, or endangered species or the functions and values of the shoreline and associated critical areas.
2. Proposals for dredging and dredge spoil disposal shall include all feasible mitigating measures to protect habitats and to minimize adverse impacts such as turbidity, release of nutrients, heavy metals, sulfides, organic materials, or toxic substances, depletion of oxygen, disruption of food

chains, loss of benthic productivity, and disturbance of fish runs and important localized biological communities.

3. Dredging and dredge spoil disposal shall not occur in wetlands unless for approved maintenance or enhancement. Dredging within the shorelines shall be permitted only:
 - a. For navigational purposes;
 - b. In conjunction with a water-dependent use;
 - c. As part of an approved habitat improvement project;
 - d. To improve flood control, water flow or water quality, provided that all dredged material shall be contained and managed so as to prevent it from reentering the water;
 - e. In conjunction with a bridge, utility, navigational structure, or instream structure, for which there is a documented public need and where other feasible sites or routes do not exist.
4. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.
5. Dredging shall utilize techniques that cause minimum dispersal and broadcast of bottom material; hydraulic dredging shall be used wherever feasible in preference to agitation dredging.
6. Dredged spoil material may be disposed at approved upland sites. If these upland sites are dry lands and fall within shoreline jurisdiction, the disposal of dredge spoils shall be considered landfilling and must be consistent with all applicable provisions of the Master Program. Depositing dredge spoils within the Puget Sound shall be allowed only by Shoreline Conditional Use for one of the following reasons:
 - a. For wildlife habitat improvements;
 - b. To correct problems of material distribution that are adversely affecting fish resources; or
7. If suitable alternatives for land disposal are not available or are infeasible, water disposal sites may be permitted, provided the sites are determined by the Director to be consistent with the following criteria:
 - a. Disposal will not interfere with geohydraulic processes;
 - b. The dredge spoil has been analyzed by a qualified professional and found to be minimally or non-polluting;
 - c. Aquatic life will not be adversely affected; and
 - d. The site and method of disposal meets all requirements of applicable regulatory agencies.
8. Disposal of dredge material shall be done in accordance with the Washington State DNR Dredge Material Management Program. DNR manages disposal sites through a Site Use Authorization (SUA), all other required permits must be provided to DNR prior to the DNR issuing a SUA for dredge disposal.-
9. The City may impose reasonable limitations on dredge spoil disposal operating periods and hours and may require buffer strips at land disposal sites.

D. Piers and Docks

1. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW [90.58.020](#);
2. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;
3. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
4. The project is consistent with the state's interest in resource protection and species recovery.

5. Private, noncommercial docks for individual residential or community use may be authorized provided that:
 - a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
 - b. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
6. An inventory of the site and adjacent beach sections to assess the presence of critical saltwater habitats and functions is required. The methods and extent of the inventory shall be consistent with accepted research methodology. Proposals will be evaluated using Department of Ecology technical assistance materials for guidance.

20.230.180 Bulkheads.

Bulkheads are walls usually constructed parallel to the shore, whose primary purpose is to contain and prevent the loss of soil by erosion, wave, or current action. Bulkheads are typically constructed of poured-in-place concrete, steel or aluminum sheet piling, wood, or wood and structural steel combinations.

The Washington State Shoreline Management Act only exempts the construction of a normal protective bulkhead associated with an existing single family residence from the Shoreline Substantial Development Permit requirement. However, these structures are required to comply with all the policies, and development standards of this Shoreline Master Program.

A. Bulkhead Policies

1. Bulkheads constructed from natural materials, such as protective berms, beach enhancement, or vegetative stabilization are strongly preferred over structural bulkheads constructed from materials such as steel, wood, or concrete. Proposals for bulkheads should demonstrate that natural methods are unworkable.
2. Bulkheads should be located, designed, and constructed primarily to prevent damage to the existing primary structure. New development that requires bulkheads should be discouraged.
3. Shoreline uses should be located in a manner so that a bulkhead is not likely to become necessary in the future.
4. Bulkheads should not be approved as a solution to geo-physical problems such as mass slope failure, sloughing, or landslides. Bulkheads should only be approved for the purposes of preventing bank erosion by the Puget Sound.

