

# AGENDA PLANNING COMMISSION REGULAR MEETING



Thursday, November 17, 2011  
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	7:05 p.m.
a. October 27 Special Meeting	
6. GENERAL PUBLIC COMMENT	7:08 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	7:15 p.m.
a. Study Session: Shoreline Master Program	
8. PUBLIC COMMENT	8:15 p.m.
9. DIRECTOR'S REPORT	8:20 p.m.
10. UNFINISHED BUSINESS	8:23 p.m.
11. NEW BUSINESS	8:24 p.m.
12. REPORTS OF COMMITTEES & COMMISSONERS/ANNOUNCEMENTS	8:25 p.m.
13. AGENDA FOR December 1	8:29 p.m.
14. ADJOURNMENT	8:30 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](mailto:plancom@shorelinewa.gov) or mailed to Shoreline Planning Commission, 17500 Midvale Avenue N, Shoreline WA 98133.

[www.shorelinewa.gov/plancom](http://www.shorelinewa.gov/plancom)

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION MINUTES OF SPECIAL MEETING

October 27, 2011  
7:00 P.M.

Shoreline City Hall  
Council Chamber

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### Commissioners Present

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

### Staff Present

Joe Tovar, Director, Planning & Community Development  
Kirk McKinley, Transportation Services Manager  
Alicia McIntire, Senior Transportation Planner  
Jessica Simulcik Smith, Planning Commission Clerk

### CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

### ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Wagner, Vice Chair Perkowski and Commissioners Behrens, Broili, Esselman and Kaje. Commissioner Moss arrived at 7:02 p.m.

### APPROVAL OF AGENDA

The agenda was accepted as presented.

### DIRECTOR'S COMMENTS

Mr. Tovar did not provide any comments during this portion of the meeting.

### APPROVAL OF MINUTES

The special meeting minutes of September 29, 2011 were approved as amended.

## GENERAL PUBLIC COMMENT

Laethan Wene, Shoreline, commented that Mr. Tovar would be missed in the City of Shoreline.

## LEGISLATIVE PUBLIC HEARING ON COMPREHENSIVE PLAN TRANSPORTATION ELEMENT UPDATE AND DEVELOPMENT CODE AMENDMENTS

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

### Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Tovar advised that while the hearing includes four Development Code amendments (Attachment D of the Staff Report), staff recommends the Commission postpone taking action on Amendment 2 (SMC 20.70.010 and SMC 20.70.020) until their November 17<sup>th</sup> meeting. He explained that planning staff would like more time to review all elements of these two sections before making a recommendation to the Commission.

Ms. McIntire explained that the purpose of the hearing is to evaluate the draft Comprehensive Plan Transportation Element Update, as well as four Development Code amendments. She reviewed the items included in the staff report as follows:

- **Attachment A** – List of Exhibits.
- **Attachment B** – Draft Comprehensive Plan Transportation Element. This document incorporates all of the comments and recommended changes proposed by the Commission to date. It also includes final language for Policy T40 (Level of Service).
- **Attachment C** – Draft Comprehensive Plan Capital Facilities Element. These amendments include a change to the Level of Service (LOS) standard to be consistent with the recommended Comprehensive Plan Transportation Element and a statement about funding for transportation improvements.
- **Attachment D** – Draft Development Code Amendments. These four recommended changes to the municipal code were presented at the Commission's September 27<sup>th</sup> meeting, except the language for Policy T-40 has been further refined.
- **Attachment E** – Draft Comprehensive Plan Goals and Policies with Planning Commission and staff changes identified. This document was provided to illustrate how changes to the policies were made as per the Commission's suggestions.
- **Attachment F** – SEPA Checklist, Threshold Determination and Notice of Public Hearing.

Ms. McIntire said the City also received a three-page letter today from Community Transit, with one attachment. The comments in the letter pertain to the Comprehensive Plan Transportation Element, as well as the Transportation Plan as a whole.

Ms. McIntire advised that the Staff Report contains an analysis of the criteria for Comprehensive Plan and Development Code amendments. It is staff's interpretation that the recommended changes meet the

criteria for both. It is staff's recommendation that the Commission adopt the draft amendment to the Transportation Element of the Comprehensive Plan, the draft amendment to the Capital Facilities Element of the Comprehensive Plan, and the draft amendments to the Development Code (with the exception of Amendment 2 as discussed earlier by Mr. Tovar).

Ms. McIntire announced that the City Council is scheduled to hold a public hearing on the Transportation Master Plan on November 21<sup>st</sup>. Therefore, staff is asking the Planning Commission to forward their recommendation to the City Council as soon as possible.

### **Questions by the Commission to Staff Regarding Comprehensive Plan Transportation Element Update (Attachments B and C)**

Commissioner Kaje referred to the letter the City received from Community Transit and suggested the Commission specifically focus on the comments related to Comprehensive Plan goals and policies. It appears that Community Transit supports the proposed amendments. Ms. McIntire agreed the comments on the first page generally support the goals and policies, and no significant changes were suggested.

Commissioner Broili expressed his belief that Goals T.I and T.V are redundant. Mr. McKinley clarified that Goal T.I talks about providing infrastructure, and Goal T.V talks about maintaining the infrastructure. Commissioner Broili suggested it would be helpful to encompass both of these concepts into one goal. Ms. McIntire suggested there is merit to keeping the two policies separate. She advised that the TMP includes policies for maintaining infrastructure that are distinctly different than the policies for providing infrastructure.

Commissioner Kaje referred to Policy T-7 and questioned the meaning of the term "the unique aspects of Shoreline's transportation network." Ms. McIntire explained that not all streets will be able to be utilized by all users. The idea is to consider the built environment and what is present in Shoreline already. For example, there are a substantial number of local residential streets that would not support freight and transit uses, and right-of-way is limited. Commissioner Kaje suggested the language be modified to make this intent clearer. Commissioner Esselman agreed.

Commissioner Esselman referred to Goal T.X, which calls for supporting increased transit coverage. She noted that the policy section also talks about encouraging and coordinating transit service. To respond to the policy statements, she suggested the goal should go beyond supporting increased transit coverage to actually promoting and encouraging it. Ms. McIntire said staff does not object to modifying the language if the Commission wants to add more strength.

Commissioner Broili referred to Policy T9 and asked staff to explain when the term "except when determined to be unfeasible" would be applied. From his experienced perspective, he said there would be few if any cases where low-impact development techniques are not feasible in any form. Mr. McKinley said the intent is to get low-impact design and development characteristics whenever possible. However, there are certain constraints such as right-of-way, topography, existing structures, or a use that might not be conducive to low-impact development. Commissioner Broili asked how these

situations would be impacted if they were to strike the term “except when determined to be unfeasible” from Policy T9. Mr. Tovar explained that even if directive verbs are used, it is important to remember that the Comprehensive Plan provides generalized policy statements. Whatever language is used, it is important to avoid conveying to the public that low-impact development will happen in every instance. A comprehensive plan is not intended to function as a regulation. It is supposed to be aspirational and provide direction. Leaving some flexibility acknowledges that there won’t be the same opportunity to do all these things in every instance. He suggested that “encourage” or “promote” might be better terms than “use.”

Commissioner Broili said that while he understands that low-impact development is not possible in every situation, he would like to put more teeth in the requirement. Mr. Tovar reminded the Commission that the policy statement is intended to provide direction to City staff in preparing capital proposals and engineering specific design treatments, etc. for road segments. Developers, scrupulous or otherwise, typically rely on the development standards in the Development Code, which are guided by the policy statements in the Comprehensive Plan.

Commissioner Kaje recalled that at a previous study session, staff explained that both the Development Code and the Comprehensive Plan must address vehicular level of service (LOS). He referred to Policy T41 and questioned if it is too specific for the Comprehensive Plan. He also asked where the numbers identified in the policy came from. Ms. McIntire answered that the Growth Management Act (GMA) requires that the Comprehensive Plan identify a level of service for transit routes. The City has no control over transit, and they cannot deny a development permit because of any transit service aspect. Policy T41 identifies a desired LOS for transit, and the numbers are consistent with King County Metro’s Strategic Plan. Commissioner Kaje asked if the goal is to be consistent with what is already being provided by King County Metro. Ms. McIntire answered that this is true to a certain extent. She noted that the City Council previously indicated support for the methodology that was outlined in King County Metro’s Strategic Plan for LOS standards for various types of transit service. Policy T41 is consistent this Strategic Plan.

Commissioner Moss pointed out that, although LOS standards have been identified in King County Metro’s Strategic Plan, they are not meeting LOS in all situations. Ms. McIntire said the plan was just adopted, and they are starting the implementation process. She acknowledged that financial difficulties will likely compromise their aspirations for transit service. Commissioner Moss suggested the language in Policy T41 would be clearer if the last two sentences were bulleted.

Commissioner Behrens referenced Goal T.XI, which calls for securing reliable and fair funding to ensure continuous maintenance and improvement of the transportation system. He suggested the term “fair” is too subjective and should be deleted.

Commissioner Moss suggested that the phrasing used in the sixth bullet in Policy T12 is awkward. She asked staff to clarify the intent of developing a regional legislative agenda. Ms. McIntire explained that it is important for the City to meet together with area representatives to develop a regional legislative agenda and a process for bringing potential changes forward to local representatives. Commissioner Moss questioned if it is necessary to call out who the representatives might be.

Commissioner Moss said she found Policy T24 difficult to read. She proposed it be changed to read, “Monitor transit service and advocate the City be well served with transit quality passenger comfort and safety maintained for Shoreline residents.”

Commissioner Moss questioned why Sound Transit was not included in Policy T34. As light rail is added, they may provide service that actually stops in Shoreline. Ms. McIntire said that Sound Transit was deliberately left out of Policy T34 because it is a regional bus service provider that generally serves urban centers. However, she acknowledged that Sound Transit could be included so the City could pursue opportunities for them to serve the light rail station in the future.

Commissioner Esselman referred to Policies T16 and T22 and questioned what is meant by “partnering with outside agencies.” Ms. McIntire said outside agencies might include the school district to promote pedestrian safety and public health organizations to promote the benefits of walking.

Vice Chair Perkowski suggested a policy be added to the Sustainability and Quality of Life section that talks specifically about sight-specific design considerations that will result in less impact on sensitive environments, water quality, etc. He said he appreciates the intent of Policies T2 and T9, but they do not go far enough to address his concern. Commissioner Broili concurred.

Commissioner Broili said in a recent Sustainable Planning Director Newsletter, it was suggested that one error municipalities make is that they fail to create a marketing strategy to promote their policies. He said one thing that is missing is an economic analysis of the cost benefits of many of the policies. For example, low-impact development reduces stormwater costs and good walking and bicycle systems increase health and reduce health care costs. He would like an additional policy that directs the City to come up with economic documentation to support and promote implementation of the policies.

Commissioner Behrens recommended that Policy T36 be changed by deleting the word “the” before “land use patterns.” The Commission concurred.

Commissioner Behrens questioned the inclusion of “freight trucks” in Policy T37, which talks about moving people via multiple modes of transportation. The Commission concurred.

Commissioner Kaje asked how the first bulleted item in Policy T42 would be applied when writing supporting development standards. Ms. McIntire said it is intended to prioritize those projects that provide the greatest benefit to the largest number of people. Mr. Tovar added that, at the same time, some improvements might be targeted to a narrow niche of the market such as “special needs.” He emphasized that the key word is “consideration.” All the bulleted items would be taken into consideration when prioritizing projects.