B. Bulkhead Regulations

1. New bulkheads may be allowed only when evidence is presented which demonstrates that one of the following conditions exist:
 - a. Serious erosion threatens an established use or existing primary structure on upland property.
 - b. Bulkheads are necessary to the operation and location of water-dependent, water-related, or water-enjoyment activities consistent with this Shoreline Master Program; provided that all other alternative methods of shore protection have proven infeasible.
 - c. A bulkhead is necessary to retain landfilling that has been approved consistent with the provisions of the Master Program.
2. Proposals for bulkheads must first demonstrate through a geotechnical analysis that use of natural materials and processes and non-structural or soft structural solutions to bank stabilization are not feasible.

3. The construction of a bulkhead for the primary purpose of retaining landfilling shall be allowed only in conjunction with:
 - a. A water-dependent use;
 - b. A bridge or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist;
 - c. A wildlife or fish enhancement project.
4. Bulkheads shall not be located on shorelines where valuable geo-hydraulic or biological processes are sensitive to interference. Examples of such areas include wetlands and accretion landforms.
5. Bulkheads are to be permitted only where local physical conditions, such as foundation bearing materials, and surface and subsurface drainage, are suitable for such alterations.
6. If possible, bulkheads shall be located landward of the OHWM and generally parallel to the natural shoreline. In addition:
 - a. Where no other bulkheads are adjacent, the construction of a bulkhead shall be as close to the eroding bank as possible and in no case shall it be more than three (3) feet from the toe of the bank.
 - b. A bulkhead for permitted landfilling shall be located at the toe of the fill.
 - c. Where permitted a bulkhead must tie in flush with existing bulkheads on adjoining properties, except where the adjoining bulkheads extend waterward of the base flood elevation, the requirements set forth in this section shall apply.
7. Replacement bulkheads may be located immediately waterward of the bulkhead to be replaced such that the two (2) bulkheads will share a common surface, except where the existing bulkhead has not been backfilled or has been abandoned and is in serious disrepair. In such cases, the replacement bulkhead shall not encroach waterward of the OHWM or existing structure unless the residence was occupied prior to January 1, 1992 and there are overriding safety or environmental concerns.
8. All bulkheads proposals require a geotechnical report prepared by a qualified professional. Bulkheads shall be sited and designed as recommended in approved geotechnical reports.
9. When a bulkhead is required at a public access site, provision for safe access to the water shall be incorporated into bulkhead design.
10. Bulkheads shall be designed for the minimum dimensions necessary to adequately protect the development.
11. Stairs or other permitted structures may be built into a bulkhead but shall not extend waterward of the bulkhead.
12. Bulkheads shall be designed to permit the passage of surface or groundwater without causing ponding or saturation of retained soil/materials.
13. Adequate toe protection consisting of proper footings, a fine retention mesh, etc., shall be provided to ensure bulkhead stability without relying on additional riprap.
14. Materials used in bulkhead construction shall meet the following standards:
 - a. Bulkheads shall utilize stable, non-erodible, homogeneous materials such as concrete, wood, and rock that are consistent with the preservation and protection of the ecological habitat.
 - b. Dredge spoils shall not be used for fill behind bulkheads, except clean dredge spoil from a permitted off-site dredge and fill operation.

20.230.190 Revetment.

A revetment is a sloped shoreline structure built to protect an existing eroding shoreline or newly placed fill against currents. Revetments are most commonly built of randomly placed boulders (riprap) but may also be built of sand cement bags, paving, or building blocks, gabions (rock filled wire baskets) or other systems and materials. The principal features of a revetment, regardless of type is a heavy armor layer, a filter layer, and toe protection.

A. Revetment Policies

1. The use of armored structural revetments should be limited to situations where it is determined that nonstructural solutions such as bioengineering, setbacks, buffers or any combination thereof, will not provide sufficient shoreline stabilization.
2. Revetments should be designed, improved, and maintained to provide public access whenever possible.

B. Revetment Regulation

1. The proposed revetment shall be designed by a qualified professional engineer.
2. Design of revetments shall include and provide improved access to public shorelines whenever possible.
3. When permitted, the location and design of revetments shall be determined using engineering principles, including guidelines of the U.S. Soil Conservation Service and the U.S. Army Corps of Engineers.
4. Armored revetment design shall meet the following design criteria:
 - a. The size and quantity of the material shall be limited to only that necessary to withstand the estimated energy intensity of the hydraulic system;
 - b. Filter fabric must be used to aid drainage and help prevent settling;
 - c. The toe reinforcement or protection must be adequate to prevent a collapse of the system from scouring or wave action; and
 - d. Fish habitat components, such as large boulders, logs, and stumps shall be considered in the design subject to a Hydraulic Project Approval by the Washington Department of Fish and Wildlife.

20.230.200 Clearing and Grading.**A. Land Disturbing Activity Policies**

1. Land disturbing activities should only be allowed in association with a permitted shoreline development.
2. Land disturbing activities should be limited to the minimum necessary to accommodate the shoreline development or a landscape plan developed in conjunction with the shoreline development.
3. Land disturbing should not be permitted within shoreline environment setbacks, unless fish and wildlife habitat will not be degraded.
4. Erosion shall be prevented and sediment shall not enter waters of the state.

B. Land Disturbing Activity Regulations

1. All Land disturbing activities shall only be allowed in association with a permitted shoreline development.

2. All Land disturbing activities shall be limited to the minimum necessary for the intended development, including any clearing and grading approved as part of a landscape plan. Clearing invasive, non-native shoreline vegetation listed on the King County Noxious Weed List is permitted in the shoreline area with an approved land disturbing permit provided hand held equipment is used, and native vegetation is promptly reestablished in the disturbed area.
3. All shoreline development and activities shall use measures identified in the Stormwater Manual. Stabilization of exposed surfaces subject to erosion along shorelines shall, whenever feasible, utilize soil bioengineering techniques.
4. For extensive land disturbing activities that require a permit, a plan addressing species removal, revegetation, irrigation, erosion and sedimentation control, and other methods of shoreline protection should be required.

20.230.210 Landfilling.

Landfilling is the placement of soil, rock, existing sediment or other material (excluding solid waste) in order to raise the elevation of upland areas or to create new land, tideland or bottom land area along the shoreline below the OHWM.

A. Landfilling Policies

1. The perimeter of landfilling should be designed to avoid or eliminate erosion and sedimentation impacts, both during initial landfilling activities and over time.
2. Where permitted, landfilling should be the minimum necessary to provide for the proposed use and should be permitted only when conducted in conjunction with a specific development proposal that is permitted by the Shoreline Master Program. Speculative landfilling activity should be prohibited.

B. Landfilling Regulations

1. Landfilling activities shall only be permitted in conjunction with a specific development. Landfilling may be permitted as a Shoreline Conditional Use for any of the following:
 - a. In conjunction with a water-dependent use permitted under this Shoreline Master Program.
 - b. In conjunction with a bridge, utility, or navigational structure for which there is a demonstrated public need and where no feasible upland sites, design solutions, or routes exist.
 - c. As part of an approved shoreline restoration project.
 - d. For fisheries, aquaculture, or wildlife habitat enhancement projects.
 - e. Pier or pile supports shall be utilized in preference to landfilling. Landfilling for approved road development in floodways or wetlands shall be permitted only if pile or pier supports are proven structurally infeasible.
2. Landfilling shall be permitted only where it is demonstrated that the proposed action will not:
 - a. Result in significant damage to water quality, fish, and/or wildlife habitat.
 - b. Adversely alter natural drainage and current patterns or significantly reduce floodwater capacities.
3. Where landfilling activities are permitted, the landfilling shall be the minimum necessary to accommodate the proposed use.
4. Landfilling from dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts and impacts that cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions.