Commissioner Kaje said Policy T47 talks specifically about interchange improvements at Northeast 175<sup>th</sup> Street and Interstate 5. He questioned where the policy originated and suggested it might be more appropriate to include in the Transportation Master Plan (TMP). He noted that this policy about a specific intersection could have repercussions for other City projects, and including it as a specific policy could elevate it above other projects. Ms. McIntire explained that during the traffic modeling

performed for the TMP, the City's traffic consultant identified that changes to this intersection would complement the other improvement projects identified in the TMP, which include Northeast 175<sup>th</sup> Street between Meridian Avenue and Interstate 5, and the actual intersections at Northeast 175<sup>th</sup> and 185<sup>th</sup> Streets and Meridian Avenue. She said staff decided not to include improvements to the interchange, itself, as a recommended project in the TMP because it requires the City to work with the Washington State Department of Transportation (WSDOT). Instead, they are recommending it be added as a policy in the Comprehensive Plan to get the process started.

Commissioner Kaje asked if the Comprehensive Plan contains similar language regarding Northeast 145<sup>th</sup> Street. Ms. McIntire answered that language related to Northeast 145<sup>th</sup> Street is included in the Regional Coordination Section of the Comprehensive Plan. Commissioner Kaje summarized that the interchange project cannot be placed in the TMP until the City has discussed the issue with WSDOT. However, it was added as a policy statement to recognize it is a problem area. Ms. McIntire clarified that the need for the interchange project is discussed in the TMP, but it has not been identified as a specific growth project. Mr. McKinley said that for major issues such as this, it is helpful to include a policy in the Comprehensive Plan to use as the foundation for future discussions.

Commissioner Moss noted that Policy T45 specifically mentions providing pedestrian connections to transit, but Policy T46 talks about providing access to bus rapid transit and light rail. She asked if there is a reason for this differentiation. Ms. McIntire answered that there was no differentiation when the City went through the process of ranking pedestrian projects. Bus rapid transit, light rail and transit routes were all included in the analysis. She suggested the sixth bulleted item in Policy T45 could be amended to include all types of transit. Commissioner Moss asked if regular transit was intentionally excluded from the third bulleted item in Policy T46. Mr. McKinley agreed it might be appropriate to add bus rapid transit and light rail service to Policy T46, as well.

Commissioner Kaje observed that the funding policies call for aggressively seeking opportunities to implement the TMP. However, he questioned if Policy T53 implies that the City would provide funding for maintenance, preservation and safety of existing facilities. Mr. McKinley explained that the Capital Improvement Program flags ongoing maintenance that each new project creates. The goal is to track these costs so they can be built into the operating budget each year. The policy emphasizes the need to consider maintenance when projects are designed and built. In addition, they should continue to provide funding for existing facilities. He commented that maintenance is a huge challenge, nationally and locally.

Ms. McIntire explained that the Growth Management Act Sub Elements are intended to be included in the Transportation Master Plan to address the very specific elements the Growth Management Act calls out. She clarified that this section references the draft TMP. As the TMP is finalized, there may be some formatting changes, and this section would be updated accordingly to be consistent.

Commissioner Kaje referred to the proposed amendment to the Capital Facilities Element (Attachment C) and requested clarification about whether or not Ballinger Way is still considered a Highway of Statewide Significance. Ms. McIntire said Ballinger Way is now identified as a Regionally Significant State Highway, but she does not know when this categorization was changed. Commissioner Kaje



pointed out that, based on the current categorization, Ballinger Way would not be exempted from the LOS standard. Ms. McIntire said the City must comply with the State requirement for Ballinger Way. She suggested the language could be modified to exclude it from the LOS requirement. Commissioner Kaje summarized that Ballinger Way is not beholding to the City's specific LOS Standard because it is Regionally Significant State Highway.

Commissioner Behrens referred to the last page of Attachment C, which talks about using transportation impact fees to fund roadway projects to accommodate growth. While the City has considered the option of transportation impact fees for several years, they have not adopted a program to implement the concept. He expressed concern about making the assumption that projects would be funded by a program that has not yet been approved. Ms. McIntire advised that the City Council indicated their desire to move forward with adoption of a transportation impact fee program. However, if the program is not adopted, the City would have to identify a different funding strategy, change the LOS standard, or deny development permits. Commissioner Behrens suggested that this situation needs to be highlighted when the amendments are presented to the City Council. Ms. McIntire referred to the seven sub-elements in the Transportation Element that are required by the Growth Management Act (last page of Attachment B), which reference a section in the TMP that outlines the actions required for bringing local roadways into compliance with LOS. Commissioner Behrens cautioned against assuming that a transportation impact fee will be implemented in the near future since the City would be required to go back to the drawing board if the program is not adopted.

Commissioner Moss asked if saying that roadway projects to accommodate growth would be fully funded through the collection of transportation impact fees would preclude the City from applying for grant funding. Ms. McIntire answered no.

### **Public Testimony Related to Comprehensive Plan Transportation Plan Update (Attachments B and C)**

**Tom Jamieson, Shoreline**, said his comments have to do with his layman's interpretation of the Growth Management Act (GMA) and the various artifacts the City is responsible for in compliance with the GMA. He said his understanding is that the GMA is law. As law, it is prescriptive and/or proscriptive, but it is not a vision document. It is actually binding. Comprehensive Plans are not just something to take into consideration, but something that must be complied with. He said his examination of the cases that are going on with regards to Point Wells shows that if projects are not compliant with the Comprehensive Plan, litigation occurs. He emphasized that compliance with the Comprehensive Plan is mandated and not optional. He does not see the Comprehensive Plan as an executive summary or as aspirational. He sees it as governance. It is conceptual and not concrete or articulated, so it has to be interpreted. But it is mandated that it be interpreted correctly, and then judges decide whether correct interpretation has occurred. Comprehensive plans must be comprehensive, and all other related plans must be holistically considered so all are in sync.

**Laethan Wene, Shoreline**, expressed his belief that more wheelchair access is needed in the City instead of bicycle and pedestrian access. This should be a priority for the City.

## **Final Questions by the Commission Related to Development Code Amendments (Attachment D)**

Ms. McIntire reminded the Commission of staff's earlier recommendation that they postpone their discussion regarding Amendment 2 until November 17<sup>th</sup>.

Commissioner Kaje asked if the word "and" at the end of SMC 20.70.120.C.3 (Amendment 3) should be deleted. Ms. McIntire agreed that this was an error.

Chair Wagner asked staff to clarify the intent of SMC 20.70.320 (Amendment 4). Ms. McIntire explained that the City requires frontage improvements for projects. However, they would only be required to be built when existing conditions are substandard (no sidewalks present, sidewalks do not meet City standards, sidewalks are in poor condition, etc.). She clarified that, in some cases, street overlays would be required in conjunction with development, but this section relates specifically to frontage improvements and not to the condition of the street.

Commissioner Moss said she found it difficult to read and understand SMC 20.70.320 (Amendment 4). Ms. McIntire said the idea is that frontage improvements are required, and they need to be consistent with the standards for the street classification as called out in the TMP Street Classification Map, the TMP Master Street Plan, and the Engineering Development Guide. She explained that specific requirements are called out in the Master Street Plan for every individual street cross section for arterials and local primary streets. A maximum cross section for individual street classifications is also included. The Engineering Development Guide sets specific design standards. To further clarify this section, Ms. McIntire advised that Revised Code of Washington (RCW) 58:17 is the state law that establishes the standards for subdivisions. Commissioner Moss suggested the sentence should be broken up to be clearer.

## **Public Testimony Regarding Development Code Amendments (Attachment D)**

**Tom Jamieson, Shoreline**, said he earlier characterized his comments as related to process, and what he meant to say was the comments were related to the structure of the various artifacts that together form the governance that drives the subsequent regulations and codes. He said he understands that, as you go down the hierarchy, things become crisper and are easily enforced.

Mr. Jamieson expressed concern about the upward flow of governance. When they get down to the lower levels of hierarchy (the Comprehensive Plan down to the TMP and various regulations and codes) and find that something is out of whack, they start changing the superior document. It seems the purpose of having the higher document is to provide focus and limit the use of resources going down. You want to have integration across the domains and across jurisdictions, and you want that to restrict and constrain where you focus your attention. He expressed concern about creating a TMP that is not consistent with the Comprehensive Plan. Instead of adopting a TMP and then asking for amendments to the Comprehensive Plan, he suggested the City should address inconsistencies with the Comprehensive Plan in conjunction with the TMP update. He recommended that the Comprehensive Plan needs to be binding. Until the Comprehensive Plan has been amended, it should be considered the law.

The Commission meeting was recessed from 8:22 to 8:28 p.m. to review the letter that was submitted by Community Transit.

**Deliberations Regarding Comprehensive Plan Transportation Element Update (Attachments B and C).**

**COMMISSIONER MOSS MOVED THAT THE COMMISSION RECOMMEND APPROVAL OF THE COMPREHENSIVE PLAN TRANSPORTATION ELEMENT UPDATE AND THE CAPITAL FACILITIES ELEMENT AMENDMENT AS PROPOSED BY STAFF. COMMISSIONER KAJE SECONDED THE MOTION.**

Commissioner Broili recalled his earlier recommendation of an additional policy to develop an economic analysis to identify the economic benefits of low-impact development. Commissioner Kaje agreed that the concept has merit. However, rather than adding a specific policy in the Transportation Element Update, the Commission should consider applying the concept to a broader set of issues in the Comprehensive Plan than just transportation. Commissioner Broili agreed that the issue is greater than just the transportation plan, but the same could be said for many of the goals and policies in the Transportation element.

Mr. Tovar said this is the first element of the Comprehensive Plan Update, and additional elements and chapters are still to come. The observation has been made that some of the concepts are appropriate to address in many, if not all chapters. Rather than placing them in the “parking lot,” they should consider them as they review each of the upcoming elements of the Comprehensive Plan Update. He noted that the vision statement provides guidance on issues such as sustainability and economic vitality. He suggested staff review the vision statement and identify the concepts that should be thought about before they get into other substantive chapters of the plan. The Commission agreed that would be appropriate.

The Commission reviewed the Transportation Element Update section by section and offered the following amendments to the main motion:

Goals

- **COMMISSIONER ESSELMAN MOVED TO AMEND GOAL TX BY ADDING THE WORDS “AND ENCOURAGE” AFTER “SUPPORT.” COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION TO AMEND THE MAIN MOTION CARRIED UNANIMOUSLY.**
- **COMMISSIONER MOSS MOVED TO AMEND GOAL TVIII TO READ, “DEVELOP A BICYCLE SYSTEM THAT IS CONNECTIVE, SAFE AND ENCOURAGES BICYCLING AS A VIABLE ALTERNATIVE METHOD OF TRANSPORTATION.” CHAIR WAGNER SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

- **COMMISSIONER BEHRENS MOVED TO AMEND GOAL TXI TO ELIMINATE THE WORDS “AND FAIR.” COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

Sustainability and Quality of Life Policies

- **COMMISSIONER KAJE MOVED TO AMEND POLICY T4 TO ADD THE WORD “WITH” AFTER “COMMUNICATE.” COMMISSIONER MOSS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**
- **COMMISSIONER MOSS MOVED TO AMEND THE FIFTH BULLET IN POLICY T12 BY ADDING A COMMA AFTER “AGENDAS.” SHE FURTHER MOVED TO AMEND THE SIXTH BULLET IN POLICY T12 BY ADDING “A” BETWEEN AFTER “DEVELOP” AND BY DELETING “ELECTED OFFICIALS AND STAFF.” COMMISSIONER BROILI SECONDED THE MOTION.**

Commissioner Moss said she does not see the need to specifically call out elected officials and staff. Using the term “area representatives” should be sufficient. Commissioner Broili suggested it would be clearer to delete “area representatives” rather than elected officials and staff. Mr. Tovar pointed out that “area representatives” could include more than staff, such as public relations consultants, lobbyists, etc.

Ms. McIntire advised that the City has a Style Guide that directs them in matters of grammar, punctuation, etc. She respectively requested the Commission allow staff to refer to the guide to address whether a comma is appropriate for the fifth bullet. The Commission agreed that would be appropriate.

**THE MOTION CARRIED UNANIMOUSLY.**

- **COMMISSIONER KAJE MOVED TO AMEND POLICY T7 TO READ, “IN ACCORDANCE WITH COMPLETE STREETS PRACTICES AND GUIDELINES, NEW OR REBUILT STREETS SHALL ADDRESS, AS MUCH AS PRACTICAL, THE USE OF THE RIGHT-OF-WAY BY ALL USERS, WHILE CONSIDERING LIMITATIONS POSED BY UNIQUE ASPECTS OF SHORELINE’S TRANSPORTATION NETWORK.” COMMISSIONER ESSELMAN SECONDED THE MOTION.**

Commissioner Kaje said he appreciates staff’s perspective on the need to acknowledge that there are limitations, and the amendment will clarify this intent.

**THE MOTION CARRIED UNANIMOUSLY.**

- **COMMISSIONER KAJE MOVED TO AMEND POLICY T9 TO ADD “PUBLIC AND” BEFORE “PRIVATE PROPERTY OWNERS.” COMMISSIONER BROILI SECONDED THE MOTION.**

Commissioner Kaje noted that similar language may be located in the Development Code and should be changed, as well. Commissioner Esselman recalled Mr. Tovar's earlier suggestion that the word "use" might be too directive. Mr. Tovar said that word "use" is appropriate, as long as the phrase "when determined to be unfeasible" is retained.

**THE MOTION CARRIED UNANIMOUSLY.**

- **VICE CHAIR PERKOWSKI MOVED TO ADD A NEW POLICY STATEMENT BETWEEN POLICY T12 AND T13 TO READ, "TRANSPORTATION PROJECTS SHOULD BE LOCATED, DESIGNED, AND CONSTRUCTED TO AVOID OR MINIMIZE NEGATIVE ENVIRONMENTAL IMPACTS TO THE EXTENT FEASIBLE." COMMISSIONER KAJE SECONDED THE MOTION.**

Vice Chair Perkowski explained that the new policy would capture the need to consider best management practices, location and specific design elements to avoid and minimize negative environmental impacts. This concept is not captured in any other policy statement.

Commissioner Behrens requested feedback from staff on the proposed new policy statement. Mr. McKinley said he likes the concept outlined in the proposed new policy, but he did express concern about the term "located" because the City does not typically have a choice about where a transportation project is located. Vice Chair Perkowski agreed that location might not always be applicable to roadway projects. Ms. McIntire noted that the introduction to the Sustainability Element of the TMP emphasizes that the transportation infrastructure should not have an impact on wildlife habitat, water quality, etc.

**COMMISSIONER MOSS MOVED TO AMEND THE MOTION TO ADD THE WORD "AND FACILITIES" AFTER "PROJECTS." COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**COMMISSIONER BROILI MOVED TO AMEND THE MOTION TO CHANGE "LOCATED" TO "SITED." COMMISSIONER MOSS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**THE MOTION WAS APPROVED AS AMENDED.**

Bicycle System

- **COMMISSIONER KAJE MOVED TO AMEND THE SECOND SENTENCE OF POLICY T13 TO READ, "DEVELOP A PROGRAM TO CONSTRUCT AND MAINTAIN BICYCLE FACILITIES THAT ARE SAFE, CONNECT TO DESTINATIONS, ACCESS TRANSIT AND ARE EASILY ASSESSIBLE." COMMISSIONER ESSELMAN SECONDED THE MOTION.**

Commissioner Kaje observed that there is something incongruent about the term “accessible by all” when you are talking about a bicycle system, which is used by a specialized group. The intent is that it be accessible to a lot of bicyclists from various other connections. The proposed change captures the intent a little better.

### **THE MOTION CARRIED UNANIMOUSLY.**

#### Pedestrian System

Recognizing Mr. Wene’s earlier comment, Commissioner Moss said it is important that the pedestrian system policies capture the needs of people who use mobility devices. Commissioner Kaje recognized that many of the existing older pedestrian facilities do not meet the American’s with Disabilities Act (ADA) Standards. However, all new walkways must be built to ADA standards. Mr. McKinley agreed and added that when streets with curbs and sidewalks are overlaid, they must be designed to meet ADA standards. Ms. McIntire said the City also has a curb ramp program that is being implemented throughout the City. Commissioner Behrens asked if implementing Policy T17 would automatically include ADA accessibility. If not, he suggested it should be referenced to make it clear. Mr. McKinley agreed to add this reference at a logical place.

Commissioner Moss pointed out that Policy T18 indicates that pedestrian facility improvements must be accessible by all, which means the City must follow the ADA standards. However, there is no policy related to maintenance of existing pedestrian facilities. Maintaining the surface of pedestrian facilities is not only important to special needs populations, but the City also has an aging population and they are striving for a walkable environment. Mr. McKinley pointed out that the maintenance section of the TMP includes two paragraphs of implementation strategies to ensure that sidewalks are adequately maintained.

#### Transit System

- **COMMISSIONER KAJE MOVED TO SUBSTANTIALLY REWRITE POLICY T24 TO READ, “MONITOR THE LEVEL AND QUALITY OF TRANSIT SERVICE IN THE CITY AND ADVOCATE FOR IMPROVEMENTS AS APPROPRIATE.” COMMISSIONER BEHRENS SECONDED THE MOTION.**

Commissioner Kaje said he is uncomfortable with the term “passenger comfort,” but it is important to pay attention to the level and quality of service. Ms. McIntire said much of passenger comfort has to do with overcrowding and not necessarily how comfortable the buses are. Commissioner Kaje suggested that overcrowding should be addressed as a level of service issue. Commissioner Moss said that if they want to make their intent clear as to what they are advocating for the transit system, they should keep in mind that transit providers might not look at overcrowding as a level of service factor. Mr. McKinley suggested that Policy T23 touches on the issue of passenger comfort. Ms. McIntire added that the implementation strategies in the TMP underneath this policy talk about reviewing transit reports for ridership, park and ride usage, and safety. Therefore, she does not see that Commissioner Kaje’s motion would result in a loss of intent.

**THE MOTION WAS APPROVED UNANIMOUSLY.**

Commissioner Behrens pointed out that Policy T25 attempts to connect the concepts of transit and development, and he is not sure the language best tie the two together.

- **COMMISSIONER BEHRENS MOVED TO AMEND POLICY T25 TO READ, “ENCOURAGE DEVELOPMENT IN APPROPRIATE AREAS THAT ARE SUPPORTED BY EXISTING TRANSIT. NEW ROUTES SHOULD BE ESTABLISHED WHEN NECESSARY TO SUPPORT TRANSIT-ORIENTED DEVELOPMENT.” COMMISSIONER KAJE SECONDED THE MOTION.**

Commissioner Moss explained that transit-oriented development has to do with a lot more than just density and how many people may have moved into an existing neighborhood. Tying the policy to transit-oriented development does not allow the City to encourage transit service in relationship to increased demand. Ms. McIntire explained that the intent of the first sentence is to encourage new development that is supportive of transit in appropriate areas. If the City wants to have additional transit service, they need to provide densities that support transit. Transit is in demand across the region, and density is the standard that determines where new transit service will be provided. The intent of the second sentence is to advocate for new transit service when appropriate densities are in place. She felt the language proposed by Commissioner Behrens would change the intent of the Policy T25.

Commissioner Behrens said he is not opposed to the intent described by Ms. McIntire, but the concept is unclear in the current language. Ms. McIntire said the question is whether transit should bring development or if development should bring transit, and Policy T25 was intended to capture both concepts.

**THE MOTION FAILED UNANIMOUSLY.**

- **COMMISSIONER BROILI MOVED THAT POLICY T25 BE AMENDED TO READ, “ENCOURAGE DEVELOPMENT THAT IS SUPPORTIVE OF TRANSIT AND THE ADDITION OF NEW ROUTES IN AREAS THAT SUPPORT INCREASED DENSITIES AND USES.” THE MOTION DIED FOR LACK OF A SECOND.**

Ms. McIntire suggested that Policy T25 be changed to read, “Encourage development that is supportive of transit and advocate for expansion and addition of new route in areas with transit supportive densities and uses.” While staff recognizes there are some areas in the City that will never develop with transit-supported densities, there would be no harm in changing the language because the Comprehensive Plan Land Use Map and the Zoning Map will identify the appropriate areas.

- **COMMISSIONER KAJE MOVED TO AMEND POLICY T25 AS RECOMMENDED BY STAFF TO READ, “ENCOURAGE DEVELOPMENT THAT IS SUPPORTIVE OF TRANSIT AND ADVOCATE FOR EXPANSION AND THE ADDITION OF NEW ROUTES IN AREAS WITH TRANSIT SUPPORTIVE DENSITIES AND USES.”**

**COMMISSIONER BROILI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

Ms. McIntire pointed out that Policy T26 talks about expanding service on existing routes when it is merited. This addresses the issue raised earlier by Commissioner Moss.

- **COMMISSIONER MOSS MOVED TO AMEND POLICY T34 TO INSERT “SOUND TRANSIT” AFTER “METRO TRANSIT.” COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

Commissioner Esselman asked why Shoreline Community College was not included in Policy T30. Ms. McIntire pointed out that this policy is specifically related to light rail. Unless a station is identified on Highway 99, Shoreline Community College would not be directly involved in station area planning. Commissioner Esselman pointed out that Shoreline Community College is a destination for many people coming to Shoreline. Ms. McIntire responded that the entities identified in Policy T30 would be impacted the most. Commissioner Moss added that should the Highway 99 alternative be selected, Policy T30 would not preclude the City from working with Shoreline Community College. Ms. McIntire concurred.

- **COMMISSIONER KAJE MOVED TO AMEND POLICY T36 BY STRIKING THE WORD “THE” BETWEEN “THROUGH” AND “LAND.” COMMISSIONER MOSS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

Chair Wagner asked Mr. Tovar if the language contained in the transit policies related to station area planning and Sound Transit is comprehensive enough, or if stronger language would be appropriate. Mr. Tovar reported that staff met with Sound Transit representatives a few weeks ago, and they also sent them a letter to sound them out on the question of how directive the Comprehensive Plan language needs to be. However, they have not received a response yet. He summarized his belief that the language is not as directive as it could be. The Commission could ramp up the language with more detail. He cautioned that the phrase, “transit-supportive densities” might be alarming to some people. However, if the City is not going to have transit-supportive densities at light rail stations, the likelihood of locating a station in Shoreline decreases and the funding will go elsewhere.

Mr. Tovar suggested the Commission postpone taking final action on the transit policies (Policies T23 – T36) until November 17<sup>th</sup>, which would give staff additional time to hear back from Sound Transit and provide alternative language to make the language more directive. He announced that the City Council would make a statement about the preferred alignment at their November 14<sup>th</sup> meeting. Postponing the recommendation would allow the Commission to forward a policy that is consistent with what the City Council says about the alignment.