5. Dredging waterward of the OHWM for the primary purpose of obtaining fill material shall not be allowed, except when the material is necessary for the restoration of shoreline ecological functions. When allowed, the site where the fill is to be placed must be located waterward of the OHWM.
6. Landfilling shall be designed, constructed, and maintained to prevent, minimize, and control all material movement, erosion, and sedimentation from the affected area. Landfilling perimeters shall be designed and constructed with silt curtains, vegetation, retaining walls, or other mechanisms to prevent material movement. In addition, the sides of the landfilling shall be appropriately sloped to prevent erosion and sedimentation, both during the landfilling activities and afterwards.
7. Fill materials shall be clean sand, gravel, soil, rock, or similar material. Use of polluted dredge spoils and sanitary landfilling materials are prohibited. The property owner shall provide evidence that the material has been obtained from a clean source prior to fill placement.
8. Landfilling shall be designed to allow surface water penetration into aquifers, if such conditions existed prior to the fill.

20.230.230 Signs.

A. Sign Policies

Signs should be designed and placed so that they are compatible with the natural quality of the shoreline environment and adjacent land and water uses.

B. Sign Regulations

Signs within the City including the shoreline area are subject to the requirements and standards specified in SMC 20.50 Subchapter 8. Signs based on the underlying zoning. In addition, the following sign requirements shall apply to signs within shoreline areas.

1. Signs shall only be allowed in, or over water for water navigation, road or railroad crossings as necessary for operation, safety and direction; or related and necessary as part of a water dependent use.
2. Signs are permitted in all shoreline environments upland of the OHWM. These sign standards supplement the provisions of SMC 20.50.540. Where there is a conflict, the provisions herein shall apply.

C. Prohibited signs.

1. Spinning devices; flashing lights; pennants
2. Balloons. Balloons or any inflatable signs or inflatable objects used to aid in promoting the sale of products, goods, services or events or identify a building;
3. Searchlights and beacons;
4. Electronic reader boards or changing message signs
5. Pole Signs
6. Internally illuminated cabinet signs
7. Signs that impair visual access from public viewpoints in view corridors are prohibited in all shoreline environments.

D. Illumination of Signs

1. Signage needs to be unobtrusive and the form of lighting can only be back lighting or externally lit. Internally illuminated signs are not allowed.
2. All externally illuminated signs shall shield adjacent properties from direct lighting. Permitted Maximum 6 feet from the sign display.
3. No commercial sign shall be illuminated after 11:00 p.m. unless the commercial enterprise is open for business and then may remain on only as long as the business is open.
4. The light from any illuminated sign shall be shaded, shielded or directed so that the light intensity or brightness shall not adversely affect:
 - a. Surrounding or facing premises;
 - b. Safe vision of operators of vehicles on public or private roads, highways or parking areas; or
 - c. Safe vision of pedestrians on a public right-of-way.
5. Light from any sign shall not shine on, nor directly reflect into, residential structures or lots or the water
6. These provisions shall not apply to:
 - a. Lighting systems owned or controlled by any public agency for the purpose of directing or controlling navigation, traffic, highway or street illumination;
 - b. Aircraft warning lights;
 - c. Temporary lighting used for repair or construction as required by governmental agencies;
 - d. Temporary use of lights or decorations relating to religious and patriotic festivities.

20.230.240 Stormwater Management Facilities.

A. Stormwater Management Facilities Policies

1. Stormwater facilities located in the shoreland area should be maintained only to the degree necessary to ensure the capacity and function of the facility, including the removal of non-native, invasive plant species.
2. The stormwater facility should be planted with native vegetation.

B. Stormwater Management Facility Regulations

1. New stormwater facilities shall be located so as not to require any shoreline protection works.
2. Stormwater facility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with stormwater facility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.
3. Construction of stormwater facilities in shoreland areas shall be timed to avoid fish and wildlife migratory and spawning periods.

20.230.250 Transportation.

Transportation facilities are those structures and developments that aid in land and water surface movement of people, goods, and services. They include roads and highways, bridges and causeways, bikeways, trails, railroad facilities, and boat and floatplane terminals.

A. Transportation Policies

1. New roads within the shoreline area should be minimized.
2. Roads and railroad locations should be planned to fit the topographical characteristics of the shoreline such that minimum alternation of natural conditions result.
3. Pedestrian and bicycle trails should be encouraged.