Master Street Plan

- **COMMISSIONER KAJE MOVED TO AMEND POLICY T37 BY INSERTING THE WORDS “AND GOODS” AFTER “PEOPLE.” COMMISSIONER BROILI SECONDED**



**THE MOTION. THE MOTION CARRIED 6-1 WITH COMMISSIONER BEHRENS VOTING IN OPPOSITION.**

Concurrency

- **COMMISSIONER KAJE MOVED TO AMEND THE LAST PART OF THE FIRST SENTENCE OF POLICY T40 TO READ, “EXCLUDING THE HIGHWAYS OF STATEWIDE SIGNIFICANCE AND REGIONALLY SIGNIFICANT STATE HIGHWAYS (I-5, AURORA AVENUE NORTH AND BALLINGER WAY).” COMMISSIONER BROILI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**
- **COMMISSIONER MOSS MOVED TO AMEND POLICY T41 BY DIVIDING THE SECOND SENTENCE INTO TWO BULLET POINTS TO FOLLOW THE FIRST SENTENCE. EACH BULLET WOULD BE BEGIN WITH THE WORD “HEADWAYS.” COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

Transportation Improvements

- **COMMISSIONER KAJE MOVED TO AMEND THE FIFTH BULLET IN POLICY T45 TO READ, “LOCATED IN AN ACTIVITY CENTER, SUCH AS TOWN CENTER, NORTH CITY, BALLINGER, OR CONNECTS TO AURORA AVENUE NORTH.” BOARD MEMBER ESSELMAN SECONDED THE MOTION. THE MOTION CARRIED 6-0, WITH COMMISSIONER BEHRENS ABSTAINING.**

Commissioner Behrens said he does not believe it is necessary to list every activity center in the policy. Commissioner Kaje disagreed and noted that Ballinger is the second largest commercial activity center.

Commissioner Moss reminded the Commission of their earlier discussion about Policy T-42 and the need to incorporate language to consider special needs populations. She expressed concern that the first bullet item could be based strictly on densities versus special needs. Mr. Tovar clarified that this bullet implies that the City would look at the maximum benefit for the maximum number of people. If the Commission does not want that to be the only criterion, they could add language related to special needs populations.

- **COMMISSIONER MOSS MOVED TO AMEND THE FIRST BULLET IN POLICY T42 BY ADDING THE WORDS “KEEPING IN MIND SPECIAL NEEDS POPULATIONS.” COMMISSIONER KAJE SECONDED THE MOTION.**

Commissioner Moss said there may be people who, based on income or ability, may not be able to drive. If transportation projects are prioritized based on their greatest benefit to a high population of people who are drivers, they could end up ignoring a significant population of special needs citizens.

Commissioner Kaje expressed his belief that the existing language offers sufficient flexibility to address the special needs population, and he is not sure it is necessary to add language. He specifically noted the second bullet, which calls out the need for flexibility to respond to a variety of needs and changes. Commissioner Esselman agreed with Commissioner Kaje and expressed concern that adding the new language would contradict the intent of the first bullet. Commissioner Moss commented that while the second bullet speaks of the need to respond to a variety of needs and changes, the changes may not be related to people. Commissioner Kaje reminded the Commission that the TMP provides implementing actions that add clarity to the policies. Chair Wagner agreed with Commissioner Esselman that the proposed new language appears to add a specific sub population rather than keeping with the intention of being the “biggest bang for the greatest good.”

**THE MOTION FAILED 1-5, WITH COMMISSIONER MOSS VOTING IN FAVOR AND CHAIR WAGNER, VICE CHAIR PERKOWSKI, COMMISSIONER KAJE, COMMISSIONER ESSELMAN AND COMMISSIONER BROILI VOTING IN OPPOSITION. COMMISSIONER BEHRENS ABSTAINED.**

- **COMMISSIONER MOSS MOVED THAT THE THIRD BULLET OF POLICY T46 BE CHANGED TO “PROVIDES ACCESS TO TRANSIT.” COMMISSIONER KAJE SECONDED THE MOTION.**

Mr. McKinley explained that Policy T46 is a prioritization policy. The City has been through an extensive process of scoring all the projects. He suggested that Policy T13 adequately covers the Commission’s concern so that a change to Policy 46 may be unnecessary. Commissioner Moss questioned if Policy T13 and T46 are contradictory. Mr. McKinley emphasized that the City’s bicycle system is comprehensive and gets to almost all the transit routes already. The intent of T46 is to add additional priority for connections to bus rapid transit and light rail lines. Commissioner Kaje agreed with Mr. McKinley. He explained that people do not typically ride their bikes to local bus stops. Instead, they need to have access to commuter bus stops.

**THE MOTION FAILED 1-6, WITH COMMISSIONER MOSS VOTING IN FAVOR AND CHAIR WAGNER, VICE CHAIR PERKOWSKI, COMMISSIONER KAJE, COMMISSIONER ESSELMAN, COMMISSIONER BROILI, AND COMMISSIONER BEHRENS VOTING IN OPPOSITION.**

#### Capital Facilities Element

- **COMMISSIONER KAJE MOVED TO AMEND THE LEVEL OF SERVICE STANDARD LANGUAGE TO BE CONSISTENT WITH THE AMENDED LANGUAGE FOR POLICY T40. VICE CHAIR PERKOWSKI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

The Commission recalled their earlier decision to postpone a final recommendation for Policies T23 through T36 to give staff additional time to hear back from Sound Transit and provide alternative language to make the policies more directive. Because of time constraints, Commissioner Kaje suggested it would make more sense to forward the package of amendments to the City Council as soon

as possible, with the message that the Commission recognizes that some language may need to be strengthened in response to forthcoming decisions about light rail. He acknowledged that there are numerous moving pieces around the topic; and until the City Council makes certain decisions, it would be difficult for the Commission to update the language accordingly. The Commission and staff agreed that would be a good solution.

**Vote by Commission to Recommend Approval or Denial or Modification Regarding Comprehensive Plan Update**

**THE MOTION TO RECOMMEND APPROVAL OF THE COMPREHENSIVE PLAN TRANSPORTATION ELEMENT UPDATE AND THE CAPITAL FACILITIES ELEMENT AMENDMENT AS PROPOSED BY STAFF AND AMENDED BY THE COMMISSION WAS APPROVED UNANIMOUSLY.**

**Deliberations Regarding Development Code Amendments**

**COMMISSIONER KAJE MOVED TO RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 1 (SMC 20.60.140), AMENDMENT 3 (SMC 20.70.120 AND SMC 20.70.130) AND AMENDMENT 4 (SMC 20.70.220 AND SMC 20.70.320) AS PROPOSED BY STAFF. COMMISSIONER BROILI SECONDED THE MOTION. *(Note: The Commission postponed their recommendation on Amendment 2 (SMC 20.70.010 and SMC 20.70.020) to a later date).***

**COMMISSIONER ESSELMAN MOVED THAT THE MOTION BE AMENDED TO STRIKE THE WORD “AND” FROM THE END OF SMC 20.70.120.C.3. COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION TO AMEND WAS APPROVED UNANIMOUSLY.**

Commissioner Moss referred to SMC 20.70.320.E and suggested that the language be clarified to indicate that the developer would post the bond. The Commission agreed that this is inherent in the intent of the language. Ms. McIntire said the requirement is further illuminated in SMC 20.30.440, which is referenced.

**Vote by Commission to Recommend Approval or Denial or Modification Regarding Development Code Amendments.**

**THE MAIN MOTION TO RECOMMEND APPROVAL OF DEVELOPMENT CODE AMENDMENT 1 (SMC 20.60.140), AMENDMENT 3 (SMC 20.70.120 AND SMC 20.70.130) AND AMENDMENT 4 (SMC 20.70.220 AND SMC 20.70.320) WAS UNANIMOUSLY APPROVED AS AMENDED.**

**Closure of Public Hearing**

The public hearing was closed.

## **DIRECTOR'S REPORT**

Mr. Tovar reminded the Planning Commission that at the October joint meeting with City Council about the 2012 planning work program, the staff had stressed the importance of keeping expectations aligned with resources. Since that meeting, he said, the City's proposed budget for 2012 will cut the City professional planning staff from 8.6 FTE to 6.6 FTE. He explained that this 23% reduction in planning staff hours will affect the ability to support the 2012 Planning Work Program as well as the timely processing of development permits. The combination of the 23% cut and Council's direction to finish the Comprehensive Plan Update by the end of 2012 rather than mid-2013, will require that some work program items be reduced in scope, moved off to 2013, or simply deleted. He said the Council will need to make those choices in early 2012.

Regarding permits, he observed that although permit revenues are down relative to 2009, the actual number of permits for 2011 is up by 19%. This is due to the down economy changing the type and number of permits being applied for. For example, while the number of permits for new construction is down by 30%, the number of permits for additions, remodels, demolitions, home occupations, short plats and lot line adjustments is up dramatically. Because the applicants for these smaller permits are typically homeowners, small contractors or other relatively novice applicants, these permits require relatively more staff time to process. Consequently, because all city planners do both long range planning and current permits, decisions will need to be made in 2012 in order to maintain alignment between resources and expectations.

## **UNFINISHED BUSINESS**

No unfinished business was scheduled on the agenda.

## **NEW BUSINESS**

No new business was scheduled on the agenda.

## **REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS**

Chair Wagner and Commissioner Moss agreed to postpone their report on their recent attendance at the American Planning Association Conference.

Commissioner Moss reported that she received an invitation from the City of Lake Forest Park to a meeting on October 29<sup>th</sup> regarding development along Bothell Way, which is adjacent to the Southeast Neighborhoods Subarea. She agreed to forward the email invitation to Plancom.

**AGENDA FOR NEXT MEETING**

Ms. Simulcik Smith advised that the November 3<sup>rd</sup> Meeting is scheduled as a study session on the Medical Marijuana/Collective Gardens Code amendment.

**ADJOURNMENT**

The meeting was adjourned at 10:16 P.M.

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Michelle Linders Wagner  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission

**TIME STAMP**  
**October 27, 2011**

**ROLL CALL: 0:35**

**APPROVAL OF AGENDA: 0:50**

**DIRECTOR'S COMMENTS: 1:10**

**APPROVAL OF MINUTES: 1:33**

**GENERAL PUBLIC COMMENT: 4:00**

**LEGISLATIVE PUBLIC HEARING ON COMPREHENSIVE PLAN TRANSPORTATION  
ELEMENT UPDATE AND DEVELOPMENT CODE AMENDMENTS: 4:35**

**Staff Overview and Presentation of Preliminary Staff Recommendation: 5:32**

**Questions by the Commission to Staff Regarding Comprehensive Plan Update: 11:02**

**Public Testimony Regarding Comprehensive Plan Update: 1:03:44**

**Final Questions by the Commission Regarding Development Code Amendments: 1:08:55**

**Public Testimony Regarding Development Code Amendments: 1:18:40**

**Recess: 1:24:11**

**Deliberations Regarding Comprehensive Plan Update: 1:28:00**

**Vote by Commission to Recommend Approval or Denial or Modification Regarding  
Comprehensive Plan Update: 3:03:20**

**Deliberations Regarding Development Code Amendments: 3:03:45**

**Vote by Commission to Recommend Approval or Denial or Modification Regarding  
Comprehensive Plan Update: 3:09:40**


**Closure of Public Hearing: 3:10:28**

**DIRECTOR'S REPORT: 3:10:38**

**DRAFT**

## PLANNING COMMISSION AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Discussion of Shoreline Master Program (SMP) Regulations
<b>DEPARTMENT:</b>	Planning and Community Development
<b>PRESENTED BY:</b>	Joseph W. Tovar, FAICP, Director P&CD Steven Cohn, Senior Planner Miranda Redinger, Associate Planner 

### **BACKGROUND**

Planning Commission's last opportunity to review and discuss the SMP Regulations was March 17<sup>th</sup>, 2011. Since that time, based on conversations with the Department of Ecology, stakeholder groups such as the Richmond Beach Preservation Association (RBPA), and staff that would administer the code, what is presented in the draft regulations document in Attachment A constitutes a staff recommendation.

### **RECOMMENDATION**

Staff recommends that Planning Commissioners discuss and modify existing draft regulations, and provide direction for next steps.

### **PROPOSAL**

Revisions that have been made since the March 17<sup>th</sup> review fall primarily under the categories of language and content. All proposed edits submitted by Commissioners were reviewed, but not displayed in track changes because it was staff's intention to present a clean document for tonight's discussion. Most proposed edits were accepted, some were not. Examples of ones that were not include: some grammatical suggestions (staff researched correct grammar), changes to language that came directly from a WAC (even when such language could be rephrased to be more clear), standard development language that is commonly understood by those accustomed to administering code. An effort was made to use active voice whenever possible, but it didn't work in all situations, so some inconsistencies remain. Staff rephrased the goals and objectives to try to provide appropriate language for each. Questions that were written in comment boxes in the draft were exported into a separate document that is included as Attachment B.

Recommendations for how to resolve the "big picture questions" discussed previously are summarized below. If Commissioners wish to propose alternate language, staff would request specific examples or very clear direction. This will expedite assembly of

the Shoreline Master Program packet for the public hearing. As a reminder, the full proposal will include elements from background documents previously reviewed.

Native Vegetation Conservation Area (NVCA)- This was a topic of discussion at the March 17<sup>th</sup> meeting. The specific question was if this setback zone is intended to be used only for native plantings, should the regulations require that all other uses and/or structures be removed. Ecology clarified that they prefer the term "NVCA" to "setback", but that strictly using the space as the name implies is only appropriate in certain environmental designations. For instance, it makes sense for Richmond Beach Saltwater Park and Point Wells, but not for 27<sup>th</sup> Ave. NW or the areas bounded by railroad tracks. This is because when you have an impediment to natural sediment and nutrient transfer, such as bulkheads and riprap, that are protected by state law, it is somewhat futile to ensure that native plants exist landward of the impediments because there will be no habitat benefits.

Another consideration is that in the Waterfront Residential designation, concrete that is present in this 20 foot area between the Ordinary High Water Mark and the building envelope is structurally significant to the integrity of the bulkheads. To remove the concrete and replace it with natural materials would mean that when water overtopped the bulkhead, over time it would erode the landscaping and eventually undermine the structure. Dick Kink has provided a brief explanation and photos that demonstrate this point as Attachment C.

Staff reviewed the document and ensured that NVCA is used in the proper context.

Nonconforming Development- Staff is recommending consistency between the SMP regulations and the policies that apply to the rest of the city. This is partly based on ease of administration and partly based on considerations discussed above under NVCA. Please review language contained in 20.220.150 Nonconforming Development for details or to propose alternative regulations.

Docks and Piers- Specifically, the question was whether to allow individual, joint-use (serving 2 homes), or community (serving more than 4 homes) docks, particularly in the Waterfront Residential environment. Staff is recommending the compromise position of joint-use because it is unlikely that given topographical constraints there will be a demand for many to be built. Please review language contained in 20.230.170 Docks and Piers, as well as Table 20.230.081 for details or to propose alternative regulations and standards.

Breakwaters, Jetties, Groins and Weirs- Commission requested that staff examine whether to separate these categories in the use table contained in 20.230.081 because of their inherent differences. After staff discussion, the recommendation is to leave them grouped together, because they all deal with wave deflection and channelization, and are prohibited unless part of a permitted or restoration project, under specific conditions articulated separately in the code. Please review language contained in



20.230.095 Breakwaters, Jetties, Groins and Weirs, as well as Table 20.230.081 for details or to propose alternative regulations and standards.

Marinas- One unresolved issue was whether or not to allow marinas at Point Wells. Staff's proposal would permit marinas if they adhere to standards articulated in 20.230.090E. Marinas have also been separated from Boating Facilities in Table 20.230.081 because they would only be permitted in the Point Wells Urban designation.

Common-line Setback- This issue was proposed by the RBPA, but staff has not included it as part of this recommendation because it could limit development potential that currently exist for certain properties to the extent that it may constitute a taking.

### **PUBLIC INVOLVEMENT**

Staff held a community meeting with residents of 27<sup>th</sup> Ave. NW on August 22, 2011.

### **NEXT STEPS**

Once Commissioners are comfortable with draft regulations, staff will:

1. Complete the Cumulative Impacts Analysis;
2. Compile the SMP packet, which will include various background documents;
3. Perform a SEPA analysis; and
4. Notice a public hearing.

Following the public hearing and Planning Commission recommendation, City Council will amend and adopt the SMP packet and forward it to Ecology for final review. It will become effective upon Ecology approval, assuming they do not make significant changes that would require it to undergo another local review.

### **RECOMMENDATION**

Staff recommends that Planning Commissioners discuss and modify existing draft regulations, and provide direction for next steps.

### **ATTACHMENTS**

Attachment A- Draft SMP Regulations

Attachment B- Answers to questions that were exported from draft document

Attachment C- Letter from Dick Kink

Attachment D – Environmental Designation Map

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

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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## 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 (SMA);
- 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; and
- Assure that proposed regulatory or administrative actions do not unconstitutionally infringe upon private property rights.

### 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** Develop public and private recreation opportunities that are compatible with adjacent uses and that protect the shoreline environments.
- Objective** 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.

**CIRCULATION ELEMENT**

- Goal** Provide inter-connected, efficient, and safe transportation networks to and around the shoreline to accommodate vehicles, transit, pedestrians, and cyclists.
- Objective** 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.

**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** Include protections for the natural environment and adjacent uses in the Shoreline Development Code, Point Wells Subarea Plan, Saltwater Park master planning efforts, and other regulatory framework for development along the shoreline.

**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** Educate citizens on historical, cultural, and scientific significance of shoreline structures, amenities, and functions.



**FLOOD HAZARD MANAGEMENT**

- Goal** Protect the City of Shoreline and other property owners from losses and damage created by flooding along the coast and sea-level rise.
- Objective** To seek regional solutions to flooding problems through coordinated planning with state and federal agencies, other appropriate interests, and the public.
- Objective** Develop a plan to mitigate and adapt to potentially altered environmental conditions along the coastline resulting from climate change.

**RESTORATION ELEMENT**

- Goal** To improve water quality, reduce the impacts of flooding events; and restore natural areas, vegetation, and habitat functions.
- Objective** Seek funding for restoration projects within the shoreline jurisdiction and require development proposals to address habitat restoration and water quality.
- Objective** Engage in discussions with other municipalities that border the Puget Sound and BNSF railroad regarding efforts to benefit fish passage and nutrient transfer.

## Subchapter 2. General Provisions

### 20.200.050 Purpose.

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 Administrator.

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 adjacent to Kitsap County, between the northern and southern limits of the City and 200 feet landward of such waters.
- B. These standards provide a preference for permit issuance for measures to protect single family residences occupied prior to January 1, 1992. Nothing in this Master Program shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969 maintained in conformance with this chapter and the SMA.
- C. 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.
- D. 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.
- E. 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 shall apply.

- F. Non-conforming uses and improvements within the shoreline jurisdiction shall be subject to this Program and SMC 20.220.150.
- G. 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.
- H. 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.
- I. 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).

**Agricultural Uses.** (a) "Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation; (b) "**Agricultural products**" includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products; (c) "**Agricultural equipment**" and "**agricultural facilities**" includes, but is not limited to: (i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; (ii) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; (iii) farm residences and associated equipment, lands, and facilities; and (iv) roadside stands and on-farm markets for marketing fruit or vegetables; and (d) "**Agricultural land**" means those specific land areas on which agriculture activities are conducted as of the date of adoption of a local master program pursuant to these guidelines as evidenced by aerial photography or

other documentation. After the effective date of the master program land converted to agricultural use is subject to compliance with the requirements of the master program.

**Anadromous fish.** Fish born in fresh water, which spend most of their lives in the sea and return to fresh water to spawn. Salmon, smelt, shad, striped bass, and sturgeon are common examples.

**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).

**Aquaculture.** The farming or culture of food fish, shellfish, or other aquatic plants or animals in freshwater or saltwater areas, and may include development such as structures or rafts, as well as use of natural spawning and rearing areas. Aquaculture does not include the harvest of wildstock geoducks on state-owned lands. Wildstock geoduck harvest is a fishery.

**Aquaculture Activity.** Actions directly pertaining to growing, handling, or harvesting of aquaculture produce including but not limited to propagation, stocking, feeding, disease treatment, waste disposal, water use, development of habitat and structures. Excluded from this definition are related upland commercial or industrial uses such as wholesale and retail sales, sorting, staging, hatcheries, tank farms, and final processing and freezing.

**Backfill.** The placement of earth material or other approved material behind a retaining wall or structure.

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

**Breakwaters.** Structures constructed on coasts as part of coastal defense to protect an anchorage from the effects of weather and longshore drift.

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

**Bulkheads.** A vertical or nearly vertical structure placed parallel to the shoreline at or near the ordinary high water mark (OHWM) for the purposing of armoring the shoreline and protecting structures from the effects of erosion caused by wind or waves. Bulkheads generally consist of concrete, timber, steel, rock, or other material resistant to erosion. 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.

**Community Pier or Dock.** Moorage for pleasure craft and/or landing for water sports for use in common by shoreline 4 or more residential units of a certain subdivision or community within shoreline jurisdiction.

**Community Boat Launching Ramp.** An inclined slab, set of pads, rails, planks, or graded slope used for launching boats with trailers or by hand for use in common by shoreline residents of a certain subdivision or community within shoreline jurisdiction.

**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.** 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.** The material removed by dredging.

**Dredge Spoil Disposal.** 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.

**Feasible.** Per the guidelines, Feasible means, that an action, such as a development project, mitigation, or preservation requirement, meets all of the following conditions: (a) The action can be accomplished with technologies and methods that have been used in the past in similar circumstances, or studies or tests have demonstrated in similar circumstances that such approaches are currently available and likely to achieve the intended results; (b) The action provides a reasonable likelihood of achieving its intended purpose; and (c) The action does not physically preclude achieving the project's primary intended legal use. In cases where these guidelines require certain actions unless they are infeasible, the burden of proving infeasibility is on the applicant. In determining an action's infeasibility, the reviewing agency may weigh the action's relative public costs and public benefits, considered in the short- and long-term time frames.

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

**Gabbions.** Cages, cylinders, or boxes filled with soil or sand that are used in civil engineering, road building, and military applications, primarily for erosion control and building dams and retaining walls.

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

**Groin.** A rigid structure built out from a shore to protect the shore from erosion, to trap sand, or to direct a current for scouring a channel.

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

**Groundwater recharge.** A hydrologic process where water moves downward from surface water to groundwater. Recharge occurs both naturally (through the water cycle) and anthropologically (i.e., "artificial groundwater recharge"), where rainwater and or reclaimed water is routed to the subsurface.

**Jetty.** Any of a variety of structures used in river, dock, and maritime works that are generally carried out in pairs from river banks, or in continuation of river channels at their outlets into deep water; or out into docks, and outside their entrances; or for forming basins along the sea-coast for ports in tideless seas.

**Hydric Soil.** 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).

**Land Disturbing Activities.** Any activity resulting in a movement of earth, or a change in the existing soil cover, both vegetative and non-vegetative, or the existing topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, excavation, or addition of new or the replacement of impervious surface. Compaction, excluding hot asphalt mix, which is associated with stabilization of structures and road construction, shall also be considered a land disturbing activity.