4. When existing transportation corridors are abandoned they should be reused for water-dependent use or public access.
5. Alternatives to new roads or road expansion in the shoreline area should be considered as a first option.
6. Joint use of transportation corridors within shoreline jurisdiction for roads, utilities, and motorized forms of transportation should be encouraged.

B. Transportation Regulations

1. Transportation facilities and services shall utilize existing transportation corridors wherever possible, provided the shoreline is not adversely impacted and the development is otherwise consistent with this Shoreline Master Program.
2. Transportation and primary utilities shall jointly use rights-of-way.
3. Landfilling activities for transportation facility development are prohibited in water bodies and wetlands and on accretion beaches, except when all structural and upland alternatives have proven infeasible and the transportation facilities are necessary to support uses consistent with this Shoreline Master Program.
4. Major new roads and railways shall avoid being located in the shoreline jurisdiction to the extent practical. These roads shall cross shoreline areas by the shortest, most direct route, unless this route would cause more damage to the environment.
5. New transportation facilities shall be located and designed to minimize or prevent the need for shoreline modification.
6. All bridges must be built high enough to allow the passage of debris and provide 3 feet of clearance above the base flood elevation.
7. Shoreline transportation facilities shall be located and designed to avoid steep or unstable areas and fit the existing topography in order to minimize cuts and fills.
8. Bridge abutments and necessary approach fills shall be located landward of the OHWM, except bridge piers may be permitted in a water body as a Shoreline Conditional Use.

20.230.260 Unclassified Uses and Activities.

In the event that a proposed shoreline use or activity is not identified or classified in this Shoreline Master Program, the following regulation shall apply.

A. Regulations

1. All uses and activities proposed in the shoreline area that are not classified by provisions in this Shoreline Master Program shall require a Shoreline Conditional Use Permit.

20.230.270 Utilities.

Primary utilities include substations, pump stations, treatment plants, sanitary sewer outfalls, electrical transmission lines greater than 55,000 volts, water, sewer or storm drainage mains greater than eight (8) inches in diameter, gas and petroleum transmission lines, and submarine telecommunications cables. Accessory utilities include local public water, electric, natural gas distribution, public sewer collection, cable and telephone service, and appurtenances.

A. Utility Policies

1. Utilities should utilize existing transportation and utility sites, rights-of-way and corridors, whenever possible. Joint use of rights-of-way and corridors should be encouraged.

2. Unless no other feasible alternative exists, utilities should be prohibited in the shoreline jurisdiction, wetlands and other critical areas and there shall be no net loss of ecological functions or significant impacts to other shoreline resources or values.
3. New utility facilities should be located so as not to require extensive shoreline modifications.
4. Whenever possible, utilities should be placed underground or alongside or under bridges.
5. Solid waste disposal activities and facilities should be prohibited in shoreline areas.

B. Utility Regulations

1. Utility development shall provide for compatible, multiple-use of sites and rights-of-way when practical.
2. Utility development shall include public access to the shoreline, trail systems, and other forms of recreation, providing such uses will not unduly interfere with utility operations, endanger the public health, safety, and welfare, or create a significant and disproportionate liability for the owner.
3. The following primary utilities, which are not essentially water-dependent, may be permitted as a Shoreline Conditional Use if it can be shown that no reasonable alternative exists:
 - a. Water system treatment plants;
 - b. Sewage system lines, interceptors, pump stations, and treatment plants;
 - c. Electrical energy generating plants, substations, lines, and cables; and
 - d. Petroleum and gas pipelines.
4. New solid waste disposal sites and facilities are prohibited.
5. New utility lines including electricity, communications, and fuel lines shall be located underground, except where the presence of bedrock or other obstructions make such placement infeasible.
6. Transmission and distribution facilities shall cross shoreline areas by the shortest most direct route feasible, unless such route would cause significant environmental damage.
7. Utilities requiring withdrawal of water shall be located only where minimum flows as established by the Washington State Department of Fish and Wildlife can be maintained.
8. Utilities shall be located and designated so as to avoid the use of any structural or artificial shoreline modification.
9. All underwater pipelines are prohibited. If no other alternative exists a Shoreline Conditional Use Permit is required.