**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.

**Nonconforming Use and Development.** A shoreline use or development which was lawfully constructed or established prior to the effective date of the act or the applicable master program, or amendments thereto, but which does not conform to present regulations or standards of the program.

**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.

In regard to bulkheads, and particularly the exemption described in 20.220.030(2), repairs also include increasing the overall height of an existing wall for the purpose of preventing wave over topping and undermining of the existing structure, provided that the added height does not extend waterward of the existing footing and a qualified professional has issued a determination that a deflector is necessary and of the minimal size to be effective.

**Normal Protective Bulkhead.** 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).** 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).

**Public Pier or Dock.** Moorage for pleasure craft and/or landing for water sports for use by the general public.

**Public Boat Launching Ramp.** An inclined slab, set of pads, rails, planks, or graded slope used for launching boats with trailers or by hand for use by the general public.

**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, toxic materials, or invasive or non-native plants. Restoration does not imply a requirement for returning the area to pre-European settlement conditions.

**Revetment.** A sloped wall constructed of riprap or other suitable material placed on stream banks or other shorelines to retard bank erosion and minimize lateral stream movement. A revetment typically slopes away from the water and has a rough or jagged face. These features differentiate it from a bulkhead, which is a vertical structure. Revetments are a 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.

**Riparian.** The characteristic of relating to or living or located on the bank of a natural watercourse (as a river) or sometimes of a lake or a tidewater.

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

**Shorelands or Shoreland Areas.** 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.** 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, 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.** 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.

**Weir.** A dam in a watercourse, usually a stream or river, to raise the water level or divert its flow.

## 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 [as defined in RCW 90.58.030\(3\)\(e\)](#) 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 any 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 (as adjusted by the State Office of Financial Management according to RCW 90.58.030[3][e]), 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 an existing 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 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, when the 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/or 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, views from public lands, 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. SMP 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 all 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, any application that complies 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. Denial. The Director may deny any application that does not comply with criteria imposed by the Master Program or the Shoreline Management Act.
- F. 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, a Shoreline Variance, or a Shoreline Conditional Use Permit are required for a development, the local government's ruling on the permit shall be filed 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 parties 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. Nonconforming Structures**

- 1. 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.  
Such normal appurtenances are by definition located landward of the ordinary high water mark.
- 2. 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.
- 3. A structure that is being or has been utilized 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;
  - b. The proposed use will be at least as consistent with the policies and provisions of the act and Master Program, and as compatible with the uses in the area as the preexisting use; and
  - 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 ensure that the use will not become a nuisance or a hazard.
- 4. 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.

**B. Nonconforming Uses**

- 1. Uses 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.

2. A use which is listed as a conditional use but 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.
3. A use which is listed as a conditional use in table 20.230.081 but 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.
4. 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 made conforming. A use authorized pursuant to subsection 20.220.150(E) shall be considered a conforming use for purposes of this section.

C. Nonconforming Lots.

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 that does not conform to the present lot size standards may be developed if permitted by other land use regulations of the local government, as 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 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 development, 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, and 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, critical areas and habitats for proposed, threatened, and endangered species 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/or 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). Efforts to avoid and minimize impacts must be documented in a manner acceptable to the City prior to the approval of mitigation and/or compensation actions.
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 when other alternatives will have less impact on 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 ensure 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. Mitigation shall be required of developments that would otherwise result in net loss of ecological functions.
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 each element's 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 wetlands, 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 (in the case of mitigation planting projects), success standards, and contingency plans;
  - f. A discussion of proposed measures that mitigate the impacts of the project and establish success criteria;
  - g. An evaluation of the anticipated effectiveness of the proposed mitigation measures;
  - h. A discussion of proposed management practices that 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 a monitoring schedule; and
  - j. Any additional information necessary to determine the impacts of a proposal and appropriate mitigation.
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 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 most restrictive provisions shall apply.

## **B. Earth**

### **Policies**

1. Accretion shoreforms are valued for recreation and 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/or
  - 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; and/or
  - 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 stormwater pollution prevention during and post construction.
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.

## **C. Water**

### **Policies**

1. Shoreline development and activities shall result in no net loss of ecological functions.
2. Development and regulated activities shall minimize impacts to hydrogeologic 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 dredge 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 adopted storm-water manual.
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.
6. Point and non-point source pollution should be managed on a basin-wide basis to protect water quality and support the efforts of shoreline property owners to maintain shoreline ecological functions

## Regulations

1. Pesticides, herbicides and fertilizers which have been identified by State or Federal agencies as harmful to humans, wildlife, or fish shall not be used on City owned-property within the shoreline jurisdiction or for development or uses approved under a Substantial Development Permit, Shoreline Conditional Use Permit or Shoreline Variance, except as allowed by the Director for the following circumstances:
  - a. When use of pesticides, herbicides and fertilizers are consistent with the Best Management Practices (BMPs) for the project or use proposed;
  - b. When the Director determines that an emergency situation exists where there is a serious threat to public safety, health or the environment and that an otherwise prohibited application must be used as a last resort;

Where chemical fertilizer, herbicide, or pesticide use is necessary to protect existing natural vegetation or establish 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. For the purpose of this section, heating oil, small boat fuel, yard maintenance, equipment fuel, propane, sewage sumps, and similar items common to single family residential uses are not included in this definition.

## D. 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 ensures 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 ensure no net loss; and
  - d. Designed to minimize impacts to the natural character of the shoreline as much as possible.

### Regulations

1. Mitigation shall be required of the applicant for the loss of fish and wildlife resources, and 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, and 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 provide funding for a publicly-sponsored restoration or enhancement program in the City of Shoreline.

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. Preference will be based on site-specific recommendation of qualified professional. 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.
3. Habitat management plans shall be forwarded by the applicant to the appropriate state and/or federal resource agencies for review and comment. The City will provide the applicant with a list of addressees for this purpose.
4. 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 or enhanced buffers;
  - b. Setbacks for permanent and temporary structures;
  - c. Reduced project scope;
  - d. Limitations on construction hours;
  - e. Limitations on hours of operation; and/or
  - f. Relocation of access.
5. 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 and map of parcels subject to this requirement;
  - b. The implementation status of the habitat management plans;
  - c. Status of the improvements (e.g., updates if success standards are being met, what types of remedial actions have been implemented); and
  - d. Recommendations for corrective measures if necessary.
6. If proposed mitigation is found to be inadequate, or if adequate mitigation is determined to be impossible, the application shall be denied.
7. Timing of in-water construction, development, or activity shall be determined by Washington Department of Fish and Wildlife.
8. Properties that are located in the Urban Conservancy Shoreline Environment Designation shall retain trees that are 12 inches or more in diameter. Trees determined by a certified arborist to be hazardous or diseased may be removed upon approval by the City. If healthy or non-hazardous trees are removed, each removed tree must be replaced with at least three (3) six-foot tall trees, one (1) 18-foot tall tree, or one (1) 12-foot plus one (1) six-foot tall tree. Trees must be of the same species removed, or equivalent native tree species. Ten percent of the replaced trees must be located within the required Native Vegetation Conservation Area.



**E. 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.

**F. 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.

**G. 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 current and potential 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.

**H. Aesthetics****Policy**

1. Development should be designed to minimize the negative aesthetic impact structures have on the shoreline by avoiding placement of service areas, parking lots, and/or view-blocking structures adjacent to the shoreline.

**Regulations**

1. Development shall be designed to comply with the code standards required in the underlying zone.
2. If the zoning 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 impacts to fish and off-site glare.

## **I. 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 item of archaeological interest is 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, and it is determined that public access to the site will not damage or reduce the cultural value of the site, access may be required consistent with section 20.230.040.

## **20.230.030 Environmentally Sensitive Areas Within the Shoreline.**

### **A. Critical Areas**

#### **General Policy**

1. Preserve and protect unique, rare, and fragile natural and man-made features and wildlife habitats.
2. Enhance the diversity of aquatic life, wildlife, and habitat within the shoreline.
3. Conserve and maintain designated open spaces for ecological, 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.
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. Discourage intensive development of shoreline areas that are identified as hazardous or environmentally sensitive.

#### **General Regulations**

1. The City's Critical Areas regulations, SMC 20.80, are hereby incorporated into this Shoreline Master Program by reference and shall regulate critical areas within the 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 or at least not adversely affect those natural features which are valuable, fragile, or unique in the region. They should also 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; and/or
  - e. Geologically hazardous areas, including erosion, landslide, and seismic hazard areas.
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/or
  - 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; and/or
  - 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 more than four (4) dwelling units; and/or

- 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, water-oriented 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 native vegetation zone as practical. Public access facilities should provide auxiliary facilities, such as parking and sanitation facilities, when appropriate, and shall be designed for accessibility by people with disabilities. Publicly owned shorelines should be limited to water-dependent or public recreation uses, otherwise such shorelines should remain protected open space.
- 6. Public access afforded by public right of way street ends adjacent to the shoreline should be preserved, maintained, and enhanced.
- 7. 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, providing adequate space, through screening with landscape planting or fences, or other means.
- 8. 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.
- 9. Public access facilities should be constructed of environmentally friendly materials and support healthy natural processes, whenever financially feasible and possible.
- 10. Public access facilities should be maintained to provide a clean, safe experience, and to 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 the applicant demonstrates 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;
  - e. Significant conflict between the proposed access and adjacent uses would occur and cannot be mitigated; and/or

- 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 use to daylight hours;
  - ii. Designing separation of uses and activities with such means as fences, terracing, hedges, or landscaping; and/or
  - 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 people with disabilities.
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. New overwater structures are allowed only for water-dependent uses, public access, or ecological restoration and must be limited to the minimum necessary to support the structure's intended use.

**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. Any undesignated shorelines are automatically assigned an urban conservancy designation.

**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 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.

Characteristics of 27th Avenue NW include:

- Only fully established residential property in the City of Shoreline directly abutting the Puget Sound
- Substantial number of legally existing nonconforming lots and nonconforming structures
- Exposure to high energy wind and wave action
- Fully armored shoreline prior to December 4, 1969 and residences occupied prior to January 1, 1992
- Failure of an individual bulkhead would cause adverse effect on subject property as well as neighboring properties.

The unique circumstances and considerations will warrant different regulations for 27th Avenue NW as compared to existing residential property cut off from the shoreline by natural or manmade features, and potential new residential properties in the potential Point Wells designations.

**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, although assurance of no net loss is still required.

**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 Use	Shoreline Environments					
	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 (boat hoists and launching ramps, )	P <sup>1</sup>	P: Boat launching ramps open to the public	P: Joint-use Boat launching ramps	P: Joint-use Boat launching ramps	X	P: Boat launching ramps open to the public 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 <sup>1</sup>	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	P	X	X	X	X	X
Recreation Use (water-related)	C: Water-dependent only	P	P	P	P: Limit to low intensity uses, passive uses	P
Recreation Facilities	C <sup>10</sup>	P	P	P	P: Limit to low intensity uses, passive uses	P
Residential Developments	X	P	P	P	P	P
Signs	X <sup>7</sup>	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 <sup>3</sup> (Railroads)	P	P	P	P	P	P
Utilities	C	P: Underground facilities C: Aboveground facilities	P: Underground facilities C: Aboveground facilities	P: Underground facilities C: Aboveground facilities	P: Underground facilities C: Aboveground facilities	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 <sup>1</sup>	X	X	X	X	C <sup>8</sup>
Dredging	P <sup>5</sup> C: Related to navigation for PWU	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>	P <sup>5</sup>
Dredging Material Disposal	P <sup>1</sup>	P <sup>6</sup>	P <sup>6</sup>	P <sup>6</sup>	P <sup>6</sup>	P <sup>6</sup>
Dune Modification	X	X	X	X	X	X
Piers and Docks	P <sup>1</sup>	P: Public	P: Joint-use	P: Joint-use	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 <sup>2</sup>	P	P	P	P: w/ Utilities	P
Maintenance of existing	P	P	P	P <sup>9</sup>	P	P
Hard shoreline armoring	X	C	C	C	X	C
Clearing and Grading	X	P <sup>1,4</sup>	P <sup>1,4</sup>	P <sup>1,4</sup>	P <sup>1,4</sup>	P <sup>1,4</sup>
Landfilling	C <sup>5</sup>	C <sup>4</sup>	C <sup>1</sup>	C <sup>1</sup>	C <sup>4</sup>	C <sup>4</sup>
Shoreline Habitat and Natural Systems Enhancement Projects	P	P	P	P	P	P
Marinas	X	X	X	X	X	P <sup>11</sup>

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

<sup>2</sup> Allowed only if permitted in the abutting upland shoreline environment designation.

<sup>3</sup> 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.

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

<sup>5</sup> For activities associated with shoreline or aquatic restoration or remediation

<sup>6</sup> For shoreline habitat and natural systems enhancement, fish habitat enhancement, or watershed restoration project.

<sup>7</sup>Signs required by regulatory agencies for navigational operation, safety and direction purposes allowed in Aquatic environment per 20.230.230(B)(1).

<sup>8</sup>Limited to water-dependent, public access, or shoreline stabilization activities

<sup>9</sup>This includes replacement

<sup>10</sup>Refer to 20.230.130 for conditions

<sup>11</sup>Refer to 20.230.090E for conditions

**Table 20.230.082 Native Conservation Area / Building Setbacks/Bulk Standards**

<b>Shoreline Environmental Designation</b>	<b>Minimum Native Vegetation Conservation or Setback Area</b>	<b>Bulk Standards (see chart below for specific standards)</b>
Urban Conservancy	150 feet or 50 feet from the top of a landslide hazard area, whichever is greater	Underlying zoning is R6
Shoreline Residential	115 feet	Underlying zoning is R6
Waterfront Residential	20 feet	Underlying zoning is R6
Point Wells Urban	50 feet (restoration required as part of development)	Zoning TBD
Point Wells Urban Conservancy	115	Zoning TBD

<b>STANDARDS</b>	<b>R-6</b>
Base Density: Dwelling Units/Acre	6 du/ac (7)
Min. Density	4 du/ac
Min. Lot Width (2)	50 ft
Min. Lot Area (2)	7,200 sq ft
Min. Front Yard Setback (2) (3)	20 ft
Min. Rear Yard Setback (2) (4) (5)	15 ft
Min. Side Yard Setback (2) (4) (5)	5 ft min. and 15 ft total sum of two
Base Height (9)	30 ft (35 ft with pitched roof)
Max. Building Coverage (2) (6)	35%
Max. Hardscape (2) (6)	50%

**20.230.090 Boating Facilities**

Boating facilities serving two or more single family dwelling units generally include boat launch ramps (public and private), wet and dry boat storage, and related sales and service for pleasure and commercial

watercraft. For the purpose of this section, boat hoists, davits, lifts, and/or dry boat storage of private watercraft consistent with single-family residential properties are not included.

#### **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 may be allowed. 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.
5. Health, Safety and Welfare considerations must be addressed in application for development of boating facilities.
6. Navigation rights must be protected in development of boating facilities.
7. Extended moorage on waters of the state without a lease or permission is restricted and mitigation of impacts to navigation and access is required.

#### **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.
2. Boating facilities shall not be permitted within the following marine shoreline habitats because of their scarcity, biological productivity and sensitivity unless no alternative location is feasible, the project would result in a net enhancement of shoreline ecological functions, and the proposal is otherwise consistent with this Program:
  - a. Critical saltwater habitats; and
  - b. Marshes, estuaries and other wetlands.
3. Preferred ramp designs, in order of priority, are:
  - a. Open grid designs with minimum coverage of beach substrate.
  - b. Seasonal ramps that can be removed and stored upland.
  - c. Structures with segmented pads and flexible connections that leave space for natural beach substrate and can adapt to changes in beach profile.
4. Ramps shall be placed and maintained near flush with the foreshore slope.
5. Boat launches shall be designed and constructed using methods/technology that have been recognized and approved by state and federal resource agencies as the best currently available. Rail and track systems shall be preferred over concrete ramps or similar facilities.
6. Launch access for non-motorized watercraft shall use gravel or other permeable material. Removal of vegetation for launch access should be limited to eight (8) feet in width.
7. Before granting approval of a permit to allow a boat launch ramp, the proponent must satisfactorily demonstrate that:

- a. Adequate facilities for the efficient handling of sewage and litter will be provided;
- b. The boating facilities will be designed so that structures are aesthetically compatible with, or enhance shoreline features and uses; and
- c. The boating facilities will be designed so that existing or potential public access along beaches is not blocked or made unsafe, and so that public use of the surface waters is not unduly impaired.

### **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.
  7. Boat maintenance activities shall only include routine repairs done by boat owners to keep their own boats in good repair.
  8. Boat launching may occur in conjunction with a marina development when sufficient parking is provided for launch vehicles.

### **20.230.095 Breakwaters, Jetties, Groins, and Weirs**

#### **A. Breakwaters, Jetties, Groins and Weirs Policies**

1. Breakwaters, jetties, groins, and weirs should be permitted only for water-dependent uses and only where mitigated to provide no net loss of shoreline ecological functions and processes.

#### **B. Breakwaters, Jetties, Groins and Weirs Regulations**

1. Groins are prohibited except as a component of a professionally designed public beach management program that encompasses an entire drift sector or reach for which alternatives are infeasible, or where installed to protect or restore shoreline ecological functions or processes.
2. Jetties and breakwaters are prohibited except as an integral component of a professionally designed harbor, marina, or port. Where permitted, floating, portable or submerged breakwater structures, or smaller discontinuous structures are preferred where physical conditions make such alternatives with less impact feasible. Defense works that substantially reduce or block littoral drift and cause erosion of downdrift shores, shall not be allowed unless an adequate long term professionally engineered beach nourishment program is established and maintained.

### **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 offer 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, with the exception of boat facilities necessary for the operation of an associated nonresidential use.
2. All nonresidential development within the shoreline area shall provide for visual and/or physical access to the shoreline by the public. 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 and the Shoreline Development Code.
3. All nonresidential loading and service areas shall be located on the upland side of the nonresidential activity or provisions shall 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.

### **20.230.110 In-stream Structures.**

#### **A. In-stream Structures Policies**

1. In-stream structures should provide for the protection and preservation, of ecosystem-wide processes, ecological functions, and cultural resources, including, but not limited to, fish and fish passage, wildlife and water resources, shoreline critical areas, hydrogeological processes, and natural scenic vistas. The location and planning of in-stream structures should give due consideration to the full range of public interests, watershed functions and processes, and environmental concerns, with special emphasis on protecting and restoring priority habitats and species.
2. Non-structural and non-regulatory methods to protect, enhance, and restore shoreline ecological functions and processes and other shoreline resources should be encouraged as an alternative to structural in-stream structures.

#### **B. In-stream Structures Regulations**

1. Natural instream features such as snags, uprooted trees, or stumps should be left in place unless it can be demonstrated that they are actually causing bank erosion or higher flood stages.
2. Instream structures shall allow for normal ground water movement and surface runoff.
3. In-stream structures shall not impede upstream or downstream migration of anadromous fish.

4. All debris, overburden and other waste materials from construction shall be disposed of in such a manner that prevents their entry into a water body.

### **20.230.120 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, planted prior to final approval of project, which provides effective screening two (2) 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/or 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. Required parking area screening may be incorporated into general landscaping requirements under 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.

**20.230.130 Recreational Facilities.**

Recreational development provides for low impact activities, such as hiking, photography, kayaking, viewing, and fishing; or more intensive uses such as parks. This section applies to both publicly and privately-owned shoreline facilities.

**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 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 depth adjacent to water bodies.
3. Recreational facilities shall make adequate provisions, such as screening, buffer strips, fences, and signs, to mitigate nuisance to nearby 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.

**20.230.140 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 excavation does not exceed 120 cubic yards or 2,000 square feet of grading, 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 structure 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

### 20.230.150 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 natural materials such as biotechnical vegetation or beach enhancement. Generally, the harder the construction measure, the greater the impact on shoreline processes, including sediment transport, geomorphology, and biological functions. New structural shoreline stabilization also often results in vegetation removal, as well as 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
- 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; or 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. “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 existing shoreline stabilization measures shall be considered new structures, with the exception that bulkhead height may be increased in the Waterfront Residential environment designation if a geotechnical report concludes that it is necessary or promotes better design.

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 shall be discouraged in areas where no preexisting shoreline stabilization is present.
3. Shoreline modifications are only allowed for mitigation or enhancement purposes, or when and where there is a demonstrated necessity to support or protect an existing primary structure or legally existing shoreline use that is otherwise in danger of loss or substantial damage.
4. Proposals for shoreline modifications should be designed to protect life and property without impacting shoreline resources.
5. Shoreline modifications that 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. 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 shoreline environments.
3. All shoreline stabilization proposals require a geotechnical analysis.
4. 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).
5. 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 caused by upland conditions, such as the loss of vegetation and/or drainage issues.
  - 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.
6. 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).
  7. Shoreline stabilization and flood protection works are prohibited in wetlands and on point and channel bars. They are also prohibited in fish spawning areas.
  8. Developments shall not reduce the volume and storage capacity of streams and adjacent wetlands or flood plains.
  9. Use of refuse for the stabilization of shorelines is prohibited.

### **20.230.160 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 shall 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;
  - b. Adversely alter natural drainage and circulation patterns, currents, or reduce floodwater capacities;
  - c. Adversely impact properly functioning conditions for proposed, threatened, or endangered species; or
  - d. Adversely alter 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/or important localized biological communities.
3. Dredging and dredge spoil disposal shall not occur in wetlands unless for approved maintenance or enhancement.
  4. Dredging within the shorelines shall be permitted only:
    - a. For navigational purposes;
    - b. For activities associated with shoreline or aquatic restoration or remediation;
  5. When dredging is permitted, the dredging shall be the minimum necessary to accommodate the proposed use.
  6. 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.
  7. Dredge material disposal shall be permitted in shoreline jurisdiction only as part of an approved shoreline habitat and natural systems enhancement, fish habitat enhancement or watershed restoration project.
  8. 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;
  9. If suitable alternatives for land disposal are not available or are infeasible, water disposal sites may be permitted by appropriate agencies, 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.
  10. 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.
  11. The City may impose reasonable limitations on dredge spoil disposal operating periods and hours, and may require buffer strips at land disposal sites.

### **20.230.170 Piers and Docks**

Piers and Docks may be allowed in accordance with Table 20.230.081 only when the following conditions are met.

1. The public's need for piers and docks 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 community use may be authorized provided that:
  - a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible; and
  - 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.
7. Community moorage to serve new development shall be limited to the amount of moorage needed to serve lots with water frontage; provided that a limited number of upland lots may also be accommodated. Applications for shared moorage shall demonstrate that mooring buoys are not feasible prior to approval of dock moorage.
8. Industrial docks shall be permitted only for water-dependent uses, and only if the applicant/proponent demonstrates that existing facilities in the vicinity, including marinas and shared moorage, are not adequate or feasible for the proposed water-dependent use.
9. Piers and docks shall be constructed of materials that will not adversely affect water quality or aquatic plants and animals over the long term. Materials used for submerged portions of a pier or dock, decking, and other components that may come in contact with water shall be approved by applicable state agencies for use in water to avoid discharge of pollutants from wave splash, rain, or runoff.
10. To minimize adverse effects on nearshore habitats and species caused by overwater structures that reduce ambient light levels, the following shall apply:
  - a. The width of docks, piers, floats, and lifts shall be the minimum necessary, and shall not be wider than eight (8) feet unless authorized by state resource agencies.
  - b. Materials that will allow light to pass through the deck may be required.
  - c. Grating to allow light passage or reflective panels to increase light refraction into the water shall be used on piers, docks, floats and gangways in nearshore areas.

#### **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 is not permitted except as specifically provided under this Master Program.
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. For the Waterfront Residential environment designation, one geotechnical report could be prepared for multiple properties.
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, unless they are retractable or removable.
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.
  - c. Backfill to stabilize bulkheads is permitted.

#### **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 clearing and grading permit provided best management practices are used as recommended by a qualified professional, and native vegetation is promptly reestablished in the disturbed area.
3. Tree and vegetation removal shall be prohibited in required Native Vegetation Conservation Areas, except as necessary to restore, mitigate or enhance the native vegetation by approved permit as required in these areas.
4. All significant trees in the Native Vegetation Conservation Areas shall be designated as protected trees consistent with SMC 20.50.340 and removal of hazard trees must be consistent with SMC 20.50.310(A)(1).
5. 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.
6. 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, during both 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:
3. Result in significant damage to water quality, fish, and/or wildlife habitat.
4. Adversely alter natural drainage and current patterns or significantly reduce floodwater capacities.
5. Where landfilling activities are permitted, the landfilling shall be the minimum necessary to accommodate the proposed use.
6. Landfilling from dredging and dredge material disposal shall be done in a manner which avoids or minimizes significant ecological impacts. Impacts that cannot be avoided shall be mitigated in a manner that assures no net loss of shoreline ecological functions.
7. 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.
8. 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, during both the landfilling activities and afterwards.
9. 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.
10. 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 are 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 navigation purposes; at road or railroad crossings as necessary for operation, safety and direction; or as related and necessary to a water dependent use.
2. Signs are permitted in all shoreline environments upland of the OHWM. These sign standards supplement the provisions of SMC 20.50.530 to 20.50.610. Where there is a conflict, the provisions herein shall apply.

**C. Prohibited signs.**

1. All prohibited signs per SMC 20.50.550.
2. Balloons, any inflatable signs, or inflatable objects used to aid in promoting the sale of products, goods, services, events, or to identify a building.
3. Searchlights and beacons.
4. Electronic reader boards or changing message signs.
5. Neon signs.
6. Pole Signs.
7. Backlit awnings used as signs.
8. Internally illuminated signs, except as allowed in 20.230.230(D)(1).
9. Signs that impair visual access from public viewpoints in view corridors are prohibited in all shoreline environments.

**D. Illumination of Signs**

1. Illumination of signs is only allowed as permitted by the underlying zoning.
2. Internal illumination of signs is only allowed with light provided by LED or other Energy Star rated luminaries, and is limited to:
  - a. Opaque cabinet signs where light only shines through the letters, not including symbols, images, or background.
  - b. Shadow lighting, where letters are backlit, but light only shines through the edges of the letters.
3. All externally illuminated signs shall shield nearby properties from direct lighting. Light source must be within a maximum of 6 feet from the sign display, and limited to LED or other Energy Star rated luminaries.
4. 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.
5. 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.
6. Light from any sign shall not shine on, nor directly reflect into, residential structures, lots, or the water.
7. 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, and highway or street illumination;
- b. Aircraft warning lights;
- c. Temporary lighting used for repair or construction as required by governmental agencies; or
- d. Temporary use of lights or decorations relating to religious or 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/or 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 alternation of natural conditions is minimized.
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.
7. New roads should be designed to accommodate bicyclists, pedestrians and transit, where feasible.

##### **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, 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. 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; or
  - 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 increased 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.

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Answers to questions submitted by Planning Commission

20.220.010 Permit Requirements - General

B. A permit is required for substantial development as defined in RCW 90.58.030(3)(e) within the shoreline jurisdiction.

**Comment [U1]:** Why not all development? It is not the intent of the state regs. to require a shoreline type permit for all development. All development is reviewed for conformance with the SMP through normal permit processes. It is when the development is "substantial" then a permit is required under this chapter.

20.220.030 Shoreline Exemption.

1. 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/or 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.

**Comment [U2]:** Where did this figure come from? WAC 90.58.030(3)(e)

Exempt developments include:

2. 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 (as adjusted by the State Office of Financial Management according to RCW 90.58.030[3][e]), 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.

**Comment [U3]:** Should this be rephrased to reference the FMV determined by the State OFM as noted in the definition for Substantial Development? This is not our normal process for determining value.

20.220.130 Expiration of 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.

**Comment [U4]:** When multiple agency permits are required, which dates govern the expiration/extension? Ecology's as it applies to the Substantial Development 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.

**Comment [U5]:** Unclear. Seems inconsistent with A-C of this sub section. The reason the number don't necessarily add up is because permit expiration is extended every time an inspection is successfully completed/substantial progress is made.

Table 20.230.082 Native Conservation Area / Building Setbacks/Bulk Standards

Shoreline Environmental Designation	Minimum Native Vegetation Conservation Area	Bulk Standards (see chart below for specific standards)
Urban Conservancy	150 feet or 50 feet from the top of a landslide hazard area, whichever is greater	Underlying zoning is R6

Shoreline Residential  
Waterfront Residential  
Point Wells Urban

115 feet  
20 feet  
50 feet (restoration required as  
part of development)

Underlying zoning is R6  
Underlying zoning is R6  
Zoning TBD

Point Wells Urban  
Conservancy

115

Zoning TBD

**Comment [U6]:** Why is this less than UC? *The use will be more similar to the Shoreline Residential category since they don't have the bluffs and railroad tracks between potential development and the Puget Sound.*

**Comment [U7]:** Where did these come from? Looks like they were put here as an afterthought. *They are included as a reference for the above table under the bulk standards column, since most of the zoning is R6.*

STANDARDS	R-6
Base Density: Dwelling Units/Acre	6 du/ac (7)
Min. Density	4 du/ac
Min. Lot Width (2)	50 ft
Min. Lot Area (2)	7,200 sq ft
Min. Front Yard Setback (2) (3)	20 ft
Min. Rear Yard Setback (2) (4) (5)	15 ft
Min. Side Yard Setback (2) (4) (5)	5 ft min. and 15 ft total sum of two
Base Height (9)	30 ft (35 ft with pitched roof)
Max. Building Coverage (2) (6)	35%
Max. Hardscape (2) (6)	50%

20.230.090

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;

**Comment [U8]:** Are there any marinas? *Not currently, and this is only a possibility at Pt. Wells, which is why it's included.*

- 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);

**Comment [U9]:** Does this mean there must be a provision for recycling waste? Or, if there are provisions for recycling waste, they must be conveniently located and sized? *The former.*

**20.230.100 Nonresidential Development.**

**B. Nonresidential Development Regulations**

- 1. A shoreline setback is not required to be maintained for water-dependant nonresidential development.

**Comment [U10]:** This appears to conflict with other items in this subsection. *This use would likely need to use the setback area to be viable, so they make an exception.*

**20.230.150 General**

**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 shall be discouraged in areas where no preexisting shoreline stabilization is present.**
- 3. Shoreline modifications are only allowed for mitigation or enhancement purposes, or when and where there is a demonstrated necessity to support or protect an existing primary structure or legally existing shoreline use that is otherwise in danger of loss or substantial damage.
- 4. Proposals for shoreline modifications should be designed to protect life and property without impacting shoreline resources.
- 5. Shoreline modifications that 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.

**Comment [U11]:** Passive voice. Was concern about "taking issues" noted in comment from last packet addressed? *Decided to go w/ a modification of Janne's original suggestion, see highlighted section below. Conditions are listed in regulation 5 below.*

**Comment [U12]:** ?? *Where feasible means where the wave/wind energy is not too strong to make natural stabilization measures useless. Along the Puget Sound, homeowners will need concrete bulkheads b/c the natural alternatives will be ineffective for protection of properties.*

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**From:** [dlrbjg@aol.com](mailto:dlrbjg@aol.com) [<mailto:dlrbjg@aol.com>]  
**Sent:** Friday, November 04, 2011 3:18 PM  
**To:** Miranda Redinger  
**Cc:** [woodyh@spectralux.com](mailto:woodyh@spectralux.com); [rstime1@aol.com](mailto:rstime1@aol.com); [ginny@recsales.com](mailto:ginny@recsales.com); [JGMCurdy@seanet.com](mailto:JGMCurdy@seanet.com)  
**Subject:** SMP - 20 foot setback along 27th Ave NW

Miranda,

At the March 17th Planning Commission study session for the SMP, a question came up related to what is currently within the 20 foot setback zone along 27th Ave NW. It was also suggested that any "patios" be replaced with native vegetation.

The majority of residences along 27th Ave NW have cement slabs within the 20 foot setback. These slabs, including the one on my property, JARPA permit control number 110919-1, were installed to prevent undermining of the residential bulkhead by wave overtopping from ship wakes and storm surges.

Prior to the installation of these cement slabs, overtopping waves had two potentially adverse impacts. The first is the surcharging of the back side of the bulkhead potentially leading to premature failure. Using my property as an example, a ship wake hitting the bulkhead would fill the area behind the bulkhead with water. The area measured approximately 40' long x 15' wide x 1' deep - or 600 cubic feet. As there are 7.48 gallons per cubic foot, this amounted to 4,488 gallons which equates to over 37,000 pounds of added weight being applied behind the bulkhead.

The second impact was the scouring of sediment from behind the bulkhead - particularly during storm surges. Not only would the sediment scour, so would vegetation from the force of the water. This would result in siltation of the adjacent water which could have detrimental effects on migrating salmonids during the late winter and spring.

The few residences that do not have cement slabs will lose on average five to ten yards of sediment - depending on storm severity - over the year.

While these cement slabs are not natural, they currently serve a valuable purpose in helping to avoid premature bulkhead failure and water quality degradation from siltation from sediment scour.

Ultimately, as was recommended by the King Conservation District survey, a uniform wave diffusion system and uniform bulkhead design, would likely dramatically increase the possibility to eliminate the need for the current cement slabs.

For your reference, I have enclosed a couple pictures showing overtopping during a storm in 2006 before and another milder storm in 2009 after the installation of the cement slab.

I trust this clarifies the question of "patios" within the 20 foot setback area.

Please contact me if you have any questions.

Best regards,  
Dick Kink  
19553 - 27th Ave NW





10.17.2009

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**Environmental Designation Type**

- Aquatic
- Point Wells Urban
- Point Wells Urban Conservancy
- Shoreline Residential
- Urban Conservancy
- Waterfront Residential

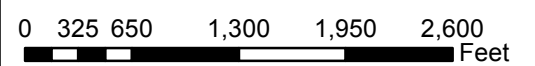
**Other Map Features:**

- City Limit
- Parcel
- Potential Annexation Area

**Streets**

**Classification**

- Interstate
- Principal Arterial
- Collector Arterial
- Minor Arterial
- Neighborhood Collector
- Local Street
- Open Water



Data Source: City of Shoreline GIS  
 Projection: NAD\_1983\_HARN\_StatePlane\_Washington\_North\_FIPS\_4601  
 Date Modified: 07/24/2009